

ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

Page 3 7.1 DAC 26/04/23 - 30 VILLA ROAD WARATAH – DA2022-01085

Dwelling house - alterations, additions and ancillary development (carport, garage and retaining walls) including demolition

Attachment A: Submitted Plans
Attachment B: Draft Schedule of Conditions
Attachment C: Processing Chronology
Attachment D: Clause 4.6 written exception to development standard

Page 43 7.2 DAC 26/04/23 - 38 POWER STREET ISLINGTON - DA2022/0123

Semi-detached dwellings – including demolition of existing dwelling and boundary adjustment

Attachment A: Submitted Plans
Attachment B: Draft Schedule of Conditions
Attachment C: Processing Chronology
Attachment D: Clause 4.6 written exception to development standard

Page 110 7.3 DAC 26/04/23 – 25 SCOTT STREET NEWCASTLE EAST - DA2022/00809

Dwelling house – alterations and additions

Attachment A: Submitted Plans
Attachment B: Draft Schedule of Conditions
Attachment C: Processing Chronology
Attachment D: Clause 4.6 written exception to development standard

Page 151 7.4 DAC 26/04/23 – 14 SCOTT STREET NEWCASTLE EAST – DA2022/01/49

Dwelling House – alterations and additions

Attachment A: Submitted Plans
Attachment B: Draft Schedule of Conditions
Attachment C: Processing Chronology
Attachment D: Clause 4.6 written exception to development standard – Height of Buildings
Attachment E: Clause 4.6 written exception to development standard – Floor Space Ratio

DISTRIBUTED UNDER SEPARATE COVER

Development Applications Committee

26 April 2023



- Page 217 7.5 DAC 26/04/23 – 35 ADDISON STREET BERESFIELD – DA2022/0110**
- Demolition of structures and erection of new frozen food storage building
- Attachment A:** Submitted Plans
Attachment B: Draft Schedule of Conditions
Attachment C: Processing Chronology
Attachment D: Advice of the NSW Environmental Protection Authority
Attachment E: Applicants' response to Schedule 3 Clause 48 of the EP&A Regulations
- Page 246 7.6 DAC 26/04/23 – 111 DAWSON STREET COOKS HILL - DA2022/00936**
- Dwelling house – alterations and additions including demolition
- Attachment A:** Submitted Plans
Attachment B: Draft Schedule of Conditions
Attachment C: Processing Chronology
- Page 281 7.7 DAC 26/04/23 – 182 HUNTER STREET NEWCASTLE – DA2021/01505**
- Mixed-use development (Commercial and shop top housing) – involving alterations and additions to locally listed heritage building
- Attachment A:** Submitted Plans
Attachment B: Draft Schedule of Conditions
Attachment C: Processing Chronology
Attachment D: Clause 4.6 written exception to height of building development standard
Attachment E: Clause 4.6 written exception to floor space ratio development standard
- Page 385 7.8 DAC 26/04/23 – 4 TIGHE STREET NEWCASTLE WEST – RE2023/0001**
- Attachment A:** Submitted Plans
Attachment B: Draft Schedule of Conditions
Attachment C: Processing Chronology
Attachment D: Concurrence Transport for NSW
Attachment E: Clause 4.6 written exception to FSR development standard

DISTRIBUTED UNDER SEPARATE COVER



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 30 VILLA ROAD WARATAH – DA2022-01085 -
DWELLING HOUSE - ALTERATIONS, ADDITIONS AND ANCILLARY
DEVELOPMENT (CARPORT, GARAGE AND RETAINING WALLS)
INCLUDING DEMOLITION**

- | | | |
|-----|----------------------|--|
| 7.1 | Attachment A: | Submitted Plans |
| 7.1 | Attachment B: | Draft Schedule of Conditions |
| 7.1 | Attachment C: | Processing Chronology |
| 7.1 | Attachment D: | Clause 4.6 written exception to development standard |

DISTRIBUTED UNDER SEPARATE COVER



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 30 VILLA ROAD WARATAH – DA2022-01085 -
DWELLING HOUSE - ALTERATIONS, ADDITIONS AND ANCILLARY
DEVELOPMENT (CARPORT, GARAGE AND RETAINING WALLS)
INCLUDING DEMOLITION**

7.1 Attachment A: Submitted Plans

DISTRIBUTED UNDER SEPARATE COVER

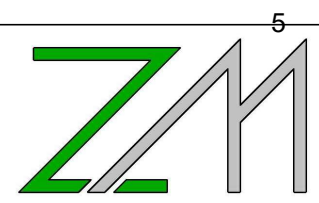
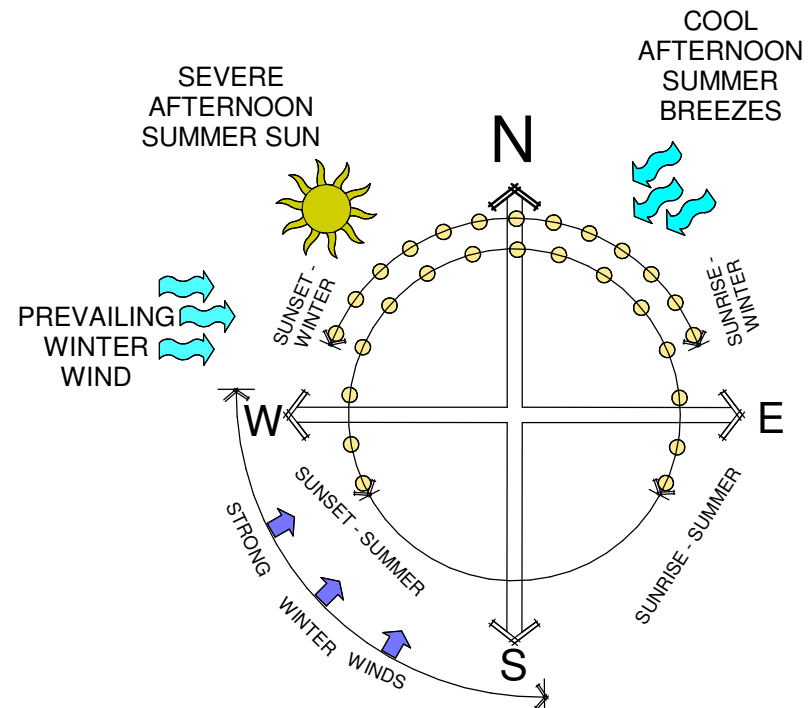
PROPOSED ALTERATIONS AND ADDITIONS

LOT 108, D.P.21085, 30 VILLA ST, WARATAH WEST

FOR J. & K. EDWARDS

DRAWING SCHEDULE

SHEET NO.	SHEET NAME	ISSUE DATE	REVISION
S01	COVER PAGE	3.4.23	11
S02	SITE PLAN	3.4.23	11
S03	BULK EARTHWORKS PLAN	3.4.23	11
S04	PROPOSED UPPER FLOOR PLAN	3.4.23	11
S05	PROPOSED LOWER FLOOR PLAN	3.4.23	11
S06	WINDOWS - BASIX - ROOF PLAN	3.4.23	11
S07	ELEVATIONS - SH1	3.4.23	11
S08	ELEVATIONS - SH2	3.4.23	11
S09	SECTIONS	3.4.23	11
S10	PERSPECTIVES - SH1	3.4.23	11
S11	PERSPECTIVES - SH2	3.4.23	11
S12	PERSPECTIVES - SH3	3.4.23	11



Z MEXON

27 ECOND AVENUE,
RUTHERFORD NSW 2320
M: 0400 308 717
E: zac.mexon@hotmail.com

Rev	Description	Date	Iss
1	ISSUED FOR CLIENT COMMENT	5.12.21	ZTM
2	ISSUED FOR CLIENT COMMENT	10.3.22	ZTM
3	ISSUED FOR CLIENT COMMENT	13.4.22	ZTM
4	ISSUED FOR CLIENT COMMENT	20.5.22	ZTM
5	ISSUED FOR CLIENT COMMENT/PRICING	28.6.22	ZTM
6	ISSUED FOR CHECKING	12.7.22	ZTM
7	ISSUED FOR COUNCIL LODGEMENT	22.9.22	ZTM
8	REVISED PLANS ISSUED	20.1.23	ZTM
9	REVISED PLANS ISSUED	2.2.23	ZTM
10	REVISED PLANS ISSUED	21.2.23	ZTM
11	REVISED PLANS ISSUED	3.4.23	ZTM

PROPOSED ALTERATIONS & ADDITIONS

LOT 108, D.P.21085,
30 VILLA ST,
WARATAH WEST

FOR J & K
EDWARDS

SHEET NAME
COVER PAGE

DRAWN: ZTM
CHECKED: MJ
DATE: 3.4.23

SCALE :
NTS AT A3

31/03/2023
4:24:50 PM

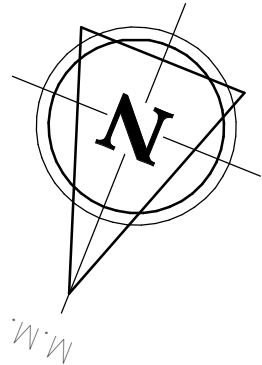
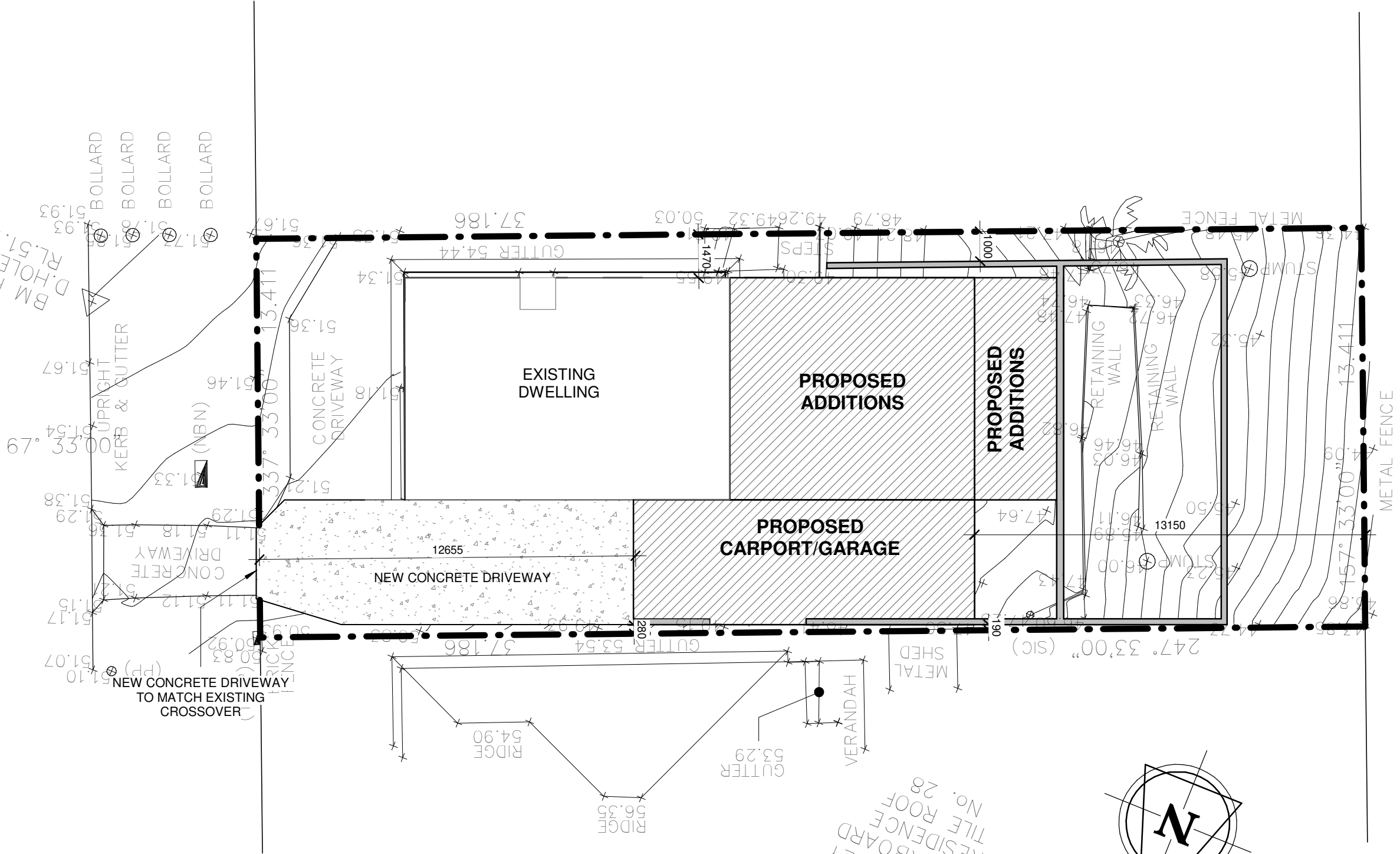
SHEET
S01



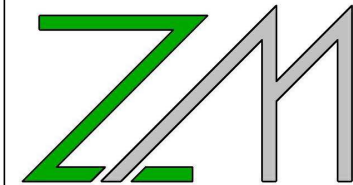
LOCATION MAP
NTS - NORTH UP

VILLA ROAD

 **SITE PLAN**
1 : 150



LOT 107
DP 21085
SINGLE STOREY
WEATHERBOARD
RESIDENCE
TILE ROOF
No. 28



Z MEXON
27 SECOND AVENUE,
RUTHERFORD, NSW 2320
M: 0400 308 717
E: zac.mexon@hotmail.com

Rev	Description	Date	Iss
5	ISSUED FOR CLIENT COMMENT/PRICING	28.6.22	ZTM
6	ISSUED FOR CHECKING	12.7.22	ZTM
7	ISSUED FOR COUNCIL LODGEMENT	22.9.22	ZTM
8	REVISED PLANS ISSUED	20.1.23	ZTM
9	REVISED PLANS ISSUED	2.2.23	ZTM
10	REVISED PLANS ISSUED	21.2.23	ZTM
11	REVISED PLANS ISSUED	3.4.23	ZTM

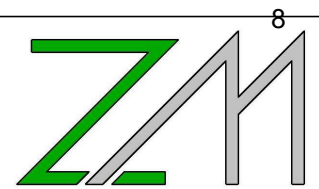
**PROPOSED
ALTERATIONS &
ADDITIONS
FOR J & K
EDWARDS**

**LOT 108, D.P.21085, 30
VILLA ST, WARATAH
WEST**

SHEET NAME
SITE PLAN

DRAWN:	ZTM
CHECKED:	JK E
DATE:	3.4.23
SCALE :	
1:150	AT A3

**SHEET
S02**



Z MEXON

27 ECOND AVENUE,
RUTHERFORD NSW 2320

M: 0400 308 717

E: zac.mexon@hotmail.com

Rev	Description	Date	Iss
1	ISSUED FOR CLIENT COMMENT	5.12.21	ZTM
2	ISSUED FOR CLIENT COMMENT	10.3.22	ZTM
3	ISSUED FOR CLIENT COMMENT	13.4.22	ZTM
4	ISSUED FOR CLIENT COMMENT	20.5.22	ZTM
5	ISSUED FOR CLIENT COMMENT/PRICING	28.6.22	ZTM
6	ISSUED FOR CHECKING	12.7.22	ZTM
7	ISSUED FOR COUNCIL LODGEMENT	22.9.22	ZTM
8	REVISED PLANS ISSUED	20.1.23	ZTM
9	REVISED PLANS ISSUED	2.2.23	ZTM
10	REVISED PLANS ISSUED	21.2.23	ZTM
11	REVISED PLANS ISSUED	3.4.23	ZTM

PROPOSED ALTERATIONS & ADDITIONS

LOT 108, D.P.21085,
30 VILLA ST,
WARATAH WEST

FOR J & K
EDWARDS

SHEET NAME

PROPOSED
UPPER FLOOR
PLAN

DRAWN: ZTM
CHECKED: J & K E
DATE: 3.4.23

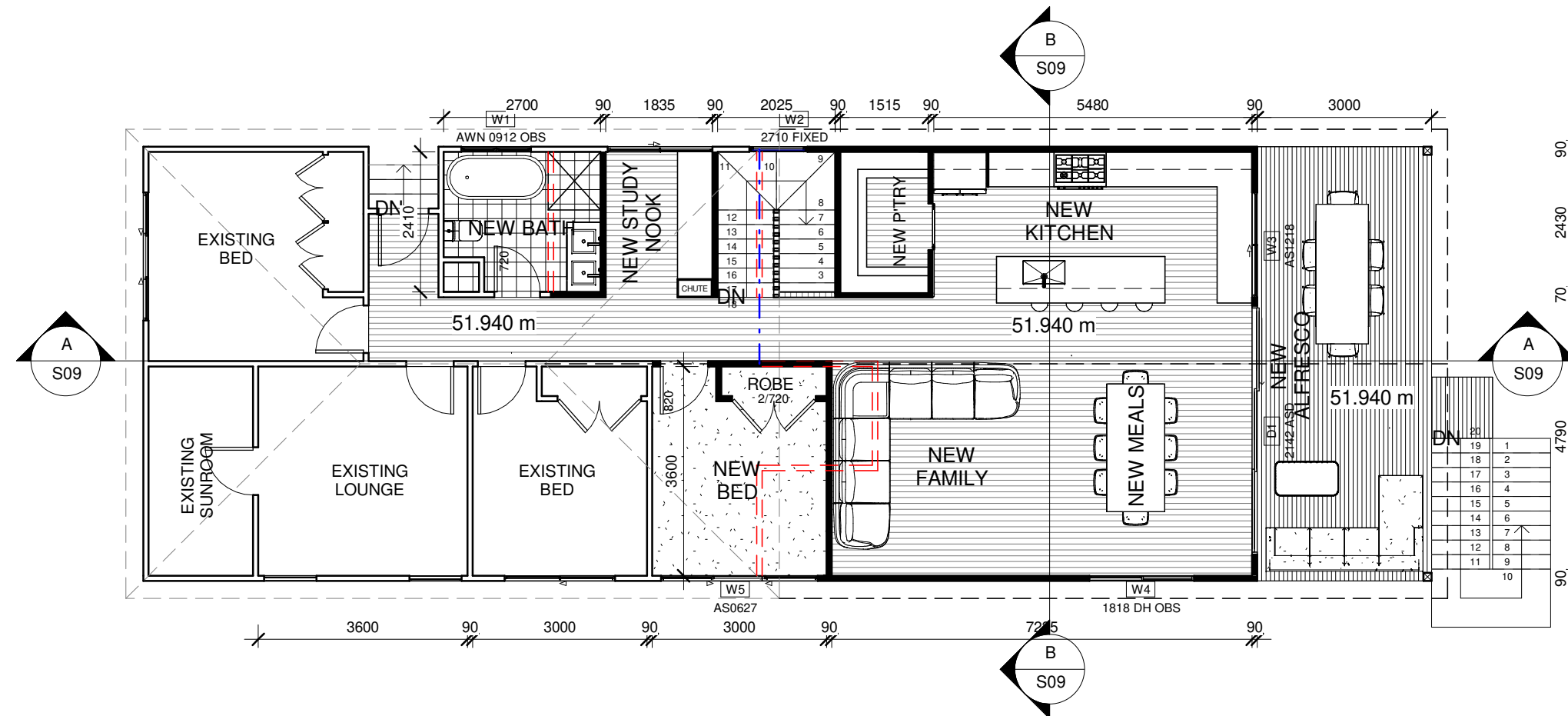
SCALE :

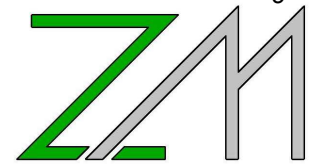
1:100

AT A3

31/03/2023
4:24:53 PM

SHEET
S04





Z MEXON

27 ECOND AVENUE,
RUTHERFORD NSW 2320

M: 0400 308 717

E: zac.mexon@hotmail.com

Rev	Description	Date	Iss
1	ISSUED FOR CLIENT COMMENT	5.12.21	ZTM
2	ISSUED FOR CLIENT COMMENT	10.3.22	ZTM
3	ISSUED FOR CLIENT COMMENT	13.4.22	ZTM
4	ISSUED FOR CLIENT COMMENT	20.5.22	ZTM
5	ISSUED FOR CLIENT COMMENT/PRICING	28.6.22	ZTM
6	ISSUED FOR CHECKING	12.7.22	ZTM
7	ISSUED FOR COUNCIL LODGEMENT	22.9.22	ZTM
8	REVISED PLANS ISSUED	20.1.23	ZTM
9	REVISED PLANS ISSUED	2.2.23	ZTM
10	REVISED PLANS ISSUED	21.2.23	ZTM
11	REVISED PLANS ISSUED	3.4.23	ZTM

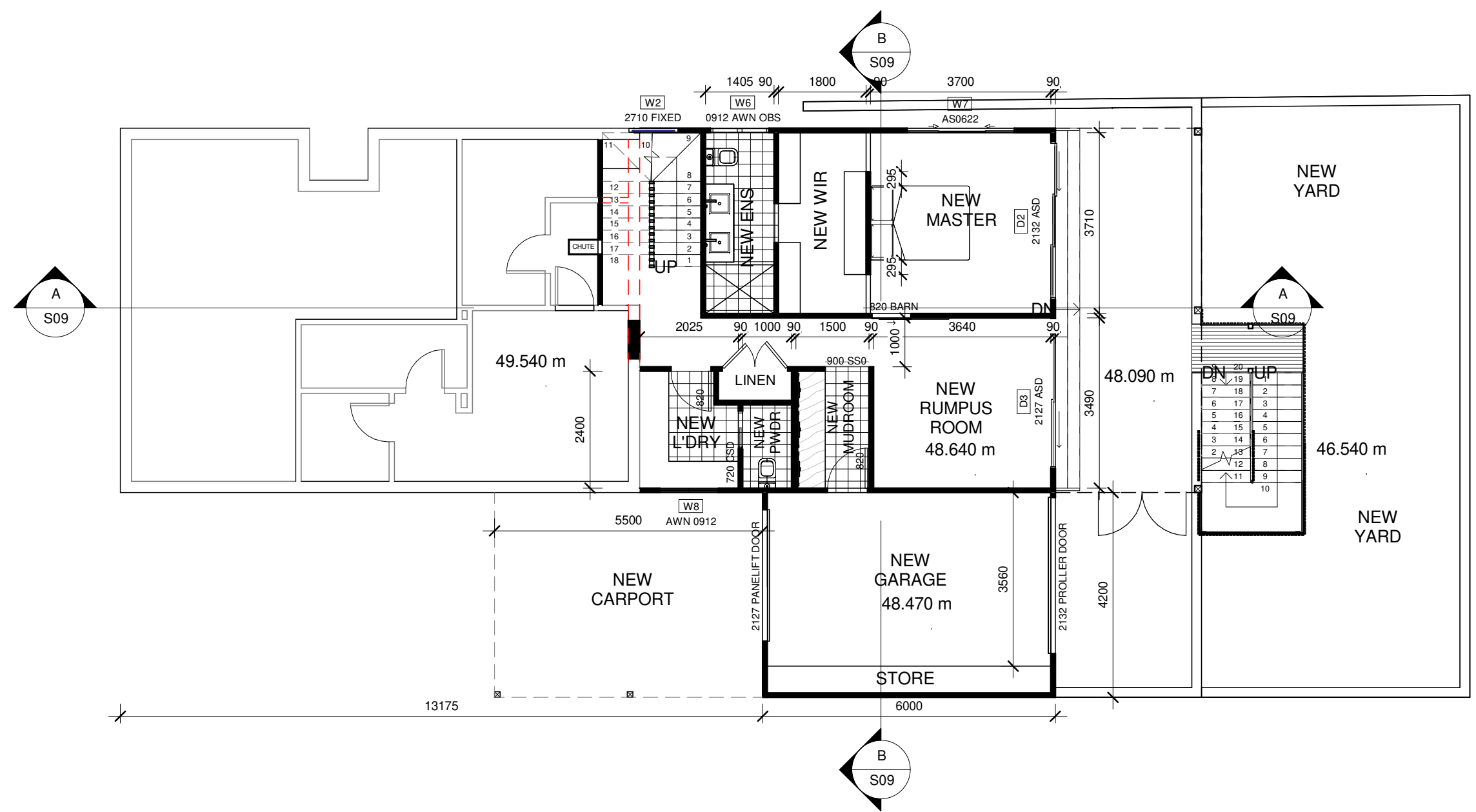
PROPOSED ALTERATIONS & ADDITIONS

LOT 108, D.P.21085,
30 VILLA ST,
WARATAH WEST

FOR J & K
EDWARDS

SHEET NAME
PROPOSED LOWER FLOOR PLAN

DRAWN:	ZTM
CHECKED:	J&K E
DATE:	3.4.23
SCALE :	1:100
AT A3	
31/03/2023 4:24:54 PM	SHEET S05



PROPOSED LOWER FLOOR PLAN

1 : 100

BASIX COMMITMENTS

OWNER AND/OR BUILDER TO CHECK ALL COMMITMENTS ON THE BASIX CERTIFICATE 'SCHEDULE OF COMMITMENTS'.
TABLE TO BE READ IN CONJUNCTION WITH SCHEDULE OF COMMITMENTS & SPECIFICATION. SCHEDULE OF COMMITMENTS
TO TAKE PRECEDENCE OVER PLANS AND SPECIFICATION. ALSO CONFIRM CERT. NUMBER MATCHES BASIX CERTIFICATE

CERTIFICATE NUMBER	A474904	DATE OF ISSUE	23.9.22
--------------------	---------	---------------	---------

FIXTURES AND SYSTEMS

FIXTURES	N/A		
SHOWER HEAD RATING	3 STAR	KITCHEN TAP RATING	3 STAR
TOILET FLUSHING SYSTEM RATING	3 STAR	BASIN TAPS	3 STAR

LIGHTING

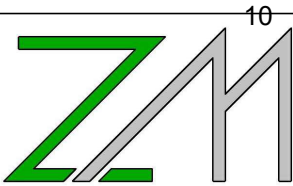
THE APPLICANT MUST ENSURE A MINIMUM OF 40% OF NEW OR ALTERED LIGHT FIXTURES ARE FITTED
WITH FLUORESCENT, COMPACT FLUORESCENT, OR LIGHT EMITTING-DIODE LAMPS

CONSTRUCTION

CONSTRUCTION	R VALUE	OTHER SPEC.
CONC. SLAB ON GROUND	NIL	
SUS. FLOOR - ENCLOSED	R0.6(DOWN) OR R1.30 INCL. CONSTRUCTION	
EXTERNAL WALL: CLAD	R1.30 OR R1.70 INCL. CONSTRUCTION	
FLAT CEILING, PITCHED ROOF	CEILING: R3.0 (UP) ROOF: FOIL/SARKING	MEDIUM (SOLAR ABSORPTANCE 0.475- 0.70)
RAKED CEILING, PITCHED/SKILLION ROOF	CEILING: R3.0 (UP) ROOF: FOIL/SARKING	MEDIUM (SOLAR ABSORPTANCE 0.475- 0.70)

WINDOW / DOOR SCHEDULE

MARK	ORIEN.	TYPE	AREA	MATERIAL	GLAZING	U-VALUE	SHGC	SHADING	O-SHAD.	OPERATION
D1	WEST	2142 ASD	8.82	ALUMINIUM	CLEAR	6.44	0.75	EAVE 3300	NONE	SLIDING DOOR
D2	WEST	2132 ASD	6.72	ALUMINIUM	CLEAR	6.44	0.75	SOLID 3300	NONE	SLIDING DOOR
D3	WEST	2127 ASD	5.67	ALUMINIUM	CLEAR	6.44	0.75	SOLID 3300	NONE	SLIDING DOOR
SK1	SOUTH	1206 SKYLIGHT	0.72	ALUMINIUM	CLEAR	6.44	0.75	ADJUSTABLE	NONE	SKYLIGHT
SK2	SOUTH	1206 SKYLIGHT	0.72	ALUMINIUM	CLEAR	6.44	0.75	ADJUSTABLE	NONE	SKYLIGHT
SK3	SOUTH	1206 SKYLIGHT	0.72	ALUMINIUM	CLEAR	6.44	0.75	ADJUSTABLE	NONE	SKYLIGHT
W1	SOUTH	AWN 0912 OBS	1.08	ALUMINIUM	OBSCURE	6.44	0.75	EAVE 450	NONE	AWNING
W2	SOUTH	2710 FIXED	2.7	ALUMINIUM	CLEAR	6.44	0.75	EAVE 450	NONE	FIXED
W3	WEST	AS1218	2.16	ALUMINIUM	CLEAR	6.44	0.75	EAVE 3300	NONE	SLIDING WINDOW
W4	NORTH	1818 DH OBS	3.24	ALUMINIUM	OBSCURE	6.44	0.75	EAVE 450	NONE	DOUBLE HUNG
W5	NORTH	AS0627	1.62	ALUMINIUM	CLEAR	6.44	0.75	EAVE 450	NONE	SLIDING WINDOW
W6	SOUTH	0912 AWN OBS	1.08	ALUMINIUM	OBSCURE	6.44	0.75	NONE	NONE	AWNING
W7	SOUTH	AS0622	1.31	ALUMINIUM	CLEAR	6.44	0.75	NONE	NONE	SLIDING WINDOW
W8	NORTH	AWN 0912	1.08	ALUMINIUM	CLEAR	6.44	0.75	EAVE 4200	NONE	AWNING



Z MEXON

27 ECOND AVENUE,
RUTHERFORD NSW 2320

M: 0400 308 717
E: zac.mexon@hotmail.com

Rev	Description	Date	Iss
1	ISSUED FOR CLIENT COMMENT	5.12.21	ZTM
2	ISSUED FOR CLIENT COMMENT	10.3.22	ZTM
3	ISSUED FOR CLIENT COMMENT	13.4.22	ZTM
4	ISSUED FOR CLIENT COMMENT	20.5.22	ZTM
5	ISSUED FOR CLIENT COMMENT/PRICING	28.6.22	ZTM
6	ISSUED FOR CHECKING	12.7.22	ZTM
7	ISSUED FOR COUNCIL LODGEMENT	22.9.22	ZTM
8	REVISED PLANS ISSUED	20.1.23	ZTM
9	REVISED PLANS ISSUED	2.2.23	ZTM
10	REVISED PLANS ISSUED	21.2.23	ZTM
11	REVISED PLANS ISSUED	3.4.23	ZTM

PROPOSED ALTERATIONS & ADDITIONS

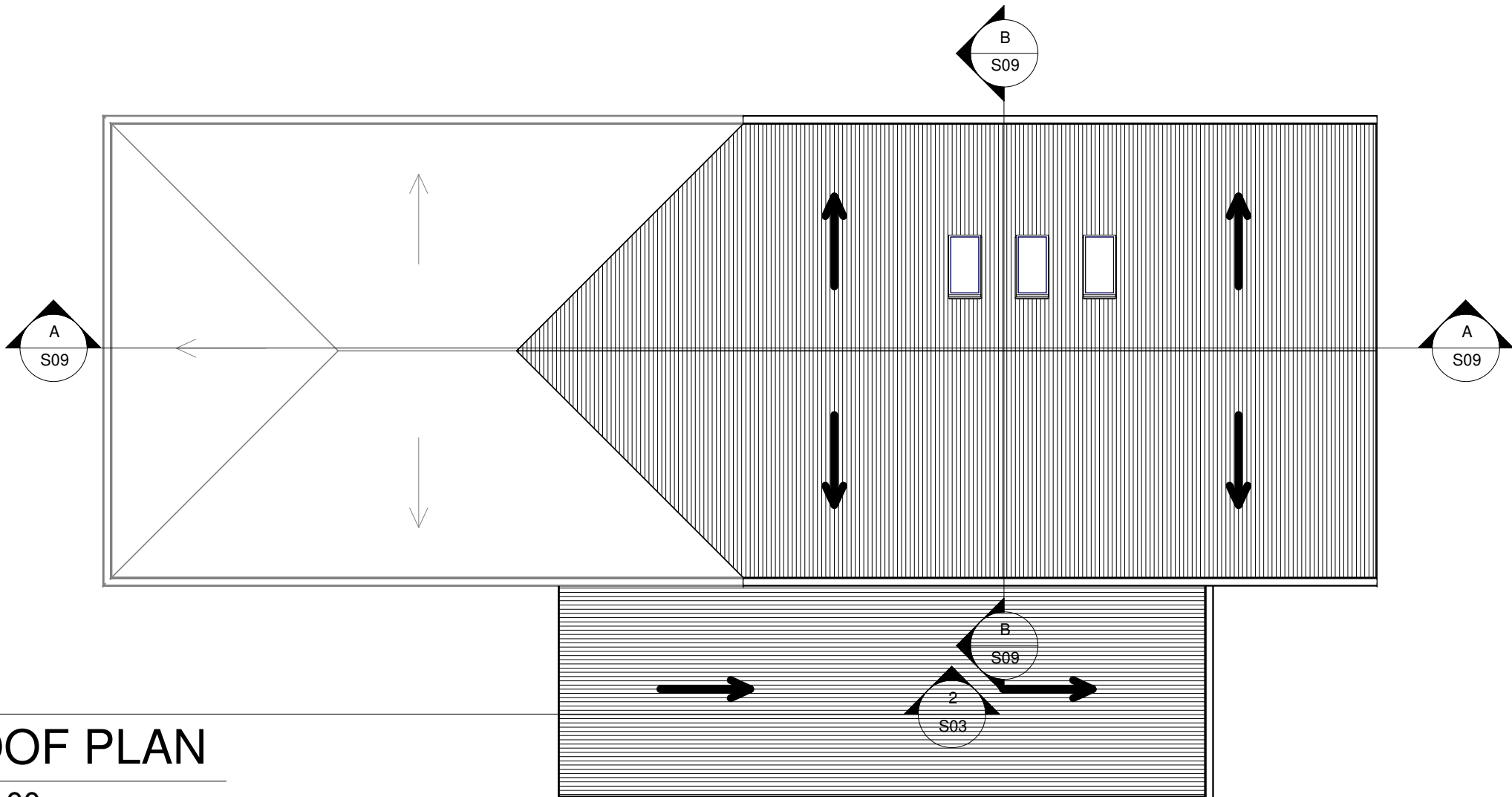
LOT 108, D.P.21085,
30 VILLA ST,
WARATAH WEST

FOR J & K
EDWARDS

SHEET NAME

**WINDOWS -
BASIX - ROOF
PLAN**

DRAWN:	ZTM
CHECKED:	J&K E
DATE:	3.4.23
SCALE :	1:100
AT A3	
31/03/2023 4:24:54 PM	SHEET S06



ROOF PLAN

1 : 100



M: 0400 308 717
E: zac.mexon@hotmail.com

PROPOSED ALTERATIONS & ADDITIONS

FOR J & K
EDWARDS

ELEVATIONS - SH1

SCALE :

AT A3

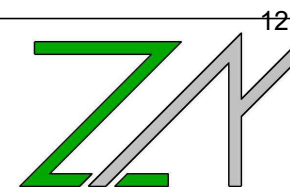
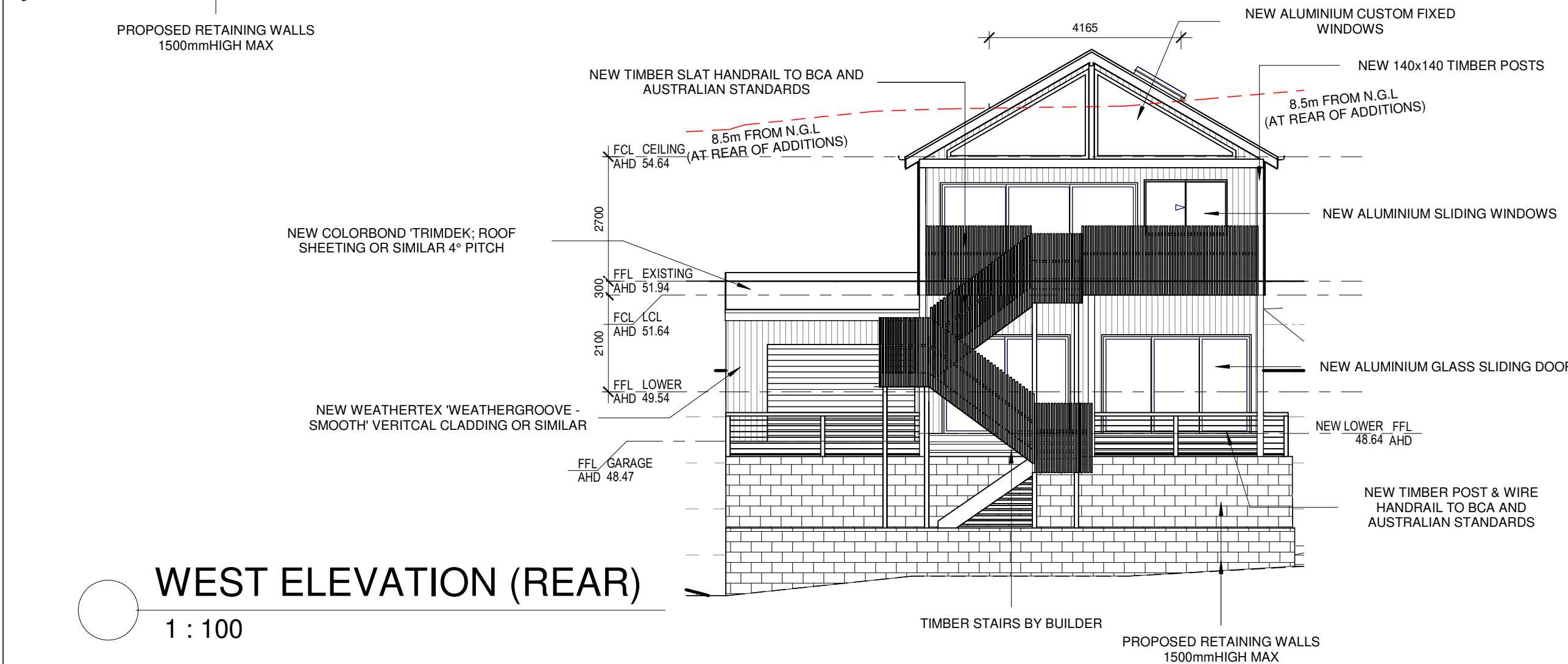
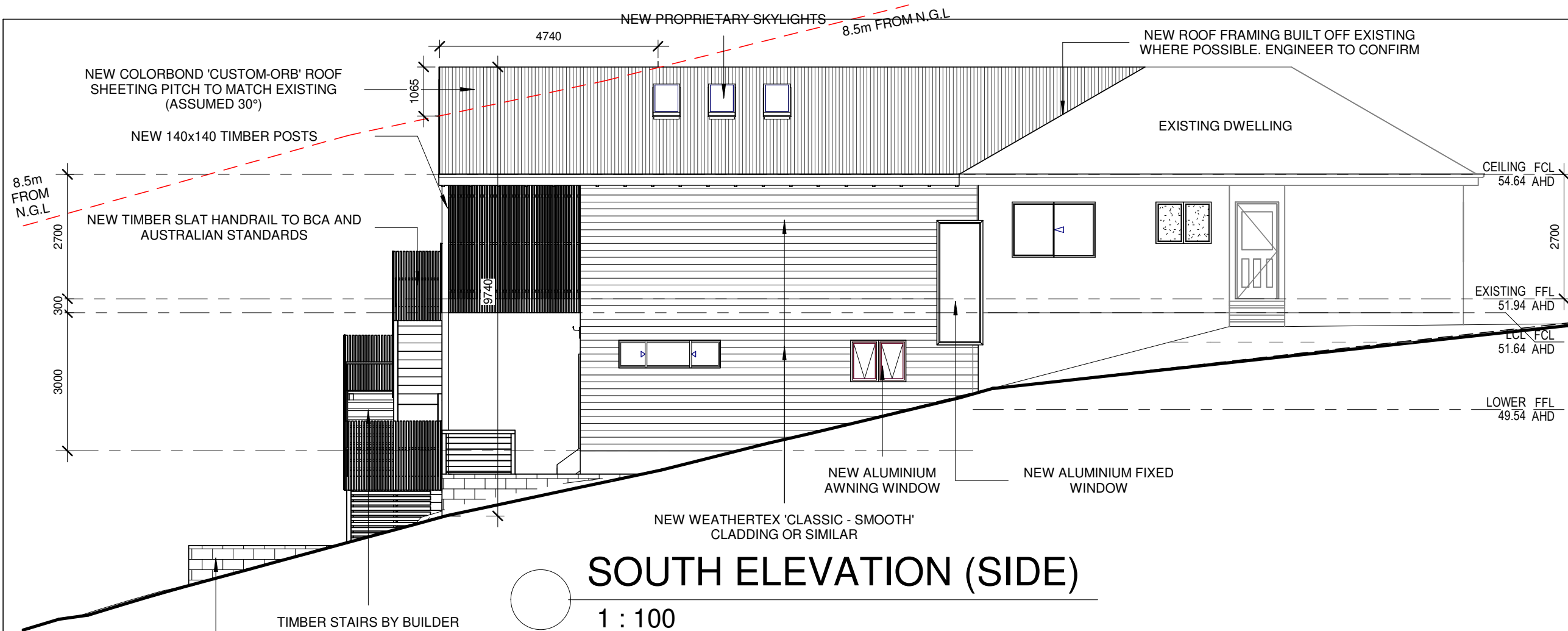
SHEET
S07



1 : 100



1 : 100



Z MEXON

27 ECOND AVENUE,
RUTHERFORD NSW 2320

M: 0400 308 717

E: zac.mexon@hotmail.com

Rev	Description	Date	Iss
1	ISSUED FOR CLIENT COMMENT	5.12.21	ZTM
2	ISSUED FOR CLIENT COMMENT	10.3.22	ZTM
3	ISSUED FOR CLIENT COMMENT	13.4.22	ZTM
4	ISSUED FOR CLIENT COMMENT	20.5.22	ZTM
5	ISSUED FOR CLIENT COMMENT/PRICING	28.6.22	ZTM
6	ISSUED FOR CHECKING	12.7.22	ZTM
7	ISSUED FOR COUNCIL LODGEMENT	22.9.22	ZTM
8	REVISED PLANS ISSUED	20.1.23	ZTM
9	REVISED PLANS ISSUED	2.2.23	ZTM
10	REVISED PLANS ISSUED	21.2.23	ZTM
11	REVISED PLANS ISSUED	3.4.23	ZTM

PROPOSED ALTERATIONS & ADDITIONS

LOT 108, D.P.21085,
30 VILLA ST,
WARATAH WEST

FOR J & K
EDWARDS

SHEET NAME

**ELEVATIONS -
SH2**

DRAWN: ZTM

CHECKED: MJ

DATE: 3.4.23

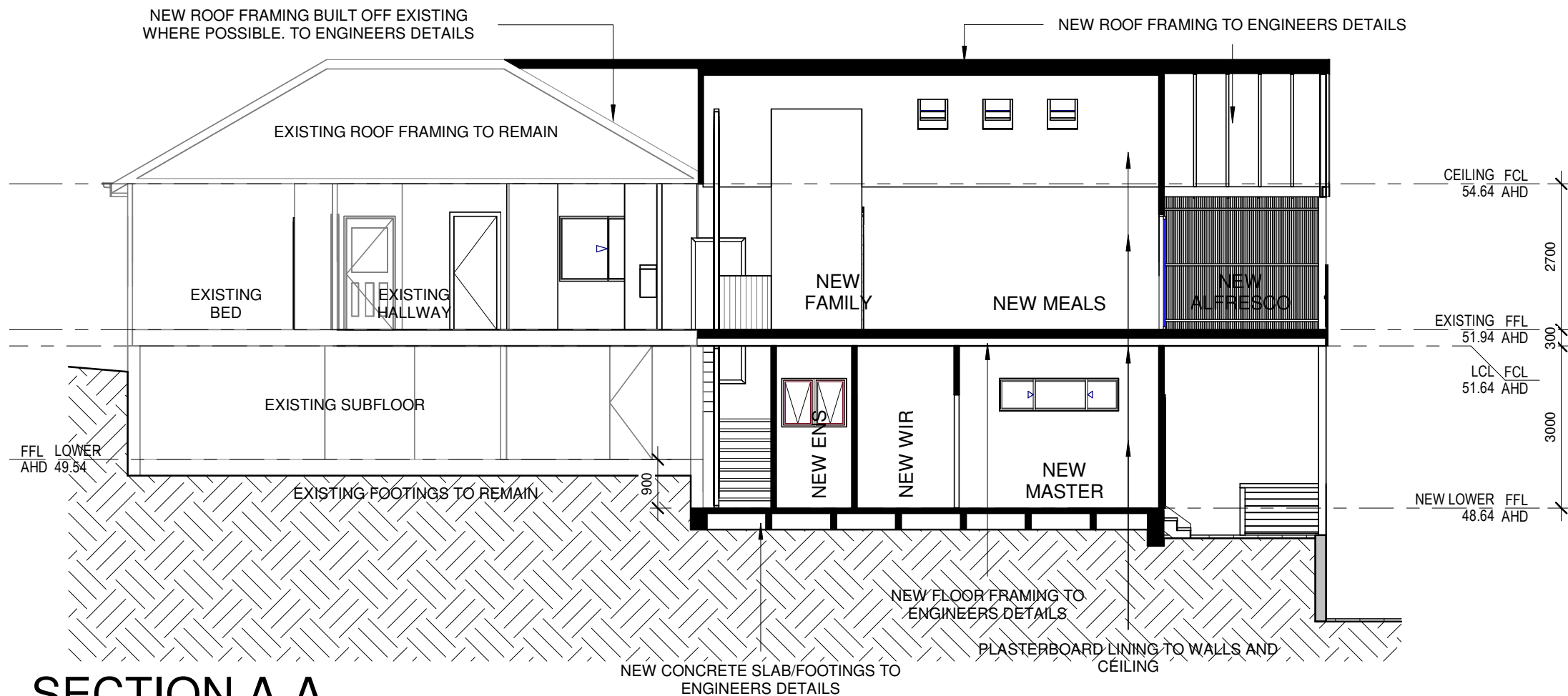
SCALE :

1:100

AT A3

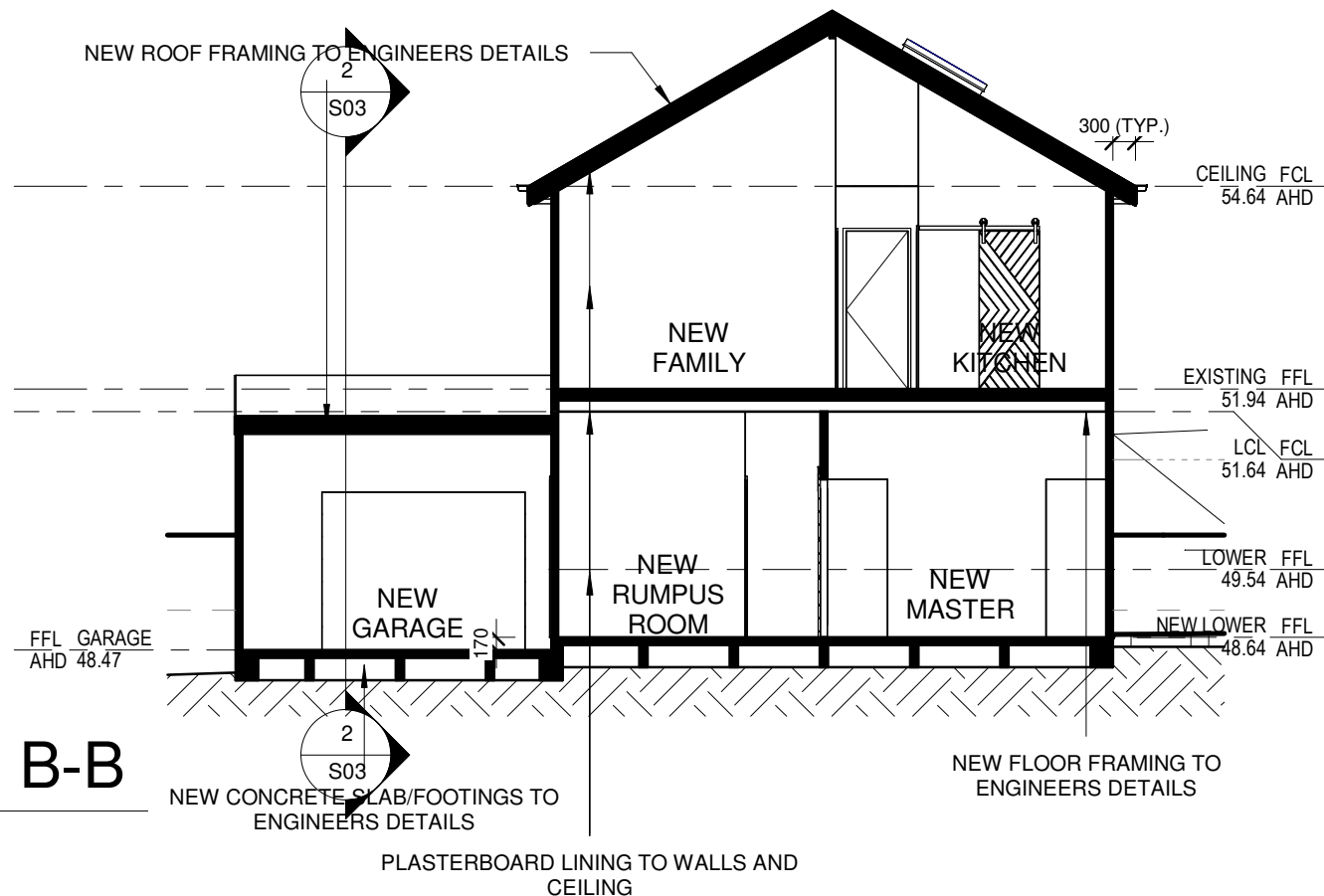
31/03/2023
4:24:56 PM

**SHEET
S08**



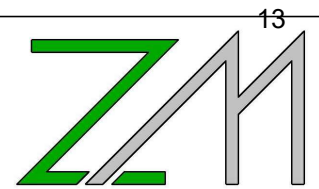
SECTION A-A

1 : 100



SECTION B-B

1 : 100



Z MEXON

27 ECOND AVENUE,
RUTHERFORD NSW 2320

M: 0400 308 717

E: zac.mexon@hotmail.com

Rev	Description	Date	Iss
1	ISSUED FOR CLIENT COMMENT	5.12.21	ZTM
2	ISSUED FOR CLIENT COMMENT	10.3.22	ZTM
3	ISSUED FOR CLIENT COMMENT	13.4.22	ZTM
4	ISSUED FOR CLIENT COMMENT	20.5.22	ZTM
5	ISSUED FOR CLIENT COMMENT/PRICING	28.6.22	ZTM
6	ISSUED FOR CHECKING	12.7.22	ZTM
7	ISSUED FOR COUNCIL LODGEMENT	22.9.22	ZTM
8	REVISED PLANS ISSUED	20.1.23	ZTM
9	REVISED PLANS ISSUED	2.2.23	ZTM
10	REVISED PLANS ISSUED	21.2.23	ZTM
11	REVISED PLANS ISSUED	3.4.23	ZTM

PROPOSED ALTERATIONS & ADDITIONS

LOT 108, D.P.21085,
30 VILLA ST,
WARATAH WEST

FOR J & K
EDWARDS

SHEET NAME

SECTIONS

DRAWN: ZTM

CHECKED: J&K E

DATE: 3.4.23

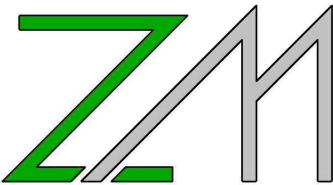
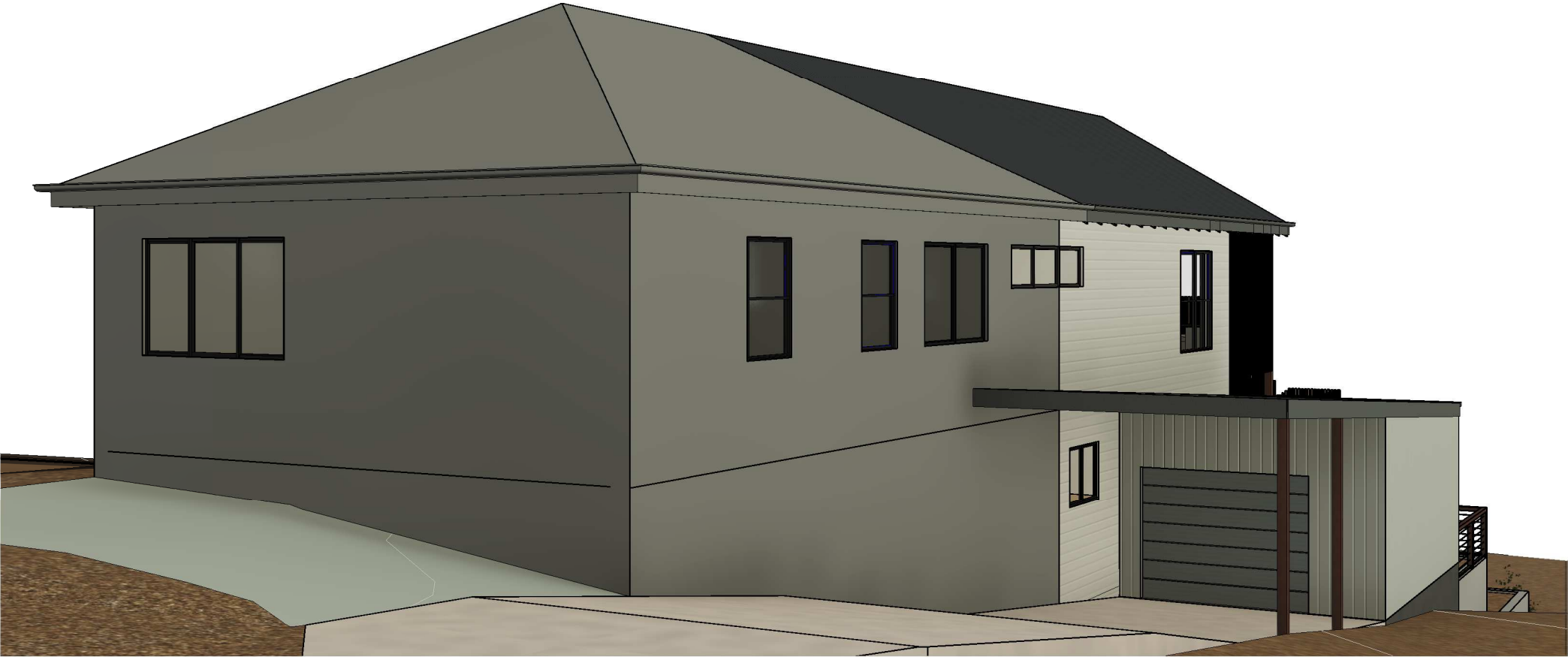
SCALE :

1:100

AT A3

31/03/2023
4:24:57 PM

SHEET
S09



Z MEXON
27 SECOND AVENUE,
RUTHERFORD, NSW 2320
M: 0400 308 717
E: zac.mexon@hotmail.com

Rev	Description	Date	Iss
5	ISSUED FOR CLIENT COMMENT/PRICING	28.6.22	ZTM
6	ISSUED FOR CHECKING	12.7.22	ZTM
7	ISSUED FOR COUNCIL LODGEMENT	22.9.22	ZTM
8	REVISED PLANS ISSUED	20.1.23	ZTM
9	REVISED PLANS ISSUED	2.2.23	ZTM
10	REVISED PLANS ISSUED	21.2.23	ZTM
11	REVISED PLANS ISSUED	3.4.23	ZTM

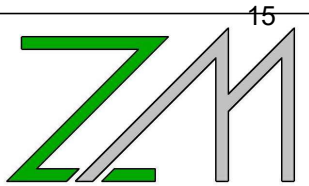
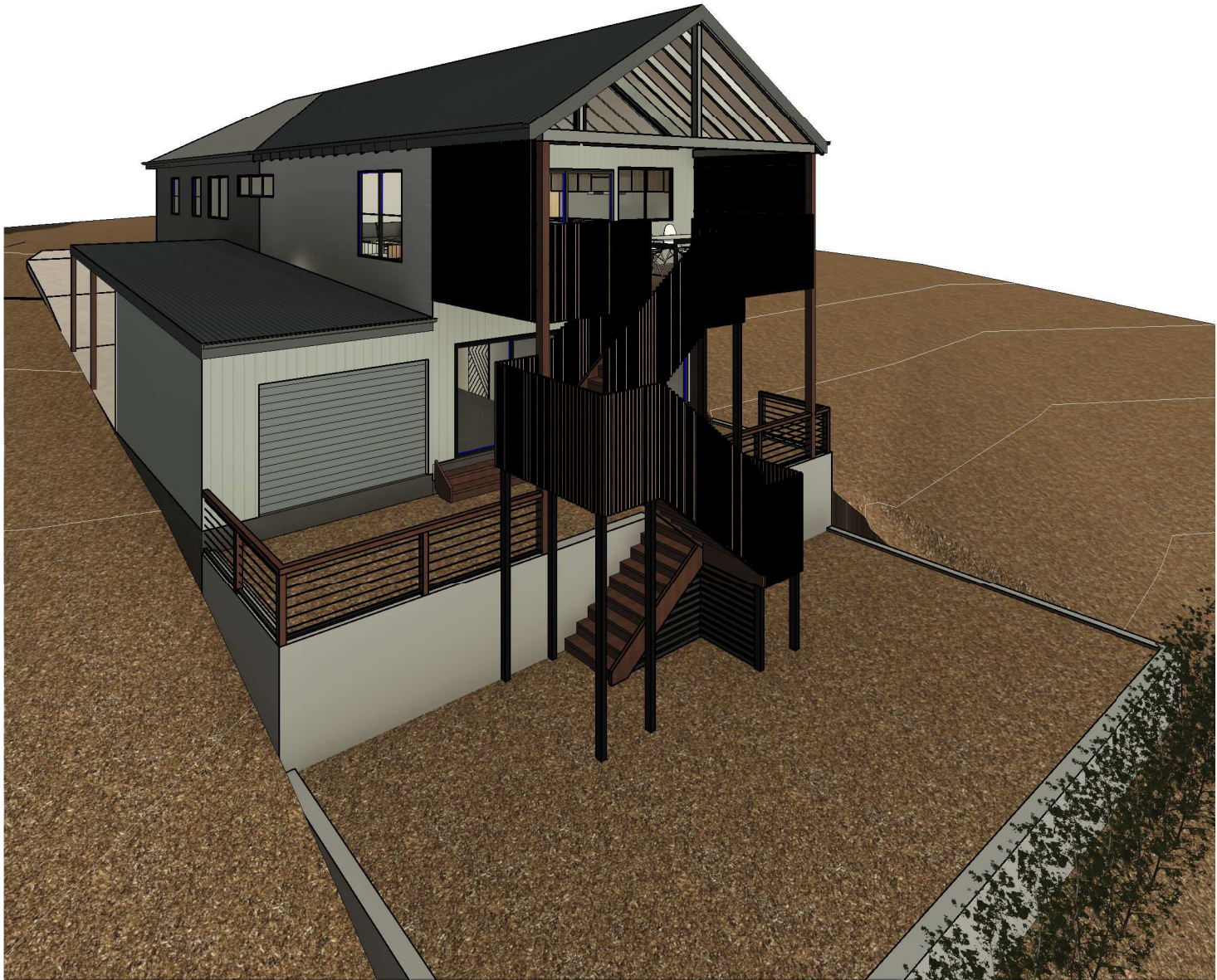
**PROPOSED
ALTERATIONS &
ADDITIONS
FOR J & K
EDWARDS**

**LOT 108, D.P.21085, 30
VILLA ST, WARATAH
WEST**

SHEET NAME
**PERSPECTIVES
- SH1**

DRAWN:	ZTM
CHECKED:	JKE
DATE:	3.4.23
SCALE :	
NTS	AT A3

**SHEET
S10**



Z MEXON

27 ECOND AVENUE,
RUTHERFORD NSW 2320

M: 0400 308 717
E: zac.mexon@hotmail.com

Rev	Description	Date	Iss
1	ISSUED FOR CLIENT COMMENT	5.12.21	ZTM
2	ISSUED FOR CLIENT COMMENT	10.3.22	ZTM
3	ISSUED FOR CLIENT COMMENT	13.4.22	ZTM
4	ISSUED FOR CLIENT COMMENT	20.5.22	ZTM
5	ISSUED FOR CLIENT COMMENT/PRICING	28.6.22	ZTM
6	ISSUED FOR CHECKING	12.7.22	ZTM
7	ISSUED FOR COUNCIL LODGEMENT	22.9.22	ZTM
8	REVISED PLANS ISSUED	20.1.23	ZTM
9	REVISED PLANS ISSUED	2.2.23	ZTM
10	REVISED PLANS ISSUED	21.2.23	ZTM
11	REVISED PLANS ISSUED	3.4.23	ZTM

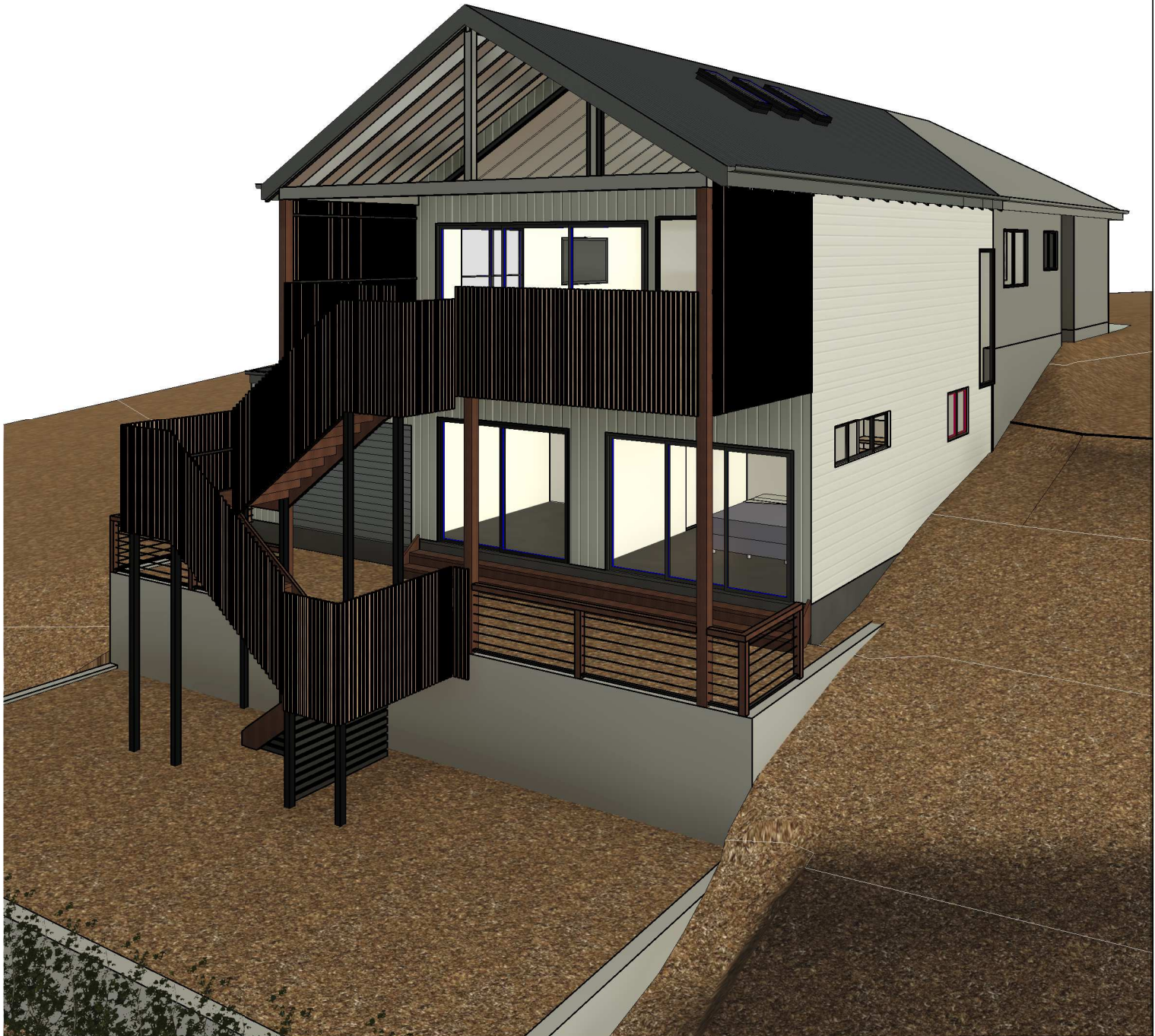
**PROPOSED
ALTERATIONS
& ADDITIONS**

LOT 108, D.P.21085,
30 VILLA ST,
WARATAH WEST

FOR J & K
EDWARDS

SHEET NAME
**PERSPECTIVES
- SH2**

DRAWN:	ZTM
CHECKED:	JKE
DATE:	3.4.23
SCALE :	
NTS	AT A3
31/03/2023 4:25:23 PM	SHEET S11





ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 30 VILLA ROAD WARATAH – DA2022-01085 -
DWELLING HOUSE - ALTERATIONS, ADDITIONS AND ANCILLARY
DEVELOPMENT (CARPORT, GARAGE AND RETAINING WALLS)
INCLUDING DEMOLITION**

7.1 Attachment B: Draft Schedule of Conditions

DISTRIBUTED UNDER SEPARATE COVER

Application No:	DA2022/01085
Land:	Lot 108 DP 21085
Property Address:	30 Villa Road Waratah West NSW 2298
Proposed Development:	Dwelling house - alterations, additions and ancillary development (carport, garage and retaining walls) including demolition

SCHEDULE 1

Approved Documentation

- The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No / Supporting Document	Reference / Version	Prepared by	Dated
Site Plan	S02/REV11	Agcad Pty Limited	3/04/2023
Bulk Earthworks Plan	S03/REV11	Agcad Pty Limited	3/04/2023
Driveway Profile	S03/REV11	Agcad Pty Limited	3/04/2023
Proposed Upper Floor Plan	S04/REV11	Agcad Pty Limited	3/04/2023
Proposed Lower Floor Plan	S05/REV11	Agcad Pty Limited	3/04/2023
Roof Plan	S06/REV11	Agcad Pty Limited	3/04/2023
North and East Elevations	S07/REV11	Agcad Pty Limited	3/04/2023
South and West Elevations	S08/REV11	Agcad Pty Limited	3/04/2023
Section Plan	S09/REV11	Agcad Pty Limited	3/04/2023
BASIX Certificate	A474904	Agcad Pty Limited	21/02/2023

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- In accordance with the City of Newcastle Section 7.12 Development Contributions Plan (the Plan), a monetary contribution of **\$3,500** shall be paid to the City of Newcastle for the purposes of the provision, extension or augmentation of transport and social infrastructure.
 - If the contribution is not paid within the financial quarter that this consent is granted, the contribution payable will be adjusted in accordance with the provisions of the Plan and the amount payable will be calculated on the basis of the contribution rates applicable at the time of payment.

- (b) Subject to prevailing Ministerial Directions, the monetary contribution shall be paid to the City of Newcastle
 - (i) prior to the issue of the Subdivision Certificate where the development is for subdivision; or
 - (iii) prior to the issue of the first Construction Certificate where the development is for building work.
 - (iii) prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or
 - (iv) prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.
- 3. The car parking and vehicular access are to be designed to comply with the relevant provisions of *AS/NZS 2890 Parking facilities*. Details are to be included in documentation for a Construction Certificate application.
- 4. All proposed driveways, parking bays, loading bays and vehicular turning areas are to be constructed with a basecourse of a depth to suit design traffic and be sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers. Details are to be included in documentation for a Construction Certificate application.
- 5. Roof water from the dwelling (excluding garage) is to be directed to a water tank with a minimum capacity of 4,000 litres, designed in accordance with Appendix 8 of Newcastle City Council's Technical Manual - Stormwater and Water Efficiency for Development, which supports relevant provisions of Newcastle Development Control Plan 2012.

The upper 50% of the capacity of the rainwater tank is to drain from the tank by way of a 5mm weep hole connected to the main overflow pipe for the tank. The tank is to be reticulated there from into outdoor taps and/or site irrigation systems.

A mains water top-up system is to be installed to maintain a minimum water depth of 100mm within the tank. Alternatively, an electronically activated mechanical valve device is to be installed to switch to mains water when the water level in the tank falls below the minimum depth. The water tank and plumbing are to be designed in accordance with the Plumbing Code of Australia (National Construction Code Volume 3). Details are to be included in documentation for a Construction Certificate application.

- 6. A separate application is to be lodged and consent obtained from the City of Newcastle for all works within the road reserve pursuant to Section 138 of the *Roads Act 1993*. The consent is to be obtained, or other satisfactory arrangements confirmed in writing from the Newcastle City Council, before the issue of a Construction Certificate.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

- 7. Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifying Authority at the stages of construction indicated:
 - a) When the roof has been completed, confirming that the building does not exceed the approved levels.
 - b) On completion of the retaining wall construction, verifying that the location and finished levels of the wall/walls is consistent with the approved plans.
- 8. A rigid and durable sign is to be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:
 - a) showing the name, address and telephone number of the Principal Certifier for building work and subdivision work, and

- b) showing the name, address and telephone number of the Principal Contractor, if any, for any building work and a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and
- c) stating that unauthorised entry to the work site is prohibited, and
- d) being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, and must be removed when the work has been completed.

Note: This does not apply in relation to building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

9. Building work must be carried out in accordance with the requirements of the Building Code of Australia.
10. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
11. If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil are to be provided.
12. All building materials, plant and equipment is to be placed on the site of the development, to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves, including the road reserve, is not permitted.
13. A separate application is to be lodged and consent obtained from the City of Newcastle for all works within the road reserve, pursuant to Section 138 of the *Roads Act 1993*, prior to the commencement of works.
14. All roof waters from the dwelling (other than garage/carport roof) are to be conveyed to the street gutter by way of a sealed pipe system, extending through the footway to Council's requirements, in accordance with Element 7.06 '*Stormwater*' of Newcastle Development Control Plan 2012.
15. The garage/carport roof and surface waters from the driveway are to be directed to a dispersion trench measuring 600mm x 600mm x 1m in length for every 25m² of new impervious area. The required dispersion trench is to be designed and constructed in accordance with Element 7.06 '*Stormwater*' of Newcastle Development Control Plan 2012. Details are to be included in documentation for a Construction Certificate application.
16. Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:
 - Monday to Friday, 7:00 am to 6:00 pm and
 - Saturday, 8:00 am to 1:00 pm.

No noise from construction/demolition work is to be generated on Sundays or public holidays.

17. Council's '*Prevent Pollution*' sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary, so it is clearly visible to the public, or at other locations on the site as otherwise directed by Council, for the duration of demolition and construction work.

The sign can be obtained by presenting your development application receipt at City of Newcastle's Customer Enquiry Centre, Wallsend Library or the Master Builders Association Newcastle.

18. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or construction in accordance with the requirements of *Managing Urban Stormwater: Soils and Construction* 4th Edition - Vol. 1 (the 'Blue Book') published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
19. The following waste management measures are to be implemented during construction:
 - a) waste container of at least one cubic metre capacity shall be provided, maintained and regularly serviced from the commencement of operations until the completion of the building for the reception and storage of waste generated by the construction of the building and associated waste
 - b) the waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets
 - c) appropriate provision is to be made to prevent wind blown rubbish leaving the site and
 - d) footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

Note: Fines may be issued for pollution/littering offences under the *Protection of the Environment Operations Act 1997* (NSW)

20. Toilet facilities are to be available or provided at the work site before works begin and be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet is to:

- a) Be a standard flushing toilet connected to a public sewer, or
 - b) Have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
 - c) Be a temporary chemical closet approved under the *Local Government Act 1993*.
21. Any waste containers used in association with the proposed demolition are to be located on the site where possible.

Note: Where this is not feasible, an application is to be made for the approval to position the container on the adjacent public road in accordance with the Council's adopted Building Waste Container Policy.

22. All excavations and backfilling are to be executed safely and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.

23. Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.
24. Where the proposed development involves the destruction or disturbance of any survey monuments, those monuments affected are to be relocated, at no cost to the City of Newcastle, by a Surveyor registered under the *Surveying and Spatial Information Act 2002*.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE, A SUBDIVISION CERTIFICATE OR A STRATA CERTIFICATE

27. All commitments listed in the relevant BASIX certificate for:
 - a. BASIX development,
 - b. BASIX optional development, if the development application was accompanied by a BASIX certificate.
 are to be satisfactorily completed prior to the issue of an Occupation Certificate.

Should there be any changes to the specifications of the dwelling that have implications for compliance with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be provided to the Newcastle City Council with Occupation Certificate documentation.

25. All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a condition that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to City of Newcastle's satisfaction prior to the completion of demolition work or prior to the issue of any Occupation Certificate in respect of development involving building work.
26. All privacy screening required by this consent as indicated on the approved plans, including the privacy screening indicated on the approved northern and western elevations is to be installed prior to the issue of an Occupation Certificate.
27. All works within the road reserve required by this consent are to be completed prior to the issue of a Occupation Certificate.

ADVISORY MATTERS

- Retaining walls not clearly noted on the approved plans or outside of the parameters of 'exempt development', as specified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, are to be subject to a separate development application. An application in this regard is to be approved prior to any works relating to such a retaining wall taking place.
- It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.
- Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of the City of Newcastle and any other relevant authorities. City of Newcastle and other service authorities should be contacted for specific requirements prior to the commencement of any works.
- Prior to commencing any building works, the following provisions of Division 6.2 of the

Environmental Planning and Assessment Act 1979 are to be complied with:

- a) A Construction Certificate is to be obtained; and
 - b) A Principal Certifier is to be appointed for the building works and Newcastle City Council is to be notified of the appointment; and
 - c) Newcastle City Council is to be given at least two days notice of the date intended for commencement of building works.
- Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifier appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Section 37 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* (NSW).
 - It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice (ie 'on-the-spot fine') or prosecution.
 - Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979*, which may be subject to a penalty infringement notice (ie 'on-the-spot fine') or prosecution.
 - A person who is aware or believes that he or she has discovered or located a relic not identified and considered in the supporting documents for this approval, in any circumstances (including where works are carried out in reliance on an exception under section 139(4)), excavation or disturbance must cease in the affected area(s) and the Heritage Council must be notified in accordance with section 146 of the *Heritage Act 1977*. Depending on the nature of the discovery, additional assessment and approval under the *Heritage Act 1977* may be required prior to the recommencement of excavation in the affected area(s).

Note: Heritage NSW can be contacted on 02 9873 8500 or heritagemailbox@environment.nsw.gov.au. A 'relic' is any deposit, object or material evidence that relates to the settlement of New South Wales, not being Aboriginal settlement, and is of State or local significance. It is an offence under the provisions of the *Heritage Act 1977 (NSW)* for a person to disturb or excavate any land upon which the person has discovered a relic except in accordance with a gazetted exception or an excavation permit issued by the Heritage Council of NSW.

- If any Aboriginal objects are discovered which are not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be notified in accordance with section 89A of the *National Parks and Wildlife Act 1974* (NPW Act). Depending on the nature of the discovery, additional assessment and approval under the NPW Act may be required prior to works continuing in the affected area(s). Aboriginal objects in NSW are protected under the NPW Act. Unless the objects are subject to a valid Aboriginal Heritage Impact Permit, work must not recommence until approval to do so has been provided by Heritage NSW.

Note: Heritage NSW can be contacted on 02 9873 8500 or heritagemailbox@environment.nsw.gov.au. An 'Aboriginal object' is any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains. It is an offence under the provisions of the *National Parks and Wildlife Act 1974* (NPW Act) for a person to harm or desecrate an

Aboriginal object, with defence from prosecution and certain activities exempt as prescribed under the NPW Act.

END OF CONDITIONS

SCHEDULE 2

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; *Newcastle Local Environmental Plan 2012* (NLEP) and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012 (NDCP).
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- Confirm and clarify the terms of Council's determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 30 VILLA ROAD WARATAH – DA2022-01085 -
DWELLING HOUSE - ALTERATIONS, ADDITIONS AND ANCILLARY
DEVELOPMENT (CARPORT, GARAGE AND RETAINING WALLS)
INCLUDING DEMOLITION**

7.1 Attachment C: Processing Chronology

DISTRIBUTED UNDER SEPARATE COVER

PROCESSING CHRONOLOGY

DA2022/01085 – 30 Villa Road Waratah West

29 September 2022	-	Application lodged.
7 to 21 October 2022	-	Application notified in accordance with CN's Community Participation Plan (CPP)
27 October 2022	-	Request for additional information issued to applicant.
1 November 2022	-	Additional information received from applicant.
22 November 2022	-	Request for additional information issued to applicant.
2 February 2023	-	Request for additional information issued to applicant.
7 March 2023	-	Additional information received from applicant.



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 30 VILLA ROAD WARATAH – DA2022-01085 -
DWELLING HOUSE - ALTERATIONS, ADDITIONS AND ANCILLARY
DEVELOPMENT (CARPORT, GARAGE AND RETAINING WALLS)
INCLUDING DEMOLITION**

7.1 Attachment D: Clause 4.6 written exception to development
standard

DISTRIBUTED UNDER SEPARATE COVER

VARIATION TO DEVELOPMENT STANDARD (CLAUSE 4.6) REPORT

CLAUSE 4.6 – HEIGHT

**30 Villa Road, Waratah West, NSW, 2298,
(LOT: 108 DP: 21085)**

Jordan Long Town Planner PO Box 107 Clarence Town, NSW, 2321		Phone: [REDACTED] Email: [REDACTED]		
PP Reference		J003713		
Prepared for (client)		Kate and Joel Edwards		
Document Versions and Control				
Variation to Development Standard, 30 Villa Rd, Waratah West, NSW, 2298				
Version	Date	PP ref	Author	Reviewed by
1	07/03/2023	Clause 4.6 – 30 Villa Rd, Waratah West, NSW, 2298	JL	CA
2	07/03/2023	Clause 4.6 – 30 Villa Rd, Waratah West, NSW, 2298	JL	Client
<p>Disclaimer:</p> <p>This document may only be used for the purpose for which it was commissioned and in accordance with the contract between Perception Planning and the client. The scope of services by defined in consultation with the client by time and budgetary constraints imposed by the client, and the availability of reports and other data of the site. Changes to information, legislation and schedule are made on an ongoing basis and readers should obtain up to date information.</p> <p>Perception Planning accepts no liability or responsibility whatsoever for or in respect of any use of or reliance upon this report and its supporting material by any third party. Information provided is not identified to be suitable for a site specific assessment or legal advice in relation to any matter. Unauthorised use of this report in any form is prohibited.</p>				

EXECUTIVE SUMMARY

Perception Planning Pty Ltd have prepared this letter as a result of a variation to a development standard, at 30 Villa Rd, Waratah West, NSW, 2298 (LOT: 108 DP: 21085) ('the site'). The proposed development results in a maximum building height above ground level of 10.280m, measuring 1.78m greater than the maximum building height applicable to the land specified under Clause 4.3 of the Newcastle Local Environmental Plan 2012 (The 'LEP'). The maximum building height applicable to the site is 8.5m, whereas the proposed development incorporates a maximum height of 10.280m, raising a 1.78m or 20.9% variation request.

This height exceedance has been caused by the severely sloping site, resulting in a small section of roof at the rear of the proposed development exceeding the height limit of 8.5m.

The area of exceedance is limited to roof area only, with no habitable space, windows, or doors being contained within this area.

The proposed development proposes alterations and additions to the existing dwelling on the site.

The proposed alterations and additions will consist of the following components:

Upper Floor

- New bedroom
- New hallway
- New Bathroom
- New study nook
- New staircase
- New kitchen, pantry, meals, and family areas
- New rear deck and staircase

Lower Floor

- New master bedroom, walk in wardrobe, and ensuite
- New laundry
- New powder room
- New linen cupboard
- New mudroom
- New rumpus room
- New garage and carport

Retaining Walls

Retaining walls to the North, South and East.

The proposed alterations and additions have been architecturally designed to minimise any adverse visual effects on the streetscape and neighbouring lots. The proposal results in no overshadowing or privacy conflicts for adjacent lots, and presents a considered built form that is consistent with the objectives of the DCP and LEP.

Due to the severely sloping site, an exceedance to the maximum building height has resulted.

The area of exceedance is limited to a small section of roof at the rear of the proposed development and will have no adverse effects on privacy or overshadowing for neighbouring lots.

Clause 4.6 of the LEP provides for an appropriate degree of flexibility in applying certain development standards such building height to achieve better planning outcomes. This report demonstrates that the proposed development should not be refused on the basis of a variation to the building height resulting from the development. In summary, through this Clause 4.6 analysis it has been found that:

- Strict adherence to the numerical height of building development standard would be unreasonable and unnecessary as required under the Five Part Test (*Wehbe vs Pittwater Council*);
- The proposed building height is appropriate when considering it in relation to the existing features of the site;
- The non-compliant portion of the development does not impact on the architectural merits of the site. The roof section which varies the building height requirement will not increase the overall bulk and scale of the existing and results in a high-quality architectural outcome on-site;
- The proposed development has taken measures to increase privacy for adjacent properties such as altering window locations and glazing properties.
- The proposed development integrates in with the desired contemporary built form of the area and will have no additional impact on the 'views' held by existing properties;
- Despite of the variation the proposed development will achieve the objectives of the development standard and the objectives of the relevant land use zone being R2 – Low Density Residential; and
- There are no identified environmental or social impacts as a result of the proposed variation.

It is our view that the development is consistent with the character of the locality and enables the objectives of the LEP to be satisfied.

TERMS AND ABBREVIATIONS

EP&A Act Environmental Planning & Assessment Act 1979EPI

Environmental Planning Instrument

DA Development Application

LGA Local Government Area

NLEP Newcastle Local Environmental Plan

SEPP State Environmental Planning Policy

SEE Statement of Environmental Effects

FIGURES AND TABLES

Table 1: Approved variations to Maximum Building Height Development Standard 8

TABLE OF CONTENTS

EXECUTIVE SUMMARY	3
TERMS AND ABBREVIATIONS	5
FIGURES AND TABLES.....	5
PROPOSED VARIATION TO DEVELOPMENT STANDARD.....	6
CONCLUSION.....	13

PROPOSED VARIATION TO DEVELOPMENT STANDARD

Clause 4.3 – Height of Buildings

The objectives of this clause are to ensure the scale of development makes a positive contribution towards the desired built form, consistent with the established centres hierarchy and allows for reasonable daylight access to all developments and the public domain.

The subject site has a height of buildings limit of 8.5m, whereas the proposed development incorporates a maximum height of 10.280m, resulting in a 20.9% variation request.

Given the exceedance to the height of building proposed, please refer to assessment under Clause 4.6 of the NLEP below.

Clause 4.6 – Exceptions to development standards

Clause 4.6 of the NLEP allows Council, where certain requirements are met, to exercise its discretion to grant development consent even though the proposed development contravenes a development standard. Therefore, it is considered the use of Clause 4.6 of the NLEP to enable consent for the proposed development is appropriate in this instance. This has been justified below.

Under clause 4.6, the following objectives apply:

- *To provide an appropriate degree of flexibility in applying certain development standards to a particular development; and*
- *To achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

As per Clause 4.6(3), development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that:

- *Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and*
- *There are sufficient environmental planning grounds to justify contravening the development standard.*

The following approach to providing a detailed request to vary the development standard for height of buildings has been informed by the following documents:

- Department of Planning & Infrastructure, 'Varying Development Standards: A Guide';
- Department of Planning & Environment, 'Circular PS 08-003, Variations to Development Standards'; and
- Independent Commission Against Corruption, 'Corruption Risks in NSW Development Approval Process: Position Paper'.

A relevant question is stated, and an appropriate response provided below.

a. What is the Environmental Planning Instrument (EPI) that applies to the land?

Newcastle Local Environmental Plan 2012

b. What is the zoning of the land?

R2 – Low Density Residential

c. What are the objectives of the zone?

The Land Use Table of the NLEP identifies the following objectives for the R2 zone:

- To provide for the housing needs of the community within a low-density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To accommodate a diversity of housing forms that respects the amenity, heritage and character of surrounding development and the quality of the environment.

d. What is the development standard being varied?

Height of Buildings

e. What clause is the development standard listed in the EPI?

Clause 4.3 – Height of Buildings

f. What are the objectives of the development standard?

Clause 4.3

(1) The objectives of this clause are as follows:

- (a) to ensure the scale of development makes a positive contribution towards the desired built form, consistent with the established centres hierarchy,
- (b) to allow reasonable daylight access to all developments and the public domain.

g. What is the numeric value of the development standard in the EPI?

Maximum Building Height – 8.5m above ground level

h. What is the proposed numeric value of the development standard in your DA?

Proposed maximum building height above ground level – 10.280m.

i. What is the percentage variation (between your proposal and the EPI)?

Building Height Percentage Variation
$10.28 - 8.5 = 1.78$
$1.78 / 8.5 = 0.209$
$0.209 \times 100 = \mathbf{20.9\%}$

j. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

In *Wehbe vs Pittwater Council (2007) LEC 827*, it was determined that the applicant was to satisfy the consent authority that "the objection was well founded" and compliance with the development standard was unreasonable or unnecessary in the circumstances of the case. In this instance, strict compliance with the standard is considered unreasonable in that the impact created by the proposed development will be minor and insignificant to neighbouring development. The proposed development does not contravene the objectives of the zone and is considered a good use of the site, as it provides contemporary designed low density residential development which provides for the housing needs of the community whilst also protecting the amenity of residents and recognising the desirable elements of the existing streetscape and built form.

While the proposed development utilises a larger footprint than the existing dwelling, it maintains the visual amenity of the site without negatively impacting on neighbouring lots in terms of visual privacy or overshadowing. The density of the proposed development is considered to be consistent with the established development pattern within the Waratah West area and immediate locality and will not be out of character with the built form or scale evident.

A review of the Newcastle City Council Register of Variations to Development Standards (2022 only) was undertaken to determine whether the development standard has been abandoned or destroyed by previous approvals. As evidenced by the **Table 1** below, multiple properties in the same LGA have obtained approvals for development inclusive of departures to the maximum building height development standard.

Table 1: Approved variations to Maximum Building Height Development Standard

DA	Determination Date	Address	Justification of variation	Development Standard	Variation approved
DA2021/01360	17/02/2022	51 Macquarie St, Merewether	Achieves underlying objectives of height control	4.3 Building Height	11.79%
DA2021/01437	10/02/2022	223 Mitchell St, Stockton	Not have unreasonable	4.3 Building Height	8.8%

			impact on amenity of area		
DA2021/01452	09/02/2022	59 Scenic Drive, Merewether	Compatible with streetscape (bulk, scale and mass)	4.3 Building Height	9.4%
DA2022/00279	05/07/2022	34 Eames Avenue, Stockton	Achieves underlying objectives of height control	4.3 Building Height	10%
DA2021/01648	09/12/2022	20 Summer Place, Merewether Heights	Not have unreasonable impact on amenity of the area	4.3 Building Height	11.7%
DA2022/00798	02/12/2022	220 Scenic Drive, Merewether Heights	Not have unreasonable impact on amenity of the area	4.3 Building Height	9.7%
DA2022/00557	11/10/2022	31 Carrington Parade, New Lambton	Not have unreasonable impact on amenity of the area	4.3 Building Height	9.18%
DA2020/01382	22/07/2021	7 Fort Drive, Newcastle East	Achieves underlying objectives of height control	4.3 Building Height	20%
DA2020/00758	14/12/2020	59 Scenic Drive, Merewether	Not have unreasonable impact on amenity of area	4.3 Building Height	14.3%
DA2020/00717	02/12/2020	5 Hillview Crescent, The Hill	Not have unreasonable impact on amenity of area	4.3 Building Height	17%
DA2020/00123	24/08/2020	15 Clyde St, Stockton	Not have unreasonable impact on amenity of area	4.3 Building Height	11.1%

From review of the above, it is clear that precedence has been set in the area with similar development for greater building heights than the prescribed standard.

This seems to be due to the natural topography of these areas in the Newcastle region, requiring developments of varying heights, resulting in maximum height variations for certain parts of these developments.

The proposed development, which continues the roofline of the existing dwelling, enables the effective use of the site to meet each of the occupants needs without compromising views or amenity of the site's occupants or those of neighbouring properties. The following elements have been considered during the design stage:

- Re-positioning and design of windows to ensure privacy between properties. Highlight windows with high sills and frosted glazing has been utilised to avoid any potential privacy conflicts.
- The implementation of compliant setbacks and considered positioning of windows and habitable rooms to avoid any privacy issues with adjacent lots.

k. How would strict compliance hinder the attainment of the objects of the Environmental Planning and Assessment Act 1979?

It was also determined in *Wehbe v Pittwater Council* that the consent authority must be of the opinion that granting consent to the development application would be consistent with the policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 1.3(a), (b) and (c) of the *Environmental Planning & Assessment Act 1979*.

The objects of the Act and an appropriate response is provided as follows:

- a) *To promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*

The proposed development will promote the social and economic welfare of the local community through the provision of suitable liveable housing at an appropriate density located within close proximity to commercial zones and strategic centres, accommodating the facilities supporting residential living. Waratah West incorporates good access to public transport to access commercial zones and strategic centres and also includes small coffee, convenience, and restaurant services.

Strict compliance with this development standard is not seen to facilitate the conservation of the State's natural and other resources. By impeding the proposed development, the efficient utilisation of the subject site will not occur.

- b) *To facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*

Strict compliance does not assist with the facilitation of ecologically sustainable development. The proposed development provides numerous economic and social benefits for the community as a result of the construction and provision of housing. The maximum height variation proposed does not compromise the natural environment in which the site is located and is appropriate in the context of surrounding built form.

c) To promote the orderly and economic use and development of land,

The existing dwelling on-site is dated and does not respond to the existing and desired contemporary character of the area. The proposed development provides a more attractive and efficient use of the site whilst avoiding the complete demolition of the existing structure. This is a desirable outcome within the area and promotes the orderly and economic use and development of the land within a low-density environment without negatively impacting on the natural and scenic views held by surrounding properties.

d) To promote the delivery and maintenance of affordable housing, the development is not proposed to be affordable housing; however, strict compliance does contribute to housing affordability.

The proposal does not seek to provide affordable housing as defined under the State Environmental Planning Policy No 70 – Affordable Housing.

e) To protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,

Strict compliance with the building height limit will not impact site specific environmental outcomes.

f) To promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),

Strict compliance with the building height limit will not impact site specific cultural heritage outcomes. The site is not identified as containing any heritage items or places and is not located within a Heritage Conservation Zone. Strict compliance places increased pressure on the urban periphery where cultural heritage can be preserved.

g) To promote good design and amenity of the built environment,

Strict compliance will hinder the attainment of improved design and amenity of the built environment. The proposed development remains consistent with the desired built form of the area and ensures reasonable daylight access and privacy is provided to both the dwelling and surrounding properties. The proposal has been carefully designed and is consistent with urban design principles. The proposed development has made adjustments to window locations and design in order to increase privacy for adjacent properties.

- h) To promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*

Strict compliance has no impact on proper construction.

- i) To promote the sharing of the responsibility for environmental planning and assessment between the different levels of government to the State,*

Strict compliance has no impact on responsibility between levels of government.

- j) To provide increased opportunity for community participation in environmental planning and assessment.*

Strict compliance has no impact on community participation. The development is anticipated to be publicly notified, with any submissions received to be appropriately addressed by the Consent Authority.

l. Is the development standard a performance-based control? Give details?

No. The development standard is numerical.

m. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details?

The development has demonstrated compliance with other primary design controls, including privacy, overshadowing and setback controls, showing that the height exceedance does not result in negative impacts when considered in the context of the site and local area. The proposed development incorporates architectural features which results in an articulated design that minimises the building bulk and positively contributes to the locality. The development has been identified to be consistent with the relevant objectives, which provides sufficient environmental planning grounds under the NLEP (Clause 4.3) for a variation to the numerical development standard.

n. Is the Variation in the Public Interest?

The proposed variation results from the desire to provide low density development, compliant with the DCP controls and objectives of the R2 zone, which discusses the need to provide for the housing needs of the community and to enhance the existing residential amenity and character. The potential impacts on amenity due to overshadowing or privacy are not attributable to any exceedance in maximum building height due to the considered positioning, design, and orientation of the proposed development, in combination with its compliant built form. The exceedance in maximum height is due to the severely sloping site and the ridgeline of the existing dwelling being continued.

The development will provide modern and efficient architectural design consistent with the urban planning objectives for this area. The approval of this variation will facilitate the proposed development which is considered to be in the interest of the local and greater community of Waratah West.

o. Public Benefit of Maintaining the Standard

There appears to be little public benefit in maintaining the standard. The maintenance of the standard will likely result in a reduction of suitable housing able to be provided by the development.

This variation sought to Clause 4.3 of the NLEP is considered acceptable in this particular instance as it will allow for a development that contributes to the diversity of housing provided whilst maintaining positive visual and physical impacts.

CONCLUSION

In summary, through this Clause 4.6 analysis it has been found that;

- Strict adherence to the numerical building height development standard would be unreasonable and unnecessary as required under the Five Part Test (*Wehbe vs Pittwater Council*);
- The proposed maximum building height is appropriate when considering it in relation to the existing context of the site;
- The non-compliant portions of the development do not impact on the architectural merits of the development. The proposed building height will not result in unreasonable bulk and scale of the proposed development and results in a high-quality architectural outcome on-site.
- The proposed development integrates in with the desired contemporary built form of the area and will have no additional privacy or overshadowing impacts on existing properties;
- Despite the minor variation, the proposed development will achieve the objectives of the development standard and the objectives of the relevant land use zone being R2 – Low Density Residential; and
- There are no identified environmental or social impacts as a result of the proposed variation.
- It is our view that the development is consistent with the character of the locality and enables the objectives of the NLEP to be satisfied.

Whilst the maximum height proposed is higher than the maximum height applicable to the site from a quantitative perspective, when reviewing the proposal from a practical or qualitative perspective, the increase in height is as a result of the severely sloping site and does not present any adverse effects for neighbouring properties.

Considering the minimal impact of the variation which provides a substantial increase in practicality, the variation is considered to have positive results for the site and surrounding area.

In response to the above matters and identified response, justification has been provided for the development standard variation.

Thank you for taking the time to review this information. If you have any questions, please contact me at

Kind Regards,



JORDAN LONG
Town Planner
BArch (UoN)

**PERCEPTION
PLANNING**

www.perceptionplanning.com.au

Find us on    

Where town planning is our sixth sense

Town Planning (DAs and Planning Proposals) Environmental Assessment Business Solutions	Negotiation / Facilitation / Mediation Project Management Training Bushfire Assessments
---	--



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/23 - 38 POWER STREET ISLINGTON - DA2022/01239 -
SEMI-DETACHED DWELLINGS - INCLUDING DEMOLITION OF
EXISTING DWELLING AND BOUNDARY ADJUSTMENT**

7.2	Attachment A:	Submitted Plans
7.2	Attachment B:	Draft Schedule of Conditions
7.2	Attachment C:	Processing Chronology
7.2	Attachment D:	Clause 4.6 written exception to development standard

DISTRIBUTED UNDER SEPARATE COVER



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/23 - 38 POWER STREET ISLINGTON - DA2022/01239 -
SEMI-DETACHED DWELLINGS - INCLUDING DEMOLITION OF
EXISTING DWELLING AND BOUNDARY ADJUSTMENT**

ITEM 7.2 **Attachment A:** Submitted Plans

DISTRIBUTED UNDER SEPARATE COVER

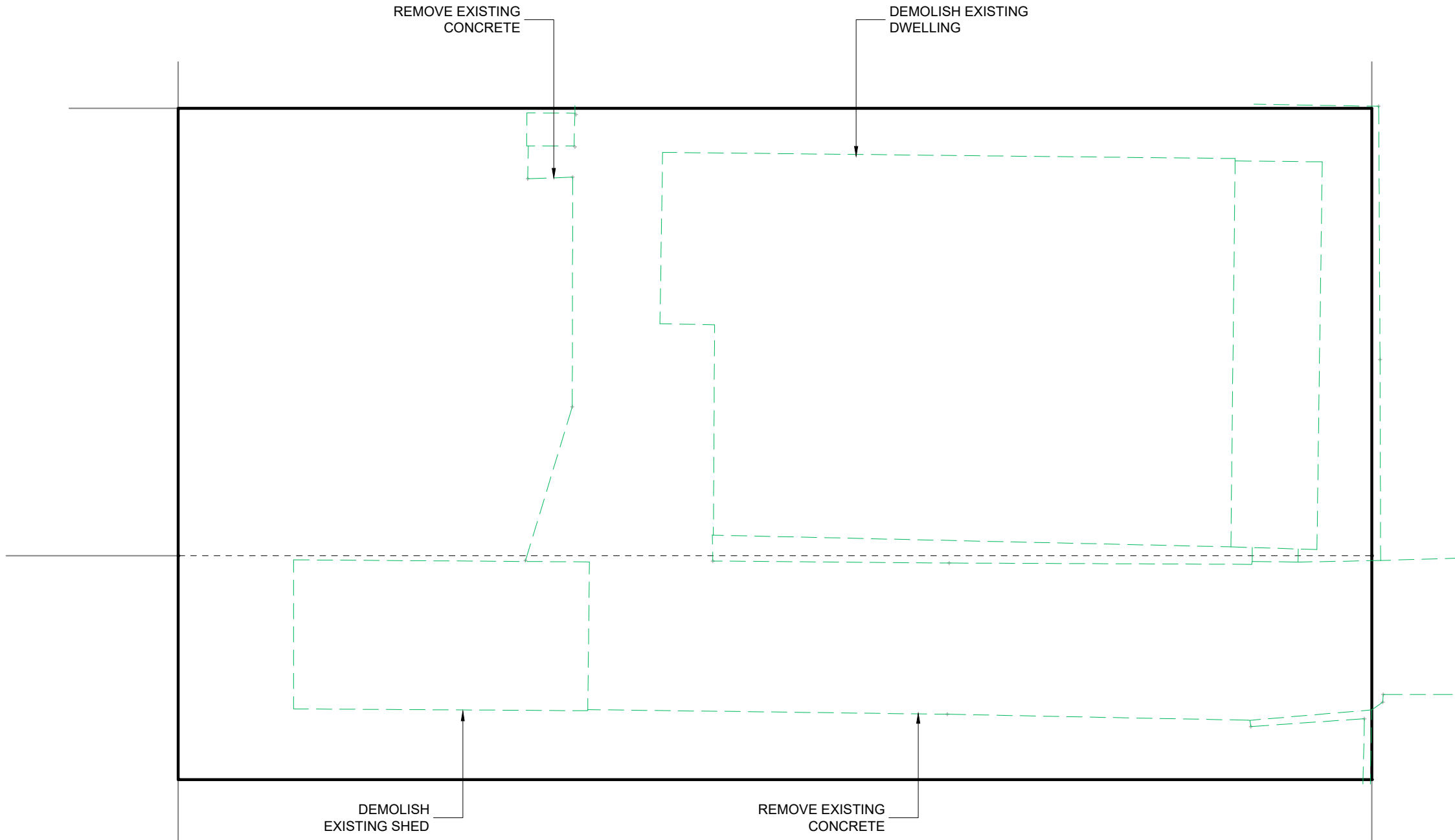
INDEX

A-DA001	COVER SHEET
A-DA002	PRELIMINARY SUBDIVISION PLAN
A-DA003	DEMOLITION PLAN
A-DA004	SITE PLAN
A-DA005	GROUND FLOOR PLAN
A-DA006	UPPER FLOOR PLAN
A-DA007	ELEVATIONS
A-DA008	ELEVATIONS
A-DA009	TYPICAL SECTION
A-DA010	SHADOW DIAGRAMS



AERIAL VIEW

CALCULATIONS						
EXISTING LOT AREAS:	LOT 1	111.50m²	LOT 1		LOT 22	
	LOT 22	223.00m²	LOWER LIVING AREA	81.24m²	LOWER LIVING AREA	81.24m²
PROPOSED LOT AREAS:	LOT 1	167.24m²	GARAGE AREA	21.77m²	GARAGE AREA	21.77m²
	LOT 22	167.26m²	PORCH AREA	2.60m²	PORCH AREA	2.60m²
LANDSCAPE AREA:	LOT 1	16.97m²	PERGOLA AREA	9.60m²	PERGOLA AREA	9.60m²
	LOT 22	16.97m²	UPPER LIVING AREA	88.51m²	UPPER LIVING AREA	88.51m²
GFA - LOWER FLOOR:	LOT 1	69.03m²	BALCONY AREA	4.91m²	BALCONY AREA	4.91m²
GFA - UPPER FLOOR:	LOT 1	78.55m²	TOTAL AREA	208.63m²	TOTAL AREA	208.63m²
GFA TOTAL:	LOT 1	147.58m²				
GFA - LOWER FLOOR:	LOT 22	69.03m²				
GFA - UPPER FLOOR:	LOT 22	78.55m²				
GFA TOTAL:	LOT 22	147.58m²				
FLOOR SPACE RATIO:	LOT 1	0.89				
FLOOR SPACE RATIO:	LOT 22	0.89				



DEMOLITION PLAN
SCALE 1 : 100 @ A3

THESE PLANS TO BE READ IN CONJUNCTION WITH ALL
SUPPORTING CONSULTANT'S CURRENT DOCUMENTATION

GENERAL NOTES	
<ul style="list-style-type: none">• ALL NEW WORKS IS TO COMPLY WITH THE CURRENT AUSTRALIAN STANDARDS AT TIME OF CONSTRUCTION• BRACING, TIE DOWN, DRAINAGE & BEAMS TO STRUCTURAL ENGINEERS DESIGN• ALL NEW STORMWATER DRAINAGE TO BE CONNECTED TO EXISTING DRAINAGE SYSTEM• SELECTED TERMITE SYSTEM TO COMPLY WITH AS 3660.1-2000 TO BE PROVIDED TO ALL NEW BUILDING WORK & IS TO BE INSTALLED TO MANUFACTURERS DETAILS WITH ANNUAL TREATMENTS AS REQUIRED	<ul style="list-style-type: none">• LEVELS ARE TO BE CONFIRMED ONSITE PRIOR TO CONSTRUCTION• ALL DIMENSIONS & LEVELS TO BE CONFIRMED ON SITE BY BUILDER PRIOR TO START OF WORK• SITE IS TO BE SET OUT BY A REGISTERED SURVEYOR• THESE DRAWINGS ARE TO BE READ IN CONJUNCTION WITH ALL RELEVANT DOCUMENTS• WORK TO FIGURED DIMENSIONS ONLY. DO NOT SCALE• SMOKE DETECTORS TO BE HARDWIRED TO BCA REQUIREMENTS• SEDIMENTATION FENCING TO BE ERECTED AND IN PLACE AT CONSTRUCTION STAGE

ALL PLANS PREPARED BY SNL BUILDING CONSTRUCTIONS PTY LTD ARE PROTECTED BY CURRENT COPYRIGHT LAW UNDER THE COPYRIGHT ACT 1968 (CTH) AND MORAL RIGHTS UNDER THE COPYRIGHT AMENDMENT (MORAL RIGHTS) ACTS 2000 (CTH). REPRODUCTION OF THESE PLANS IN ANY FORM CAN RESULT IN LEGAL ACTION.




PROJECT :
REALIGNMENT OF BOUNDARY & 2 x DWELLINGS
ADDRESS :
LOT 1, DP104831 & LOT 22, SEC B, DP2331
38 POWER STREET, ISLINGTON
CLIENT :
J RANIERI

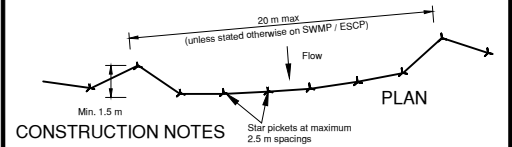
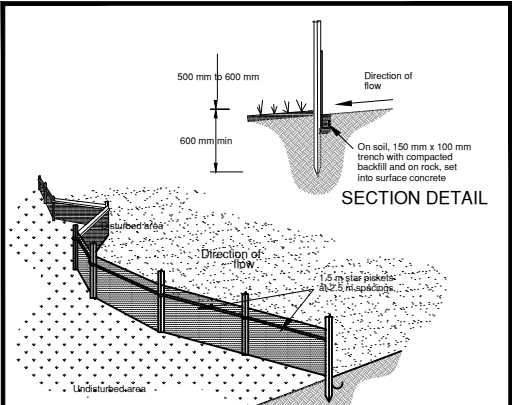
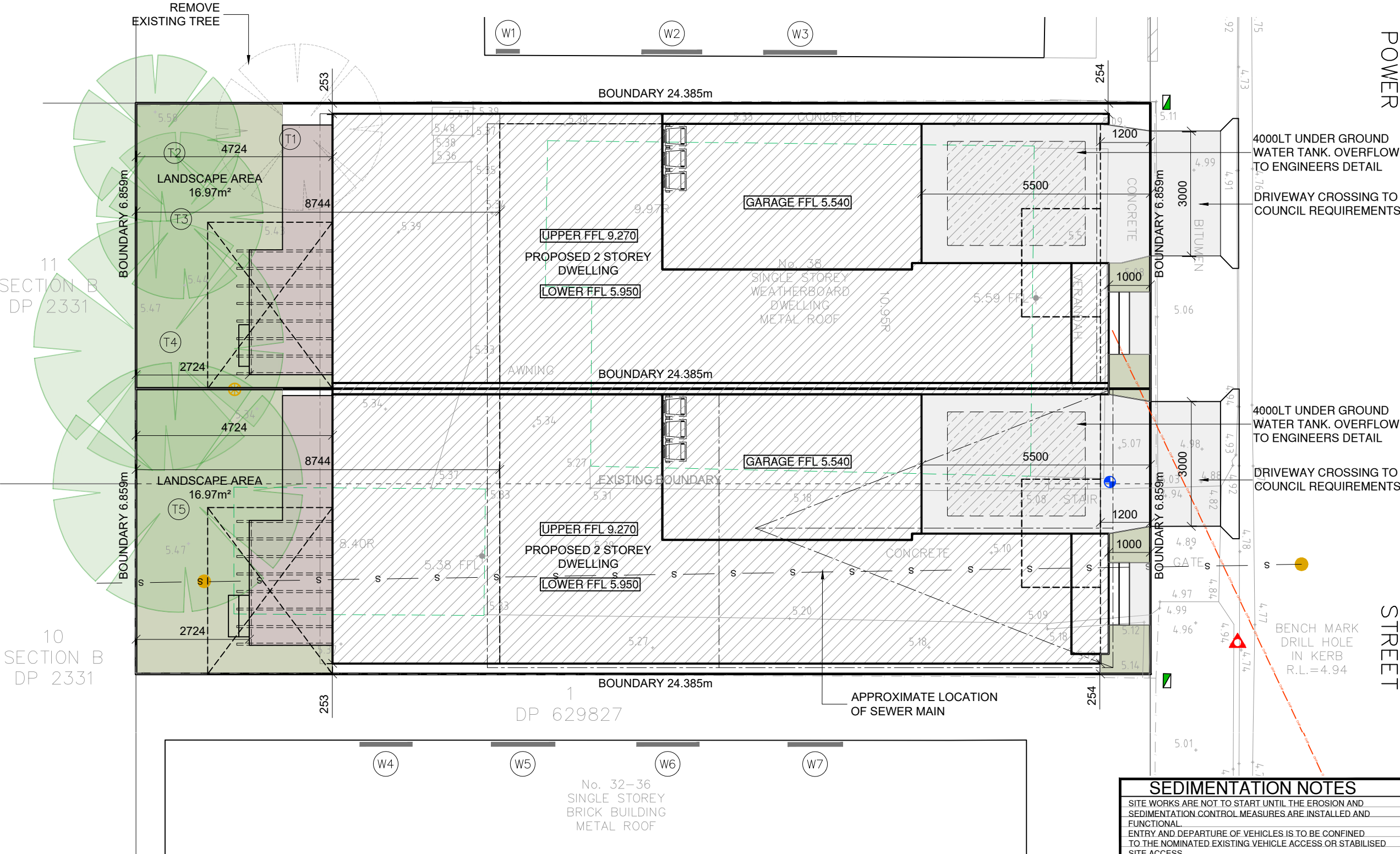
REV	COMMENTS	DATE
1	Preliminary sketch issued for review	31/08/22
2	Revised sketch	01/09/22
3	Revised sketch	05/09/22
4	Preliminary DA - Issued to consultants	27/09/22
5	Issued for DA	04/10/22
6	Issued for DA - GFA Calculations included	21/10/22
7	Shadow diagrams added	14/11/22
8	Amended floor level & construction	24/01/23

DWG NO

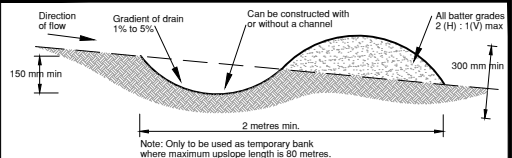
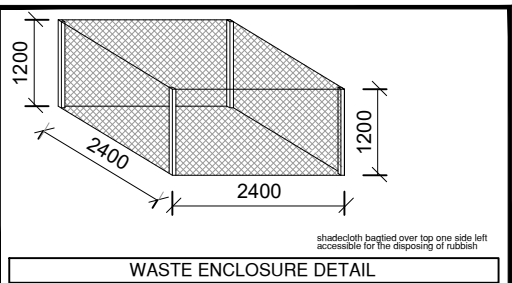
A-DA003

DEMOLITION PLAN

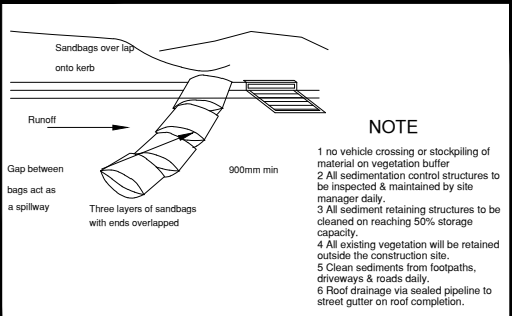




- CONSTRUCTION NOTES**
- Construct sediment fences as close as possible to being parallel to the contours of the site, but with small returns as shown in the drawing to limit the catchment area of any one section. The catchment area should be small enough to limit water flow of concentrated at one point to 50 litres per second in the design storm event, usually the 10 year event.
 - Cut a 150-mm deep trench along the upslope line of the fence for the bottom of the fabric to be entrenched.
 - Drive 1.5 metre long star pickets into ground at 2.5 metre intervals (max) at the downslope EDGE of the trench. Ensure any star pickets are fitted with safety caps.
 - Fix self-supporting geotextile to the upslope side of the posts ensuring it goes to the base of the textile with wire ties or as recommended by the manufacturer. Only use geotextile specifically produced for sediment fencing, the use of shade cloth for this purpose is not satisfactory.
 - Join sections of fabric at a support post with a 150-mm overlap.
 - Backfill the trench over the base of the fabric and compact it thoroughly over the geotextile.
- SEDIMENT FENCE** SD 6-8
Ref: Landcom (2004) Managing Urban Stormwater: Soil & Construction, 4th Edition



- CONSTRUCTION NOTES**
- Build with gradients between 1 percent and 5 percent.
 - Avoid removing trees and shrubs if possible - work around them.
 - Ensure the structures are free of projections or other irregularities that could impede water flow.
 - Build the drains with circular, parabolic or trapezoidal cross sections, not V shaped.
 - Ensure the banks are properly compacted to prevent failure.
 - Complete permanent or temporary stabilisation within 10 days of construction.



WINDOW SCHEDULE

WINDOW	HEAD	SILL
W1	7.85	7.40
W2	7.99	6.63
W3	8.00	6.59
W4	9.27	7.81
W5	9.54	7.86
W6	9.50	7.84
W7	9.52	7.84

TREE TABLE

TREE NO.	SPREAD	TRUNK	HEIGHT
T1	4	0.2	4
T2	4	0.3	2
T3	4	0.3	2
T4	6	0.2	6
T5	6	0.2	4

SITE PLAN
SCALE 1 : 100 @ A3

THESE PLANS TO BE READ IN CONJUNCTION WITH ALL SUPPORTING CONSULTANT'S CURRENT DOCUMENTATION

- GENERAL NOTES**
- ALL NEW WORKS IS TO COMPLY WITH THE CURRENT AUSTRALIAN STANDARDS AT TIME OF CONSTRUCTION
 - BRACING, TIE DOWN, DRAINAGE & BEAMS TO BE INSTALLED PRIOR TO START OF WORK
 - ALL NEW STORMWATER DRAINAGE TO BE CONNECTED TO EXISTING DRAINAGE SYSTEM
 - SELECTED TERMITE SYSTEM TO COMPLY WITH AS 3680.1-2000 TO BE PROVIDED TO ALL NEW BUILDING WORK & IS TO BE INSTALLED TO MANUFACTURERS DETAILS WITH ANNUAL TREATMENTS AS REQUIRED
 - LEVELS ARE TO BE CONFIRMED ONSITE PRIOR TO CONSTRUCTION
 - ALL DIMENSIONS & LEVELS TO BE CONFIRMED ON SITE BY BUILDER PRIOR TO START OF WORK
 - SITE IS TO BE SET OUT BY A REGISTERED SURVEYOR WITH ALL RELEVANT DOCUMENTS
 - THESE DRAWINGS ARE TO BE READ IN CONJUNCTION WITH ALL RELEVANT DOCUMENTS
 - WORK TO FIGURED DIMENSIONS ONLY. DO NOT SCALE
 - SMOKE DETECTORS TO BE HARDWIRED TO BCA REQUIREMENTS
 - SEDIMENTATION FENCING TO BE ERECTED AND IN PLACE AT CONSTRUCTION STAGE

ALL PLANS PREPARED BY SNL BUILDING CONSTRUCTIONS PTY LTD ARE PROTECTED BY CURRENT COPYRIGHT ACT 1968 (CTH) AND MORAL RIGHTS UNDER THE COPYRIGHT AMENDMENT (MORAL RIGHTS) ACTS 2000 (CTH). REPRODUCTION OF THESE PLANS IN ANY FORM CAN RESULT IN LEGAL ACTION.

SNL BUILDING

MEMBER you're in good hands

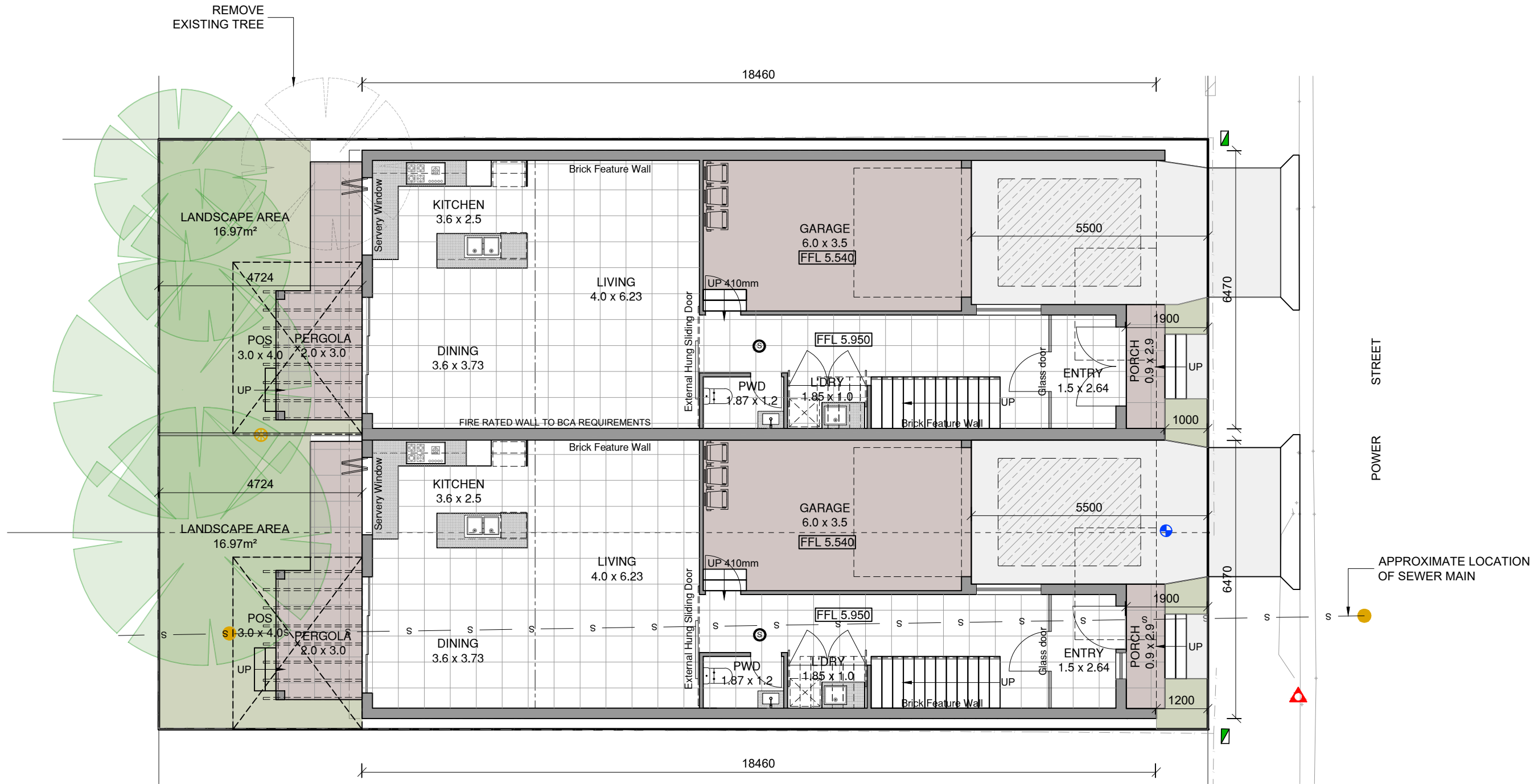
ACCREDITED bdaa GreenSmart PROFESSIONAL

PROJECT :
REALIGNMENT OF BOUNDARY & 2 x DWELLINGS
ADDRESS :
LOT 1, DP104831 & LOT 22, SEC B, DP2331
38 POWER STREET, ISLINGTON
CLIENT :
J RANIERI

REV	COMMENTS
1	Preliminary sketch issued for review
2	Revised sketch
3	Revised sketch
4	Preliminary DA - Issued to consultants
5	Issued for DA
6	Issued for DA - GFA Calculations included
7	Shadow diagrams added
8	Amended floor level & construction

DATE	DWG NO	SITE PLAN
31/08/22	A-DA004	
01/09/22		
05/09/22		
27/09/22		
04/10/22		
21/10/22		
14/11/22		
24/01/23		





GROUND FLOOR PLAN
SCALE 1 : 100 @ A3

THESE PLANS TO BE READ IN CONJUNCTION WITH ALL
SUPPORTING CONSULTANT'S CURRENT DOCUMENTATION

GENERAL NOTES

- ALL NEW WORKS IS TO COMPLY WITH THE CURRENT AUSTRALIAN STANDARDS AT TIME OF CONSTRUCTION
- BRACING, TIE DOWN, DRAINAGE & BEAMS TO STRUCTURAL ENGINEERS DESIGN
- ALL NEW STORMWATER DRAINAGE TO BE CONNECTED TO EXISTING DRAINAGE SYSTEM
- SELECTED TERMITE SYSTEM TO COMPLY WITH AS 3660.1:2000 TO BE PROVIDED TO ALL NEW BUILDING WORK & IS TO BE INSTALLED TO MANUFACTURERS DETAILS WITH ANNUAL TREATMENTS AS REQUIRED
- LEVELS ARE TO BE CONFIRMED ONSITE PRIOR TO CONSTRUCTION
- ALL DIMENSIONS & LEVELS TO BE CONFIRMED ON SITE BY BUILDER PRIOR TO START OF WORK
- SITE IS TO BE SET OUT BY A REGISTERED SURVEYOR
- THESE DRAWINGS ARE TO BE READ IN CONJUNCTION WITH ALL RELEVANT DOCUMENTS
- WORK TO FIGURED DIMENSIONS ONLY. DO NOT SCALE
- SMOKE DETECTORS TO BE HARDWIRED TO BCA REQUIREMENTS
- SEDIMENTATION FENCING TO BE ERECTED AND IN PLACE AT CONSTRUCTION STAGE

ALL PLANS PREPARED BY SNL BUILDING CONSTRUCTIONS PTY LTD ARE PROTECTED BY CURRENT COPYRIGHT LAW UNDER THE COPYRIGHT ACT 1968 (CTH) AND MORAL RIGHTS UNDER THE COPYRIGHT AMENDMENT (MORAL RIGHTS) ACTS 2000 (CTH). REPRODUCTION OF THESE PLANS IN ANY FORM CAN RESULT IN LEGAL ACTION.



PROJECT :
REALIGNMENT OF BOUNDARY & 2 x DWELLINGS
ADDRESS :
LOT 1, DP104831 & LOT 22, SEC B, DP2331
38 POWER STREET, ISLINGTON
CLIENT :
J RANIERI

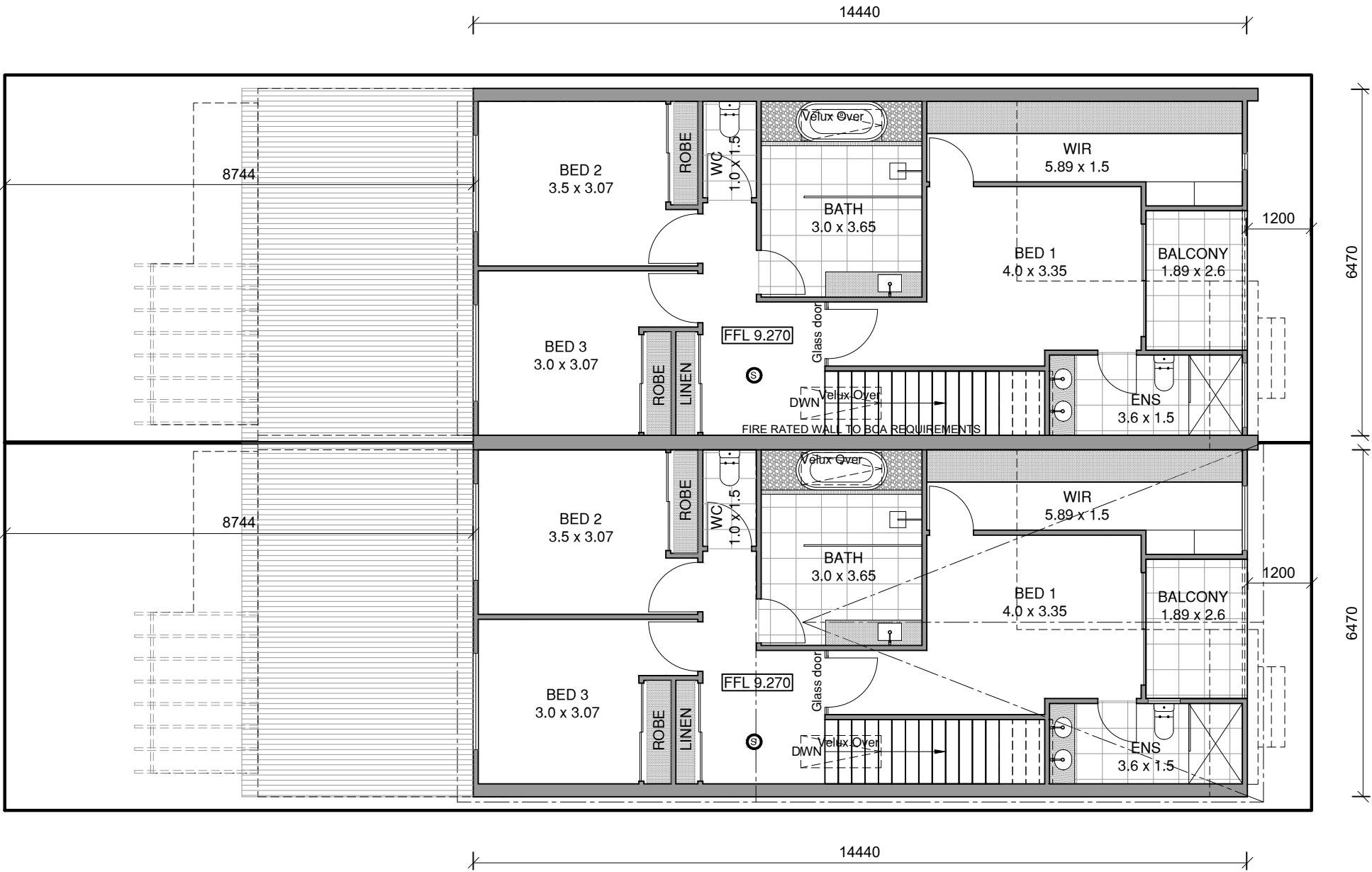
REV	COMMENTS	DATE
1	Preliminary sketch issued for review	31/08/22
2	Revised sketch	01/09/22
3	Revised sketch	05/09/22
4	Preliminary DA - Issued to consultants	27/09/22
5	Issued for DA	04/10/22
6	Issued for DA - GFA Calculations included	21/10/22
7	Shadow diagrams added	14/11/22
8	Amended floor level & construction	24/01/23

LEGEND

- Ⓢ SMOKE ALARM TO BCA REQUIREMENTS



DWG NO
A-DA005
GROUND FLOOR PLAN



UPPER FLOOR PLAN
SCALE 1 : 100 @ A3

THESE PLANS TO BE READ IN CONJUNCTION WITH ALL
SUPPORTING CONSULTANT'S CURRENT DOCUMENTATION

GENERAL NOTES

- ALL NEW WORKS IS TO COMPLY WITH THE CURRENT AUSTRALIAN STANDARDS AT TIME OF CONSTRUCTION
- BRACING, TIE DOWN, DRAINAGE & BEAMS TO STRUCTURAL ENGINEERS DESIGN
- ALL NEW STORMWATER DRAINAGE TO BE CONNECTED TO EXISTING DRAINAGE SYSTEM
- SELECTED TERMITE SYSTEM TO COMPLY WITH AS 3660.1:2000 TO BE PROVIDED TO ALL NEW BUILDING WORK & IS TO BE INSTALLED TO MANUFACTURERS DETAILS WITH ANNUAL TREATMENTS AS REQUIRED
- LEVELS ARE TO BE CONFIRMED ONSITE PRIOR TO CONSTRUCTION
- ALL DIMENSIONS & LEVELS TO BE CONFIRMED ON SITE BY BUILDER PRIOR TO START OF WORK
- SITE IS TO BE SET OUT BY A REGISTERED SURVEYOR
- THESE DRAWINGS ARE TO BE READ IN CONJUNCTION WITH ALL RELEVANT DOCUMENTS
- WORK TO FIGURED DIMENSIONS ONLY. DO NOT SCALE
- SMOKE DETECTORS TO BE HARDWIRED TO BCA REQUIREMENTS
- SEDIMENTATION FENCING TO BE ERECTED AND IN PLACE AT CONSTRUCTION STAGE

ALL PLANS PREPARED BY SNL BUILDING CONSTRUCTIONS PTY LTD ARE PROTECTED BY CURRENT COPYRIGHT LAW UNDER THE COPYRIGHT ACT 1968 (CTH) AND MORAL RIGHTS UNDER THE COPYRIGHT AMENDMENT (MORAL RIGHTS) ACTS 2000 (CTH). REPRODUCTION OF THESE PLANS IN ANY FORM CAN RESULT IN LEGAL ACTION.



PROJECT :
REALIGNMENT OF BOUNDARY & 2 x DWELLINGS
ADDRESS :
LOT 1, DP104831 & LOT 22, SEC B, DP2331
38 POWER STREET, ISLINGTON
CLIENT :
J RANIERI

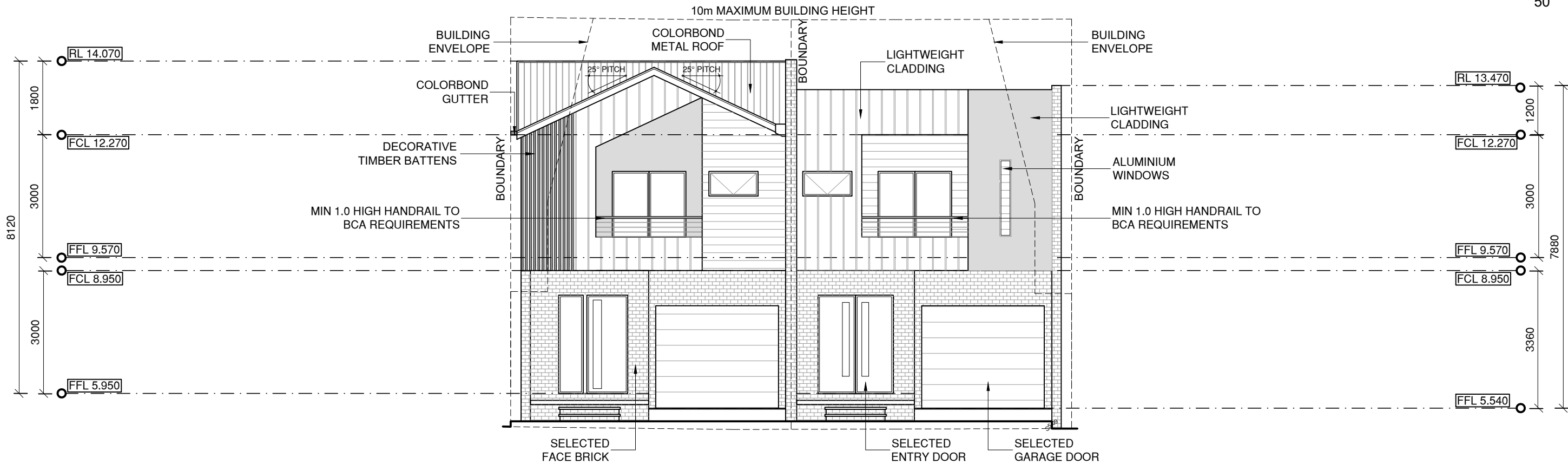
REV	COMMENTS	DATE
1	Preliminary sketch issued for review	31/08/22
2	Revised sketch	01/09/22
3	Revised sketch	05/09/22
4	Preliminary DA - Issued to consultants	27/09/22
5	Issued for DA	04/10/22
6	Issued for DA - GFA Calculations included	21/10/22
7	Shadow diagrams added	14/11/22
8	Amended floor level & construction	24/01/23

LEGEND

- Ⓢ SMOKE ALARM TO BCA REQUIREMENTS

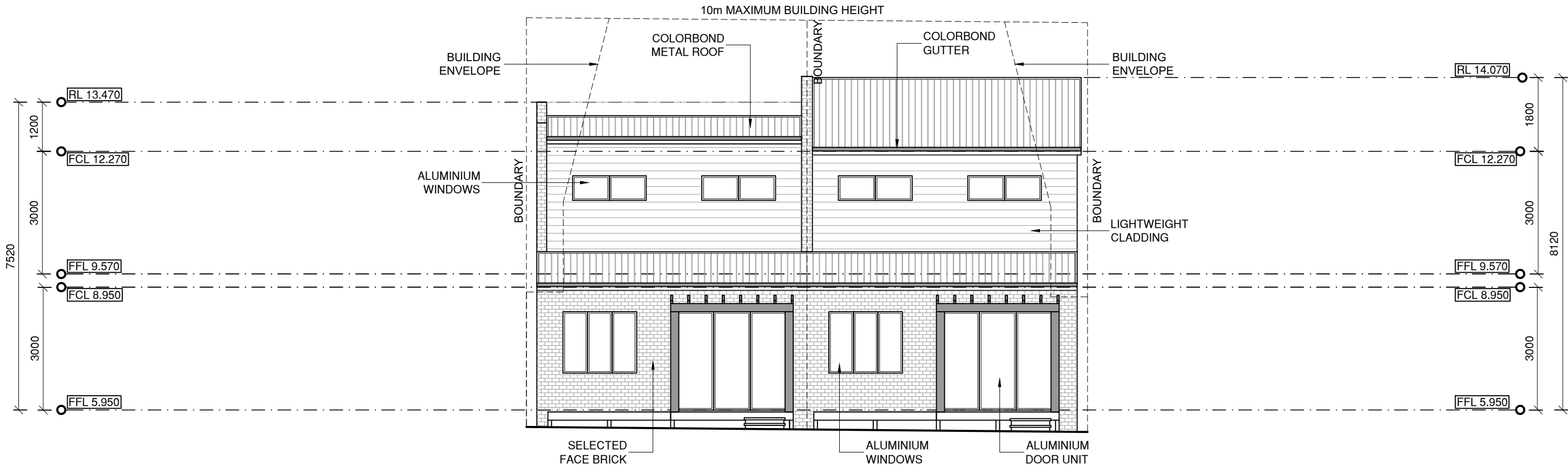


DWG NO
A-DA006
UPPER FLOOR PLAN



NORTHEAST ELEVATION

SCALE 1 : 100 @ A3



SOUTHWEST ELEVATION

SCALE 1 : 100 @ A3

THESE PLANS TO BE READ IN CONJUNCTION WITH ALL SUPPORTING CONSULTANT'S CURRENT DOCUMENTATION

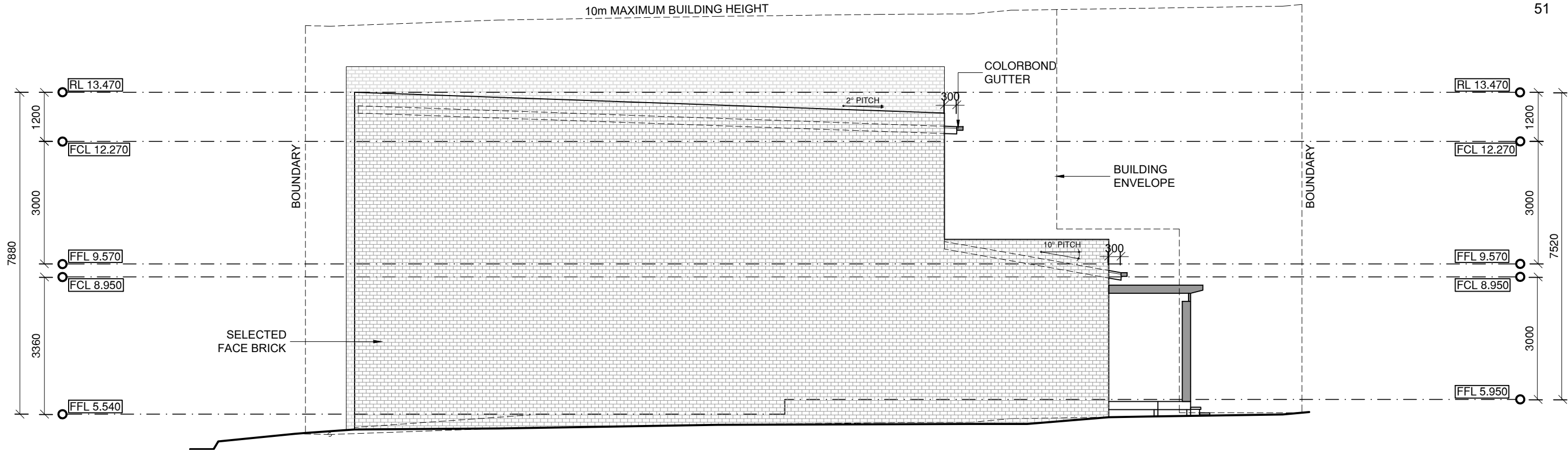
GENERAL NOTES	
• ALL NEW WORKS IS TO COMPLY WITH THE CURRENT AUSTRALIAN STANDARDS AT TIME OF CONSTRUCTION	• LEVELS ARE TO BE CONFIRMED ONSITE PRIOR TO CONSTRUCTION
• BRACING, TIE DOWN, DRAINAGE & BEAMS TO STRUCTURAL ENGINEERS DESIGN	• ALL DIMENSIONS & LEVELS TO BE CONFIRMED ON SITE BY BUILDER PRIOR TO START OF WORK
• ALL NEW STORMWATER DRAINAGE TO BE CONNECTED TO EXISTING DRAINAGE SYSTEM	• SITE IS TO BE SET OUT BY A REGISTERED SURVEYOR
• SELECTED TERMITE SYSTEM TO COMPLY WITH AS 3660.1:2000 TO BE PROVIDED TO ALL NEW BUILDING WORK & IS TO BE INSTALLED TO MANUFACTURERS DETAILS WITH ANNUAL TREATMENTS AS REQUIRED	• THESE DRAWINGS ARE TO BE READ IN CONJUNCTION WITH ALL RELEVANT DOCUMENTS
	• WORK TO FIGURED DIMENSIONS ONLY. DO NOT SCALE
	• SMOKE DETECTORS TO BE HARDWIRED TO BCA REQUIREMENTS
	• SEDIMENTATION FENCING TO BE ERECTED AND IN PLACE AT CONSTRUCTION STAGE

ALL PLANS PREPARED BY SNL BUILDING CONSTRUCTIONS PTY LTD ARE PROTECTED BY CURRENT COPYRIGHT LAW UNDER THE COPYRIGHT ACT 1968 (CTH) AND MORAL RIGHTS UNDER THE COPYRIGHT AMENDMENT (MORAL RIGHTS) ACTS 2000 (CTH). REPRODUCTION OF THESE PLANS IN ANY FORM CAN RESULT IN LEGAL ACTION.

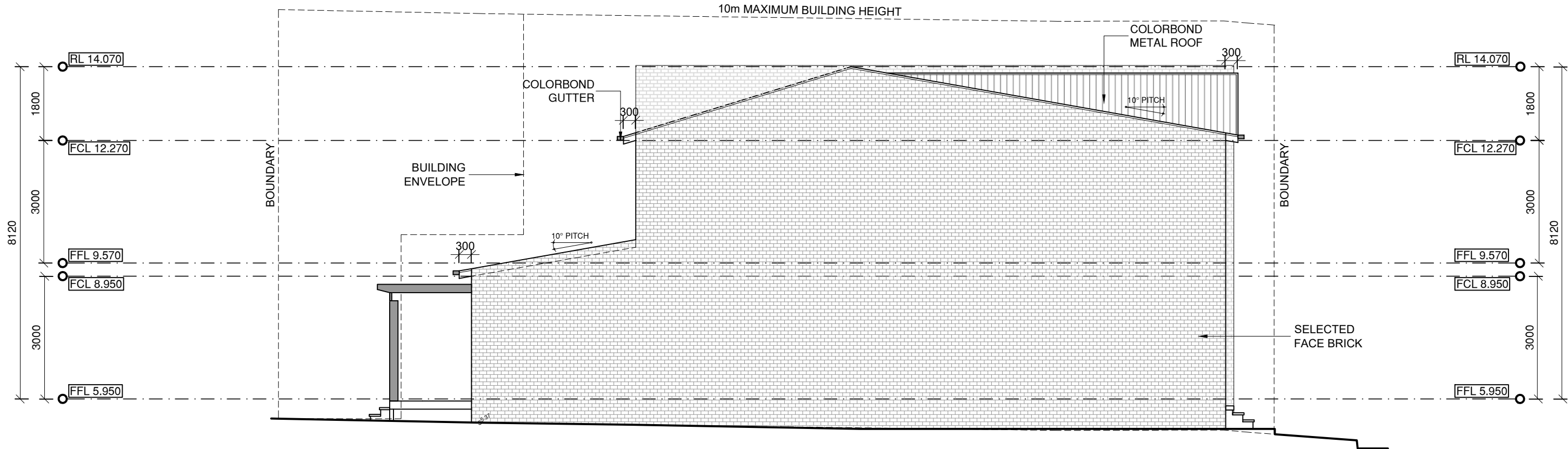


PROJECT :
REALIGNMENT OF BOUNDARY & 2 x DWELLINGS
ADDRESS :
LOT 1, DP104831 & LOT 22, SEC B, DP2331
38 POWER STREET, ISLINGTON
CLIENT :
J RANIERI

REV	COMMENTS	DATE	DWG NO
1	Preliminary sketch issued for review	31/08/22	A-DA007 ELEVATIONS
2	Revised sketch	01/09/22	
3	Revised sketch	05/09/22	
4	Preliminary DA - Issued to consultants	27/09/22	
5	Issued for DA	04/10/22	
6	Issued for DA - GFA Calculations included	21/10/22	
7	Shadow diagrams added	14/11/22	
8	Amended floor level & construction	24/01/23	



NORTHWEST ELEVATION
SCALE 1 : 100 @ A3



SOUTHEAST ELEVATION
SCALE 1 : 100 @ A3

THESE PLANS TO BE READ IN CONJUNCTION WITH ALL
SUPPORTING CONSULTANT'S CURRENT DOCUMENTATION

GENERAL NOTES

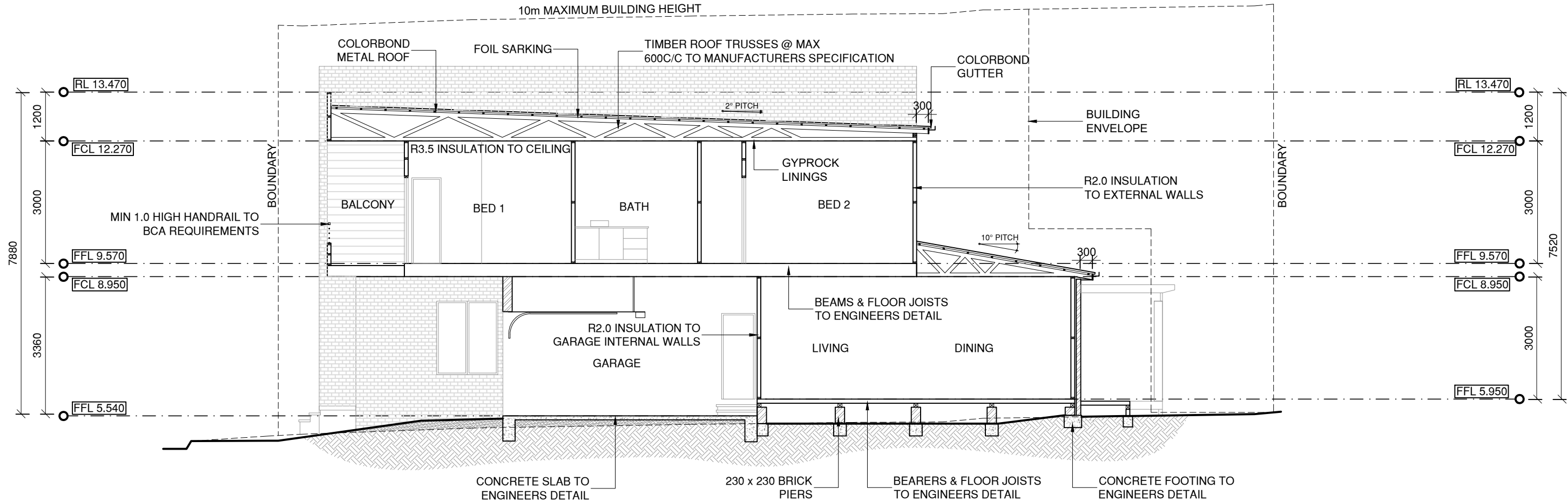
- ALL NEW WORKS IS TO COMPLY WITH THE CURRENT AUSTRALIAN STANDARDS AT TIME OF CONSTRUCTION
- BRACING, TIE DOWN, DRAINAGE & BEAMS TO STRUCTURAL ENGINEERS DESIGN
- ALL NEW STORMWATER DRAINAGE TO BE CONNECTED TO EXISTING DRAINAGE SYSTEM
- SELECTED TERMITE SYSTEM TO COMPLY WITH AS 3660.1:2000 TO BE PROVIDED TO ALL NEW BUILDING WORK & IS TO BE INSTALLED TO MANUFACTURERS DETAILS WITH ANNUAL TREATMENTS AS REQUIRED
- LEVELS ARE TO BE CONFIRMED ONSITE PRIOR TO CONSTRUCTION
- ALL DIMENSIONS & LEVELS TO BE CONFIRMED ON SITE BY BUILDER PRIOR TO START OF WORK
- SITE IS TO BE SET OUT BY A REGISTERED SURVEYOR
- THESE DRAWINGS ARE TO BE READ IN CONJUNCTION WITH ALL RELEVANT DOCUMENTS
- WORK TO FIGURED DIMENSIONS ONLY. DO NOT SCALE
- SMOKE DETECTORS TO BE HARDWIRED TO BCA REQUIREMENTS
- SEDIMENTATION FENCING TO BE ERECTED AND IN PLACE AT CONSTRUCTION STAGE

ALL PLANS PREPARED BY SNL BUILDING CONSTRUCTIONS PTY LTD ARE PROTECTED BY CURRENT COPYRIGHT LAW UNDER THE COPYRIGHT ACT 1968 (CTH) AND MORAL RIGHTS UNDER THE COPYRIGHT AMENDMENT (MORAL RIGHTS) ACTS 2000 (CTH). REPRODUCTION OF THESE PLANS IN ANY FORM CAN RESULT IN LEGAL ACTION.



PROJECT :
REALIGNMENT OF BOUNDARY & 2 x DWELLINGS
ADDRESS :
LOT 1, DP104831 & LOT 22, SEC B, DP2331
38 POWER STREET, ISLINGTON
CLIENT :
J RANIERI

REV	COMMENTS	DATE	DWG NO
1	Preliminary sketch issued for review	31/08/22	A-DA008 ELEVATIONS
2	Revised sketch	01/09/22	
3	Revised sketch	05/09/22	
4	Preliminary DA - Issued to consultants	27/09/22	
5	Issued for DA	04/10/22	
6	Issued for DA - GFA Calculations included	21/10/22	
7	Shadow diagrams added	14/11/22	
8	Amended floor level & construction	24/01/23	



TYPICAL SECTION
SCALE 1 : 100 @ A3

THESE PLANS TO BE READ IN CONJUNCTION WITH ALL SUPPORTING CONSULTANT'S CURRENT DOCUMENTATION

GENERAL NOTES	
• ALL NEW WORKS IS TO COMPLY WITH THE CURRENT AUSTRALIAN STANDARDS AT TIME OF CONSTRUCTION	• LEVELS ARE TO BE CONFIRMED ONSITE PRIOR TO CONSTRUCTION
• BRACING, TIE DOWN, DRAINAGE & BEAMS TO STRUCTURAL ENGINEERS DESIGN	• ALL DIMENSIONS & LEVELS TO BE CONFIRMED ON SITE BY BUILDER PRIOR TO START OF WORK
• ALL NEW STORMWATER DRAINAGE TO BE CONNECTED TO EXISTING DRAINAGE SYSTEM	• SITE IS TO BE SET OUT BY A REGISTERED SURVEYOR
• SELECTED TERMITE SYSTEM TO COMPLY WITH AS 3660.1:2000 TO BE PROVIDED TO ALL NEW BUILDING WORK & IS TO BE INSTALLED TO MANUFACTURERS DETAILS WITH ANNUAL TREATMENTS AS REQUIRED	• THESE DRAWINGS ARE TO BE READ IN CONJUNCTION WITH ALL RELEVANT DOCUMENTS
	• WORK TO FIGURED DIMENSIONS ONLY. DO NOT SCALE
	• SMOKE DETECTORS TO BE HARDWIRED TO BCA REQUIREMENTS
	• SEDIMENTATION FENCING TO BE ERECTED AND IN PLACE AT CONSTRUCTION STAGE

ALL PLANS PREPARED BY SNL BUILDING CONSTRUCTIONS PTY LTD ARE PROTECTED BY CURRENT COPYRIGHT LAW UNDER THE COPYRIGHT ACT 1968 (CTH) AND MORAL RIGHTS UNDER THE COPYRIGHT AMENDMENT (MORAL RIGHTS) ACTS 2000 (CTH). REPRODUCTION OF THESE PLANS IN ANY FORM CAN RESULT IN LEGAL ACTION.



