

Item 1

4 Wood Street, EASTWOOD

Demolition, new two storey dual occupancy (attached) with a swimming pool.

Report prepared by: Senior Town Planner

Report approved by: Senior Coordinator - Development Assessment
Manager - Development Assessment

City of Ryde Local Planning Panel Report

DA Number	LDA2023/0267
Site Address & Ward	4 Wood Street, Eastwood West Ward
Zoning	R2 Low Density Residential under RLEP 2014
Proposal (as amended)	Demolition, new two storey dual occupancy (attached) with a swimming pool.
Property Owner	Chi M Law & Cynthia X Lee
Applicant	Sophia Huang
Report Author	Sandra McCarry
Lodgement Date	23 October 2023
Notification - No. of Submissions	Nil
Cost of Works	\$745,000.00
Reason for Referral to LPP	Departure from Development Standards – Clause 4.6 variation – greater than 10%. Variation of 4.3m which equate to a 28.67% for minimum frontage of the lot.

Recommendation	Approval
Attachments	<ol style="list-style-type: none"> 1. Recommended Conditions of Consent. 2. Ryde Development Control Plan 2014 – Table of Compliance. 3. Architectural and Landscaping Plans. 4. Applicant's Clause 4.6 Request. 5. Statement of Environmental Effect

1. Executive Summary

This report is an assessment of a development application for demolition of the existing dwelling house and construction of a new 2 storey attached dual occupancy with a rear yard swimming pool.

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%.

The development contravenes Clause 4.1B (2)(b) - Minimum lot sizes for dual occupancies, which prescribes that the primary road frontage of the lot is equal to or greater than 15m. The frontage of the 4 Wood Street is 10.7m area, a shortfall of 4.3m, which is a variation of 28.67% from the development standard.

The applicant has submitted a Clause 4.6 written variation request with respect to the contravention of the development standard. The submission satisfies the pre-conditions for a consent authority to allow a variation to the standard.

The proposal has also been found to breach the following controls of the *Ryde Development Control Plan 2014* (RDCP):

- Clause 2.14.1 – Daylight & Solar access to north facing window.
- Clause 2.8 – Building Height (Wall Plate Height).
- Clause 2.9.3 – Rear Setbacks.

The non-compliances are addressed in the body of the report and are considered to be acceptable given the location of the site (at the curve of a cul-a-sac) and the minor variation to the DCP controls.

The application was notified between 7 November 2023 and 4 December 2023 in accordance with the Ryde Community Participation Plan. No submissions were received.

The proposal has been assessed in accordance with the relevant environmental planning instruments and local provisions in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The proposal is not contrary to the public interest, and it is considered to be a suitable form of development for the site.

2. The Site and Locality

The site is legally described as Lot 23 within DP 217683 and is known as 4 Wood Street, Eastwood. The property is located on the eastern side of Wood Street and is located at the end of a cul-de-sac, adjacent to a pedestrian path leading to Vimiera Road.

The site is an irregular block, a total area of 616m², a frontage of 10.7 metres to Wood Street and 37m in length and a rear boundary width of 18m. The site tapers into the curvature frontage to Wood Street. The site falls from the rear to the front south-western corner.

The property contains a double storey dwelling house to be demolished as part of the development application. Vehicular access is located adjacent to the northern side boundary to a driveway with a shade pergola front of the dwelling.

A public pathway is located adjacent to the site southern boundary, providing pedestrian access from Wood Street to Vimiera Road.

A sewer line is located adjacent to the southern boundary and transverses across the rear of the property. A drainage easement of variable width is also located adjacent to the southern property, see **Figure 2**. The development will be clear of the drainage easement. However, part of the proposed building will be over the sewer line. **Condition 41** will be imposed requiring a response from Sydney Water as to whether the plans accompanying the application for a construction certificate would affect any Sydney Water infrastructure, and whether further requirements need to be met.



Figure 1 Aerial photograph of site

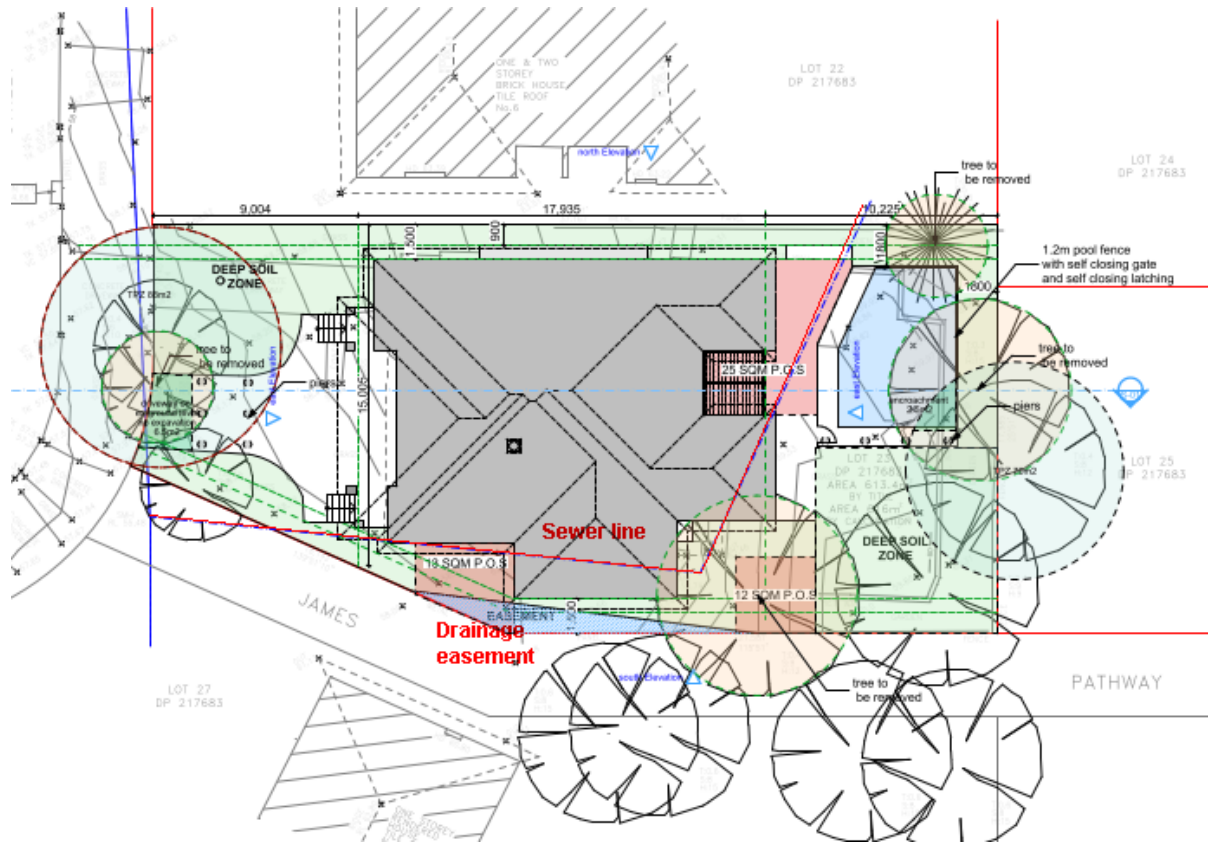


Figure 2: Location of sewer line and easement on the site.



Figure 3: Existing two storey dwelling with side driveway and large tree in front garden.

Adjoining properties

The site is adjoined to the north by, No. 6 Wood Street, which contains a single/two storey dwelling. Adjoining the site to the south is a 3.4m wide side pedestrian pathway between Wood Street and Vimiera Road. Adjacent to the pathway are two separate properties each containing single storey dwelling house.



Figure 4: 6 Wood Street (northern property) and side pathway to the south

3. The Proposal

Development consent is sought for demolition of the existing dwelling and construction of a two storey attached dual occupancy with in-ground swimming pool at the rear of the site.

The proposal comprises the following works:

- Construction of an attached dual occupancy comprising:

Unit 1:

- Ground Floor: Single garage, kitchen and dining area, family room, lounge, bathroom and bedroom.
- 1st Floor: 3 bedrooms, ensuite, walk in robe, bathroom, living area and large void area at the rear. Front balcony facing the street.

Swimming pool located at rear of Unit 1.

Unit 2:

- Ground Floor: Single garage, kitchen and dining area, family room, bathroom and bedroom, steps down to outdoor area.

- 1st Floor: 3 bedrooms, ensuite, bathroom, living area and large void area at the rear. Front balcony facing the street.

There is a communal central driveway with new crossover location proposed.

Nine (9) trees are located on the site, and it is proposed to remove 6 trees with replacement planting of 5 trees, see **Figure 5**.

Note:

- No subdivision is proposed as part of this development.
- The dwellings are quite elevated, with minimum FFL @ RL 60.60, as required by the Flood study. The elevation of the building is unavoidable due to the flooding on the site (see **Figure 7**).

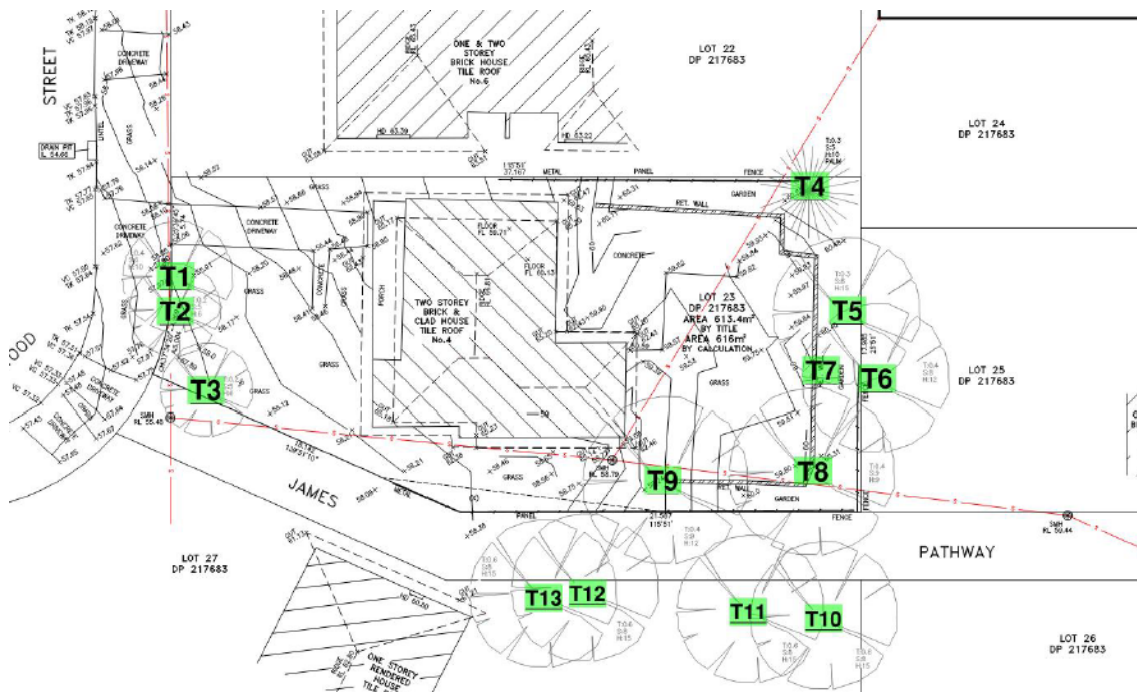


Figure 5: Tree location on site

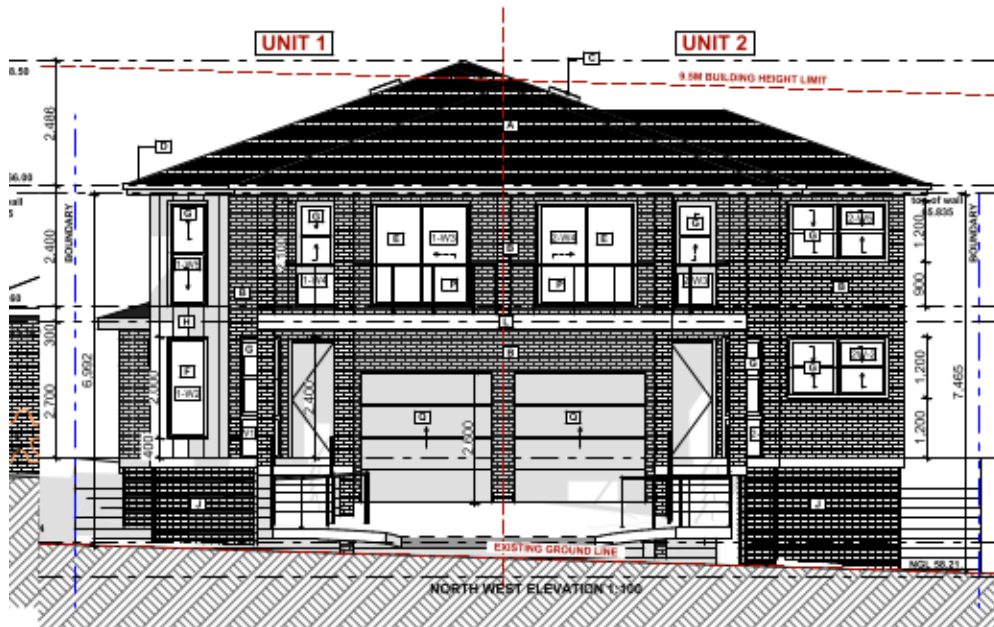


Figure 6: Front elevation of the proposed dual occupancy

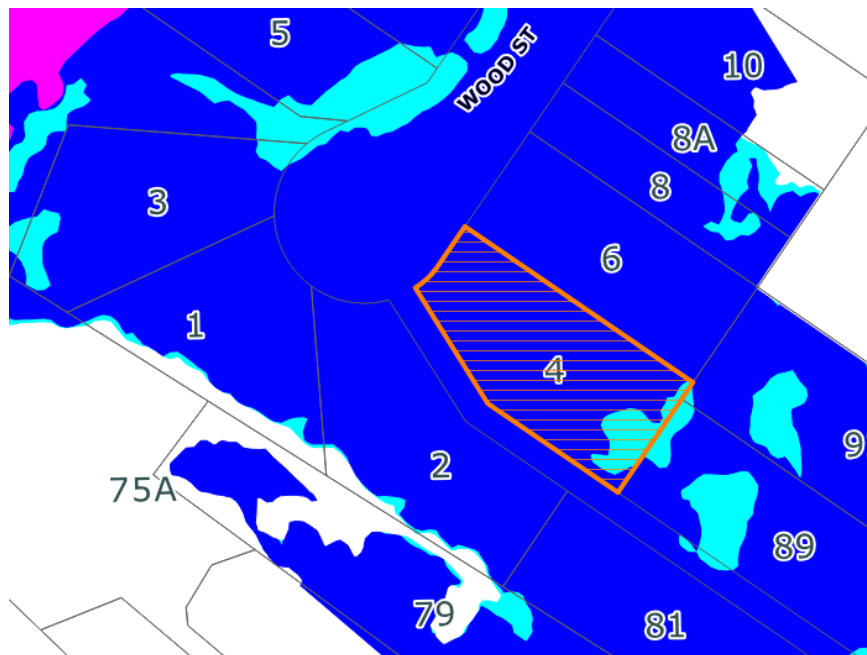


Figure 7: Flood Risk Map Oct 2017. Majority of site is within medium risk zone.

4. Background

Application History

23 October 2023	Application lodged.
7 November 2023	Application notified. No submissions received.
29 November 2023	A request for information was sent to the applicant requesting: <ul style="list-style-type: none"> - to advise if any subdivision is proposed? However, the only option for subdivision is strata. If intending to

	<p>strata subdivide in the future, recommended to consider a redesign to allow future subdivision, i.e. amend the location of the swimming pool to be wholly within one allotment and provision of DSA for each allotment. Provide an indicative subdivision plan is intending to strata subdivide in the future.</p> <ul style="list-style-type: none"> - Clarification and consistencies of drawings. - Amend landscaping plan to address concerns about planting around the swimming pool. - Amend stormwater plan. - Address relevant SEPPs applicable to the proposal.
10 February 2024	<p>Applicant submits amended architectural plans and further information. Amended plans and information not required to be re-notified as no additional impacts to neighbours. The applicant confirmed that no subdivision is proposed as part of this application and amended the location of the swimming pool with an indicative plan for future subdivision should this be a consideration.</p> <p>Note: No subdivision is proposed as part of this application.</p>
11 March 2024	<p>2nd Request from Drainage to amend:</p> <ul style="list-style-type: none"> - Flood Study Report - Architectural plans for suspended slab designed to allow water to flow without obstruction under the slab. - No encroachment over the easement. - Provide structural plans for the footings and foundations of proposed structures adjacent to Council's pipeline.
8 April 2024	<p>Amended plans (reduced the size of windows over the void areas) and requested Drainage information received.</p>
6 May 2024	<p>Amended Flood Study and amended architectural plans.</p>

5. Planning Assessment

5.1 Environmental Planning and Assessment Act

Objects of the 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)

- to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- to promote the orderly and economic use and development of land,*
- to promote good design and amenity of the built environment,*

- (e) *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (f) *to provide increased opportunity for community participation in environmental planning and assessment.*

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
State Environmental Planning Policy (Resilience and Hazards) 2021		
Chapter 4 Remediation of land		
<p>The object of this Chapter is to provide for a Statewide planning approach to the remediation of contaminated land.</p> <p>The aims are to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.</p>	<p>Pursuant to Clause 4.6(1) considerations, 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
State Environmental Planning Policy (BASIX) 2004		
<p>The certificate demonstrates compliance with the provisions of the SEPP and is consistent with commitments identified in the application documentation.</p>	<p>A BASIX Certificate (see Certificate No. 1418264M_03 and dated 6 September 2023) has been submitted with the application. A standard condition has been included in the Draft Consent requiring compliance with this BASIX certificate.</p>	Yes
State Environmental Planning Policy (Biodiversity and Conservation) 2021		
Chapter 2 Vegetation in non-rural areas		
<p>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.</p>	<p>The proposal includes the removal of 6 trees being:</p> <ul style="list-style-type: none"> • Camellia japonica, Camellia • Thuja sp, Bookleaf pine • Syagrus romanzoffiana, Cocos palm • Grevillea robusta, Silky oak • Melaleuca linariifolia, Snow in Summer • Jacaranda mimosifolia, Jacaranda 	Yes

	<p>The rear of the site is mapped Urban Bushland – Non Conservation and the proposal has been supported by an arborist report and landscape plan.</p> <p>The proposal will retain 7 trees (4 of which are on the adjoining property) and 5 replacement trees are proposed.</p> <p>The proposal is considered satisfactory by Council's Landscape Architect and appropriate conditions have been imposed requiring relevant tree protection and retention.</p> <p>In addition Condition 34 has been imposed to protect the front tree with permeable paving under the Tree protection zone.</p>	
Chapter 6 Water Catchments		
<p>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.</p>	<p>Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal.</p>	<p>Yes</p>

5.3 Ryde Local Environmental Plan 2014

Under Ryde LEP 2014, the property is zoned R2 Low Density Residential, and the proposed attached dual occupancy is permissible with Council's consent. The following is a summary of the clauses under Ryde LEP 2014 applicable to the development.

