



21 August 2019

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

12.00 PM WEDNESDAY 28 AUGUST 2019

QUORUM: Three Panel members.

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

OR

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

AGENDA

WLPP-1908.A Apologies

WLPP-1908.DI Declarations of Interest

The Chair will call for any declarations of interest.

WLPP-1908.1 PAGE 5 104A and 104B Bondi Road, Bondi Junction (Formerly 104 Bondi Road) - Construction of attics over approved garages to rear lane (DA-454/2018)

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

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

WLPP-1908.2 PAGE 39 3 St Thomas Street, Bronte - Demolition of existing dwelling and construction of a pair of semi-detached dwellings (one on each lot) (DA-1/2019)

Report dated 18 August 2019 from the Development and Building Unit.

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

WLPP-1908.3 PAGE 106 435 Bronte Road, Bronte - Demolition of existing dwelling and construction of a part two, part three storey dwelling with rear garage building and swimming pool (DA-480/2018)

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

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

WLPP-1908.4**PAGE 179**

262 Campbell Parade, Bondi Beach - Demolition of existing shop top housing and construction of a new shop top housing containing shops, residential units and basement parking (DA-381/2018)

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

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

WLPP-1908.5**PAGE 278**

25 – 27 Curlewis Street, Bondi Beach - Alterations and additions to residential flat building, including internal modifications and attic level additions associated with Units 3 and 4 (DA-52/2018)

Report dated 14 August 2019 from the Development and Building Unit.

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

WLPP-1908.6**PAGE 316**

21 Curlewis Street, Bondi Beach - Demolition of existing commercial building and construction of a four-storey commercial building (DA-320/2018)

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

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

WLPP-1908.7**PAGE 348**

11 Hardy Street, North Bondi - Demolition of existing dwelling and construction of attached dual occupancy, basement parking and rear swimming pool with strata subdivision (DA-20/2019).

Report dated 8 August 2019 from the Development and Building Unit.

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

591 Old South Head Road, Rose Bay - Conversion of two storage rooms and a portion of the internal common property into a new residential studio apartment (DA-326/2018)

Report dated 18 August 2019 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

Application number	DA-454/2018.
Site address	104A and 104B Bondi Road, Bondi Junction (Formerly 104 Bondi Road).
Proposal	Construction of attics over approved garages to rear lane.
Date of lodgement	5 December 2018.
Owner	G and T Morris.
Applicant	D Edelstein.
Submissions	1.
Cost of works	\$237,358.00.
Issues	FSR exceedance, DCP non compliances and neighbour objection.
Recommendation	That the application be REFUSED.

Site Map



1. PREAMBLE

1.1 Site And Surrounding Locality

A site visit was carried out on 14 March 2019.

The site comprises lots 27 and 28 DP 1222908 and are known as 104A and 104B Bondi Road, Bondi Junction.

The site has a total area of 521.2m² and is relatively flat and rectangular in shape. The site is comprised of two allotments with front and rear boundaries to Bondi Road and Paul Lane, respectively being 12.19m. The eastern and western side boundaries are 42.67m.

104A Bondi Road has an area of 261m² and 104B Bondi Road has an area of 259.9m².

The site is currently being developed as a pair of 3 storey terrace houses (DA-88/2016).

Adjoining the site to the east and west are 2 storey terrace house and to the rear is Paul Lane which is characterised by garages some of which have studios over. Opposite the site to the south is Waverley Park.



Figure 1: Site viewed from Bondi Road



Figure 2: Site viewed from Paul Lane



Figure 1: Site viewed from building looking towards Paul Lane

1.2 Relevant History

DA-88/2016 -Demolition of the existing building and construction of two semidetached three storey terrace style town houses, rear in-ground swimming pools and off street parking for four vehicles off Paul Lane. Approved 19 August 2016. The approval authorised variations over the FSR control of 9.7m² or 4.56% for 104A and 9.13m² or 4.27% for 104B Bondi Road

DA-88/2016/A – Deletion of stormwater condition was approved on 10 October 2017.

DA-20/2017 – Removal of tree from rear of building. Approved 21 February, 2017.

DA-88/2016/B – Alterations including deck extension and delete swimming pool was approved on 27 August 2018.

DA-454/2018 – current proposal.

The application was deferred on 14 March, 2019.

In deferring the application, the applicant was advised:

- *The floor space for the addition and the amount of accommodation is considered excessive and should be reduced and be more in keeping with a secondary feature on the site. It is noted that the approved development of the site exceeded the maximum floor space ratio and this further increases the non-compliance.*
- *The wall height and overall height of the building being reduced to comply with the DCP requirement.*
- *Provide northern window openings as secondary elements in a gabled end (would need to be paired gable ends – one on each property) or provide northern windows as dormers setback significantly (at least 1m) from the outer face of the northern rear garage wall.*

The applicant requested additional time to review their proposal. A follow up letter was sent 14 June requesting an update or withdrawal of the application. No response was received. Accordingly, the application is assessed based on the original documentation submitted with the application.

1.3 Proposal

Development consent is sought to carry out the following additional work on the site:

- Alterations and additions to the approved garages facing Paul Lane (at rear of site) involving:
 - Ground Floor – retain parking for 2 vehicles and garbage storage area and plant rooms as approved. Provision of stair to proposed first floor.
 - First Floor – a study comprising a living area, bedroom and bathroom.

2. ASSESSMENT

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

2.1 Planning Instruments and Development Control Plans

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

2.1.1 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the development application. The Basix Certificate was submitted on the basis of a “single dwelling” and refers to “kitchens” throughout the certificate, for example under “Fixtures” (page 3/8), “Ventilation” (page 6/8), “Artificial Lighting” (page 6/8) and “Natural Lighting” (page 7/8). There are no kitchens shown on the plans and it would appear that the intention is for these areas to be used as secondary dwellings without consent. The application (SEE) refers to the area as being “used in conjunction with the approved dwellings” (page 9/36 of SEE).

2.1.2 SEPP 55 Remediation of Land

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

2.1.3 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

Table 1: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the plan.
Part 2 Permitted or prohibited development		
Land Use Table R3 Medium Density Zone	Yes	The proposal is defined as ancillary to the dwellings which are permitted with consent in the zone. Secondary dwellings are also a permitted land use with Council approval.
Part 4 Principal development standards		
4.3 Height of buildings • 9.5m	Yes	Maximum Height 6.2m.
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio • 104A – 0.9:1 • 104B – 0.907:1	No	Both developments, including the FSR variation granted for the dwelling houses exceeds 10% of the development standard.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the height development standard. A detailed discussion of the variation to the development standard is presented below this table.
Part 5 Miscellaneous provisions		
5.1 Relevant consent authority	Yes	Waverley Council is the consent authority.

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	The site is in the Woodstock Street Conservation Area. There are also a number of heritage items close to the site in Bondi Road and in Flood Street.
Part 6 Additional local provisions		
6.1 Acid sulfate soils	Yes	The site is in a class 5 Acid sulfate soil zone.

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

Clause 4.6 Exceptions to Development Standards

Clause 4.4 Floor space ratio

The site comprises 2 Torrens lots:

- 104A (lot 28, site area of 261m²); and
- 104B (lot 27, site area 259.9m²).

104A:

The proposal has an overall floor space ratio of 1.04:1 on 104A, which exceeds the floor space ratio development standard of 0.8179:1:1 (213.47m²) prescribed under clause 4.4A of Waverley LEP 2012 by 59m² in gross floor area or 27%.

104B:

The proposal has an overall floor space ratio of 1.08:1 on 104A, which exceeds the floor space ratio development standard of 0.819:1 (212.88m²) prescribed under clause 4.4A of Waverley LEP 2012 by 59.3m² in gross floor area or 27.8%.

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:

- 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.

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

- The applicant seeks to justify the contravention of the floor space ratio development standard on the following basis:
 - The development provides a compatible streetscape and appropriate contextual outcome and is within the statutory height limit control.

- (ii) The FSR non-compliance will not create additional building bulk that results in environmental impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity.
- (iii) The proposal is consistent with the zone objectives for the R3 medium density zone.
- (iv) The intensity of the development is appropriate and acceptable having regard to adjacent development and compliance with the FSR control.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) Non-compliance with the standard does not result in adverse environmental impacts and the appearance of the development when viewed from the public domain will be positive.
 - (ii) The proposed development provided and articulated building form that minimises perceived bulk and scale impacts when viewed from the public domain.
 - (iii) The reduction in floor space will not result in improved amenity for adjoining properties. The lack of impact on adjoining properties in terms of solar access, privacy, view loss and visual bulk establishes sufficient grounds.

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.

Having regard to the above, it is noted that the approved development on the site sought advantage of a clause 4.6 objection to obtain approval for 2 dwelling houses which each exceed the FSR control. The current proposal seeks to increase the variation further and it may be argued if lodged at the same time as the dwelling house variation, the degree of exceedance approved would not have been so great or the dwelling houses would have been required to be reduced to accommodate the additional floor space in the rear of the site. The applicant would appear to be "double dipping" on the variations to the control by staging the applications.

The proposal as submitted is considered excessive and adds an additional 49m² on each site which is significant given the small site areas. The clause 4.6 Objection is not supported as the variation is considered excessive and contrary to the FSR controls. The scale and bulk of the building is not supported.

It is also noted that there is a question as to the actual intended use of the rear buildings as they are lodged as being “attic additions over approved garages” and in the BASIX certificate are referred to as dwellings and consideration to “kitchens” made in the certificate.

Is the development in the public interest?

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

- (b) To ensure that buildings are compatible with the bulk, scale, streetscape and existing character of the locality.

Also the intended use of the area is ambiguous.

Conclusion

For the reasons provided above the requested variation to the floor space ratio development standard is not supported as the applicant's written request has not adequately addressed the matters required to be addressed by cl 4.6(3) of the Waverley Local Environmental Plan 2012. In addition the proposed development is not in the public interest because it is inconsistent with the objectives of floor space ratio development standard and the intended use would not appear to be as applied for in the development application.

Waverley Development Control Plan 2012 (Amendment 6)

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

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

Development Control	Compliance	Comment
1. Waste	Yes	A Site Waste & Recycling Management plan has been submitted with the application to address waste disposal during construction. Condition of consent will be imposed regarding ongoing waste on site. The waste and recycling storage area is located in an area convenient for users of the site.
3. Landscaping and Biodiversity	Yes	The site is located in Habitat Corridor. The application was referred to Council's Biodiversity Officer who had concerns regarding tree removals from the site. Note: The tree was removed with development consent (DA-20/2017).
5. Tree preservation	Yes	Following the approval of DA- 20/2017, there are no trees on the site.

Development Control	Compliance	Comment
9. Heritage	No	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 has raised concern regarding the design of the elevation to Paul Lane.

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

The proposal is defined as ancillary to an attached dwelling (terrace style) in the LEP.

Development Control	Compliance	Comment
2.0 General Objectives		
<ul style="list-style-type: none">• Appropriate scale• Does not detract from amenity of other dwellings or view corridors• ESD has been considered• Alterations & additions are sympathetic in bulk & scale to the character of the area• High design standard	No	The scale and bulk of the proposal and the design in the heritage conservation area are all areas of concern.
2.3 Streetscape and visual impact		
<ul style="list-style-type: none">• New development to be compatible with streetscape context	No	The streetscape in this section of Paul Lane is a mixture of old and newer developments. The emerging character of the laneway features 2 storey structures with studios located above garages. The design of the current proposal is considered excessive and the Paul Street facade unsatisfactory.
<ul style="list-style-type: none">• Replacement windows to complement the style & proportions of existing dwelling	N/A	
<ul style="list-style-type: none">• Significant landscaping to be maintained.	N/A	
<ul style="list-style-type: none">• Porticos only permitted where a character of the streetscape	N/A	
2.6 Solar access		
<ul style="list-style-type: none">• Minimum of three hours of sunlight to living areas and principal open space areas on 21 June• Minimum of three hours of sunlight maintained to	Yes	Having a North/ South site orientation, the proposal meets the minimum standards for solar access to adjoining sites.

Development Control	Compliance	Comment
living areas and principal open space areas of adjoining properties on 21 June		
2.7 Views		
<ul style="list-style-type: none"> Views from the public domain are to be maintained Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks. 	Yes	No view lines are impacted by the proposal
2.8 Car parking		
2.8.2 Design Approach <ul style="list-style-type: none"> Parking only allowed where site conditions permit Designed to complement the building and streetscape Car parking structures to be behind the front building line Driveways are to be located to minimise the loss of on street parking Parking to be provided from secondary streets or lanes where possible. 	N/A	Approved in DA-88/2016
2.9 Landscaping and open space		
<ul style="list-style-type: none"> Overall open space: 40% of site area Overall landscaped area: 15% of site area Minimum area of 25m² for private open space Front open space: 50% of front building setback area Front landscaped area: 50% of front open space provided Outdoor clothes drying area to be provided 	N/A	No change to that approved in DA-88/2016
2.14 Dual Frontage Development		
2.14.1 - General Controls		

Development Control	Compliance	Comment
<ul style="list-style-type: none"> Primary and secondary frontage to be defined Appropriate forms to be provided to each street Dormer or roof projections: <ul style="list-style-type: none"> set a minimum of 0.6m from outer garage walls; set a minimum of 0.3m below the garage ridgeline; and not have a maximum combined width exceeding 50% of associated roof width. be detailed to address overlooking Privacy treatments to be provided for first floors above garages Pedestrian pass door provided for single width garage doors Garage studios and rear lane garages are to be provided with landscaping 	<p>Yes</p> <p>No</p> <p>No</p> <p>Yes</p> <p>N/A</p> <p>No</p>	<p>The laneways is read as the secondary frontage.</p> <p>The built form is not an appropriate built form to the laneway as per the Heritage Adviser's comments.</p> <p>Council's Heritage Adviser has required a redesign of this element.</p> <p>Screening has been provided to the lower sections of the windows facing the laneway and highlight windows to the southern elevation.</p> <p>The garages are approved to be built to the boundary. No laneway development in this section of Paul Lane provides landscaping to the laneway.</p>
<p>2.14.2 - Laneway Design Provisions</p> <ul style="list-style-type: none"> Maximum external wall height of 3.6m Maximum overall height of 6m to the roof ridge Gable ends not encouraged Pitched roof form required Landscape character of the lane maintained External stairs not acceptable Garages to employ gable ended and hipped roof forms with continues roof pitch from outer walls to ridgeline 	<p>No</p> <p>No</p> <p>No</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p>	<p>4.6m proposed. The proposal is inconsistent with nearby laneway development.</p> <p>6.2m proposed. The proposal should be reduced to comply.</p> <p>Gable ends to side elevations provided.</p> <p>The roof pitch is acceptable.</p> <p>There is no landscape character as such to the laneway.</p> <p>Stairs are internal from the garage level below.</p> <p>Gables ends provided. Modification of the dormers required.</p>

Development Control	Compliance	Comment
2.14.3 Development in Heritage Conservation areas		
• Single width garages or double with central divide	N/A	Garage approved in DA-88/2016.
• Roof pitch and modulation to reflect the form of the area	Yes	The roof form reflects the area and other nearby laneways development.
• Finishes and proportions to match the traditional construction in the area	Yes	The finishes are to be rendered and painted walls, which is in keeping with the area.
• Window proportions to match the area	No	Gable end window proportions are excessive and require amendment by condition. Finishes satisfactory.
• overlooking to be mitigated	Yes	Screening has been provided to the lower sections of the windows facing the laneway and highlight windows to southern elevation.
• Yard areas not to be roofed	N/A	
• Box gutters on side boundaries to be avoided.	N/A	
• Solar panels not to face the laneway.	N/A	

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

Bulk, Scale and Design

The building as proposed exceeds the FSR controls for the area and with the combination of the non-compliant dwelling houses will exacerbate the variation over the FSR control, resulting in an overdevelopment of these small sites. The intensity of use of the site is not supported. In the context of the area the proposal is considered excessive and would lead to an undesirable precedent of overdevelopment of sites.

Council's Heritage Adviser has also reviewed the proposal and advised that the north facing laneway windows should be modified as follows:

- *Provide northern window openings as secondary elements in a gable end (would need to be paired gable ends – one for each property) or provide northern windows as dormers setback significantly (at least 1m) from the outer face of the northern rear garage wall.*

Landscaping to laneway

The DCP suggests the provision of landscaping to the laneway. This has not been provided and is not possible as the garaging has been approved under a previous DA. Also no other laneway development provides landscaping to the laneway.

Maximum Height

The maximum external wall height is 3.6m. As the base garage structures have not at this stage been built there would be no reason why the proposal could not be designed to comply with the height requirements.

Overall Height

The maximum overall height is 6m for laneway development. The proposal seeks an overall height of 6.216m. The applicant was requested to reduce the height. Amended plans were not received. There would appear to be no reason for the proposal could not to comply.

2.2 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

2.3 Suitability of the Site for the Development

Whilst the site remains suitable for continued use for residential development, it is not however considered suitable for the amount of floor space proposed.

2.4 Any Submissions

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

One submission was received. The issues raised in the submission are summarised and discussed below.

Table 4: Summary of property addresses that lodged a submission

Property
37 Woodstock Street, Bondi Junction.

Issue: Excessive floor space ratio and issues of floor space ratio when 5 Wiley Street was developed (not permitted to exceed floor space ratio).

Response: The response to the exceedance of the floor space ratio is detailed in the preceding report and relies on acceptance of the 4.6 Objection and has not been accepted. Acceptance of a variation to a development standard is assessed each time on an individual basis and there is no guarantee it will be successful in each case. Indeed the floor space ratio is generally a maximum and may not in all cases be supported. Each assessment must look at the context of the site and nearby development, the zone and zone objectives as well as impact of the variation on adjoining and nearby development. In this case, the additional floor area over the already exceeded standard is not supported.

2.5 Public Interest

It is considered that the proposal will have a detrimental effect on the public interest as outlined in this report.

3. REFERRALS

3.1 Driveways – Creating Waverley

No objection raised and conditions of approval provided.

3.2 Stormwater – Creating Waverley)

Stormwater not satisfactory.

3.3 Heritage

Council's Heritage Adviser has advised:

The proposed studios have limited provision for privacy to opposing rear yards to the north. It should be noted a rear lane extension of a boarding house has been submitted for the opposing site at the corner of Paul and Flood lanes.

The treatment of the rear elevation is not supported, the first floor studio window being articulated as part of a continuous rear wall to the lane and not an inset dormer or secondary element to a gable end.

Concern was also raised that the internal garage heights may not be high enough to cater for current popular cars. (Note: The garage ceiling heights are 2.1m).

To retain cohesion with the Conservation Area it is recommended that the design is amended. Amendments should:

- *Provide an adequate height to the garage ceilings*
- *Provide northern window openings as secondary elements in a gable end (would need to be paired gable ends – one for each property) or provide northern windows as dormers setback significantly (at least 1m) from the outer face of the northern rear garage wall.*

3.4 Biodiversity

Council's Bio-Diversity Officer has advised that the proposal does not include a landscape plan and there appears to be a tree that was required to be retained is shown removed.

Note: The proposal being a first floor addition does not affect landscaping on site and the tree was approved for removal in 2017 (DA-20/2017).

4. SUMMARY

Development consent is sought to erect studios over the garages at 104A and 104B Bondi Road. The garages face Paul Lane and have been previously approved.

The proposal on each site exceeds the maximum floor space ratio by around 27%. The existing dwelling house when approved exceeded the maximum floor space ratio. The applicant was requested to reduce the floor space as it was considered excessive and to redesign the Paul Street facade to better fit into the heritage streetscape. No additional plans were received within a reasonable time and following Council's follow up letter of 14 June 2019.

The lots are small and development should be appropriately scaled to the area and capacity of the site. Clause 4.4A exists, so as not to disadvantage small sites. The proposal exceeds the 4.4A FSR control significantly and as such the variation and the Clause 4.6 Objection are not supported.

Some redesign of the northern gable was also required by Council's Heritage Adviser to better meet the heritage requirements of the laneway and the Woodstock Street Conservation Area.

One submissions was received objecting to the proposal. The objection has been addressed in the preceding assessment and supported.

No Councillor submissions were received. No declarations of conflict were lodged in regard to the application.

On balance the proposal is not supported.

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

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

Report prepared by:

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

Peter Thomas
Senior Development Assessment Planner

Angela Rossi
Manager, Development Assessment - Central

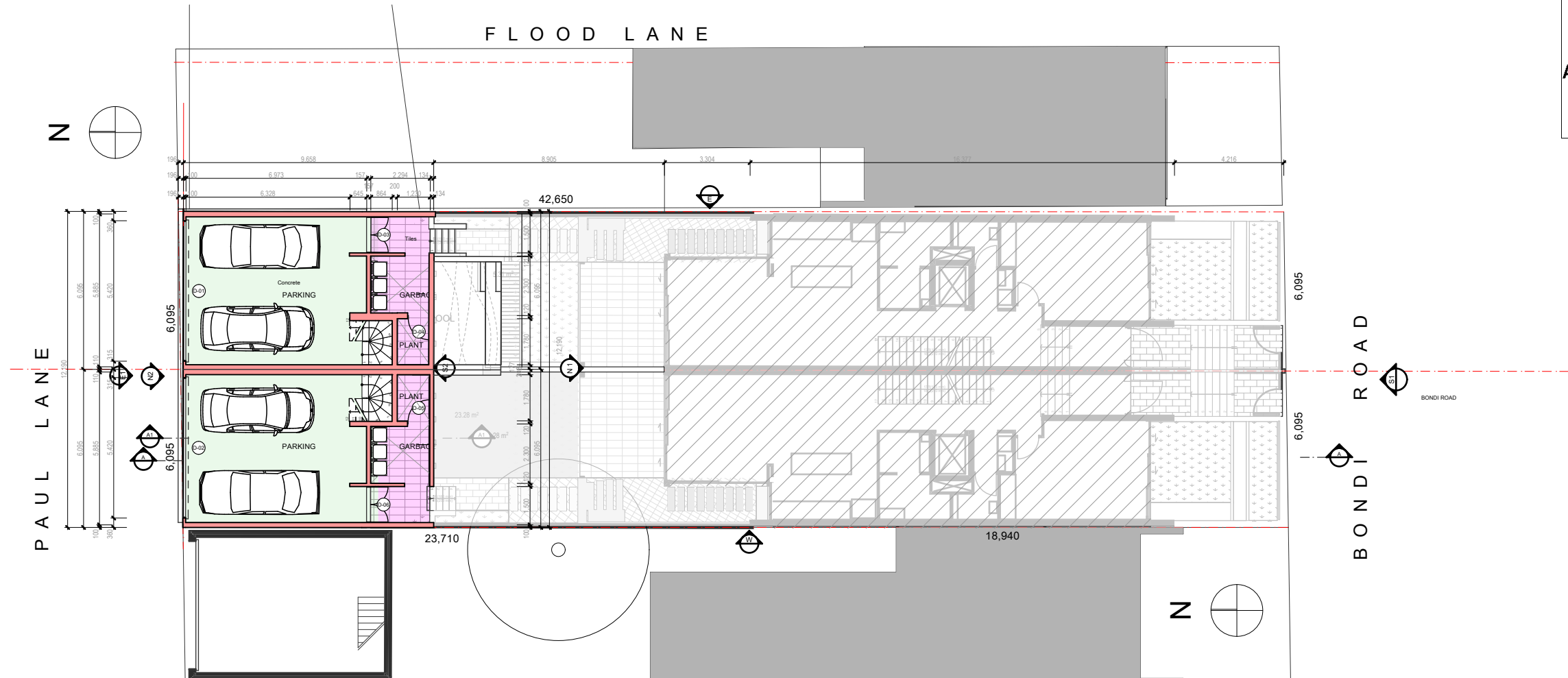
Date: 23 July 2019

Date: 16 August 2019

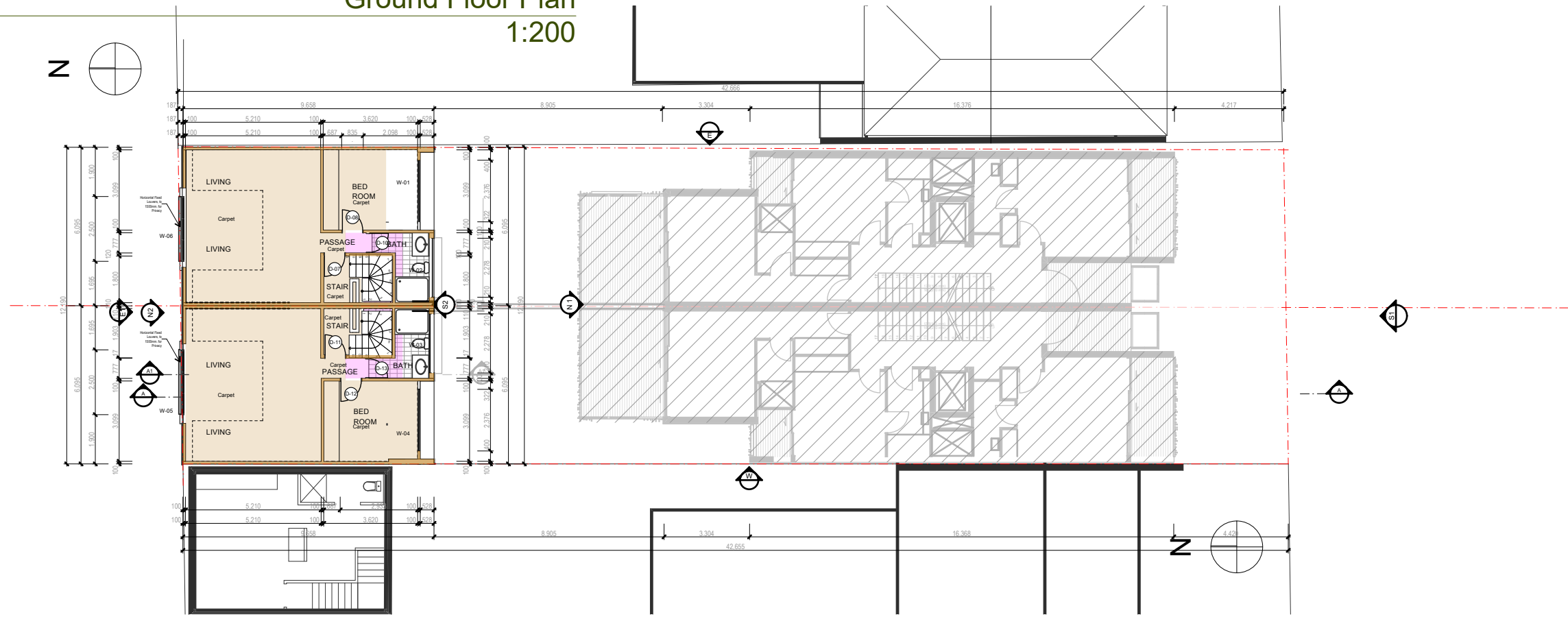
APPENDIX A – REASONS FOR REFUSAL

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 on amenity in the built environment.
2. The proposal does not satisfy section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, as the proposal does not satisfy the Waverley Local Environmental Plan (WLEP) 2012, in particular, the following provisions:
 - a. Clause 4.4(1)(b) to (d) and (2) as the proposal will exceed the maximum FSR permitted for the site and have unacceptable impacts. .
 - b. Clause 4.6(4)(a)(i) and (ii) as the proposal would be inconsistent with the objectives of the floor space ratio development standards.
3. 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. Amended plans and documentation as requested 14 March 2019.
4. 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.
5. The proposal is ambiguous as the BASIX certificate is for single dwellings and the application seeks approval for attics over garages.
6. The proposal is not considered to be in the public interest for the reasons outlined above and for the reasons outlined in the public submission, contrary to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act, 1979.

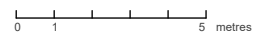


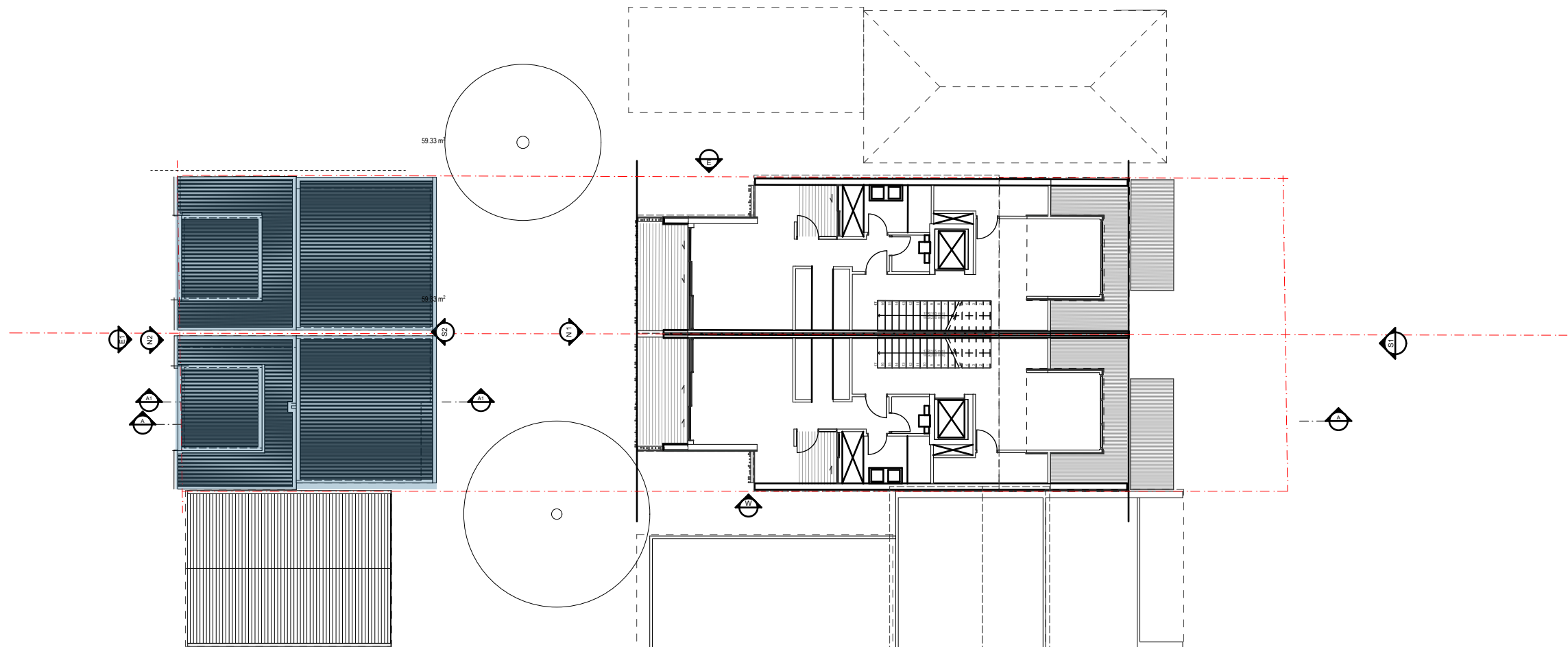
Ground Floor Plan
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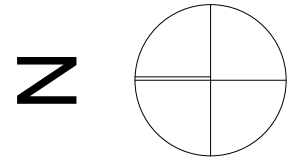


First Floor Plan
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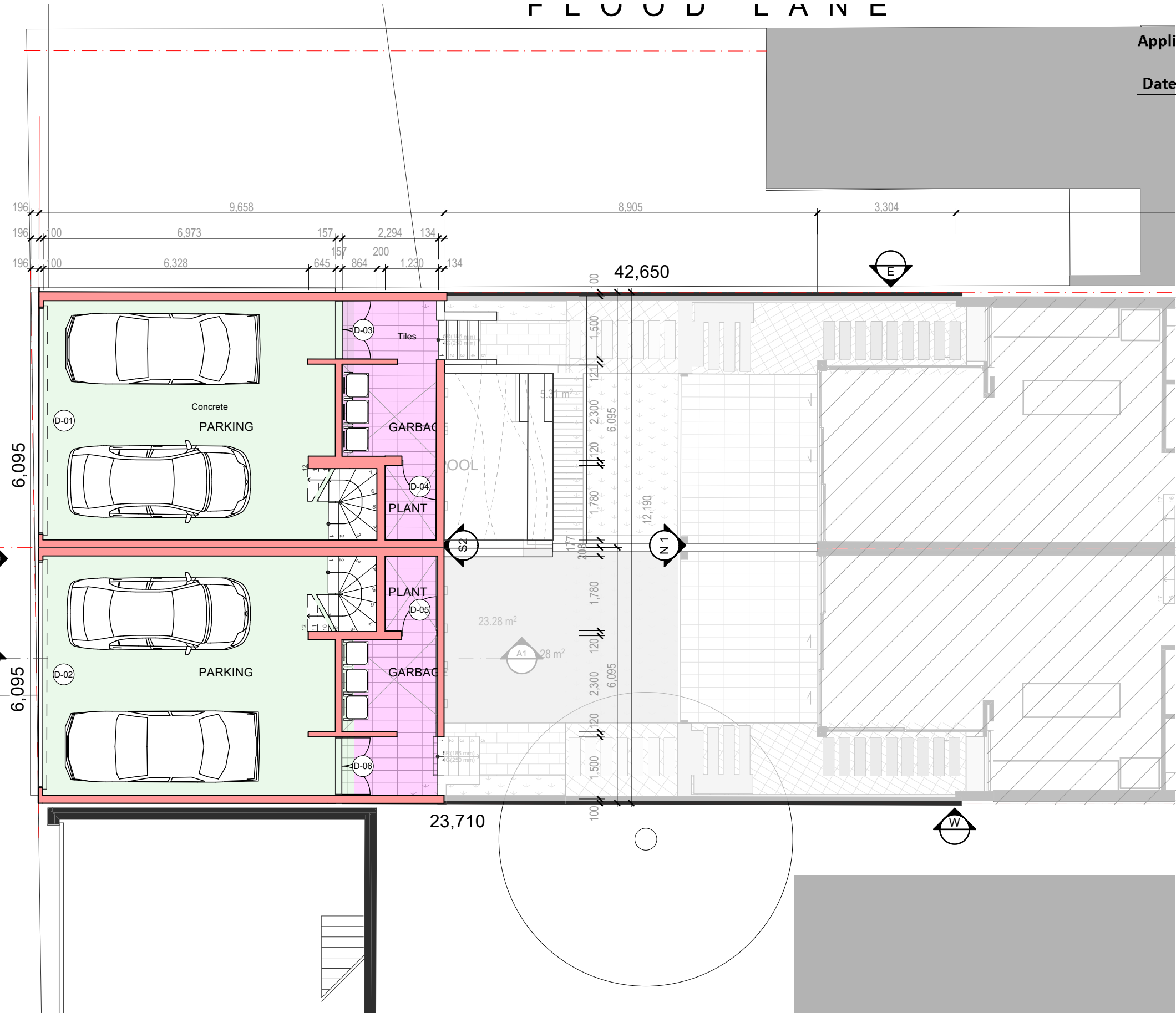
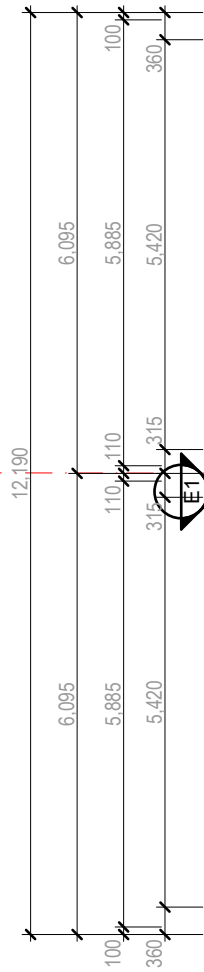
NOTES
1. All dimensions shown in millimetres + all levels shown in metres unless otherwise noted
2. All dimensions + levels to be checked on site prior to commencement of work
3. Work to figured dimensions - do not scale off drawings
4. Verify all dimensions on site + report all discrepancies to the architect





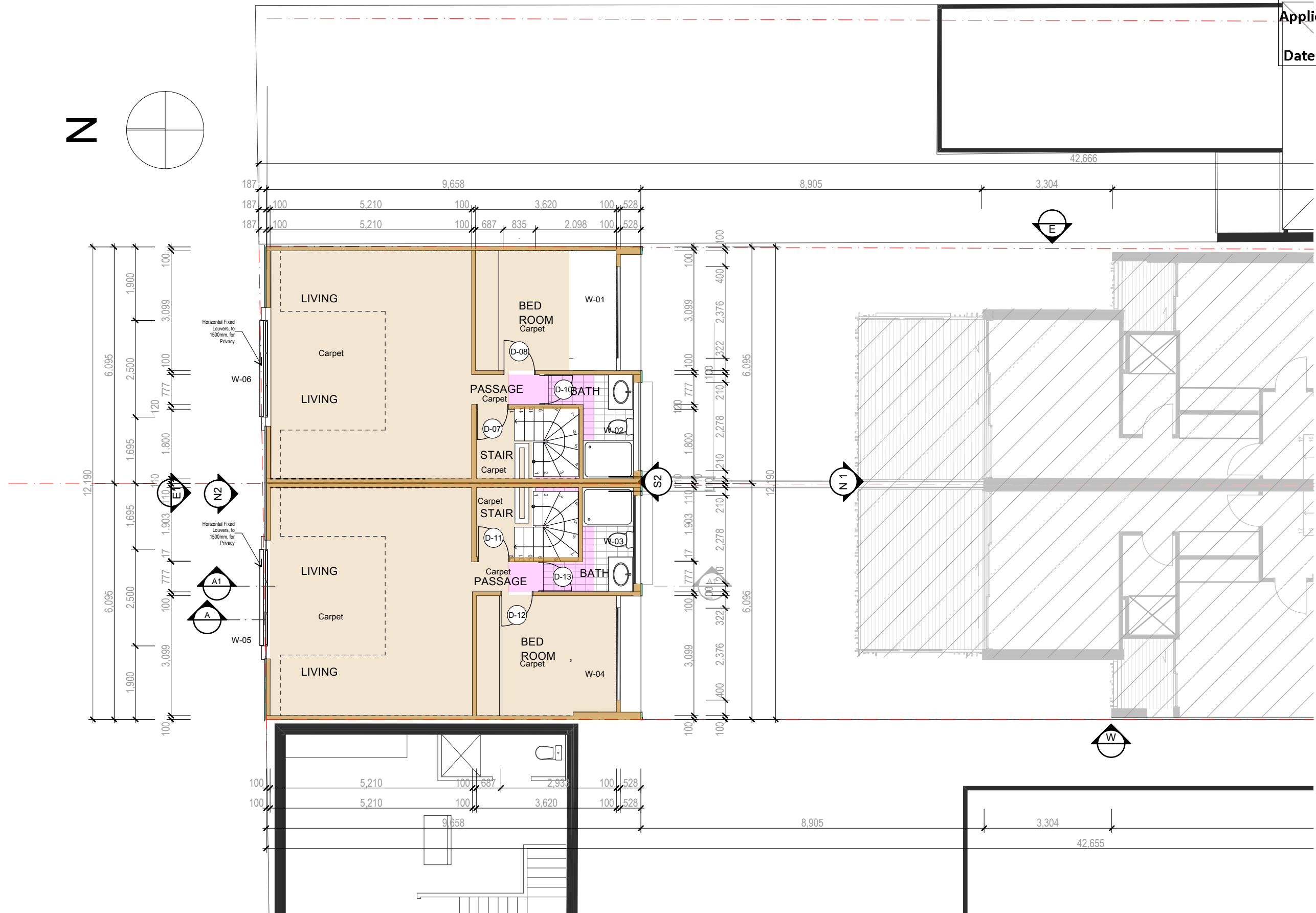
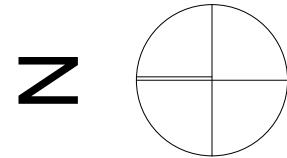


PAUL LANE



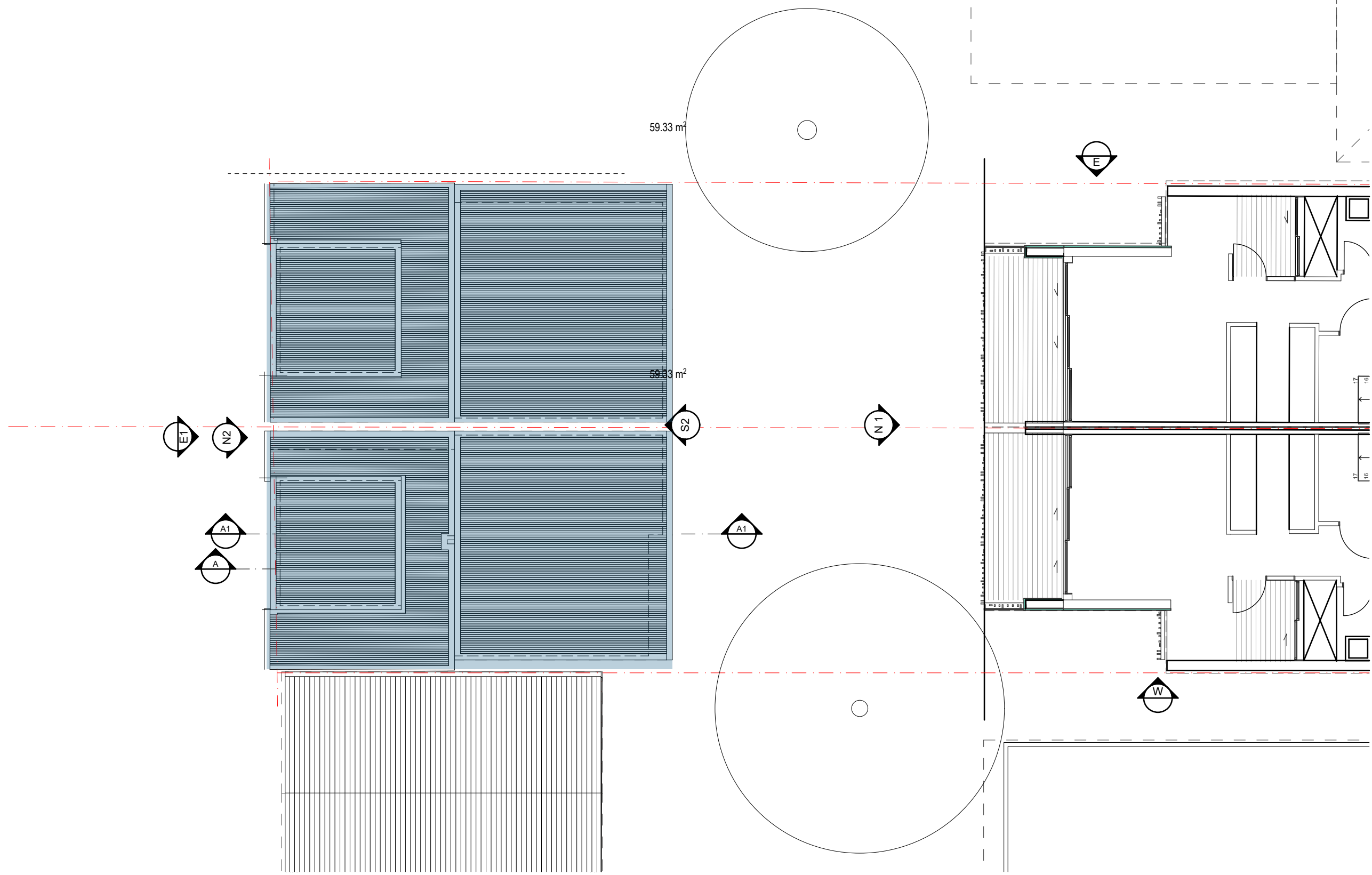
Ground Floor Plan
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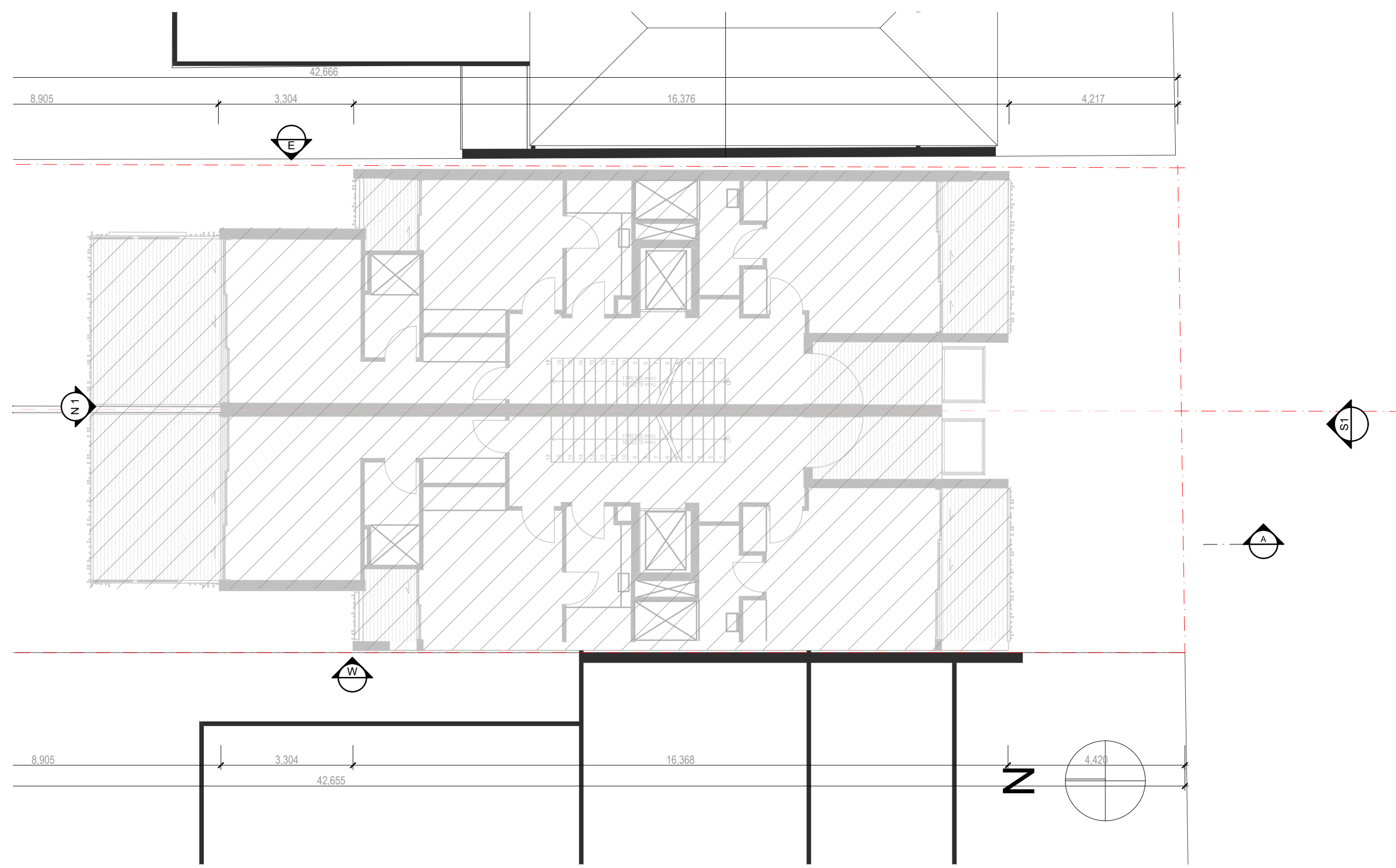
First Floor Plan
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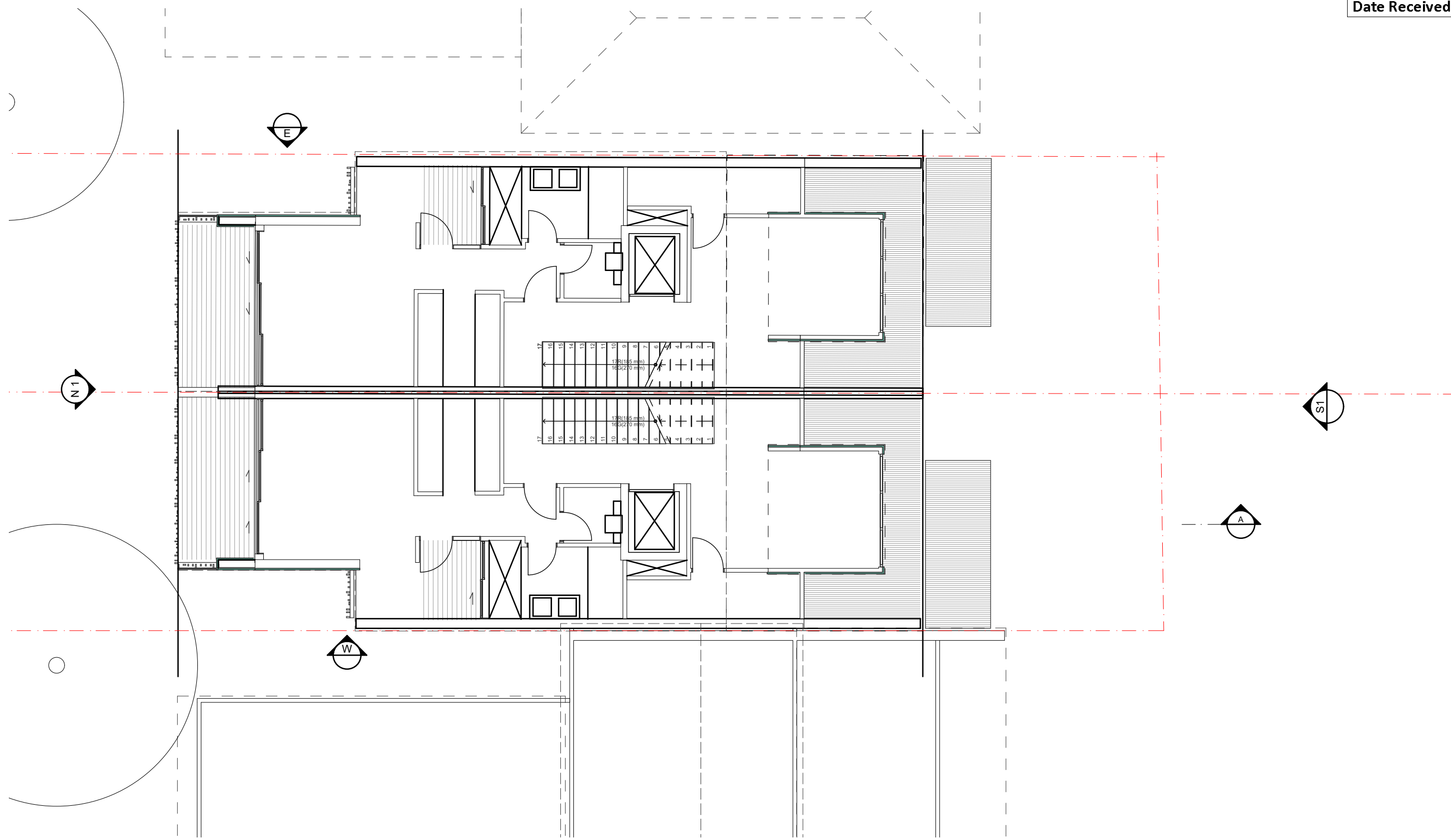
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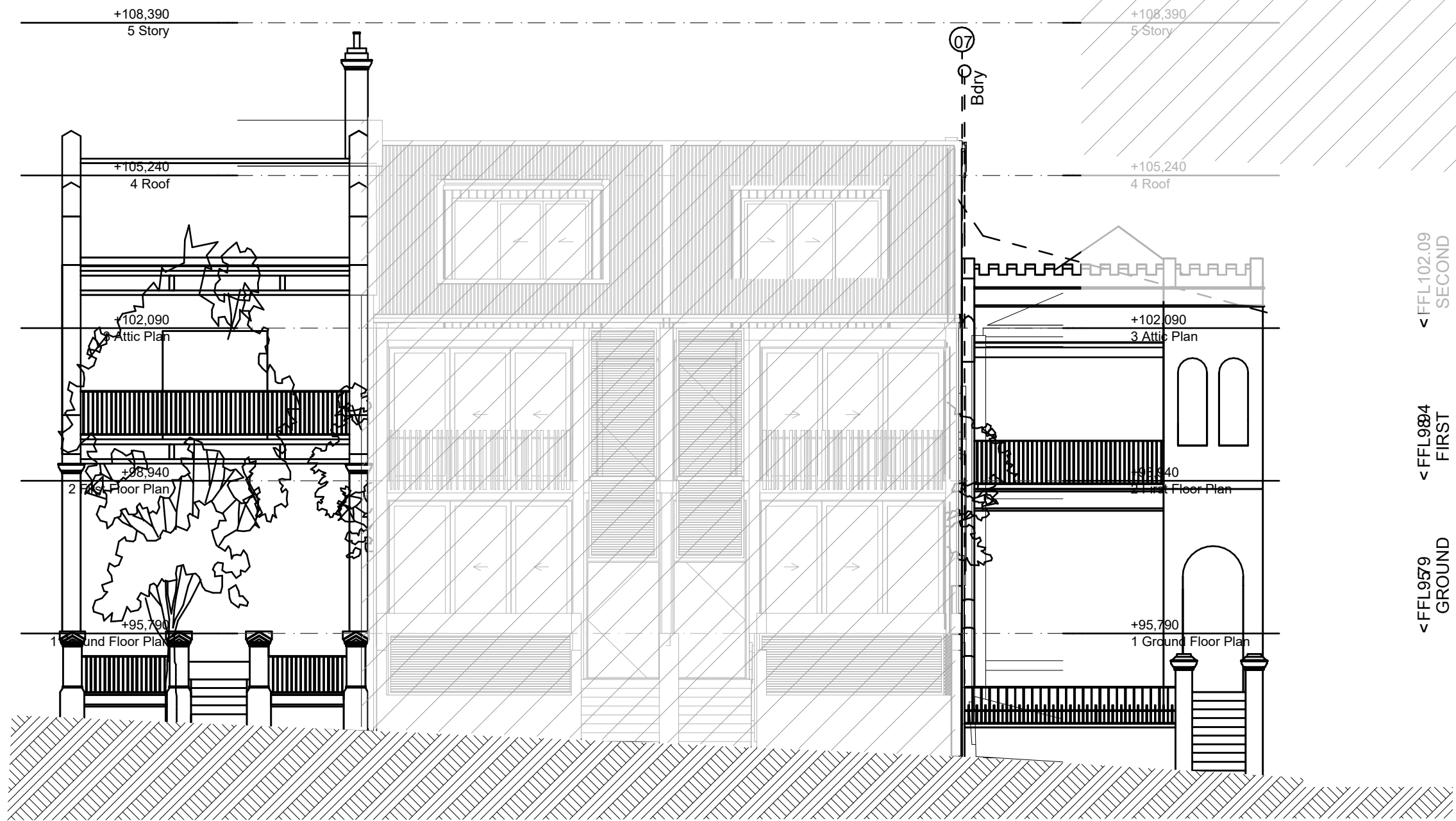
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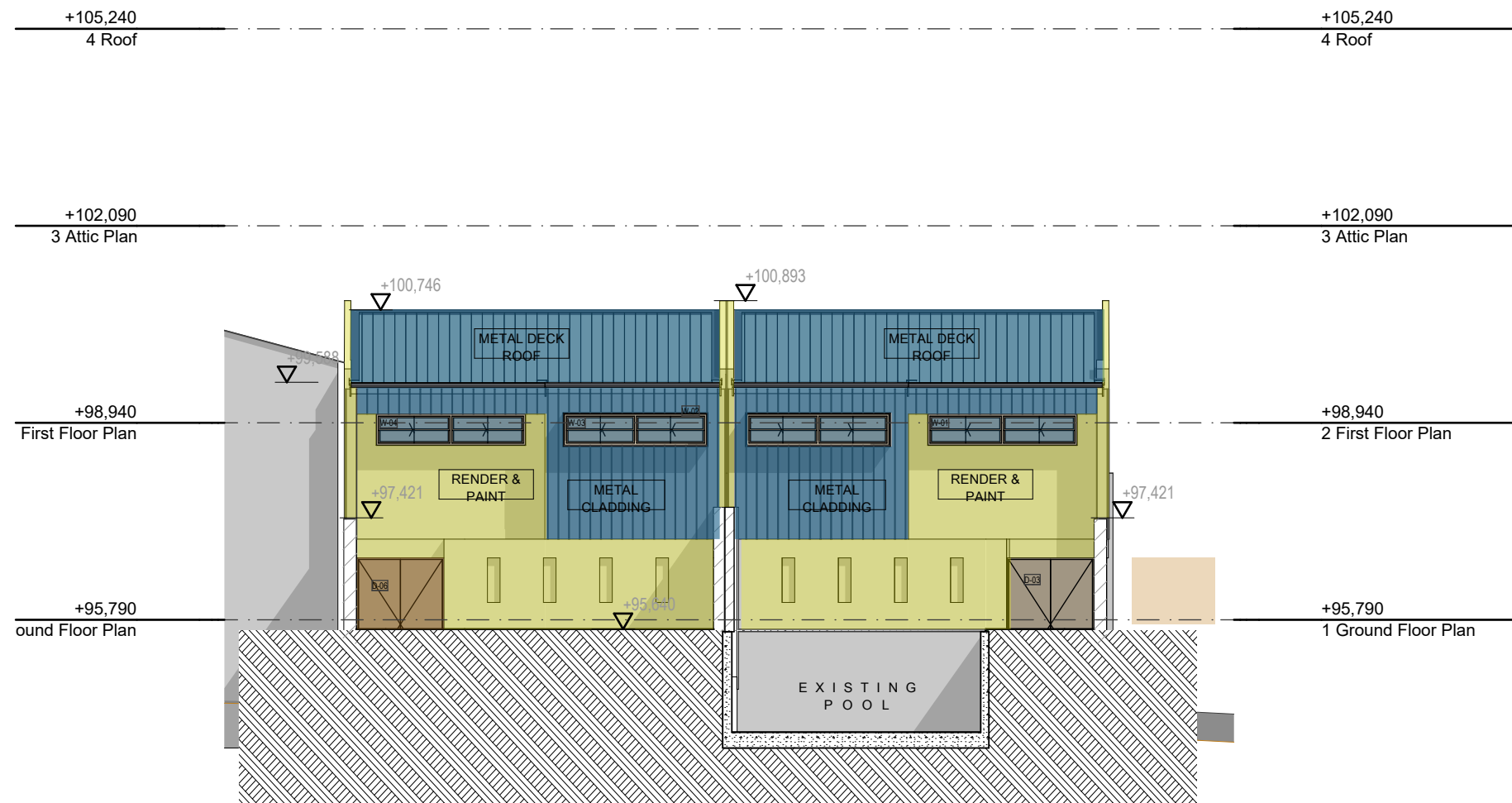
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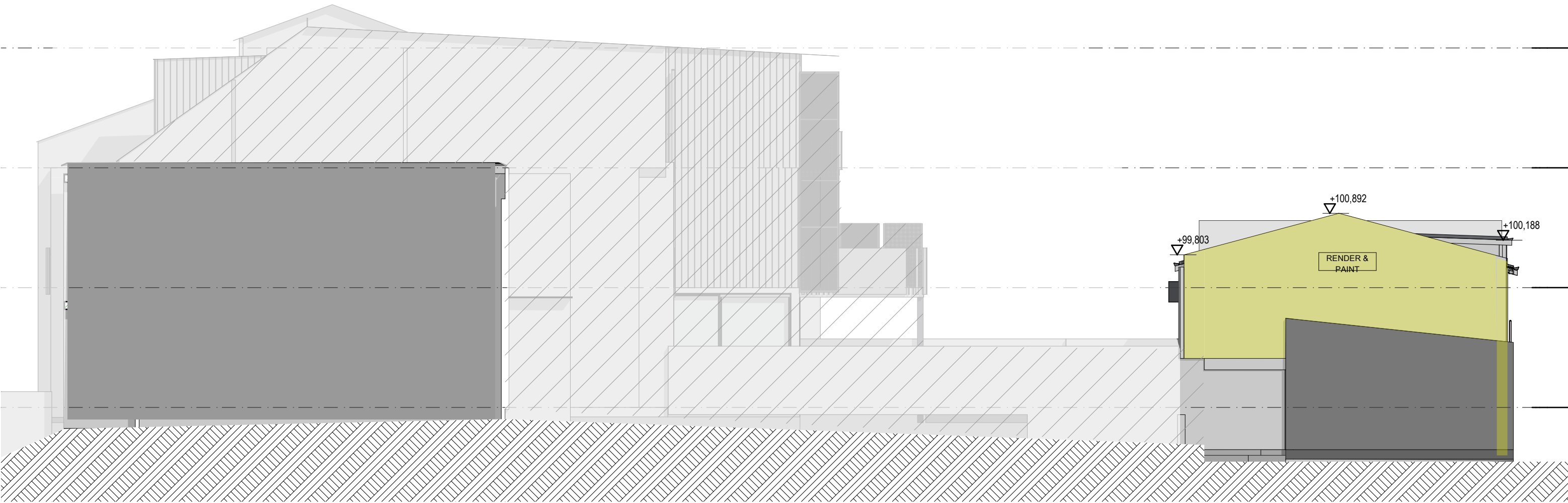
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SOUTH ELEVATION
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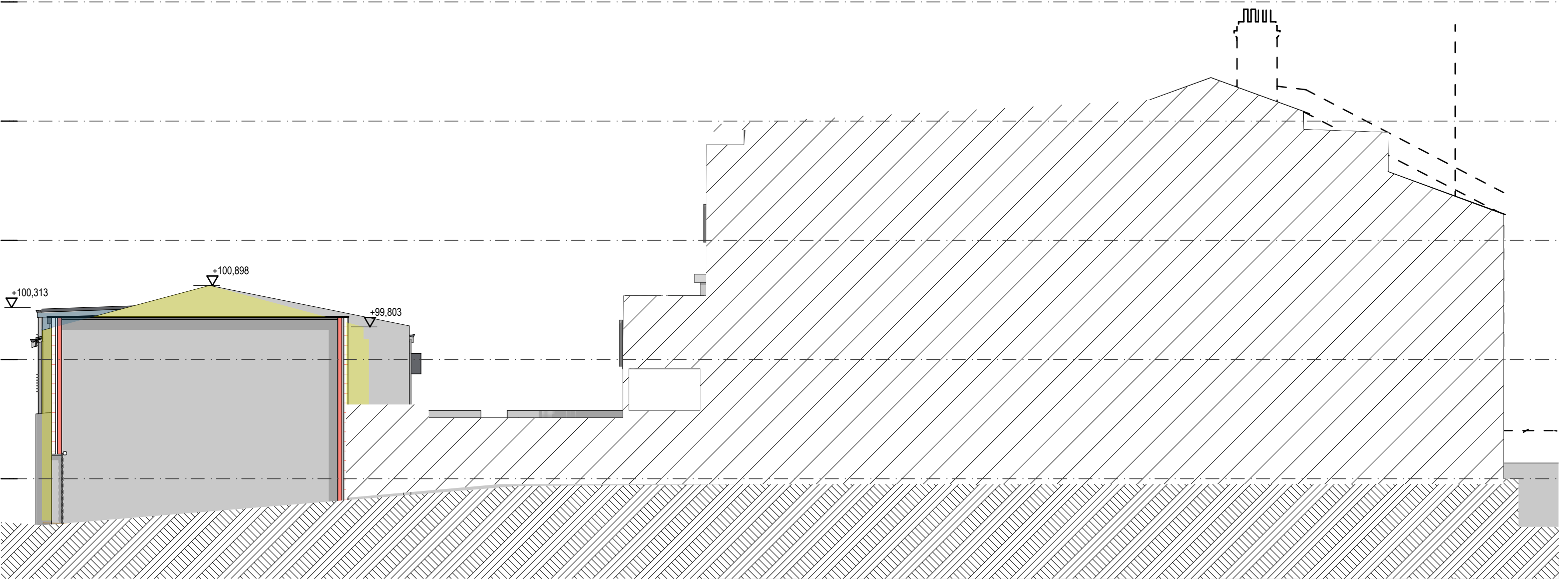


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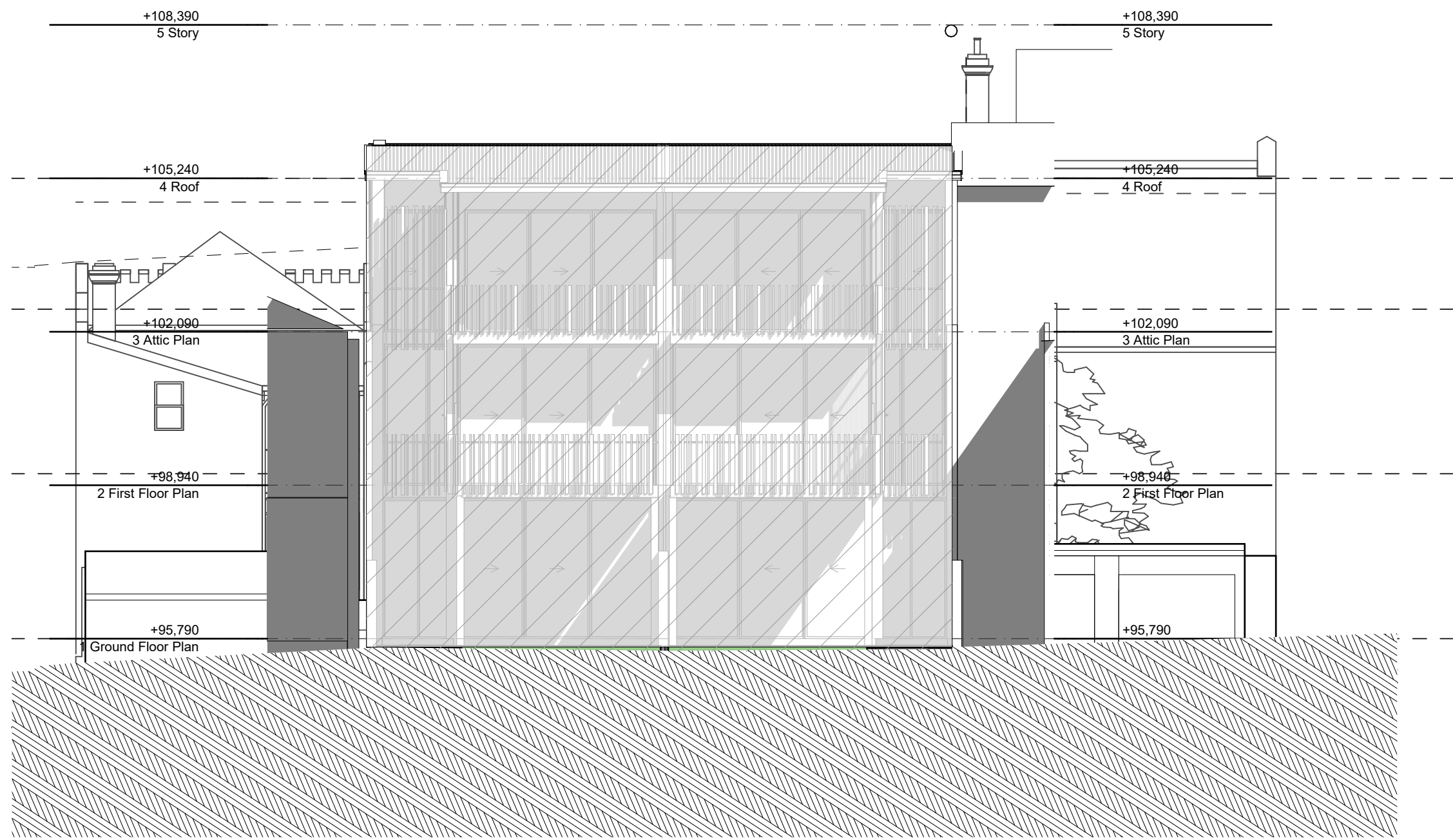
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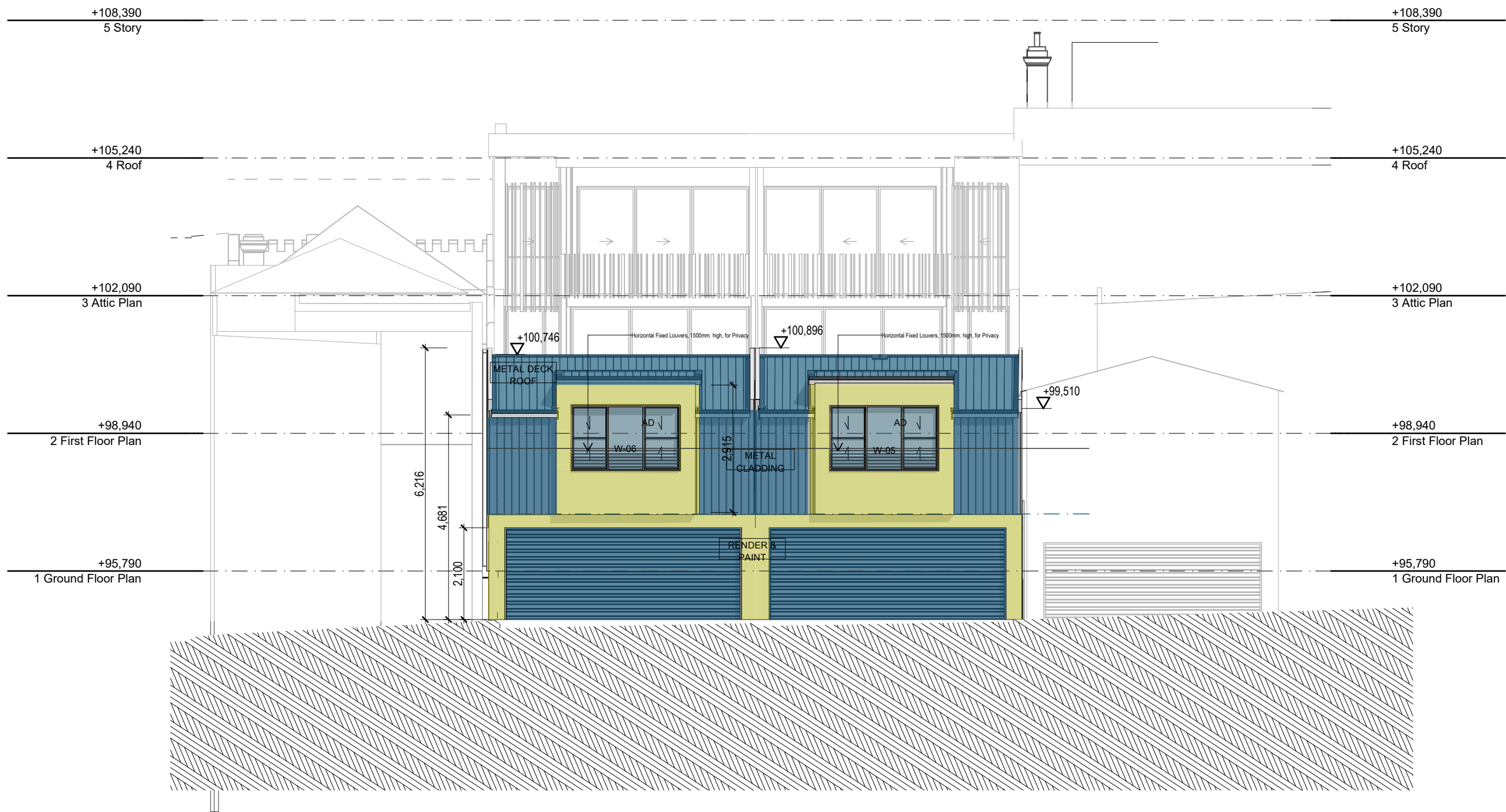


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WEST ELEVATION
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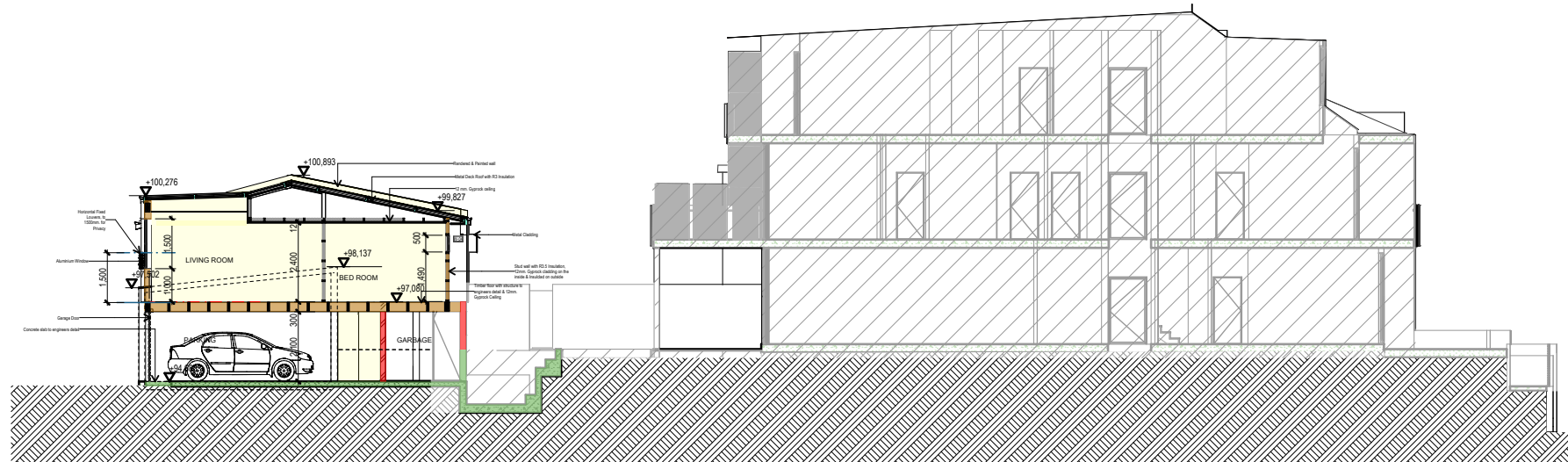
NORTH ELEVATION 1
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N2

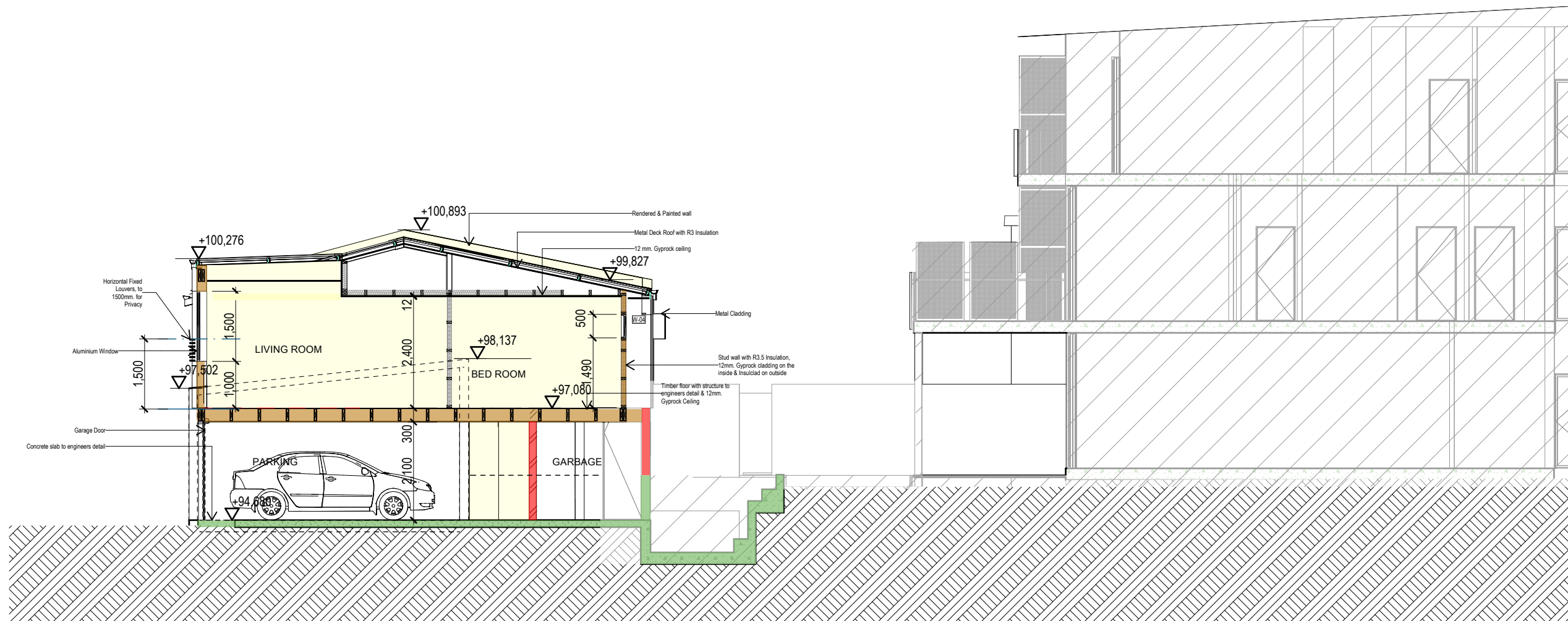
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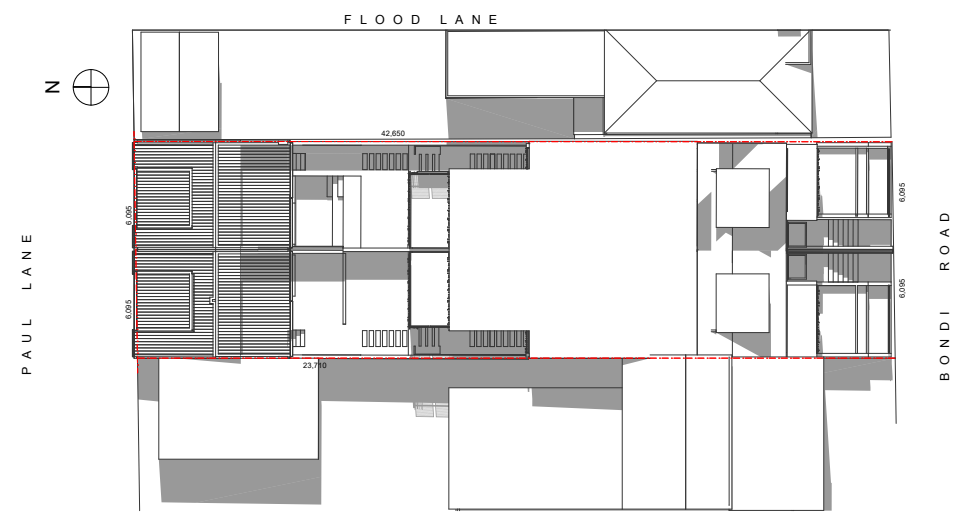
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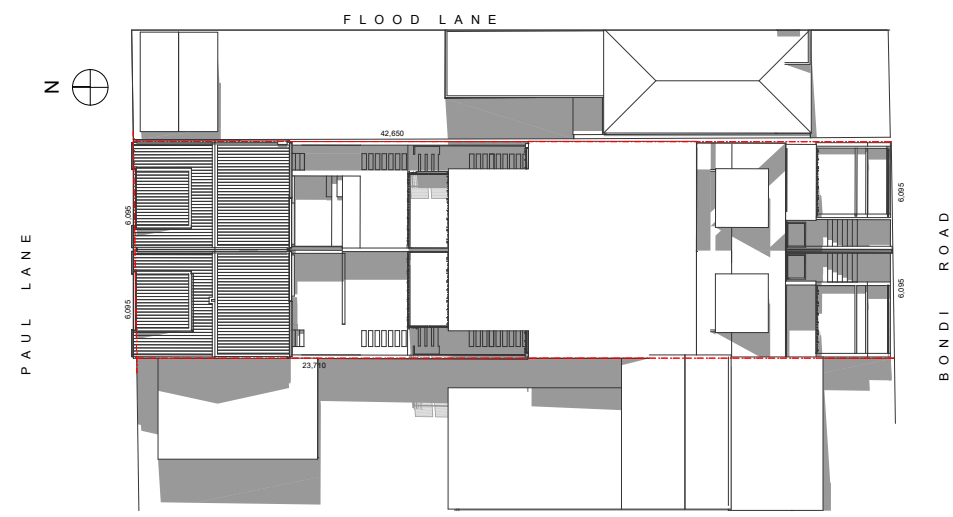


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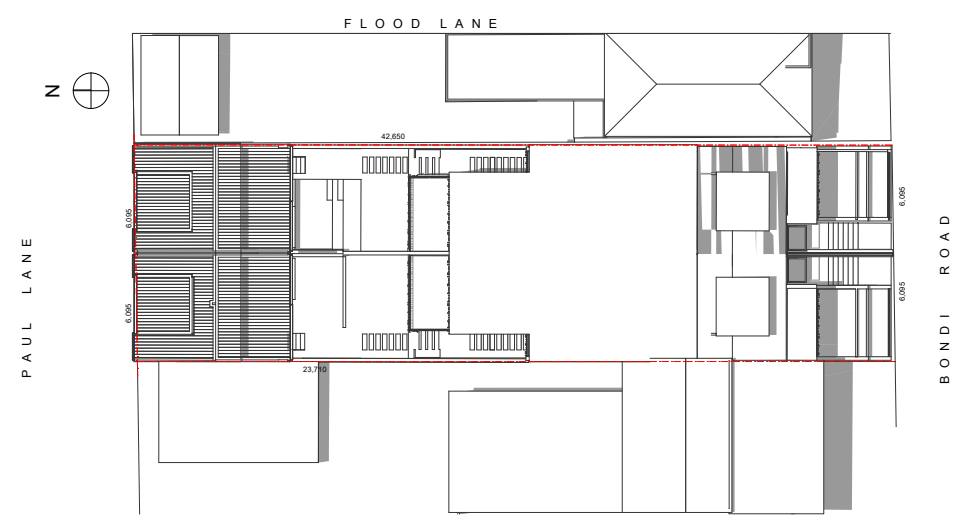
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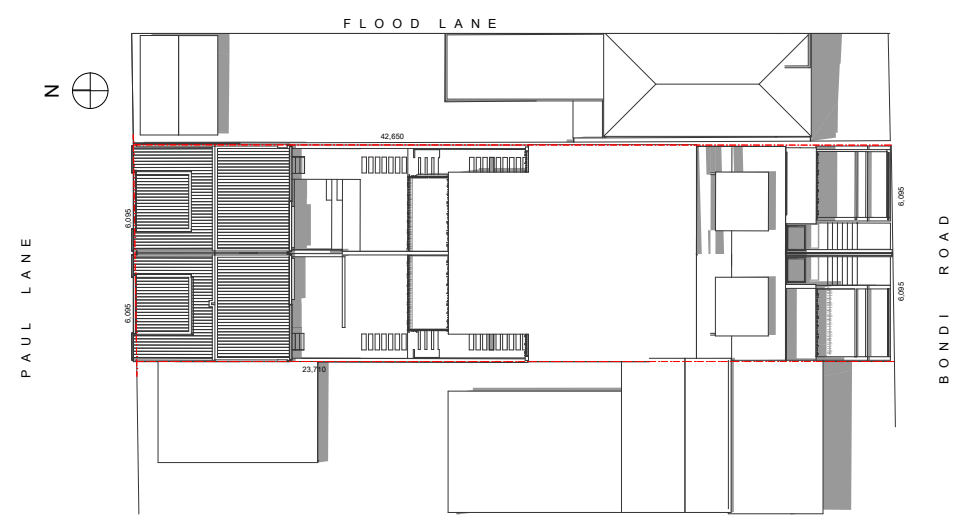
EXISTING SHADOWS
December 21 @ 9:00 am



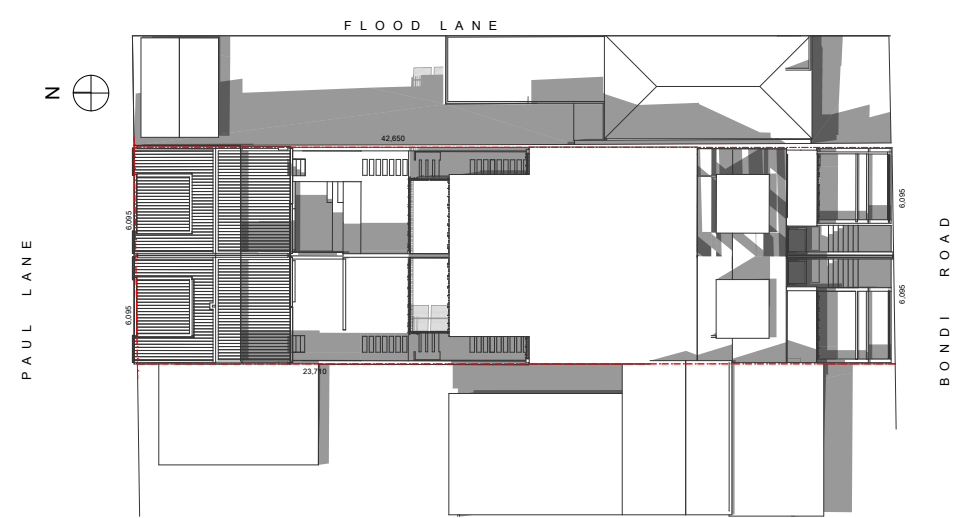
PROPOSED SHADOWS
December 21 @ 9:00 am



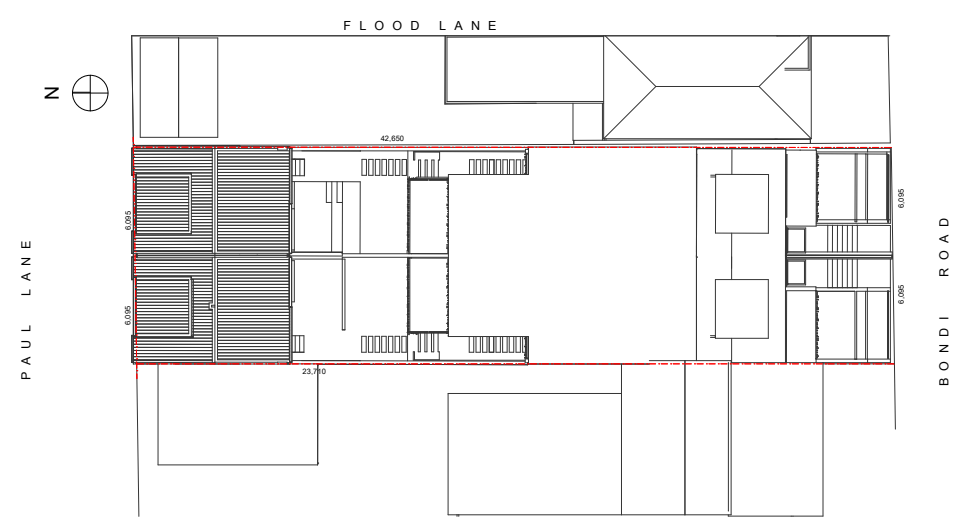
EXISTING SHADOWS
December 21 @ 12:00 noon



PROPOSED SHADOWS
December 21 @ 12:00 noon



EXISTING SHADOWS
December 21 @ 3:00 pm



PROPOSED SHADOWS
December 21 @ 3:00 pm

BASIX[®]Certificate
Building Sustainability Index www.basix.nsw.gov.au

Single Dwelling

Certificate number: 938401S_02

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments, have the meaning given by the document entitled "BASIX Definitions" dated 06/10/2017 published by the Department. This document is available at www.basix.nsw.gov.au

Secretary
Date of issue: Monday, 03 December 2018
To be valid, this certificate must be lodged within 3 months of the date of issue.



Project summary		
Project name	28018, 104 Bondi Rd (West)_02	
Street address	104 Bondi Road Bondi Junction 2022	
Local Government Area	Waverley Council	
Plan type and plan number	deposited 1640	
Lot no.	27.28	
Section no.	H	
Project type	attached dwelling house	
No. of bedrooms	1	
Project score		
Water	✓ 43	Target 40
Thermal Comfort	✓ Pass	Target Pass
Energy	✓ 54	Target 50

Certificate Prepared by	
Name / Company Name:	Max Brightwell
ABN (if applicable):	95897024384

Description of project

Project address		Assessor details and thermal loads	
Project name	28018, 104 Bondi Rd (West)_02	Assessor number	n/a
Street address	104 Bondi Road Bondi Junction 2022	Certificate number	n/a
Local Government Area	Waverley Council	Climate zone	n/a
Plan type and plan number	Deposited Plan 1640	Area adjusted cooling load (MJ/m ² .year)	n/a
Lot no.	27.28	Area adjusted heating load (MJ/m ² .year)	n/a
Section no.	H	Project score	
Project type		Water	✓ 43 Target 40
Project type	attached dwelling house	Thermal Comfort	✓ Pass Target Pass
No. of bedrooms	1	Energy	✓ 54 Target 50
Site details			
Site area (m ²)	54		
Roof area (m ²)	54		
Conditioned floor area (m ²)	43.56		
Unconditioned floor area (m ²)	3.74		
Total area of garden and lawn (m ²)	0		

Schedule of BASIX commitments

The commitments set out below regulate how the proposed development is to be carried out. It is a condition of any development consent granted, or complying development certificate issued, for the proposed development, that BASIX commitments be complied with.

Water Commitments	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
Fixtures			
The applicant must install showerheads with a minimum rating of 3 star (> 4.5 but <= 6 L/min) in all showers in the development.		✓	✓
The applicant must install a toilet flushing system with a minimum rating of 3 star in each toilet in the development.		✓	✓
The applicant must install taps with a minimum rating of 3 star in the kitchen in the development.		✓	
The applicant must install basin taps with a minimum rating of 3 star in each bathroom in the development.		✓	

Thermal Comfort Commitments		Show on DA plans	Show on CC/CDC plans & specs	Certifier check
General features				
The dwelling must not have more than 2 storeys.		✓	✓	✓
The conditioned floor area of the dwelling must not exceed 300 square metres.		✓	✓	✓
The dwelling must not contain open mezzanine area exceeding 25 square metres.		✓	✓	✓
The dwelling must not contain third level habitable attic room.		✓	✓	✓
Floor, walls and ceiling/roof				
The applicant must construct the floor(s), walls, and ceiling/roof of the dwelling in accordance with the specifications listed in the table below.		✓	✓	✓
Construction		Additional insulation required (R-Value)		Other specifications
floor - suspended floor above garage, framed		nil		
external wall - framed (weatherboard, fibre cement, metal clad)		2.00 (or 2.40 including construction)		
internal wall shared with garage - other/undecided		nil		
ceiling and roof - flat ceiling / flat roof, framed		ceiling: 3.5 (up), roof: foil/sarking		framed; dark (solar absorbance > 0.70)
Notes				
<ul style="list-style-type: none">• Insulation specified in this Certificate must be installed in accordance with Part 3.12.1.1 of the Building Code of Australia.• In some climate zones, insulation should be installed with due consideration of condensation and associated interaction with adjoining building materials.				

Thermal Comfort Commitments				Show on DA plans	Show on CC/CDC plans & specs	Certifier check
Windows, glazed doors and skylights						
The applicant must install the windows, glazed doors and shading devices described in the table below, in accordance with the specifications listed in the table. Relevant overshadowing specifications must be satisfied for each window and glazed door.				✓	✓	✓
The dwelling may have 1 skylight (<0.7 square metres) which is not listed in the table.				✓	✓	✓
The following requirements must also be satisfied in relation to each window and glazed door:				✓	✓	✓
<ul style="list-style-type: none">For the following glass and frame types, the certifier check can be performed by visual inspection.<ul style="list-style-type: none">Aluminium single clearAluminium double (air) clearTimber/uPVC/fibreglass single clearTimber/uPVC/fibreglass double (air) clearFor other glass or frame types, each window and glazed door must be accompanied with certification showing a U value no greater than that listed and a Solar Heat Gain Coefficient (SHGC) within the range of those listed. Total system U values and SHGC must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions. Frame and glass types shown in the table below are for reference only.						✓

Window/glazed door no.	Maximum height (mm)	Maximum width (mm)	Type	Shading Device (Dimension within 10%)	Overshadowing
North facing					
D14	2650	2870	U-value: 3.1, SHGC: 0.243 - 0.297 (aluminium; thermally broken, double (air), Lo-Tsol Low-e/clear)	eave 320 mm, 0 mm above head of window or glazed door	not overshadowed
South facing					
W04	500	2376	U-value: 5.4, SHGC: 0.522 - 0.638 (aluminium, single, Hi-Tsol Low-e)	none	not overshadowed
W03	500	2278	U-value: 5.4, SHGC: 0.522 - 0.638 (aluminium, single, Hi-Tsol Low-e)	none	not overshadowed

Energy Commitments		Show on DA plans	Show on CC/CDC plans & specs	Certifier check
Hot water				
The applicant must install the following hot water system in the development, or a system with a higher energy rating: gas instantaneous with a performance of 3 stars.		✓	✓	✓
Cooling system				
The applicant must install the following cooling system, or a system with a higher energy rating, in at least 1 living area: 1-phase airconditioning; Energy rating: 3 Star			✓	✓
The applicant must install the following cooling system, or a system with a higher energy rating, in at least 1 bedroom: 1-phase airconditioning; Energy rating: 3.5 Star			✓	✓
Heating system				
The applicant must install the following heating system, or a system with a higher energy rating, in at least 1 living area: 1-phase airconditioning; Energy rating: 3 Star			✓	✓
The applicant must install the following heating system, or a system with a higher energy rating, in at least 1 bedroom: 1-phase airconditioning; Energy rating: 3 Star			✓	✓
Ventilation				
The applicant must install the following exhaust systems in the development:				
At least 1 Bathroom: individual fan, ducted to façade or roof; Operation control: manual switch on/off			✓	✓
Kitchen: individual fan, ducted to façade or roof; Operation control: manual switch on/off			✓	✓
Laundry: individual fan, ducted to façade or roof; Operation control: manual switch on/off			✓	✓
Artificial lighting				
The applicant must ensure that the "primary type of artificial lighting" is fluorescent or light emitting diode (LED) lighting in each of the following rooms, and where the word "dedicated" appears, the fittings for those lights must only be capable of accepting fluorescent or light emitting diode (LED) lamps:				
• at least 1 of the bedrooms / study; dedicated			✓	✓
• at least 1 of the living / dining rooms;			✓	✓
• the kitchen; dedicated			✓	✓

Energy Commitments		Show on DA plans	Show on CC/CDC plans & specs	Certifier check
• all bathrooms/toilets; dedicated				
• all hallways; dedicated			✓	✓
Natural lighting				
The applicant must install a window and/or skylight in the kitchen of the dwelling for natural lighting.		✓	✓	✓
The applicant must install a window and/or skylight in 1 bathroom(s)/toilet(s) in the development for natural lighting.		✓	✓	✓
Alternative energy				
The applicant must install a photovoltaic system with the capacity to generate at least 0.5 peak kilowatts of electricity as part of the development. The applicant must connect this system to the development's electrical system.		✓	✓	✓
Other				
The applicant must install a gas cooktop & electric oven in the kitchen of the dwelling.			✓	
The applicant must install a fixed outdoor clothes drying line as part of the development.			✓	

Legend	
In these commitments, "applicant" means the person carrying out the development.	
Commitments identified with a ✓ 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).	
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Project type	attached dwelling house	
No. of bedrooms	1	
Project score		
Water	✓ 43	Target 40
Thermal Comfort	✓ Pass	Target Pass
Energy	✓ 54	Target 50

Certificate Prepared by	
Name / Company Name:	Max Brightwell
ABN (if applicable):	95897024384

Description of project

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Project name	28018, 104 Bondi Rd (East)_02	Assessor number	n/a
Street address	104 Bondi Road Bondi Junction 2022	Certificate number	n/a
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Lot no.	27.28	Area adjusted heating load (MJ/m²·year)	n/a
Section no.	H	Project score	
Project type		Water	43 Target 40
Project type	attached dwelling house	Thermal Comfort	Pass Target Pass
No. of bedrooms	1	Energy	54 Target 50
Site details			
Site area (m²)	54		
Roof area (m²)	54		
Conditioned floor area (m2)	43.56		
Unconditioned floor area (m2)	3.74		
Total area of garden and lawn (m2)	0		

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Fixtures			
The applicant must install showerheads with a minimum rating of 3 star (> 4.5 but <= 6 L/min) in all showers in the development.		✓	✓
The applicant must install a toilet flushing system with a minimum rating of 3 star in each toilet in the development.		✓	✓
The applicant must install taps with a minimum rating of 3 star in the kitchen in the development.		✓	
The applicant must install basin taps with a minimum rating of 3 star in each bathroom in the development.		✓	

Thermal Comfort Commitments		Show on DA plans	Show on CC/CDC plans & specs	Certifier check
General features				
The dwelling must not have more than 2 storeys.		✓	✓	✓
The conditioned floor area of the dwelling must not exceed 300 square metres.		✓	✓	✓
The dwelling must not contain open mezzanine area exceeding 25 square metres.		✓	✓	✓
The dwelling must not contain third level habitable attic room.		✓	✓	✓
Floor, walls and ceiling/roof				
The applicant must construct the floor(s), walls, and ceiling/roof of the dwelling in accordance with the specifications listed in the table below.		✓	✓	✓
Construction	Additional insulation required (R-Value)	Other specifications		
floor - suspended floor above garage, framed	nil			
external wall - framed (weatherboard, fibre cement, metal clad)	2.00 (or 2.40 including construction)			
internal wall shared with garage - other/undecided	nil			
ceiling and roof - flat ceiling / flat roof, framed	ceiling: 3.5 (up), roof: foil/sarking	framed; dark (solar absorbance > 0.70)		
Notes				
• Insulation specified in this Certificate must be installed in accordance with Part 3.12.1.1 of the Building Code of Australia.				
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The following requirements must also be satisfied in relation to each window and glazed door:				
• For the following glass and frame types, the certifier check can be performed by visual inspection.				
- Aluminium single clear				
- Aluminium double (air) clear				
- Timber/UPVC/fibreglass single clear				
- Timber/UPVC/fibreglass double (air) clear				
• For other glass or frame types, each window and glazed door must be accompanied with certification showing a U value no greater than that listed and a Solar Heat Gain Coefficient (SHGC) within the range of those listed. Total system U values and SHGC must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions. Frame and glass types shown in the table below are for reference only.				✓

Window/glazed door no.	Maximum height (mm)	Maximum width (mm)	Type	Shading Device (Dimension within 10%)	Overshadowing
North facing					
d09	2650	2870	U-value: 3.1, SHGC: 0.243 - 0.297 (aluminium; thermally broken, double (air), Lo-Tail Low-e/clear)	eave 320 mm, 0 mm above head of window or glazed door	not overshadowed
South facing					
W02	500	2278	U-value: 5.4, SHGC: 0.522 - 0.638 (aluminium, single, Hi-Tail Low-e)	none	not overshadowed
W01	500	2376	U-value: 5.4, SHGC: 0.522 - 0.638 (aluminium, single, Hi-Tail Low-e)	none	not overshadowed

Energy Commitments		Show on DA plans	Show on CC/CDC plans & specs	Certifier check
Hot water				
The applicant must install the following hot water system in the development, or a system with a higher energy rating: gas instantaneous with a performance of 3 stars.		✓	✓	✓
Cooling system				
The applicant must install the following cooling system, or a system with a higher energy rating, in at least 1 living area: 1-phase airconditioning; Energy rating: 3 Star			✓	✓
The applicant must install the following cooling system, or a system with a higher energy rating, in at least 1 bedroom: 1-phase airconditioning; Energy rating: 3.5 Star			✓	✓
Heating system				
The applicant must install the following heating system, or a system with a higher energy rating, in at least 1 living area: 1-phase airconditioning; Energy rating: 3 Star			✓	✓
The applicant must install the following heating system, or a system with a higher energy rating, in at least 1 bedroom: 1-phase airconditioning; Energy rating: 3 Star			✓	✓
Ventilation				
The applicant must install the following exhaust systems in the development: At least 1 Bathroom: individual fan, ducted to facade or roof; Operation control: manual switch on/off			✓	✓
Kitchen: individual fan, ducted to facade or roof; Operation control: manual switch on/off			✓	✓
Laundry: individual fan, ducted to facade or roof; Operation control: manual switch on/off			✓	✓
Artificial lighting				
The applicant must ensure that the "primary type of artificial lighting" is fluorescent or light emitting diode (LED) lighting in each of the following rooms, and where the word "dedicated" appears, the fittings for those lights must only be capable of accepting fluorescent or light emitting diode (LED) lamps: • at least 1 of the bedrooms / study; dedicated • at least 1 of the living / dining rooms; • the kitchen; dedicated			✓	✓

Energy Commitments		Show on DA plans	Show on CC/CDC plans & specs	Certifier check
• all bathrooms/toilets; dedicated				
• all hallways; dedicated				
Natural lighting				
The applicant must install a window and/or skylight in the kitchen of the dwelling for natural lighting.		✓	✓	✓
The applicant must install a window and/or skylight in 1 bathroom(s)/toilet(s) in the development for natural lighting.		✓	✓	✓
Alternative energy				
The applicant must install a photovoltaic system with the capacity to generate at least 0.5 peak kilowatts of electricity as part of the development. The applicant must connect this system to the development's electrical system.		✓	✓	✓
Other				
The applicant must install a gas cooktop & electric oven in the kitchen of the dwelling.			✓	
The applicant must install a fixed outdoor clothes drying line as part of the development.			✓	

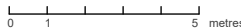
Legend
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Commitments identified with a ✓ in the "Certifier check" column must be certified by a certifying authority as having been fulfilled, before a final occupation certificate (either interim or final) for the development may be issued.

INSULATION R-VALUES

Concrete slab on ground - Nil
External cavity brick wall - R0.50 or 1.17 including construction
External brick veneer wall - R1.38 or 1.90 including construction
External framed wall - fc / metal clad - R1.50 or 1.90 including construction
External wall undecided - R1.90 including construction
Flat ceiling / pitched roof - Ceiling: R2.5 (up), roof: foil/sarking unventilated; medium (solar absorbance 0.475-0.70)
Raked ceiling / pitched or skillion roof, framed - Ceiling: R2.5 (up), roof: foil/sarking (medium solar absorbance 0.475-0.70)

NOTES

1. All dimensions shown in millimetres + all levels shown in metres unless otherwise noted
2. All dimensions + levels to be checked on site prior to commencement of work
3. Work to figured dimensions - do not scale off drawings
4. Verify all dimensions on site + report all discrepancies to the architect





Report to the Waverley Local Planning Panel

Application number	DA-1/2019
Site address	3 St Thomas Street, Bronte
Proposal	Demolition of existing dwelling and construction of a pair of semi-detached dwellings (one on each lot)
Date of lodgement	4 January 2019
Owner	Ms M A Withers
Applicant	4 Track Building Design
Submissions	Eight submissions
Cost of works	\$3,935,578
Issues	FSR and height; views; overshadowing; swimming pool.
Recommendation	That the application be granted DEFERRED COMMENCEMENT CONSENT

Site Map



1. PREAMBLE

1.1 Site And Surrounding Locality

A site visit was carried out on 17 April 2019.

The site is identified as Lots B and C in DP 317366, known as 3 St Thomas Street, Bronte. Each lot is equal in size at 497.94m² (Lot B is to the south and Lot C to the north) with a front (east) and rear (west) boundary of 10.21m and northern and southern side boundaries of 48.77m.

There is a significant fall in level across both sites from the rear down to the street frontage, with a change in level of approximately 15m. There is also a cross fall from the south down to the north at the front portion of the site with a change in level of approximately 4 metres.

Existing on the site is a two-storey detached dwelling above a double garage. The dwelling is sited towards the front boundary with a large landscaped area to the rear. At the rear of the site, there is a marked change in level with a rock outcropping running almost central through the rear yard with a difference in level of approximately 7m. The higher part above the sandstone cliff is heavily landscaped and is to be retained as part of the subject proposal.

The subject site is adjoined by a two-storey detached dwelling to the south and a part two and three-storey residential flat building to the north. The locality is characterised by a variety of residential developments predominantly semi-detached and detached dwellings with later developments being flat-roofed contemporary designs.



Figure 1: Site viewed from St Thomas Street



Figure 2: Site viewed from the rear



Figure 1: Sandstone outcropping within rear yard (building in the background is neighbouring property at 27 Yanko Road)

1.2 Relevant History

The following consent is relevant to the subject site:

- BA-344/1998 to convert two existing garage doors to a single garage door was approved 15 June 1998.

During assessment of the subject application, further information/clarification was requested relating to gross floor area calculations, corrections of documentation (Clause 4.6 Objections), the provision of a rear elevation and correction of plans to show the permissible height limit. The further documentation was provided to Council on 9 July 2019.

1.3 Proposal

The proposal seeks consent for the demolition of all structures on the site and construction of a pair of semi-detached dwellings. Each dwelling will be located on existing Lot B or C, and as such the proposal does not include subdivision of the land.

The dwellings will be provided with parking at the lower ground floor level (nominated as Level 1 on the plans) accessed from St Thomas Street generally aligning with the existing garage and driveway crossing on the site. The garage entry will be widened to accommodate two separate vehicle entries. Within the garage, each dwelling will be provided with two parking spaces and manoeuvring area, a lift to the upper levels and bin storage. Each dwelling will also be provided with a mezzanine above the garage, however below the first habitable level of the dwelling to be used for plant and storage. The widening of the garage will necessitate the relocation of existing public stairs at the front of the dwelling further to the south.

The northern dwelling (located on Lot C) will provide two bedrooms above the garage level (nominated as Level 2 on the plans) and living areas at Level 3 with access to a lap pool extending along the northern boundary of the site.

The southern dwelling (located on Lot B) will provide three bedrooms on Level 2, living areas on Level 3 and a master bedroom at the top floor level (Level 4). A small swimming pool will be provided within the rear yard of the site (.

The sandstone outcropping running through the width of the rear yards and all existing landscaping above will be retained. Below the sandstone outcropping, rear courtyards for each dwelling will be provided. Each dwelling will also have a landscaped area over the roof of the garages and front balconies.

2. ASSESSMENT

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

2.1 Planning Instruments and Development Control Plans

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

2.1.1 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the development application.

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

2.1.2 SEPP 55 Remediation of Land

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

2.1.3 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

Table 1: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the LEP.
Part 2 Permitted or prohibited development		
2.6 Subdivision – consent requirements	N/A	The land is already subdivided into two Torrens Title lots. Each semi-detached dwelling will be located within one of these existing lots.
Land Use Table R2 Low Density Residential Zone	Yes	The proposal is defined as ' <i>semi-detached dwellings</i> ', which is permitted with consent in the R2 zone. The proposal is consistent with the zone objectives.
Part 4 Principal development standards		
4.3 Height of buildings • 8.5m	No	The proposed dwellings have the following heights: Dwelling Lot B: • 8.87m exceeding the development standard by 370mm or 4%. Dwelling Lot C: • 10.4m in the north-eastern corner exceeding the development standard by 1.9m equating to a 22% variation; and

Provision	Compliance	Comment
		<ul style="list-style-type: none"> 8.99m to the rooflight at Level 4, exceeding the development standard by 490mm equating to a 6% variation.
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio <ul style="list-style-type: none"> 0.56:1 (279m²) (Each lot has an area of 497.94m ²)	No	Lot B: 0.66:1 (326.6m ²) exceeding by 47.76m ² or 17%. Lot C: 0.43:1 (211.63m ²) complies with the development standard.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the height and FSR development standards. A detailed discussion of the variation to the development standards is presented below this table.
Part 6 Additional local provisions		
6.1 Acid sulfate soils	Yes	The site is designated as Class 5 on the Acid Sulfate Soils Map. An appropriate condition is recommended in the event that acid sulfate soils are encountered during excavation.
6.2 Earthworks	Yes	The proposal includes excavation of the site. Standard conditions are recommended in relation to excavation. A Geotechnical Report was provided which includes recommendations in regards to the excavation. The report is referenced in the conditions of consent.

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

Clause 4.6 Exceptions to Development Standards

Height

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 8.5m. The subject proposal seeks to exceed the height development standard on both lots as follows:

- Dwelling Lot B: 8.87m exceeding the development standard by 370mm equating to a 4% variation.
- Dwelling Lot C: This dwelling exceeds the height development standard in two areas - 10.4m in the north-eastern corner exceeding the development standard by 1.9m equating to a 22% variation; and 8.99m to the rooflight at Level 4 exceeding the development standard by 490mm equating to a 6% variation.

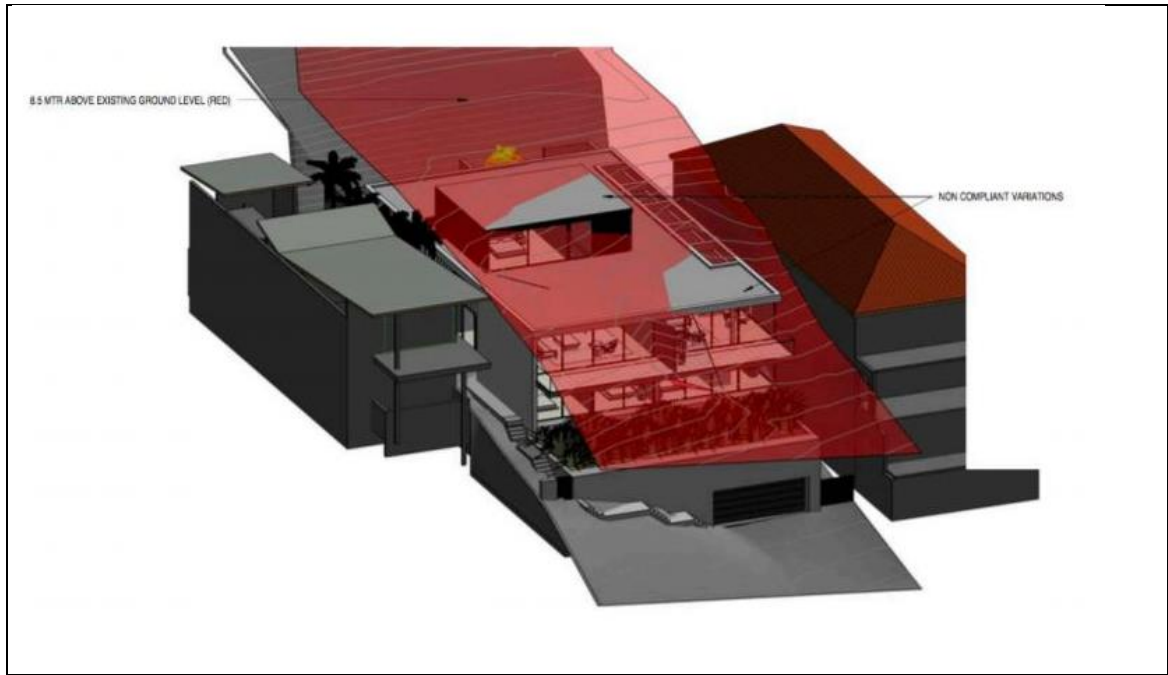


Figure 4: Height plane diagram provided within Applicant’s Clause 4.6 Objection to a Development Standard. The red indicates the compliant height plane of 8.5m with the grey areas indicating the areas of height non-compliance.

Lot B

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

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

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

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

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

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) *The area of height non-compliance is located centrally and has resulted from the natural slope of the site down to the street frontage. The area of non-compliance will not result in any adverse amenity loss to surrounding properties. No.27 Yanko Ave is in a significantly elevated position and its main view corridor will continue to be diagonally across the rear of the subject site. No.3A St Thomas Ave has its view corridor from its main living room and balcony at the front of the dwelling and this will not be obstructed by the area of non-compliance with the height control on the subject site. The overshadowing diagrams also illustrate that the area of height noncompliance does not adversely impact on amenity to the neighbouring dwelling at No.3A. The area of height non-compliance is also setback and*

orientated so as not to adversely impact upon privacy. The photomontage demonstrates that the proposal will be of a bulk, scale and character consistent with the streetscape.

- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *The compliance with the clause is considered unreasonable and unnecessary in the circumstance of this case as outlined in the discussion above where the proposal results in a building form of bulk and scale consistent with surrounding development. The failure to set aside the standard would in effect give rise to an uncharacteristic building form. The contravention of the control by the proposal does not give rise to any environmental effect of sufficient significance, which would cause concern and it is considered that the environmental benefits of the proposal providing accommodation with a high level or residential amenity and energy efficiency is on balance an appropriate outcome to justify the contravention of the development standard.*

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

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

- a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- b) The proposed development will be in the public interest because it is consistent with the objectives of the particular 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 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 provided a written request which has addressed that there are sufficient environmental planning grounds to justify contravening the standard. Notwithstanding, the rationale within the written request is not agreed as discussed in the following section.

Is the development in the public interest?

The proposed development will not be in the public interest because it is inconsistent with the objectives of the particular standard for the following reasons:

- The proposed upper floor level (Level 4) will result in unacceptable amenity impacts upon surrounding properties including impacts upon views from the properties at 27 and 27A Yanko Avenue and will result in additional overshadowing of bedroom windows at 3A St Thomas Street (discussed in detail in Section 2.1.4 of this report). These impacts are a direct result of the non-compliance of the proposed Level 4 of the dwelling on Lot B with both height and FSR (discussed in the following section). This is inconsistent with objective (a) of Clause 4.3 (objectives of the height development standard).
- The proposed Level 4 of the building is inconsistent with the height, bulk and scale of the desired future character of the locality contrary to objective (d) of Clause 4.3 (objectives of the height development standard).

The upper floor level of Lot B exceeds both the height and FSR development standards. The additional level impacts detrimentally upon surrounding properties and is inconsistent with the objectives of the height development standard. The deletion of Level 4 by way of deferred commencement condition will reduce the height of the dwelling on Lot B to be fully compliant with the height development standard with the effect of maintaining views from the properties at the rear and reducing overshadowing of the property to the south.

The bulk and scale of the proposal is inconsistent with the desired future character envisioned by the development standards. The fourth level of the building is out of scale with recent approvals within the vicinity, including similar recent approvals for semi-detached dwellings or dual occupancies within the street built to a two-storey scale.

The exceedance of the height development standard cannot be justified in this instance and is not supported. A deferred commencement condition requiring the deletion of Level 4 in order to comply is recommended.

Conclusion

For the reasons provided above, the requested variation to the height development standard is not supported. While the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6(3) of the Waverley LEP 2012, the proposed development is not in the public interest as it is inconsistent with the objectives of the height development standard.

Lot C

This dwelling exceeds the height development standard in two areas (as demonstrated in Figure 4):

- 10.4m in the north-eastern corner, exceeding the development standard by 1.9m equating to a 22% variation; and
- 8.99m to the roofline at Level 4 exceeding the development standard by 490mm equating to a 6% variation.

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

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

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

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

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

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

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
- (i) *The proposal provides a significant improvement to the streetscape presentation (see photomontage) and provides a suitably sized family home. It provides for a development consistent in form and scale to other recently constructed, contemporary dwellings in the streetscape. The area of non-compliance does not result in any adverse amenity impacts in terms of overshadowing, privacy or view loss to surrounding development. In this instance it is considered unreasonable and unnecessary to apply the control and consequently the exception to the height control standard under Clause 4.6 is assessed to be acceptable.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *The failure to set aside the standard would in effect give rise to an uncharacteristic building form. The contravention of the control by the proposal does not give rise to any environmental effect of sufficient significance, which would cause concern and it is considered that the environmental benefits of the proposal providing accommodation with a high level of residential amenity and energy efficiency is on balance an appropriate outcome to justify the contravention of the development standard.*

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 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 provided a written request which has addressed that there are sufficient environmental planning grounds to justify contravening the standard. Notwithstanding, the rationale within the written request is not agreed fully as discussed in the following section.

Is the development in the public interest?

The proposed development will not be in the public interest because it is inconsistent with the objectives of the particular standard for the following reasons:

- The proposal includes a rooflight at Level 4 of the dwelling protruding above the roof by 2.7m. This part of the proposal will result in unacceptable amenity impacts upon surrounding properties including impacts upon views from the properties at 27 and 27A Yanko Avenue (discussed in detail in Section 2.1.4 of this report). These impacts are a direct result of the height non-compliance of the proposed Level 4 rooflight. This is inconsistent with objective (a) of Clause 4.3 (objectives of the height development standard).
- The proposed rooflight and subsequent overall height of the building is inconsistent with the height, bulk and scale of the desired future character of the locality contrary to objective (d) of Clause 4.3 (objectives of the height development standard).

The Level 4 rooflight on Lot C exceeds the height development standard and is considered to be an unnecessary element of the building. The rooflight will provide further solar access to the living area, however this area has extensive windows on the northern, eastern and western elevations. The living areas receive more than adequate solar access and as such a rooflight which exceeds the height development standard is considered unwarranted.

The rooflight impacts detrimentally upon surrounding properties and is inconsistent with the objectives of the height development standard. The deletion of the rooflight by way of a deferred commencement condition will have the effect of maintaining views from the properties at the rear. The exceedance of the height development standard cannot be justified in this instance and is not supported.

The proposed dwelling on Lot C has a second height non-compliance in the north-eastern corner of the building on Level 3. This non-compliance is a result of designing the pair of semi-detached dwellings to respond to the level of the rear yard and is due to the existing slope of the land. The site falls from the rear to the front (excluding the sandstone outcropping along the rear boundary of the site) by approximately 7m. The existing dwelling on the site has a maximum height to the transverse ridgeline of RL64.49 lowering to RL62.92 to the top of the gutter across the front of the building. The proposal lowers the height overall to approximately RL63.4 which is 1m lower than the main ridge, however, 480mm higher in the north-eastern corner of the dwelling (ie, wall height). The height non-compliance is a direct result of the existing slope of the land and given that it is lower overall than the existing building on the site, the variation in the north-eastern corner at Level 3 is considered acceptable. The

variation is consistent with surrounding development, will not impact upon the streetscape presentation of the building and will not have detrimental impacts upon surrounding properties in terms of view loss and overshadowing.

Conclusion

For the reasons provided above, the requested variation to the height development standard is not supported at Level 4 and the proposed skylight is required to be deleted by way of deferred commencement condition. While the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6(3) of the Waverley LEP 2012, the proposed development is not in the public interest because it is inconsistent with the objectives of height development standard.

Notwithstanding, the height non-compliance is supported in part, at Level 3 as outlined above. For the reasons provided, the requested variation to the height development standard in the north-eastern corner at Level 3 is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the height development standard and the R2 zone.

Floor Space Ratio (FSR)

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

Lot B is subject to a maximum FSR control of 0.56:1. The proposed development on Lot B has an FSR of 0.66:1, exceeding the standard by 47.76m² equating to a 17% variation.

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

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

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

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

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

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) *The gross floor area is spread over three levels within a building envelope which is well articulated in both plan and elevation. The dwelling will present as a two storey dwelling within the streetscape with the upper level well setback from view. To the rear it generally appears as a single storey dwelling with the upper level again being well setback.*

The proposal provides a significant improvement to the streetscape presentation and provides a suitably sized family home. It provides for a development consistent in form and scale to other, recently constructed, contemporary dwellings in the streetscape. The

proposal complies with the private open space and landscape area requirements, and generally complies with the overall height controls (non-compliance due to sloping site). Given the east-west orientation of the site, the increased overshadowing impacts are minimal to the adjoining property in midwinter. No significant view corridors will be impacted by the proposal. The maximum height of the structure will be at RL66.11 which is comparable to the roof height at No.3A at RL66.01 (see survey plan). Based on the photos provided by Council I do not believe the view impacts will be significant and we believe the true impact can only be determined by the installation of height poles.

It is considered that the proposed development can be adequately accommodated on the site without adverse impact on surrounding dwellings. In this instance it is considered unreasonable and unnecessary to apply the control and consequently the exception to the floor space ratio control standard under Clause 4.6 is assessed to be acceptable.

- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) *The compliance with the clause is considered unreasonable and unnecessary in the circumstance of this case as outlined in the discussion above where the proposal results in a building form of bulk and scale consistent with surrounding development. The failure to set aside the standard would in effect give rise to an uncharacteristic building form. The contravention of the control by the proposal does not give rise to any environmental effect of sufficient significance, which would cause concern and it is considered that the environmental benefits of the proposal providing accommodation with a high level or residential amenity and energy efficiency is on balance an appropriate outcome to justify the contravention of the development standard.*

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

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

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular 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 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 provided a written request which has addressed that there are sufficient environmental planning grounds to justify contravening the standard. Notwithstanding, the rationale within the written request is not agreed as discussed in the following section.

Is the development in the public interest?

The proposed development will not be in the public interest because it is inconsistent with the objectives of the particular standard for the following reasons:

- The proposed Level 4 of the building is inconsistent with the height, bulk and scale of the desired future character of the locality contrary to objective (c) of Clause 4.4 (objectives of the FSR development standard).
- The proposed upper floor level (Level 4) will result in unacceptable amenity impacts upon surrounding properties including impacts upon views from the properties at 27 and 27A Yanko Avenue and will result in additional overshadowing of bedroom windows at 3A St Thomas Street (discussed in detail in Section 2.1.4 of this report). These impacts are a direct result of the non-compliance of the proposed Level 4 of the dwelling on Lot B with both height (discussed previously) and FSR. This is inconsistent with objective (d) of Clause 4.4 (objectives of the FSR development standard).

The upper floor level of Lot B exceeds both the height and FSR development standards. The additional level impacts detrimentally upon surrounding properties and is inconsistent with the objectives of the FSR development standard. The deletion of Level 4 by way of deferred commencement condition will reduce the FSR of the dwelling on Lot B by 42.6m² reducing the non-compliance to 5.16m² or 1.8%. The effect of deleting Level 4 will be to maintain views from the properties at the rear and reduce overshadowing of the property to the south. The resultant minor exceedance of the height development standard can be justified in this instance as it results in a building commensurate in bulk and scale with the desired future character of the area, and does not have detrimental amenity impacts upon surrounding properties. A deferred commencement condition requiring the deletion of Level 4 is recommended.

Upon the imposition of the deferred commencement condition, 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.

Conclusion

For the reasons provided above, the requested variation to the FSR development standard is not supported and Level 4 is required to be deleted by way of deferred commencement condition. While the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6(3) of the Waverley LEP 2012, the proposed development is not in the public interest because it is inconsistent with the objectives of FSR development standard.

Notwithstanding, subject to the deletion of Level 4, the resultant FSR is considered acceptable. It is considered that the applicant's written request can be used to justify the minor non-compliance with FSR resulting from the deferred commencement condition. The written request has adequately addressed the matters required to be addressed by cl 4.6 of the Waverley LEP 2012 and the amended proposed development would be in the public interest because it is consistent with the objectives of the FSR development standard and the R2 zone.

2.1.4 Waverley Development Control Plan 2012 (Amendment 6)

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

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

Development Control	Compliance	Comment
1. Waste	Yes	A Site Waste and Recycling Management plan has been submitted with the application to address waste disposal during construction. A condition of consent will be imposed regarding ongoing waste on site. The waste and recycling storage area is located in an area convenient for users of the site.
2. Ecologically sustainable Development	Yes	The proposal incorporates passive design, contains rainwater tanks (located in a storage mezzanine within the garages) and solar panels for each dwelling. A condition will be imposed to ensure that solid fuel heating is not used. Given the low scale of this development, these mechanisms are considered to address the objectives of Part B2 of the DCP.
3. Landscaping and Biodiversity	Yes	The landscaping plan has been reviewed and is considered acceptable (subject to amendments outlined in subsequent sections of this report), maintaining as much existing vegetation as possible and is cohesive with the site and streetscape. The existing natural features including the sandstone outcropping with trees and plantings over, at the rear of the site, have been retained.
5. Tree preservation	Yes	Full comments from Council's Tree Management Officer are included Section 3 of this report. The proposal includes the retention of native trees above the sandstone outcropping at the rear of the site.
6. Stormwater	Yes (by condition)	The stormwater plans submitted with the application are not satisfactory and do not comply with the Water Management Technical

Development Control	Compliance	Comment
		Manual. This matter can be addressed as a condition of consent.
8. Transport	Yes	<p>The proposal provides two double garages accessed via a shared driveway crossing with a satisfactory streetscape impact, following the guidance of the DCP controls.</p> <p>The car parking complements the design of the building and streetscape, is behind the front building line, and does not reduce the number of on street spaces.</p>
10. Safety	Yes	<p>The proposal provides a clear path from the front boundary to the entries on the side elevations of the site.</p> <p>The balconies and associated windows at the first floor levels overlook the street providing passive surveillance of the street.</p> <p>The proposal is consistent with the objectives and controls within this part of the DCP.</p>
14. Excavation	Yes	<p>The proposed excavation does not add to the scale of the building or result in the loss of naturally occurring sandstone.</p> <p>Appropriate conditions are recommended.</p>
16. Public Domain	Yes	<p>The proposal includes the relocation of the public stairs in front of the site in order to facilitate a wider garage at the front boundary. The application was referred to Council's Technical Services and suitable conditions are recommended.</p>

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

Development Control	Compliance	Comment
2.0 General Objectives		
<ul style="list-style-type: none"> • Appropriate scale • Does not detract from amenity of other dwellings or view corridors • ESD has been considered • High design standard 	Yes	<p>Subject to the recommended deferred commencement conditions previously outlined, it is considered that the proposal does not contravene the general objectives of this part of the DCP.</p>

Development Control	Compliance	Comment
2.1 Height		
Flat roof dwelling house <ul style="list-style-type: none"> Maximum wall height of 7.5m 	No	<p>The proposal has a maximum wall height of 10.4m in the north-eastern corner of the site (northern dwelling). This is generally consistent with the height of the existing building on the site within this location and is a result of the cross-fall of the land.</p> <p>The remainder of the building has been designed to present wall heights to surrounding properties under the 7.5m wall height control.</p> <p>Given the analysis previously in this report, the wall height is considered appropriate.</p>
2.2 Setbacks		
2.2.1 Front and rear building lines <ul style="list-style-type: none"> Predominant front building line Predominant rear building line at each floor level 	Yes	<p>The proposal has been designed to provide front setbacks consistent with the existing building on the site.</p> <p>The proposal does not extend as far to the rear as either adjoining building. The pool wall along the northern boundary of the site aligns with the rear setback of the residential flat building to the north. The rear setbacks satisfy this control.</p>
2.2.2 Side setbacks <ul style="list-style-type: none"> Minimum of 1.5m 	Yes Yes	<ul style="list-style-type: none"> Northern side: 1.8m -2.357m Southern side: 2m <p>Given that the uppermost level of the building is required to be deleted, the side setbacks are considered generous and appropriate.</p>
2.3 Streetscape and visual impact		
<ul style="list-style-type: none"> New development to be compatible with streetscape context Replacement windows to complement the style & proportions of existing dwelling Significant landscaping to be maintained. Porticos only permitted where a character of the streetscape 	Yes (subject to conditions)	Refer to discussion following this table.
2.4 Fences		
<i>Front:</i> <ul style="list-style-type: none"> Maximum height of 1.2m 	Yes	The front boundary wall treatment is discussed in the section following this table.

Development Control	Compliance	Comment
<ul style="list-style-type: none"> Solid section no more than 0.6m high <p><i>Side and Rear:</i></p> <ul style="list-style-type: none"> Maximum height of 1.8m 		1800mm high masonry side fencing.
2.5 Visual and acoustic privacy		
<ul style="list-style-type: none"> Windows to habitable rooms are not to directly face windows to habitable rooms and / or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design. External stairs are not acceptable. Maximum size of balconies: <i>10m² in area</i> <i>1.5m deep</i> 	Yes	Refer to discussion following this table.
2.6 Solar access		
<ul style="list-style-type: none"> Minimum of three hours of sunlight to living areas and principal open space areas on 21 June Minimum of three hours of sunlight maintained to living areas and principal open space areas of adjoining properties on 21 June 	No	<p>The rear private open space and living area windows leading to it, will not receive three hours of sunlight. However, this is a consequence of the sandstone outcropping overshadowing the rear of the yard in the afternoon hours, when this area is oriented to receive solar access (westerly orientation). Nevertheless, the front balconies which lead from the living area, and the windows on this orientation (easterly) will receive the required amount. On balance, and given the constraints of the site, this is accepted.</p> <p>Shadow diagrams in plan and elevation form were submitted with the application showing the impact upon the adjoining property to the south, 3A St Thomas Street. These plans indicate that generally increased overshadowing of windows is offset by decreased overshadowing at other times to the same windows.</p> <p>The only exception to this is the ground floor windows to two bedrooms, which will be in shadow all day. It appears from the shadow</p>

Development Control	Compliance	Comment
		elevations that the increased overshadowing is a direct result of the upper floor level. For this, and other reasons detailed elsewhere in this report, the upper floor is recommended for deletion. The overshadowing impact of the proposal would then be considered acceptable, being a reasonable (ie, compliant) built form for the site.
2.7 Views		
<ul style="list-style-type: none"> Views from the public domain are to be maintained Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks. 	No	Refer to discussion following this table.
2.8 Car parking		
<ul style="list-style-type: none"> Parking only allowed where site conditions permit Designed to complement the building and streetscape Car parking structures to be behind the front building line Driveways are to be located to minimise the loss of on street parking Parking to be provided from secondary streets or lanes where possible. Complement the style, massing and detail of the dwelling Secondary in area & appearance to the design of the residences 	Yes	<p>The garage will align with the front boundary of the site consistent with the existing building on the site and the adjoining property to the north. This is considered acceptable.</p> <p>Subject to amendments to the front boundary wall to introduce a step in height (discussed in detail elsewhere in this report), the proposal will complement the building and streetscape.</p> <p>The proposal will utilise the existing driveway over the footpath and as such there will be no loss of on-street parking. The parking spaces for Lot B will be accessed via part of Lot C and as such an easement will need to be registered on the land title. A condition to this effect is in Appendix B.</p>
2.8.2 Parking rates <i>Maximum rates:</i>	Yes	The southern dwelling, subject to the deletion of the master bedroom at the topmost level, will

Development Control	Compliance	Comment
<ul style="list-style-type: none"> Max 1 space for 2 or less bedrooms Max 2 spaces for 3 or more bedrooms 	No	<p>provide three bedrooms. Two parking spaces within the garage are proposed for this dwelling.</p> <p>The northern dwelling provides only two bedrooms and as such, a maximum of one space is permitted for this dwelling. The proposal provides two spaces. A condition of deferred commencement will require the deletion of one parking space for this dwelling.</p>
2.8.5 Dimensions <ul style="list-style-type: none"> 5.4m x 2.4m per vehicle 	Yes	Council's Traffic Engineer has checked the manoeuvring and dimensions of the spaces and advised they are acceptable.
2.9 Landscaping and open space		
<ul style="list-style-type: none"> Overall open space: 40% of site area 	Yes	Open Space: <ul style="list-style-type: none"> Lot B: 77% Lot C: 70%
<ul style="list-style-type: none"> Overall landscaped area: 15% of site area 	Yes	Landscaped Area: <ul style="list-style-type: none"> Lot B: 39% Lot C: 43%
<ul style="list-style-type: none"> Minimum area of 25m² for private open space 	Yes	Principle area of private open space: <ul style="list-style-type: none"> Lot B: 60m² Lot C: 100m²
<ul style="list-style-type: none"> Front open space: 50% of front building setback area Front landscaped area: 50% of front open space provided 	N/A	The proposed garages are built up to the front boundary consistent with the existing building on the site. The site has a significant cross-fall with public steps across the front of the site providing access to a footpath to the south, raised above street level. As such the garages will be partially below ground level. The entry level of the dwellings then provide a green roof over the garage roofs at the front providing landscaping to the street elevation. This is considered acceptable.
2.10 Swimming pools and spa pools		
<ul style="list-style-type: none"> Located in the rear of property 	Yes	Lot B: The proposed dwelling provides a pool within the rear courtyard consistent with the controls.
<ul style="list-style-type: none"> Pool decks on side boundaries must consider visual privacy 	Yes	Lot C: The proposed dwelling provides a 25m lap pool along the northern side boundary of the site extending to the rear yard. This is discussed in detail following this table.

Development Control	Compliance	Comment
2.13 Semi-detached dwellings and terrace style development		
2.13.1 - Built form <ul style="list-style-type: none"> Style of built form to be maintained across the pair 	Yes	The proposal is consistent with the applicable controls in that it provides a pair of semi-detached dwellings designed to present to the street as a single dwelling. The design, materials and finishes are consistent across the pair.

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

Streetscape and visual impact

The proposal includes the demolition of the existing non-descript building on the site and replacement with a pair of semi-detached dwellings designed to present to the street as a single dwelling. The built form at the street is similar to the existing dwelling on the site, presenting a garage wall to the street with a contemporary dwelling above, to a similar height as the existing building.

The proposed garage and front boundary wall on the street alignment is consistent with the existing dwelling on the site and the adjoining residential flat building to the north. However, the proposal lowers the northern portion of the front boundary wall and marginally increases the southern portion to provide a consistent wall height across the front of the site. The Development and Building Unit (DBU) formed the opinion that the bulk of the front boundary wall could be reduced by introducing a step in height on the northern half of this wall. This is included as a condition of deferred commencement.

Subject to the implementation of the deferred commencement conditions as previously discussed, including the removal of the topmost level of the development, the proposal is considered to be a well-designed contemporary addition to the street and improving the streetscape presentation of the site.

Visual and acoustic privacy

Each dwelling provides a front balcony at Level 3 with an area of 22m² and 2.9m depth. Although this exceeds the controls for balconies, the provision of front balconies is consistent with the pattern of development within the street, as the subject site, and surrounding properties, enjoy extensive views of Bronte Beach and the ocean in a north and north-easterly direction. The existing building on the site also has balconies on the front elevation, as do both adjoining properties and the majority of buildings along the eastern side of St Thomas Street.

The front balconies will allow cross-viewing and overlooking of front balconies on the adjoining properties, however this is not considered unreasonable for the following reasons:

- Front elevations are an area of low privacy levels given that views onto the balconies are achievable from the street and footpath in front of the site. It is unreasonable to expect a high level of privacy on a front elevation highly exposed to both the street and existing surrounding properties. The adjoining front balconies are already heavily overlooked and the subject proposal will not unreasonably increase this.
- In areas where significant views are achievable, a mutual degree of overlooking in order to achieve these views is accepted. All other surrounding properties have balconies and/or terraces on the front elevation which are open in design (ie, largely without screening) in order to achieve

significant views. In this regard, overlooking of front balconies is an accepted impact within this part of the street.

- The provision of screening on the side boundaries of the balconies may impact upon views from the property to the south and will impact upon the existing view from the subject site itself. Screening will also increase the bulk of the building on the street façade.
- The existing dwelling has balconies on the front elevation which already overlook the front balconies of the adjoining property to the north. This application will not unreasonably exacerbate the existing situation.

On the southern elevation of Lot B, the windows at Level 2 (ground floor level in the rear yard) are full height glazing, however will be largely obscured by boundary fencing to a height of 1800mm and are to rooms of low use (bedrooms) with few associated privacy impacts. The living area windows at Level 3 are also full height glazing, however will have louvres fitted for privacy. A condition will require that these louvres are fixed at an angle to inhibit overlooking of the adjoining property to the south (ie, angled to allow views toward the front of the site rather than allowing views directly into windows opposite).

On the northern elevation of Lot C the living area windows in the rear yard are contained behind an 1800mm high pool wall limiting views into the adjoining property. The bedroom windows on Level 2 are lowlight windows that will not have unreasonable privacy impacts. In the front north-eastern section of the building, the proposal provides large full height glazing to the main bedroom at Level 2 and to the living areas at Level 3. The rationale behind these windows is that the existing building already has side windows in a similar location and as such, the privacy impact upon windows/balcony on the adjoining property already exists. Notwithstanding, the proposed new windows will look directly into windows on the adjoining northern building and it is considered that privacy measures should be introduced to ameliorate this impact. In this regard, a condition is recommended which requires that external fixed louvres angled away from the adjoining property side windows is required to be affixed to the windows.

Privacy impacts from the rear windows are considered reasonable given the separation distances of adjoining properties at the rear (both in distance and level). The front windows overlook the street which is encouraged for safety, with sufficient separation distances from properties opposite to ensure that privacy impacts are not unreasonable.

Views

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

The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment (taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable). To decide whether or not view sharing is reasonable, a four-step assessment should be used:

1. *The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

The following images are from two properties to the rear of the site, 27 and 27A Yanko Avenue, and from the property adjoining to the south, 3A St Thomas Street. The images are those that will best represent the affected view and are taken from a standing position.



Figure 5: View from first floor balcony (accessed from bedrooms) at 27 Yanko Avenue

27 Yanko Avenue is located adjoining the site at the rear. The ground floor of this property contains the living areas and views from this level will not be impacted. At the first floor level 27 Yanko has a long continuous balcony which is accessed from bedrooms. The views from this balcony are likely to be impacted by the proposed upper floor level at the subject site quantified as a loss of beach area of Bronte Beach.

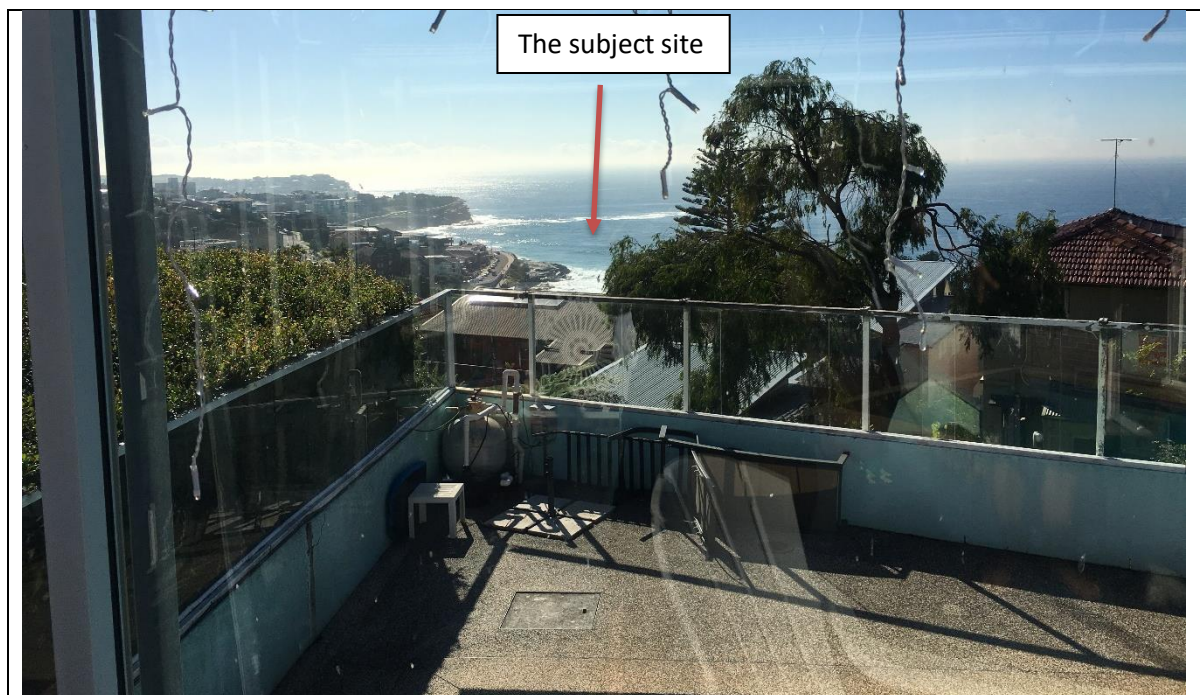


Figure 6: View from elevated rear terrace at 27A Yanko Avenue

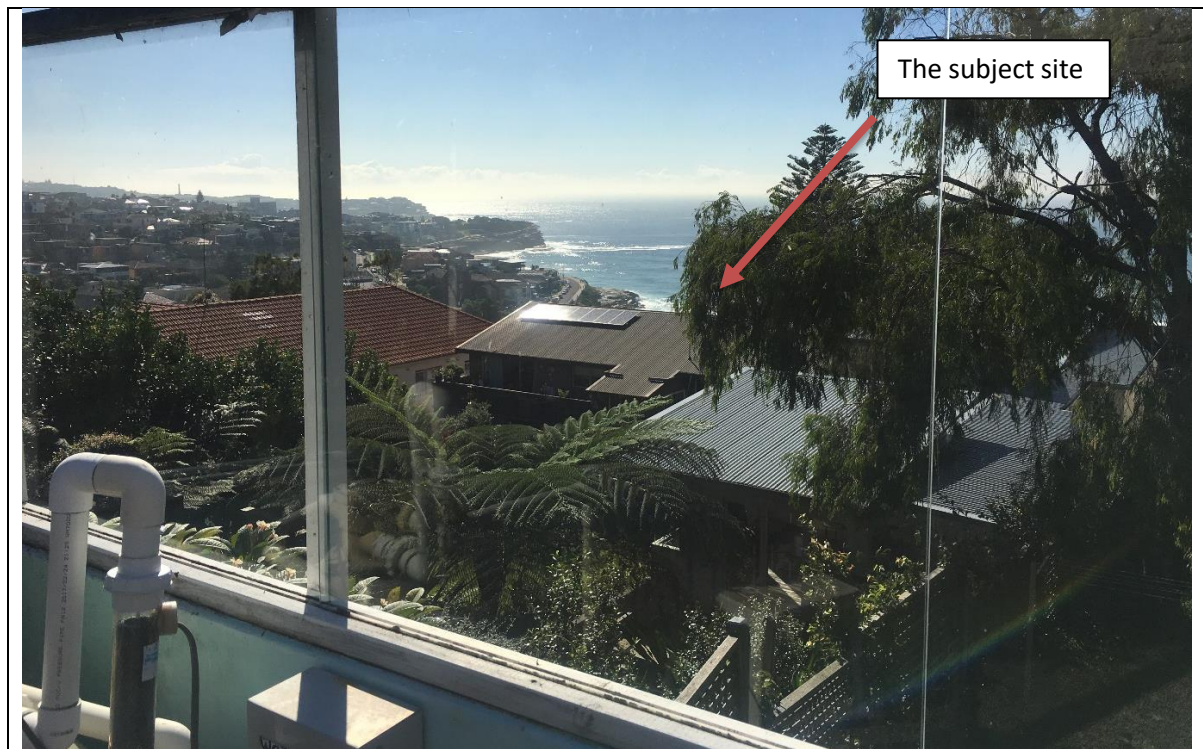


Figure 7: View from rear pool area at 27A Yanko Avenue

The two images above relate to 27A Yanko Avenue which is located diagonally to the south-west of the site. This property achieves views to directly east and the north-east over the subject site. The direct views to the east are partial views of the Pacific Ocean over roofs and between existing dwellings. The view to the north-east, over 3 St Thomas Street, is of the land and water interface including the cliffs at Bronte and Tamarama beyond.



Figure 8: View from first floor main living room at 3A St Thomas Street



Figure 9: View from ground floor main bedroom window at 3A St Thomas Street

Figures 8 and 9 relate to 3A St Thomas Street which is the adjoining property to the south of the subject site. This property achieves views of the ocean over and between existing dwellings to the east. A large tree largely inhibits views of Bronte Beach and the cliffs to Tamarama, although glimpses through the tree can be seen to sand and cliffs at Tamarama. The vast majority of the views from the first floor balcony and ground floor balcony will be retained. The proposed new front balconies will impact upon an obscurely angled view to the north-east from the ground floor bedroom window.

2. *The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

The views from the properties at Yanko Avenue are over the rear boundary and the northern side boundary. The views from 3A St Thomas Street are over the front setback of the site from the southern side boundary.

All photographs are from a standing position.

3. *The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

The view loss from 3A St Thomas Street can be quantified as minor given that the majority of views from other levels and from the balconies will be retained. The view loss is of land and water interface is only viewed between and around the branches of a large tree.

The view loss from 27 Yanko Avenue can be quantified as moderate to severe given that the view lost will be of Bronte Beach. This view is only achieved from the first floor level of the dwelling and although ground floor views will be retained these are largely impacted by existing vegetation on the subject site, which will be retained as part of the proposal. The first floor level views are the best views from the dwelling and these are the views that will be impacted by the proposal. Although cliff and ocean views will be retained, Bronte Beach land and water interface will be severely impacted.

The view loss from 27A Yanko Avenue can be quantified as moderate to severe as the view that will be lost will be the ocean and cliffs at Bronte (ie, land and water interface). This property does not enjoy the extensive views of the other impacted properties and in this regard, the proposal will reduce the principal view significantly.

4. *The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

The proposal exceeds both the height and FSR development standards for the sites. The loss of views from the properties on Yanko Avenue is associated with the upper floor level (Lot B) and roof light (Lot C) at Level 4 (as indicated on the plans). This level is wholly contained over the FSR development standard and partly over the height development standard. It is unreasonable to even moderately impact upon views where the impact is a result of a non-compliance with a development standard. In this regard, the topmost level of the building is recommended to be deleted by deferred commencement condition.

The remaining height non-compliance is in the north-eastern front corner of the building. The height of the existing building is slightly higher than the proposal at this part of the site. Notwithstanding the views are unlikely to be improved as even though the structure will be lower, the front edge of the building will extend further toward the east (front). This will likely result in the views remaining the same as existing or very minimally impacted over this corner of the site.

The proposed front balcony on the southern dwelling is likely to have only a minor impact upon a view from 3A St Thomas Street to the south. This view is over a side boundary and the views from other parts of the property are not impacted by the proposal. Subject to a condition requiring that no screening is erected on the side boundary of the front balcony and that the balustrading is transparent glazing, the impact is considered to be largely mitigated and is acceptable.

Given the above analysis, the view impacts created by Level 4 of the proposal are considered unreasonable and as such, it is recommended deleted. The view impacts from the remaining building are considered reasonable and are supported.

Swimming pool

The proposal seeks consent for a large lap pool extending along the northern boundary of the site. The swimming pool is technically located within the rear yard consistent with the requirements of the DCP, however, it extends for the majority of the length of the northern side boundary of Lot C.

The proposal includes a solid masonry wall adjoining the pool, set back from the northern boundary by 1800mm. The plans then show that an 1800mm high fence will be erected along the northern boundary. The height of the wall adjoining the pool will be 3.3m above the existing ground level in the rear yard, however it is set back from the side boundary and will be covered in Boston Ivy as per the landscape plan. The setback between the new boundary fence and the wall will be landscaped with a hedge that typically grows to 3m in height.

The adjoining property to the north is a residential flat building with side windows and a balconies which currently have clear views into the rear yard of the subject site and are clearly viewed from within the rear yard. The proposal provides the wall to ensure the visual and acoustic privacy of the living area windows oriented to the north and the windows/balcony at 1 St Thomas Street. The wall will not have amenity impacts upon 1 St Thomas Street in terms of overshadowing and will ensure that privacy between buildings is improved. Additionally, the landscaping described above, will ensure that the outlook from the windows and balcony on the side elevation of 1 Sir Thomas Street is improved.

2.2 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

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

2.3 Suitability of the Site for the Development

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

2.4 Any Submissions

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

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

Table 4: Summary of property addresses that lodged a submission

Property
Bronte Beach Precinct
3A St Thomas St
4 St Thomas St
4/1 St Thomas St
6/1 St Thomas St
8/1 St Thomas St
27 Yanko Ave
27a Yanko Ave

Issues:

- **FSR**
- **Height**
- **Privacy**
- **Setbacks**
- **View impacts**
- **Overshadowing**

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

Issue: The driveway should be wheel strips to allow grass reducing the prominence of the driveway.

Response: Technical Services have advised that wheel strips are not required. However, a condition is recommended to require that the kerb and gutter crossing be reduced to 3.9m splaying on the footpath to the garage openings. This will reduce the amount of concreting on the footpath than that which currently exists allowing more permeable surfaces. This is subject to the approval of Technical Services post-consent.

Issue: Noise from use of balconies.

Response: The front balconies are consistent with the pattern of development within the immediate area, including both adjoining properties. The existing dwelling has larger balconies on the front of the existing building and as such, any impact would be commensurate with the impact already occurring on site (and from surrounding properties who also have front balconies). The use of the property is as two dwellings which is consistent with the zoning. This is not considered to warrant amendment or refusal of the application.

Issue: Drainage and stormwater.

Response: Conditions require plans to be submitted for approval by Council's Stormwater Engineer.

Issue: Noise from plant, air-conditioning and pool plant.

Response: Both dwellings include plant storage in a mezzanine level within the garages. Standard conditions are recommended in regards to the plant on site. The plans show air-conditioning units on the roof, however a deferred commencement condition will delete this and a condition relating to the placement of air-conditioning units is included in.

Issue: Construction issues.

Response: All standard conditions are included. Council cannot refuse an application due to issues and/or inconvenience during construction.

Issue: Too much development within the street at one time.

Response: This is not a planning issue and Council cannot refuse an application due to this issue. Conditions requiring construction within the street to be staggered can also not be imposed.

Issue: No articulation to the northern (side) façade.

Response: The northern façade is the side façade and will not impact significantly on the streetscape. Side facades generally are not required to be articulated unless presenting to the streetscape. The façade of the subject development has been designed to minimise windows to ensure that the windows and balconies on the adjoining residential flat building with outlook to the subject site maintain privacy (although at present, there is very little privacy as anyone standing within the rear yard or side unfenced setback has clear views into the windows and balcony of the neighbouring property). The protection of privacy is considered of greater importance than articulating a side elevation. Notwithstanding, the proposal includes the planting of ivy over the pool wall and landscaping of the side setback resulting in an improved outlook from the adjoining property.

Issue: Loss of light to property to the north.

Response: The property to the north will not be overshadowed by the proposal. There are no controls relating to loss of light. The best measurement for loss of light is side setbacks with which the subject proposal complies.

Issue: The DA is potentially by a developer.

Response: This is irrelevant to the assessment. Only the proposal is assessed, not the party submitting the application.

Issue: Semi-detached dwellings are not characteristic of the street.

Response: Semi-detached dwellings are a permissible land use and are considered low density residential development consistent with the objectives of the zone. Notwithstanding, there are a number of recent approvals within the street for pairs of semi-detached dwellings indicating an emerging character.

Issue: The existing large trees (bottle brush and casuarina trees) along the rear boundary of the site should be removed to offset view loss and solar access for the properties at the rear.

Response: The proposal includes the retention of the existing trees above the sandstone outcropping which is a desirable outcome for Council given that these are native trees. Council will not require the removal of native trees from a site via approval of a development application where the trees are not affected by the development.

Issue: The proposal includes new trees along the southern boundary that will grow to an excessive height, impacting on views from neighbouring properties.

Response: The landscaping plan indicates that Bangalow palms (up to 25m height) and Raphis Palms (up to 4m height) are proposed for the southern side setback of the site. The Bangalow Palms will likely grow to a height which will impact upon the views from properties at the rear. The Raphis Palms grown to 3-4m which is considered acceptable for privacy whilst maintaining views. A condition will require that the Bangalow Palms be deleted from the landscaping plan.

Issue: *Plants on the landscaping plan may impact upon views from 3A St Thomas Street.*

Response: The landscaping plan indicates that low growing plants will be within the front planter adjacent to 3A St Thomas. A condition will reinforce this requirement to ensure views are not obstructed. Additionally, the landscaping plan includes a hedge of *Syzigium leumanii* - Lilly Pilly along the southern boundary of the site within the front setback. These hedges may grow to 7m in height which will impact upon the views from 3A St Thomas Street. A condition will require that these hedges are replaced with low growing species, no more than 1m in height.

Issue: *Inaccuracies in the plans.*

Response: Additional information has been provided as previously outlined. The plans are considered accurate for assessment purposes.

Issue: *The proposed access to the new entry of Lot B passes directly adjacent to the Master Bedroom of No.3A. A privacy screen along the boundary (in addition to the proposed boundary wall) to prevent overlooking as people come and go from the property would help to mitigate this impact.*

Response: The side path near the bedroom window of No. 3A will be RL57.4. The plans submitted by the adjoining owner indicate that the sill of the bedroom from which concern is raised is at RL59.7. In this regard, the path to the front entry of Lot B is 2.3m lower than the bedroom window. This difference in height does not enable unreasonable privacy impacts.

Issue: *Cars should enter and exit the site in a forward direction.*

Response: This is not required by Council's Technical Services for dwelling houses (including semi-detached dwelling houses).

Issue: *It is requested that a condition requires that the Geotechnical Report, Structural Engineering Drawings, Construction Management Plan and Construction Program are made available to the adjacent neighbours as part of the Construction Certificate.*

Response: This is a matter for the Principal Certifying Authority to provide these documents upon request being made by interested parties. It is not a requirement by Council.

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 – Creating Waverley

The stormwater plans were referred to Council's Stormwater Engineer and found to be unsatisfactory. Suitable conditions are included.

3.2 Traffic – Creating Waverley

Suitable conditions are recommended.

3.3 Trees – Clean & Attractive Waverley

The following comments were provided (suitable conditions are recommended):

Impacts on Existing Trees and Vegetation:

- *On inspection, it was noted that on site there were no trees of any significance, the trees possess no outstanding attributes worthy of retention (due to poor health, poor structure and under 5 metres) and their removal is supported.*
- *On inspection, it was noted that in the rear of the site on top of the sandstone shelf were several species of trees and shrubs, Landscape plan prepared by David Katon Studio, DWG;45. Date: Dec 2019 show the trees and shrubs to be retained. Trees and shrubs to be retained and protected as per N4 below.*

4. SUMMARY

The proposal seeks consent for the demolition of all structures on the site and construction of a pair of semi-detached dwellings. Each dwelling will be located on existing Lot B or C and as such the proposal does not include subdivision of the land.

The dwelling on Lot B exceeds both the height and FSR development standards of the LEP. The non-compliance is not considered reasonable and is a result of the upper most level of the dwelling. This level will impact upon surrounding properties predominantly by way of view impacts. A condition of deferred commencement is recommended deleting Level 4 of the dwelling. The resultant building is considered to be an acceptable response to the streetscape and the desired future character without unreasonable impacts upon surrounding properties.

The dwelling on Lot C exceeds the height development standard, however is compliant with the FSR development standard. A similar scenario exists where the structure which exceeds the height at Level 4 is recommended deleted by deferred commencement condition. The resultant building is considered to be an acceptable response to the streetscape and the desired future character without unreasonable impacts upon surrounding properties.

The application was notified and eight submissions were received which are addressed within this report.

The application is recommended for deferred commencement consent.

DBU Decision

The application and assessment report was reviewed by the DBU on 12/06/2019 and the DBU determined:

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

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

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the Development Application be **APPROVED as a deferred commencement** by the Waverley Local Planning Panel subject to the Conditions in Appendix A and B:

Report prepared by:

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

Kylie Lucas
Senior Development Assessment Planner

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

Date: 13/08/2019

Date: 18/08/2019

Reason for referral:

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

APPENDIX A – DEFERRED COMMENCEMENT CONDITIONS

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

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

1) DESIGN CHANGES AND AMENDED PLANS

- (a) Level 4 to Lot B as nominated on the plans shall be deleted from the proposal. The roof level of the dwelling on Lot B shall not exceed RL 63.51. The only structures permitted on the roof are solar panels in the position indicated on the plans and shall be flush with the roof.
- (b) The rooflight nominated as 'light well void over stairs' and 'A/C and Services' at the roof level of Lot C are not approved and shall be deleted from the proposal. The roof level of the dwelling on Lot C shall not exceed RL 63.51. The only structures permitted on the roof are solar panels in the position indicated on the plans and shall be flush with the roof.
- (c) A maximum of one parking space shall be provided for the northern dwelling (Lot C) and two parking spaces for the southern dwelling (Lot B) shall be provided. The plans shall be redesigned to accommodate this provision.
- (d) The height of the top of the garage on Lot C shall be lowered to RL55.41 forming a step across the front elevation to reduce the bulk of the garage at the street front.
- (e) The louvres to windows on the southern elevation at Level 3 shall be fixed at an angle to inhibit overlooking of the adjoining property to the south (ie, angled to allow views toward the front of the site rather than allowing views directly into windows opposite).
- (f) The full height glazed panels/windows on the northern elevation at Levels 2 and 3 shall be fitted with external fixed louvres angled away from windows on the adjoining property to the north, 1 St Thomas Street.
- (g) No screening shall be erected on the southern side boundary of the front balcony and the balustrading shall be transparent glazing to mitigate view loss from 3A St Thomas Street.

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

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

APPENDIX B – CONDITIONS OF CONSENT

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

A. APPROVED DEVELOPMENT

1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plans prepared by David Katon Studio as follows:

Drawing Number/rev	Plan description	Dated	Received by Council
00-R1	Site	July 2	09/07/2019
01	Level 1 Carpark	June 2019	09/07/2019
02	Level 2 Bedrooms	June 2019	09/07/2019
03	Level 3 Living	June 2019	09/07/2019
04	Level 4 Master Bed (except as amended by deferred commencement condition 1)	June 2019	09/07/2019
05	Roof Plan	June 2019	09/07/2019
06	Elevations North/South	June 2019	09/07/2019
07	Elevations East/West	June 2019	09/07/2019
08	Sections	June 2019	09/07/2019
09	Sections 2	June 2019	09/07/2019
10	Demolition Plan	June 2019	09/07/2019

(b) Landscape Plan No. 11 and documentation prepared by David Katon Studio, dated June 2019, and received by Council on 09/07/2019;

(c) BASIX Certificate;

(d) Geotechnical Investigation Report prepared by JK Geotechnics dated 31 August 2018 and received by Council on 04/01/2019;

(e) Schedule of external finishes and colours received by Council on 09/07/2019; and

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

Except where amended by the following conditions of consent.

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

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

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

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

3. SECTION 7.12 CONTRIBUTION

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

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

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

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

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

- (c) Should a section 4.55 modification result in any change to the total cost of the work, the Section 7.12 contribution is to be revised and amended.

Prior to the issue of the amended Construction Certificate, evidence must be provided that the

revised levy has been paid to Council in accordance with this condition OR that the cost of works is less than \$100,000.

4. SECURITY DEPOSIT

A deposit or guarantee satisfactory to Council for the amount of \$26,650 must be provided as security for the payment of the cost of making good any damage caused or unauthorised works that may be caused to any Council property as a consequence of this building work.

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

5. EASEMENT IN FAVOUR OF LOT B

- (a) A suitable documentary easement, created to the satisfaction of Council, for vehicular access in favour of Lot B in DP 317366 shall be created in Lot C DP 317366.
- (b) The easement and appropriate Section 88B instrument under the *Conveyancing Act 1919* must be registered with the NSW Land Registry Services prior to the issue of a Construction Certificate.
- (c) All associated costs are to be borne by the applicant.

An easement shall be created burdening Lot C for the benefit of Lot B.

6. LONG SERVICE LEVY

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

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

7. HOARDING REQUIRED

To ensure the site is contained during construction, a hoarding may be required for the approved works which is to be designed and constructed in accordance with the requirements of **Safe Work NSW**.

The hoarding is to be erected on the street alignments of the property prior to the commencement of building operations and be maintained during the course of building operations. Details of the hoarding are to be provided to Council for record and be to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate.

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

8. EROSION & SEDIMENT CONTROL

A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared in accordance with Waverley Council's Water Management Technical Manual and the NSW Environment Protection Authority (EPA) Managing Urban Stormwater: Soils and Construction (Blue Book). A vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be included in the plan for any construction site with vehicles entering and exiting the site.

This Plan shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

The approved Soil and Water Management Plan must be kept on site, measures shall be implemented prior to commencement of any works or activities and maintained at all times. A copy of the Soil and Water Management Plan must be made available to the Principal Certifying Authority and Council officers on request.

9. SITE WASTE AND RECYCLING MANAGEMENT PLAN

Demolition and excavated material to be reused and/or recycled wherever possible and detailed in a Site Waste and Recycling Management Plan (SWRMP) Checklist 2 which is to be submitted to the Principal Certifying Authority for approval in accordance with Waverley DCP 2012 prior to the issue of the Construction Certificate.

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

10. GEOTECHNICAL ENGINEERS REPORT

A Geotechnical Engineers Report is to be submitted which assesses the following;

- a. the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
- b. the effect of the development on the likely future use or redevelopment of the land,
- c. the quality of the fill or the soil to be excavated, or both,
- d. the effect of the development on the existing and likely amenity of adjoining properties,
- e. the source of any fill material and the destination of any excavated material,
- f. the likelihood of disturbing relics,
- g. the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
- h. any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

The report must make recommendations and conclude that damage should not occur to any adjoining premises as a result of the proposed bulk excavation, driven type piles and shoring works.

The report is to be submitted to the Principal Certifying Authority, Council and the owners of adjoining premises prior to the issue of a Construction Certificate and commencement of any such works on the site.

11. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION

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

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

12. ENGINEERING DETAILS

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

13. FENCE NOT TO ENCROACH BEYOND BOUNDARIES

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

14. 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.

The Water Management Plans prepared by INLINE Hydraulic Services, Project No. 2018-0264, Drawing No. HDA01 to HDA07 (Amendment P3), dated December 2018 have been checked and considered **not satisfactory** with respect to stormwater details. The drawings do not comply with the Waverley Development Control Plan 2012 in reference to Waverley Council's Water Management Technical Manual.

- (a) On-Site Stormwater Detention (OSD) tank and its details are required e.g. dimensions, cross and long sections, top water level, details of orifice plate including orifice diameter & depth of water above centreline of orifice etc.
- (b) An updated Stormwater Management Plan including an On-site Stormwater Detention (OSD) and its details along with completed mandatory checklist as set out in page 22 of Waverley Council's Water Management Technical Manual is required.

15. 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 Regulation 2000 clause 97A and the above BASIX commitments are mandatory and cannot be modified under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

16. INSTALLATION OF AIR CONDITIONING

To ensure that the ecological sustainable objectives of the Waverley DCP 2012 – Amendment 6 are met, the air conditioning unit(s) required to be removed from the roof by deferred commencement condition 1 shall be relocated on the site and/or installed within the building subject to the following:

- (a) Be located behind the front building line and if visible suitably screened
- (b) Not be adjacent to neighbouring bedroom windows.
- (c) Not reduce the structural integrity of the building.
- (d) Not emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):
 - (e) before 8.00am and after 10.00pm on any Saturday, Sunday or public holiday; or
 - (f) (ii) before 7.00am and after 10.00pm on any other day.
- (g) Not provide noise emissions that exceed 5dBA above the ambient background noise level measured at the property boundary at any other time outside of (e).
- (h) Have sufficient manual or automated controls so it is used only when required;
- (i) Be an energy efficient reverse cycle air conditioning system that achieves as a minimum one star less than the maximum possible under the Australian Government air conditioning energy rating standard.
- (j) New or replacement air conditioning units are to have a minimum 2-star rating for cooling only. Reverse cycle air conditioning units are to have a minimum of 2-star rating on one cycle and 2-star rating on the alternate cycle.
- (k) Dehumidification from air conditioning systems must be harvested and reused on site provided it is treated to an adequate level suitable for the reuse application, otherwise a piped connection to Council's stormwater drainage system is required and there is to be no discharge to the footpath.

17. DOMESTIC HEATERS/ FIREPLACES

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

18. 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.

19. AMENDED LANDSCAPE PLAN

The Landscape Plan is to be amended by the following changes:

- (a) All bangalow palms shall be deleted from the landscaping plans.
- (b) All plants within the southern side of the front landscaped planter above the garage shall be species that grow no higher than 1m. In this regard, the *Doryanthes excelsa* (Gymea Lilly) shall be replaced with a lower growing species.
- (c) The hedge of *Syzigium leucomanthum* - Lilly Pilly along the southern boundary of the site within the front setback shall be replaced with low growing species that grow no higher than 1m in height.

The amended landscape plan is to be submitted to the Principal Certifying Authority with the plans for the Construction Certificate.

20. SERVICE AUTHORITIES

The applicant is to seek approval from the relevant service authorities regarding any possible modification to the existing infrastructure within the vicinity of the site prior to the issue of a Construction Certificate.

21. CONSTRUCTION VEHICLE AND PEDESTRIAN PLAN OF MANAGEMENT

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

The CVPPM shall:

- a. Show the size and number of trucks to be used during the various stages of the development.
- b. Show the route to be taken by trucks in (a) above within the Waverley Council area when gaining access to and from the site. Note, if it is considered with the information submitted that such vehicles cannot adequately and safely gain access to and from the site or where access into or out of the site may not be possible without the need to remove an unsatisfactory number of vehicles parked on the roadway in the vicinity of the site, the trucks may not be approved for use.
- c. Show the location and length of any proposed Works/Construction Zones.
Note:
 - (i) Such zones require the approval of the Waverley Traffic Committee and Council prior to installation.
 - (ii) It is illegal to park a truck exceeding 4.5tonnes on a roadway for more than one (1) hour unless signs are installed allowing such and illegal to barricade/ reserve a section of roadway without the prior approval of Council.
- d. Indicate the number of and where it is proposed to park light vehicles associated with staff/employees/contractors working on the site.

22. ST THOMAS STREET –PUBLIC STAIR AND VEHICLE CROSSING WORKS

Detailed engineering drawings of the alterations proposed to be carried out to the public stairs and a design for a new vehicle crossing are to be submitted to Council for the approval of the Executive Manager, Creating Waverley prior to issue of the Construction Certificate.

The detailed drawings shall be drawn by a suitably qualified and experienced engineering consultant and include, but be not limited to the following:

- (a) The location and line of all public utility authority services in the vicinity of the proposed works.
- (b) That part of the public stairs proposed to be demolished and how it is proposed to connect the new stairs to the existing stairs.
- (c) The portion of the Arris, white painted hand railing to be removed and how it is proposed to connect the new handrailing to the existing.
- (d) The location, dimensions and levels of the new vehicle crossing. Note: the new vehicle crossing is to have a symmetrical taper between the garage entry and the new gutter crossing and be of a width to cater for the movement of a single, B85 standard design vehicle.
- (e) The new gutter crossing having a width not exceeding 3.9m.
- (f) Details of the paving and turf required between the new vehicle crossing and the existing vehicle crossing at No. 1 St Thomas Street.
- (g) The extent of changes proposed to the grassed embankment on the southern side of the vehicle crossing.
- (h) Details of materials proposed on the Council's footpath area between the new vehicle crossing and the southern boundary of No.1 St Thomas Street.

23. LONG SECTIONS OF DRIVEWAY

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

The long section drawings shall:

- (a) Be drawn at a scale of 1:25
- (b) Include reduced levels (RL's) of the St Thomas Street carriageway, the kerb and gutter, footpath and paving within the property and the garage floor.
- (c) Include existing and design levels.
- (d) Include ground clearance of the B85 design vehicle using the ground clearance template contained in Appendix C of AS 2890.1: 2004 Off Street Car Parking.
- (e) Show all paving on Council's land being sloped/ drained towards the roadway.

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

24. 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.

25. 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.

26. 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.

27. OBSTRUCTION TO PUBLIC AREAS

If a public place or pedestrian vehicular traffic may be obstructed because of the carrying out of work involved in the erection or demolition of a building; or a public place is required to be enclosed in connection with the erection or demolition of a building then a hoarding, fencing or awning must be provided to prevent injury and appropriately lit between sunset and sunrise.

28. COMPLIANCE WITH SAFE WORK NSW

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

29. CONTAMINATING MATERIAL REQUIRED TO BE REMOVED

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

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (eg: ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water

spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.

- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices. They shall also adopt work practices in accordance with the requirements of Safe Work Australia's National Standard for the Control of Inorganic Lead at Work (NOHSC: 1012 (1994) and NOHSC: 2015(1994).
- (c) All lead-contaminated materials being disposed of in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines 2009 and the Protection of the Environment Operations Act 1997 (NSW).

30. DEMOLITION AND SITE PREPARATION

Hazardous or intractable wastes arising from the demolition process are to be removed and disposed of in accordance with the requirements **SafeWork NSW** and the NSW Environment Protection Authority (EPA), and with the provisions of:

- (a) Work Health & Safety Act 2011;
- (b) Work Health & Safety Regulation 2017;
- (c) Protection of the Environment Operations Act 1997 (NSW) and
- (d) NSW EPA Waste Classification Guidelines 2014;

31. DEMOLITION OR ALTERATION OF PRE 1987 BUILDINGS

At least five (5) days prior to the demolition, renovation work or alterations and additions to any building constructed before 1987, the person acting on the consent shall submit a Work Plan prepared in accordance with Australian Standard 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.

32. ASBESTOS REMOVAL

- (a) All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a Licence in accordance with the requirements of SafeWork NSW. Fire damaged asbestos materials can only be cleaned up by licensed asbestos removalists with a Class A (friable) asbestos removal licence. Removal must be carried out in accordance with the "Code of Practice on how to safely remove asbestos" published by SafeWork NSW and Waverley's Asbestos Policy.

- (b) All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and email address.
- (c) No asbestos products are to be reused on site.
- (d) Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site during asbestos removal works.
- (e) No asbestos laden skips or bins are to be left in any public place without the approval of Council.

33. EXCAVATION TO BE LIMITED

Excavation shall be limited to that shown in the approved plans, as amended by conditions within this consent. Excavation, proposed or undertaken in the certification or construction of the development, that results in additional habitable or non-habitable floor space (including storage) shall require the submission of a new development application or modification application.

During consideration of this application construction work on site shall cease without prior agreement of Council. Failure to comply with this condition may lead to Council prosecuting or taking a compliance action against the development for breach of its consent.

34. 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.

35. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS

That prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste classification guidelines 2014. The classification of the material is essential to determine where the waste may be legally taken. The Protection of the Environment Operations Act 1997 provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the NSW EPA.

36. MANAGEMENT OF ACIDIC SOIL

Should the subject site show evidence of acid sulphate soils, the following shall apply:

- (a) To address issues arising from the natural acidity of the soil on-site, any concrete that is in contact with this soil is to be designed to restrict acid and sulphate attack. The Cement Concrete & Aggregates Australia Technical Note TN68 is to be adhered to for precautionary measures.
- (b) Prior to the commencement of any works, the applicant shall nominate an appropriately qualified Environmental Scientist to supervise the management of acid sulphate soils. The Scientist shall:
 - i. Provide an acceptance in writing to supervise the aforementioned works to ensure compliance with the relevant conditions of Development Consent.
 - ii. On completion of the works certify that the aforementioned works have been constructed in compliance with the approved plans, specifications and conditions of consent.
- (c) The nominated supervising Environmental Scientist shall certify that the management of acid sulphate soil was undertaken in accordance with the Development Consent. Prior to the use or occupation of the building (or Occupation Certificate being issued), the Principal Contractor / Developer shall submit to Waverley Council a copy of the aforementioned Certificate.

37. EXCAVATION TO BE MANAGED BY STRUCTURAL ENGINEER

Bulk excavation is to be managed by a practising structural engineer, in accordance with the specification for shoring and support, as detailed in the approved Construction Certificate.

38. CONSTRUCTION HOURS

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

- (a) The Saturday (except minor renovation or refurbishment to a single dwelling construction) and Sunday which form part of public holiday weekends; and
- (b) Sundays and public holidays
- (c) Excavation works involving the use of heavy earth movement equipment including rock breakers and the like must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays with no such work to be carried out on Saturday, Sunday or a public holiday.

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

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

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

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

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

40. NATIONAL CONSTRUCTION CODE (NCC)

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

41. CONSTRUCTION INSPECTIONS

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

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

The specified **MANDATORY** inspections for a **DWELLING HOUSES including (Class 1 and 10 Buildings)** are:

- (a) at the commencement of building work;
- (b) after excavation for, and prior to the placement of, any footings;
- (c) prior to pouring any in-situ reinforced concrete building element;
- (d) prior to covering of the framework for any floor, roof or other building element;
- (e) prior to covering any waterproofing in any wet areas;
- (f) prior to covering any stormwater drainage connections; and
- (g) after the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

The following additional inspections are required (if relevant to the development) to be undertaken by the PCA:

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

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

42. 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.

43. 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.

44. SERVICE PIPES

All plumbing and drainage, including sewerage drainage stacks, ventilation stacks and water service pipes shall be concealed within the building. Plumbing other than stormwater downpipes shall not be attached to the external surfaces of the building.

45. TREE PROTECTION

Precautions shall be taken when working near trees to ensure their retention, including the following:

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) Prevent damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter.

46. 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.

47. CONSTRUCTION OF SWIMMING POOLS

The following applies to the construction of swimming pools and outdoor spas:

- (a) Reinforcement of the swimming pool/outdoor spa is to be inspected by an Accredited Officer or other suitably qualified person prior to the pouring of concrete;
- (b) The electrical wiring system for any proposed underwater artificial lighting installation to the pool/spa is to be installed in accordance with the requirements of Australian Standard 3000, Part 1 - Wiring Rules;
- (c) The swimming pool/outdoor spa water is to be treated by an approved water treatment and filtration unit.
- (d) To prevent noise nuisance to surrounding properties, the swimming pool/outdoor spa filtration motor and pump unit is to be housed within a ventilated soundproof enclosure.

- (e) Waste waters from the swimming pool/outdoor spa are to be discharged into Sydney Water's sewerage system and in this regard, approved plans **MUST** be submitted to Sydney Water at least fourteen **(14) days prior** to commencement of building operations.

48. NO WORKS BEYOND BOUNDARIES

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

49. NEW VEHICLE CROSSING

The existing vehicle crossing is to be demolished and a new crossing constructed to provide access to the proposed **garages**. A separate application is required for the vehicle crossing with all work to be carried out with the approval of and in accordance with approved drawings.

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

50. FINAL OCCUPATION CERTIFICATE

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

51. STORMWATER MANAGEMENT

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

52. SWIMMING POOL CERTIFICATION

The following must be provided to the Principal Certifying Authority prior to the swimming pool/outdoor spa being filled with water and prior to use;

- (a) The swimming pool/outdoor spa is to be constructed in accordance with the Consulting Engineer's design as shown on the approved plans and is not to be filled with water until a Certificate has been submitted by the construction or consulting engineers design.
- (b) The swimming pool/outdoor spa equipment is to be enclosed in a sound proof enclosure to prevent adverse impacts to adjoining properties.
- (c) An approved sign outlining details of resuscitation techniques for adults, children and infants must be placed in a prominent position, close to the pool/outdoor spa, prior it being filling with water. Signs are available from Council.
- (d) Swimming/spa pool pumps are restricted from being used and operated between 8pm to 7am weekdays and Saturdays, 8pm to 8am on Sundays and public holidays in accordance with the requirements of the Protection of the Environment Operations (Noise Control) Regulation 2008. On the spot fines may be imposed should breaches occur.
- (e) The swimming pool/outdoor spa is to be registered on the State Government Swimming Pool Register (<http://www.swimmingpoolregister.gov.au>) and a Certificate of Compliance obtained for the pool barrier is required to be submitted to Council prior to the issue of an Occupation Certificate.
- (a) The swimming pool/outdoor spa is to be fitted with a cover that shall be fitted when the swimming pool/outdoor spa is not in use to minimise evaporation and conserve water.
- (f) A final inspection of the completed pool is to be carried out by the Principal Certifying Authority to ensure all the above is complied with.

53. LIGHTING

Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Australian Standard AS 4282:1997 Control of the Obtrusive Effects of Outdoor Lighting.

54. STREET NUMBER/S

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

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Waverley Council

Application No: DA-1/2019

Date Received: 09/07/2019

Notes

TOTAL SITE AREA -

995.9m² BY SURVEY

Lot B - 497.94m²

Lot C - 497.94m²

GROSE FLOOR AREAS

LOT B - 326.60m²

LOT C - 211.63m²

FLOOR SPACE RATIO-

Lot B - FSR - 0.65 : 1

Lot C - FSR - 0.42 : 1

LANDSCAPED AREA-

Lot B - 188.67m²

Lot C - 184.16m²

OPEN SPACE AREA-

Lot B - 315.1m²

Lot C - 367.8m²

Amendments

Rev 1 - July 2 - Revised GFA/FSR

Project Address:

No.3 St Thomas St
Bronte

Client:

Marilyn Withers

Project Status:

DA

Sheet Name:

Site

Project number:

45

Scale:

1 : 200 @ A1

Date:

JUNE 2019

Sheet Number:

00 - R1

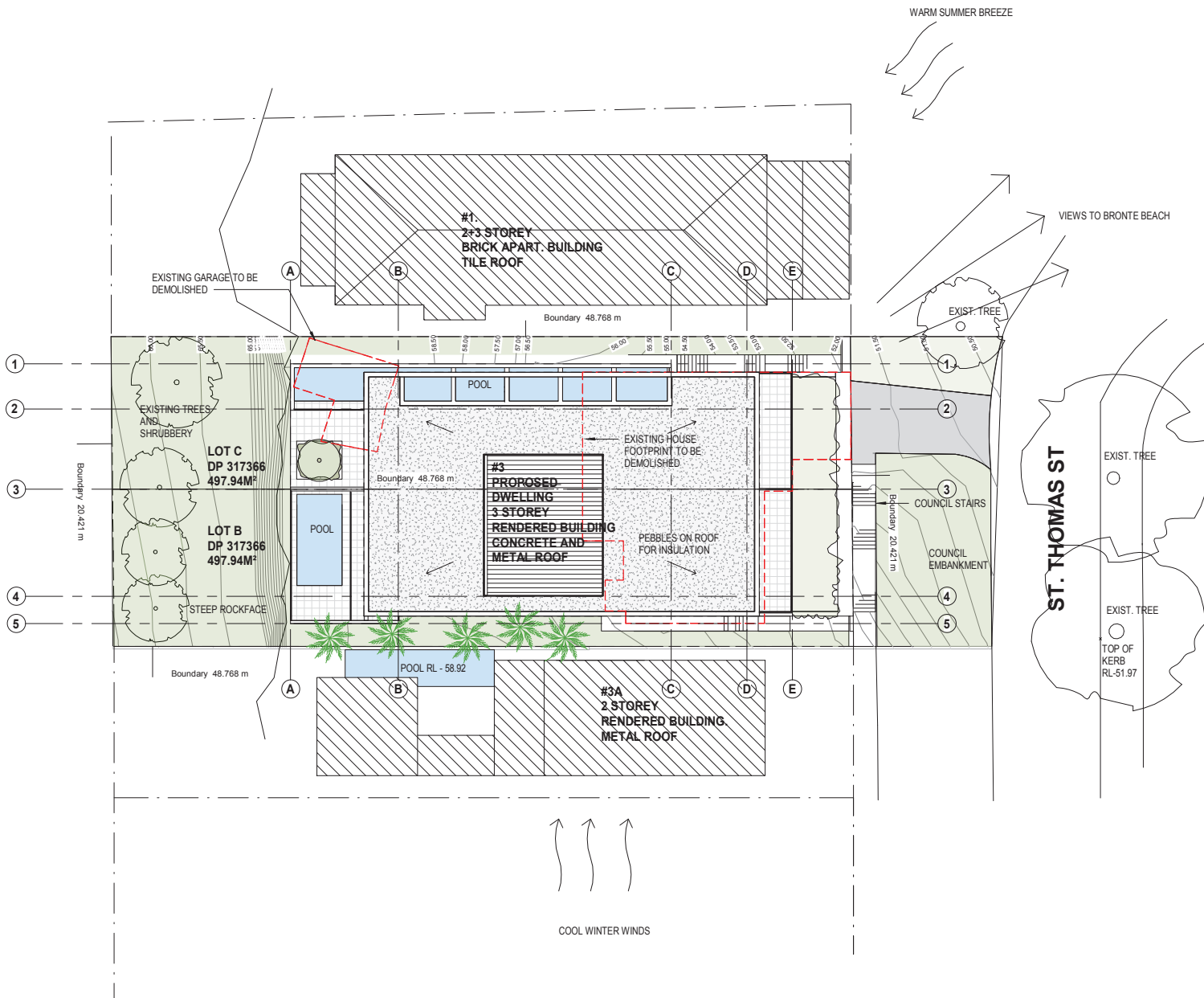
DAVID KATON
STUDIO PTY LTD

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4 TRACK BUILDING DESIGN

6 High View Rd
Pretty Beach
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P: 0422271398
E: info@4track.com.au



1 00 Site
1 : 200

0 10 20 m



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Application No: DA-1/2019

Date Received: 09/07/2019

otes

mendments

Project Address:

o.3 St Thomas St
ronte

lient:

Marilyn Withers

Project Status:

A

Sheet Name:

Level 1 Carpark

Project number:

5

scale:

: 100 @ A1

ate:

JUNE 2019

Sheet Number:

01

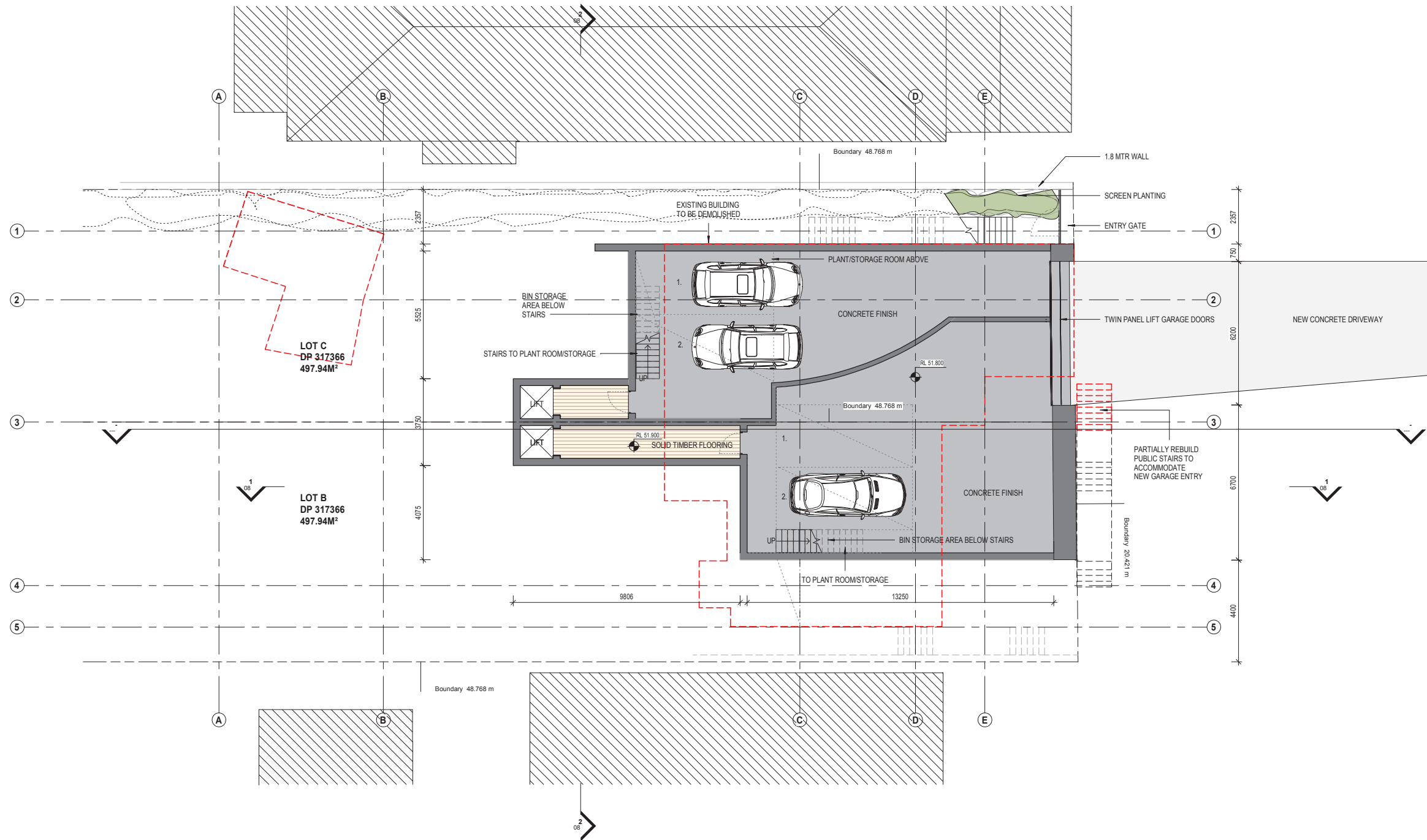
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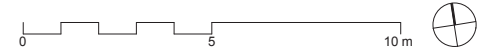
High View Rd
 Betty Beach
 W 2257

422271398
info@4track.com.a

90



1 Level 1 Carpark



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Application No: DA-1/2019

Date Received: 09/07/2019

Notes

Amendments

Project Address:

No.3 St Thomas St
Bronte

Client:

Marilyn Withers

Project Status:

DA

Sheet Name:

Level 2 Bedrooms

Project number:

45

Scale:

1 : 100 @ A1

Date:

JUNE 2019

Sheet Number:

02

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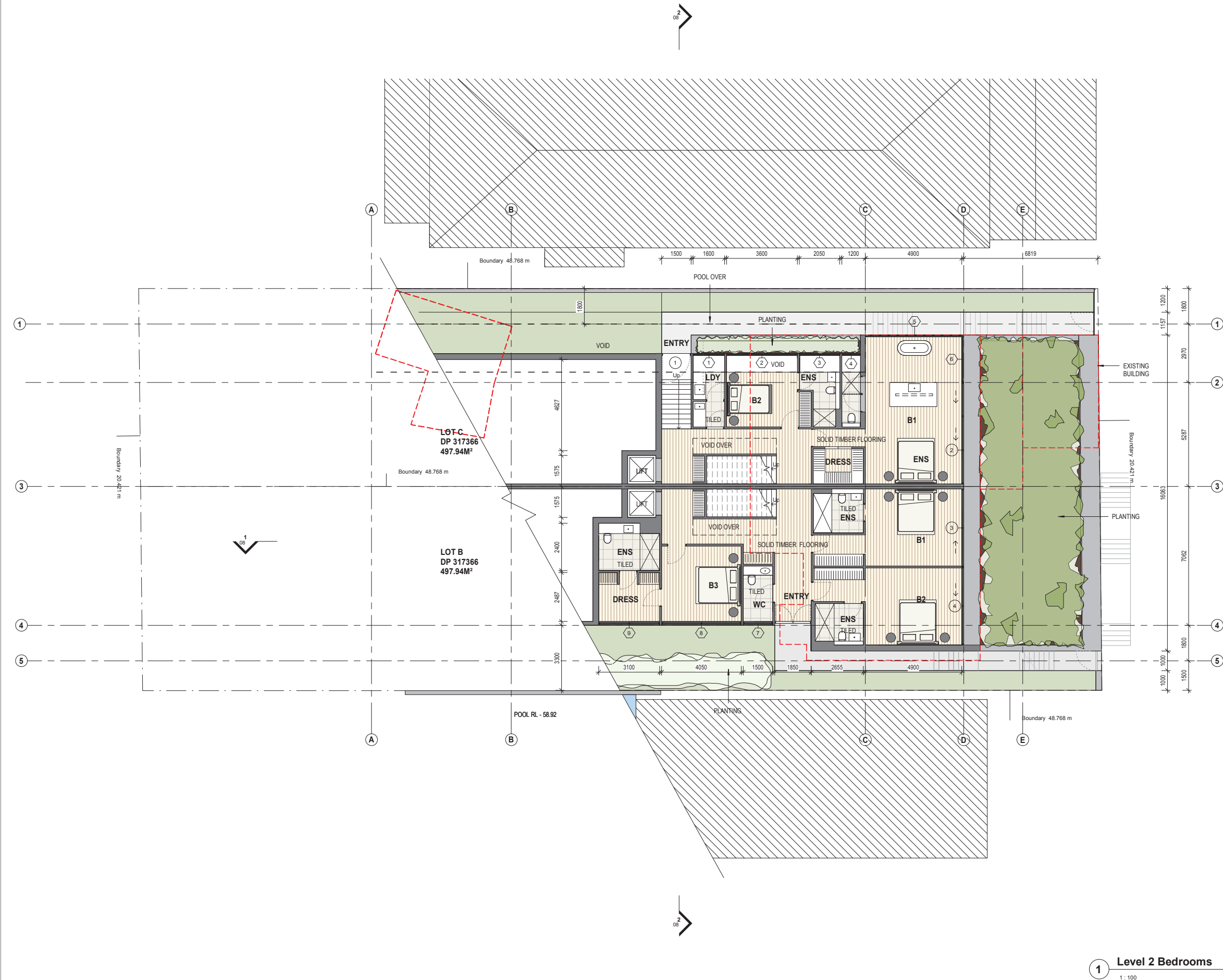
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91



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Application No: DA-1/2019
Date Received: 09/07/2019

Notes

mendments

Project Address:

o.3 St Thomas St
ronte

lient:

Marilyn Withers

Project Status:

A

Sheet Name:

Level 3 Living

Project number:

5

scale:

: 100 @ A1

ate:

JUNE 2019

Sheet Number:

03

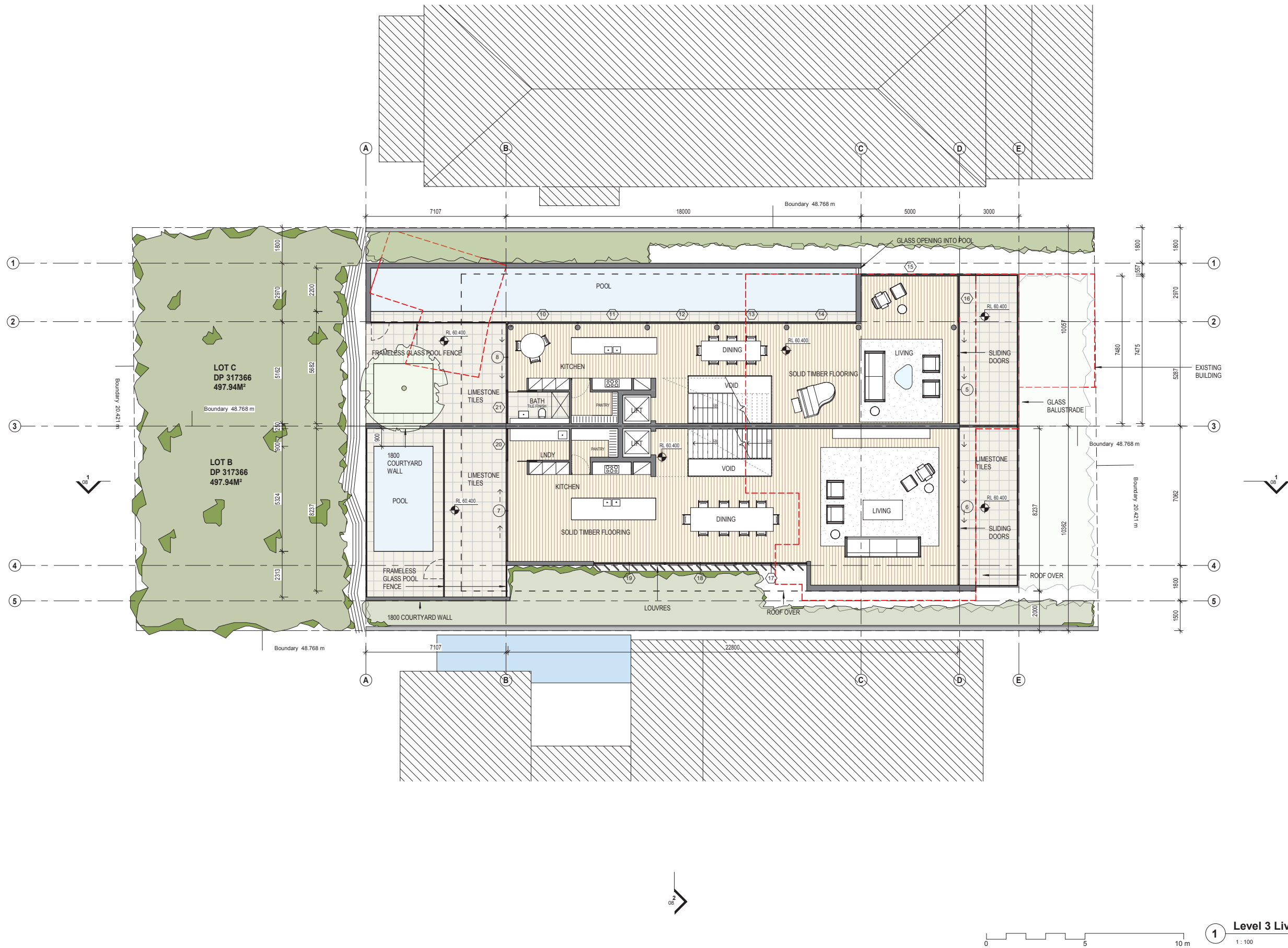
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92



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Application No: DA-1/2019

Date Received: 09/07/2019

Notes

Amendments

Project Address:

No.3 St Thomas St
Bronte

Client:

Marilyn Withers

Project Status:

DA

Sheet Name:

Level 4 Master Bed

Project number:

45

Scale:

1 : 100 @ A1

Date:

JUNE 2019

Sheet Number:

04

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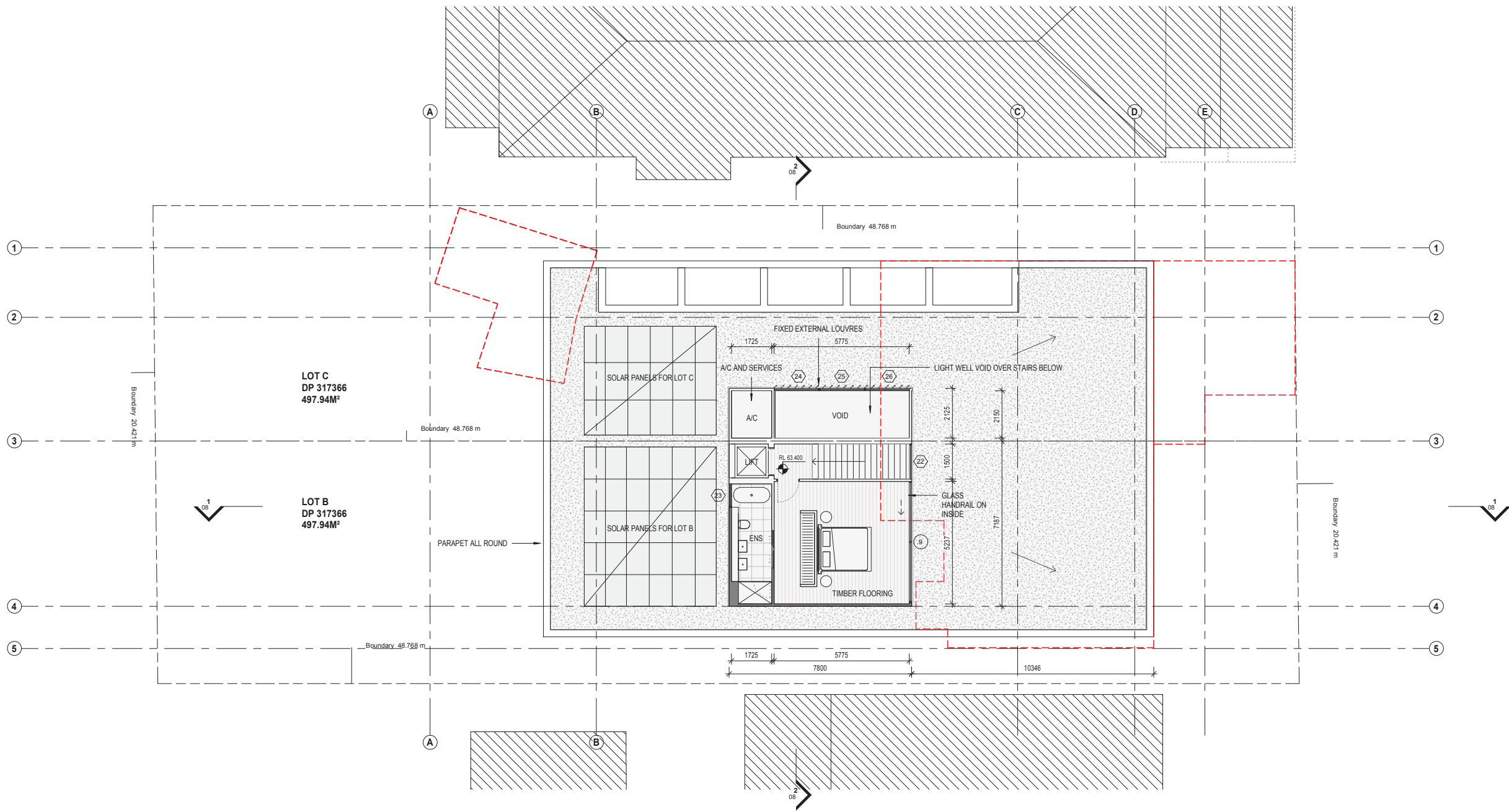
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4 TRACK BUILDING DESIGN

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93



0 5 10 m

1 Level 4 Master Bed
1 : 100



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Application No: DA-1/2019

Date Received: 09/07/2019

Notes

Amendments

Project Address:

No.3 St Thomas St
Bronte

Client:

Marilyn Withers

Project Status:

DA

Sheet Name:

Roof Plan

Project number:

45

Scale:

1 : 100 @ A1

Date:

JUNE 2019

Sheet Number:

05

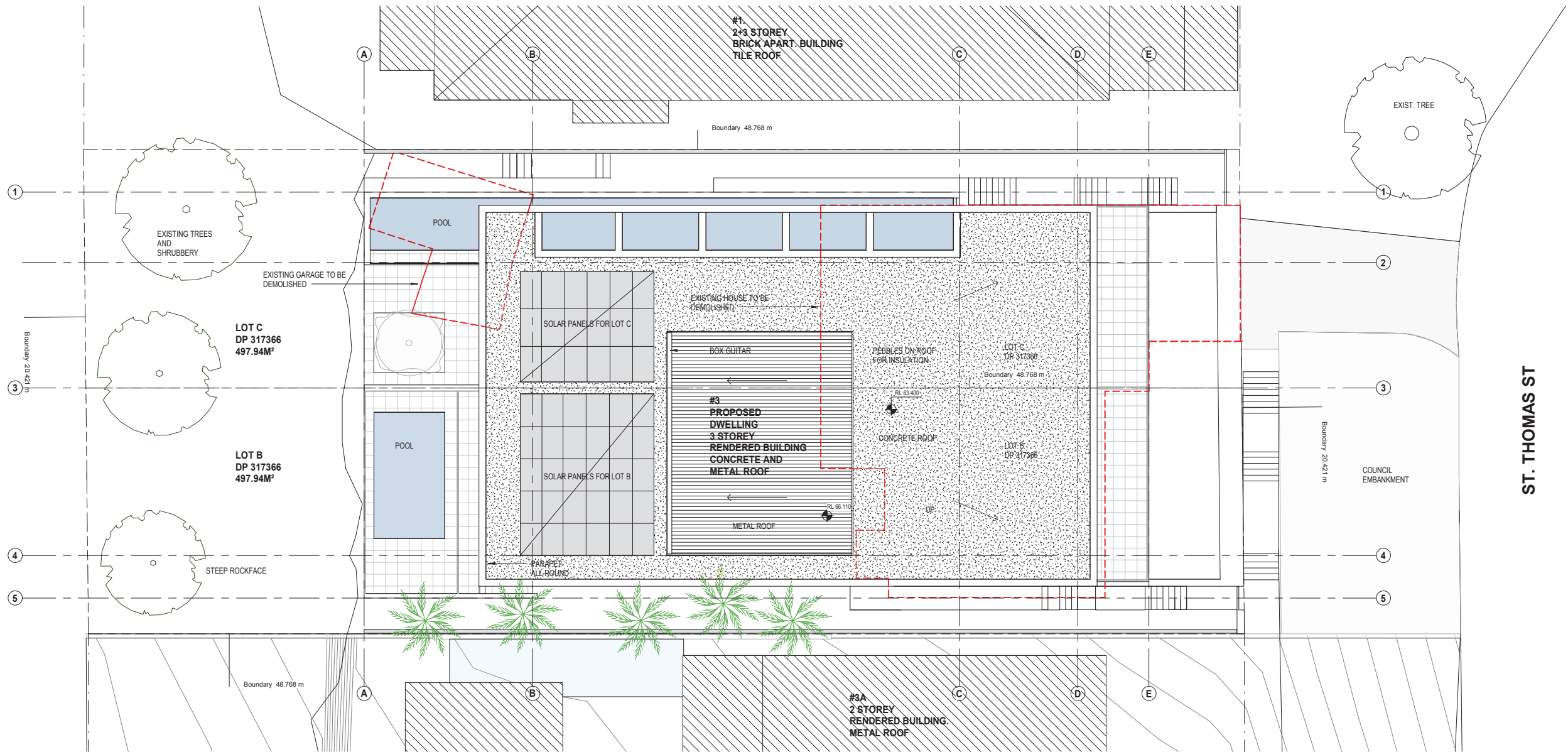
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4 TRACK BUILDING DESIGN

6 High View Rd
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94

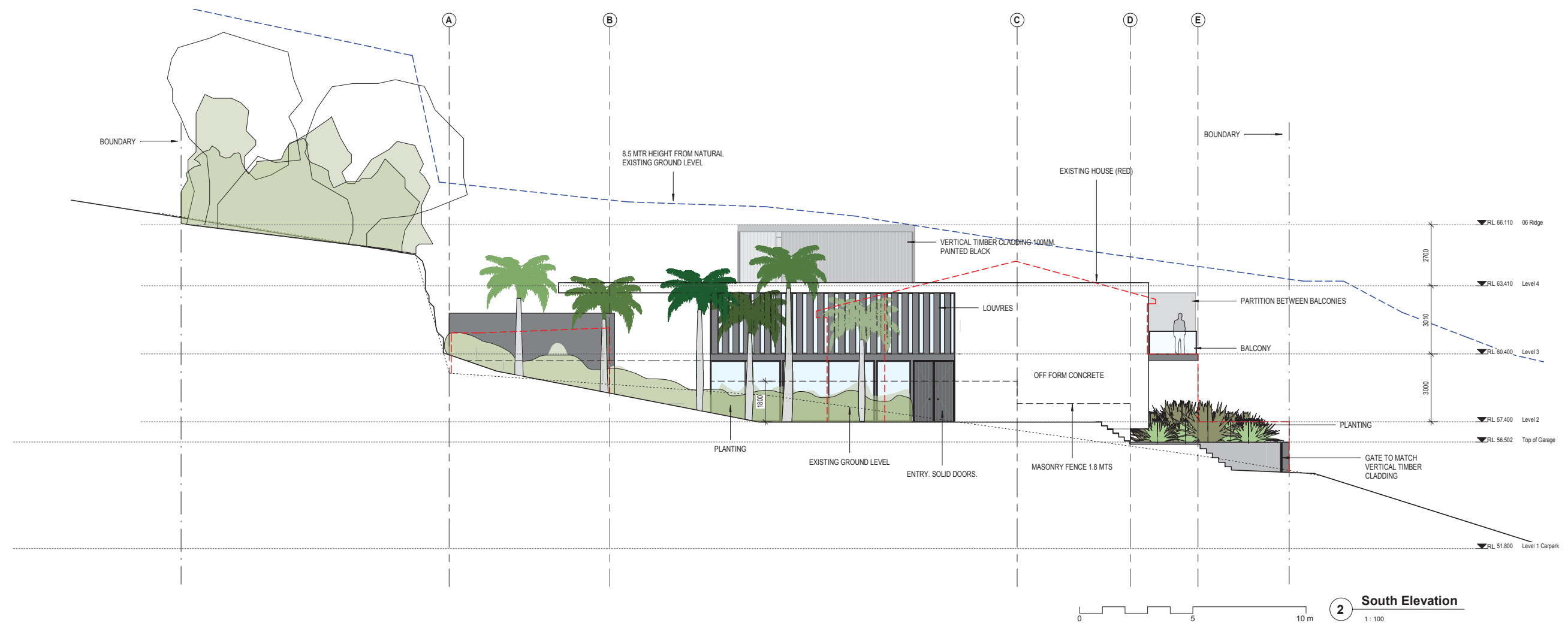
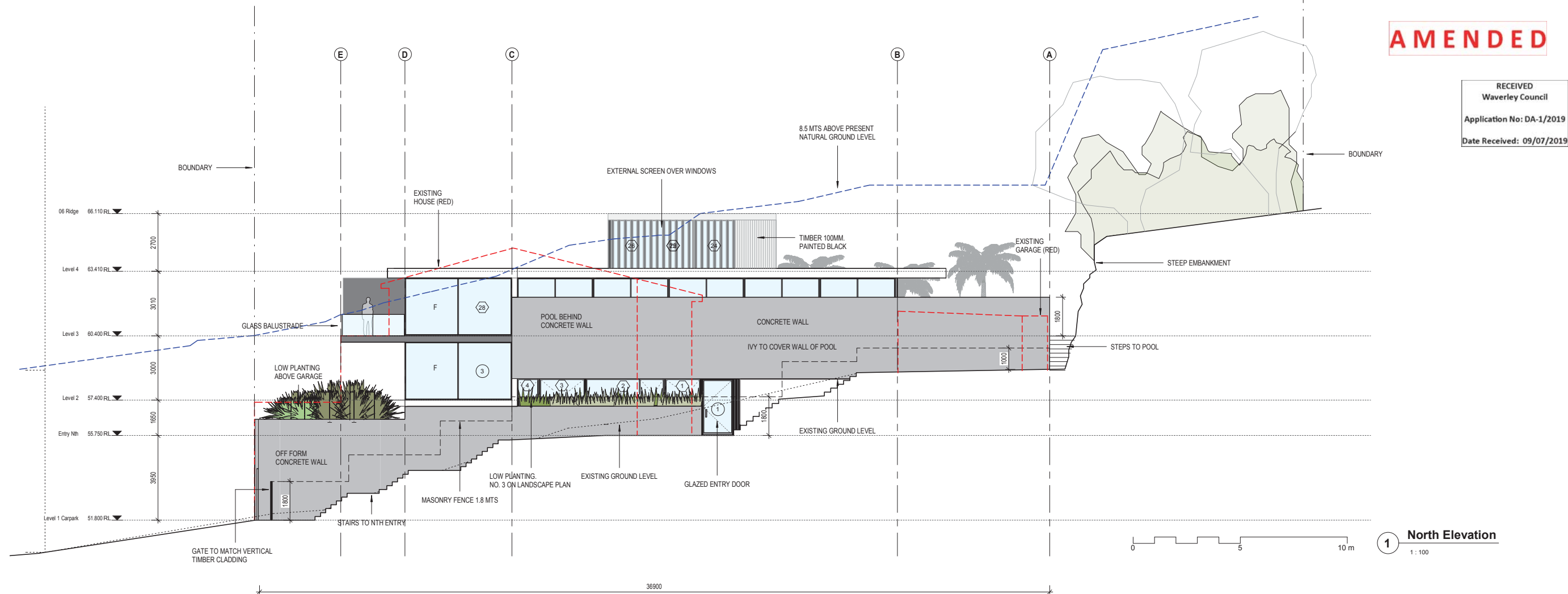


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Notes

Amendments

Project Address:
No.3 St Thomas St
Bronte

Client:
Marilyn Withers

Project Status:
DA

Sheet Name:
Elevations North/South

Project number:
45

Scale:
1 : 100 @ A1

Date:
JUNE 2019

Sheet Number:
06

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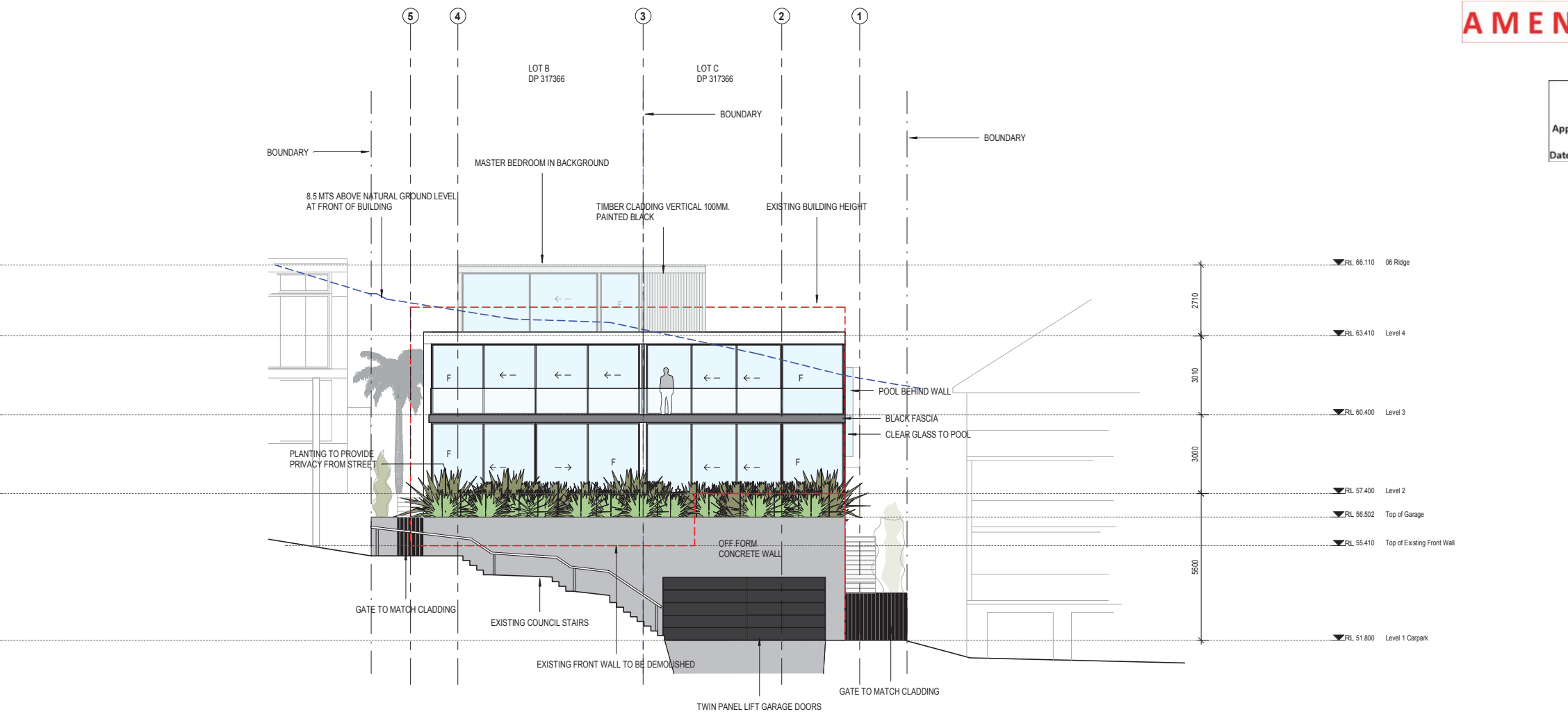
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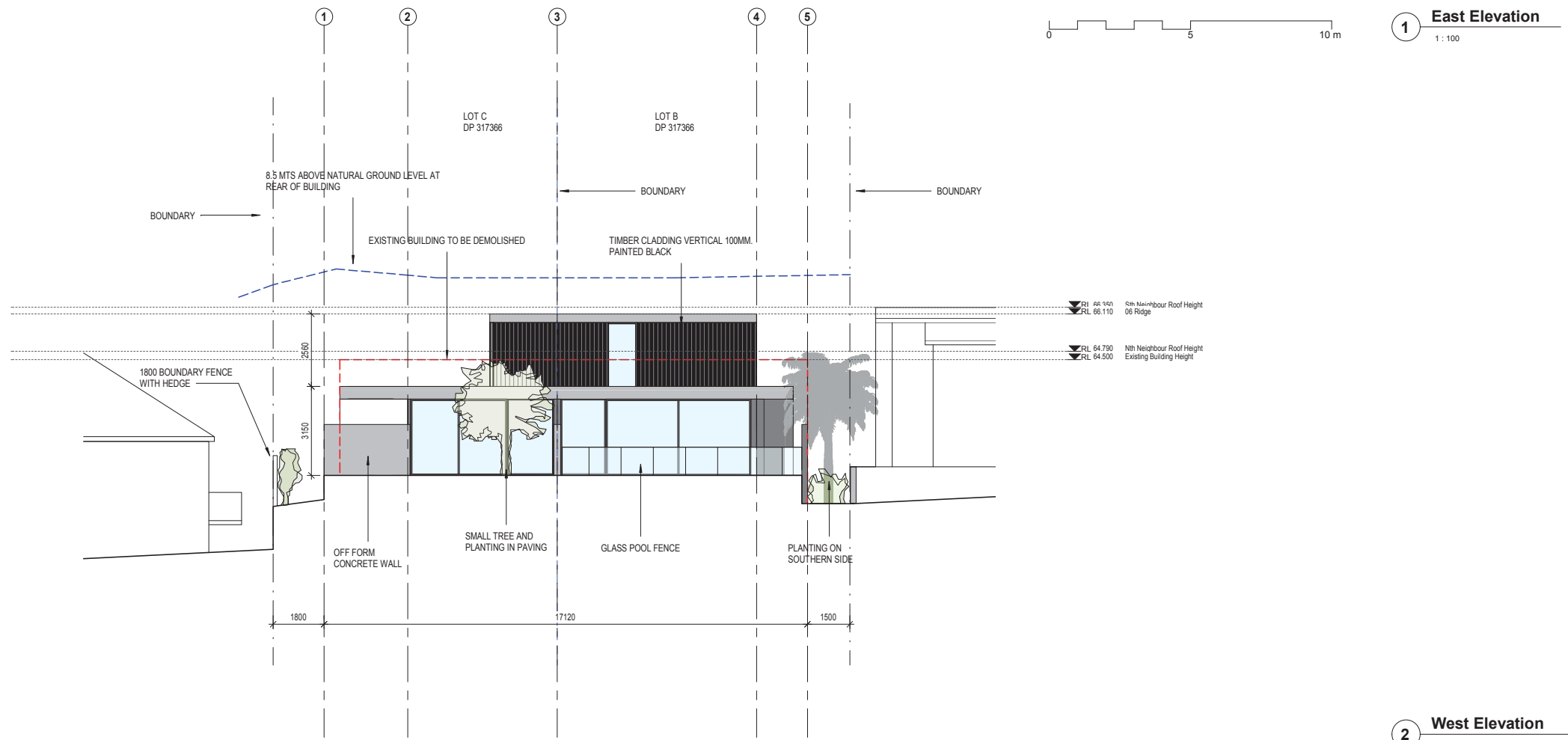
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Application No: DA-1/2019
Date Received: 09/07/2019



1 East Elevation
1 : 100



2 West Elevation
1 : 100

Notes

Amendments

Project Address:

No.3 St Thomas St
Bronte

Client:

Marilyn Withers

Project Status:

DA

Sheet Name:

Elevations East/West

Project number:

45

Scale:

1 : 100 @ A1

Date:

JUNE 2019

Sheet Number:

07

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4 TRACK BUILDING DESIGN

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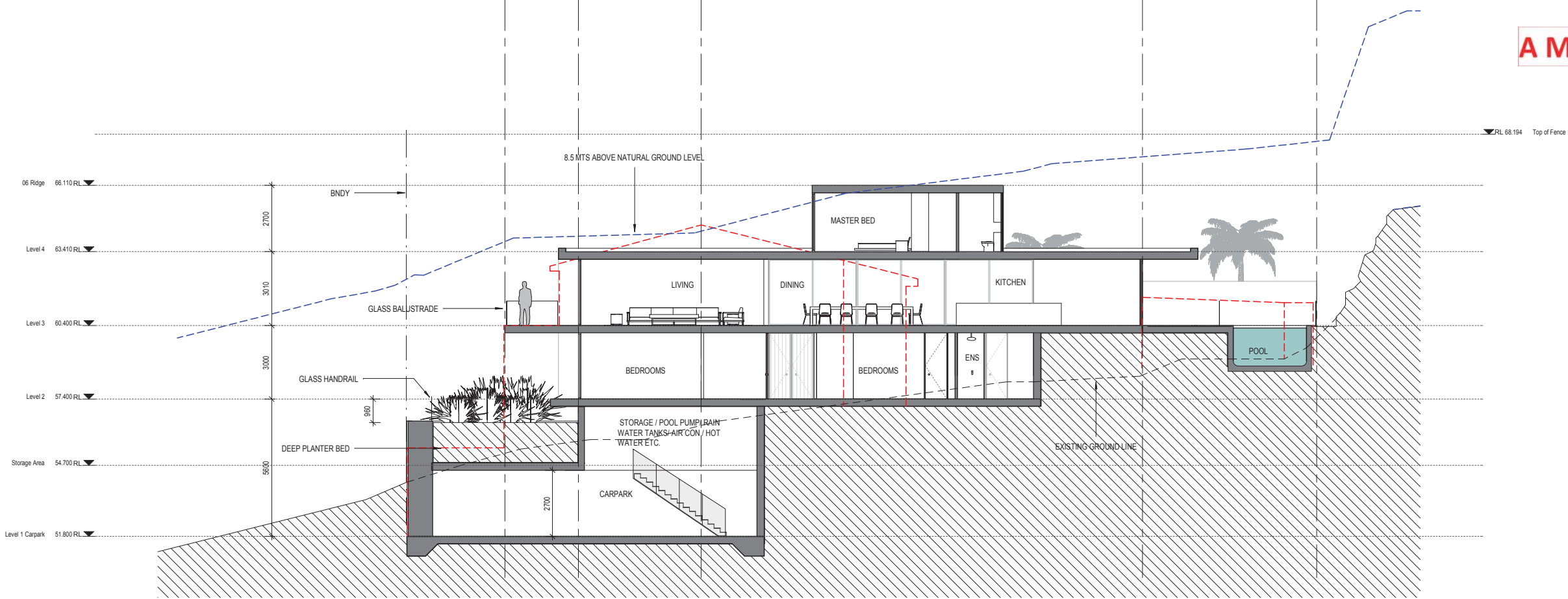
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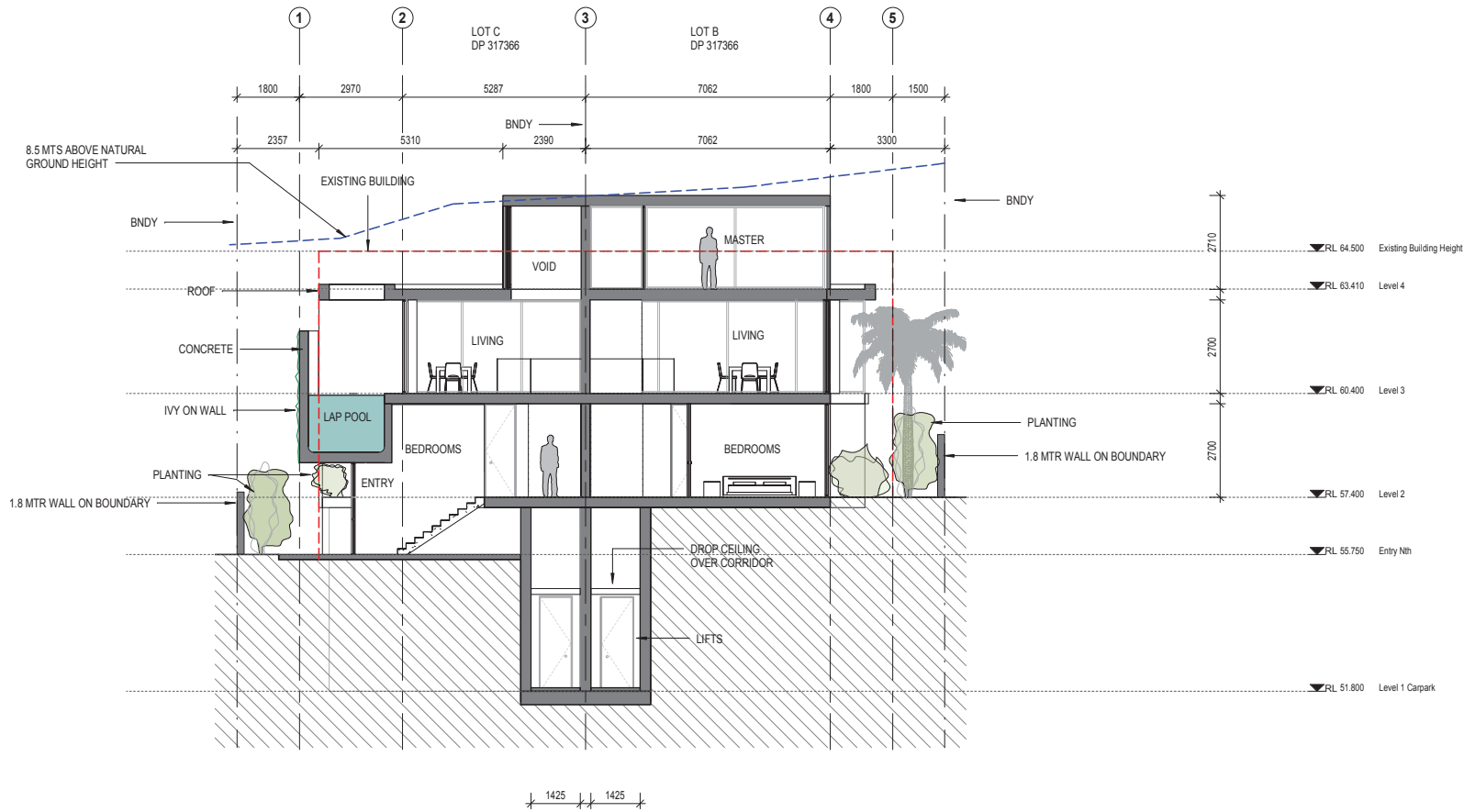
Application No: DA-1/2019
Date Received: 09/07/2019

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2 Short Section

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Amendments

Project Address:

No.3 St Thomas St
Bronte

Client:

Marilyn Withers

Project Status:

DA

Sheet Name:

Sections

Project number:

45

Scale:

1 : 100 @ A1

Date:

JUNE 2019

Sheet Number:

08

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4 TRACK BUILDING DESIGN

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P: 0422271398
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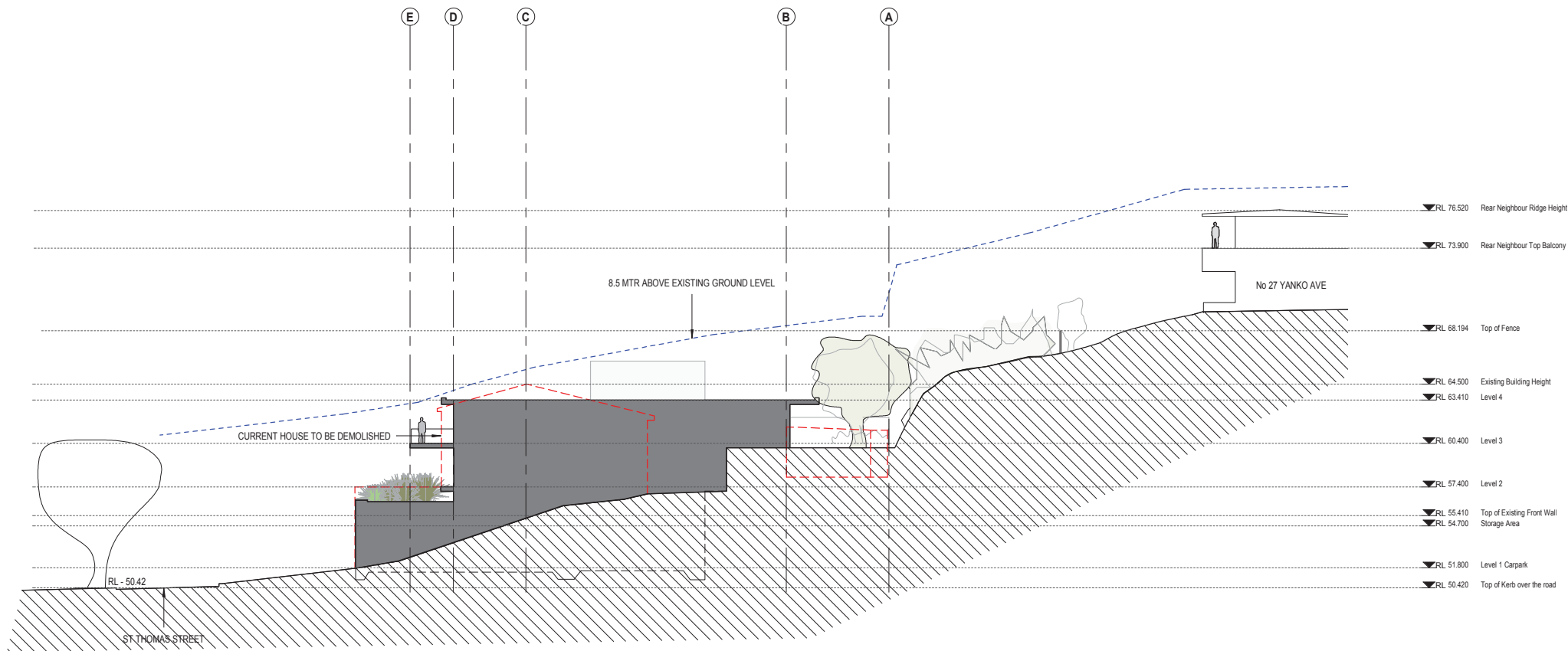
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Waverley Council