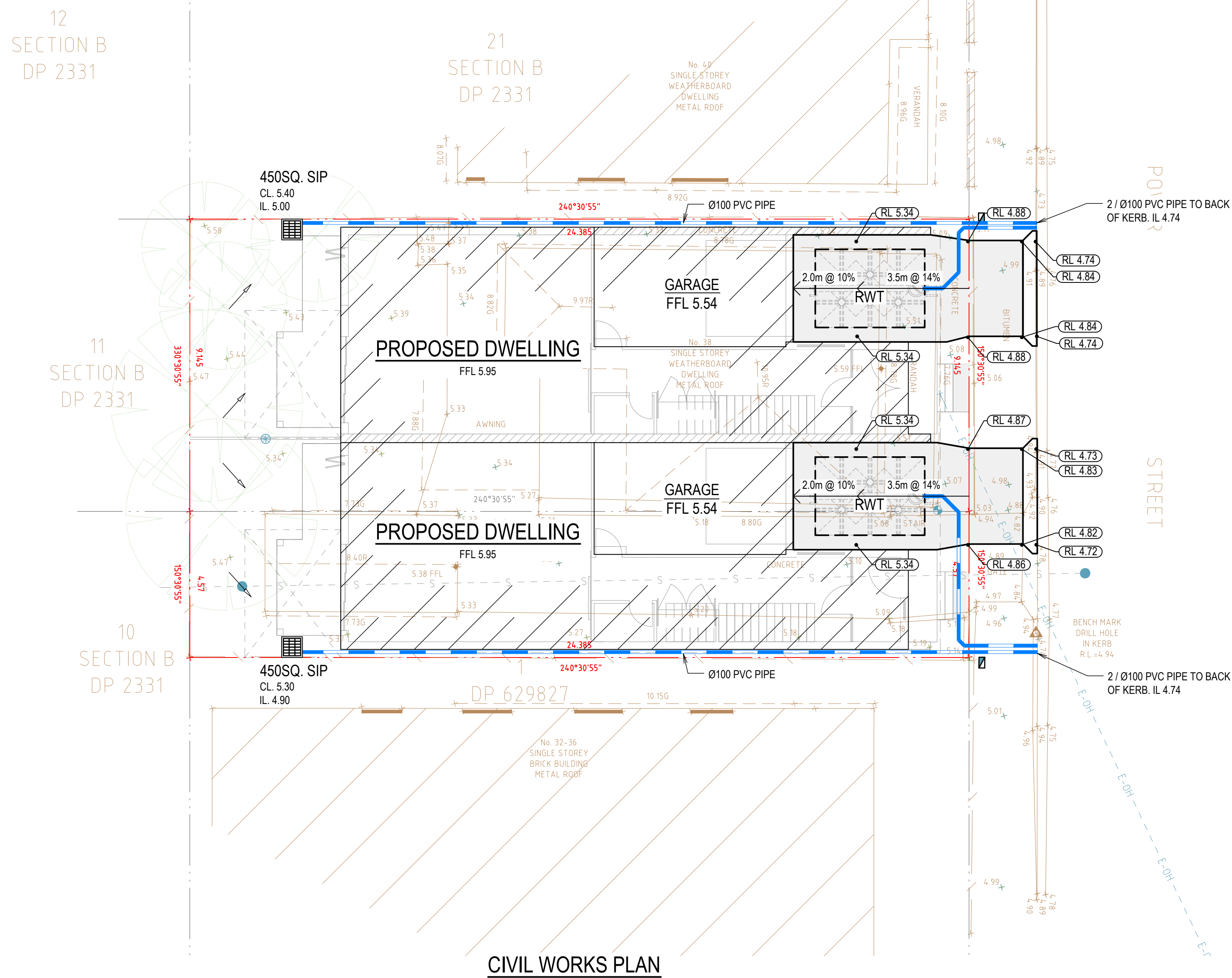
PROJECT :
REALIGNMENT OF BOUNDARY & 2 x DWELLINGS
ADDRESS :
LOT 1, DP104831 & LOT 22, SEC B, DP2331
38 POWER STREET, ISLINGTON
CLIENT :
J RANIERI

REV	COMMENTS	DATE	DWG NO
1	Preliminary sketch issued for review	31/08/22	A-DA009
2	Revised sketch	01/09/22	
3	Revised sketch	05/09/22	
4	Preliminary DA - Issued to consultants	27/09/22	
5	Issued for DA	04/10/22	
6	Issued for DA - GFA Calculations included	21/10/22	
7	Shadow diagrams added	14/11/22	
8	Amended floor level & construction	24/01/23	

TYPICAL SECTION

LEGEND

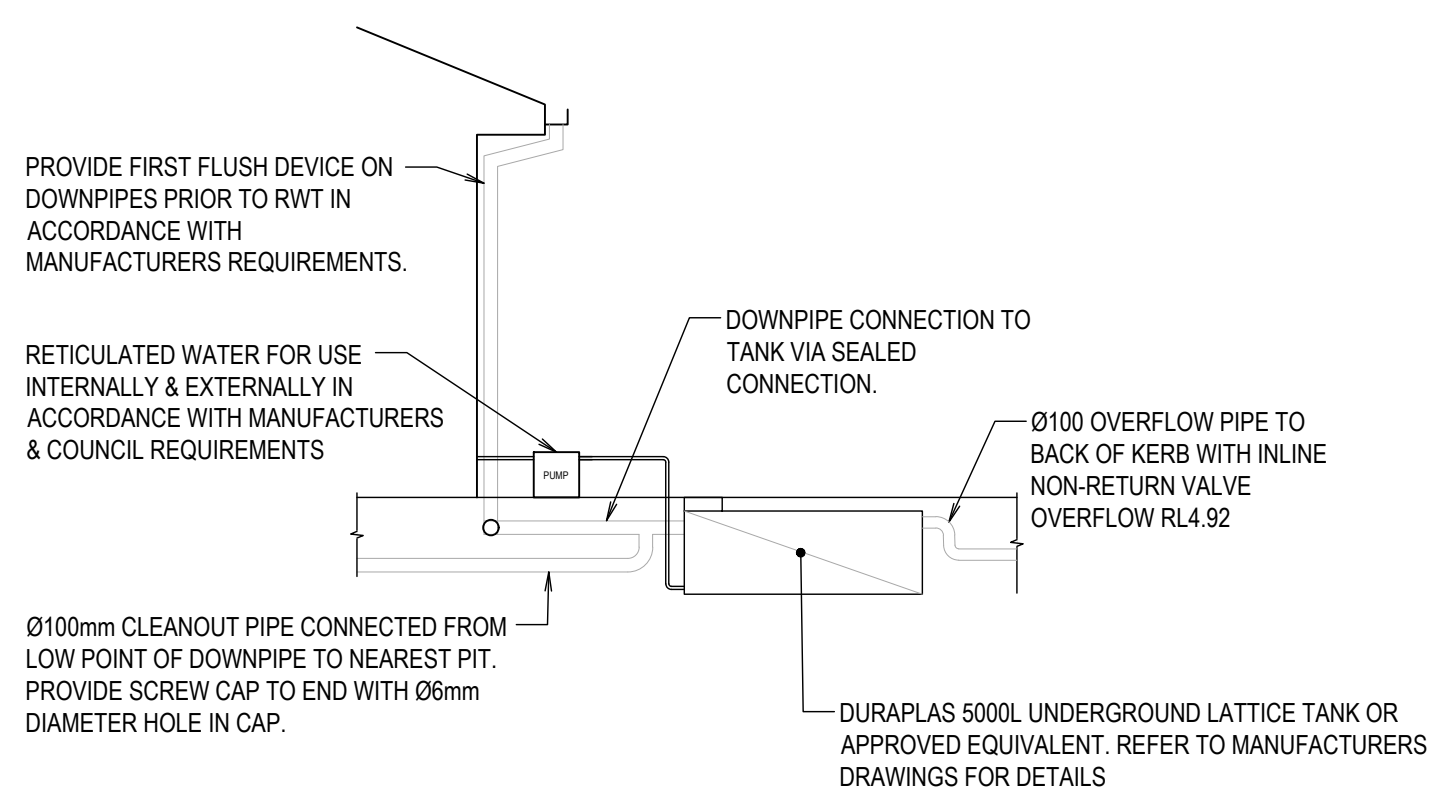
	NEW BOUNDARY LINE
	EXISTING BOUNDARY LINE
	EXISTING ELECTRICITY OHP
	EXISTING SEWER (APPROX.)
	EXISTING CONTOURS
	EXISTING SPOTLEVEL
	PROPOSED SPOT HEIGHT
	STORMWATER PIPE
	CHARGED STORMWATER DOWNPIPE DRAINAGE LINE
	SW PIT CL.XX.XX IL.XX.XX
	RWT
	DURAPLAS 4000L (MIN.) UNDERGROUND LATTICE TANK OR APPROVED EQUIVALENT. REFER TO MANUFACTURERS DRAWINGS FOR DETAILS
	DENOTES EXTENT OF IMPERVIOUS PAVEMENT, DETAILS AT CC STAGE
	DIRECTION OF SURFACE FLOW



CIVIL WORKS PLAN

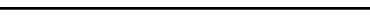
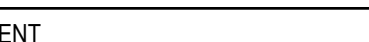
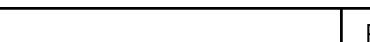

SCALE 1:100

NOTE: ALL ROOFWATER TO BE CONNECTED TO THE RESPECTIVE RAINWATER TANKS. PROVIDE FIRST FLUSH TO DOWNPIPES PRIOR TO CONNECTING TO TANK.



RWT (UNDER GROUND) SCHEMATIC SECTION

NOT TO SCALE

REVISIONS							This drawing is not approved for construction unless signed.				260 MAITLAND ROAD, MAYFIELD PO BOX 4105 KOTARA EAST 2305 0402 915 549 mathew@drbengineering.com.au ABN 64 625 755 482	CLIENT SNL BUILDING & CONSTRUCTIONS	PROJECT RESIDENTIAL DEVELOPMENT 38 POWER STREET, ISLINGTON, NSW 2296	DRAWING STATUS DEVELOPMENT APPROVAL		SHEET SIZE A1
	B	23.01.23	C.T.	B.R.	M.M.	RE-ISSUED FOR DEVELOPMENT APPROVAL								COPYRIGHT - This drawing and the information provided shall remain the property of DRB Consulting Engineers Pty Ltd (DRB) and may not be used, copied or reproduced, in whole or part, for any purpose other than that for which it was supplied without the prior consent of DRB. This drawing has been produced in colour and may be incomplete if printed/copied in colour. All dimensions to be verified on-site before commencing work.		SCALE 1: 100 (A1)
	A	30.09.22	C.T.	B.R.	M.M.	ISSUED FOR DEVELOPMENT APPROVAL	PROJECT REF No.	DRAWING No.	REVISION							
	REV	DATE	DRN	CHK	APP	DRAWING STATUS	222225	CIV-010	B							

LEGEND

	BOUNDARY LINE
	EXISTING CONTOURS
	EXISTING SPOTLEVEL

12
SECTION B
DP 2331

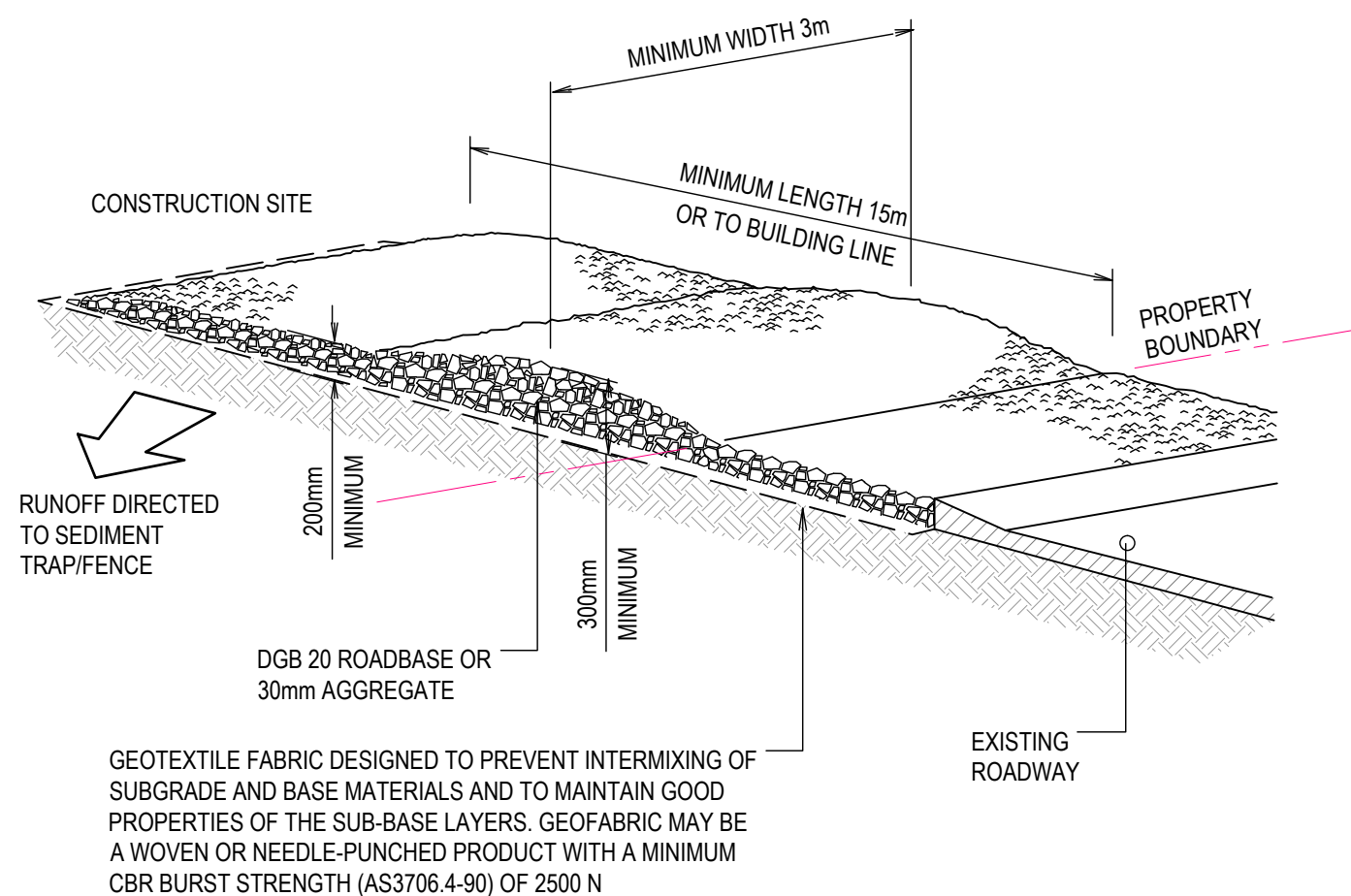
21
SECTION B
DP 2331

11
SECTION B
DP 2331

10
SECTION B
DP 2331

EROSION & SEDIMENT CONTROL PLAN

SCALE 1:100

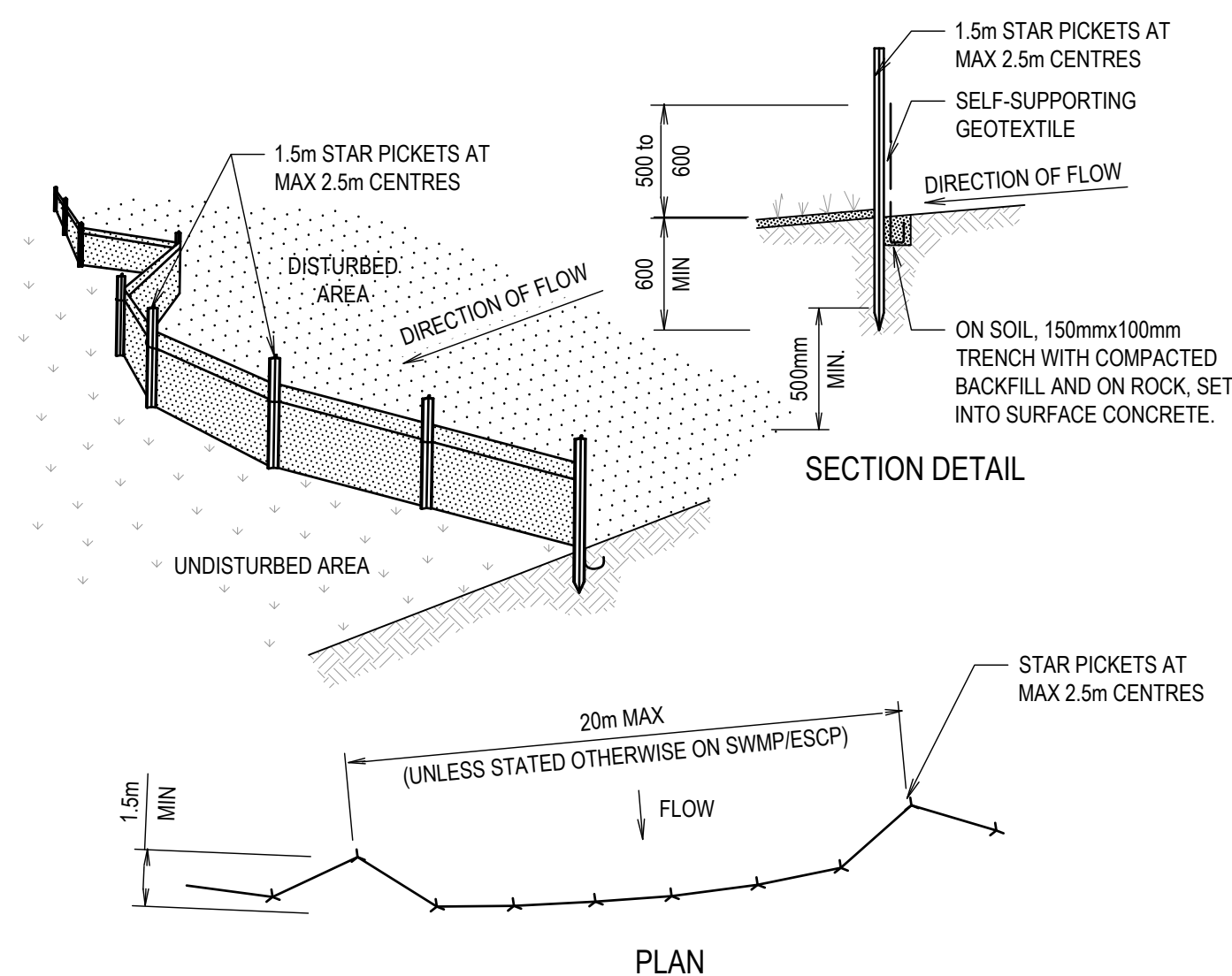


CONSTRUCTION NOTES

1. STRIP THE TOPSOIL, LEVEL THE SITE AND COMPACT THE SUBGRADE.
2. COVER THE AREA WITH NEEDLE-PUNCHED GEOTEXTILE.
3. CONSTRUCT A 200mm THICK PAD OVER THE GEOTEXTILE USING ROAD BASE OR 30mm AGGREGATE.
4. ENSURE THE STRUCTURE IS AT LEAST 15 METRES LONG OR TO BUILDING ALIGNMENT AND AT LEAST 3 METRES WIDE.
5. WHERE A SEDIMENT FENCE JOINS ONTO THE STABILISED ACCESS, CONSTRUCT A HUMP IN THE STABILISED ACCESS TO DIVERT WATER TO THE SEDIMENT FENCE.

STABILISED SITE ACCESS (SD 6-14)

NOT TO SCALE



CONSTRUCTION NOTES

1. CONSTRUCT SEDIMENT FENCES AS CLOSE AS POSSIBLE TO BEING PARALLEL TO THE CONTOURS OF THE SITE, BUT WITH SMALL RETURNS AS SHOWN IN THE DRAWING TO LIMIT THE CATCHMENT AREA OF ANY ONE SECTION. THE CATCHMENT AREA SHOULD BE SMALL ENOUGH TO LIMIT WATER FLOW IF CONCENTRATED AT ONE POINT TO 50 LITRES PER SECOND IN THE DESIGN STORM EVENT, USUALLY THE 10-YEAR EVENT.
2. CUT A 150mm DEEP TRENCH ALONG THE UPSLOPE LINE OF THE FENCE FOR THE BOTTOM OF THE FABRIC TO BE ENTRENCHED.
3. DRIVE 1.5 METRE LONG STAR PICKETS INTO GROUND AT 2.5 METRE INTERVALS (MAX) AT THE DOWNSLOPE EDGE OF THE TRENCH. ENSURE ANY STAR PICKETS ARE FITTED WITH SAFETY CAPS.
4. FIX SELF-SUPPORTING GEOTEXTILE TO THE UPSLOPE SIDE OF THE POSTS ENSURING IT GOES TO THE BASE OF THE TRENCH. FIX THE GEOTEXTILE WITH WIRE TIES OR AS RECOMMENDED BY THE MANUFACTURER. ONLY USE GEOTEXTILE SPECIFICALLY PRODUCED FOR SEDIMENT FENCING. THE USE OF SHADE CLOTH FOR THIS PURPOSE IS NOT SATISFACTORY.
5. JOIN SECTIONS OF FABRIC AT A SUPPORT POST WITH A 150mm OVERLAP.
6. BACKFILL THE TRENCH OVER THE BASE OF THE FABRIC AND COMPACT IT THOROUGHLY OVER THE GEOTEXTILE.

SEDIMENT FENCE (SD 6-8)

NOT TO SCALE

REVISIONS							This drawing is not approved for construction unless signed.			260 MAITLAND ROAD, MAYFIELD PO BOX 4105 KOTARA EAST 2305 0402 915 549 mathew@drbengineering.com.au ABN 64 625 755 482	CLIENT SNL BUILDING & CONSTRUCTIONS	PROJECT RESIDENTIAL DEVELOPMENT 38 POWER STREET, ISLINGTON, NSW 2296	DRAWING STATUS DEVELOPMENT APPROVAL		SHEET SIZE A1
	B	23.01.23	C.T.	B.R.	M.M.	RE-ISSUED FOR DEVELOPMENT APPROVAL							SCALE 1:100 (A1)		DRAWN C.T.
	A	30.09.22	C.T.	B.R.	M.M.	ISSUED FOR DEVELOPMENT APPROVAL							PROJECT REF No.	DRAWING No.	REVISION
	REV	DATE	DRN	CHK	APP	DRAWING STATUS	COPYRIGHT - This drawing and the information provided shall remain the property of DRB Consulting Engineers Pty Ltd (DRB) and may not be used, copied or reproduced, in whole or part, for any purpose other than that for which it was supplied without the prior consent of DRB. This drawing has been produced in colour and may be incomplete if printed/copied in colour. All dimensions to be verified on-site before commencing work.				TITLE EROSION & SEDIMENT CONTROL PLAN & DETAILS		222225	CIV-020	B

GENERAL

1. ESCP REFERS TO EROSION AND SEDIMENT CONTROL PLAN AND SWMP REFERS TO SOIL AND WATER MANAGEMENT PLAN.
2. ESC REFERS TO EROSION AND SEDIMENT CONTROL.
3. SEDIMENT ,INCLUDES ,BUT IS NOT LIMITED TO, CLAY, SILT, SAND, GRAVEL ,SOIL, MUD, CEMENT, AND CERAMIC WASTE.
4. ANY REFERENCE TO THE BLUE BOOK REFERS TO MANAGING URBAN STORMWATER -SOILS AND CONSTRUCTION. LANDCOM, 2004.
5. ANY REFERENCE TO THE IECA WHITE BOOKS (2008) REFERS TO IECA 2008. BEST PRACTICE EROSION AND SEDIMENT CONTROL BOOKS 1-6.INTERNATIONAL EROSION CONTROL ASSOCIATION (AUSTRALASIA). PICTON NSW.
6. ANY MATERIAL DEPOSITED IN ANY CONSERVATION AREA FROM WORKS ASSOCIATED WITH THE DEVELOPMENTS HALL BE REMOVED IMMEDIATELY BY MEASURES INVOLVING MINIMAL GROUND AND/OR VEGETATION DISTURBANCE AND NO MACHINERY ,OR FOLLOWING DIRECTIONS BY COUNCIL L AND/OR WITHIN A TIMEFRAME ADVISED BY COUNCIL.
7. THE ESCP AND ITS ASSOCIATED ESC MEASURES SHALL BE CONSTANTLY MONITORED ,REVIEWED ,AND MODIFIED AS REQUIRED TO CORRECT DEFICIENCIES. COUNCIL HAS THE RIGHT TO DIRECT CHANGES IF, IN ITS OPINION, THE MEASURES THAT ARE PROPOSED OR HAVE BEEN INSTALLED ARE INADEQUATE TO PREVENT POLLUTION.
8. PRIOR TO ANY ACTIVITIES ONSITE, THE RESPONSIBLE PERSON(S) IS TO BE NOMINATED. THE RESPONSIBLE PERSON(S) SHALL BE RESPONSIBLE FOR THE ESC MEASURES. THE NAME, ADDRESS AND 24 HOUR CONTACT DETAILS OF THE PERSON(S) SHALL BE PROVIDED TO COUNCIL IN WRITING . COUNCIL SHALL BE ADVISED WITHIN 48 HOURS OF ANY CHANGES TO THE RESPONSIBLE PERSON(S) ,OR THEIR CONTACT DETAILS, IN WRITING.
9. AT LEAST 14 DAYS BEFORE THE NATURAL SURFACE IS DISTURBED IN ANY NEW STAGE, THE CONTRACTOR SHALL SUBMIT TO THE CERTIFIER ,A PLAN SHOWING ESC MEASURES FOR THAT STAGE. THE DEGREE OF DESIGN DETAIL SHALL BE BASED ON THE DISTURBED AREA.
10. AT ANY TIME, THE ESC MEASURES ONSITE SHALL BE APPROPRIATE FOR THE AREA OF DISTURBANCE AND ITS CHARACTERISTICS INCLUDING SOILS (IN ACCORDANCE WITH THOSE REQUIRED FOR THE SITE AS PER DCP).
11. THE IMPLEMENTATION OF THE ESCP SHALL BE SUPERVISED BY PERSONNEL WITH APPROPRIATE QUALIFICATIONS AND/OR EXPERIENCE IN ESC ON CONSTRUCTION SITES.
12. THE APPROVED ESCP SHALL BE AVAILABLE ON-SITE FOR INSPECTION BY COUNCIL OFFICERS WHILE WORK ACTIVITIES ARE OCCURRING.
13. THE APPROVED ESCP SHALL BE UP TO DATE AND SHOW A TIMELINE OF INSTALLATION, MAINTENANCE AND REMOVAL OF ESC MEASURES.
14. ALL ESC MEASURES SHALL BE APPROPRIATE FOR THE SEDIMENT TYPE(S) OF THE SOILS ONSITE, IN ACCORDANCE WITH THE BLUE BOOK, IECA WHITE BOOKS OR OTHER CURRENT RECOGNISED INDUSTRY STANDARD FOR ESC FOR AUSTRALIAN CONDITIONS
15. ADEQUATE SITE DATA, INCLUDING SOIL DATA FROM A NATA APPROVED LABORATORY, SHALL BE OBTAINED TO ALLOW THE PREPARATION OF AN APPROPRIATE ESCP, AND ALLOW THE SELECTION, DESIGN AND SPECIFICATION OF REQUIRED ESC MEASURES.
16. ALL WORKS SHALL BE CARRIED OUT IN ACCORDANCE WITH THE APPROVED ESCP (AS AMENDED FROM TIME TO TIME) UNLESS CIRCUMSTANCES ARISE WHERE:

a) COMPLIANCE WITH THE ESCP WOULD INCREASE THE POTENTIAL FOR ENVIRONMENTAL HARM; OR

b) CIRCUMSTANCES CHANGE DURING CONSTRUCTION AND THOSE CIRCUMSTANCES COULD NOT HAVE BEEN FORESEEN; OR

c) COUNCIL DETERMINE S THAT UNACCEPTABLE OFF-SITE SEDIMENTATION IS OCCURRING AS A RESULT OF A LAND-DISTURBING ACTIVITY , IN EITHER CASE, THE PERSON(S) RESPONSIBLE MAY BE REQUIRED TO TAKE ADDITIONAL ,OR ALTERNATIVE PROTECTIVE ACTION, AND/OR UNDERTAKE REASONABLE RESTORATION WORKS WITHIN

d) THE TIMEFRAME SPECIFIED BY THE COUNCIL.
17. ADDITIONAL ESC MEASURES SHALL BE IMPLEMENTED, AND A REVISED ESCP SUBMITTED FOR APPROVAL TO THE CERTIFIER (WITHIN FIVE BUSINESS DAYS OF ANY SUCH AMENDMENTS) IN THE EVENT THAT:

a) THERE IS A HIGH PROBABILITY THAT SERIOUS OR MATERIAL ENVIRONMENTAL HARM MAY OCCUR AS A RESULT OF SEDIMENT LEAVING THE SITE; OR

b) THE IMPLEMENTED WORKS FAIL TO ACHIEVE COUNCIL'S WATER QUALITY OBJECTIVES SPECIFIED IN THESE CONDITIONS; OR

c) SITE CONDITIONS SIGNIFICANTLY CHANGE; OR

d) SITE INSPECTIONS INDICATE THAT THE IMPLEMENTED WORKS ARE FAILING TO ACHIEVE THE "OBJECTIVE" OF THE ESCP.
18. A COPY OF ANY AMENDED ESCP SHALL BE FORWARDED TO AN APPROPRIATE COUNCIL OFFICER, WITHIN FIVE BUSINESS DAYS OF ANY SUCH AMENDMENTS. SITE ESTABLISHMENT INCLUDING CLEARING AND MULCHING

SITE ESTABLISHMENT INCLUDING CLEARING AND MULCHING

19. NO LAND CLEARING SHALL BE UNDERTAKEN UNLESS PRECEDED BY THE INSTALLATION OF ADEQUATE DRAINAGE AND SEDIMENT CONTROL MEASURES ,UNLESS SUCH CLEARING IS REQUIRED FOR THE PURPOSE OF INSTALLING SUCH MEASURES ,IN WHICH CASE, ONLY THE MINIMUM CLEARING REQUIRED TO INSTALL SUCH MEASURES SHALL OCCUR.
20. BULK TREE CLEARING AND GRUBBING OF THE SITE SHALL BE IMMEDIATELY FOLLOWED BY SPECIFIED TEMPORARY EROSION CONTROL MEASURES (E.G. TEMPORARY GRASSING OR MULCHING) PRIOR TO COMMENCEMENT OF EACH STAGE OF CONSTRUCTION WORKS.
21. TREES AND VEGETATION CLEARED FROM THE SITE SHALL BE MULCHED ONSITE WITHIN 7 DAYS OF CLEARING.
22. APPROPRIATE MEASURES SHALL BE UNDERTAKEN TO CONTROL ANY DUST ORIGINATING DUE TO THE MULCHING OF VEGETATION ONSITE.
23. ALL OFFICE FACILITIES AND OPERATIONAL ACTIVITIES SHALL BE LOCATED SUCH THAT ANY EFFLUENT, INCLUDING WASH-DOWN WATER, CAN BE TOTALLY CONTAINED AND TREATED WITHIN THE SITE.
24. ALL REASONABLE AND PRACTICABLE MEASURES SHALL BE TAKEN TO ENSURE STORMWATER RUNOFF FROM ACCESS ROADS AND STABILISED ENTRY/EXIT SYSTEMS, DRAINS TO AN APPROPRIATE SEDIMENT CONTROL DEVICE.
25. SITE EXIT POINTS SHALL BE APPROPRIATELY MANAGED TO MINIMISE THE RISK OF SEDIMENT BEING TRACKED ONTO SEALED, PUBLIC ROADWAYS.
26. STORMWATER RUNOFF FROM ACCESS ROADS AND STABILISED ENTRY/EXIT POINTS SHALL DRAIN TO AN APPROPRIATE SEDIMENT CONTROL DEVICE.
27. THE APPLICANT SHALL ENSURE AN ADEQUATE SUPPLY OF ESC, AND APPROPRIATE POLLUTION CLEAN-UP MATERIALS ARE AVAILABLE ON-SITE AT ALL TIMES.

28. ALL TEMPORARY EARTH BANKS , FLOW DIVERSION SYSTEMS, AND SEDIMENT BASIN EMBANKMENTS SHALL BE MACHINE-COMPACTED, SEEDED AND MULCHED WITHIN TEN (10) DAYS OF FORMATION FOR THE PURPOSE OF ESTABLISHING A VEGETATIVE COVER, OR LINED APPROPRIATELY.
29. SEDIMENT DEPOSITED OFF SITE AS A RESULT OF ON-SITE ACTIVITIES SHALL BE COLLECTED AND THE AREA CLEANE(D)REHABILITATE ADS SOON AS REASONABLE AND PRACTICABLE.
30. CONCRETE WASTE AND CHEMICAL PRODUCTS ,INCLUDING PETROLEUM AND OIL-BASED PRODUCTS ,SHALL BE PREVENTED FROM ENTERING ANY INTERNAL OR EXTERNAL WATER BODY, OR ANY EXTERNAL DRAINAGE SYSTEM , EXCLUDING THOSE ON-SITE WATER BODIES SPECIFICALLY DESIGNED TO CONTAIN AND/OR TREAT SUCH MATERIAL. APPROPRIATE MEASURES SHALL BE INSTALLED TO TRAP THESE MATERIALS ONSITE.
31. BRICK, TILE OR MASONRY CUTTING SHALL BE CARRIED OUT ON A PERVIOUS SURFACE GRASS OR OPEN SOIL) AND IN SUCH A MANNER THAT ANY RESULTING SEDIMENT-LADDER RUNOFF IS PREVENTED FROM DISCHARGING INTO A GUTTER ,DRAIN OR APPROPRIATE MEASURES SHALL BE INSTALLED TO TRAP THESE MATERIALS ONSITE.
32. NEWLY SEALED HARD-STAND AREAS (E.G. ROADS, DRIVEWAYS AND CAR PARKS) SHALL BE SWEPT THOROUGHLY AS SOON AS PRACTICABLE AFTER SEALING/SURFACING TO MINIMISE THE RISK OF COMPONENTS OF THE SURFACING COMPOUND ENTERING STORMWATER DRAINS.
33. STOCKPILES OF ERODIBLE MATERIAL SHALL BE PROVIDED WITH AN APPROPRIATE PROTECTIVE COVER (SYNTHETIC OR ORGANIC) IF THE MATERIALS ARE LIKELY TO BE STOCKPILED FOR MORE THAN 10 DAYS.
34. STOCKPILES ,TEMPORARY OR PERMANENT ,SHALL NOT BE LOCATED IN AREAS IDENTIFIED AS NO-GO ZONES (INCLUDING, BUT NOT LIMITED TO, RESTRICTED ACCESS AREAS, BUFFER ZONES, OR AREAS OF NON-DISTURBANCE) ON THE ESCP.
35. NO MORE THAN 150M OF A STORMWATER ,SEWER LINE OR OTHER SERVICE TRENCH SHALL TO BE OPEN AT ANY ONE TIME.
36. SITE SPOIL SHALL BE LAWFULLY DISPOSED OF IN A MANNER THAT DOES NOT RESULT IN ONGOING SOIL EROSION OR ENVIRONMENTAL HARM.
37. WHEREVER REASONABLE AND PRACTICABLE ,STORMWATER RUNOFF ENTERING THE SITE FROM EXTERNAL AREAS , AND NON-SEDIMENT LADEN STORMWATER RUNOFF ENTERING A WORK AREA OR AREA OF SOIL DISTURBANCE ,SHALL BE DIVERTED AROUND OR THROUGH THAT AREA IN A MANNER THAT MINIMISES SOIL EROSION AND THE CONTAMINATION OF THAT WATER FOR ALL DISCHARGES UP TO THE SPECIFIED DESIGN STORM DISCHARGE.

SITE MANAGEMENT INCLUDING DUST

38. PRIORITY SHALL BE GIVEN TO THE PREVENTION ,OR AT LEAST THE MINIMISATION O, F SOIL EROSION ,RATHER THAN THE TRAPPING OF DISPLACED SEDIMENT . SUCH A CLAUSE SHALL NOT REDUCE THE RESPONSIBILITY TO APPLY AND MAINTAIN ,AT ALL TIMES, ALL NECESSARY ESC MEASURES.
39. MEASURES USED TO CONTROL WIND EROSION SHALL BE APPROPRIATE FOR THE LOCATION AND PREVENT SOIL EROSION AND EMISSIONS FROM SITE AT ALL TIMES, INCLUDING WORKING HOURS ,OUT OF HOURS ,WEEKENDS ,PUBLIC HOLIDAYS ,AND DURING ANY OTHER SHUTDOWN PERIODS.
40. THE APPLICATION OF LIQUID OR CHEMICAL-BASED DUST SUPPRESSION MEASURES SHALL ENSURE THAT SEDIMENT-LADEN RUNOFF RESULTING FROM SUCH MEASURES DOES NOT CREATE A TRAFFIC OR ENVIRONMENTAL HAZARD
41. ALL CUT AND FILL EARTH BATTERS LESS THAN 3M IN ELEVATION SHALL BE TOPSOILED, AND GRASS SEEDED(HYDROMULCHED WITHIN 10 DAYS OF COMPLETION OF GRADING IN CONSULTATION WITH COUNCIL.
42. ALL DISTURBED AREAS SHALL BE STABILISED IN ACCORDANCE WITH TIME LINES IN THE BLUE BOOK.
43. ALL REASONABLE AND PRACTICABLE MEASURES SHALL BE TAKEN TO PREVENT, OR AT LEAST MINIMISE ,THE RELEASE OF SEDIMENT FROM THE SITE.
44. SUITABLE ALL-WEATHER MAINTENANCE ACCESS SHALL BE PROVIDED TO ALL SEDIMENT CONTROL DEVICES.
45. SEDIMENT CONTROL DEVICES ,OTHER THAN SEDIMENT BASINS ,SHALL BE DE-SILTED AND MADE FULLY OPERATIONAL AS SOON AS REASONABLE AND PRACTICABLE AFTER A SEDIMENT-PRODUCING EVENT , WHETHER NATURAL OR ARTIFICIAL , IF THE DEVICE'S SEDIMENT RETENTION CAPACITY FALLS BELOW 75% OF ITS DESIGN RETENTION CAPACITY.
46. ALL EROSION AND SEDIMENT CONTROL MEASURES ,INCLUDING DRAINAGE CONTROL MEASURES ,SHALL BE MAINTAINED IN PROPER WORKING ORDER AT ALL TIMES DURING THEIR OPERATIONAL LIVES.
47. WASHING/FLUSHING OF SEALED ROADWAYS SHALL ONLY OCCUR WHERE SWEEPING HAS FAILED TO REMOVE SUFFICIENT SEDIMENT AND THERE IS A COMPELLING NEED TO REMOVE THE REMAINING SEDIMENT (E.G. FOR SAFETY REASONS) . IN SUCH CIRCUMSTANCES A, L REASONABLE AND PRACTICABLE SEDIMENT CONTROL MEASURES SHALL BE USED TO PREVENT ,OR AT LEAST MINIMISE ,THE RELEASE OF SEDIMENT INTO RECEIVING WATERS. ONLY THOSE MEASURES THAT WILL NOT CAUSE SAFETY AND PROPERTY FLOODING ISSUES SHALL BE EMPLOYED. SEDIMENT REMOVED FROM ROADWAYS SHALL BE DISPOSED OF IN A LAWFUL MANNER THAT DOES NOT CAUSE ONGOING SOIL EROSION OR ENVIRONMENTAL HARM.
48. SEDIMENT REMOVED FROM SEDIMENT TRAPS AND PLACES OF SEDIMENT DEPOSITION SHALL BE DISPOSED OF IN A LAWFUL MANNER THAT DOES NOT CAUSE ONGOING SOIL EROSION OR ENVIRONMENTAL HARM.

SEDIMENT BASINS (WHERE REQUIRED) -
INSTALLATION ,MAINTENANCE AND REMOVAL, INCLUDING SEDIMENT TRAPS

49. AS-CONSTRUCTED PLANS SHALL BE PREPARED FOR ALL CONSTRUCTED SEDIMENT BASINS AND ASSOCIATED EMERGENCY SPILLWAYS . SUCH PLANS SHALL VERIFY THE BASIN'S DIMENSIONS, LEVELS AND VOLUMES COMPLY WITH THE APPROVED DESIGN DRAWINGS. THESE PLANS MAY BE REQUESTED BY THE CERTIFIER OR COUNCIL.
50. SEDIMENT BASINS SHALL BE CONSTRUCTED AND FULLY OPERATIONAL PRIOR TO ANY OTHER SOIL DISTURBANCE IN THEIR CATCHMENTS.
51. INSTALL AN INTERNAL GATED VALVE, OR SIMILAR ,IN ANY OUTLET PIPE ONCE PIPES INSTALLED, OR INSTALL A SACRIFICIAL PIPE FROM BASIN THROUGH WALL TO EXTERNAL OUTLET POINT. THE VALVE SHALL BE CONNECTED TO A RISER MADE FROM SLOTTED PIPE IN THE BASIN. THE VALVE MAY BE OPENED ONCE CAPTURED WATER MEETS WATER QUALITY REQUIREMENTS .THE FINAL SETUP FOR TEMPORARY INTERNAL OUTLET STRUCTURES TO BE CONFIRMED PRIOR TO CONSTRUCTION WITH COUNCIL. THIS SETUP WILL ENABLE DISCHARGE OF TREATED WATER FROM SITE WITHOUT NEED FOR PUMPING.
52. A SEDIMENT STORAGE LEVEL MARKER POST SHALL BE WITH A CROSS MEMBER SET JUST BELOW THE TOP OF THE SEDIMENT STORAGE ZONE (AS SPECIFIED ON THE APPROVED ESCP). AT LEAST A 75MM WIDE POST SHALL BE FIRMLY SET INTO THE BASIN FLOOR.
53. THE SITE MANAGER SHALL OBTAIN THE RELEVANT APPROVALS FROM THE RELEVANT ORGANISATIONS TO DISCHARGE TREATED WATER FROM ANY EXISTING BASINS. ORGANISATIONS MAY INCLUDE , BUT NOT BE LIMITED TO, HUNTER WATER , AND COUNCIL.
54. WHERE MORE THAN ONE STAGE IS TO BE DEVELOPED AT ONE TIME, OR BEFORE THE PRECEDING STAGE IS COMPLETE ,THE SEDIMENT BASIN(S) (FOR THESE STAGES SHALL HAVE SUFFICIENT CAPACITY TO CATER FOR ALL AREA DIRECTED TO THE BASIN(S).

55. PRIOR TO ANY FORECAST WEATHER EVENT LIKELY TO RESULT IN RUNOFF, ANY BASINS/TRAPS SHALL BE DEWATERED TO PROVIDE SUFFICIENT CAPACITY TO CAPTURE SEDIMENT LADEN WATER FROM THE SITE.
56. SUFFICIENT QUANTITIES OF CHEMICALS/AGEN TSTO TREAT CAPTURED WATER SHALL BE PLACED SUCH THAT WATER ENTERING THE BASIN MIXES WITH THE CHEMICAL/AGENTS AND IS CARRIED INTO THE BASIN TO SPEED UP CLARIFICATION.
57. ANY BASIN SHALL BE DEWATERED WITHIN THE X-DAY RAINFALL DEPTH USED TO CALCULATE THE CAPACITY OF THE BASIN, AFTER A RAINFALL EVENT.
58. SUFFICIENT QUANTITIES OF CHEMICALS/AGENTS TO TREAT TURBID WATER SHALL BE SECURELY STORED ON-SITE TO PROVIDE FOR AT LEAST THREE COMPLETE TREATMENTS OF ALL BASINS REQUIRING CHEMICALLY TREATMENT ONSITE.
59. PRIOR TO THE CONTROLLED DISCHARGE (E.G. DE-WATERING ACTIVITIES) FROM SITE INCLUDING EXCAVATION SAND/OR SEDIMENT BASINS, THE FOLLOWING WATER QUALITY OBJECTIVES SHALL BE ACHIEVED:

a) TOTAL SUSPENDED SOLIDS (TSS) TO A MAXIMUM 50 MILLIGRAMS/L;

b) WATER PH BETWEEN 6.5 AND 8.5, UNLESS OTHERWISE REQUIRED BY THE COUNCIL;

c) TURBIDITY (MEASURED IN NTUS) TO A MAXIMUM OF 60 NTU); AND

d) EC LEVELS NO GREATER THAN BACKGROUND LEVELS.
60. THE DEVELOPMENT AT APPROVAL MAY REQUIRE TESTING OF ADDITIONAL WATER QUALITY ELEMENTS PRIOR TO DISCHARGE ,E.G. INCLUDING BUT NOT LIMITED TO METALS, ORGANIC SUBSTANCES, CHEMICALS OR BACTERIOLOGICAL INDICATORS.
61. A SAMPLE OF THE RELEASED TREATED WATER SHALL BE KEPT ONSITE IN A CLEAR CONTAINER WITH THE SAMPLE DATE RECORDED ON IT
62. WATER QUALITY SAMPLES SHALL BE TAKEN AT A DEPTH NO LESS THAN 200MM BELOW THE WATER SURFACE OF THE BASIN.
63. NO ALUMINUM BASED PRODUCTS MAY BE USED TREAT CAPTURED WATER ONSITE WITHOUT THE PRIOR WRITTEN PERMISSION FROM AN APPROPRIATE COUNCIL OFFICER. THE APPLICANT SHALL HAVE A DEMONSTRATED ABILITY TO USE SUCH PRODUCTS CORRECTLY AND WITHOUT ENVIRONMENTAL HARM PRIOR TO ANY APPROVAL.
64. THE CHEMICAL/AGENT USED IN TYPE D AND TYPE F BASINS TO TREAT CAPTURED WATER CAPTURED IN THE BASIN SHALL BE APPLIED IN CONCENTRATION SUFFICIENT TO ACHIEVE COUNCIL'S WATER QUALITY OBJECTIVES WITHIN THE X-DAY RAINFALL DEPTH USED TO CALCULATE THE CAPACITY OF THE BASIN, AFTER A RAINFALL EVENT.
65. ALL MANUFACTURERS INSTRUCTION SHALL BE FOLLOWED FOR ANY CHEMICALS/AGENTS USED ONSITE, EXCEPT WHERE APPROVED BY THE RESPONSIBLE PERSON OR AN APPROPRIATE COUNCIL OFFICER.
66. THE APPLICANT SHALL ENSURE THAT ON EACH OCCASION A TYPE F OR TYPE D BASIN WAS NOT DE-WATERED PRIOR TO BEING SURCHARGED BY A FOLLOWING RAINFALL EVENT ,A REPORT IS PRESENTED TO AN APPROPRIATE COUNCIL OFFICER WITHIN 5 DAYS
67. IDENTIFYING THE CIRCUMSTANCE SAND PROPOSED AMENDMENTS ,IF ANY, TO THE BASIN'S OPERATING PROCEDURES.
68. SETTLED SEDIMENT SHALL BE REMOVED AS SOON AS REASONABLE AND PRACTICABLE FROM ANY SEDIMENT BASIN IF:

a) IT IS ANTICIPATED THAT THE NEXT STORM EVENT IS LIKELY TO CAUSE SEDIMENT TO SETTLE ABOVE THE BASIN'S SEDIMENT STORAGE ZONE; OR

b) THE ELEVATION OF SETTLED SEDIMENT IS ABOVE THE TOP OF THE BASIN'S SEDIMENT STORAGE ZONE; OR

c) THE ELEVATION OF SETTLED SEDIMENT IS ABOVE THE BASINS SEDIMENT MARKER LINE.
68. SCOUR PROTECTION MEASURES PLACED ON SEDIMENT BASIN EMERGENCY SPILLWAYS SHALL APPROPRIATELY PROTECT THE SPILLWAY CHUTE AND ITS SIDE BATTERS FROM SCOUR, AND SHALL EXTEND A MINIMUM OF 3M BEYOND THE DOWNSTREAM TOE OF THE BASIN'S EMBANKMENT.
69. SUITABLE ALL-WEATHER MAINTENANCE ACCESS SHALL BE PROVIDED TO ALL SEDIMENT CONTROL DEVICES.
70. MATERIALS ,WHETHER LIQUID OR SOLID, REMOVED FROM ANY ESC MEASURE OR EXCAVATION DURING MAINTENANCE OR DECOMMISSIONING S,HALL BE DISPOSED OF IN A MANNER THAT DOES NOT CAUSE ONGOING SOIL EROSION, WATER POLLUTION OR ENVIRONMENTAL HARM.
71. ALL SEDIMENT BASINS SHALL REMAIN FULLY OPERATIONAL LAT ALL TIMES UNTIL THE BASIN'S DESIGN CATCHMENTS ACHIEVES 70% GROUND COVER OR SURFACE STABILISATION ACCEPTABLE TO COUNCIL.
72. THE ESC MEASURES INSTALLED DURING THE DECOMMISSIONING AND REHABILITATION OF A SEDIMENT BASIN SHALL COMPLY WITH SAME STANDARDS SPECIFIED FOR THE NORMAL CONSTRUCTION WORKS.
73. A SEDIMENT BASIN SHALL NOT BE DECOMMISSIONED UNTIL ALL UP-SLOPE SITE STABILISATION MEASURES HAVE BEEN IMPLEMENTED AND ARE APPROPRIATELY WORKING TO CONTROL SOIL EROSION AND SEDIMENT RUNOFF
74. IMMEDIATELY PRIOR TO THE CONSTRUCTION N OF THE PERMANENT T STORMWATER TREATMENT DEVICE ,APPROPRIATE FLOW BYPASS CONDITIONS SHALL BE ESTABLISHED TO PREVENT SEDIMENT-LADEN WATER ENTERING THE DEVICE.

REVEGETATION/STABILISATION

75. TEMPORARY STABILISATION MAY BE ATTAINED USING VEGETATION ,NON REWETTABLE SOIL POLYMERS, OR PNEUMATICALLY APPLIED EROSION CONTROLS.
76. ALL CUT AND FILL EARTH BATTERS LESS THAN 3M IN ELEVATION SHALL BE TOPSOILED, AND GRASS SEEDED(HYDROMULCHE W(D)ITHIN 10 DAYS OF COMPLETION OF GRADING IN CONSULTATION WITH COUNCIL.
77. AT THE COMPLETION OF FORMATION IN ANY SECTION, ALL DISTURBED AREAS SHALL BE STABILISED IN ACCORDANCE WITH TIME LINES IN THE BLUE BOOK.
78. THE LMCC SEED MIX SHALL BE USED UNLESS STATED ON THE ESCP/SWMP.
79. THE PH LEVEL OF TOPSOIL SHALL BE APPROPRIATE TO ENABLE ESTABLISHMENT AND GROWTH OF SPECIFIED VEGETATION PRIOR TO INITIATING THE ESTABLISHMENT OF VEGETATION.
80. NON REWETTABLE BINDER SHALL BE USED IN ALL HYDROMULCH(HYDROSEED)/POLYMER MIXES ON SLOPES OR WORKS ADJACENT TO A WATER COURSE.
81. SOIL AMELIORANT'S SHALL BE ADDED TO THE SOIL IN ACCORDANCE WITH AN APPROVED LANDSCAPE PLAN, VEGETATION MANAGEMENT PLAN, AND/OR SOIL ANALYSIS.
82. SURFACE SOIL DENSITY, COMPACTION AND SURFACE ROUGHNESS SHALL BE ADJUSTED PRIOR TO SEEDING/PLANTING IN ACCORDANCE WITH AN APPROVED LANDSCAPE PLAN, VEGETATION MANAGEMENT PLAN, AND/OR SOIL ANALYSIS.
83. PROCEDURE S FOR INITIATING A SITE SHUTDOWN , WHETHER PROGRAMMER OR UN-PROGRAMMED ,SHALL INCORPORATE REVEGETATION OF ALL SOIL DISTURBANCES UNLESS OTHERWISE APPROVED BY COUNCIL. THE STABILISATION WORKS SHALL NOT RELY UPON THE LONGEVITY OF NON-VEGETATED EROSION CONTROL BLANKETS ,OR TEMPORARY SOIL BINDERS.

SITE MONITORING AND MAINTENANCE

84. THE APPLICANT SHALL ENSURE THAT APPROPRIATE PROCEDURE SAND SUITABLY QUALIFIED PERSONNEL ARE ENGAGED TO PLAN AND CONDUCT SITE INSPECTION SAND WATER QUALITY MONITORING THROUGHOUT THE CONSTRUCTION AND MAINTENANCE PHASE.
85. ALL ESC MEASURES SHALL BE INSPECTED AND ANY MAINTENANCE UNDERTAKEN IMMEDIATELY:

a) AT LEAST DAILY (WHEN WORK IS OCCURRING ON-SITE); AND

b) AT LEAST WEEKLY (WHEN WORK IS NOT OCCURRING ON-SITE); AND

c) WITHIN 24HRS OF EXPECTED RAINFALL; AND

d) WITHIN 18HRS OF A RAINFALL EVENT THAT CAUSES RUNOFF ON THE SITE.
86. WRITTEN RECORDS SHALL BE KEPT ONSITE OF ESC MONITORING AND MAINTENANCE ACTIVITIES CONDUCTED DURING THE CONSTRUCTION AND MAINTENANCE PERIODS, AND BE AVAILABLE TO COUNCIL OFFICERS ON REQUEST.
87. ALL ENVIRONMENTAL IRRELEVANT INCIDENTS SHALL BE RECORDED IN A FIELD LOG THAT SHALL REMAIN ACCESSIBLE TO ALL RELEVANT REGULATORY AUTHORITIES
88. ALL WATER QUALITY DATA, INCLUDING DATES OF RAINFALL, DATES OF TESTING, TESTING RESULTS AND DATES OF WATER RELEASE ,SHALL BE KEPT IN AN ON-SITE REGISTER. THE REGISTER IS TO BE MAINTAINED UP TO DATE FOR THE DURATION OF THE APPROVED WORKS AND BE AVAILABLE ON-SITE FOR INSPECTION BY ALL RELEVANT REGULATORY AUTHORITIES ON REQUEST.
89. AT NOMINATED INSTREAM WATER MONITORING SITES, A MINIMUM OF 3 WATER SAMPLES SHALL BE TAKEN AND ANALYSED ,AND THE AVERAGE RESULT USED TO DETERMINE QUALITY

INSTREAM WORKS

90. ALL INSTREAM WORKS (INCLUDING IN OR ADJACENT TO WATERCOURSES NATURAL OR MANMADE, FLOWING OR NOT) SHALL BE CARRIED OUT IN ACCORDANCE WITH THE IECA WHITE BOOKS

REVISIONS						<div>This drawing is not approved for construction unless signed.</div> <div></div> <div></div>	260 MAITLAND ROAD, MAYFIELD PO BOX 4105 KOTARA EAST 2305 0402 915 549 mathew@drbengineering.com.au ABN 64 625 755 482	CLIENT SNL BUILDING & CONSTRUCTIONS	PROJECT RESIDENTIAL DEVELOPMENT 38 POWER STREET, ISLINGTON, NSW 2296	DRAWING STATUS DEVELOPMENT APPROVAL		SHEET SIZE A1
										SCALE		DRAWN C.T.
	B	23.01.23	C.T.	B.R.	M.M.							REVISION B
	A	30.09.22	C.T.	B.R.	M.M.							
	REV	DATE	DRN	CHK	APP					PROJECT REF No. 222225	DRAWING No. CIV-021	

Date: 23.01.2023 5:45 PM

Plotted by: BRYN RODGERS

Found: C:\Users\BrynRodgers\DRB Consulting Engineers Pty Ltd\Files - Documents\222225\ Drawings\1 - CIV\22225_CIV.dwg

PLAN FORM 6 (2019)	DEPOSITED PLAN ADMINISTRATION SHEET	56 Sheet 1 of 2 sheet(s)
<div>Office Use Only</div> Registered: Title System:		<div>Office Use Only</div> <div>PRELIMINARY ONLY</div> <div>THIS PLAN IS PRELIMINARY ONLY AND IS SUBJECT TO COUNCIL APPROVAL, FINAL DESIGN, CONSTRUCTION, FINAL SURVEY AND REGISTRATION AT THE LAND REGISTRY SERVICES.</div>
PLAN OF SUBDIVISION OF LOT 22 SECTION B D.P.2331 AND LOT 1 D.P.104831		LGA: NEWCASTLE Locality: ISLINGTON Parish: NEWCASTLE County: NORTHUMBERLAND
<div>Survey Certificate</div> <p>I, TIMOTHY R. RHEINBERGER of DELFS LASCELLES CONSULTING SURVEYORS PTY LIMITED a surveyor registered under the Surveying and Spatial Information Act 2002, certify that:</p> <p>*(a) The land shown in the plan was surveyed in accordance with the Surveying and Spatial Information Regulation 2017, is accurate and the survey was completed on , or</p> <p>*(b) The part of the land shown in the plan (*being/*excluding **) was surveyed in accordance with the Surveying and Spatial Information Regulation 2017, the part surveyed is accurate and the survey was completed on,..... the part not surveyed was compiled in accordance with that Regulation, or</p> <p>*(c) The land shown in this plan was compiled in accordance with the Surveying and Spatial Information Regulation 2017.</p> <p>Datum Line:</p> <p>Type: *Urban/*Rural</p> <p>The terrain is *Level-Undulating / *Steep-Mountainous.</p> <p>Signature: Dated:</p> <p>Surveyor Identification No: SU008731</p> <p>Surveyor registered under the Surveying and Spatial Information Act 2002</p> <p>*Strike out inappropriate words. **Specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey.</p>		<div>Crown Lands NSW/Western Lands Office Approval</div> <p>I, (Authorised Officer) in approving this plan certify that all necessary approvals in regard to the allocation of the land shown herein have been given.</p> <p>Signature:</p> <p>Date:</p> <p>File Number:</p> <p>Office:</p> <div>Subdivision Certificate</div> <p>I, *Authorised Person/*General Manager/*Accredited Certifier, certify that the provisions of s.6.15 of the Environmental Planning and Assessment Act 1979 have been satisfied in relation to the proposed subdivision, new road or reserve set out herein.</p> <p>Signature:</p> <p>Accreditation number:</p> <p>Consent Authority:</p> <p>Date of endorsement:</p> <p>Subdivision Certificate number:</p> <p>File number:</p> <p>* Strike through if inapplicable</p>
Plans used in the preparation of survey/compilation. D.P. 2331 D.P. 104831		Statements of intention to dedicate public roads, create public reserves and drainage reserves, acquire/resume land.
Surveyor's Reference: 22566_DRAFT		Signatures, Seals and Section 88B Statements should appear on PLAN FORM 6A

Office Use Only

Registered:

Office Use Only

PRELIMINARY ONLY**PLAN OF SUBDIVISION OF LOT 22
SECTION B D.P.2331 AND LOT 1
D.P.104831**

THIS PLAN IS PRELIMINARY ONLY AND IS SUBJECT TO
COUNCIL APPROVAL, FINAL DESIGN, CONSTRUCTION,
FINAL SURVEY AND REGISTRATION AT THE LAND
REGISTRY SERVICES.

This sheet is for the provision of the following information as required:

- A schedule of lots and addresses - See 60(c) *SSI Regulation 2017*
- Statements of intention to create and release affecting interests in accordance with section 88B *Conveyancing Act 1919*
- Signatures and seals - See 195D *Conveyancing Act 1919*
- Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets.

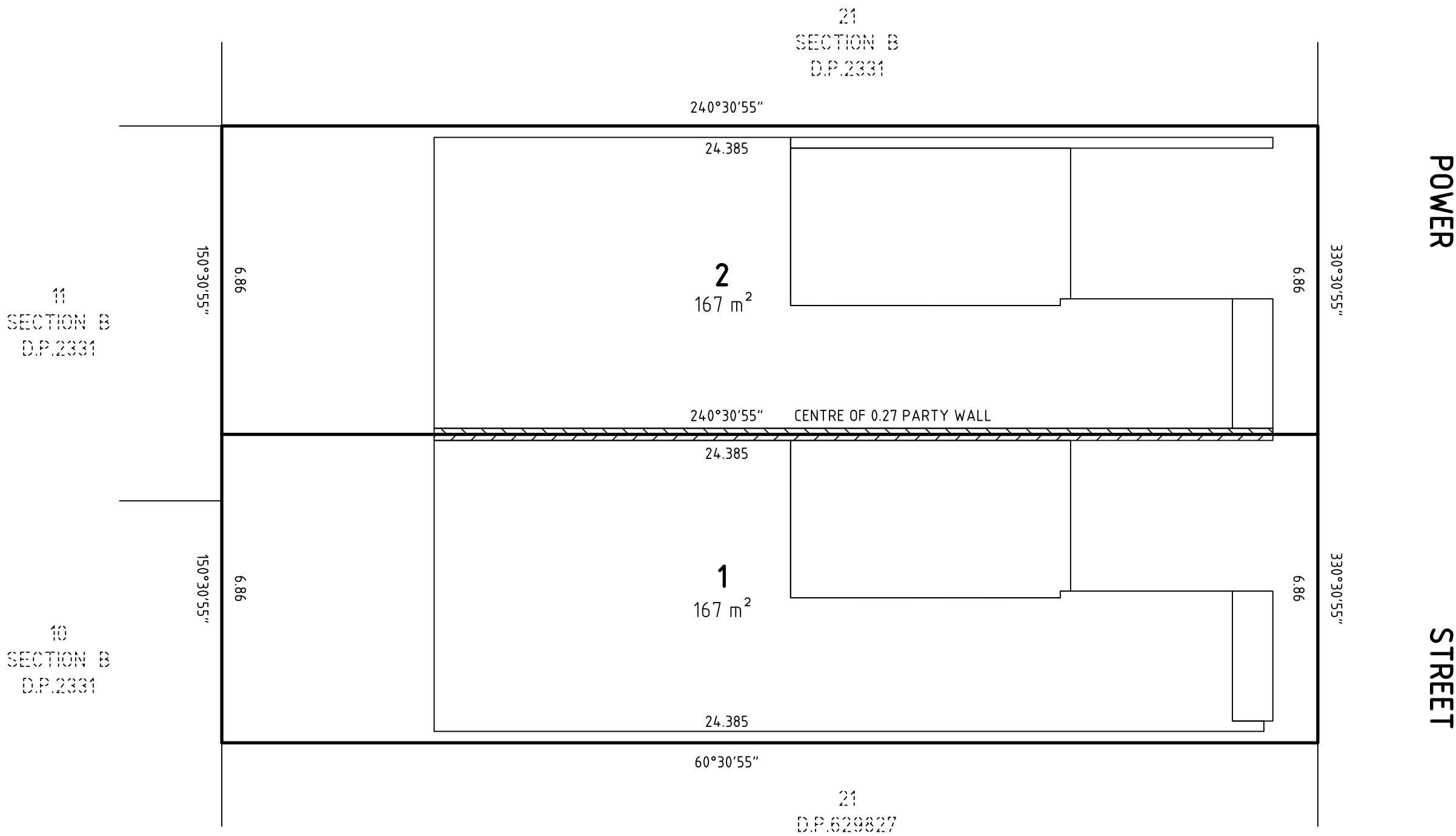
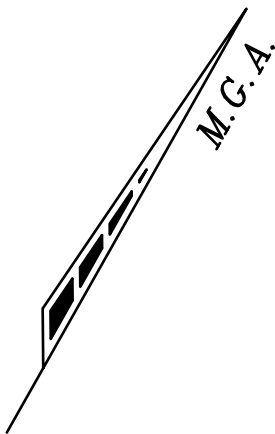
Subdivision Certificate number :

Date of Endorsement :

LOT	STREET No.	STREET NAME	STREET TYPE	LOCALITY
1				
2				

If space is insufficient use additional annexure sheet

Surveyor's Reference: 22566_DRAFT



PRELIMINARY ONLY

THIS PLAN IS PRELIMINARY ONLY AND IS SUBJECT TO COUNCIL APPROVAL, FINAL DESIGN, CONSTRUCTION, FINAL SURVEY AND REGISTRATION AT THE LAND REGISTRY SERVICES.

DRAWING NOTE

THIS PLAN HAS BEEN PREPARED USING PLANS PROVIDED BY:
COMPANY: SNL BUILDING
DRAWING REFERENCE: 38 POWER STREET, ISLINGTON
REVISION: 7 DATE: 14.11.2022

<div><div>SURVEYOR</div><div>Name:TIMOTHY R. RHEINBERGER</div><div>Date:09.01.2023</div><div>Reference:22566_DRAFT</div></div>	<div>PLAN OF SUBDIVISION OF LOT 22 SECTION B D.P.2331 AND LOT 1 D.P.104831</div>	<div>LGA:NEWCASTLE</div> <div>Locality:ISLINGTON</div> <div>Reduction Ratio 1:100</div> <div>Lengths are in metres.</div>	<div>REGISTERED</div>	<div>D.P.</div>
--	--	---	-----------------------	-----------------

Arborist Report

Client: Mrs Ranieri

Address: 38 Power Street,
ISINGTON N.S.W 2296



Bradley Magus

Valuation Solutions PTY LTD

Trading as ***Abacus Tree Services***

ABN: 63 163 718 631

ACN: 108 515 859

P.O Box 333 Newcastle 2300

(Ph 0425 203 049)

Email: abacustrees@gmail.com

www.abacustreeservices.com

Tafe RTO Provider Number: 90002

This document is copyright © 2023

Table of Contents

1.0	Executive Summary	3
2.0	Arborist Details	4
2.1	Introduction	4
2.2	Aims of this report/Procedure	5
3.0	Disclaimer	5
3.2	Site Description	6
4.0	Tree Schedule	8
4.1	Trees & Impact on Development	10
5.0	Discussion & Compliance to Australian Standards 4970 – 2009, 4373 – 2007 & Rural Fire Service (RFS) 10:50 Code.....	11
5.2	Tree Retention Values	16
6.0	Conclusions	17
7.0	Recommendations	19
8.0	References	21
9.0	APPENDIX 1 Site Maps	22
APPENDIX 2	U.L.E (Useful Life Expectancy) Categories and Subgroups	23
APPENDIX 3	Notes on Tree Assessment	24

1.0 *Executive Summary*

- It is recommended that Trees 2 - 5 (6 in total) be retained and incorporated into the development. Conditions and recommendations are to be outlined in section 7 of the report.
- It is recommended that Trees 1 & 6 be removed before commencement of building works on site. Conditions and recommendations are to be outlined in section 7 of the report.

2.0 Arborist Details

<p style="text-align: center;">Bradley Magus</p> <p style="text-align: center;">Contact Details:</p> <p style="text-align: center;">P.O Box 333 Newcastle 2300 Ph: 0425 203 049</p> <p>Email: abacustrees@gmail.com or bradmagus1@bigpond.com Web: www.abacustreeservices.com</p>	<p>Qualifications</p> <ol style="list-style-type: none"> 1. Diploma Horticulture (1993) 2. Bachelor of Horticulture Science (1996) 3. Masters Land Economics (2002) 4. Diploma Horticulture (Arboriculture) (AQF 5) 2007 (Dux) 5. International Society of Arboriculture Certified Arborist (2007) 6. QTRA Assessor – 2011 & 2013
--	--

2.1 Introduction

Abacus Tree Services was commissioned by Mrs Ranieri to assist in the preparation of an arborist report. An assessment was made on six (6) trees (Trees 1 – 6) located within the confines of 36 & 38 Power Street, Islington. There is in total six (6) trees located at 36 & 38 Power Street, Islington that were assessed as per the applicant's instructions.

The purpose of this report is to provide information and guidance to the applicant in relation to six (6) trees only. The information in this report is to be used in correlation with other reports identified by Newcastle City Council and will provide Newcastle City Council with a framework for determining the development application (D.A).

This report and its recommendations are based upon a physical site inspection undertaken on the 10 January 2023.

The photographs included in this report were taken at the time of the inspection on the 10 January 2023.

2.2 Aims of this report/Procedure

The aim of this report is to assess the health and condition of six (6) trees (Trees 1 - 6). The condition of the trees was assessed from ground level using the VTA (Visual Tree Assessment) method as outlined by Mattheck & Breloer (1999). The following criteria will be assessed within this report –

- An assessment of the dimensions (age, class, height and Diameter at Breast Height (D.B.H))
- An assessment of the health and condition of the trees;
- An assessment of the Useful Life Expectancy (U.L.E)
- Compilation of an appropriate report detailing the results of the above assessments
- Trees earmarked for retention to be assessed as per Australian Standards 4970-2009
- Hazard Rating, Recommendations for each tree

The (U.L.E) method of tree assessment, as outlined by Jeremy Barrell (1999) has been adopted within this report. U.L.E categories give an indication of the useful life expectancy anticipated for the tree that has been adopted for this report. Several factors are considered in determining this rating such as species, location, age, condition and health of the tree. The five U.L.E categories are outlined in detail within Appendix 2.

3.0 Disclaimer

This assessment has been prepared for the exclusive use of the applicant (Mrs Ranieri), for the preparation of a development application submission. Information in this report relates to six (6) trees (Trees 1 – 6) within the premises of 36 & 38 Power Street, Islington only and should not be used in conjunction with any other property.

This assessment was carried out from the ground, and covers what was reasonably able to be assessed and available to the assessor at the time of the inspection. The assessor carried out no aerial inspections. Information contained in this report covers only the trees that were examined and reflects the condition of the trees at the time of the inspection; furthermore the inspection was limited to a visual examination of the subject trees without dissection, excavation, probing or coring. Trees are living things and there condition will change over time. Therefore there is no guarantee that problems or deficiencies of the subject tree may not arise in the future.

3.1 Site Map

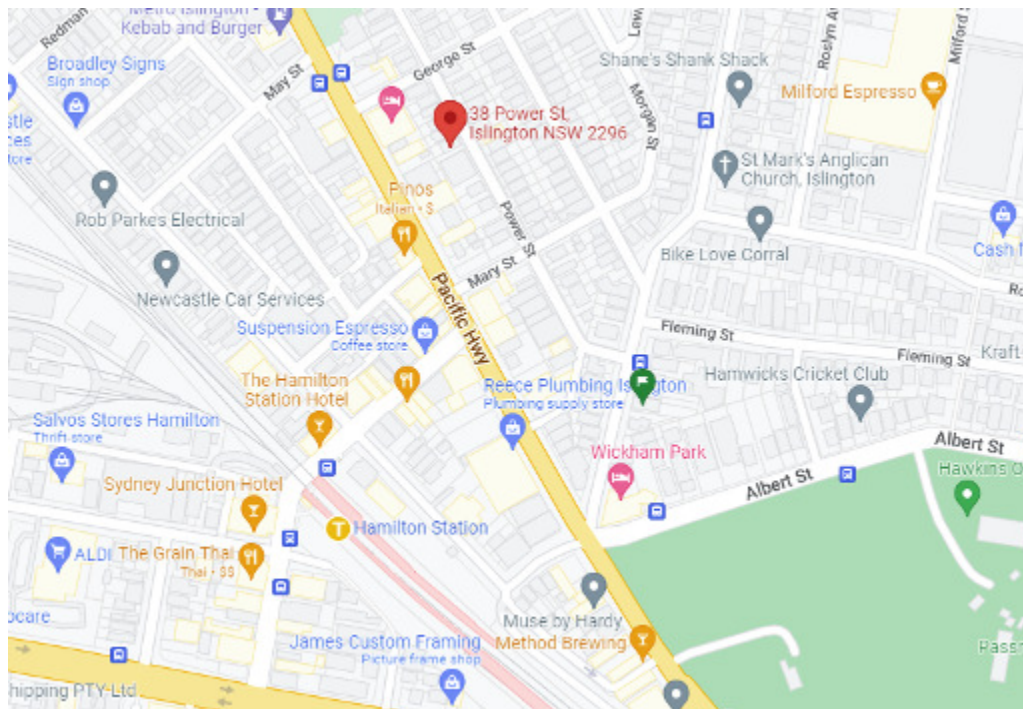


Figure 1

Location: All trees are located within 36 & 38 Power Street, Islington

Source: www.googlemaps.com.au

3.2 Site Description

Trees 1 – 6 are located wholly within 36 & 38 Power Street, Islington. The site is located in the municipality of Newcastle City Council. The species on site have been assessed against the requirements set out in Newcastle City Council's Urban Forestry Technical Manual (NCCUFTM). The species on site have been assessed against the requirements set out in Newcastle City Council's Local Environmental Plan (2012) pursuant to Section 5.9 & 5.9AA (repealed) & Development Control Plan (2012) & associated Technical Manual (Urban Forestry Technical Manual – UFTM). This report will assess but not limited to a tree retention value assessment in accordance with Section 4.1 of the UFTM. This report will define tree protection zone offsets and protection requirements in accordance with Section 7 of the UFTM. This report is prepared in accordance with Part A, Section 6 of the UFTM. Abacus Tree Services has assessed Part A (Private Trees), Part B (Public Trees) & Part C (Native Vegetation). All information is assessed per the requirements as set out within section 5.03 Tree Management. I have assessed the property against Schedule 5 (Environmental Heritage) within NCC LEP. The property is not listed in accordance with Part 1 (Heritage Items) and/or Part 2 (Heritage Conservation Area).

© Abacus Tree Services Ph: 0425 203 049

Project: 38 Power Street, Islington

Client: Mrs Ranieri

Date: 20 January 2023

The subject property has also been assessed against the SEPP Policy (Biodiversity and Conservation) 2021. This property or council area is listed as being within Part 2 (Section 2.3) of the SEPP (Biodiversity and Conservation) 2021. All councils have items of local government and state heritage significance. These items are found in the NSW heritage website. The subject property has been assessed against the Heritage NSW database. In accordance with Heritage NSW listed items there are no listings (Items listed by Local Government & State Agencies) for the subject property. This also includes no trees of heritage significance for the subject property.

The site is set on a flat block with the immediate area being dominated by residential houses. The nearest major arterial road is the Pacific Highway. Trees 1 – 6 are located within the subject properties identified as 36 & 38 Power Street, Islington. The trees are located within close proximity to the subject property & proposed development.



Figure 2 – Location of subject property identified as 38 Power Street, Islington

4.0 *Tree Schedule*

Species & dimension requirements on Page 9. This page intentionally left blank

Key:

Tree No	Scientific Name	Common Name	DBH (MM)	Height (M)	AGE CLASS	Vigour	SPREAD N.E.S.W.	ULE	Comments
1	Callistemon viminalis	Bottlebrush	MS (170)	4	YM	G	1,2,2,1	2a	Symmetrical, LCR = 85 – 100%
2	Draceana marginata	Dragon Tree	MS (185)	4.5	YM	G	1,3,1,1	2a	Symmetrical, LCR = 85 – 100%
3	Plumeria rubra	Frangipani	MS (180)	3.5	YM	G	1,2,2,1	2a	Symmetrical, LCR = 85 – 100%
4	Callistemon viminalis	Bottlebrush	MS (160)	4.5	YM	G	1,2,2,2	2a	Located 2.4 metres to the neighbours' building, Symmetrical, LCR = 85 – 100%
5	Olea europea	Olive Tree	130,145	6	M	G	6,3,1,3	2d	Symmetrical, LCR = 85 – 100%
6	Alnus glutinosa	Black Alder	700	14	M	G	8,7,6,6	2d	Neighbours' Tree, Symmetrical, LCR = 85 – 100%. Located 0.05 metres to the neighbours' building.

Age class: Young = Y, Semi mature = SM, Mature = M, YM = Young Mature, Over mature = OM

DBH = Diameter at Breast Height LCR = Live Crown Ratio

Vigour = E = Excellent, G = Good, F = Fair, P = Poor, D = Dead, Do = Dormant

LDW = large deadwood over 40mm, MDW = Minor deadwood less than 40mm

N = north, E = east, W = west, S = south MS = multiple Stems

ULE = Useful Life Expectancy (See appendix 2 for guidelines)

MS = Multiple Stems S = Shrub

NCC = Newcastle City Council UFTM + Urban Forestry Technical Manual

SRZ = Structural Root Zone TPZ = Tree Protection Zone

4.1 *Trees & Impact on Development*

Trees are living organisms and their root systems play an integral role in stability and providing nutrient storage as well as water uptake. The majority of tree roots for Dicotyledons occur within the first metre of the soil. Therefore construction works can have a profound effect on their health and longevity as well as their structural stability. Tree distances from excavation works must be taken into consideration at the planning stage to ensure that the tree is not damaged.

There are several main factors that occur at the construction phase that can have a negative impact on the trees health and stability. These practices can include but are not limited to –

- Parking of vehicles and heavy machinery within the drip line of the tree.
- Stockpiling of materials within the drip line of the tree.
- Excavating within the drip line and damaging the structural root system.
- Raising soil levels in and around the base of the tree therefore reducing the trees ability for gaseous exchange.
- Damage to the tree due to heavy machinery and equipment resulting in large bark tears or loss of branches and scaffolds.

To reduce the effects of construction it is imperative to provide an area underneath the tree where no works are undertaken. The area where supervised works are undertaken is referred to as the structural root zone (SRZ). The S.R.Z/T.P.Z is an area where no to minimal activities listed above should occur. All trees require an S.R.Z/T.P.Z and will vary from species to species but for the purposes of this report the Australian Standards 4970 has now been adopted.

In conclusion the Australian Standards like similar methods for protecting trees is only a guide. To ensure the health and longevity of trees within construction sites it is imperative to provide a large protection zone taking into consideration that the tree will also grow over time. The greater area that can be put aside where no works occur will aid in the preservation of the tree. The activities listed above should be kept to a minimum and encroachment within the SRZ/TPZ will require the supervision by a qualified AQF 5 arborist. These impacts will be taken into consideration in the discussion & recommendations section of this report.

5.0 Discussion & Compliance to Australian Standards 4970 – 2009, 4373 – 2007 & Rural Fire Service (RFS) 10:50 Code

Abacus Tree Services has been approached by SNL Building on behalf of their client (Mrs Ranieri) to undertake an arborist (assessment) report on trees that come under the requirements of Newcastle City Council Urban Forestry Technical Manual (NCCUFTM) & trees that will be affected by the proposed development. There are six (6) trees that have been assessed within the subject properties identified as 36 & 38 Power Street, Islington. Trees 1 - 5 are located within the backyard of the subject property. Tree 6 is located in the premises of 32 – 36 Power Street, Islington. The applicant proposes to construct two (2) dwellings within the subject property identified as 38 Power Street, Islington (Appendix 1).

Abacus Tree Services has relied upon the sketch drawings provided by SNL Building (Drawing number – Site Plan DA004) to formulate distances and setbacks in accordance with Australian Standards 4970 – 2009. I have relied upon this information to be true and accurate. Any changes to the sketching and drawings will require the calculations to be reassessed in accordance with Australian Standards 4970 – 2009.

The table below represents the S.R.Z (Structural Root Zone) and TPZ (Tree Protection Zone) figures based on Australian Standards 4970 - 2009.

Tree No	SRZ (metres)	TPZ (metres)
1	1.55	2.04
2	1.61	2.22
3	1.50	2.16
4	1.51	2.00
5	1.51	2.28
6	3.01	8.40

All trees require a S.R.Z and a T.P.Z with Australian Standards 4970- 2009 being used as a guideline. Tree 1 has been given an SRZ and TPZ of 1.55 & 2.04 metres in accordance with Australian Standards 4970 – 2009. Tree 1 is located in the backyard of the subject property. Tree 1 is located 0.8 metres to the proposed dwelling. AS 4970 – 2009 indicates that the TPZ radius is taken from the centre of the trunk. This leaves a spatial separation of 0.88 metres from the centre of the trunk to the proposed dwelling. The overall loss of TPZ has been calculated at 22.92% that doesn't comply with AS 4970 – 2009. The incursion into the SRZ on one side has been calculated at 43.23%. The loss of SRZ will lead to instability of the tree. Tree 1 would be located inside of the proposed deck. Tree 1 is earmarked for removal before commencement of building works on site.



Figure 3 – showing the location of Trees 1 – 5 in the backyard of the subject property.

Tree 2 has been given an SRZ and TPZ of 1.61 & 2.22 metres in accordance with Australian Standards 4970 - 2009. Tree 2 is located 3 metres to the proposed deck and 4.3 metres to the proposed development. This species is located outside the scope of works. This species could be retained on the proviso that the existing soil levels are retained inside the TPZ. Conditions and recommendations will be outlined in section 7 of the report. Tree 2 is earmarked for retention and incorporation into the development.

Tree 3 has been given an SRZ and TPZ of 1.50 & 2.16 metres in accordance with Australian Standards 4970 - 2009. Tree 3 is located 2.4 metres to the proposed deck and 3.4 metres to the proposed development. This species is located outside the scope of building works. This species could be retained on the proviso that the existing soil levels are retained inside the TPZ. Conditions and recommendations will be outlined in section 7 of the report. Tree 3 is earmarked for retention and incorporation into the development.



Figure 4 – showing the location of the proposed development in red. The area as highlighted by the arrows are to be retained to protect the TPZ and existing soil levels during construction works. This area is to be cordoned off in order to protect the root plate and canopy.

Tree 4 has been given an SRZ and TPZ of 1.51 & 2.00 metres in accordance with Australian Standards 4970 - 2009. Tree 4 is located 2.2 metres to the proposed deck and 4.0 metres to the proposed development. This species is located outside the scope of works. This species could be retained on the proviso that the existing soil levels are retained inside the TPZ. Conditions and recommendations will be outlined in section 7 of the report. Tree 4 is earmarked for retention and incorporation into the development.

Tree 5 has been given an SRZ and TPZ of 1.79 & 2.28 metres in accordance with Australian Standards 4970 - 2009. Tree 5 is located 1.6 metres to the closest section of the deck and 3.7 metres to the proposed development. AS 4970 – 2009 indicates that the TPZ radius is taken from the centre of the trunk. This leaves a spatial separation of 1.72 metres from the centre of the trunk to the proposed patio. The overall loss of TPZ has been calculated at 5.78% that complies with AS 4970 – 2009. Tree 5 is earmarked for retention and incorporation into the development. This is based on the proviso that the existing soil levels can be retained between the development and the trunk inside the TPZ.

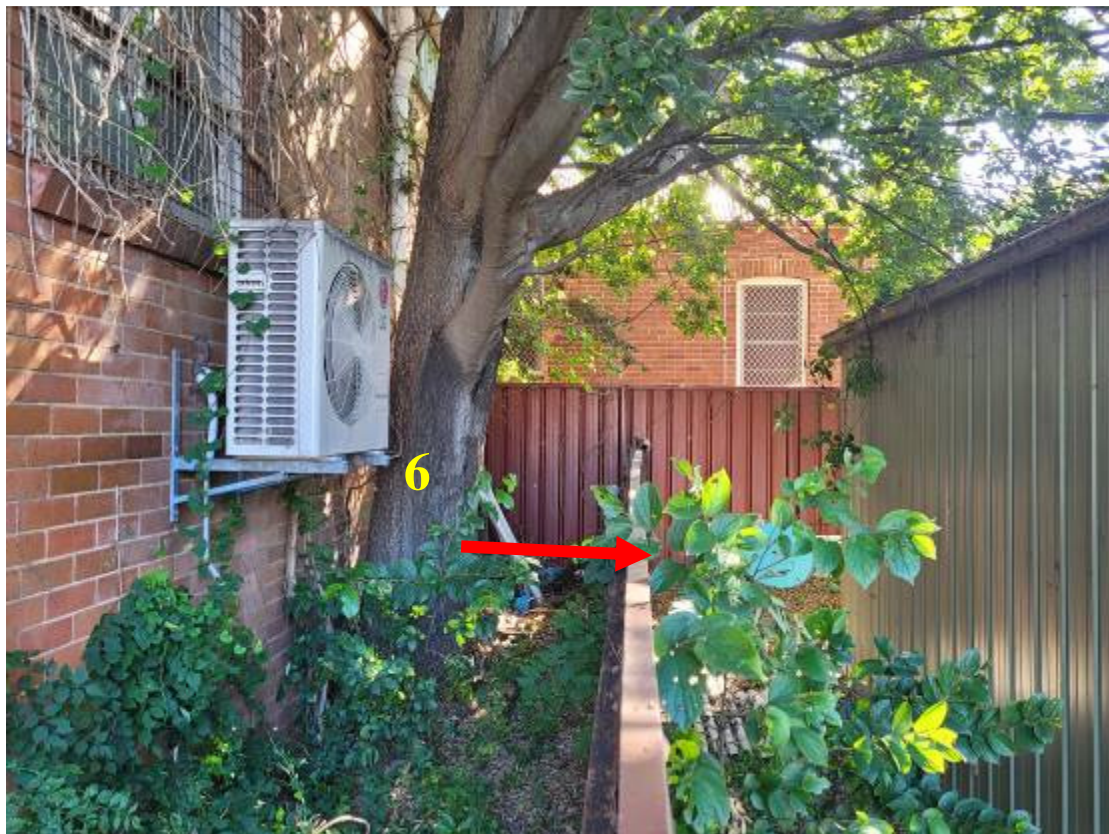


Figure 5 – showing the location of Tree 6 in the neighbour's property. Tree 6 is a mature species that is located 1.2 metres to the side boundary.

Tree 6 has been given an SRZ and TPZ of 3.01 & 8.40 metres in accordance with Australian Standards 4970 - 2009. Tree 6 is located 0.05 metres to the building as indicated in Figure 5. This species is located in the neighbour's property with a large section of the canopy extending into the subject property (backyard). Tree 6 is located 1.2 metres to the side boundary. Tree 6 is located an estimated 2.2 metres to the proposed development. AS 4970 – 2009 indicates that the TPZ radius is taken from the centre of the trunk. This leaves a spatial separation of 2.49 metres from the centre of the trunk to the proposed development. The overall loss of TPZ has been calculated at 18.37% that doesn't comply with AS 4970 – 2009. This figure is based on the proviso that the remaining section of backyard outside the scope of building works is maintained at existing soil levels. This species is earmarked for removal due to the distance and damage that is being caused to the neighbours dwelling and the layout to the proposed development. Tree 6 is earmarked for removal before commencement of building works on site.



Figure 6 – showing the canopy associated with Tree 6. Tree 6 will require pruning works to be completed in order to construct the proposed development. The removal of the concrete will have to be undertaken using non-mechanised methods inside the TPZ. This will ensure the root plate isn't removed.

5.2 Tree Retention Values

Tree retention and values are part of the process when evaluating trees within NCC. The significance and the assessment criteria are to be assessed within the 7 step criteria set out within Urban Forestry Technical Manual. Section 4.3 of the UFTM also highlights the guide to compensatory planting on development sites. This section also looks at the total area of crown projection to be removed and the formula used to determine the canopy area. Trees of moderate to high retention value if earmarked for removal on private land will require compensatory replanting in accordance with Section 4.1 of the UFTM.

Trees with very low to low retention values have not been considered for replacement as this reflects the comments as outlined in Section 4.0 of the UFTM. Section 4.0 of the UFTM highlights that where it is not feasible to retain a tree of moderate or high value on private land, compensatory planting will be required. A guide to compensatory planting range for trees of moderate or high value is provided in accordance with Table 2 of the UFTM.

Tree retention and values are part of the process when evaluating trees within NCC. The significance and the assessment criteria are to be assessed within the 7 step criteria set out within Urban Forestry Technical Manual. Trees 1 – 4 have canopy areas less than 40m². These species have been given landscape significance ratings of 5. Trees 1 - 4 (4 in total) have a low retention value in accordance with the criteria assessed and modelled within the matrix. Trees 5 & 6 (2 in total) have been given a moderate retention value in accordance with the criteria assessed and modelled within the matrix. Trees with low retention value do not require replacement plantings in accordance with the UFTM. Trees 2 – 5 are being retained therefore require no replacement plantings. A sufficient landscape plan will therefore satisfy the requirements of NCC UFTM (Section 4.3). Tree 6 will require two (2) replacement plantings in accordance with NCC UFTM. Replacement plantings are to be a minimum of 45 litre pot size. Replacement plantings are to be *Hymenosporum flavum*, *Acmena smithii* or similar species.

Tree Retention Value – As per 7 step criteria (Urban Forestry Policy)

Tree	ULE	Landscape Significance	Retention Value
1	2a, 2d	5	L
5 & 6	2d	4	M

6.0 Conclusions

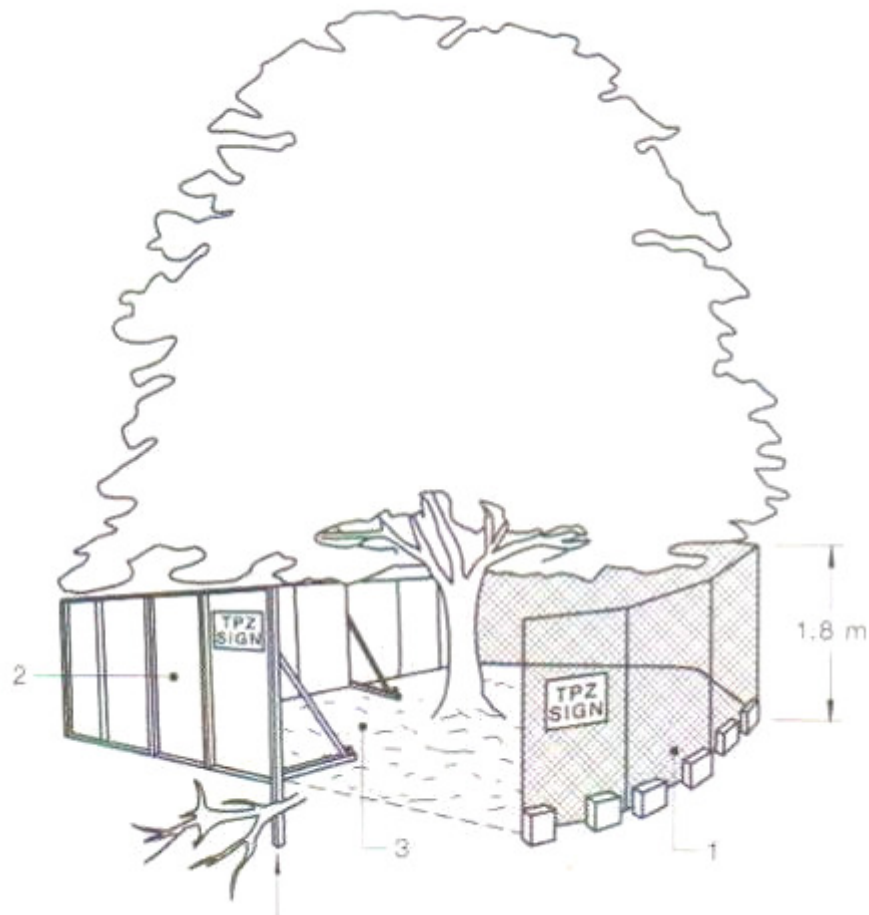
- Abacus Tree Services has been approached by SNL Building on behalf of their client (Mrs Ranieri) to undertake an arborist (assessment) report on trees that come under the requirements of Newcastle City Council Urban Forestry Technical Manual (NCCUFTM) & trees that will be affected by the proposed development. There are six (6) trees that have been assessed within the subject properties identified as 36 & 38 Power Street, Islington. Trees 1 - 5 are located within the backyard of the subject property. Tree 6 is located in the premises of 32 – 36 Power Street, Islington. The applicant proposes to construct two (2) dwellings within the subject property identified as 38 Power Street, Islington (Appendix 1). Trees 1 - 6 have been assessed in accordance with Australian Standards 4970 – 2009.
- Trees 1 – 6 are located wholly within 36 & 38 Power Street, Islington. The site is located in the municipality of Newcastle City Council. The species on site have been assessed against the requirements set out in Newcastle City Council's Urban Forestry Technical Manual (NCCUFTM). The species on site have been assessed against the requirements set out in Newcastle City Council's Local Environmental Plan (2012) pursuant to Section 5.9 & 5.9AA (repealed) & Development Control Plan (2012) & associated Technical Manual (Urban Forestry Technical Manual – UFTM). Abacus Tree Services has assessed Part A (Private Trees), Part B (Public Trees) & Part C (Native Vegetation). All information is assessed per the requirements as set out within section 5.03 Tree Management. I have assessed the property against Schedule 5 (Environmental Heritage) within NCC LEP. The property is not listed in accordance with Part 1 (Heritage Items) and/or Part 2 (Heritage Conservation Area). This report will assess but not limited to a tree retention value assessment in accordance with Section 4.1 of the UFTM. This report will define tree protection zone offsets and protection requirements in accordance with Section 7 of the UFTM. This report is prepared in accordance with Part A, Section 6 of the UFTM.
- The subject property identified as 38 Power Street, Islington is not located in a Rural Fire Service (RFS) 10:50 area. Therefore all trees have been assessed in accordance with council requirements with no exemptions under RFS 10:50 legislation. The search was undertaken on the 20 January 2023. Rules and regulations in relation to the RFS 10:50 can change and it is therefore up to the applicant to ensure they comply with the 10:50 code and any updates that may occur.

- Protection fencing for Trees 2 - 5 (4 in total) has been considered due to the proximity to the proposed development. The fencing will also protect the root plate during construction works. Trees 2 - 5 will require retention in accordance with Australian Standards 4970 – 2009. Protection fencing has also been considered in accordance with the UFTM (Part A – Section 4.5 & Section 7.0).
- Protection fencing for all the TPZ is impractical as this would take up majority of the backyard. Protection fencing for all areas of the backyard that is outside the building works will be undertaken to minimise damage to the tree.
- Trees 2 - 5 have the potential for future growth and therefore the canopy and root plate have the potential for future growth. All measures have been taken to minimise damage to the proposed buildings and hardstand areas however future growth has the potential to cause damage to the proposed buildings and/or hardstand areas.
- The applicant has therefore assessed all trees within 5 metres of the proposed development. This includes all trees on neighbouring properties within 5 metres of the proposed development. The applicant has assessed all trees necessary for the development to meet the requirements of NCC UFTM & Australian Standards 4970 – 2009.
- In order for the development to proceed in its current format will require the removal of Trees 1 & 6 (2 in total). This includes all trees inside the proposed development, hardstand areas and those that do not pass the requirements of AS 4970 – 2009. Trees 2 - 5 (4 in total) can be retained and incorporated into the development. Tree 6 has not been considered for retention due to the proximity to the existing dwelling. There is the potential that this species is considered exempt as it is within 3 metres to the existing dwelling on the proviso that it meets all other council requirements. Conditions and recommendations in relation to retained trees will be outlined in section 7 of the report.
- Permission will be required from the owner of 36 Power Street, Islington before Tree 6 is removed.

7.0 Recommendations

- It is recommended that Mrs Ranieri embark on a management program for six (6) trees (Trees 1 – 6) before commencement of the proposed building and constructions works as follows:
- It is recommended that Trees 1 & 6 (2 in total) be removed immediately (before commencement of building works) by a qualified arborist (minimum certificate 2 in arboriculture). It is recommended that professional indemnity and public liability insurances be current and sighted before commencement of works begin. The level of cover has to be one in agreement between Mrs Ranieri and the arborist.
- It is recommended that Trees 2 - 5 (4 in total) be retained and incorporated into the development. It is recommended that no change to the soil profile occur between the trunk of Trees 2 – 5 and the proposed deck. This includes retaining this section of the existing grass during the construction phase.
- All underground services are to be outside the TPZ of Trees 2 – 5.
- It is recommended that all debris and waste on site that is located within the TPZ (2 – 5) of retained trees be removed by non-mechanised methods being wheel barrow and shovel and/or similar method.
- It is recommended that protection measures be put in place that aid in the preservation of Trees 2 - 5 (4 in total). It is recommended that 1.8 metre inter locking chain wire fencing be installed before commencement of building works on site as indicated in Figure 7. Protection fencing is to be installed to within 0.2 metres of the proposed deck inside the TPZ of Trees 2 – 5. The protection fencing will be outlined in Figures 7 & 8. Protection fencing is to be installed before commencement of all civil & building works and remain in place until the release of the occupation certificate.
- It is recommended that all civil contractors that enter the site are made aware of the importance of preserving Trees 2 - 5 and understand the tree protection measures that are put in place to preserve Trees 2 - 5.
- All stockpile sites to be maintained a minimum 3 metres away from the trunk of Trees 2 – 5.
- It is recommended that all parking of vehicles and machinery be kept outside of the fenced areas at all times. Machinery can be placed on the existing concrete during construction works. Once the driveway is removed than no machinery or vehicles are allowed within the TPZ of Trees 2 – 5.

- This report is not for publication to the internet and submission of this report in the submission phase set out by Council is to be taken down upon completion of the development application.



- Figure 7 – showing the proposed fencing that is to be put in place before the commencement of building works on site (Trees 2 - 5 only).
Source: Australian Standards 4970 - 2009

Bradley Magus (Member ISAAC & LGTRA)
 Consulting Arborist/Certified Arborist (ISAAC 2007)
 Diploma in Horticulture (Arboriculture) (AQF 5) (Dux)
 Bachelor of Horticulture Science

8.0 References

AS4373-2007 Pruning of Amenity Trees. Standards Australia

AS 4970 – 2009 Protection of trees on development sites

Clark R.J & Matheny N (1998) Trees & Development – A technical guide to Preservation of trees during land development: International Society of Arboriculture

Mattheck C., Breloer, (1999) The Body Language of Trees – a handbook for failure analysis 5th ed., London: The Stationery Office, U.K

Internet Sites

www.googlemaps.com.au

www.heritagensw.gov.au

www.rfs.nsw.gov.au

www.ncc.nsw.gov.au

www.planningportal.nsw.gov.au

9.0 APPENDIX 1 Site Maps

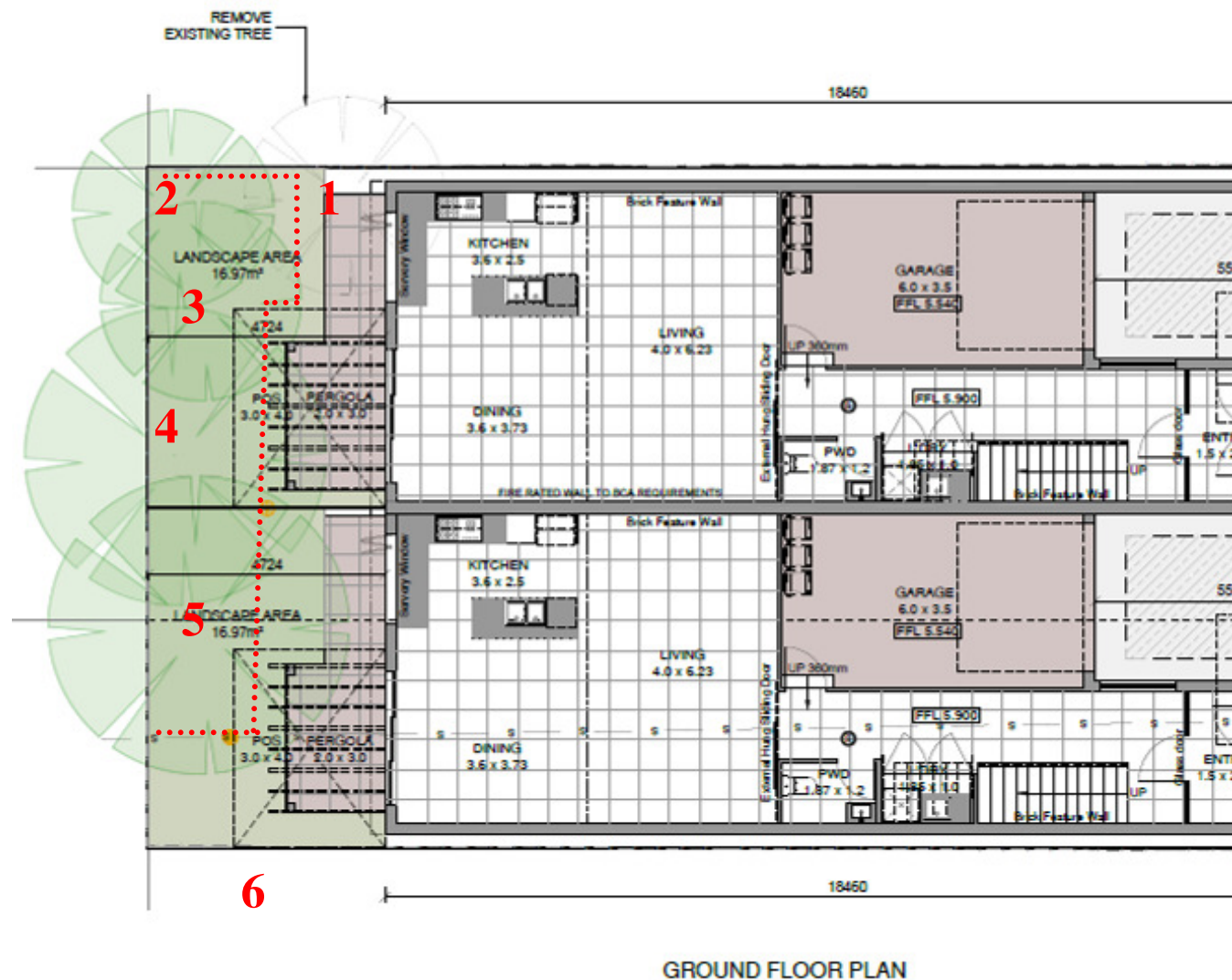


Figure 8 - Close up of the subject property and canopy area of Trees 1 - 6. The fencing is highlighted in red that is to span along the back of the property within 0.2 metres of the proposed deck. This area is to be devoid of machinery and vehicles. No earthworks or change in the soil profile is to occur in this zone. Bearers and joists are to be used for the deck and building inside the TPZ. Not to scale
Source: SNL

APPENDIX 2 *U.L.E (Useful Life Expectancy) Categories and Subgroups*

Useful Life Expectancy – Classification

1. Long ULE > 40 Years

- a. Structurally sound and can accommodate future growth
- b. Long term potential with minor remedial treatment
- c. Trees of special significance which warrant extra care

2. Medium ULE of 15-40years

- a. Will live between 15 – 40 years
- b. Will live for more than 40 years but would be removed for safety or other reasons
- c. May live for more than 40 years but will interfere with more suitable specimens and need removal eventually
- d. More suitable for retention in the medium term with some remedial care

3. Short ULE of 5-15 years

- a. Trees that may only live between 5 – 15 more years
- b. May live for more than 15 years but would need removal for safety or other reasons
- c. Will live for more than 15 years but will interfere with more suitable specimens or provide space for replacement plantings
- d. Require substantial remedial care but are only suitable for short term retention

4. Remove tree within 5 years

- a. Dead, dying or seriously diseased
- b. Dangerous trees through instability or loss of adjacent trees
- c. Structural defects such as cavities
- d. Damaged that are clearly not safe to retain
- e. May live for more than 5 years but will need replacement to prevent interference or make space for more suitable trees
- f. May or are causing damage to structures
- g. That will become dangerous

5 Trees suitable to transplant

- a. Small trees can be reliably moved or replaced
- b. Young trees between 5 – 15 years
- c. Trees that have been regularly pruned to control growth

APPENDIX 3

Notes on Tree Assessment

Key	Criteria	Comments
Tree no		
Species	Relates to the six on the site plan	
Remnant /planted Self Sown	May be coded – See Key for details	
Special Significance	A – Aboriginal C- Commemorative Ha- Habitat Hi- Historic M- Memorial R- Rare U- Unique form O- Other	May require specialist knowledge
Age Class	Y- Young- Recently Planted S-Semi mature (<20% of life expectancy) M- Mature (20-80% of life expectancy) O- Over mature (>80% of life expectancy)	
Height	In Metres	
Spread	Average diameter of canopy in metres	
Crown Condition	Overall vigour and vitality 0 – Dead 1 – Severe decline (<20% canopy, major deadwood 2 – Declining 20-60% canopy density, twig dieback 3- Average/low vigour (60-90% canopy density, twig dieback) 4- Good (90-100% crown cover, little or no dieback or other problems) 5- Excellent (100% crown cover, no deadwood or other problems)	
Failure Potential	Identifies the most likely failure and rates the likelihood that the structural defects will result in failure within the inspection period. 1- Low – Defects are minor (eg dieback of twigs, small wounds with good wound development) 2 – Medium – Defects are present and obvious egg Cavity encompassing 10-25% of the circumference of the trunk) 3 High- Numerous and/or significant defects present (eg cavity encompassing 30-50% of the circumference of the trunk, major bark inclusions) 4- Severe- Defects are very severe (eg fruiting	Requires specialist knowledge

	bodies, cavity encompassing more than 50% of the trunk)	
Size of defective part	<p>Rates the size of the part most likely to fail. The larger the part that fails the greater the potential for damage.</p> <p>1- Most likely failure less than 150mm in diameter</p> <p>2- Most likely failure 150-450mm in diameter</p> <p>3- Most likely failure 450-750mm in diameter</p> <p>4- Most likely failure more than 750mm in diameter</p>	
Target rating	<p>Rates the use and occupancy that would be struck by the defective part:</p> <p>1. Occasional use (jogging, cycle track)</p> <p>2. Intermittent use (e.g picnic area, day use parking)</p> <p>3. Frequent use, secondary structure (eg seasonal camping, storage facilities)</p> <p>4. Constant use structures (year round use for a six of hours each day, residences)</p>	
Hazard rating	<p>Failure potential + size of part + target rating</p> <p>Add each of the above sections for a six out of 12</p>	<p>The final six identifies the degree of risk. The next step is to determine a management strategy. A rating in this column does not condemn a tree but may indicate the need for more investigation and a risk management strategy.</p>
Root Zone	<p>C-Compaction</p> <p>D- Damaged/wounded roots</p> <p>E- Exposed roots</p> <p>Ga- Tree in graded bed</p> <p>Gi- Girdled roots</p> <p>Gr- Grass</p> <p>K-Kerb close to tree</p> <p>L+- Raised soil level</p> <p>L- Lowered soil level</p> <p>M- Mulched</p> <p>Pa- Paving concrete bitumen</p>	

	Pr- Roots pruned O-Other	
Defects	B-Borers C-Cavity D-Decay Dw-Deadwood E-Epicormics I-Inclusions L- Lopped LDCMP- Leaf damage by chewing mouthpiece insects M- Mistletoe/parasites MBA- Multi branch attachments PD- Parrot damage PFS- Previous failure sites S-Splits/Cracks T-Termites TL- Trunk lean TW- Trunk wound O-Other	
Services/adjacent structures	Bs- Bus stop Bu- Building within 3 metres Hvo- High voltage open wire construction Hvb- High voltage bundled (ABC) Lvo- Low voltage open wire construction Lvb- Low voltage bundled (ABC) Na- No services above Nb- No services below ground Si- Signage SL- Street light T- Transmission U- Underground services O- Other	More than one of these may apply



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/23 - 38 POWER STREET ISLINGTON - DA2022/01239 -
SEMI-DETACHED DWELLINGS - INCLUDING DEMOLITION OF
EXISTING DWELLING AND BOUNDARY ADJUSTMENT**

ITEM 7.2 Attachment B: Draft Schedule of Conditions

DISTRIBUTED UNDER SEPARATE COVER

Application No:	DA2022/01239
Land:	Lot 1 DP 104831 & Lot 22 Sec B DP 2331,
Property Address:	38 Power Street Islington NSW 2296
Proposed Development:	Semi-detached dwellings - including demolition of existing dwelling and boundary adjustment

SCHEDULE 1

Approved Documentation

- The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No / Supporting Document	Reference / Version	Prepared by	Dated
Demolition Plan	A-DA003 Rev 8	SNL Building	24/01/2023
Site Plan	A-DA004 Rev 8	SNL Building	24/01/2023
Ground Floor Plan	A-DA005 Rev 8	SNL Building	24/01/2023
Upper Floor Plan	A-DA006 Rev 8	SNL Building	24/01/2023
Elevations	A-DA007 Rev 8	SNL Building	24/01/2023
Elevations	A-DA008 Rev 8	SNL Building	24/01/2023
Typical Section	A-DA009 Rev 8	SNL Building	24/01/2023
Civil Works Plan	CIV-010 Rev B	DRB Consulting Engineers	23/01/2023
Erosion & Sediment Control Plan & Details	CIV-020 Rev B	DRB Consulting Engineers	23/01/2023
Erosion & Sediment Control Notes	CIV-021 Rev B	DRB Consulting Engineers	23/01/2023
Plan of Subdivision of Lot 22 Section B DP2331 and Lot 1 DP104831	22566_DRAFT	Timothy R. Rheinberger	09/01/2023
Arborist Report	Not provided	Abacus Tree Services	20/01/2023
BASIX Certificate	1344192M	Building Sustainability Assessments	05/10/2022

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

2. A separate application is to be lodged and consent obtained from the City of Newcastle for all works within the road reserve pursuant to Section 138 of the *Roads Act 1993*. The consent is to be obtained, or other satisfactory arrangements confirmed in writing from the City of Newcastle, before the issue of a Construction Certificate.
3. The floor level of habitable areas all proposed buildings or building additions is to be verified on plans for a Construction Certificate application to be 5.95m Australian Height Datum. The minimum floor level of the garages is 5.54m AHD.
4. The whole of the proposed structure below known flood level (5.6m Australian Height Datum) is to be constructed in materials and finishes that are resistant to damage from floodwaters/tidal waters. Any new machinery or equipment, electrical circuitry or fitting, storage unit or similar items likely to be damaged by floodwaters/tidal waters are to be installed above the said height, or alternatively be of materials and functional capability resistant to the effects of floodwaters/tidal waters. Details are to be included in documentation for a Construction Certificate application.
5. All stormwater runoff from the proposed development is to be managed in accordance with the requirements of Element 7.06 '*Stormwater*' of Newcastle Development Control Plan 2012, the associated Technical Manual and *AS/NZS 3500.3 Plumbing and drainage Part 3 Stormwater drainage*, as indicated on the stormwater management concept plan prepared by DRB Consulting Engineers (Dwg no. CIV-001, CIV-010, CIV-020, CIV-021, REV B, dated 23/01/2023). Full details are to be included in documentation for a Construction Certificate application.
6. Roof water from the proposed new work is to be directed to the proposed water tank for each dwelling (total of 2) with a minimum capacity of 5,000 litres per tank per dwelling and being reticulated to any new toilet cisterns and cold water washing machine taps, with a mains water top up being installed to maintain between 10% and 15% of the tank capacity. Alternatively, an electronically activated mechanical valve device is to be installed to switch any new toilet cisterns and laundry taps to mains water when the tank falls below 10% capacity. The water tank and plumbing is to be designed in accordance with the Plumbing Code of Australia (National Construction Code Volume 3). Full details are to be included in documentation for a Construction Certificate application.
7. Overflows from the roof water tank and any additional discharge controls (if required) are to be directed to City of Newcastle's drainage system by means of an inter-allotment drainage line or underground pipe directly to the street gutter. Details are to be included in documentation for a Construction Certificate application.
8. All new impervious surfaces, including driveways and paved areas are to be drained to the nominated discharge controls. Details are to be included in documentation for a Construction Certificate application.
9. The car parking and vehicular access are to be designed to comply with the relevant provisions of *AS/NZS 2890 Parking facilities*. Details are to be included in documentation for a Construction Certificate application.
10. All proposed driveways and parking bays are to be constructed with a basecourse of a depth to suit design traffic and be sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers. Details are to be included in documentation for a Construction Certificate application.
11. The proposed garage door openings are to have a minimum clear width of 3m. Details are to be included in documentation for a Construction Certificate application.
12. Kerbing or dwarf walls having a minimum height of 100mm are to be constructed along the edge of all garden or lawn areas adjacent to driveways and parking bays, sufficient to discourage the encroachment of vehicles thereon. Details are to be included in documentation for a Construction Certificate application.

13. Letterboxes, landscaping and any other obstructions to visibility are to be kept clear of a 2.0m by 2.5m splayed area within the property boundary, each side of the driveway entrance, or limited to 1.2m in height in that area, in accordance with *AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking*. Details are to be included in documentation for a Construction Certificate application.
14. The developer is to design and construct the following works in connection with the proposed development within the Power Street public road reserve, adjacent to the site, at no cost to the City of Newcastle and in accordance with City of Newcastle's guidelines and design specifications:
 - Associated drainage works,
 - Two residential vehicular crossings

Engineering design plans and specifications for the works to be undertaken within the public road reserve are to be prepared by a practising professional engineer with experience and competence in the related field and submitted to the City of Newcastle for approval pursuant to Section 138 of the *Roads Act 1993*.

15. A detailed electrical plan of all off-street car parking spaces must be prepared by a suitably qualified and experienced person and it must include details and specifications to illustrate how the off-street car parking spaces will be constructed with the capacity to install at a minimum, a 'Level 2' (single phase, 7kW power) electric vehicle charger point. This plan must be submitted to the certifier, prior to the issue of the construction certificate.

Note: This condition does not require the installation of a charging point.

16. All proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required by the conditions of this consent are to be detailed on a comprehensive landscape plan and specification. The plan and specification are to be prepared in accordance with the provisions of Newcastle Development Control Plan 2012 and is to include details of the following:
 - a) cross sections through the site
 - b) proposed contours or spot levels
 - c) botanical names
 - d) quantities and container size of all proposed trees
 - e) shrubs and ground cover
 - f) details of proposed soil preparation
 - g) mulching and staking
 - h) treatment of external surfaces and retaining walls where proposed
 - i) drainage, location of taps and
 - j) maintenance periods.

The plan and specification are to be prepared by a qualified landscape designer and be included in documentation for a Construction Certificate application.

17. The following existing trees identified in the approved Arborist Report are to be

preserved and identified for preservation on the required comprehensive landscape design plan:

- Tree No.4 - *Callistemon viminalis* (Bottlebrush)
- Tree No.5 - *Olea europaea* (Olive Tree)

Full details are to be included in documentation for a Construction Certificate application.

18. The applicant is to comply with all of Hunter Water's requirements to provide your development with water supply and sewerage services. A copy of Hunter Water's compliance certificate (*Hunter Water Act 1991* - Section 50) must be submitted with your Construction Certificate application.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

19. Building work must be carried out in accordance with the requirements of the Building Code of Australia.
20. Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:

- Monday to Friday, 7:00 am to 6:00 pm and
- Saturday, 8:00 am to 1:00 pm.

No noise from construction/demolition work is to be generated on Sundays or public holidays.

21. Prior to the commencement of work, a 3.0m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction, to reduce the potential for soil erosion. Sand or soil is not to be stockpiled on the all-weather vehicle access.
22. Toilet facilities are to be available or provided at the work site before works begin and be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet is to:

- a) Be a standard flushing toilet connected to a public sewer, or
 - b) Have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
 - c) Be a temporary chemical closet approved under the *Local Government Act 1993*.
23. A rigid and durable sign is to be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:
 - a) showing the name, address and telephone number of the Principal Certifier for building work and subdivision work, and
 - b) showing the name, address and telephone number of the Principal Contractor, if any, for any building work and a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and
 - c) stating that unauthorised entry to the work site is prohibited, and

- d) being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, and must be removed when the work has been completed.

Note: This does not apply in relation to building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

- 24. Council's '*Prevent Pollution*' sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary, so it is clearly visible to the public, or at other locations on the site as otherwise directed by Council, for the duration of demolition and construction work.

The sign can be obtained by presenting your development application receipt at City of Newcastle's Customer Enquiry Centre, Wallsend Library or the Master Builders Association Newcastle.

- 25. The demolition works are to be undertaken in accordance with Australian Standard 2601:2001 - The Demolition of Structures and the following requirements:
 - a) prior to commencement of demolition works a competent person shall determine the presence of hazardous substances impacted by the proposed demolition works in accordance with Section 1.6.1 of AS2601:2001 and where required produce a Hazardous Substances Management Plan
 - b) demolition works shall be conducted in accordance with any required Hazardous Substances Management Plan. A copy of the Plan shall be kept on-site for the duration of the proposed development and a copy is to be held in the possession of the landowner
 - c) the removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by the WorkCover Authority of NSW
 - d) a copy of all waste disposal receipts are to be kept in the possession of the landowner and made available to authorised Council Officers upon request
 - e) seven working days notice in writing is to be given to the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor, and
 - f) on sites where asbestos materials are to be removed, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent position during asbestos removal works.
- 26. The demolisher is to ensure that all services (ie water, telecommunications, gas, electricity, sewerage etc), are disconnected in accordance with the relevant authority's requirements prior to demolition.
- 27. Any waste containers used in association with the proposed demolition are to be located on the site where possible.

Note: Where this is not feasible, an application is to be made for the approval to position the container on the adjacent public road in accordance with the Council's adopted Building Waste Container Policy.

28. All demolition material incapable of being re-used in future redevelopment of the site is to be removed from the site and the site being cleared and levelled.

Note: Where reusable building materials are to be stored on site for use in future building works, such materials are to be neatly stacked at least 150 mm above the ground.

29. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.
30. At a minimum, the following measures are to be implemented during the construction phase:
 - a) A waste container of at least one cubic metre capacity is to be provided, maintained and regularly serviced from the commencement of operations until the completion of the building, for the reception and storage of waste generated by the construction of the building and associated waste;
 - b) The waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets;
 - c) Provision is to be made to prevent windblown rubbish leaving the site; and
 - d) Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

Note: Fines may be issued for pollution/littering offences under the *Protection of the Environment Operations Act 1997*.

31. All building materials, plant and equipment is to be placed on the site of the development, to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves, including the road reserve, is not permitted.
32. All excavations and backfilling are to be executed safely and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.
33. Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.
34. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or construction in accordance with the requirements of Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the 'Blue Book') published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
35. Where the proposed development involves the destruction or disturbance of any survey monuments, those monuments affected are to be relocated, at no cost to the City of Newcastle, by a Surveyor registered under the *Surveying and Spatial Information Act 2002*.
36. In the case of residential building work for which the Home Building Act 1989 requires

there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

37. Any proposed paving works within the Power Street public footway are to be in accordance with City of Newcastle's specification (Form PLE/SO09).

Note: It will be necessary for the developer to notify water, telecommunications, gas and electricity authorities of the proposed paving works, before such works are commenced, in order to enable the various authorities to carry out and complete any necessary repairs and/or amplification to their respective services.

38. All roof and surface waters are to be conveyed to the street gutter by way of a sealed pipe system, extending through the footway to Council's requirements, in accordance with Element 7.06 'Stormwater' of Newcastle Development Control Plan 2012.

39. Two residential vehicular crossings are to be constructed across the road reserve, in accordance with the following criteria:

- a) Constructed in accordance with City of Newcastle's A1300 - Driveway Crossings Standard Design Details.
- b) The driveway crossings, within the road reserve, is to be a maximum of 3.0m wide.
- c) Letterboxes, landscaping and any other obstructions to visibility are to be kept clear of or limited in height to 1.2m, in the 2.0m by 2.5m splay within the property boundary, each side of the driveway entrance.
- d) The proposed driveway is to be a minimum of 3.0m clear of the trunk of any tree within the road reserve.
- e) The proposed driveway is to be a minimum of 750mm clear of the centre of any pole or obstruction within the road reserve and 1.0m clear of any drainage pit.

These works cannot commence until consent under Section 138 of the *Roads Act 1993* has been granted by the City of Newcastle.

40. All necessary measures are to be undertaken to control dust pollution from the site. These measures are to include, but are not limited to:

- a) Restricting topsoil removal;
- b) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion);
- c) Alter or cease construction work during periods of high wind; and
- d) Erect green or black shade cloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.

41. Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifier at the stages of construction indicated:

- a) On completion of ground floor construction, confirming that the floor levels are in accordance with the approved levels.
- b) On completion of each subsequent floor level, confirming that the floor levels are in accordance with the approved levels.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE, A SUBDIVISION CERTIFICATE OR A STRATA CERTIFICATE

42. Any redundant existing vehicular crossing is to be removed at no cost to the City of Newcastle. The road reserve and kerb is to be restored to the City of Newcastle's satisfaction. Works are to be completed prior to the issuing of an Occupation Certificate for the proposed development.
43. The water management measures as indicated on the submitted plans and/or as modified under the terms of this consent are to be implemented and the nominated fixtures and appliances are to be installed and operational prior to issue of an Occupation Certificate.
44. All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a condition that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to City of Newcastle's satisfaction prior to the completion of demolition work or prior to the issue of any Occupation Certificate in respect of development involving building work.
45. All commitments listed in the relevant BASIX certificate for:
 - a) BASIX development,
 - b) BASIX optional development, if the development application was accompanied by a BASIX certificate.

are to be satisfactorily completed prior to the issue of an Occupation Certificate.

Should there be any changes to the specifications of the dwelling that have implications for compliance with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be provided to the Newcastle City Council with Occupation Certificate documentation.

46. All works within the road reserve required by this consent are to be completed prior to the issue of an Occupation Certificate.
47. A Landscape Practical Completion Report is to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications that were required to be included in documentation for a Construction Certificate application and is to verify that an effective maintenance program has been commenced.
48. The premises are to be identified by the provision of house numbers on the building exterior and mailbox such that they are clearly visible from the road frontage.

The minimum numeral height is to be 75mm.
49. An application is to be made for a Subdivision Certificate. The application is to be supported by a digital copy (pdf format) of the survey plan of subdivision, associated administration sheets and a Section 50 Certificate from the Hunter Water Corporation.
50. An instrument under Section 88B of the *Conveyancing Act 1919*, setting out the terms of easements as required by this consent, along with related notations on the plan of subdivision, are to be submitted to the City of Newcastle for certification. The City of Newcastle is to be identified as a party whose consent is required to release, vary or modify easements.
51. Written evidence of arrangements being made with the Hunter Water Corporation for the provision of water supply and sewerage and with the electricity authority for the provision of overhead or underground electricity supply is to be submitted to the Principal

Certifier prior to the issue of the Subdivision Certificate.

52. Written evidence of arrangements being made with the telecommunications authority for the provision of underground telephone services to the lots is to be submitted to the Principal Certifier prior to the issue of the Subdivision Certificate.
53. The approved dual occupancy development on the site is to be completed to at least lock-up stage prior to the issue of the Subdivision Certificate.

Lock-up stage is taken to mean the stage at which a building's external wall cladding and roof covering is fixed and external doors and windows are fixed (even if those doors and windows are only temporary).

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

54. The premise/s is/are allocated the following street address/es in accordance with City of Newcastle's *House Numbering Policy* and the *Surveying and Spatial Regulation*.

Unit/ Dwelling/ Lot Number on plan	Council Allocated Street Addresses			
	House Number	Street Name	Street Type	Suburb
Lot 1 DP104831 (boundary realigned)	36	Power	Street	Islington
Lot 22 Sec B DP2331 (boundary realigned)	38	Power	Street	Islington

ADVISORY MATTERS

- It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.
- Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of the City of Newcastle and any other relevant authorities. City of Newcastle and other service authorities should be contacted for specific requirements prior to the commencement of any works.
- It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice (ie 'on-the-spot fine') or prosecution.
- Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979*, which may be subject to a penalty infringement notice (ie 'on-the-spot fine') or prosecution.
- A person who is aware or believes that he or she has discovered or located a relic not identified and considered in the supporting documents for this approval, in any circumstances (including where works are carried out in reliance on an exception under section 139(4)), excavation or disturbance must cease in the affected area(s) and the Heritage Council must be notified in accordance with section 146 of the *Heritage Act 1977*. Depending on the nature of the discovery, additional assessment and approval under the *Heritage Act 1977* may be required prior to the recommencement of excavation in the affected area(s).

Note: Heritage NSW can be contacted on 02 9873 8500 or

heritagemailbox@environment.nsw.gov.au. A 'relic' is any deposit, object or material evidence that relates to the settlement of New South Wales, not being Aboriginal settlement, and is of State or local significance. It is an offence under the provisions of the *Heritage Act 1977 (NSW)* for a person to disturb or excavate any land upon which the person has discovered a relic except in accordance with a gazetted exception or an excavation permit issued by the Heritage Council of NSW.

- If any Aboriginal objects are discovered which are not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be notified in accordance with section 89A of the *National Parks and Wildlife Act 1974* (NPW Act). Depending on the nature of the discovery, additional assessment and approval under the NPW Act may be required prior to works continuing in the affected area(s). Aboriginal objects in NSW are protected under the NPW Act. Unless the objects are subject to a valid Aboriginal Heritage Impact Permit, work must not recommence until approval to do so has been provided by Heritage NSW.

Note: Heritage NSW can be contacted on 02 9873 8500 or heritagemailbox@environment.nsw.gov.au. An 'Aboriginal object' is any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains. It is an offence under the provisions of the *National Parks and Wildlife Act 1974* (NPW Act) for a person to harm or desecrate an Aboriginal object, with defence from prosecution and certain activities exempt as prescribed under the NPW Act.

- Retaining walls not clearly noted on the approved plans or outside of the parameters of 'exempt development', as specified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, are to be subject to a separate development application. An application in this regard is to be approved prior to any works relating to such a retaining wall taking place.
- An application is to be submitted to the City of Newcastle for the removal or pruning of any trees located more than three metres from the dwelling wall, measured from the centre of the trunk to the footings of the dwelling, excluding carports and pergolas.
- Any approval for fences on side boundaries, common to other private properties, is independent of any consent or agreement which may be required from any adjoining owner under the provisions of the *Dividing Fences Act 1991*.
- Prior to commencing any building works, the following provisions of Division 6.2 of the *Environmental Planning and Assessment Act 1979* are to be complied with:
 - a) A Construction Certificate is to be obtained; and
 - b) A Principal Certifier is to be appointed for the building works and Newcastle City Council is to be notified of the appointment; and
 - c) Newcastle City Council is to be given at least two days' notice of the date intended for commencement of building works.
- Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifier appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Section 37 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* (NSW).

END OF CONDITIONS

SCHEDULE 2

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; *Newcastle Local Environmental Plan 2012* (NLEP) and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012 (NDCP).
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- The City of Newcastle has considered and accepted the proposed development standard variation made under Clause 4.1 of the Newcastle Local Environmental Plan 2012. The proposed variation is considered acceptable in the particular circumstances of this case.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- Confirm and clarify the terms of Council's determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/23 - 38 POWER STREET ISLINGTON - DA2022/01239 -
SEMI-DETACHED DWELLINGS - INCLUDING DEMOLITION OF
EXISTING DWELLING AND BOUNDARY ADJUSTMENT**

ITEM 7.2 **Attachment C:** Processing Chronology

DISTRIBUTED UNDER SEPARATE COVER

PROCESSING CHRONOLOGY

DA2022-01239 – 38 Power Street, Islington

31 October 2022	-	Application lodged.
04 to 18 November 2022	-	Application notified in accordance with CN's Community Participation Plan (CPP)
12 December 2022	-	Request for additional information issued: Amended Clause 4.6, Arborist Report, Amended Plan of Subdivision, Amended Civil Engineering Plans and Amended Architectural Plans.
03 February 2023	-	Additional information received from applicant: Amended Clause 4.6, Arborist Report, Amended Plan of Subdivision, Amended Civil Engineering Plans and Amended Architectural Plans.
16 February 2023	-	Additional information received from applicant: Further Amended Arborist Report.



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/23 - 38 POWER STREET ISLINGTON - DA2022/01239 -
SEMI-DETACHED DWELLINGS - INCLUDING DEMOLITION OF
EXISTING DWELLING AND BOUNDARY ADJUSTMENT**

ITEM 7.2 Attachment D: Clause 4.6 written exception to development standard

DISTRIBUTED UNDER SEPARATE COVER

**NEWCASTLE LEP - CLAUSE 4.1 -
MINIMUM LOT SIZE -**

38 POWER STREET, ISLINGTON

CLAUSE 4.6 VARIATION REQUEST

JANUARY 2023

VERSION 3



WILSON PLANNING

1.0 Introduction

1.1 Subject Site

The subject site is known as 38 Power Street, Islington and comprises of the following titles:

- Lot 1, DP 104831 and
- Lot 22, Section B, DP 2331.

The subject site ('The Site') is rectangular in shape and displays two existing lot titles. The site has a frontage width of 13.718m and equal side depths of 24.385m. The site is orientated on a west to east axis with vehicular access off Power Street on the eastern side. The site is cleared of native vegetation and contains only shrubs present in the rear yard.

1.2 Background

1.2.1 Application Details

Consent is sought for a boundary adjustment (2 into 2 lot subdivision) with the following details:

Existing Lot 1	Existing Lot 22	Difference
111.5m ²	223m ²	+55.74m ²

Proposed Lot 1	Proposed Lot 22	Difference
167.24m ²	167.26m ²	-55.74m ²

1.2.2 Clause 4.6 - Summary

The applicant seeks to use Clause 4.6 of the Newcastle Local Environmental Plan (NLEP) to enable Council to flexibly apply the provisions of Clause 4.1 and approve an exception to the identified development standard.

This request is made pursuant to Clause 4.6 of NLEP; justifies why strict compliance with Clause 4.1 of the NLEP is unnecessary in the circumstances of the case; and demonstrates that there are sufficient environmental planning grounds to justify approval of a variation to the identified development standard. This Clause 4.6 Variation Request should be read in conjunction with Wilson Planning's Statement of Environmental Effects, Version 2, dated October 2022.

This request also explains how the proposed development will, despite not complying with the stated minimum lot size, be in the public interest given that it will continue to be consistent with the objectives of the development standard and the objectives within Clause 4.1 and the R3 Medium Density Residential Zone.

The variation request has been prepared in accordance with the NSW Planning & Infrastructure Guideline "Varying Development Standards: A Guide" (the Guideline); considers NSW Land and Environment Court planning principles and case law; and includes other information deemed relevant to the justification of the variation.

2.0 Details of development standard to be varied

2.1 Name of EPI that applies to the land

Newcastle Local Environmental Plan (NLEP) 2012.

2.2 Zoning of the land

R3 Medium Density Residential zone.

2.3 Objectives of the zone

The objectives of the R3 Zone are:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To allow some diversity of activities and densities if;
 - (i) the scale and height of proposed buildings is compatible with the character of the locality, and
 - (ii) there will be no significant adverse impact on the amenity of any existing nearby development.
- To encourage increased population levels in locations that will support the commercial viability of centres provided that the associated new development—
 - (i) has regard to the desired future character of residential streets, and
 - (ii) does not significantly detract from the amenity of any existing nearby development.

2.4 Development standard being varied

Clause 4.1 of NLEP - Minimum subdivision lot size

2.5 Performance based development standard?

The development standard in Clause 4.1 is not performance based. Rather, it is a numerical control.

2.6 Objectives of the development standard

(1) The objectives of Clause 4.1 is as follows:

- (a) to provide subdivision lot sizes that meet community and economic needs, while ensuring that environmental and social values are safeguarded,
- (b) to facilitate greater diversity in housing choice,
- (c) to ensure that lots are of sufficient size to meet user requirements and to facilitate energy efficiency of the future built form

(d) Not applicable.

2.7 Numeric value of the development standard in the EPI

Minimum Lot Size - 400m²

2.8 Proposed numeric value of the development standard in DA

	LEP Min. Lot Size	Existing Lot Size	Proposed Lot Size	Variation
Lot 22	400m ²	223m ²	167.26m ²	58%
Lot 1	400m ²	111.5m ²	167.24m ²	58%

2.9 Percentage variation between proposal and EPI

See table in Section 2.8 above.

3.0 Assessment of variation to development standard

3.1 NLEP Clause 4.6 Considerations

Clause 4.6 of NLEP provides:

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Comment

The following sections of this variation request confirm that the proposed development of the subject site has merit and meets the objectives of this clause, and other relevant clauses. As such, Council's flexibility is sought in applying the development standard on this occasion.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment

There is nothing within Clauses 4.1 or 4.6(8) that exclude the operation of Clause 4.6 in this instance.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks 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 development standard.*

(4) Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

Comment

An assessment of the variation is provided below in accordance the requirements of Clause 4.6.

- (b) the concurrence of the Secretary has been obtained.*

Comment

Planning Circular 20-002 issued on 5 May 2020, states that, if the development contravenes a numerical standard by greater than 10%, concurrence cannot be assumed under clause 55 of the Environmental Planning and Assessment Regulation 2021.

The concurrence of the Secretary will be required, and the DA will likely need to be reported to Council.

3.2 How is strict compliance with the development standard unreasonable and/or unnecessary in this particular case?

In the circumstances of this case, strict numerical compliance with the minimum lot size development standard is unreasonable or unnecessary because the proposal is consistent with the objectives of Clause 4.1 as demonstrated below.

Objectives of Clause 4.1

The objective of this clause to provide subdivision lot size that meet community and economic needs, while ensuring that environmental and social value are safeguarded. To facilitate greater

diversity in housing choice and ensure that lots are of sufficient size to meet user requirements and to facilitate energy efficiency of the future built form.

Comment

The subject site ('The Site') is rectangular in shape and displays two existing lot titles, as follows:

- Lot 1, DP 104831 and
- Lot 22, Section B, DP 2331.

Lot 1 and 22 are two existing lot titles with both having a dwelling entitlement, one containing a dwelling and one containing a garage, and meeting community expectations. The proposed boundary adjustment allows both legal titles to contain a dwelling, thereby encouraging housing diversity without impacting on the amenity of adjoining land.

The proposed boundary adjustment would result in creating orderly lots that would result in creating additional housing rather than remaining as is. This results in a superior outcome for the site that through quality design and consistency with the objectives of the zone objectives.

Existing Lot 22 is large enough in size to accommodate a dwelling, whereas Existing Lot 1 is not. The proposal will allow future dwellings on both legal titles that will be well resolved having regard to solar access, amenity and privacy of future residents and existing neighbours.

There will be no additional environmental or social impacts resulting from the boundary adjustment.

For these reasons, the proposal represents an efficient use of land consistent with this objective. To refuse the boundary adjustment would have little planning benefit.

3.3 Strict compliance with the development standard would hinder the attainment of the objects of Section 5(a)(i) and (ii) of the EP&A Act

The objects stated in Section 5(a)(i) and (ii) are as follows:

(a) to encourage:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) the promotion and co-ordination of the orderly and economic use and development of land.*

Comment

Development of land within existing urban areas where utilities, services and infrastructure already exist, and within walking distance of public transport, commercial centres and education establishments, is considered a far more efficient use of land.

The proposed boundary adjustment is permitted within the zone. It has been designed in response to the constraints, natural features of the site and prevailing streetscape. It will provide vehicular and pedestrian access.

It will have no physical impacts upon the environment or current streetscape. It will have no additional impact on essential services or infrastructure.

The proposal promotes a more orderly subdivision pattern and is considered to meet the stated object of the Act, despite the non-compliance with the minimum lot size.

3.4 Are there sufficient environmental planning grounds to justify contravening the development standard?

Lot 1, as amended, represents a 58% variation to the minimum lot size. As it is not possible to achieve compliant lots due to the two current legal titles only equalling a total of 334.5m², the proposed boundary adjustment would facilitate the best possible outcome at the site, whilst achieving the clause and zone objectives.

The proposal enables the development of each legal title for a valuable home in an area of high demand. It does so without compromising the objectives of Clause 4.1 and the R3 zone, and maintains a medium density residential environment.

The boundary adjustment will retain the existing number of lots and will enable the orderly development of both legal titles. Both lots, when amended, can accommodate an attached dwelling, which is permissible.

The proposal does not create any new dwelling entitlements or an increase in the number of undersized parcels. It has no material impact outside of the site.

There would be no planning benefit or merit in refusing to approve the boundary adjustment.

3.5 Is the variation well founded?

Having regard to the comments provided in Sections 3.2 - 3.4 above, and the lack of impacts resulting from the deficiency in lot size, the variation is considered to be well founded and worthy of Council's support.

3.6 Is the development in the public interest?

Clause 4.6(4)(a)(ii) states that *'development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out...'*

An assessment against the development standard's objective is set out in Section 3.2 and an assessment against the R3 zone objectives is included below:

The objectives of the R3 Zone are:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To allow some diversity of activities and densities if;*
 - (i) the scale and height of proposed buildings is compatible with the character of the locality, and*
 - (ii) there will be no significant adverse impact on the amenity of any existing nearby development.*
- *To encourage increased population levels in locations that will support the commercial viability of centres provided that the associated new development—*
 - (i) has regard to the desired future character of residential streets, and*
 - (ii) does not significantly detract from the amenity of any existing nearby development.*

The proposed development to achieves the first objective by providing additional housing choice in the locality. The proposed bulk, scale and design of the proposed building has been carefully chosen to reflect the prevailing historic character and modern streetscape within Power Street. As such the proposal meets the fourth objective.

The proposed boundary adjustment will facilitate the orderly development of both existing lots without compromising the amenity to the neighbouring properties.

The proposed intensification of the use of the land for residential purposes is consistent with the desired future character of the area and objectives 1 and 2.

Given that the proposal is consistent with the objectives of Clause 4.1 and the R3 zone objectives, approval of the development is considered to be in the public interest.

4.0 Conclusion

Development standards are a means of implementing planning purposes for a development, class of development or specific locality.

The variation to minimum lot size is considered appropriate to the context and circumstances of the site, without having detrimental environmental, amenity or privacy impacts.

As the above assessment indicates, the proposal is considered to be compatible with the existing subdivision pattern and future development outcome, despite the non-compliance with the minimum lot size.

It is possible that other sites with similar characteristics will apply for variations to minimum lot size. However, in every instance clause 4.6 is invoked, it will be necessary for Council to be satisfied that the development is consistent with the objectives of the relevant standard, that the

development will fit within the established and/or desired future character of the locality, and that the development will have no detrimental physical, amenity or privacy impacts, as is the case here.

This Variation Request satisfies the provisions of clause 4.6(3)(a), 4.6(3)(b) and 4.6(4)(a) of NLEP as it has been demonstrated that:

- compliance with the minimum lot size is both unnecessary and unreasonable in the circumstances of this case,
- there are sufficient environmental planning grounds to justify contravening the development standard, and
- the proposed development will be in the public interest because:
 - it is consistent with the objectives of the development standard,
 - it is consistent with the objectives for development within the zone in which the development is proposed to be carried out, and,
 - it is consistent with the objectives of clause 4.6.

Council's favourable consideration of this Variation Request and the DA it accompanies is sought.



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/23 - 26 SCOTT STREET NEWCASTLE EAST –
DA2022/00809 – DWELLING HOUSE - ALTERATIONS AND
ADDITIONS**

- | | | |
|-----|----------------------|--|
| 7.3 | Attachment A: | Submitted Plans |
| 7.3 | Attachment B: | Draft Schedule of Conditions |
| 7.3 | Attachment C: | Processing Chronology |
| 7.3 | Attachment D: | Clause 4.6 written exception to development standard |

DISTRIBUTED UNDER SEPARATE COVER



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

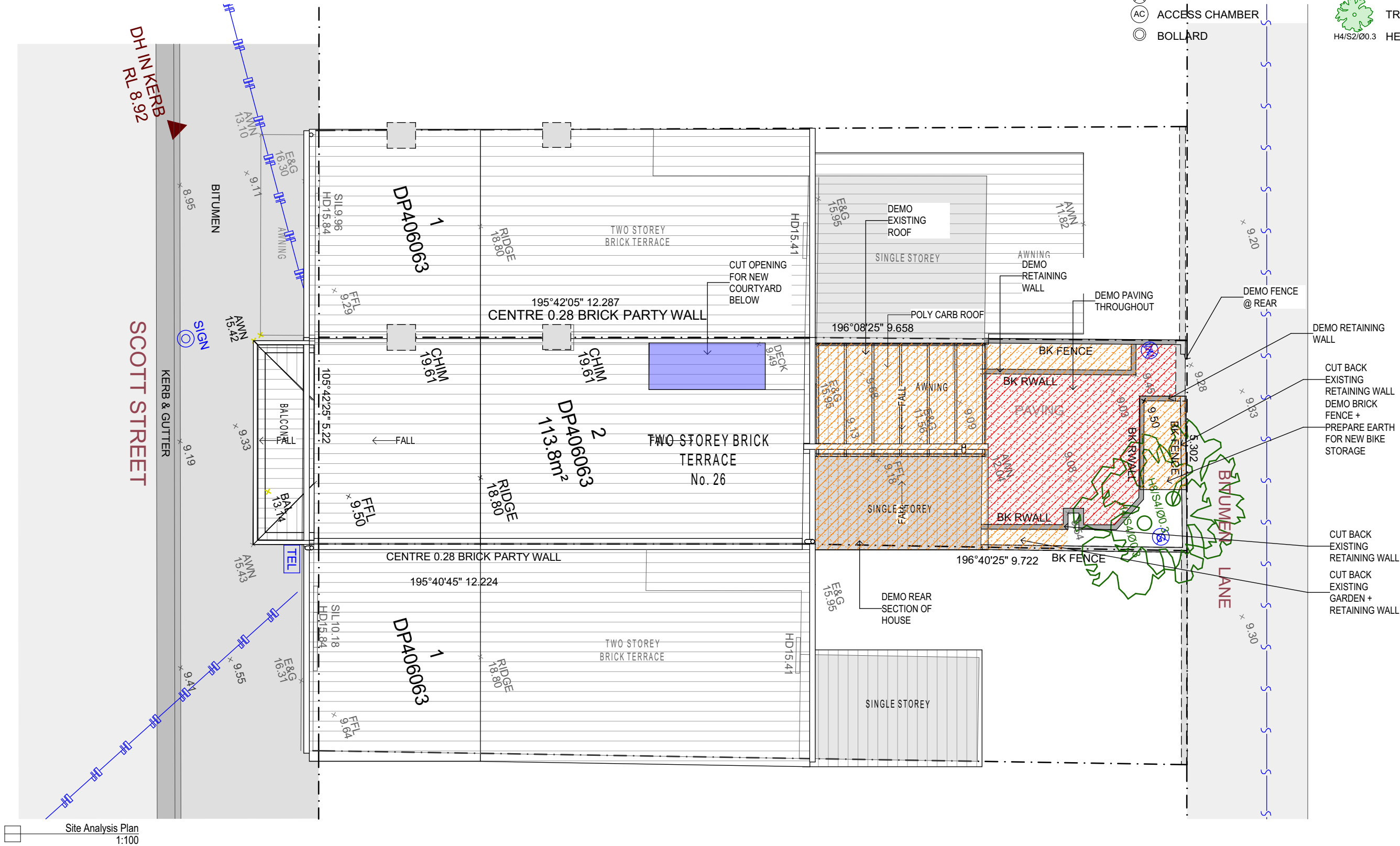
**DAC 26/04/23 - 26 SCOTT STREET NEWCASTLE EAST –
DA2022/00809 – DWELLING HOUSE - ALTERATIONS AND
ADDITIONS**

7.3 **Attachment A:** Submitted Plans

DISTRIBUTED UNDER SEPARATE COVER

- DEMOLISH EXISTING EXTERNAL CONCRETE, PATHS ETC.
- DEMOLISH EXISTING STRUCTURE, FIXTURES & FITTING
- CREATE NEW OPENING

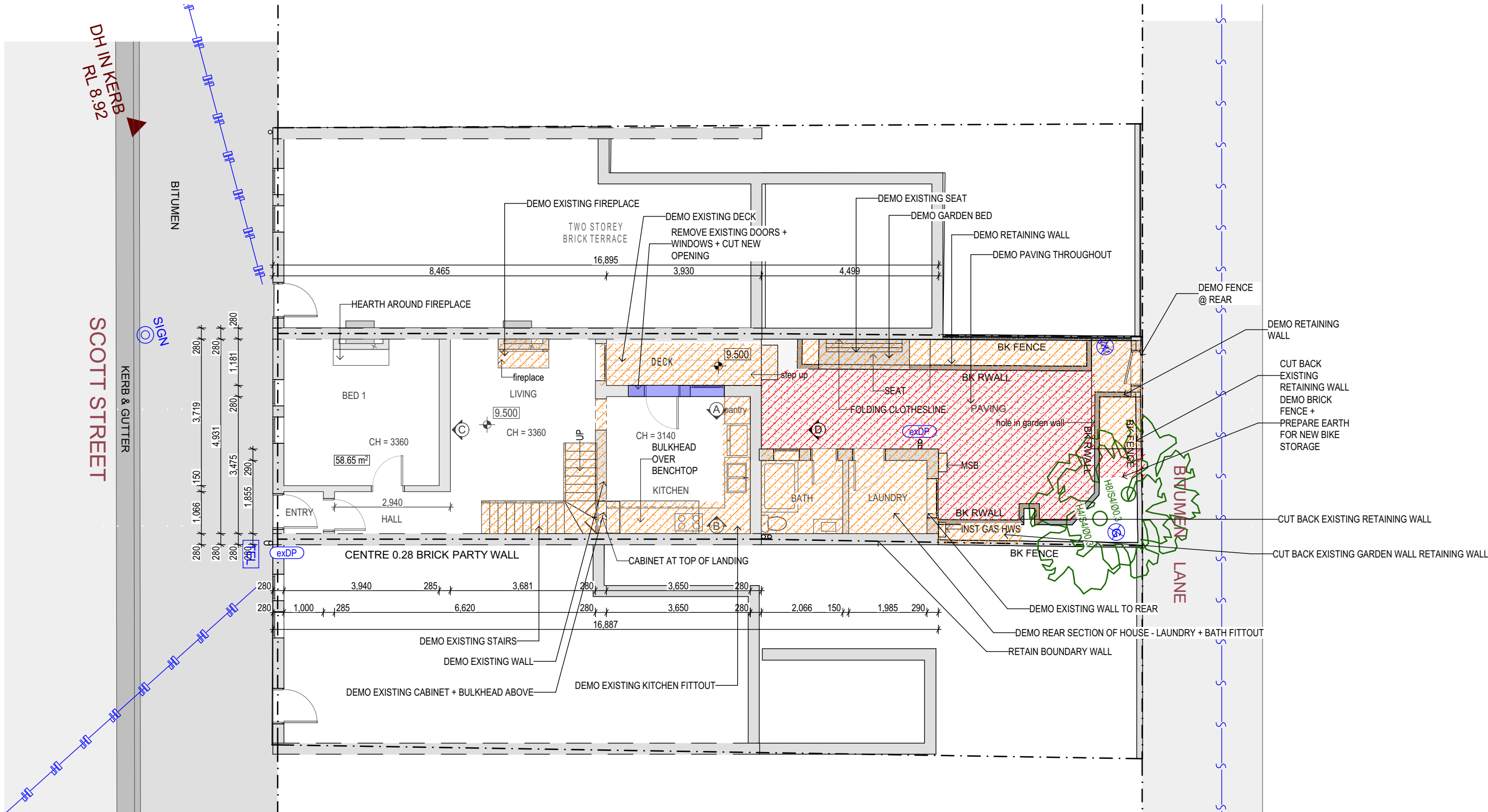
DEMOLITION
ALL DEMOLITION TO BE CARRIED OUT IN ACCORDANCE WITH AS 2601-2001 DEMOLITION OF STRUCTURES.



