



**W A V E R L E Y**  
COUNCIL

**DATE: 14 JUNE 2022**

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

**12.00PM WEDNESDAY, 22 JUNE 2022**

**QUORUM:** Three Panel members.

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

## AGENDA

### **WLPP-2206.A Apologies**

### **WLPP-2206.DI Declarations of Interest**

The Chair will call for any declarations of interest.

### **WLPP-2206.1 PAGE 4 607/109 Oxford Street, BONDI JUNCTION NSW 2022 - Alterations and additions to Unit 607 of shop top housing development, including extension of living room and reduction of balcony size. (DA-2/2022)**

Report dated 1 June 2022 from the Development and Building Unit.

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

### **WLPP-2206.2 PAGE 28 21 Castlefield Street, BONDI NSW 2026 - Review of decision seeking construction of a hardstand carparking space and driveway to the front of dwelling (DA-327/2021/1)**

Report dated 26 May 2022 from the Development and Building Unit.

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

### **WLPP-2206.3 PAGE 44 15 Portland Street, DOVER HEIGHTS NSW 2030 - Alterations and additions to dwelling including first floor rear extension and construction of a carport (DA-577/2021)**

Report dated 8 June 2022 from the Development and Building Unit.

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

**WLPP-2206.4**

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**31 Albion Street, WAVERLEY NSW 2024 - Alterations and additions to shop top housing development including construction of a third storey comprising a dwelling on the first and second floors and a commercial tenancy on the ground floor (DA-288/2021)**

Report dated 9 June 2022 from the Development and Building Unit.

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

**WLPP-2206.5**

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**138 Hastings Parade, NORTH BONDI NSW 2026 - Alterations and additions to reduce the number of units, realignment of the top level, increased set back height, facade upgrade, reinstatement of swimming pool and various internal and external changes (DA-439/2021)**

Report dated 10 June 2022 from the Development and Building Unit.

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



Other Residential Development



Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-2/2022
<b>Site address</b>	607/109 Oxford Street BONDI JUNCTION
<b>Proposal</b>	Alterations and additions to Unit 607 of shop top housing development, including extension of living room and reduction of balcony size.
<b>Date of lodgement</b>	10/01/2022
<b>Owner</b>	Mrs H Mendels Owners of Strata Plan 100066
<b>Applicant</b>	CSA Architects P/L
<b>Submissions</b>	Nil
<b>Cost of works</b>	\$13,200
<b>Principal Issues</b>	FSR
<b>Recommendation</b>	That the application be APPROVED in accordance with the conditions contained in the report.

**SITE MAP**



## 1. PREAMBLE

### 1.1. Executive Summary

The development application seeks consent for alterations and additions to Unit 607 of an existing shop top housing development, involving extension of the living room into the existing balcony at 109 Oxford Street, Bondi Junction.

The principal issue arising from the assessment of the application relates to floor space ratio (FSR) in that the proposal will increase the FSR by 7.56m<sup>2</sup> to 5.755:1, being a variation of 15.1% to the 5:1 FSR development standard. It should be noted that the existing building has an FSR of 5.75:1 representing a 15% variation to the development standard. The subject proposal will increase the FSR by 7.56m<sup>2</sup>, equating to 0.09%.

The assessment finds this issue acceptable as the infilling of part of the balcony will not give rise to any additional amenity impacts upon surrounding properties, will not affect the streetscape presentation of the building and will continue to provide a balcony which exceeds the minimum controls.

No submissions were received upon notification.

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

### 1.2. Site and Surrounding Locality

A site visit was carried out on 11/04/2022.

The site is identified as Lot 69 in SP 100066, known as 607/109 Oxford Street, Bondi Junction. The specific apartment to which this application relates is Unit 607 which fronts the Spring Street side of the building.

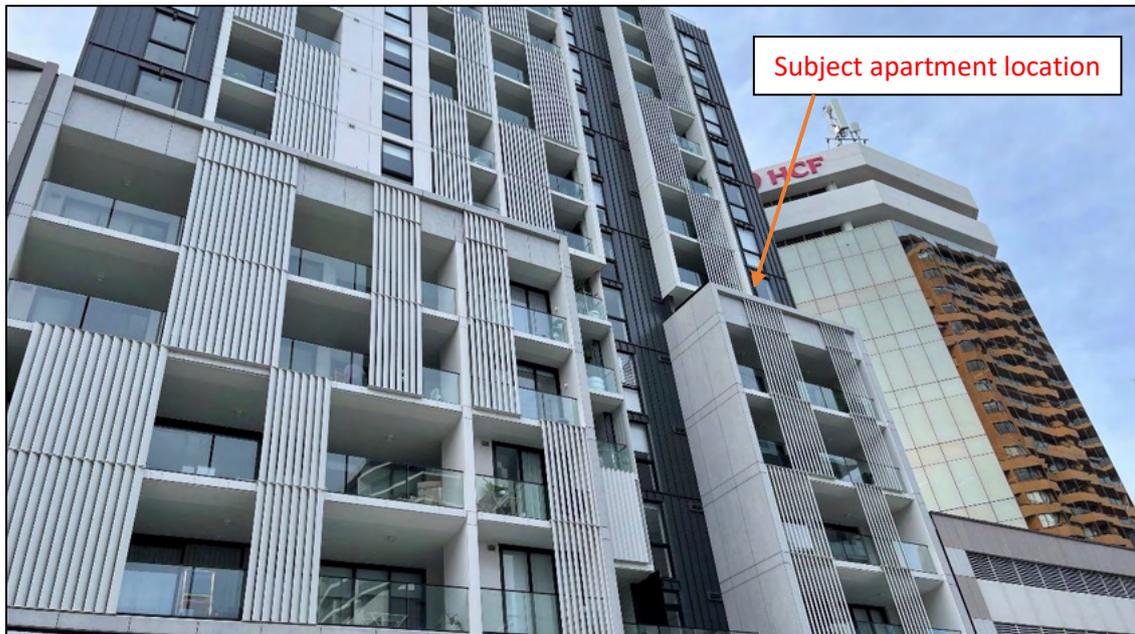
The site is occupied by a fifteen-storey shop top housing development with ground floor retail shops fronting both Spring Street and Oxford Street.

The site is adjoined by shop top housing to the west and a commercial building to the east. The site is located within the commercial area of Bondi Junction and as such the locality is characterised by a shop top housing and commercial buildings.

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



**Figure 1:** Existing building viewed from Spring Street



**Figure 2:** Apartment 607 as viewed from Spring Street

### 1.3. Relevant Development History

**DA-569/2015** sought development consent to demolish all existing buildings and construct a 12 storey shop top housing development comprising of ground floor retail shops, first floor commercial tenancies and a total 86 residential apartments (56 x one bedroom, 22 x two bedroom and 8 x three bedroom), five levels of basement including 114 car parking spaces, loading bay, motorcycle parking, bicycle storage, garbage rooms and residential storage cages. The development application was approved by the former Sydney East Joint Regional Planning Panel on 17 November 2016.

**DA-569/2015/A** for modifications including provision of two additional floor levels comprising 18 units and an additional basement level, and an offer to enter into a planning agreement was approved by the Sydney Eastern City Planning Panel (SECPP) on 24 August 2017.

### 1.4. Proposal

The development application seeks consent for the infilling of part of the balcony of Unit 607 to increase the internal area of this apartment. The additional floor space equates to 7.56m<sup>2</sup> with the remaining balcony area being reduced to 20m<sup>2</sup> with a depth varying between 2.4m to 2.8m. The proposal will reuse the existing sliding glass doors to the balcony.

### 1.5. Background

The development application was lodged on 06/01/2022 and a request for further information (stop the clock letter) was made on 12/01/2022 for the following reasons:

1. Insufficient written request to vary the FSR development standard.
2. An indication of whether an offer to enter into a planning agreement is being made with the development.

The amended information was provided to Council on 25/01/2022. The applicant has indicated that they do not intend to offer to enter into a planning agreement.

## 2. ASSESSMENT

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

### 2.1. Planning Instruments and Development Control Plans

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

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

The following SEPPs apply from 1 March 2022 and have been considered acceptable in the assessment of this development application:

- SEPP (Resilience and Hazards) 2021 (*Coastal Management and Site contamination*)

### 2.1.2. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

The Draft Waverley Local Environmental Plan 2022 was exhibited from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

### 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
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the LEP.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table B4 Mixed Use Zone	Yes	The land use continues to be defined as shop top housing, which is permitted with consent.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>• 38m</li> </ul>	N/A	The proposal will not result in an increase to the height of the building.
4.4 Floor space ratio <ul style="list-style-type: none"> <li>• 5:1</li> </ul>	No	The existing building has an FSR of 5.75:1 representing a 15% variation to the development standard. The proposal will increase the FSR by 7.56m <sup>2</sup> to 5.755:1 being a variation of 15.1%.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the FSR development standard. A detailed discussion of the variation to the development standard is presented below this table.

Part 6 Additional local provisions		
6.5 Active street frontages in the Bondi Junction Centre	N/A	The proposed works are to Unit 607 only, which is located at level 6 of the building. There are no ground level works.
6.7 Solar access to public spaces in Bondi Junction	Yes	The proposal will not result in solar access impacts on the nominated areas at 12 noon on 21 June given it is contained within the envelope of the existing building on the site.
6.9 Design excellence	Yes	Given the location and setback of the apartment from the podium façade, the proposed works will not be visually prominent when viewed from the public domain. The proposal will not have any impacts on the architectural character of the approved development or the amenity of the public domain, and building will continue to exhibit design excellence.
6.12 Development on certain land in Bondi Junction	N/A	The proposal will not result in the loss of non-residential floor space.

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

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

The application seeks to vary the floor space ratio (FSR) development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum FSR development standard of 5:1. The proposed development has an FSR of 5.755:1, exceeding the standard by 996.06m<sup>2</sup> equating to a 15.1% variation. It should be noted that the existing building has an FSR of 5.75:1 (7581m<sup>2</sup>) representing a 15% variation to the development standard. The subject proposal will increase the FSR by 7.56m<sup>2</sup> equating to 0.09%.

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

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

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

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

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

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
- (i) *The subject site as existing, provides ample floor space, with the small additional area improving the amenity of one unit, and retaining sufficient floor space.*
  - (ii) *The proposed works do not alter the existing approved building height or density as they are located within the building footprint and an existing apartment. No change is proposed to the existing density. The works are minor and result in an increase of just 7.5m<sup>2</sup> of floor area.*
  - (iii) *No changes are proposed to the bulk and scale of the existing building, with proposed works located within the footprint. The building will retain its character and presentation to the street with the minimal space to be enclosed within a cut out in the balcony having no discernible impact.*
  - (iv) *As works are located within the existing building footprint, the amenity of neighbouring properties and the locality will remain unchanged. The small enclosure of the balcony cut out will enhance the amenity for residents, by providing additional living space.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *The proposed works are located entirely within the footprint of the existing building and will not discernibly alter the presentation of the building from the street.*
  - (ii) *The proposed minor balcony enclosure, been designed to utilise the space, allowing for the retention of the existing character of the area. The works will retain the open balcony along the perimeter of the building.*
  - (iii) *The scope of the work is minor and not out of character with the higher density location and surrounding built form.*
  - (iv) *The proposed partial balcony enclosure will provide an additional 7.5m<sup>2</sup> of floor area to unit 607.*
  - (v) *The development represents an efficient use of the existing balcony space which has already been enclosed on 3 sides and roofed.*
  - (vi) *The proposed works will not alter the building envelope, retaining its presentation to the street.*
  - (vii) *The proposed works will have no impact on neighbouring properties.*
  - (viii) *The extent of the variation is considered to be in the public interest, as the proposal remains consistent with the objectives of the zone, allowing for additional living space within the existing unit footprint. No changes are proposed to the building height or bulk and it remains consistent with the locality. Compliance with the FSR standard based on this would be unreasonable, with clause 1.3(c) demonstrated as fulfilled.*

- (ix) *The variation to the FSR will have a positive social impact, as it will allow the housing needs of the residents to be met in their current local community. It provides additional floor area to this unit and utilises existing services, satisfying Cl1.3(b).*
- (x) *The development proposed is not an overdevelopment of the site and satisfies the objectives of the zone and the development standard.*

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

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

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

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

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

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

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. The written request has adequately demonstrated that the objectives of the FSR development standard are achieved. The proposal is contained within the existing built envelope, the presentation of the building to the public domain is not materially altered, the building remains

compatible with the bulk and scale of surrounding development, and there is no impact on the environmental amenity of neighbouring properties and the locality.

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

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. In particular, the proposal will not contribute to additional building bulk when viewed from the public domain, will not result in any adverse amenity impacts on surrounding properties and is consistent with the objectives of the development standard and the B4 Mixed Use zone.

Is the development in the public interest?

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

The objectives of the FSR development standard 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 and scale of the desired future character of the locality,*
- (d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.*

The proposal to partially enclose the balcony occupies an area that is within the existing building envelope. The works retain sufficient floor space within Bondi Junction Centre, retain an appropriate density, will not alter the overall appearance of the building when viewed from the public domain and will not result in any additional amenity impacts on adjoining properties which is consistent with the built form and environmental amenity objectives of the FSR development standard.

The objectives of the B4 Mixed Use zone are as follows:

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

The proposal does not change the approved use of the apartment or the mixed use nature of the building and is consistent with the objectives to provide a mix of retail, commercial and residential uses within the B4 Mixed Use locality.

Conclusion

For the reasons provided above the requested variation to the FSR development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of FSR development standard and the B4 zone.

**2.1.4. Draft Waverley Local Environmental Plan 2022 ( Draft Waverley LEP 2022)**

It is acknowledged that the Draft Waverley Local Environmental Plan 2022 is on exhibition from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

**2.1.5. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9**

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

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

Development Control	Compliance	Comment
12. Design Excellence	Yes	The proposed building will continue to exhibit design excellence. The proposed works will be integrated into the design of the existing building as it simply infills an existing recess that is largely obscured from the street.

**Table 3: Waverley DCP 2012 – Part C3 Other Residential Development Compliance Table**

Development Control	Compliance	Comment
<b>3.3 Setbacks</b>		
3.3.1 - Street setbacks <ul style="list-style-type: none"> <li>Consistent street setback</li> </ul>	Yes	The setbacks remain unchanged as the proposal is contained within the building envelope, only enclosing a small, recessed part of the balcony to this apartment.

<b>3.5 Building design and streetscape</b>		
<ul style="list-style-type: none"> <li>Respond to streetscape</li> <li>Sympathetic external finishes</li> </ul>	Yes	<p>The proposal will only be obscurely visible from the public domain as it is located behind the parapet at this level.</p> <p>The proposal will utilise the existing glazed doors to enclose part of the balcony and as such will be consistent with the existing external materials and façade treatments. Given the setback of the apartment from Spring Street, the proposed glazing and window will not be visually prominent from the public domain and will not have any unreasonable impacts on the appearance of the existing building.</p>
<b>3.11 Private Open Space</b>		
<p>3.11.2 – Balconies/decks</p> <ul style="list-style-type: none"> <li>Balcony additions to match the character of the building</li> <li>Should not dominate the façade</li> <li>Located to maximise solar access and privacy</li> </ul>	Yes	<p>The proposed infilling of the existing balcony will be largely concealed behind the existing parapet at this level. As such, the proposal will not affect the overall appearance of the building.</p> <p>Although SEPP 65 does not apply to such minor works, the remaining balcony size will continue to be larger than the minimum requirements of the Apartment Design Guide (ADG).</p>
<b>3.13 Solar access and overshadowing</b>		
<ul style="list-style-type: none"> <li>Direct sunlight to north facing windows of habitable rooms on all private open space areas of adjacent dwellings to less than three hours of sunlight on 21 June.</li> </ul>	Yes	<p>The proposal will not result in increased overshadowing of adjoining sites given that the works are within a recessed balcony area contained within the envelope of the building.</p>
<b>3.15 Visual privacy and security</b>		
<ul style="list-style-type: none"> <li>Privacy be considered in relation to context density, separation use and design.</li> </ul>	Yes	<p>The proposal will not result in increased privacy impacts upon surrounding properties. The existing wall of the apartment will be brought forward to infill an existing recessed balcony creating no increased impact beyond the existing building.</p>
<b>3.16 Dwelling size and layout</b>		
<ul style="list-style-type: none"> <li>Min sizes Studio = 35m<sup>2</sup> 1 bedroom = 50m<sup>2</sup> 2 bedroom = 80m<sup>2</sup> 3 bedroom = 100m<sup>2</sup></li> </ul>	No	<p>The proposal will increase the size of the existing two-bedroom apartment to 77.6m<sup>2</sup>. Although this does not meet the minimum control, it is larger than the existing development, resulting in improved internal amenity, and is therefore considered acceptable.</p>

<b>3.19 Acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Internal amenity by locating noisy areas away from quiet areas</li> </ul>	Yes	The proposal extends the living room of the existing apartment. No material additional acoustic privacy impacts are likely.
<b>3.20 Natural Ventilation</b>		
<ul style="list-style-type: none"> <li>All dwellings to be naturally cross-ventilated</li> </ul>	Yes	The apartment continues to be naturally cross-ventilated.

**Table 4: Waverley DCP 2012 - Part E1 Bondi Junction Compliance Table**

<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
<b>1.2 Urban form</b>		
<ul style="list-style-type: none"> <li>2/2 storey shop front facade on Oxford St and Bronte Rd</li> <li>6 storey wall on other streets</li> <li>Tower to be setback from street edge</li> <li>Slender tower</li> </ul>	Yes	The proposal does not alter the overall built form and appearance of the development when viewed from surrounding streets and is contextually appropriate with adjacent developments and the urban form of Bondi Junction.
<b>1.7 Active street frontages</b>		
Active street frontage to be provided for Primary Shopping Street frontages, Secondary Shopping Street frontage, potential for active frontages to laneways and arcades and through site links	N/A	No changes are proposed at street level.
<b>1.10 Separation distances</b>		
<ul style="list-style-type: none"> <li>9m-18m between residential use and commercial use</li> </ul>	Yes	No change proposed. The proposal is contained wholly within the existing building envelope.
<b>1.16 Building Elevations</b>		
	Yes	The proposal will be consistent with the style and materials of existing openings and will complement the building.
<b>1.19 External Living Areas</b>		
<ul style="list-style-type: none"> <li>External living area is to be screened to achieve visual privacy if located less than 4m from a side boundary</li> </ul>	Yes	The proposal retains a sufficient external living area for the apartment of 20m <sup>2</sup> over the podium. No changes are proposed to parapet at the podium level.

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>The rooftops of developments can be used to provide external living areas.</li> <li>Detail and design balconies or terraces in response to the local climate and context</li> </ul>		

## 2.2. Other Impacts of the Development

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

## 2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

## 2.4. Any Submissions

The application was notified for 14 days in accordance with the *Waverley Community Development Participation and Consultation Plan*. No submissions were received.

## 2.5. Public Interest

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

## 3. REFERRALS

No internal or external referral comments were sought.

## 4. CONCLUSION

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for approval subject to conditions of consent.

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

The application was reviewed by the DBU at the meeting on 31/05/2022 and the DBU determined:

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

DBU members: *M Reid, A Rossi, B Magistrale, D Knight, T Sneesby*

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.

<b>Report prepared by:</b>	<b>Application reviewed and agreed on behalf of the Development and Building Unit by:</b>
	
Kylie Lucas	David Knight
<b>Senior Development Assessment Planner</b>	<b>Acting Manager, Development Assessment (Area 3) (Reviewed and agreed on behalf of the Development and Building Unit)</b>
<b>Date: 31/05/2022</b>	<b>Date: 01/06/2022</b>

*Reason for WLPP referral:*

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

## APPENDIX A – CONDITIONS OF CONSENT

### A. APPROVED DEVELOPMENT

#### 1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plans prepared by CSA Architects including the following:

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
MEN-01 Rev. A	SITE PLAN	20/12/2021	06/01/2022
MEN-02 Rev. A	PLANS & ELEVATIONS	20/12/2021	06/01/2022

(b) The Site Waste and Recycling Management Plan (SWRMP) Part 1.

Except where amended by the following conditions of consent.

## **B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

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

### **GENERAL REQUIREMENTS**

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

### **CONTRIBUTIONS, FEES & BONDS**

#### **3. SECURITY DEPOSIT**

A deposit (cash or cheque) or guarantee for the amount of \$1,680 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

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

### **CONSTRUCTION & SITE MATTERS**

#### **4. ENGINEERING DETAILS**

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

#### **5. ENGINEERING CERTIFICATE OF ADEQUACY**

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

## WASTE

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

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

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

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

### **PRIOR TO ANY WORKS**

#### **7. CONSTRUCTION SIGNS**

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

### **DEMOLITION & EXCAVATION**

#### **8. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS**

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

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

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

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

## **9. CONTROL OF DUST ON CONSTRUCTION SITES**

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

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

### CONSTRUCTION MATTERS

## **10. CONSTRUCTION HOURS**

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

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

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

## **11. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

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

## **12. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the *Building Legislation Amendment (Quality of Construction) Act 2002*, clause 162A of

the *Environmental Planning and Assessment Regulation 2000* and the requirements of any other applicable legislation or instruments.

**13. WORK OUTSIDE PROPERTY BOUNDARY**

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

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

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

### **CERTIFICATES, LICENCES, EASEMENTS AND RESTRICTIONS**

#### **14. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

## ADVISORY MATTERS

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

### **AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT**

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

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







Section 8.2 Review



Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-327/2021/1
<b>Site address</b>	21 Castlefield Street, Bondi
<b>Description of Development</b>	Construction of a hardstand in the front setback
<b>Date of Original Determination</b>	10 January 2022
<b>Date of lodgement</b>	17 February 2022
<b>Owner</b>	Mr M J Hoggett
<b>Applicant</b>	Mr M J Hoggett
<b>Submissions</b>	Nil
<b>Cost of works</b>	\$16,530
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>• Car parking design</li> <li>• Streetscape</li> </ul>
<b>Recommendation</b>	That the application be REFUSED.

**SITE MAP**



## 1. PREAMBLE

### 1.1. Executive Summary

The section 8.2 review application seeks to review the determination of DA-327/2021 for the construction of a hardstand car space, new driveway and partial demolition of the existing front fence at the site known as 21 Castlefield Street, Bondi. The review application has amended the original development application including a revised survey plan indicating that part of the width of the hardstand adjacent to the dwelling measures 2.3m and a sliding gate along the front boundary.

The assessment finds the issues of refusal have not been adequately addressed in this review application as the hardstand area still does not provide sufficient width to accommodate a vehicle within front setback.

No submissions were received as a result of the notification process. No Councillor submissions have been received.

The application has been assessed against the relevant matters for consideration under sections 8.2 and 8.3 the *Environmental Planning and Assessment Act 1979*. It is recommended to reiterate the previous decision, being to refuse the application.

### 1.2. Site and Surrounding Locality

A site visit was carried out on 25 March 2022.

The site is identified as Lot 2 in DP 611949, known as 21 Castlefield Street, Bondi. The site is rectangular in shape with a western front boundary measuring 7.62m, an eastern rear boundary measuring 6.46m, and a northern and southern side boundaries measuring 42.96m and 46.66m, respectively. The site has an area of 330.1m<sup>2</sup> and falls from the west towards the east by approximately 2.12m.

The site is occupied by a part two-storey semi-detached dwelling with no vehicular access.

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

The site is not listed as a heritage item, however is located within the Imperial Avenue Heritage Conservation Area under the Waverley Local Environmental Plan (LEP) 2012.

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



**Figure 1:** Site and surrounding developments looking east on Castlefield Street



**Figure 2:** Existing front fence, footpath and street parking in front of site, looking south on Castlefield Street

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

The original development application, known as DA-327/2021 for the construction of a hardstand car parking space and driveway to the front of the dwelling, was refused on 10 January 2022 under delegated authority or by the Development and Building Unit.

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

- The hardstand space does not satisfy the provisions for car parking location and design as it is not located behind the building line, does not complement the existing dwelling and is not suitable for the site.
- The proposed hardstand dimensions do not sufficiently accommodate a standard car space and will likely result in the car not being parked wholly within the subject site.
- The parking space will dominate the appearance of the dwelling and will detract from the heritage streetscape.

### 1.4. Proposal

The review application was lodged on 17 February 2022 and seeks to review the determination of the original development application.

The original application sought development consent for construction of a new hardstand car space at the front of the site including part demolition of the front fence and a new vehicle crossing. The proposed hardstand car space measured 5.55m x 2.18m to avoid demolition of the front of the existing dwelling.

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

- Revised survey identifies width of proposed hardstand area adjacent to the dwelling along the southern side boundary measures 2.3m (originally measured at 2.18m).

## 2. ASSESSMENT

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

### 2.1. Section 8.3 Considerations

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

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

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

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

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

The determination of the original application (DA-327/2021) was made on 10 January 2022. The period of right of appeal for the applicant to exercise (referenced in section 8.3(2)(a) of the Act), is 12 months after the date of determination. The application is to be determined under delegated authority before 10 January 2023, which satisfies the statutory timeframe to determine this review application.

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

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

### 2.2. Planning Instruments and Development Control Plans

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

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

The following SEPPs apply from the 1<sup>st</sup> March 2022 and have been considered acceptable in the assessment of this development application:

- SEPP (Resilience and Hazards) 2021

### 2.2.2. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

The Draft Waverley Local Environmental Plan 2022 was exhibited from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

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

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

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

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal satisfies the aims of the plan.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table <ul style="list-style-type: none"> <li>R3 Medium Density Residential Zone</li> </ul>	Yes	The proposal is defined as alterations and additions to a dwelling, which is permitted with consent in the R3 zone.
<b>Part 5 Miscellaneous provisions</b>		
5.10 Heritage conservation	Yes	The site is located in and is contributory to the Imperial Avenue Conservation Area in Schedule 5 of the Waverley LEP 2012. The scope of amendments sought within this application does not change the originally proposed external alterations to the existing front fence or to the front of the dwelling. At the time of preparing this report, comments have not been received from Council's Heritage Advisor. It is noted that Council's Heritage Advisor raised no objection to the original proposal.

### 2.2.4. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

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

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

Development Control	Compliance	Comment
1. Waste	Yes	Satisfactory.
6. Stormwater	Yes	Satisfactory. Refer to section 3 of this report on referral commentary in relation to stormwater.

Development Control	Compliance	Comment
<p>8. Transport</p> <p>Minimum parking rate:</p> <ul style="list-style-type: none"> <li>• Nil</li> </ul> <p>Maximum parking rate:</p> <ul style="list-style-type: none"> <li>• 2 spaces for 3 or more bedrooms.</li> </ul>	No	<p>The proposal provides for 1 hardstand car space within the front setback. Whilst the provision of 1 car space complies with the maximum parking rate under the DCP, the proposed design and location of the hardstand area is or unsatisfactory for the following reasons:</p> <ul style="list-style-type: none"> <li>• The proposed hardstand area has insufficient dimensions to accommodate a standard vehicle and is likely to result in a car not being parked wholly within the subject property.</li> <li>• The proposed hard stand is located within the front setback and will partially obscure the existing dwelling.</li> <li>• The proposed hardstand area will require the removal of existing landscaping along the southern side boundary within the front setback which detracts from the streetscape character.</li> </ul>
9. Heritage	No	The proposed hardstand area does not satisfy objective (e) of the DCP as it has not been demonstrated that the removal of the existing front fence and landscaping, and parking within the front setback enhances or contributes to the character of the streetscape or conservation area.

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

Development Control	Compliance	Comment
<b>2.0 General Objectives</b>		
<ul style="list-style-type: none"> <li>• Appropriate in bulk, scale and character to existing low scale development</li> <li>• Does not detract from the amenity of adjoining properties and public view corridors</li> <li>• Ecologically sustainable development</li> <li>• High design quality</li> </ul>	No	<p>The proposal contravenes the general objectives of this part of the DCP.</p> <p>The location of the driveway and car space will detract from the amenity of the streetscape and does not comply with the minimum dimension requirements for car parking spaces on site.</p>
<b>2.3 Streetscape and visual impact</b>		
<ul style="list-style-type: none"> <li>• New development to be compatible with streetscape context</li> <li>• Significant landscaping to be maintained.</li> </ul>	No	The proposed hardstand area within the front setback is not consistent with the existing streetscape. Whilst surrounding properties comprise vehicular access from Castlefield Street, on site parking is provided predominantly within a garage or carport that aligns with the front building line of dwellings.

Development Control	Compliance	Comment
		The proposed hardstand area is likely to result in the removal of existing landscaping along the southern side boundary, particularly as the proposed dimensions of the hardstand area do not provide adequate clearance for a standard vehicle.
<b>2.4 Fences</b>		
<i>Front:</i> <ul style="list-style-type: none"> <li>• Maximum height of 1.2m</li> <li>• Solid section no more than 0.6m high</li> </ul>	Yes	The existing front fence ranges in height from 1.2m at the southern corner to 1.7m at the northern corner comprising a masonry base and timber slats above, and a solid timber pedestrian gate. The proposal seeks to remove part of the front fence to provide a sliding gate to access the hardstand area. The proposed gate will not exceed the height of the existing front fence.
<b>2.8 Car parking</b>		
2.8.1 Design Approach <ul style="list-style-type: none"> <li>• Parking only allowed where site conditions permit</li> <li>• Designed to complement the building and streetscape</li> <li>• Car parking structures to be behind the front building line</li> <li>• Driveways are to be located to minimise the loss of on street parking</li> </ul>	No  No  No  Yes	The design and location of the proposed hardstand area is unsatisfactory and is not suitable for the site as discussed above. The hardstand area in front of the dwelling does not complement the dwelling.   The proposed driveway does not result in a loss of more than 1 on street car space.
2.8.2 Parking rates	Yes	Parking rates are set by Part B8 of Waverley DCP 2012.
2.8.3 Location <ul style="list-style-type: none"> <li>• Behind front building line for new dwellings</li> <li>• Existing development to be in accordance with the hierarchy of preferred car parking locations</li> </ul>	No  No	The hardstand area is located in front of the dwelling and is not consistent with the hierarchy for the location of car parking spaces. The predominant location of car parking spaces in garages or carports do not extend beyond the front building line of surrounding dwellings. Where hardstand areas within the front setback dwellings exist, the dimensions of the hardstand area compliant with minimum requirements. The proposed hardstand area does not provide adequate dimensions to accommodate a standard car space within the front setback and is not acceptable.
2.8.4 Design <ul style="list-style-type: none"> <li>• Complement the style, massing and detail of the dwelling</li> </ul>	No	The proposed hardstand area within the front setback and partially obstructing the front façade of the dwelling does not complement the existing style of the dwelling. If compliance with the minimum car parking dimensions is to be

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Secondary in area and appearance to the design of the residences</li> <li>No part of the façade is to be demolished to accommodate car parking</li> <li>Gates to have an open design</li> </ul>		<p>achieved, the hardstand area would require partial demolition of the front façade of the dwelling which is contrary to the provisions of the DCP and would not be supported. As such, the site is not considered suitable for a hardstand area within the front setback.</p>
<p>2.8.5 Dimensions</p> <ul style="list-style-type: none"> <li>5.4m x 2.4m per vehicle</li> </ul>	No	<p>The proposed hardstand area has a length of 5.4m and width measuring 2.4m for a length of 3m and 2.3m for the remainder of the length of the hardstand area adjacent to the external walls of the dwelling. The proposed dimensions do not comply with the required width for a car parking space under AS2890.1 and will not adequately accommodate a standard vehicle within the property.</p> <p>The applicant has argued that the proposed hardstand area can adequately accommodate a car, subject to a vehicle being reversed into the property and passengers alighting from the vehicle before being parked. The applicant has failed to demonstrate how a standard vehicle driving in a forward direction is able to comply with the parking requirements.</p> <p>The justification is not supported as on going use of a non-compliant hardstand area for a private dwelling cannot be reasonably enforced. The non-compliant dimensions is likely to result in a vehicle not parked wholly within the property boundary which will have impacts on the amenity of the public domain and is not acceptable.</p>
<p>2.8.6 Driveways</p> <ul style="list-style-type: none"> <li>Maximum of one per property</li> <li>Maximum width of 3m at the gutter (excluding splay)</li> <li>Crossings not permitted where 2 on street spaces are lost</li> </ul>	Yes	<p>The proposed vehicle crossing has a width of 2.6m at the property boundary and street gutter. The proposal will not result in loss of 2 or more on street parking spaces.</p>
<b>2.9 Landscaping and open space</b>		
<ul style="list-style-type: none"> <li>Overall open space: 40% of site area</li> <li>Overall landscaped area: 15% of site area</li> </ul>	Yes	<p>No changes are proposed to the overall open space or private open space on site.</p>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>• Minimum area of 25m<sup>2</sup> for private open space</li> <li>• Front open space: 50% of front building setback area</li> <li>• Front landscaped area: 50% of front open space provided</li> </ul>		<p>100% of the front setback is dedicated to open space.</p> <p>No changes proposed to existing private open space at the rear of the site.</p> <p>55% of the open space will be landscaped.</p>

### 2.3. Other Impacts of the Development

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

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

The site is not considered suitable for the proposal.

### 2.5. Any Submissions

The application was notified for 21 days between 18 February and 10 March 2022 in accordance with the *Waverley Community Development Participation and Consultation Plan*.

No submissions were received.

### 2.6. Public Interest

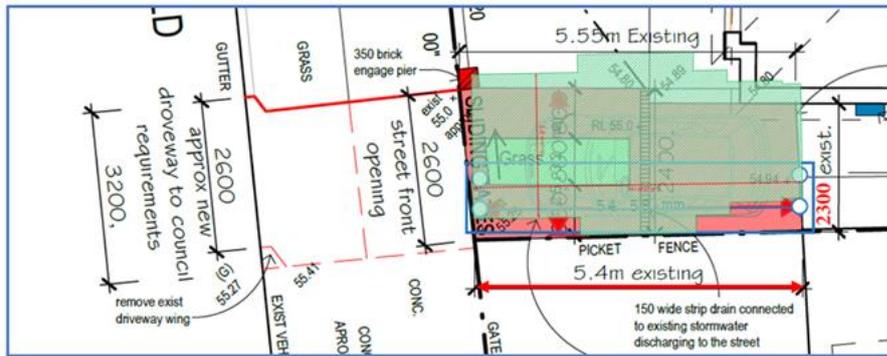
The proposal is considered to have a detrimental effect on the public interest, and is recommended for refusal.

## 3. REFERRALS

The following internal referral comments were sought:

### 3.1. Traffic and Development

Council's Traffic Engineer has reviewed the proposal and does not support the proposed hardstand area as the hardstand does not comprise sufficient width to accommodate a car. The required area (including sufficient clearance) for a hardstand area to satisfy Council's car parking requirements should measure 5.4m in length and 2.4m in width, with an additional 0.3m clearance adjacent to a wall, as shown in the Figure 3 below.



**Figure 3:** Minimum requirement for a hardstand car space shown in green

### 3.2. Stormwater

Council's Stormwater Engineer has reviewed the proposal and noted the following:

*If the existing stormwater drainage system drains to the street, then the grated drain may not hydraulically function due to the ground levels.*

However, no objection is raised to the proposal as stormwater drainage can be adequately addressed by recommended conditions should the proposal be supported.

### 3.3. Tree Management

Council's Tree Management Officer has reviewed the proposal and identified that there are no street trees or significant trees within the site affected by the proposal. As such, Council's Tree Management Officer raises no objection to the proposal.

### 3.4. Heritage Advisor

The proposal was referred to Council's Heritage Advisor for consideration however, at the time of preparing this report, no comments have been received and is it therefore assumed that Council's Heritage Advisor raises no objection to the proposal.

## 4. CONCLUSION

The section 8.2 review application seeks to review the determination of DA-327/2021 for the construction of a hardstand car space, new driveway and partial demolition of the existing front fence at the site known as 21 Castlefield Street, Bondi. The review application has amended the original development application including a revised survey plan indicating that part of the width of the hardstand adjacent to the dwelling measures 2.3m and a sliding gate along the front boundary.

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

- The hardstand space does not satisfy the provisions for car parking location and design as it is not located behind the building line, does not complement the existing dwelling and is not suitable for the site.

- The proposed hardstand dimensions do not sufficiently accommodate a standard car space and will likely result in the car not being parked wholly within the subject site.
- The parking space will dominate the appearance of the dwelling and will detract from the heritage streetscape.

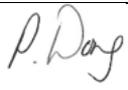
The assessment finds these issues have not been adequately addressed in this review application as the hardstand area still does not provide sufficient width to accommodate a vehicle within front setback.

No submissions were received as a result of the notification process. No Councillor submissions have been received.

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

## 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

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

<b>Report prepared by:</b>	<b>Application reviewed and agreed on behalf of the Development and Building Unit by:</b>
	
Peggy Wong	Angela Rossi
<b>Senior Development Assessment Planner</b>	<b>Manager, Development Assessment (Central) (Reviewed and agreed on behalf of the Development and Building Unit)</b>
<b>Date: 18 May 2022</b>	<b>Date: 26 May 2022</b>

### *Reason for WLPP referral:*

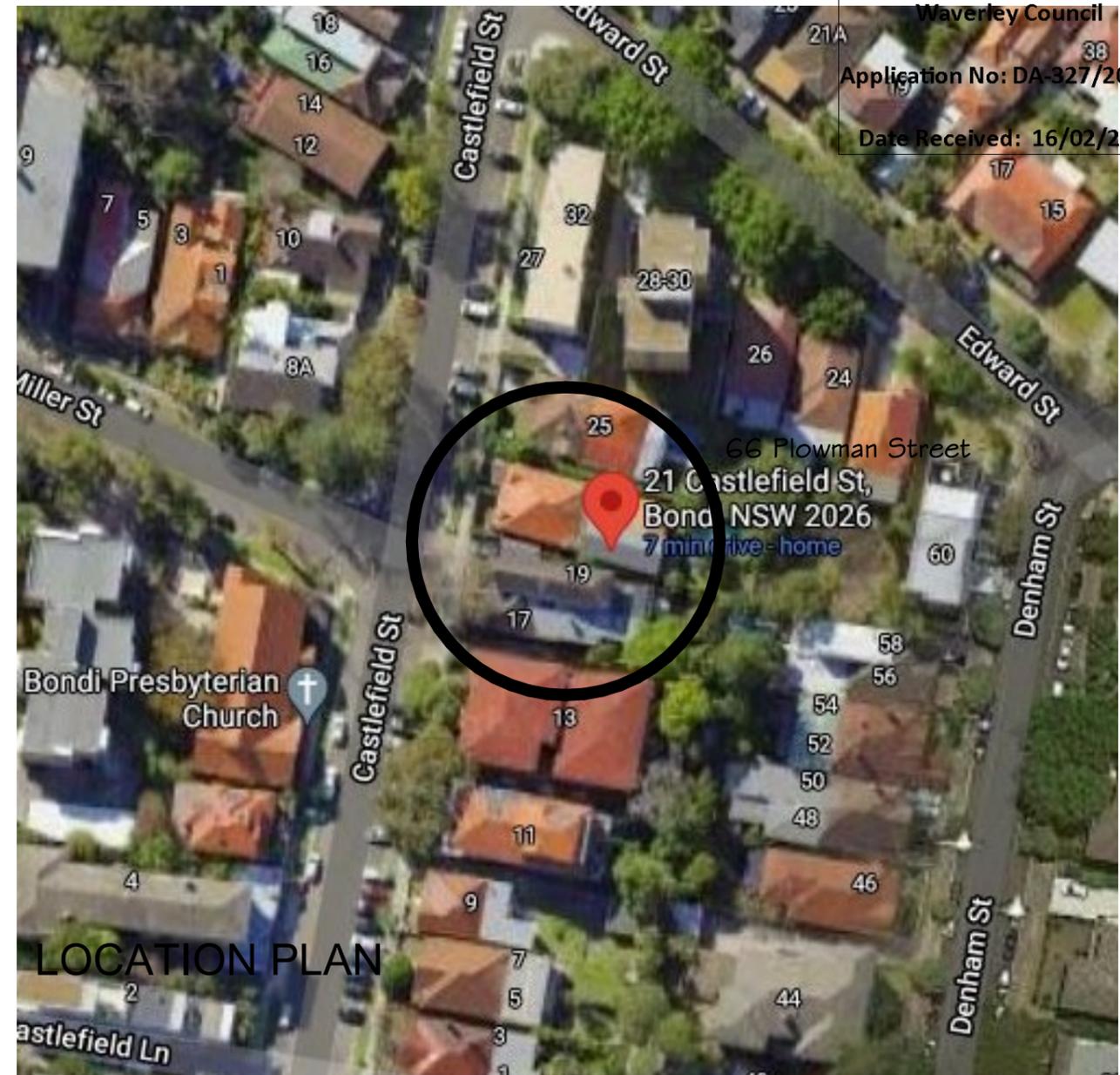
1. Review decision

## APPENDIX A – REASONS FOR REFUSAL

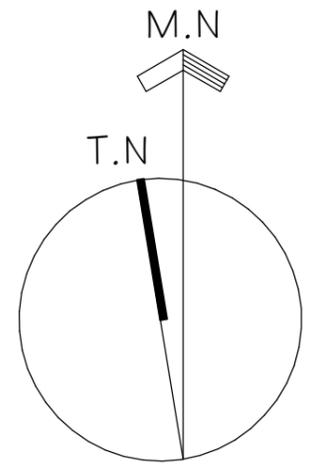
Having regard to section 4.15(1) of the Environmental Planning and Assessment Act 1979 the development application is refused for the following reasons:

1. The proposal does not satisfy the objectives of the Environmental Planning and Assessment Act 1979, as stipulated in section 1.3 (g) as the proposal does not promote good design or amenity in the built environment.
2. The proposal does not satisfy section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as the proposed development is contrary to Waverley Development Control Plan 2012, in respect to the following provisions:
  - a. Part B8 – Transport
    - i. Part B8 Transport, specifically objectives (d), (j) and (k) as the application does not achieve a high standard of urban design or positively contribute to the amenity of the streetscape.
    - ii. Clause 8.1 Streetscape, specifically objectives (a) and (b) and control (c) as the car parking adversely impacts upon the streetscape.
    - iii. Clause 8.2 On-site Parking, specifically objective (a) and controls (a) and (b) as the proposed hardstand area does not provide for adequate car space dimensions and is inconsistent with relevant Australian Standards.
    - iv. Clause 8.2.1 Vehicle Access, specifically objectives (b), (d) and (f) and controls (c), (d), and (m) as the proposal does not provide for the minimum dimensions required under the Australian Standards and does not adequately accommodate a car space wholly within the property.
  - b. Part C2 – Low Density Residential Development;
    - i. Clause 2.0 General Objectives, specifically objectives (d) and (e) as associated works are inconsistent with Council’s objectives and controls for car parking, streetscape and safety.
    - ii. Clause 2.3 Streetscape and Visual Impact, specifically objectives (b) and controls (a), (d) and (e) as the works erode the character of the streetscape.
    - iii. Clause 2.8 Car Parking, specifically objectives (a)-(e) as the site does not adequately accommodate minimum dimensions for an off-street car parking space for a standard vehicle and the works do not achieve a high standard of urban design outcome for the site or streetscape.
    - iv. Clause 2.8.1 Design Approach, specifically controls (a)-(c) as the site does not achieve the minimum space required for a standard vehicle. The proposed location of the car parking space within the front building line and insufficient area result in the site being unsuitable for on site parking.

- v. Clause 2.8.2 Parking Rates, specifically controls (b)(i) as the car parking space occupying the front setback will detract from the character of the dwelling and streetscape, and insufficient car parking dimensions may result in a vehicle not being wholly contained within the subject site and impacting pedestrian safety and amenity.
  - vi. Clause 2.8.3 Location, specifically controls (d)(iv) and (d)(vi) as the existing distance between the side boundary and the existing dwelling is only 2.3m and there is not a predominance of off-street car parking with non-compliant dimensions in the vicinity of the site within the immediate streetscape of Castlefield Street.
  - vii. Clause 2.8.4 Design, specifically controls (a) and (b) as the car parking space does not achieve the minimum dimensions for a standard vehicle and would not adequately accommodate a vehicle wholly within the property. The parking of a car within the front setback and partially in front of the dwelling is not sympathetic to the style of the dwelling or the streetscape.
  - viii. Clause 2.8.5 Dimensions, specifically controls (a) and (b) as the hardstand car space does not achieve the minimum dimensions and a standard car is likely to overhang the public domain.
3. The proposed development does not satisfy section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, as the proposal will have an adverse environmental impact in the locality as it has an undesirable and unacceptable impact on the streetscape, and would adversely impact upon the amenity of the locality and surrounding built environment.



RECEIVED  
 Waverley Council  
 Application No: DA-327/2021/1  
 Date Received: 16/02/2022



1_Drawing List		
Sheet Number	Sheet Name	Drawn By
DA01	COVER SHEET	SF
DA02	SITE ANALYSIS & STREET PARKING PLAN	SF
DA03	PROPOSED HARDSTAND	SF

**GENERAL NOTES**

- G1 These drawings shall be read in conjunction with all other working drawings and specifications and with such other written instructions as may be issued during the course of the construction. All discrepancies and variations shall be referred by the builder to the Project Manager / Engineer (where appropriate) before proceeding with the work.
- G2 All works including installation of all services shall be in accordance with the requirements of relevant and current S.A.A. Codes, the Building Code of Australia and other relevant local authority requirements.
- G3 All dimensions relevant to setting out and off-site work shall be verified by the builder before ordering materials, commencing construction & fabrication.
- G4 Dimensions, shown in millimeters unless noted otherwise, shall not be obtained by scaling the architectural or structural drawings.
- G5 During construction, the structure shall be maintained in a stable condition and no part shall be overstressed.
- G6 The structural elements shown on these drawings have been designed for superimposed loads as follows: driveway 3 Kpa, live load: Floor 1.5 Kpa.
- G7 Do not brace or store building materials on structural members without the Engineers approval.
- G8 Footings have been designed for a uniform bearing pressure of 100 Kpa. Foundation material shall be approved for this pressure before placing concrete in footings.
- G9 All blockwork workmanship and materials shall be in accordance with AS3700 & the SAA Standards cited in AS3700. Block mortar to be 1:1:6 proportioned by volume cement:lime:sand. Core filling 20MPa (10mm aggregate & 120mm slump).
- G10 All concrete workmanship and materials shall be in accordance with current editions of AS 3600 except as varied by the contract documents.

Project: <b>21 Castlefield St</b>	
<b>BONDI</b>	
For: <b>Matt Hoggett &amp; Claire Morris</b>	
Designed	Peter M. Head BE, FIEAUST,NER,CPENG 100 Queens Park Rd, Queens Park 2022 ph: 93692360; 0408259323; phead@ozemail.com.au
Drawing: <b>COVER SHEET</b>	
Amendments: Feb 2022	Sheet
Scale @ A3: NTS	Date: JUNE 2021 <b>DA01</b>

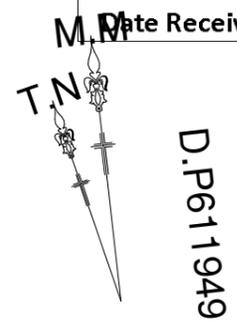


West side Castlefield St, looking north from Miller St.

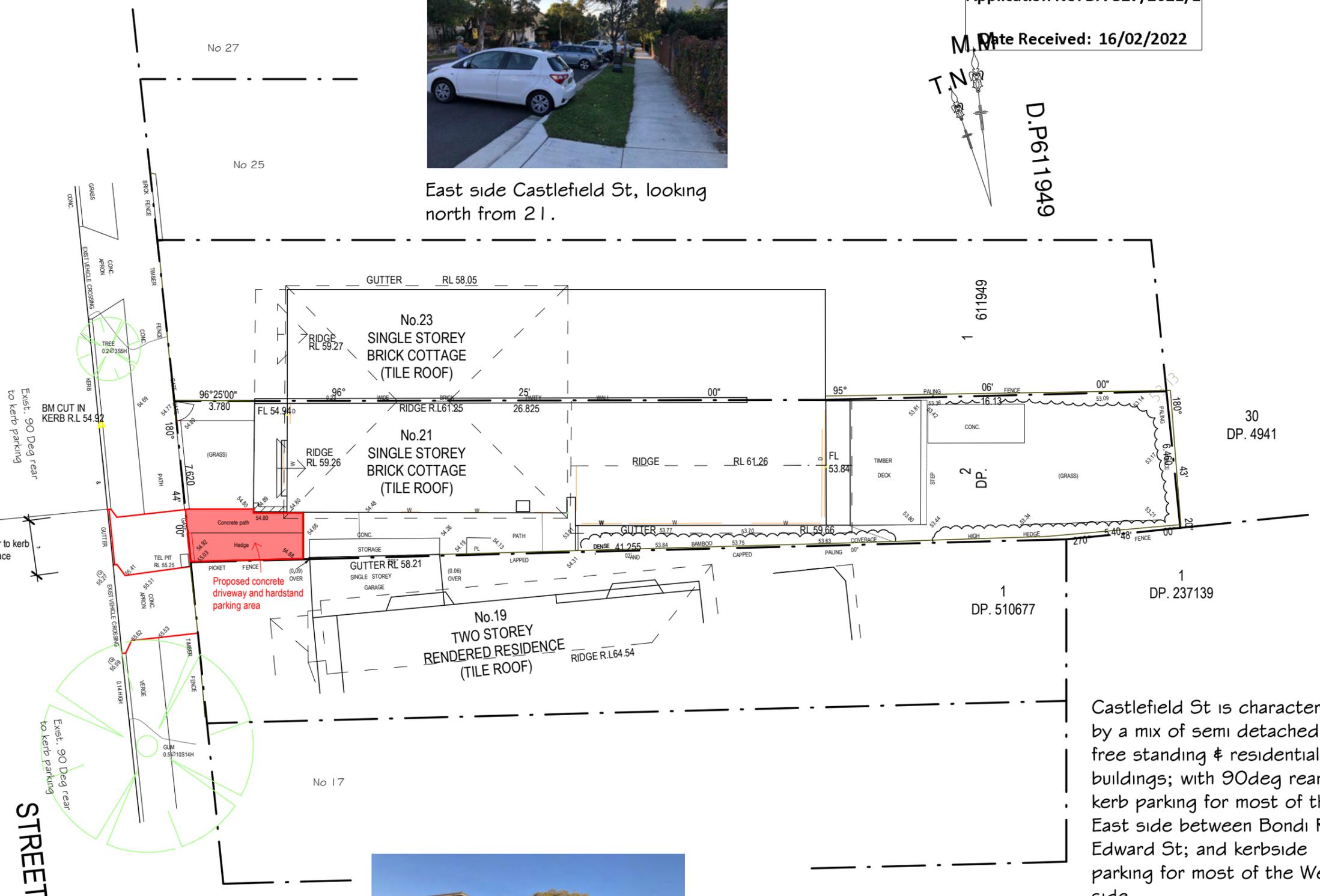


East side Castlefield St, looking north from 21.

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Waverley Council  
Application No: DA-327/2021/1  
Date Received: 16/02/2022



CASTLEFIELD STREET



Castlefield St, south of Miller St.

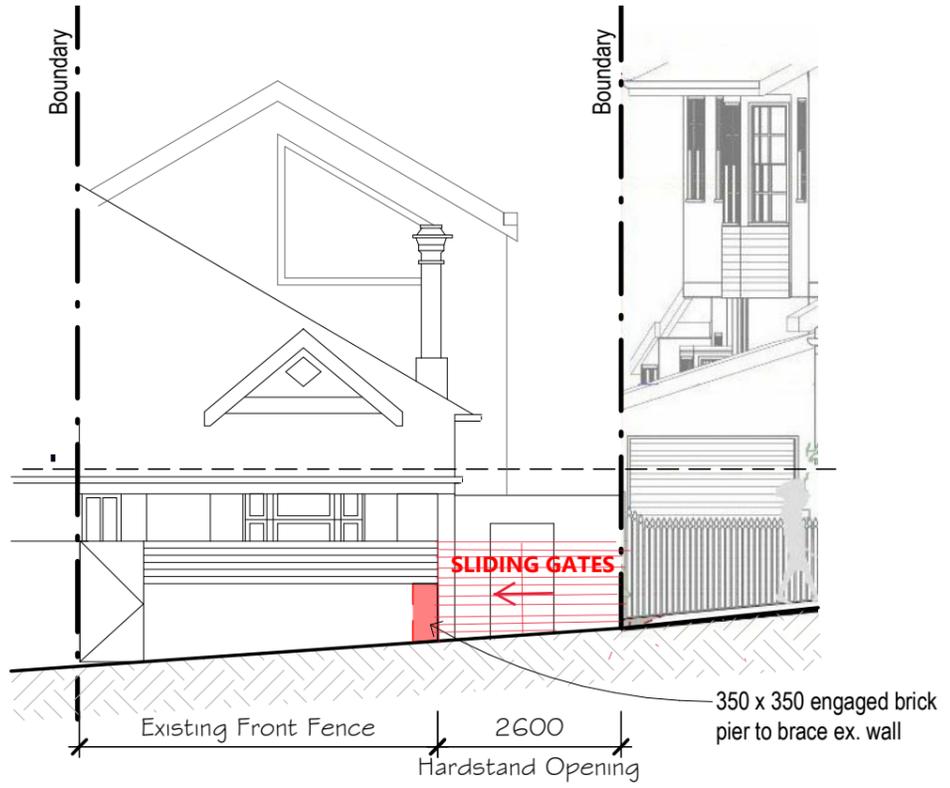


East side Castlefield St, looking south from 21.

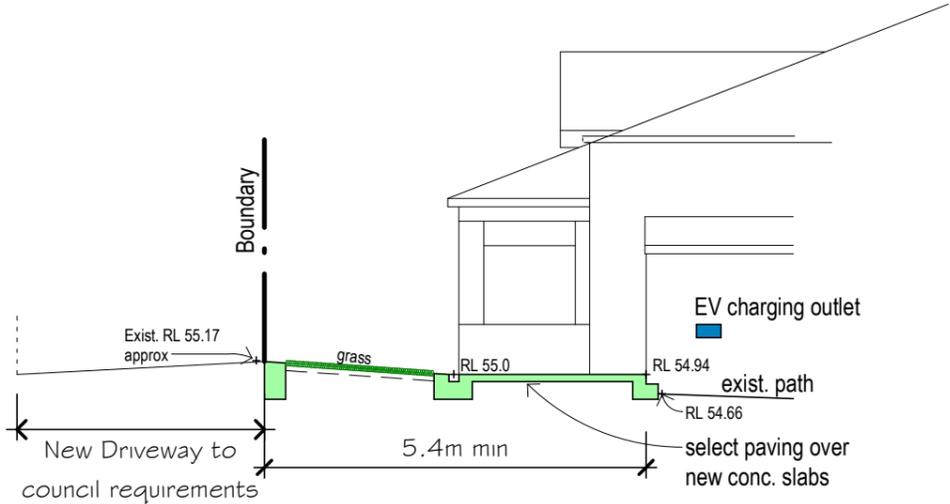
Castlefield St is characterised by a mix of semi detached, free standing & residential flat buildings; with 90deg rear to kerb parking for most of the East side between Bondi Rd & Edward St; and kerbside parking for most of the West side.

Project: <b>21 Castlefield St</b>	
<b>BONDI</b>	
For: <b>Matt Hoggett &amp; Claire Morris</b>	
Designed	Peter M. Head BE, FIEAUST, NER, CPENG 100 Queens Park Rd, Queens Park 2022 ph: 93692360; 0408259323; phead@ozemail.com.au
Drawing: <b>SITE ANALYSIS &amp; STREET PARKING PLAN</b>	
Amendments: Feb 2022	Sheet
Scale @ A3: 1 : 200	Date: JUNE 2021 <b>DA02</b>

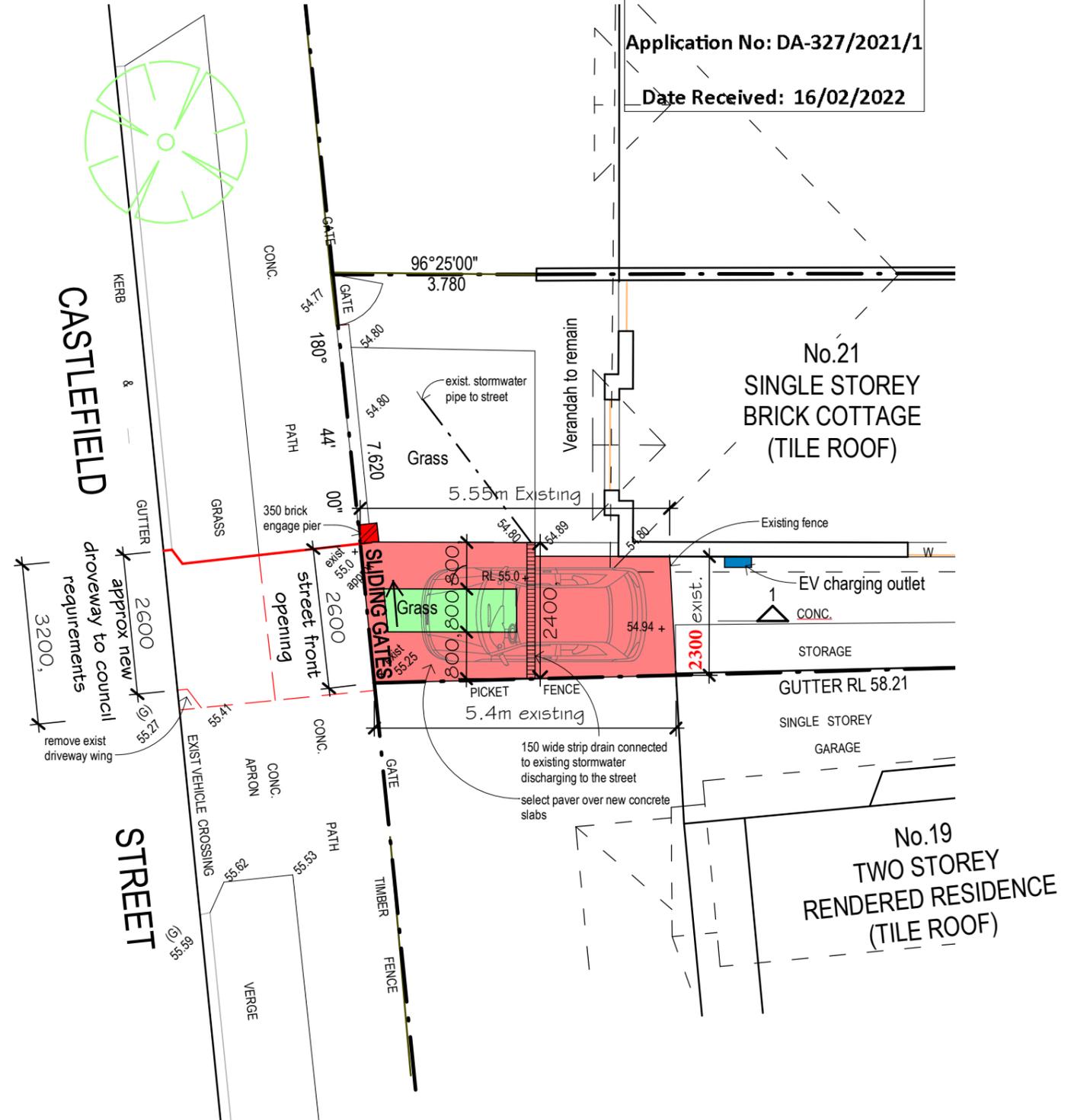
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 Application No: DA-327/2021/1  
 Date Received: 16/02/2022



Front Elevation



Section 1



Plan of Proposed Hardstand Carspace  
 EXISTING AND PROPOSED FRONT OPEN SPACE AREA = 24.8 SQ.M  
 PROPOSED LANDSCAPE AREA = 13.7 SQ. M (55% OF FRONT OPEN SPACE AREA)

Project: <b>21 Castlefield St</b>	
<b>BONDI</b>	
For: <b>Matt Hoggett &amp; Claire Morris</b>	
Designed	Peter M. Head BE, FIEAUST, NER, CPENG 100 Queens Park Rd, Queens Park 2022 ph: 93692360; 0408259323; phead@ozemail.com.au
Drawing: <b>PROPOSED HARDSTAND</b>	
Amendments:	<b>FEB 2022 SLIDING GATES; 2.3M WIDTH</b>
Scale @ A3: 1 : 100	Date: JUNE 2021
Sheet <b>DA03</b>	



Low Density Residential Development



Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-577/2021
<b>Site address</b>	15 Portland Street, Dover Heights
<b>Proposal</b>	Alterations and additions to dwelling including first floor rear extension.
<b>Date of lodgement</b>	24 December 2021 (Amended on 26 May 2022)
<b>Owner</b>	Mr R G Chimes and Mrs J Y Chimes
<b>Applicant</b>	KA Design Studio
<b>Submissions</b>	Two submissions received.
<b>Cost of works</b>	\$1,271,728
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>• Breach to height;</li> <li>• Breach to Floor Space Ratio (FSR); and</li> <li>• Visual privacy.</li> </ul>
<b>Recommendation</b>	That the application be APPROVED in accordance with the conditions contained in the report.

**SITE MAP**



(Source: Nearmap, 2022)

## 1. PREAMBLE

### 1.1. Executive Summary

The Development Application (DA) seeks consent for alterations and additions to dwelling including first floor rear extension at the site known as 15 Portland Street, Dover Heights.

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

- Breach to height;
- Breach to Floor Space Ratio (FSR); and
- Visual privacy.

The assessment finds these issues acceptable as a well-founded clause 4.6 variation has been submitted with the application justifying that the breach to height and FSR development standards is acceptable as it meets the objectives of these standards, objectives of the zone and it does not result in unreasonable overshadowing impacts and visual privacy impacts can be addressed via recommended condition of consent.

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

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

### 1.2. Site And Surrounding Locality

A site visit was carried out on 8 March 2022.

The site is identified as Lot 26 in DP6242, known as 15 Portland Street, Dover Heights.

The site is rectangular in shape with a frontage to Portland Street, measuring 15.245m. It has an area of 772m<sup>2</sup> and falls from the east (front) to the west (rear) by approximately 5m.

The site is occupied by a part-two, part-three storey detached dwelling house with vehicular access from Portland Street to an attached garage.

The site is adjoined by a two storey dwelling house to the north and a part-two, part-three storey dwelling house to the south. The locality is characterised by majority low density residential development.

Figures 1 to 3 are photos of the site and its context.



**Figure 1:** Front of the subject site as viewed from Portland Street, looking west. (Source: Google Maps, 2022)



**Figure 2:** Rear of the existing dwelling as viewed from the private open space, looking east.



**Figure 3:** Private open space, looking west.

### 1.3. Relevant Development History

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

- SC-665/2001 - Subdivision Certificate. No further details can be located.
- DA-362/2004 - DA for alterations and additions including a new balcony, carport and external stairs was approved on 3 August 2004.
- DA-355/2005 - DA to demolish the existing dwelling and construct a new three storey dwelling with a double garage was approved on 12 December 2005.
- DA-355/2005/A - modification to modify condition 2(a), (b) and (c) of the consent was approved on 3 January 2007.

## 1.4. Proposal

The DA, as amended on 26 May 2022, seeks consent for alterations and additions to dwelling including first floor rear extension, specifically the following:

### Lower Ground Floor

- Demolition of support columns and internal and external walls.
- Increase the size of the rear decking.
- Reduction to the size of the existing pool and construction of a new pool deck.
- Additional Gross Floor Area (GFA).
- Alterations to the layout of this floor level, including:
  - Rumpus room;
  - Bar;
  - Laundry;
  - Bathroom;
  - Storage; and
  - Wine Cellar.

### Ground Floor

- Demolition of support columns, rear balcony and internal and external walls.
- Increase the size of the rear balcony.
- Additional GFA to the rear of the dwelling.
- Alter the layout of this floor level, including:
  - Open plan living, kitchen and dining areas;
  - Butlers pantry; and
  - Bedroom, bathroom and garage to be retained.
- New bin enclosure.
- New entry path and alter the existing driveway.
- Awning with associate green roof to the front of the garage.

### First Floor

- Demolition of internal and external walls and Juliet balconies.
- Additional GFA to the rear and either side of the building, including a new study
- Alter layout of the floor, including:
  - Enlarge rear balcony and construction of individual front balconies;
  - Study and additional walk-in-robe;
  - Increase size of the master bedroom and ensuite;
  - Increase the size of bedroom 2 and addition of an ensuite; and
  - Reduced bathroom.

### Roof

- New roof

## 1.5. Background

The DA was lodged on 24 December 2021 and deferred on 23 March 2022 for the following reasons:

1. No additional overshadowing was to occur from the breached development standards (height and FSR);
2. The carport forward of the garage was not supported;
3. The wall height was not to exceed 7.5m;
4. Neighbouring window locations were to be shown on the floor plans;
5. The rear first floor balcony was to be reduced in depth and area to no more than 1.5m or 10m<sup>2</sup>;
6. The kitchenette to the lower ground floor was not supported; and
7. The shadow diagrams showed a structure that was not proposed.

Amended plans were received by Council on 26 April 2022. However, Council did not accept the amended plans due to the shadowing impacts it created and advised that the development should result in no greater shadowing to neighbouring properties private open space and habitable windows than what would reasonably be expected by a building footprint/envelope that generally complied with principal built form controls

The applicant further amended the plans and they were provided to Council on 26 May 2022. The primary amendments to the plans included:

1. Deletion of second kitchen to the lower ground floor;
2. Deletion to a portion of the side walls to the rear ground floor balcony;
3. Reduction to the southern most column feature to the front of the dwelling;
4. Deletion of the proposed carport to be replaced with an awning;
5. Reduction to the bulk and scale of the first floor; and
6. Amendment to the rear first floor balcony and deletion of the northern privacy screen.

The amended plans received by Council on 26 May 2022 form the basis of the assessment of this DA.

## 2. ASSESSMENT

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

### 2.1. Planning Instruments and Development Control Plans

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

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

The following SEPPs apply from the 1<sup>st</sup> March 2022 and have been considered acceptable in the assessment of this development application:

- SEPP (Building Sustainability Index – BASIX) 2004
- SEPP (Transport and Infrastructure) 2021
- SEPP (Resilience and Hazards) 2021

### 2.1.2. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

It is acknowledged that the Draft Waverley Local Environmental Plan 2022 was on exhibition from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

### 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
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal meets the aims of the plan.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table Low Density Residential 'R2' Zone	Yes	The proposal is defined as alterations and additions to a dwelling house, which is permitted with consent in the R2 zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>• 8.5m</li> </ul>	No	The development has an overall height of 9.25m. This exceeds the development standard by 0.75m or 8.8%.
4.4 FSR; and 4.4A Exceptions to FSR <ul style="list-style-type: none"> <li>• Lot Size: 772m<sup>2</sup></li> <li>• Max FSR: 0.5:1</li> <li>• Max GFA: 386m<sup>2</sup></li> </ul>	No	<u>Gross Floor Area (GFA) Calculations:</u>  Lower Ground Floor: 146m <sup>2</sup> Ground Floor: 147m <sup>2</sup> First Floor: 157m <sup>2</sup>  Total GFA: 450m <sup>2</sup> Total FSR: 0.58:1  This exceeds the development standard by 64m <sup>2</sup> or 16.6%
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley

Provision	Compliance	Comment
		LEP 2012 to vary the height and FSR development standards. A detailed discussion of the variation to the development standards are presented below this table.

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

*Clause 4.6 Exceptions to Development Standards - Height*

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

The site is subject to a maximum height development standard of 8.5m. The proposed development has a height of 9.25m, exceeding the standard by 0.75m equating to an 8.8% variation.

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

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

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 proposal meets the objectives of height:

- a. Objective (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 proposal has been carefully designed to protect neighbours’ amenity. The height variation is unlikely to contribute significantly to the building’s perceived scale due to its location primarily within the roof structure, the overall reduction in building height and the continuation of existing and/or compliant setbacks.*

### Privacy and Solar Access

Privacy is maintained despite the variation from the standard. This is because the extent of non-compliance largely comprises the roof structure which contain no windows, and the areas of exceedance are above eyeline.



**Figure 4.** Rear elevation. (Source KA Design Studio, 2022)

### Solar Access

The shadow diagrams submitted separately indicate that despite the height variation, adjoining development will receive DCP-compliant levels of solar access.

### Views

Views towards Sydney Harbour, the Harbour Bridge and the CBD are available from the rear balconies and windows of the site and other development on the western side of Portland Street. Public views of the Harbour Bridge, Sydney Harbour and the CBD are also available from Dudley Page Reserve to the east.

The variation to height will not affect the west-facing views enjoyed by adjoining development. Public views from Dudley Page Reserve will also be maintained as the proposal remains two storeys at street level and has a built form at the front of the site that will be lower than the existing dwelling (see Photograph 1). This represents an improvement compared to the effect of the existing dwelling. The proposal also provides compliant and/or maintains existing front, rear and side setbacks, protecting any views from neighbouring properties, Dudley Page Reserve and the public domain. Hence, the proposal facilitates equitable view sharing.



**Figure 5.** Views to the west towards the Harbour and City from Dudley Page Reserve. (Source: GSA Planning, 2022)

Accordingly, despite the variation, the proposed works will not be readily visible from the public domain compared to the existing situation, maintain neighbours' amenity and appear compatible within the streetscape. The proposal locates all additional areas of deviation from the standard towards the rear of the dwelling, and the dwelling is consistent with the local developments' scale, context and character.

- b. Objective (b) – (c).** Objectives (b) and (c) are not relevant as the subject site is not located within the Bondi Junction Centre.
- c. Objective (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 R2 Low Density Residential zoning envisages two and three storey built forms, and the locality is characterised by a mix of older-style and contemporary two and three storey dwellings. As the proposed works will maintain the existing dwelling's two-storey appearance from the street and provide new contemporary additions to an existing three storey built form at the rear, the height variation will appear compatible within the streetscape.