Aims and objectives for residential zones:

- 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 is for the provision of a dual occupancy (attached) which provides for a variety of housing types and provides for the housing needs of the community within a low-density residential environment. The second objective is not of relevance to the proposed development. The proposed development satisfies the relevant objectives for residential developments.

Ryde LEP 2014	Proposal	Compliance
4.1A Dual occupancy		
Clause 4.6(8)(b) does not allow development consent to be granted for development that would contravene Clause 4.1A, to the extent that it applies to the Torrens title or strata subdivision of a dual occupancy (attached).	No subdivision is proposed as part of this application.	N/A
4.1B(2) Minimum lot sizes for dual occupancies and multi dwelling housing		
(a) Minimum 580 m ² (b) the primary road frontage of the lot is equal to or greater than 15 metres.	613m ² 10.7m	Yes No - Clause 4.6 submitted.
4.3(2) Height		
9.5m	Roof RL (highest): RL 68.50 EGL (lowest) under: RL 59.18 Height of Building = 9.3m.	Yes
4.4(2) & 4.4A(1) FSR		
0.5:1 (m ²)	0.5:1 Site Area = 616m ² Ground Floor = 153.59 1st floor = 155 Total GFA = 308m ² FSR = 0.5:1 (36m ² deducted from the overall garage area)	Yes
4.6 Exceptions to development standards		
(1) The objectives of this clause are as follows— (a) to provide an appropriate degree of flexibility in applying certain development standards to development, (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.	Variation of 28.67% sought to Clause 4.1B(2)(b) The applicant has submitted a Clause 4.6 request which is discussed in detail following this table.	See discussion below.
5.21 Flood Planning		

Ryde LEP 2014	Proposal	Compliance
<p>(1) The objective of this clauses are as follows:</p> <p>(a) To minimise the flood risk to life and property associated with the use of land,</p> <p>(b) To allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change</p> <p>(c) to avoid significant adverse impacts on flood behaviour and the environment,</p> <p>(d) to enable the safe occupation and efficient evacuation of people in the event of a flood.</p>	<p>The site is mapped as being impacted by Low to Medium Risk flooding over a minor/large proportion (%).</p> <p>The proposal has been supported by a Flood Impact Study which addresses the requirements of Part 8.2 and Stormwater and Floodplain Management Technical Manual Section 2.2. The proposal has been designed using the identified flood planning levels.</p> <p>The proposal is consistent with the provisions of Clause 5.21(2) and (3) and has been considered satisfactory by Council's City Works – Drainage.</p>	<p>Yes – Conditions imposed by Council's Drainage Engineer.</p>
6.2 Earthworks		
<p>(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.</p>	<p>The site is not located within proximity of any cultural or heritage items. The proposal includes excavation to a depth of 1.1 metres associated with the rear swimming pool.</p> <p>The proposed excavation is not considered to result in any adverse detrimental impacts upon environmental functions and processed or neighbouring uses.</p>	<p>Yes</p>
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>Yes</p>

Ryde LEP 2014	Proposal	Compliance
	The proposal has been considered acceptable by Council's Senior Development Engineer.	

Clause 4.6 Exceptions 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 10.7m at the front boundary which results in a variation of 28.67% (see **Figure 8**). The site is located at the start of the curve of the cul-de-sac for Wood Avenue. The front boundary is part of 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.

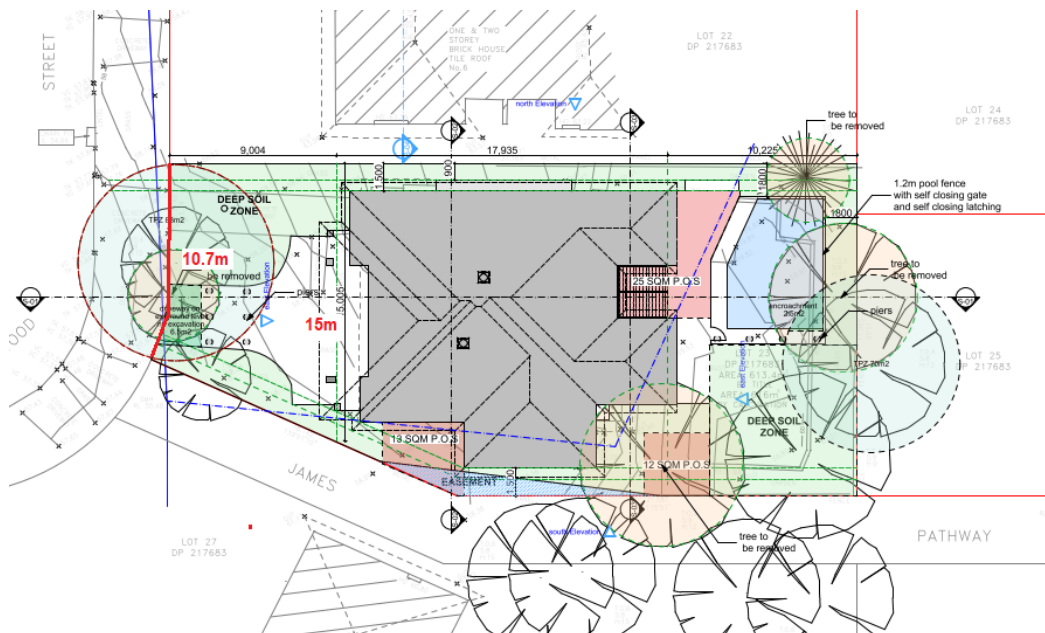


Figure 8: Plan depicting primary road frontage of 10.7m in red.

Clause 4.6 of the LEP allows a level of flexibility in application of development standards. This clause has been amended effective from 1 November 2023. In particular Clause 4.6(4) and 4.6(5). Clause 4.6(4) requiring development being in the public interest or consistent with the objectives of the standard to be varied and zone objectives are no longer required to be assessed.

Note: The changes commenced on 1 November 2023 however the subject application was submitted on 10 October 2023 and amendment to the EPA Reg included savings provisions providing that development applications made on or before 1 November 2023 are to be determined as if changes had not commenced. Accordingly, the public interest requirement is still applicable in this Clause 4.6 assessment.

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 is 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 D & E Homes Developments P/L to vary 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 excerpts of that request shown below:

- **Clause 4.6(3)(a) - Is compliance unreasonable or unnecessary in the circumstances of the case?**

In his decision in Wehbe v Pittwater Council [2007] NSW LEC 827 Chief Justice Preston expressed the view that there are 5 different ways in which a Development Standard may be shown to be unreasonable or unnecessary.

The proposed variation is tested below against each of these.

- The objectives of the standard are achieved notwithstanding non-compliance with the standard.

The objective underpinning the minimum primary road frontage development standard is to permit the construction of a dual occupancy (attached) that is appropriate for the site constraints, development potential and infrastructure capacity of the locality.

The objectives of the standard can be achieved, notwithstanding the non-compliance with the minimum lot frontage requirement, and that a superior development outcome would result. Most of the site width is greater than the 15m frontage standard. The non-compliance with the standard is attributed to the configuration of the lot that 'tapers' to the cul-de-sac head of Wood Street. This applies to several lots at the cul-de-sac head of Wood Street that have been

developed with dwelling houses that have a width and scale that presents to the street greater than the scale and width of the proposed dual occupancy building.

- The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.

The underlying objective or purpose of the standard is relevant to this development but, as illustrated in the plans that form part of the development application, it is achieved through a higher quality urban planning and urban design outcome. This also accounts for the constraints of the land.

- The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.

The underlying object or purpose of the standard would not be defeated or thwarted if compliance was required. However, strict compliance with the development standard would result in a missed opportunity specific to this site to develop a high-quality development that will present in a positive manner to the adjacent roadway.

- 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.

Council has departed on the development standard in historic planning circumstances in the locality. It is considered that compliance with the standard in the circumstances is unreasonable and unnecessary when considering historic approvals by the council in the locality.

- The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Assessment Officer's Comments:

The objectives of the zone:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for a variety of housing types.

The proposal is consistent with the zone objectives as it is providing dual occupancy dwellings which are permitted with consent within the R2 Low Density Residential zone

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

Achieved: The development will continue 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.

Achieved: The development will provides a street frontage with pedestrian traffic which will contribute to the functional streets and public spaces.

- To provide for a variety of housing types.

Achieved: The development provides a permitted low density residential use within the zone. This responds to the intent of Council's housing strategy in providing a variety of housing types amongst other permitted residential uses in the zone.

For the reasons detailed above, the proposal is consistent with the objectives of the R2 Low Density Residential zone.

Objective of Clause 4.1B Minimum lot sizes for dual occupancies

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

The design of the building maintains appropriate density on the site in that it complies with the built form controls within RLEP 2014 and RDCP 2014, with the exception of a minor non-compliance with the wall plate height controls, solar access to north facing windows and rear setback. The building has been amended to reduce amenity impacts and would not compromise the character of the area.

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 (see **Figure 9**).

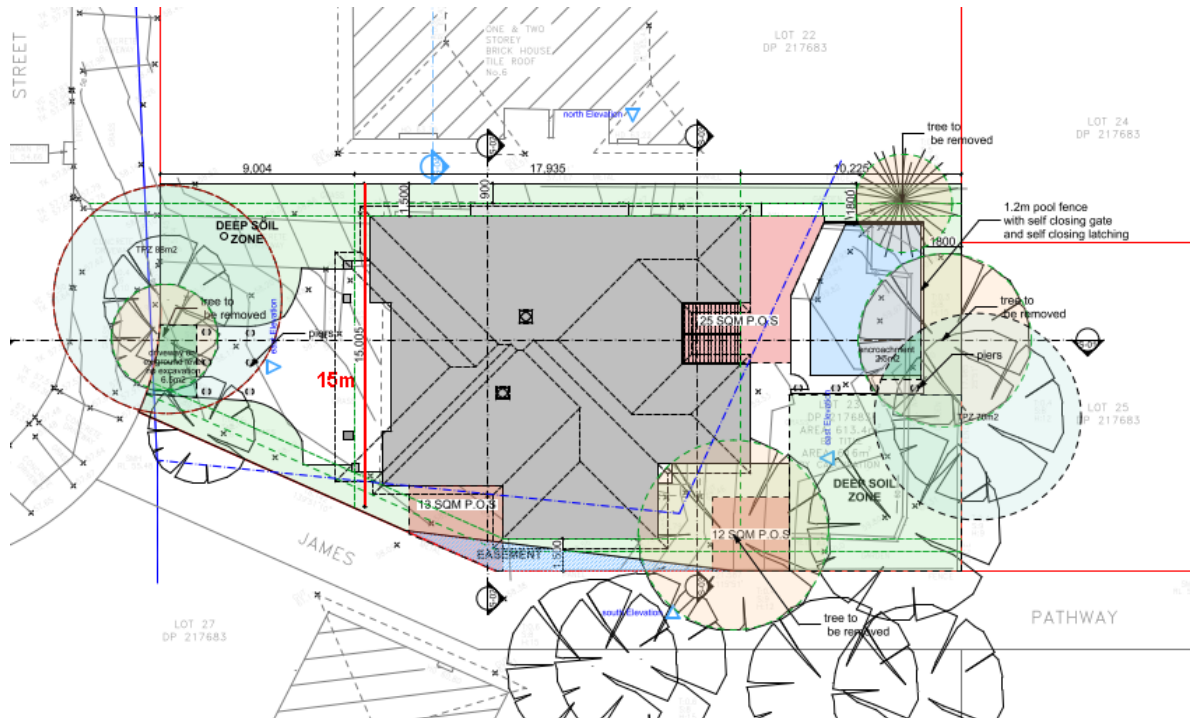


Figure 9 – Site plan depicting site width at front building line

Further, the site has an area of 616m² which can accommodate a dual occupancy development and is consistent with the adjacent and surrounding land use (low density residential) and proposal generally complies with most of the requirements of the Ryde Development Control Plan 2014.

For these reasons the site was considered to achieve planned residential density in the R2 zone and it is agreed that the proposal achieves this objective. The proposal will not alter the planned residential density in the R2 zone. Rather, it provides the opportunity for two dwellings on the site. The proposal achieves the relevant objectives of RLEP 2014.

Therefore, it is considered that compliance with the control would not result in a better planning outcome and strict compliance is regarded as being unreasonable and 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 following environmental planning grounds are put forward in support of the variation:

The non-compliance with the standard is attributed to the configuration of the lot that 'tapers' to the cul- de-sac head of Wood Street. This applies to several lots at the cul- de-sac head of Wood Street that have been developed with dwelling houses that have a width and scale that presents to the street greater than the scale and width of the proposed dual occupancy building (see **Figure 10**).



Figure 10: Aerial photograph illustrating street pattern.

Assessment Officer's Comments:

Agreed – the non-compliance is due to the unique tapering of the site to allow for a side public pathway which provide access from Wood Street to Vimiera Road. (See **Figure 9**).

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 private open space areas to the rear of both units which comprise of a deep soil zone and a swimming pool.

Furthermore, there are sufficient environmental planning grounds to justify contravening the standard in accordance with Clause 4.6(3)(b) and 4.6(4)(a)(i), as:

- The deficient road frontage is inconsequential as the lot has a width greater than 15 metres at its widest point. The construction of a dual occupancy (attached) development would not result in excessive residential density as the building generally complies with the built form controls; and
- The reduced road frontage does not prevent suitable vehicular access from being provided to the site. A single driveway is proposed with a 3.3m driveway kerb which provides a wide space between the footpath crossings to allow for an on street car parking space in front of the site.

The proposal is not considered to result in any detrimental impacts in terms of residential amenity 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.

- **The proposal will be in the public interest because it is consistent with the objectives of the relevant development standard and the objectives for development within the relevant zone (Cl.4.6(4)(a)(ii))**

Clause 4.6 (4)(a)(ii) requires that the consent authority is satisfied that the development is in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone.

As detailed in the discussion of whether compliance with the standard is unreasonable or unnecessary, the development is consistent with the objectives of the standard, and this has been demonstrated in the submitted variation request. Council is satisfied that the development is consistent with the objectives of the development standard Clause 4.1B(1).

The development must also be consistent with the objectives of the zone. As already discussed in this report, the development is consistent with the R2 Low Density Residential zone objectives.

Therefore, the proposal is considered to be in the public interest. The development has demonstrated consistency with Clause 4.6(4)(a)(ii).

Clause 4.6(4)(b) Concurrence of the Secretary

Clause 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument.

In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Development Standard is assumed.

Conclusion

The applicant has adequately addressed why compliance with the development standard is unreasonable or unnecessary under Clause 4.6(3)(a) of RLEP 2014. It is considered that the non-compliance with the minimum road frontage can be supported in the circumstance of the case, as there are sufficient environmental planning grounds for contravening the development standard.

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. The proposal is unlikely to have material impacts on adjoining properties. For these reasons, the development is in the public interest.

Accordingly, development consent may be granted to the proposal, despite the contravention of the minimum lot size development standard.

5.4 Draft Environmental Planning Instruments

There are no draft instruments relevant to this site or proposal.

5.5 Ryde Development Control Plan 2014 (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 1**.

The provisions of DCP 2014 have been considered in this assessment and it is concluded that the proposed is generally 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:

- Clause 2.8.1 (a) Building height (wall plate height)

The maximum wall plate height is 7.5m and the proposal proposes a maximum wall height of 7.59m along the south west section of the building. The non-compliance is minor and is considered to be acceptable for the following reasons:

- The floor level of the building is required to be elevated to allow for the passage of flood waters in the event of a flood resulting in overland flow.
 - The non-compliance is for a short section only and will be screened by the front yard landscaping and side boundary fence.
 - The proposal complies with the overall height.
- Clause 2.14.1 (b) Daylight & Solar access to the north facing windows

Dwellings on allotments which have a side boundary with a northerly aspect are to be designed to maximise sunlight access to internal living areas by increasing the setback of these areas. In these cases, a minimum side setback of 4m is preferred.