- DEMOLISH EXISTING EXTERNAL CONCRETE, PATHS ETC.
- DEMOLISH EXISTING STRUCTURE, FIXTURES & FITTING
- CREATE NEW OPENING

DEMOLITION
ALL DEMOLITION TO BE CARRIED OUT IN ACCORDANCE WITH AS 2601-2001 DEMOLITION OF STRUCTURES.

MGA 113



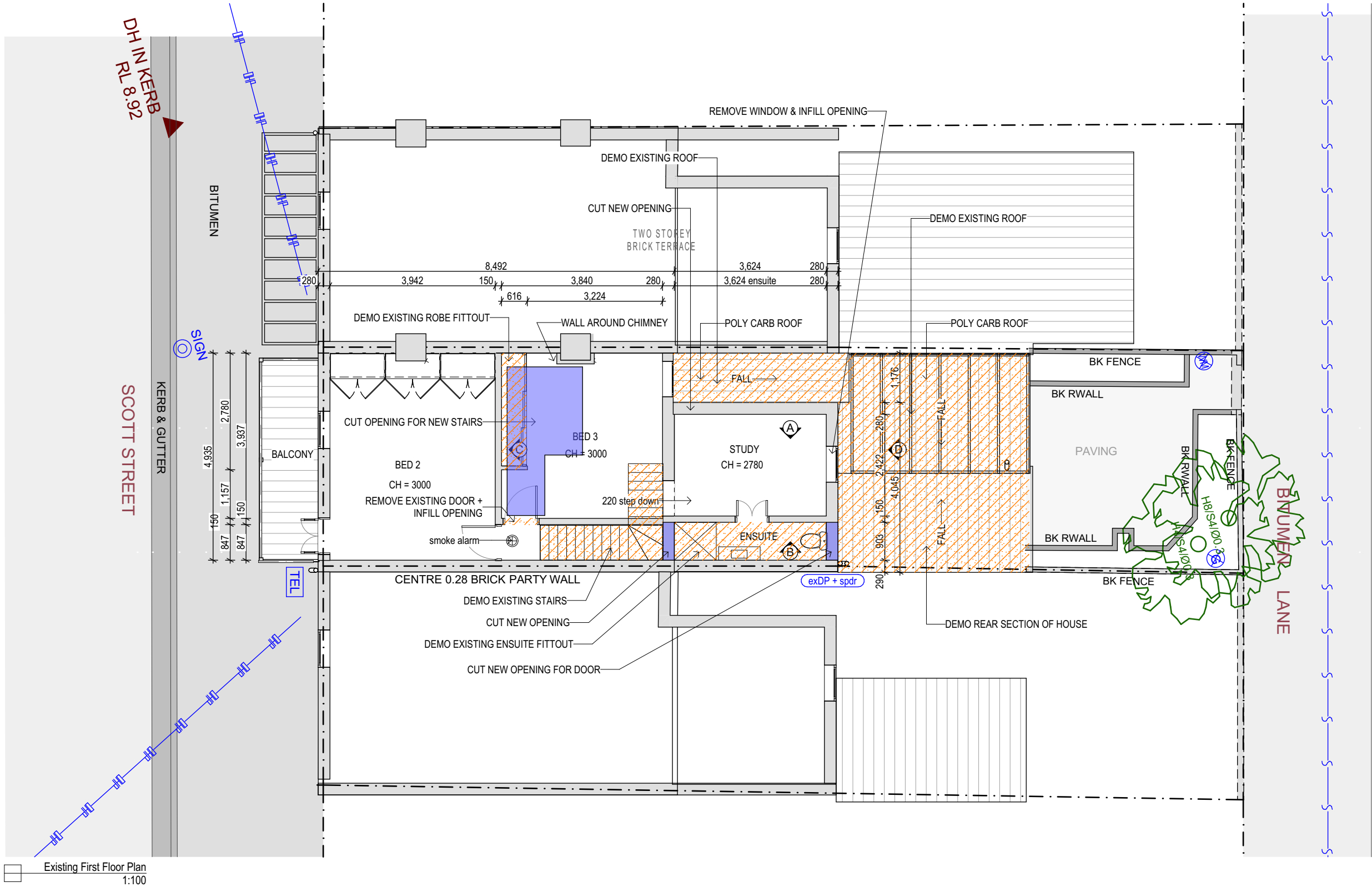
Existing Ground Floor Plan
1:100

<div>Architect</div> <div><div><div>Zsa</div><div>Zugai Strudwick Architects</div></div><div><div>Newcastle: 73 Robert Street Wickham NSW 2293 Sydney: 122 Francis Greenway Drive Cherrybrook NSW 2126 Document Set ID: 7744175</div><div>T: 612 4969 7927 F: 612 4969 7928 15/07/2022</div><div>F: 612 6687 0497 ACN 119 139 221</div></div></div>	<div>Client</div> <div>Vanessa Alexander</div>	<div>Title</div> <div>Existing Ground Floor & Demolition Plan</div>	<div>Drawing</div> <div>SCALE @A3 1:200, 1:100 DATE 15/07/2022 DRAWN LS CHECKED MZ</div>	<div>Revision</div> <div>A Sketch Design 28/01/21 B Costing 07/03/22 C Development Application 15/07/22</div>	<div>Project</div> <div>Project No. 2164 Alterations+Additions 26 Scott Street, Newcastle East Lot 2, DP406063 DA05 C</div>
---	--	---	--	---	---

- DEMOLISH EXISTING EXTERNAL CONCRETE, PATHS ETC.
- DEMOLISH EXISTING STRUCTURE, FIXTURES & FITTING
- CREATE NEW OPENING

DEMOLITION
ALL DEMOLITION TO BE CARRIED OUT IN ACCORDANCE WITH AS 2601-2001 DEMOLITION OF STRUCTURES.

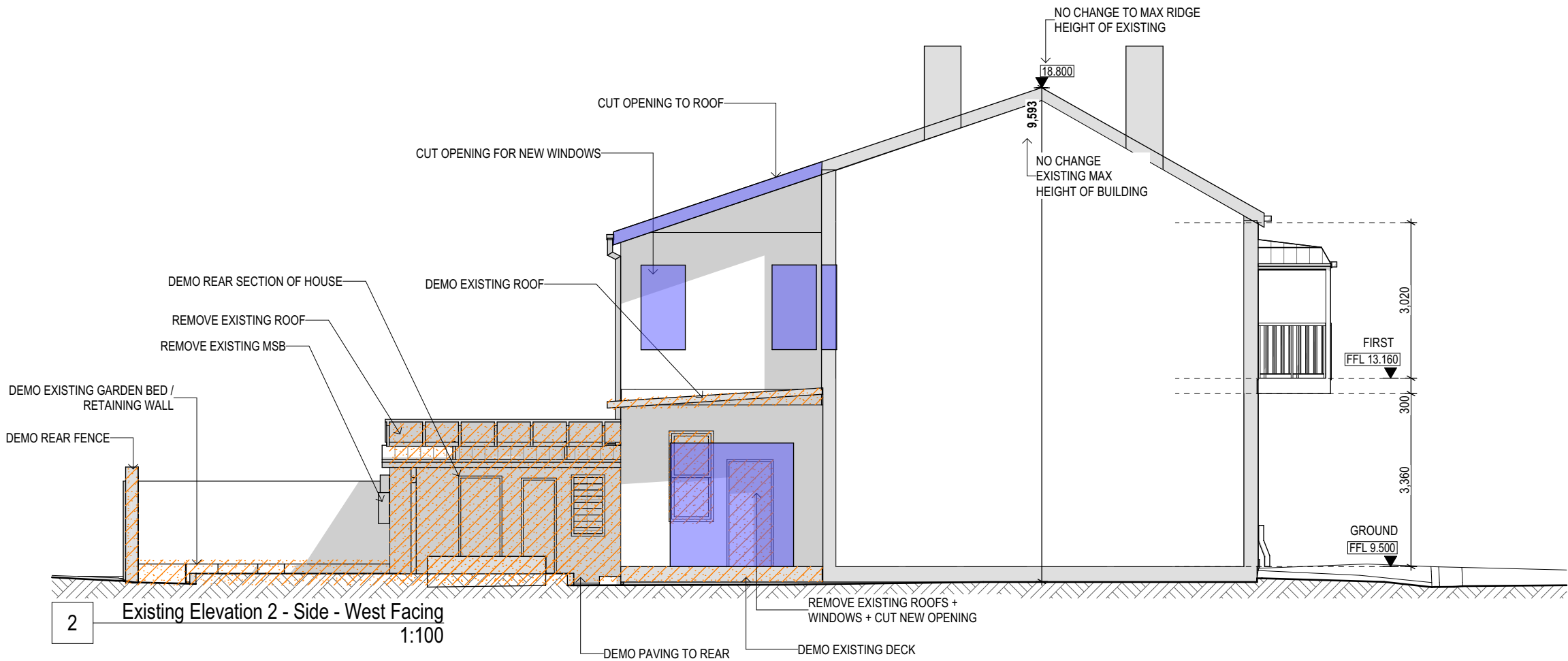
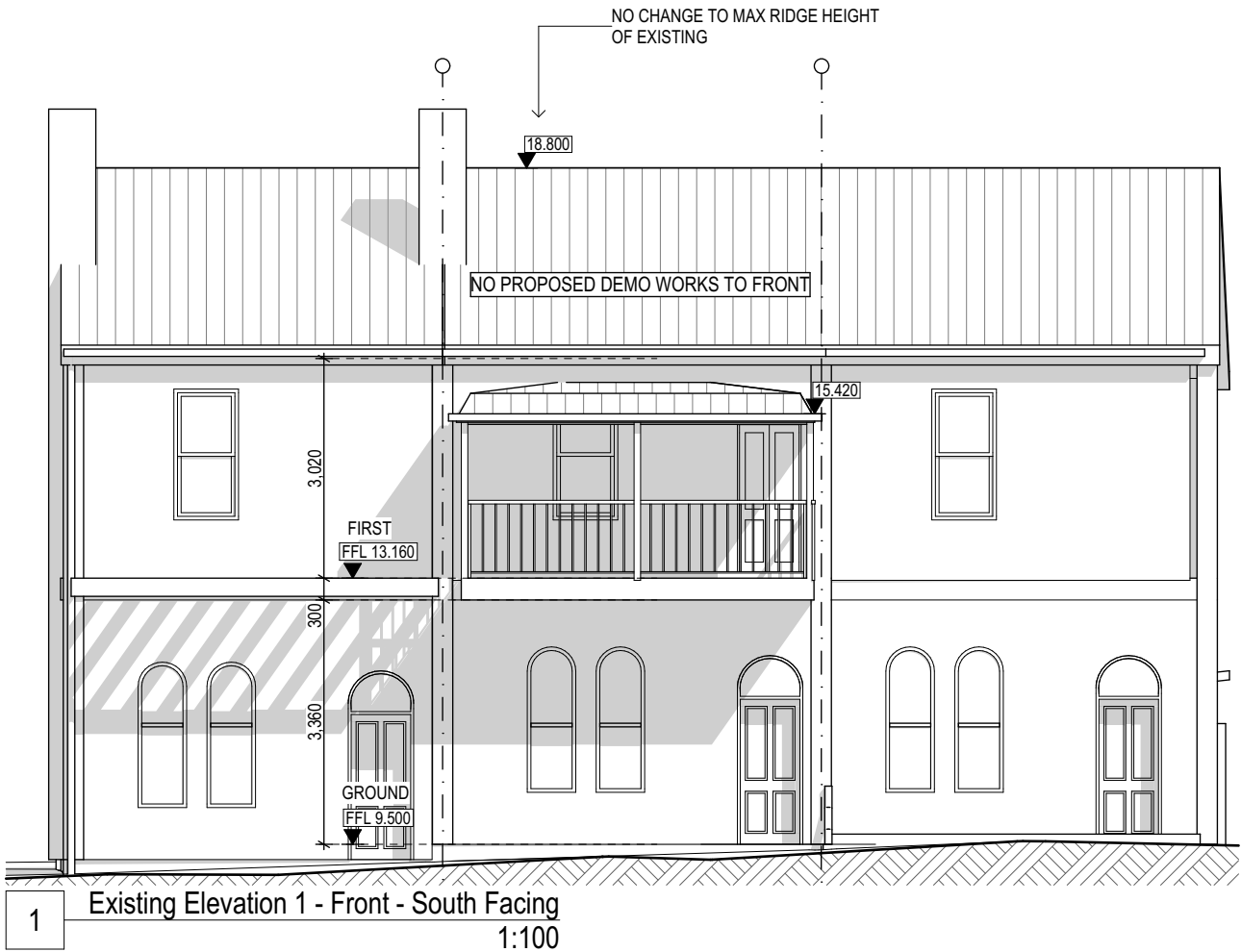
MGA 114



<div>Architect</div> <div><div><div>Zsa</div><div>Zugai Strudwick Architects</div></div><div><div>Newcastle: 73 Robert Street Wickham NSW 2293 Sydney: 122 Francis Greenway Drive Cherrybrook NSW 2126 Document Set ID: 7744176 Version: 1, Version Date: 17/03/2023</div><div><div>T: 612 4969 7927 F: 612 4969 7928 R: 612 6687 0497 ACN 119 139 221</div></div></div><div><div><div>Member Australian Institute of Architects</div></div><div>All Building Works in accordance with the Building Code of Australia. All timber framing to comply with AS 1684. Do not scale from drawings. Take figured dimensions in preference to scale. Verify all dimensions on site before commencing work.</div><div>Copying or reproduction of this drawing is strictly prohibited without the written consent of Zugai Strudwick Architects Pty Ltd</div></div></div>	<div>Client</div> <div>Vanessa Alexander</div>	<div>ELEVATION</div> <div><div>2</div><div>1</div><div>3</div><div>4</div></div> <div>ELEVATION</div> <div>ELEVATION</div> <div>ELEVATION</div>	<div>Title</div> <div>Existing First Floor & Demolition Plan</div> <div><div><div></div><div>N</div></div></div>	<div>Drawing</div> <div><div>SCALE @A3</div><div>DATE</div><div>DRAWN</div><div>CHECKED</div></div> <div><div>1:100</div><div>15/07/2022</div><div>LS</div><div>MZ</div></div>	<div>Revision</div> <div><div>A Sketch Design</div><div>B Costing</div><div>C Development Application</div></div> <div><div>28/01/21</div><div>07/03/22</div><div>15/07/22</div></div>	<div>Project</div> <div><div>Project No. 2164</div><div>Alterations+Additions</div><div>26 Scott Street, Newcastle East</div><div>Lot 2, DP406063</div><div>DA06</div><div>C</div></div>
--	--	---	--	--	--	--

- DEMOLISH EXISTING EXTERNAL CONCRETE, PATHS ETC.
- DEMOLISH EXISTING STRUCTURE, FIXTURES & FITTING
- CREATE NEW OPENING

DEMOLITION
ALL DEMOLITION TO BE CARRIED OUT IN ACCORDANCE WITH AS 2601-2001 DEMOLITION OF STRUCTURES.



Architect

115

Zsa
Zugai Strudwick Architects

Newcastle: 73 Robert St Wickham NSW 2293
T: 612 4969 7927 F: 612 4969 7928
Sydney: 122 Francis Greenway Dr Cherrybrook NSW 2126
T: 612 9875 1717 F: 612 6687 0497
E: info@zsarchitects.com.au www.zsarchitects.com.au
Registered Architects 7669/ 7673 ACN 119 139 221

Member
Australian
Institute of
Architects

All Building Works in accordance with the Building Code of Australia. All timber framing to comply with AS 1684. Do not scale from drawings. Take figured dimensions in preference to scale. Verify all dimensions on site before commencing work.

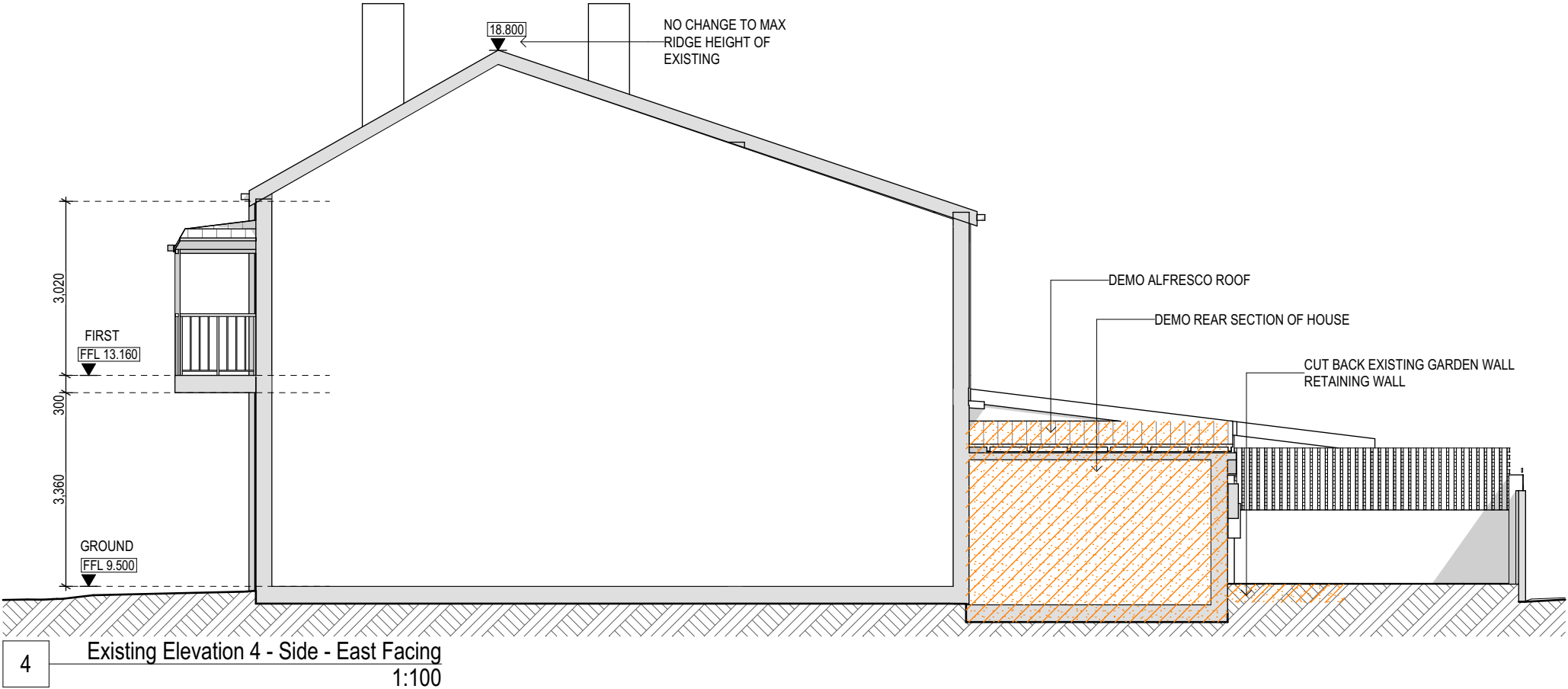
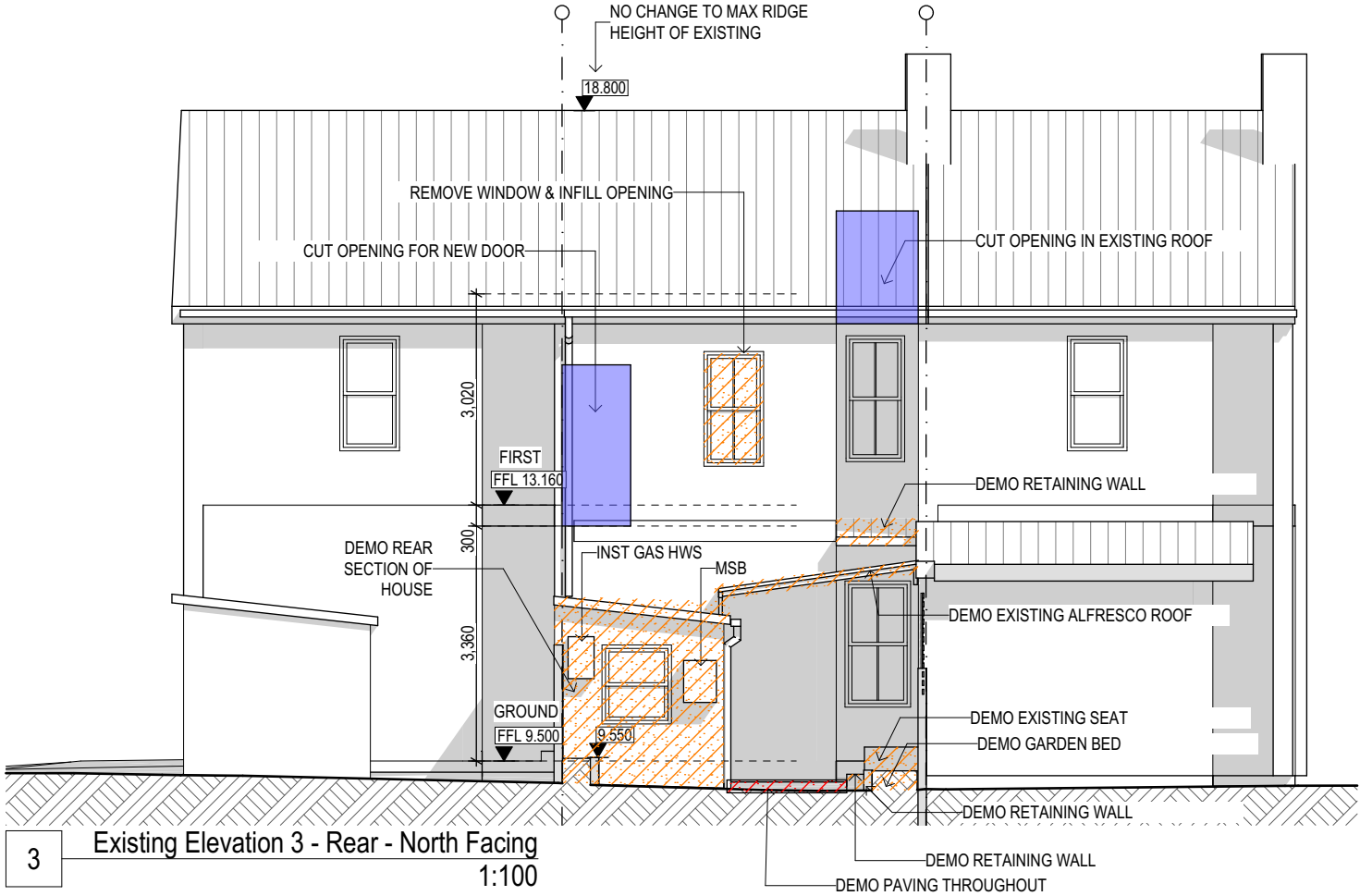
Copying or reproduction of this drawing is strictly prohibited without the written consent of Zugai Strudwick Architects Pty Ltd

Revision	
A Sketch Design	28/01/21
B Costing	07/03/22
C Development Application	15/07/22

Client	
Vanessa Alexander	
Title	
Existing Elevations & Demolition 1	
Drawing	
SCALE @A3	1:100
DATE	15/07/2022
DRAWN	LS
CHECKED	MZ
Project	
Project No. 2164 Alterations+Additions 26 Scott Street, Newcastle East Lot 2, DP406063	
DA07	

- DEMOLISH EXISTING EXTERNAL CONCRETE, PATHS ETC.
- DEMOLISH EXISTING STRUCTURE, FIXTURES & FITTING
- CREATE NEW OPENING

DEMOLITION
ALL DEMOLITION TO BE CARRIED OUT IN ACCORDANCE WITH AS 2601-2001 DEMOLITION OF STRUCTURES.



Revision	
A Sketch Design	28/01/21
B Costing	07/03/22
C Development Application	15/07/22

Client

Vanessa Alexander

Title

Existing Elevations & Demolition 2

Drawing

SCALE @A3 1:100
DATE 15/07/2022
DRAWN LS
CHECKED MZ

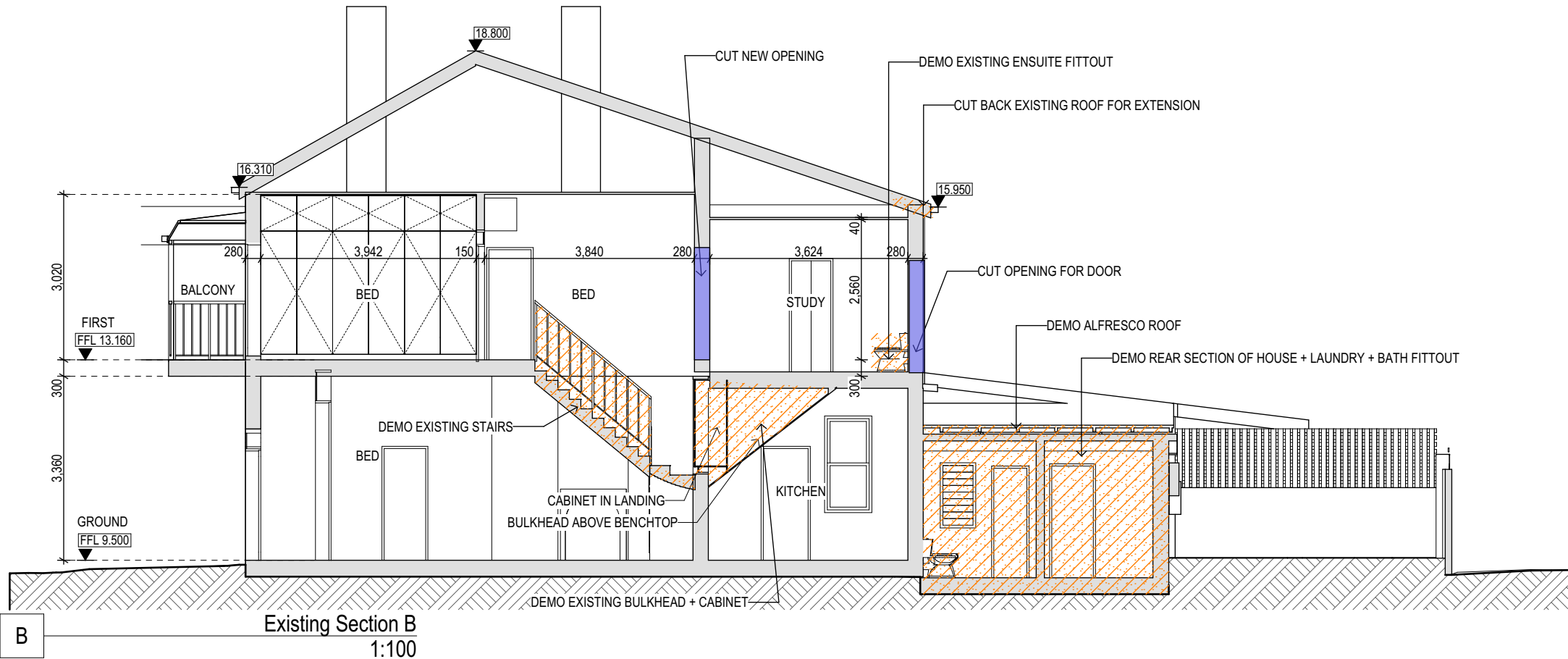
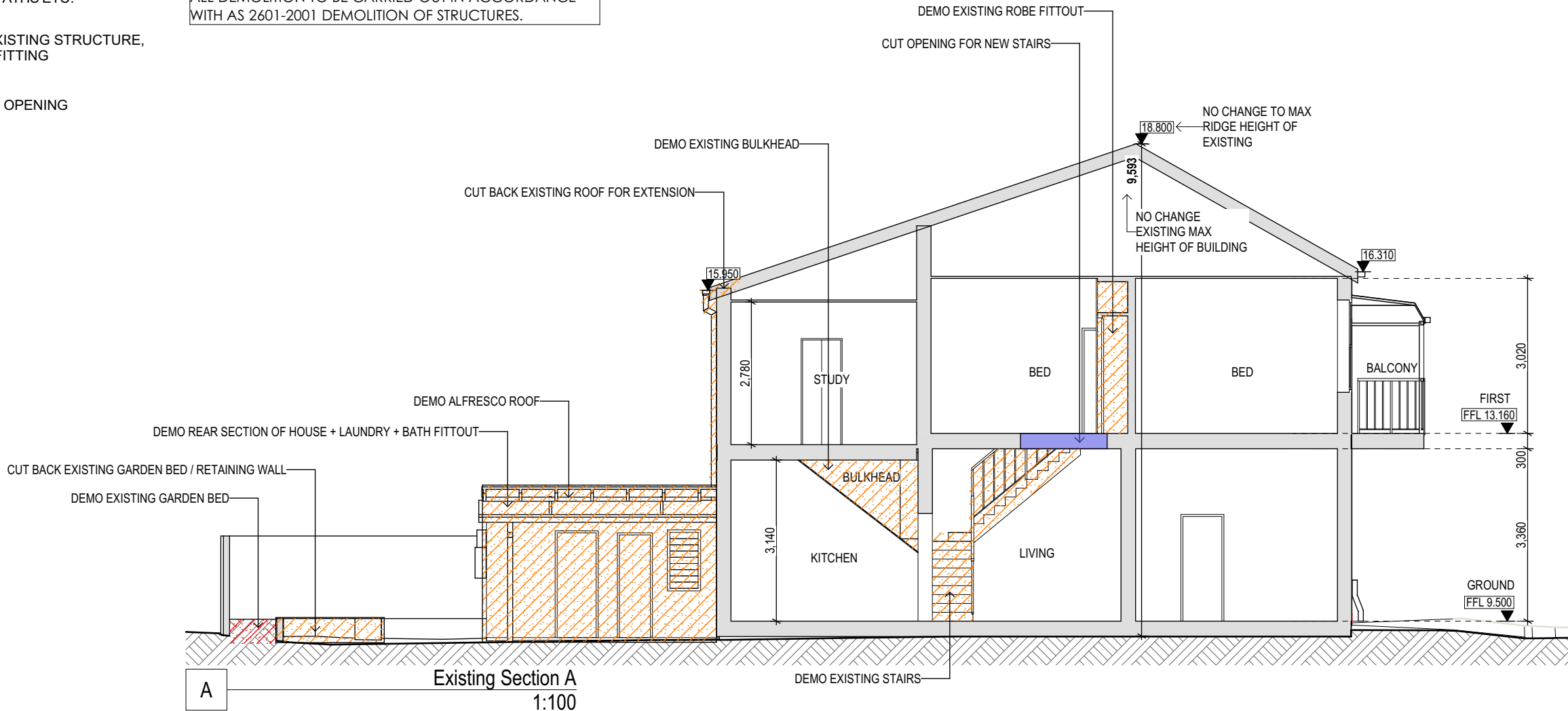
Project

Project No. 2164
Alterations+Additions
26 Scott Street, Newcastle
East
Lot 2, DP406063
DA08

C

- DEMOLISH EXISTING EXTERNAL CONCRETE, PATHS ETC.
- DEMOLISH EXISTING STRUCTURE, FIXTURES & FITTING
- CREATE NEW OPENING

DEMOLITION
ALL DEMOLITION TO BE CARRIED OUT IN ACCORDANCE WITH AS 2601-2001 DEMOLITION OF STRUCTURES.



Architect

117

Zsa

Zugai Strudwick Architects

Newcastle: 73 Robert St Wickham NSW 2293
T: 612 4969 7927 F: 612 4969 7928
Sydney: 122 Francis Greenway Dr Cherrybrook NSW 2126
T: 612 9875 1717 F: 612 6687 0497
E: info@zsarchitects.com.au www.zsarchitects.com.au
Registered Architects 7669/ 7673 ACN 119 139 221

AA+ Member Australian Institute of Architects

All Building Works in accordance with the Building Code of Australia. All timber framing to comply with AS 1684. Do not scale from drawings. Take figured dimensions in preference to scale. Verify all dimensions on site before commencing work.

Copying or reproduction of this drawing is strictly prohibited without the written consent of Zugai Strudwick Architects Pty Ltd

Revision	
A Sketch Design	28/01/21
B Costing	07/03/22
C Development Application	15/07/22

Client

Vanessa Alexander

Title

Existing Sections & Demolition 1

Drawing

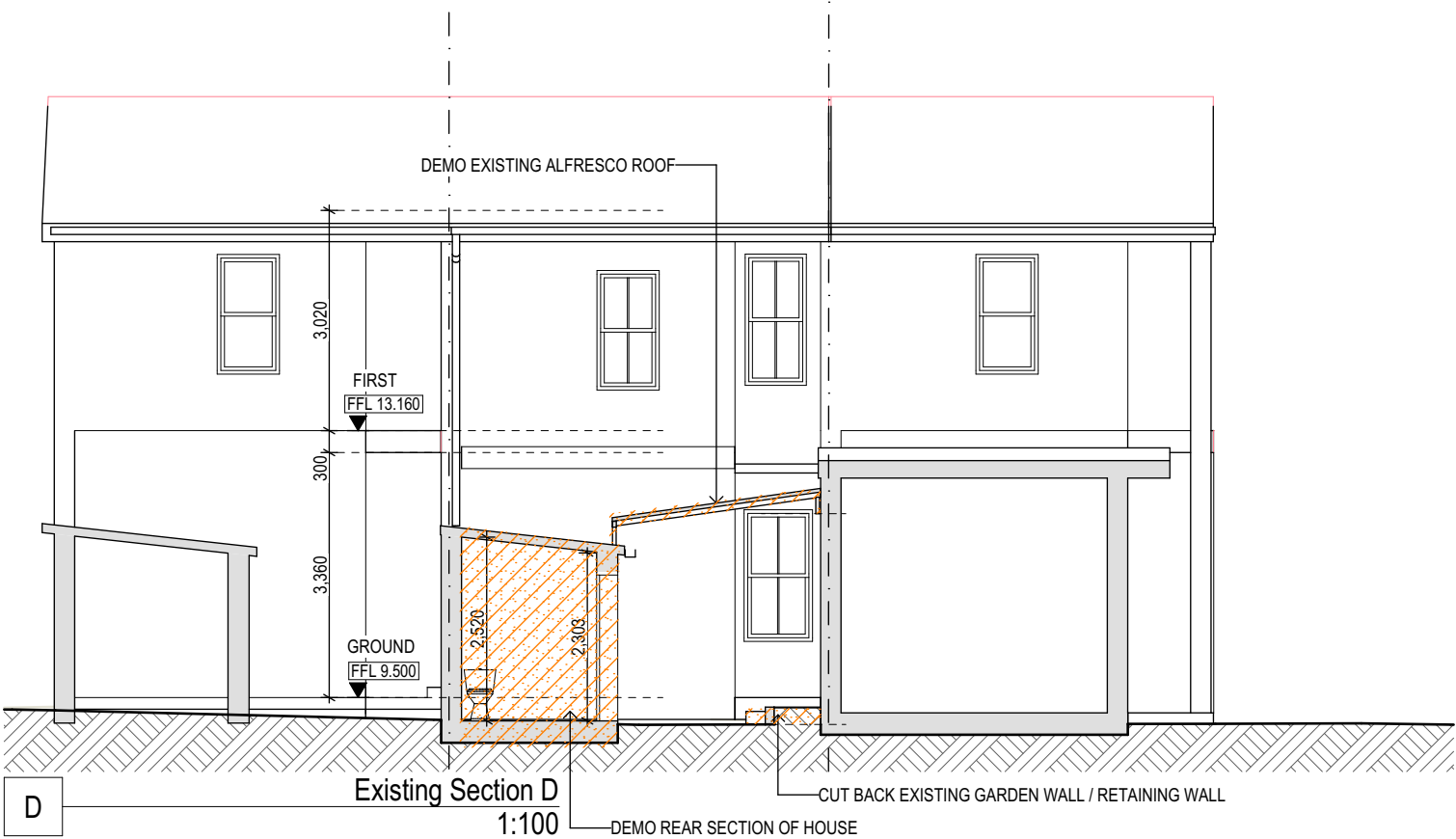
SCALE @A3 1:100
DATE 15/07/2022
DRAWN LS
CHECKED MZ

Project

Project No. 2164
Alterations+Additions
26 Scott Street, Newcastle East
Lot 2, DP406063
DA09

- DEMOLISH EXISTING EXTERNAL CONCRETE, PATHS ETC.
- DEMOLISH EXISTING STRUCTURE, FIXTURES & FITTING
- CREATE NEW OPENING

DEMOLITION
ALL DEMOLITION TO BE CARRIED OUT IN ACCORDANCE WITH AS 2601-2001 DEMOLITION OF STRUCTURES.



Architect

118

Zsa

Zugai Strudwick Architects

Newcastle: 73 Robert St Wickham NSW 2293
T: 612 4969 7927 F: 612 4969 7928
Sydney: 122 Francis Greenway Dr Cherrybrook NSW 2126
T: 612 9876 1717 F: 612 6687 0497
E: info@zsarchitects.com.au www.zsarchitects.com.au
Registered Architects 7669/ 7673 ACN 119 139 221

Member
Australian
Institute of
Architects

All Building Works in accordance with the Building Code of Australia. All timber framing to comply with AS 1684. Do not scale from drawings. Take figured dimensions in preference to scale. Verify all dimensions on site before commencing work.

Copying or reproduction of this drawing is strictly prohibited without the written consent of Zugai Strudwick Architects Pty Ltd

Revision

A Sketch Design28/01/21
B Costing07/03/22
C Development Application15/07/22

Client

Vanessa Alexander

Title

Existing Sections & Demolition 2

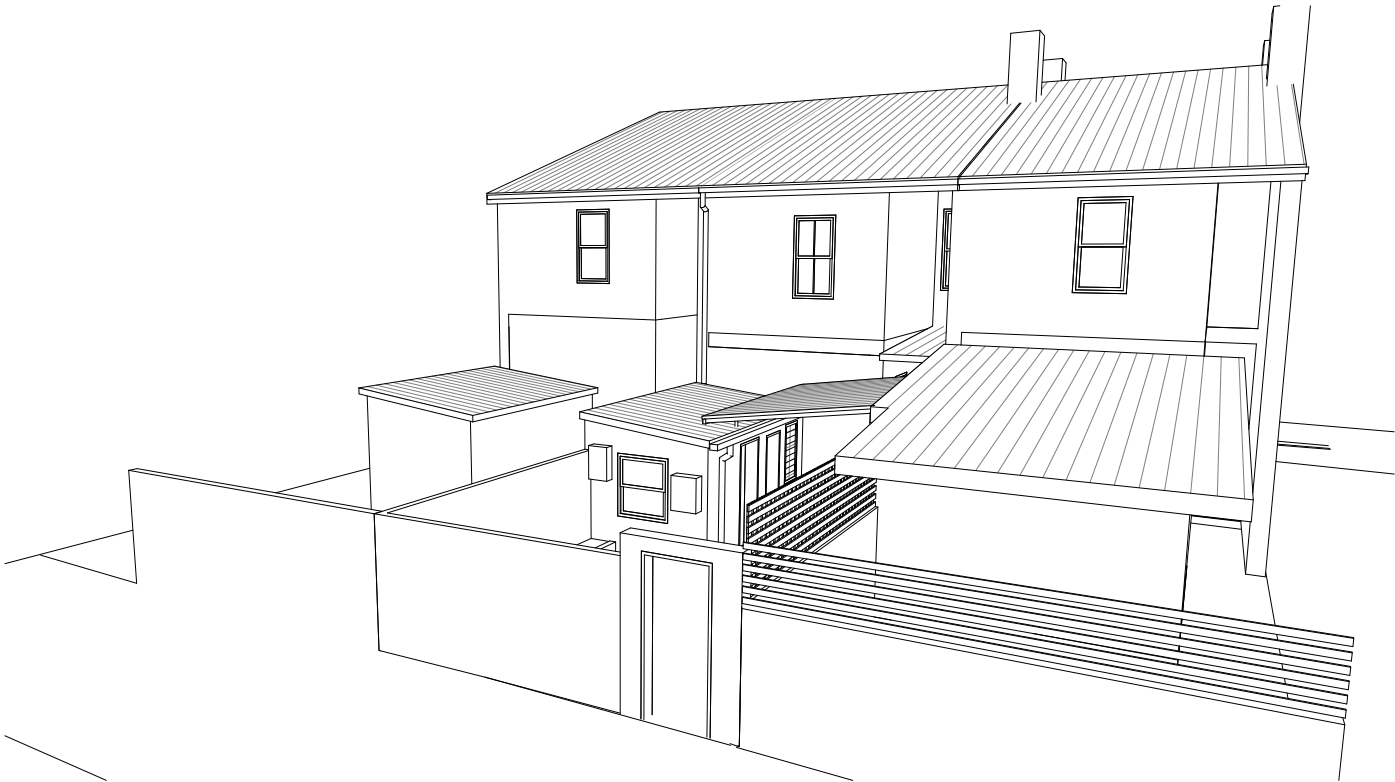
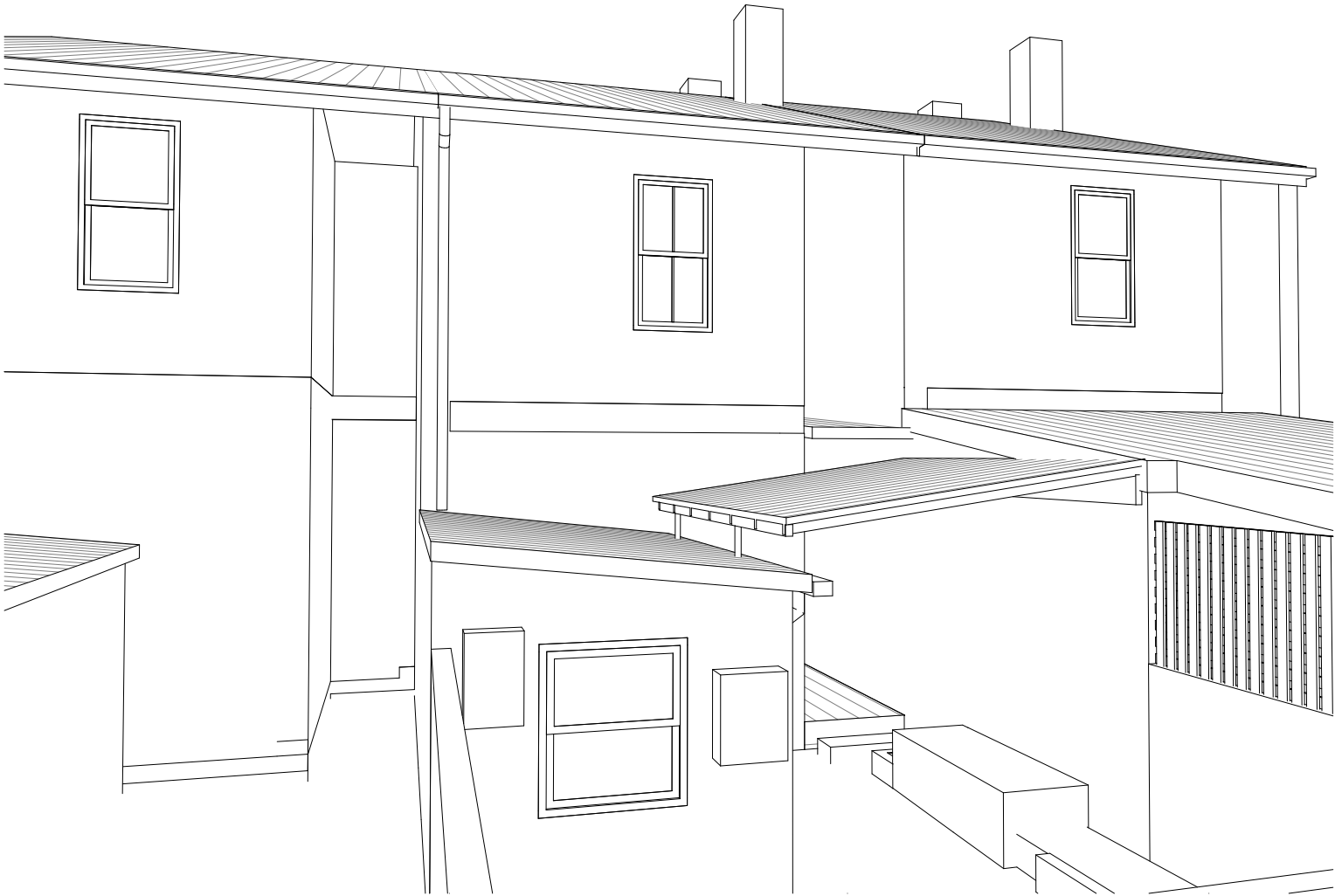
Drawing

SCALE @A3 1:100
DATE 15/07/2022
DRAWN LS
CHECKED MZ

Project

Project No. 2164
Alterations+Additions
26 Scott Street, Newcastle
East
Lot 2, DP406063
DA10

C





PROPOSED NEW ALTERATIONS
& ADDITIONS

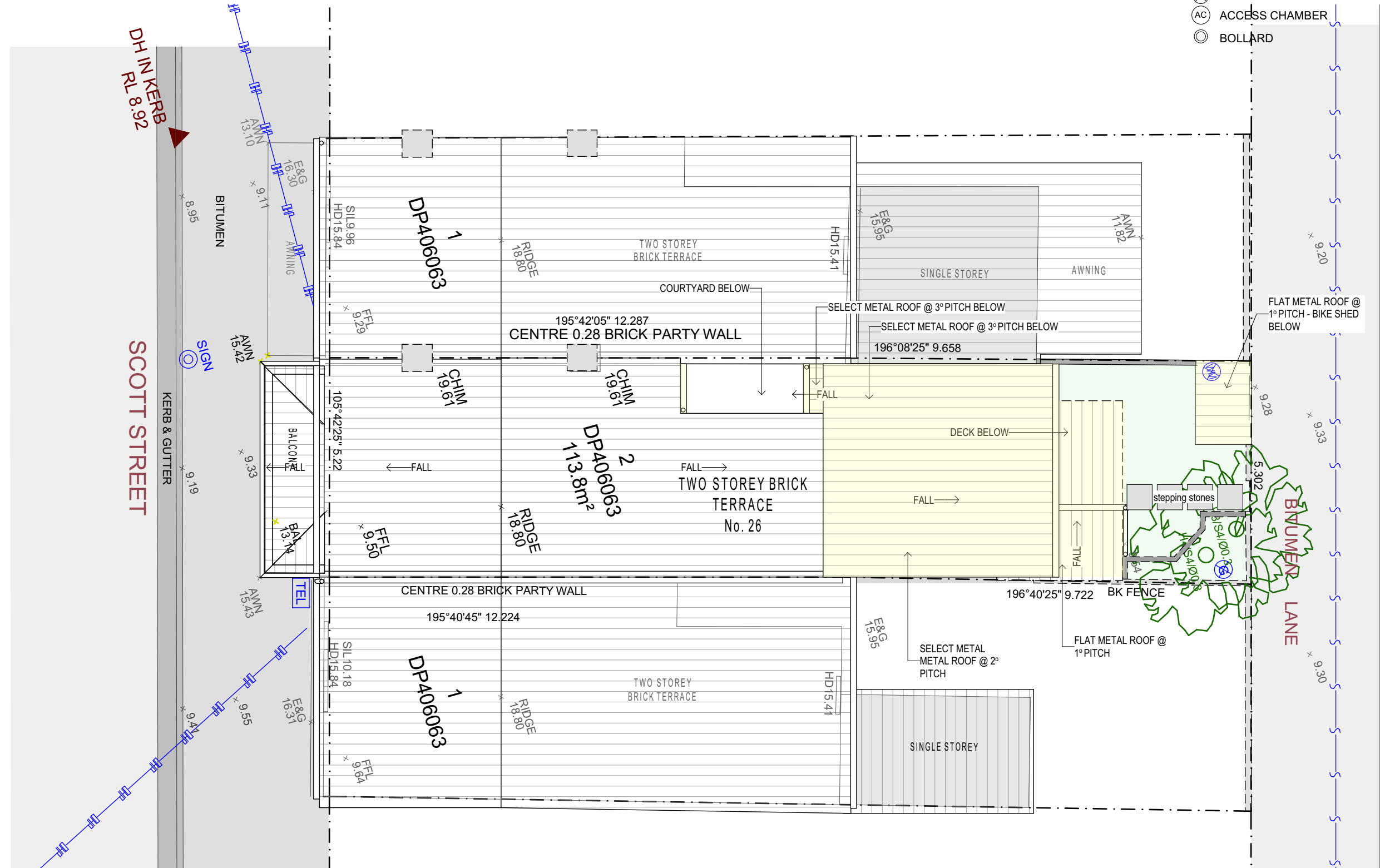
MGA

LEGEND

- BENCHMARK
- POWER POLE
- GAS METER
- TELECOMM. PIT
- STOP VALVE
- SEWER INSPECTION POINT
- ACCESS CHAMBER
- BOLLARD

- OVERHEAD POWER LINE
- SEWER LINE
- WATER LINE
- CONTOUR LINE
- BOUNDARY
- TREE
- HEIGHT/SPREAD/DIAMETER

120



Proposed Site Plan
1:100

CONNECT STORMWATER AND SEWER TO
COUNCILS EXISTING INFRASTRUCTURE @
REAR LANEWAY

Architect



Newcastle: 73 Robert Street Wickham NSW 2293 T: 612 4969 7927
Sydney: 122 Francis Greenway Drive Cherrybrook NSW 2126 T: 612 9875 1717
F: 612 6687 0497
Document Set ID: 7744175
Version: 1, Version Date: 17/03/2023



All Building Works in accordance with the Building Code of Australia. All timber framing to comply with AS 1684. Do not scale from drawings. Take figured dimensions in preference to scale. Verify all dimensions on site before commencing work.

Copying or reproduction of this drawing is strictly prohibited without the written consent of Zugai Strudwick Architects Pty Ltd

Client

Vanessa Alexander

ELEVATION



Title

Proposed Site & Stormwater
Concept Plan



Drawing

SCALE @A3 1:100
DATE 15/07/2022
DRAWN LS
CHECKED MZ

Revision

A Sketch Design
B Costing
C Development Application

28/01/21
07/03/22
15/07/22

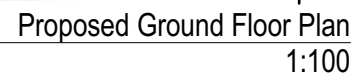
Project

Project No. 2164
Alterations+Additions
26 Scott Street, Newcastle
East
Lot 2, DP406063

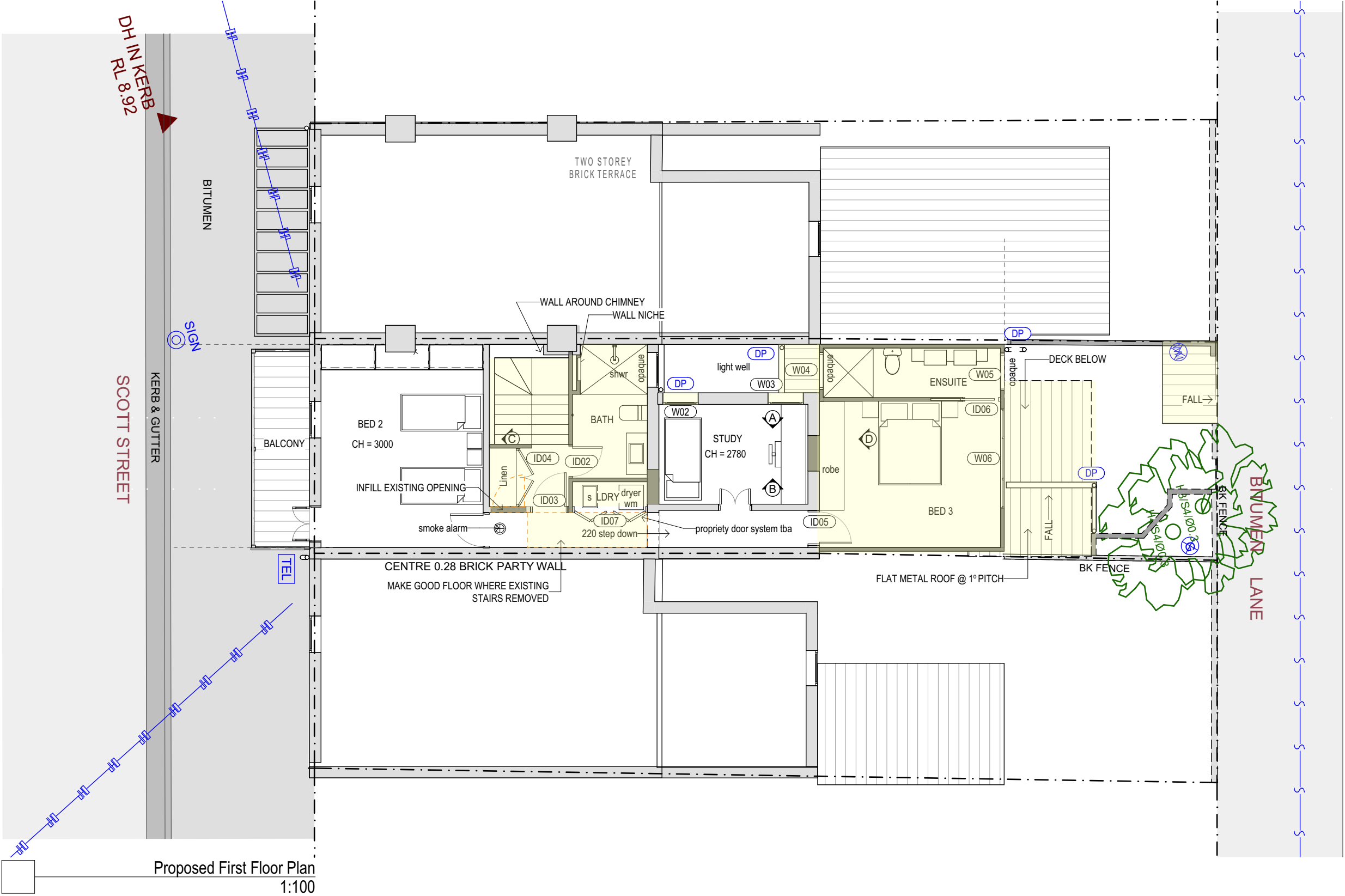
DA12

C

- CONTINUOUS HANDRAILS TO STAIRSWAYS IN ACCORDANCE WITH CLAUSE 3.9.2.4 of the BCA
- STAIRS PROVIDED WITH A NON-SLIP FINISH IN ACCORDANCE WITH CLAUSE 3.9.1.4 of the BCA
- SMOKE ALARMS IN ACCORDANCE WITH CLAUSE 3.7.5.3 of the BCA
- FIREPLACE CONSTRUCTION IN ACCORDANCE WITH AS2918 AND PART 3.10.7 of the BCA



- NOTES:**
- CONTINUOUS HANDRAILS TO STAIRSWAYS IN ACCORDANCE WITH CLAUSE 3.9.2.4 of the BCA
 - STAIRS PROVIDED WITH A NON-SLIP FINISH IN ACCORDANCE WITH CLAUSE 3.9.1.4 of the BCA
 - SMOKE ALARMS IN ACCORDANCE WITH CLAUSE 3.7.5.3 of the BCA
 - FIREPLACE CONSTRUCTION IN ACCORDANCE WITH AS2918 AND PART 3.10.7 of the BCA



Architect



Newcastle: 73 Robert Street Wickham NSW 2293 T: 612 4969 7927
Sydney: 122 Francis Greenway Drive Cherrybrook NSW 2126 T: 612 9875 1717
F: 612 6687 0497
Document Set ID: 7744176
Version: 1, Version Date: 17/03/2023



All Building Works in accordance with the Building Code of Australia. All timber framing to comply with AS 1684. Do not scale from drawings. Take figured dimensions in preference to scale. Verify all dimensions on site before commencing work.

Copying or reproduction of this drawing is strictly prohibited without the written consent of Zugai Strudwick Architects Pty Ltd

Client

Vanessa Alexander

ELEVATION



Title

Proposed First Floor Plan



Drawing

SCALE @A3 1:100
DATE 15/07/2022
DRAWN LS
CHECKED MZ

Revision

A Sketch Design
B Costing
C Development Application

28/01/21
07/03/22
15/07/22

Project

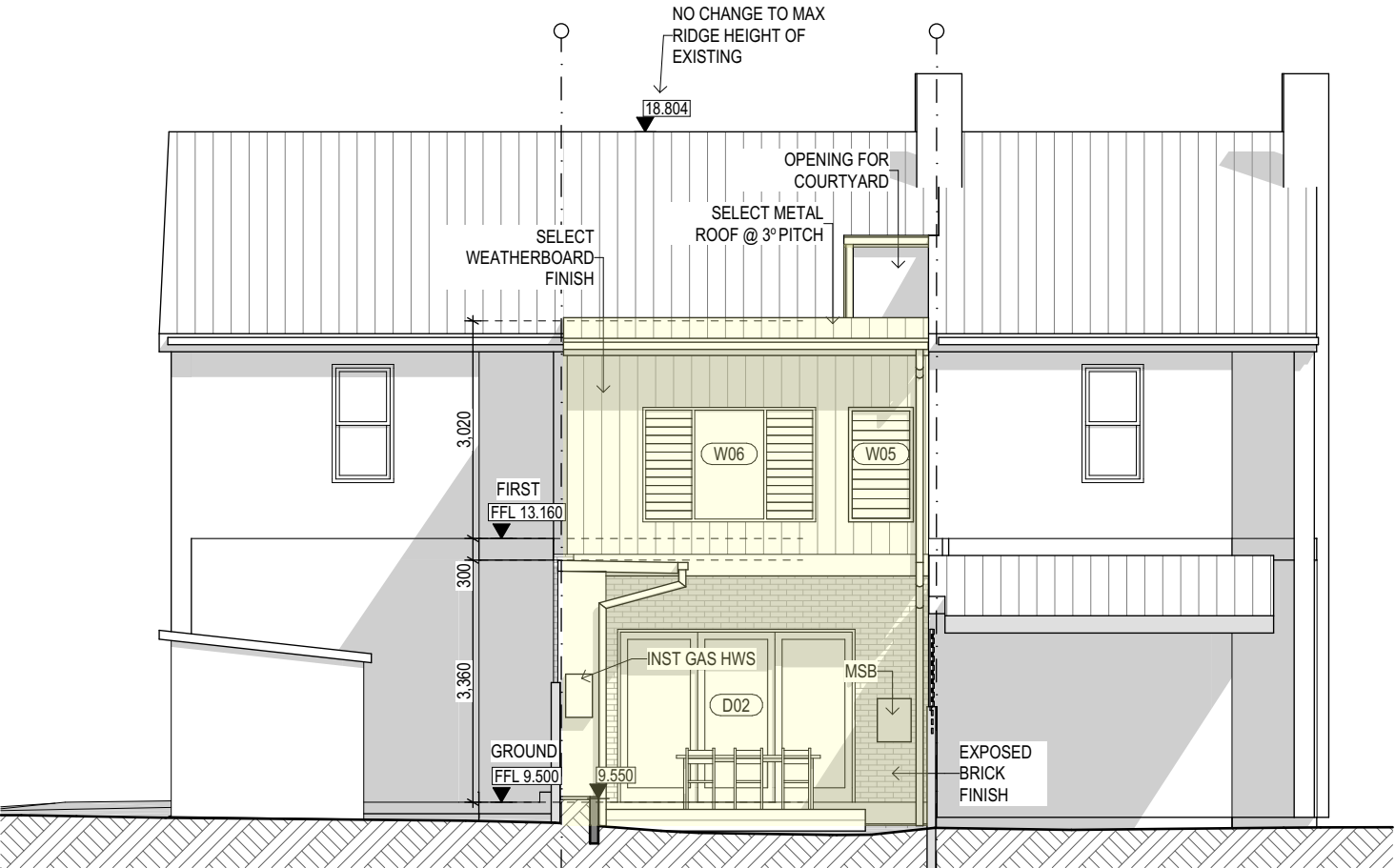
Project No. 2164
Alterations+Additions
26 Scott Street, Newcastle
East
Lot 2, DP406063

DA14

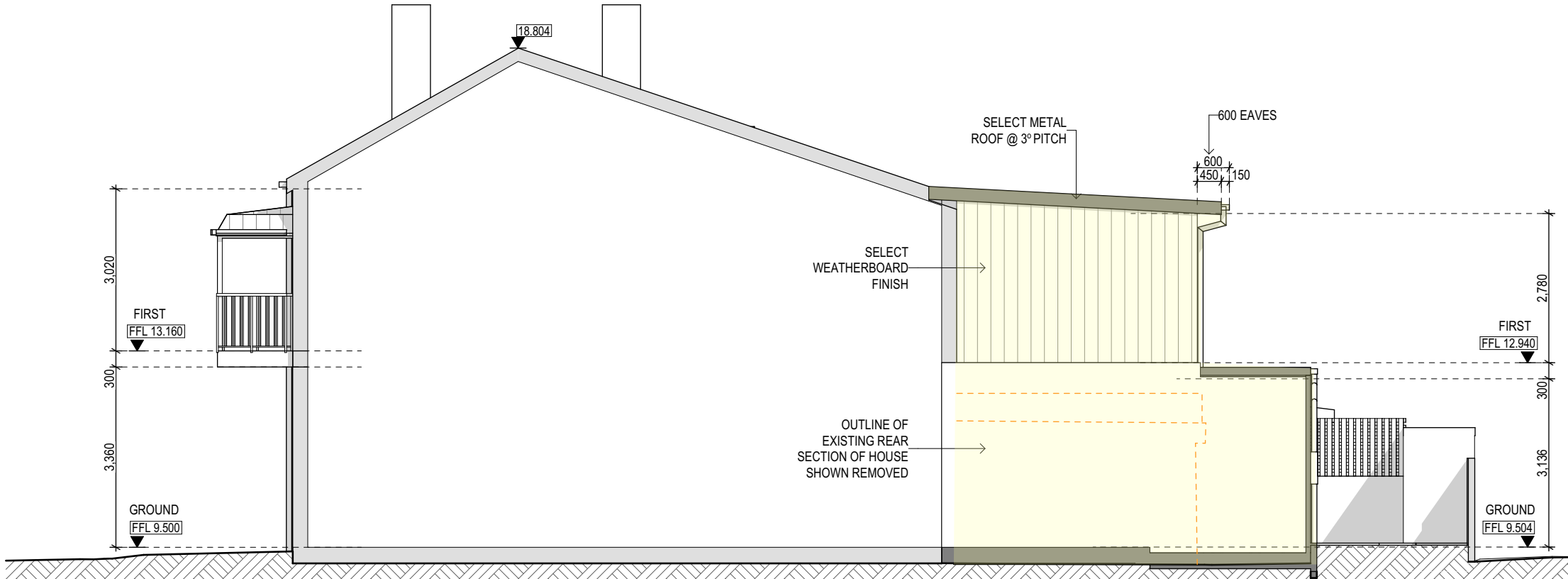
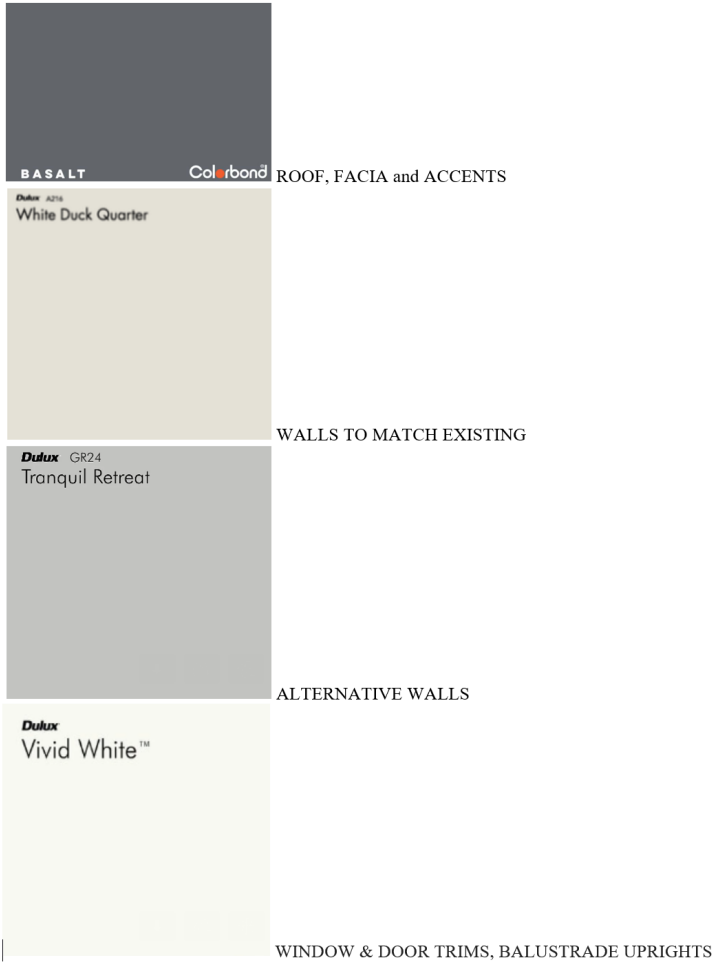
C



PROPOSED NEW ALTERATIONS
& ADDITIONS



3 Proposed Elevation 3 - Rear - North Facing
1:100



4 Proposed Elevation 4 - Side - East Facing
1:100

Architect

124

Zsa

Zugai Strudwick Architects

Newcastle: 73 Robert St Wickham NSW 2293
T: 612 4969 7927 F: 612 4969 7928
Sydney: 122 Francis Greenway Dr Cherrybrook NSW 2126
T: 612 9875 1717 F: 612 6687 0497
E: info@zsarchitects.com.au www.zsarchitects.com.au
Registered Architects 7669/7673 ACN 119 139 221

All Building Works in accordance with the Building Code of Australia. All timber framing to comply with AS 1684. Do not scale from drawings. Take figured dimensions in preference to scale. Verify all dimensions on site before commencing work.

Copying or reproduction of this drawing is strictly prohibited without the written consent of Zugai Strudwick Architects Pty Ltd

Revision

A Sketch Design 28/01/21
B Costing 07/03/22
C Development Application 15/07/22

Client

Vanessa Alexander

Title

Proposed Elevations 2

Drawing

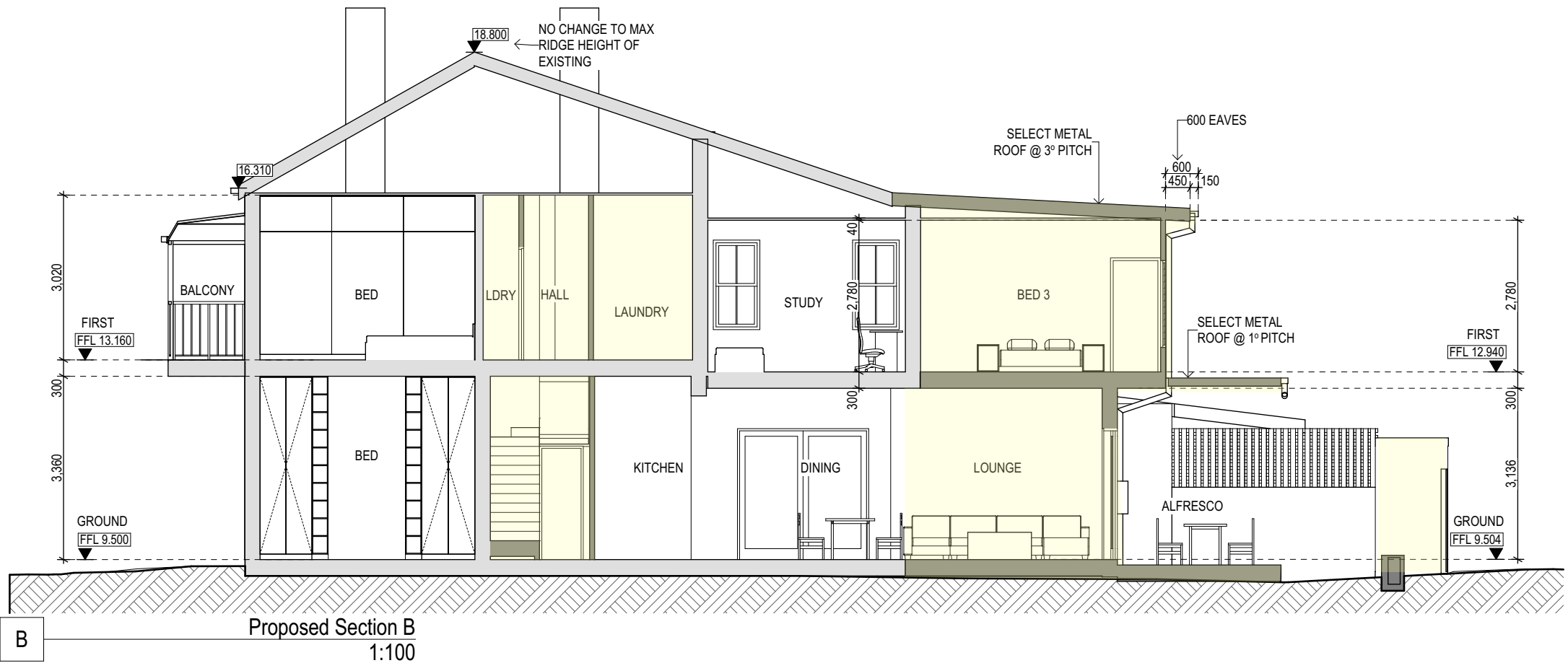
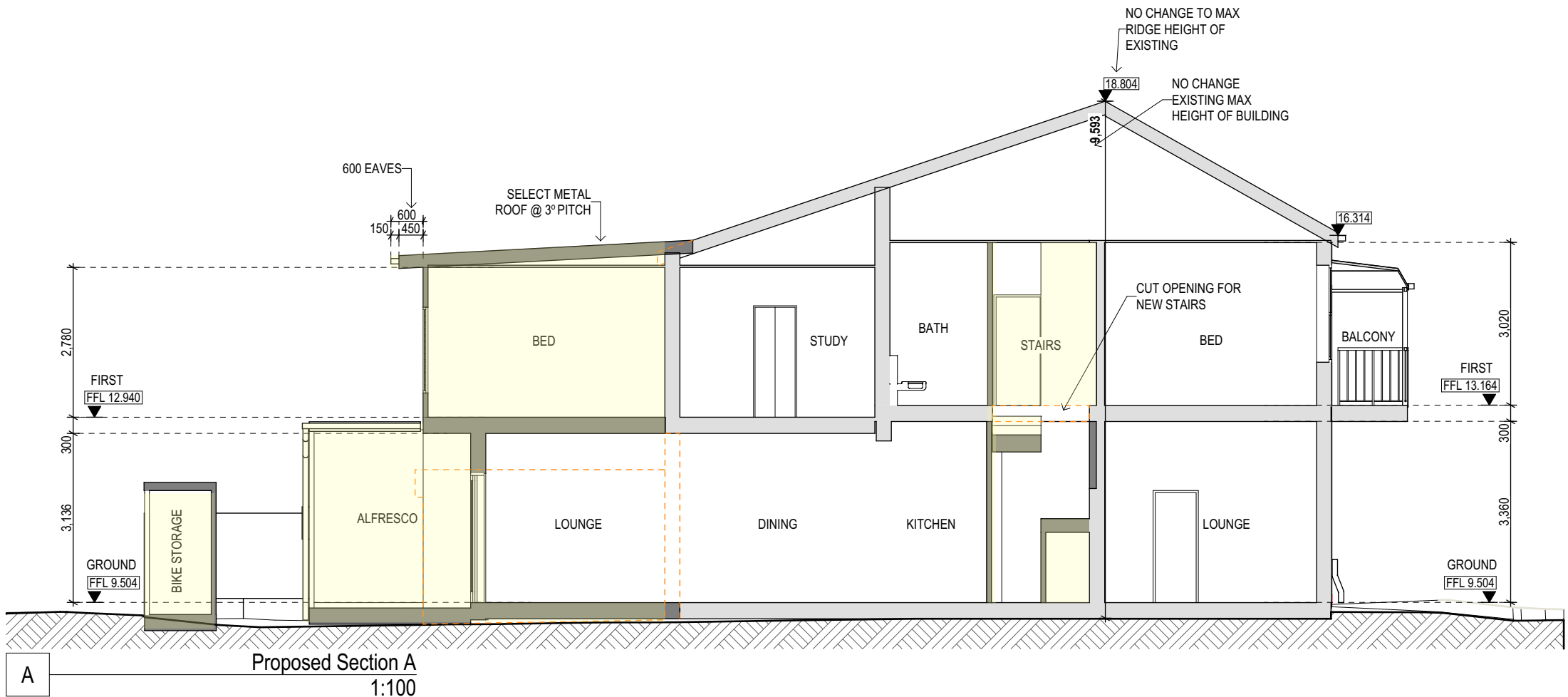
SCALE @A3 1:100
DATE 15/07/2022
DRAWN LS
CHECKED MZ

Project

Project No. 2164
Alterations+Additions
26 Scott Street, Newcastle
East
Lot 2, DP406063

DA17

PROPOSED NEW ALTERATIONS
& ADDITIONS




Architect

125

Zsa

Zugai Strudwick Architects

Newcastle: 73 Robert St Wickham NSW 2293
T: 612 4969 7927 F: 612 4969 7928
Sydney: 122 Francis Greenway Dr Cherrybrook NSW 2126
T: 612 9875 1717 F: 612 6687 0497
E: info@zsarchitects.com.au www.zsarchitects.com.au
Registered Architects 7669/7673 ACN 119 139 221

Member
Australian
Institute of
Architects

All Building Works in accordance with the Building Code of Australia. All timber framing to comply with AS 1684. Do not scale from drawings. Take figured dimensions in preference to scale. Verify all dimensions on site before commencing work.

Copying or reproduction of this drawing is strictly prohibited without the written consent of Zugai Strudwick Architects Pty Ltd

Revision

A Sketch Design

28/01/21

B Costing

07/03/22

C Development Application

15/07/22

Client

Vanessa Alexander

Title

Proposed Sections 1

Drawing

SCALE @A3 1:100

DATE 15/07/2022

DRAWN LS

CHECKED MZ

Project

Project No. 2164

Alterations+Additions

26 Scott Street, Newcastle

East

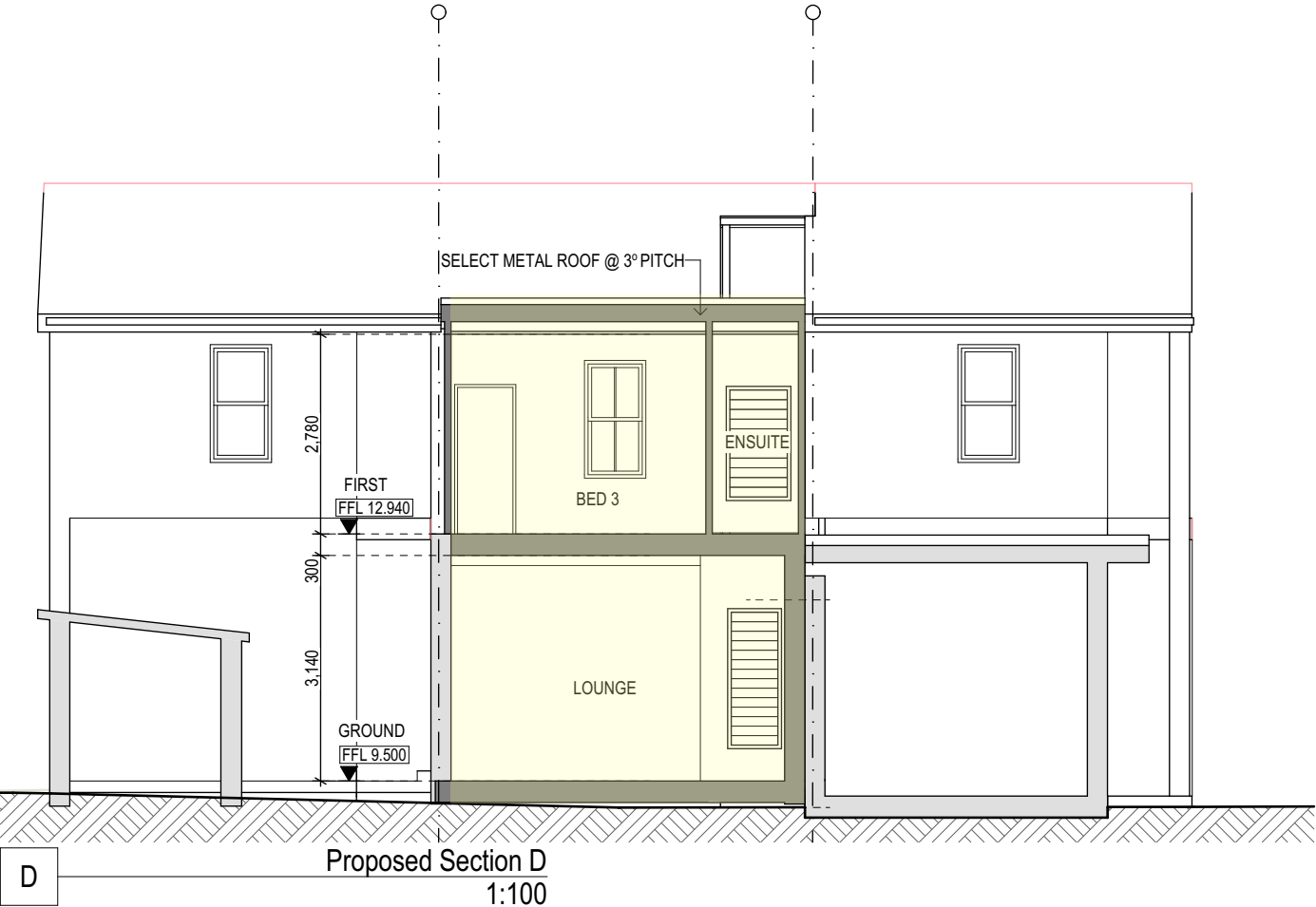
Lot 2, DP406063

DA18

C



PROPOSED NEW ALTERATIONS
& ADDITIONS



Architect

126

Zsa

Zugai Strudwick Architects

Newcastle: 73 Robert St Wickham NSW 2293
T: 612 4969 7927 F: 612 4969 7928
Sydney: 122 Francis Greenway Dr Cherrybrook NSW 2126
T: 612 9876 1717 F: 612 6687 0497
E: info@zsarchitects.com.au www.zsarchitects.com.au
Registered Architects 7669/ 7673 ACN 119 139 221

Member
Australian
Institute of
Architects

All Building Works in accordance with the Building Code of Australia. All timber framing to comply with AS 1684. Do not scale from drawings. Take figured dimensions in preference to scale. Verify all dimensions on site before commencing work.

Copying or reproduction of this drawing is strictly prohibited without the written consent of Zugai Strudwick Architects Pty Ltd

Revision	
A Sketch Design	28/01/21
B Costing	07/03/22
C Development Application	15/07/22

Client

Vanessa Alexander

Title

Proposed Sections 2

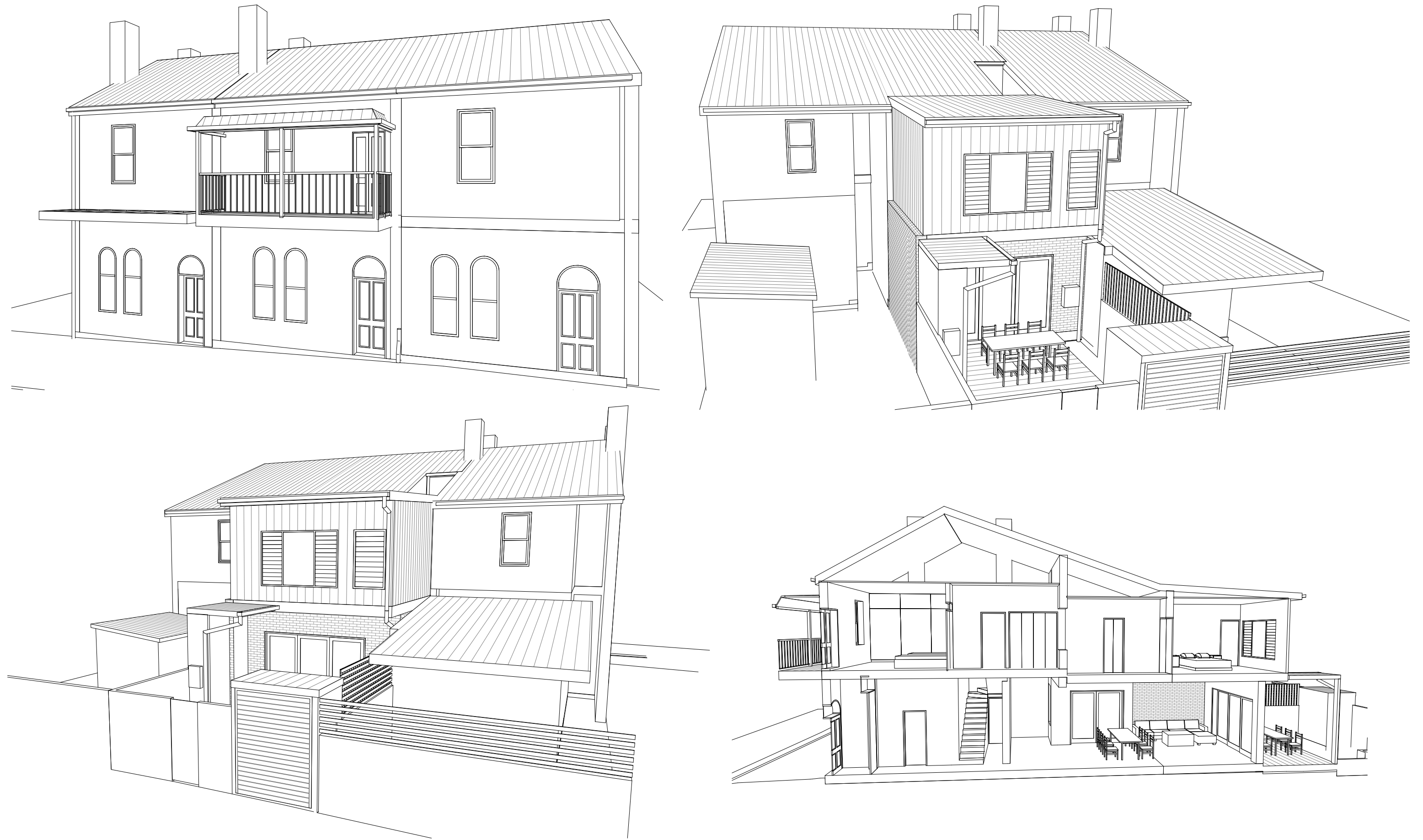
Drawing

SCALE @A3 1:100
DATE 15/07/2022
DRAWN LS
CHECKED MZ

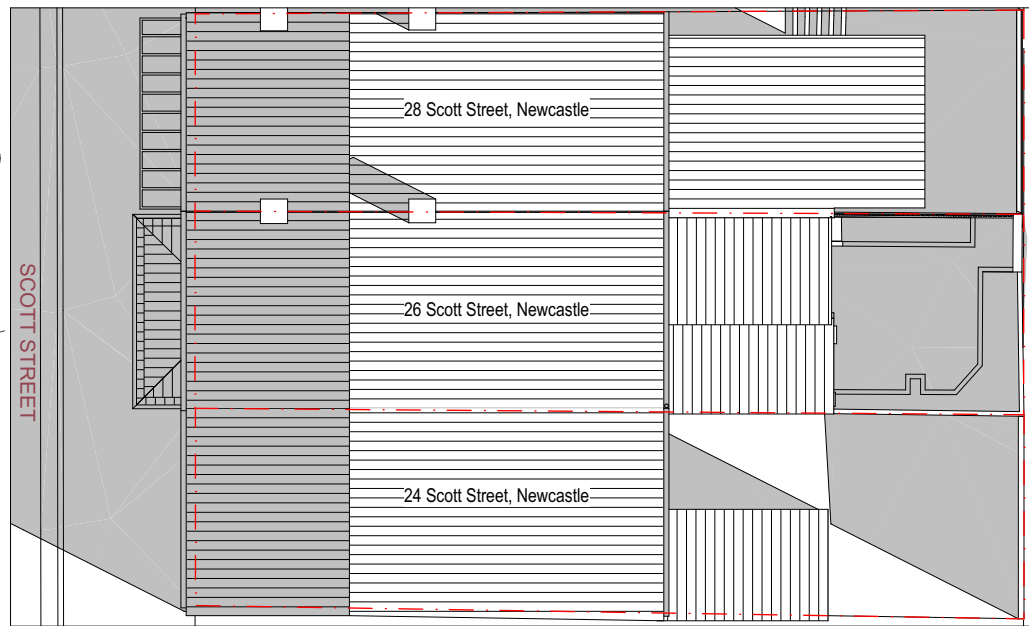
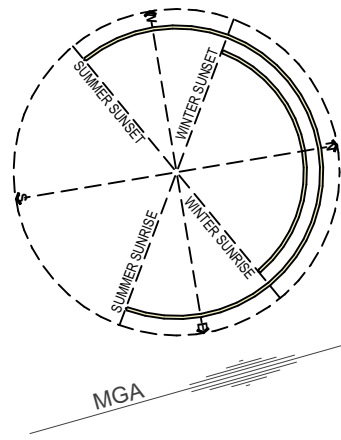
Project

Project No. 2164
Alterations+Additions
26 Scott Street, Newcastle
East
Lot 2, DP406063
DA19

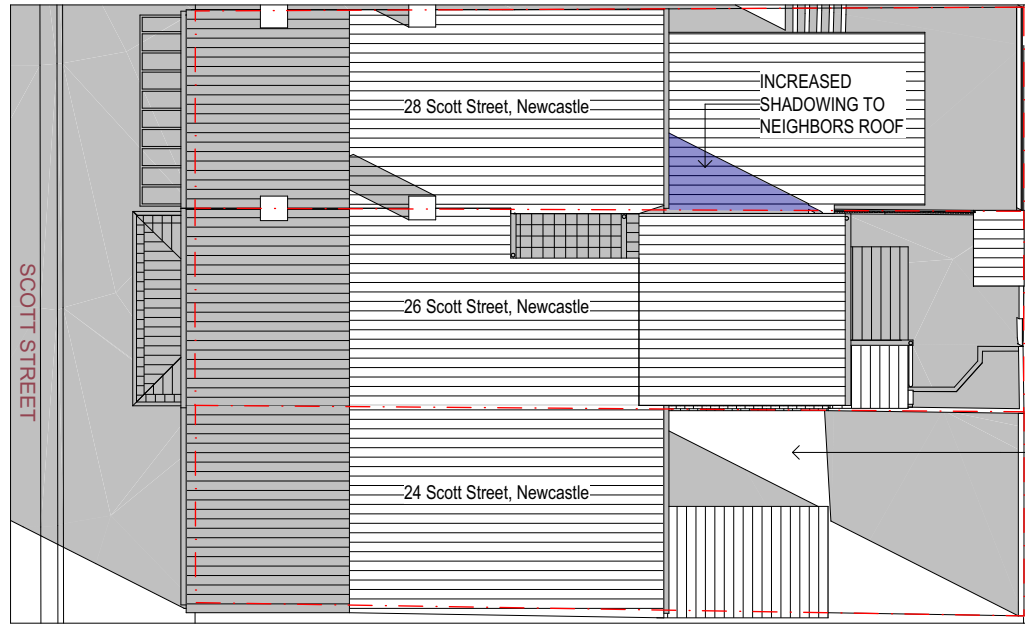
C



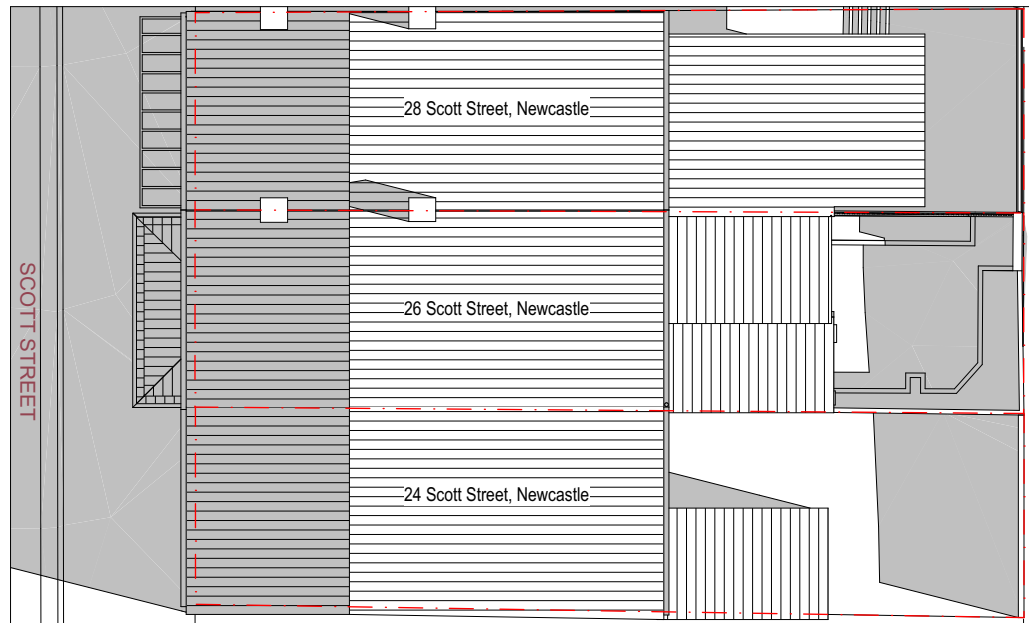
Architect		Client	Title	Drawing	1:18.85, 1:14.72	Revision	Project
<div><div>Zsa</div><div>Zugai Strudwick Architects</div></div>		Vanessa Alexander	Proposed 3D Views 1	SCALE @A3	1:12.63, 1:12.55	A Sketch Design	28/01/21
<div><div><div>Member</div><div>Australian</div><div>Institute of</div><div>Architects</div></div></div>				DATE	15/07/2022	B Costing	07/03/22
<div><div>Newcastle: 73 Robert Street Wickham NSW 2293</div><div>Sydney: 122 Francis Greenway Drive Cherrybrook NSW 2126</div><div>Document Set ID: 7744176</div></div>				DRAWN	LS	C Development Application	15/07/22
<div><div>T: 612 4969 7927</div><div>F: 612 4969 7928</div><div>Version: 1, Version Date: 17/03/2023</div></div>				CHECKED	MZ		
<div><div>All Building Works in accordance with the Building Code of Australia. All timber framing to comply with AS 1684. Do not scale from drawings. Take figured dimensions in preference to scale. Verify all dimensions on site before commencing work.</div><div>Copying or reproduction of this drawing is strictly prohibited without the written consent of Zugai Strudwick Architects Pty Ltd</div></div>							Project No. 2164 Alterations+Additions 26 Scott Street, Newcastle East Lot 2, DP406063 DA20 C



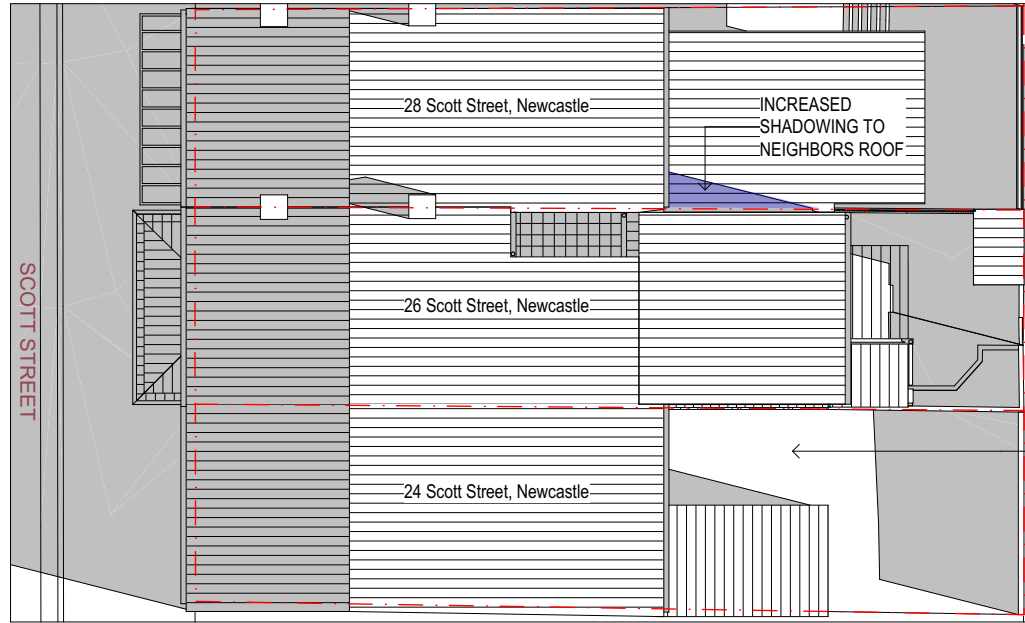
1.1 Sun Study 21 June - 9am - EXISTING
1:200



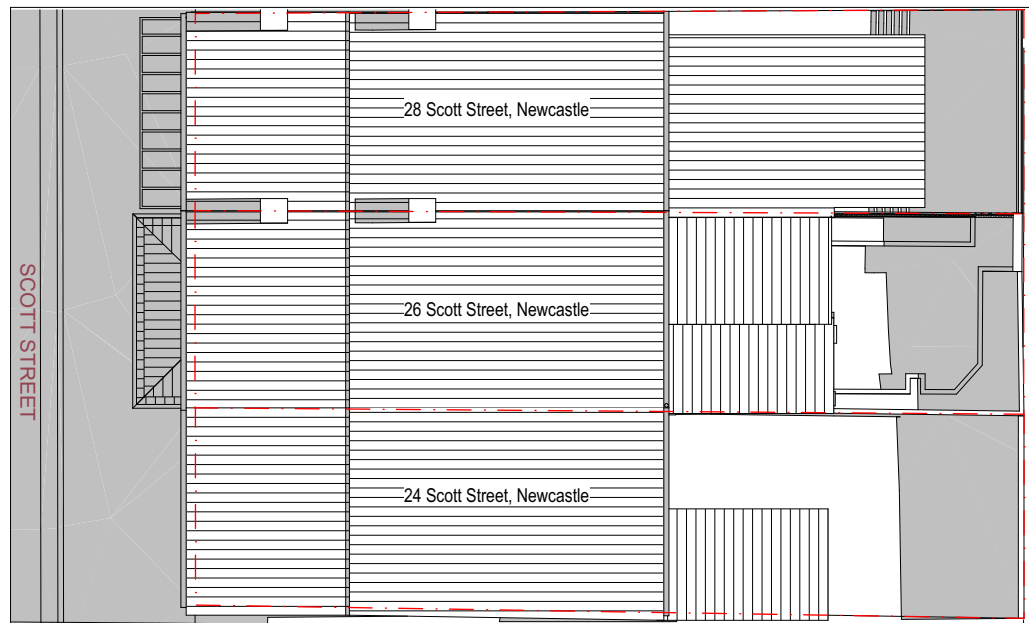
1.1 Sun Study 21 June - 9am - PROPOSED
1:200



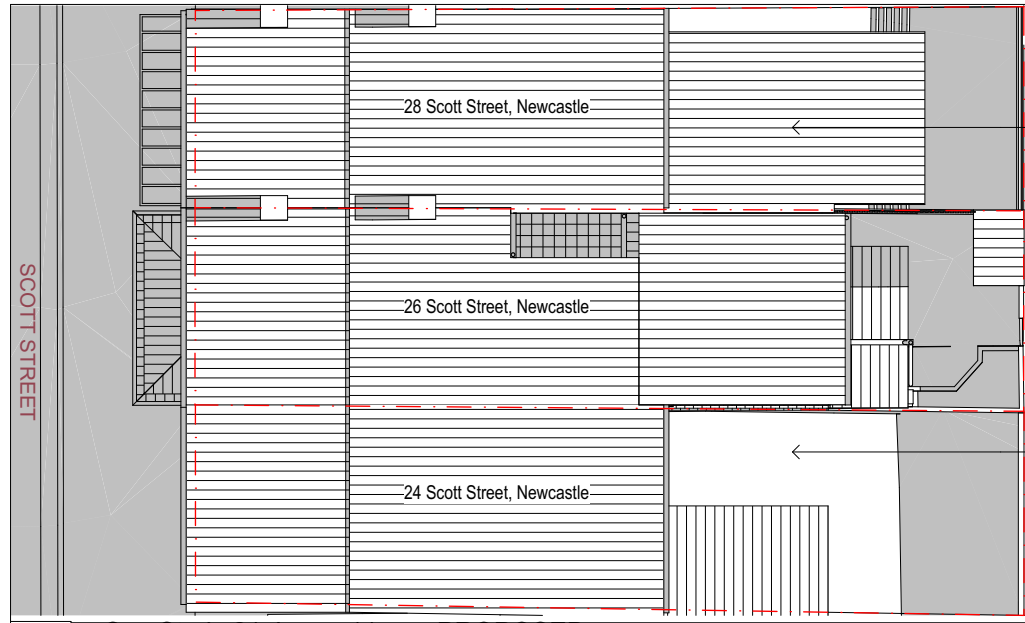
1.2 Sun Study 21 June - 10am - EXISTING
1:200




1.2 Sun Study 21 June - 10am - PROPOSED
1:200

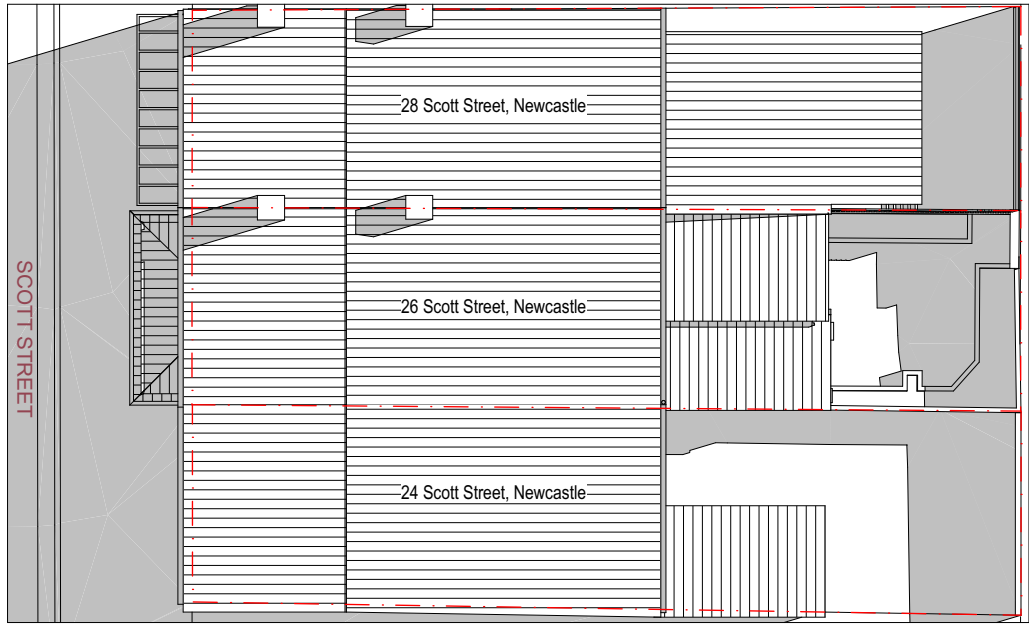
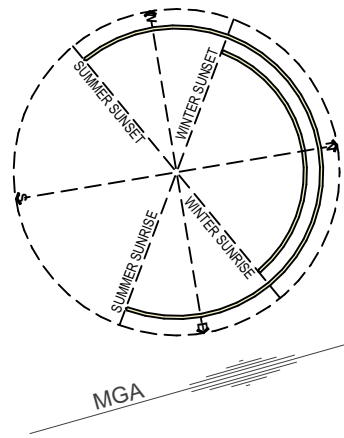


1.3 Sun Study 21 June - 11am - EXISTING
1:200

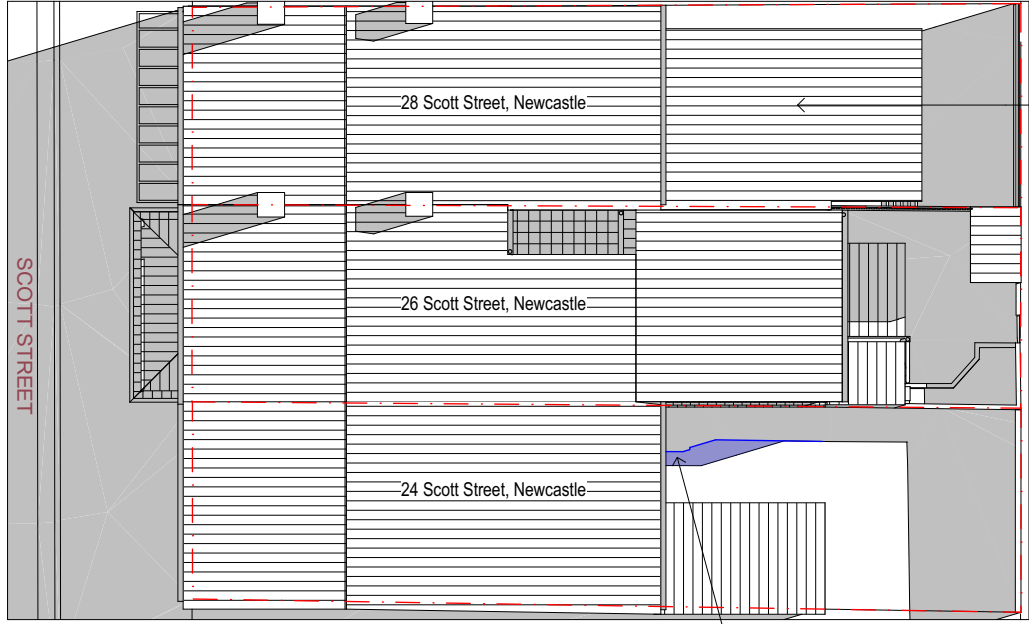


1.3 Sun Study 21 June - 11am - PROPOSED
1:200

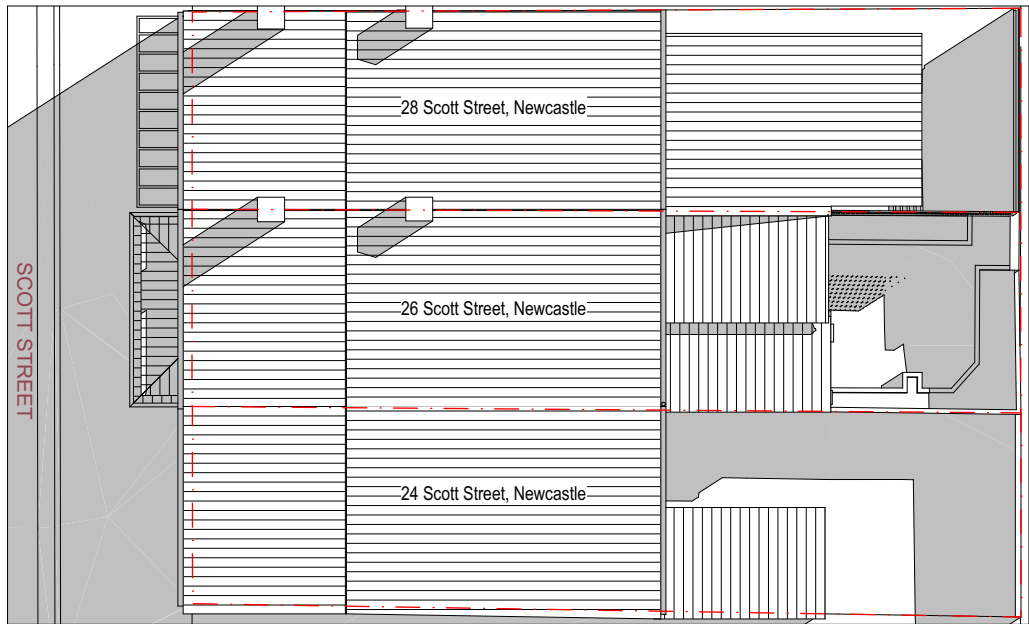
Architect	
128	
Zsa	
Zugai Strudwick Architects	
Newcastle: 73 Robert St Wickham NSW 2293 T: 612 4969 7927 F: 612 4969 7928 Sydney: 122 Francis Greenway Dr Cherrybrook NSW 2126 T: 612 9875 1717 F: 612 6687 0497 E: info@zsarchitects.com.au www.zsarchitects.com.au Registered Architects 76691 7673 ACN 119 139 221	
 Member Australian Institute of Architects	
All Building Works in accordance with the Building Code of Australia. All timber framing to comply with AS 1684. Do not scale from drawings. Take figured dimensions in preference to scale. Verify all dimensions on site before commencing work.	
Copying or reproduction of this drawing is strictly prohibited without the written consent of Zugai Strudwick Architects Pty Ltd	
Revision	
A Sketch Design	28/01/21
B Costing	07/03/22
C Development Application	15/07/22
Client	
Vanessa Alexander	
Title	
Sun Study 1	
Drawing	
SCALE @A3	1:200
DATE	15/07/2022
DRAWN	LS
CHECKED	MZ
Project	
Project No. 2164 Alterations+Additions 26 Scott Street, Newcastle East Lot 2, DP406063	
DA23	



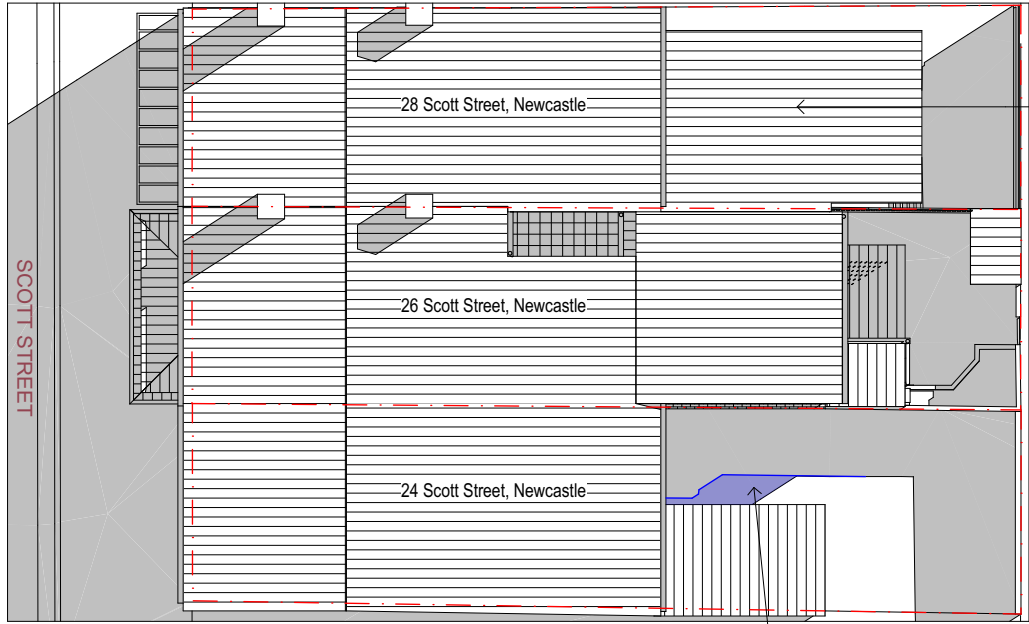
1.4 Sun Study 21 June - 12pm - EXISTING
1:200



1.4 Sun Study 21 June - 12pm - PROPOSED
1:200



1.5 Sun Study 21 June - 1pm - EXISTING
1:200



1.5 Sun Study 21 June - 1pm - PROPOSED
1:200

NO CHANGE TO
NEIGHBOURING
PROPERTY

INCREASED SHADOWING TO
NEIGHBORS REAR YARD

NO CHANGE TO
NEIGHBOURING
PROPERTY

INCREASED SHADOWING TO
NEIGHBORS REAR YARD


Architect

129

Zsa

Zugai Strudwick Architects

Newcastle: 73 Robert St Wickham NSW 2293
T: 612 4969 7927 F: 612 4969 7928
Sydney: 122 Francis Greenway Dr Cherrybrook NSW 2126
T: 612 9875 1717 F: 612 6687 0497
E: info@zsarchitects.com.au www.zsarchitects.com.au
Registered Architects 7669/ 7673 ACN 119 139 221



Member
Australian
Institute of
Architects

All Building Works in accordance with the Building Code of Australia. All timber framing to comply with AS 1684. Do not scale from drawings. Take figured dimensions in preference to scale. Verify all dimensions on site before commencing work.

Copying or reproduction of this drawing is strictly prohibited without the written consent of Zugai Strudwick Architects Pty Ltd

Revision	
A Sketch Design	28/01/21
B Costing	07/03/22
C Development Application	15/07/22

Client

Vanessa Alexander

Title

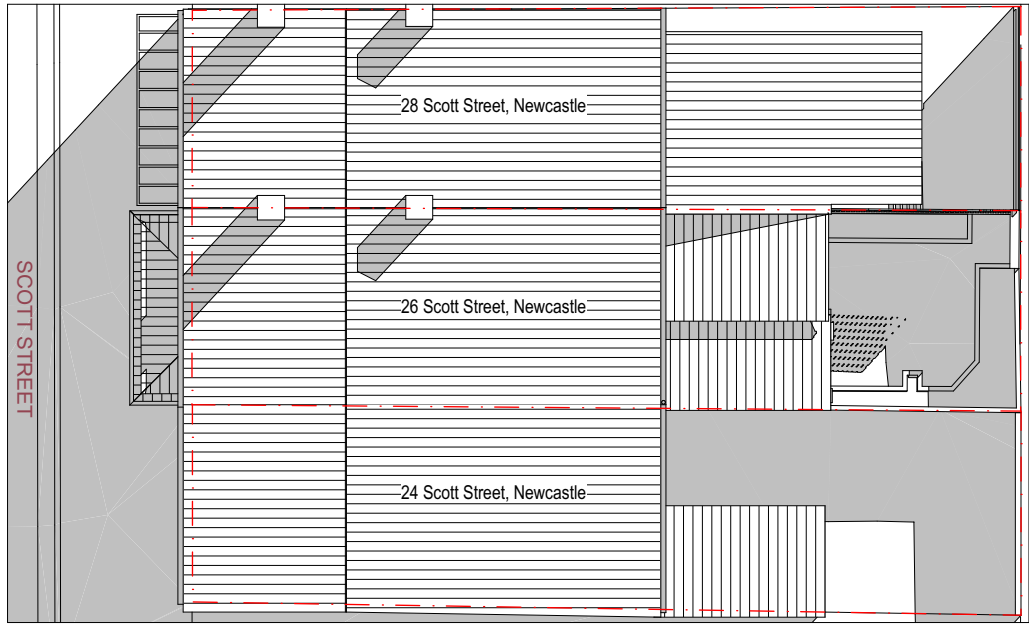
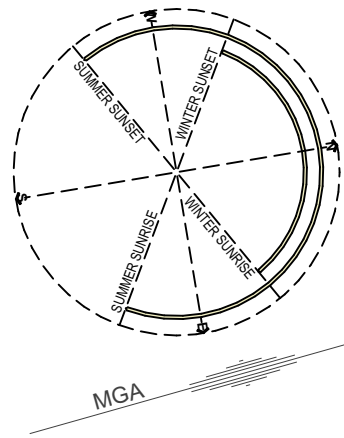
Sun Study 2

Drawing	
SCALE @A3	1:200
DATE	15/07/2022
DRAWN	LS
CHECKED	MZ

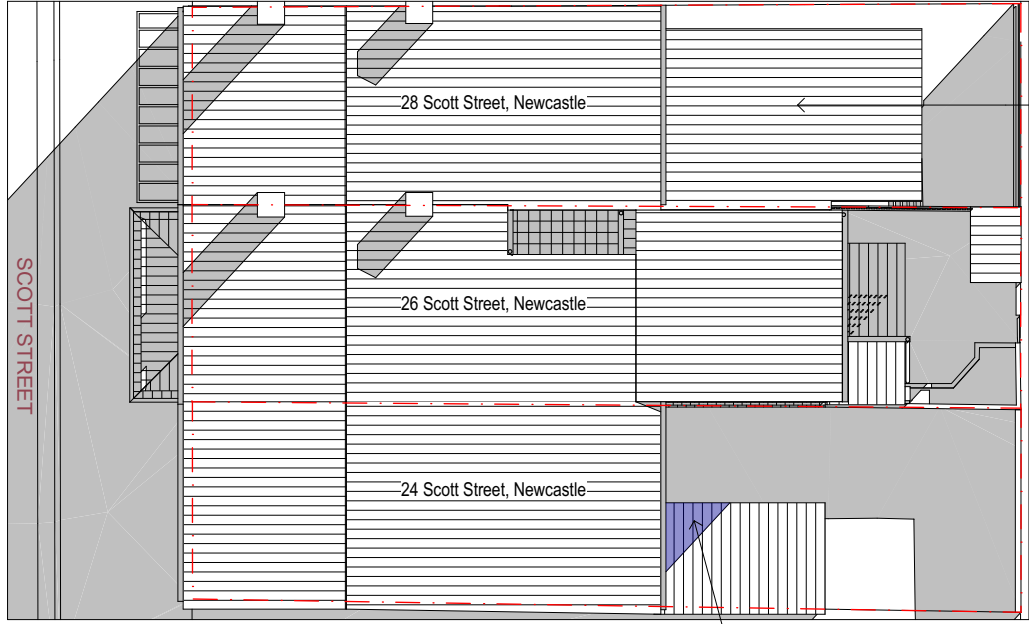
Project

Project No. 2164
Alterations+Additions
26 Scott Street, Newcastle
East
Lot 2, DP406063
DA24

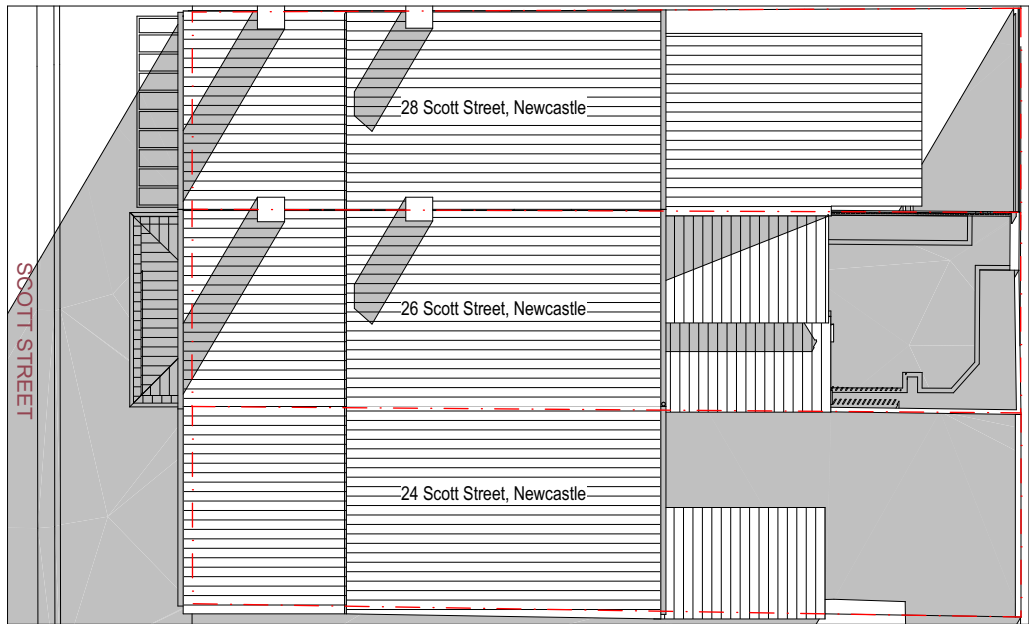
C



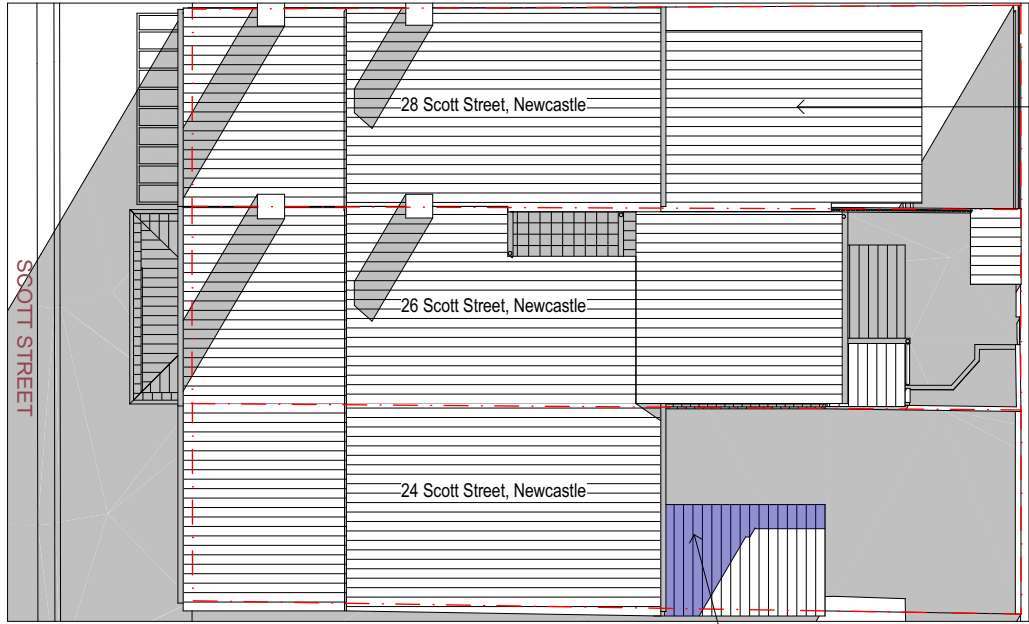
1.6 Sun Study 21 June - 2pm - EXISTING
1:200



1.6 Sun Study 21 June - 2pm - PROPOSED
1:200



1.7 Sun Study 21 June - 3pm - EXISTING
1:200



1.7 Sun Study 21 June - 3pm - PROPOSED
1:200


Architect

130

Zsa

Zugai Strudwick Architects

Newcastle: 73 Robert St Wickham NSW 2293
T: 612 4969 7927 F: 612 4969 7928
Sydney: 122 Francis Greenway Dr Cherrybrook NSW 2126
T: 612 9875 1717 F: 612 6687 0497
E: info@zsarchitects.com.au www.zsarchitects.com.au
Registered Architects 7669/ 7673 ACN 119 139 221



Member
Australian
Institute of
Architects

All Building Works in accordance with the Building Code of Australia. All timber framing to comply with AS 1684. Do not scale from drawings. Take figured dimensions in preference to scale. Verify all dimensions on site before commencing work.

Copying or reproduction of this drawing is strictly prohibited without the written consent of Zugai Strudwick Architects Pty Ltd

Revision	
A Sketch Design	28/01/21
B Costing	07/03/22
C Development Application	15/07/22

Client

Vanessa Alexander

Title

Sun Study 3

Drawing	
SCALE @A3	1:200
DATE	15/07/2022
DRAWN	LS
CHECKED	MZ

Project

Project No. 2164
Alterations+Additions
26 Scott Street, Newcastle
East
Lot 2, DP406063

DA25

C

FSR CONTROLS
Development complies with Newcastle Local Environmental Plan 2012 Floor space ratio controls

MAX ALLOWABLE FSR = 1:1

SITE AREA = 113.8m²
EXISTING FSR 111.34m² or 0.98:1

PROPOSED FSR
Total internal floor area = 138.68m²
OVER FSR 24.88m² or 1.2:1(21.9% increase)

PRIVATE OPEN CONTROLS

Principal area of Private open space - 3 X 4m level area of private open space directly accessible from the main living area of the dwelling

(PRIVATE OPEN SPACE PROVIDED) - COMPLIES

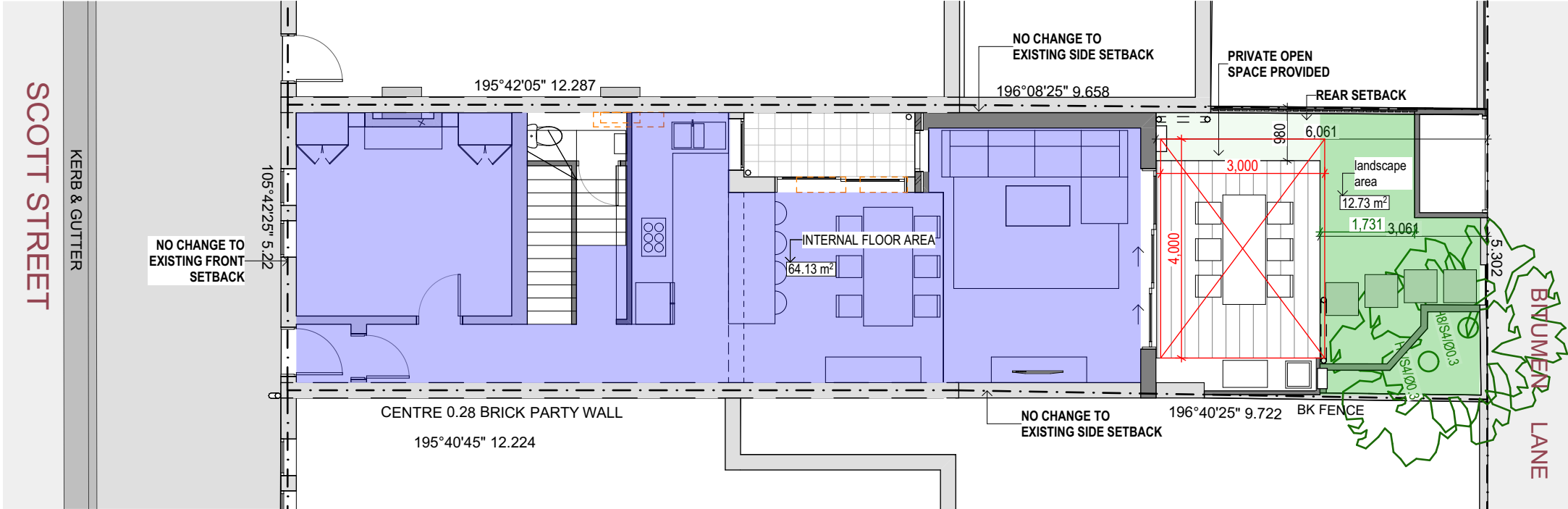
LANDSCAPED AREA CONTROLS

SITE AREA = 113.8m²
10% min OF THE LOT NEEDS TO BE LANDSCAPED

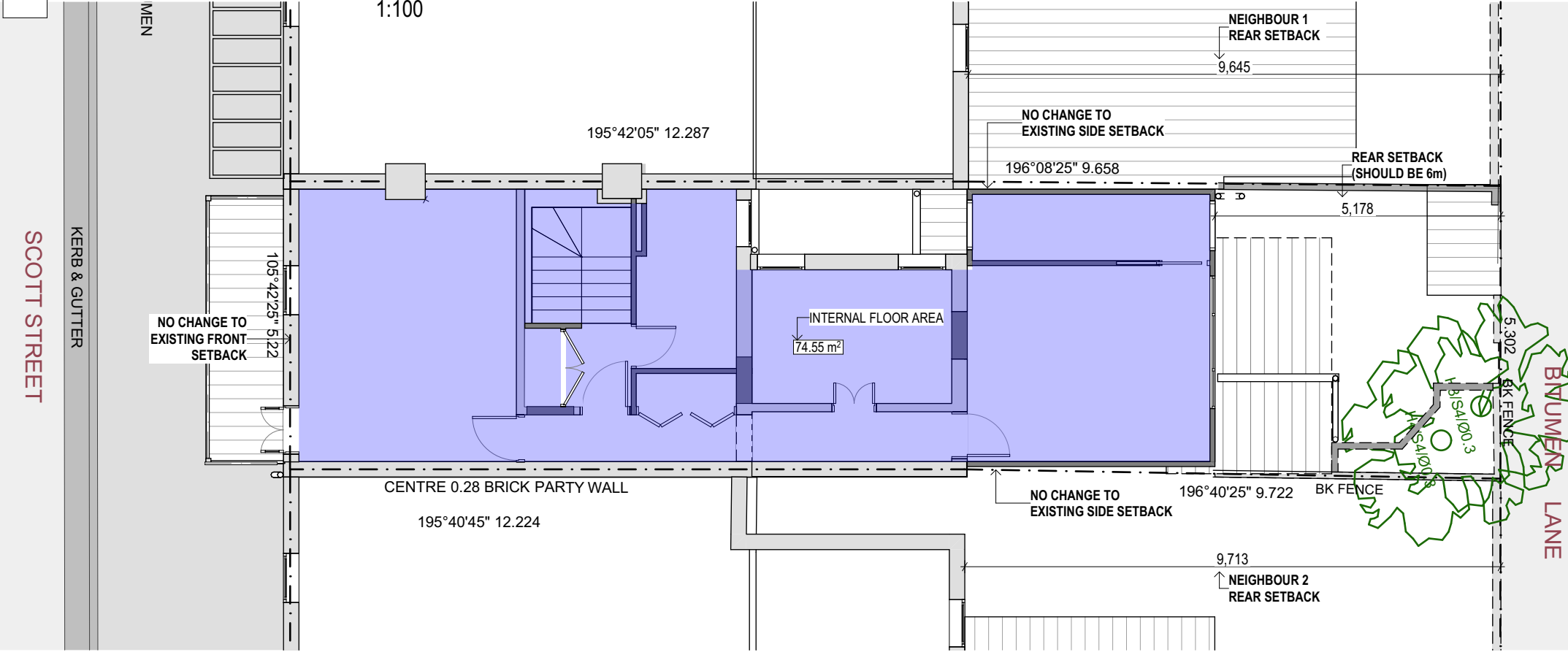
10% of 113.8m² = 11.38m²

PROPOSED LANDSCAPED AREA = 12.73m² (11.2%)

(COMPLIES)



Compliance Plan - Ground
1:100



Compliance Plan - First
1:100

Architect	Client	Title	Drawing	Revision	Project
Zsa Zugai Strudwick Architects Newcastle: 73 Robert Street Wickham NSW 2293 Sydney: 122 Francis Greenway Drive Cherrybrook NSW 2126 T: 612 4969 7927 F: 612 4969 7928 E: info@zsa.com.au Registered Architects 7669/ 7673 ACN 119 139 221	Vanessa Alexander	Compliance Plan	SCALE @A3 1:100 DATE 22/02/2023 DRAWN LS CHECKED MZ	A Sketch Design 28/01/21 B Costing 07/03/22 C Development Application 15/07/22	Project No. 2164 Alterations+Additions 26 Scott Street, Newcastle East Lot 2, DP406063 DA15 C



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/23 - 26 SCOTT STREET NEWCASTLE EAST –
DA2022/00809 – DWELLING HOUSE - ALTERATIONS AND
ADDITIONS**

7.3 **Attachment B:** Draft Schedule of Conditions

DISTRIBUTED UNDER SEPARATE COVER

Application No: DA2022/00809
Land: Lot 2 DP 406063
Property Address: 26 Scott Street Newcastle East NSW 2300
Proposed Development: Dwelling house - alterations and additions

SCHEDULE 1

Approved Documentation

- The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No / Supporting Document (Project No.2164)	Reference / Version	Prepared by	Dated
Existing Site Analysis & Demolition Plan	DA04 – Rev C	Zugai Strudwick Architects	15 July 2022
Existing Ground Floor & Demolition Plan	DA05 – Rev C	Zugai Strudwick Architects	15 July 2022
Existing First Floor & Demolition Plan	DA06 – Rev C	Zugai Strudwick Architects	15 July 2022
Existing Elevations & Demolition 1	DA07 – Rev C	Zugai Strudwick Architects	15 July 2022
Existing Elevations & Demolition 2	DA08 – Rev C	Zugai Strudwick Architects	15 July 2022
Existing Sections & Demolition 1	DA09 – Rev C	Zugai Strudwick Architects	15 July 2022
Existing Sections & Demolition 2	DA10 – Rev C	Zugai Strudwick Architects	15 July 2022
Proposed Site & Stormwater Concept Plan	DA12 – Rev C	Zugai Strudwick Architects	15 July 2022
Proposed Ground Floor Plan	DA13 – Rev C	Zugai Strudwick Architects	15 July 2022
Proposed First Floor Plan	DA14 – Rev C	Zugai Strudwick Architects	15 July 2022
Proposed Elevations 1	DA16 – Rev C	Zugai Strudwick Architects	15 July 2022
Proposed Elevations 2	DA17 – Rev C	Zugai Strudwick Architects	15 July 2022
Proposed Sections 1	DA18 – Rev C	Zugai Strudwick Architects	15 July 2022

Proposed Sections 2	DA19 – Rev C	Zugai Strudwick Architects	15 July 2022
---------------------	--------------	----------------------------	--------------

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

2. In accordance with the City of Newcastle Section 7.12 Development Contributions Plan (the Plan), a monetary contribution of **\$2,715.00** shall be paid to the City of Newcastle for the purposes of the provision, extension or augmentation of transport and social infrastructure.
 - (a) If the contribution is not paid within the financial quarter that this consent is granted, the contribution payable will be adjusted in accordance with the provisions of the Plan and the amount payable will be calculated on the basis of the contribution rates applicable at the time of payment.
 - (b) Subject to prevailing Ministerial Directions, the monetary contribution shall be paid to Newcastle City Council:
 - (i) prior to the issue of the Subdivision Certificate where the development is for subdivision; or
 - (ii) prior to the issue of the first Construction Certificate where the development is for building work.
 - (iii) prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.
3. All stormwater runoff from the proposed development is to be managed in accordance with the requirements of Element 7.06 '*Stormwater*' of Newcastle Development Control Plan 2012, the associated Technical Manual and *AS/NZS 3500.3 Plumbing and drainage Part 3 Stormwater drainage*. Details are to be included in documentation for a Construction Certificate application.
4. A separate application (Type 2 application required) is to be lodged and consent obtained from Newcastle City Council for all works within the road reserve pursuant to Section 138 of the Roads Act 1993. The consent is to be obtained, or other satisfactory arrangements confirmed in writing from Newcastle City Council before the issue of a Construction Certificate.
5. The following requirements apply to the development to satisfy heritage conservation provisions:
 - (a) No works are approved to the front facade of the existing dwelling.
 - (b) Roof sheets to the addition area to comprise a corrugated profile to match the metal roof sheets of the existing dwelling.
 - (c) Existing chimneys are to be retained and protected for the duration of the development.

Full details are to be provided with documentation for a Construction Certificate.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

6. Consent is not given to undertake works to the party wall.
7. A Registered Surveyor's certificate detailing the setting out of the proposed building on the site, including the relationship of the set out building to property boundaries and the party wall, is to be submitted to the Principal Certifying Authority before construction is commenced.
8. Toilet facilities are to be available or provided at the work site before works begin and be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet is to:

- a) Be a standard flushing toilet connected to a public sewer, or
 - b) Have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
 - c) Be a temporary chemical closet approved under the *Local Government Act 1993*.
9. A Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with *Australian Standard 2601:2001 - The Demolition of Structures*. A copy of the Hazardous Substances Management Plan is to be provided to the Council and to the demolisher prior to commencement of work.
 10. The demolition works are to be undertaken in accordance with Australian Standard 2601:2001 - The Demolition of Structures and the following requirements:
 - a) prior to commencement of demolition works a competent person shall determine the presence of hazardous substances impacted by the proposed demolition works in accordance with Section 1.6.1 of AS2601:2001 and where required produce a Hazardous Substances Management Plan
 - b) demolition works shall be conducted in accordance with any required Hazardous Substances Management Plan. A copy of the Plan shall be kept on-site for the duration of the proposed development and a copy is to be held in the possession of the landowner
 - c) the removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by the WorkCover Authority of NSW
 - d) a copy of all waste disposal receipts are to be kept in the possession of the landowner and made available to authorised Council Officers upon request
 - e) seven working days notice in writing is to be given to the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor, and
 - f) on sites where asbestos materials are to be removed, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent position during asbestos removal works.

11. The demolisher is to ensure that all services (ie water, telecommunications, gas, electricity, sewerage etc), are disconnected in accordance with the relevant authority's requirements prior to demolition.
12. Any waste containers used in association with the proposed demolition are to be located on the site where possible.

Note: Where this is not feasible, an application is to be made for the approval to position the container on the adjacent public road in accordance with the Council's adopted Building Waste Container Policy.

13. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.
14. A rigid and durable sign is to be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:
 - a) showing the name, address and telephone number of the Principal Certifier for building work and subdivision work, and
 - b) showing the name, address and telephone number of the Principal Contractor, if any, for any building work and a telephone number on which the Principal Contractor may be contacted at any time for business purposes , and
 - c) stating that unauthorised entry to the work site is prohibited, and
 - d) being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, and must be removed when the work has been completed.

Note: This does not apply in relation to building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

15. All excavations and backfilling are to be executed safely and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.
16. All building materials, plant and equipment is to be placed on the site of the development, to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves, including the road reserve, is not permitted.
17. Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.
18. Stormwater is to be conveyed to the existing property stormwater drains by way of a sealed pipe system. The existing drains are to be checked for adequacy and cleared of any obstructions.
19. Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:
 - Monday to Friday, 7:00 am to 6:00 pm and

- Saturday, 8:00 am to 1:00 pm.

No noise from construction/demolition work is to be generated on Sundays or public holidays.

20. Council's '*Prevent Pollution*' sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary, so it is clearly visible to the public, or at other locations on the site as otherwise directed by Council, for the duration of demolition and construction work.

The sign can be obtained by presenting your development application receipt at City of Newcastle's Customer Enquiry Centre, Wallsend Library or the Master Builders Association Newcastle.

21. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or construction in accordance with the requirements of *Managing Urban Stormwater: Soils and Construction* 4th Edition - Vol. 1 (the 'Blue Book') published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
22. Where the proposed development involves the destruction or disturbance of any survey monuments, those monuments affected are to be relocated, at no cost to the Newcastle City Council, by a Surveyor registered under the *Surveying and Spatial Information Act 2002*.
23. Building work must be carried out in accordance with the requirements of the Building Code of Australia.
24. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
25. A Registered Surveyor's certificate detailing the setting out of the proposed building on the site, including the relationship of the set out building to property boundaries, is to be submitted to the Principal Certifying Authority before construction is commenced.
26. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (a) Protect and support the building, structure or work from possible damage from the excavation, and
 - (b) Where necessary, underpin the building, structure or work to prevent any such damage.

The above requirements do not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

27. The following waste management measures are to be implemented during construction:
 - a) waste container of at least one cubic metre capacity shall be provided, maintained and regularly serviced from the commencement of operations until the completion of the building for the reception and storage of waste generated by the construction of the building and associated waste
 - b) the waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to

the pickets

- c) appropriate provision is to be made to prevent wind blown rubbish leaving the site and
- d) footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

Note: Fines may be issued for pollution/littering offences under the *Protection of the Environment Operations Act 1997* (NSW)

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE, A SUBDIVISION CERTIFICATE OR A STRATA CERTIFICATE

- 28. All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a condition that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to City of Newcastle's satisfaction prior to the completion of demolition work or prior to the issue of any Occupation Certificate in respect of development involving building work.
- 29. All commitments listed in the relevant BASIX certificate for:
 - (a) BASIX development,
 - (b) BASIX optional development, if the development application was accompanied by a BASIX certificate.

are to be satisfactorily completed prior to the issue of an Occupation Certificate.

Should there be any changes to the specifications of the dwelling that have implications for compliance with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be provided to the Newcastle City Council with Occupation Certificate documentation.

ADVISORY MATTERS

- It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.
- Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of the City of Newcastle and any other relevant authorities. City of Newcastle and other service authorities should be contacted for specific requirements prior to the commencement of any works.
- It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice (ie 'on-the-spot fine') or prosecution.
- Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979*, which may be subject to a penalty infringement notice (ie 'on-the-spot fine') or prosecution.
- A person who is aware or believes that he or she has discovered or located a relic not identified and considered in the supporting documents for this approval, in any circumstances (including where works are carried out in reliance on an exception under

section 139(4)), excavation or disturbance must cease in the affected area(s) and the Heritage Council must be notified in accordance with section 146 of the *Heritage Act 1977*. Depending on the nature of the discovery, additional assessment and approval under the *Heritage Act 1977* may be required prior to the recommencement of excavation in the affected area(s).

Note: Heritage NSW can be contacted on 02 9873 8500 or heritagemailbox@environment.nsw.gov.au. A 'relic' is any deposit, object or material evidence that relates to the settlement of New South Wales, not being Aboriginal settlement, and is of State or local significance. It is an offence under the provisions of the *Heritage Act 1977 (NSW)* for a person to disturb or excavate any land upon which the person has discovered a relic except in accordance with a gazetted exception or an excavation permit issued by the Heritage Council of NSW.

- If any Aboriginal objects are discovered which are not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be notified in accordance with section 89A of the *National Parks and Wildlife Act 1974* (NPW Act). Depending on the nature of the discovery, additional assessment and approval under the NPW Act may be required prior to works continuing in the affected area(s). Aboriginal objects in NSW are protected under the NPW Act. Unless the objects are subject to a valid Aboriginal Heritage Impact Permit, work must not recommence until approval to do so has been provided by Heritage NSW.

Note: Heritage NSW can be contacted on 02 9873 8500 or heritagemailbox@environment.nsw.gov.au. An 'Aboriginal object' is any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains. It is an offence under the provisions of the *National Parks and Wildlife Act 1974* (NPW Act) for a person to harm or desecrate an Aboriginal object, with defence from prosecution and certain activities exempt as prescribed under the NPW Act.

- Retaining walls not clearly noted on the approved plans or outside of the parameters of 'exempt development', as specified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, are to be subject to a separate development application. An application in this regard is to be approved prior to any works relating to such a retaining wall taking place.
- Prior to commencing any building works, the following provisions of Division 6.2 of the *Environmental Planning and Assessment Act 1979* are to be complied with:
 - a) A Construction Certificate is to be obtained; and
 - b) A Principal Certifier is to be appointed for the building works and Newcastle City Council is to be notified of the appointment; and
 - c) Newcastle City Council is to be given at least two days notice of the date intended for commencement of building works.
- Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifier appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Section 37 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* (NSW).

END OF CONDITIONS

SCHEDULE 2

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; *Newcastle Local Environmental Plan 2012* (NLEP) and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012 (NDCP).
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- The City of Newcastle has considered and accepted the proposed development standard variation made under Clause 4.4 of the Newcastle Local Environmental Plan 2012. The proposed variation is considered acceptable in the particular circumstances of this case.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- Confirm and clarify the terms of Council's determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/23 - 26 SCOTT STREET NEWCASTLE EAST –
DA2022/00809 – DWELLING HOUSE - ALTERATIONS AND
ADDITIONS**

7.3

Attachment C: Processing Chronology

DISTRIBUTED UNDER SEPARATE COVER

PROCESSING CHRONOLOGY

DA2022/00809 – 26 Scott Street, Newcastle East

26 July 2022	-	Application lodged
28 July 2022 to 16 August 2022	-	Application notified in accordance with CN's Community Participation Plan (CPP)
24 January 2023	-	Request for additional information issued
22 February 2023	-	Additional information received from applicant



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/23 - 26 SCOTT STREET NEWCASTLE EAST –
DA2022/00809 – DWELLING HOUSE - ALTERATIONS AND
ADDITIONS**

7.3 **Attachment D:** Clause 4.6 written exception to development
standard

DISTRIBUTED UNDER SEPARATE COVER



PIPER PLANNING Pty Ltd
PO BOX 232
ADAMSTOWN NSW 2289
T 40480702
www.piperplanning.com.au

22 February 2023

The General Manager
Newcastle City Council
PO Box 489
NEWCASTLE NSW 2300

Dear Sir/Madam

WRITTEN REQUEST PURSUANT TO CLAUSE 4.6 OF THE NEWCASTLE LOCAL ENVIRONMENTAL PLAN 2012 TO VARY THE FLOOR SPACE RATIO STANDARD IN CLAUSE 4.4 – 26 SCOTT STREET, NEWCASTLE EAST 2300

1. This Clause 4.6 request has been prepared to accompany the development application submitted to Newcastle Council for alterations and additions to an existing two storey single dwelling house ('the DA') upon the premise known Lot 2, DP 406063, No. 26 Scott Street, Newcastle East ('the Land'). According to the architectural information, the land displays an overall area of 113.8m².

2. The Land is zoned R3 Medium Density Residential pursuant to the Newcastle Local Environmental Plan 2012 ('the LEP').

The objectives of the R3 Zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To allow some diversity of activities and densities if—*
 - (i) *the scale and height of proposed buildings is compatible with the character of the locality, and*
 - (ii) *there will be no significant adverse impact on the amenity of any existing nearby development.*
- *To encourage increased population levels in locations that will support the commercial viability of centres provided that the associated new development—*
 - (i) *has regard to the desired future character of residential streets, and*
 - (ii) *does not significantly detract from the amenity of any existing nearby development.*

The floor space ratio development standard

3. Clause 4.4 of the LEP prescribes a maximum floor space ratio of 1:1 to the Land. The objectives of the standard in clause 4.4 are:

- (a) to provide an appropriate density of development consistent with the established centres hierarchy,*
- (b) to ensure building density, bulk and scale makes a positive contribution towards the desired built form as identified by the established centres hierarchy.*

The numerical exceedance of the development standard

4. The DA proposes alterations and additions to an existing single dwelling house that will display a gross floor area of 138.68m² (27.34m² added upon the existing gross floor area of 111.34m²). The site area is 113.8m² and so the proposal will exceed the standard by a maximum of 24.88m².

Request to vary the floor space ratio standard

5. Clause 4.6 of the LEP is a facultative provision that operates to provide an appropriate degree of flexibility in applying certain development standards. Clause 4.4 is not excluded from the operation of clause 4.6 and therefore a request may be made. This submission seeks to justify the contravention of the development standard at clause 4.4 of the LEP 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 development standard.

6. Clause 4.6 of the LEP applies to the whole of the 'development' and therefore the request to vary the standard must be considered in the context of the whole of the development. Notwithstanding, the focus of the written request, and consideration of it, must be on the non-compliant portion of the development (see *Baron Corporation Pty Ltd v Council of the City of Sydney* [2019] NSWLEC 61 at [91]-[92])

7. Clause 4.6(3) of the LEP requires the Council to 'consider' a written request that seeks to justify the contravention of the development standard by demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard.

8. Clause 4.6(4) of the LEP requires the Council to be satisfied that:

- a. The written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) (see: *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 at [4]); and
- b. The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out; and
- c. The concurrence of the Secretary has been obtained.

9. The 'development' referred to in clause 4.6(2), (3) and (4) of the LEP is the development that is the subject of the development application.

Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

10. This Written Request to vary the standard seeks to demonstrate that compliance with the standard would be unreasonable or unnecessary by reference to one of the 'ways' set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827; (2007) 156 LGERA 446 which considered an objection made pursuant to SEPP 1, but is equally applicable to the Council's consideration of a written request under cl4.6 (*Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [16]) and an additional 'way' as described in *Fastbuck\$ v Byron Shire Council* (1999) 103 LGERA 94 at [9].

The first Wehbe test

11. The first way in which it is demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case is that the objectives of the standard are achieved notwithstanding non-compliance with standard (see: *Wehbe*: [42]-[44]).

12. The specific objectives of the development standard in clause 4.4 of the LEP are addressed as follows:

Objective (a) to provide an appropriate density of development consistent with the established centres hierarchy

13. Objective (a) is the explanatory purpose of the standard. By fixing different standards on land in different areas by means of the Floor Space Ratio Map, the clause itself encourages an appropriate density, similar to 'objective b', as outlined below.

Objective (b) to ensure building density, bulk and scale makes a positive contribution towards the desired built form as identified by the established centres hierarchy.

14. A maximum floor space ratio development standard of 1:1 applies to the Land. The Land displays an overall area of 113.8m² and presents a narrow lot width of 5.302m according to the plan set. Due to the limited area and dimensions presented upon the subject allotment, the formation of a development typology commensurate with modern dwelling standards is challenging. However, the site is located within an R3 zone and is bounded by substantial single dwellings with built forms similar to the proposal. Within this context, the proposal does not detract from the surrounding context and remains compatible within the locality.

15. The development exists within a built form context displaying a strong process of renewal and varied building scales. We note that adjoining buildings to the north-west and south-east consist of residential single dwellings, presenting forms similar to the proposal. The broad locality presents a diverse setting, with a mixture of different use typologies. Whilst the surrounding locality is identified as an R3 zone, commercial (food and drink premises) developments are observed within close proximity to the subject allotment. The density shown within the surrounding context is more reflective of an R4 zone instead of an



PIPER PLANNING Pty Ltd
PO BOX 232
ADAMSTOWN NSW 2289
T 40480702
www.piperplanning.com.au

R3 zone in this regard. With this, the process of gentrification within the surrounding context is readily evident. Capitalisation commensurate with the inherent land value is warranted and this has clearly influenced those scales of surrounding developments. Similarly, renovations that preserve the streetscape setting, but allow modern amenities within buildings are readily evident and so many surrounding dwellings have pushed additions to the rear. The proposal replicates that approach/design intent.

16. This proposal therefore seeks to optimise the building form, consistent to that displayed in the surrounding area and in accordance with the inherent land value. This is a reasonable approach that underpins the land economics of the area. Developing to a lesser extent is not beneficial to the land or the surrounding context or amenity/functionality within the dwelling.

17. The development seeks to balance critical design elements to facilitate an outcome consistent with the development context, in view of the development standard and prescriptive DCP provisions. The design is informed by the existing floor plate, structural elements and wall alignments. The addition is aligned to those existing portions of the building that provide structural support and internal vertical circulation. Given that logical and orderly alignment, the resultant floor plate has resulted in a minor exceedance to the development standard.