The variation appears consistent with the locality's desired height, bulk and increasingly contemporary character. This is evident when considering the proposed maximum roof level (RL 74.01 AHD) provides a transition between the maximum roof levels of Nos. 13 and 17 Portland Street (RL 74.15 AHD and RL 75.88 AHD respectively). Furthermore, the new roof form will sit below the existing dwelling's maximum RL. Accordingly, the proposal's size and scale are compatible with the area's desired future character.

There are a number of examples of dwelling houses in the vicinity which have been approved under the current controls with height non-compliances. Examples in the

immediate vicinity are detailed in **Table 2**. These approvals for low density development in the same R2 zone in Dover Heights had a comparable (and in some cases a greater) breach which was supported by Council staff and the Panel on similar arguments such as consistency with the height and zone objectives and no adverse impact. This demonstrates that the proposal provides a height, bulk and scale compatible with both existing and future development in the surrounding area.

**Table 2. Nearby approved height breaches (Source GSA Planning, 2022)**

DA No.	Location	Development Standard	DA Consent	Final Variation
262/2020	10 Lola Road, Dover Heights	8.5m	9.3m	9%
212/2020	62 Military Road, Dover Heights	8.5m	9.3m	10%
132/2019	32 Wentworth Street	8.5m	9.6m	13%
112/2018	75 Hardy Street, Dover Heights	8.5m	10.6m	25%

Therefore, although the proposal will exceed the height control, this is unlikely to have any significant adverse impacts as the design is generally contained within a compliant building envelope.

(ii) The proposal meets the objectives of height:

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

The proposal will continue to provide a dwelling house on the subject site, maintaining its contribution to low density housing stock in the locality. The proposed height will facilitate a well-designed contemporary dwelling house that meets the needs of the future residents. The dwelling is an appropriate response to the site's existing built form and provides a height, bulk and scale that is consistent with the existing and desired future character of the area. The height will protect the amenity of neighbouring dwellings, and privacy, solar access and views will be maintained.

**b. Objective: To maximise public transport patronage and encourage walking and cycling.**

The proposal meets the DCP parking requirements and is located within walking distance of public transport.

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

- (i) The proposed height is consistent with the desired future character of the locality;
- (ii) The extent of variation is reduced when compared to the existing built form;
- (iii) The majority of the variation is located at the rear of the dwelling and will not be readily noticeable from Portland Street;
- (iv) The proposal facilitates low density residential development, consistent with the planning objectives;

- (v) *The proposed scale is comparable to other dwellings in Portland Street and is similar to others in Dover Heights which have been supported with a similar or greater non-compliance;*
- (vi) *The flat roof design minimises visual impact;*
- (vii) *Strict compliance would require a reduction in height of the first floor, creating a non-compliant floor to ceiling height. This would be worse than the existing situation;*
- (viii) *The variation will not create adverse impacts, and will maintain environmental amenity for nearby dwellings and the public domain; and*
- (ix) *The height enables the rationalisation of indoor living spaces.*

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

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

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

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

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

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

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012.

This is sound justification as, despite the numerical height non-compliance, the applicant has justified that the proposal meets the relevant objectives of the height of building development standard and the low-density residential zone.

The applicant has justified that the development does not result in unreasonable visual privacy, view loss or overshadowing. Council concurs with this justification, subject to the recommendation of privacy screens to each side of the rear ground and first floor balconies and two of the southern first floor windows (will be discussed in more detail below).

In addition, the applicant justified that the proposal is of a compatible height, bulk and scale of the desired future character of the area, being a part two, part three storey dwelling.

Lastly, it has been demonstrated that the proposal provides housing needs for the community within a low density residential environment, meeting the objective of the zone.

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

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. The applicant has justified that the proposed development is compatible with the desired future character of the area, with majority of the variation located to the rear of the dwelling.

Is the development in the public interest?

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

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

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

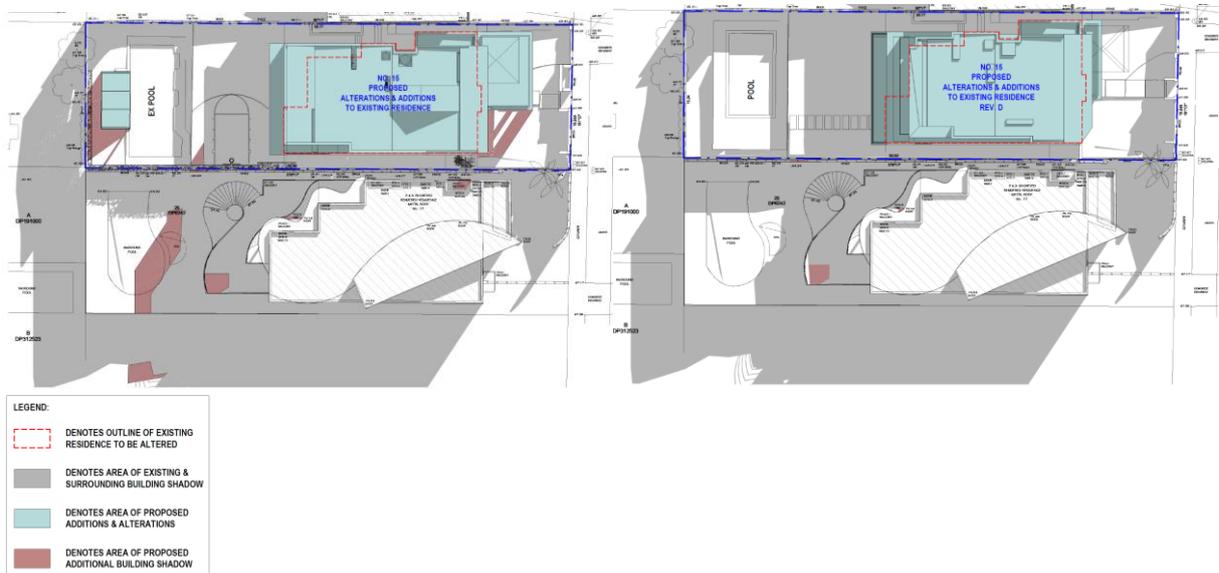
The proposed development is of a height that preserves the environmental amenity of the neighbouring properties.

Firstly, the development does not create unreasonable view loss from neighbouring properties or Dudley Page Reserve.

Secondly, the proposal does not result in unreasonable visual privacy impacts subject to the recommended conditions of consent for privacy screens to each side of the rear ground and first floor balconies and two of the southern first floor windows (will be discussed in more detail below).

Lastly, the bulk and scale of the development have been significantly reduced compared to the original form of the proposal to minimise the 9am shadowing of the private open space of 17-19 Portland Street to an acceptable level. It is noted that only a small portion or corner of the rear deck is shadowed from

the proposed development, however as this is not the principal private open space it is accepted. The proposal also retains current levels of sunlight to all north-facing windows of the neighbouring southern dwelling house at 17 Portland Street during mid-winter.



**Figure 6.** Reduction in shadow impacts from the original development (left) to the finalised proposal (right). (Source: Cad Draft P/L, 2022)

**Objective (b) – (c).** Objectives (b) and (c) are not relevant as the subject site is not located within the Bondi Junction Centre.

**Objective (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 proposed works are of a bulk and scale that are not out of proportion in the area. Dover Heights is known for its larger dwellings, many of which are part-two, part-three storey due to the sloping nature of the area.

The relevant objectives of the low density residential zone are as follows:

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

The development provides housing needs for the community within a low density residential environment.

Conclusion

For the reasons provided above the requested variation to the height is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the

Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height and the low density residential zone.

*Clause 4.6 Exceptions to Development Standards - FSR*

The application seeks to vary the floor space ratio (FSR) development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a minimum FSR development standard of 0.5:1. The proposed development has a FSR of 0.58:1, exceeding the standard by 64m<sup>2</sup> equating to a 16.6% variation.

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

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

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

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

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

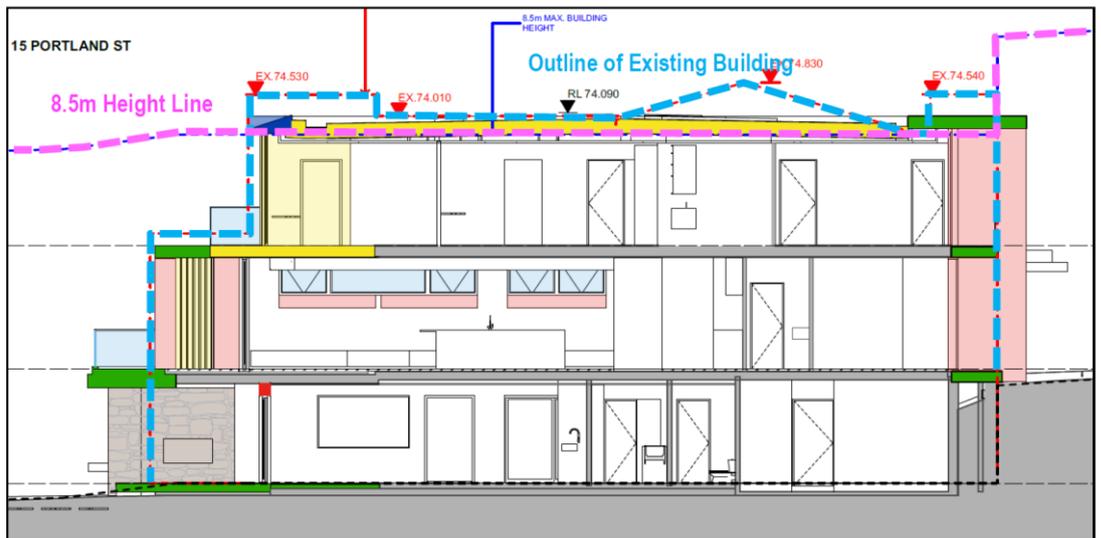
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) The proposal meets the objectives of height:
    - a. **Objective (a):** Objectives (a) is not relevant as the subject site is not located within the Bondi Junction Centre.
    - b. **Objective (b): To provide an appropriate correlation between maximum building heights and density controls.**

*The existing dwelling has a height and FSR that exceeds the development standards. The proposal will retain its two-storey appearance from the street and three-storey appearance from the rear and has been designed with a lower overall building height compared to the existing. Importantly, the proposal will continue to protect the amenity of neighbouring dwellings.*

*The proposal is a skilful design that appropriately responds to the site's constraints and the existing dwelling on the site to provide a bulk and scale that is consistent with development in the locality. As the FSR variation occurs as part of an already perceived*

three-storey built form when viewed from the rear, the proposal will remain consistent with the character of the western side of Portland Street, where developments typically follow the underlying topography.

Given the minor extent of the additional area at the rear of the dwelling and the proposal's compatibility with the bulk and scale of surrounding developments, the correlation between the building height and density is considered appropriate. Accordingly, in our opinion, the proposal is consistent with Objective (b).



**Figure 7.** Section A showing existing and proposed height. (Source KA Design Studio, 2022)

**c. Objective (c): To ensure that buildings are compatible with the bulk and scale of the desired future character of the locality.**

The R2 Low Density Residential zoning envisages two and three storey built forms, and the locality is characterised by a mix of older-style and contemporary two and three storey dwellings. As the proposed additional FSR will maintain the existing dwelling's two-storey appearance from the street and provide new contemporary additions to an existing three storey built form at the rear, the FSR variation will appear compatible within the streetscape.

The variation appears consistent with the locality's desired height, bulk and increasingly contemporary character. Furthermore, the new roof form will sit below the existing dwelling's maximum RL and is similar to the maximum RLs of dwellings on adjoining sites. Accordingly, the proposal's size and scale are compatible with the area's desired future character.

There are a number of examples of dwelling houses in the vicinity which have been approved under the current controls with FSR non-compliances. Examples in the immediate vicinity are detailed in **Table 3** below. These approvals for low density development in the same R2 zone in Dover Heights had a comparable (and in some

cases a greater) breach which was supported by Council staff and the Panel on similar arguments such as consistency with the FSR and zone objectives and no adverse impact.

**Table 3. Nearby approved FSR breaches (Source GSA Planning, 2022)**

DA No.	Location	Development Standard	DA Consent	Final Variation
112/2018	75 Hardy Street, Dover Heights	0.5:1	0.58:1	17%
243/2017	7 Portland Street, Dover Heights	0.5:1	0.60:1	23%
425/2018	105 Military Road, Dover Heights	0.5:1	0.66:1	32%
140/2018	54 Wallangra Road, Dover Heights	0.5:1	0.69:1	39%
56/2019	67 Hardy Street, Dover Heights	0.5:1	0.71:1	42%

Accordingly, the proposal provides a bulk and scale compatible with both existing and future development in the surrounding area.

**d. Objective (d): To establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.**

The proposal has been carefully designed to protect neighbours' amenity. The additional floor space is unlikely to contribute significantly to the building's perceived scale due to its location at the rear of the dwelling, the overall reduction in building height and continuation of existing and/or compliant setbacks.

Privacy

The areas of non-compliance have been designed to maintain privacy for adjoining development, this is achieved by ensuring any new windows that face side boundaries are limited in size and number, maintain compliant setbacks and are offset from neighbours' windows and private open space areas. New windows to the west are oriented towards the rear, with upper level balconies bounded by solid walls to prevent overlooking to adjoining development.

Solar Access

The additional floor area is also unlikely to generate significant shadows, and this is outlined in shadow diagrams submitted separately. In fact, regardless of the FSR variation, the shadow diagrams indicate the development will provide compliant solar access to adjoining development.

Views

Views towards Sydney Harbour, the Harbour Bridge and the CBD are available from the rear balconies and windows of the site and other development on the western side of Portland Street. Public views of the Harbour Bridge, Sydney Harbour and the CBD are also available from Dudley Page Reserve to the east.

The proposed works will not affect the west-facing views enjoyed by adjoining development. Public views from Dudley Page Reserve will also be maintained as the proposal remains two storeys at street level and has a built form at the front of the site that will be lower than the existing dwelling. This represents an improvement

*compared to the effect of the existing dwelling. The area of additional GFA is also primarily located at the rear of the dwelling and will not be visible from the street or the reserve. The proposal also provides compliant and/or maintains existing front, rear and side setbacks, protecting any views from neighbouring properties, Dudley Page Reserve and the public domain. Hence, the proposal facilitates equitable view sharing. Accordingly, despite the variation, the proposal will not be readily visible from the public domain, maintain neighbours' amenity and appear compatible within the streetscape. The proposal locates all additional floor space towards the rear of the dwelling, and the dwelling is consistent with the local developments' scale, context and character.*

(ii) The proposal meets the objectives of the low density residential zone:

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

*The proposal will continue to provide a dwelling house on the subject site, maintaining its contribution to low density housing stock in the locality. The proposed FSR will facilitate a well-designed contemporary dwelling house that meets the needs of the future residents. The dwelling is an appropriate response to the site's existing built form and provides a bulk and scale that are consistent with the existing and desired future character of the area. The additional GFA will protect the amenity of neighbouring dwellings, and privacy, solar access and views will be maintained.*

**b. Objective: To maximise public transport patronage and encourage walking and cycling.**

*The proposal meets the DCP parking requirements and is located within walking distance of public transport.*

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

- (i) The area of non-compliance will be consistent with the height, context and desired future character of the locality, as demonstrated with its compatibility with surrounding development;*
- (ii) The extent of variation is small when compared to the existing built form;*
- (iii) The majority of the variation is located at the rear of the dwelling and will not be readily noticeable from Portland Street;*
- (iv) The proposal facilitates low density residential development, consistent with the planning objectives;*
- (v) The proposed scale is comparable to other dwellings in Portland Street and is similar to others in Dover Heights which have been supported with a similar or greater non-compliance;*
- (vi) The flat roof design over area of variation minimises visual impact;*

- (vii) *Strict compliance would require removal of a substantial portion of the existing dwelling which is unreasonable and would not result in an improved planning outcome;*
- (viii) *The variation will not create adverse impacts, and will maintain environmental amenity for nearby dwellings and the public domain; and*
- (ix) *The additional floor space rationalises the indoor living spaces.*

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

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

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

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

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

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

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012.

This is sound justification as, despite the numerical FSR non-compliance, the applicant has justified that the proposal meets the relevant objectives of the FSR development standard and the low-density residential zone.

The applicant has justified that the development does not result in unreasonable visual privacy, view loss or overshadowing. Council concurs with this justification subject to the recommendation of privacy screens to each side of the rear ground and first floor balconies and two of the southern first floor windows (will be discussed in more detail below).

In addition, the applicant justified that the proposal is of a compatible height, bulk and scale of the desired future character of the area, being a part two, part three storey dwelling.

Lastly, it was demonstrated the proposal provides housing needs for the community within a low density residential environment, meeting the objective of the zone.

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

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. The applicant has justified that the proposed development is compatible with the desired future character of the area, with majority of the variation located to the rear of the dwelling, causing reasonable impacts upon neighbouring properties and the surrounding public domain.

Is the development in the public interest?

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

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

**Objective (a).** Objectives (a) is not relevant as the subject site is not located within the Bondi Junction Centre.

**Objective (b): To provide an appropriate correlation between maximum building heights and density controls.**

The proposed works maintain a similar height and density to the existing dwelling, that being a part-two, part-three storey dwelling.

***Objective (c): To ensure that buildings are compatible with the bulk and scale of the desired future character of the locality.***

The proposed works are of a bulk and scale that are not out of proportion in the area. Dover Heights is known for its larger dwellings, many of which are part-two, part-three storey due to the sloping nature of the area.

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

The proposed development is of a height that preserves the environmental amenity of the neighbouring properties.

Firstly, the development does not create unreasonable view loss from neighbouring properties or Dudley Page Reserve.

Secondly, the proposal does not result in unreasonable visual privacy impacts subject to the recommended conditions of consent for privacy screens to each side of the rear ground and first floor balconies and two of the southern first floor windows (will be discussed in more detail below).

Lastly, the bulk and scale of the development have been significantly reduced compared to the original form of the proposal to minimise the 9am shadowing of the private open space of 17-19 Portland Street to an acceptable level. It is noted that only a small portion or corner of the rear deck is shadowed from the proposed development, however as this is not the principal private open space it is accepted. The proposal also retains current levels of sunlight to all north-facing windows of the neighbouring southern dwelling house at 17 Portland Street during mid-winter (refer to **Figure 6** of this report).

The relevant objectives of the low density residential zone are as follows:

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

The development provides housing needs for the community within a low density residential environment.

### Conclusion

For the reasons provided above the requested variation to the FSR is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of FSR and the low density residential zone.

## 2.1.4. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

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

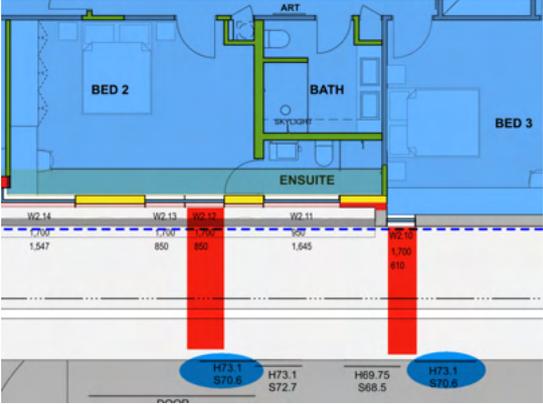
**Table 4: Waverley DCP 2012 – Part B General Provisions Compliance Table**

Development Control	Compliance	Comment
1. Waste	Yes	Garbage bin storage is appropriately screened whilst providing an easy travel path for kerb side collection.
2. Ecologically Sustainable Development	Yes	The submitted BASIX Certificate is satisfactory.
5. Vegetation Preservation	N/A	Tree removal is not proposed.
6. Stormwater	Conditions recommended.	Council's Stormwater Engineer has reviewed the proposal and has recommended conditions of consent.
8. Transport		
8.1 Streetscape	N/A	No change to the current off-street parking arrangements is proposed.
8.2 On-Site Parking	N/A	The subject site is located within parking zone 2.
8.2.1 Vehicle Access	N/A	No change is proposed to the vehicle access.
8.2.2 Parking Rates	N/A	No increase to off-street parking proposed.
12. Design Excellence	Yes	The proposal will enhance the existing modern dwelling, reflecting the streetscape character of the area.

**Table 5: Waverley DCP 2012 – Part C2 Low Density Residential Development Compliance Table**

Development Control	Compliance	Comment
<b>2.0 General Objectives</b>		
	Yes	The proposal does not contravene the general objectives of this part of the DCP.
<b>2.1 Height</b>		
Flat roof dwelling house <ul style="list-style-type: none"> <li>Maximum wall height of 7.5m</li> </ul>	No	The proposed maximum continuous wall height does not exceed 7.5m.
<b>2.2 Setbacks</b>		
2.2.1 Front and rear building lines <ul style="list-style-type: none"> <li>Predominant front building line</li> </ul>		<u>Lower Ground Rear Building Line</u> Does not extend past 17 Portland Street to the south of the site.  <u>Ground Floor Front Building Line</u>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Predominant rear building line at each floor level</li> </ul>		<p>Does not extend past 17 Portland Street.</p> <p><u>Ground Floor Rear Building Line</u> Does not extend past 17 Portland Street.</p> <p><u>First Floor Front Building Line</u> Does not extend past 17 Portland Street.</p> <p><u>First Floor Rear Building Line</u> Does not extend past 17 Portland Street.</p>
<p>2.2.2 Side setbacks</p> <ul style="list-style-type: none"> <li>Minimum of 0.9m (for height up to 8.5m)</li> <li>Minimum 1.5m (for height between 8.5m and 12.5m)</li> </ul>	<p>Yes</p> <p>Yes</p>	<p>The proposed works below 8.5m are set back at least 0.9m from the side boundaries.</p> <p>The proposed works above 8.5m are set back at least 1.5m from side boundaries.</p>
<p><b>2.3 Streetscape and visual impact</b></p>		
<ul style="list-style-type: none"> <li>New development to be compatible with streetscape context</li> </ul>	<p>Yes</p>	<p>The proposal is reflective of contemporary dwellings in Dover Heights.</p>
<p><b>2.4 Fences</b></p>		
<p><i>Front:</i></p> <ul style="list-style-type: none"> <li>Maximum height of 1.2m</li> <li>Solid section no more than 0.6m high</li> </ul>	<p>Acceptable on merit</p>	<p>The proposed fence and gates will match the existing fence height, therefore these structures breaching a compliant height of 1.2m is supported.</p>
<p><b>2.5 Visual and acoustic privacy</b></p>		
<ul style="list-style-type: none"> <li>Habitable windows are not to directly face habitable windows or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Condition recommended.</p>	<p><u>Windows</u></p> <p><i>Northern Elevation</i> Due to the small size of the southern elevational windows of the neighbouring dwelling house at 13 Portland Street to the north of the site, there will be no visual privacy impacts from the proposed windows to the northern elevation of the neighbouring dwelling house at 13 Portland Street.</p> <p><i>Southern Elevation</i> The basement and ground floor windows with a sill height less than 1.8m will not look directly into neighbouring windows at 17 Portland Street.</p> <p>However, the first floor windows (denoted as 'W2.12' and 'W2.10' on the plans) with a sill height of approximately RL 71.95 and head height RL73.55 will look directly into two neighbouring first floor windows of 17 Portland Street. Therefore, a condition is recommended</p>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Maximum size of balconies: 10m<sup>2</sup> in area 1.5m deep</li> </ul>	<p>Acceptable on merit.</p> <p>Acceptable on merit. Condition recommended.</p> <p>Condition recommended.</p> <p>Yes</p>	<p>that these window be fitted with a privacy screen or translucent glazing.</p>  <p><b>Figure 8.</b> Visual privacy windows diagram (annotations made by Assessment Officer) showing two of the proposed windows to the first floor southern elevation will look into neighbouring northern elevational windows of 17 Portland Street.</p> <p><u>Balconies</u></p> <p><i>Lower Ground</i> This rear deck has a depth of 3.5m and an area of 29.1m<sup>2</sup>. This is supported as it is located close to ground level and has solid walls on either side. Therefore, visual privacy impacts are minimal.</p> <p><i>Ground Floor</i> This rear balcony has a depth of 3.4m and an area of 38m<sup>2</sup>. However, this breach is supported given the precedents of large balconies in the locality. A condition is recommended that a 1.8m privacy screen be erected to each side to the portion of the balcony that lacks a privacy screen or full height wall.</p> <p><i>First Floor</i> This rear balcony has a depth of 1.2m and an area of 13m<sup>2</sup>. As this exceeds 10m<sup>2</sup>, a condition is recommended that the balcony not extend past the southern wall of the master bedroom. A breach is not supported here due to the height of the balcony above ground level. In addition, a condition is recommended that each side of the balcony be fixed with a 1.8m privacy screen.</p> <p>The proposed front balconies to the first floor are of an appropriate depth and area.</p>

Development Control	Compliance	Comment
<b>2.6 Solar access</b>		
<ul style="list-style-type: none"> <li>• Minimum of three hours of sunlight to living areas and principal open space areas on 21 June</li> <li>• Minimum of three hours of sunlight maintained to at least 50% of principal open space areas of adjoining properties on 21 June.</li> </ul>	Yes	<p>The proposed development is designed so as to provide for a minimum of 3 hours direct sunlight to at least 50% of the proposed living areas and principal private open space areas, when measured between 9am and 3pm during winter solstice (June 21) of both the subject site and adjoining properties.</p> <p>As discussed in section 2.1.3 of this report, despite the proposal not complying with the height and FSR development standards, the proposal results in overshadowing that would be reasonably expected for a 'notionally-compliant' building as the proposal is set back sufficiently, does not exceed the maximum external wall height control and provides for sufficient open space and landscaped area. Further, the proposal has been amended to ensure that it does not additionally overshadow north facing windows of the neighbouring dwelling house to the south of the site at 21 June. The proposal also does not additionally overshadow the principal private open space area (i.e. the at-grade rear yard comprised of a swimming pool) at 21 June.</p>
<b>2.7 Views</b>		
<ul style="list-style-type: none"> <li>• Views from the public domain are to be maintained</li> <li>• Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks.</li> </ul>	Yes	No objections were received in relation to view loss and no view loss will occur to Dudley Page Reserve. Therefore, the proposal is unlikely to impact on surrounding views.
<b>2.8 Car parking</b>		
<p>2.8.1 Design Approach</p> <ul style="list-style-type: none"> <li>• Parking only allowed where site conditions permit</li> <li>• Designed to complement the building and streetscape</li> <li>• Car parking structures to be behind the front building line</li> </ul>	N/A	The originally proposed carport has been reduced in size to an awning, to assist with providing weather protection for occupants.

Development Control	Compliance	Comment
2.8.2 Parking rates	N/A	Parking rates are set by Part B8 of Waverley DCP 2012.
2.8.6 Driveways <ul style="list-style-type: none"> <li>Maximum of one per property</li> <li>Maximum width of 3m at the gutter (excluding splay)</li> <li>Crossings not permitted where 2 on street spaces are lost</li> </ul>	Yes	The amended driveway is supported.
<b>2.9 Landscaping and open space</b>		
<ul style="list-style-type: none"> <li>Overall open space: 40% of site area</li> <li>Overall landscaped area: 15% of site area</li> <li>Minimum area of 25m<sup>2</sup> for private open space</li> <li>Front open space: 50% of front building setback area</li> <li>Front landscaped area: 50% of front open space provided</li> </ul>	Yes	Over 40%
	Yes	Over 15%
	Yes	Over 25m <sup>2</sup>
	Yes	Over 50%
	Yes	Over 50%
<b>2.10 Swimming pools and spa pools</b>		
<ul style="list-style-type: none"> <li>Located in the rear of property</li> <li>Pool decks on side boundaries must consider visual privacy</li> </ul>	Yes	The existing swimming pool is proposed to be reduced in size.

## 2.2. Other Impacts of the Development

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

## 2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

## 2.4. Any Submissions

The application was notified 14 days (10 – 25 January 2022) in accordance with the *Waverley Community Development Participation and Consultation Plan*.

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

1. Deletion of second kitchen to the lower ground floor;
2. Deletion to a portion of the side walls to the rear ground floor balcony (*condition recommended for a privacy screen*);
3. Reduction to the southern most column feature to the front of the dwelling;
4. Deletion of the proposed carport to be replaced with an awning;
5. Reduction to the bulk and scale of the first floor; and
6. Amendment to the rear first floor balcony and deletion of the northern privacy screen (*condition recommended to reduce the size of the balcony and for the placement of privacy screens to either side*).

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

**Table 6: Number of and where submissions were received from.**

Count	Property Address
1.	16 Gilbert Street, Dover Heights
2.	13 Portland Street, Dover Heights

**Issue: *The proposed pool cabana shall not exceed a height greater than the fence.***

**Response:** This structure was added by error and has now been removed from the plans. No pool cabana is proposed.

**Issue: *Request for a dilapidation report.***

**Response:** A condition is recommended that a dilapidation report be completed prior to the issue of a Construction Certificate.

## 2.5. Public Interest

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

## 3. REFERRALS

The following internal and external referral comments were sought:

### 3.1. Traffic And Development

An internal referral was sought from Council's Traffic Engineer, who recommended conditions of consent.

### 3.2. Stormwater

An internal referral was sought from Council's Stormwater Engineer, who recommended conditions of consent.

### 3.3. Tree Management

An internal referral was sought from Council's Tree Officer, who recommended conditions of consent.

### 3.4. Ausgrid

An external referral was sought from Ausgrid, who did not object to the proposal.

## 4. CONCLUSION

The DA seeks consent for alterations and additions to dwelling, including first floor rear extension, at the site known as 15 Portland Street, Dover Heights.

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

- Breach to height;
- Breach to FSR; and
- Visual privacy.

The assessment finds these issues acceptable as a well-founded clause 4.6 variation has been submitted with the application justifying that the breach to the height and FSR development standards is acceptable as it meets the objectives of these standards, objectives of the zone and it does not result in unreasonable overshadowing impacts and visual privacy impacts can be addressed via recommended condition of consent.

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

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

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

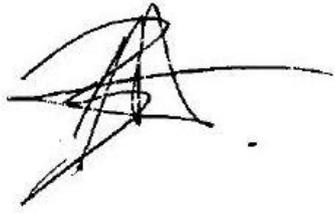
The application was reviewed by the DBU at the meeting on 16/03/2022 and the DBU determined:

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

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

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

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

<b>Report prepared by:</b>	<b>Application reviewed and agreed on behalf of the Development and Building Unit by:</b>
	
Joseph Somerville	Ben Magistrale
<b>Development Assessment Planner</b>	<b>A/Manager, Development Assessment (Area 2) (Reviewed and agreed on behalf of the Development and Building Unit)</b>
<b>Date:</b> 31/05/2022	<b>Date:</b> 8 June 2022

*Reason for WLPP referral:*

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

## APPENDIX A – CONDITIONS OF CONSENT

### A. APPROVED DEVELOPMENT

#### 1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plans prepared by KA Design Studio including the following:

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
DA 2004 / Rev D	Existing Lower Ground Floor Level	23/05/2022	26/05/2022
DA 2005 / Rev D	Existing Ground Floor Level	23/05/2022	26/05/2022
DA 2006 / Rev D	Existing First Ground Floor Level	23/05/2022	26/05/2022
DA 2007 / Rev D	Existing Roof	23/05/2022	26/05/2022
DA 2008 / Rev D	Proposed Lower Ground Floor Level	23/05/2022	26/05/2022
DA 2009 / Rev D	Proposed Ground Floor Level	23/05/2022	26/05/2022
DA 2010 / Rev D	Proposed First Ground Floor Level	23/05/2022	26/05/2022
DA 2011 / Rev D	Proposed Roof	23/05/2022	26/05/2022
DA 2012 / Rev D	Sections	23/05/2022	26/05/2022
DA 2013 / Rev D	Elevations	23/05/2022	26/05/2022

(b) BASIX Certificate

(c) Schedule of external finishes and colours received by Council on 22/12/2021.

(d) The Site Waste Management Plan received by Council on 22/12/2021.

Except where amended by the following conditions of consent.

#### 2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

(a) The width of the rear first floor terrace shall be reduced so as to not extend past the southern internal wall of the Master Bedroom;

(b) Privacy screens are to be fixed on the side elevations of the rear ground and first floor terraces (where there is no existing privacy screen or solid wall proposed) and designed to mitigate overlooking to adjoining properties. The privacy screens are to be of a light weight material (such as timber or obscure glazing) and be a minimum of 1.8m high when measured from the finished floor level of the balconies.

(c) Windows denoted as 'W2.12' and 'W2.10' on the plans and along the southern elevation of the first floor are to be fixed with a privacy screen or translucent glazing to a maximum height of 1.6m above the first floor finished floor level.

(d) The landscape plan is to be amended to be reflective of the approved architectural plans identified in condition 1.(a) of this development consent.

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

### **3. DOMESTIC HEATERS**

The provision of solid fuel heating is prohibited.

## **B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

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

### **GENERAL REQUIREMENTS**

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

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

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

#### **5. 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 applicable requirements of Part 6, before any work commences.

### **CONTRIBUTIONS, FEES & BONDS**

#### **6. SECTION 7.12 CONTRIBUTION**

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

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
  - (i) Where the total development cost is less than \$500,000:  
**"Waverley Council Cost Summary Report"; or,**

- (ii) Where the total development cost is \$500,000 or more:  
**"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".**

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

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

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

## **7. SECURITY DEPOSIT**

A deposit (cash or cheque) or guarantee for the amount of **\$25,434.56** must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

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

## **8. LONG SERVICE LEVY**

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

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

## **9. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES**

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

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

### **CONSTRUCTION & SITE MATTERS**

#### **10. HOARDING**

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

#### **11. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

#### **12. ENGINEERING DETAILS**

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

#### **13. ENGINEERING CERTIFICATE OF ADEQUACY (for additional storeys)**

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

### **TRAFFIC MANAGEMENT**

#### **14. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)**

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate, prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

[https://www.waverley.nsw.gov.au/building/development\\_applications/post\\_determination/development\\_applications\\_-\\_conditions\\_of\\_consent](https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent)

### **STORMWATER & FLOODING**

#### **15. STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT**

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the

development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The submitted stormwater management plan prepared by Gemstrux Consulting Engineers P/L, Project No. G21384, Drawing No. SW01, SW02, SW03, SW04 & SW05, Revision B, dated 07/12/2021, is considered unsatisfactory.

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

- a) The plans shall provide details of any required On-Site Stormwater Detention (OSD) system and its details e.g. pit dimensions, cross & long sections, significant water invert levels of inlet and outlet pipes, details of Discharge Control Pit, orifice plate details including orifice diameter, depth of water above centreline of orifice etc., pit overflow, OSD plaque, OSD warning sign and catchment plan. Council's mandatory OSD checklist as set out in Council's Water Management Technical Manual shall be completed and submitted.
- b) The OSD system is to be designed for the 1% Annual Exceedance Probability (AEP) storm event.
- c) The stormwater management plan must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- d) Pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits and inspection openings and their location shall be provided. Calculations demonstrating that the proposed stormwater drainage system can cater for the relevant design storm event shall be provided.
- e) A grated trench drain shall be provided across the (garage entrance/driveway/street boundary) within private property. Unless otherwise sized by a suitably qualified and practising Engineer, the dimensions of the trench grate shall be no less than 300 mm wide by 100 mm deep at the shallow end and have a "bottom" slope of 2%. This trench drain shall be connected to an approved drainage system.
- f) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

Notes:

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

- Council's contact for infrastructure assessment: E-mail: [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday). The expected duration to review and approve the stormwater management plan may take at least 15 working days from the date of submission.

## **ENERGY EFFICIENCY & SUSTAINABILITY**

### **16. BASIX**

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

## **WASTE**

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

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

### **18. GREEN ROOF LANDSCAPING DETAILS**

The construction certificate landscape plans are to comply with the controls for green roofs in Part B3.1 of the *Waverley Development Control Plan 2012* including;

- (a) Comprise plants that are suitable for the site in relation to the environmental conditions (sun, wind and views) and include indigenous or local native plants to Waverley (see Annexure B2 – 1).
- (b) Have a minimum soil depth of 300mm and use lightweight soil mixes that are porous, able to drain freely, and suitable for the selected plant species;
- (c) The green roof is to be designed to be a non-trafficable area (with no balustrades) and must be irrigated without requiring frequent maintenance access. Any access to the roof is to be for servicing purposes only.

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

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

## **PRIOR TO ANY WORKS**

### **19. CONSTRUCTION SIGNS**

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building

works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

## **20. DILAPIDATION REPORT**

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

The report is to be dated, submitted to, and accepted by the Principal Certifying Authority, prior to any work commencing on the site.

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

## **DEMOLITION & EXCAVATION**

### **21. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS**

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

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

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

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

## **22. CONTROL OF DUST ON CONSTRUCTION SITES**

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

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

## **23. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS**

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

## **24. EXCAVATION AND BACKFILLING**

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

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

### **CONSTRUCTION MATTERS**

## **25. CONSTRUCTION HOURS**

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

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

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

## **26. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

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

## **27. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the *Building Legislation Amendment (Quality of Construction) Act 2002*, clause 162A of the *Environmental Planning and Assessment Regulation 2000* and the requirements of any other applicable legislation or instruments.

## **28. CERTIFICATE OF SURVEY – LEVELS**

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

## **29. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING**

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the location of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

## **30. ALTERATIONS TO SWIMMING POOLS AND OUTDOOR SPAS**

The following applies to alterations to swimming pools and outdoor spas:

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

## **31. WORK OUTSIDE PROPERTY BOUNDARY**

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

## **TREE PROTECTION AND REMOVAL**

### **32. TREE PROTECTION**

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

### **33. STREET TREES TO BE RETAINED/TREE PROTECTION**

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

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) 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 in accordance with AS4970-2009 "Protection of trees on construction sites.

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

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

## **CERTIFICATES, LICENCES, EASEMENTS AND RESTRICTIONS**

### **34. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

### **35. CERTIFICATION OF BASIX COMMITMENTS**

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

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

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

### **37. CREATION OF POSITIVE COVENANT AND RESTRICTION FOR OSD**

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

The wording of the Instrument shall be submitted to and approved by Executive Manager, Infrastructure Services (or delegate) prior to lodgement at NSW Land Registry Services.

Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created via an application to the NSW Land Registry Services using forms 13PC and 13RPA. Accompanying this form is the requirement for a plan to scale showing the relative location of the OSD system, including its relationship to the building footprint. Electronic colour photographs of the OSD system shall accompany the application for the Positive Covenant and Restriction on the Use of Land.

The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate or use of the building. All associated costs shall be borne by the applicant.

### **38. PLANNED PREVENTATIVE MAINTENANCE SCHEDULE FOR PUMP OUT SYSTEM**

The registered proprietor shall be required to submit written intent to establish and maintain a Planned Preventative Maintenance (PPM) schedule of any pump out system prior to the issue of Occupation Certificate. Council will not be liable for any claims for damages arising from the failure of the system. Evidence shall be submitted to the Executive Manager, Infrastructure Services or delegate prior to the issue of the Occupation Certificate.

### **39. CERTIFICATION OF SWIMMING POOL/OUTDOOR SPA**

Prior to the pool being used, the following must be provided;

- (a) Certification that the pool has been constructed in accordance with the consulting engineers design;
- (b) Evidence that the swimming pool/outdoor spa has been registered on the State Government Swimming Pool Register (<http://www.swimmingpoolregister.gov.au>);

- (c) A sign outlining details of resuscitation techniques for adults, children and infants has been placed in a prominent position, close to the pool/outdoor spa. Signs are available from Council;
- (d) A copy of the occupation certificate must be submitted to Council.

Note: Swimming/spa pool pumps are restricted from use between 8pm to 7am weekdays and Saturdays, 8pm to 8am on Sundays and public holidays in accordance with the requirements of the Protection of the Environment Operations (Noise Control) Regulation 2017.

## **E. ADVISORY MATTERS**

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

### **AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT**

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

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

### **AD2. DIAL BEFORE YOU DIG**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual’s responsibility to anticipate

and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

#### **AD3. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on 1800 810 443.

#### **AD4. ALTERATIONS AND ADDITIONS ONLY**

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

#### **AD5. EXCAVATION TO BE LIMITED**

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

#### **AD6. TREE REMOVAL/PRESERVATION**

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



Code	Description	Notes
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1. The site is located within the Waverley Council Local Planning Scheme No. 1 (LPS1). The site is zoned as Residential (Single Dwellings) Zone. The site is currently vacant and is proposed for development as a single dwelling. The development is proposed to be a two-story detached house with a double garage. The site is bounded by residential lots to the north, south, east, and west. The site is located on the corner of [Street Name] and [Street Name]. The site is approximately [Area] in size. The development is proposed to be completed by [Date]. The development is proposed to be a two-story detached house with a double garage. The site is bounded by residential lots to the north, south, east, and west. The site is located on the corner of [Street Name] and [Street Name]. The site is approximately [Area] in size. The development is proposed to be completed by [Date].

2. The development is proposed to be a two-story detached house with a double garage. The site is bounded by residential lots to the north, south, east, and west. The site is located on the corner of [Street Name] and [Street Name]. The site is approximately [Area] in size. The development is proposed to be completed by [Date].

3. The development is proposed to be a two-story detached house with a double garage. The site is bounded by residential lots to the north, south, east, and west. The site is located on the corner of [Street Name] and [Street Name]. The site is approximately [Area] in size. The development is proposed to be completed by [Date].

4. The development is proposed to be a two-story detached house with a double garage. The site is bounded by residential lots to the north, south, east, and west. The site is located on the corner of [Street Name] and [Street Name]. The site is approximately [Area] in size. The development is proposed to be completed by [Date].

5. The development is proposed to be a two-story detached house with a double garage. The site is bounded by residential lots to the north, south, east, and west. The site is located on the corner of [Street Name] and [Street Name]. The site is approximately [Area] in size. The development is proposed to be completed by [Date].

**Waverley Council**

Application No: DA-577/2021

Date Received: 26/05/2022

North arrow pointing upwards.

Code	Description	Notes
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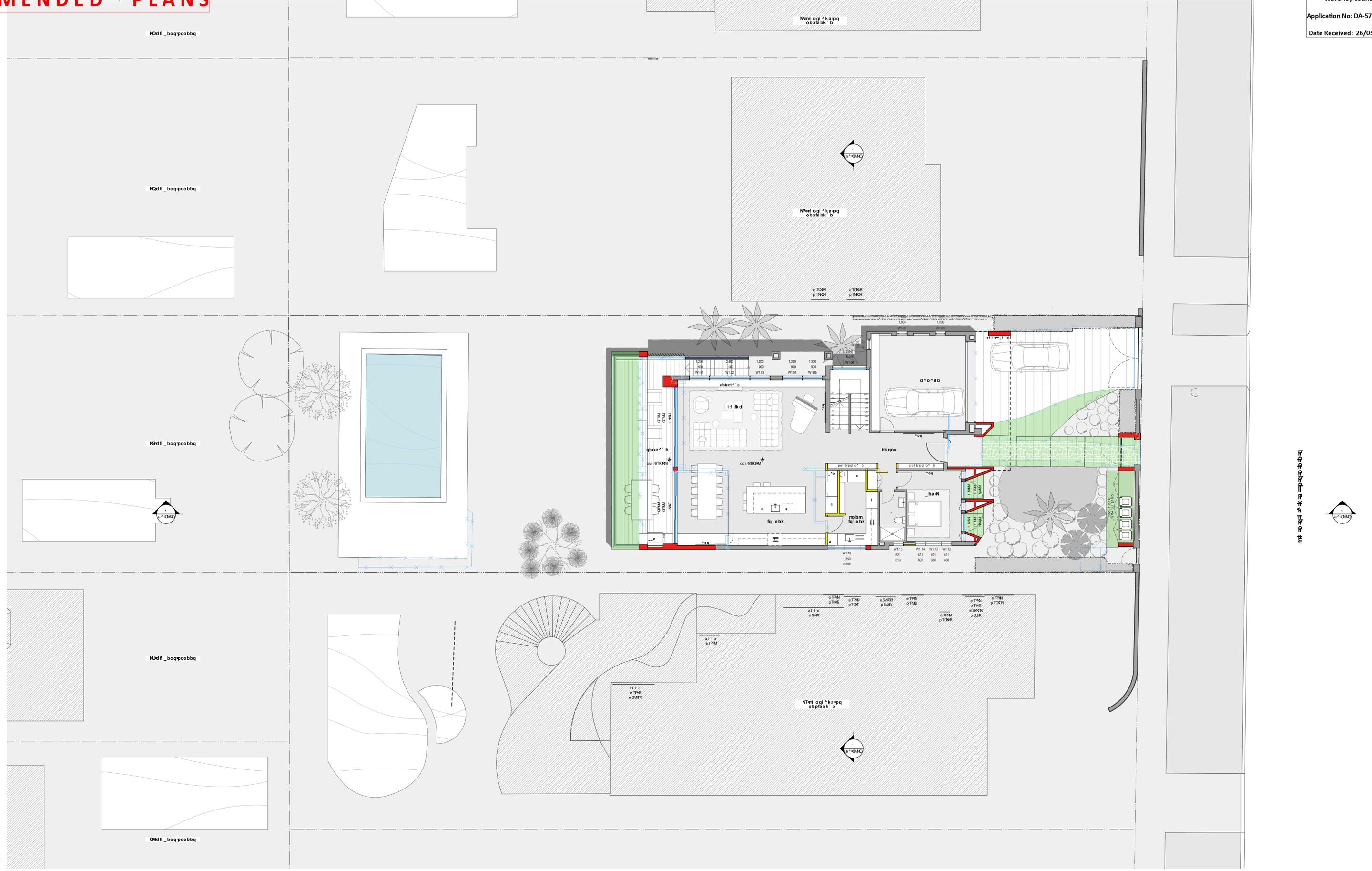












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2-CON	2024-04-01	0.00
3-CON	2024-04-01	0.00
4-CON	2024-04-01	0.00
5-CON	2024-04-01	0.00
6-CON	2024-04-01	0.00
7-CON	2024-04-01	0.00
8-CON	2024-04-01	0.00
9-CON	2024-04-01	0.00
10-CON	2024-04-01	0.00

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1. All work shall be in accordance with the Australian Standards and other relevant codes of practice.

2. The contractor shall be responsible for obtaining all necessary permits and approvals.

3. The contractor shall ensure that all work is completed within the specified time frame.

4. The contractor shall maintain a clean and safe work site at all times.

5. The contractor shall provide regular progress reports to the architect.

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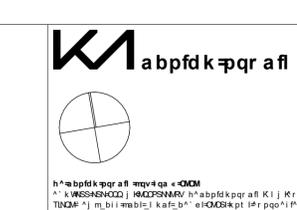
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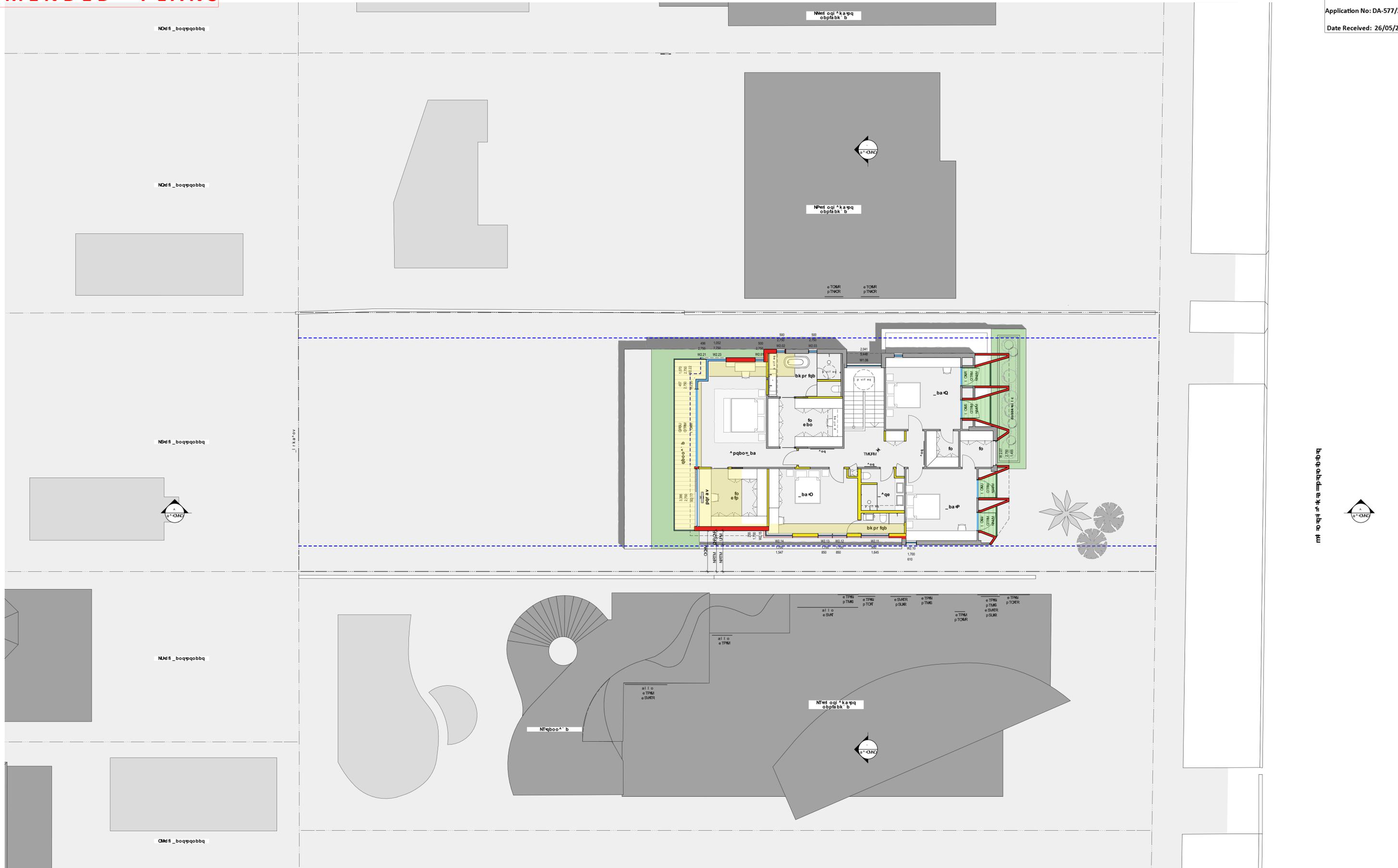
3. The contractor shall provide regular progress reports to the architect.

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CONCRETE	CUT/ELEVATION
FC SHEET + RENDER	ELEVATION
MASONRY + RENDER	CUT/ELEVATION
SANDSTONE	ELEVATION
LIGHTWEIGHT	CUT/ELEVATION
STEEL/ALUMINIUM	CUT/ELEVATION
GLASS	CUT/ELEVATION



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**Legend:**

- CONCRETE
- FC SHEET + RENDER
- MASONRY + RENDER
- SANDSTONE
- LIGHTWEIGHT
- STEEL/ALUMINIUM
- GLASS

**Legend:**

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**Legend:**

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- FC SHEET + RENDER
- MASONRY + RENDER
- SANDSTONE
- LIGHTWEIGHT
- STEEL/ALUMINIUM
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- FC SHEET + RENDER
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- SANDSTONE
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- GLASS

**Legend:**

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**Legend:**

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- FC SHEET + RENDER
- MASONRY + RENDER
- SANDSTONE
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- STEEL/ALUMINIUM
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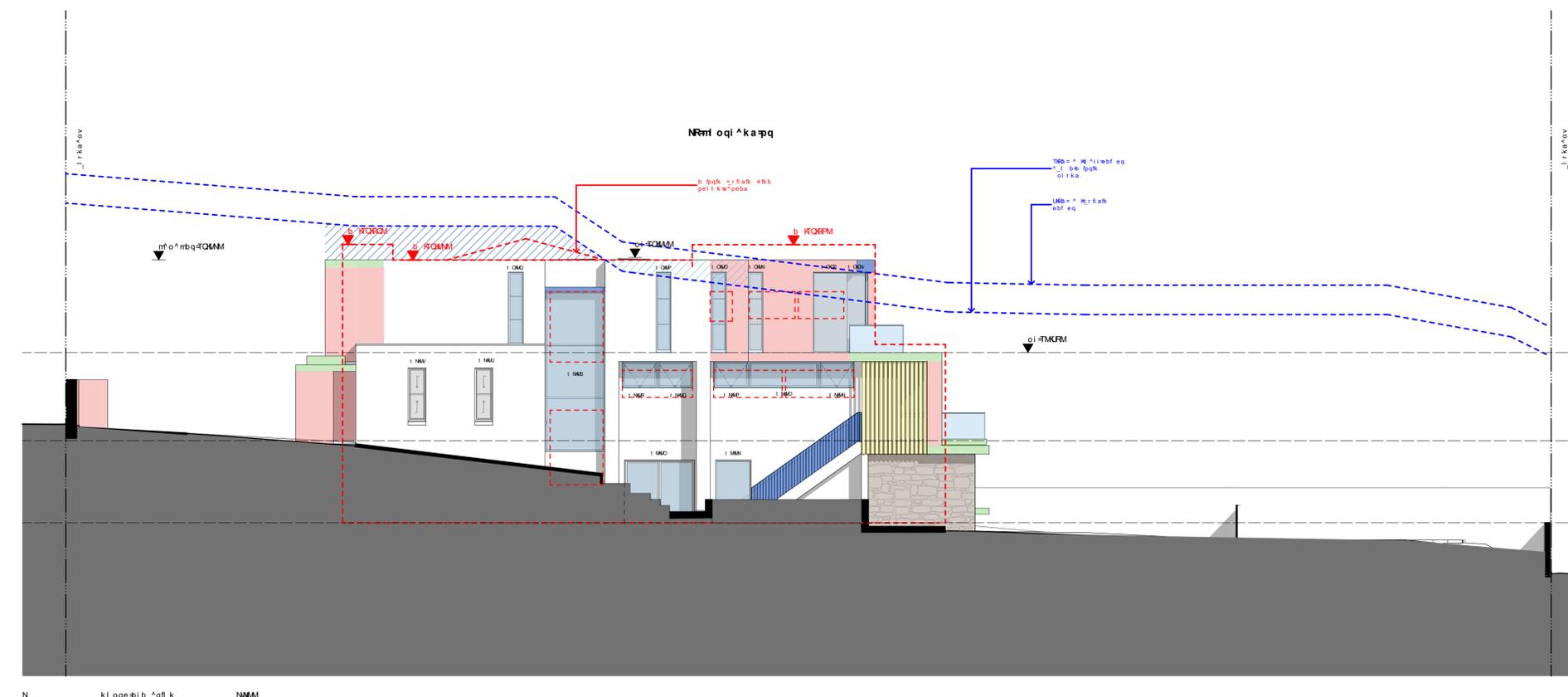
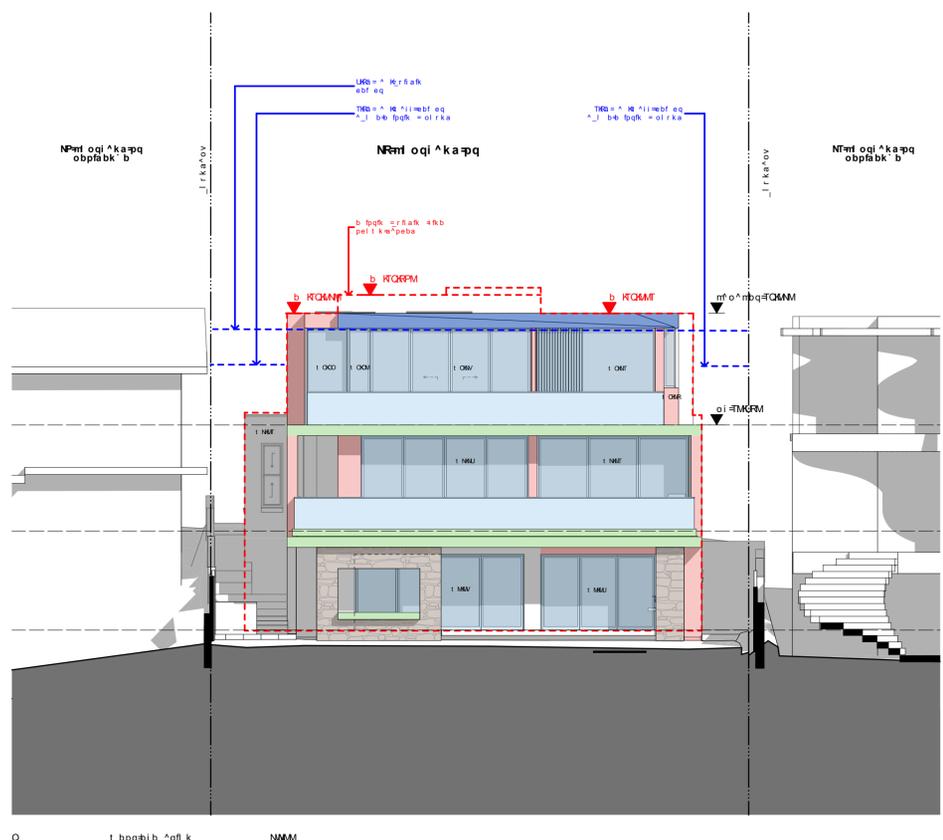
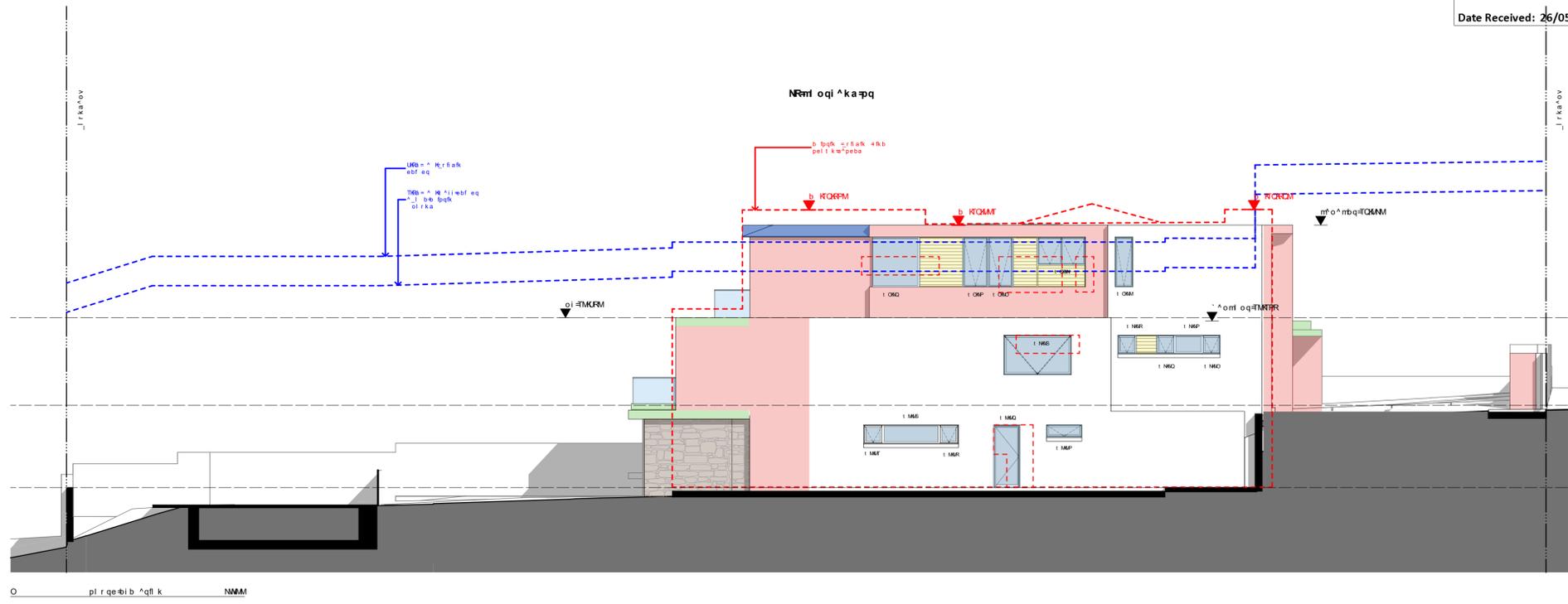
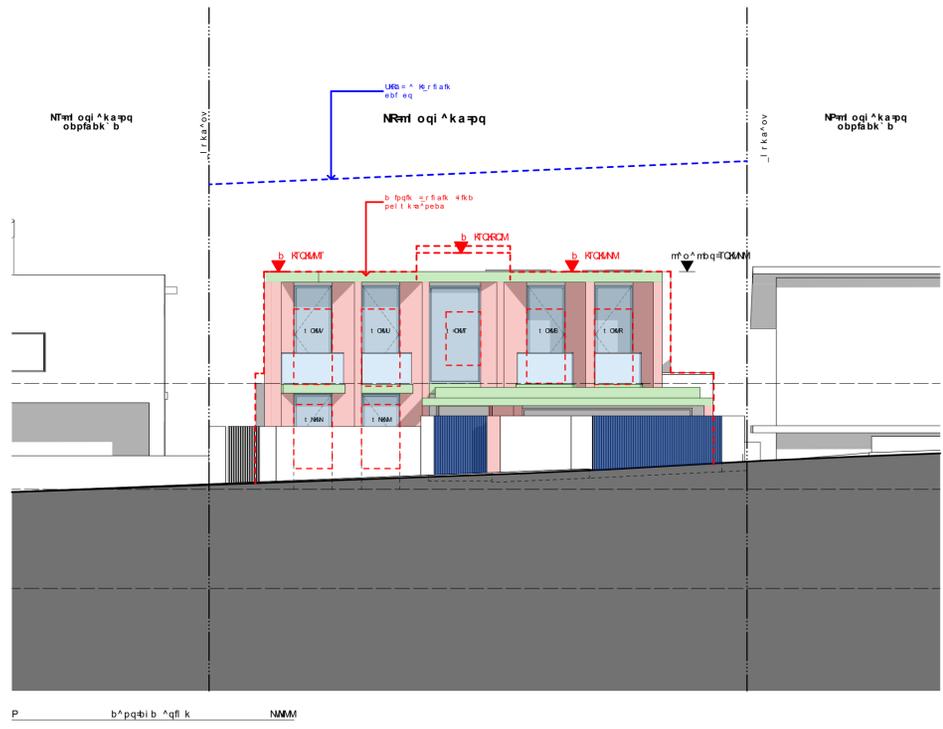
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- STEEL/ALUMINIUM
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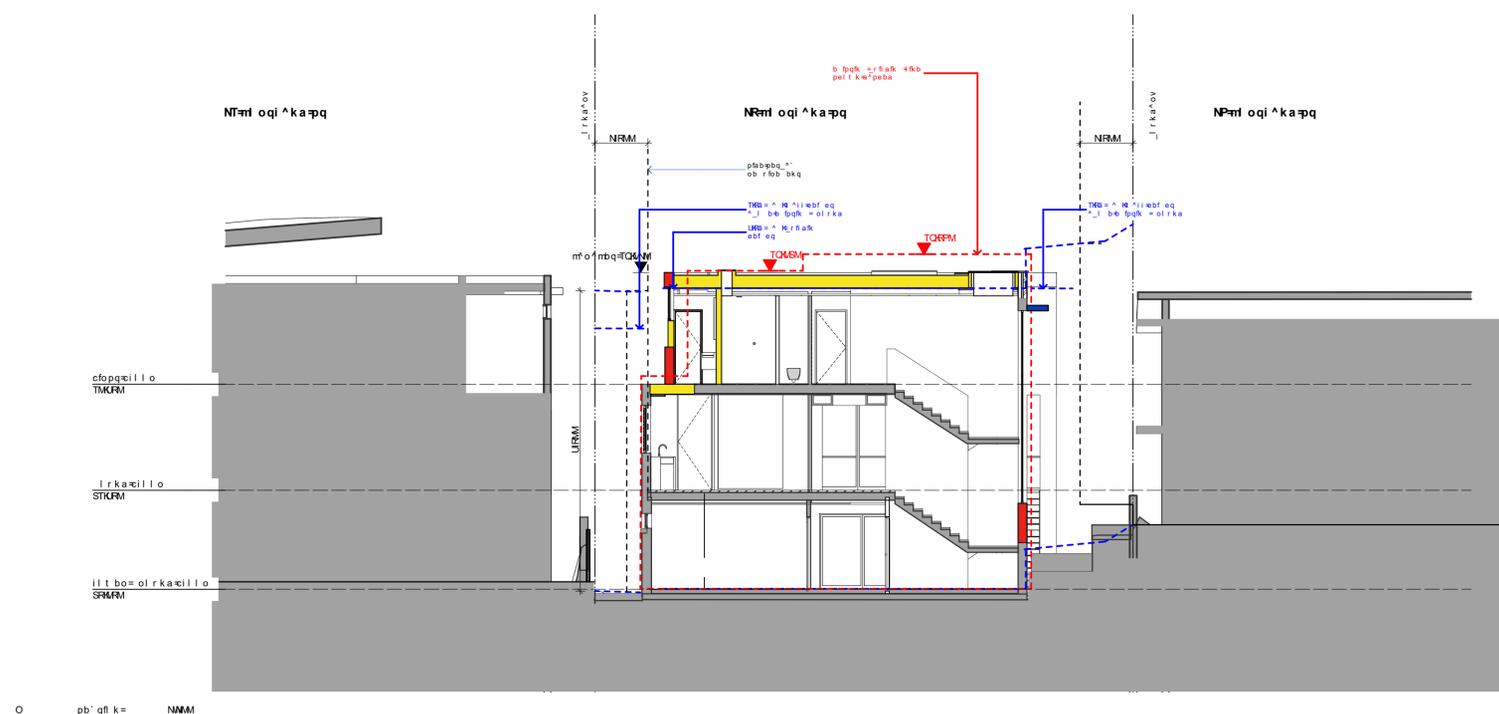
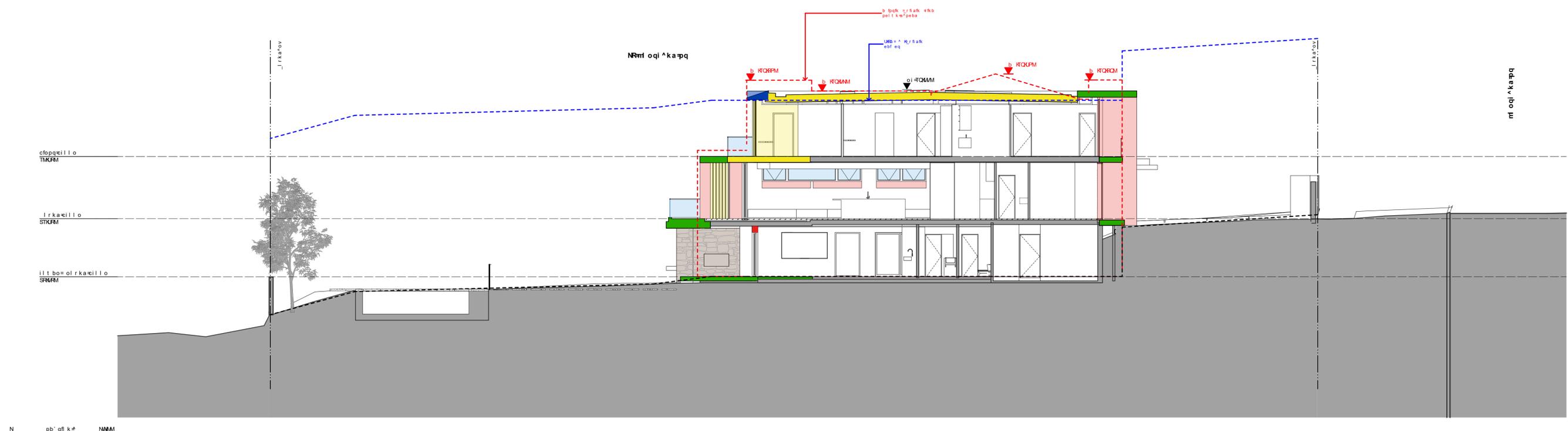
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a	ci ome^r... fpp^k	QPNCO	

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a	ci ome^r... fpp^k	QPNCO	

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a	ci ome^r... fpp^k	QPNCO	

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a	ci ome^r... fpp^k	QPNCO	



Symbol	Description
○	Concrete
□	Render
■	Masonry
■	Sandstone
■	Lightweight
■	Steel/Aluminum
■	Glass

Material	Color	Notes
Concrete	Green	
Render	Light Green	
Masonry	Red	
Sandstone	Grey	
Lightweight	Yellow	
Steel/Aluminum	Blue	
Glass	Light Blue	

Architectural notes and specifications in a table format, detailing materials and construction requirements.

Legend for materials and colors used in the architectural drawings. Includes a color key and a north arrow symbol.

Architectural logo and contact information for the design firm.