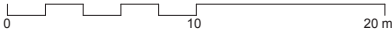
Application No: DA-1/2019

Date Received: 09/07/2019

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Amendments

Project Address:

No.3 St Thomas St
Bronte

Client:

Marilyn Withers

Project Status:

DA

Sheet Name:

Sections 2

Project number:

45

Scale:

1 : 200 @ A1

Date:

JUNE 2019

Sheet Number:

09

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Application No: DA-1/2019
Date Received: 09/07/2019

Notes

Amendments

Project Address:

No.3 St Thomas St
Bronte

Client:

Marilyn Withers

Project Status:

DA

Sheet Name:

Demolition Plan

Project number:

45

Scale:

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Date:

JUNE 2019

Sheet Number:

10

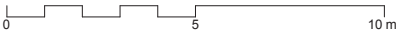
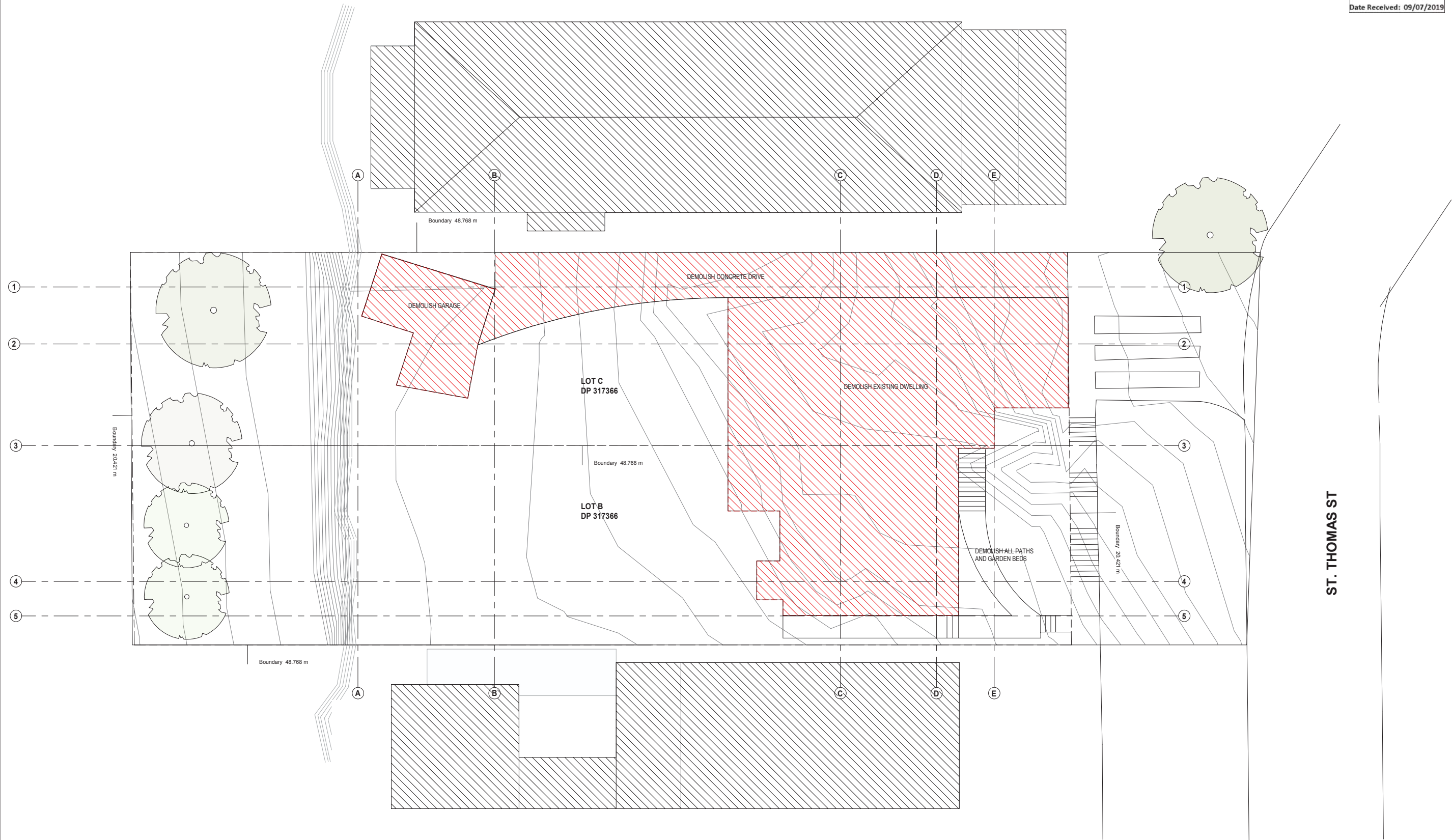
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99



1 Demolition Plan
1 : 100

AMENDED

Notes

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Application No: DA-1/2019
Date Received: 09/07/2019

Amendments

Project Address:

No.3 St Thomas St
Bronte

Client:

Marilyn Withers

Project Status:

DA

Sheet Name:

Shadow Studies Elevations

Project number:

45

Scale:

1 : 100

Date:

JUNE 2019

Sheet Number:

12

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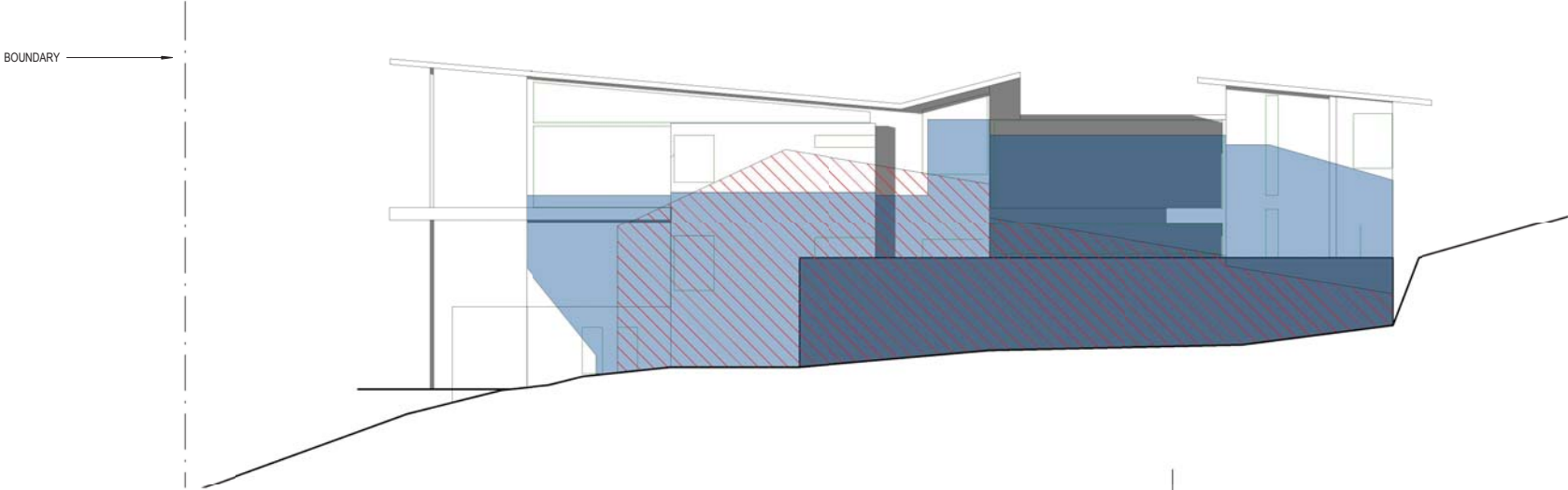
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6 High View Rd
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NSW 2257

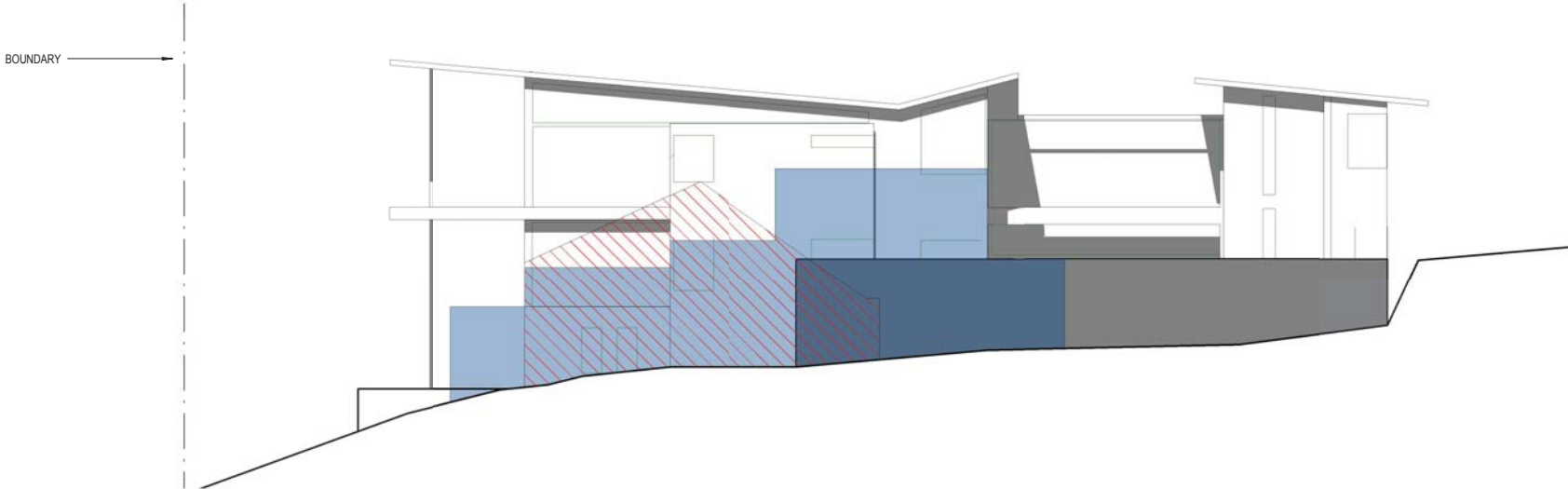
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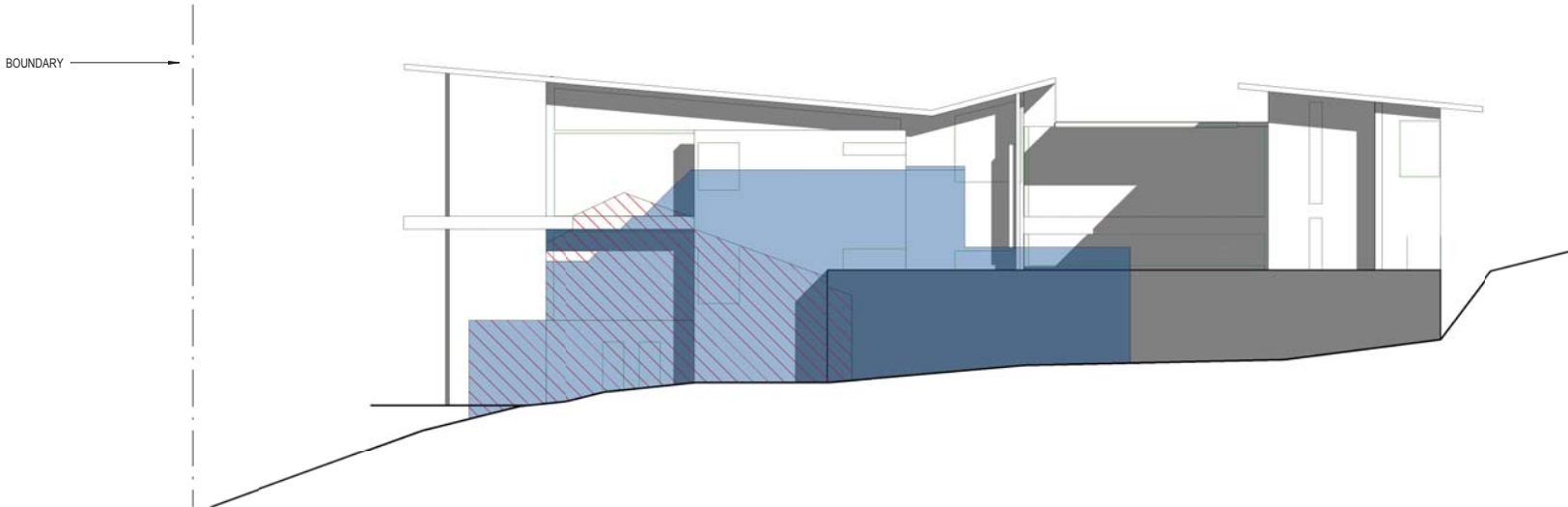
PROPOSED DEVELOPMENT SHADOWS
EXISTING SHADOWS



1 Shadows on Sth Neighbours 9AM JUNE 21
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2 Shadows on Sth Neighbours 12PM JUNE 21
1 : 100



3 Shadows on Sth Neighbours 3PM JUNE 21
1 : 100

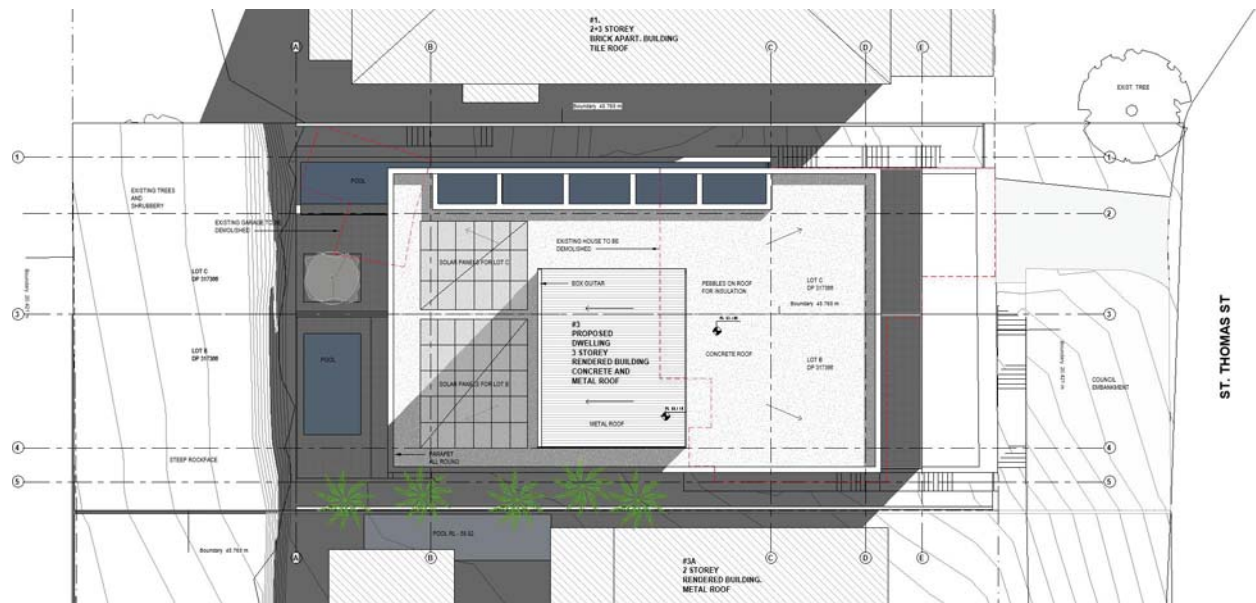
AMENDED

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Waverley Council

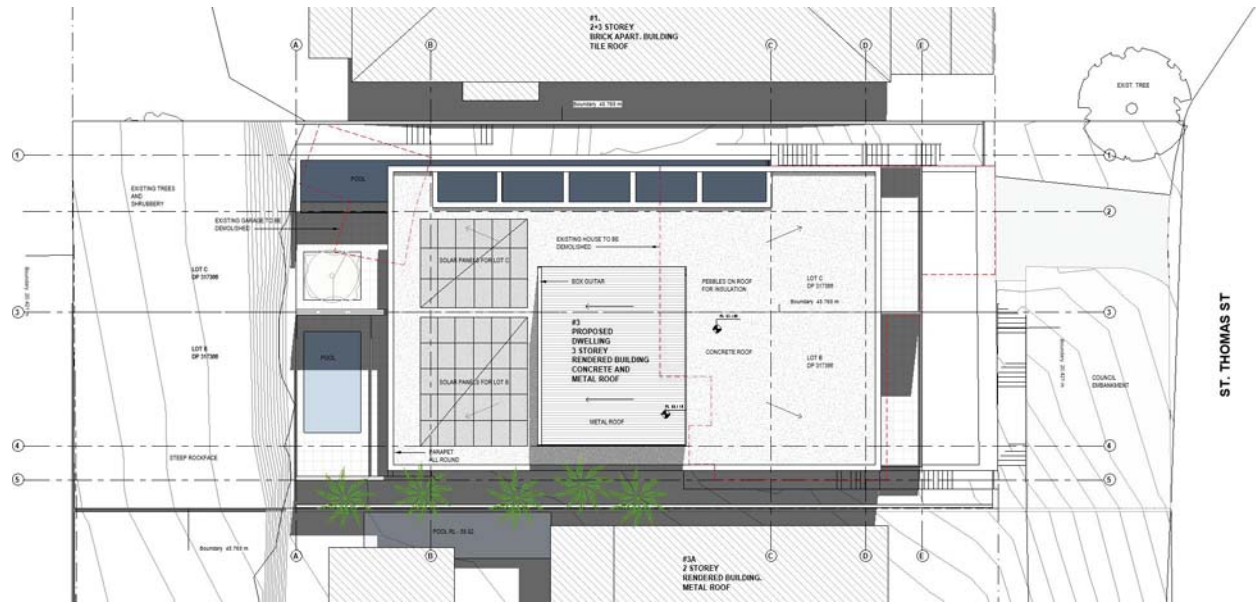
Application No: DA-1/2019

Date Received: 09/07/2019

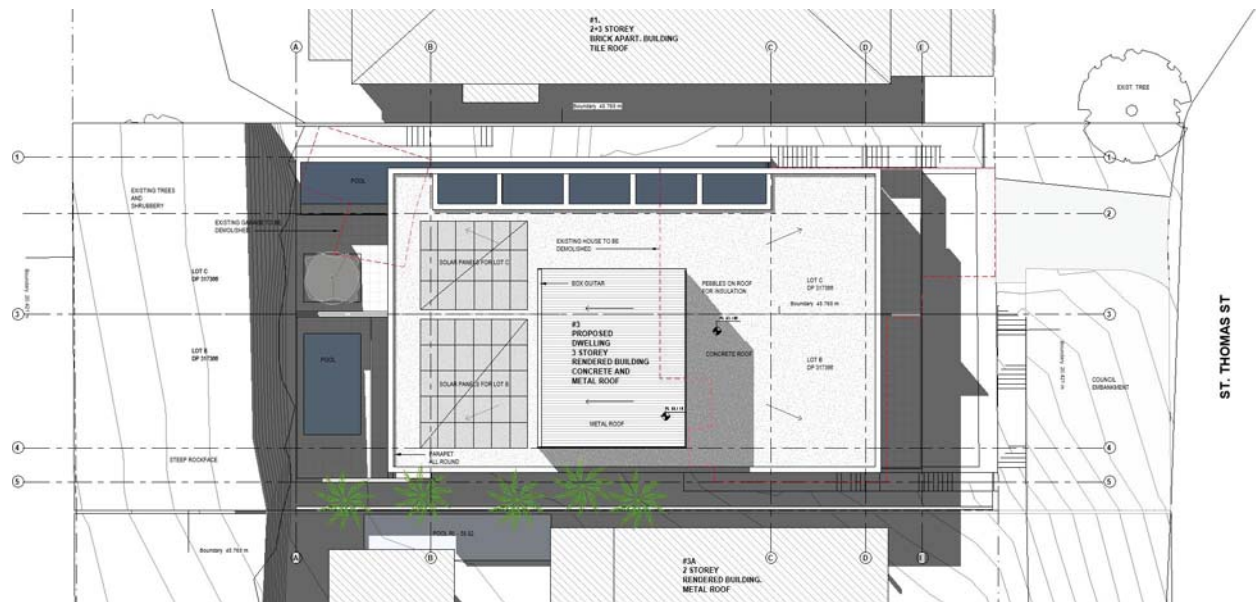
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1 Shadow Diagram June 21st 9am
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2 Shadow Diagram June 21st 12pm
1:1



3 Shadow Diagram June 21st 3pm
1:1

Amendments

Project Address:

No.3 St Thomas St
Bronte

Client:

Marilyn Withers

Project Status:

DA

Sheet Name:

Shadow Studies Plan

Project number:

45

Scale:

1:1

Date:

JUNE 2019

Sheet Number:

13

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4 TRACK BUILDING DESIGN

6 High View Rd
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102

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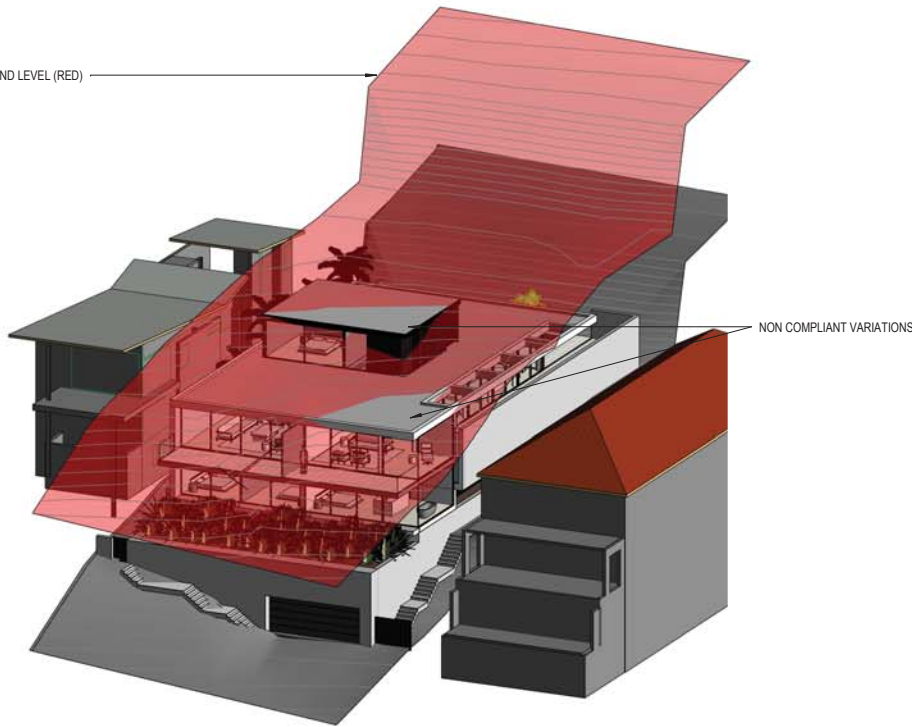
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Waverley Council

Application No: DA-1/2019

Date Received: 09/07/2019

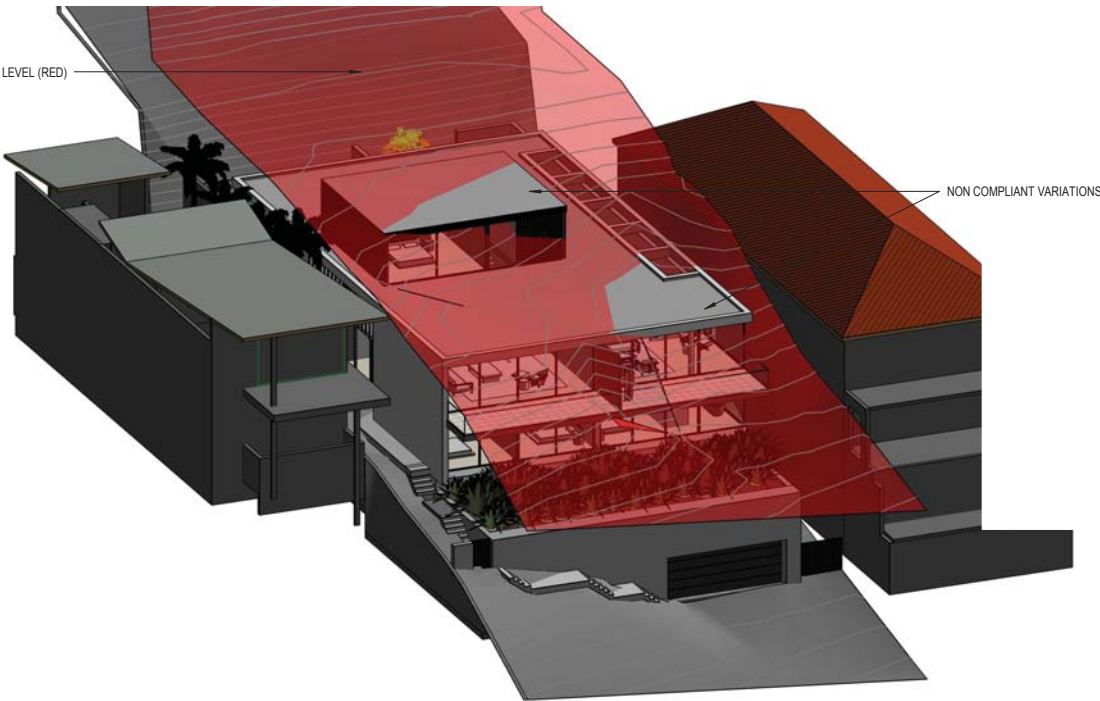
Notes

8.5 MTR ABOVE EXISTING GROUND LEVEL (RED)



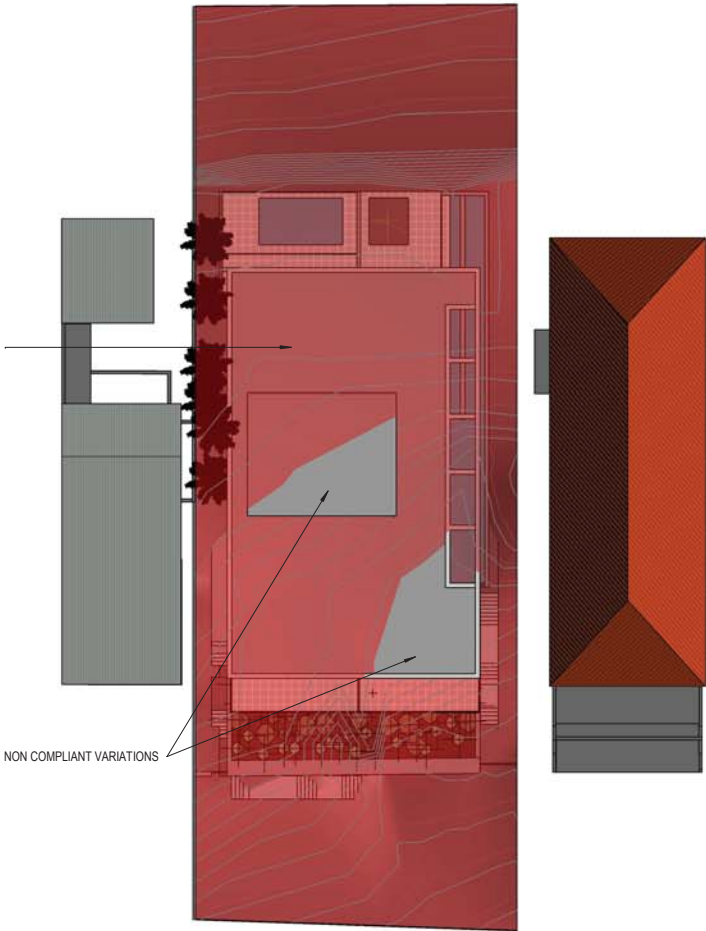
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8.5 MTR ABOVE EXISTING GROUND LEVEL (RED)



2 HEIGHT ENVELOPE 2
1 : 1

8.5 MTR ABOVE EXISTING GROUND LEVEL (RED)



3 HEIGHT ENVELOPE 3
1 : 1

Amendments

Project Address:

No.3 St Thomas St
Bronte

Client:

Marilyn Withers

Project Status:

DA

Sheet Name:

3D Height Variations

Project number:

45

Scale:

1 : 1

Date:

JUNE 2019

Sheet Number:

14

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4 TRACK BUILDING DESIGN

6 High View Rd
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DEVELOPMENT APPLICATION

WAVERLEY COUNCIL

DWELLING HOUSE

ADDRESS : 3 ST THOMAS STREET BRONTE

CLIENT : MARILYN WITHERS

ARCHITECT - DAVID KATON STUDIO - katon.david@gmail.com
- 4 TRACK BUILDING DESIGN - info@4track.com.au

GEO TECHNICAL SERVICES - JK Geotechnics - www.jkgeotechnics.com.au

HYDRAULIC ENGINEER - In Line Hydraulic Services - inlinehydraulicservices.com

BASIX CONSULTANT - Sydney Town Planning - sydneytownplanning.com.au

PLANNING CONSULTANT - Mersonn Pty Ltd - mail@mersonn.com.au

Sheets		
Sheet Number	Sheet Name	Sheet Issue Date
00	Site	20/12/2018
01	Level 1 Carpark	20/12/2018
02	Level 2 Bedrooms	20/12/2018
03	Level 3 Living	20/12/2018
04	Level 4 Master Bed	20/12/2018
05	Roof Plan	20/12/2018
06	Elevations North/South	20/12/2018
07	Elevations East/West	20/12/2018
08	Sections	20/12/2018
09	Sections 2	20/12/2018
10	Demolition Plan	20/12/2018
11	Landscape Plan	20/12/2018
12	Shadow Studies Elevations	20/12/2018
13	Shadow Studies Plan	20/12/2018
14	3D Height Variations	20/12/2018
15	Finishes/Schedules/Basix	20/12/2018
16	Gross Floor Areas	06/27/19



Report to the Waverley Local Planning Panel

Application number	DA-480/2018
Site address	435 Bronte Road, Bronte
Proposal	Demolition of existing dwelling and construction of a part two, part three storey dwelling with rear garage building and swimming pool
Date of lodgement	19 December 2018
Owner	Mrs S Aaron
Applicant	Mrs S Aaron c/- Tribe Studio Architects
Submissions	Three (Original); Three (Amended)
Cost of works	\$2,965,952.51
Issues	Height non-compliance, side setback, visual bulk and scale, visual privacy
Recommendation	That the application be granted a DEFERRED COMMENCEMENT CONSENT



1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was carried out on 11 April 2019.

The site is identified as Lot 4 in DP 105849, known as 435 Bronte Road, Bronte. The site is rectangular in shape with a northern street frontage to Bronte Road measuring 9.31m, a southern rear frontage to Gardyne Street measuring 9.27m, an eastern side boundary measuring 34.97m and a western side boundary measuring 34.955. The site has an area of 324.5m² and the site falls from the south-west towards the north-east by approximately 6.5m. The site is occupied by a single storey dwelling with no vehicular access provided to the site.

The locality is characterised by predominantly large residential dwellings on narrow residential allotments. The subject site is adjoined to the east by a single storey dwelling at 437 Bronte Road and a two storey dwelling to the west at 433 Bronte Road. There are recent approvals and developments of new dwellings to the west of the subject site on Bronte Road which incorporate garage buildings to Gardyne Street. The site is located directly adjacent to two landscape conservation areas on Bronte Road and Gardyne Street.



Figure 1: Site viewed from Bronte Road



Figure 2: Site viewed from Gardyne Street



Figure 3: Streetscape view looking east along Bronte Road towards the site showing recent new developments



Figure 4: View from the rear taken at the corner of Gardyne Street and St Thomas Street

1.2 Relevant History

A search of Council's records found the following recent applications for the subject site:

DA-568/2016 for demolition of the dwelling and construction of a new two storey dwelling with car deck at rear approved on 16 May 2017 subject to deferred commencement matters being satisfied. It is noted that these matters had not been satisfied and the consent has since lapsed.

The application, the subject of this assessment report, was deferred on 15 May 2019 to give the applicant an opportunity to submit amended plans and additional information to address issues raised in the preliminary assessment of the application. These matters related to the floor space ratio, front setback, rear garage building, streetscape impact, building bulk and massing.

Amended plans were submitted on 11 June 2019 to address these matters, which are the subject of this assessment report.

1.3 Proposal

It is proposed to demolish the existing dwelling and construct a part two and part three storey dwelling with a new double garage, swimming pool and landscaping works. The proposal is contemporary in style and constructed of off form concrete, brick with gravel covered roofing. The proposed garage structure is located to the rear of the site fronting Gardyne Street. Details of the proposal are as follows:

Lower Ground Floor Level

The lower ground floor level is at RL28.25 and comprises an office, bathroom, laundry and plant room. A north-facing deck is accessible from the home office. A staircase provides access to the floors above.

Ground Floor Level

The ground floor level is at RL31.00 and contains an open-plan living/dining/kitchen and family room, scullery, toilet and cloak room. A north-facing terrace is accessed from the living area. Pedestrian access is from Bronte Road via the existing shared right of way and a proposed set of stairs. The ground floor level also has access to a new swimming pool at the rear. A lift and stairway at the south-west corner provide access to the upper-level rear garage.

First Floor Level

The first floor level is at RL34.05 and comprises a master bedroom with walk in robe and ensuite, two other bedrooms, study and bathroom. The master bedroom has access to a north facing terrace. A bridge connects the dwelling to the circulation structure at the rear that will provide access to the garage at the Gardyne Street level. Overall height of the dwelling is to RL36.8.

Garage

The proposal seeks to remove the existing vegetation including two street trees located along the southern boundary at the rear and the stepped blockwork retaining walls along the steep rear yard. A garage is proposed at the rear of the site to be suspended above the existing landscaped verge area and will be accessed via a new driveway crossover to Gardyne Street. The garage level is at RL39.55 and provides two secure parking spaces at the southern boundary. The garage will be provided with stairs and lift located on the western side to access the rear yard and dwelling. A bridge is also proposed to connect the rear building to the dwelling at its first floor bedroom level. The overall height of the rear garage building is at RL42.25.

2. ASSESSMENT

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

2.1 Planning Instruments and Development Control Plans

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

2.1.1 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the development application.

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

2.1.2 SEPP 55 Remediation of Land

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

2.1.3 SEPP (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 applies to the subject development as development is to be carried out within 5m of an exposed overhead electricity power line and includes a swimming pool which is within 30m of a structure supporting an overhead electricity transmission line.

In accordance with Clause 45 of the Infrastructure SEPP, the application is required to be referred to the relevant electricity supply authority for comment. The development application was referred to Ausgrid for comment for the prescribed 21 day period on 22 July 2019. No comments have been received.

2.1.4 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

Table 1: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal is considered to be consistent with the aims of the plan.
Part 2 Permitted or prohibited development		
Land Use Table R2 Low Density Residential Zone	Yes	The proposal is defined as a dwelling house, which is permitted with consent in the R2 zone.
Part 4 Principal development standards		
4.3 Height of buildings • 8.5m	No	11.66m to height of rear garage building. Main dwelling height is compliant (see further discussion below)
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio • 0.75:1	Yes	244.72m ² or 0.75:1
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the Height development standard. A detailed discussion of the variation to the development standard is presented below this table.
Part 5 Miscellaneous provisions		
5.10 Heritage conservation	Yes	The site is not listed as a heritage item or located in a heritage conservation area. The adjoining road reserves are listed as landscape conservation areas, C30 Bronte Road and C45

Provision	Compliance	Comment
		Gardyne Street. The proposal seeks to retain the existing sandstone features adjacent to the site on Bronte Road and therefore have minimal impact on the adjoining Landscape Conservation Areas. The application was reviewed by Council's Heritage Adviser who raised no objections.
Part 6 Additional local provisions		
6.1 Acid sulfate soils	Yes	The site is identified as class 5 acid sulfate soils. Standard conditions are recommended to be imposed.
6.2 Earthworks	Yes	The proposal includes excavation of approximately 3m depth to accommodate the basement and rear garage. The application is accompanied by a geotechnical investigation report, with identified recommendations. All standard conditions of consent are included in Appendix B of this report which are considered to address the provisions of clause 6.2 Earthworks.

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 development standard of 8.5m. The proposed development has a height of 11.66m (rear garage building), exceeding the standard by 3.16m equating to a 37% variation.

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

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

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

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

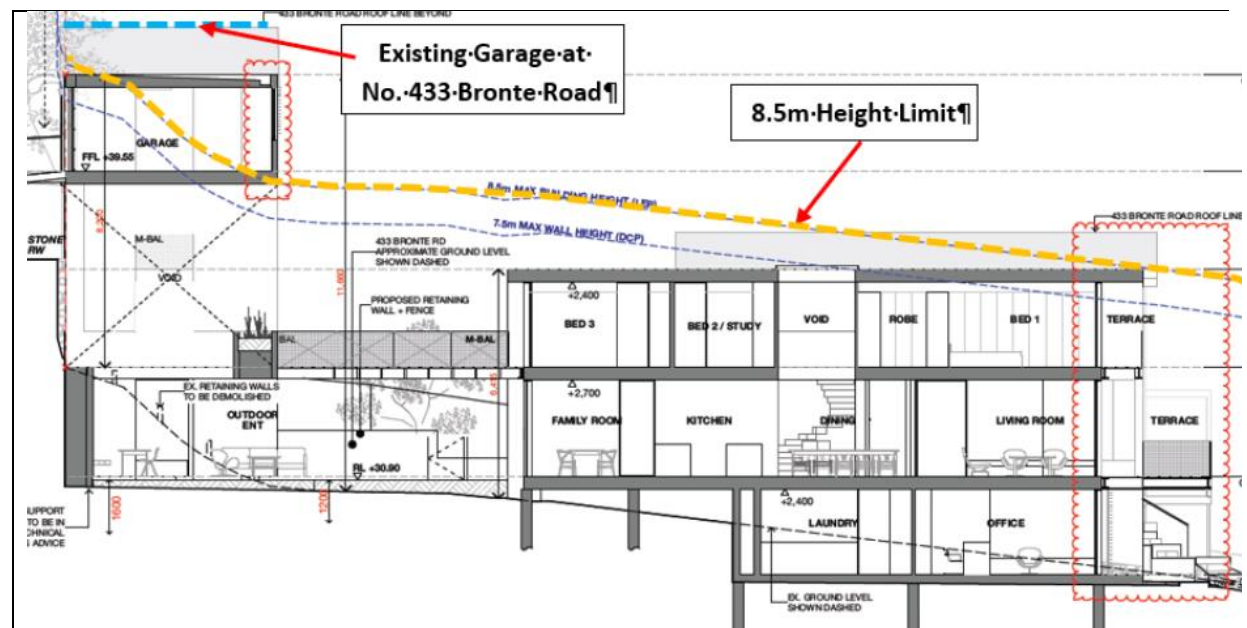


Figure 5: Extent of height con-compliance as submitted by the applicant

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) *Despite the non-compliance, the proposal is consistent with the desired low density character of the area. The proposal provides a bulk and scale that is consistent with that envisaged by Council's controls. The proposal is consistent with the objectives of the height of buildings standard.*
 - (ii) *The proposal is consistent with this objective (objective (a) of Height of Buildings Development Standard) by providing a sympathetic design that maximises the environmental amenity of neighbouring properties. As outlined in the SEE, the proposal has been designed to minimise potential amenity impacts on neighbouring dwellings. A compliant development would have similar impacts on neighbouring properties. Regardless of the height exceedance, the shadow diagrams indicate that the proposed development complies with Council's provisions for three hours sunlight to the private open spaces of the adjoining properties.*
 - (iii) *The site is on a sloping site with ocean views across the site towards the north-east. The proposed bulk has been carefully sited to maximise views for neighbouring properties and presents a compliant southern elevation. In addition, the western wall is angled and will further facilitate views. Accordingly, the proposal will facilitate equitable view sharing in the locality.*
 - (iv) *Potential privacy impacts have been minimised by screening or further setting back first-floor habitable room windows, and orientating private open spaces towards the north, away from adjoining properties to the east and west. All proposed windows are below the height limit. The part of the garage above the height limit comprises external blinds and a non-trafficable roof, which will not affect privacy.*

- (v) *The proposal will present as three storeys to Bronte Road and single storey to Gardyne Street with a contemporary design scheme. This is generally consistent with the existing height, bulk, scale and residential character of the locality. The proposed garage structure accessed from Gardyne Street is consistent with many developments along Bronte Road. The area of non-compliance predominantly occurs over the northern portion of the garage towards the centre of the site, which will not be readily visible from the public domain. This is similar to other development in the locality, particularly Nos. 429 and 433 Bronte Road, which have existing and approved garage structures that exceed the standard.*
 - (vi) *The proposal will provide a visual benefit to surrounding properties by replacing an ageing and weathering dwelling with a high quality, contemporary dwelling with a flat roof. This will enhance the site's presence in the streetscape; positively contribute to the emerging character and provide appropriate interfaces with adjoining dwellings. Splay walls, generous landscaping and the incorporation of a wide variety of materials such as blinds will also create visual interest and contribute to the physical definition of the street.*
 - (vii) *Importantly, the proposal will present a built form that is consistent with the desired future character of the area and sympathetically responds to the residential character of existing development.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *For the reasons above, the proposal has provided adequate responses to potential issues of solar access, views and privacy of neighbouring dwellings, given the constraints of the site. Accordingly, in our opinion, the proposal will preserve the environmental amenity of neighbouring properties and the locality.*
 - (ii) *Accordingly, in our opinion, the extent of the exceedance is appropriate in this instance as the proposal will present a building consistent with the height, context and character of the area. Enforcing strict compliance would result in further amenity loss, and geotechnical and design complications.*
 - (iii) *As the height non-compliance is unlikely to have unreasonable impacts, we consider the proposal is in the public interest.*
 - (iv) *The proposal maintains the low density residential environment, and is of a similar scale to the existing, approved and likely future development in the area. The proposal harmonises with the eclectic character of the area and complies with the FSR. It presents a better planning outcome than a development stepped within the buildable area. It otherwise is well below the 8.5m height plane through the majority of the site and at the southern frontage.*
- Accordingly, in our opinion, the non-compliance will not be inconsistent with existing and desired future character of the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the variation to the development standard, as required in Clause 4.6(3)(b).*

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

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

- a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard

is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and

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

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

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

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

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

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard referencing that the development meets the objectives of Clause 4.3 of the Waverley LEP 2012. The material impact of the proposed new dwelling and rear garage building is not unreasonable and does not impact on the integrity of the development standard. The proposed development is contemporary and is characteristic of the emerging development in this area. The proposal does not result in any unreasonable impacts having regard to visual bulk or overshadowing subject to amending the side setback for the main dwelling building and the removal of the overhead bridge. In regards to Clause 4.6(3), the design results in a positive outcome for the site, providing an improved design and amenity for its occupants without compromising the amenity of the adjoining properties or the locality.

Is the development in the public interest?

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

Clause 2.1

Land Use Zone – R2 Low Density Residential

The objectives of this clause that are relevant to this development are as follows:

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

The proposed redevelopment of the site for the purposes of a single dwelling satisfies this objective. The development provides housing in a form that is compatible with the low density residential environment. Accordingly, the proposal is considered to be in the public interest.

Clause 4.3 - Height of buildings

The objectives of this clause that are relevant to this development are as follows:

- *To establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views;*
- *To ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.*

The proposal is considered able to comply with the objectives of the height of buildings development standard as environmental amenity is maintained for adjoining properties and the building has a compatible height, bulk and scale subject to a condition requiring an increase in the eastern side setback and the removal of the bridge. The proposal will not appear of a height, bulk or scale that is inconsistent with surrounding development, particularly when seen in context of the dwellings to the west at 427 and 429 Bronte Road. The proposal will result in an increase in overshadowing to the adjoining properties to the east and west as a result of the orientation of the allotments, however, it is considered that the proposed shadow impact is not unreasonable in the circumstances of the case subject to the increase in the eastern side setback.

View loss assessment has been undertaken from 43 Gardyne Street and surrounding public domain areas which concluded that there will be no unreasonable impacts on views as a result of the proposed development. This is discussed in further detail below under Section 2.1.5 of this Report.

The proposed built form is of a high architectural aesthetic which is consistent with the emerging character of the area. Accordingly, the proposal is in the public interest and it is therefore considered there are sufficient planning grounds to justify contravening the standard.

Conclusion

For the reasons provided above the requested variation to the height development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the height development standard and the R2 Low Density Residential zone.

2.1.5 Waverley Development Control Plan 2012 (Amendment 6)

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

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

Development Control	Compliance	Comment
1. Waste	Yes	A Site Waste and Recycling Management plan has been submitted with the application to address waste disposal during construction. Condition of consent will be imposed regarding ongoing waste on site. The waste and recycling storage area is located in an area convenient for users of the site.
2. Ecologically sustainable Development	Yes	The proposal incorporates passive design, contains a rainwater tank, solar panels and a condition will be imposed to ensure that solid fuel heating is not used. Given the low scale of this development, these mechanisms are considered to address the objectives of Part B2 of the DCP.
3. Landscaping and Biodiversity	No, condition	The landscaping plan has been reviewed by Council's Biodiversity officer and considered not acceptable (see further discussion below under Section 3 – 'Referrals').
5. Tree preservation	Yes	Tree removal is proposed on site and an Arborist Report has been submitted with the application. The application was referred to Council's Tree Management Officer who raised no objections subject to conditions.
6. Stormwater	Yes	The stormwater plans submitted with the application are satisfactory.
8. Transport	Yes, subject to conditions	<p>The proposed garage presents as single storey when viewed from Gardyne Street. The vehicular access to the site is limited to one cross over and is satisfactorily located. The application was referred to Council's Traffic Engineer for comments who raised no objections subject to design refinement to be addressed as deferred commencement matters to be satisfied.</p> <p>The car parking proposed compliments the design of the building and streetscape, does not exceed the maximum rate of parking permitted in the parking zone.</p>

		acknowledged that the increase in overshadowing from the non-compliant eastern side setback falls predominantly on the roof of the adjoining property to the east and within the existing shadow, however, the visual bulk and massing of the proposed wall height as it presents to the adjoining property to the east is unreasonable. Given the proposal is for a redevelopment of the site, the opportunity to provide a compliant setback is to be enforced.
2.7 Views		
<ul style="list-style-type: none"> Views from the public domain are to be maintained Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks. 	<p>Yes</p> <p>Yes</p>	A site visit was undertaken at the subject site and in the surrounding locality including a walk through Gardyne Street and St Thomas Street to ascertain if the proposal has the potential to reduce views from surrounding properties and the public domain. A view loss analysis was also undertaken from the property at 43 Gardyne Street opposite the subject site at the rear. The amended proposal will not result in unreasonable view loss impacts. This is discussed in further detail below.
2.8 Car parking		
<p>2.8.1 Design Approach</p> <ul style="list-style-type: none"> Parking only allowed where site conditions permit Designed to complement the building and streetscape Car parking structures to be behind the front building line Driveways are to be located to minimise the loss of on street parking Parking to be provided from secondary streets or lanes where possible. 	Yes	The design of the car parking is consistent with the surrounding development. The proposed garage presents as single storey when viewed from Gardyne Street. When viewed from internal positions on site, it is compatible in height and scale with similar garage buildings to the west. The application has been referred to Council's Traffic Engineer who raised no objections subject to the satisfaction of deferred commencement matters in regards to the driveway design. The proposal will result in the loss of one on street car parking space, which is not unreasonable.
<p>2.8.2 Parking rates</p> <p><i>Maximum rates:</i></p> <ul style="list-style-type: none"> 2 spaces for 3 or more bedrooms 	Yes	Two car spaces are proposed.
2.8.3 Location	Yes	The proposed garage will be located at the rear of the site, gaining access via Gardyne Street. The proposed garage is consistent with the

<ul style="list-style-type: none"> Behind front building line for new dwellings 		predominant pattern of parking in this locality, characterised by rear garages or carports. In this regard, the location of car parking is appropriate.
2.8.4 Design <ul style="list-style-type: none"> Complement the style, massing and detail of the dwelling Secondary in area and appearance to the design of the residences 	Yes	The design of the car parking is consistent with the surrounding development as outlined above. The garage building complements the style, massing and detail of the proposed main dwelling.
2.8.5 Dimensions <ul style="list-style-type: none"> 5.4m x 2.4m per vehicle 	Yes	The proposed garage will measure 5.1m x 6.1m which provides adequate space for two vehicles.
2.8.6 Driveways <ul style="list-style-type: none"> Maximum of one per property Maximum width of 3m at the gutter (excluding splay) Crossings not permitted where 2 on street spaces are lost 	Yes	The proposal provides one driveway located at the rear of the property. The plans show that the driveway location and width will ensure one on-street car space can still be provided in between the proposed driveway and the driveway located at 433 Bronte Road to the west of the site.
2.9 Landscaping and open space		
<ul style="list-style-type: none"> Overall open space: 40% of site area Overall landscaped area: 15% of site area Minimum area of 25m² for private open space Front open space: 50% of front building setback area Front landscaped area: 50% of front open space provided Outdoor clothes drying area to be provided 	Yes	<p>Overall open space: 193.88m² (59.7%)</p> <p>Overall landscaped area: 57.82m² (17.8%)</p> <p>Private open space: >25m²</p> <p>Front open space: >50%</p> <p>Front landscaped area: >50%</p> <p>Whilst the proposal seeks to remove existing landscaping at the rear of the site, replacement landscaping is proposed which meets the requirements of the DCP, subject to a condition regarding species.</p>
2.10 Swimming pools and spa pools		
<ul style="list-style-type: none"> Located in the rear of property 	Yes	
2.14 Dual Frontage Development		
2.14.1 - General Controls	Yes	

<ul style="list-style-type: none"> • Primary and secondary frontage to be defined • Appropriate forms to be provided to each street 		
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The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

Wall Height

Part C2 2.1 Flat Roof Dwellings requires a maximum wall height of 7.5m. It is proposed to construct the main dwelling to a wall height of 8.3m and the rear garage building to a wall height of 10.1m. The wall height of the main dwelling reduces to 6.5m above existing ground level as it moves deeper into the site and towards the rear of the dwelling.

Whilst the proposed height of the main dwelling does not comply with this control, it remains below the LEP maximum building height development standard and the height is consistent with, if not below, the height of adjoining dwellings to the west. The proposed height of the dwelling relates to the topography of the land sloping down towards the east and south-east and does not impact upon the views of neighbouring properties. The non-compliance of 800mm for a small portion of the dwelling does not result in unacceptable amenity impacts on neighbouring properties or the public domain and can be supported.

The garage building located at the rear of the site has a proposed wall height of 10.1m at its western side elevation due to proposed garage lift and stairwell and the steep sloping topography of the site at this location. The building is sited adjacent to the rear garage building of the adjoining property to the west at 433 Bronte Road and maintains a consistent building line with this adjacent garage structure.

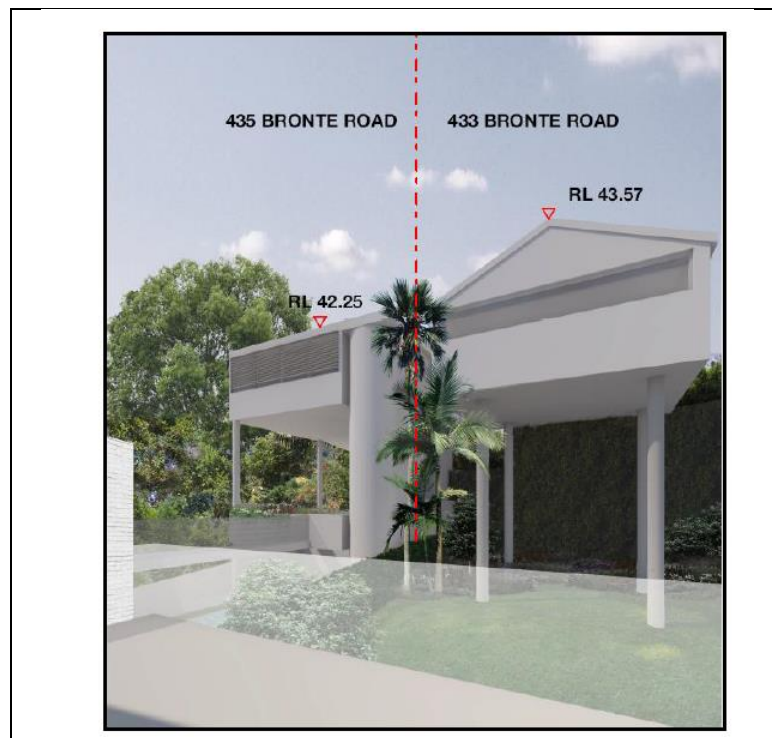


Figure 6: Proposed garage in context with adjoining garage at 433 Bronte Road as submitted by the applicant.

Whilst the wall height of the rear garage building results in a non-compliance of 2.6m above the control, its resulting impacts are not deemed to be unreasonable. The siting of the non-compliant wall height at the western side boundary does not result in unreasonable impact on solar access to the adjoining property to the east at 437 Bronte Road as the bulk and massing of the structure is contained to the opposite side boundary. It is considered that the non-compliant wall height is acceptable on merit and can be supported.

Front Building Line and Streetscape

The pattern of development in the immediate locality is predominantly single detached dwellings on narrow allotments. The amended plans propose the dwelling to be setback 4.775m to the lower ground floor level, 2.86m to the ground floor level front terrace and 4.775m to the first floor level from its Bronte Road frontage. The adjoining property to the west at 433 Bronte Road has a front setback to the ground floor level of 2.84m and a 4.69m setback to the first floor level. The adjoining property to the east at 437 Bronte Road is a single storey dwelling with a front setback of 3m to the front deck (refer to Figure 7).



Figure 7: Subject site showing relationship of building line to adjoining properties

The original submission proposed a partially enclosed balcony form at ground floor level protruding over the lower ground floor level beyond the predominant front setback, resulting in a dominating structure within this streetscape setting. Following discussions with the applicant and in response to Council's deferral letter, the front setback has been increased and the front elevation has been amended to provide a more open balcony form at ground floor level which is consistent with the existing and emerging character of new development. The amended proposal with the revised front elevation of the dwelling to provide a lighter architectural expression is appropriate in the context of the streetscape.

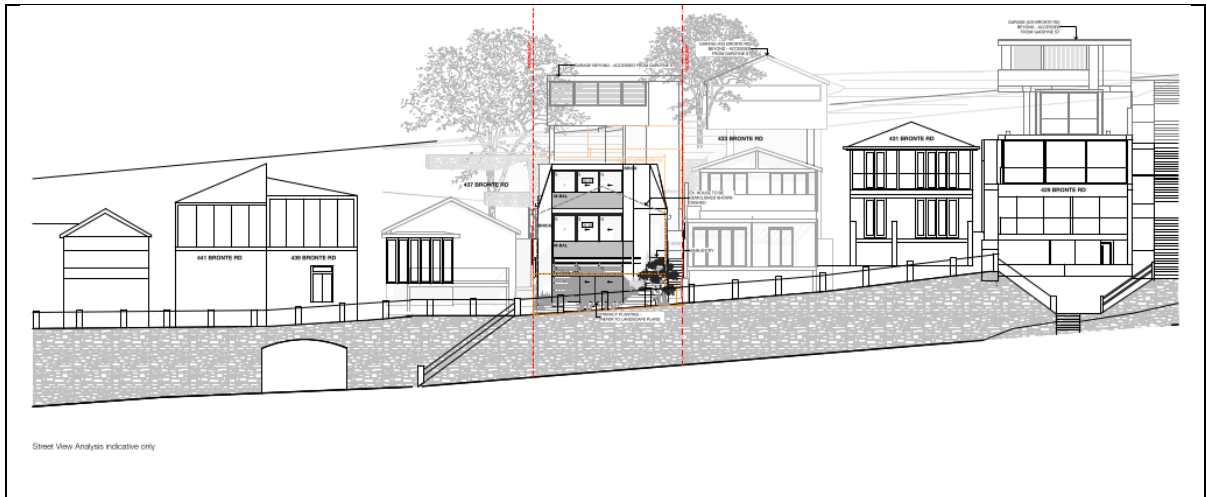


Figure 8: Streetscape study showing context of proposed dwelling along Bronte Road (applicant submission). Note: dwelling is highlighted in bold with garage in the background

Side setbacks

The existing single storey dwelling on the site has a 300mm side setback from the eastern side boundary and a 900mm setback at its western side.

The proposed setback of the new dwelling from the western side boundary is 1m and a nil setback is proposed to the rear garage building. The proposed setback of the dwelling from the eastern side boundary ranges from 300mm at lower ground floor level up to the base of the upper most floor level before increasing at an angle up to 1.2m at roof level. The windows to the upper most floor level encroach to within 300mm of the eastern side boundary. The proposed garage building is setback 900mm from the eastern side boundary. The proposed 300mm setback from the eastern side boundary to the main dwelling and the side setbacks of the rear garage building do not comply with the side setback controls of Waverley DCP 2012.

The proposal involves the demolition of the existing dwelling and construction of a new part two, part three storey dwelling. Given the bulk and scale of the new dwelling proposed, it should not be permitted to encroach beyond the setback control as the existing single storey bungalow does. The non-compliant side setback of the existing single storey dwelling does not give an as of right to continue and exacerbate the non-compliance.

The proposed new dwelling at its eastern side elevation presents a visual bulk and massing that results in unreasonable impacts on the amenity of the adjoining property. It also has longer term impacts on the potential future redevelopment of the adjoining property to the east. The dwelling is to be conditioned to be setback a minimum of 900mm to comply with the setback control of Waverley DCP 2012.

The proposed siting of the garage building, which is adjacent to a similar garage structure at 433 Bronte Road, is considered to be an acceptable response for the site. The side setbacks proposed will not result in unreasonable impacts and can be supported subject to suitable privacy measures being installed at the western elevation.

Visual privacy

Part C2 2.5 Visual and Acoustic Privacy of Waverley DCP 2012 seeks, amongst other things, *to ensure that development does not unreasonably impact upon existing residential or other properties due to unreasonable loss of privacy or generation of noise and to ensure that development provides residents with a reasonable level of acoustic and visual privacy.*

It is proposed to provide an elevated walkway linking the dwelling at first floor level to the rear garage building. The walkway extends from Level 1 which comprises the main bedroom area of the dwelling to connect with the garage building at Level 1 where access to the car parking is available via stairs or lift.

In Council's deferral letter dated 15 May 2019, the applicant was advised that the siting of the bridge is unacceptable resulting in unreasonable impacts on the amenity of adjoining properties. The applicant in their response dated 10 June 2019 states as follows:

'In our respectful opinion, the retention of the bridge will not create unreasonable visual and acoustic privacy impacts. The proposed bridge is a lightweight uncovered structure that is 1m wide and will be used as a transient space which will provide a functional connection between the garage and the dwelling. It is therefore not designed as a recreation space, given the main private open space is located at the ground level. The bridge is also setback 4.5m from the eastern boundary and 3.7m from the western boundary which greatly exceeds the DCP side setback controls and maximises visual separation from the adjoining properties.'

The location of the proposed elevated walkway provides opportunities for direct line of sight into the rear private open and living areas of adjoining properties, unreasonably impacting on the visual privacy of these properties. The location of the elevated walkway bridge also encroaches beyond the predominant rear building line. Access to the rear garage building is attainable via the ground floor level which also has access to the rear lift and stair well within the garage building. It is recommended that the elevated walkway be deleted from the application.


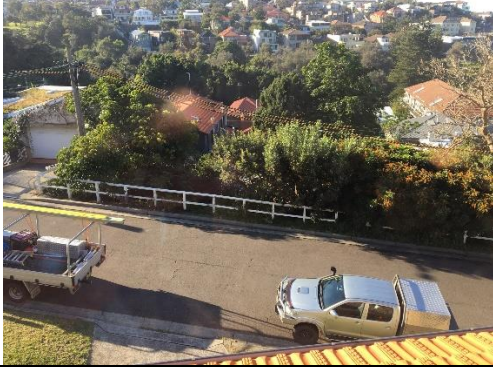
Views

Part C2 2.7 Views of Waverley DCP 2012 details all objectives and strategies for public and private domain views and view sharing, which generally seek to reduce impacts on existing views and vistas from the private and public domain. The proposal has also been assessed against the Land and Environment Court's Tenacity principle for view sharing. A site inspection was carried out on 11 April 2019 and subsequently on 1 August 2019 from 43 Gardyne Street, Bronte.

During public notification, three properties indicated that the proposed building will impact on private domain views being 43 Gardyne Street, 429 and 433 Bronte Road. The adjoining property to the west at 433 Bronte Road raised concerns regarding the proposed building being sited forward of the predominant front building line which would impact on the views obtained towards the east. Amended plans have since been submitted which increases the front setback, addressing the view impact from the adjoining property to the west at 433 Bronte Road. The property at 429 Bronte Road raised concerns regarding the location of the rear garage and the potential loss of views from their rear studio building. The amended plans have reduced the depth of the garage building so that it is sited in line with the adjoining garage building to the west and below the height of this existing garage building. During notification of the amended plans, no further submissions were received from these two properties.



The view impact analysis taken from the property to the south at 43 Gardyne Street shows that views are obtained across the subject site from windows at the northern elevation ground floor living areas and upper level bedroom areas. The impacted views are summarised and illustrated in Figures 9 and 10 below. The views are primarily district views obtained from these areas. Views enjoyed by this property over Bronte Beach are not obstructed as a result of the proposed development.

43 Gardyne Street, Bronte – View Impact Analysis

	
<p>Figure 9: View from living room towards the subject site</p>	<p>Figure 10: View from upper level bedroom towards the subject site</p>

It is noted that view impacts from the dwelling at 43 Gardyne Street are not unreasonable as a result of the proposed development. Whilst the proposed garage building breaches the height control, the building will present as a single storey structure to Gardyne Street with the non-compliance being as a result of the steep sloping nature of the site in this location.

Two submissions received also raised concerns regarding the impact of the proposal on public views obtained from nearby streets. The impacted views are summarised and illustrated in Figures 11 and 12 below.

	
<p>Figure 11: View from St Thomas Street towards the subject site</p>	<p>Figure 12: View from Gardyne Street looking east towards the subject site</p>

Whilst it is acknowledged that there will be partial loss of views towards the ocean from surrounding streets as a result of the siting of the garage building, this view loss is not unreasonable with expansive views still being maintained from various vantage points in the public domain.

The proposed view loss impacts have been considered against the various view loss controls in the Waverley LEP 2012, Waverley DCP 2012 and NSW Land and Environment Court Tenacity view loss planning principle. The view loss impacts are not considered unreasonable and accordingly do not warrant a refusal of the application.

2.2 Other Impacts of the Development

The proposed development is capable of complying with the NCC.

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

2.3 Suitability of the Site for the Development

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

2.4 Any Submissions

The original development application was notified for 14 days, in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*. Three submissions were received. The amended plans were also notified for 14 days and three submissions were received.

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

Table 4: Summary of property addresses that lodged a submission

Property
429 Bronte Road, Bronte (Original)
433 Bronte Road, Bronte (Original)
39-41 Gardyne Street, Bronte (Amended)
43 Gardyne Street, Bronte (Original and Amended)
Bronte Beach Precinct (Amended)

The following issues raised in the submissions have been previously addressed in the body of the report:

- Non-compliance with the height of buildings development standard under Waverley LEP 2012
- Visual bulk and scale
- View loss
- Visual privacy
- Overshadowing impact and solar access
- Streetscape and visual impact
- Car parking and siting of garage building
- Excavation
- Location of walkway bridge

The following issues are addressed as follows:

Issue: Access to garage from Gardyne Street

Response: The proposal has been assessed by Council's Traffic Engineers with regard to Council's assets and the design of the crossover. The proposal is considered acceptable in principle subject to details being provided. The access to the garage is not dissimilar to any other driveway crossing application where access is provided from the road to a garage over Council's land, albeit this case is a more complex given the topography of the land. To address the driveway design, the approval is to be conditioned for the satisfaction of relevant deferred commencement matters.

Issue: Objection to loss of trees on Council's land on Gardyne Street frontage

Response: This vegetation was inspected by Council's Tree Management Officers with two of the street trees considered to be in poor condition. Complete removal and replacement was recommended. This matter can be addressed via condition and the objectors' concerns are therefore not a sufficient reason for refusal of the application.

Issue: The proposed works are a threat to stability, flooding and damage to property

Response: Standard conditions are to be imposed regarding building works. These include the preparation of a dilapidation report, geotechnical report and that all excavation be managed by a structural engineer. This is not a matter which would warrant refusal of the application and the suggested conditions are considered to satisfy these concerns. The subject site and immediate locality is not identified as being affected by flooding under Waverley LEP 2012.

Issue: Architectural Plans are copyright

Response: This does not form a matter for consideration under Section 4.55 of the Environmental Planning and Assessment Act 1979 and cannot be stated as a reason for refusal of a development application.

Issue: Building works and deliveries taking place from Gardyne Street

Response: This will be a matter for the Construction Certificate.

Issue: Notification only sent to two properties on Gardyne Street

Response: The notification is considered to suitably cover all directly affected properties.

Issue: Use of roof top

Response: The proposed roof is to be non-trafficable. A condition is recommended to ensure that this is adhered to.

2.5 Public Interest

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

3. REFERRALS

3.1 Driveways – Creating Waverley

The application has been reviewed by Council's Traffic and Development Engineer who raised no objections subject to the imposition of deferred commencement matters to address the details of the driveway design.

3.2 Stormwater – Creating Waverley

The application has been reviewed by Council's Stormwater Engineer who raised no objections.

3.3 Tree Management Officer

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

It is noted that the original plans identified the removal of a tree that is sited on the neighbouring property to the east at 437 Bronte Road. As no owner's consent had been provided as part of the development application for the removal of this tree, Council is unable to approve its removal as part of this development application. A separate TPO application has already been submitted and approved by Council's Tree Management Officer for its removal (TPO-274/2018) approved on 7 January 2019. The amended plans show the deletion of this tree as part of the development application.

3.4 Biodiversity Officer

The application has been reviewed by Council's Biodiversity officer who advised that the submitted Landscape Plan is not satisfactory as it does not comply with the controls outlined under Waverley DCP 2012 having regard to the planting of native species. This matter can be addressed by a condition of development consent contained at Appendix B.

4. SUMMARY

The application seeks to demolish and replace an existing single storey dwelling. The proposed replacement dwelling is contemporary in style and has been designed to benefit from the views to the ocean, with living areas orientated to the east and larger balconies on the front elevation.

The bulk and scale of the amended development is generally acceptable. The design of the dwelling follows the guidance of the Waverley LEP and DCP 2012, however, seeks variations in response to site conditions. Specifically, the height of buildings development standard for the rear garage building, wall height and side setback controls. Whilst the non-compliance with the height development standard can be supported, it is considered that the eastern side setback be increased to 900mm to comply with the side setback control of the Waverley DCP 2012.

The vehicle crossing to Gardyne Street is considered appropriate to maintain the existing sandstone wall to Bronte Road and reduce excavation. The proposed vehicle crossing has been considered by Council's Traffic Engineer and is supported in principle, however technical aspects regarding construction are to be resolved via deferred commencement matters.

The notification of the original application attracted submissions from three properties and three submissions during the notification of the amended proposal. The issues raised are discussed in this report and are not considered to warrant refusal of the amended application.

The application and assessment report was reviewed by the DBU at its meeting on 22 July 2019 and the DBU determined that the application is acceptable and should be approved, subject to the conditions in Appendix B (DBU members: *M Reid, A Rossi, B McNamara, E Finnegan*).

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 PANEL

That the Development Application be **APPROVED** by the Waverley Local Planning Panel subject to the satisfaction of deferred commencement matters in Appendix A and conditions in Appendix B:

Report prepared by:

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

Jo Zancanaro
Senior Development Assessment Planner

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

Date: 5 August 2019

Date: 9 August 2019

Reason for referral:

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

APPENDIX A – DEFERRED COMMENCEMENT MATTERS

Pursuant to Section 4.16 (3) of the Environmental Planning and Assessment Act 1979, deferred commencement consent is granted. The consent is not to operate until the applicant has satisfied Council to the following matters:

1. SIDE SETBACK

To reduce the visual bulk and scale impacts when viewed from the adjoining property to the east, the dwelling is to be setback a minimum of 900mm from the eastern side boundary in accordance with Part C2 Clause 2.2.2 Side Setbacks of Waverley Development Control Plan 2012.

2. WALKWAY BRIDGE

To prevent overlooking of the adjoining properties to the east and west in accordance with Part C2 Clause 2.5 of Waverley DCP 2012, the proposed elevated walkway bridge connecting Level 1 of the main dwelling to the rear garage building is to be deleted.

3. DETAILED ENGINEERING DRAWINGS - VEHICLE CROSSING

Detailed engineering drawings of the works proposed to be undertaken in the Council's road reserve to provide vehicular access to the garage shall be:

1. Be prepared by a suitably qualified and experienced structural or civil engineering consultant.
2. Show the driveway slab between the road and the garage being a single span, suspended slab.
3. Show details of, but not be limited to the following:
 - a. Handrailing proposed along both sides of the suspended slab
 - b. Adjustments required to Council's Arris type handrailing
 - c. Modifications to be carried out to the existing southern sandstone block retaining wall and how it is proposed to support that retaining wall whilst excavation is carried out adjacent to and below it.
NOTE: Prior to preparing drawings relating to the support of the existing sandstone block wall, contact should be made with Council's Asset Manager on telephone 9083 8625 for discussions on replacing the block wall.
 - d. The location and line of all public utility authority services in the vicinity of the proposed works.
4. Fully detail the connection of the vehicle crossing slab to Council's kerb and gutter showing jointing that will allow for the kerb and gutter to be replaced in the future without the need to remove/ adjust any part of the suspended vehicle crossing slab.
5. Show details at the interface of the suspended vehicle crossing slab at the garage entry.
NOTE: the vehicle crossing slab shall be discontinuous at the property boundary and not cast integrally with the garage floor slab.

6. The grated drain in the vehicular crossing at the back of the layback is to be deleted.
7. Show any trees within the Council's road reserve being removed.
8. Show the vehicle crossing being provided with a Council standard layback / gutter crossing.
9. Include long sections drawn along both edges of the driveway. The long sections shall:
 - a. Be drawn at a scale of 1:25
 - b. Include reduced levels (RLs) of the road centreline, kerb and gutter, vehicle crossing slab and garage floor slab
 - c. Include existing and proposed levels
 - d. Include ground clearances of the B85 standard design vehicle using the ground clearance template contained in Appendix C of AS 2890.1: 2004 Off Street Car Parking.
10. Include swept wheel path drawings, prepared by a suitably qualified and experienced traffic engineering consultant, showing the swept wheel path of vehicles entering and exiting both car spaces in the proposed garage. The swept wheel path drawings shall:
 - a. Be drawn for the B85, standard design vehicle as described in AS/NZS 2890.1: 2004 Part 1 Off Street Car Parking
 - b. Accurately show the kerb and gutter, driveways and vehicles parked kerbside on Gardyne Street both opposite and to the immediate east and west of the proposed driveway.
 - c. Show the minimum length of driveway layback considered necessary to gain satisfactory access to and from the proposed garage.
 - d. Accurately show the length of the Council's kerb and gutter remaining between the eastern side wing of the existing driveway at No.433 and the western side wing of the proposed driveway at No.435.

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

This condition must be satisfied within one (1) year of the date of this consent. After this point the five (5) year consent will become active.

Upon satisfying the consent authority as to the matters contained in Appendix A, the following conditions will apply:

APPENDIX B – CONDITIONS OF CONSENT

A. APPROVED DEVELOPMENT

1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) The following architectural plans prepared by 'Tribe Architects';

Plan description	Revision No / Date	Date received by Council
793_DA104 Site Plan	Revision R - 30 July 2019	31 July 2019
793_DA106 LGF Plan	Revision R – 30 July 2019	31 July 2019
793_DA107 GF Plan	Revision R – 30 July 2019	31 July 2019
793_DA108 L1 Plan	Revision R – 30 July 2019	31 July 2019
793_DA109 L2 Plan	Revision R – 30 July 2019	31 July 2019
793_DA110 Garage Plan	Revision R – 30 July 2019	31 July 2019
793_DA111 Roof Plan	Revision R – 30 July 2019	31 July 2019
793_DA112 North Elevation	Revision Q – 11 June 2019	11 June 2019
793_DA113 South Elevation	Revision Q – 11 June 2019	11 June 2019
793_DA114 East Elevation	Revision Q – 11 June 2019	11 June 2019
793_DA115 West Elevation	Revision Q – 11 June 2019	11 June 2019
793_DA116 Garage Elevations	Revision Q – 11 June 2019	11 June 2019
793_DA117 Section A	Revision Q – 11 June 2019	11 June 2019
793_DA118 Section B	Revision Q – 11 June 2019	11 June 2019
793_DA118.1 Section C	Revision Q – 11 June 2019	11 June 2019
793_DA118.2 Section D	Revision Q – 11 June 2019	11 June 2019
793_DA124 Additional Pool Information	Revision Q – 11 June 2019	11 June 2019

(b) Landscape Plan No.LS00 – LS03 Issue E prepared by Melissa Wilson Landscape Architects, dated 6 June 2019, and received by Council on 24 July 2017;

(c) BASIX Certificate;

(d) Stormwater Details and documentation prepared by ITM Design Pty Ltd, Job No. 18/130, DWG No. H-DA-00 & H-DA-01 (Rev A), dated 14 December 2018 and received by Council on 19 December 2018;

(e) Arboricultural Impact Report prepared by Landscape Matrix Pty Ltd dated 17 December 2018 and received by Council on 19 December 2019;

(f) Report on Geotechnical Investigation, Project 86595.00 for Proposed House at 435 Bronte Road, Bronte, prepared by Douglas Partners dated December 2018 and stamp date received by Council on 19 December 2018;

- (g) Schedule of external finishes and colours received by Council on 19 December 2019; and
- (h) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012.

Except where amended by the following conditions of consent.

2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

- (a) To mitigate view impacts from the adjoining properties, balustrading to the ground floor level front terrace is to be structural frameless glass in accordance with the requirements of the National Construction Code.
- (b) Privacy screens are to be provided to the open stairwell landing areas on the western side elevations of the garage building to mitigate overlooking to the adjoining property to the west. The privacy screens are to be of a light weight material (such as aluminium, timber or obscure glazing) and be a minimum of 1.6m high when measured from the finished floor level of the stair landing.
- (c) Submission of a revised Landscape plan identifying all species types, heights and location. A minimum of 50% of the proposed trees, 50% of the shrubs and 50% of the grasses and groundcovers (not including turfed areas) are to be indigenous or local native plants listed in Annexure B2-1 of Waverley DCP 2012. The revised landscape plan is to also delete reference to the removal of Tree T13 located on the adjoining property at 437 Bronte Road, Bronte.
- (d) To mitigate view impacts from the adjoining properties, the proposed *Randia fitzalanii* (Native Gardenia) to be located at the north-western corner of the subject site is to be deleted. Plantings located within the Bronte Road property frontage are to be limited in species maximum growth maturity height of 2 metres. This amendment is to be shown on the revised landscape plan outlined under Condition 2(c) above.
- (e) To mitigate overlooking to the adjoining property to the west, bathroom window W2.05 at the first floor level western elevation is to be provided with translucent glazing or a suitable privacy screen.

The amendments are to be approved by the **Executive Manager, Building Waverley** (or delegate) prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

An electronic copy of the amended plans or additional information (see website for electronic document requirements) addressing this condition, including a covering letter shall be provided to Council for review.

3. APPROVED USE -DWELLING HOUSE

This application approves the use of the building/s on the site for a single dwelling house.

4. ROOF

The proposed roof of both the main dwelling building and garage building is to be non-trafficable at all times. No balustrading is to be provided to the roof area to ensure that they cannot be used for active purposes.

5. TREE PRESERVATION

A tree preservation order exists in the Waverley Local Government Area. Any trees not identified in this application have not been assessed and separate consent will be required. The application must be made in writing to Council prior to removal of tree/trees. Should permission be granted, the applicant will receive a permit to proceed.

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

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

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

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

7. SECTION 7.12 CONTRIBUTION

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

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

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

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

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

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

- (c) Should a section 4.55 modification result in any change to the total cost of the work, the Section 7.12 contribution is to be revised and amended.

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

8. 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

9. WORKS IN COUNCIL'S ROAD RESERVE

A separate approval under s138 of the Roads Act, 1993 shall be obtained from the Executive Manager Creating Waverley prior to the carrying out any works in the road reserve in Gardyne Street.

10. SECURITY DEPOSIT

A deposit or guarantee satisfactory to Council for the amount of \$26,650 must be provided as security for the payment of the cost of making good any damage caused or unauthorised works that may be caused to any Council property as a consequence of this building work.

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

11. LONG SERVICE LEVY

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

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

12. EROSION & SEDIMENT CONTROL

A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared in accordance with Waverley Council's Water Management Technical Manual and the NSW Environment Protection Authority (EPA) Managing Urban Stormwater: Soils and Construction (Blue Book).

This Plan shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

The approved Soil and Water Management Plan must be kept on site, measures shall be implemented prior to commencement of any works or activities and maintained at all times. A copy of the Soil and Water Management Plan must be made available to the Principal Certifying Authority & Council officers on request.

13. SITE WASTE AND RECYCLING MANAGEMENT PLAN

Demolition and excavated material to be reused and/or recycled wherever possible and detailed in a Site Waste and Recycling Management Plan (SWRMP) Checklist 2 which is to be submitted to the Principal Certifying Authority for approval in accordance with Waverley DCP 2012 prior to the issue of the Construction Certificate.

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

14. GEOTECHNICAL ENGINEERS REPORT

A Geotechnical Engineers Report is to be submitted which assesses the following;

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
- (b) the effect of the development on the likely future use or redevelopment of the land,
- (c) the quality of the fill or the soil to be excavated, or both,
- (d) the effect of the development on the existing and likely amenity of adjoining properties,
- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing relics,
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

The report must make recommendations and conclude that damage should not occur to any adjoining premises as a result of the proposed bulk excavation, driven type piles and shoring works.

The report is to be submitted to the Principal Certifying Authority, Council and the owners of adjoining premises prior to the issue of a Construction Certificate and commencement of any such works on the site.

15. ENGINEERING DETAILS

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

16. FENCE NOT TO ENCROACH BEYOND BOUNDARIES

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

17. DILAPIDATION REPORTS

A Dilapidation report should be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. This action is designed to assist all parties should damage occur and is not a preventative action. The dilapidation reports should be completed and submitted to the relevant owner of the affected property, Council and the Principal Certifying Authority prior to undertaking any works that may cause damage

Please note the following:

- (a) The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- (b) This is not a condition of consent and cannot be used to prevent the commencement of works or prevent neighbouring buildings being damaged by the carrying out of the development.
- (c) Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out.
- (d) Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

18. BASIX

The undertakings provided in the BASIX Certificate and NatHERS documentation shall be provided for in the Construction Certificate plans and documentation prior to the issue of the Construction Certificate.

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

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

The above condition is a prescribed condition under the Environmental Planning and Assessment Regulation 2000 clause 97A and the above BASIX commitments are mandatory and cannot be modified under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

19. DOMESTIC HEATERS/ FIREPLACES

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

20. TREE PLAN

A landscape plan is to be submitted with the Construction Certificate showing the location of all trees on the land in relation to the proposed development, including trees to be removed. All trees and shrubs identified for retention and within 7.5m of the building work are to be provided with a tree guard and a notice on each guard indicating "This tree is the subject of a Tree Preservation Order by Waverley Council." This notice is to be in place prior to commencement of any building or demolition work. Only trees with the approval of Council for removal may be removed from the site.

All trees to be 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.

21. SERVICE AUTHORITIES

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

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

22. PRIOR TO SITE WORKS

The Principal Certifying Authority must be informed in writing before any site works, building or demolition commences of:

- (a) the name and contractor licence number of the licensee who has contracted to do, or intends to do, work ; or
- (b) the name and permit number of the owner/builder who intends to do the work; and
- (c) any change to these arrangements for doing of the work.

23. HOME BUILDING ACT

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the Home and Building Act, 1989. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicant requirements of Part 6, before any work commences.

24. CONSTRUCTION SIGNS

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

25. OBSTRUCTION TO PUBLIC AREAS

If a public place or pedestrian vehicular traffic may be obstructed because of the carrying out of work involved in the erection or demolition of a building; or a public place is required to be enclosed in connection with the erection or demolition of a building then a hoarding, fencing or awning must be provided to prevent injury and appropriately lit between sunset and sunrise.

26. COMPLIANCE WITH SAFE WORK NSW

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

27. CONTAMINATING MATERIAL REQUIRED TO BE REMOVED

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

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (eg: ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices. They shall also adopt work practices in accordance with the requirements of Safe Work Australia's National Standard for the Control of Inorganic Lead at Work (NOHSC: 1012 (1994) and NOHSC: 2015(1994).
- (c) All lead-contaminated materials being disposed of in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines 2009 and the Protection of the Environment Operations Act 1997 (NSW).

28. DEMOLITION & SITE PREPARATION

Hazardous or intractable wastes arising from the demolition process are to be removed and disposed of in accordance with the requirements **SafeWork NSW** and the NSW Environment Protection Authority (EPA), and with the provisions of:

- (a) Work Health & Safety Act 2011;
- (b) Work Health & Safety Regulation 2017;
- (c) Protection of the Environment Operations Act 1997 (NSW) and
- (d) NSW EPA Waste Classification Guidelines 2014;

29. DEMOLITION OR ALTERATION OF PRE 1987 BUILDINGS

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

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

30. ASBESTOS REMOVAL

- (a) All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a Licence in accordance with the requirements of SafeWork NSW. Fire damaged asbestos materials can only be cleaned up by licensed asbestos removalists with a Class A (friable) asbestos removal licence. Removal must be carried out in accordance with the "Code of Practice on how to safely remove asbestos" published by SafeWork NSW and Waverley's Asbestos Policy.
- (b) All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and email address.
- (c) No asbestos products are to be reused on site.
- (d) Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site during asbestos removal works.
- (e) No asbestos laden skips or bins are to be left in any public place without the approval of Council.

31. EXCAVATION TO BE LIMITED

Excavation shall be limited to that shown in the approved plans. Excavation, proposed or undertaken in the certification or construction of the development, that results in additional habitable or non-habitable floor space (including storage) shall require the submission of a new development application or modification application.

During consideration of this application construction work on site shall cease without prior agreement of Council. Failure to comply with this condition may lead to Council prosecuting or taking a compliance action against the development for breach of its consent.

32. 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.

33. 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.

34. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS

That prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste classification guidelines 2014. The classification of the material is essential to determine where the waste may be legally taken. The Protection of the Environment Operations Act 1997 provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the NSW EPA.

35. MANAGEMENT OF ACIDIC SOIL

Should the subject site show evidence of acid sulphate soils, the following shall apply:

- (a) To address issues arising from the natural acidity of the soil on-site, any concrete that is in contact with this soil is to be designed to restrict acid and sulphate attack. The Cement Concrete & Aggregates Australia Technical Note TN68 is to be adhered to for precautionary measures.
- (b) Prior to the commencement of any works, the applicant shall nominate an appropriately qualified Environmental Scientist to supervise the management of acid sulphate soils. The Scientist shall:
 - i. Provide an acceptance in writing to supervise the aforementioned works to ensure compliance with the relevant conditions of Development Consent.
 - ii. On completion of the works certify that the aforementioned works have been constructed in compliance with the approved plans, specifications and conditions of consent.
- (d) The nominated supervising Environmental Scientist shall certify that the management of acid sulphate soil was undertaken in accordance with the Development Consent. Prior to the use or occupation of the building (or Occupation Certificate being issued), the Principal Contractor / Developer shall submit to Waverley Council a copy of the aforementioned Certificate.

36. POTENTIAL DEWATERING OF THE SITE

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

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

37. CONSTRUCTION HOURS

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

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

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

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

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

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

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

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

39. 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.

40. NATIONAL CONSTRUCTION CODE (NCC)

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

41. CONSTRUCTION INSPECTIONS

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

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

The specified **MANDATORY** inspections for a **DWELLING HOUSES including (Class 1 and 10 Buildings)** are:

- (a) at the commencement of building work;
- (b) after excavation for, and prior to the placement of, any footings;
- (c) prior to pouring any in-situ reinforced concrete building element;

- (d) prior to covering of the framework for any floor, roof or other building element;
- (e) prior to covering any waterproofing in any wet areas;
- (f) prior to covering any stormwater drainage connections; and
- (g) after the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

The following additional inspections are required (if relevant to the development) to be undertaken by the PCA:

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

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

42. CERTIFICATE OF SURVEY – LEVELS

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

43. 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.

44. TREATMENT OF BOUNDARY WALLS

The walls approved on the western boundary with the neighbouring property are to be finished to the same high standard as the remaining building and not left unfinished to ensure a pleasing aesthetic to adjoining buildings.

45. SERVICE PIPES

All plumbing and drainage, including sewerage drainage stacks, ventilation stacks and water service pipes shall be concealed within the building. Plumbing other than stormwater downpipes shall not be attached to the external surfaces of the building.

46. TREES PERMITTED TO BE REMOVED

The following trees are permitted to be removed as a part of this development application;

Trees to be removed as per Arboricultural Impact Assessment Report prepared by Kyle Hill Growing My Way Tree Services Date: December 2016

Trees to be removed

Tree No.	Species	Location	Action
T 1	Schefflera actinophylla (Umbrella Tree)	Roadside reserve.	Remove and replace
T 2	Acacia longifolia var. sophorae Native Daphne	Roadside reserve	Remove as per Arborist report.
T 4	Callistemon viminalis Weeping Bottlebrush	Roadside reserve	Remove as per Arborist report.
T 5	Howea forsteriana Kentia Palm	Roadside reserve	Remove as per Arborist report.

All trees to be retained in accordance with recommended Tree Protection Measures. Install Tree Protection Fence in accordance with Arboricultural Impact Assessment Report prepared by Kyle Hill Growing My Way Tree Services Date: December 2016:

Tree No.	Species	Location	Action
T3	Banksia integrifolia (Coast Banksia)	Roadside reserve	Install Standard Temporary "Tree Trunk Guard" to approximate 1.50m height. (See Appendix 3 for illustration & specifications.)
T6	Howea forsteriana Kentia Palm	Roadside reserve	Install Standard Temporary "Tree Trunk Guard" to approximate 1.50m height. (See Appendix 3 for illustration & specifications.)

No other trees other than those specified above are permitted to be removed as a part of this development application.

47. STREET TREES TO BE REMOVED

The street trees as indicated on the Arboricultural Impact Assessment Report prepared by Kyle Hill Growing My Way Tree Services Date: December 2016 are to be removed by a qualified and experienced arborist or tree surgeon [Australian Qualification Framework Level 3] in accordance with the NSW WorkCover Code of Practice for the Amenity Tree Industry (1998).

- Three (3) replacement trees are to be planted on the nature strip/ Roadside reserve rear of the property of 435 and 437 Bronte Road, Bronte.
- The trees to be planted prior to the issue of the occupation certificate.
- The trees are to be **Callistemon "Dawson River"** of minimum container size of 75 litres and grown to Natspec standard.
- The trees must be planted by a qualified horticulturist experienced in planting trees.
- A bond of \$2000 is to be lodged with Council either as cash or by way of an unconditional bank guarantee to ensure the protection and maintenance of the **newly planted Callistemon**. The bond will be refunded after 12 months on condition that the **three (3) replacement Callistemon "Dawson River"** trees are maintained in good condition as determined by Council's Tree Officer. If the tree requires replacing within the bond period the tree must be replaced within one month of notification from Council and not at the end of the bond period.

48. TREE PROTECTION

Precautions shall be taken when working near trees to ensure their retention, including the following:

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) Prevent damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter.

49. NEW VEHICLE CROSSING

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

50. 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.

51. CONSTRUCTION OF SWIMMING POOLS AND OUTDOOR SPAS

The following applies to the construction of swimming pools and outdoor spas:

- (a) Reinforcement of the swimming pool/outdoor spa is to be inspected by an Accredited Officer or other suitably qualified person prior to the pouring of concrete;
- (b) The electrical wiring system for any proposed underwater artificial lighting installation to the pool/spa is to be installed in accordance with the requirements of Australian Standard 3000, Part 1 - Wiring Rules;
- (c) The swimming pool/outdoor spa water is to be treated by an approved water treatment and filtration unit.
- (d) To prevent noise nuisance to surrounding properties, the swimming pool/outdoor spa filtration motor and pump unit is to be housed within a ventilated soundproof enclosure.
- (e) Waste waters from the swimming pool/outdoor spa are to be discharged into Sydney Water's sewerage system and in this regard, approved plans **MUST** be submitted to Sydney Water at least fourteen **(14) days prior** to commencement of building operations.

52. NO WORKS BEYOND BOUNDARIES

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

53. SIDE FENCE HEIGHT

The proposed new side and/or rear boundary fencing around the site is not to exceed a maximum height of 1.8m above the existing ground level of the adjoining property, unless otherwise agreed by the affected neighbour.

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

54. FINAL OCCUPATION CERTIFICATE

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

55. STORMWATER MANAGEMENT

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

56. SWIMMING POOL/OUTDOOR SPA CERTIFICATION

The following must be provided to the Principal Certifying Authority prior to the swimming pool/outdoor spa being filled with water and prior to use;

- (a) The swimming pool/outdoor spa is to be constructed in accordance with the Consulting Engineer's design as shown on the approved plans and is not to be filled with water until a Certificate has been submitted by the construction or consulting engineers design.
- (b) The swimming pool/outdoor spa equipment is to be enclosed in a sound proof enclosure to prevent adverse impacts to adjoining properties.
- (c) An approved sign outlining details of resuscitation techniques for adults, children and infants must be placed in a prominent position, close to the pool/outdoor spa, prior it being filling with water. Signs are available from Council.
- (d) Swimming/spa pool pumps are restricted from being used and operated between 8pm to 7am weekdays and Saturdays, 8pm to 8am on Sundays and public holidays in accordance with the requirements of the Protection of the Environment Operations (Noise Control) Regulation 2008. On the spot fines may be imposed should breaches occur.
- (e) The swimming pool/outdoor spa is to be registered on the State Government Swimming Pool Register (<http://www.swimmingpoolregister.gov.au>) and a Certificate of Compliance obtained for the pool barrier is required to be submitted to Council prior to the issue of an Occupation Certificate.
- (f) The swimming pool/outdoor spa is to be fitted with a cover that shall be fitted when the swimming pool/outdoor spa is not in use to minimise evaporation and conserve water.

- (g) A final inspection of the completed pool is to be carried out by the Principal Certifying Authority to ensure all the above is complied with.

57. LIGHTING

Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Australian Standard AS 4282:1997 Control of the Obtrusive Effects of Outdoor Lighting.

58. STREET NUMBER/S

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

DRAWING LIST

Drawing no	Sheet Name	Scale	Size
793_DA100	Cover Sheet	NTS	A3
793_DA101	BASIX Commitments	NTS	A3
793_DA102	Site and Context Analysis	1:250	A3
793_DA103	Site and Context Analysis	1:200	A3
793_DA104	Site Plan	1:200	A3
793_DA105	GFA Diagram	1:200	A3
793_DA106	LGF Plan	1:100	A3
793_DA107	GF Plan	1:100	A3
793_DA108	L1 Plan	1:100	A3
793_DA109	L2 Plan	1:100	A3
793_DA110	Garage Plan	1:100	A3
793_DA111	Roof Plan	1:100	A3
793_DA112	North Elevation	1:100	A3
793_DA113	South Elevation	1:100	A3
793_DA114	East Elevation	1:100	A3
793_DA115	West Elevation	1:100	A3
793_DA116	Garage Elevations	1:100	A3
793_DA117	Section A	1:100	A3
793_DA118	Section B	1:100	A3
793_DA118.1	Section C	1:100	A3
793_DA118.2	Section D	1:100	A3
793_DA120	Shadow Diagram 21 June 9am	1:200	A3
793_DA121	Shadow Diagram 21 June 12pm	1:200	A3
793_DA122	Shadow Diagram 21 June 3pm	1:200	A3
793_DA123	View From Sun Diagrams	NTS	A3
793_DA124	Additional Pool Information	1:100	A3
793_DA125	Street Elevation	1:200	A3
793_DA126	Montage Gardyne Street	NTS	A3
793_DA127	Garage Photmontage	NTS	A3

ABBREVIATIONS	
BAL	Balustrade
BL	Blind
BRICK	Masonry Brick
CONC	Concrete
CT	Ceramic tile
CPD	Cupboard
D	Door
DP	Down pipe
DR	Clothes dryer
DW	Dishwasher
EX	Existing
F	Fixed
FCL	Finished ceiling level
FF	Fridge Freezer
FFL	Finished floor level
FW	Floor waste
HWS	Hot water system
G	Glass
GU	Gutter
MB	Mail box.
MDC	Metal deck capping
MDR	Metal deck roofing
ME	Mechanical Exhaust
M-BAL	Metal Balustrade
M-GU	Metal Gutter
PB	Plasterboard
PF	Paint finish
PCONC	Precast concrete
RL	Relative level
RM	Rendered Masonry
RW	Retaining Wall
RWT	Rainwater tank
SK	Skylights
SPT	Hydraulic Splitter.
	Refer to Hydraulic engineer's specification
ST	Stone
TD	Timber decking
TO	Top Of
W	Window
WM	Washing machine

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Nominated Architect Hannah Tribe 7833

RECEIVED
Waverley Council

Application No: DA-480/2018

Date Received: 11/06/2019

notes:

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All levels to ahd.

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DATE REV. ISSUE

13/12/2018 N ISSUED TO CONSULTANTS
14/12/2018 O ISSUED TO CLIENTS
17/12/2018 P DA SUBMISSION
11/06/2019 Q REQUEST FOR INFORMATION

PROJECT

793 Aaron - New Dwelling

Gary + Sharon Aaron

435 Bronte Road,
Bronte NSW 2024

LOT 4 DP 105849

DATE: 11/06/2019

DRAWN: JU/CS/EJ

SCALE: NTS

DRAWING
Cover Sheet

DRAWING NO.
793_DA100

REV.
Q

LOCATION PLAN



BASIX COMMITMENTS

Thermal Comfort

- Insulated concrete wall system including 50mm XPS insulation (or similar, total wall value R3.7). Internal and external concrete faces.
- Concrete floor slabs (all levels). Generally bare finish – tiles where noted.
- Concrete ceilings (no suspended ceilings).
- R1.7 insulation under slab of lower ground floor level
- R1.9 insulation under suspended slabs of enclosed subfloors of lower ground floor plan
- R1.4 top of roof slab insulation
- R1.5 anticondensation blanket under metal roof deck, R2.5 insulation to suspended plasterboard ceilings.
- Glazing throughout to meet performance: Uw=<3.5, SHGCw: 0.64 +/-10%. CSIRO default equivalent of Thermally broken aluminium/steel frames with double glazed clear, argon fill
- All skylights to be equivalent of double glazed clear in aluminium/timber
- Sunshading as per plans
- Shutters to upper level western openings (ie, W2.07, W2.06, W2.05, W204) to be hollow core aluminium panels
- No downlight penetrations have been included in this assessment (surface mounted only)
- Exhaust fans throughout to be sealed units

Water Savings

- Landscaped areas as per checklist data : 57.82m2 maximum landscaping, 28.91m2 to low water use/ indigenous plantings.
- 6000L rainwater tank/s with minimum of 100m2 roof catchment
- Collected rainwater for reuse in garden and pool & spa top up only
- 3 Star rated, low flow rate showerheads throughout (flow rate >6/min & <=7.5L/min)
- 4 Star rated toilets
- 5 Star rated kitchen tap
- 4 Star rated basin taps.
- Maximum Pool capacity of 9.9kL, shaded.
- Maximum spa capacity of 1.9kL, spa cover installed.

Energy Savings

- Gas instantaneous hot water system, min 5 stars
- Three phased air conditioning system installed to at least one bedroom and one living space. Zoned system. Min EER/COP 2.5
- Mechanical exhausts to laundry, kitchen rangehood exhaust and bathroom exhausts ducted to façade/roof, with manual on/off controls.
- Gas cooktop & electric oven as per checklist
- LED or fluorescent lighting throughout dwelling
- Install an unshaded, external clothes line.
- Timer to pool pump installed.
- Gas heating installed. Timer to spa pump installed
- Install a photovoltaic cell solar system, with a peak output of at least R1.5kW

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PROJECT

793 Aaron - New Dwelling

Gary + Sharon Aaron

435 Bronte Road,
Bronte NSW 2024

LOT 4 DP 105849

DATE: 11/06/2019

DRAWN: JU/CS/EJ

SCALE: NTS

DRAWING
BASIX Commitments

DRAWING NO.
793_DA101

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LEGEND

	EXISTING BUILDING OUTLINE
	SUN
	PREVAILING BREEZE
TOPOGRAPHY	
25.44	SPOT LEVEL
	CONTOUR
	SLOPE
	OVERLAND FLOW PATH
	LEVEL DIFFERENCE
VEGETATION	
	EXISTING TREE
	HIGH SIGNIFICANCE TREE
	EXISTING STONE WALL
ACCESS	
	POSSIBLE VEHICLE ACCESS
	PEDESTRIAN ACCESS
	ACCESS BARRIER
VIEWS	
	VIEW LINE
	PRIVACY TO BE MAINTAINED
UTILITY SERVICES	
	TELSTRA BOX
	ELECTRICAL POWER POLE
	PIT LID / GRATE
	UNDERGROUND SEWER
	ELECTRICITY OVERHEAD
TITLE	
	BOUNDARY / DIMENSION

SUMMARY PLANNING CONTROLS

AUTHORITY	: WAVERLEY COUNCIL
PROPOSED USE	: NEW DWELLING / SINGLE RESIDENTIAL

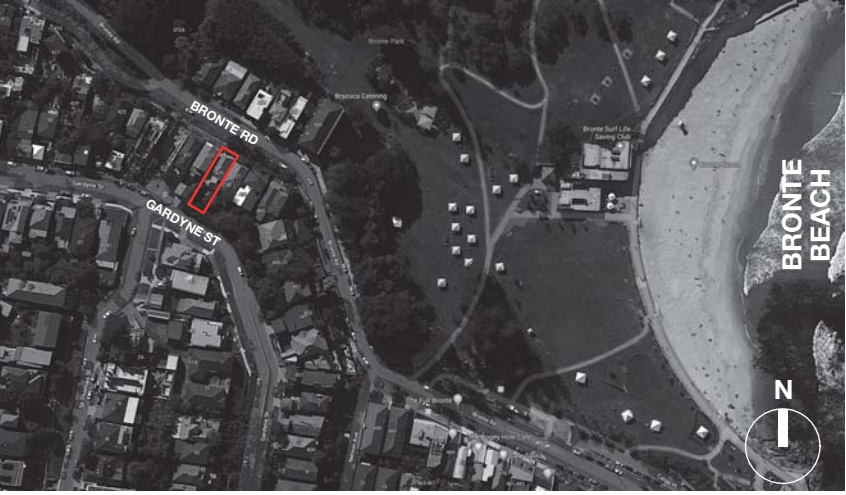
WAVERLEY COUNCIL LEP 2012	
ACID SULPHATE SOILS	: CLASS 5
FLOOR SPACE RATIO	: 0.75:1
MAXIMUM BUILDING HEIGHT	: 8.5m
LAND ZONING	: R2 LOW DENSITY RESIDENTIAL
LANDSCAPE CONSERVATION AREA	: BRONTE RD / GARDYNE ST

WAVERLEY COUNCIL DCP 2012	
MAXIMUM WALL HEIGHT	: 7m (PITCHED ROOF), 7.5m (FLAT ROOF)

<u>SETBACKS</u>	
FRONT	: PREDOMINANT FRONT BUILDING LINE IN STREET
REAR	: PREDOMINANT REAR BUILDING LINE IN STREET
SIDES	: 900mm (1-2 STOREYS)
NOTE :	
- THE PREDOMINANT REAR BUILDING LINE IS DETERMINED SEPARATELY FOR EACH FLOOR LEVEL (DCP 1.2.1(B))	
- WHERE A 2 STOREY DWELLING EXCEEDS THE MAXIMUM HEIGHT BUILDING STANDARD IN CLAUSE 4.3 OF THE WLEP 2012, THE SIDE SETBACK OF THE BUILDING IS TO BE 1,200mm	

EXCAVATION	: NO EXCAVATION WITHIN 900mm OF SIDE BOUNDARY MUST BE WITHIN THE BUILDING FOOTPRINT
FENCES	
FRONT	: MAX 1.2m HIGH
SIDE / REAR	: MAX 1.8m HIGH ABOVE EX. GROUND LEVEL
CAR PARKING	: 2 CAR PARKING SPACES (+3 BEDS)
LANDSCAPED AREA	: 15% (129.80m2)
OPEN SPACE AREA	: 40% (48.67m2)

LOCATION PLAN



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11/06/2019 Q REQUEST FOR INFORMATION

PROJECT

793 Aaron - New Dwelling

Gary + Sharon Aaron

435 Bronte Road,
Bronte NSW 2024

LOT 4 DP 105849

DATE: 11/06/2019

DRAWN: JU/CS/EJ

SCALE: 1:250 @A3

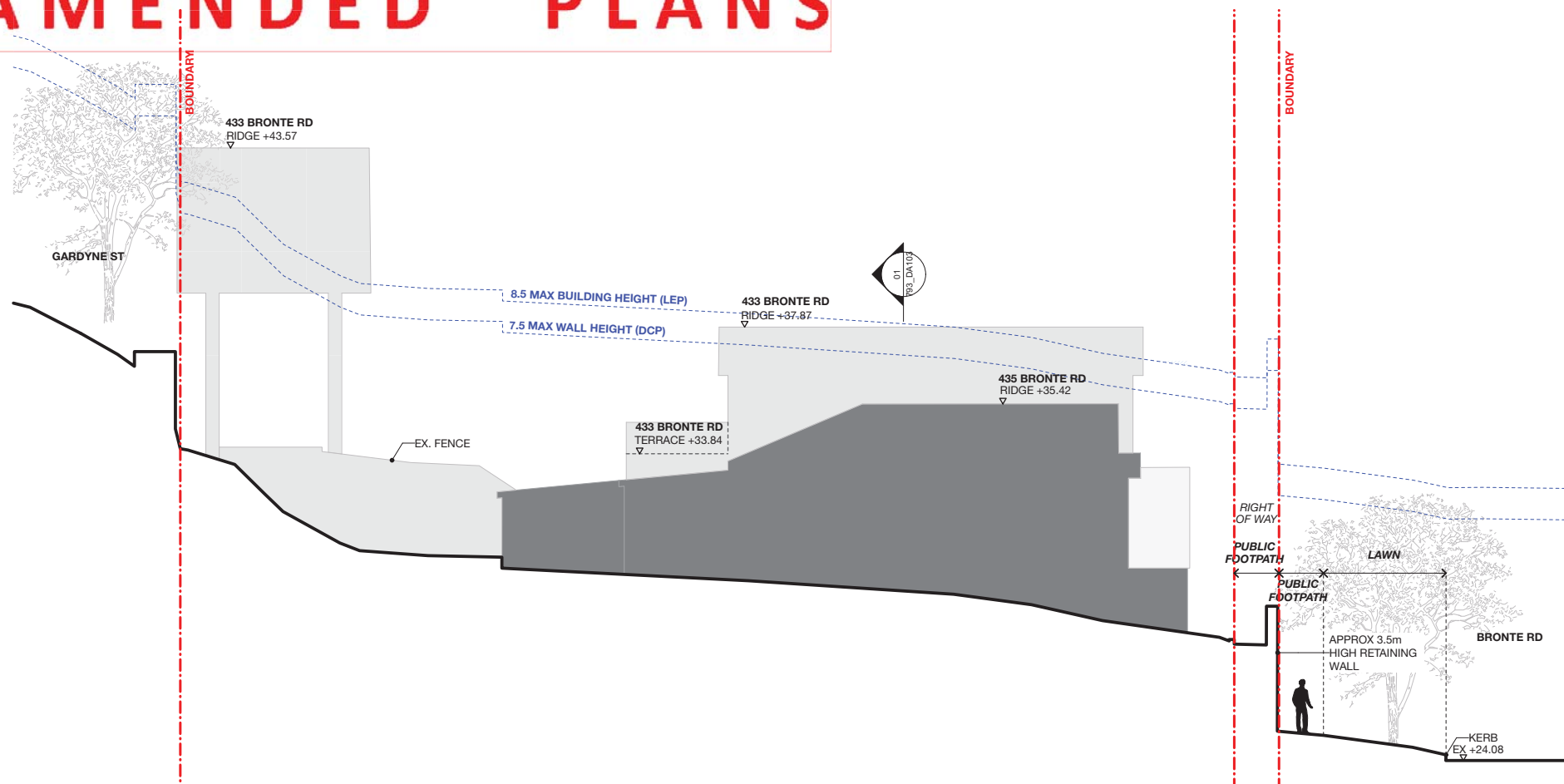
DRAWING
Site and Context
Analysis

DRAWING NO.
793_DA102

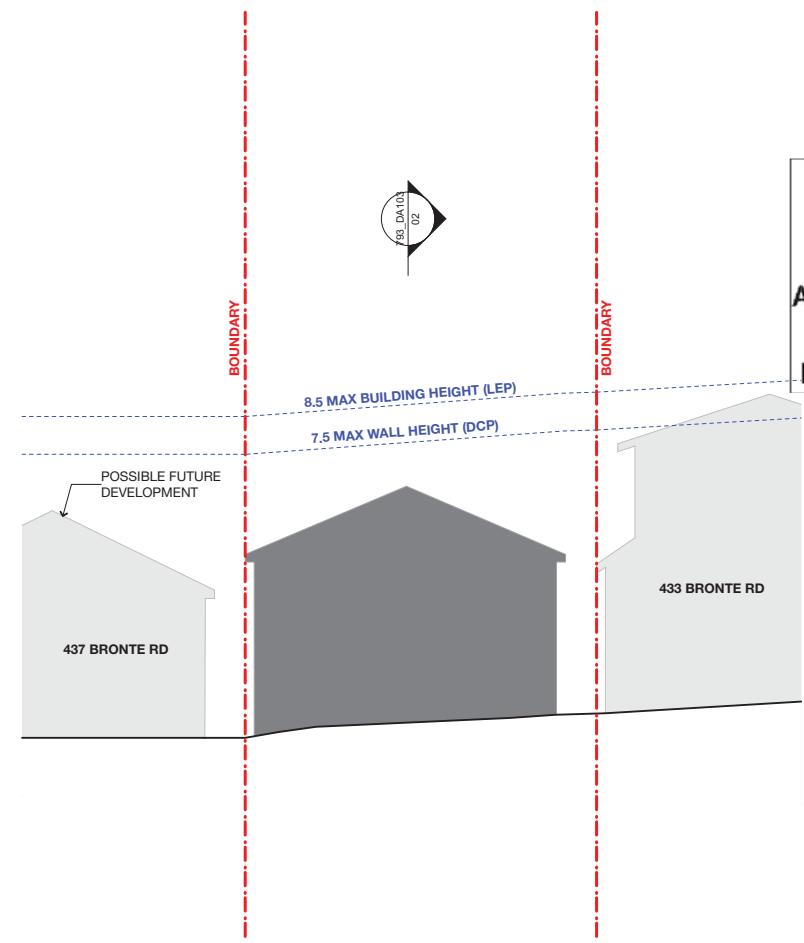
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Q

AMENDED PLANS

AMENDED PLANS



02 Building Height Diagram 01



01 Building Height Diagram 02

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Waverley Council

LEGEND
Application No: DA-480/2018
EXISTING HOUSE
Date Received: 11/06/2019
ADJACENT PROPERTY'S OUTLINE

notes:

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11/06/2019	Q	REQUEST FOR INFORMATION

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Gary + Sharon Aaron

435 Bronte Road,
Bronte NSW 2024

LOT 4 DP 105849

DATE: 11/06/2019

DRAWN: JU/CS/EJ

SCALE: 1:200 @A3

0 1 2 3 4

DRAWING
**Site and Context
Analysis**

DRAWING NO.
793_DA103

REV.
Q



TOP VIEW



STREET VIEW (BRONTE ROAD)



REAR GARDEN (435 BRONTE RD)

AMENDED PLANS

- NOTE :
- SETBACKS - REFER TO FLOOR PLANS
 - EXISTING TREES BOTANIC NAME AND SIZE - REFER TO LANDSCAPE PLAN AND ARBORIST REPORT
 - TREE REMOVAL - REFER TO ARBORIST REPORT
 - LANDSCAPE DESIGN - REFER TO LANDSCAPE PLANS

TRIBE

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Nominated Architect Hannah Tribe 7833

LEGEND

- EXISTING WALL TO BE DEMOLISHED
- TREE TO BE REMOVED
- TREE TO BE RETAINED
- STRUCTURAL ROOT ZONE (SRZ)
- TREE PROTECTION ZONE (TPZ)
- ELECTRICITY OVERHEAD
- SEWER UNDERGROUND

notes:

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All levels to ahd.