18. The exceedance equates to 24.88m² of floor area, being an exceedance that we submit, would not be visually discernible from a compliant outcome within its development context. Whilst the exceedance is above 10%, we note the restricted lot size (113.8m²) and lot width (5.302m). Following the 10% restriction will provide a gross floor area addition of 11.38m². This restriction will be unreasonable in this context especially with neighbouring single dwelling houses displaying a floor space ratio exceeding the proposal. The alignment of the additions to external walls, articulated elements and placement within the existing roof plane, provides a considered form. It is balanced and with no immediate distinction to an inappropriate scale. Certainly, when the surrounding development context is accounted for, the proposal is restrained and balanced.

19. The proposal seeks to maintain the existing structural element of the dwelling, with a modernised configuration. The dwelling continues to be functional in its layout and orientation enable appropriate solar access penetration. The room dimensions are functional and achieve an amenable outcome. The design therefore provides quality internal amenity and function within the development.

20. The exceedance does not result in substantial amenity or visual dominance impacts to adjoining premises. Solar access levels are preserved to the neighbouring premise throughout the day. The building scale directly reflects that of the surrounding context. In balancing all relevant amenity, area and function provisions of both the LEP and DCP, the design has resulted in an exceedance to the development standard. The design continues to adhere to the prescriptive landscape area requirement and retains considered, consolidated landscape elements that preserves its existing proportional landscape response to the development scale.

21. Whilst the proposed additions are visible from the rear service lane, the additions will follow the visual character displayed within that setting. The minor floor area exceedance will not impact the visual setting or unduly constrain amenity. This would lead to the conclusion that the scale of the development is consistent to the capacity of the land area and development context.

22. Throughout the design process, balanced consideration was given to a compliant outcome. Given the existing form of the building, if full compliance was given to both the development standard, the architectural form of the addition would be of substantially lesser quality, with reduced internal amenity and function. The exceedance enables a balanced proportional outcome to the land attributes, which is reflected in the high level of compliance with DCP provisions. Given the inherent qualities in the design in terms of internal



PIPER PLANNING Pty Ltd
PO BOX 232
ADAMSTOWN NSW 2289
T 40480702
www.piperplanning.com.au

amenity/function, its logical architectural form and lack of material impact to amenity to adjoining lands, the design incorporating the exceedance represents a more considered outcome.

23. We therefore submit that the proposal is appropriate in view of all relevant development planning provisions and as such could be considered consistent to the established centres hierarchy. It would be unreasonable to insist on compliance, given the inherent qualities in allowing the variation.

The Fast Buck\$ test

24. In *Wehbe*, Preston CJ found that there may be other ways (than the 5 nominated in that decision) to establish that compliance with a development standard is unreasonable or unnecessary (at [44]).

25. In *Fast Buck\$ v Byron Shire Council* (1999) 103 LGERA 94 at 97, Handley JA noted that an alternative method of demonstrating that compliance with a development standard is unreasonable or unnecessary is to accept that the standard is both reasonable and necessary but establish that enforcing compliance would be unreasonable or unnecessary where departure is modest and the underlying purpose would not be prejudiced.

26. In this instance the departure is discretely formed within a considered outcome, with no apparent distinction to the variation in standard within the built form context. Conversely, if the building was made to comply, it would have lesser function (in terms of stair placement and circulation), be of lesser architectural merit (in terms of articulating off the existing wall alignments) and require intrusive structural works that are otherwise not necessary within the proposed form.

27. Having regard to these points and the nature of the departure, it would be unreasonable to strictly apply the standard in the particular circumstances of the case.

Sufficient environmental planning grounds

28. By varying the standard in a balanced and discrete manner throughout the overall form, the proposal will have a superior design outcome rather than including a reduction for the sake of compliance.

29. The proposed variation to the development standard is 21.9%. Notwithstanding the variation, the proposed works represent a well-considered development that addresses the site constraints, streetscape and relevant objectives of both the standards and the Zone. The proposal will maintain high levels of amenity within the development and to the surrounding context.

30. The proposal provides for a better environmental planning outcome as the development provides a considered outcome appropriate for the development context and results in a higher quality form. A compliant outcome would have reduced internal amenity and function, being a limited or lesser architectural result.

31. In this case, we submit that the proposal displays sufficient environmental planning grounds to warrant variation to the development standard.

Is the Variation in the Public Interest?

32. We submit that this submission provides sufficient environmental planning grounds to justify contravening the development standard under Part 4.

33. The development as proposed will be in the public interest as it is consistent with the objectives of the development standard (being Clause 4.4).

Public Benefit of Maintaining the Standard

34. It is considered that there is benefit to the public or community in maintaining the development standard in most instances. However, in this case, the proposed development will allow for the creation of a high-quality development which (as stated above) meets the desired objectives of the standard.

35. It is not considered that the variation sought raises any matter of significance for State or Regional environmental planning. The departure from Clause 4.4 within the LEP 2012 still allows for the orderly and economic use of the site in a manner which achieves the outcomes and objectives of the relevant planning controls.

Is the Variation Well Founded?

36. It is considered that this has been adequately addressed in Parts 4 and 5 of this submission. In summary, this Clause 4.6 Variation is well founded as required by Clause 4.6 of the LEP 2012 in that:

37. Compliance with the development standard would be unreasonable in the circumstances of the development;

1. There are sufficient environmental planning grounds to justify the departure from the standard;
2. The proposed development is in the public interest and there is no public benefit in maintaining the standard;
3. The breach does not raise any matter of State or Regional Significance; and
4. The development submitted aligns with Council's Development Control Plan.

36. Based on the above, the variation is considered to be well founded.

General

38. This variation does not relate to the subdivision of land. The variation sought is not contrary to subclause (6).

39. Should the exception to the development standard sought under this submission be supported by Council, the Council must retain a record of the assessment of this submission.

40. The development proposed is not complying development.

41. A BASIX certificate has been prepared in relation to the proposed development and is submitted under separate cover

42. The development is not affected by clause 5.4.

Conclusion

43. The proposal does not comply with the floor space ratio standard prescribed by Clause 4.4 of the Newcastle Local Environmental Plan 2012. Having evaluated the likely affects arising from this non-compliance, Council should be satisfied that the objectives of Clause 4.6 of the LEP 2012 are satisfied as the breach to the floor space ratio does not create any adverse environmental planning impacts.

44. Consequently, strict compliance with this development standard is unreasonable in this particular instance and use of Clause 4.6 of the LEP 2014 to vary this development standard is appropriate in this instance.

45. Based on the above, it is sensible to conclude that strict compliance with the standard is not necessary and that an appropriate outcome is achieved for this development by allowing flexibility in the application.

46. We trust this additional detail suitably responds to the matters raised in your correspondence. Should you have any enquiries regarding these matters, please contact me on the contact details listed.

Yours faithfully

Adam Piper



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/23 – 14 SCOTT ST NEWCASTLE EAST – DA2022/01049 -
DWELLING HOUSE – ALTERATIONS AND ADDITIONS**

7.4	Attachment A:	Submitted Plans
7.4	Attachment B:	Draft Schedule of Conditions
7.4	Attachment C:	Processing Chronology
7.4	Attachment D:	Clause 4.6 written exception to development standard – Height of Buildings – 14 Scott Street, Newcastle East
7.4	Attachment E:	Clause 4.6 written exception to development standard – Floor Space Ratio – 14 Scott Street, Newcastle East

DISTRIBUTED UNDER SEPARATE COVER

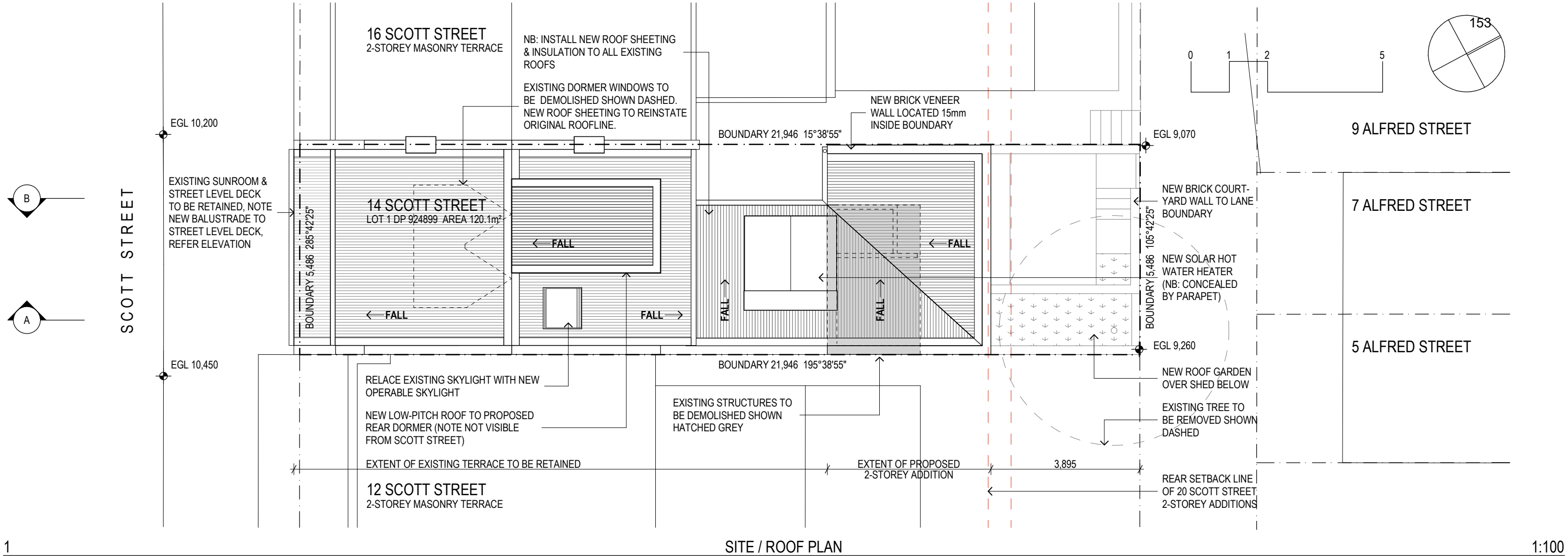


ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/23 – 14 SCOTT ST NEWCASTLE EAST – DA2022/01049 -
DWELLING HOUSE – ALTERATIONS AND ADDITIONS**

ITEM 7.4 Attachment A: Submitted Plans

DISTRIBUTED UNDER SEPARATE COVER



DASHED LINE AT REAR EDGE OF SUN-SHADE OF 20 SCOTT STREET (ALSO SHOWN ON PROPOSED PLANS)

DASHED LINE AT EXISTING SETBACK OF TWO-STOREY REAR ADDITIONS AT 20 & 22 SCOTT STREET (ALSO SHOWN ON PROPOSED PLANS)

EXISTING DEVELOPMENT AT SUBJECT SITE, 14 SCOTT STREET NEWCASTLE EAST

STORMWATER STATISTICS:

NOTE: THE PROPOSED ALTERATIONS & ADDITIONS DO NOT INCREASE THE EXISTING ROOF OR IMPERVIOUS AREA BY MORE THAN 50m², AND THEREFORE DO NOT REQUIRE ADDITIONAL DISCHARGE CONTROLS (NEWCASTLE DCP 2012 7.06.02 (e) i))

ALL NEW ROOF WATER, AND STORMWATER COLLECTED FROM THE PROPOSED COURTYARD ARE TO BE DIRECTED TO THE EXISTING STORMWATER SYSTEM .

EROSION & SEDIMENT CONTROL NOTES:

1. SITE WORKS ARE NOT TO START UNTIL APPROPRIATE EROSION & SEDIMENT CONTROL MEASURES ARE INSTALLED AND FUNCTIONAL.
2. DISPLAY COUNCIL'S 'PREVENT POLLUTION' SIGN ON CONSTRUCTION FENCING.
3. BINS ARE TO BE PROVIDED FOR BUILDING WASTE & ARRANGEMENTS MADE FOR REGULAR COLLECTION AND DISPOSAL.

4. ROOF GUTTERING IS TO BE CONNECTED TO THE STORMWATER SYSTEM AS SOON AS IS PRACTICABLE.
5. ALL EROSION AND SEDIMENT CONTROL MEASURES ARE TO BE CHECKED REGULARLY AND AFTER ALL RAIN EVENTS TO ENSURE THEY ARE MAINTAINED IN A FULLY FUNCTIONING MANNER.

BOURNE + BLUE
ARCHITECTURE

WWW.BOURNEBLUE.COM.AU PO BOX 295,
NEWCASTLE, NSW 2300 T 02 4929 1450 F 02 4927 1623
ABN 95 114 746 897 NOMINATED NSW REGISTERED
ARCHITECT SHANE BLUE REGISTRATION NO. 5689

SAFE DESIGN - A Safe Design Report has been prepared in association with this drawing. Ensure that this report is referred to prior to undertaking any work onsite and that further issues of this drawing include a copy of the Safe Design Report. The builder shall check and verify all dimensions, and verify all errors and omissions with the Architect. Do not scale off the drawings. Drawings shall not be used for Construction purposes until issued by the Architect for Construction. This drawing is copyright.

Project Name
LAFFAN
14 SCOTT ST NEWCASTLE EAST NSW

Drawing Title:
SITE / ROOF PLAN

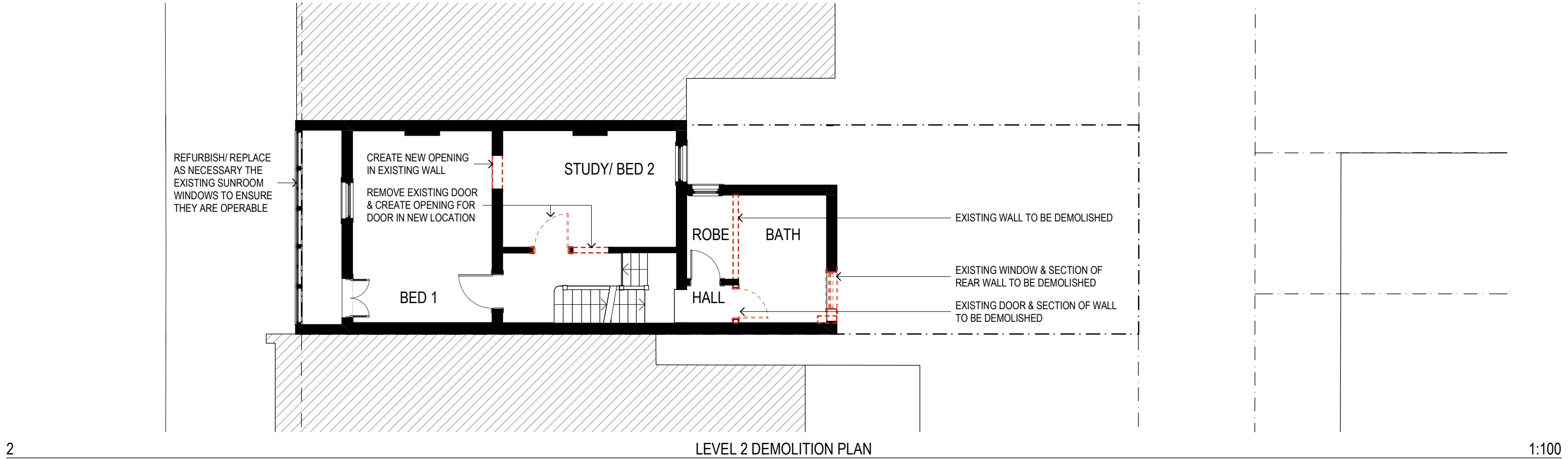
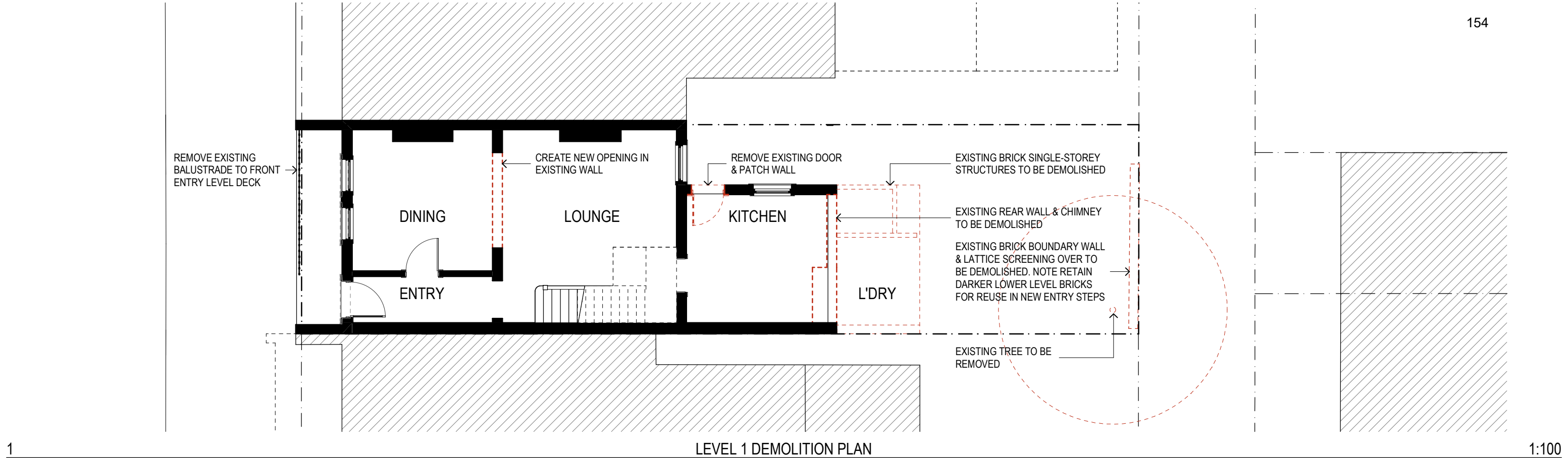
Status: DEVELOPMENT APPLICATION

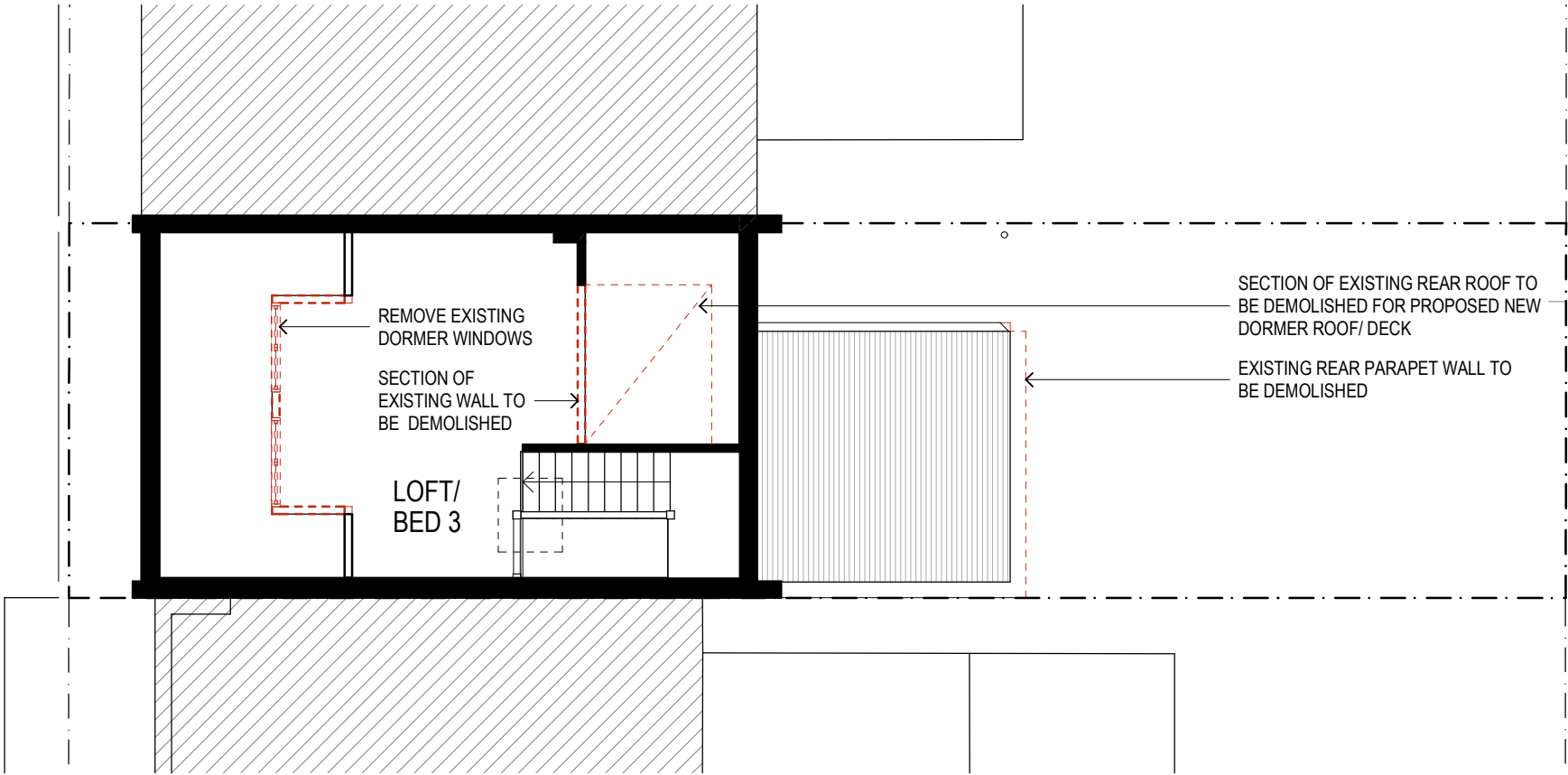
Project No:
607

Drawing No.:
DA-01

C	DA ISSUE	11/08/22
B	ISSUE FOR INFORMATION	27/07/22
A	ISSUE FOR REVIEW	13/07/22
ISSUE	AMENDMENT	DATE

C:\Users\Claire Lavisi\Desktop\Current Jobs\607 Laffan\607 D03.pln





LEVEL 3 DEMOLITION PLAN

1:100

BOURNE + BLUE
ARCHITECTURE

WWW.BOURNEBLUE.COM.AU PO BOX 295,
NEWCASTLE, NSW 2300 T 02 4929 1450 F 02 4927 1623
ABN 95 114 746 897 NOMINATED NSW REGISTERED
ARCHITECT SHANE BLUE REGISTRATION NO. 5689

SAFE DESIGN - A Safe Design Report has been prepared in association with this drawing. Ensure that this report is referred to prior to undertaking any work onsite and that further issues of this drawing include a copy of the Safe Design Report. The builder shall check and verify all dimensions, and verify all errors and omissions with the Architect. Do not scale off the drawings. Drawings shall not be used for Construction purposes until issued by the Architect for Construction. This drawing is copyright.
Document Set ID: 7741624
Version: 1, Version Date: 15/03/2023

Project Name
LAFFAN
14 SCOTT ST NEWCASTLE EAST NSW

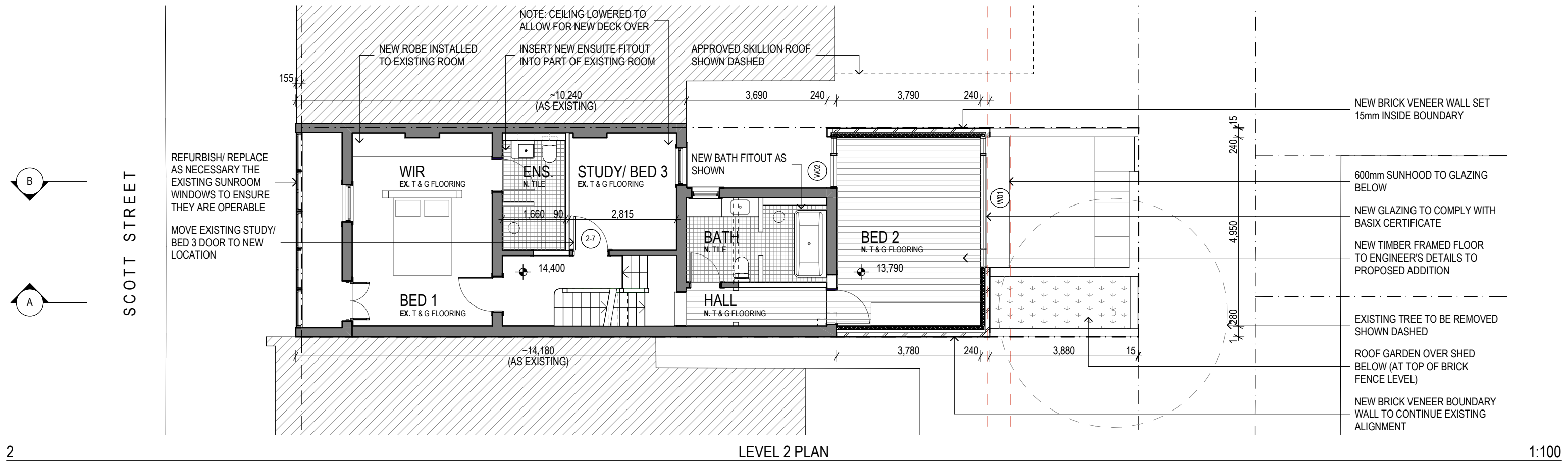
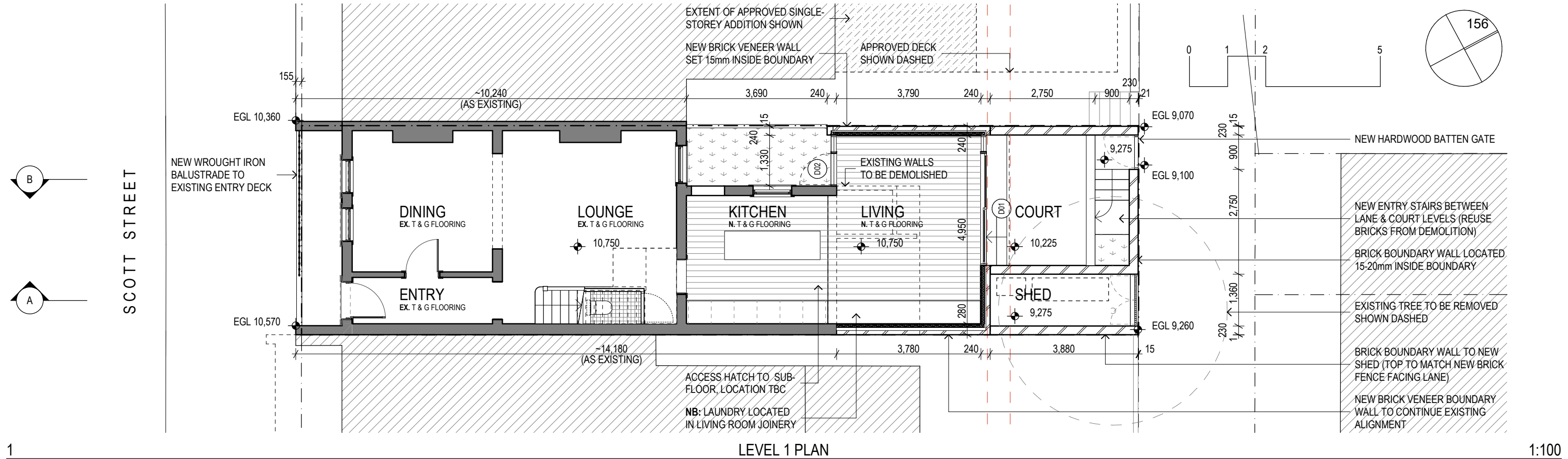
Drawing Title:
DEMOLITION PLANS 2/2

Status: DEVELOPMENT APPLICATION

Project No:
607

Drawing No.:
DA-03

C	DA ISSUE	11/08/22
B	ISSUE FOR INFORMATION	27/07/22
A	ISSUE FOR REVIEW	13/07/22
ISSUE	AMENDMENT	DATE



BOURNE + BLUE
ARCHITECTURE

WWW.BOURNEBLUE.COM.AU PO BOX 295,
NEWCASTLE, NSW 2300 T 02 4929 1450 F 02 4927 1623
ABN 95 114 746 897 NOMINATED NSW REGISTERED
ARCHITECT SHANE BLUE REGISTRATION NO. 5689

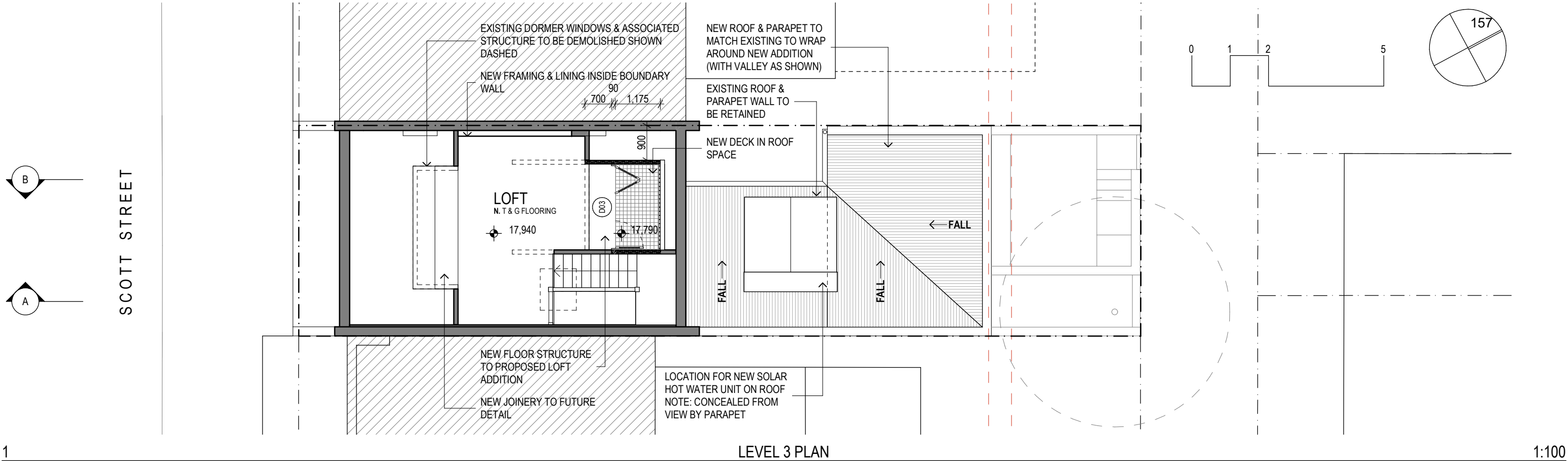
SAFE DESIGN - A Safe Design Report has been prepared in association with this drawing. Ensure that this report is referred to prior to undertaking any work onsite and that further issues of this drawing include a copy of the Safe Design Report. The builder shall check and verify all dimensions, and verify all errors and omissions with the Architect. Do not scale off the drawings. Drawings shall not be used for Construction purposes until issued by the Architect for Construction. This drawing is copyright.

Document Set ID: 7741624
Version: 1, Version Date: 15/03/2023

C	DA ISSUE	11/08/22
B	ISSUE FOR INFORMATION	27/07/22
A	ISSUE FOR REVIEW	13/07/22
ISSUE	AMENDMENT	DATE

Project Name	
LAFFAN	
14 SCOTT ST NEWCASTLE EAST NSW	
Drawing Title:	
LEVEL 1 & 2 FLOOR PLANS	
Status: DEVELOPMENT APPLICATION	
Project No:	Drawing No.:
607	DA-04

C:\Users\Claire Lavis\Desktop\Current Jobs\607 Laffan\607 D03.pln



BOURNE + BLUE
ARCHITECTURE

WWW.BOURNEBLUE.COM.AU PO BOX 295,
NEWCASTLE, NSW 2300 T 02 4929 1450 F 02 4927 1623
ABN 95 114 746 897 NOMINATED NSW REGISTERED
ARCHITECT SHANE BLUE REGISTRATION NO. 5689

SAFE DESIGN - A Safe Design Report has been prepared in association with this drawing. Ensure that this report is referred to prior to undertaking any work onsite and that further issues of this drawing include a copy of the Safe Design Report. The builder shall check and verify all dimensions, and verify all errors and omissions with the Architect. Do not scale off the drawings. Drawings shall not be used for Construction purposes until issued by the Architect for Construction. This drawing is copyright.

Project Name
LAFFAN
14 SCOTT ST NEWCASTLE EAST NSW

Drawing Title:
LEVEL 3 FLOOR PLAN

Status: **DEVELOPMENT APPLICATION**

Project No:

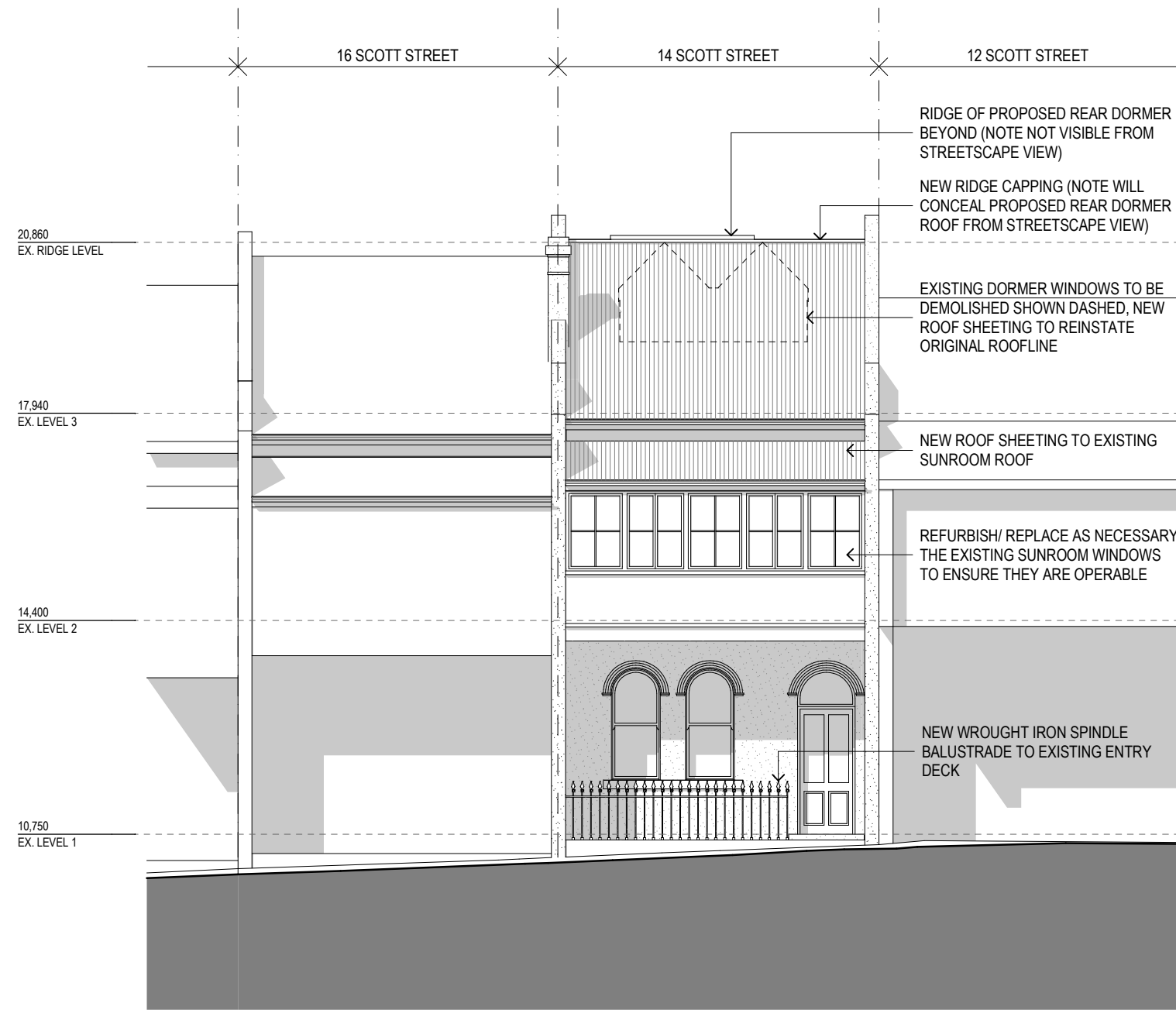
607

Drawing No.:

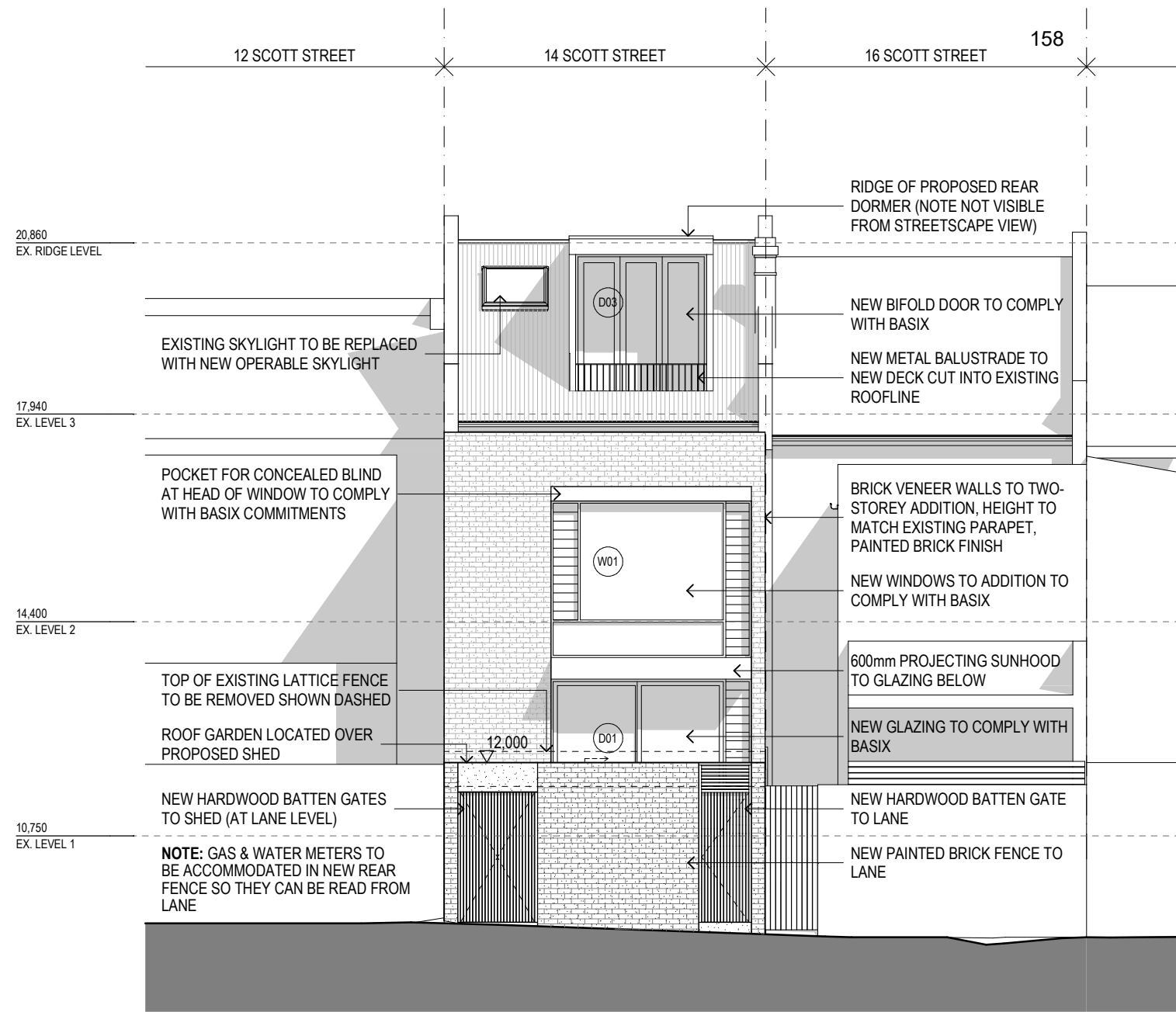
DA-05

C	DA ISSUE	11/08/22
B	ISSUE FOR INFORMATION	27/07/22
A	ISSUE FOR REVIEW	13/07/22
ISSUE	AMENDMENT	DATE

C:\Users\Claire Lavis\Desktop\Current Jobs\607 Laffan\607 D03.pln



1 SCOTT STREET ELEVATION 1:100



2 LANE (NORTH) ELEVATION 1:100



BOURNE + BLUE
ARCHITECTURE

WWW.BOURNEBLUE.COM.AU PO BOX 295,
NEWCASTLE, NSW 2300 T 02 4929 1450 F 02 4927 1623
ABN 95 114 746 897 NOMINATED NSW REGISTERED
ARCHITECT SHANE BLUE REGISTRATION NO. 5689

SAFE DESIGN - A Safe Design Report has been prepared in association with this drawing. Ensure that this report is referred to prior to undertaking any work onsite and that further issues of this drawing include a copy of the Safe Design Report. The builder shall check and verify all dimensions, and verify all errors and omissions with the Architect. Do not scale off the drawings. Drawings shall not be used for Construction purposes until issued by the Architect for Construction. This drawing is copyright.

Document Set ID: 7741624

Version: 1, Version Date: 15/03/2023

Project Name	
LAFFAN	
14 SCOTT ST NEWCASTLE EAST NSW	
Drawing Title:	
EAST ELEVATION	
Status: DEVELOPMENT APPLICATION	
Project No:	Drawing No.:
607	DA-07

C	DA ISSUE	11/08/22
B	ISSUE FOR INFORMATION	27/07/22
A	ISSUE FOR REVIEW	13/07/22
ISSUE	AMENDMENT	DATE

C:\Users\Claire Lavis\Desktop\Current Jobs\607 Laffan\607 D03.pln





BOURNE + BLUE
ARCHITECTURE

WWW.BOURNEBLUE.COM.AU PO BOX 295,
NEWCASTLE, NSW 2300 T 02 4929 1450 F 02 4927 1623
ABN 95 114 746 897 NOMINATED NSW REGISTERED
ARCHITECT SHANE BLUE REGISTRATION NO. 5689

SAFE DESIGN - A Safe Design Report has been prepared in association with this drawing. Ensure that this report is referred to prior to undertaking any work onsite and that further issues of this drawing include a copy of the Safe Design Report. The builder shall check and verify all dimensions, and verify all errors and omissions with the Architect. Do not scale off the drawings. Drawings shall not be used for Construction purposes until issued by the Architect for Construction. This drawing is copyright.

Project Name
LAFFAN
14 SCOTT ST NEWCASTLE EAST NSW

Drawing Title:
SECTION AA

Status: DEVELOPMENT APPLICATION

Project No:

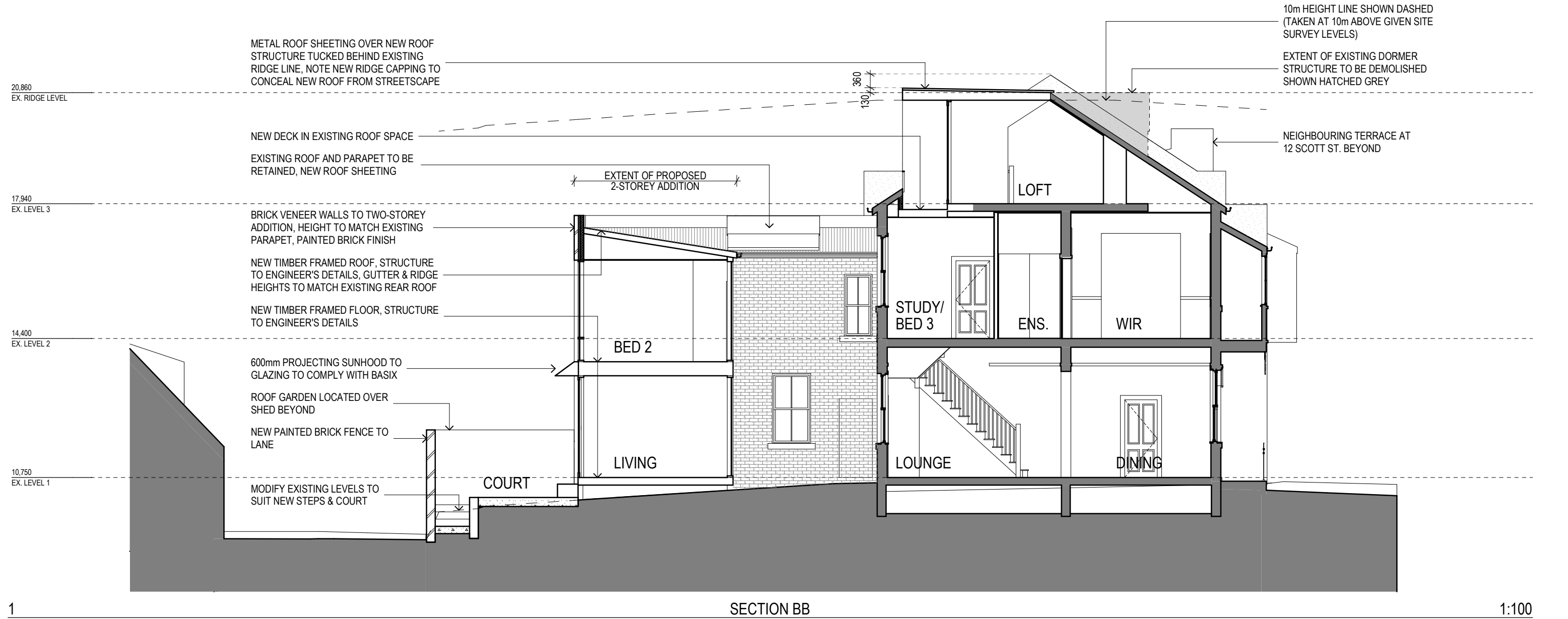
607

Drawing No.:

DA-09

C	DA ISSUE	11/08/22
B	ISSUE FOR INFORMATION	27/07/22
A	ISSUE FOR REVIEW	13/07/22
ISSUE	AMENDMENT	DATE

C:\Users\Claire Lavis\Desktop\Current Jobs\607 Laffan\607 D03.pln



BOURNE + BLUE
ARCHITECTURE

WWW.BOURNEBLUE.COM.AU PO BOX 295,
NEWCASTLE, NSW 2300 T 02 4929 1450 F 02 4927 1623
ABN 95 114 746 897 NOMINATED NSW REGISTERED
ARCHITECT SHANE BLUE REGISTRATION NO. 5689

SAFE DESIGN - A Safe Design Report has been prepared in association with this drawing. Ensure that this report is referred to prior to undertaking any work onsite and that further issues of this drawing include a copy of the Safe Design Report. The builder shall check and verify all dimensions, and verify all errors and omissions with the Architect. Do not scale off the drawings. Drawings shall not be used for Construction purposes until issued by the Architect for Construction. This drawing is copyright.

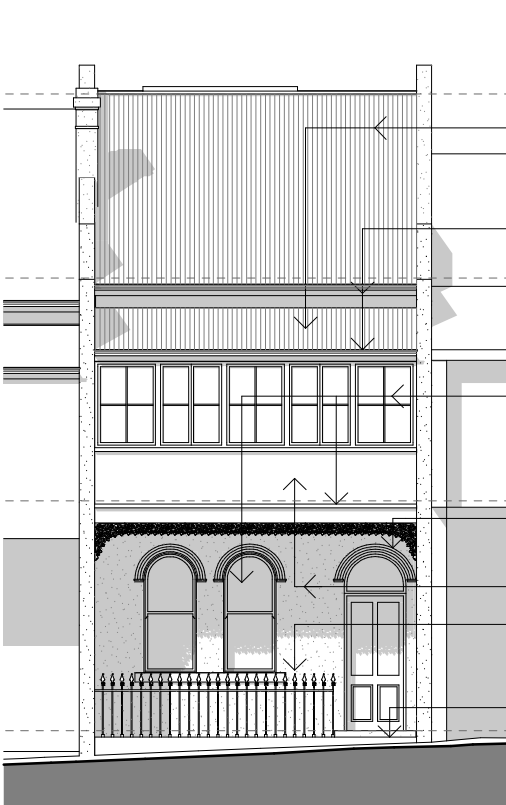
Document Set ID: 7741624

Version: 1, Version Date: 15/03/2023

Project Name	
LAFFAN	
14 SCOTT ST NEWCASTLE EAST NSW	
Drawing Title:	
SECTION BB	
Status:	DEVELOPMENT APPLICATION
Project No:	Drawing No.:
607	DA-10


D	AMENDED DA ISSUE	25/10/22
C	DA ISSUE	11/08/22
B	ISSUE FOR INFORMATION	27/07/22
A	ISSUE FOR REVIEW	13/07/22
ISSUE	AMENDMENT	DATE

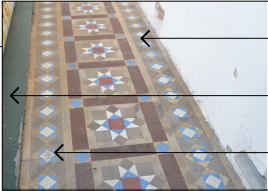
C:\Users\Claire Lavin\Desktop\Current Jobs\607 Laffan\607 D03.pln





Surfmist
undefined

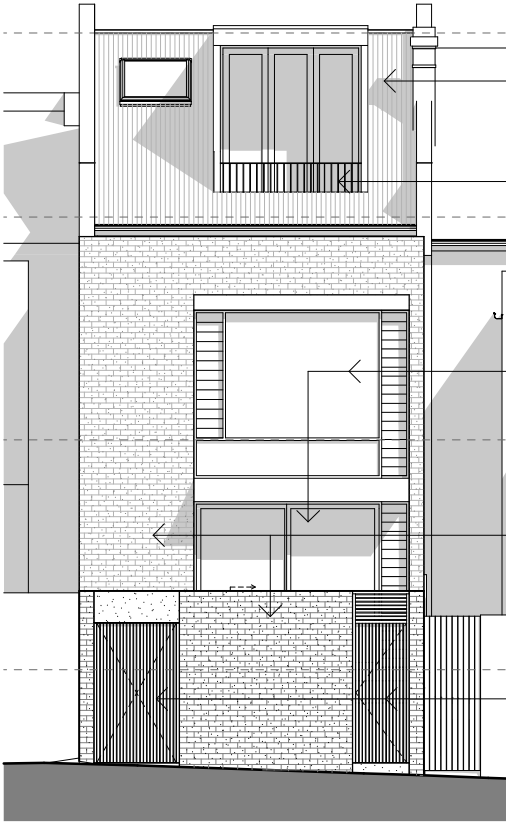
ROOF SHEETING: CUSTOM ORB IN COLORBOND ULTRA 'SURFMIST'


WINDOW/ DOOR FRAMES & TIMBER TRIM: WHITE COLOUR


FRONT VERNDAH TILE FINISH: EXISTING TO BE REFURBISHED

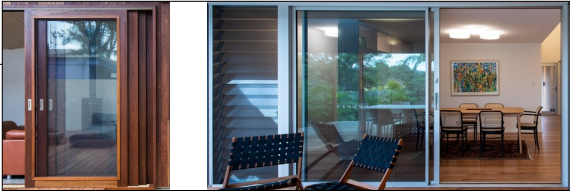

NEW BALUSTRADE: WROUGHT IRON, CHARCOAL COLOUR



EXISTING WALLS: STONE/ BONE PAINT COLOUR





Surfmist
undefined

ROOF SHEETING: CUSTOM ORB IN COLORBOND ULTRA 'SURFMIST'


WINDOW/ DOOR FRAMES: TIMBER OR ALUMINIUM FRAMED TBC


TIMBER SCREENS


BALUSTRADE: PAINTED STEEL CHARCOAL COLOUR


NEW WALLS: PAINTED BRICK (OFF-WHITE COLOUR)

BOURNE + BLUE
ARCHITECTURE

WWW.BOURNEBLUE.COM.AU PO BOX 295,
NEWCASTLE, NSW 2300 T 02 4929 1450 F 02 4927 1623
ABN 95 114 746 897 NOMINATED NSW REGISTERED
ARCHITECT SHANE BLUE REGISTRATION NO. 5689

SAFE DESIGN - A Safe Design Report has been prepared in association with this drawing. Ensure that this report is referred to prior to undertaking any work onsite and that further issues of this drawing include a copy of the Safe Design Report. The builder shall check and verify all dimensions, and verify all errors and omissions with the Architect. Do not scale off the drawings. Drawings shall not be used for Construction purposes until issued by the Architect for Construction. This drawing is copyright.

Document Set ID: 7741624

Version: 1, Version Date: 15/03/2023

Project Name
LAFFAN
14 SCOTT ST NEWCASTLE EAST NSW

Drawing Title:
MATERIALS & FINISHES

Status: DEVELOPMENT APPLICATION

Project No:	Drawing No.:
607	DA-11

B	DA ISSUE	12/09/22
A	DA ISSUE	11/08/22
ISSUE	AMENDMENT	DATE

C:\Users\Claire Lavisi\Desktop\Current Jobs\607 Laffan\607 D03.pln



PHOTO 1



PHOTO 2

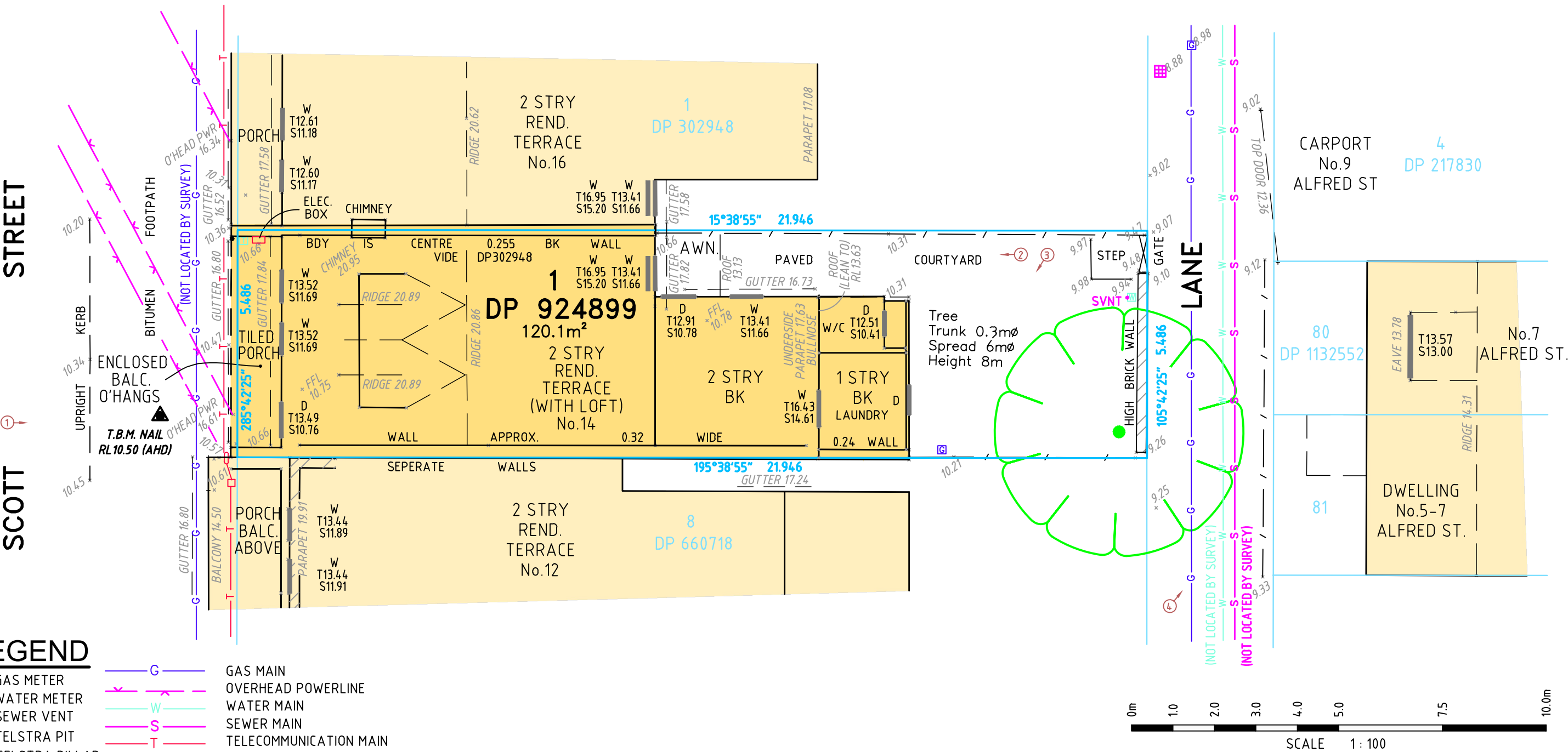
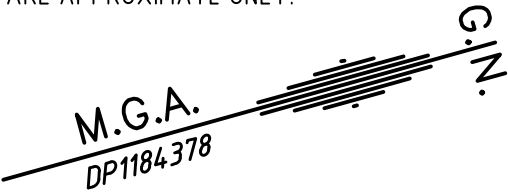


PHOTO 3



PHOTO 4

- NOTES:
1. ALL UNDERGROUND SERVICES WHERE SHOWN HAVE BEEN PLOTTED FROM AUTHORITY RECORDS AVAILABLE AT THE TIME OF SURVEY AND ARE APPROXIMATE ONLY. SURFACE INDICATORS WHERE SHOWN ARE TYPICALLY BY SURVEY AND SHOWN FOR PLOT ONLY.
 2. THE SITE BOUNDARIES WHERE SHOWN WERE NOT MARKED AT TIME OF SURVEY AND ARE APPROXIMATE. ACCURATE BOUNDARY POSITIONS ARE TO BE DETERMINED ON SITE PRIOR TO ANY WORK.
 3. RIDGES, GUTTERS AND WINDOWS HAVE BEEN LOCATED BY REMOTE MEANS AND ARE APPROXIMATE ONLY.



LEGEND

- GAS METER
- WATER METER
- SEWER VENT
- TELSTRA PIT
- TELSTRA PILLAR
- GAS MAIN
- OVERHEAD POWERLINE
- WATER MAIN
- SEWER MAIN
- TELECOMMUNICATION MAIN

REV	DETAILS & AMENDMENTS	DATE	PLAN TITLE:	17 William Street HAMILTON NSW 2303
A	INITIAL PLAN	25/01/2022	ADDRESS: 14 SCOTT STREET - NEWCASTLE EAST	PO Box 986 HAMILTON NSW 2303
			CLIENT: F & K LAFFAN	Ph: 4969 6995
			TITLE DETAILS: LOT 1 IN DP924899	www.parkerscanlon.com.au
			DATUM: A.H.D.	Email: surveys@parkerscanlon.com.au
			SOURCE: SSM86469 RL8.084 VIDE SCIMS 22/12/2021	ABN 36124 624 022
			PARKER SCANLON CONTACT: JOHN SORBY	
			SURVEYED/DRAWN/CHECKED: DG/WW/JCS	

REF No: 15929DET-A

Document Set ID: 7741624

Version: 1

Version Date: 15/03/2023

Plot Date: 14/02/2022

Cad File: L:\15929 - Newcastle East - Laffan - Detail\15929 - Dwg5

SHEET 1 OF 1

A3

17 William Street HAMILTON NSW 2303

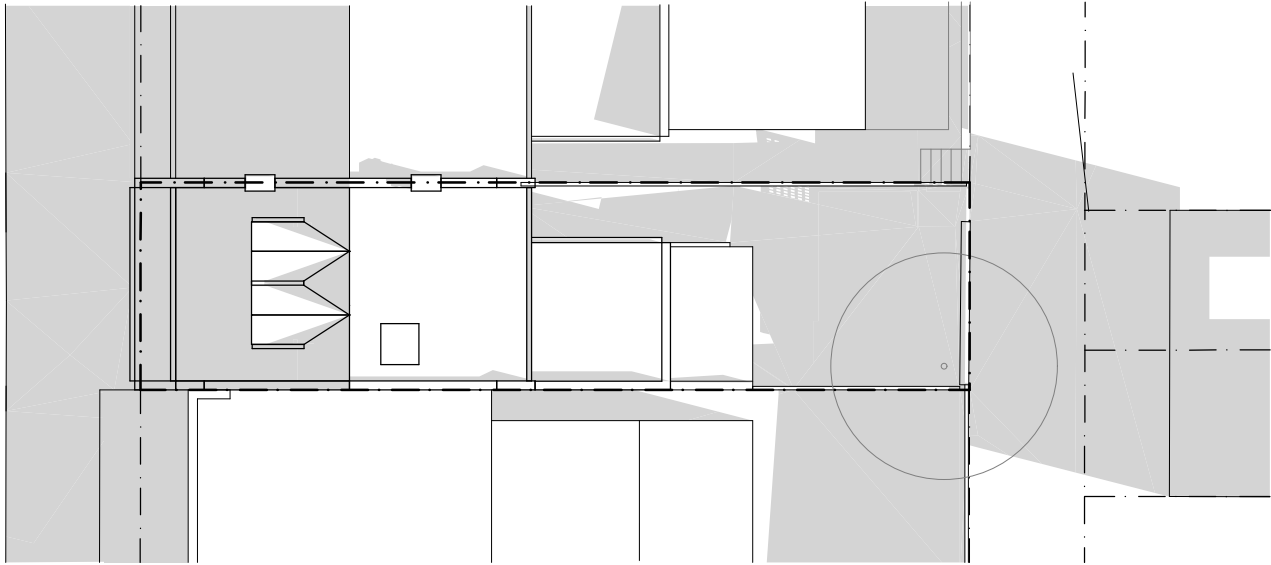
PO Box 986 HAMILTON NSW 2303

Ph: 4969 6995

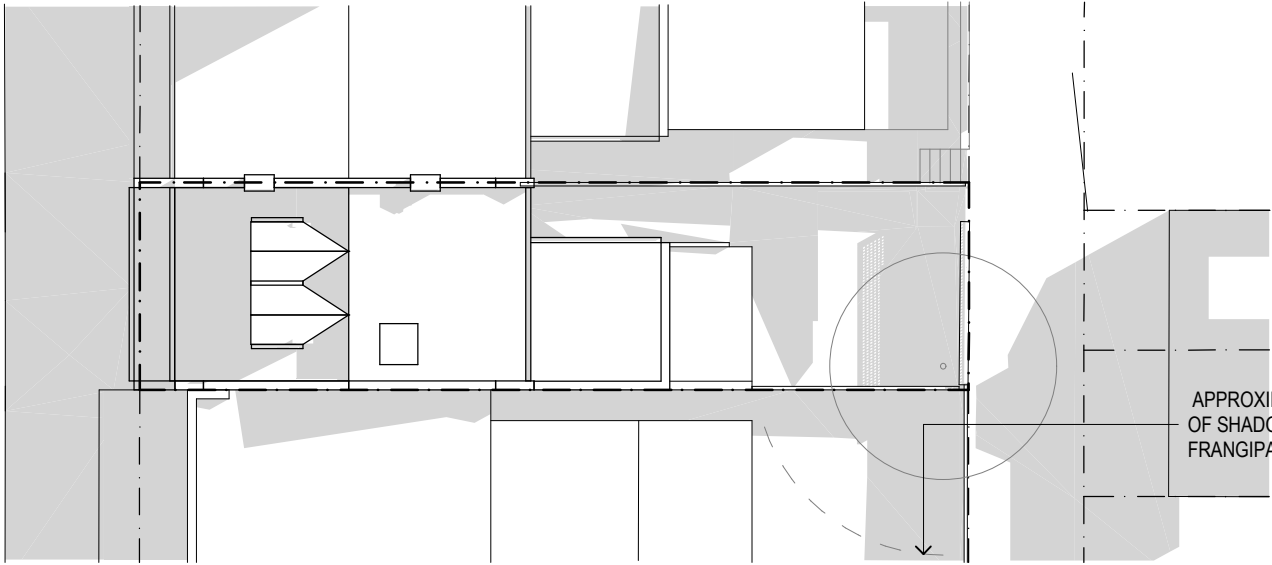
www.parkerscanlon.com.au

Email: surveys@parkerscanlon.com.au

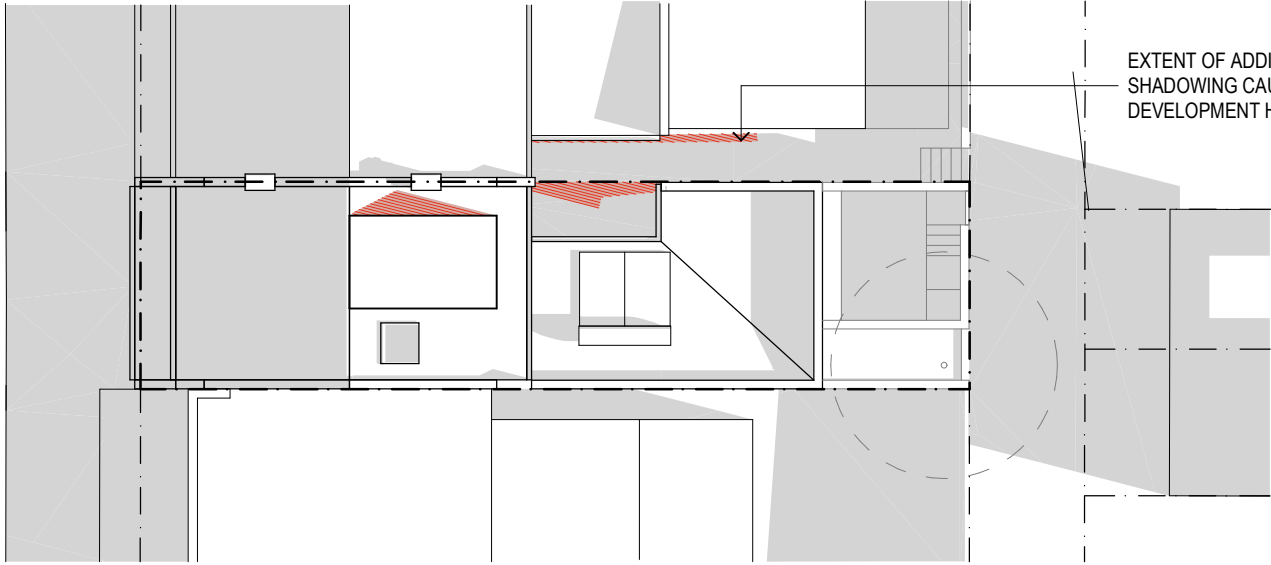
ABN 36124 624 022



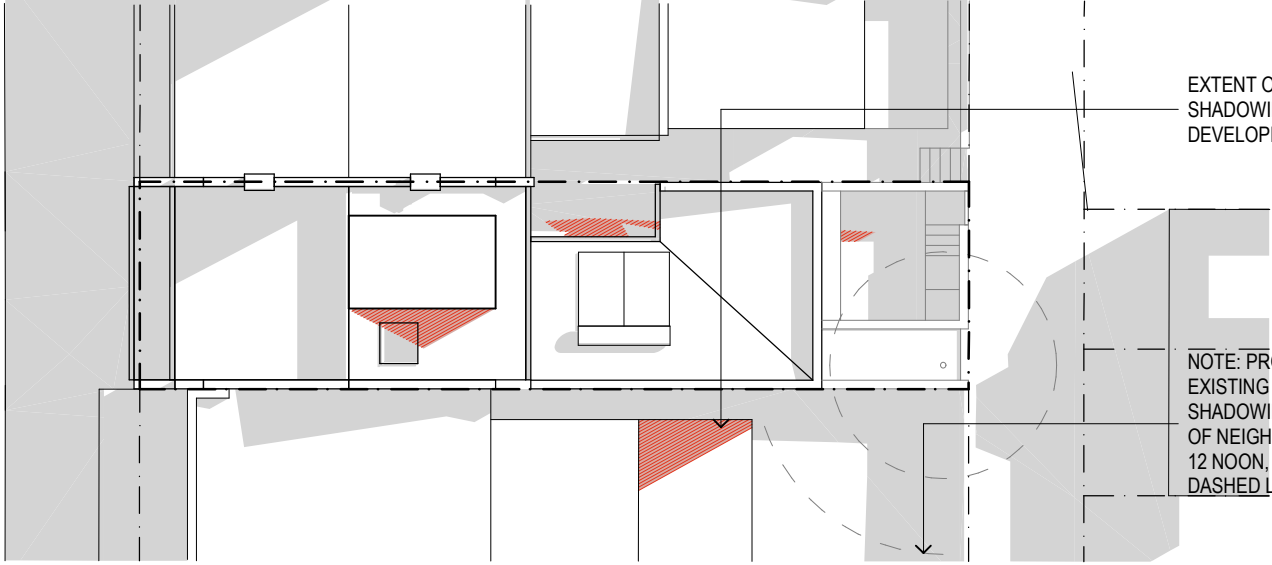
EXISTING SHADOW DIAGRAM - 9AM JUNE 21



EXISTING SHADOW DIAGRAM - 12 NOON JUNE 21

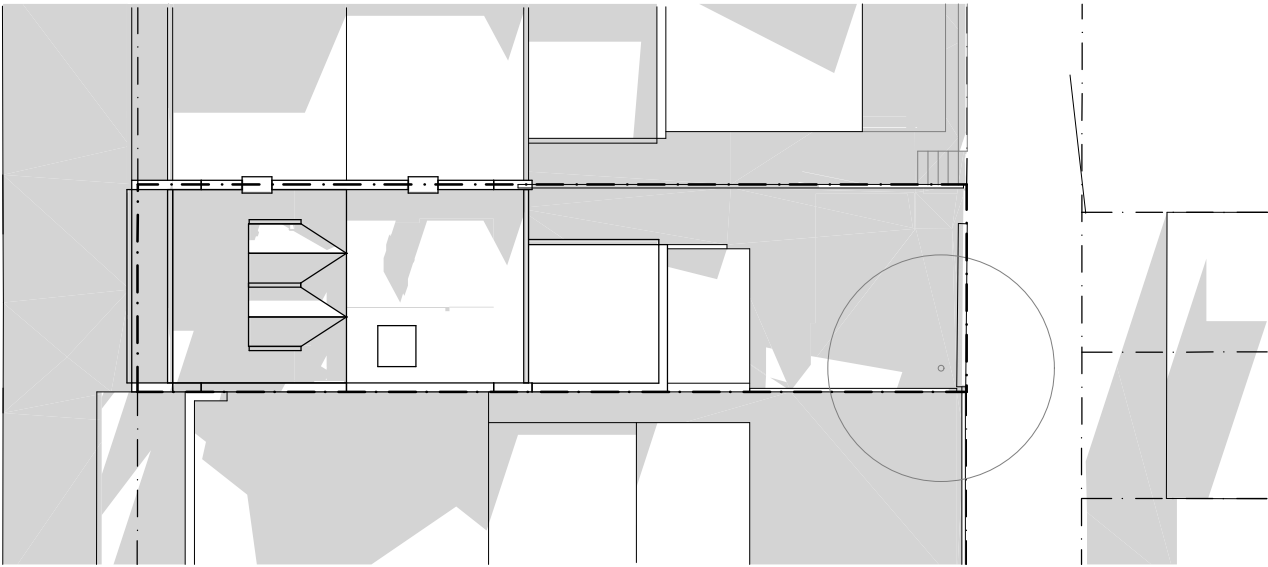


PROPOSED SHADOW DIAGRAM - 9AM JUNE 21

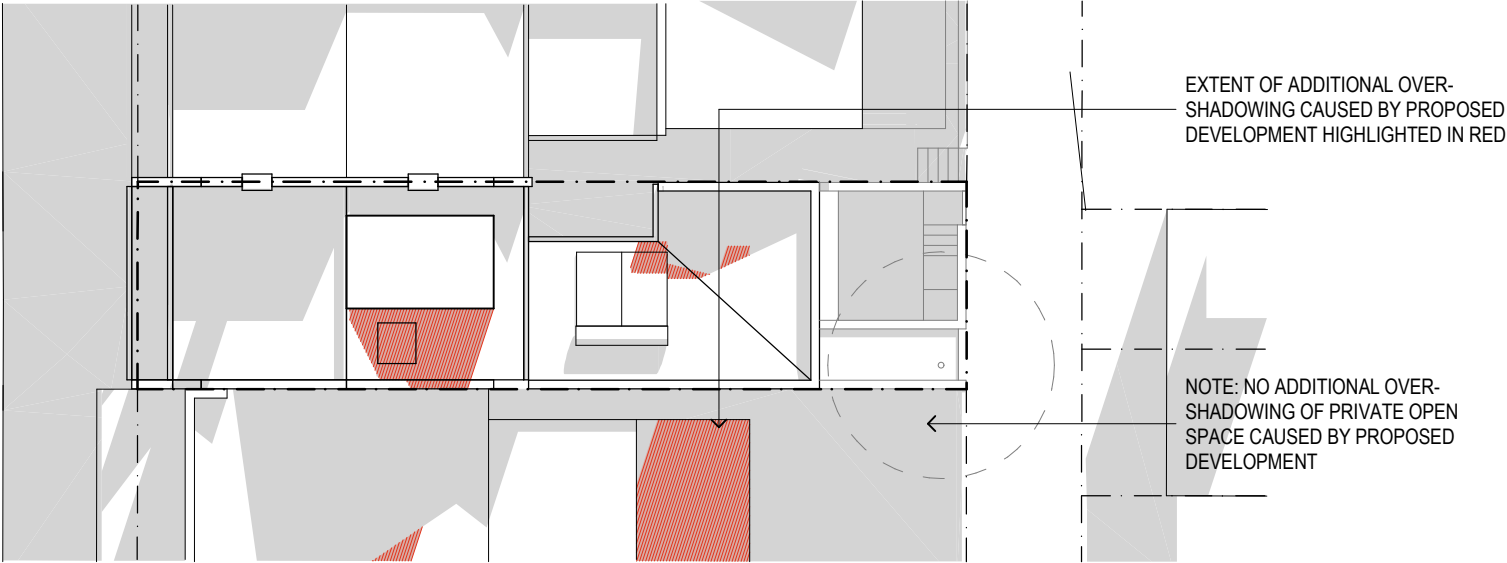


PROPOSED SHADOW DIAGRAM - 12 NOON JUNE 21





EXISTING SHADOW DIAGRAM - 3PM JUNE 21



PROPOSED SHADOW DIAGRAM - 3PM JUNE 21





ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/23 – 14 SCOTT ST NEWCASTLE EAST – DA2022/01049 -
DWELLING HOUSE – ALTERATIONS AND ADDITIONS**

ITEM 7.4 Attachment B: Draft Schedule of Conditions

DISTRIBUTED UNDER SEPARATE COVER

Application No: DA2022/01049

Land: Lot 1 DP 924899

Property Address: 14 Scott Street Newcastle East NSW 2300

Proposed Development: Dwelling house - alterations and additions

SCHEDULE 1

Approved Documentation

- The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No / Supporting Document	Reference / Version	Prepared by	Dated
Site / Roof Plan	DA-01 Rev C	Borne & Blue Architecture	11/08/22
Demolition Plans	DA-02 Rev C	Borne & Blue Architecture	11/08/22
Demolition Plans	DA-03 Rev C	Borne & Blue Architecture	11/08/22
Level 1 & 2 Floor Plans	DA-04 Rev C	Borne & Blue Architecture	11/08/22
Level 3 Floor Plan	DA-05 Rev C	Borne & Blue Architecture	11/08/22
Elevations	DA-06 Rev C	Borne & Blue Architecture	11/08/22
East Elevation	DA-07 Rev C	Borne & Blue Architecture	11/08/22
West Elevation	DA-08 Rev C	Borne & Blue Architecture	11/08/22
Section AA	DA-09 Rev C	Borne & Blue Architecture	11/08/22
Section BB	DA-10 Rev D	Borne & Blue Architecture	25/10/22
Materials and Finishes	DA-11 Rev B	Borne & Blue Architecture	12/09/22
Arboricultural Impact Assessment Report	-	Joseph Pidutti Consulting Arborist	7/11/22
BASIX Certificate	A466685	Borne & Blue Architecture	-

In the event of any inconsistency between conditions of this development consent and

the plans/supporting documents referred to above, the conditions of this development consent prevail.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

2. In accordance with the City of Newcastle Section 7.12 Development Contributions Plan (the Plan), a monetary contribution of **\$2367.53** shall be paid to the City of Newcastle for the purposes of the provision, extension or augmentation of transport and social infrastructure.
 - (a) If the contribution is not paid within the financial quarter that this consent is granted, the contribution payable will be adjusted in accordance with the provisions of the Plan and the amount payable will be calculated on the basis of the contribution rates applicable at the time of payment.
 - (b) Subject to prevailing Ministerial Directions, the monetary contribution shall be paid to the City of Newcastle
 - (i) prior to the issue of the Subdivision Certificate where the development is for subdivision; or
 - (iii) prior to the issue of the first Construction Certificate where the development is for building work.
 - (iii) prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or
 - (iv) prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.
3. Privacy screens are to be provided to window opening W01 (level 2) on the rear elevation of the dwelling house. The privacy screens are to be in the form of screens or obscure glazing and comply with the following:
 - a) screening to a height of at least 1.7m but not more than 2.2m, above the finished floor level of level 1.
 - b) if screens are used, have a maximum area of 25% openings, are permanently fixed and made of durable materials.
4. The following requirements apply to the development to satisfy heritage conservation provisions:
 - a) Existing street level verandah tessellated tiles are to be retained and made good where required.
 - b) Existing moulded party wall detail at the Scott Street elevation are to be retained.
 - c) Existing chimneys are to be retained and protected for the duration of the development.
 - d) Replacement roof sheets to the front of the existing roof are to match the existing in all aspects.
 - e) The existing sunroom street-facing windows are to be retained and repaired as required. If replacement is necessary, they are to be replaced to match the existing in all aspects.

Full details to be provided with documentation for a Construction Certificate.
5. The applicant is to comply with the requirements of the Hunter Water Corporation in respect of any building or structure proposed to be erected over any services or drain under the Corporation's control. Details addressing any requirements of the Hunter Water Corporation are to be included in documentation for a Construction Certificate application.
6. All stormwater runoff from the proposed development being managed in accordance with

the requirements of Element 7.06 'Stormwater' of Newcastle Development Control Plan 2012, the associated Technical Manual and the latest issue of AS 3500.3 as applicable.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

7. Consent is not given to undertake works to the party wall.
8. A Registered Surveyor's certificate detailing the setting out of the proposed building on the site, including the relationship of the set out building to property boundaries and the party wall, is to be submitted to the Principal Certifying Authority before construction is commenced.
9. The frangipani tree in the rear courtyard is approved to be removed in accordance with the recommendations set out in the Arboricultural Impact Assessment Report prepared by Joseph Pidutti dated 7 November 2022.
10. A rigid and durable sign is to be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:
 - a) showing the name, address and telephone number of the Principal Certifier for building work and subdivision work, and
 - b) showing the name, address and telephone number of the Principal Contractor, if any, for any building work and a telephone number on which the Principal Contractor may be contacted at any time for business purposes , and
 - c) stating that unauthorised entry to the work site is prohibited, and
 - d) being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, and must be removed when the work has been completed.

Note: This does not apply in relation to building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

11. Building work must be carried out in accordance with the requirements of the Building Code of Australia.
12. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
13. If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil are to be provided.
14. All building materials, plant and equipment is to be placed on the site of the development, to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves, including the road reserve, is not permitted.

15. All roof and surface waters are to be conveyed to the street gutter by way of a sealed pipe system, extending through the footway to Council's requirements, in accordance with Element 7.06 'Stormwater' of Newcastle Development Control Plan 2012.
16. Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:
 - Monday to Friday, 7:00 am to 6:00 pm and
 - Saturday, 8:00 am to 1:00 pm.

No noise from construction/demolition work is to be generated on Sundays or public holidays.

17. Council's 'Prevent Pollution' sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary, so it is clearly visible to the public, or at other locations on the site as otherwise directed by Council, for the duration of demolition and construction work.

The sign can be obtained by presenting your development application receipt at City of Newcastle's Customer Enquiry Centre, Wallsend Library or the Master Builders Association Newcastle.

18. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or construction in accordance with the requirements of Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the 'Blue Book') published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
19. The following waste management measures are to be implemented during construction:
 - a) waste container of at least one cubic metre capacity shall be provided, maintained and regularly serviced from the commencement of operations until the completion of the building for the reception and storage of waste generated by the construction of the building and associated waste
 - b) the waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets
 - c) appropriate provision is to be made to prevent wind blown rubbish leaving the site and
 - d) footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

Note: Fines may be issued for pollution/littering offences under the *Protection of the Environment Operations Act 1997* (NSW)

20. Toilet facilities are to be available or provided at the work site before works begin and be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet is to:

- a) Be a standard flushing toilet connected to a public sewer, or
- b) Have an on-site effluent disposal system approved under the *Local Government Act 1993*, or

- c) Be a temporary chemical closet approved under the *Local Government Act 1993*.
21. Building demolition is to be planned and carried out in accordance with *Australian Standard 2601:2001 - The Demolition of Structures*.
 22. A Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with *Australian Standard 2601:2001 - The Demolition of Structures*. A copy of the Hazardous Substances Management Plan is to be provided to the Council and to the demolisher prior to commencement of work.
 23. The demolition works are to be undertaken in accordance with Australian Standard 2601:2001 - The Demolition of Structures and the following requirements:
 - a) prior to commencement of demolition works a competent person shall determine the presence of hazardous substances impacted by the proposed demolition works in accordance with Section 1.6.1 of AS2601:2001 and where required produce a Hazardous Substances Management Plan
 - b) demolition works shall be conducted in accordance with any required Hazardous Substances Management Plan. A copy of the Plan shall be kept on-site for the duration of the proposed development and a copy is to be held in the possession of the landowner
 - c) the removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by the WorkCover Authority of NSW
 - d) a copy of all waste disposal receipts are to be kept in the possession of the landowner and made available to authorised Council Officers upon request
 - e) seven working days notice in writing is to be given to the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor, and
 - f) on sites where asbestos materials are to be removed, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent position during asbestos removal works.
 24. The demolisher is to ensure that all services (ie water, telecommunications, gas, electricity, sewerage etc), are disconnected in accordance with the relevant authority's requirements prior to demolition.
 25. Any waste containers used in association with the proposed demolition are to be located on the site where possible.

Note: Where this is not feasible, an application is to be made for the approval to position the container on the adjacent public road in accordance with the Council's adopted Building Waste Container Policy.

26. All demolition material incapable of being re-used in future redevelopment of the site is to be removed from the site and the site being cleared and levelled.

Note: Where reusable building materials are to be stored on site for use in future building works, such materials are to be neatly stacked at least 150 mm above the ground.

27. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.
28. At a minimum, the following measures are to be implemented during the construction phase:
 - a) A waste container of at least one cubic metre capacity is to be provided, maintained and regularly serviced from the commencement of operations until the completion of the building, for the reception and storage of waste generated by the construction of the building and associated waste;
 - b) The waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets;
 - c) Provision is to be made to prevent windblown rubbish leaving the site; and
 - d) Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

Note: Fines may be issued for pollution/littering offences under the *Protection of the Environment Operations Act 1997*.

29. All excavations and backfilling are to be executed safely and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.
30. Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.
31. Where the proposed development involves the destruction or disturbance of any survey monuments, those monuments affected are to be relocated, at no cost to the City of Newcastle, by a Surveyor registered under the *Surveying and Spatial Information Act 2002*.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE, A SUBDIVISION CERTIFICATE OR A STRATA CERTIFICATE

32. All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a condition that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to City of Newcastle's satisfaction prior to the completion of demolition work or prior to the issue of any Occupation Certificate in respect of development involving building work.
33. All works within the road reserve required by this consent are to be completed prior to the issue of a Occupation Certificate.
34. All commitments listed in the relevant BASIX certificate for the development are to be satisfactorily completed prior to the issue of an Occupation Certificate. Should there be any changes to the specifications of the dwelling that have implications for compliance with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be provided to the City of Newcastle with Occupation Certificate documentation.
35. All privacy screening required by this consent is to be installed prior to the issue of an

ADVISORY MATTERS

- Retaining walls not clearly noted on the approved plans or outside of the parameters of 'exempt development', as specified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, are to be subject to a separate development application. An application in this regard is to be approved prior to any works relating to such a retaining wall taking place.
- It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.
- Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of the City of Newcastle and any other relevant authorities. City of Newcastle and other service authorities should be contacted for specific requirements prior to the commencement of any works.
- Prior to commencing any building works, the following provisions of Division 6.2 of the Environmental Planning and Assessment Act 1979 are to be complied with:
 - a) A Construction Certificate is to be obtained; and
 - b) A Principal Certifier is to be appointed for the building works and Newcastle City Council is to be notified of the appointment; and
 - c) Newcastle City Council is to be given at least two days notice of the date intended for commencement of building works.
- Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifier appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Section 37 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* (NSW).
- It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice (ie 'on-the-spot fine') or prosecution.
- Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979*, which may be subject to a penalty infringement notice (ie 'on-the-spot fine') or prosecution.
- A person who is aware or believes that he or she has discovered or located a relic not identified and considered in the supporting documents for this approval, in any circumstances (including where works are carried out in reliance on an exception under section 139(4)), excavation or disturbance must cease in the affected area(s) and the Heritage Council must be notified in accordance with section 146 of the *Heritage Act 1977*. Depending on the nature of the discovery, additional assessment and approval under the *Heritage Act 1977* may be required prior to the recommencement of

excavation in the affected area(s).

Note: Heritage NSW can be contacted on 02 9873 8500 or heritagemailbox@environment.nsw.gov.au. A 'relic' is any deposit, object or material evidence that relates to the settlement of New South Wales, not being Aboriginal settlement, and is of State or local significance. It is an offence under the provisions of the *Heritage Act 1977 (NSW)* for a person to disturb or excavate any land upon which the person has discovered a relic except in accordance with a gazetted exception or an excavation permit issued by the Heritage Council of NSW.

- If any Aboriginal objects are discovered which are not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be notified in accordance with section 89A of the *National Parks and Wildlife Act 1974* (NPW Act). Depending on the nature of the discovery, additional assessment and approval under the NPW Act may be required prior to works continuing in the affected area(s). Aboriginal objects in NSW are protected under the NPW Act. Unless the objects are subject to a valid Aboriginal Heritage Impact Permit, work must not recommence until approval to do so has been provided by Heritage NSW.

Note: Heritage NSW can be contacted on 02 9873 8500 or heritagemailbox@environment.nsw.gov.au. An 'Aboriginal object' is any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains. It is an offence under the provisions of the *National Parks and Wildlife Act 1974* (NPW Act) for a person to harm or desecrate an Aboriginal object, with defence from prosecution and certain activities exempt as prescribed under the NPW Act.

END OF CONDITIONS

SCHEDULE 2

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; *Newcastle Local Environmental Plan 2012* (NLEP) and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012 (NDCP).
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- The City of Newcastle has considered and accepted the proposed development standard variation made under Clause 4.3 (Height of Buildings) of the Newcastle Local Environmental Plan 2012. The proposed variation is considered acceptable in the particular circumstances of this case.
- The City of Newcastle has considered and accepted the proposed development standard variation made under Clause 4.4 (Floor Space Ratio) of the Newcastle Local Environmental Plan 2012. The proposed variation is considered acceptable in the particular circumstances of this case.
- Any issues raised in submission have been taken into account in the assessment report and where appropriate conditions of consent have been included in the determination.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- Confirm and clarify the terms of Council's determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/23 – 14 SCOTT ST NEWCASTLE EAST – DA2022/01049 -
DWELLING HOUSE – ALTERATIONS AND ADDITIONS**

ITEM 7.4 Attachment C: Processing Chronology

DISTRIBUTED UNDER SEPARATE COVER

PROCESSING CHRONOLOGY

DA2022/01049– 14 Scott St, Newcastle East

23/09/22	-	Application lodged
27/09/22 to 17/10/22	-	Application notified in accordance with CN's Community Participation Plan (CPP)
22/10/22	-	External referrals / General Terms of Approval received: Ausgrid
12/10/22	-	Request for additional information
26/10/22, 15/11/22 8/02/23	-	Additional information received



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/23 – 14 SCOTT ST NEWCASTLE EAST – DA2022/01049 -
DWELLING HOUSE – ALTERATIONS AND ADDITIONS**

ITEM 7.4	Attachment D:	Clause 4.6 written exception to development standard – Height of Buildings – 14 Scott Street, Newcastle East
-----------------	----------------------	--

DISTRIBUTED UNDER SEPARATE COVER



lighthouse planning
urban planning consultants

CLAUSE 4.6
VARIATION TO BUILDING HEIGHT

14 SCOTT STREET
NEWCASTLE EAST

PREPARED FOR
KEN & FIONA LAFFAN
C/- BOURNE BLUE ARCHITECTURE

PREPARED BY



LIGHTHOUSE PLANNING PTY LTD
NICHOLAS DOWMAN
DIRECTOR

PROJECT NO. 192A
FEBRUARY 2023

© LIGHTHOUSE PLANNING PTY LTD 2023
ABN 93 643 164 041

CONTROL PAGE ONLY

DOCUMENT CONTROL

DOCUMENT NAME	192A CL 4.6 – HOB
AUTHOR	ND
RELEASE DATE	8 FEBRUARY 2023
DELIVERY METHOD	BY EMAIL

DOCUMENT CHANGE CONTROL

REVISION NO.	RELEASE DATE	AUTHOR/S SIGNATURE	DESCRIPTION OF AMENDMENT

THIS DOCUMENT HAS BEEN PREPARED FOR KEN AND FIONA LAFFAN BY LIGHTHOUSE PLANNING PTY LTD TO ACCOMPANY A DA TO CITY OF NEWCASTLE COUNCIL. REPRODUCTION OF ALL OR PART OF THIS DOCUMENT IS PROHIBITED WITHOUT THE PRIOR PERMISSION OF LIGHTHOUSE PLANNING PTY LTD.

TABLE OF CONTENTS

1	INTRODUCTION _____	1
1.1	PURPOSE _____	1
1.2	THE PROPOSAL _____	1
1.3	VARYING A DEVELOPMENT STANDARD _____	1
2	NATURE OF THE VARIATION _____	3
2.1	WHAT IS THE APPLICABLE PLANNING INSTRUMENT AND ZONING? ____	3
2.2	WHAT ARE THE ZONE OBJECTIVES? _____	3
2.3	WHAT IS THE STANDARD BEING VARIED? _____	3
2.4	IS THE STANDARD TO BE VARIED A DEVELOPMENT STANDARD? _____	3
2.5	IS THE DEVELOPMENT STANDARD A PERFORMANCE BASED CONTROL? _	4
2.6	WHAT IS THE UNDERLYING OBJECT OR PURPOSE OF THE STANDARD? _	4
2.7	WHAT IS THE NUMERIC VALUE OF THE DEVELOPMENT STANDARD IN THE ENVIRONMENTAL PLANNING INSTRUMENT? _____	4
2.8	WHAT IS THE PROPOSED NUMERIC VALUE OF THE VARIATION IN THE DEVELOPMENT APPLICATION? _____	4
2.9	WHAT IS THE CONTEXT OF THE VARIATION? _____	5
3	ASSESSMENT OF VARIATION _____	7
3.1	OVERVIEW _____	7
3.2	IS STRICT COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE? _____	9
3.3	ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS? ____	10
3.4	PUBLIC INTEREST _____	11
3.1	WOULD STRICT COMPLIANCE HINDER THE ATTAINMENT OF THE OBJECTS SPECIFIED IN SECTION 1.3 OF THE ACT? _____	13
4	CONCLUSION _____	14

1 INTRODUCTION

1.1 PURPOSE

This submission has been prepared for Ken & Fiona Laffan to accompany a Development Application City of Newcastle Council relating to the property known as 14 Scott Street, Newcastle East (the Site). It seeks a variation to the maximum building height development standard contained at Clause 4.3 of the Newcastle Local Environmental Plan 2012 (NLEP 2012).

1.2 THE PROPOSAL

The application generally proposes alterations and additions to the existing terrace dwelling at the Site:

- Demolition of the existing rear single-storey structure, lane fencing, gate and steps.
- Removal of the existing dormer windows to allow the original roofline facing Scott Street to be reinstated.
- Restoration of the façade
- Construction of a new two-storey brick veneer addition to the rear of the existing terrace containing a Living area at Level 1 and a bedroom at Level 2.
- A new kitchen fitout to Level 1 and a new bathroom and ensuite fitout to the existing Level 2 within the footprint of the original dwelling.
- Construction of a new rear dormer window addition to Level 3 and deck (within the footprint of the existing roofline).
- Associated landscaping and services.

1.3 VARYING A DEVELOPMENT STANDARD

The NSW Department of Planning and Environment's publication "Varying Development Standards: A Guide" (August 2011), states that:

The NSW planning system currently has two mechanisms that provide the ability to vary development standards contained within environmental planning instruments:

- Clause 4.6 of the Standard Instrument Local Environment Plan (SI LEP).
- State Environment Planning Policy No 1 – Development Standards (SEPP1).

SEPP 1 no longer applies and NLEP 2012 is a Standard Instrument LEP.

This proposal seeks to vary the Building Height development standard applicable to the Site and not introduce new controls across an area. Subclauses 4.6(6) and (8) of NLEP 2012 also states specifically when this clause is not to be used. Neither the Site, nor the proposal, satisfy these criteria and therefore, the use of Clause 4.6 to vary the Building Height is appropriate in this instance.

2 NATURE OF THE VARIATION

2.1 WHAT IS THE APPLICABLE PLANNING INSTRUMENT AND ZONING?

The NLEP 2012 is the environmental planning instrument that applies to the Site. The Site is zoned R3 Medium Density Residential under NLEP 2012, in accordance with the Land Zoning Map.

2.2 WHAT ARE THE ZONE OBJECTIVES?

The relevant objectives of the R3 Medium Density Residential Zone are:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To allow some diversity of activities and densities if—*
 - (i) the scale and height of proposed buildings is compatible with the character of the locality, and*
 - (ii) there will be no significant adverse impact on the amenity of any existing nearby development.*
- *To encourage increased population levels in locations that will support the commercial viability of centres provided that the associated new development—*
 - (i) has regard to the desired future character of residential streets, and*
 - (ii) does not significantly detract from the amenity of any existing nearby development.*

2.3 WHAT IS THE STANDARD BEING VARIED?

The standard being varied is the maximum Building Height development standard contained in Clause 4.3(2) of NLEP 2012.

2.4 IS THE STANDARD TO BE VARIED A DEVELOPMENT STANDARD?

Yes, the Height of Building standard is a development standard in accordance with the definition contained in Section 1.4 of the Environmental Planning and Assessment Act 1979 (as amended) (EP&A Act).

2.5 IS THE DEVELOPMENT STANDARD A PERFORMANCE BASED CONTROL?

No, the development standard is a numeric control.

2.6 WHAT IS THE UNDERLYING OBJECT OR PURPOSE OF THE STANDARD?

The objectives of Clause 4.3 of NLEP 2012 are as follows:

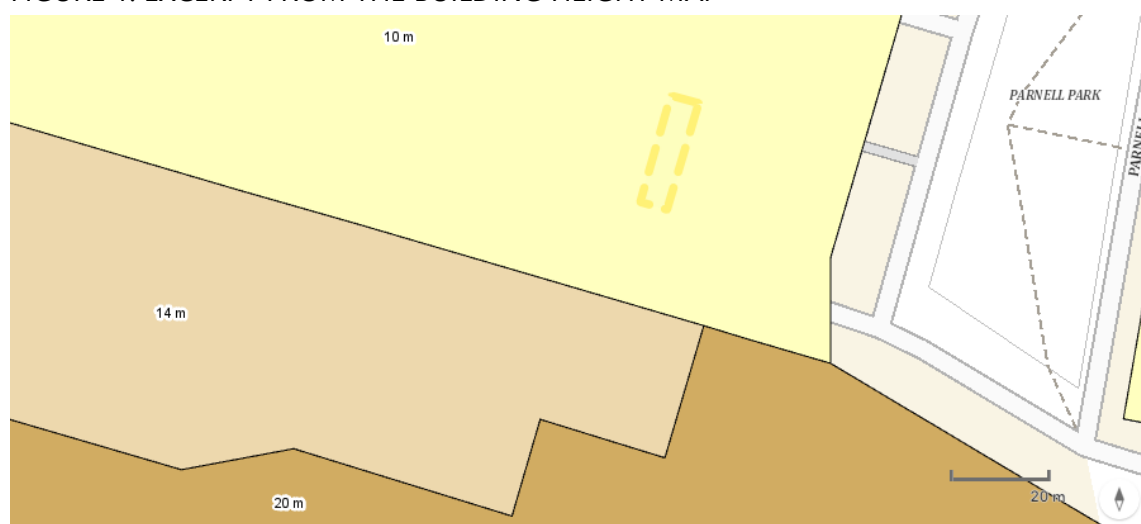
- *to ensure the scale of development makes a positive contribution towards the desired built form, consistent with the established centres hierarchy,*
- *to allow reasonable daylight access to all developments and the public domain.*

In summary, the underlying purpose of the development standard is to manage the height and scale of any future built form, in order to mitigate any adverse impacts and ensure compatibility with the character of the locality.

2.7 WHAT IS THE NUMERIC VALUE OF THE DEVELOPMENT STANDARD IN THE ENVIRONMENTAL PLANNING INSTRUMENT?

Subclause 4.3 (2), in association with the HOB Map of the NLEP 2012, establishes a maximum building height of 10 metres for the Site.

FIGURE 1: EXCERPT FROM THE BUILDING HEIGHT MAP



SOURCE: NSW PLANNING PORTAL

2.8 WHAT IS THE PROPOSED NUMERIC VALUE OF THE VARIATION IN THE DEVELOPMENT APPLICATION?

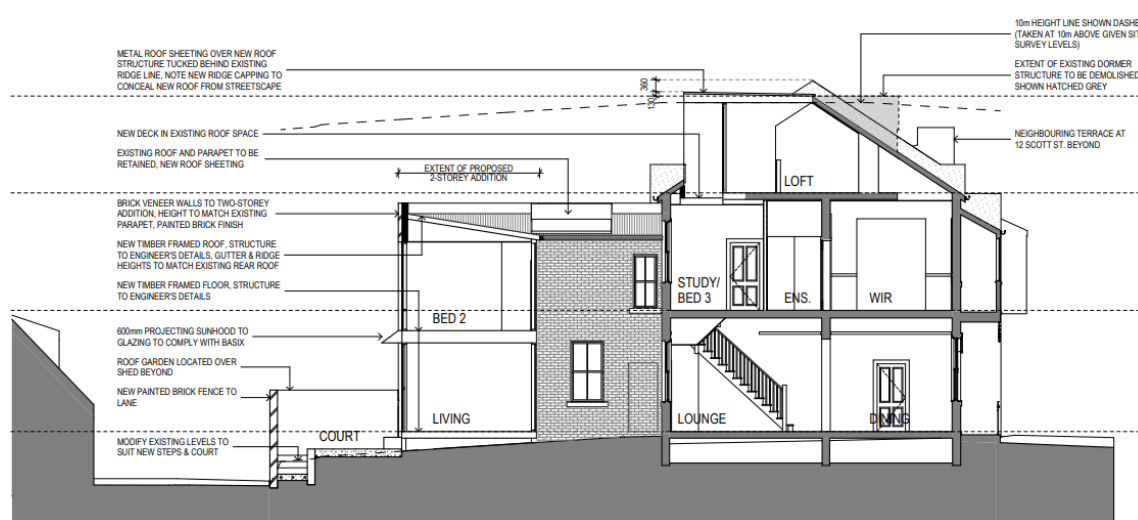
The proposal results in a maximum building height of 10.37m, equating to a maximum variation of 0.37m (3.7%) from the numeric development standard.

2.9 WHAT IS THE CONTEXT OF THE VARIATION?

The existing terrace dwelling currently exceeds the prescribed 10m maximum building height. The dwelling has a maximum height of 10.73m, located at the top of the parapet/common walls on both sides of the dwelling. The dwelling has an existing ridge height of 10.27m.

The building height variation, proposed as part of this DA, is limited to the rear, north-facing dormer at the existing loft level of the dwelling.

FIGURE 2 | SECTION SHOWING PROPOSED REAR DORMER



SOURCE: BOURNE BLUE

The design proposes to remove the existing, south-facing dormers at the loft level. These dormers to the Scott Street frontage are later additions that are unsympathetic to the heritage significance of the conservation area.

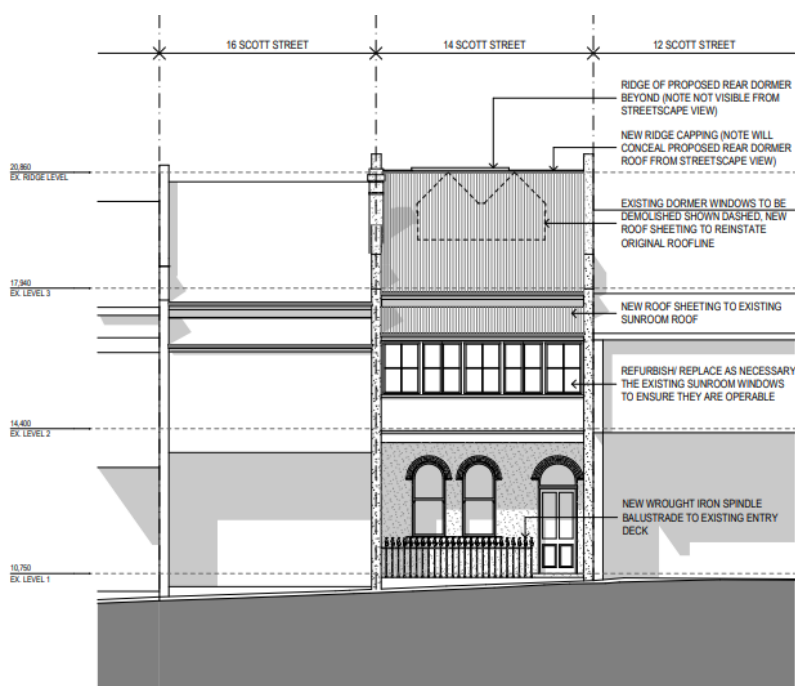
The Statement of Heritage Impact prepared by Heritas concludes:

The proposed works will see the restoration of the original roof form, which is considered to greatly enhance the Scott Street façade and positively contribute to the conservation area.

While removal of the existing south-facing dormers enhances the dwelling's contribution to the Scott Street façade, the proposed introduction of dormers to the north (rear) allows enhanced solar access, natural ventilation and amenity to the loft, without adverse impacts to the locality's heritage significance, or the amenity of adjoining properties.

The proposed rear dormer will not be visible when viewed from Scott Street. While the proposed dormer has a ridge height 13cm above the existing ridgeline for drainage, the minor nature of the height difference, coupled with the design and location to the rear at loft level means it is not seen from the public domain at the street frontage.

FIGURE 3 | PROPOSED SCOTT STREET ELEVATION



SOURCE: BOURNE BLUE

There are no material amenity impacts on adjoining properties as a consequence of the height variation. The dormer is still of a respectful scale that is similar to other developments within the street. The surrounding dwellings within the locality adopt a similar, non-compliant ridge height. Shadow diagrams prepared by Bourne Blue demonstrate compliance with the Newcastle DCP notwithstanding the variation.

We note that a DA was approved on the adjoining lot (16 Scott Street - DA2020/01528), with the assessment report stating:

As the allotment is located in a heritage conservation area, no building height development standard applies. It is considered the proposal is satisfactory in this regard.

While our understanding is that the height limit does apply, the approach of assessing the merit of the proposal against the heritage significance of the area is supported given the existing variations to the height development standard, within the Heritage Conservation Area.

3 ASSESSMENT OF VARIATION

3.1 OVERVIEW

Clause 4.6 of NLEP 2012 establishes the framework for varying development standards applying under the instrument. Council must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating:

'4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

4.6(3)(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Subclause 4.6(4)(a) mandates that development consent must not be granted for a development that contravenes a development standard unless Council is satisfied:

(i) *The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

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

Relevant case law to Clause 4.6 Variation Requests

This request has been prepared having regard to the principles established by the Court when considering the assessment of Clause 4.6 requests (including applicable principles adopted from consideration of SEPP 1 requests), contained in the following guideline judgments:

- *Wehbe v Pittwater Council* [2007] NSWLEC 827
- *Initial Action Pty Ltd v Woollahra Municipal Council* (2018) 236 LGERA 256; [2018] NSWLEC 118
- *RebelMH Neutral Bay Pty Ltd v North Sydney Council* [2019] NSWCA 130

In summary, the principles adopted and applied in this clause 4.6 request include:

- In *Wehbe V Pittwater Council* (2007) NSWLEC 827 Preston CJ held that, it can be demonstrated that the objectives of the development standard are achieved notwithstanding non-compliance with the standard, as below (emphasis added):

- “43 The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).” *Wehbe V Pittwater Council* (2007) NSWLEC 827 Preston CJ
- *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 held (at paragraph 15) that for there to be power to grant development consent for a development that contravenes a development standard, cl 4.6(4)(a) requires that the Court, in exercising the functions of the consent authority, be satisfied that the written request adequately demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (cl 4.6(3)(a) and cl 4.6(4)(a)(i)) and adequately establishes sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b) and cl 4.6(4)(a)(ii)). The Court must also be satisfied that the proposed development will be consistent with the objectives of the zone and with the objectives of the standard in question, which is the measure by which the development is said to be in the public interest (cl 4.6(4)(a)(ii)).
- At paragraphs 23 and 24 in *Initial Action*, Preston CJ held that with respect to “environmental planning” grounds, although not defined, the grounds should relate to the subject matter, scope and purpose of the EP&A Act, including the objects in s. 1.3 of the Act. Further, in order that the environmental planning grounds proffered in the written request are “sufficient”, firstly the focus should be on the aspect or element of the development that contravenes the development standard, rather than the development as a whole and why the contravention is justified and secondly, the environmental planning grounds must justify the contravention of the development standard, not just promote the benefits of carrying out the development as a whole.
- *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 the Court, in exercising the functions of the consent authority, must “in fact” be satisfied of the above matters. The state of satisfaction that compliance is “unreasonable or unnecessary” and that there are “sufficient environmental planning grounds” to justify the contravention must be reached only by reference to the cl 4.6 request. The evidence in the proceedings cannot supplement what is in the request, although the evidence may assist in understanding the request and

in considering its adequacy. On the other hand, the state of satisfaction that the proposed development is consistent with the relevant objectives, and therefore in the public interest, can be reached by considering the evidence before the Court and is not limited to what is contained in the cl 4.6 request.

This variation adopts Method 1 in Wehbe which requires an applicant to demonstrate that the objectives of the relevant development standard will be achieved, despite the non-compliance with the numerical standard.

3.2 IS STRICT COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE?

Yes - in this instance, strict numerical compliance with the development standard for Building Height is unreasonable and unnecessary for the following reasons that are specific to this site and proposal:

- The reasons and context discussed in the Section 2.9 of this Report.
- Despite numerical non-compliance, the proposal remains consistent with the relevant environmental and planning objectives of the R3 Zone and Building Height development standard. This is explored further in Section 3.4 of this report.
- The variation results in a scale and character that remains compatible with the surrounding locality and enhances the dwelling's contribution to the heritage character of the area by reinstating the original roof form to Scott Street. There are numerous examples of dwellings within the locality that are similarly non-compliant with the height standard due to the historic nature of the buildings. These include development applications that have been approved by Council within recent years.
- The proposal is assessed and supported by the submitted Heritage Impact Statement (HIS) prepared by Heritas. The HIS discusses the proposal's height and scale in terms of the heritage character and proposed dormer to the rear, concluding that the works are sympathetic and warrant favourable consideration by Council.
- A development compliant with the building height development standard contained in the NLEP 2012 would not achieve a perceivably different or better planning outcome.
- Strict compliance with the development standard would result in either poor amenity to the existing loft area or retention of the dormers to Scott Street, to the detriment of the heritage character of Scott Street. The proposed built form

outcome seeks to retain and enhance the heritage character within the conservation area while allowing a considered upgrade to the dwelling. Requiring numeric compliance would result in no discernible benefit to the site or surrounding locality.

3.3 ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS?

Yes. In the circumstances of the case, there are sufficient environmental planning grounds to justify the variation to the development standard, namely:

- The reasons discussed in the sections above.
- The proposed additions remain below the maximum height of the existing building. The rear dormer connects at the existing ridge height and will not be discernible from the public domain at Scott Street.
- The proposal allows reinstatement of the original roof form to Scott Street which contributes to the Heritage Conservation Area. The rear dormer allows continued and enhanced amenity to the loft area of the existing dwelling.
- The proposal does not result in adverse impacts to adjoining properties or the locality in terms of visual impact, overshadowing or view loss. The design also limits opportunity for visual privacy impacts and overlooking.
- The public interest is better served by supporting the variation as it allows the reinstatement of the original roofing to Scott Street while retaining amenity for the occupants at the loft level, resulting in an enhanced contribution to the heritage significance of the area without associated adverse impact.
- The proposal satisfies the objectives of the R3 Medium Density Residential zone and the objectives of the Height of Buildings development standard, having regard to the particular nature of the development and the particular circumstances of the Site.
- The non-compliance with the standard will nevertheless result in a scale of development that is compatible with both the existing and future character and heritage significance of the locality.
- The proposed variation to the building height standard will not have a visual impact from the public domain at Scott Street.

3.4 PUBLIC INTEREST

The public involvement in the planning process shapes and endorses the objectives that underpin the relevant development standard. The standards are derived as a means of achieving the public interest in delivering development that meets the objectives. Compliance with the Development Standard is accepted as being one method by which the objectives are met. Equally, the public interest can be served if the objectives are met, notwithstanding a variation to the development standard.

Approval of the proposed variation to the building height is in the wider public interest as the underlying objectives are met by virtue of the variation. This is detailed in the below section.

THE PROPOSAL REMAINS CONSISTENT WITH THE OBJECTIVES OF THE BUILDING HEIGHT DEVELOPMENT STANDARD:

The proposal remains consistent with the relevant objectives of the Building Height development standard outlined in subclause 4.3 (1) of the NLEP 2012, despite the numerical non-compliance with subclause 4.3 (2), as demonstrated below:

- (a) *to ensure the scale of development makes a positive contribution towards the desired built form, consistent with the established centres hierarchy,*

The proposal is a high-quality, well considered architectural design that is supported by a comprehensive Heritage Impact Statement, which assesses the proposed built form against the heritage significance of the locality. The intensity of development and scale is a positive contribution to the established centres hierarchy.

- (b) *to allow reasonable daylight access to all developments and the public domain.*

A primary reason for the rear dormer and area of numeric non-compliance with the height standard is to ensure adequate daylight access to the upper level of the existing dwelling. Compliant solar access is retained to adjoining properties as demonstrated by the shadow diagrams prepared by Bourne Blue Architecture.

THE PROPOSAL REMAINS CONSISTENT WITH THE OBJECTIVES OF THE R3 MEDIUM DENSITY RESIDENTIAL ZONE:

The proposal remains consistent with the relevant zone objectives outlined in Clause 2.3 and the Land Use Table of the NLEP 2012, despite the non-compliance, as demonstrated below.

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

The proposal retains a permissible use and enhances the function and amenity of the existing dwelling for the occupants.

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

The proposal retains and enhances a dwelling house within a Heritage Conservation Area.

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

Not applicable – the proposal is solely for residential use.

- *To allow some diversity of activities and densities if—*
 - (i) *the scale and height of proposed buildings is compatible with the character of the locality, and*
 - (ii) *there will be no significant adverse impact on the amenity of any existing nearby development.*

The activities and density remain as existing in terms of a single dwelling house. The scale and height of the proposal is compatible with the character of the locality, as supported by the Heritage Impact Statement.

- *To encourage increased population levels in locations that will support the commercial viability of centres provided that the associated new development—*
 - (i) *has regard to the desired future character of residential streets, and*
 - (ii) *does not significantly detract from the amenity of any existing nearby development.*

The proposal results in an updated and sensitively expanded dwelling that provides an additional bedroom in an accessible area. The proposal does not detract from the amenity of nearby development and enhances its contribution to the heritage significance of the area.

3.1 WOULD STRICT COMPLIANCE HINDER THE ATTAINMENT OF THE OBJECTS SPECIFIED IN SECTION 1.3 OF THE ACT?

Relevant objects in Section 1.3 of the Act include the following:

- *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- *to promote the orderly and economic use and development of land,*
- *to promote good design and amenity of the built environment,*
- *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*

In this instance, strict compliance would unnecessarily limit the opportunity to readily enhance and upgrade the existing loft level of the dwelling, particularly given the works undertaken remain below the maximum height of the existing dwelling and connect to the existing ridge line. The ability to reinstate the original roof form to Scott Street is largely dependent on the ability to provide solar access and ventilation via the proposed north-facing dormer.

The proposed non-compliance with the development standard would support, rather than hinder the attainment of the objects of Section 1.3 of the EP&A Act as it allows upgrades to a dwelling with existing an existing non-compliance to the development standard.

In this instance, strict compliance with the development standard would not result in any discernible benefits to the amenity of adjoining sites or the public while compromising heritage and amenity outcomes. It therefore stands that the environmental planning grounds and outcomes that are particular to this development and this Site are such, that a departure from the development standard in that context would promote the proper and orderly development of land.

4 CONCLUSION

This report accompanies a Development Application for alterations and additions to a dwelling house at 14 Scott Street, Newcastle East. An exception is sought, pursuant to Clause 4.6 of the Newcastle Local Environmental Plan 2012 to the maximum permissible Building Height prescribed by subclause 4.3(2) of the NLEP 2012.

The variation enables a well-considered development that addresses the prominent and heritage-significant streetscape and relevant objectives of both the standards and the zone. The report finds that the variation will not result in unreasonable environmental impacts. Accordingly, a variation of the development standard is justified.



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/23 – 14 SCOTT ST NEWCASTLE EAST – DA2022/01049 -
DWELLING HOUSE – ALTERATIONS AND ADDITIONS**

ITEM 7.4	Attachment E:	Clause 4.6 written exception to development standard – Floor Space Ratio – 14 Scott Street, Newcastle East
-----------------	----------------------	--

DISTRIBUTED UNDER SEPARATE COVER



lighthouse planning
urban planning consultants

CLAUSE 4.6
VARIATION TO FLOOR SPACE RATIO

14 SCOTT STREET
NEWCASTLE EAST

PREPARED FOR
KEN & FIONA LAFFAN
C/- BOURNE BLUE ARCHITECTURE

PREPARED BY




LIGHTHOUSE PLANNING PTY LTD
NICHOLAS DOWMAN
DIRECTOR

p: +

PROJECT NO. 192A
FEBRUARY 2023
© LIGHTHOUSE PLANNING PTY LTD 2023
ABN 93 643 164 041

CONTROL PAGE ONLY

DOCUMENT CONTROL

DOCUMENT NAME	192A CL 4.6 – FSR
AUTHOR	ND 
RELEASE DATE	8 FEBRUARY 2023
DELIVERY METHOD	BY EMAIL

DOCUMENT CHANGE CONTROL

REVISION NO.	RELEASE DATE	AUTHOR/S SIGNATURE	DESCRIPTION OF AMENDMENT

THIS DOCUMENT HAS BEEN PREPARED FOR KEN AND FIONA LAFFAN BY LIGHTHOUSE PLANNING PTY LTD TO ACCOMPANY A DA TO CITY OF NEWCASTLE COUNCIL. REPRODUCTION OF ALL OR PART OF THIS DOCUMENT IS PROHIBITED WITHOUT THE PRIOR PERMISSION OF LIGHTHOUSE PLANNING PTY LTD.

TABLE OF CONTENTS

1	INTRODUCTION _____	1
1.1	PURPOSE _____	1
1.2	THE PROPOSAL _____	1
1.3	VARYING A DEVELOPMENT STANDARD _____	1
2	NATURE OF THE VARIATION _____	3
2.1	WHAT IS THE APPLICABLE PLANNING INSTRUMENT AND ZONING? ____	3
2.2	WHAT ARE THE ZONE OBJECTIVES? _____	3
2.3	WHAT IS THE STANDARD BEING VARIED? _____	3
2.4	IS THE STANDARD TO BE VARIED A DEVELOPMENT STANDARD? _____	4
2.5	IS THE DEVELOPMENT STANDARD A PERFORMANCE BASED CONTROL? _	4
2.6	WHAT IS THE UNDERLYING OBJECT OR PURPOSE OF THE STANDARD? _	4
2.7	WHAT IS THE NUMERIC VALUE OF THE DEVELOPMENT STANDARD IN THE ENVIRONMENTAL PLANNING INSTRUMENT? _____	5
2.8	WHAT IS THE PROPOSED NUMERIC VALUE OF THE VARIATION IN THE DEVELOPMENT APPLICATION? _____	5
2.9	WHAT IS THE CONTEXT OF THE VARIATION? _____	6
3	ASSESSMENT OF VARIATION _____	8
3.1	OVERVIEW _____	8
3.2	IS STRICT COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE? _____	10
3.3	ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS? ____	11
3.4	PUBLIC INTEREST _____	11
3.1	WOULD STRICT COMPLIANCE HINDER THE ATTAINMENT OF THE OBJECTS SPECIFIED IN SECTION 1.3 OF THE ACT? _____	15
4	CONCLUSION _____	16

1 INTRODUCTION

1.1 PURPOSE

This submission has been prepared for Ken & Fiona Laffan to accompany a Development Application City of Newcastle Council relating to the property known as 14 Scott Street, Newcastle East (the Site). It seeks a variation to the Floor Space Ratio (FSR) development standard contained at Clause 7.10A of the Newcastle Local Environmental Plan 2012 (NLEP 2012).

1.2 THE PROPOSAL

The application generally proposes alterations and additions to the existing terrace dwelling at the Site:

- Demolition of the existing rear single-storey structure, lane fencing, gate and steps.
- Removal of the existing dormer windows to allow the original roofline facing Scott Street to be reinstated.
- Restoration of the façade
- Construction of a new two-storey brick veneer addition to the rear of the existing terrace containing a Living area at Level 1 and a bedroom at Level 2.
- A new kitchen fitout to Level 1 and a new bathroom and ensuite fitout to the existing Level 2 within the footprint of the original dwelling.
- Construction of a new rear dormer window addition to Level 3 and deck (within the footprint of the existing roofline).
- Associated landscaping and services.

1.3 VARYING A DEVELOPMENT STANDARD

The NSW Department of Planning and Environment's publication "Varying Development Standards: A Guide" (August 2011), states that:

The NSW planning system currently has two mechanisms that provide the ability to vary development standards contained within environmental planning instruments:

- Clause 4.6 of the Standard Instrument Local Environment Plan (SI LEP).
- State Environment Planning Policy No 1 – Development Standards (SEPP1).

SEPP 1 no longer applies and NLEP 2012 is a Standard Instrument LEP.

This proposal seeks to vary the Floor Space Ratio development standard applicable to the Site and not introduce new controls across an area. Subclauses 4.6(6) and (8) of NLEP 2012 also states specifically when this clause is not to be used. Neither the Site, nor the proposal, satisfy these criteria and therefore, the use of Clause 4.6 to vary the Floor Space Ratio is appropriate in this instance.

2 NATURE OF THE VARIATION

2.1 WHAT IS THE APPLICABLE PLANNING INSTRUMENT AND ZONING?

The NLEP 2012 is the environmental planning instrument that applies to the Site. The Site is zoned R3 Medium Density Residential under NLEP 2012, in accordance with the Land Zoning Map.

2.2 WHAT ARE THE ZONE OBJECTIVES?

The relevant objectives of the R3 Medium Density Residential Zone are:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To allow some diversity of activities and densities if—*
 - (i) the scale and height of proposed buildings is compatible with the character of the locality, and*
 - (ii) there will be no significant adverse impact on the amenity of any existing nearby development.*
- *To encourage increased population levels in locations that will support the commercial viability of centres provided that the associated new development—*
 - (i) has regard to the desired future character of residential streets, and*
 - (ii) does not significantly detract from the amenity of any existing nearby development.*

2.3 WHAT IS THE STANDARD BEING VARIED?

The standard being varied is the Floor Space Ratio development standard contained in Clause 7.10A of NLEP 2012, as the site is located within the Newcastle City Centre. Notwithstanding, the variation is also assessed against the objectives of Clause 4.4, relating to Floor Space Ratio.

2.4 IS THE STANDARD TO BE VARIED A DEVELOPMENT STANDARD?

Yes, the FSR standard is a development standard in accordance with the definition contained in Section 1.4 of the Environmental Planning and Assessment Act 1979 (as amended) (EP&A Act).

2.5 IS THE DEVELOPMENT STANDARD A PERFORMANCE BASED CONTROL?

No, the development standard is a numeric control.

2.6 WHAT IS THE UNDERLYING OBJECT OR PURPOSE OF THE STANDARD?

The objectives of Clause 4.4 of NLEP 2012 are as follows:

- *to provide an appropriate density of development consistent with the established centres hierarchy,*
- *to ensure building density, bulk and scale makes a positive contribution towards the desired built form as identified by the established centres hierarchy.*

The objectives of Part 7 – Newcastle City Centre are:

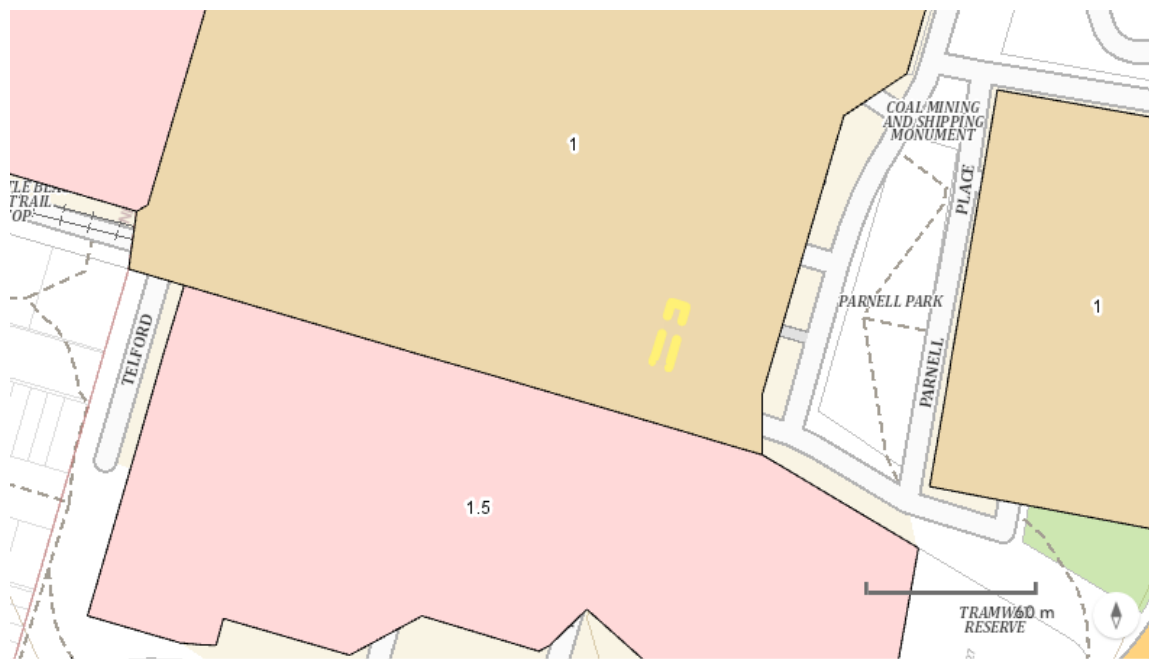
- *to promote the economic revitalisation of Newcastle City Centre,*
- *to strengthen the regional position of Newcastle City Centre as a multi-functional and innovative centre that encourages employment and economic growth,*
- *to protect and enhance the positive characteristics, vitality, identity, diversity and sustainability of Newcastle City Centre, and the quality of life of its local population,*
- *to promote the employment, residential, recreational and tourism opportunities in Newcastle City Centre,*
- *to facilitate the development of building design excellence appropriate to a regional city,*
- *to encourage responsible management, development and conservation of natural and man-made resources and to ensure that Newcastle City Centre achieves sustainable social, economic and environmental outcomes,*
- *to protect and enhance the environmentally sensitive areas and natural and cultural heritage of Newcastle City Centre for the benefit of present and future generations,*
- *to help create a mixed use place, with activity during the day and throughout the evening, so Newcastle City Centre is safe, attractive, inclusive and efficient for its local population and visitors alike.*

In summary, the underlying purpose of the development standard is to manage the bulk and scale of any future built form, in order to mitigate any adverse impacts and ensure compatibility with the character of the locality.

2.7 WHAT IS THE NUMERIC VALUE OF THE DEVELOPMENT STANDARD IN THE ENVIRONMENTAL PLANNING INSTRUMENT?

Subclause 7.10A(a), in association with the FSR Map of the NLEP 2012, establishes a maximum FSR of 1:1 for the Site.

FIGURE 1: EXCERPT FROM THE FLOOR SPACE RATIO MAP

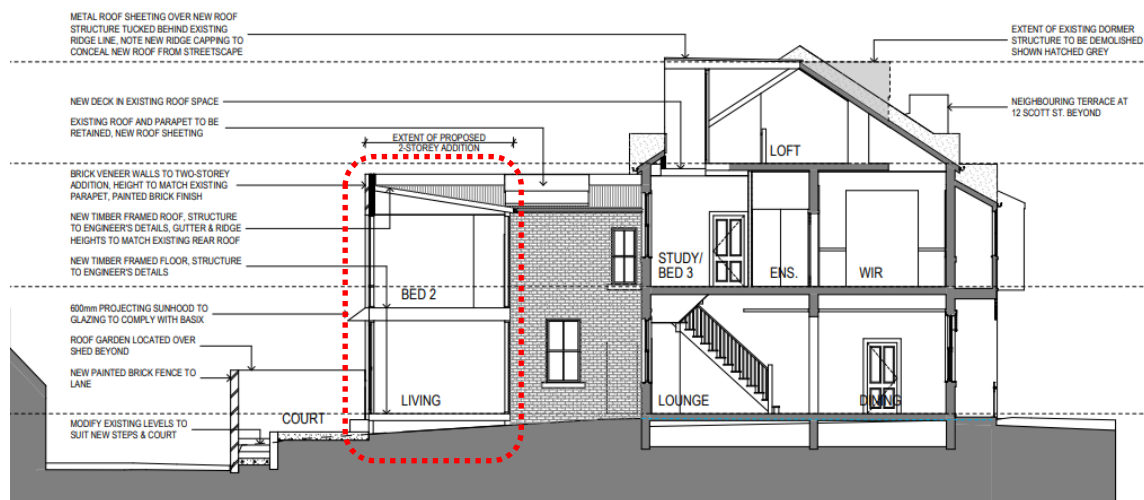


SOURCE: NSW PLANNING PORTAL

2.8 WHAT IS THE PROPOSED NUMERIC VALUE OF THE VARIATION IN THE DEVELOPMENT APPLICATION?

The proposal results in a Gross Floor Area of 168.7m², equating to an FSR of 1.40:1. This equates to a maximum variation of 40.6m² (40%) from the numeric development standard.

FIGURE 2 | SECTION SHOWING EXTENT OF PROPOSED ADDITION



SOURCE: BOURNE BLUE

2.9 WHAT IS THE CONTEXT OF THE VARIATION?

The proposed works are primarily for the construction of a two-storey rear addition that connects to the existing terrace. This rear addition sits well below the existing ridgeline and adopts an appropriate rear setback that reflects other properties along the rear lane.

The existing terrace building has an FSR of 1.1:1, resulting in an existing variation to the development standard. Development within the surrounding area provides numerous examples of terraces with a similar bulk and scale, with similar existing variations to the FSR standard.

The site is identified as part of the Newcastle East Heritage Conservation Area. The dwellings which contribute to the heritage significance of the area, particularly along Scott Street are usually 2-3 storeys, built to both side boundaries and provide a small courtyard to the rear. Accordingly, an FSR of 1:1 does not reflect the current bulk and scale of the contributory buildings in the area.

The subdivision pattern within the locality is comprised of relatively small lots. The subject site has a total site area of 120.1m². The proposal results in an additional Gross Floor Area (GFA) of 36.76m² and an increased building footprint of only 10.7m². Despite being a modest addition in terms of GFA, the small site area exacerbates the percentage of variation.

The proposed addition is located to the rear of the existing dwelling and is not visible from the Scott Street frontage. It adopts a rear setback that reflects other dwellings along the laneway, particularly 20-22 Scott Street which includes a recently approved

rear addition. Given the northern orientation of the rear addition, the proposal does not result in adverse amenity impacts, in terms of overshadowing, visual impact or overlooking.

The development application is accompanied by a Heritage Impact Statement, prepared by Heritas, which supports the design approach on the following grounds:

- *Considered siting of the ... double storey addition to the north beneath the established ridge height ensures the visual impact of the proposal on the streetscape is entirely mitigated. This thereby respects the character of both Scott Street and the character of the Newcastle East residential precinct.*
- *New works are restricted to the rear of the terrace, while retaining the historical setback character of the terrace form, at both the north and west boundaries.*
- *The double storey extension oriented towards the laneway brings it generally in line with the depth of its neighbours and is not considered to have a detrimental effect on the values of the conservation area in this respect. The historical pattern of setback from the laneway is retained.*

Due to historic development within the area, there are many examples of dwellings that are currently non-compliant with the FSR development standard. This extends to approval of recent alterations and additions to these dwellings that reflect similar variations to the FSR development standard as proposed under this DA. It is noted that the terraces at 20 and 22 Scott Street have a similar FSR to that proposed.

It is also noted that a DA was approved on the adjoining lot with a variation to the FSR (16 Scott Street - DA2020/01528), with the assessment report stating:

As the allotment is located in a heritage conservation area, no floor space ratio development standard applies. It is considered the proposal is satisfactory in this regard.

While our understanding is that the FSR development standard does apply, the approach of assessing the merit of the proposal against the heritage significance of the area is supported given the existing variations to the FSR development standard, within the Heritage Conservation Area.

The proposal results in an architecturally-designed rear addition that allows a considered upgrade to the existing dwelling, while retaining and enhancing its heritage contribution to Scott Street. The proposal results in no material adverse amenity impacts and is accordingly appropriate despite numeric non-compliance with the FSR development standard.

3 ASSESSMENT OF VARIATION

3.1 OVERVIEW

Clause 4.6 of NLEP 2012 establishes the framework for varying development standards applying under the instrument. Council must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating:

'4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

4.6(3)(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Subclause 4.6(4)(a) mandates that development consent must not be granted for a development that contravenes a development standard unless Council is satisfied:

(i) *The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

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

Relevant case law to Clause 4.6 Variation Requests

This request has been prepared having regard to the principles established by the Court when considering the assessment of Clause 4.6 requests (including applicable principles adopted from consideration of SEPP 1 requests), contained in the following guideline judgments:

- *Wehbe v Pittwater Council* [2007] NSWLEC 827
- *Initial Action Pty Ltd v Woollahra Municipal Council* (2018) 236 LGERA 256; [2018] NSWLEC 118
- *RebelMH Neutral Bay Pty Ltd v North Sydney Council* [2019] NSWCA 130

In summary, the principles adopted and applied in this clause 4.6 request include:

- In *Wehbe V Pittwater Council* (2007) NSWLEC 827 Preston CJ held that, it can be demonstrated that the objectives of the development standard are achieved notwithstanding non-compliance with the standard, as below:

"43 The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives.

Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).” *Wehbe V Pittwater Council* (2007) NSWLEC 827 Preston CJ

- *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 held (at paragraph 15) that for there to be power to grant development consent for a development that contravenes a development standard, cl 4.6(4)(a) requires that the Court, in exercising the functions of the consent authority, be satisfied that the written request adequately demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (cl 4.6(3)(a) and cl 4.6(4)(a)(i)) and adequately establishes sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b) and cl 4.6(4)(a)(ii)). The Court must also be satisfied that the proposed development will be consistent with the objectives of the zone and with the objectives of the standard in question, which is the measure by which the development is said to be in the public interest (cl 4.6(4)(a)(ii)).
- At paragraphs 23 and 24 in *Initial Action*, Preston CJ held that with respect to “environmental planning” grounds, although not defined, the grounds should relate to the subject matter, scope and purpose of the EP&A Act, including the objects in s. 1.3 of the Act. Further, in order that the environmental planning grounds proffered in the written request are “sufficient”, firstly the focus should be on the aspect or element of the development that contravenes the development standard, rather than the development as a whole and why the contravention is justified and secondly, the environmental planning grounds must justify the contravention of the development standard, not just promote the benefits of carrying out the development as a whole.
- *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 the Court, in exercising the functions of the consent authority, must “in fact” be satisfied of the above matters. The state of satisfaction that compliance is “unreasonable or unnecessary” and that there are “sufficient environmental planning grounds” to justify the contravention must be reached only by reference to the cl 4.6 request. The evidence in the proceedings cannot supplement what is in the request, although the evidence may assist in understanding the request and in considering its adequacy. On the other hand, the state of satisfaction that the proposed development is consistent with the relevant objectives, and therefore in

the public interest, can be reached by considering the evidence before the Court and is not limited to what is contained in the cl 4.6 request.

This variation adopts Method 1 in Wehbe which requires an applicant to demonstrate that the objectives of the relevant development standard will be achieved, despite the non-compliance with the numerical standard.

3.2 IS STRICT COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE?

Yes - in this instance, strict numerical compliance with the development standard for Floor Space Ratio is unreasonable and unnecessary for the following reasons that are specific to this site and proposal:

- The reasons and context discussed in the Section 2.9 of this Report.
- Despite numerical non-compliance, the proposal remains consistent with the relevant environmental and planning objectives of the R3 Zone, FSR development standard and the additional local provisions for the Newcastle City Centre. This is explored further in Section 3.4 of this report.
- The variation results in a scale and character that remains compatible with the surrounding locality. There are numerous examples of dwellings within the locality that are non-compliant with the FSR standard due to the historic nature of the buildings and the prevalence of terrace housing on smaller lots. These include development applications that have been approved by Council within recent years (e.g. 16, 20 & 22 Scott Street).
- The proposal is assessed and supported by the submitted Heritage Impact Statement (HIS) prepared by Heritas. The HIS discusses the proposal's bulk and scale in terms of the heritage character of the Newcastle East Heritage Conservation Area and concludes that the proposal respects the setbacks of the precinct and mitigates any visual impact.
- A development compliant with the floor space ratio development standard contained in the NLEP 2012 would not achieve a perceivably different or better planning outcome.
- The proposed built form outcome seeks to retain and enhance the heritage character within the conservation area while allowing a considered upgrade to the dwelling. Due to the existing non-compliance with the FSR standard, strict compliance with the development standard would likely serve to hinder a successful and thoughtful upgrade to the terrace dwelling.

3.3 ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS?

Yes. In the circumstances of the case, there are sufficient environmental planning grounds to justify the variation to the development standard, namely:

- The reasons discussed in the sections above.
- The variation results in a scale and character that remains compatible with the surrounding locality. There are numerous examples of dwellings within the locality that are non-compliant with the FSR standard due to the historic nature of the buildings and the prevalence of terrace housing on smaller lots.
- The proposal does not result in adverse impacts to adjoining properties or the locality in terms of visual impact, overshadowing or view loss. The design also limits opportunity for visual privacy impacts and overlooking.
- The proposal satisfies the objectives of the R3 Medium Density Residential zone and the objectives of the Floor Space Ratio development standard, having regard to the particular nature of the development and the particular circumstances of the Site. The site remains consistent with the objectives for the Newcastle City Centre.
- The non-compliance with the standard will nevertheless result in a scale of development that is compatible with both the existing and future character of the locality.
- The rear addition and associated GFA increase will not have unreasonable visual impact from the public domain. The addition is below the ridge height at the rear of the building and retains the heritage significance of the residential precinct.

3.4 PUBLIC INTEREST

The public involvement in the planning process shapes and endorses the objectives that underpin the relevant development standard. The standards are derived as a means of achieving the public interest in delivering development that meets the objectives. Compliance with the Development Standard is accepted as being one method by which the objectives are met. Equally, the public interest can be served if the objectives are met, notwithstanding a variation to the development standard.

Approval of the proposed variation to the floor space ratio is in the wider public interest as the underlying objectives are met by virtue of the variation. This is detailed in the below section.

THE PROPOSAL REMAINS CONSISTENT WITH THE OBJECTIVES OF THE FLOOR SPACE RATIO DEVELOPMENT STANDARD:

The proposal remains consistent with the relevant objectives of the Floor Space Ratio development standard outlined in subclause 4.4 (1) of the NLEP 2012, despite the numerical non-compliance with subclause 7.10A(a), as demonstrated below:

- *to provide an appropriate density of development consistent with the established centres hierarchy,*

The proposal retains the existing use as a single terrace dwelling in an R3 Medium Density Residential Zone. It results in an additional bedroom within an accessible and desirable area but remains consistent with the established centres hierarchy.

- *to ensure building density, bulk and scale makes a positive contribution towards the desired built form as identified by the established centres hierarchy.*

The proposal is a high-quality, well considered architectural design that is supported by a comprehensive Heritage Impact Statement, which assesses the proposed built form against the heritage significance of the locality. The proposal reflects the setbacks, bulk and scale of similar dwellings within the street and conservation area. The intensity of development and scale is a positive contribution to the established centres hierarchy.

THE PROPOSAL REMAINS CONSISTENT WITH THE OBJECTIVES FOR THE NEWCASTLE CITY CENTRE:

The proposal remains consistent with the relevant objectives of the additional local provisions for the Newcastle City Centre standard outlined in Clause 7.1 of the NLEP 2012, despite the numerical non-compliance with subclause 7.10A(a), as demonstrated below:

- *to promote the economic revitalisation of Newcastle City Centre,*

The proposal provides an enhance presentation to Scott Street and contributes to the heritage character of the locality.

- *to strengthen the regional position of Newcastle City Centre as a multi-functional and innovative centre that encourages employment and economic growth,*

Continued use of the residence does not hinder the employment and economic growth of the City.

- *to protect and enhance the positive characteristics, vitality, identity, diversity and sustainability of Newcastle City Centre, and the quality of life of its local population,*

The proposal is supported by a Heritage Impact Statement and is found to enhance its contribution to the heritage streetscape and will provide greater amenity for the occupants.

- *to promote the employment, residential, recreational and tourism opportunities in Newcastle City Centre,*

The proposal retains and enhances an existing residence in the City Centre.

- *to facilitate the development of building design excellence appropriate to a regional city,*

The proposal is a small-scale, well-considered addition to an existing terrace house.

- *to encourage responsible management, development and conservation of natural and man-made resources and to ensure that Newcastle City Centre achieves sustainable social, economic and environmental outcomes,*

The proposal retains the existing dwelling while updating it for greater functionality and amenity.

- *to protect and enhance the environmentally sensitive areas and natural and cultural heritage of Newcastle City Centre for the benefit of present and future generations,*

The proposal is supported by a Heritage Impact Statement and is found to enhance its contribution to the heritage streetscape and will provide greater amenity for the occupants.

- *to help create a mixed use place, with activity during the day and throughout the evening, so Newcastle City Centre is safe, attractive, inclusive and efficient for its local population and visitors alike.*

The proposal retains casual surveillance to the street front and opportunities to the laneway to assist in a safe and attractive city.

THE PROPOSAL REMAINS CONSISTENT WITH THE OBJECTIVES OF THE R3 MEDIUM DENSITY RESIDENTIAL ZONE:

The proposal remains consistent with the relevant zone objectives outlined in Clause 2.3 and the Land Use Table of the NLEP 2012, despite the non-compliance, as demonstrated below.

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

The proposal retains a permissible use and enhances the function and amenity of the existing dwelling for the occupants.

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

The proposal retains and enhances a dwelling house within a Heritage Conservation Area.

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

Not applicable – the proposal is solely for residential use.

- *To allow some diversity of activities and densities if—*
 - (i) the scale and height of proposed buildings is compatible with the character of the locality, and*
 - (ii) there will be no significant adverse impact on the amenity of any existing nearby development.*

The activities and density remain as existing in terms of a single dwelling house. The bulk and scale of the proposal is compatible with the character of the locality, as supported by the Heritage Impact Statement.

- *To encourage increased population levels in locations that will support the commercial viability of centres provided that the associated new development—*
 - (i) has regard to the desired future character of residential streets, and*
 - (ii) does not significantly detract from the amenity of any existing nearby development.*

The proposal results in an updated and sensitively expanded dwelling that provides an additional bedroom in an accessible area. The proposal does not detract from the

amenity of nearby development and enhances its contribution to the heritage significance of the area.

3.1 WOULD STRICT COMPLIANCE HINDER THE ATTAINMENT OF THE OBJECTS SPECIFIED IN SECTION 1.3 OF THE ACT?

Relevant objects in Section 1.3 of the Act include the following:

- *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- *to promote the orderly and economic use and development of land,*
- *to promote good design and amenity of the built environment,*
- *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*

In this instance, strict compliance would unnecessarily limit the opportunity to readily enhance and upgrade current housing stock with consideration to the heritage significance of the area, with no discernible reduction in environmental or amenity impacts.

The proposed non-compliance with the development standard would support, rather than hinder the attainment of the objects of Section 1.3 of the EP&A Act as it allows considered upgrades to a dwelling with existing an existing non-compliance to the development standard. The additions respect and enhance the heritage contribution of the dwelling to the conservation area while allowing a rationalised and accommodating design for the occupants.

In this instance, strict compliance with the development standard would not result in any discernible benefits to the amenity of adjoining sites or the public while compromising housing and amenity outcomes. It therefore stands that the environmental planning grounds and outcomes that are particular to this development and this Site are such, that a departure from the development standard in that context would promote the proper and orderly development of land.

4 CONCLUSION

This report accompanies a Development Application for alterations and additions to a dwelling house at 14 Scott Street, Newcastle East. An exception is sought, pursuant to Clause 4.6 of the Newcastle Local Environmental Plan 2012 to the maximum permissible Floor Space Ratio prescribed by subclause 7.10A(a) of the NLEP 2012.

The proposal results in an architecturally-designed rear addition that allows a considered upgrade to the existing dwelling, while retaining and enhancing its heritage contribution to Scott Street. The variation enables a well-considered development that remains consistent with the objectives of both the development standard and the land use zone. The report finds that the variation will not result in unreasonable environmental impacts. Accordingly, a variation of the development standard is justified.