Material	Color	Notes
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Render	Light Green	
Masonry	Red	
Sandstone	Grey	
Lightweight	Yellow	
Steel/Aluminum	Blue	
Glass	Light Blue	

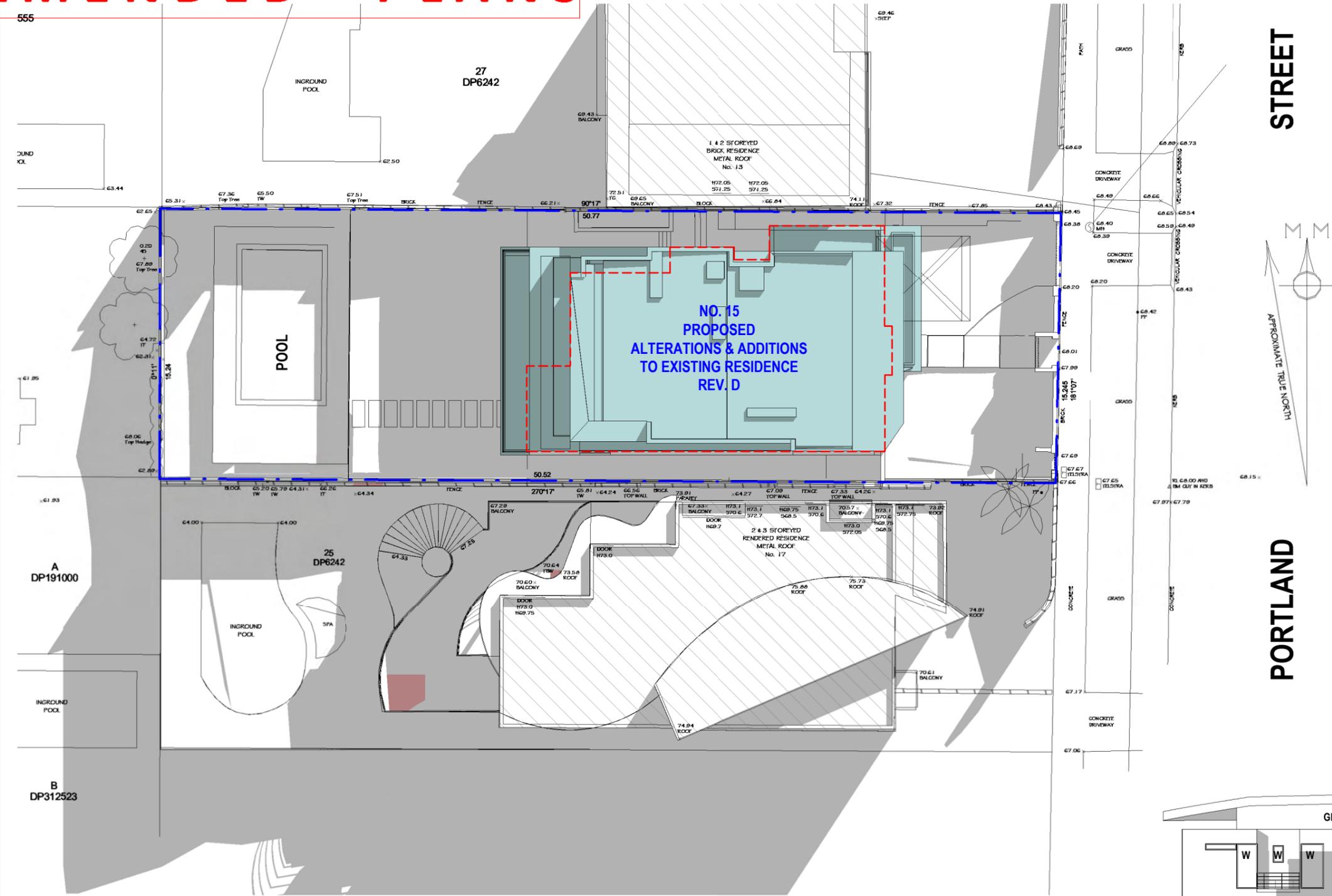






# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-577/2021  
Date Received: 26/05/2022



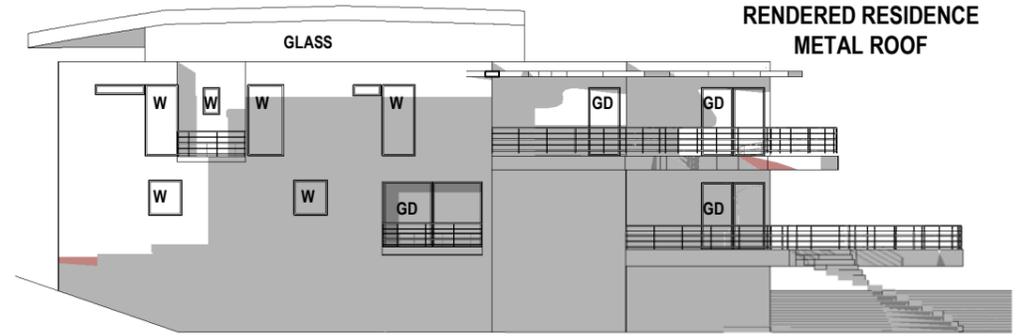
STREET

PORTLAND

**LEGEND:**

- DENOTES OUTLINE OF EXISTING RESIDENCE TO BE ALTERED
- DENOTES AREA OF EXISTING & SURROUNDING BUILDING SHADOW
- DENOTES AREA OF PROPOSED ADDITIONS & ALTERATIONS
- DENOTES AREA OF PROPOSED ADDITIONAL BUILDING SHADOW

**NOTE:**  
SHADOWS SHOWN HAVE BEEN COMPILED FROM DETAIL & LEVEL SURVEY BY ESA LAND SURVEY CONSULTANTS PLAN REF. 822A/21 DATED 29 APRIL 2021 AND ARCHITECTURAL PLANS & MODELS SUPPLIED BY KA DESIGN STUDIO PROJECT NO. 21 - 04 REV. D DATED 23/5/22



NORTH ELEVATION  
NO. 17  
2 & 3 STOREYED  
RENDERED RESIDENCE  
METAL ROOF

**1** Shadowing June 21st 9.00am  
1 : 250

**Cad Draft P/L**

SHADOW ANALYSIS CONSULTANTS

ABN 27 083 288 153

PH: 9555 8545

SUITE 1, 505 BALMAIN ROAD,  
LILYFIELD, NSW 2040

info@caddraftnsw.com.au

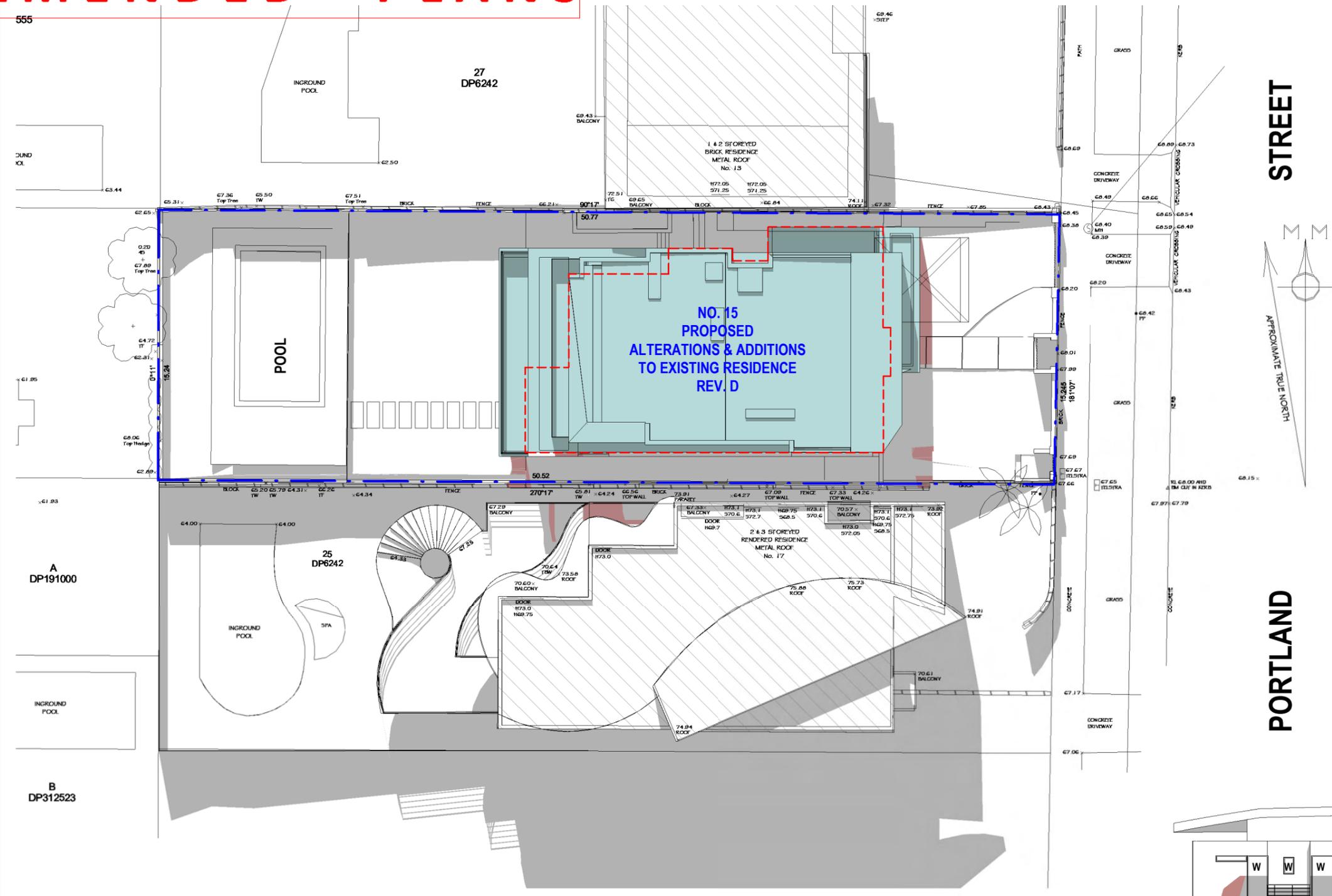
No.	Description	Date

SHADOW DIAGRAMS  
No. 15 PORTLAND STREET  
DOVER HEIGHTS  
  
CLIENT: C/- KA DESIGN STUDIO PTY LTD

Shadowing June 21st 9.00am		A100
Project number	21-110	
Date	24-05-22	
Drawn by	KP	
Checked by	JD	
Scale	1 : 250	

# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-577/2021  
Date Received: 26/05/2022

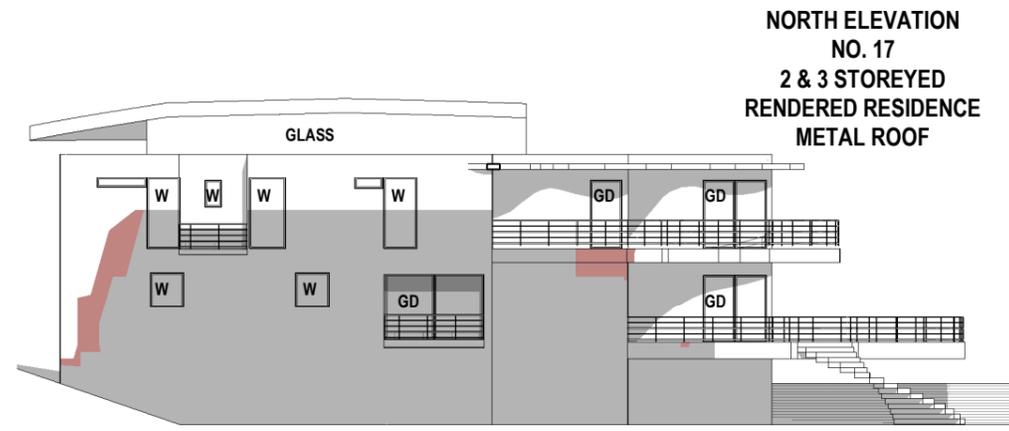


**LEGEND:**

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**1** Shadowing June 21st 12.00pm  
1 : 250

**Cad Draft P/L**

SHADOW ANALYSIS CONSULTANTS

ABN 27 083 288 153

PH: 9555 8545

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LILYFIELD, NSW 2040

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No.	Description	Date

SHADOW DIAGRAMS  
No. 15 PORTLAND STREET  
DOVER HEIGHTS

CLIENT: C/- KA DESIGN STUDIO PTY LTD

Shadowing June 21st 12.00pm

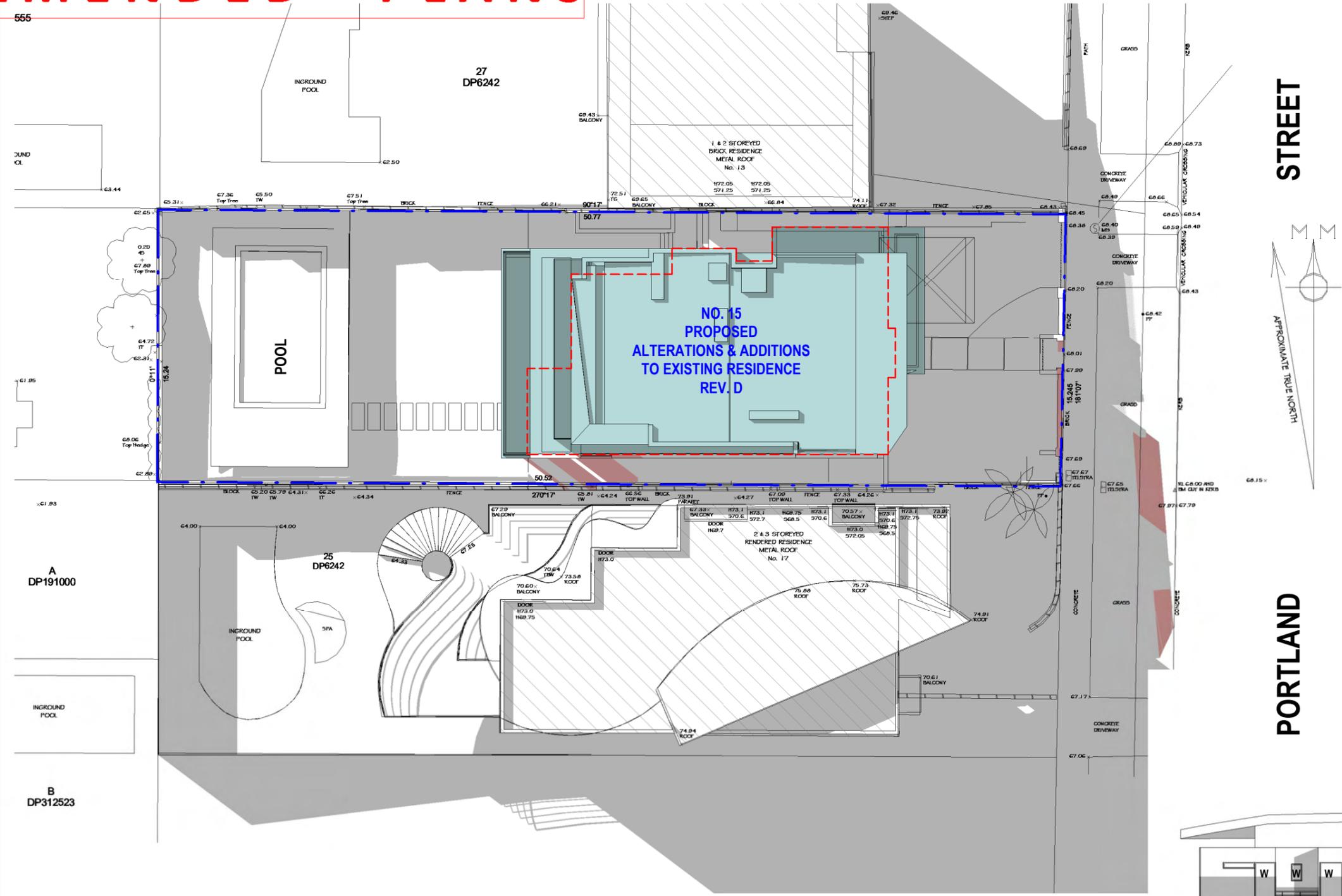
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Date	24-05-22
Drawn by	KP
Checked by	JD

**A101**

Scale 1 : 250

# AMENDED PLANS

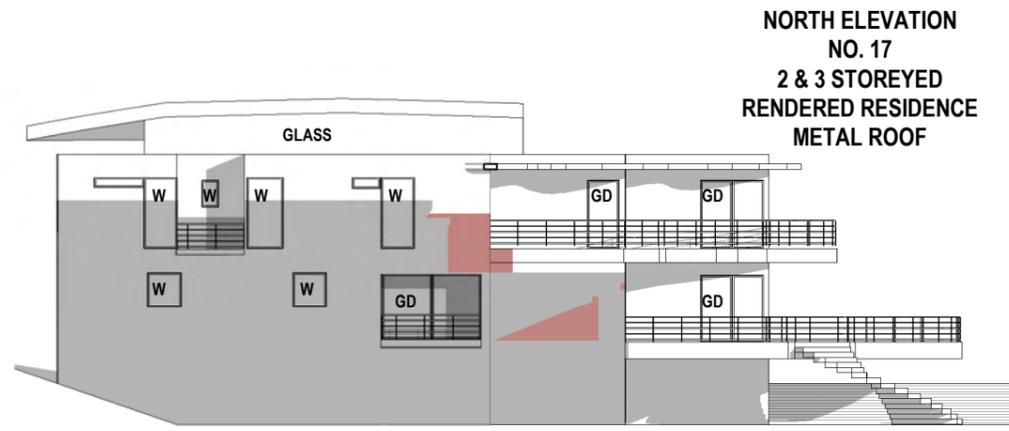
RECEIVED  
Waverley Council  
Application No: DA-577/2021  
Date Received: 26/05/2022



- LEGEND:**
- DENOTES OUTLINE OF EXISTING RESIDENCE TO BE ALTERED
  - DENOTES AREA OF EXISTING & SURROUNDING BUILDING SHADOW
  - DENOTES AREA OF PROPOSED ADDITIONS & ALTERATIONS
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**1** Shadowing June 21st 3.00pm  
1 : 250

**Cad Draft P/L**

SHADOW ANALYSIS CONSULTANTS

ABN 27 083 288 153

PH: 9555 8545

SUITE 1, 505 BALMAIN ROAD,  
LILYFIELD, NSW 2040

info@caddraftnsw.com.au

No.	Description	Date

SHADOW DIAGRAMS  
No. 15 PORTLAND STREET  
DOVER HEIGHTS

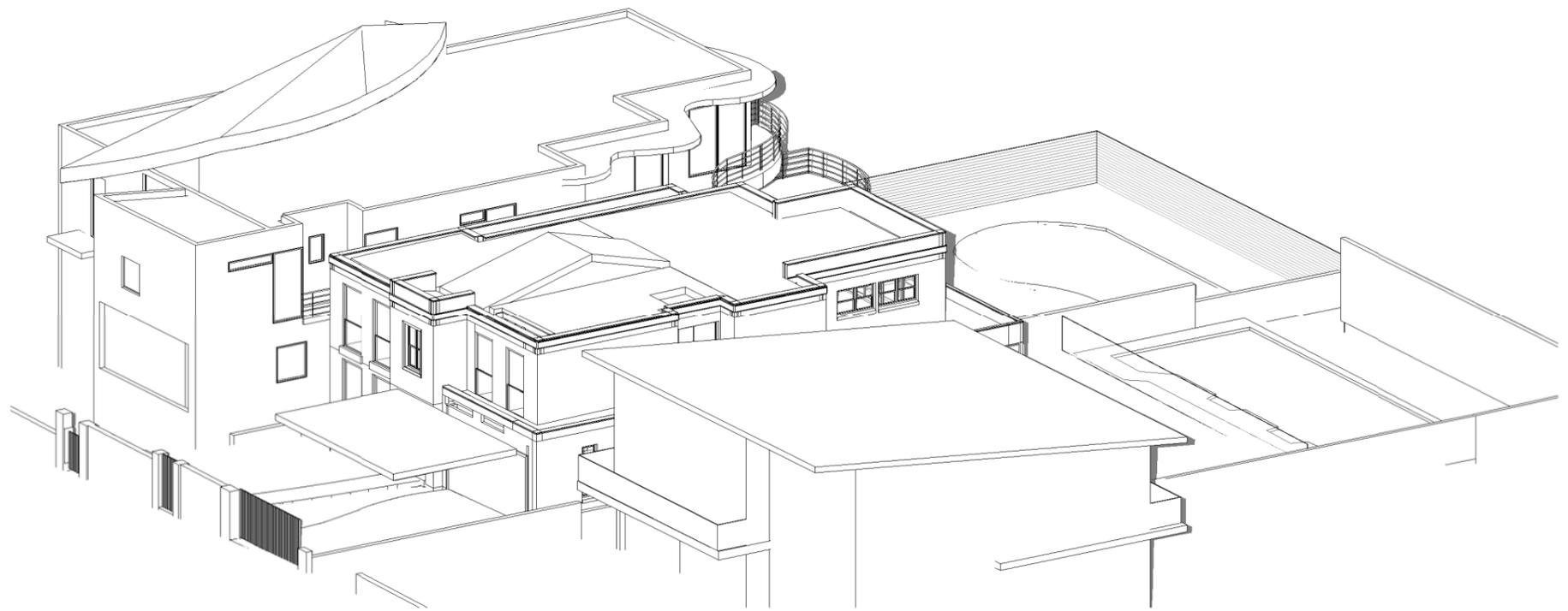
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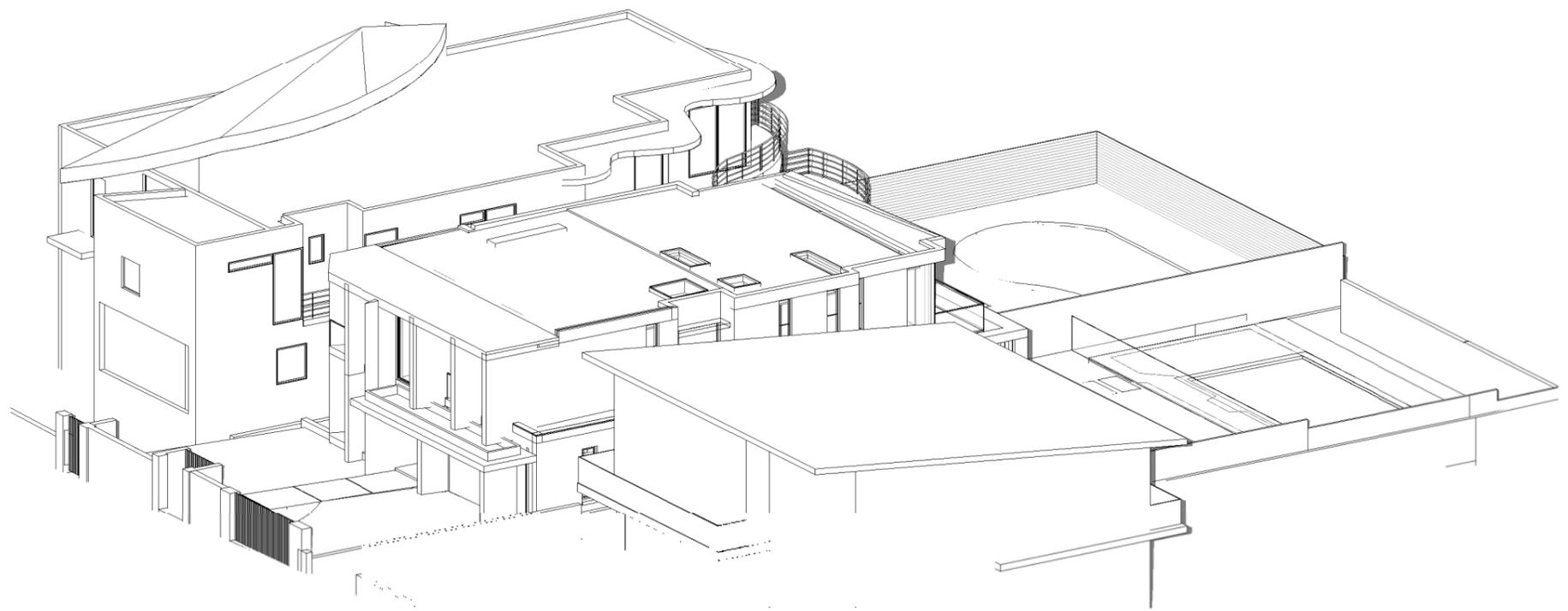
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Drawn by	KP	
Checked by	JD	
Scale		1 : 250

# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-577/2021  
Date Received: 26/05/2022



1 June 21st 9.00am Existing



2 June 21st 9.00am Proposed

**Cad Draft P/L**

ABN 27 083 288 153  
SUITE 1, 505 BALMAIN ROAD,  
LILYFIELD, NSW 2040

SHADOW ANALYSIS CONSULTANTS

PH: 9555 8545

info@caddraftnsw.com.au

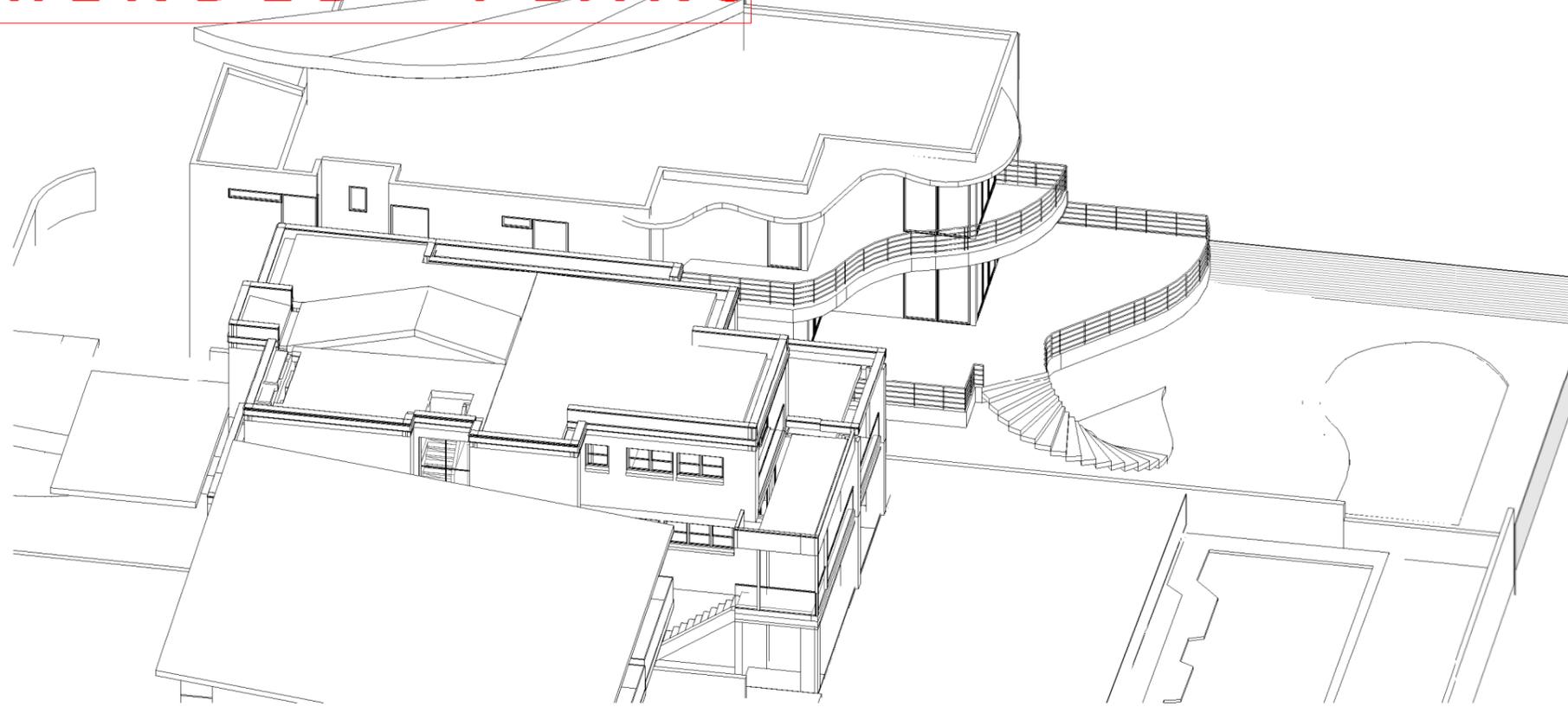
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SHADOW DIAGRAMS  
No. 15 PORTLAND STREET  
DOVER HEIGHTS  
  
CLIENT: C/- KA DESIGN STUDIO PTY LTD

3D View from Sun June 9am

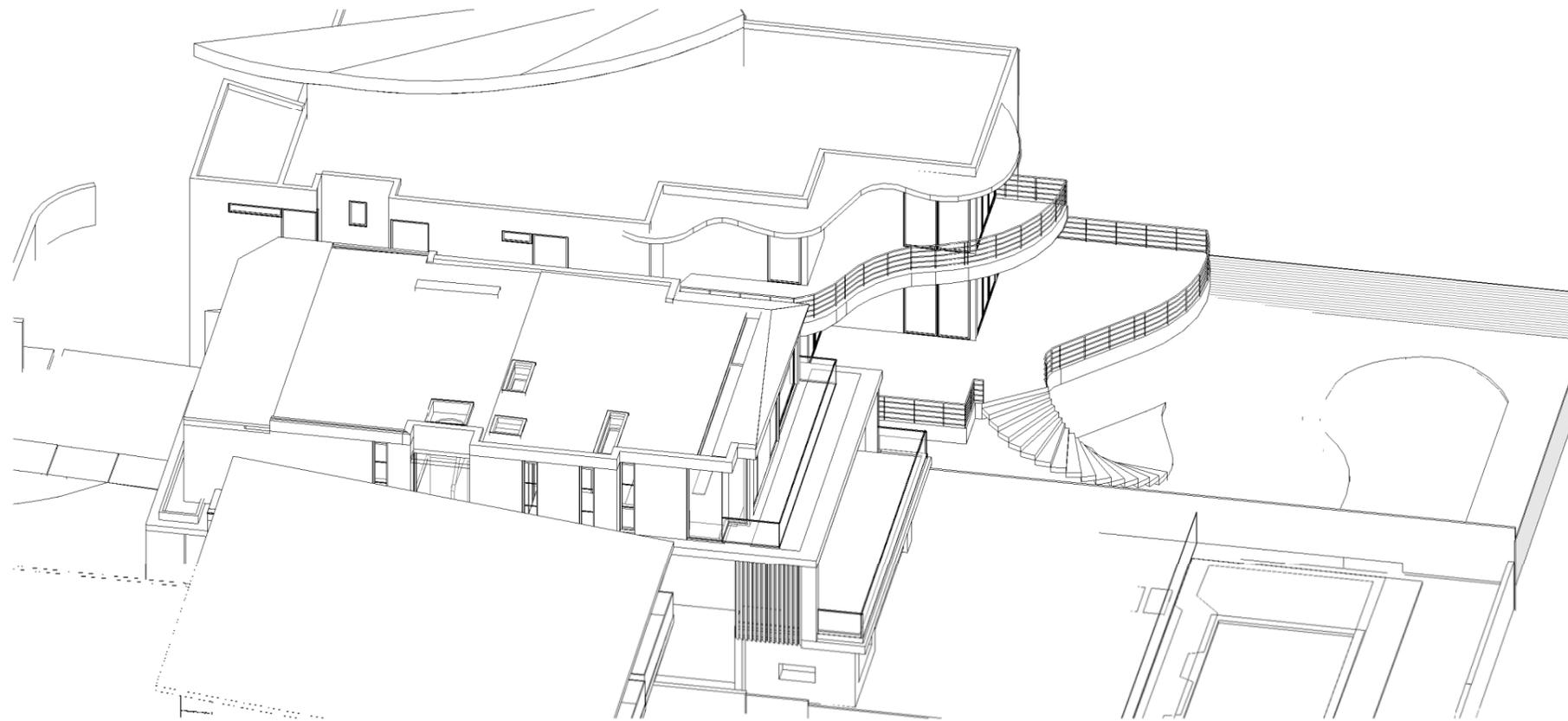
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Date	24-05-22
Drawn by	KP
Checked by	JD

**A103**  
Scale



1

June 21st 12.00pm Existing



2

June 21st 12.00pm Proposed

**Cad Draft P/L**

ABN 27 083 288 153

SUITE 1, 505 BALMAIN ROAD,  
LILYFIELD, NSW 2040

SHADOW ANALYSIS CONSULTANTS

PH: 9555 8545

info@caddraftnsw.com.au

No.	Description	Date

SHADOW DIAGRAMS  
No. 15 PORTLAND STREET  
DOVER HEIGHTS

CLIENT: C/- KA DESIGN STUDIO PTY LTD

3D View from Sun June 12pm

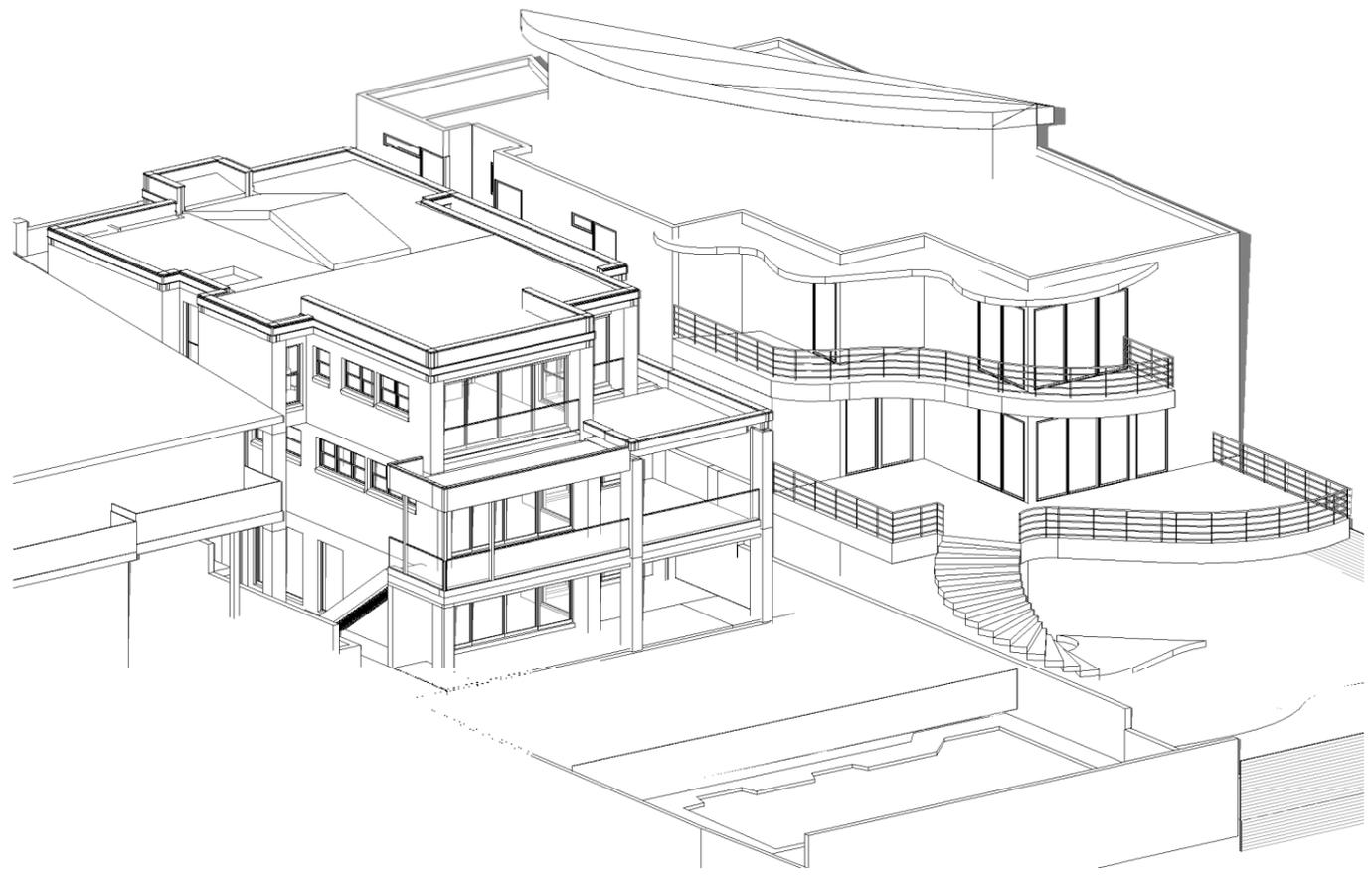
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Date 24-05-22

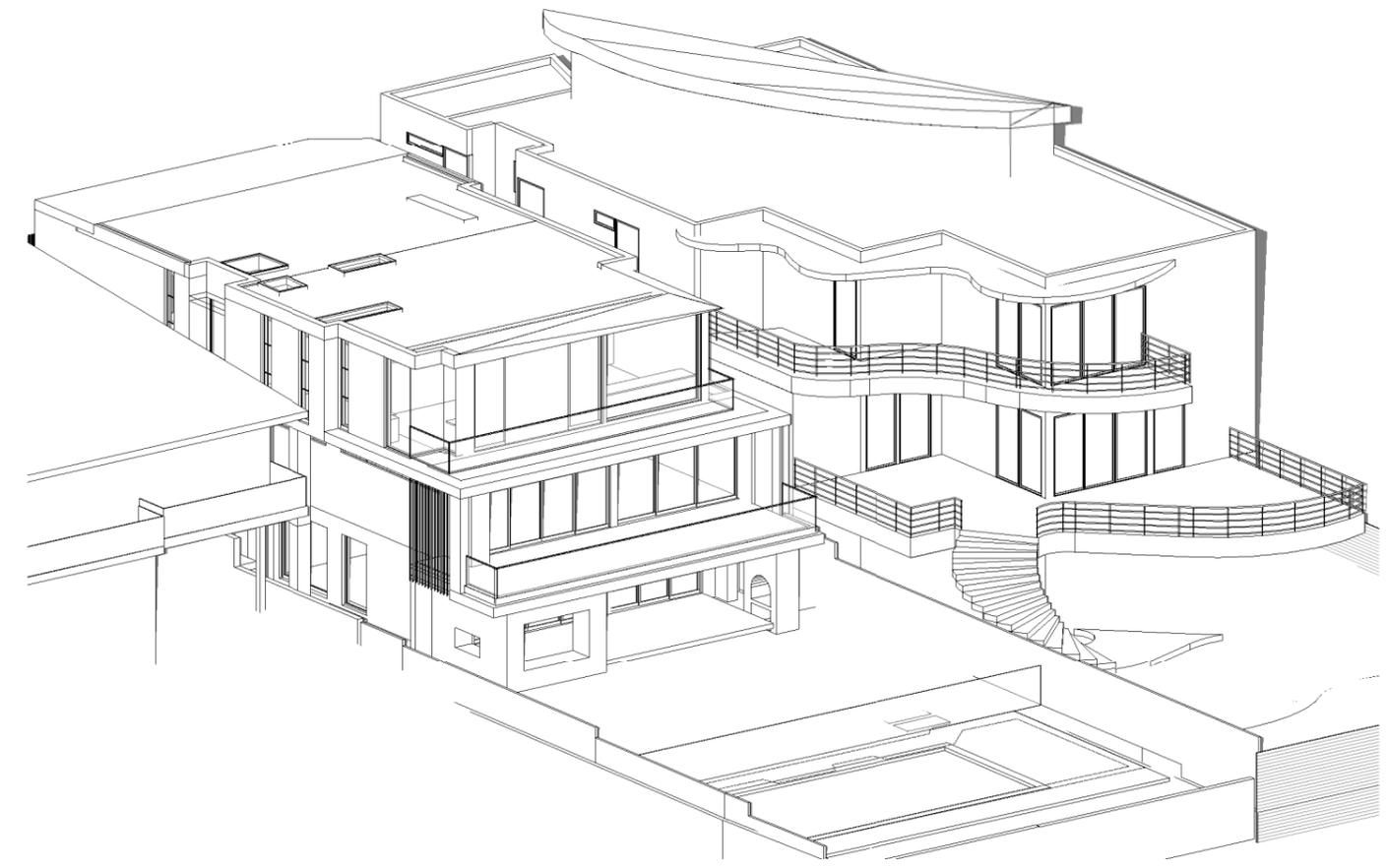
Drawn by KP

Checked by JD Scale

**A104**



**1** June 21st 3.00pm Existing



**2** June 21st 3.00pm Proposed

**Cad Draft P/L**

ABN 27 083 288 153

SUITE 1, 505 BALMAIN ROAD,  
LILYFIELD, NSW 2040

SHADOW ANALYSIS CONSULTANTS

PH: 9555 8545

info@caddraftnsw.com.au

No.	Description	Date

**SHADOW DIAGRAMS**  
No. 15 PORTLAND STREET  
DOVER HEIGHTS

**CLIENT: C/- KA DESIGN STUDIO PTY LTD**

3D View from Sun June 3pm		<b>A105</b>
Project number	21-110	
Date	24-05-22	
Drawn by	KP	
Checked by	JD	Scale



Other Residential Development



Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-288/2021
<b>Site address</b>	31 Albion Street, Waverley
<b>Proposal</b>	Alterations and additions to existing two storey shop top housing building including construction of an additional level for a two level apartment above existing ground floor commercial tenancy.
<b>Date of lodgement</b>	3 August 2021 (Amended on 27 August 2021)
<b>Owner</b>	AWO & SAO Property 1 Pty Ltd
<b>Applicant</b>	Mr H Chalich
<b>Submissions</b>	Four submissions received
<b>Cost of works</b>	\$249,135.37
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>• FSR</li> <li>• Overshadowing</li> <li>• Floor to ceiling height</li> <li>• Rear setback</li> <li>• Landscape area and deep soil</li> </ul>
<b>Recommendation</b>	That the application be REFUSED for the reasons contained in the report.

**SITE MAP**



## 1. PREAMBLE

### 1.1. Executive Summary

The development application seeks consent for alterations and additions to the existing two storey shop top housing building including construction of an additional floor level to comprise of a ground floor commercial tenancy and a two level apartment above at the site known as 31 Albion Street, Waverley.

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

- Floor Space Ratio (FSR) exceedance;
- Overshadowing;
- Floor to ceiling height;
- Rear setback; and
- Landscaped area and deep soil.

The assessment finds these issues unacceptable as the proposed bulk form and scale, particularly the second floor addition is out of character with the predominantly two storey built form of surrounding properties and insufficient information has been submitted to enable a proper assessment of the environmental amenity impacts on adjoining properties. The Clause 4.6 written request seeking variation to the FSR development standard has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify contravening the standard as the proposed results in additional building bulk and amenity impacts on adjoining properties.

A total number of four (4) submissions were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation. No Councillor submissions have been received.

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

### 1.2. Site and Surrounding Locality

A site visit was carried out on 5 October 2021.

The site is identified as Lot 3 in DP 435468, known as 31 Albion Street, Waverley.

The site is located on the western side of Albion Street to the north of the intersection of Albion Street and Santa Marina Avenue. The site is irregular in shape with a frontage to Albion Street, measuring 5m and a splayed boundary to the south-west, measuring 6.765m and a rear (west) boundary measuring 3.05m. The site has a right of way from the north-western corner of the site along the rear of properties to the north fronting Albion Street to Cables Place.

The site has an area of 132.8m<sup>2</sup> and is generally flat. The site is occupied by a two storey terrace style building comprising commercial use on the ground floor and shop top housing. The site is the end terrace in a row of nine terraces (Nos. 15A to 31 Albion Street).

The site does not have vehicular access or any on site parking.

The site is adjoined by a row of two storey commercial/residential terraces to the north that are similar in architectural character and form to the subject site. Immediately to the south of the site, at No. 33 Albion Street, is a two storey residential apartment building with a primary frontage to Albion Street and a secondary frontage to Santa Marina Avenue. At the rear of the site is a pair of single storey attached dwellings (Nos. 1 and 3 Santa Marina Avenue). On the opposite side of Albion Street are a row of two storey residential terrace houses.

The locality is characterised by a variety of residential and commercial uses including one and two storey attached and detached dwellings, two storey residential flat buildings and rows of two storey terraces comprising ground floor commercial uses and shop top housing.

The site is identified as a heritage item and is part of a group of heritage listed two storey commercial and residential terraces located on the western side of Albion Street (Item No. I443) and is within the Charing Cross Conservation Area (C7) under Schedule 5 of the Waverley Local Environmental Plan 2012. The site is in the vicinity of heritage items located further to the north of the site at Nos. 3-13 Albion Street and a two storey Georgian style stone building located at St Catherine's Girls School to the south-east of the site.

**Figures 1 to 7** are photos of the site and its context.



**Figure 1:** View of site and adjoining row of terraces looking north-west along Albion Street



**Figure 2:** View of subject site and adjoining residential flat building at No. 33 Albion Street to the south



**Figure 3:** View of existing rear elevation looking east from courtyard



**Figure 4:** View of rear balcony and stairs at No. 29 Albion Street looking north from rear courtyard of site



**Figure 5:** Looking north in rear courtyard to existing gate to right of way providing access to Cables Place



**Figure 6:** Looking north from rear courtyard to the right of way providing access to Cables Place



**Figure 7:** View of adjoining properties looking south-west from rear courtyard

### 1.3. Relevant Development History

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

- DA-579/2006 for alterations and additions including rear addition and upper level deck to existing shop and dwelling was lodged on 29 September 2006. The application was subsequently withdrawn by the applicant on 19 December 2006.
- DA-175/2020 change of use to podiatry studio with internal fitout and new signage was approved on 13 July 2020. The approved works have been completed and the ground floor is currently occupied as a podiatry studio; and
- HEC-11/2020 painting of the exterior of façade of the building was lodged on 8 April 2020 and was withdrawn by the applicant on 26 October 2020.

### 1.4. Proposal

The development application seeks consent for alterations and additions to the two storey shop top housing building, including alterations to the ground floor commercial tenancy, a new second floor addition to create a two level residential apartment comprising two bedrooms, a home office and living areas with a first floor rear balcony. The proposal seeks consent for new works as follows:

#### Ground Floor

- Partial demolition to the rear of the ground floor commercial tenancy, construction of a rear addition and internal reconfiguration to provide a reception, 3 x offices, staff area comprising a kitchen, bathroom and sitting area, and new stairs from the rear courtyard to the residential apartment;
- New window openings on the southern boundary; and
- New washing line and bin storage area within the rear courtyard.

#### First Floor

- Demolition of the rear first floor wing and construction of rear addition built to the north and south side boundaries and new stair access to the second floor; and
- Reconfiguration of first floor comprising a bedroom, home office, bathroom and open plan living area with a rear balcony.

#### Second Floor

- Bedroom 2 and living area.

#### Roof

- Two skylights to first floor; and
- New skillion roof to rear addition.

## 1.5. Background

The development application was lodged on 3 August 2021 and deferred on 13 August 2021 for the following reasons:

1. Clarification of scope of development being sought and if shop top housing is being retained.
2. Owner's consent of the adjoining property is required where works are shown to be located beyond the boundaries of the subject site.
3. Gross floor area (GFA) and floor space ratio (FSR) calculations are inaccurate as the proposed internal stairs within one of the apartments have not been included as GFA. Revised GFA and FSR calculations are required to be submitted and an amended Clause 4.6 written justification reflecting the revised calculations is also required.
4. Insufficient waste management information has been submitted relating to the travel paths along the right of way and any works that are required to facilitate satisfactory waste removal.
5. Insufficient information has been provided in architectural drawings and amended drawings are required to be submitted including the following:
  - a. Provision of contextual information showing the building envelopes, location of window openings, balconies, stairs and boundary fences of adjoining properties;
  - b. Reconfiguration of first floor to remove the proposed study which does not have access to an external window and cannot be a habitable room;
  - c. Minimum storage areas in accordance with Part C3 of the Waverley are to be provided in each apartment;
  - d. The studio apartment is undersized and does not contain adequate cooking or storage facilities. The proposed studio does not demonstrate good residential amenity and is recommended to be deleted.
6. Amended shadow diagrams are required to clearly distinguishing between existing and additional shadow impacts on adjoining properties.

Amended architectural drawings, shadow diagrams and Clause 4.6 written justification was received on 27 August 2021.

On 29 October 2021, Council officers requested additional information to be submitted to enable a proper assessment of the proposal. In particular, the applicant was required to prepare and submit a Building Code of Australia (BCA) report addressing fire safety and access in accordance with relevant sections of the BCA.

The applicant sought an extension of time to prepare and submit the required BCA report which was received by Council on 10 December 2021. The BCA report was reviewed by Council's Fire Safety Officer who advised that the revised BCA report contained insufficient information and could not be supported.

On 11 March 2022, a revised BCA report was submitted by the applicant and was reviewed by Council's Fire Safety Officer who raised no objection to the recommendations for fire safety upgrades, subject to conditions.

On 24 May 2022, amended shadow diagrams including elevational shadow diagrams showing proposed shadow impacts on the adjoining property was submitted.

The amended plans received by Council on 27 August 2021 form the basis for the assessment of this DA.

## 2. ASSESSMENT

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

### 2.1. Planning Instruments and Development Control Plans

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

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

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

- SEPP (Building Sustainability Index – BASIX) 2004.
- SEPP (Resilience and Hazards) 2021

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

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

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

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal is not inconsistent with the objectives of the Plan.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table <ul style="list-style-type: none"> <li>• B4 Mixed Use Zone</li> </ul>	Yes	The proposal is defined as shop top housing, which is permitted with consent in the B4 Mixed Use zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>• 9m</li> </ul>	Yes	<p>The existing building has a building height of 8.8m, measured to the top of the parapet at the street alignment. No change is proposed to the existing building height on the eastern elevation.</p> <p>The proposed second floor addition to the rear of the site has a building height of 8.1m and is</p>

Provision	Compliance	Comment
		compliant with the maximum height of building development standard.
4.4 Floor space ratio <ul style="list-style-type: none"> <li>1:1</li> </ul>	No	The existing building has an FSR of 1.03:1 (136.8m <sup>2</sup> ) representing a variation of 3% to the FSR development standard. The proposal has a gross floor area of 209.1m <sup>2</sup> and FSR of 1.57:1, presenting a variation of 57% (76m <sup>2</sup> ) to FSR development standard of 1:1.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the FSR development standard. A detailed discussion of the variation to the development standard is presented below this table.
<b>Part 5 Miscellaneous provisions</b>		
5.10 Heritage conservation	Yes	The site is identified as a local heritage item (I443) within a row of late nineteenth central commercial/residential terraces and is located within the Charing Cross Conservation Area (C7) under Schedule 5 of the Waverley LEP 2012.  The proposed alterations and additions will not be visible from the public domain except for the new ground floor highlight windows on the southern elevation. Council's Heritage Advisor has raised no objection to the proposal subject to recommendations relating to conservation works to the street elevation.

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

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

The application seeks to vary the floor space ratio (FSR) development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum FSR development standard of 1:1. The proposed development has a FSR of 1.57:1, exceeding the standard by 76m<sup>2</sup> equating to a 57% variation.

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

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

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

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

The applicant seeks to justify the contravention of the 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 siting, bulk and scale of the development are compatible with surrounding existing development and are consistent with the desired future character of the area.*
  - (ii) *The proposed scale and bulk will preserve solar access, privacy and views to surrounding properties, notwithstanding the FSR variation.*
  - (iii) *The proposed works are at the rear of the site and will not be visible from the Albion Street streetscape.*
  - (iv) *The high quality architectural response complies with the applicable building height control confirming that that proposal will sit comfortably in the character of the local area.*
  - (v) *The upper levels of the proposed development are recessed from the levels below to reduce the perceived bulk of the proposed development.*
  - (vi) *The proposed additions are consistent with the side and rear setbacks of the adjoining terrace building to the north at 29 Albion Street.*
  - (vii) *Despite the non-compliance, the proposal achieves the objectives of the development standard and the zoning.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) *The siting, bulk and scale of the development are compatible with surrounding existing development and are consistent with the desired future character of the area.*
  - (ii) *The proposed scale and bulk will preserve solar access, privacy and views to surrounding properties, notwithstanding the FSR variation.*
  - (iii) *The proposed works are at the rear of the site and will not be visible from the Albion Street streetscape.*
  - (iv) *The high quality architectural response complies with the applicable building height control confirming that that proposal will sit comfortably in the character of the local area.*
  - (v) *The upper levels of the proposed development are recessed from the levels below to reduce the perceived bulk of the proposed development.*

- (vi) The proposed additions are consistent with the side and rear setbacks of the adjoining terrace building to the north at 29 Albion Street.*
- (vii) Despite the FSR non-compliance, the proposal achieves the objectives of the development standard and the B4 zoning.*

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

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

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

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

It is considered that the applicant has not adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

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

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. The applicant has not adequately demonstrated that the proposal, particularly the extent of the variation sought, satisfies the objectives of the development standard and is compatible with the bulk and scale of predominantly one and two storey developments within the vicinity of the site and the overall scale preserves the environmental amenity of neighbouring properties. The

proposed rear first and second floor additions will have additional visual and overshadowing impacts on adjoining properties.

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

The applicant has not adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. The existing building, with a FSR of 1.03:1, exceeds the development standard and the proposal will result in a further variation to the development standard. Notwithstanding compliance with the height of building development standard, the proposal with a second floor level is inconsistent with the built form and scale of terraces in the row and will result in adverse environmental impacts on adjoining properties.

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 development standard in which the development is proposed to be carried out.

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

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

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

*(d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.*

The extent of the variation to the FSR development standard contained on the first and second floor levels does not result in a variation to the building height development standard, however, the additional building bulk it is out of character with the built form and scale of immediately surrounding two storey developments. The additional building bulk particularly along the southern side boundary will have additional visual and solar access impacts on adjoining properties, and is inconsistent with the objectives of the development standard. The proposal is not in the public interest as it is considered an overdevelopment of the site and is likely to set an undesirable precedent for locality.

The relevant objectives of the B4 Mixed Use zone are as follows:

- To provide a mixture of compatible land uses.*
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

The proposal to retain the existing shop top housing use of the building is permissible with consent and consistent with the objectives of the B4 zone for a mix of commercial and residential uses.

## Conclusion

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

### 2.1.3. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

It is acknowledged that the Draft Waverley Local Environmental Plan 2022 was on exhibition from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

### 2.1.4. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

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

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

Development Control	Compliance	Comment
1. Waste	Yes	Satisfactory.
2. Ecologically Sustainable Development	Yes	Satisfactory.
6. Stormwater	Yes	Satisfactory.
7. Accessibility and Adaptability	Yes	Satisfactory.
9. Heritage	Yes	Satisfactory.
12. Design Excellence	No	Unsatisfactory. The scale of the proposed rear additions results in a three storey built form that is excessive and inconsistent with the two storey form of the adjoining row of terraces, adjacent two storey residential flat building and one storey dwellings to the west of the site. The proposed building bulk will result in additional visual and environmental amenity impacts on adjoining properties and does not respond appropriately to the site context.

**Table 3: Waverley DCP 2012 – Part C3 Other Residential Development Compliance Table**

Development Control	Compliance	Comment
<b>3.3 Setbacks</b>		
3.3.1 - Street setbacks		
<ul style="list-style-type: none"> <li>Consistent street setback</li> </ul>	Yes	No change is proposed to the existing front setback which is consistent with the front setback

Development Control	Compliance	Comment
		of the adjoining row of commercial/residential terraces fronting Albion Street.
<p>3.3.2- Side and rear setbacks</p> <ul style="list-style-type: none"> <li>• Minimum side setback: 1.5m</li>   <li>• Minimum rear setback: 6m or predominant rear building line, whichever is the greater setback</li>   <li>• Deep soil along side boundary min 2m wide</li> </ul>	<p>No</p> <p>No</p> <p>No, acceptable on merit</p>	<p>The proposal seeks to build to the side boundaries of the site which is an appropriate response to the built form of adjoining terraces to the north. Building to the southern boundary is consistent with the existing nil setback of the ground and first floors of the building and is appropriate in this circumstance. However, the southern side setback of the second floor level will contribute to poor outcomes caused by the breach of the FSR development standard. Further discussion is provided directly below.</p> <p>The proposed rear additions have a rear setback of 5.2m on the ground and first floors and 7.8m on the second floor. Further to the non-compliance with the minimum 6m setback control for the first floor level, there is no predominant rear building line for the second floor level to follow as the adjoining buildings to the north and south are only two storeys. Given the unacceptable overshadowing and bulk and scale impacts caused by the proposal breaching the FSR development standard, the rear setback of the second floor level is unacceptable with regard to relevant objectives under section 3.3.2 of Part C3 of the DCP. This will be a reason for refusal.</p> <p>The site does not contain any existing deep soil alongside boundaries. Given the built form of the row of terraces, deep soil alongside boundaries is not consistent with the established built form in the vicinity of the site and is not necessary in this circumstance.</p>
<b>3.4 Length and depth of buildings</b>		
<ul style="list-style-type: none"> <li>• Maximum building length along street frontage: 24m</li>   <li>• Façade to be articulated</li>   <li>• Maximum residential flat building depth: 18m</li> </ul>	<p>Yes</p> <p>Yes</p> <p>No, acceptable on merit</p>	<p>The existing building has a street frontage of 5m. No change is proposed to the building length fronting the street.</p> <p>No change is proposed to the front façade.</p> <p>The proposal has a maximum building length of 19.9m measured from the front glazing line to the rear glazing line on the first floor. As the proposed rear setback is consistent with the adjoining terrace to the north and does not extend beyond the predominant rear setback of terraces in the row, the exceedance of 1.9m in building depth is contextually appropriate.</p>

Development Control	Compliance	Comment
<b>3.5 Building design and streetscape</b>		
<ul style="list-style-type: none"> <li>Respond to streetscape</li> <li>Sympathetic external finishes</li> <li>Removal of original architectural features not supported.</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The proposed rear additions have no additional impact to the streetscape as the works are not visible from Albion Street.</p> <p>The proposed external materials and finishes will not detract from the style or character of the original building and is acceptable.</p> <p>The proposal does not seek to remove any significant original architectural features of the building.</p>
<b>3.7 Fences and walls</b>		
<p><i>Side fence:</i></p> <ul style="list-style-type: none"> <li>Maximum height: 1.8m</li> </ul> <p><i>Rear fence:</i></p> <ul style="list-style-type: none"> <li>Maximum height: 1.8m</li> </ul>	<p>No – as existing</p>	<p>No change is proposed to the existing 2.1m high side and rear boundary fences. The proposal seeks to demolish part of the northern side boundary fence and masonry walls within the right of way. Consent from the owners of No. 29 Albion Street have submitted as part of the application.</p>
<b>3.8 Pedestrian access and entry</b>		
<ul style="list-style-type: none"> <li>Entry at street level and respond to pattern within the street</li> <li>Accessible entry</li> <li>Legible, safe, well-lit</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>No change to existing access for the ground floor tenancy (from Albion Street) or rear access for the residential apartment via the right of way from Cables Place.</p>
<b>3.9 Landscaping</b>		
<ul style="list-style-type: none"> <li>Minimum of 30% of site area landscaped: 39.8m<sup>2</sup></li> <li>50% of the above is to be deep soil: 19.9m<sup>2</sup></li> </ul>	<p>No, acceptable on merit</p>	<p>The proposal provides 16.3m<sup>2</sup> (12.2%) of landscaped area within the rear courtyard. Notwithstanding the non-compliance with landscape area and deep soil controls, the proposal improves overall landscaping of the site as it provides deep soil within the currently paved courtyard.</p>
<b>3.11 Private Open Space</b>		
<ul style="list-style-type: none"> <li>Northerly aspect</li> <li>Directly accessible from main living areas</li> </ul> <p>3.11.1 – Courtyards</p> <ul style="list-style-type: none"> <li>Minimum area of 25m<sup>2</sup></li> <li>Minimum dimensions of 3m</li> <li>Opportunities for planting and deep soil</li> </ul>	<p>No</p> <p>Yes</p> <p>No</p> <p>Yes</p> <p>Yes</p>	<p>Private open spaces are provided to the rear of the site, orientated to the west. The location of private open space is constrained by the orientation of the site and the pattern of existing developments. The proposed first floor balcony is accessed directly from the open plan living area.</p> <p>The proposed ground floor rear courtyard has an area of 16.1m<sup>2</sup>, is irregular in shape with a depth of 5.2m along the northern boundary, 4.9m along the southern boundary and 3.05m along the rear (western) boundary. Notwithstanding the non-compliance with the minimum area control, the proposed courtyard is consistent with the size of</p>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Maximum gradient of 1 in 10</li> <li>Appropriate screening to increase amenity and privacy</li> </ul>	Yes	<p>existing courtyards in the vicinity of the site and the established urban character of the locality.</p> <p>The courtyard will remain flat and will be appropriately screened from adjoining properties as the existing 2.1m high rear and side boundary fences are to be retained.</p>
<p>3.11.2 – Balconies/decks</p> <ul style="list-style-type: none"> <li>Balcony additions to match the character of the building</li> <li>Should not dominate the façade</li> <li>No wrap around balconies</li> <li>Located to maximise solar access and privacy</li> <li>Balustrades to allow views and casual surveillance of the street &amp; privacy</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The proposed rear first floor balcony is integrated into the design of the rear addition and does not detract from the character of the original terrace.</p> <p>The orientation of the balcony to the rear of the site is consistent with adjacent first floor rear balconies of the terraces within the group.</p> <p>The proposal will not result in unreasonable loss of privacy given there is degree of mutual overlooking between surrounding properties and the site, subject to additional privacy treatments to the balcony.</p>
<b>3.13 Solar access and overshadowing</b>		
<ul style="list-style-type: none"> <li>Minimum of three hours of sunlight to a minimum of 70% of units in the development on 21 June</li> <li>New development should maintain at least two hours of sunlight to solar collectors on adjoining properties in mid-winter.</li> <li>Direct sunlight to north facing windows of habitable rooms and all private open space areas of adjacent dwellings not be reduced to less than three hours of sunlight on 21 June.</li> </ul>	<p>Yes</p> <p>N/A</p> <p>No</p>	<p>The proposal consists of an apartment occupying the first and second floors. Direct sunlight is provided to the part of the rear courtyard and first floor rear balcony between 11am and 3pm on 21 June.</p> <p>Surrounding properties do not have solar collectors that will be impacted by the proposal.</p> <p>Insufficient details have been provided on the shadow diagrams to distinguish between the existing shadows cast by the subject site and those of adjoining properties, and the additional shadow cast by the proposal and the extent of the variation, to habitable window openings and private open space of adjoining properties.</p> <p>Additional overshadowing has been shown on the shadow diagrams in plan and elevation to fall across the roof of No. 33 Albion Street, however additional shadowing to the rear of No. 33 Albion Street from 12pm to 3pm on 21 June has not been clearly identified and a proper assessment of the</p>

Development Control	Compliance	Comment
		impact on adjoining properties cannot be determined.
<b>3.14 Views and view sharing</b>		
<ul style="list-style-type: none"> <li>Minimise view loss through design</li> <li>Views from public spaces to be maintained.</li> </ul>	<p>Yes</p> <p>Yes</p>	<p>There are no significant views from surrounding properties or the public domain that will be impacted by the proposal.</p> <p>A submission was received raising concerns of view loss from the kitchen window of Unit 6, 33 Albion Street. An assessment of the view loss has been undertaken having regard to the provisions of the DCP and planning principles <i>Tenacity Consulting v Warringah [20041 NSWLEC 140]</i>. See discussion below.</p> <p>The existing outlook from the western kitchen window of the adjacent apartment at Unit 6, 33 Albion Street will be impacted by the visual prominence of the proposed part 2, part 3 storey parapet wall along the southern boundary which will contribute to a sense of enclosure and reduce the amenity of adjacent occupants.</p>
<b>3.15 Visual privacy and security</b>		
<ul style="list-style-type: none"> <li>Dwellings to be orientated to the street with entrances and street numbering visible</li> <li>Above ground open space must not overlook rooms and private landscaped areas of adjoining properties or be screened</li> <li>Privacy be considered in relation to context density, separation use and design.</li> </ul>	<p>No, as existing</p> <p>Yes</p> <p>Yes</p>	<p>The shop top apartment has existing window openings to the street. No changes are proposed to the façade fronting Albion Street. Access to the apartment via the right of way at the rear of the site will be maintained.</p> <p>The rear first floor balcony is consistent with the location and dimensions of existing balconies at Nos. 27 and 29 Albion Street which have an outlook to the west and south-west. The proposed first floor rear balcony consists of a full height blade wall along the southern boundary to minimise overlooking of adjacent rear yards and dwellings. The proposal is not considered to result in any unreasonable privacy impacts on adjoining properties, subject to additional privacy treatments including the installation of solid balustrades or opaque glazing and a privacy screen along the northern side of the balcony.</p>
<b>3.16 Dwelling size and layout</b>		
<ul style="list-style-type: none"> <li>Max width of dwelling over 15m deep is min 4m</li> <li>All habitable rooms to have a window</li> </ul>	<p>Yes</p> <p>No</p>	<p>The proposed apartment is built to the side boundaries and has an internal width of 4.5m.</p> <p>The proposed home office, located between the bedroom and bathroom on the first floor, is a habitable room but has not been provided with an external window in accordance with the</p>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Min sizes 2 bedroom = 80m<sup>2</sup></li> <li>Flexible design</li> <li>Accessible and Adaptable</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>provisions of the BCA. The home office occupies a substantial area of the first floor, contributes to GFA and will have poor amenity for future occupants.</p> <p>The apartment comprises 2 bedrooms and a home office with a total area of 115m<sup>2</sup> exceeding the minimum apartment size. The internal layout of the apartment is able to facilitate flexible furniture configurations.</p>
<b>3.17 Ceiling Heights</b>		
<ul style="list-style-type: none"> <li>Min 2.7m floor to ceiling height residential floors</li> </ul>	<p>No</p>	<p>The proposal provides floor to ceiling heights of 2.5m to the ground, first and second floor levels at the rear of the site. The floor to ceiling height of the second floor along the southern boundary is 2.4m. The proposed floor to ceiling heights will impact on the internal amenity of the apartment for future occupants and are not acceptable. A minimum floor to ceiling heights of 2.7m for habitable rooms on each floor level is required which will increase the height of the proposal and could result in additional building bulk and amenity impacts. The proposal in its current form is considered excessive in bulk and scale with additional amenity impacts on adjoining properties. If the proposal was to be amended to achieve compliant floor to ceiling heights, it is likely to result in further amenity impacts which is not supported.</p>
<b>3.18 Storage</b>		
<p>In addition to kitchen cupboards and bedroom wardrobes, min storage required is:</p> <ul style="list-style-type: none"> <li>2 bed = 8m<sup>3</sup></li> </ul>	<p>Yes</p>	<p>The proposal provides 11m<sup>3</sup> of storage within the apartment which complies with the minimum storage requirement of 8m<sup>3</sup> under the Waverley DCP 2012.</p>
<b>3.19 Acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Internal amenity by locating noisy areas away from quiet areas</li> </ul>	<p>Yes</p>	<p>The proposed internal layout of the apartment with main living areas to the rear is consistent with the location of living areas for dwellings immediately surrounding the site.</p>
<b>3.20 Natural Ventilation</b>		
<ul style="list-style-type: none"> <li>All dwellings to be naturally cross-ventilated</li> <li>Building to be orientated to maximise breezes</li> </ul>	<p>Yes</p> <p>As existing</p>	<p>The proposed apartment is naturally cross ventilated with window openings to the east and west.</p> <p>The orientation of the building is constrained by the subdivision pattern and the terrace style building typology of the site and the adjoining row of terraces to the north.</p>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Ceiling fans are to be provided in all habitable rooms.</li> </ul>	No	The proposal does not include ceiling fans in habitable rooms.
<b>3.21 Building services</b>		
<ul style="list-style-type: none"> <li>Services are to be integrated into the design of buildings (garbage rooms, mail boxes, fire hydrants boosters, electrical substations, down pipes, plant rooms, satellite/communications structures</li> <li>Outdoor Communal clothes drying area to be provided</li> <li>Services on roof not to be seen from street or impact public or private views and be min 2m from the building edge</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Not shown</p>	<p>Garbage storage is provided within the rear courtyard in close proximity to the right of way to the north which provides access for collection on Cables Place. Letterboxes have not been shown on the architectural plans. A condition has been imposed requiring the location of letterboxes to be shown on the plans.</p> <p>A washing line is proposed along the southern boundary fence within the rear courtyard.</p> <p>The existing and proposed roof will be located behind the parapet. No services have been shown on the existing or proposed roof.</p>

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

Development Control	Compliance	Comment
<b>3.1 Specific controls</b>		
3.1.3 Charing Cross Small Village	Yes	The site is the southernmost property within the Charing Cross Local Village. The site is part of a row of heritage listed commercial/residential terraces on the western side of Albion Street near the intersection with Bronte Road. The proposal does not seek to alter the front façade of the existing terrace and retains the shop top housing use which is consistent with the established use of the row of terraces fronting Albion Street and character of the village.
<b>3.2 Generic controls</b>		
3.2.1 Land uses	Yes	The retention of the existing shop top housing is consistent with the land use controls under the DCP with ground floor access provided at the rear (via the existing right of way from Cables Place).
3.2.2 Public domain interface	Yes	No change is proposed. The ground floor shopfront maintains access to a commercial tenancy.
3.2.3 Built form	No	The proposal provides setbacks and building depths that respond appropriately to existing built

Development Control	Compliance	Comment
		<p>form of terraces within the row at the ground and first floor levels. However, the scale of the second floor is out of character with the scale and two storey built form of surrounding developments. As discussed above, the proposed floor to ceiling heights are insufficient and amendments to the design to achieve compliance is likely to contribute to additional building bulk and is not appropriate.</p>
<p>3.2.4 Building facade articulation</p>	<p>Yes</p>	<p>No change is proposed to the front elevation fronting Albion Street.</p> <p>The proposed highlight windows on the southern boundary wall seeks to provide natural light and ventilation to ground floor commercial tenancy. Given the windows are located on the boundary, openable windows are not considered appropriate and its proximity to habitable room windows at No. 33 Albion Street is likely to result in additional amenity impacts on adjoining occupants.</p> <p>The architectural style of the proposed rear addition is consistent with the articulation of rear additions to terraces within the row. As the rear elevation is not visible from the public domain and does not impact on the character of the streetscape, the proposed rear elevation is acceptable.</p>
<p>3.2.5 Buildings of historic character</p>	<p>Yes</p>	<p>Existing original fabric fronting Albion Street will be retained. The proposal will not have any impact on the contribution of the existing building within the streetscape, village or conservation area.</p>
<p>3.2.6 Building services and site facilities</p>	<p>Yes</p>	<p>Proposed services are contained at the rear of the site and will not have any impact on the existing appearance of the building when viewed from Albion Street. Council's Waste Management Officer has raised no objection to the proposed removal of garbage from the rear courtyard via a right of way to Cable Place.</p> <p>The proposal has not shown the location of letterboxes on the drawings however it has been stated in the Statement of Environmental Effects that the letterboxes will be provided adjacent to entrances and integrated into the wall of the building. The proposal is able to comply with the provision of letterboxes to service the site, subject to condition requiring plans to show the location of letterboxes.</p>

Development Control	Compliance	Comment
		A laundry within the apartment has not been shown on the plans. There is sufficient area within the apartment to provide laundry facilities, subject to a condition.