The living area situated at the rear of Unit 1 does not achieve the prescribed 4m setback to the side boundary, providing a 1.5m setback. The applicant has advised that “this design variation is intentional, as the living area relies on elevated ceilings and strategically positioned first-floor windows to facilitate increased sunlight penetration. This design approach not only creates a distinct separation between the living areas of Unit 1 and Unit 2 but also ensures that northern sunlight is accessible to the living space of Unit 2. Additionally, a glass block wall, serving the dual purpose

of being a 60/60/60 fire-rated structure and allowing transparency for sunlight penetration, is oriented towards the north over the Unit 2 living area.”

Planner's comments

The proposed design variation is considered acceptable. Whilst the 4m setback is not provided along the northern elevation, the intent of this clause is to provide good solar access to the dwelling living area, which is achieved for Unit 1 which is adjacent to the northern boundary.

It is also noted that the ground floor north facing windows are not able to achieve the required solar access due to the orientation of the land, being east-west. The adjoining northern property is a 2 storey dwelling. This dwelling is in line with the proposed dwelling and due to the orientation currently overshadow the subject site. This is unavoidable however the applicant has provided front and rear windows off these rooms which helps to provide solar access to the rooms. Furthermore, the rear family room has a 1st floor void over the room. The 1st floor void area has a side and rear window which will allow sunlight into the ground floor family room.

Whilst it is possible to amend the design to have the family room moved adjacent to Unit 2's family room, thereby creating a greater side setback, this would have resulted in acoustic concerns with each of the family living areas being side by side.

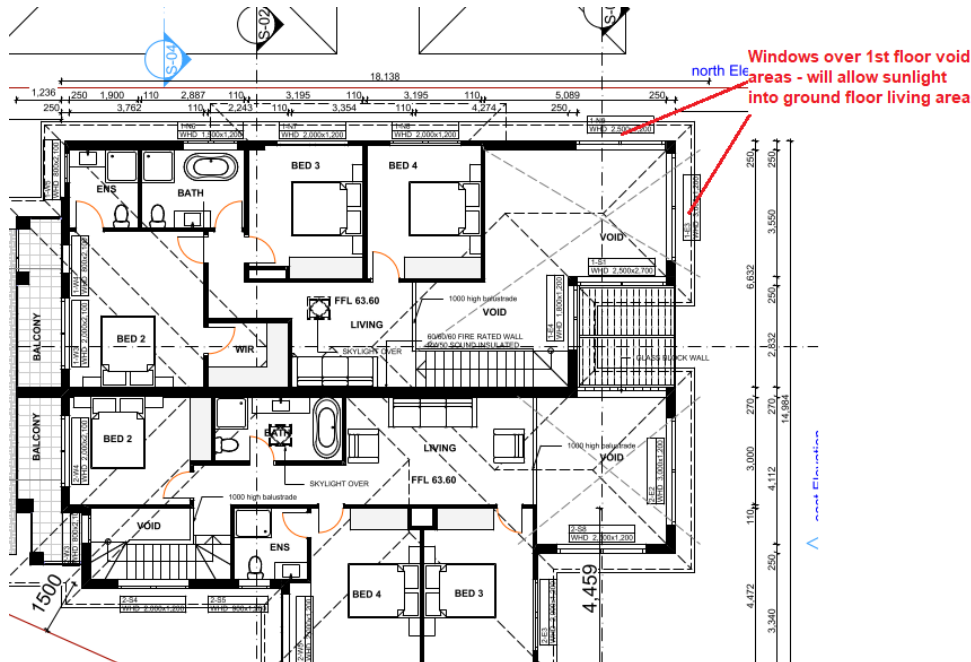


Figure 11: 1st floor plan with void area with side and rear windows. This allows sunlight to filter through to the rooms below.

The application has been amended to reduce the size of the windows off the void areas. No access is available to these windows and **Condition 5** has been imposed stating the first floor void areas are not to be converted to floor space area.

A comparison of the original windows size to the reduced windows is shown in **Figures 12 & 13**.

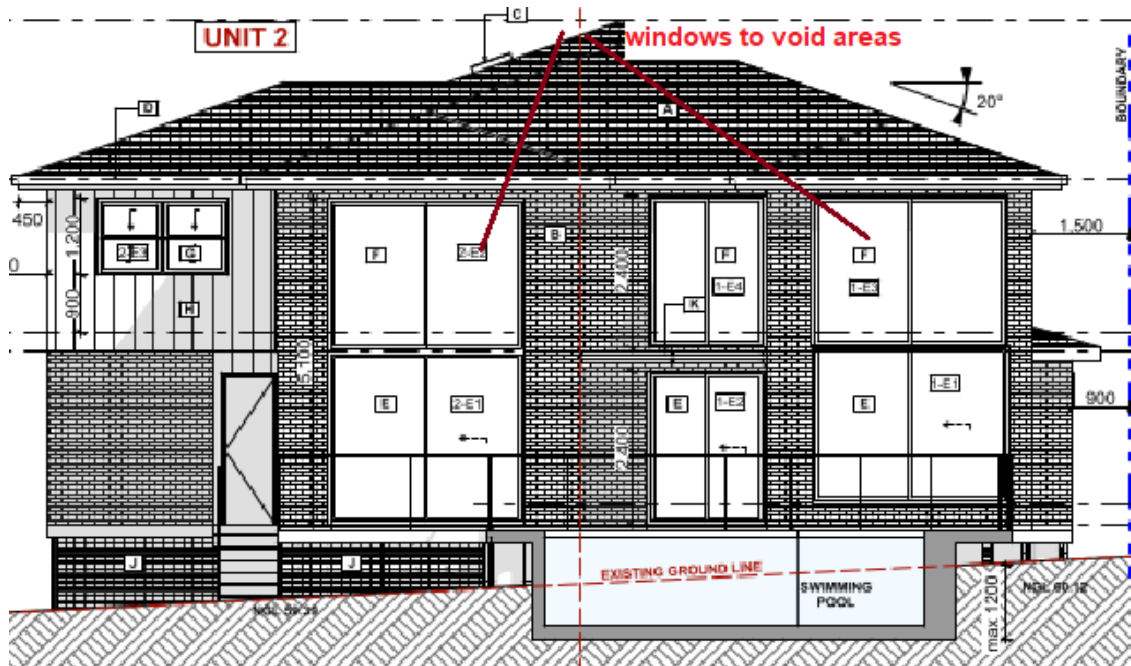


Figure 12: Original Northern elevation illustrating the window over the void area. This will help provide solar into Unit 1 living area

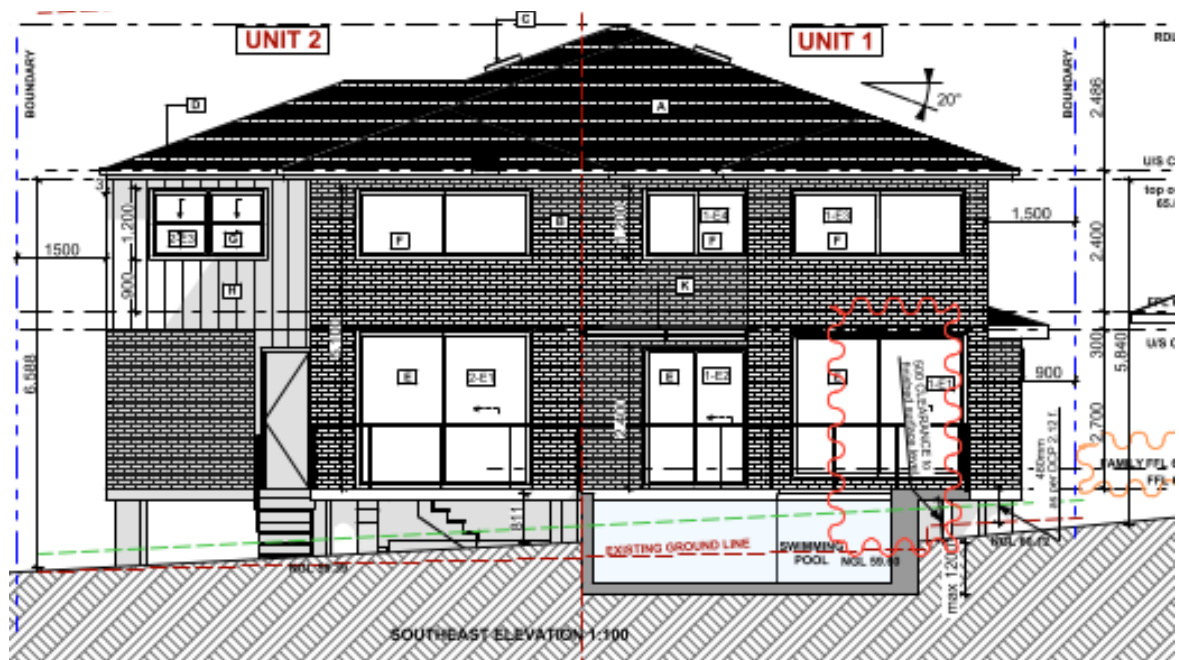


Figure 13: Amended design with the windows over the 1st floor area reduced in size. The windows will still provide sunlight to the ground floor family room but is now less dominant.

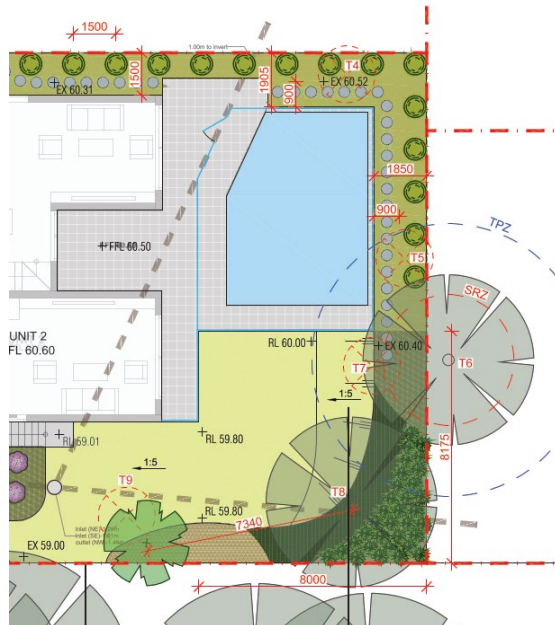
Rear setback

Clause 2.9.3 requires a rear setback of 9.25m (based on 25% of the site length). The proposal will have a rear setback of between 6.3 to 8m from the rear deck area to the

rear boundary. It should also be noted that the swimming pool be setback 2m from the rear boundary. The proposed variation is considered acceptable as sufficient separation is provided to prevent any overlooking to the rear yard of the adjoining property (89 Vimiera Road). 89 Vimiera Road rear boundary is well screened with landscaping (as shown in the photo below) and will the addition of planting along the rear boundary as proposed in the submitted landscaping plan, the variation to the rear setback area can be supported.



Figure 14: Site inspection photo of the rear boundary, with well established landscaping at 89 Vimiera Road and area for landscaping along the perimeter of the site.



Callistemon 'Slim'

Figure 15: Proposed landscaping for the rear yard area.

Note: It should be noted whilst the proposal complies with the side setbacks, due to the dwelling being elevated (flooding requirement), the rear deck area of Dwelling 1 has the potential to overlook into the adjoining property – 6 Wood Street rear yard area.

Condition 34 has been imposed requiring the side deck being setback 1.5m off the side northern boundary and a 1.8m high privacy screen being provided along the side elevation of the rear deck area, as shown below.

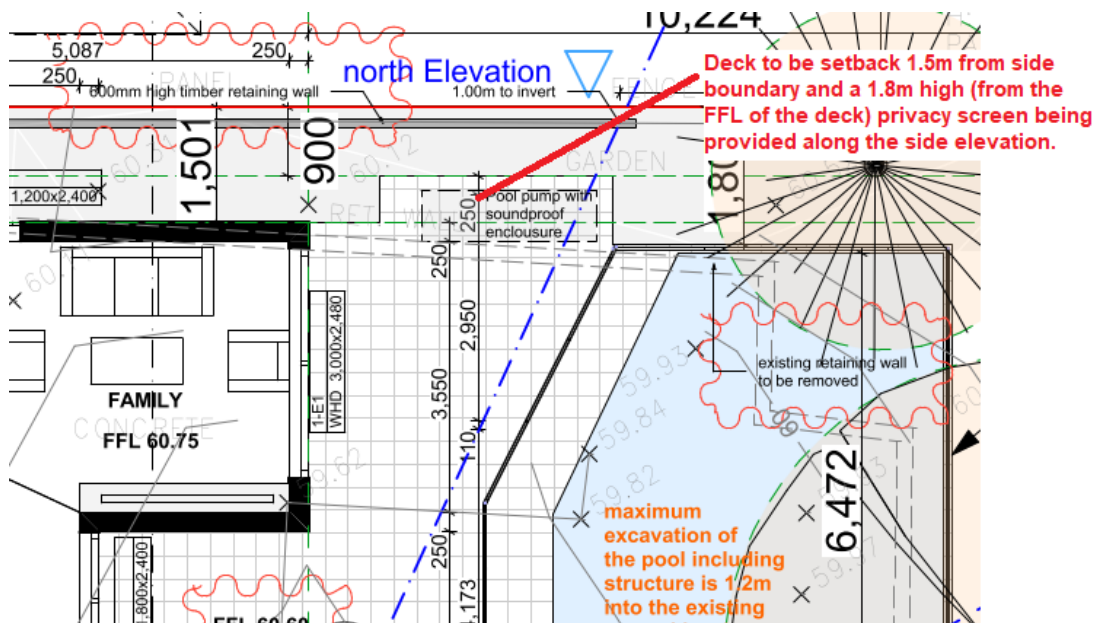


Figure 16: As the deck is elevated, Condition 34 has been imposed requiring the deck to be set back 1.5m off the boundary and a 1.8m high privacy screen provided along this elevation.

5.6 Planning Agreements OR Draft Planning Agreements

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

5.7 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:

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$6,061.81
Open Space & Recreation Facilities	\$10,438.15
Roads & Traffic Management facilities	\$3,204.47
Plan Administration	\$295.57
The total contribution is	\$20,000.00

Condition 33 on the payment of Section 7.11 Contribution of \$20,000 has been included in the draft notice of determination attached to this report.

Note: No subdivision is proposed as such the Housing and Productivity Contribution is not applicable, as illustrated below:

Part 2 Development for which contribution is required and determination of contribution

Division 1 Classes of development for which contribution is required

5 Development for which a contribution is required

- (1) A housing and productivity contribution is required for development for which development consent is granted if it involves development of any of the following classes—
 - (a) residential development,
 - (b) commercial development,
 - (c) industrial development.
- (2) In this Order, **residential development** means any of the following—
 - (a) subdivision of land (other than strata subdivision) on which development for the purposes of residential accommodation is permitted with development consent by an environmental planning instrument applying to the land (**residential subdivision**),
 - (b) strata subdivision of residential accommodation (other than strata subdivision of high-density dwellings) (**residential strata subdivision**),
 - (c) high-density residential development,
 - (d) development for the purposes of a manufactured home estate.

5.8 Any matters prescribed by the regulation

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.

Australian Standard for Demolition - Clause 61(1)

Clause 61(1) of the Environmental Planning & Assessment Regulations 2021 requires the consent authority to consider the provisions of *Australian Standard AS 2601-2001: The demolition of structures*. The demolition of the existing structures will be carried out in accordance with a construction/demolition management plan, and suitable conditions are capable of being imposed on any consent issued.

Standard conditions are recommended relating to compliance with Building Code of Australia and the relevant Australian Standards.

6. 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 the Referrals and DCP sections). The development is considered satisfactory in terms of environmental impacts.

7. Suitability of the site for the development

The site is zoned R2 Low Density Residential. The proposal is for demolition of existing dwelling, construction of an attached dual occupancy and swimming pool. The assessment has demonstrated the proposal is generally 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.

8. 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 does not result in any significant adverse impacts upon adjoining properties or the streetscape.

The proposal is compliant with the principal development standards, with the exception of Clause 4.1B Minimum lot sizes for dual occupancies. The proposal seeks variation to Clause 4.1B and has been supported by a satisfactory Clause 4.6

written variation. The proposal does not result in any 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.

9. Public Notification and Submissions

In accordance with the Ryde Community Participation Plan, owners of surrounding properties were given notice of the application between 7 November 2023 and 4 December 2023.

In response, no submissions were received.

10. Referrals

City Works – Drainage: Councils' Drainage Engineer provided the following comments.

The proposed alfresco for both units (Unit 1 & Unit 2) is subject to overland flows. For both units, the alfresco shall be graded to ensure that stormwater from overland flow is directed away from the building.

Appropriate conditions have been imposed to ensure flood protection measures are as per flood report.

Traffic Engineer: Traffic Services Department has no objection to the approval of this application subject to conditions.

Development Engineer: Council's Development Engineer reviewed the proposed development and did not raise any objection to the proposal subject to conditions if an approval is warranted.

Landscape Architect: Council's Landscape Architect reviewed the proposed development and did not raise any objection to the proposal subject to conditions if an approval is warranted.

Note: **Condition 34** has been imposed for the landscaping plan to be amended to reflect the amended architectural plans showing the relocation of the swimming pool to be within one allotment if future subdivision is sought. Plus for permeable paving for the driveway under the Tree Protection Zone of Tree 1.