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 35 ADDISON STREET BERESFIELD –
DA2022/01100 - DEMOLITION OF STRUCTURES AND ERECTION OF
NEW FROZEN FOOD STORAGE BUILDING**

- | | | |
|------------|----------------------|---|
| 7.5 | Attachment A: | Submitted Plans |
| 7.5 | Attachment B: | Draft Schedule of Conditions |
| 7.5 | Attachment C: | Processing Chronology |
| 7.5 | Attachment D: | Advice of the NSW Environmental
Protection Authority |
| 7.5 | Attachment E: | Applicants' response to Schedule 3
Clause 48 of the EP&A Regulations |

DISTRIBUTED UNDER SEPARATE COVER

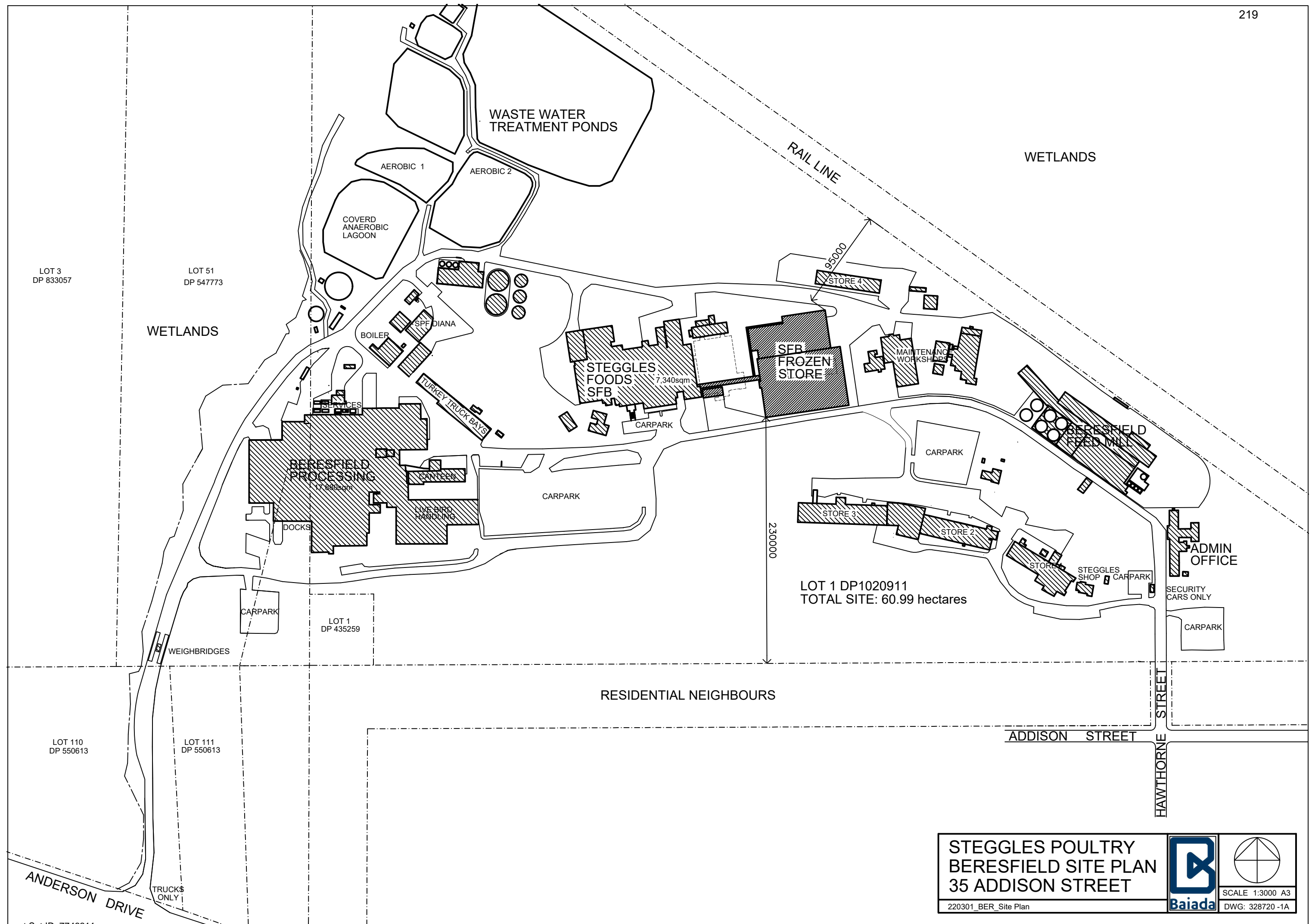


ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 35 ADDISON STREET BERESFIELD –
DA2022/01100 - DEMOLITION OF STRUCTURES AND ERECTION OF
NEW FROZEN FOOD STORAGE BUILDING**

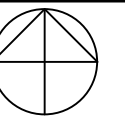
Item 7.5 Attachment A: Submitted Plans

DISTRIBUTED UNDER SEPARATE COVER



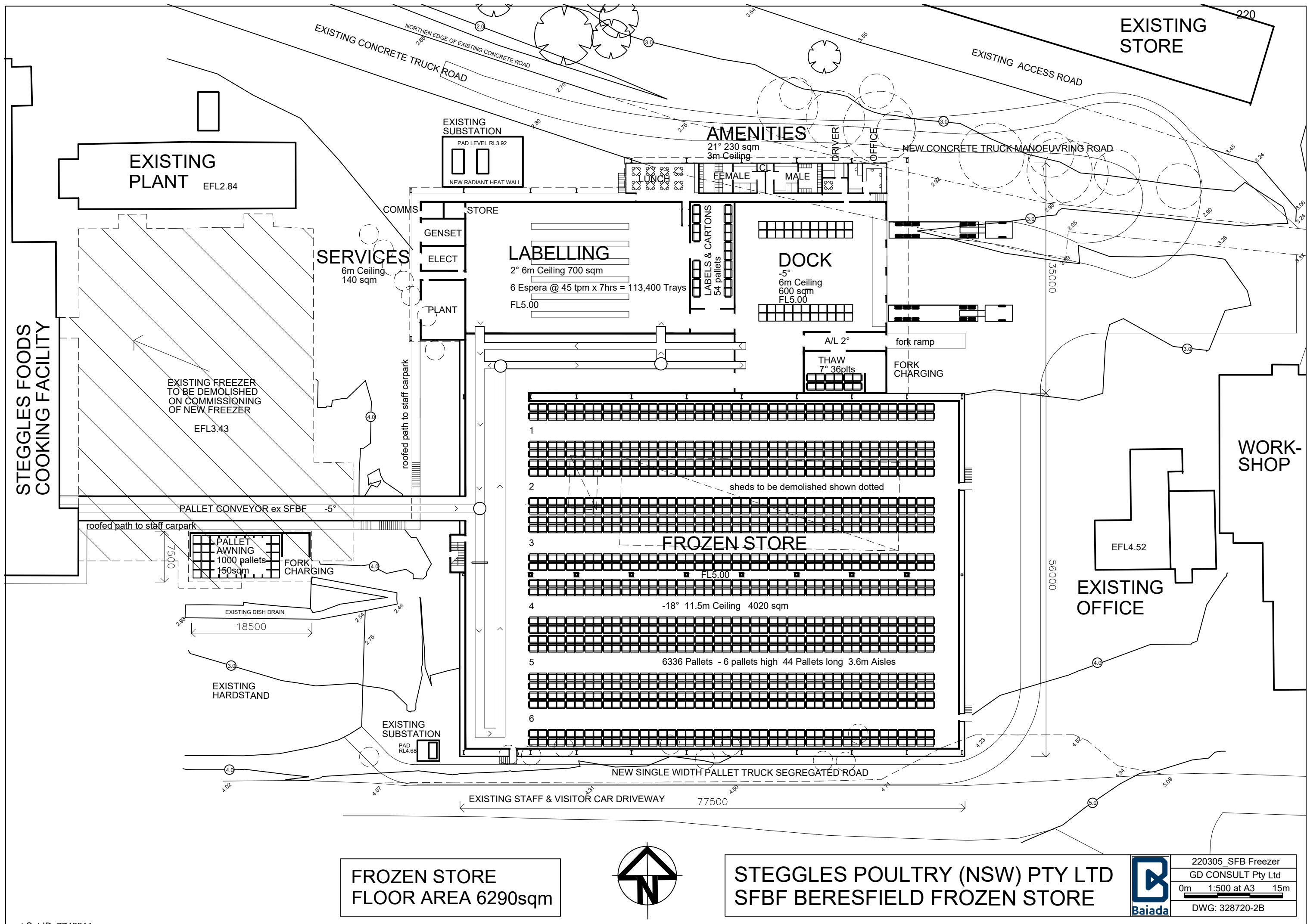
STEGGLES POULTRY
BERESFIELD SITE PLAN
35 ADDISON STREET

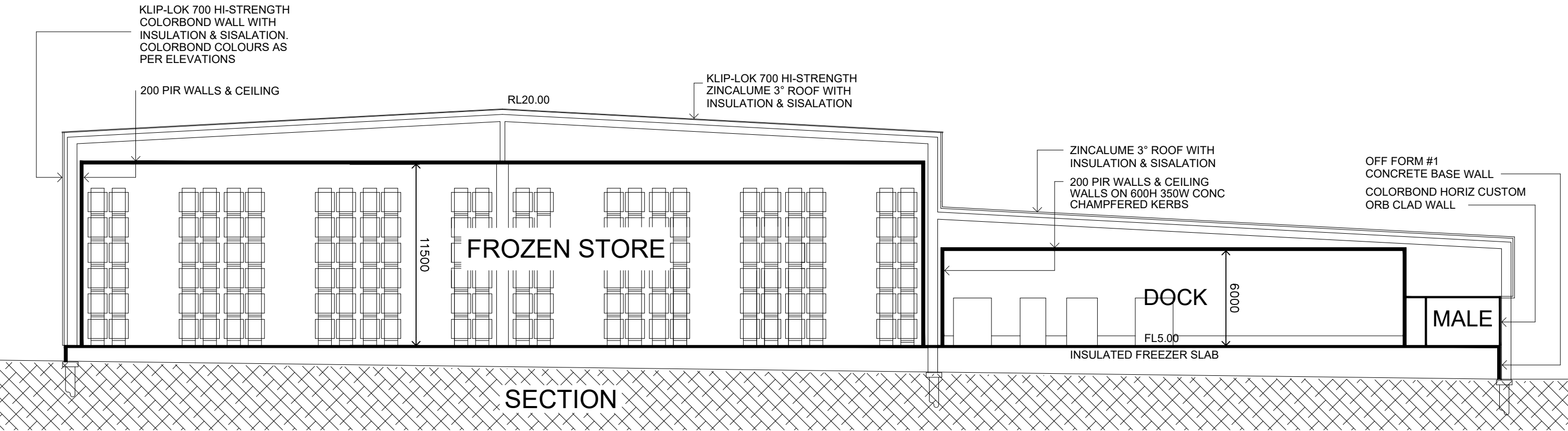
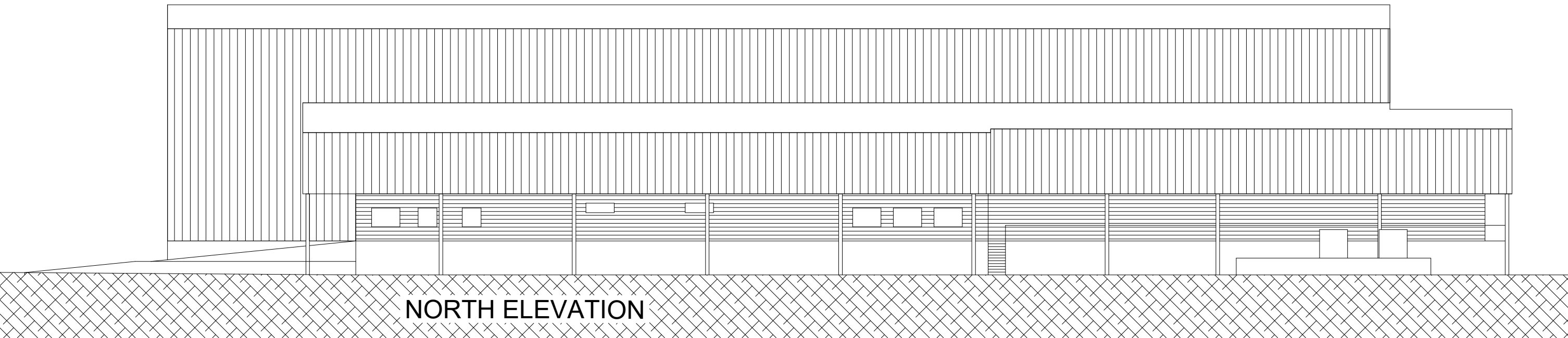
220301_BER_Site Plan



SCALE 1:3000 A3

DWG: 328720 -1A

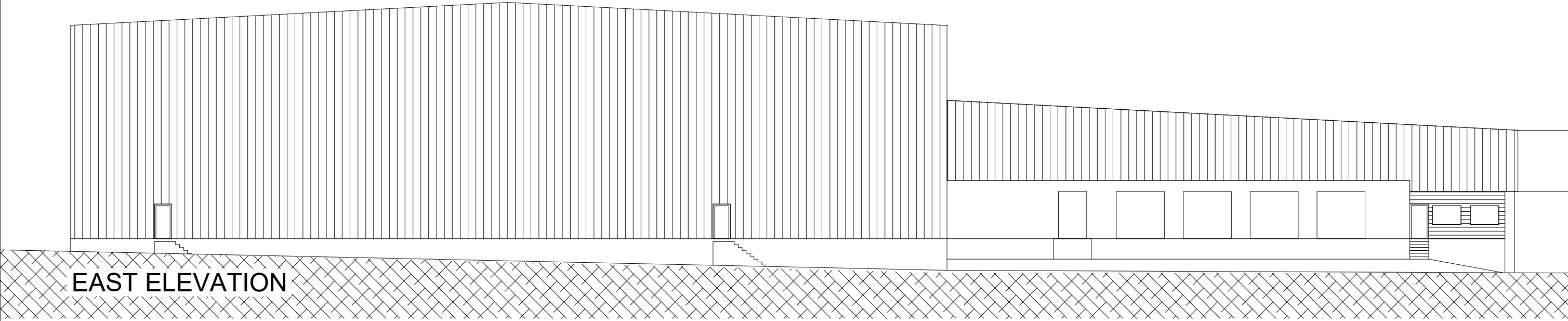
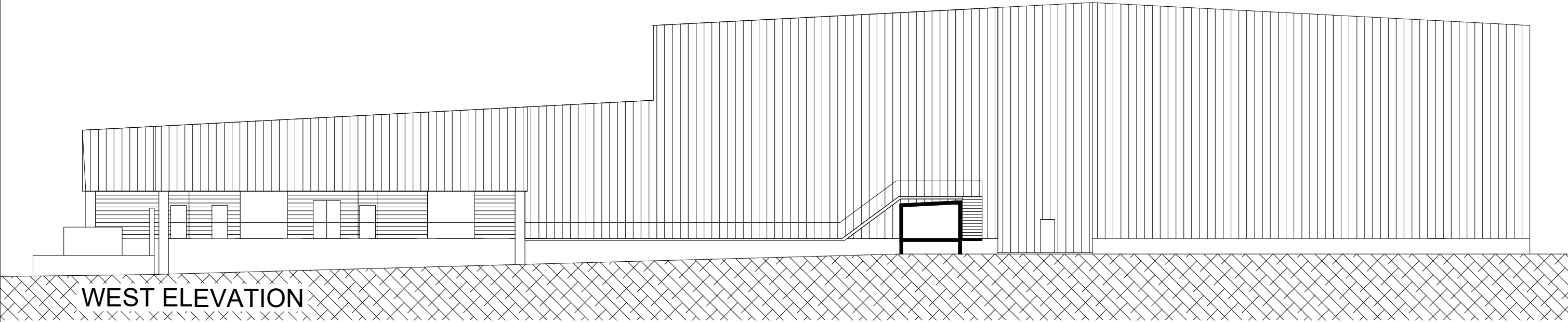
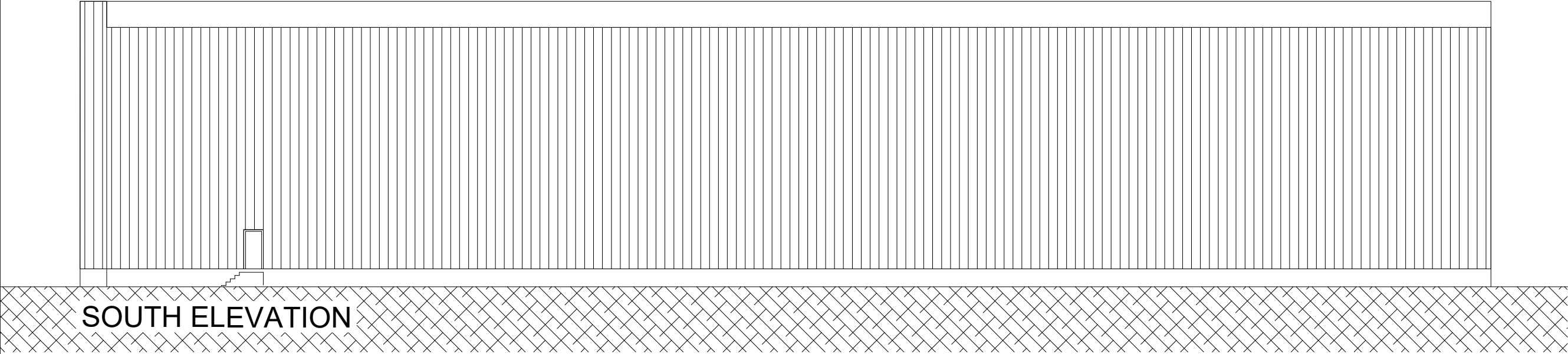




STEGGLES POULTRY (NSW) PTY LTD
SFBF BERESFIELD FROZEN STORE



220305_SFB Freezer
GD CONSULT Pty Ltd
0m 1:250 at A3 7.5m
DWG: 328720-3A



STEGGLES POULTRY (NSW) PTY LTD

SFBF BERESFIELD FROZEN STORE



220305_SFB Freezer

GD CONSULT Pty Ltd

0m 1:250 at A3 7.5m

DWG: 328720-4A





ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 35 ADDISON STREET BERESFIELD –
DA2022/01100 - DEMOLITION OF STRUCTURES AND ERECTION OF
NEW FROZEN FOOD STORAGE BUILDING**

Item 7.5 Attachment B: Draft Schedule of Conditions

DISTRIBUTED UNDER SEPARATE COVER

Application No:	DA2022/01100
Land:	Lot 1 DP 1020911
Property Address:	35 Addison Street Beresfield NSW 2322
Proposed Development:	The demolition of existing structures and alterations and additions to an existing livestock processing industry - construction of frozen food storage building

SCHEDULE 1

Approved Documentation

- The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No / Supporting Document	Reference / Version	Prepared by	Dated
Site Plan	Dwg 328720-1A	GD Consult Pty Ltd	Undated
Floor Plan	Dwg 328720-2B	GD Consult Pty Ltd	Undated
Northern Elevation & Section Plan	Dwg 328720-3A	GD Consult Pty Ltd	Undated
Southern, Western & Eastern Elevation Plans	Dwg 328720-4A	GD Consult Pty Ltd	Undated
Site Waste Minimisation and Management Plan		PSA Consulting	Undated

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- A total monetary contribution of \$249,695.12 is to be paid to the City of Newcastle, pursuant to Section 7.12 of the *Environmental Planning and Assessment Act 1979*, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

Note:

- This condition is imposed in accordance with the provisions of the City of Newcastle's *Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019*.
- The City of Newcastle's *Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019* permits deferred or periodic payment of levies in certain circumstances. A formal modification of this condition will be required to enter into a deferred or periodic payment arrangement.

- c) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and, as a guide, these approximate dates are as follows:

Indexation quarters	Approx release date
September	Late October
December	Late January
March	Late April
June	Late July

Any party intending to act on this consent should contact City of Newcastle's Customer Enquiry Centre for determination of the indexed amount of contribution on the date of payment.

The applicant is to provide written evidence from the Department of Planning, Industry and Environment that payment of the special infrastructure contribution has been made in accordance with the EP&A Act, to the

- Roof water is to be directed to a water tank with a minimum capacity of 35,000 litres, designed in accordance with Appendix 8 of Council's Technical Manual - Stormwater and Water Efficiency for Development, which supports relevant provisions of the Newcastle Development Control Plan 2012.

The lower 50% capacity or a minimum 4,000 litres, whichever is the greater, of the rainwater tank is to be reticulated into each of the following new uses:

- site irrigation systems
- external taps
- all toilets
- cold water washing machine taps and laundry basin taps

The upper remaining capacity of the rainwater tank is to drain from the tank by way of a 5mm weep hole connected to the main overflow pipe for the tank.

A mains water top-up system is to be installed to maintain a minimum water depth of 100mm within the tank. Alternatively, an electronically activated mechanical valve device is to be installed to switch to mains water when the water level in the tank falls below the minimum depth. The water tank and plumbing is to be designed in accordance with the Plumbing Code of Australia (National Construction Code Volume 3). Full details are to be included in documentation for a Construction Certificate application.

- The floor level of all proposed buildings or building additions is to be verified on plans for a Construction Certificate application to be no lower than 5.0m Australian Height Datum.
- The whole of the proposed structure below known flood level (level 4.5m Australian Height Datum) is to be constructed in materials and finishes that are resistant to damage from floodwaters/tidal waters. Any new machinery or equipment, electrical circuitry or fitting, storage unit or similar items likely to be damaged by floodwaters/tidal waters being installed above the said height or alternatively being of materials and functional capability resistant to the effects of floodwaters/tidal waters. Full details are to be

included in documentation for a Construction Certificate application.

6. A Sedimentation Basin maintenance manual is to be provided to the Principal Certifying Authority. The manual is to address maintenance issues including routine monitoring as well as maintenance of any associated components (such as vegetation, sediment depth, gross pollutant traps, overflow weir) of the system that could impact on performance. Periodic monitoring and maintenance is to ensure the system functions as designed, and meets water quality and quantity targets over the life cycle of the device as indicated in Element 7.06 'Stormwater' of Newcastle Development Control Plan 2012. The manual is to be kept onsite.

A draft version of this maintenance manual is to be included in documentation submitted for a Construction Certificate Application.

7. Facilities are to be provided in a screened location within the premises for the storage of garbage, discarded or returnable packaging or other forms of trade wastes and arrangements are to be made for regular removal and disposal of same. Full details are to be included in documentation for a Construction Certificate application.
8. The car parking and vehicular access are to be designed to comply with the relevant provisions of AS/NZS 2890 Parking facilities. Details are to be included in documentation for a Construction Certificate application.
9. All proposed driveways, parking bays, loading bays and vehicular turning areas are to be constructed with a basecourse of a depth to suit design traffic and be sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers. Details are to be included in documentation for a Construction Certificate application.
10. Kerbing or dwarf walls having a minimum height of 100mm are to be constructed along the edge of all garden or lawn areas adjacent to driveways and parking bays, sufficient to discourage the encroachment of vehicles thereon. Details are to be included in documentation for a Construction Certificate application.
11. All stormwater runoff from the proposed development being managed in accordance with the requirements of Element 7.06 'Stormwater' of Newcastle Development Control Plan 2012, the associated Technical Manual and the latest issue of AS 3500.3 as applicable, as indicated on the stormwater management concept plan prepared by Costin Roe Consulting (Project No. Co13167.01, Revision C, dated 24/06/2022) and being further revised to address the following requirement:

- a) The concentration of total petroleum hydrocarbons in stormwater discharged to the proposed sedimentation basin shall not exceed 5 parts per million.

Full details are to be included in documentation for a Construction Certificate application.

12. The applicant is to comply with all of Hunter Water's requirements to provide your development with water supply and sewerage services. A copy of Hunter Water's compliance certificate (Hunter Water Act 1991 - Section 50) must be submitted with your Construction Certificate application.
13. A separate application must be lodged and consent obtained from Council for all works within the road reserve pursuant to Section 138 of the Roads Act 1993 (NSW). The consent must be obtained, or other satisfactory arrangements confirmed in writing from Council, before the issue of a Construction Certificate.
14. The proposed access road and loading facilities shall be demonstrated to be suitable for the Articulated Vehicle (AS 2890.2:2018) via a swept path analysis. Full details are to be included in documentation for a Construction Certificate.

15. All proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required by the conditions of this consent are to be detailed on a comprehensive landscape plan and specification. The plan and specification are to be prepared in accordance with the provisions of Newcastle Development Control Plan 2012 and is to include details of the following:

- a) cross sections through the site
- b) proposed contours or spot levels
- c) botanical names
- d) quantities and container size of all proposed trees
- e) shrubs and ground cover
- f) details of proposed soil preparation
- g) mulching and staking
- h) treatment of external surfaces and retaining walls where proposed
- i) drainage, location of taps and
- j) maintenance periods.

The plan and specification are to be prepared by a qualified landscape designer and be included in documentation for a Construction Certificate application.

16. The comprehensive landscape plan is to incorporate the planting of 32 eucalyptus trees, of advanced growth, and of a species endemic to the area. The trees are to be planted at minimum initial pot size of 200 litres and planted in the area towards the southern boundary of the site as marked in red on the approved plans. Full details are to be submitted with the required Construction Certificate.
17. The proposed access road and loading facilities shall be demonstrated to be suitable for the Articulated Vehicle (AS 2890.2:2018) via a swept path analysis. Full details are to be included in documentation for a Construction Certificate.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

18. Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifier at the stages of construction indicated:
- a) On completion of ground floor construction, confirming that the floor levels are in accordance with the approved levels.
 - b) On completion of each subsequent floor level, confirming that the floor levels are in accordance with the approved levels.
 - c) When the roof has been completed, confirming that the building does not exceed the approved levels.
19. Any excavated material to be removed from the site is to be assessed and classified in accordance with the NSW Environment Protection Authority's '*Waste Classification Guidelines Part 1: Classifying Waste*' and be transported and disposed of in accordance with the provisions of the *Protection Of The Environment Operations Act 1997* and the

Protection of the Environment (Waste) Regulation 2014.

20. Any fill material imported into the site is to be Virgin Excavated Natural Material or material subject to a Resource Recovery Order that is permitted to be used as a fill material under the conditions of the associated Resource Recovery Exemption, in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment (Waste) Regulation 2014*.
21. Documentation demonstrating the compliance with the conditions of the appropriate Resource Recovery Order and Resource Recovery Exemption must be maintained for any material received at the site and subsequently applied to land under the conditions of the Resource Recovery Order and Exemption. This documentation must be provided to Newcastle City Council officers or the Principal Certifier on request.
22. Erosion and sediment control measures are to be implemented prior to the commencement of works and be maintained during the period of construction in accordance with the details set out on the Erosion and Sediment Control Plan submitted with the application, and with the below requirements:
 - a) Control over discharge of stormwater and containment of run-off and pollutants leaving the site is to be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams and sediment basins and controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover; and
 - b) Erosion and sediment control measures are to be designed in accordance with the requirements of the *Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1* (the 'Blue Book') published by Landcom, 2004.
23. Prior to any site works commencing, the Developer preparing a Construction Management Plan (CMP) such to be designed and implemented to manage all environmental aspects associated with the construction works, including off site impacts such as transport to and from the site. Two copies of the CMP are to be provided to the Principal Certifying Authority and the CMP is to be maintained on site during all site works and be made available to Authorised Officers upon request. The CMP is to include but not be limited to:
 - A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management.
 - A soil and water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water and groundwater. Procedures should be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment.
 - A dust management strategy incorporating the recommendations as set out in the Air Quality Assessment prepared by Northstar dated 4 August 2021, detailing procedures to minimise dust generation, with reference to control techniques and operational limits under adverse meteorological conditions.
 - A waste minimisation strategy that aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material.
 - A community relations plan that aims to inform residents and other local stakeholders of the proposed nature and timeframes for construction activities together with contact details for site management.
 - A noise management strategy detailing measures to minimise the impact of the construction phase on the amenity of the locality, in accordance with Department of Environment and Climate Change Interim Construction Noise Guideline. Noise

monitoring during the construction phase should be incorporated into the program.

24. Toilet facilities are to be available or provided at the work site before works begin and be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet is to:

- a) Be a standard flushing toilet connected to a public sewer, or
 - b) Have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
 - c) Be a temporary chemical closet approved under the *Local Government Act 1993*.
25. Building demolition is to be planned and carried out in accordance with *Australian Standard 2601:2001 - The Demolition of Structures*.
 26. A Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with *Australian Standard 2601:2001 - The Demolition of Structures*. A copy of the Hazardous Substances Management Plan is to be provided to the Council and to the demolisher prior to commencement of work.
 27. The demolition works are to be undertaken in accordance with Australian Standard 2601:2001 - The Demolition of Structures and the following requirements:
 - a) prior to commencement of demolition works a competent person shall determine the presence of hazardous substances impacted by the proposed demolition works in accordance with Section 1.6.1 of AS2601:2001 and where required produce a Hazardous Substances Management Plan
 - b) demolition works shall be conducted in accordance with any required Hazardous Substances Management Plan. A copy of the Plan shall be kept on-site for the duration of the proposed development and a copy is to be held in the possession of the landowner
 - c) the removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by the WorkCover Authority of NSW
 - d) a copy of all waste disposal receipts are to be kept in the possession of the landowner and made available to authorised Council Officers upon request
 - e) seven working days notice in writing is to be given to the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor, and
 - f) on sites where asbestos materials are to be removed, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent position during asbestos removal works.
 28. The demolisher is to ensure that all services (i.e. water, telecommunications, gas, electricity, sewerage etc), are disconnected in accordance with the relevant authority's requirements prior to demolition.

29. Any waste containers used in association with the proposed demolition are to be located on the site where possible.

Note: Where this is not feasible, an application is to be made for the approval to position the container on the adjacent public road in accordance with the Council's adopted Building Waste Container Policy.

30. At a minimum, the following measures are to be implemented during the construction phase:

- a) A waste container of at least one cubic metre capacity is to be provided, maintained and regularly serviced from the commencement of operations until the completion of the building, for the reception and storage of waste generated by the construction of the building and associated waste;
- b) The waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets;
- c) Provision is to be made to prevent windblown rubbish leaving the site; and
- d) Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

Note: Fines may be issued for pollution/littering offences under the *Protection of the Environment Operations Act 1997*.

31. A rigid and durable sign is to be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:

- a) showing the name, address and telephone number of the Principal Certifier for building work and subdivision work, and
- b) showing the name, address and telephone number of the Principal Contractor, if any, for any building work and a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and
- c) stating that unauthorised entry to the work site is prohibited, and
- d) being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, and must be removed when the work has been completed.

Note: This does not apply in relation to building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

32. All excavations and backfilling are to be executed safely and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.

33. All building materials, plant and equipment is to be placed on the site of the development, to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves, including the road reserve, is not permitted.

34. Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.
35. Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:
 - Monday to Friday, 7:00 am to 6:00 pm and
 - Saturday, 8:00 am to 1:00 pm.

No noise from construction/demolition work is to be generated on Sundays or public holidays.

36. Council's '*Prevent Pollution*' sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary, so it is clearly visible to the public, or at other locations on the site as otherwise directed by Council, for the duration of demolition and construction work.

The sign can be obtained by presenting your development application receipt at City of Newcastle's Customer Enquiry Centre, Wallsend Library or the Master Builders Association Newcastle.

37. Where the proposed development involves the destruction or disturbance of any survey monuments, those monuments affected are to be relocated, at no cost to the City of Newcastle, by a Surveyor registered under the *Surveying and Spatial Information Act 2002*.
38. Any demolition/waste building materials that are not suitable for recycling are to be disposed of at City of Newcastle's Summerhill Waste Management Facility or other approved site.
39. If construction / demolition work is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the need to enclose a public place, a hoarding or fence is to be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.
40. An application is to be made to and approved by the City of Newcastle for the erection of a hoarding or part closure of the footway prior to construction being commenced. Such overhead structure or protective fence is to comply with the *Work Health and Safety Act 2011*, *Work Health and Safety Regulation 2011* and any relevant approved industry code of practice. Notice of intention of commencement is to be given to SafeWork NSW.
41. Building work must be carried out in accordance with the requirements of the Building Code of Australia.
42. All necessary measures are to be undertaken to control dust pollution from the site. These measures are to include, but are not limited to:
 - a) Restricting topsoil removal;
 - b) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion);
 - c) Alter or cease construction work during periods of high wind; and
 - d) Erect green or black shade cloth mesh or similar products 1.8m high around the

perimeter of the site and around every level of the building under construction.

43. All external items of air conditioning plant are to be screened or positioned in such a manner as to not detract from the visual presentation of the building.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE, A SUBDIVISION CERTIFICATE OR A STRATA CERTIFICATE

44. The water management measures as indicated on the submitted plans and Statement of Environmental Effects and/or as modified under the terms of this consent are to be implemented and the nominated fixtures and appliances are to be installed and operational prior to issue of an Occupation Certificate.
45. A Maintenance Manual for all water quality devices is to be prepared in accordance with Council's Stormwater and Water Efficiency for Development Technical Manual (Updated 2013). The Maintenance Manual is to address maintenance issues concerning the water quality devices including routine monitoring and regular maintenance and be kept on site at all times. Establishment and maintenance of the water quality devices in accordance with the Maintenance Manual prepared by the applicant is to be completed prior to occupation of this site for the intended use.
46. All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a condition that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to City of Newcastle's satisfaction prior to the completion of demolition work or prior to the issue of any Occupation Certificate in respect of development involving building work.
47. A copy of the stormwater drainage design plans approved with the Construction Certificate with 'work as executed' levels indicated, shall be submitted to the Principal Certifier and to Newcastle City Council prior to the issue of an Occupation Certificate. The plans shall be prepared by a Practising Professional Engineer or Registered Surveyor experienced in the design of stormwater drainage systems.
48. A Landscape Practical Completion Report is to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications that were required to be included in documentation for a Construction Certificate application and is to verify that an effective maintenance program has been commenced.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

49. A Landscape Establishment Report is to be submitted to the City of Newcastle following completion of a twelve-month maintenance period, verifying that satisfactory maintenance of the landscape works has been undertaken and any necessary rectification measures have been carried out.
50. The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the *Protection of the Environment Operations Act 1997*.

Should City of Newcastle consider that offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification

from the said consultant, verifying that the recommended acoustic measures have been satisfactorily implemented, will be required to be submitted to City of Newcastle prior to the expiration of the nominated period.

51. The use and occupation of the premises is not to give rise to the emission of any 'air impurity' as defined under the *Protection of the Environment Operations Act 1997*, that interferes unreasonably with the amenity of neighbouring premises and/or other sensitive receivers.

Should City of Newcastle consider that unreasonable levels of air impurities have been emitted from the premises, the owner/occupier will be required to engage a suitably qualified consultant to recommend measures to control emission of air impurities to an acceptable level and such measures will be required to be implemented within a nominated time period. Furthermore, written certification from the suitably qualified consultant will be required to be submitted to City of Newcastle, confirming that air impurity emissions from the premises do not interfere unreasonably with the amenity of neighbouring premises and/or other sensitive receptors, before the expiration of the nominated period.

ADVISORY MATTERS

- For the purpose of applying the provisions of the National Construction Code for class 1, 2, 3, 4, 9a (health care) and 9c (aged care) buildings, it is advised that the proposed building is located in a Flood Hazard Area and the:
 - a) Defined Flood Level (DFL) is 4.5m Australian Height Datum (AHD)
 - b) Flood Hazard Level is 5.0m AHD (Freeboard is 500mm above DFL)
 - c) Maximum Flow Velocity of floodwaters for the Defined Flood Event is 0.1m/s
- It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.
- Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of the City of Newcastle and any other relevant authorities. City of Newcastle and other service authorities should be contacted for specific requirements prior to the commencement of any works.
- It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice (i.e. 'on-the-spot fine') or prosecution.
- Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979*, which may be subject to a penalty infringement notice (i.e. 'on-the-spot fine') or prosecution.
- A person who is aware or believes that he or she has discovered or located a relic not identified and considered in the supporting documents for this approval, in any circumstances (including where works are carried out in reliance on an exception under section 139(4)), excavation or disturbance must cease in the affected area(s) and the Heritage Council must be notified in accordance with section 146 of the *Heritage Act 1977*. Depending on the nature of the discovery, additional assessment and approval under the *Heritage Act 1977* may be required prior to the recommencement of excavation in the affected area(s).

Note: Heritage NSW can be contacted on 02 9873 8500 or heritagemailbox@environment.nsw.gov.au. A 'relic' is any deposit, object or material evidence that relates to the settlement of New South Wales, not being Aboriginal

settlement, and is of State or local significance. It is an offence under the provisions of the *Heritage Act 1977 (NSW)* for a person to disturb or excavate any land upon which the person has discovered a relic except in accordance with a gazetted exception or an excavation permit issued by the Heritage Council of NSW.

- If any Aboriginal objects are discovered which are not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be notified in accordance with section 89A of the *National Parks and Wildlife Act 1974* (NPW Act). Depending on the nature of the discovery, additional assessment and approval under the NPW Act may be required prior to works continuing in the affected area(s). Aboriginal objects in NSW are protected under the NPW Act. Unless the objects are subject to a valid Aboriginal Heritage Impact Permit, work must not recommence until approval to do so has been provided by Heritage NSW.

Note: Heritage NSW can be contacted on 02 9873 8500 or heritagemailbox@environment.nsw.gov.au. An 'Aboriginal object' is any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains. It is an offence under the provisions of the *National Parks and Wildlife Act 1974* (NPW Act) for a person to harm or desecrate an Aboriginal object, with defence from prosecution and certain activities exempt as prescribed under the NPW Act.

- Prior to commencing any building works, the following provisions of Division 6.2 of the Environmental Planning and Assessment Act 1979 are to be complied with:
 - a) A Construction Certificate is to be obtained; and
 - c) A Principal Certifier is to be appointed for the building works and Newcastle City Council is to be notified of the appointment; and
 - d) Newcastle City Council is to be given at least two days notice of the date intended for commencement of building works.
- A Construction Certificate application for this project is to include a list of fire safety measures proposed to be installed in the building and/or on the land and include a separate list of any fire safety measures that already exist at the premises. The lists are to describe the extent, capability and basis of design of each of the measures.
- Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifier appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Section 37 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* (NSW).
- A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of Fire and Rescue NSW and a further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
- An annual Fire Safety Statement in the form described in Section 88 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* (NSW) is to be submitted to Newcastle City Council and a copy (together with a copy of the current fire safety schedule) is to be given to the Commissioner of Fire and Rescue NSW. A further copy of the Statement (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

END OF CONDITIONS

SCHEDULE 2

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; *Newcastle Local Environmental Plan 2012* (NLEP) and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012 (NDCP).
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- Confirm and clarify the terms of Council's determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 35 ADDISON STREET BERESFIELD –
DA2022/01100 - DEMOLITION OF STRUCTURES AND ERECTION OF
NEW FROZEN FOOD STORAGE BUILDING**

Item 7.5 Attachment C Processing Chronology

DISTRIBUTED UNDER SEPARATE COVER

PROCESSING CHRONOLOGY

DA2022/0110 – 35 Addison Street Beresfield

6 October 2022	-	Application lodged
7 October 2022		External referrals commenced: NSW Environment Protection Authority and Transport for NSW
12 to 26 October 2022	-	Application notified in accordance with CN's Community Participation Plan (CPP)
24 October 2022	-	Transport for NSW referral received
23 November 2022	-	NSW Environment Protection Authority referral received



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 35 ADDISON STREET BERESFIELD –
DA2022/01100 - DEMOLITION OF STRUCTURES AND ERECTION OF
NEW FROZEN FOOD STORAGE BUILDING**

Item 7.5 Attachment D: Advice of the NSW Environmental Protection
 Authority

DISTRIBUTED UNDER SEPARATE COVER



Our ref:DOC22/1031855

Newcastle City Council
Via: NSW Planning Portal
And via Email

23 November 2022

Dear Mr Jaeger

**Comment on planning proposal – CNR-47141 – Steggles Poultry (NSW) Pty Ltd
Environment Protection Licence 1329 – 35 Addison Street, Beresfield NSW 2322**

Reference is made to the planning referral which the Environment Protection Authority (EPA) received via the NSW Planning Portal on 20 October 2022 (ref CNR-47141) regarding a proposal for replacement of a frozen store by Steggles Food, at 35 Addison Street, Beresfield.

The EPA has issued Environment Protection Licence 1329 (the Licence) to Bartter Enterprises Pty Limited to carry out agricultural processing and livestock (poultry) processing at Hawthorne St, Beresfield, also known as 35 Addison Street, Beresfield.

The EPA has reviewed the Statement of Environmental Effects for the proposal dated 27 September 2022, prepared by PSA Consulting Australia, and understands the frozen store will not result in additional refrigeration compressors and therefore no additional noise from the proposal. The EPA has no objection to the proposal; however the EPA reminds the applicant that the conditions of the Licence apply at all times, in particular relating to noise. The applicant also needs to abide by the NSW Noise Policy for Industry.

If you have any questions about this matter, please contact Melissa Moore

PETER JAMIESON
Unit Head - Regulatory Operations
Environment Protection Authority



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 35 ADDISON STREET BERESFIELD –
DA2022/01100 - DEMOLITION OF STRUCTURES AND ERECTION OF
NEW FROZEN FOOD STORAGE BUILDING**

Item 7.5 **Attachment E:** Applicants' response to Schedule 3 Clause 48 of
the EP&A Regulations

DISTRIBUTED UNDER SEPARATE COVER

Attachment E- Applicants response to CI 48 – '*Alterations or additions to existing or approved development*' of Schedule 3 of the *Environmental Planning & Assessment Regulations, 2021*

Table 2: Assessment against the matters about whether the development is designated or not

MATTERS FOR CONSIDERATION	RESPONSE
<i>(2) In forming its opinion, a consent authority must consider the following —</i>	
<i>(a) the impact of the existing development, including the following —</i>	
<i>(i) previous environmental management performance, including compliance with the conditions of any consents, licences, leases or authorisations by a public authority and compliance with any relevant codes of practice,</i>	The site was acquired by Baiada Poultry in 2006. Since acquisition, Baiada has implemented a comprehensive environmental management regime which achieved ISO14001 Certification in 2008. This performance standard is maintained by compliance with the Environmental Operations Control Manual, bi-annual internal audits and annual external audits. As such, the site is considered to have a high standard of environmental control, management, monitoring and reporting.
<i>(ii) rehabilitation or restoration of any disturbed land,</i>	Poultry processing and related operations have been occurring on the site for over 60 years. Works have been largely contained within the broader development footprint generally defined by the waste water treatment plant, access roads and rail line. Where development has occurred, it is typically still in operation and as such, there is minimal areas of disturbance outside of the development footprint. Areas not utilised for development are maintained to a high standard with significant areas of boundary planting between the site and the Beresfield Urban Area.
<i>(iii) the number and nature of all past changes and their cumulative effects,</i>	As outlined above, poultry processing operations have occurred on the site for over 60 years. Since commencement, there have been numerous Development Consents issued by Council for additions, changes, extensions and upgrades culminating in the extent of the current operation. It is important to note that not all of these changes have been made to a component of the site classified as designated development. Cumulative impacts associated with new development at the site have been appropriately assessed and considered where necessary.
<i>(b) the likely impact of the proposed alterations or additions, including the following —</i>	
<i>(i) the scale, character or nature of the proposal in relation to the development,</i>	With respect to character, the proposed frozen store is located centrally on the greater Beresfield site, which accommodates a range of co-located industrial activities broadly associated with poultry production. The building will have a maximum building height of 15m above the ground level, which is commensurate with the existing building and well below the height of the adjoining feed mill and grain storage silos (25m). The nearest residents are located approximately 280m away (within Beresfield) where views of the facility will be entirely obscured by the boundary tree planting and other

MATTERS FOR CONSIDERATION	RESPONSE
	<p>buildings on the site. The existing built form on the site and the existing vegetated buffer, it is unlikely that the proposed frozen store will be visible from the residential area.</p> <p>With respect to the scale of the operations, the proposed frozen store will replace the existing frozen store at Steggles Foods and:</p> <ul style="list-style-type: none"> • will not change production volumes or alter operations at the Steggles Food (with the exception of modernising and improving finished product handling and distribution practices); • will not alter production volumes or processing operations at the livestock processing industry (abattoir) which is listed as designated development; • will not alter production volumes or milling operations at the feed mill (agricultural produce industry) which is listed as designated development; • will not change the number of employees on-site; • will have a minimal / negligible impact on water use, wastewater production, air and odour emissions; • result in no increase in the number of heavy vehicles to the site; and • will improve existing operations by replacing a smaller and older frozen store with a new, modern, purpose-built facility that optimise loading and unloading. <p>Please refer to Appendix 1 which includes plans of existing and proposed development.</p>
<p><i>(ii) the existing vegetation, air, noise and water quality, scenic character and special features of the land on which the development is, or will be, carried out and the surrounding locality,</i></p>	<p>The proposed frozen store is located centrally on the greater Beresfield site, which accommodates a range of co-located industrial activities broadly associated with poultry production. The development area itself is currently used as hardstand and storage. As such, the project will have negligible direct impacts on an area of special scenic character or features.</p> <p>As noted above, the building will be of a similar height and industrial scale to the existing development.</p> <p>The nearest residents are located approximately 280m away (within Beresfield) where views of the facility will be entirely obscured by the boundary tree planting and other buildings on the site. The distance to the facility from these areas, combined with the scale and nature of the surrounding industrial activities are considered to assist in minimising the potential visual impact on the development. Between the existing built form on the site and the existing vegetated buffer, it is not expected that the proposed frozen store will be visible from the residential area.</p> <p>As outlined below, and in the submitted statement of environmental effects, the proposed development is expected to result in negligible change to the existing environmental impacts of the site and to comply with all relevant environmental assessment standards.</p>
<p><i>(iii) the degree to which the potential environmental impacts can be predicted with adequate certainty,</i></p>	<p>Given that the proposed development is for a frozen store to be located centrally with the larger Beresfield industrial site and that it will replace the existing facility, the potential for environmental impacts can be predicted with a high level of certainty.</p>
<p><i>(iv) the capacity of the receiving environment to accommodate changes in environmental impacts,</i></p>	<p>The proposed development will support the existing Steggles Foods facility and will result in minimal impact on the receiving environment compared to the current operations on the site.</p>
<p><i>(c) proposals to mitigate the environmental impacts and manage residual risk,</i></p>	
	<p>Where any potential environmental impacts are identified, appropriate mitigation and</p>

MATTERS FOR CONSIDERATION	RESPONSE
	<p>management actions can be built into the design.</p> <p>Further, the existing activities on site operate in accordance with the current Environmental Protection Licence and the site's Environmental Operational Control Manual which will also apply to the new frozen store.</p>
<p><i>(d) proposals to facilitate compliance with relevant standards, codes of practice or guidelines published by the Department or other public authorities.</i></p>	
	<p>The current operation and management of the site is in accordance with the current Environmental Protection Licence and site's Environmental Operational Control Manual. The new frozen store will be operated in accordance with the approval conditions and the site's Environmental Operational Control Manual. All new work proposed as part of this development will be undertaken in accordance with current Council and best practice standards.</p>



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 111 DAWSON STREET COOKS HILL –
DA2022/00936 - DWELLING HOUSE - ALTERATIONS AND
ADDITIONS INCLUDING DEMOLITION**

- | | | |
|------------|----------------------|------------------------------|
| 7.6 | Attachment A: | Submitted Plans |
| 7.6 | Attachment B: | Draft Schedule of Conditions |
| 7.6 | Attachment C: | Processing Chronology |

DISTRIBUTED UNDER SEPARATE COVER



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 111 DAWSON STREET COOKS HILL –
DA2022/00936 - DWELLING HOUSE - ALTERATIONS AND
ADDITIONS INCLUDING DEMOLITION**

Item 7.6 Attachment A: Submitted Plans

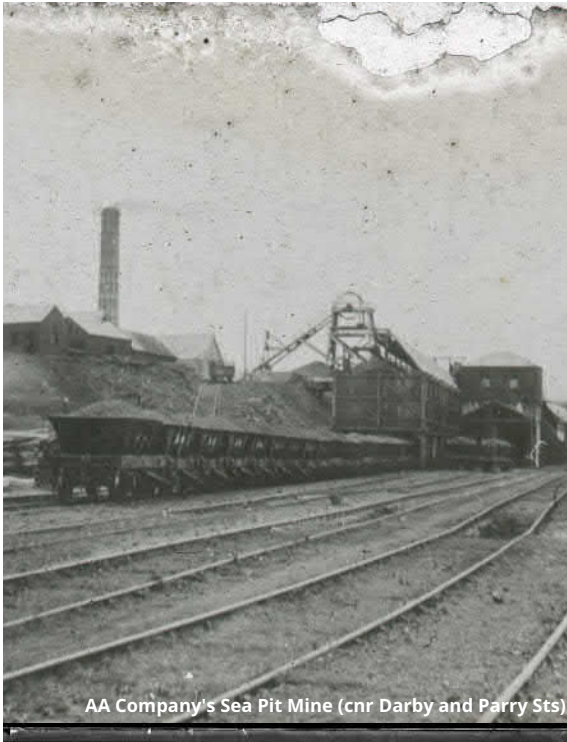
DISTRIBUTED UNDER SEPARATE COVER

DAWSON STREET ALTS & ADDS

111 DAWSON STREET, COOKS HILL NSW 2300
LOT 101/ DP 557432
Cathal O'REILLY

DRAWING LIST

DD	DRAWING REGISTER
DD	TRANSMITTAL
DD000	COVER PAGE
DD001	BASIX COMMITMENTS
DD002	3D PERSPECTIVES - SIDE
DD003	3D PERSPECTIVES - REAR
DD004	3D PERSPECTIVES - KITCHEN
DD005	3D PERSPECTIVES - EXT'G GARAGE ...
DD006	3D PERSPECTIVES - GARAGE
DD007	3D PERSPECTIVES - STREET VIEW
DD100	SITE ANALYSIS PLAN
DD200	EXISITING DEMOLITION FLOOR ...
DD201	FLOOR PLANS
DD202	ROOF / SITE PLAN
DD300	ELEVATIONS - SHEET 1
DD301	ELEVATIONS - SHEET 2
DD302	ELEVATIONS - SHEET 3
DD303	ELEVATIONS - SHEET 4
DD400	SECTION
DD500	SHADOW DIAGRAMS 0900h
DD501	SHADOW DIAGRAMS 1200h
DD502	SHADOW DIAGRAMS 1500h
DD600	WINDOW AND GLAZED DOOR SCH...
DD601	NOTIFICATION PLAN



Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
P:\2021\2021-170 Dawson Street Alts & Adds\02 Drawings\02_b Working Files\2021-170_Dawson Street_DA.pln

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST, THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
08	DA ISSUE	HL		11/08/2022
09	RFI	LH	KR	6/10/2022
10	RFI	KR	KR	18/11/2022
11	RFI	KR	KR	1/02/2023
12	RFI	KR	KR	15/02/2023

PROJECT
DAWSON STREET ALTS
& ADDS

CLIENT
Cathal O'REILLY

DRAWING
COVER PAGE

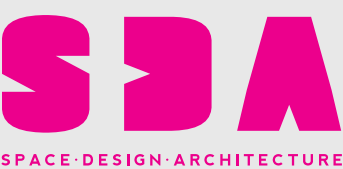
PROJECT NO.
2021-170

LOCATION
111 DAWSON STREET, COOKS HILL NSW
2300

DRAWING NO.
DD000

ISSUE NO.
12

SCALE
@A3



BASIX COMMITMENTS

BASIX®Certificate

Building Sustainability Index www.basix.nsw.gov.au

Alterations and Additions

Certificate number: A467537

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

Secretary
Date of issue: Thursday, 21, July 2022
To be valid, this certificate must be lodged within 3 months of the date of issue.



Description of project

Project address	
Project name	Dawson Street Alts & Adds
Street address	111 DAWSON Street COOKS HILL 2300
Local Government Area	Newcastle City Council
Plan type and number	Deposited Plan 557432
Lot number	101
Section number	
Project type	
Dwelling type	Attached dwelling house
Type of alteration and addition	My renovation work is valued at \$50,000 or more, and does not include a pool (and/or spa).

Certificate Prepared by (please complete before submitting to Council or PCA)
Name / Company Name: SDA
ABN (if applicable): 87909725472

Fixtures and systems	Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
Hot water			
The applicant must install the following hot water system in the development: gas instantaneous.	✓	✓	✓
Lighting			
The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.		✓	✓
Fixtures			
The applicant must ensure new or altered 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.		✓	
Construction	Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
Insulation requirements			
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 2m2, b) insulation specified is not required for parts of altered construction where insulation already exists.	✓	✓	✓
Construction	Additional insulation required (R-value)	Other specifications	
concrete slab on ground floor.	nil		
suspended floor with enclosed subfloor: framed (R0.7).	R0.60 (down) (or R1.30 including construction)		
floor above existing dwelling or building.	nil		
external wall: brick veneer	R1.16 (or R1.70 including construction)		
external wall: framed (weatherboard, fibro, metal clad)	R1.30 (or R1.70 including construction)		
internal wall shared with garage: plasterboard (R0.36)	nil		
flat ceiling, pitched roof	ceiling: R1.95 (up), roof: foil backed blanket (55 mm)	dark (solar absorptance > 0.70)	
flat ceiling, flat roof: framed	ceiling: R2.08 (up), roof: foil backed blanket (55 mm)	dark (solar absorptance > 0.70)	

Glazing requirements	Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check			
Windows and glazed doors						
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.		✓	✓			
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.	✓	✓	✓			
For projections described as a ratio, the ratio of the projection from the wall to the height above the window or glazed door sill must be at least that shown in the table below.	✓	✓	✓			
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.	✓	✓	✓			
Windows and glazed doors glazing requirements						
Window / door no.	Orientation	Area of glass inc. frame (m2)	Overshadowing Height (m) Distance (m)	Shading device	Frame and glass type	
W01	SE	2.1	2	0.2	projection/height above sill ratio >=0.43	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W02	SE	1.86	0	0	eave/verandah/pergola/balcony >=900 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)

Glazing requirements							Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
Window / door no.	Orientation	Area of glass inc. frame (m2)	Overshadowing Height (m)	Distance (m)	Shading device	Frame and glass type			
W03	NW	1.65	0	0	external louvre/blind (fixed)	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)			
W101	SE	1.36	0	0	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)			
W102	SE	1.36	0	0	projection/height above sill ratio >=0.23	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)			
W103	SE	2.7	0	0	projection/height above sill ratio >=0.29	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)			
GD01	SE	7.44	0	0	projection/height above sill ratio >=0.43	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)			
Glazed roofs									
The applicant must install the glazed roofs described in the table below, in accordance with the specifications listed in the table.							✓	✓	✓
The following requirements must also be satisfied in relation to each glazed roof:								✓	✓
Glazed roofs glazing requirements									
Glazed roof number	Area of glazing (m2)	Shading device			Glass type				
G1	3.77	no shading			timber or uPVC, toned/air gap/clear, (U-value: 3.64, SHGC: 0.42)				

Legend
In these commitments, "applicant" means the person carrying out the development.
Commitments identified with a "✓" in the "Show on DA plans" column must be shown on the plans accompanying the development application for the proposed development (if a development application is to be lodged for the proposed development).
Commitments identified with a "✓" in the "Show on CC/CDC plans & specs" column must be shown in the plans and specifications accompanying the application for a construction certificate / complying development certificate for the proposed development.
Commitments identified with a "✓" in the "Certifier check" column must be certified by a certifying authority as having been fulfilled, before a final occupation certificate for the development may be issued.

Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
P:\2021\2021-170 Dawson Street Alts & Adds\02 Drawings\02_b Working Files\2021-170_Dawson Street_DA.pln

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST, THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
08	DA ISSUE	HL		11/08/2022
09	RFI	LH	KR	6/10/2022
10	RFI	KR	KR	18/11/2022
11	RFI	KR		1/02/2023
12	RFI	KR	KR	15/02/2023

PROJECT
DAWSON STREET ALTS
&ADDS

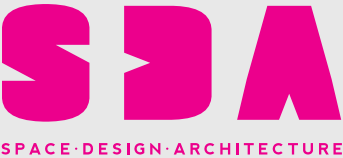
CLIENT
Cathal O'REILLY

DRAWING
BASIX COMMITMENTS

PROJECT NO.
2021-170

LOCATION
111 DAWSON STREET, COOKS HILL NSW
2300

DRAWING NO. DD001
ISSUE NO. 12
SCALE @A3



SUN SHADING TO BEDROOM WINDOW

OLD AND NEW CLEARLY DEFINED



P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST, THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
08	DA ISSUE	HL	KR	11/08/2022
09	RFI	LH	KR	6/10/2022
10	RFI	KR	KR	18/11/2022
11	RFI	KR	KR	1/02/2023
12	RFI	KR	KR	15/02/2023

PROJECT
DAWSON STREET ALTS
& ADDS

CLIENT
Cathal O'REILLY

DRAWING
3D PERSPECTIVES - SIDE

PROJECT NO.
2021-170

LOCATION
111 DAWSON STREET, COOKS HILL NSW
2300

DRAWING NO. DD002
ISSUE NO. 12
SCALE @A3



P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST, THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
08	DA ISSUE	HL		11/08/2022
09	RFI	LH	KR	6/10/2022
10	RFI	KR	KR	18/11/2022
11	RFI	KR	KR	1/02/2023
12	RFI	KR	KR	15/02/2023

PROJECT
DAWSON STREET ALTS
& ADDS

CLIENT
Cathal O'REILLY

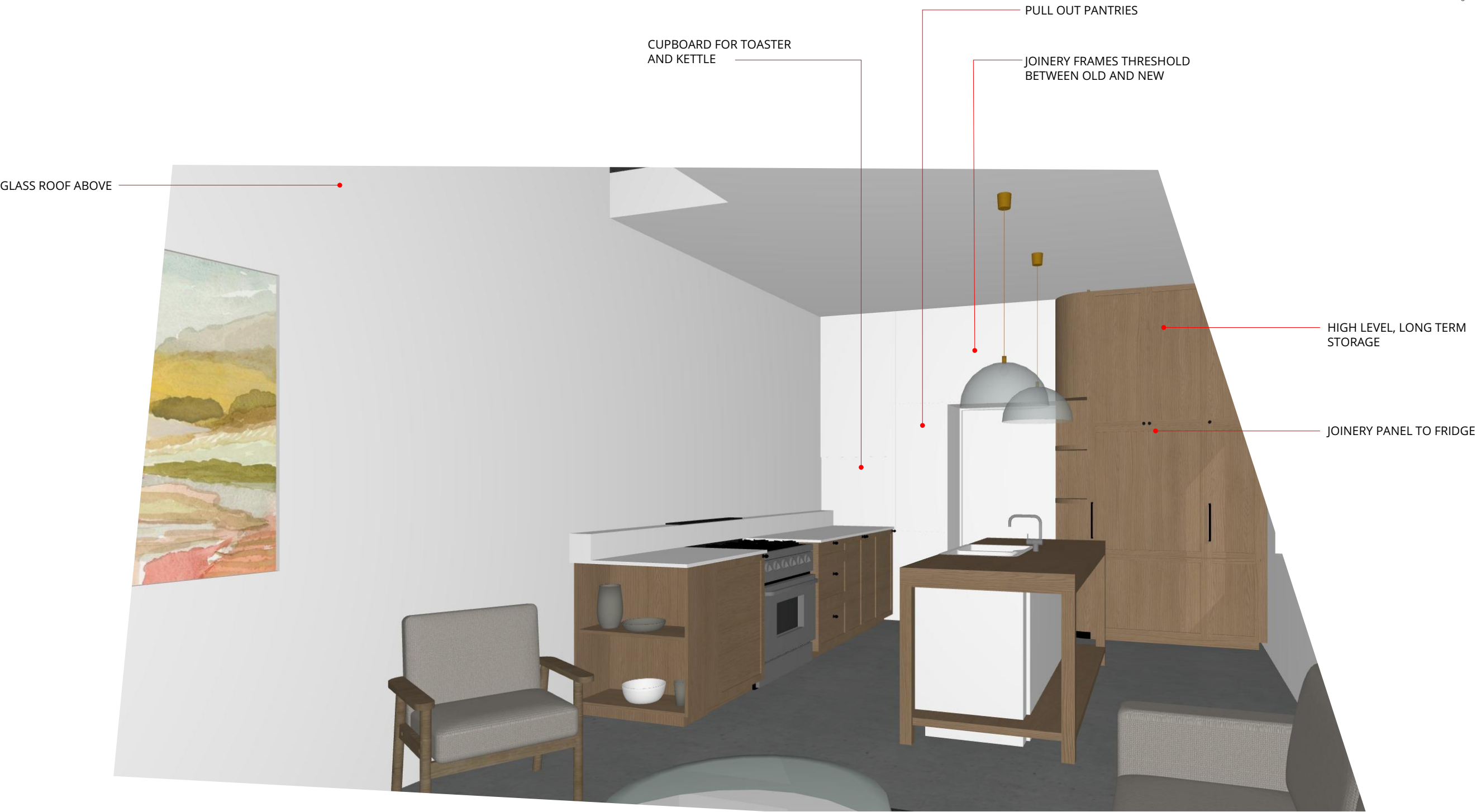
DRAWING
3D PERSPECTIVES - REAR

PROJECT NO.
2021-170

LOCATION
111 DAWSON STREET, COOKS HILL NSW
2300

DRAWING NO. DD003
ISSUE NO. 12
SCALE @A3





P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST, THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
08	DA ISSUE	HL		11/08/2022
09	RFI	LH	KR	6/10/2022
10	RFI	KR	KR	18/11/2022
11	RFI	KR	KR	1/02/2023
12	RFI	KR	KR	15/02/2023

PROJECT
DAWSON STREET ALTS
& ADDS
CLIENT
Cathal O'REILLY

DRAWING
3D PERSPECTIVES -
KITCHEN
PROJECT NO.
2021-170

LOCATION
111 DAWSON STREET, COOKS HILL NSW
2300
DRAWING NO.
DD004
ISSUE NO.
12
SCALE
@A3



P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST, THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
08	DA ISSUE	HL		11/08/2022
09	RFI	LH	KR	6/10/2022
10	RFI	KR	KR	18/11/2022
11	RFI	KR	KR	1/02/2023
12	RFI	KR	KR	15/02/2023

PROJECT
DAWSON STREET ALTS
& ADDS

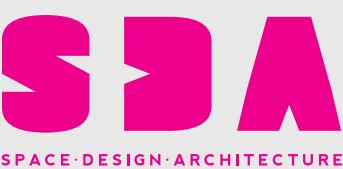
CLIENT
Cathal O'REILLY

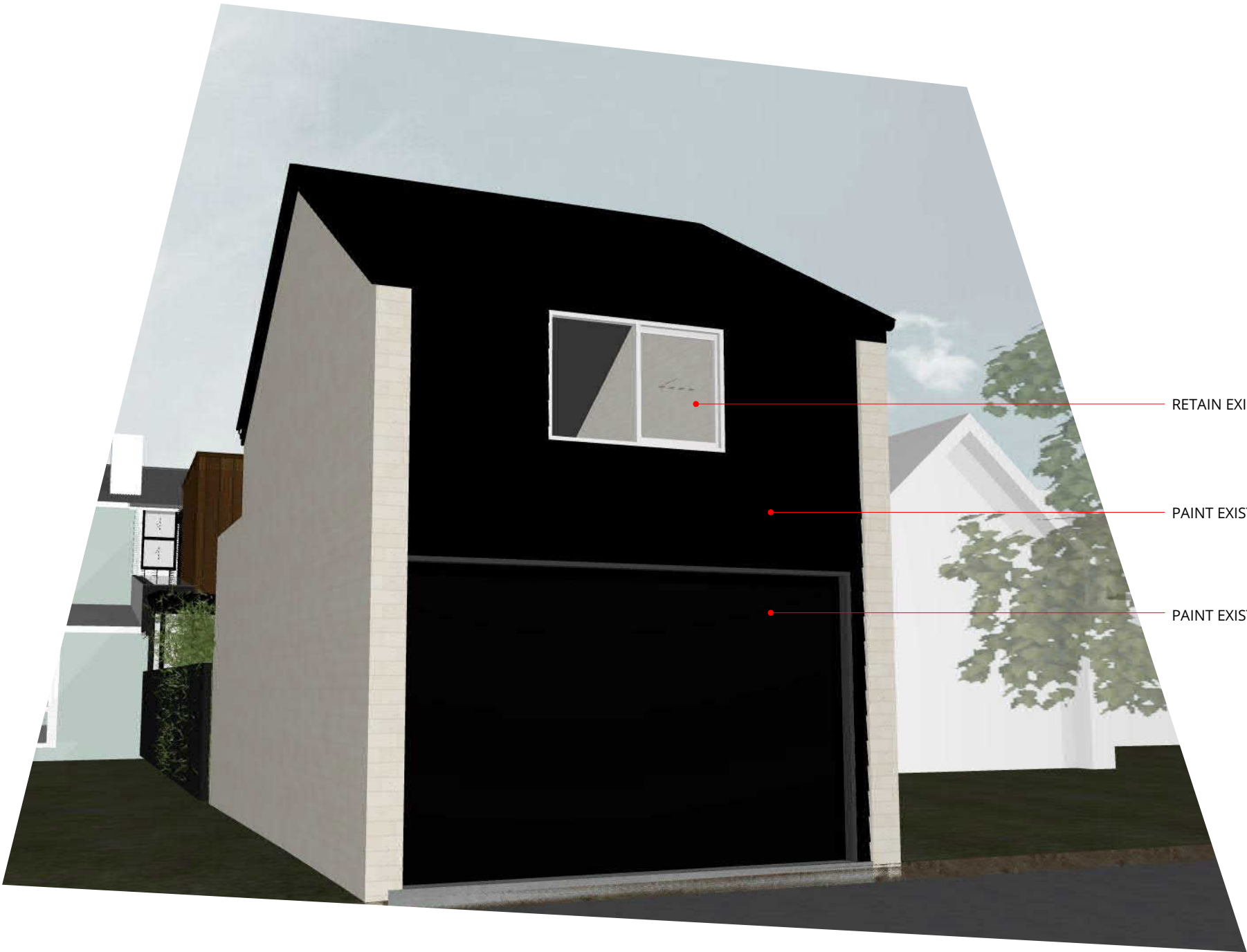
DRAWING
3D PERSPECTIVES - EXT'G
GARAGE FROM HOUSE

PROJECT NO.
2021-170

LOCATION
111 DAWSON STREET, COOKS HILL NSW
2300

DRAWING NO. DD005
ISSUE NO. 12
SCALE @A3





RETAIN EXISTING WINDOW

PAINT EXISTING WEATHERBOARDS

PAINT EXISTING ROLLER DOOR

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST, THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
08	DA ISSUE	HL		11/08/2022
09	RFI	LH	KR	6/10/2022
10	RFI	KR	KR	18/11/2022
11	RFI	KR	KR	1/02/2023
12	RFI	KR	KR	15/02/2023

PROJECT
DAWSON STREET ALTS
& ADDS

CLIENT
Cathal O'REILLY

DRAWING
3D PERSPECTIVES -
GARAGE

PROJECT NO.
2021-170

LOCATION
111 DAWSON STREET, COOKS HILL NSW
2300

DRAWING NO. DD006
ISSUE NO. 12
SCALE @A3



STREET VIEW EXISTING



STREET VIEW PROPOSED

255
Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
P:\2021\2021-170 Dawson Street Alts & Adds\02 Drawings\02_b Working Files\2021-170_Dawson Street_DA.pln

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST, THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
08	DA ISSUE	HL		11/08/2022
09	RFI	LH	KR	6/10/2022
10	RFI	KR	KR	18/11/2022
11	RFI	KR	KR	1/02/2023
12	RFI	KR	KR	15/02/2023

PROJECT
DAWSON STREET ALTS
& ADDS

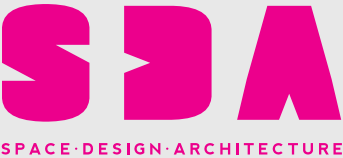
CLIENT
Cathal O'REILLY

DRAWING
3D PERSPECTIVES -
STREET VIEW

PROJECT NO.
2021-170

LOCATION
111 DAWSON STREET, COOKS HILL NSW
2300

DRAWING NO. DD007
ISSUE NO. 12
SCALE @A3





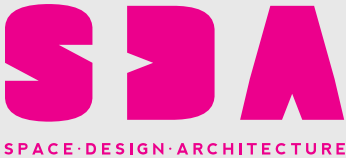
P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST, THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
08	DA ISSUE	HL		11/08/2022
09	RFI	LH	KR	6/10/2022
10	RFI	KR	KR	18/11/2022
11	RFI	KR	KR	1/02/2023
12	RFI	KR	KR	15/02/2023

PROJECT
DAWSON STREET ALTS
& ADDS
CLIENT
Cathal O'REILLY

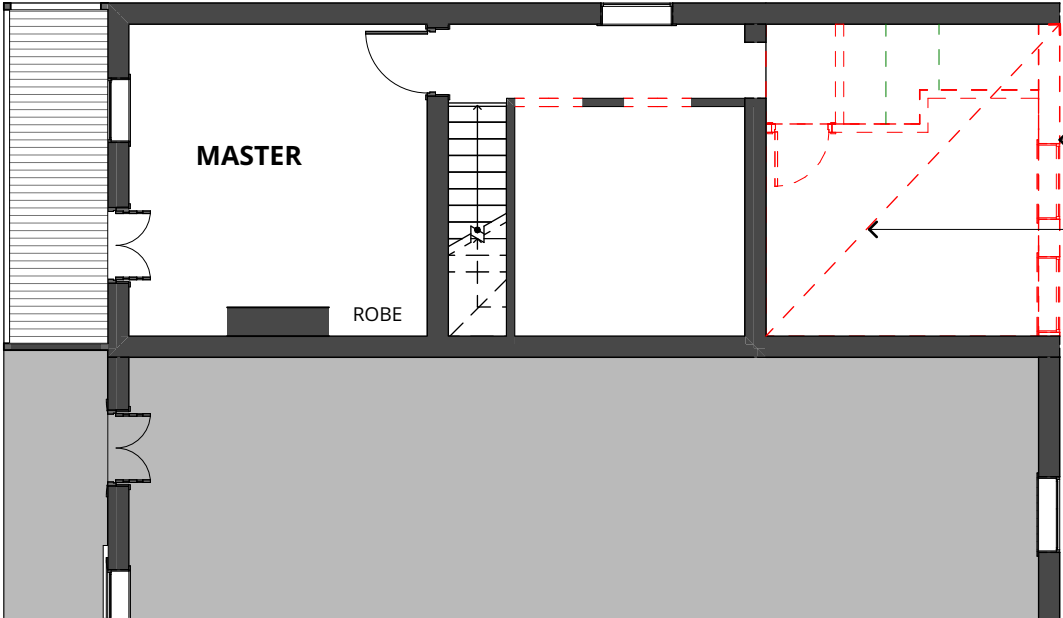
DRAWING
SITE ANALYSIS PLAN
PROJECT NO.
2021-170

LOCATION
111 DAWSON STREET, COOKS HILL NSW
2300
DRAWING NO.
DD100
ISSUE NO.
12
SCALE
@A3

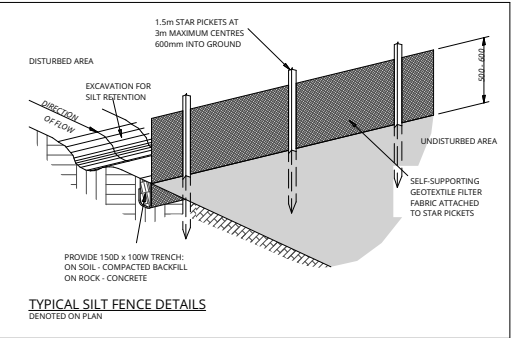
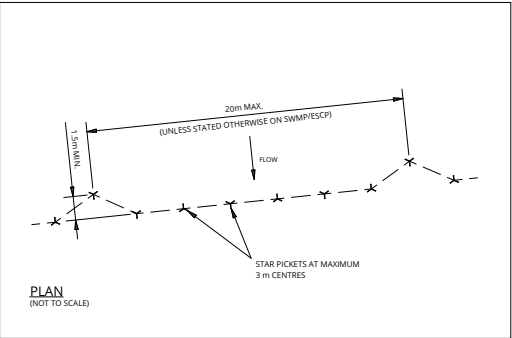


GRAPHIC LEGEND

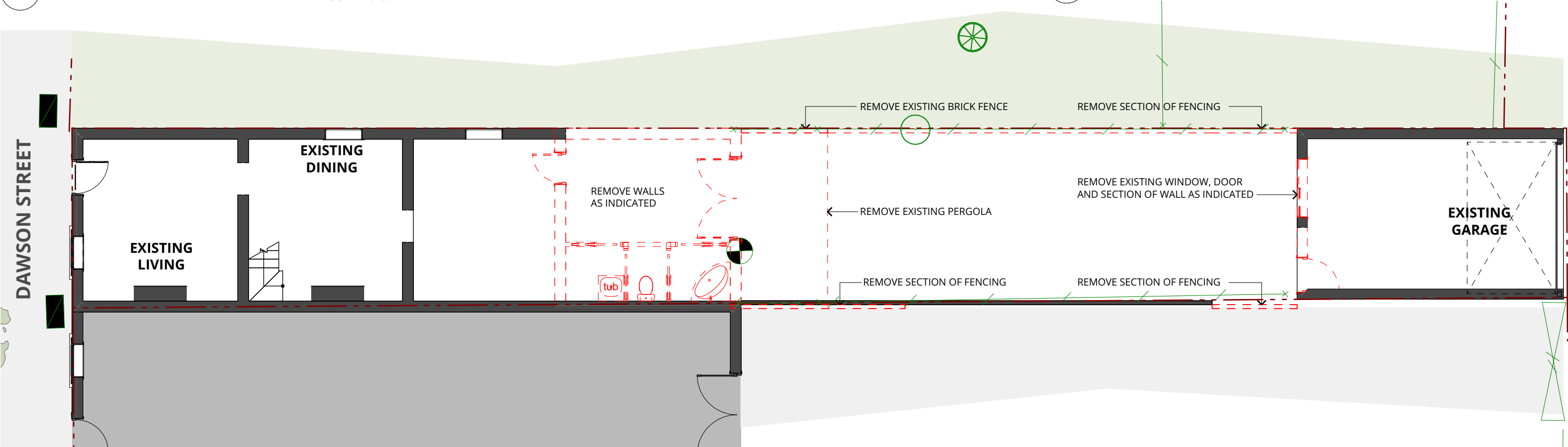
- EXISTING WALLS
- EXISTING TO BE DEMOLISHED



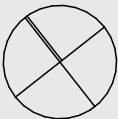
DEMOLITION PLAN - FIRST FLOOR
SCALE 1:100



SEDIMENT CONTROL PLAN



DEMOLITION PLAN - GROUND FLOOR
SCALE 1:100



P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST, THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
08	DA ISSUE	HL		11/08/2022
09	RFI	LH	KR	6/10/2022
10	RFI	KR	KR	18/11/2022
11	RFI	KR	KR	1/02/2023
12	RFI	KR	KR	15/02/2023

PROJECT
DAWSON STREET ALTS
& ADDS
CLIENT
Cathal O'REILLY

DRAWING
EXISTING | DEMOLITION
FLOOR PLAN
PROJECT NO.
2021-170

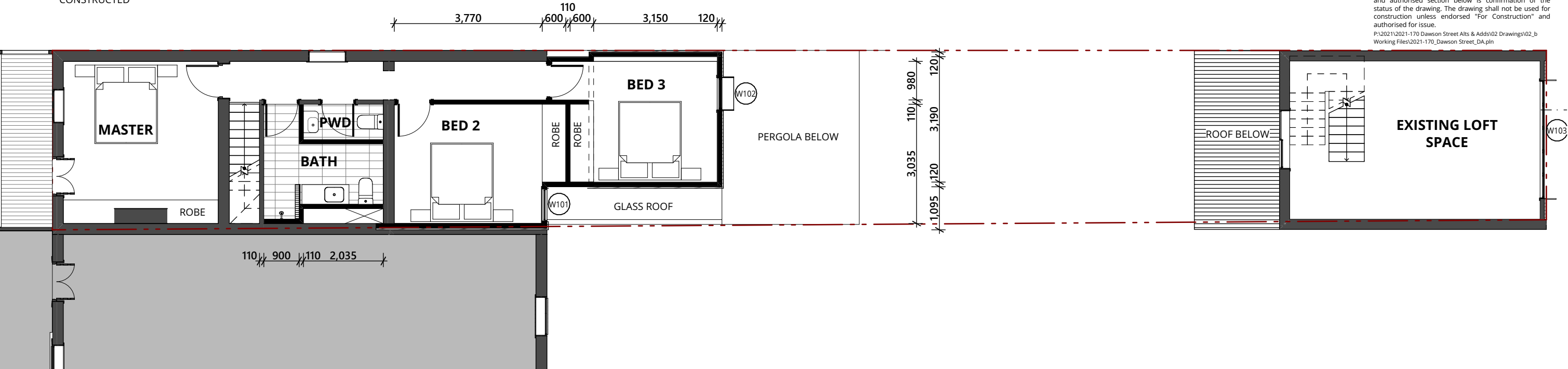
LOCATION
111 DAWSON STREET, COOKS HILL NSW
2300
DRAWING NO.
DD200
ISSUE NO.
12
SCALE
1:100@A3



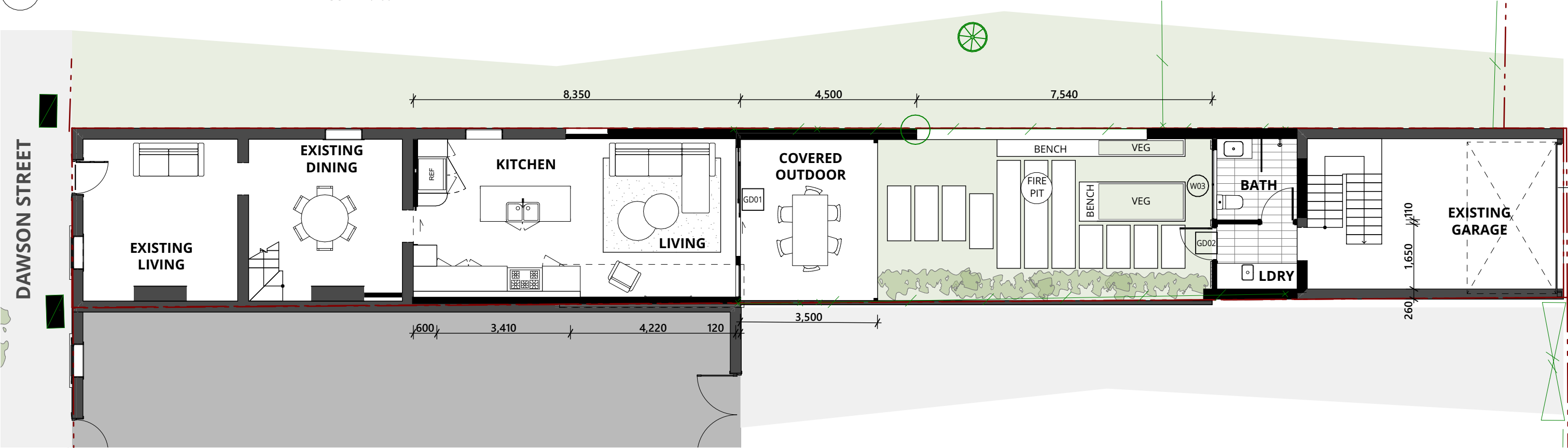
GRAPHIC LEGEND

EXISTING WALLS

NEW WALLS TO BE CONSTRUCTED

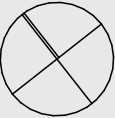


FIRST FLOOR PLAN
SCALE 1:100



GROUND FLOOR PLAN
SCALE 1:100

258
Information contained in this drawing is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
P:\2021\2021-170 Dawson Street Alts & Adds\02 Drawings\02_b Working Files\2021-170_Dawson Street_DA.pln



P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST, THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
08	DA ISSUE	HL		11/08/2022
09	RFI	LH	KR	6/10/2022
10	RFI	KR	KR	18/11/2022
11	RFI	KR	KR	1/02/2023
12	RFI	KR	KR	15/02/2023

PROJECT
DAWSON STREET ALTS
& ADDS

CLIENT
Cathal O'REILLY

DRAWING
FLOOR PLANS
& ADDS

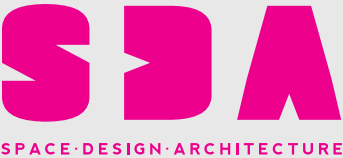
PROJECT NO.
2021-170

LOCATION
111 DAWSON STREET, COOKS HILL NSW
2300

DRAWING NO.
DD201

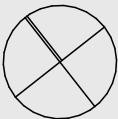
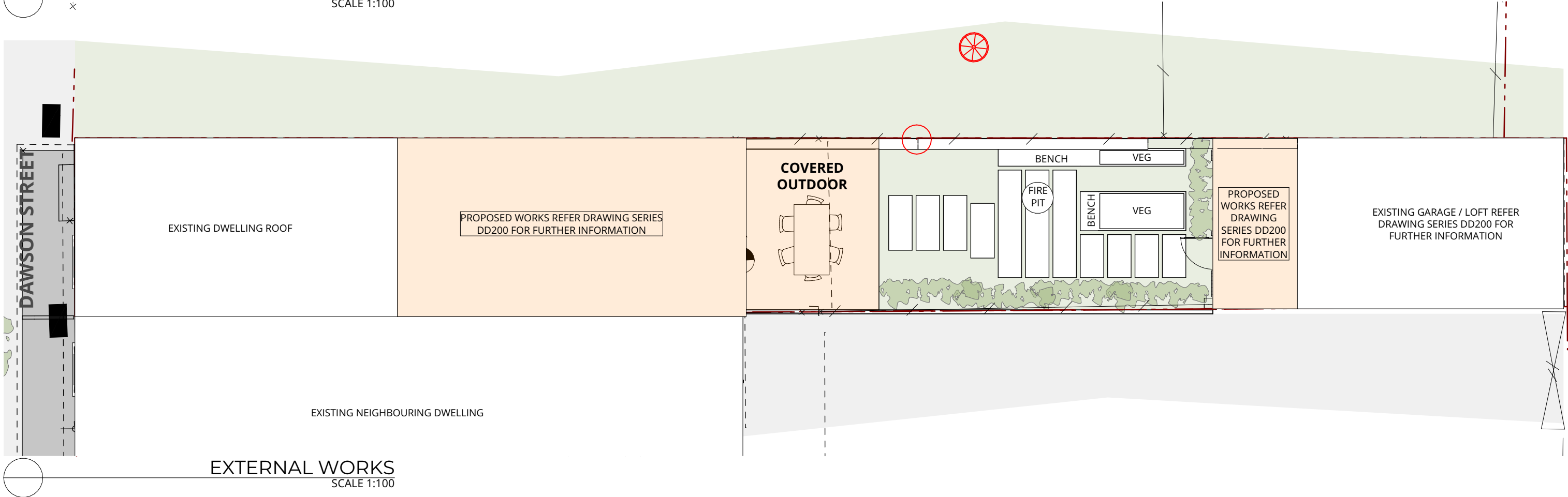
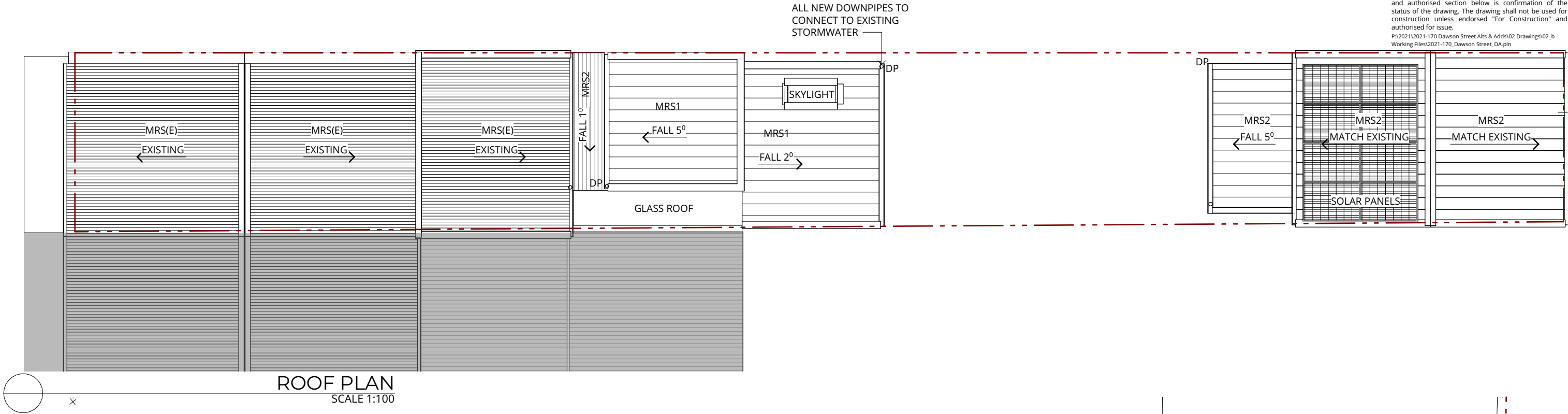
ISSUE NO.
12

SCALE
1:100@A3



LEGEND
DP - DOWNSPIPE
MRS1 - METAL ROOF SHEETING - TYPE 1
MRS2 - METAL ROOF SHEETING - TYPE 2
MRS(E) METAL ROOF SHEETING - EXISTING

Information contained in this drawing is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
P:\2021\2021-170 Dawson Street Alts & Adds\02 Drawings\02_b Working Files\2021-170_Dawson Street_DA.pln



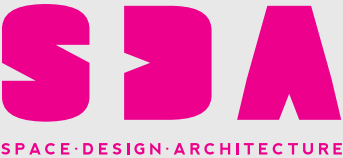
P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST, THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
08	DA ISSUE	HL		11/08/2022
09	RFI	LH	KR	6/10/2022
10	RFI	KR	KR	18/11/2022
11	RFI	KR	KR	1/02/2023
12	RFI	KR	KR	15/02/2023

PROJECT
DAWSON STREET ALTS
& ADDS
CLIENT
Cathal O'REILLY

DRAWING
ROOF / SITE PLAN
PROJECT NO.
2021-170

LOCATION
111 DAWSON STREET, COOKS HILL NSW
2300
DRAWING NO.
DD202
ISSUE NO.
12
SCALE
1:100@A3



SCHEDULE OF MATERIALS

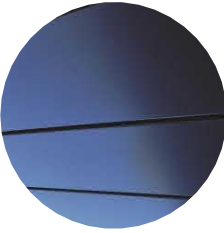
LWC1 | MRS1
OPTION 01
STANDING SEAM ZINC
COLOUR: RED



FB + EXT'G GARAGE
PAINTED BRICKWORK
WARM WHITE



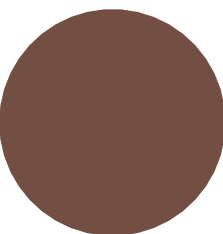
LWC2
LYSAGHT DOMINION
COLOUR: NIGHT SKY



WINDOW
BLACK FRAME WITH HEKA
HOOD WHERE NOTED



LWC1 | MRS1
OPTION 02
COLORBOND
COLOUR: TERRAIN

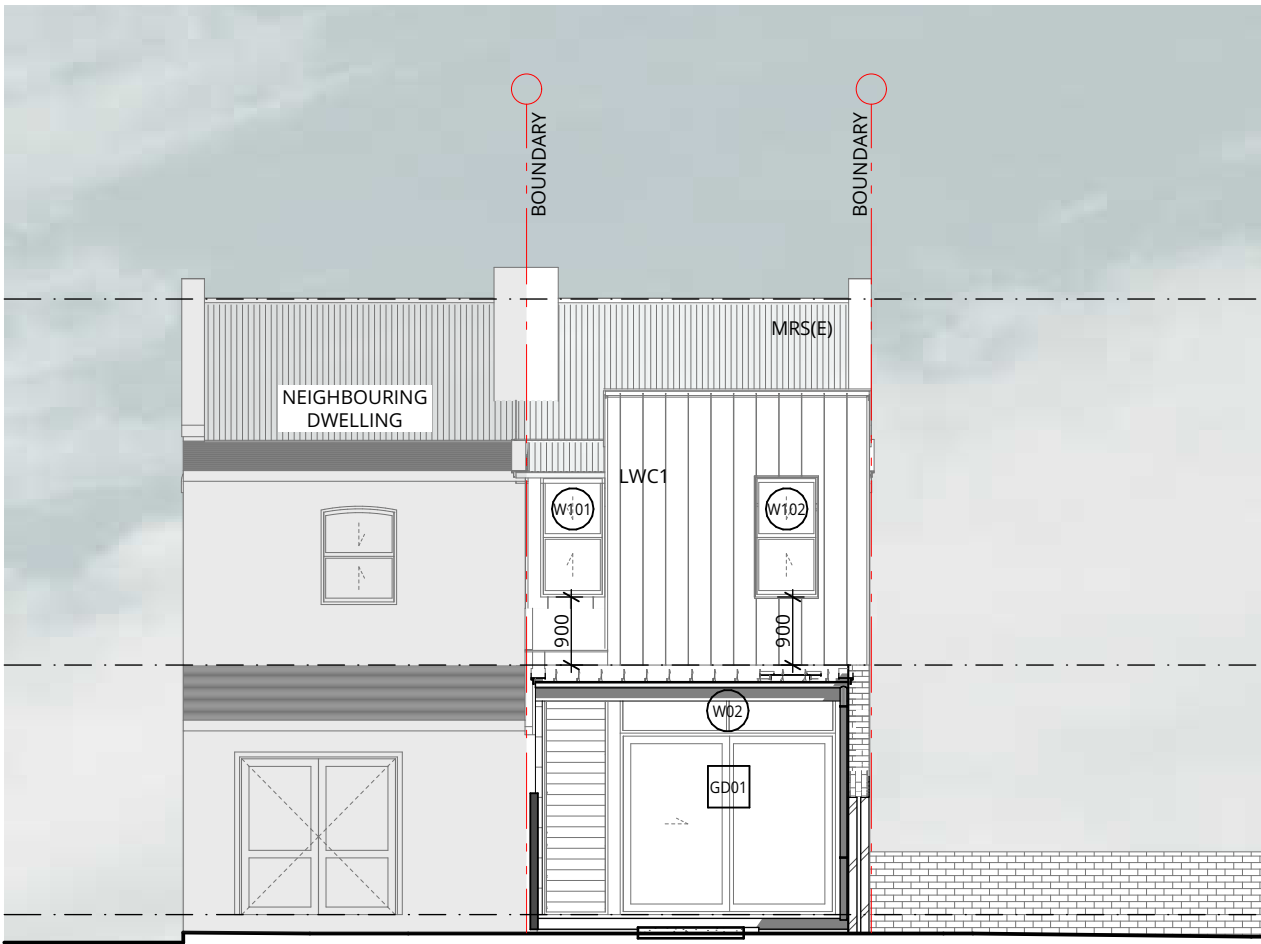


Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
P:\2021\2021-170 Dawson Street Alts & Adds\02 Drawings\02_b Working Files\2021-170_Dawson Street_DA.pln

LEGEND
LWC1 - LIGHTWEIGHT CLADDING - TYPE 1
MRS(E) METAL ROOF SHEETING - EXISTING
RDR(E) RENDER - EXISTING



NORTH-WEST ELEVATION (STREET)
SCALE 1:100



SOUTH-EAST ELEVATION
SCALE 1:100

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST, THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
08	DA ISSUE	HL		11/08/2022
09	RFI	LH	KR	6/10/2022
10	RFI	KR	KR	18/11/2022
11	RFI	KR	KR	1/02/2023
12	RFI	KR	KR	15/02/2023

PROJECT
DAWSON STREET ALTS
& ADDS

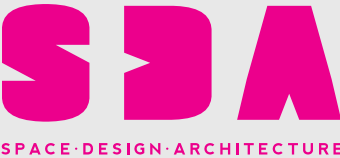
CLIENT
Cathal O'REILLY

DRAWING
ELEVATIONS - SHEET 1

PROJECT NO.
2021-170

LOCATION
111 DAWSON STREET, COOKS HILL NSW
2300

DRAWING NO. DD300
ISSUE NO. 12
SCALE 1:100@A3



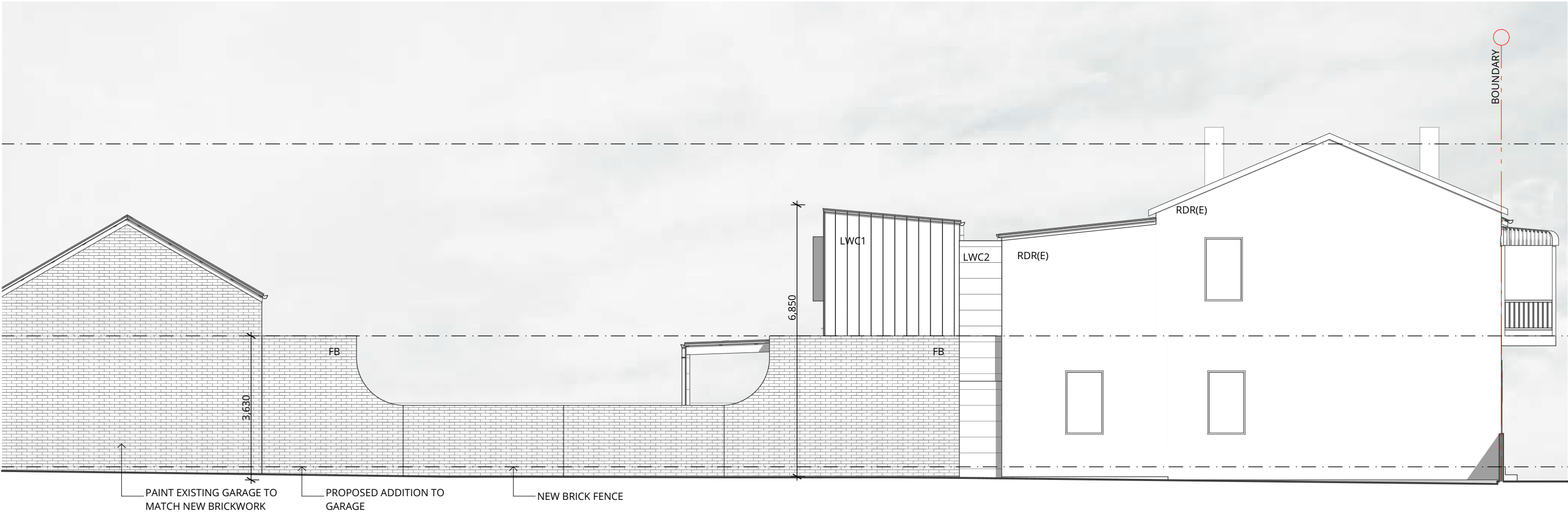
LEGEND

FB - FACE BRICK - TYPE 1

LWC1 - LIGHTWEIGHT CLADDING - TYPE 1

LWC2 - LIGHTWEIGHT CLADDING - TYPE 2

RDR(E) RENDER - EXISTING



NORTH-EAST ELEVATION
SCALE 1:100

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST, THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
08	DA ISSUE	HL		11/08/2022
09	RFI	LH	KR	6/10/2022
10	RFI	KR	KR	18/11/2022
11	RFI	KR	KR	1/02/2023
12	RFI	KR	KR	15/02/2023

PROJECT
DAWSON STREET ALTS
& ADDS

CLIENT
Cathal O'REILLY

DRAWING
ELEVATIONS - SHEET 2

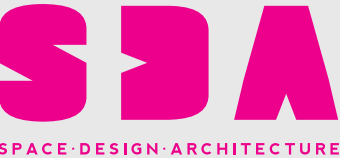
PROJECT NO.
2021-170

LOCATION
111 DAWSON STREET, COOKS HILL NSW
2300

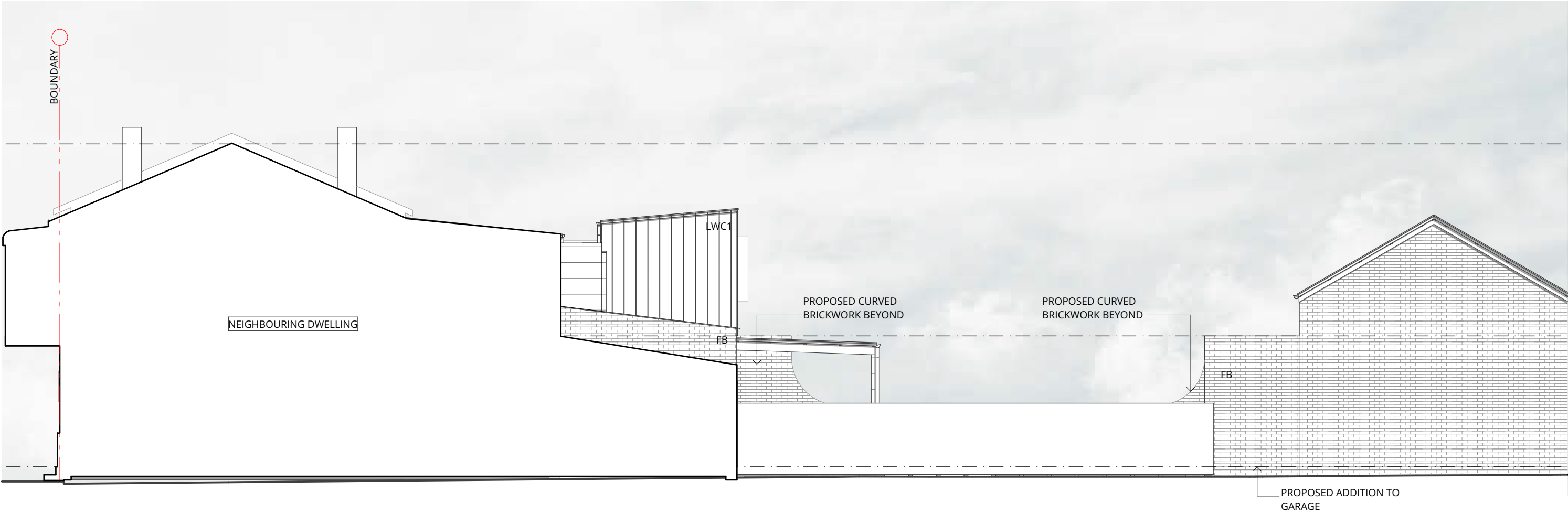
DRAWING NO. DD301

ISSUE NO. 12

SCALE
1:100@A3



LEGEND
FB • FACE BRICK - TYPE 1
LWC1 • LIGHTWEIGHT CLADDING - TYPE 1



SOUTH-WEST ELEVATION
SCALE 1:100

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST, THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
01	RFI	LH	KR	6/10/2022
02	RFI	KR	KR	18/11/2022
03	RFI	KR	KR	1/02/2023
04	RFI	KR	KR	15/02/2023

PROJECT
DAWSON STREET ALTS
& ADDS

CLIENT
Cathal O'REILLY

DRAWING
ELEVATIONS - SHEET 3

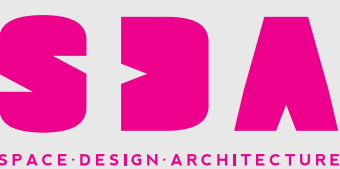
PROJECT NO.
2021-170

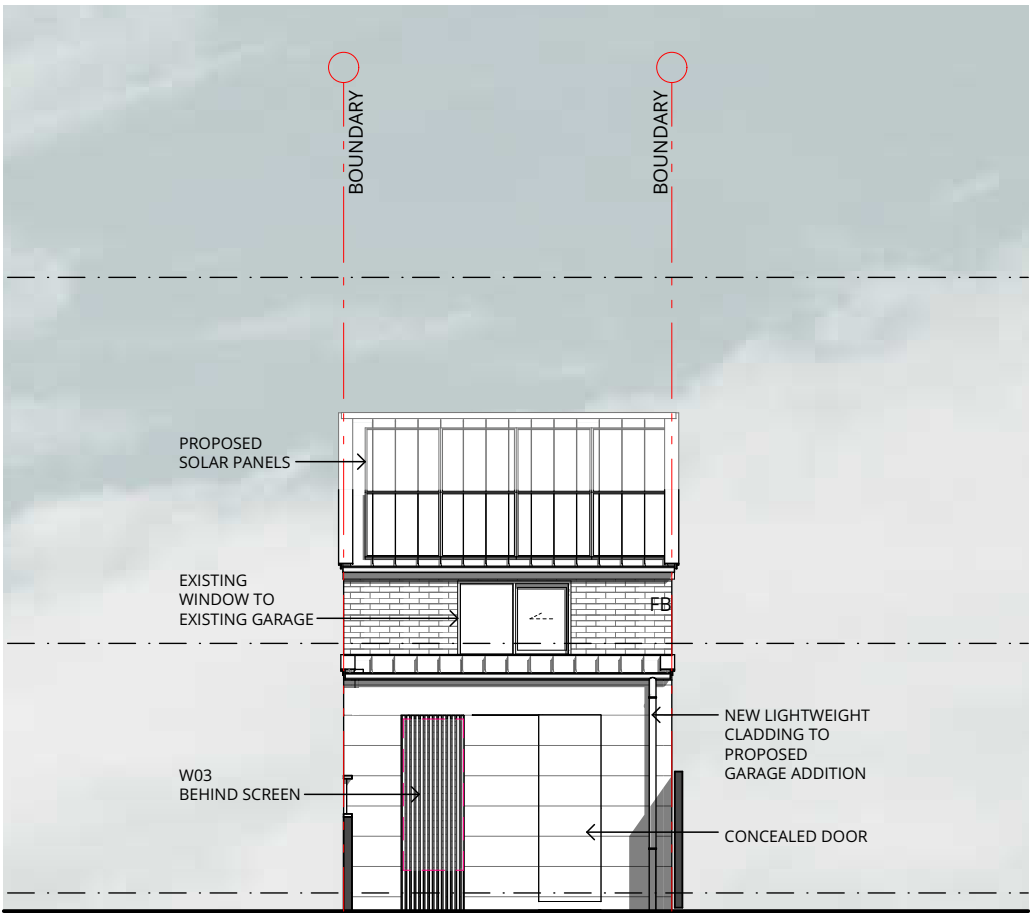
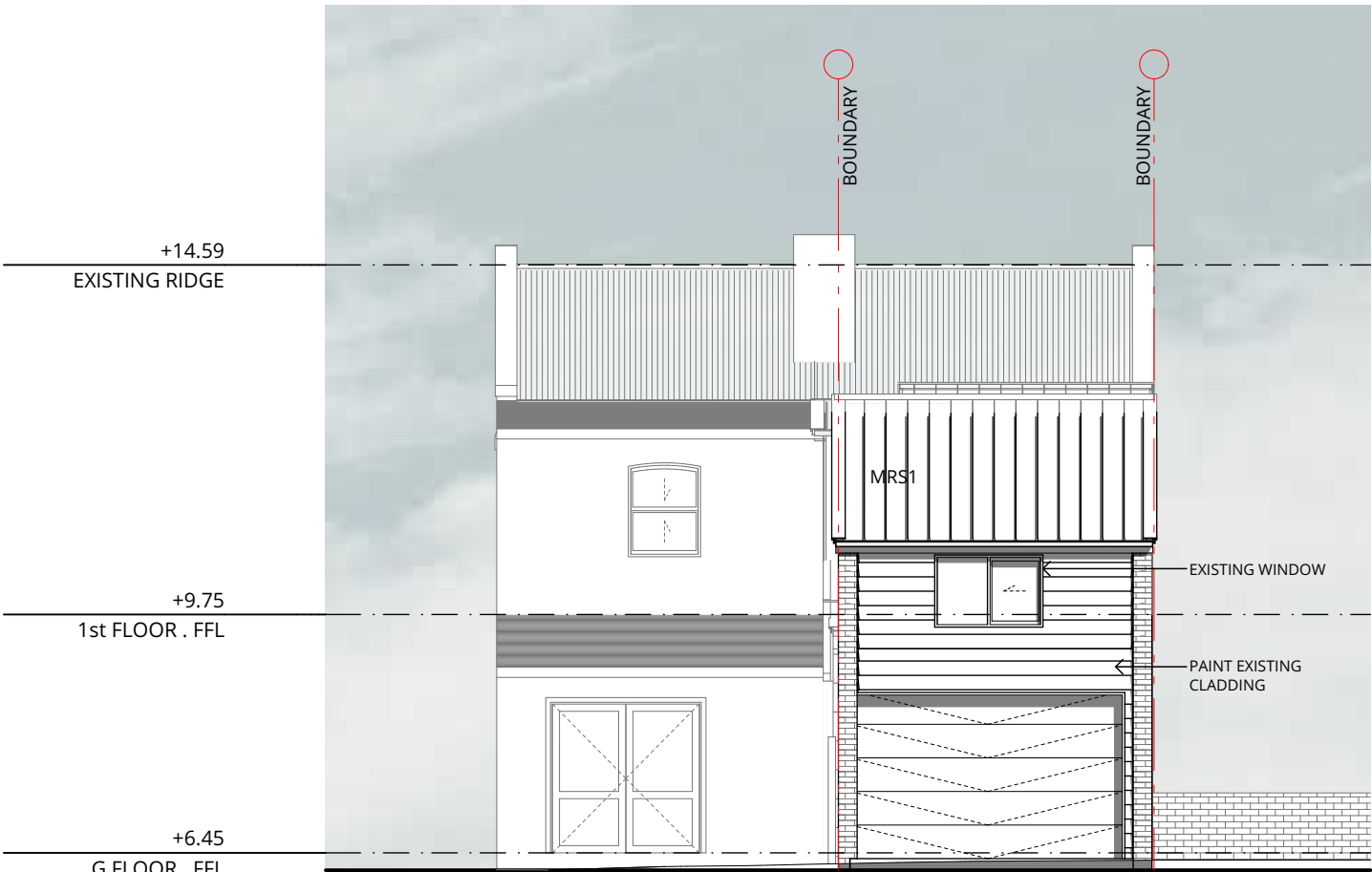
LOCATION
111 DAWSON STREET, COOKS HILL NSW
2300

DRAWING NO.
DD302

ISSUE NO.
04

SCALE
1:100@A3





SOUTH-EAST ELEVATION (GARAGE)
SCALE 1:100

NORTH-WEST ELEVATION (GARAGE)
SCALE 1:100

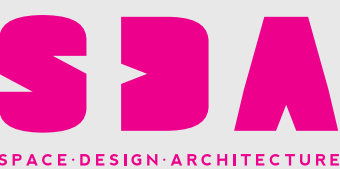
P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST, THE JUNCTION NSW 2291
SDARCH.COM.AU

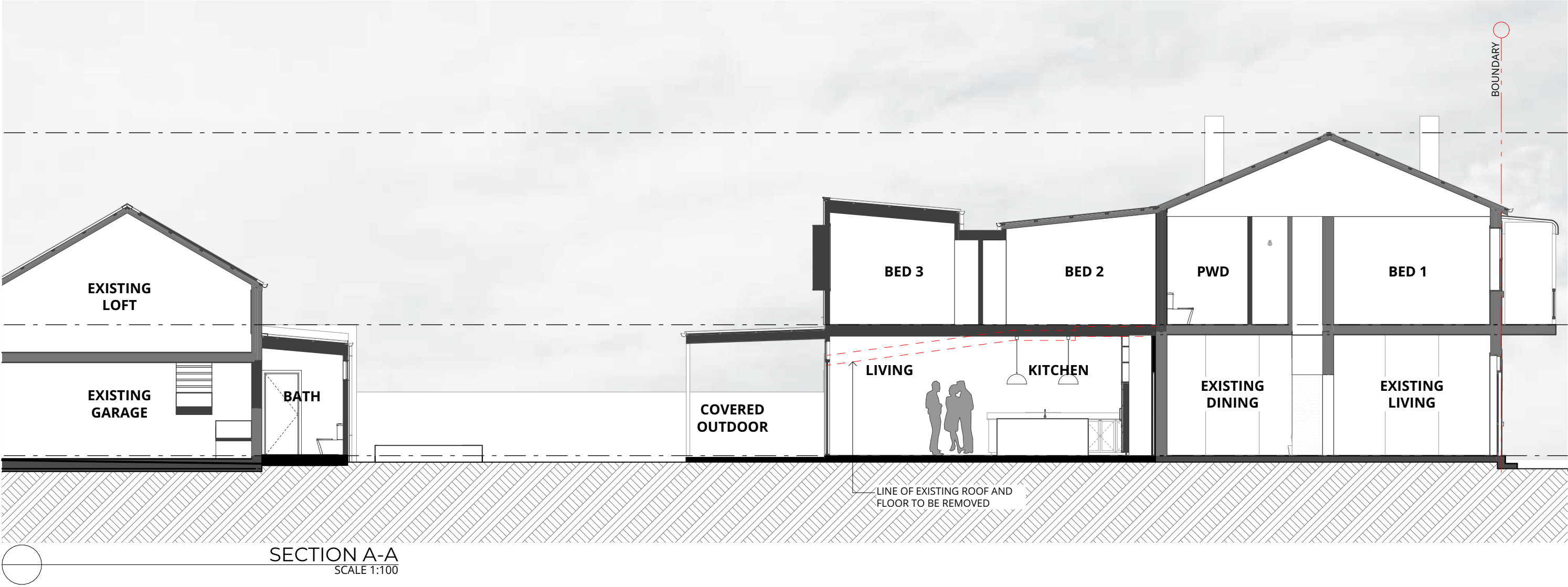
ISSUE	DESCRIPTION	BY	CHK	DATE
01	RFI	LH	KR	6/10/2022
02	RFI	KR	KR	18/11/2022
03	RFI	KR	KR	1/02/2023
04	RFI	KR	KR	15/02/2023

PROJECT
DAWSON STREET ALTS
& ADDS
CLIENT
Cathal O'REILLY

DRAWING
ELEVATIONS - SHEET 4
PROJECT NO.
2021-170

LOCATION
111 DAWSON STREET, COOKS HILL NSW
2300
DRAWING NO.
DD303
ISSUE NO.
04
SCALE
1:100@A3





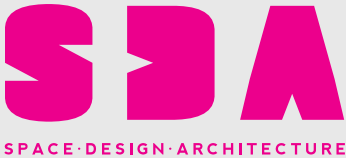
P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST, THE JUNCTION NSW 2291
SDARCH.COM.AU

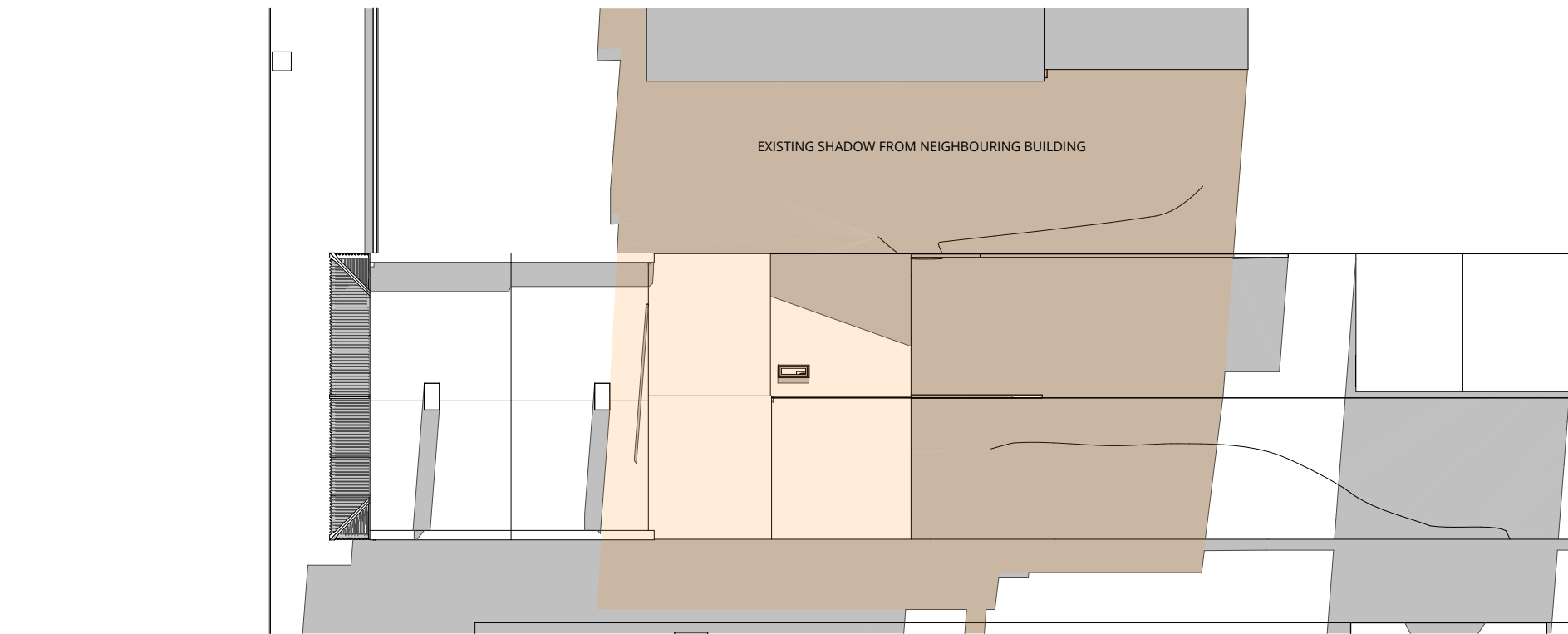
ISSUE	DESCRIPTION	BY	CHK	DATE
08	DA ISSUE	HL		11/08/2022
09	RFI	LH	KR	6/10/2022
10	RFI	KR	KR	18/11/2022
11	RFI	KR	KR	1/02/2023
12	RFI	KR	KR	15/02/2023

PROJECT
DAWSON STREET ALTS
& ADDS
CLIENT
Cathal O'REILLY

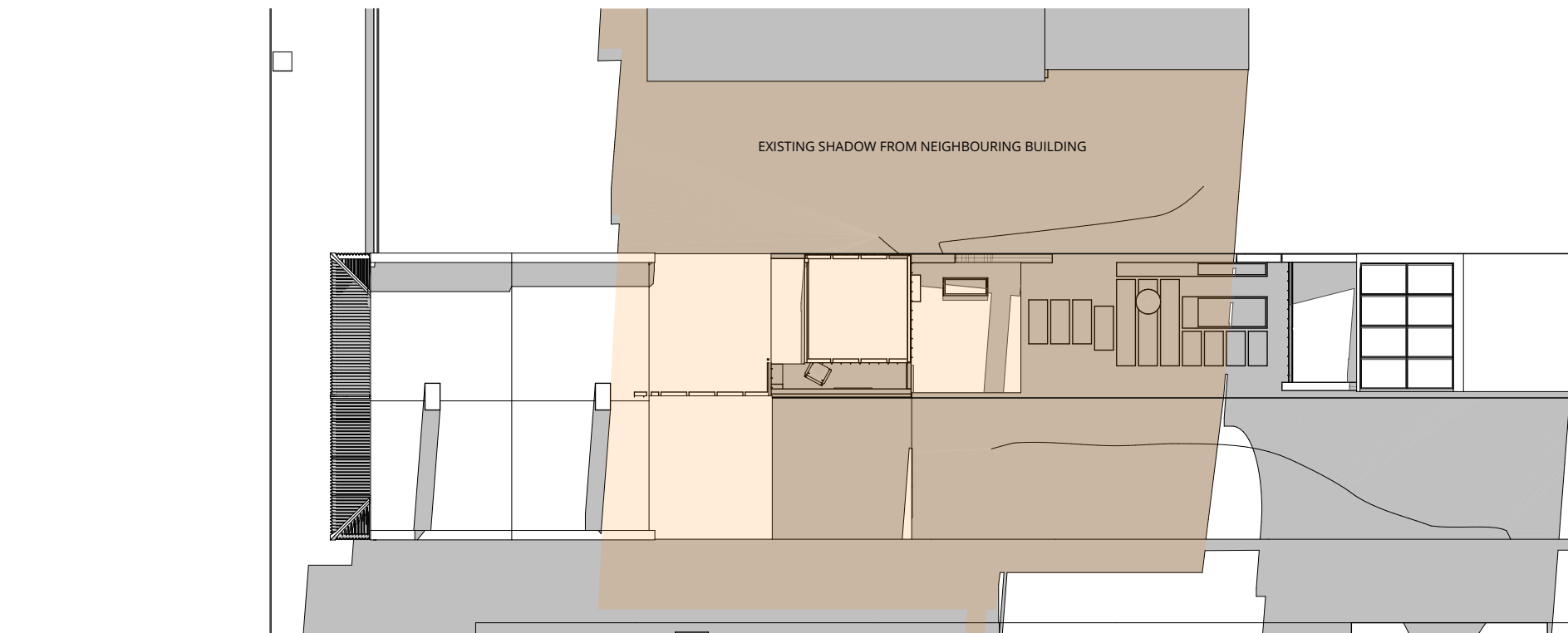
DRAWING
SECTION
PROJECT NO.
2021-170

LOCATION
111 DAWSON STREET, COOKS HILL NSW
2300
DRAWING NO.
DD400
ISSUE NO.
12
SCALE
1:100@A3



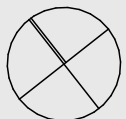


21 JUN at 0900h EXISTING
SCALE 1:200



21 JUN at 0900h PLANNED
SCALE 1:200

Information contained in this drawing is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
P:\2021\2021-170 Dawson Street Alts & Adds\02 Drawings\02_b Working Files\2021-170_Dawson Street_DA.pln



P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST, THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
02	DA DRAWING SET	LH	KR	26/07/2022
08	DA ISSUE	HL	KR	11/08/2022
09	RFI	LH	KR	6/10/2022
10	RFI	KR	KR	1/02/2023
11	RFI	KR	KR	15/02/2023

PROJECT
DAWSON STREET ALTS
& ADDS

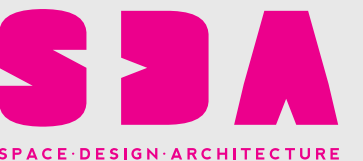
CLIENT
Cathal O'REILLY

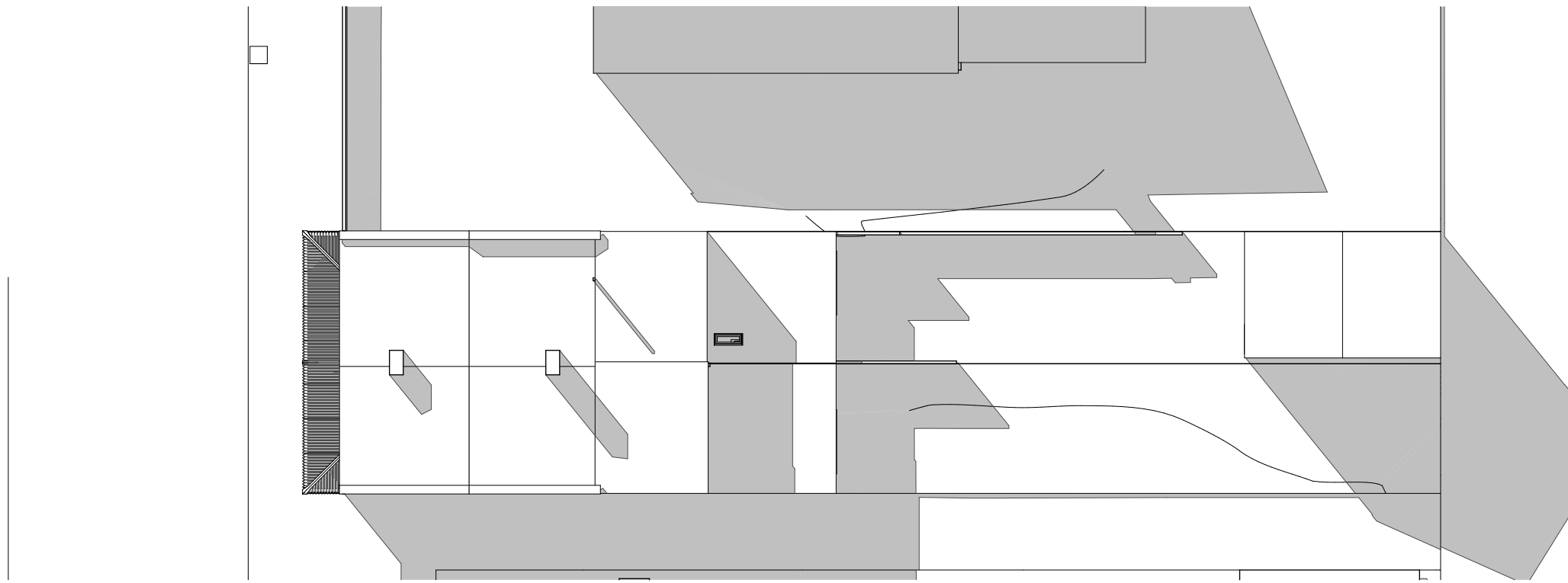
DRAWING
SHADOW DIAGRAMS
0900h

PROJECT NO.
2021-170

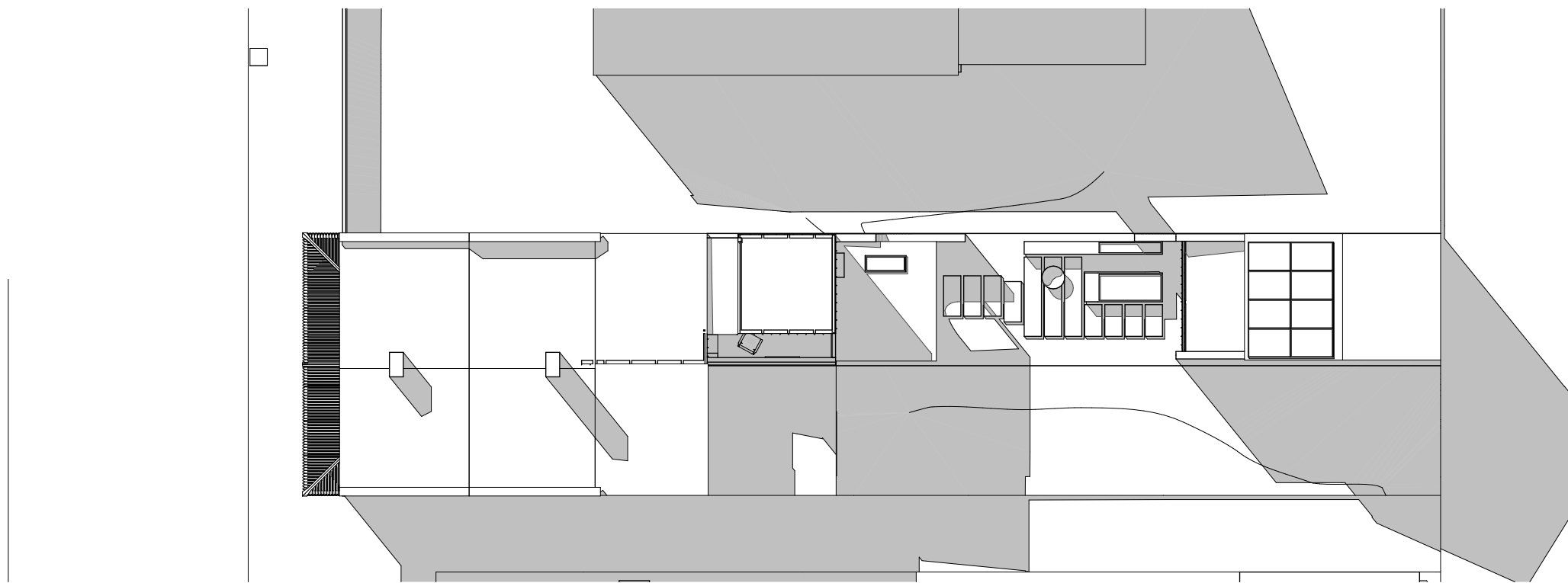
LOCATION
111 DAWSON STREET, COOKS HILL NSW
2300

DRAWING NO. DD500
ISSUE NO. 11
SCALE 1:200@A3





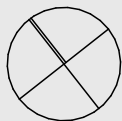
21 JUN at 1200h EXISTING
SCALE 1:200



21 JUN at 1200h PLANNED
SCALE 1:200

Information contained in this drawing is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.

P:\2021\2021-170 Dawson Street Alts & Adds\02 Drawings\02_b Working Files\2021-170_Dawson Street_DA.pln



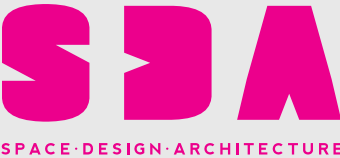
P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST, THE JUNCTION NSW 2291
SDARCH.COM.AU

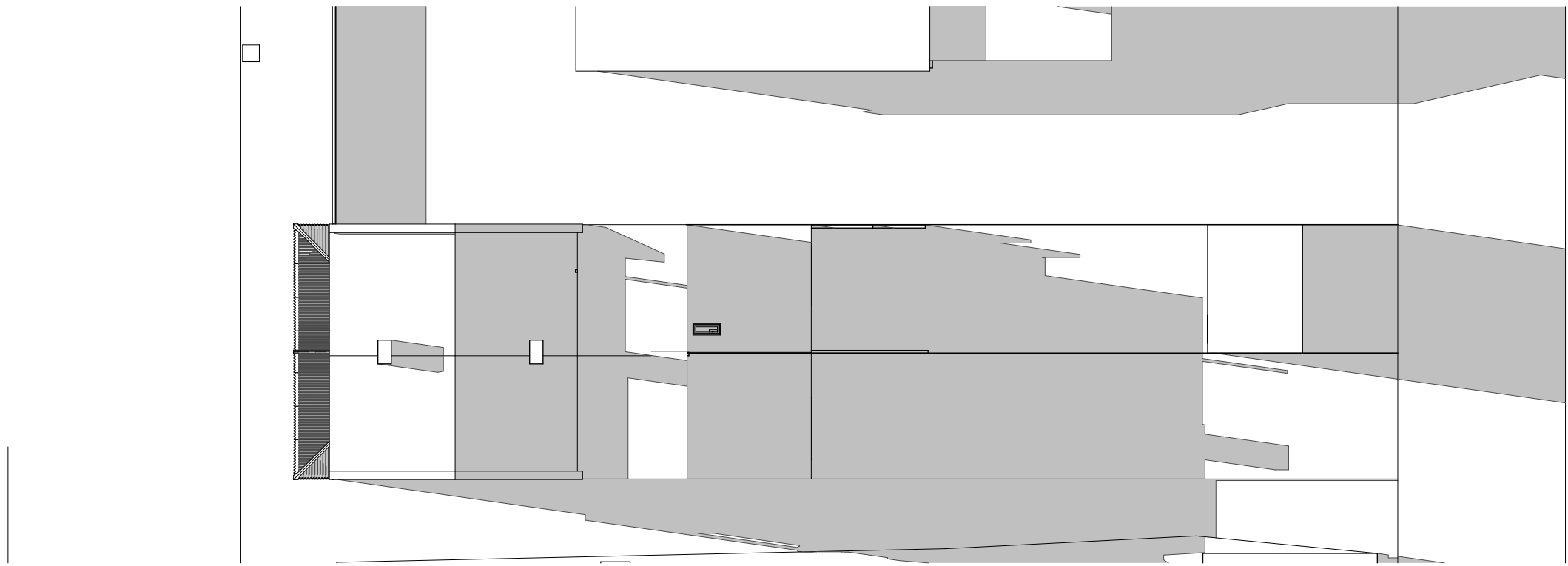
ISSUE	DESCRIPTION	BY	CHK	DATE
02	DA DRAWING SET	LH	KR	26/07/2022
08	DA ISSUE	HL	KR	11/08/2022
09	RFI	LH	KR	6/10/2022
10	RFI	KR	KR	1/02/2023
11	RFI	KR	KR	15/02/2023

PROJECT
DAWSON STREET ALTS
& ADDS
CLIENT
Cathal O'REILLY

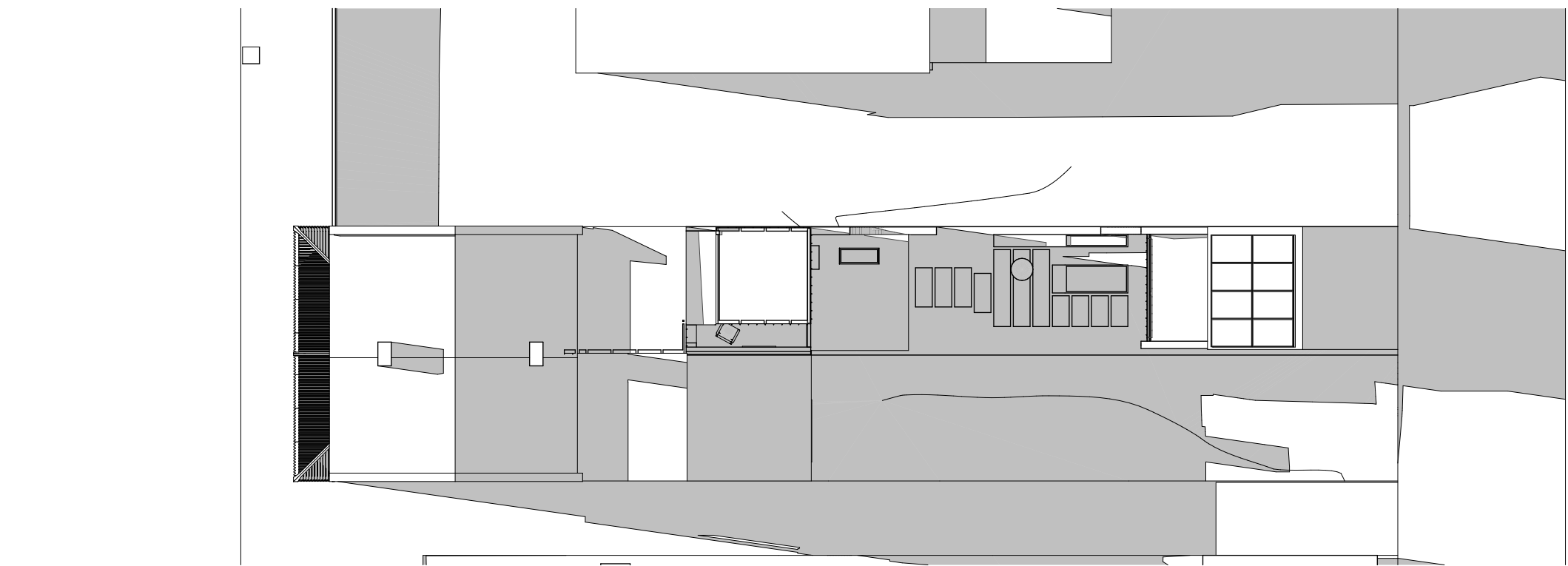
DRAWING
SHADOW DIAGRAMS
1200h
PROJECT NO.
2021-170

LOCATION
111 DAWSON STREET, COOKS HILL NSW
2300
DRAWING NO.
DD501
ISSUE NO.
11
SCALE
1:200@A3



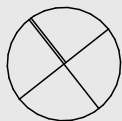


21 JUN at 1500h EXISTING
SCALE 1:200



21 JUN at 1500h PLANNED
SCALE 1:200

Information contained in this drawing is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
P:\2021\2021-170 Dawson Street Alts & Adds\02 Drawings\02_b Working Files\2021-170_Dawson Street_DA.pln



P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST, THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
02	DA DRAWING SET	LH	KR	26/07/2022
08	DA ISSUE	HL	KR	11/08/2022
09	RFI	LH	KR	6/10/2022
10	RFI	KR	KR	1/02/2023
11	RFI	KR	KR	15/02/2023

PROJECT
DAWSON STREET ALTS
& ADDS
CLIENT
Cathal O'REILLY

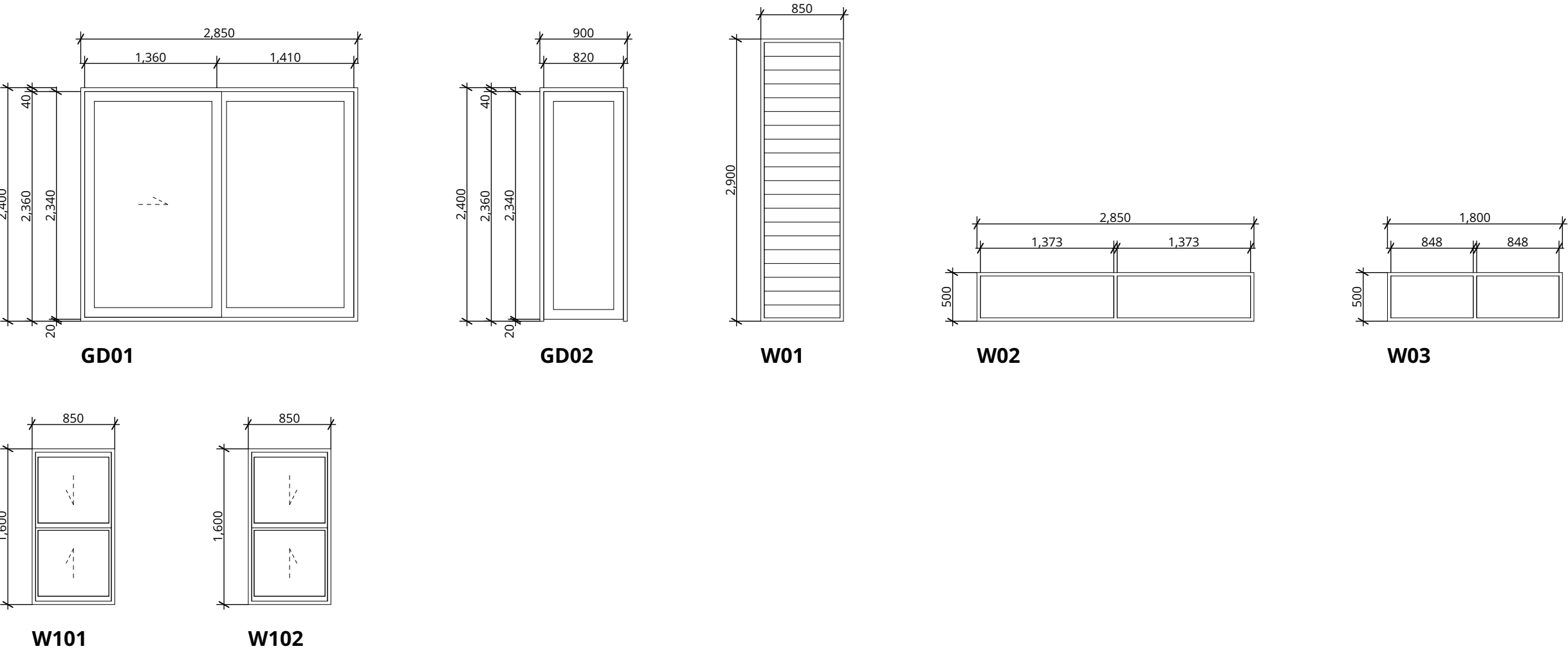
DRAWING
SHADOW DIAGRAMS
1500h
PROJECT NO.
2021-170

LOCATION
111 DAWSON STREET, COOKS HILL NSW
2300
DRAWING NO.
DD502
ISSUE NO.
11
SCALE
1:200@A3



SPACE·DESIGN·ARCHITECTURE

WINDOW AND GLAZED DOOR SCHEDULE



NOTE:

- HEAD HEIGHTS ARE TO FFL.
- INCLUDE FLY SCREENS TO ALL OPERABLE WINDOWS.
- REVEALS TO SUIT WALL DEPTH AND ARCHITRAVE TYPE, UNLESS NOTED OTHERWISE.
- WINDOW DIMENSIONS ARE NOMINAL. WINDOW MANUFACTURER TO COORDINATE FINISHED SIZES TO SUIT.
- OBSCURE GLASS TO BATHROOM WINDOWS, ENTRY AND LAUNDRY DOORS UNLESS NOTED OTHERWISE. REFER TO PLANS AND ELEVATIONS FOR LOCATIONS.
- ENSURE WINDOW CONSTRUCTION MEETS BAL REQUIREMENTS IF APPLICABLE.
- WHERE WINDOWS FORM SPLASHBACK BEHIND COOKTOPS, GLAZING TO MEET AS5601.1-2013

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST, THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
02	DA DRAWING SET	LH	KR	26/07/2022
08	DA ISSUE	HL		11/08/2022
09	RFI	LH	KR	6/10/2022
10	RFI	KR	KR	1/02/2023
11	RFI	KR	KR	15/02/2023

PROJECT
DAWSON STREET ALTS
&ADDS

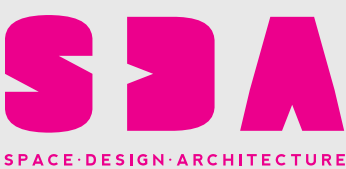
CLIENT
Cathal O'REILLY

DRAWING
WINDOW AND GLAZED
DOOR SCHEDULE

PROJECT NO.
2021-170

LOCATION
111 DAWSON STREET, COOKS HILL NSW
2300

DRAWING NO. DD600
ISSUE NO. 11
SCALE 1:50@A3



Information contained in this drawing is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
P:\2021\2021-170 Dawson Street Alts & Adds\02 Drawings\02_b Working Files\2021-170_Dawson Street_DA.pln



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 111 DAWSON STREET COOKS HILL –
DA2022/00936 - DWELLING HOUSE - ALTERATIONS AND
ADDITIONS INCLUDING DEMOLITION**

Item 7.6 Attachment B: Draft Schedule of Conditions

DISTRIBUTED UNDER SEPARATE COVER

Application No:	DA2022/00936
Land:	Lot 101 DP 557432
Property Address:	111 Dawson Street Cooks Hill NSW 2300
Proposed Development:	Dwelling house - alterations and additions including demolition

SCHEDULE 1**Approved Documentation**

1. The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No / Supporting Document	Reference / Version	Prepared by	Dated
Demolition Plan	DD200 Issue 12	Space Design Architecture	15/02/23
Floor Plans	DD201 Issue 12	Space Design Architecture	15/02/23
Roof/Site Plan	DD202 Issue 12	Space Design Architecture	15/02/23
Elevations Sheet 1	DD300 Issue 12	Space Design Architecture	15/02/23
Elevation Sheet 2	DD301 Issue 12	Space Design Architecture	15/02/23
Elevation Sheet 3	DD302 Issue 4	Space Design Architecture	15/02/23
Elevations Sheet 4	DD303 Issue 4	Space Design Architecture	15/02/23
Section A-A	DD400 Issue 12	Space Design Architecture	15/02/23
BASIX Certificate	A467537	SDA	-

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

2. All references to the proposed firepit are to be deleted from all architectural plans. The deletion of the firepit is to be included in documentation for a Construction Certificate application.

3. The colour of the approved brick fence on the northeast boundary as illustrated on approved plan ref:DD301 is to be a warm red dry pressed brick, in accordance with the heritage impact statement. Painted brickwork as indicated on plan ref:DD300 is not approved. Full details are to be provided with the Construction Certificate application.
4. The existing chimney is to be retained. Full details are to be provided with the Construction Certificate application.
5. No works are approved to the facade of the dwelling. Existing traditional features including windows, balcony, balustrade, bullnosed balcony roof, columns, entry and roof are to be retained.

A full archival photographic record is to be undertaken of all contributory and heritage listed buildings on the site, including the interiors, prior to any works commencing on the site. The archival recording is to be in accordance with the requirements of:

- a) The NSW Heritage Office publication "How to Prepare Archival Records of Heritage items" (1998); and
- b) The Department of Planning's "Recording Places of Cultural Significance" (1991)

The record in digital form is to be submitted to Council and written approval of Council's Heritage Advisor submitted prior to the issue of a Construction Certificate.

6. All stormwater runoff from the proposed development being managed in accordance with the requirements of Element 7.06 'Stormwater' of Newcastle Development Control Plan 2012, the associated Technical Manual and the latest issue of AS 3500.3 as applicable.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

7. Before any works commence on site, all contractors and subcontractors shall undergo an induction session, delivered by a suitably qualified heritage consultant, highlighting the historical significance of the site and in particular those building elements requiring conservation.
8. Significant internal and external building elements, including chimneys; existing windows shown to be retained; decorative facade elements; fireplaces; and any other building elements guided by the project heritage consultant, are to be retained and protected for the duration of the development.
9. A rigid and durable sign is to be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:
 - a) showing the name, address and telephone number of the Principal Certifier for building work and subdivision work, and
 - b) showing the name, address and telephone number of the Principal Contractor, if any, for any building work and a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and
 - c) stating that unauthorised entry to the work site is prohibited, and
 - d) being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, and must be removed when the work has been completed.

Note: This does not apply in relation to building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

10. Building work must be carried out in accordance with the requirements of the Building Code of Australia.
11. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
12. If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil are to be provided. All building materials, plant and equipment is to be placed on the site of the development, to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves, including the road reserve, is not permitted.
13. Stormwater is to be conveyed to the existing property stormwater drains by way of a sealed pipe system. The existing drains are to be checked for adequacy and cleared of any obstructions.
14. All roof and surface waters are to be conveyed to the street gutter by way of a sealed pipe system, extending through the footway to Council's requirements, in accordance with Element 7.06 'Stormwater' of Newcastle Development Control Plan 2012.
15. Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:
 - Monday to Friday, 7:00 am to 6:00 pm and
 - Saturday, 8:00 am to 1:00 pm.

No noise from construction/demolition work is to be generated on Sundays or public holidays.

16. Council's 'Prevent Pollution' sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary, so it is clearly visible to the public, or at other locations on the site as otherwise directed by Council, for the duration of demolition and construction work.

The sign can be obtained by presenting your development application receipt at City of Newcastle's Customer Enquiry Centre, Wallsend Library or the Master Builders Association Newcastle.

17. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or construction in accordance with the requirements of Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the 'Blue Book') published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
18. All public trees that are required to be retained are to be protected in accordance with the City of Newcastle *Urban Forest Technical Manual*, Part B *Public Trees*.

The tree protection fencing is to remain in place and be maintained until all works have

been completed, with no waste materials, washouts, equipment or machinery to be stored within the fenced area.

19. The following waste management measures are to be implemented during construction:
 - a) waste container of at least one cubic metre capacity shall be provided, maintained and regularly serviced from the commencement of operations until the completion of the building for the reception and storage of waste generated by the construction of the building and associated waste
 - b) the waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets
 - c) appropriate provision is to be made to prevent wind blown rubbish leaving the site and
 - d) footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

Note: Fines may be issued for pollution/littering offences under the *Protection of the Environment Operations Act 1997* (NSW)

20. Toilet facilities are to be available or provided at the work site before works begin and be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet is to:

- a) Be a standard flushing toilet connected to a public sewer, or
 - b) Have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
 - c) Be a temporary chemical closet approved under the *Local Government Act 1993*.
21. Building demolition is to be planned and carried out in accordance with *Australian Standard 2601:2001 - The Demolition of Structures*.
22. A Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with *Australian Standard 2601:2001 - The Demolition of Structures*. A copy of the Hazardous Substances Management Plan is to be provided to the Council and to the demolisher prior to commencement of work.
23. The demolition works are to be undertaken in accordance with Australian Standard 2601:2001 - The Demolition of Structures and the following requirements:
 - a) prior to commencement of demolition works a competent person shall determine the presence of hazardous substances impacted by the proposed demolition works in accordance with Section 1.6.1 of AS2601:2001 and where required produce a Hazardous Substances Management Plan
 - b) demolition works shall be conducted in accordance with any required Hazardous Substances Management Plan. A copy of the Plan shall be kept on-site for the duration of the proposed development and a copy is to be held in the possession of the landowner
 - c) the removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of

Asbestos Licence, issued by the WorkCover Authority of NSW

- d) a copy of all waste disposal receipts are to be kept in the possession of the landowner and made available to authorised Council Officers upon request
 - e) seven working days notice in writing is to be given to the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor, and
 - f) on sites where asbestos materials are to be removed, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent position during asbestos removal works.
24. The demolisher is to ensure that all services (ie water, telecommunications, gas, electricity, sewerage etc), are disconnected in accordance with the relevant authority's requirements prior to demolition.
25. Any waste containers used in association with the proposed demolition are to be located on the site where possible.
- Note: Where this is not feasible, an application is to be made for the approval to position the container on the adjacent public road in accordance with the Council's adopted Building Waste Container Policy.
26. All demolition material incapable of being re-used in future redevelopment of the site is to be removed from the site and the site being cleared and levelled.
- Note: Where reusable building materials are to be stored on site for use in future building works, such materials are to be neatly stacked at least 150 mm above the ground.
27. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.
28. At a minimum, the following measures are to be implemented during the construction phase:
- a) A waste container of at least one cubic metre capacity is to be provided, maintained and regularly serviced from the commencement of operations until the completion of the building, for the reception and storage of waste generated by the construction of the building and associated waste;
 - b) The waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets;
 - c) Provision is to be made to prevent windblown rubbish leaving the site; and
 - d) Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

Note: Fines may be issued for pollution/littering offences under the *Protection of the Environment Operations Act 1997*.

29. All excavations and backfilling are to be executed safely and excavations are to be properly guarded and protected to prevent them from being dangerous to life and

property.

30. Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.
31. Where the proposed development involves the destruction or disturbance of any survey monuments, those monuments affected are to be relocated, at no cost to the City of Newcastle, by a Surveyor registered under the *Surveying and Spatial Information Act 2002*.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE, A SUBDIVISION CERTIFICATE OR A STRATA CERTIFICATE

32. All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a condition that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to City of Newcastle's satisfaction prior to the completion of demolition work or prior to the issue of any Occupation Certificate in respect of development involving building work.
33. All works within the road reserve required by this consent are to be completed prior to the issue of a Occupation Certificate.
34. All commitments listed in the relevant BASIX certificate for the development are to be satisfactorily completed prior to the issue of an Occupation Certificate. Should there be any changes to the specifications of the dwelling that have implications for compliance with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be provided to the City of Newcastle with Occupation Certificate documentation.

CONDITIONS TO BE SATISFIED AT ALL TIMES

The face brick fence on the northeast boundary is not permitted to be painted and shall remain as exposed brickwork at all times.

ADVISORY MATTERS

- Retaining walls not clearly noted on the approved plans or outside of the parameters of 'exempt development', as specified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, are to be subject to a separate development application. An application in this regard is to be approved prior to any works relating to such a retaining wall taking place.
- It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.
- Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of the City of Newcastle and any other relevant authorities. City of Newcastle and other service authorities should be contacted for specific requirements prior to the commencement of any works.
- Prior to commencing any building works, the following provisions of Division 6.2 of the Environmental Planning and Assessment Act 1979 are to be complied with:

- a) A Construction Certificate is to be obtained; and
 - b) A Principal Certifier is to be appointed for the building works and Newcastle City Council is to be notified of the appointment; and
 - c) Newcastle City Council is to be given at least two days notice of the date intended for commencement of building works.
- Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifier appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Section 37 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* (NSW).
 - It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice (ie 'on-the-spot fine') or prosecution.
 - Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979*, which may be subject to a penalty infringement notice (ie 'on-the-spot fine') or prosecution.
 - A person who is aware or believes that he or she has discovered or located a relic not identified and considered in the supporting documents for this approval, in any circumstances (including where works are carried out in reliance on an exception under section 139(4)), excavation or disturbance must cease in the affected area(s) and the Heritage Council must be notified in accordance with section 146 of the *Heritage Act 1977*. Depending on the nature of the discovery, additional assessment and approval under the *Heritage Act 1977* may be required prior to the recommencement of excavation in the affected area(s).

Note: Heritage NSW can be contacted on 02 9873 8500 or heritagemailbox@environment.nsw.gov.au. A 'relic' is any deposit, object or material evidence that relates to the settlement of New South Wales, not being Aboriginal settlement, and is of State or local significance. It is an offence under the provisions of the *Heritage Act 1977* (NSW) for a person to disturb or excavate any land upon which the person has discovered a relic except in accordance with a gazetted exception or an excavation permit issued by the Heritage Council of NSW.

- If any Aboriginal objects are discovered which are not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be notified in accordance with section 89A of the *National Parks and Wildlife Act 1974* (NPW Act). Depending on the nature of the discovery, additional assessment and approval under the NPW Act may be required prior to works continuing in the affected area(s). Aboriginal objects in NSW are protected under the NPW Act. Unless the objects are subject to a valid Aboriginal Heritage Impact Permit, work must not recommence until approval to do so has been provided by Heritage NSW.

Note: Heritage NSW can be contacted on 02 9873 8500 or heritagemailbox@environment.nsw.gov.au. An 'Aboriginal object' is any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains. It is an offence under the provisions of the *National Parks and Wildlife Act 1974* (NPW Act) for a person to harm or desecrate an Aboriginal object, with defence from prosecution and certain activities exempt as

prescribed under the NPW Act.

END OF CONDITIONS

SCHEDULE 2

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; *Newcastle Local Environmental Plan 2012* (NLEP) and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012 (NDCP).
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- Any issues raised in submission have been taken into account in the assessment report and where appropriate conditions of consent have been included in the determination.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- Confirm and clarify the terms of Council's determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 111 DAWSON STREET COOKS HILL –
DA2022/00936 - DWELLING HOUSE - ALTERATIONS AND
ADDITIONS INCLUDING DEMOLITION**

Item .7.6 Attachment C: Processing Chronology

DISTRIBUTED UNDER SEPARATE COVER

PROCESSING CHRONOLOGY

DA2022/00936 – 111 Dawson St Cooks Hill

29/8/22	-	Application lodged
30/8/22 to 16/9/22	-	Application notified in accordance with CN's Community Participation Plan (CPP)
29/9/22 and 6/10/22	-	Request for additional information
21/11/22, 7 February 2023, 15/2/23	-	Additional information received



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 182 HUNTER STREET NEWCASTLE –
DA2021/01505 - MIXED-USE DEVELOPMENT (COMMERCIAL AND
SHOP TOP HOUSING) - INVOLVING ALTERATIONS AND
ADDITIONS TO LOCALLY LISTED HERITAGE BUILDING**

- | | | |
|------------|----------------------|---|
| 7.7 | Attachment A: | Submitted Plans |
| 7.7 | Attachment B: | Draft Schedule of Conditions |
| 7.7 | Attachment C: | Processing Chronology |
| 7.7 | Attachment D: | Clause 4.6 written exception to height of building development standard |
| 7.7 | Attachment E: | Clause 4.6 written exception to floor space ratio development standard |

DISTRIBUTED UNDER SEPARATE COVER



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 182 HUNTER STREET NEWCASTLE –
DA2021/01505 - MIXED-USE DEVELOPMENT (COMMERCIAL AND
SHOP TOP HOUSING) - INVOLVING ALTERATIONS AND
ADDITIONS TO LOCALLY LISTED HERITAGE BUILDING**

7.7 Attachment A: Submitted Plans

DISTRIBUTED UNDER SEPARATE COVER

Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln



THE LIBRARY

182 - 188 HUNTER STREET, NEWCASTLE NSW 2300
LOT212/DP660080

LITERARY TRADING COMPANY



DRAWING LIST

DD000	COVER PAGE
DD001	LEGEND NOTES DRAWING LIST
DD002	DEVELOPMENT SUMMARY
DD003	ANALYSIS - ENVIRONMENTAL
DD004	ANALYSIS - LOCALITY
DD005	ANALYSIS - LEP HEIGHT LIMITS
DD006	ANALYSIS - STREETScape
DD007	ANALYSIS - VIEW CORRIDORS
DD008	ANALYSIS - HERITAGE FABRIC GF
DD009	ANALYSIS - HERITAGE FABRIC L1
DD010	FORM DEVELOPMENT - BUILDING LANGUAGE
DD011	FORM DEVELOPMENT - CONTEXTUAL BUILDING HEIGHTS
DD012	PRECEDENT - MATERIALITY
DD013	ANALYSIS - STREETScape PHOTOMONTAGE
DD014	ANALYSIS - VIEW SHARING
DD100	DEMOLITION PLANS
DD101	SITE PLAN
DD110	GROUND FLOOR PLAN
DD111	CARPARK MEZZANINE PLAN
DD112	L1 & L2 PLAN
DD114	L3 & L4 FLOOR PLAN
DD115	L5 & ROOF PLAN
DD120	RCP - GROUND FLOOR
DD121	RCP - L1
DD200	NORTH ELEVATION - SCOTT ST
DD201	WEST ELEVATION - WOLFE ST
DD202	SOUTH ELEVATION - HUNTER ST
DD203	EAST ELEVATION
DD300	SECTIONS 01
DD301	SECTIONS 02
DD400	WOLFE ST PERSPECTIVE
DD401	WOLFE & SCOTT ST PERSPECTIVE 01
DD402	HUNTER & WOLFE PERSPECTIVE
DD403	MARKET LAWN PERSPECTIVE 01
DD404	MARKET LAWN PERSPECTIVE 02
DD405	MARKET LAWN PERSPECTIVE 03
DD406	HUNTER ST PERSPECTIVE
DD407	HERITAGE REINTERPRETATION
DD500	SHADOW DIAGRAMS 9am
DD501	SHADOW DIAGRAMS 12pm
DD502	SHADOW DIAGRAMS 3pm
DD600	SEPP 65 - SOLAR ACCESS
DD601	SEPP 65 - CROSS VENTILATION
DD602	GFA ANALYSIS
DD700	SIGNAGE STRATEGY
DD800	MATERIALS FINISHES BOARD

SITE DETAILS

182-188 HUNTER STREET, NEWCASTLE
LOT 212 / DP660080
ZONE: B4
HERITAGE: NEWCASTLE CITY CENTRE HERITAGE CONSERVATION AREA
SITE AREA: 768.98m²
ALLOWABLE FSR: 3:1
ALLOWABLE GFA: 2307m²
PROPOSED GFA: 2544m²
PROPOSED FSR: 3.30:1
LANDSCAPE (HISTORIC DEFICIENCY)
WASTE - TO EPA GUIDELINES
CARPARKING (RESIDENTIAL) - 22 CAR, 2 MOTORCYCLE, 18 BICYCLE
*HISTORIC DEFICIENCY CARRIED FORWARD FOR COMMERCIAL USE

Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.