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

### View loss

Section 3.14 in Part C3 of the DCP details all objectives and controls to reduce impacts on existing view and view sharing from private properties and the public domain.

The proposal will not result in any loss of views from the public domain and is considered consistent with the objectives and provisions of the DCP.

During the notification period, view loss concerns were raised by a neighbouring property to the south of the site at Unit 6, 33 Albion Street. Potential view loss impacts from the western window of the kitchen at Unit 6 has been assessed by Council's assessment officer undertaking a desktop analysis and considering the provisions under Section 3.14 and the view sharing planning principles based on *Tenacity Consulting v Warringah [20041 NSWLEC 140]*.

The view sharing planning principle requires a four step assessment to determine if view sharing is reasonable as follows:

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

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

*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).*

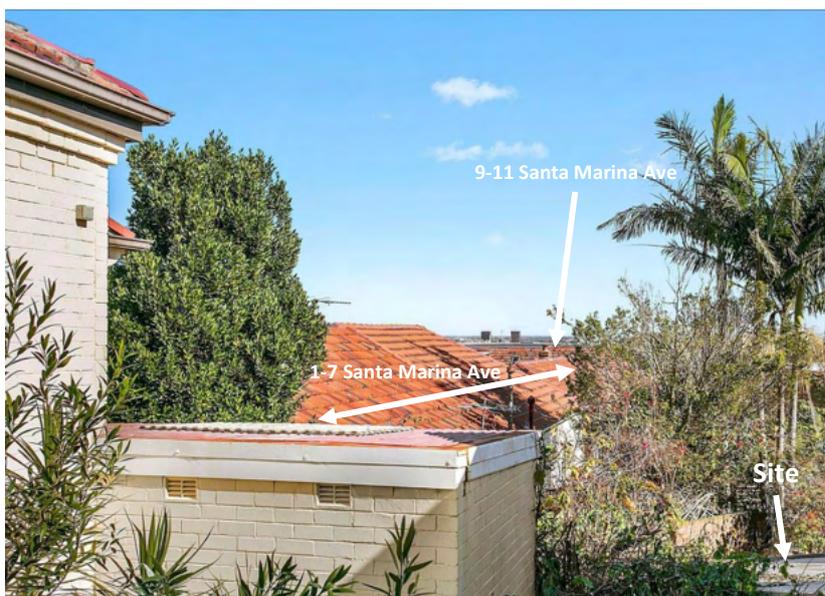
*4. The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered*

*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.*

Unit 6, 33 Albion Street currently has a district view from the west facing kitchen window, in a standing position, to the southwest across the side boundaries of adjoining properties of properties to the west at Nos. 1 to 7 Santa Marina Avenue, across the front boundary of No.9-11 Santa Marina Avenue and the part of the southern side and rear boundary of the subject site (see **Figures 8 to 10** below).



**Figure 8:** Kitchen windows from Unit 6, 33 Albion Street, west facing window outlined in red (Source: Realestate.com.au)



**Figure 9:** View from kitchen window of Unit 6, 33 Albion Street looking south-west (Source: Realestate.com.au)



**Figure 10:** View from kitchen window of Unit 6, 33 Albion Street (Source: provided by owner)

The existing outlook from the west facing kitchen window consists of the roofs of surrounding properties, trees and district view towards the south-west above the existing ridgeline of single storey dwellings. The distant view does not contain any iconic views such as the Harbour Bridge, Opera House, city skyline or water views and is not considered significant. The existing view to the south-west is obtained from a standing position. As the existing kitchen does not facilitate seating, views from a sitting position are not relevant in this instance. Unit 6 does not contain any other window opening that provides an outlook to the south-west.

Whilst the existing view from the kitchen window provides outlook to the distant horizon for occupants, the view is not iconic or significant. The proposed rear extension of the ground and first floor levels are consistent with the rear setback of the adjoining row of terraces and will not result in unreasonable visual bulk or view loss impacts. However, the cumulative impact of the proposal including the second floor addition will present an extensive blank wall that results in a sense of enclosure when viewed from the adjoining property. The visual impact will detract from the amenity of the adjoining property and is not considered reasonable.

## 2.2. Other Impacts of the Development

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

## 2.3. Suitability of the Site for the Development

The site is not considered suitable for the proposal.

## 2.4. Any Submissions

The application was notified 14 days between 1 and 15 September 2021, and a site notice erected on the site in accordance with the *Waverley Community Development Participation and Consultation Plan*.

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

- The ground floor studio at the rear of the site was deleted from the proposal;
- No works are proposed beyond the boundaries of the subject site; and
- Internal changes to the layout of the first floor with no external impacts.

A total of four (4) unique submissions were received from the following properties:

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

Count	Property Address
1.	33 Albion Street, Waverley
2.	1 Santa Marina Avenue, Waverley
3.	3 Santa Marina Avenue, Waverley
4.	Charing Cross Village Precinct

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

- Insufficient shadow diagrams
- View loss
- Amenity and heritage impacts from new ground floor windows on the southern elevation
- Rear setback
- Location of letterboxes
- Waste storage and collection

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

**Issue:** Incorrect details shown on drawings, particularly 1 Santa Marina Avenue is a single storey dwelling not a 2 storey unit building.

**Response:** A site inspection has been carried out by Council’s assessment officer who also identified the error on the drawings showing 1 Santa Marina Avenue as a two storey building. The assessment of the proposal has been undertaken having regard to the existing one storey residential dwelling.

**Issue:** The proposed three storeys at the rear is out of character with the locality.

**Response:** Agreed. The proposed second floor addition is out of character with the predominant two storey built form of surrounding developments and will result in additional amenity impacts on surrounding properties.

**Issue:** Solar access impacts to 1 Santa Marina Avenue in non-winter months.

**Response:** In accordance with the solar access controls under the Waverley DCP 2012, additional overshadowing impacts are considered between 9am and 3pm at the winter solstice. Shadow impacts at other times of the year are not required to be considered as part of the assessment.

**Issue:** Construction works will have amenity impacts on surrounding residents.

**Response:** Impacts associated with construction works are temporary and is not a valid reason for refusal as mitigation measures can be implemented during demolition and construction phases to minimise environmental or amenity impacts on surrounding properties.

**Issue:** The proposal will negatively impact the property values.

**Response:** The valuation of properties is not a matter for consideration in the assessment of the proposed development under the *Environmental Planning Assessment Act 1979*.

**Issue:** Restoration and repairs of front façade as necessary should be required.

**Response:** Agreed. Council's Heritage Advisor has recommended a condition requiring the submission of a schedule of conservation works to the front elevation to be prepared and submitted to Council for approval, if the proposal were to be supported.

**Issue:** Air conditioner units and other equipment should be placed on the roof or rear of site.

**Response:** Installation of air conditioner units or other plant equipment is not part of this proposal. Any future installation of air conditioner units or plant equipment will require development consent, except for any exemptions permitted under the State Environmental Planning Policy (Exempt and Complying Development Codes).

## 2.5. Public Interest

The proposal is considered to have a detrimental effect on the public interest, and is recommended for refusal.

## 3. REFERRALS

The following internal referral comments were sought:

### 3.1. Heritage Advisor

Council's Heritage Advisor reviewed the proposal and raised no objection as the alterations and additions will have minimal visual impact on the heritage significance of the building when viewed from the public domain. Should the proposal be supported, conditions requiring a schedule of conservation

works to the street frontage and matching the new render on the southern elevation with existing lined ashlar render are recommended.

### 3.2. Stormwater

Council's Stormwater Engineer reviewed the proposal and raised no objection.

### 3.3. Fire Safety

Council's Fire Safety Officer reviewed the proposal and raises no objection as the recommendations within the BCA report are capable of satisfying relevant provisions for fire safety and access under the BCA.

### 3.4. Waste Management

The proposal was reviewed by Council's Waste Management Officer who raises no objection to the proposal and is satisfied with the proposed waste storage and collection for the site.

## 4. CONCLUSION

The development application seeks consent for alterations and additions to the existing two storey shop top housing building including construction of an additional floor level to comprise of a ground floor commercial tenancy and a two level apartment above at the site known as 31 Albion Street, Waverley.

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

- FSR;
- Overshadowing;
- Floor to ceiling height;
- Rear setback; and
- Landscaped area and deep soil.

The assessment finds these issues unacceptable as the proposed bulk form and scale, particularly the second floor addition is out of character with the predominantly two storey built form of surrounding properties and insufficient information has been submitted to enable a proper assessment of the environmental amenity impacts on adjoining properties. The Clause 4.6 written request seeking variation to the FSR development standard has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify contravening the standard as the proposed results in additional building bulk and amenity impacts on adjoining properties.

A total number of four (4) submissions were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation. No Councillor submissions have been received.

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

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

The application was reviewed by the DBU at the meeting on 31 May 2022 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 Magistrale and D Knight.*

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

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

<b>Report prepared by:</b>	<b>Application reviewed and agreed on behalf of the Development and Building Unit by:</b>
	
Peggy Wong	Ben Magistrale
<b>Senior Development Assessment Planner</b>	<b>A/Manager, Development Assessment (Area 2) (Reviewed and agreed on behalf of the Development and Building Unit)</b>
<b>Date:</b> 1 June 2022	<b>Date:</b> 9 June 2022

**Reason for WLPP referral:**

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

## APPENDIX A – REASONS FOR REFUSAL

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

1. The proposal does not satisfy the objectives of the Act, as stipulated in section 1.3 (g) as it does not promote good design or amenity of the built environment.
2. The proposal does not satisfy section 4.15(1)(a)(i) of the Act, as it does not satisfy the Waverley Local Environmental Plan 2012 (WLEP), in particular the following provisions:
  - a. Clause 4.4 *Floor Space Ratio* as the proposal is considered an overdevelopment of the subject site and the proposed bulk and scale are inconsistent with surrounding developments does not preserve the environmental amenity of neighbouring properties and the surrounding locality as required under clauses 4.4 (1)(c) and (d) of WLEP.
  - b. Clause 4.6 *Exceptions to development standards* (1) and (3) as the applicant has failed to demonstrate that the proposed development will result in a better outcome for the site and a compliant development is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify the breach to the floor space ratio development standard. The proposal is not considered to be in the public interest.
3. The application does not satisfy section 4.15 (1)(a)(iii) of the Act as it is contrary to Waverley Development Control Plan 2012, in respect to the following provisions:
  - a. Part B12 – *Design Excellence*
    - i. Section 12.1 *Design* specifically objectives (a), (c) and (d), controls (a) and (e) and section 12.2 *Context Analysis* objectives (a), (b), (c) and (d) as the proposal has failed to consider the suitability of the land for development given the relationship of the development to other development on neighbouring sites and the result of additional amenity impacts particularly additional visual bulk and overshadowing of adjoining properties.
  - b. Part C3 – *Other Residential Development*
    - i. Section 3.3.2 *Side and rear setbacks*, specifically objectives (a) and (b) and control (a), as the southern side and rear setbacks of the first and second floor levels of the proposal result in poor visual relief and adverse bulk and scale and overshadowing impacts of the neighbouring building and property to the south of the site.
    - ii. Section 3.13 *Solar access and overshadowing*, specifically objectives (c) and (d), and control (c) as insufficient details have been provided on the shadow diagrams to clearly distinguish existing and proposed shadow impacts on adjoining private open space and the full extent of the proposed shadows to adjoining properties and surrounding area. The proposal will result in additional overshadowing to adjoining properties where less than three hours of direct sunlight is currently provided and will result in further reduction to the amenity of adjoining properties.

- iii. Section 3.126 *Dwelling size and layout*, specifically (c) and control (c) as the first floor home office area is a habitable room without a window for natural light and ventilation.
  - iv. Section 3.17 *Ceiling heights*, specifically objectives (a) to (d) and control (a), as the habitable rooms do not achieve a minimum floor to ceiling height of 2.7m and will not provide adequate internal amenity for future occupants.
- c. Part E3 – Local Village Centres
- i. Section 3.2.3 *Generic Controls – Built form*, specifically objectives (a), (d), (e) and controls (a) as the proposed floor to ceiling heights are less than the minimum floor to ceiling height of 2.7 metres and the built form is inconsistent with the scale of surrounding developments within the village centre.
4. The application does not satisfy section 4.15 (1)(b) of the Act as the proposed development in terms of the additional building bulk results in unacceptable amenity impacts on adjoining properties.
  5. The application is contrary to section 4.15 (1)(c) of the Act due to the site being unsuitable to accommodate the proposed development. The scope of the development exceeds the floor space ratio development standard, is not consistent with the predominant built form of surrounding developments and will result in additional amenity impacts on adjoining properties. The application is an over development of the site.
  6. The application is contrary to section 4.15 (1)(e) of the Act in relation to the public interest as the variation sought to the floor space ratio development standard has not been adequately justified by a Clause 4.6 written request demonstrating that compliance with the development standards is unnecessary or unreasonable and that there are sufficient environmental planning grounds to contravene the standards.



01.DA Drawing List

Drawing #	Drawing Name	Rev.
<b>COVERS</b>		
DA - 00.10	LOCALITY MAP	2
DA - 00.20	NOTIFICATION PLAN	2
DA - 00.30	BASIX COMMITMENTS	2
<b>DEMOLITION WORKS</b>		
DA - 02.10	GROUND FLOOR	2
DA - 02.20	FIRST FLOOR	2
DA - 02.40	ROOF	2
<b>SITE CONTEXT</b>		
DA - 03.00	SITE ANALYSIS PLAN	2
DA - 03.10	SITE PLAN	2
<b>GENERAL ARRANGEMENT</b>		
DA - 04.10	GROUND FLOOR	2
DA - 04.20	FIRST FLOOR	2
DA - 04.30	SECOND FLOOR	2
DA - 04.40	ROOF	2
<b>GA SECTIONS</b>		
DA - 05.00	SECTIONS	2
<b>GA ELEVATIONS</b>		
DA - 06.00	FRONT & REAR ELEVATIONS	2
DA - 06.10	NORTH & SOUTH ELEVATIONS	2
<b>AREA ANALYSIS</b>		
DA - 07.00	BUILDING & AREA CALCULATIONS	2
<b>DESIGN INTENT</b>		
DA - 08.00	PERSPECTIVES	2
DA - 08.10	ELEVATED FINISHES	2
<b>SOLAR ANALYSIS</b>		
DA - 09.00	WINTER SOLSTICE - 21 JUNE	2
DA - 09.10	WINTER SOLSTICE - 21 JUNE	2
DA - 09.20	WINTER SOLSTICE - 21 JUNE	2
<b>SITE WORKS</b>		
DA - 10.00	SEDIMENT CONTROL PLAN	2
DA - 10.10	WASTE MANAGEMENT PLAN	2

31 Albion Street, Waverley  
 DEVELOPMENT APPLICATION  
 AUGUST 2021



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 INFO@PINNACLEPLUS.COM.AU  
 PH: 1300 599 111

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CLIENT NAME: AARON O'ROURKE  
 PROJECT NUMBER: 2005  
 PROJECT TYPE: ALTERATIONS AND ADDITION  
 PROJECT INFO: DP 435468 LOT 3  
 PROJECT ADDRESS: 31 ALBION STREET, WAVERLEY, 2024

COVERS

LOCALITY MAP

REVISION HISTORY			
#	Date	By	Description
1	15.03.21	MQ	ISSUE FOR DA
2	16.08.21	MQ	ISSUE FOR DA

DRAWN BY:  
 MQ  
 SCALE @ A3

DRAWING NUMBER      REVISION

DA - 00.10      2

Fixtures and systems	Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
<b>Hot water</b>			
The applicant must install the following hot water system in the development: gas instantaneous.	✓	✓	✓
<b>Lighting</b>			
The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.		✓	✓
<b>Fixtures</b>			
The applicant must ensure new or altered showerheads have a flow rate no greater than 9 litres per minute or a 3 star water rating.		✓	✓
The applicant must ensure new or altered toilets have a flow rate no greater than 4 litres per average flush or a minimum 3 star water rating.		✓	✓
The applicant must ensure new or altered taps have a flow rate no greater than 9 litres per minute or minimum 3 star water rating.		✓	✓

**RECEIVED**  
**Waverley Council**

Application No: DA-288/2021

Date Received: 27/08/2021

Construction	Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check															
<b>Insulation requirements</b>																		
The applicant must construct the new or altered construction (floor(s), walls, and ceilings/roofs) in accordance with the specifications listed in the table below, except that a) additional insulation is not required where the area of new construction is less than 2m <sup>2</sup> , b) insulation specified is not required for parts of altered construction where insulation already exists.	✓	✓	✓															
<table border="1"> <thead> <tr> <th>Construction</th> <th>Additional insulation required (R-value)</th> <th>Other specifications</th> </tr> </thead> <tbody> <tr> <td>concrete slab on ground floor.</td> <td>nil</td> <td></td> </tr> <tr> <td>floor above existing dwelling or building.</td> <td>nil</td> <td></td> </tr> <tr> <td>external wall: concrete panel/plasterboard (concrete: 200 mm)</td> <td>R1.35 (or R1.70 including construction)</td> <td></td> </tr> <tr> <td>flat ceiling, flat roof: framed</td> <td>ceiling: R2.50 (up), roof: foil/sarking</td> <td>medium (solar absorptance 0.475 - 0.70)</td> </tr> </tbody> </table>	Construction	Additional insulation required (R-value)	Other specifications	concrete slab on ground floor.	nil		floor above existing dwelling or building.	nil		external wall: concrete panel/plasterboard (concrete: 200 mm)	R1.35 (or R1.70 including construction)		flat ceiling, flat roof: framed	ceiling: R2.50 (up), roof: foil/sarking	medium (solar absorptance 0.475 - 0.70)			
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Glazing requirements	Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check																							
<b>Windows and glazed doors</b>																										
The applicant must install the windows, glazed doors and shading devices, in accordance with the specifications listed in the table below. Relevant overshadowing specifications must be satisfied for each window and glazed door.	✓	✓	✓																							
The following requirements must also be satisfied in relation to each window and glazed door:		✓	✓																							
Each window or glazed door with standard aluminium or timber frames and single clear or toned glass may either match the description, or, have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below. Total system U-values and SHGCs must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions.		✓	✓																							
Each window or glazed door with improved frames, or pyrolytic low-e glass, or clear/air gap/clear glazing, or toned/air gap/clear glazing must have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below. Total system U-values and SHGCs must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions. The description is provided for information only. Alternative systems with complying U-value and SHGC may be substituted.		✓	✓																							
For projections described in millimetres, the leading edge of each eave, pergola, verandah, balcony or awning must be no more than 500 mm above the head of the window or glazed door and no more than 2400 mm above the sill.	✓	✓	✓																							
Pergolas with polycarbonate roof or similar translucent material must have a shading coefficient of less than 0.35.		✓	✓																							
External louvres and blinds must fully shade the window or glazed door beside which they are situated when fully drawn or closed.		✓	✓																							
Pergolas with fixed battens must have battens parallel to the window or glazed door above which they are situated, unless the pergola also shades a perpendicular window. The spacing between battens must not be more than 50 mm.		✓	✓																							
Overshadowing buildings or vegetation must be of the height and distance from the centre and the base of the window and glazed door, as specified in the 'overshadowing' column in the table below.	✓	✓	✓																							
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Each skylight may either match the description, or, have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below.		✓	✓																																																			
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<table border="1"> <thead> <tr> <th>Skylight number</th> <th>Area of glazing inc. frame (m<sup>2</sup>)</th> <th>Shading device</th> <th>Frame and glass type</th> </tr> </thead> <tbody> <tr> <td>S1</td> <td>1.092</td> <td>no shading</td> <td>timber, low-E internal/argon fill/clear external, (or U-value: 2.5, SHGC: 0.456)</td> </tr> <tr> <td>S2</td> <td>1.092</td> <td>no shading</td> <td>timber, low-E internal/argon fill/clear external, (or U-value: 2.5, SHGC: 0.456)</td> </tr> </tbody> </table>	Skylight number	Area of glazing inc. frame (m <sup>2</sup> )	Shading device	Frame and glass type	S1	1.092	no shading	timber, low-E internal/argon fill/clear external, (or U-value: 2.5, SHGC: 0.456)	S2	1.092	no shading	timber, low-E internal/argon fill/clear external, (or U-value: 2.5, SHGC: 0.456)																																										
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S2	1.092	no shading	timber, low-E internal/argon fill/clear external, (or U-value: 2.5, SHGC: 0.456)																																																			



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CLIENT NAME: AARON O'ROURKE  
PROJECT NUMBER: 2005  
PROJECT TYPE: ALTERATIONS AND ADDITION  
PROJECT INFO: DP 435468 LOT 3  
PROJECT ADDRESS: 31 ALBION STREET, WAVERLEY, 2024

COVERS

**BASIX COMMITMENTS**

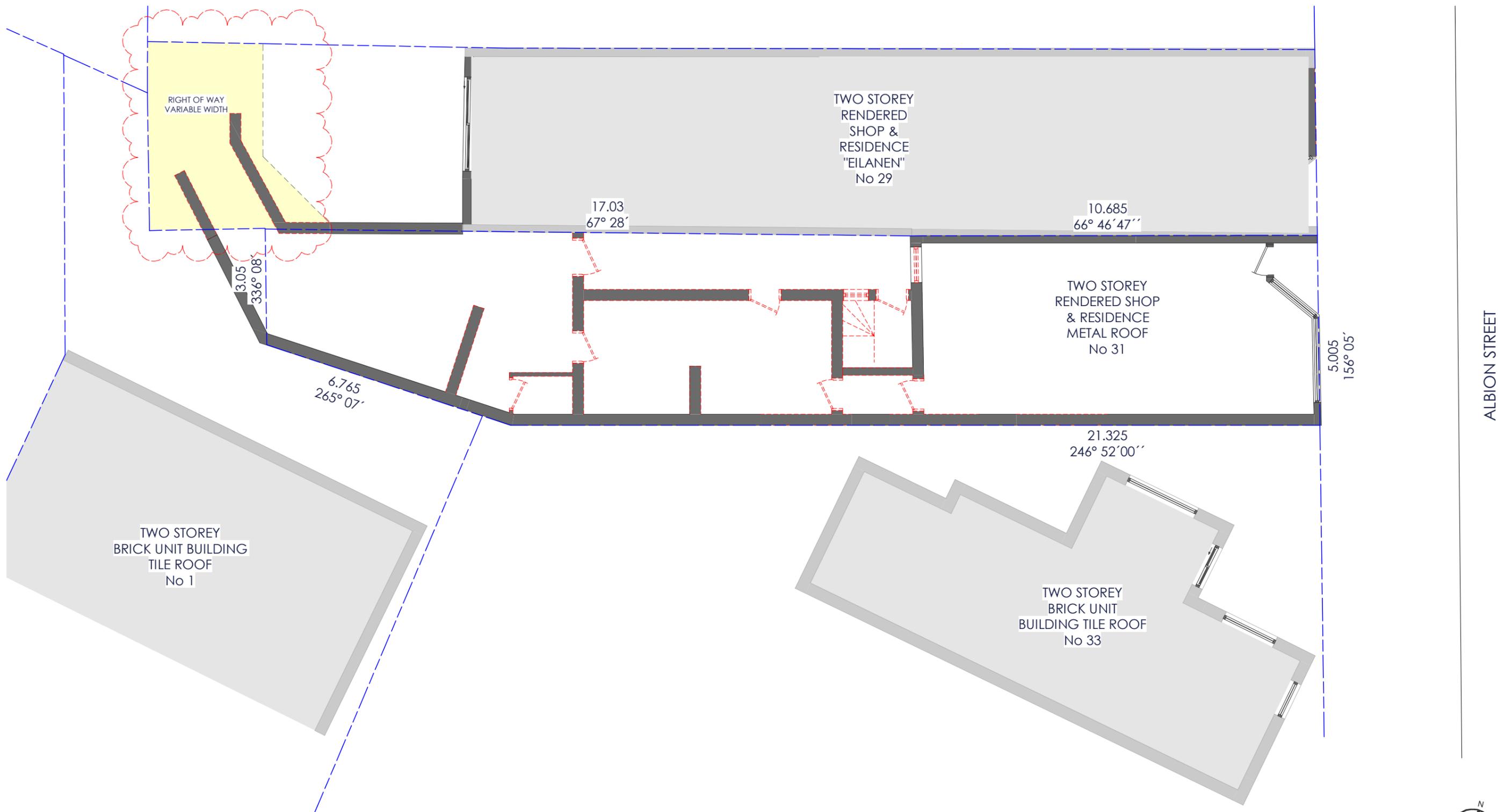
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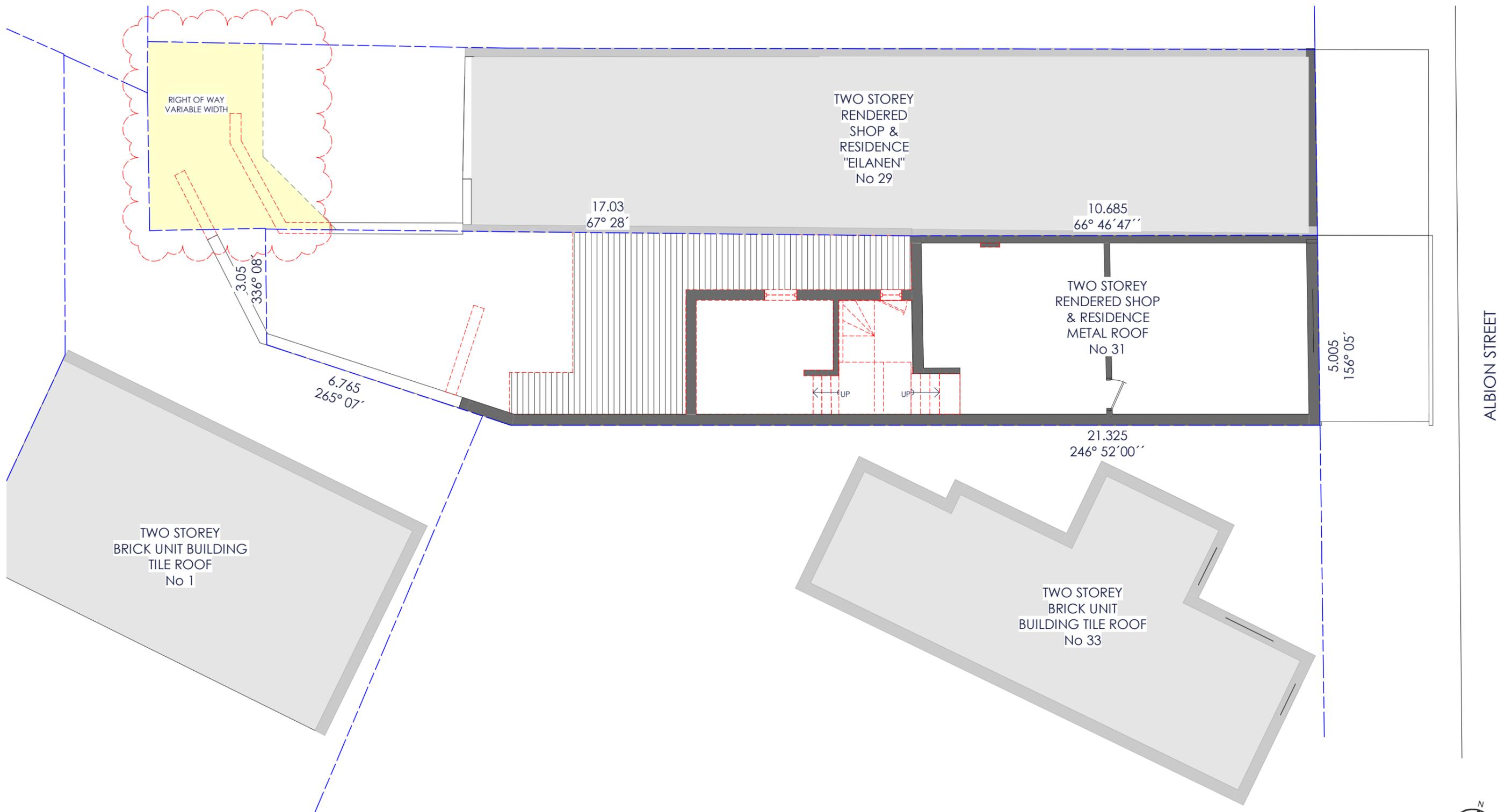
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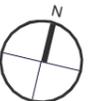
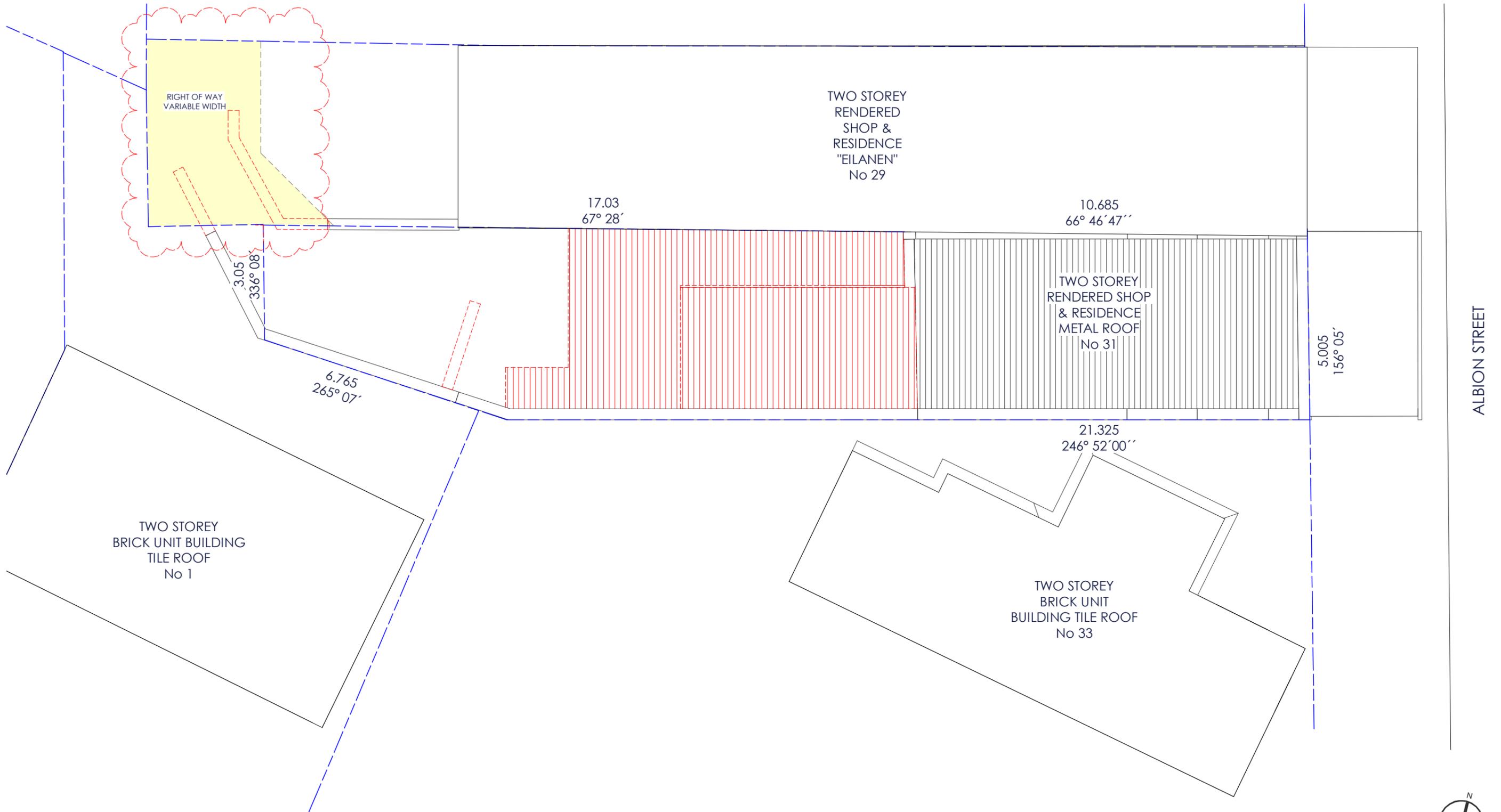
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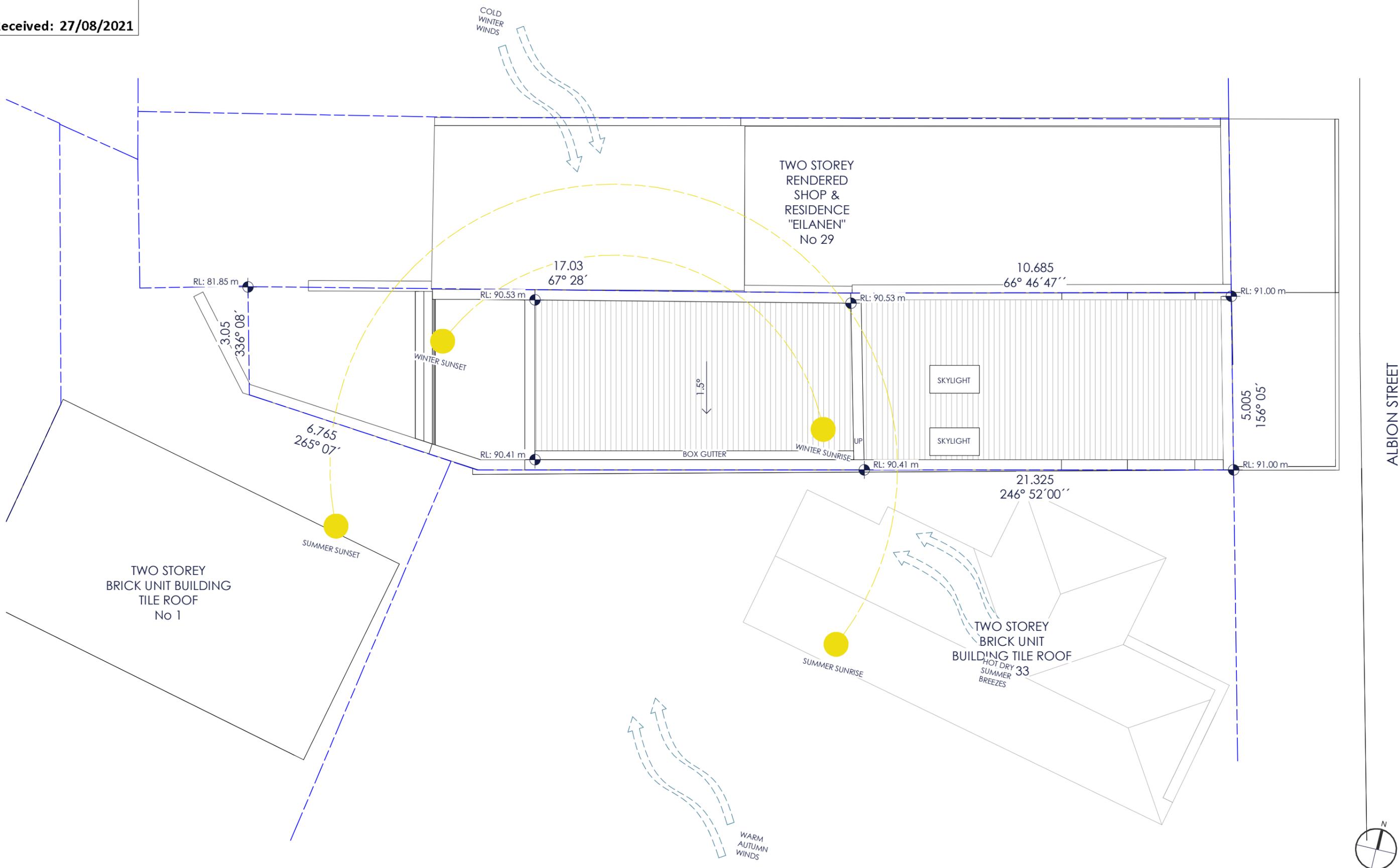
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DA - 00.30 2









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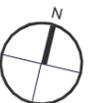
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PROJECT INFO: DP 435468 LOT 3  
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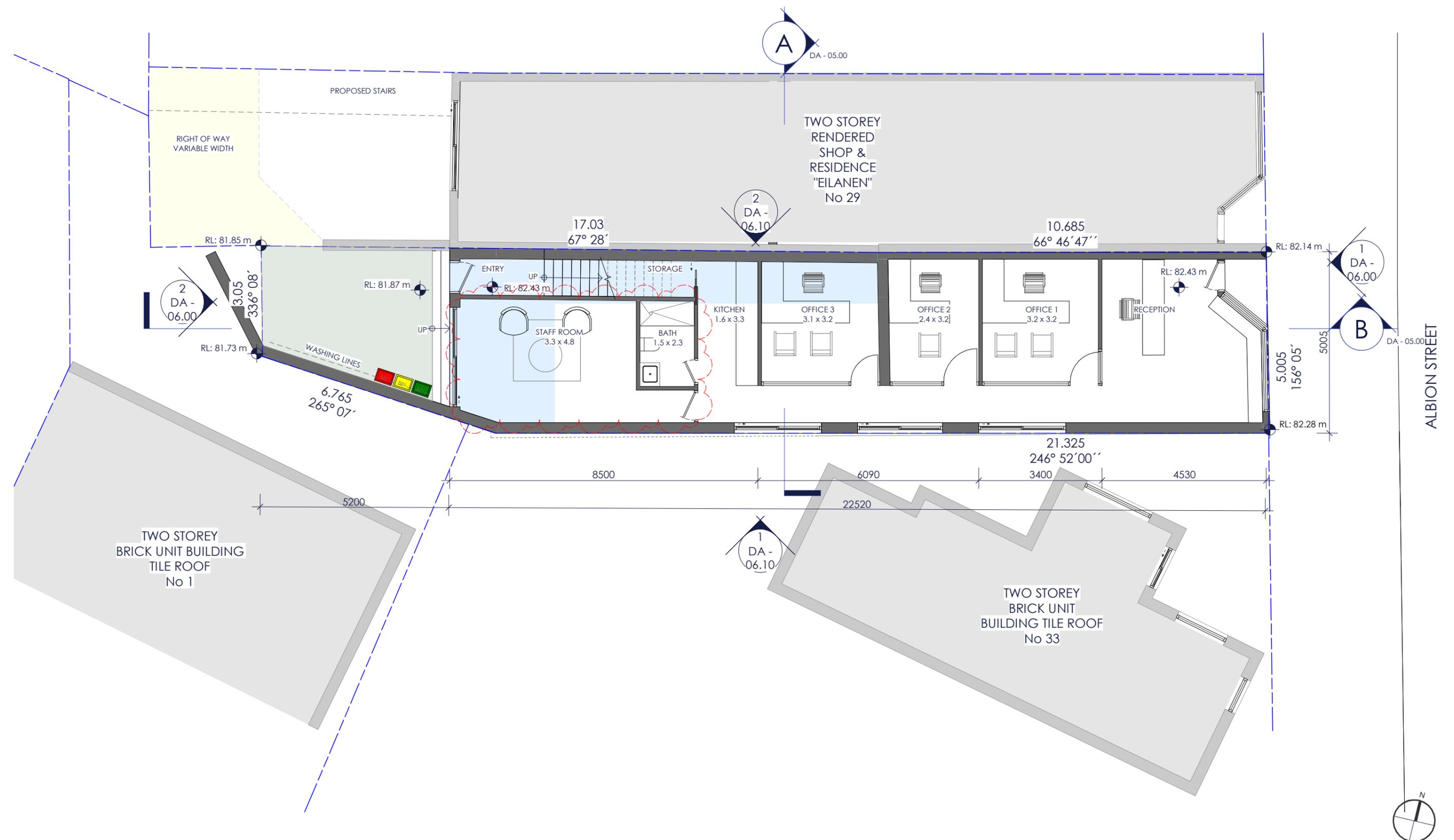
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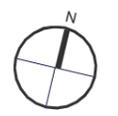
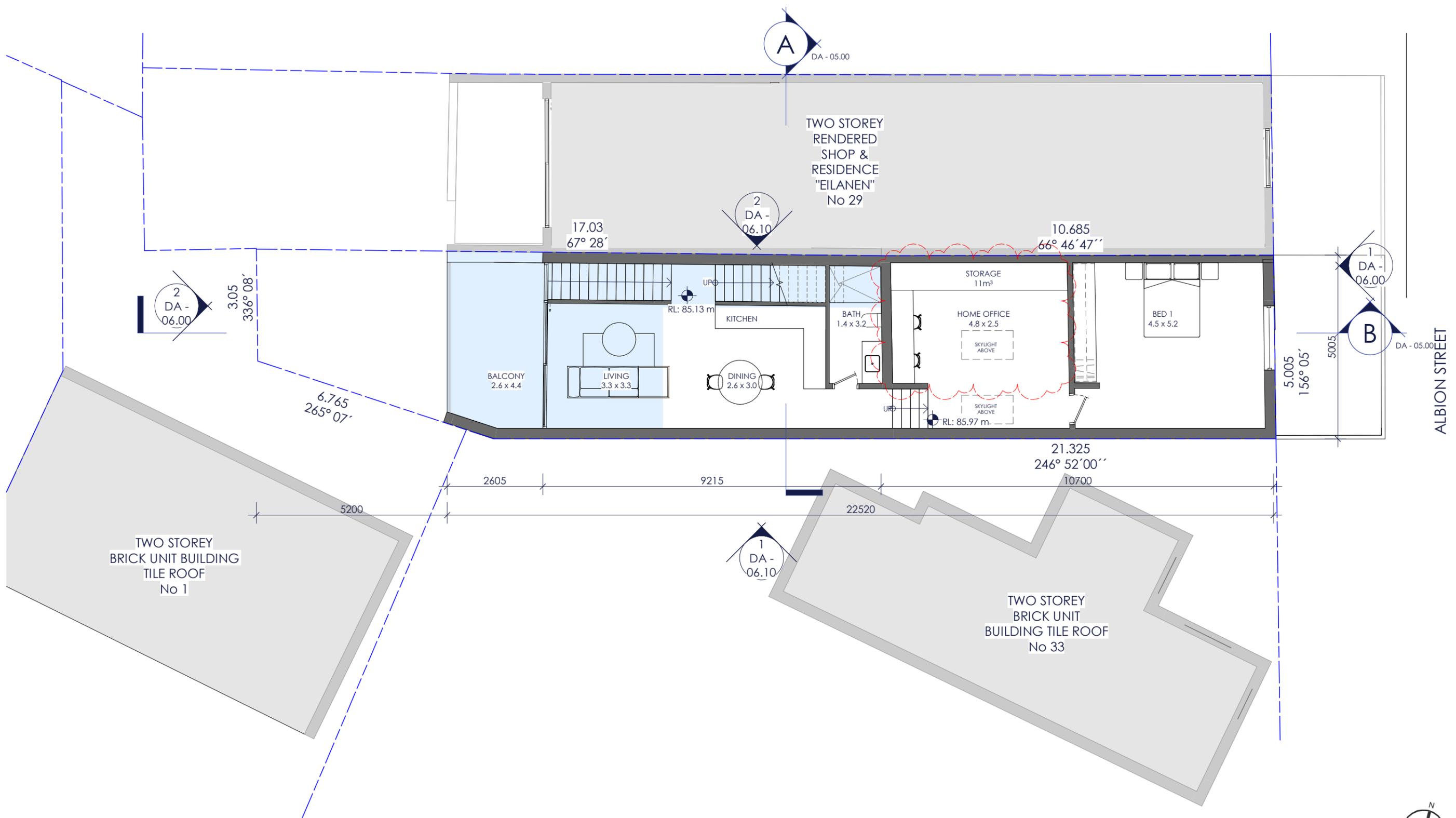
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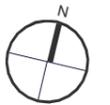
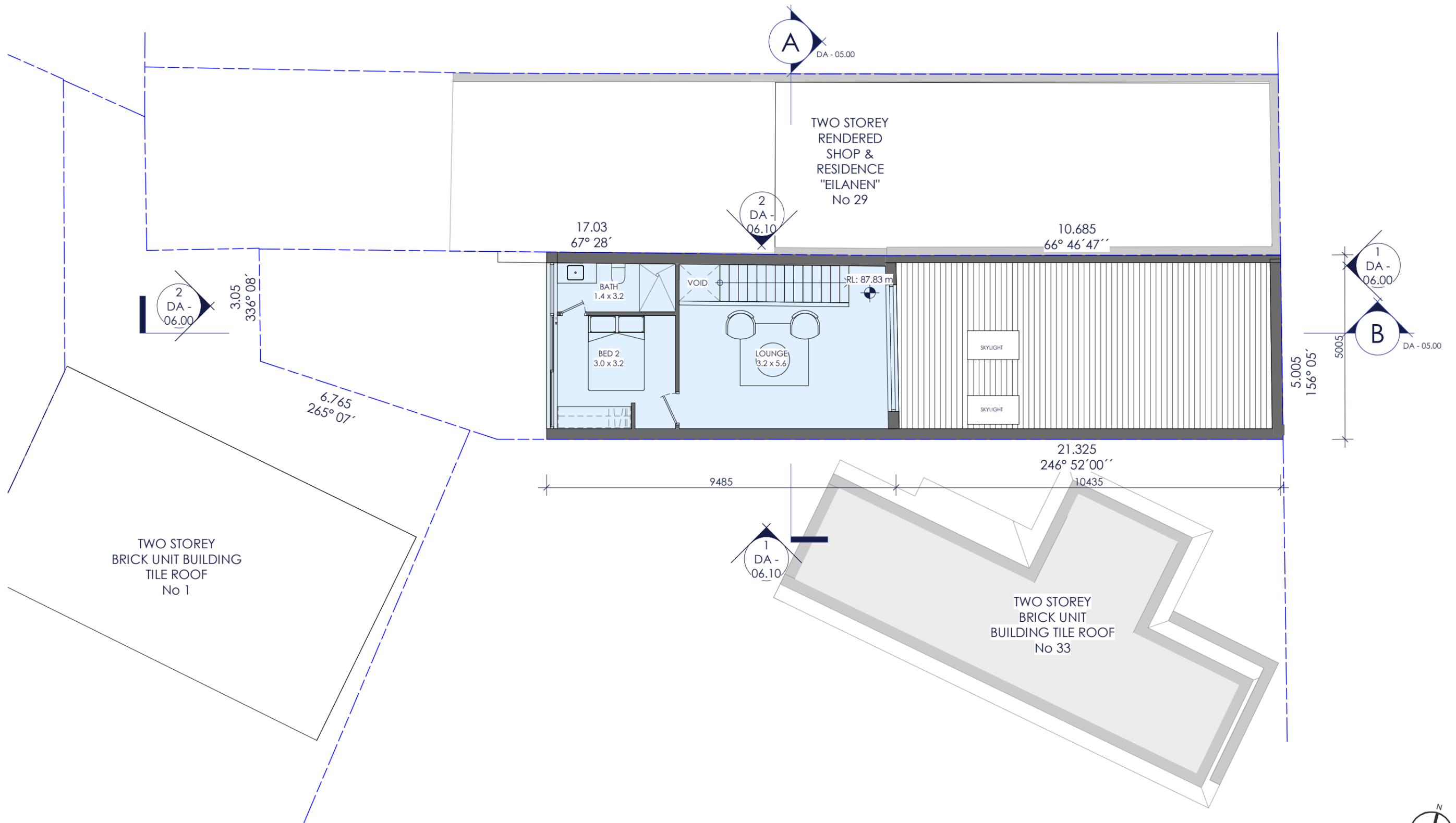
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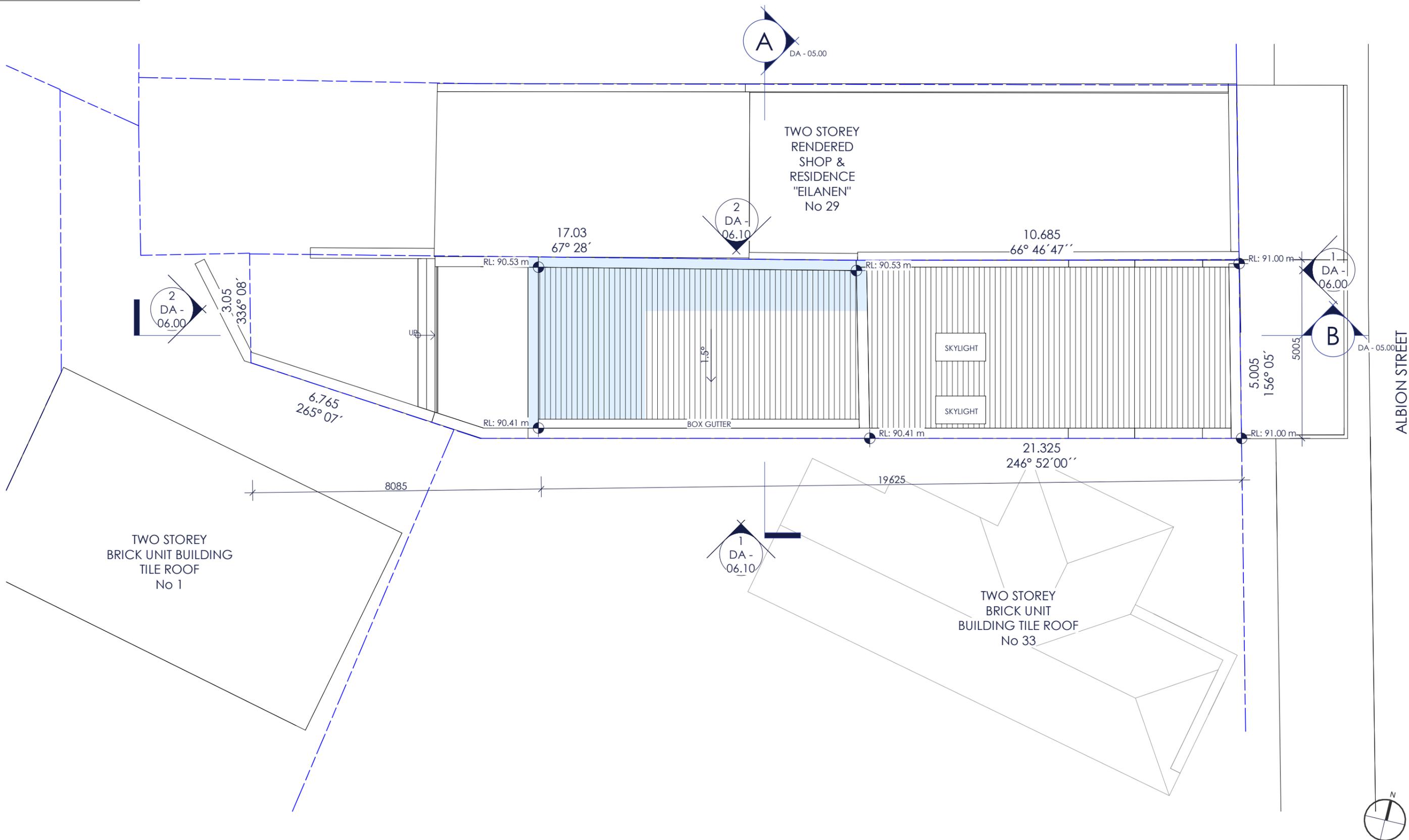




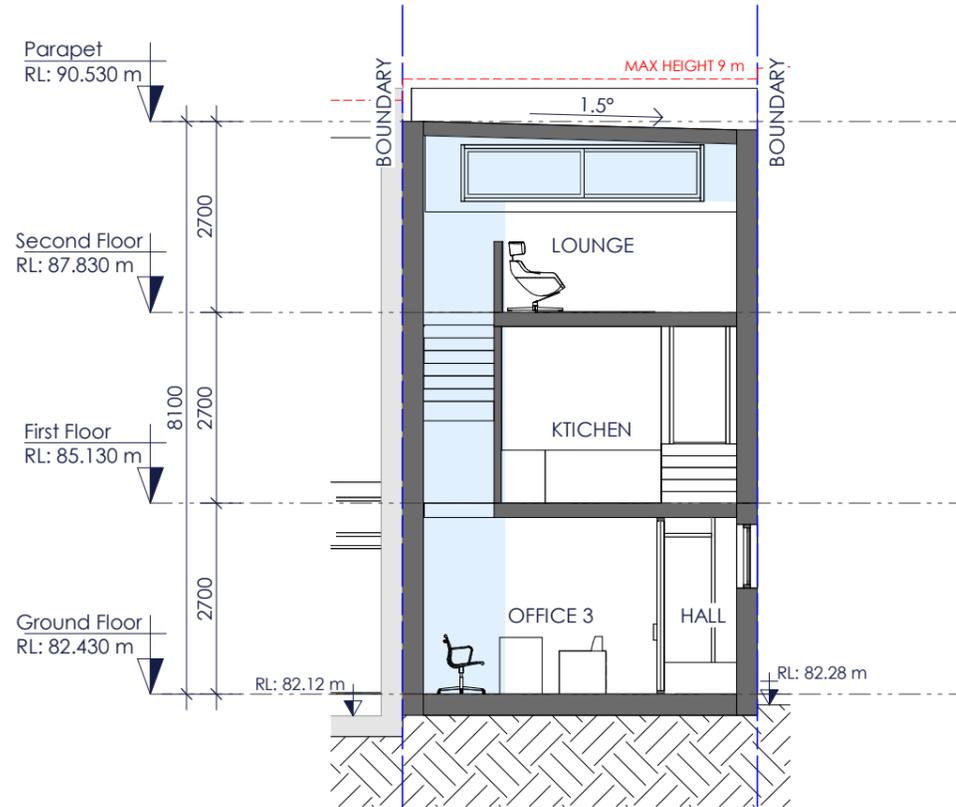


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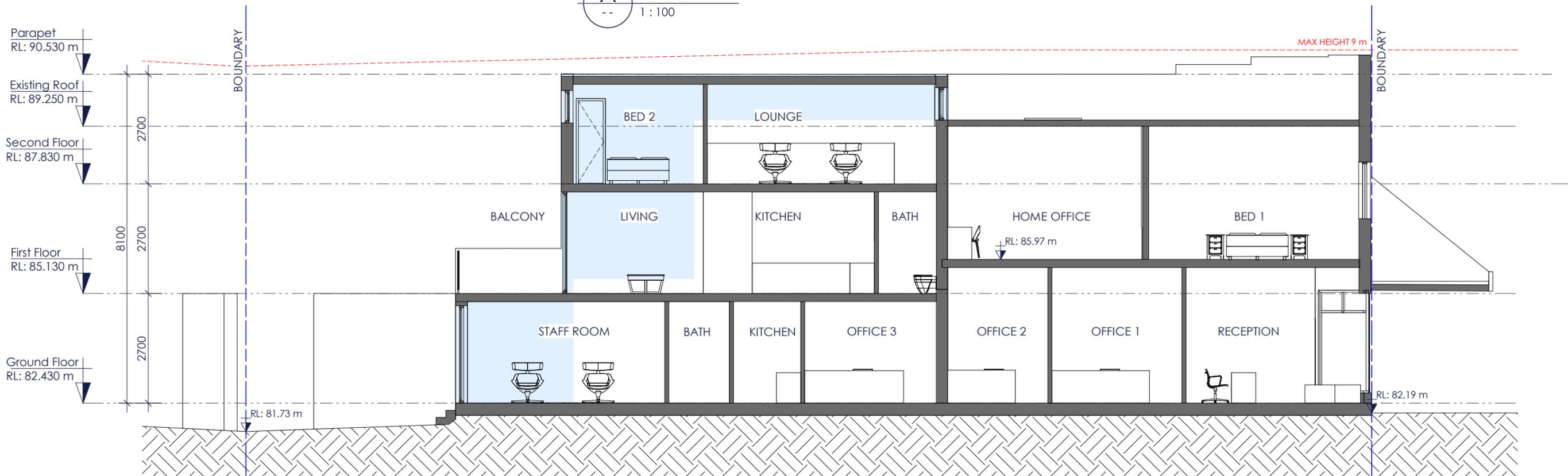




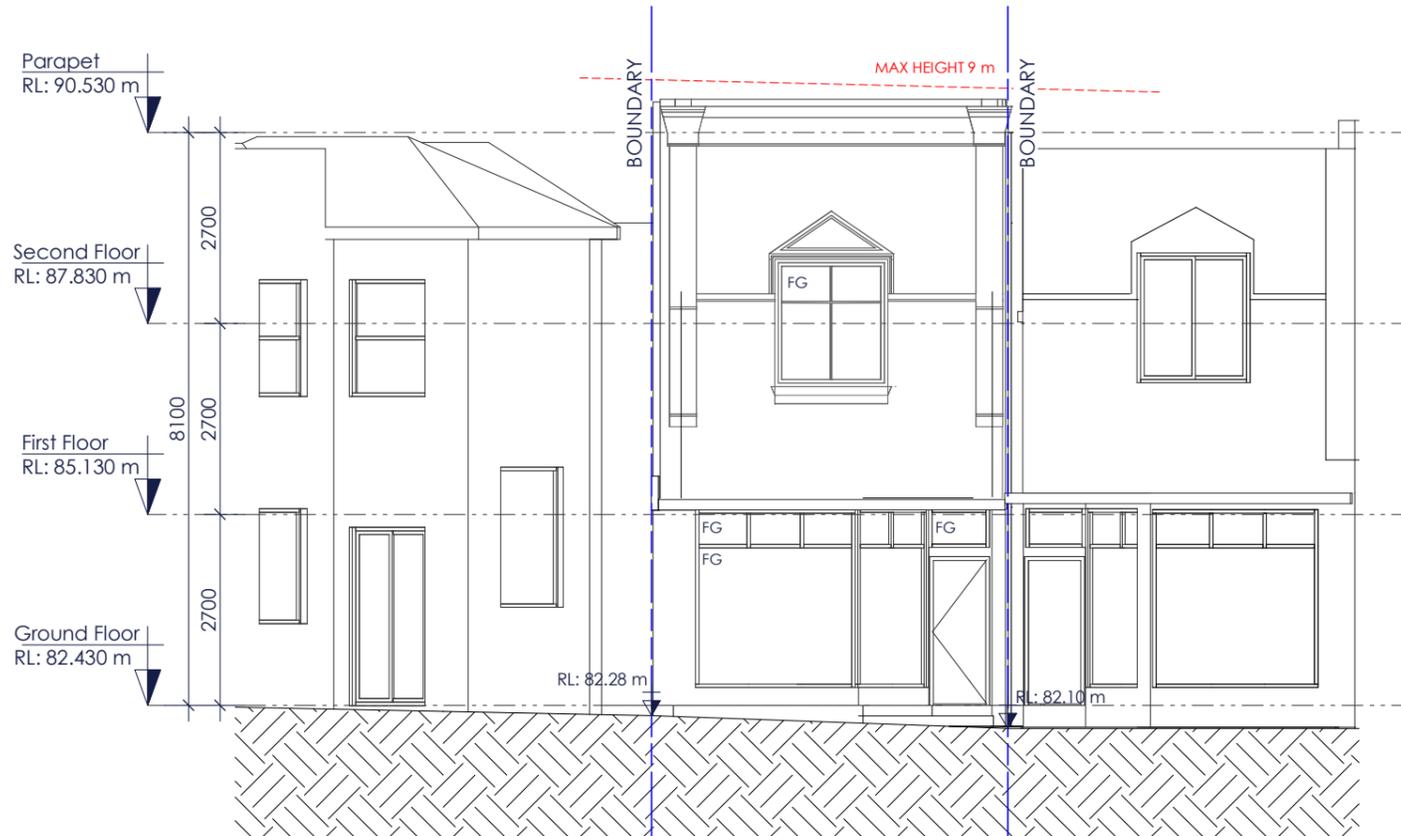
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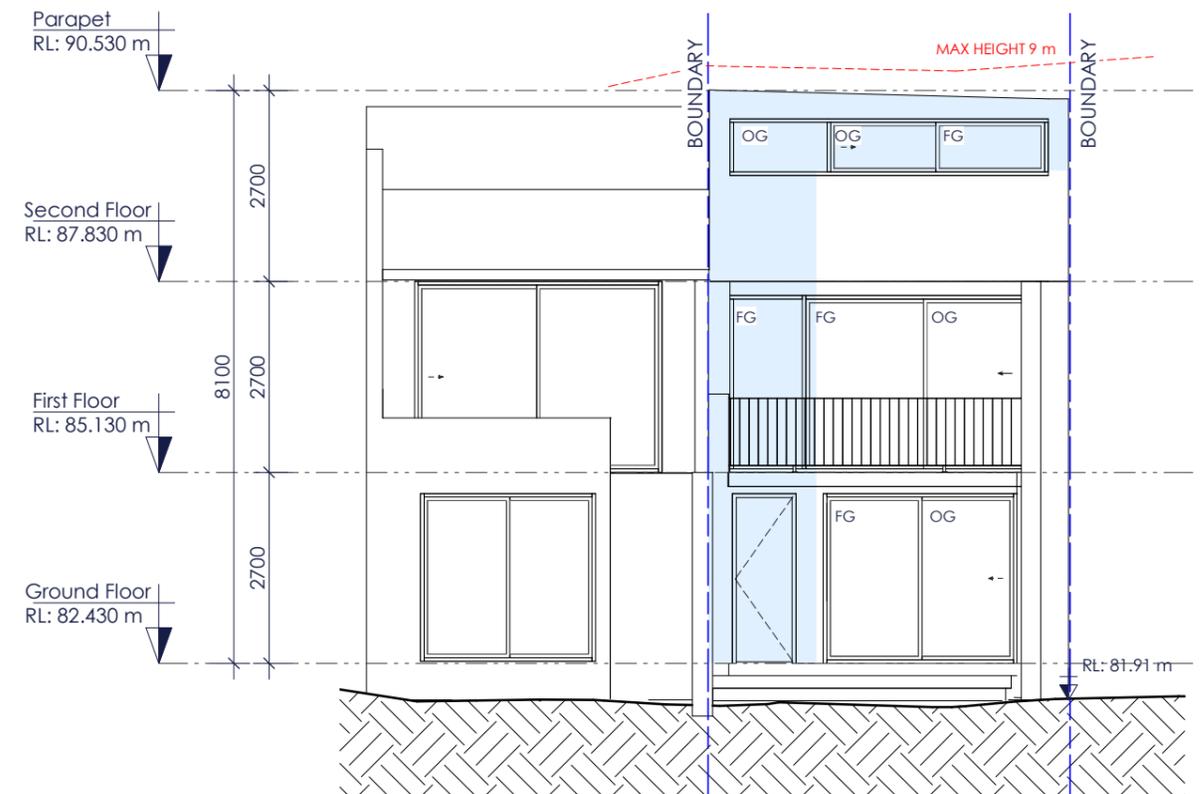
A Section A  
1 : 100



B Section B  
1 : 100



1 Front Elevation  
-- 1 : 100



2 Rear Elevation  
-- 1 : 100

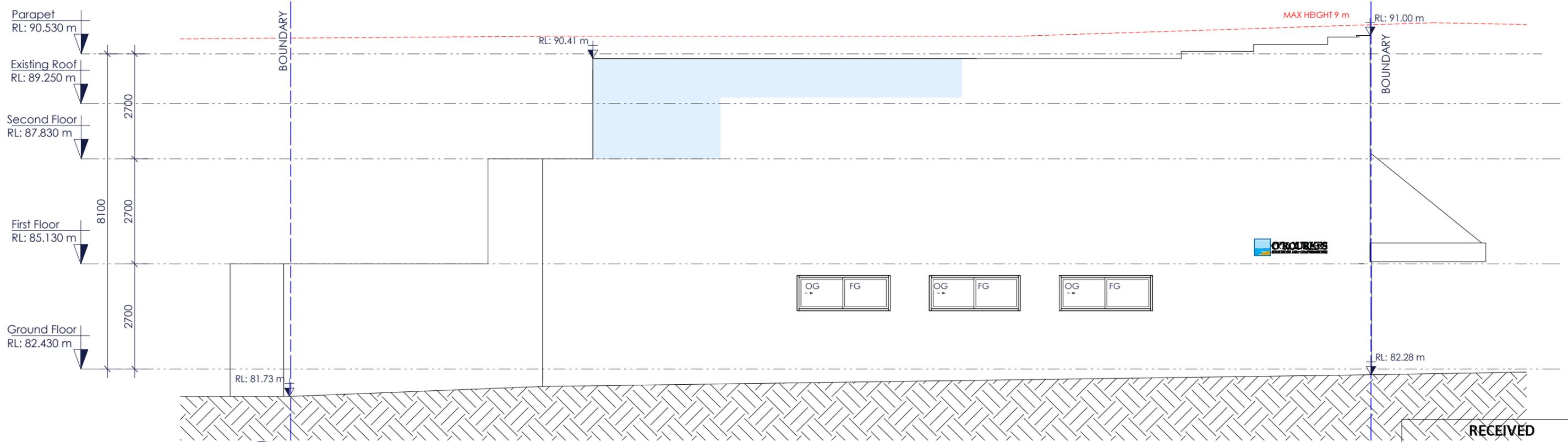
WINDOWS & DOORS  
OG OPERABLE GLAZING  
FG FIXED GLAZING

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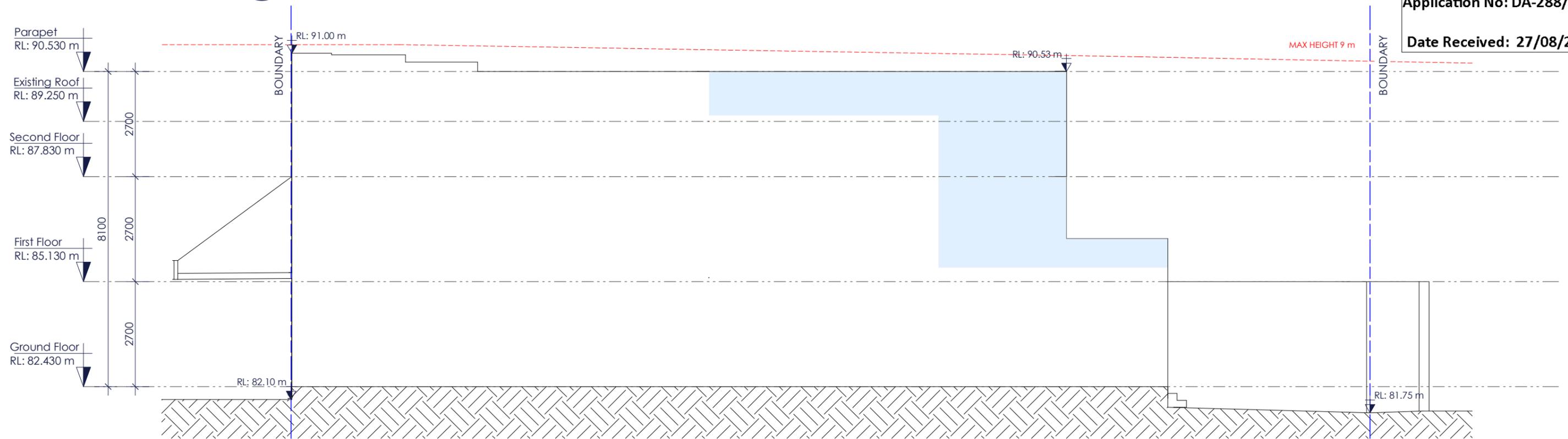
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 REVISION 2

# DEVELOPMENT APPLICATION



**1** South Elevation  
--  
1 : 100

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**2** North Elevation  
--  
1 : 100

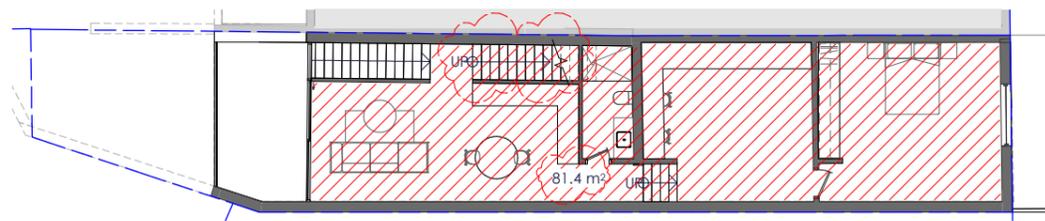
**WINDOWS & DOORS**  
OG OPERABLE GLAZING  
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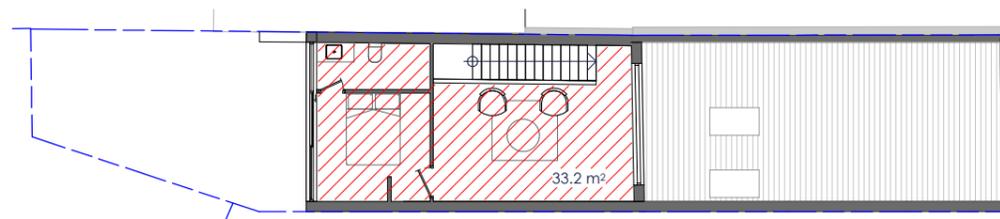
# DEVELOPMENT APPLICATION