Bushfire Consultant: The subject site is within Bushfire Protection Vegetation Buffer. A Bushfire Assessment Report prepared by Sydney Bushfire Consultants was submitted and reviewed by Council's Bushfire Consultant – Bushfire Hazard Solutions, who has provided the following comments:

We have assessed the subject property and the surrounding lands for the purpose of determining the potential bushfire impact. We have also reviewed the documentation provided by Council relevant to the subject development application, including the Bush Fire Assessment Report prepared by Sydney Bushfire Consultants (Report No.

79BA-2778, Dated 19th August 2023) and endorsed by an accredited by the Fire Protection Association of Australia as a Level 3 BPAD qualified practitioner.

It is understood that the proposal does not include the subdivision of the site.

In relation to the proposal, based on the information presented within the Bush Fire Assessment Report, we are satisfied the proposal can comply with the relevant specifications and requirements of Planning for Bush Fire Protection 2019.

RECOMMENDED CONDITION: That the proposed development shall comply with the recommendations detailed in the Bush Fire Assessment Report prepared by Sydney Bushfire Consultants (Report No. 79BA-2778, Dated 19th August 2023).

Condition 4 has been imposed requiring this.

11. 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:

- The proposal is consistent with the objectives for R2 zoned land.
- The proposal complies with the statutory provisions set out in the Environmental Planning and Assessment Act 1979.
- The proposal has been supported by a satisfactory Clause 4.6 written variation to Clause 4.1B of Ryde Local Environmental Plan 2014.
- The proposal is considered to be low impact to adjoining properties and surrounding environment.
- The proposal is not contrary to the public interest.

12. Recommendation

- A. THAT the Ryde Local Planning Panel accepts that the Clause 4.6 written request to vary Clause 4.3 in the Ryde Local Environmental Plan 2014 which has adequately addressed the matters in sub-clause (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. LDA2023/0267 for the demolition of an existing dwelling, construction of a two-storey attached dual occupancy and rear swimming pool on land at 4 Wood Street, Eastwood subject to the conditions in the attached draft consent.

ATTACHMENTS

1. Recommended Conditions of Consent.

2. Ryde Development Control Plan 2014 – Table of Compliance.
3. Architectural and Landscaping Plans.
4. Applicant's Clause 4.6 Request.

Report prepared by:

Sandra McCarry
Senior Town Planner

Report approved by:

Holly Charalambous
Senior Coordinator Development Assessment

Carine Elias
Manager Development Assessment

ATTACHMENT 1 – DRAFT CONDITIONS

GENERAL

1.	Approved plans and supporting documentation			
	Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.			
	Approved plans			
	Plan Number	Revision Number	Plan Title	Drawn by
	A0	C	Site Analysis	RPDC
	A1	C	Site Plan	RPDC
	A2	C	Ground Floor	RPDC
	A2-1	C	Ground Floor	RPDC
	A3	C	First Floor Plan	RPDC
	A4	C	Building Elevations	RPDC
	A5	C	Building Elevations	RPDC
	A5-1	C	Building Section	RPDC
	A6	C	Driveway Section	RPDC
	A11	C	Schedule of Finishes	RPDC
	A12	C	Sut & Fill	RPDC
	L2	A	Landscape Plan	Ripple Design Lab
	L03	A	Plant Palette	Ripple Design Lab
	L04	A	Landscape Typical Details	Ripple Design Lab
	Approved documents			
	Document Title		Revision Number	Date of document
	BASIX Certificate		1418264M_03	Planning Industry & Environment
	Site Waste Minimisation & Management Plan		-	Sophia Huang
	Flood Study Report		D	MBC Engineering P/L
	Bushfire Assessment Report		-	Bushfire Planning & Design
	Note: The approved plans and documents must be read in conjunction with the design amendments listed in Condition 34 below.			
	In the event of any inconsistency with the approved plans/documents and a condition of this consent, the condition prevails.			
	Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.			
2.	Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989			

	<ol style="list-style-type: none"> 1. It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia. 2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences. 3. It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the Building Code of Australia. 4. In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for the construction certificate was made. 5. In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made. 6. This section does not apply— <ol style="list-style-type: none"> (a) to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or (b) to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.
	<p>Condition Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
3.	<p>Notification of Home Building Act 1989 requirements</p> <ol style="list-style-type: none"> 1. This section applies to a development consent for development involving residential building work if the principal certifier is not the council. 2. It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following— <ol style="list-style-type: none"> (a) for work that requires a principal contractor to be appointed— <ul style="list-style-type: none"> the name and licence number of the principal contractor, and the name of the insurer of the work under the Home Building Act 1989, Part 6, (b) for work to be carried out by an owner-builder— <ul style="list-style-type: none"> the name of the owner-builder, and if the owner-builder is required to hold an owner-builder permit under the Home Building Act 1989—the number of the owner-builder permit. 3. If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information. 4. This section does not apply in relation to Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.
	<p>Condition Reason: Prescribed condition under section 71 of the Environmental Planning and Assessment Regulation 2021.</p>
4.	<p>Bushfire Requirement</p> <p>That the proposed development shall comply with the recommendations detailed in the Bush Fire Assessment Report prepared by Sydney Bushfire Consultants (Report No.79BA-2778, dated 19th August 2023).</p> <p>Condition reason: Statutory requirement.</p>

5.	Void Areas
	The first floor void areas in each of the dwellings are not to be capable of being used as floor space, accordingly no floor level area is to be provided within the void areas without prior approval by City of Ryde Council. The maximum floor space ratio permitted for the site is 0.5:1.
	Condition reason: To ensure compliance with the approved plans.
6.	Erection of signs
	<ol style="list-style-type: none"> 1. This section applies to a development consent for development involving building work, subdivision work or demolition work. 2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out— <ol style="list-style-type: none"> (a) showing the name, address and telephone number of the principal certifier for the work, and (b) showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and (c) stating that unauthorised entry to the work site is prohibited. 3. The sign must be— <ol style="list-style-type: none"> (a) maintained while the building work, subdivision work or demolition work is being carried out, and (b) removed when the work has been completed. 4. This section does not apply in relation to— <ol style="list-style-type: none"> (a) building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or (b) Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.
	Condition Reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.
7.	Fulfilment of BASIX commitments
	It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled— <ol style="list-style-type: none"> 1. BASIX development, 2. BASIX optional development, if the development application was accompanied by a BASIX certificate.
	Condition Reason: Prescribed condition under section 75 of the Environmental Planning and Assessment Regulation 2021.
8.	Site maintenance
	The site is to be regularly maintained in a tidy manner such that it does not become overgrown with weeds or subject to the leaving or dumping of waste.
	Condition reason: To protect the amenity of the locality.
9.	Asbestos
	Where asbestos is present during works, the work must be carried out in accordance with the guidelines for asbestos work published by SafeWork NSW.
	Condition reason: To ensure that all works are carried out in a safe manner.
10.	Asbestos (disposal)
	All asbestos wastes must be disposed of at a landfill facility licensed by NSW Environment 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.
	Condition reason: To ensure the protection of the environment.
11.	Hoardings

	<p>1. A hoarding or fence must be erected between the work site and any adjoining public place.</p> <p>2. Any hoarding, fence or awning erected pursuant to this consent is to be removed when the work has been completed.</p> <p>Condition reason: To ensure public safety.</p>
12.	<p>Illumination of public places</p> <p>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</p> <p>Condition reason: To ensure public safety.</p>
13.	<p>Noise mitigation</p> <p>To minimise noise emitted from ancillary elements, such as air-conditioning units, the equipment must be installed in accordance with the manufacturer's specification and noise attenuation measures implemented so that noise emitted does not exceed 5dB(A) above the background noise level when measured on or within any other residential property boundary.</p> <p>Condition reason: To protect the amenity of the locality.</p>
14.	<p>Protection of public domain</p> <p>The public domain must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.</p> <p>Condition reason: To ensure public safety.</p>
15.	<p>Road activity permits</p> <p>Prior to carrying out any work in, on or over a road reserve, consent from Council is required as per the Roads Act 1993. The person acting on the consent is required to review the "Road Activity Permits Checklist" (available from Council's website: https://www.ryde.nsw.gov.au/files/assets/public/forms-and-documents/2023-07-road-activity-permits-checklist.pdf) and apply for the relevant permits for approval by Council. Types of road activity permits potentially required including Road Use Permit, Work Zone Permit, Road / Footpath / Driveway / Nature Strip / Kerb and Gutter Opening Permit, Temporary Placement of Elevated Tower, Crane or Concrete Pump, Operation of a Crane Over Air Space Permit, Construction Hoarding Permit and Skip Bin on Nature Strip Permit. Penalties apply for failure to comply.</p> <p>Condition reason: To ensure the amenity and state of the public domain is maintained.</p>
16.	<p>Support for neighbouring buildings</p> <p>If the development involves excavation that is lower than 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:</p> <ol style="list-style-type: none"> Protect and support the adjoining premises from possible damage from the excavation; and Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards. <p>Condition reason: Statutory requirement.</p>
17.	<p>Design and construction standards (engineering)</p> <p>All engineering plans and work inside the property must be carried out in accordance with the requirements of relevant Australian Standards. 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.</p> <p>Condition reason: To ensure that all works are undertaken in accordance with any relevant standards and DCP requirements.</p>
18.	<p>Restoration</p>

	Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas, including repairs of damaged infrastructure as a result of the construction works associated with the development, must be undertaken by the person acting on this consent in accordance with Council's standards and specifications, and DCP Part 8.5 (Public Civil Works), to the satisfaction of Council.
	Condition reason: To ensure the amenity and state of the public domain is maintained.
19.	Pool filter (noise) The pool/spa pump/filter must comply with the requirements of the Protection of the Environment Operations (Noise Control) Regulation 2017 and must not: <ol style="list-style-type: none"> 1. Emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open): before 8.00am and after 8.00pm on any Saturday, Sunday, or public holiday; or before 7.00am and after 8.00pm on any other day. 2. At times other than those specified above noise generated from the pump/filter must not exceed an LAeq (15min) of 5dB(A) above background noise, when measured at a lot boundary of the site. 3. To satisfy the above requirements, the pool/spa pump/filter must be housed in a suitably ventilated acoustic enclosure to control noise emissions during operation.
	Condition reason: To protect the amenity of the adjoining properties.
20.	Public utilities and service alterations All mains, services, poles, etc., which require alteration due to works associated with the development, must be altered at the cost of the person acting on the consent. The person acting on the consent must comply with the requirements (including financial costs) of the relevant utility provider (e.g., Ausgrid, Sydney Water, Telstra, TfNSW, Council, etc.) in relation to any connections, works, repairs, relocation, replacement and/or adjustments to public infrastructure or services affected by the development.
	Condition reason: Protection of infrastructure and compliance with the requirements of the relevant authorities.

DEMOLITION CONDITIONS

Before Demolition Work Commences

21.	Asbestos removal signage Before demolition work commences involving the removal of asbestos, a standard commercially manufactured sign containing the words 'DANGER: Asbestos removal in progress' (measuring not less than 400mm x 300mm) must be erected in a prominent position at the entry point/s of the site and maintained for the entire duration of the removal of the asbestos.
	Condition Reason: To alert the public to any danger arising from the removal of asbestos.
22.	Demolition Waste Management plan Before demolition work commences, a demolition management plan must be prepared by a suitably qualified person. The demolition management plan must be prepared in accordance with Australian Standard 2601 – The Demolition of Structures, the Code of Practice – Demolition Work, and must include the following matters: <ol style="list-style-type: none"> 1. The proposed demolition methods

	<ol style="list-style-type: none"> 2. The materials for and location of protective fencing and any hoardings to the perimeter of the site 3. Details on the provision of safe access to and from the site during demolition work, including pedestrian and vehicular site access points and construction activity zones 4. Details of demolition traffic management, including proposed truck movements to and from the site, estimated frequency of those movements, and compliance with AS 1742.3 Traffic Control for Works on Roads and parking for vehicles 5. Protective measures for on-site tree preservation and trees in adjoining public domain (if applicable) (including in accordance with AS 4970-2009 Protection of trees on development sites 6. Erosion and sediment control measures which are to be implemented during demolition and methods to prevent material being tracked off the site onto surrounding roadways 7. Noise and vibration control measures, in accordance with any Noise and Vibration Control Plan approved under this consent 8. Details of the equipment that is to be used to carry out demolition work and the method of loading and unloading excavation and other machines 9. Details of any bulk earthworks to be carried out 10. Location of any reusable demolition waste materials to be stored on-site (pending future use) 11. Location and type of temporary toilets onsite 12. A garbage container with a tight-fitting lid. <p>Condition Reason: To provide details of measures for the safe and appropriate disposal of demolition waste and the protection of the public and surrounding environment during the carrying out of demolition works on the site.</p>
23	<p>Disconnection of services before demolition work</p> <p>Before demolition work commences, all services, such as water, telecommunications, gas, electricity and sewerage, must be disconnected in accordance with the relevant authority's requirements.</p> <p>Condition Reason: To protect life, infrastructure and services.</p>
24	<p>Notice of commencement for demolition</p> <p>At least one week before demolition work commences, written notice must be provided to council and the occupiers of neighbouring premises of the work commencing. The notice must include:</p> <ol style="list-style-type: none"> 1. name 2. address, 3. contact telephone number, 4. licence type and license number of any demolition waste removal contractor and, if applicable, asbestos removal contractor, and 5. the contact telephone number of council and 6. the contact telephone number of SafeWork NSW (4921 2900). <p>Condition Reason: To advise neighbours about the commencement of demolition work and provide contact details for enquiries.</p>
25	<p>Demolition pedestrian and traffic management plan</p> <p>Before any demolition work commences, a Demolition Pedestrian and Traffic Management Plan (DPTMP) must be prepared by a suitably qualified traffic engineer and submitted to and approved by Council's Traffic Services Department.</p> <p>Condition reason: To ensure that a plan is prepared to address traffic impacts during demolition works to minimise any inconvenience and safety risks to the general public.</p>
26	<p>Demolition deposit</p>

	Before demolition work commences, Council must be provided with a security deposit as determined by Council's fees and charges current at the time of payment. Written evidence of the payment is to be provided to the principal certifier.
	Condition reason: Statutory requirement.

During Demolition works

27	Handling of asbestos during demolition While demolition work is being carried out, any work involving the removal of asbestos must comply with the following requirements: <ol style="list-style-type: none"> 1. Only an asbestos removal contractor who holds the required class of Asbestos Licence issued by SafeWork NSW must carry out the removal, handling and disposal of any asbestos material; 2. Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW Environment Protection Authority to accept asbestos waste; and 3. Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m² or more of asbestos sheeting must be registered with the EPA on-line reporting tool WasteLocate.
	Condition Reason: To ensure that the removal of asbestos is undertaken safely and professionally.
28	Site maintenance While demolition work is being carried out, the following requirements, as specified in the approved demolition management plan, must be maintained until the demolition work and demolition waste removal are complete: <ol style="list-style-type: none"> 1. Protective fencing and any hoardings to the perimeter on the site 2. Access to and from the site 3. Construction traffic management measures 4. Protective measures for on-site tree preservation and trees in adjoining public domain 5. Onsite temporary toilets 6. A garbage container with a tight-fitting lid.
	Condition Reason: To protect workers, the public and the environment.
29	Disposal of site materials Any materials requiring off-site disposal must be classified, managed and disposed of in accordance with the Protection of the Environment Operations Act 1997 and the NSW Environment Protection Authority's Waste Classification Guidelines.
	Condition reason: To protect the environment.
30	Noise control for work sites Any noise generated during demolition must not exceed the limits specified in the Protection of the Environment Operations Act 1997 and in accordance with the NSW EPA Draft Construction Noise Guidelines. Works are to follow the below hours: <ol style="list-style-type: none"> 1. 7 am to 6 pm, Monday to Friday 2. 8 am to 1 pm, Saturday 3. No works are to be undertaken on Sundays or Public Holidays.
	Condition reason: To protect the amenity of surrounding properties and the general public.
31	Demolition pedestrian and traffic management plan (implementation) All works and demolition activities are to be undertaken in accordance with the approved Demolition Pedestrian and Traffic Management Plan (DPTMP). All controls in the DPTMP must be maintained at all times and all traffic management

	control must be undertaken by personnel having appropriate SafeWork NSW accreditation. Should the implementation or effectiveness of the DPTMP be impacted by surrounding major development not encompassed in the approved DPTMP, the DPTMP measures and controls are to be revised accordingly and submitted to Council's Traffic Services Department for approval. A copy of the approved DPTMP is to be kept onsite at all times and made available to the principal certifier or City of Ryde on request.
	Condition reason: To ensure that the measures stated in the approved DPTMP are carried out during demolition activities.

On Completion of Demolition Works

32	Waste disposal verification statement On completion of demolition work: <ol style="list-style-type: none"> a signed statement must be submitted to the principal certifier verifying that demolition work, and any recycling of materials, was undertaken in accordance with the waste management plan approved under this consent, and if the demolition work involved the removal of asbestos, an asbestos clearance certificate issued by a suitably qualified person, must be submitted to the principal certifier within 14 days of completion of the demolition work.
	Condition Reason: To provide for the submission of a statement verifying that demolition waste management and recycling has been undertaken in accordance with the approved waste management plan.