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30/07/2019 R REQUEST FOR INFORMATION

PROJECT

793 Aaron - New Dwelling

Gary + Sharon Aaron

435 Bronte Road,
Bronte NSW 2024

LOT 4 DP 105849

DATE: 11/06/2019

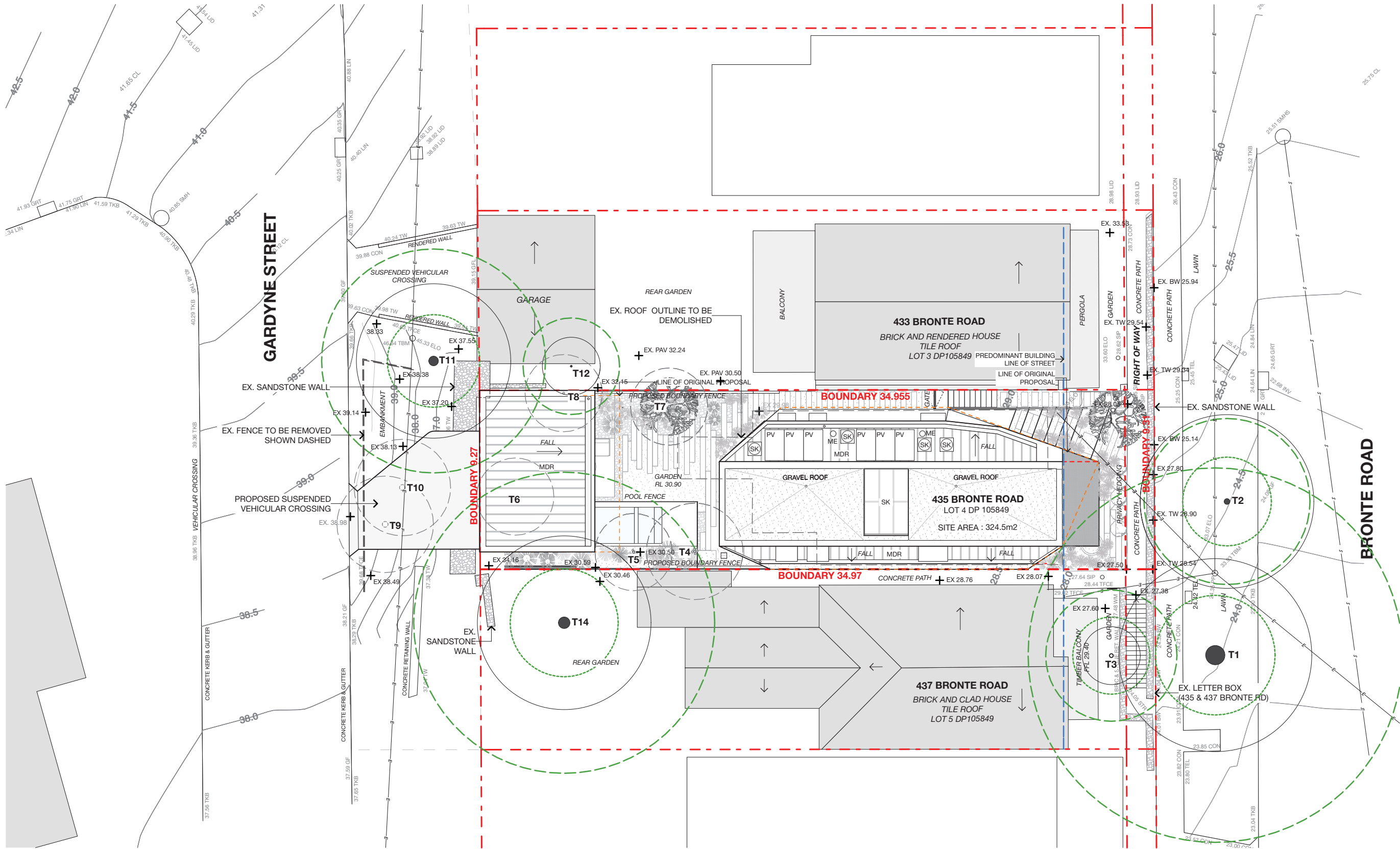
DRAWN: JU/CS/EJ

SCALE: 1:200 @A3

DRAWING
Site Plan

DRAWING NO.
793_DA104

REV.
R



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Date Received: 31/07/2019

NOTE :
- TREE REMOVAL - REFER TO SITE PLAN AND ARBORIST REPORT
- LANDSCAPE DESIGN - REFER TO LANDSCAPE PLANS

AMENDED PLANS

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LEGEND

- PROPOSED WALL
- EXISTING WALL
- TREE TO BE REMOVED
- TREE TO BE RETAINED

notes:

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11/06/2019	Q	REQUEST FOR INFORMATION
30/07/2019	R	REQUEST FOR INFORMATION

PROJECT
793 Aaron - New Dwelling
Gary + Sharon Aaron
435 Bronte Road,
Bronte NSW 2024
LOT 4 DP 105849

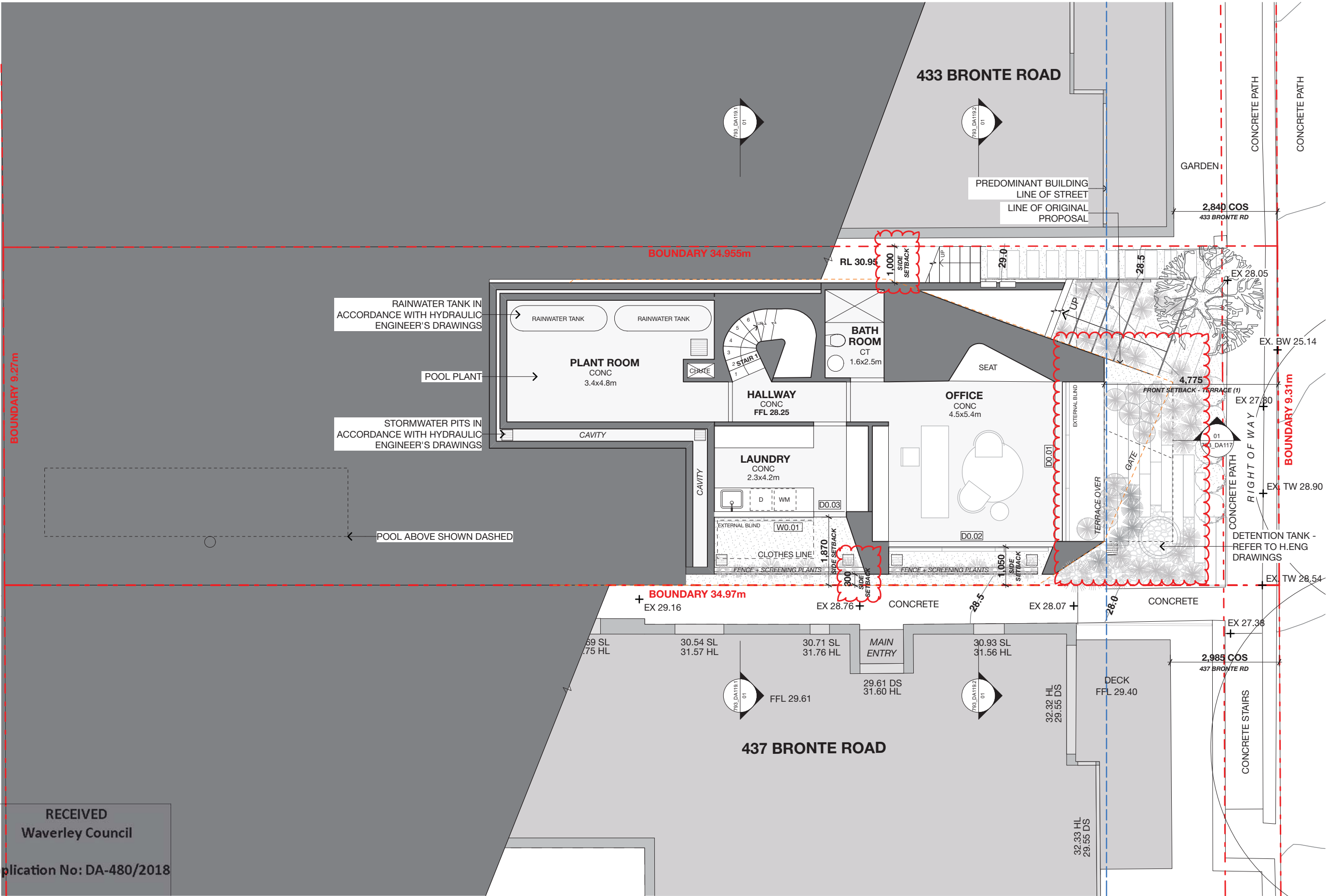
DATE: 11/06/2019

DRAWN: JU/CS/EJ

SCALE: 1:100 @A3

DRAWING
LGF Plan

DRAWING NO.
793_DA106
REV.
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LEGEND

- PROPOSED WALL
- EXISTING WALL
- TREE TO BE REMOVED
- TREE TO BE RETAINED

notes:

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PROJECT

793 Aaron - New Dwelling

Gary + Sharon Aaron

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LOT 4 DP 105849

DATE: 11/06/2019

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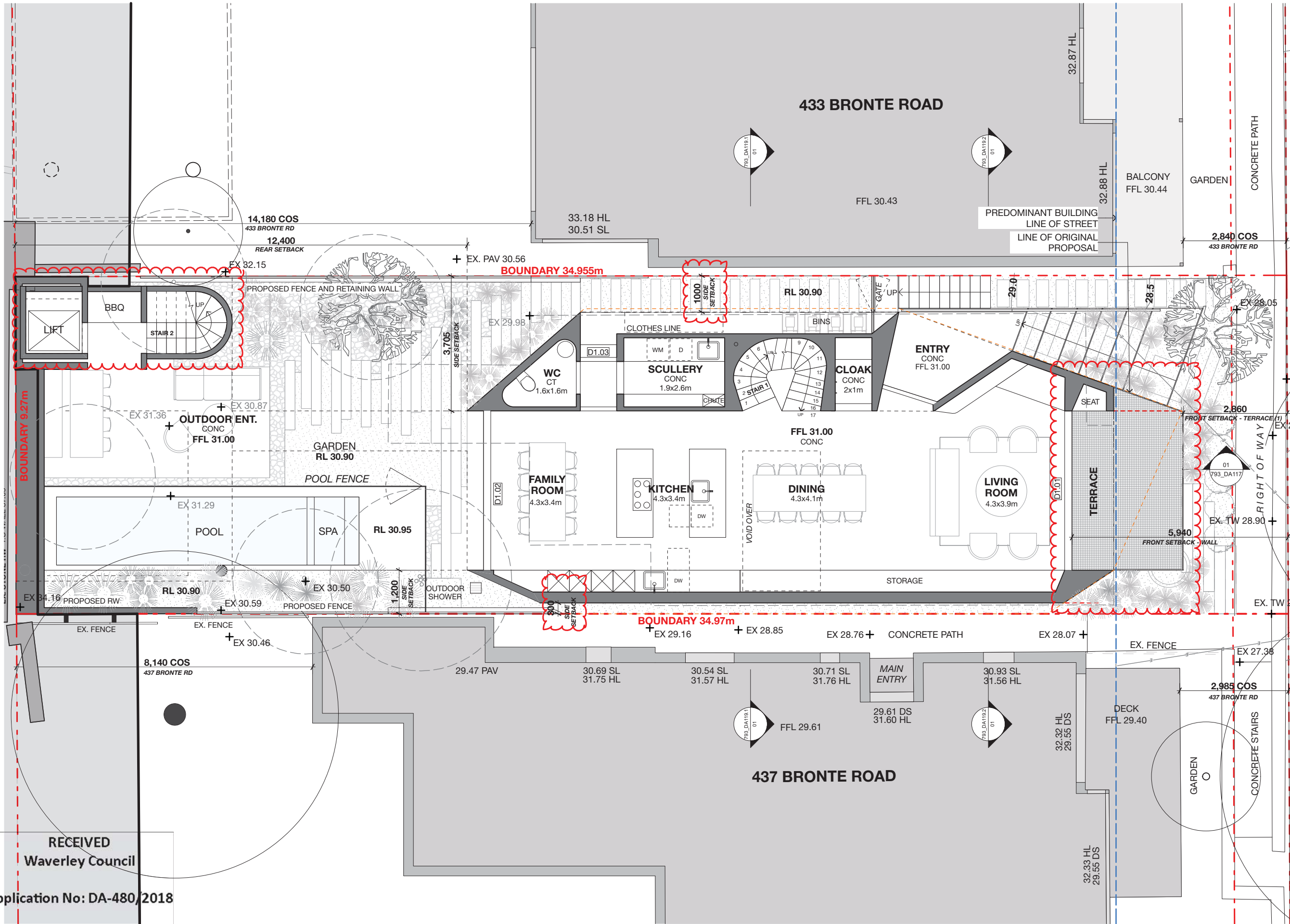
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DRAWING
GF Plan

DRAWING NO.
793_DA107

REV.
R

NOTE :
- TREE REMOVAL - REFER TO SITE PLAN AND ARBORIST REPORT
- LANDSCAPE DESIGN - REFER TO LANDSCAPE PLANS



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NOTE :
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- LANDSCAPE DESIGN - REFER TO LANDSCAPE PLANS

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LEGEND

- PROPOSED WALL
- EXISTING WALL
- TREE TO BE REMOVED
- TREE TO BE RETAINED

notes:

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30/07/2019	R	REQUEST FOR INFORMATION

PROJECT

793 Aaron - New Dwelling

Gary + Sharon Aaron

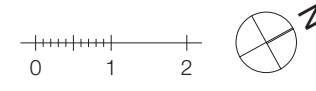
435 Bronte Road,
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DATE: 11/06/2019

DRAWN: JU/CS/EJ

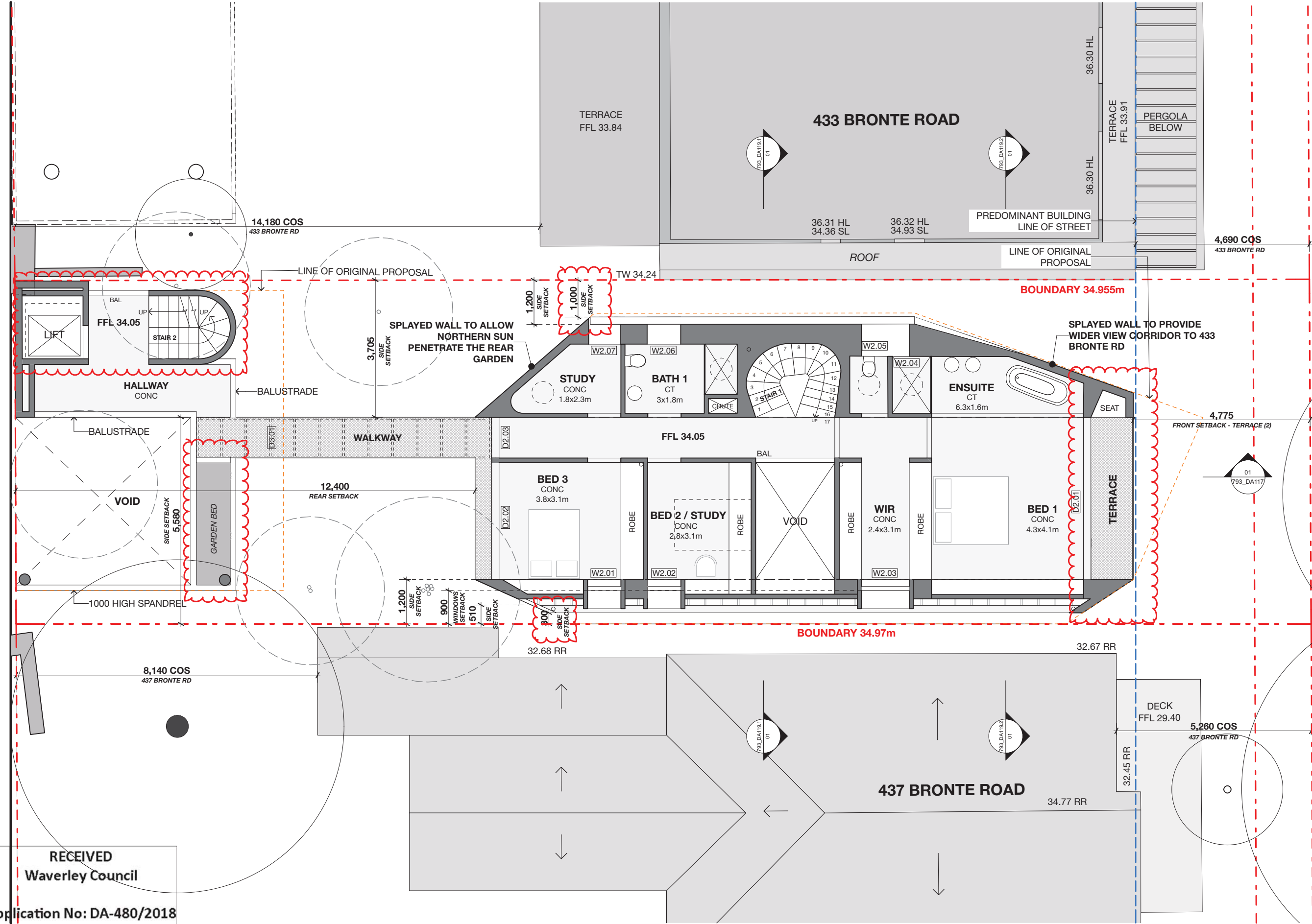
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DRAWING
L1 Plan

DRAWING NO.
793_DA108

REV.
R



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NOTE :
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LEGEND

- PROPOSED WALL
- EXISTING WALL
- TREE TO BE REMOVED
- TREE TO BE RETAINED

notes:

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11/06/2019	Q	REQUEST FOR INFORMATION
30/07/2019	R	REQUEST FOR INFORMATION

PROJECT
793 Aaron - New Dwelling
Gary + Sharon Aaron
435 Bronte Road,
Bronte NSW 2024
LOT 4 DP 105849

DATE: 11/06/2019

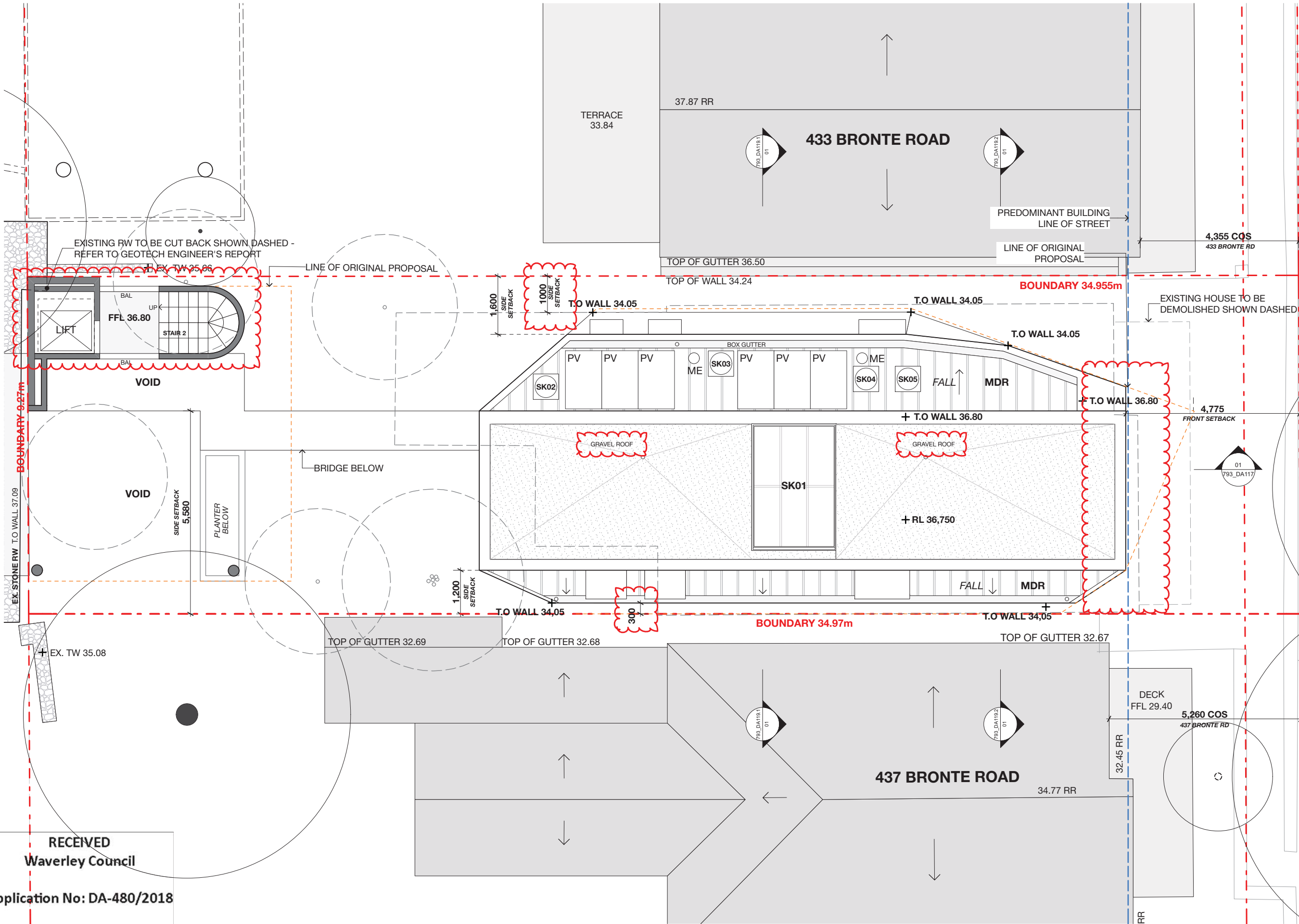
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SCALE: 1:100 @A3

DRAWING
L2 Plan

DRAWING NO.
793_DA109

REV.
R



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40.5

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LEGEND

- PROPOSED WALL
- EXISTING WALL
- TREE TO BE REMOVED
- TREE TO BE RETAINED

notes:

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793 Aaron - New Dwelling

Gary + Sharon Aaron

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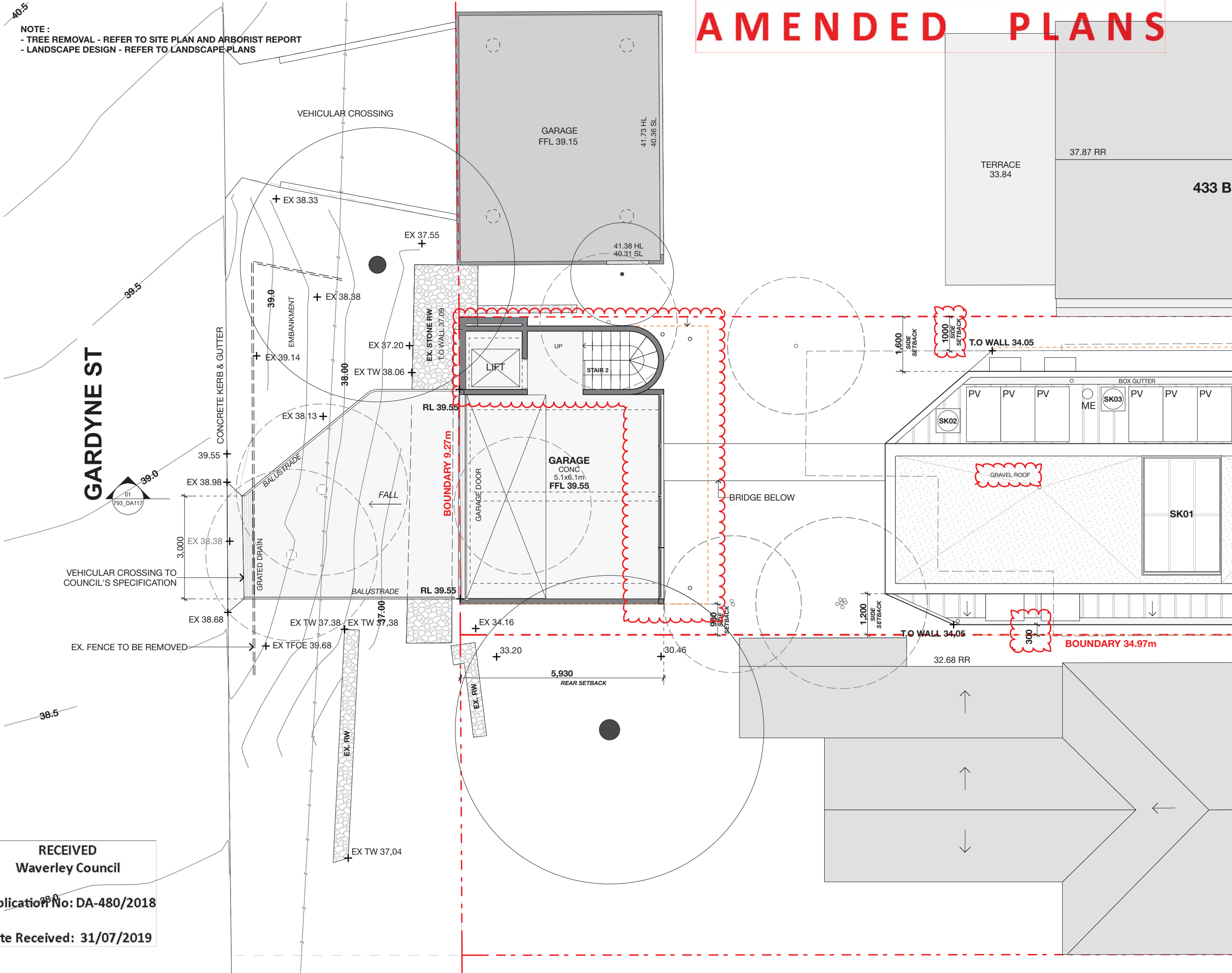
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0 1 2

DRAWING
Garage Plan

DRAWING NO.
793_DA110

REV.
R



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LEGEND

 EXISTING WALL

● TREE TO BE RETAINED

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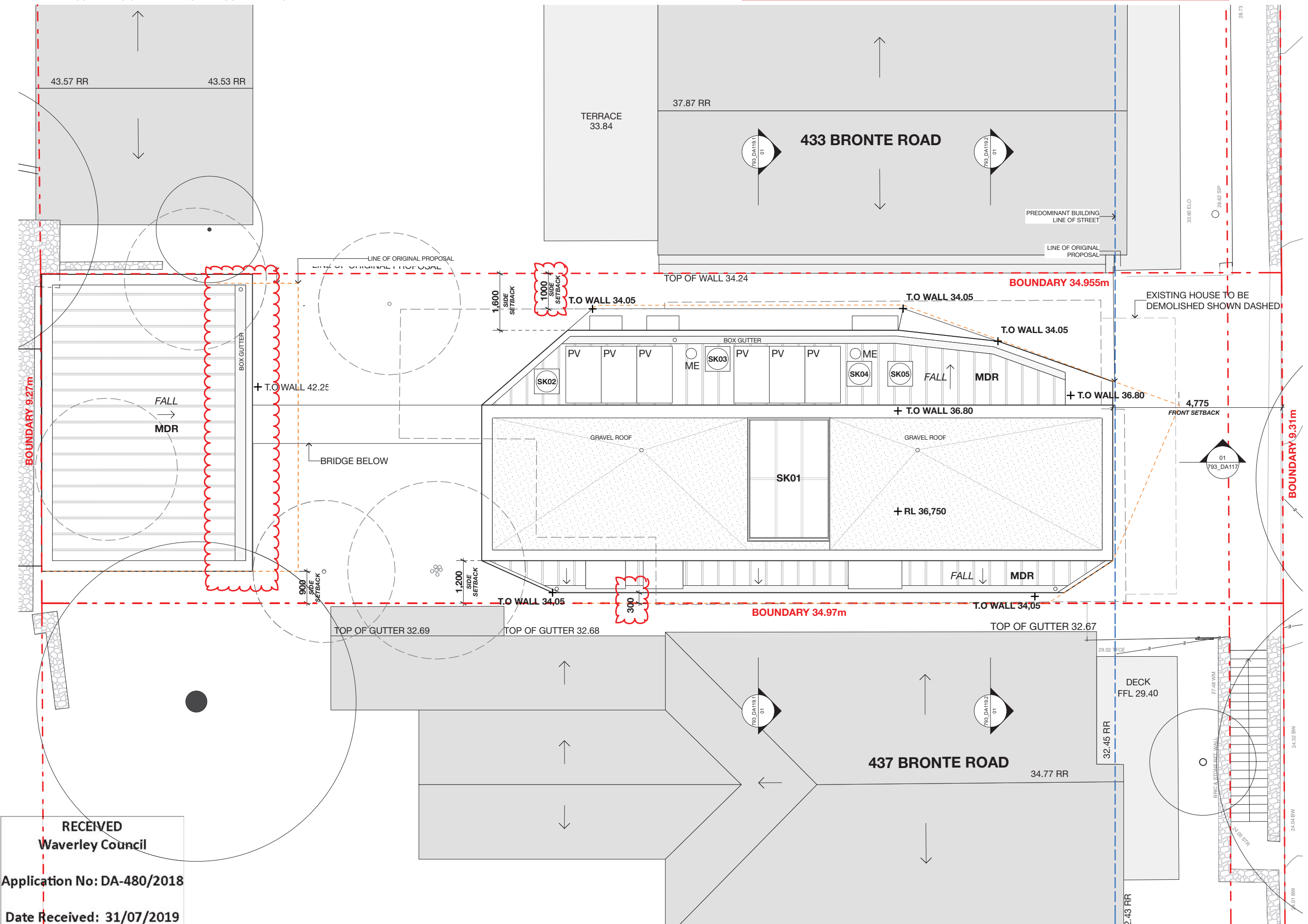
435 Bronte Road,
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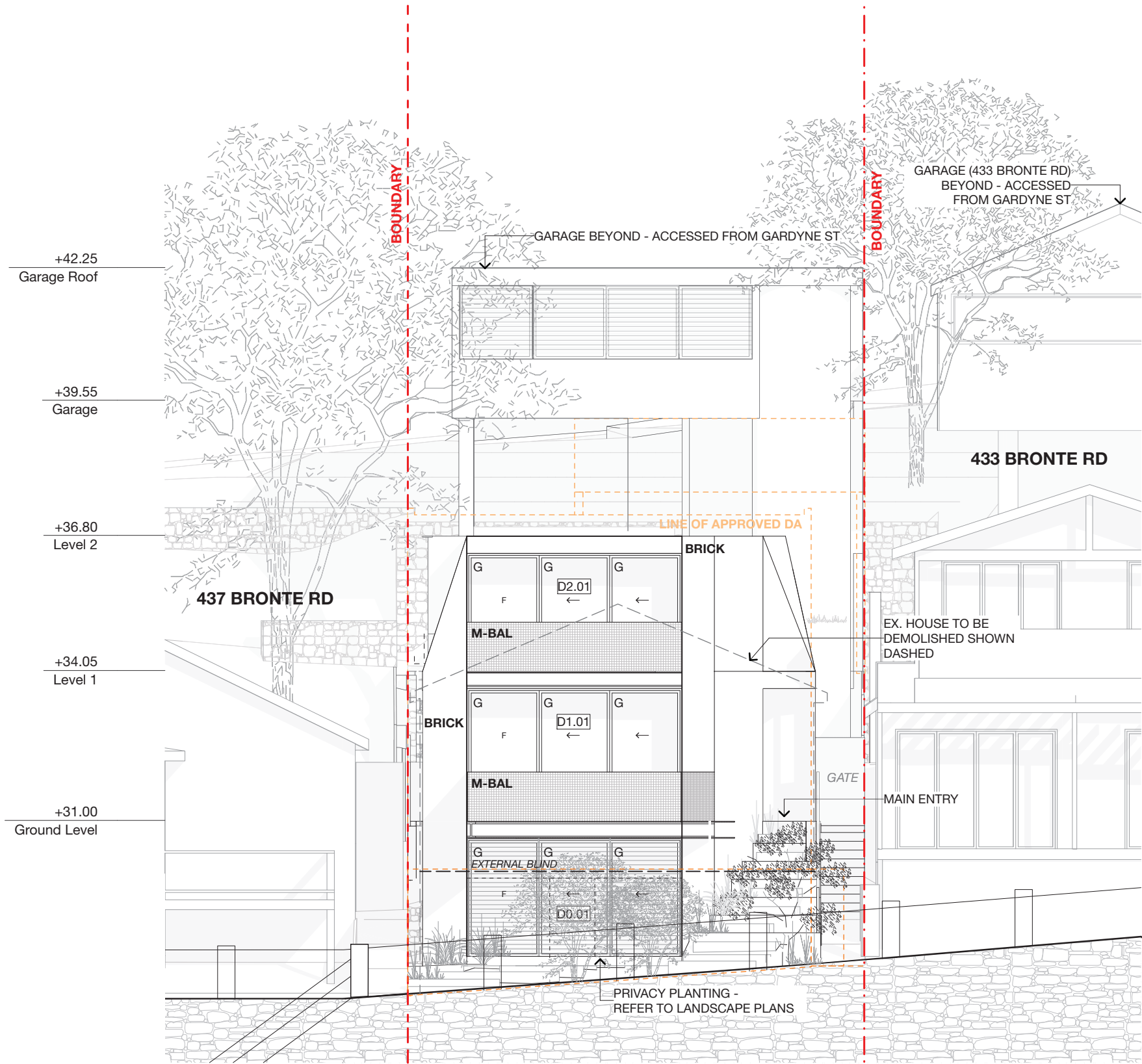
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DRAWING NO. 793_DA111 REV. R

160





notes:

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793 Aaron - New Dwelling

Gary + Sharon Aaron

435 Bronte Road,
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LOT 4 DP 105849

DATE: 11/06/2019

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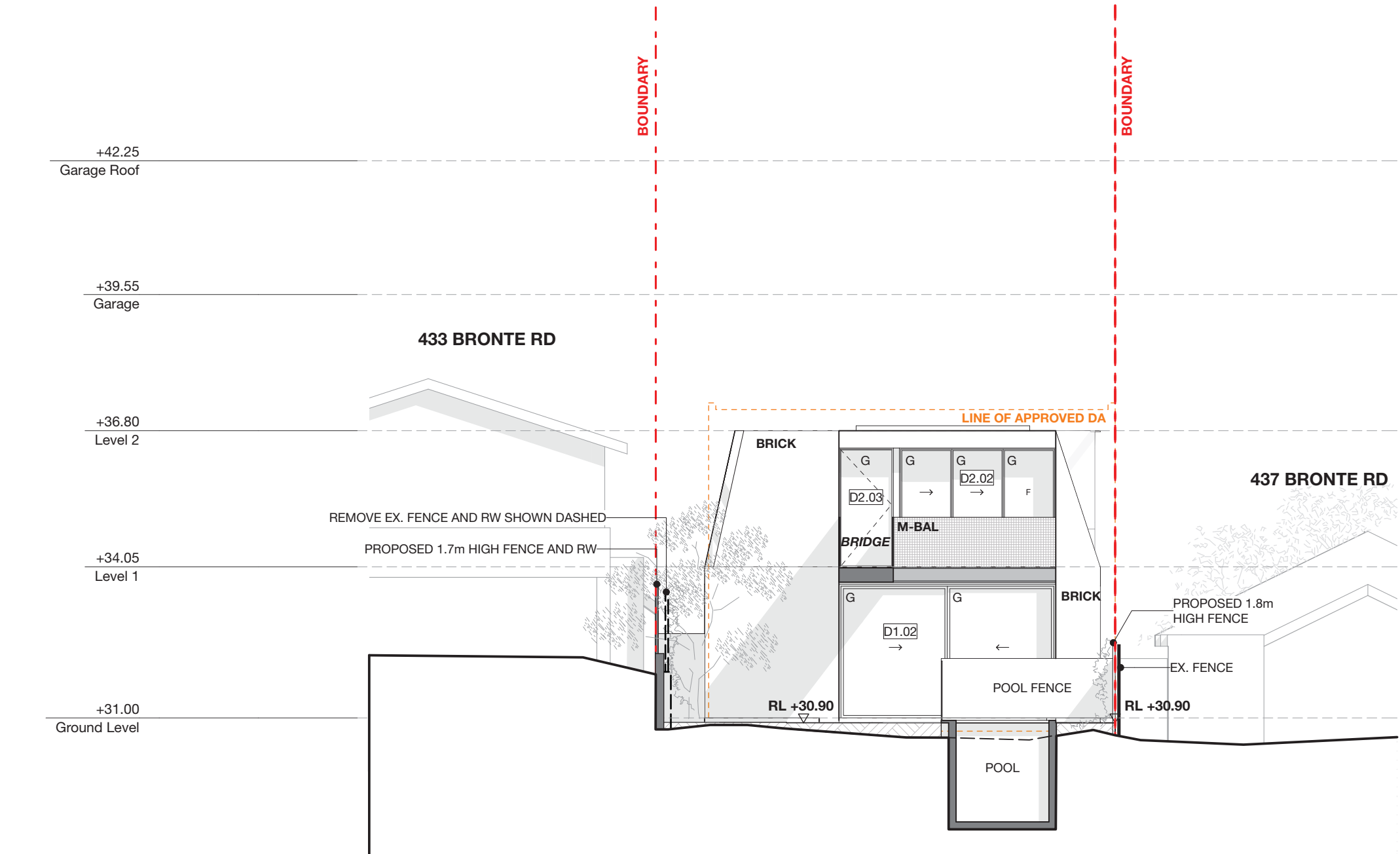
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0 1 2

DRAWING
North Elevation

DRAWING NO.
793_DA112

REV.
Q



notes:

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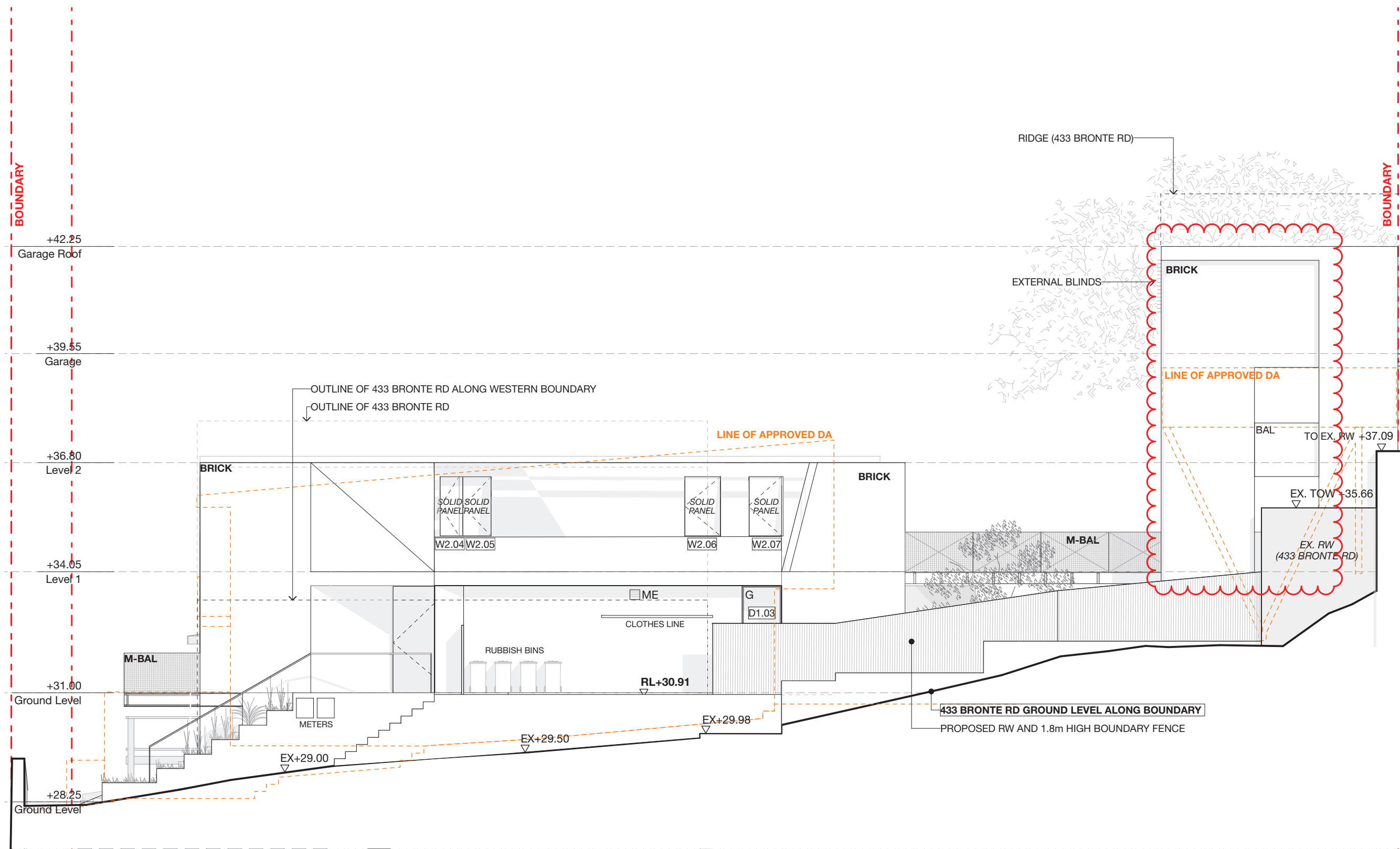
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DRAWING
South Elevation

DRAWING NO.
793_DA113

REV.
Q

163



notes:

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793 Aaron - New Dwelling

Gary + Sharon Aaron

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DATE: 11/06/2019

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SCALE: 1:100 @A3

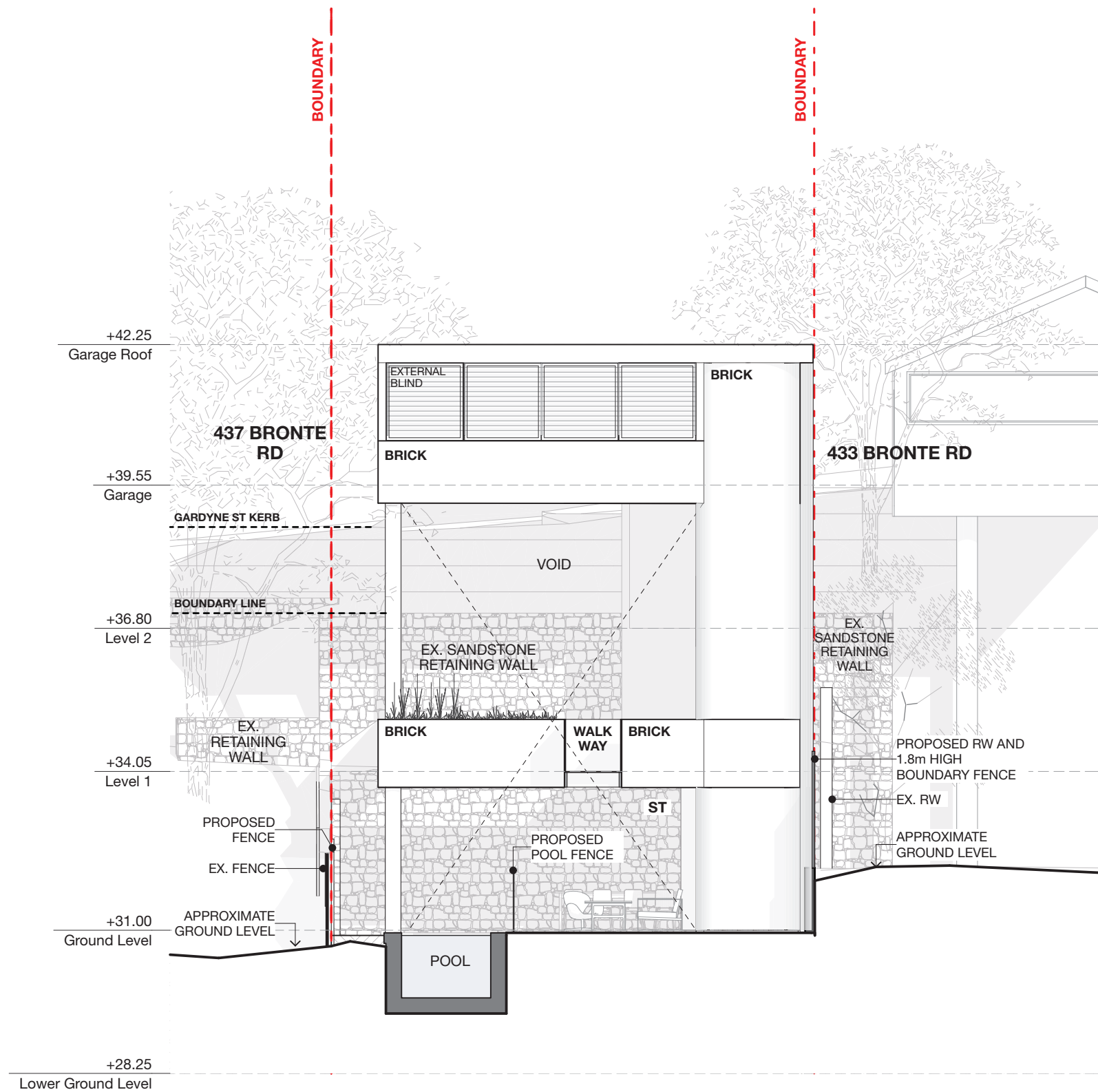
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DRAWING
West Elevation

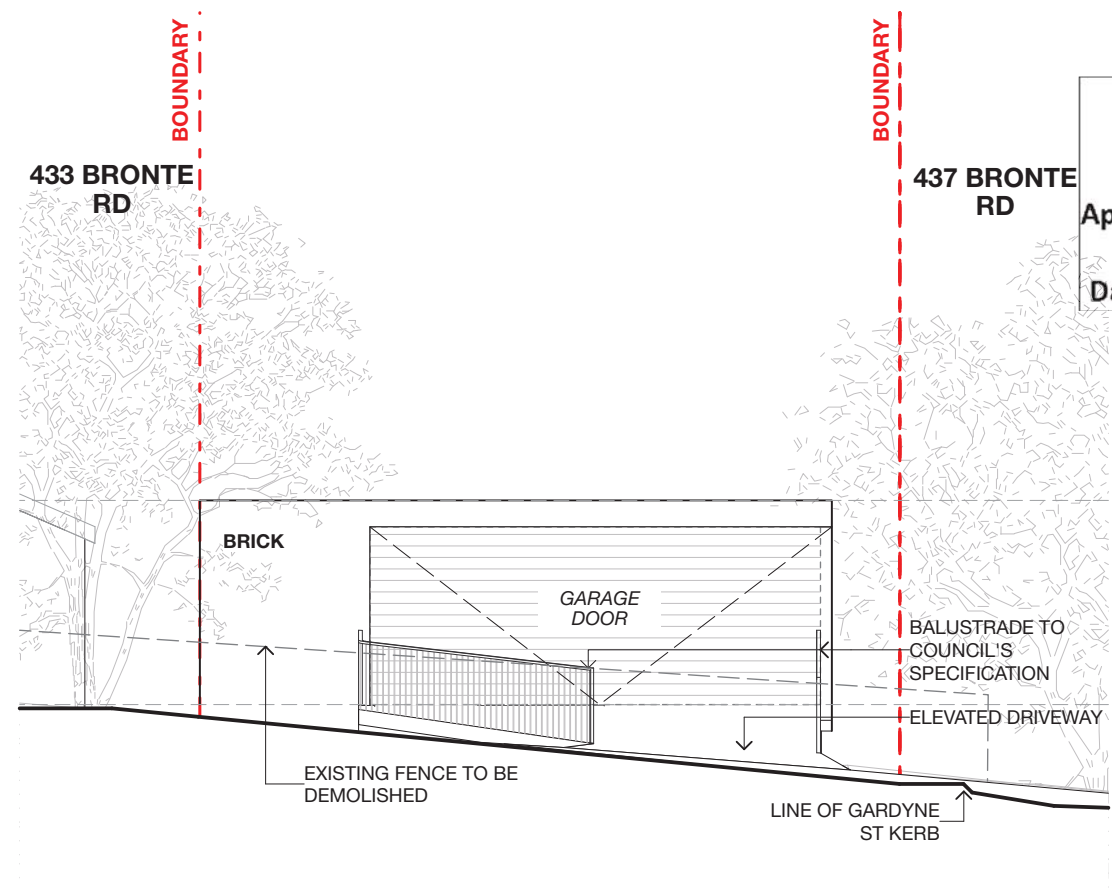
DRAWING NO.
793_DA115

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01 Garage - North Elevation



02 Garage - South Elevation

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0 1 2

DRAWING
Garage Elevations

DRAWING NO.
793_DA116

REV.
Q

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MAXIMUM BUILDING HEIGHT 8.5m

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PROJECT

793 Aaron - New Dwelling

Gary + Sharon Aaron

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DATE: 11/06/2019

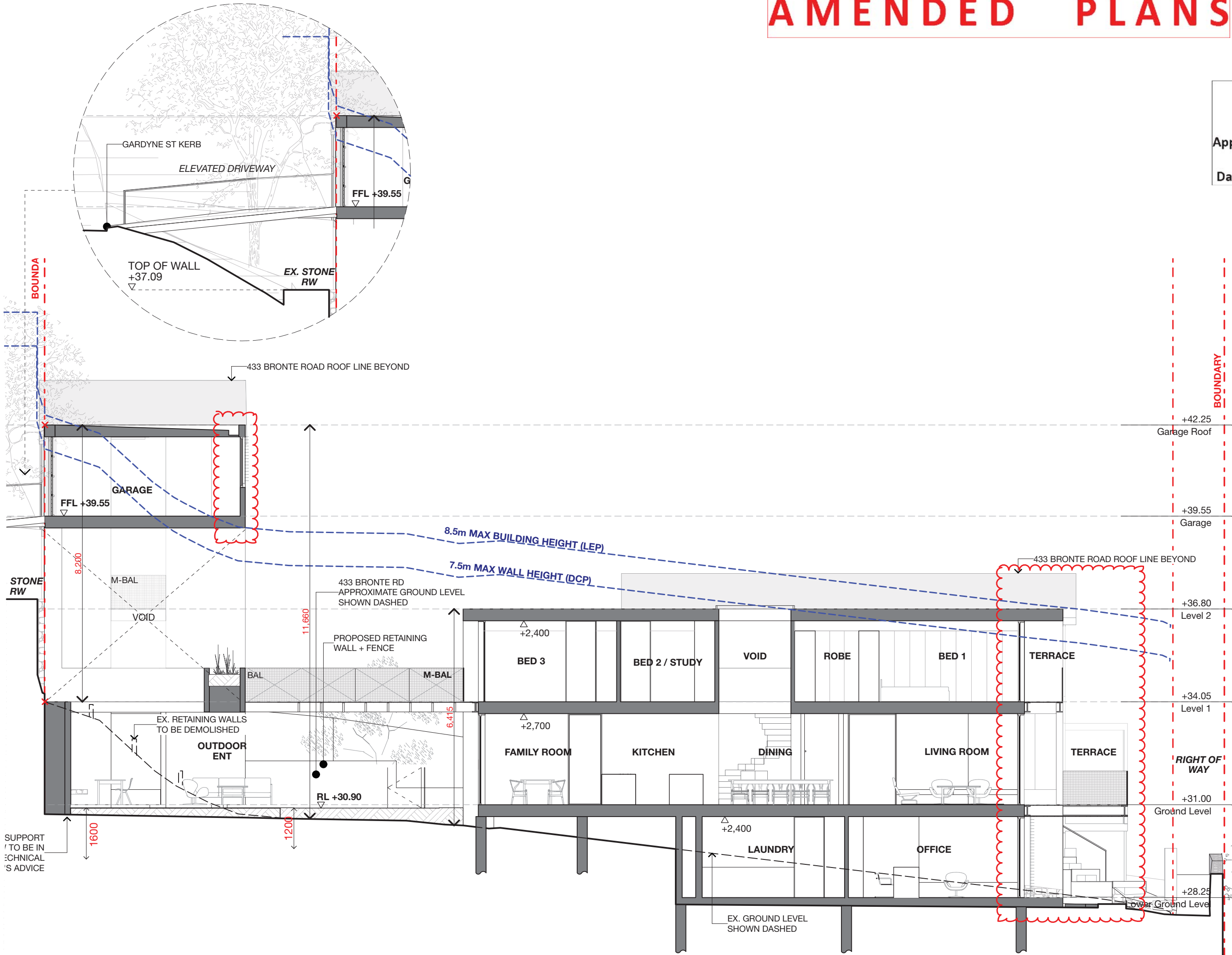
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DRAWING
Section A

DRAWING NO.
793_DA117

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Mayer

LEGEND

Application No: DA 480/2018

 EXISTING WALL

Date Received: 11/06/2019

— — — MAXIMUM BUILDING HEIGHT 8.5m

notes:

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Gary + Sharon Aaron

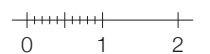
435 Bronte Road,
Bronte NSW 2024

LOT 4 DP 105849

DATE: 11/06/2019

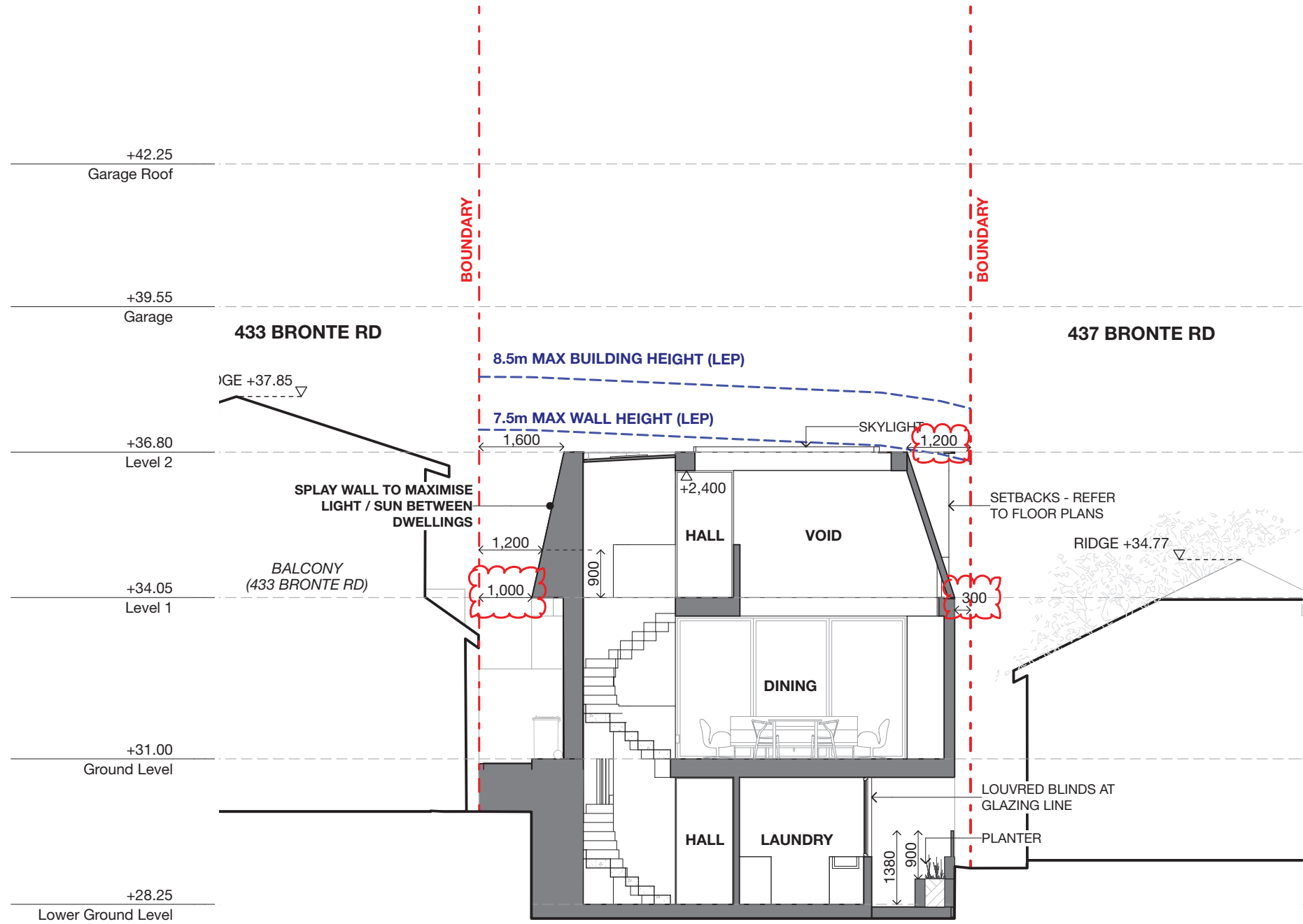
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SCALE: 1:100 @A3



DRAWING Section B

DRAWING NO. 793_DA118 REV. Q



notes:

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793 Aaron - New Dwelling

Gary + Sharon Aaron

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DRAWN: JU/CS/EJ

SCALE: 1:100 @A3

0 1 2

DRAWING
Section C

DRAWING NO.
793_DA118.1

REV.
Q

notes:

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793 Aaron - New Dwelling

Gary + Sharon Aaron

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DATE: 11/06/2019

DRAWN: JU/CS/EJ

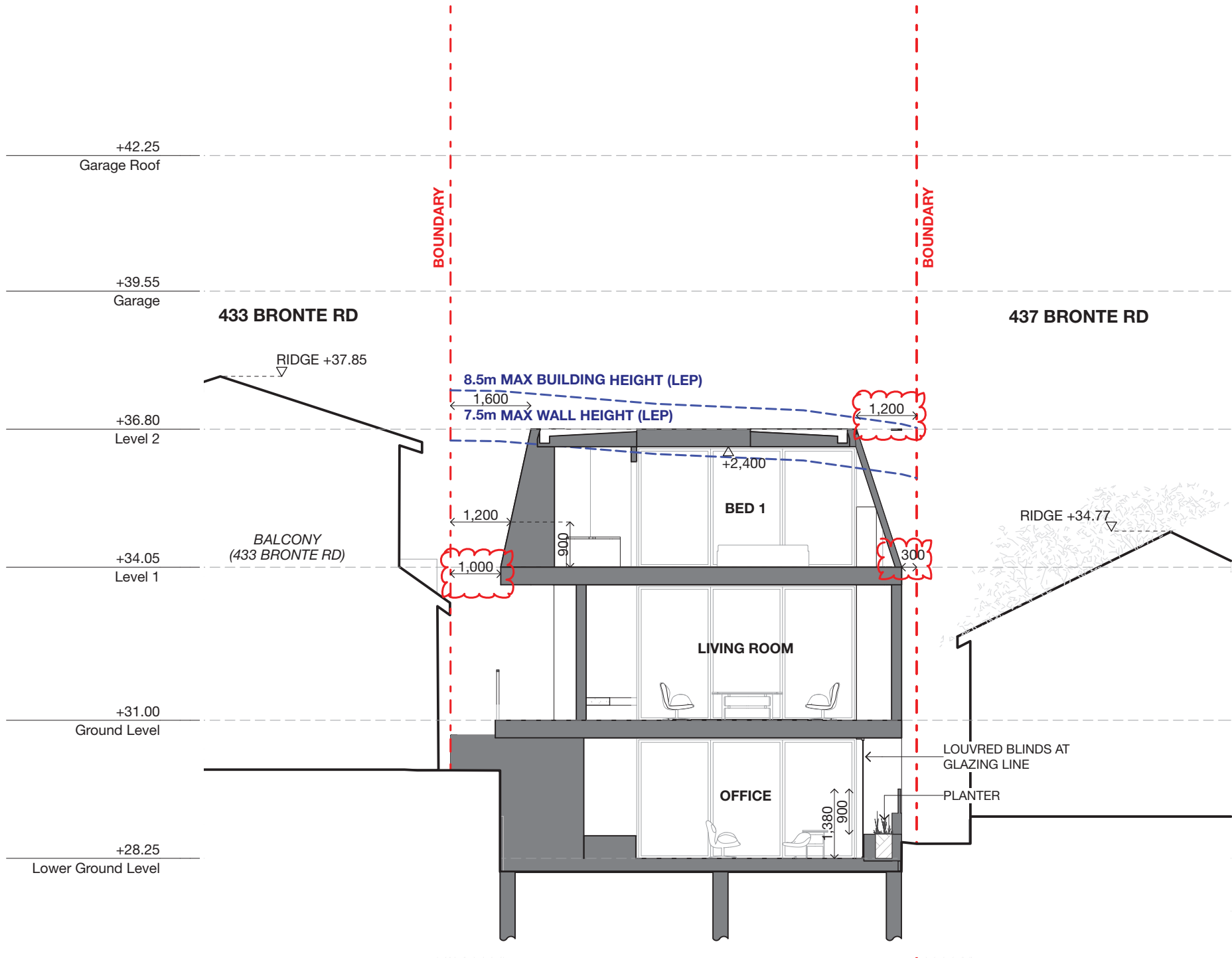
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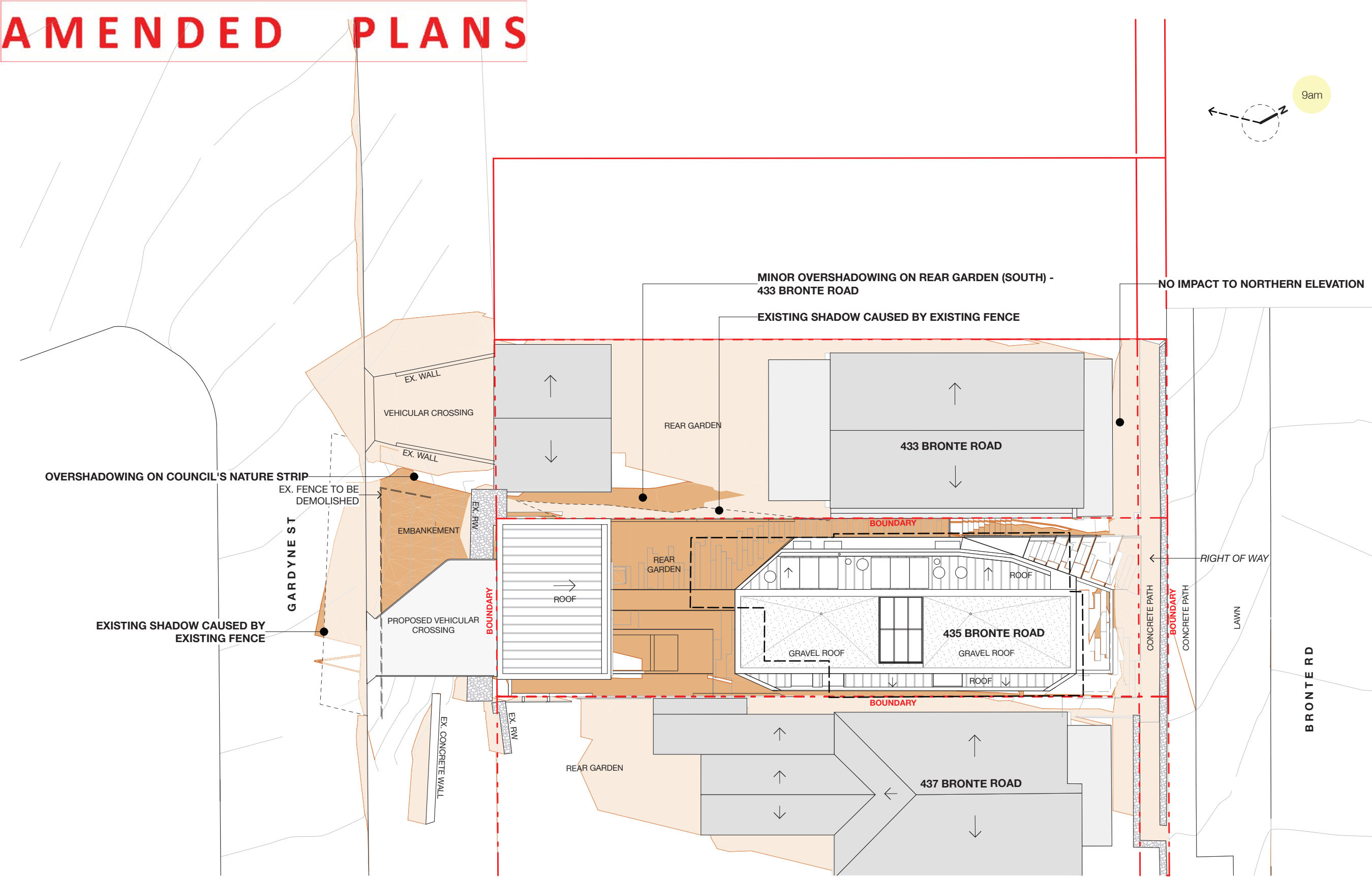
DRAWING
Section D

DRAWING NO.
793_DA118.2

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EXISTING SHADOWS

NEW SHADOWS

notes:

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793 Aaron - New Dwelling

Gary + Sharon Aaron

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DATE: 11/06/2019

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SCALE: 1:200 @A3

0 1 2 3 4

DRAWING

Shadow Diagram 21
June 9am

DRAWING NO.
793_DA120

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170

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Nominated Architect Hannah Tribe 7833

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EXISTING HOUSE OUTLINE
TO BE DEMOLISHED
Date Received: 11/06/2019

- EXISTING SHADOWS
- NEW SHADOWS

notes:

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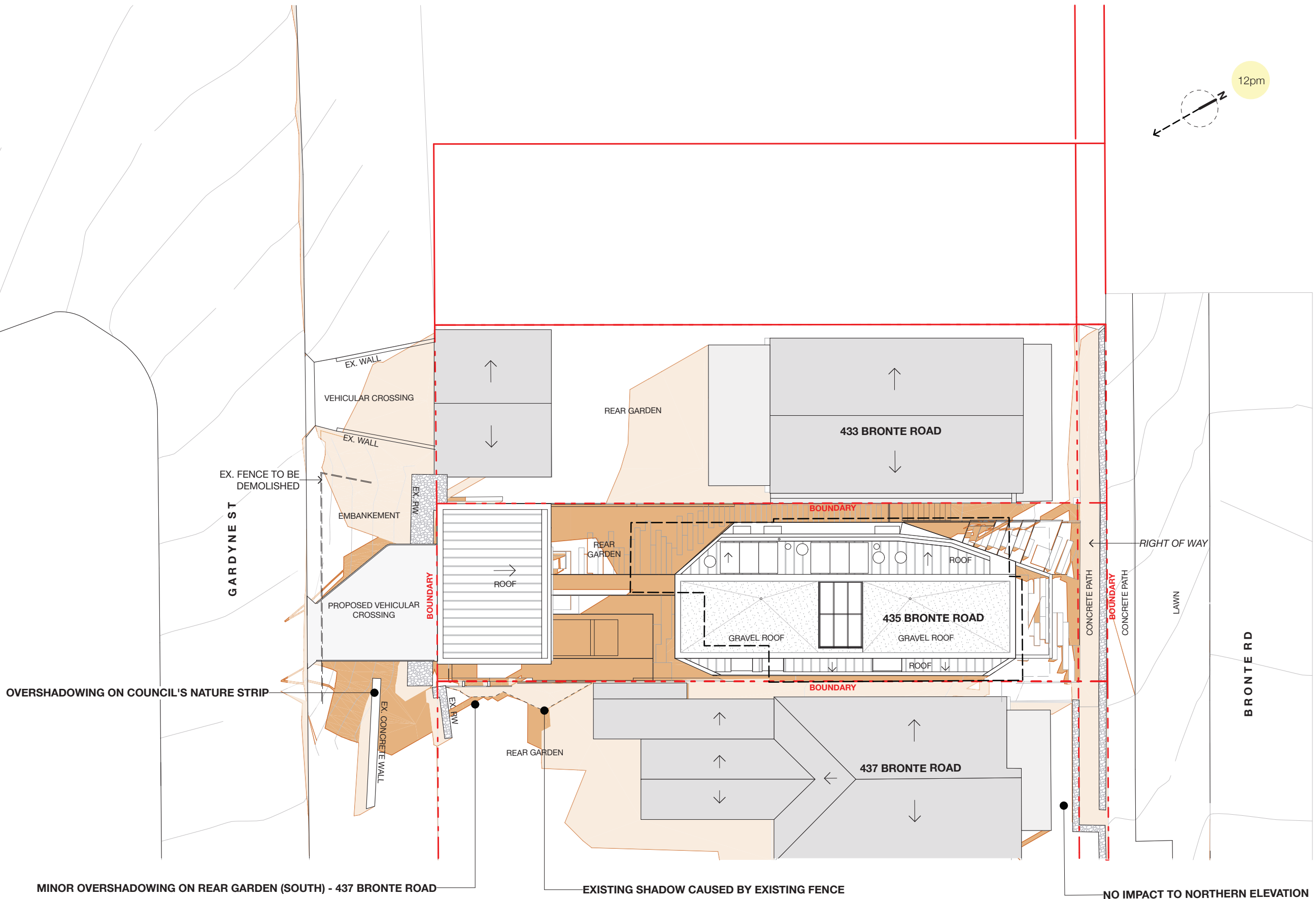
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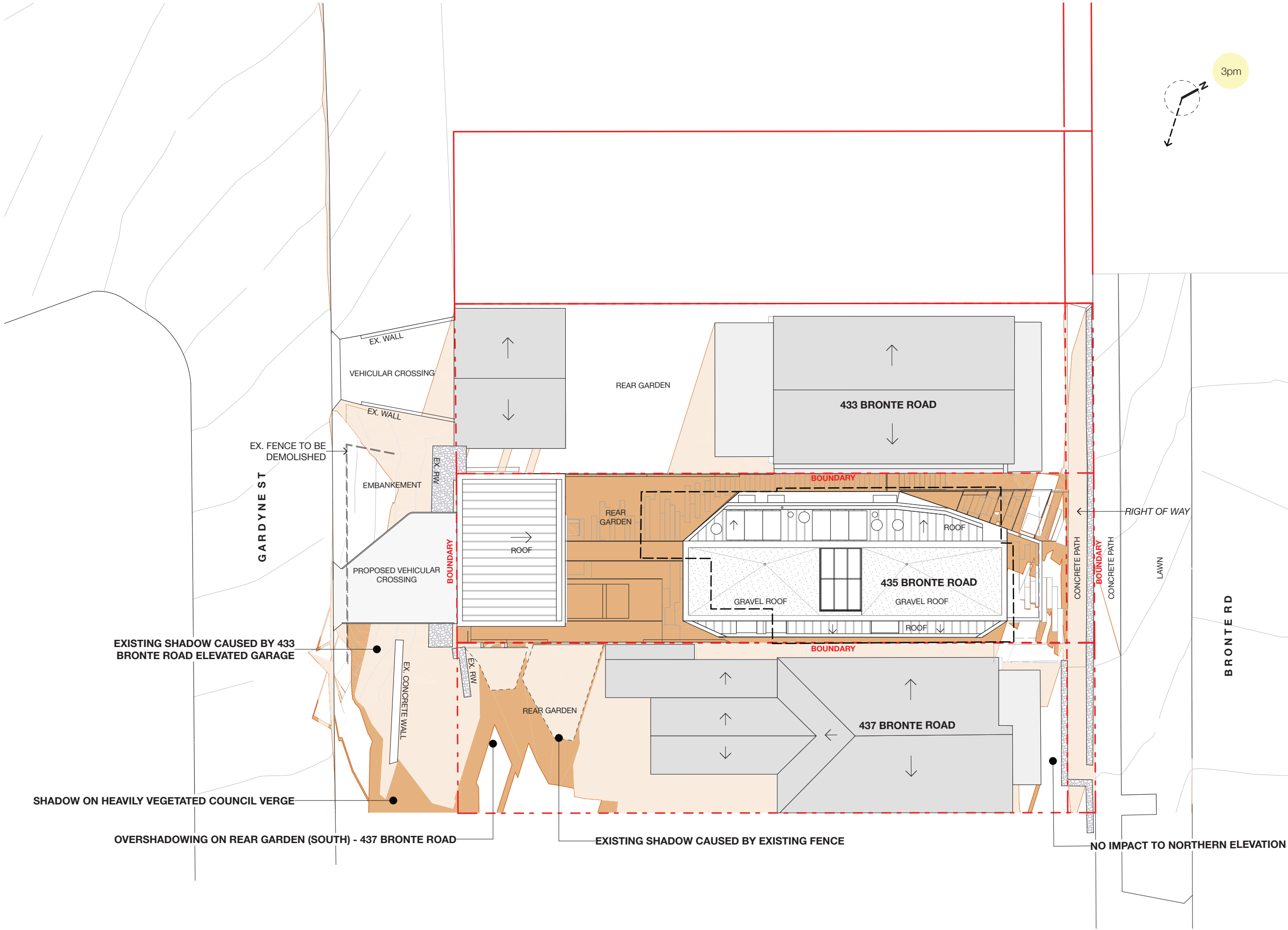
DRAWING
Shadow Diagram 21
June 12pm

DRAWING NO.
793_DA121

REV.
Q

171





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Application No: DA-480/2018

Date Received: 11/06/2019

- EXISTING SHADOWS
- NEW SHADOWS

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17/12/2018	P	DA SUBMISSION
11/06/2019	Q	REQUEST FOR INFORMATION

PROJECT

793 Aaron - New Dwelling

Gary + Sharon Aaron

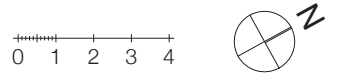
435 Bronte Road,
Bronte NSW 2024

LOT 4 DP 105849

DATE: 11/06/2019

DRAWN: JU/CS/EJ

SCALE: 1:200 @A3



DRAWING
Shadow Diagram 21
June 3pm

DRAWING NO.
793_DA122

REV.
Q

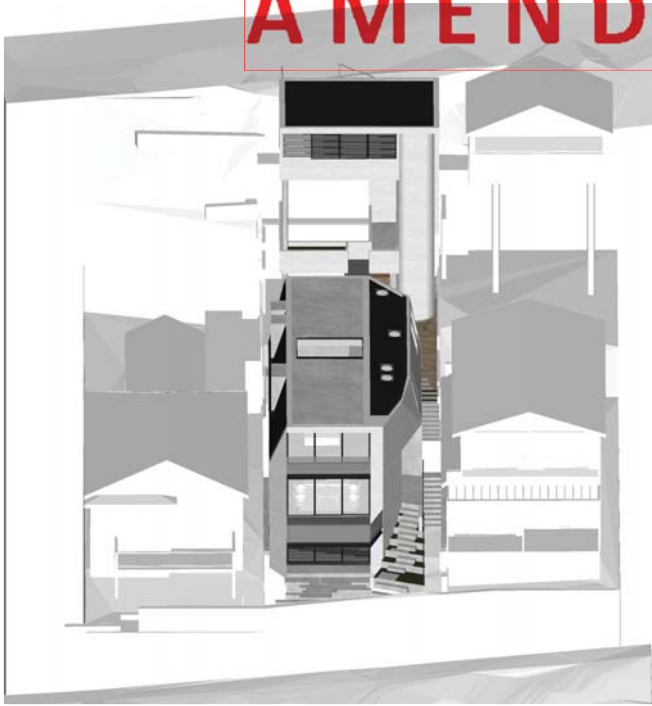
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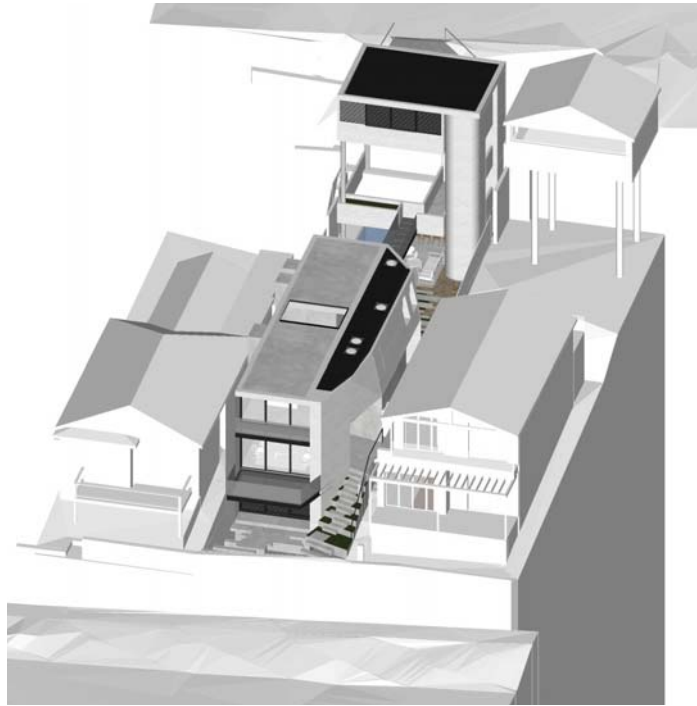
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9am



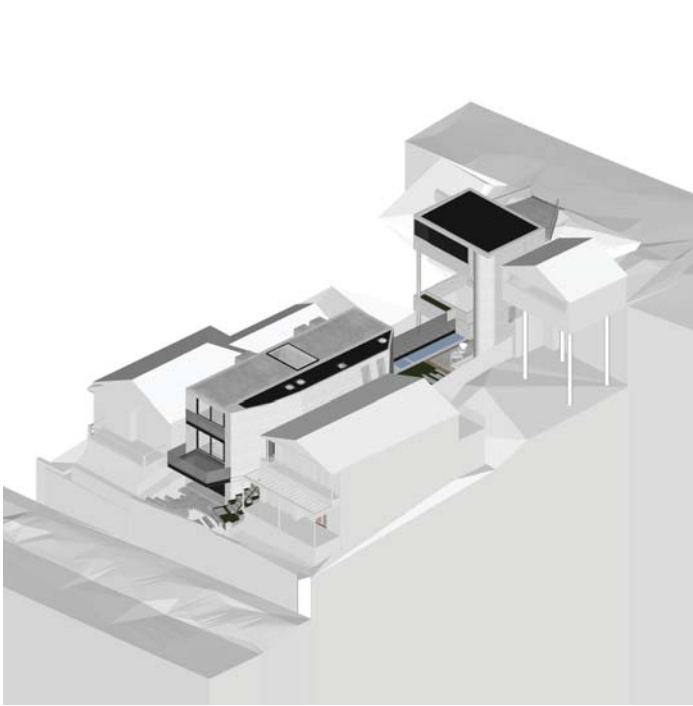
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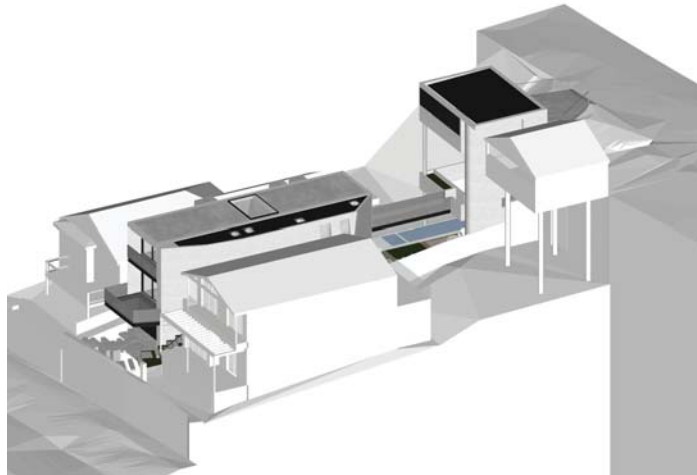
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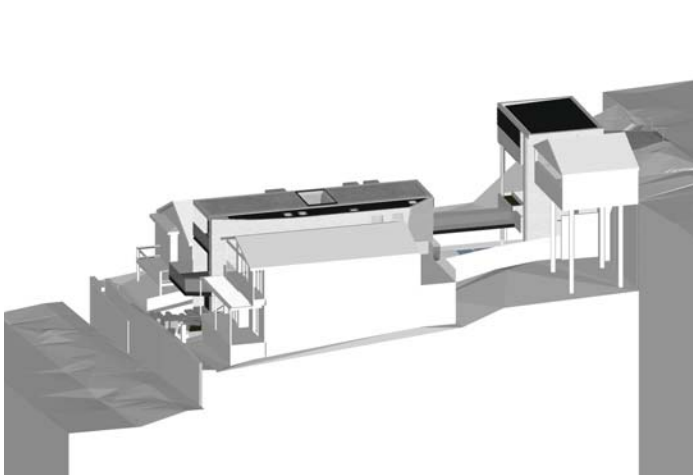
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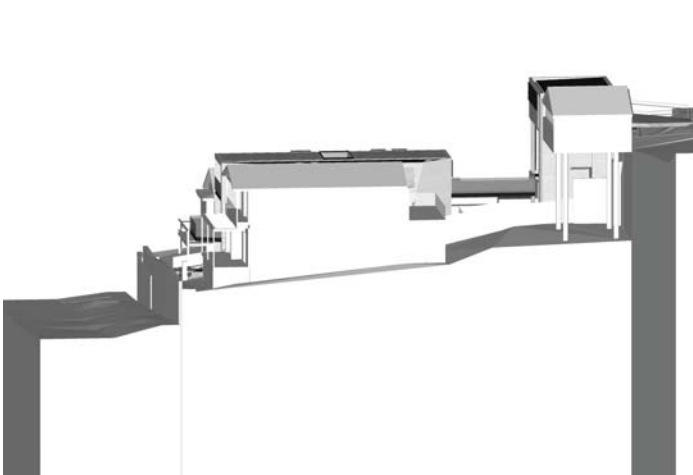
1pm



2pm



3pm



4pm

AMENDED PLANS

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Application No: DA-480/2018

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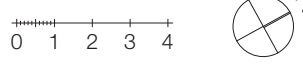
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Gary + Sharon Aaron
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Bronte NSW 2024
LOT 4 DP 105849

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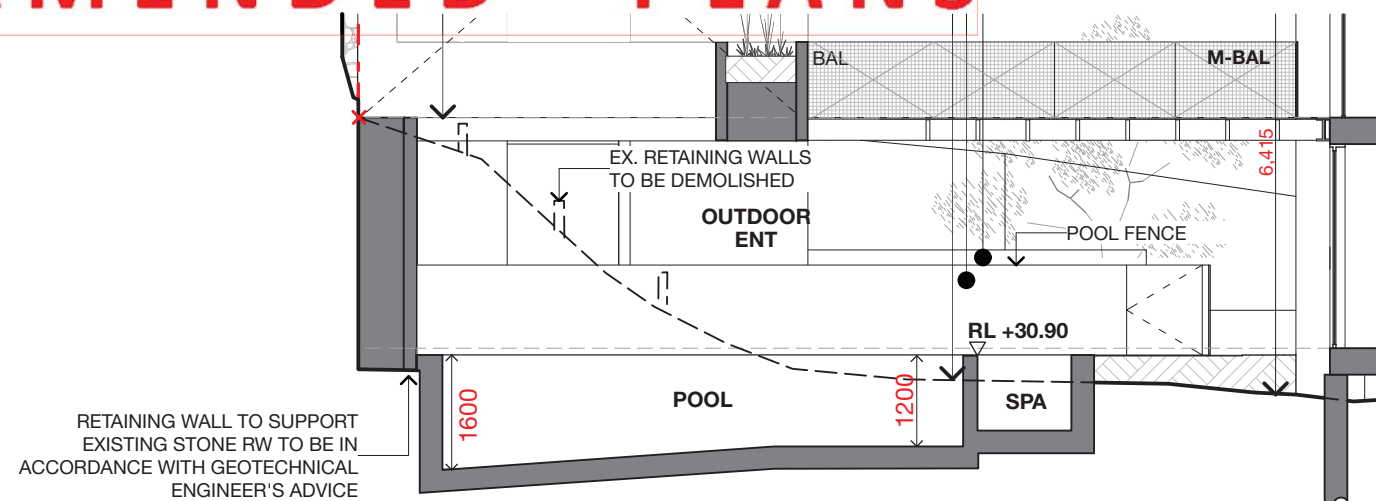
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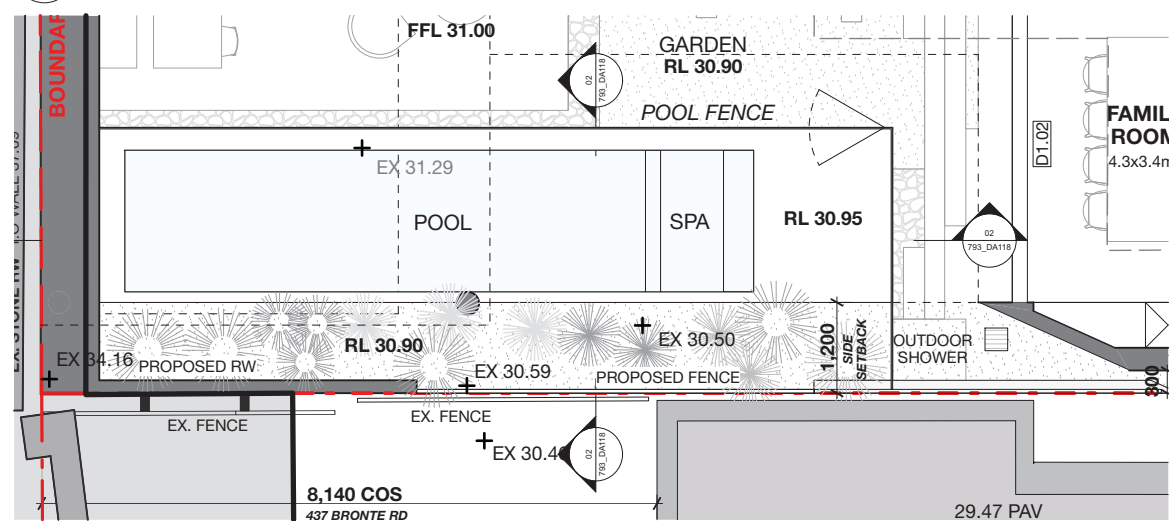
DRAWING
**View From Sun
Diagrams**

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793_DA123	Q

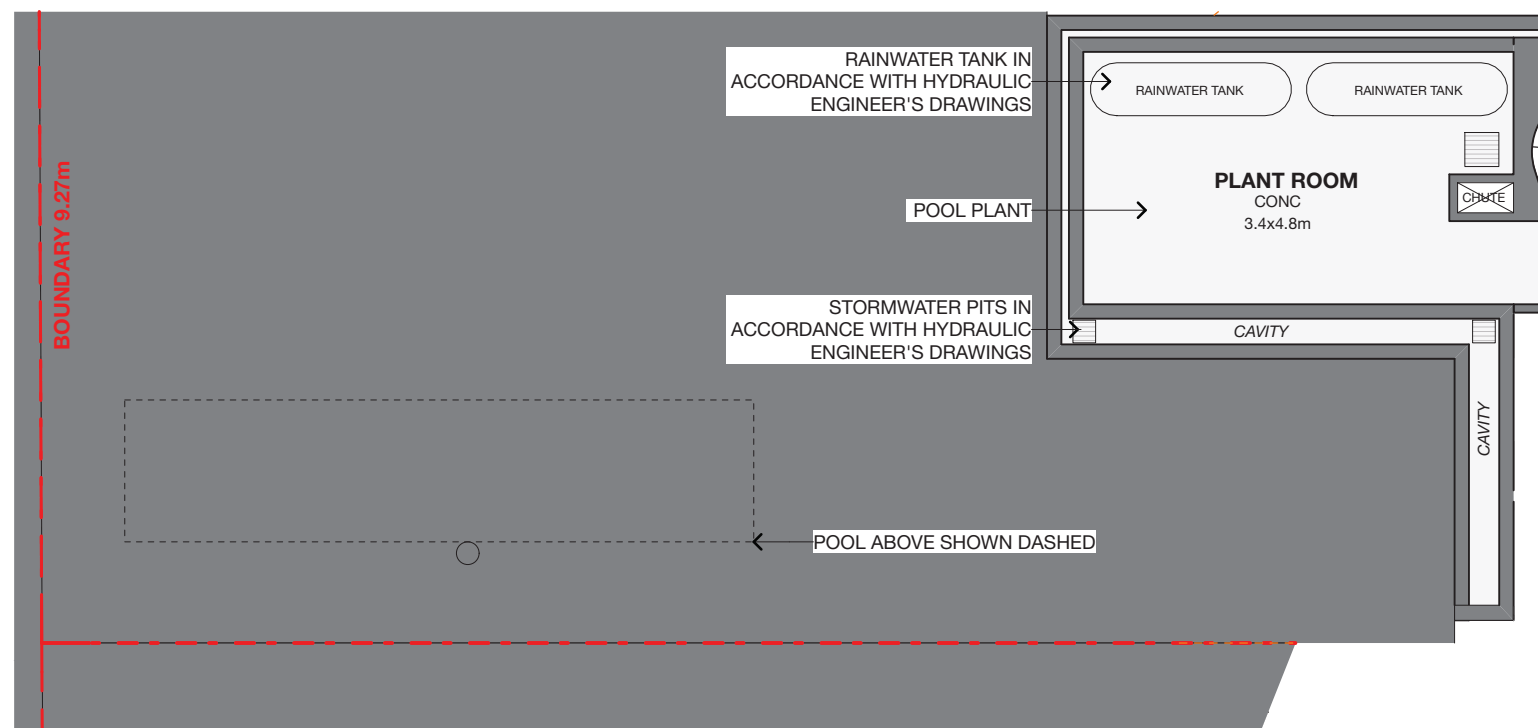
AMENDED PLANS



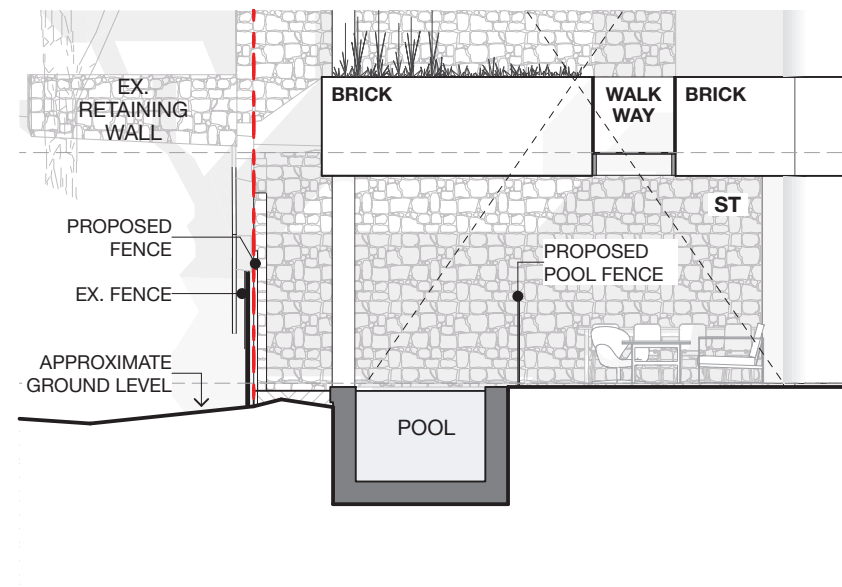
01 Section A Pool
1:100



01 Ground Level - Pool Plan
1:100



02 Pool Plant Room
1:100



01 Garage - North Elevation

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LEGEND

Application No: DA-480/2018

 EXISTING WALL

Date Received: 11/06/2019

— — — MAXIMUM BUILDING HEIGHT 8.5m

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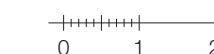
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SCALE: 1:100 @A3



DRAWING

Additional Pool Information

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793 DA124 Q

notes:

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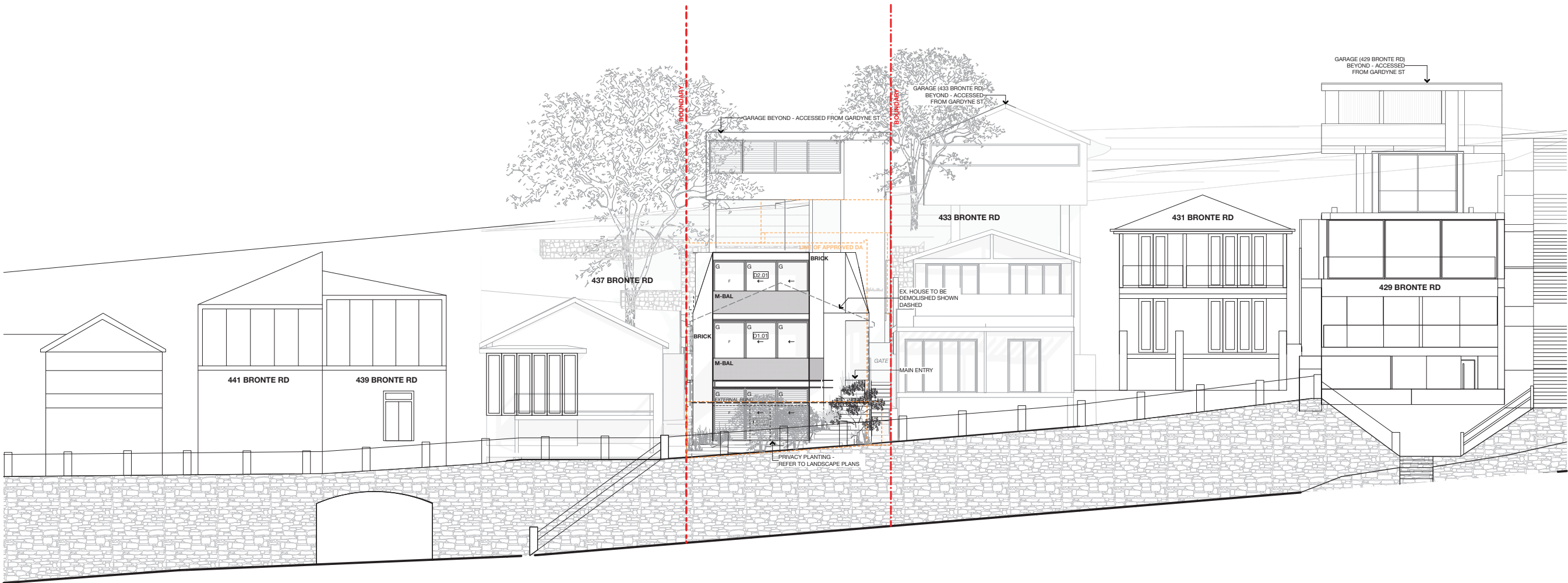
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SCALE: 1:200 @A3

DRAWING
Street Elevation

DRAWING NO.
793_DA125

REV.
Q



Street View Analysis indicative only



01 Existing Site



02 Garage Proposal

Note:

- View of Proposed Garage as shown from Gardyne Street
- Existing tree to be retained has been shown with transparency
- When viewed from opposite angle, garage at 233 Bronte Road is completely hidden by trees. This view chosen shows a more complete relationship with neighbouring garages

notes:

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DRAWING
Montage Gardyne
Street

DRAWING NO.
793_DA126

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NORTHERN GARAGE AS VIEWED FROM BALCONY OF 433 BRONTE ROAD

notes:

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DRAWING
Garage Photmontage

DRAWING NO.
793_DA127

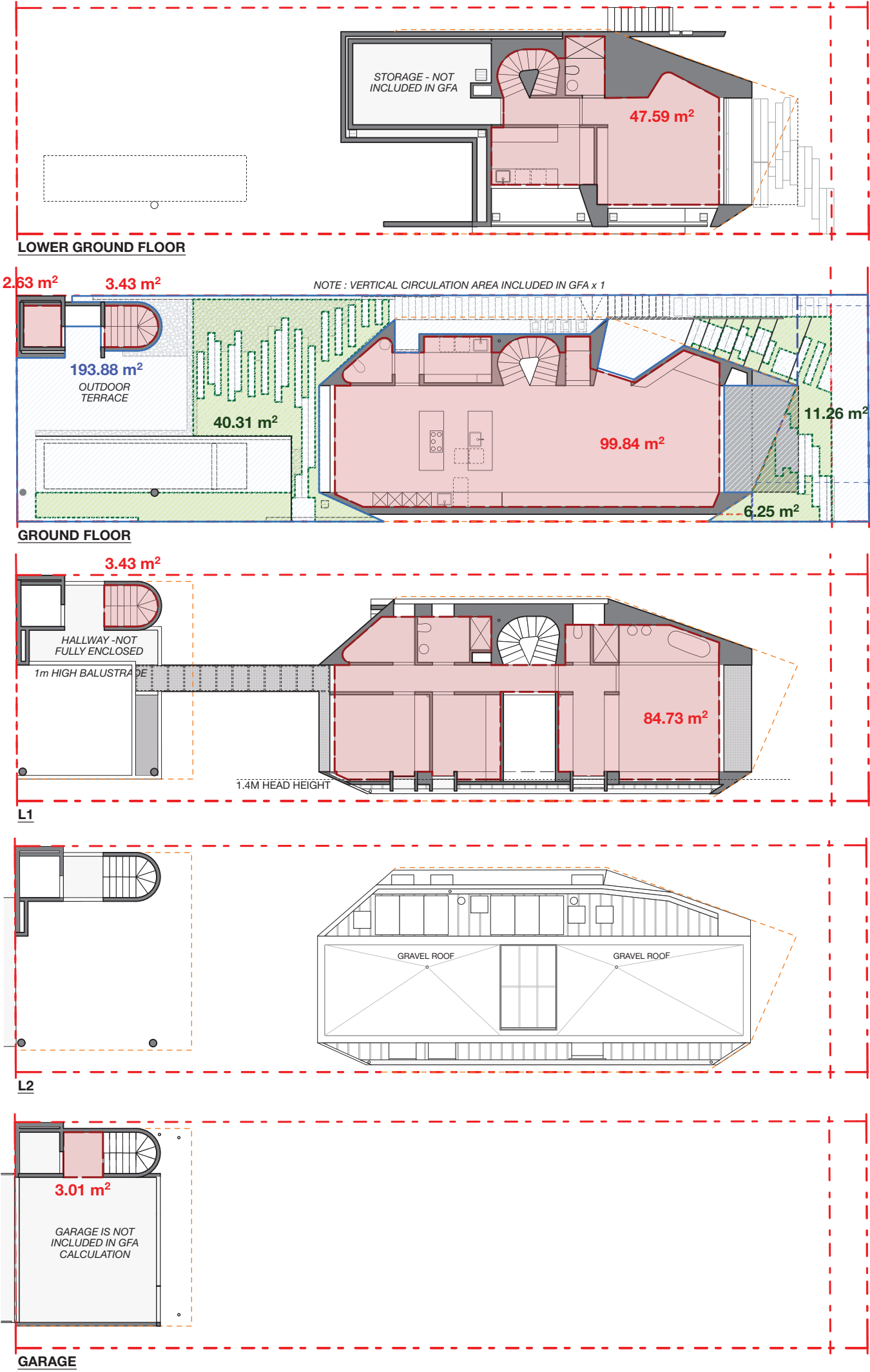
REV.
Q

LEGEND

- GFA
- LANDSCAPED AREA
- OPEN SPACE

AREA CALCULATION

	CONTROL		EXISTING		PROPOSED		COMPLIANCE
Site Area	324.5m2						
FSR (WLEP)	0.75 : 1		0.38 : 1 123.39 : 324.5m2		0.75 : 1 244.66 : 324.5m2		Yes
Open Space (DCP)	40%	129.8m2	60%	196m2	60%	193.88m2	Yes
Landscape Area	15%	48.675m2	31.60%	102.55m2	18%	57.82m2	Yes



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0 1 2 3 4



DRAWING
GFA Diagram

DRAWING NO.
793_DA105

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Report to the Waverley Local Planning Panel

Application number	DA-381/2018
Site address	262 Campbell Parade, Bondi Beach
Proposal	Demolition of existing shop top housing and construction of a new shop top housing containing shops, residential units and basement parking
Date of lodgement	25 October 2018
Owner	57 Glenayr Avenue Pty Ltd
Applicant	Moore Properties Bondi Pty Ltd
Submissions	<ul style="list-style-type: none"> Fifteen submissions to the original proposal Fourteen submissions to the amended proposal
Cost of works	\$11,606,082.23
Issues	<ul style="list-style-type: none"> Existing use rights Height View impacts Parking
Recommendation	That the application be granted a DEFERRED COMMENCEMENT CONSENT

Site Map



1. PREAMBLE

1.1 Site and Surrounding Locality

The site is identified as Lots 7 and 8 in DP 14120, known as 262 Campbell Parade, Bondi Beach. The site is located on the northern side of Campbell Parade on the corner with Ramsgate Avenue opposite North Bondi Surf Club and North Bondi Beach.

The site is irregular in shape comprised of frontage on both Ramsgate Avenue and Campbell Parade. The site has an area of 329.8m² and falls from the corner with Ramsgate Avenue (east) towards the west along Campbell Parade by approximately 1.17 metres. The site also falls from the north (Ramsgate Avenue) to the south (Campbell Parade) by almost 2 metres.

The site contains a part three and four-storey mixed use building with a café at the ground floor level on the corner with Ramsgate Avenue and residential units on the levels above. There is no vehicular access to the site.

The subject site is adjoined by No. 252 Campbell Parade, a part three and four-storey mixed use building, with a café/restaurant at the ground floor level and a boarding house above. To the east, on the opposite corner with Ramsgate Avenue, are two mixed use buildings, No. 110-114 Ramsgate Avenue and No. 264-268 Campbell Parade, both with cafes at the ground level with residential units above. No. 110-114 Ramsgate Avenue is a three-storey building and No. 264-268 Campbell Parade is a four-storey building. The locality is characterised by a variety of residential development, including medium and low density residential flat buildings and dwellings.



Figure 1: Subject site frontage to Campbell Parade



Figure 2: Site viewed from the corner of Ramsgate Avenue



Figure 3: Site viewed from Ramsgate Avenue

1.2 Relevant History

Existing Use Rights

A search of Council records indicates the following historic consents relate to 262 Campbell Parade:

- DA-151/1978: Use ground floor shop premises as sandwich shop approved on 31 October 1978.
- DA-146/1979: Use take away premises as hot food bar approved on 23 November 1979.

The above consents are the earliest records found that relate to the shop at 262 Campbell Parade. These consents refer to the shop as existing indicating that this shop was in existence and in use, prior to the earliest consents found. In this regard, Council is satisfied that the site benefits from existing use rights.

Recent development history

Deferred commencement consent was granted for **DA-560/2016** for the demolition of buildings and construction of a four and five-storey mixed use building with basement parking over the subject site and the adjoining property at 252 Campbell Parade by the Waverley Local Planning Panel (WLPP) on 28 March 2018. There are a number of deferred commencement conditions however the most relevant to this application (ie, relating to design changes) are as follows:

1) DESIGN CHANGES AND AMENDED PLANS

- (a) *The uppermost level (fifth storey identified as 'Level 03' on plans) of the building and the unit it contains (nominated as Apt 10 on the plans) is not approved and shall be deleted from the proposal. The building (including height of the street wall of the proposal and the roof level) shall not extend above RL 19.3. Only the roof plant/services, including the lift overrun, mechanical plant (ie. carpark discharge) and AC condensers as indicated on the plans shall be permitted to extend above RL 19.3. The area on the roof utilised for plant is to be as minimal as possible. The lift and stairs shall extend only to Level 02 of the building (as nominated on the plans) and shall not extend to the roof. The roof plant/services must not exceed RL 20.3 and are to be located in the centre of the roof. The plant room shown on level 03 plan shall be relocated to level 02.*

Amended by WDAP 28/3/2018

- (b) *The amended roof level shall not be used as a trafficable area and may only be accessed for maintenance purposes only. In this regard, no decking or open space area shall be shown on the plans and as required in 1) above, the lift shall not extend to the roof level. An amended roof plan shall be provided.*
- (c) *The glass line at the retail frontage shall align with the front boundary along Campbell Parade to eliminate the pedestrian hazard of the soffit at the street level. In this regard, the retail level (including glazing) shall be built up to the Campbell Parade frontage boundary with no setback.*
- (d) *An elevation along the shared boundary with No. 250 Campbell Parade is required. Treatment of the wall on this boundary shall be of a high finish to match the proposed building.*

- (e) *The thin wall element adjacent to the windows at the western extent of the Campbell Parade elevation (directly adjoining No. 250 Campbell Parade) should be increased in width to maintain the appearance of a solid wall with punched openings.*
- (f) *The all white exterior of the building should be relieved through inclusion of other colours subtly incorporated in door and window reveals and inset balconies, the colours preferably of soft pastel or marine referenced tones. An amended Schedule of External Finishes shall be submitted in this regard.*
- (g) *All plant associated with the carlift and turntable shall be contained internal to the building (preferably within the basement) with details to be provided.*
- (h) *Provision for 2 street trees and tree pits in the verge on the Ramsgate Avenue frontage of the site.*
- (i) *Accepting the suitability in this case of using a new architectural vocabulary for the exterior of the building, the submission of a revised fenestration design more influenced by the fenestration patterns of the characteristic buildings in Campbell Parade is required. The characteristic buildings generally have more regular (less random) alignment of rectangular windows.*

Added by WDAP 28/3/2018

- (j) *With reference to DA-0701/17, the glazing is to be located a minimum of 100mm back from the external wall face of the building, and the use of raised architraves be confirmed and shown on all relevant drawings.*

Added by WDAP 28/3/2018

DA-560/2016/A to extend the period in which to satisfy the deferred commencement conditions to 2 years was approved on 28 February 2019.

The subject development application, DA-381/2018, relates to 262 Campbell Parade only. The previous development application (DA-560/2016) extended between 252 – 262 Campbell Parade, which is no longer sought, with the redevelopment being limited to the site area known as 262 Campbell Parade only. According, a new development application has been lodged for similar development, but on the smaller site area. This application was deferred after initial assessment to address matters summarised as follows:

- The height shall not exceed RL 19.3 consistent with the previous consent DA-560/2016. This height was previously approved after consideration of all issues including the streetscape, the offsetting of view loss with view gain and bulk and scale impacts.
- The proposal shall be amended to provide a lightwell on the western side boundary that mirrors the lightwell approved under DA-553/2011.
- Private open spaces for 3-bed units at Level 02 do not meet the minimum required by the ADG.
- The 3-bedroom units at Level 03 do not provide private open space as a direct extension of the living area providing roof terraces instead. The roof terraces do not comply with the North Bondi Character Area controls within DCP 2012 and may also impact upon views. Again, there is scope to provide these at the lower levels without compromising the size of the internal areas to an extent that they wouldn't comply with the ADG. In this regard, the roof terraces shall be deleted and the private open spaces for these units provided on Level 03.
- The overhanging wall on the street corner with Ramsgate Avenue is a potential hazard to pedestrians. The plans shall be amended to align the glass line with the boundary.

- A landscaping niche shall be provided on the Ramsgate Avenue frontage consistent with the previously approved building under DA-560/2016.
- The full height glass detail and concealed parapet is not considered a satisfactory solution. The masonry finish shall be continued for the full extent of the upper floor level.
- Winter sun access to ADG standards is provided to 43% of the apartments. Apt 1.3 internal planning could be reviewed and north facing clerestory windows considered for Apt 3.1 and 3.2.
- Consideration should be given to Council's Planning Agreement Policy for any breach above the existing gross floor area (GFA) (as certified by a Surveyor

Amended plans and all outstanding related information were received on 31 August 2019. These form the subject of the assessment within this report.

252 Campbell Parade

It is also worth noting the consents issued for the adjoining site to the west at **252 Campbell Parade**, which in the most previous consent was part of the development site:

- **DA-553/2011** for the demolition of the existing building and construction of a mixed use building including a cafe/restaurant and garage at the ground floor level and two dwellings above was approved by the Development Control Committee (DCC) on 23 October 2013 at 252 Campbell Parade, Bondi Beach.
- **DA-553/2011/A** for modifications including changes to external walls and openings, internal layout, auto parking system and the enclosure of a section of rooftop terrace which essentially sought approval for a fifth level on the building was refused by the Development and Building Unit (DBU) on 29 June 2015.
- A Construction Certificate (**CCB-360/2017**) was issued on 1 November 2017 relating to Stage 1 – driveway crossing and partial ground floor slab to Ramsgate Avenue façade works. Based on this, the development consent (DA-553/2011) remains active.

1.3 Proposal

The amended proposal seeks consent for the demolition of the existing buildings on the site and the construction of a four-storey shop top housing development with basement parking. Specifically, the proposal involves the following:

- Demolition of all buildings and structures on the site.
- Construction of a mixed use building comprising three residential levels above a partly subterranean retail level.
- The residential component of the proposal will provide six units comprised of 2 x 2-bedroom and 4 x 3-bedroom apartments.
- The retail component will provide 155m² of retail space in the form of two separate shops with entries at ground level extending across the Campbell Parade frontage of the site. The uses of each retail shop have not been nominated at this stage. The shops will be partly below ground level however the entries will be at grade.
- The proposal provides three levels of basement parking for 12 vehicles, 6 motorbike spaces, 14 bicycle spaces and 12 storage units. The car park will be accessed via Ramsgate Avenue to a car lift to the basement levels.

2. ASSESSMENT

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

2.1 Planning Instruments and Development Control Plans

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

2.1.1 SEPP (Building Sustainability Index – BASIX) 2004

BASIX and NatHERS Certificates have been submitted with the development application.

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

2.1.2 SEPP 55 Remediation of Land

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

2.1.3 SEPP 65 Design Quality of Residential Flat Development

The original proposal was referred to the Design Excellence Panel (DEP) on 10 December 2018. The Panel's comment in relation to the proposed development with regard to the nine design quality principles under SEPP 65 are set out in **Table 1** below. A planning response is below each principle, where relevant, discussing the amended plans in relation to matters raised by the DEP.

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

Principle
Principle 1: Context and Neighbourhood
<i>The existing and the proposed building are, and would be, part of the street-wall of four to five storeys that uniquely characterises much of Campbell Parade and the street life of Bondi Beach. The site is opposite the recent and award-winning North Bondi Surf Lifesaving Club building and is one site removed from the distinguished (heritage listed) 1930s building of The Rose Bay Surf Club. The Council's recent well-designed changing rooms are immediately across the road.</i>
<i>Other significant features of this locality are the very busy signalised pedestrian crossing to the beach, bus stops, a taxi stand, considerable pedestrian movement and the popular cafes that spill out onto the pavement from the buildings on the subject site. It is at the shortest distance that Campbell Parade is from the beach and is a very popular location.</i>
Principle 2: Built Form and Scale
<i>The scale and built form of the proposed building provides a strong street wall and good relationship with the heritage surf club. The proposal is generally considered appropriate for its location, however there are a few small issues that need to be addressed:</i>

- *The facades to Apartments 3.1 and 3.2 should be reconsidered in relation to operation, performance, weather protection (south-easterly rain) and the scale of the parapet line in relation to the south-western neighbour. The full height glass detail and concealed parapet is not considered a satisfactory solution. South facing glass is subject to high afternoon summer heat loads as the sun sets well south of west.*
- *Could one basement level be removed if tandem parking is considered for residents in the eastern corner and the south-western 2 car parks rotated to align with the tandem car parks?*
- *The common stairs could have windows on each level and a hold-open fire door so that the common lobbies achieve natural light and possibly ventilation. The upper level lobby could have a skylight if fire separation distances can be achieved.*
- *Size and position of plant and mechanical risers (from basement as well as units) should be more thoroughly investigated.*
- *Pedestrian safety in relation to the shop's recessed glazing and the rising footpath level. Some ground-cover landscape planting could be used*
- *Some preliminary construction details should be provided such as large-scale details for the thin metal awning, the roof falls insulation and pebble ballast, balconies, glazing and sunhoods, and roof terraces. These should demonstrate that the floor-to-floor and floor-to-roof heights work within the height limit.*
- *Retail ceiling heights need to be confirmed.*

Planning comment: The amended plans have addressed a number of the matters raised above with the full height glazing to the top floor level being replaced with masonry, the common stairs being provided with a window at each level and the size and position of mechanical plant being shown on the roof plan. Further details in regards to the retail ceiling heights and preliminary construction details to indicate that the minimum 2.7m floor-to-ceiling height can be accommodated within the stated floor-to-floor height has also been provided. These details are considered satisfactory.

In regards, to the recessed glazing at the street level, the amended plans have retained the front glazing line of the retail shops which remains slightly setback from Campbell Parade creating an overhang at the footpath. The applicant has proposed a landscaping strip in front of the glassline to address this issue. However, this solution requires upkeep and maintenance of the landscaping in a heavily overshadowed area to be effective long-term. A more simple and effective solution is to align the glass line of the shops with the front boundary along Campbell Parade thereby eliminating this hazard as was required by deferred commencement condition in the previous consent, DA-560/2016. This is included as a condition of deferred commencement in Appendix A.

The basement car park remains as three levels and is discussed in detail in subsequent sections of this report.

Principle 3: Density

Although the permissible FSR is 0.9:1 it is the Panel's opinion that the proposed FSR of 2.97:1 could be considered acceptable for this site and location due to the high amenity of the area, however the proposal will need to be satisfactorily improved to address the issues in this report.

Planning comment: Deferred commencement conditions recommended in regards to the provision of private open space on Level 03 will result in a minor reduction in gross floor area (detailed later in this report) and subsequently FSR. An assessment against the FSR of the proposal is provided under Section 2.1.7 of this report and is considered acceptable.

Principle 4: Sustainability

The proposal has a good framework for passive performance and the Panel accepts that the orientation of the living rooms could be changed to achieve ADG compliance however the views to the south are important in this iconic location. Only one apartment is single-orientation and it is shallow and wide with a central open terrace with a solid balustrade.

