

**Item 1**
**24 Baird Avenue Ryde - LDA2022/0355**
**Proposal:** Demolition of existing structures and construction of a dual occupancy (attached)

**Report prepared by:** Senior Town Planner

**Report approved by:** Senior Coordinator - Development Assessment  
 Executive Manager - City Development

**City of Ryde  
Local Planning Panel Report**

|                                   |   |
|-----------------------------------|---|
| <b>DA Number</b>                  | LDA2022/0355  |
| <b>Site Address &amp; Ward</b>    | 24 Baird Avenue, Ryde<br>Lot 12 DP 25962 - East Ward  |
| <b>Zoning</b>                     | R2 Low Density Residential  |
| <b>Proposal (as amended)</b>      | Demolition of existing structures and construction of a dual occupancy (attached)   |
| <b>Property Owner</b>             | Xiaoxing Pan & Jie Deng   |
| <b>Applicant</b>                  | Premise Planning  |
| <b>Report Author</b>              | Shannon Butler - Senior Town Planner  |
| <b>Lodgement Date</b>             | 9 November 2022   |
| <b>Cost of Works</b>              | \$955,900.00  |
| <b>No. of Submissions</b>         | No submissions received   |
| <b>Reason for Referral to LPP</b> | <b>Departure from Development Standards –</b><br><i>Development that contravenes a development standard by more than 10% (minimum frontage width).</i>  |
| <b>Recommendation</b>             | <b>Approval</b>   |
| <b>Attachments</b>                | Attachment 1: Recommended Conditions of Consent<br>Attachment 2: DCP Compliance Table<br>Attachment 3: Architectural and Landscaping Plans<br>Attachment 4: Applicant's Cl. 46 Request (frontage width) |

**1.0 EXECUTIVE SUMMARY**

This report considers a development application under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) on land at 24 Baird Avenue, Ryde, which is legally described as Lot 12 DP 25962. The subject development application (LDA2022/0355) was lodged on 9 November 2022 and seeks consent for the demolition of existing structures and construction of a dual occupancy (attached).

In accordance with the *Environmental Planning and Assessment Act 1979*, Section 9.1 – Directions by the Minister, this application is reported to the Ryde Local Planning Panel for determination as it is development that contravenes a development standard by more than 10%. Clause 4.1B of the Ryde Local Environmental Plan 2014 establishes the lot size requirements for dual occupancies (attached) on land zoned R2 Low Density Residential and states that the minimum primary road frontage for a lot must be equal to or greater than 15 metres. The subject site has a primary road frontage of 10.66 metres, resulting in a 28.93% departure from the development standard. The application is accompanied by a Clause 4.6 request prepared by the applicant.

The proposal is non-compliant with the requirements of Ryde Development Control Plan 2014 (DCP) relating to topography and excavation (in respect of retaining wall height and excavation outside the building footprint), front setback (relating to the wall above the garages not aligning with the front of the garages) and side setbacks (relating to a minor encroachment on the eastern side of the building). The non-compliances are addressed in the body of the report and are considered to be of a minor nature and are supported on merit.

The Development Application was notified between 10 November and 29 November 2022 in accordance with the Ryde Community Participation Plan and no submissions were received in response.

Having regard to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, it is recommended that Development Application No. LDA2021/0379 be granted consent.

## 2.0 THE SITE & LOCALITY

The subject site is legally described as Lot 12 DP25962 and is commonly known as 24 Baird Avenue, Ryde. The site is an irregular shaped allotment with an area of 916.9m<sup>2</sup>. The front boundary is an arc which is 10.66 metres in length and the site has a western side boundary of 31.662 metres, eastern side boundary of 58.433 metres and southern rear boundary of 42.664 metres. The site is located on the cul-de-sac head of Baird Avenue. The site has a fall of approximately four metres from the south-western corner to the north-eastern corner.

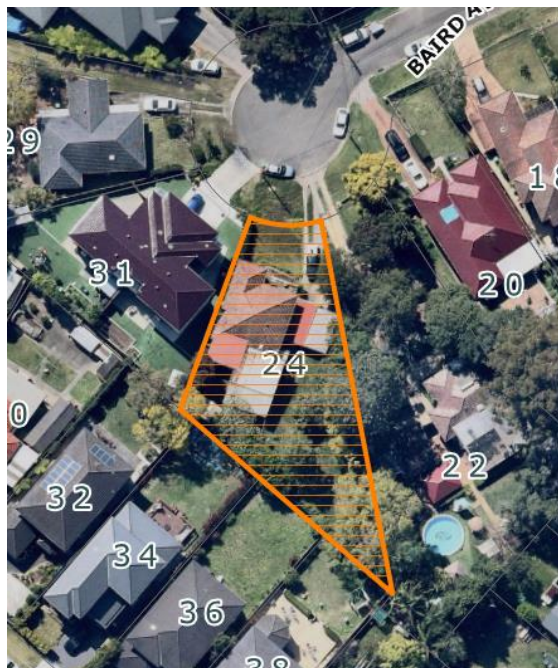


Figure 1 Aerial photograph of site and locality

The site currently contains a single storey dwelling with an attached awning and carport (**Figure 2**). The rear of the site contains a number of small trees and shrubs.



**Figure 2** - Existing dwelling on subject site

The locality is characterised by detached dwelling houses and dual occupancy developments of varying architectural styles and ages.

The site is adjoined to the north-west by No. 31 Baird Avenue which contains a two storey dual occupancy (attached) development (**Figure 3**) with a combined driveway off Baird Avenue.



**Figure 3** - Neighbouring dual occupancy at 31 Baird Avenue. This site has a width of 10.67 (arc) at the front boundary

The site is adjoined to the east by No. 22 Baird Avenue which contains a two storey dwelling (**Figure 4**) with a generous landscaped front setback. The property also contains a number of ancillary structures.

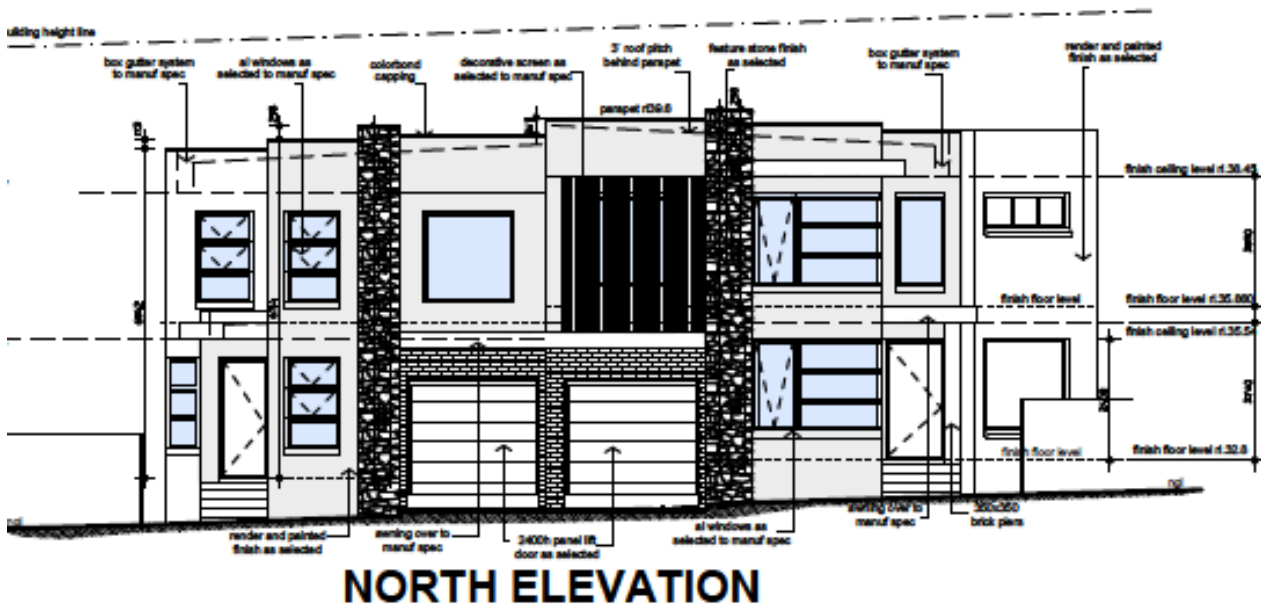


**Figure 4** – Neighbouring property at 22 Baird Avenue as viewed from the street

The rear boundary is shared with Nos. 32 to 38 Irvine Crescent which all contain newer style two storey detached dwellings.

### 3.0 THE PROPOSAL

The proposal seeks consent for the demolition of existing structures and construction of a dual occupancy (attached). The application does not seek consent for the subdivision of the dual occupancy development. The proposal as it presents to Baird Avenue is shown in **Figure 5**.



**Figure 5** - North elevation depicting presentation to Baird Avenue

The proposal comprises the following works:

- Demolition of all existing structures on the site. No tree removal is proposed.
- Construction of a two storey dual occupancy (attached) comprising:
- Dwelling 1 adjacent to the eastern side boundary:
  - Single garage RL32.114.
  - Ground floor at RL32.457 comprising a living/dining room, kitchen, lounge room, powder room, laundry, study and entry foyer.
  - First floor at RL34.514 comprising four bedrooms all with walk-in-robies, bathroom, ensuite and sitting room adjacent to stairs.
- Dwelling 2 adjacent to the north-western side boundary:
  - Single garage RL32.114.
  - Ground floor RL32.80 comprising a living/dining room, kitchen, lounge room, powder room, laundry, study and entry foyer.
  - First floor at RL35.20 comprising four bedrooms all with walk-in-robies, bathroom, ensuite and sitting room adjacent to stairs.
  - External works including ground floor alfresco at RL32.714.
- The proposed building has a flat roof design with rendered and painted walls and feature stone elements on the front façade.
- Construction of a single combined driveway to the centre of the site off Baird Avenue.
- Landscaping works including the planting of two canopy trees within the front setback and two canopy trees to the rear of the proposed building.

#### 4.0 HISTORY

|                                      |  |
|--------------------------------------|--|
| 9 November 2022                      | Subject application lodged with Council.   |
| 10 November 2022 to 29 November 2022 | Application notified in accordance with Ryde Community Participation Plan. As a result, no submissions were received.  |
| 24 November 2022                     | Letter sent to the applicant requesting additional information and amended plans to address the following issues: <ul style="list-style-type: none"> <li>• Clarification was sought in relation to the proposed extent of cut and fill proposed adjacent to side boundaries and further details on the proposed retaining walls.</li> <li>• It was requested that the proposed bin storage locations be shown on the plans.</li> <li>• A stormwater management plan was requested in accordance with the Ryde Development Control Plan – Part 8.2 – Stormwater and Floodplain Management.</li> </ul> |
| 14 December 2022                     | A stormwater management plan submitted in response to Council's letter.  |
| 6 January 2023                       | An email was sent to the applicant via the NSW Planning Portal requesting amended plans to address points 1&2 of Council's letter dated 24 November 2022. Further, the email requested amendments to demonstrate compliance with the maximum permitted floor space ratio of 0.5:1 pursuant to Clause 4.3 of the Ryde Local Environmental Plan 2014.  |
| 30 January 2023                      | A further request for additional information letter was sent to the applicant requesting an amended stormwater management plan, driveway profile and raising concern in relation to impact of the alfresco area on proposed Lot A on overland flow.  |

|              |   |
|--------------|---|
| 9 June 2023  | Amended plans and additional information submitted in response to Council's letters and email. The amended plans did not result in any increased impacts on adjoining properties that would necessitate notification. |
| 26 June 2023 | Amended stormwater management plans and driveway profiles submitted by the applicant.   |

## 5.0 PLANNING ASSESSMENT

### 5.1 Environmental Planning and Assessment Act

#### Objects of EP&A Act

Section 1.3 of the EP & A Act contains the following relevant objects:

#### **1.3 Objects of Act (cf previous s 5)**

- (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,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (g) to promote good design and amenity of the built environment,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The proposal achieves the objectives. The proposed development provides for an appropriate built form which is responsive to the site constraints and has been designed in response to the site's topography. The proposal is consistent with relevant Objects of the Act.

### 5.2 State Environmental Planning Instruments

| Instrument  | Proposal  | Compliance |
|---|---|------------|
| <b>State Environmental Planning Policy (Resilience and Hazards) 2021</b>                              |   |            |
| <b>Chapter 4 Remediation of Land</b>  |   |            |
| The provisions of this SEPP requires Council to consider the potential for a site to be contaminated. | <p>Pursuant to Clause 4.6(1) consideration has to be given as to whether the land is contaminated.</p> <p>The subject site has been historically used for residential purposes. As such, it is unlikely to contain any contamination and further investigation is not warranted in this case.</p> | Yes        |

| <b>State Environmental Planning Policy BASIX</b>   |   |     |
|--|---|-----|
| The certificate demonstrates compliance with the provisions of the SEPP and is consistent with commitments identified in the application documentation.  | A BASIX Certificate (Certificate No. 1184933M_03 dated 30 June 2022) has been submitted with the application. A standard condition has been included in the Draft Consent requiring compliance with this BASIX certificate. | Yes |
| <b>State Environmental Planning Policy (Biodiversity and Conservation) 2021</b>  |   |     |
| <b>Chapter 2 Vegetation in Non-Rural Areas</b>   |   |     |
| The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation.  | The development does not involve the removal of any trees.  | Yes |
| <b>Chapter 6 Sydney Harbour Catchment</b>  |   |     |
| This Plan applies to the whole of the Ryde Local Government Area. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole. | Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal.  | Yes |

### 5.3 Ryde Local Environmental Plan (RLEP 2014)

The subject site is zoned R2 Low Density Residential under the provisions of Ryde Local Environmental Plan 2014. The proposal is defined as follows:

***Dual occupancy (attached)*** means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.

Development for the purpose of a dual occupancy (attached) is permissible with consent within the R2 Low Density Residential zone. Demolition of the existing structures is permitted by virtue of Clause 2.7 of the RLEP 2014.

The R2 Low Density Residential zone is based on the following objectives:

- *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 provide for a variety of housing types.*

The proposal assists in providing for the housing needs of the community within a low density residential environment. The proposal also assists in providing for diversity in housing types.

The clauses applicable to the proposed development are identified and discussed in the following table.

| <b>Ryde LEP 2014</b>  | <b>Proposal</b>  | <b>Compliance</b>   |
|---|--|---|
| <b>4.1B(2) Minimum lot sizes for dual occupancies</b>   |  |   |
| (a) Minimum 580 m <sup>2</sup>  | 916.9m <sup>2</sup>  | Yes   |
| (b) the road frontage of the lot is equal to or greater than 15 metres.   | 10.66m   | No, a Clause 4.6 request has been submitted. See discussion later in this report. |
| <b>4.3(2) Height</b>  |  |   |
| 9.5m  | Roof RL (highest): RL39.6<br>EGL (lowest) under: RL31.3<br>Height of Building = 8.3m   | Yes   |
| <b>4.4(2) Floor Space Ratio</b>   |  |   |
| 0.5:1 (458.45m <sup>2</sup> )   | Ground Floor: 207.94m <sup>2</sup><br>First Floor: 202.06m <sup>2</sup><br>Total GFA: 410m <sup>2</sup><br>FSR = 0.44:1<br><br>Garage floorspace of 36m <sup>2</sup> has been excluded from the ground floor calculation.                        | Yes   |
| <b>4.6 Exceptions to development standards</b>  |  |   |
| (1) The objectives of this clause are as follows—<br><br>(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,<br><br>(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances. | Variation of 28.93% to Clause 4.1B(2)(b). The applicant has submitted a Clause 4.6 request which is discussed in detail following this table.  | Yes   |
| <b>6.2 Earthworks</b>   |  |   |
| (1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.                               | The redevelopment of the site, given its sloping nature involves appropriate levels of cut and fill which does not adversely impact the amenity of adjoining properties and is considered to be consistent with the provisions of Clause 6.2(3). | Yes   |



| Clause 6.4 Stormwater management   |  |            |
|--|--|------------|
| <p>(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.</p> | <p>The proposal is consistent with the provisions of Clause 6.4(3) in that the proposal has been designed to maximise the use of permeable surfaces allowing for water filtration and avoids adverse impacts of stormwater runoff on adjoining properties and receiving waters.</p> <p>The proposal has been considered acceptable by Council's Senior Development Engineer.</p> | <p>Yes</p> |

Clause 4.6 Variation to Development Standards

Clause 4.6 of the RLEP 2014 provides flexibility in the application of planning controls by allowing Council to approve a development application that does not comply with a development standard where it can be demonstrated that flexibility in the particular circumstances achieve a better outcome for and from development.

The development contravenes Clause 4.1B(2)(b) of RLEP 2014. Clause 4.1B(2) relates to minimum lot sizes for dual occupancies and prescribes a minimum primary road frontage of equal to or greater than 15 metres for development on a lot in the R2 Low Density Residential zone for the purpose of dual occupancy (attached). The subject site has a road frontage width of 10.66m<sup>2</sup> at the front boundary which results in a variation of 28.93% (**Figure 6**). The site is located on the cul-de-sac head of Baird Avenue and the front boundary is an arc which is 10.66 metres in length. It is noted that the site has a width of 15 metres at the proposed front building line.



**Figure 6** – Site Plan depicting primary road frontage of 10.66m in red arc

Several key Land and Environment Court (NSW LEC) planning principles and judgements have refined the manner in which variations to development standards are required to be approached. The key findings and directions of each of these matters are outlined in the following discussion. The decision of Justice Lloyd in *Winten v North Sydney Council* established the basis on which the former Department of Planning and Infrastructure's Guidelines for varying development standards was formulated. These principles for assessment and determination of applications to vary development standards are relevant and include:

- *Is the planning control in question a development standard?*
- *What is the underlying object or purpose of the standard?*
- *Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act?*
- *Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?*
- *Is a development which complies with the development standard unreasonable or unnecessary in the circumstances of the case?; and*
- *Is the objection well founded?*

The decision of Justice Preston in *Wehbe V Pittwater [2007] NSW LEC 827* expanded on the above and established the five part test to determine whether compliance with a development standard is unreasonable or unnecessary considering the following questions:

- *Would the proposal, despite numerical non-compliance be consistent with the relevant environmental or planning objectives?*
- *Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard unnecessary?*
- *Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable?*
- *Has Council by its own actions, abandoned or destroyed the development standard, by granting consent that depart from the standard, making compliance with the development standard by others both unnecessary and unreasonable?*
- *Is the "zoning of particular land" unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land? Consequently, compliance with that development standard is unnecessary and unreasonable.*

In the matter of *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC*, it was found that an application under clause 4.6 to vary a development standard must go beyond the five (5) part test of *Wehbe V Pittwater [2007] NSW LEC 827* and demonstrate the following:

- *Compliance with the particular requirements of Clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of the LEP; and*
- *That there are sufficient environment planning grounds, particular to the circumstances of the proposed development (as opposed to general planning grounds that may apply to any similar development occurring on the site or within its vicinity);*
- *That maintenance of the development standard is unreasonable and unnecessary on the basis of planning merit that goes beyond the consideration of consistency with the objectives of the development standard and/or the land use zone in which the site occurs.*

The proposal has been supported by a Clause 4.6 written request prepared by Premise Planning to vary the development standard. An assessment of the relevant provisions of Clause 4.6 is as follows:

- Clause 4.6(3)(a) - Is compliance unreasonable or unnecessary in the circumstances of the case?
- Clause 4.6(3)(b) - Are there sufficient environmental planning grounds to justify the proposed contravention of the development standard?

The written request provides the reasons why compliance with the standard is unreasonable and/or unnecessary and that there are sufficient environmental planning grounds, with selected excerpts of that request shown below:

Unreasonable and unnecessary

*Strict compliance with Clause 4.1B is considered unnecessary given that the objectives of the site are achieved notwithstanding the non-compliance, and the underlying objective of Clause 4.1B would be defeated in the event a compliant scheme was proposed.*

- *The proposed dual occupancy facilitates the delivery of additional housing within close proximity to essential services and facilities to meet the needs of future occupants.*
- *The consistency with the adjacent and surrounding land use (low density residential) means there is a low likelihood of conflict occurring.*
- *The width of the site at the proposed front building line is 15 metres which complies with the frontage width control.*
- *The proposal is capable of meeting the requirements of Council's Development Control Plan as outlined in the SEE to which this Clause 4.6 variation request is attached.*

*Based on the above discussion, it is considered compliance with Clause 4.1B is unreasonable and unnecessary in this instance and can be supported without setting an undesirable precedence.*

Assessment Officer's Comments:

There is only one objective of Clause 4.1B of RLEP 2014 and that is "to achieve planned residential density in certain zones". The proposal is consistent with this objective as it is providing dual occupancy dwellings which are permitted with consent within the R2 Low Density Residential zone and are consistent with the objectives of the zone.

Whilst the minimum required frontage width of 15 metres is not complied with at the front boundary, the 15 metre width is achieved at the proposed front building line, given that the site width increases from front to rear (**Figure 7**).

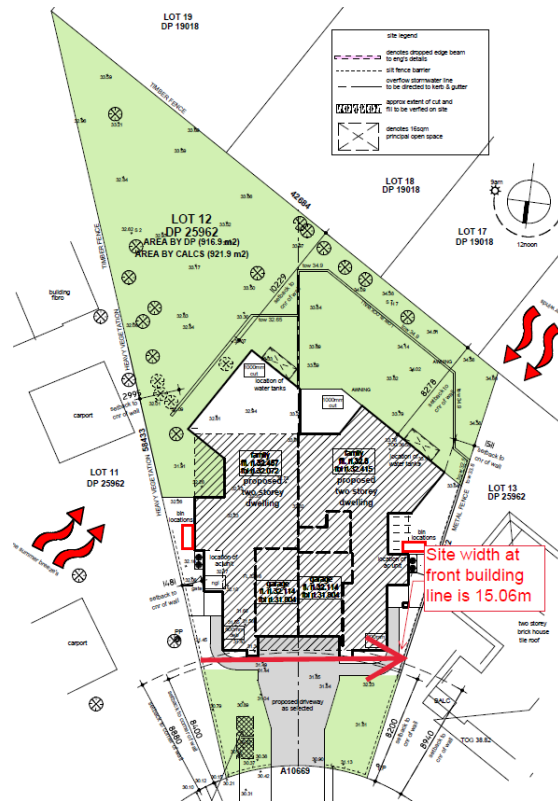


Figure 7 – Site plan depicting site width at front building line

Further, the site has an area of 916.9m<sup>2</sup> which can accommodate a dual occupancy development complying with most of Ryde Development Control Plan 2014 requirements.

Therefore, it is considered that compliance with the control would not result in a superior planning outcome and strict compliance is regarded as being unreasonable and unnecessary in the circumstances of the case.

### Environmental planning grounds

The following environmental planning grounds are put forward in support of the variation:

- The proposal is compliant with the underlying objectives and purposes of the principal development standard (being Clause 4.1B).
- The proposal is consistent with the objectives and purpose of the R2 Low Density Residential zone.
- The proposed non-compliance would result in a development which is permitted with consent.
- The proposal is consistent with the desired character of the site and surrounding locality, as the proposal provides a built form with an increased setback and is generally consistent with the low density residential character of the locality.
- The public domain interface is of a neutral benefit. The built form is consistent with the existing recently constructed dual occupancy adjoining at No. 31 Baird Avenue and utilises a range of colours, finishes, materials and landscaping to minimise the bulk and scale of the development.
- The proposal results in a neutral planning outcome in terms of residential amenity as there is no increased detrimental impact on adjoining residents in terms of overshadowing, views, visual and acoustic privacy when compared with a compliant lot size and setbacks to all boundaries.