BUILDING WORK

Before the Issue of a Construction Certificate

33	Section 7.11 Before the issue of a construction certificate, a monetary contribution for the services as detailed in the table below must be paid to Council in Column A and for the amount in Column B must be made to Council as follows: <table border="1"> <thead> <tr> <th>Column A – Contribution Type</th><th>Column B – Contribution Amount</th></tr> </thead> <tbody> <tr> <td>Community & Cultural Facilities</td><td>\$ 6,061.81</td></tr> <tr> <td>Open Space & Recreation Facilities</td><td>\$ 10,438.15</td></tr> <tr> <td>Transport & Traffic Facilities</td><td>\$ 3,204.47</td></tr> <tr> <td>Plan Administration</td><td>\$ 295.57</td></tr> <tr> <td>The total contribution is</td><td>\$ 20,000.00</td></tr> </tbody> </table> <p>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.</p> <p>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.</p> <p>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.</p>	Column A – Contribution Type	Column B – Contribution Amount	Community & Cultural Facilities	\$ 6,061.81	Open Space & Recreation Facilities	\$ 10,438.15	Transport & Traffic Facilities	\$ 3,204.47	Plan Administration	\$ 295.57	The total contribution is	\$ 20,000.00
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	<p>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.</p> <p>Details are to be provided to the principal certifier.</p> <p>Condition reason: Statutory requirement.</p>
34	<p>Design Amendments</p> <p>Before the issue of a Construction Certificate, the certifier must ensure the Construction Certificate plans and specifications detail the following required amendments to the approved plans and documents:</p> <ul style="list-style-type: none"> a) The Landscaping Plans are to be amended to reflect the approved location of the swimming pool on the Architectural Plans; being siting the swimming pool in association with Unit 1 only (within the potential future allotment of Unit 1. b) The north-eastern side rear deck of Unit 1 is to be setback 1.5m from the side northern boundary. A 1.8m high fixed privacy screen is to be provided along the side elevation of the rear deck area. This is to ensure that overlooking into the rear yard area of 6 Wood Avenue is minimised. c) The stormwater drainage line and boundary pit must be located clear of the tree protection zone for Tree 1, as marked on the approved stormwater plan. d) Permeable paving for the driveway is required under the Tree Protection Zone (TPZ) of Tree 1 (from the kerb to where the driveway splays out for access to the stairs). <p>Condition Reason: To require minor amendments to the plans endorsed by the consent authority following assessment of the development.</p>
35	<p>Construction Site Management Plan</p> <p>Before the issue of a construction certificate, a construction site management plan must be prepared, and provided to principal certifier. The plan must include the following matters:</p> <ul style="list-style-type: none"> 1. The location and materials for protective fencing and hoardings on the perimeter of the site; 2. Provisions for public safety; 3. Pedestrian and vehicular site access points and construction activity zones; 4. Details of construction traffic management including: 5. Proposed truck movements to and from the site; 6. Estimated frequency of truck movements; and 7. Measures to ensure pedestrian safety near the site; 8. Details of bulk earthworks to be carried out; 9. The location of site storage areas and sheds; 10. The equipment used to carry out works; 11. The location of a garbage container with a tight-fitting lid; 12. Dust, noise and vibration control measures; 13. The location of temporary toilets; 14. The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with: 15. AS 4970 – Protection of trees on development sites; 16. An applicable Development Control Plan; 17. An arborist's report approved as part of this consent. <p>A copy of the construction site management plan must be kept on-site at all times while work is being carried out.</p>

	Condition Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.
36	<p>Erosion and sediment control plan</p> <p>Before the issue of a construction certificate, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to principal certifier:</p> <ol style="list-style-type: none"> Council's relevant development control plan, The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time), and the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time). <p>Condition Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.</p>
37	<p>Long Service Levy</p> <p>Before the issue of the relevant construction certificate, the long service levy of 0.25% of the cost of works must be paid to the Long Service Corporation of Council under the <i>Building and Construction industry Long Service Payments Act 1986</i>, section 34, and evidence of the payment is to be provided to principal certifier.</p> <p>Condition Reason: To ensure the long service levy is paid.</p>
38	<p>Payment of security deposits</p> <p>Before the issue of the relevant construction certificate, the applicant must make payment of a security deposit to the consent authority (Category: Dwelling house involving delivery of bricks); and provide the principal certifier with written evidence of the payment and the amount paid.</p> <p>Condition Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.</p>
39	<p>Waste Management Plan – an approved document of this consent</p> <p>Before the issue of a construction certificate, a waste management plan for the development must be provided to principal certifier.</p> <p>Condition Reason: To ensure resource recovery is promoted and local amenity protected during construction.</p>
40	<p>Waste Management Plan requirements</p> <p>Before the issue of a construction certificate, a waste management plan for the development must be prepared and provided to the principal certifier. The plan must be prepared in accordance with the Environment Protection Authority's Waste Classification Guidelines as in force from time to time, and include the following information—</p> <ol style="list-style-type: none"> the contact details of the person removing waste, an estimate of the type and quantity of waste, whether waste is expected to be reused, recycled or sent to landfill, the address of the disposal location for waste. <p>A copy of the waste management plan must be kept on-site at all times while work approved under the development consent is being carried out.</p> <p>Condition Reason: To ensure resource recovery is promoted and local amenity protected during construction.</p>
41	<p>Utilities and services</p> <p>Before the issue of the relevant construction certificate, written evidence of the following service provider requirements must be provided to the principal certifier:</p> <ol style="list-style-type: none"> A letter from Ausgrid demonstrating that satisfactory arrangements can be made for the installation and supply of electricity. A response from Sydney Water as to whether the plans accompanying the application for a construction certificate would affect any Sydney Water

	<p>infrastructure, and whether further requirements need to be met. It is noted that part of the building will be over the sewer line, it is the responsibility of the applicant to check with Sydney Water of any requirements.</p> <p>3. Other relevant utilities or services - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, the changes that are required to make the development satisfactory to them.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier.</p>
42	<p>Reflectivity of materials</p> <p>Before the issue of a construction certificate, the principal certifier must ensure that the construction certificate plans demonstrate the roofing and other external materials and finishes are of low glare and reflectivity.</p> <p>Condition reason: To ensure the use of appropriate material.</p>
43	<p>Areas outside the dwelling footprint and treatments to drop-edge beams</p> <p>Before the issue of a construction certificate, the relevant construction certificate plans must show the levels of the existing area between the side wall of the house and the side boundary to ensure that these levels are generally maintained. Any retaining walls in this area are limited to 900mm in height, comprising fill up to 500mm and excavation up to 900mm.</p> <p>Where this change in levels results in the dwelling slab and drop-edge beam being exposed above finished ground level, the exposed side of the drop-edge beam is to be treated to match the external materials and finishes of the dwelling façade.</p> <p>Condition reason: To ensure compliance with the DCP and minimise the extent of fill.</p>
44	<p>Letterboxes</p> <p>Before the issue of a construction certificate, detailed design of letterboxes and parcel delivery facilities are to be prepared to the satisfaction of the principal certifier. Details must include how resident will access their letterbox/parcel delivery facility including any security features.</p> <p>Condition reason: Statutory requirement.</p>
45	<p>Vehicle access and parking</p> <p>All internal driveways, vehicle access ramp, 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 (Off-street car parking) for all types of vehicles accessing the parking area.</p> <p>Condition reason: To ensure the vehicle access and parking area is in accordance with the required standards and safe for all users.</p>
46	<p>Stormwater Management</p> <p>To ensure the management of stormwater runoff from the development is undertaken without impact to the subject site, neighbouring properties or receiving drainage system, stormwater runoff from the development shall be collected and discharged to the approved point of discharge in accordance with the requirements of Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management), associated annexures, and generally in accordance with the approved Stormwater Management. Accordingly, detailed engineering plans and certification demonstrating compliance with this condition are to be submitted with the application for a Construction Certificate.</p> <p>Condition 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.</p>
47	<p>Stormwater Management (Onsite Stormwater Detention)</p>

	<p>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.</p> <p>As a minimum, the OSD system must:</p> <ul style="list-style-type: none"> 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. <p>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.</p> <p>Condition Reason: To ensure that the design of the OSD is compliant with the requirements of the City of Ryde DCP 2014 Part 8.2.</p>
48	<p>Road and Public Domain Works (Minor Development)</p> <p>The following Public Domain works are required;</p> <ul style="list-style-type: none"> a) Construction of a new concrete vehicular crossing of width 3.5m fronting the approved vehicle entry. b) Removal of any existing footpath and gutter crossover which is not fronting an approved access point and the reinstatement of grass verge, concrete kerb, gutter and footpath in this region. c) Reinstatement of damaged sections of footpath, kerb and gutter. <p>In accordance with Section 138 of the Roads Act, detailed engineering plans prepared by a qualified and experienced civil engineer, complying with Council specifications must be submitted and approved by Council prior to the issue of a Construction Certificate.</p> <p>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.</p> <p>Condition Reason: To ensure the serviceability of infrastructure adjacent the development property is consistent with the life of the development and provides safe and efficient access to the site.</p>
49	<p>Erosion and Sediment Control Plan</p> <p>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;</p> <ul style="list-style-type: none"> a) Existing and final contours b) The location of all earthworks, including roads, areas of cut and fill c) Location of all impervious areas

	<p>d) Location and design criteria of erosion and sediment control structures,</p> <p>e) Location and description of existing vegetation</p> <p>f) Site access point/s and means of limiting material leaving the site</p> <p>g) Location of proposed vegetated buffer strips</p> <p>h) Location of critical areas (drainage lines, water bodies and unstable slopes)</p> <p>i) Location of stockpiles</p> <p>j) Means of diversion of uncontaminated upper catchment around disturbed areas</p> <p>k) Procedures for maintenance of erosion and sediment controls</p> <p>l) Details for any staging of works</p> <p>m) Details and procedures for dust control.</p> <p>The ESCP must be submitted with the application for a Construction Certificate.</p> <p>Condition Reason: To protect downstream properties, Council's drainage system and natural watercourses from sediment build-up transferred by stormwater runoff from the site.</p>
50	<p>Flooding - Flood and Overland Flow Protection</p> <p>The property has been identified as being susceptible to flooding and overland flow during large storm events. In accordance with the floodplain management controls started within Council's DCP Part 8.2 (Stormwater and Floodplain Management), the following measures must be implemented in the development.</p> <p>A certificate from a suitably qualified Chartered Civil Engineer (registered on the NER of Engineers Australia), or equivalent, shall be submitted to the Principal Certifying Authority stating compliance with this condition prior to the issue of the Construction Certificate for the following items:</p> <p>a) The applicant shall comply with the flood recommendations provided in the Flood Impact Report prepared by MBC Engineering Pty Ltd dated 3 May 2024.</p> <p>b) The habitable floor levels of all dwellings encompassed under this approval must not be constructed less than the approved Flood Impact Statement by MBC Engineering Pty Ltd dated 3 May 2024. nominated floor levels approved under this development consent.</p> <p>c) All electrical connections and flood sensitive equipment shall be located above the 1% AEP (100 year ARI) flood level plus 500 mm freeboard. Where it is not practical and feasible to install the equipment above the 1% AEP (100 year ARI) flood level plus 500 mm freeboard, the installations shall generally be in accordance with the recommendations in ABCB Construction of Buildings in Flood Hazard Areas (2012) Section C2.9 - Requirements for Utilities.</p> <p>d) All fencing shall be constructed in a manner that does not affect the flow of flood waters so as to detrimentally change flood behaviour or increase flood levels on adjacent properties. To this end, any fencing angled to the anticipated overland flowpath must incorporate either louvres, open type pool fencing, frangible screen, battens or floodgate system, at the base of the fence, extending from the finished surface level up to the 1% AEP (100 year ARI) flood level plus 300 mm freeboard (minimum 300 mm from the ground).</p> <p>e) All external steps leading to natural ground are to have open risers to permit the free flow of flood waters.</p> <p>A certificate from a suitably qualified Chartered Structural Engineer (registered on the NER of Engineers Australia), or equivalent, shall be submitted to the Principal Certifying Authority stating compliance with this condition prior to the issue of the Construction Certificate for the following items:</p>

	<p>a) All structures subject to flooding and overland flows must be constructed of flood compatible building components below the 1% AEP (100 year ARI) flood plus 500 mm freeboard.</p> <p>b) All structures subject to flooding and overland flows must be structurally designed to withstand the forces of floodwaters having regard to hydrostatic pressure, hydrodynamic pressure, the impact of debris and buoyancy forces up to the Probable Maximum Flood (PMF) event</p> <p>c) Any portion of the development which is to be suspended above the estimated flooding and overland flow must be designed and constructed to allow for the free passage of flood waters. To ensure that a clear flowpath is maintained for the life of the dwelling, the ground surface in the region of the undercroft must be stripped of vegetation, levelled and coated with blue metal (or similar aggregate) to prevent the growth of vegetation under the structure. To ensure the area is maintained and kept clear, a placard is to be installed on the underside of the structure advising the undercroft is to be kept clear at all times to allow for the conveyance of overland flow during extreme storm events.</p> <p>Condition reason: to ensure flood protection measures are as per approved flood report.</p>
51	<p>Stormwater - Council Easements – Building Foundation Clearances Detailed Design</p> <p>The footings and foundations of all proposed structures adjacent to the existing Council pipeline must extend a minimum depth to the angle of repose to the invert level of the existing stormwater pipe, to ensure that no additional load will be placed on the existing 900 mm diameter Council stormwater pipe.</p> <p>The applicant shall submit detailed design drawings and certificates to Council for written acceptance, prior to the issue of a Construction Certificate. The Principal Certifying Authority shall be notified of Council's written acceptance.</p> <p>The submission shall address the following:</p> <p>a) Council's existing 900 mm diameter pipeline through the development site must be physically located via non-destructive method, surveyed by a registered surveyor and shown on the final construction drawings (including amended survey, architectural and civil design plans).</p> <p>b) A minimum horizontal clearance of 1.0 m is to be provided from the outside edges of the existing stormwater pipe to the proposed structures. All setbacks of the proposed structures including eaves of roof from Council's drainage lines shall be shown on the plans submitted.</p> <p>c) Detailed design drawings of the footings and foundations of the proposed structures shall be prepared by a suitably qualified Structural Engineer (registered on the NER of Engineers Australia), or equivalent.</p> <p>d) A Structural Engineer's design certificate shall be prepared confirming the building structure and its foundations are designed in such a way that no building loads are transmitted to the stormwater conduit and that the conduit can be repaired at any time without affecting the stability of the building structure or its foundations.</p> <p>Condition reason: To ensure Council's stormwater assets are protected.</p>
52	<p>Stormwater - Council Drainage - Reflux Valve</p> <p>A design certificate from a suitably qualified Chartered Professional Civil Engineer (CPEng) or Registered Professional Civil Engineer (RPEng), or equivalent, shall be provided to the Principal Certifying Authority, prior to the issue of the Construction Certificate, confirming that the site drainage outlet pipe has been designed with a reflux valve in order to stop any backwater effect from Council's stormwater system for events up to the 1% AEP (100 year ARI).</p>

	Condition reason: To ensure no water from Council's Stormwater Drainage Network enters the site.
53	<p>Stormwater - Council Drainage – Pit Connection Details</p> <p>The proposed site drainage connection to the {existing Council kerb inlet pit} shall be made via a uPVC pipe. The site drainage connection pipe shall be cut flush with the internal wall of the pit and should enter the pit perpendicular to the pit wall. Amended stormwater plans complying with this condition shall be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate. The plans shall be prepared by a Chartered Professional Civil Engineer (CPEng) or Registered Professional Civil Engineer (RPEng).</p> <p>Condition reason: to ensure connection to pit compliance with Council's DCP and Australian Standards.</p>
54	<p>Stormwater - Drainage Design Submission</p> <p>Before the issue of a construction certificate, drainage design plans are to be prepared and certified by a Chartered Professional Civil Engineer (CPEng) or Registered Professional Civil Engineer (RPEng) and provided to Council's City Infrastructure Department for approval. The plans must include the following:</p> <ol style="list-style-type: none"> Location of drainage pits and pipe and any other information necessary for the design and construction of the drainage system (i.e., utility services). A drainage system longitudinal section showing the underground channel and pipe size, class and type, pipe support type in accordance with AS 3725 or AS 2032 as appropriate, pipeline chainages, pipeline grade, hydraulic grade line and any other information necessary for the design and construction of the drainage system (i.e., utility services). The location and as-built information (including dimensions and invert levels) of the existing Council kerb inlet pit as shown on <Civil Plans prepared by MBC Engineering Pty Ltd, Drawing No. 2022105, (Project No. 2022105, Revision 3 and dated 20th January 2024)> is to be confirmed by a suitably qualified surveyor. Special details including non-standard pits, pit benching and transitions must be provided on the drawings at scales appropriate to the type and complexity of the detail being shown. <p>All fees and charges associated with the review of this plan are to be paid (as per Council's Fees and Charges current at the time of payment).</p> <p>Condition reason: To ensure the stormwater civil design complies with the Australian Standards and Council's requirements and has sufficient details to obtain a construction certificate.</p>
55	<p>Pool fencing</p> <p>Before the issue of a construction certificate, the principal certifier must be satisfied the construction certificate plans provide fencing in accordance with the requirements of the Swimming Pools Act 1992, Swimming Pools Regulation 2018 and Australian Standard AS1926.1-2012 Swimming Pool Safety.</p> <p>Condition reason: Statutory requirement.</p>
56	<p>Pool fencing (boundary fence acting as a pool fence)</p> <p>Before the issue of a construction certificate, the principal certifier must be satisfied the construction certificate plans provide boundary fencing details which are in accordance with the requirements of the Swimming Pools Act 1992, Swimming Pools Regulation 2018 and Australian Standard AS1926.1-2012 Swimming Pool Safety. The pool fencing is to have outward opening gates.</p> <p>Condition reason: Statutory requirement.</p>
57	<p>Construction pedestrian and traffic management plan</p> <p>Before the issue of a construction certificate, a Construction Pedestrian and Traffic Management Plan (CPTMP) must be prepared by a suitably qualified traffic engineer and submitted to and approved by Council's Traffic Services Department.</p>

	Confirmation of Council's acceptance of the CPTMP is to be provided to the principal certifier.
	Condition reason: To ensure safety and amenity of all road users.