**1** Ground Floor  
-- 1 : 200



**2** First Floor  
-- 1 : 200



**3** Second Floor  
-- 1 : 200

## COMPLIANCE TABLE

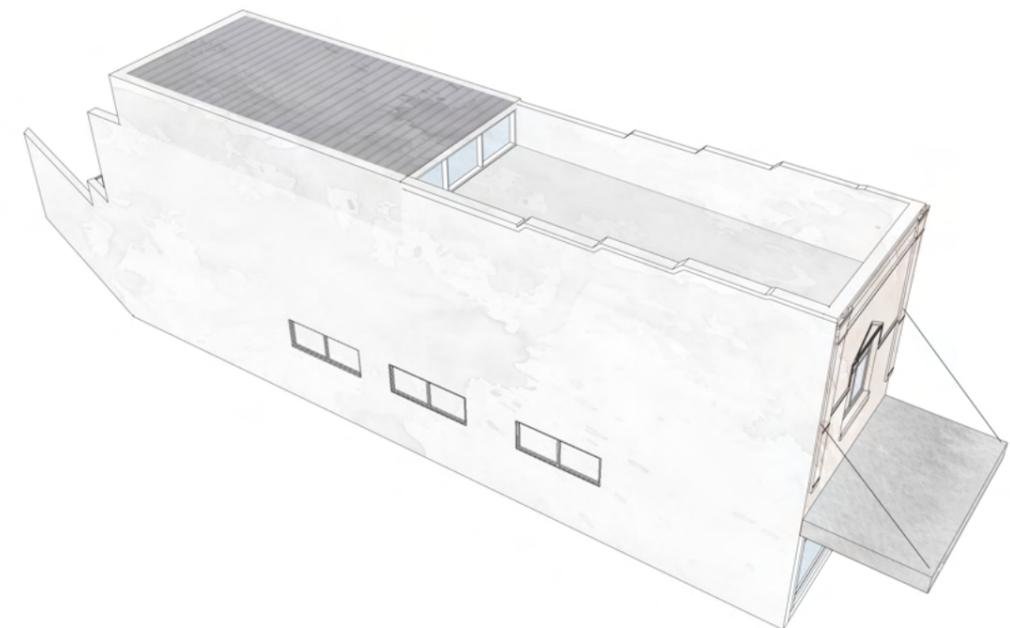
LOT 3, DP 435468 31 ALBION STREET, WAVERLEY ZONING: B4		
	CONTROL	PROPOSED
SITE AREA: 132.8 m <sup>2</sup>		
FSR:	< 1:1 (GFA 132.8 m <sup>2</sup> )	1.57:1 (GFA 209.1 m <sup>2</sup> )
HEIGHT:	< 9 m	COMPLY
SITE COVERAGE:	< 8m <sup>2</sup> (< 8%)	111.3 m <sup>2</sup> (83.8%)
LANDSCAPE:	> 39.8 m <sup>2</sup> (> 30%)	16.3 m <sup>2</sup> (12.2%)
P.O.S:	75% of the dwellings to be provided	50%

# DEVELOPMENT APPLICATION

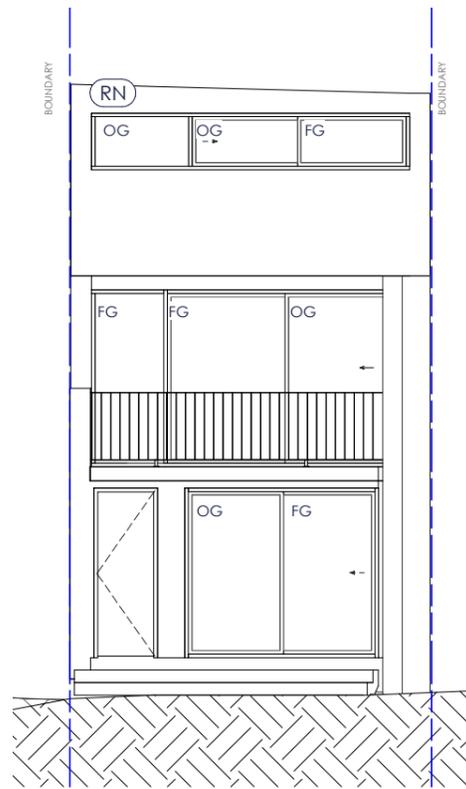
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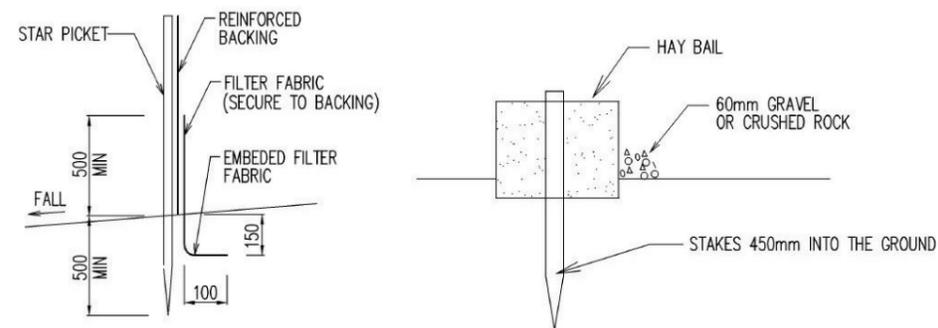
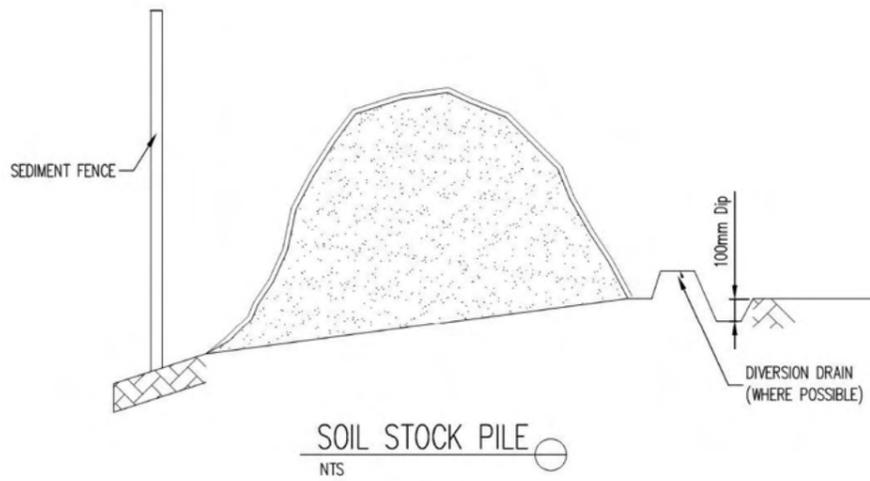
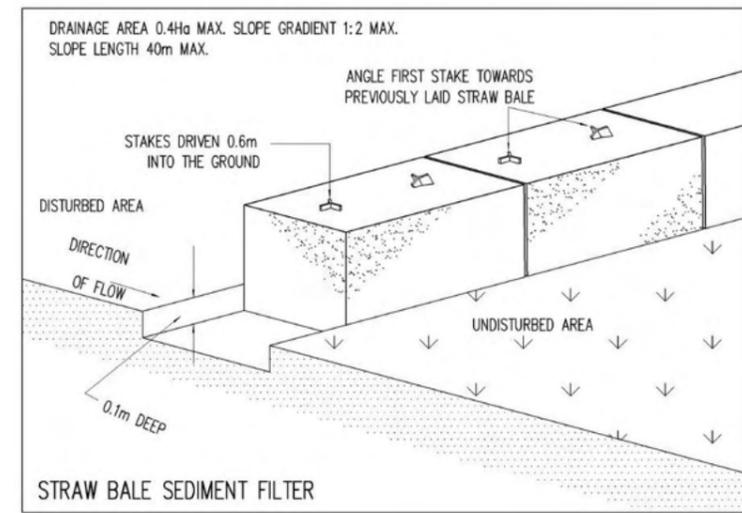
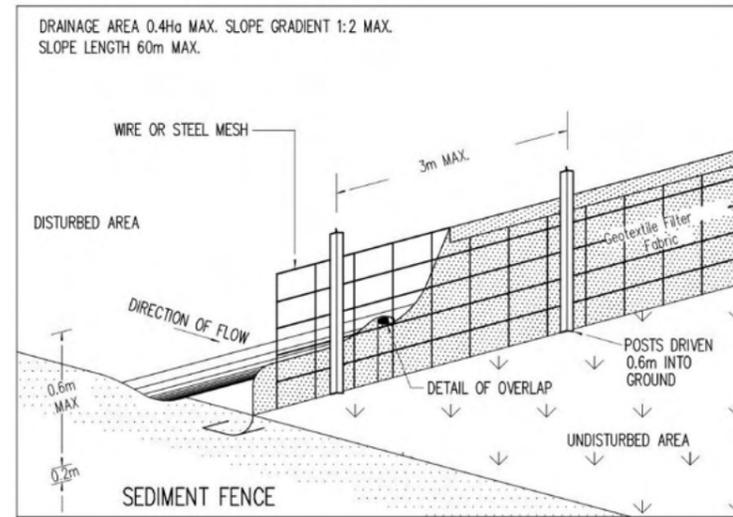
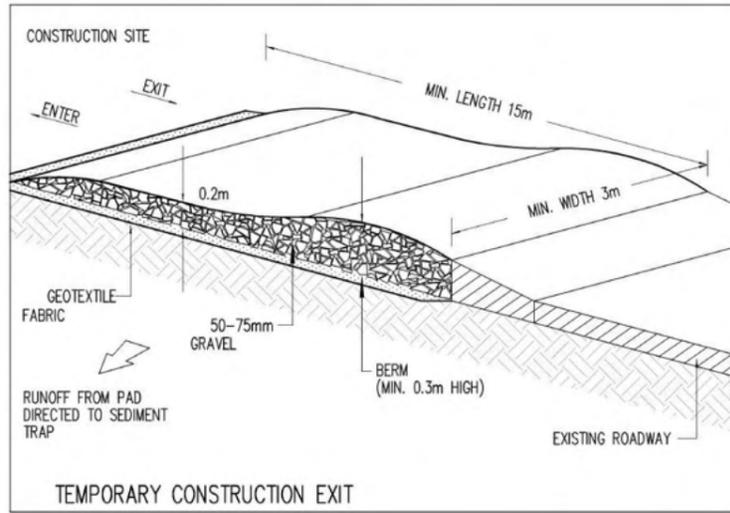
WALL  
 Resene Paint - Double Concrete

1 Rear Elevation  
 -- 1:100



2 South Elevation  
 -- 1:100

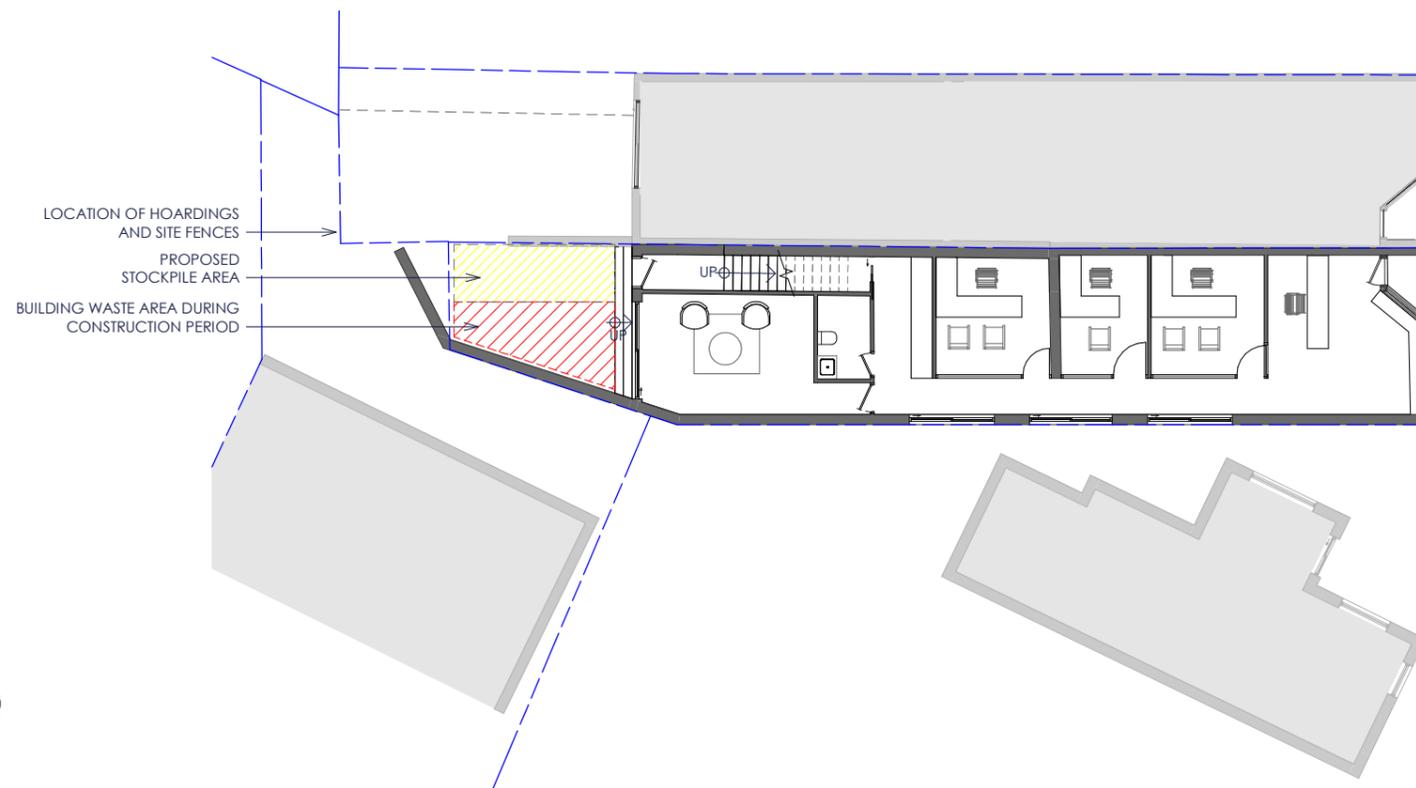
EXTERNAL FINISHES  
 RN RENDER PAINT  
 WINDOWS & DOORS  
 OG OPERABLE GLAZING  
 FG FIXED GLAZING



SILT FENCE DETAIL

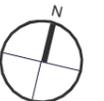
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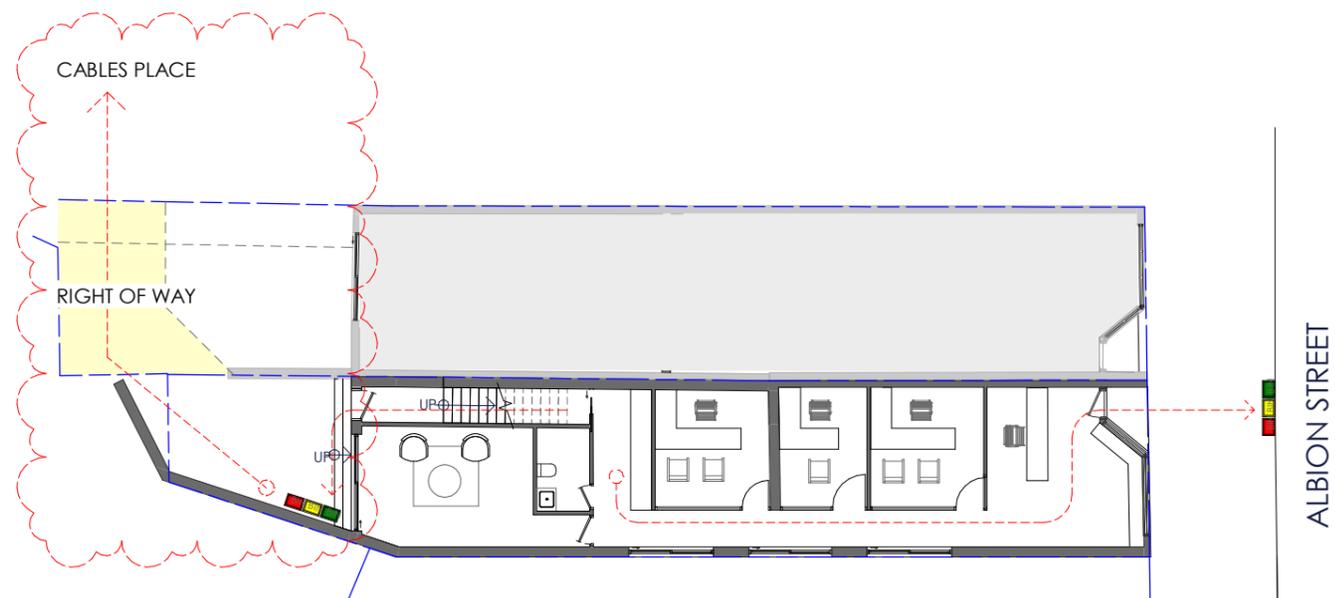
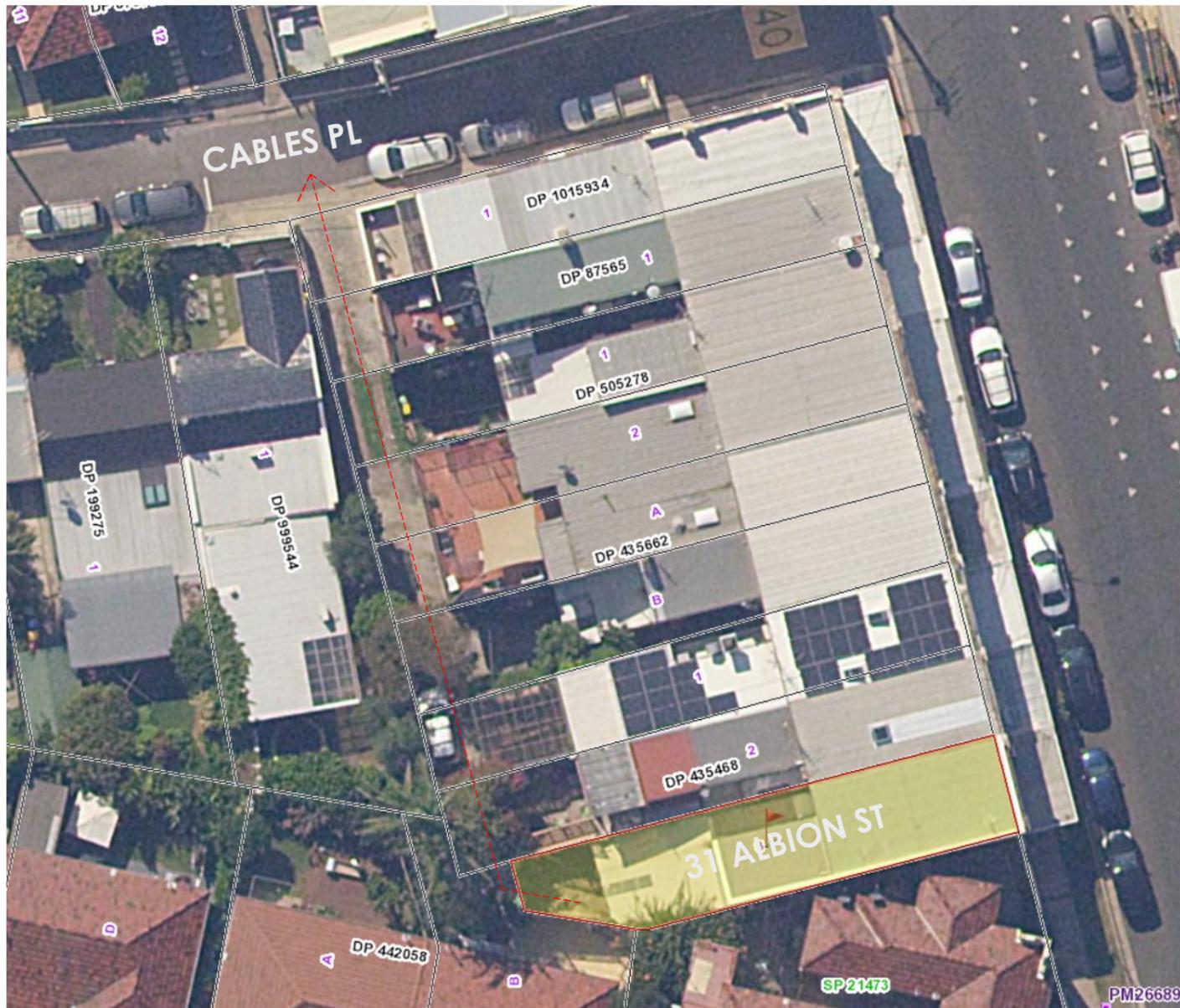
TO BE USED AS REQUIRED  
NTS



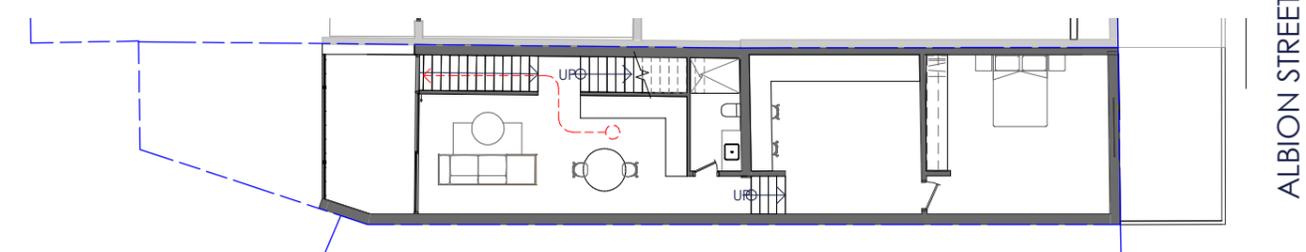
1 Ground Floor Plan  
1 : 200

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**Application No: DA-288/2021**  
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1 Ground Floor Plan  
1 : 200



2 First Floor Plan  
1 : 200

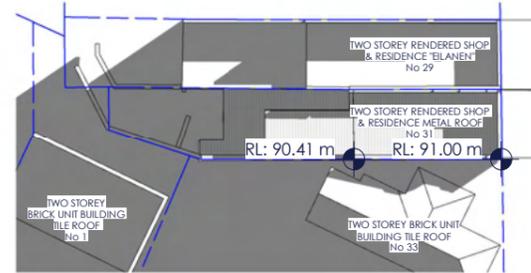
# AMENDED PLANS

# DEVELOPMENT APPLICATION

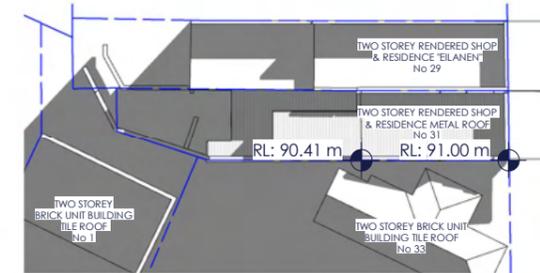
RECEIVED  
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Application No: DA-288/2021  
Date Received: 24 May 2022



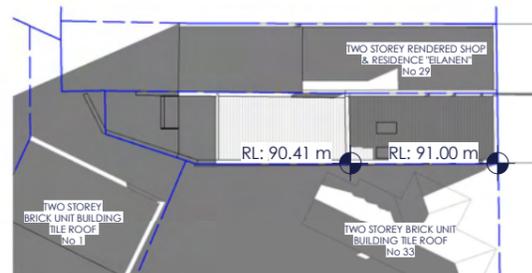
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-- 1 : 500



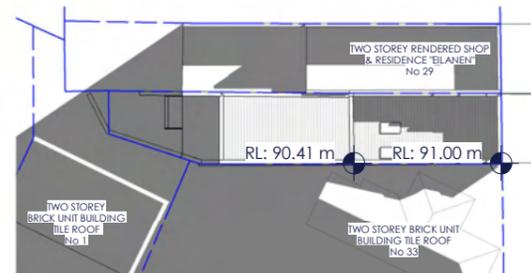
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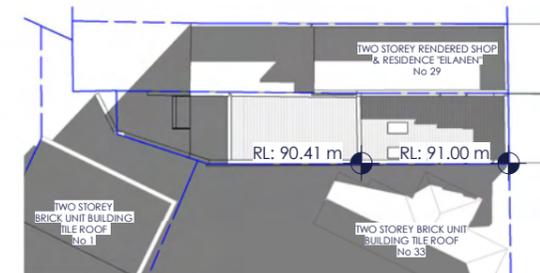
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-- 1 : 500



4 PROPOSED 8 AM  
-- 1 : 500

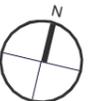


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-- 1 : 500



6 PROPOSED 10 AM  
-- 1 : 500

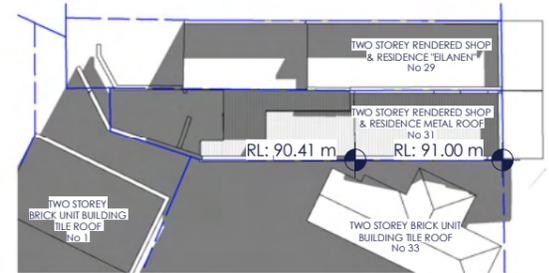
ADDITIONAL SHADOW CAST BY PROPOSED DEVELOPMENT



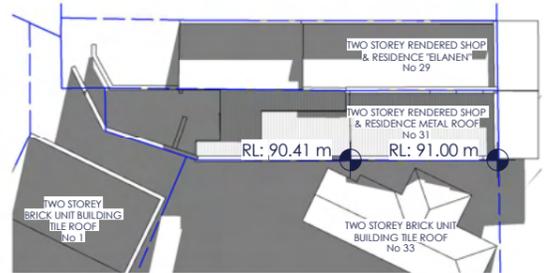
# AMENDED PLANS

# DEVELOPMENT APPLICATION

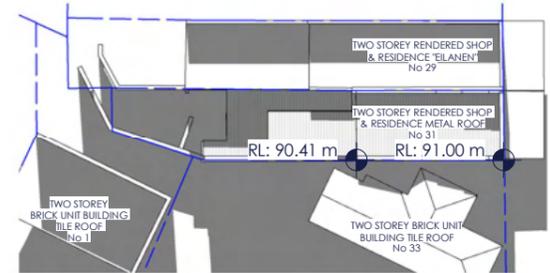
RECEIVED  
Waverley Council  
Application No: DA-288/2021  
Date Received: 24 May 2022



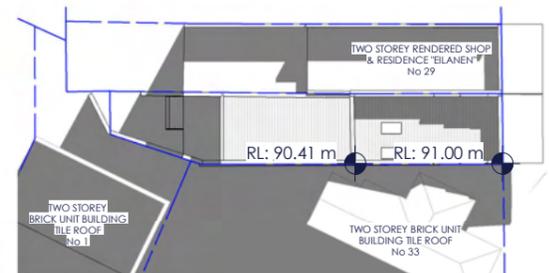
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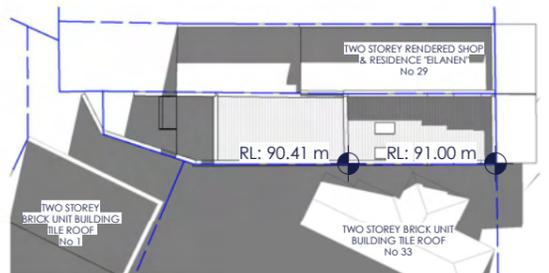
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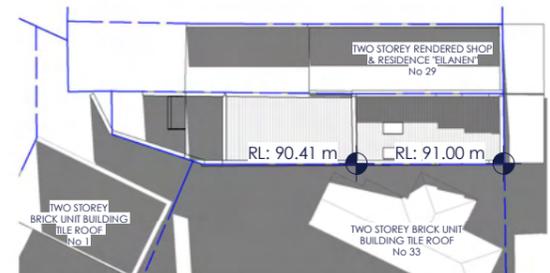
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4 PROPOSED 11 AM  
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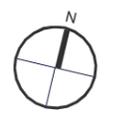


5 PROPOSED 12 PM  
-- 1 : 500



6 PROPOSED 1 PM  
-- 1 : 500

ADDITIONAL SHADOW CAST BY PROPOSED DEVELOPMENT

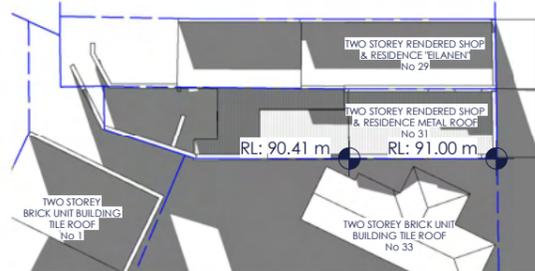


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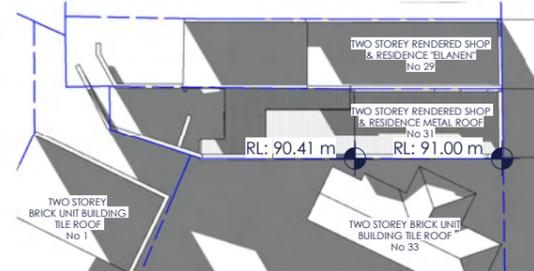
# AMENDED PLANS

# DEVELOPMENT APPLICATION

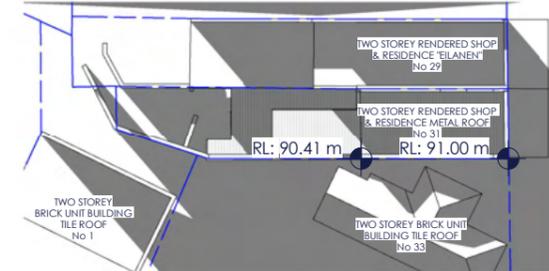
RECEIVED  
Waverley Council  
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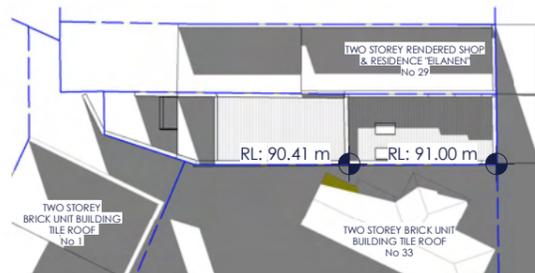
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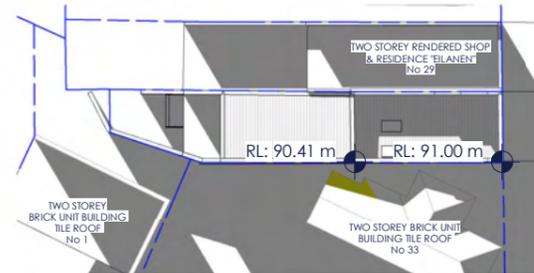
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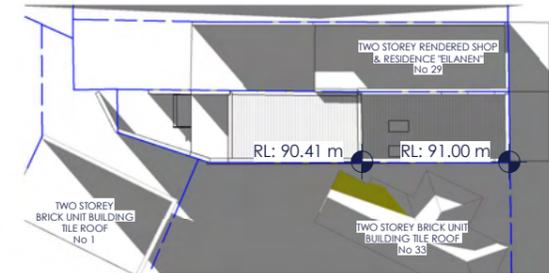
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-- 1 : 500



4 PROPOSED 2 PM  
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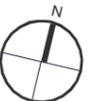


5 PROPOSED 3 PM  
-- 1 : 500



6 PROPOSED 4 PM  
-- 1 : 500

ADDITIONAL SHADOW CAST BY PROPOSED DEVELOPMENT



# AMENDED PLANS

# DEVELOPMENT APPLICATION

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CLIENT NAME: AARON O'ROURKE  
PROJECT NUMBER: 2005  
PROJECT TYPE: ALTERATIONS AND ADDITION  
PROJECT INFO: DP 435468 LOT 3  
PROJECT ADDRESS: 31 ALBION STREET, WAVERLEY, 2024

SOLAR ANALYSIS  
WINTER SOLSTICE - 21 JUNE

#	Date	By	Description
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DRAWN BY: MA  
SCALE @ A3  
1 : 100

DRAWING NUMBER: DA - 09.30  
REVISION: 1

# AMENDED PLANS

## DEVELOPMENT APPLICATION

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 ADDITIONAL SHADOW CAST BY PROPOSED DEVELOPMENT

# AMENDED PLANS

# DEVELOPMENT APPLICATION

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 ADDITIONAL SHADOW CAST BY PROPOSED DEVELOPMENT



Other Residential Development



Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-439/2021
<b>Site address</b>	138 Hastings Parade, NORTH BONDI
<b>Proposal</b>	Amending DA to DA-14/2011, which approved alterations and additions to a residential flat building. The amending DA seeks to reduce the number of apartments to 3, modifications to windows, doors, balconies, built form and materials.
<b>Date of lodgement</b>	15 October 2021 (Amended on 21 February 2022)
<b>Owner</b>	Proprietors of Strata Plan 14991
<b>Applicant</b>	Ms O I Triguboff
<b>Submissions</b>	Four submissions received.
<b>Cost of works</b>	\$4,077,800
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>• Building height;</li> <li>• FSR;</li> <li>• Excavation; and</li> <li>• Car parking rates.</li> </ul>
<b>Recommendation</b>	That the application be APPROVED in accordance with the conditions contained in the report.

**SITE MAP**



## 1. PREAMBLE

### 1.1. Executive Summary

The development application seeks consent for amendments to the approved alterations and additions to a residential flat building at the site known as 138 Hastings Parade, NORTH BONDI.

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

- Exceeds height of building development standard;
- Exceeds FSR development standard, albeit a reduction from the previously approved scheme;
- Excavation extending beyond the building footprint; and
- Car parking rates exceeds the maximum.

The assessment finds these issues acceptable.

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

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

### 1.2. Site and Surrounding Locality

A site visit was carried out on 8 December 2021.

The site is identified as SP 14991, known as 138 Hastings Parade, NORTH BONDI.

The site is rectangular in shape with a frontage to Hastings Parade, measuring 12.8m. It has an area of 501.3m<sup>2</sup> and it falls from the rear towards the front by approximately 7m.

The site is occupied by a residential building containing four apartments over two storeys above ground floor garages providing vehicular access from Hastings Parade. There is construction work being undertaken at the existing building, which was approved under development consent DA-14/2011.

The site is adjoined by residential flat buildings on either side. The locality is characterised by a variety of medium density residential development. To the rear (north-east) of the site is Bondi Golf Course and the Pacific Ocean.

Figures 1 to 6 are photos of the site and its context.



**Figure 1:** Site viewed from Hastings Pde showing existing garages and entrance steps



**Figure 2:** Existing streetscape showing adjoining residential flat buildings



**Figure 3:** Site viewed from the existing terraces above the garages



**Figure 4:** Existing garage and storage areas at basement level



**Figure 5:** Looking south west towards the building from the existing rear yard



**Figure 6:** Looking north east towards the golf course from the existing rear yard

Figures 7 to 8 are recent photos of the site provided by the applicant



**Figure 7 and 8:** Site progress photo provided by the applicant showing the front and rear of the site. The roof and glazing have been removed and temporary support and cross bracing in situ.

### 1.3. Relevant Development History

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

- DA-14/2011, in August 2011, deferred commencement consent was granted for alterations and additions to a residential flat building including an additional level with attic, balconies, extension to the basement and a new pool. The deferred commencement consent required deletion of the mezzanine/attic level, deletion of the pool, provisional storage, a skylight and kerb/guttering details. The deferred commencement matters were satisfied on 13 October 2011.
- A construction certificate was issued on 6 October 2016 for initial works. These works have now been completed.
- The applicant indicates that BCA Australia Pty Ltd has been appointed to continue Construction Certification services for the project, and that the original approval remains active and construction is ongoing at the site. Works include site establishment, demolition of internal walls and floor, demolition of roof, bracing support to external walls, new piers to support the existing walls, new basement and ground floor slabs.
- On 28 May 2021, a Section 4.55 modification DA-14/2011/A was lodged to modify the approved alterations and additions including a reduction in units from 4 to 3, realignment of the top level with increased setbacks and height, façade upgrade, reinstatement of a swimming pool and an amended architectural design with various internal and external changes. Council planners advised the applicant that the proposed modifications were outside the scope of being “substantially the same development” and requested withdrawal of the application. The modification was withdrawn and the subject development application lodged (DA-439/2021).
- During assessment of the subject development application, the applicant provided additional documentation detailing the Construction Certificates that have been issued and the works that are currently underway on site. This documentation indicates that the substantial

commencement of works test has been satisfied and the previously approved DA is considered active.

#### 1.4. Proposal

The development application, as amended on 21 February 2022, seeks consent to amend the approved alterations and additions (to per DA-14/2011), specifically the following:

- Reduce the number of units from four to three;
- Realign the top level with increased setbacks;
- Increase height by 200mm;
- Amend the architectural design and update façades;
- Internal reconfiguration; and
- Reinstatement of swimming pool associated with Unit 3.



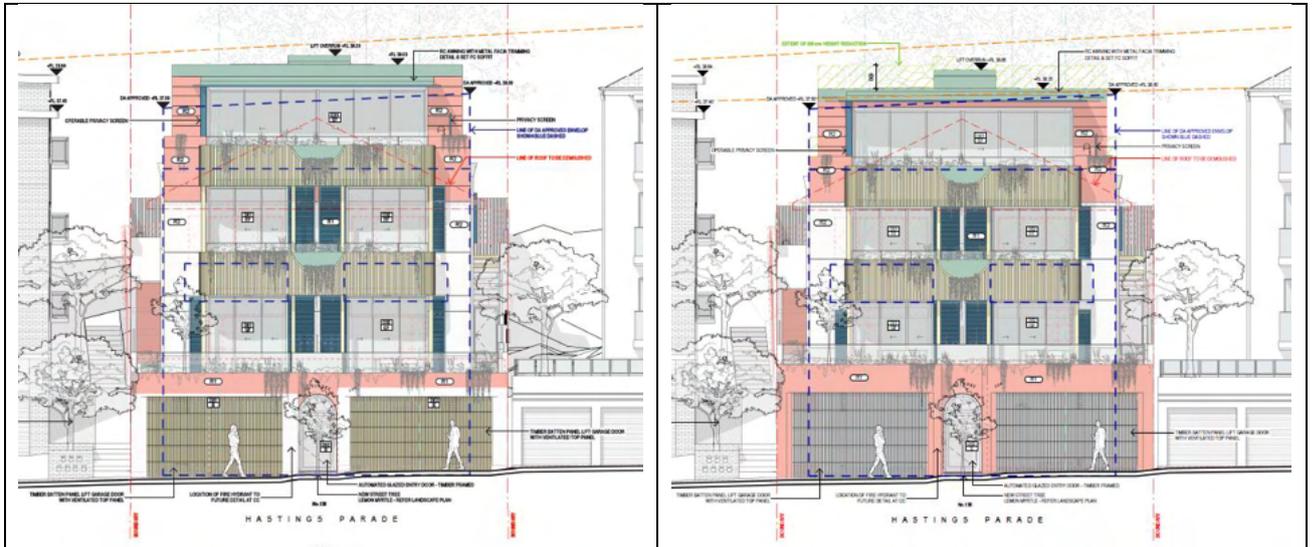
**Figure 9 and 10:** Photomontage of the front and rear view of the proposal

#### 1.5. Background

The development application was lodged on 15 October 2021 and deferred on 9 December 2021. Amended plans were received by Council on 21 February 2022 in response to the deferral. The reasons for deferral and applicant's action/response to these matters are provided below:

1. The floor space ratio exceedance should be reduced.
  - The applicant indicated that there is a redistribution of floor space which provides material benefit by reducing the bulk of the building where there are impacts (upper floors). The proposal results in a reduction in GFA from the originally approved scheme.
2. The building height should be reduced so that it fits with the external wall heights of the adjoining buildings at 136 and 140 Hastings Parade.
  - The applicant provided amended plans which reduce the roof level by 800mm. The floor levels are adjusted to achieve a standard floor to floor measurement of 3.2m

and floor to ceiling heights of 2.7m. The parapet height is only 200mm above the existing approval and the lift overrun in the centre of the building extends beyond this as required. **Figures 11 and 12** in this report are elevations of the original proposal and the amended plans submitted in response to the deferral letter.



**Figure 11 and 12:** Elevations showing the reduced building height in response to the deferral letter

3. The overshadowing and solar access diagrams submitted demonstrate a comparison between the overshadowing impacts of the DA-14/2011 consent and the proposed development, rather than a comparison between the existing building on site and the proposed development.
  - The applicant provided solar access diagrams from the existing building, the approved DA-14/2011 building and the subject proposal. The amendments as proposed in the subject DA include increased side setbacks at the upper level which improves solar access to neighbouring properties.
  
4. The submitted Statement of Environmental Effects refers to SEPP65. However, the Apartment Design Guide and SEPP 65 do not apply in this application. A full assessment against the relevant objectives and controls of the WDCP 2012 are required.
  - The applicant provided an amended Statement of Environmental Effects addressing the relevant objectives and controls.
  
5. Council’s Stormwater Engineers provided comment on the submitted documentation, requesting further information and amended documentation be provided.
  - The applicant provided amended and additional information as required for review by Council’s Stormwater Engineers.

6. The application proposes an exceedance of the maximum car parking rate under WDCP 2012. The plans are to be amended to remove 2 car parking spaces, leaving a maximum of 4 on-site car parking spaces and a minimum of one motorcycle parking space.

The applicant has not removed 2 car parking spaces and the plans indicate a total of 6 car parking spaces on site. The additional 2 car parking spaces have been included in the GFA calculations as required under the WLEP 2012 definition. This matter is discussed in other areas of this report.

## 2. ASSESSMENT

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

### 2.1. Planning Instruments and Development Control Plans

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

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

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

- SEPP (Building Sustainability Index – BASIX) 2004.
- SEPP (Resilience and Hazards) 2021.

It is noted that under the proposed development, having three residential apartments, is defined as a *Residential Flat Building* in Waverley LEP 2012. However, it is not development to which SEPP 65 applies as it contains less than four dwellings.

#### *State Environmental Planning Policy (Resilience and Hazards) 2021*

The SEPP applies to the subject site as it is wholly located within the Coastal Use area according to the SEPP.

Clause 2.11 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

The proposal does not result in changes to the natural environment and there is no impact or interruption to foreshore access or any rock platforms. The public access ways, Aboriginal cultural heritage and the surf zone are not impacted. The proposal will not increase the risk of coastal hazards on the subject site or on other land. The building is in its existing location and views are retained between the subject site and neighbouring properties. The proposal will improve the visual amenity and scenic qualities of the coast, providing an updated façade that is fitting and sympathetic to the area.

The proposed development satisfies the relevant requirements of the SEPP.

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

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

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

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal is consistent with the Aims of the Plan.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table R3 Medium Density Residential Zone	Yes	The proposal is defined as alterations and additions to a 'residential flat building', which is permitted with consent in the R3 zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>• 9.5m</li> </ul>	No	<p>The previously approved development (DA-14/2011) measures a height of 12.95m, which is a variation of 3.45m or 36%.</p> <p>The proposal seeks to increase the height to a maximum of 13.8m for the lift overrun, which is a variation of 4.3m or 45%.</p>
4.4 Floor space ratio <ul style="list-style-type: none"> <li>• 0.6:1</li> </ul>	No	The currently approved development (DA-14/2011) provides a gross floor area (GFA) of 558.2sqm or a FSR of 1.1:1. Which is a variation of 257.42sqm or 85.6%.

Provision	Compliance	Comment
		The proposal seeks to reduce the approved GFA by 16.97sqm, resulting in a total GFA of 541.23sqm or a FSR of 1.07:1, which is a variation of 240.45sqm or 79.9%.
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 of buildings and FSR development standards. A detailed discussion of the variation to the development standards is presented below this table.
<b>Part 6 Additional local provisions</b>		
6.1 Acid sulfate soils	Yes	The site is located within Class 5. However the proposal is not considered to lower the water table on adjacent Class 4 land and therefore this Clause is satisfied.
6.2 Earthworks	Yes	The proposal increases the extent of excavation. In order to retain the existing building, the Geotechnical and structural assessment require piling under the perimeter of the building to accommodate the load of existing and new walls. As such, the proposal includes excavation to the full extent of the building footprint to allow for plant and storage areas. The excavated area towards the rear remains 1m from the side boundaries as originally approved. The proposal satisfies Clause 6.2.

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

*Clause 4.6 Exceptions to Development Standards*

**Height**

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

The site is subject to a maximum height of buildings development standard of 9.5m. The proposed development has a height of 13.8m, exceeding the standard by 4.3m equating to a 45% variation. It is noted that the previously approved development (DA-14/2011), which is currently under construction, has a height of 12.95m. Which is a variation of 3.45m or 36%.

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

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

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

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

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

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *A comparison of the variation against a 'compliant development' height of 9.5m cannot legitimately be the benchmark for satisfying the height development standard. It must be a comparison of the amendments offered in this proposal as opposed to the existing approval, as it is currently under construction. This application seeks to amend that approval.*
  - (ii) *It is unreasonable to require strict compliance with the height standard as the existing building already exceeds the control and the form of development for which consent is sought is alterations and additions to an existing building.*
  - (iii) *Strict compliance with the height standard cannot reasonably be achieved because to do so would require the owners to remove the top level (and more) from the existing approved development currently under construction. This would prohibit the opportunity to provide material planning benefits to the adjoining properties and the locality offered by the increased setbacks and reduced above ground GFA.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) *The building is compatible with the bulk, scale, streetscape and desired future character of the locality as it improves the existing and its current approval, amending it with a better response to the InterWar building's controls that were established after the current.*
  - (ii) *The amenity of the neighbouring properties is preserved and improved by the amended proposal. The new design offers greater setbacks, more sunlight, reduced visual bulk, and increased privacy beyond the existing consent.*
  - (iii) *With respect to privacy, the non-compliant height is not attributable to any visual or acoustic privacy impacts beyond a compliant development or the approved development. The front terrace at the uppermost levels alters the already approved front terrace by increasing its side setbacks and introduces screening on both sides.*

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

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

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

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

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

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

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. This is a sound justification as the already approved building height of the development under construction already exceeds the standard, with a minor height increase proposed. The building envelope changes proposed mean the resultant development will better meet the objectives of the height development standard and the zone objectives in that it not only preserves, but improves, the amenity of neighbouring properties.

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

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. Despite the non-compliance, the proposal is consistent with the objectives of the height development standard and the zone. Further, the proposal is consistent with the objectives of the Act.

Is the development in the public interest?

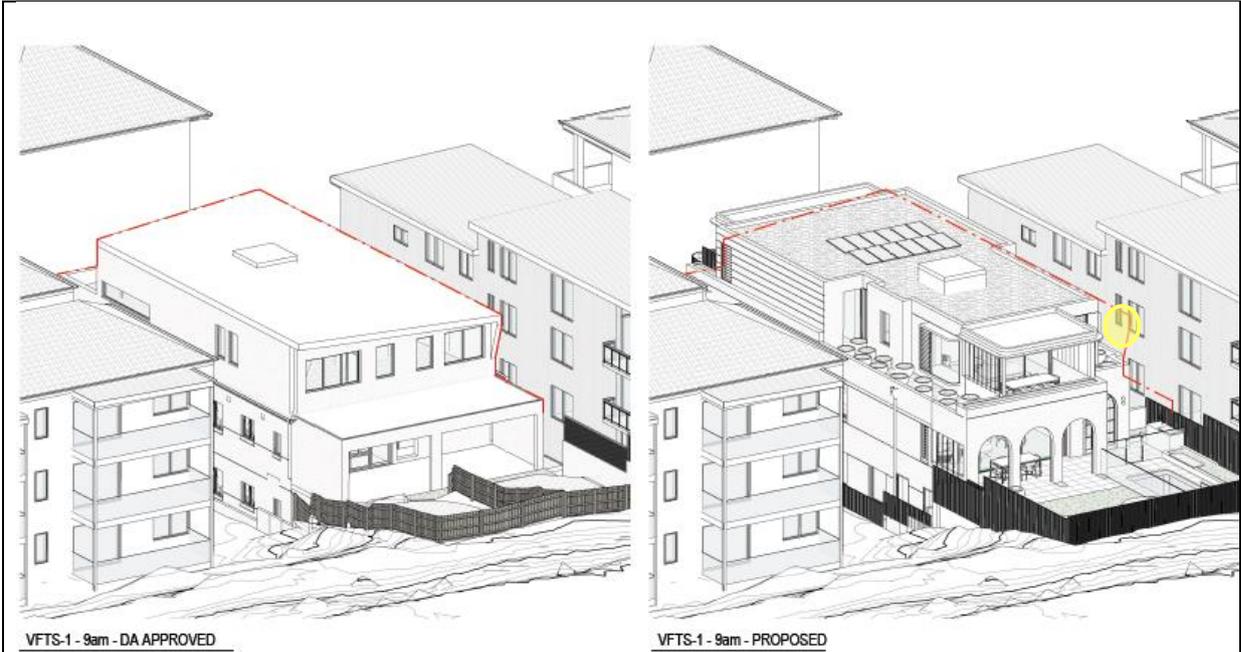
The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

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

The building preserves, but more notably *improves*, the environmental amenity of neighbouring properties, as the proposal includes increased setbacks at the upper level. Shadow diagrams and view from the sun analysis provided with the development application indicate that the proposal improves the environmental amenity of neighbouring properties by providing additional solar access to windows that would not receive solar access when compared to the approved building currently under construction. In the case of visual and acoustic privacy impacts, the number of units is reduced from 4 to 3, therefore, improving the amenity to neighbouring properties.

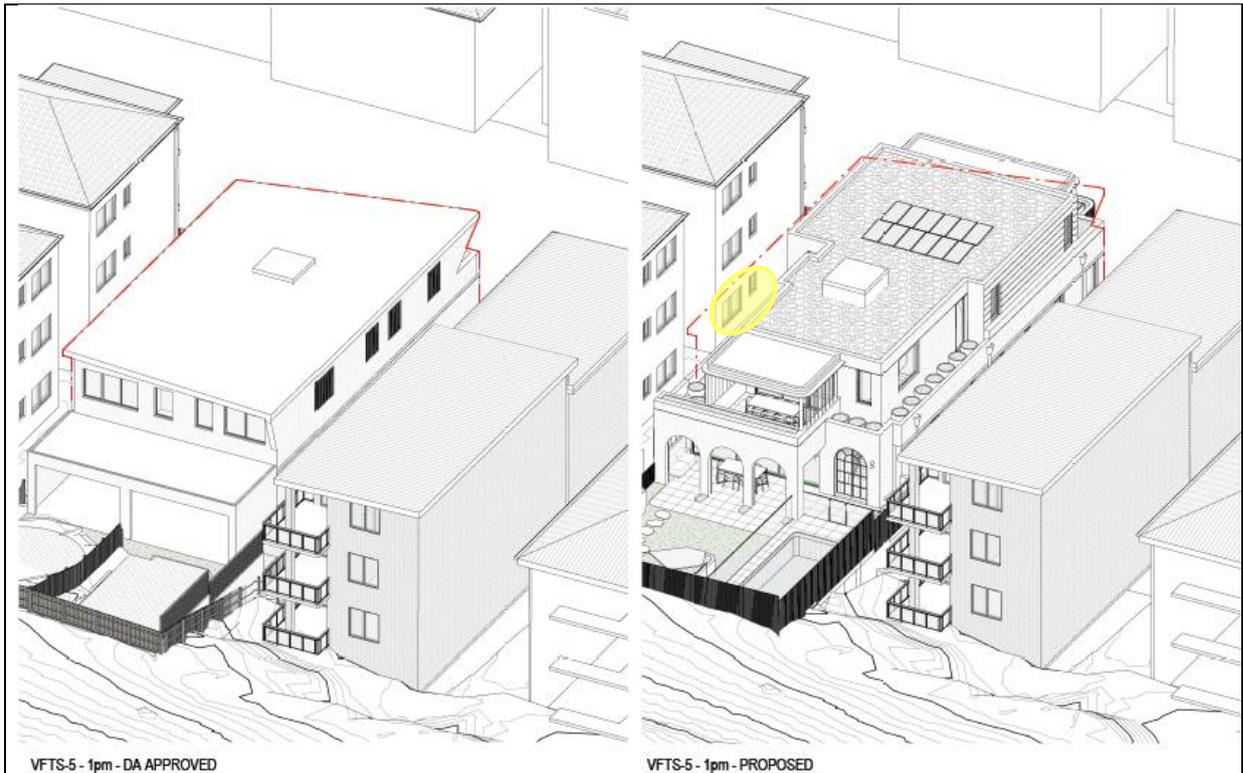
It is noted that should the proposed height variation not be supported, the already approved development (DA-14/2011) which is currently under construction, will not provide these windows with the additional solar access they gain from the proposed setbacks under this subject DA. Excerpts of the view from the sun diagrams provided by the applicant are included below. The applicant did provide hourly diagrams, which indicates that there is no increased overshadowing impact at any time on 21 June from the proposed development. The most considerable improvements of solar access are at 9am, 10am, 1pm and 2pm, which are included below:



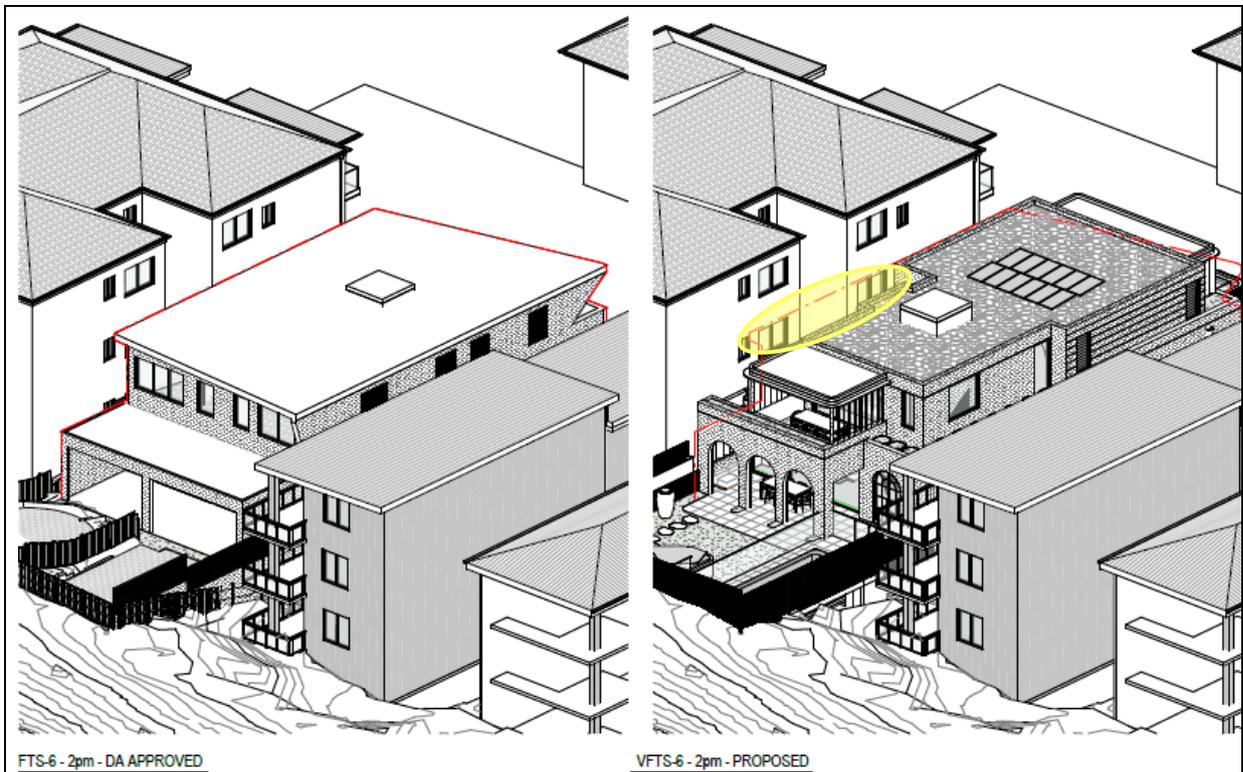
**Figure 13:** View front the sun, 21 June, 9am showing the DA approved building (left) and the subject proposal (right). The windows that will receive solar access as a result of the proposed amendments are highlighted.



**Figure 14:** View front the sun, 21 June, 10am showing the DA approved building (left) and the subject proposal (right). The windows that will receive solar access as a result of the proposed amendments are highlighted.



**Figure 15:** View front the sun, 21 June, 1pm showing the DA approved building (left) and the subject proposal (right). The windows that will receive solar access as a result of the proposed amendments are highlighted.



**Figure 16:** View front the sun, 21 June, 2pm showing the DA approved building (left) and the subject proposal (right). The windows that will receive solar access as a result of the proposed amendments are highlighted.

- (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 building is compatible with the bulk, scale, streetscape and desired future character of the locality as it improves an existing building and its current approval. The building height is consistent with the residential flat buildings on either side of the site. The tallest part of the building is setback from the site frontage, which further reduces the visual bulk of the building. The amended proposal is a better response to the InterWar building controls and is considered to demonstrate Design Excellence. Furthermore, proposal of a two to three storey residential flat building is consistent with the surrounding area and the character of the Ben Buckler Special Character Area controls in WDCP 2012.

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

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

The proposal will provide for the housing needs of the community by upgrading and enhancing the existing building, ensuring it has the capacity to survive beyond earlier expectations. While providing a reduced number of apartments (from four to three), the apartments will have significantly improved amenity and provide housing stock that is suitable for the Bondi Beach market.

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

The proposal will provide a variety of housing types within the building. The lower levels include two 2-bedroom apartments, both with private open space to the front of the site. The top two levels include a 4-bedroom apartment, with private open space to the front and of the site, including a terrace and pool.

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

Not applicable.

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

The proposal includes six car parking spaces, which exceeds the maximum as required under WDCP 2012 Part B8. Walking and cycling is encouraged given that there is ample space provided onsite in the basement for storage of bicycles.

### 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 clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height development standard and the R3 Medium Density Residential zone.

### ***Floor space ratio***

The application seeks to vary the floor space ratio (FSR) development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum FSR development standard of 0.6:1. The approved development has a FSR of 1.1:1 with a GFA of 558.2m<sup>2</sup>, which is a variation of 85.6%. The proposed development will reduce the GFA to 541.23sqm or the FSR to 1.07:1, and therefore exceed the standard by 79.9%.

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

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

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

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

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

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *The existing building's FSR is already in exceedance of the standard.*
  - (ii) *The reduction in GFA of 16.97sqm occurs where there are tangible and material benefits to the adjoining neighbouring properties, whilst lowering the density from four units to three units.*
  - (iii) *The proposed reduction in FSR includes a 42.85sqm reduction in the floor area of the approved uppermost level.*
  - (iv) *The building is compatible with the bulk, scale, streetscape and desired future character of the locality as it improves an existing building and its current approval, amending it with a better response to the InterWar building's controls that were established after the current approval was granted.*
  - (v) *The scale is commensurate with surrounding development and continues to propose a two to three storey residential flat building with a form reflective of the desired character of Ben Buckler.*
  - (vi) *In circumstances where the existing building is already well above the FSR control, it is unreasonable to require strict compliance with the control.*

- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *The reduction in floor space is required to facilitate increased solar access to the adjoining properties.*
  - (ii) *The reduction in floor space is necessary to provide increased side setbacks at the rear of the uppermost level, resulting in less visual bulk to the neighbouring properties and greater separations to and from the neighbouring buildings.*
  - (iii) *The floor space is necessary to satisfy Object 1(g) of the EP&A Act 1979 which seeks to promote good design and amenity of the built environment, whereby a compliant form would be incongruent with surrounding buildings.*
  - (iv) *The ongoing but reduced variation facilitates the orderly and economic development of the site, with improved amenity. If the GFA were required to be reduced any further, it would undermine the viability of a development on the site, causing the existing construction to continue as per DA-14/2011, with greater environmental impact on the adjoining properties and the locality.*
  - (v) *The proposal is consistent with the objectives of the FSR development standard and the objectives of the zone.*

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

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

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

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

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

- (a) *the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- (b) *to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*

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

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. This justification is sound in that the existing building's FSR already exceeds the standard and the proposed works will reduce the FSR on site and are consistent with the objectives of the FSR development standard and the R3 zone.

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

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. Despite the non-compliance, the proposal is consistent with the objectives of the FSR development standard and the zone. Further, the proposal is consistent with the objectives of the Act.

Is the development in the public interest?

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

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

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

The existing building exceeds the height and FSR controls by 36% and 85.6% respectively. A separate variation request accompanies the application addressing the height exceedance, which is not caused by any change to the FSR. The amended proposal reduces the FSR non-compliance to 79.9%. The breach in FSR will not be perceived as excessive bulk or discordant with the height standard. Despite the non-compliances, the building does provide an appropriate correlation between maximum building heights and density controls.

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

The proposed alterations to the building respond to the Ben Buckler Special Character Area and makes a positive contribution to the streetscape when viewed from the public domain. The

building maintains the rhythm of the street frontage and respects the existing building character of buildings, architectural elements and a range of materials and finishes.

- (d) *to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.*

When compared to the approved building currently under construction on site, the proposal not only preserves, but improves, the environmental amenity of neighbouring properties. With respect to overshadowing, the analysis detailed above regarding the Height variation indicates that the proposal will have material benefit arising from the reduction in floor space at the uppermost level in that overshadowing is reduced. In terms of privacy, the number of units is reduced to three and the upper level has increased setbacks with increased visual privacy for neighbouring dwellings.

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

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

The proposal will provide for the housing needs of the community by upgrading and enhancing the existing building, ensuring it has the capacity to survive beyond earlier expectations. While providing a reduced number of apartments, the apartments will have significantly improved amenity and provide housing stock that is suitable for the North Bondi market.

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

The proposal will provide a variety of housing types within the building. The lower levels include two 2-bedroom apartments with large terrace balconies. The upper levels include a two storey residence with large outdoor areas and a pool.

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

Not applicable.

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

The proposal includes car parking spaces which exceed the maximum requirements. This is discussed elsewhere in this report. Cycling is encouraged by providing the pedestrian entry of the development at street level to secure storage areas.

## Conclusion

For the reasons provided above the requested variation to the FSR is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the floor space ratio development standard and the R3 zone.

### 2.1.3. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

It is acknowledged that the Draft Waverley Local Environmental Plan 2022 was on exhibition from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

### 2.1.4. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

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

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

Development Control	Compliance	Comment
1. Waste	Yes	Satisfactory.
2. Ecologically Sustainable Development	Yes	Satisfactory.
3. Landscaping and Biodiversity	Yes	Satisfactory.
6. Stormwater	Yes	Satisfactory.
7. Accessibility and Adaptability	Yes	Satisfactory.
8. Transport  Insert parking rates. Zone 2 Minimum parking rate: <ul style="list-style-type: none"> <li>• 0</li> </ul> Maximum parking rate: <ul style="list-style-type: none"> <li>• 3.9 (4 spaces)</li> </ul> Visitor parking: <ul style="list-style-type: none"> <li>• Nil.</li> </ul> Motorcycle parking: <ul style="list-style-type: none"> <li>• Resident: 1</li> </ul> Bicycle parking: <ul style="list-style-type: none"> <li>• Resident: 3</li> </ul>	No, but as existing	<p>The proposal provides for 6 car parking spaces. Notwithstanding the numerical non-compliance with the maximum parking rate, its design and location are satisfactory.</p> <p>Garage 1 on the western side provides three car parking spaces for use by Apartments 1 and 2. These apartments are also allocated a storage and bicycle parking area.</p> <p>Garage 2 on the eastern side is exclusively for Apartment 3 (the 4 bedroom, 2 storey unit), which contains three car parking spaces, motorcycling and bicycle parking and storage.</p> <p>It is noted that the additional two parking spaces beyond the maximum parking rate standard have been included in the GFA calculations, as per the LEP definition.</p> <p>Section 8.2.3 (a) outlines where variations to the parking standards are acceptable. In this instance, it is considered that exceeding the parking rate standards is in the public interest for the following reasons:</p>

Development Control	Compliance	Comment
		<ul style="list-style-type: none"> <li>The car parking is to remain as approved under the DA-14/2011 consent.</li> <li>The development utilises the existing garage spaces and driveway crossovers and does not alter existing on-street parking arrangements.</li> <li>The car parking is located within the existing basement and therefore does not add to the visual bulk and scale of the building, nor does it have any amenity impacts on neighbouring properties.</li> <li>The submissions raised concern about car parking and in this location on-street car parking is in short supply. The proposal offers an opportunity to retain the already approved on-site car parking without impacting the neighbouring properties or streetscape.</li> </ul>
12. Design Excellence	Yes	Satisfactory.
14. Excavation	Yes	Satisfactory.

**Table 3: Waverley DCP 2012 – Part C1 – Special Character Areas**

Development Control	Compliance	Comment
<b>1.3 Ben Buckler</b>		
Desired Future Character Objectives <ul style="list-style-type: none"> <li>Maintain Landscape Character</li> <li>Maintain rhythm of buildings to the street</li> <li>Allow ocean glimpses through side setbacks</li> <li>Respect character and architectural elements</li> <li>View Sharing</li> </ul>	Yes	The building's design responds to the desired future character of the area in that the rhythm of the building frontage is maintained. The proposed façade upgrades respect the existing building character or boxy proportioned buildings. The building is to be rendered and painted, which is an appropriate finish. There is no impact on views.
Controls <ul style="list-style-type: none"> <li>Rendered and painted finish is appropriate</li> </ul>	Yes	The proposal includes a rendered and painted finish.

**Table 4: Waverley DCP 2012 – Part C3 Other Residential Development Compliance Table**

Development Control	Compliance	Comment
<b>3.1 Site, scale and frontage</b>		
<ul style="list-style-type: none"> <li>Minimum frontage: 15m – R3 zone</li> </ul>	N/A	The existing frontage is not being altered.
<b>3.2 Height</b>		
<ul style="list-style-type: none"> <li>Maximum external wall height: R3 – 7m</li> </ul>	No, but acceptable	<p>The external walls of the approved building are being extended with additions above the existing alignment. While the amended proposal is higher than the approved building, WDCP 2012 Part C3 Clause 3.2(c) allows Council to consider a varied wall height where certain matters are addressed. Control (c)(i) and (ii) relate to FSR and height development standards which are addressed above in this report. Control (c)(iv) and (v) relate to visual bulk and scale and amenity of neighbouring properties. The proposal provides additional setbacks at the uppermost level which cause a reduction in visual bulk and a material benefit in sunlight access to neighbouring properties, satisfying these controls. Furthermore, a high design quality is achieved, which satisfies Control 3.2(c)(vi).</p>
<b>3.3 Setbacks</b>		
<p>3.3.1 - Street setbacks</p> <ul style="list-style-type: none"> <li>Consistent street setback</li> </ul>	Yes	The existing setback is maintained.
<p>3.3.2- Side and rear setbacks</p> <ul style="list-style-type: none"> <li>Minimum side setback: 1.5m</li> <li>Minimum rear setback: 6m or predominant rear building line, whichever is the greater setback</li> </ul>	<p>No, but as existing</p> <p>Yes</p>	<p>The existing side setbacks of 1.12m and 1.26m are being maintained at the lower levels, which does not comply with the minimum 1.5m setback control. The uppermost level proposes increased setbacks ranging from 1.4m to 3.54m.</p> <p>The proposal increases the setback to the rear compared to the approved development currently under construction. The building does not extend beyond the building line of either neighbouring property.</p>
<b>3.4 Length and depth of buildings</b>		
<ul style="list-style-type: none"> <li>Maximum building length: 24m</li> <li>Façade to be articulated</li> <li>Maximum depth: 18m</li> </ul>	<p>Yes</p> <p>Yes</p> <p>No, but acceptable</p>	<p>The building is less than 24m in length.</p> <p>The façade is articulated.</p> <p>The depth of the building is approximately 20m. This non-compliance is acceptable as all three apartments have excellent amenity in terms of solar access and cross ventilation.</p>





Development Control	Compliance	Comment
properties or be screened <ul style="list-style-type: none"> <li>Privacy be considered in relation to context density, separation use and design.</li> </ul>		screening on both sides to minimise overlooking to neighbouring properties.  The balconies to the front of the building are a common feature in the streetscape, which results in mutual overlooking of the front setback area and the public footpath. Given the streetscape pattern of front balconies, the visual privacy impact is considered appropriate in this instance.
<b>3.16 Dwelling size and layout</b>		
<ul style="list-style-type: none"> <li>Max width of dwelling over 15m deep is min 4m</li> <li>All habitable rooms to have a window</li> <li>Provide a range of dwelling types and sizes</li> <li>Min sizes                Studio = 35m<sup>2</sup>                1 bedroom = 50m<sup>2</sup>                2 bedroom = 80m<sup>2</sup>                3 bedroom = 100m<sup>2</sup> </li> <li>Flexible design</li> </ul>	Yes	All units are 4.5m wide.  All habitable rooms have access to a window.  The proposal includes 2 x two-bedroom units, which measure 84.15sqm and 87.31sqm each, which complies.  The four-bedroom unit measures 300.16sqm, which substantially exceeds the minimum size.
<b>3.17 Ceiling Heights</b>		
<ul style="list-style-type: none"> <li>Min 2.7m floor to ceiling height residential floors</li> <li>Min 2.4m floor to ceiling height attic levels</li> </ul>	Yes	Yes, minimum floor to ceiling height of 2.7m are proposed.
<b>3.18 Storage</b>		
In addition to kitchen cupboards and bedroom wardrobes, min storage required is: <ul style="list-style-type: none"> <li>Studio and 1 bed = 6m<sup>3</sup></li> <li>2 bed = 8m<sup>3</sup></li> <li>3 or more bed = 10m<sup>3</sup></li> <li>All to provide bulk storage are in basement or ancillary structure</li> </ul>	Yes   Yes	Yes, separate storage areas are provided for all three units in excess of the minimum requirements.  A bulky goods storage area is available in the basement for all units.
<b>3.19 Acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Internal amenity by locating noisy areas away from quiet areas</li> </ul>	Yes	The proposal provides and appropriate layout in this regards.
<b>3.20 Natural Ventilation</b>		
<ul style="list-style-type: none"> <li>All dwellings to be naturally cross-ventilated</li> </ul>	Yes	All apartments are naturally cross ventilated.