Panel's concerns follow:

- 1. Sun-control and weather protection should be provided to the exposed glazing on the upper floor.*
- 2. Winter sun access to ADG standards is provided to 43% of the apartments. Apt 1.3 internal planning could be reviewed and north facing clerestory windows considered for Apt 3.1 and 3.2.*
- 3. Window design and function on the south elevation need to be described.*
- 4. Ceiling fans should be provided in all habitable rooms and shown on the drawings – they are noted in the SEE but not shown on the plans.*
- 5. Light and ventilation provided to lobbies via the stair and hold-open doors*
- 6. Excavation kept to a minimum*
- 7. Glass roof design – these have the potential to add considerable heat loads to units 3.1 and 3.2. Preferably they would be shaded, weather protected and ventilating.*
- 8. Solar panels should be provided on the roof.*

Planning comment: The amended plans address the comments raised above in the following manner:

1. The exposed glazing on the upper floor level has now been replaced with masonry.
2. The amended plans have provided a large skylight to the kitchen of Apt 3.2 and an operable glazed skylight as an access hatch to the spiral stairs to the roof terrace of Apt 3.1. As will be discussed later in this report, the roof terraces are considered inappropriate and are recommended to be deleted by deferred commencement conditions. Part of that condition will require that the stairs are deleted and the skylight roof remains. Apt 1.3 has been deleted in the amended plans.
3. The operability of the windows has now been shown on the elevations and is considered satisfactory.
4. Ceiling fans are now shown on the plans.
5. The lobbies and fire stairs have been redesigned to provide a window for light and ventilation.
6. The amended plans do not alter the proposed excavation. This is discussed in detail in subsequent sections of this report.
7. The exposed glazing on the upper floor level has now been replaced with masonry with appropriate openings.
8. An area for solar panels has been shown on the roof plan.

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

Principle 5: Landscape

The lack of deep soil area provided on site is supported by the Panel only if a good street tree planting program is entered into with discussions with Council.

As noted in this report some ground cover planting could be considered adjacent to the shopfront glazing to ensure pedestrian clearance of the low overhang.

Planning comment: The proposal includes the removal of one street tree to accommodate the driveway crossing, however two new replacement trees to the east of the driveway location have been proposed. A referral from Council's Tree Management Officer in regards to the street tree has been received. Advice provided indicates that the street tree may be removed subject to the replacement with three additional street trees and the lodgement of a bond. The recommended condition is included in Appendix B.

The amended proposal also reintroduces a vertical landscaping strip on the Ramsgate Avenue frontage required under the previous consent for the site.

The low overhang is considered unacceptable and a potential hazard regardless of landscaping. In this regard, a deferred commencement condition will require that the glassline aligns with the front boundary.

Principle 6: Amenity

The apartments are well planned and would provide a high level of amenity. Noise would be an issue and it is suggested that the ceilings of the recessed balconies be finished with an acoustic treatment to reduce the reflection of noise into the rooms behind them.

Natural light and ventilation should be provided in the lift and stair lobby.

The lack of provision of communal open space could be argued due to the high amenity afforded by Bondi Beach.

The open nature of the roof terraces, lack of shading provision and lack of privacy separation may be an issue and should be given due consideration.

Planning comment: A condition regarding the acoustic treatment of the balconies is included in Appendix A. The amended plans provide light and ventilation to the lift lobby by way of a northern orientation window. The roof terraces are recommended to be deleted by way of deferred commencement condition.

The proposal does not provide communal open space however all units will be provided with a balcony which will meet the requirements of the ADG. The site is opposite North Bondi Beach and Park with ample opportunities for open space.

Principle 7: Safety

The pedestrian safety needs to be considered as noted above.

Section A on drawing 0601 shows a climbable roof incline where a vertical balustrade would provide better safety.

The roller door position for the car lift needs to be coordinated between the plan and the section and safety sight lines checked.

The access requirements for a Class 2 building need to be checked. Access requirements to entrance doorways and the handrails on commons stairs or ramps need to be clarified.

Planning comment: The low overhang has been previously discussed. The amended plans have removed one apartment which removes the climbable incline at the roof. Cars will enter and

leave the car lift in a forward direction. Technical Services have reviewed the plans and have raised no issue with the sightlines from the car lift. A condition will require compliance with the Building Code of Australia (BCA). The matters relating to the BCA are not part of the development application process and are checked at the construction certification stage.

Principle 8: Housing Diversity and Social Interaction

No communal space is provided however the surrounding high amenity public open space and facilities provide adequate opportunities for social interaction. The diversity of units in this small development is considered appropriate.

Planning comment: The amended plans delete the 1-bedroom unit however the mix of units continues to be appropriate.

Principle 9: Aesthetics

The proposal has the potential to be a sophisticated work of architecture that would fit in well with its well-designed neighbours. Some improvement is needed in relation to the design of the window head, parapet and weather protection for Apartments 3.1 and 3.2.

The applicant should provide cross-sections at a minimum 1:20 scale that describe the proposed construction and façade details that are important to ensure clear definition of design intentions will be carried through into documentation.

The Applicant indicated a pigmented render finish was intended, and it will be critical that there is detailed technical investigation to support the preferred approach and ensure a quality outcome that will not deteriorate over time in the harsh coastal environment.

Planning comment: The amended plans address the matters raised by the Panel. The schedule of finishes includes render for the main finish of the building. A further deferred commencement condition in regards to finishes is included in Appendix A.

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 compliance

Design Criteria	Compliance	Comment
3F Visual privacy		
<p>Min separation distances from buildings to side and rear boundaries to provide separation between windows and balconies:</p> <ul style="list-style-type: none"> Up to 12m (4 storeys) – 6m habitable & 3m non-habitable 	No	Refer to detailed discussion following this table.
4A Solar and daylight access		
<ul style="list-style-type: none"> Living rooms and private open spaces of at least 70% of units receive minimum of 2 hours direct sunlight between 9am-3pm mid-winter A maximum of 15% receive no direct sunlight between 9am-3pm mid-winter. 	No	<p>Only 50% of units (3 out of the 6 proposed) achieve 2 hours of solar access to living areas and balconies (private open space). However it should be noted that the site is positioned to overlook Bondi Beach and the iconic views it provides. In this regard, living areas and balconies have been orientated toward the south to achieve these views. Providing main living area windows and balconies on the Campbell Parade frontage also reduces privacy conflicts with residential properties opposite the site on Ramsgate Avenue.</p> <p>Given the unique characteristics of the site, it is considered appropriate to provide the main windows and balconies on the southern side of the building and the variation to the solar access controls of the ADG is supported in this instance.</p>
4B Natural ventilation		
<ul style="list-style-type: none"> All habitable rooms are naturally ventilated Number of units with natural cross ventilation is maximised: <ul style="list-style-type: none"> At least 60% of units naturally ventilated 	Yes	<p>All habitable rooms are provided with a window for ventilation.</p> <p>The proposal provides 86% of units with natural cross ventilation.</p>
4C Ceiling heights		
<ul style="list-style-type: none"> Habitable rooms – 2.7m Non-habitable rooms – 2.4m If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use 	Yes	<p>Each residential level achieves a floor-to-ceiling height of 2.7m.</p> <p>The site is not located within a mixed use area therefore technically does not need to comply with the higher floor-to-ceiling heights required for the retail and first floor levels.</p> <p>Notwithstanding, the retail level provides 2.985m (Retail 01) and 3.385m (Retail 02). Retail</p>

Design Criteria	Compliance	Comment
		<p>01 has a slightly substandard ceiling height however the slope of the site, both along the site and across it, necessitates the ceiling height proposed whilst ensuring that the overall height of the building is not increased (due to view impacts and streetscape as discussed in further detail in later sections of this report). The ceiling heights for the retail element are considered appropriate for this site.</p> <p>Given the zoning of the site as R3, increased ceiling heights at the first floor level are not necessary as office uses are not permitted.</p>
4D Apartment size and layout		
<p>The following minimum internal areas apply:</p> <ul style="list-style-type: none"> • 2 Bed = 70 m² • 3 Bed = 90 m² • Add 5m² for each additional bathroom (above 1) <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes (subject to condition)</p>	<ul style="list-style-type: none"> • 2-bed units range from 93m² to 112m² • 3-bed units range from 117m² to 143m² • Additional bathrooms have been accounted for in the above calculations and comply with the requirements of the ADG. <p>All habitable rooms are provided with a window in an external wall. It is noted that glazing to each room will have an area greater than 10% however the proposal incorporates stone sliding screens to many habitable windows. A condition will be provided to ensure that the screens are not so large as to inhibit compliance with this control.</p>
4E Private open space and balconies		
<p>All apartments provide primary balcony as follows:</p> <ul style="list-style-type: none"> • 2-bed - 10m² & 2m depth • 3+bed - 12m² & 2.4m depth <p>Primary open space and balconies should be located adjacent to living areas and extend the space</p>	<p>Yes</p> <p>Yes</p> <p>No</p>	<ul style="list-style-type: none"> • 2-bed units - both balconies provide at least 12m² and min 2.5m depth • 3-bed units – Level 02 balconies provide at least 12m² and min 2.5m depth. The 3-bed units at Level 03 provide roof terraces with areas 28m² to 36m². <p>This issue is discussed in detail following this table.</p>
4F Common circulation and spaces		
Max of 8 units accessed off a circulation core on a single level	Yes	Maximum of two units accessed from the circulation core on each level.

4G Storage		
In addition to kitchens, bathrooms and bedrooms, the following is provided: <ul style="list-style-type: none"> • 1-bed – 6m³ • 2-bed – 8m³ • 3+bed – 10m³ 	Yes	The proposal provides 12 storage cages each with a volume of 10m ³ within the basement car park in addition to bicycle parking. Additional storage is also provided within the apartments proper.

Visual privacy

The subject site is three-sided with two frontages being to roadways and the third boundary adjoining No. 252 Campbell Parade.

The proposal fronts Campbell Parade where a strong street wall is required. As such, the building is built up to the western side boundary shared with No. 252 Campbell Parade along the main frontage of Campbell Parade. No. 252 Campbell Parade has windows on the eastern side to the rear of the Campbell Parade frontage set back only a minimal distance. These windows are to boarding rooms and are fire protected due to the minimal distance from the boundary. The proposal will be approximately 1300mm from these windows however there are no windows along the boundary wall to the subject development.

Notwithstanding the above, No. 252 Campbell Parade has consent for a four-storey shop top housing development built up to the side boundaries, including the shared boundary with the subject site, which has been activated however is not yet built. It is noted that no objections to the notification of the subject proposal have been received from this property. DA-553/2011 includes glass bricks to non-habitable rooms on the side boundary wall and condition 16 of that consent requires the following:

16. BOUNDARY WINDOWS

All windows adjacent to the eastern and western boundary of the site must be sealed, bricked up or otherwise enclosed, prior to the construction of any building immediately abutting, adjoining or adjacent to such windows. The owner and future owner(s) are to acknowledge that these windows are approved on the basis that the future development of adjoining sites may fully or partially obscure these windows. A covenant to the approval of Council is to be placed on the title of the property to this effect and acknowledging the basis of approval of these windows. Evidence of the creation of the covenant is to be submitted prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

The consent for 252 Campbell Parade acknowledged that the boundary windows should not inhibit the development potential of No. 262 Campbell Parade. The replication of the nil side boundary setbacks with the subject proposal is considered acceptable and consistent with the pattern of development within the street and the desired future character of this part of Campbell Parade. In this regard, it is considered that the separation distances of the ADG should not apply along this boundary.

Notwithstanding, as part of the assessment of the approved development at No. 252 Campbell Parade, a small lightwell was required along the eastern boundary to protect windows at No. 262 Campbell Parade, the subject site. Windows were provided within the lightwell and it is considered necessary to replicate this lightwell at the subject site. The amended plans have provided this and offset the windows to habitable rooms within the lightwell so as not to be directly facing the windows to the future lightwell at No. 252. The other windows are 'snorkel' style windows to bathrooms and the separation distances are considered acceptable.

The site is opposite residential properties on Ramsgate Avenue to the north and east. Although the proposal is built up to all boundaries, a roadway separates the site from adjoining residential properties with the nearest property boundary being 15m from the subject site. In this regard, the proposal provides adequate separation from adjoining residential properties to meet the requirements of the ADG.

Private open space and balconies

The proposal includes private roof terraces accessed via stairs from the living areas of Apartments 3.1 and 3.2 below.

The roof terraces do not comply with the ADG as they are not located adjacent to the living areas nor are they an extension of the living space. The roof terraces are exposed to the elements and will likely result in view impacts from surrounding properties (discussed in more detail later in this report). In this regard, for the roof terraces to be acceptable, a condition would be required limiting furniture and roofing to ensure views are not unreasonably impacted. This will result in the roof terraces being highly exposed to wind, rain and sun. The usability and amenity of the roof terraces will be poor, and as a result, it is likely they will not be highly utilised spaces.

A far superior outcome, both for the amenity of the occupants of the development itself and surrounding properties, is to provide balconies on the level of the apartments. Apartments 3.1 and 3.2 have internal areas of 143m² and 129m² respectively, which are well above the ADG minimum size control of 95m². In this regard there is scope to provide the balconies within the envelope of the building at Level 3 (as is the case at Level 2) and continue to provide a large 3-bedroom apartment. These balconies would comply with the ADG and would have minimal impact upon surrounding properties. A deferred commencement condition to this effect is included in Appendix A.

2.1.4 SEPP (Coastal Management) 2018

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

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

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

- (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*
- (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*
- (iv) Aboriginal cultural heritage, practices and places,*
- (v) cultural and built environment heritage, and*

(b) is satisfied that:

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

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

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

The proposal does not restrict public access to the coastal zone and will protect and preserve the natural environment and the amenity and scenic quality of the coastal zone. Geotechnical advice has been provided and relevant conditions are included within the Recommendation. Overshadowing, impacts upon views from public places and the impact of the development upon environmental heritage has been considered as detailed elsewhere in this report and are considered reasonable. Wind funnelling is unlikely to increase significantly beyond that potentially already occurring given that the proposal largely follows the existing street wall on Campbell Parade and follows the pattern of development on Ramsgate Avenue.

The site is located opposite land designated as high sensitivity for Aboriginal Heritage, although not located within that area itself. This site is located within the Bondi - Rose Bay Sand Body as identified in Council's Aboriginal Cultural Heritage Study 2009. In this regard, an appropriate condition of consent is included in Appendix B requiring that 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.

It is considered that the proposal is consistent with the matters for consideration contained in the SEPP and can be supported in this regard.

2.1.5 SEPP (Affordable Rental Housing) 2009

The application was referred to Council's Strategic Housing Planner for comment in regards to the potential loss of affordable rental housing through demolition of the building. The following response was provided:

Under Part 3 Retention of Affordable Housing Clause 49(1) it states that this part is only applicable to those buildings that were low rental at 28 January 2000, and does not apply to any building that becomes low rental after that date. The applicant has outlined that they are unable to provide any information confirming whether or not the building was low rental at that time. Council is unable to find any information providing evidence to say whether or not this building was low rental at that date.

Hampstead Home Units Pty Limited v Woollahra Municipal Council [2016] NSWLEC 169 outlines that unless Council can prove the building was low rental at that date then it cannot apply the contribution from this part of the SEPP. Therefore, the applicant cannot be made to pay a contribution.

No conditions can be imposed regarding affordable rental housing contributions as the applicant has pointed out that the SEPP cannot apply to this development.

2.1.6 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

Table 3: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the LEP.
Part 2 Permitted or prohibited development		
Land Use Table R3 Medium Density Residential Zone	No	<p>The proposal is defined as 'shop top housing', which is prohibited in the R3 zone.</p> <p>The existing building was approved and constructed prior to the LEP prohibiting the use within the zone and as such is considered to be an Existing Use under Division 4.11 of the EP&A Act.</p> <p>Refer to the following section of this report for detailed discussion.</p>
Part 4 Principal development standards		
4.3 Height of buildings <ul style="list-style-type: none"> 12.5m 	No	<p>The proposal has a maximum height of 13.05m (in the centre of the site where the site is lower to provide entry to the building). However on each street frontage the proposal does not exceed the 12.5m height development standard.</p> <p>The site has existing use rights and as such, the development standards of the LEP do not apply. Notwithstanding, these standards can be used to guide development for the site as discussed in the following section of this report.</p>
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio <ul style="list-style-type: none"> 0.9:1 	No	<p>The existing building has an FSR of 2.18:1 and the proposal will increase this to 2.84:1.</p> <p>However the site has existing use rights and as such, the development standards of the LEP do not apply. Notwithstanding, these standards can be used to guide development for the site as discussed in the following section of this report.</p>

Part 5 Miscellaneous provisions		
5.10 Heritage conservation	Yes	<p>The subject site is not heritage listed however it is located within vicinity of a group of heritage listed buildings to the west at 246-248 and 250 Campbell Parade, (including the Rose Bay Surf Club) and opposite 264-268 and 270 Campbell Parade to the east on the corner with Ramsgate Avenue. The site is also located within the Bondi Beach Urban Conservation Area and located adjoining 252 Campbell Parade which is identified as a 'contributory building' in Part E2 of the DCP.</p> <p>Heritage comments from Council's Heritage and Urban Design Architect are provided under the 'Referrals' section of this report.</p> <p>The proposal is considered to respond appropriately to the context and the conservation area and is supported.</p>
Part 6 Additional local provisions		
6.1 Acid sulfate soils	Yes	<p>The site is designated as Class 4 land on the Acid Sulfate Soils Map.</p> <p>A Geotechnical and Hydrogeological Desk Study by Asset Geotechnical Engineering P/L was provided with the application which indicates that there may be implications in regards to Acid Sulfate soils. The report states that if the presence of acid sulfate soils is found on site, a soil management plan will be prepared.</p> <p>Accordingly a condition is provided within Appendix B in regard to Acid Sulfate soils.</p>
6.2 Earthworks	Yes	<p>The proposal includes extensive excavation to provide basement parking over a number of levels.</p> <p>As previously indicated a Geotechnical and Hydrogeological Desk Study was submitted with the application providing recommendations and methodology to alleviate impacts upon surrounding properties. The report states that if the development is designed and constructed in accordance with the recommendations given in the report, the impacts on adjacent developments are anticipated to be negligible</p>

		<p>and within acceptable limits. The report is referenced in the conditions of consent.</p> <p>Furthermore, all standard conditions in relation to excavation are included in Appendix B and as such the excavation proposed is considered acceptable.</p>
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Existing Use

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

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

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

Clause 4.3 Height of buildings

The existing building at No. 262 Campbell Parade is a part three and four-storey building with a maximum RL of 20.59 to the laundries on the roof level. The laundries are set back from all boundaries and do not form part of the street wall of the building on Campbell Parade. The height to the parapet of the building on Campbell Parade is a maximum of RL 18.5.

The subject proposal has a maximum RL of 20.3 to the top of the balustrades to the proposed roof terraces (overall height of 13.05m). The main building parapet along the street edges (excluding the roof terrace balustrades) will have a maximum height of RL 19.3 or 12.4m (at the lowest point of the street frontage adjoining No. 252 on the Campbell Parade frontage). In this regard, the height to the balustrades will be 290mm lower than the existing laundries on the roof and the height to the parapet on Campbell Parade will be 800mm higher than the parapet of the existing building.

The LEP development standard for the site is 12.5 metres.

The objectives of the height development standard are as follows:

- (1) *The objectives of this clause are as follows:*
 - (a) *to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,*
 - (b) *to increase development capacity within the Bondi Junction Centre to accommodate future retail and commercial floor space growth,*

- (c) to accommodate taller buildings on land in Zone B3 Commercial Core of the Bondi Junction Centre and provide an appropriate transition in building heights surrounding that land,*
- (d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.*

Objectives (b) and (c) are not relevant to the subject site as it is not located within Bondi Junction.

An assessment against the remaining applicable objectives of the height development standard is provided following:

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

The impact of the height and FSR of a development on adjoining properties is most appropriately measured in terms of overshadowing, privacy and view sharing. Privacy has been previously discussed in this report and adequate separation distances to adjoining properties are achieved to ensure that privacy impacts are not unreasonable.

In terms of overshadowing, given the orientation of the site, the shadows from the existing building and the subject proposal predominantly fall over Campbell Parade and the footpath opposite. The shadow diagrams provided indicate that the existing and proposed shadows are largely the same with only minor additional overshadowing created by the proposal. Additionally there will be no additional overshadowing at the winter solstice between 9am and 3pm upon any surrounding residential properties with the exception of No. 252 Campbell Parade, adjoining to the west. As previously outlined, this property has consent for shop top housing of a similar height built up to the shared boundary with the subject site. The proposal will not cause unreasonably overshadowing of the new development for this site.

Notwithstanding, throughout this report the acceptability of the proposed roof terraces is extensively discussed and found to be lacking due to impacts upon surrounding properties in terms of future impacts upon views from surrounding properties. The deletion of the roof terraces is recommended by way of deferred commencement condition. If this condition is adopted, the overshadowing from the development will be further reduced and as the building will result in a loss of height overall, the overshadowing impacts may be less than currently exists.

Given the above analysis, it is considered that the proposal will not result in unreasonable overshadowing impacts upon surrounding properties or the public domain.

There are a number of properties surrounding the site to the north, north-west and north-east of the site which have views over the site toward Bondi Beach and the Pacific Ocean. The properties on Ramsgate Avenue directly behind the site are lower than the existing building and do not achieve views over the site however there are properties on Brighton Boulevard which have distant views over the property (2 streets back).

Objections in regards to view loss were received from Unit 8/77 Brighton Boulevard which is located to the north-east of the site and from units within 65-75 Brighton Boulevard which is located to the north of the subject site. Objections were predominantly received from the 2 level crossover units at 65-75 Brighton Boulevard, whereby the upper level is orientated to Brighton Boulevard, while the lower level is orientated towards Ramsgate Avenue for each of these units.

The Applicant provided view impact diagrams with the amended proposal which indicate that the views that will be effected are partial views of the Pacific Ocean.

The following photographs were provided within the view analysis diagrams provided by the Applicant and represent a sample of the affected properties. All photographs are from a standing position:



Figure 4: Unit 21/65-75 Brighton Blvd – existing (top image) and proposed (lower image) panoramic view from terrace accessed via a living area (upper level of unit)



Figure 5: Unit 22/65-75 Brighton Blvd - view from top floor balcony – top image is existing and lower image is proposed



Figure 4: Unit 24/65-75 Brighton Blvd – existing (top) and proposed (lower) panoramic view from living area doors

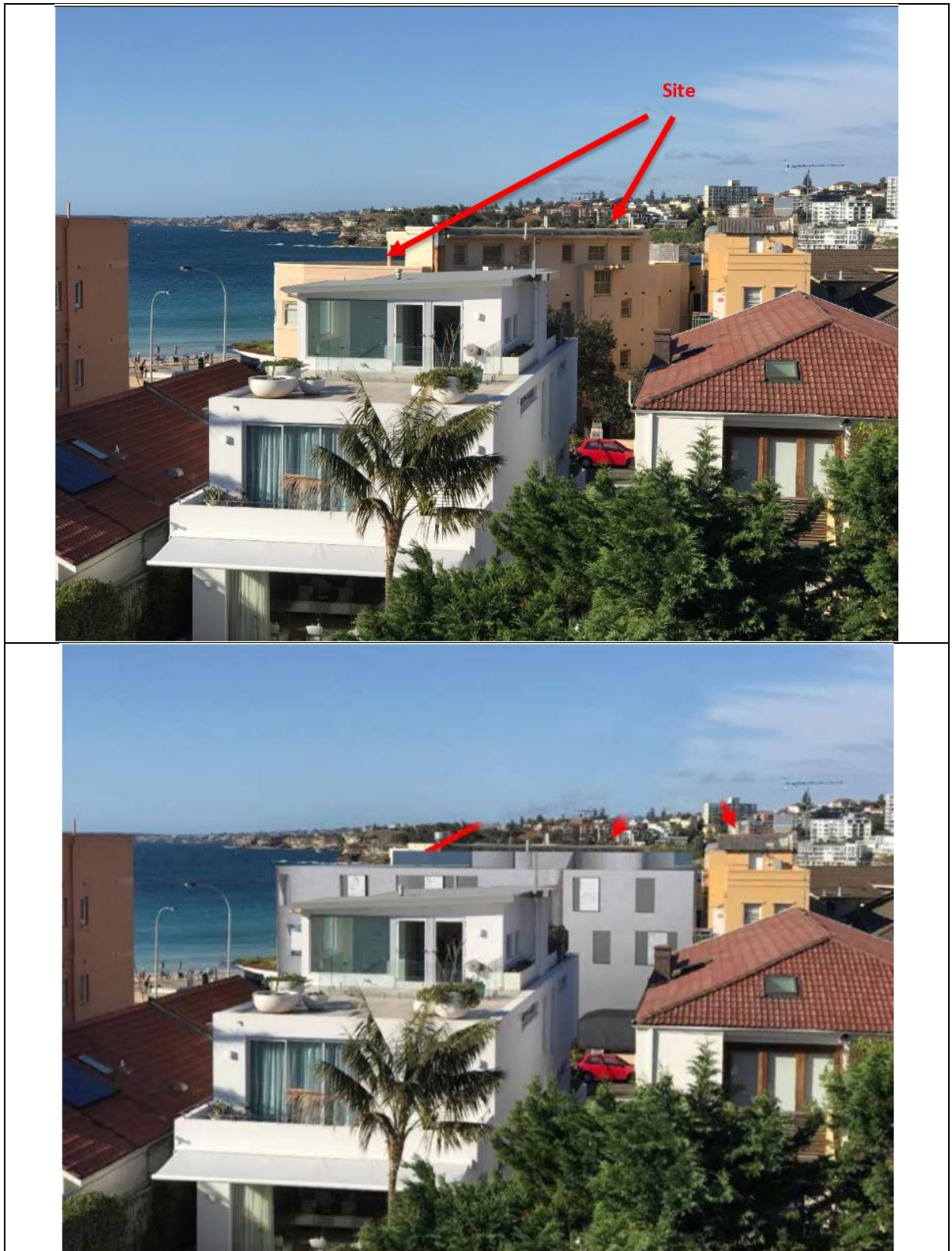


Figure 4: Unit 8/77 Brighton Blvd – view from living area balcony – existing is top photo and proposed is lower photo



Figure 9: 9/77 Brighton Blvd - view from standing in living area (upper level of unit)

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

The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. (Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.) To decide whether or not view sharing is reasonable, a four-step assessment should be used:

- 1. The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

The view achieved from the units within 77 Brighton Boulevard is a view of land and water interface from Bondi to Tamarama and beyond. This is considered to be an iconic view however it is not a whole view being only partially visible through gaps in existing buildings.

The views achieved from the units within 65-75 Brighton Boulevard are partial views of the Pacific Ocean, horizon interface with the ocean and some land and water interface. Again these views are partial views achieved through gaps in buildings and over the roofs of existing buildings.

- 2. The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

All views achieved are from rear elevations of the objector's properties however the views are skewed to the side and are not the principle aspect directly to the rear. In terms of the subject development site, it should be noted that the site is unique in that it is almost triangular in shape with only three boundaries, two of which are street frontages. In essence there is only one side boundary and two street boundaries. In this respect, the views are achieved from 65-75 Brighton Boulevard over the rear boundary of the site and from 77 Brighton Boulevard over the corner where the front and rear boundaries meet which on a regular site would likely be the side boundary.

All photographs are from a standing position.

- 3. The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

For some objector's properties the views are from living areas and for others, the views are from terraces connected to living areas and bedrooms. For the units within 65-75 Brighton Boulevard, the views are a small part of a larger view extending from Bondi Icebergs, across headlands to the horizon to the south-east. The view analysis diagrams show that view loss due to the proposal will be minimal and some gains will be achieved. Generally the minor view loss will be offset by minor view gains.

For the units within 77 Brighton Boulevard the outlook is a much smaller view of water and headlands to the south-east (including Bondi headland towards Marks Park). The views from these properties are

achieved over the north-eastern corner of the proposal where the parapet will be 800mm higher than the existing parapet. The view analysis diagrams indicate that most of the current water view and the headlands will be retained however, the view loss for units 8 and 9 is anticipated to be 'moderate'. It should also be noted that the views are obtained over and between properties (some of which are undeveloped according to current development standards) and across the Ramsgate Avenue corner of the site.

4. *The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

The subject proposal does not have planning controls that are strictly applicable given that it relies on 'Existing Use Rights' however the controls applicable to the site are used to guide development. The surrounding sites have a height development standard of 12.5m and are generally three to four storeys along Campbell Parade. The subject site seeks a four-storey building which is below the 12.5m height control along both street boundaries. The height and built form of the proposal is consistent with the form of development within the street.

As non-compliance with the height and FSR development standards cannot be used as a reason for refusal, the assessment must rely on impacts and streetscape.

The previous consent for 252 and 262 Campbell Parade granted deferred commencement consent subject to a condition requiring that a fifth storey, which was proposed as part of that application, be deleted and the height be limited to RL19.3. The full condition states:

The uppermost level (fifth storey identified as 'Level 03' on plans) of the building and the unit it contains (nominated as Apt 10 on the plans) is not approved and shall be deleted from the proposal. The building (including height of the street wall of the proposal and the roof level) shall not extend above RL 19.3. Only the roof plant/services, including the lift overrun, mechanical plant (ie. carpark discharge) and AC condensers as indicated on the plans shall be permitted to extend above RL 19.3. The area on the roof utilised for plant is to be as minimal as possible. The lift and stairs shall extend only to Level 02 of the building (as nominated on the plans) and shall not extend to the roof. The roof plant/services must not exceed RL 20.3 and are to be located in the centre of the roof. The plant room shown on level 03 plan shall be relocated to level 02.

The subject proposal seeks consent for the main building to have a maximum height of RL19.3 as per the condition, however seeks the provision of two private roof terraces with balustrading to a height of RL20.3. The view analysis indicates that the balustrades are within the envelope of the existing building and will have minimal impact upon views. However, as previously outlined in this report, the roof terraces will be exposed to the elements and, in order to have no further impact upon views, they would only be capable of accommodating low furniture with no shading devices extending above. Any structure, permanent or otherwise, will likely impact upon view. It is acknowledged that a condition of consent could require that no furniture or shading above a certain height be utilised on the roof terraces however this becomes an on-going compliance matter for Council. Any roof terrace should be

designed to be inherently functional rather than conditions of consent limiting the behaviour of occupants to comply with a condition on a historic consent.

Notwithstanding, the roof terraces are considered to be poor substitute for a private balcony extending from the main living areas with shelter, privacy and outlook to Bondi Beach. The lack of shading to the roof terraces will result in them being highly exposed to wind, rain and sun. The usability and amenity of the roof terraces will be poor and as a result it is likely they will not be highly utilised spaces. In this regard, there is a question of the necessity of these terraces. If they will perform poorly in regards to usability and amenity and there is a superior location within an area of the building that will not impact upon neighbouring properties, then the terraces are unnecessary.

The Privacy Planning Principle in *Super Studio v Waverley Council* [2004] NSWLEC 91 states that the acceptability of an impact depends not only on the extent of the impact but also on reasonableness of, and necessity for, the development that causes it. It is considered that this principle could also be applied to view impacts. The roof terraces are unnecessary as a superior location is available on the site for private open space that would comply with the controls of the ADG. In this regard, the reasonableness and necessity for the roof terraces is low and given that they have the potential to impact upon views and result in ongoing enforcement, they are not considered appropriate. In this regard, a deferred commencement condition requiring the deletion of the roof terraces is included in Appendix A.

In effect the deletion of the roof terraces from the proposal would lower the height of the majority of the building with the exception of the corner. This would mean that for units within 65-75 Brighton Boulevard there would be a minor increased view loss at the corner with Ramsgate Avenue however this would be offset by improved views over the remainder of the site. Therefore, the overall impact on 65-75 Brighton Boulevard units would be negligible as the difference between the views lost versus views gained would result in greater (ie improved) view overall than presently exists with the current building form.

In terms of the units within 77 Brighton Boulevard, the increased height of 800mm at the street corner will result in loss of views of land and water interface although there will increased views of the Bondi headland (towards Icebergs) upon the roof terraces being deleted (as the resultant effect is the overall building height being less than existing). Further, it should be noted that the height control for the site is 12.5m and the subject proposal will be reduced to 11.5m over the part of the building impacting on these views. Additionally, as will be discussed later in this report, the building has been designed to essentially replicate and expand upon the character of the existing building on the site. The DCP encourages a four-storey built form with buildings on Campbell Parade to be built to the street edge with no setbacks. In order to achieve a quality building on this site that addresses the corner whilst being of commensurate scale with the existing and surrounding buildings on the site, and provides level access from the street to the retail level, the parapet height is considered appropriate. Buildings on Campbell Parade contribute to the iconic nature of the street and there must be due consideration for urban design and the desired future character. In essence, the urban design of the building and its contribution to Campbell Parade and the North Bondi streetscape is considered more important than the loss of small partial views from private properties.

The proposed new building seeks to replicate the strong masonry street wall of the existing building on the site and respond appropriately to the conservation area of which the site forms a part. To lower the corner of the building to retain a private view is considered to be of detriment to the urban design of the building and its contribution to the streetscape. The building will be lower than the existing building overall and will be 1m lower at this corner than the 12.5m height control applicable to surrounding sites.

Additionally, it should also be noted that 77 Brighton Boulevard achieves views over two underdeveloped sites at 106 and 108 Ramsgate Avenue. Both buildings over which this property obtains views are built well under the 12.5m height control applicable to Ramsgate Avenue, with one being a three-storey dwelling to approximately 9.5m and the other being a single storey dwelling. If these properties were developed in the future, it is likely that given the R3 zoning of the site, a residential flat building to the height permitted would result in almost total view loss. In this regard, although the view loss from the units within 77 Brighton Boulevard is unfortunate, some views will be improved (ie unit 8 will obtain views to Bondi headland towards Icebergs that it presently does not enjoy with existing building form). On balance, the view impacts are not considered unreasonable having regard to the above.

The proposal also provides an area on the roof nominated as solar panels however no detail of said panels has been provided. A condition will require that these are flush with the roof to ensure no encroachment upon views that has not already been considered in this report.

Given the above analysis, it is considered that the roof terraces should be deleted by condition of deferred commencement and the resultant height is considered acceptable, on balance.

(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 existing building on the site is a three-storey building at the street edge with a fourth storey set back from the building edge.

Surrounding properties on Campbell Parade are generally three and four storeys in scale with those buildings to the west along Campbell Parade generally having a three-storey scale and the buildings to the east having a four-storey scale. The building on the opposite Ramsgate Avenue corner has a four storey street edge to Campbell Parade with shops at the ground level.

The proposed four-storey building will be contextually appropriate within the immediate setting and provide an appropriate transition between the three-storey buildings to the west along Campbell Parade and the four-storey buildings to the east.

As discussed in detail above, the proposal, subject to the deletion of the roof terraces, will be consistent with the applicable objectives of the height development standard and the desired future character and urban design of the area (as outlined with the DCP controls for the desired future character of the Campbell Parade North Character Area). The site is located on iconic Campbell Parade opposite the North Bondi Surf Life Saving Club and the newly refurbished amenities block. This is a significant site within the area and as such, the proposal must be sensitive to surrounding properties however urban design must take a stronger role given the location of the site. In this regard, although there will be some view loss from surrounding properties, there will be an improvement of views for some of these units. In this regard, the urban design of the building must take precedence over private views and the contribution of the retail element of the proposal to the surrounding area is considered significant.

Clause 4.4 Floor space ratio

The existing building has an FSR of approximately 2.18:1 (718.7m²) and the proposal will increase this to 2.84:1 (936.6m²) representing an increase in gross floor area of 218m² or 30%. The LEP development standard for the site is 0.9:1.

The objectives of the FSR development standard are as follows:

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

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

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

Objectives (c) and (d) have been discussed in the previous section of this report regarding the height of the proposal. Subject to the deletion of the roof terraces, the proposal will be consistent with these objectives.

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

The existing building on the site already exceeds the development standard of 0.9:1 to a significant degree. However, the built form of buildings on Campbell Parade indicates that the majority of buildings within the immediate context already exceed the development standard also.

The existing building on the site provides a street edge design addressing the corner with Ramsgate Avenue and the proposal replicates the character of the existing building and the conservation area. The nil side boundary setbacks are consistent with adjoining properties and the streetscape. Subsequently, the additional bulk to the building (from existing) is largely contained along the Ramsgate Avenue frontage where presently the existing building is set in. The proposal seeks a nil setback along the Ramsgate Avenue frontage providing additional floor space above the existing along this part of the site.

The applicant has submitted an undertaking to Council regarding their commitment to enter into a planning agreement for the additional gross floor area above the existing building on the site in accordance with the *Waverley Council Planning Agreement Policy 2014* (the Policy).

The Policy provides a mechanism to address the public benefit offset of additional reasonable impacts from developments exceeding development standards. The offer to enter into a planning agreement addresses the public benefit aspect of maintaining the FSR development standard when Council considers a variation with the standard by way of assessing and determining a development application.

As the development standards of the LEP do not technically apply to this site given existing use rights, the benefit has been calculated by way of the additional floor space above what already exists on the site.

The fundamental principle of the Policy is that any benefit that arises from agreement to vary development standards is shared between developer and the community and must be acceptable on environmental impact grounds. The reasonableness of impacts associated with the additional floor space of the proposed development has been considered against the likely public interest (i.e. public domain improvements in the area), which has been found to be acceptable in this instance. The reasonableness relates to the merits of this case only as discussed in the body of this assessment report.

The proposal is in accordance with other variations which have been permitted in conjunction with public benefits or purpose, such as affordable housing, public domain works or the like. The proposed development is not against the public interest as it complies with the limitations set in the Policy.

A suitable public purpose or benefit is considered to be provided in the form of the forthcoming execution of a planning agreement, which would contribute to public works or a similar public benefit within the catchment of the site.

As amendments by way of conditions of deferred commencement will result in a recalculation of the floor space, an agreement between Council and the Applicant has not been reached in regards to the exact contribution amount. In this regard, a condition of deferred commencement is recommended for the planning agreement to be entered into by the applicant and is included in Appendix A.

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

The proposal has existing use rights and as such the controls of Development Control Plan 2012 do not apply to the development and a merit assessment must be undertaken to determine acceptability of the proposal. However, the site is zoned R3 – Medium Density Residential, as are the surrounding sites, and it is considered appropriate to assess the development against the controls for the zoning as these controls are reflective of the pattern of development envisaged for the area and surrounding sites.

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

Development Control	Compliance	Comment
1. Waste	Yes	<p>The proposal provides separate waste storage rooms for the commercial use and the residential uses. The residential waste storage is located within Basement Level 1 and the commercial waste is stored in a storage room at ground floor level to the rear of Retail Shop 1. Retail Shop 1 has direct access to the storage room however, Retail Shop 2 will be required to access it via the street and the residential lobby. This is not considered to be an acceptable solution and a condition is recommended requiring that the bin storage for Retail Shop 2 be located within the shop itself.</p> <p>Conditions will also require that storage for bulky waste is provided on site noting that there is sufficient area within the basement to accommodate this.</p>

Development Control	Compliance	Comment
		The application was referred to Council's Sustainable Waste Officer and conditions were recommended. The waste collection and storage on site is considered acceptable subject to recommended conditions which are included in Appendix B.
2. Energy and water conservation	Yes	A BASIX Certificate was provided with the application. The proposal is consistent with the objectives and controls within this part of the DCP.
3. Biodiversity	N/A	The site falls within a habitat corridor. Given the block edge design of the development there will be very little landscaping on site.
5. Tree preservation	Yes	The proposal has been referred to Council's Tree Preservation Officer in regards to the loss of trees on site and on the footpath. Conditions were provided regarding replacement trees (refer to Appendix B).
6. Stormwater	Yes	A condition regarding stormwater disposal is included within Appendix B.
7. Accessibility and adaptability	Yes	The proposal provides a lift to all levels of the building. The shops are accessible from the footpath level. The residential entry is from Campbell Parade and also provides level access to the foyer and lift. No adaptable units are required given that only seven units are proposed. However one 'liveable' unit under the specifications of Universal Housing Design is required (20%) and an appropriate condition is included in Appendix B. Conditions regarding BCA compliance are included in Appendix B.
8. Transport Parking Zone 2 <ul style="list-style-type: none"> 2-bed – 1.5 per unit 3-bed – 2 per unit 1 visitor per 5 units 	Yes	The DCP requires 11 resident car spaces and 1 visitor car space for the residential use. For the commercial use, the minimum amount of parking is nil and the maximum permitted is 5 retail spaces. The DCP also requires 3 motorbike spaces.

Development Control	Compliance	Comment
Retail is minimum of 0 and maximum of 5 spaces		<p>The proposal provides 12 car spaces within a three level basement complying with the requirements of the DCP. A condition will require that the spaces are allocated as follows:</p> <ul style="list-style-type: none"> • 11 spaces for residents; • 1 space for visitor. <p>The proposal provides 6 motorbike spaces and 14 bicycle space complying with the minimum requirements.</p> <p>A Traffic Report was provided with the application outlining the impact upon the local road network and on-street parking. The proposal is acceptable in this regard.</p> <p>The proposal is acceptable in regards to this part of the DCP.</p>
9. Heritage	Yes	<p>Comments from Council's Heritage Architect are provided in the 'Referrals' section of this report.</p> <p>Refer to Table 2 for additional discussion.</p>
10. Safety	Yes	<p>The proposal has been designed to provide a separate entry to the residential units from Campbell Parade.</p> <p>The proposal provides balconies on Campbell Parade and windows on Ramsgate Avenue overlooking the street and providing passive surveillance of both frontages.</p> <p>The retail frontages provide activity on Campbell Parade also improving the security along this part of the street and the corner with Ramsgate Avenue.</p> <p>The proposal is consistent with the aims and objectives of this part of the DCP.</p>

Table 5: Waverley DCP 2012 – Part C2 Multi Unit and Multi Dwelling Housing Compliance Table

Development Control	Compliance	Comment
2.1 Special character areas		
North Bondi Special Character Areas	No	The majority of the controls within this part of the DCP are not relevant to the subject proposal

Development Control	Compliance	Comment
		<p>as there are more specific controls under Part E2 Bondi Beachfront Area (refer to Table 6). The exception to this is the discouragement of roof terraces due to the greater potential impacts in higher density areas.</p> <p>The roof terraces have been previously discussed in this report and a condition of deferred commencement will require they be deleted.</p>
2.2 Site, scale and frontage		
<ul style="list-style-type: none"> Minimum frontage: 15m 	Yes	The frontage of the site to Campbell Parade is 26.69m and to Ramsgate Avenue, is 21.095m.
2.3 Height		
<ul style="list-style-type: none"> Maximum external wall height: 9.5m 	N/A	<p>The Bondi Beach Character Study Area specifies an external wall height of 12.5m on this site overriding this control as it is more site specific.</p> <p>Notwithstanding, height has been previously discussed in this report.</p>
2.4 Excavation		
<ul style="list-style-type: none"> No fill to raise levels Minimum setback of 1.5m from side boundaries Under building footprint except main access ramp Basements no more than 1.2m out of the ground Geotechnical report required when > 3m in depth or 25% slope 	<p>Yes</p> <p>No</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The proposed excavation aligns with all boundaries of the site with no setbacks proposed however this is consistent with the building footprint.</p> <p>The footpath level on Ramsgate Avenue is higher than Campbell Parade given the slope of the site. The design of the basement enables level access with the street from the retail shops on Campbell Parade and to the car lift to the basement car park from Ramsgate Avenue.</p> <p>A Geotechnical and Hydrological Desk Study has been provided in support of the application. Conditions will require further reports in regards to the excavation. All standard conditions regarding excavation are included in Appendix B.</p>
2.5 Setbacks		
<p>2.5.1 Street setbacks</p> <ul style="list-style-type: none"> Consistent street setback 	Yes	The street setback on Ramsgate Avenue is consistent with the adjoining property at 250 and 252 Campbell Parade to the west. The setback on Campbell Parade is consistent with properties fronting this street and consistent with the Bondi Beach Character Area controls which require a four-storey street wall with nil setbacks.

Development Control	Compliance	Comment
2.5.2 Side and rear setbacks <ul style="list-style-type: none"> Minimum side setback: 4.5m Minimum rear setback: 6m or predominant rear building line, whichever is the greater setback Deep soil along side boundary min 2m wide 	N/A	The setback controls of the DCP as they relate to the R3 zoning are not relevant to this site. The Bondi Beach Character Area controls are more specific in the requirements for this part of Campbell Parade and require street edge design and nil side boundary setbacks when consistent with adjoining properties and the streetscape.
2.6 Length and depth of buildings		
<ul style="list-style-type: none"> Maximum building length: 24m 	N/A	<p>The proposed building is 26.69m along Campbell Parade and 21.095m along Ramsgate Avenue. As indicated above, a number of controls of this section of the DCP relate to the R3 zoning and subsequently do not account for mixed use development relevant to this site. The Bondi Beach Character Area controls are more specific in the requirements for this part of Campbell Parade and are discussed in Table 6.</p> <p>The proposal has been designed to be reflective of the existing building on the street and the surrounding character with nil side boundary setbacks and street edge design which requires that the maximum building length at the street, although appropriate, is inconsistent with this part of the DCP.</p>
<ul style="list-style-type: none"> Maximum unit depth: 18m 	No	The maximum unit depth is 20m which exceeds the DCP control of 18m. The units are set out in such a way as to enable apartments to have living areas orientated toward Bondi Beach with bedrooms on the Ramsgate Avenue side. Given the unique three-sided shape of the site, there are a number of units which will have a depth greater than 18m, particularly those adjoining the only side boundary (with No. 252 Campbell) of the site. The units with a greater depth have two window walls with orientation to both Ramsgate Avenue and Campbell Parade and as such, receive adequate light, ventilation and solar access. Accordingly, the layout, and depths, of the proposed units are considered acceptable.
<ul style="list-style-type: none"> Maximum depth of single aspect unit: 8m 	Yes	There are no single aspect units.
2.8 Building design and streetscape		
<ul style="list-style-type: none"> Respond to streetscape 	Yes Yes	The proposal responds appropriately to the streetscape by repeating the rhythm of the

Development Control	Compliance	Comment
<ul style="list-style-type: none"> Sympathetic external finishes 		existing building with a strong masonry street wall with 'punched' openings. The building curves at the corner with Ramsgate Avenue, providing a strong focus to this corner without overwhelming the streetscape.
2.11 Vehicular access and parking		
<ul style="list-style-type: none"> Integrated into the design Secondary to pedestrian entrance Maximum of 1 x 2-way driveway From rear or side where possible Pedestrian safety 	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The car park is accessed via a single entry from Ramsgate Avenue at the rear of the site consistent with surrounding properties fronting Campbell Parade. The car park entry is integrated into the design of the building being located at the furthest point from the corner with Campbell Parade.</p> <p>The car park entry is separated from the main pedestrian entry which is located on Campbell Parade.</p>
2.12 Pedestrian access and entry		
<ul style="list-style-type: none"> Entry at street level Accessible entry Legible, safe, well-lit 	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>Accessible entry to each of the retail shops is provided directly from Campbell Parade.</p> <p>The main residential entry is also provided from Campbell Parade and is separate to the retail entries. The residential entry is clear, legible and with level access to a lobby with a lift to the upper levels.</p>
2.13 Landscaping		
<ul style="list-style-type: none"> Minimum of 30% of site area landscaped 50% of the above is to be deep soil: 	No	<p>The proposed development does not provide landscaping. The proposal has a street edge design with nil boundary setbacks consistent with the pattern of development within the street.</p> <p>The street edge design of the proposal leaves little room for landscaping particularly when following the setbacks of adjoining properties on Campbell Parade and Ramsgate Avenue. The provision of deep soil and landscaping would be detrimental to the urban design of the proposal and would potentially impact upon views from surrounding properties (if provided on the roof).</p> <p>The site is directly opposite Bondi Park and Bondi Beach with extensive open space and landscaped area. The lack of landscaping on this site is not considered unreasonable when considered in relation to urban design, the amenity of surrounding sites and streetscape.</p>
2.14 Communal open space		

Development Control	Compliance	Comment
<ul style="list-style-type: none"> Minimum 15% communal (R3 zone) Minimum dimensions: 6m x 6m Minimum of 30% of communal area must receive three hours of sunlight Accessible 	No	As detailed above, the proposal does not provide landscaping and for similar reasons, also does not provide communal open space. As the site is directly opposite Bondi Park and Bondi Beach, there is sufficient suitable facilities surrounding the site to provide residents with recreational activities and to provide a pleasant outlook for the development consistent with the objectives of the communal open space controls.
2.16 Solar access and overshadowing		
<ul style="list-style-type: none"> Minimum of three hours of sunlight to a minimum of 70% of units during winter solstice Adjoining properties to retain minimum of three hours of sunlight during winter solstice 	Refer to Table 2 (ADG)	<p>The DCP controls as they relate to solar access to the development itself are of no effect as the ADG applies.</p> <p>In terms of the overshadowing of adjoining properties, this has been discussed in detail previously in this report.</p>
2.17 Views and view sharing		
<ul style="list-style-type: none"> Minimise view loss 	Yes	This issue has been previously discussed in this report.
2.18 Visual privacy and security		
<ul style="list-style-type: none"> Prevent overlooking of more than 50% of private open space of lower level dwellings in same development 	Yes	The proposal does not include balconies which overlook each other.
2.22 Acoustic privacy		
<ul style="list-style-type: none"> Internal amenity by locating noisy areas away from quiet areas 	Yes	<p>Noisy areas are generally located above or below similar uses in the other units with bedrooms generally on the Ramsgate Avenue side and living areas on Campbell Parade facing Bondi Beach.</p> <p>In regards to acoustic separation of the retail level from the residential level, a condition is included in Appendix B to ensure that the amenity of the units above the retail are appropriately treated.</p>
2.24 Building services		
<ul style="list-style-type: none"> Must have a minimum of 2m setback from the building edge 	Yes	There is minimal plant proposed at roof level with only two mechanical risers shown on the plans. These have been discussed previously under the comments from the DEP.

Table 6: Waverley DCP 2012 - Part E2 Bondi Beachfront Area Compliance Table

Development Control	Compliance	Comment
2.1 General Controls		
2.1.1 Public domain interface	Yes	<p>The proposal provides a strong retail frontage at the ground floor level addressing Campbell Parade and wrapping around part of the Ramsgate Avenue frontage. The ground floor retail maximises the frontage on Campbell Parade and is active, open and inviting. Additionally the retail frontage is provided with an awning on Campbell Parade.</p> <p>The commercial and residential entries are reasonably separated and are clear, legible and safe.</p> <p>As vehicular entries are prohibited on Campbell Parade, the proposal provides driveway access from Ramsgate Avenue.</p> <p>The proposal is consistent with this part of the DCP.</p>
2.1.2 Building use	N/A	<p>The use of each shop has not been nominated as part of this application. Any shop use would need to comply with the requirements of existing use rights however this is subject to a separate assessment under a separate development application. A condition to this effect is included in Appendix B.</p>
2.1.3 Built form	Yes	<p>The DCP requires that new buildings are sympathetic to the scale and height of existing buildings. As discussed extensively in this report, the proposal is consistent with the pattern of development for properties fronting Campbell Parade and Ramsgate Avenue.</p> <p>The proposal complements the building adjoining the site at 252 Campbell Parade (and the design of the activated consent) providing an appropriate transition to the corner. The strong street wall and masonry appearance of the building is consistent with the existing building on the site and those adjoining.</p> <p>The proposal avoids gaps in the street wall by being built to all boundaries.</p>

Development Control	Compliance	Comment
		The proposal will be consistent with this part of the DCP.
2.1.4 Roofs	Yes	After deletion of the roof terraces, the roof level will be flat with plant set back from each street boundary ensuring low visibility within the streetscape. Solar panels are to be provided on the roof.
2.1.5 Views	Yes	Private views have been discussed in detail previously in this report. There are no known public domain views that would be adversely affected by the proposal.
2.1.6 Heritage conservation	Yes	The site is not heritage-listed nor is the building contributory to the conservation area under the DCP. The proposal in relation to the conservation area has been previously discussed in detail elsewhere in this report.
2.1.7 Infill buildings	Yes	The replacement building does not mimic decorative details of the conservation area. However the proposal has fenestrations and openings with similar proportions to the existing building on the site consistent with the requirements of the DCP. The proposal only marginally exceeds the street wall height of the existing building on the site and will lower the height of the building overall (subject to condition as previously discussed).
2.2 Character Areas		
Campbell Parade North Character Area	Yes	The desired future character objectives of this part of the DCP seek to support the unique mixed use character of this section of Campbell Parade, discourage residential accommodation at street level, ensure new developments are in character with the street and to ensure new development is built to the street with no setbacks along Campbell Parade. The proposal is wholly consistent with the desired future character by maintaining and enforcing the retail component of the existing use rights of the site, locating residential above street level (ie, the shops) and providing a development which is consistent with the character of the street and built up to Campbell Parade.

Development Control	Compliance	Comment
		<p>The DCP permits a maximum of four storeys with maximum external wall height of 12.5m. The proposed building will adequately address the character of the street with commensurate bulk and scale to surrounding properties.</p> <p>Finishes and colours are consistent with the DCP controls which require predominantly rendered masonry, vertically expressed windows and openings, and light to mid colours for all buildings other than heritage-listed or contributory buildings.</p> <p>The setback on Ramsgate Avenue is considered appropriate for this site as it continues the nil boundary setbacks of 252 Campbell Parade and the Rose Bay Surf Club at 250 Campbell Parade. The proposal fills in the gap in the streetscape providing a strong street wall to this part of Ramsgate Avenue that addresses the corner with Campbell Parade.</p> <p>The proposed building is consistent with the relevant built form controls of the DCP and will provide a positive contribution to the streetscape and conservation area.</p>

2.2 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

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

2.3 Suitability of the Site for the Development

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

2.4 Any Submissions

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

The amended application was re-notified for at least 14 days, in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*. Fourteen submissions were received to the amended proposal.

Overall submissions from 17 individual properties were received. The issues raised in the submissions are summarised and discussed below.

Table 7: Summary of property addresses that lodged a submission

Property
8/77-79 Brighton Boulevard, Bondi Beach
18/65-75 Brighton Boulevard, Bondi Beach
19/65-75 Brighton Boulevard, Bondi Beach
21/65-75 Brighton Boulevard, Bondi Beach
22/65-75 Brighton Boulevard, Bondi Beach
23/65-75 Brighton Boulevard, Bondi Beach
24/65-75 Brighton Boulevard, Bondi Beach
1/110 Ramsgate Avenue, Bondi Beach
2/110 Ramsgate Avenue, Bondi Beach
5/110 Ramsgate Avenue, Bondi Beach
11/110 Ramsgate Avenue, Bondi Beach
12/110 Ramsgate Avenue, Bondi Beach
16/110 Ramsgate Avenue, Bondi Beach
110-114 Ramsgate Avenue, Bondi Beach (strata managers)
106 Ramsgate Avenue, Bondi Beach
98 Hastings Parade, Bondi Beach
15/94-98 Ramsgate Avenue, Bondi Beach

Issue:

- *View impacts;*
- *Roof terraces will impact upon views and privacy;*
- *Excessive FSR and overdevelopment;*
- *Nil boundary setback on Ramsgate Avenue;*
- *Visual and acoustic privacy;*
- *Traffic and parking;*
- *Non-compliance with DCP controls;*
- *Lack of landscaping;*
- *Overshadowing;*
- *Out of keeping with streetscape and conservation area;*
- *Removal of trees;*
- *Insufficient waste storage.*

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

Issue: *The level of view impact assessment undertaken by the Applicant is insufficient; The author of the SEE did not visit the site; The view analysis diagrams were not certified by a surveyor.*

Response: An assessment of views was carried out by the Assessing Officer regardless of the assessment within the Statement of Environmental Effects (SEE). The photographs used in the view analysis diagrams were taken by Council Officers during the assessment of the previous consent, and other applications to surrounding properties, and were provided to the Applicant as is standard practice. There is no requirement that the author of the SEE visit neighbouring sites. No further view analysis is considered necessary.

It is not considered necessary to have the view analysis diagrams certified by a surveyor as the roof terraces are recommended to be deleted by condition. The building will be lower for most of the roof level and an assessment is capable of being carried out based on the profile of the existing building on site.

Issue: Issue during construction works, eg cracking in buildings, inconvenience, noise, dust etc

Response: A number of objectors raised the issue of damage to surrounding buildings during the construction phase. Impacts arising from construction are not a matter for consideration and cannot be a reason for refusal of a development. Appropriate conditions, including requirements for dilapidation reports and a Construction Vehicle and Pedestrian Management Plan and conditions regarding excavation are included in Appendix B.

Issue: Traffic and parking; Concerns regarding the car lift including mechanical efficiency and lack of waiting area creating queuing on street; loss of on-street parking through the provision of a driveway crossing where non currently exists.

Response: Traffic and parking has been discussed previously in this report.

The proposal will result in the loss of one on-street parking space to provide a driveway crossing however will provide 12 off-street parking spaces providing a net gain of 11 spaces. According to the applicant, the existing building on the site contains 8 x 1-bedroom units and a small shop with no on-site parking. Under the DCP the existing building generates a requirement for 9 spaces. As there is no existing parking provided on site at present, those 9 spaces are currently accommodated on the street. The proposal, by providing the required resident spaces on site, is effectively ensuring less residents within the area are potentially looking for on-street parking spaces improving the situation for existing residents that rely on on-street parking. Further, a condition for no resident car parking permits will be imposed, which also assist with street parking availabilities.

In regards to queuing on street, the Traffic and Parking report submitted with the application states that '*where traffic flow at the site entrance is restricted to a single lane (effectively a control point), AS2890.1 - 2004 requires the 98 percentile queue to be accommodated on-site, that is, no waiting bay is required where the probability of a vehicle waiting is less than 2%.*' The report further states that in this instance analysis confirms that the probability of second vehicle waiting is 2.0% and an on-site waiting bay is therefore not required.

Council is satisfied that the car lift can operate as intended including in the rare event of mechanical issues, noting that this is not a reason that would warrant refusal of the application or the car lift.

Issue: Additional retail will impact upon noise, traffic and parking in the area; operating hours will be later than current café.

Response: The use of each tenancy has not yet been nominated and as such the hours of operation that will be sought is not known at this stage. A condition of consent will require that the first use of the retail premises be subject to separate development consent and these issues will be considered at that time.

There is already a takeaway food shop/cafe on the subject site. This is an existing use with existing impacts. The acceptability of the retail shop on the corner is not the subject of this assessment as the proposal simply seeks to continue an existing use. It is acknowledged that the retail element on site will increase, however the new retail tenancy will be located on the Campbell Parade side of the site,

away from the residential properties in Ramsgate Avenue. Impacts arising from the use of the new tenancy will not be unreasonable.

Issue: Demolition of a heritage-listed building.

Response: The building is not heritage-listed nor is it designated as a contributory building within the DCP. The building is actually one of the only buildings along this part of Campbell Parade which is not listed or contributory.

Refer to previous sections of this report for discussions in regards to impact upon the conservation area.

Issue: Car park entrance should be located on Campbell Parade.

Response: Council's DCP does not allow driveway crossings on Campbell Parade particularly over a retail frontage and a bus stop. In this regard, the parking and driveway entry from Ramsgate Avenue is appropriate.

Issue: Noise from plant.

Response: Appropriate conditions are included in Appendix B.

2.5 Public Interest

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

3. REFERRALS

3.1 Heritage – Shaping Waverley

The following comments were provided by Council's Heritage Architect in response to the amended proposal:

Comments:

- The current amended application replaces recent proposed development of the site and adjacent site to the south west by the same architects. The overall language maintains that previously proposed namely a horizontally emphasised rendered masonry form articulated as two bays with hooded window openings. Those to the upper floor facing Campbell Parade amend previous articulation as full height continuous glazing. The previous massive 'piloti' at ground floor supporting the Campbell Parade elevation of residential floors above have been modified to narrower columns located to either side of a recess with the street awning returning into the recess as a sculptural element.*
- The ground floor is recessed into the rising slope about the junction of Campbell Parade and Ramsgate Avenue. The elevation curves about the prominent return of the building at the junction of Campbell Parade and Ramsgate Avenue maintaining the language of hooded window openings. The street awning line remains consistent as far as the recess separating the two bays in the Ramsgate Avenue elevation.*
- The step up in the Ramsgate elevation has been deleted with two rather than three floors now shown above the vehicle entry from Ramsgate Avenue. The reduced height serves to better integrate this elevation with the adjacent building and streetscape.*

- *The overall height of the amended design and the amended articulation are considered to improve cohesion with the Conservation Area.*
- *As previously noted, clarification of the form, details and associated shade structures etc. of the roof top decks need to be resolved.*
- *Given the prominence of the corner elevation it remains a recommendation that greater articulation either at roof level or in the form of sympathetic signage or other surface detailing is provided.*

Recommendations:

To maintain cohesion with the existing contributory fabric it is recommended that the following details are to be provided:

- *Provide further detailed design of the return corner at the junction of Campbell Parade and Ramsgate Avenue.*
- *Clarify the extent and detail of the rooftop deck areas including provisions for shade and shelter.*
- *Provide colour schedules for the building including guidelines for signage and treatment of awnings.*

The roof top terraces are recommended to be deleted by deferred commencement conditions as previously outlined in this report. The remaining recommendations are incorporated into the deferred commencement conditions.

3.2 Urban Design - Shaping Waverley

The following recommendations in regards to the original proposal were provided by Council's Urban Designer (full comments available on file):

- *The built form is revised in order to better comply with FSR and setbacks/separations and therefore not impact the amenity of adjoining buildings. A similar built form as the existing building would provide a better outcome and would enable the inclusion of landscape and deep soil zones.*
- *Providing a side setback/front setback for the secondary facade that would result in a similar built form as the current building would provide a better outcome for this location.*

These issues have been discussed in detail in the body of this report.

3.3 Driveways – Creating Waverley

Technical Services have requested that one of the residential spaces should be allocated to the retail use, however the DCP does not require any parking for retail. Conditions were also provided which are included in Appendix B.

3.4 Stormwater – Creating Waverley

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

3.5 Sustainable Waste - Sustainable Waverley

Conditions were provided from Council's Sustainable Waster Officer which are included in Appendix B.

3.6 GIS and ePlanning - Digital Waverley

A condition was provided regarding street numbering which is included in Appendix B.

3.7 Tree Management - Clean and Attractive Waverley

The following comments were provided by Council's Tree Management Officer:

The trees on site possesses no outstanding attributes worthy of retention and their removal is supported.

Situated on the naturestrip in Ramsgate Ave is one (1) Banksia species tree is 6 metres in height with a canopy width of 4 metres and in poor health. The applicant may remove the tree on the following conditions (refer to Appendix B).

To ensure maximum street tree canopy and continuity of the streetscape the applicant may remove the tree but must plant three replacement trees.

Conditions were provided which are included in Appendix B.

4. SUMMARY

The proposal seeks consent for demolition of buildings and construction of a four-storey mixed use building with basement parking for 12 vehicles.

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

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

Subject to deferred commencement conditions requiring deletion of the proposed roof terraces, the proposal is considered to have no unreasonable impacts upon the amenity of surrounding properties. The resultant building will be lower overall than the existing building on the site. This is considered to be a positive outcome for the street and the amenity of surrounding properties. The resultant effect is a new building that is less in height than the existing building form.

The proposed development provides for an increase in gross floor area than presently exists, largely due to the infill of the site on the Ramsgate Avenue frontage of the site which is not considered to result in unreasonable planning impacts. Accordingly, the applicant has offered to enter into a planning agreement that addresses the public benefit aspect of maintaining the FSR development standard when Council considers a variation with the standard by way of assessing and determining a development application. As the development standards of the LEP do not technically apply to this site given existing use rights, the benefit shall be calculated by way of the additional floor space above what already exists on the site.

The original and amended proposals were notified and submissions from 17 individual properties were received.

The application is recommended for a deferred commencement consent.

DBU Decision

The application and assessment report was reviewed by the DBU and the DBU determined:

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

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

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

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

Report prepared by:

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

Kylie Lucas
Senior Development Assessment Planner

Angela Rossi
Manager, Development Assessment (Central)

Date: 01/08/2019

Date: 12/8/19

Reason for referral:

- 2 Contentious development:
 - (a) is the subject of 10 or more unique submissions by way of objection.
- 4 Sensitive Development
 - (b) SEPP 65 applies
 - (f) DA for which the developer has offered to enter into a planning agreement.

APPENDIX A – DEFERRED COMMENCEMENT CONDITIONS

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

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

1) DESIGN CHANGES AND AMENDED PLANS

- (a) The roof terraces are not approved and shall be deleted from the proposal. The building (including height of the street wall of the proposal and the roof level) shall not extend above RL 19.3. Only the roof plant/services, including the lift overrun and mechanical risers as indicated on the plans shall be permitted to extend above RL 19.3. The skylights and solar panels shall be flush with the roof or extend no higher than RL 19.3.
- (b) Further to 1(a) above, Apartment 3.1 (as nominated on the plans) shall be provided with a skylight over the living area to provide solar access. The skylight shall be flush with the roof or shall extend no higher than RL 19.3.
- (c) The amended roof level shall not be used as a trafficable area and may only be accessed for maintenance purposes only. In this regard, no decking or open space area shall be shown on the plans and as required in 1(a) above, the lift shall not extend to the roof level. An amended roof plan shall be provided.
- (d) Apartments 3.1 and 3.2 shall be provided with balconies on the southern side of the building directly accessed from the living areas of each apartment. Each balcony shall be a minimum size of 12m² in area with a minimum depth of 2.4m. The floor plan of Level 03 shall be altered to be consistent with Level 02 below. The balconies shall also be provided with skylights for solar access. The skylight shall be flush with the roof or shall extend no higher than RL 19.3.
- (e) The glass line at the retail frontage shall align with the front boundary along Campbell Parade to eliminate the pedestrian hazard of the soffit at the street level. In this regard, the retail level (including glazing) shall be built up to the Campbell Parade frontage boundary with no setback.
- (f) Provide further detailed design of the return corner at the junction of Campbell Parade and Ramsgate Avenue, showing proposed surface treatment, detailing of sun hoods in response to the curved wall and design and detail of any external signage and lighting.
- (g) Provide colour schedules for the building including guidelines for signage and treatment of awnings.
- (h) Retail Shop 2 shall provide bin storage within the shop to ensure ease of access and to inhibit the use of the residential lobby by the shop.

2) BASIX CERTIFICATE

An updated BASIX certificate reflecting the changes required in deferred commencement condition 1).

3) PLANNING AGREEMENT

- (a) The owner/applicant is to enter into a Planning Agreement with Waverley Council under Section 7.4 of the *Environmental Planning and Assessment Act 1979* (formerly S93F) in accordance with the letter of offer dated 22 July 2019 and Waverley Council's *Planning Agreement Policy* for the development that relates to works contained in DA-381/2018 and as amended by the Deferred Commencement matters).
- (b) In this regard, the applicant shall engage a suitable qualified surveyor to calculate the gross floor area (GFA) (as per the *Waverley Local Environmental Plan 2012* definition) of the existing buildings and the proposed building (as amended by the Deferred Commencement matters). Certified floor plans of existing buildings will be required in this instance.

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

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

APPENDIX B – CONDITIONS OF CONSENT

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

A. APPROVED DEVELOPMENT

1. APPROVED DEVELOPMENT

The development must be in accordance with:

(a) Architectural Plans prepared by SJB Architects as follows:

Drawing Number/ rev	Plan description	Date	Received by Council
DA-0101 Rev. 24	Site Plan	19/07/19	31/07/2019
DA-0201 Rev. 24	Floor Plans: Basement 02+03	14/05/19	31/07/2019
DA-0202 Rev. 24	Floor Plans: Basement 01	14/05/19	31/07/2019
DA-0203 Rev. 25	Floor Plans: Ground	19/07/19	31/07/2019
DA-0204 Rev. 24	Floor Plans: Level 01	19/07/19	31/07/2019
DA-0205 Rev. 24	Floor Plans: Level 02	19/07/19	31/07/2019
DA-0206 Rev. 24	Floor Plans: Level 03	19/07/19	31/07/2019
DA-0207 Rev. 24	Floor Plans: Roof	19/07/19	31/07/2019
DA-0501 Rev. 24	Elevation: North	19/07/19	31/07/2019
DA-0502 Rev. 24	Elevation: South	19/07/19	31/07/2019
DA-0503 Rev. 24	Elevation: West	19/07/19	31/07/2019
DA-0601 Rev. 23	Section: A	13/05/19	16/05/2019
DA-0602 Rev. 23	Section: B	13/05/19	16/05/2019
DA-0701 Rev. 00	Detailed Section Campbell Street Facade	19/08/19	16/05/2019

(b) BASIX Certificate;

(c) Traffic and Parking Assessment Report prepared by Varga Traffic Planning dated 24 October 2018 and received by Council on 25 October 2018;

(d) Geotechnical and Hydrogeological Desk Study 3722-R1-Rev3 by Asset Geotechnical Engineering dated 3 August 2017 and received by Council on 25 October 2018;

(e) Schedule of external finishes and colours received by Council on 31 August 2019; and

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

Except where amended by the following conditions of consent.

NOTE – Plan references above are likely to change following satisfaction of the deferred commencement matter. As this occurs, condition 1 will be updated to reflect the new documentation.

2. APPROVED DESIGN - RESIDENTIAL FLAT DEVELOPMENT

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

3. ARCHITECT TO SUPERVISE DESIGN

The preparation of the Construction Certificate plans shall be supervised and be to the satisfaction of **a qualified designer** in accordance with the requirements of State Environmental Planning Policy No. 65 - Design Quality of Residential Flats.

4. SEPARATE APPLICATIONS FOR NON-RESIDENTIAL USE

Specific development consent is required for each individual retail tenancy in connection with the initial usage of any retail or commercial areas within the development, prior to the occupation of the premises.

In this regard, compliance with the BCA in respect to the provision of sanitary facilities shall be provided for each retail tenancy. It is recommended that sufficient services for future sanitary facilities be provided to each tenancy to meet future requirements.

5. SEPARATE APPLICATION FOR SIGNAGE

Any proposed advertising structures to be displayed at the premises are to be subject to a separate development application to and approval from Council (if required).

6. BONDI - ROSE BAY SAND BODY

This site is located within the Bondi - Rose Bay Sand Body as identified in Council's Aboriginal Cultural Heritage Study 2009. Should an object of potential Aboriginal or archaeological significance be discovered during the demolition, excavation or construction period associated with this development, works are to immediately cease and the NSW National Parks and Wildlife Service must be contacted. Works may resume on the site pending receipt of express written permission from the NSW National Parks and Wildlife Service. Waverley Council must be notified of any referral to the NSW National Parks and Wildlife Service and be provided with a copy of any subsequent response.

7. PROVISION FOR SHAFT FOR FUTURE FOOD PREMISES

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

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

8. SECTION 7.12 CONTRIBUTION

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

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

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

- (b) Prior to the issue of the Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.
- (c) Should a section 4.55 modification result in any change to the total cost of the work, the Section 7.12 contribution is to be revised and amended. Prior to the issue of the Construction Certificate, evidence must be provided that the revised levy has been paid to Council in accordance with this condition.

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

Advisory Note

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

9. SECURITY DEPOSIT

A deposit or guarantee satisfactory to Council for the amount of \$345,000 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.

10. LONG SERVICE LEVY

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

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

11. PLANNING AGREEMENT

- (a) The owner of the land / applicant shall:
- (i) Enter into a Planning Agreement with Waverley Council under Section 7.4 of the *Environmental Planning and Assessment Act 1979* (formerly S93F) in accordance with Waverley Council's *Planning Agreement Policy* prior to the issue of any Construction Certificate, for the development that relates to works contained in DA-381/2018 (and as amended by the Deferred Commencement matters); and
 - (ii) Pay a monetary contribution amount consistent with Waverley Council's *Planning Agreement Policy* prior to the issue of any Occupation Certificate for the Development.
- (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 of the land the subject of the Development prior to the issue of any Construction Certificate for the Development; 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 which is:
 - In a form acceptable to Council and from an institution acceptable to Council
 - Irrevocable
 - Unconditional
 - 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 Waverley Council's Planning Agreement Policy.

12. STREET TREE REMOVAL AND BOND

To ensure maximum street tree canopy and continuity of the streetscape the applicant may remove the street tree on Ramsgate Avenue subject to the following conditions:

- (a) Construction of 3 tree pits to the Ramsgate Avenue frontage.
- (b) Plant three (3) replacement trees on the naturestrip in Ramsgate Ave.
- (c) The trees are to be planted prior to the issue of the Occupation Certificate.
- (d) The trees are to be a super advanced *Cupaniopsis anarcardioides* (tuckeroo) trees of a minimum pot size of 75 litres and grown to Natspec standard.
- (e) The tree must be planted by a qualified horticulturist experienced in planting super advanced trees.

- (f) A bond of \$1,000 for each tree (total of \$3,000) is to be lodged with Council either as cash or by way of an unconditional bank guarantee to ensure the protection and maintenance of the newly planted trees on Ramsgate Avenue. The bond is to be lodged prior to the issue of a Construction Certificate. The bond will be refunded after 24 months on condition that the tuckeroo trees are maintained in good condition as determined by Council's Tree Officer. If the trees require replacing within the bond period, they must be replaced within one month of notification from Council and not at the end of the bond period.

13. 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.

14. PUBLIC DOMAIN IMPROVEMENTS

The public domain is to be upgraded on both Campbell Parade and Ramsgate Avenue street frontages for the development site in accordance with Waverley Development Control Plan (DCP) 2012 (Amendment 5) and the Public Domain Technical Manual (PDTM) at the time of engineering plan approval. A public domain plan for the following works is required:

- i. Pedestrian footpath;
- ii. Road pavement;
- iii. Kerb and gutter;
- iv. Stormwater infrastructure located on the Council kerb;
- v. Street light poles;
- vi. Street furniture;
- vii. Landscape and street tree plantings.

The Public Domain Plan shall be submitted to, and approved by, the Executive Manager, Creating Waverley prior to the issue of the relevant Construction Certificate.

15. PUBLIC INFRASTRUCTURE WORKS

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

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

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

- a) The full renewal and reconstruction of asphalt pavement for half road width in Ramsgate Avenue street frontage. Details of the road pavement treatments and sub-grade details to be advised by Council.
- b) The existing concrete footpath traversing both street frontages to be updated to comply with the 'Bondi Beachfront' precinct masterplan, in accordance with the Waverley Development Control Plan (DCP) 2012 and Public Domain Technical Manual (PDTM) at the time of engineering plan approval. The proposed footpath material, profile and details traversing the corner intersection to be advised by Council.
- c) Replace all kerb and gutter traversing the street frontages. Any stormwater kerb lintel infrastructure within the extent of kerb and gutter works shall be replaced. Proposed kerb profiles are to be provided to ensure proper connections to existing kerb and gutter along the street frontage.
- d) Landscape and update of the street plantings on the frontage as advised by Council's Tree Management Officer.

A consulting arborist is to submit specifications and design for tree pits for the street trees with the relevant Construction Certificate for approval by Council's Tree Management Officer. The design is to include measures to minimise tree root conflict with any adjacent services/infrastructure and the installation of a tree guard installed to manufacturer's specifications.

The tree pit size, planting species and location are to be approved by Council's Tree Management Officer.

- e) Make provision for two (2) new street lights serviced by metered underground power and on multifunction poles (MFPs). The consultant shall liaise with Council in obtaining Councils requirements and specifications for the street columns and components, including the appropriate LED luminaire. A minimum of two (2) LED luminaire columns shall be supplied and installed to meet pedestrian compliance standards.

New lighting shall be designed and installed to Australian Standard AS1158:2010 - Lighting for Roads and Public Spaces. Plans shall be prepared and certified by a suitably qualified Electrical Design Consultant and submitted to Councils Public Domain Engineer for approval prior to lodgement of the scheme with Ausgrid for their approval.

- f) The relocation/adjustment of all public utility services affected by the proposed works. Written approval from the applicable Public Authority shall be submitted to Council along with the public domain plans submission. All the requirements of the Public Authority shall be complied with.
- g) The existing electricity pillar on the Ramsgate Avenue frontage to be relocated either underground or inside the property boundary of the proposed development. Applicant must liaise with Ausgrid for their approval and communicate to Council with written confirmation, before executing any works.

- h) The reconstruction of the vehicular crossing on the Ramsgate Avenue frontage of the development site to match the pavement finish of the adjacent footpath. The design must match the existing levels of kerb and gutter on Ramsgate Avenue and include transition works to the proposed driveway within the property.

Notes:

- Depending on the complexity of the proposed public domain works, the Council's review of each submission of the plans may take a minimum of six (6) weeks.
- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the public domain design submissions; however Council's title block shall not be replicated.

16. GROUND ANCHORS

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

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

17. ESSENTIAL SERVICES - NEW BUILDING

Details of the proposed essential fire safety measures/services shall be submitted to Council with the application for a Construction Certificate or be attached to the Construction Certificate, including a certificate, prepared by a person competent to do so, setting out the:

- (a) basis of design;
- (b) standard to which the system is to be installed; and
- (c) all relevant documentation, including all drawings such as wiring diagrams, duct layouts, hydraulic schematics etc and calculations shall be submitted for Council's records.

At the completion of the installation, certification containing the following information shall be attached to the application for an Occupation Certificate or to the Occupation Certificate:

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

18. ARCHITECT TO SUPERVISE DESIGN - CONSTRUCTION CERTIFICATE DOCUMENTATION

The preparation of the Construction Certificate plans shall be supervised and be to the satisfaction of a qualified designer in accordance with the requirements of State Environmental Planning Policy No. 65 - Design Quality of Residential Flats.

In accordance with clause 143a of the Environmental Planning and Assessment Regulations 2000, the Principal Certifying Authority must not issue a construction certificate unless it has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted.

19. SERVICE AUTHORITIES

The applicant is to seek approval from Sydney Water regarding any possible modification to the service authority's infrastructure prior to the issue of a Construction Certificate.

20. HOARDING

To ensure the site is contained during construction, a hoarding may be required for the approved works. If required, the hoarding shall be designed and constructed in accordance with the requirements of **Safe Work NSW**.

The hoarding is to be erected on the street alignments of the property prior to the commencement of building operations and be maintained during the course of building operations. Details of the hoarding are to be provided to Council for record and be to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate.

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

21. GEOTECHNICAL ENGINEERS REPORT

A Geotechnical Engineers Report is to be submitted which assesses the following;

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
- (b) the effect of the development on the likely future use or redevelopment of the land,
- (c) the quality of the fill or the soil to be excavated, or both,
- (d) the effect of the development on the existing and likely amenity of adjoining properties,
- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing relics,
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

The report must make recommendations and conclude that damage should not occur to any adjoining premises as a result of the proposed bulk excavation, driven type piles and shoring works.

The report is to be submitted to the Principal Certifying Authority, Council and the owners of adjoining premises prior to the issue of a Construction Certificate and commencement of any such works on the site.

22. ENGINEERING DETAILS

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

23. DETAILS OF BULK EXCAVATION, SHORING OR PILE CONSTRUCTION

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

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

24. SITE WASTE AND RECYCLING MANAGEMENT PLAN

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

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

25. EROSION, SEDIMENT AND POLLUTION CONTROL

A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared in accordance with Waverley Council's Water Management Technical Manual and the NSW Environment Protection Authority (EPA) Managing Urban Stormwater: Soils and Construction (Blue Book). A vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be included in the plan for any construction site with vehicles entering and exiting the site.

This Plan shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

The approved Soil and Water Management Plan must be kept on site, measures shall be implemented prior to commencement of any works or activities and maintained at all times. A copy of the Soil and Water Management Plan must be made available to the Principal Certifying Authority & Council officers on request.

26. STONE SCREENS TO WINDOWS

The stone screens over the windows on the Ramsgate Avenue and Campbell Parade frontages shall be sized so as to ensure that sufficient glazed area is provided to the windows behind to comply with

the Building Code of Australia. Details are to be submitted to the Principal Certifying Authority prior to the issuing of a Construction Certificate.

27. UNIVERSAL HOUSING DESIGN

One (1) unit within the development is to incorporate the Liveable Housing Design Guideline's silver level universal design features. Details are to be submitted to the Principal Certifying Authority prior to the issuing of a Construction Certificate.

28. CONSTRUCTION VEHICLE AND PEDESTRIAN PLAN OF MANAGEMENT

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

The CVPPM shall provide details of the following:

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

NOTE:

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

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

29. STORMWATER MANAGEMENT

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

30. NOISE ATTENUATION IN RESIDENTIAL FLAT BUILDINGS

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

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

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

31. ACOUSTIC SEPARATION

The ceilings of the recessed balconies shall be finished with an acoustic treatment to reduce the reflection of noise into the rooms behind them.

Appropriate acoustic separation of the retail level from the residential level shall be incorporated into the design to ensure that any future use of the retail shops does not unreasonably impact upon the acoustic amenity of the residential units. Details are to be provided to the Principle Certifying Authority prior to the issue of a Construction Certificate.

32. NOISE MANAGEMENT PLAN - DEMOLITION, EXCAVATION AND CONSTRUCTION

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

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

33. BASIX

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

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

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

34. ENERGY AUSTRALIA

The applicant to confer with Energy Australia to obtain that authority's needs for the provision and location of a kiosk type distribution centre on the subject land, and if deemed necessary, the applicant to make available land to that Authority for the siting of such kiosk/sub-station. Documentary evidence

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

35. SWEEP WHEEL PATH DRAWINGS

Prior to issue of the Construction Certificate, swept wheel path drawings, prepared by a suitably qualified and experienced traffic engineering consultant, showing the swept wheel path of a vehicle entering and exiting the basement car park from Ramsgate Avenue and the parking spaces from the car lift shall be submitted to Council for the approval of the Executive Manager, Creating Waverley.

The swept wheel path drawings shall:

1. Be drawn for the B85, standard design vehicle as described in AS/NZS 2890.1: 2004 Part 1 Off Street Car Parking.
2. Accurately show the kerb and gutter, driveways and vehicles parked kerbside on Ramsgate Avenue both opposite and to the immediate east and west of the proposed driveway.
3. Show the minimum length of driveway layback considered necessary to gain satisfactory access to and from the proposed car park.
4. Show the minimum length of opening and clearances required at the property boundary to cater for the design vehicle swept wheel path.

36. CAR PARKING ALLOCATIONS

A total of **12** car vehicle parking spaces are to be provided, allocated in the following manner:

- (a) 11 residential parking spaces;
- (b) 12 visitor parking spaces ;

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

37. BICYCLE PARKING

A total of **14** bicycle parking spaces are to be provided. Such spaces are to be provided by way of a secure lockable area, individual lockers or suitable bicycle racks and are to be located within the ground floor foyer or adjacent, within any forecourt or within the basement car parking area.

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

38. MOTORCYCLE PARKING

A total of **6** motorcycle parking spaces are to be provided within the basement car parking area. Details are to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate.

39. BASEMENT STORAGE

The basement level is to provide storage areas, allocated to each unit in the development as indicated on the approved plans. Each individual residential unit is to be allocated at least one storage area.

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

40. PRIOR TO SITE WORKS

The Principal Certifying Authority must be informed in writing before any site works, building or demolition commences of:

- (a) the name and contractor licence number of the licensee who has contracted to do, or intends to do, work ; or
- (b) the name and permit number of the owner/builder who intends to do the work; and
- (c) any change to these arrangements for doing of the work.

41. HOME BUILDING ACT

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the Home and Building Act, 1989. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicant requirements of Part 6, before any work commences.

42. OBSTRUCTION TO PUBLIC AREAS

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

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

43. CONSTRUCTION SIGNS

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

44. 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.

45. TOILET FACILITIES

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

46. DILAPIDATION REPORTS

Dilapidation surveys must be conducted and dilapidation reports prepared by a practising professional engineer (structural) of all buildings, (both internal and external), including ancillary structures located on land adjoining the site and of such further buildings located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration. The survey must identify which properties are within the likely 'zone of influence'.

These properties must include (but are not limited to):

- 252 Campbell Parade, Bondi Beach
- 250 Campbell Parade, Bondi Beach
- 2664-268 Campbell Parade, Bondi Beach
- 110-114 Ramsgate Avenue, Bondi Beach
- 108 Ramsgate Avenue, Bondi Beach
- 106 Ramsgate Avenue, Bondi Beach
- 104 Ramsgate Avenue, Bondi Beach
- 102 Ramsgate Avenue, Bondi Beach

And any others identified to be in the zone of influence in the Dilapidation Survey.

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

Please note the following:

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

47. DEMOLITION AND CONSTRUCTION WASTE MANAGEMENT

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

- (a) Separate collection bins or areas for the storage of waste is to be provided (giving consideration to slope, drainage, vegetation, access and handling requirements including:
 - (i) Landfill waste;
 - (ii) Recyclable waste;
 - (iii) Materials to be re-used on-site; and / or
 - (iv) Excavation materials.See Annexure B1-1 of the Waverley DCP for common building materials re-use and recycling potential.
- (b) A 100% re-use of sandstone is required.
- (c) All storage areas/ containers are to be located within the property boundary and indicated on the site plans / drawings as part of the SWRMP.
- (d) Where space on a development is limited, approval may be granted by Council to place a skip on a footpath or other public area in line with Part B of Waverley DCP 2012 (amendment 6).
- (e) Waste and recycling containers/skips may only be provided by persons/companies holding a current permit granted by Council.
- (f) Asbestos and other hazardous material is to be managed under the Protection of the Environment Operations Act. For further information go to Councils Asbestos Policy 2005 and www.nsw.gov.au/fibro and www.workcover.nsw.gov.au.
- (g) Materials that cannot be reused or recycled should be disposed of at an 'approved' landfill and specified in the SWRMP.
- (h) Records are to be retained on-site demonstrating lawful disposal of waste.
- (i) Easy vehicular access to waste and recycling material storage areas must be provided.
- (j) Construction materials are to be stored away from waste and recycling materials to enable easy access for waste collectors.
- (k) All waste and recycling is to be stored to prevent damage by the elements, odour, health risks and windborne litter.

48. DEMOLITION OR ALTERATION OF PRE 1987 BUILDINGS

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

- (a) outline the identification of any hazardous materials, including surfaces coated with lead paint;

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

49. 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.

50. CONTAMINATING MATERIAL REQUIRED TO BE REMOVED

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

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (eg: ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices. They shall also adopt work practices in accordance with the requirements of Safe Work Australia's National Standard for the Control of Inorganic Lead at Work (NOHSC: 1012 (1994) and NOHSC: 2015(1994).
- (c) All lead-contaminated materials being disposed of in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines 2009 and the Protection of the Environment Operations Act 1997 (NSW).

51. ASBESTOS REMOVAL

- (a) All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current WorkCover NSW Friable Class A Asbestos Removal Licence or where applicable a Non-friable Class B (bonded) Asbestos Removal Licence. Removal must be carried out in accordance with the "Code of Practice on how to safely remove asbestos" published by WorkCover NSW (catalogue no.WC03561) and Waverley's Asbestos Policy.
- (b) All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and email address.
- (c) No asbestos products are to be reused on site.

- (d) Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400m x 300mm are to be erected in prominent visible positions on the site during asbestos removal works.
- (e) No asbestos laden skips or bins are to be left in any public place without the approval of Council.

52. COMPLIANCE WITH SAFE WORK NSW

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

53. MANAGEMENT OF ACIDIC SULFATE SOIL

Following the demolition stage, but prior to the construction stage, further investigations for Acid Sulfate soils shall be undertaken by a suitably qualified expert. Should the subject site show evidence of acid sulphate soils, the following shall apply:

- (a) To address issues arising from the natural acidity of the soil on-site, any concrete that is in contact with this soil is to be designed to restrict acid and sulphate attack. The Cement and Concrete Association of Australia Technical Note TN57 is to be adhered to for precautionary measures.
- (b) Prior to the commencement of any works, the applicant shall nominate an appropriately qualified Environmental Scientist to supervise the management of acid sulphate soils. The Scientist shall:
 - i. Provide an acceptance in writing to supervise the aforementioned works to ensure compliance with the relevant conditions of Development Consent.
 - ii. On completion of the works certify that the aforementioned works have been constructed in compliance with the approved plans, specifications and conditions of consent.
- (c) The nominated supervising Environmental Scientist shall certify that the management of acid sulphate soil was undertaken in accordance with the Development Consent. Prior to the use or occupation of the building (or Occupation Certificate being issued), the Principal Contractor / Developer shall submit to Waverley Council a copy of the aforementioned Certificate.

54. POTENTIAL DEWATERING OF THE SITE

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

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

55. 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.

56. 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.

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

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

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

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

58. SEDIMENT REMOVAL FROM VEHICLE WHEELS

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

59. CONSTRUCTION HOURS

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

- (a) The Saturday (except minor renovation or refurbishment to a single dwelling construction) and Sunday which form part of public holiday weekends; and
- (b) Sundays and public holidays
- (c) Excavation works involving the use of heavy earth movement equipment including rock breakers and the like must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays with no such work to be carried out on Saturday, Sunday or a public holiday.

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

60. EXCAVATION TO BE LIMITED

Excavation shall be limited to that shown in the approved plans. Excavation, proposed or undertaken in the certification or construction of the development, that results in additional habitable or non-habitable floor space (including storage) shall require the submission of a new development application or Section 96 application to modify the approved development. During consideration of this application construction work on site shall cease without prior agreement of Council. Failure to comply with this condition may lead to Council prosecuting or taking a compliance action against the development for breach of its consent.

61. EXCAVATION TO BE MANAGED BY STRUCTURAL ENGINEER

Bulk excavation is to be managed by a practising structural engineer, in accordance with the specification for shoring and support, as detailed in the approved Construction Certificate.

62. 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.

63. 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.

64. BUILDING CODE OF AUSTRALIA

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

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

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

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

The specified **MANDATORY** inspections are:

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

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

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

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

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

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

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

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

The specified **MANDATORY** inspections are:

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

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

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

- (a) sediment control measures prior to the commencement of building work;
- (b) foundation material prior to undertaking building work;
- (c) shoring of excavation works, retaining walls, piers, piling or underpinning works;
- (d) steel reinforcement, prior to pouring concrete;

- (e) prior to covering timber or steel framework for floors, walls and roofing, including beams and columns;
- (f) prior to installation of fire resisting construction systems (ie fire rated ceilings and walls).

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

67. 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.

68. 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.

69. RESIDENTIAL FLAT BUILDINGS - BALCONIES NOT TO BE ENCLOSED

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

70. SERVICE PIPES

All plumbing and drainage, including sewerage drainage stacks, ventilation stacks and water service pipes shall be concealed within the building. Plumbing other than stormwater downpipes shall not be attached to the external surfaces of the building.

71. NEW VEHICLE CROSSING

A new vehicle crossing is to be provided to access the proposed **basement car park**. A separate application is required for the vehicle crossing, with all work to be carried out with the approval of and in accordance with the requirements of Council.

72. VEHICLE ACCESS

All vehicles entering and exiting the basement garage shall do so in a forward direction at all times. Details are to be provided to the Principle Certifying Authority as to the measures to achieve this ie, turntable within the basement car park or similar.

73. VEHICULAR ACCESS - FINISHED LEVEL

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

74. PARKING SPACES

The resident and visitor car parking spaces in the basement being clearly line marked and signposted.

75. RELOCATION OF PARKING / STREET SIGNS

- (a) Where necessary, the applicant shall meet the cost of the relocation/installation of any traffic, meters or parking control signs.
- (b) Any street signs to be removed as a result of the works shall be relocated at the applicant's expense in accordance with Council's requirements.

76. 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.

77. PUBLIC UTILITIES AND SERVICE ALTERATIONS

Any utility services and all public infrastructure which require alteration due to works associated with the development, both internally and externally of the development boundary, shall be altered at the Applicant's expense. This includes both temporary and permanent alterations. Upon notifying Council's Executive Manager, Creating Waverley, the Applicant must comply with the requirements (including financial costs) of the relevant utility service provider (e.g. Ausgrid, Sydney Water, Telstra, RMS or similar) in relation to any connections, repairs, relocations, replacements and/or adjustments to public infrastructure or services affected by the proposed works.

78. PUBLIC AREAS AND RESTORATION WORKS

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

79. 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.

80. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES

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

An invoice will be issued to the Applicant for the amount payable, which will be calculated based on the design plans for the public domain works.

81. NOTICE OF INTENTION TO COMMENCE PUBLIC DOMAIN WORKS

Prior to commencement of the public domain works, notice shall be submitted to Council's Public Domain Engineer. This Notice shall include the name of the Contractor who will be responsible for the construction works, and the contact details of the managing site supervisor/engineer.

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

82. PRE-CONSTRUCTION DILAPIDATION REPORT – PUBLIC DOMIAN

To ensure Council's infrastructure is adequately protected a pre-construction dilapidation report on the existing public infrastructure within the vicinity of the proposed development and along the travel routes of all construction vehicles, up to 100m either side of the development site, is to be submitted to Council's Public Domain Engineer. The report shall detail, but not be limited to, the location, description and photographic record (in colour) of any observable defects to the following infrastructure where applicable:

- Road pavement
- Kerb and gutter
- Footpath
- Drainage pits and lintels
- Traffic signs
- Adjacent property facades and awnings
- Any other relevant infrastructure.

The report is to be dated, submitted to, and accepted by Council's Public Domain Engineer, prior to any work commencing on the site.

All fees and charges associated with the collation of this report shall be at the cost of the Applicant.

83. PUBLIC DOMAIN PRE-CONSTRUCTION MEETING

To ensure all public infrastructure works approved under this consent will be completed to Council's satisfaction and a program of required inspections is established, a preconstruction meeting shall be arranged with Council's engineering inspector/s prior to works commencing on site.

84. PUBLIC DOMAIN ENGINEERING INSPECTIONS

To ensure all public infrastructure engineering works required by Council under this consent will be constructed to Council satisfaction, inspection(s) will be required and compliance certificates must be obtained from Council's engineer for the following hold points:

Kerb and Gutter & Footpath Paving

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

Road Pavement

- Subgrade trim and compacted
- Sub-base spread and compacted

- Base course spread and compacted
- Intermediate course spread and compacted
- Binder course spread and consolidated
- Wearing course laid

Landscape

- After full completion and restoration

Street Lighting

- After full completion

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

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

85. AWNINGS

The awning shall:

- (a) Extend along the entire Campbell Parade frontage of the site.
- (b) Be minimum 3m in width (extending out from building façade);
- (c) Have a height between 3.1 – 4.2m measured above footpath level, that steps/tapers with the topography of the site;
- (d) Be offset a minimum of 600mm behind the kerb.

86. STREET TREE PLANTING - RESIDENTIAL ZONES

The proposed street planting to Ramsgate Avenue (species, size and spacing) is to be undertaken in accordance with Council's requirements and the following:

- (a) adequate drainage with specifications showing continuous interconnected tree channel pits with a minimum size of 1sqm;
- (b) solid cast aluminium tree guards and root barriers in accordance with Council's Tree Management Policy;
- (c) a protective wire mesh guard with a minimum height of 1.5m shall be erected and secured around each tree;
- (d) planting areas within 1m of concrete structures shall have a flexible root barrier installed around the perimeter of the planting hole.
- (e) Species, size and spacing to be approved by Council's Strategic Tree Officer.

87. TREE PROTECTION

Precautions shall be taken when working near trees to ensure their retention, including the following:

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) Prevent damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter.

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

88. OCCUPATION CERTIFICATE

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

89. SYDNEY WATER

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

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

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

90. ARCHITECT TO SUPERVISE DESIGN - OCCUPATION CERTIFICATE DOCUMENTATION

In accordance with clause 154A of the Environmental Planning and Assessment Regulations 2000, the Principal Certifying Authority must not issue an occupation certificate to authorise a person to commence occupation or use of the development unless it has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued.

91. STORMWATER

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

92. WASTE AND RECYCLING STORAGE AND COLLECTION - USE

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

- **Residential** (based on the waste generation rates for 6 units, and weekly collection of general waste and fortnightly collection of recycling)
 - 2 x 240L Mobile Garbage Bins (MGBs) for general waste
 - 1 x 240L MGB for container recycling
 - 1 x 240L MGB for paper and cardboard recycling
 - 1 x 240L MGB for excess waste
- **Commercial Residential** (assuming daily collection of general waste and comingled recycling)

- 2 x 240L MGBs for general waste
 - 2 x 240L MGB for comingled recycling
 - Extra space for the storage of excess waste, bulk cardboard, packaging, and milk and bread crates.
 - Collection frequencies must be adjusted to accommodate volumes of waste generated
- (b) All waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B of Waverley Council Development Control Plan 2012. All waste and recycling storage rooms must be graded and drained to the sewerage system and approved by Sydney Water.
- (c) All bulky unwanted household items such as old furniture must be stored in a designated area of 4m² floor space within the property while awaiting Council collection.
- (d) Composting facilities must meet all design requirements set in Annexure B1-5 of the Waverley Council Development Control Plan.
- (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) The storage of bins on the kerbside on public land and kerbside is not permitted at any time.
- (h) All waste and recycling must be presented with lids closed to reduce littering, storm water pollution, odour and vermin. Waste and recycling not presented in the correct manner will not be collected.
- (i) All waste and recycling bins must be put out for collection no earlier than the night before collection and brought in the same day as the collection service.
- (j) 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.
- (k) Clear and easy signs identifying the different MGB and where the MGBs should be stored in the storage area(s) must be displayed.
- (l) The storage of bins on the kerbside on public land and kerbside is not permitted at any time.
- (m) All waste and recycling must be inside Council approved bins or 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.
- (n) All new developments are to provide adequate storage for waste to accommodate future change of uses including grease traps.

- (o) Kitchens, office tea rooms, and the like are to be designed with sufficient space for the interim storage of recyclable, organic and regular waste in separate receptacles.
- (p) Sufficient space must be allocated within the building for the storage of reusable items such as crates and pallets.
- (q) Ongoing management of the property is to be in accordance with the approved SWRMP to ensure that appropriate waste and recycling services are provided.
- (r) Waste generated by a development must not exceed the maximum permitted generation rates for the building use.

93. FIRE SAFETY WORKS

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

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

94. WAVERLEY DIGITAL MODEL

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

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

Notes:

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

95. LIGHTING

- (a) Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the

surrounding area by light overspill. All lighting shall comply with the Australian Standard AS 4282:1997 Control of the Obtrusive Effects of Outdoor Lighting.

- (b) All external lighting fixtures should be vandal resistant.
- (c) Lighting should be carefully considered in areas covered by CCTV to allow for optimum viewing.
- (d) Lighting should be free of obstructions, such as tree branches, pipes, etc.
- (e) Transition lighting should also be used throughout the site to reduce vision impairment, i.e. impairment caused by walking from dark to light places and light to dark places.
- (f) All external area lights and carparks to multi-unit dwellings shall be on sensor switches to save energy and reduce light spill to the sky; low voltage solar powered lights to front entry footpaths are acceptable for continuously illuminated lighting.

96. ALLOCATION OF STREET NUMBER

The redevelopment of the property has led to the following allocation of primary and sub-premises numbering for a strata subdivision with multiple street frontages:

- No. 252 Campbell Parade Bondi Beach (primary address)
- Alternate street entry point via Ramsgate Avenue
- Vehicle entry point Ramsgate Avenue.

Premises with multiple street frontages and access points shall display the 'primary address number' on the site boundary of the primary address location and display both the primary address number and primary address location at alternative street address entry points to the building.

The primary premises numbering for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level on the site boundary and clearly visible from Campbell Parade And Ramsgate Avenue.

As the redevelopment has multi-level sub-addressing the following sub-addressing will apply;

- Nos. Shop 1 and Shop 2 for the sub-addresses within the building correlating with Nos. Retail 1 and 2 on the floor plans for the building,
- Nos. 101, 102 for the sub-addresses within the building correlating with Apt.1.1, Apt.1.2 on the floor plans for the building,
- Nos. 201, 202 for the sub-addresses within the building correlating with Apt.2.1, Apt.2.2 on the floor plans for the building,
- Nos. 301, 302 for the sub-addresses within the building correlating with Apt.3.1, Apt.3.2 on the floor plans for the building,

The address number for a sub-address site shall consist of the sub-address followed by the number of the primary address site.

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

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

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

97. PARKING

- a. Ownership of car park lot spaces within the basement shall be limited to parties owning a lot within the buildings on-site.
- b. A minimum of one car space and a maximum of two car spaces shall be allocated to any residential unit/dwelling to ensure equitable allocation overall.
- c. Car parking spaces shall not be independent lots, but rather part lots attached to units in any future Subdivision Plans.

98. PARKING PERMITS

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

99. ENTRY AND EXIT OF VEHICLES

Vehicles entering and exiting the basement car park shall do so in a forward direction at all times.

100. NOISE ATTENUATION CERTIFICATE

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

- (a) Engage and an Australian Association Acoustic Consultant to conduct a test for noise attenuation to classify the buildings performance on the National Star Rating Table and to confirm compliance with Condition; and
- (b) Lodge with Council for public record, the noise attenuation star rating results.

101. NOISE – PLANT AND EQUIPMENT

A Certificate is to be submitted to Council at the completion of all work and prior to the issue of an Occupation Certificate, from a suitably qualified Acoustic Engineer. The Certificate is to certify all plant and equipment including mechanical supply and exhaust ventilation systems (including the car park) and lift motors comply with the terms of approval in relation to noise.

102. CERTIFICATION OF MECHANICAL EXHAUST

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

103. USE OF ROOF

The roof shall be non-trafficable and accessed for maintenance purposes only.

104. FIRE SAFETY - EXITS

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

105. FIRE SAFETY MAINTENANCE

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

106. WORK-AS-EXECUTED PLAN

To ensure public infrastructure works required under the consent are completed in accordance with approved plans and specifications, a Work-as-Executed plan of the works, prepared by a registered surveyor is to be submitted to the Principal certifying Authority and Council's Public Domain Engineer for review with any required rectification works completed and approved by Council prior to issue of any Occupation Certificate.

The W.A.E plans are to note all departures clearly in red on a copy of the approved Construction Certificate plans and certification from an experienced chartered civil engineer shall be submitted to support all variations from approved plans.

107. SUPERVISING ENGINEER FINAL CERTIFICATE – PUBLIC DOMIAN

Prior to the issue of any Occupation Certificate for the works, the Applicant shall submit to Council's Public Domain Engineer, a Final Certificate from the Supervising Engineer confirming that the public domain works have been constructed in accordance with the Council approved plans and Waverley Council standards and specifications. The certificate shall include commentary to support any variations from the approved drawings.

108. ELECTRICITY ACCOUNTS FOR NEW STREET LIGHTING

Prior to the issue of any Occupation Certificate, the Applicant shall liaise with Council's Public Domain Development Section regarding the setting up of the electricity account/s in order to energise the newly installed street lighting.

109. CERTIFICATION OF PUBLIC INFRASTRUCTURE WORKS

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

Notes:

- The issue of a Compliance Certificate from the Council officer will be withheld should there be any outstanding fees and charges applicable to the development. This includes but not limited to fees applicable for engineering plans assessment and work inspection fees.

- The refund of any damage and/or security deposits will be subject to satisfactory restoration and rectification of all civil infrastructure that have dilapidated as a result of the construction activities associated with this development consent.

E. OPERATIONAL CONDITIONS DURING OCCUPATION

110. 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.

111. NOISE EMISSIONS

The use of the premises shall not give rise to:

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

112. MECHANICAL PLANT

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

113. INSTALLATION OF AIR CONDITIONING

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

- (a) Be located within the basement carpark in a suitably ventilated plant area. Should this not be possible, then condenser units shall be located on the roof, in the centre adjacent to lift overrun.
- (b) Not be adjacent to neighbouring bedroom windows.
- (c) Not reduce the structural integrity of the building.
- (d) Not emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):
 - (i) before 8.00am and after 10.00pm on any Saturday, Sunday or public holiday; or

- (ii) before 7.00am and after 10.00pm on any other day.
- (e) Not provide noise emissions that exceed 5dBA above the ambient background noise level measured at the property boundary at any other time outside of (e).
- (f) Not be located on the roof of the development without the separate consent of Council.

114. TELECOMMUNICATION FACILITIES ON MULTI-UNIT DWELLINGS

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

115. DOMESTIC HEATERS/ FIREPLACES

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

116. 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.

117. NO FLASHING SIGNS

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

118. LOCATION OF SIGNS

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

119. VEHICULAR ACCESS TO AND FROM RAMSGATE AVENUE

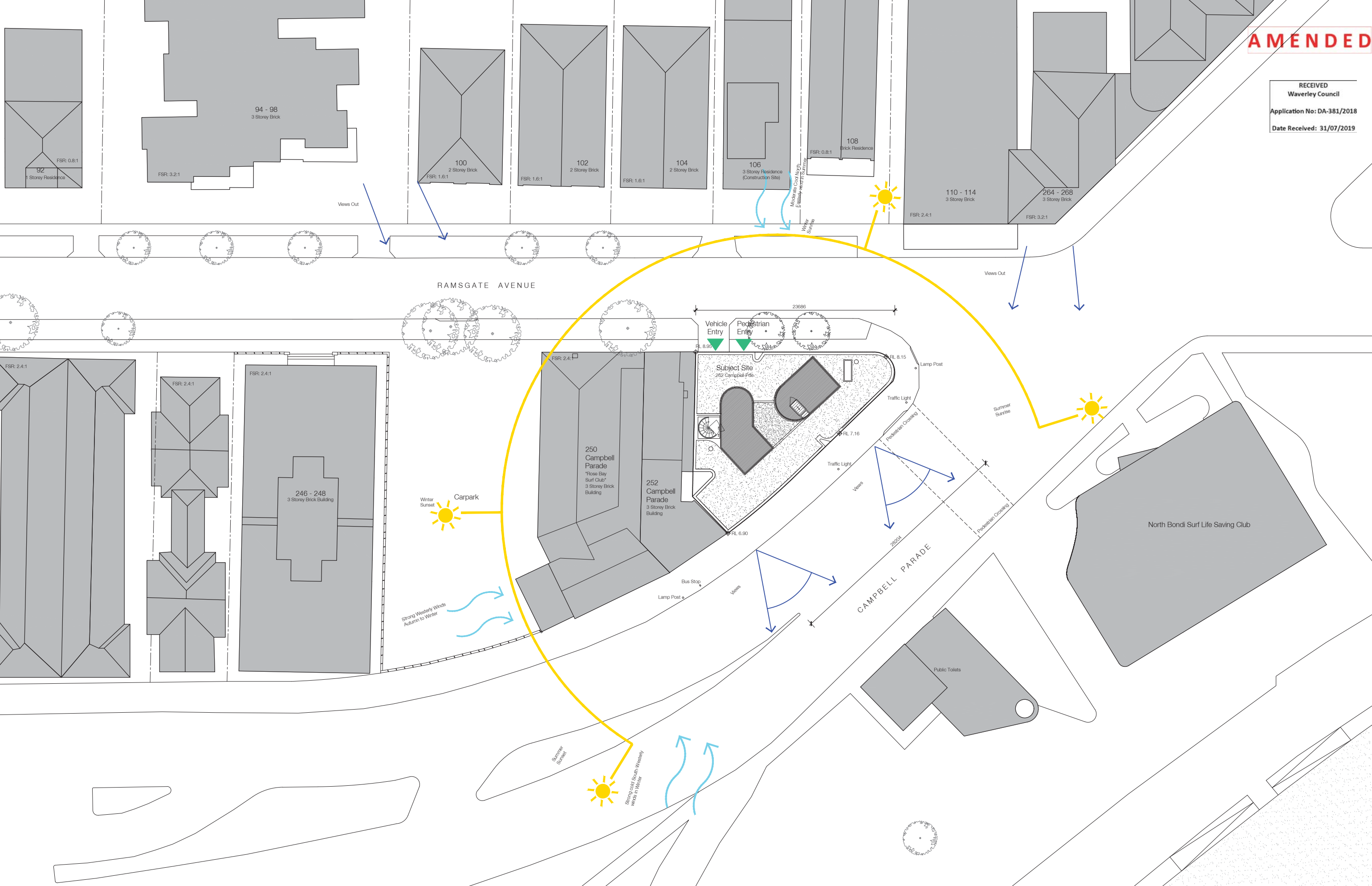
Having regard to the narrow carriageway in Ramsgate Avenue and the high demand for on street parking on both sides, any application to Council seeking approval for the installation of parking restrictions in the vicinity of the proposed driveway on either side of Ramsgate Avenue to improve vehicular access will not be approved.

120. VEHICLE ACCESS

All vehicles entering and exiting the basement car park shall do so in a forward direction at all times.

121. CAR LIFT

To prevent vehicle delays, the car lift mechanism is to default to the Ramsgate Avenue ground level when not in operation.



AMENDED

RECEIVED
Waverley Council
Application No: DA-381/2018
Date Received: 31/07/2019

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The Builder/Contractor shall verify job dimensions prior to any work commencing. Use figured dimensions only. Do not scale drawing.