**Assessment Officer's Comments:**

As discussed, the proposal is considered satisfactory with regard to the objectives of Clause 4.1B of RLEP 2014 and is consistent with the objectives of the R2 Low Density Residential zone. Whilst the site width at the front boundary does not comply with the control, the remainder of the site dimensions and characteristics are suitable for the proposal. The site configuration allows for generous private open space areas to the rear of both units which comprise deep soil zones.

It is noted that there is a dual occupancy development located on the adjoining site to the west (No. 31 Baird Avenue) which is similarly configured to the proposed development and this site has a width of 10.67 metres (arc) at the front boundary (**Figure 3** earlier in report). This development was approved pursuant to Ryde Local Environmental Plan 2010 which did not contain a development standard relating to site width for dual occupancy development, as such, a Clause 4.6 variation request was not required for the assessment of that Development Application (LDA2014/0009). The proposed development shares a number of common features and qualities with the adjoining dual occupancy and the non-compliance will not impact on the public domain.

The proposal is considered to result in a neutral planning outcome in terms of residential amenity as there is no increased detrimental impact on adjoining residents in terms of overshadowing, amenity and visual and acoustic privacy when compared with a compliant lot width at the front boundary.

It is considered that the applicant has demonstrated that there are sufficient environmental planning grounds for the departure to the standard in this particular case.

**Is the proposal in the public interest?**

Pursuant to clause 4.6(4)(ii), a development will be in the public's interest if it is consistent with the objectives of the development standard and also the zone objectives in which the particular development is carried out. A response on the proposal's consistency with the R2 zone objectives is as follows:

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

The proposal will assist in providing for the housing needs of the community by providing two separate occupancies on the site. The proposed built form maintains the low density residential character by proposing a single driveway and front façade which appropriately addresses the street.

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

This objective is not relevant to the proposed development; however, the proposal is not antipathetic to it, and is therefore consistent.

- *To provide for a variety of housing types.*

Multi-dwelling housing is no longer permitted in the R2 Low Density Residential zone, meaning that dual occupancies now provide the primary smaller housing model within low density residential settings. The proposed dwellings provide variety and affordability away

from larger free-standing homes. The removal of multi-dwelling housing from the R2 zone, means that appropriately located dual occupancies are the primary vehicle that provide the “variety” of housing types, essentially to fulfilling this zone objective. The proposal is considered to support this objective.

Clause 4.1A does not include any objectives, however, Clause 4.1B is based on the following:

*(1) The objective of this clause is to achieve planned residential density in certain zones.*

The proposal does not thwart this objective given that it is a departure that has a negligible impact and is insignificant in nature given the increased site width at the front building line would comply with the 15 metre requirement. The proposal generally complies with the majority of the controls outlined in Ryde DCP 2014 – Part 3.3 – Dwelling Houses and Dual Occupancy and has been designed to integrate with the character of the surrounding area.

### Summary

The applicant has adequately addressed why compliance with the development standards is unreasonable or unnecessary under Clause 4.6(3)(a) of RLEP 2014. The applicant has also demonstrated sufficient environmental planning ground to justify contravention of the development standard, as required by Clause 4.6(3)(b).

It has been demonstrated by this assessment that the proposed development is consistent with the objectives of the standard and R2 Low Density Residential zone. For these reasons, the development is in the public interest.

The concurrence of the Planning Secretary is not required – refer clause 4.6(4)(b) of the RLEP 2014.

Accordingly, development consent may be granted to the proposal, despite the contravention of the Clause 4.1B(2)(b) development standard.

## **5.4 Draft Environmental Planning Instruments**

There are no relevant draft Environmental Planning Instruments for consideration.

## **5.5 Development Control Plans**

### **Ryde Development Control Plan (RDCP) 2014**

The development is subject to the provisions of Part 3.3 – Dwelling Houses and Dual Occupancy under the RDCP 2014. A full assessment of the proposal under DCP 2014 is illustrated in the compliance table at **Attachment 2**.

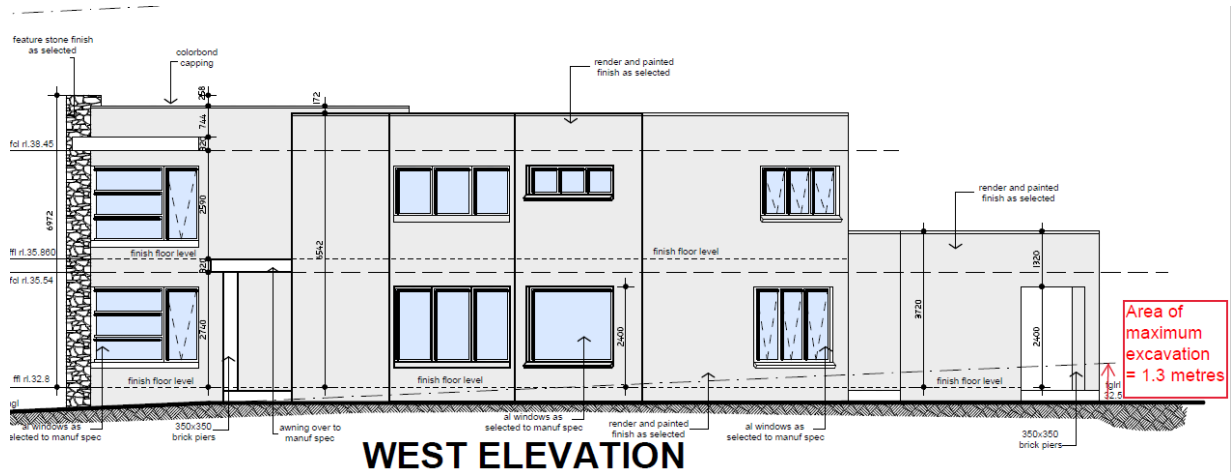
The provisions of DCP 2014 have been considered in this assessment and it is concluded that the proposal is consistent with the aims and objectives of RDCP 2014. Where strict compliance has not been achieved, in accordance with Section 4.15 (3A)(b) flexibility has been sought to allow a reasonable alternative solution that achieves the objects the standard. These matters are discussed below:

*Section 2.6.2 – Topography and Excavation (retaining wall height and excavation outside building footprint)*

Control 2.6.2 (c)(i) states that the maximum height of retaining walls is to be no greater than 900mm. Control 2.6.2 (c)(ii) states that the depth of excavation outside the building footprint shall not exceed 900mm. The proposal includes a maximum retaining wall height of 1300mm in the south-western (rear) corner of the building footprint and a corresponding maximum extent of excavation of 1300mm (**Figure 8**). The non-compliance is considered satisfactory for the following reasons:

- The western side of the site has a fall of 3.42 metres from rear to front and to provide a level building platform, 1300mm of cut is proposed in the south-western corner of the building. It is considered that the proposed extent of excavation in this corner of the footprint would be preferable to fill to the front of the building which would result in a more dominant presentation of the building to the street.
- The 1.3m high retaining wall is proposed for the purpose of cut as opposed to fill and will result in the building having a recessed appearance from the adjoining property to the west.
- The proposed excavation will result in a level path of travel from the front of the site to the rear for future occupants.
- The excavation will result in the living/dining room window on the western elevation being located wholly below the fence line which will result in a suitable visual privacy outcome.

Therefore, the proposed retaining wall and extent of excavation is considered satisfactory on merit.



**Figure 8** – Western Elevation depicting where maximum extent of excavation is located

*Section 2.9.1 – Front Setbacks (outside face of wall above garage)*

Control 2.9.1 (f) states that the outside face of a wall built above a garage which faces the street is to align with the outside face of the garage wall below. The wall above the garages is proposed to be set 1 metre forward of the front garage openings (**Figure 9**). This is a satisfactory outcome as it will result in the garages having a recessed appearance in the front façade thereby reducing their visual dominance. This is particularly beneficial for the subject site given its configuration and the fact that the site is narrow towards the front and becomes wider from front to rear.

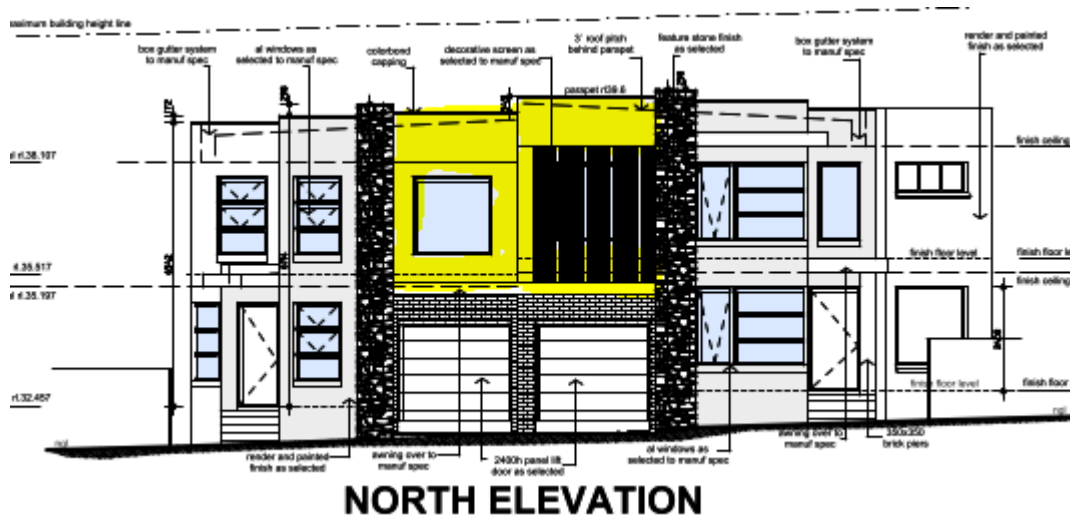


Figure 9 – Front Elevation depicting portion of wall that is set forward of garage openings (in yellow highlight)

Section 2.9.2 – Side Setback

Control 2.9.2 (b) requires a minimum side setback of 1.5 metres for two storey buildings. The western side setback achieves compliance with the control, however, on the eastern side of the dwelling there is a point encroachment in which the side setback reduces to 1.48 metres. It is noted that the vast majority of the eastern elevation complies with the control and the non-compliance is limited to a length of only 700mm of the elevation and applies only to the ground floor. The first floor of the proposed building entirely achieves compliance with the control.

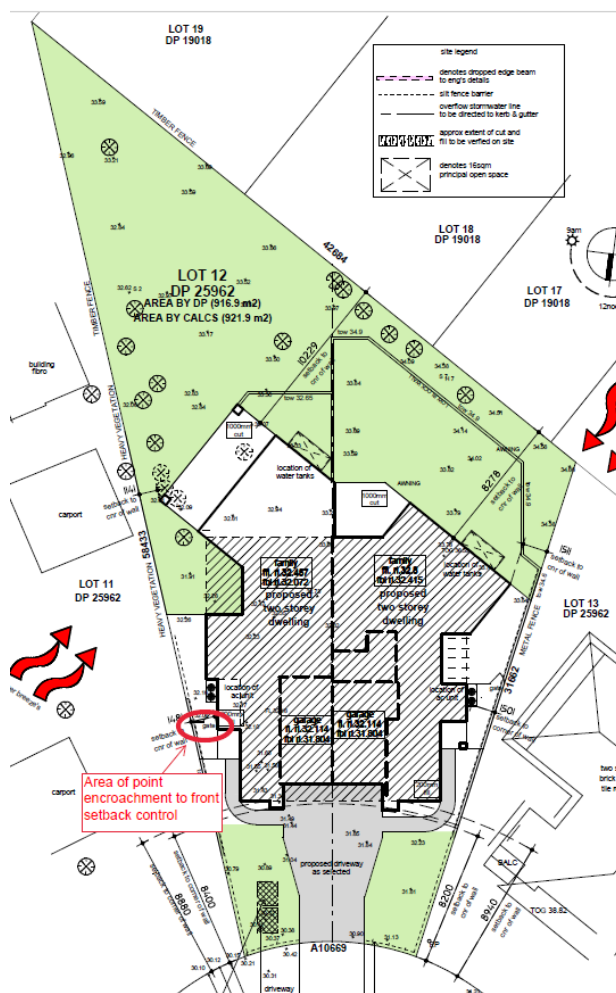


Figure 10 – Site plan depicting area of side setback non-compliance (red circle)



## 6.0 Planning Agreements OR Draft Planning Agreements

There are no planning agreements or draft planning agreements for this development.

## 7.0 City of Ryde Section 7.11 Development Contributions Plan 2020

Council's current Section 7.11 Development Contributions Plan 2020 effective 1 July 2020 requires a contribution for the provision of various additional services required as a result of increased development density. The contribution is based on the number of additional dwellings there are in the development proposal. The contribution that are payable with respect to the increase housing density on the subject site (being for residential development outside the Macquarie Park Area) are as follows:

| <b>A – Contribution Type</b>          | <b>B – Contribution Amount</b> |
|---------------------------------------|--------------------------------|
| Community & Cultural Facilities       | \$6,061.80                     |
| Open Space & Recreation Facilities    | \$10,438.15                    |
| Roads & Traffic Management Facilities | \$3,204.48                     |
| Plan Administration                   | \$295.57                       |
| <b>The total contribution is</b>      | <b>\$20,000</b>                |

Condition on the payment of Section 7.11 Contribution of \$20,000 has been included in the draft notice of determination attached to this report. **Condition 23.**

## 8.0 Matters prescribed by the regulations

### Environmental Planning and Assessment Regulation 2021

The Regulation underpins the day-to-day operation of the NSW planning system. The Regulation guides the processes, plans, public consultation, impact assessment and decisions made by local councils, the Department of Planning and Environment and others. Standard conditions are recommended relating to compliance with BCA and AS.

## 9.0 The likely impacts of the development

The assessment demonstrates that the proposal will not have any significant adverse impacts upon any adjoining properties or the environment in general due to the nature of the development. All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report (see DCP 2014). The development is considered satisfactory in terms of environmental impacts.

## 10.0 Suitability of the site for the development

The site is zoned R2 Low Density Residential. The proposal is for an attached dual occupancy and associated works. The assessment has demonstrated the proposal is consistent with the statutory requirements and policy controls. The assessment demonstrates the proposal will not result in any significant adverse impacts upon adjoining properties or the streetscape. The proposal is an appropriate development and this has been demonstrated in this report. The proposal is considered to be suitable for the site.

## 11.0 The public interest

The public interest is best served by the consistent application of the requirements of relevant Environmental Planning Instruments and by Council ensuring that any adverse effects on the surrounding area and the environment is minimised. The proposal has been assessed against the relevant planning instruments and is considered to be acceptable. The proposal is compliant with the principal development standards. The proposal does not result in any significant adverse impacts upon adjoining properties or the streetscape. On this basis, the proposal is not considered to raise any issues that would be contrary to the public interest.

## 12.0 Submissions

In accordance with the Ryde Community Participation Plan, owners of surrounding properties were given notice of the application. In response, no submissions were received. The application was amended during the assessment phase in response to issues raised by the assessment officer, however, the amended plans resulted in a lesser impact on surrounding properties and re-notification of the application was not warranted.

## 13.0 REFERRALS:

**Senior Development Engineer:** The application was referred to Council's Senior Development Engineer and no objection was raised subject to recommended conditions. **See Condition Nos. 11, 12, 13, 14, 32, 33, 34, 35, 36, 42, 57, 58, 59, 67, 68, 69, 70 and 71.**

**Landscape Architect:** The application was referred to Council's Landscape Architect and the following comments were provided:

*In my previous comments I stated that Tree 2 had a major encroachment of 12% into the tree protection zone (TPZ) and potentially into the structural root zone (SRZ) from the Alfresco area. In response the applicant has deleted the Alfresco area and the encroachment is less than 10% and is now satisfactory.*

*There are no objections to the development subject to the recommended conditions of consent. **See Condition Nos. 43, 44, 45, 46, 47, 48, 60, 61, 62 and 64.***

## 14.0 CONCLUSION

After consideration of the development against section 4.15 of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, the proposal is suitable for the site and is not contrary to the public interest. Therefore, it is recommended that the application be approved for the following reasons:

1. The proposal is consistent with the objectives for R2 zoned land.
2. The proposal complies with the statutory provisions set out in the Environmental Planning and Assessment Act 1979.

3. The proposal has been supported by a satisfactory Clause 4.6 written variation to Clause 4.1B of Ryde Local Environmental Plan 2014.
4. The proposal is considered to be low impact to adjoining properties and surrounding environment.
5. The proposal is not contrary to the public interest.

**15.0 RECOMMENDATION:**

- A. THAT the Ryde Local Planning Panel accepts that the Clause 4.6 written request to vary Clause 4.1B(2)(b) in LEP 2014 which has adequately addressed the matters in subclause (4) and will be in the public interest as it is consistent with the objectives of the R2 Low Density Residential Zone of Ryde Local Environmental Plan 2014.
- B. THAT the Ryde Local Planning Panel as the consent authority grant development consent to Local Development Application LDA No. LDA2022/0355 for the demolition of existing structures and construction of a dual occupancy (attached) on land at 24 Baird Avenue, Ryde subject to the draft conditions in the attached draft consent.

Report prepared by:

**Shannon Butler**  
**Senior Town Planner**

Report approved by:

**Sohail Faridy**  
**Senior Coordinator Development Assessment**

**Carine Elias**  
**Manager Development Assessment**

**Sandra Bailey**  
**Executive Manager City Development**

**ATTACHMENTS**

- 1** Draft Conditions of Consent
- 2** Ryde Development Control Plan 2014 – Table of Compliance
- 3** Architectural & Landscape Plans - subject to copyright provision
- 4** Applicant's Clause 4.6 Request (frontage width)

## ITEM 1 - Attachment 1 – Recommended Conditions of Consent

### GENERAL

The following conditions of consent included in this Part identify the requirements, terms and limitations imposed on this development.

1. **Approved Plans/Documents.** Except where otherwise provided in this consent, the development is to be carried out strictly in accordance with the following plans (stamped approved by Council) and support documents:

| Document Description   | Date       | Plan No/Reference |
|--|------------|-------------------|
| Site Plan, Prepared by Studio Block                              | 21/05/2023 | OLY-006, Rev F    |
| Ground Floor Plan, Prepared by Studio Block                      | 21/05/2023 | OLY-006, Rev F    |
| First Floor Plan, Prepared by Studio Block                       | 21/05/2023 | OLY-006, Rev F    |
| North & West Elevation, Prepared by Studio Block                 | 21/05/2023 | OLY-006, Rev F    |
| South & East Elevation, Prepared by Studio Block                 | 21/05/2023 | OLY-006, Rev F    |
| Section A-A, Prepared by Studio Block                            | 21/05/2023 | OLY-006, Rev F    |
| Demolition Plan, Prepared by Studio Block                        | 21/05/2023 | OLY-006, Rev F    |
| Landscape Site Plan, Prepared by John Lock & Associates          | 25/05/2023 | 2909 LP-00, Rev B |
| Landscape Plan Sheet 1, Prepared by John Lock & Associates       | 25/05/2023 | 2909 LP-01, Rev B |
| Landscape Plan Sheet 2, Prepared by John Lock & Associates       | 25/05/2023 | 2909 LP-02, Rev B |
| Landscape Plan Sheet 3, Prepared by John Lock & Associates       | 25/05/2023 | 2909 LP-03, Rev B |
| Waste Management Plan, Prepared by Studio Block                  | Undated    | -                 |
| Arboricultural Impact Assessment, Prepared by Complete Arborcare | 06/06/2022 | -                 |

Prior to the issue of a **Construction Certificate**, the following amendments shall be made (as marked in red on the approved plans):

- (a) The architectural and landscaping plans shall be updated to be consistent with the driveway plan in relation to the restoration of the kerb layback for the adjoining property (No. 22 Baird Avenue).

The Development must be carried out in accordance with the amended plans approved under this condition.

(Reason: To ensure the development is carried out in accordance with the determination).

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.

(Reason: Statutory requirement).

3. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered 1184933M\_03, dated 30 June 2022.

(Reason: Statutory requirement).

## **Conditions of Consent for LDA2022/0355 :-**

4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (a) Protect and support the adjoining premises from possible damage from the excavation, and
  - (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.

(Reason: Statutory requirement).
5. **Site Maintenance.** For the period the site remains vacant of any development the subject of this consent, the site is to be regularly maintained in a tidy manner such that it does not become overgrown with weeds or become a repository for the leaving or dumping of waste.

(Reason: To protect the amenity of the locality).
6. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.

(Reason: To ensure reasonable standards of amenity for occupants of neighbouring properties).
7. **Hoardings.**
  - (a) A hoarding or fence must be erected between the work site and any adjoining public place.
  - (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.

(Reason: To ensure public safety).
8. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

(Reason: To ensure public safety).
9. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.

(Reason: To ensure that development occurs within the site boundaries).
10. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.

(Reason: to ensure public safety).
11. **Design and Construction Standards.** All engineering plans and work inside the property shall be carried out in accordance with the requirements of the relevant Australian Standard. All Public Domain works or modification to Council infrastructure which may be located inside the property boundary, must be undertaken in accordance with Council's DCP Part 8.5 (*Public Civil Works*) and Part 8.2 (*Stormwater and Floodplain Management*), except otherwise as amended by conditions of this consent.

## **Conditions of Consent for LDA2022/0355 :-**

(Reason: To ensure works are undertaken in accordance with design and construction standards).

12. **Service Alterations.** All services or utilities required to be altered in order to complete the development works are to be undertaken in accordance with the requirements of the relevant service provider (eg Telstra, Jemena, Ausgrid, etc), with all costs associated with this alteration to be borne by the applicant.

(Reason: To ensure works are undertaken in accordance with requirements of service providers).

13. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities, including repairs of damaged infrastructure as a result of the construction works associated with this development site, shall be undertaken by the Applicant in accordance with Council's standards and specifications, and DCP Part 8.5 (*Public Civil Works*), to the satisfaction of Council.

(Reason: To ensure that public areas are maintained).

14. **Road Activity Permits** - To carry out any work in, on or over a public road (including verge), consent from Council is required as per the Roads Act 1993. The applicant is required to review the "Road Activity Permits Checklist" (available from Council's website) and apply for the relevant permits for approval by Council.

(Reason: To ensure the amenity and state of the public domain is maintained.)

### **DEMOLITION CONDITIONS**

The following conditions are imposed to ensure compliance with relevant legislation and Australian Standards, and to ensure that the amenity of the neighbourhood is protected.

A Construction Certificate is not required for Demolition.

15. **Demolition Deposit.** The Council must be provided with security for the purposes of Section 4.17(6) of the Environmental Planning and Assessment Act 1979 in a sum determined by reference to Council's Management Plan prior to the demolition occurring on the site.

(Reason: Statutory requirement)

16. **Provision of contact details/neighbour notification.** At least 7 days before any demolition work commences:

- (a) Council must be notified of the following particulars:
- (i) The name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
  - (ii) The date the work is due to commence and the expected completion date
- (b) A written notice must be placed in the letter box of each property identified in the attached locality plan advising of the date the work is due to commence.

(Reason: To ensure adequate details are provided to Council and properties in the immediate area of the proposed works).

17. **Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).

## **Conditions of Consent for LDA2022/0355 :-**

(Reason: Statutory requirement).

### **18. Excavation**

- (a) All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent the activities from being dangerous to life or property and, in accordance with the design of a structural engineer.
- (b) A Demolition Work Method Statement must be prepared by a licensed demolisher who is registered with Safework NSW in accordance with AS 2601-2001: *The Demolition of Structures*, or its latest version. The applicant must provide a copy of the Statement to Council prior to commencement of demolition work.

(Reason: to ensure work is completed in an appropriate manner).

19. **Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by Safework NSW.

(Reason: Safety).

20. **Asbestos – disposal.** All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be retained by the person performing the work for at least 3 years and be submitted to Council on request.

(Reason: Safety).