Before Building Work Commences

58	Erosion and sediment controls in place Before any site work commences, the principal certifier, must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been restabilised in accordance with the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time). Condition Reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.
59	Payment of fees Before any site work commences, the following must be paid to council and written evidence of these payments provided to the principal certifier: 1. Infrastructure Restoration Inspection and Administration Fee Condition Reason: To ensure fees are paid for inspections carried out by council in connection with the completion of public work such as footway construction or stormwater drainage required in connection with the consent or the making good of any damage to council property.
60	Tree protection measures Before any site work commences, the principal certifier, or council where a principal certifier is not required, must be satisfied the measures for tree protection detailed in the construction site management plan are in place. Condition Reason: To protect and retain trees.
61	Bush fire asset protection zones Before any site work commences, the boundaries of the asset protection zone must be surveyed and marked on the ground by a registered surveyor. Condition Reason: To provide a buffer to protect life and property from bush fire attack.
62	Safety fencing Before any site works commences, the site must be fenced and maintained throughout demolition and construction and must comply with SafeWork NSW requirements and be a minimum of 1.8m in height. Condition reason: Statutory requirement.
63	Proposed property addressing Before any site work commences, the applicant is to obtain the new property addresses from Council's Spatial Data Services section in accordance with the "Addressing of New Developments." Details are to be provided to the principal certifier. Condition reason: To ensure the address of the development meets Council's requirements.
64	Provision of contact details and neighbour notification At least 7 days before any work commences: City of Ryde must be notified of the following particulars: 1. The name, address, telephone contact details and licence number of the person responsible for carrying out the work; and 2. The date the work is due to commence and the expected completion date. 3. A written notice must be placed in the letter box of each adjoining property advising of the date the work is due to commence.

	Condition reason: To ensure Council and adjoining properties are notified of demolition works.	
65	Demolition work method statement	
	Before site demolition works commence, a Demolition Work Method Statement 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 must be provided to principal certifier.	
	Condition reason: To ensure work is carried out in an appropriate manner.	
66	Property above/below footpath level	
	Before site works commence, 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.	
	Condition reason: To preserve public safety.	
67	Recommendations from Approved Reports	
	Before any site works commence, the recommendations from the following approved reports shall be implemented: <ul style="list-style-type: none"> Arboricultural Impact Assessment (AIA). All items in the AIA outlined in: "Section 9 Arboricultural Work Method Statement and Tree Protection Requirements" prepared by Seasoned Tree Consulting dated 8/08/2023, are to be implemented. 	
	Condition Reason: To ensure that the development is consistent with supporting documents.	
68	Tree retention	
	Before any site work commences, the following trees as identified in the Arboricultural Impact Assessment (AIA) prepared by Seasoned Tree Consulting dated 8/08/2023 shall be retained and protected:	
	Tree No.	Tree species (Common Name)
	1	<i>Cryptomeria japonica</i> (Japanese Cedar)
	6	<i>Lophostemon confertus</i> (Brush Box)
	8	<i>Jacaranda mimosifolia</i> (Jacaranda)
	10	<i>Eucalyptus sp.</i> (Eucalyptus)
	11	<i>Grevillea robusta</i> (Silky Oak)
	12	<i>Cupressus torulosa</i> (Himalayan Cypress)
	13	<i>Cupressus torulosa</i> (Himalayan Cypress)
	Condition reason: To protect existing trees to be retained, before any works on site commences.	

69	Tree protection
	All tree protection works including installation of any fencing is to be undertaken prior to any demolition or site clearing works on site. 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 As indicated in the Arboricultural Impact Assessment (AIA) "Appendix 1A – Proposed Site Plan and Tree Protection Plan" prepared by Seasoned Tree Consulting dated 8/08/2023.
	Condition reason: To protect existing trees to be retained, before any works on site commences.
70	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 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. All work within the Tree Protection Zones is to be supervised by the Project Arborist throughout construction.
	Condition reason: To ensure tree protection measures and the nature of works are appropriate and not detrimental to the health of the trees.
71	Project arborist – contact details
	City of Ryde 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, City of Ryde is to be notified, in writing, within 7 working days.
	Condition reason: To ensure the Project Arborist can be readily contacted in regard to the required tree protection measures.

During Building Works

72	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).
	Condition Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.
73	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 and any requirements of Council in relation to the connection to the public drainage system.
	Condition Reason: To ensure the stormwater system is constructed as approved.
74	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.

	Condition Reason: To prevent soil erosion and the discharge of sediment over the land.
75	Hours of work Site work must only be carried out between the following times: <ul style="list-style-type: none"> Monday to Friday - 7.00am and 7.00pm (other than public holidays) Saturday - 8.00am and 4.00pm. Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.
	Condition Reason: To protect the amenity of the surrounding area.
76	Implementation of the site management plans While site work is being carried out: <ul style="list-style-type: none"> the measures required by the construction site management plan and the erosion and sediment control plan (plans) must be implemented at all times, and a copy of these plans must be kept on site at all times and made available to council officers upon request.
	Condition Reason: To ensure site management measures are implemented during the carrying out of site work.
77	Noise and Vibration requirements While site work is being carried out, noise generated from the site must not exceed an LAeq (15 min) of 5db(A) above background noise, when measured at a lot boundary of the site.
	Condition Reason: To protect the amenity of the neighbourhood during construction.
78	Procedure for critical stage inspections While building work is being carried out, the work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.
	Condition Reason: To require approval to proceed with building work following each critical stage inspection
79	Responsibility for changes to public infrastructure While site work is being carried out, any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area) must be paid as directed by the consent authority.
	Condition Reason: To ensure payment of approved changes to public infrastructure.
80	Surveys by a registered surveyor While building work is being carried out, the positions of the following must be measured and marked by a registered surveyor and provided to the principal certifier: <ol style="list-style-type: none"> All footings / foundations in relation to the site boundaries and any registered and proposed easements. At other stages of construction – any marks that are required by the principal certifier.
	Condition Reason: To ensure buildings are sited and positioned in the approved location.
81	Tree protection during work While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with: <ol style="list-style-type: none"> the construction site management plan under this consent,

	<p>2. the relevant requirements of AS 4970 Protection of trees on development sites,</p> <p>3. Part 9.5: Tree Preservation of Council's development control plan (in force as at the date of determination of this consent) and</p> <p>4. any arborist's report approved under this consent.</p> <p>This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.</p> <p>Condition Reason: To protect trees during the carrying out of site work.</p>
82	<p>Waste management</p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> 1. all waste management must be undertaken in accordance with the waste management plan, and 2. upon disposal of waste, records of the disposal must be compiled and provided to the principal certifier, detailing the following: <ol style="list-style-type: none"> 3. The contact details of the person(s) who removed the waste 4. The waste carrier vehicle registration 5. The date and time of waste collection 6. A description of the waste (type of waste and estimated quantity) and whether the waste is to be reused, recycled or go to landfill 7. The address of the disposal location(s) where the waste was taken 8. The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste. <p>If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, records in relation to that Order or Exemption must be maintained and provided to the principal certifier and council.</p> <p>Condition Reason: To require records to be provided, during site work, documenting the lawful disposal of waste.</p>
83	<p>Sediment and dust control</p> <p>During site works, no sediment, dust, soil or similar material must leave the site.</p> <p>Condition reason: To protect the amenity of the area.</p>
84	<p>Construction materials</p> <p>All materials associated with construction must be retained within the site.</p> <p>Condition reason: To ensure the public domain is not affected during construction.</p>
85	<p>Excavation</p> <p>While site work is carried out, 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.</p> <p>Condition reason: To ensure work is completed in an appropriate manner.</p>
86	<p>Consent documents available on site</p> <p>At all times during the construction, a copy of the development consent and approved stamped plans are to be kept on site. These documents are to be made available to any Council Officer as requested.</p> <p>Condition reason: To ensure Council Officers are able to access the consent during any site inspection.</p>
87	<p>Stormwater - Hold Points during construction – Council Drainage Connection Works</p> <p>Council requires inspections to be undertaken by a suitably qualified Chartered Professional Civil Engineer (CPEng) or Registered Professional Civil Engineer (RPEng), or equivalent, for all Council stormwater drainage connection works. The Applicant shall submit to the Principal Certifying Authority, certification from the Engineer, at each stage of the inspection listed below, stating all civil and</p>

	<p>structural construction works have been executed as detailed in the stamped approved plans, and in accordance with the relevant Australian Standards, City of Ryde standards and specifications within 24 hours following completion of the relevant stage/s. The certificates shall contain photographs of the works in progress and a commentary of the inspected works, including any deficiencies and rectifications that were undertaken.</p> <p>a) Upon connection to Council's existing kerb inlet pit.</p> <p>Condition reason: to ensure construction works satisfy Council's DCP and Australian Standards requirements.</p>														
88	<p>Construction traffic management plan (implementation)</p> <p>All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. A copy of the approved CTMP is to be kept onsite at all times and be made available to the principal certifier or Council on request.</p> <p>Condition reason: To ensure that construction vehicle movements and activities are undertaken in accordance with the approved CTMP throughout the period of construction.</p>														
89	<p>Excavation for services within tree protection zone (TPZ)</p> <p>Any excavation for services or grading/re-grading within the identified TPZs of trees to be retained must 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.</p> <p>Condition reason: To ensure any excavation works are not detrimental to the health of the tree.</p>														
90	<p>Tree removal</p> <p>As identified in the Arboricultural Impact Assessment (AIA) prepared by Seasoned Tree Consulting dated 8/08/2023. The following trees on site are to be removed:</p> <table border="1"> <thead> <tr> <th>Tree No.</th><th>Species "Common name"</th></tr> </thead> <tbody> <tr> <td>2</td><td><i>Camellia japonica</i> (Japanese Camellia)</td></tr> <tr> <td>3</td><td><i>Thuja sp.</i> (Book Leaf Cypress)</td></tr> <tr> <td>4</td><td><i>Syagrus romanzoffiana</i> (Cocos Palm)</td></tr> <tr> <td>5</td><td><i>Grevillea robusta</i> (Silky Oak)</td></tr> <tr> <td>7</td><td><i>Melaleuca linariifolia</i> (Snow in Summer)</td></tr> <tr> <td>9</td><td><i>Jacaranda mimosifolia</i> (Jacaranda)</td></tr> </tbody> </table> <p>Condition reason: To ensure only the specified trees approved for removal are removed.</p>	Tree No.	Species "Common name"	2	<i>Camellia japonica</i> (Japanese Camellia)	3	<i>Thuja sp.</i> (Book Leaf Cypress)	4	<i>Syagrus romanzoffiana</i> (Cocos Palm)	5	<i>Grevillea robusta</i> (Silky Oak)	7	<i>Melaleuca linariifolia</i> (Snow in Summer)	9	<i>Jacaranda mimosifolia</i> (Jacaranda)
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91	<p>Project arborist inspections</p> <p>The Project Arborist is to issue Certificates of Compliance to the principal certifier verifying that inspections have been undertaken at each relevant project phase as required by Section 5 Monitoring and Certification of AS4970-2009 as follows:</p>														

	Project Phase	Activities	Project Arborist Role
	Initial site preparation	Establish/delineate Tree Protection Zones (TPZs). Install protective measures and undertake soil rehabilitation for all trees to be retained.	Project Arborist to mark TPZs and install fences, mulch, irrigation and signage. Issue a Certification of Compliance 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. Supervision and monitoring formal notification of any deviation from approved tree protection plan.
	Stormwater connection installation through TPZ. Implement hard and soft landscape works.	Supervise. Installation of pipes within TPZ.	Excavate trench through TPZ under arborist supervision, install pipework, remove selected protective measures as necessary and perform remedial tree works. Issue a Certificate of Compliance.
	Practical completion	Tree vigour and structure assessment and undertake soil rehabilitation for all retained trees.	Remove all remaining tree protection measures. Certification of tree protection and soil rehabilitation for protected trees.
	Defects liability / maintenance period	Tree vigour and structure	Undertake any required remedial tree works. Certification of tree protection if necessary.
	Condition 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.		
912	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).		
	Condition reason: To ensure that any tree work is carried out by a qualified Arborist.		

Before the Issue of an Occupation Certificate

93	Completion of landscape and tree works
	Before the issue of an occupation certificate, the principal certifier must be satisfied all landscape and tree-works have been completed in accordance with approved plans and documents and any relevant conditions of this consent.
	Condition Reason: To ensure the approved landscaping works have been completed in accordance with the approved landscaping plan(s).

94	Completion of public utility services
	Before the issue of the relevant occupation certificate, confirmation must be obtained from the relevant authority that any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, have been completed and this confirmation must be provided to the principal certifier.
	Condition Reason: To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation.
95	Removal of waste upon completion
	Before the issue of an occupation certificate all refuse, spoil and material unsuitable for use on-site must be removed from the site and disposed of in accordance with the approved waste management plan; and written evidence of the waste removal must be provided to the satisfaction of the principal certifier.
	Condition reason: To ensure waste material is appropriately disposed or satisfactorily stored.
96	Completion of works
	Before the issue of the relevant occupation certificate, all works shown on the approved plans are to be completed.
	Condition reason: To ensure all approved works are completed.
97	BASIX
	Before the issue of any occupation certificate, documentary evidence of compliance with all commitments listed in the approved BASIX Certificate(s) is to be provided to the principal certifier.
	Condition reason: Statutory requirement.
98	Sydney Water – Section 73 compliance certificate
	Before the issue of any occupation certificate, a compliance certificate must be obtained from Sydney Water under Section 73 of the Sydney Water Act 1994.
	Condition reason: Statutory requirement.
99	Letterboxes and house/unit numbering display
	Before to the issue of any occupation certificate, the principal certifier must be satisfied that all house/unit numbering is displayed in accordance with the official property addressing allocated by Council's Spatial Data Services section. The principal certifier must ensure that the display of the street address must be of a sufficient size and clarity to be easily visible from the street.
	Condition reason: To assist in way finding.
100	Final assessment of trees
	At completion of all construction works the Project Arborist is to carry out an assessment of all trees that are required to be retained. This assessment is to be documented in writing, a copy of which is to be submitted to Council prior to the issue of any occupation certificate for the development. The documentation is also to specify any required on-going remedial care that is required to be undertaken to ensure the continuous health and retention of the specified trees.
	Condition reason: To ensure the existing trees have been maintained in a viable condition.
101	Swimming pool register
	Before the issue of the relevant occupation certificate, documentary evidence must be provided to the satisfaction of the principal certifier confirming that the pool/spa is registered in accordance with the Swimming Pools Act 1992. Registration can be undertaken online at: http://www.swimmingpoolregister.nsw.gov.au/ .
	Condition reason: Statutory requirement.
102	Pool wastewater discharge

	Before the issue of the relevant occupation certificate, documentary evidence must be provided to the satisfaction of the principal certifier confirming the spa/pool is connected to the Sydney Water sewer for discharge of wastewater.
	Condition reason: To ensure the appropriate discharge of wastewater.
103	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 (including any onsite detention, pump/ sump, charged/ siphonic and onsite disposal/ absorption system) and finished surface levels which convey stormwater runoff. Condition Reason: To clarify the configuration of the completed stormwater management system.
104	Disused vehicular/Gutter Crossing All disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated to the satisfaction of Council. Condition Reason: To maximise on-street parking capacity and avoid confusion relating to the enforcement of parking restrictions.
105	Engineering Compliance Certificates Before the issue of any Occupation Certificate, a compliance certificate prepared by a suitably qualified engineer, to the satisfaction of the principal certifier, detailing: <ul style="list-style-type: none"> 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 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). d) Compliance certificate from Council confirming that all external works in the public road reserve and any alteration to Council assets located in the property (if applicable) have been completed to Council's satisfaction. Condition 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.
106	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).