FOR APPROVAL

Rev.	Date	Revision	By	Chk.
23	14.05.19	Revised DA issue	PB	GS
24	19.07.19	Revised DA issue	PB	GS

Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

Project
Mixed Use development
262 Campbell Parade
Bondi Beach
Drawing Name
Site Plan

Date	Scale	Sheet Size
19.07.19	1:200	@ A1
Reg No.	Drawn	Chk.
	PB	GS
Job No.	Drawing No.	Revision
5427	DA-0101	/ 24

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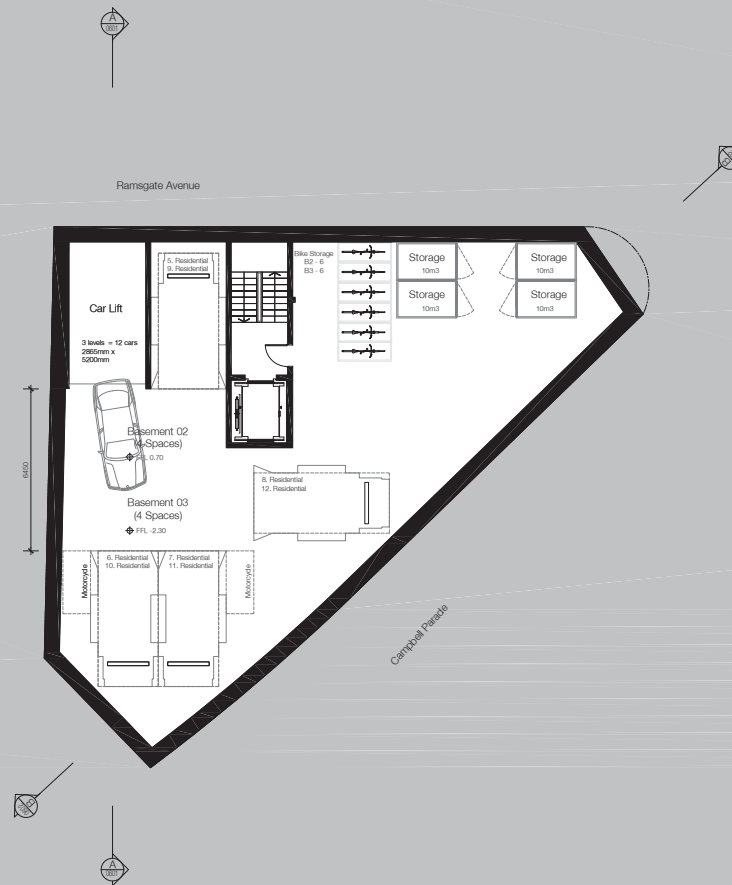


AMENDED

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FOR APPROVAL

Nominated Architects	Adam Haddock	7188	John Pradisi	7004
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[illegible][illegible]

Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk

Project
Mixed Use development
262 Campbell Parade
Bondi Beach
Drawing Name
Floor Plans;
Basement 02 + 03

Date	Scale	Sheet Size
14.05.2019	1:100	A1
Flag No.	Drawn	Chk.
	PB	GS
Job No.	Drawing No.	Revision
5427	DA-0201	24

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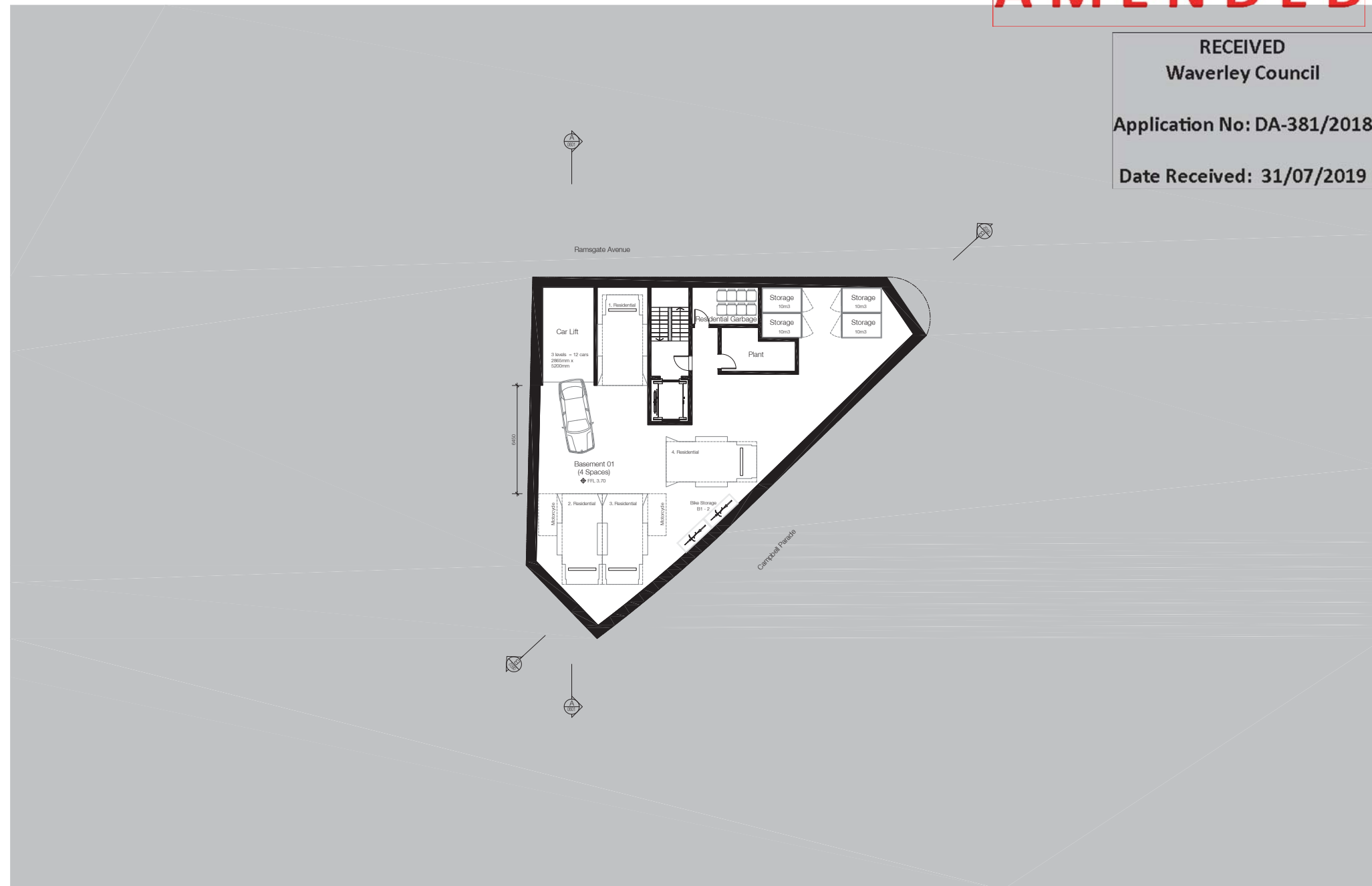


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Notified Architects: Adam Haddock 7188 John Pridell 7054

Rev.	Date	Revision	By	CHK.
24	14.05.19	Revised DA Issue	PB	GS

Rev.	Date	Revision	By	CHK.

Rev.	Date	Revision	By	CHK.

Rev.	Date	Revision	By	CHK.

Project:
Mixed Use development
262 Campbell Parade
Bondi Beach
Drawing Name:
Floor Plans;
Basement 01

Date	Scale	Sheet Size
14.05.2019	1:100	A1
Reg. No.	Drawn	CHK.
	PB	GS
Job No.	Drawing No.	Revision
5427	DA-0202	24

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23	14.05.19	Revised DA issue	PB	GS
24	19.07.19	Revised DA issue	PB	GS

Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

Project
Mixed Use development
262 Campbell Parade
Bondi Beach
Drawing Name
Floor Plans;
Level 02

Date	Scale	Sheet Size
19.07.19	1:100	@ A1
Reg No.	Drawn	Chk.
	PB	GS
Job No.	Drawing No.	Revision
5427	DA-0205	/ 24

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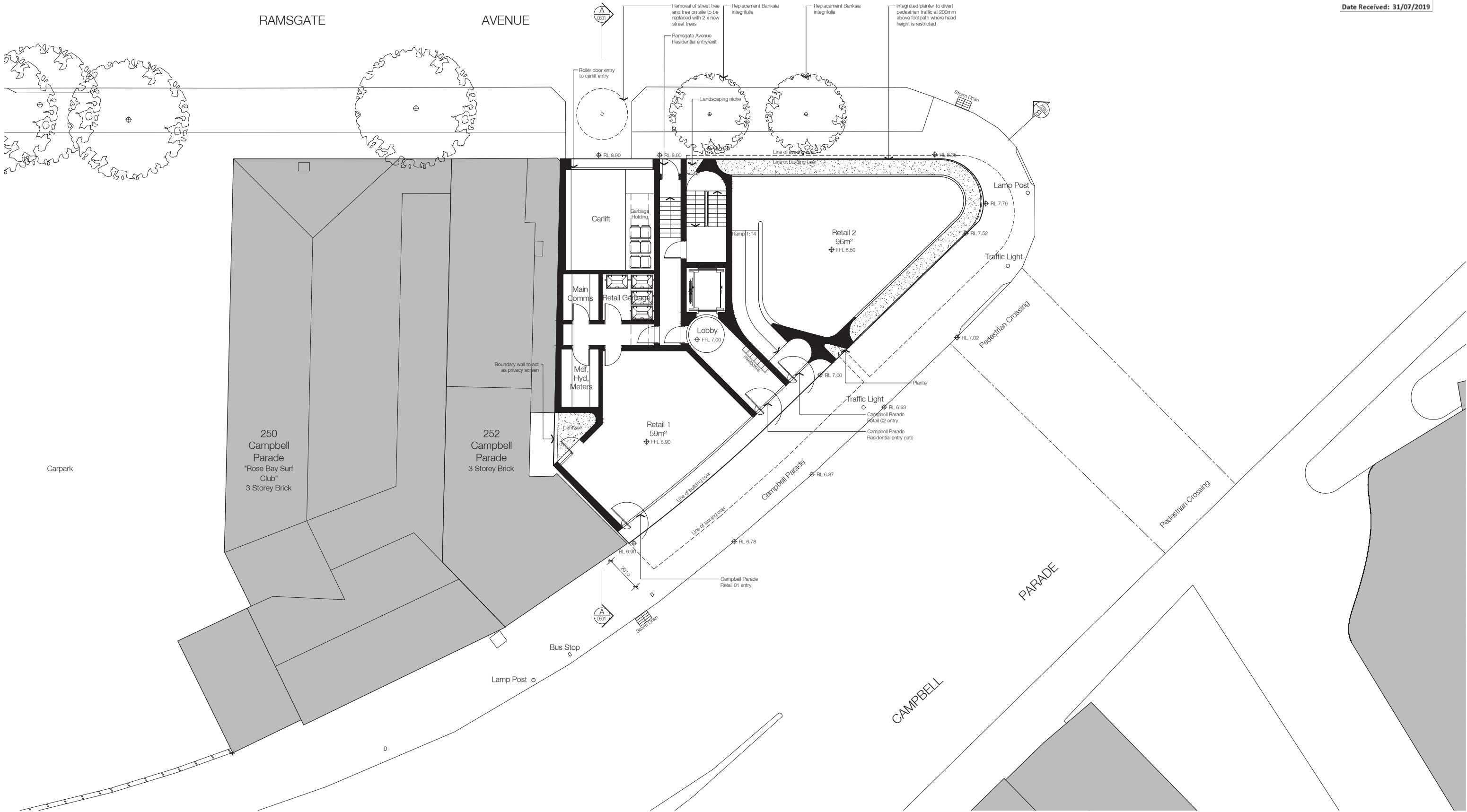


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RAMSGATE

AVENUE



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24	14.05.19	Revised DA issue	PB	GS
25	19.07.19	Revised DA issue	PB	GS

Nominated Architects Adam Haddow 7188 John Pradel 7004

Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

Project
Mixed Use development
262 Campbell Parade
Bondi Beach
Drawing Name
Floor Plans;
Ground

Date	Scale	Sheet Size
19.07.2019	1:100	@ A1
Reg No.	Drawn	Chk.
	PB	GS
Job No.	Drawing No.	Revision
5427	DA-0203	/ 25

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24	19.07.19	Revised DA issue	PB	GS

Rev.	Date	Revision	By	Chk.

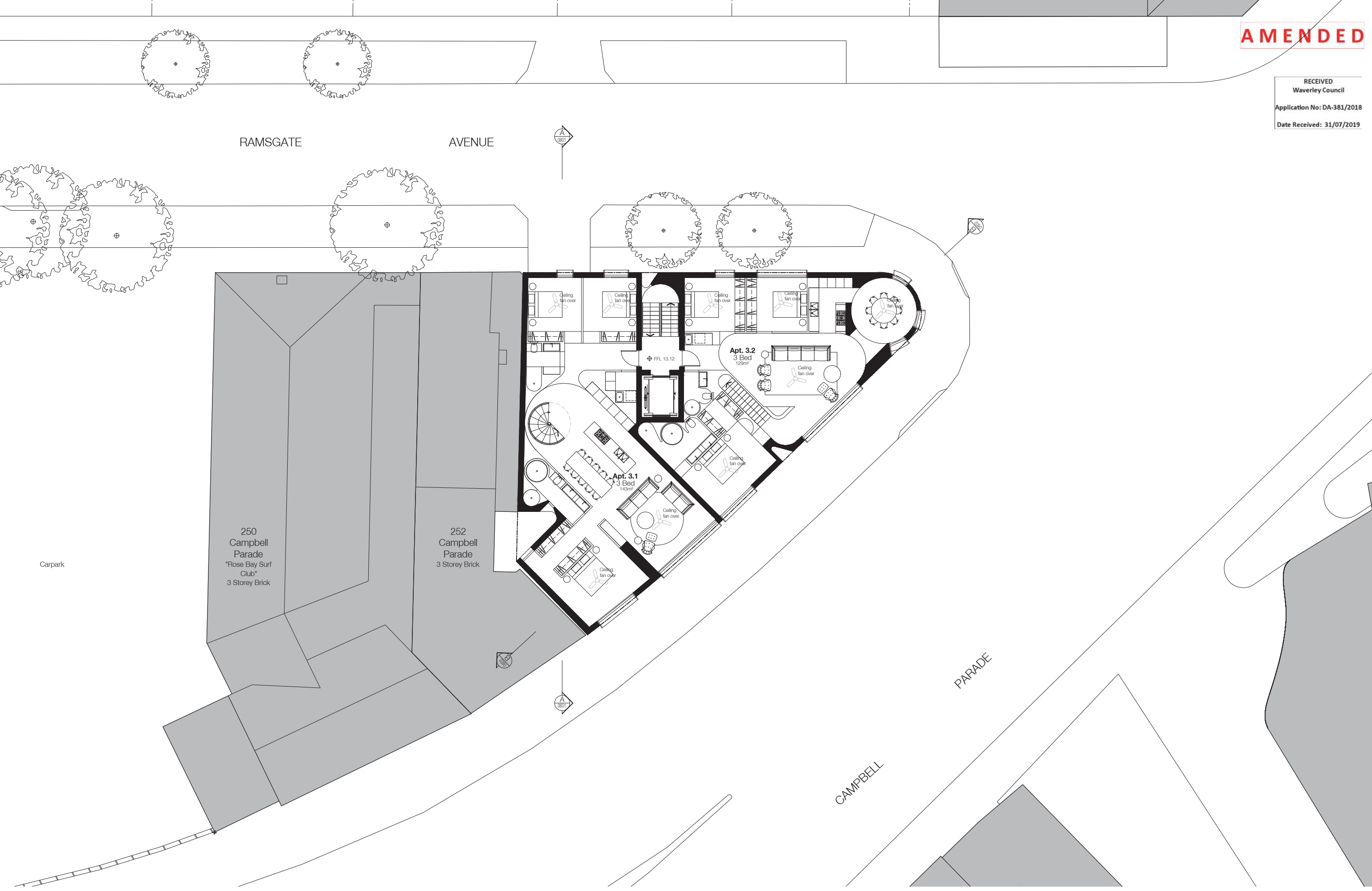
Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

Project
Mixed Use development
262 Campbell Parade
Bondi Beach
Drawing Name
Floor Plans;
Level 01

Date	Scale	Sheet Size
19.07.2019	1:100	@ A1
Reg No.	Drawn	Chk.
	PB	GS
Job No.	Drawing No.	Revision
5427	DA-0204	/ 24

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24	19.07.19	Revised DA issue	PB	GS

Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

Project
Mixed Use development
262 Campbell Parade
Bondi Beach
Drawing Name
Floor Plans;
Level 03

Date	Scale	Sheet Size
19.07.19	1:100	@ A1
Reg No.	Drawn	Chk.
	PB	GS
Job No.	Drawing No.	Revision
5427	DA-0206	/ 24

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Date Received: 31/07/2019

AVENUE

250
Campbell
Parade
"Rose Bay Surf
Club"
3 Storey Brick

252
Campbell
Parade
3 Storey Brick

PARADE

CAMPBELL

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Rev.	Date	Revision	By	Chk
23	14.05.19	Revised DA issue	PB	GS
24	19.07.19	Revised DA issue	PB	GS

Rev.	Date	Revision	By	Chk

Rev.	Date	Revision	By	CHK

Rev. Date	Revision	By	CHK

Project

Mixed Use development
262 Campbell Parade
Bondi Beach

Drawing Name

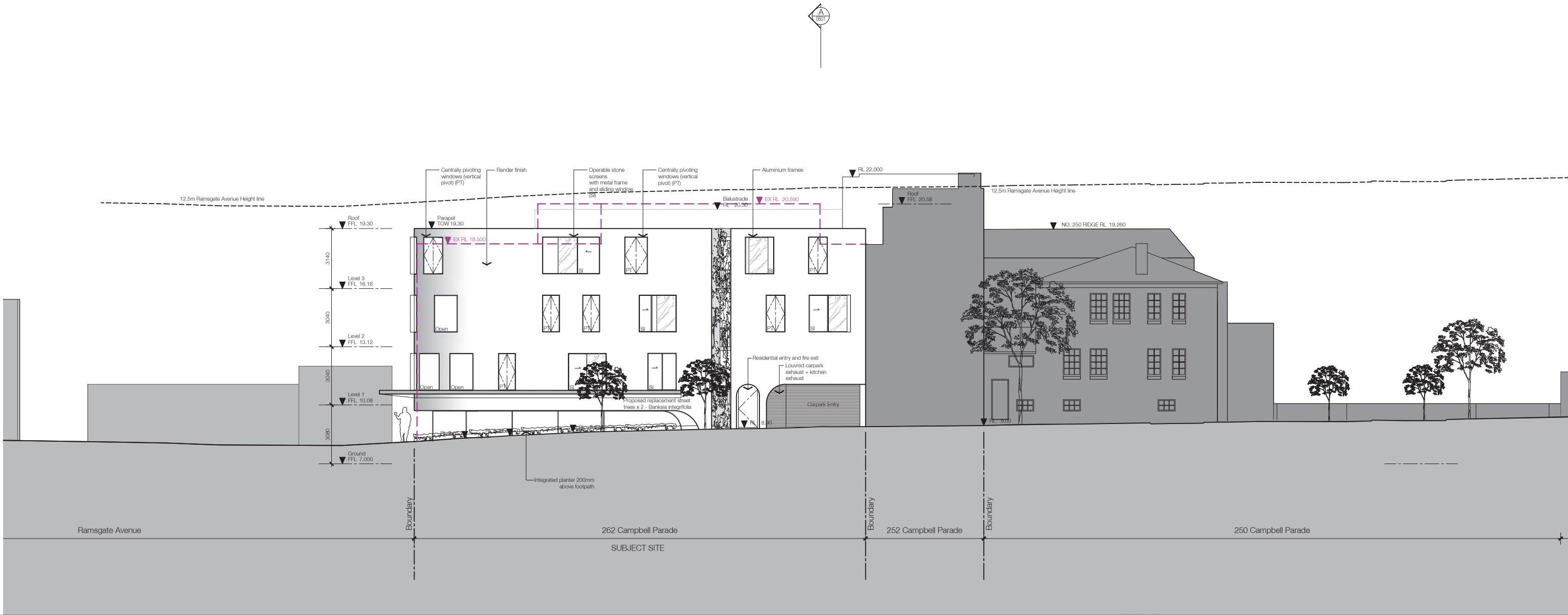
Floor Plans;
Roof

Date	Scale	Sheet Size
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Reg No.	Drawn	Chk.
	PB	GS
Job No.	Drawing No.	Revision
5427	DA-0207	/24

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Rev.	Date	Revision	By	Chk.
23	14.05.19	Revised DA issue	GS	CP
24	19.07.19	Revised DA issue	PB	GS

Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

Project
Mixed Use development
262 Campbell Parade
Bondi Beach
Drawing Name
Elevation;
North

Date	Scale	Sheet Size
19.07.2019	1:100	@ A1
Reg No.	Drawn	Chk.
	GS	CP
Job No.	Drawing No.	Revision
5427	DA-0501	/ 24

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Rev.	Date	Revision	By	Chk.
23	14.05.19	Revised DA issue	PB	GS
24	19.07.19	Revised DA issue	PB	GS

Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

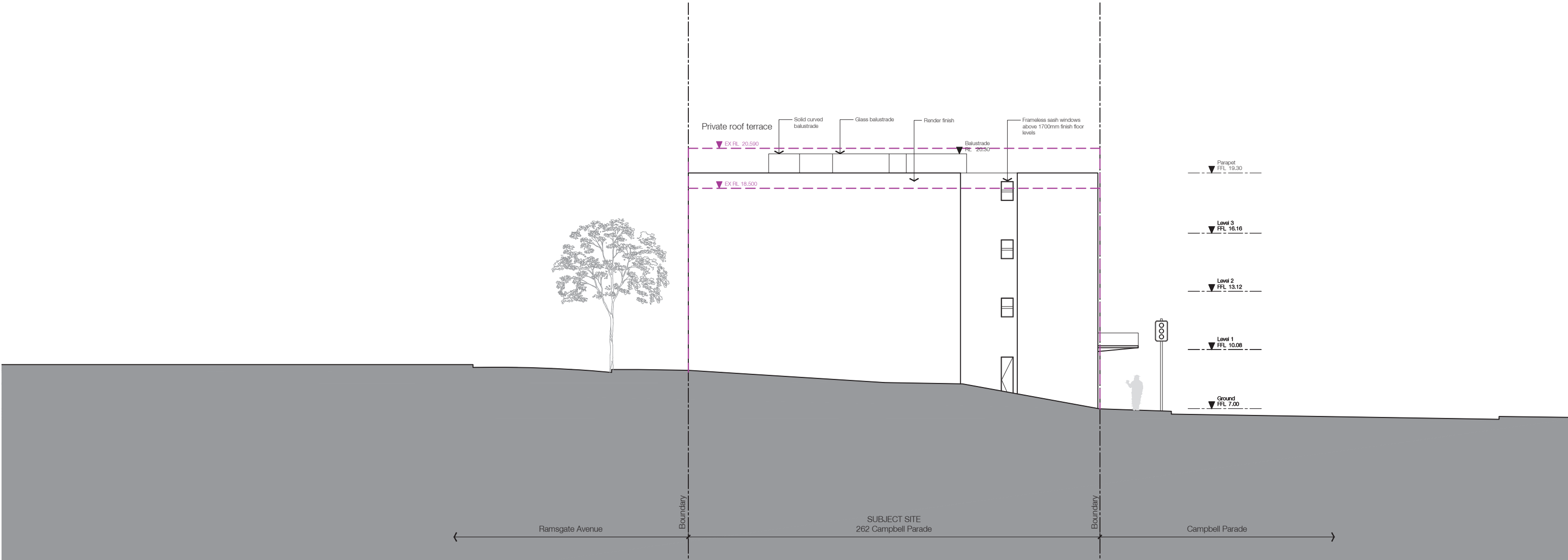
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Mixed Use development
262 Campbell Parade
Bondi Beach
Drawing Name
Elevation;
South

Date	Scale	Sheet Size
19.07.19	1:100	@ A1
Reg No.	Drawn	Chk.
	PB	GS
Job No.	Drawing No.	Revision
5427	DA-0502	/ 24

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Rev.	Date	Revision	By	Chk.
23	14.05.19	Revised DA issue	GS	CP
24	19.07.19	Revised DA issue	PB	GS

Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

Project
Mixed Use development
262 Campbell Parade
Bondi Beach
Drawing Name
Elevation;
West

Date	Scale	Sheet Size
19.07.2019	1:100	@ A1
Reg No.	Drawn	Chk.
	GS	CP
Job No.	Drawing No.	Revision
5427	DA-0503	/ 24

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Rev.	Date	Revision	By	Chk.
23	13.05.19	Revised DA issue	GS	CP

Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

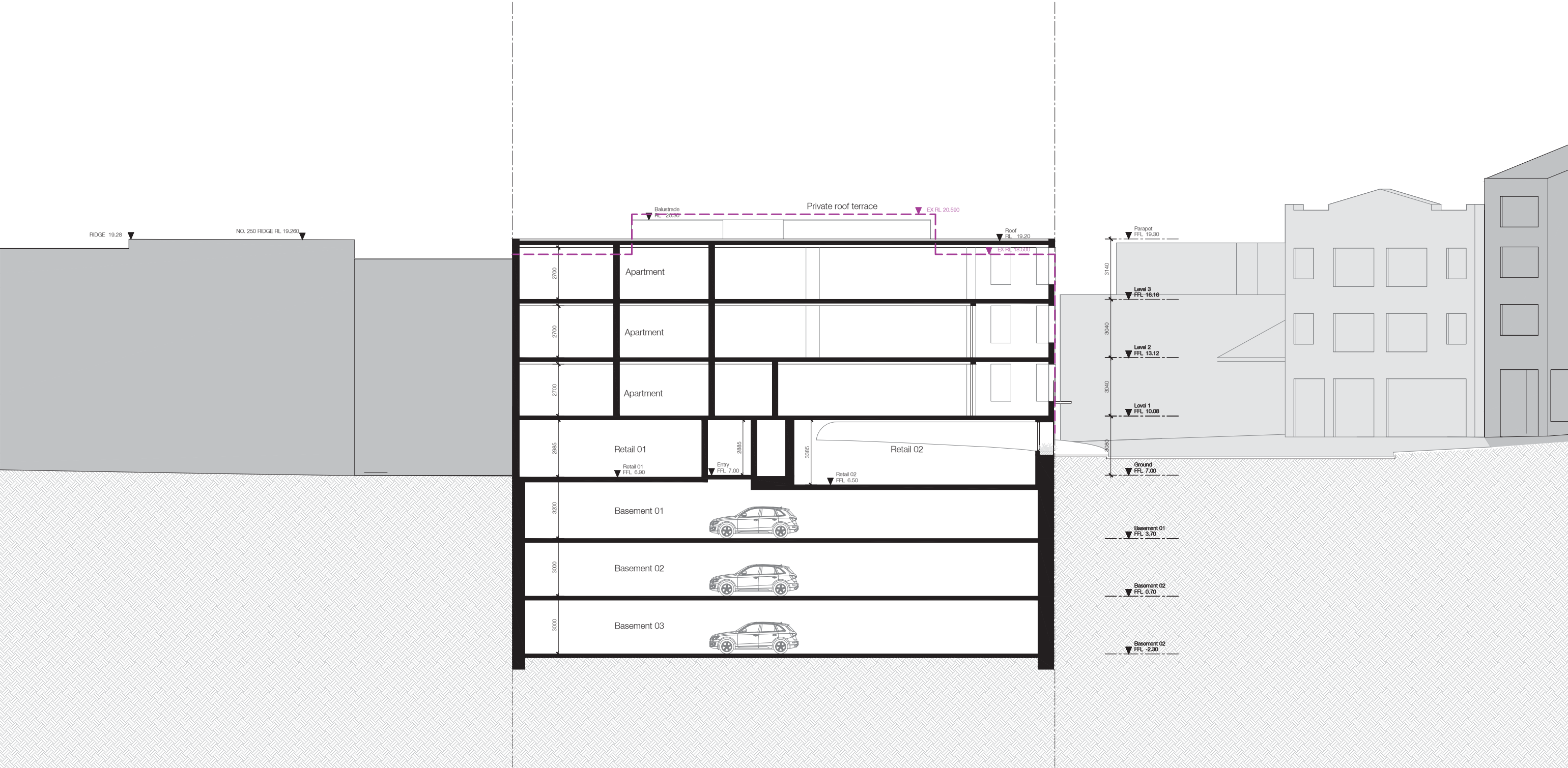
Project	Mixed Use development 262 Campbell Parade Bondi Beach
Drawing Name	Section; A

Date	13.05.2019	Scale	1:100	Sheet Size	@ A1
Reg No.	5427	Drawn	GS	Chk.	CP
Job No.	5427	Drawing No.	DA-0601	Revision	23

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AMENDED PLANS

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Rev.	Date	Revision	By	Chk.
23	13.05.19	Revised DA Issue	GS	CP

Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

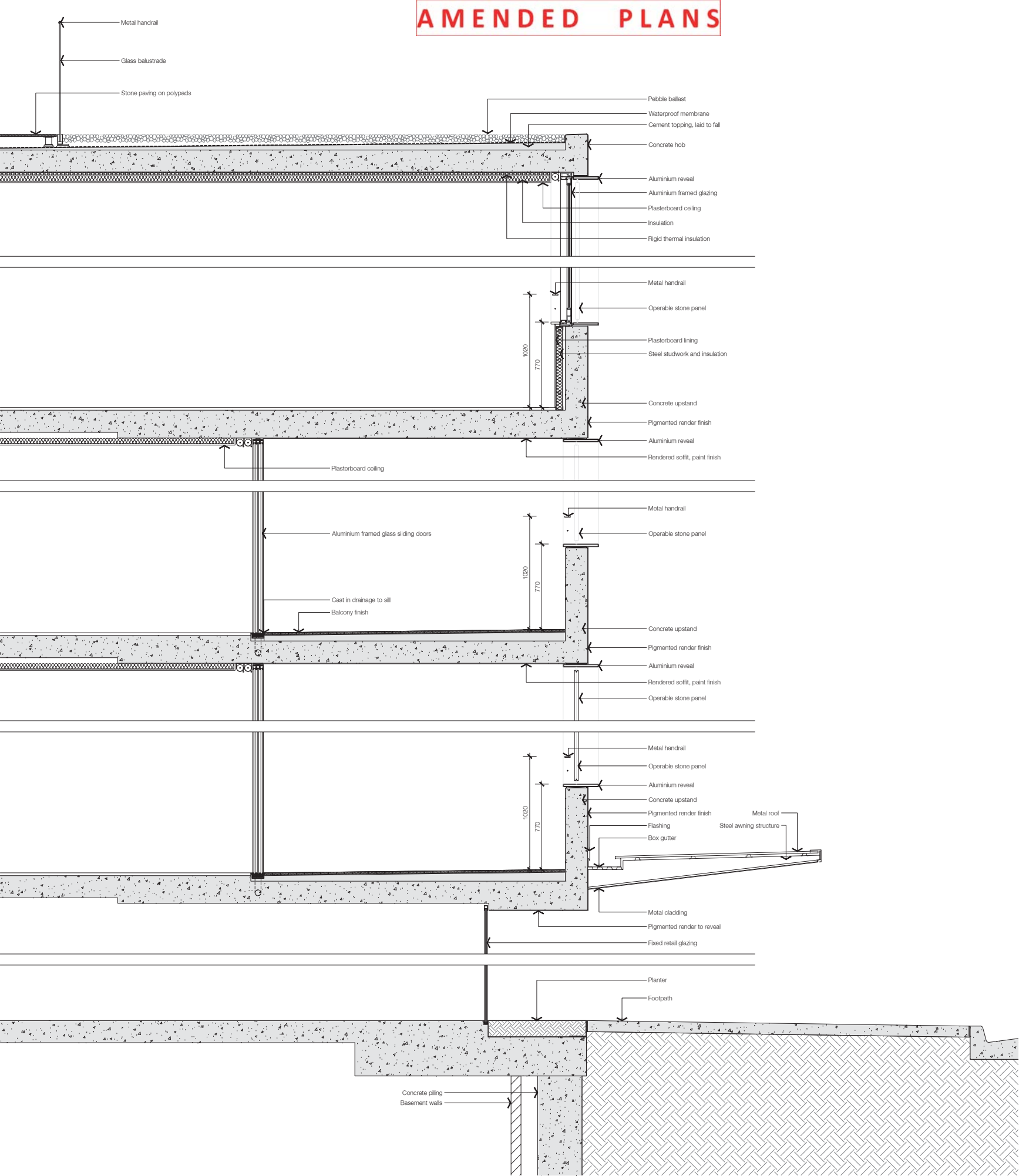
Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

Project
Mixed Use development
262 Campbell Parade
Bondi Beach
Drawing Name
Section;
B

Date	Scale	Sheet Size
13.05.2019	1:100	@ A1
Reg No.	Drawn	Chk.
	GS	CP
Job No.	Drawing No.	Revision
5427	DA-0602	23

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Nominated Architects Adam Haddock 7188 John Pradel 7004

Rev.	Date	Revision	By	Chk.
00	14.08.19	Revised DA Issue	GS	CP

Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

Rev.	Date	Revision	By	Chk.

Project
Mixed Use development
262 Campbell Parade
Bondi Beach
Drawing Name
Detailed Section
Campbell Street Facade

Date	Scale	Sheet Size
14.08.2019	1:20	@ A1
Reg No.	Drawn	Chk.
	CP	GS
Job No.	Drawing No.	Revision
5427	DA-0701	/ 00

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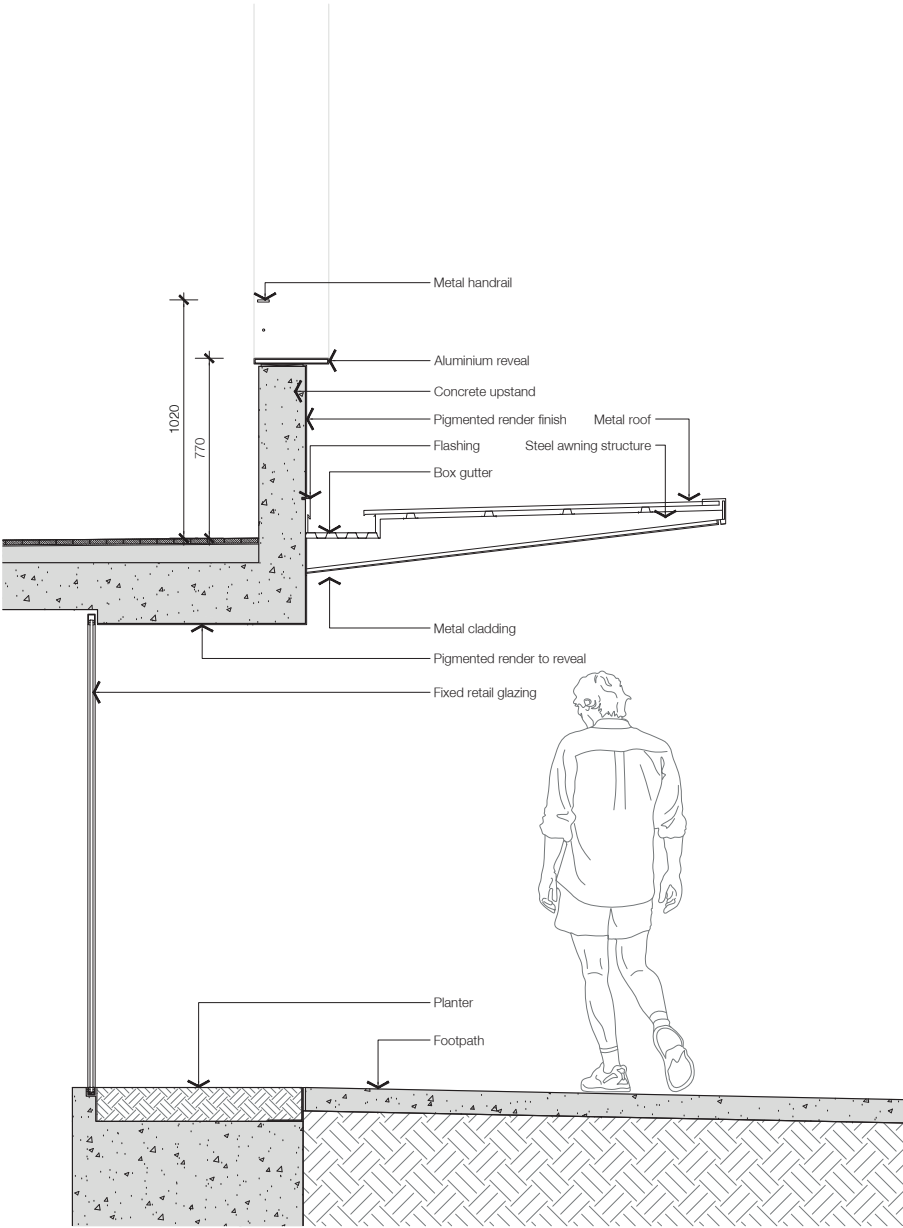


Facade detail

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Application No: DA-381/2018
Date Received: 31/07/2019

2.1 Campbell Parade - Corner awning detail



Detailed Section
Awning - Campbell Parade facade
1:20

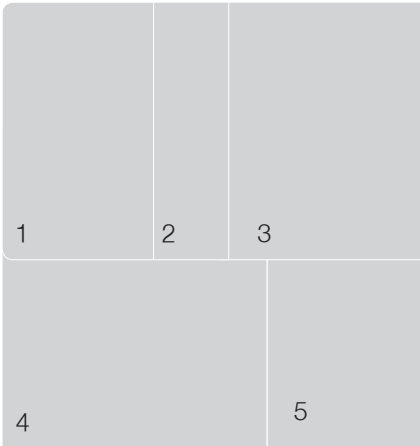


Photomontage of corner of Campbell Parade



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Date Received: 31/07/2019



- 1 Render Finsh
- 2 Aluminium Framing
- 3 Operable Stone Screens
- 4 Integrated Native Planting
- 5 Stone paving



Report to the Waverley Local Planning Panel

Application number	DA-52/2018
Site address	25 – 27 Curlewis Street, Bondi Beach
Proposal	Alterations and additions to residential flat building, including internal modifications and attic level additions associated with Units 3 and 4
Date of lodgement	5 March 2018
Owner	Magney Lodge Limited
Applicant	Habitation Design + Interiors
Submissions	Nil
Cost of works	\$497,145
Issues	FSR; attic addition; overshadowing
Recommendation	That the application be APPROVED



1. PREAMBLE

1.1 Site and Surrounding Locality

Several site visits were carried out, including the most recent on 19 June 2019.

The site is identified as Lot 1 in DP 331439, known as 25 – 27 Curlewis Street, BODNI BEACH. It is located on the south-eastern corner of the intersection of Curlewis and Wellington Streets.

The site is rectangular in shape with a northern boundary to Curlewis Street measuring 12.19m, eastern side boundary measuring 31.25m, southern rear boundary measuring 12.19m and western side boundary to Wellington Street measuring 31.25m. The site has an area of 380.94m² and falls from the rear towards Curlewis Street by approximately 4.93m.

The site is occupied by a two storey residential flat building, comprising 4 x 2 bed units, and neighbourhood shop on the ground floor. Vehicular access is provided from Wellington Street to a garage located at the rear of the site and used in association with Unit 3.

The subject site is adjoined by semi-detached dwellings to its side and rear. The locality is characterised by a variety of residential development, including semi-detached, detached dwelling houses and residential flat buildings, along with a variety of non-residential developments fronting Curlewis Street.



Figure 1: Subject site as viewed from Curlewis Street



Figure 2: Site viewed from Wellington Street (secondary frontage)



Figure 3: Rear of building



PHOTO MONTAGE 01 - VIEW EAST DOWN CURLEW ST.



PHOTO MONTAGE 02 - VIEW SOUTH DOWN WELLINGTON ST.

Figure 4: Photomontage (Source: Habitation Design + Interiors)

1.2 Relevant History

- PD-18/2017: Pre-DA advice for alterations and additions to Unit 2 and 4 including internal modifications, adaptive reuse of attic level and dormer windows. Provided advice included concerns relating to non-compliances with height of building and floor space ratio development standards along with setbacks, attic roof design and visual privacy controls.
- DA-52/2018: Current application for alterations and additions to Units 3 and 4, including internal modifications and attic level addition.

Following the preliminary assessment, the application was deferred to address non-compliances relating to floor space ratio development standard, attic roof design, Building Code of Australia requirements, and to provide additional information relating to SEPP (Affordable Rental Housing) including the rental prices of Units 3 and 4 in the 24 month period prior to lodgement. Amended/additional information was received by Council on 16 October

2019, however the application was not re-notified as amendments were minor in nature and lessened impacts, noting the original notification resulted in no submissions.

- The amended/additional information forms the basis of this report.

1.3 Proposal

The amended proposal seeks consent to undertake alterations and additions to an existing residential flat building, including internal modifications and attic level additions associated with Units 3 and 4, rooftop terraces, fencing and landscape works.

The proposal increases the number of bedrooms associated with Units 3 and 4 from 2 to 4 and results in a mix of 2 x 2 bed and 2 x 4 bed units overall. The upper level addition is contained within a mansard roof form with dormer windows.

The proposal does not include alterations to the neighbourhood shop or the awning extending over the Curlewis and Wellington Street road reserves.

2. ASSESSMENT

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

2.1 Planning Instruments and Development Control Plans

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

2.1.1 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the development application.

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

2.1.2 SEPP 55 Remediation of Land

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

2.1.3 SEPP 65 Design Quality of Residential Apartment Development

The SEPP does not apply to this development as it is not considered to be substantial redevelopment of an existing 3 or more storey building; the proposed third storey is considered an attic.

2.1.4 SEPP (Affordable Rental Housing) 2009

The SEPP does not apply as the units are not classified as low rental/affordable rental housing units based on documentation provided by the applicant.

2.1.5 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

Table 1: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal does not contravene the aims of the plan.
Part 2 Permitted or prohibited development		
Land Use Table R3 Medium Density Residential Zone	Yes	The proposal is defined as alterations and additions to an existing 'residential flat building', which is permitted with prohibited in the R3 zone.
Part 4 Principal development standards		
4.3 Height of buildings <ul style="list-style-type: none"> 9.5m 	Yes	No part of the proposal exceeds the current overall height of the building, i.e. 9m above existing ground level.
4.4 Floor space ratio <ul style="list-style-type: none"> 0.686:1 	No	<p>The proposal increases the gross floor area to 479.98m², equating to a floor space ratio of 1.26:1, which exceeds the FSR development standard by 281.6m² or 83.6%.</p> <p>The proposal increases the existing non-compliant FSR of 1.03:1 by 22.4%.</p>
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the FSR development standard. A detailed discussion of the variation to the development standard is presented below this table.
Part 6 Additional local provisions		
6.1 Acid sulfate soils	Yes	The subject site is identified as containing Class 5 Acid Sulfate Soils, however the site is not located within proximity of another classification; nevertheless, the recommendation includes standard conditions to ensure compliance.

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

Clause 4.6 Exceptions to Development Standards

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

The site is subject to a maximum FSR control of 0.686:1. The proposed development has a FSR of 1.26:1, exceeding the standard by 281.6 m² equating to an 83.6% variation.

The proposal increased the existing non-complying FSR of 1.03:1 by 88m² or 22.4%.

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 FSR development standard on the following basis:

- a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) The objectives of the standard remain relevant notwithstanding that the existing development is non-compliant. Following a review of the specific FSR objectives, the proposal satisfies those objectives.
 - (ii) The development seeks to add only 88sqm to the existing building which is contained within the existing roof form space.
 - (iii) The existing development, being a longstanding land use on the site, does not currently comply with the FSR standard. Compliance is unreasonable in the circumstances due to the siting of the building and its urban location which signifies the corner. The additional GFA is achieved via the roof form being converted to usable area and subsequently is not additional bulk and scale.
- b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The submission demonstrates that the non-compliance is a result of existing site conditions, whereby the existing development is already non-compliant. The proponent has addressed the site characteristics through sensitive design, layout and improvements to Unit 3 & 4 without unreasonably impacting on neighbours or the other existing units.
 - (ii) The FSR departure is created by the existing building and the additional GFA is wholly contained within the roof space;

- (iii) Other residential development in the immediate area (including on Curlewis St) are also non-compliant with the same FSR development standard;
- (iv) The site is located on a busy corner that signifies the start of Curlewis Road and therefore has the capacity to absorb the new roof element which is set behind the parapet;
- (v) The proposed addition does not significantly add to the perceived bulk and scale of the building when viewed from either Wellington Street or Curlewis Street.

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 a lack of significant adverse impact by way of privacy, bulk and scale.

Is the development in the public interest?

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

The objectives of the R3 zone are as follows:

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

The proposal provides an improved internal layout and general amenity for residents in addition to meeting the housing needs of the community through an improved mix in bedrooms.

Conclusion

The additional gross floor area is wholly contained within the existing envelope of the existing building which, with a renewed mansard roof design (previously pitched roof) that has a length that is 10m less than the existing. Essentially, the proposal seeks to utilise roof area as habitable (and therefore calculable floor space) whereby the building envelope, bulk and scale is commensurate to the existing building form. The resultant impact/s are negligible when compared to those already existing.

For this and the reasons provided above, the requested variation to the FSR development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Waverley Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of FSR development standard and the R3 zone.

2.1.6 Waverley Development Control Plan 2012

The relevant matters to be considered under the Waverley DCP 2012 (Amendment 5) 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	In the event of an approval, waste management conditions are included in the recommendation for imposition.
2. Ecologically sustainable Development	Yes	An amended BASIX certificate was submitted with the amended proposal, which addresses the minimum requirements of this part of the DCP.

Development Control	Compliance	Comment
6. Stormwater	No	The stormwater plans submitted with the application are not satisfactory and do not comply with the Water Management Technical Manual. In the event of an approval, stormwater conditions are included in the recommendation for imposition.
7. Accessibility and adaptability	Yes	Accessible paths are provided from street level. The building does not currently provide or propose to provide lift access. Adaptable units are not required as less than 10 units are proposed.
8. Transport	Existing	The existing vehicular access to the site is limited to one crossover, which is not proposed to be altered. Existing access, parking and scenarios remain.
10. Safety	Yes	The proposal does not contravene the objectives of this part of the DCP.

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

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

Development Control	Compliance	Comment
2.2 Site, scale and frontage		
<ul style="list-style-type: none"> Minimum frontage: 15m – R3 zone 	No (existing)	The existing site has a 12.19m primary frontage to Curlewis Street. Whilst less than the requirement, the proposal maintains an existing building which is comparable in width to neighbouring buildings. Further, appropriate separation between buildings exists to mitigate adverse impacts. Accordingly, a departure of 2.81m from the minimum street frontage control is reasonable on merit and supported.
2.3 Height		
<ul style="list-style-type: none"> Maximum external wall height: 7m Maximum overall height: 9.5m 	Yes	The proposed addition is contained within a mansard roof form which has a maximum height of 9m.

Development Control	Compliance	Comment
2.9 Attic and roof design		
<ul style="list-style-type: none"> • Attic must be wholly within the a pitched roof form • Not exceed 50% of the floor of area of the floor below • Not contain independent dwellings and must be accessed via internal stairs • Be naturally ventilated • Minimum room width: 3m • Minimum floor to ceiling height for at least 2/3 of the floor area: 2.4m • Dormer windows and skylights to be less than 50% of roof elevation • Must not have one single expansive dormer window • Dormers to be set down 300mm from main ridge 	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<ul style="list-style-type: none"> • The attic addition is wholly contained within a pitched roof form. • The attic area equates to 38% of the floor area of the level below. • The attic is associated with Units 3 and 4 of the level below and is connected via internal stairs. • Each elevation is provided openings to promote natural cross ventilation. • 3.2m minimum room width provided. • 2.8m floor to ceiling heights are proposed for more than 2/3 of the floor area. • Proposed dormer windows are modest in dimension and do not exceed 50% of the roof elevation. • Proposed dormer windows are set 300mm below the ridge.
2.12 Pedestrian access and entry		
<ul style="list-style-type: none"> • Entry at street level and respond to pattern within the street • Accessible entry • Separate to vehicular entry • Legible, safe, well-lit 	Yes	The proposal does not alter existing pedestrian access and entry arrangements, which includes Units 1 and 4 having separate access points from Wellington Street and Units 2 and 3 sharing a side entry accessed from Curlewis Street. Unit 3 is also accessible from Wellington Street via its associated garage.
2.13 Landscaping		
<ul style="list-style-type: none"> • Minimum of 30% of site area landscaped: 114.282m² • 50% of the above is to be deep soil: 57.141m² 	<p>No</p> <p>No</p>	<ul style="list-style-type: none"> • Existing landscaped areas equate to 16.57m² or 4.3% of the site area and are to remain unchanged. • 4% of the landscape area is considered deep soil, notwithstanding it not achieving the minimum 2m x 2m dimension. <p>The proposal does not alter existing landscaped or deep soil areas.</p>
2.14 Communal open space		
<ul style="list-style-type: none"> • Minimum 15% communal (R3 zone): 57.141m² 	No	The proposal does not provide residents with an area of communal open space, which is a continuation of the existing scenario. On merit, this is accepted.

Development Control	Compliance	Comment
2.15 – Private Open Space		
2.15.1 – Courtyards <ul style="list-style-type: none"> Private Courtyards – min 25m² area and 3m width and depth Balconies – min 10m² area and min depth 2.5m 	Yes	<ul style="list-style-type: none"> Units 3 and 4 are provided an additional 20m² and 19m² of private open space within the proposed balconies on the upper roof level, increasing their total amount to 57.55m² and 39.04m² respectively. Minimum 3m dimensions are achieved. Units 1 and 2 are not being altered as part of the development.
2.16 Solar access and overshadowing		
<ul style="list-style-type: none"> Minimum of three hours of sunlight to a minimum of 70% of units on 21 June. New development should maintain at least 2 hrs of sunlight to solar collectors on adjoining properties in mid winter. Direct sunlight to north facing windows of habitable rooms on all private open space areas of adjacent dwellings to less than 3 hours of sunlight on 21 June. 	On merit	Refer discussion below.
2.17 Views and view sharing		
<ul style="list-style-type: none"> Minimise view loss through design 	Yes	The proposal is unlikely to result in the loss of views across the site.
2.18 Visual privacy and security		
<ul style="list-style-type: none"> Dwellings to be orientated to the street with entrances and street numbering visible 	Yes	<ul style="list-style-type: none"> All units are orientated towards a street frontage and are identified through numbering which is clearly visible.
<ul style="list-style-type: none"> Above ground open space must not overlook rooms and private landscaped areas of adjoining properties or be screened 	Yes	<ul style="list-style-type: none"> New above ground open space, i.e. roof top terraces, are located towards the front of the building and do not provide views into the habitable room windows or private open spaces of adjoining dwellings.
<ul style="list-style-type: none"> Prevent overlooking of more than 50% of private open space of lower level dwellings in same development 	Yes	<ul style="list-style-type: none"> Views from the proposed balconies to the attic level are not provided into the open space areas of the lower level units 1 and 2 (to the rear of the building).

Development Control	Compliance	Comment
2.19 Apartment size and layout		
<ul style="list-style-type: none"> All habitable rooms to have a window Provide a range of dwelling types and sizes Min sizes 3+ bedroom = 100m² 	Yes	<ul style="list-style-type: none"> All habitable room windows, existing and proposed, are provided an openable window.
	Yes	<ul style="list-style-type: none"> The proposal introduces 2 x 4 bedroom units, thereby improving housing choice.
	Yes	<ul style="list-style-type: none"> The proposed additions to Units 3 and 4 increase their overall floor area to 146m² and 127m² respectively.
2.20 Ceiling Heights		
<ul style="list-style-type: none"> Min 2.4m floor to ceiling height attic levels 	Yes	The proposed attic has a floor to ceiling height of 2.8m for 2/3 of the room.

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

Solar Access and Overshadowing

Part C2, Clause 2.16 of the DCP seeks, living and private open spaces for at least 70% of apartments to receive a minimum of 3 hours of direct sunlight between 9:00am and 3:00pm on June 21.

The proposed attic level dormer windows are provided between 1 - 2 hours of direct sunlight between the hours of 9:00am and 3:00pm on June 21; whilst less than the sought 3 hours, these windows are associated with bedrooms. All living areas of Units 3 and 4 are to remain in their current location, i.e. first floor level; it is not expected that the amount of solar access afforded to existing windows will be impacted upon by the development.

Submitted shadow diagrams demonstrate that additional shadow cast over adjoining properties is limited due to the reduction in depth of the roof form. The property to the east (i.e. 29 Curlewis Street) is provided between 2 – 2.5 hours of direct sunlight to its upper level dormer windows.

Given the orientation of the site, impacts upon adjoining properties through loss of light are expected. The proposed height compliant development is considered reasonable and supported.

Privacy

The proposal seeks the introduction of terraces (defined as 'balconies' for the purposes of the DCP controls) on the upper level orientated to the front of the building. These terraces are adjoining bedrooms, considered low activity use rooms and primarily overlook the public domain. They are sited behind the front existing parapet of the building which provides an existing screening from the streetscape. The introduction of these private open space areas for units 3 and 4 are supported in this instance as they provide additional outdoor space that is well-sited to mitigate impacts, both visual and acoustic upon adjoining residential dwellings and the existing building comprises a parapet wall which negates the need for additional balustrading. Both terraces are accessed from a bedroom, with no access hood or lift proposed.

In the circumstances of the case, the proposed terraces are considered reasonable and supportable. Conditions are recommended to extend the parapet to wrap around the eastern elevation to continue the existing form, that a screen between both front terraces be provided for future occupants and perimeter planting be incorporated along the edge to increase landscaping opportunities which will further mitigate privacy impacts.

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 and a site notice erected on the site, in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*.

No submissions were received.

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 Fire Safety – Building Waverley

- Should the application be approved, it is recommended that the following conditions be imposed: essential services –existing building; engineering details; certificate of adequacy; Building Code of Australia compliance; non-combustible external walls; protection of openings were within 3m of a fire source feature; vertical separation of openings; smoke alarm system; and fire safety upgrading works.

Recommended conditions are included in Appendix A.

3.2 Strategic Planning – Shaping Waverley

- The median rent for a two bedroom unit in Waverley for the period of June is identified in the Rates and Sales Report as \$760/w.
- The applicant has provided rental information that places the respective rents for units 3 and 4 at \$850/w and \$815/w. Therefore under clause 47(1) of the Affordable Rental Housing SEPP the units cannot be classified as low rental and as such a loss of affordable housing cannot be considered as the units are not affordable housing.

Accordingly, a contribution for the purposes of affordable rental housing cannot be imposed.

4. SUMMARY

The proposal seeks consent to undertake alterations and additions to an existing residential flat building, including internal modifications and attic level additions associated with Units 3 and 4, rooftop terraces, 1.8m rear fencing and landscape works.

The proposal increases the number of bedrooms associated with Units 3 and 4 from 2 to 4 and results in a mix of 2 x 2 bed and 2 x 4 bed apartments. The upper level addition is contained within a mansard roof form with dormer windows that is in keeping with the bulk and scale of the existing building form and envelope.

The proposal is permissible with consent in the R3Medium Density Residential Zone and is consistent with the objectives of the zone.

Notwithstanding non-compliance with the FSR development standard, the proposal is of a height, bulk and scale that is commensurate with the existing character of development in the vicinity of the site. Additional floor area is contained within a proposed mansard roof form that does not extend above the height of the existing ridge, and setback 4.3m behind the Curlewis Street frontage and 6m in from the rear building line.

The proposal was publically notified, however no submission were received.

On balance, the proposal is considered an acceptable form of development which accords with the desired future character of the R3 Zone.

The proposal has been assessed against the matters for consideration under section 4.15 of the Act and is recommended for approval, subject to conditions of consent.

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

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

Report prepared by:

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

Fiona Koutsikas
Senior Development Assessment Planner

Angela Rossi
Manager, Development Assessment (Central)

Date: 09/08/2019

Date: 14/8/19

Reason for referral:

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

APPENDIX A – CONDITIONS OF CONSENT

A. APPROVED DEVELOPMENT

1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plan prepared by Habitation Design + Interiors, as follows:

Plan description	Revision No / Date	Date received by Council
C109 – Proposed First Floor Plan	C / 28 February 2018	16 October 2018
C110 – Proposed Attic Floor Plan	C / 28 February 2018	16 October 2018
C111 – Proposed Roof Plan	C / 28 February 2018	16 October 2018
C112 – Proposed Elevations	C / 28 February 2018	16 October 2018
C113 – Proposed Section	C / 28 February 2018	16 October 2018

(b) Landscape Plan No. C120 (Revision C) and documentation prepared by Habitation Design + Interiors, dated 28 February 2018, and received by Council on 16 October 2018;

(c) BASIX and NatHERs Certificate;

(d) Stormwater Details and documentation prepared by [author] dated [date], and received by Council on (date);

(e) Schedule of external finishes and colours received by Council on 16 October 2018; and

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

Except where amended by the following conditions of consent.

2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

- (a) The existing architectural detailing to the façade and parapet of the existing building shall be maintained and restored.
- (b) The parapet shall be extended to wrap around the eastern side of the upper level of the building, between the front wall of the building and the front wall of the attic addition. It shall be designed to match the height, detailing and materials of the existing parapet.
- (c) The two terraces located to the front of the attic floor level are to be separated by a centrally located screen for privacy mitigation. The screen shall be translucent and start at the height of the parapet and taper up (for a length of 1m measured in from front boundary) to a height of 1.6m (above finished floor level) extending the entire depth of the terrace (that is, from parapet to the front wall of the attic addition).

- (d) The two terraces located to the front of the attic floor level are to provide perimeter planters and be landscaped. The planters shall be 1m in height, have a minimum soil depth and width of 600mm and be located along the inside line of the parapet (that is, the western side of Unit 4 terrace including the splayed corner edge, the eastern side of Unit 3 terrace and the northern side of Units 3 and 4 terraces).

The amendments are to be approved by the **Executive Manager, Building Waverley** prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

An electronic copy of the amended plans or additional information (see website for electronic document requirements) addressing this condition, including a covering letter shall be provided to Council for review.

3. ALTERATIONS AND ADDITIONS ONLY

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

4. BONDI - ROSE BAY SAND BODY

This site is located within the Bondi - Rose Bay Sand Body as identified in Council's Aboriginal Cultural Heritage Study 2009. Should an object of potential Aboriginal or archaeological significance be discovered during the demolition, excavation or construction period associated with this development, works are to immediately cease and the NSW National Parks and Wildlife Service must be contacted. Works may resume on the site pending receipt of express written permission from the NSW National Parks and Wildlife Service. Waverley Council must be notified of any referral to the NSW National Parks and Wildlife Service and be provided with a copy of any subsequent response.

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

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

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

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

6. SECTION 7.12 CONTRIBUTION

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

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

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

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

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

- (c) Should a section 4.55 modification result in any change to the total cost of the work, the Section 7.12 contribution is to be revised and amended.

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

7. SECURITY DEPOSIT

A deposit or guarantee satisfactory to Council for the amount of **\$10,557.50** must be provided as security for the payment of the cost of making good any damage caused or unauthorised works that may be caused to any Council property as a consequence of this building work.

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

8. LONG SERVICE LEVY

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

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

9. 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.

10. FIRE SAFETY

- (a) The proposed external walls of the additions are to be non-combustible and achieve an FRL in accordance with Specifications C1.1 of the Building Code of Australia for a building of Type A Fire Resisting Construction.
- (b) The proposed openings in the external walls located within 3m of a fire source feature must be protected in accordance with Section C of the Building Code of Australia.
- (c) Vertical Separation of Openings in the external walls of the building are to be provided in accordance with Clause C2.6 of the NCC Building Code of Australia.

Details and methods of compliance with the above requirements are to be included in the Construction Certificate documentation prior to the issue of the Construction Certificate.

11. FIRE SAFETY UPGRADING WORKS

Pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000 fire safety upgrading works are to be undertaken to the existing building in accordance with the Building Code of Australia 2016 Compliance Report dated 11 October 2018 prepared by Vic Lilli of Vic Lilli & Partners in conjunction with the new building works, to ensure that the existing building complies with provisions of Sections C D & E of the Building Code of Australia (BCA) including provision of essential fire safety measures and provision of fire separation between the floors of the building in accordance the BCA and compliance with the following provisions of the Building Code of Australia:

- (i) Fire resistance and stability including fire rating of the floors of the building – Part C1;
 - (ii) Compartmentation and fire separation between floors and units – Part C2;
 - (iii) Protection and vertical separation of openings in external walls – Parts C2 & C3
 - (iv) Provision for escape – Part D1;
 - (v) Construction of exits, balustrades and protection of openable windows – Part D2;
 - (vi) Provision of Firefighting equipment – Part E1;
 - (vii) Smoke hazard management, smoke detection & alarm systems – Part E2;
 - (viii) Emergency lighting, exit signs and warning systems – Part E4;
- a) Details demonstrating compliance with the BCA must be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate.
- b) Prior to the commencement of the required fire safety upgrade works, a Construction Certificate must be issued by an accredited Certifying Authority and an accredited PCA be appointed. The required fire safety upgrading works must be completed and certified by the installers including issuing of a Final Fire Safety Certificate prior to the issue of an Occupation Certificate.

12. HOARDING REQUIRED

To ensure the site is contained during construction, if hoarding is required for the approved works, it is to be designed and constructed in accordance with the requirements of **Safe Work NSW**.

The hoarding is to be erected on the street alignments of the property prior to the commencement of building operations and be maintained during the course of building operations. Details of the hoarding are to be provided to Council for record and be to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate.

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

13. SITE WASTE AND RECYCLING MANAGEMENT PLAN

Demolition and excavated material to be reused and/or recycled wherever possible and detailed in a Site Waste and Recycling Management Plan (SWRMP) Checklist 2 which is to be submitted to the Principal Certifying Authority for approval in accordance with Waverley DCP 2012 prior to the issue of the Construction Certificate.

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

14. ENGINEERING DETAILS

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

15. ENGINEERING DETAILS - CERTIFICATE OF ADEQUACY

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

16. 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.

17. FENCE NOT TO ENCROACH BEYOND BOUNDARIES

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

18. 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.

19. 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.

20. ON-SITE STORMWATER DETENTION DETAILS

On-Site Stormwater Detention (OSD) tank and its details are required to be submitted and approval by Council prior to the issue of a Construction Certificate. Details to include dimensions, cross & long sections, top water level, details of discharge control pit, orifice plate including orifice diameter and depth of water above centreline of orifice etc.

21. BASIX

The undertakings provided in the BASIX Certificate and NatHERS documentation shall be provided for in the Construction Certificate plans and documentation prior to the issue of the Construction Certificate.

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

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

The above condition is a prescribed condition under the Environmental Planning and Assessment Regulation 2000 clause 97A and the above BASIX commitments are mandatory and cannot be modified under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

22. LANDSCAPED SLABS

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

23. AMENDED LANDSCAPE PLAN

The Landscape Plan is to be amended by the following changes:

- (a) Provision of planter boxes and landscaping to the perimeter of the attic floor level terraces.

The amended landscape plan is to be submitted to the Principal Certifying Authority with the plans for the Construction Certificate.

24. SERVICE AUTHORITIES

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

25. 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 and construction vehicles when accessing and exiting the site.
- b. The type and size of demolition and 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 or egress 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 any truck holding areas outside the site, should Council not give approval for demolition or construction vehicles to stand on the roadway in the vicinity of the site.
- d. Traffic control measures to be put in place if trucks when manoeuvring in the vicinity of the site, would be likely to interfere with the free flow of traffic in the vicinity of the site.
- e. The location and materials to be used in the construction of any temporary driveways providing access into and egress out of the site.

- f. The location and length of any proposed Works and Construction Zones. Note: such zones require the approval of the Waverley Traffic Committee and Council prior to their installation.
- g. The hours of operation of any demolition and construction vehicles.
 - h. The number of vehicles associated with staff, employees or contractors working on the site and where any such vehicles are proposed to be parked..
- i. Details as to the manner in which the safety of pedestrians passing in front of the site's boundaries is to be managed and preserved. The details shall include:
 - The route(s) required to be taken by pedestrians including any signage and any other control measures that will need to be put in place to direct and keep pedestrians on the required route(s),
 - Any obstructions such as street furniture, trees and bollards etc., that may interfere with the safe passage of pedestrians
 - The type(s) of material(s) on which pedestrians will be required to walk,
 - The width of the pathway on the route(s) described above,
 - The location(s) and type of any proposed hoardings, and
 - The location(s) of existing street lighting,

26. NOISE ATTENUATION IN RESIDENTIAL FLAT BUILDINGS

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

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

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

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

27. 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.

28. 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.

29. 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.

30. OBSTRUCTION TO PUBLIC AREAS

If a public place or pedestrian vehicular traffic may be obstructed because of the carrying out of work involved in the erection or demolition of a building; or a public place is required to be enclosed in connection with the erection or demolition of a building then a hoarding, fencing or awning must be provided to prevent injury and appropriately lit between sunset and sunrise.

31. COMPLIANCE WITH SAFE WORK NSW

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

32. CONTAMINATING MATERIAL REQUIRED TO BE REMOVED

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

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (eg: ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water

spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.

- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices. They shall also adopt work practices in accordance with the requirements of Safe Work Australia's National Standard for the Control of Inorganic Lead at Work (NOHSC: 1012 (1994) and NOHSC: 2015(1994).
- (c) All lead-contaminated materials being disposed of in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines 2009 and the Protection of the Environment Operations Act 1997 (NSW).

33. DEMOLITION & SITE PREPARATION

Hazardous or intractable wastes arising from the demolition process are to be removed and disposed of in accordance with the requirements **SafeWork NSW** and the NSW Environment Protection Authority (EPA), and with the provisions of:

- (a) Work Health & Safety Act 2011;
- (b) Work Health & Safety Regulation 2017;
- (c) Protection of the Environment Operations Act 1997 (NSW) and
- (d) NSW EPA Waste Classification Guidelines 2014;

34. DEMOLITION OR ALTERATION OF PRE 1987 BUILDINGS

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

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

35. ASBESTOS REMOVAL

- (a) All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a Licence in accordance with the requirements of SafeWork NSW. Fire damaged asbestos materials can only be cleaned up by licensed asbestos removalists with a Class A (friable) asbestos removal licence. Removal must be carried out in accordance with the "Code of Practice on how to safely remove asbestos" published by SafeWork NSW and Waverley's Asbestos Policy.
- (b) All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the

licensed asbestos removal contractor and include a contact person for the site together with telephone and email address.

- (c) No asbestos products are to be reused on site.
- (d) Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site during asbestos removal works.
- (e) No asbestos laden skips or bins are to be left in any public place without the approval of Council.

36. EXCAVATION TO BE LIMITED

Excavation shall be limited to that shown in the approved plans. Excavation, proposed or undertaken in the certification or construction of the development, that results in additional habitable or non-habitable floor space (including storage) shall require the submission of a new development application or modification application.

During consideration of this application construction work on site shall cease without prior agreement of Council. Failure to comply with this condition may lead to Council prosecuting or taking a compliance action against the development for breach of its consent.

37. 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.

38. 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.

39. CONSTRUCTION HOURS

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

- (a) The Saturday (except minor renovation or refurbishment to a single dwelling construction) and Sunday which form part of public holiday weekends; and
- (b) Sundays and public holidays
- (c) Excavation works involving the use of heavy earth movement equipment including rock breakers and the like must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays with no such work to be carried out on Saturday, Sunday or a public holiday.

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

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

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

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

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

41. 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.

42. NATIONAL CONSTRUCTION CODE (NCC)

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

43. BUILDING CODE OF AUSTRALIA

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

44. CONSTRUCTION INSPECTIONS

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

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

The specified **MANDATORY** inspections for a **MULTI DWELLIN including (Class 9 Buildings)** are:

- (a) at the commencement of building work;
- (b) after excavation for, and prior to the placement of, any footings;
- (c) prior to pouring any in-situ reinforced concrete building element;
- (d) prior to covering of the framework for any floor, roof or other building element;

- (e) prior to covering any waterproofing in any wet areas;
- (f) prior to covering any stormwater drainage connections; and
- (g) after the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

The following additional inspections are required (if relevant to the development) to be undertaken by the PCA:

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

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

45. 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.

46. 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.

47. PARTY WALL

The existing party wall is to be extended to the underside of the roof in accordance with the requirements of the Building Code of Australia.

48. TREATMENT OF BOUNDARY WALLS

Boundary walls are to be finished to the same high standard as the remaining building and not left unfinished to ensure a pleasing aesthetic to adjoining buildings.

49. SERVICE PIPES

All plumbing and drainage, including sewerage drainage stacks, ventilation stacks and water service pipes shall be concealed within the building. Plumbing other than stormwater downpipes shall not be attached to the external surfaces of the building.

50. NO WORKS BEYOND BOUNDARIES

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

51. FENCE HEIGHT

The proposed new rear boundary fencing around the site is not to exceed a maximum height of 1.8m above the existing ground level of the adjoining property, unless otherwise agreed by the affected neighbour.

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

52. FINAL OCCUPATION CERTIFICATE

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

53. STORMWATER MANAGEMENT

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

54. LIGHTING

Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Australian Standard AS 4282:1997 Control of the Obtrusive Effects of Outdoor Lighting.

55. STREET NUMBER/S

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

120. FIRE SAFETY WORKS

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

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

121. SUBDIVISION

The Strata Plan shall be updated to reflect the approved scheme and expansion of units. A Subdivision Certificate must be obtained in accordance with Section 109C(d) of the Environmental Planning and Assessment Act, 1979 prior to the registration of the subdivision plans.

122. WASTE AND RECYCLING STORAGE AND COLLECTION

- (a) The proposal must have a bin storage point to accommodate the following bins at a minimum;

- **Residential**
 - 4 Mobile Garbage Bins (MGBs) for general waste

- 2 MGBs for container recycling
 - 2 MGBs for paper and cardboard recycling
- (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 proposal must have a system for the convenient transportation of waste and recyclables to the communal waste and recycling storage area (i.e. chute systems or a service lift dedicated for the transportation of waste).
- (d) MGBs or crates for paper, cardboard and recyclables should be situated in the waste compartment or at other areas on each floor to accompany the waste chute system to store a minimum of 1-2 day's volume of paper, cardboard likely to be generated on that floor.
- (e) The development must have rooms or caged areas with a minimum volume 4m³ available for the storage of discarded residential bulky waste, such as old furniture, awaiting Council pick up.
- (f) Sufficient space must be allocated on-site for the storage of reusable items such as crates and pallets.
- (g) Noise and odour generated from the commercial component of the development must not impact on adjoining properties.
- (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 new developments are to provide adequate storage for waste to accommodate future change of uses.
- (j) 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.
- (k) 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.
- (l) Clear and easy signs identifying the different MGB and where the MGBs should be stored in the storage area(s) must be displayed.

AMENDED

RECEIVED
Waverley Council
Application No: DA-52/2018
Date Received: 16/10/2018

WELLINGTON STREET

MATERIAL LEGEND	
COLOR	MATERIAL TYPE
	CONCRETE
	BRICK
	TIMBER
	GLASS
	STEEL WORK
	METAL ROOFING
	EXISTING STRUCTURE TO BE RETAINED
	EXISTING STRUCTURE TO BE REMOVED

VEHICULAR CROSSING

EXISTING TREE

CONCRETE PATH

EXISTING TREE

U/S AWNING 17.47

U/S AWNING 17.43

RL 19.08

BOUNDARY 31 248

RL 14.26

RL 14.01

TERRACE

GARAG

STORAGE

DINING

UNIT 4

LOUNGE

BED 1

BATHROOM

BED 2

WARDROBE

KITCHEN

KITCHEN

KITCHEN

DINING

LOUNGE

UNIT 3

ENTRY

STAIRS

BED 1

BATHROOM

BED 2

WARDROBE

PROPOSED
TIMBER FENCE
1.8 M HIGH

TERRACE

EXISTING TREE

UNIT 1
COURTYARD
(BELOW)

STORAGE

BOUNDARY 31 248

RL 14.10

BOUNDARY 12 192

CONCRETE PATH

CURLEWIS STREET

EXISTING TREE

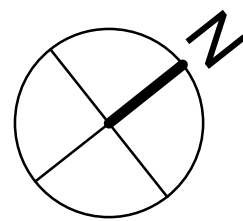
BRICK SEMI-DETACHED
RESIDENCE TILE ROOF
No. 133A

BRICK SEMI-DETACHED
RESIDENCE
TILE ROOF
No. 29

21
D.P. 848578

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PROPOSED FIRST
FLOOR PLAN
**PRELIMINARY
NOT FOR CONSTRUCTION**



**ALTERATIONS + ADDITIONS
MULTI UNIT DEVELOPMENT**

CLIENT:
FINATO / KIRBY

ADDRESS:
25-27 CURLEWIS STREET, BONDI

SCALE @ A1: SCALE @ A3:	1 : 50 1 : 100
DRAWN BY: N.V.	DATE: 28/02/2018
CHECKED BY: M.J.P.	SHEET NUMBER:
PROJECT NUMBER: 17071	C309



habitation
Design + Interiors

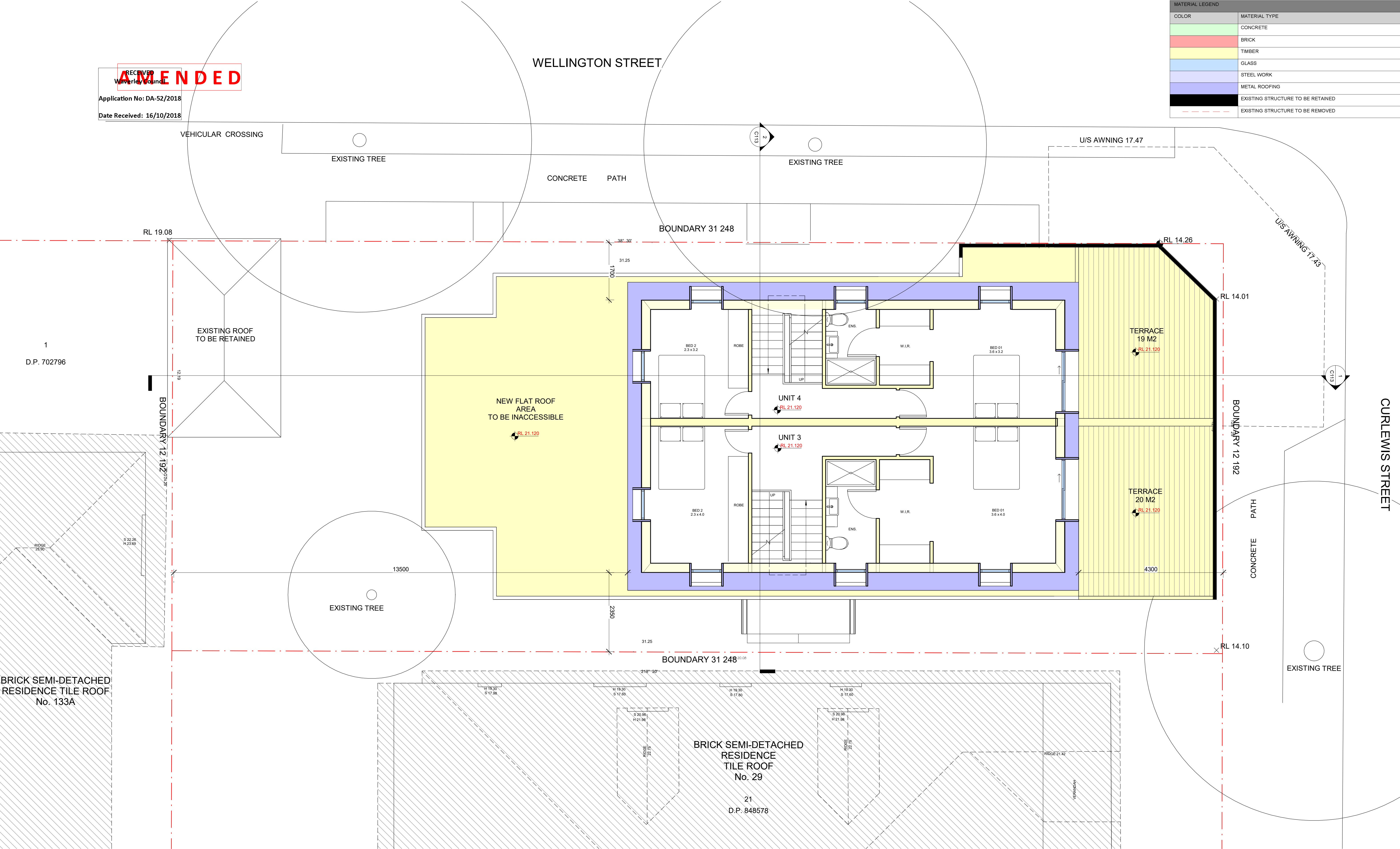
0414 962 013
PO Box 197
Burwood NSW 1805
joseph@habitationdesign.com.au
www.habitationdesign.com.au



Member
Australian Institute
of Architects

Nominated Architect:
Joseph Panetta
NSW Architects Registration
Board No: 9505

REVISION					
C	28/02/18	DEVELOPMENT APPLICATION ISSUE	NVM	JP	
B	08/12/17	DEVELOPMENT APPLICATION ISSUE	NVM	JP	
A	29/12/17	PRE DEVELOPMENT APPLICATION ISSUE	NVM	JP	
ISSUE	DATE	REVISION	BY	CHECKED	



REVISION					
C	28/02/18	DEVELOPMENT APPLICATION ISSUE	NVM	JP	
B	08/12/17	DEVELOPMENT APPLICATION ISSUE	NVM	JP	
A	29/12/17	PRE DEVELOPMENT APPLICATION ISSUE	NVM	JP	
ISSUE	DATE	REVISION	BY	CHECKED	

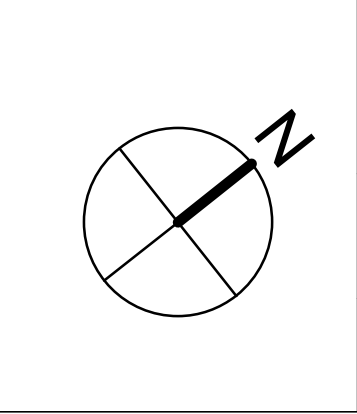
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**PROPOSED ATTIC
FLOOR PLAN**

**PRELIMINARY
NOT FOR CONSTRUCTION**



ALTERATIONS + ADDITIONS MULTI UNIT DEVELOPMENT	
CLIENT:	FINATO / KIRBY
ADDRESS:	25-27 CURLEWIS STREET, BONDI

SCALE @ A1:	1 : 50
SCALE @ A3:	1 : 100
DRAWN BY:	N.V.
CHECKED BY:	M.J.P.
DATE:	28/02/2018
SHEET NUMBER:	
PROJECT NUMBER:	17071

AMENDED

RECEIVED
Waverley Council
Application No: DA-52/2018
Date Received: 16/10/2018

WELLINGTON STREET

MATERIAL LEGEND	
COLOR	MATERIAL TYPE
	CONCRETE
	BRICK
	TIMBER
	GLASS
	STEEL WORK
	METAL ROOFING
	EXISTING STRUCTURE TO BE RETAINED
	EXISTING STRUCTURE TO BE REMOVED

VEHICULAR CROSSING

EXISTING TREE

CONCRETE PATH

EXISTING TREE

U/S AWNING 17.47

BOUNDARY 31 248

LINE OF EXISTING ROOF

RL 19.08

EXISTING ROOF
TO BE RETAINED

1
D.P. 702796

BOUNDARY 12 192

RL 18.390

LINE OF EXISTING ROOF

FLAT ROOF
RL 21.120

EXISTING TREE

RL 14.850

RL 14.01

BOUNDARY 12 192

CONCRETE PATH

CURLEWIS STREET

LINE OF EXISTING ROOF

RL 14.10

BOUNDARY 31 248

EXISTING TREE

BRICK SEMI-DETACHED
RESIDENCE TILE ROOF
No. 133A

BRICK SEMI-DETACHED
RESIDENCE
TILE ROOF
No. 29

21
D.P. 848578



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Design + Interiors

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Member
Australian Institute
of Architects

Nominated Architect:
Joseph Panetta
NSW Architects Registration
Board No: 9505

REVISION					
C	28/02/18	DEVELOPMENT APPLICATION ISSUE	NVM	JP	
B	08/12/17	DEVELOPMENT APPLICATION ISSUE	NVM	JP	
A	29/12/17	PRE DEVELOPMENT APPLICATION ISSUE	NVM	JP	
ISSUE	DATE	REVISION	BY	CHECKED	

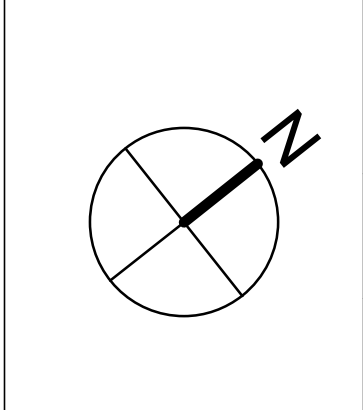
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PROPOSED ROOF
PLAN

PRELIMINARY
NOT FOR CONSTRUCTION



ALTERATIONS + ADDITIONS
MULTI UNIT DEVELOPMENT

CLIENT:
FINATO / KIRBY

ADDRESS:
25-27 CURLEWIS STREET, BONDI

SCALE @ 1 : 50
A1: SCALE @ A3: 1 : 100

DRAWN BY: **N.V.**
CHECKED BY: **M.J.P.**

DATE: **28/02/2018**
SHEET NUMBER:

PROJECT NUMBER:
17071

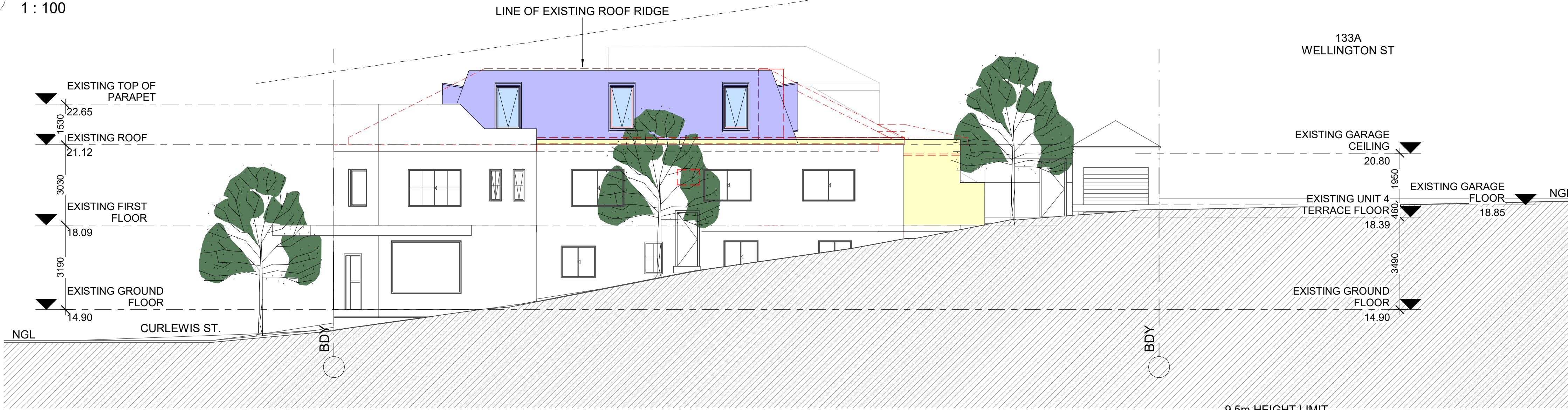
C3113

AMENDED

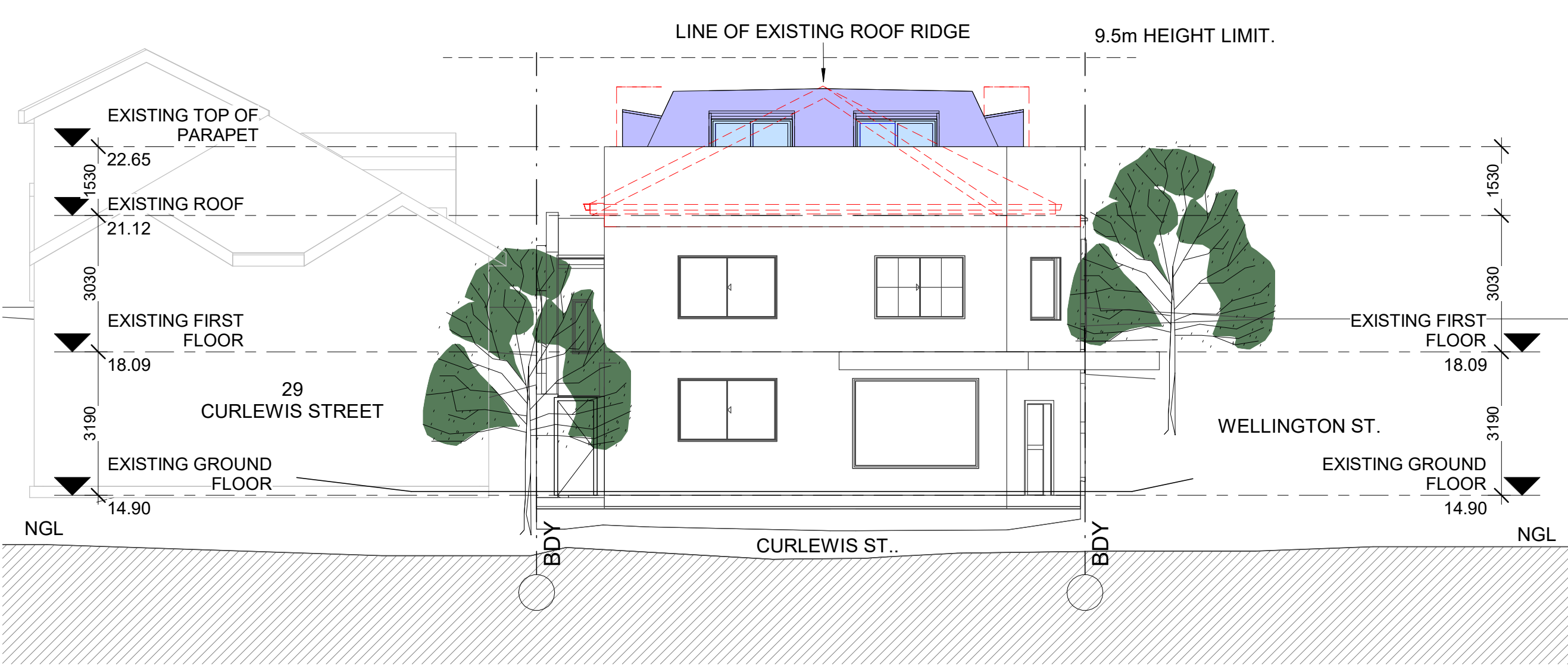


MATERIAL LEGEND	
COLOR	MATERIAL TYPE
	CONCRETE
	BRICK
	TIMBER
	GLASS
	STEEL WORK
	METAL ROOFING
	EXISTING STRUCTURE TO BE RETAINED
	EXISTING STRUCTURE TO BE REMOVED

1 EAST ELEVATION PROPOSED
1 : 100



2 WEST ELEVATION PROPOSED
1 : 100



3 NORTH ELEVATION PROPOSED
1 : 100



4 SOUTH ELEVATION PROPOSED
1 : 100

REVISION					
C	28/02/18	DEVELOPMENT APPLICATION ISSUE	NVM	JP	
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PROPOSED
ELEVATIONS

PRELIMINARY
NOT FOR CONSTRUCTION

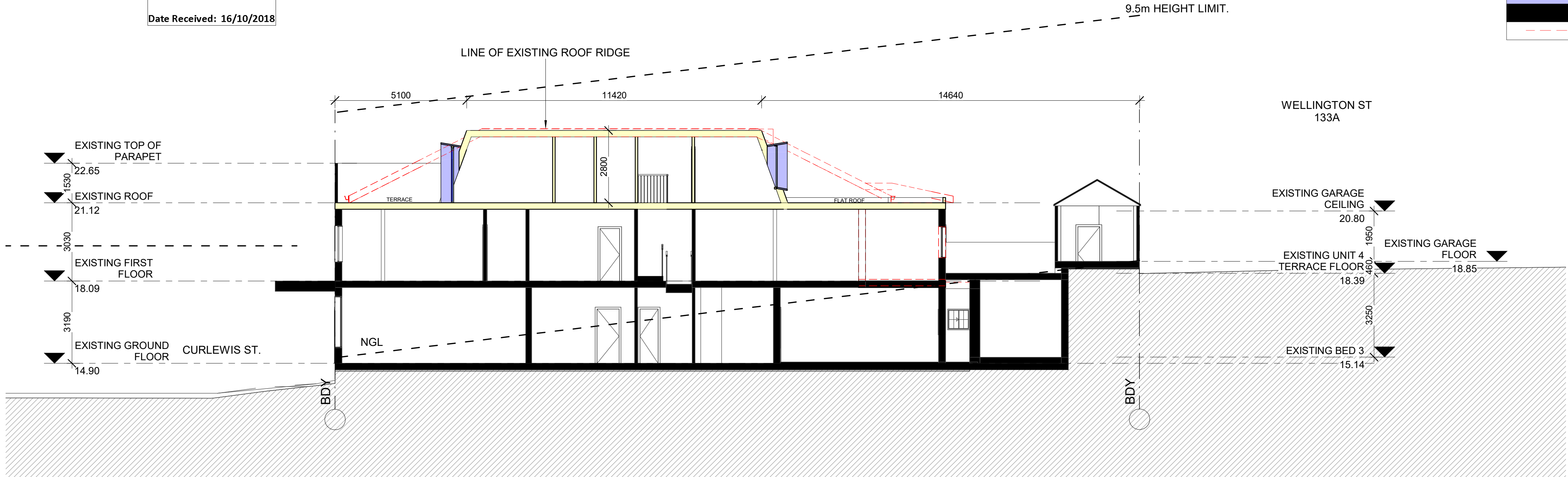
ALTERATIONS + ADDITIONS MULTI UNIT DEVELOPMENT	
CLIENT:	FINATO / KIRBY
ADDRESS:	25-27 Curlewis Street, Bondi

SCALE @ A1:	1 : 100
SCALE @ A3:	1 : 200
DRAWN BY:	N.V.M
CHECKED BY:	J.P
PROJECT NUMBER:	17071
DATE:	28/02/2018
SHEET NUMBER:	C312

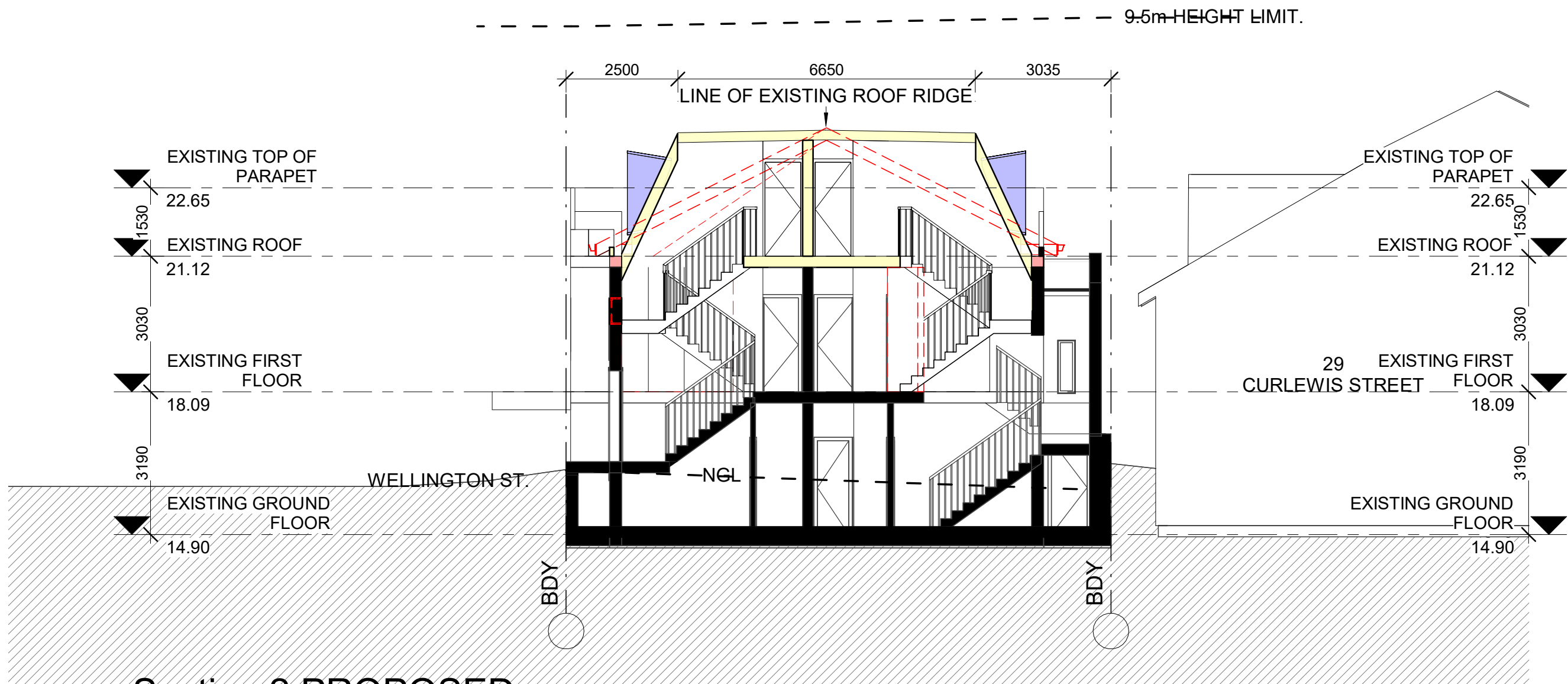
AMENDED

RECEIVED
Waverley Council
Application No: DA-52/2018
Date Received: 16/10/2018

MATERIAL LEGEND	
COLOR	MATERIAL TYPE
	CONCRETE
	BRICK
	TIMBER
	GLASS
	STEEL WORK
	METAL ROOFING
	EXISTING STRUCTURE TO BE RETAINED
	EXISTING STRUCTURE TO BE REMOVED



1 Section 1 PROPOSED
1 : 100



2 Section 2 PROPOSED
1 : 100

REVISION					
C	28/02/18	DEVELOPMENT APPLICATION ISSUE	NVM	JP	
B	08/12/17	DEVELOPMENT APPLICATION ISSUE	NVM	JP	
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PROPOSED SECTION

PRELIMINARY
NOT FOR CONSTRUCTION

ALTERATIONS + ADDITIONS MULTI UNIT DEVELOPMENT	
CLIENT:	FINATO / KIRBY
ADDRESS:	25-27 Curlewis Street, Bondi

SCALE @ A1:	1 : 100
SCALE @ A3:	1 : 200
DRAWN BY:	N.V.M
CHECKED BY:	J.P
PROJECT NUMBER:	17071
DATE:	28/02/2018
SHEET NUMBER:	C313



Report to the Waverley Local Planning Panel

Application number	DA-320/2018
Site address	21 Curlewis Street BONDI BEACH
Proposal	Demolition of existing commercial building and construction of a four-storey commercial building.
Date of lodgement	10/9/2018
Owner	Blank Super Pty Ltd
Applicant	MHN Design Union
Submissions	12 submissions received originally (5 unique, 7 proforma) 8 submissions were received during the notification of amended plans (5 'unique' and 3 proforma)
Cost of works	\$850, 757
Issues	Significant variation to Floor Space Ratio, bulk and scale, overshadowing and privacy impacts.
Recommendation	That the application be REFUSED

Site Map



1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was carried out on 20 February 2018.

The site is identified as Lot 1 in DP 307122, known as 21 Curlewis Street, BONDI BEACH. The subject site is located on the southern side of Curlewis Street, approximately 100m from the intersection of Old South Head Road and Curlewis Street.

The site is rectangular in shape with a front northern boundary measuring 7.01m, side eastern and western boundaries measuring 16.765m respectively and a rear southern boundary measuring 7.01m. The site has an area of 117.5m² and falls from the rear towards the front by approximately 2m.

The site is occupied by a single storey commercial building. There is no on-site car parking provided.

The subject site is adjoined by a three-storey residential flat building with neighbourhood shop (mixed use) development to the east (No 23 Curlewis St) and a single storey semi-detached dwelling to the west (No 19 Curlewis St). The subdivision pattern is such, that the subject site has a depth half of its western neighbour as evident in the zoning map above. The locality is characterised by a variety of commercial and residential development, whereby the site is located on a zone boundary between B4 zone (subject site zoning) and R3 (zoning to the south and east).



Figure 1: Subject site frontage



Figure 2: Site viewed communal open space of No. 180 Wellington Street – facing north

1.2 Relevant History

The application was deferred on 5 April 2019 to provide the applicant an opportunity to address concerns relating to the submission of a deficient Clause 4.6, non-compliant FSR, amenity impacts to No. 19 Curlewis Street (side) and 180 Wellington Street (rear), as well as address comments provided by the Design Excellence Panel. It was also requested that the applicant give further consideration to the provisions prescribed in Part E3 of the Waverley Development Control Plan 2012 (DCP), in particular Annexure E3-2, Diagram C (Three (3) storey rear setback details without rear laneway), which requires stepping of the built form from the rear property boundary.

Amended plans received by Council on 20 June 2019, which partially addressed the above-mentioned concerns. The report herein is based on the amended plans.

1.3 Proposal

The subject development application, as amended proposes the demolition of the existing single storey commercial building and construction of a four-storey commercial building for use as retail (ground floor) and co-working office space (levels 1-3). The co-working space would be open plan. Services including bicycle parking and garbage storage are proposed at ground level, at the rear.

The uses sought are retail space on the ground level and co-working space on the levels above, however no specific details regarding hours of operation, patron numbers, loading/unloading, operation and management have been provided at this stage. Should approval be granted then a condition would be recommended for imposition that consent for the actual use of these areas be subject to a future application.

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 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

Table 1: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the plan.
Part 2 Permitted or prohibited development		
Land Use Table B4 Zone	Yes	The proposal is defined as a commercial premises, which is permitted with consent in the B4 zone.
Part 4 Principal development standards		
4.3 Height of buildings <ul style="list-style-type: none">13m	Yes	Accordingly to the submitted architectural plans, the proposal does not exceed the prescribed building height of 13m. An assessment of the submitted survey and RL's provided on architectural plans reveal compliance is achieved.
4.4 Floor space ratio <ul style="list-style-type: none">site area = 117.5m²1.5:1 (176.5 m²)	No	The applicant has calculated a FSR of 2.3:1, which equates to a 95m ² or 53.67% variation
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the FSR development standard. A detailed discussion of the variation to the development standard is presented below this table.
Part 6 Additional local provisions		

Provision	Compliance	Comment
6.1 Acid sulfate soils	Yes	The development is unlikely to disturb, expose or drain acid sulfate soils and cause environmental damage.

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

Clause 4.6 Exceptions to Development Standards

The application seeks to vary the floor space ratio (FSR) development standard prescribed by Clause 4.4 of the Waverley LEP 2012.

The site is subject to a maximum FSR control of 1.5:1 (which equates to 177m² of gross floor area). The proposed development has a FSR of 2.3:1, exceeding the standard by 95m² equating to a 53.67% variation.

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

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

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

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

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

- (a) The applicant has established that compliance with the FSR development standard is unreasonable and unnecessary by demonstrating that the objectives of the standard are met:
 - (i) Objective (b) - To provide an appropriate correlation between maximum building heights and density controls.

Applicant's comment: The FSR and building height development standards are numerical measures, which set the scale of development and its resultant impact on the streetscape and surrounding developments. The proposed development will comply with the LEP height control of 13 metres.

The height has been shown to be reasonable and appropriate in its context, in the streetscape and when considered against the objectives in the LEP and DCP. The proposal has also been designed to preserve the amenity on adjoining developments in terms of overshadowing and view loss.

- (ii) Objective (c) - To ensure that buildings are compatible with the bulk, scale, streetscape and the desired future character of the locality.

Applicant's comment - The site is a narrow and short site in comparison to the surrounding sites. Surrounding developments include two to three-storey dwellings, three-storey residential flat buildings, shop-top housing developments and commercial developments. Adjoining the site to the southeast is No. 23 Curlewis Street, which contains a mixed-use development. Adjoining the site to the northwest is No. 19 Curlewis Street, which contains a two-storey semi-detached dwelling.

If the site were to be developed with a complying FSR, this would result in a small building that would not be consistent with the streetscape, surrounding development or the desired future character for this street block within the B4 zone.

The proposal has a compliant building height and the proposed bulk of the building will blend in with the streetscape, surrounding development and the desired future character for this street block. The proposed bulk and scale of the building is compatible with the size and shape of the allotment. In this regard it is noted that all allotments to the west of the site are longer and when these sites are redeveloped, it will be possible to provide buildings of compliant FSR up to the height limit. The subject site is an anomaly due to its short length. If FSR compliance were achieved on this site it would result in a lower and anomalous building in the future development of this street block

- (iii) Objective (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.

Applicant's comment - The shadow plans and view from the sun diagrams submitted with the amended plans demonstrate the existing overshadowing, proposed overshadowing and overshadowing which would occur with a 6 metre rear setback and a compliant height.

These confirm that in terms of the windows to 180 Wellington Street, no additional overshadowing would occur beyond that which would occur from a compliant development, with the exception of at 12 noon. At this time, some minor additional overshadowing occurs to the rear south facing western window. However, the additional impact is negligible the window and will continue to receive three hours of sunlight. In addition, the window is to a sun room which forms part of the living space, which also receives sunlight from the rear-facing door, which will start to receive sun from 11am.

With respect to private open space, there is some additional impact beyond a compliant development at 10am and 11am. However, more than 50% of the rear communal open space will receive more than 3 hours of sunlight on 21 June complying with the DCP requirements and therefore, preserving the amenity of this space as envisaged by the controls.

The amended proposal has increased the separation from the adjoining semidetached dwellings at 17 -19 Curlewis Street with the upper levels set back progressively from the rear. At the upper levels, open terraces will be provided reducing the built form and minimising a sense of enclosure for this property. The privacy impact from these terraces is minimised through their location, and sightlines into windows to habitable space and private open space will be inhibited. It has been demonstrated that there would be no adverse overshadowing of adjoining properties and acoustic and visual privacy, having regard to Council's DCP requirements.

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

- (i) *The site is a narrow and short site in comparison to the surrounding sites. Surrounding developments include two- to three-storey dwellings, three-storey residential flat buildings, shop-top housing developments and commercial developments. Adjoining the site to the southeast is No. 23 Curlewis Street, which contains a mixed-use development, which matches the depth of the subject site but is significantly wider. Adjoining the site to the northwest is No. 19 Curlewis Street, which contains a two-storey semi-detached dwelling with a greater depth.*

If the site were to be developed with a complying FSR, this would result in a small building that would not be consistent with the streetscape, surrounding development or the desired future character for this street block within the B4 zone.

- (ii) *The proposal has a compliant building height and the proposed bulk of the building will blend in with the streetscape, surrounding development and the desired future character for this street block. In this regard it is noted that all allotments to the west of the site are longer and when these sites are redeveloped, it will be possible to provide buildings of compliant FSR up to the height limit. The subject site is an anomaly due to its short length. If FSR compliance were achieved on this site it would result in a lower and anomalous building in the future development of this street block.*
- (iii) *The non-compliant FSR will not be visually obtrusive and will not result in adverse amenity impacts to surrounding properties in terms of overshadowing, privacy or view loss.*
- (iv) *The appearance of the development when viewed from the public domain will be positive and the proposed development provides an articulated building form that minimises perceived bulk and scale impacts when viewed from the surrounds of the site.*
- (v) *The proposal provides co-working office space providing local workspaces for Bondi Beach residents to avoid the need to travel. Council's Community Strategic Plan identifies issues and opportunities relating to the local economy, which included supporting start-up businesses through co-share spaces, innovation hub etc. The space proposed would meet this opportunity within a building, which is suitable in its context in terms of bulk and scale.*
- (vi) *Overall the proposal will provide a positive contribution in terms of:*
- *Streetscape*
 - *Design quality and diversity*
 - *Sustainability*
 - *Provision of local sustainable employment opportunities in the local area*
- (vii) *The proposed development achieves compliance with the relevant underlying objectives of the standard and the objectives of the zone.*
- (viii) *The proposed development represents an efficient and appropriate use of land that is compatible with the environmental capacity of the site and its B4 Mixed Use Zoning.*
- (ix) *The proposed FSR allows for the provision of a commercial development which will match existing adjoining and future desired built forms. The proposed development is in close proximity to public transport and services and has been designed in a manner, which is appropriate and compatible with the desired future character of 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 not adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justification as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

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

The justification provided within the written request does not adequately demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. The proposal does not provide appropriate correlation between maximum building height and density controls, the proposal building is not compatible with the bulk and desired future character of the locality, and the proposal does not preserve the environmental amenity of neighbouring properties.

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

The submitted clause 4.6 written request has satisfied clause 4.6(3)(b) in that the applicant has provided environmental planning grounds to justify contravening the development standard.

However, the justification provided within the written request does not adequately *demonstrate* that there are sufficient environmental planning grounds to justify contravening the development standard, as the proposal will result in an unreasonable environmental impact upon neighbouring properties as well as the desired future character of the locality.

Is the development in the public interest?

The proposed development will not be in the public interest because it is not consistent with the objectives of the FSR standard. In particular, the proposed development does not preserve the environmental amenity of neighbouring properties and is not compatible with the height, bulk and scale of the desired future character of the locality. This is discussed in further detail below.

The submitted clause 4.6 states that the *non-compliant FSR will not be visually obtrusive and will not result in adverse amenity impacts to surrounding properties in terms of overshadowing, privacy or view loss*. However, this has not been adequately demonstrated by the submitted documentation.

The design of the building has had little regard to the amenity of the adjoining semi-detached dwelling at No. 19 Curlewis Street, which gains a large portion of sunlight and daylight from the east-facing windows. The effect of the proposed development on the east facing windows of No. 19 Curlewis Street has not been adequately demonstrated by the applicant. The proposed development would also result in a significant increase in overshadowing to the communal area in association with the residential flat building at No. 180 Wellington Street.

The proposal will be visually obtrusive when viewed from the surrounding residential properties, in particular No. 19 Curlewis Street. The below extract of the western elevation demonstrates the scale of the building when compared to the single storey adjoining semi-detached dwelling.

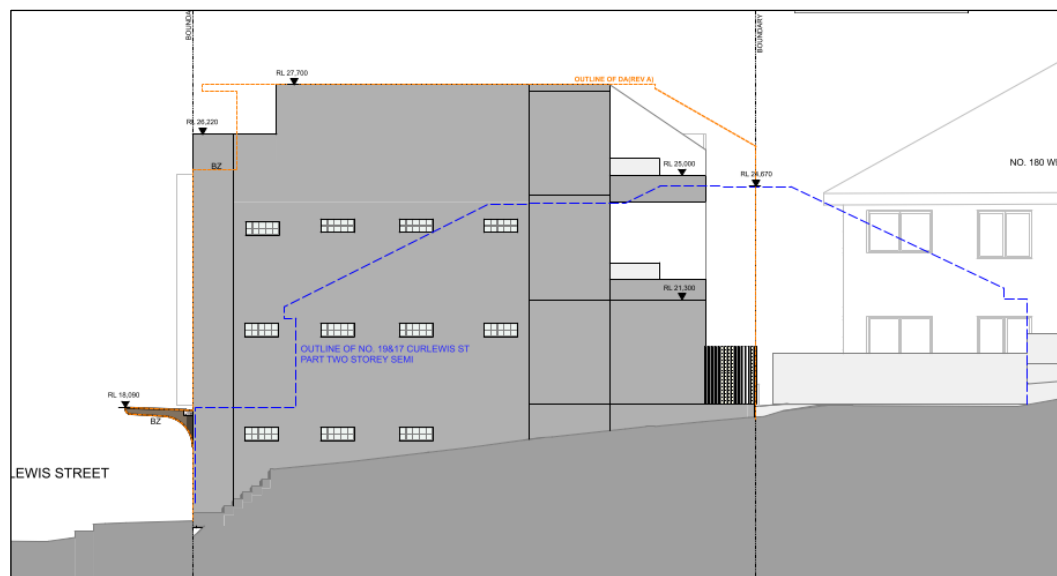


Figure 3: Extract from architectural plans – west elevation.



Figure 4: This photograph is taken from within the eastern side setback of No. 19 Curlewis Street, noting the proximity of the windows to the property boundary. A four-storey built form built to the boundary (fence line) would be overbearing when viewed from this neighbouring property.

Conclusion

For the reasons provided above, the requested variation to the FSR is not supported, while the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6(3) of the Waverley Local Environmental Plan 2012, the proposed development is not in the public interest because it is inconsistent with the objectives of the FSR standard.

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

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

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

Development Control	Compliance	Comment
1. Waste	Yes	A SWRMP has been submitted in accordance with Council's requirements.
2. Energy and Water Conservation	Yes	The proposed development will be designed to be energy efficient across a range of parameters including the choice of building materials and the incorporation of energy efficient appliances. Refer to the Section J Report by Partners Energy submitted with this DA.

Development Control	Compliance	Comment
6. Stormwater	No	A stormwater management plan has been submitted. Council's stormwater engineer has reviewed the plans and advised that they are not satisfactory. Ordinarily conditions of consent would be imposed to ensure compliance.
7. Accessibility and adaptability	Yes	A lift must be provided at ground floor to upper floors.
8. Transport	Yes	<p>The subject site is located within Parking Zone 2. The minimum number of parking spaces required for Zone 2 is nil. No car parking spaces are required. It is noted that the site is located in proximity to frequent public transport services.</p> <p>The rate for bicycle parking for a commercial/retail development is one bicycle space for each 150m² of GFA. A total of two bicycle spaces are required for the 294m² of GFA. Two bicycle spaces are provided.</p>

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

Development Control	Compliance	Comment
1.1 Design		
1.1.1 Frontages		
Front windows and openings shall be designed to be sympathetic with the overall proportion of the building.	Yes	Front windows and openings are designed to be sympathetic with the overall proportion of the building. The Design Excellence Panel raised no concerns relating to the proportion of front windows and openings.
Front windows shall be designed to promote an active street level frontage and have a display function.	Yes	Front windows promote an active street frontage.
Premises should have an awning. Continuous weather protection for pedestrians should be provided by premises located within shopping strips.	Yes	An awning is proposed at street level. Awning design is sympathetic to the architectural style of the building.
1.1.2 Lighting		
Under awning lighting should be provided in accordance with the relevant Australian Standard.	Yes	The submitted SEE states that lighting will be provided in accordance with DCP requirements. Ordinarily a condition of consent would be imposed to provide under awning lighting details prior to the issue of a construction certificate.
1.1.3 Amenity		

Development Control	Compliance	Comment
All new retail, commercial and mixed developments shall incorporate within the building plant rooms and any associated facilities required for the future use of the premise (e.g. ducting, vents, air conditioners, refrigerator units, mechanical plant, etc).	No	<p>Insufficient detail has been provided with regard to building services.</p> <p>A kitchen exhaust is not shown on amended plans for the ground floor retail component (noting that this detail was shown on the plans originally submitted to Council).</p> <p>Air-conditioners are shown to be located on the rear terrace provided at Level 3; however it is not clear whether they will be acoustically screened. The submitted SEE states that air conditioning units will be located in a plant room; however a plant room is not shown on the amended architectural plans.</p>
1.2 Noise		
Applicants must demonstrate to Council how acoustic privacy will be maintained between residential and non-residential uses in a building and between adjoining buildings.	No	Concerns are raised over the acoustic privacy of surrounding residential properties. The proximity of the rear facing terraces to neighbouring residential properties will likely result in adverse acoustic privacy impacts. The mitigation of privacy impacts has not been addressed by the applicant in the submitted documentation.
Air conditioning units and cool-room equipment must be located in a plantroom or acoustic enclosure to remove the potential for any associated noise escaping from the subject property.	No	As stated above, a plant room is not indicated on the amended architectural plans. The location of the air conditioner units on the rear facing terraces will likely result in adverse acoustic privacy impacts. The mitigation of privacy impacts has not been addressed by the applicant in the submitted documentation.
1.3 Hours of operation		
<p>General base trading hours for the B4 Mixed Use zone are:</p> <ul style="list-style-type: none"> Monday to Saturday: 7.00am to 11.00pm; and Sunday: 7.00am to 10.00pm. 	Yes	The submitted SEE states that trading hours will not extend beyond the DCP prescribed hours. It is noted that a separate application would ordinarily be required to be lodged for the fit-out of the retail component, where specific details of operation would be submitted.