21. **Waste management plan.** Demolition material must be managed in accordance with the approved waste management plan.

(Reason: To ensure demolition materials are disposed in an appropriate manner).

22. **Disposal of demolition waste.** All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.

(Reason: To ensure demolition materials are disposed in an appropriate manner).

### **PRIOR TO CONSTRUCTION CERTIFICATE**

A Construction Certificate must be obtained from a Principal Certifying Authority to carry out the relevant building works approved under this consent. All conditions in this Section of the consent must be complied with before a Construction Certificate can be issued.

Council Officers can provide these services and further information can be obtained from Council's Customer Service Centre on 9952 8222.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with the conditions in this Section of the consent.

Details of compliance with the conditions, including plans, supporting documents or other written evidence must be submitted to the Principal Certifying Authority.

23. **Section 7.11.** A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council as follows:

## Conditions of Consent for LDA2022/0355 :-

| <b>A – Contribution Type</b>       | <b>B – Contribution Amount</b> |
|------------------------------------|--------------------------------|
| Community & Cultural Facilities    | \$6,061.80                     |
| Open Space & Recreation Facilities | \$10,438.15                    |
| Roads & Traffic                    | \$3,204.48                     |
| Plan Administration                | \$295.57                       |
| <b>The total contribution is</b>   | <b>\$20,000.00</b>             |

These are contributions under the provisions of Section 7.11 of the Environmental Planning and Assessment Act, 1979 as specified in City of Ryde Section 7.11 Development Contributions Plan 2020, effective from 1 July 2020.

The above amounts are current at the date of this consent, and are subject to **quarterly** adjustment for inflation on the basis of the contribution rates that are applicable at time of payment. Such adjustment for inflation is by reference to the Consumer Price Index published by the Australian Bureau of Statistics (Catalogue No 5206.0) – and may result in contribution amounts that differ from those shown above.

The contribution must be paid **prior to the issue of any Construction Certificate**. Payment may be by EFTPOS (debit card only), CASH or a BANK CHEQUE made payable to the **City of Ryde**. Personal or company cheques will not be accepted.

A copy of the Section 7.11 Development Contributions Plan may be inspected at the Ryde Customer Service Centre, 1 Pope Street Ryde (corner Pope and Devlin Streets, within Top Ryde City Shopping Centre) or on Council's website <http://www.ryde.nsw.gov.au>.

(Reason: Statutory requirement).

24. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the **Construction Certificate**.

(Reason: Statutory requirement).

25. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.

(Reason: Statutory requirement).

26. **Security deposit.** The Council must be provided with security for the purposes of section 4.17 (6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: other buildings with delivery of bricks or concrete or machine excavation.)

(Reason: Statutory requirement).

27. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Certifying Authority prior to the issuing of the **Construction Certificate**.

(Reason: Statutory requirement).

28. **Fibre-ready facilities and telecommunications infrastructure.** Prior to the issue of any Construction Certificate satisfactory evidence is to be provided to the Certifying Authority that arrangements have been made for:



## **Conditions of Consent for LDA2022/0355 :-**

- (i) The installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Alternatively, demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.

And

- (ii) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

(Note real estate development project has the meanings given in Section 372Q of the Telecommunications Act).

(Reason: Statutory requirement).

29. **Sydney Water – Building Plan Approval.** The plans approved as part of the Construction Certificate must also be approved by Sydney Water prior to excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Please go to [www.sydneywater.com.au/tapin](http://www.sydneywater.com.au/tapin) to apply.

(Reason: Statutory requirement).

30. **Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and texture must be provided to the Certifying Authority prior to the release of the **Construction Certificate**.

(Reason: To ensure the use of appropriate material to minimise reflectivity).

31. **Fencing.** Fencing is to be in accordance with Council's DCP 2014: Part 3.3 – Dwelling Houses and Dual Occupancy (attached) – Section 2.16 - Fences. In this regard, the side boundary fencing is to be replaced by the applicant given that the submitted survey plan depicts encroachment of the existing fencing over the side boundaries. The side boundaries are to be accurately plotted and pegged out on the site. Details of compliance are to be provided in the plans for the **Construction Certificate**.

(Reason: Statutory requirement).

32. **Vehicle Access & Parking.** All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Offstreet Parking standards).

With respect to this, the following revision(s) / documentation must be provided with the plans submitted with the application for a Construction Certificate;

- a) All internal driveways and vehicle access ramps must have ramp grades, transitions and height clearances complying with AS 2890 for all types of vehicles accessing the parking area. To demonstrate compliance with this Australian Standard, the plans to be prepared for the Construction Certificate must include a driveway profile, showing ramp lengths, grades, surface RL's and overhead clearances taken along the vehicle path of travel from the crest of the road to the proposed garages. The driveway profile must be taken along the steepest grade of travel or sections having significant changes in grades, where scraping or height restrictions could potentially occur and is to demonstrate compliance with AS 2890 for the respective type of vehicle.

## **Conditions of Consent for LDA2022/0355 :-**

- b) To allow for adequate sight distance from a vehicle exiting the property to pedestrians in the footpath area, the driveway entry at the property boundary must have clear sight through a splayed region defined by Figure 3.3 of AS 2890.1 (2004) and Council's DCP. Ideally the region is to be free of all obstructions, otherwise any solid obstructions are to be no greater than 900mm above finished surfaces and horizontal fencing/ slats are to permit more than 50% visual permeability.

These amendment(s) must be clearly marked on the plans submitted to the Accredited Certifier prior to the issue of a Construction Certificate.

(Reason: To ensure the vehicle access and parking area is in accordance with the require standards and safe for all users.)

- 33. Stormwater Management.** Stormwater runoff from the development shall be collected and piped by gravity flow to Baird Avenue, generally in accordance with the plans by Engineering Studio Civil and Structural, Job Number: 210257, Drawing Number: C00.01 to C02.03, Issue Number: D, Dated 05.06.23, subject to any variations marked in red on the approved plans or noted following;

- a) Rainwater storage shall be updated to reflect the approved BASIX certificate.

The detailed plans, documentation and certification of the drainage system must be submitted with the application for a Construction Certificate and prepared by a suitably qualified Civil Engineer and comply with the following;

- The certification must state that the submitted design (including any associated components such as WSUD measures, pump/ sump, absorption, onsite dispersal, charged system) are in accordance with the requirements of AS 3500.3 (*Stormwater drainage*) and any further detail or variations to the design are in accordance with the requirements of Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*) and associated annexures.
- The submitted design is consistent with the approved architectural and landscape plan and any revisions to these plans required by conditions of this consent.

(Reason: To ensure that the developments stormwater management system is aligned with the controls and objectives of the City of Ryde DCP 2014 Part 8.2)

- 34. Stormwater Management - Onsite Stormwater Detention.** In accordance with Council's community stormwater management policy, an onsite stormwater detention (OSD) system must be implemented in the stormwater management system of the development.

As a minimum, the OSD system must;

- a) provide site storage requirement (SSR) and permissible site discharge (PSD) design parameters complying with Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*).
- b) incorporate a sump and filter grate (trash rack) at the point of discharge from the OSD system to prevent gross pollutants blocking the system or entering the public drainage service,
- c) ensure the OSD storage has sufficient access for the purpose of ongoing maintenance of the system, and
- d) ensure the drainage system discharging to the OSD system is of sufficient capacity to accommodate the 100 year ARI 5 minute storm event.

Detailed engineering plans and certification demonstrating compliance with this condition & Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*) are to be submitted with the application for a Construction Certificate.

## **Conditions of Consent for LDA2022/0355 :-**

(Reason: To ensure that the design of the OSD is compliant with the requirements of the City of Ryde DCP 2014 Part 8.2)

- 35. Vehicle Footpath and Gutter Crossover Approval.** A new vehicle footpath crossing and associated gutter crossover shall be constructed at the approved vehicular access location/s. Where there is an existing vehicle footpath crossing and gutter crossover, the reconstruction of this infrastructure may be required in order that it has a service life consistent with that of the development and ensure it is compliant with current Council's standards and specifications. The location, design and construction shall be in accordance with Council's DCP 2014 Part 8.3 (Driveways), Part 8.5 (Public Civil Works) and Australian Standard AS2890.1 – 2004 (Offstreet Parking).

Prior to the issue of the Construction Certificate, an application shall be made to Council for approval under Section 138 of the Roads Act, 1993, for the construction of the vehicle footpath and gutter crossover. The application shall include engineering design drawings of the proposed vehicle footpath crossing and gutter crossover. The drawings shall be prepared by a suitably qualified Civil Engineer using the standard B85 vehicle profile. The drawings shall show the proposed vehicle footpath crossing width, alignment, and any elements impacting design such as service pits, underground utilities, power poles, signage and/or trees. In addition, a benchmark (to Australian Height Datum) that will not be impacted by the development works shall be included. All grades and transitions shall comply with Australian Standard AS 2890.1-2004 Offstreet Parking and Council's specifications. The new crossing shall be 4 m. wide, without the splays, and shall be constructed at right angle to the alignment of the kerb and gutter, and located no closer than 1m from any power pole and 3m from any street tree unless otherwise approved by Council.

An assessment and inspection fee (as per Council's schedule of fees and charges current at the time of payment) must be paid to Council prior to the issue of the Construction Certificate.

The Council approved design details shall be incorporated into the plans submitted for the application of the Construction Certificate.

(Reason: The design and levels of the new driveway crossover(s) will require approval from Council under Section 138 of the Roads Act)

- 36. Erosion and Sediment Control Plan.** An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified consultant, detailing soil erosion control measures to be implemented during construction. The ESCP is to be submitted with the application for a Construction Certificate. The ESCP must be in accordance with the manual "Managing Urban Stormwater: Soils and Construction" by NSW Department – Office of Environment and Heritage and must contain the following information;

- a) Existing and final contours
- b) The location of all earthworks, including roads, areas of cut and fill
- c) Location of all impervious areas
- d) Location and design criteria of erosion and sediment control structures,
- e) Location and description of existing vegetation
- f) Site access point/s and means of limiting material leaving the site
- g) Location of proposed vegetated buffer strips
- h) Location of critical areas (drainage lines, water bodies and unstable slopes)
- i) Location of stockpiles
- j) Means of diversion of uncontaminated upper catchment around disturbed areas
- k) Procedures for maintenance of erosion and sediment controls
- l) Details for any staging of works

## **Conditions of Consent for LDA2022/0355 :-**

m) Details and procedures for dust control.

The ESCP must be submitted with the application for a Construction Certificate.

(Reason: To protect downstream properties, Council's drainage system and natural watercourses from sediment build-up transferred by stormwater runoff from the site.)

### **PRIOR TO COMMENCEMENT OF CONSTRUCTION**

Prior to the commencement of any demolition, excavation, or building work the following conditions in this Part of the Consent must be satisfied, and all relevant requirements complied with at all times during the operation of this consent.

#### **37. Site Sign**

- (a) A sign must be erected in a prominent position on site, prior to the commencement of construction:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
  - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.
- (b) Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(Reason: Statutory requirement).

#### **38. Residential building work – provision of information.** Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the PCA has given the Council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:
  - (i) the name and licence number of the principal contractor; and
  - (ii) the name of the insurer by which the work is insured under Part 6 of that Act.
- (b) in the case of work to be done by an owner-builder:
  - (i) the name of the owner-builder; and
  - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If any of the above arrangements are changed while the work is in progress so that the information notified under this condition becomes out of date, further work must not be carried out unless the PCA for the development to which the work relates has given the Council written notice of the updated information (if Council is not the PCA).

(Reason: Statutory requirement).

#### **39. Excavation adjacent to adjoining land**

- (a) If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must, at their own expense, protect and support the adjoining premises from possible damage from the excavation, and where necessary, underpin the adjoining premises to prevent any such damage.
- (b) The applicant must give at least seven (7) days notice to the adjoining owner(s) prior to excavating.

## Conditions of Consent for LDA2022/0355 :-

- (c) An owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

(Reason: Statutory requirement).

40. **Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with Safework NSW requirements and be a minimum of 1.8m in height.

(Reason: Statutory requirement).

41. **Proposed Property Addressing.** Proposed addressing for the new development must have been lodged with Council, prior to the commencement of construction.

(Reason: To ensure the address of the development meets Council's requirements).

42. **Property above/below Footpath Level.** Where the ground level adjacent the property alignment is above/below the established verge and footpath level, adequate measures are to be taken, either by means of constructing approved retaining structures or batters entirely on the subject property, to support the subject land/footpath and prevent harm to the public / occupants of the site due to the abrupt level differences.

(Reason: To preserve public safety and the support of property due to abrupt level differences between the site and public domain land.)

43. **Tree Retention.** As identified in the Arboricultural Impact Assessment (AIA) prepared by Complete Arborcare dated 6/06/2022. The following trees on site or adjoining the site are to be retained and protected:

| Tree No. | Species<br>"Common name"                                  | Proposed recommendation in AIA                      |
|----------|---|---|
| 1        | <i>Callistemon viminalis</i><br>(Weeping Bottlebrush)     | In 22 Baird Avenue.                                 |
| 2        | <i>Grevillea robusta</i><br>(Silky Oak)                   | In 22 Baird Avenue. Tree protective fence required. |
| 3        | <i>Brachychiton acerifolius</i><br>(Illawarra Flame Tree) | On site. Tree protective fence required.            |

(Reason: To ensure the health of existing trees retained by the development are maintained.)

44. **Tree Protection.** Tree Protection is to be installed before demolition and construction commences as indicated in the Arboricultural Impact Assessment (AIA) "Site Plan" prepared by Complete Arborcare dated 6/06/2022.

(Reason: To protect existing trees before any work on site commences.)

45. **Tree Protection Fencing.** All trees to be retained on site and on adjoining site are to have protective fencing and signage around TPZs and must be located in accordance with AS4970-2009: Protection of trees on development sites. In this regard, any fencing required to be constructed around the TPZ is to be in accordance with AS4687 Temporary fencing and hoardings.

(Reason: To protect existing trees before any work on site commences.)

## **Conditions of Consent for LDA2022/0355 :-**

46. **Tree protection – no unauthorised removal.** This consent does not authorise the removal of trees unless specifically permitted by a condition of this consent or identified as approved for removal on the stamped plans.

(Reason: To ensure all existing trees to be retained in the development works are maintained.)

47. **Project Arborist.** A Project Arborist with minimum AQF level 5 qualifications is to be engaged to ensure adequate tree protection measures are put in place for all trees to be retained on adjoining allotments in accordance with AS4970-2009 Protection of trees on development sites. All trees are to be monitored to ensure adequate health throughout the construction period. Additionally, all work within the Tree Protection Zones is to be supervised by the Project Arborist throughout construction.

(Reason: To ensure tree protection measures and the nature of works are appropriate and not detrimental to the health of the trees on site.)

48. **Provision of Project Arborist details.** Council is to be notified, in writing, of the name, contact details and qualifications of the Project Arborist appointed to the site. Should these details change during the course of works, or the appointed Consultant Arborist alter, Council is to be notified, in writing, within seven working days.

(Reason: To ensure the Project Arborist can be readily contacted in regards to the required tree protection measures.)

### **DURING CONSTRUCTION**

Unless otherwise specified, the following conditions in this Part of the consent must be complied with at all times during the construction period. Where applicable, the requirements under previous Parts of the consent must be implemented and maintained at all times during the construction period.

49. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.

(Reason: Statutory requirement).

50. **Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.

(Reason: To ensure that the development is in accordance with the determination).

51. **Noise from construction work.** All feasible and reasonable measures must be implemented to minimise the emission of noise from construction work.

(Reason: To protect the amenity of the neighbourhood).

52. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.

(Reason: To protect the amenity of the area).

## **Conditions of Consent for LDA2022/0355 :-**

- 53. Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
- Fill is allowed under this consent;
  - The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
  - the material is reused only to the extent that fill is allowed by the consent.

(Reason: To ensure fill is consistent with the consent).

- 54. Construction materials.** All materials associated with construction must be retained within the site.

(Reason: To ensure the public domain is not affected during construction).

**55. Site Facilities**

The following facilities must be provided on the site:

- toilet facilities in accordance with Safework NSW requirements, at a ratio of one toilet per every 20 employees, and
- a garbage receptacle for food scraps and papers, with a tight fitting lid.

(Reason: Statutory requirement).

**56. Site maintenance**

The applicant must ensure that:

- approved sediment and erosion control measures are installed and maintained during the construction period;
- building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
- the site is clear of waste and debris at the completion of the works.

(Reason: To ensure the site is appropriately maintained during construction).

- 57. Traffic Management.** Traffic management procedures and systems must be implemented during the construction period to ensure a safe environment and minimise impacts to pedestrian and other vehicle traffic. Any traffic management procedures and systems must be in accordance with AS 1742.3 2019 and the DCP 2014 Part 8.1 (*Construction Activities*).

(Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.)

- 58. Stormwater Management - Construction.** The stormwater drainage system on the site must be constructed in accordance with the Construction Certificate version of the Stormwater Management Plan by Engineering Studio Civil and Structural, Job Number: 210257, Drawing Number: C00.01 to C02.03, Issue Number: D, Dated 05.06.23, submitted in compliance to the condition labelled "Stormwater Management." and the requirements of Council in relation to the connection to the public drainage system.

(Reason: To ensure the stormwater system is constructed as approved)

- 59. Erosion and Sediment Control Plan - Implementation.** The applicant shall install erosion and sediment control measures in accordance with the Construction Certificate approved Soil Erosion and Sediment Control (ESCP) plan at the commencement of works on the site. Erosion control management procedures in accordance with the manual "Managing Urban Stormwater: Soils and Construction" by the NSW Department – Office of Environment and Heritage, must be practiced at all times throughout the construction.

(Reason: To prevent soil erosion and the discharge of sediment over the land.)

## Conditions of Consent for LDA2022/0355 :-

60. **Excavation for services within Tree Protection Zone (TPZ).** Any excavation for services or grading/re-grading within the identified TPZs of trees to be retained shall be carried out by hand using manual hand tools. Roots greater than 25mm are not to be damaged or severed without the prior written approval of the Project Arborist.

(Reason: To ensure any excavation works are not detrimental to the health of the tree.)

61. **Project Arborist Inspections.** The Project Arborist is to inspect and document with Certificates of Compliance to the certifying authority as stipulated in SECTION 5 MONITORING AND CERTIFICATION of AS4970-2009.

| PROJECT PHASE   | ACTIVITIES   | PROJECT ARBORIST to  |
|---|--|--|
| Initial Site Preparation  | Establish/delineate TPZ<br>Install protective measures and undertake soil rehabilitation for all trees to be retained. | Project Arborist to mark Tree Protection Zones and install fences, mulch, irrigation and signage<br><b>Issue a Certification of Compliance</b> of tree protection measures being in place and soil rehabilitation undertaken |
| Construction work   | Liaison with site manager, compliance and any deviation from approved plan   | Maintain or amend protective measures<br>Supervision and monitoring formal notification of any deviation from approved tree protection plan  |
| Stormwater connection installation through TPZ, Implement hard and soft landscape works | <b>Supervise</b> Installation of pipes within tree TPZ   | Excavate trench through TPZ under Arborist supervision, install pipework, remove selected protective measures as necessary and perform remedial tree works<br><b>Issue a Certificate of Compliance</b>                       |
| Practical Completion  | Tree vigour and structure Assessment and undertake soil rehabilitation for all retained trees                          | Remove all remaining tree Protection measures<br><b>Certification of tree protection and soil rehabilitation for Protected Trees</b>   |
| Defects liability / maintenance period  | Tree vigour and structure  | Undertake any required remedial tree works<br><b>Certification of tree protection if necessary</b>   |

(Reason: To ensure the timing and frequency of inspections by the Project Arborist is appropriate to maintain the health of existing trees to be retained throughout the works.)

62. **Tree works – Australian Standards.** All tree work must be carried out by a qualified and experienced Arborist with a minimum of AQF level 3 in Arboriculture with NSW Work Cover Code of Practice for Amenity Tree Industry (1998) and AS4373 Pruning of amenity trees (2007).

(Reason: To ensure that any tree work is carried out by a qualified Arborist)



## Conditions of Consent for LDA2022/0355 :-

### PRIOR TO OCCUPATION CERTIFICATE

An Occupation Certificate must be obtained from a Principal Certifying Authority prior to commencement of occupation of any part of the development, or prior to the commencement of a change of use of a building.

Prior to issue, the Principal Certifying Authority must ensure that all works are completed in compliance with the approved construction certificate plans and all conditions of this Development Consent.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with conditions in this Part of the consent. Details to demonstrate compliance with all conditions, including plans, documentation, or other written evidence must be submitted to the Principal Certifying Authority.

63. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) numbered 1184933M\_03, dated 30 June 2022.

(Reason: Statutory requirement).

64. **Landscaping and Fencing.** All landscaping works approved by condition 1 are to be completed prior to the issue of the any Occupation Certificate.

(Reason: To ensure the development is in accordance with the development consent).

65. **Sydney Water – Section 73 Compliance Certificate.** A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water will determine the availability of water and sewer services, which may require extension, adjustment or connection to Sydney Water mains. A Section 73 Compliance Certificate must be completed before the issue of any Occupation Certificate. Sydney Water will assess the development and if required will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Go to [www.sydneywater.com.au/section73](http://www.sydneywater.com.au/section73) or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

(Reason: Statutory requirement).

66. **Letterboxes and street/house numbering display.** All letterboxes are to be designed and constructed in accordance with Australia Post requirements and the house/unit numbering displayed shall be in accordance with the official property addressing allocated by Council's Land Information Section. The display of the street address shall be of a sufficient size and clarity to be easily visible from the street. Where a development contains multiple properties, signage is required to be clearly displayed on all unit door entrances. Directional signage is to be erected on site at driveway entry points and on buildings. Unit numbering signage is also required on stairway access doors and lobby entry doors. It is essential that all numbering signage throughout a development is clear to assist emergency service providers locate a destination with ease and speed, in the event of an emergency.

(Reason: To assist in way finding).

67. **Stormwater Management - Work-as-Executed Plan.** A Work-as-Executed plan (WAE) of the as constructed Stormwater Management System must be submitted with the application for an Occupation Certificate. The WAE must be prepared and certified (signed and dated) by a Registered Surveyor and is to clearly show the constructed stormwater drainage system

## **Conditions of Consent for LDA2022/0355 :-**

(including any onsite detention, pump/ sump, charged/ siphonic and onsite disposal/ absorption system) and finished surface levels which convey stormwater runoff.

(Reason: To clarify the configuration of the completed stormwater management system.)

- 68. Disused Gutter Crossing.** All disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated to the satisfaction of Council.

(Reason: To maximise onstreet parking capacity and avoid confusion relating to the enforcement of parking restrictions.)

- 69. Stormwater Management – Positive Covenant(s).** A Positive Covenant must be created on the property title(s) pursuant to the relevant section of the Conveyancing Act (1919), providing for the ongoing maintenance of the onsite detention components incorporated in the approved Stormwater Management system. The terms of the instrument are to be in accordance with the Council's standard for the relevant systems and are to be to the satisfaction of Council. To assure Council the construction of the stormwater management system has been completed, stormwater Works-As-Executed plans and certification of the system are to be submitted to Council with a completed "Application Form for Endorsement of Title Encumbrances" (available from Council's website). The positive covenant must be registered on the title prior to the release of any Occupation Certificate for development works for which the system(s) serve.

(Reason: This is to ensure that the drainage system will be maintained and operate as approved throughout the life of the development, by the owner of the site(s).)

- 70. Engineering Compliance Certificates.** To ensure that all engineering facets of the development have been designed and constructed to the appropriate standards, Compliance Certificates must be obtained for the following items and are to be submitted to the Accredited Certifier prior to the release of any Occupation Certificate. All certification must be issued by a qualified and practising civil engineer having experience in the area respective of the certification unless stated otherwise.