C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

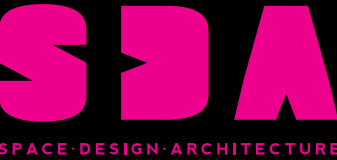
DRAWING
LEGEND | NOTES | DRAWING
LIST

PROJECT NO.
016-032

SCALE
@A3

DRAWING NO.
DD001

ISSUE NO.
07



182-188 HUNTER STREET

Development Summary

Existing Ground Floor GFA m²	637.5
Existing First Floor GFA m²	669.3
Existing GFA Total	1306.80

Site Area m²	768.98
FSR	3:1
Maximum GFA m²	2306.9
Proposed GFA m²	2544.8
Proposed FSR	3.30:1

Apartment Mix		
1B	1	7%
3B	7	50%
3B +ST	3	21%
4B	2	14%
4B+ST	1	7%
	14	100%

	Proposed
Proposed Ground Floor GFA m²	285.6
Proposed First Floor GFA m²	667.4
Proposed Mezzanine GFA m²	58.3
Proposed Level 2 GFA m²	429.1
Proposed Level 3 GFA m²	429.1
Proposed Level 4 GFA m²	429.1
Proposed Level 5 GFA m²	246.2
Proposed Total GFA m²	2544.8

Apartment #
Type

Internal Strata Required m²
Internal Strata Provided m²
Balcony Minimum
Balcony Size Provided m²

Storage Required m³
Storage Provided m³
Storage-Apartment m³
Storage-Apartment %
Storage-Carpark m³
Storage-Storage Room %

Solar Access (hours, 9am - 3pm)
Compliant
Cross Ventilation

Parking spaces provided
*1x space accessed via lift
2x motorcyle spaces additional

1.01	1.02	1.03	1.04	2.01	2.02	2.03	3.01	3.02	3.03	4.01	4.02	4.03	5.01
4B + ST	3B+ST	3B	1B	4B	3B+ST	3B	3B+ST	3B+ST	3B	3B+ST	3B+ST	3B	4B
90	90	90	50	90	90	90	90	90	90	90	90	90	90
182	167	117	64	150	123	119	150	123	119	150	123	119	246
12	12	12	8	12	12	12	12	12	12	12	12	12	12
14.4	35	12.5	8.5	42.5	36.5	67	28	23.5	18.5	28	23.5	18.5	185
10	10	6	4	10	10	10	10	10	10	10	10	10	10
14.2	28.1	11.5	6	23.6	14.2	13.2	25.7	14.2	13.2	25.7	14.2	13.2	17.2
7	14	5.5	2	11	7	6	11	7	6	11	7	6	11
70%	140%	92%	50%	110%	70%	60%	110%	70%	60%	110%	70%	60%	110%
7.2	14.1	4	4	12.6	7.2	7.2	14.7	7.2	7.2	14.7	7.2	7.2	7.2
72%	141%	67%	100%	126%	72%	72%	147%	72%	72%	147%	72%	72%	72%
3	2	2	0	6	2.5	3.25	6	2.5	3.25	6	2.5	3.25	6
1	1	1	x	1	1	1	1	1	1	1	1	1	1
1	x	1	x	1	x	1	1	x	1	1	x	1	1
1	2	1	1	2	1	1	2	2	1	2	2	2	2
*	*		*	*	*	*	*	*		*	*	*	*

14

1952

541.4

13	93%
9	64%

22

Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
05	FOR COORDINATION			6/04/2021
06	FOR COORDINATION	CR		18/05/2021
07	For Review	CR		8/03/2022
08	Revised for DA	CR	JC	10/05/2022
09	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

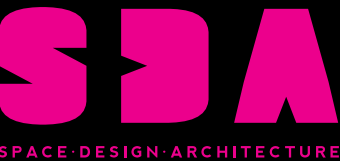
DRAWING
DEVELOPMENT SUMMARY

PROJECT NO.
016-032

SCALE
@A3

DRAWING NO.
DD002

ISSUE NO.
09





Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
ANALYSIS - ENVIRONMENTAL

PROJECT NO.
016-032

SCALE
1:2000@A3

DRAWING NO.
DD003

ISSUE NO.
07

SDA
SPACE · DESIGN · ARCHITECTURE



Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
ANALYSIS - LOCALITY

PROJECT NO.
016-032

SCALE
@A3

DRAWING NO.
DD004

ISSUE NO.
07

SDA
SPACE · DESIGN · ARCHITECTURE



Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

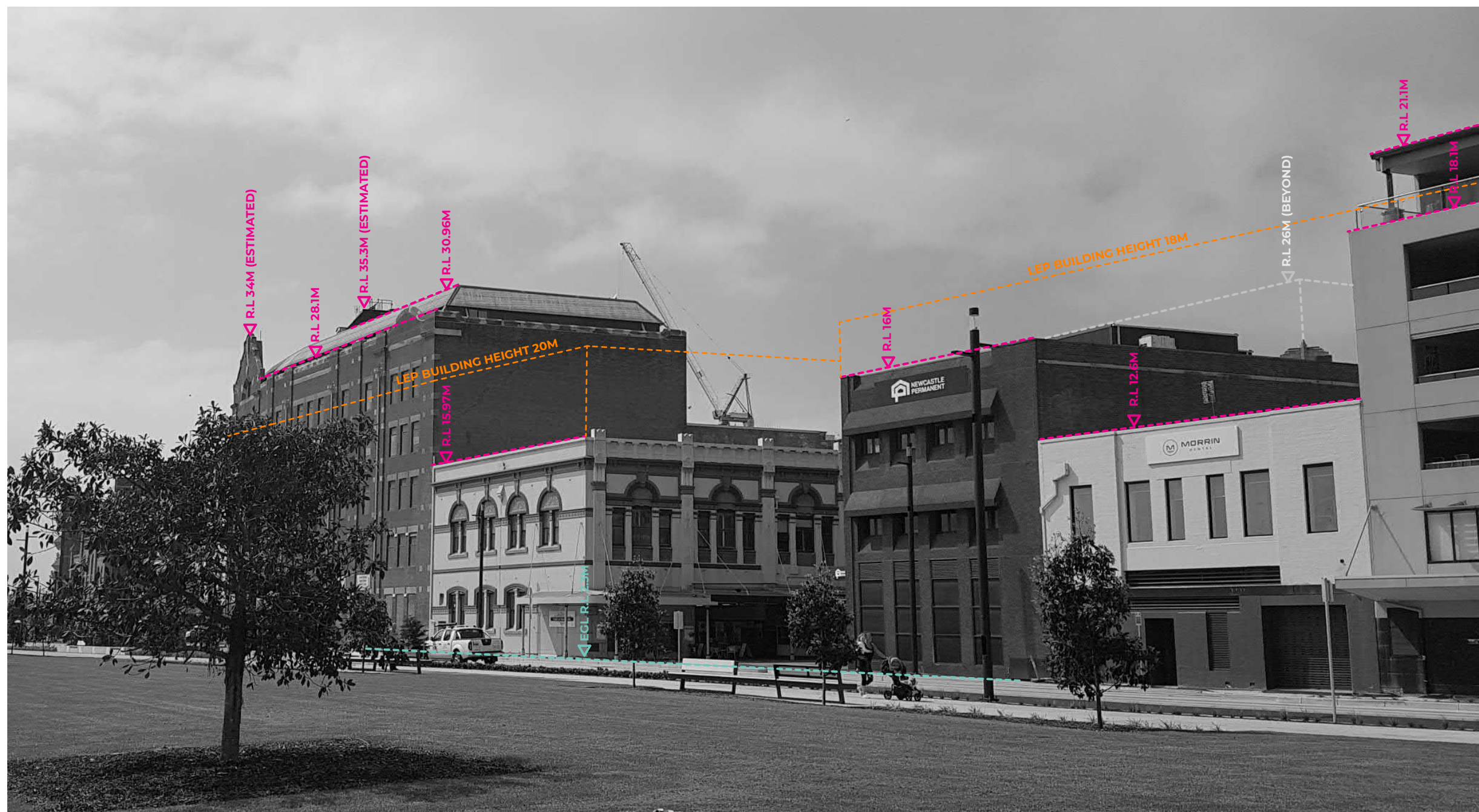
DRAWING
ANALYSIS - LEP HEIGHT LIMITS

PROJECT NO. 016-032
SCALE @A3

DRAWING NO. DD005
ISSUE NO. 07

Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figure dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the Issue details checked and authorised section below is confirmation of the status of the drawing. Drawings shall not be used for construction unless endorsed 'For Construction' and authorised for issue.

U:\Users\CallumOneDrive - Space Design ARCHITECTURE\Desktop\016362_182 Hunter St DA - PDS 9.11.22.dgn



P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
 THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2021
06	Revised for DA	CR	JC	10/05/2021
07	Revised for DA	CR	JC	28/06/2021

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
ANALYSIS - STREETSCAPE

PROJECT NO. 016-032 SCALE @A3

DRAWING NO.	ISSUE NO.
DD006	07

SDA
SPACE · DESIGN · ARCHITECTURE



Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
ANALYSIS - VIEW CORRIDORS

PROJECT NO.
016-032

SCALE
@A3

DRAWING NO.
DD007

ISSUE NO.
07

SDA
SPACE · DESIGN · ARCHITECTURE

LEGEND	
	ORIGINAL FABRIC c1875 (COX)
	ORIGINAL FABRIC c1886 (MENKENS)
	ORIGINAL FABRIC c1905 (YEOMANS)
	INTRUSIVE FABRIC - NIL VALUE MAY BE REMOVED

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

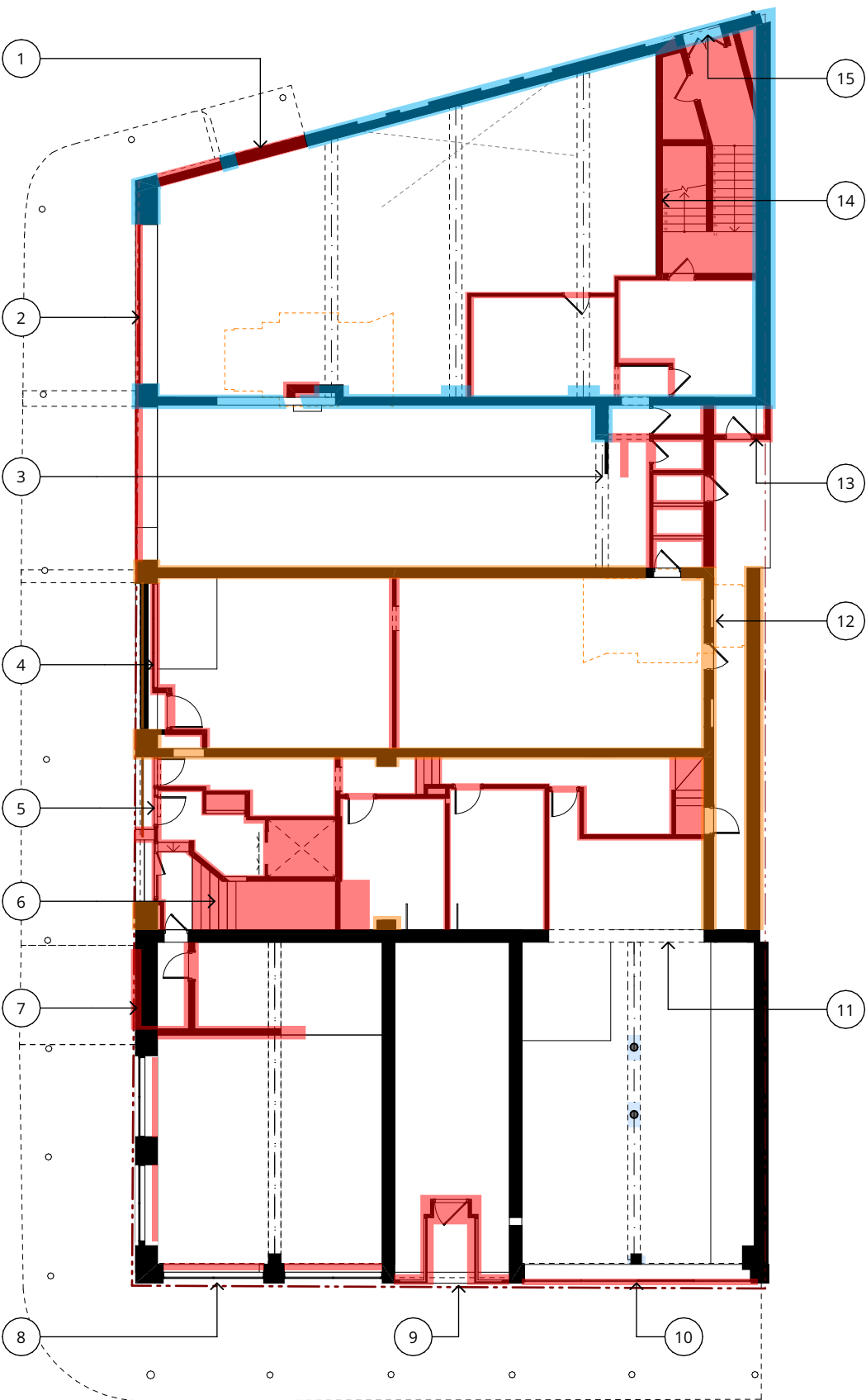
DRAWING
ANALYSIS - HERITAGE FABRIC
GF

PROJECT NO.
016-032

SCALE
1:200@A3

DRAWING NO.
DD008

ISSUE NO.
07



1 INFILLED FORMER OPENING IN EXISTING BRICKWORK VISIBLE. PAINTED-OVER FEATURE TILING AND FOUNDATION PLAQUE TO SHOPFRONT APPARENT.



2 MISMATCHED, NON-ORIGINAL SHOPFRONT TREATMENTS ALONG WOLFE STREET. STREET AWNING AND COLUMNS NOT ORIGINAL, BUT GOOD GENERALLY IN GOOD CONDITION.



3 INCONSISTENT, NON-ORIGINAL CEILING TREATMENTS THROUGHOUT GROUND FLOOR TENNACIES.



4 INCONSISTENT SHOPFRONT TREATMENTS ALONG WOLFE STREET. TILE TO FACADE TO BE RETAINED WHERE PRESENT.



5 ENTRY DOORS TO SERVICE CORRIDOR AND FIRST FLOOR. BELIEVED TO BE PERIOD APPROPRIATE, MODIFIED AND REPURPOSED FROM ELSEWHERE IN THE BUILDING - MAY BE REUSED



6 STAIRCASE TO FIRST FLOOR NON-ORIGINAL FABRIC. BRASS HANDRAIL c1930s MAY BE RETAINED FOR REUSE



7 INTRUSIVE ALTERATIONS TO WOLFE STREET. ROLLER SHUTTER ACCESSES REAR OF FORMER CAFE



8 INTRUSIVE ALTERATIONS TO SHOPFRONT ON CORNER OF WOLFE AND HUNTER STREETS. ARCHES CONFLICT WITH THE PROPORTIONS OF THE ORIGINAL BUILDING



9 DISUNIFIED SHOPFRONT TREATMENT ALONG HUNTER STREET ELEVATION



10 MODERN SHOPFRONT GLAZING, INCONSISTENT ALONG HUNTER STREET ELEVATION.



11 SIGNIFICANT ALTERATION TO INTERNAL FABRIC INCLUDING FALSE CEILINGS AND POORLY INTEGRATED SERVICES



12 DILAPIDATED FABRIC TO REAR OF BUILDING, ENCLOSED BY NEIGHBOURING STRUCTURES



13 DILAPIDATED FABRIC TO REAR OF BUILDING, ENCLOSED BY NEIGHBOURING STRUCTURES



14 FIRE EGRESS STAIR PUNCTUATES GROUND FLOOR EXISTING FABRIC (PLAQUE) TO BE PRESERVED.



15 FIRE EGRESS CUT THROUGH EXISTING EXTERNAL WALL ALONG SCOTT STREET, ALTERED ORIGINAL WINDOWS

NOTE - HERITAGE ANALYSIS DEVELOPED IN CONJUNCTION WITH HERITAGE FABRIC ASSESSMENT AND IMPACT STATEMENT PREPARED BY EJE, 2014 AND CONTEMPORARY HERITAGE, 2021 (RESPECTIVE)

LEGEND

- ORIGINAL FABRIC c1875 (COX)
- ORIGINAL FABRIC c1886 (MENKENS)
- ORIGINAL FABRIC c1905 (YEOMANS)
- INTRUSIVE FABRIC - NIL VALUE MAY BE REMOVED

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

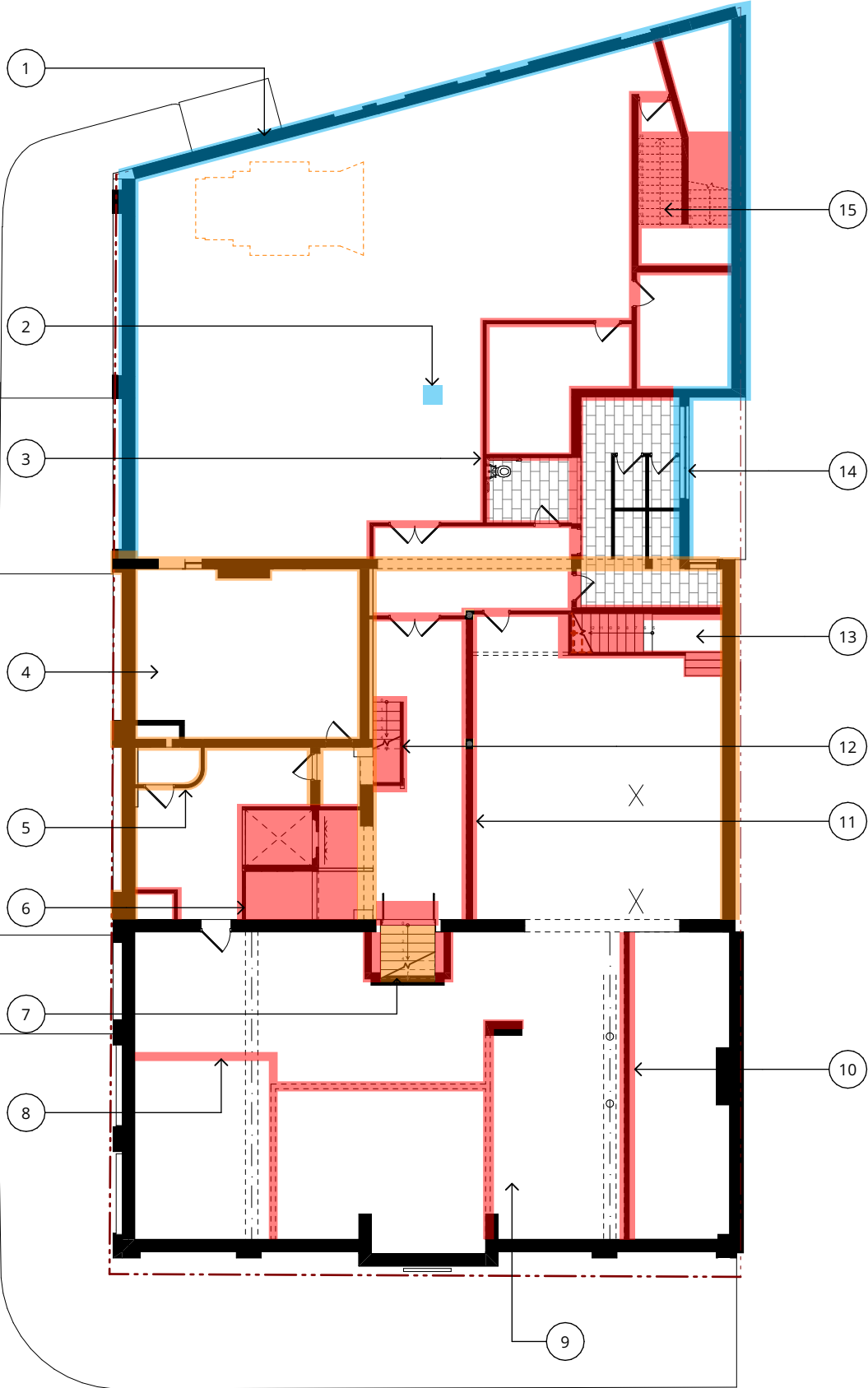
LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
ANALYSIS - HERITAGE FABRIC L1

PROJECT NO. 016-032
SCALE 1:200@A3

DRAWING NO. DD009
ISSUE NO. 07



1 ORIGINAL GLAZING WITH ADDITIONAL MODERN UNIT FIXED TO INSIDE FACE. ORIGINAL LIGHTING FIXTURES PRESENT WITHIN FORMER LIBRARY SPACE.



2 ORIGINAL STEEL COLUMN EXPOSED IN FORMER LIBRARY SPACE, SUPPORTING EXPOSED BEAM.



3 LOW HEIGHT PARTITIONS WITHIN FORMER LIBRARY. RELATIVELY UNTOUCHED



4 CENTRAL SEGMENT OF BUILDING LESS ORNATE BUT GENERALLY IN GOOD ORIGINAL CONDITION.



5 ORNATE WC AND EXPOSED LATH AND PLASTER ADJACENT MODERN LIFT.



6 STAIRCASE TO FIRST FLOOR NON-ORIGINAL FABRIC. BRASS HANDRAIL c1930s RETAINED FOR REUSE IN PROPOSED LOBBY



7 ORIGINAL ENTRY WAY LOOKING FROM 1875 COX BUILDING TOWARD LATER ADDITIONS. ORIGINAL BLAUSTRADE MAY BE CONCEALED WITHIN PLASTERBOARD NIB WALLS



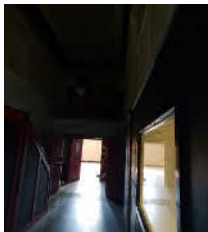
8 EXISTING PRESSED METAL CEILINGS GENERALLY GOOD CONDITION, RETAIN FOR REINSTATEMENT



9 FULL HEIGHT PARTITIONS INTERSECT ORIGINAL CEILINGS. ELECTRICAL/ COMMS/AC THROUGH THIS ZONE, INCLUDING FULL HEIGHT MECH RISER.



10 FULL HEIGHT PARTITION INTERSECTS ORIGINAL CEILING. FULL HEIGHT RISER AND AC DUCT ALSO PENETRATE CEILING.



11 DIVIDING WALL BETWEEN CORRIDOR AND FORMER STUDIO POTENTIALLY CONCEALS ORIGINAL COLUMNS. ORIGINAL CEILINGS HAVE BEEN MODIFIED TO SUIT.



12 MODIFIED OPENINGS AND NON-ORIGINAL STAIR TO CREATE CONNECTION BETWEEN CHANGE IN FLOOR LEVELS



13 INTRUSIVE STAIR AND MEZZANINE IN FORMER RECORDING STUDIO. PREDOMINATELY ORIGINAL FEATURES, WITH NOTABLE MODIFICATIONS INCLUDING VENTS AND OPENINGS

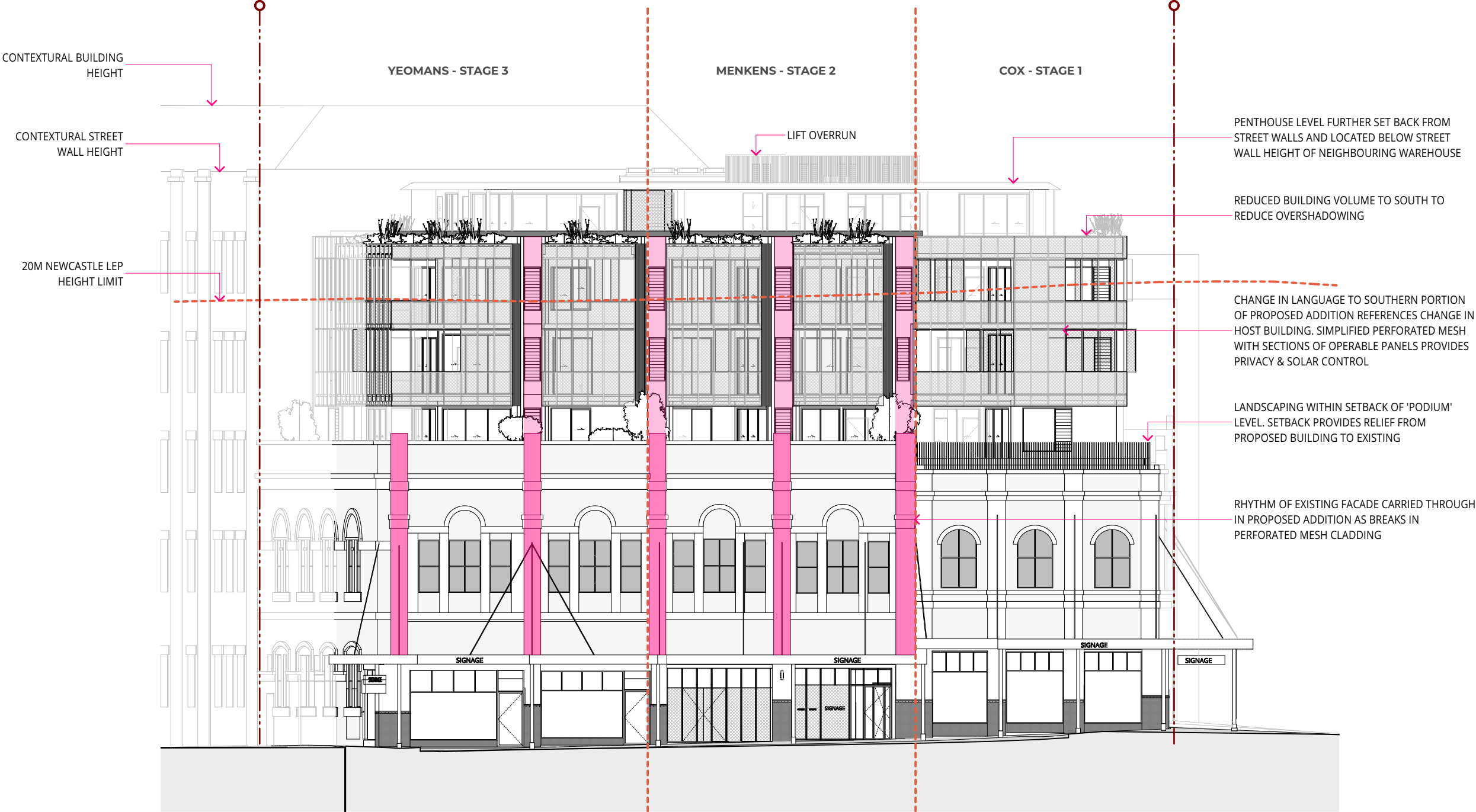


14 NON-ORIGINAL GLAZING FACING LIGHTWELL. NOTE MULTIPLE SERVICES CONNECTING TO/THROUGH THIS ZONE.



15 FIRE EGRESS EXTENDS UP TO SILL HEIGHT OF FORMER LIBRARY SPACE AND IS CAPPED. CEILINGS OVER ORIGINAL BUT REQUIRE ATTENTION.

NOTE - HERITAGE ANALYSIS DEVELOPED IN CONJUNCTION WITH HERITAGE FABRIC ASSESSMENT AND IMPACT STATEMENT PREPARED BY EJE, 2014 AND CONTEMPORARY HERITAGE, 2021 (RESPECTIVE)



P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
FORM DEVELOPMENT -
BUILDING LANGUAGE

PROJECT NO.
016-032

SCALE
@A3

DRAWING NO.
DD010

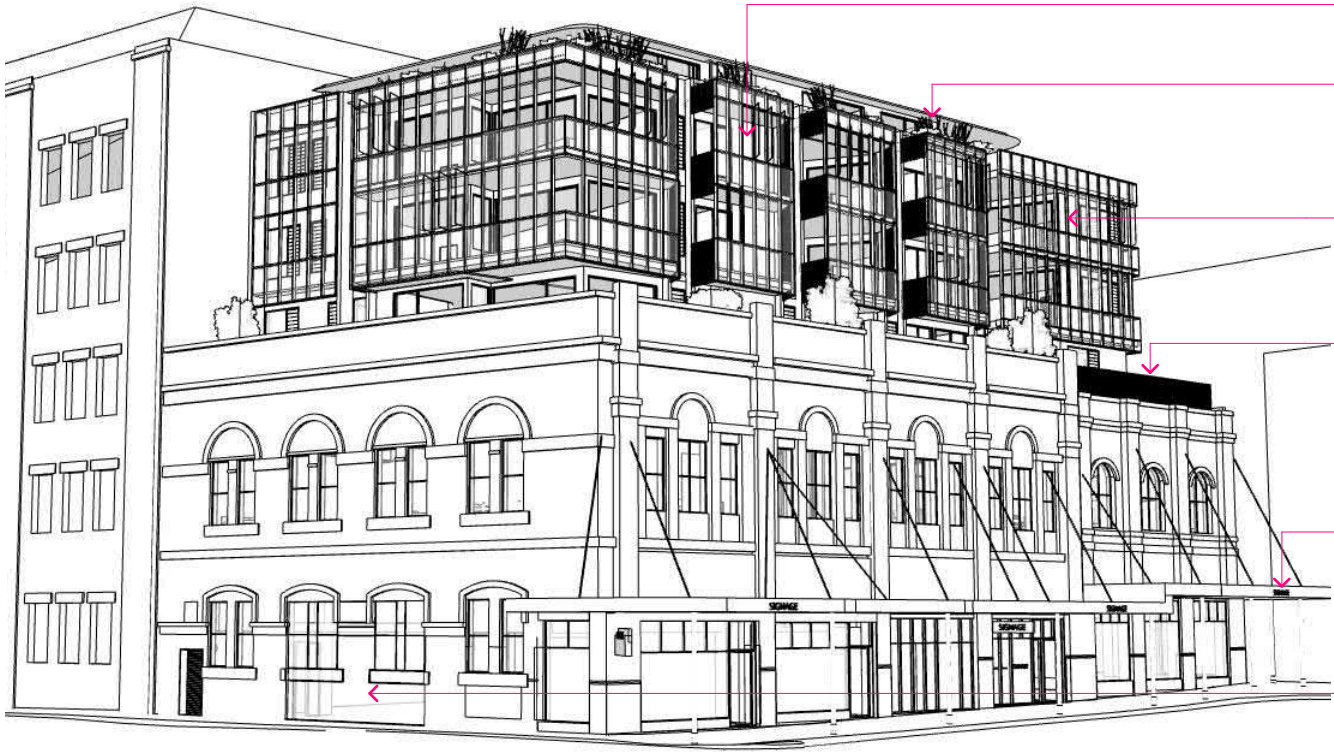
ISSUE NO.
07



SIGNIFICANT CHANGE OF SCALE
TO ADJACENT BUILDING
(BEBERFAULDS WAREHOUSE)

CHANGE OF LANGUAGE IN HOST
BUILDING

UNSYMPATHETIC, ADHOC
ALTERATIONS TO SHOPFRONTS



BALCONY PROJECTIONS WITH
OPERABLE PERFORATED MESH
SCREENING

UPPER FLOORS SET BACK WITH
LANDSCAPED VERGE AND FINE
ROOF EDGE

PERFORATED CLADDING
PROVIDING A CONTROLLED
BALANCE OF PRIVACY AND
PERMEABILITY

LANDSCAPED PODIUM LEVEL
HIGHLIGHTS SETBACK OF
PROPOSED MASS

AWNING TO BE REINSTATED AT
EXISTING HEIGHT ALONG
HUNTER & WOLFE STREETS

PERF METAL CARPARK ENTRY
DOOR TO REINTERPRET FACADE
DETAILING WHERE REMOVED

The existing building consists ground floor retail and a first floor that was most recently used as a community youth entertainment venue.

The first floor has multiple floor levels that reflect the buildings expansion over three stages. The Northern most part of the first floor has ceiling heights of approx 5.8m and is an impressive volumous space that originally housed a library adjoining the School of Arts. Due to its original library functions, windows sills in this northern part of the floor have sill heights of approx 2.1m which restrict outlook and therefore limits its usability for comtemporary purposes and adaptive re-use.

The proposal to conserve and restore this former library space as a book store is a fitting repurposing of the space the will allow its cultural significance to continue and be experienced by the public.

When viewed from the West along Scott Street, the change in scale between the subject site and the 'Newcastle Diggers Club' is evident, as is the large blank brickwork facade.

The proposed built form is generated from analysis of the context and existing built form. The scale of the proposed development responds to the height of adjoining buildings along Scott Street and Hunter Street, and seeks to create a transition in height from these taller buildings to the east, to the lower western end of the city block.

The development provides activation and articulation to the corner site whilst masking the large blank brickwork wall to the existing Newcastle Diggers Club.

The proposed form aligns with height of the 'Newcastle Diggers Club' to Scott Street, sitting below the height of the existing boundary wall, suitably book-ending the corner site and providing an articulated form that reflects the facade proportions of the existing building.

The facade of the proposed development is restrained, with subtle references to the detailing of the host buidng expressed by vertical breaks in the form and accentuated by the lightness of semi-transparent mesh cladding material. The massing is set back from the boundaries to further reduce the visual impact of the development. This approach allows the host building to remain the dominant element on the site.

Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK.	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
FORM DEVELOPMENT -
CONTEXTUAL BUILDING
HEIGHTS

PROJECT NO.
016-032

SCALE
@A3

DRAWING NO.
DD011

ISSUE NO.
07

SDA
SPACE · DESIGN · ARCHITECTURE



Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
PRECEDENT - MATERIALITY

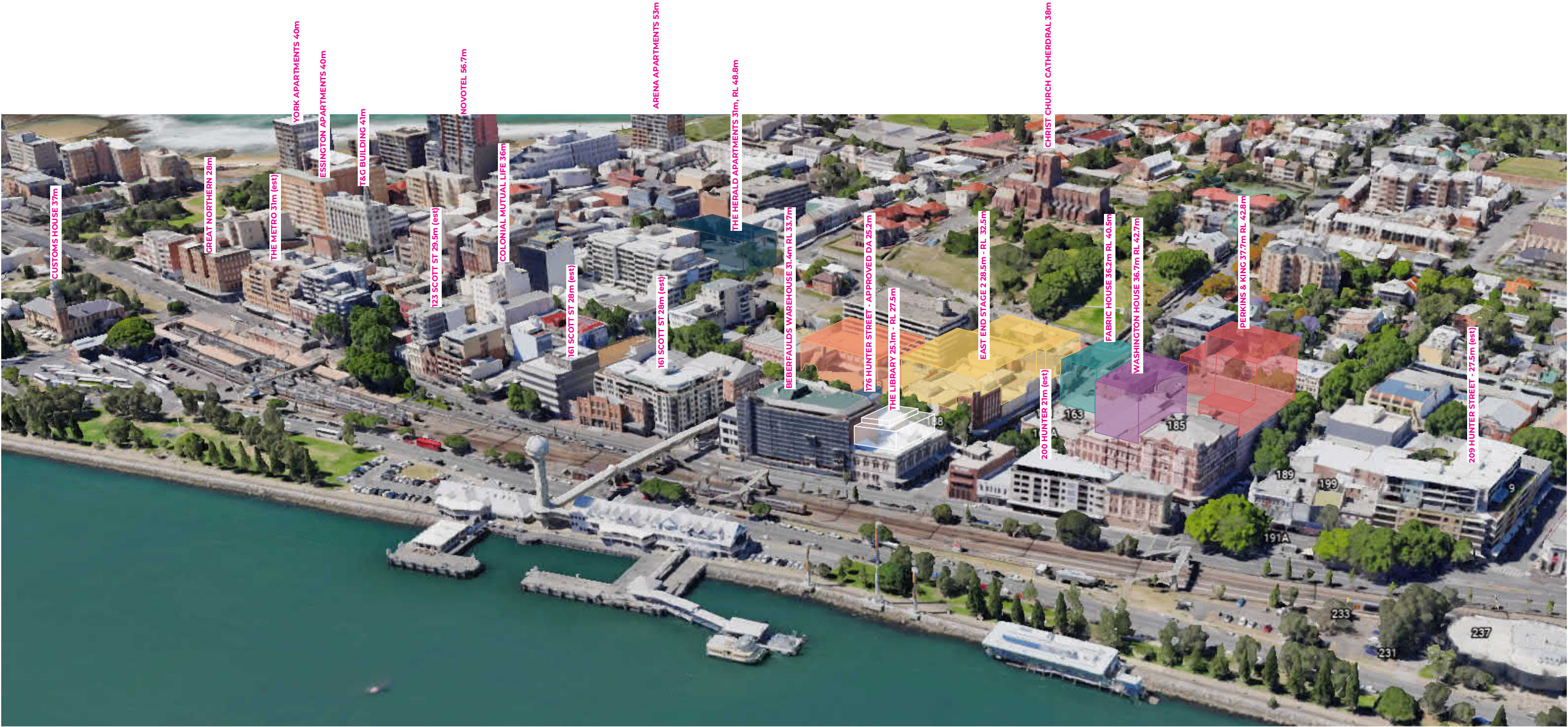
PROJECT NO.
016-032

SCALE
@A3

DRAWING NO.
DD012

ISSUE NO.
07

SDA
SPACE · DESIGN · ARCHITECTURE



East -Hunter ST



West -Hunter ST 2

LEGEND

- THE LIBRARY - PROPOSED
- FABRIC HOUSE - BUILT
- WASHINGTON HOUSE - BUILT
- PERKINS & KING - BUILT
- 164 HUNTER ST - APPROVED DA
- 176 HUNTER ST - APPROVED DA
- EAST END STAGE 2 - COMMENCED
- EAST END STAGE 3 - PROPOSED

Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.

C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pptx

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
01	For Review	CR		8/03/2022
02	Revised for DA	CR	JC	10/05/2022
03	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
ANALYSIS - STREETSCAPE
PHOTOMONTAGE

PROJECT NO.
016-032

SCALE
@A3

DRAWING NO.
DD013

ISSUE NO.
03

SDA
SPACE · DESIGN · ARCHITECTURE



EXISTING VIEW (TYPICAL) - FROM EAST END STAGE 1



EXISTING VIEW (TYPICAL) - FROM EAST END STAGE 2



WITH LEP ENVELOPE - FROM EAST END STAGE 1



WITH LEP ENVELOPE - FROM EAST END STAGE 2



EXISTING VIEW (TYPICAL) - FROM EAST END STAGE 1



RESULTING VIEW (TYPICAL) - FROM EAST END STAGE 2

GRAPHIC LEGEND

LEP ENVELOPE

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
01	Revised for DA	CR	JC	10/05/2022
02	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
ANALYSIS - VIEW SHARING

PROJECT NO.
016-032

SCALE
@A3

DRAWING NO.
DD014

ISSUE NO.
02

NEW OPENING FOR CONSTRUCTION
ACCESS & FUTURE VEHICLE ENTRY, TO
ALIGN WITH EXISTING WINDOW
OPENINGS

REINSTATE EXISTING SHOPFRONT
GLAZING WITHIN EXISTING BRICK
OPENINGS AS PER HERITAGE FABRIC
ASSESSMENT

REMOVE AND RETAIN PRESSED
METAL CEILINGS (WHERE
DISCOVERED) FOR FUTURE REUSE

REMOVE SHOPFRONTS
THROUGHOUT AND MAKE GOOD
OPENINGS FOR NEW SHOPFRONT
GLAZING

SALVAGE BRICKS FROM INTER-
BUILDING PARTI WALLS FOR
FUTURE REUSE

DEMOLISH EXISTING LIFT

NEW 3.6M HIGH OPENINGS IN
WALLS TO ENABLE EXISTING
VOLUMES TO REMAIN LEGIBLE

RENDERED BRICK ARCHES TO BE
DEMOLISHED IN ACCORDANCE
WITH HERITAGE FABRIC
ASSESSMENT, MAKE GOOD
ORIGINAL OPENINGS FOR NEW
SHOPFRONTS

PENETRATIONS IN FLOOR
REQUIRED TO ENABLE NEW
STRUCTURE

BEAMS TO BE RETAINED

REMOVE ROLLER SHUTTERS AND
REPLACE GLAZING AS REQUIRED.

EXISTING SHOPFRONTS TO BE
DEMOLISHED, MAKE GOOD FOR
NEW GLAZING WITHIN ORIGINAL
OPENINGS

GROUND FLOOR DEMOLITION
SCALE 1:200

EXISTING FACADE RETAINED,
PROP DURING DEMOLITION &
CONSTRUCTION

REMOVE COLUMN AND BEAM
OVER, TO BE STORED FOR FUTURE
REUSE

DEMOLISH EXISTING FLOOR AND
ROOF STRUCTURE THROUGHOUT

DEMOLISH INTERNAL FABRIC,
RETAIN ALL CEILING TILE,
CORNICE AND LIGHT FIXTURES
FOR REUSE. EXISTING BRICK TO BE
SALVAGED FOR REUSE.

WC TO BE CAREFULLY REMOVED
AND STORED FOR FUTURE REUSE

EXISTING ARCHWAY AND
ASSOCIATED DETAILING TO BE
PRESERVED, INFILL BELOW
PROPOSED FLOOR LEVEL

STAIR TO BE REMOVED & STORED
FOR FUTURE REUSE (APARTMENT
1.03)

NEW OPENING FOR APARTMENT
ENTRY DOOR

INTERNAL PATITION WALLS TO BE
DEMOLISHED

PENETRATIONS IN FLOOR
REQUIRED TO ENABLE NEW
STRUCTURE

L1 DEMOLITION
SCALE 1:200

Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
09	For Information	JC	JC	4/09/2022
10	For Information	CR		10/11/2022
11	Coordination	CR		5/12/2022
12	For Review	CR		19/12/2022
13	Revised DA	CR		21/12/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

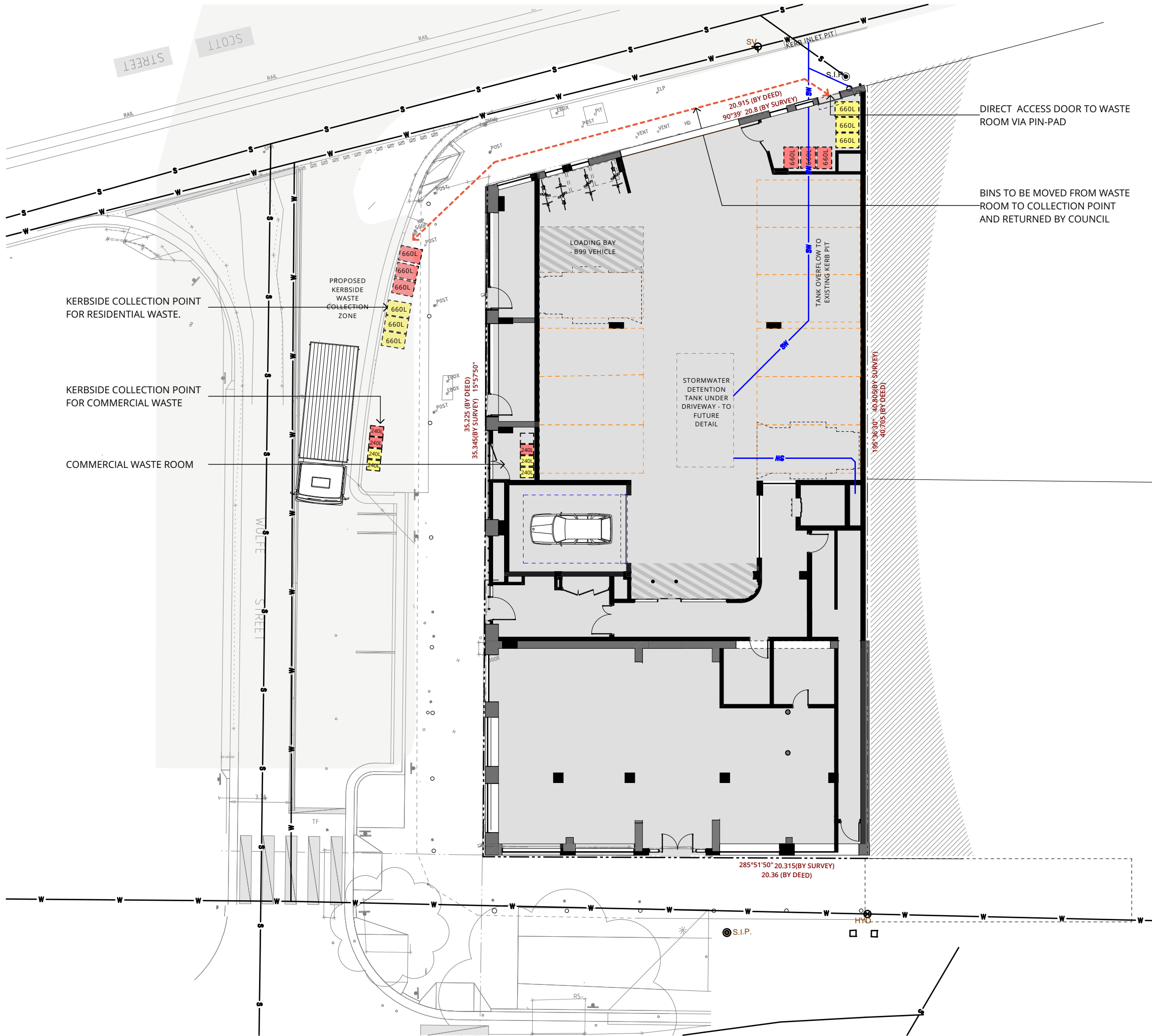
CLIENT
LITERARY TRADING COMPANY

DRAWING
DEMOLITION PLANS

PROJECT NO. 016-032
SCALE 1:200@A3

DRAWING NO. DD100
ISSUE NO. 13

SDA
SPACE · DESIGN · ARCHITECTURE



Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182_Hunter_St_DA_Revised 9.11.22.pln

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
01	Revised for DA	CR	JC	28/06/2022
02	RFI - Waste Collection	CR		14/10/2022
03	For Review	CR		19/12/2022
04	Revised DA	CR		21/12/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
SITE PLAN

PROJECT NO.
016-032

SCALE
@A3

DRAWING NO.
DD101

ISSUE NO.
04

SDA
SPACE · DESIGN · ARCHITECTURE

LEGEND

- RESIDENTIAL
- RETAIL
- COMMON LOBBY
- COMMERCIAL
- VERTICAL CIRCULATION
- CARPARK/ PLANT
- LANDSCAPING
- STORAGE



P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
12	RPI - Waste Collection	CR		14/10/2022
13	For Information	CR		10/11/2022
14	Coordination	CR		5/12/2022
15	For Review	CR		19/12/2022
16	Revised DA	CR		21/12/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

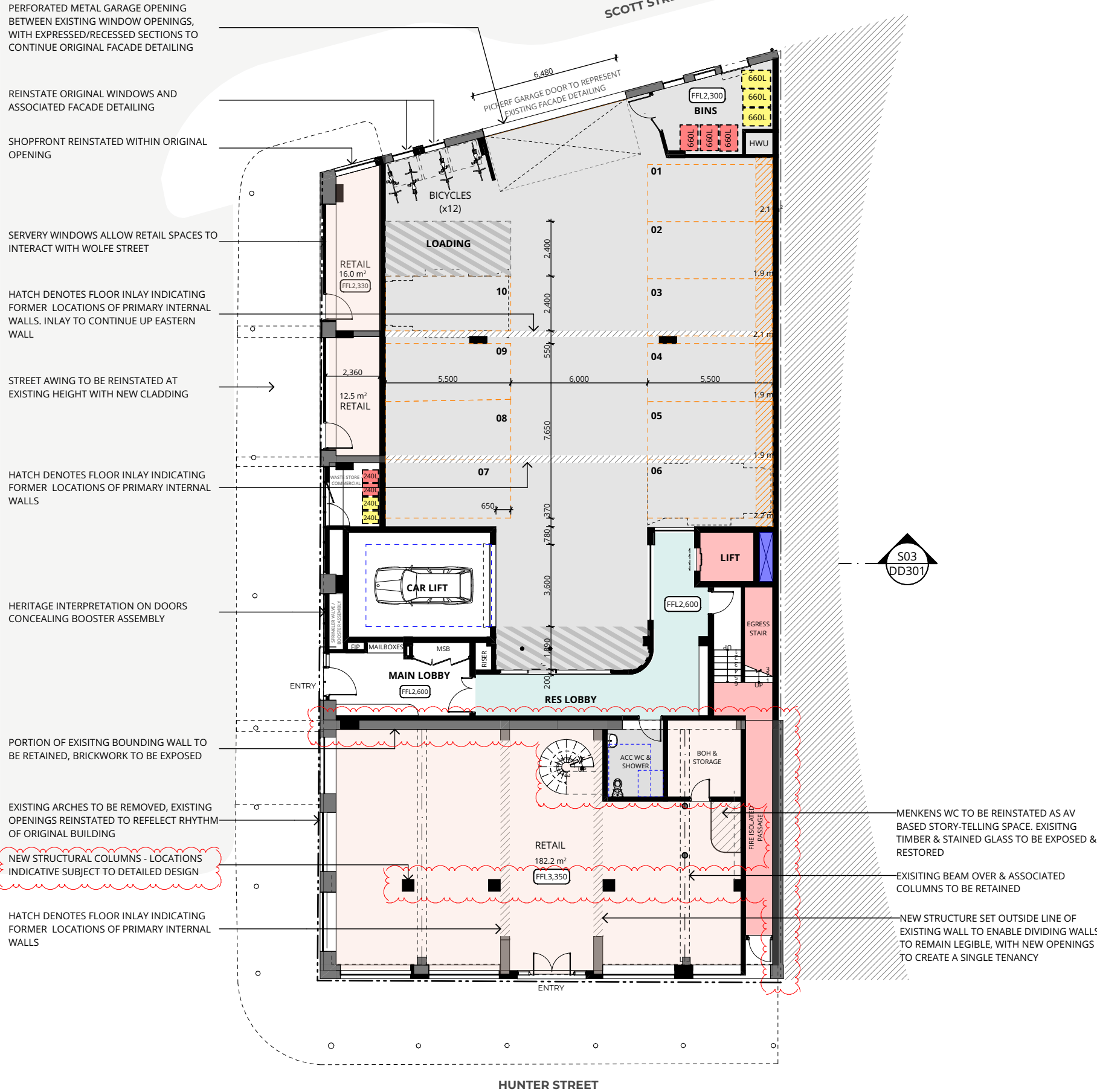
DRAWING
GROUND FLOOR PLAN

PROJECT NO. 016-032
SCALE 1:200@A3

DRAWING NO. DD110
ISSUE NO. 16



GROUND FLOOR PLAN
SCALE 1:200



Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.

C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

LEGEND

- RESIDENTIAL
- RETAIL
- COMMON LOBBY
- COMMERCIAL
- VERTICAL CIRCULATION
- CARPARK/ PLANT
- LANDSCAPING
- STORAGE



P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
12	For Information	JC	JC	4/09/2022
13	For Information	CR		10/11/2022
14	Coordination	CR		5/12/2022
15	For Review	CR		19/12/2022
16	Revised DA	CR		21/12/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

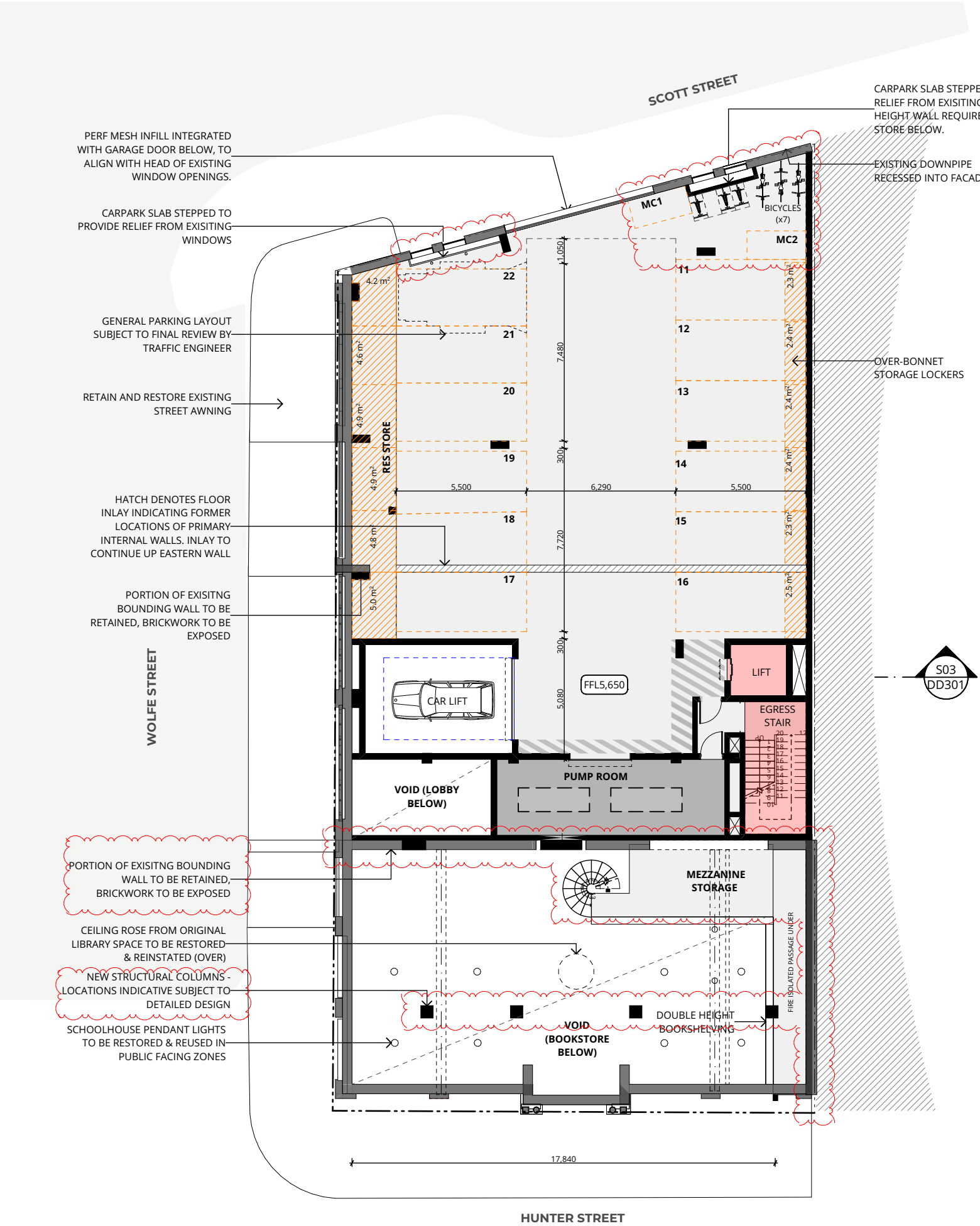
CLIENT
LITERARY TRADING COMPANY

DRAWING
CARPARK MEZZANINE PLAN

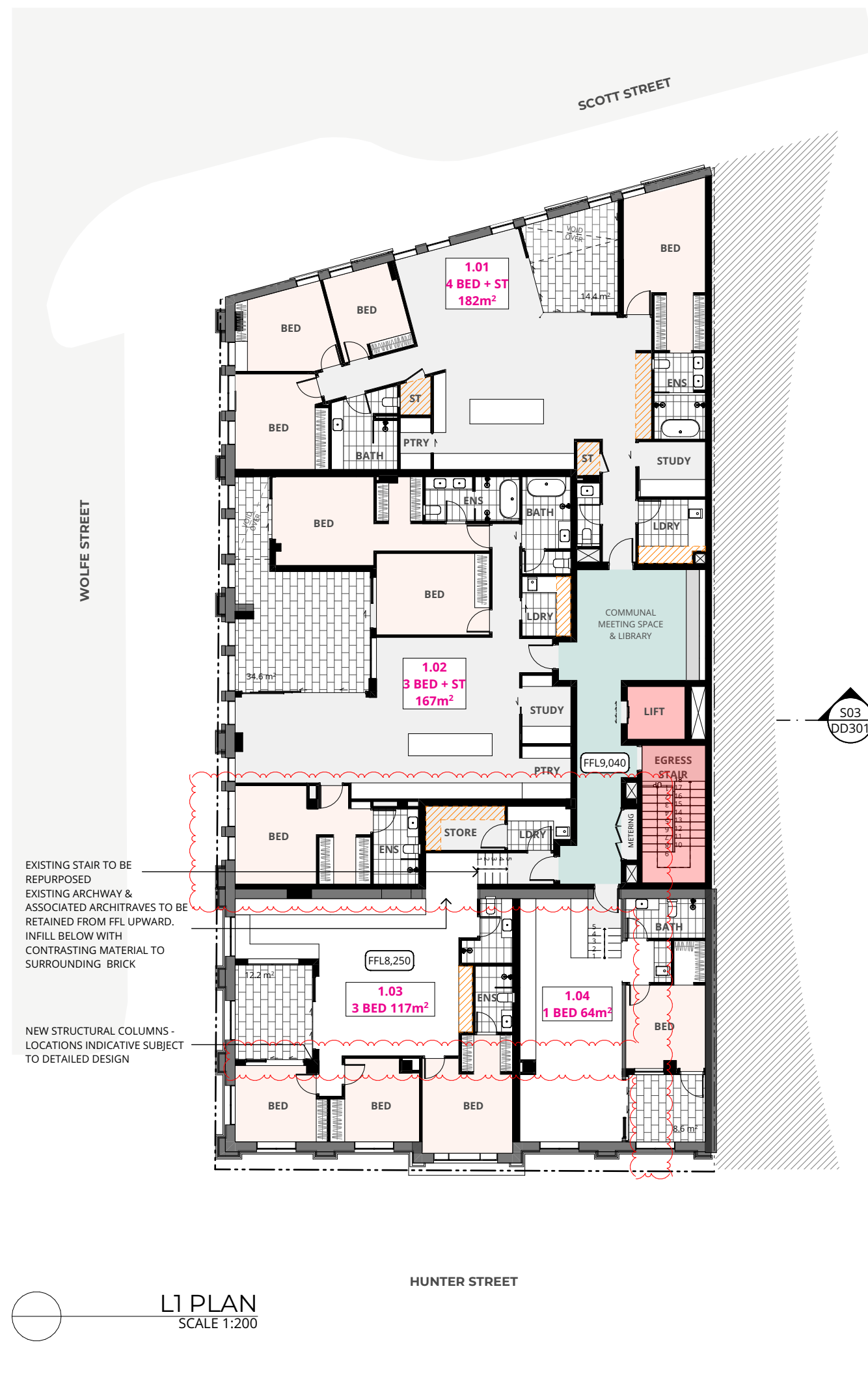
PROJECT NO. 016-032
SCALE 1:200@A3

DRAWING NO. DD111
ISSUE NO. 16

SDA
SPACE · DESIGN · ARCHITECTURE



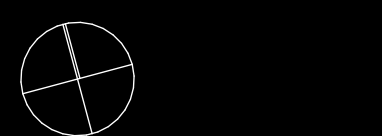
CARPARK MEZZANINE PLAN
SCALE 1:200



Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.

C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182_Hunter_St_DA_Revised 9.11.22.pln

- LEGEND**
- RESIDENTIAL
 - RETAIL
 - COMMON LOBBY
 - COMMERCIAL
 - VERTICAL CIRCULATION
 - CARPARK/ PLANT
 - LANDSCAPING
 - STORAGE



P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
10	Revised for DA	CR	JC	28/06/2022
11	For Information	CR		10/11/2022
12	Coordination	CR		5/12/2022
13	For Review	CR		19/12/2022
14	Revised DA	CR		21/12/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

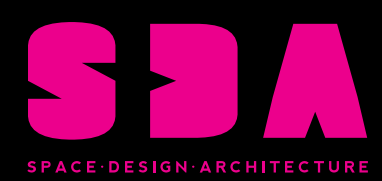
DRAWING
L1 & L2 PLAN

PROJECT NO.
016-032

SCALE
1:200@A3

DRAWING NO.
DD112

ISSUE NO.
14

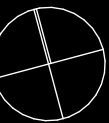


Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.

C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

LEGEND

- LEGEND
- RESIDENTIAL
 - RETAIL
 - COMMON LOBBY
 - COMMERCIAL
 - VERTICAL CIRCULATION
 - CARPARK/ PLANT
 - LANDSCAPING
 - STORAGE



P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
[SDARCH.COM.AU](https://www.sdarch.com.au)

ISSUE	DESCRIPTION	BY	CHK.	DATE
08	For Review	CR		8/03/2022
09	Revised for DA	CR	JC	10/05/2022
10	Revised for DA	CR	JC	28/06/2022
11	For Review	CR		19/12/2022
12	Revised DA	CR		21/12/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
L3 & L4 FLOOR PLAN

PROJECT NO. 016-032
SCALE 1:200@A3

DRAWING NO. DD114
ISSUE NO. 12

SDA
SPACE · DESIGN · ARCHITECTURE

SCOTT STREET



L3 PLAN
SCALE 1:200

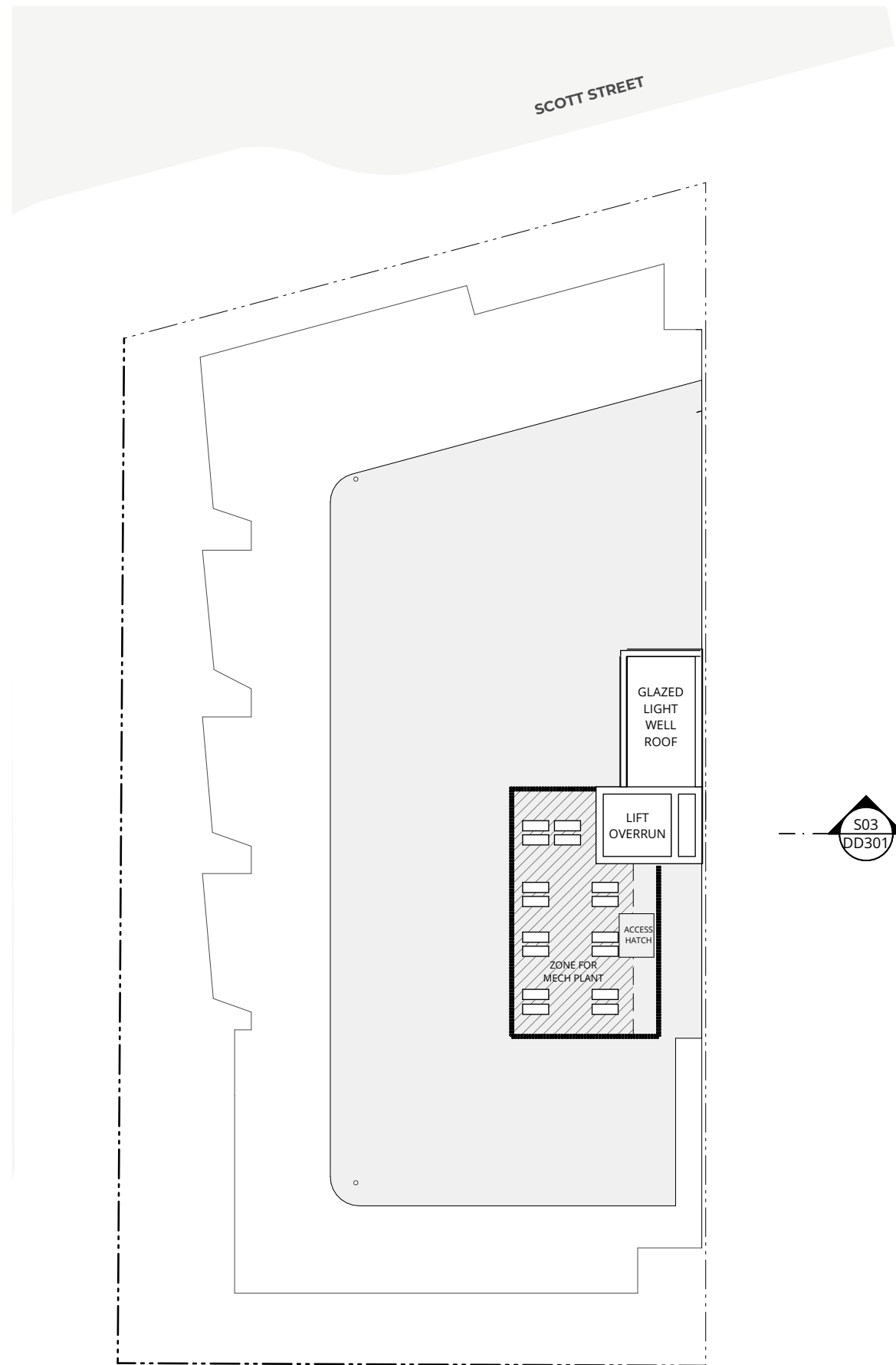
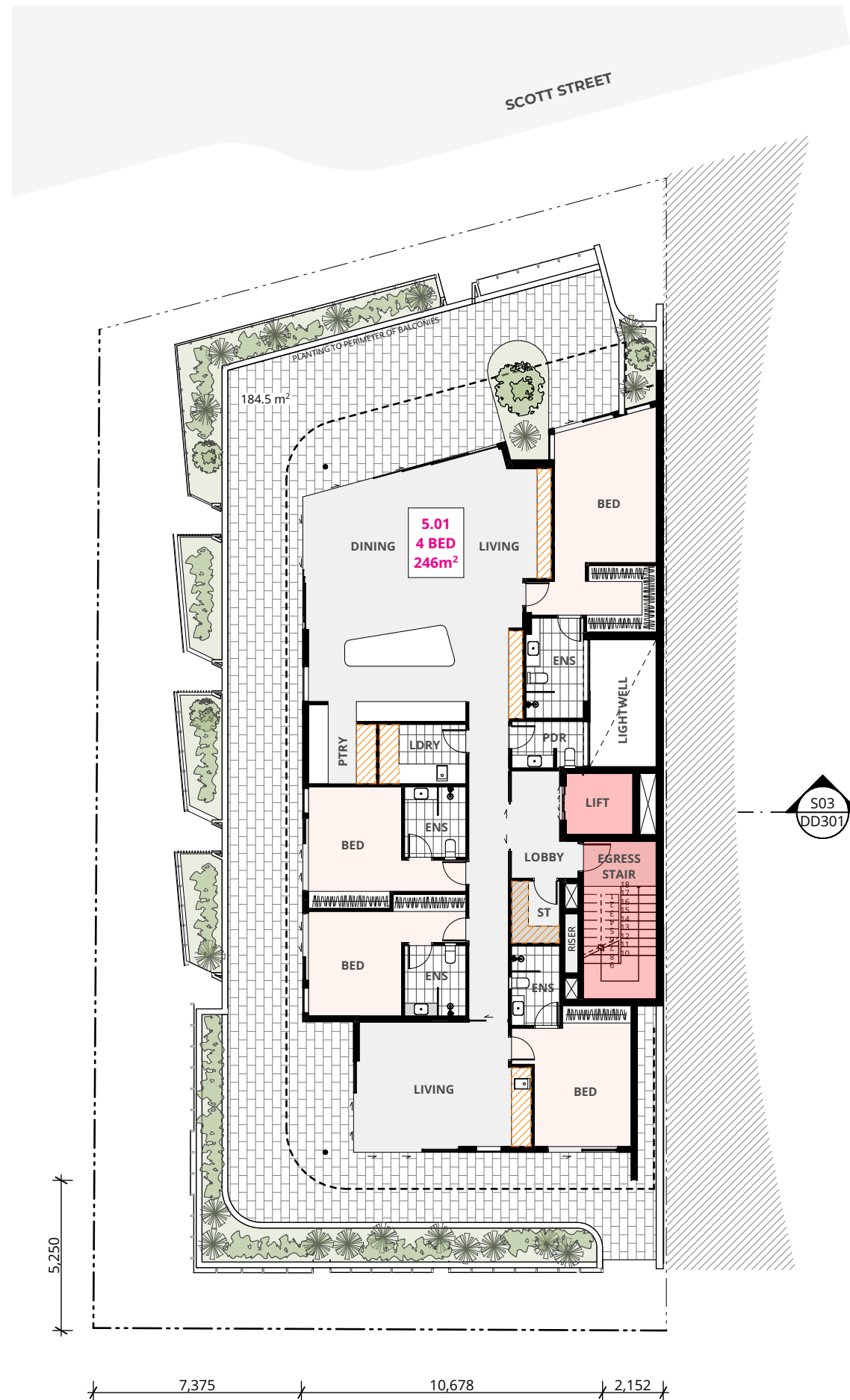
HUNTER STREET

SCOTT STREET



L4 PLAN
SCALE 1:200

HUNTER STREET

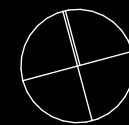


Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.

C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

LEGEND

- RESIDENTIAL
- RETAIL
- COMMON LOBBY
- COMMERCIAL
- VERTICAL CIRCULATION
- CARPARK/ PLANT
- LANDSCAPING
- STORAGE



P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
10	Revised for DA	CR	JC	10/05/2022
11	Revised for DA	CR	JC	28/06/2022
12	For Information	CR		10/11/2022
13	For Review	CR		19/12/2022
14	Revised DA	CR		21/12/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
L5 & ROOF PLAN

PROJECT NO.
016-032

SCALE
1:200@A3

DRAWING NO.
DD115

ISSUE NO.
14

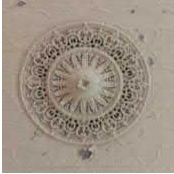
SDA
SPACE · DESIGN · ARCHITECTURE



- 01 **PRESSED METAL CEILING (1905)**
FROM FORMER L1 LIBRARY SPACE TO BE REINSTATED
IN ALL RETAIL SPACES



- 02 **SCHOOLHOUSE PENDANT LIGHTS**
8QTY, FROM FORMER LIBRARY



- 03 **PLASTER CEILING ROSE**
FROM FORMER LIBRARY, TO BE REINSTATED IN
PUBLIC VIEW WITHIN FULL HEIGHT SPACE OF
BOOKSTORE

- 04 **CONTRASTING CONTEMPORARY FINISHES**
TO NEW LOBBY SPACES & CORRIDORS

- 05 **EXISTING SCOTT ST WINDOWS RETAINED & RESTORED**
MISSING PANELS TO BE REINSTATED & NEW FLOOR
STRUCTURE TO BE SET BACK FROM GLAZING LINE



- 06 **GEORGIAN WIRED GLASS WINDOWS***
WINDOWS RECLAIMED FROM (FACING LIBRARY)
REPURPOSED IN BOOKSTORE TO CONNECT
RESIDENTIAL LOBBY, SUBJECT TO FIRE ENGINEERING
REQUIREMENTS



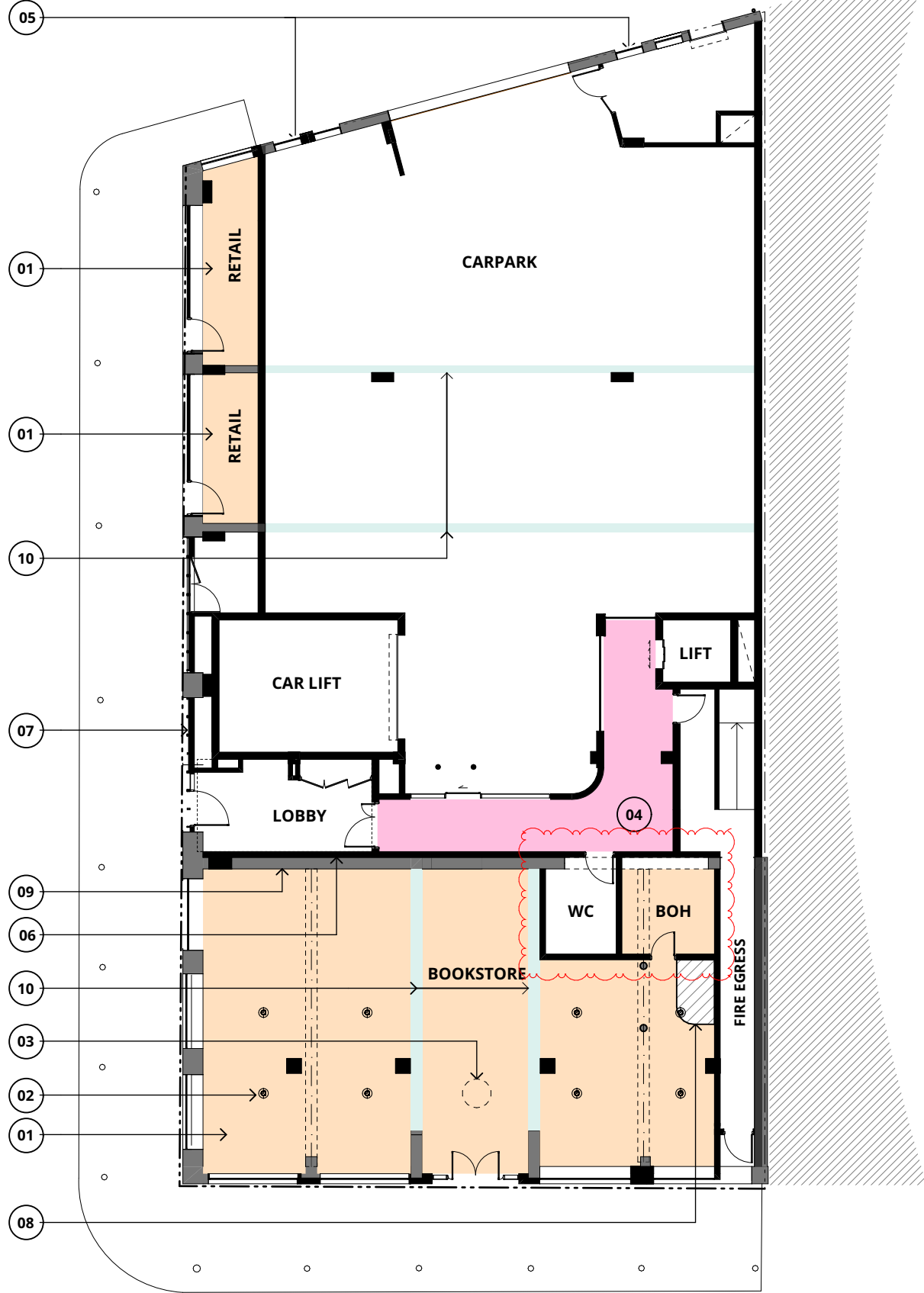
- 07 **VISUAL (PHOTOGRAPHIC) HISTORY DISLPAY**
HISTORIC IMAGES PERTINENT TO THE SCHOOL OF
ARTS TO BE DISPLAYED ON BOOSTER ASSEMBLY
CUPBOARD DOORS



- 08 **ORNATE TIMBER & STAINED GLASS WC**
TO BE RESTORED & RELOCATED. REPURPOSE AS AV
BASED STORY TELLING SPACE WITHIN LIBRARY,
DISPLAYING THE HISTORY OF THE SCHOOL OF ARTS

- 09 **PRIMARY BOUNDING WALLS**
WALLS TO BE RETAINED & BRICKWORK EXPOSED
(WHERE CURRENTLY CLAD OR RENDERED) TO MAKE
EXIDENT THE DIVISION BETWEEN THE 3 STAGES OF
THE ORIGINAL CONSTRUCTION

- 10 **BRICK FLOOR INLAY**
RECLAIMED BRICK INSITU FROM ORIGINAL WALLS, TO
INDICATE LOCATIONS OF SIGNIFICANT INTERNAL
WALLS



Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK.	DATE
01	For Information	CR		13/09/2022
02	For Review	CR		19/12/2022
03	Revised DA	CR		21/12/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
RCP - GROUND FLOOR

PROJECT NO.
016-032

SCALE
@A3

DRAWING NO.
DD120

ISSUE NO.
03

SDA
SPACE · DESIGN · ARCHITECTURE

Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.

C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

- LEGEND**
- EXISTING CORNICE
 - EXISTING PRESSED METAL CEILINGS
 - EXISTING WALLS TO BE DEMOLISHED
 - CEILING PENETRATIONS

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK.	DATE
01	For Review	CR		19/12/2022
02	Revised DA	CR		21/12/2022

PROJECT
THE LIBRARY

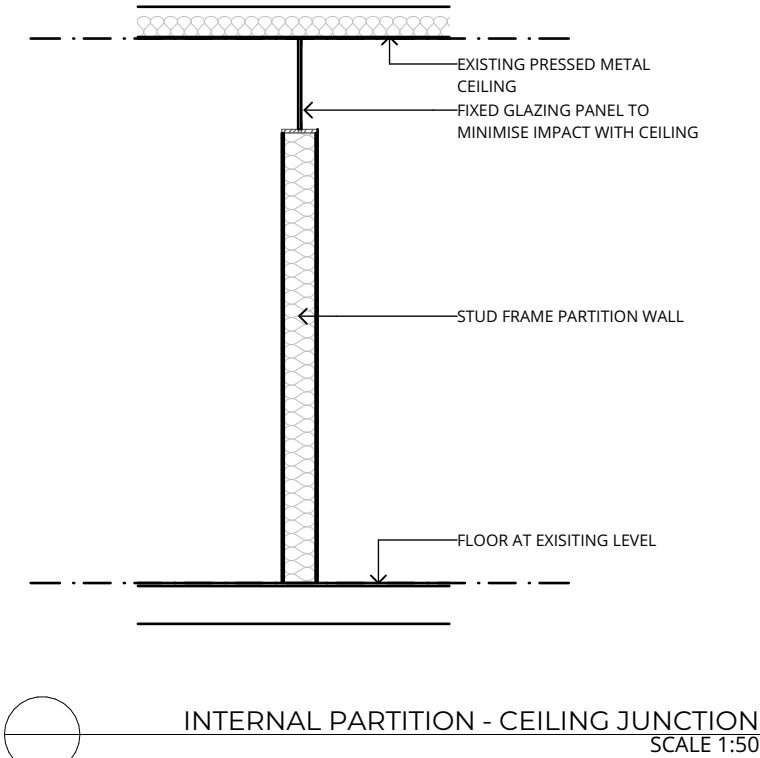
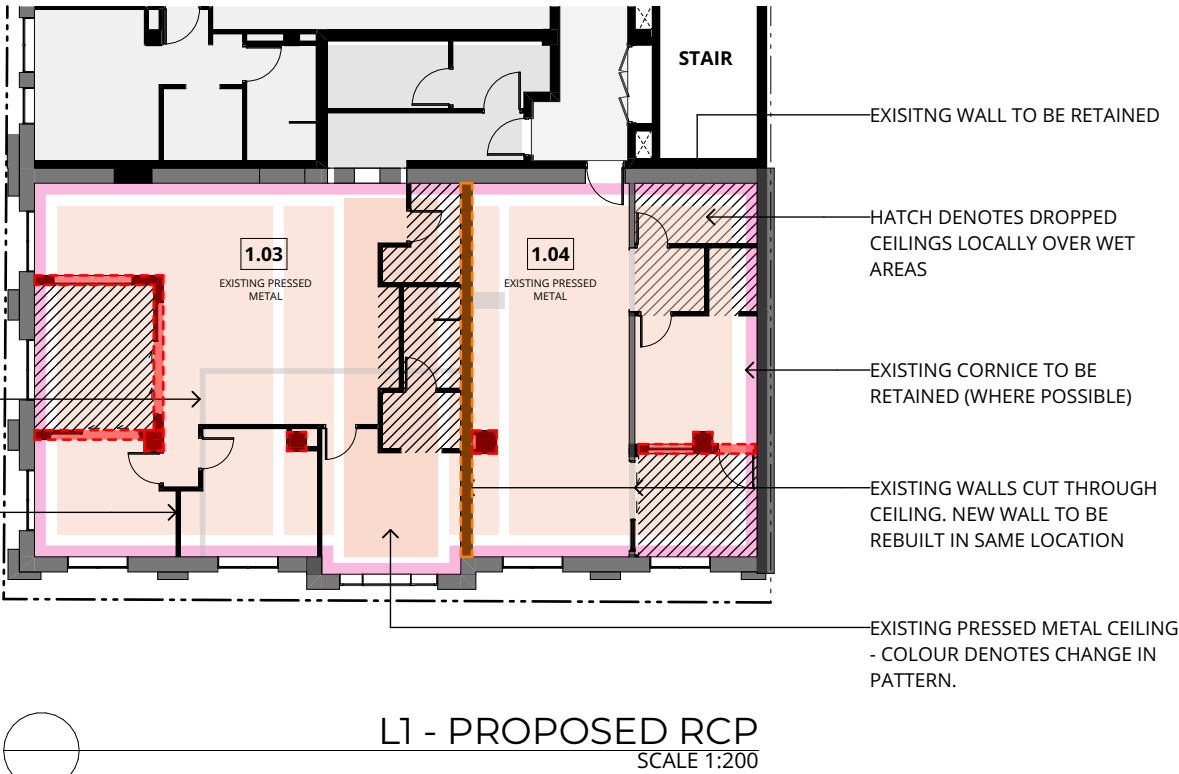
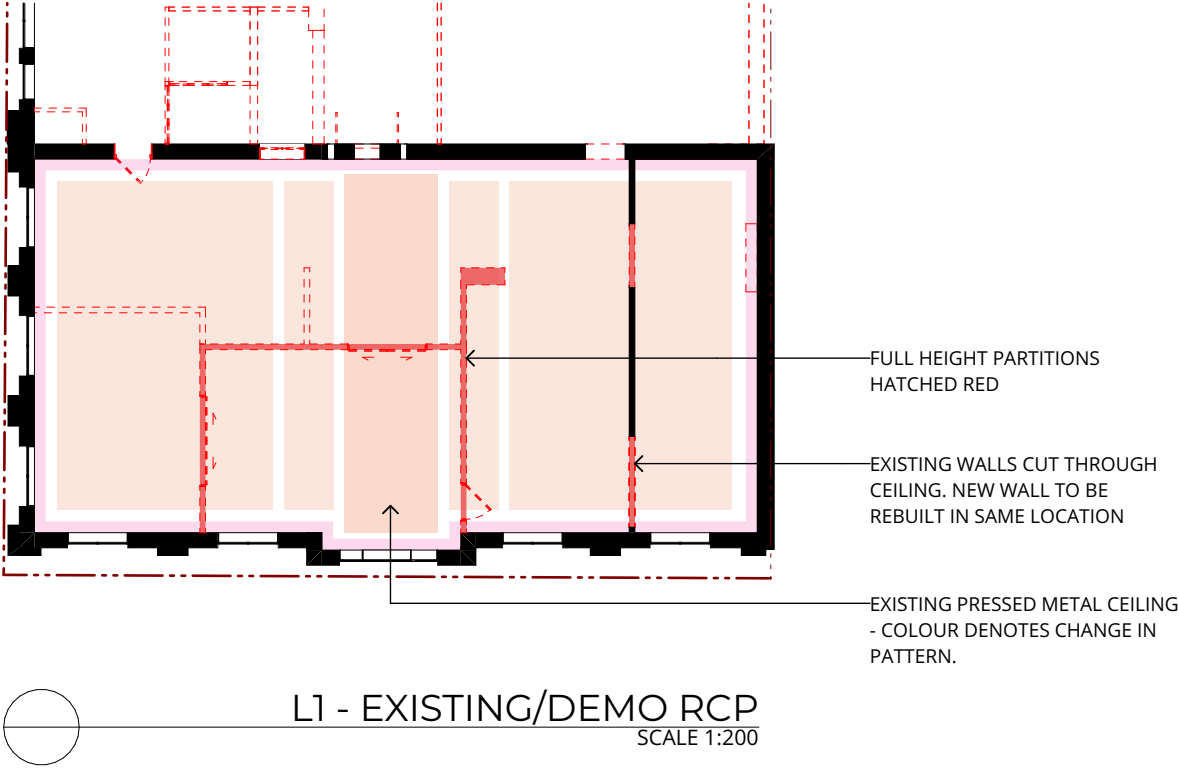
LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
RCP - L1

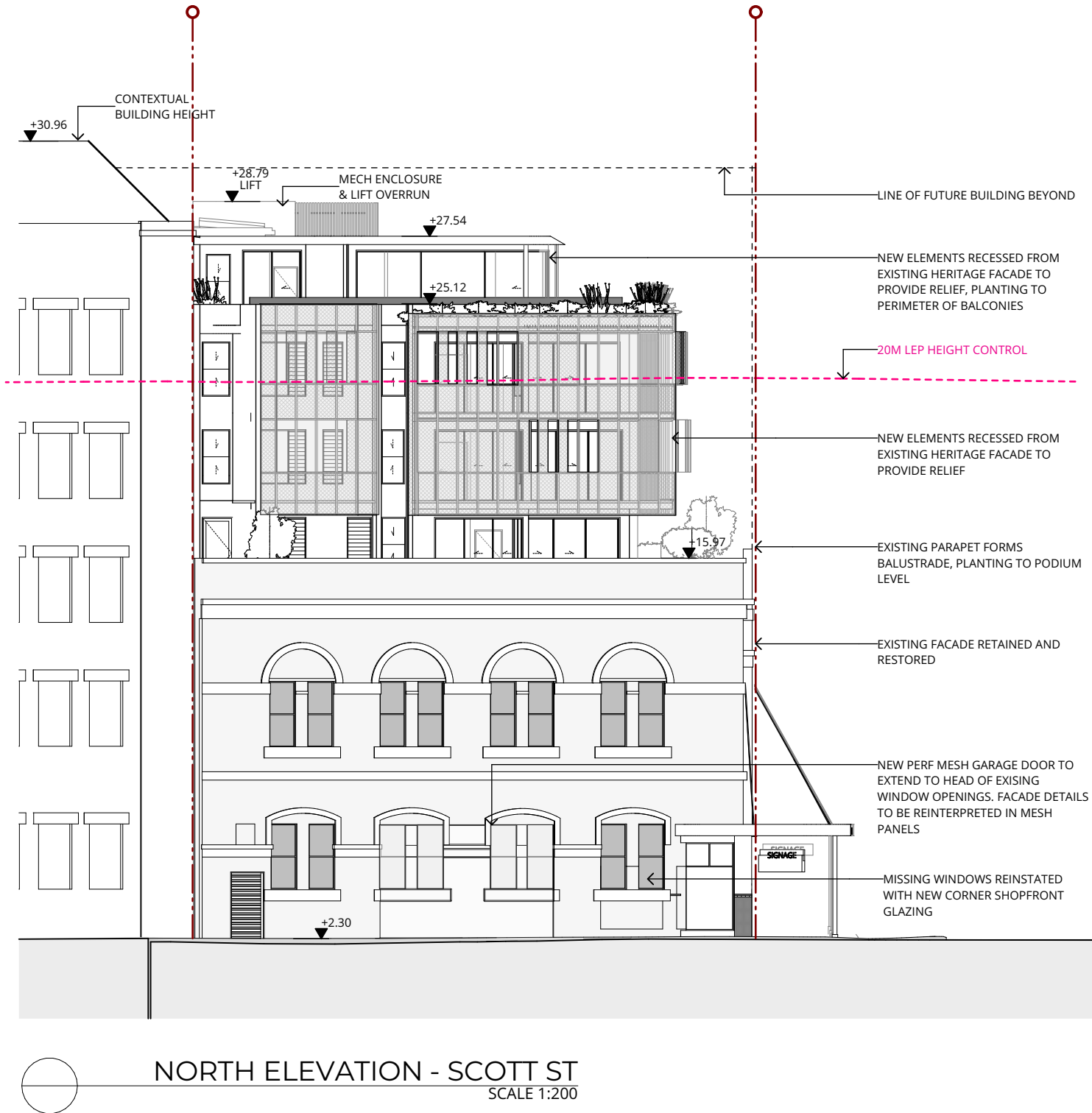
PROJECT NO. 016-032	SCALE 1:200, 1:50 @A3
DRAWING NO. DD121	ISSUE NO. 02

SDA
SPACE · DESIGN · ARCHITECTURE



Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.

C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln



P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
NORTH ELEVATION - SCOTT ST

PROJECT NO.
016-032

SCALE
1:200@A3

DRAWING NO.
DD200

ISSUE NO.
07

SDA
SPACE · DESIGN · ARCHITECTURE



WEST ELEVATION - WOLFE ST
SCALE 1:200

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

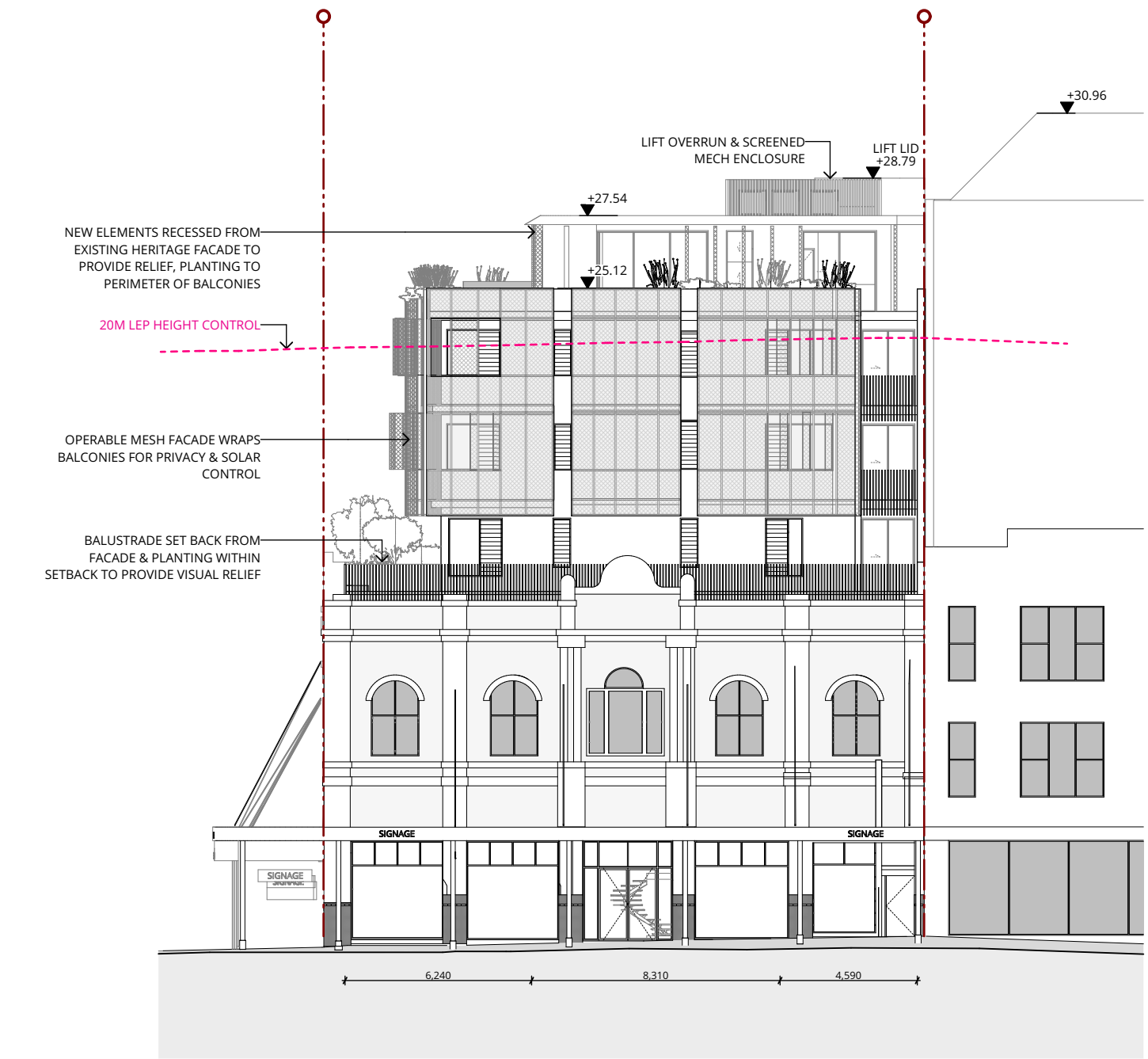
DRAWING
WEST ELEVATION - WOLFE ST

PROJECT NO.
016-032

SCALE
1:200@A3

DRAWING NO.
DD201

ISSUE NO.
07



SOUTH ELEVATION - HUNTER ST
SCALE 1:200

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
SOUTH ELEVATION - HUNTER
ST

PROJECT NO.
016-032

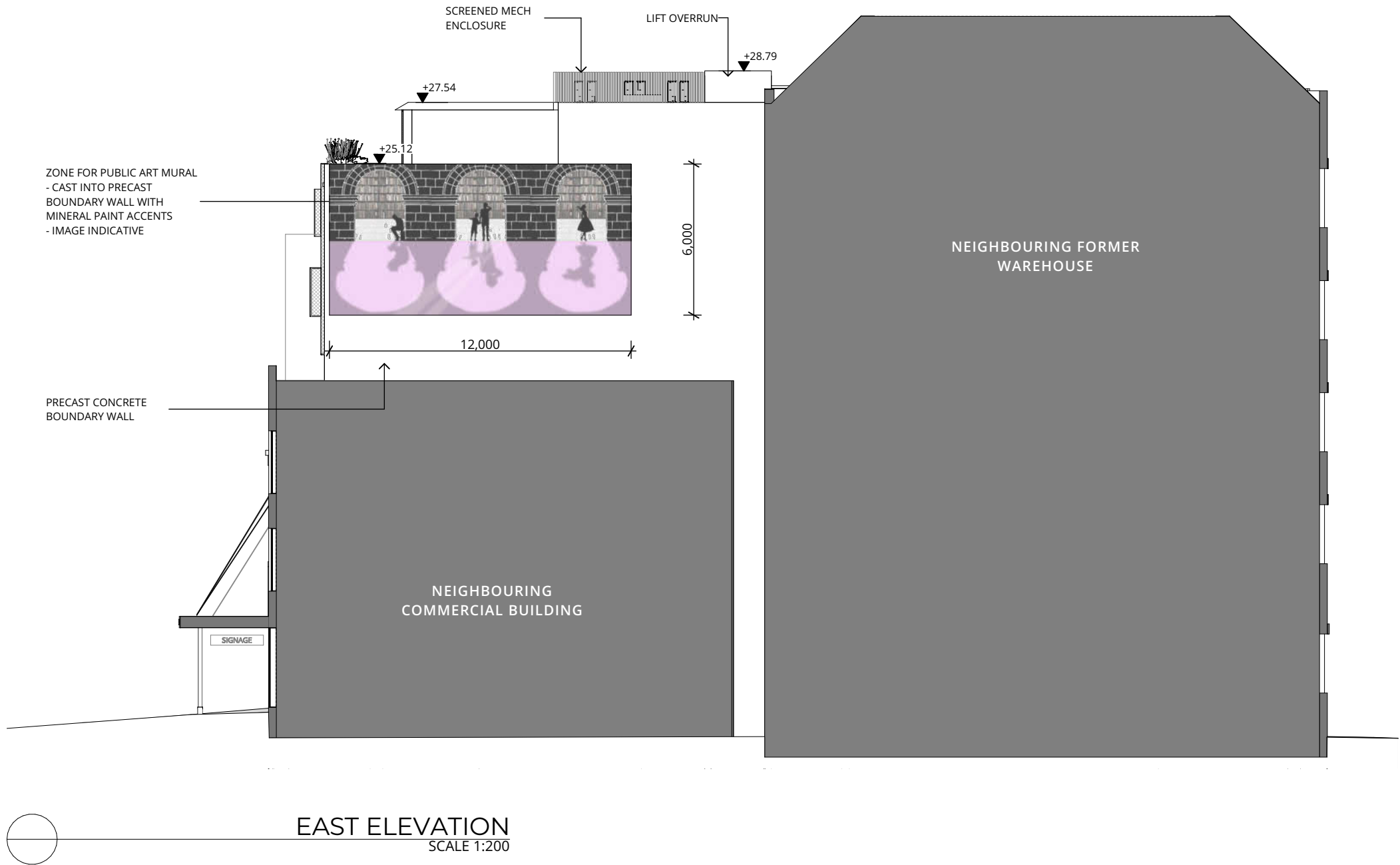
SCALE
1:200@A3

DRAWING NO.
DD202

ISSUE NO.
07

Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.

C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln



P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
01	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
EAST ELEVATION

PROJECT NO.
016-032

SCALE
1:200@A3

DRAWING NO.
DD203

ISSUE NO.
01

SDA
SPACE · DESIGN · ARCHITECTURE

Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.

C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

LEGEND

- RESIDENTIAL
- RETAIL
- COMMON LOBBY
- COMMERCIAL
- VERTICAL CIRCULATION
- CARPARK/ PLANT
- LANDSCAPING
- STORAGE

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
08	Revised for DA	CR	JC	28/06/2022
09	For Information	CR		10/11/2022
10	Coordination	CR		5/12/2022
11	For Review	CR		19/12/2022
12	Revised DA	CR		21/12/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
SECTIONS 01

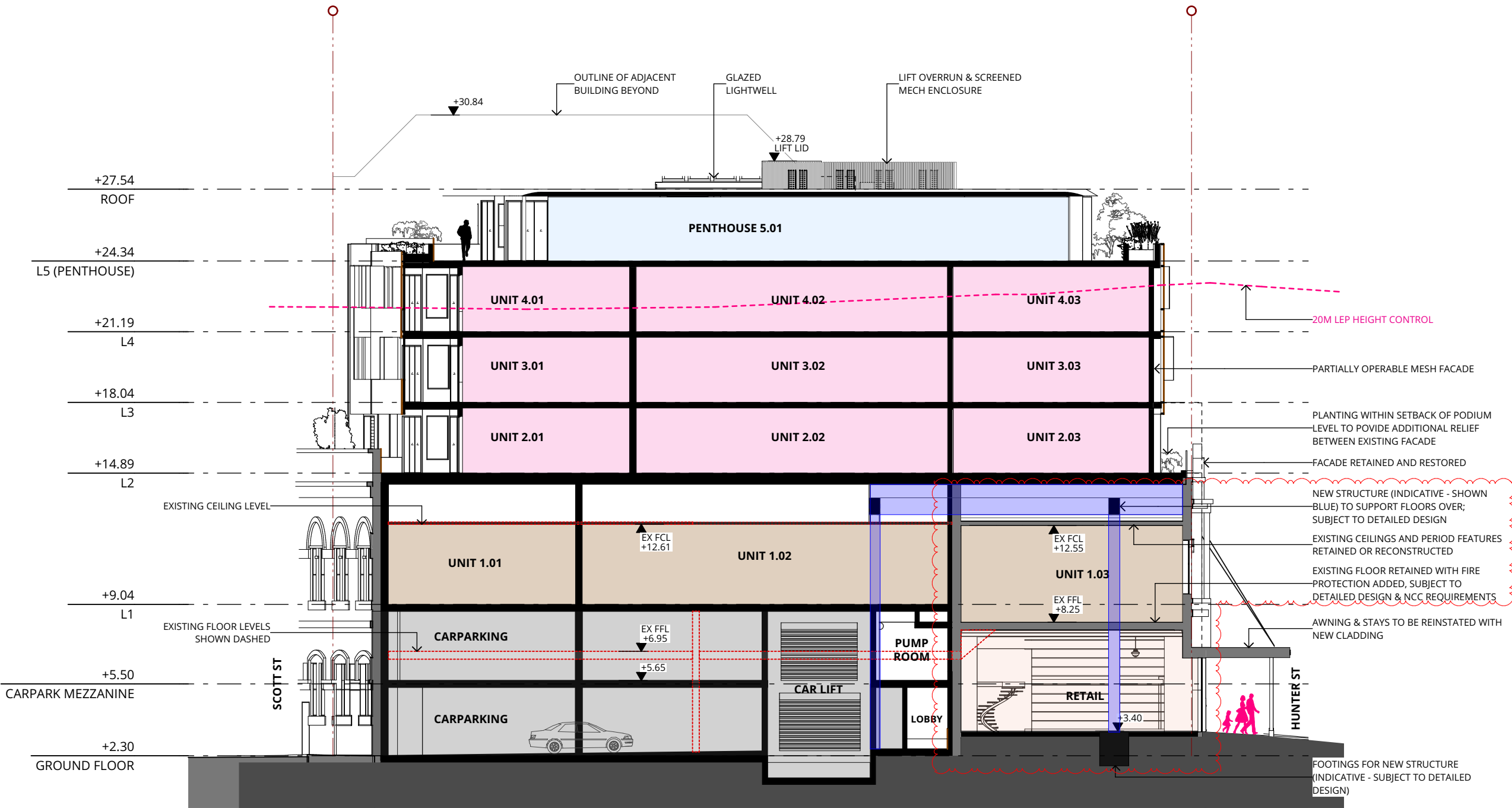
PROJECT NO.
016-032

SCALE
1:200@A3

DRAWING NO.
DD300

ISSUE NO.
12

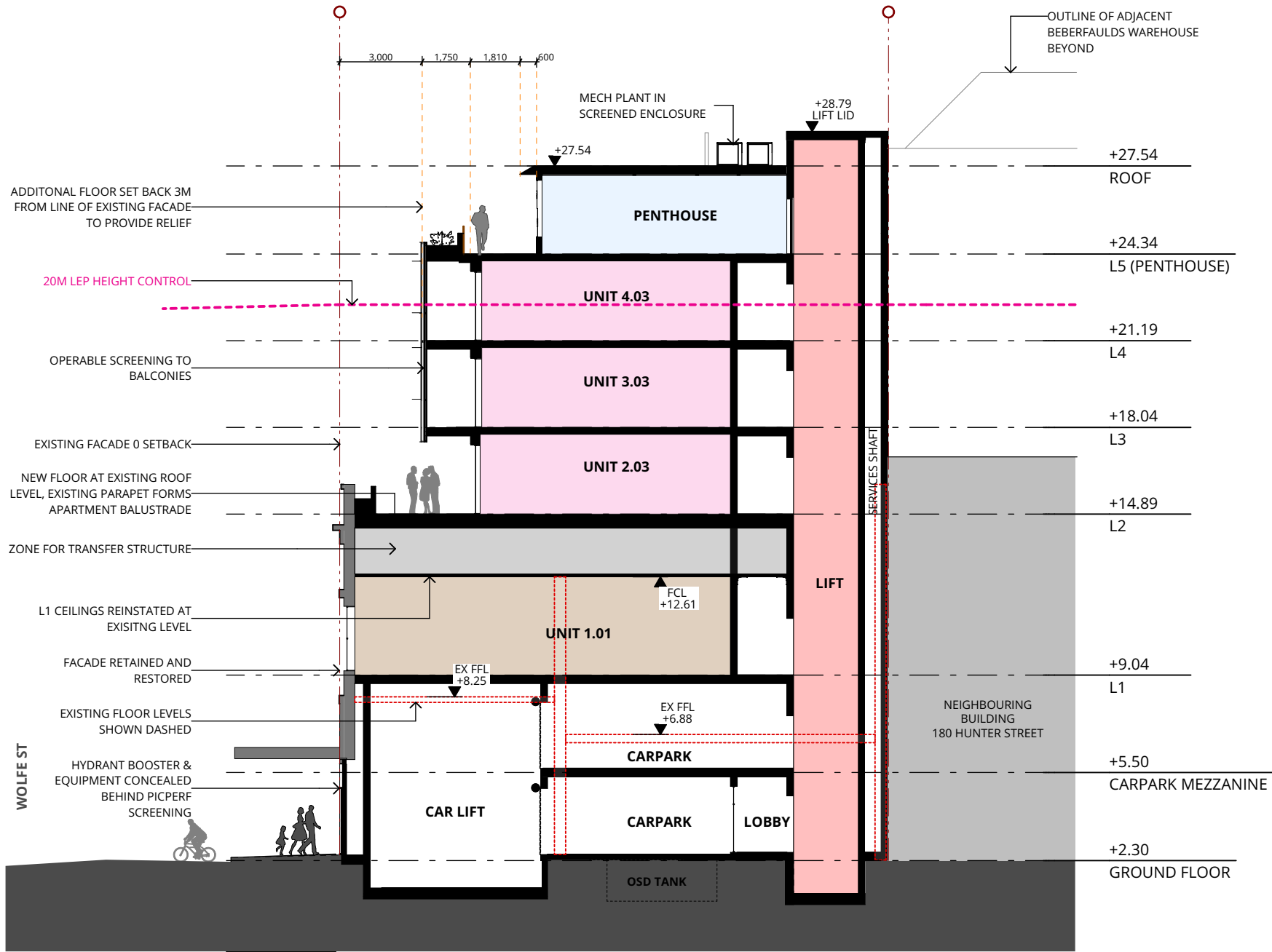
SDA
SPACE · DESIGN · ARCHITECTURE



SECTION A
SCALE 1:200

Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.

C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln



SECTION C
SCALE 1:200

- LEGEND
- RESIDENTIAL
 - RETAIL
 - COMMON LOBBY
 - COMMERCIAL
 - VERTICAL CIRCULATION
 - CARPARK/ PLANT
 - LANDSCAPING
 - STORAGE

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
[SDARCH.COM.AU](https://www.sdarch.com.au)

ISSUE	DESCRIPTION	BY	CHK	DATE
09	Revised for DA	CR	JC	10/05/2022
10	Revised for DA	CR	JC	28/06/2022
11	Coordination	CR		5/12/2022
12	For Review	CR		19/12/2022
13	Revised DA	CR		21/12/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
SECTIONS 02

PROJECT NO. 016-032
SCALE 1:200@A3

DRAWING NO. DD301
ISSUE NO. 13

SDA
SPACE · DESIGN · ARCHITECTURE

Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.

C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

LEGEND

DA EXISTING



P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
WOLFE ST PERSPECTIVE

PROJECT NO.
016-032

SCALE
@A3

DRAWING NO.
DD400

ISSUE NO.
07

SDA
SPACE · DESIGN · ARCHITECTURE



Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

LEGEND
DA - DRAFTING

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
WOLFE & SCOTT ST
PERSPECTIVE 01

PROJECT NO. 016-032	SCALE 1:500, 1:267.40, 1:167.40@A3
DRAWING NO. DD401	ISSUE NO. 07

SDA
SPACE · DESIGN · ARCHITECTURE



Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.

C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

LEGEND

DA - EXISTING

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
HUNTER & WOLFE
PERSPECTIVE

PROJECT NO.
016-032

SCALE
@A3

DRAWING NO.
DD402

ISSUE NO.
07

SDA
SPACE · DESIGN · ARCHITECTURE



NOTE: PROPOSED NEW PAINT SCHEME NOT SHOWN TO EXISTING BUILDING

Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

LEGEND
DA EXISTING

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
01	For Review	CR		8/03/2022
02	Revised for DA	CR	JC	10/05/2022
03	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
MARKET LAWN PERSPECTIVE 01

PROJECT NO. SCALE
016-032 1:1.40@A3

DRAWING NO. ISSUE NO.
DD403 03

SDA
SPACE · DESIGN · ARCHITECTURE



NOTE: PROPOSED NEW PAINT SCHEME NOT SHOWN TO EXISTING BUILDING

Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

LEGEND
03 - EXISTING
EAST END STAGE 2

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
[SDARCH.COM.AU](https://www.sdarch.com.au)

ISSUE	DESCRIPTION	BY	CHK	DATE
01	For Review	CR		8/03/2022
02	Revised for DA	CR	JC	10/05/2022
03	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
MARKET LAWN PERSPECTIVE 02

PROJECT NO.
016-032

SCALE
1:1.40@A3

DRAWING NO.
DD404

ISSUE NO.
03

SDA
SPACE · DESIGN · ARCHITECTURE

Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.

C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182_Hunter_St_DA_Revised 9.11.22.pln

LEGEND
DA EXISTING



NOTE: PROPOSED NEW PAINT SCHEME NOT SHOWN TO EXISTING BUILDING

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
01	For Review	CR		8/03/2022
02	Revised for DA	CR	JC	10/05/2022
03	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
MARKET LAWN PERSPECTIVE 03

PROJECT NO.
016-032

SCALE
1:2.50@A3

DRAWING NO.
DD405

ISSUE NO.
03

SDA
SPACE · DESIGN · ARCHITECTURE



Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

LEGEND
DA EXISTING

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
01	For Review			18/02/2022
02	For Review	CR		8/03/2022
03	Revised for DA	CR	JC	10/05/2022
04	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
HUNTER ST PERSPECTIVE

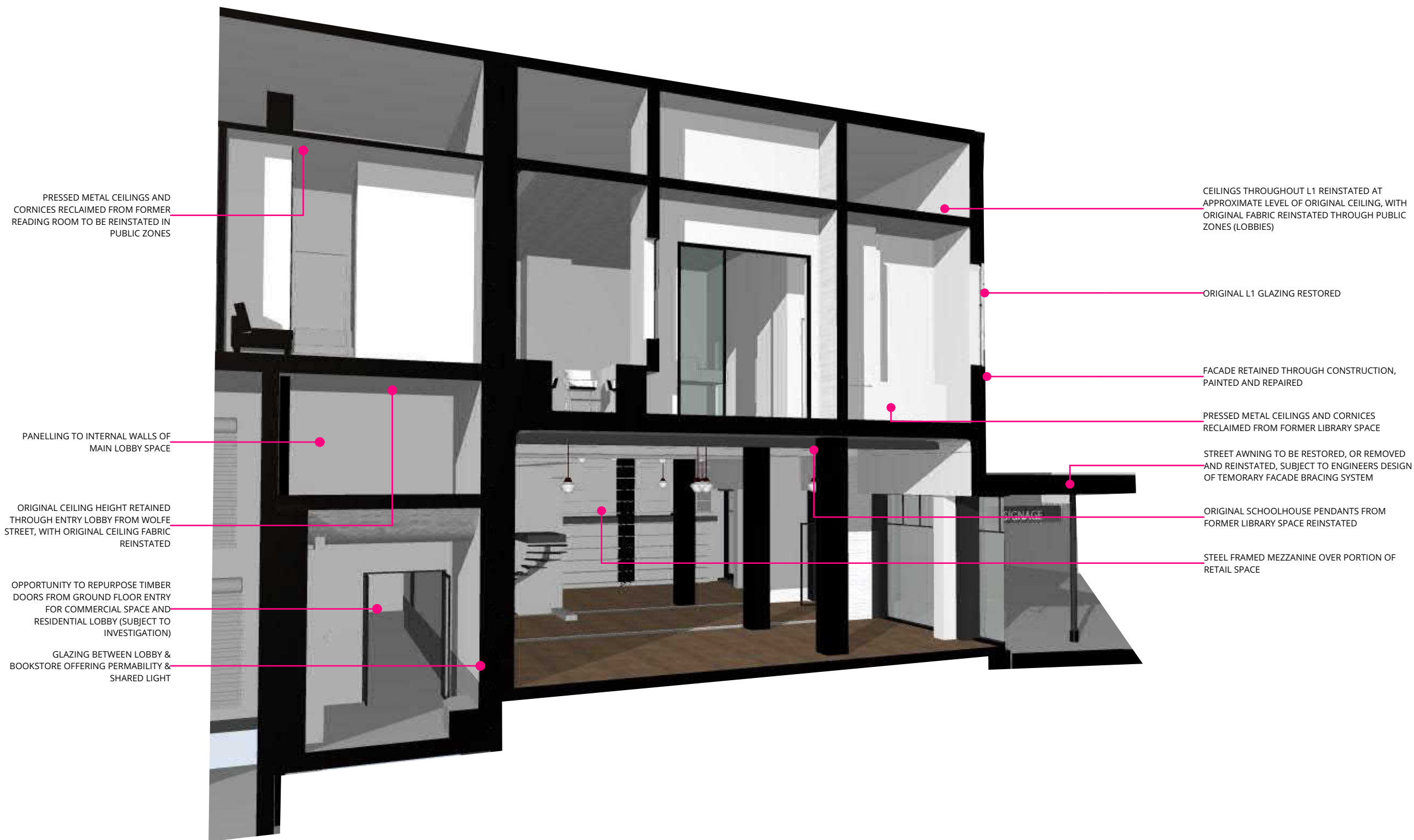
PROJECT NO.
016-032

SCALE
@A3

DRAWING NO.
DD406

ISSUE NO.
04

SDA
SPACE · DESIGN · ARCHITECTURE



Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.

C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

LEGEND
DA - DRAWING

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION	CR		6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
HERITAGE REINTERPRETATION

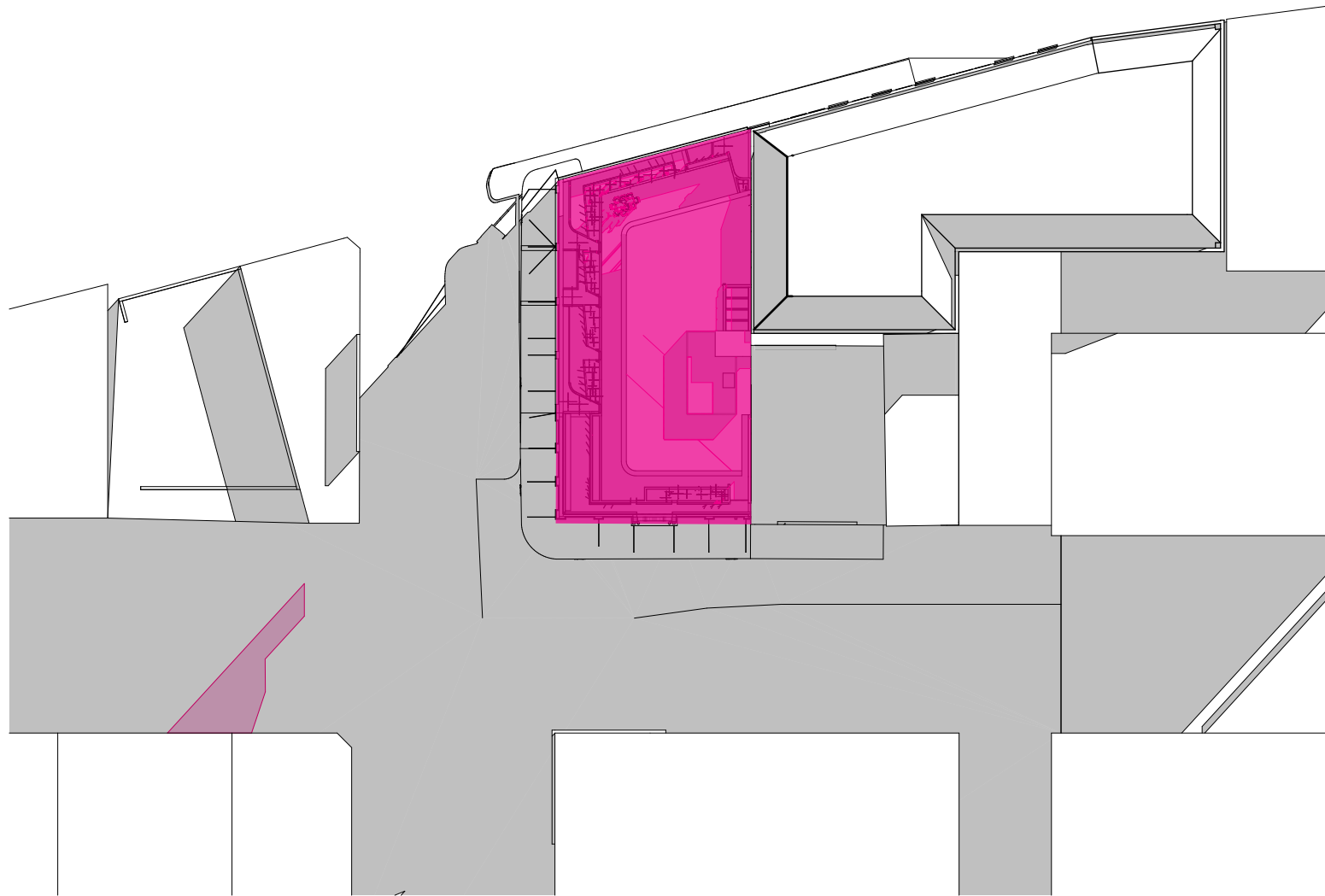
PROJECT NO.
016-032

SCALE
@A3

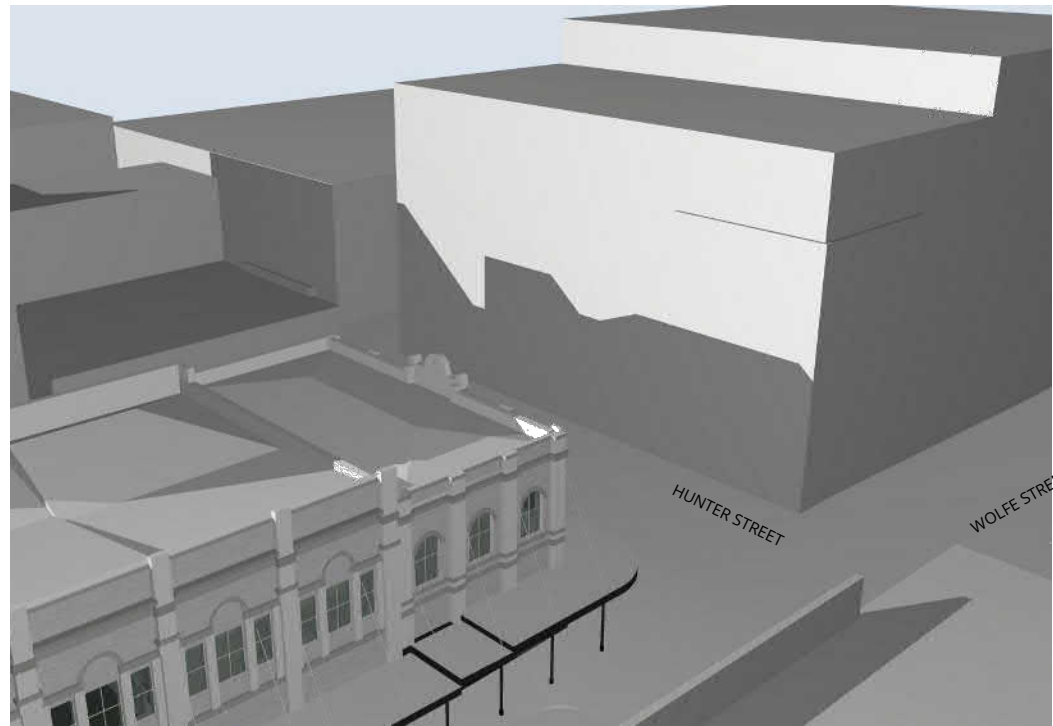
DRAWING NO.
DD407

ISSUE NO.
07

SDA
SPACE · DESIGN · ARCHITECTURE



21 JUN at 0900h



Shadow 9am Existing



Shadow 9am Proposed

Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

LEGEND
SUBJECT SITE
ADDITIONAL SHADOW FROM PROPOSED DEVELOPMENT

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

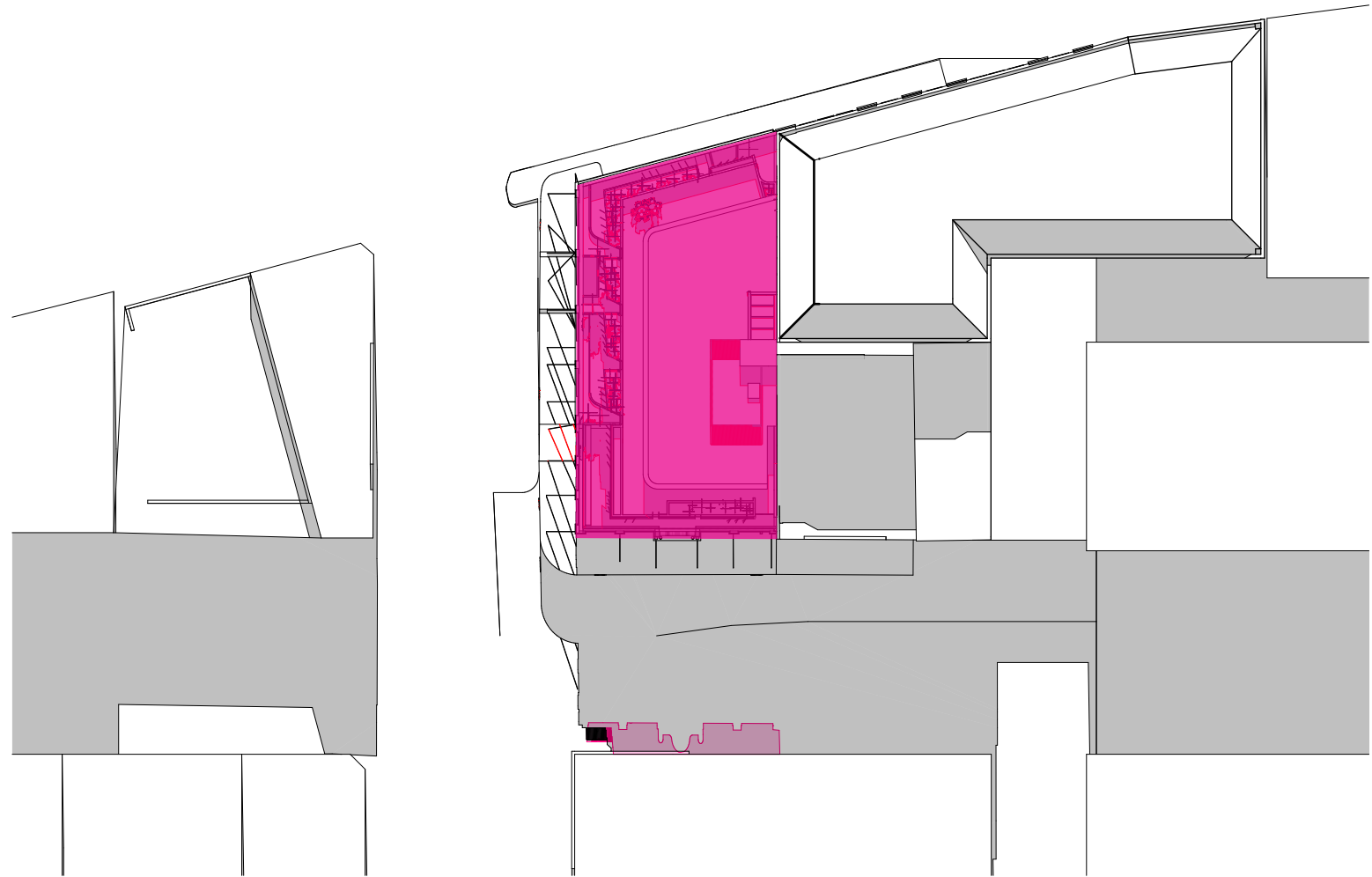
LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

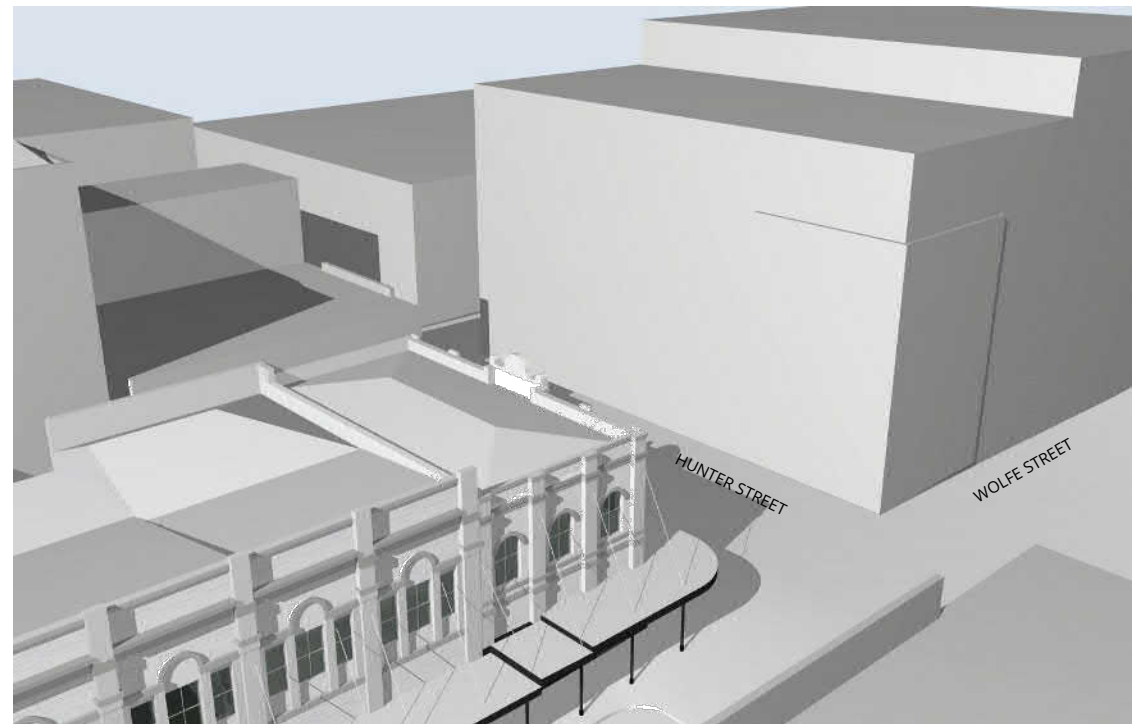
DRAWING
SHADOW DIAGRAMS 9am

PROJECT NO. 016-032
DRAWING NO. DD500
SCALE 1:666.67,
1:333.33@A3
ISSUE NO. 07

SDA
SPACE · DESIGN · ARCHITECTURE



21 JUN at 1200h



Shadow 12pm Existing



Shadow 12pm Proposed

Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

LEGEND

- SUBJECT SITE
- ADDITIONAL SHADOW FROM PROPOSED DEVELOPMENT

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
 THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

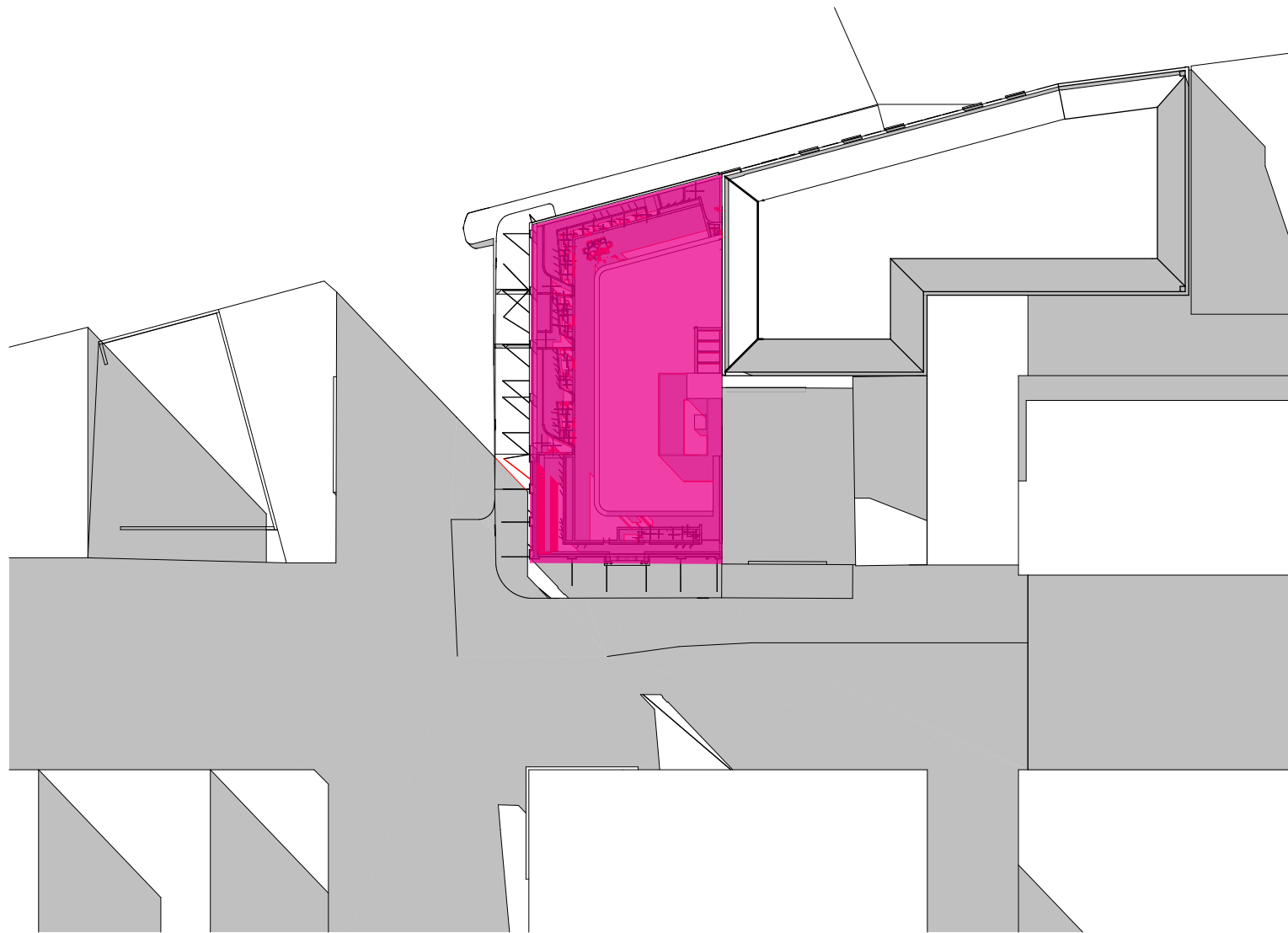
LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

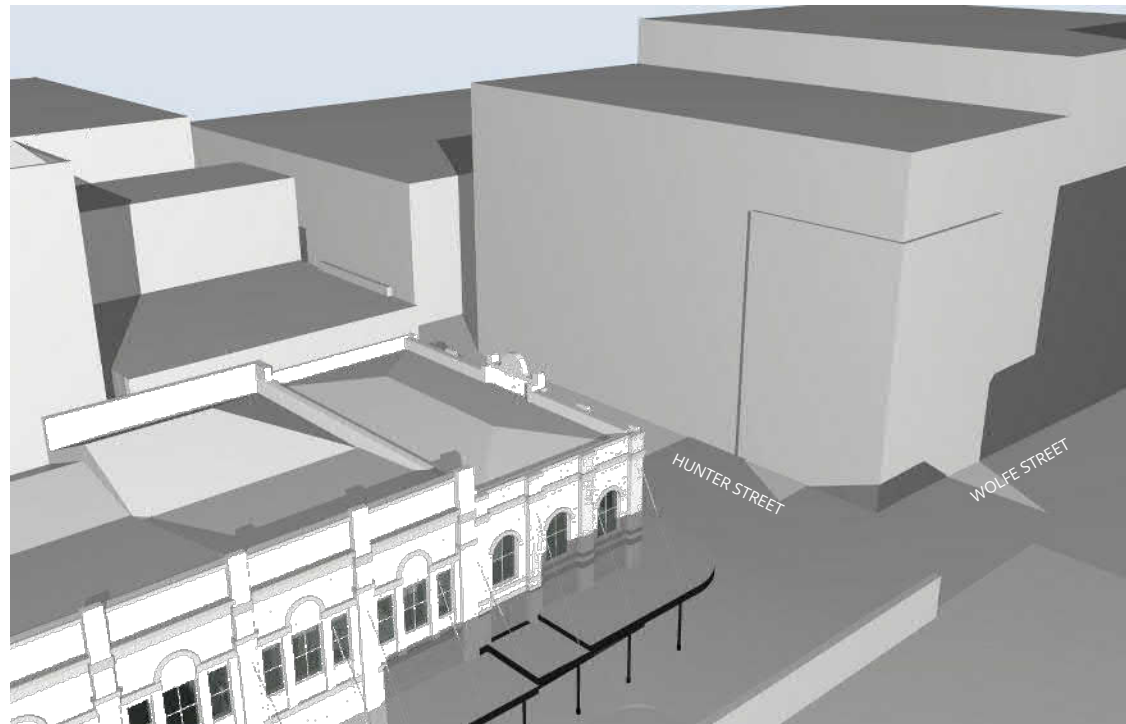
DRAWING
SHADOW DIAGRAMS 12pm

PROJECT NO. 016-032
 DRAWING NO. DD501
 SCALE 1:666.67,
 1:333.33@A3
 ISSUE NO. 07

SDA
 SPACE · DESIGN · ARCHITECTURE



21 JUN at 1500h





Shadow 3pm Existing



Shadow 3pm Proposed

Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

LEGEND

-  SUBJECT SITE
-  ADDITIONAL SHADOW FROM PROPOSED DEVELOPMENT

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

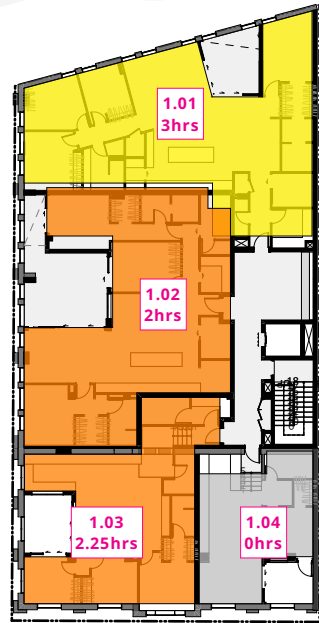
DRAWING
SHADOW DIAGRAMS 3pm

PROJECT NO.
016-032

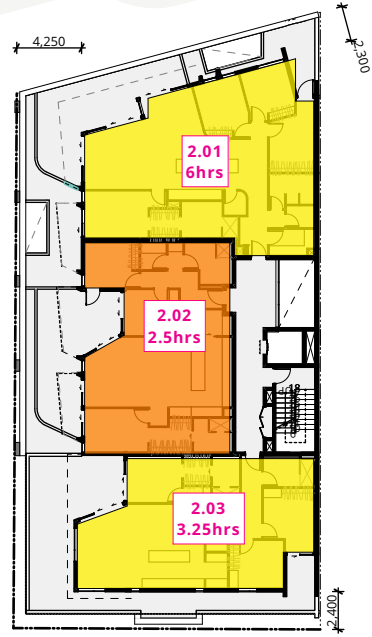
DRAWING NO.
DD502

SCALE
1:666.67,
1:333.33@A3
ISSUE NO.
07

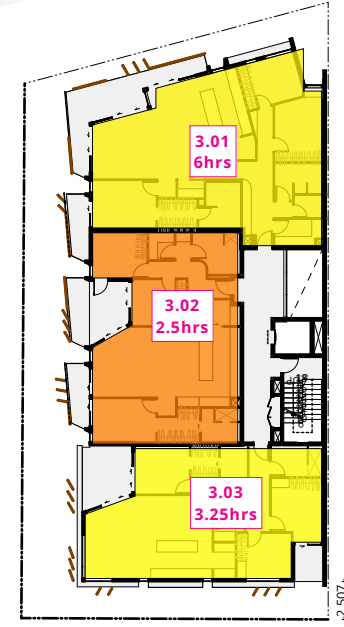
SDA
SPACE · DESIGN · ARCHITECTURE



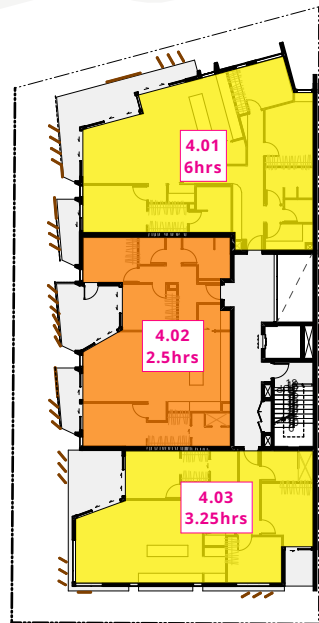
L1
SCALE 1:500



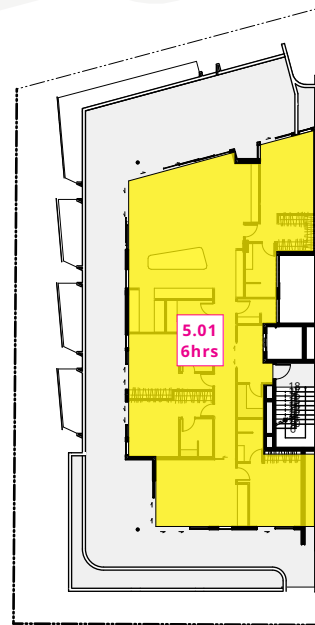
L2
SCALE 1:500



L3
SCALE 1:500



L4
SCALE 1:500



L5
SCALE 1:500

Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

LEGEND

- <2HRS
- >2HRS
- >3HRS

SDA HOURS OF DAYLIGHT
BETWEEN 9AM - 3PM, JUNE 21

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK.	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

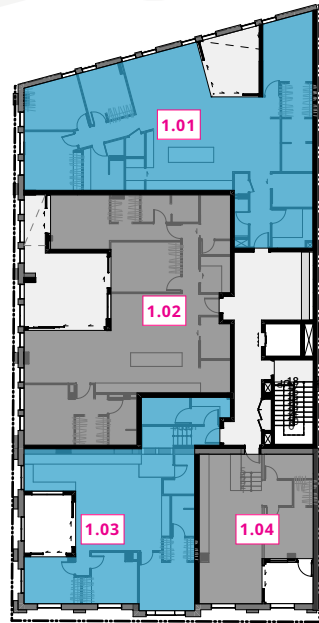
CLIENT
LITERARY TRADING COMPANY

DRAWING
SEPP 65 - SOLAR ACCESS

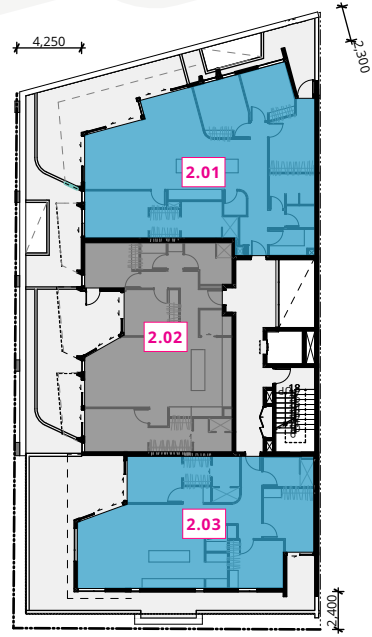
PROJECT NO. 016-032 SCALE 1:500@A3

DRAWING NO. DD600 ISSUE NO. 07

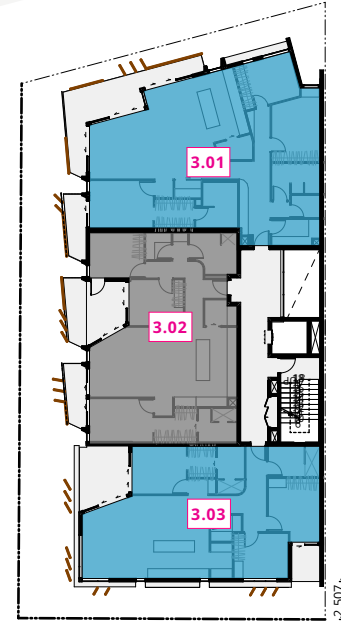
SDA
SPACE · DESIGN · ARCHITECTURE



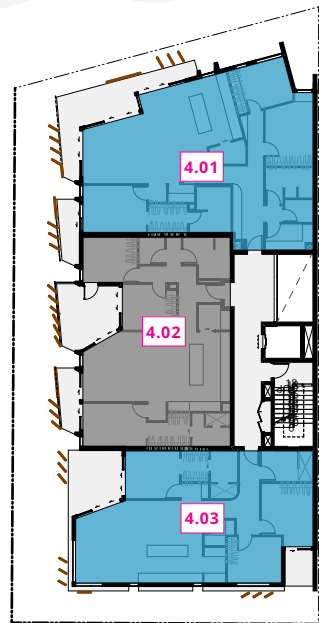
L1
SCALE 1:500



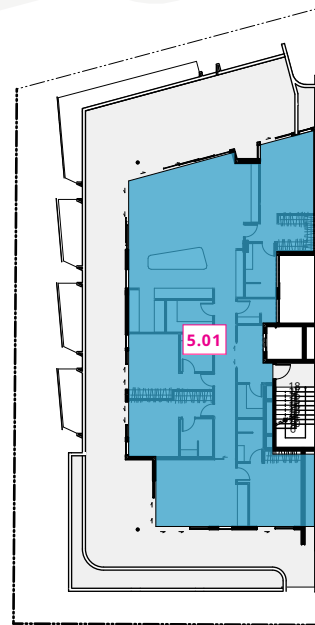
L2
SCALE 1:500



L3
SCALE 1:500



L4
SCALE 1:500



L5
SCALE 1:500

Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

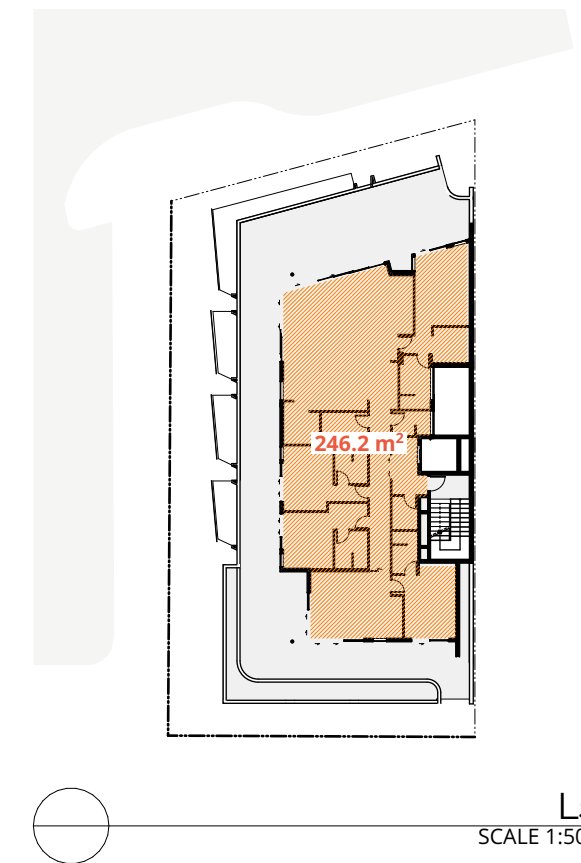
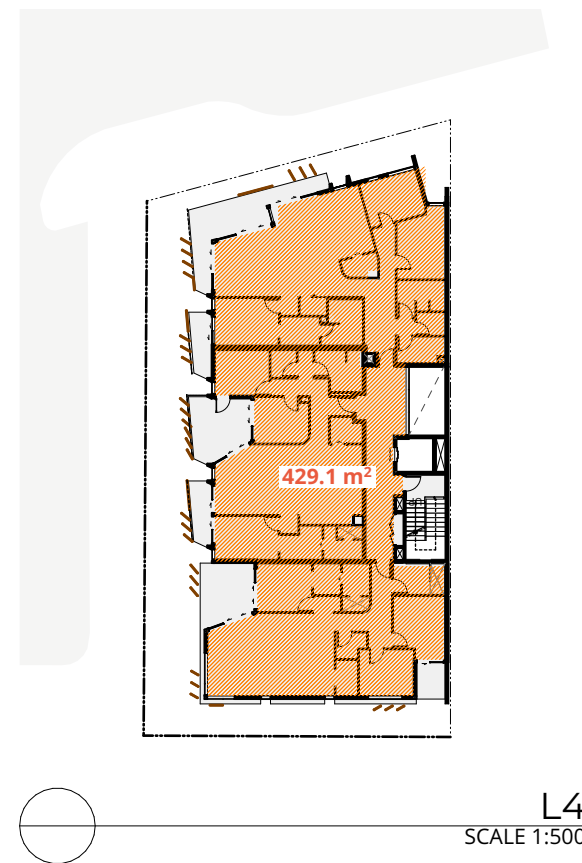
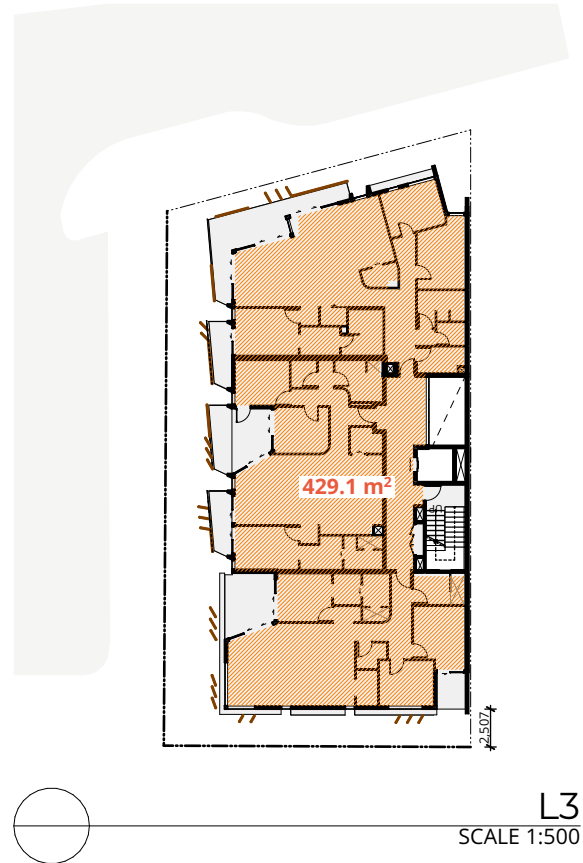
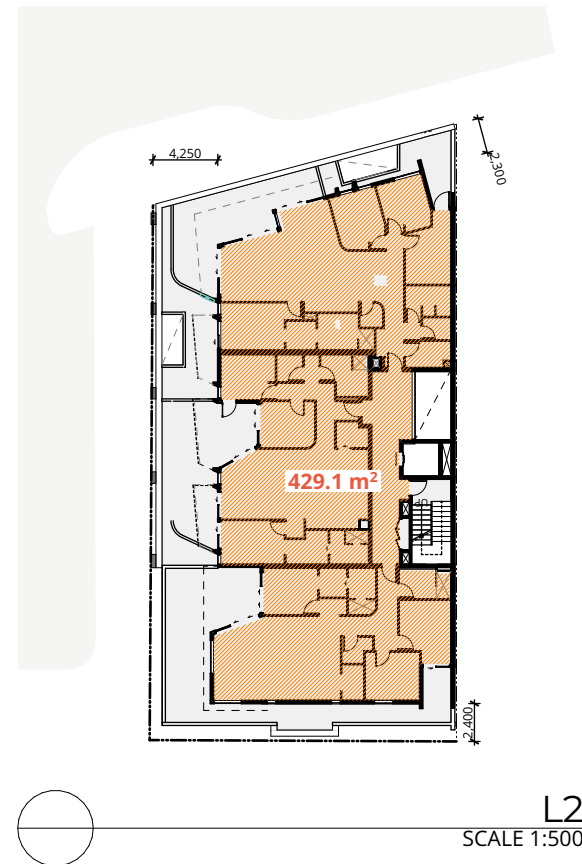
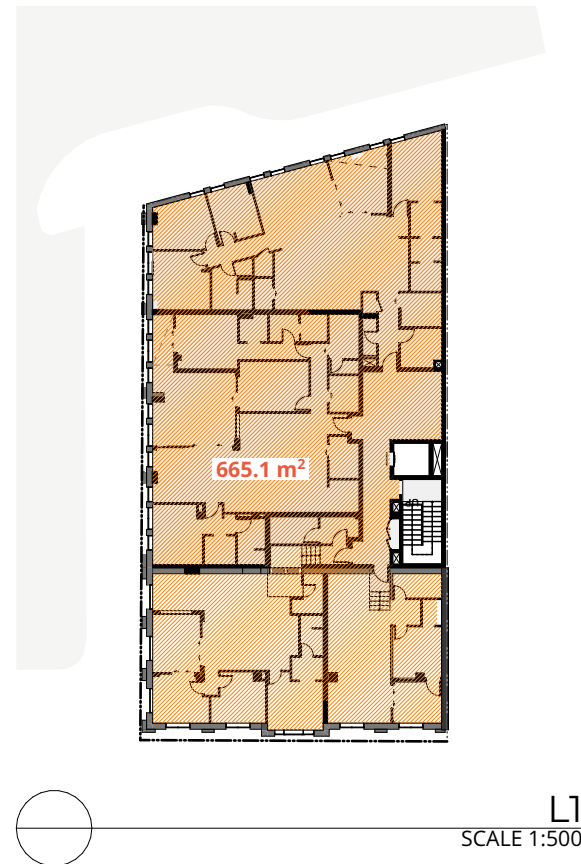
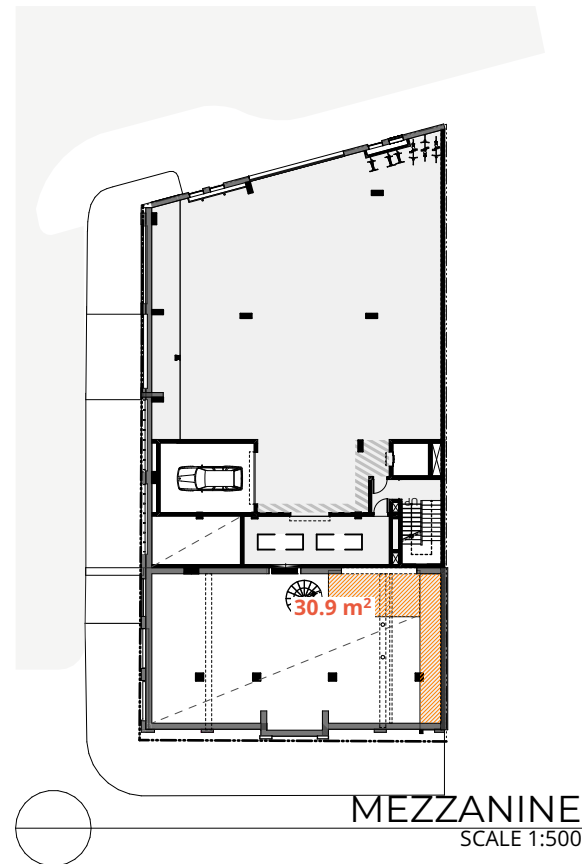
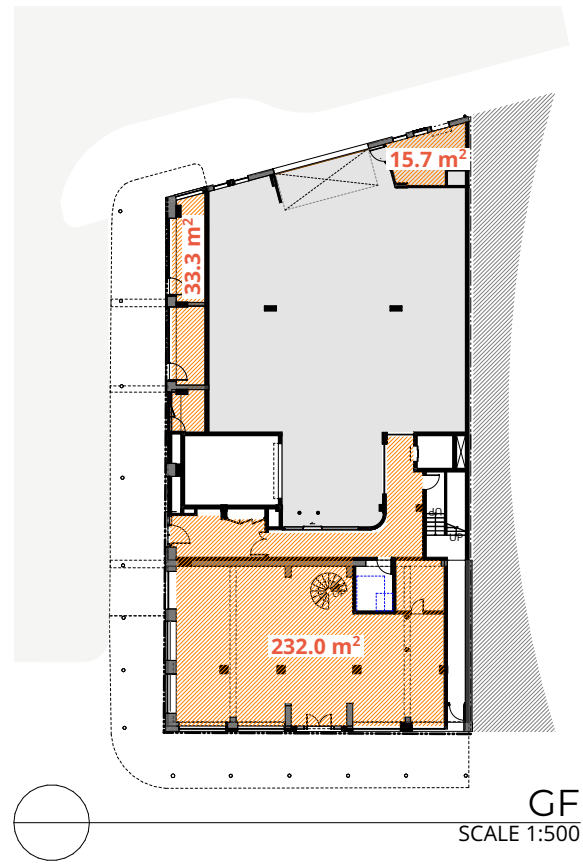
CLIENT
LITERARY TRADING COMPANY

DRAWING
SEPP 65 - CROSS VENTILATION

PROJECT NO. 016-032
SCALE 1:500@A3

DRAWING NO. DD601
ISSUE NO. 07

SDA
SPACE · DESIGN · ARCHITECTURE



Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
GFA ANALYSIS

PROJECT NO. 016-032
SCALE 1:500@A3

DRAWING NO. DD602
ISSUE NO. 07

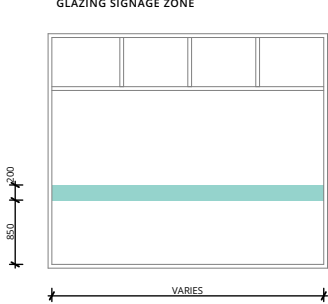
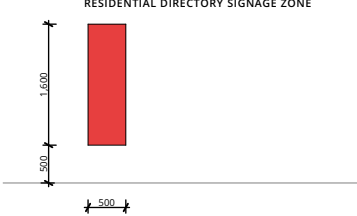
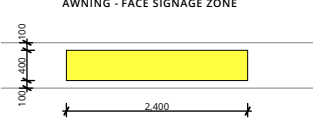
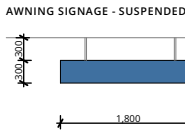
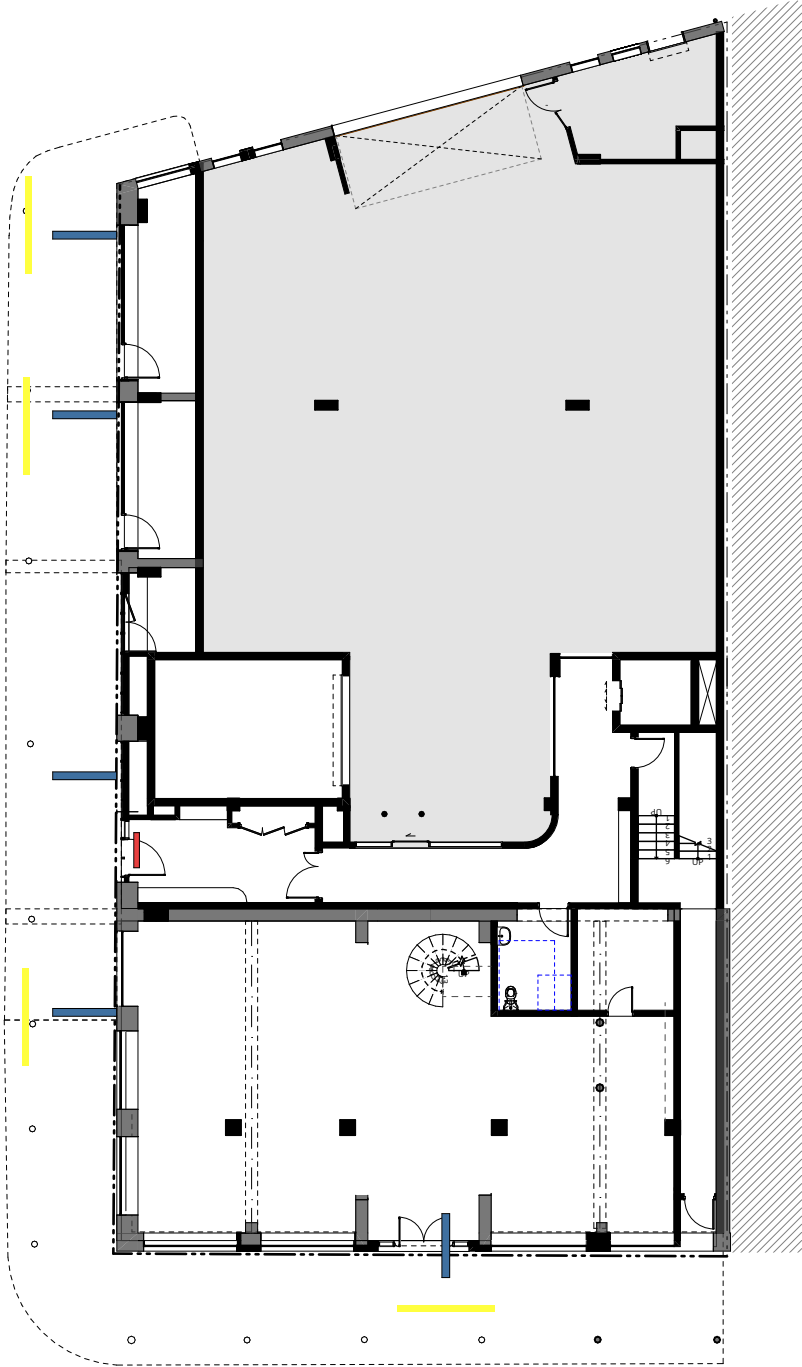
SDA
SPACE · DESIGN · ARCHITECTURE

Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.