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

Development Control	Compliance	Comment
3.1 Specific controls – Old South Head Road Neighbourhood Centre – Blair Street Intersection		
<i>Desired Future Character Objective</i>		

Development Control	Compliance	Comment
To accommodate a potential increase in the general scale of development in this section of the centre, subject to appropriate site consolidation and satisfying amenity considerations and impacts on adjoining sites.	No	The proposal does not achieve the desired future character of the Old South Head Road Neighbourhood Centre as it does not satisfy amenity consideration and impacts on adjoining sites.
3.2 Generic controls		
3.2.1 Land uses		
Residential and low scale commercial office uses are acceptable at first floor level.	Yes	Commercial office uses are proposed at Levels 1-3.
3.2.2 Public domain interface		
Buildings are to be located to the front street alignment, with the exception of recommended upper level setbacks, nominated in the controls for each of the individual centres.	Yes	The building is proposed to be located to the front street alignment. The upper level has been recessed at the street frontage.
Individual buildings are to have a clear street address where entries to upper levels are well defined at the ground floor address.	Yes	The proposed building has a clear street address and entries are clearly defined.
Shop fronts are to be made up predominantly of clear glazing with sill heights to be a maximum of 700mm above finished footpath level along street frontages.	Yes	The submitted architectural plans show that the shop front will be predominantly glazed.
3.2.3 Built form		
Objective To ensure new and refurbished buildings are of an appropriate scale and design quality, achieving the desired future character of each of the centres.	No	The proposed building is not of an appropriate scale. The proposal does not achieve the desired future character of the Old South Head Road Neighbourhood Centre as it does not satisfy amenity consideration and impacts on adjoining sites. The concerns of impact relate primarily to the rear of the building which are considered to

Development Control	Compliance	Comment
<p>Ground floor retail depth must allow for adequate display and sales area as well as essential back-of-house storage and loading facilities. In total this must be a minimum of 8 - 10m in depth.</p> <p>Sites in local village centres that adjoin residential development at the rear are to provide deep soil zones within the rear setback area with a minimum depth of 2 metres from the boundary.</p>	<p>Yes</p> <p>No</p>	<p>have an unreasonable impact on the amenity of neighbouring sites.</p> <p>Depth of ground floor retail is approximately 9m.</p> <p>At ground level, the proposal has a nil setback, extending to the rear boundary, which is largely sub-terranean due to the topography of the site. On the level above (Level 1), a 1.5m rear setback is proposed from the rear boundary however no details on landscaping have been provided. Noting the slab level, deep soil landscaping is not possible here, based on plan details.</p>
<p>3.2.4 Building facade articulation</p> <p>New buildings should display proportions which respect and build upon proportions similar to the adjoining streetscape and building forms.</p> <p>Balconies to the street facade are to be recessed behind the principal building facade.</p> <p>Balustrades to balconies fronting the street are to be predominantly solid with minimal or no glass.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The proposal respects the proportions of the adjoining mixed use building at No 23 Curlewis Street.</p> <p>Upper floor balcony to the street façade is recessed behind the principal building façade.</p> <p>A solid balustrade is proposed to the upper level balcony facing the street.</p>
<p>3.2.6 Building services and site facilities</p> <p>Garbage and recycling storage and collection areas, and the structures in which they are contained, are not to be visible from the public domain.</p>	<p>Yes</p>	<p>A garbage room is provided within the building and will not be visible from the public domain.</p>

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

Built form

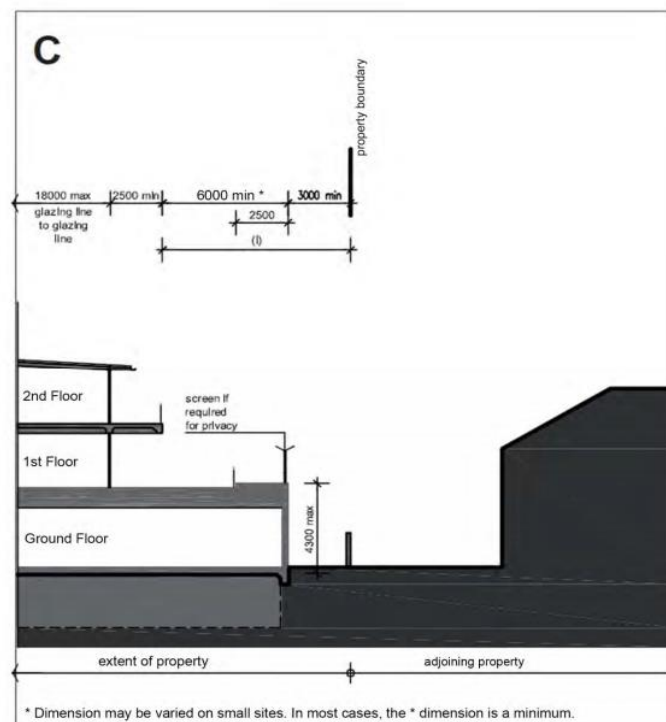
The application was deferred (5 April 2019) in an attempt to address the threshold issues of the Clause 4.6 variation, excessive FSR, separation from boundaries and amenity impacts on neighbouring properties. The amended scheme (received 20 June 2019) did make improvements on the proposal to reduce these issues and impacts, however greater reduction is necessary to enable Council Officer's support. In particular, the excessive bulk to the rear does create additional and unreasonable shadowing impacts and loss of privacy to adjoining properties (specifically 19 Curlewis St and 180 Wellington St). Further the provision of balconies to the rear, so close to the boundaries are considered to create unreasonable visual and acoustic privacy to neighbouring properties. In this regard, greater setbacks are deemed necessary at the rear of the building (that is, reduce bulk to rear), privacy impacts mitigated and increased landscaping to alleviate the issues of Council.

Annexure E3-2 – Typical Built Form for Three Storey Centres

Annexure E3-2 contained within Part E3 Local Village Centres, of the DCP provides typical built forms for development within the Old South Head Road Neighbourhood Centre. In the deferral letter, dated 5 April 2019, it was requested that the applicant give consideration to Annexure E3-2, Diagram C (Three (3) storey rear setback details without rear laneway – shown below), in particular the stepping of the built form from the rear property boundary. The amended architectural plans have provided some stepping of the built form to reduce the overall bulk and scale of the building where it adjoins residential properties.

Whilst it is acknowledged that Annexure E3-2 largely reflects the 6m building separation prescribed by the Apartment Design Guide and that the proposal is wholly for a commercial building, there is scope to further reduce the built form at the rear of the site, particularly given the significant departure to the FSR development standard.

Three (3) storey rear setback details without rear laneway



Design Excellence

The application was referred to the Design Excellence Panel on 15 October 2018. The Panel's comments are summarised below.

Panel's Comment	Planning Comment
<i>The Panel was concerned about the possible appearance of over-development on this very tight site.</i>	Agreed. The non-compliant FSR and environmental impacts to surrounding residential properties represents over-development of the site.
<i>The Panel expressed concern with the daylight impacts on windows for the attached house on the north-western side, and recommended further assessment of likely impacts on windows to habitable rooms.</i>	Agreed. The applicant has not adequately demonstrated the proposal will not result in adverse amenity impacts to surrounding properties in terms of overshadowing.
<i>With the adjacent 3 storey mixed-use site to the south-east there is a parapet height that could be referenced in an adjusted balustrade detail for the balcony of the top floor that might use vertical spaced blades to minimise view impacts.</i> <i>The proposed shade structure to this balcony reads very strongly in the visualisation provided, and a more recessive detail or retractable cover would be an improvement to the building's appearance.</i>	Plans have been amended to increase the parapet height to reference the parapet height of the adjoining mixed- use site. Plans have also been amended to significantly reduce the size of the shade structure over the upper level front facing balcony, allowing for the upper level to be less visible from the streetscape.
<i>The residence to the west has a roof overhang and windows that are very close to the boundary and the RFB to the rear of the site will be subject to unacceptable overshadowing to the private outdoor space.</i>	Agreed.
<i>A small rear courtyard with a tree would have the potential to enhance each level of the commercial space.</i>	The proposal has been amended to provide a small rear courtyard. However does not meet the 2m rear setback requirement prescribed by the DCP, nor provides scope for deep soil landscaping.
<i>The entry corridor / alley needs improvement and is not supported in its current form.</i>	Plans have been amended to provide fire rated glass blocks, introduced along the western wall of the building to indirectly illuminate the entry corridor.
<i>As the side wall to the north-west will likely be a blank façade until the adjacent property is developed, there needs to be some consideration of relief.</i>	Agreed.

2.2 Other Impacts of the Development

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

2.3 Suitability of the Site for the Development

The site is not considered to be suitable for the proposed development, based on the amended scheme lodged.

2.4 Any Submissions

The original application was notified for 14 days and a site notice erected on the site, in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*. Upon the receipt of amended plans, the application was re-notified for a further 14 days.

12 submissions were received during the notification of the original application, 5 are 'unique' and 7 are proforma letters. Eight submissions were received during the notification of amended plans, 5 are 'unique' and 3 are proforma letters.

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

Table 5: Summary of property addresses that lodged a submission

Property
1/2 Simpson Street BONDI BEACH
2/2 Simpson Street BONDI BEACH
180 Wellington Street BONDI BEACH – Unit No. not provided x 2
1/180 Wellington Street BONDI BEACH
3/180 Wellington Street BONDI BEACH
4/180 Wellington Street BONDI BEACH
5/180 Wellington Street BONDI BEACH
6/180 Wellington Street BONDI BEACH
7/180 Wellington Street BONDI BEACH
8/180 Wellington Street BONDI BEACH
19 Curlewis Street, BONDI BEACH

Issue: Floor Space Ratio

Response: The site is subject to a maximum FSR control of 1.5:1 (which equates 177m² of gross floor area). The proposed development has a FSR of 2.3:1, exceeding the standard by 95m² equating to a 53.67% variation. For the reasons provided in Section 2.1.2 of this report, the requested variation to the floor space ratio development standard is not supported.

Issue: Building Height

Response: As discussed in Section 2.1.2, the proposed building does not exceed the prescribed 13m building height. A compliant building height, however, does not give just cause to exceed the FSR standard.

Issue: Car parking

Response: The subject site is located within Parking Zone 2. The minimum number of parking spaces required for Zone 2 is nil. No car parking spaces are required, which is compliant with Council controls, noting that the site is located in close proximity to frequent public transport services.

Issue: Nil setbacks to side boundaries

Response: Whilst there are no prescribed side setbacks for commercial development, the bulk and scale of the building which is attributed to the non-compliant FSR, is not supported.

Issue: Inconsistent with streetscape character

Response: The proposal does not achieve the desired future character of the Old South Head Road Neighbourhood Centre as it does not satisfy amenity consideration and impacts on adjoining sites.

Issue: Bulk and scale

Response: The proposal will be visually obtrusive when viewed from the surrounding residential properties.

Issue: Overshadowing

Response: The effect of the proposed development on the east facing windows of No. 19 Curlewis Street has not been adequately demonstrated by the applicant. The proposed development would also result in a significant increase in overshadowing to the communal area in association with the residential flat building at No. 180 Wellington Street. Having regard to the scale of the building, and the considerable non compliance with respect to floor space ratio, greater opportunity exists for greater setback of the rear section of the building to assist mitigation of impacts to adjoining properties.

Issue: Privacy concerns due to rear-facing balconies

Response: The proximity of the rear facing terraces to neighbouring residential properties will likely result in adverse acoustic privacy impacts. The mitigation of privacy impacts has not been addressed by the applicant in the submitted documentation.

Issue: Development within Bondi is at capacity

Response: This concern is not a consideration in the assessment of this application. State and local planning controls allow for further development within the Waverley LGA subject to compliance with the relevant controls.

Issue: Developers are seeking financial gain

Response: This concern is not a consideration in the assessment of the application, having regard to the heads of consideration under the EP&A Act.

Issue: Hours of operation and No. of people working within co-working office space.

Response: The submitted SEE states that trading hours will not extend beyond the DCP prescribed hours. It is noted that a separate application would ordinarily be required to be lodged for the fit-out of the retail component, where specific details of operation would be submitted.

Issue: Noise and vibration from lift and building services

Response: Air-conditioners are shown to be located on the rear terrace provided at Level 3, however it is not clear whether they will be acoustically screened. The submitted SEE states that air conditioning units will be located in a plant room; however a plant room is not shown on the amended architectural plans. In the event of an approval, standard conditions would be imposed relating to mechanical plant installation and operation that meet industry standards.

Issue: Removal of wildlife corridor

Response: The proposal does not involve the removal of any vegetation. It is noted that there are no trees located within the subject site.

Issue: Commercial building is not consistent with zoning

Response: Commercial premises are permitted with consent in the B4 zone.

2.5 Public Interest

It is considered that the proposal in the current form is not in the public interest, and therefore is not supported.

3. REFERRALS

3.1 Driveways – Creating Waverley

Council's Traffic and Development team advised that there are no concerns regarding the proposal, subject to conditions.

3.2 Stormwater – Creating Waverley

Internal referral comments have been sought from Council's Design team. The submitted stormwater plans are not satisfactory. Ordinarily conditions of consent would be imposed to resolve outstanding matters with stormwater design prior to the issue of a construction certificate.

4. SUMMARY

The proposed development involves the demolition of existing single storey commercial building and construction of a four-storey commercial building. The proposed development has a FSR of 2.3:1, exceeding the standard by 95m² equating to a 53.67% variation. The applicant's written request has adequately addressed the matters required to be addressed by cl 4.6(3) of the Waverley Local Environmental Plan 2012, however the proposed development is not in the public interest because it is inconsistent with the objectives of the FSR standard.

The variation to the FSR development standard has resulted in a cumulative effect on the proposals ability to comply with the Desired Future Character Objectives of the Old South Head Road – Blair Street Intersection Neighbourhood Centre. In particular, the proposal does not satisfy amenity considerations and impacts on adjoining sites, specifically having regard to the excessive bulk at the rear of the building.

The non-compliances stated in this report result in a development that is not appropriate for the site. In this regard, the proposal, in the current form, is not supported.

The proposal was notified and 12 submissions (7 pro forma) received originally and 8 submissions (3 pro forma) were received during the notification of amended plans. The matters raised are discussed in this report.

DBU Decision

The application and assessment report was reviewed by the DBU at the meeting on 30 August 2019 and the DBU determined:

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

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

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

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

Report prepared by:

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

Lauren Saunders
Senior Development Assessment Planner

Angela Rossi
Manager, Development Assessment (Central)

Date: 12/08/2019

Date: 16/08/2019

Reason for referral:

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

APPENDIX A – REASONS FOR REFUSAL

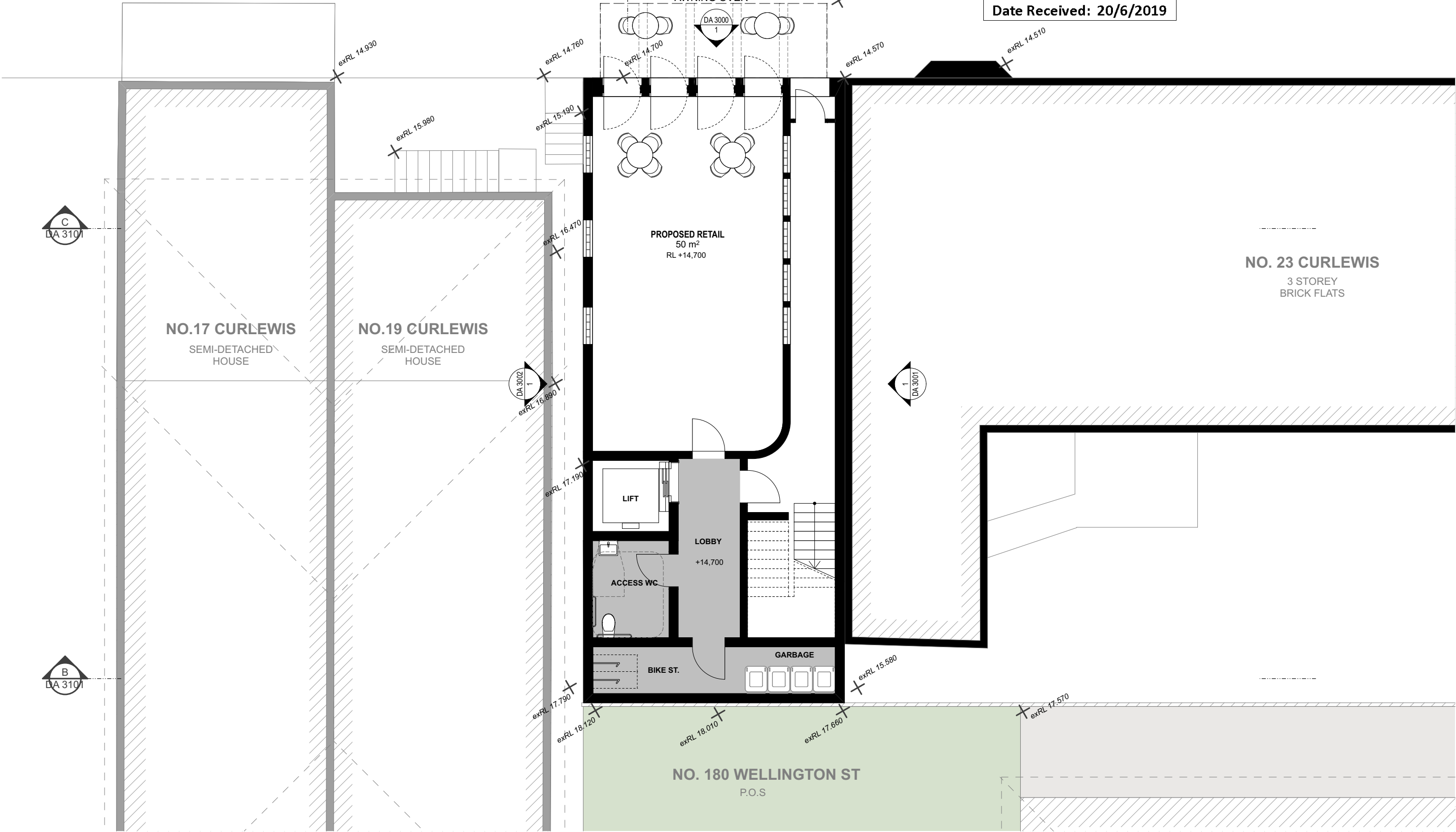
1. The proposal does not satisfy the objectives of the Environmental Planning and Assessment Act 1979, as stipulated in section 1.3 (g) as the proposal does not promote good design and amenity in the built environment.
2. The proposal is in breach of section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, in particular the following provisions:
 - a. Clause 4.4(2) of the Waverley Local Environmental Plan 2012 (WLEP 2012) as the proposal exceeds the maximum floor space ratio standard.
 - b. Clause 4.4(1) of the WLEP 2012 as the proposed is inconsistent with Objectives (b)-(d) as the proposal does not provide appropriate correlation between maximum building height and density controls; the proposal building is not compatible with the height, bulk, streetscape and desired future character of the locality; and the proposal does not preserve the environmental amenity of neighbouring properties.
 - c. Clause 4.6(3)(a) of the WLEP 2012 as the applicant has not demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, as the proposal is inconsistent with Objectives (b)-(d) of Clause 4.4 Floor Space Ratio.
 - d. Clause 4.6(3)(b) of the WLEP 2012 as the applicant has not demonstrated that there are sufficient environmental planning grounds to justify contravening the floor space ratio development standard as the proposal will result in an unreasonable environmental impact upon neighbouring properties as well as the desired future character of the locality.
 - e. Clause 4.6(4)(a)(ii) of the WLEP 2012, as the consent authority is not satisfied that the request is in the public interest as the proposal is not consistent with the Objectives (b)-(d) of Clause 4.4 Floor Space Ratio.
3. The proposal does not satisfy section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposed development is contrary to Waverley Development Control Plan 2012, in respect to the following provisions:
 - a. Part D1 – Commercial and Retail Development.
 - i. Section 1.2 Noise, specifically controls (d), as the location of the air conditioner units on the rear facing terraces will likely result in adverse acoustic privacy impacts.
 - b. Part E3 – Local Village Centres
 - i. Section 3.1.6 Old South Head Road Neighbourhood Centre, specifically, control (a), as the proposal does not achieve the desired future character of the Old South Head Road Neighbourhood Centre.

- ii. Section 3.2.3 Built Form, specifically Objective (a), as the proposed building is not of an appropriate scale and does not achieve the desired future character of the Old South Head Road Neighbourhood Centre.
 - iii. Section 3.2.3 Built Form, specifically Control (d), as the proposal does not provide a 2m deep soil zone within the rear setback.
- 4. The proposed development does not satisfy section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, as the proposal will have an adverse environmental impact in the locality as it represents an overdevelopment of the subject site, is excessive in terms of bulk and scale and has an undesirable and unacceptable impact on surrounding residential properties.
- 5. The proposal is contrary to 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, as the proposal is considered an overdevelopment of the site and is therefore considered unsuitable for the site.
- 6. The proposal is not considered to be in the public interest for the reasons outlined above and contrary to Section 4.15(1)(e) of the Environmental Planning and Assessment Act, 1979.

AMENDED PLANS

curlewis street

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Waverley Council
Application No: DA-320/2018
Date Received: 20/6/2019



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PROJECT: CURLEWIS
PROJECT NO: 18-020
DRAWN BY: MHN

21 CURLEWIS ST BOND
NSW

DRAWING:
GROUND FLOOR

TO SCALE: 1:100@A3
DRAWING NO: REV:B

338

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curlewis street

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21 CURLEWIS ST BONDI NSW

PROJECT NO: 18-020

DRAWN BY: MHN

TO SCALE: 1:100@A3

DRAWING NO: REV:B

DRAWING:
LEVEL 1

DA 320/2018
339

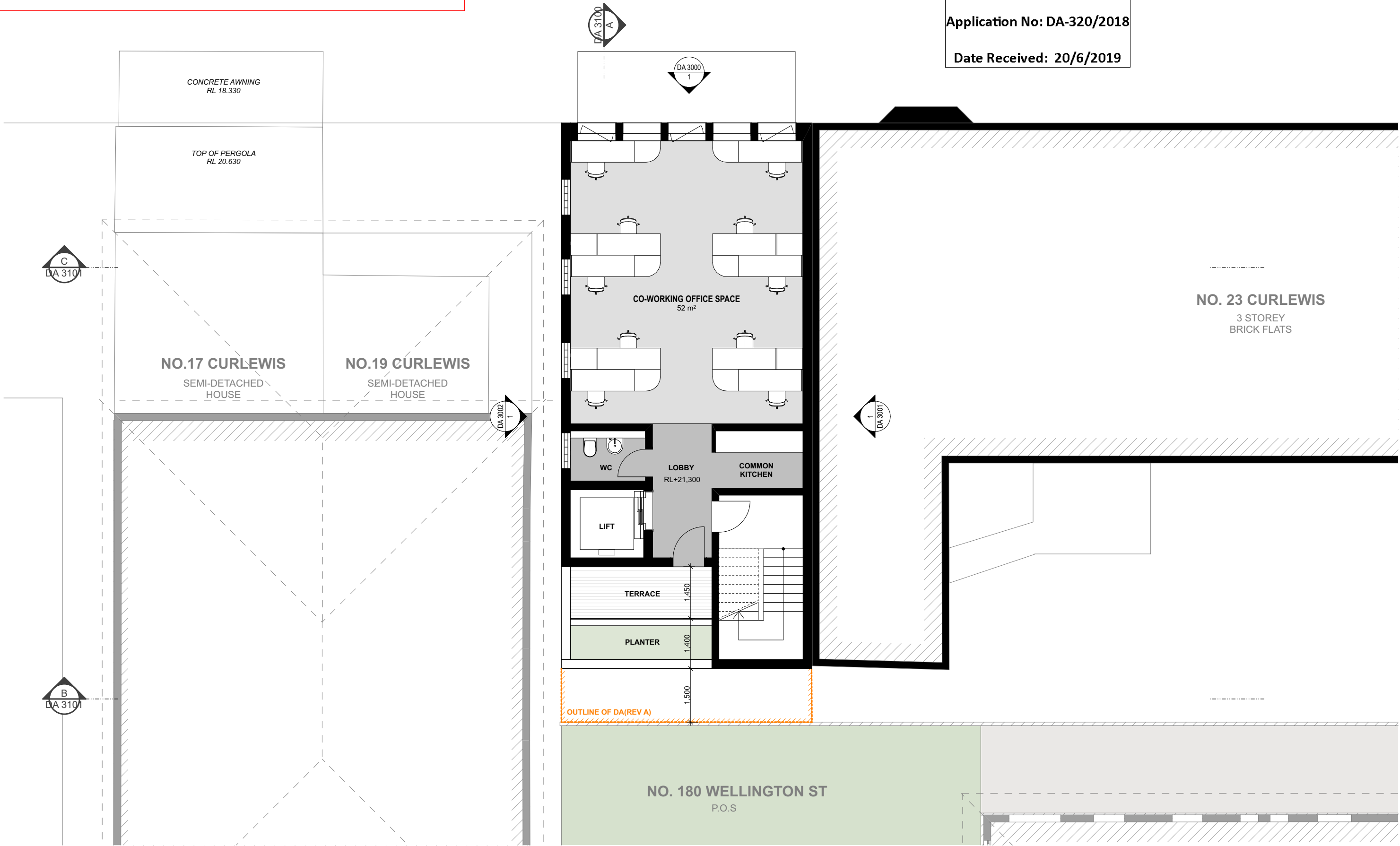
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PROJECT:
CURLEWIS
21 CURLEWIS ST BONDI
NSW

DRAWING:
LEVEL 2

PROJECT NO: 18-020
DRAWN BY: MHN

TO SCALE: 1:100@A3
DRAWING NO: REV:B

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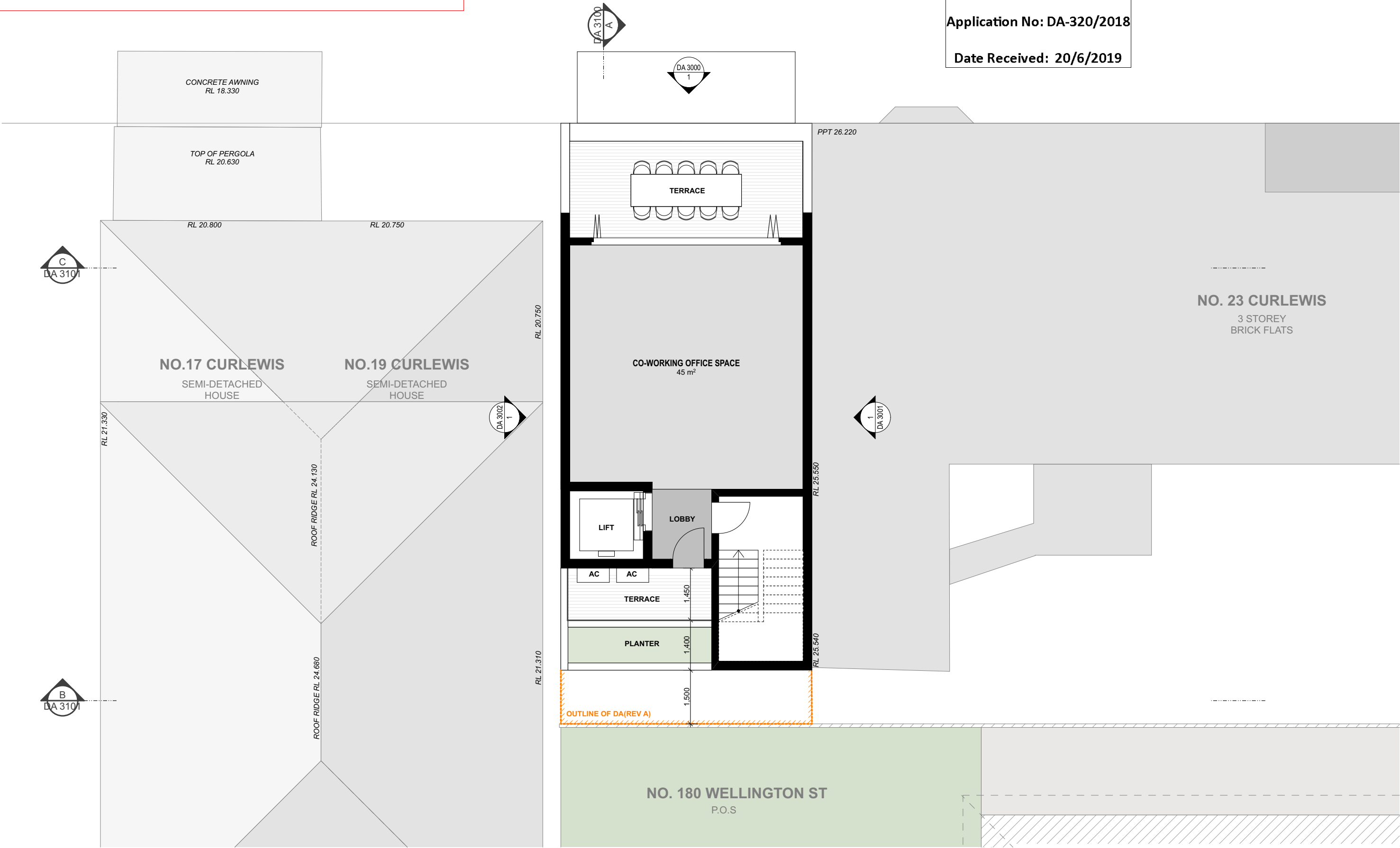
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MhN Design Union Pty Ltd. ABN 94 003 717 682 Nominated Architect Brán Meyerson NSW Registration Number 4907

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CURLEWIS
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DRAWING:
LEVEL 3

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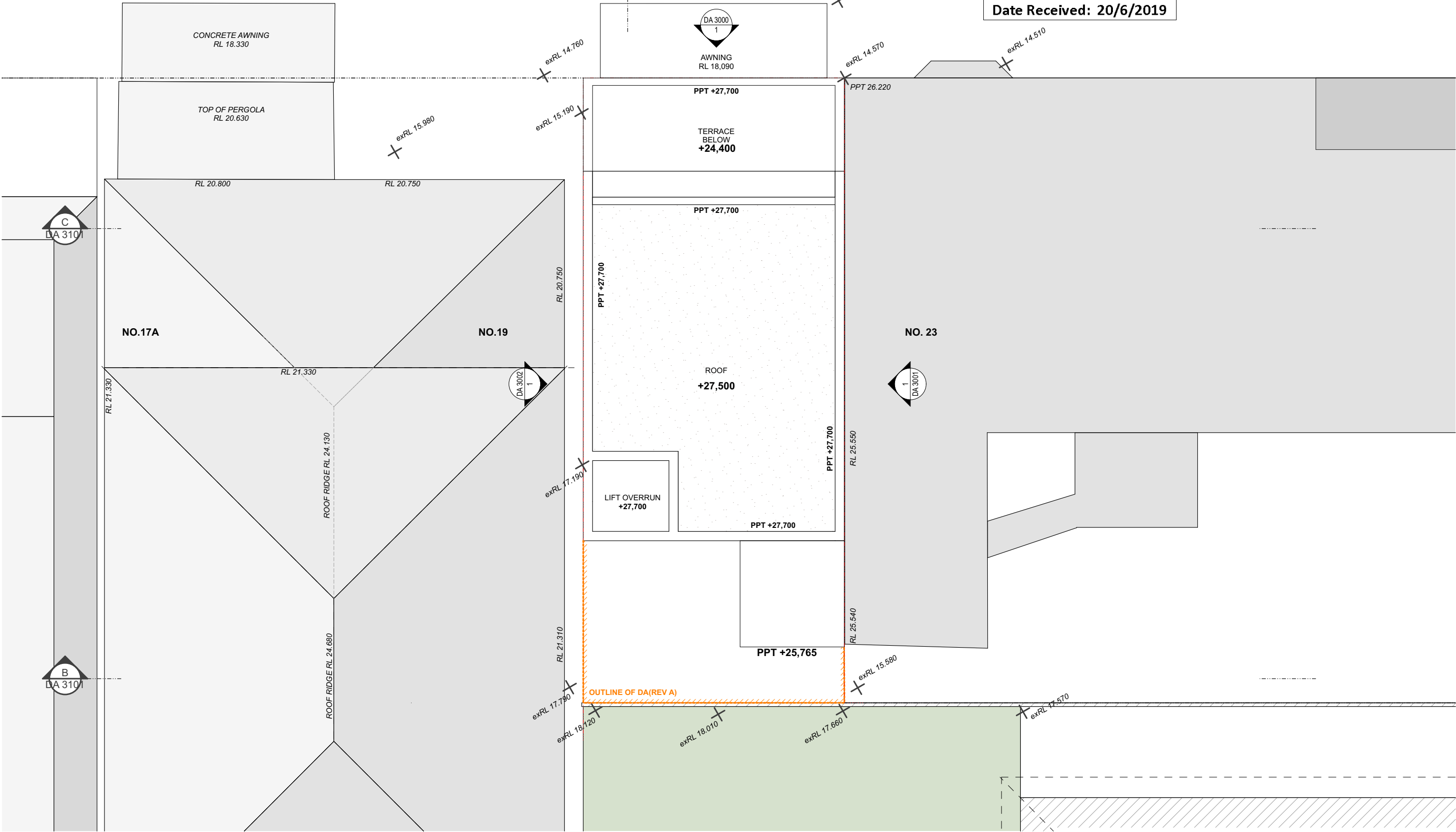
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Nominated Architect
Brân Meyerson

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DRAWING:
ROOF PLAN

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DRAWN BY: MHN

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21 CURLEWIS ST BOND
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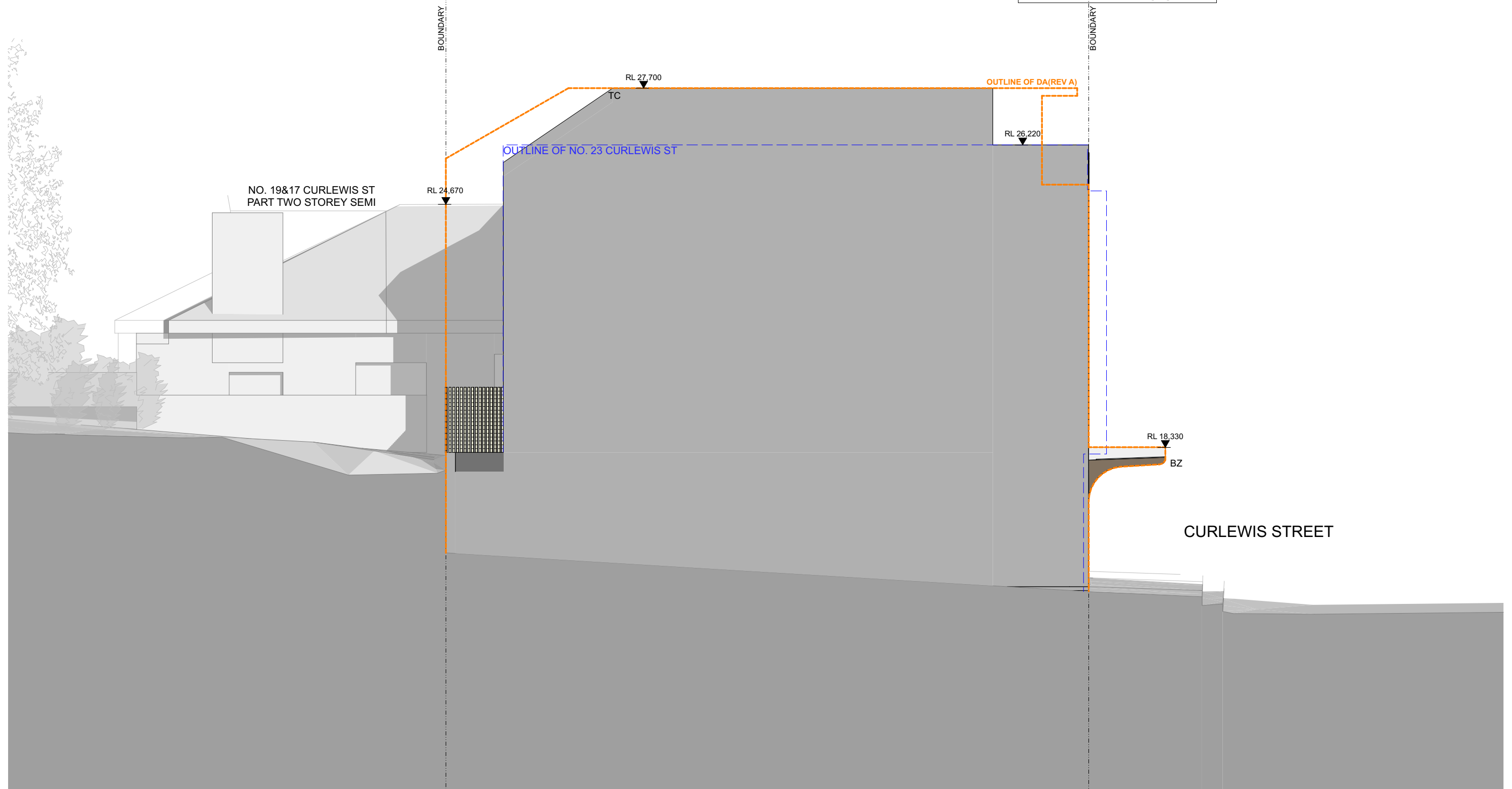
DRAWING: NORTH ELEVATION

PROJECT NO: 18-020
DRAWN BY: MHN

TO SCALE: 1:100@A3
DRAWING NO: REV:B

34300

RECEIVED
Waverley Council
Application No: DA-320/2018
Date Received: 20/6/2019



REVISIONS		
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B	DA SUBMISSION	30/04/19

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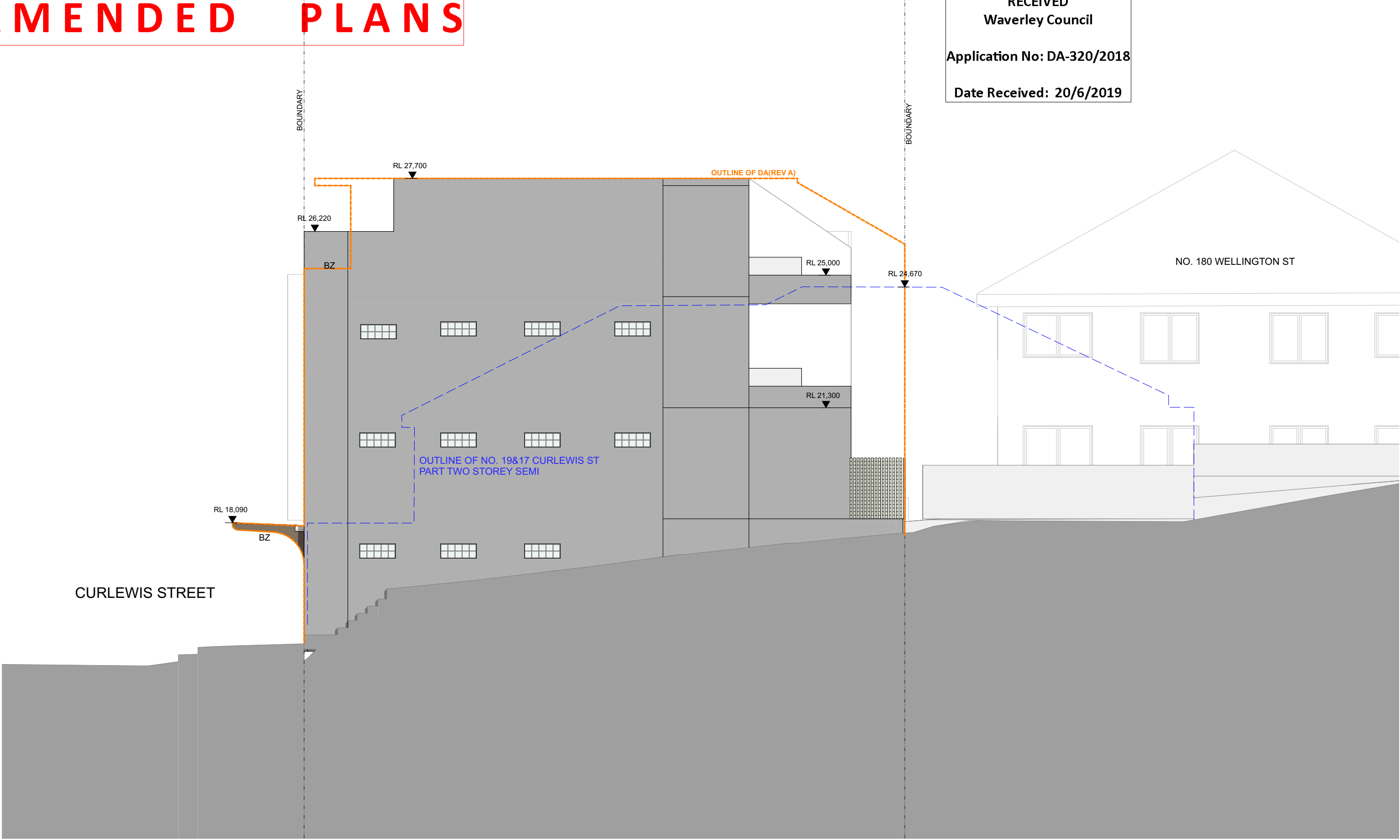
DRAWING:
EAST ELEVATION

TO SCALE: 1:100@A3
DRAWING NO: REV:B

344

AMENDED PLANS

RECEIVED
Waverley Council
Application No: DA-320/2018
Date Received: 20/6/2019



REVISIONS		
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SR - SERVICES RISER

ST - STORAGE

TOG - TOP OF GUTTER

TOW - TOP OF WALL

MATERIALS

BZ - BRONZE

OC - OFF-FORM CONCRETE

TC - TEXTURED CONCRETE FORMWORK

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MhN Design Union Pty Ltd. ABN 94 003 717 682 NSW Registration Number 4907

PROJECT:
CURLEWIS

21 CURLEWIS ST BOND
NSW

PROJECT NO: 18-020

DRAWN BY: MHN

TO SCALE: 1:100@A3

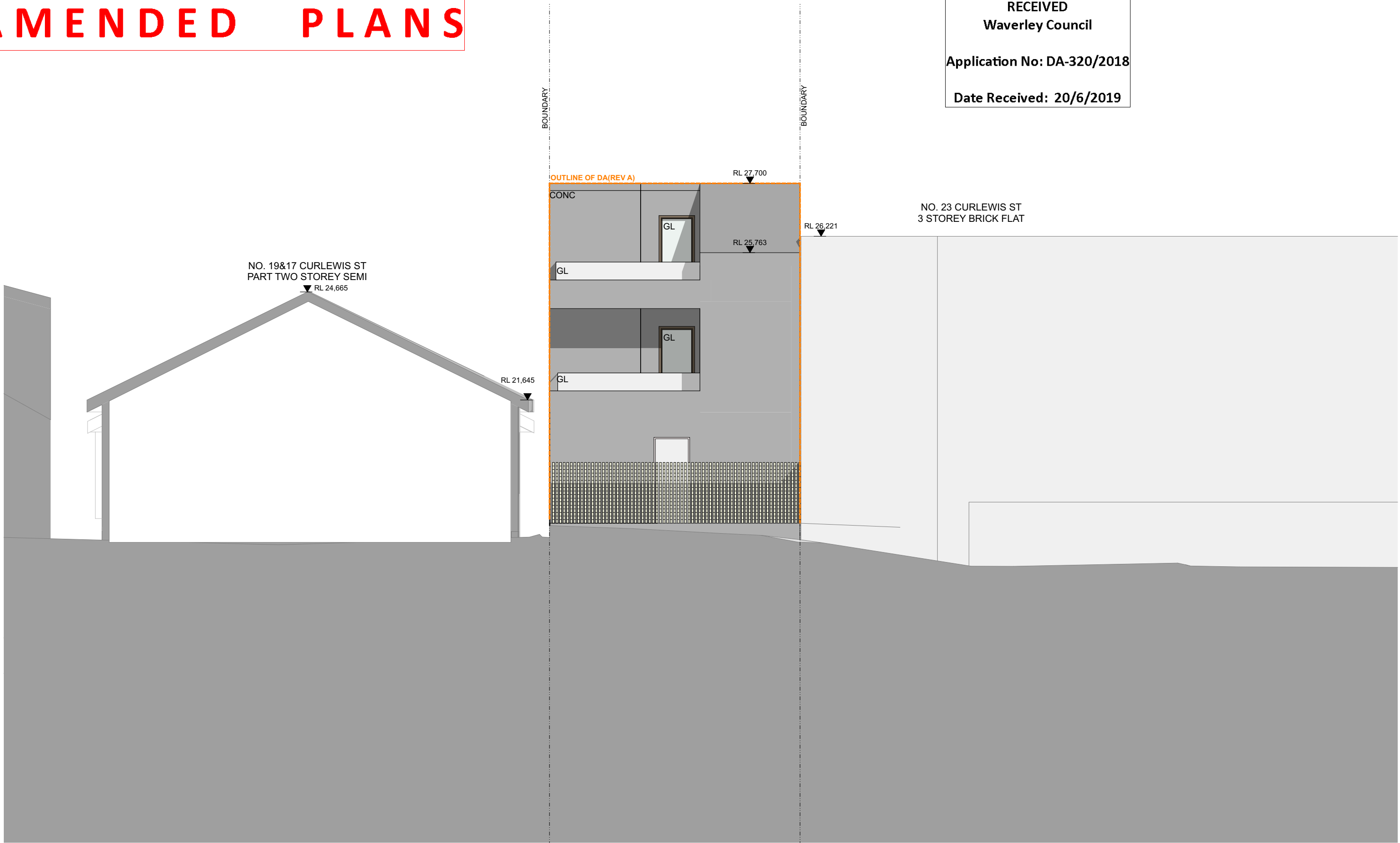
DRAWING NO: REV:B

DRAWING:
WEST ELEVATION

345

AMENDED PLANS

RECEIVED
Waverley Council
Application No: DA-320/2018
Date Received: 20/6/2019



REVISIONS		
A	DA SUBMISSION	10/09/18
B	DA SUBMISSION	30/04/19

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PROJECT: CURLEWIS
21 CURLEWIS ST BOND
NSW

PROJECT NO: 18-020
DRAWN BY: MHN

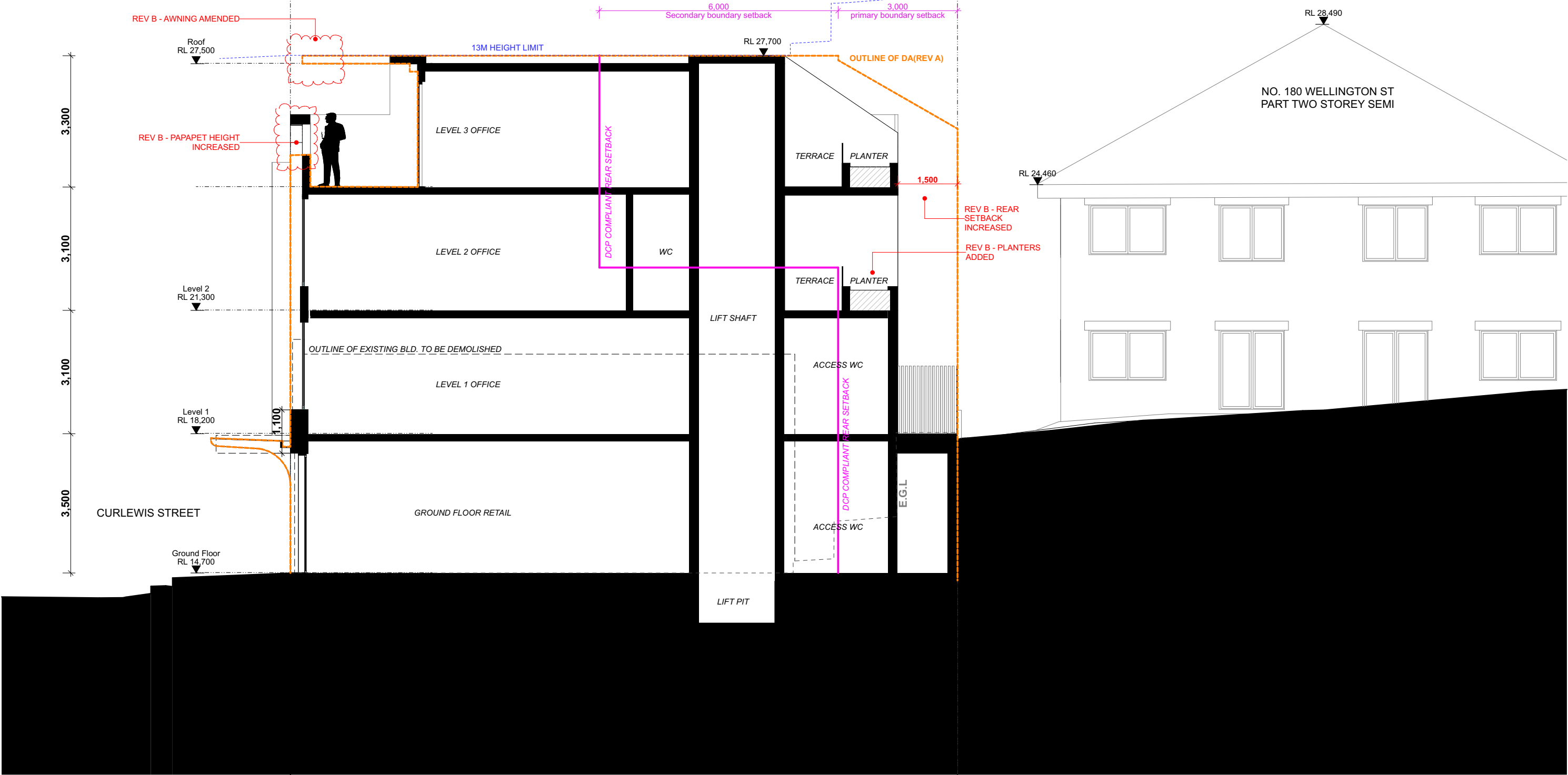
TO SCALE: 1:100@A3
DRAWING NO: REV:B

DRAWING: SOUTH ELEVATION

348

AMENDED PLANS

RECEIVED
Waverley Council
Application No: DA-320/2018
Date Received: 20/6/2019



REVISIONS		
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PROJECT: CURLEWIS
21 CURLEWIS ST BONDI NSW

PROJECT NO: 18-020
DRAWN BY: MHN

TO SCALE: 1:100, 1:1@
DRAWING NO: REV:B

DRAWING: LONG SECTION

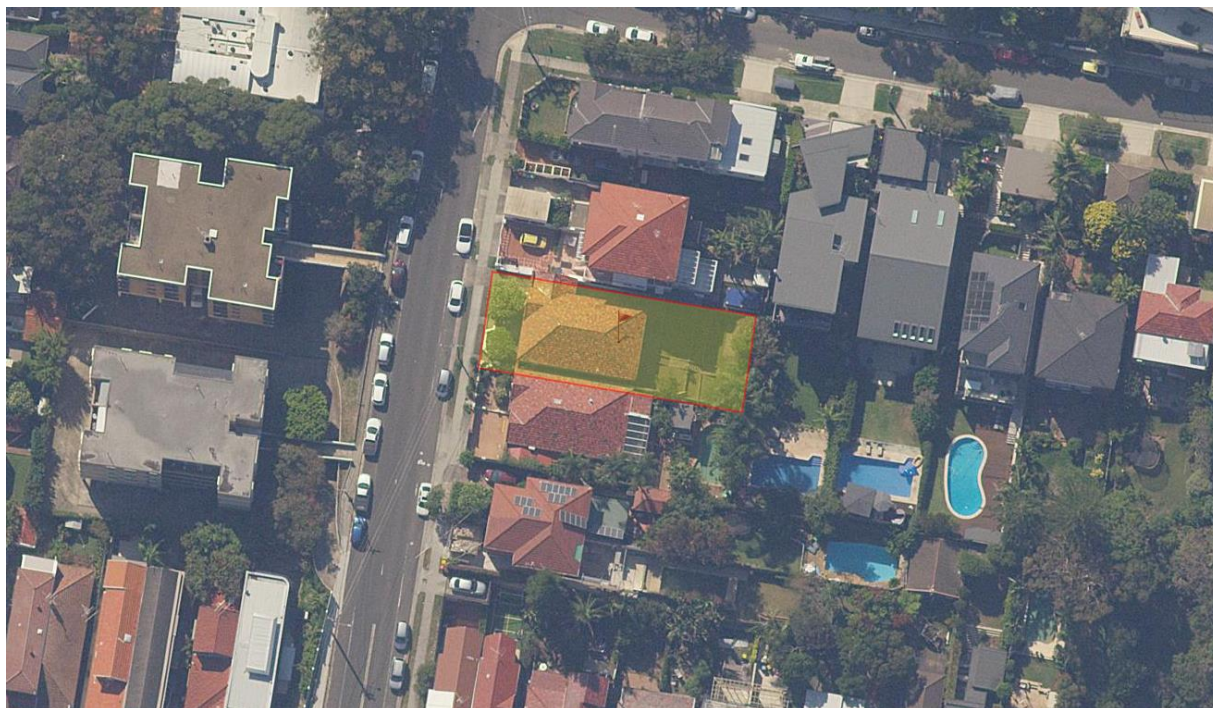
343100



Report to the Waverley Local Planning Panel

Application number	DA-20/2019
Site address	11 Hardy Street, NORTH BONDI
Proposal	Demolition of existing dwelling and construction of attached dual occupancy, basement parking and rear swimming pool with strata subdivision.
Date of lodgement	05 February 2019
Owner	Mrs Sarah Weinberg
Applicant	Mr Anthony Weinberg, Mrs Sarah Weinberg
Submissions	Two
Cost of works	\$1,730,632
Issues	Submissions
Recommendation	That the application be APPROVED

Site Map



1. PREAMBLE

1.1 Site And Surrounding Locality

A site visit was carried out on 13 March 2019.

The site is identified as Lot 3 in DP 12137, known as 11 Hardy Street, NORTH BONDI. The site is rectangular in shape with a western street frontage and eastern rear boundary measuring 29.95 m, and northern and southern side boundaries measuring 36.575m. The site has an area of 467.9 m² and falls from the western frontage towards the rear by approximately 4.25 m. The majority of the fall is contained at the rear of the site along a series of stepped terraces supported by retaining walls.

The site is occupied by a single storey detached dwelling with vehicular access provided from Hardy Street to a garage and hardstand located at the north western corner of the site. The site contains two Frangipani trees within the front setback area. Within the back garden there are three small to medium size trees and a range of small to medium sized palms and similar vegetation.

The subject site is adjoined by a single storey detached dwelling to the south at No.9 Hardy Street and a three storey dual occupancy building to the north at Nos.13-15 Hardy Street. The rear of the site is adjacent to the side boundary of No.1 Macleay Street. The Locality is characterised by a variety of residential developments including semi-detached and detached dwellings, dual occupancy developments and residential flat buildings.



Figure 1: Site viewed from Hardy Street.



Figure 2: Rear (east) elevation of application site.



Figure 3: Rear of adjoining dual occupancy to the north at Nos.13-15 Hardy Street.



Figure 4: Rear garden of adjoining single storey dwelling at No.9 Hardy Street.

1.2 Relevant History

No relevant planning history

1.3 Revisions

The development has been revised following concerns raised by Council in relation to scale and bulk, FSR non-compliance and impact on neighbouring amenity. The revised plans were submitted to Council on 5 July 2019. These are the plans which have been assessed.

The revisions made the following changes to the scheme:

- Reduced the height and scale of the building;
- Reduced the FSR to be compliant;
- Set the development back at the rear to better follow the predominant building line;
- Stepped the building down along the topography of the site from front to rear; and
- Amended the overall design aesthetics of the development to include pitched roof elements and a simplified palette of materials.

1.4 Proposal

The development as amended proposes the demolition of the existing single storey dwelling and construction of a two storey dual occupancy with parking via a single vehicle access and a rear swimming pool for each dwelling.

The dwellings are a mirror reverse layout, as follows:

Rear lower ground level

- Open plan living, dining and kitchen area;
- Covered timber deck;
- Enclosed a/c unit; and,
- Laundry and pantry areas.

Lower Ground level (Hardy Street)

- Single garage with storage;
- External bin store area; and
- Entrance door and foyer.

Upper Ground level (rear)

- Two bedrooms;
- Family bathroom; and
- 0.985m deep rear balcony.

Lower First Floor level (Hardy Street)

- Main bedroom with ensuite bathroom; and
- Front facing 1.6m deep balcony.

Upper First Floor Attic level

- 'loft gallery';
- Rear facing 1.5m deep balcony; and
- Central courtyard style 5m² balcony/terrace area.

Rear garden area

- Swimming pool; and,
- Landscaping.

The existing concrete driveway at the north eastern corner of the frontage is to be removed, with the driveway relocated to a more central position on the frontage.

Two trees (Frangipani) in the front garden and four trees/shrubs in the rear garden are proposed to be removed as part of the development.

Strata Title Subdivision of the completed development is proposed.

2. ASSESSMENT

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

2.1 Planning Instruments and Development Control Plans

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

2.1.1 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the development application.

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

2.1.2 SEPP 55 Remediation of Land

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

2.1.3 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

Table 1: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the plan in that it will provide for a range of residential densities and range of housing types to meet the changing housing needs of the community and it conserves the cultural, environmental, natural, aesthetic, social and built heritage of Waverley.
Part 2 Permitted or prohibited development		
Land Use Table R2 Zone	Yes	The proposal is defined as a dual occupancy, which is permitted with consent in the R2 zone.
Part 4 Principal development standards		
4.1 Minimum subdivision lot size • 325m ²	N/A	Not applicable as per Clause 2.6(4)(a) which states: <i>'This clause does not apply in relation to the subdivision of any land: (a) by the registration of a strata plan or strata plan of subdivision under the <u>Strata Schemes Development Act 2015</u>.'</i>
4.3 Height of buildings • 8.5m	Yes	8.2m
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio • 0.59:1 (276m ²) • Site 467.9m ²	Yes	The proposal has an FSR of 0.59:1 (276m ²).

Provision	Compliance	Comment
Part 6 Additional local provisions		
6.2 Earthworks	Yes	<p>Excavation is required for the provision of lower ground floor habitable space and car parking, and the rear garden swimming pool.</p> <p>The depth of excavation is to a maximum of 1.73m at the rear lower ground level.</p> <p>The site is not identified as a land slip risk and the depth of excavation is not considered to be excessive.</p> <p>The excavation does not take place within 0.9m of either side boundary. Whilst there may be some disturbance to the natural ground level during construction, it is to be reinstated at its current level within the side setbacks.</p> <p>Council's standard conditions of consent will be imposed to ensure there is no adverse effect from the proposed excavation works.</p>

2.1.4 Waverley Development Control Plan 2012 (Amendment 6)

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

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

Development Control	Compliance	Comment
1. Waste	Yes	<p>A Site Waste & Recycling Management Plan has been submitted with the application to address waste disposal during construction. Condition of consent will be imposed regarding ongoing waste on site.</p> <p>The waste and recycling storage area is located in the proposed basement storage area which is convenient for users of the site.</p>

Development Control	Compliance	Comment
2. Ecologically sustainable Development	Yes	<p>The application is supported by a BASIX Certificate demonstrating compliance with State regulated energy efficiency and water conservation targets.</p> <p>The proposal incorporates passive design, contains a rainwater tank and a condition will be imposed to ensure that solid fuel heating is not used.</p> <p>Substantial landscaping and planting appropriate to the site is proposed.</p> <p>These mechanisms are considered to address the objectives of Part B2 of the DCP.</p>
3. Landscaping and Biodiversity	Yes	<p>The landscaping plan has been reviewed and is considered acceptable, maintaining as much existing vegetation as possible and is cohesive with the site and streetscape.</p> <p>The site does not contain remnant vegetation which are listed as threatened in the Environment Protection and Biodiversity Conservation Act 1999, and in the NSW Biodiversity Conservation Act 2016.</p>
5. Tree preservation	Yes	<p>The proposal seeks to remove two Frangipani trees within the front garden area.</p> <p>Council's Tree Management Officer has reviewed the proposal and the trees to be removed. It is considered that the Frangipani trees, and all other trees on site, possess no outstanding attributes and removal is supported.</p> <p>The landscape plan submitted with the application proposes suitable replacement planting, including native canopy trees.</p>
6. Stormwater	Yes	<p>The stormwater plans submitted with the application are not satisfactory and do not comply with the Water Management Technical Manual. This matter can be addressed as a condition of consent.</p> <p>The site is not flood prone.</p>

Development Control	Compliance	Comment
8. Transport	Yes	<p>The proposed hardstand and garage has a satisfactory streetscape impact and follows the guidance of the DCP controls.</p> <p>The vehicular access to the site is limited to one cross over which is satisfactorily located and complies with the minimum required dimensions and other technical requirements.</p> <p>The proposed car parking compliments the design of the building and streetscape. It is behind the front building line, does not reduce the number of on street spaces or exceed the maximum rate of parking permitted in the parking zone.</p>
10. Safety	Yes	<p>Each dwelling is provided with a clearly identifiable entry which is visible from the street. Furthermore, each dwelling contains a balcony and windows which overlook the street frontage. Accordingly, the proposal is consistent with the objectives and controls of this part of the DCP.</p>
14. Excavation	Yes	<p>The proposed excavation does not add to the scale of the building or result in the loss of naturally occurring sandstone.</p> <p>The excavation is to a maximum of 1.73m at the rear lower ground level.</p> <p>All excavation takes place at least 0.9m from each side boundary.</p>

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

The proposal is defined as a “Dual Occupancy” in the LEP.

Development Control	Compliance	Comment
2.0 General Objectives		
<ul style="list-style-type: none"> • Appropriate scale • Does not detract from amenity of other dwellings or view corridors • ESD has been considered • Alterations & additions are sympathetic in bulk & scale to the character of the area 	Yes	<p>The proposal does not contravene the general objectives of this part of the DCP, in that it:</p> <ul style="list-style-type: none"> - Ensures that the scale of development is appropriate for the allotment size and neighbouring dwellings; - Does not detract from the amenity, privacy and views of surrounding dwellings; - Implements ecologically sustainable development;

Development Control	Compliance	Comment
<ul style="list-style-type: none"> High design standard 		<ul style="list-style-type: none"> Is sympathetic in bulk, scale and character to the desired future character of the areas; and, Is of a high design standard.
2.1 Height		
<p>Flat roof dwelling house</p> <ul style="list-style-type: none"> Maximum wall height of 7.5m <p>Pitched roof dwelling house</p> <ul style="list-style-type: none"> Maximum wall height of 7m 	Yes	<p>The development comprises both flat and pitched roof elements.</p> <p>The maximum wall height of the flat roof element is 5.5m</p> <p>The maximum wall height of the pitched roof element is 6.495m.</p>
2.2 Setbacks		
<p>2.2.1 Front and rear building lines</p> <ul style="list-style-type: none"> Predominant front building line Predominant rear building line at each floor level 	Yes	<p>The predominant front building line is maintained.</p> <p>The predominant buildings lines at each level are followed.</p> <p>The lower ground floor level follows the building line set by No.13 at that level. This is considered to be an acceptable and appropriate line given the lack of adverse amenity impacts on neighbours and the likely development potential of surrounding sites.</p> <p>At ground and first floor levels the rear setbacks of No.9 Hardy Street are followed. These are considered appropriate to reduce any visual or amenity impacts at the existing dwelling at No.9.</p>
<p>2.2.2 Side setbacks</p> <ul style="list-style-type: none"> Minimum of 0.9m 	Yes	<p>The proposed setbacks are a minimum of 0.9m.</p>
2.3 Streetscape and visual impact		
<ul style="list-style-type: none"> New development to be compatible with streetscape context Replacement windows to complement the style & proportions of existing dwelling Significant landscaping to be maintained. Porticos only permitted where a character of the streetscape 	Yes	<p>The proposal provides a contemporary flat roofed building fronting the street with a varied pitched roof form visible at the rear. This will contribute to the character of surrounding area and provide a high quality, well considered building on the streetscape.</p> <p>Garage doors are incorporated into the design of the building and comprise materials and finishes which carry throughout the building's façade. Furthermore, the garage doors are set back from the primary front facade. Overall, the proposal is considered compatible with the streetscape</p>

Development Control	Compliance	Comment
		character and will make a positive contribution to its surrounds.
2.4 Fences		
<p><i>Front:</i></p> <ul style="list-style-type: none"> Maximum height of 1.2m Solid section no more than 0.6m high <p><i>Side and Rear:</i></p> <ul style="list-style-type: none"> Maximum height of 1.8m 	Yes	<p>Conditions of consent will be imposed to ensure the front boundary fences do not exceed 1.2m in height, and side and rear boundary fences do not exceed 1.8m in height.</p>
2.5 Visual and acoustic privacy		
<ul style="list-style-type: none"> Windows to habitable rooms are not to directly face windows to habitable rooms and / or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design. External stairs are not acceptable. Maximum size of balconies: <i>10m² in area</i> <i>1.5m deep</i> Roof tops to be non-trafficable unless predominant in the immediate vicinity 	Yes	<p>Visual and acoustic privacy between properties is considered acceptable.</p> <p>Side-facing habitable room windows are appropriately sited and designed to minimise overlooking. Large windows in each kitchen/living are have been provided with louvered privacy screens.</p> <p>Rear-facing habitable room windows are satisfactory in the context of its domestic setting.</p> <p>Balconies and terraces are located to the front and rear of the building and provide an outlook over both Hardy Street and the rear garden. The proposed balconies do not exceed the DCP size requirements.</p> <p>The proposal does not include a roof top terrace.</p>
2.6 Solar access		
<ul style="list-style-type: none"> Minimum of three hours of sunlight to living areas and principal open space areas on 21 June Minimum of three hours of sunlight maintained to living areas and principal open space areas of adjoining properties on 21 June 	Yes	<p>A minimum of 3 hours of sunlight to living areas and principal open space is provided to both the application site and the neighbouring dwellings.</p> <p>Whilst shadow is cast over both the application site and the site to the south in the afternoon, this is a result of the orientation of the lot and is reasonably anticipated by the controls.</p>

Development Control	Compliance	Comment
2.8 Car parking		
2.8.2 Design Approach <ul style="list-style-type: none"> • Parking only allowed where site conditions permit • Designed to complement the building and streetscape • Car parking structures to be behind the front building line • Driveways are to be located to minimise the loss of on street parking • Parking to be provided from secondary streets or lanes where possible. 	Yes	<p>The site is considered acceptable for parking. The lot is of a sufficient size and the proposed basement parking is not considered to have an adverse impact on the streetscape. Hardy Street displays a range of parking types and structures with no overriding character, the proposed parking is an acceptable and efficient use of the site.</p> <p>The garage doors are set well back from the front of the building line and there will be no loss of on-street parking as the existing vehicle crossover is being relocated on the frontage.</p>
2.8.2 Parking rates <i>Maximum rates:</i> <ul style="list-style-type: none"> • 2 spaces for 3 or more bedrooms 	Yes	One space is provided per dwelling.
2.8.3 Location <ul style="list-style-type: none"> • Behind front building line for new dwellings 	Yes	The lower ground level car parking is set back from the front building line
2.8.4 Design <ul style="list-style-type: none"> • Complement the style, massing and detail of the dwelling • Secondary in area & appearance to the design of the residences • No part of the façade is to be demolished to accommodate car parking • Gates to have an open design 	Yes	<p>The siting and design of the basement parking complements the style of the dwelling and the streetscape, which has no overriding character or parking type.</p> <p>The parking area is at lower ground level and is not considered to be excessively sized. It is secondary in appearance to the overall building above.</p>
2.8.5 Dimensions <ul style="list-style-type: none"> • 5.4m x 2.4m per vehicle 	Yes	Minimum dimensions per vehicle, per garage, are complied with.
2.8.6 Driveways	Yes	Only one driveway is proposed .

Development Control	Compliance	Comment
<ul style="list-style-type: none"> Maximum of one per property Maximum width of 3m at the gutter (excluding splay) Crossings not permitted where 2 on street spaces are lost 		<p>A condition will be imposed to ensure the driveway is no wider than 3m at the gutter.</p> <p>The driveway will have no impact on street parking as it will, in effect, be a relocation of an existing driveway.</p>
2.9 Landscaping and open space		
<ul style="list-style-type: none"> Overall open space: 40% of site area 	Yes	Overall open space is 244m ² (including balconies/terraces and landscaped areas). This is 52% of the site area.
<ul style="list-style-type: none"> Overall landscaped area: 15% of site area 	Yes	<p>Overall landscaped area is 179.44m² which is 38.35% of the site area. The landscape calculation excludes items such as steps, bin store hardstand, swimming pool pump and retaining walls (which were included within the applicant's measurements).</p> <p>The proposed landscaping is high quality and appropriate planting is proposed. The front setback area which is the only part of the site visible from the street is compliant with relevant controls.</p>
<ul style="list-style-type: none"> Minimum area of 25m² for private open space 	Yes	Private open space areas exceed 25m ² for each dwelling.
<ul style="list-style-type: none"> Front open space: 50% of front building setback area 	Yes	The front landscaped area comprises approximately 41m ² of landscaped area which is 57% of the front setback area.
<ul style="list-style-type: none"> Front landscaped area: 50% of front open space provided 	Yes	
<ul style="list-style-type: none"> Outdoor clothes drying area to be provided 	Yes	Outdoor clothes drying will be possible within the rear garden areas.
2.10 Swimming pools and spa pools		
<ul style="list-style-type: none"> Located in the rear of property Pool decks on side boundaries must consider visual privacy 	Yes	<p>The proposed pools are located at the rear of the site at the base of a steep slope. This is in a similar location to the pool at the adjoining neighbour to the south.</p> <p>The pools are setback 0.9m (although coping reduces this setback to approximately 0.8m) from the side and rear boundaries and will be adjacent to 1.8m high boundary fences.</p> <p>The proposal sees the rear part of the garden raised by approximately 0.6m at the rear</p>

Development Control	Compliance	Comment
		boundary. In order to preserve residential amenity a condition of consent will be imposed to lower this part of the garden and pool area at each dwelling by between 200-450mm. With the aforementioned condition imposed, the pool's location at the lowest part of site will have no adverse impact on visual privacy.
2.15 Dual Occupancy Development		
<ul style="list-style-type: none"> Min 450m² attached dwellings Attached dual occupancy designed to have appearance of a single dwelling. 	Yes	<p>The site area is 467.9m²</p> <p>The dwelling has the appearance of a contemporary dwelling house.</p>

2.2 Other Impacts of the Development

The proposed development is capable of complying with the BCA and conditions to that effect will be imposed.

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 given that potential amenity impacts of the proposal can be appropriately managed.

2.4 Any Submissions

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

Two submissions were received for the original application from the occupants of No.9 Hardy Street (the adjacent dwelling to the south) and No.1 Macleay Street. The amended application was re-notified for 14 days and no submissions were received. The issues raised in the submissions received regarding the original application are summarised and discussed below.

Issue: Overlooking of southern kitchen window into bedroom

Response: The development has been revised to include louvered privacy screens on the kitchen windows. Side facing bedroom windows are now also suitably screened or are high level. This is considered to satisfactorily address issues of overlooking from the side windows to the neighbouring sites.

Issue: The proposed balconies project out excessively to the rear and will allow overlooking towards the BBQ area at No.9 Hardy Street.

Response: The development has been revised to significantly reduce the extent of the balconies and to set them well in from the side boundaries. Privacy screening will also be installed to limit overlooking to an easterly (rear direction). These measures will ensure that there is overlooking of the BBQ area. Given the constraints of the site, overlooking to adjoining neighbours is unavoidable and is possible at present. The proposal is considered to be a reasonable approach to mitigate overlooking whilst allowing an appropriate development on the site.

Issue: View loss of significant panoramic views of the city and beyond

Response: The building envelope has been significantly reduced in size and is within the height standard and applicable DCP wall height controls. Any views from 1 Macleay Street over the subject site will be over a side boundary and will be compromised by the existing dwelling.

The text associated with DCP Control 2.7 (Views) states that *‘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’*.

Given that the building is a compliant scheme and views are over a side boundary, it is considered that any view loss has been reasonably considered by the standards and controls applicable to the site. It is not considered reasonable for the development to be reduced in scale to enable compromised views over a side boundary to remain as existing.

Issue: Excessive height and bulk and non-compliance with FSR requirements

Response: The development has been redesigned to significantly reduce its bulk and it now complies with the FSR requirements. The building is fully compliant with the LEP height standard and the DCP wall height controls.

Issue: Shadow diagrams do not show the effect on No.1 Macleay Street

Response: Shadow diagrams indicate that there is only minor overshadowing of a small part of the rear yard at the western boundary of No.1 Macleay Street from 3pm onwards at midwinter. As such, there is no adverse impact on No.1 Macleay Street as a result of the proposed development.

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

The development was referred to Council’s Traffic Team, Tree Officer, Land Information GIS officer and Creating Waverley (Stormwater).

3.1 Traffic

No issues raised subject to standard conditions.

3.2 Tree officer

No issues raised. Removal of all trees on site is supported. Appropriate conditions of consent will be imposed to ensure the landscape plan as submitted is complied with.

3.3 Land information GIS Officer

No issues raised subject to conditions of consent to ensure appropriate naming and numbering of the dwellings.

3.4 Stormwater – Creating Waverley

The location of the proposed development falls outside the infiltration zone. Disposal of stormwater by infiltration is not permitted (Refer to section 3.1.1 & Annexure B, Water Management Technical Manual).

On-site Stormwater Detention (OSD) and its details are required (e.g. Location, cross & long sections and dimensions of OSD tank, top water level, orifice centreline level) along with completed mandatory checklist as set out in page 22 of Waverley Council's Water Management Technical Manual is required for each individual proposed dwelling.

Since a sewer main runs through the property, plans must also be presented to a Sydney Water Quick Check Agent for their approval.

Appropriate conditions of consent will be imposed to ensure OSD is provided.

4. SUMMARY

The proposal seeks consent for demolition of the existing dwelling and structures on the land, removal of trees, construction of a dual occupancy development together with basement parking, in-ground swimming pools and Strata subdivision.

The proposal complies with the maximum height of buildings development standard, setback controls, FSR and other relevant building envelope controls.

Two submissions was received and is discussed under Heading 2.4 of this report. The issues raised have been addressed through amended plans and by conditions of consent.

No Councillor submissions were received.

The proposal is considered to represent an economic and orderly development that is substantially compliant with the objectives of the LEP and DCP and is supported subject to the imposition of conditions of consent.

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

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

Report prepared by:

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

Planning Ingenuity
Consultant Planners

Date: 29/7/19

Bridget McNamara
Manager, Development Assessment
(North/South)
Date: 8/8/19

Reason for referral:

- 1 Conflict of interest.

APPENDIX A – CONDITIONS OF CONSENT

A. APPROVED DEVELOPMENT

1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

Plan description	Drawing No.	Date	Date received by Council
Site Plan	DA 1.0 D	18/6/2019	2/7/2019
Site Analysis Plan	DA 1.2 B	18/6/2019	2/7/2019
Lower Ground Floor Plan	DA 2.0 D	18/6/2019	2/7/2019
Ground Floor Plan	DA 2.1 D	18/6/2019	2/7/2019
First Floor Plan	DA 2.2 D	18/6/2019	2/7/2019
Upper First Floor Attic	DA 2.3 D	18/6/2019	2/7/2019
Roof Plan	DA 2.4 D	18/6/2019	2/7/2019
Pool Plan	DA 2.5 D	18/6/2019	2/7/2019
Elevations (North Elevation)	DA 3.0 D	18/6/2019	2/7/2019
Elevations (South Elevation)	DA 3.1 D	18/6/2019	2/7/2019
Elevations (East & West Elevation)	DA 3.2 D	18/6/2019	2/7/2019
Sections	DA 4.0 D	18/6/2019	2/7/2019
Window Schedule	DA 12.0 D	18/6/2019	2/7/2019
Window Schedule	DA 12.1 D	18/6/2019	2/7/2019
Window Schedule	DA 12.2 D	18/6/2019	2/7/2019
Window Schedule	DA 12.3 D	18/6/2019	2/7/2019

- (a) Landscape Plan No. LP01-03 Rev E and documentation prepared by R+M Landscape Architecture dated 20/06/2019, and received by Council on 2/7/2019;
- (b) BASIX and NatHERs Certificate;
- (c) Draft Site Subdivision Plan No. DA 1.3, prepared by Future Flip, dated 18/6/2019, and received by Council on 2/7/2019; and

- (d) Schedule of external finishes drawing No.10.0, dated 18/6/2019, and received by Council on 2/7/2019.

Except where amended by the following conditions of consent.

2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

- (a) The pool areas and associated lawns are to be lowered to reduce privacy impacts on neighbouring dwellings. Within the rear gardens of each site, the eastern most portions between the retaining wall and the rear boundary (which includes the pool and lawn area) are to have the proposed RLs lowered, as follows:
- i) Unit 1 – from RL.27.20 to no more than RL.27.00. No part of the pool coping or the garden eastward of the retaining wall shall be above RL.27.00.
 - ii) Unit 2 – from RL.27.05 to no more than RL.26.60. No part of the pool coping or garden eastward of the retaining wall shall be above RL.26.60.

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

3. BONDI - ROSE BAY SAND BODY

This site is located within the Bondi - Rose Bay Sand Body as identified in Council's Aboriginal Cultural Heritage Study 2009. Should an object of potential Aboriginal or archaeological significance be discovered during the demolition, excavation or construction period associated with this development, works are to immediately cease and the NSW National Parks and Wildlife Service must be contacted. Works may resume on the site pending receipt of express written permission from the NSW National Parks and Wildlife Service. Waverley Council must be notified of any referral to the NSW National Parks and Wildlife Service and be provided with a copy of any subsequent response.

4. TREE PRESERVATION

A tree preservation order exists in the Waverley Local Government Area. Any trees not identified in this application have not been assessed and separate consent will be required. The application must be made in writing to Council prior to removal of tree/trees. Should permission be granted, the applicant will receive a permit to proceed.

5. NEW VEHICLE CROSSING

A new vehicle crossing is to be provided to access the proposed **garages**. A separate application is required for the vehicle crossing, with all work to be carried out with the approval of and in accordance with the requirements of Council.

Note: In accordance with DCP Control 2.8.6 the driveway is to be no wider than 3m at the gutter (excluding the splay) and may splay to the property boundary as required.

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

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

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

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

7. SECTION 7.12 CONTRIBUTION

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

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

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

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

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

- (c) Should a section 4.55 modification result in any change to the total cost of the work, the Section 7.12 contribution is to be revised and amended.

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

8. SECURITY DEPOSIT

A deposit or guarantee satisfactory to Council for the amount of \$ **26,650** must be provided as security for the payment of the cost of making good any damage caused or unauthorised works that may be caused to any Council property as a consequence of this building work.

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

9. LONG SERVICE LEVY

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

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

10. HOARDING REQUIRED

To ensure the site is contained during construction, a hoarding is required for the approved works which is to be designed and constructed in accordance with the requirements of **Safe Work NSW**.

The hoarding is to be erected on the street alignments of the property prior to the commencement of building operations and be maintained during the course of building operations. Details of the hoarding are to be provided to Council for record and be to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate.

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

11. EROSION & SEDIMENT CONTROL

A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared in accordance with Waverley Council's Water Management Technical Manual and the NSW Environment Protection Authority (EPA) Managing Urban Stormwater: Soils and Construction (Blue Book). A vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be included in the plan for any construction site with vehicles entering and existing the site.

This Plan shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

The approved Soil and Water Management Plan must be kept on site, measures shall be implemented prior to commencement of any works or activities and maintained at all times. A copy of the Soil and Water Management Plan must be made available to the Principal Certifying Authority & Council officers on request.

12. SITE WASTE AND RECYCLING MANAGEMENT PLAN

Demolition and excavated material to be reused and/or recycled wherever possible and detailed in a Site Waste and Recycling Management Plan (SWRMP) Checklist 2 which is to be submitted to the Principal Certifying Authority for approval in accordance with Waverley DCP 2012 prior to the issue of the Construction Certificate.

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

13. GEOTECHNICAL ENGINEERS REPORT

A Geotechnical Engineers Report is to be submitted which assesses the following;

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
- (b) the effect of the development on the likely future use or redevelopment of the land,
- (c) the quality of the fill or the soil to be excavated, or both,
- (d) the effect of the development on the existing and likely amenity of adjoining properties,
- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing relics,
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

The report must make recommendations and conclude that damage should not occur to any adjoining premises as a result of the proposed bulk excavation, driven type piles and shoring works.

The report is to be submitted to the Principal Certifying Authority, Council and the owners of adjoining premises prior to the issue of a Construction Certificate and commencement of any such works on the site.

14. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION

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

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

15. ENGINEERING DETAILS

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

16. FENCE NOT TO ENCROACH BEYOND BOUNDARIES

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

17. DILAPIDATION REPORTS

A Dilapidation report should be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. This action is designed to assist all parties should damage occur and is not a preventative action. The dilapidation reports should be completed and submitted to the relevant owner of the affected property, Council and the Principal Certifying Authority prior to undertaking any works that may cause damage

Please note the following:

- (a) The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- (b) This is not a condition of consent and cannot be used to prevent the commencement of works or prevent neighbouring buildings being damaged by the carrying out of the development.
- (c) Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out.
- (d) Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

18. STORMWATER DISPOSAL

The location of the proposed development falls outside the infiltration zone. Disposal of stormwater by infiltration is not permitted (Refer to section 3.1.1 & Annexure B, Water Management Technical Manual).

Revised Stormwater Plans 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.

19. ON-SITE STORMWATER DETENTION DETAILS

On-Site Stormwater Detention (OSD) tank and its details are required to be submitted and approval by Council prior to the issue of a Construction Certificate. Details to include dimensions, cross & long sections, top water level, details of discharge control pit, orifice plate including orifice diameter and depth of water above centreline of orifice etc.

20. SYDNEY WATER CHECK

As a sewer runs through the property, plans must be presented to a Sydney Water Quick Check Agent for their approval.

21. BASIX

The undertakings provided in the BASIX Certificate and NatHERS documentation shall be provided for in the Construction Certificate plans and documentation prior to the issue of the Construction Certificate.

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

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

The above condition is a prescribed condition under the Environmental Planning and Assessment Regulation 2000 clause 97A and the above BASIX commitments are mandatory and cannot be modified under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

22. INSTALLATION OF AIR CONDITIONING

To ensure that the ecological sustainable objectives of the Waverley DCP 2012 – Amendment 6 are met, any air conditioning unit(s) installed within the building shall:

- (a) Be located behind the front building line and if visible suitably screened
- (b) Not be adjacent to neighbouring bedroom windows.
- (c) Not reduce the structural integrity of the building.
- (d) Not emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):
- (e) before 8.00am and after 10.00pm on any Saturday, Sunday or public holiday; or
- (f) (ii) before 7.00am and after 10.00pm on any other day.
- (g) Not provide noise emissions that exceed 5dBA above the ambient background noise level measured at the property boundary at any other time outside of (e).
- (h) Have sufficient manual or automated controls so it is used only when required;
- (i) Be an energy efficient reverse cycle air conditioning system that achieves as a minimum one star less than the maximum possible under the Australian Government air conditioning energy rating standard.
- (j) New or replacement air conditioning units are to have a minimum 2-star rating for cooling only. Reverse cycle air conditioning units are to have a minimum of 2-star rating on one cycle and 2-star rating on the alternate cycle.

- (k) Dehumidification from air conditioning systems must be harvested and reused on site provided it is treated to an adequate level suitable for the reuse application, otherwise a piped connection to Council's stormwater drainage system is required and there is to be no discharge to the footpath.

23. DOMESTIC HEATERS/ FIREPLACES

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

24. SITE WASTE AND RECYCLING MANAGEMENT PLAN

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

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

25. SERVICE AUTHORITIES

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

26. CONSTRUCTION VEHICLE AND PEDESTRIAN PLAN OF MANAGEMENT

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

The CVPPM shall:

- a. Show the size and number of trucks to be used during the various stages of the development.
- b. Show the route to be taken by trucks in (a) above within the Waverley Council area when gaining access to and from the site. Note, if it is considered with the information submitted that such vehicles cannot adequately and safely gain access to and from the site or where access into or out of the site may not be possible without the need to remove an unsatisfactory number of vehicles parked on the roadway in the vicinity of the site, the trucks may not be approved for use.
- c. Show the location and length of any proposed Works/Construction Zones.

Note:

- (i) Such zones require the approval of the Waverley Traffic Committee and Council prior to installation.

- (ii) It is illegal to park a truck exceeding 4.5tonnes on a roadway for more than one (1) hour unless signs are installed allowing such and illegal to barricade/ reserve a section of roadway without the prior approval of Council.
- d. Indicate the number of and where it is proposed to park light vehicles associated with staff/employees/contractors working on the site.

27. LONG SECTIONS OF DRIVEWAY

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

The long section drawings shall:

1. Be drawn at a scale of 1:25
2. Include reduced levels (RL's) of the Hardy Street carriageway, the kerb and gutter, footpath, paving within the property and the garage floor.
3. Include existing and design levels.
4. Include ground clearance of the B85 design vehicle using the ground clearance template contained in Appendix C of AS 2890.1: 2004 Off Street Car Parking.
5. Show all paving on Council's land being sloped/ drained towards the roadway.

28. SWEPT WHEEL PATH DRAWINGS

Prior to issue of the Construction Certificate, swept wheel path drawings, prepared by a suitably qualified and experienced traffic engineering consultant, showing the swept wheel path of vehicles entering and exiting each of the garages from Hardy Street shall be submitted to Council for the approval of the Executive Manager, Creating Waverley.

The swept wheel path drawings shall:

1. Be drawn for the B85, standard design vehicle as described in AS/NZS 2890.1: 2004 Part 1 Off Street Car Parking.
2. Show the minimum length of driveway layback considered necessary to gain satisfactory access to and from the proposed garages.
3. Show the minimum length of opening and clearances required at the property boundary to cater for the design vehicle swept wheel paths.

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

29. PRIOR TO SITE WORKS

The Principal Certifying Authority must be informed in writing before any site works, building or demolition commences of:

- (a) the name and contractor licence number of the licensee who has contracted to do, or intends to do, work ; or
- (b) the name and permit number of the owner/builder who intends to do the work; and
- (c) any change to these arrangements for doing of the work.

30. HOME BUILDING ACT

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the Home and Building Act, 1989. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicant requirements of Part 6, before any work commences.

31. CONSTRUCTION SIGNS

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

32. OBSTRUCTION TO PUBLIC AREAS

If a public place or pedestrian vehicular traffic may be obstructed because of the carrying out of work involved in the erection or demolition of a building; or a public place is required to be enclosed in connection with the erection or demolition of a building then a hoarding, fencing or awning must be provided to prevent injury and appropriately lit between sunset and sunrise.

33. COMPLIANCE WITH SAFE WORK NSW

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

34. 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.

35. CONTAMINATING MATERIAL REQUIRED TO BE REMOVED

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

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (eg: ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices. They shall also adopt work practices in accordance with the requirements of Safe Work Australia's National Standard for the Control of Inorganic Lead at Work (NOHSC: 1012 (1994) and NOHSC: 2015(1994).

- (c) All lead-contaminated materials being disposed of in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines 2009 and the Protection of the Environment Operations Act 1997 (NSW).

36. DEMOLITION & SITE PREPARATION

Hazardous or intractable wastes arising from the demolition process are to be removed and disposed of in accordance with the requirements **SafeWork NSW** and the NSW Environment Protection Authority (EPA), and with the provisions of:

- (a) Work Health & Safety Act 2011;
- (b) Work Health & Safety Regulation 2017;
- (c) Protection of the Environment Operations Act 1997 (NSW) and
- (d) NSW EPA Waste Classification Guidelines 2014;

37. DEMOLITION OR ALTERATION OF PRE 1987 BUILDINGS

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

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

38. ASBESTOS REMOVAL

- (a) All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a Licence in accordance with the requirements of SafeWork NSW. Fire damaged asbestos materials can only be cleaned up by licensed asbestos removalists with a Class A (friable) asbestos removal licence. Removal must be carried out in accordance with the "Code of Practice on how to safely remove asbestos" published by SafeWork NSW and Waverley's Asbestos Policy.
- (b) All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and email address.
- (c) No asbestos products are to be reused on site.
- (d) Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site during asbestos removal works.

- (e) No asbestos laden skips or bins are to be left in any public place without the approval of Council.

39. EXCAVATION TO BE LIMITED

Excavation shall be limited to that shown in the approved plans. Excavation, proposed or undertaken in the certification or construction of the development, that results in additional habitable or non-habitable floor space (including storage) shall require the submission of a new development application or modification application.

During consideration of this application construction work on site shall cease without prior agreement of Council. Failure to comply with this condition may lead to Council prosecuting or taking a compliance action against the development for breach of its consent.

40. 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.

41. 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.

42. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS

That prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste classification guidelines 2014. The classification of the material is essential to determine where the waste may be legally taken. The Protection of the Environment Operations Act 1997 provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the NSW EPA.

43. MANAGEMENT OF ACIDIC SOIL

Should the subject site show evidence of acid sulphate soils, the following shall apply:

- (a) To address issues arising from the natural acidity of the soil on-site, any concrete that is in contact with this soil is to be designed to restrict acid and sulphate attack. The Cement Concrete & Aggregates Australia Technical Note TN68 is to be adhered to for precautionary measures.
- (b) Prior to the commencement of any works, the applicant shall nominate an appropriately qualified Environmental Scientist to supervise the management of acid sulphate soils. The Scientist shall:
 - i. Provide an acceptance in writing to supervise the aforementioned works to ensure compliance with the relevant conditions of Development Consent.

- ii. On completion of the works certify that the aforementioned works have been constructed in compliance with the approved plans, specifications and conditions of consent.
- (d) The nominated supervising Environmental Scientist shall certify that the management of acid sulphate soil was undertaken in accordance with the Development Consent. Prior to the use or occupation of the building (or Occupation Certificate being issued), the Principal Contractor / Developer shall submit to Waverley Council a copy of the aforementioned Certificate.

44. CONSTRUCTION HOURS

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

- (a) The Saturday (except minor renovation or refurbishment to a single dwelling construction) and Sunday which form part of public holiday weekends; and
- (b) Sundays and public holidays
- (c) Excavation works involving the use of heavy earth movement equipment including rock breakers and the like must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays with no such work to be carried out on Saturday, Sunday or a public holiday.

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

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

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

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

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

46. NATIONAL CONSTRUCTION CODE (NCC)

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

47. CONSTRUCTION INSPECTIONS

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

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

The specified **MANDATORY** inspections for **DWELLING HOUSES including (Class 1 and 10 Buildings)** are:

- (a) at the commencement of building work;
- (b) after excavation for, and prior to the placement of, any footings;
- (c) prior to pouring any in-situ reinforced concrete building element;
- (d) prior to covering of the framework for any floor, roof or other building element;
- (e) prior to covering any waterproofing in any wet areas;
- (f) prior to covering any stormwater drainage connections; and
- (g) after the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

The following additional inspections are required (if relevant to the development) to be undertaken by the PCA:

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

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

48. CERTIFICATE OF SURVEY – LEVELS

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

49. 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.

50. SERVICE PIPES

All plumbing and drainage, including sewerage drainage stacks, ventilation stacks and water service pipes shall be concealed within the building. Plumbing other than stormwater downpipes shall not be attached to the external surfaces of the building.

51. RECONSTRUCT VEHICLE CROSSING

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

52. 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.

53. CONSTRUCTION OF SWIMMING POOLS AND OUTDOOR SPAS

The following applies to the construction of swimming pools and outdoor spas:

- (a) Reinforcement of the swimming pool/outdoor spa is to be inspected by an Accredited Officer or other suitably qualified person prior to the pouring of concrete;
- (b) The electrical wiring system for any proposed underwater artificial lighting installation to the pool/spa is to be installed in accordance with the requirements of Australian Standard 3000, Part 1 - Wiring Rules;
- (c) The swimming pool/outdoor spa water is to be treated by an approved water treatment and filtration unit.
- (d) To prevent noise nuisance to surrounding properties, the swimming pool/outdoor spa filtration motor and pump unit is to be housed within a ventilated soundproof enclosure.
- (e) The finished level of the proposed pool/spa is not to exceed a maximum height of 550 mm above the existing ground level;
- (f) Waste waters from the swimming pool/outdoor spa are to be discharged into Sydney Water's sewerage system and in this regard, approved plans **MUST** be submitted to Sydney Water at least fourteen **(14) days prior** to commencement of building operations.

54. NO WORKS BEYOND BOUNDARIES

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

55. FENCE HEIGHT

The proposed front boundary fencing is to comply with Part C DCP Control 2.4 (Fences). The front fence is not to exceed 1.2m in height. Any solid upstand section should be limited to 600mm in height. The top half of the fence should be an open design with a minimum open area of 50%.

The proposed new side and/or rear boundary fencing around the site is not to exceed a maximum height of 1.8m above the existing ground level of the adjoining property, unless otherwise agreed by the affected neighbour.

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

56. FINAL OCCUPATION CERTIFICATE

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

57. STORMWATER MANAGEMENT

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

58. SWIMMING POOL/OUTDOOR SPA CERTIFICATION

The following must be provided to the Principal Certifying Authority prior to the swimming pool/outdoor spa being filled with water and prior to use;

- (a) The swimming pool/outdoor spa is to be constructed in accordance with the Consulting Engineer's design as shown on the approved plans and is not to be filled with water until a Certificate has been submitted by the construction or consulting engineers design.
- (b) The swimming pool/outdoor spa equipment is to be enclosed in a sound proof enclosure to prevent adverse impacts to adjoining properties.
- (c) An approved sign outlining details of resuscitation techniques for adults, children and infants must be placed in a prominent position, close to the pool/outdoor spa, prior it being filling with water. Signs are available from Council.
- (d) Swimming/spa pool pumps are restricted from being used and operated between 8pm to 7am weekdays and Saturdays, 8pm to 8am on Sundays and public holidays in accordance with the requirements of the Protection of the Environment Operations (Noise Control) Regulation 2008. On the spot fines may be imposed should breaches occur.
- (e) The swimming pool/outdoor spa is to be registered on the State Government Swimming Pool Register (<http://www.swimmingpoolregister.gov.au>) and a Certificate of Compliance obtained for the pool barrier is required to be submitted to Council prior to the issue of an Occupation Certificate.
- (f) The swimming pool/outdoor spa is to be fitted with a cover that shall be fitted when the swimming pool/outdoor spa is not in use to minimise evaporation and conserve water.
- (g) A final inspection of the completed pool is to be carried out by the Principal Certifying Authority to ensure all the above is complied with.

59. TELECOMMUNICATIONS IN NEW DEVELOPMENTS

Prior to the issue of the Subdivision or Construction Certificate in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Principal Certifier that arrangements have been made for:

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

Note: real estate development project has the meanings given in section 372Q of the Telecommunications Act.

60. LIGHTING

Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Australian Standard AS 4282:1997 Control of the Obtrusive Effects of Outdoor Lighting.

61. EXISTING VEHICLE CROSSING IS TO BE CLOSED

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

62. ALLOCATION OF ADDRESS

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

- 11 Hardy Street , North Bondi- primary address location (common property)

The following sub-addressing will apply:

- No. 1/11 Hardy Street for the south allotment - proposed Lot 1 ;
- No. 2/11 Hardy Street for the north allotment - proposed Lot 2.

The premises numbers for the properties shall be a minimum of 75mm high, shall be positioned 600mm-1500mm above ground level on the site boundaries, located near the entry points and clearly visible from Hardy Street. The primary address numbers are to be positioned on the site prior to the issue of the Occupation Certificate.

The address number for a sub-address site shall consist of the sub-address followed by the number of the primary address site.

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

The address number for a sub-address site shall not consist of the primary address number with an alpha suffix.

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

The primary and sub-address numbers are to be positioned on the site prior to the issue of the Occupation/Subdivision certificate and Council notified of the corresponding sub-address numbers to lot number prior to the issue of the Occupation/Subdivision certificate.

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

Address: 11 Hardy St, North Bondi NSW 2026
Council: Waverley Council
Lot: 3 DP: 12137 Zoning: R2

Site Area: 467.9 sqm

GFA ((550 - lot area) × 0.0011] + 0.5):1) = 0.59031 276.2sqm
GFA Proposed: 276.1 sqm

Deep Soil Required (40%): 187.16 sqm
Deep Soil Proposed: 188.00 sqm (complies)

Sheet List		
Sheet	Drawing	Revision

DA 0.0	Cover Sheet	D
DA 1.0	BASIX	
DA 1.1	Site Plan	D
DA 1.2	Site Analysis	B
DA 1.3	Site Subdivision Plan	
DA 2.0	Lower Ground Floor Plan	D
DA 2.1	Ground Floor Plan	D
DA 2.2	First Floor Plan	D
DA 2.3	Upper First Floor Attic	D
DA 2.4	Roof Plan	D
DA 2.5	Pool Plan	B
DA 3.0	Elevations	D
DA 3.1	Elevations	D
DA 3.2	Elevations	D
DA 4.0	Sections	D
DA 4.1	Driveway section	D
DA 4.2	Front Fence Elevation	D
DA 5.0	Construction Management	B
DA 5.1	Waste & Recycling Storage Management Plan	D
DA 6.0	Area Calculation Plan	D
DA 7.0	Shadow Diagrams	D
DA 8.0	Solar Study	D
DA 8.1	Solar Study	D
DA 8.2	Solar Study	D
DA 8.3	Solar Study	D
DA 8.4	Solar Study	D
DA 8.5	Solar Study	D
DA 8.6	Solar Study	D
DA 8.7	Solar Study	D
DA 8.8	Solar Study	D
DA 8.09	Building Envelope Solar Analysis	D
DA 10.0	External Finishes	D
DA 12.0	Window Schedule	D
DA 12.1	Window Schedule	D
DA 12.2	Window Schedule	D
DA 12.3	Window Schedule	D

AMENDED PLANS

RECEIVED
Waverley Council

Application No: DA-20/2019

Date Received: 2/7/2019

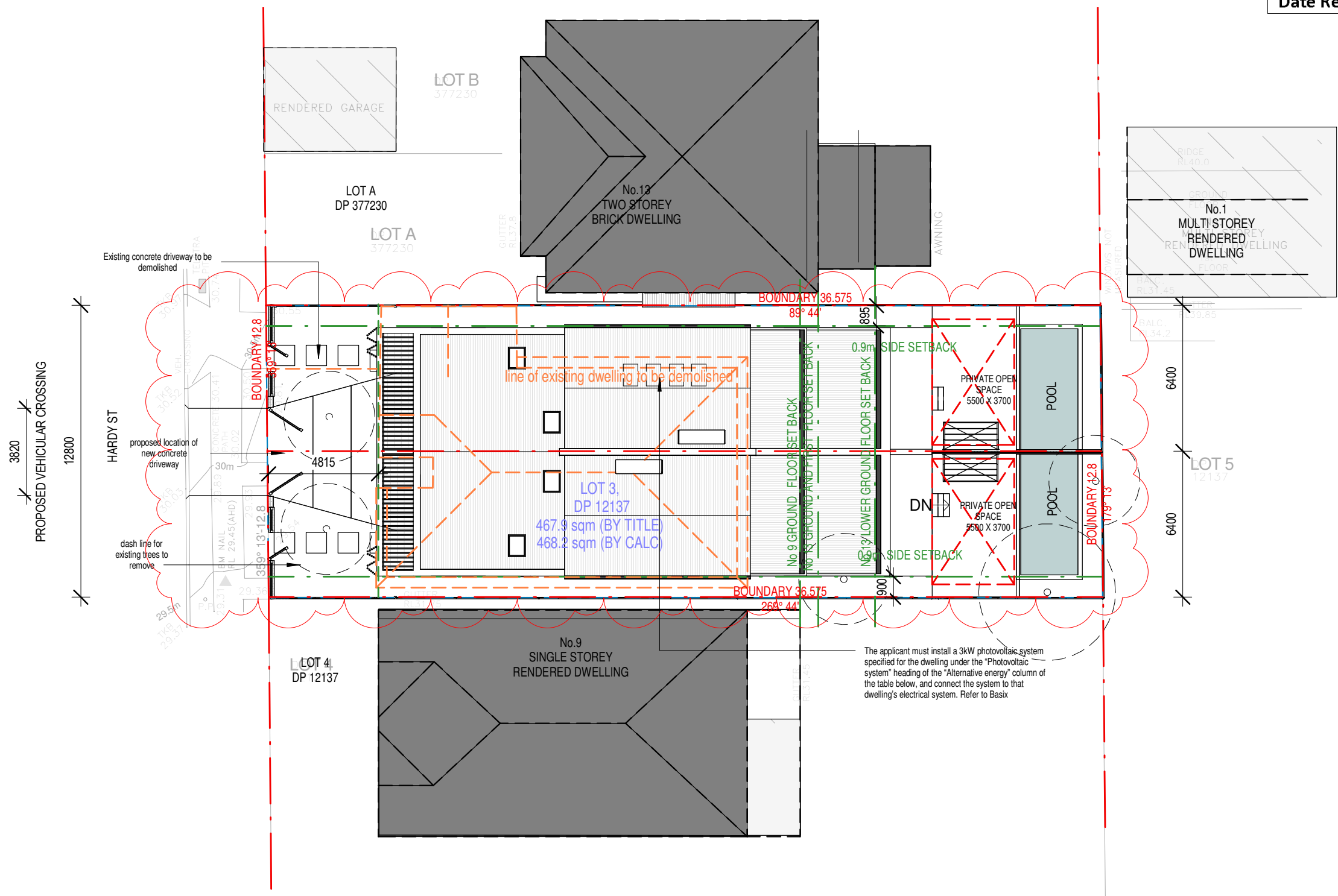


AMENDED PLANS

RECEIVED
Waverley Council

Application No: DA-20/2019

Date Received: 2/7/2019



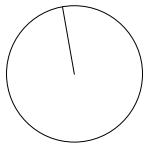
The applicant must install a 3kW photovoltaic system specified for the dwelling under the "Photovoltaic system" heading of the "Alternative energy" column of the table below, and connect the system to that dwelling's electrical system. Refer to Basix



Certificate no.: 0003977090
Assessor Name: Terry Chapman
Accreditation no.: 20920
Certificate date: 27 June 2019
Dwelling Address: 11 Hardy Street North Bondi, NSW 2026
www.nathers.gov.au



5.2
Average star rating
www.nathers.gov.au



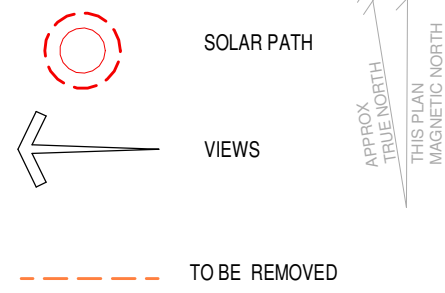
FUTURE FLIP

INNOVATIVE | BUILDING | CONSTRUCTION

Project: 11 Hardy Street, North Bondi, Sarah Marco			Drawing: Site Plan		
D	04.06.19	REVISION	Drawn: FF	Project No:	Drawing No:
C	23.04.19	REVISION	Date: 18.06.19	18156	DA 1.1
			Scale: 1 : 200		Issue: D

AMENDED PLANS

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Waverley Council
Application No: DA-20/2019
NORTH AND NORTH EAST WINDS:
Date Received 27/07/2019
WARM IN WINTER



NORTH WEST WINDS:
HOT IN SUMMER
COLD IN WINTER

WESTERLY WINDS:
STRONG AND GUSTY

SOUTH WESTERLY WINDS:
HOT IN SUMMER
COLD IN WINTER

SOUTHERLY WINDS:
PREDOMINANT STRONG WIND
DIRECTION
COOL IN SUMMER
COLD IN WINTER

Certificate no.: 0003977090
Assessor Name: Terry Chapman
Accreditation no.: 20920
Certificate date: 27 June 2019
Dwelling Address: 11 Hardy Street North Bondi, NSW 2026
www.nathers.gov.au

Average star rating 5.2
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FUTUREFLIP

INNOVATIVE | BUILDING | CONSTRUCTION

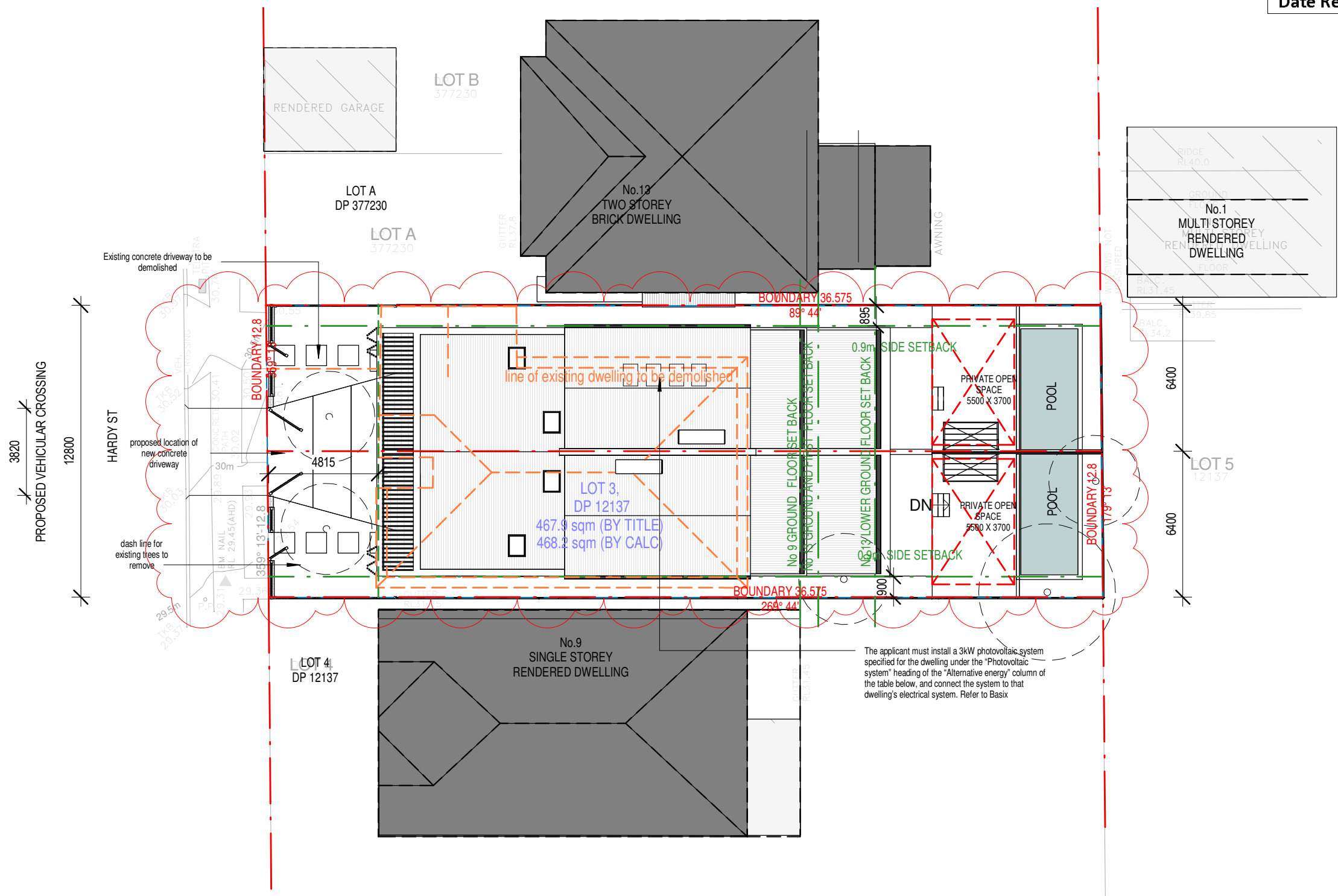
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				Issue: B	383

AMENDED PLANS

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Waverley Council

Application No: DA-20/2019

Date Received: 2/7/2019



Certificate no.: 0003977090
Assessor Name: Terry Chapman
Accreditation no.: 20920
Certificate date: 27 June 2019
Dwelling Address: 11 Hardy Street North Bondi, NSW 2026
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FUTURE FLIP
INNOVATIVE | BUILDING | CONSTRUCTION

Project:
11 Hardy Street, North Bondi,
Sarah Marco

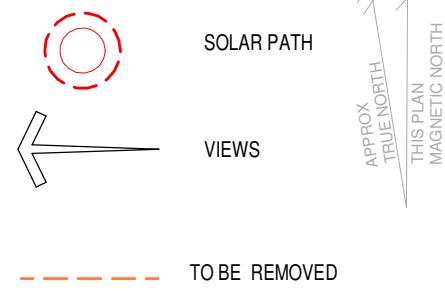
Drawing:
Site Plan

D	04.06.19	REVISION
C	23.04.19	REVISION

Drawn: FF	Project No: 18156	Drawing No: DA 1.1	Issue: D
Date: 18.06.19			
Scale: 1 : 200			

AMENDED PLANS

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Waverley Council
Application No: DA-20/2019
NORTH AND NORTH EAST WINDS:
Date Received 27/07/2019
WARM IN WINTER



NORTH WEST WINDS:
HOT IN SUMMER
COLD IN WINTER

WESTERLY WINDS:
STRONG AND GUSTY

SOUTH WESTERLY WINDS:
HOT IN SUMMER
COLD IN WINTER

SOUTHERLY WINDS:
PREDOMINANT STRONG WIND
DIRECTION
COOL IN SUMMER
COLD IN WINTER

Certificate no.: 0003977090
Assessor Name: Terry Chapman
Accreditation no.: 20920
Certificate date: 27 June 2019
Dwelling Address: 11 Hardy Street North Bondi, NSW 2026
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Average star rating 5.2
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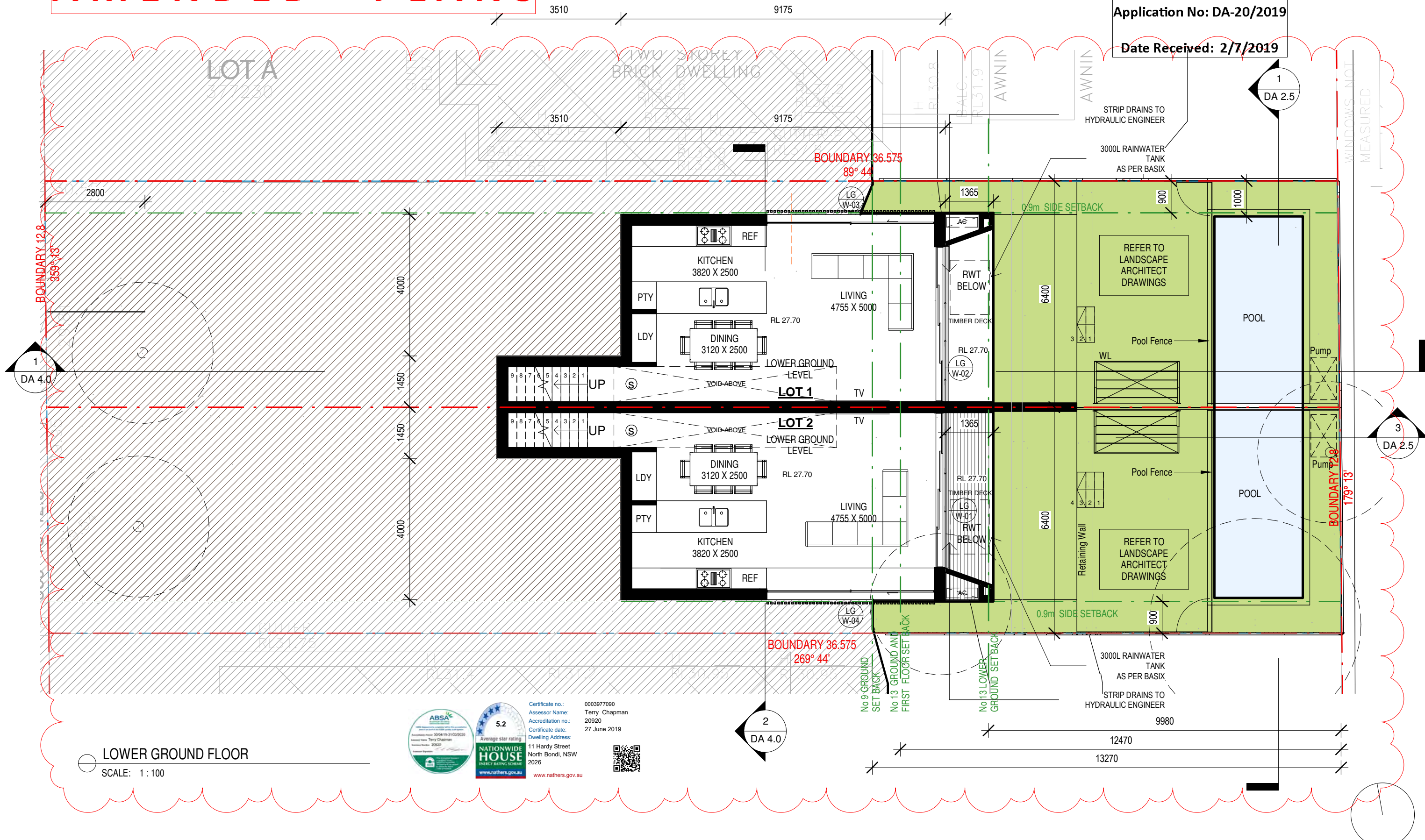
FUTUREFLIP