- a) Confirming that all components of the parking areas contained inside the site comply with the relevant components of AS 2890 and Council's DCP 2014 Part 9.3 (Parking Controls).
- b) Confirming that the Stormwater Management system (including any constructed ancillary components such as onsite detention) servicing the development complies with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures, and has been constructed to function in accordance with all conditions of this consent relating to the discharge of stormwater from the site.
- c) Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including any on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
- d) Confirming that erosion and sediment control measures were implemented during the course of construction and were in accordance with the manual "*Managing Urban Stormwater: Soils and Construction*" by the NSW Department – Office of Environment and Heritage and Council's DCP 2014 Part 8.1 (Construction Activities).
- e) Compliance certificate from Council confirming that all external works in the public road reserve and alteration to Council assets located in the property have been completed to Council's satisfaction.

## **Conditions of Consent for LDA2022/0355 :-**

(Reason: To ensure that all engineering components are completed to the satisfaction of an appropriately qualified person, prior to occupation or use of the development.)

- 71. On-Site Stormwater Detention System - Marker Plate.** To ensure the constructed On-site detention will not be modified, a marker plate is to be fixed to each on-site detention system constructed on the site. The plate construction, wordings and installation shall be in accordance with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures. The plate may be purchased from Council's Customer Service Centre at 1 Pope Street – Ryde (Top Ryde City Shopping Centre).

(Reason: To ensure that owners of the site are aware of the location of the onsite detention system and the need to maintain the system over the life of the development.)

**End of conditions**

## Compliance Check - Quality Certification

### Assessment of a Dual Occupancy (attached), Single Dwelling and Significant Alterations and Additions

Date: 14 November 2022

Application No: LDA2022/0355

| DCP 2014  | Proposed  | Compliance |
|---|---|------------|
| <b>Part 3.3 - Dwelling Houses and Dual Occupancy (attached)</b>   |   |            |
| <b>Section 1.0 Introduction</b>   |   |            |
| <b>Part 1.6 Site Analysis</b>   |   |            |
| Site analysis to be submitted.  | Drawing prepared by Studio Block and dated 10/02/2022.  | Yes        |
| <b>Section 2.0 General Controls</b>   |   |            |
| <b>2.1 Desired Future Character</b>   |   |            |
| Development is to be consistent with the desired future character of the low density residential areas. | The proposal is consistent with the desired future character of the low density residential locality. | Yes        |
| <b>2.2 Dwelling Houses</b>  |   |            |
| (a) Landscape setting which includes significant deep soil areas at the front and rear                  | The building will be located within a landscaped setting.   | Yes        |
| (b) Maximum two storeys high  | The building does not exceed two storeys at any point.  | Yes        |
| (c) Dwellings address the street  | The building addresses the street.  | Yes        |
| (d) Boundary between public and private space is clearly articulated                                    | The boundary between public and private is clear.   | Yes        |
| (e) Garages and carports are not to be visually prominent features                                      | The garages are recessed into the façade.   | Yes        |
| (f) Dwellings are to respond appropriately to the site analysis   | The building responds to the site analysis.   | Yes        |
| <b>2.3 Dual Occupancy (attached)</b>  |   |            |
| (a) New dual occupancy buildings are to meet the controls for new dwelling houses set out in 2.2.1..    | Meets the controls.   | Yes        |
| (b) Alterations and additions to dual occupancy buildings are to meet the requirements of 2.2.2         | N/A   | Yes        |
| <b>2.4 Subdivision</b>  |   |            |
| Minimum lot sizes apply under RLEP Clause 4.1A  | Subdivision is not proposed.  | N/A        |
| <b>2.5 Public Domain Amenity</b>  |   |            |
| <b>2.5.1 Streetscape</b>  |   |            |
| (a) Site design, building setbacks and level changes respect the existing topography                    | The design respects the existing topography.  | Yes        |

## ITEM 1 – Attachment 2

| DCP 2014  | Proposed  | Compliance |
|---|---|------------|
| (b) Dwelling design is to enhance the safety and amenity of the streetscape   | The design enhances the safety and amenity of the streetscape.                                | Yes        |
| (c) Carports and garages visible from the public street are to:<br>(i) Be compatible with the building design<br>(ii) Be setback behind the dwelling's front elevation  | The garages are compatible with the building design and are set back behind the front façade. | Yes        |
| (d) Driveways and hard stand areas are to be minimised  | The design minimises the extent of hard stand.  | Yes        |
| (e) Dwellings, garages and carports are to be orientated to match the prevailing orientation of such buildings in the streetscape   | The garages match the prevailing orientation in the streetscape.                              | Yes        |
| (f) Facades from the public domain are to be well designed.   | The façade as viewed from the public domain is well designed.                                 | Yes        |
| <b>2.5.2 Public Views and Vistas</b>  |   |            |
| (a) A view corridor is to be provided along at least one side allotment boundary where there is an existing or potential view to the water from the street. Landscaping is not to restrict views. Fence 70% open where height is >900mm.<br>(b) Garages/carports and outbuildings are not to be located within view corridor if they obstruct view. | There are no significant views obtained from or through the subject site.                     | N/A        |
| <b>2.5.2 Pedestrian &amp; Vehicle Safety</b>  |   |            |
| (a) Car parking located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard.   | The car parking accommodates sightlines to the footpath and road.                             | Yes        |
| (b) Fencing that blocks sight lines is to be splayed.   | There is no front fencing proposed.   | Yes        |
| (c) Refer to relevant AS when designed driveways  | Complies.   | Yes        |
| <b>2.6 Site Configuration</b>   |   |            |
| <b>2.6.1 Deep Soil Areas</b>  |   |            |
| (a) 35% of site area min.   | 54.7% of the site is proposed to comprise DSA.  | Yes        |
| (b) Deep soil area must include:<br>(i) Min 8x8m deep soil area in backyard.  | An area greater than 8m x 8m is provided to the rear.   | Yes        |

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| DCP 2014   | Proposed  | Compliance  |
|--|---|---|
| <p>(ii) Front garden area to be completely permeable (exception driveway, pedestrian path and garden walls).</p> <p>(c) Dual occupancies need only one 8m x 8m in back yard</p> <p>(d) Deep soil areas to have soft landscaping</p> <p>(e) Deep soil areas to be 100% permeable. Not covered by structures, paving or the like, or have below surface structures such as stormwater detention elements.</p>  | <p>The front setback is permeable with the exception of the combined driveway.</p> <p>An area greater than 8m x 8m is provided to the rear of the building.</p> <p>The DSA's comprise soft landscaping.</p> <p>DSA's are completely permeable.</p>                          | <p>Yes</p> <p>Yes</p> <p>Yes</p>  |
| <p><b>2.6.2 Topography &amp; Excavation</b></p>  |   |   |
| <p>(a) Building form and siting relates to the original topography of the land and of the streetscape.</p> <p>(b) The area under the building footprint may be excavated or filled so long as:</p> <p>(i) the topography of the site requires cut and/or fill in order to reasonably accommodate a dwelling</p> <p>(ii) the depth of excavation is limited to 1.2m maximum</p> <p>(iii) the maximum height of fill is 900mm</p> <p>(c) Areas outside the dwelling footprint may be excavation and/or filled so long as:</p> <p>(i) the maximum height of retaining walls is not &gt;900mm</p> <p>(ii) the depth of excavation is not &gt;900mm</p> <p>(iii) the height of fill is not &gt;500mm</p> <p>(iv) the excavation and filled areas do not have an adverse impact on the privacy of neighbours</p> | <p>The building form and siting relates to the original topography.</p> <p>Max cut: 1000mm</p> <p>Max fill: 600mm</p> <p>Retaining wall height = 1300m associated with cut</p> <p>Max cut: 1300mm</p> <p>Max fill: 400mm</p> <p>No adverse impacts on privacy expected.</p> | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p><b>No, non-compliance discussed in report.</b></p> <p><b>No – non-compliance discussed in report.</b></p> <p>Yes</p> <p>Yes</p> |

## ITEM 1 – Attachment 2

| DCP 2014   | Proposed  | Compliance |
|--|---|------------|
| (v) the filled areas do not have an adverse impact on the privacy of neighbours  |   | Yes        |
| (vi) the area between the adjacent side wall of the house and the side boundary is not filled  | There is no fill proposed between the dwelling and side boundaries.   | Yes        |
| (vii) the filled areas are not adjacent to side or rear boundaries   |   | Yes        |
| (d) Fill is not allowed in areas of overland flow. Refer to Part 8.2 stormwater management   | There is no fill proposed in areas of overland flow.  | Yes        |
| (e) Generally the existing topography is to be retained.   | The proposal largely retains the existing topography.   | Yes        |
| <b>2.7 Floor Space Ratio (FSR)</b>   |   |            |
| (a) FSR is 0.5:1 in accordance Clause 4.4  | Ground Floor: 207.94m <sup>2</sup><br>First Floor: 202.06m <sup>2</sup><br>Total GFA: 410m <sup>2</sup><br>FSR = 0.44:1 | Yes        |
| (b) A floor area of 36m <sup>2</sup> maybe excluded when this area accommodates 2 car space. An area of 18m <sup>2</sup> may be excluded when the area accommodates 1 parking space.                       | Garage floorspace of 36m <sup>2</sup> has been excluded from the ground floor calculation.                              | Yes        |
| <b>2.8 Height</b>  |   |            |
| <b>2.8.1 Building height</b>   |   |            |
| (a) Building heights are to be as follows:<br>- Maximum height of 9.5 metres for dwellings and dual occupancy.<br>- Outbuildings including garages and carports maximum height 4.5 metres.                 | Roof RL (highest): RL39.6<br>EGL (lowest) under: RL31.3<br>Height of Building = 8.3m                                    | Yes        |
| <u>Maximum wall plate</u><br>- 7.5m max above FGL or<br>- 8m max to top of parapet<br><i>NB:</i><br><i>TOW = Top of Wall</i><br><i>EGL = Existing Ground Level</i><br>- <i>FGL = Finished Ground Level</i> | TOW RL: 39.3<br>EGL below: RL31.3<br>TOW Height = 8m  | Yes        |
| <u>Maximum number of storeys:</u><br>- 2 storeys maximum (storey incl basement)  | The height does not exceed 2 storeys at any point.  | Yes        |

## ITEM 1 – Attachment 2

| DCP 2014  | Proposed  | Compliance                                      |
|---|---|---|
| elevated greater than 1.2m above EGL).  |   |   |
| - 1 storey maximum above attached garage incl semi-basement or at-grade garages   | There is one storey proposed above the garages.                             | Yes   |
| <b>2.8.2 Ceiling Height</b>   |   |   |
| (a) Habitable rooms to have 2.4m floor to ceiling height (min).   | 2.59m minimum room height.  | Yes   |
| <b>2.9 Setbacks</b>   |   |   |
| <b>2.9.1 Front setbacks</b>   |   |   |
| (a) Dwellings are generally to be set back 6m from street front boundary  | The proposed front setback is 8.2m.   | Yes   |
| (b) On corner sites, the setback secondary frontage minimum 2m  | N/A – the site is not a corner site.  | N/A   |
| (c) Garages and carports, including semi-basement garages and attached garages, set back min 1m from façade   | Both garages are set back 1 metre from the façade on either side and above. | Yes   |
| (d) The front setback free of structures. The exception is car parking structures which comply with 2.11.   | The front setback is proposed to be free of structures.                     | Yes   |
| (e) Attached garages, including semi-basement garages on secondary frontages not to protrude forward of the façade. The exception is garages located on battle axe allotments. These garages do not need to be setback. | The garages do not protrude forward of the façade.                          | Yes   |
| (f) The outside face of wall built above a garage aligns with the outside face of the garage wall below.  | The wall above the garages is set one metre forward.                        | <b>No – non-compliance discussed in report</b>  |
| <b>2.9.2 Side Setbacks</b>  |   |   |
| (a) One storey dwellings setback 900mm  | N/A   | N/A   |
| (b) Two storey dwellings setback 1.5m   | The minimum proposed side setback is 1.481m for a minor portion.            | <b>No – non-compliance addressed in report.</b> |
| (c) The second storey addition to a single storey dwelling are to be set back 1.5m  | N/A   | N/A   |
| (d) Allotments wider than they are long, one side setback a min of 20% of the width of  | N/A   | N/A   |



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| DCP 2014  | Proposed  | Compliance   |
|---|---|--|
| the lot or 8m, whichever is greater.  |   |  |
| <b>2.9.3 Rear Setbacks</b>  |   |  |
| <p>(a) The rear setback min 25% of the site length or 8m, whichever is greater.</p> <p>(b) Allotments wider than they are long, min setback of 4m</p> <p>(c) Dwelling on battle axe allotment are to be setback the rear boundary of the front lot min of 8m. Single storey garage or outbuilding can be within setback.</p>  | <p>A rear setback of 7.915m is 25% of site length.</p> <p>Proposed rear setback is a minimum of 8.27m</p> <p>N/A</p> <p>N/A</p>   | <p>Yes</p> <p>N/A</p> <p>N/A</p>   |
| <b>2.11 Car Parking and Access</b>  |   |  |
| <b>2.11.1 Car Parking</b>   |   |  |
| <p>(a) Dwellings 2 spaces. Dual occ 1 space/dwg</p> <p>(b) Spaces can be enclosed or roofed.</p> <p>(c) Garages setback 1m behind front elevation.</p> <p>(d) Located forward of existing dwelling if:<br/>                     (i)there is no other suitable position<br/>                     (ii) no vehicular access to the rear of side of the site<br/>                     (iii)it is preferred that it is single car width.</p> <p>(e) Garages doors solid. No expanded mesh doors.</p> <p>(f) Preference located off laneways, secondary street frontages.</p> <p>(g) Driveway widths minimised. Driveways single car width except where needed to be widen to double garage access.</p> <p>(h) Driveways not roofed.</p> <p>(i) Min width 6m or 50% of the frontage whichever is less</p> <p>(j) Total width garage doors not be &gt;5.7m</p> <p>(k) Driveways for battle axe enable vehicles to enter and leave in forward direction</p> <p>(l) Garage doors not be recessed more than 300mm</p> | <p>There is one space per dwelling proposed.</p> <p>Both spaces are enclosed in garages.</p> <p>Both garages are set back 1m from the façade.</p> <p>N/A</p> <p>The garages doors are solid.</p> <p>Not possible for subject site.</p> <p>The design minimises the driveway width.</p> <p>The driveway is not roofed</p> <p>The garages account for 45% of the frontage width.</p> <p>The total garage door width is 5.18m.</p> <p>N/A</p> <p>The doors are flush with the wall</p> | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> |

## ITEM 1 – Attachment 2

| DCP 2014   | Proposed  | Compliance |
|--|---|------------|
| (m) Garage windows >900mm from boundaries  | No garage windows proposed.   | N/A        |
| (n) Free standing garages max GFA 36m <sup>2</sup>   | Not freestanding  | N/A        |
| (o) Design and materials to complement dwelling  | The design of the garages complements the dwelling.                                       | Yes        |
| (p) Setback at least 1m from façade  | The garages are set back 1m from the façade.  | Yes        |
| (q) Carports not enclosed.   | N/A   | N/A        |
| <b>2.11.2 Semi basement Car Parking</b>  |   |            |
| (a) Ramps start at least 2m from street boundary. Ramps not on public land.  | N/A – a semi-basement design is not proposed.   | N/A        |
| (b) The walls of semi basement car parks are not to extend beyond the walls of the dwelling above.   |   |            |
| (c) Semi basement car parking can only be used where it is appropriate with regard to the topography of the site.  |   |            |
| <b>2.13 Landscaping</b>  |   |            |
| (a) Major trees to be retained where practical   | The proposal seeks to retain the established vegetation at the rear of the site.          | Yes        |
| (b) Lots adjoining bushland, protect and retain indigenous native vegetation and use native indigenous plant spaces for a distance of 10m                                  | N/A – does not adjoin bushland.   | N/A        |
| (c) Provide useful outdoor spaces  | The outdoor spaces are considered to be useful.   | Yes        |
| (d) Physical connection between dwelling and external ground level   | There is a physical connection between the dwellings and the external ground level.       | Yes        |
| (e) Provide landscape front garden. Hard paved areas no more than 40%.   | The hard paved area in the front setback comprises 37%.                                   | Yes        |
| (f) Pathway along one side boundary connecting front to rear. Not to be blocked by ancillary structures. Not required where there is rear lane access or corner allotment. | There are stepping stones on both sides of the building to facilitate access to the rear. | Yes        |
| (g) Landscape elements in front garden to be compatible with scale of dwelling.  | There are two Water Gum plantings proposed in the front setback                           | Yes        |
| (h) Front garden at least 1 canopy tree at least 10m in height   | There are two canopy tree plantings in the front garden with 10m mature heights           | Yes        |

**ITEM 1 – Attachment 2**

| DCP 2014  | Proposed  | Compliance   |
|---|---|--|
| <p>(i) Mature tree at least 15m in rear garden with the DSA</p> <p>(j) Locate and design landscaping to increase privacy between dwellings</p> <p>(k) Hedge planting on boundary no greater than 2.7m</p> <p>(l) Retaining walls and other landscape elements not to obstruct stormwater overland flow.</p> <p>(m) OSD not to be located within front setback unless it is underneath driveway</p> <p>(n) Landscaping to include POS</p>  | <p>There are two Angophora plantings proposed in the rear garden areas with 18m mature heights.</p> <p>The landscaping increases the privacy between the two dwellings.</p> <p>There are no hedge plantings exceeding 2.7m</p> <p>The retaining walls do not obstruct stormwater overland flow.</p> <p>OSD is located to the rear of the building.</p> <p>Landscaping includes POS.</p>   | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>                          |
| <b>2.14 Dwelling Amenity</b>  |   |  |
| <b>2.14.1 Daylight and Sunlight Access</b>  |   |  |
| <p>(a) Living areas are to be predominantly located to the north where possible</p> <p>(b) Sites with northern side boundary to have increased setback of 4 metres is preferred.</p> <p><u>Subject Dwelling</u></p> <p>(c) Windows to north facing living areas of subject dwellings are to receive at least 3 hours of sunlight between 9am to 3pm on June 21.</p> <p>(d) Private open space is to receive at least 2 hours sunlight between 9am to 3pm on June 21.</p> <p><u>Neighbouring properties:</u></p> <p>(e) For neighbouring properties:</p> <p>(i) sunlight to 50% of principal areas of ground level POS is not reduced to less than 2 hours between 9am to 3pm on 21 June</p> <p>(ii) windows to north facing living areas to receive at least 3 hours of sunlight between 9am and 3pm on 21 June over a portion of surface, where can be</p> | <p>It is not possible or practical to locate the living areas to the north given the site orientation.</p> <p>N/A – north is to the front.</p> <p>N/A – there are no north facing living areas.</p> <p>Both dwellings POS receives over 2 hours sunlight between 9am and 3pm on June 21.</p> <p>The proposal does not reduce the extent of solar access to any adjoining property for less than 2 hours between 9am and 3pm on 21 June.</p> <p>The proposal does not result in reducing the extent of sunlight to north facing windows on any adjoining properties to under 3 hours between 9am and 3pm on 21 June.</p> | <p>Not possible on subject site</p> <p>N/A</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> |

**ITEM 1 – Attachment 2**

| DCP 2014   | Proposed   | Compliance   |
|--|--|--|
| reasonably maintained given orientation and topography.  |  |  |
| <b>2.14.2 Visual Privacy</b>   |  |  |
| <p>(a) Orientate the windows of main living spaces (living room, dining, kitchen, family etc) to the front and rear</p> <p>(b) Orientate terraces, balconies and outdoor living areas to front or rear and not side boundary</p> <p>(c) Terraces and balconies are not to overlook neighbour's living areas and POS</p> <p>(d) Living and kitchen windows, terraces and balconies are not to allow direct view into neighbouring dwelling or POS</p> <p>(e) Side windows are to be offset by sufficient distance to avoid visual connection between dwellings.</p> | <p>The main living spaces are orientated to the rear of the dwellings.</p> <p>There are no first floor balconies. The alfresco areas are located to the rear of the building.</p> <p>The rear alfrescos do not result in any overlooking on the adjoining properties.</p> <p>There is no overlooking potential from the alfrescos or living/dining rooms.</p> <p>The side windows are suitably offset given the orientation of the lots with diagonal side boundaries.</p> | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> |
| <p>(f) Splayed walls with windows are not to be located above ground level where the windows provide views into adjoining property.</p>  | <p>There are no splayed walls with windows proposed.</p>   | <p>N/A</p>   |
| <b>2.14.3 Acoustic Privacy</b>   |  |  |
| <p>(a) Noise of mechanical equipment not exceed 5dB(A) above background noise measured in or on any premises in vicinity of the item.</p> <p>(b) Dwellings on arterial roads double glazed windows fronting road.</p> <p>(c) Dwellings on arterial roads acoustic seal on the front door.</p> <p>(d) Dual occupancies are to be designed to reduce noise transmission between dwellings.</p>   | <p>There is no mechanical equipment proposed which would exceed 5dB(A) above background.</p> <p>N/A</p> <p>N/A</p> <p>The units are designed to minimise noise transmission between the units.</p>   | <p>Yes</p> <p>N/A</p> <p>N/A</p> <p>Yes</p>            |
| <b>2.14.4 View Sharing</b>   |  |  |
| <p>(a) The siting of development is to provide for view sharing.</p>   | <p>There are no significant views obtained from the site.</p>  | <p>Yes</p>   |
| <b>2.14.5 Cross Ventilation</b>  |  |  |
| <p>(a) Designed to optimise access to prevailing</p>   | <p>Both units allow for sufficient cross ventilation.</p>  | <p>Yes</p>   |

**ITEM 1 – Attachment 2**

| DCP 2014   | Proposed  | Compliance  |
|--|---|---|
| breezes and provide for cross ventilation.   |   |   |
| <b>2.15 External Building Elements</b>   |   |   |
| <b>2.15.1 Roofs</b>  |   |   |
| <p>(a) Relate roof design to the desired built form by:</p> <p>(i) articulating the roof</p> <p>(ii) roof is consistent with the architectural character of dwelling</p> <p>(iii) eaves minimum 450mm overhang on pitched roofs</p> <p>(iv) compatible roof form, slope, material and colour to adjacent buildings</p> <p>(v) roof height is in proportion to the wall height of the building</p> <p>(b) The main roof not trafficable terrace.</p> <p>(c) Proposed attic contained within the volume of the roof space.</p> <p>(d) Skylights to be minimised on roof planes visible from the public domain. Skylights are to be symmetrical.</p> <p>(e) The front roof plane is not to contain both dormer and skylight. Dormers are preferred.</p> <p>(f) Balconies and terraces are not to be set into roofs.</p> <p>(g) Scale of the roof is to be in proportion with the scale of the wall below.</p> <p>(h) Attics may be located in the garage roofs if the garage is located next to the dwelling. Garages located within front or rear setbacks are not to have attics.</p> | <p>The roof form is suitably articulated</p> <p>The roof form is consistent with the character of the dwelling</p> <p>There are no eaves.</p> <p>The roof form is consistent with adjacent buildings.</p> <p>The roof height is in proportion to the wall height of the building.</p> <p>The roof is not trafficable.</p> <p>No attic proposed</p> <p>There are no skylights proposed that will be visible from the public domain</p> <p>N/A – flat roof proposed</p> <p>No balconies or terraces set into roofs</p> <p>The scale of the roof is in proportion</p> <p>N/A no attics proposed.</p> | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> |
| <b>2.16 Fences</b>   |   |   |
| <b>2.16.1 Front and return Fences and Walls</b>  |   |   |
| <p>(a) Reflect the design of the dwelling</p> <p>(b) Materials compatible with the house and other fences in streetscape</p> <p>(c) Solid fence or wall max 900mm. Open light weight fence (timber picket) 1m.</p> <p>(d) Return fence is to be no higher than front fence</p>   | <p>N/A – There is no front fencing proposed</p>   | <p>N/A</p>  |