Development Control	Compliance	Comment
<b>3.21 Building services</b>		
<ul style="list-style-type: none"> <li>• Services are to be integrated into the design of buildings (garbage rooms, mail boxes, fire hydrants boosters, electrical substations, down pipes, plant rooms, satellite/communications structures</li> <li>• Outdoor Communal clothes drying area to be provided</li> <li>• Plant rooms away from entry communal and private open spaces and bedrooms.</li> <li>• Services on roof not to be seen from street or impact public or private views and be min 2m from the building edge</li> </ul>	Yes	<p>All services are integrated into the building and there is nothing on the roof, other than the lift overrun.</p> <p>The plant room and pool equipment are located below ground and away from the entry, private open spaces and bedrooms.</p> <p>Outdoor communal clothes drying area is not provided. However, this is considered acceptable given the large balcony spaces provided to the two units on the lower level and the large rear yard for Unit 3.</p>

## 2.2. Other Impacts of the Development

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

## 2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

## 2.4. Any Submissions

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

Following receipt of amended plans and additional information, the application was not notified as the amended form of the proposal represents a lesser impact than that of the original form that was publicly notified.

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

- 129 Hastings Parade, NORTH BONDI
- 5/131 Hastings Parade, North BONDI
- 5/133 Hastings Parade, NORTH BONDI
- 8/133 Hastings Parade, NORTH BONDI.

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

- Exceeds FSR and height
- Excavation
- Privacy impacts
- Overshadowing.

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

***Issue:** Construction impacts including noise, vibration and parking impacts, builders 'taking possession' of on-street parking spaces. The builders should only be permitted to use the two parking spaces directly outside the subject site and should not be permitted to leave vehicles overnight. There has been lots of construction work in the street, this development will prolong the agony and amplify the agony. It would be a pincer movement.*

**Response:** Standard conditions of consent are included relating to minimising the impacts of construction works to legislated hours, noise and vibration levels. Construction vehicles are permitted to park in any legal parking spaces. Conditions of consent or neighbours cannot dictate which particular vehicles are more entitled to occupy on-street car parking spaces.

***Issue:** Noise from balconies impacts properties on opposite side of Hastings Parade.*

**Response:** The proposal reduces the number of units from three to four, thereby reducing the potential noise impacts. The balconies are appropriate in size and location and are not considered to have adverse impacts on neighbouring properties.

## 2.5. Public Interest

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

## 3. REFERRALS

The following internal and external referral comments were sought:

### 3.1. Traffic and Development

Council's traffic engineers recommend that 2 car parking spaces be removed given the exceedance of the WDCP maximum car parking rates. As discussed in WDCP 2012 – Part B General Provisions Compliance Table above, the additional car parking spaces are existing and have been included in the calculation of gross floor area and do not add to the bulk and scale of the development. The submissions raised significant concern about car parking within the street and as such, it is recommended that the 6 existing car parking spaces be retained.

### 3.2. Stormwater

As discussed in the Background section of this report, amended documentation was requested relating to stormwater. This was provided by the applicant and reviewed by Council's Engineers who raised no objection to the documentation provided, subject to conditions of consent which have been included in the attached recommended conditions.

### 3.3. Tree Management

No objection raised with the submitted arborist report noting the trees to be removed and retained.

### 3.4. Public Domain

No objection raised, subject to conditions of consent.

### 3.5. Fire Safety

No objection raised, subject to conditions of consent.

### 3.6. Environmental Health

No objection raised, subject to conditions of consent.

### 3.7. Waste and Recycling

No objection raised, subject to conditions of consent.

## 4. CONCLUSION

The development application seeks consent for amendments to the approved alterations and additions to a residential flat building at the site known as 138 Hastings Parade, NORTH BONDI.

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

- Exceeds height of building development standard;
- Exceeds FSR development standard, albeit a reduction from the previously approved scheme;
- Excavation extending beyond the building footprint; and
- Car parking rates exceeds the maximum.

The assessment finds these issues acceptable.

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

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

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

The application was reviewed by the DBU at the meeting on 26 May 2022 and the DBU determined:

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

DBU members: *A Rossi, B McNamara, B Magistrale and T Sneesby.*

**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.

<b>Report prepared by:</b>	<b>Application reviewed and agreed on behalf of the Development and Building Unit by:</b>
	
Emma Finnegan	Ben Magistrale
<b>Senior Development Assessment Planner</b>	<b>A/Manager, Development Assessment (Area 2) (Reviewed and agreed on behalf of the Development and Building Unit)</b>
<b>Date:</b> 3/06/2022	<b>Date:</b> 10 June 2022

**Reason for WLPP 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 Plans prepared by Architects Nicholas + Associates of Project No: TRI2102 including the following:

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
DA000 Issue C	Cover page	18/2/22	21/2/22
DA001 Issue C	Basix and external finishes schedule	18/2/22	21/2/22
DA015 Issue C	Proposed plan – basement	18/2/22	21/2/22
DA016 Issue C	Proposed plan – ground floor	18/2/22	21/2/22
DA017 Issue C	Proposed plan – first floor	18/2/22	21/2/22
DA018 Issue C	Proposed plan – second floor	18/2/22	21/2/22
DA019 Issue C	Proposed plan – roof	18/2/22	21/2/22
DA150 Issue C	South elevation – street	18/2/22	21/2/22
DA151 Issue C	North elevation	18/2/22	21/2/22
DA152 Issue C	East elevation	18/2/22	21/2/22
DA153 Issue C	West elevation	18/2/22	21/2/22
DA170 Issue C	Section A	18/2/22	21/2/22
DA171 Issue C	Section B	18/2/22	21/2/22

- (b) Landscape Plan No. DA600, DA601, DA602 all Revision B and documentation prepared by Architects Nicholas + Associates, dated 28 September 2021 and received by Council on 13 October 2021.
- (c) BASIX and NatHERs Certificates.
- (d) BCA Assessment and documentation prepared by Building Control Group dated 18 May 2021, and received by Council on 13 October 2021.
- (e) Access Report and documentation prepared by Morris Goding Access Consulting, dated 18 May 2021, and received by Council on 13 October 2021.
- (f) Acoustic Report and documentation prepared by Pulse White Noise Acoustics, dated 14 May 2021, and received by Council on 13 October 2021.
- (g) Fire Safety Report and documentation prepared by Scientific Fire Services dated 19 May 2021, and received by Council on 13 October 2021.
- (h) Geotechnical Report and documentation prepared by JK Geotechnics dated 18 May 2021, and received by Council on 13 October 2021.
- (i) Structural Advice – Shoring System prepared by Indesco, dated 6 October 2021, and received by Council on 13 October 2021.
- (j) Traffic and Transport documentation prepared by Transport and Traffic Planning Associates, dated 17 February 2022, and received by Council on 21 February 2022.
- (k) Arborist Report prepared by Jacksons Nature Works dated 18 May 2021, and received by Council on 13 October 2021.

- (l) Approved stormwater plans and documents in accordance with condition 24 of this development consent.
- (m) The Site Waste and Recycling Management Plan (SWRMP) Part 1 13 October 2021

Except where amended by the following conditions of consent.

## **2. MODIFICATION OF DEVELOPMENT CONSENT DA-14/2011 AND SUBSEQUENT S4.55 MODIFICATIONS**

Pursuant to section 4.17(1)(b) and (5) of the *Environmental Planning and Assessment Act 1979*, Development Consent DA-14/2011 (as modified by DA-14/2011/A) are modified as necessary so that there is consistency between Development Consent DA-14/2011 and this development consent. In this regard, Condition 1 of Development Consent No. 14/2011/A is modified to include the approved architectural plans and BASIX certificate referred to in condition 1 of this development consent.

## **3. RELATIONSHIP TO DEVELOPMENT CONSENT DA-14/2011/A**

This development consent shall operate concurrently with Development Consent DA-14/2011/A. All conditions of consent imposed on Development Consent DA-14/2011/A are to be read and complied with in conjunction with this development consent. A consolidated construction certificate application should be sought to combine the approved works under the subject development consent with those under Development Consent DA-14/2011/A.

## **4. PUBLIC DOMAIN IMPROVEMENTS**

The public domain is to be upgraded along Hastings Parade frontages of the development site in accordance with the current Waverley Council Development Control Plan (DCP) and Public Domain Technical Manual (PDTM) at the time of engineering plan approval.

A public domain plan for the following works shall be submitted to, and approved by the Executive Manager, Infrastructure Services prior to the issue of the Construction Certificate.

- Footpath
- Vehicular Crossing
- Kerb and gutter
- Stormwater infrastructure

## B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

### GENERAL REQUIREMENTS

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

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

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

### CONTRIBUTIONS, FEES & BONDS

#### 6. SECTION 7.12 CONTRIBUTION

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

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

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

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

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

## **7. SECURITY DEPOSIT**

A deposit (cash or cheque) or guarantee for the amount of **\$81,556** must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

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

## **8. LONG SERVICE LEVY**

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

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

## **9. 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.

### PLAN DETAILS

## **10. BASEMENT STORAGE**

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

## **11. FIRE SAFETY UPGRADING WORKS**

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

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

(b) If compliance with the deemed-to-satisfy provisions of the BCA and the matters listed in condition (a) above cannot be achieved, a performance solution in accordance with Part A2 of the BCA must be prepared by a suitably qualified and accredited person and be submitted to the Certifying Authority illustrating how the relevant performance requirements of the BCA are to be satisfied. Prior to a Construction Certificate being issued, the Certifying Authority must ensure that the building complies with the Building Code of Australia.

(c) The BCA matters identified in (a) above are not an exhaustive list of conditions to verify compliance or non-compliance with the BCA. Any design amendments required to achieve compliance with the BCA must be submitted to Council. Significant amendments may require an application under Section 4.55 of the Act to be lodged with Council to amend this consent.

(d) Prior to the commencement of the required upgrade works, a Construction Certificate must be issued by an accredited Certifying Authority and an accredited PCA be appointed. The required upgrading works detailed in this condition must be completed prior to the issue of an Occupation Certificate.

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

## CONSTRUCTION & SITE MATTERS

### **12. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)**

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

[https://www.waverley.nsw.gov.au/building/development\\_applications/post\\_determination/development\\_applications\\_-\\_conditions\\_of\\_consent](https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent)

### **13. HOARDING**

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

#### **14. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

#### **15. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION**

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

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

#### **16. ENGINEERING DETAILS**

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

#### **17. TELECOMMUNICATIONS IN NEW RESIDENTIAL FLAT BUILDING AND MIXED USE DEVELOPMENTS**

Evidence is to be provided to the Principal Certifier that arrangements have been made for;

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

#### **ENERGY EFFICIENCY & SUSTAINABILITY**

#### **18. BASIX**

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

## WASTE

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

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

### **20. WASTE STORAGE AREAS**

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

#### **Residential**

- 2 x 240L Mobile Garbage Bins (MGBs) for general waste (collected weekly)
- 2 x 240L MGBs for paper and cardboard recycling (collected fortnightly)
- 2 x 240L MGBs for container recycling (collected fortnightly)
- 1 x 240L MGB for garden organics waste should this type of waste be generated at the property (collected fortnightly)

Space must be allocated to store bulky household waste awaiting collection along with any problem waste streams (such as electronic waste or textile waste).

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

## NOISE

### **21. NOISE – ACOUSTIC REPORT**

An Acoustic Assessment Report prepared by a suitably qualified acoustic consultant shall be prepared to assess the impacts of the development (internal and external areas) including any mechanical plant, refrigeration motors and air conditioning units and make recommendations to ensure that the noise from the development will be within the acceptable limits of the Protection of the Environment Operations Act 1997 and relevant legislation.

### **22. ACOUSTIC REPORT**

The recommendations made in acoustic report (Project no 210149) prepared by Pulse White Noise Acoustics Pty Ltd dates and dated 14 May 2021 shall be implemented in full.

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

## PUBLIC DOMAIN

### **23. PUBLIC INFRASTRUCTURE WORKS**

All Public infrastructure works traversing the development frontage must be completed to Council's satisfaction at no cost to Council.

Full design engineering drawings to be prepared by a suitably qualified and experienced engineering professional and be submitted to Council for the approval of the Executive Manager, Infrastructure Services prior to the issue of the Construction Certificate.

The Applicant must submit plans and specifications for the following infrastructure works to Council's Public Domain Engineer:

- a) Driveway, Footpath, Kerb and Gutter: The existing Driveway, footpath along Hastings Pde frontages to be reconstructed and upgraded in accordance with the current Waverley Council Development Control Plan (DCP) and Public Domain Technical Manual (PDTM) at the time of engineering plan approval.  
The proposed driveway crossover, kerb, and gutter profiles to include longitudinal and cross sections to ensure proper connections to the existing Council infrastructure traversing the development site. Any stormwater infrastructure within the extent of public domain works, inclusive of the kerb inlet pit shall be replaced.
- b) Any proposed utility pillar on the site frontages to be either underground or inside the property boundary of the proposed development. Applicant must liaise with the relevant authorities for their approval and communicate to Council with written confirmation, before executing any works.

## STORMWATER

### **24. STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT**

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

The submitted stormwater management plan prepared by Enspire Solutions Pty Ltd, Project No. 210053, Drawing No. C01.01, C02.01, C02.11, C03.01, C03.02, C03.03, C06.01 & C20.01, Revision 1, dated 18/02/2022 is considered concept only.

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

- a) The plans shall provide a complete and detailed OSD design including multiple cross-sections (drawn to a suitable scale), proposed construction materials, and full orifice details. The checklist as set out in Council's Water Management Technical Manual shall be completed and submitted.
- b) A certificate from a registered structural engineer certifying the structural adequacy of the OSD tank structure is to be provided.
- c) Details of any rainwater tank required by BASIX commitments or as nominated on the architectural plan, including the overflow connection to the approved stormwater drainage system are to be

submitted. Where a rainwater reuse system is proposed in a basement, it shall be designed to adequately withstand all service loads and provide adequate service life (minimum 50 years).

- d) Show sub-soil drainage restricted from entering the basement areas of the building and the stormwater drainage system by waterproofing and tanking the basement areas of the building.
- e) Pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits and inspection openings and their location shall be provided. Calculations demonstrating that the proposed stormwater drainage system can cater for the relevant design storm event shall be provided.
- f) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- g) Any proposed pipeline within the footpath verge of Hastings Parade must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 millimetres and fall by gravity at 1% minimum.
- h) The building works appear to be located within the path of the natural runoff caused by the localised upstream catchment from the rear. Given that the site incorporates OSD, the engineer shall demonstrate that the water caused from the upstream catchment can be captured and redirected to the kerb and gutter via a swale and pipe or pit and pipe system along the boundaries (independent of the OSD system). Calculations in relation to the upstream catchment and the proposed system shall be submitted to Council demonstrating that the proposed system has sufficient capacity to capture and discharge the flows generated during the relevant design storm event independent of the OSD system.
- i) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath shall be provided.
- j) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

#### Notes:

- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure any additional damage or unauthorised works within the Council property, not conditioned above. Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday). The expected duration to review and approve the stormwater management plan may take at least 15 working days from the date of submission.

## 25. DILAPIDATION REPORT

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

The report is to be dated, submitted to, and accepted by the Principal Certifying Authority, prior to any work commencing on the site.

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

## C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION

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

### PRIOR TO ANY WORKS

#### **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.

### DEMOLITION

#### **27. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS**

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

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

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

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

## **28. CONTROL OF DUST ON CONSTRUCTION SITES**

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

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

## **29. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS**

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

## **30. EXCAVATION AND BACKFILLING**

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

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

## CONSTRUCTION MATTERS

### **31. 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 Sundays and public holidays.

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

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

### **32. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

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

### **33. FIRE SAFETY UPGRADE REPORT**

Fire safety upgrading works are to be undertaken in accordance with condition 11 of this development consent.

### **34. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the *Building Legislation Amendment (Quality of Construction) Act 2002*, clause 162A of the *Environmental Planning and Assessment Regulation 2000* and the requirements of any other applicable legislation or instruments.

### **35. CERTIFICATE OF SURVEY – LEVELS**

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

### **36. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING**

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the location of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

### **37. WORK OUTSIDE PROPERTY BOUNDARY**

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

### **38. CONSTRUCTION OF SWIMMING POOLS AND OUTDOOR SPAS**

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

- (a) Reinforcement of the swimming pool/outdoor spa is to be inspected by an Accredited Officer or other suitably qualified person prior to the pouring of concrete.

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

## TREE PROTECTION AND REMOVAL

### **39. TREE REMOVAL AND RETENTION**

Trees to be removed as per the Arborist Report prepared by Ross Jackson, Jackson Nature Works, dated 18 May 2021:

Tree No.	Species	Location	Action
T10	<i>Plumeria rubra var. acutifolia</i>	On site	Remove as per Arborist report
T11	<i>Olea europaea subsp. Cupsidata</i>	On site	Remove as per Arborist report
T12	<i>Olea europaea subsp. Cupsidata</i>	On site	Remove as per Arborist report

Trees to be retained as per the Arborist Report prepared by Ross Jackson, Jackson Nature Works, dated 18 May 2021:

Tree No.	Species	Location	Action
T1	<i>Lagunaria patersonii</i>	Adjoining property	Retain as per Arborist report
T2	<i>Strelitzia nicolai</i>	Adjoining property	Retain as per Arborist report
T3	<i>Beaucarnea recurvata</i>	Adjoining property	Retain as per Arborist report
T4	<i>Schefflera arboricola</i>	On site	Retain as per Arborist report
T6	<i>Schefflera arboricola</i>	On site	Retain as per Arborist report
T7	<i>Araucaria columnaris</i>	On site	Retain as per Arborist report
T8	<i>Banksia integrifolia</i>	On site	Retain as per Arborist report
T9	Dead tree	Adjoining property	Retain as per Arborist report

### **40. TREE PROTECTION**

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

### **41. STREET TREES TO BE RETAINED/TREE PROTECTION**

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

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) 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 in accordance with AS4970-2009 "Protection of trees on construction sites.

## VEHICLE ACCESS & PUBLIC DOMAIN WORKS

### **42. 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.

Note: Prior to the submission of the vehicle crossing application, works as executed drawings shall be submitted to Council for the approval of the Executive Manager Creating Waverley confirming the finished levels of the internal driveway between the property boundary and the garage floor comply with the approved driveway long sections.

### **43. VEHICULAR ACCESS - FINISHED LEVEL TO VEHICLE CROSSING**

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

### **44. NOTICE OF INTENTION TO COMMENCE PUBLIC DOMAIN WORKS**

Prior to commencement of the public domain works notice shall be submitted to Councils Public Domain Engineer. This notice shall include the name and insurance details of the Contractor who will be responsible for the construction works, and details of the managing site supervisor/engineer. The applicant is also responsible for obtaining all Road Activity Permits required for the works, from the respective authorities.

### **45. PRE-CONSTRUCTION DILAPIDATION REPORT**

To ensure Council's infrastructure is adequately protected a pre-construction dilapidation report on the existing public infrastructure within the vicinity of the proposed development and along the travel routes of all construction vehicles, up to 100m either side of the development site, is to be submitted to Council. The report shall detail, but not be limited to, the location, description, and photographic record (in colour) of any observable defects to the following infrastructure where applicable:

- Road pavement
- Kerb and gutter
- Footpath
- Drainage pits and lintels

- Traffic signs
- Any other relevant infrastructure

The report is to be dated, submitted to, and accepted by Council's Public Domain Engineer, prior to any work commencing on the site. All fees and charges associated with the collation of this report shall be at the cost of the Applicant.

#### **46. PUBLIC DOMAIN ENGINEERING INSPECTIONS -CONSTRUCTION DILAPIDATION REPORT**

To ensure all public infrastructure engineering works required by Council under this consent will be constructed to Council satisfaction, inspection(s) will be required and compliance certificates must be obtained from Council's Engineer for the kerb and gutter, footpath paving and nature strip hold points.

All applicable engineering inspection fees in accordance with Council's Management Plan are to be fully paid prior to issue of Construction Certificate for the works. A minimum 48 hours' notice will be required when booking for the site inspections.

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

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

#### **CERTIFICATES, LICENCES, EASEMENTS AND RESTRICTIONS**

#### **47. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

#### **48. CERTIFICATION OF BASIX COMMITMENTS**

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

#### **49. CERTIFICATION OF LANDSCAPING**

At the completion of all works a certificate is to be submitted to the Principal Certifying Authority from a qualified Landscape and/or Arboriculture Consultant certifying that the work has been completed in accordance with the approved Landscape Plan and that a maintenance program has been established.

If relevant, the waterproofing on any green roof is to be tested and evidence of the test is to be provided with the certification.

## **50. FIRE SAFETY WORKS**

The Occupation Certificate shall not be issued until all fire safety works are completed and a Final Fire Safety Certificate has been submitted to Council.

## **51. WORKS-AS-EXECUTED DRAWINGS – STORMWATER DRAINAGE SYSTEM**

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

## **52. CREATION OF POSITIVE COVENANT AND RESTRICTION FOR OSD**

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

The wording of the Instrument shall be submitted to and approved by Executive Manager, Infrastructure Services (or delegate) prior to lodgement at NSW Land Registry Services.

Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created via an application to the NSW Land Registry Services using forms 13PC and 13RPA. Accompanying this form is the requirement for a plan to scale showing the relative location of the OSD system, including its relationship to the building footprint. Electronic colour photographs of the OSD system shall accompany the application for the Positive Covenant and Restriction on the Use of Land.

The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate or use of the building. All associated costs shall be borne by the applicant.

### **53. SUPERVISING ENGINEER FINAL CERTIFICATE – PUBLIC DOMAIN**

Prior to the issue of any Occupation Certificate for the works, the Applicant shall submit to Council, a Final Certificate from the Supervising Engineer confirming that the public domain works have been constructed in accordance with the Council approved plans and Waverley Council standards and specifications. The certificate shall include commentary to support any variations from the approved drawings.

### **54. WORK-AS-EXECUTED PLAN – PUBLIC DOMAIN**

To ensure public infrastructure works required under the consent are completed in accordance with approved plans and specifications, a Work-as-Executed plan of the works, prepared by a registered surveyor is to be submitted to the principal certifying Authority and Council for review with any required rectification works completed and approved by Council prior to issue of any Occupation Certificate.

The W.A.E plans are to note all departures clearly in red on a copy of the approved Construction Certificate plans and certification from an experienced chartered civil engineer shall be submitted to support all variations from approved plans.

### **55. CERTIFICATION OF PUBLIC INFRASTRUCTURE WORKS**

Prior to the issue of any Occupation Certificate, a Final Compliance Certificate shall be obtained from Council confirming that all works in the road reserve including all public domain infrastructure works and restoration, have been completed to Council's satisfaction.

Notes:

- The issue of a Final Compliance Certificate from the Council Engineer will be withheld should there be any outstanding fees and charges applicable to the development. This includes but not limited to fees applicable for engineering plans assessment and work inspection fees.
- The refund of any damage and/or security deposits will be subject to satisfactory restoration and rectification of all civil infrastructure that have dilapidated as a result of the construction activities associated with this development consent.
- To ensure satisfactory performance of the public domain works, a defects liability period of twelve (12) months shall apply to the works completed by the applicant/developer following completion of the development. The defects liability period shall commence from the date of issue of the Occupation Certificate for the development. The applicant shall be liable for any part of the work which fails to perform in a satisfactory manner as outlined in Council's standard specification, during the twelve (12) months' defects liability period.

### **56. CERTIFICATION OF SWIMMING POOL/OUTDOOR SPA**

Prior to the pool being used, the following must be provided;

- (a) Certification that the pool has been constructed in accordance with the consulting engineers design;
- (b) Evidence that the swimming pool/outdoor spa has been registered on the State Government Swimming Pool Register (<http://www.swimmingpoolregister.gov.au>);

- (c) A sign outlining details of resuscitation techniques for adults, children and infants has been placed in a prominent position, close to the pool/outdoor spa. Signs are available from Council;
- (d) A copy of the occupation certificate must be submitted to Council.

Note: Swimming/spa pool pumps are restricted from use between 8pm to 7am weekdays and Saturdays, 8pm to 8am on Sundays and public holidays in accordance with the requirements of the Protection of the Environment Operations (Noise Control) Regulation 2017.

## MANAGEMENT PLANS

### **57. PLAN OF MANAGEMENT – WASTE AND RECYCLING STORAGE**

A Waste Management Plan must be submitted to Council's Executive Manager, Environmental Sustainability (or delegate) and include including the following where relevant;

- (a) All arrangements including relevant and current contracts for recyclables and all other waste (collection and disposal)
- (b) The waste storage area and bins must be cleaned and maintained regularly with appropriate lighting.
- (c) The role and responsibility of managing composting facilities (if provided);
- (d) Clear signage identifying the different bin types, space for reusable items such as crates and pallets, bulky household waste and problem waste must be displayed.
- (e) The recycling bins must be placed alongside the general waste bins for ease of access and to encourage recycling habits.
- (f) Responsibilities for transporting bins from the storage points to the nominated collection area, cleaning of bins, cleaning of storage areas and booking and transporting bulky waste for Council pick up must be outlined in contracts with the building manager, cleaners and tenants and must comply with Council's relevant policies for placing waste in the public place for collection.
- (g) The occupant/body corporate shall be provided with at least one copy of the Waste Management Plan. An additional copy of the plan is be available on site when requested.
- (h) At no times shall bins or waste of any kind be stored on the public domain (e.g. footpaths).

## VEHICLE ACCESS AND PARKING

### **58. CAR PARKING**

A total of **6** car vehicle parking spaces are to be provided within the development.

No more than 3 spaces are to be allocated to Unit 3 (the 4-bedroom dwelling). All other units are to be allocated no more than 2 car parking spaces. All car spaces and to be appropriately signposted and parked.

Car parking spaces shall not be independent lots, but rather part lots attached to units in any future Subdivision Plans

## **59. 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.

## **E. OPERATIONAL MATTERS**

### **60. WASTE MANAGEMENT PLAN REVIEW**

After 5 years of operation under this development consent, the Approved Waste Management Plan is to be reviewed to ensure that the details including contracts, roles and responsibilities, commercial tenants (if relevant) are current. The updated plan is to supersede the previous plan.

## **F. ADVISORY MATTERS**

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

### **AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT**

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

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

## **AD2. SYDNEY WATER REQUIREMENTS**

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

Contact Sydney Water for more information.

## **AD3. DIAL BEFORE YOU DIG**

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

## **AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on 1800 810 443.

## **AD5. ALTERATIONS AND ADDITIONS ONLY**

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

## **AD6. EXCAVATION TO BE LIMITED**

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

## **AD7. BONDI - ROSE BAY SAND BODY**

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

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

**AD8. TREE REMOVAL/PRESERVATION**

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

**AD9. RAINWATER HARVESTING AND REUSE**

The operation of all devices or appliances installed within the development approved by this consent as required by conditions pertinent to rainwater harvesting and rainwater reuse must be maintained in good operating order at all times.

# AMENDING DA

138 HASTINGS PARADE, NORTH BONDI, NSW 2026



RECEIVED  
Waverley Council  
Application No: DA-439/2021  
Date Received: 21/02/2022

**AMENDED PLANS**

## THE CASCADES NORTH BONDI

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C	18.02.2022	ISSUE FOR AMENDING DA
B	28.09.2021	ISSUE FOR AMENDING DA
A	14.05.2021	ISSUE FOR S4.55
ISS	DATE	PURPOSE OF ISSUE

PLOTTED : 18/02/2022 10:43:57 AM

LEGEND:

FSL 00.000	FINISHED STRUCTURAL LEVEL	EXISTING TO BE RETAINED
+RL 00.00	FINISHED SPOT OR SURFACE LEVEL	EXISTING TO BE DEMOLISHED
FFL 00.00	FINISHED FLOOR LEVEL	NEW STRUCTURE
00.000	SURVEY SPOT LEVEL	
00.000	EXISTING LEVEL	
W/D	EXISTING WINDOW / DOOR	
W/D	NEW WINDOW / DOOR	

KEY:  
Scale 1 : 100 @ A3  
0 0.5m 1m 2m 4m

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NICHOLAS +  
ASSOCIATES



NOMINATED ARCHITECT  
PATRICK NICHOLAS  
NSW 6672

STUDIO 6,  
1 MARY'S PLACE  
SURRY HILLS  
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DRAWING NO:	ISSUE NO:	JOB NO:
DA000	C	TRI2102
AMENDING DA		

DRAWING TITLE:  
COVER PAGE + PHOTOMONTAGE

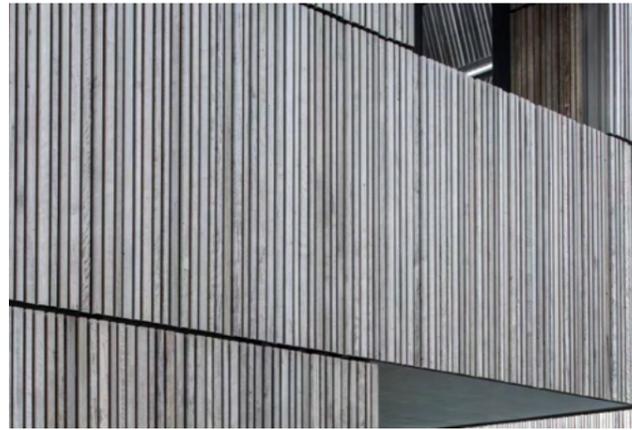
PROJECT ADDRESS:  
138 HASTINGS PDE NORTH BONDI

CLIENT:  
ORNA TRIGUBOFF

# ARCHITECTURAL DRAWINGS LIST

SHEET NO	SHEET NAME	REV	DATE
DA000	COVER PAGE + PHOTOMONTAGE	C	18.02.2022
DA001	DRAWING REGISTER + BASIX + EXTERNAL FINISHES SCHEDULE	C	18.02.2022
DA002	SITE CONTEXT	B	28.09.2021
DA003	SITE ANALYSIS	B	28.09.2021
DA004	SITE PLAN	B	28.09.2021
DA005	PHOTOMONTAGES	C	18.02.2022
DA010	EXISTING + DEMOLITION - BASEMENT	B	28.09.2021
DA011	EXISTING + DEMOLITION - GROUND FLOOR	B	28.09.2021
DA012	EXISTING + DEMOLITION - FIRST FLOOR	B	28.09.2021
DA015	PROPOSED PLAN - BASEMENT	C	18.02.2022
DA016	PROPOSED PLAN - GROUND FLOOR	C	18.02.2022
DA017	PROPOSED PLAN - FIRST FLOOR	C	18.02.2022
DA018	PROPOSED PLAN - SECOND FLOOR	C	18.02.2022
DA019	PROPOSED PLAN - ROOF	C	18.02.2022
DA120	AREA DIAGRAMS	C	18.02.2022
DA121	FSR COMPARISON	A	18.02.2022
DA125	LANDSCAPE & PRIVATE OPEN SPACE	B	28.09.2021
DA130	WASTE MANAGEMENT PLAN	B	28.09.2021
DA150	SOUTH ELEVATION - STREET	C	18.02.2022
DA151	NORTH ELEVATION	C	18.02.2022
DA152	EAST ELEVATION	C	18.02.2022
DA153	WEST ELEVATION	C	18.02.2022
DA170	SECTION A	C	18.02.2022
DA171	SECTION B	C	18.02.2022
DA600	LANDSCAPE PLAN - GROUND FLOOR	B	28.09.2021
DA601	LANDSCAPE PLAN - FIRST FLOOR	B	28.09.2021
DA602	LANDSCAPE PLAN - SECOND FLOOR	B	28.09.2021
DA700	VIEW FROM SUN - JUNE 21 - 9AM	C	18.02.2022
DA701	VIEW FROM SUN - JUNE 21 - 10AM	C	18.02.2022
DA702	VIEW FROM SUN - JUNE 21 - 11AM	C	18.02.2022
DA703	VIEW FROM SUN - JUNE 21 - 12PM	C	18.02.2022
DA704	VIEW FROM SUN - JUNE 21 - 1PM	C	18.02.2022
DA705	VIEW FROM SUN - JUNE 21 - 2PM	C	18.02.2022
DA706	VIEW FROM SUN - JUNE 21 - 3PM	C	18.02.2022
DA710	SHADOW PLAN - JUNE 21- 9AM	A	18.02.2022
DA711	SHADOW PLAN - JUNE 21 - 10AM	A	18.02.2022
DA712	SHADOW PLAN - JUNE 21 - 11AM	A	18.02.2022
DA713	SHADOW PLAN - JUNE 21 - 12PM	A	18.02.2022
DA714	SHADOW PLAN - JUNE 21 - 1PM	A	18.02.2022
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DA716	SHADOW PLAN - JUNE 21 - 3PM	A	18.02.2022

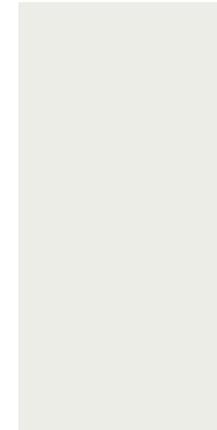
# EXTERNAL FINISHES SCHEDULE



CODE: TB1  
HARDWOOD BATTENS  
TEAK PRE-AGED SILVER



CODE:R2  
WALL RENDER - COURSE TEXTURED  
COLOUR: DULUX WHITE



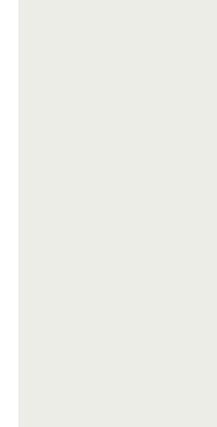
PRIVACY SCREENS  
COLOUR: TO MATCH R1 DULUX WALL  
RENDER TBC



CODE: R1  
WALL RENDER - COURSE EXTURED  
COLOUR: DULUX TBC



CASCADING PLANTING  
REFER LANDSCAPE PLANS



WINDOWS & DOORS  
COLOUR: DULUX WHITE SATIN

# BASIX COMMITMENTS

138 Hastings Parade North Bondi			
SUMMARY OF BASIX COMMITMENTS FOR EACH UNIT			
This is a summary of the BASIX Commitments as detailed in the BASIX Certificate. Refer to the CURRENT BASIX Certificate for Complete details. For definitions refer to basix.nsw.gov.au			
<b>WATER COMMITMENTS</b>			
Fixtures	4 Star Shower Heads Yes (> 4.5 but <= 6 Lit/min)		
5 Star Kitchen / Basin Taps	Yes	4 Star Toilet	Yes
Alternative Water	Collected from Roof Area (m <sup>2</sup> ) 80		
Common Tank Size (L)	2000		
Tank Connected To:	Laundry W/M Cold Tap No		
All Toilets	Yes	Laundry W/M Cold Tap No	
One Outdoor Tap	No		
<b>THERMAL COMFORT COMMITMENTS - Refer to TPA Specification on plans</b>			
<b>ENERGY COMMITMENTS</b>			
Hot Water	Gas instantaneous	6 Star	
Cooling System	Living	1 Phase A/C Zoned	EER 3.0 - 3.5
	Bedrooms	1 Phase A/C Zoned	EER 3.0 - 3.5
Heating System	Living	1 Phase A/C Zoned	EER 3.0 - 3.5
	Bedrooms	1 Phase A/C Zoned	EER 3.0 - 3.5
Ventilation	1 x Bathroom	Fan ducted to exterior	Manual on/off
	Window/Skylight in Kitchens	Fan ducted to exterior	Manual on/off
Natural Lighting	Window/Skylight in Kitchens	As drawn	Yes
	Window/Skylight in Bedrooms/Toilets	As drawn	Yes
Artificial Lighting (rooms to be primarily lit by fluorescent or LED lights)	Number of bedrooms	All	Dedicated Yes
	Number of Living/Dining rooms	All	Dedicated Yes
	Kitchen	Yes	Dedicated Yes
	All Bathrooms/Toilets	Yes	Dedicated Yes
OTHER COMMITMENTS	Outdoor clothes line	No	Ventilated refrigerator space Yes
	Stove/Oven	Gas cooktop & electric oven	
Alternative Energy	Photovoltaic System: 4.5kW common system		
Pool	Max Vol: 28 KL, heat pump, pump with timer, pool cover - US only		

May 2021 BSA Reference: 16882			
Building Sustainability Assessments Ph: (02) 4962 3439			
enquiries@buildingsustainability.net.au www.buildingsustainability.net.au			
<b>Important Note</b> The following specification was used to achieve the thermal performance values indicated on the Assessor Certificate and takes precedence over any other specification. If different construction elements are applied then the Assessor Certificate is no longer valid.			
<b>Thermal Performance Specifications (does not apply to garage)</b>			
External Wall Construction	Added Insulation		
Cavity Brick	R1.0		
Lightweight	R2.0		
Internal Wall Construction	Added Insulation		
Plasterboard on studs	None		
Double Brick	None		
Cavity Brick (party walls)	None		
Ceiling Construction	Added Insulation		
Plasterboard	R3.5 to ceilings adjacent to roof space and decks above		
Roof Construction	Colour Added Insulation		
Concrete	Any None		
Floor Construction	Covering Added Insulation		
Concrete	As drawn None		
Windows	Glass and frame type	U Value	SHGC Range Area sq m
ALM-001-01 A	Aluminium Type A Single clear	6.70	0.51 - 0.63 As drawn
ALM-002-01 A	Aluminium Type B Single clear	6.70	0.63 - 0.77 As drawn
Type A windows are awning windows, tilt&casements, fill 'n' turn windows, entry doors, french doors			
Type B windows are double hung windows, sliding windows & doors, fixed windows, stacker doors, louvers			
Skylights	Glass and frame type	U Value	SHGC Area sq m
U and SHGC values are according to AFRC. Alternate products may be used if the U value is lower and the SHGC is within the range specified.			
<b>External Window Shading</b> (eaves, verandahs, pergolas, awnings etc)			
All shade elements modelled as drawn			
<b>Ceiling Penetrations</b> (downlights, exhaust fans, flues etc)			
No adjustment has been made for losses to insulation arising from ceiling penetrations.			
<b>Ceiling Fans used in the Modelling and to be installed in the following areas</b>			
Living areas = None, Bedrooms = None			

**AMENDED PLANS**

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- FFL 00.000 FINISHED FLOOR LEVEL
- 00.000 SURVEY SPOT LEVEL
- 00.000 EXISTING LEVEL
- (W/D) EXISTING WINDOW / DOOR
- (W/D) NEW WINDOW / DOOR

**KEY:**

- EXISTING TO BE RETAINED
- EXISTING TO BE DEMOLISHED
- NEW STRUCTURE

Scale 1 : 100 @ A3

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**DRAWING NO:** DA001  
**ISSUE NO:** C  
**JOB NO:** TRI2102

**DRAWING TITLE:**  
DRAWING REGISTER + BASIX + EXTERNAL  
FINISHES SCHEDULE  
PROJECT ADDRESS:  
138 HASTINGS PDE NORTH BONDI

**CLIENT:**  
ORNA TRIGUBOFF

**NOMINATED ARCHITECT**  
PATRICK NICHOLAS  
NSW 6672

**DRAWING TITLE:**  
AMENDING DA

# AMENDED PLANS



HASTINGS PARADE PERSPECTIVE



NORTH ELEVATION PERSPECTIVE

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FFL 00.00	FINISHED FLOOR LEVEL		NEW STRUCTURE
	SURVEY SPOT LEVEL		
	EXISTING LEVEL		
	EXISTING WINDOW / DOOR		
	NEW WINDOW / DOOR		

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DRAWING NO: DA005  
 ISSUE NO: C  
 JOB NO: TRI2102

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 PATRICK NICHOLAS  
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DRAWING TITLE:  
 PHOTOMONTAGES

PROJECT ADDRESS:  
 138 HASTINGS PDE NORTH BONDI

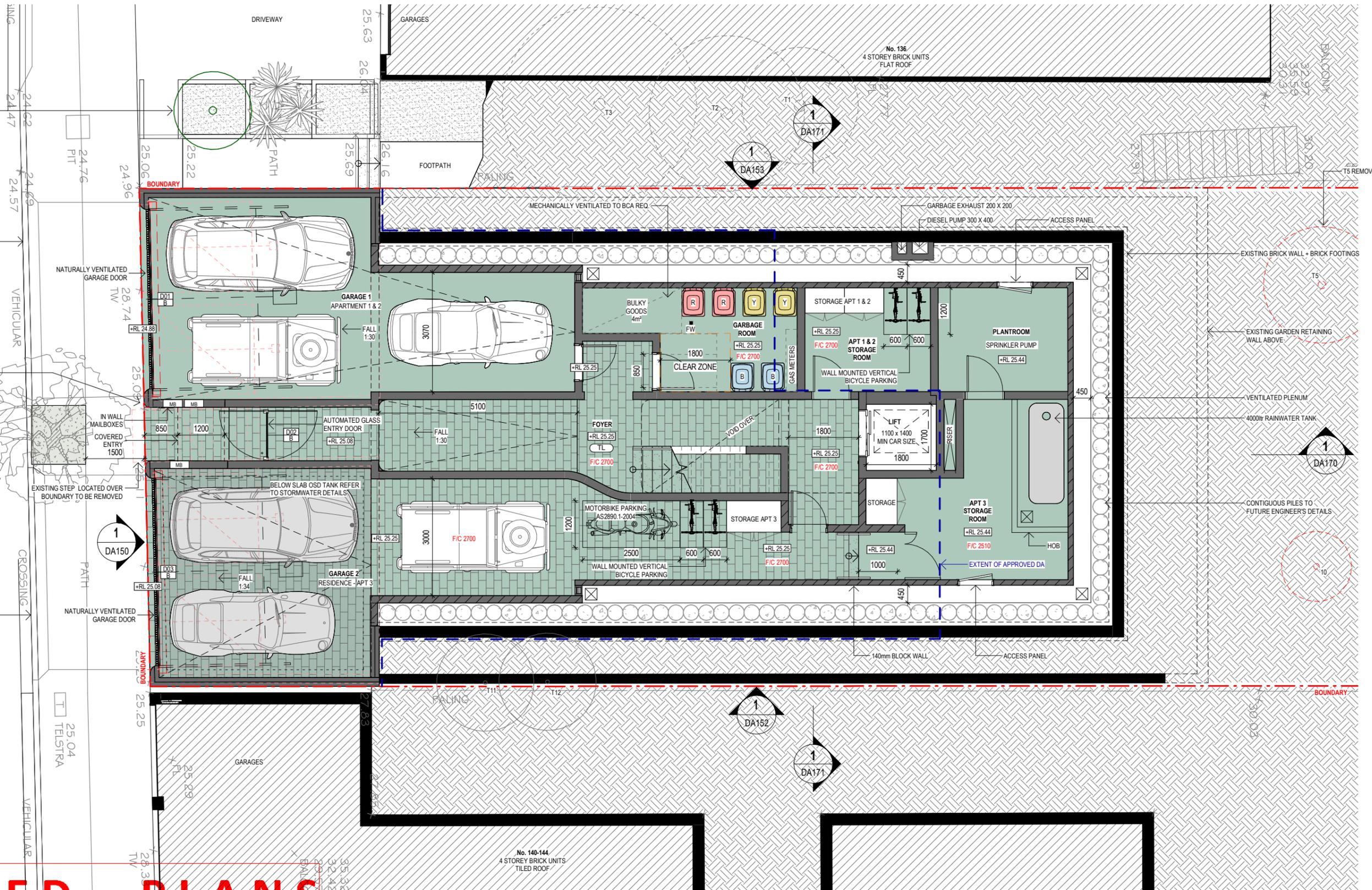
CLIENT:  
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TININGS

+24.81

HASTINGS PARADE

+25.18



# AMENDED PLANS

**1 PROPOSED - BASEMENT FLOOR**  
scale - 1 : 100@ A3

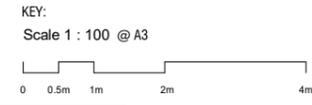
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P1 10.02.2022 FOR COORDINATION  
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  - (W/D) NEW WINDOW / DOOR
  - (---) EXISTING TO BE RETAINED
  - (---) EXISTING TO BE DEMOLISHED
  - (---) NEW STRUCTURE



- WAVERLEY CONCIL MATERIAL COLOUR CODES:
- TIMBER
  - PAVING
  - BRICK
  - METAL
  - CONCRETE
  - EARTH

ARCHITECTS  
NICHOLAS +  
ASSOCIATES



NOMINATED ARCHITECT  
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NSW 6672

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DRAWING NO: DA015 ISSUE NO: C JOB NO: TRI2102

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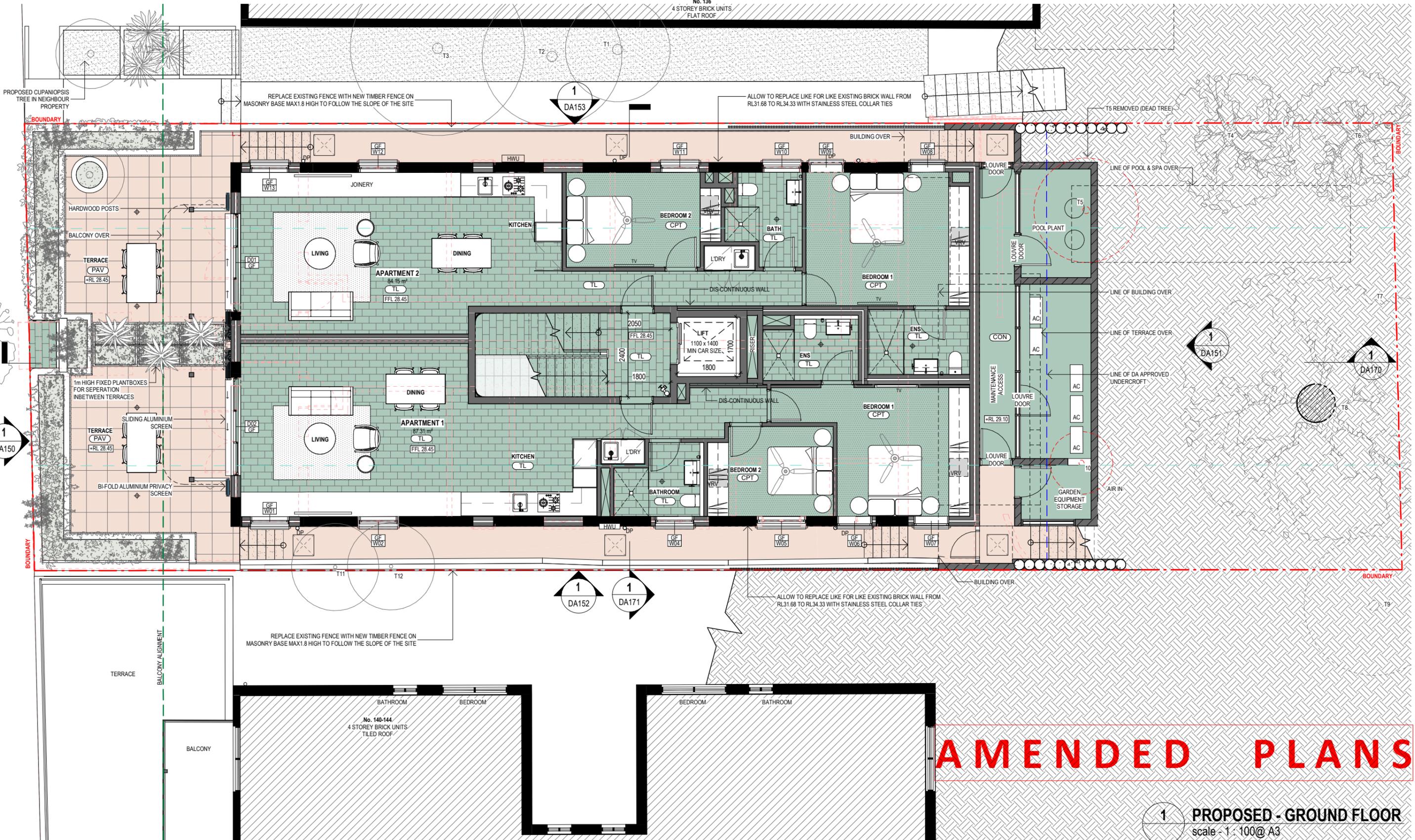
DRAWING TITLE:  
PROPOSED PLAN - BASEMENT

PROJECT ADDRESS:  
138 HASTINGS PDE NORTH BONDI

CLIENT:  
ORNA TRIGUBOFF

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Application No: DA-439/2021

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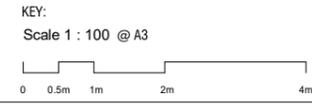
**1** PROPOSED - GROUND FLOOR  
scale - 1:100@A3

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P1 10.02.2022 FOR COORDINATION  
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  - EXISTING TO BE RETAINED
  - EXISTING TO BE DEMOLISHED
  - NEW STRUCTURE



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- TIMBER
  - PAVING
  - BRICK
  - METAL
  - CONCRETE
  - EARTH

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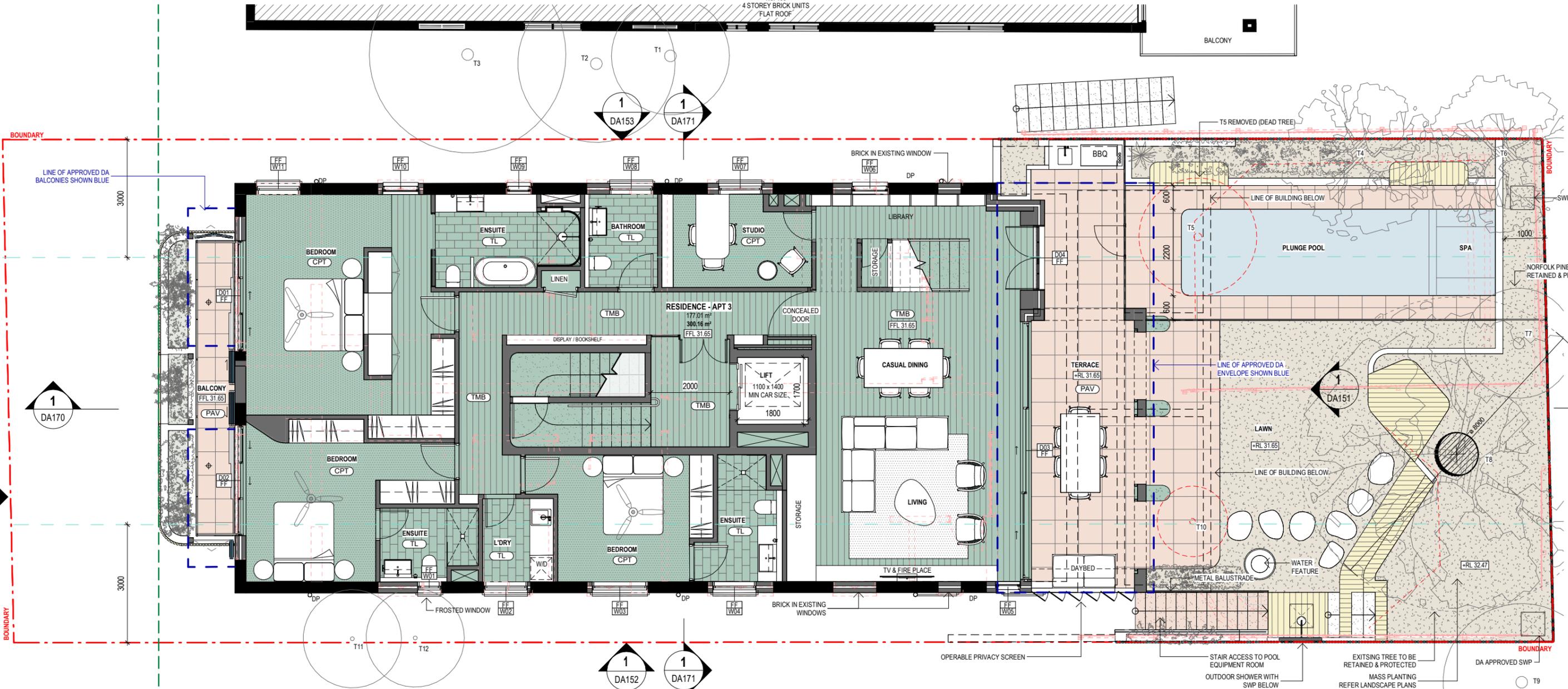
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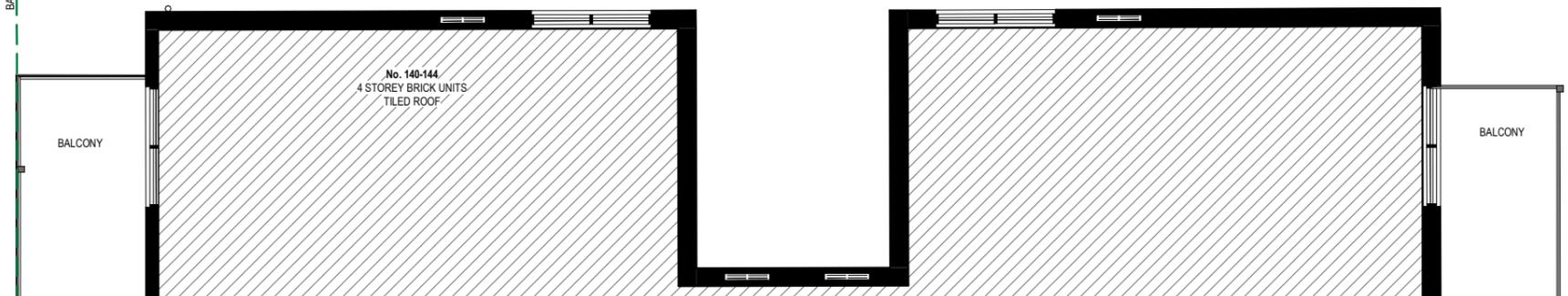
DRAWING TITLE:  
PROPOSED PLAN - GROUND FLOOR

PROJECT ADDRESS:  
138 HASTINGS PDE NORTH BONDI

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**1 PROPOSED - FIRST FLOOR**  
scale - 1 : 100@ A3

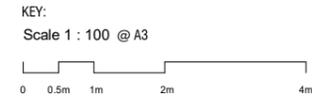
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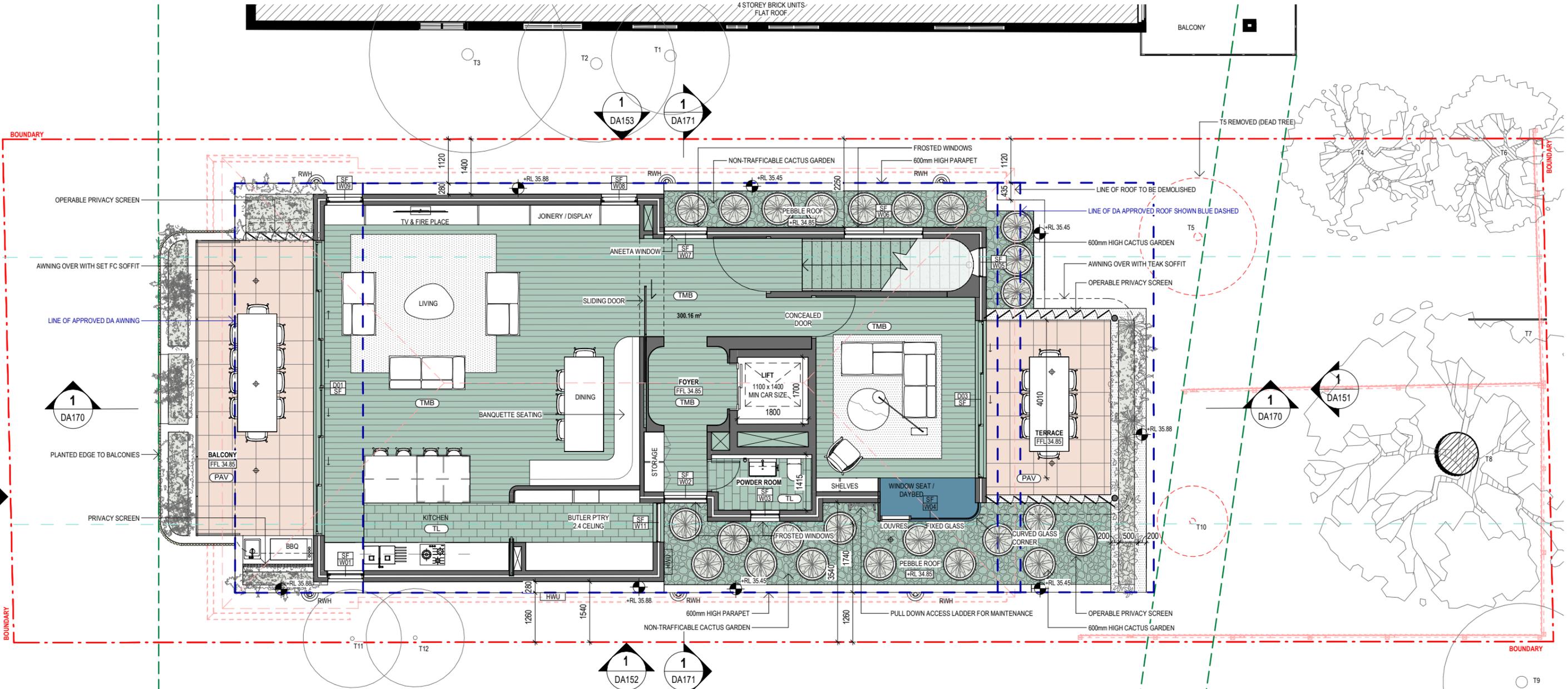
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	PAVING
	BRICK
	METAL
	CONCRETE
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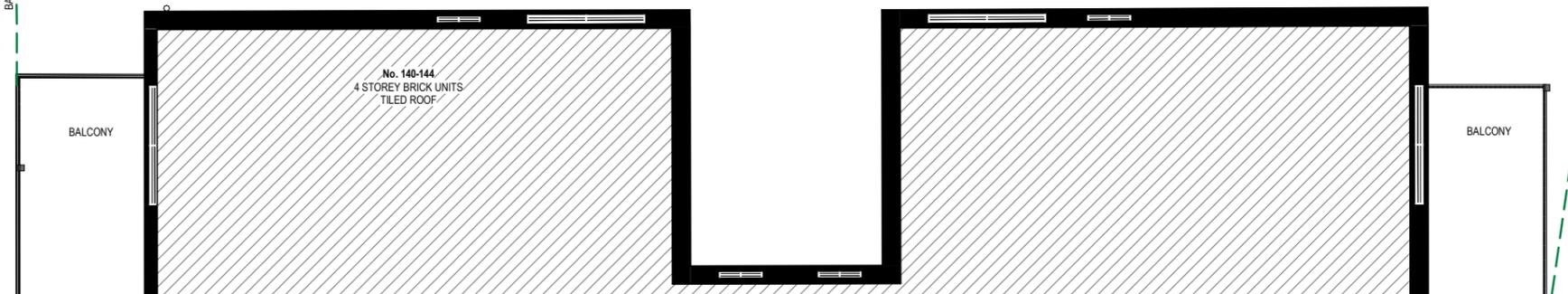
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DRAWING NO:	ISSUE NO:	JOB NO:
DA017	C	TRI2102
AMENDING DA		
DRAWING TITLE: PROPOSED PLAN - FIRST FLOOR		
PROJECT ADDRESS: 138 HASTINGS PDE NORTH BONDI		
CLIENT: ORNA TRIGUBOFF		



# AMENDED PLANS



**1** PROPOSED - SECOND FLOOR  
scale - 1 : 100@ A3

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FFL 00.00	FINISHED FLOOR LEVEL	—	NEW STRUCTURE
00.000	SURVEY SPOT LEVEL	○	
00.000	EXISTING LEVEL	—	
W/D	EXISTING WINDOW / DOOR	—	
W/D	NEW WINDOW / DOOR	—	

KEY:  
Scale 1 : 100 @ A3  
0 0.5m 1m 2m 4m

WAVERLEY CONCIL MATERIAL COLOUR CODES:

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—	BRICK
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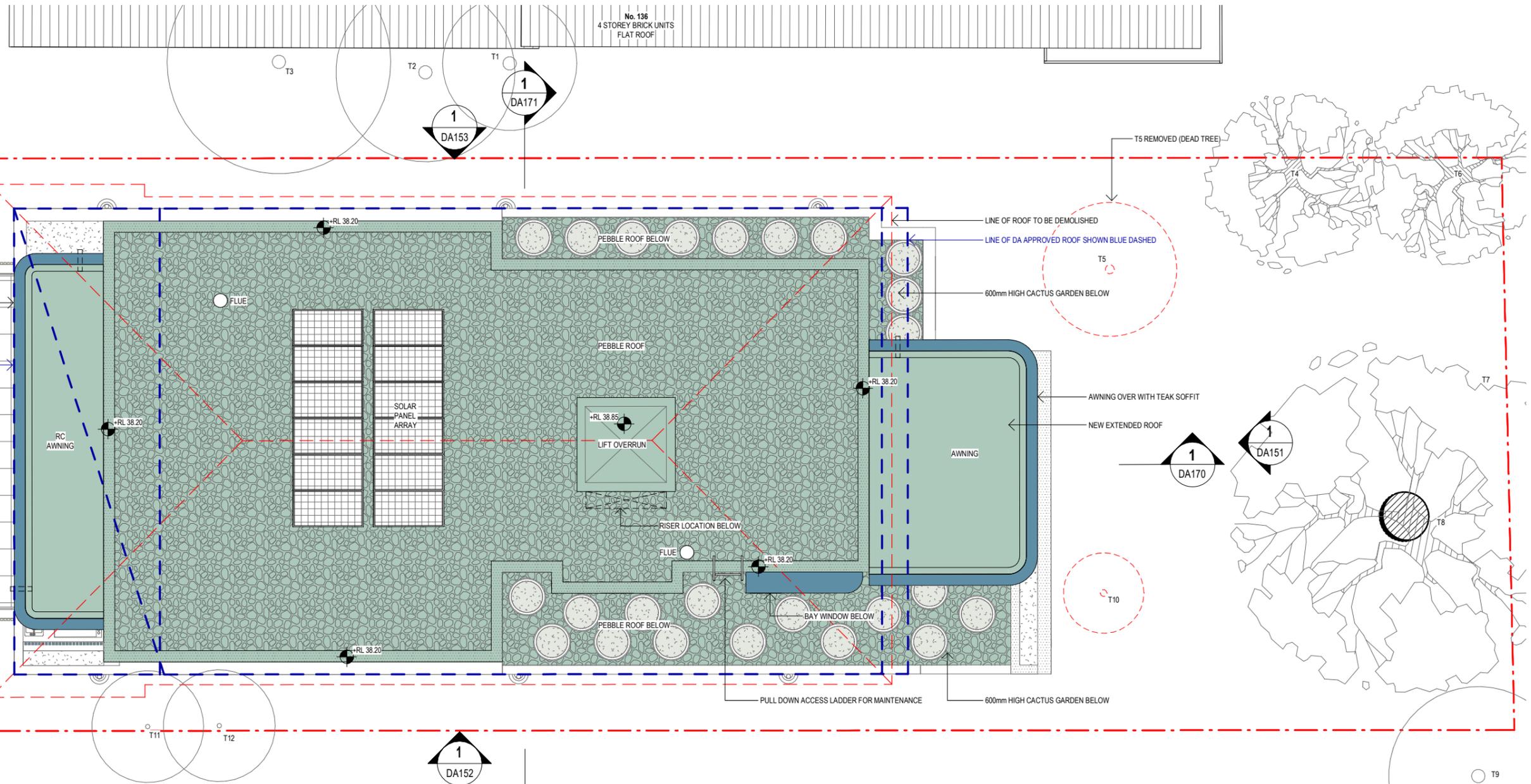
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AMENDING DA

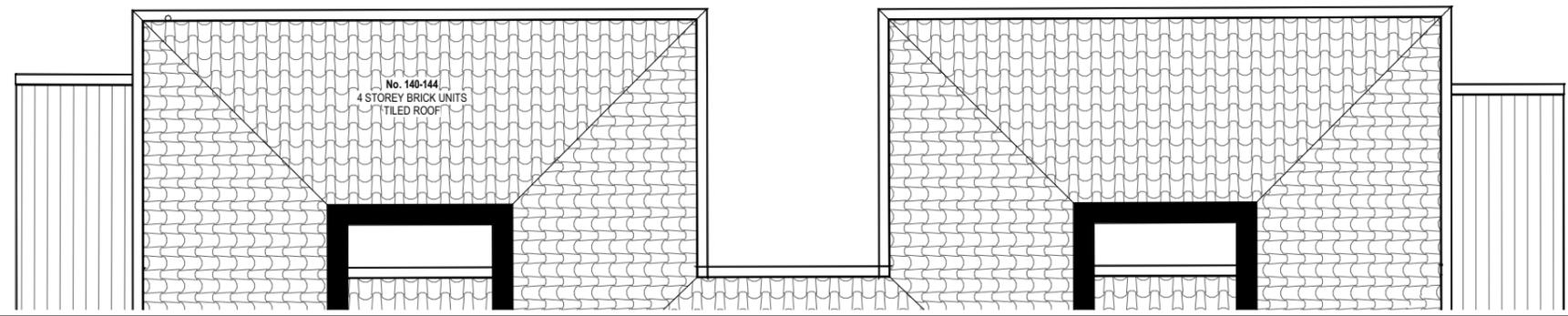
DRAWING TITLE:  
PROPOSED PLAN - SECOND FLOOR

PROJECT ADDRESS:  
138 HASTINGS PDE NORTH BONDI

CLIENT:  
ORNA TRIGUBOFF



# AMENDED PLANS



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Application No: DA-439/2021  
Date Received: 21/02/2022

**1** PROPOSED - ROOF  
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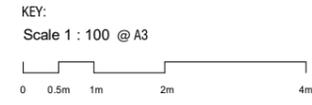
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C	18.02.2022	ISSUE FOR AMENDING DA
P1	10.02.2022	FOR COORDINATION
B	28.09.2021	ISSUE FOR AMENDING DA
A	14.05.2021	ISSUE FOR S4.55
ISS	DATE	PURPOSE OF ISSUE

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FFL 00.00	FINISHED FLOOR LEVEL		NEW STRUCTURE
$\times$ 00.000	SURVEY SPOT LEVEL		
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	EXISTING WINDOW / DOOR		
	NEW WINDOW / DOOR		



WAVERLEY CONCIL MATERIAL COLOUR CODES:

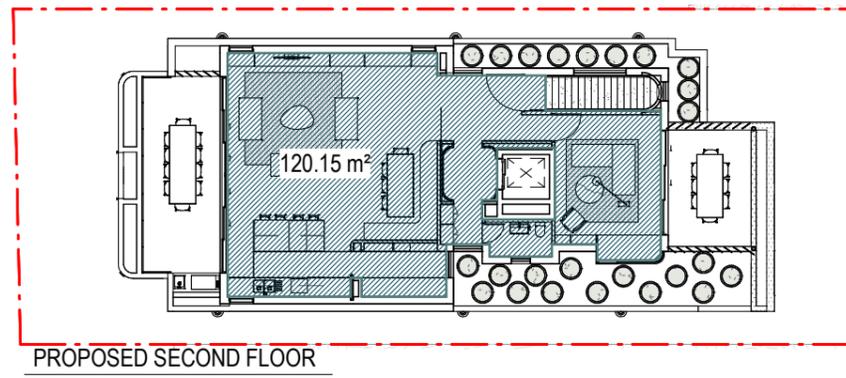
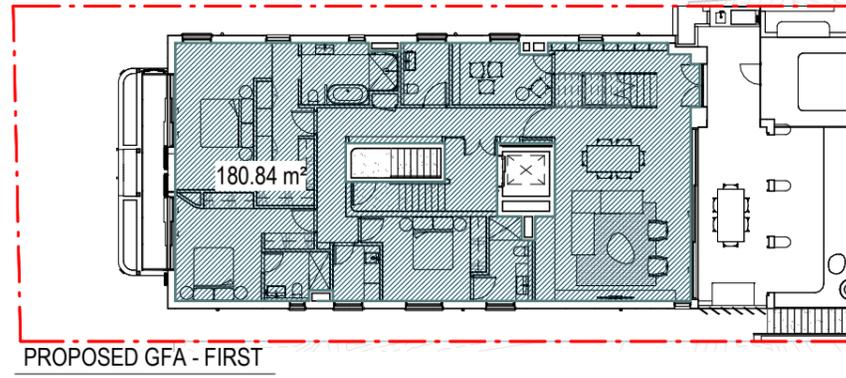
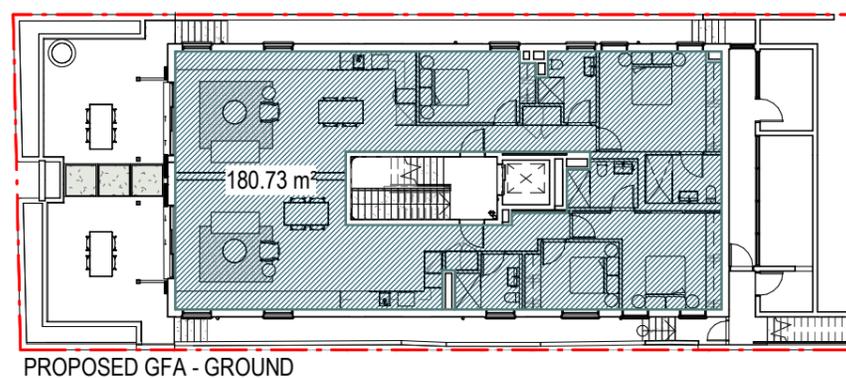
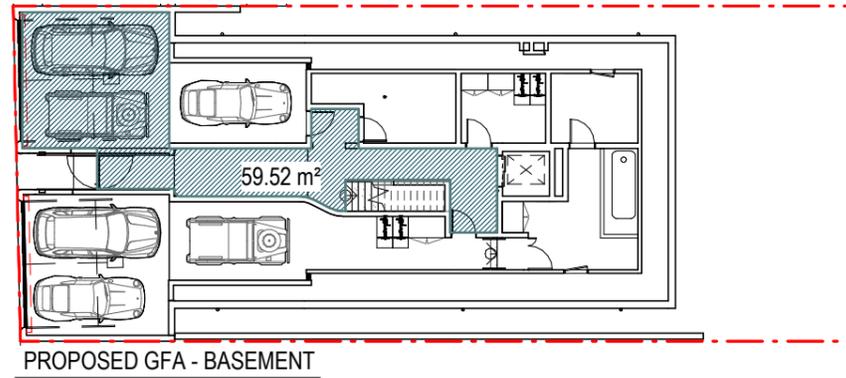
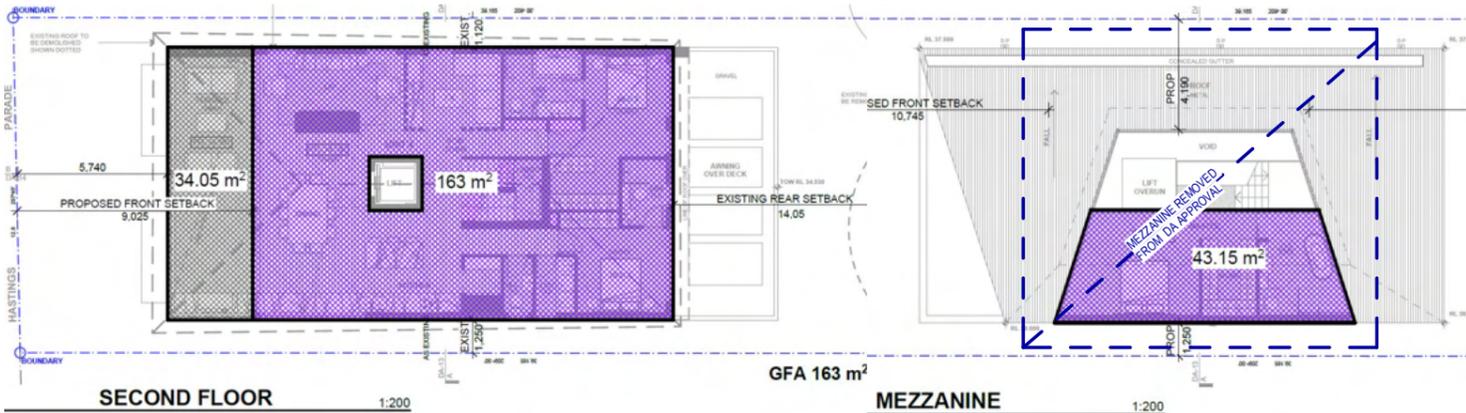
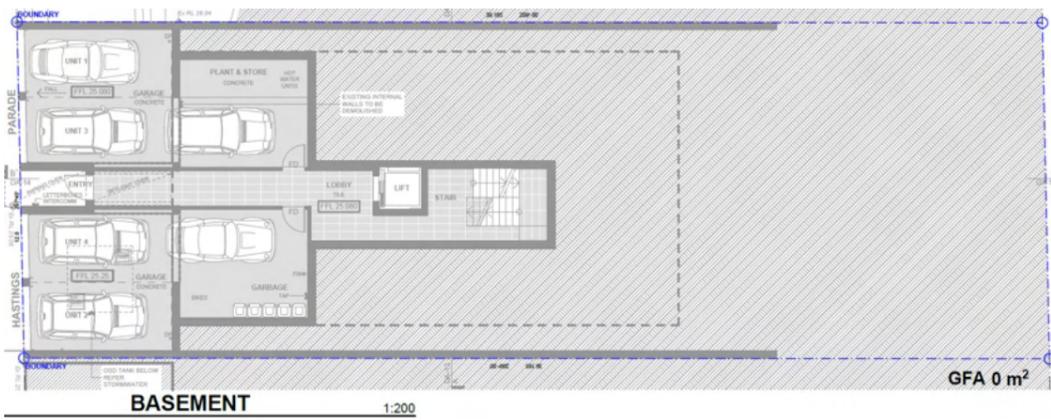
	TIMBER
	PAVING
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NSW 6672

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DRAWING NO:	ISSUE NO:	JOB NO:
DA019	C	TRI2102
AMENDING DA		
DRAWING TITLE: PROPOSED PLAN - ROOF		
PROJECT ADDRESS: 138 HASTINGS PDE NORTH BONDI		
CLIENT: ORNA TRIGUBOFF		



### SITE SUMMARY

SITE AREA	501.30 m <sup>2</sup>
SITE PERMITTED FSR	0.6 : 1
EXISTING GFA	394 m <sup>2</sup> (FSR 0.79 : 1)
APPROVED GFA	558.2m <sup>2</sup> (FSR 1.11 : 1)

### APPROVED GFA

DA-14/2011 ASSESSED UNDER A DIFFERENT SET OF STANDARDS

LEVEL	GFAm <sup>2</sup>
BASEMENT	0m <sup>2</sup>
GROUND	197.6m <sup>2</sup>
FIRST	197.6m <sup>2</sup>
SECOND	163m <sup>2</sup>
MEZZANINE	(DELETED)
<b>TOTAL GFA</b>	<b>558.2m<sup>2</sup></b> (FSR 1.11 : 1)

### PROPOSED GFA

LEVEL	GFAm <sup>2</sup>
PROPOSED BASEMENT	59.52 m <sup>2</sup>
PROPOSED GROUND FLOOR	180.73 m <sup>2</sup>
PROPOSED FIRST FLOOR	180.84 m <sup>2</sup>
PROPOSED SECOND FLOOR	120.15 m <sup>2</sup>
<b>TOTAL GFA</b>	<b>541.23 m<sup>2</sup></b> (FSR 1.079 : 1)

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Application No: DA-439/2021

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FFL 00.000	FINISHED FLOOR LEVEL		NEW STRUCTURE
	SURVEY SPOT LEVEL		
	EXISTING LEVEL		
	EXISTING WINDOW / DOOR		
	NEW WINDOW / DOOR		

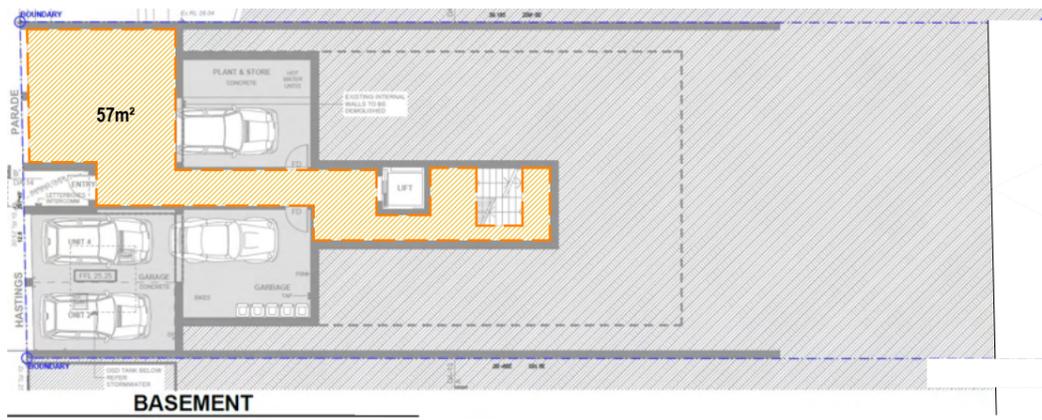
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PATRICK NICHOLAS  
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AMENDED PLANS

Page 217 of 238



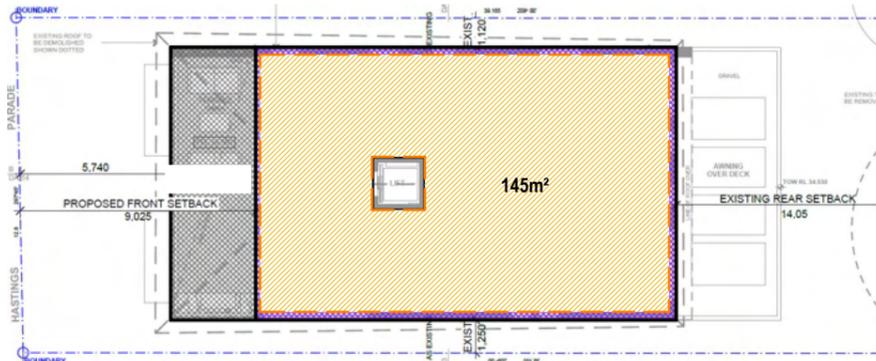
**BASEMENT**



**GROUND FLOOR**



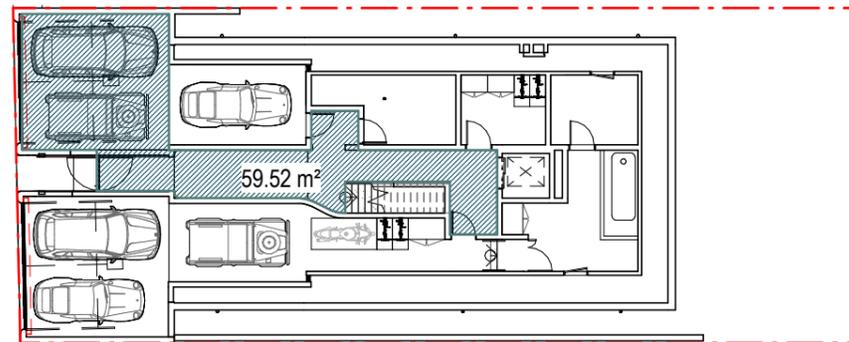
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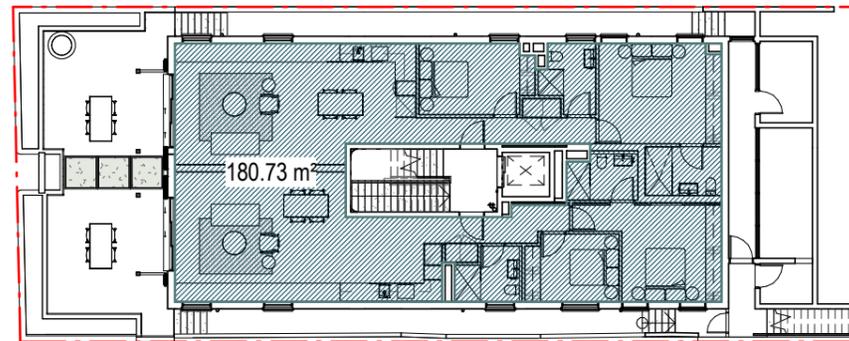
**SECOND FLOOR**

 GFA area - Calculated as per Waverley Local Environmental Plan 2012

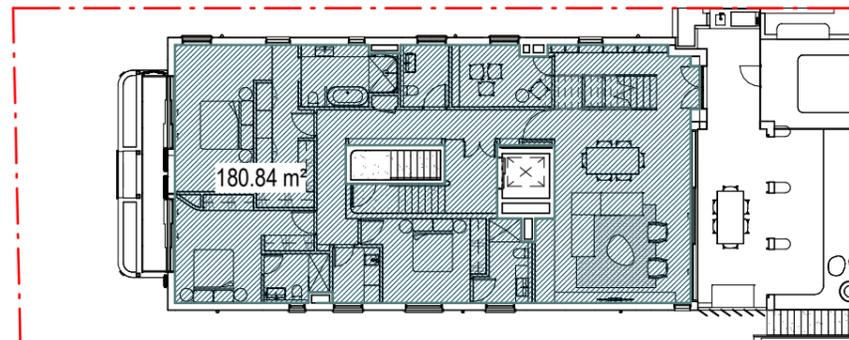
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  - FFL 00.000 FINISHED FLOOR LEVEL  AMENDMENTS
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  -  NEW WINDOW / DOOR



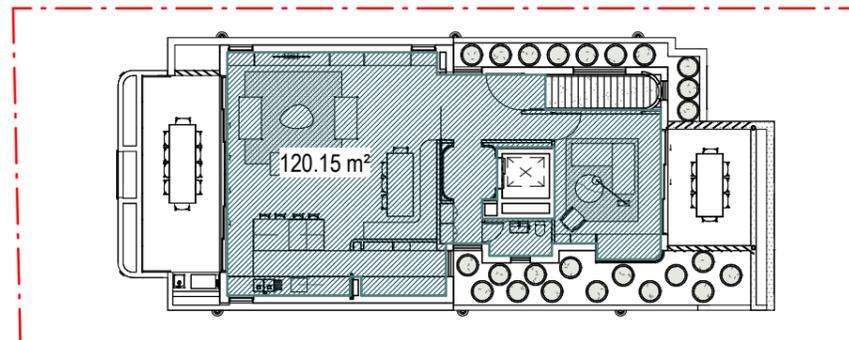
PROPOSED GFA - BASEMENT Copy 1



PROPOSED GFA - GROUND Copy 1



PROPOSED GFA - FIRST Copy 1



PROPOSED SECOND FLOOR Copy 1

**FSR COMPARISON**

Calculated as per Waverley Local Environmental Plan 2012

APPROVED DA-14/2011	
LEVEL	GFAm²
BASEMENT	57m²
GROUND	165m²
FIRST	175m²
SECOND	145m²
<b>TOTAL GFA</b>	<b>542m²</b>

DA-14/2011 FSR: 1.08 : 1

PROPOSED	
LEVEL	GFAm²
BASEMENT	59.52m²
GROUND	180.73m²
FIRST	180.84m²
SECOND	120.15m²
<b>TOTAL GFA</b>	<b>541.23m²</b>

PROPOSED FSR: 1.079 : 1

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 ISS DATE PURPOSE OF ISSUE

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KEY:  
 Scale 1 : 100 @ A3



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DRAWING NO: DA121 ISSUE NO: A JOB NO: TRI2102

AMENDING DA

DRAWING TITLE:  
 FSR COMPARISON

PROJECT ADDRESS:  
 138 HASTINGS PDE NORTH BONDI

CLIENT:  
 ORNA TRIGUBOFF

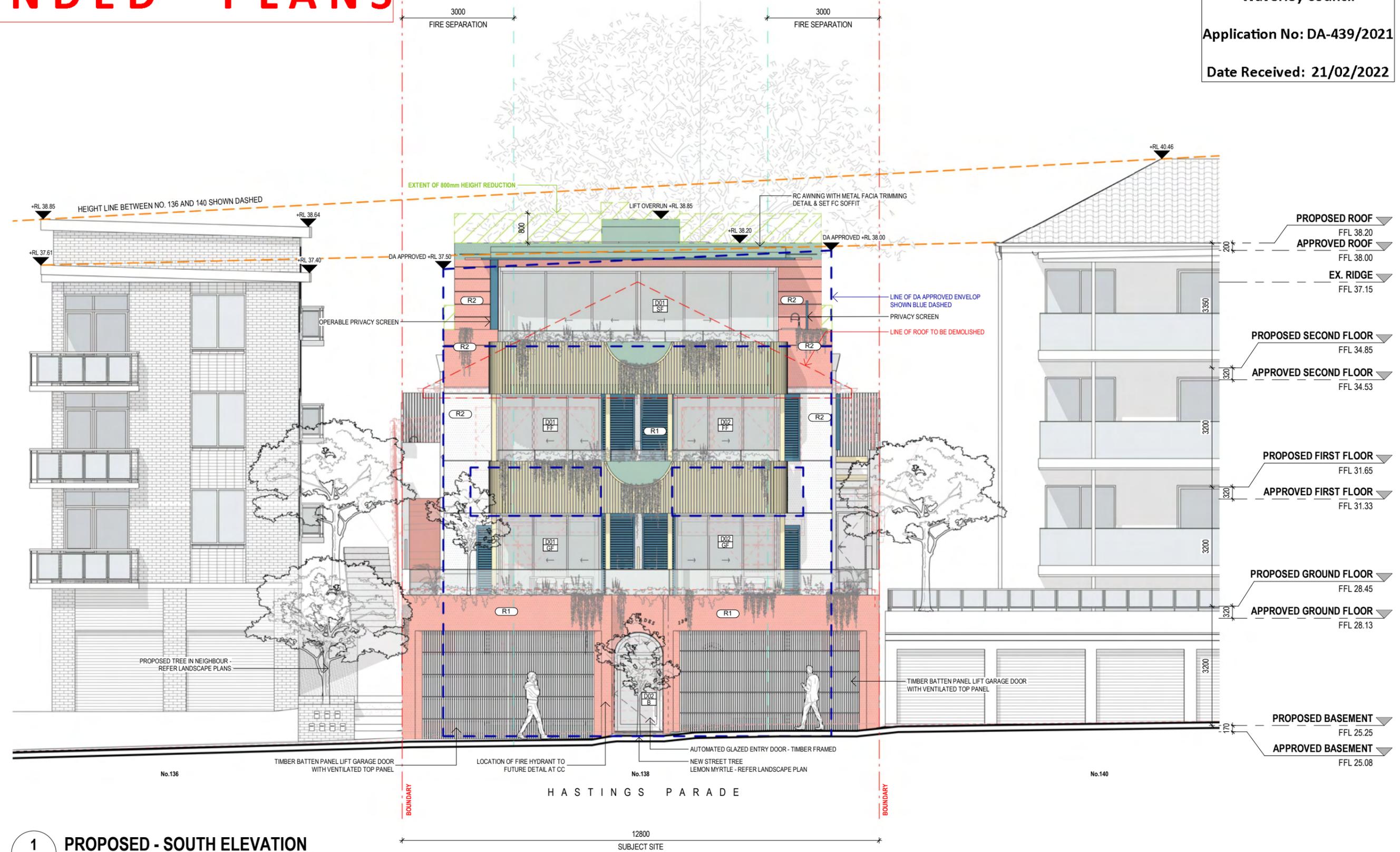


NOMINATED ARCHITECT  
 PATRICK NICHOLAS  
 NSW 6672

**AMENDED PLANS**

# AMENDED PLANS

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**1 PROPOSED - SOUTH ELEVATION**  
scale - 1 : 100@ A3

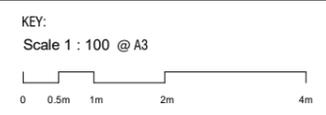
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ISS	DATE	PURPOSE OF ISSUE

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FFL 00.00	FINISHED FLOOR LEVEL	NEW STRUCTURE
00.000	SURVEY SPOT LEVEL	
00.000	EXISTING LEVEL	
W/D	EXISTING WINDOW / DOOR	
W/D	NEW WINDOW / DOOR	



WAVERLEY CONCIL MATERIAL COLOUR CODES:

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DA150	C	TRI2102
AMENDING DA		
DRAWING TITLE: SOUTH ELEVATION - STREET		
PROJECT ADDRESS: 138 HASTINGS PDE NORTH BONDI		
CLIENT: ORNA TRIGUBOFF		



**AMENDED PLANS**

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 Application No: DA-439/2021  
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**1 PROPOSED - NORTH ELEVATION**  
 scale - 1 : 100 @ A3

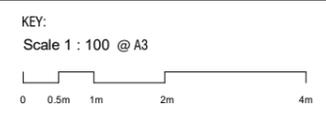
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FFL 00.00	FINISHED FLOOR LEVEL	NEW STRUCTURE
00.000	SURVEY SPOT LEVEL	
00.000	EXISTING LEVEL	
W/D	EXISTING WINDOW / DOOR	
W/D	NEW WINDOW / DOOR	



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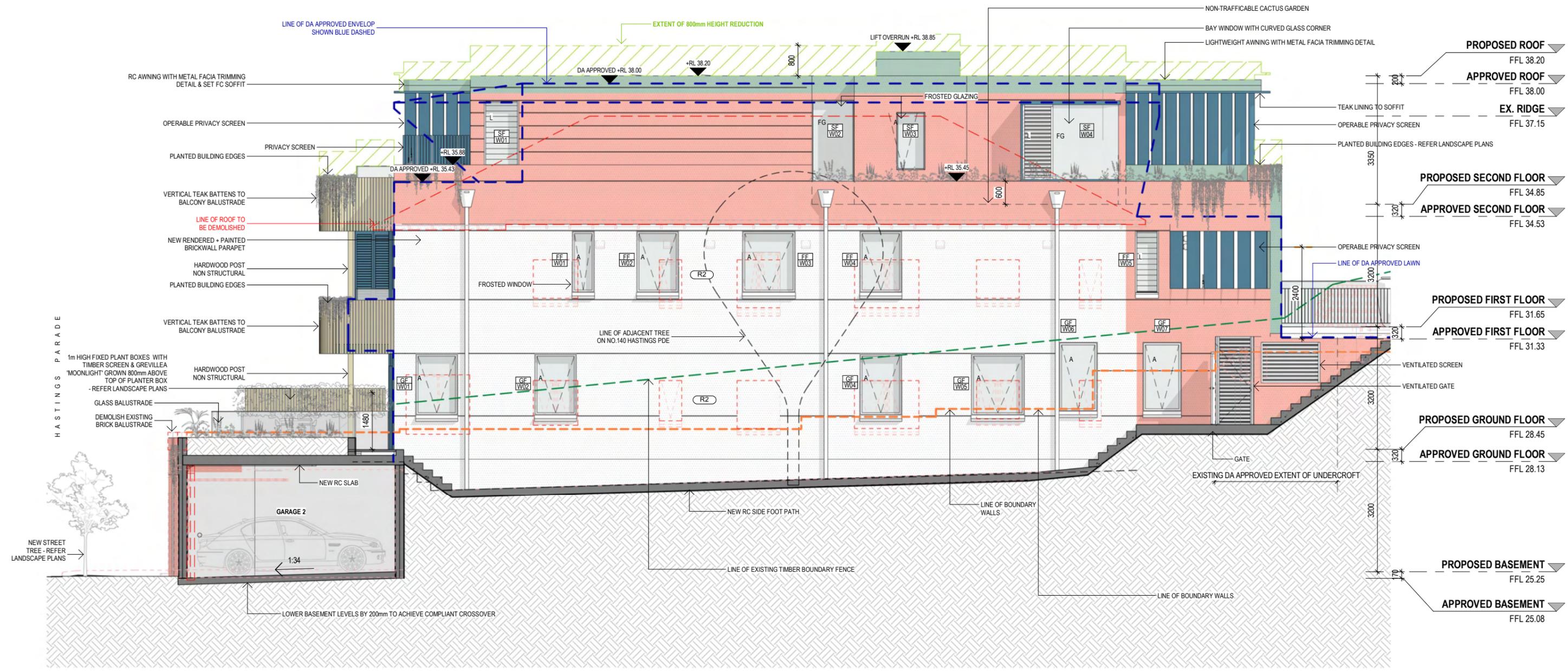
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DRAWING NO:	ISSUE NO:	JOB NO:
DA151	C	TRI2102
AMENDING DA		
DRAWING TITLE: NORTH ELEVATION		
PROJECT ADDRESS: 138 HASTINGS PDE NORTH BONDI		
CLIENT: ORNA TRIGUBOFF		

# AMENDED PLANS

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**1 PROPOSED - EAST ELEVATION**  
scale - 1 : 100 @ A3

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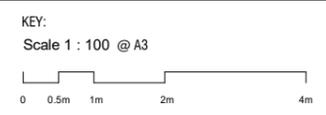
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A	14.05.2021	ISSUE FOR S4.55
ISS	DATE	PURPOSE OF ISSUE

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00.000	SURVEY SPOT LEVEL	
00.000	EXISTING LEVEL	
W/D	EXISTING WINDOW / DOOR	
W/D	NEW WINDOW / DOOR	



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DRAWING NO:	ISSUE NO:	JOB NO:
DA152	C	TRI2102

AMENDING DA

DRAWING TITLE:  
EAST ELEVATION

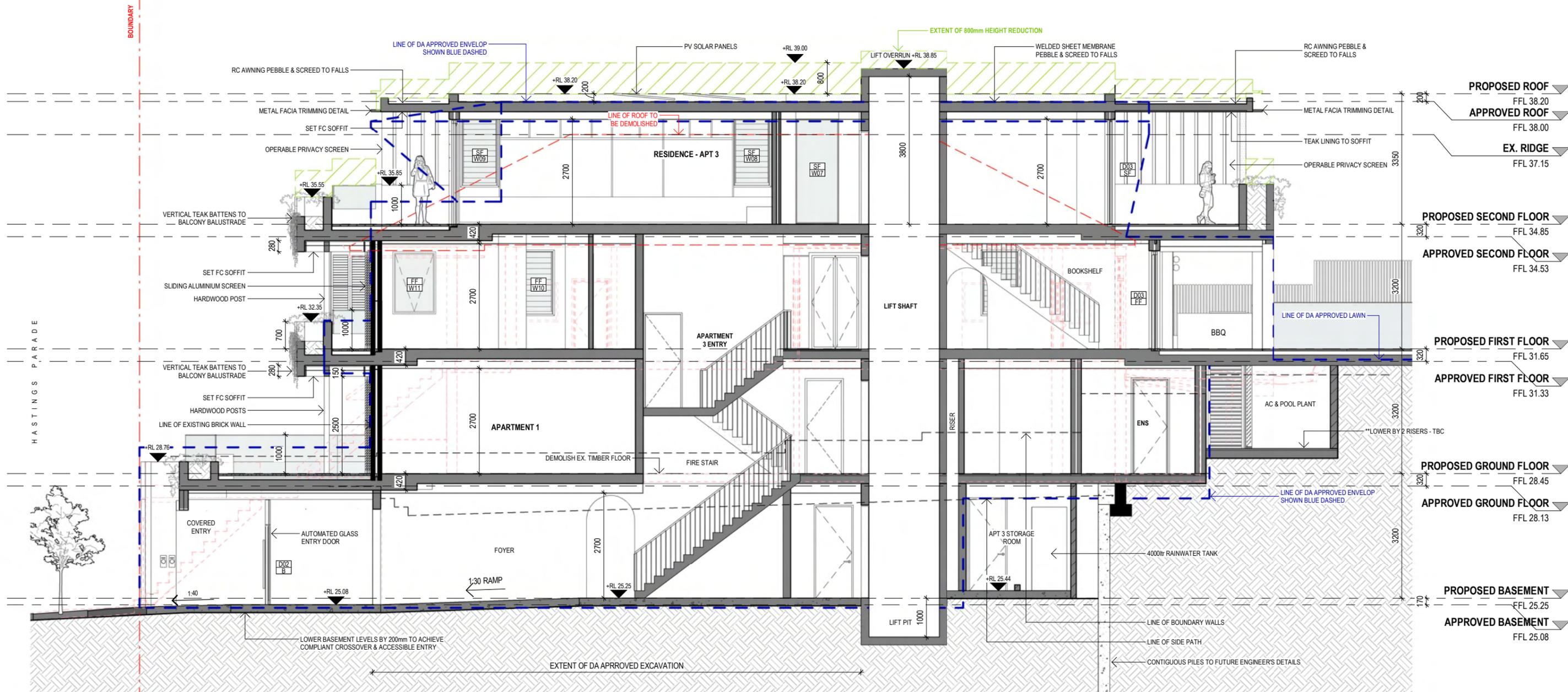
PROJECT ADDRESS:  
138 HASTINGS PDE NORTH BONDI

CLIENT:  
ORNA TRIGUBOFF



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Date Received: 21/02/2022



**1 PROPOSED - SECTION A**  
scale - 1 : 100@ A3

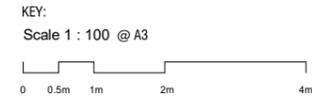
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00.000	EXISTING LEVEL	
W/D	EXISTING WINDOW / DOOR	
W/D	NEW WINDOW / DOOR	



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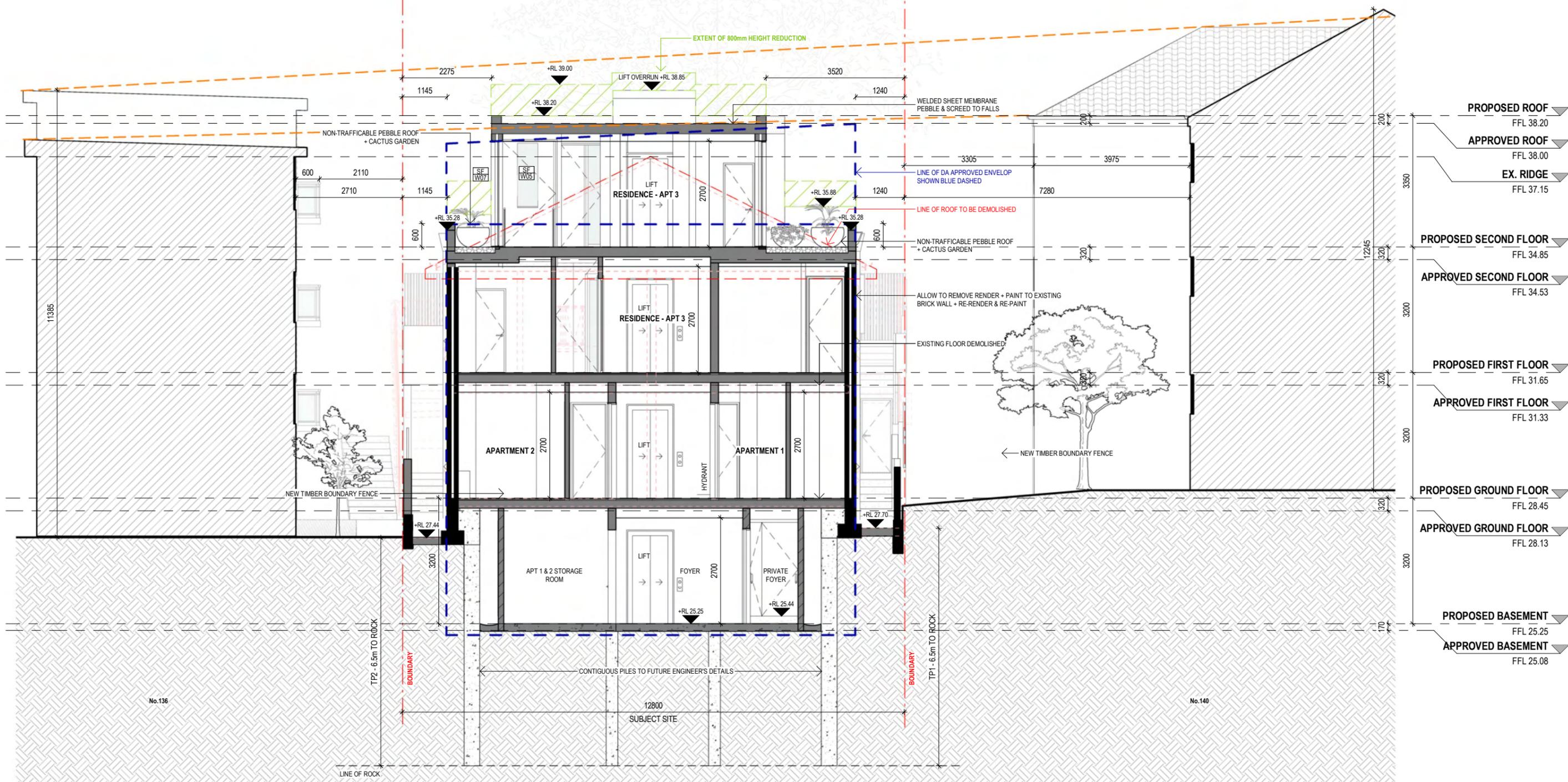
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ISSUE NO: C  
JOB NO: TRI2102

AMENDING DA

DRAWING TITLE:  
SECTION A

PROJECT ADDRESS:  
138 HASTINGS PDE NORTH BONDI

CLIENT:  
ORNA TRIGUBOFF



**1 PROPOSED - SECTION B**  
scale - 1 : 100 @ A3

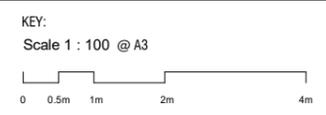
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+RL 00.00	FINISHED SPOT OR SURFACE LEVEL	---	EXISTING TO BE DEMOLISHED
FFL 00.00	FINISHED FLOOR LEVEL	█	NEW STRUCTURE
⊕ 00.000	SURVEY SPOT LEVEL	⊕	
⊕ 00.000	EXISTING LEVEL	⊕	
W/D	EXISTING WINDOW / DOOR	W/D	
W/D	NEW WINDOW / DOOR	W/D	



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DRAWING NO:	ISSUE NO:	JOB NO:
DA171	C	TRI2102
AMENDING DA		

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PATRICK NICHOLAS  
NSW 6672

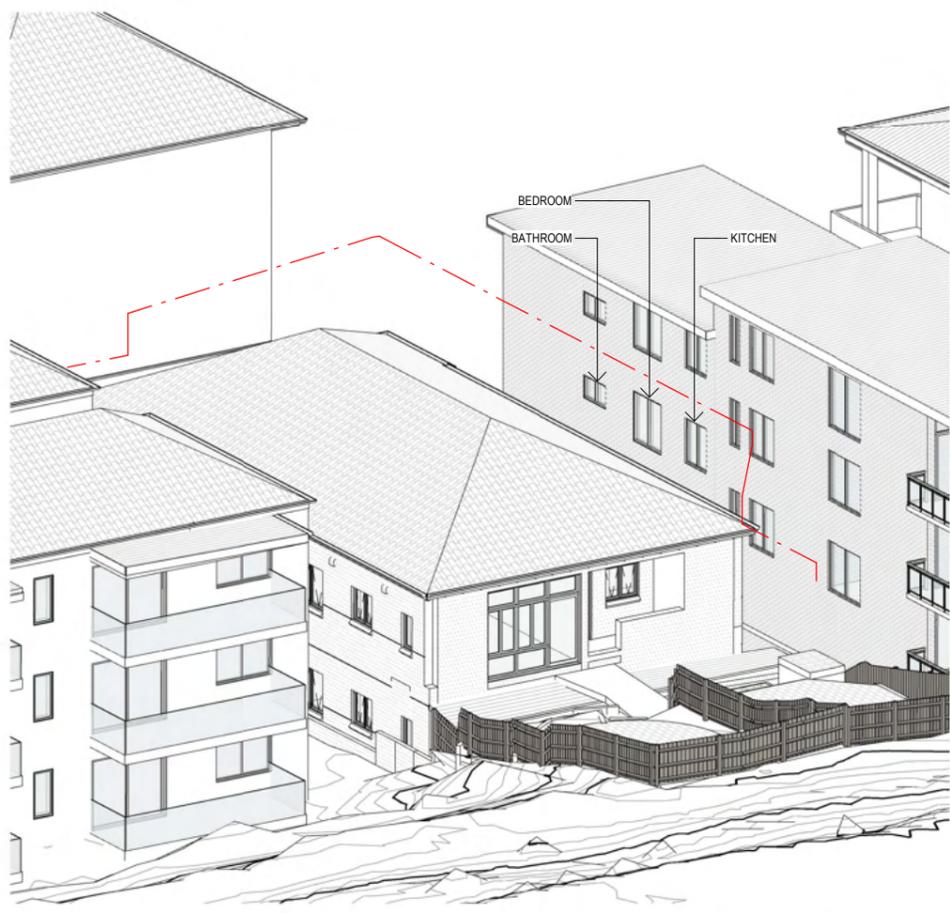
DRAWING TITLE:  
SECTION B

PROJECT ADDRESS:  
138 HASTINGS PDE NORTH BONDI

CLIENT:  
ORNA TRIGUBOFF

# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-439/2021  
Date Received: 21/02/2022



VFTS-1 - 9am - Existing



VFTS-1 - 9am - DA APPROVED



VFTS-1 - 9am - PROPOSED

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C	18.02.2022	ISSUE FOR AMENDING DA
P1	21.12.2021	FOR REVIEW
B	28.09.2021	ISSUE FOR AMENDING DA
A	14.05.2021	ISSUE FOR S4.55
ISS	DATE	PURPOSE OF ISSUE

PLOTTED : 18/02/2022 10:49:19 AM

LEGEND:

FSL 00.000	FINISHED STRUCTURAL LEVEL		EXISTING TO BE RETAINED
+RL 00.00	FINISHED SPOT OR SURFACE LEVEL		EXISTING TO BE DEMOLISHED
FFL 00.00	FINISHED FLOOR LEVEL		NEW STRUCTURE
	SURVEY SPOT LEVEL		
	EXISTING LEVEL		
	EXISTING WINDOW / DOOR		
	NEW WINDOW / DOOR		

KEY:

ARCHITECTS  
NICHOLAS +  
ASSOCIATES

STUDIO 6,  
1 MARY'S PLACE  
SURRY HILLS  
NSW 2010  
T + 61 2 8353 9500  
ANPLUSA.COM

NOMINATED ARCHITECT  
PATRICK NICHOLAS  
NSW 6672

DRAWING NO:	ISSUE NO:	JOB NO:
DA700	C	TRI2102
AMENDING DA		
DRAWING TITLE:		
VIEW FROM SUN - JUNE 21 - 9AM		
PROJECT ADDRESS:		
138 HASTINGS PDE NORTH BONDI		
CLIENT:		
ORNA TRIGUBOFF		

# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-439/2021  
Date Received: 21/02/2022



VFTS-2 - 10am - EXISTING



VFTS-2 - 10am - DA APPROVED



VFTS-2 - 10am - PROPOSED

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C	18.02.2022	ISSUE FOR AMENDING DA
P1	21.12.2021	FOR REVIEW
B	28.09.2021	ISSUE FOR AMENDING DA
A	14.05.2021	ISSUE FOR S4.55
ISS	DATE	PURPOSE OF ISSUE

PLOTTED : 18/02/2022 10:50:51 AM

LEGEND:

FSL 00.000	FINISHED STRUCTURAL LEVEL		EXISTING TO BE RETAINED
+RL 00.00	FINISHED SPOT OR SURFACE LEVEL		EXISTING TO BE DEMOLISHED
FFL 00.00	FINISHED FLOOR LEVEL		NEW STRUCTURE
	SURVEY SPOT LEVEL		
	EXISTING LEVEL		
	EXISTING WINDOW / DOOR		
	NEW WINDOW / DOOR		

KEY:

ARCHITECTS  
NICHOLAS +  
ASSOCIATES

STUDIO 6,  
1 MARY'S PLACE  
SURRY HILLS  
NSW 2010  
T + 61 2 8353 9500  
ANPLUSA.COM

NOMINATED ARCHITECT  
PATRICK NICHOLAS  
NSW 6672

DRAWING NO:	ISSUE NO:	JOB NO:
DA701	C	TRI2102
AMENDING DA		
DRAWING TITLE:		
VIEW FROM SUN - JUNE 21 - 10AM		
PROJECT ADDRESS:		
138 HASTINGS PDE NORTH BONDI		
CLIENT:		
ORNA TRIGUBOFF		

# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-439/2021  
Date Received: 21/02/2022



VFTS-3 - 11am - EXISTING



VFTS-3 - 11am - DA APPROVED



VFTS-3 - 11am - PROPOSED

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C	18.02.2022	ISSUE FOR AMENDING DA
P1	21.12.2021	FOR REVIEW
B	28.09.2021	ISSUE FOR AMENDING DA
A	14.05.2021	ISSUE FOR S4.55
ISS	DATE	PURPOSE OF ISSUE

PLOTTED : 18/02/2022 10:52:26 AM

LEGEND:

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[Symbol]	FINISHED SPOT OR SURFACE LEVEL	[Symbol]	EXISTING TO BE DEMOLISHED
[Symbol]	FINISHED FLOOR LEVEL	[Symbol]	NEW STRUCTURE
[Symbol]	SURVEY SPOT LEVEL		
[Symbol]	EXISTING LEVEL		
[Symbol]	EXISTING WINDOW / DOOR		
[Symbol]	NEW WINDOW / DOOR		

KEY:

ARCHITECTS  
NICHOLAS +  
ASSOCIATES

STUDIO 6,  
1 MARY'S PLACE  
SURRY HILLS  
NSW 2010  
T + 61 2 8353 9500  
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NOMINATED ARCHITECT  
PATRICK NICHOLAS  
NSW 6672

DRAWING NO:	ISSUE NO:	JOB NO:
DA702	C	TRI2102
AMENDING DA		
DRAWING TITLE:		
VIEW FROM SUN - JUNE 21 - 11AM		
PROJECT ADDRESS:		
138 HASTINGS PDE NORTH BONDI		
CLIENT:		
ORNA TRIGUBOFF		

# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-439/2021  
Date Received: 21/02/2022



VFTS-4 - 12pm - EXISTING



VFTS-4 - 12pm - DA APPROVED



VFTS-4 - 12pm - PROPOSED

DO NOT SCALE DRAWING. VERIFY ALL DIMENSIONS ON SITE. REPORT ANY DISCREPANCIES IN DOCUMENTATION TO ARCHITECT. THIS DRAWING IS FOR THE PURPOSE OF COUNCIL APPROVAL AND AS SUCH, IS NOT SUITABLE FOR CONSTRUCTION.

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C	18.02.2022	ISSUE FOR AMENDING DA
P1	21.12.2021	FOR REVIEW
B	28.09.2021	ISSUE FOR AMENDING DA
A	14.05.2021	ISSUE FOR S4.55
ISS	DATE	PURPOSE OF ISSUE

PLOTTED : 18/02/2022 10:54:15 AM

LEGEND:		KEY:	
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+RL 00.00	FINISHED SPOT OR SURFACE LEVEL		EXISTING TO BE DEMOLISHED
FFL 00.00	FINISHED FLOOR LEVEL		NEW STRUCTURE
	SURVEY SPOT LEVEL		
	EXISTING LEVEL		
	EXISTING WINDOW / DOOR		
	NEW WINDOW / DOOR		

ARCHITECTS  
NICHOLAS +  
ASSOCIATES

STUDIO 6,  
1 MARY'S PLACE  
SURRY HILLS  
NSW 2010  
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DRAWING NO:	ISSUE NO:	JOB NO:
DA703	C	TRI2102
AMENDING DA		

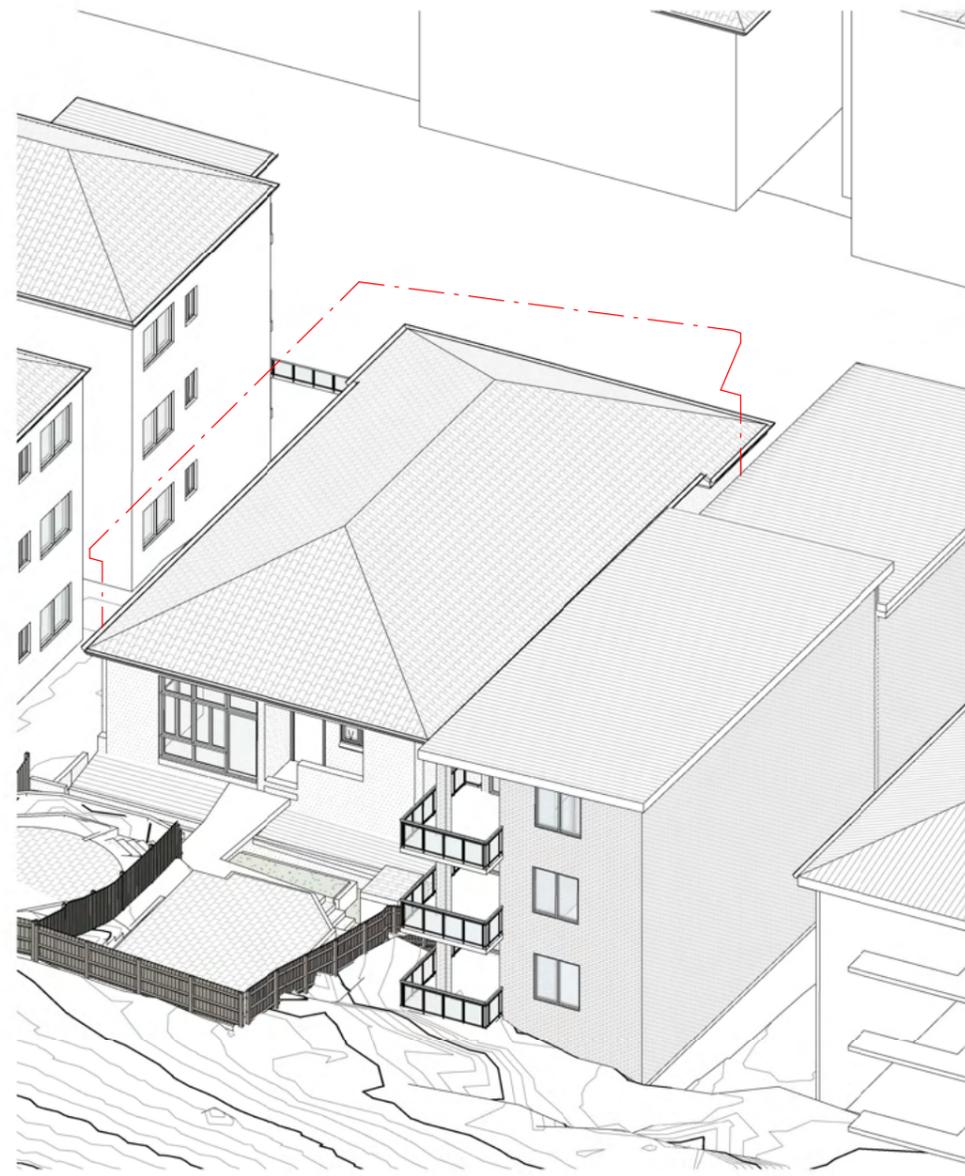


NOMINATED ARCHITECT  
PATRICK NICHOLAS  
NSW 6672

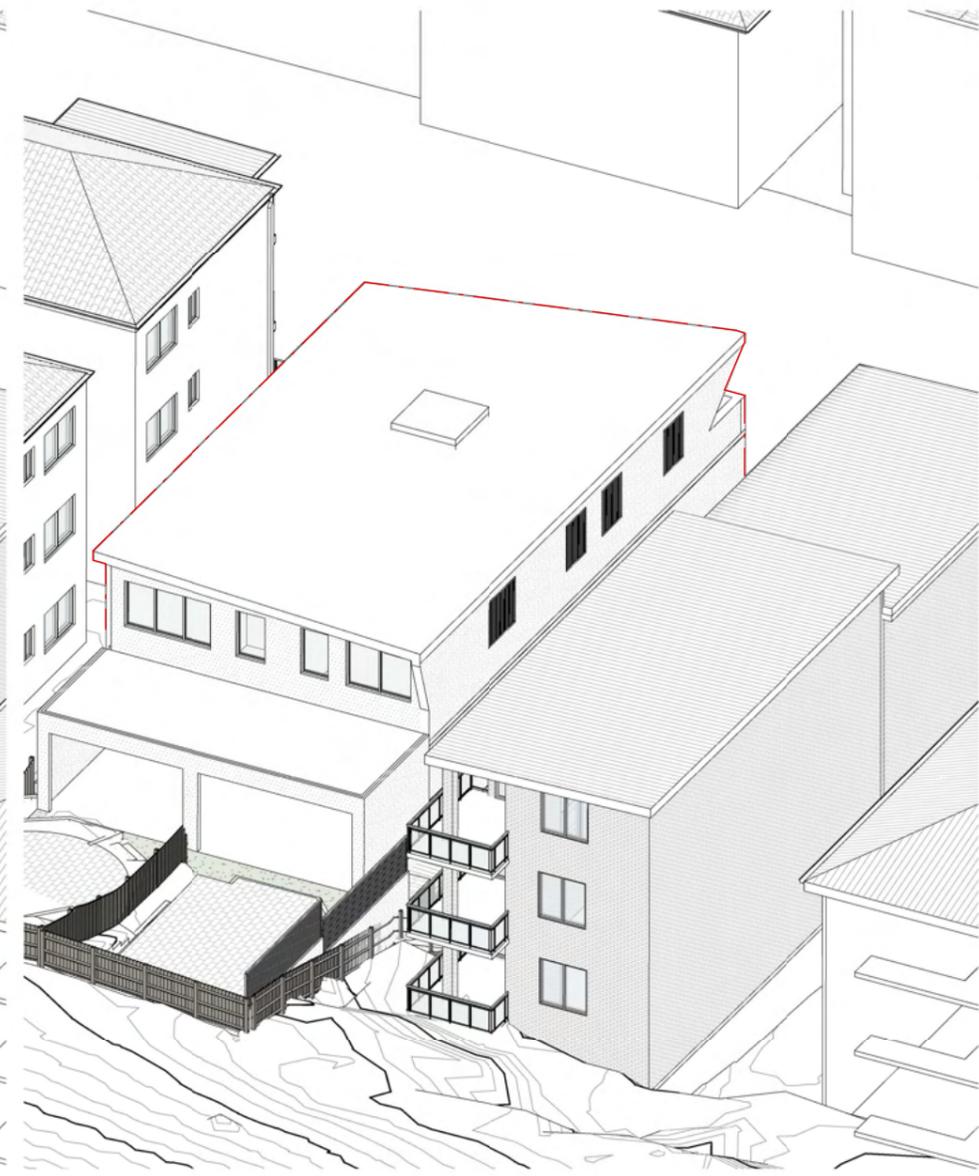
DRAWING TITLE:  
VIEW FROM SUN - JUNE 21 - 12PM  
PROJECT ADDRESS:  
138 HASTINGS PDE NORTH BONDI  
CLIENT:  
ORNA TRIGUBOFF

# AMENDED PLANS

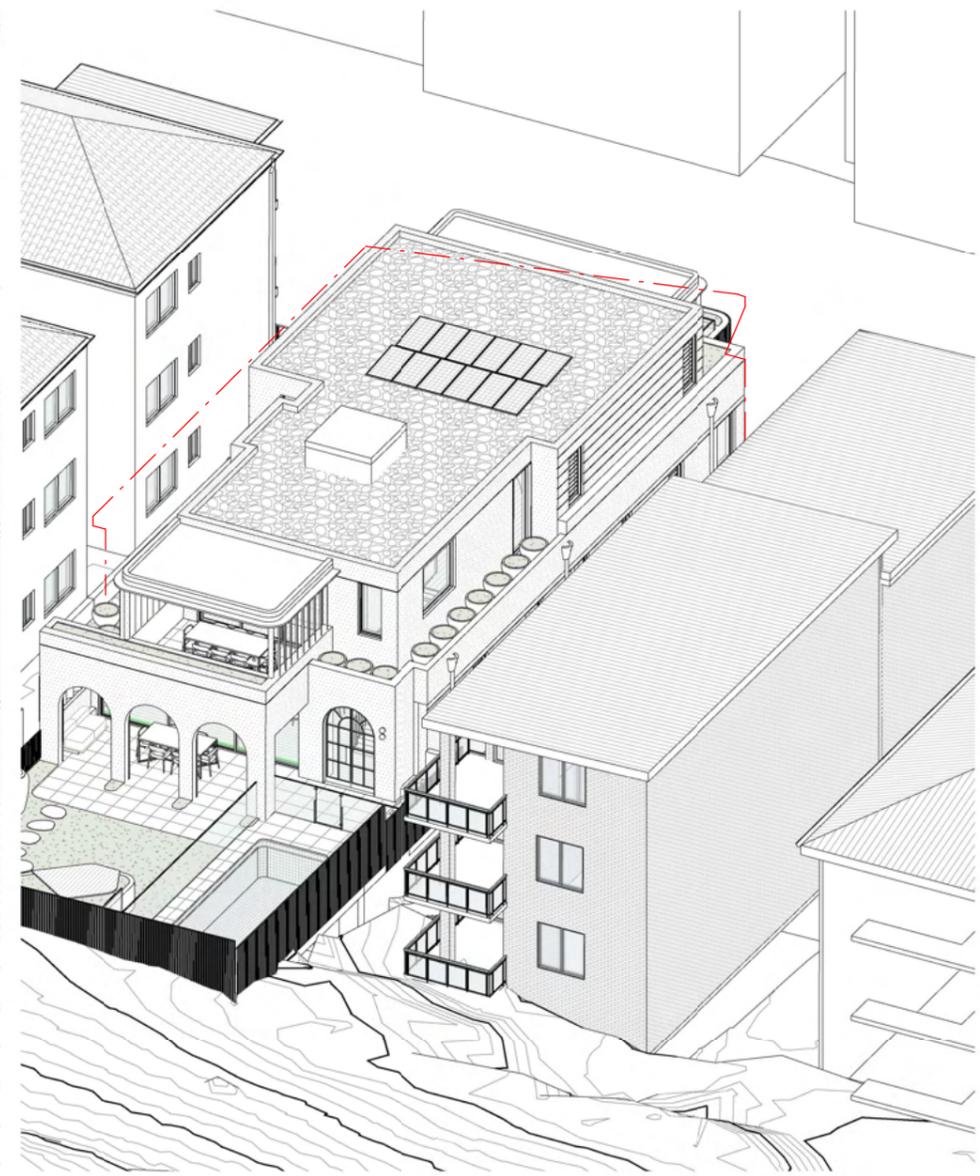
RECEIVED  
Waverley Council  
Application No: DA-439/2021  
Date Received: 21/02/2022



VFTS-5 - 1pm - EXISTING



VFTS-5 - 1pm - DA APPROVED



VFTS-5 - 1pm - PROPOSED

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ISS	DATE	PURPOSE OF ISSUE
C	18.02.2022	ISSUE FOR AMENDING DA
P1	21.12.2021	FOR REVIEW
B	28.09.2021	ISSUE FOR AMENDING DA
A	14.05.2021	ISSUE FOR S4.55
ISS	DATE	PURPOSE OF ISSUE

PLOTTED : 18/02/2022 10:55:56 AM

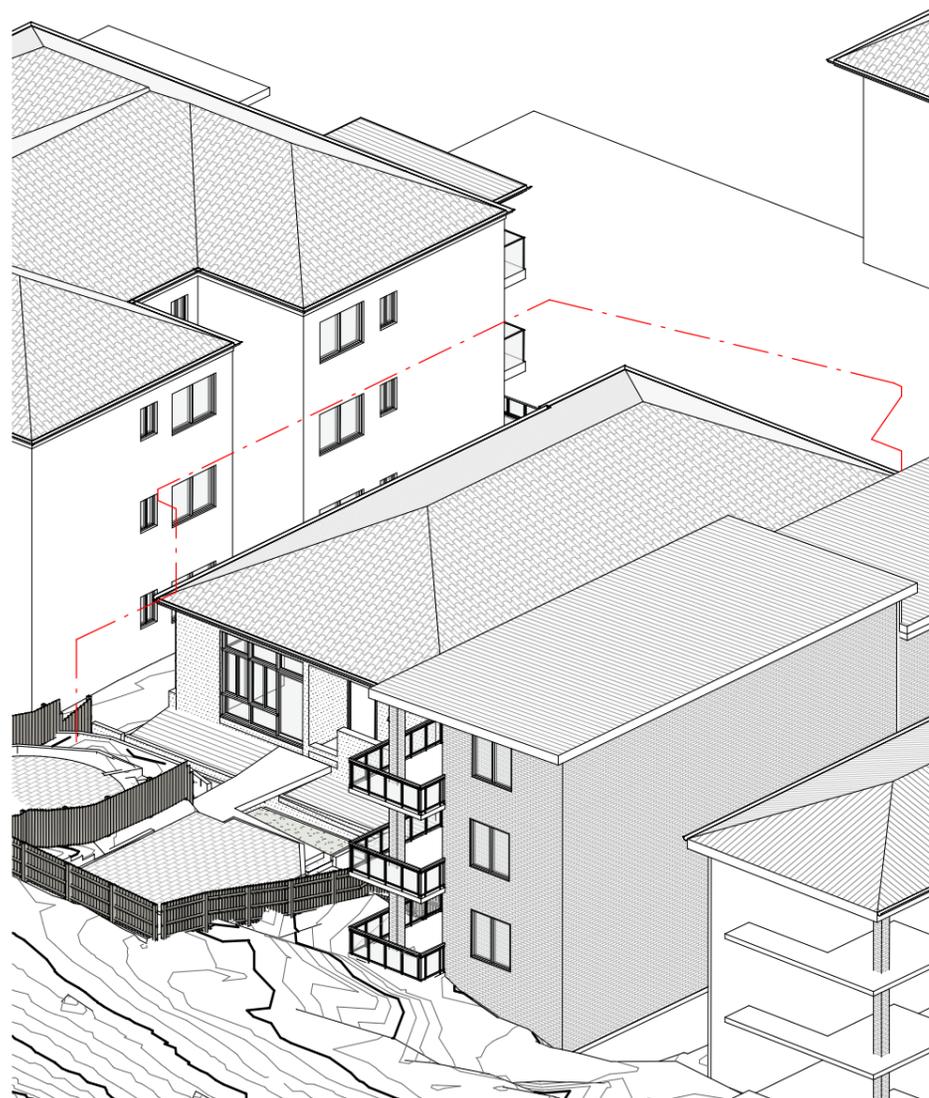
LEGEND:	
FSL 00.000	FINISHED STRUCTURAL LEVEL
+RL 00.00	FINISHED SPOT OR SURFACE LEVEL
FFL 00.00	FINISHED FLOOR LEVEL
00.000	SURVEY SPOT LEVEL
00.000	EXISTING LEVEL
W/D	EXISTING WINDOW / DOOR
W/D	NEW WINDOW / DOOR
(Solid Black)	EXISTING TO BE RETAINED
(Red Dashed)	EXISTING TO BE DEMOLISHED
(Grey)	NEW STRUCTURE

KEY:	
ARCHITECTS NICHOLAS + ASSOCIATES	STUDIO 6, 1 MARY'S PLACE, SURRY HILLS NSW 2010 T + 61 2 8353 9500 ANPLUSA.COM
DRAWING NO: DA704 ISSUE NO: C JOB NO: TRI2102	
DRAWING TITLE: VIEW FROM SUN - JUNE 21 - 1PM	
PROJECT ADDRESS: 138 HASTINGS PDE NORTH BONDI	
CLIENT: ORNA TRIGUBOFF	

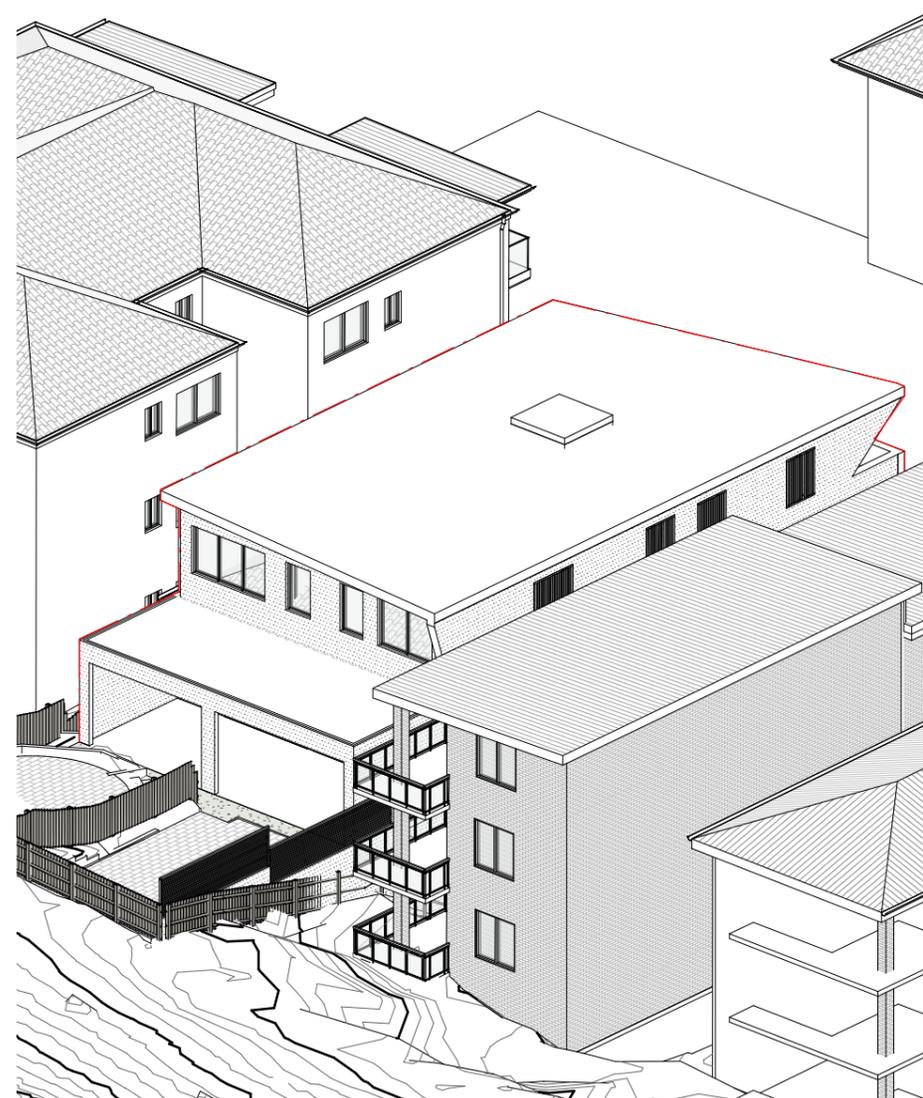
ARCHITECTS NICHOLAS + ASSOCIATES  
STUDIO 6, 1 MARY'S PLACE, SURRY HILLS NSW 2010 T + 61 2 8353 9500 ANPLUSA.COM  
NOMINATED ARCHITECT PATRICK NICHOLAS NSW 6672

# AMENDED PLANS

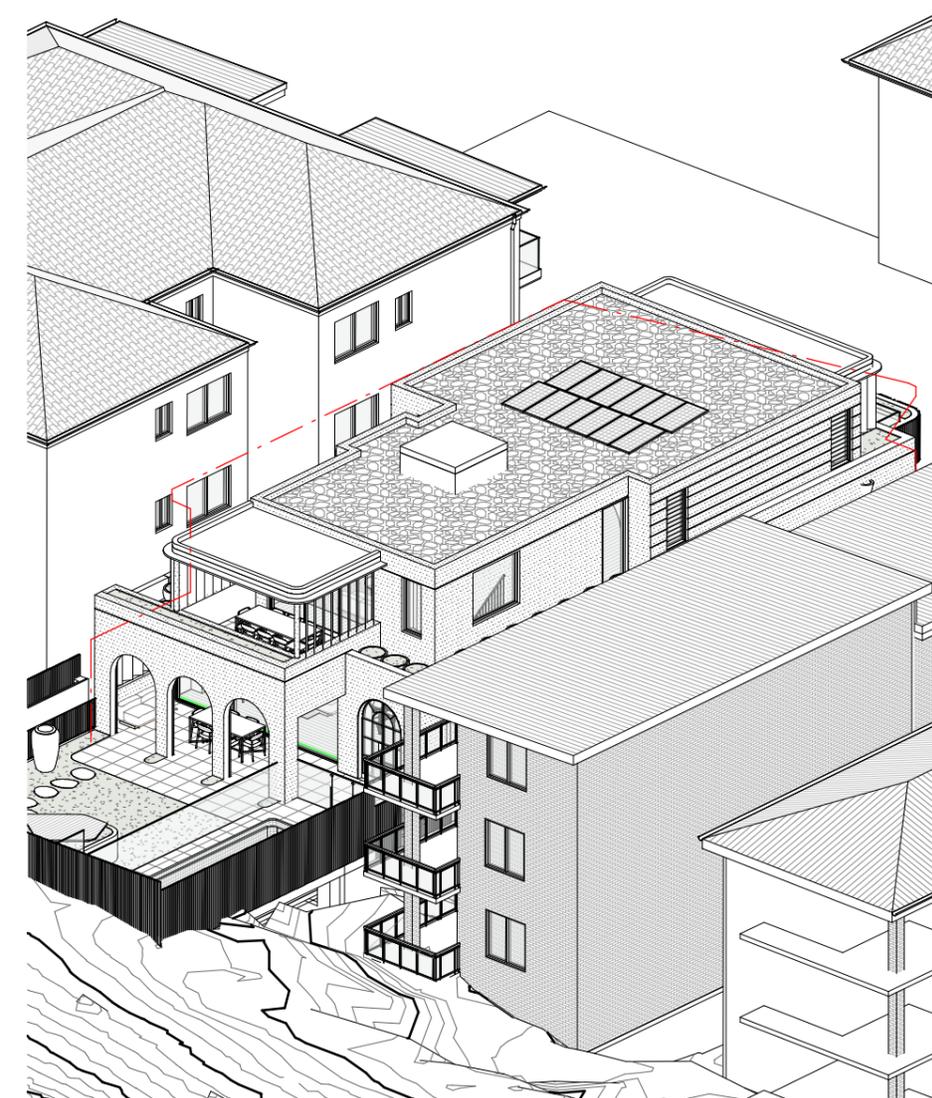
RECEIVED  
Waverley Council  
Application No: DA-439/2021  
Date Received: 21/02/2022



VFTS-6 - 2pm - EXISTING



VFTS-6 - 2pm - DA APPROVED



VFTS-6 - 2pm - PROPOSED

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ISS	DATE	PURPOSE OF ISSUE
C	18.02.2022	ISSUE FOR AMENDING DA
P1	21.12.2021	FOR REVIEW
B	28.09.2021	ISSUE FOR AMENDING DA
A	14.05.2021	ISSUE FOR \$4.55
ISS	DATE	PURPOSE OF ISSUE

PLOTTED : 18/02/2022 10:56:10 AM

LEGEND:	
FSL 00.000	FINISHED STRUCTURAL LEVEL
+RL 00.00	FINISHED SPOT OR SURFACE LEVEL
FFL 00.00	FINISHED FLOOR LEVEL
00.000	SURVEY SPOT LEVEL
00.000	EXISTING LEVEL
W/D	EXISTING WINDOW / DOOR
W/D	NEW WINDOW / DOOR
(Solid Black)	EXISTING TO BE RETAINED
(Red Dashed)	EXISTING TO BE DEMOLISHED
(Grey)	NEW STRUCTURE

KEY:

ARCHITECTS  
NICHOLAS +  
ASSOCIATES

STUDIO 6,  
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SURRY HILLS  
NSW 2010  
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DRAWING NO: DA705  
ISSUE NO: C  
JOB NO: TRI2102

AMENDING DA

DRAWING TITLE:  
VIEW FROM SUN - JUNE 21 - 2PM

PROJECT ADDRESS:  
138 HASTINGS PDE NORTH BONDI

CLIENT:  
ORNA TRIGUBOFF



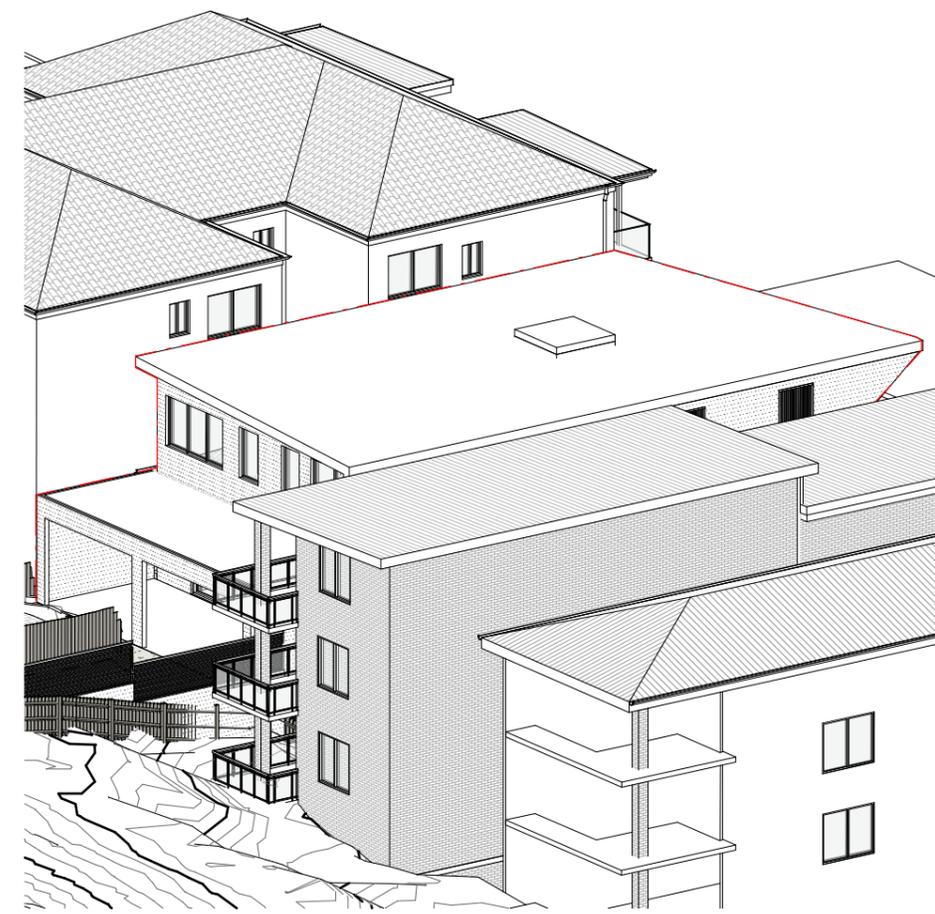
NOMINATED ARCHITECT  
PATRICK NICHOLAS  
NSW 6672

# AMENDED PLANS

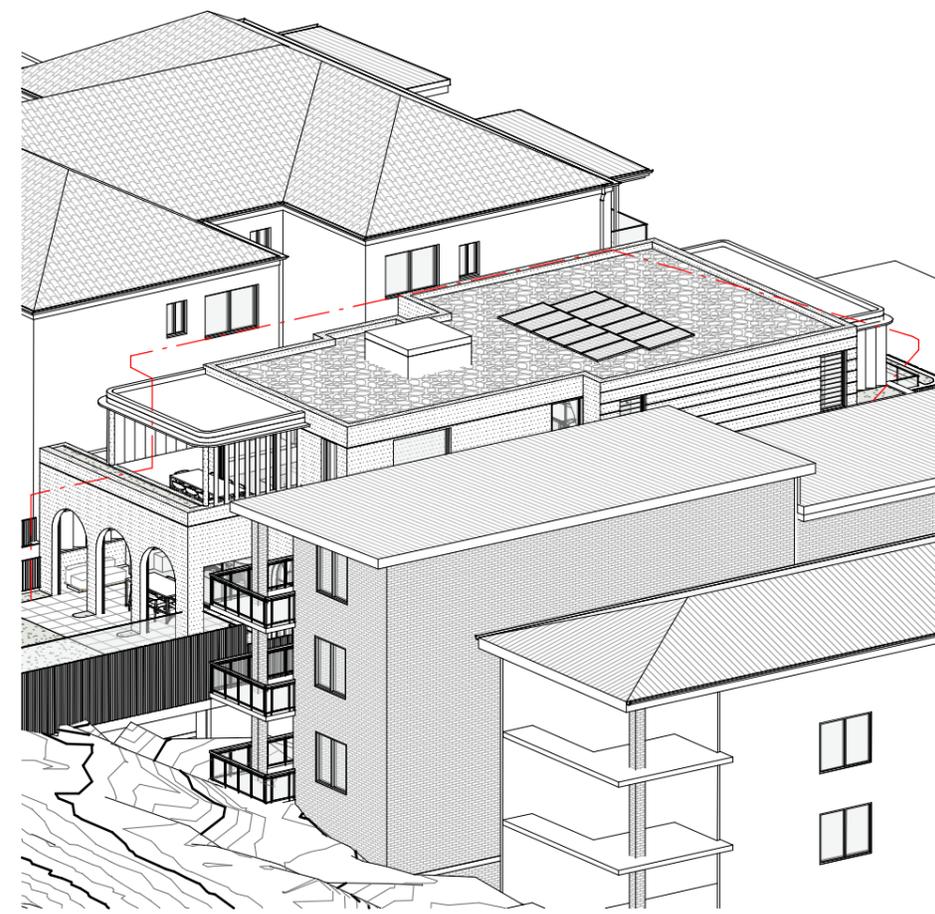
RECEIVED  
Waverley Council  
Application No: DA-439/2021  
Date Received: 21/02/2022