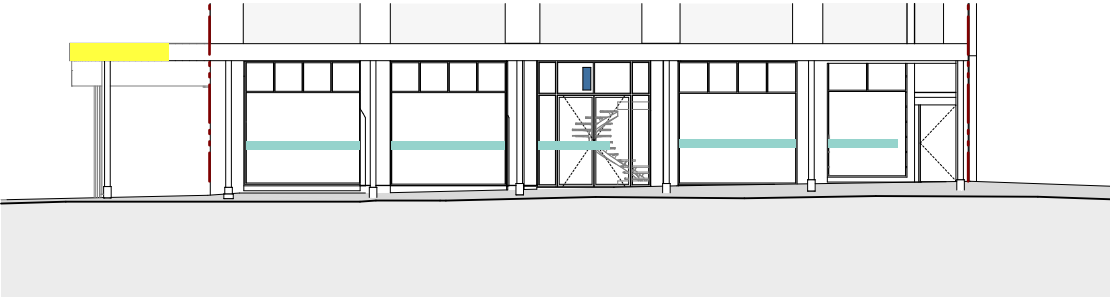
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revise 9.11.22.pln

LEGEND

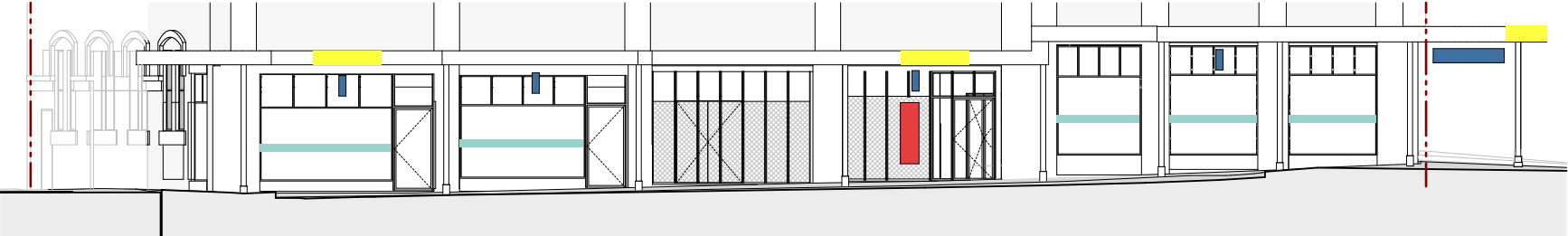
- RESIDENTIAL WAYFINDING SIGNAGE
- AWNING SIGNAGE - SUSPENDED
- AWNING SIGNAGE - FACE
- GLAZING SIGNAGE



WORKSHEET



HUNTER ST SIGNAGE



WOLFE ST SIGNAGE

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
[SDARCH.COM.AU](https://www.sdarch.com.au)

ISSUE	DESCRIPTION	BY	CHK	DATE
01	Revised for DA	CR	JC	28/05/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

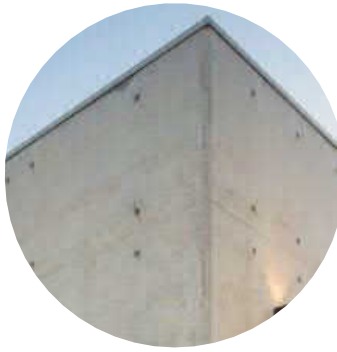
DRAWING
SIGNAGE STRATEGY

PROJECT NO. 016-032
SCALE @A3
DRAWING NO. DD700
ISSUE NO. 01

SDA
SPACE · DESIGN · ARCHITECTURE



PARTIALLY OPERABLE
PERFORATED METAL
MESH



EXPOSED OFF FORM
CONCRETE



THROUGH-COLOUR
FIBRE CEMENT



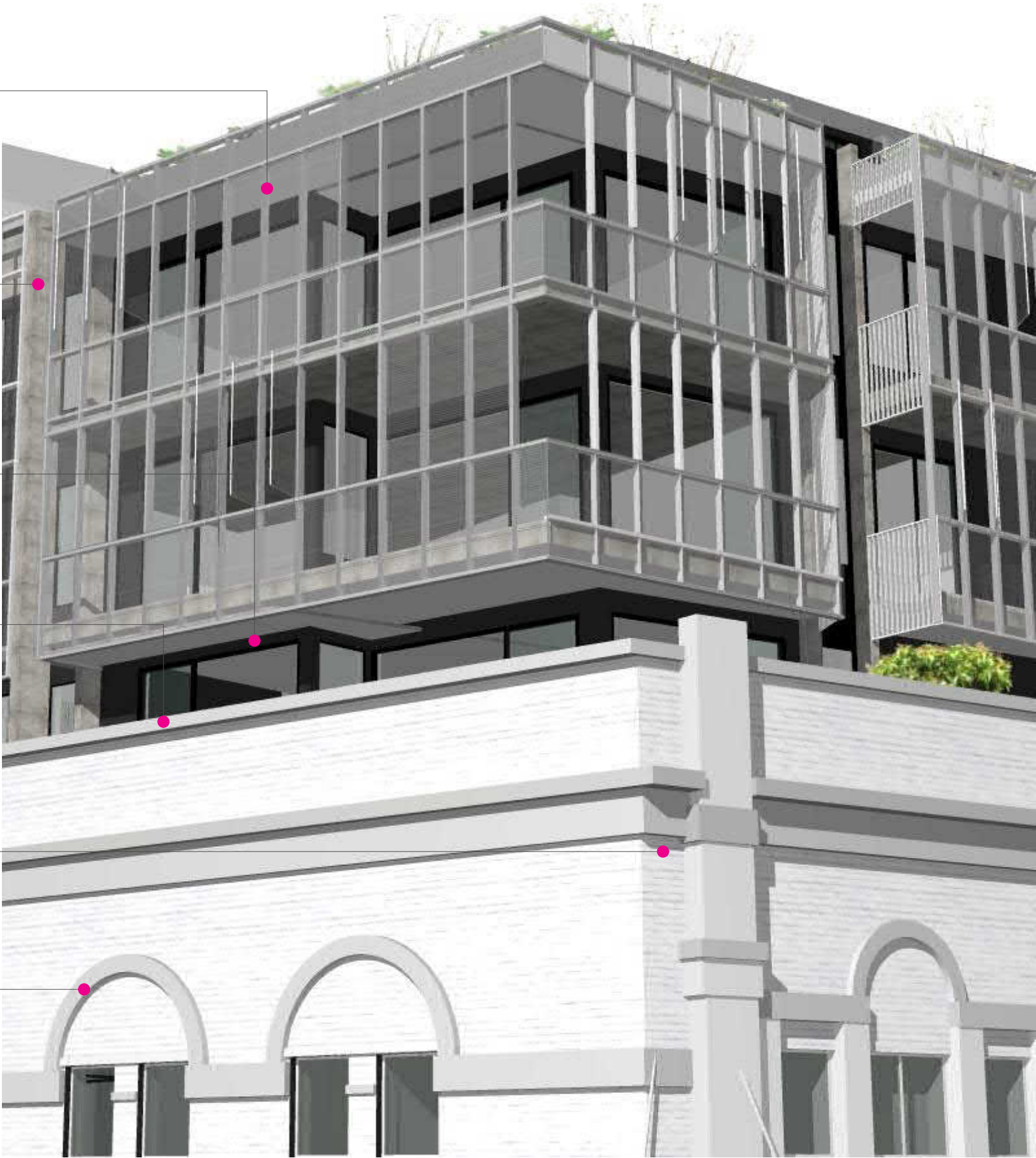
PRIMARY DETAILING
PAINT FINISH -
MUROBOND NERO 150



EXISTING PAINTED
BRICKWORK PAINTED
MUROBOND NATURAL
WHITE



SECONDARY PAINT
FINISH - MUROBOND
'THREAD'



Information contained in this document is copyright and may not be used or reproduced for any other project or purpose. Verify all dimensions and levels on site and report any discrepancies prior to the commencement of work. Drawings are to be read in conjunction with all contract documents. Use figured dimensions only. Do not scale from drawings. The accuracy of content and format for copies of drawings issued electronically cannot be guaranteed. The completion of the issue details checked and authorised section below is confirmation of the status of the drawing. The drawing shall not be used for construction unless endorsed "For Construction" and authorised for issue.
C:\Users\Callum\OneDrive - SPACE DESIGN ARCHITECTURE\Desktop\016-032_182 Hunter St_DA_Revised 9.11.22.pln

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
03	FOR COORDINATION			6/04/2021
04	FOR COORDINATION	CR		18/05/2021
05	For Review	CR		8/03/2022
06	Revised for DA	CR	JC	10/05/2022
07	Revised for DA	CR	JC	28/06/2022

PROJECT
THE LIBRARY

LOCATION
182 - 188 HUNTER STREET,
NEWCASTLE NSW

CLIENT
LITERARY TRADING COMPANY

DRAWING
MATERIALS | FINISHES BOARD

PROJECT NO.
016-032

SCALE
@A3

DRAWING NO.
DD800

ISSUE NO.
07

SDA
SPACE · DESIGN · ARCHITECTURE



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 182 HUNTER STREET NEWCASTLE –
DA2021/01505 - MIXED-USE DEVELOPMENT (COMMERCIAL AND
SHOP TOP HOUSING) - INVOLVING ALTERATIONS AND
ADDITIONS TO LOCALLY LISTED HERITAGE BUILDING**

7.7

Attachment B: Draft Schedule of Conditions

DISTRIBUTED UNDER SEPARATE COVER

Application No:	DA2021/01505
Land:	Lot 212 DP 660080
Property Address:	182 Hunter Street Newcastle NSW 2300
Proposed Development:	Mixed-use development (retail and shop top housing) – involving alterations and additions to locally listed heritage building

SCHEDULE 1

Approved Documentation

- The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No / Supporting Document	Reference / Version	Prepared by	Dated
Demolition Plans	Project No: 016-032, Dwg No: DD100, Issue No 13.	SDA Architects	21.12.2022
Site Plan	DD101, Issue No 04.	SDA Architects	21.12.2022
Ground Floor Plan	DD102, Issue No 16.	SDA Architects	21.12.2022
Carpark Mezzanine Plan	DD111, Issue No 16.	SDA Architects	21.12.2022
L1 & L2 Plan	DD112, Issue No 14.	SDA Architects	21.12.2022
L3 & L4 Plan	DD114, Issue No 12.	SDA Architects	21.12.2022
L5 & Roof Plan	DD115, Issue No 14.	SDA Architects	21.12.2022
RCP – Ground Floor	DD120, Issue No 03.	SDA Architects	21.12.2022
RCP – L1	DD121, Issue 02.	SDA Architects	21.12.2022
North Elevation	DD200, Issue 07.	SDA Architects	28.06.2022
West Elevation	DD201 Issue 07.	SDA Architects	28.06.2022
South Elevation	DD202 Issue 07.	SDA Architects	28.06.2022
East Elevation	DD203 Issue 01	SDA Architects	28.06.2022
Sections 01	DD300, Issue 12.	SDA Architects	21.12.2022
Sections 02	DD301, Issue 13.	SDA Architects	21.12.2022
Heritage Reinterpretation	DD407, Issue 07.	SDA Architects	28.06.2022

Signage Strategy	DD700, Issue 01.	SDA Architects	28.06.2022
BASIX Certificate	Certificate No: 1198324M_02	Evergreen Energy Consultants	13.07.2022
Waste Management Plan	Ref: 631.30163- R01-v0.2-20220713	SLR Consulting	July 2022
Noise Assessment	Ref: MAC170593- 01RP2	Muller Acoustic Consulting	01.06.2021

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- In accordance with the City of Newcastle Section 7.11 Development Contributions Plan 2021-2036 (the Plan), the following monetary contributions shall be paid to the City of Newcastle to cater for the increased demand for transport and social infrastructure resulting from the development:

Description	Contribution (\$)
Transport	\$ 31,757.76
Open Space and Recreation	\$ 136,469.56
Community Facilities	\$ 25,246.43
Plan Preparation and Administration	\$ 4,829.91
TOTAL	\$ 198,303.14

If the contributions are not paid within the financial quarter that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Plan and the amount payable will be calculated on the basis of the contribution rates applicable at the time of payment

The contributions shall be paid to the City of Newcastle:

- prior to the issue of the Subdivision Certificate where the development is for subdivision; or
 - prior to the issue of the first Construction Certificate where the development is for building work; or
 - prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or
 - prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.
- A public art feature is to be designed for the identified 'zone for public art mural' as illustrated on the approved east elevation in consultation with Newcastle City Council. This artwork is to provide visual interest for pedestrians and interpret or reflect the local setting, landscape setting and/or cultural setting of the Newcastle area. The feature is to be designed to ensure long-term durability and be resistant to vandalism. The final detail of the artwork is to be submitted to Council's Public Art Reference Group for written approval prior to the issue of a Construction Certificate.
 - A Design Verification Statement from a qualified designer shall be submitted to the Certifying Authority. The statement shall confirm the Construction Certificate plans and specifications achieve or improve the design quality of the development for which consent is granted, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development. Full details are to be included in the documentation for the first

Construction Certificate for the residential flat development.

Note: 'Qualified Designer' means a person registered as an architect in accordance with the Architects Act 2003. This condition is imposed in accordance with Clauses 143A of the Environmental Planning and Assessment Regulation 2000.

5. Working drawings and specifications of the proposed building are to be submitted to Subsidence Advisory NSW for approval prior to an application for a Construction Certificate and any requirements of Subsidence Advisory NSW are to be included in the documentation for a Construction Certificate application.
6. The applicant is to comply with all of Hunter Water's requirements to provide your development with water supply and sewerage services. A copy of Hunter Water's compliance certificate (*Hunter Water Act 1991* - Section 50) must be submitted with your Construction Certificate application.
7. An approval under Section 138 of the *Roads Act 1993* is required for the proposed replacement awnings over the Hunter and Wolfe Street public road reserves. All lighting proposed within the awnings are to comply with AS1158/AS4282 and other relevant Australian Standards. The approval is to be obtained, or other satisfactory arrangements confirmed in writing from the City of Newcastle, before the issue of a Construction Certificate.
8. On-site parking accommodation is to be provided for a minimum of 22 car parking spaces, 17 bicycle parking spaces and 2 motorcycle spaces and such be set out generally in accordance with the minimum parking layout standards indicated in Section 7.03 'Traffic, Parking and Access' of Council's adopted Newcastle Development Control Plan 2012. Full details are to be included in documentation for a Construction Certificate application.
9. The car parking and vehicular access is to be designed to comply with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. Full details are to be included in documentation for a Construction Certificate application.
10. Roof water from the proposed new work is to be directed to the proposed water tank with a minimum capacity of 4,000 litres and being reticulated to any new toilet cisterns and cold water washing machine taps on ground level, with a mains water top up being installed to maintain between 10% and 15% of the tank capacity. Alternatively, an electronically activated mechanical valve device is to be installed to switch any new toilet cisterns and laundry taps to mains water when the tank falls below 10% capacity. The water tank and Plumbing Code of Australia (National Construction Code Volume 3). Full details are to be included in documentation for a Construction Certificate application.
11. All stormwater runoff from the proposed development is to be managed in accordance with the requirements of Section 7.06 '*Stormwater*' of Newcastle Development Control Plan 2012, the associated Technical Manual and the latest issue of AS 3500.3 as applicable, as indicated on the stormwater management concept plan prepared by SDA Architecture, Project 016-032, Drawing DD101, Issue 02, dated 13.07.2022).

The following amendments are required:

- a) The proposed detention tank is not required, however a 4,000-litre retention tank is required for reuse of rainwater in any ground floor toilet cisterns.
- b) Stormwater discharge is to connect to existing public infrastructure on Scott Street. The proposed kerb inlet pit connection point is likely not possible due to pipes running under the footway so an investigation of connection points shall be carried out.

Full details are to be included in documentation for a Construction Certificate application.

12. The floor level of all proposed buildings or building additions is to be verified on plans for a Construction Certificate application to be equal to the floor levels on the approved plans. The retail space located midway along the Wolfe Street frontage (with an area of 19.7m² on the approved architectural plans) is to have a minimum floor level of 2.4m AHD.
13. The whole of the proposed structure below known flood level (level 2.4m Australian Height Datum) is to be constructed in materials and finishes that are resistant to damage from floodwaters/tidal waters. Any new machinery or equipment, electricity circuitry or fitting, storage unit or similar items likely to be damaged by floodwaters/tidal waters being installed above the said height or alternatively being of materials and functional capability resistant to the effects of floodwaters/tidal waters.

Full details are to be included in documentation for a Construction Certificate application.

14. Amendments are required to the ground floor vehicular access as follows:
 - a) To enable a vehicle entering the car park to wait for the garage door to open without the rear of the vehicle encroaching Scott Street, the garage door shall be set back within the property by 2.4 metres. This will also necessitate an adjustment to the bin store area.
 - b) The car lift shall be designed to ensure floodwaters can not enter the life cavity if flood waters reach the flood planning level of 2.6m AHD. To achieve this, the entry area around the car life shall be raised or bunded to a minimum level of 2.6m AHD.

Full details are to be included in documentation for a Construction Certificate application.

15. Convex safety mirrors and associated amber flashing warning light being installed in accordance with the relevant TfNSW standard, at suitable locations on the building at the two entry/exit driveway onto Scott Street to facilitate exiting driver visibility of pedestrian movement within the public footway. Details of the placement and size of the required mirrors to be submitted with the application for a Construction Certificate. Under no circumstances is the mirror to extend or protrude into Scott Street.
16. A commercial vehicular crossing is to be constructed across the Scott Street road reserve, in accordance with the following criteria:
 - a) Constructed in accordance with City of Newcastle's A1300 - Driveway Crossings Standard Design Details.
 - b) Bluestone pavers to be used for driveway surface finish.
 - c) The driveway crossing, within the road reserve, shall be a maximum of 6.5 metres wide.
 - d) The proposed driveway is to be a minimum of 3 metres clear of the trunk of any tree within the road reserve.
 - e) The proposed driveway is to be a minimum of 750mm clear of the centre of any pole or obstruction within the road reserve and 1.0m clear of any drainage pit.

These works are not approved until consent under Section 138 of the *Roads Act 1993* has been granted by the City of Newcastle. An application under Section 138 must be lodged and consent obtained, or other satisfactory arrangements confirmed in writing from Council, before the issue of a Construction Certificate.

17. The Developer designing and constructing the following works in connection with the proposed development within the Scott Street public road reserve, adjacent to the site, at no cost to Council and in accordance with Council's guidelines and design

specifications:

- a) Construct new driveway the Bluestone paver finish for vehicular access to site.
- b) Relocation of existing smart pole a minimum 750mm from the proposed driveway.
- c) Connection of stormwater pipe to public system. Connection point to be investigated.
- d) Realignment of relocation of any other services required to facilitate driveway.

Engineering design plans and specifications for the works being undertaken within the public road reserve are required to be prepared by a suitably qualified practising civil engineer with experience and competence in the related field and submitted to Council for approval pursuant to Section 138 of the *Roads Act 1993* (NSW). The consent must be obtained, or other satisfactory arrangements confirmed in writing from Council, before the issue of a Construction Certificate.

- 18. The approved waste storage rooms are to be paved with an impervious material, graded and drained to the sewer and provided with a hose tap connected to the water supply in accordance with AS 4674-2004 (2.4). Full details are to be included in documentation for a Construction Certificate application.
- 19. An interpretation plan is to be prepared by an experienced heritage interpretation practitioner and submitted with the documentation for a Construction Certificate. The Interpretation Plan shall be in accordance with the Heritage Council's "Interpreting Heritage Places and Items Guidelines" (2005). The plan must interpret the multiple uses and history of the site and the former School of Arts in a way that is engaging, informative and readily accessible to the majority of visitors, including preparation of oral histories. Written approval from Council's Heritage Officer is to be obtained prior to the issue of a Construction Certificate. The Interpretation Plan must be implemented to the written approval of Council prior to the issue of an Occupation Certificate.
- 20. An external heritage paint scheme for the heritage building is to be submitted and approved by Council prior to the issue of the Construction Certificate.
- 21. Prior to the issue of the Construction Certificate, a Schedule of Conservation Works is to be prepared. The schedule is to include details of how significant interior and exterior finishes within the retained elements of the heritage building shall be conserved including but not limited to the flooring and floor coverings, lighting and electrical fixtures, walls and surface finishes, tiles, ceilings, toilet, window and door hardware and windows and doors. The Schedule is to include provision to reuse and recycling of significant fabric to be removed from the parts of the building to be demolished. The Schedule is to be written by a suitably qualified heritage architect/consultant and is to be submitted to Council prior to the issue of the Construction Certificate.
- 22. A full archival photographic record is to be undertaken of the heritage listed buildings, including the interiors, prior to any works commencing on the site. The archival recording is to be in accordance with the requirements of:
 - a) The NSW Heritage Office publication "How to Prepare Archival Records of Heritage items" (1998); and
 - b) The Department of Planning's "Recording Places of Cultural Significance" (1991)

The record in digital form is to be submitted to Council and written approval of Council's Heritage Officer submitted prior to the release of the construction certificate.

- 23. Missing windows to be reinstated to the northern façade are to be of traditional construction and to match the detailing of existing original windows in all aspects. Full details are to be included in documentation for a Construction Certificate application.

24. The proposed building materials and colours for the residential component (above existing facade) are to be non-reflective in nature and to avoid use of white in order to contrast with the heritage building. The colours and materials are to be selected in consultation with a registered architect. The colour and material detail and accompanying written confirmation from the architect is to be submitted with any application for a Construction Certificate.
25. All proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required by the conditions of this consent are to be detailed on a comprehensive landscape plan and specification. The plan and specification are to be prepared in accordance with the provisions of Newcastle Development Control Plan 2012 and is to include details of the following:
 - a) cross sections through the site
 - b) proposed contours or spot levels
 - c) botanical names
 - d) quantities and container size of all proposed trees
 - e) shrubs and ground cover
 - f) details of proposed soil preparation
 - g) mulching and staking
 - h) treatment of external surfaces and retaining walls where proposed
 - i) drainage, location of taps and
 - j) maintenance periods.

The plan and specification are to be prepared by a qualified landscape designer and be included in documentation for a Construction Certificate application.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

26. The construction recommendations contained within Section 7 of the approved Noise Assessment (Ref: MAC170593-01RP2, prepared by Muller Acoustic Consulting, and dated June 2021) are to be implemented through the construction phase.
27. The conclusions and recommendations (Section 6.0) of the Archaeological Assessment Report (Version A, by AMAC, October 2022) are to be implemented. This includes the preparation of an Archaeological Monitoring Research Design by a qualified archaeologist; inspection of existing underfloor cavities prior to demolition works commencing; and archaeological monitoring outlined in Sections 6.2 and 6.3 of the report.
28. The conclusions and recommendations (Section 8.0) of the Aboriginal Due Diligence Assessment Report (Final Version, by AMAC, November 2022) are to be implemented. This includes the preparation of an Aboriginal Cultural Heritage Assessment Report prior to the commencement of work, including full Aboriginal community consultation; archaeological test excavation; and any further action pending these studies as described in outlined in Section 8.1 of the report.
29. Protective barriers, fencing, padding or similar is to be placed on or around significant heritage fabric in the vicinity of the proposed works during construction to protect it from

inadvertent impact. This is to include any remnant heritage fabric to be left in situ and any other material as guided by the project's heritage consultant and identified in the Statement of Heritage Impact (Revision A, by Contemporary Heritage, July 2022).

30. Significant historical fabric removed as part of the development is to be clearly labelled and safely stored on site for future reinstatement/reuse as guided by the applicant's heritage consultant.
31. Before any works commence on site, all contractors and subcontractors shall undergo an induction session, delivered by a suitably qualified heritage consultant, highlighting the historical significance of the site including Aboriginal cultural heritage.
32. Toilet facilities are to be available or provided at the work site before works begin and be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet is to:

- a) Be a standard flushing toilet connected to a public sewer, or
 - b) Have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
 - c) Be a temporary chemical closet approved under the *Local Government Act 1993*.
33. A Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with *Australian Standard 2601:2001 - The Demolition of Structures*. A copy of the Hazardous Substances Management Plan is to be provided to the Council and to the demolisher prior to commencement of work.
 34. The demolition works are to be undertaken in accordance with Australian Standard 2601:2001 - The Demolition of Structures and the following requirements:
 - a) prior to commencement of demolition works a competent person shall determine the presence of hazardous substances impacted by the proposed demolition works in accordance with Section 1.6.1 of AS2601:2001 and where required produce a Hazardous Substances Management Plan
 - b) demolition works shall be conducted in accordance with any required Hazardous Substances Management Plan. A copy of the Plan shall be kept on-site for the duration of the proposed development and a copy is to be held in the possession of the landowner
 - c) the removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by the WorkCover Authority of NSW
 - d) a copy of all waste disposal receipts are to be kept in the possession of the landowner and made available to authorised Council Officers upon request
 - e) seven working days notice in writing is to be given to the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor, and
 - f) on sites where asbestos materials are to be removed, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN

PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent position during asbestos removal works.

35. The demolisher is to ensure that all services (i.e. water, telecommunications, gas, electricity, sewerage etc), are disconnected in accordance with the relevant authority's requirements prior to demolition.
36. Any waste containers used in association with the proposed demolition are to be located on the site where possible.

Note: Where this is not feasible, an application is to be made for the approval to position the container on the adjacent public road in accordance with the Council's adopted Building Waste Container Policy.

37. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.
38. Waste Management is to be undertaken in accordance with the approved Waste Management Plan. At a minimum the following measures are to be implemented during the construction phase:
 - a) A waste container of at least one cubic metre capacity is to be provided, maintained and regularly serviced from the commencement of operations until the completion of the building, for the reception and storage of waste generated by the construction of the building and associated waste;
 - b) The waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets;
 - c) Provision is to be made to prevent windblown rubbish leaving the site; and
 - d) Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

Note: Fines may be issued for pollution/littering offences under the *Protection of the Environment Operations Act 1997*.

39. A rigid and durable sign is to be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:
 - a) showing the name, address and telephone number of the Principal Certifier for building work and subdivision work, and
 - b) showing the name, address and telephone number of the Principal Contractor, if any, for any building work and a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and
 - c) stating that unauthorised entry to the work site is prohibited, and
 - d) being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, and must be removed when the work has been completed.

Note: This does not apply in relation to building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or Crown building work certified to comply with the Building Code of

Australia under the Act, Part 6.

40. All building materials, plant and equipment is to be placed on the site of the development, to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves, including the road reserve, is not permitted.
41. Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.
42. Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:
 - Monday to Friday, 7:00 am to 6:00 pm and
 - Saturday, 8:00 am to 1:00 pm.

No noise from construction/demolition work is to be generated on Sundays or public holidays.

43. Council's '*Prevent Pollution*' sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary, so it is clearly visible to the public, or at other locations on the site as otherwise directed by Council, for the duration of demolition and construction work.

The sign can be obtained by presenting your development application receipt at City of Newcastle's Customer Enquiry Centre, Wallsend Library or the Master Builders Association Newcastle.

44. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or construction in accordance with the requirements of *Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the 'Blue Book')* published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
45. Where the proposed development involves the destruction or disturbance of any survey monuments, those monuments affected are to be relocated, at no cost to the City of Newcastle, by a Surveyor registered under the *Surveying and Spatial Information Act 2002*.
46. All public trees that are required to be retained are to be protected in accordance with the City of Newcastle *Urban Forest Technical Manual, Part B Public Trees*.

The tree protection fencing is to remain in place and be maintained until all works have been completed, with no waste materials, washouts, equipment or machinery to be stored within the fenced area.

47. Building work must be carried out in accordance with the requirements of the Building Code of Australia.
48. Any demolition/waste building materials that are not suitable for recycling are to be disposed of at City of Newcastle's Summerhill Waste Management Facility or other approved site.
49. If construction / demolition work is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the need to enclose a public place, a hoarding or fence is to be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in

connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.

50. An application is to be made to and approved by the City of Newcastle for the erection of a hoarding or part closure of the footway prior to construction being commenced. Such overhead structure or protective fence is to comply with the *Work Health and Safety Act 2011*, *Work Health and Safety Regulation 2011* and any relevant approved industry code of practice. Notice of intention of commencement is to be given to SafeWork NSW.
51. The work site is to be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
52. A Construction Traffic Management Plan is to be prepared by a TfNSW accredited person with a Design and Audit Traffic Control Plans Certificate in accordance with Australian Standard 1742.3:2009 – Manual of uniform traffic devices – traffic control for works on roads. The plan is to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve.
53. Prior to the commencement of work, a 3.0m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction, to reduce the potential for soil erosion. Sand or soil is not to be stockpiled on the all-weather vehicle access.
54. All necessary measures are to be undertaken to control dust pollution from the site. These measures are to include, but are not limited to:
 - a) Restricting topsoil removal;
 - b) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion);
 - c) Alter or cease construction work during periods of high wind; and
 - d) Erect green or black shade cloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.
55. All external items of air conditioning plant are to be screened or positioned in such a manner as to not detract from the visual presentation of the building. Equipment is to be sited or enclosed in a sound absorbing enclosure to prevent any offensive noise (as defined under the *Protection of the Environment Operations Act 1997*) impacts to adjoining neighbours.
56. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
57. If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil are to be provided.
58. Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifier at the stages of construction indicated:
 - a) On completion of ground floor construction, confirming that the floor levels are in accordance with the approved levels.
 - b) On completion of each subsequent floor level, confirming that the floor levels are in accordance with the approved levels.

- c) When the roof has been completed, confirming that the building does not exceed the approved levels.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

- 59. All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a condition that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to City of Newcastle's satisfaction prior to the completion of demolition work or prior to the issue of any Occupation Certificate in respect of development involving building work.
- 60. All works within the road reserve required by this consent are to be completed prior to the issue of a Occupation Certificate.
- 61. The conservation works required under this consent (including condition 21) are to be implemented prior to the issue of the Occupation Certificate.
- 62. A Landscape Practical Completion Report is to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications that were required to be included in documentation for a Construction Certificate application and is to verify that an effective maintenance program has been commenced.
- 63. All commitments listed in the approved BASIX certificate are to be satisfactorily completed prior to the issue of an Occupation Certificate.

Should there be any changes to the specifications of the dwelling that have implications for compliance with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be provided to the Newcastle City Council with Occupation Certificate documentation.

- 64. The water management measures as indicated on the submitted plans and Statement of Environmental Effects and/or modified under the terms of this consent are to be implemented and the nominated fixtures and appliances are to be installed and operational prior to the issue of an Occupation Certificate.
- 65. On-site car parking accommodation is to be provided for a minimum of 22 cars, 17 bicycles and 2 motorcycles and such being set out generally in accordance with the details indicated on the submitted plans except as otherwise provided by the conditions of consent. Parking is to be appropriately line marked and provided in accordance with this consent prior to issue of any Occupation Certificate.
- 66. Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Muller Acoustic Consulting Pty Ltd, Ref: MAC170593-01RP2, dated 1 June 2021, ensuring that for the northern and western facades 6.38mm laminated glass with full perimeter acoustic seals are implemented. Written final certification confirming the recommended acoustic treatment has been implemented in accordance with the requirements of the above report is to be submitted to the Principal Certifier and Newcastle City Council prior to the issue of an Occupation Certificate.

Note: The acoustic consultant may need to be involved during the construction process in order to ensure final certification is achieved.

- 67. An Operational Plan of Management is to be prepared for each of the ground floor retail

spaces and submitted to the City of Newcastle for approval prior to the issue of any Occupation Certificate.

The Plan of Management must include the following minimum detail:

- i) A commitment to the on-going activation of all the approved retail spaces and in the event those spaces are untenanted, that public art or the like be implemented through the untenanted period.
 - ii) The owner of the larger retail space (bookstore) must commit to making reasonable space available within the premises for the after-hours use of the residents body corporate for the purpose of meetings/conferencing or the like. The commitment is to be implemented in perpetuity.
68. A public art feature approved by Council's Public Art Reference Group is to be installed prior to the use of any Occupation Certificate.
69. The proposed car lift is to be regularly serviced and maintained to the requirements set out by the manufacturer. In this regard the owner or the occupier of the building is to enter into an annual service and maintenance contract with the manufacturer's service agent for the life of the lift. A copy of the initial service and maintenance contract is to be provided to Council along with an operational plan prior to the issue of an Occupation Certificate.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

70. The hours of operation or trading of all of the retail premises are to be not more than:

DAY	START	FINISH
Monday	7:00 am	10:00 pm
Tuesday	7:00 am	10:00 pm
Wednesday	7:00 am	10:00 pm
Thursday	7:00 am	10:00 pm
Friday	7:00 am	10:00 pm
Saturday	7:00 am	10:00 pm
Sunday and public holidays	8:00 am	10:00 pm

unless a separate application to vary the hours of operation or trading has been submitted to and approved by the City of Newcastle.

71. Waste servicing is to be undertaken prior to 7am on any day.
72. No bins (whether commercial or residential) are permitted to be presented to the kerbside for collection. All waste servicing must be undertaken at the designated locations on Wolfe Street, with bins collected from the designated bin storage areas and returned to the bin storage areas immediately after collection.
- In the event that a private waste contractor is engaged, the contract must include provisions to the effect of achieving the above and a commitment to compliance with condition 71.
73. Future signage at the site is to be for the purposes of Business Identification only, and in full accordance with the approved signage strategy.
74. The Ground Floor retail spaces of the premises are to operate in full accordance with the operational plans of management required by condition 67 of this consent. This

requirement is applicable at all times and any Plan of Management which does not include this detail would be inconsistent with the terms of this consent.

75. A design verification statement from a qualified designer shall be submitted to the Principal Certifier prior to the issue of an Occupation Certificate whichever occurs first. The statement shall confirm the development has been constructed in accordance with the quality principles set out in Part 2 of the State Environmental Planning Policy No. 65.

Note: 'Qualified Designer' means a person registered as an architect in accordance with the Architects Act 2003. This condition is imposed in accordance with Section 43 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

76. Proposed parking areas, vehicle bays, driveways and turning areas are to be maintained clear of obstruction and be used exclusively for purposes of car parking, loading and unloading, and vehicle access, respectively. Under no circumstances are such areas to be used for the storage of goods or waste materials.
77. The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the *Protection of the Environment Operations Act 1997*.

Should City of Newcastle consider that offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant, verifying that the recommended acoustic measures have been satisfactorily implemented, will be required to be submitted to City of Newcastle prior to the expiration of the nominated period.

78. The use and occupation of the premises is not to give rise to the emission of any 'air impurity' as defined under the *Protection of the Environment Operations Act 1997*, that interferes unreasonably with the amenity of neighbouring premises and/or other sensitive receivers.

Should City of Newcastle consider that unreasonable levels of air impurities have been emitted from the premises, the owner/occupier will be required to engage a suitably qualified consultant to recommend measures to control emission of air impurities to an acceptable level and such measures will be required to be implemented within a nominated time period. Furthermore, written certification from the suitably qualified consultant will be required to be submitted to City of Newcastle, confirming that air impurity emissions from the premises do not interfere unreasonably with the amenity of neighbouring premises and/or other sensitive receptors, before the expiration of the nominated period.

79. Any liquid wastes from the premises, other than stormwater are to be either discharged to the sewers of the Hunter Water Corporation in accordance with an approved Trade Waste Agreement or collected and disposed of by a licensed waste transport contractor in accordance with the Department of Environment and Climate Change 'Waste Classification Guidelines Part 1: Classifying Waste'.
80. The premises are to obtain allocated street addresses from the City of Newcastle, in accordance with City of Newcastle's House Numbering Policy and the Surveying and Spatial Regulation, prior to the issue of any Occupation Certificate and any occupation of the premises.
81. In the event of permanent failure of the car lift (which is unable to be remedied by servicing), the owner(s) of the building is to replace the lift as soon as reasonably practicable and no later than 28 days.

ADVISORY MATTERS

- It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.
- Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of the City of Newcastle and any other relevant authorities. City of Newcastle and other service authorities should be contacted for specific requirements prior to the commencement of any works.
- It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice (i.e. 'on-the-spot fine') or prosecution.
- Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979*, which may be subject to a penalty infringement notice (ie 'on-the-spot fine') or prosecution.
- The applicant must ensure that if unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Note: Heritage NSW can be contacted on 02 9873 8500 or heritagemailbox@environment.nsw.gov.au. A 'relic' is any deposit, object or material evidence that relates to the settlement of New South Wales, not being Aboriginal settlement, and is of State or local significance. It is an offence under the provisions of the Heritage Act 1977 (NSW) for a person to disturb or excavate any land upon which the person has discovered a relic except in accordance with a gazetted exemption or an excavation permit issued by the Heritage Council of NSW.

- Should any Aboriginal objects be uncovered by the work which is not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be informed in accordance with the *National Parks and Wildlife Act 1974*. Works affecting Aboriginal objects on the site must not continue until Heritage NSW has been informed and the appropriate approvals are in place. Aboriginal objects must be managed in accordance with the *National Parks and Wildlife Act 1974*.
- Any proposed business identification sign or advertising sign is to be designed in accordance with the provisions of Newcastle Development Control Plan 2012 and be the subject of a separate Development Application that is to be approved prior to the sign being erected or placed in position, except when such signage meets 'exempt development' criteria.
- Prior to commencing any building works, the following provisions of Division 6.2 of the Environmental Planning and Assessment Act 1979 are to be complied with:
 - a) A Construction Certificate is to be obtained; and
 - b) A Principal Certifier is to be appointed for the building works and Newcastle City Council is to be notified of the appointment; and

- d) Newcastle City Council is to be given at least two days notice of the date intended for commencement of building works.
- A Construction Certificate application for this project is to include a list of fire safety measures proposed to be installed in the building and/or on the land and include a separate list of any fire safety measures that already exist at the premises. The lists are to describe the extent, capability and basis of design of each of the measures.
 - Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifier appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Section 37 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* (NSW).
 - A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of Fire and Rescue NSW and a further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
 - An annual Fire Safety Statement in the form described in Section 88 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* (NSW) is to be submitted to Newcastle City Council and a copy (together with a copy of the current fire safety schedule) is to be given to the Commissioner of Fire and Rescue NSW. A further copy of the Statement (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

END OF CONDITIONS

SCHEDULE 2

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; *Newcastle Local Environmental Plan 2012* (NLEP) and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012 (NDCP).
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- The written request to vary the height of building development standard under Clause 4.6 of the NLEP has been assessed and is well founded and acceptable to allow for the 32.45% variation in this instance.
- The written request to vary the floor space ratio development standard under Clause 4.6 of the NLEP has been assessed and is well founded and acceptable to allow for the 10% variation in this instance.
- Any issues raised in submission have been taken into account in the assessment report and where appropriate conditions of consent have been included in the determination.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- Confirm and clarify the terms of Council's determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 182 HUNTER STREET NEWCASTLE –
DA2021/01505 - MIXED-USE DEVELOPMENT (COMMERCIAL AND
SHOP TOP HOUSING) - INVOLVING ALTERATIONS AND
ADDITIONS TO LOCALLY LISTED HERITAGE BUILDING**

7.7 **Attachment C:** Processing Chronology

DISTRIBUTED UNDER SEPARATE COVER

PROCESSING CHRONOLOGY

DA2021/01505 – 182 Hunter Street Newcastle

18 November 2021	-	Application lodged
23 November 2021	-	Application presented to Urban Design Review Panel (first referral)
25 November 2021 to 9 December 2021	-	Public Notification period (first round) - 16 submissions received
9 March 2022	-	Request for additional information
25 May 2022	-	Application presented to Urban Design Review Panel (second referral).
18 July 2022	-	Additional information received from applicant Amended application – cl.55 reset the clock
25 July 2022 to 8 August 2022	-	Public Notification period (second round) - 16 submissions received
17 August 2022	-	Request for additional information
20 September 2022	-	Additional information received from applicant
27 September 2022	-	Request for additional information
17 October 2022	-	Additional information received from applicant
17 December 2023	-	Request for additional information
23 December 2022	-	Information received and application amended under Clause 37 of Regs (former CI55).
10 February 2023	-	UDRP electronic referral comments received



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 182 HUNTER STREET NEWCASTLE –
DA2021/01505 - MIXED-USE DEVELOPMENT (COMMERCIAL AND
SHOP TOP HOUSING) - INVOLVING ALTERATIONS AND
ADDITIONS TO LOCALLY LISTED HERITAGE BUILDING**

7.7 **Attachment D:** Clause 4.6 written exception to height of building
development standard

DISTRIBUTED UNDER SEPARATE COVER

8 February 2023

631.30163-L01-v0.5-20230208.docx

Newcastle City Council
PO Box 489
Newcastle NSW 2300

Attention: Newcastle City Council

Dear Sir/Madam,

Clause 4.6 Variation - Height
RE: 186 - 188 Hunter Street, Newcastle NSW 2300

1 Introduction

The development to which this application relates is for the construction of a four-storey residential addition to the existing commercial building and adaptive reuse, to provide for 14 new residential apartments and modified commercial premises at 182 Hunter Street, Newcastle East, NSW 2300¹.

The Development Application (DA) seeks approval for:

- Adaptation of the existing heritage building including:
 - New ground floor bookstore with mezzanine, accessed from Wolfe and Hunter Street.
 - Two small ground floor retail tenancies facing Wolfe Street.
 - New building entrances, fire stairs, lift well and ground floor amenities and services.
 - New car parking area including 22 car parking spaces, two (2) motorcycle spaces and 19 bicycle spaces in total with a car lift between 2 floors.
- Construction of four levels containing 14 new residential apartments, atop the existing heritage building.
- Ancillary works as detailed on the proposed Architectural drawings at Appendix A.

In summary, the proposal largely complies with the provisions of the Newcastle LEP 2012 (NLEP 2012), with the exception of two exceedances in height and floor space ratio (FSR). An assessment of the variation in height is provided in the following pages in accordance the requirements of Clause 4.6 of the NLEP 2012. This variation has been prepared generally in accordance with the NSW Department of Planning and Infrastructure's publication "*Varying Development Standards: A Guide*" (August 2011), which identifies matters to be addressed in an application to vary a development standard.

¹ 182 Hunter Street is also referred to as 186 – 188 Hunter Street, Newcastle, NSW 2300 and as 5 Wolfe Street, Newcastle within Council's records

The proposed variation is considered reasonable on the basis that:

- The proposed height variation is situated in a location which will not result in any demonstrable detrimental impact to any sensitive land uses so the impact of the variation is negligible.
- The proposal is making use of the existing heritage building on-site and presents a highly functional, contemporary building that has been carefully planned and designed to afford its future occupants' comfort and amenity.
- The proposal will be consistent with the current and future character of the immediate surrounds, and will facilitate the retention of the heritage façade which has significant benefits to the streetscape and amenity of the East End.
- The proposed built form will reflect the emerging contemporary character of the streetscape and upgrade the existing development on the site. The projection of the building above the height limit will not result in an overbearing visual impact.
- Strict compliance with the exact standard would not achieve a greater planning or urban design outcome.

2 Site Details

2.1 Site Location and context

The site is known as 182 Hunter Street, Newcastle East, situated within the Local Government Area (LGA) of Newcastle. The site has a total area of 769m² and has three street frontages: that is, Scott Street to the north, Hunter Street to the south and Wolfe Street to the west. The site comprises Lot 212 in DP 660080, refer to **Figure 1** and **Figure 2**.

The site is located within the Newcastle City Centre in the precinct of East End, specifically the Hunter Street Mall area. The desired future character of Hunter Street Mall is to be a precinct that has the potential to develop as boutique pedestrian-scaled main street shopping, leisure, retail and residential destination. Infill development is encouraged to promote activate street frontages and respond to heritage items.

Development along both sides of Hunter Street has a mix of scale accommodating residential and commercial development, with various historic buildings and uses. Currently Hunter Street is experiencing a considerable change in character and scale, including the "former David Jones Building" site where newer high density development is situated behind a heritage façade, which is being constructed directly opposite this site.

There are a number of current development consents, adjoining the subject site in Hunter Street, that both includes adaptive reuse of existing buildings and provides for building heights above the development standard in the planning instrument. These consents were considered by Council to make a positive contribution to the future character of the Hunter Street Mall and East End of Newcastle broader area.

Figure 1 Site Aerial (Source: Six Maps)



Figure 2 Cadastral Plan (Source: Six Maps)



3 Strategic Direction

3.1 Strategic Direction for Newcastle LGA

Clause 1.2 of the NLEP 2012 outlines the aims of the NLEP 2012 and strategic development direction for the Newcastle Local Government Area (LGA). The following summary addresses each subclause and provides a comment in respect to the proposal.

- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts.*

Comment: The proposal will enhance and support the urban renewal of the East End Precinct, and provides art and cultural presences, being a well known bookstore. The rejuvenation of the existing lower commercial levels is for the use of the public and will include 'The Library' bookstore for public use, as well as two smaller retail tenancies facing Scott Street.

- (a) to respect, protect and complement the natural and cultural heritage, the identity and image, and the sense of place of the City of Newcastle.*

Comment: The proposal is sympathetic to the existing and desired future character of the Hunter Street Mall and the City of Newcastle. The proposal is architecturally designed to respond to the surrounding context; in addition, the proposed design responds to the heritage characteristics currently on site and within the heritage conservation area. Further, the design responds to the approved and under construction developments on surrounding sites within the immediate area and broader East End precinct. These developments set and expand on the character of the area and demonstrate the appropriate future character envisaged by the strategic documents.

The proposal will contribute to the sense of place and will reinforce the Newcastle City Centre as an attractive destination for residential and commercial development. Furthermore, the proposed development is in keeping with the Hunter Regional Plan 2036 and Greater Newcastle Metropolitan Plan 2036 strategic direction. Within the Hunter Regional Plan direction 3 states the need to revitalise the Newcastle City Centre and maintain Newcastle as being a leading metropolitan city for the region. The proposal is aligned with these aims and will help in achieving these objectives.

- (b) To conserve and manage the natural and built resources of the City of Newcastle for present and future generations, and to apply the principles of ecologically sustainable development in the City of Newcastle.*

Comment: The proposed development has been designed in accordance with best practice ecologically sustainable development and architectural principles. The proposed finishes and materials have been selected based upon product lifespan to ensure the longevity of the development. A BASIX certificate is provided with the proposal to support water and energy reduction targets.

- (c) to contribute to the economic wellbeing of the community in a socially and environmentally responsible manner and to strengthen the regional position of the Newcastle city centre as a multi-functional and innovative centre that encourages employment and economic growth.*

Comment: The proposal will significantly contribute to the economic wellbeing of the community by providing construction jobs and operational jobs for both skilled and unskilled workers. The proposal will also revitalise the existing commercial portion of the building, including heritage features, which is otherwise severely underutilised for the city centre location.

In addition, the proposal will contribute to strengthening the position of Newcastle as the leading metropolitan city in the area, with the proposal bringing in investment opportunities with the commercial business spaces. The provision of commercial floor area will likely attract more investment opportunities in the area.

- (d) *to facilitate a diverse and compatible mix of land uses in and adjacent to the urban centres of the City of Newcastle, to support increased patronage of public transport and help reduce travel demand and private motor vehicle dependency.*

Comment: The site is located with the Newcastle City Centre and is zoned B4 Mixed Use; this zoning encourages a wide range of employment generating uses. The site is also located in close proximity to public transport routes as well as Marketown Shopping Centre, the Foreshore, and local shopping precincts. The Newcastle Bus Interchange accessed via the light rail provides access to the bus, light rail and train network is within 2km of the site.

- (e) *to encourage a diversity of housing types in locations that improve access to employment opportunities, public transport, community facilities and services, retail and commercial service.*

Comment: The proposal allows for the addition of 14 new boutique apartments of vary sizes and of a high-quality design within a well serviced area improving possible access to employment opportunities.

- (f) *To facilitate the development of building design excellence appropriate to a regional city.*

Comment: The proposed development has been architecturally designed by renowned architects SDA and consists of a high quality, architecturally designed building that makes a positive contribution to the street frontage and built form along Hunter, Wolfe, and Scott Street. The proposed architectural form has been carefully designed having due regard to the locality and heritage environment, with on-going input from the Council's Urban Design Consultative Group (UDCG). It is considered that proposal demonstrates a high level of design excellence. The proposed built form will reflect the emerging contemporary character of Newcastle East and is considered appropriate to a regional city.

4 Exception to Development Standards

The Department of Planning and Infrastructure's publication "Varying Development Standards: A Guide" (August 2011), states that:

The NSW planning system currently has two mechanisms that provide the ability to vary development standards contained within environmental planning instruments:

- *Clause 4.6 of the Standard Instrument Local Environment Plan (SI LEP).*
- *State Environment Planning Policy No 1 – Development Standards (SEPP1).*

SEPP 1 has been repealed since the formulation of the guideline and does not apply. Clause 4.6 of the NLEP 2012 is the appropriate mechanism to vary a development standard in this instance. It is noted that the Guidelines do not identify any other mechanisms (such as a Planning Proposal) to vary a development standard.

4.1 Clause 4.6

Clause 4.6 of the NLEP 2012 aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better planning outcomes.

(1) *The objectives of this clause are as follows:*

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

The proposal seeks to vary the height and floor space ratio standards applicable to the site and does not introduce new controls across an area. The clause 4.6 guidelines also state specifically when this clause is not to be used, namely:

“...in Rural or Environmental zones to allow subdivision of land that will result in 2 or more lots less than the minimum area specified for such lots by a development standard, or the subdivision of land that will result in any lot less than 90% of the minimum area specified for such lots by a development standard in the following SI zones: Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Rural Small Holdings, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.”

Neither the site nor the proposal is included within these criteria and therefore, the use of clause 4.6 to vary the height and the FSR standard is appropriate in this instance.

4.2 Legal Context to Varying Development Standards

This request has been prepared having regard to the latest authority on clause 4.6, contained in the following guideline judgements:

- Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7
- Wehbe v Pittwater Council [2007] NSWLEC 827
- Moskovich v Waverley Council [2016] NSWLEC 1015
- Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 (Preston CJ)
- Initial Action Pty Ltd v Woollahra Municipal Council [2019] NSWLEC 1097 (O’Neill C)
- Al Maha Pty Ltd v Huajun Investments Pty Ltd [2018] NSWCA 245

Randwick City Council v Micaul Holding Pty Ltd [2016] NSWLEC 7 documents a decision of the Chief Judge of the Court in an appeal against a decision of Commissioner Morris to uphold a request under clause 4.6 of the Randwick LEP 2012 to vary development standards relating to the height and FSR of a building.

In the decision of *Wehbe v Pittwater Council* [2007] NSW LEC 827, Chief Justice Preston outlined the rationale for development standards, and the ways by which a standard might be considered unnecessary and/or unreasonable. At paragraph 43 of his decision Preston CJ noted:

"The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)."

Wehbe V Pittwater [2007] NSW LEC 827 also established the 'five-part test' to determine whether compliance with a development standard is unreasonable or unnecessary based on the following:

- (1) *The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard. The rationale is that development standards are not ends in themselves but means of achieving ends.*
- (2) *A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*
- (3) *Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable.*
- (4) *A fourth way is 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.*
- (5) *A fifth way is 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.*

Although *Wehbe* relates to SEPP 1 rather than a clause 4.6 request, the Courts have held that the same principles apply. In *Initial Action*, Chief Justice Preston at [16] explicitly notes that the five points in *Wehbe* are equally applicable to a written request under clause 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.

In *Initial Action* (2018) the Chief Judge also clarified the following, with respect to the 5-part *Wehbe* test (at [22]):

"These five ways are not exhaustive of the ways in which an applicant might demonstrate that 'compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way."

Of particular relevance in this instance and relied upon by the applicant in this clause 4.6 variation request, is part 1, that: "the proposal, despite numerical non-compliance, [would] be consistent with the relevant environment or planning objectives".

In the decision of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, at paras 87-88, Chief Justice Preston has further clarified the correct approach to the consideration of clause 4.6 requests including that the clause does not require that a development that contravenes a development standard must have a neutral or better environmental planning outcome than one that does not. Paragraph 88 of his decision Preston CJ noted:

“Clause 4.6 does not directly or indirectly establish this test. The requirement ...is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.”

This reference is of particular significance in this instance as the proposal, while contravening the development standard, does not need to justify a better environmental planning outcome than a development that complies with the development standard.

The Court’s recent decision in *Initial Action Pty Ltd v Woollahra Municipal Council [2019] NSWLEC 1097* (O’Neill C) usefully summarises the relevant tasks and tests under clause 4.6:

“The consent authority, or the Court on appeal, must be satisfied that the applicant’s written request has adequately addressed the matters required to be addressed by cl 4.6(3) and that the proposal will be in the public interest because it is consistent with the objectives of the contravened development standard and the zone, at cl 4.6(4) of LEP 2014”.

It can be seen that this is a two-part test. The first test only requires indirect satisfaction that the written request adequately addresses the matters it is required to address. Whereas the second test at 4.6(4) requires a positive finding that the development as a whole (‘i.e., ‘the proposal’) is consistent with the objectives of the contravened development standard and of the zone.

The requirement to be ‘consistent with’ has been judicially interpreted. In the matter of *Moskovitch*, in the context of a clause 4.6 variation relating to height, the Commissioner accepted that:

“53. The threshold of “consistency” is different to that of “achievement”. The term “consistent” has been considered in a judgements of the Court in relation to zone objectives and has been interpreted to mean “compatible” or “capable of existing together in harmony” (Dem Gillespies v Warringah Council [2002] NSWLEC 224; (2002) 124 LGERA 147”.

In that matter, it is relevant to note that the Court (O’Neill C) ultimately approved a height non-compliance despite the fact that it caused some view loss impacts. The Commissioner assessed those view impacts in qualitative and quantitative terms and found that they were reasonable in the circumstances, even though they were caused by a height non-compliance. This dispels the notion that any impact caused by a non-compliance with a development standard will be unacceptable. To the contrary, it supports the finding by Preston CJ In *Initial Action* (2018) at 87 that *“It is not necessary, contrary to what the Commissioner held, that the non-compliant development have no view loss or less view loss than a compliant development”.*

In the Courts recent decision *Al Maha Pty Ltd v Huajun Investments Pty Ltd [2018] NSWCA 245* Preston CJ of the LEC recently clarified the correct approach to determining a cl 4.6 written request. Although the developer had submitted a cl 4.6 written request, the Commissioner’s judgment and orders did not disclose any consideration of the request, and in particular whether she had formed the requisite opinions required by cl 4.6.

In the absence of written reasons, and particularly where s34(3) of the LEC Act requires a Commissioner to set out in writing the terms of the decision, the Court inferred that the Commissioner had not formed the necessary opinions. If so, she lacked power to grant the Consent.

Clause 4.6 of Standard Instrument LEPs nevertheless allows for a consent authority to grant development consent if satisfied of the requirements of clause 4.6(4)(a):

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) The consent authority is satisfied that:

- i. The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- ii. the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

In that matter, the requirement to address subclause (3) sufficient environmental planning grounds and how the proposed development is in the public interest whilst achieving the objectives of the standard is considered to have been met in this report.

5 Development Standard to be Varied

This section pertains to the “*Application form to vary a development standard*” by Newcastle City Council.

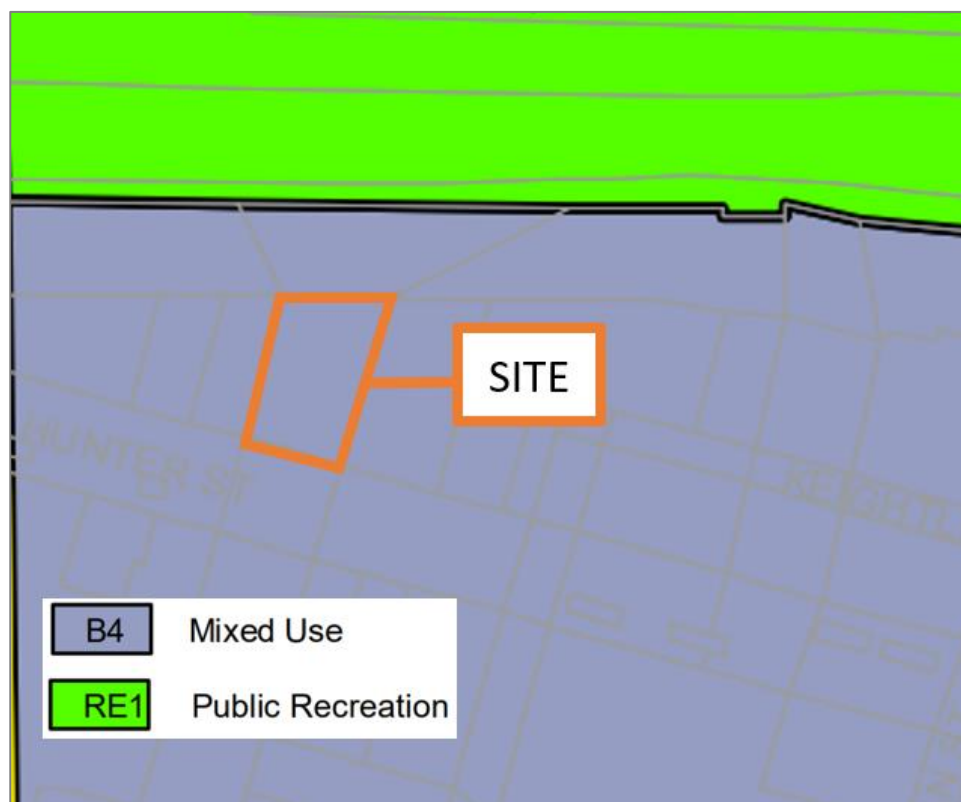
What is the name of the environmental planning instrument that applies to the land?

Newcastle Local Environmental Plan 2012

What is the zoning of the land?

The land is zoned B4 – Mixed Use, refer to **Figure 3**.

Figure 3 Land Zoning Map Extract from LEP 2012 (LZN_004K)



What are the objectives of the zone?

- 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 support nearby or adjacent commercial centres without adversely impacting on the viability of those centres.

What are the development standards being varied?

The building height development standard contained in clause 4.3.

Are the standards to be varied a development standard?

Yes, the standard to be varied is considered to be a development standard in accordance with the definition contained in Section 4(1) of the *Environmental Planning and Assessment Act 1979* and not a prohibition.

What are the objectives of the development standard?

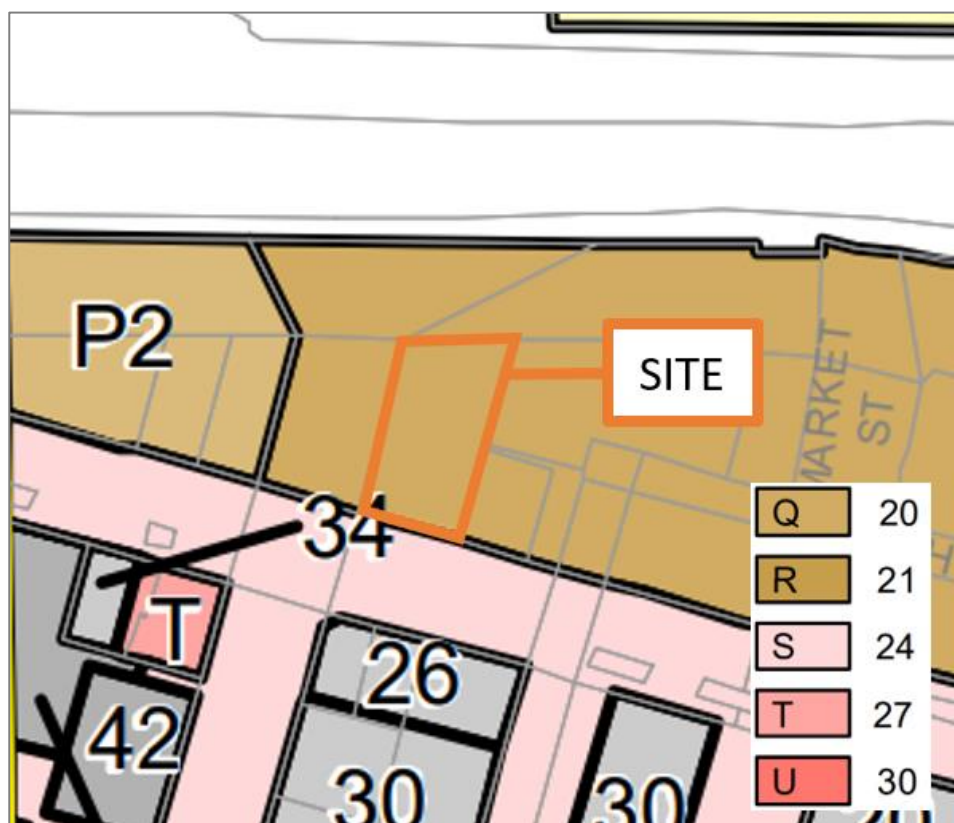
The objectives of clause 4.3 – Height of Buildings are as follows:

- to ensure the scale of development makes a positive contribution towards the desired built form, consistent with the established centres hierarchy,
- to allow reasonable daylight access to all developments and the public domain.

What is the numeric value of the development standard in the environmental planning instrument?

The maximum height under the NLEP 2012 is 20 metres, refer to **Figure 4**.

Figure 4 Height of Building Map Extract (HOB_004K)



What is the proposed numeric value of the development standard in your development application?

The numeric value of the proposed development and percentage variation to height are detailed in **Table 1** below.

Table 1 Height Variation

Clause	Control	Proposal	Variation
Clause 4.3 – Building Height	20m	26.49m (lift overrun) 25.24m (roof)	6.49m (32.45%) 5.24m (26.2%)

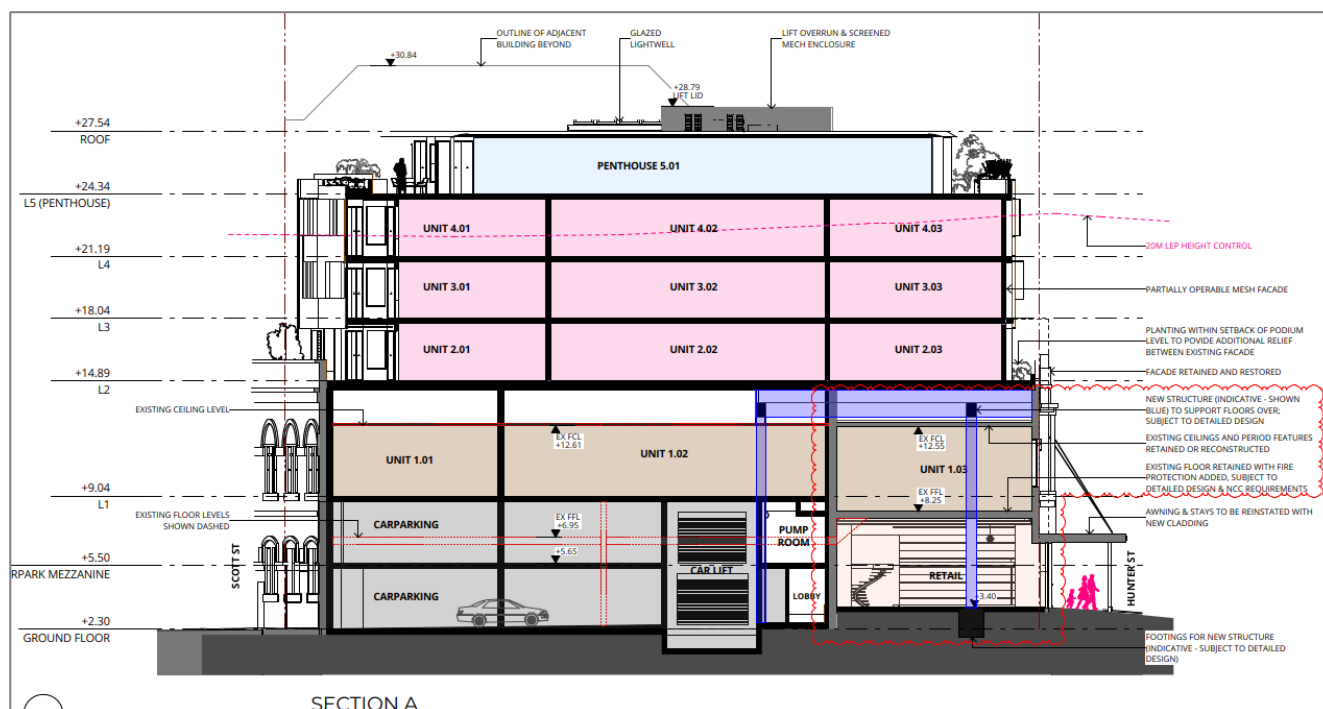
Newcastle LEP 2012 defines building height as the following:

building height (or **height of building**) means:

- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

The numeric values used in the table above are the vertical distance from ground level (existing) to the highest point of the building, as opposed to the RL of the building. The Architectural Plans attached at Appendix A of the Statement of Environmental Effects (SEE) make reference to both forms of measurement, refer to **Figure 5** for an extract.

Figure 5 Height of Building Extract (Source: SDA Section A-A)



6 Justification for the Contravention

This section addresses Section (3) and (4) of Clause 4.6 and sets out justification for the contravention from development standard 4.3.

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks 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 development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

(b) *the concurrence of the Secretary has been obtained.*

6.1 Compliance is Unreasonable or Unnecessary

As mentioned above, compliance with a development standard might be shown as unreasonable or unnecessary if the objectives of the standard and the zone are achieved notwithstanding noncompliance with the standard.

As referenced in clause 2.3 of NLEP2012, the objectives of the B4 Mixed Use zone set out that the development is to provide a mixture of compatible land uses; to integrate suitable business, office, residential, retail and other development in accessible locations to maximise public transport patronage and encourage walking and cycling and to support nearby or adjacent commercial centres without adversely impacting on the viability of those centres.

The proposal is consistent with the zone objectives as it integrates a mix of compatible land uses within the site, is well located adjacent to a light rail public transport system and is well serviced and accessed by pedestrians and cyclists alike. The East End location is a commercial centre.

Similarly, the proposed development is consistent with the objectives of Clause 4.3 – Height of Buildings as outlined:

(a) *to ensure the scale of development makes a positive contribution towards the desired built form, consistent with the established centres hierarchy.*

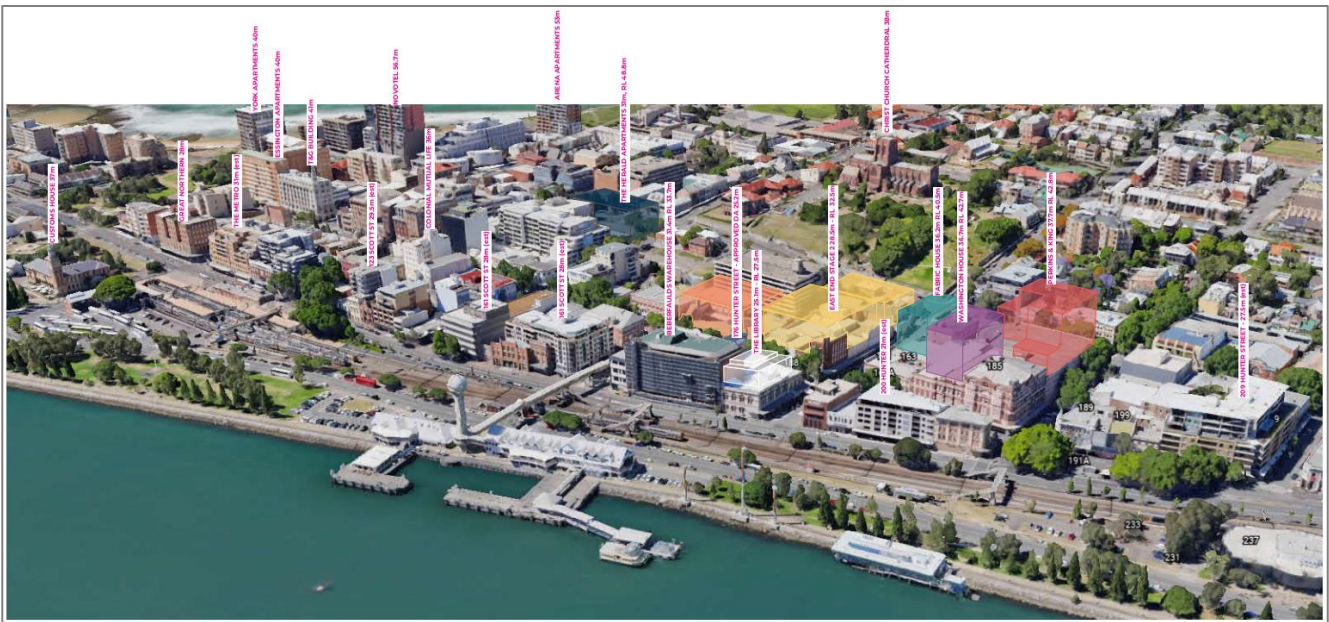
The proposed development has been designed by a nominated registered architect from renowned firm SDA and consists of a high quality, architecturally designed building that makes a positive contribution to the emerging built form within the lower Hunter Street precinct. Within this immediate area construction is underway on the site opposite (former David Jones building) that provides for a building that is greater in height than this proposal. Similarly in the same block a number of approvals have been issued for built form that both exceeds the height standard and seeks to retain the heritage character at street/ground level.

The proposed built form reflects that emerging contemporary character of the East End Precinct and will ensure the protection, enhancement and sustainable management of the existing heritage building on the site. The projection of the building above the height limit will not result in an overbearing visual or shadow impact. The proposed addition within and above the existing heritage fabric cleverly references the proportions and rhythm of the existing façade, with a strong emphasis on avoiding mimicry, and results in a recessed form that respects views to and from the northern open space areas toward the lower Hunter Street area. Key views within Council's strategy planning documents are protected and remain unimpeded.

The built form responds to the context of the site with sympathy to the adjoining heritage listed (former) Beberfaulds Warehouse building. The brick parapet is identified as an important datum at the adjoining property which the proposed development should not exceed. The design responds to this architectural feature where the proposed building will be set below the brick parapet. Accordingly, the heritage significance and aesthetic of Beberfaulds is considered in the design and its superior height is maintained.

The Urban Design Consultative Group stated "*The cohesion of new works with the existing building was also identified as a key measure of acceptable scale. The proposed step down in height and setback of additions, to the Hunter Street frontage, were supported in principle.*" Details of the façade and articulation are provided in the Architectural plans appended at Appendix A of the SEE.

Figure 6 Height of Building Context Comparison (Source: SDA Architects)



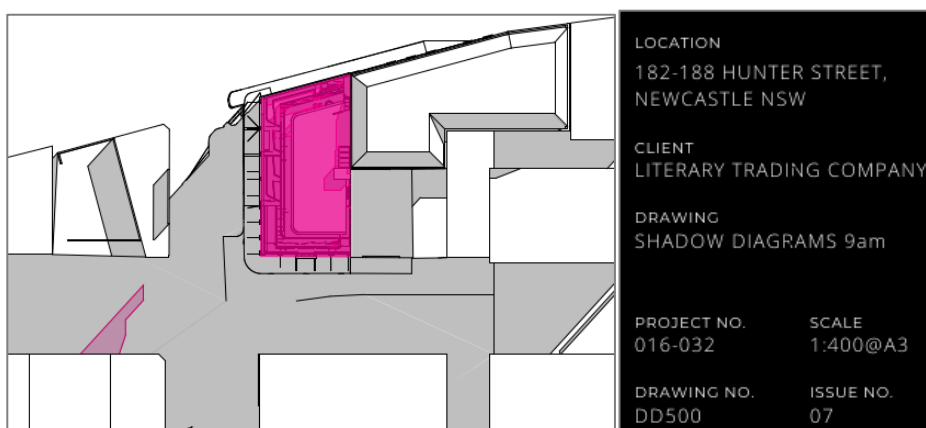
(See Annexure for larger scale version)

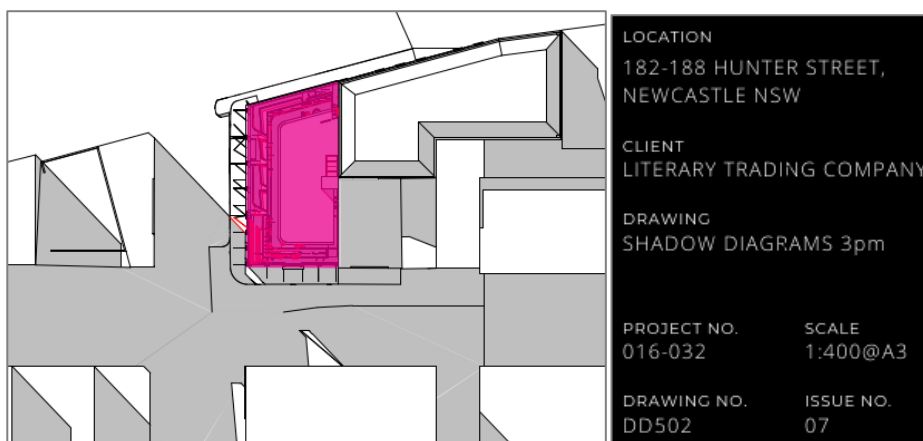
In this instance, the strict application of the development standards for maximum height is unreasonable and unnecessary and would not achieve a greater planning or urban design outcome.

(b) to allow reasonable daylight access to all developments and the public domain.

Reasonable daylight access is provided to all surrounding developments. The proposed height variation is situated in a location which will not result in any detrimental impact to any sensitive land uses. Architectural plans and shadow diagrams attached at Appendix A of the SEE demonstrate the negligible impact caused by the proposed height variation.

Figure 7 Shadow Diagrams Extract from Appendix A of SEE (Source: SDA Drawing No DD500-501-502)





The proposed development suitably demonstrates consistency with the objective of the clause and in this circumstance strict compliance with a 20m height limit would be unreasonable, unnecessary and would not achieve a greater planning or urban design outcome.

Moreover, the development is consistent with the objectives of Clause 4.3 for the following reasons:

- The proposed development is for the purposes of the economically viable adaptive reuse and additions to a locally listed heritage building with mixed commercial, retail and residential land use. The proposed development comprises land uses which are permissible under NLEP 2012.
- The proposed development meets the underlying intent of the controls and is a compatible form of development that does not result in unreasonable environmental amenity.
- As demonstrated in the Apartment Design Guidelines SEPP 65 Statement, the proposal provides a satisfactory level of amenity, both internally and from the public realm.
- The proposal is of an overall height, scale, bulk, design and external appearance that is in keeping with other similar developments approved and/or presently being constructed in the immediate vicinity of the subject site. In this regard, modification of the building to achieve strict numerical compliance will not achieve any greater level of amenity for residents.
- The proposed built form reflects the desired future character of the streetscape in the East End Precinct and upgrades the existing building on the site. The proposed development has been designed with a recessed top level to reduce the overall bulk of the building that sits comfortably in its surrounds and does not result in an overbearing visual impact. The design adopts the parapet height of the adjacent Berberfaulds Warehouse as a reference point, maintaining the dominance of this building within the streetscape and providing a transition to the buildings west of the site.

- The proposal provides a range of housing types and dwelling sizes, including one, three and four-bedroom configurations, providing a range of housing choices.
- The proposal contributes a permissible mix of land uses to the locality, encouraging employment opportunities and sustainable living.
- The additional height resulting from non-compliance does not result in any undue impacts on adjoining properties nor the public domain with respect to overshadowing, loss of privacy and loss of views.
- The application satisfies other numerical standards and has the strong support of the UDCG as the proposal is considered a high-quality development.

Accordingly, the proposal is considered to be consistent with the strategic objectives of Council, as well as the objectives of the B4 Mixed Use zone and Clause 4.3.

6.2 Sufficient Environmental Planning Ground to Justify Contravention

This assessment, and the supporting SEE accompanying this development application, demonstrate that the proposed variation will not result in any unreasonable environmental impacts.

In particular the proposal has been carefully designed to ensure that there are no unacceptable shadow impacts, streetscape impacts nor impacts on key views and view corridors. If made to strictly comply with Clause 4.3, there would be no significant additional benefit to the streetscape, neighbouring properties and the local area. The granting of development consent will enable a high quality, architecturally designed mixed use commercial and residential building to be constructed in Newcastle, allowing the economically viable retention of a socially valuable heritage item within the city.

The height limit controls within the immediate vicinity are largely defined in parcels attributed to the city block(s) and appear to respond, principally, to the existing built form and, critically, the protection of certain views, most notably the urban form of “The Hill” and “Christchurch cathedral” when viewed from the harbour foreshore and Stockton. This development site is not visible and has no impact on those key view expectations as detailed in the perspectives of the building contained within the Architectural Plans.

Within the same street block as the proposal, the 20m height limit applies with some 30+% of the block already exceeding this limit – that being the large scale heritage listed (former) Beberfaulds Warehouse building. This building provides a dominant backdrop to the subject site. The proposed design recognises and responds to this, whilst addressing the feedback of the Council’s UDCG.

Figure 8 Hunter Street View of Height of Building Context (Source: SDA Architects)



(See Annexure for larger scale version)

The heights on the southern side of Hunter Street (24m) reflect the landform step up based on the preservation of the Cathedral views. **Figure 6, Figure 8 and Figure 9** presents the various envelopes for buildings surrounding the subject site and show the approved envelopes for the GPT/David Jones building development(s). The proposal does not result in any additional impact on the view corridors to the Cathedral which are already impacted by the existing development to the south.

Figure 9 Impact on Critical View Corridors



As outlined in the SEE, the proposal exhibits design excellence, with the support of the UDCG. The built form presents as both complementary and respectful the heritage of the existing building and provides a modern, contemporary architectural response with the proposed additional levels.

It is noted that the strict compliance with the height standard removes the potential for the residential development and would remove the financial support that is needed to ensure the longevity of the building and the commercial/retail opportunities within the lower levels of the existing building.

Overall, the proposal achieves a suitable an acceptable height and density that supports and complements the future character of the area. The proposal provides for a development that complements the commercial expectations of the local area and provides for further residential opportunities within the city centre.

This assessment demonstrates that the resultant environmental impacts of the proposal are considered to be satisfactory.

Strict compliance of the 20m height limit would not result in any fewer negative impacts to surrounding developments or public open spaces. The traffic impact assessment concludes that the additional impact on the road network is minor and can be accommodated within the existing network capacity.

The shadow diagrams provided demonstrate that the majority of overshadowing occurs along Hunter Street, the majority of which is consistently shaded, due to the surrounding building heights and narrow road way. The proposed height also represents a more consistent built form with the adjoining building and will not impact on any existing solar access or natural ventilation currently achieved on the adjoining site.

The objectives of Clause 4.3 and the B4 Mixed Use zone have been met with the proposed development. In light of this, there is considered to be sufficient environmental planning grounds to justify contravening this development standard in this instance.

6.3 Public Interest

As demonstrated in this assessment, the proposed development will be in the public interest because it is consistent with the objectives of the height standard and the objectives of the B4 Mixed Use zone. The proposed development will provide a number of significant public benefits to the community through the conservation of the existing heritage item and revitalisation of the city centre. This is achieved through the contribution of a mix of land uses to the locality, encouraging employment opportunities and sustainable living.

The proposal also provides a range of housing types and dwelling sizes, including one-, three- and four-bedroom configurations, thereby providing a range of housing choices for future residents. Strict adherence with the height control would significantly impact the development potential of the site and limit the opportunity to provide high quality housing in an inner-city area that is of high demand. The proposal can accommodate a number of unit types and provide high amenity for internal uses, such as communal open space, solar access and natural ventilation, and generous outdoor areas.

The proposed development represents a high-quality urban design, which seeks to reinvigorate and enhance the East End Precinct of Newcastle City Centre. The height exceedance does not outweigh the merits of the proposal. There are no over-riding or compelling public benefits from strict compliance with the development standard that are not achieved by the proposal as presented.

6.4 Secretary's Concurrence

It is understood that the Secretary's concurrence under clause 4.6(4) of LEP 2012 has been delegated to Newcastle City Council.

7 Conclusion

This Clause 4.6 Variation to Development Standard has been prepared in response to numerical non-compliance against the standards of Clause 4.3 (Height of Buildings) of the NLEP 2012. The extent of non-compliance is a minor variation in the context of the site and the type of development proposed.

As demonstrated within this report and the submitted architectural plans, the overall massing, scale, bulk and height of the proposed development is consistent with the desired future character envisioned by Council for the precinct.

It is considered that the variation allows for the orderly and economic use of the land in an appropriate manner, whilst allowing for a better outcome based on planning merits. Further, the proposal will not result in any unreasonable impact on amenity or any significant adverse environmental impacts.

Council can be satisfied that compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development and that there are sufficient environmental planning grounds to justify contravening the development standard.

It is therefore requested that Council grant development consent for the proposed development.

ANNEXURE

FIGURE 6 AND FIGURE 8



East -Hunter ST



West -Hunter ST 2

- LEGEND**
- THE LIBRARY - PROPOSED
 - FABRIC HOUSE - BUILT
 - WASHINGTON HOUSE - BUILT
 - PERKINS & KING - BUILT
 - 164 HUNTER ST - APPROVED DA
 - 176 HUNTER ST - APPROVED DA
 - EAST END STAGE 2 - COMMENCED
 - EAST END STAGE 3 - PROPOSED

P +61 2 4969 3631
E HELLO@SDARCH.COM.AU
A SUITE 1, LEVEL 1, 187 UNION ST,
 THE JUNCTION NSW 2291
SDARCH.COM.AU

ISSUE	DESCRIPTION	BY	CHK	DATE
01	For Review	CR		08/03/02
02	Revised For QA	CR	JC	10/04/02
03	Revised For QA	CR	JC	10/04/02

SDA



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 182 HUNTER STREET NEWCASTLE –
DA2021/01505 - MIXED-USE DEVELOPMENT (COMMERCIAL AND
SHOP TOP HOUSING) - INVOLVING ALTERATIONS AND
ADDITIONS TO LOCALLY LISTED HERITAGE BUILDING**

7.7 **Attachment E:** Clause 4.6 written exception to floor space ratio
development standard

DISTRIBUTED UNDER SEPARATE COVER

30 June 2022

631.30163-L01-v0.3-20220630 - FSR.docx

Newcastle City Council
PO Box 489
Newcastle NSW 2300

Attention: Newcastle City Council

Dear Sir/Madam,

Clause 4.6 Variation - FSR
RE: 182 Hunter Street, Newcastle NSW 2300

1 Introduction

The development to which this application relates is for the construction of a four-storey residential addition to the existing commercial building and adaptive reuse, to provide for 14 new residential apartments and modified commercial premises at 182 Hunter Street (aka 186-188 Hunter Street and 5 Wolfe Street), Newcastle East, NSW 2300.

The Development Application (DA) seeks approval for:

- Adaptation of the existing heritage building including:
 - New ground floor bookstore with mezzanine, accessed from Wolfe and Hunter Street.
 - Two small ground floor retail tenancies facing Wolfe Street.
 - New building entrances, fire stairs, lift well and ground floor amenities and services.
 - New car parking area including 22 car parking spaces, two (2) motorcycle spaces and 18 bicycle spaces in total with a car lift between 2 floors.
- Construction of four levels of 14 new residential apartments, atop the existing heritage building.
- Ancillary works as detailed on the proposed Architectural drawings at Appendix A.

In summary, the proposal largely complies with the provisions of the Newcastle LEP 2012 (NLEP 2012), with the exception of two exceedances in height and floor space ratio (FSR). An assessment of the FSR variations is provided in the following pages in accordance the requirements of Clause 4.6 of the NLEP 2012. This variation has been prepared generally in accordance with the NSW Department of Planning and Infrastructure's publication "*Varying Development Standards: A Guide*" (August 2011), which identifies matters to be addressed in an application to vary a development standard.

The proposed variation is considered reasonable on the basis that:

- The proposed floor space ratio (FSR) variation is situated in a location which will not result in any demonstrable detrimental impact to any sensitive land uses so the impact of the variation is negligible.

- The proposal is making use of the existing heritage building on-site and presents a highly functional, contemporary building that has been carefully planned and designed to afford its future occupants' comfort and amenity.
- The proposed built form will reflect the emerging contemporary character of the streetscape and upgrade the existing development on the site. The projection of the building above the height limit will not result in an overbearing visual impact.
- The variation is minimal considering the context of the subject site and strict compliance with the exact standard would not achieve a greater planning or urban design outcome.

2 Site Details

2.1 Site Location and context

The site is known as 182 (& 186-188) Hunter Street and 3 Wolfe Street, Newcastle East, situated within the Local Government Area (LGA) of Newcastle. The site is located on a corner with a total area of 769m² and has three street frontages to Scott Street to the north, Hunter Street to the south and Wolfe Street to the west. The site comprises Lot 212 in DP 660080, refer to **Figure 1** and **Figure 2**.

The site is located within the Newcastle City Centre in the precinct of East End, specifically the Hunter Street Mall area. The desired future character of Hunter Street Mall is to be a precinct that has the potential to develop as boutique pedestrian-scaled main street shopping, leisure, retail and residential destination. Infill development is encouraged to promote activate street frontages and respond to heritage items.

Development along both sides of Hunter Street has a mix of scale accommodating residential and commercial development, with various historic buildings and uses. Currently Hunter Street is experiencing a considerable change in character and scale as the "former David Jones Building" site as newer high-density development behind a heritage façade is being constructed directly opposite this site.

There are a number of current development consents for developments, adjoining the subject site in Hunter Street, that both includes adaptive reuse of existing buildings and provides for building heights above the development standard in the planning instrument. These consents are considered by Council to make a positive contribution to the future character of the Hunter Street Mall and East End of Newcastle broader area.

Figure 1 Site Aerial (Source: Six Maps)



Figure 2 Cadastral Plan (Source: Six Maps)



3 Strategic Direction

3.1 Strategic Direction for Newcastle LGA

Clause 1.2 of the NLEP 2012 outlines the aims of the NLEP 2012 and strategic development direction for the Newcastle Local Government Area (LGA). The following summary addresses each subclause and provides a comment in respect to the proposal.

- (a) to respect, protect and complement the natural and cultural heritage, the identity and image, and the sense of place of the City of Newcastle.*

Comment: The proposal is sympathetic to the existing and desired future character of the Hunter Street Mall and the City of Newcastle. The proposal is architecturally designed to respond to the surrounding context; in addition, the proposed design responds to the heritage characteristics currently on site and within the heritage conservation area.

The proposal will contribute to the sense of place in the city centre and will reinforce the Newcastle City Centre, as an attractive destination for residential and commercial development. Furthermore, the proposed development is in keeping with the Hunter Regional Plan 2036 and Greater Newcastle Metropolitan Plan 2036 strategic direction. Within the Hunter Regional Plan direction 3 states the need to revitalise the Newcastle City Centre and maintain Newcastle as being a leading metropolitan city for the region. The proposal is aligned with these aims and will help in achieving these objectives.

- (b) To conserve and manage the natural and built resources of the City of Newcastle for present and future generations, and to apply the principles of ecologically sustainable development in the City of Newcastle.*

Comment: The proposed development has been designed in accordance with best practice ecologically sustainable development and architectural principles. The proposed finishes and materials have been selected based upon product lifespan to ensure the longevity of the development.

- (c) to contribute to the economic wellbeing of the community in a socially and environmentally responsible manner and to strengthen the regional position of the Newcastle city centre as a multi-functional and innovative centre that encourages employment and economic growth.*

Comment: The proposal will significantly contribute to the economic wellbeing of the community by providing construction jobs and operational jobs for both skilled and unskilled workers. The proposal will also revitalise the existing commercial portion of the building, including heritage features, which is otherwise severely underutilised for the city centre location.

In addition, the proposal will contribute to strengthening the position of Newcastle as the leading metropolitan city in the area, with the proposal bring in investment opportunities with the commercial business spaces. The provision of commercial floor area will likely attract more investment opportunities in the area.

- (a) to facilitate a diverse and compatible mix of land uses in and adjacent to the urban centres of the City of Newcastle, to support increased patronage of public transport and help reduce travel demand and private motor vehicle dependency.*

Comment: The site is located with the Newcastle City Centre and is zoned B4 Mixed Use; this zoning encourages a wide range of employment generating uses. The site is also located in close proximity to public transport routes

as well as Marketown Shopping Centre, the Foreshore, and local shopping precincts. The Newcastle Bus Interchange accessed via the light rail provides access to the bus, light rail and train network is within 2km of the site.

- (b) to encourage a diversity of housing types in locations that improve access to employment opportunities, public transport, community facilities and services, retail and commercial service.*

Comment: The proposal allows for the addition of 15 new apartments of vary sizes and of a high-quality design within a well serviced area improving possible access to employment opportunities.

- (c) To facilitate the development of building design excellence appropriate to a regional city.*

Comment: The proposed development has been architecturally designed by renowned architects SDA and consists of a high quality, architecturally designed building that makes a positive contribution to the street frontage and built form along Hunter, Wolfe, and Scott Street. The proposed architectural form has been carefully designed having due regard to the locality and heritage environment, with on-going input from the UDCG. It is considered that the proposal demonstrates a high level of design excellence. The proposed built form will reflect the emerging contemporary character of Newcastle East and is considered appropriate to a regional city.

4 Exception to Development Standards

The Department of Planning and Infrastructure's publication "Varying Development Standards: A Guide" (August 2011), states that:

The NSW planning system currently has two mechanisms that provide the ability to vary development standards contained within environmental planning instruments:

- *Clause 4.6 of the Standard Instrument Local Environment Plan (SI LEP); and*
- *State Environment Planning Policy No 1 – Development Standards (SEPP1).*

In this instance, SEPP 1 does not apply as the NLEP 2012 is a Standard Instrument LEP. It is noted that the Guidelines do not identify any other mechanisms (such as a Planning Proposal) to vary a development standard.

4.1 Clause 4.6

Clause 4.6 of the NLEP 2012 aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better planning outcomes.

- (1) The objectives of this clause are as follows:*

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other*

environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

The proposal seeks to vary the floor space ratio standards applicable to the site and does not introduce new controls across an area. The Clause 4.6 guidelines also state specifically when this clause is not to be used, namely:

“...in Rural or Environmental zones to allow subdivision of land that will result in 2 or more lots less than the minimum area specified for such lots by a development standard, or the subdivision of land that will result in any lot less than 90% of the minimum area specified for such lots by a development standard in the following SI zones: Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Rural Small Holdings, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.”

Neither the site nor the proposal is included within these criteria and therefore, the use of Clause 4.6 to vary the FSR standard is appropriate in this instance.

4.2 Legal Context to Varying Development Standards

This request has been prepared having regard to the latest authority on clause 4.6, contained in the following guideline judgements:

- Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7
- Wehbe v Pittwater Council [2007] NSWLEC 827
- Moskovich v Waverley Council [2016] NSWLEC 1015
- Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 (Preston CJ)
- Initial Action Pty Ltd v Woollahra Municipal Council [2019] NSWLEC 1097 (O’Neill C)
- Al Maha Pty Ltd v Huajun Investments Pty Ltd [2018] NSWCA 245

Randwick City Council v Micaul Holding Pty Ltd [2016] NSWLEC 7 documents a decision of the Chief Judge of the Court in an appeal against a decision of Commissioner Morris to uphold a request under clause 4.6 of the Randwick LEP 2012 to vary development standards relating to the height and FSR of a building.

In the decision of *Wehbe v Pittwater Council [2007] NSW LEC 827*, Chief Justice Preston outlined the rationale for development standards, and the ways by which a standard might be considered unnecessary and/or unreasonable. At paragraph 43 of his decision Preston CJ noted:

“The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).”

Wehbe V Pittwater [2007] NSW LEC 827 also established the ‘five-part test’ to determine whether compliance with a development standard is unreasonable or unnecessary based on the following:

- (1) *The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved*

notwithstanding non-compliance with the standard. The rationale is that development standards are not ends in themselves but means of achieving ends;

- (2) A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- (3) Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable;*
- (4) A fourth way is 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; or*
- (5) A fifth way is 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.*

Although Wehbe relates to SEPP 1 rather than a Clause 4.6 request, the Courts have held that the same principles apply. In Initial Action, Chief Justice Preston at [16] explicitly notes that the five points in Wehbe are equally applicable to a written request under clause 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.

In Initial Action (2018) the Chief Judge also clarified the following, with respect to the 5-part Wehbe test (at [22]):

"These five ways are not exhaustive of the ways in which an applicant might demonstrate that 'compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way."

Of particular relevance in this instance and relied upon by the applicant in this Clause 4.6 variation request, is part 1, that: "the proposal, despite numerical non-compliance, [would] be consistent with the relevant environment or planning objectives".

In the decision of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, at paras 87-88, Chief Justice Preston has further clarified the correct approach to the consideration of Clause 4.6 requests including that the clause does not require that a development that contravenes a development standard must have a neutral or better environmental planning outcome than one that does not. Paragraph 88 of his decision Preston CJ noted:

"Clause 4.6 does not directly or indirectly establish this test. The requirement ...is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard."

This reference is of particular significance in this instance as the proposal, while contravening the development standard, does not need to justify a better environmental planning outcome than a development that complies with the development standard.

The Court's recent decision in *Initial Action Pty Ltd v Woollahra Municipal Council* [2019] NSWLEC 1097 (O'Neill C) usefully summarises the relevant tasks and tests under clause 4.6:

"The consent authority, or the Court on appeal, must be satisfied that the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6(3) and that the proposal will be in the public interest because it is consistent with the objectives of the contravened development standard and the zone, at cl 4.6(4) of LEP 2014".

It can be seen that this is a two-part test. The first test only requires indirect satisfaction that the written request adequately addresses the matters it is required to address. Whereas the second test at 4.6(4) requires a positive finding that the development as a whole ('i.e., 'the proposal') is consistent with the objectives of the contravened development standard and of the zone.

The requirement to be 'consistent with' has been judicially interpreted. In the matter of *Moskovitch*, in the context of a clause 4.6 variation relating to height, the Commissioner accepted that:

"53. The threshold of "consistency" is different to that of "achievement". The term "consistent" has been considered in a judgements of the Court in relation to zone objectives and has been interpreted to mean "compatible" or "capable of existing together in harmony" (Dem Gillespies v Warringah Council [2002] NSWLEC 224; (2002) 124 LGERA 147".

In that matter, it is relevant to note that the Court (O'Neill C) ultimately approved a height non-compliance despite the fact that it caused some view loss impacts. The Commissioner assessed those view impacts in qualitative and quantitative terms and found that they were reasonable in the circumstances, even though they were caused by a height non-compliance. This dispels the notion that any impact caused by a non-compliance with a development standard will be unacceptable. To the contrary, it supports the finding by Preston CJ in *Initial Action* (2018) at 87 that *"It is not necessary, contrary to what the Commissioner held, that the non-compliant development have no view loss or less view loss than a compliant development"*.

In the Courts recent decision *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245 Preston CJ of the LEC recently clarified the correct approach to determining a cl 4.6 written request. Although the developer had submitted a cl 4.6 written request, the Commissioner's judgment and orders did not disclose any consideration of the request, and in particular whether she had formed the requisite opinions required by cl 4.6.

In the absence of written reasons, and particularly where s34(3) of the LEC Act requires a Commissioner to set out in writing the terms of the decision, the Court inferred that the Commissioner had not formed the necessary opinions. If so, she lacked power to grant the Consent.

Clause 4.6 of Standard Instrument LEPs nevertheless allows for a consent authority to grant development consent if satisfied of the requirements of clause 4.6(4)(a):

(4) *Development consent must not be granted for development that contravenes a development standard unless:*

(a) *The consent authority is satisfied that:*

- i. *The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- ii. *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

In that matter, the requirement to address subclause (3) sufficient environmental planning grounds and how the proposed development is in the public interest whilst achieving the objectives of the standard is considered to have been met in this report.

5 Development Standard to be Varied

This section pertains to the “*Application form to vary a development standard*” by Newcastle City Council.

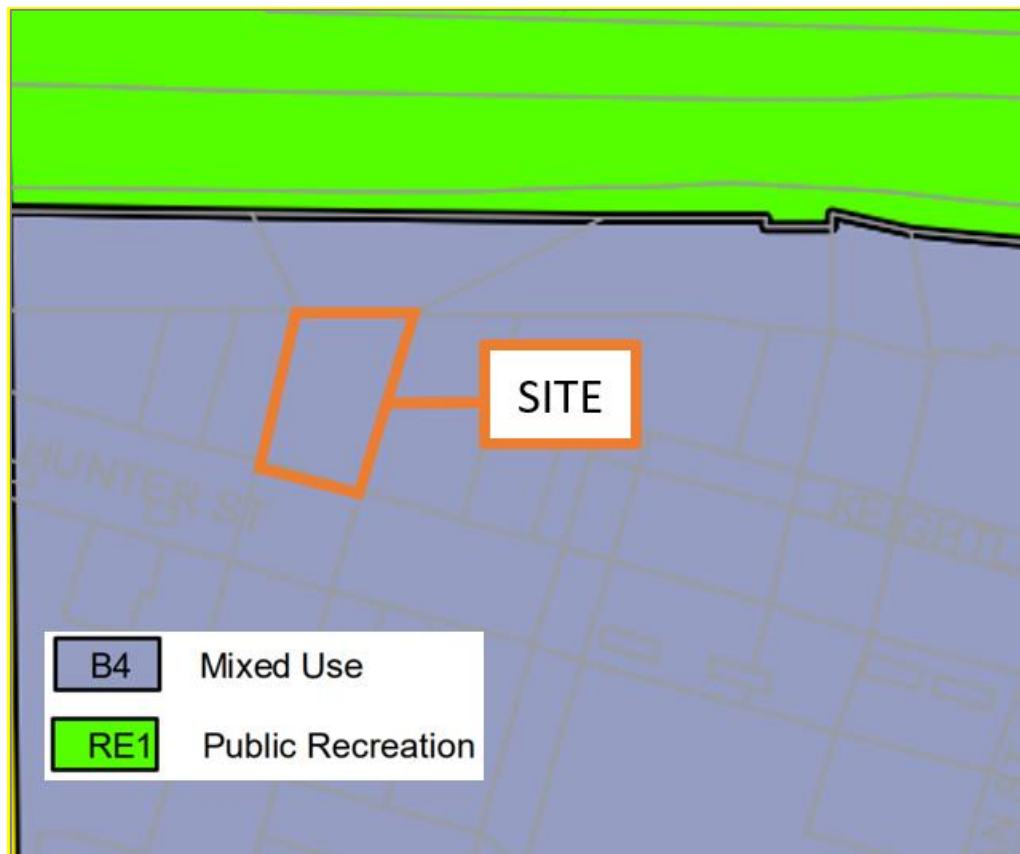
What is the name of the environmental planning instrument that applies to the land?

Newcastle Local Environmental Plan 2012

What is the zoning of the land?

The land is zoned B4 – Mixed Use, refer to **Figure 3**.

Figure 3 Land Zoning Map Extract from LEP 2012 (LZN_004K)



What are the objectives of the zone?

- 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 support nearby or adjacent commercial centres without adversely impacting on the viability of those centres.

What are the development standards being varied?

The floor space ratio (FSR) development standard contained in Clause 4.4.

Are the standards to be varied a development standard?

Yes, the standard to be varied is considered to be a development standard in accordance with the definition contained in Section 4(1) of the *Environmental Planning and Assessment Act 1979* and not a prohibition.

What are the objectives of the development standard?

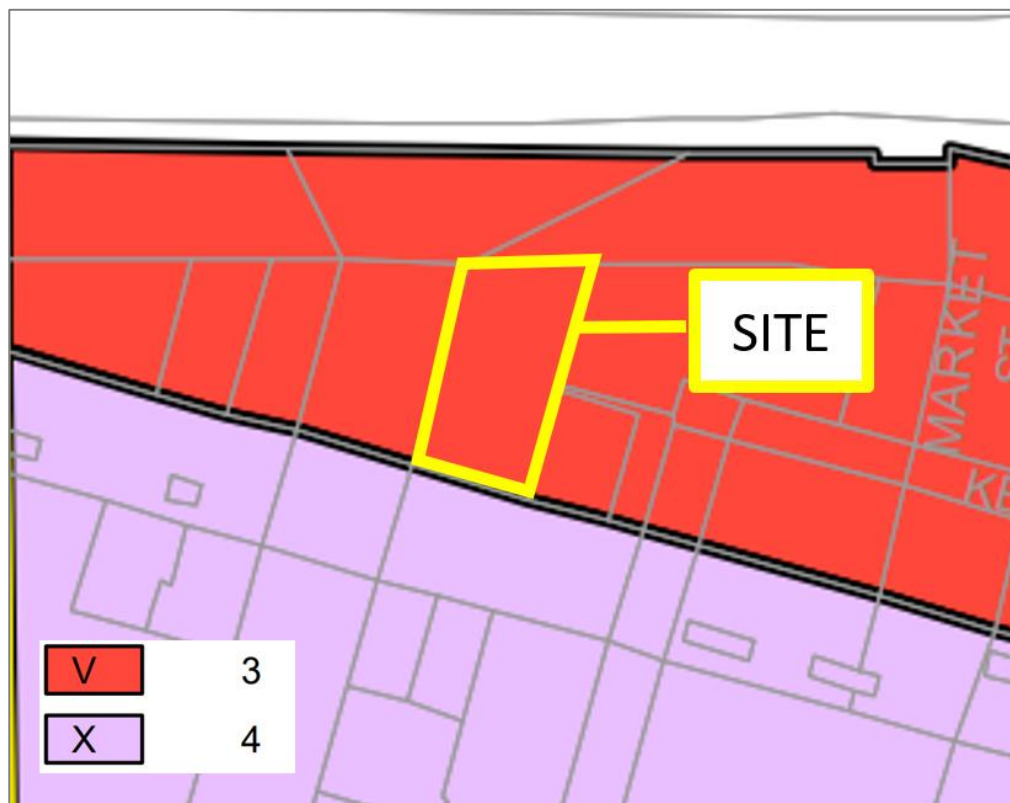
The objectives of clause 4.4 – Floor Space Ratio are as follows:

- (a) to provide an appropriate density of development consistent with the established centres hierarchy,
- (b) to ensure building density, bulk and scale makes a positive contribution towards the desired built form as identified by the established centres hierarchy.

What is the numeric value of the development standard in the environmental planning instrument?

The maximum floor space ratio under NLEP 2012 is 3:1, refer to **Figure 4**.

Figure 4 Floor Space Ratio (FSR) Extract (HOB_004K)



What is the proposed numeric value of the development standard in your development application?

The numeric value of the proposed development and percentage variation to FSR are detailed in **Table 1** below.

Table 1 Floor Space Ratio Variation

Clause	Control	Proposal	Variation
Clause 4.4 – FSR	2,306.9m ² (3:1)	2,544 (3.3:1)	10%

Newcastle LEP 2012 defines floor space ratio as the following:

*The **floor space ratio** of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.*

(3) Site area *In determining the site area of proposed development for the purpose of applying a floor space ratio, the site area is taken to be—*

- (a) if the proposed development is to be carried out on only one lot, the area of that lot, or*
- (b) if the proposed development is to be carried out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common boundary with another lot on which the development is being carried out.*

In addition, subclauses (4)–(7) apply to the calculation of site area for the purposes of applying a floor space ratio to proposed development.

(4) Exclusions from site area *The following land must be excluded from the site area—*

- (a) land on which the proposed development is prohibited, whether under this Plan or any other law,*
- (b) community land or a public place (except as provided by subclause (7)).*

6 Justification for the Contravention

This section addresses Section (3) and (4) of Clause 4.6 and justifies the contravention from development standard 4.4.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks 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 development standard.*

(4) Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Secretary has been obtained.*

6.1 Compliance is Unreasonable or Unnecessary

As mentioned above, compliance with a development standard might be shown as unreasonable or unnecessary if the objectives of the standard are achieved notwithstanding noncompliance with the standard.

The proposed development achieves the objectives of Clause 4.4:

- (a) to provide an appropriate density of development consistent with the established centres hierarchy,*
- (b) to ensure building density, bulk and scale makes a positive contribution towards the desired built form as identified by the established centres hierarchy.*

The proposed development is located within the Newcastle City Centre East End Precinct and makes a positive contribution towards the desired built form of the precinct. The proposed density of the development is 3.3:1.

The Urban Design Consultative Group was generally supportive of the slight exceedance from LEP provisions stating *"The exceedance is based upon the acceptance of the works under Clause 5.10 of Newcastle LEP and overall merit assessment, but potentially could be supported in this context if this important heritage item is conserved and additions are of high quality."*

And later:

The reduction of one floor of the development has moderately reduced the density of the development. The simplification of the unit internal layout as recommended, may necessitate a reduction in bedroom numbers, which may slightly reduce proposed density.

The proposed development consists of an appropriate density, bulk and scale given the location and therefore strict compliance would be unreasonable, unnecessary and would not achieve a greater planning or urban design outcome.

Overall, it is submitted that the development is consistent with the objectives of Clause 4.4 for the following reasons:

- The proposed development is for the purposes of adaptive reuse and additions to the heritage building for mixed commercial and residential land use. The proposed development comprises land uses which are permitted under LEP 2012.
- The proposed development meets the underlying intent of the controls and is a compatible form of development that does not result in unreasonable environmental amenity.
- As demonstrated in the Apartment Design Guidelines (SEPP 65 Statement), the proposal provides a satisfactory level of amenity, both internally and from the public realm.
- The proposal provides for an economically viable and sustainable revitalisation of the existing heritage building and adapts the use to be more aligned with the endorsed future vision and desired future character of the East End Precinct.
- The proposal is of an overall height, scale, bulk, design and external appearance that is in keeping with other similar developments approved and/or, being constructed in the immediate area. In this regard, modification of the building to achieve numerical compliance will not ensure that the resultant development will achieve any greater level of amenity for residents.
- The proposed residential development has been designed with an unobtrusive top level to reduce the overall bulk and height of the building.

- The proposal provides a range of housing types and dwelling sizes, including one, three and four-bedroom configurations, thereby providing a range of choices for residents.
- The proposal contributes a mix of land uses to the locality, encouraging employment opportunities and sustainable living; and
- The application satisfies other numerical standards and has the strong support of the UDCG as the proposal is considered a high-quality development.

Accordingly, the proposal is considered to be consistent with the strategic objectives of Council, as well as the objectives of clause 4.4 and the B4 Mixed Use zone.

6.2 Sufficient Environmental Planning Ground to Justify Contravention

The objectives of the B4 Mixed Use zone set out that the development is to provide a mixture of compatible land uses; to integrate suitable business, office, residential, retail and other development in accessible locations to maximise public transport patronage and encourage walking and cycling and to support nearby or adjacent commercial centres without adversely impacting on the viability of those centres.

The proposal is consistent with the zone objectives as it integrates a mix of compatible land uses within the site, is well located adjacent to a light rail public transport system and is well serviced and accessed by pedestrians and cyclists alike. The East End location is a commercial centre.

This assessment, and the supporting SEE accompanying this development application, demonstrate that the proposed variation will not result in any unreasonable environmental impacts. In particular the proposal has been carefully designed to ensure that there are no unacceptable shadow impacts, streetscape impacts nor impacts on key views and view corridors. If made to strictly comply with Clause 4.4, there would be no additional benefit to the streetscape, neighbouring properties and the local area. The granting of development consent will enable a high quality, architecturally designed mixed use commercial and residential building to be constructed in Newcastle, alongside the ongoing viable retention of a socially valuable heritage item within the city.

Strict compliance with the FSR or 3.0:1 would not result any significant reduction of environmental impact relating to over shadowing, waste generation, noise, or traffic. As outlined in the reports Appended to the SEE the proposal can accommodate the density of development without any negative impacts on surrounding development, including public space and road network, or any negative amenity internal impact for the units and commercial spaces.

The objectives of Clause 4.4 and the B4 Mixed Use zone have been met with the proposed development and it is considered there is sufficient environmental planning grounds to justify contravening this development standard in this instance.

6.3 Public Interest

As demonstrated in this assessment, the proposed development will be in the public interest because it is consistent with the objectives of the FSR standards and the objectives of the B4 Mixed Use zone. The proposed development will provide a number of significant public benefits to the community through the conservation of the existing heritage item and revitalisation of the city centre. This is achieved through the contribution of a mix of land uses to the locality, encouraging employment opportunities and sustainable living.

The proposal also provides a range of housing types and dwelling sizes, including one-, three- and four-bedroom configurations, thereby providing a range of housing choices for future residents. The additional FSR required under the proposal allows for high quality design of units while also providing for great amenity, such as light wells and ample circulation space.

The rejuvenation of the existing lower commercial levels is for the use of the public and will include 'The Library' bookstore for public use, as well as two smaller retail tenancies facing Scott Street. The re-development of the lower levels will increase the amenity of the public domain and will make a positive contribute to the East End precinct in line with the intended revitalisation of the area that is currently being undertaken. The final design proposes a solution that retains the historic façade of the existing building, and finds an adaptive re-use of many of the historic features from the second floor abandoned library space to within the ground floor retail space of the bookshop and residential foyer.

The proposed development represents a high-quality urban design, which seeks to reinvigorate and enhance the East End Precinct of Newcastle City Centre. The floor space ratio exceedance does not outweigh the merits of the proposal and is in the public's interest.

6.4 Secretary's Concurrence

It is understood that the Secretary's concurrence under clause 4.6(4) of LEP 2012 has been delegated to Newcastle City Council.

7 Conclusion

This Clause 4.6 Variation to Development Standard has been prepared in response to numerical non-compliances against the standards of Clause 4.4 (Floor Spate Ratio) of the NLEP 2012. The extent of non-compliance is a small variation (10%) in the context of the site, surrounding developments both under construction and approved, and the type of development proposed.

As demonstrated within this report and the submitted architectural plans, the overall massing, scale, bulk and height of the proposed development is consistent with the desired future character envisioned by Council for the precinct. The proposal has the support of Council's Urban Design Group and facilitates the adaptive reuse of a local heritage item while providing for a range of added retail and commercial opportunities to assist the economic viability and vitality of the East End of Newcastle.

It is considered that the variation allows for the orderly and economic use of the land in an appropriate manner. The site is located amongst taller structures – existing and under construction – and the additional levels of the proposal are sympathetically designed to respond to the heritage of the item and to the surrounding character that is developing as the East End continues its renewal.

The site is located in a suitable part of the East End to support a mixed use developments and fits comfortably within Council's expectation for the desired future character and, as suggested, responds to the surrounding built form. The FSR for the proposal is appropriate in the context, does not contribute to and unreasonable and unacceptable planning impacts and strict compliance with the development standard would be unreasonable and unnecessary in this case.

Council can be satisfied that compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development and. It is therefore requested that Council support the position that there are sufficient environmental planning grounds to justify contravening the development standard and positively determine the proposed development.



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 4 TIGHE STREET NEWCASTLE WEST –
RE2023/00001 - COMMERCIAL CAR PARK AND RETAIL PREMISES**

- | | | |
|-----|----------------------|--|
| 7.8 | Attachment A: | Submitted Plans |
| 7.8 | Attachment B: | Draft Schedule of Conditions |
| 7.8 | Attachment C: | Processing Chronology |
| 7.8 | Attachment D: | Concurrence Transport for NSW |
| 7.8 | Attachment E: | Clause 4.6 written exception to FSR development standard |

DISTRIBUTED UNDER SEPARATE COVER

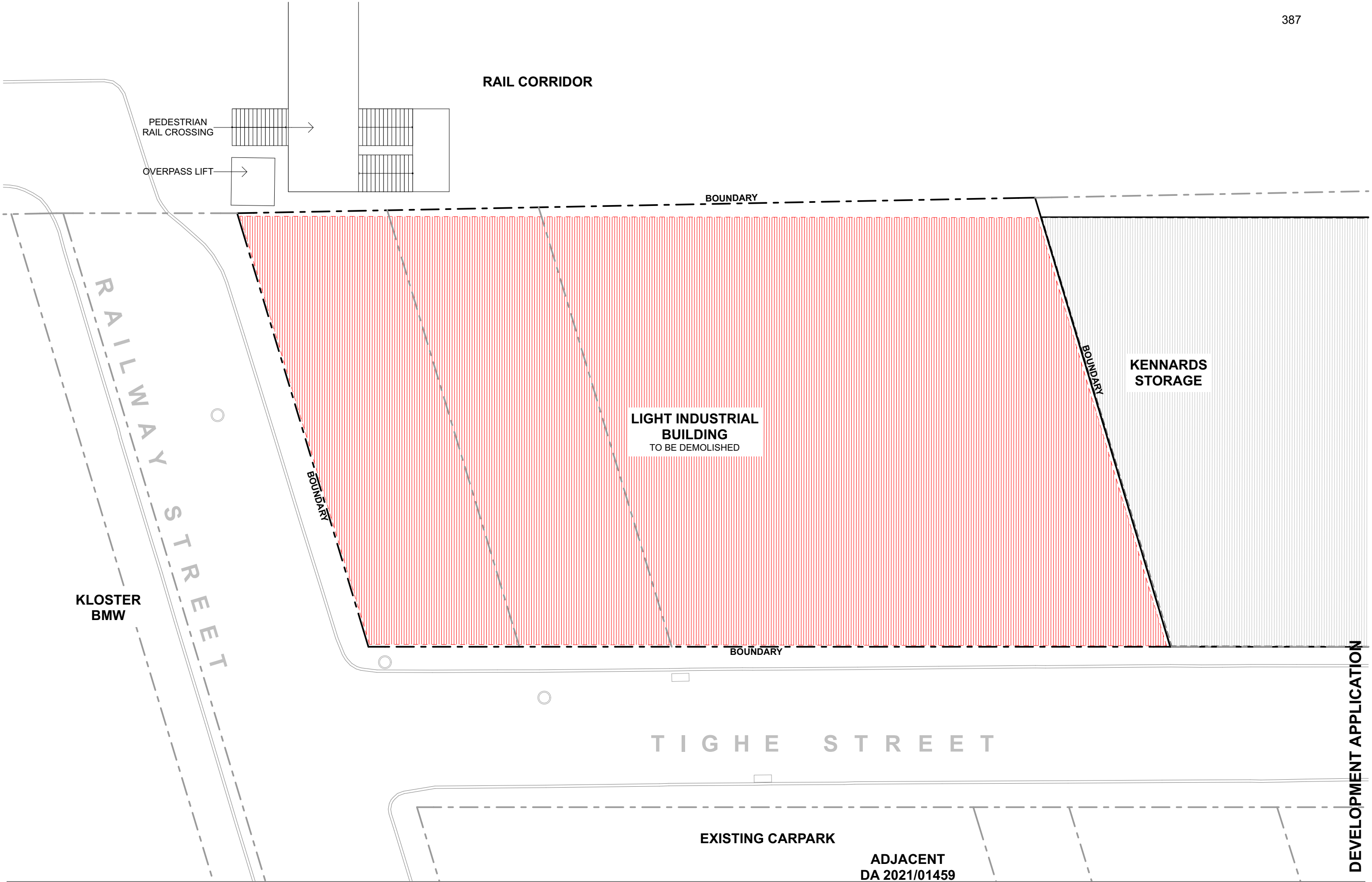


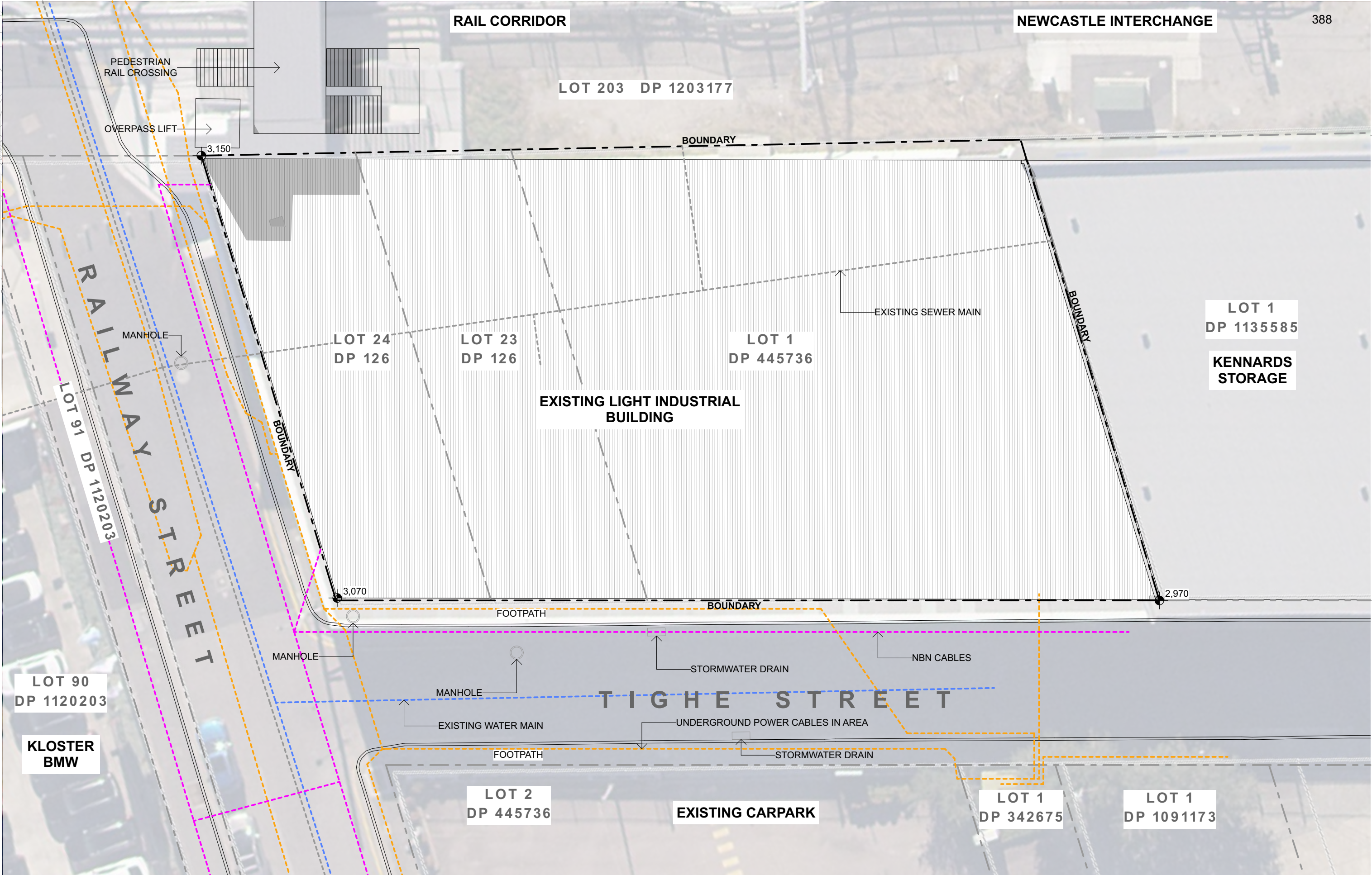
ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 4 TIGHE STREET NEWCASTLE WEST –
RE2023/00001 - COMMERCIAL CAR PARK AND RETAIL PREMISES**

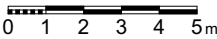
7.8 **Attachment A:** Submitted Plans

DISTRIBUTED UNDER SEPARATE COVER





NOTE: IMAGERY FROM SIX MAPS; INDICATIVE PURPOSES ONLY; REFER SURVEY FOR SITE DETAILS



Architecture | Planning | Interiors

NEWCASTLE
Level 3, 23 Watt St (P.O. Box 958)
Newcastle NSW 2300
P 02 4929 1843

CENTRAL COAST
1/28 Adelaide St (P.O. Box 4400)
East Gosford NSW 2250
P 02 4321 0503

www.ckds.com.au
E admin@ckds.com.au
ABN 12 129 231 269
Nominated Architects: Caine King NSW ARB 7974 / Stuart Campbell NSW ARB 7545

North Point



Tighe Street Carpark

project #
21078

4 TIGHE STREET,
WEST NEWCASTLE, NSW 2302

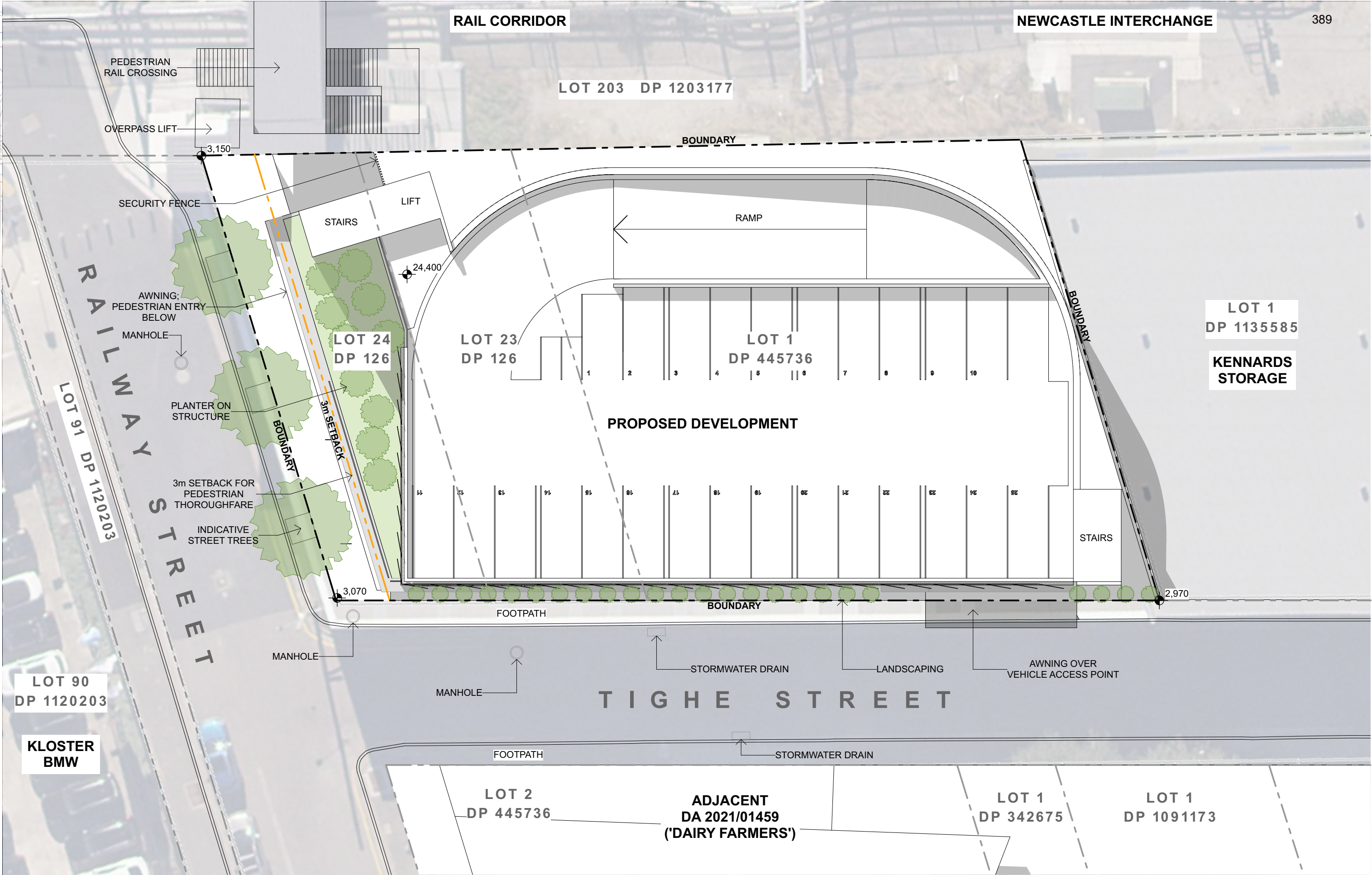
Site Analysis Plan

drawing #
A-1001
issue
04

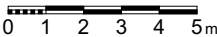
1:200@A3
14/7/2022

This document is the copyright of CKDS Architecture PTY Limited. Check and verify all dimensions on site. Refer any discrepancies to the designer before proceeding with the work. Do not scale drawings manually or electronically. Drawing shall not be used for construction until issued for construction by designer.

DEVELOPMENT APPLICATION



NOTE: IMAGERY FROM SIX MAPS; INDICATIVE PURPOSES ONLY; REFER SURVEY FOR SITE DETAILS



Architecture | Planning | Interiors

NEWCASTLE
Level 3, 23 Watt St (P.O. Box 958)
Newcastle NSW 2300
P 02 4929 1843

CENTRAL COAST
1/28 Adelaide St (P.O. Box 4400)
East Gosford NSW 2250
P 02 4321 0503

www.ckds.com.au
E admin@ckds.com.au
ABN 12 129 231 269
Nominated Architects: Caine King NSW ARB 7974 / Stuart Campbell NSW ARB 7545

North Point



Tighe Street Carpark

project #
21078

4 TIGHE STREET,
WEST NEWCASTLE, NSW 2302

Site Plan

drawing #
A-1002

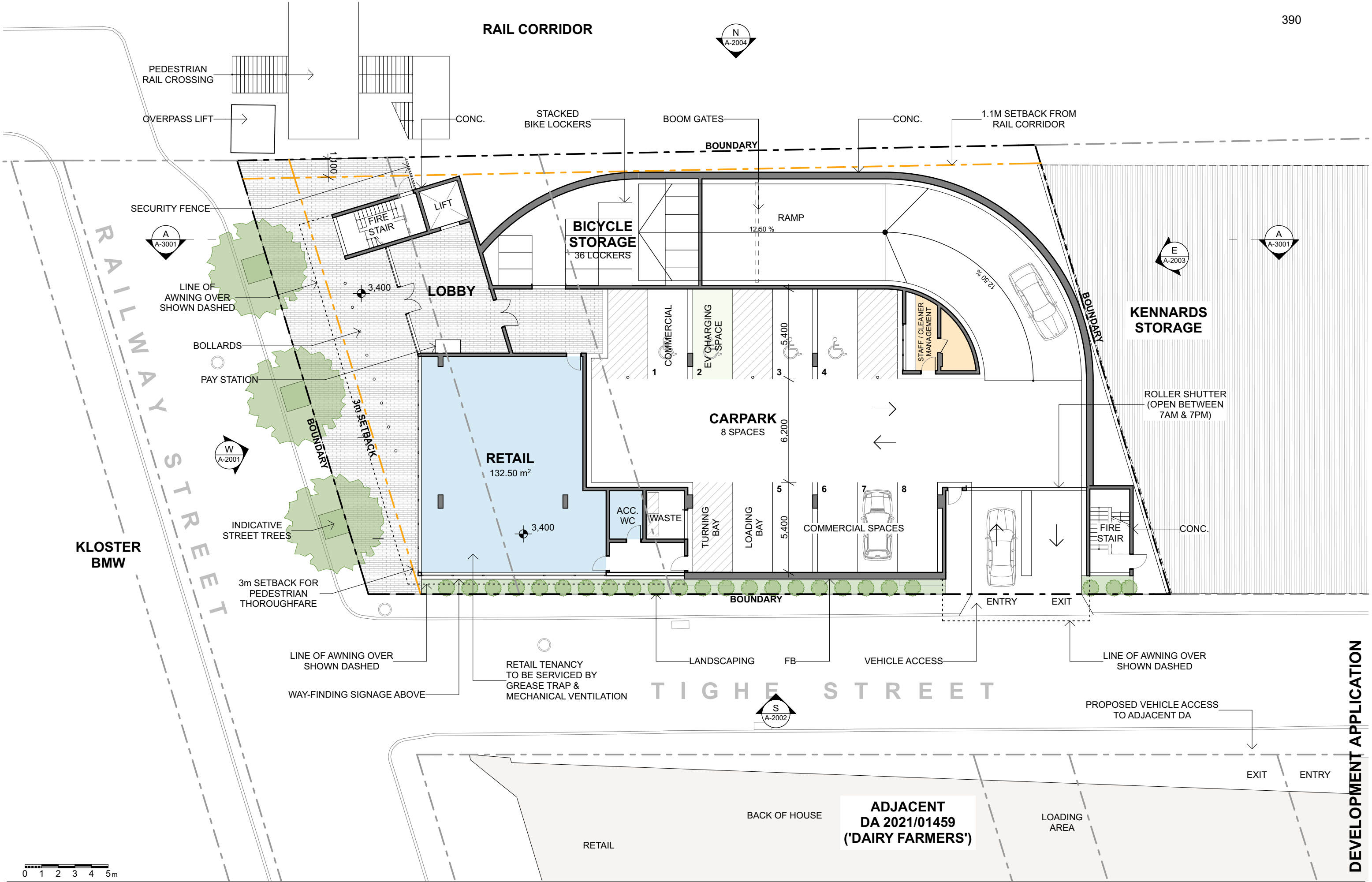
1:200@A3

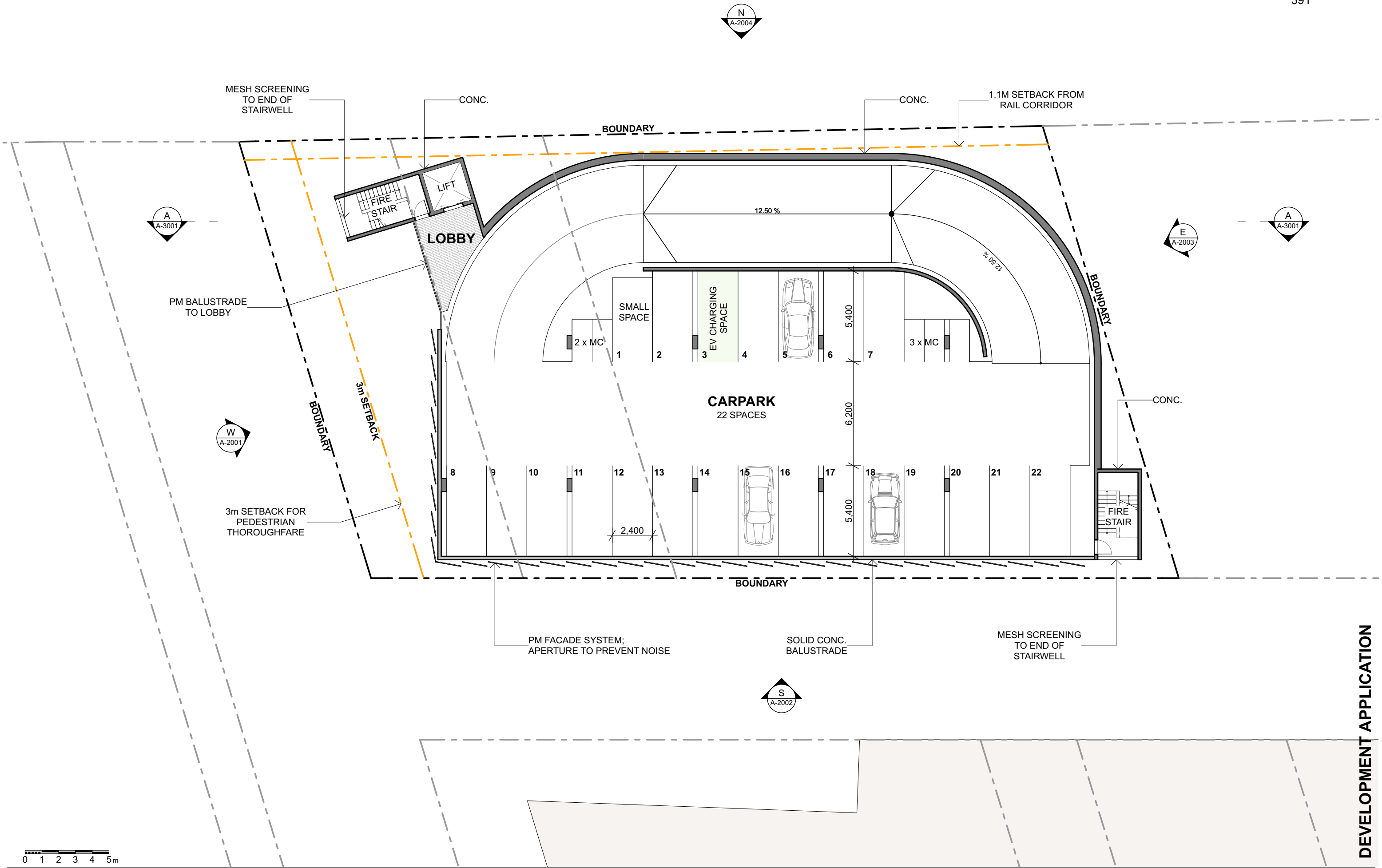
issue
09

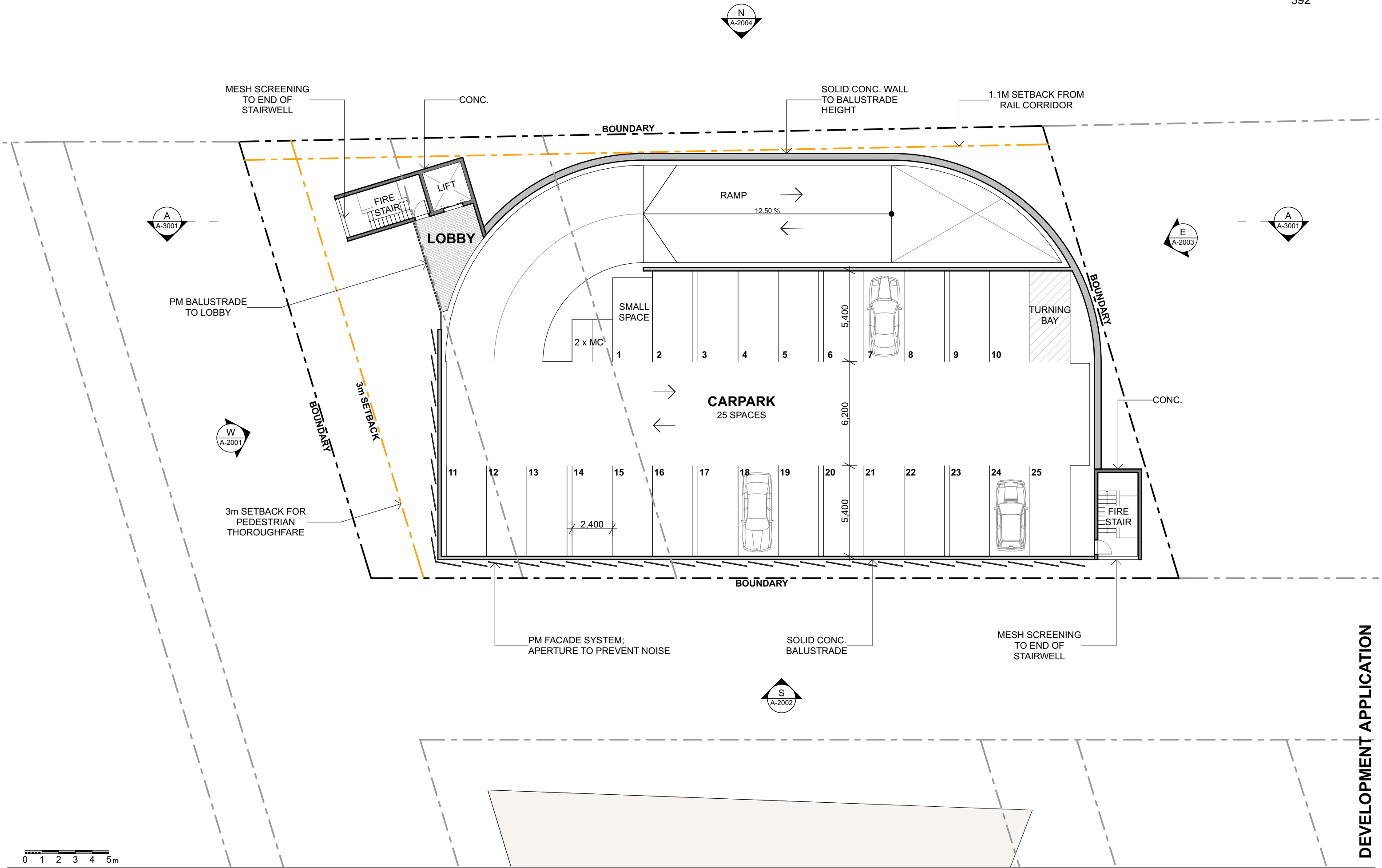
14/7/2022

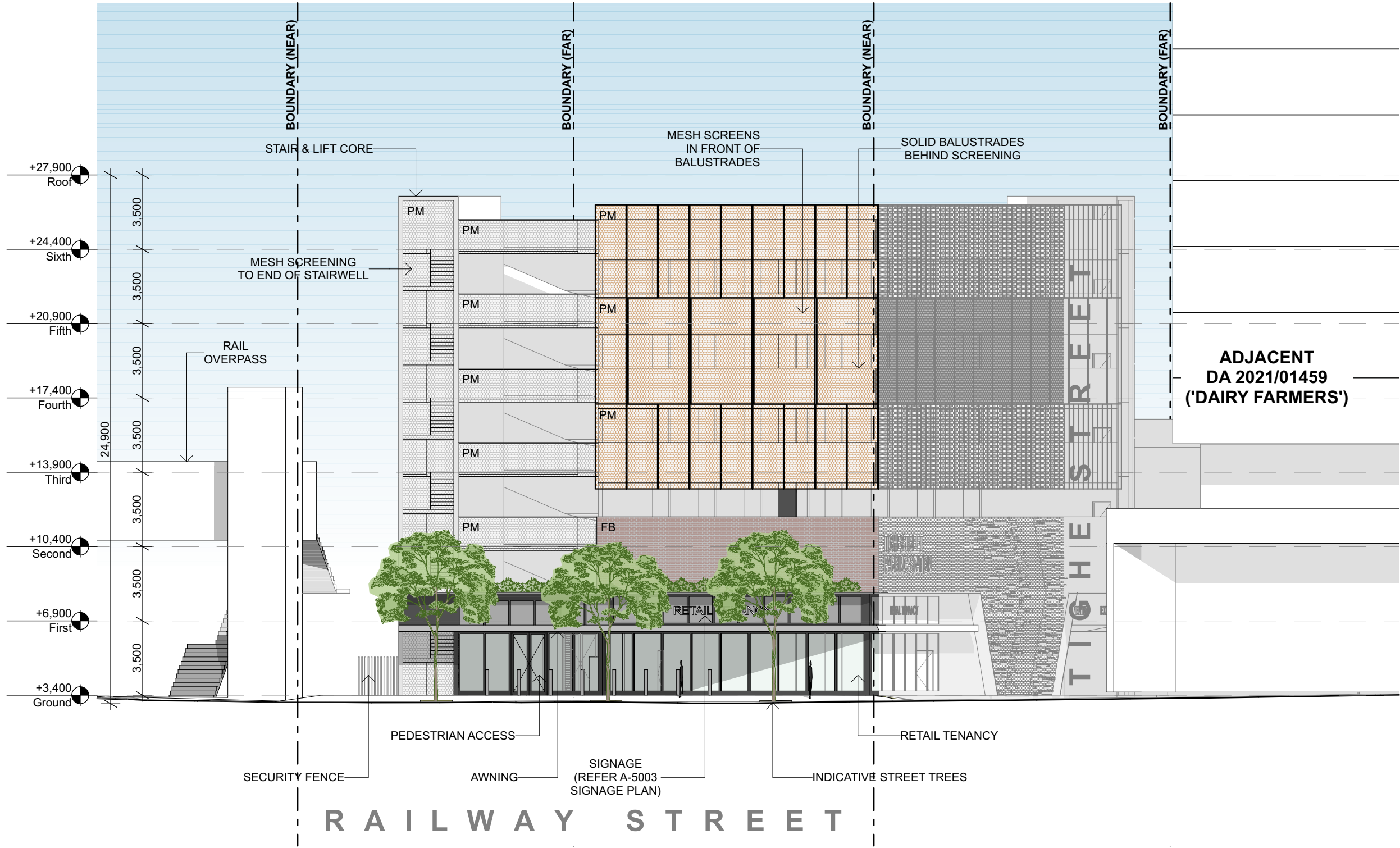
This document is the copyright of CKDS Architecture PTY Limited. Check and verify all dimensions on site. Refer any discrepancies to the designer before proceeding with the work. Do not scale drawings manually or electronically. Drawing shall not be used for construction until issued for construction by designer.