## ITEM 1 – Attachment 2

| DCP 2014  | Proposed  | Compliance |
|---|---|------------|
| (e) Fences max 1.8m if 50% open with solid base max 900mm<br>(f) Fences arterial road solid and 1.8m max<br>(g) No Colorbond or timber paling.<br>(h) Retaining walls max 900mm<br>(i) Fence Overland flow - fencing open not impede flow of water<br>(j) piers max 350mm.  |   |            |
| <b>2.16.2 Side and Rear Fences and Walls</b>  |   |            |
| (a) 1.8m Max side and rear fence  | 1.8m high boundary fencing is proposed.   | Yes        |
| (b) Overland flow - fencing to be open not impede flow of water   | Fencing does not impede overland flows.   | Yes        |
| (c) No Barbed wire, broken glass or other dangerous elements.   | Timber and colorbond fencing proposed.  | Yes        |
| (d) Fencing forward of the foreshore building line open and permeable.  | N/A   | N/A        |
| <b>Part 7: Environment</b>  |   |            |
| <b>7.1: Energy Smart, Water Wise</b>  |   |            |
| <b>3.0 The information Guide</b>  |   |            |
| <b>3.2 Required information</b>   |   |            |
| (a) Energy efficiency performance report<br>(b) Site analysis   | BASIX Certificate:<br>1184933M_03 and dated 30 June 2022.<br><br>Energy: 51<br>Water: 45<br><br>Plans consistent with Certificate | Yes        |
| <b>Part 7.2 Waste Minimisation and Management</b>   |   |            |
| <b>2.3 All developments</b>   |   |            |
| (a) Developments must provide space for onsite waste containers<br>(b) Compliant size of storage areas and number of storage containers.<br>(c) Space to be provided for bulk waste where appropriate.<br>(d) Storage of green waste provided<br>(e) Stored within the boundaries of the site.<br>(f) Site Waste Minimisation and Management Plan (SWMMP) to be submitted | The plans nominate waste storage locations in a suitable manner.  | Yes        |

## ITEM 1 – Attachment 2

| DCP 2014  | Proposed   | Compliance |
|---|--|------------|
| <p>(g) Located to provide easy, direct and convenient access.</p> <p>(h) No incineration devices.</p> <p>(i) Collection point identified on plan.</p> <p>(j) Path for wheeling bin collection not less than 14</p>  |  |            |
| <b>2.4 Demolition and Construction</b>  |  |            |
| <p>(a) Demolition must comply with AS and WorkCover</p> <p>(b) Demolition work plan submitted</p> <p>(c) Dedicated area on site for stockpile of materials taking into account environmental factors and amenity impacts.</p> <p>(d) Construction materials to be stored away from the waste materials on site.</p> | Conditions recommended.  | Yes        |
| <b>2.5 Residential Developments comprising 1 or 2 Dwellings</b>   |  |            |
| <p>(a) Space inside each dwelling for receptacles for garbage, recycling.</p> <p>(b) Space provided outside the dwellings to store the required garbage, recycling and green waste bins. Screened from street. Easy access to wheel the bins to the kerbside.</p>   | Each dwelling has internal areas for waste and recycling storage.  | Yes        |
|   |  | Yes        |
| <b>Part 8: Engineering</b>  |  |            |
| <b>8.1 Construction Activities</b>  |  |            |
| <b>2.1.2 Erosion and Sediment Control Plan</b>  |  |            |
| Erosion and sediment control plan to be submitted.  | A suitable erosion and sediment control plan has been submitted.   | Yes        |
| <b>Part 8.2 Stormwater and Floodplain Management</b>  |  |            |
| <b>2.0 Stormwater Drainage</b>  |  |            |
| <p>(a) Drainage is to be piped in accordance with Section 2.0 Stormwater Drainage</p> <p>Application has been consideration satisfactory by Development Engineering and City Works.</p>   | <p>Stormwater Plan prepared by Engineering Studio ref C02.01 and dated 05/06/2023.</p> <p>Proposal has been considered satisfactory by Council's Development Engineer.</p> | Yes        |
| <b>4.0 Designing internal access roads and parking spaces</b>   |  |            |
| 4.1 (a) the design of all parking spaces, circulation roads and manoeuvring areas on the property must confirm to the minimum requirements of AS2890.1-2004.  | Complies with AS2890.1-2004.   | Yes        |
| <b>S2.0 Design Standards</b>  |  |            |

**ITEM 1 – Attachment 2**

| DCP 2014  | Proposed  | Compliance |
|---|---|------------|
| <b>S2.2 Vehicular crossing widths</b>   |   |            |
| (a) Min 3.0m and max of 5.0m.<br>(b) Max width of 6m to facilitate accessing two adjacent garages if the distance between the space and the street frontage is less than 5.0m | A twin driveway is proposed with a width of 4.08m.                        | Yes        |
| <b>Part 9.2 Access for People with Disabilities</b>   |   |            |
| <b>4.1.2 Class 1 Buildings</b>  |   |            |
| Accessible path required from the street to the front door, where the level of land permits.  | There is an accessible path of travel for both dwellings from the street. | Yes        |
| <b>Part 9.3 Parking Controls</b>  |   |            |
| <b>2.2 Residential Lane Uses</b>  |   |            |
| <ul style="list-style-type: none"> <li>- Dwelling houses up to 2 spaces/dwelling</li> <li>- Dual occupancy 1 space/dwelling</li> </ul>  | Both dwellings have single garages.                                       | Yes        |



**Site Data Lot 12**

site area = 916.9sqm

front landscaped area  
required = 60 sqm or 60% of the front setback  
provided = 64sqm

private open space  
required = 420 sqm

floor space ratio  
permissible = 458.4 sqm or 50% of the site  
provided = 411.2 sqm or 44.8% of the site

deep soil zone  
required = 35% or 320.9 sqm  
provided = 57.03% or 522.4 sqm

**Floor areas**

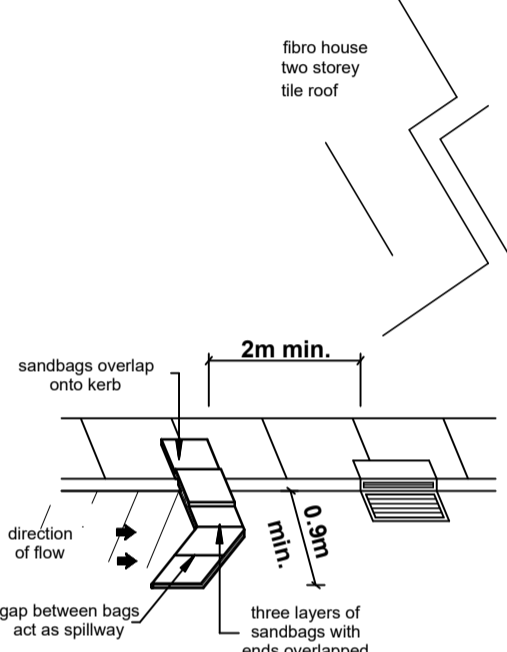
ground floor = 112.6sqm  
garage floor = 21.1sqm  
porch floor = 2.4sqm  
first floor = 107.5sqm

total floor area = 243.6sqm or 26.2sqs

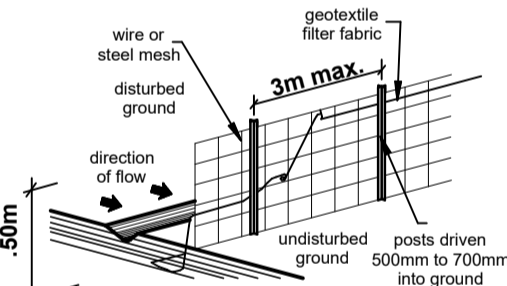
**Floor areas**

ground floor = 108.6sqm  
garage floor = 22.5sqm  
porch floor = 2.5sqm  
alfresco floor = 12.8sqm  
first floor = 131.0sqm

total floor area = 277.4sqm or 29.9sqs



**KERB INLET SEDIMENT TRAP**



**SILT FENCE DETAIL**

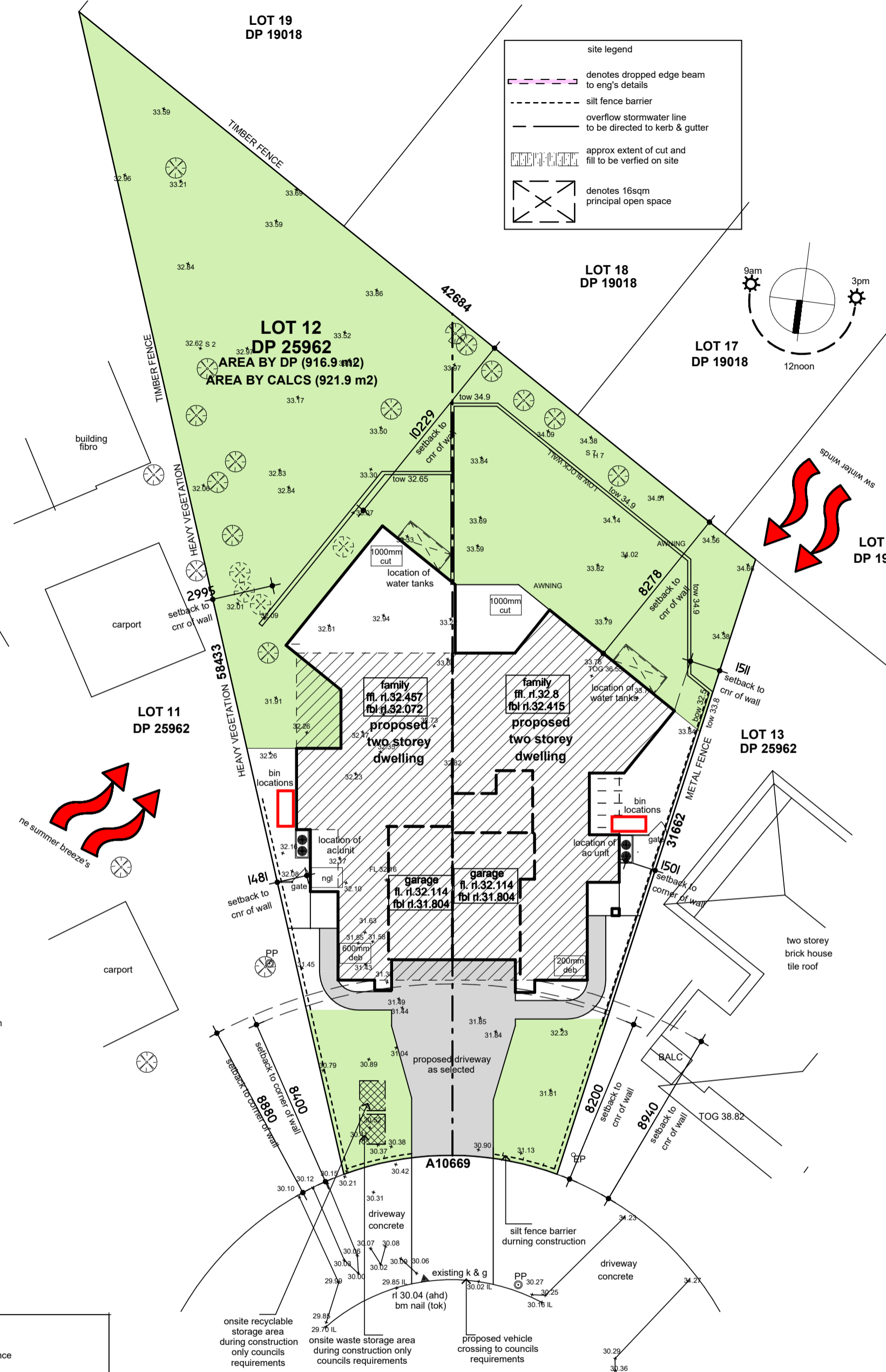
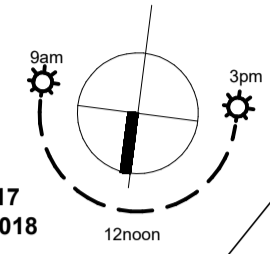
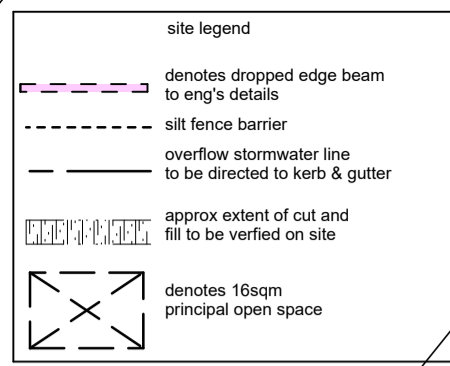
sediment control notes:

- all erosion and sedimentation control measurements, including revegetation and storage of soil and topsoil, shall be implemented to the standards of the soil conservation of n.s.w.
- all drainage works shall be constructed around and stabilised as early as possible during development
- sediment traps shall be constructed around all inlet pits, consisting of 300mm wide x 300mm deep trench.
- all sediment basins and traps shall be cleaned when the structures are a maximum of 60% full of materials, including the maintenance period.
- all disturbed areas shall be revegetated as soon as the relevant works are completed.
- soil and topsoil stockpiles shall be located away from drainage lines and area where water may concentrate.
- filter shall be constructed by stretching a filter fabric (propex or approved equivalent between posts at 2m centres). fabric shall be buried 150mm along its lower edge.

**general notes:**

- all aspects of construction to comply with the applicable performance requirements of the NCC
- Stormwater is to be collected within the site and conveyed in a pipeline to the appropriate point of discharge as directed by Council and as detailed on the approved plans.
- sewer to local authorities requirements.
- all ground lines are to be verified on-site by the builder.
- written dimensions to take precedence over scaling, any plan discrepancies to be referred back to designs by pf.
- finished floor levels may vary (+/- 100mm) from those indicated on plan, due to site clearing, demolition, contour inconsistencies etc.
- garage / driveway profiles must always comply to Australian standards AS 2890.
- see elevations regarding all dropped edge beam details.
- tender/contract relevant to this proposal are to take preference to this plan.
- window spacings shown on plan are approximate and may vary on site.
- plan to be read in-conjunction with engineering plans
- All retaining walls, driveways, garden steps & fencing by owner unless noted otherwise
- **FIRST FLOOR WINDOW NOTE:** all first floor bedroom windows to be provided with protection as per NCC Clause 3-9-2-6. first floor rooms (figure 3-9-2-5). other than bedrooms as per NCC Clause 3-9-2-7 (figure 3-9-2-6)
- window and door heights on elevations are approximate only and may vary on site
- No works are to be carried out over an easement. No works are to be carried out over council property without prior council approval

LOT 19  
DP 19018



view noise BAIRD AVENUE noise view

**SITE PLAN**

scale 1:200 @ a3

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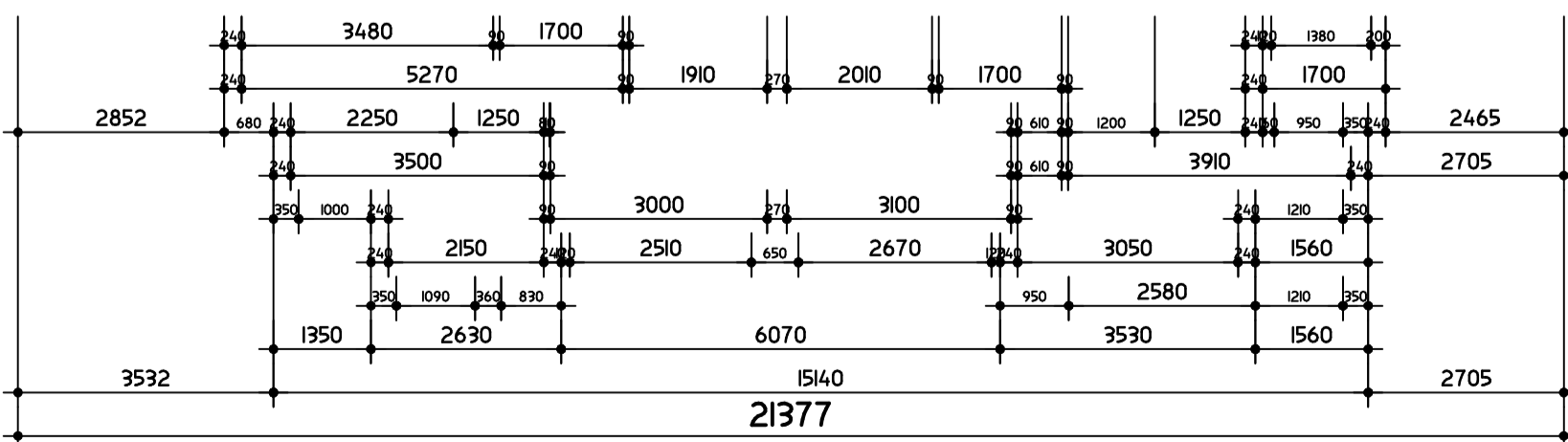
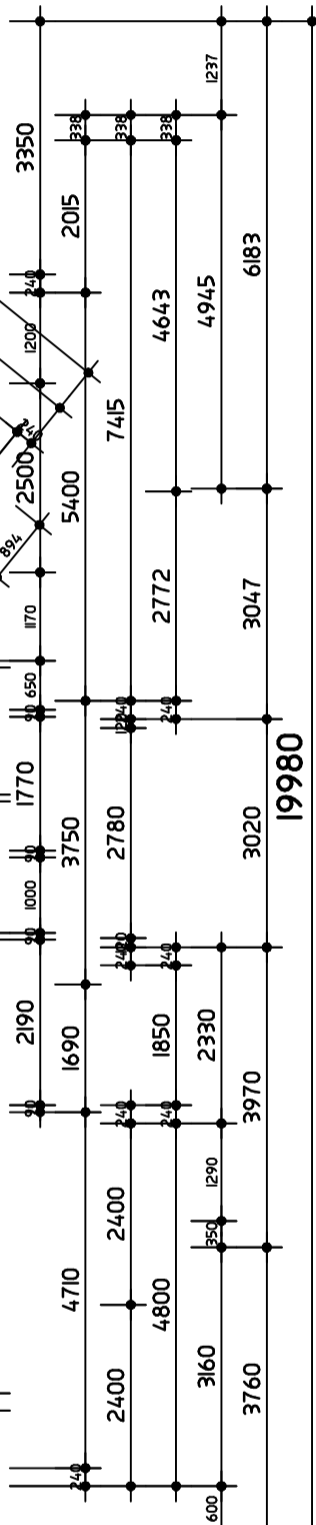
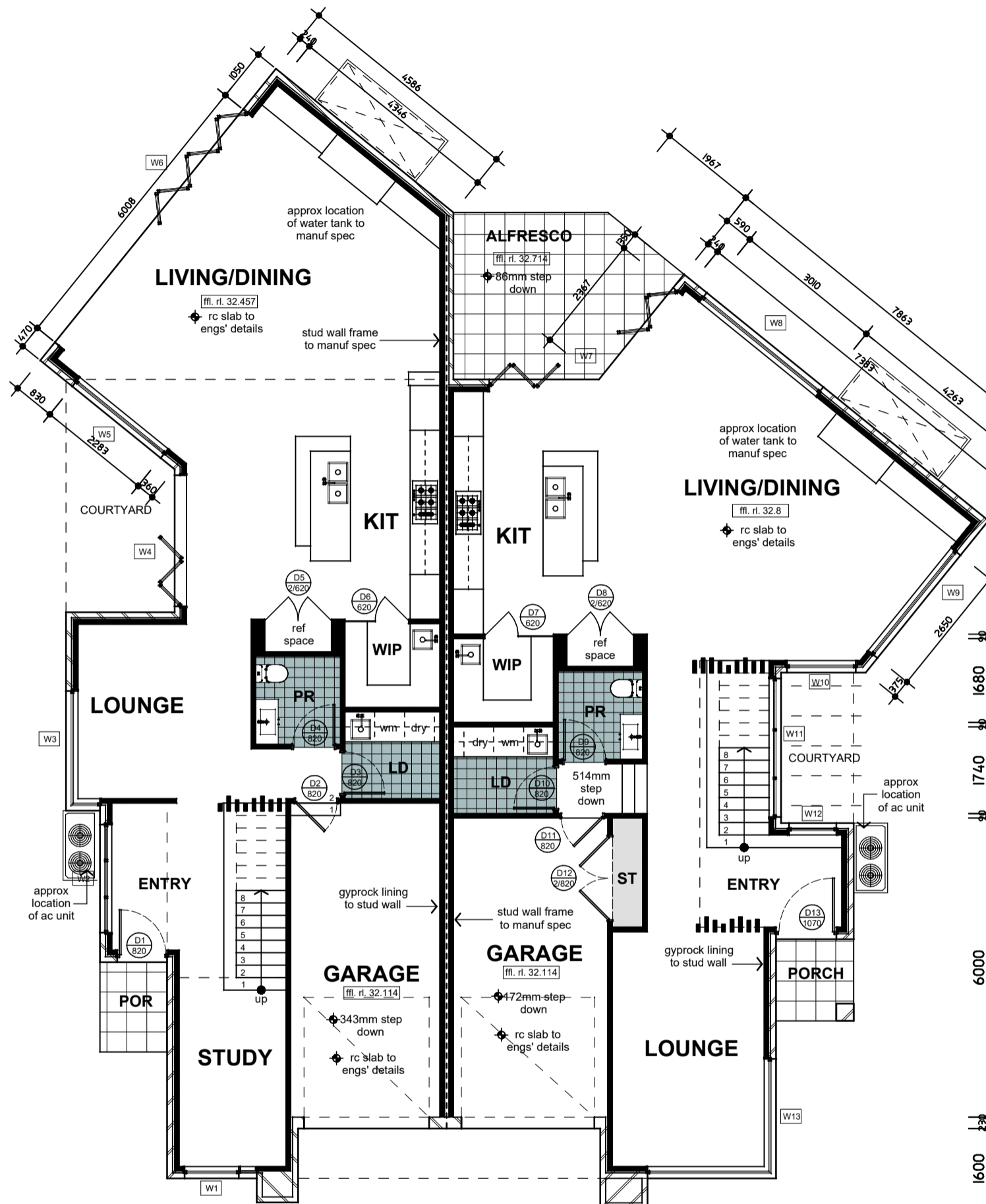
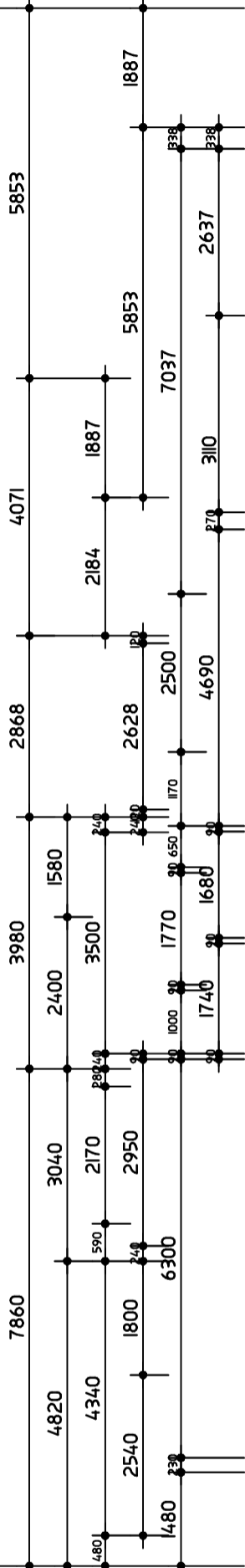
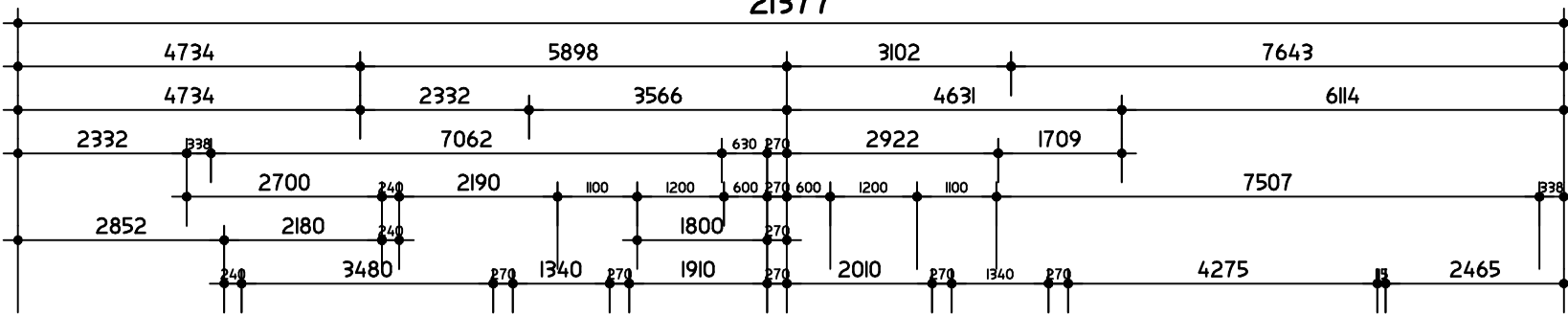
builder  
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client:  
address:  
**Lot 12, Baird Avenue**  
drawing no. job no. page no.  
**OLY-006** 1

| rev | date     | description       |
|-----|----------|-------------------|
| A   | 24.01.21 | prelim plans      |
| B   | 7.3.21   | prelim DA plans   |
| C   | 21.3.21  | issued DA plans   |
| D   | 10.2.22  | reissued DA plans |
| E   | 18.1.23  | reissued DA plans |
| F   | 21.5.23  | reissued DA plans |