	Condition 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.
107	<p>Restriction as to User (Floodway)</p> <p>A restriction as to user is to be placed on the property title to prevent any works which would result in the alteration of the ground surface level or impose on overland flow due to stormwater runoff in the 100ARI, such to adversely impact flood protection of the approved dwelling or have an adverse impact on neighbouring properties. The terms of the restriction shall be generally in accordance with Council's current standard terms for provision for overland flow and to the satisfaction of Council. To assure Council the completed development works are consistent with the approved development and associated flood conditions, Works-As-Executed plans and/ or engineering certification related to any flood mitigation measures are to be submitted to Council with a completed "Application Form for Endorsement of Title Encumbrances" (available from Council's website). The covenant must be registered on the title prior to the release of any Occupation Certificate for the development works.</p> <p>Condition Reason: To ensure that the site topography and any flood mitigation measures are maintained for the ongoing life of the development.</p>
108	<p>Flooding – Engineering Compliance Certificate</p> <p>A certificate from a suitably qualified Chartered Professional Civil Engineer (CPEng) or Registered Professional Civil Engineer (RPEng), or equivalent, shall be provided to the Principal Certifying Authority, prior to the issue of the Occupation Certificate, confirming that all requirements of condition "<i>Flooding - Flood and Overland Flow Protection</i>" have been satisfied.</p> <p>The qualified and practising Chartered Professional Civil Engineer (CPEng) or Registered Professional Civil Engineer (RPEng) shall have experience in the area respective of the certification unless stated otherwise.</p> <p>Condition reason: To ensure that all flood and overland flow protection requirements are satisfied.</p>

Occupation and Ongoing Use

109	<p>Flood Emergency Response Matters</p> <p>The development must at all times comply with the recommendations made within the Flood Emergency Response Plan (FERP) formulated as part of the Occupation Certificate for the proposed development.</p> <p>Implementation and maintenance of the FERP shall be the responsibility of building management and all owners, tenants and users of the building must be made aware of the FERP. FERP shall include details of the proposed 'on-site' refuge area. Permanent signage shall be installed in the common areas informing the future occupants of the emergency evacuation procedures and refuge areas.</p> <p>Condition Reason: To ensure Flood Emergency Response Plan is in place during and after construction is completed.</p>
110	<p>Air conditioning equipment on residential premises</p> <p>The air conditioning equipment must not:</p> <ol style="list-style-type: none"> 1. emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open); 2. before 8am and after 10pm on any Saturday, Sunday or public holiday; or 3. before 7am and after 10pm on any other day. 4. emit a sound pressure level when measured at the boundary of any other residential property, at a time other than those as specified in (1), which exceeds the background (LA90, 15 minute) by more than 5dB(A). <p>The source noise level must be measured as a LAeq 15 minute.</p> <p>Condition reason: To ensure the use of air conditioning equipment on residential premises does not give noise to offensive noise.</p>
111	Mechanical equipment

	During occupation and ongoing use, all mechanical ventilation system(s) or other plant and equipment that generates noise must be located on the site (including in a soundproofed area where necessary) and appropriately maintained to ensure the noise generated does not exceed 5 dB(A) above the ambient background noise at the boundary adjacent to any habitable room of adjoining residential premises.
	Condition Reason: To protect the residential amenity of neighbouring properties.
112	Pool fencing and signage
	The pool/spa fence and warning notice(s)/safety signage are to be maintained in accordance with the provisions of the Swimming Pools Act 1992, Swimming Pools Regulation 2018 and Australian Standard AS1926.1-2012 Swimming Pool Safety for the lift of the development.
	Condition reason: Statutory requirement.

General advisory notes

Compliance Check - Quality Certification

Assessment of a Dual Occupancy (Attached)

Date: 30 November 2023

Application No: LDA2023/0267 (4 Wood Street, Eastwood)

Site Area: 616m²

Zone: R2 Low Density Residential

RDCP 2014	Proposed	Compliance
Part 3.3 - Dwelling Houses and Dual Occupancy (attached)		
Section 1.0 Introduction		
Part 1.6 Site Analysis		
Site analysis to be submitted.	Submitted	Yes
Section 2.0 General Controls		
2.1 Desired Future Character		
Development is to be consistent with the desired future character of the low density residential areas.	Consistent with desired future character.	Yes
2.3 Dual Occupancy (attached)		
(a) New dual occupancy buildings are to meet the controls for new dwelling houses set out in 2.2.1.	Complies	Yes
(b) Alterations and additions to dual occupancy buildings are to meet the requirements of 2.2.2	N/A	N/A
2.4 Subdivision		
Minimum lot sizes apply under RLEP Clause 4.1A	No subdivision proposed	N/A
2.5 Public Domain Amenity		
2.5.1 Streetscape		
(a) Site design, building setbacks and level changes respect the existing topography	Complies	Yes
(b) Dwelling design is to enhance the safety and amenity of the streetscape	Complies	Yes
(c) Carports and garages visible from the public street are to: (i) Be compatible with the building design (ii) Be setback behind the dwelling's front elevation	Complies	Yes
(d) Driveways and hard stand areas are to be minimised	Driveways form one single driveway.	Yes
(e) Dwellings, garages and carports are to be orientated to match the prevailing orientation of such buildings in the streetscape	Complies	Yes

RDCP 2014	Proposed	Compliance
(f) Facades from the public domain are to be well designed.	The façade provides sufficient architectural articulation to provide visual interest.	Yes
2.5.2 Public Views and Vistas		
(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. (b) Garages/carports and outbuildings are not to be located within view corridor if they obstruct view.	No water view	N/A
2.5.2 Pedestrian & Vehicle Safety		
(a) Car parking located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard.	Complies	Yes
(b) Fencing that blocks sight lines is to be splayed.	No fencing indicated on the plans	N/A
(c) Refer to relevant AS when designed driveways	Capable of complying subject to condition	Yes Subject to condition
2.6 Site Configuration		
2.6.1 Deep Soil Areas		
(a) 35% of site area min.	616 x 35 = 215.6m ² Propose: 252m ² 252m ² /616m ² = 40%	Yes
(b) Deep soil area must include: (i) Min 8m x 8m deep soil area in backyard. (ii) Front garden area to be completely permeable (exception driveway, pedestrian path and garden walls).	8m x 8m provided Front yard free of structure	Yes Yes
(c) Dual occupancies need only one 8m x 8m in back yard	Provided in rear yard.	Yes
(d) Deep soil areas to have soft landscaping	Complies	Yes
(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.	Complies	Yes
2.6.2 Topography & Excavation		
(a) Building form and siting relates to the original topography of the land and of the streetscape.	Cross fall	Yes

RDCP 2014	Proposed	Compliance
<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 >900mm</p> <p>(ii) the depth of excavation is not >900mm</p> <p>(iii) the height of fill is not >500mm</p> <p>(iv) the excavation and filled areas do not have an adverse impact on the privacy of neighbours</p> <p>(v) the filled areas do not have an adverse impact on the privacy of neighbours</p> <p>(vi) the area between the adjacent side wall of the house and the side boundary is not filled</p> <p>(vii) the filled areas are not adjacent to side or rear boundaries</p> <p>(d) Fill is not allowed in areas of overland flow. Refer to Part 8.2 stormwater management</p> <p>(e) Generally the existing topography is to be retained.</p>	<p>Nil</p> <p>Max cut: 1.2m for the swimming pool.</p> <p>Max fill: Nil</p> <p>No retaining walls proposed along side boundaries</p> <p>Existing ground level maintained at boundaries.</p> <p>Existing ground level maintained at boundaries.</p> <p>N/A</p> <p>N/A</p> <p>No fill is proposed between the adjacent side wall of the dwelling and the side boundary.</p> <p>N/A</p> <p>N/A</p> <p>Complies</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>Yes</p>
2.7 Floor Space Ratio (FSR)		
<p>(a) FSR is 0.5:1 in accordance Clause 4.4</p> <p>(b) A floor area of 36m² may be excluded when this area accommodates 2 car space. An area of 18m² may be excluded when the area accommodates 1 parking space.</p>	<p>Site Area = 616m²</p> <p>Ground Floor = 153.59</p> <p>1st floor = 155</p> <p>Total GFA = 308m²</p> <p>FSR = 0.5:1</p> <p>36m² deducted from the overall garage area.</p>	<p>Yes</p> <p>Yes</p>

RDCP 2014	Proposed	Compliance
(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.	N/A	N/A
(f) The outside face of wall built above a garage aligns with the outside face of the garage wall below.	Aligns.	Yes
2.9.2 Side Setbacks		
(a) One storey dwellings setback 900mm.	Northern -Ground floor = 1900mm to 1.5m. Southern – minimum 1.5m	Yes
(b) Two storey dwellings setback 1.5m.	Upper Floor = min 1.5m	Yes
(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 the lot or 8m, whichever is greater.	N/A	N/A
2.9.3 Rear Setbacks		
(a) The rear setback min 25% of the site length or 8m, whichever is greater.	A rear setback of 9.25m is 25% of site length. Proposed rear setback: 6.3m to 8m from edge of deck to rear boundary. Minimum 10.22m from edge of dwelling.	No – variation acceptable.
(b) Allotments wider than they are long, min setback of 4m.	N/A	N/A
(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.	N/A	N/A
2.11 Car Parking and Access		
2.11.1 Car Parking		
(a) Dwellings 2 spaces. Dual occ 1 space/dwg	1 single garage per dwelling.	Yes
(b) Spaces can be enclosed or roofed.	N/A	N/A
(c) Garages setback 1m behind front elevation.	1.0m setback.	Yes
(d) Located forward of existing dwelling if:	N/A	N/A
(i) there is no other suitable position	N/A	N/A
(ii) no vehicular access to the rear of side of the site	N/A	N/A

RDCP 2014	Proposed	Compliance
(ii) it is preferred that it is single car width.	N/A	N/A
(e) Garages doors solid. No expanded mesh doors.	Solid Doors are included.	Yes
(f) Preference located off laneways, secondary street frontages.	N/A	N/A
(g) Driveway widths minimised. Driveways single car width except where needed to be widen to double garage access.	1 single driveway – 3.2m wide	Yes
(h) Driveways not roofed.	Not roofed.	Yes
(i) Min width 6m or 50% of the frontage whichever is less	Proposed 3.2m width combined – shared driveway	Yes
(j) Total width garage doors not to be >5.7m.	2.5m for each door = 5m	Yes
(k) Driveways for battle axe enable vehicles to enter and leave in forward direction.	N/A	N/A
(l) Garage doors not to be recessed more than 300mm	Not recessed.	Yes
(m) Garage windows >900mm from boundaries.	No windows	N/A
(n) Free standing garages max GFA 36m ² .	N/A	N/A
(o) Design and materials to complement dwelling	Complimentary to the building design.	Yes
(p) Setback at least 1m from façade.	Setback 1.0m.	Yes
(q) Carports not enclosed.	N/A	N/A
2.13 Landscaping		
(a) Major trees to be retained where practical	.	Yes – Arborist report submitted – landscape Architect support the tree removal.
(b) Lots adjoining bushland, protect and retain indigenous native vegetation and use native indigenous plant spaces for a distance of 10m	N/A	N/A
(c) Provide useful outdoor spaces	Outdoor spaces provided within rear yard.	Yes
(d) Physical connection between dwelling and external ground level.	Complies	Yes
(e) Provide landscape front garden. Hard paved areas no more than 40%.	Front landscaped area – 133.8m ² Driveway – 52m ² = 39.6%	Yes
(f) Pathway along one side boundary connecting front to rear. Not to be blocked by ancillary structures. Not required	Provided.	Yes

RDCP 2014	Proposed	Compliance
where there is rear lane access or corner allotment.		
(g) Landscape elements in front garden to be compatible with scale of dwelling.	Landscaping provided either side of the central driveway and is compatible with the scale of the dwelling. Condition X imposed to reflect the amended architectural plans	Yes – Landscape plan need to be amended to reflect relocation of the pool.
(h) Front garden at least 1 canopy tree at least 10m in height		Yes
(i) Mature tree at least 15m in rear garden with the DSA		Yes
(j) Locate and design landscaping to increase privacy between dwellings		Yes
(k) Hedge planting on boundary no greater than 2.7m	Complies	Yes
(l) Retaining walls and other landscape elements not to obstruct stormwater overland flow.	N/A	N/A
(m) OSD not to be located within front setback unless it is underneath driveway	N/A	N/A
(n) Landscaping to include POS	Complies	Yes
2.14 Dwelling Amenity		
2.14.1 Daylight and Sunlight Access		
(a) Living areas are to be predominantly located to the north where possible	Unit 1 – orientated North East. Unit 2 – adjoin Unit1 on the southern side.	Yes
(b) Sites with northern side boundary to have increased setback of 4 metres is preferred.		No
<u>Subject Dwelling</u>		
(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.	Complies – the ground floor side northern elevation will be in shade due to the overshadowing by 6 Wood Street however the rear north east living area window will receive solar access from 9am to 1pm. The	Yes

RDCP 2014	Proposed	Compliance
(d) Private open space is to receive at least 2 hours sunlight between 9am to 3pm on June 21.	Complies – rear yard area will receive sunlight from 9am up to 12 noon.	Yes
<u>Neighbouring properties:</u> (e) For neighbouring properties: (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. (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 reasonably maintained given orientation and topography.	Complies Complies – southern property is separated by a walkway. Adjoining property will receive midday and afternoon sun.	Yes Yes
2.14.2 Visual Privacy		
(a) Orientate the windows of main living spaces (living room, dining, kitchen, family etc) to the front and rear.	<p>Unit 1 (adjacent to 6 Wood Street on the north).</p> <p>6 Wood Street has a side entrance and two windows facing the northern elevation of the subject dwelling.</p> <p>Along the northern elevation, a lounge, 1 x bathroom, 2 x bedroom and 1 x family room windows are proposed and will face 6 Wood Street side entrance and two windows.</p> <p>Due to the site being within flood prone land, the proposed dwelling will be elevated (between 0.65m to 1.7m). Whilst bedroom and bathroom windows are not considered to be a concern as they are low use rooms, however in this instead as the dwelling is elevated and will have the potential to have overlooking impact, all the windows along this northern elevation should be high light windows, similar to the proposed lounge window. Condition X has been imposed requiring this.</p>	<p>Yes</p> <p>Subject to condition</p>

RDCP 2014	Proposed	Compliance
	<p>Note: The two living rooms will also have front and rear elevation windows so amenity such as light and solar can still be achieved.</p> <p>There is no overlooking concerns along the southern elevation as this is separated by a side pathway and the nearest dwelling has one small bathroom window facing the subject dwelling.</p>	
(b) Orientate terraces, balconies and outdoor living areas to front or rear and not side boundary	Front 1 st floor balconies facing the street. These balconies are off bedrooms – no overlooking concerns.	Yes
(c) Terraces and balconies are not to overlook neighbour's living areas and POS.	Rear terraces at the rear are elevated to between 0.6m to 1.2m however are setback 8m off the rear boundary. No overlooking concerns as the rear adjoining house is setback quite a distance from the common boundary and currently there are landscaping which helps screen the adjacent property.	Yes
(d) Living and kitchen windows, terraces and balconies are not to allow direct view into neighbouring dwelling or POS.	See discussion about re; north facing windows. No balconies or terrace facing	Yes – to condition
(e) Side windows are to be offset by sufficient distance to avoid visual connection between dwellings.	Setbacks to side facing windows vary from 1.2m (Ground Floor) to 2.4m (First Floor).	Yes
(f) Splayed walls with windows are not to be located above ground level where the windows provide views into adjoining property.	N/A	N/A
2.14.3 Acoustic Privacy		
(a) Noise of mechanical equipment not to exceed 5dB(A) above background noise measured in or on any premises in vicinity of the item.	No plant services are located adjacent to side boundaries which would have an impact on neighbouring dwellings.	Yes
(b) Dwellings on arterial roads double glazed windows fronting road.	N/A	N/A
(c) Dwellings on arterial roads acoustic seal on the front door.	N/A	N/A

RDCP 2014	Proposed	Compliance
(d) Dual occupancies are to be designed to reduce noise transmission between dwellings.	Complies	Yes
2.14.4 View Sharing		
(a) The siting of development is to provide for view sharing.	No views are affected.	N/A
2.14.5 Cross Ventilation		
(a) Designed to optimise access to prevailing breezes and provide for cross ventilation.	Complies	Yes
2.15 External Building Elements		
2.15.1 Roofs		
(a) Relate roof design to the desired built form by:		
(i) articulating the roof	Pitched roof form (25°).	Yes
(ii) roof is consistent with the architectural character of dwelling	Pitched roof form is consistent with architectural character of the dwelling and surrounding development.	Yes
(iii) eaves minimum 450mm overhang on pitched roofs	450mm eaves proposed.	Yes
(iv) compatible roof form, slope, material and colour to adjacent buildings	Complies	Yes
(v) roof height is in proportion to the wall height of the building	Complies	Yes
(b) The main roof not trafficable terrace.	Complies	Yes
(c) Proposed attic contained within the volume of the roof space.	N/A	N/A
(d) Skylights to be minimised on roof planes visible from the public domain. Skylights are to be symmetrical.	None proposed.	N/A
(e) The front roof plane is not to contain both dormer and skylight. Dormers are preferred.	N/A	N/A
(f) Balconies and terraces are not to be set into roofs.	Complies	Yes
(g) Scale of the roof is to be in proportion with the scale of the wall below.	Complies	Yes
(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.	N/A	N/A
Part 7: Environment		
7.1: Energy Smart, Water Wise		
3.0 The information Guide		
3.2 Required information		

RDCP 2014	Proposed	Compliance
(a) Energy efficiency performance report. (b) Site analysis.	BASIX Certificate: 1379210M and dated 13 March 2023. <ul style="list-style-type: none"> Energy: 51 Water: 43 The plans are consistent with the Certificate.	Yes
Part 7.2 Waste Minimisation and Management		
2.3 All developments		
(a) Developments must provide space for onsite waste containers	Complies	Yes
(b) Compliant size of storage areas and number of storage containers.	Complies	Yes
(c) Space to be provided for bulk waste where appropriate.	N/A	N/A
(d) Storage of green waste provided	Complies	Yes
(e) Stored within the boundaries of the site.	Complies	Yes
(f) Site Waste Minimisation and Management Plan (SWMMP) to be submitted	Complies	Yes
(g) Located to provide easy, direct and convenient access.	Complies	Yes
(h) No incineration devices.	Complies	Yes
(i) Collection point identified on plan.	On the street	Yes
(j) Path for wheeling bin collection not less than 14	Complies	Yes
2.5 Residential Developments comprising 1 or 2 Dwellings		
(a) Space inside each dwelling for receptacles for garbage, recycling.	Complies	Yes
(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.	Complies	Yes
Part 8: Engineering		
8.1 Construction Activities		
2.1.2 Erosion and Sediment Control Plan		
Erosion and sediment control plan to be submitted.	Erosion and Sediment Control Plan included on Site Plan prepared by Russell Scott Designs and dated 19 April 2023.	Yes
Part 8.2 Stormwater and Floodplain Management		
2.0 Stormwater Drainage		