DEVELOPMENT APPLICATION

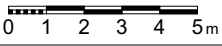








1 West Elevation
SCALE 1:200 @ A3



Architecture | Planning | Interiors

NEWCASTLE
Level 3, 23 Watt St (P.O. Box 958)
Newcastle NSW 2300
P 02 4929 1843

CENTRAL COAST
1/28 Adelaide St (P.O. Box 4400)
East Gosford NSW 2250
P 02 4321 0503

www.ckds.com.au
E admin@ckds.com.au
ABN 12 129 231 269
Nominated Architects: Caine King NSW ARB 7974 / Stuart Campbell NSW ARB 7545

North Point

Tighe Street Carpark

project #
21078

4 TIGHE STREET,
WEST NEWCASTLE, NSW 2302

Elevation - West

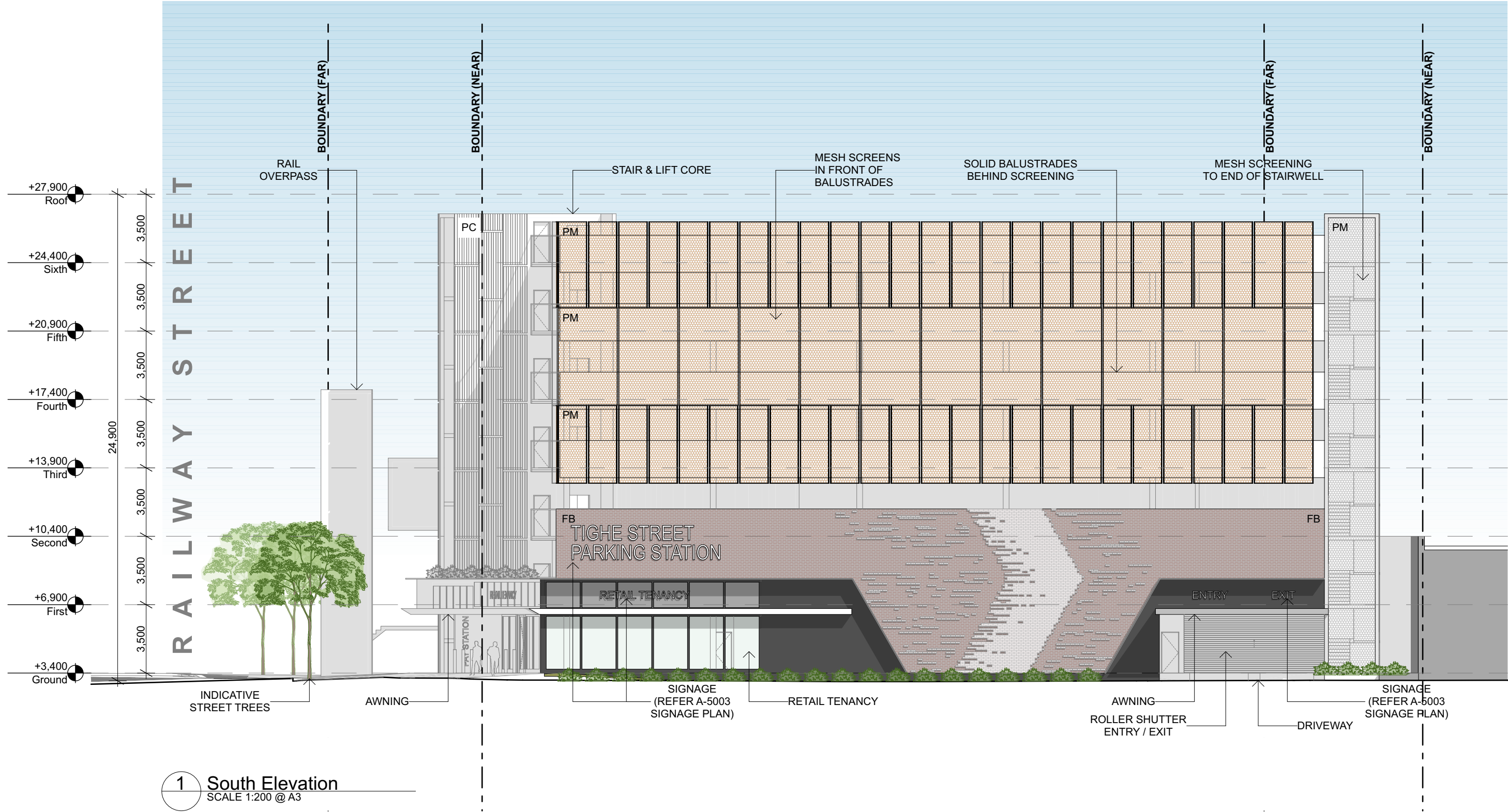
drawing #
A-2001

issue
10

1:200@A3 14/7/2022

This document is the copyright of CKDS Architecture PTY Limited. Check and verify all dimensions on site. Refer any discrepancies to the designer before proceeding with the work. Do not scale drawings manually or electronically. Drawing shall not be used for construction until issued for construction by designer.

DEVELOPMENT APPLICATION



DEVELOPMENT APPLICATION

0 1 2 3 4 5m



Architecture | Planning | Interiors

NEWCASTLE
Level 3, 23 Watt St (P.O. Box 958)
Newcastle NSW 2300
P 02 4929 1843

CENTRAL COAST
1/28 Adelaide St (P.O. Box 4400)
East Gosford NSW 2250
P 02 4321 0503

www.ckds.com.au
E admin@ckds.com.au
ABN 12 129 231 269
Nominated Architects: Caine King NSW ARB 7974 / Stuart Campbell NSW ARB 7545

North Point

Tighe Street Carpark

project #
21078

4 TIGHE STREET,
WEST NEWCASTLE, NSW 2302

Elevation - South

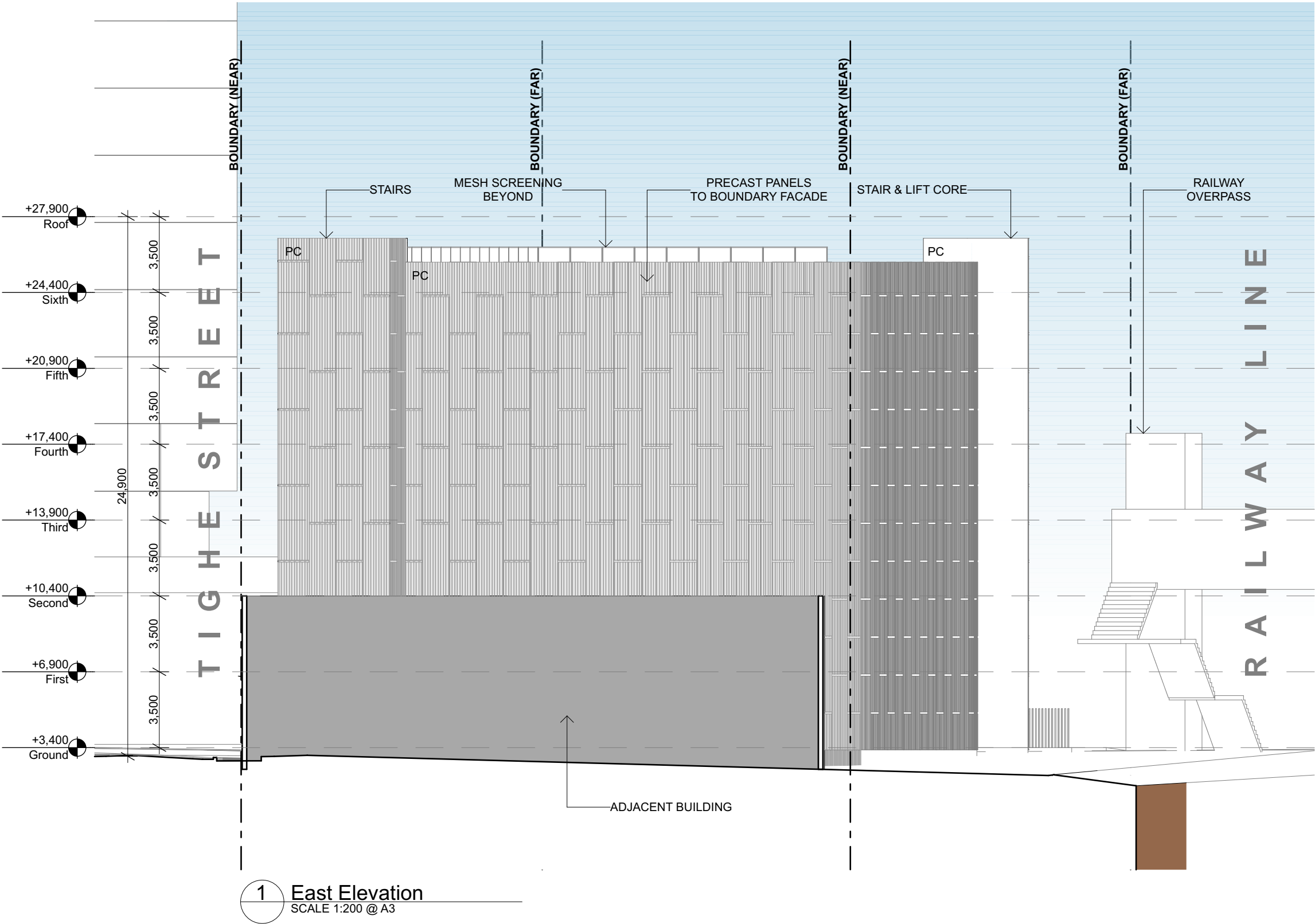
drawing #
A-2002

1:200@A3

issue
10

14/7/2022

This document is the copyright of CKDS Architecture PTY Limited. Check and verify all dimensions on site. Refer any discrepancies to the designer before proceeding with the work. Do not scale drawings manually or electronically. Drawing shall not be used for construction until issued for construction by designer.



0 1 2 3 4 5m



Architecture | Planning | Interiors

NEWCASTLE
Level 3, 23 Watt St (P.O. Box 958)
Newcastle NSW 2300
P 02 4929 1843

CENTRAL COAST
1/28 Adelaide St (P.O. Box 4400)
East Gosford NSW 2250
P 02 4321 0503

www.ckds.com.au
E admin@ckds.com.au
ABN 12 129 231 269
Nominated Architects: Caine King NSW ARB 7974 / Stuart Campbell NSW ARB 7545

North Point

Tighe Street Carpark

project #
21078

4 TIGHE STREET,
WEST NEWCASTLE, NSW 2302

Elevation - East

drawing #
A-2003

1:200@A3

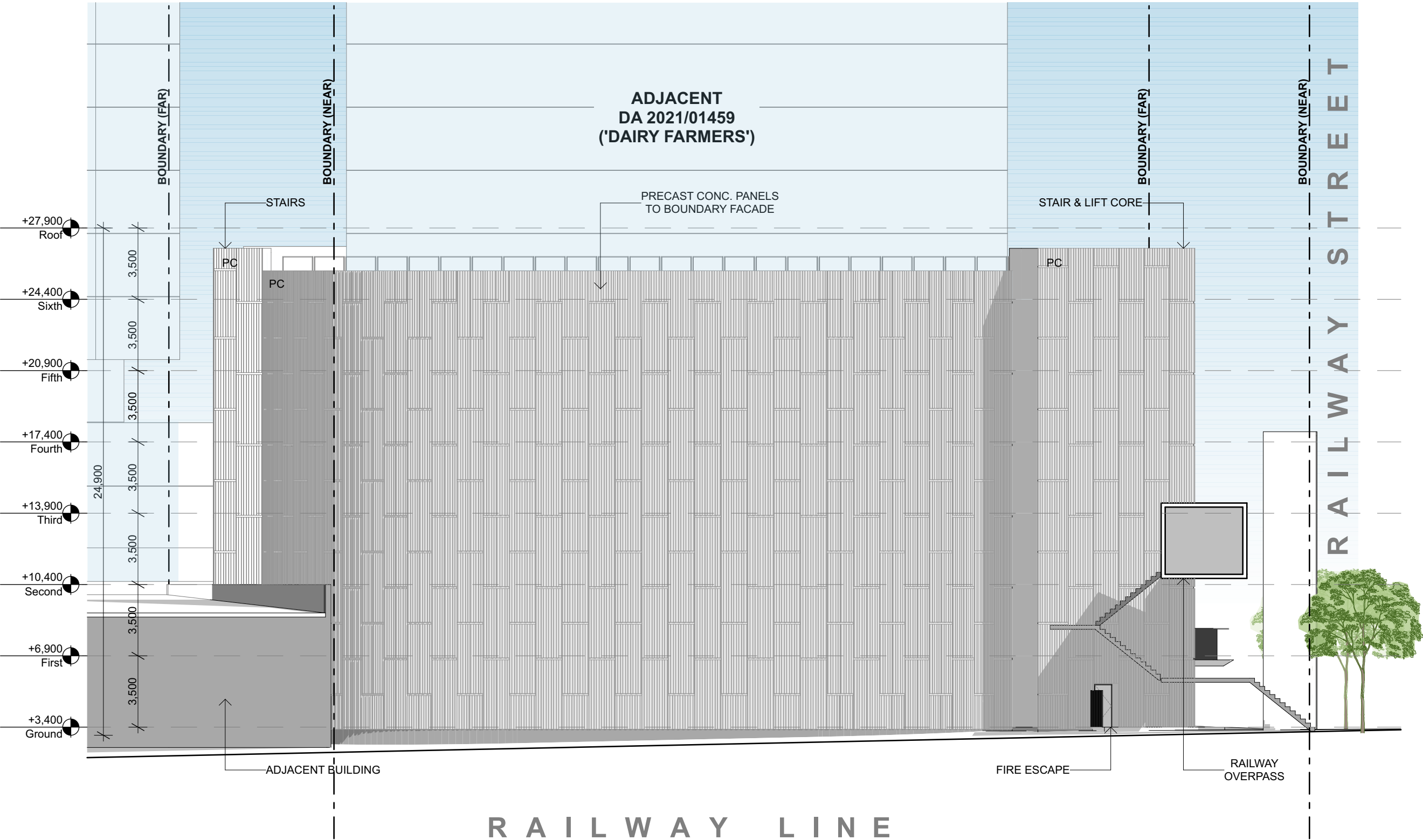
issue

10

14/7/2022

This document is the copyright of CKDS Architecture PTY Limited. Check and verify all dimensions on site. Refer any discrepancies to the designer before proceeding with the work. Do not scale drawings manually or electronically. Drawing shall not be used for construction until issued for construction by designer.

DEVELOPMENT APPLICATION



1 North Elevation
SCALE 1:200 @ A3

0 1 2 3 4 5m



Architecture | Planning | Interiors

NEWCASTLE
Level 3, 23 Watt St (P.O. Box 958)
Newcastle NSW 2300
P 02 4929 1843

CENTRAL COAST
1/28 Adelaide St (P.O. Box 4400)
East Gosford NSW 2250
P 02 4321 0503

www.ckds.com.au
E admin@ckds.com.au
ABN 12 129 231 269
Nominated Architects: Caine King NSW ARB 7974 / Stuart Campbell NSW ARB 7545

North Point

Tighe Street Carpark

project #
21078

4 TIGHE STREET,
WEST NEWCASTLE, NSW 2302

Elevation - North

drawing #
A-2004

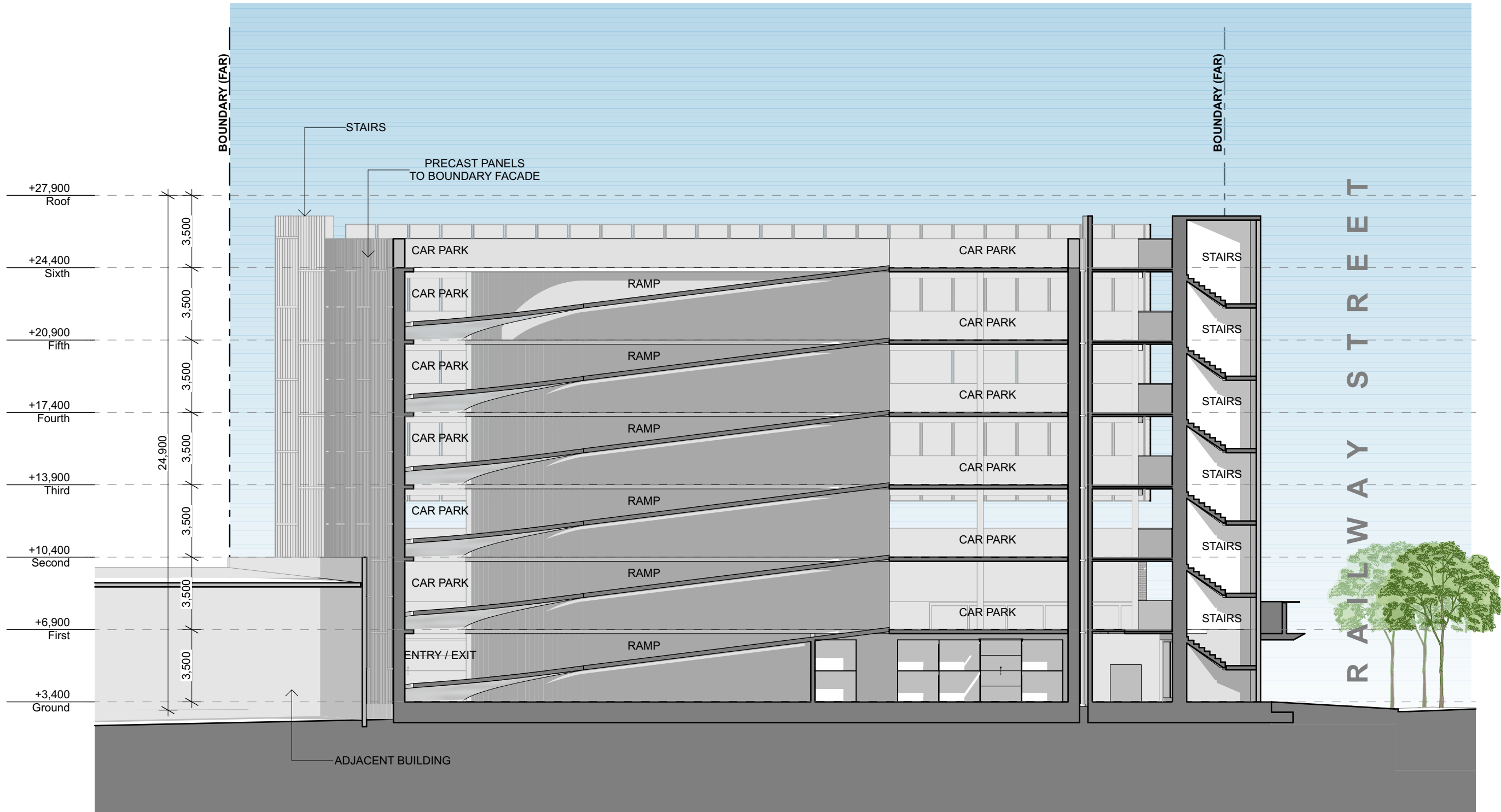
1:200@A3

issue
10

14/7/2022

This document is the copyright of CKDS Architecture PTY Limited. Check and verify all dimensions on site. Refer any discrepancies to the designer before proceeding with the work. Do not scale drawings manually or electronically. Drawing shall not be used for construction until issued for construction by designer.

DEVELOPMENT APPLICATION



1 Section A
SCALE 1:200 @ A3

0 1 2 3 4 5m



Architecture | Planning | Interiors

NEWCASTLE
Level 3, 23 Watt St (P.O. Box 958)
Newcastle NSW 2300
P 02 4929 1843

CENTRAL COAST
1/28 Adelaide St (P.O. Box 4400)
East Gosford NSW 2250
P 02 4321 0503

www.ckds.com.au
E admin@ckds.com.au
ABN 12 129 231 269
Nominated Architects: Caine King NSW ARB 7974 / Stuart Campbell NSW ARB 7545

North Point



Tighe Street Carpark

project #
21078

4 TIGHE STREET,
WEST NEWCASTLE, NSW 2302

Section

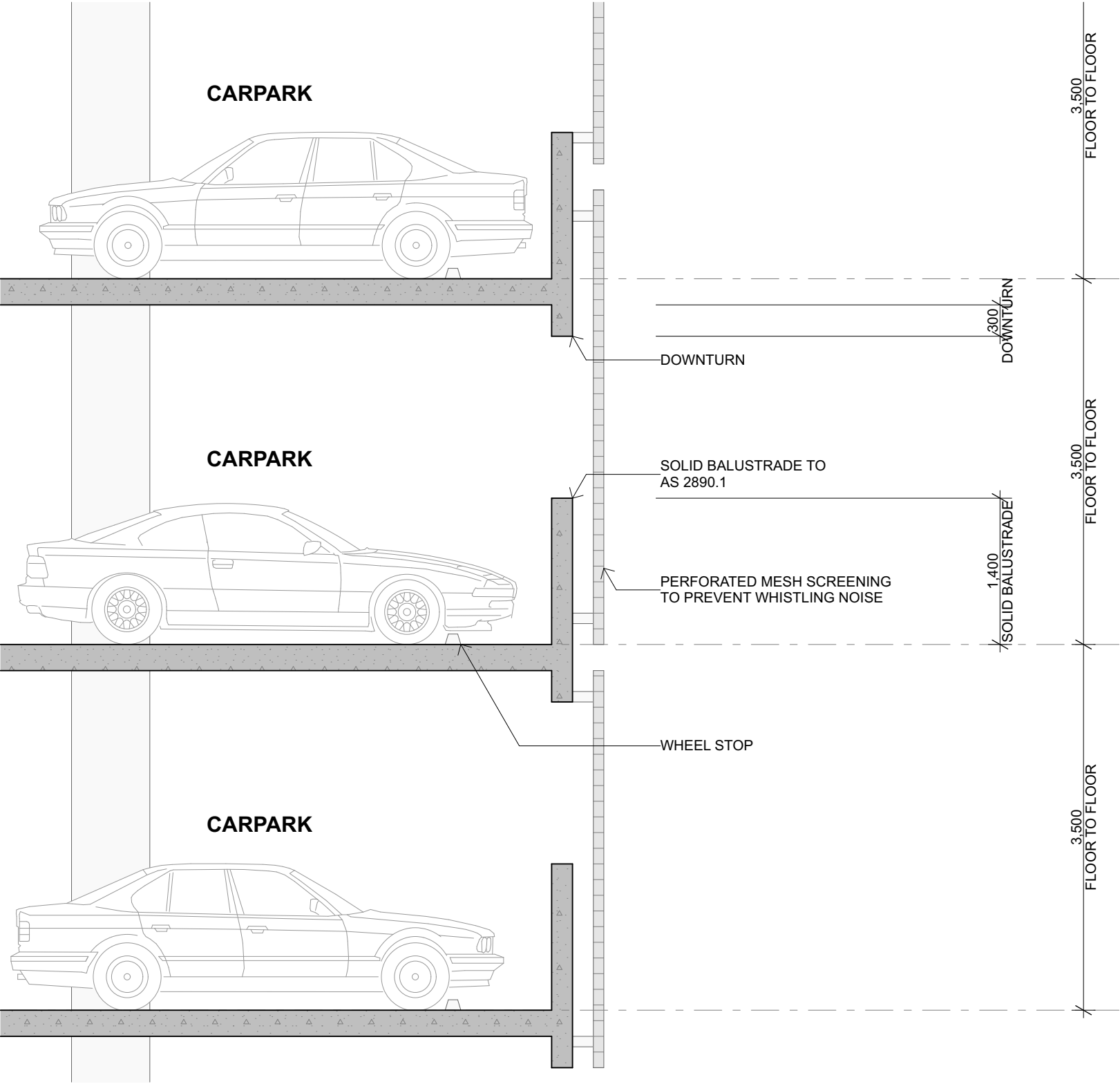
drawing #
A-3001

1:200, 1:50@A3

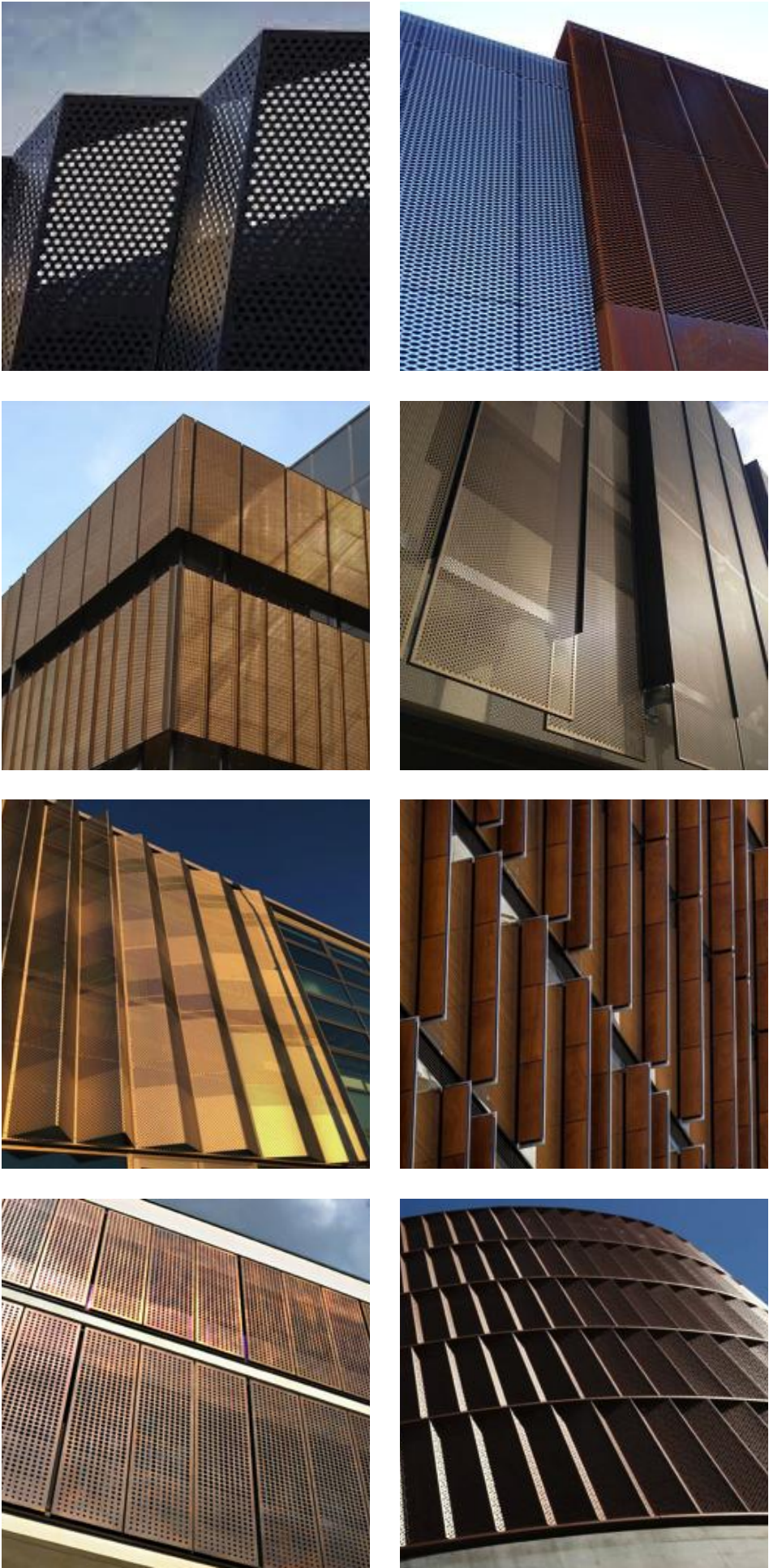
issue
10

14/7/2022

This document is the copyright of CKDS Architecture PTY Limited. Check and verify all dimensions on site. Refer any discrepancies to the designer before proceeding with the work. Do not scale drawings manually or electronically. Drawing shall not be used for construction until issued for construction by designer.



1 Typical Facade Section
SCALE 1:50 @ A3



DEVELOPMENT APPLICATION



Architecture | Planning | Interiors

NEWCASTLE
Level 3, 23 Watt St (P.O. Box 958)
Newcastle NSW 2300
P 02 4929 1843

CENTRAL COAST
1/28 Adelaide St (P.O. Box 4400)
East Gosford NSW 2250
P 02 4321 0503

www.ckds.com.au
E admin@ckds.com.au
ABN 12 129 231 269
Nominated Architects: Caine King NSW ARB 7974 / Stuart Campbell NSW ARB 7545

North Point



Tighe Street Carpark

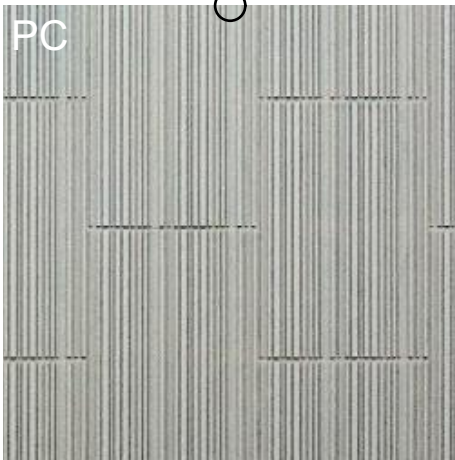
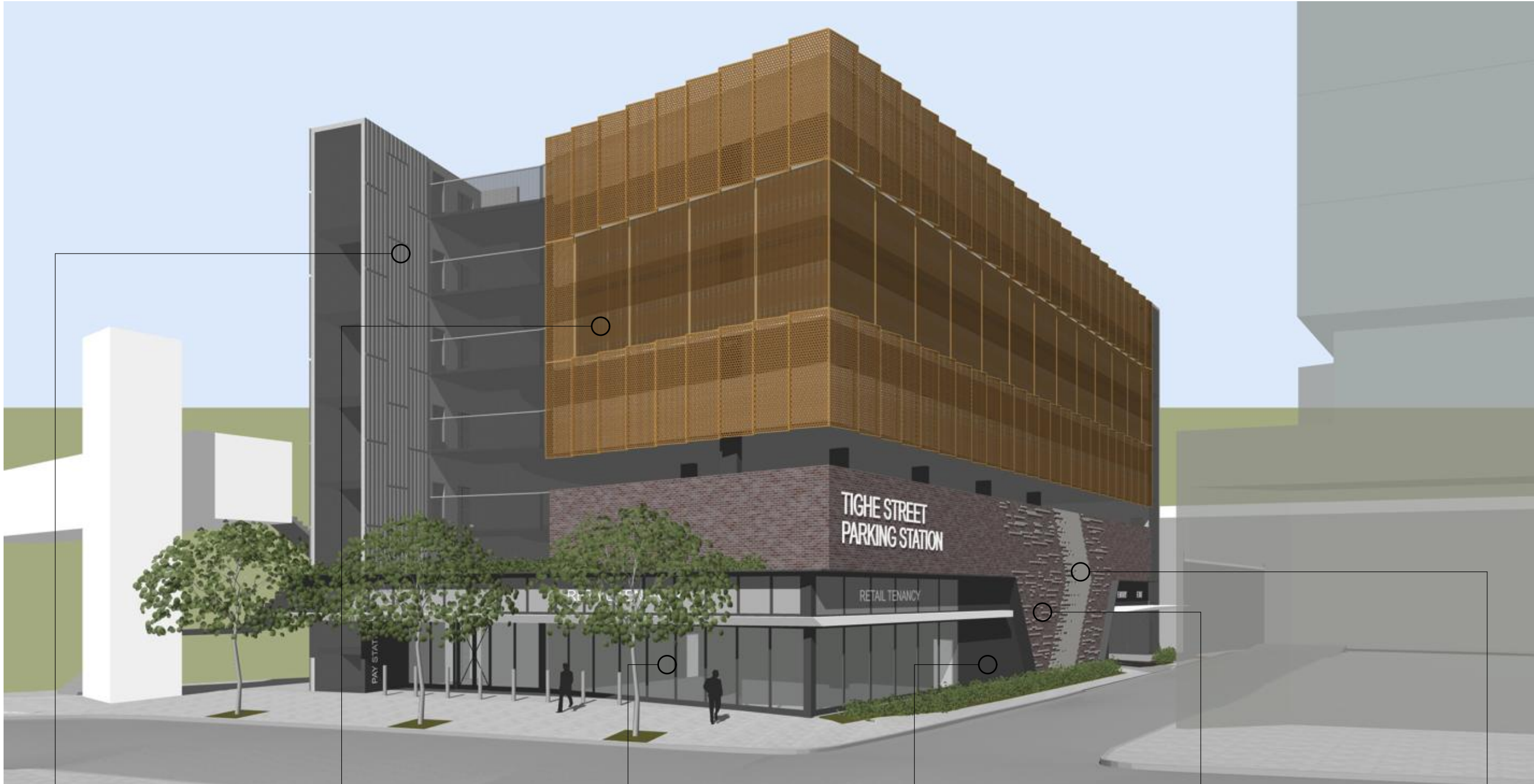
project #
21078
4 TIGHE STREET,
WEST NEWCASTLE, NSW 2302

Facade Section

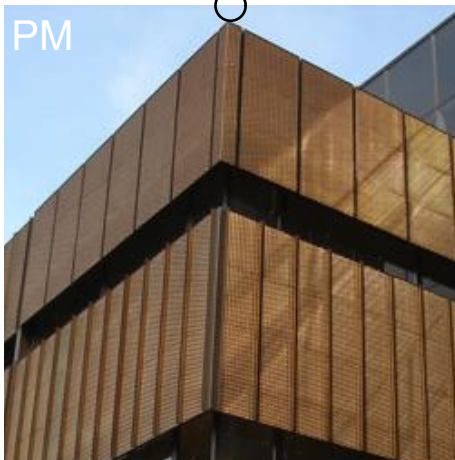
drawing #
A-3002
1:50@A3

issue
02
14/7/2022

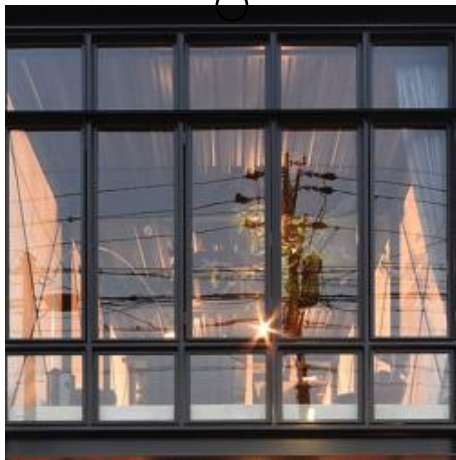
This document is the copyright of CKDS Architecture PTY Limited. Check and verify all dimensions on site. Refer any discrepancies to the designer before proceeding with the work. Do not scale drawings manually or electronically. Drawing shall not be used for construction until issued for construction by designer.



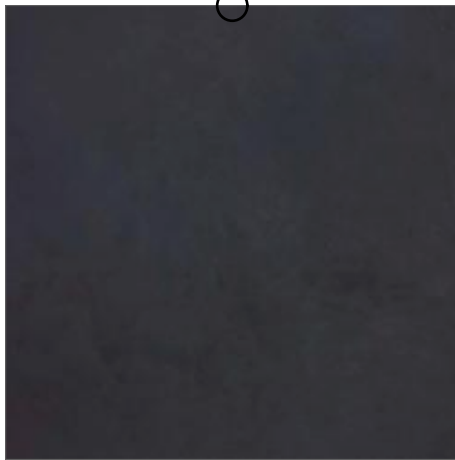
PC
TEXTURED PRECAST CONCRETE



PM
PERFORATED MESH SCREENS



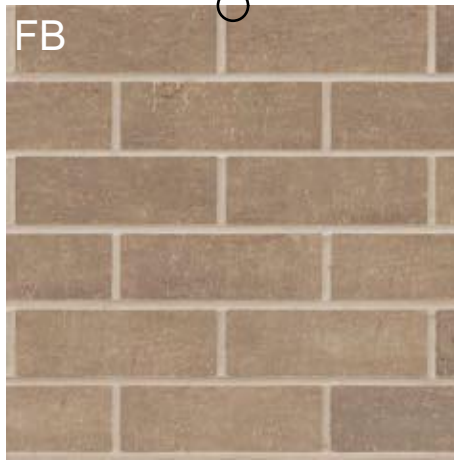
DARK-FRAMED GLAZING



DARK MASONRY RENDER



FB
DARK BROWN BRICKWORK



FB
LIGHT BROWN BRICKWORK

DEVELOPMENT APPLICATION



Architecture | Planning | Interiors

NEWCASTLE
Level 3, 23 Watt St (P.O. Box 958)
Newcastle NSW 2300
P 02 4929 1843

CENTRAL COAST
1/28 Adelaide St (P.O. Box 4400)
East Gosford NSW 2250
P 02 4321 0503

www.ckds.com.au
E admin@ckds.com.au
ABN 12 129 231 269
Nominated Architects: Caine King NSW ARB 7974 / Stuart Campbell NSW ARB 7545

North Point



Tighe Street Carpark

project #
21078

4 TIGHE STREET,
WEST NEWCASTLE, NSW 2302

External Materials Schedule

drawing #
A-5001
@A3
issue
10
14/7/2022

This document is the copyright of CKDS Architecture PTY Limited. Check and verify all dimensions on site. Refer any discrepancies to the designer before proceeding with the work. Do not scale drawings manually or electronically. Drawing shall not be used for construction until issued for construction by designer.



1 Signage - West Elevation
SCALE 1:100 @ A3

WALL-MOUNTED
RETAIL SIGNAGE



2 Signage - South Elevation
SCALE 1:100 @ A3

WALL-MOUNTED
WAYFINDING SIGNAGE

WALL-MOUNTED BUILDING
IDENTIFICATION SIGNAGE

WALL-MOUNTED
RETAIL SIGNAGE



WALL-MOUNTED
WAYFINDING SIGNAGE

DEVELOPMENT APPLICATION



Architecture | Planning | Interiors

NEWCASTLE

Level 3, 23 Watt St (P.O. Box 958)
Newcastle NSW 2300
P 02 4929 1843

CENTRAL COAST

1/28 Adelaide St (P.O. Box 4400)
East Gosford NSW 2250
P 02 4321 0503

www.ckds.com.au

E admin@ckds.com.au
ABN 12 129 231 269
Nominated Architects: Caine King NSW ARB 7974 / Stuart Campbell NSW ARB 7545

North Point



Tighe Street Carpark

project #

21078

4 TIGHE STREET,
WEST NEWCASTLE, NSW 2302

Signage Plan

drawing #

A-5003

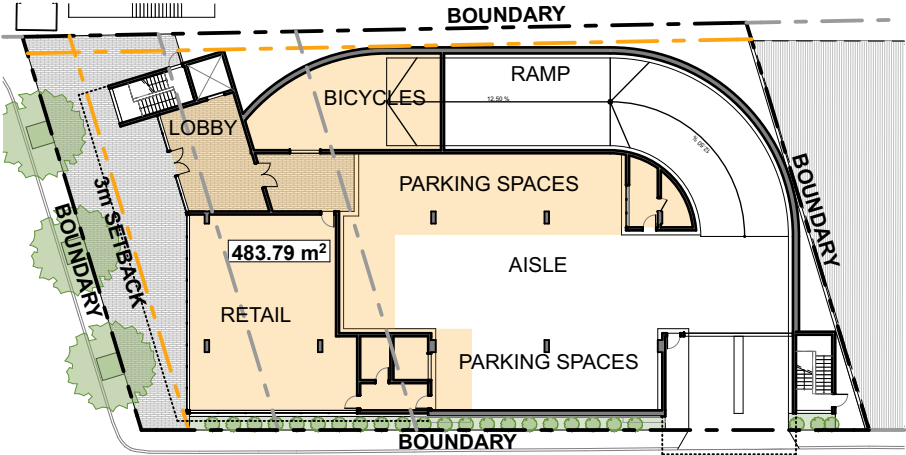
1:100@A3

This document is the copyright of CKDS Architecture PTY Limited. Check and verify all dimensions on site. Refer any discrepancies to the designer before proceeding with the work. Do not scale drawings manually or electronically. Drawing shall not be used for construction until issued for construction by designer.

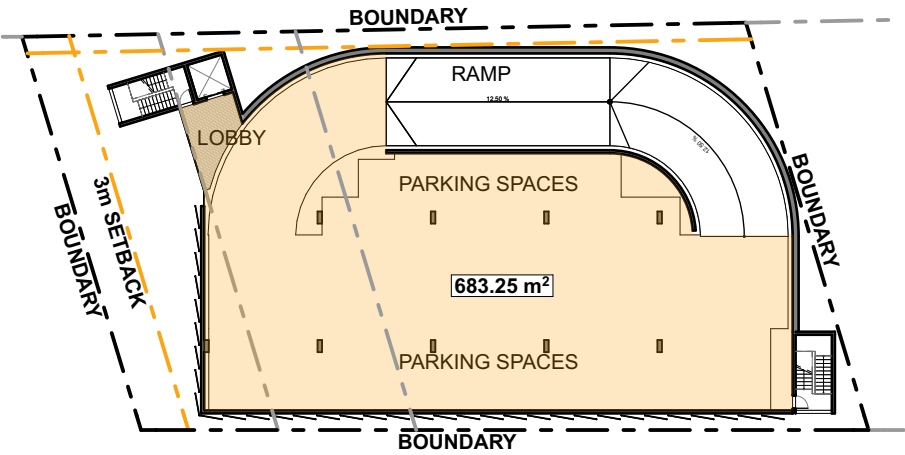
issue

02

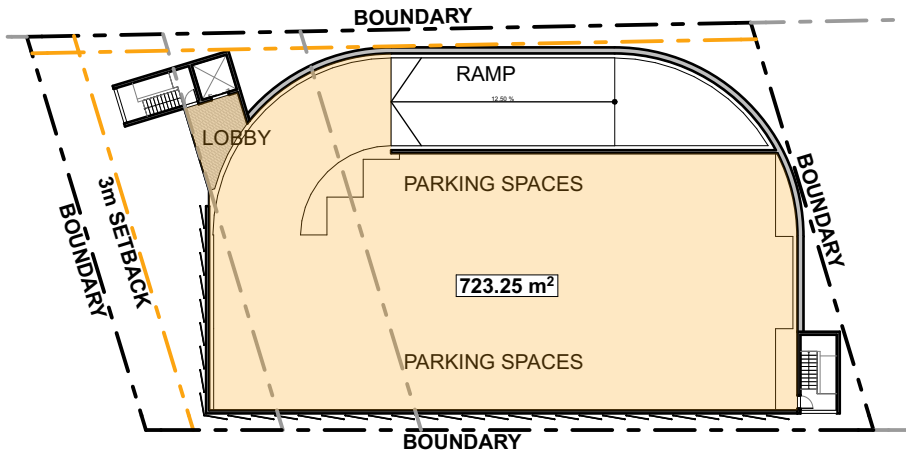
14/7/2022



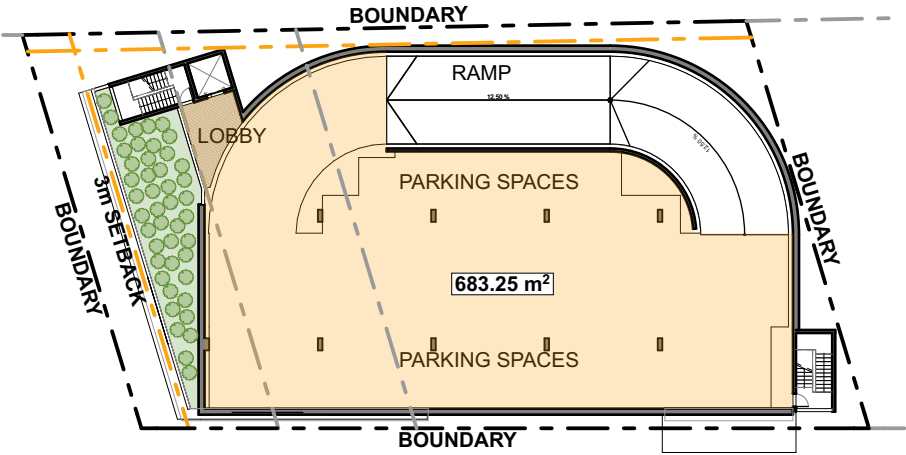
1 Ground
SCALE 1:500 @ A3



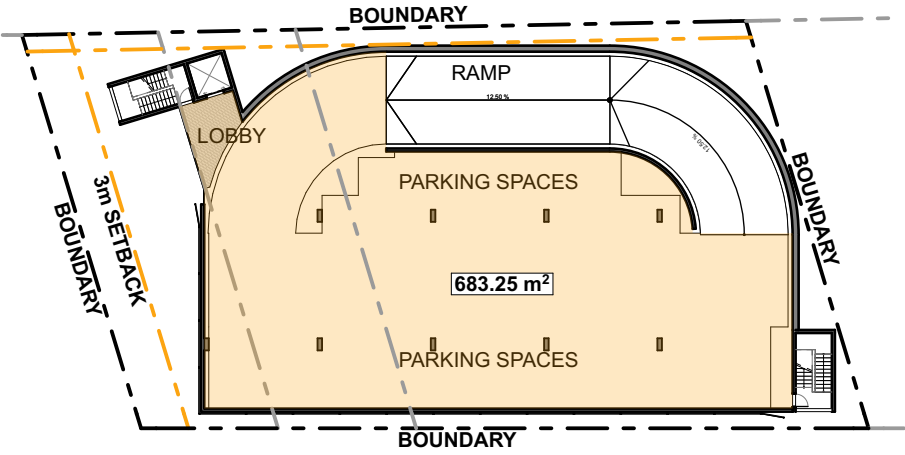
4 Third
SCALE 1:500 @ A3



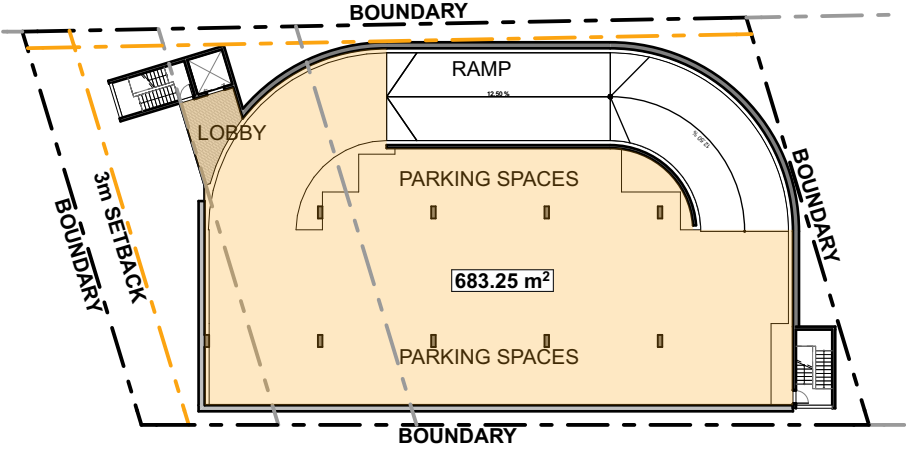
7 Sixth
SCALE 1:500 @ A3



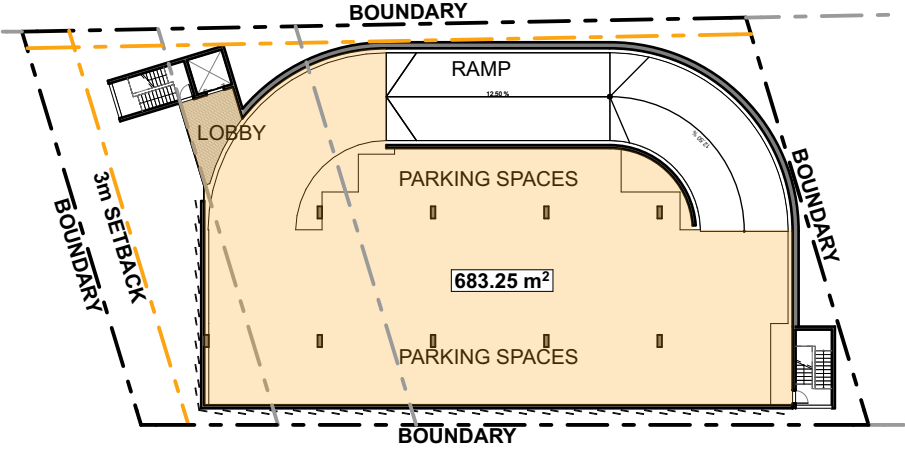
2 First
SCALE 1:500 @ A3



5 Fourth
SCALE 1:500 @ A3



3 Second
SCALE 1:500 @ A3



6 Fifth
SCALE 1:500 @ A3

FSR CALCULATION	
SITE AREA	1,275.50m ²
TOTAL GFA	4,623.29m ²
FSR	3.63 : 1

NOTE: CONFIRM SITE DETAILS WITH SURVEY



Architecture | Planning | Interiors

NEWCASTLE
Level 3, 23 Watt St (P.O. Box 958)
Newcastle NSW 2300
P 02 4929 1843

CENTRAL COAST
1/28 Adelaide St (P.O. Box 4400)
East Gosford NSW 2250
P 02 4321 0503

www.ckds.com.au
E admin@ckds.com.au
ABN 12 129 231 269
Nominated Architects: Caine King NSW ARB 7974 / Stuart Campbell NSW ARB 7545

North Point



Tighe Street Carpark

project #
21078
4 TIGHE STREET,
WEST NEWCASTLE, NSW 2302

GFA Diagrams

drawing #
A-7001
1:500@A3
issue
11
20/3/2023
This document is the copyright of CKDS Architecture PTY Limited. Clients use verify all dimensions on site. Refer any discrepancies to the designer before proceeding with the work. Do not scale drawings manually or electronically. Drawing shall not be used for construction until issued for construction by designer.



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 4 TIGHE STREET NEWCASTLE WEST –
RE2023/00001 - COMMERCIAL CAR PARK AND RETAIL PREMISES**

7.8

Attachment B: Draft Schedule of Conditions

DISTRIBUTED UNDER SEPARATE COVER

Application No:	RE2023/00001
Land:	Lot 1 DP 445736 Lot 23 DP 126 Lot 24 DP 126
Property Address:	4 Tighe Street Newcastle West NSW 2302
Proposed Development:	Sec 8.2(1) Review of DA2021/01679 - commercial car park and retail premises - including demolition of existing structures

SCHEDULE 1

Deferred Commencement Condition

This consent is not to operate until the Applicant/Developer satisfies the Council, within 12 months of the date of this consent, that it has obtained approval/certification from Sydney Trains as to the following matters and the approval/certification has been forwarded to the Council:

1. The Applicant/Developer shall prepare and provide to Sydney Trains for review, comment, and written endorsement the following final version items in compliance with the relevant AMB Standards (<https://www.transport.nsw.gov.au/industry/asset-management-branch>):
 - a) Geotechnical and Structural Report/drawings including rail specific potential impacts.
 - b) Demolition and Construction Methodologies with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements. No reliance on, use of, or access to TAHE (Transport Asset Holding Entity) land and airspace will be permitted.
 - c) Cross Sectional Drawings (both architectural and structural) showing ground surface, property boundary, rail footbridge/lift shaft, nearest rail tracks and rail infrastructure, sub-soil profile, proposed development, and structural design of sub-ground support (i.e., footings/piles etc.) adjacent to the rail corridor. The measured distance between the proposal, site boundary and rail asset(s) at the closest points must be shown. All measurements are to be verified by a Registered Surveyor.
 - d) Detailed Survey Plan showing the relationship of the proposed development with respect to the rail boundary and rail infrastructure (including footbridge).
 - e) If required by Sydney Trains, a Finite Element (FE) analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.
 - f) If required by Sydney Trains, a Monitoring Plan (including instrumentation and the monitoring regime during demolition and construction phases).

Any conditions issued as part of Sydney Trains' endorsement of the above documents will also form part of the consent conditions that the Applicant/Developer is required to comply with.

The above evidence or information must be submitted within 12 months of the granting of this deferred commencement consent. This Deferred Commencement Consent does not operate from the conditions appearing in Schedule 2 until Council provides formal notification that it is satisfied that compliance has been achieved with the conditions appearing in Schedule 1.

SCHEDULE 2

Approved Documentation

1. The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No / Supporting Document	Reference / Version	Prepared by	Dated
Demolition Plan	A-0101(04)	CKDS	14/07/2022
Site Analysis Plan	A-1001(4)	CKDS	14/07/2022
Site Plan	A-1001(9)	CKDS	14/07/2022
Ground Floor	A-1101(10)	CKDS	14/07/2022
Typical Floor	A-1102(10)	CKDS	14/07/2022
Top Floor	A-1103(10)	CKDS	14/07/2022
Elevation West	A-2001(10)	CKDS	14/07/2022
Elevation South	A-2002(10)	CKDS	14/07/2022
Elevation East	A-2003(10)	CKDS	14/07/2022
Elevation North	A-2004(10)	CKDS	14/07/2022
Section	A-3001(10)	CKDS	14/07/2022
Facade Section	A-3002(10)	CKDS	14/07/2022
External Materials Schedule	A-5001(10)	CKDS	14/07/2022
Detailed Site Investigation (Contamination and Acid Sulfate Soil Assessment)	102077.04	Douglas Partners	02/02/2023
Noise Assessment	MAC211456-01RP1D1	Muller Acoustic Consulting	29/11/2021

Waste Management Plan – Operational, Demolition and Construction Waste Management Plan		Waste Audit	November 2021
---	--	-------------	---------------

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

2. A total monetary contribution of \$234,450.66 is to be paid to the Newcastle City Council, pursuant to Section 7.12 of the *Environmental Planning and Assessment Act 1979*, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

Note:

- i) This condition is imposed in accordance with the provisions of the City of Newcastle's *Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019*.
- ii) The City of Newcastle's *Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019* permits deferred or periodic payment of levies in certain circumstances. A formal modification of this condition will be required to enter into a deferred or periodic payment arrangement.
- iii) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and, as a guide, these approximate dates are as follows:

Indexation quarters	Approximate release date
September	Late October
December	Late January
March	Late April
June	Late July

Any party intending to act on this consent should contact City of Newcastle's Customer Enquiry Centre for determination of the indexed amount of contribution on the date of payment.

3. An application must be lodged and consent obtained from the Road Authority (Council) for all works within the road reserve pursuant to Section 138 of the *Roads Act 1993* (NSW). The consent must be obtained, or other satisfactory arrangements confirmed in writing by the Road Authority, before the issue of a Construction Certificate (other than a Construction Certificate for early on-site works).
4. The applicant is to comply with all of Hunter Water's requirements to provide your development with water supply and sewerage services. A copy of Hunter Water's

compliance certificate (*Hunter Water Act 1991* - Section 50) must be submitted with your Construction Certificate application.

5. Detailed engineering design plans and specifications for the works being undertaken within the public road reserves of Railway Street and Tighe Street are required to be prepared by a suitably qualified practicing civil engineer with experience and competence in the related field.
6. Any on-street parking and traffic changes within the road reserve is to be detailed with the Section 138 *Roads Act* application and must be approved by Newcastle City Traffic Committee prior to determination of the Section 138 *Roads Act* application.
7. A commercial vehicular crossing is to be constructed across the road reserve at the main vehicular entrance to the development, in accordance with the following criteria:
 - a) Constructed in accordance with Council's A1300 – Driveway Crossings Standard Design Details.
 - b) The driveway crossing, within the road reserve, shall be a maximum of 8.0 metres wide.
 - c) Walls, landscaping and any other obstructions to visibility should be kept clear of or limited in height to 1.2 metre, in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway.
 - d) The proposed driveway shall be a minimum of 750mm clear of the centre of any pole or obstruction within the public reserve and 1 metre clear of any drainage pit.
8. The Developer designing and constructing the following works in connection with the proposed development within the Tighe Street and Railway Street public road reserves, at no cost to Council and in accordance with the City Centre Public Domain Technical Manual and Newcastle West Public Domain Stage 2 concept and Council's guidelines and design specifications;
 - a) Full Kerb and gutter replacement along the Railway Street and Tighe Street frontages;
 - b) New driveway crossing on Tighe Street;
 - c) A 'Footpath Continuation' at Tighe St at the intersection of Railway St and associated road and drainage works in accordance with the relevant TfNSW Technical Direction/s;
 - d) Associated drainage augmentation works within Railway Street between Tighe Street and the railway corridor to allow connection of the proposed stormwater discharge from the development and to minimise nuisance flooding or surcharging in the public road during rainfall events up to and including the 10% AEP event. The design is to also assume and make allowance for the future removal of the stormwater pipe under 904-908 Hunter St, Newcastle West and make appropriate consideration for the discharge of stormwater from Lot 2 DP445736 and other stormwater upgrade works approved by DA2021/01459;
 - e) The detailed design drawings are to accurately show the type, location, depth and clearances of all public utilities that are located in the vicinity of the proposed works;
 - f) All stormwater pipes are to be a minimum 375 mm diameter Class 4 reinforced concrete and rubber ring jointed;
 - g) All stormwater pits, pipes and connections made redundant by the work are to be removed unless otherwise directed by Council and/or Transport Asset Holding Entity as the relevant land owner;
 - h) All kerb inlet pits, junction pits and other drainage structures are to be in accordance with Council's suite of Standard Drawings;
 - i) Street trees (minimum 100 litre pot size) planting in gap-graded structural soil in accordance with Council nominated species and requirements;
 - j) A comprehensive landscape design plan and specifications, including street

tree detail and landscaping to Tighe Street is to be prepared by a suitably qualified landscape architect in consultation with City Greening. Landscaping is to be provided in accordance with the locations shown on the approved plans.

- k) Design and Installation of Smart City Street lighting and associated infrastructure and removal of any redundant Ausgrid poles;
- l) Full width foot paving across the Railway Street and Tighe Street frontages; and
- m) Regulatory traffic and parking changes (note: Newcastle City Traffic Committee approval will be required).

All construction activities are to be carried out in such a way that ensures public access is available at all times to the pedestrian bridge linking Railway Street and Station Street. Full details are to be provided prior to issue of any Construction Certificate.

9. The application for a Construction Certificate (other than a Construction Certificate for early on-site works) must include a copy of the consent and construction drawings issued by Council pursuant to s138 of the Roads Act, 1993 or any other satisfactory arrangements confirmed in writing by the Road Authority.

10. Finished Floor Levels for the development are to be as per the following table. Full details are to be included in documentation for a Construction Certificate application.

Building Element	Finished Floor Level (Australian Height Datum)
Ground Floor retail, lobby, toilets, bicycle storage room and attendant room	Reduced Level 3.6 m AHD
Ground Floor car park surface	Reduced Level 3.4 m AHD

11. A flood emergency response plan is to be prepared by a professional engineer, who is experienced in flood management, and the plan is to be put in place prior to occupation of the site for the intended use. The plan is to include an education and awareness component for the workforce, detailed evacuation procedures to interface with the Bureau of Meteorology's flood warning system and the local State Emergency Services plan and provisions for any third parties likely to be involved.

A flood emergency response plan is to describe the following components:

- a) likely flood behaviour;
- b) flood warning systems;
- c) education awareness program;
- d) evacuation and evasion procedures;
- e) evacuation routes and flood refuges;
- f) operational controls for the public carpark; and
- g) flood preparedness and awareness procedures for employees and occupants.

Considerations are to include the full range of flood risks, the proposed use of the site, site ingress and egress constraints and local area evacuation routes to high ground. The plan is to be aimed at self-directed evacuation or evasion to minimise the draw on limited State Emergency Services resources. Details are to be included in documentation for a Construction Certificate application.

12. The proposed awnings are to be designed to meet the requirements of Element 7.10 '*Street Awnings and Balconies*' of Newcastle Development Control Plan 2012. Details are to be included in documentation for a Construction Certificate application.

(NOTE: The extent of Tighe Street awning shown on the approved plans does not

comply with the minimum 600 mm setback to the kerb.)

13. All stormwater runoff from the proposed development being managed in accordance with the requirements of Element 7.06 'Stormwater' of Newcastle Development Control Plan 2012, the associated Technical Manual and the latest issue of Australian Standard *AS3500.3:2018 – Stormwater Plumbing and Drainage* as applicable, as indicated on the Civil Engineering Drawings DA-C04.01 (Rev. 3 dated 9 September 2022) and DA-C09.01 (Rev. 1 dated 1 December 2021) or as otherwise required by the conditions of this consent. Full details are to be included in documentation for a Construction Certificate application.
14. On-site parking accommodation is to be provided for:
 - a) A maximum of one hundred forty-three (143) cars comprising;
 - i) 133 x general spaces on Levels 1 to 6;
 - ii) 3 x Disabled spaces (min. 1 to be EV charging and 1 assigned to retail tenancy) on the Ground Floor
 - iii) 3 x spaces on the Ground Floor assigned to the Retail tenancy;
 - iv) 1 x Delivery space on the Ground Floor assigned to the Retail tenancy; and
 - v) 1 x Attendant space assigned to Building Management;
 - b) A minimum of 27 motorcycles;
 - c) A minimum of 36 individual Class B (refer *AS2890.3:2015*) bicycle storage lockers;

Full details are to be included in documentation for a Construction Certificate application.
15. The car parking, vehicular access and bicycle parking is to be designed to comply with Australian Standards *AS2890.1:2004 - Parking facilities - Off-street car parking*, *AS2890.6:2009 - Parking facilities - Off-street parking for people with disabilities* and *AS2890.3:2015 – Bicycle parking*. Full details are to be included in documentation for a Construction Certificate application.
16. All parking spaces shall include wheel stops and all parking bays are to be permanently marked out on the pavement surface. Full details are to be included in documentation for a Construction Certificate application.
17. To minimise instances of headlight glare, car parking spaces No. 1 to 10 on the Top Floor of the carpark are to be fitted with prominent, legible and durable signage as requiring vehicles to park 'nose-to-wall' with wheel stops installed accordingly. Full details are to be included in documentation for a Construction Certificate application.
18. The vehicular entrance and exit driveways and the direction of traffic movement within the site are to be clearly indicated by means of reflectorised signs and pavement markings.
19. All proposed driveways, parking bays, loading bays and vehicular turning areas are to be constructed with a basecourse of adequate depth to suit design traffic and sealed with reinforced concrete. Full details are to be included in documentation for a Construction Certificate application.
20. Prior to the issue of the relevant Construction Certificate, the following must be demonstrated to the satisfaction of the certifying authority:
 - a) All car parking spaces within the development are to be provided with the necessary infrastructure to enable future EV connections in accordance with *Section 7.03 Traffic, Parking and Access of NDCP2012*, subsection 7.03.02 F

Electric Vehicle Parking.

- b) The car park must provide Electric Vehicle (EV) chargers on at least 8 car parking spaces, including 1 of the publicly accessible disabled carparking spaces;
 - c) The Bicycle Storage area must provide electricity outlets in secure locations suitable for charging of a minimum of 4 battery powered bicycles or scooters;
 - d) To prevent unnecessary circulation of vehicles seeking EV charging connections, the first seven EV charging provisioned parking spaces (other than the one disabled space on Ground Floor) are to be grouped on Level 1 with prominent, legible and durable signage installed directing drivers to the location (Carpark Level) of any additional EV charging connections or that no other EV charging connections exist on floors above.
 - e) A report is to be prepared by a suitably qualified and experienced electrical engineer outlining how the development meets the above criteria and include electrical plans and specifications for all electrical infrastructure being installed to enable EV and EV ready connections.
21. Vehicular entry to the car park being controlled by a number plate recognition system or similar that minimises delays and the queuing of vehicles onto the public road network. Under no circumstances is a ticketing or card payment swipe system to be utilised for vehicles entering the car park. Full details are to be included in documentation for a Construction Certificate application.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

22. Building demolition is to be planned and carried out in accordance with *Australian Standard 2601:2001 - The Demolition of Structures*.
23. An Aboriginal Cultural Heritage Assessment (ACHA) is to be prepared prior to the commencement of any ground disturbance works. The ACHA is to be prepared in accordance with:
- Code of Practice for the Archaeological Investigation of Aboriginal objects in NSW;
 - Guide to investigating, assessing, and reporting on Aboriginal cultural heritage in NSW; and
 - Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010.

Should the ACHA determine that Aboriginal objects are likely to be harmed, an Aboriginal Heritage Impact Permit (AHIP) is required to be obtained from Heritage NSW under Part 6 of the National Parks and Wildlife Act 1974 prior to commencement of any ground disturbance works. The AHIP is to include provision for the completion of Aboriginal archaeological investigations in the form of test excavations and (if required) further salvage activities.

During any excavation work, in the event that any Aboriginal objects are identified within the area of works, works within the immediate vicinity of the Aboriginal object should cease and Heritage NSW should be contacted so that appropriate management strategies can be identified. Aboriginal objects must be managed in accordance with the National Parks and Wildlife Act 1974.

In the unlikely event that a potential burial site or potential human skeletal material is exposed, work in the vicinity of the remains is to halt immediately to allow assessment and management. If the remains are suspected to be human, it will be necessary to contact local police, Heritage NSW and the Heritage Division to determine an appropriate course of action.

24. All works are to be conducted in accordance with the recommendations in Section 13

of the Detailed Site Investigation (Contamination) and Acid Sulfate Soil Assessment prepared by Douglas Partners - Proposed Multi Storey Carpark 4 Tighe Street, Newcastle West dated 02 February 2023 (102077.04.R.001.Rev0).

25. As recommended in the Detailed Site Investigation, an unexpected finds (UFP) protocol is to be developed prior to earthworks on the site. The UFP must outline that a suitably qualified contaminated land consultant must inspect the site if visual or olfactory signs of contamination are detected during earthworks or demolition (including but not limited to underground storage tanks or asbestos containing materials). The UFP may be incorporated into the Construction Environmental Management Plan.
26. Any underground storage tanks must be decommissioned (removed) in accordance with Australian Standard AS 4976–2008 (*and the Protection of the Environment Operations Underground Petroleum Storage Systems if relevant*) which requires inspection, testing and validation. The validation report being prepared by a suitably qualified consultant in accordance with the relevant Environment Protection Authority Guidelines, to be prepared and submitted to Council and the Principal Certifying Authority.
27. Prior to Construction works commencing, the proponent is to prepare and submit to the PCA and Council an Environmental Management Plan (EMP) for construction/demolition works on the site, which is to be kept on site and made available to authorised Council officers upon request. The EMP is to include but not be limited to:
 - a) A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management.
 - b) A water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water, groundwater and process water.
 - c) A dust management strategy, detailing procedures to minimise dust generation, with reference to control techniques and operational limits under adverse meteorological conditions. This strategy should be cross-referenced with the water management strategy.
 - d) A road management strategy, detailing procedures to ensure that all roads adjacent to and within the proposed application area are kept free and clear from mud and sediment.
 - e) A soil management strategy, detailing measures to be implemented to manage the identification and control and disposal of any acid sulphate soils or soil contamination identified during site works. The soil management strategy must include an unexpected finds protocol/contingency plan in relation to potential contamination.
 - f) A noise and vibration management program detailing measures to minimise the impact of the construction phase on the amenity of the locality in accordance with *Noise Assessment, Muller Acoustic Consulting, 29 October 2021* (MAC21145601RP1D1) and the *Interim Construction Noise Guideline, DECC, 2009*.
 - g) A waste minimisation strategy, which aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material.

A community relations plan, which aims to inform residents and other local

stakeholders of the proposed nature and timeframes for demolition and construction activities together with contact details for site management.

28. Prior to any works commencing on site or Railway Street or Tighe Steet, the Developer is to prepare a Construction Management Plan (CMP) such to be designed and implemented to manage all environmental aspects associated with the construction works, including off site impacts such as transport to and from the site. Two copies of the CMP are to be provided to the Principal Certifying Authority and the CMP is to be maintained on site during all site works and be made available to Authorised Officers upon request. The CMP is to include but not be limited to:
 - a. Induction requirements for all site personnel, contractors and visitors;
 - b. A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management;
 - c. A soil and water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water and groundwater. Procedures should be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment;
 - d. A dust management strategy, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions;
 - e. A waste minimisation strategy that aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material;
 - f. A community relations plan that aims to inform local residents and other local stakeholders of the proposed nature and timeframes for construction activities together with contact details for site management;
 - g. A noise management strategy detailing measures to minimise the impact of the construction phase on the amenity of the locality, in accordance with Australian Standard AS 2436, 1981 '*Guide to Noise control on Construction, Maintenance and Demolition Sites*'. Noise monitoring during the construction phase should be incorporated into the program;
 - h. A Construction Traffic Management Plan prepared by a Roads & Maritime Services accredited person with a Design and Audit Traffic Control Plans Certificate in accordance with Australian Standard AS1742.3:2009 - *Manual of uniform traffic devices - traffic control for works on roads*. The plan is to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve; and
 - i. Contain a pre-construction dilapidation survey of Railway Street from Hunter Street to the northern extent and Tighe Street from Railway Street to the eastern extent.
29. A survey certificate prepared by a Registered Surveyor is to be submitted to the Principal Certifier upon completion of the Ground Floor slab formwork, before concrete is poured, to ensure that the siting of the building in relation to adjacent boundaries is in accordance with the development consent and to demonstrate that the Finished Floor Levels for the Ground Floor are in accordance with the terms of this consent.
30. All excavations and backfilling are to be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.
31. If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided and adequate provision must be made for drainage.

32. Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.
33. All roof and surface waters are to be conveyed to the public drainage system by way of a sealed pipe system in accordance with Element 7.06 '*Stormwater*' of Newcastle Development Control Plan 2012.
34. Any waste containers used in association with the proposed demolition are to be located on the site where possible. Note: Where this is not feasible, an application is to be made for the approval to position the container on the adjacent public road in accordance with the Council's adopted Building Waste Container Policy.
35. A Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with *Australian Standard 2601:2001 - The Demolition of Structures*. A copy of the Hazardous Substances Management Plan is to be provided to the Council and to the demolisher prior to commencement of work.
36. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.
37. If construction / demolition work is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the need to enclose a public place, a hoarding or fence is to be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.
38. An application is to be made to and approved by the City of Newcastle for the erection of a hoarding or part closure of the footway prior to construction being commenced. Such overhead structure or protective fence is to comply with the *Work Health and Safety Act 2011*, *Work Health and Safety Regulation 2011* and any relevant approved industry code of practice. Notice of intention of commencement is to be given to SafeWork NSW.
39. Building work must be carried out in accordance with the requirements of the Building Code of Australia.
40. All excavations and backfilling are to be executed safely and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.
41. A survey certificate prepared by a Registered Surveyor is to be submitted to the Principal Certifier upon completion of the floor slab formwork, before concrete is poured, to ensure that the siting of the building in relation to adjacent boundaries is in accordance with the development consent.
42. Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.
43. Council's '*Prevent Pollution*' sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary, so it is clearly visible to the public, or at other locations on the site as otherwise directed by Council, for the duration of demolition and construction work.
44. The demolition works are to be undertaken in accordance with Australian Standard 2601:2001 - The Demolition of Structures and the following requirements:

- a) prior to commencement of demolition works a competent person shall determine the presence of hazardous substances impacted by the proposed demolition works in accordance with Section 1.6.1 of AS2601:2001 and where required produce a Hazardous Substances Management Plan
 - b) demolition works shall be conducted in accordance with any required Hazardous Substances Management Plan. A copy of the Plan shall be kept on-site for the duration of the proposed development and a copy is to be held in the possession of the landowner
 - c) the removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by the WorkCover Authority of NSW
 - d) a copy of all waste disposal receipts are to be kept in the possession of the landowner and made available to authorised Council Officers upon request
 - e) seven working days notice in writing is to be given to the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor, and
 - f) on sites where asbestos materials are to be removed, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent position during asbestos removal works.
45. A rigid and durable sign is to be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:
- a) showing the name, address and telephone number of the Principal Certifier for building work and subdivision work, and
 - b) showing the name, address and telephone number of the Principal Contractor, if any, for any building work and a telephone number on which the Principal Contractor may be contacted at any time for business purposes , and
 - c) stating that unauthorised entry to the work site is prohibited, and
 - d) being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, and must be removed when the work has been completed.

Note: This does not apply in relation to building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

The sign can be obtained by presenting your development application receipt at City of Newcastle's Customer Enquiry Centre, Wallsend Library or the Master Builders Association Newcastle.

46. Any excavated material to be removed from the site is to be assessed and classified

in accordance with the NSW Environment Protection Authority's '*Waste Classification Guidelines Part 1: Classifying Waste*' and be transported and disposed of in accordance with the provisions of the *Protection Of The Environment Operations Act 1997* and the *Protection Of The Environment (Waste) Regulation 2014*.

47. Any fill material imported into the site is to be Virgin Excavated Natural Material or material subject to a Resource Recovery Order that is permitted to be used as a fill material under the conditions of the associated Resource Recovery Exemption, in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment (Waste) Regulation 2014*.
48. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor, the person having the benefit of the development consent is to, at that person's own expense:
- (a) protect and support the building, structure or work on adjoining land from possible damage from the excavation, and
 - (b) where necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.

The above requirements do not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to the condition / requirements not applying. ~ All building materials, plant and equipment is to be placed on the site of the development, to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves, including the road reserve, is not permitted.

49. Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:
- Monday to Friday, 7:00 am to 6:00 pm and
 - Saturday, 8:00 am to 1:00 pm.

No noise from construction/demolition work is to be generated on Sundays or public holidays.

50. Documentation demonstrating the compliance with the conditions of the appropriate Resource Recovery Order and Resource Recovery Exemption must be maintained for any material received at the site and subsequently applied to land under the conditions of the Resource Recovery Order and Exemption. This documentation must be provided to Newcastle City Council officers or the Principal Certifier on request.
51. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or construction in accordance with the requirements of *Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1* (the 'Blue Book') published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
52. Prior to the commencement of work, a 3.0m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction, to reduce the potential for soil erosion. Sand or soil is not to be stockpiled on the all-weather vehicle access.
53. Where the proposed development involves the destruction or disturbance of any

survey monuments, those monuments affected are to be relocated, at no cost to the City of Newcastle, by a Surveyor registered under the *Surveying and Spatial Information Act 2002*.

54. The developer is required to plant three (3) 200L Quercus Palustris 'Green Pillar'. These trees should be planted in accordance with:
 - a) "City of Newcastle Urban Forest Technical Manual, Part B Public Trees" and maintain necessary clearances from infrastructure.
 - b) City of Newcastle Standard drawings "A3003A- Tree Planting Commercial Street Verge" & "A3022 – Tree Guard Timber" (Please Contact City Greening for confirmation).
 - c) The developer is required to arrange a meeting with City Greening prior to the planting of trees to assess the compliance of stock with AS2303-2018, Tree Stock for Landscape Use and the compliance of the planting locations with standard drawing "A3003A- (Please Contact City Greening for confirmation).
55. All necessary measures are to be undertaken to control dust pollution from the site. These measures are to include, but are not limited to:
 - a) Restricting topsoil removal;
 - b) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion);
 - c) Alter or cease construction work during periods of high wind; and
 - d) Erect green or black shade cloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE, A SUBDIVISION CERTIFICATE OR A STRATA CERTIFICATE

56. All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a condition that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to City of Newcastle's satisfaction prior to the completion of demolition work or prior to the issue of any Occupation Certificate in respect of development involving building work.
57. All works within the road reserve required by this consent are to be completed prior to the issue of a Occupation Certificate.
58. A Landscape Practical Completion Report is to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications that were required to be included in documentation for a Construction Certificate application and is to verify that an effective maintenance program has been commenced.
59. An Easement in Gross, nominating Newcastle City Council as the benefitting authority, is to be created in accordance with Sections 88A and 88B of the Conveyancing Act, 1919 over the subject development site for the following purposes;
 - a. A right of carriageway 3 wide is to be created over the proposed pedestrian thoroughfare, immediately adjoining Council's eastern footpath along Railway Street.

60. All public footways, footpaving, kerbs, gutters, road pavement or other public infrastructure damaged during the works are to be immediately repaired following the damage, to a satisfactory state that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to the Road Authority's satisfaction prior to the issue of any Occupation Certificate in respect of the development.
61. A copy of all stormwater drainage design plans approved under a Construction Certificate or Roads Act consent, showing any changes made to the approved design and with 'work as executed' levels indicated, shall be submitted to the Principal Certifier and to Council prior to the issue of any Occupation Certificate. The plans shall be prepared by a Registered Surveyor.
62. Prior to the issue of any Occupation Certificate and not more than two weeks before Practical Completion is achieved Closed Circuit Television (CCTV) digital recordings is to be undertaken of all new pipes laid within any public road and copies are to be provided to the Principal Certifier and Council for review and acceptance.

To facilitate the issuing of Council Asset numbers the Developer is to provide the Council with a Works as Executed plans (Electronic and Hardcopy format) of the completed stormwater drainage network a minimum of 5 business days prior to the commencement of the CCTV investigation. A Council Asset inspection officer will be available on site at the commencement of the CCTV investigation (minimum 2 days notification required Ph. 4974 2613). The CCTV recordings and reporting of defects shall and in accordance with the Specifications at Appendix 10 and Appendix 11 of Council's 'Stormwater and Water Efficiency for Development Technical Manual_July 2017' (or equivalent as amended by Council) and be provided to the Principal Certifying Authority and Council within one week of the completion of inspection work.

Council's Asset section will review the CCTV footage and report and advise acceptance or otherwise of the stormwater conduits. Any defects identified by Council are to be repaired prior to the issue of any Occupation Certificate.

63. Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by *Noise Assessment, Muller Acoustic Consulting, 29 October 2021* (MAC21145601RP1D1) and the *Interim Construction Noise Guideline, DECC, 2009*. Written final certification confirming the recommended acoustic treatment has been implemented in accordance with the requirements of the above report is to be submitted to the Principal Certifier and Newcastle City Council prior to the issue of an Occupation Certificate. Note: The acoustic consultant may need to be involved during the construction process in order to ensure final certification is achieved.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

64. The hours of operation or trading of the premises are to be not more than:

DAY	START	FINISH	
Monday	7 am	7 pm	Same day
Tuesday	7 am	7 pm	Same day
Wednesday	7 am	7 pm	Same day
Thursday	7 am	7 pm	Same day
Friday	7 am	7 pm	Same day
Saturday	8 am	6 pm	Same day
Sunday and Public Holidays	8 am	6 pm	Same day

unless a separate application to vary the hours of operation or trading has been

submitted to and approved by the City of Newcastle.

65. The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the *Protection of the Environment Operations Act 1997*. Should City of Newcastle consider that offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant, verifying that the recommended acoustic measures have been satisfactorily implemented, will be required to be submitted to City of Newcastle prior to the expiration of the nominated period.
66. The use and occupation of the premises is not to give rise to the emission of any 'air impurity' as defined under the *Protection of the Environment Operations Act 1997*, that interferes unreasonably with the amenity of neighbouring premises and/or other sensitive receivers. Should City of Newcastle consider that unreasonable levels of air impurities have been emitted from the premises, the owner/occupier will be required to engage a suitably qualified consultant to recommend measures to control emission of air impurities to an acceptable level and such measures will be required to be implemented within a nominated time period. Furthermore, written certification from the suitably qualified consultant will be required to be submitted to City of Newcastle, confirming that air impurity emissions from the premises do not interfere unreasonably with the amenity of neighbouring premises and/or other sensitive receptors, before the expiration of the nominated period.
67. Any liquid wastes from the premises, other than stormwater are to be either discharged to the sewers of the Hunter Water Corporation in accordance with an approved Trade Waste Agreement or collected and disposed of by a licensed waste transport contractor in accordance with the Department of Environment and Climate Change 'Waste Classification Guidelines Part 1: Classifying Waste'.
68. Waste management (recyclable and non-recyclable) is to be collected from the refuse storage areas, as identified on the approved plans, serviced and returned immediately to the refuse storage areas. Under no circumstances are garbage bins to be presented to the kerb for collection.
69. The roller shutters and boom gates at the Tighe Street driveway entrance/exit must remain in a fully opened position between the hours of 7:00am and 7:00pm on any day the carpark or Retail tenancy are operational.
70. Deliveries or dispatches to or from the retail tenancy shall only be undertaken using passenger sized vehicles, vans or utilities capable of accessing the assigned Ground Floor carpark and which must enter and exit the carpark in a forward manner.
71. Car parking and delivery vehicle delivery on the Ground Floor that are assigned to the Retail tenancy or Building Management are to be suitably identified with prominent, legible and durable signage and under no circumstances are such areas to be used for the storage of goods or waste materials or leased to any other person or company.
72. All other parking areas, vehicle bays, driveways and turning areas are to be maintained clear of obstruction and be used exclusively for purposes of car parking and vehicle access. Under no circumstances are such areas to be used for the storage of goods or waste materials.
73. The stormwater management system, driveway crossing and parking areas are to be properly maintained for the life of the development.

74. Under no circumstances are garbage bins to be presented to the street awaiting kerbside collection or remain at the kerbside after collection.

75. Landscaping is to be maintained at all times following its installation in accordance with the comprehensive landscape design plan and specifications that were required to be included in documentation for a Construction Certificate application.

ADVISORY MATTERS

- It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.
- Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of both Council and any other relevant authorities. Council and other service authorities should be contacted for specific requirements prior to the commencement of any works.
- Any approval for fences on side boundaries, common to other private properties, is independent of any consent or agreement which may be required of any adjoining owner under the provisions of the *Dividing Fences Act 1991* (NSW).
- Prior to commencing any building works, the following provisions of Division 6.2 of the *Environmental Planning and Assessment Act 1979* are to be complied with:
 - a) A Construction Certificate is to be obtained; and
 - b) A Principal Certifier is to be appointed for the building works and Council is to be notified of the appointment; and
 - c) Council is to be given at least two days notice of the date intended for commencement of building works.
- Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifier appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Clause 149 of the *Environmental Planning and Assessment Regulation 2000* (NSW).
- A Construction Certificate application for this project is to include a list of fire safety measures proposed to be installed in the building and/or on the land and include a separate list of any fire safety measures that already exist at the premises. The lists must describe the extent, capability and basis of design of each of the measures.
- A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and a further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
- An annual Fire Safety Statement in the form described in Clause 175 of the *Environmental Planning and Assessment Regulation 2000* (NSW) is to be submitted to Council and a copy (together with a copy of the current fire safety schedule) is to be given to the Commissioner of New South Wales Fire Brigades. A further copy of the Statement (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
- It is an offence under the provisions of the *Protection of the Environment Operations Act*

1997 (NSW) to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.

- Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979* (NSW), which may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.
- If any Aboriginal objects are discovered which are not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be notified in accordance with section 89A of the National Parks and Wildlife Act 1974 (NPW Act). Depending on the nature of the discovery, additional assessment and approval under the NPW Act may be required prior to works continuing in the affected area(s). Aboriginal objects in NSW are protected under the NPW Act. Unless the objects are subject to a valid Aboriginal Heritage Impact Permit, work must not recommence until approval to do so has been provided by Heritage NSW.

Note: Heritage NSW can be contacted on 02 9873 8500 or heritagemailbox@environment.nsw.gov.au. An 'Aboriginal object' is any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains. It is an offence under the provisions of the National Parks and Wildlife Act 1974 (NPW Act) for a person to harm or desecrate an Aboriginal object, with defence from prosecution and certain activities exempt as prescribed under the NPW Act

END OF CONDITIONS

SCHEDULE 3**NSW GOVERNMENT – TRANSPORT FOR NEW SOUTH WALES (SYDNEY
TRAINS)**

SCHEDULE 4

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; *Newcastle Local Environmental Plan 2012* (NLEP) and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012 (NDCP).
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- The proposed Floor Space Ratio development standard variation made under Clause 4.6 of the *Newcastle Local Environmental Plan 2012* (NLEP) has been considered and accepted.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- Confirm and clarify the terms of Council's determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 4 TIGHE STREET NEWCASTLE WEST –
RE2023/00001 - COMMERCIAL CAR PARK AND RETAIL PREMISES**

7.8 Attachment C: Processing Chronology

DISTRIBUTED UNDER SEPARATE COVER

PROCESSING CHRONOLOGY

RE2023/0001 - 4 TIGHE STREET, NEWCASTLE WEST

21 February 2023	-	Section 8.2(1) application received by CN.
23 February – 14 March 2022	-	Application notified in accordance with CN's Community Participation Plan (CPP). No submissions received.
27 February 2023		External referrals commenced: TfNSW (Sydney trains)
02 March 2023		Amended application presented to Urban Design Review Panel
06 March 2023		Request for additional information issued - amended plans and updated Clause 4.6 request to vary Floor space ratio.
19 March 2023		External referral received from TfNSW (Sydney trains) received – concurrence granted subject to deferred commencement conditions.
23 March 2023		Additional information received – amended plans and updated Clause 4.6 request to vary Floor space ratio.



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 4 TIGHE STREET NEWCASTLE WEST –
RE2023/00001 - COMMERCIAL CAR PARK AND RETAIL PREMISES**

7.8 **Attachment D:** Concurrence Transport for NSW

DISTRIBUTED UNDER SEPARATE COVER

General Manager
Newcastle City Council
PO Box 489
Newcastle NSW 2300

Attention: William Toose

20 March 2023

**STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021
DEVELOPMENT APPLICATION – RE2023/00001 (CNR-52409)
4 TIGHE STREET, NEWCASTLE WEST NSW 2302
'Section 8.2 Review of DA2021/01679'**

Dear Sir/Madam,

We note that on 1 March 2023, development application DA2021/01679 (**DA**) (now the subject of a review under s 8.2 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*) was referred to Sydney Trains for concurrence in accordance with Section 2.99 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)*.

Council is advised that TfNSW (Sydney Trains), via Instruments of Delegation, has been delegated to act as the rail authority for the heavy rail corridor, including infrastructure, and to process the concurrence for this development application.

TfNSW (Sydney Trains) understands that the DA has been amended, such that the Applicant now relies on the following amended plans and supporting material (being the material included in the Notice of Motion filed by the Applicant on 9 September 2022) (the **Amended Application**):

- Architectural plans prepared by CKDS:
 - Cover page
 - Drawing No A-0002, issue 4 dated 14 July 2022
 - Drawing No A-0004, issue 6 dated 14 July 2022
 - Drawing No A-0101, issue 4 dated 14 July 2022
 - Drawing No A-1001, issue 4 dated 14 July 2022
 - Drawing No A-1002, issue 9 dated 14 July 2022
 - Drawing No A-1101, issue 10 dated 14 July 2022
 - Drawing No A-1102, issue 10 dated 14 July 2022
 - Drawing No A-1103, issue 10 dated 14 July 2022
 - Drawing No A-2001, issue 10 dated 14 July 2022
 - Drawing No A-2002, issue 10 dated 14 July 2022
 - Drawing No A-2003, issue 10 dated 14 July 2022
 - Drawing No A-2004, issue 10 dated 14 July 2022

- Drawing No A-3001, issue 10 dated 14 July 2022
- Drawing No A-3002, issue 2 dated 14 July 2022
- Drawing No A-4001, issue 6 dated 14 July 2022
- Drawing No A-4002, issue 6 dated 14 July 2022
- Drawing No A-5001, issue 10 dated 14 July 2022
- Drawing No A-5003, issue 2 dated 14 July 2022
- Drawing No A-7001, issue 10 dated 14 July 2022
- Civil Engineering Plans prepared by Northrop:
 - Cover Sheet, Drawing List and Locality Plan – Drawing No DA-C01.01, Revision 3 dated 21 July 2022
 - Erosion and Sediment Control Plan – Drawing No DA-C02.01, Revision 2 dated 21 July 2022
 - Civil Works Plan – Drawing No DA-C04.01, Revision 2 dated 21 July 2022
 - Swept Path Plan – Ground Floor – Drawing No DA-C06.01, Revision 3 dated 21 July 2022
 - Civil Details and Stormwater Summary – Drawing No DA-C09.01, Revision 2 dated 21 July 2022
- Clause 4.6 – Request to Vary FSR Standard under Newcastle LEP 2012 prepared by ADW Johnson dated July 2022
- Report on Preliminary Site Investigation for Contamination dated December 2021
- Acid Sulphate Management Plan prepared by Douglas Partners dated July 2022
- SEPP 64 – Advertising and Signage Report prepared by ADW Johnson
- Cost estimate report prepared by Napier and Blakeley dated 17 December 2021.

TfNSW (Sydney Trains) advises that the Amended Application has been assessed in accordance with the requirements of Section 2.99(4) of the Transport and Infrastructure SEPP being:

- a) *the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:*
 - i) *the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and*
 - ii) *the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and*
- b) *what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.*

TfNSW (Sydney Trains) has taken the above requirements into consideration and has decided to grant its concurrence to the Amended Application subject to Council imposing the Deferred Commencement condition as written in Attachment A, and operational conditions as written in Attachment B that will need to be complied with upon satisfaction of the Deferred

Commencement condition.

Should Council choose not to impose the Deferred Commencement condition as written in Attachment A and the operational conditions as written in Attachment B, then concurrence from TfNSW (Sydney Trains) has not been granted to the Amended Application.

In the event that this proposed development is the subject of a Land and Environment Court appeal, Council's attention is drawn to Section 8.12 of the EP&A Act which requires Council to give notice of that appeal to a concurrence authority. TfNSW (Sydney Trains) therefore requests that Council comply with this requirement should such an event occur.

Council is also advised that this concurrence is not to be amended, replaced, or superseded by any concurrence issued by any other rail authority, without further agreement from TfNSW (Sydney Trains).

It is also noted that this concurrence supersedes any concurrence previously issued in relation to the DA2021/01679. Concurrence is only provided on the basis of the Amended Application.

Please contact TfNSW (Sydney Trains) Town Planning Management via email to DA_sydneytrains@transport.nsw.gov.au should you wish to discuss this matter. Finally, it is requested that when the proposed development's Determination is issued, a copy of the Notice of Determination and conditions of consent are provided.

Sincerely,

Anthony Moeller
Director Property & Commercial Services
Transport for NSW

ATTACHMENT A

Deferred Commencement Condition

This consent is not to operate until the Applicant/Developer satisfies the Council, within 12 months of the date of this consent, that it has obtained approval/certification from Sydney Trains as to the following matters and the approval/certification has been forwarded to the Council:

- A1.** The Applicant/Developer shall prepare and provide to Sydney Trains for review, comment, and written endorsement the following final version items in compliance with the relevant AMB Standards (<https://www.transport.nsw.gov.au/industry/asset-management-branch>):
1. Geotechnical and Structural Report/drawings including rail specific potential impacts.
 2. Demolition and Construction Methodologies with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements. No reliance on, use of, or access to TAHE (Transport Asset Holding Entity) land and airspace will be permitted.
 3. Cross Sectional Drawings (both architectural and structural) showing ground surface, property boundary, rail footbridge/lift shaft, nearest rail tracks and rail infrastructure, sub-soil profile, proposed development, and structural design of sub-ground support (i.e., footings/piles etc.) adjacent to the rail corridor. The measured distance between the proposal, site boundary and rail asset(s) at the closest points must be shown. All measurements are to be verified by a Registered Surveyor.
 4. Detailed Survey Plan showing the relationship of the proposed development with respect to the rail boundary and rail infrastructure (including footbridge).
 5. If required by Sydney Trains, a Finite Element (FE) analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.
 6. If required by Sydney Trains, a Monitoring Plan (including instrumentation and the monitoring regime during demolition and construction phases).

Any conditions issued as part of Sydney Trains' endorsement of the above documents will also form part of the consent conditions that the Applicant/Developer is required to comply with.

ATTACHMENT B

- B1.** All plans/documentation(s) provided and endorsed by Sydney Trains as part of the Sydney Trains Deferred Commencement Conditions will form part of this Consent, unless said plans/documentation(s) are otherwise superseded and confirmed in writing by Sydney Trains as a result of compliance with any Sydney Trains related conditions of consent. All recommendations, final findings, and subsequent requirements (including where specified in the written endorsement letter from Sydney Trains) of such plans/documentation(s) are to be reflected in the Construction Certificate construction plans/documentation(s) where relevant, and compliance with those plans/documentation(s) must be certified prior to the issue of any Occupation Certificate.
- B2.** Prior to the issuing of a Construction Certificate, the Applicant/Developer must submit to Sydney Trains for approval, plans and details demonstrating how the existing stormwater pipe connecting to TAHE land will be decommissioned. The Principal Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.
- B3.** If required by Sydney Trains in writing, and prior to the issuing of an Occupation Certificate, the Applicant/Developer must decommission the existing stormwater pipe connecting to TAHE land in accordance with plans prepared by the Applicant/Developer and approved by Sydney Trains under condition B2, and to Sydney Trains' satisfaction.
- B4.** Prior to the commencement of any works in relation to decommissioning the stormwater pipe, the Applicant/Developer must give Sydney Trains at least 5 business days' notice, in writing, before any necessary closure or partial closure of the area above and around the stormwater pipe that is to be disturbed or otherwise required for the works associated with the stormwater pipe. The notice must identify the land required, the period for which the land is required and the proposed work to be performed.
- B5.** All costs associated with the decommissioning of the stormwater pipe, including but not limited to, costs of the works and the costs incurred by Sydney Trains in relation to the works, shall be borne by the Applicant/Developer.
- B6.** No work is permitted within the rail corridor or any easements which benefit Sydney Trains/TAHE (Transport Asset Holding Entity), at any time, unless the prior approval of, or an Agreement with, Sydney Trains/TAHE (Transport Asset Holding Entity) has been obtained by the Applicant. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- B7.** No rock anchors, rock bolts, ground anchors or rock ties, piles, foundations, rock pillars, transfer structures, basement walls, slabs, columns, beams, cut rock faces, are to be installed into TAHE (Transport Asset Holding Entity)/Sydney Trains property or easements which benefit Sydney Trains/TAHE (Transport Asset Holding Entity). The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

- B8.** Prior to the commencement of any works a Registered Surveyor shall peg-out the common property boundary between the development site and TAHE (Transport Asset Holding Entity) land and easements. A copy of the survey report indicating the location of pegs must be provided to Sydney Trains prior to the commencement of works.
- B9.** Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate. The Principal Certifying Authority must ensure that the recommendations of the electrolysis report are incorporated in the construction drawings and documentation prior to the issuing of the relevant Construction Certificate.
- B10.** Prior to the issue of a Construction Certificate, the Applicant shall undertake a services search to establish the existence and location of any rail services. Persons performing the service search shall use equipment that will not have any impact on rail services and signalling. Should rail services be identified within the subject development site, the Applicant must discuss with Sydney Trains as to whether these services are to be relocated or incorporated within the development site.
- B11.** The proposed development is to comply with the deemed-to-satisfy provisions in the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".
- B12.** Prior to the commencement of any works appropriate fencing must be in place along the rail corridor to prevent unauthorised access to the rail corridor during construction works. Details of the type of fencing and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing work being undertaken.
- B13.** The development shall have appropriate fencing fit for the future usage of the development site to prevent unauthorised access to the rail corridor by future occupants of the development. Prior to the issuing of an Occupation Certificate the Applicant shall liaise with Sydney Trains regarding the adequacy of any existing fencing along the rail corridor boundary or design and construction of new fencing. Details of the type of new fencing to be installed and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing work being undertaken.
- B14.** The Applicant is to ensure that the development incorporates appropriate anti-graffiti measures, to the satisfaction of Sydney Trains.
- B15.** If required by Sydney Trains, prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on the rail corridor and assets (including rail footbridge). The Principal Certifying

Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

- B16.** No metal ladders, tapes, and plant, machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and catenary, contact and pull-off wires of the adjacent tracks, and to any aerial power supplies within or adjacent to the rail corridor.
- B17.** No scaffolding is to be used facing the rail corridor unless prior written approval has been obtained from Sydney Trains. To obtain approval the Applicant will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor. Unless agreed to by Sydney Trains in writing, scaffolding shall not be erected without isolation and protection panels.
- B18.** Prior to the issuing of a Construction Certificate the Applicant must submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains' requirements. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains' requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.
- B19.** Prior to the issuing of a Construction Certificate, the following final version rail specific items are to be submitted to Sydney Trains for review, comment, and written endorsement:
 - Machinery to be used during excavation/construction.
 - Demolition, excavation, and construction methodology and staging.

The Principal Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

- B20.** The design, installation and use of lights, signs, and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of the rail operator. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- B21.** Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows, and other external features (e.g., roof terraces and external fire escapes) that are within 20 metres of, and face, the rail corridor, the development must have measures installed, to the satisfaction of Sydney Trains (e.g., awning windows, louvres, enclosed balconies, window restrictors etc.) which prevent the throwing of objects onto the rail corridor. The Principal Certifying Authority is not to issue the

Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

- B22.** During all stages of the development the Applicant must take extreme care to prevent any form of pollution entering the rail corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the Applicant.
- B23.** Excess soil is not allowed to enter, be spread, or stockpiled within the rail corridor (and its easements) and must be adequately managed/disposed of.
- B24.** The Applicant must ensure that all drainage from the development is adequately disposed of and managed and not allowed to be discharged into the rail corridor unless prior written approval has been obtained from Sydney Trains.
- B25.** Rainwater from the roof must not be projected and/or falling into the rail corridor and must be piped down the face of the building which faces the rail corridor.
- B26.** The Applicant/Developer shall not at any stage block rail related use of Railway Street, to ensure continuous provision for easy and ongoing 24/7 access by rail vehicles, plant, and equipment to support maintenance and emergency activities.
- B27.** The Applicant/Developer shall not at any stage block, by physical structures or vehicles, the pedestrian access entry and exit points associated with the Rail Footbridge, and should make provision for safe, easy, and ongoing 24/7 access.
- B28.** The Applicant/Developer may need power outages (shutting of power to Sydney Trains/TAHE's facilities) to be able to undertake the proposed development. If required, prior to the issue of a Construction Certificate, the Applicant/Developer shall enter into an Agreement with Sydney Trains, enabling this work to be planned and to proceed in a safe and controlled manner. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains that this condition has been satisfied.
- B29.** Prior to the issue of a Construction Certificate the Applicant shall provide a Validation Contamination Response report to Sydney Trains for review. Any cross contamination identified shall be removed by the Applicant under instructions from Sydney Trains. The Principal Certifying Authority is not to issue an Occupation Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.
- B30.** Prior to the issuing of any Occupation Certificate, the Applicant must provide to Sydney Trains for review and endorsement a plan of how future maintenance of the development facing the rail corridor is to be undertaken. The Principal Certifying Authority is not to issue any Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied. The maintenance plan must be implemented for the life of the approved development.

- B31.** Prior to the issuing of an Occupation Certificate the Applicant is to submit as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into TAHE (Transport Asset Holding Entity) property or easements, unless agreed to by TAHE (Transport Asset Holding Entity). The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- B32.** A risk analysis, which shall determine the required level of derailment protection (if any), shall be carried out in consultation with Sydney Trains. This risk analysis will determine the redundancy requirements or the minimum collision loads specified in Australian Standard AS5100 that needs to be complied with. The risk assessment is to be prepared in accordance with the Sydney Trains Safety Management System. The Principal Certifying Authority shall not issue the Construction Certificate until it has received written confirmation from Sydney Trains that the risk analysis has been prepared and the Principal Certifying Authority has also confirmed that the measures recommended in this risk analysis have been indicated on the Construction Drawings.
- B33.** If required by Sydney Trains, prior to the commencement of works or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required within 10 days following the undertaking of the inspection, unless otherwise notified by Sydney Trains.
- B34.** If required by Sydney Trains, prior to the issue of the Occupation Certificate, or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- B35.** If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains External Interface Management team to determine the need for public liability insurance cover. If insurance cover is deemed necessary, this insurance must be for a sum as determined by Sydney Trains and shall not contain any exclusion in relation to works on or near the rail corridor and rail infrastructure and must be maintained for the duration specified by Sydney Trains. The Applicant is to contact Sydney Trains External Interface Management team to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying

Authority must witness written proof of this insurance in conjunction with Sydney Trains' written advice to the Applicant on the level of insurance required.

- B36.** If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains External Interface Management team to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.
- B37.** The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Trains in writing), who:
- oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Trains;
 - acts as the authorised representative of the Applicant; and
 - is available (or has a delegate notified in writing to Sydney Trains that is available) on a 7 day a week basis to liaise with the representative of Sydney Trains, as notified to the Applicant.
- B38.** Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Trains in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Trains in relation to the works.
- B39.** Where a condition of consent requires consultation with Sydney Trains, the Applicant shall forward all requests and/or documentation to the relevant Sydney Trains External Interface Management team. In this instance the relevant interface team is North Interface, and they can be contacted via email on North_Interface@transport.nsw.gov.au.
- B40.** Copies of any certificates, drawings, approvals/certification, or documents endorsed by, given to, or issued by Sydney Trains or TAHE (Transport Asset Holding Entity) must be submitted to Council for its records prior to the issuing of the applicable Construction Certificate or Occupation Certificate.
- B41.** Where a condition of consent requires Sydney Trains or Transport for NSW endorsement the Principal Certifying Authority is not to issue a Construction Certificate or Occupancy Certificate, as the case may be, until written confirmation has been received from those entities that the particular condition has been complied with. The issuing of staged Construction Certificates dealing with specific works and compliance conditions can be issued subject to written agreement from those entities to which the relevant conditions applies.

- B42.** Sydney Trains or Transport for NSW, and persons authorised by those entities for the purpose of this condition, must be permitted to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and the requirements of this consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought.



ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

**DAC 26/04/2023 – 4 TIGHE STREET NEWCASTLE WEST –
RE2023/00001 - COMMERCIAL CAR PARK AND RETAIL PREMISES**

- 7.8** **Attachment E:** Clause 4.6 written exception to floor space ratio
development standard

Sydney
Level 35 One International Towers
100 Barangaroo Avenue
Sydney NSW 2000
02 8046 7411
sydney@adwjohnson.com.au

Central Coast
5 Pioneer Avenue
Tuggerah NSW 2259
02 4305 4300

Hunter Region
7/335 Hillsborough Road
Warners Bay NSW 2282
02 4978 5100

coast@adwjohnson.com.au

hunter@adwjohnson.com.au

Clause 4.6 – Request to Vary FSR Standard under Newcastle LEP 2012

Demolition of Existing Building and Erection of a Carpark and Retail Premises

Property:

4 Tighe Street, Newcastle West
Lot 1 DP 445736, Lots 23 & 24 DP 126

Applicant:

Tatts Greta Pty Ltd

Date:

July 2022

Document Control Sheet

Issue No.	Amendment	Date	Prepared By	Checked By
A	Draft	21/06/2022	CM	CM
B	Final	06/07/2022	CM	CM
C	Updated Final	19/07/2022	CM	CM

Limitations Statement

This report has been prepared in accordance with and for the purposes outlined in the scope of services agreed between ADW Johnson Pty Ltd and the Client. It has been prepared based on the information supplied by the Client, as well as investigation undertaken by ADW Johnson and the sub-consultants engaged by the Client for the project.

Unless otherwise specified in this report, information and advice received from external parties during the course of this project was not independently verified. However, any such information was, in our opinion, deemed to be current and relevant prior to its use. Whilst all reasonable skill, diligence and care have been taken to provide accurate information and appropriate recommendations, it is not warranted or guaranteed and no responsibility or liability for any information, opinion or commentary contained herein or for any consequences of its use will be accepted by ADW Johnson or by any person involved in the preparation of this assessment and report.

This document is solely for the use of the authorised recipient. It is not to be used or copied (either in whole or in part) for any other purpose other than that for which it has been prepared. ADW Johnson accepts no responsibility to any third party who may use or rely on this document or the information contained herein.

The Client should be aware that this report does not guarantee the approval of any application by any Council, Government agency or any other regulatory authority.

Table of Contents

1.0	INTRODUCTION	1
2.0	SITE.....	2
3.0	EXCEPTIONS TO DEVELOPMENT STANDARDS.....	5
4.0	THE DEVELOPMENT STANDARD & VARIATION SOUGHT.....	8
4.1	THE DEVELOPMENT STANDARD	8
4.2	CONTRAVENTION OF THE DEVELOPMENT STANDARD	9
4.3	OBJECTIVES OF THE DEVELOPMENT STANDARD	9
5.0	PLANNING CONTEXT	10
5.1	STRATEGIC PLANNING	10
5.1.1	<i>Hunter Regional Plan 2036.....</i>	<i>10</i>
5.1.2	<i>Draft Hunter Regional Plan 2041</i>	<i>12</i>
5.1.3	<i>Greater Newcastle Metropolitan Plan</i>	<i>12</i>
5.1.4	<i>Newcastle Local Strategic Planning Statement</i>	<i>13</i>
5.2	NLEP 2012 – ZONE AND KEY CONTROLS.....	14
6.0	JUSTIFICATION OF VARIATION	17
6.1	ZONING AND ZONE OBJECTIVES	17
6.2	OBJECTIVES OF THE DEVELOPMENT STANDARD	18
6.3	COMPLIANCE WITH DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY	19
6.4	JUSTIFICATION ON ENVIRONMENTAL PLANNING GROUNDS	20
6.4.1	<i>Objects of the EPA Act</i>	<i>20</i>
6.4.2	<i>Section 4.15 EP&A Act</i>	<i>21</i>
7.0	CONCURRENCE	22
8.0	CONCLUSION.....	23

APPENDIX A

ARCHITECTURAL PLANS (CKDS ARCHITECTURE)

LIST OF FIGURES

Figure 1: Aerial photograph showing the site and adjoining development.
Figure 2: NLEP 2012 Floor Space Ratio Map.
Figure 3: Extract from Hunter Regional Plan 2036.
Figure 4: Extract from Greater Newcastle Metropolitan Plan 2036.
Figure 5: NLEP 2012 Zoning Map.
Figure 6: Available FSR on surrounding lands based on site areas.

1.0 Introduction

Tatts Greta Pty Ltd is the applicant for demolition of an existing building and erection of a carpark and retail premises at 4 Tighe Street, Newcastle West.

The proposal has been designed by CKDS Architecture. A copy of the Architectural Plans is included in **Appendix A** of this report.

The proposed development comprises a seven-storey building with ground floor retail space and carpark and carpark above.

Clause 4.4 of the NLEP 2012 prescribes a maximum FSR of 8:1 for the subject site, however Clause 7.10A of the NLEP 2012 provides additional provisions for certain land under 1,500m² in the Newcastle City Centre (which includes the subject site). Clause 7.10A provides an alternative FSR of 3:1 for the site. The proposed development has an FSR of 3.63:1, thus exceeding the FSR prescribed for the site under Clause 7.10A.

Clause 4.6 of NLEP 2012 provides for an appropriate degree of flexibility in applying certain development standards such as floor space ratio.

This report sets out the applicant's written request under Clause 4.6 of NLEP 2012 to vary the development standard identified under *Clause 7.10A – Floor space ratio for certain other development* to achieve the proposed development outcome.

This report justifies that the proposed variation sought is appropriate, and should not preclude the consent authority from granting development consent for the proposed development.

2.0 Site

The subject site has a street address of 4 Tighe Street, Newcastle West, comprising Lot 1 DP 445736 and lots 23 & 24 DP 126.

The site has an area of 1,275.5m², and is located on the corner of Tighe Street and Railway Street Newcastle West. The site adjoins the inner-city rail line to the north, a self-storage premises to the east and vacant commercial premises to the south (proposed to be redeveloped under a current DA 2021/01459 recently approved for ground level commercial premises and upper-level residential apartments). To the west of the site is an existing mechanical repair workshop.

The site is located within the Newcastle City Centre, within walking distance to the Newcastle Interchange.

The aerial photograph below provides an indication of the current built form and pattern of development in the area.



Figure 1: Aerial photograph showing the site and adjoining development.

The following photographs show the existing development on the site.



Photo 1: View of subject site looking north east along Railway Street, (Google Maps, 2022).



Photo 2: View of subject site looking east along Tighe Street, (Google Maps, 2022).



Photo 3: View looking south (toward Hunter Street) from corner Tighe and Railway Street, (Google Maps, 2022).

3.0 Exceptions to Development Standards

The applicant seeks development consent for development that would contravene a development standard imposed by the NLEP 2012 (as detailed in **Section 4.0** and **5.0** of this report).

Under Clause 4.6 of NLEP 2012, development consent may be granted for development even though the development would contravene a development standard. Clause 4.6 of the NLEP 2012 provides as follows:

4.6 Exceptions to development standards

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks 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 development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3);*
 - ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out; and*
 - (b) *the concurrence of the Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Secretary must consider—*
 - (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning;*
 - (b) *the public benefit of maintaining the development standard; and*
 - (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

The Land and Environment Court has considered the question of contravention of development standards in a number of cases, both in its former application under *State Environmental Planning Policy No. 1 – Development Standards* and also in the current format as it appears under Clause 4.6.

This submission has been prepared having regard to the latest authority on Clause 4.6, contained in the following NSW Land and Environment Court (Court) judgements:

- *Winten Property Group Limited v North Sydney Council* [2001] NSWLEC 46;
- *Wehbe v Pittwater Council* [2007] NSWLEC 827;
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 (*Four2Five No 1*);
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 (*Four2Five No 2*);
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 (*Four2Five No 3*);
- *Moskovich v Waverely Council* [2016] NSWLEC 1015;
- *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7; and
- *Initial Action Pty Ltd V Woollahra Council* [2018] NSWLEC 118.

Key elements from the above cases are outlined below.

In the decision of *Wehbe v Pittwater Council* [2007] NSWLEC 827, Chief Justice Preston outlined the rationale for the development standard, and the ways by which a development standard might be considered unreasonable and/or unnecessary. In his decision Chief Justice Preston noted:

"The rationale is that development standards are not ends in themselves, but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)".

Wehbe v Pittwater Council [2007] NSW LEC 827 also established the following (non-exhaustive) examples that can be used to demonstrate that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case:

- 1) *The objectives of the development standard are achieved notwithstanding non-compliance with the standard (unreasonable and unnecessary);*
- 2) *The underlying objective or purpose is not relevant to the development (unnecessary);*
- 3) *The underlying objective or purpose would be defeated or thwarted if compliance was required (unreasonable);*
- 4) *The development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consent that departs from the standard (unreasonable and unnecessary); and*
- 5) *The zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard was unreasonable or unnecessary.*

Initial Action Pty Ltd V Woollahra Council [2018] NSWLEC 118 sets out the correct approach to assessing a written request under Clause 4.6.

Firstly, the consent authority must be satisfied that the request seeking to justify the contravention of the development standard has adequately addressed the following matters required to be demonstrated by clause 4.6(3):

- (a) Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.*
- (b) There are sufficient environmental planning grounds to justify contravening the development standards.*

Secondly, the consent authority must be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out (clause 4.6(4)(a)(ii)). The consent authority must be directly satisfied about the matter in clause 4.6(4) (a) (ii) and not indirectly satisfied that the written request has adequately addressed the matter.*

The following report sets out the applicant's written request under Clause 4.6 of the NLEP 2012 (taking the above principles into account).

4.0 The Development Standard & Variation Sought

4.1 THE DEVELOPMENT STANDARD

The proposed development will contravene the floor space ratio standard imposed by Clause 7.10A of NLEP 2012 (Development Standard):

7.10A Floor space ratio for certain other development

The maximum floor space ratio for a building that is located on land with a site area of less than 1,500 square metres is whichever is the lesser of:

- (a) the floor space ratio identified on the [Floor Space Ratio Map](#), or
- (b) 3:1.

The Floor Space Ratio Map under NLEP 2012 prescribes a maximum floor space ratio of 8:1 for the subject site, (refer to **Figure 2** below), which is reduced to 3:1 under the provisions of Clause 7.10A for the subject site on the grounds that the site is less than 1500m². Should the site have exceeded 1500m² the FSR would have been restricted to 5:1 under Clause 7:10 on the grounds that the building contains development other than a commercial building.

Floor space ratio is defined by the NLEP 2012 to be:

The **floor space ratio** of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.

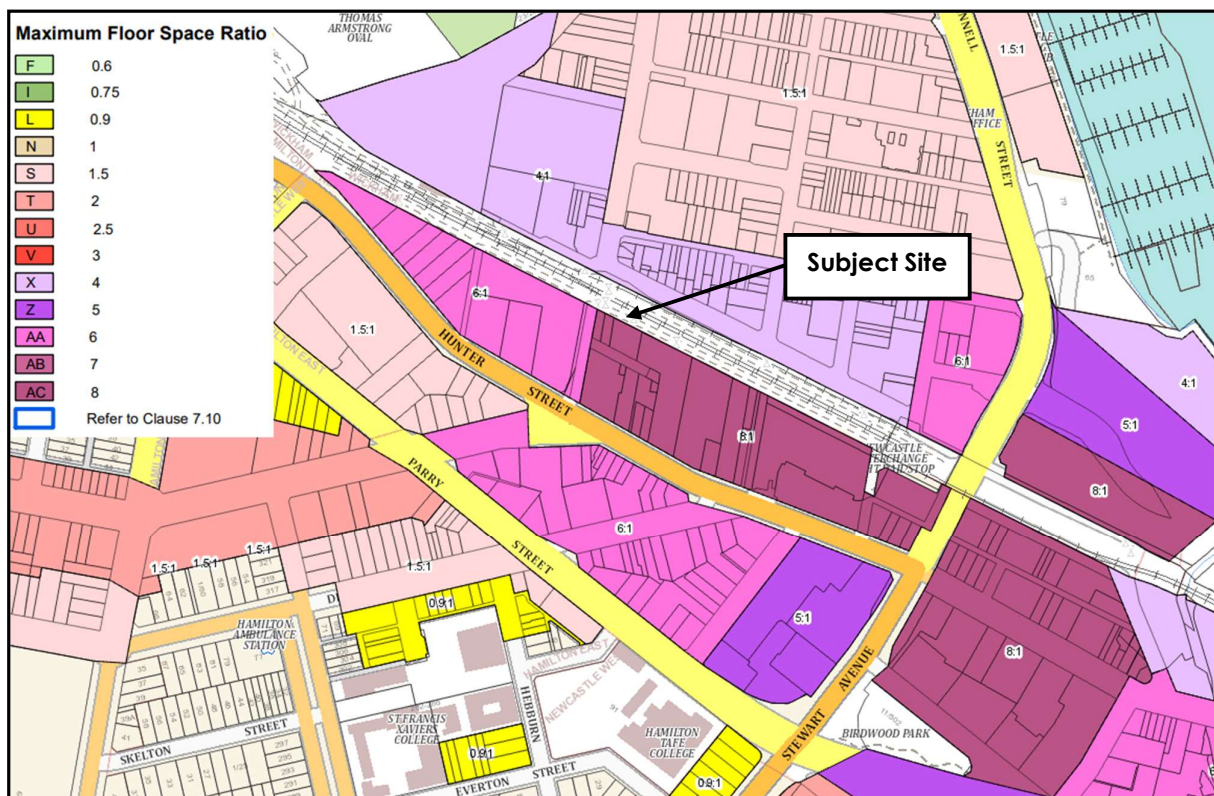


Figure 2: NLEP 2012 Floor Space Ratio Map.

4.2 CONTRAVENTION OF THE DEVELOPMENT STANDARD

The proposed development has a floor space ratio of 3.63:1, which is approximately a 21.10% variation from the development standard of 3:1 under Clause 7.10A. This is based on the gross floor area exceedance being 807.25m² and the site area of 1,275.5m².

4.3 OBJECTIVES OF THE DEVELOPMENT STANDARD

There is no listed clause objective for Clause 7.10A however the Part 7 objectives of the LEP (under which the clause sits) are as follows:

- a) to promote the economic revitalisation of Newcastle City Centre,
- b) to strengthen the regional position of Newcastle City Centre as a multi-functional and innovative centre that encourages employment and economic growth,
- c) to protect and enhance the positive characteristics, vitality, identity, diversity and sustainability of Newcastle City Centre, and the quality of life of its local population,
- d) to promote the employment, residential, recreational and tourism opportunities in Newcastle City Centre,
- e) to facilitate the development of building design excellence appropriate to a regional city,
- f) to encourage responsible management, development and conservation of natural and man-made resources and to ensure that Newcastle City Centre achieves sustainable social, economic and environmental outcomes,
- g) to protect and enhance the environmentally sensitive areas and natural and cultural heritage of Newcastle City Centre for the benefit of present and future generations,
- h) to help create a mixed use place, with activity during the day and throughout the evening, so Newcastle City Centre is safe, attractive, inclusive and efficient for its local population and visitors alike.

Clause 4.4 of the LEP does provide objectives for FSR as follows:

4.4 Floor space ratio

- (1) *The objectives of this clause are as follows:*
 - a) *to provide an appropriate density of development consistent with the established centres hierarchy,*
 - b) *to ensure building density, bulk and scale makes a positive contribution towards the desired built form as identified by the established centres hierarchy.*
- (2) *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#).*
- (2A) *Despite subclause (2), the maximum floor space ratio for a building on land in any zone in this Plan is to be determined as if the area of the access laneway of a battle-axe lot were not part of the area of the lot.*

5.0 Planning Context

This Section establishes the planning context that frames the proposed floor space ratio variation request.

5.1 STRATEGIC PLANNING

5.1.1 Hunter Regional Plan 2036

The NSW Government has developed the *Hunter Regional Plan 2036* as an overarching framework to guide land use planning priorities and infrastructure funding decisions in the Hunter region over the next 20 years.

The Plan sets priorities and provides a direction for regional planning decisions. It focuses on new housing and jobs, and targets growth in strategic centres and renewal corridors close to transport to deliver social and economic benefits.

It sets in place line-of-sight land use planning for the region, regional districts like the Greater Newcastle metropolitan area and each Council area.

The vision of the *Hunter Regional Plan 2036* is for the Hunter to be the leading regional economy in Australia with a vibrant new metropolitan city at its heart. To achieve this vision, the NSW Government has acknowledged the growing importance of Greater Newcastle and set the following regionally focused goals:

- The leading regional economy in Australia;
- A biodiversity-rich natural environment;
- Thriving communities; and
- Greater housing choice and jobs.

Figure 3 below provides the indicative boundaries of the Greater Newcastle area and identifies the location of the subject site within the Newcastle area.

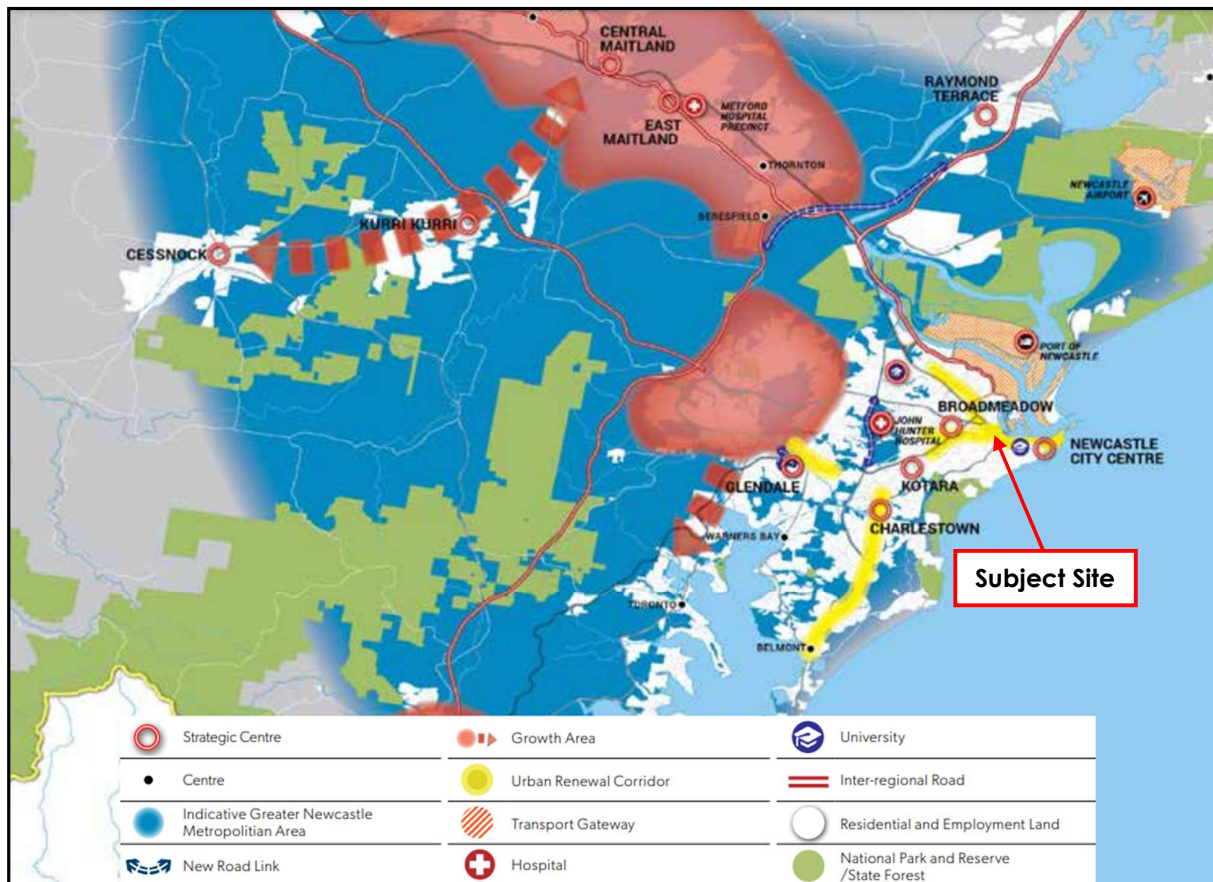


Figure 3: Extract from Hunter Regional Plan 2036.

The proposed development is consistent with the above goals identified to achieve the vision of the Plan. In particular, the proposed development contributes to supporting robust regional communities, by promoting economic growth within Hunter City. The proposed development provides an infill development on established urban land, within a central location within the city centre that comprises existing infrastructure and service networks.

More specifically, the proposed development is consistent with the following directions within the Plan:

- Goal 1, Direction 1 – Grow Greater Newcastle as Australia's next metropolitan city;
- Goal 1, Direction 3 – Revitalise Newcastle City Centre; and
- Goal 4, Direction 23 – Grow centres and renewal corridors.

Goal 1, Direction 1 – Grow Greater Newcastle as Australia's next Metropolitan City

The proposed development is consistent with this direction, noting that the revitalisation of the site in Newcastle West will create employment opportunities. In addition, increased car parking and the provision of a park and ride opportunity within proximity of the Newcastle Interchange will enhance access to jobs. This will expand the regional economy and support jobs close to where people live.

Goal 1, Direction 3 – Revitalise Newcastle City Centre

The proposed development will contribute to the revitalisation of an underutilised site in the Newcastle City Centre.

Goal 4, Direction 23 – Grow Centres and Renewal Corridors

The subject site is located within an urban renewal corridor identified within the Plan. The proposed development will facilitate the urban renewal of the site to support economic growth. The location of the car park to the newly established Newcastle Interchange assists this by providing park and ride opportunities.

It is considered that the proposal inclusive of its additional floor area is consistent with the relevant Directions and Actions within the *Hunter Regional Plan 2036*.

5.1.2 Draft Hunter Regional Plan 2041

The *Draft Hunter Regional Plan 2041* forms part of the five (5) year review of the *Hunter Regional Plan 2036*, and resets priorities for the area to ensure continued progress and prosperity for the Hunter community for the next 20 years. The Plan sets the strategic land use framework for continued economic transformation in one of Australia's most diverse and liveable regions.

Under this Plan, the regional vision for the Hunter is as follows:

"The leading regional economy in Australia, connected to and caring for Country, with a vibrant metropolitan city and sustainable 15-minute neighbourhoods at its heart."

The proposed development is consistent with this vision, noting it will contribute to a vibrant metropolitan city through the redevelopment of an underutilised site in a key location in Newcastle West.

The proposed development is also consistent with objective 3 within the Plan, which aims to create a 15-minute region made up of mixed, multi-modal, inclusive and vibrant local communities. The provision of parking within proximity to the Newcastle Interchange in particular will assist with transport options.

The proposed development is generally consistent with the vision and relevant objectives of the *Draft Hunter Regional Plan 2041*.

5.1.3 Greater Newcastle Metropolitan Plan

The *Greater Newcastle Metropolitan Plan 2036* is a priority action of the above referenced *Hunter Regional Plan 2036*. The vision set out for the greater Newcastle area in the plan is:

Australia's newest and emerging economic and lifestyle city, connected with northern NSW and acknowledged globally as:

- *dynamic and entrepreneurial, with a globally competitive economy and the excitement of the inner city and green suburban communities;*
- *offering great lifestyles minutes from beaches or bushland, the airport or universities, and from the port to the lake; and*
- *a national leader in the new economy, with smarter cities and carbon neutral initiatives, and with collaborative governance that makes it a model to others in creating and adapting to change.*

The Plan sets out strategies and actions that will drive sustainable growth across Cessnock City, Lake Macquarie City, Maitland City, Newcastle City and Port Stephens communities, which together make up Greater Newcastle.

The site is identified in **Figure 4** below as being located within the 'West End Precinct' in the Newcastle City Centre Catalyst Area.

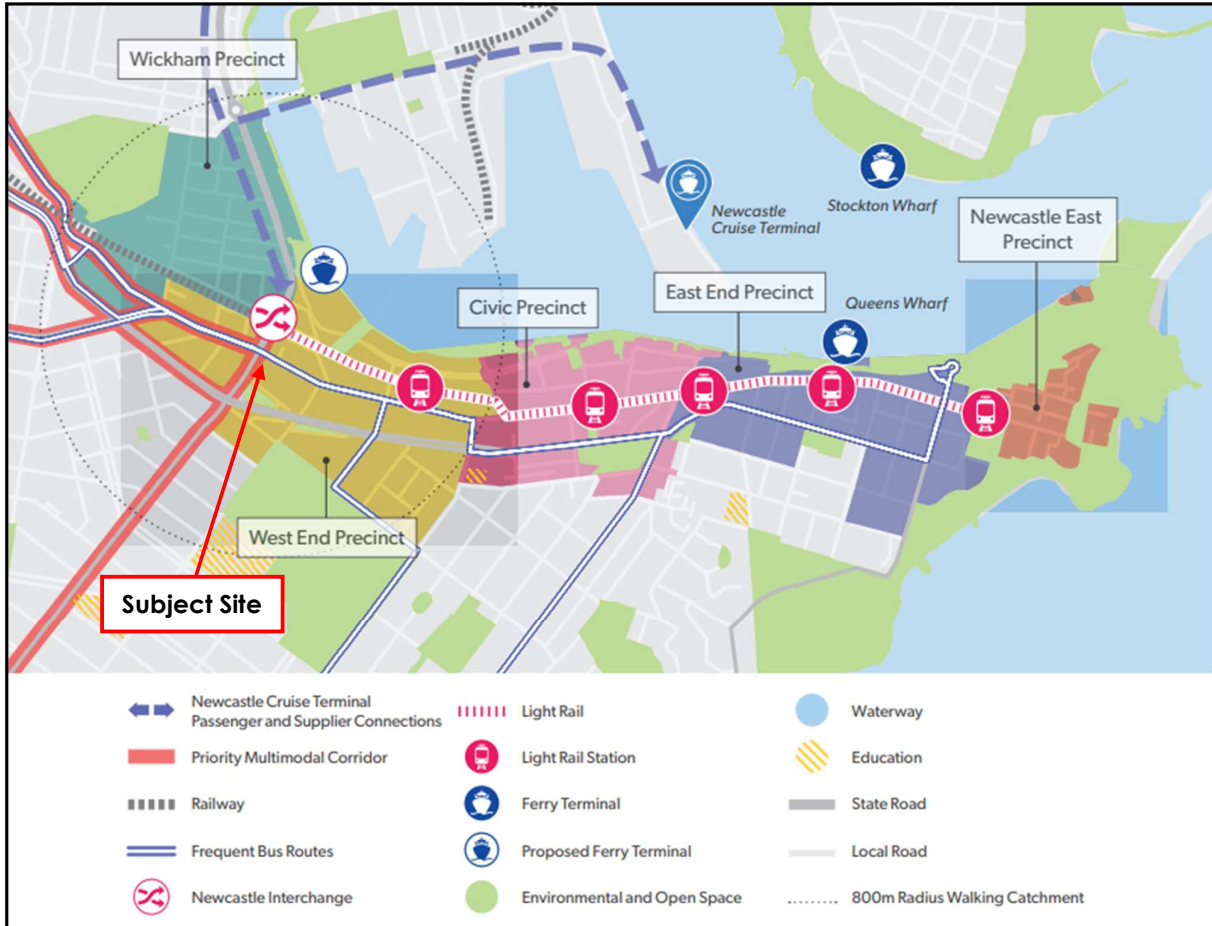


Figure 4: Extract from Greater Newcastle Metropolitan Plan 2036.

The Plan identifies the site as being located within the West End Precinct, where Newcastle City Council is to align local plans to increase commercial floor space surrounding the Newcastle Interchange. The proposed development will increase commercial space and will increase park and ride opportunities within the CBD.

It is considered that the proposed development, inclusive of the exceedance of the FSR development standard, is compatible with the aims and objectives of the *Greater Newcastle Metropolitan Plan 2036*.

5.1.4 Newcastle Local Strategic Planning Statement

The *Local Strategic Planning Statement* has been adopted by CoN as a means of providing direction to future development patterns throughout the City of Newcastle. The comprehensive land use strategy aims to guide the future growth and development of Newcastle.

The Strategy implements the land use directions from the *Newcastle 2030 – Community Strategic Plan* and underpins the NLEP 2012, providing a land use planning platform to move towards a smarter, more liveable and sustainable Newcastle.

The Planning Priorities relevant to the proposed development are outlined below.

Planning Priority 2 – Support emerging transport opportunities and public transport improvements with continued integration of land use and transport planning.

The proposed development will provide opportunity for commuters that have no choice but to drive into the city to then be able to access broader public transport options on a park and ride basis noting that the site is within walking distance of the Newcastle interchange.

Planning Priority 8 – Plan for growth and change in Catalyst Areas, Strategic Centres, Urban Renewal Corridors and Housing Release Areas

Planning Priority 8 seeks to Plan for growth and change in Catalyst Areas, Strategic Centres, Urban Renewal Corridors and Housing Release Areas. The proposed development is consistent with the intent of this planning priority as it will provide a retail premises and carpark in the West End of Newcastle.

The proposal contributes to greater choice in jobs, with good access to the existing public transport networks with the site being within walking distance of the Newcastle Interchange.

Planning Priority 10 – Development responds to the desired local character of our communities

Planning Priority 10 aims to protect communities from new development that is not compatible with the desired local character of the area.

The proposed development is compatible with the area.

5.2 NLEP 2012 – ZONE AND KEY CONTROLS

The site is zoned B3 Commercial Core under NLEP 2012.



Figure 5: NLEP 2012 Zoning Map.

The objectives of the B3 zone are:

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community;
- To encourage appropriate employment opportunities in accessible locations;
- To maximise public transport patronage and encourage walking and cycling;
- To provide for commercial floor space within a mixed use development;
- To strengthen the role of the Newcastle City Centre as the regional business, retail and cultural centre of the Hunter region; and
- To provide for the retention and creation of view corridors.

Clause 7.10A applies to the site and restricts the FSR to 3:1 on the grounds that the site area is less than 1500m². The applicable FSR for the site would otherwise have been 5:1 under Clause 7.10. While Clause 4.4 refers to the FSR map for this site as the relevant FSR, which is 8:1, Clause 7.10 for non-commercial development, such as the proposed carpark, would restrict the FSR back to the 5:1.

Clause 4.3 sets out the permitted height of building for this site at 90m. While Clause 7.10A restricts the FSR for sites under 1500m² there is no similar restriction on building height. This has the effect of creating controls that do not integrate well. A 3:1 FSR would typically have a height control significantly less than 90m.

As previously outlined, there is no clause objective provided as to why sites under 1,500m² are provided with a reduced FSR. The most likely reason would be to encourage amalgamation of sites in an attempt to encourage greater density of development within the CBD, consistent with general urban consolidation objectives.

In looking at the surrounding pattern of development and constraints (see **Figure 6**) there is limited opportunity for the subject site to be amalgamated. The site is surrounded by road and rail on 3 sides. The adjoining land to the east is in separate ownership and is already above 1,500m² (3,288m²) and does not require the subject site for development yield.

It can be seen in **Figure 6** below that the surrounding sites are capable of being developed under the LEP controls to a much larger scale. Land to the south of the subject site is the subject of a recently approved DA (DA 2021/01459) with a height of 99m (including available bonus) and with a FSR of 5.4:1 (including available bonus).



Figure 6: Available FSR on surrounding lands based on site areas.

6.0 Justification of Variation

In accordance with Clause 4.6(3)(a) of NLEP 2012 and having regard to the established law on Clause 4.6, this Section identifies that:

- Compliance with the Development Standard is unreasonable and unnecessary in this instance;
- There are sufficient environmental planning grounds to justify contravening the development standard; and
- The proposed development is in the public interest because it is consistent with the objectives of the Development Standard and of the B3 Commercial Core zone.

6.1 ZONING AND ZONE OBJECTIVES

The zoning of the land and the zone objectives are relevant to Council's assessment of the request to contravene the Development Standard.

The subject site is zoned B3 Commercial Core under the NLEP 2012 (refer **Figure 5**).

The proposed NLEP Floor Space Ratio exceedance is consistent with the objectives of the B3 Commercial Core zone, as outlined in **Table 1** below.

Table 1: NLEP Zone Objectives

NLEP OBJECTIVE	COMMENT
To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community	The proposed additional floor space will provide carparking, a suitable land use that will provide increased access to goods and services within the CBD.
To encourage appropriate employment opportunities in accessible locations	The proposed additional floorspace for carparking will provide improved access to employment opportunities.
To maximise public transport patronage and encourage walking and cycling	The proposed additional floorspace for carparking will provide for increased opportunity for park and ride. The site is approximately 200m from the Newcastle Interchange and the carpark allows for travel into the city by car but then allows people to access the interchange for public transport options.
To provide for commercial floor space within a mixed-use development	The proposed development provides for commercial floorspace within a mixed use development.
To strengthen the role of the Newcastle City Centre as the regional business, retail and cultural centre of the Hunter region	The proposed additional floorspace will contribute to the strengthening of the Newcastle City Centre as the regional business, retail and cultural centre of the Hunter Region by providing increased access to facilities.
To provide for the retention and creation of view corridors	The proposed development will not impact on any existing view corridors or any identified corridor opportunities.

6.2 OBJECTIVES OF THE DEVELOPMENT STANDARD

Clause 7.10A is not provided with a specific objective however the Part in which the Clause sits is provided with objectives which are addressed hereunder. The proposed development remains consistent with these objectives.

(a) to promote the economic revitalisation of Newcastle City Centre

The proposed carpark including with increased FSR will contribute to increased access to the Newcastle CBD assisting to revitalise the centre. In addition, the proposed built form including with the proposed additional floor space will make an improved contribution to the streetscape and to the overall appearance of the city.

(b) to strengthen the regional position of Newcastle City Centre as a multi-functional and innovative centre that encourages employment and economic growth

The proposed carpark including with increased FSR will contribute to providing for a multi-functional and innovative centre, increasing employment opportunities and access to employment and contributing to economic growth.

(c) to protect and enhance the positive characteristics, vitality, identity, diversity and sustainability of Newcastle City Centre, and the quality of life of its local population

The proposed carpark including with increased FSR will enhance the positive characteristics, vitality, identity and diversity of the city, in particular this will be achieved by ensuring a built form that is more consistent with that approved and envisaged for the area. The proposed carpark with the additional FSR will contribute to the sustainability of the centre, providing for park and ride facilities within proximity to sustainable transport options.

(d) to promote the employment, residential, recreational and tourism opportunities in Newcastle City Centre,

The proposed carpark including with increased FSR will improve access to the city and therefore promote employment, residential, recreational and tourism opportunities within the city.

(e) to facilitate the development of building design excellence appropriate to a regional city

The proposed building, in particular with the proposed additional floor space, will contribute to building design excellence appropriate to a regional city by providing a form and density of development that is more consistent with the desired character for the locality and more consistent with the emerging surrounding development density.

(f) to encourage responsible management, development and conservation of natural and man-made resources and to ensure that Newcastle City Centre achieves sustainable social, economic and environmental outcomes,

The proposed development including with additional FSR is not inconsistent with this objective, in particular the additional floor space will provide increased access to more sustainable transport options within proximity of the proposed carpark.

(g) to protect and enhance the environmentally sensitive areas and natural and cultural heritage of Newcastle City Centre for the benefit of present and future generations

The proposed development including with additional floor space does not prevent this objective for the city centre from being achieved.

(h) to help create a mixed-use place, with activity during the day and throughout the evening, so Newcastle City Centre is safe, attractive, inclusive and efficient for its local population and visitors alike.

The proposed development including with additional floor area will assist in providing activity within the city by providing for increased access to the city.

While Clause 4.4 of the LEP is not the relevant standard against which this objection is seeking to vary it is addressed below in any event noting that it provides guidance on the objectives of FSR in general.

(1)(a) to provide an appropriate density of development consistent with the established centres hierarchy

It is intended that the FSR for the CBD be to a higher density, consistent with urban consolidation objectives. The proposed additional FSR sought for the subject site is consistent with this objective.

(1)(b) to ensure building density, bulk and scale makes a positive contribution towards the desired built form as identified by the established centres hierarchy

The proposed additional floor space will ensure density, bulk and scale more consistent with that which will surround the development (see **Figure 6**).

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#).

The proposed development does not exceed the FSR shown on the Map.

(2A) Despite subclause (2), the maximum floor space ratio for a building on land in any zone in this Plan is to be determined as if the area of the access laneway of a battle-axe lot were not part of the area of the lot.

The site does not contain a battle-axe allotment.

6.3 COMPLIANCE WITH DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY

Compliance with the development standard is unreasonable and unnecessary because the objectives of the standard are achieved notwithstanding non-compliance with the standard. Further to the reasons identified in **Section 6.2** of this report, the proposed development will meet the objectives of the standard in the following ways:

- The site is in the Newcastle City Centre which is identified in both regional and local planning strategies as a city centre. The Newcastle City Centre is the major centre under the established centres hierarchy for the Hunter Valley;
- The scale of the development is consistent with surrounding developments in the area; and
- The scale of development is consistent with regional strategies and plans, for higher density buildings around key public transport nodes.

Compliance with the development standard is unreasonable because the underlying objective or purpose of the standard would be defeated or thwarted if compliance was required, for the following reasons:

- The objectives of Clause 4.4 of the NLEP aim to provide an appropriate density of development and ensure building density, bulk and scale makes a positive contribution towards the desired built form as identified by the established centres hierarchy. If the proposed development is restricted to meet the FSR of 3:1 the proposed development will not be as compatible with the scale of development otherwise permitted on adjoining land.

Compliance with the development standard is unreasonable and unnecessary having regard to the following:

- Should the objective of Clause 7.10A be to force consolidation of lots this objective cannot be reasonably achieved in this instance given the pattern of surrounding development and constraints. Given that it cannot be achieved it is unreasonable and unnecessary to restrict development on the site when the result will be a built form less compatible with that which will surround.

6.4 JUSTIFICATION ON ENVIRONMENTAL PLANNING GROUNDS

As outlined in **Section 3.0**, there needs to be sufficient environmental planning grounds to justify contravening the development standard (Clause 4.6(3)(b)).

In considering the relevant environmental planning grounds, it is necessary to consider the objects of the Environmental Planning and Assessment Act 1979 (EPA Act) and the matters for consideration outlined in section 4.15 of the EPA Act.

6.4.1 Objects of the EPA Act

The proposed variation in floor space ratio will promote the objects of the Act, in particular the following:

Object (a)

"To promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources"

The proposed development will promote the social and economic welfare of the community, through the provision of floor space *at appropriate density* in a strategic location close to employment, shops, services and public transport.

Object (b)

"To facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment"

The proposed variation is consistent with ESD principals by promoting urban consolidation and providing increased access to parking within proximity to the Newcastle Interchange, providing for a shift from car to public transport within the CBD.

Object (c)

"To provide the orderly and economic use and development of land"

The proposed variation to the development standard will allow for the orderly and economic use of the site with the redevelopment of a currently under developed site.

Object (g)

"To promote good design and amenity of the built form"

The proposed development has been architecturally designed to respond to the site's unique infill characteristics. The floor space ratio variation will promote a better built form outcome for the site, consistent with the available density of surrounding sites.

6.4.2 Section 4.15 EP&A Act

Under section 4.15 of the EPA Act, a consent authority is required to take into account the following matters (being those matters that are of relevance to the variation sought in this instance):

- The provisions of any environmental planning instrument and any proposed instrument that is or has been the subject of public consultation under this Act;

The zone and relevant clause objectives from Newcastle Local Environmental Plan have been considered above.

- The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality; and

The proposed additional FSR does not generate any significant impacts to surrounding properties, particularly noting the fact that the development is significantly less than that permitted by the height of building map for the site. The proposed additional floor space will be permit additional parking, improve access to employment, retail and services consistent with objectives for the locality. The carparking is within walking distance of the Newcastle Interchange proving the option to transfer from car to public transport from this CBD location.

- The public interest.

In accordance with Clause 4.6(4)(a)(ii) development consent must not be granted for development that contravenes a development standard unless the proposed development will be in the public interest because it is consistent with the objectives of the Development Standard and the objectives for development in the B3 zone.

As outlined in our report above, the proposed development is consistent with the objectives of the Development Standard.

As outlined in our report above, the proposed development is consistent with the objectives for development within the B3 zone.

7.0 Concurrence

In accordance with Clause 4.6(4)(b) of NLEP 2012 development consent must not be granted for development that contravenes a development standard unless the concurrence of the Secretary has been obtained.

Given that the proposed variation exceeds the development standard by more than 10%, only the elected Council (and not a delegate of Council) can assume the concurrence of the Secretary in accordance with the written notice dated 21 February 2018 attached to Planning Circular PS20-002 Variations to Development Standard.

8.0 Conclusion

The applicant considers that the consent authority can be satisfied that:

- (a) This request adequately addresses the matters required to be demonstrated by Clause 4.6(3), being:
 - (i) Compliance with the development standard is unreasonable and unnecessary in the circumstances; and
 - (ii) There are sufficient environmental planning grounds to justify contravening the development standard.
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the development standard and the relevant zone objectives.

Appendix A

ARCHITECTURAL PLANS (CKDS ARCHITECTURE)