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21377



# GROUND FLOOR PLAN

scale 1:100 @ A3



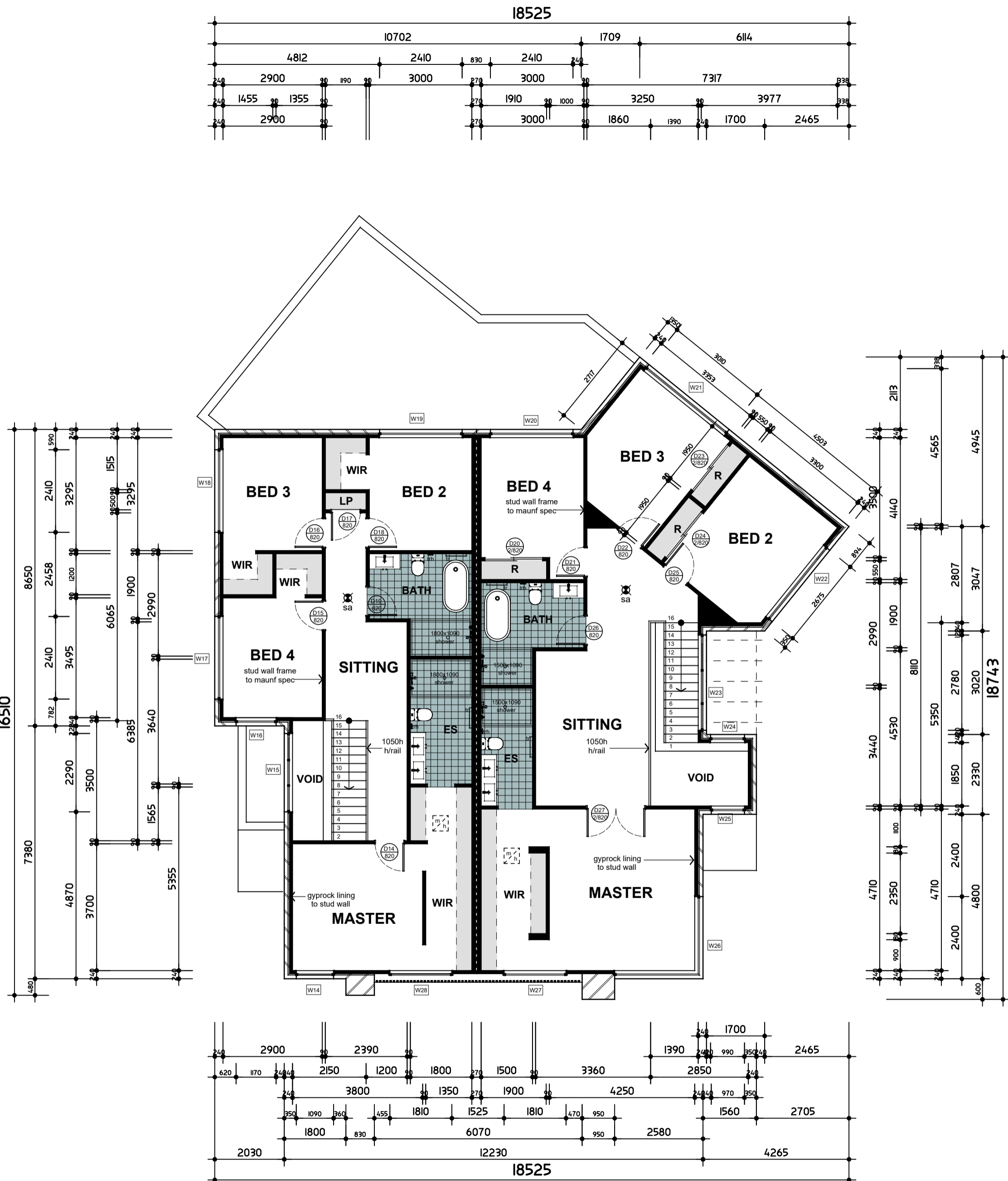
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client:  
address:  
**Lot 12, Baird Avenue**  
**Ryde**  
drawing no. | job no. | page no.  
**OLY-006** | | **2**

| rev | date     | description       |
|-----|----------|-------------------|
| A   | 24.01.21 | prelim plans      |
| B   | 7.3.21   | prelim DA plans   |
| C   | 21.3.21  | issued DA plans   |
| D   | 10.2.22  | reissued DA plans |
| E   | 18.1.23  | reissued DA plans |
| F   | 21.5.23  | reissued DA plans |

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# FIRST FLOOR PLAN

scale 1:100 @ A3



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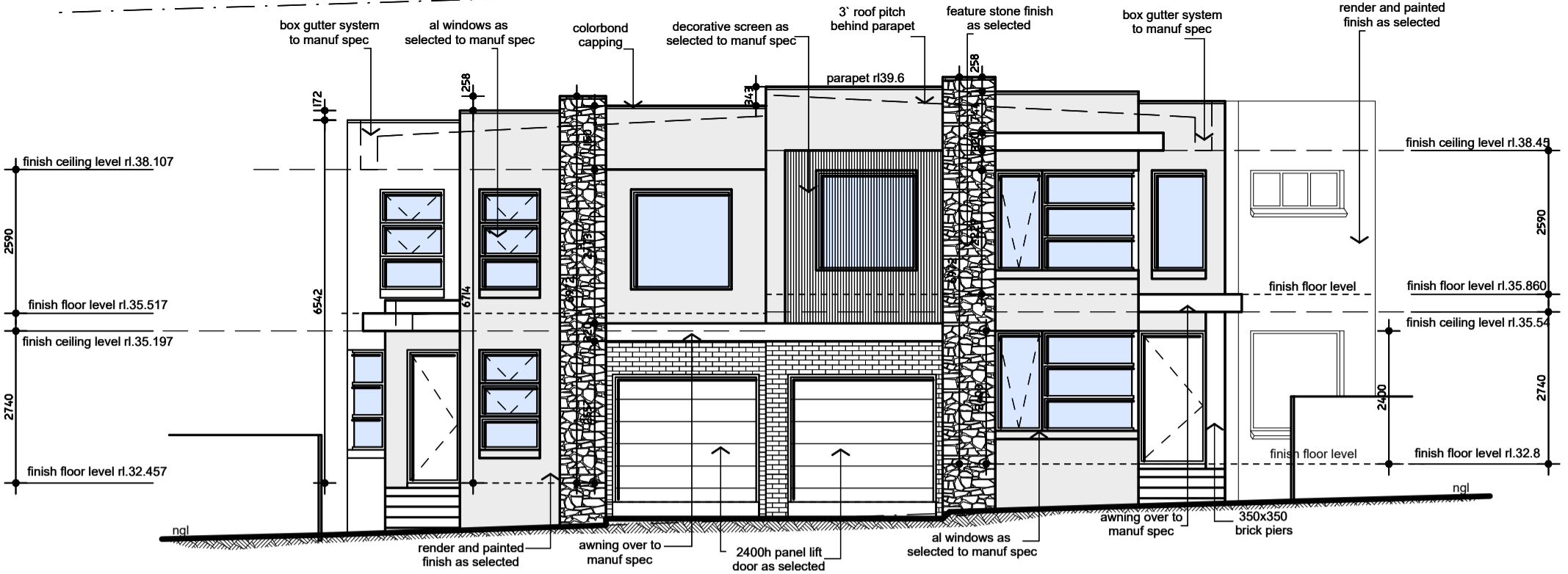
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address:  
**Lot 12, Baird Avenue**  
**Ryde**  
drawing no. | job no. | page no.  
**OLY-006** | | **2**

| rev | date     | description       |
|-----|----------|-------------------|
| A   | 24.01.21 | prelim plans      |
| B   | 7.3.21   | prelim DA plans   |
| C   | 21.3.21  | issued DA plans   |
| D   | 10.2.22  | reissued DA plans |
| E   | 18.1.23  | reissued DA plans |
| F   | 21.5.23  | reissued DA plans |

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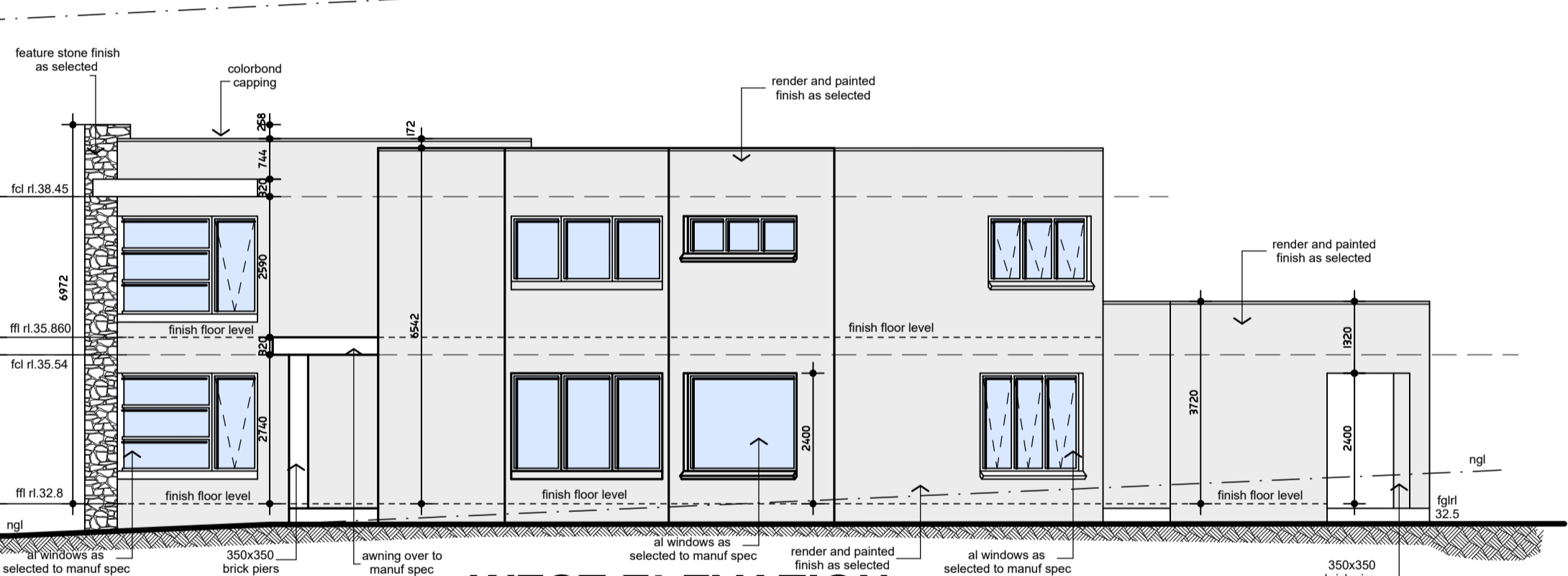
9.5m maximum building height line



# NORTH ELEVATION

scale 1:100 @ A3

9.5m maximum building height line



# WEST ELEVATION

scale 1:100 @ A3

## window schedule ground floor

| qty. | code. | notes.     | ht                   | wth            |
|------|-------|------------|----------------------|----------------|
| W1   | 1     | A1810T     | al awning window     | 1800 1090      |
| W2   | 1     | F1821      | al fixed window      | 1800 2170      |
| W3   | 1     | A1824T-06T | cnr al awning window | 1800 2410 600  |
| W4   | 1     | ABD2426    | al bi-fold door      | 2400 2650      |
| W5   | 1     | F1821      | al fixed window      | 1800 2170      |
| W6   | 1     | ABD2460    | al bi-fold door      | 2400 2650      |
| W7   | 1     | ABD2422-23 | al bi-fold door      | 2400 2200 2300 |
| W8   | 1     | A1830T     | al awning window     | 1800 3000      |
| W9   | 1     | F1826      | al fixed window      | 1800 2650      |
| W0   | 1     | F1813      | al fixed window      | 1800 1330      |
| W1   | 1     | F1827      | al fixed window      | 1800 2780      |
| W2   | 1     | F1809      | al fixed window      | 1800 950       |
| W3   | 1     | A1825T-25T | cnr al awning window | 1800 2580 2580 |
| 13   |       | total.     |                      |                |

sizes shown in table are frame opening sizes. window manufacturer to confirmed prior to manufacture, refer to elevations for window configurations

## window schedule first floor

| qty. | code. | notes.     | ht                   | wth            |
|------|-------|------------|----------------------|----------------|
| W4   | 1     | A1810T     | al awning window     | 1800 1090      |
| W5   | 1     | F1221      | al fixed window      | 1200 2170      |
| W6   | 1     | A1810T     | al awning window     | 1800 1090      |
| W7   | 1     | A0624      | al awning window     | 610 2410       |
| W8   | 1     | A0624      | al awning window     | 610 2410       |
| W9   | 1     | A1224      | al awning window     | 1200 2410      |
| W20  | 1     | A1224      | al awning window     | 1200 2410      |
| W21  | 1     | A1230      | al awning window     | 1200 3010      |
| W22  | 1     | A1206      | al awning window     | 1200 600       |
| W23  | 1     | F1227      | al fixed window      | 1200 2780      |
| W24  | 1     | F1209      | al fixed window      | 1200 950       |
| W25  | 1     | F1809      | al fixed window      | 1800 950       |
| W26  | 1     | A1825T-24T | cnr al awning window | 1800 2580 2410 |
| W27  | 1     | F1818      | al fixed window      | 1800 1810      |
| W28  | 1     | F1818      | al fixed window      | 1800 1810      |
| 13   |       | total.     |                      |                |

sizes shown in table are frame opening sizes. window manufacturer to confirmed prior to manufacture, refer to elevations for window configurations



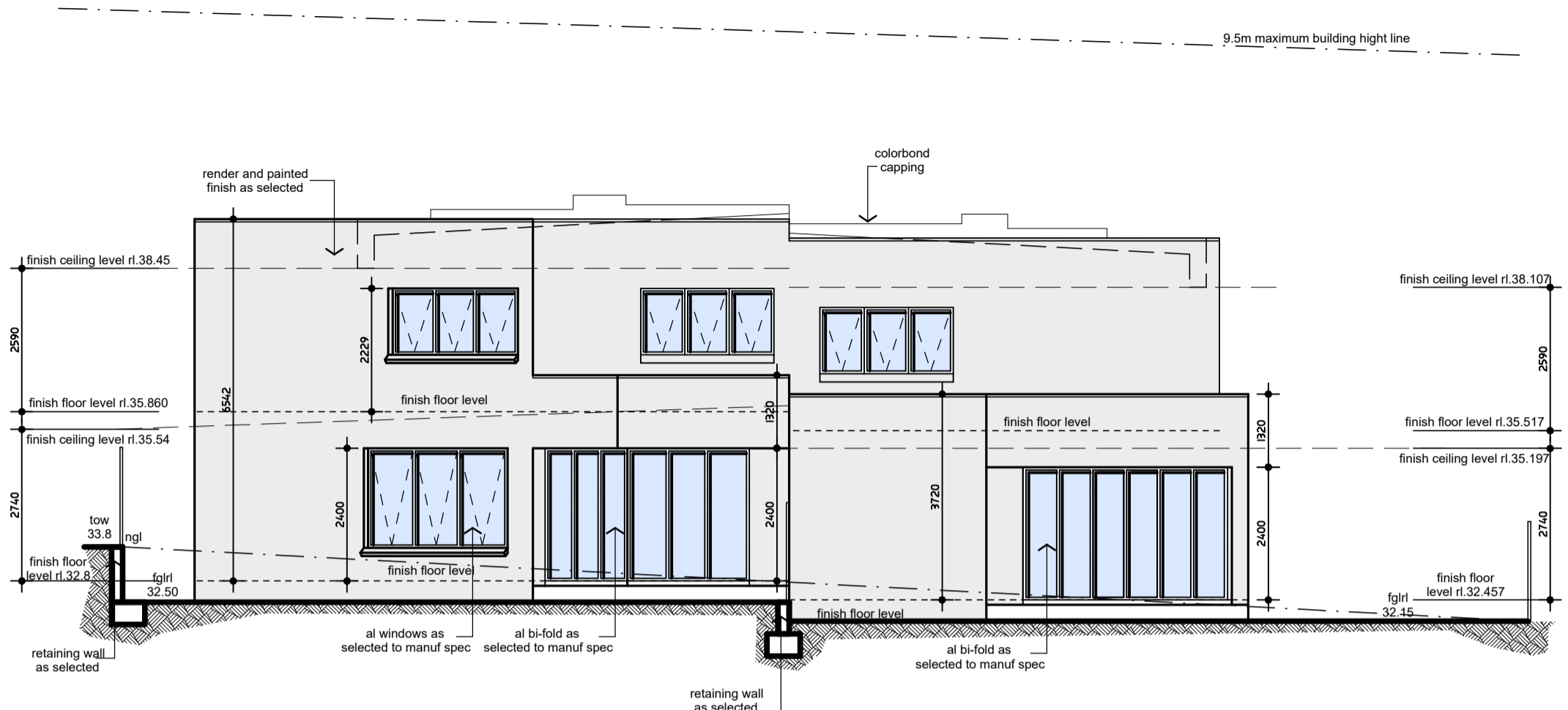
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client: ---  
address: **Lot 12, Baird Avenue Ryde**  
drawing no. **OLY-006** | job no. | page no. **4**

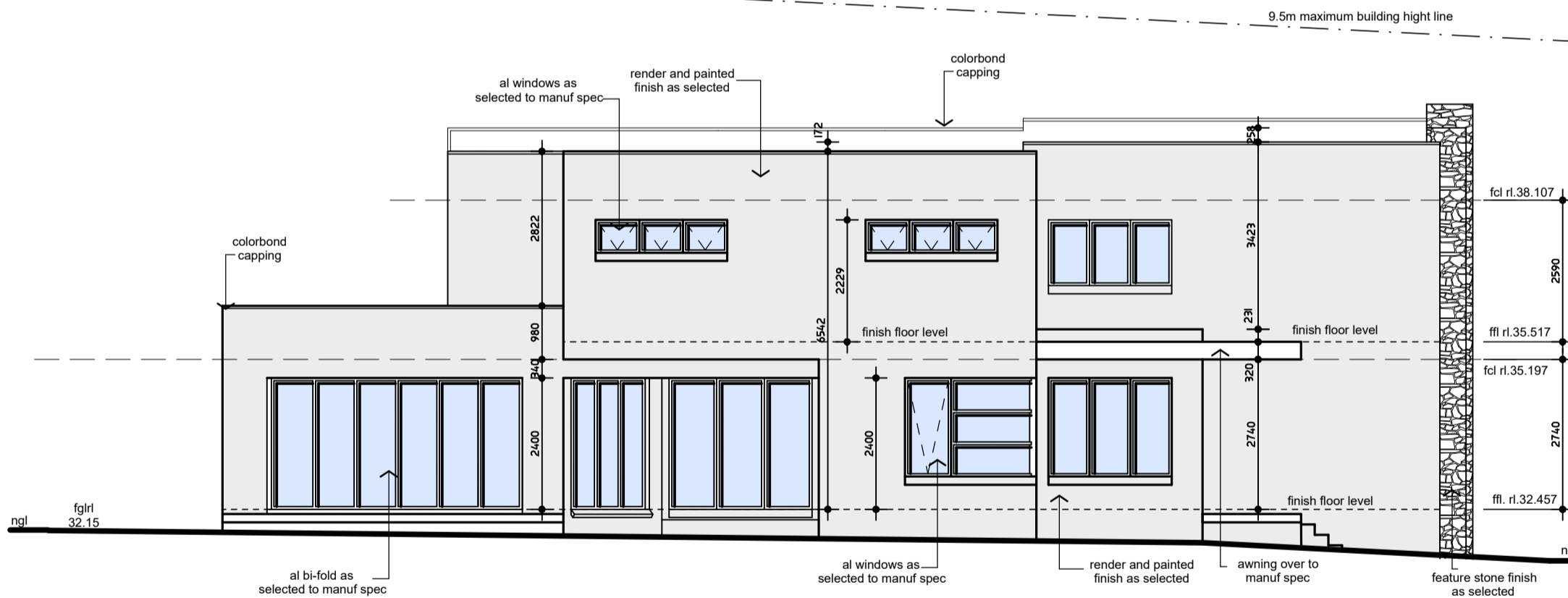
| rev | date     | description       |
|-----|----------|-------------------|
| A   | 24.01.21 | prelim plans      |
| B   | 7.3.21   | prelim DA plans   |
| C   | 21.3.21  | issued DA plans   |
| D   | 10.2.22  | reissued DA plans |
| E   | 18.1.23  | reissued DA plans |
| F   | 21.5.23  | reissued DA plans |