VFTS-7 - 3pm - EXISTING



VFTS-7 - 3pm - DA APPROVED



VFTS-7 - 3pm - PROPOSED

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C	18.02.2022	ISSUE FOR AMENDING DA
P1	21.12.2021	FOR REVIEW
B	28.09.2021	ISSUE FOR AMENDING DA
A	14.05.2021	ISSUE FOR S4.55
ISS	DATE	PURPOSE OF ISSUE

PLOTTED : 18/02/2022 10:56:26 AM

LEGEND:

FSL 00.000	FINISHED STRUCTURAL LEVEL		EXISTING TO BE RETAINED
+RL 00.00	FINISHED SPOT OR SURFACE LEVEL		EXISTING TO BE DEMOLISHED
FFL 00.00	FINISHED FLOOR LEVEL		NEW STRUCTURE
	SURVEY SPOT LEVEL		
	EXISTING LEVEL		
	EXISTING WINDOW / DOOR		
	NEW WINDOW / DOOR		

KEY:

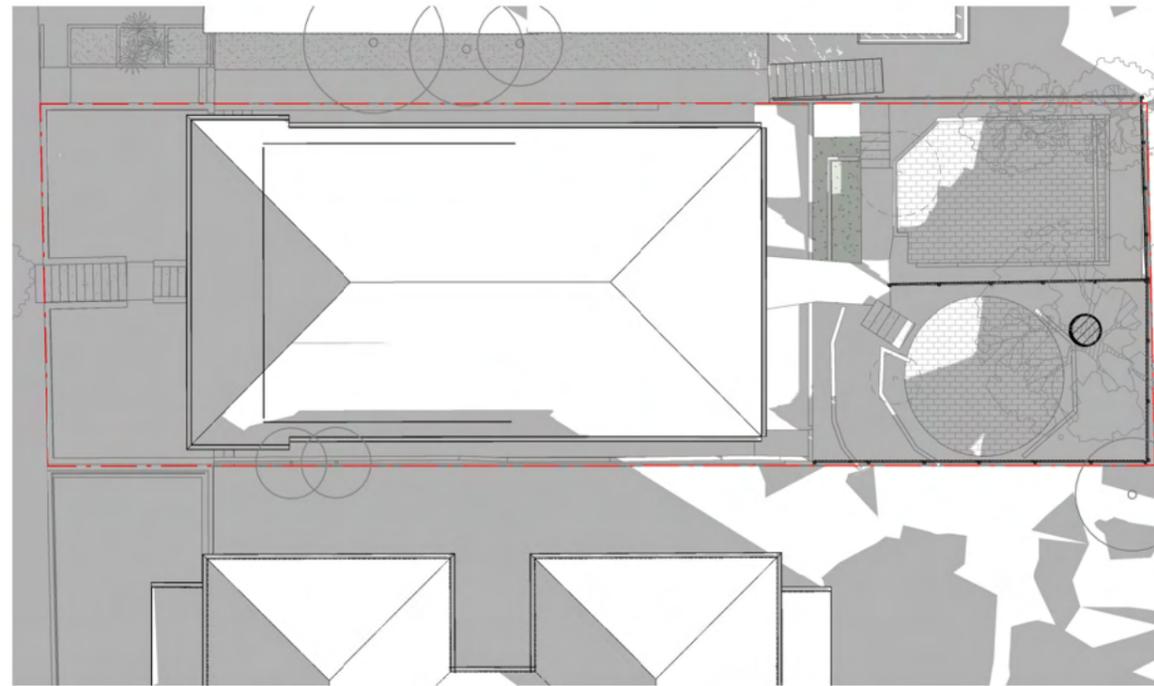
ARCHITECTS  
NICHOLAS +  
ASSOCIATES

NOMINATED ARCHITECT  
PATRICK NICHOLAS  
NSW 6672

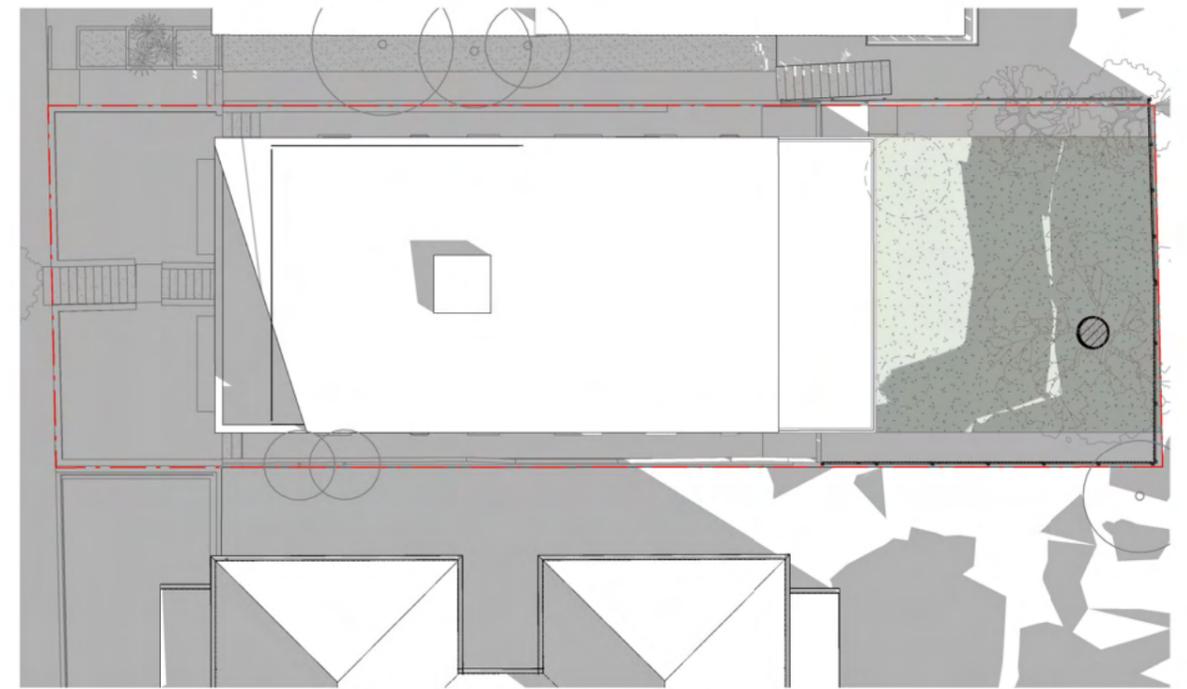
STUDIO 6, 1 MARY'S PLACE SURRY HILLS NSW 2010 T + 61 2 8353 9500 ANPLUSA.COM	DRAWING NO: <b>DA706</b>	ISSUE NO: <b>C</b>	JOB NO: <b>TRI2102</b>
	AMENDING DA		
	DRAWING TITLE: VIEW FROM SUN - JUNE 21 - 3PM		
	PROJECT ADDRESS: 138 HASTINGS PDE NORTH BONDI		
	CLIENT: ORNA TRIGUBOFF		

# AMENDED PLANS

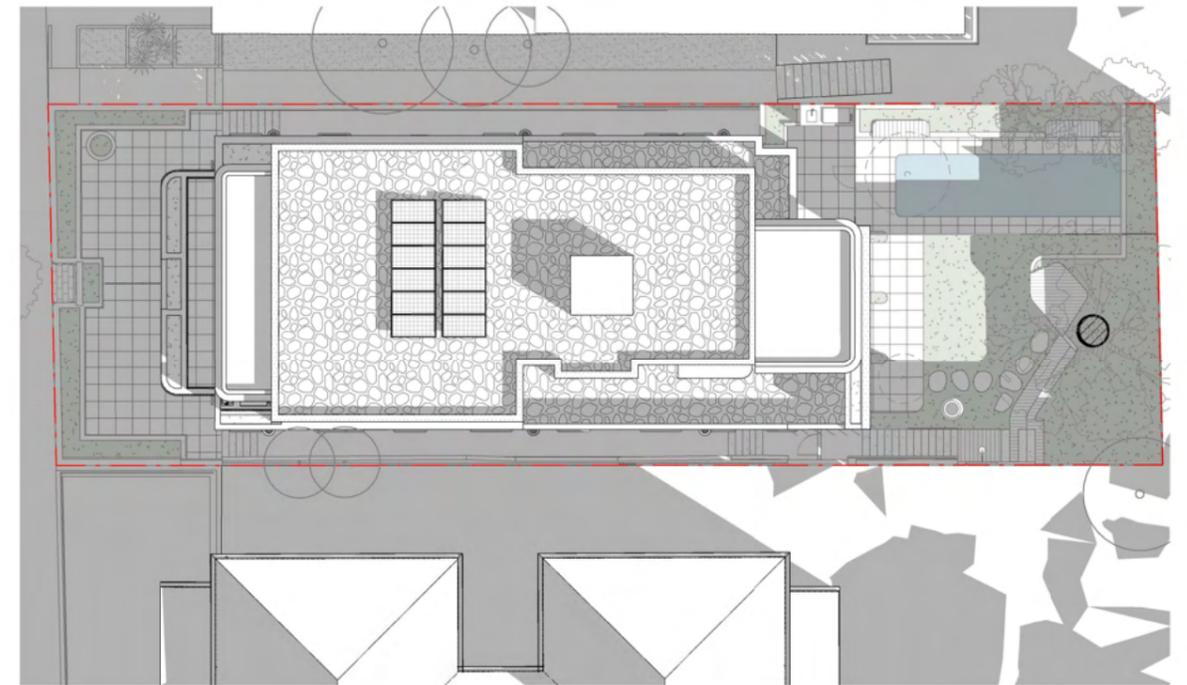
RECEIVED  
Waverley Council  
Application No: DA-439/2021  
Date Received: 21/02/2022



**1 SHADOW DIAGRAM - 9AM - EXISTING**  
scale -1 : 250@ A3



**2 SHADOW DIAGRAM - 9AM - DA APPROVED**  
scale -1 : 250@ A3



**3 SHADOW DIAGRAM - 9AM - PROPOSED**  
scale -1 : 250@ A3

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A	18.02.2022	ISSUE FOR AMENDING DA
P1	05.05.2021	DRAFT DA ISSUE
ISS	DATE	PURPOSE OF ISSUE

PLOTTED : 18/02/2022 10:56:55 AM

LEGEND:			
FSL 00.000	FINISHED STRUCTURAL LEVEL		EXISTING TO BE RETAINED
+RL 00.00	FINISHED SPOT OR SURFACE LEVEL		EXISTING TO BE DEMOLISHED
FFL 00.00	FINISHED FLOOR LEVEL		NEW STRUCTURE
	SURVEY SPOT LEVEL		
	EXISTING LEVEL		
	EXISTING WINDOW / DOOR		
	NEW WINDOW / DOOR		

KEY:

ARCHITECTS  
NICHOLAS +  
ASSOCIATES



NOMINATED ARCHITECT  
PATRICK NICHOLAS  
NSW 6672

STUDIO 6,  
1 MARY'S PLACE  
SURRY HILLS  
NSW 2010  
T + 61 2 8353 9500  
ANPLUSA.COM

DRAWING NO:	ISSUE NO:	JOB NO:
DA710	A	TRI2102

AMENDING DA

DRAWING TITLE:  
SHADOW PLAN - JUNE 21- 9AM

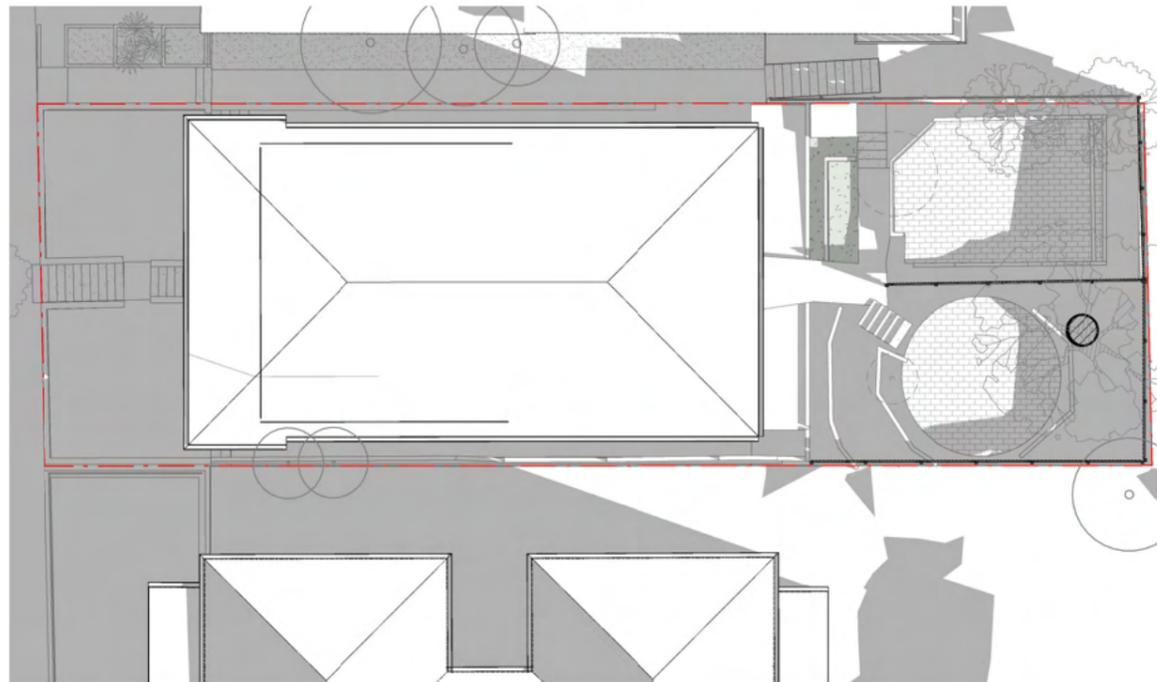
PROJECT ADDRESS:  
138 HASTINGS PDE NORTH BONDI

CLIENT:  
ORNA TRIGUBOFF

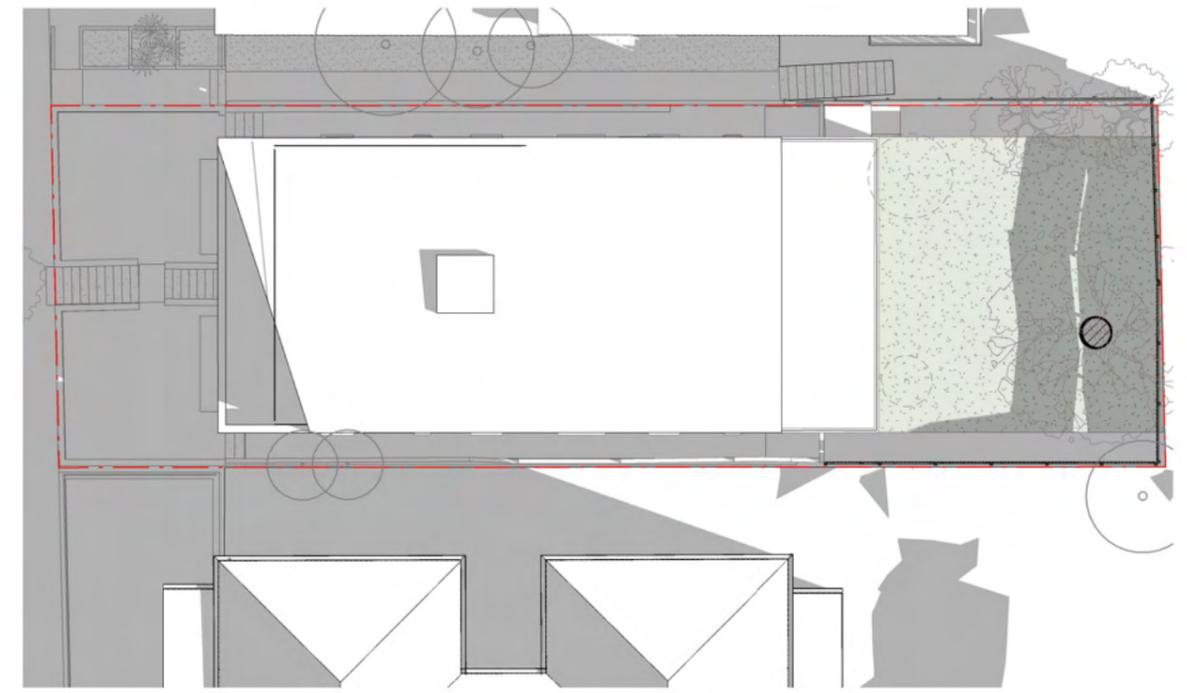


# AMENDED PLANS

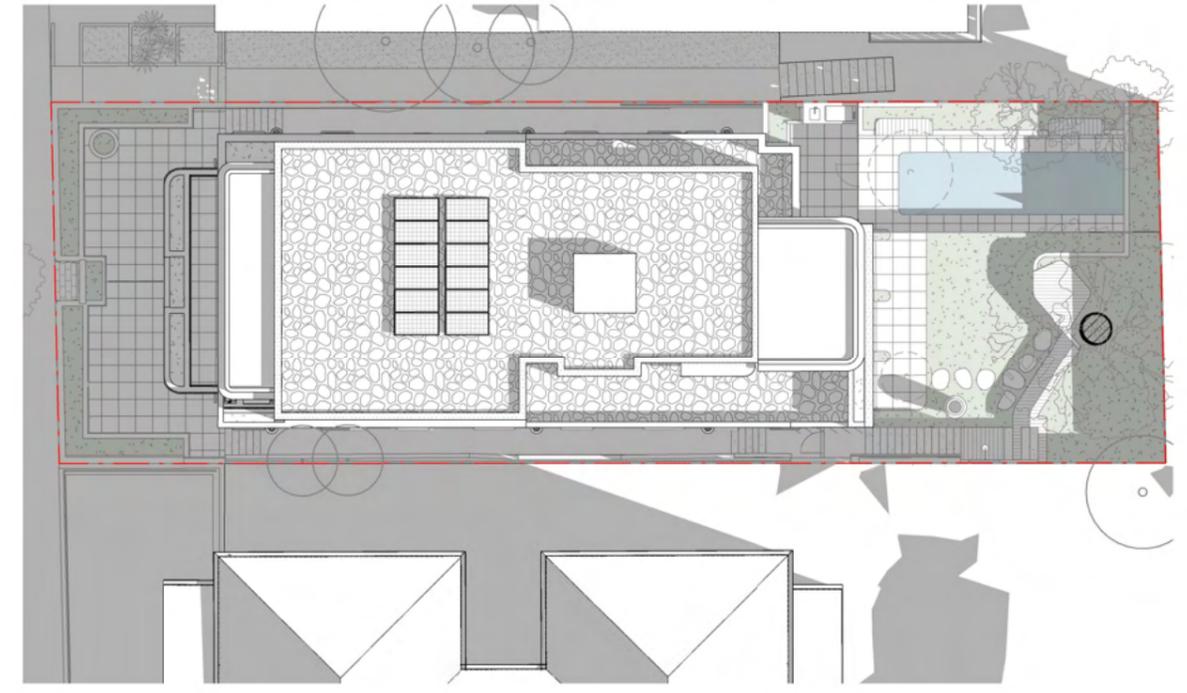
RECEIVED  
Waverley Council  
Application No: DA-439/2021  
Date Received: 21/02/2022



**1 SHADOW DIAGRAM - 10AM - EXISTING**  
scale -1 : 250@ A3



**2 SHADOW DIAGRAM - 10AM - DA APPROVED**  
scale -1 : 250@ A3



**3 SHADOW DIAGRAM - 10AM - PROPOSED**  
scale -1 : 250@ A3

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A 18.02.2022 ISSUE FOR AMENDING DA  
P1 05.05.2021 DRAFT DA ISSUE  
ISS DATE PURPOSE OF ISSUE

LEGEND:

FSL 00.000	FINISHED STRUCTURAL LEVEL		EXISTING TO BE RETAINED
+RL 00.00	FINISHED SPOT OR SURFACE LEVEL		EXISTING TO BE DEMOLISHED
FFL 00.00	FINISHED FLOOR LEVEL		NEW STRUCTURE
	SURVEY SPOT LEVEL		
	EXISTING LEVEL		
	EXISTING WINDOW / DOOR		
	NEW WINDOW / DOOR		

KEY:

ARCHITECTS  
NICHOLAS +  
ASSOCIATES

STUDIO 6,  
1 MARY'S PLACE  
SURRY HILLS  
NSW 2010  
T + 61 2 8353 9500  
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DRAWING NO: DA711 ISSUE NO: A JOB NO: TRI2102

AMENDING DA



NOMINATED ARCHITECT  
PATRICK NICHOLAS  
NSW 6672

DRAWING TITLE:  
SHADOW PLAN - JUNE 21 - 10AM

PROJECT ADDRESS:  
138 HASTINGS PDE NORTH BONDI

CLIENT:  
ORNA TRIGUBOFF

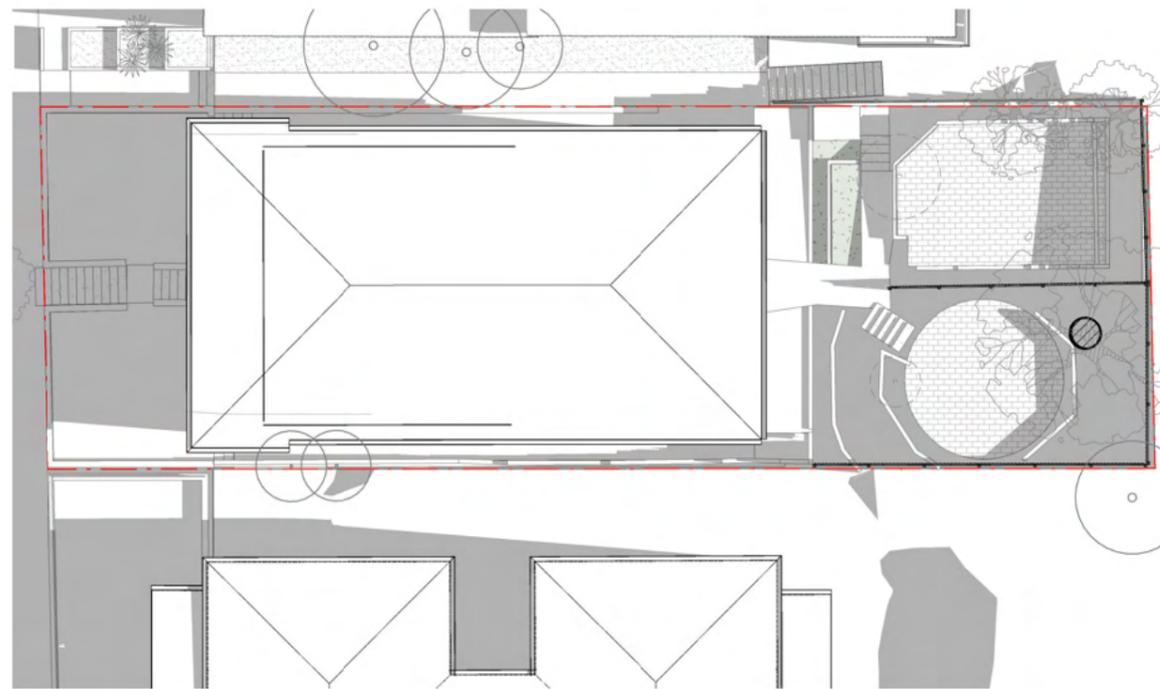


# AMENDED PLANS

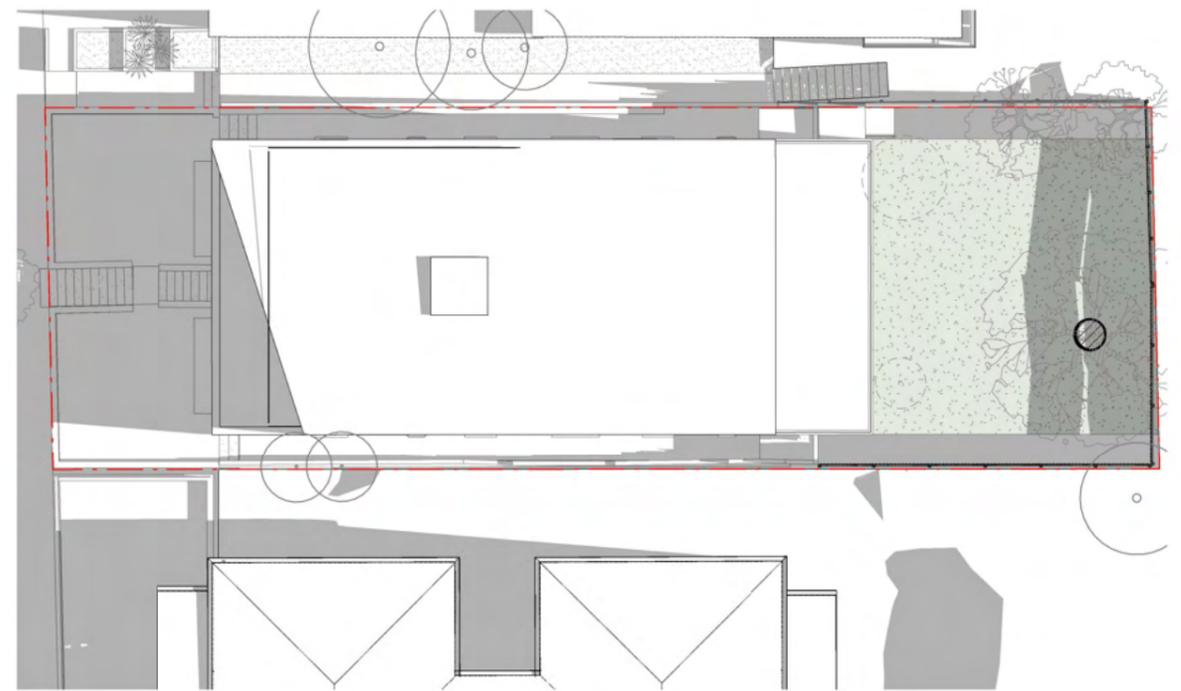
RECEIVED  
Waverley Council

Application No: DA-439/2021

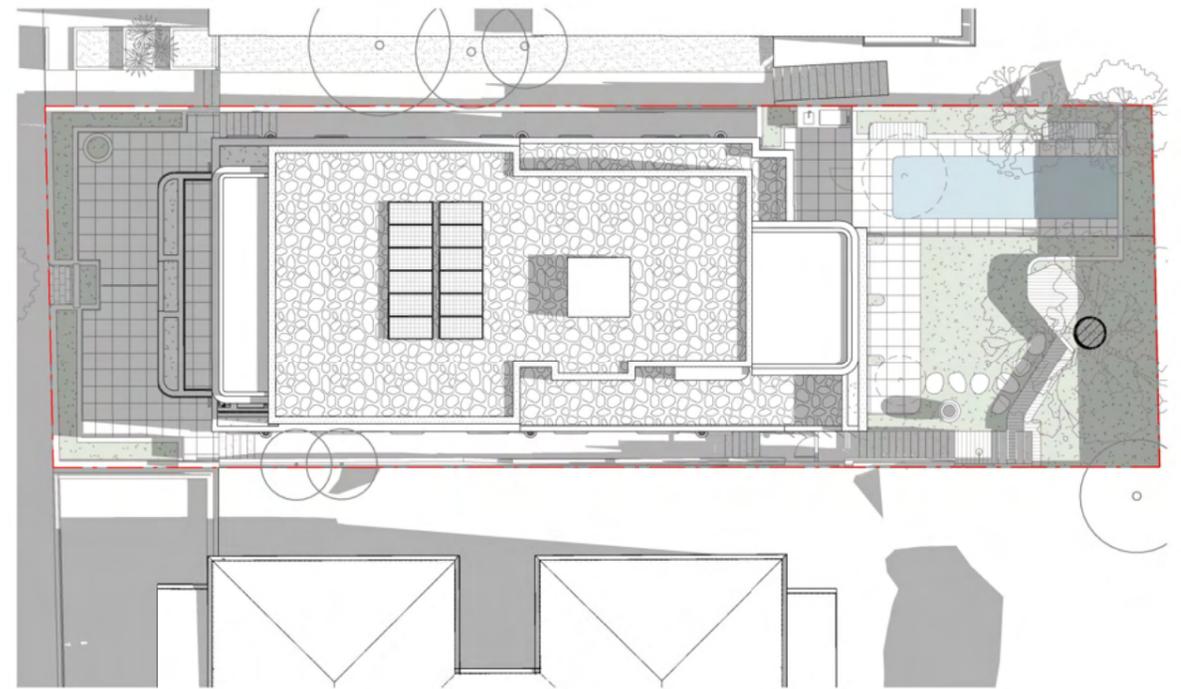
Date Received: 21/02/2022



**1 SHADOW DIAGRAM - 11AM - EXISTING**  
scale -1 : 250@ A3



**2 SHADOW DIAGRAM - 11AM - DA APPROVED**  
scale -1 : 250@ A3



**3 SHADOW DIAGRAM - 11AM - PROPOSED**  
scale -1 : 250@ A3

DO NOT SCALE DRAWING. VERIFY ALL DIMENSIONS ON SITE. REPORT ANY DISCREPANCIES IN DOCUMENTATION TO ARCHITECT. THIS DRAWING IS FOR THE PURPOSE OF COUNCIL APPROVAL AND AS SUCH, IS NOT SUITABLE FOR CONSTRUCTION.

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A	18.02.2022	ISSUE FOR AMENDING DA
P1	05.05.2021	DRAFT DA ISSUE
ISS	DATE	PURPOSE OF ISSUE

PLOTTED : 18/02/2022 10:57:45 AM

LEGEND:			
FSL 00.000	FINISHED STRUCTURAL LEVEL		EXISTING TO BE RETAINED
+RL 00.00	FINISHED SPOT OR SURFACE LEVEL		EXISTING TO BE DEMOLISHED
FFL 00.00	FINISHED FLOOR LEVEL		NEW STRUCTURE
	SURVEY SPOT LEVEL		
	EXISTING LEVEL		
	EXISTING WINDOW / DOOR		
	NEW WINDOW / DOOR		

KEY:

ARCHITECTS  
NICHOLAS +  
ASSOCIATES

STUDIO 6,  
1 MARY'S PLACE  
SURRY HILLS  
NSW 2010  
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DRAWING NO:	ISSUE NO:	JOB NO:
DA712	A	TRI2102

AMENDING DA

DRAWING TITLE:  
SHADOW PLAN - JUNE 21 - 11AM

PROJECT ADDRESS:  
138 HASTINGS PDE NORTH BONDI

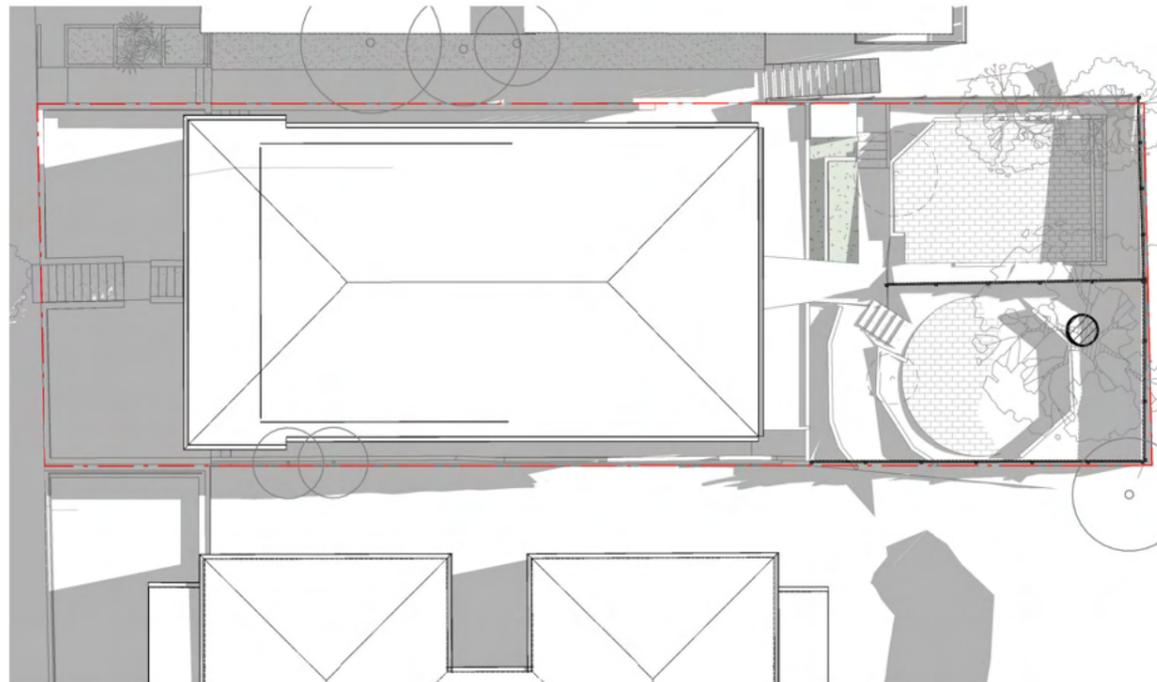
CLIENT:  
ORNA TRIGUBOFF

NOMINATED ARCHITECT  
PATRICK NICHOLAS  
NSW 6672

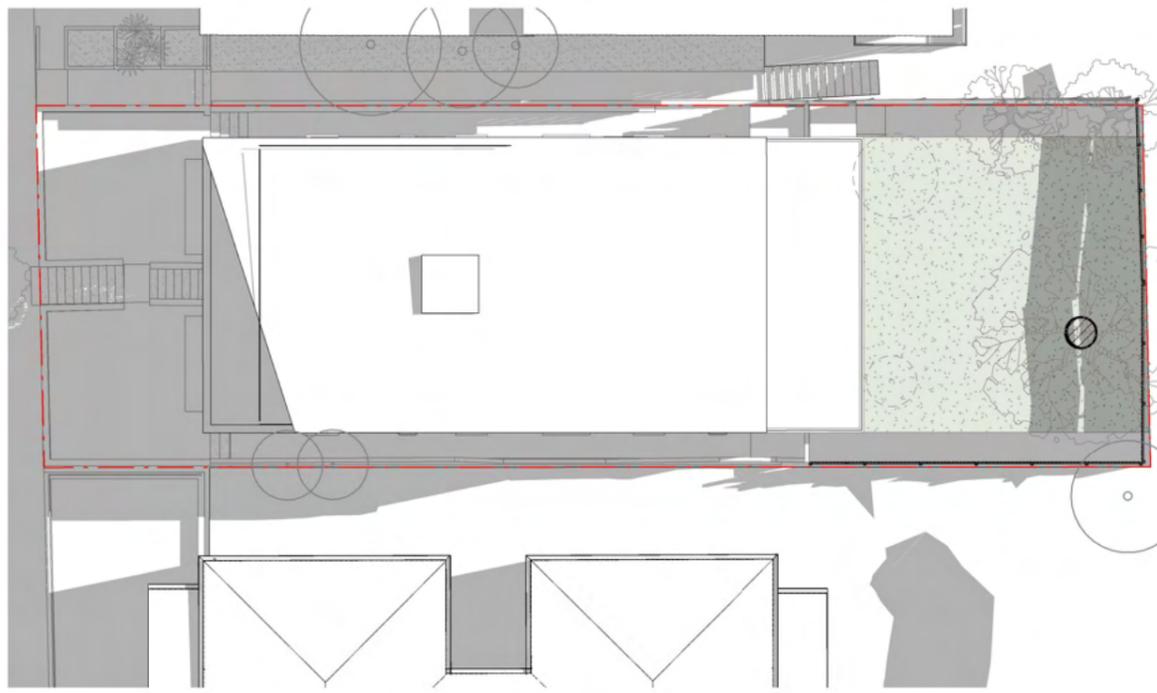


# AMENDED PLANS

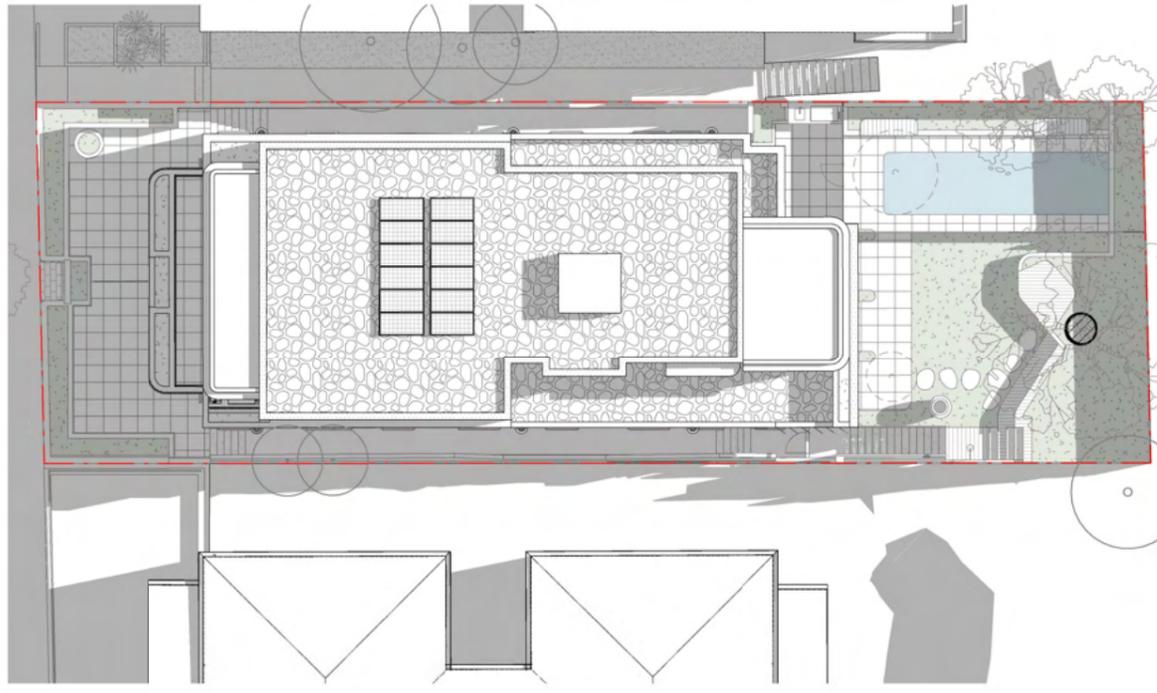
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Waverley Council  
Application No: DA-439/2021  
Date Received: 21/02/2022



**1 SHADOW DIAGRAM - 12PM - EXISTING**  
scale -1 : 250@ A3



**2 SHADOW DIAGRAM - 12PM - DA APPROVED**  
scale -1 : 250@ A3



**3 SHADOW DIAGRAM - 12PM - PROPOSED**  
scale -1 : 250@ A3

DO NOT SCALE DRAWING. VERIFY ALL DIMENSIONS ON SITE. REPORT ANY DISCREPANCIES IN DOCUMENTATION TO ARCHITECT. THIS DRAWING IS FOR THE PURPOSE OF COUNCIL APPROVAL AND AS SUCH, IS NOT SUITABLE FOR CONSTRUCTION.

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A 18.02.2022 ISSUE FOR AMENDING DA  
P1 05.05.2021 DRAFT DA ISSUE  
ISS DATE PURPOSE OF ISSUE

LEGEND:

FSL 00.000	FINISHED STRUCTURAL LEVEL		EXISTING TO BE RETAINED
+RL 00.00	FINISHED SPOT OR SURFACE LEVEL		EXISTING TO BE DEMOLISHED
FFL 00.00	FINISHED FLOOR LEVEL		NEW STRUCTURE
	SURVEY SPOT LEVEL		
	EXISTING LEVEL		
	EXISTING WINDOW / DOOR		
	NEW WINDOW / DOOR		

KEY:

ARCHITECTS  
NICHOLAS +  
ASSOCIATES



NOMINATED ARCHITECT  
PATRICK NICHOLAS  
NSW 6672

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DRAWING NO: DA713 ISSUE NO: A JOB NO: TRI2102

AMENDING DA

DRAWING TITLE:  
SHADOW PLAN - JUNE 21 - 12PM

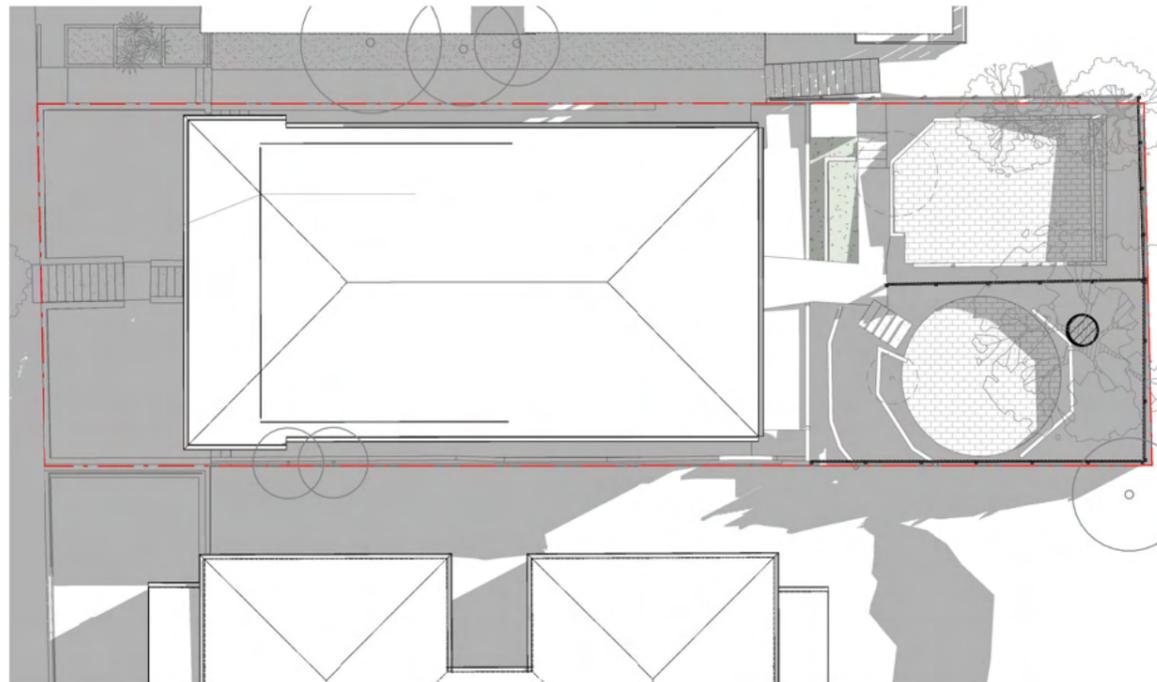
PROJECT ADDRESS:  
138 HASTINGS PDE NORTH BONDI

CLIENT:  
ORNA TRIGUBOFF

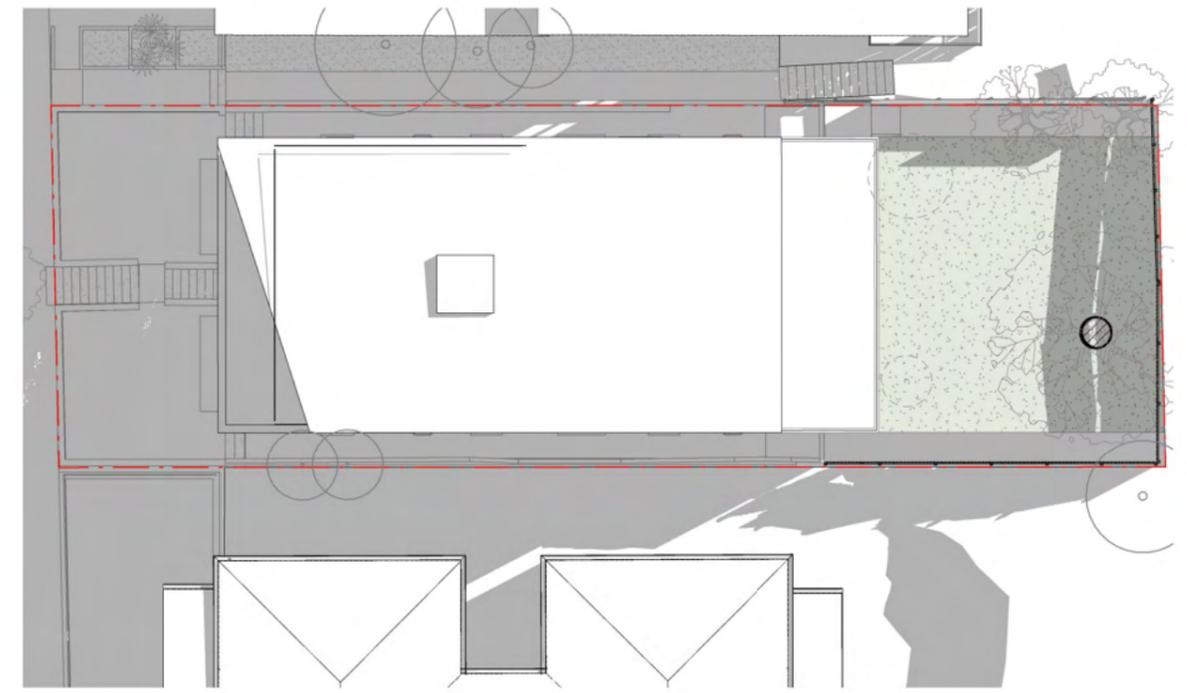


# AMENDED PLANS

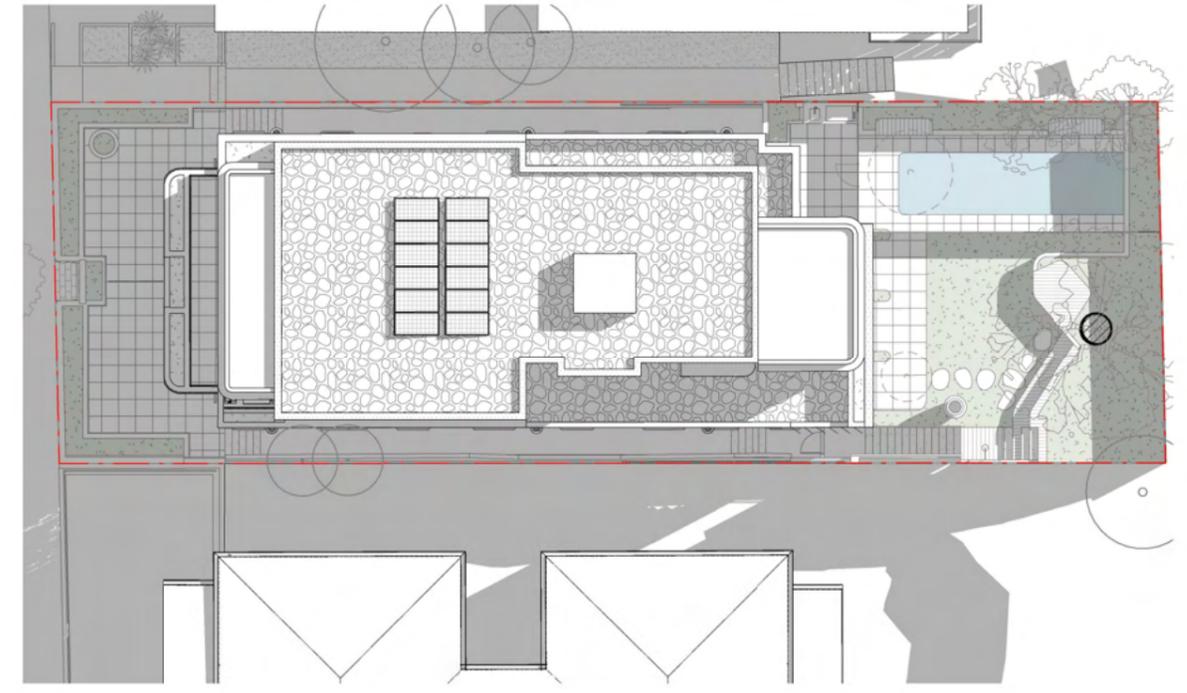
RECEIVED  
Waverley Council  
Application No: DA-439/2021  
Date Received: 21/02/2022



**1 SHADOW DIAGRAM - 1PM - EXISTING**  
scale -1 : 250@ A3



**2 SHADOW DIAGRAM - 1PM - DA APPROVED**  
scale -1 : 250@ A3



**3 SHADOW DIAGRAM - 1PM - PROPOSED**  
scale -1 : 250@ A3

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A	18.02.2022	ISSUE FOR AMENDING DA
P1	05.05.2021	DRAFT DA ISSUE
ISS	DATE	PURPOSE OF ISSUE

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FSL 00.000	FINISHED STRUCTURAL LEVEL		EXISTING TO BE RETAINED
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FFL 00.00	FINISHED FLOOR LEVEL		NEW STRUCTURE
00.000	SURVEY SPOT LEVEL		
00.000	EXISTING LEVEL		
	EXISTING WINDOW / DOOR		
	NEW WINDOW / DOOR		

KEY:

ARCHITECTS  
NICHOLAS +  
ASSOCIATES



NOMINATED ARCHITECT  
PATRICK NICHOLAS  
NSW 6672

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DRAWING NO: DA714    ISSUE NO: A    JOB NO: TRI2102

AMENDING DA

DRAWING TITLE:  
SHADOW PLAN - JUNE 21 - 1PM

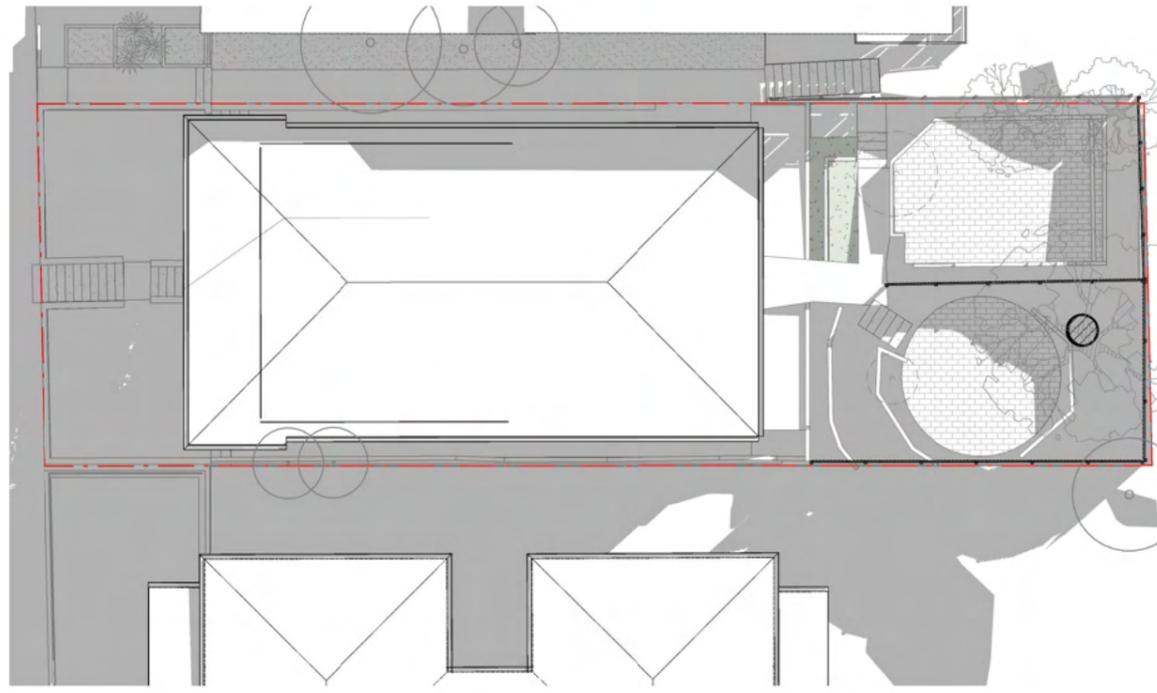
PROJECT ADDRESS:  
138 HASTINGS PDE NORTH BONDI

CLIENT:  
ORNA TRIGUBOFF

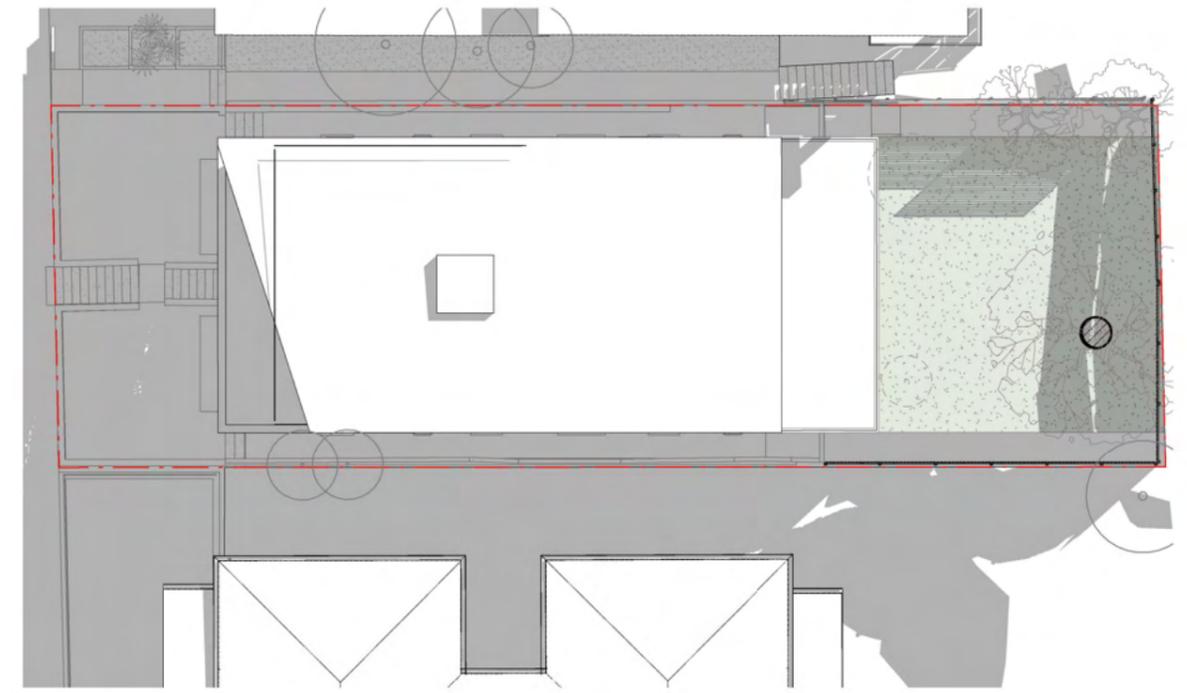


# AMENDED PLANS

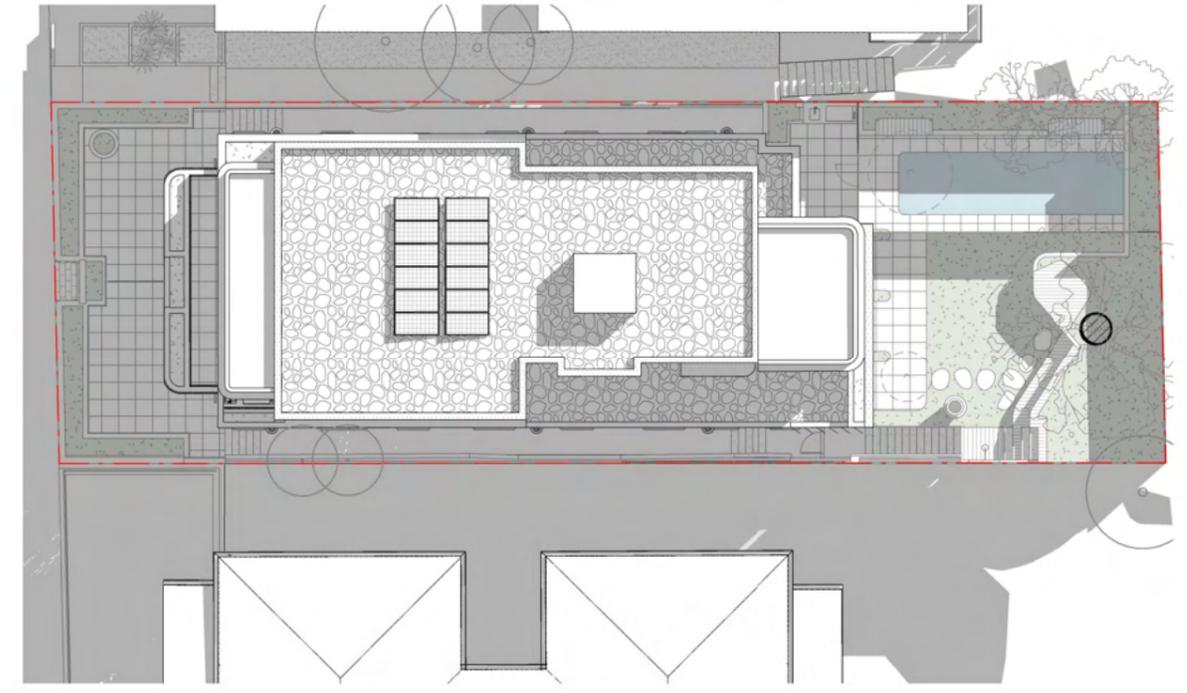
RECEIVED  
Waverley Council  
Application No: DA-439/2021  
Date Received: 21/02/2022



**1 SHADOW DIAGRAM - 2PM - EXISTING**  
scale -1 : 250@ A3



**2 SHADOW DIAGRAM - 2PM - DA APPROVED**  
scale -1 : 250@ A3



**3 SHADOW DIAGRAM - 2PM - PROPOSED**  
scale -1 : 250@ A3

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A 18.02.2022 ISSUE FOR AMENDING DA  
P1 05.05.2021 DRAFT DA ISSUE  
ISS DATE PURPOSE OF ISSUE

LEGEND:

FSL 00.000	FINISHED STRUCTURAL LEVEL		EXISTING TO BE RETAINED
+RL 00.00	FINISHED SPOT OR SURFACE LEVEL		EXISTING TO BE DEMOLISHED
FFL 00.00	FINISHED FLOOR LEVEL		NEW STRUCTURE
00.000	SURVEY SPOT LEVEL		
00.000	EXISTING LEVEL		
	EXISTING WINDOW / DOOR		
	NEW WINDOW / DOOR		

KEY:

ARCHITECTS  
NICHOLAS +  
ASSOCIATES



NOMINATED ARCHITECT  
PATRICK NICHOLAS  
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DRAWING NO: DA715 ISSUE NO: A JOB NO: TRI2102

AMENDING DA

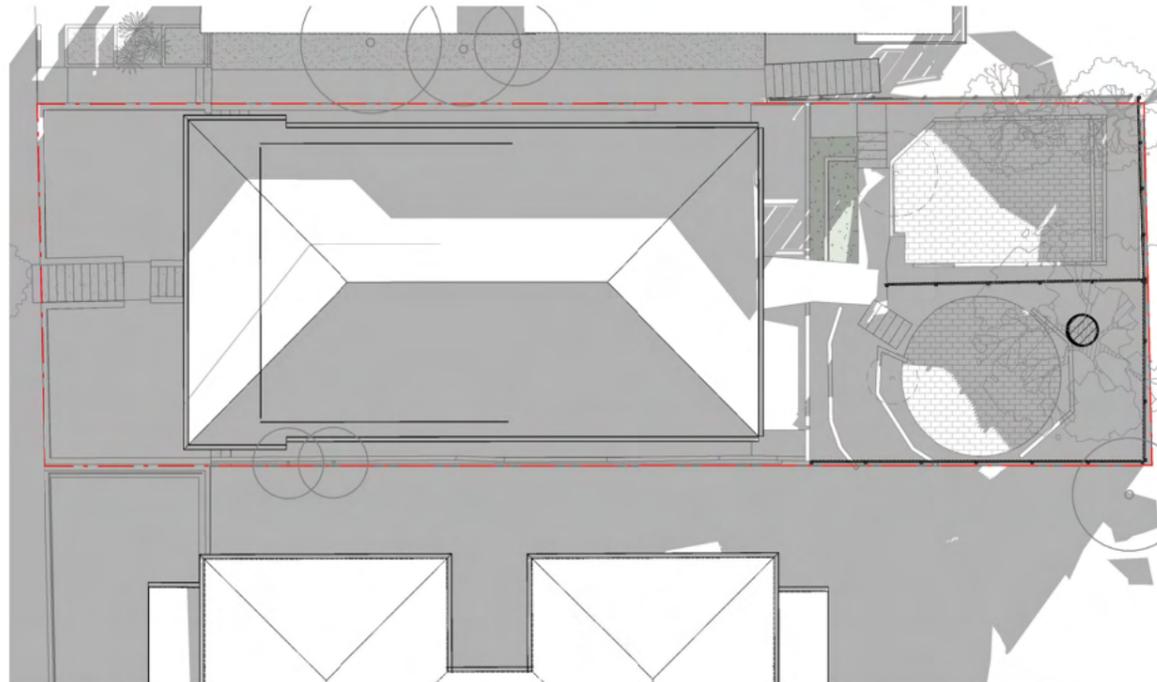
DRAWING TITLE:  
SHADOW PLAN - JUNE 21 - 2PM

PROJECT ADDRESS:  
138 HASTINGS PDE NORTH BONDI

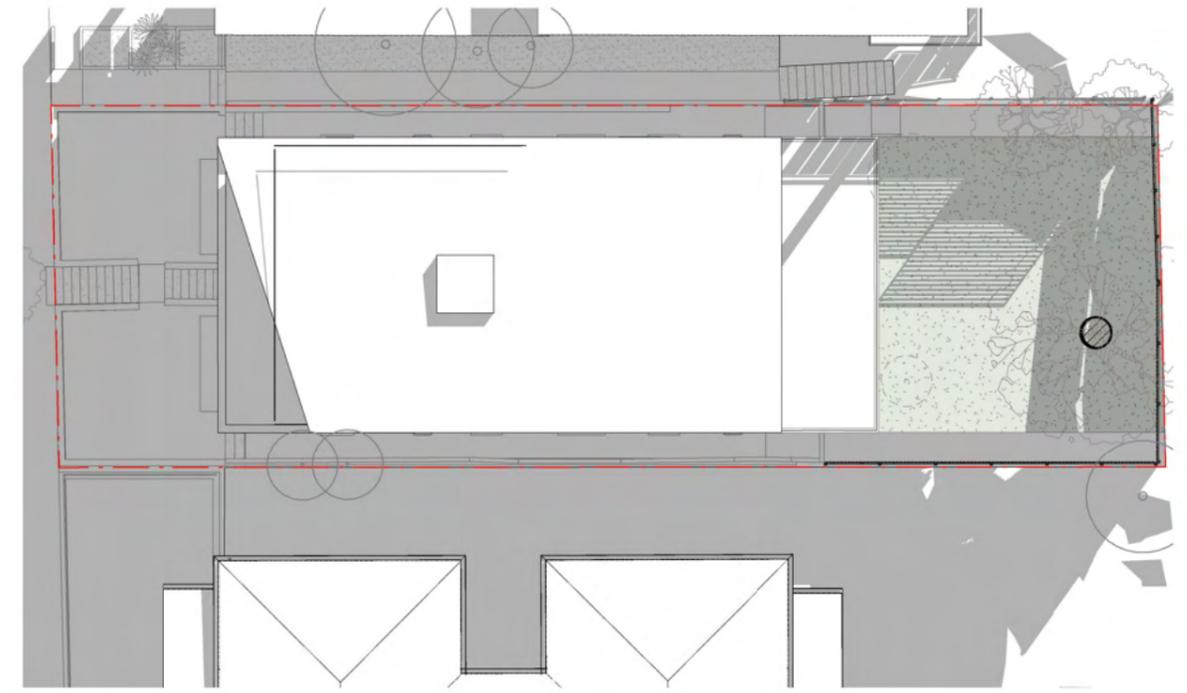
CLIENT:  
ORNA TRIGUBOFF

# AMENDED PLANS

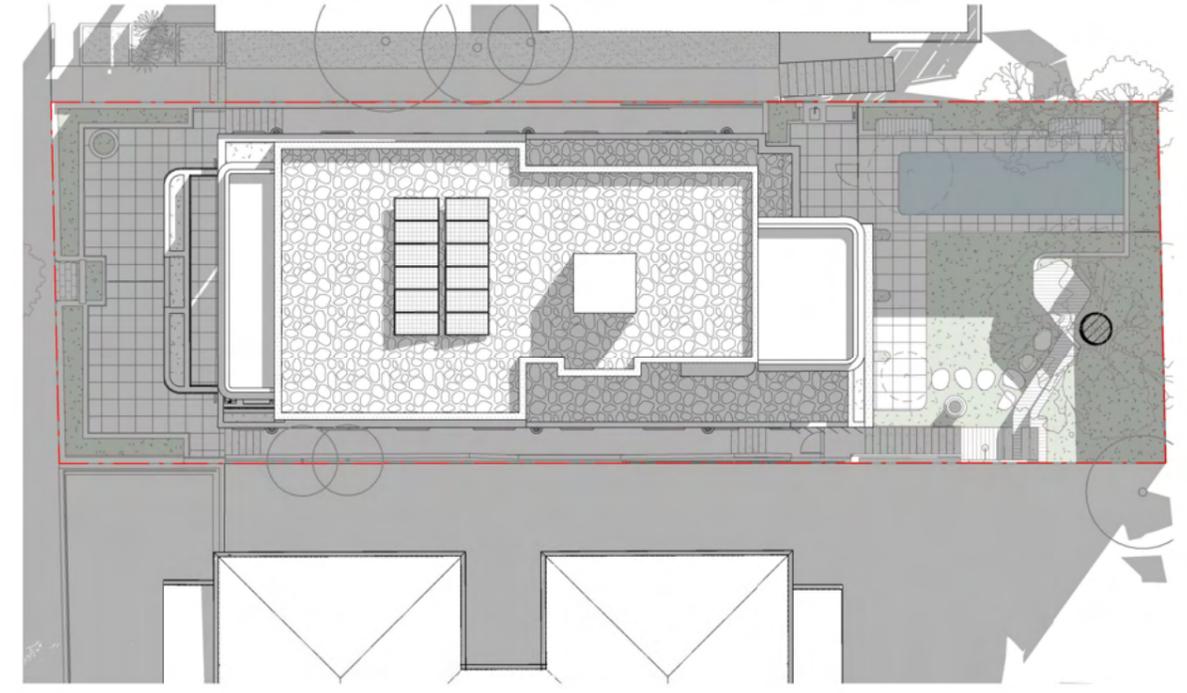
RECEIVED  
Waverley Council  
Application No: DA-439/2021  
Date Received: 21/02/2022



**1 SHADOW DIAGRAM - 3PM - EXISTING**  
scale -1 : 250@ A3



**2 SHADOW DIAGRAM - 3PM - DA APPROVED**  
scale -1 : 250@ A3



**3 SHADOW DIAGRAM - 3PM - PROPOSED**  
scale -1 : 250@ A3

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A	18.02.2022	ISSUE FOR AMENDING DA
P1	05.05.2021	DRAFT DA ISSUE
ISS	DATE	PURPOSE OF ISSUE

PLOTTED : 18/02/2022 10:59:22 AM

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+RL 00.00	FINISHED SPOT OR SURFACE LEVEL		EXISTING TO BE DEMOLISHED
FFL 00.00	FINISHED FLOOR LEVEL		NEW STRUCTURE
00.000	SURVEY SPOT LEVEL		
00.000	EXISTING LEVEL		
	EXISTING WINDOW / DOOR		
	NEW WINDOW / DOOR		

KEY:

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ASSOCIATES



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DRAWING NO:	ISSUE NO:	JOB NO:
DA716	A	TRI2102

AMENDING DA

DRAWING TITLE:  
SHADOW PLAN - JUNE 21 - 3PM

PROJECT ADDRESS:  
138 HASTINGS PDE NORTH BONDI

CLIENT:  
ORNA TRIGUBOFF