INNOVATIVE | BUILDING | CONSTRUCTION

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B	21.01.19	A.W Updates	Drawn: FF Date: 18.06.19 Scale: As indicated	Project No: 18156	Drawing No: DA 1.2
				Issue: B	385

AMENDED PLANS

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Application No: DA-20/2019
Date Received: 2/7/2019





Certificate no.: 0003977090
Assessor Name: Terry Chapman
Accreditation no.: 20920
Certificate date: 27 June 2019
Dwelling Address: 11 Hardy Street North Bondi, NSW 2026



Average star rating 5.2
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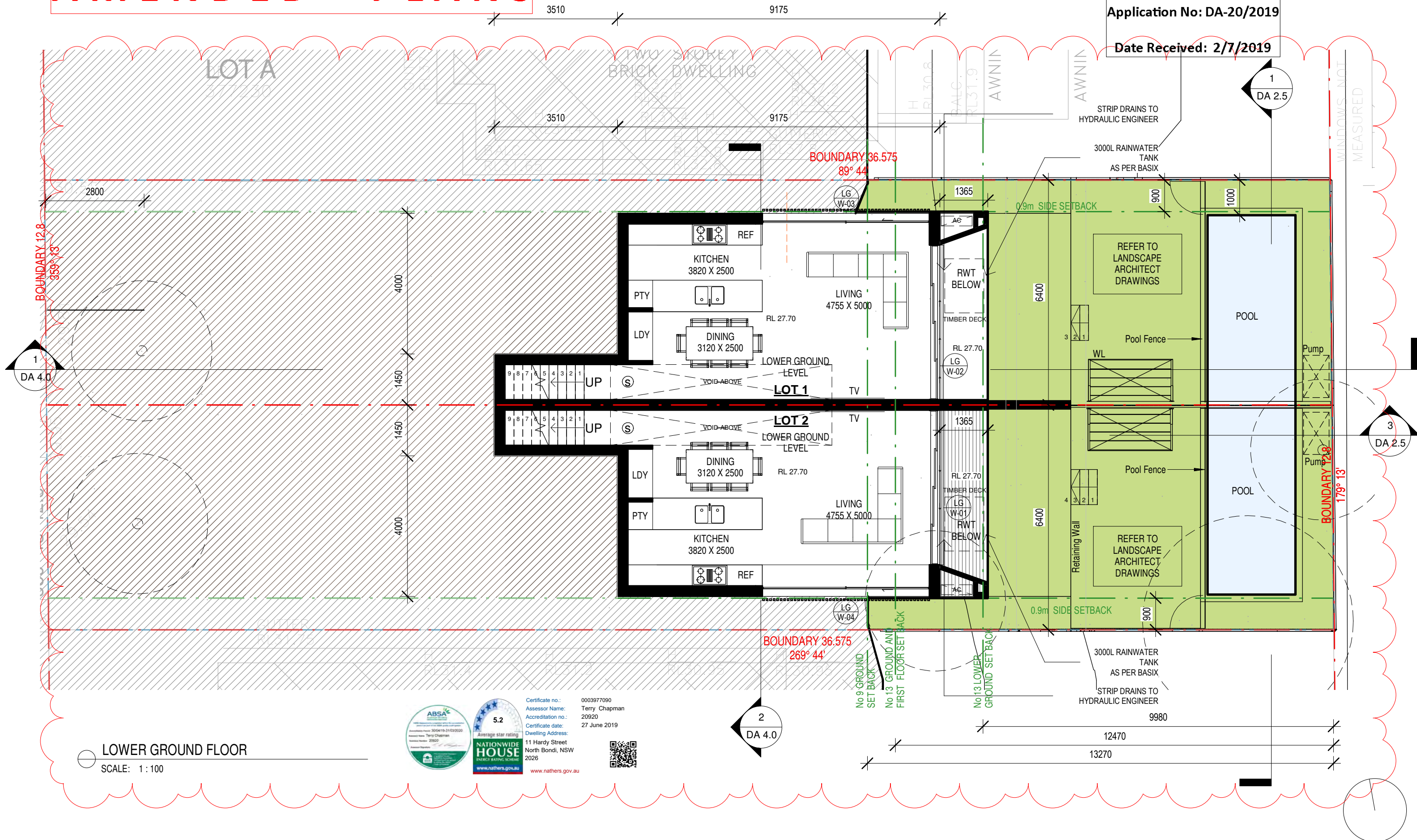
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C	23.04.19	REVISION	Date:	18.06.19	18156
			Scale:	1 : 100	Drawing No: DA 2.0
					Issue: D 386

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Application No: DA-20/2019

Date Received: 2/7/2019



LOWER GROUND FLOOR

SCALE: 1:100



Certificate no.: 0003977090
Assessor Name: Terry Chapman
Accreditation no.: 20920
Certificate date: 27 June 2019
Dwelling Address: 11 Hardy Street North Bondi, NSW 2026
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FUTUREFLIP
INNOVATIVE | BUILDING | CONSTRUCTION


Project:
11 Hardy Street, North Bondi,
Sarah Marco

D	04.06.19	REVISION
C	23.04.19	REVISION

Drawing:
Lower Ground Floor Plan


Drawn:	Author	Project No:	Drawing No:	Issue:
Date:	18.06.19	18156	DA 2.0	D
Scale:	1:100			387

AMENDED PLANS

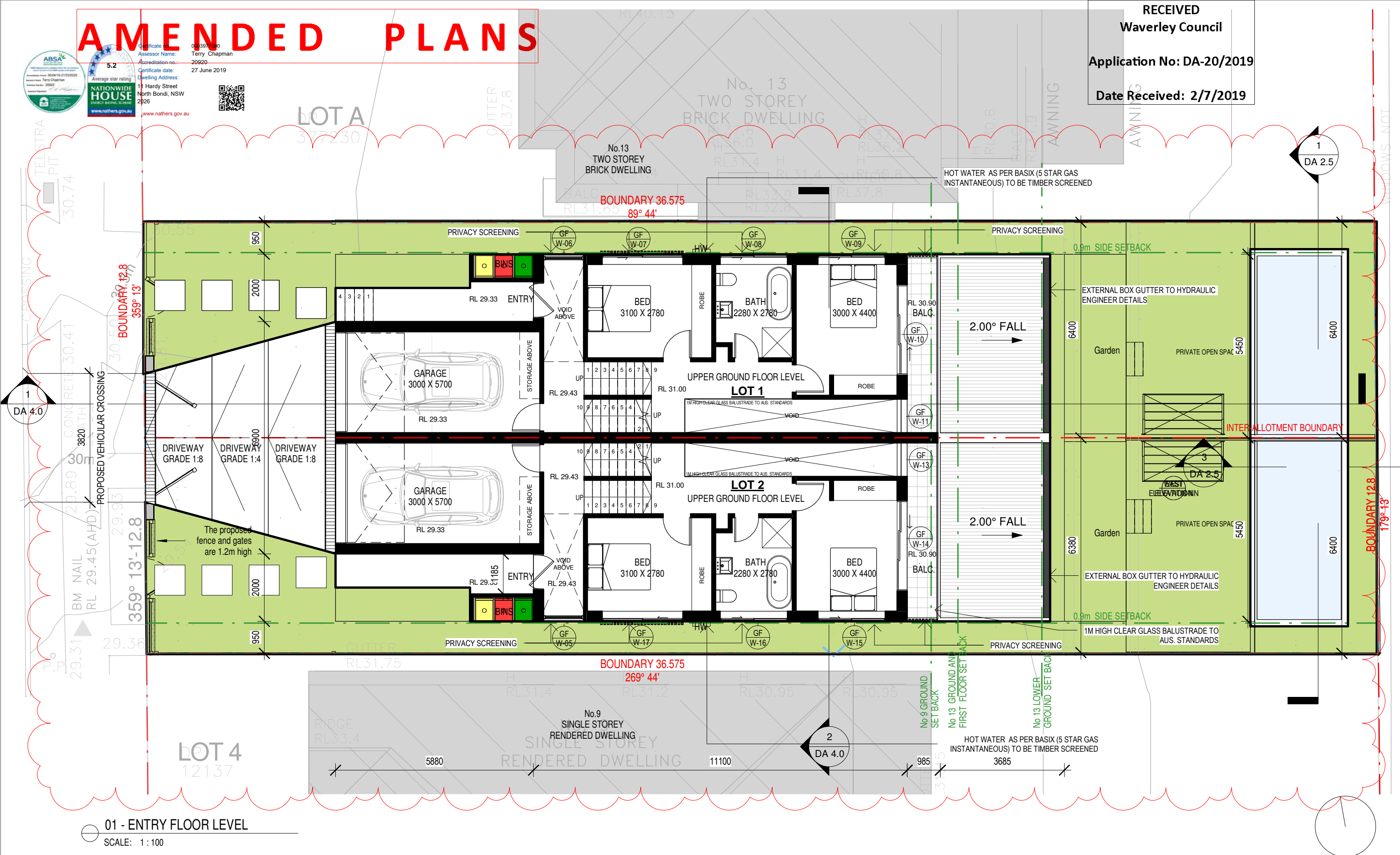


5.2
Average star rating
NATIONWIDE
ENERGY RATING SCHEME
www.nathers.gov.au

Certificate no: 0903970000
Assessor Name: Terry Chapman
Accreditation no.: 20920
Certificate date: 27 June 2019
Dwelling Address:
11 Hardy Street
North Bondi, NSW
2026



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Date Received: 2/7/2019



FUTUREFLIP

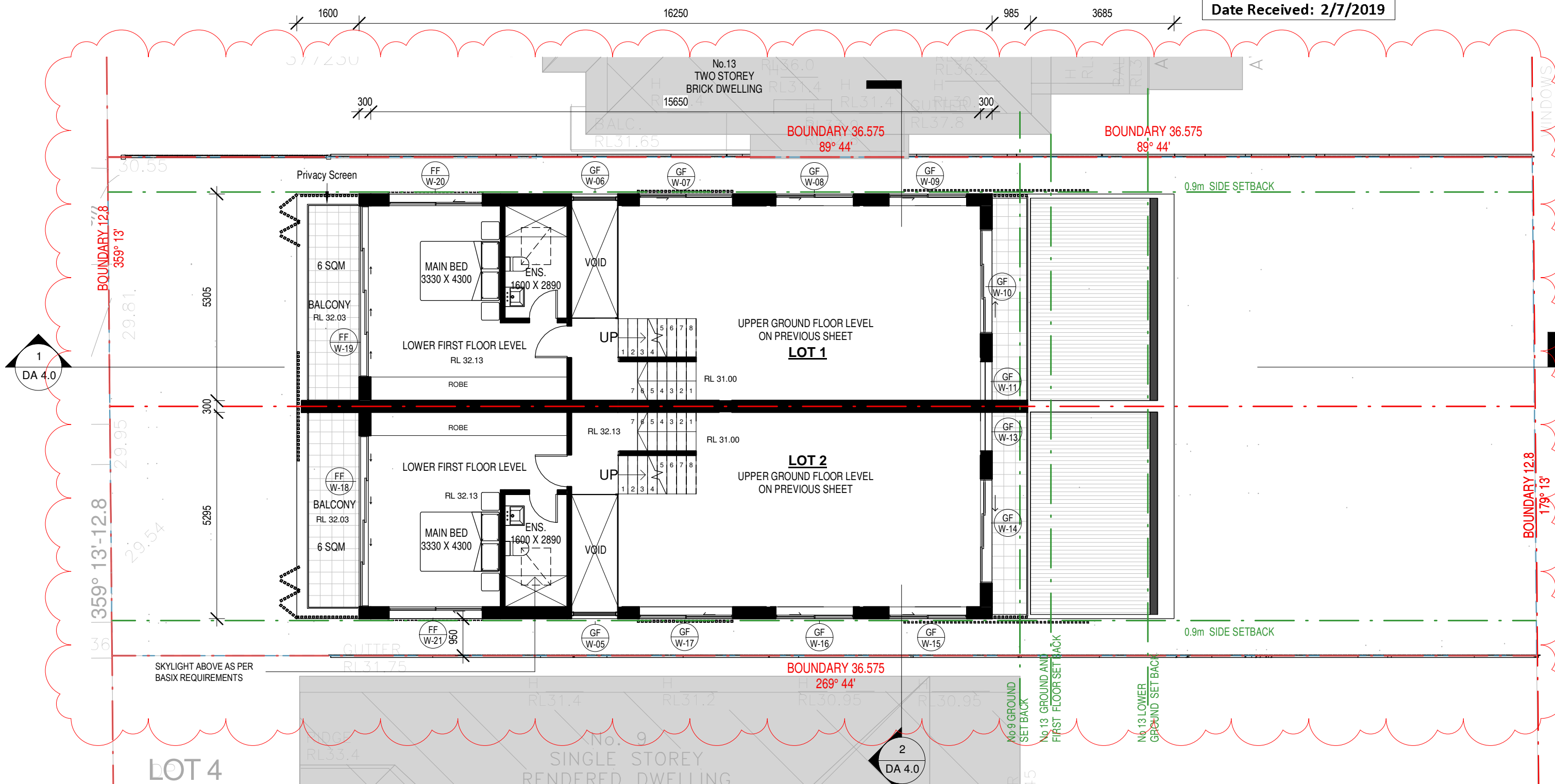
INNOVATIVE | BUILDING | CONSTRUCTION

Project:
11 Hardy Street, North Bondi,
Sarah Marco

Project: 11 Hardy Street, North Bondi, Sarah Marco			Drawing: Ground Floor Plan		
D	04.06.19	REVISION	Drawn:	FF	Project No:
C	23.04.19	REVISION	Date:	18.06.19	Drawing No:
			Scale:	1:100	18156
					DA 2.1
					Issue:
					D

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03 - LOWER FIRST FLOOR LEVEL
SCALE: 1:100

ABSA
NATIONWIDE HOUSE
ENERGY RATING SCHEME
5.2
Average star rating
www.nathers.gov.au

Certificate no.: 0003977090
Assessor Name: Terry Chapman
Accreditation no.: 20920
Certificate date: 27 June 2019
Dwelling Address: 11 Hardy Street North Bondi, NSW 2026
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FUTURE FLIP
INNOVATIVE | BUILDING | CONSTRUCTION

Project: 11 Hardy Street, North Bondi, Sarah Marco			Drawing: First Floor Plan		
D	04.06.19	REVISION	Drawn:	FF	Project No:
C	23.04.19	REVISION	Date:	18.06.19	18156
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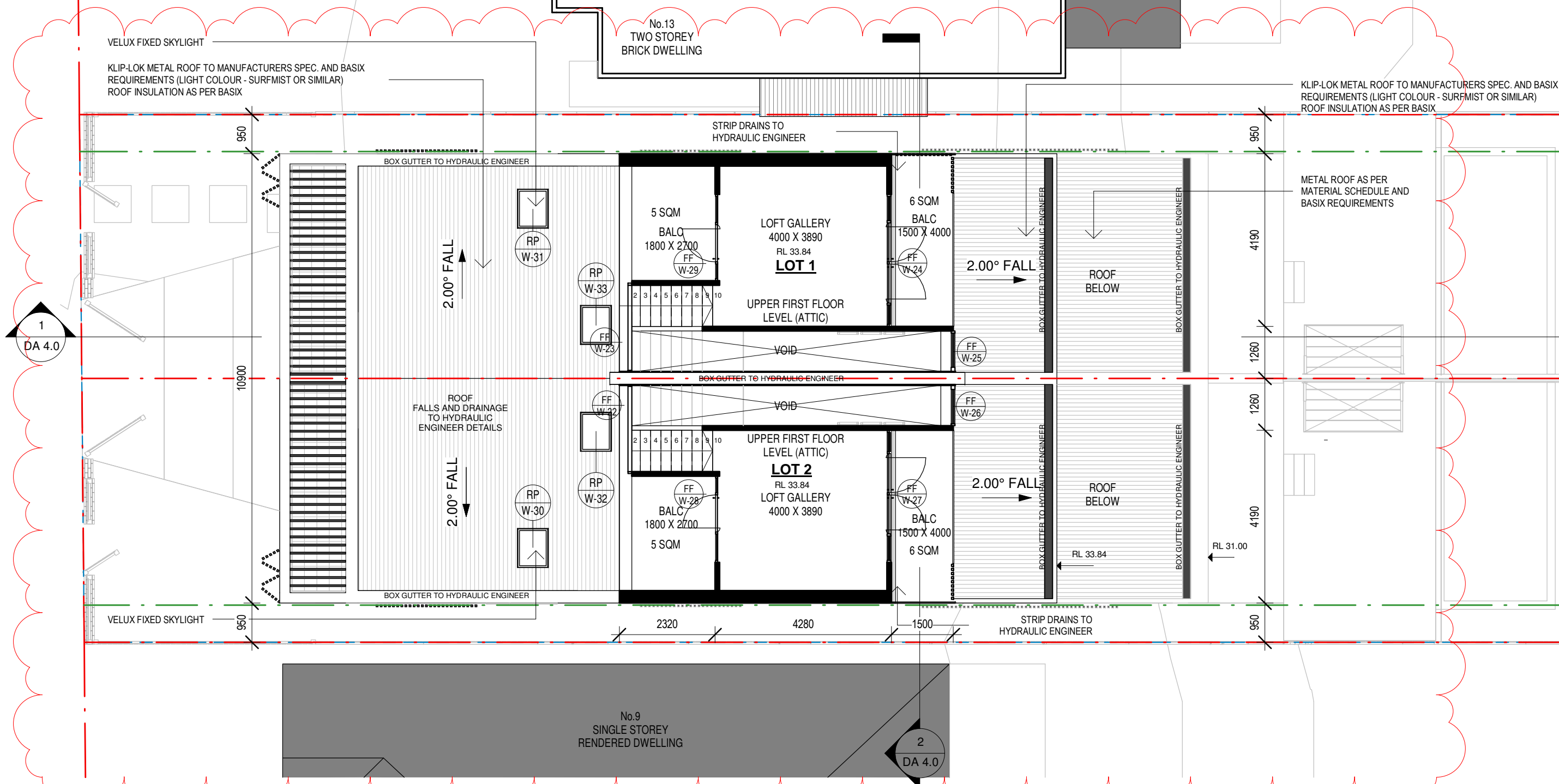
Certificate no.: 0003977090
Assessor Name: Terry Chapman
Accreditation no.: 20920
Certificate date: 27 June 2019
Dwelling Address: 11 Hardy Street North Bondi, NSW 2026
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Application No: DA-20/2019

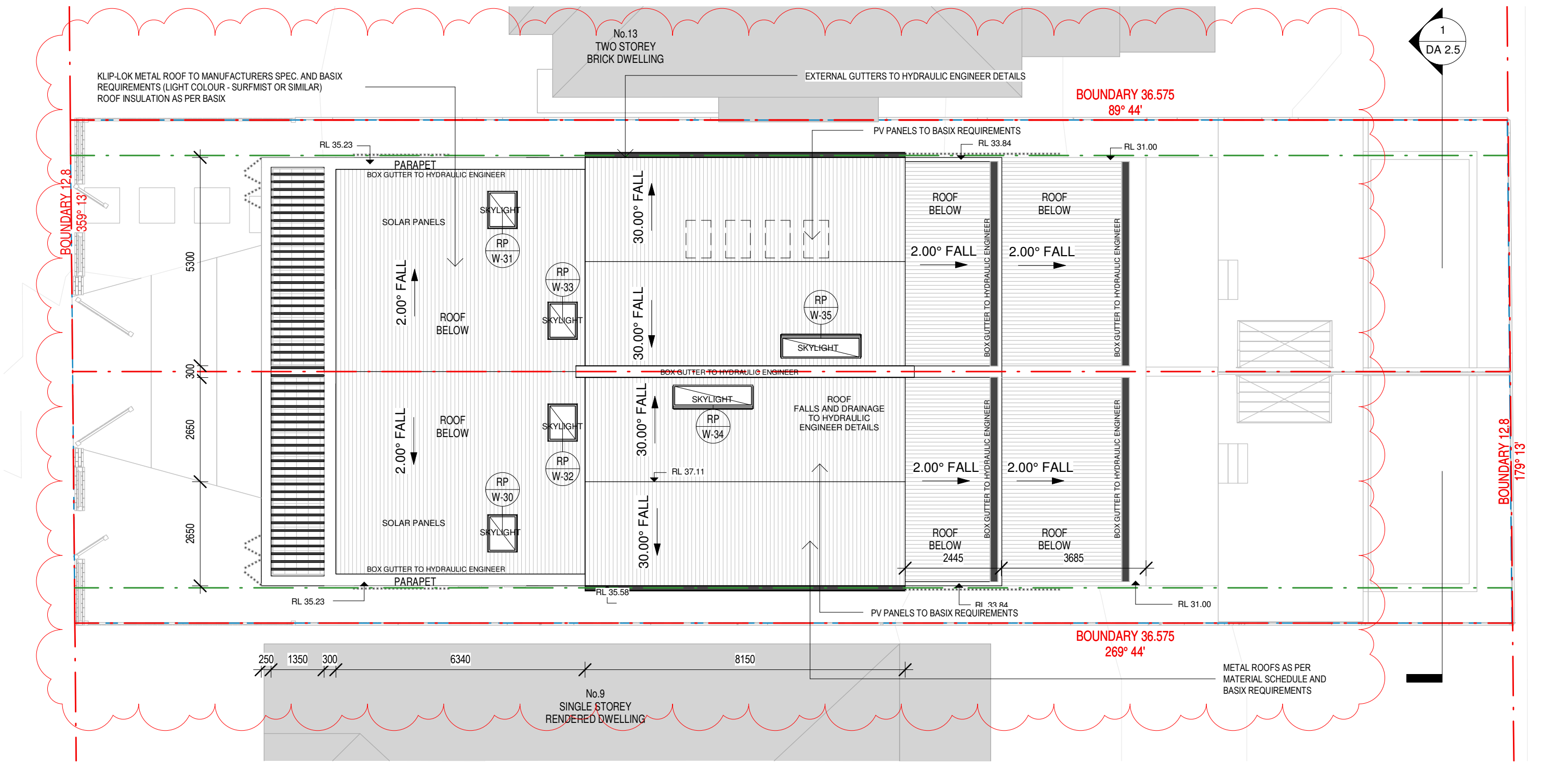
Date Received: 2/7/2019



UPPER FIRST FLOOR ATTIC
SCALE: 1:100

AMENDED PLANS

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Waverley Council
Application No: DA-20/2019
Date Received: 2/7/2019



04 - ROOF PLAN
SCALE: 1:100



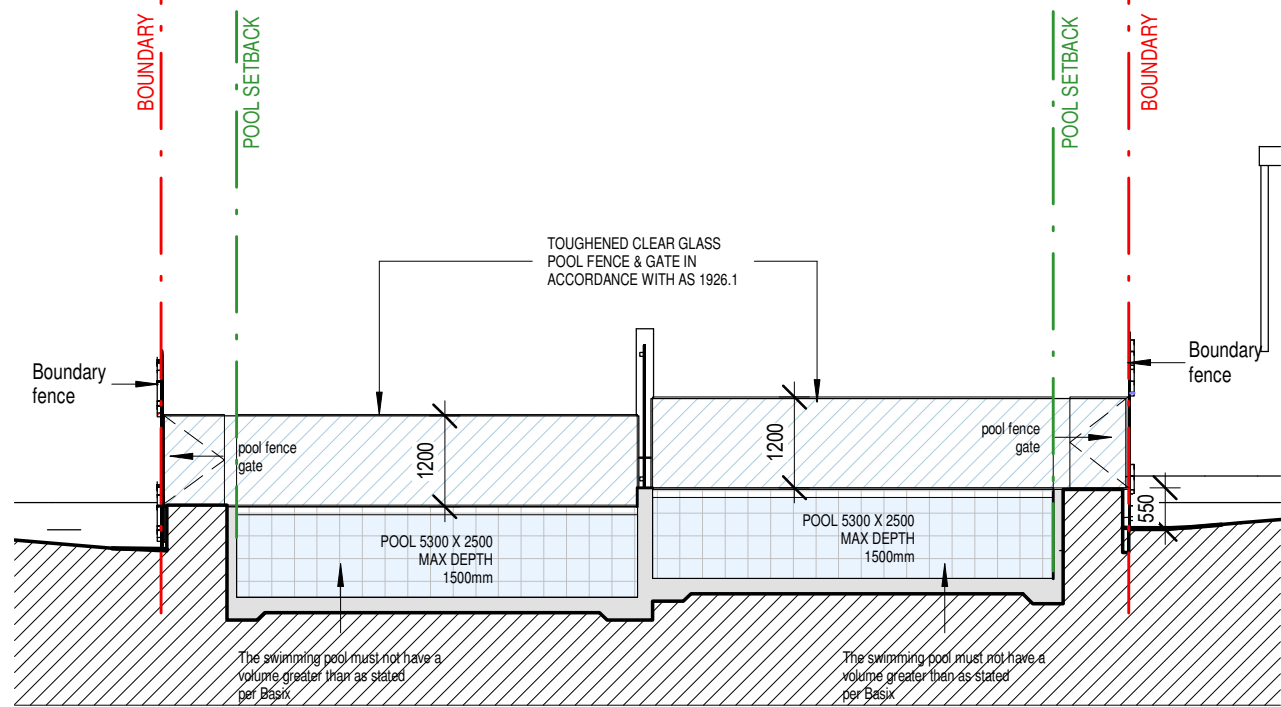
Certificate no.: 0003977090
Assessor Name: Terry Chapman
Accreditation no.: 20920
Certificate date: 27 June 2019
Dwelling Address: 11 Hardy Street North Bondi, NSW 2026
www.nathers.gov.au



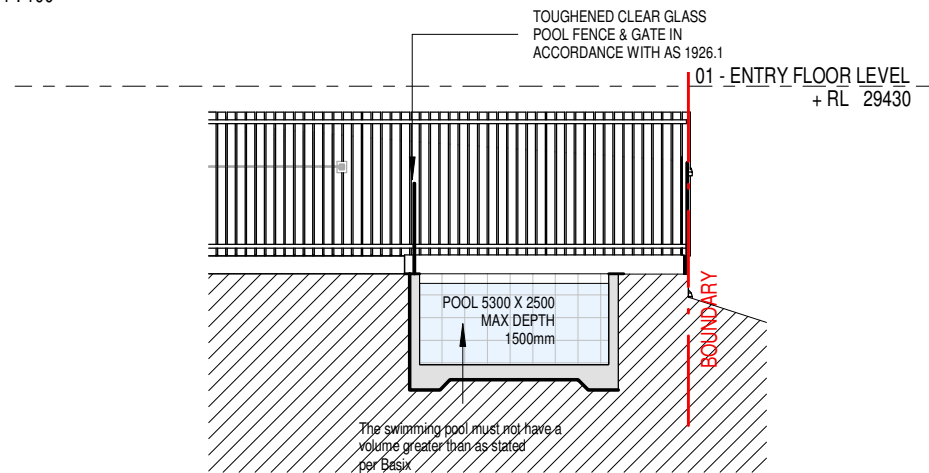


Project: 11 Hardy Street, North Bondi, Sarah Marco			Drawing: Roof Plan		
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C	23.04.19	REVISION	Date: 18.06.19	18156	DA 2.4
B	21.01.19	A.W Updates	Scale: 1:100		
					Issue: D 391

AMENDED PLANS



POOL SECTION 1
SCALE: 1 : 100

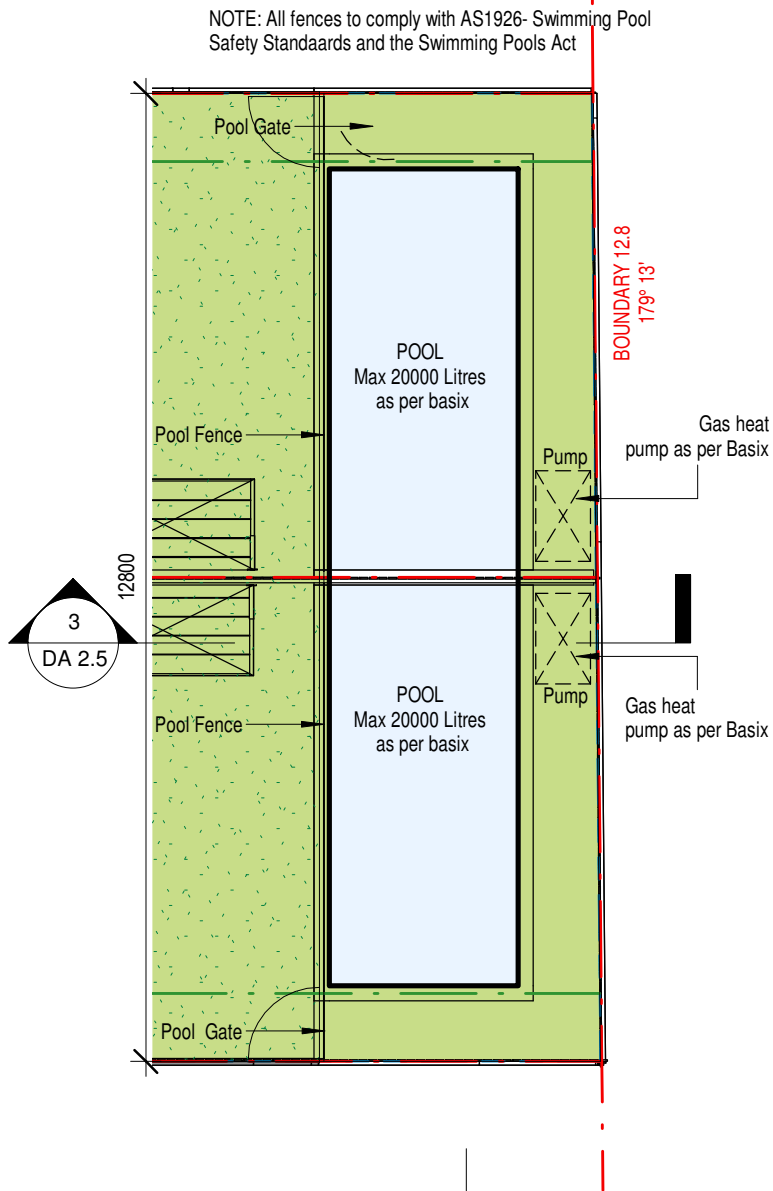


POOL SECTION 2
SCALE: 1 : 100

Ensure pool fence is a minimum of 1200mm high (measured outside pool area)

Ensure boundary fences are 1800mm high when measured pool side in accordance with the Swimming Pools Act

Ensure a Warning/Resuscitation Sign is displayed in accordance with the Swimming Pool Act



NOTE: All fences to comply with AS1926- Swimming Pool Safety Standards and the Swimming Pools Act

The swimming pool must not have a volume greater than as stated per Basix

Ensure gate free of obstructions that could hold gate open and is self closing and self latching

Ensure pool fence is a minimum of 1200mm high (measured outside pool area)

Ensure maximum 100mm gap under pool fence

Ensure boundary fences are 1800mm high when measured pool side in accordance with the Swimming Pools Act

Ensure a Warning/Resuscitation Sign is displayed in accordance with the Swimming Pool Act

No landscaping to intrude into the non climable zones in accordance with the Swimming Pools Act

ABSA

Accreditation no. 3054/19-31/03/2020

Assessor Name: Terry Chapman

Assessment Number: 20920

5.2

Average star rating

NATIONWIDE HOUSE ENERGY RATING SCHEME

www.nathers.gov.au

Certificate no.: 0003977090

Assessor Name: Terry Chapman

Accreditation no.: 20920

Certificate date: 27 June 2019

Dwelling Address: 11 Hardy Street North Bondi, NSW 2026

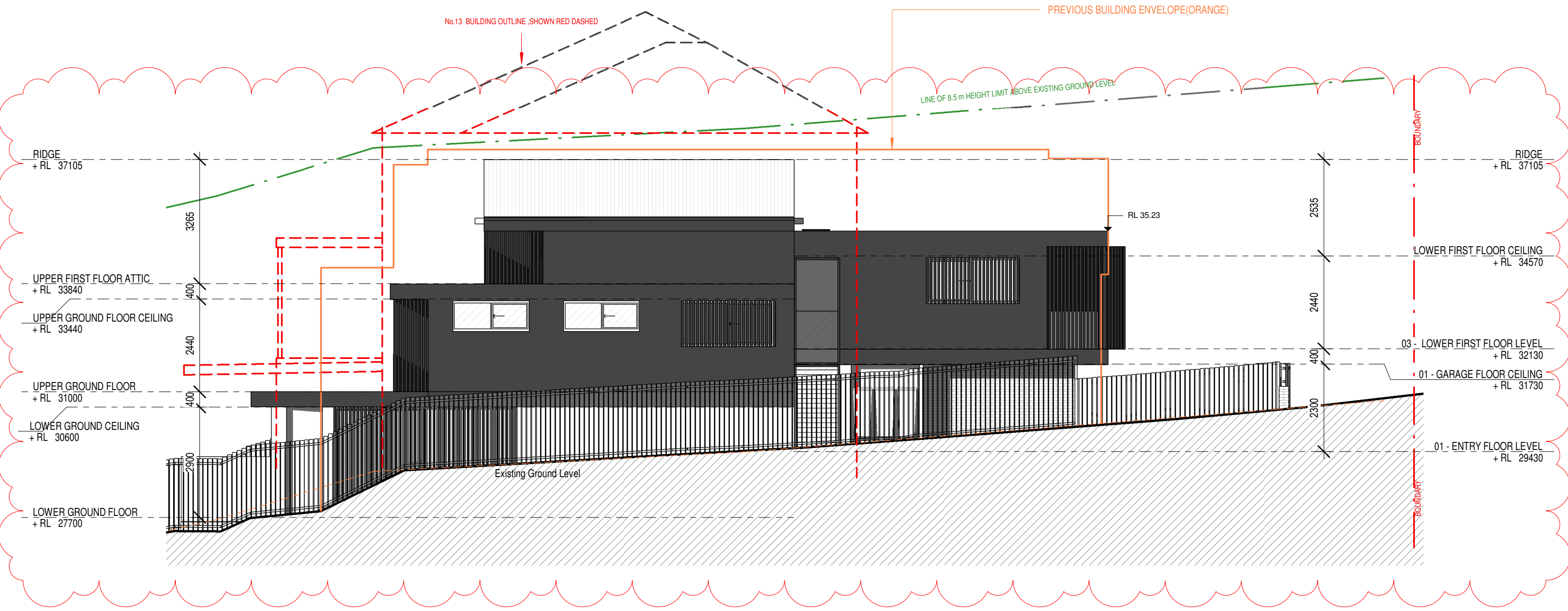
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B	21.01.19	A.W Updates	Drawn: FF Date: 18.06.19 Scale: 1 : 100	Project No: 18156	Drawing No: DA 2.5
			Issue: B		

AMENDED PLANS

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Waverley Council

Application No: DA-20/2019

Date Received: 2/7/2019



NORTH ELEVATION
SCALE: 1 : 100



Certificate no.: 0003977090
Assessor Name: Terry Chapman
Accreditation no.: 20920
Certificate date: 27 June 2019
Dwelling Address: 11 Hardy Street North Bondi, NSW 2026
www.nathers.gov.au





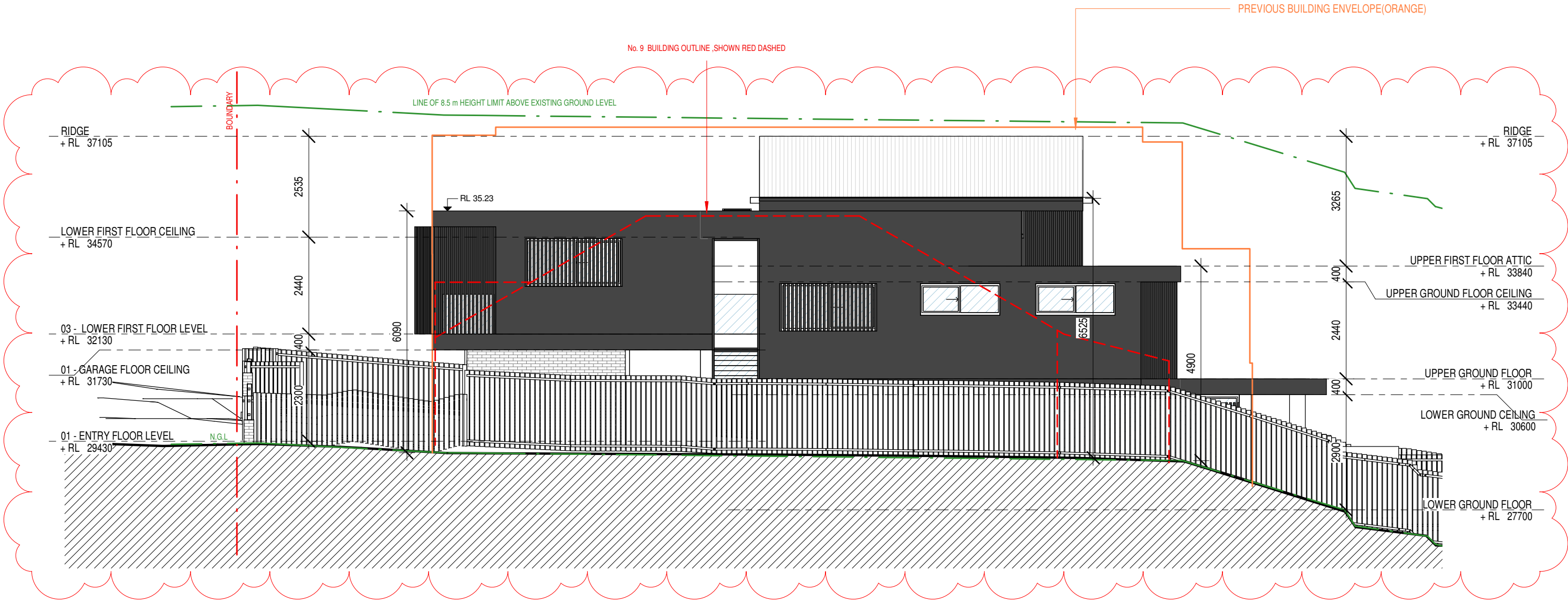
Project: 11 Hardy Street, North Bondi, Sarah Marco			Drawing: Elevations		
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C	23.04.19	REVISION	Date: 18.06.19	18156	DA 3.0
B	21.01.19	A.W Updates	Scale: 1 : 100		Issue: D

AMENDED PLANS

RECEIVED
Waverley Council

Application No: DA-20/2019

Date Received: 2/7/2019



SOUTH ELEVATION
SCALE: 1 : 100



Certificate no.: 0003977090
Assessor Name: Terry Chapman
Accreditation no.: 20920
Certificate date: 27 June 2019
Dwelling Address: 11 Hardy Street North Bondi, NSW 2026
www.nathers.gov.au





Project: 11 Hardy Street, North Bondi, Sarah Marco			Drawing: Elevations		
D	04.06.19	REVISION	Drawn: FF	Project No:	Drawing No:
C	23.04.19	REVISION	Date: 18.06.19	18156	DA 3.1
B	21.01.19	A.W Updates	Scale: 1 : 100		Issue:

AMENDED PLANS

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C	23.04.19	REVISION	Date: 18.06.19	18156	DA 3.1
B	21.01.19	A.W Updates	Scale: 1 : 100		

NUMBER 13

AMENDED PLANS

NUMBER 11

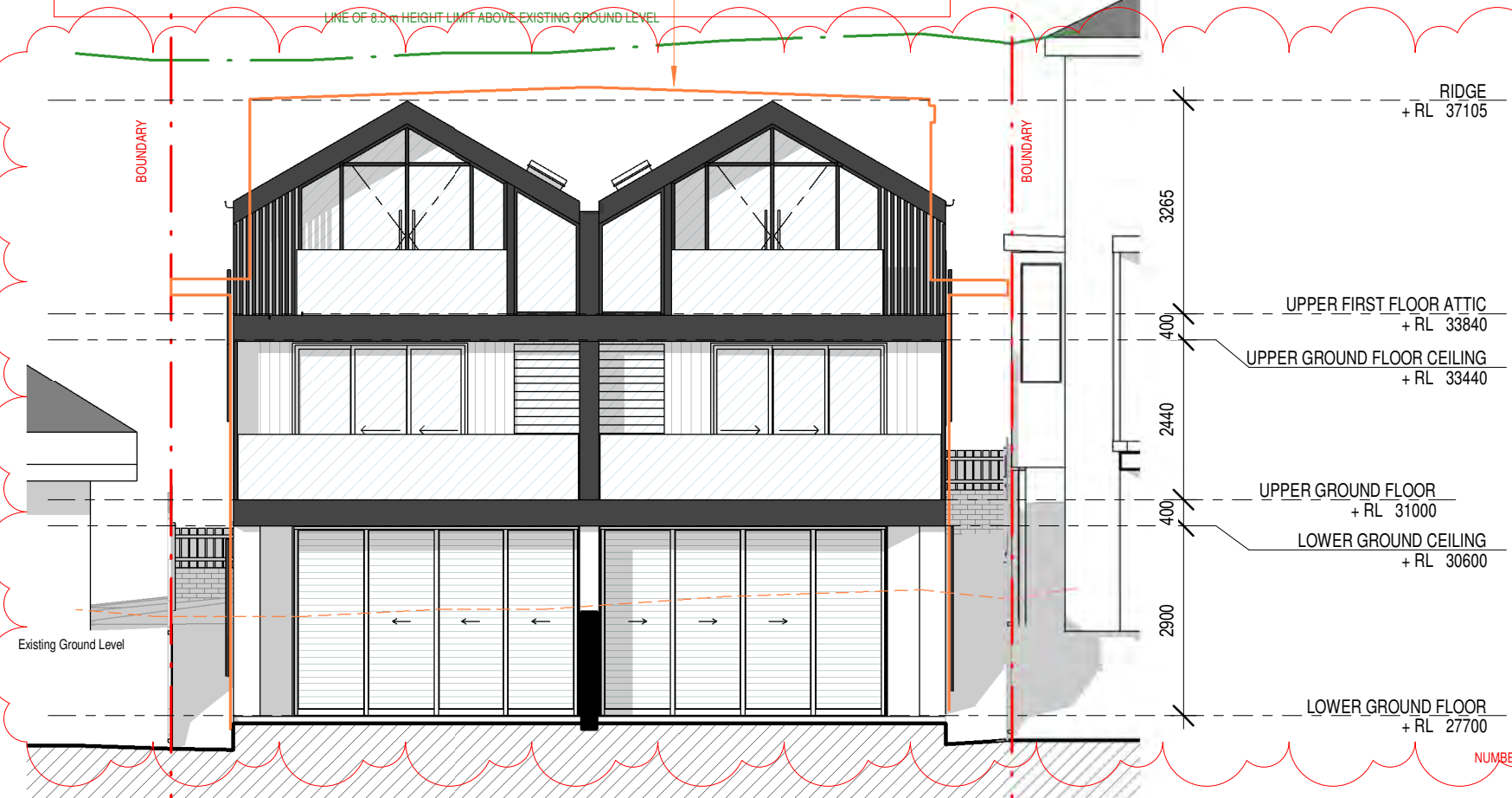
NUMBER 9

PREVIOUS BUILDING ENVELOPE(ORANGE)

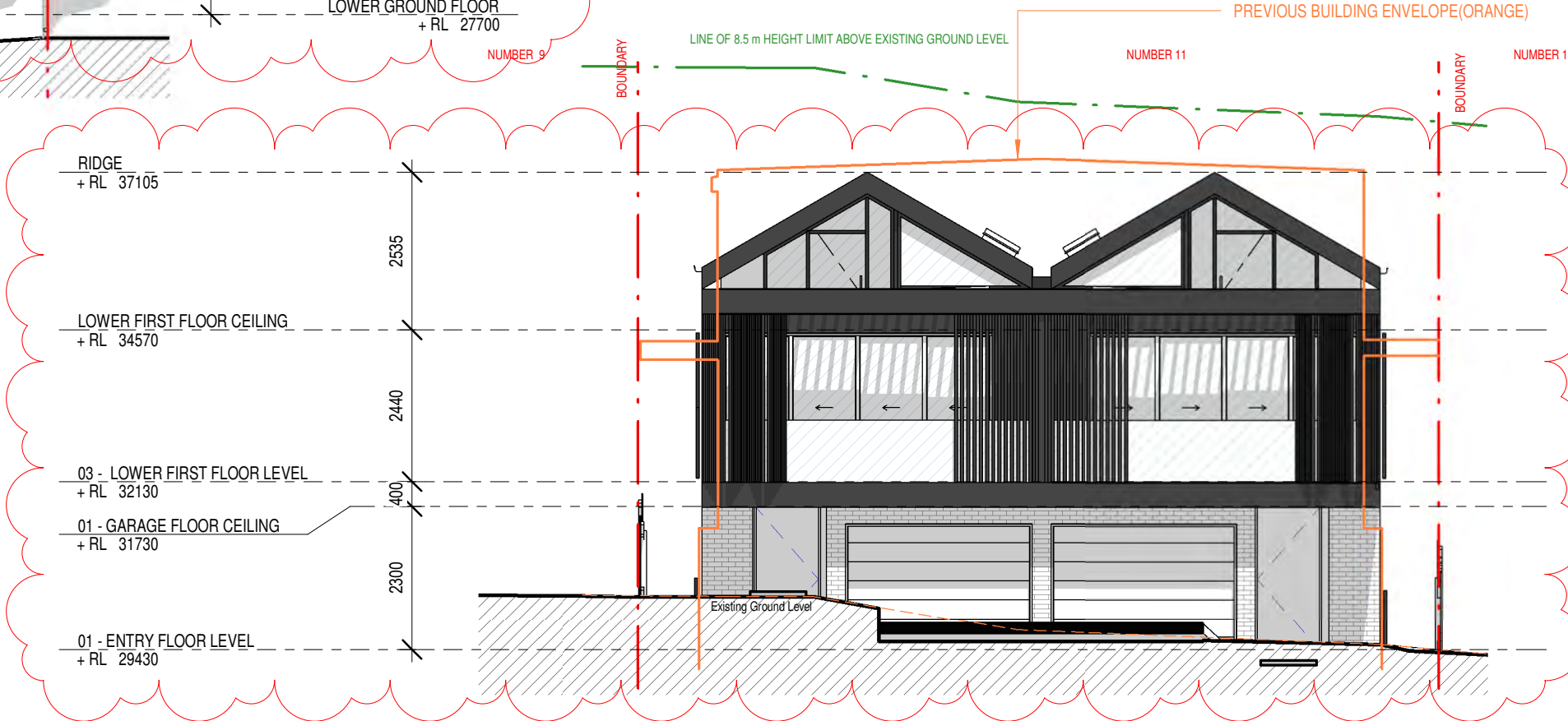
RECEIVED
Waverley Council

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EAST ELEVATION
SCALE: 1 : 100



WEST ELEVATION
SCALE: 1 : 100

ABSA
Australian Building Standards Association

5.2
Average star rating
NATIONWIDE HOUSE
ENERGY RATING 5.2 star

Certificate no.: 0003977090
Assessor Name: Terry Chapman
Accreditation no.: 20920
Certificate date: 27 June 2019
Dwelling Address: 11 Hardy Street North Bondi, NSW 2026
www.nathers.gov.au

FUTUREFLIP

INNOVATIVE | BUILDING | CONSTRUCTION

Project: 11 Hardy Street, North Bondi, Sarah Marco			Drawing: Elevations		
D	04.06.19	REVISION	Drawn: FF	Project No:	Drawing No:
C	23.04.19	REVISION	Date: 18.06.19	18156	DA 3.2
B	21.01.19	A.W Updates	Scale: 1 : 100		

AMENDED PLANS

No. 09
SINGLE STOREY
RENDERED DWELLING
WINDOWS AND DOORS AS PER BASIX AND
MATERIAL SCHEDULE

SUBJECT SITE

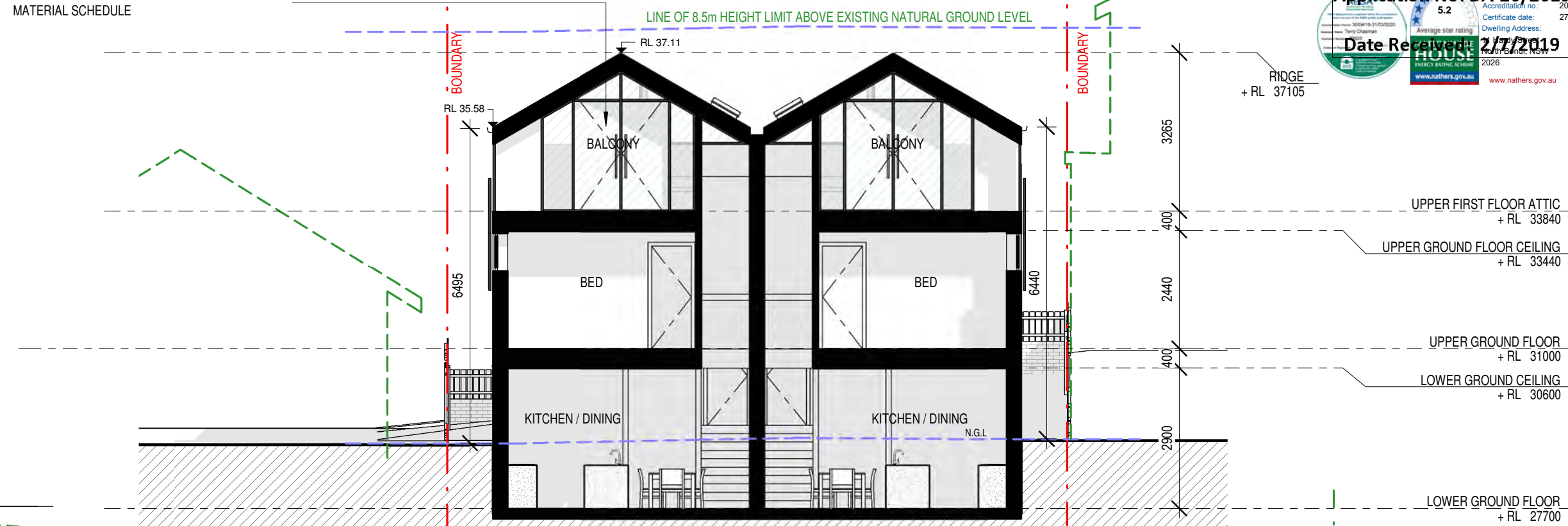
No. 13
TWO STOREY
BRICK DWELLING

RECEIVED
Waverley Council

Application No: DA-20/2019

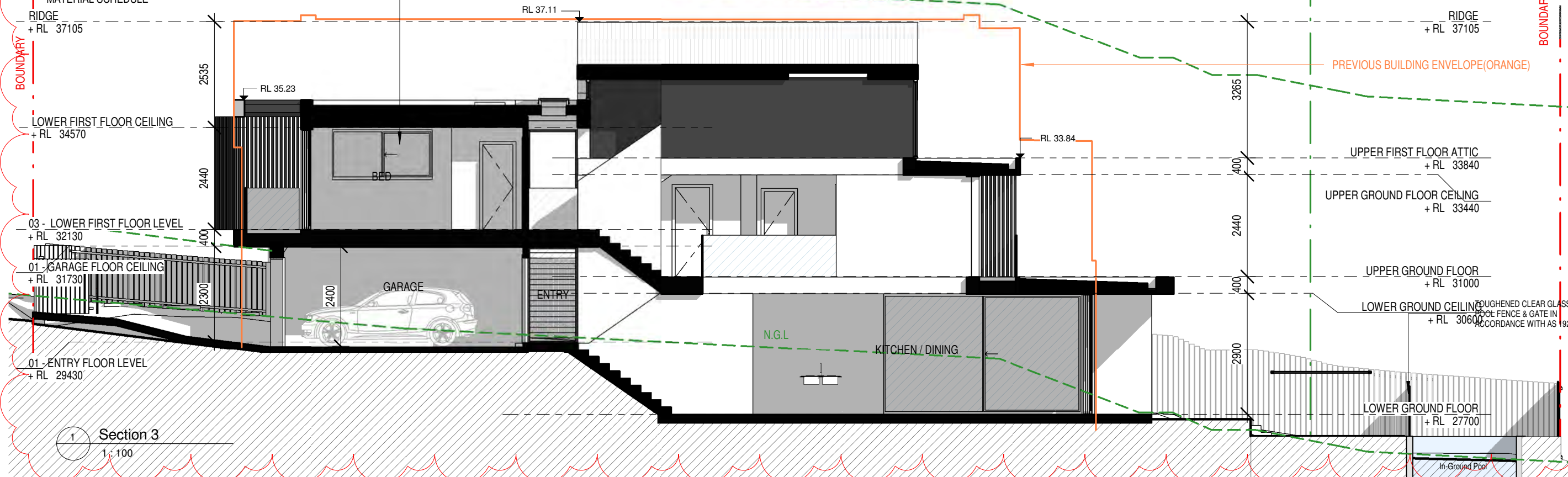
Date Received: 27/7/2019

Certificate no.: 0008977090
Accreditation no.: 20920
Certificate date: 27 June 2019
Dwelling Address: 11 Hardy Street, North Bondi, NSW 1586
www.nathers.gov.au



2 Section 2
1:100

WINDOWS AND DOORS AS PER BASIX AND
MATERIAL SCHEDULE



1 Section 3
1:100

FUTURE FLIP
INNOVATIVE | BUILDING | CONSTRUCTION

Project:

11 Hardy Street, North Bondi,
Sarah Marco

D	04.06.19	REVISION
C	23.04.19	REVISION
B	21.01.19	A.W Updates

Drawing:

Sections

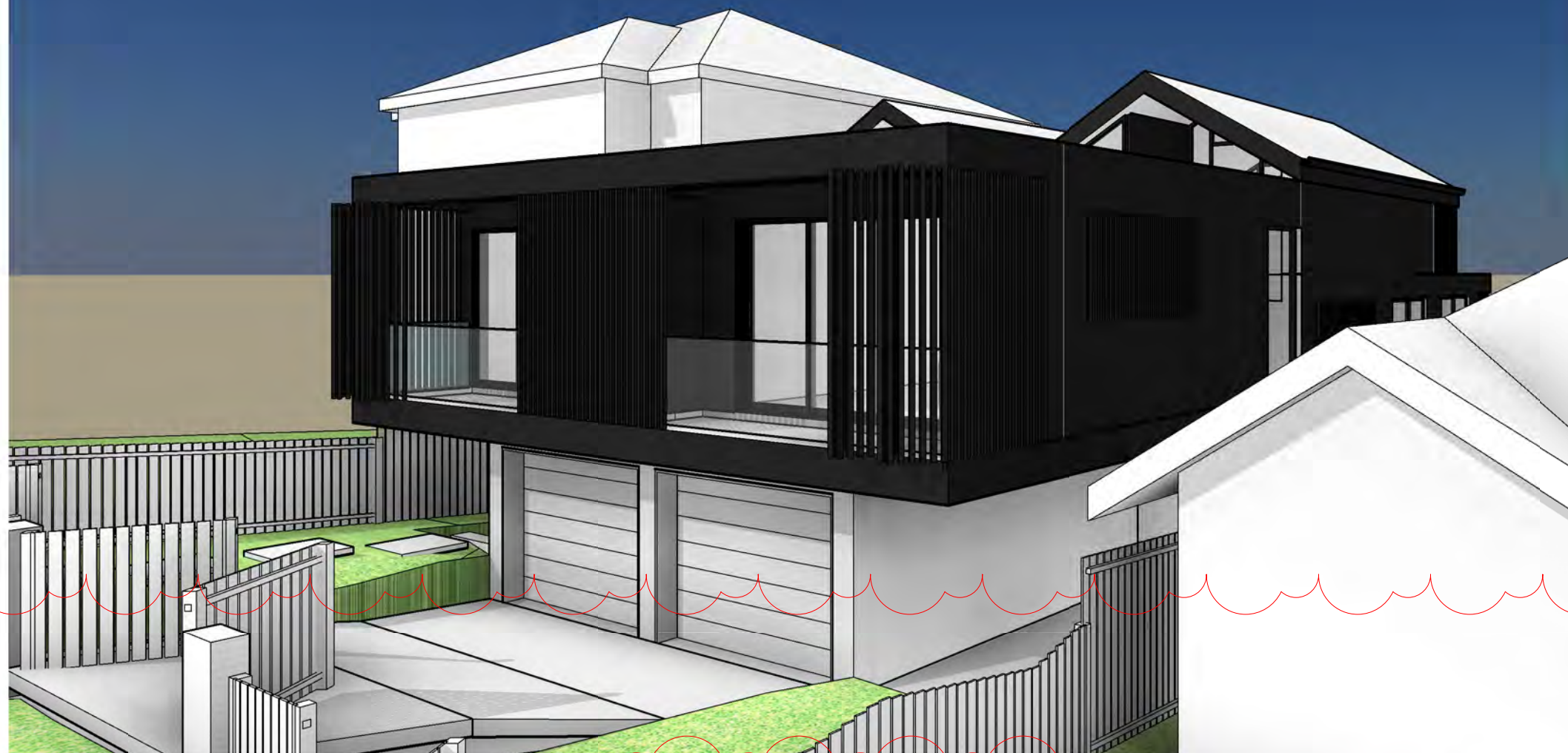
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AMENDED PLANS

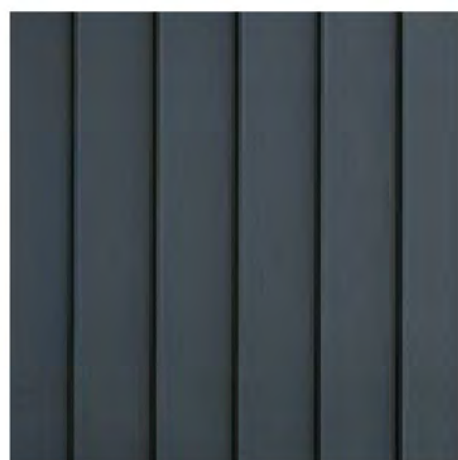
RECEIVED
Waverley Council

Application No: DA-20/2019

Date Received: 2/7/2019



Certificate no.: 0003977090
Assessor Name: Terry Chapman
Accreditation no.: 20920
Certificate date: 27 June 2019
Dwelling Address: 11 Hardy Street North Bondi, NSW 2026
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01. Domino paint finish to selected weathertex cladding



02. Recycled Brick with Natural White Paint finish to selected areas



03. Privacy screening with painted black finish



04. Domino paint finish to selected rendered areas



06. Aluminium framed windows with black powdercoat finish

FUTURE FLIP
INNOVATIVE | BUILDING | CONSTRUCTION

Project:
11 Hardy Street, North Bondi,
Sarah Marco

D	04.06.19	REVISION
B	21.01.19	A.W Updates

Drawing:
External Finishes

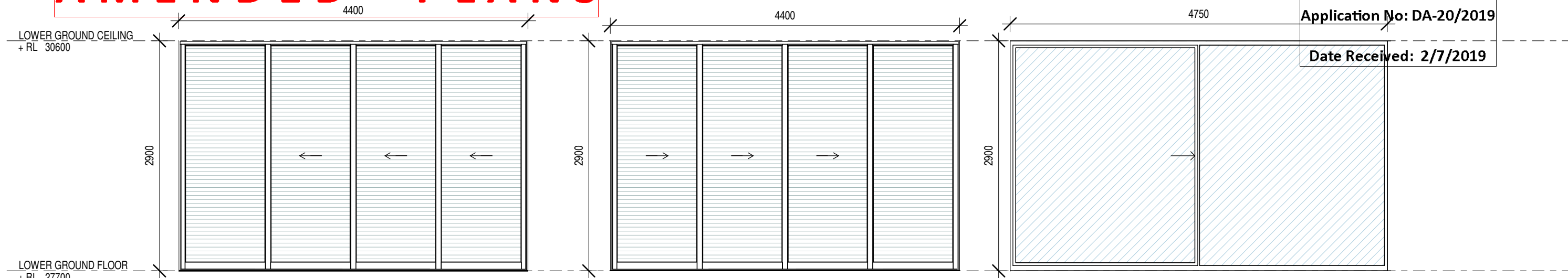
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Scale:			398

AMENDED PLANS

RECEIVED
Waverley Council

Application No: DA-20/2019

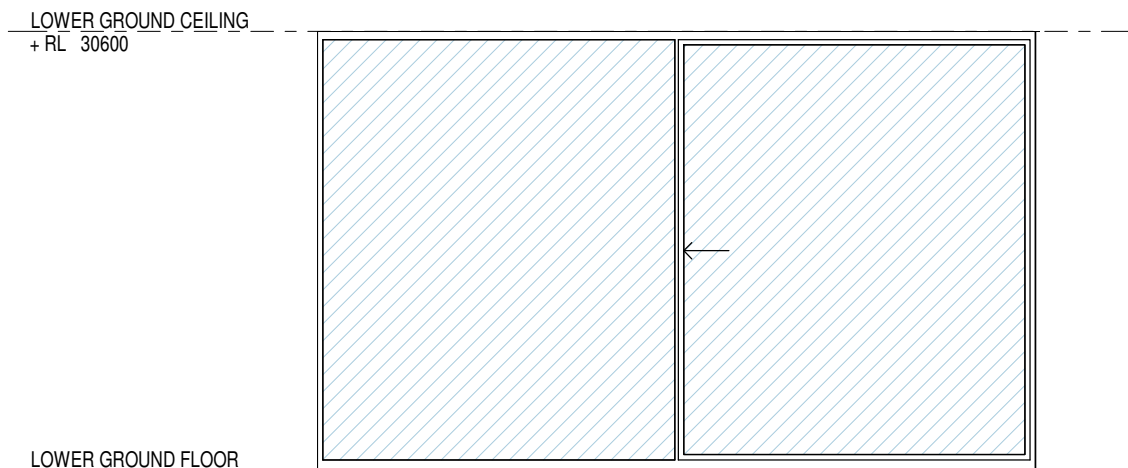
Date Received: 2/7/2019



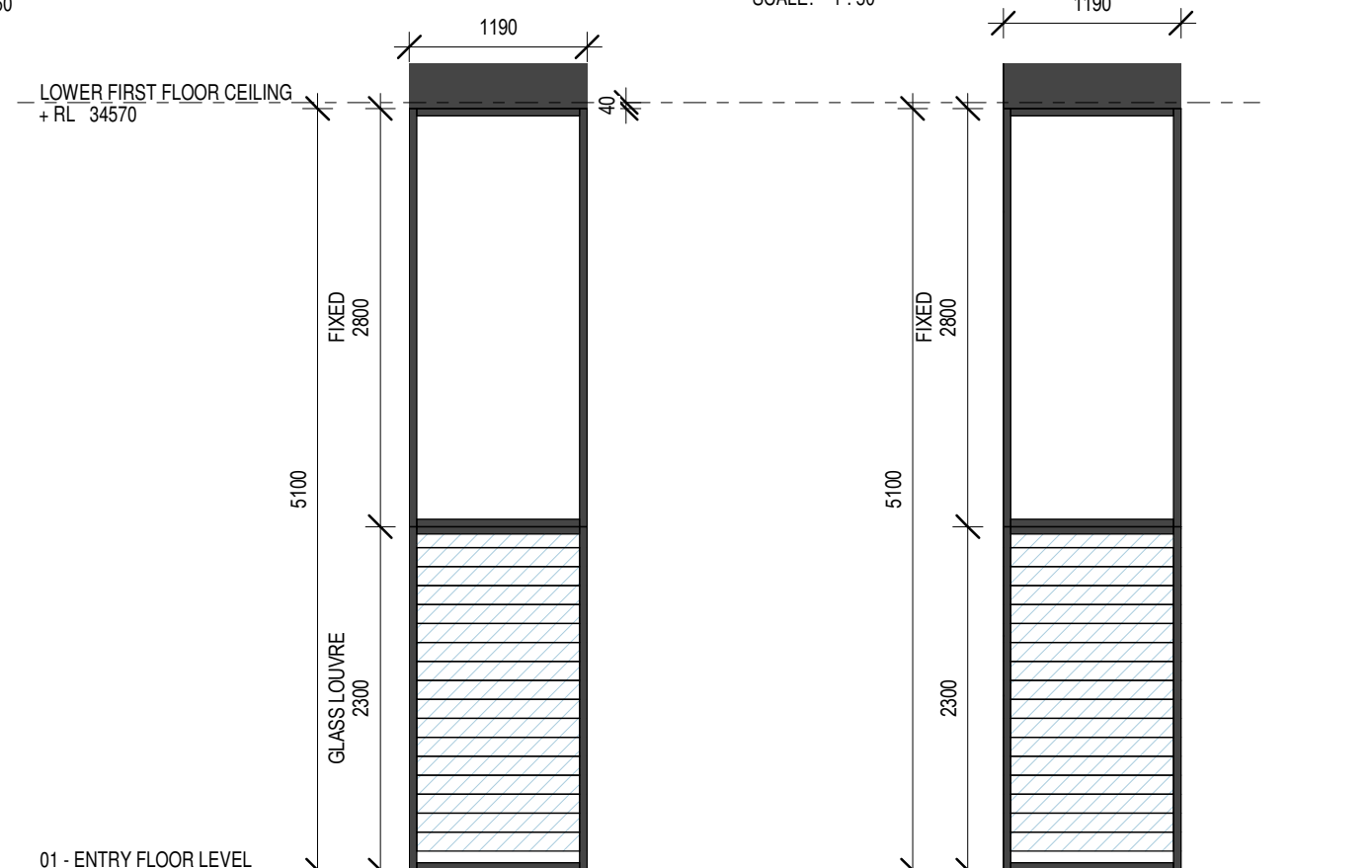
LG W-01 (SLIDING STACKER DOOR)
SCALE: 1 : 50

LG W-02 (SLIDING STACKER DOOR)
SCALE: 1 : 50

LG W-03 (SLIDING WINDOW)
SCALE: 1 : 50



LG W-04 (SLIDING WINDOW)
SCALE: 1 : 50



GF W-05 (LOUVRE AND FIXED WINDOW)
SCALE: 1 : 50

GF W-06 (LOUVRE AND FIXED WINDOW)
SCALE: 1 : 50



FUTURE FLIP
INNOVATIVE | BUILDING | CONSTRUCTION

Project:
11 Hardy Street, North Bondi,
Sarah Marco

Drawing:
Window Schedule

D 04.06.19 REVISION

Drawn: FF	Project No:	Drawing No:	Issue:
Date: 18.06.19	18156	DA 12.0	D
Scale: 1 : 50			

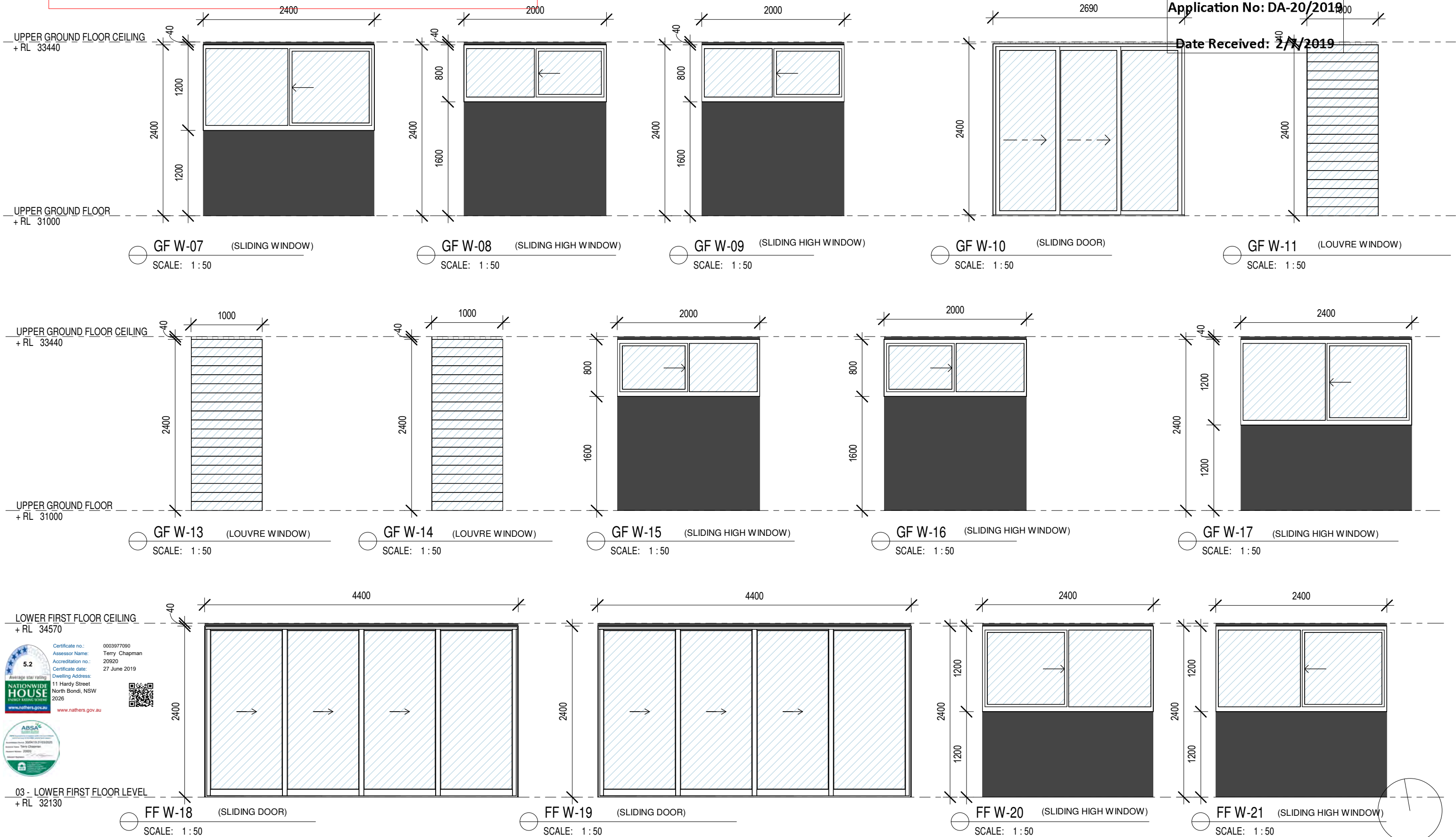
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AMENDED PLANS

RECEIVED
Waverley Council

Application No: DA-20/2019

Date Received: 2/7/2019



FUTURE FLIP
INNOVATIVE | BUILDING | CONSTRUCTION

Project:
11 Hardy Street, North Bondi,
Sarah Marco

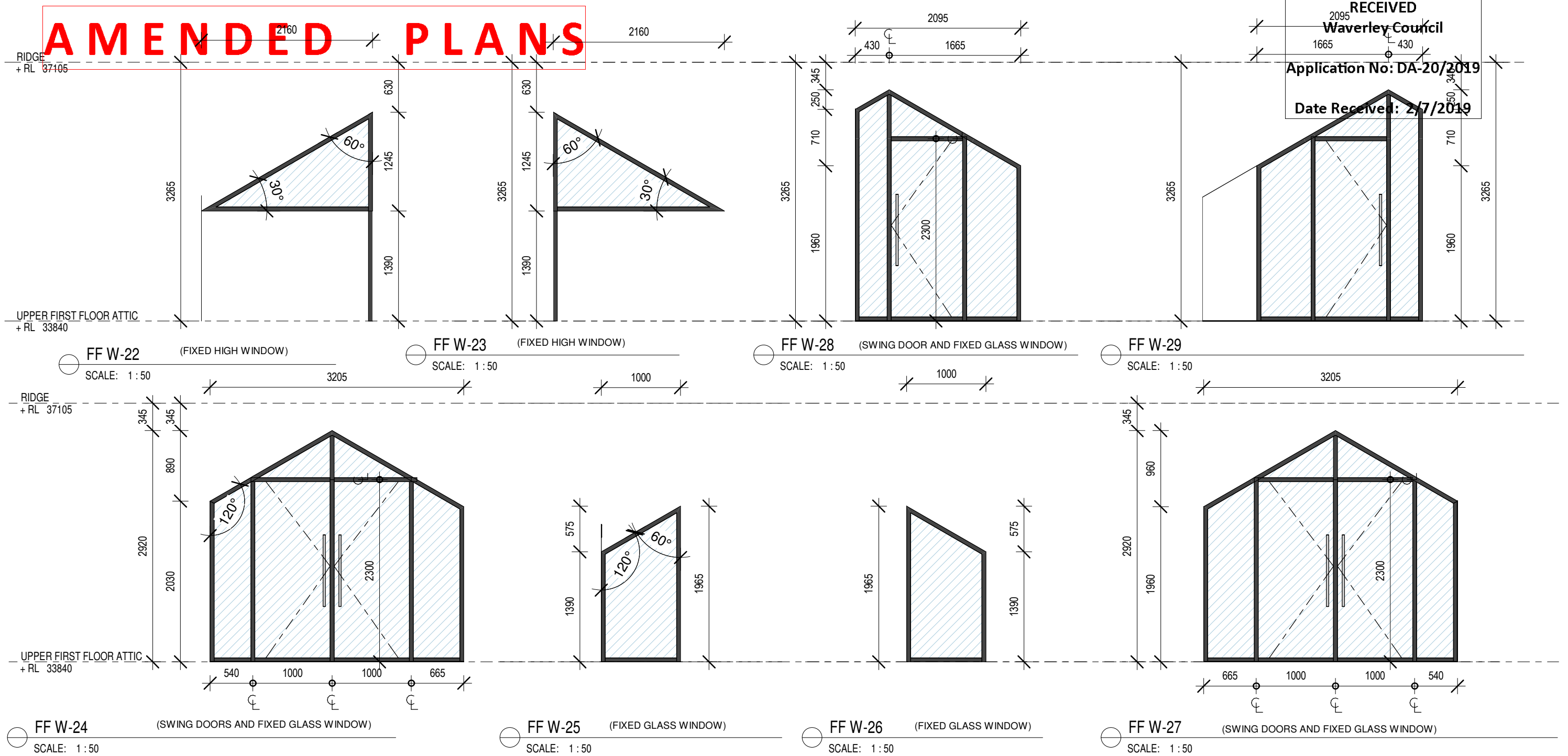
D 04.06.19 REVISION

Drawing:
Window Schedule

Drawn: FF	Project No: 18156	Drawing No: DA 12.1	Issue: D
Date: 18.06.19			
Scale: 1 : 50			

400

AMENDED PLANS



FUTURE FLIP
INNOVATIVE | BUILDING | CONSTRUCTION

Project: 11 Hardy Street, North Bondi, Sarah Marco			Drawing: Window Schedule		
D	04.06.19	REVISION	Drawn: Date: Scale:	FF 18.06.19 1 : 50	Project No: 18156
			Drawing No: DA 12.2		Issue: D 401

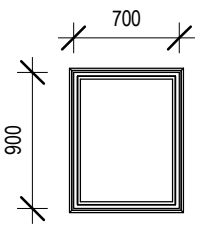
DESIGN PLANS ONLY - NOT FOR CONSTRUCTION

AMENDED PLANS

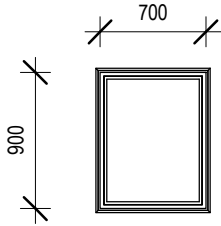
RECEIVED
Waverley Council

Application No: DA-20/2019

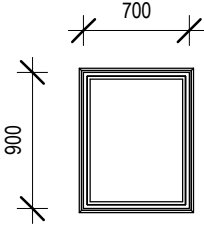
Date Received: 2/7/2019



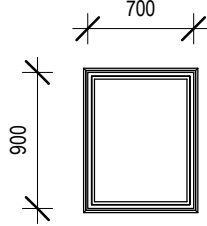
RP
W-30 (FIXED GLASS SKYLIGHT)



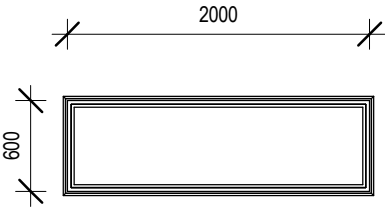
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W-31 (FIXED GLASS SKYLIGHT)



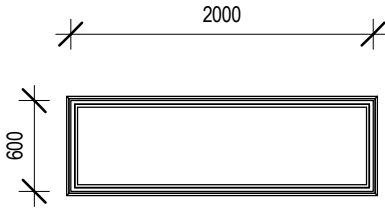
RP
W-32 (FIXED GLASS SKYLIGHT)



RP
W-33 (FIXED GLASS SKYLIGHT)



RP
W-34 (FIXED GLASS SKYLIGHT)



RP
W-35 (FIXED GLASS SKYLIGHT)



Project: 11 Hardy Street, North Bondi, Sarah Marco			Drawing: Window Schedule		
D	04.06.19	REVISION	Drawn: Date: Scale:	FF 18.06.19 1 : 50	Project No: 18156
			Drawing No: DA 12.3		Issue: D

AMENDED PLANS

No. 13
TWO STOREY
BRICK DWELLING

RECEIVED
Waverley Council

Application No: DA-20/2019

Date Received: 2/7/2019



Certificate no.: 0003977090

Assessor Name: Terry Chapman

Accreditation no.: 20920

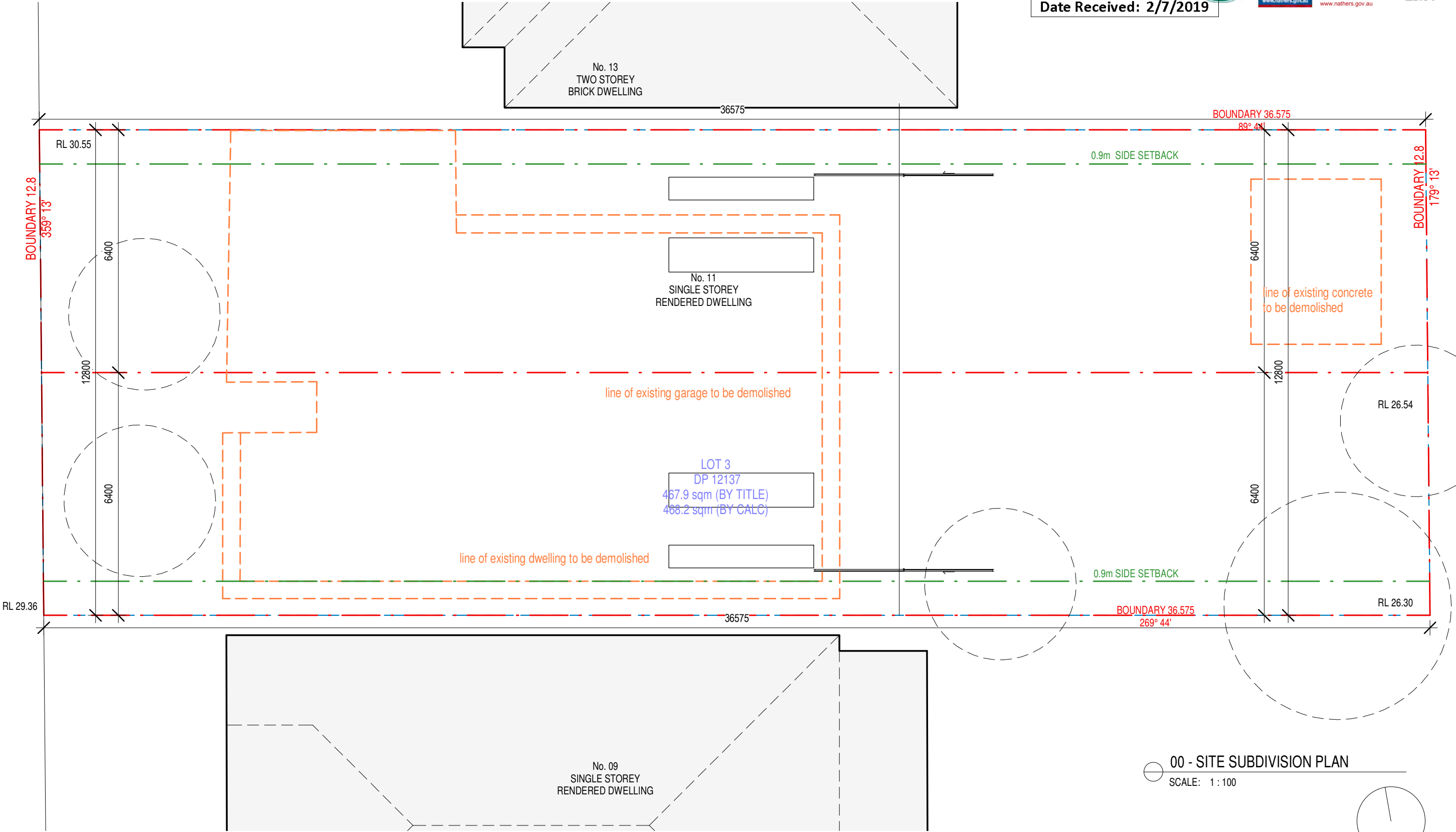
Certificate date: 27 June 2019

Dwelling Address: 11 Hardy Street North Bondi, NSW 2026

www.nathers.gov.au



HARDY STREET



00 - SITE SUBDIVISION PLAN
SCALE: 1 : 100

FUTUREFLIP

INNOVATIVE | BUILDING | CONSTRUCTION

Project: 11 Hardy Street, North Bondi, Sarah Marco		Drawing: Site Subdivision Plan			
Drawn:	Author	Project No:	Drawing No:	Issue:	
Date:	18.06.19	18156	DA 1.3		
Scale:	1 : 100				



Report to the Waverley Local Planning Panel

Application number	DA-326/2018
Site address	591 Old South Head Road, Rose Bay
Proposal	Conversion of two storage rooms and a portion of the internal common property into a new residential studio apartment
Date of lodgement	12 September 2018
Owner	Strata Plan 21413
Applicant	Lesley Purdie
Submissions	Nil
Cost of works	\$90,000
Issues	FSR
Recommendation	That the application be APPROVED



1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was carried out on 10 December 2018.

The site is known as 591 Old South Head Road, Rose Bay. The site is irregular in shape with an area of 691.5m² and falls from the rear towards the front.

The site is occupied by a three-storey residential flat building raised over a partly open ground floor area consisting of car parking spaces and common spaces (ie: lobby, stairs, laundry, storage, garbage areas). The existing building comprises a total of ten apartments, four apartments at first floor and three apartments each on second and third floors.

The site is located on the eastern side of Old South Head Road, between Northcote and Princess Street. It is surrounded by a mixture of detached dwellings, duplexes and residential flat buildings.



Figure 1: Subject site frontage



Figure 2: Foyer and stair entry to upper apartments as viewed from southern side driveway. Proposed location of studio is indicated with an arrow

1.2 Relevant History

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

DA-146/2015 was withdrawn on 19 October 2015 for changes to the residential flat building including the conversion of an existing storeroom for a studio apartment.

SC-321/2001 was approved on 1 July 2001 for strata subdivision.

1.3 Proposal

The application seeks approval as follows:-

- Conversion of the existing communal storage rooms, passage area and a portion of unit 9 space at ground floor into a residential studio apartment. The studio unit will be approximately 35m² in area and is to be accessed via new glass doors to the south side elevation.
- Provision of timber screen walls to enclose a section of the garden as a private courtyard to the new unit.
- New windows to the south elevation.

The proposed development will not alter the current overall building height, however will increase the total gross floor area of the existing residential flat building by 11m².

Amended plans and documents were submitted by the applicant on 29 May 2019, in order to provide the existing floor plans of each level, the proposed fences, retention of existing landscaping within the southern side passage, and indicate the laundries and storage areas for the development.

2. ASSESSMENT

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

2.1 Planning Instruments and Development Control Plans

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

2.1.1 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the development application.

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

2.1.2 SEPP 55 Remediation of Land

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

2.1.3 SEPP 65 Design Quality of Residential Flat Development

The provisions of SEPP 65 applies to the erection of a new residential flat building, the substantial redevelopment or the substantial refurbishment of an existing residential flat building or the conversion of an existing building to a residential flat building.

The proposed works under this application are not considered to be substantial refurbishment of an existing residential flat building and therefore the SEPP is not applicable.

2.1.4 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

Table 1: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal does not contravene the aims of this plan.

Provision	Compliance	Comment
Part 2 Permitted or prohibited development		
Land Use Table R3 Medium Density Residential Zone	Yes	The proposal is for alterations and additions to an existing residential flat building, which is permitted with consent in the R3 zone.
Part 4 Principal development standards		
4.3 Height of buildings • 12.5m	N/A	The proposal does not seek to change the height of the dwelling.
4.4 Floor space ratio • Max 0.9:1 (622.35m ²) Site area 691.5m ²	No	Existing GFA is 824m ² , which is an FSR of 1.19:1. The proposal results in an additional 11m ² of GFA, therefore a total of 835m ² and an FSR of 1.2:1, which is 213m ² over the maximum control breach, or 33%.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the FSR development standard. A detailed discussion of the variation to the development standard is presented below this table.
Part 5 Miscellaneous provisions		
5.10 Heritage conservation	N/A	The subject site is not listed as a heritage item, and is not located within a heritage conservation area.
Part 6 Additional local provisions		
6.1 Acid sulfate soils	Yes	The subject site is identified as having class 5 acid sulfate soils and the proposal does not include excavation. The proposed works will not have detrimental impact on the sulfate soils.

Clause 4.6 Exceptions to Development Standards - Clause 4.4 and 4.4A Floor Space Ratio

The application seeks to vary the floor space ratio standard in Clause 4.3

The site area is 692m² is subject to a maximum FSR control of 0.9:1 (GFA: 622.8m²)

The existing building has a FSR of 1.19:1 (GFA 824m²), exceeding the standard by 202m² equating to a 32 % variation to the development standard.

The proposal results in a total FSR of 1.20:1 (GFA 835m²), an increase of 11m², exceeding the standard by 213m², equating to a 33 % variation to the development standard.

Development Standard		Existing	Variation to Standard	Proposed	Variation to Standard
Site Area	692 m ²		-	-	-
GFA	622.8m ²	824	+202 m ²	835 (+11m ²)	+213 m ²
FSR	0.9:1	1.19:1	+32%	1.20:1	+33%

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 Clause 4.4 Floor Space Ratio development standard on the following basis:

- a) *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:*
 - (i) *The existing FSR for the site is 1.32:1 (which exceeds the maximum FSR control by 202 m² in gross floor area or 32%).*
 - (ii) *The proposal results in an additional 11m² only, which is a minor increase from the existing situation and will result in an FSR of 1.2:1 and a 33% variation to the standard (1% variation to existing scheme).*
 - (iii) *Compliance with the development standard is unreasonable and unnecessary as strict compliance with the control would prevent the site to better meet the zoning objectives.*
- b) *That there are sufficient environmental planning grounds to justify contravening the standard:*
 - (i) *The development meets the objectives of the development standard;*
 - (ii) *The proposal does not seek to alter the existing height and building envelope.*
 - (iii) *The height of the building is compliant with LEP and DCP controls. Therefore the development is consistent with the height, scale and character of development in the locality.*

- (iv) *The bulk and scale of the development is reasonable and does not visually dominate neighbouring properties.*
- (v) *The proposal does not result in adverse amenity impacts on adjoining properties in the way of bulk impact, shadow impact or privacy loss.*
- (vi) *The variation to the standard has no visual impact as the extent of the building mass is not visible from the street.*
- (vii) *The building footprint is not being altered. The proposed fence is set away from the street frontage and does not impact 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:

- a) The development meets the objectives of the development standard, as addressed above.
- c) Compliance does not defeat the underlying object of the standard development; however, compliance would prevent the approval of an otherwise supportable development and prevent the site to better meet the zoning objectives including the provision of diverse housing stock.

Is the development in the public interest?

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

The objectives of the Floor Space Ratio Control are to:

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

The overall scale of the development is considered to remain in keeping with the overall bulk and character of the host building. The use of the existing undercroft space is considered to fit appropriately within the existing footprint and building envelope, and will not affect the overall relationship of the building height and density. The location of the new studio is considered to be an appropriate design response that is compatible with the primary and secondary streetscapes.

The objectives of the R3 zone are to:

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

The proposal is considered to be an appropriate use of existing storage space as a residential dwelling. The additional one bed would meet the diverse housing needs of the Rose Bay area and would provide a variety of housing types within the medium density setting. The location and design of the studio would not detract from the functionality of communal spaces for the occupants of the other flats within the building. Therefore the proposed changes will ensure the facilities continue to meet the day to day needs of the future occupants.

Conclusion

For the reasons provided above, the requested variation to the floor space ratio standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Waverley Local Environmental Plan 2012, and the proposed development would be in

the public interest because it is consistent with the objectives of Clause 4.4 (floor space ratio) and the R3 Medium Density Zone.

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

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

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

Development Control	Compliance	Comment
1. Waste	Yes	The existing waste storage and management arrangements will be maintained. This is considered suitable.
2. Energy and water conservation	Yes	A BASIX Certificate has been submitted with the application including a NatHERS.
6. Stormwater	Yes	The application does not require OSD, and is considered suitable in regard to stormwater.
9. Heritage	Yes	The subject site is not listed as a heritage item, and is not located within a heritage conservation area.

Table 3: Waverley DCP 2012 – Part C2 Multi Unit and Multi Dwelling Housing Compliance Table

Development Control	Compliance	Comment
2.11 Vehicular access and parking		
<ul style="list-style-type: none"> Car parking rates in Zone 1 are: Studio=0.5 1 bedroom=0.6 2 bedroom=0.9 3 bedroom=1.4 	Yes	<p>There are a total of ten existing car parking spaces at ground floor for the existing ten units of the residential flat building (thereby one parking space each per unit).</p> <p>A total number of 9.6 car spaces are required for a studio unit (0.5 space), 3 x 1 bedroom unit (1.8 space), 5 x 2 bedroom units (4.5 spaces) and 2 x 3 bedroom units (2.8 spaces). It is not proposed to provide any additional car parking for the new studio unit. The proposal is considered to comply with car parking requirements as specified in Part B8 Transport and Part C2 Multi Unit of the WDCP 2012, as there are already provision for 10 existing spaces available on the subject site. Notwithstanding this, Amendment 6 has a maximum parking control.</p>
2.16 Solar access and overshadowing		
<ul style="list-style-type: none"> Minimum of three hours of sunlight to a minimum 	Yes	The existing building and new studio will receive sufficient sunlight.

Development Control	Compliance	Comment
of 70% of units during winter solstice <ul style="list-style-type: none"> Adjoining properties to retain minimum of three hours of sunlight during winter solstice 	Yes	The works are within the existing building envelope and therefore adjoining properties will retain their sunlight.
2.19 Apartment size and Layout		
<i>Minimum size of apartments:</i> <ul style="list-style-type: none"> Studio = 35m² 	Yes	The proposed new 35m ² residential unit complies with Council's minimum area / size for a studio apartment requirement under the WDCP 2012.
2.21 Storage		
<i>Minimum storage facilities:</i> <ul style="list-style-type: none"> Studio = 6m² 	Yes	Details of storage has not been provided, however this is recommended to form a condition of consent.

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 and a site notice erected on the site, in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*. No submissions were received.

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

Fire Safety – Building Waverley

The proposal was referred for comments from Council's Fire Safety Officer, who recommended conditions to be imposed should the application be approved.

Stormwater - Creating Waverley

The application was referred for comments to Council's Manager Design, who advised that on site detention is not required for this development.

Sustainable Waste – Sustainable Waverley

The proposal was referred for comments from Council's Waste coordinator, who recommended conditions to be imposed should the application be approved.

4. SUMMARY

The application seeks approval for alterations and additions to an existing residential flat building residential flat building to create a new studio apartment at ground level within the existing envelope.

The proposal will exceed the maximum FSR control of 0.90:1 under the Waverley LEP 2012. A Clause 4.6 statement has been submitted seeking a variation to the FSR development standard. The proposed additional 11m² is considered minor and acceptable, as it is located within the existing building envelope. The Clause 4.6 statement is considered to be well founded as it successfully demonstrates that strict compliance with the development standard in this case is unreasonable, as it does not result in unreasonable amenity impacts and despite the variation achieves the objectives of the development standard and the zone.

The application did not receive any submissions.

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

5. RECOMMENDATION TO WAVERLEY DEVELOPMENT ASSESSMENT PANEL

That the Development Application be **APPROVED** by the Waverley Development Assessment Panel subject to the Conditions in Appendix A.

Report prepared by:

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

Idaly Yap
Senior Development Assessment Planner

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

Date: 16 July 2019

Date: 18 August 2019

Reason for referral:

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

APPENDIX A – CONDITIONS OF CONSENT

A. APPROVED DEVELOPMENT

1. APPROVED DEVELOPMENT

The development must be in accordance with:

(a) The following Architectural Plan Nos, all prepared by Digital Art & Draft:

Plan Nos	Pan Name	Dated	Dated received by Council
DA01C	Site Plan, Site analysis Plan	22-5-19	29/5/19
DA02C	Ground Floor Plan	22-5-19	29/5/19
DA03C	Street Elevation	22-5-19	29/5/19
DA04C	East Elevation, Section A-A	22-5-19	29/5/19
DA05C	South Elevation	22-5-19	29/5/19
DA06C	North Elevation	22-5-19	29/5/19

(b) BASIX Certificate; and

Except where amended by the following conditions of consent.

2. STRATA PLAN OF SUBDIVISION

The strata plan shall be revised / updated to include areas of a new lot that will be occupied by the proposed studio addition at ground floor.

3. USE OF COMMON PROPERTY

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

4. MATERIALS TO MATCH EXISTING

The proposed external works, including brickwork, are to match existing.

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. SECTION 7.12 CONTRIBUTION

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

(a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:

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

"Waverley Council Cost Summary Report"; or,

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

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

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

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

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

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

- (c) Should a section 4.55 modification result in any change to the total cost of the work, the Section 7.12 contribution is to be revised and amended.

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

6. SECURITY DEPOSIT

A deposit or guarantee satisfactory to Council for the amount of **\$2,665.00** must be provided as security for the payment of the cost of making good any damage caused or unauthorised works that may be caused to any Council property as a consequence of this building work.

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

7. LONG SERVICE LEVY

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

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

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

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

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

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

9. FIRE SAFETY UPGRADE WORKS

- (a) Pursuant to Clauses 93 & 94 of the Environmental Planning and Assessment Regulation 2000, fire safety upgrading works are to be undertaken to the existing building in conjunction with the new building works, to ensure that the existing building fully complies with provisions of Sections C D & E of the Building Code of Australia (BCA) including provision of essential fire safety measures in accordance with Section E of the BCA and compliance with the following provisions of the Building Code of Australia:
 - (i) Fire resistance and stability – Part C1;
 - (ii) Compartmentation and fire separation – Part C2;
 - (iii) Fire Protection of Openings – Part C3
 - (iv) Provision for escape – Part D1;
 - (v) Construction of exits, balustrades and protection of openable windows – Part D2;
 - (vi) Provision of Firefighting equipment – Part E1;
 - (vii) Smoke hazard management, detection & alarm systems – Part E2;
 - (viii) Emergency lighting, exit signs and warning systems – Part E4;
- (b) Details demonstrating compliance with the BCA must be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate.
- (c) Prior to the commencement of the required fire safety upgrade works, a Construction Certificate must be issued by an accredited Certifying Authority and an accredited PCA be appointed. The required fire safety upgrading works must be completed and certified by the installers including issuing of a Final Fire Safety Certificate prior to the issue of an Occupation Certificate.

10. 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.

11. 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.

12. 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.

13. BUILDING CODE OF AUSTRALIA

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

14. SITE WASTE AND RECYCLING MANAGEMENT PLAN

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

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

15. STORMWATER MANAGEMENT

Certification is to be provided from a suitably qualified professional, that the storm water system has been designed in accordance with the Water Management Technical Guidelines prior to the issue of a Construction Certificate.

16. EROSION, SEDIMENT AND POLLUTION CONTROL

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

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

18. BASIX

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

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

The above condition is a prescribed condition under the Environmental Planning and Assessment Act Regulations clause 97A and the above BASIX commitments are mandatory and can not be modified under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

19. WASTE AND RECYCLING STORAGE AND COLLECTION

- (a) The proposal must have a bin storage point for a minimum;
 - **Residential** (weekly collection of general waste and fortnightly collection of recycling)
 - 4 mobile garbage bins (MGBs) for general waste
 - 4 MGBs for container recycling
 - 4 MGBs for paper recycling
 - 5 m² for the storage of bulky household items and any problem wastes, excess packaging and bulk cardboard awaiting collection
- (b) All waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B, Section 1.2.1, Section 1.2.3 and Section 1.2.4 of Waverley Council Development Control Plan 2012. All waste and recycling storage rooms must be graded and drained to the sewerage system and approved by Sydney Water.
- (c) The proposal must have a system for the convenient transportation of waste and recyclables to the communal waste and recycling storage area (i.e. chute systems or a service lift dedicated for the transportation of waste).
- (d) A minimum of 5m² floor space is required for the storage of unwanted household items, bulky cardboard or packaging, and problem wastes awaiting a council clean-up collection. This area must be clearly marked or gated and appropriate signage provided.
- (e) All new developments are to provide adequate storage for waste to accommodate future change of uses.
- (f) Composting facilities must meet all design requirements set in Annexure B1-5 of the Waverley Council Development Control Plan.
- (g) 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.
- (h) Clear and easy signs identifying the different MGB and where the MGBs should be stored in the storage area(s) must be displayed.
- (i) The storage of bins on the kerbside on public land and kerbside is not permitted at any time.
- (j) All waste and recycling must be presented with lids closed to reduce littering, storm water pollution, odour and vermin. Waste and recycling not presented in the correct manner will not be collected.

- (k) All waste and recycling bins must be put out for collection no earlier than the night before collection and brought in the same day as the collection service.

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

20. 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.

21. 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.

22. CONSTRUCTION SIGNS

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

23. OBSTRUCTION TO PUBLIC AREAS

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

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

24. COMPLIANCE WITH WORKCOVER NSW REQUIREMENTS

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

25. 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.

26. ASBESTOS REMOVAL

- (a) All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current WorkCover NSW Friable Class A Asbestos Removal Licence or where applicable a Non-friable Class B (bonded) Asbestos Removal Licence. Removal must be carried out in accordance with the "Code of Practice on how to safely remove asbestos" published by WorkCover NSW (catalogue no.WC03561) and Waverley's Asbestos Policy.
- (b) All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and email address.
- (c) No asbestos products are to be reused on site.
- (d) Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site during asbestos removal works.
- (e) No asbestos laden skips or bins are to be left in any public place without the approval of Council.

27. 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.

28. 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 storm water drainage system.

29. 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.

30. CONSTRUCTION HOURS

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

- (a) The Saturday (except minor renovation or refurbishment to a single dwelling construction) and Sunday which form part of public holiday weekends; and
- (b) Sundays and public holidays
- (c) Excavation works involving the use of heavy earth movement equipment including rock breakers and the like must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays with no such work to be carried out on Saturday, Sunday or a public holiday.

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

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

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

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

The specified **MANDATORY** inspections are:

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

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

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.

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

32. OCCUPATION CERTIFICATE

The Principal Certifying Authority prior to occupation or use of the development must issue an 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.

33. FIRE SAFETY UPGRADE

The Occupation Certificate shall not be released by the appointed Principal Certifying Authority until all fire safety upgrading works are completed and a Final Fire Safety Certificate has been submitted to Council, certifying that each essential fire safety measure specified within the current Fire Safety Schedule has been installed and:

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

34. SUBDIVISION CERTIFICATE

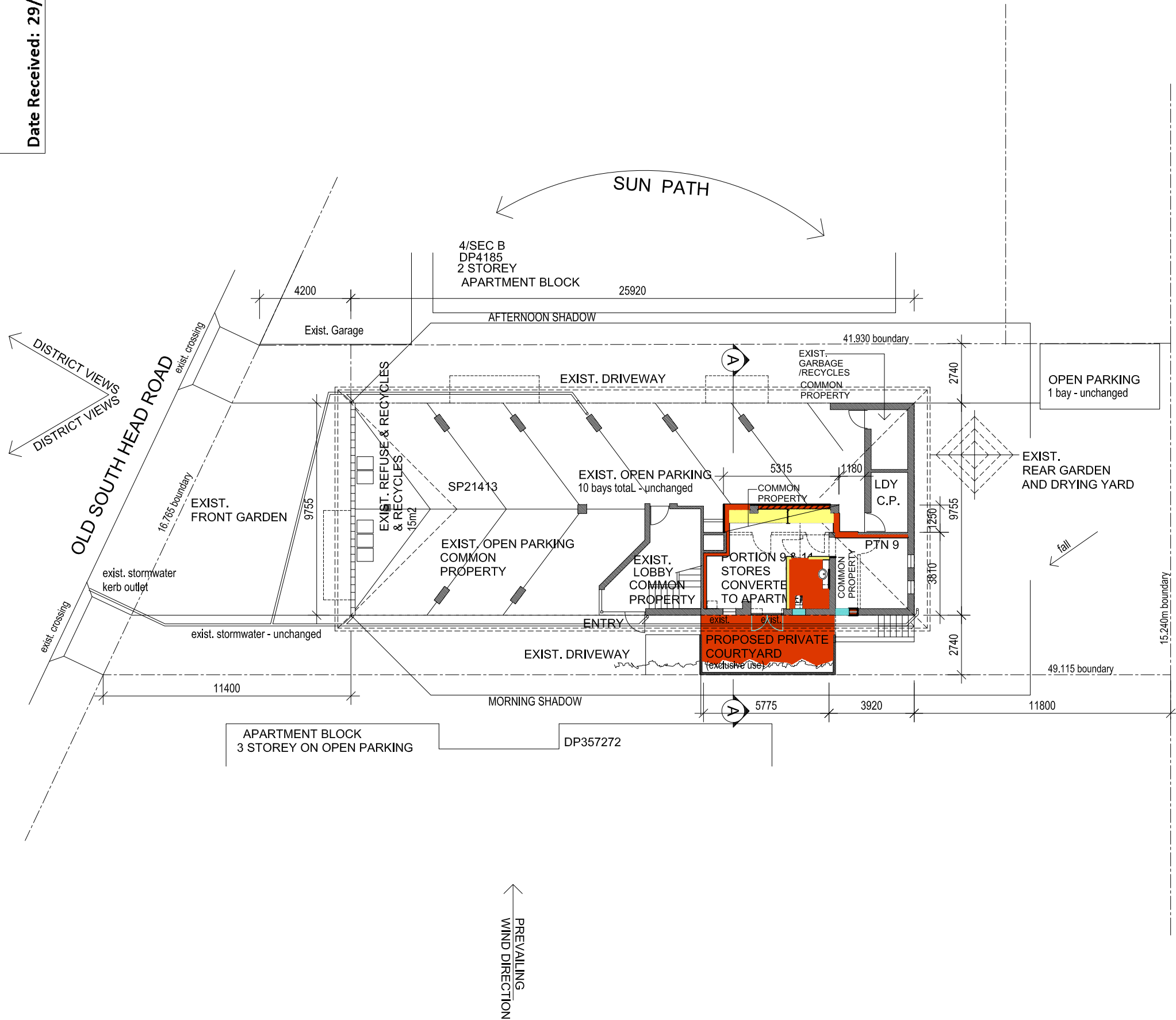
A Subdivision Certificate must be obtained from Council in accordance with Part 6 of the Environmental Planning and Assessment Act, 1979 prior to the registration of the subdivision plans.

36. SYDNEY WATER

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

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

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



Compliance Table

	existing	proposed
Site area	691.5m2	
Gross floor area	823.7m2	834.3m2
(permitted FSR 0.5:1)		
FSR	1.19:1	1.21:1
Paved outdoor area	private balconys	private balconys
On site Parking	10 cars	10 cars
Deep Landscaping	192m2	192m2

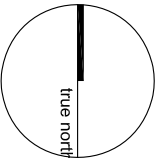
- EXISTING WALLS
- TO BE RETAINED
SHOWN SHADED
- EXISTING WALLS
- TO BE DEMOLISHED
- NEW BRICKWORK
- NEW STUD WALLS

BASIX COMMITMENTS

REFER TO BASIX CERTIFICATE No. 0003107620
ASSESSOR NAME TERRY CHAPMAN
ACCREDITATION No. 20920
CERTIFICATE DATE 27/8/2018
HOT WATER
- Gas storage system to be installed.
LIGHTING
Principle downlight type:
light-emitting-diode (LED) lamps.
FIXTURES
New showerheads, toilets and taps to be 5.4 star water rating.
INSULATION REQUIREMENTS
To new or altered construction:R.10 wall insulation
GLAZING REQUIREMENTS
The windows and glazed doors must be installed
in accordance with the specifications listed in the table in page 4
of the BASIX CERTIFICATE No. 0003107620

REVISION	DATE	REMARKS
	29-1-15	Pre Development Application
A	April 2015	Development Application issue
B	July 2018	Revised, redrawn. Portion 9 & common property added to apartment to enlarge apartment to 35.3m2 internal.

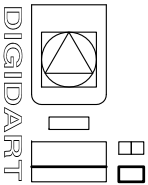
PROPOSED NEW APARTMENT
591 Old South Head Road
Rose Bay



DIGIDRAFT
A.B.N. No. 77681880559
DIGITAL ART & DRAFT

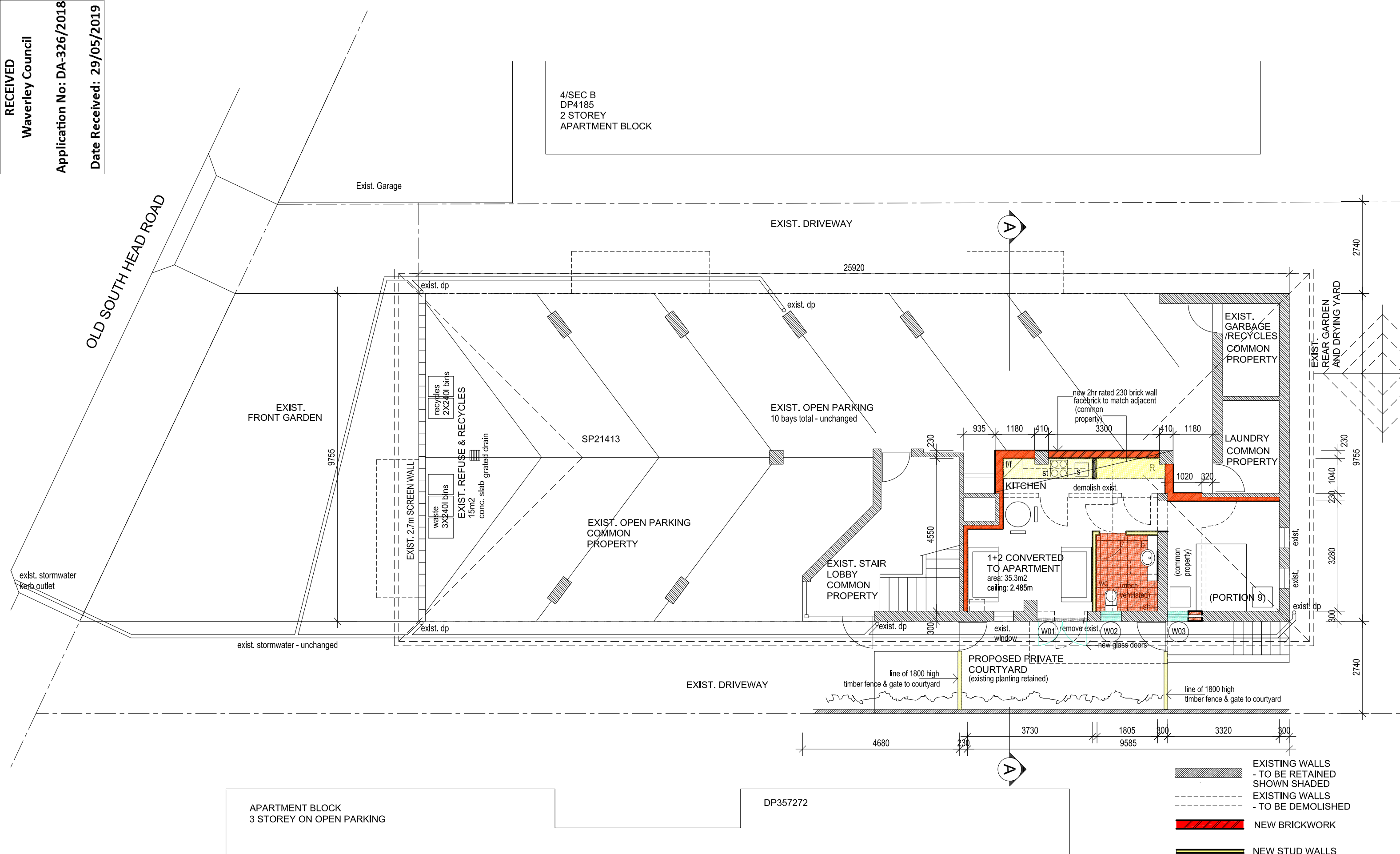
424/16 Marine Parade
Wentworth Point 2127

mobile 0403 683 204
email bookatzsteve@gmail.com



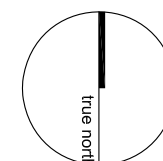
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DRAWN SB
DATE 7-2018
DWG No. DA01B
DRAWING TITLE

SITE PLAN
SITE ANALYSIS PLAN

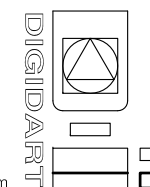


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C	22-5-19	Council request for additional information

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Wentworth Point 2127
mobile 0403 683 204
email bookatzstve@gmail.com



SCALE	1:100
DRAWN	SB
DATE	7-2018

DATE 7-2018
DWG No. DA02C

DRAWING TITLE
GROUND FLOOR PLAN
- existing Stormwater
- existing waste management

4/SEC B
DP4185
2 STOREY
APARTMENT BLOCK

APARTMENT BLOCK
3 STOREY ON OPEN PARKING
No. 591/SP21413

APARTMENT BLOCK
3 STOREY ON OPEN PARKING
DP357272

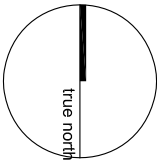
RECEIVED
Waverley Council
Application No: DA-326/2018
Date Received: 29/05/2019



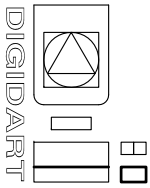
WEST/OLD SOUTH HEAD ROAD ELEVATION
UNCHANGED FROM EXISTING

REVISION	DATE	REMARKS
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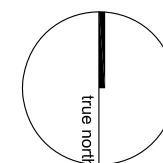
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DRAWN SB
DATE 7-2018
DWG No. DA03C
DRAWING TITLE
STREET DELEVATION

RECEIVED
Waverley Council
Application No: DA-326/2018
Date Received: 29/05/2019

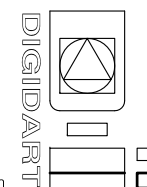


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DIGITAL ART & DRAFT
424/16 Marine Parade
Wentworth Point 2127
mobile 0403 683 204
email bookatzsteve@gmail.com



SCALE 1:100
DRAWN SB
DATE 7-2018
DWG No.
DRAWING TITLE

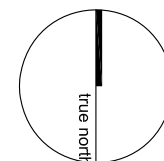
DA05C
SOUTH ELEVATION

RECEIVED
Waverley Council
Application No: DA-326/2018
Date Received: 29/05/2019

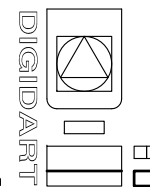


REVISION	DATE	REMARKS
	29-1-15	Pre Development Application
A	April 2015	Development Application issue
B	July 2018	Revised, redrawn. Portion 9 & common property (old caretaker's flat) added to apartment to enlarge apartment to 35.3m2 internal.
C	22-5-19	Council request for additional information

PROPOSED NEW APARTMENT
591 Old South Head Road
Rose Bay



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NORTH ELEVATION