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## SOUTH ELEVATION

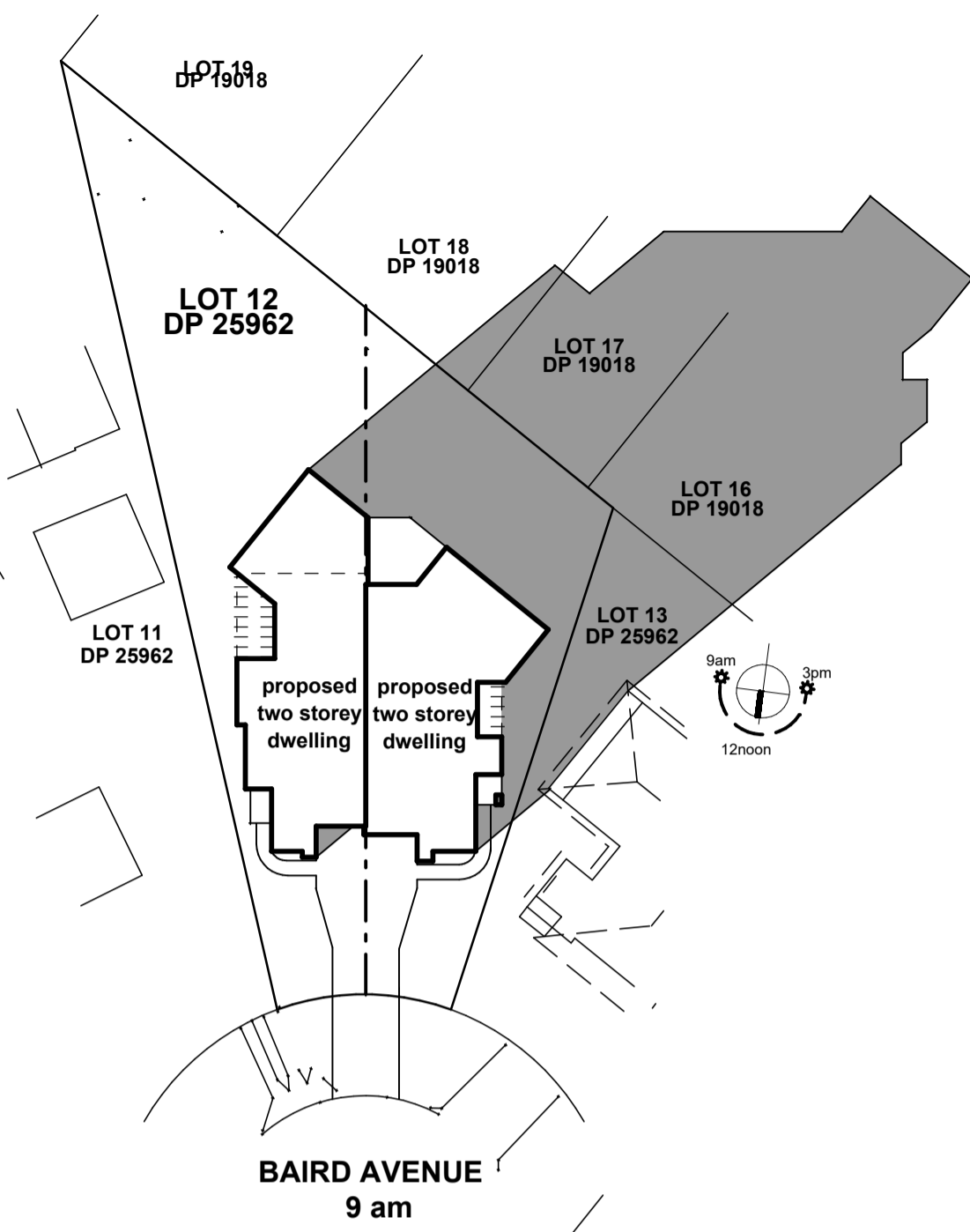
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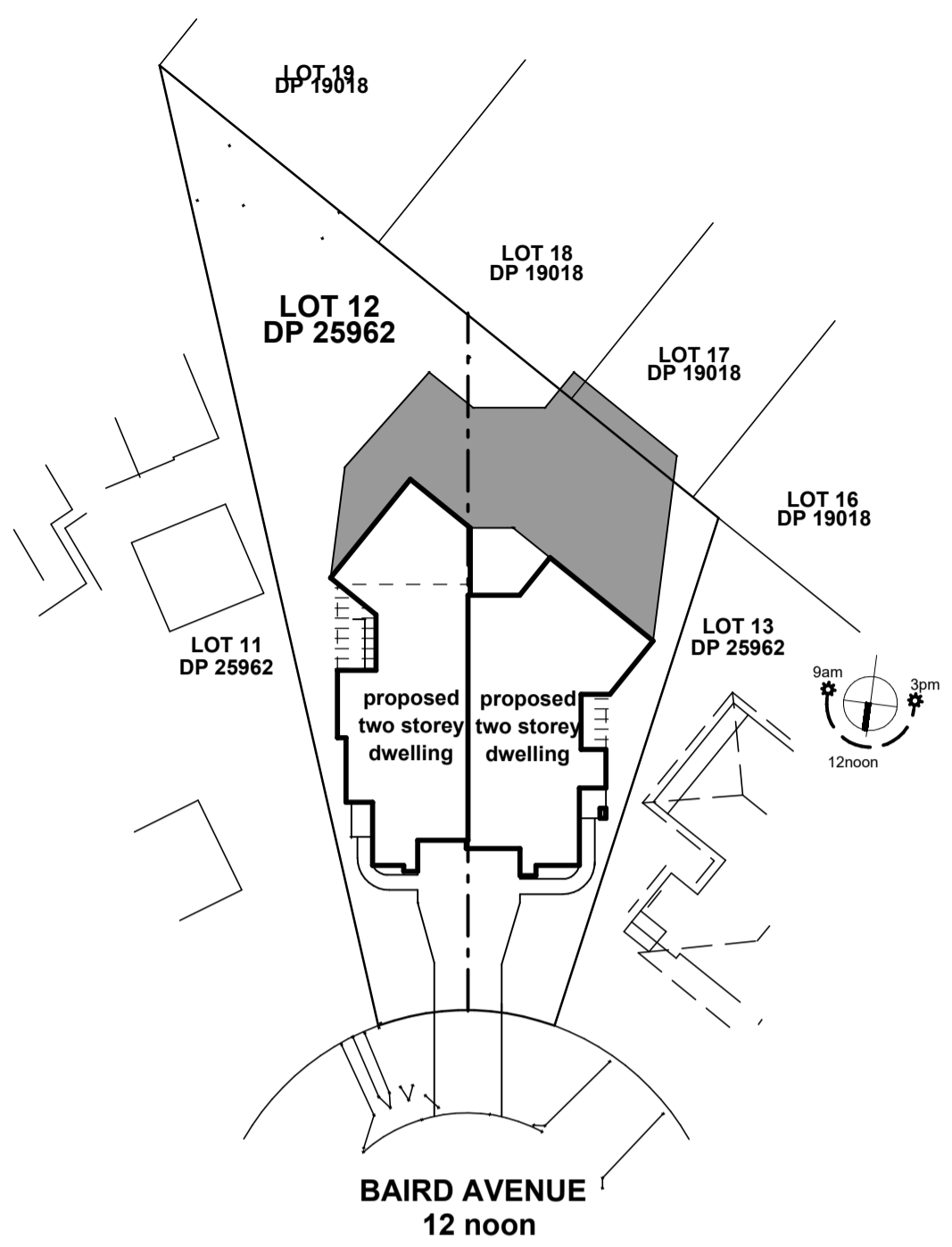
## EAST ELEVATION

scale 1:100 @ A3

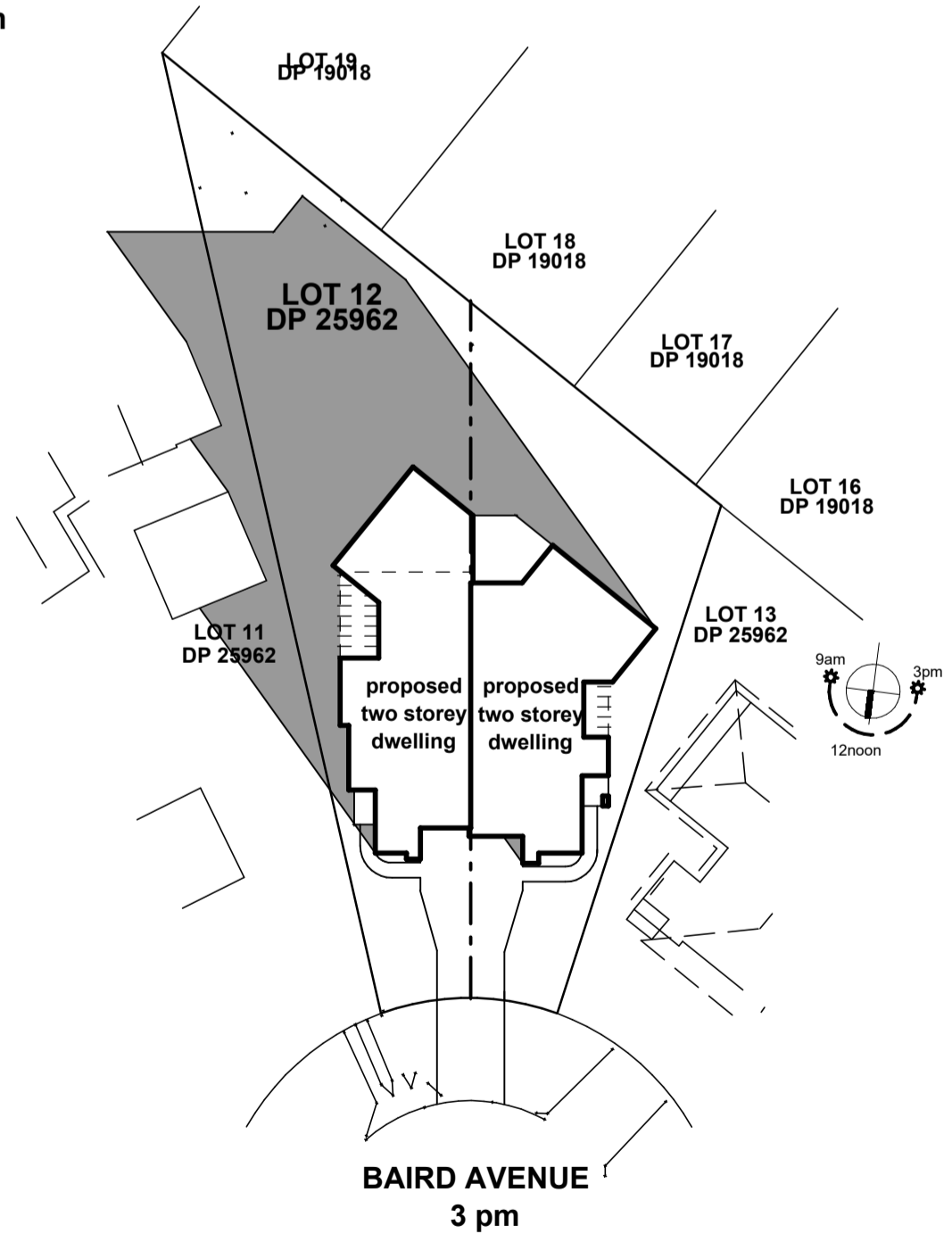




BAIRD AVENUE  
9 am



BAIRD AVENUE  
12 noon



BAIRD AVENUE  
3 pm

# SHADOW DIAGRAMS

## JUNE 21ST MID-WINTER 1:400

shadow diagrams to be used as a guide only site conditions may cause variations



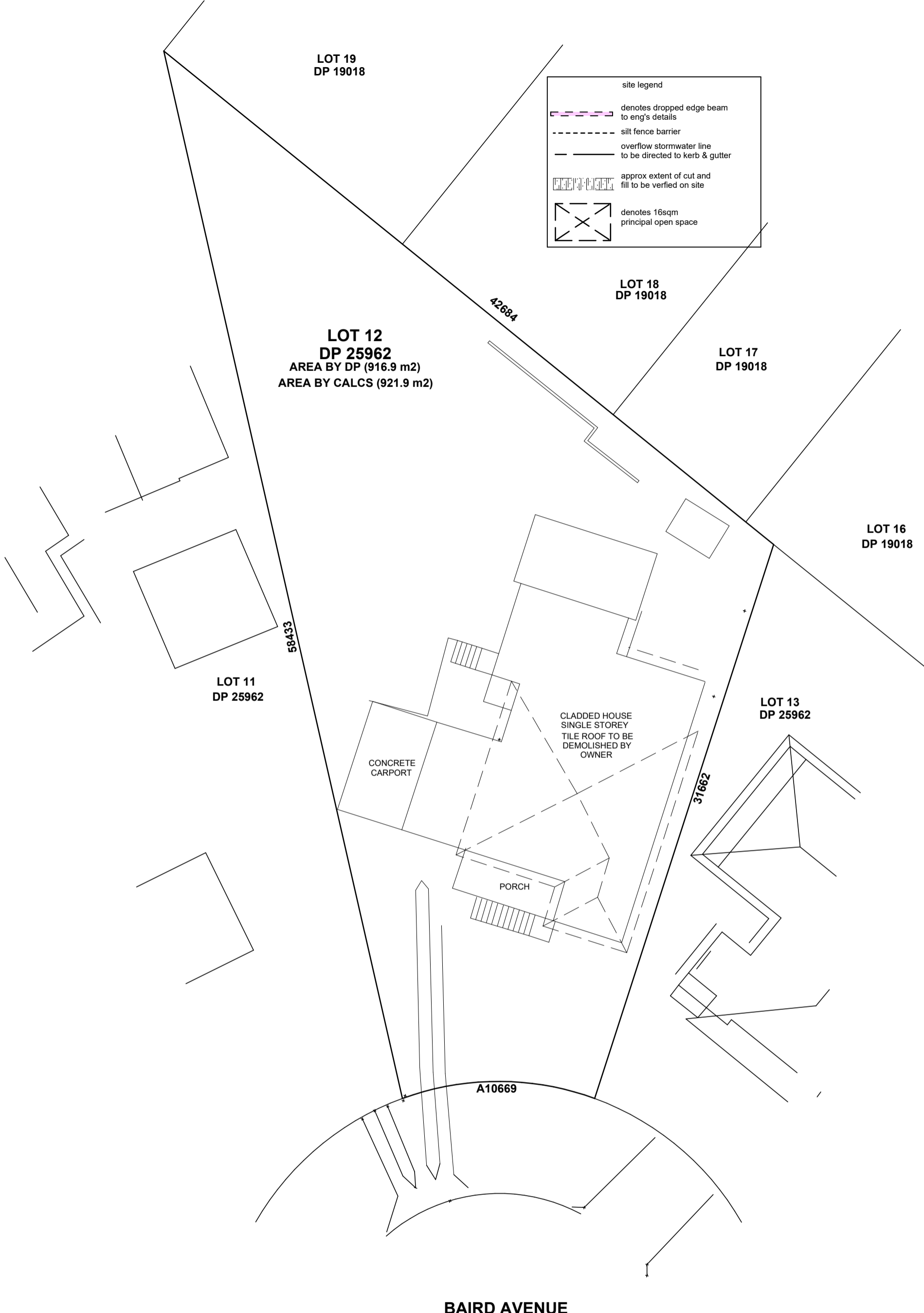
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client:  
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address:  
**Lot 12, Baird Avenue**  
**Ryde**  
drawing no. | job no. | page no.  
**OLY-006** | | **7**

| rev | date     | description       |
|-----|----------|-------------------|
| A   | 24.01.21 | prelim plans      |
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site legend

- denotes dropped edge beam to eng's details
- silt fence barrier
- overflow stormwater line to be directed to kerb & gutter
- approx extent of cut and fill to be verified on site
- denotes 16sqm principal open space

# DEMOLITION PLAN

scale 1:200 @ a3

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**Lot 12, Baird Avenue**  
**Ryde**  
drawing no. | job no. | page no.  
**OLY-006** | | **8**

| rev | date     | description       |
|-----|----------|-------------------|
| A   | 24.01.21 | prelim plans      |
| B   | 7.3.21   | prelim DA plans   |
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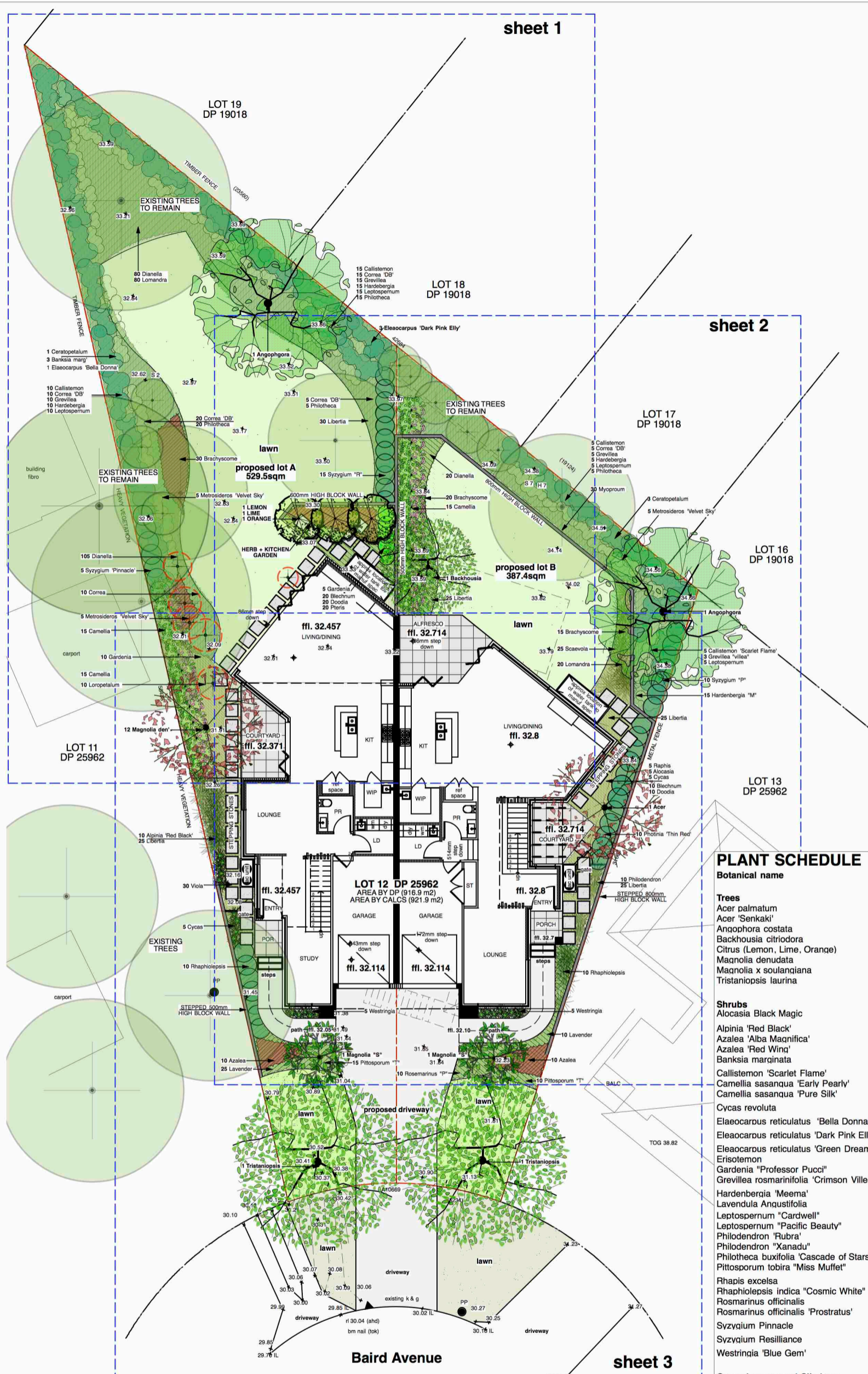
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sheet 1

sheet 2

sheet 3



PLANT SCHEDULE

| Botanical name                            | Common name                | Hgt   | Spr  | Spq   | Qty | Size  |
|---|----------------------------|-------|------|-------|-----|-------|
| <b>Trees</b>                              |                            |       |      |       |     |       |
| Acer palmatum                             | Japanese Maple             | 6m    | 5m   |       | 1   | 100L  |
| Acer 'Senkaki'                            | Coral Bark Maple           | 6m    | 5m   |       |     | 100L  |
| Angophora costata                         | Smooth Barked Apple        | 18m   | 12m  |       | 2   | 100L  |
| Backhousia citriodora                     | Lemon Myrtle               | 8m    | 6m   |       | 1   | 100L  |
| Citrus (Lemon, Lime, Orange)              | Citrus                     | 3m    | 3m   |       | 3   | 100L  |
| Magnolia denudata                         | Yulan Magnolia             | 8m    | 6m   |       | 1   | 100L  |
| Magnolia x soulangiana                    | S'tard Tulip Magnolia      | 6m    | 6m   |       | 2   | 100L  |
| Tristaniaopsis laurina                    | Water Gum                  | 10m   | 8m   |       | 2   | 100L  |
| <b>Shrubs</b>                             |                            |       |      |       |     |       |
| Alocasia Black Magic                      |                            | 1.5m  |      | 3m2   |     | 250mm |
| Alpinia 'Red Black'                       | Ginger                     | 1.5m  |      | 3m2   |     | 250mm |
| Azalea 'Alba Magnifica'                   | Azalea                     | 1.5m  |      | 1.5m2 |     | 300mm |
| Azalea 'Red Wing'                         | Azalea                     | 1.5m  |      | 1.5m2 |     | 300mm |
| Banksia marginata                         | Silver Banksia             | 5m    | 4m   |       |     | 250mm |
| Callistemon 'Scarlet Flame'               |                            | 1m    |      | 2m2   |     | 250mm |
| Camellia sasanqua 'Early Pearly'          | Camellia                   | 1.5m  |      | 1.5m2 |     | 300mm |
| Camellia sasanqua 'Pure Silk'             | Camellia                   | 3m    | 1.5m | 1.5m2 |     | 300mm |
| Cycas revoluta                            | Cycad                      | 1m    |      | 3m2   |     | 25L   |
| Elaeocarpus reticulatus 'Bella Donna'     |                            | 9m    | 4m   |       |     | 25L   |
| Elaeocarpus reticulatus 'Dark Pink Elliv' |                            | 4m    | 2m   |       |     | 25L   |
| Elaeocarpus reticulatus 'Green Dream'     |                            | 4m    | 2m   |       |     | 25L   |
| Eriostemon                                | White Flax Flower          | 1m    |      | 1.5m2 |     | 200mm |
| Gardenia 'Professor Pucci'                | Gardenia                   | 1.5m  |      | 2m2   |     | 250mm |
| Grevillea rosmarinifolia 'Crimson Villea' |                            | 1m    |      | 1.5m2 |     | 200mm |
| Hardenbergia 'Meema'                      |                            | 0.75m |      | 3m2   |     | 140mm |
| Lavandula Angustifolia                    | English Lavender           | 0.75m |      | 2m2   |     | 140mm |
| Leptospermum 'Cardwell'                   | Weeping tea tree           | 2m    |      | 1.5m2 |     | 200mm |
| Leptospermum 'Pacific Beauty'             |                            | 0.75m |      | 2m2   |     | 200mm |
| Philodendron 'Rubra'                      |                            | 1.5m  |      | 3m2   |     | 250mm |
| Philodendron 'Xanadu'                     | Xanadu                     | 1m    |      | 2m2   |     | 250mm |
| Philotheca buxifolia 'Cascade of Stars'   | Cascade of Stars Waxflower | 0.6m  | 0.6m | 2m2   |     | 200mm |
| Pittosporum tobira 'Miss Muffet'          |                            | 0.75m |      | 3m2   |     | 350mm |
| Rhaphiolepis excelsa                      | Lady Palm                  | 1.5m  |      | 1.5m2 |     | 45L   |
| Rhaphiolepis indica 'Cosmic White'        | Cosmic White               | 1.50m | 1.5m | 2m2   |     | 250mm |
| Rosmarinus officinalis                    | Rosemary                   | 1.5m  |      | 2m2   |     | 200mm |
| Rosmarinus officinalis 'Prostratus'       | Creeping Rosemary          | 0.5m  |      | 2m2   |     | 200mm |
| Syzygium Pinnacle                         |                            | 2m    |      | 2m2   |     | 300mm |
| Syzygium Resilience                       |                            | 2m    |      | 2m2   |     | 300mm |
| Westringia 'Blue Gem'                     |                            | 1m    | 2m   | 1.5m2 |     | 200mm |
| <b>Groundcovers and Climbers</b>          |                            |       |      |       |     |       |
| Blechnum                                  |                            |       |      | 5m2   |     | 140mm |
| Brachyscome multifida 'Break of Day'      | Kaffir Lily                |       |      | 5m2   |     | 140mm |
| Clivea miniata                            | Kaffir Lily                | 0.5m  | 0.5m | 4m2   |     | 200mm |
| Dianella caerulea                         | Blue Flax-Lily             | 0.5m  | 0.5m | 6m2   |     | 200mm |
| Doodia aspera                             | Rasp Fern                  | 0.75m |      | 5m2   |     | 140mm |
| Grevillea 'Lanigera'                      |                            | 0.5m  |      | 5m2   |     | 150mm |
| Libertia paniculata                       | Grass Flag                 | 0.5m  | 0.5m | 6m2   |     | 200mm |
| Liriope muscari                           | Liriope                    |       |      | 6m2   |     | 150mm |
| Lomandra longifolia 'Katrinus Deluxe'     |                            | 0.6m  | 0.6m | 6m2   |     | 140mm |
| Myoporum parvifolium                      |                            | 0.3m  |      | 4m2   |     | 140mm |
| Pandorea jasminoides 'White'              | Bower of Beauty            |       |      | 6m2   |     | 140mm |
| Pratia purpurascens                       |                            |       |      | 6m2   |     | 140mm |
| Scaevola 'Purple Fusion'                  |                            | 0.3m  |      | 4m2   |     | 140mm |
| Viola hederaceae                          | Native Violet              | cm    |      | 6m2   |     | 140mm |

1.0m 3m 5m  
0 2m 4m 10m

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**JOHN LOCK & associates**  
LANDSCAPE ARCHITECTURE  
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project:  
**Lot 12 Baird Avenue • RYDE**

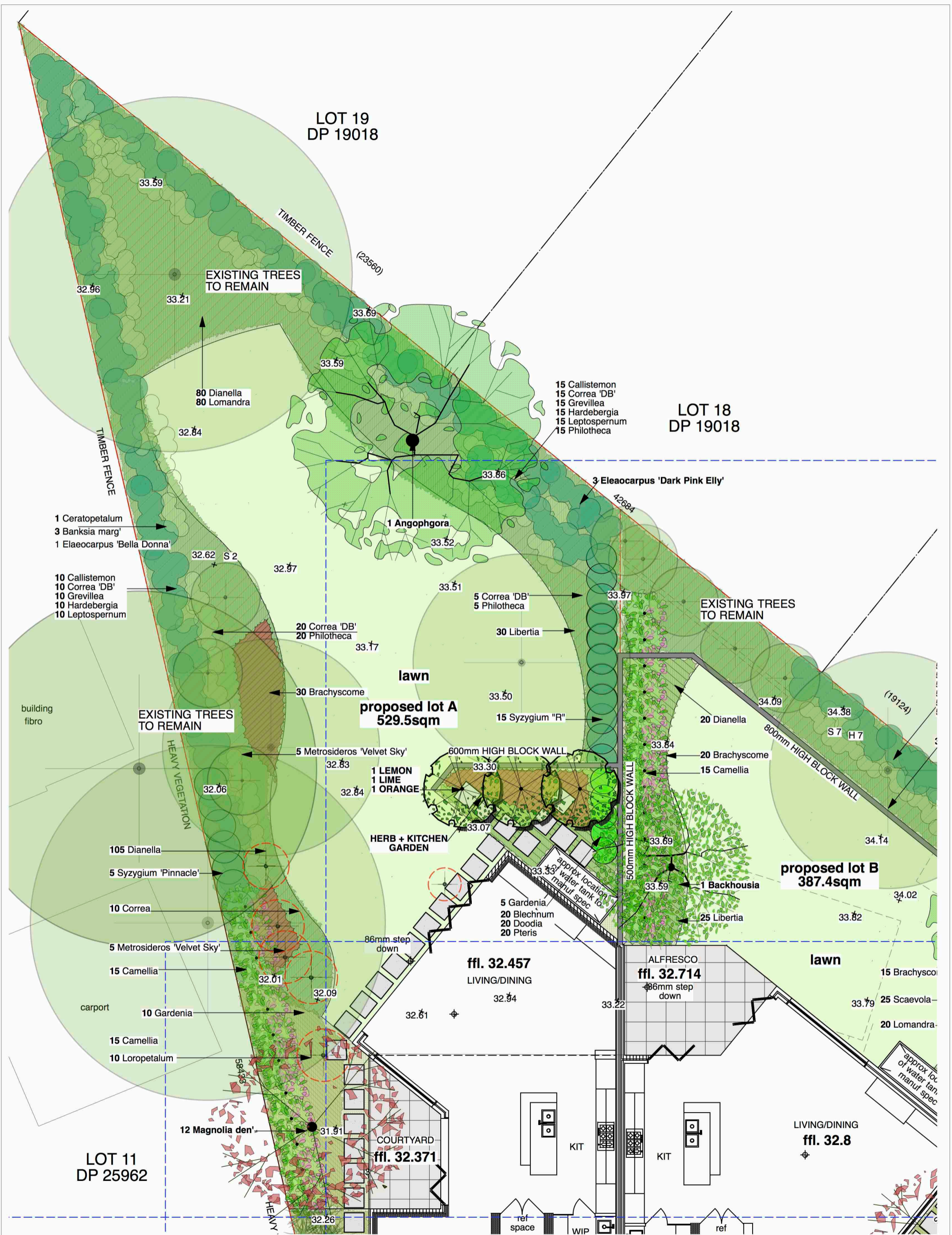
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drawing:  
**LANDSCAPE SITE PLAN**

revision description date

B ALFRESCO REMOVED EAST DWELLING 25-05-2023  
A CC ISSUE 22-03-2022

scale: 1:200 @ A3  
date: 21-03-2022  
dwg no: **2909 LP-00**







# 1. CLAUSE 4.6 VARIATION

## 1.1 Introduction

This is a request to vary a development standard utilising the provisions of clause 4.6 – Exceptions to Development Standards of the *Ryde Local Environmental Plan 2014* (LEP). This variation request relates to **Clause 4.1B – Minimum lot sizes for dual occupancies**.

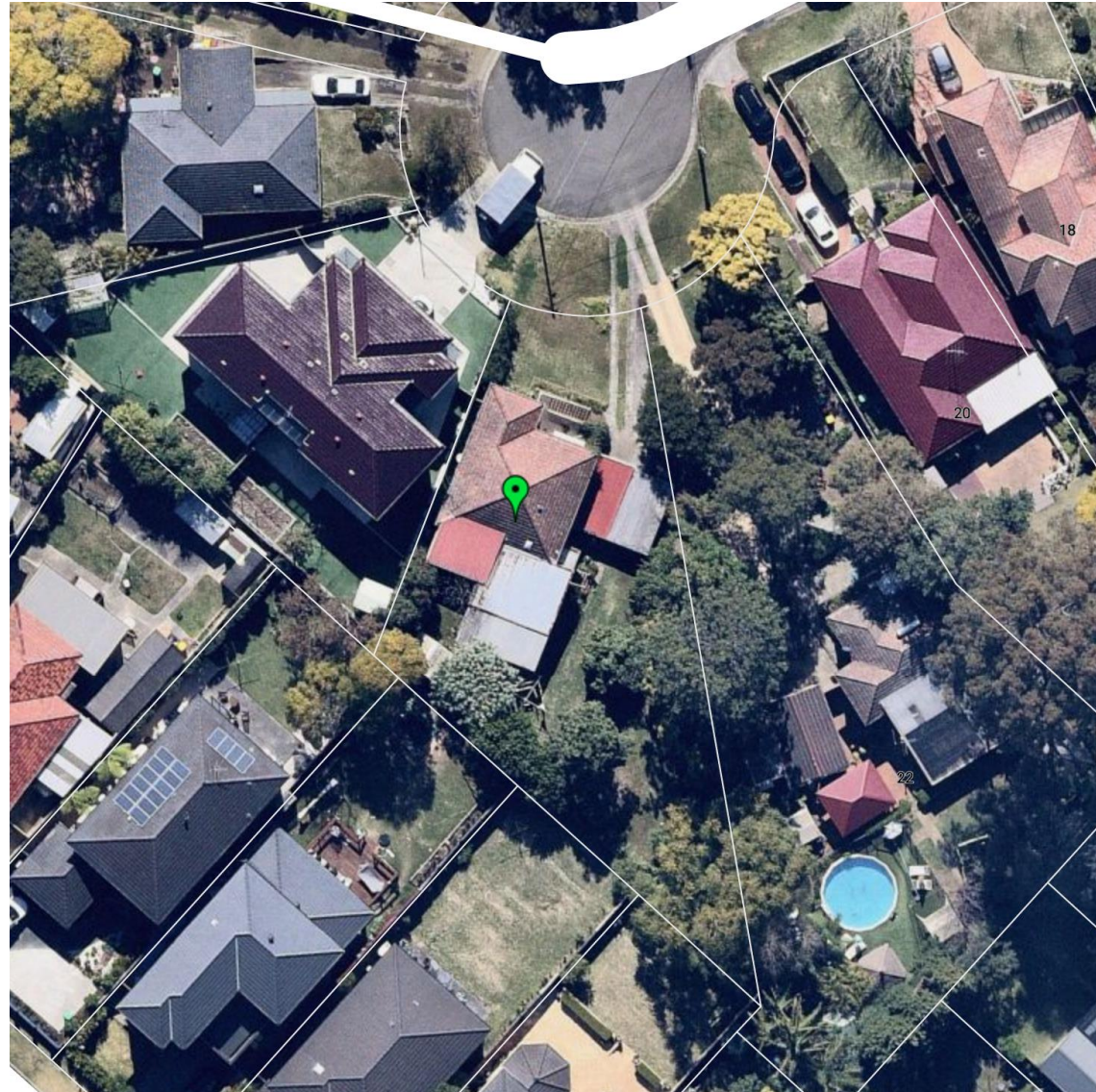
This clause 4.6 variation supports a development application seeking consent for the development of an attached dual occupancy at 24 Baird Avenue, Ryde being legally known as Lot 12 DP25962. The site currently hosts a single storey dwelling, attached garage and shed - refer **Figure 1**.

Clause 4.1B establishes the permissibility of dual occupancy development in the R2 Low Density Residential zone and therefore applies to the subject application. The objective of clause 4.1B is:

*to achieve planned residential density in certain zones.*

The subject site is zoned R2 Low Density Residential, has a minimum lot size of 580m<sup>2</sup> (refer to extract of the Lot Size Map from Ryde LEP 2014 in **Figure 2**) and has a narrow frontage of 10 metres as the site is located at a cul-de-sac. The subject site has a total area of 916.9m<sup>2</sup> square metres and proposes a dual occupancy. As such, the standard is not achieved, and a clause 4.6 variation is required.

**Figure 1 – The Subject Site**





## 2. THRESHOLDS THAT MUST BE MET

### 2.1 Clause 4.6 of Ryde LEP 2014

Clause 4.6 of the Ryde LEP 2014 provides:

*(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 Planning Secretary has been obtained.*

*(5) In deciding whether to grant concurrence, the Planning Secretary must consider—*

*(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*

*(b) the public benefit of maintaining the development standard, and*

*(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*

These matters are responded to in **Section 4** of this Variation request.

### 2.2 Relevant Case Law Authority

Relevant case law on the application of the standard Local Environmental Plan Clause 4.6 provisions has established the following principles:

- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90*, which emphasised the proponent must address the following:
  - Compliance with the development standard is unreasonable and unnecessary in the circumstances.



## CLAUSE 4.6 VARIATION REQUEST

IN SUPPORT OF A DEVELOPMENT APPLICATION  
24 BAIRD AVENUE RYDE



- There are sufficient environmental planning grounds to justify contravening the development standard.
- The development is in the public interest.
- The development is consistent with the objectives of the particular standard; and
- The development is consistent with the objectives for development within the zone.
- *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7*, which held that the degree of satisfaction required under Subclause 4.6(4) is a matter of discretion for the consent authority.
- *Wehbe v Pittwater Council [2007] NSWLEC 827*, which emphasized the need to demonstrate the objectives of the relevant development standard are nevertheless achieved, despite the numerical standard being exceeded. Justification is then to be provided on environmental planning grounds. Wehbe sets out five ways in which numerical compliance with a development standard might be considered unreasonable or unnecessary as follows:
  - The objectives of the standard are achieved notwithstanding the non-compliance with the standard.
  - The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.
  - The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.
  - 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
  - The zoning of the particular land is unreasonable or inappropriate so a development standard appropriate for that zoning is also unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.
- *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* where Preston CJ clarified the appropriate approach to the consideration of Clause 4.6. The importance of the judgment is that the Clause 4.6 submission does not require that developments do not comply with the applicable development standard must have a neutral or better environmental planning outcome than a development that does not.

These matters are further discussed in **Section 4** of this Clause 4.6 Variation.

## 3. STANDARDS THE SUBJECT OF THE VARIATION REQUEST

### 3.1 Clause 4.1B Minimum lot sizes for dual occupancies

The proposal also seeks to vary Clause 4.1B. Clause 4.1B of the LEP is applicable to the site and establishes the minimum lot sizes for dual occupancies. The requirements of Clause 4.1B are as follows:

*(2) Development consent may be granted for development on a lot in Zone R2 Low Density Residential for the purposes of dual occupancy (attached) if—*

*(a) the area of the lot is equal to or greater than 580 square metres, and*

(b) the primary road frontage of the lot is equal to or greater than 15 metres.

In response to 2(a), the subject site has an area of 916.9m<sup>2</sup> and complies. The subject site has a frontage of 10.96 metres and therefore does not comply with the requirements of Clause 2(b). In the context of this variation request:

1. Strict compliance with clause 4.1B is unreasonable or unnecessary for the following reasons:
  - a. The objectives of the LEP are achieved notwithstanding the technical non-compliance.
  - b. The objectives of the R2 Low Density Residential zone are achieved notwithstanding the technical non-compliance.
  - c. The objective of clause 4.1B is achieved notwithstanding the technical non-compliance.
2. There are sufficient environmental planning grounds to support the proposed variation.

Each of these reasons is addressed in detail in the following sections. The key matters in relation to this request are outlined in the following table.

**Table 1 – Key Matters**

| Item   | Response   |
|--|--|
| Applicable planning instrument               | <i>Ryde Local Environmental Plan 2014</i>  |
| Land zoning                                  | R2 Low Density Residential   |
| Zone objectives                              | Refer <b>Section 4</b>   |
| Development standard seeking variation       | Clause 4.1B of the LEP – establishes the requirements for permissibility of dual occupancies (attached) on land in the R2 Low Density Residential zone |
| Is the standard a performance-based control? | No, the standard is a numerical control  |
| Objectives of standard                       | Refer <b>Section 4</b>   |
| Numeric value of the standard                | The LEP establishes the minimum primary road frontage for a lot must be equal to or greater than 15 metres.  |
| Extent of variation                          | 26.79%   |

## 4. PROPOSED VARIATION TO CLAUSE CLAUSE 4.1B

### 4.1 OBJECTIVES OF CLAUSE 4.1B

A key determination of the appropriateness of a Clause 4.6 Variation to a development standard is the proposed developments compliance with the underlying objectives and purpose of the development standard. Indeed, *Wehbe v Pittwater Council* recognized this as one of the ways in which a variation to development standards might be justified (refer to Section 2.2). In *Four2Five Pty Ltd v Ashfield Council*, it was found the proponent must demonstrate compliance with these objectives (refer to Section 2.2). Further, *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* clarifies the appropriate approach to the consideration of Clause 4.6 (refer to Section 2.2).

Therefore, while the site is subject to a specified numerical control for the minimum frontage required for the permissibility of dual occupancies, the objectives and purpose behind the development standard are basic issues for consideration in the development assessment process.

#### 4.1.1 MINIMUM LOT SIZES FOR DUAL OCCUPANCIES

The objective of Clause 4.1B *is to achieve planned residential density in certain zones*. The proposal achieves the planned residential density within the R2 zone resulting in a density appropriate to the site and surrounding local context. The proposal achieves a mix of housing types within a highly accessible location which would not impede on existing and surrounding residential receivers or the existing road network.

The clause seeks to control density of development within certain residential zones. The numerical control is aimed at ensuring host lots are sufficient to accommodate two dwellings to ensure that amenity for future and surrounding occupancy is deemed acceptable.

The proposal achieves compliance with Ryde DCP as demonstrated within the SEE and would provide an acceptable level of amenity for existing and future occupants. The proposed built form and lot layout would result in a development that is consistent compatible with the immediate locality and context of the Ryde local government area (LGA).

## 4.2 OBJECTIVES OF THE ZONE

The site is zoned R2 Low Density Residential under Ryde LEP 2014. The proposed development is consistent with the objectives of the zone and is assessed in the table below.

**Table 4.1 – R1 zone Objectives**

| Objective   | Assessment  |
|---|---|
| <i>To provide for the housing needs of the community within a low density residential environment.</i>          | The proposal is not inconsistent with the objective. and the proposed development is accommodating the housing needs of the community within a low density residential environment, which is in the public interest.  |
| <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> | The proposal seeks to provide additional housing within the Ryde LGA, therefore this objective is not applicable. The proposal is not inconsistent with this objective.   |
| <i>To provide for a variety of housing types.</i>   | The proposal is not inconsistent with the objective. The development directly contributes to the provision of varied housing types and densities through development of smaller dwellings on smaller lots, in favour of the conventional form of housing in the Ryde LGA. |

On the basis of the above, the proposal is consistent with the zone objectives.

## 4.3 ESTABLISHING IF THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY

Subclause 4.6(3)(a) and the judgement in *Four2Five Pty Ltd v Ashfield Council* (refer to Section 2.2) emphasise the need for the proponent to demonstrate how the relevant development standard is unreasonable or unnecessary

in the circumstances. As demonstrated in **Section 4.1.1**, the proposed development is considered to be consistent with the objectives of Clause 4.1B.

### **4.3.1 CLAUSE 4.1B**

Strict compliance with Clause 4.1B is considered unnecessary given the objectives of the site are achieved notwithstanding the non-compliance, and the underlying objective of Clause 4.1B would be defeated in the event a compliant scheme was proposed.

- The proposed dual occupancy facilitates the delivery of additional housing within close proximity to essential services and facilities to meet the needs of future occupants.
- The consistency with the adjacent and surrounding land use (low density residential) means there is a low likelihood of conflict occurring.
- The proposal is capable of meeting the requirements of Council's Development Control Plan as outlined in the SEE to which this clause 4.6 variation is attached.

Based on the above discussion, it is considered compliance with Clause 4.1B is unnecessary in this instance and can be supported without setting an undesirable precedence.

## **4.4 SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD**

As outlined in Section 2.2, *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* clarifies the appropriate approach to the consideration of the application of Clause 4.6, in the proponent must demonstrate the non-compliance must have either a neutral or better environmental planning outcome.

The Clause 4.6 Variation to the development standard for dual occupancies (Clause 4.1B), is considered to have either a neutral or better environmental planning outcome for the following reasons:

- The proposal is compliant with the underlying objectives and purposes of the principal development standard (being Clause 4.1), as demonstrated in **Section 4.1.1**.
- The proposal is consistent with the objectives or purpose of the R2 Low Density Residential zone, as demonstrated within **Section 4.2**.
- The proposed non-compliance would result in a development which is permitted with consent.
- The proposal is consistent with the desired character of the site and surrounding locality, as the proposal provides a built form with an increased setback and is generally consistent with the low density character of the locality.
- The public domain interface is of a neutral benefit. The built form is consistent with the existing recently constructed dual occupancy adjoining at 31 Baird Avenue and utilises a range of colours, finishes, materials and landscaping to minimise the bulk and scale of the development.
- The proposal results in a neutral planning outcome in terms of residential amenity as there is no increased detrimental impact on adjoining residents in terms of overshadowing, views, visual and acoustic privacy when compared with a compliant lot size and setbacks to all boundaries.

As outlined above, the proposal is considered to provide either a neutral or better planning outcome when addressing the matters of consideration and therefore satisfies the criteria established under *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 11*.

## 4.5 PUBLIC INTEREST

As outlined in **Section 2.2**, *Four2Five Pty Ltd v Ashfield Council* emphasised it is for the proponent to demonstrate the proposed non-compliance with the development standard is in the public interest. Subclause 4.6(4)(a)(ii) requires the proposed development 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.

**Sections 4.1 and 4.2** have already demonstrated how the proposed development is consistent with the objectives of Clause 4.1B, as well as the zone under Ryde LEP 2014. In *Lane Cove Council v Orca Partners Management Pty Ltd (No 2) [2015] NSWLEC 52*, Sheahan J referred to the question of public interest with respect to planning matters as a consideration of whether the public advantages of the proposed development outweigh the public disadvantages of the proposed development.

The public advantages of the proposed development are as follows:

- Contribute to the urban renewal of Ryde.
- Provide opportunities of greater housing choice in Ryde LGA; and
- Provide a development outcome which is compatible with the existing and emerging residential areas which is a permissible land use and consistent with the land use zone objectives.

There are no significant public disadvantages identified which would result from the proposed development.

The proposed development is therefore considered to be justified on public interest grounds.

## 4.6 SUMMARY

For the reasons outlined above, it is considered the requested variation to Clause 4.1B of Ryde LEP 2014 are well-founded in this instance and the granting of Clause 4.6 Variations to these development standards are appropriate in the circumstances. Furthermore, the request is considered to be well founded for the following reasons as outlined in Clause 4.6 of the OLEP 2011, *Four2Five Pty Ltd v Ashfield Council and Wehbe v Pittwater Council*.

- Compliance with the development standard is unreasonable and unnecessary in the circumstances.
- There are sufficient environmental planning grounds to justify contravening the development standard.
- The development is in the public interest.
- The development is consistent with the objectives of the particular standard.
- The development is consistent with the objectives for development within the zone.
- The objectives of the standard are achieved notwithstanding the non-compliance with the standard.
- The development does not negatively impact on any matters of State or regional significance; and
- The public benefit in maintaining strict compliance with the development standard would be negligible.

It is furthermore submitted that:

- Strict compliance with the standards would not result in a better planning outcome for the land as it would prevent the development of a better considered proposal.

## CLAUSE 4.6 VARIATION REQUEST

IN SUPPORT OF A DEVELOPMENT APPLICATION  
24 BAIRD AVENUE RYDE



- The proposed development is considered to be key in providing additional opportunities for affordable housing within the Ryde LGA,
- No unreasonable impacts are associated with the proposed development.

Overall, it is considered the proposed Clause 4.6 request to vary to the minimum frontage requirement for dual occupancies – more specifically, the minimum frontage of the parent lot and proposed lots, would not result in a development that contravenes the overall vision for Ryde, is appropriate in the context of the area and can be clearly justified having regard to the matters listed within Clause 4.6 of Ryde LEP 2014.

## 5. CONCLUSION

It is requested City of Ryde Council exercise their discretion and find this Clause 4.6 request adequately addresses the matters required to be demonstrated by Subclause 4.6(3) of Ryde LEP 2014. This is particularly the case given the proposed development otherwise generally complies with the aims and objectives of the Ryde LEP 2014 and Ryde DCP.

The requested variation is justified in the specific circumstances of the case and compliance with the standards is unnecessary to ensure compliance with the LEP, objectives of the R2 zone, intent and objectives of Clause 4.1B are achieved. As demonstrated throughout this request, the variation request is well founded and there are sufficient environmental grounds to justify the non-compliance with the standard given the minor nature of the non-compliance.