RDCP 2014	Proposed	Compliance
<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.</p>	<p>Drainage Plan prepared by Russell Scott Designs dated 19 April 2023.</p> <p>The proposal has been considered satisfactory by Council's Development Engineer.</p>	Yes
4.0 Flooding and Overland Flow		
<p><u>4.4.1(a)</u> Development that is flood affected has been provided with a Flood Impact Statement. Report prepared in accordance with Section 2.2 of the Stormwater and Flood Plan Management Technical Manual</p> <p><u>4.4.5(b)</u> Floor levels of habitable and non habitable areas must comply with the freeboard requirements as stated in Table 2.1 of the Stormwater Technical Manual.</p> <p><u>4.4.5(d)</u> Development must not divert major overland flows or reduce flood storage such to adversely impact the neighbouring property or surrounding area.</p>	N/A	N/A
Part 8.3 Driveways		
3.0 Existing footway crossings		
<p><u>3.1(a)</u> Existing footway crossings may only be used when they provide access of max of 2 dwgs, correct location and level and adequate width. In good condition and is not a bridge or piped crossing.</p> <p><u>3.2(a)</u> Disused footway crossing slabs that become redundant are to be removed and footway restored.</p>	<p>N/A</p> <p>To be conditioned</p>	<p>N/A</p> <p>Yes Subject to condition</p>
4.0 Designing internal access roads and parking spaces		
<p><u>4.1 (a)</u> The design of all parking spaces, circulation roads and manoeuvring areas on the property must confirm to the minimum requirements of AS2890.1-2004.</p>	N/A	N/A
4.2 Design of Parking Spaces		
<p>(b) Vehicles (85th percentile) to enter and leave designated parking space in a single 3 point turn</p>	<p>N/A See (c) below</p>	N/A

RDCP 2014	Proposed	Compliance
manoeuvre. A 99 th percentile vehicle for disabled vehicles. (c) Enter and leave in a forward direction. Waived where the garage is located at the front of a dwelling and insufficient space within front setback to provide a turning area.	Garages located at front and insufficient space to provide turning area without disrupting landscaped setting and streetscape appearance.	Yes
S2.0 Design Standards		
S2.2 Vehicular crossing widths		
(a) Min 3.0m and max of 5.0m. (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	N/A Conflicting Plans 6.0m wide or 9.1m (50%). Proposed 6.9m or 8.0m width combined depending on plans.	N/A No. Managed by condition?
Part 9.2 Access for People with Disabilities		
4.1.2 Class 1 Buildings		
Accessible path required from the street to the front door, where the level of land permits.	N/A Class 2 Building	N/A
Part 9.3 Parking Controls		
2.2 Residential Lane Uses		
• Dwelling houses up to 2 spaces/dwelling.	N/A	N/A
• Dual occupancy 1 space/dwelling.	Complies	Yes

Driveway – 52m²



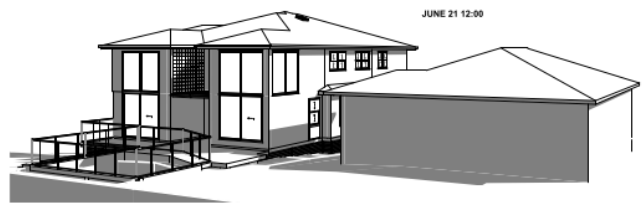
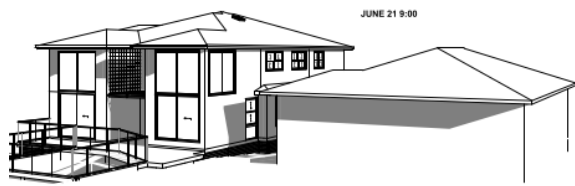
(a) 35% of site area min.

616 x 35 = 215.6m²
Propose: 252m²

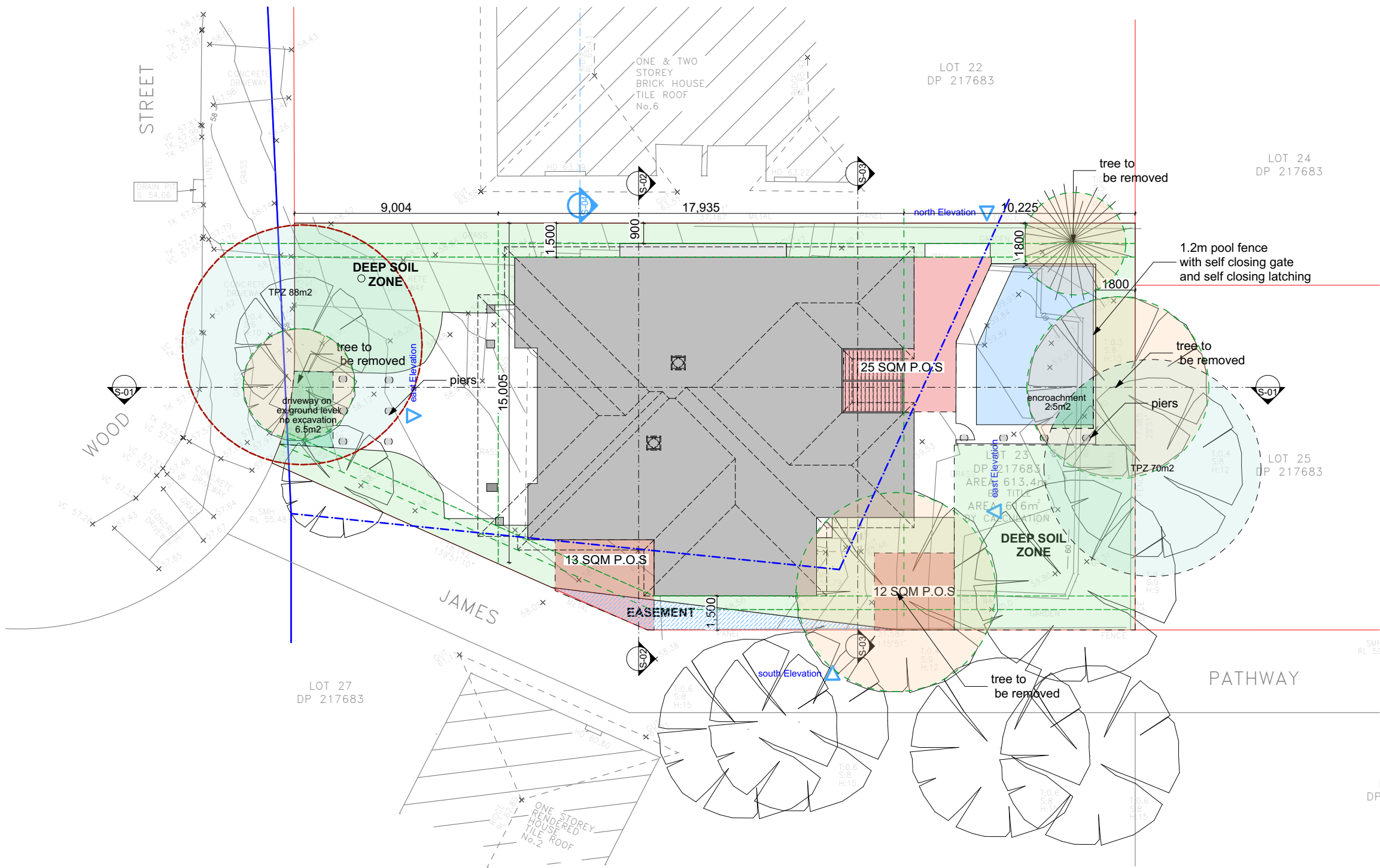
252m²/616m² = 40%



6 Wood Street – side entrance



Solar access to northeast elevation. The northern elevation will be overshadowed by the adjacent dwelling due to the orientation of the land.



CALCULATIONS:

SITE AREA BY CALCULATIONS 616M2 BY TITLE 613.4M2

F.S.R 0.5:1

PROPOSED GROUND FLOOR GROSS FLOOR AREA : 159.4M2

PROPOSED FIRST FLOOR GROSS FLOOR AREA : 149.6M2

TOTAL PROPOSED GROSS FLOOR AREA :309M2

PROPOSED F.S.R 309/616=0.5:1

AREA FORWARD BUILDING LINE:131.5M2

LANDSCAPED AREA FORWARD BUILDING LINE:55M2

LANDSCAPED RATE FORWARD BUILDNG LINE:55/131.5=41.8%

PERMEABEL AREA: 228/616=37%

BUILDING HEIGHT<9.5M

FRONT SETBACK:9.736M

SIDE SETBACK : GROUND FLOOR 900MM FIRST FLOOR 1500MM

REAR SETBACK: 25% X LENGTH = 9.29M

PARKING SPACE:1 SPACE

POOL SITE AND REAR SETBACK:1800MM

PRIVATE OPEN SPACE: 25 SQM/ DWELLING

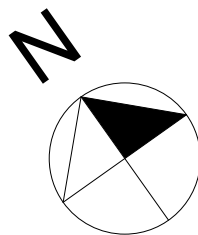
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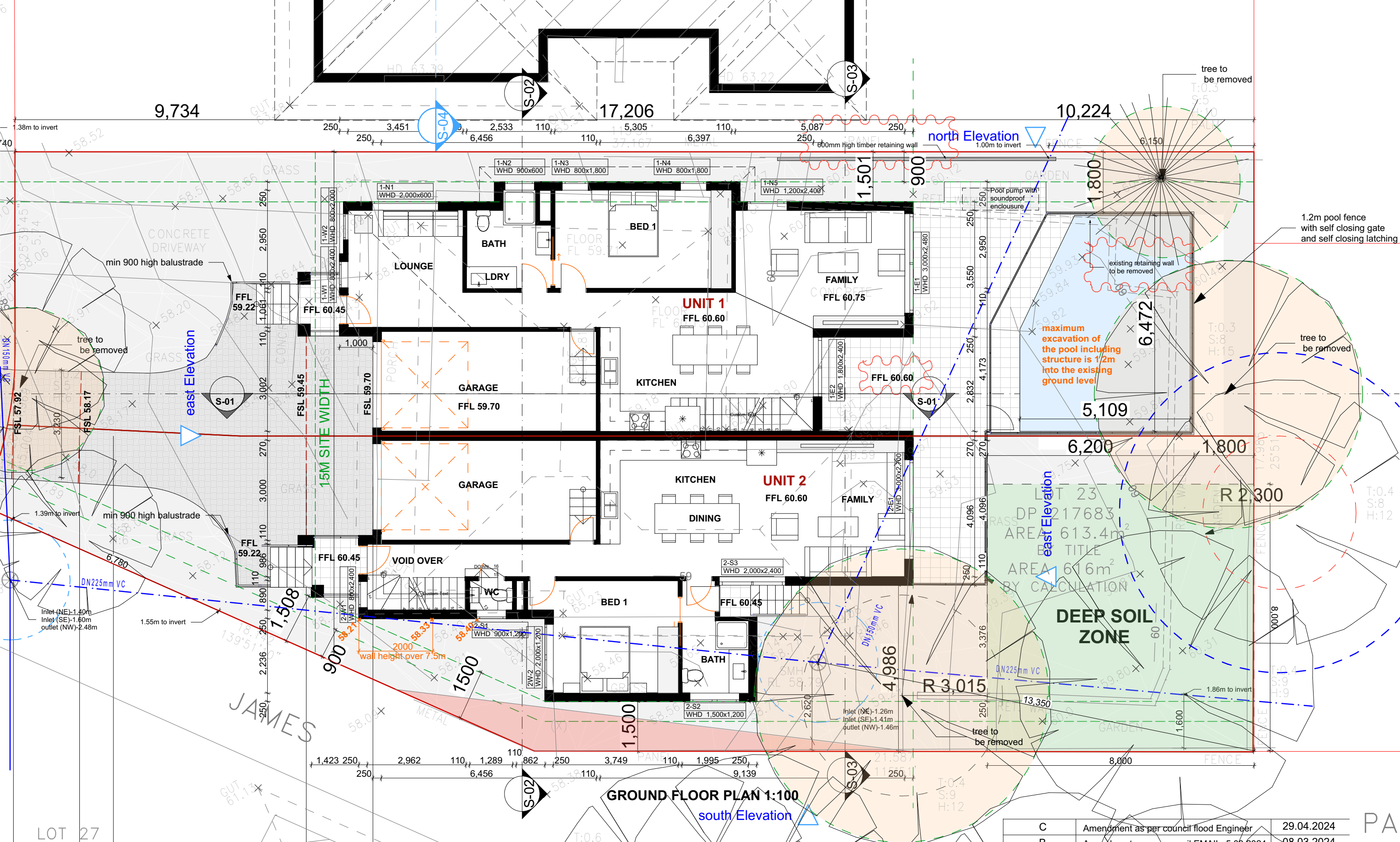
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SITE PLAN



C	Amendment as per council flood Engineer			29.04.2024
B	Amendment as per council EMAIL .5.03.2024			08.03.2024
A	Amendment as per council letter PAN-370085			08.10.2023
No.	Revision			Date
Drawn SH	Checked TC	Approved	Scale AS STATED	Date Apr 2024
Project No 2123-208		Drawing No A1		Revision No. C



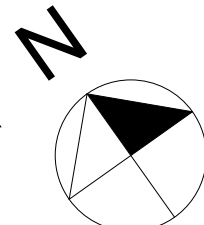
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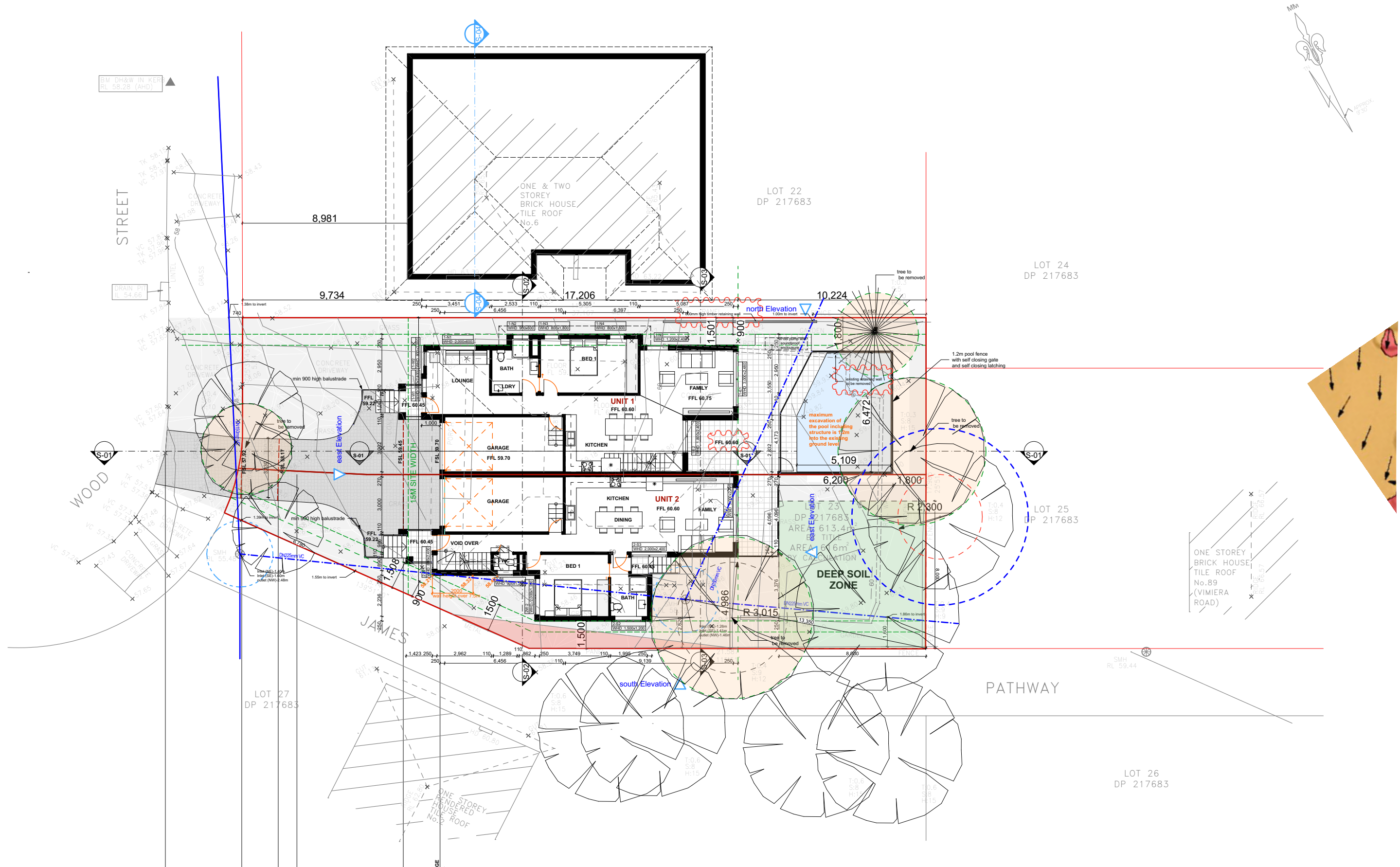
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GROUND FLOOR



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A	Amendment as per council letter PAN-370085			08.10.2023
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Project No 2123-208		Drawing No A2		Revision No. C



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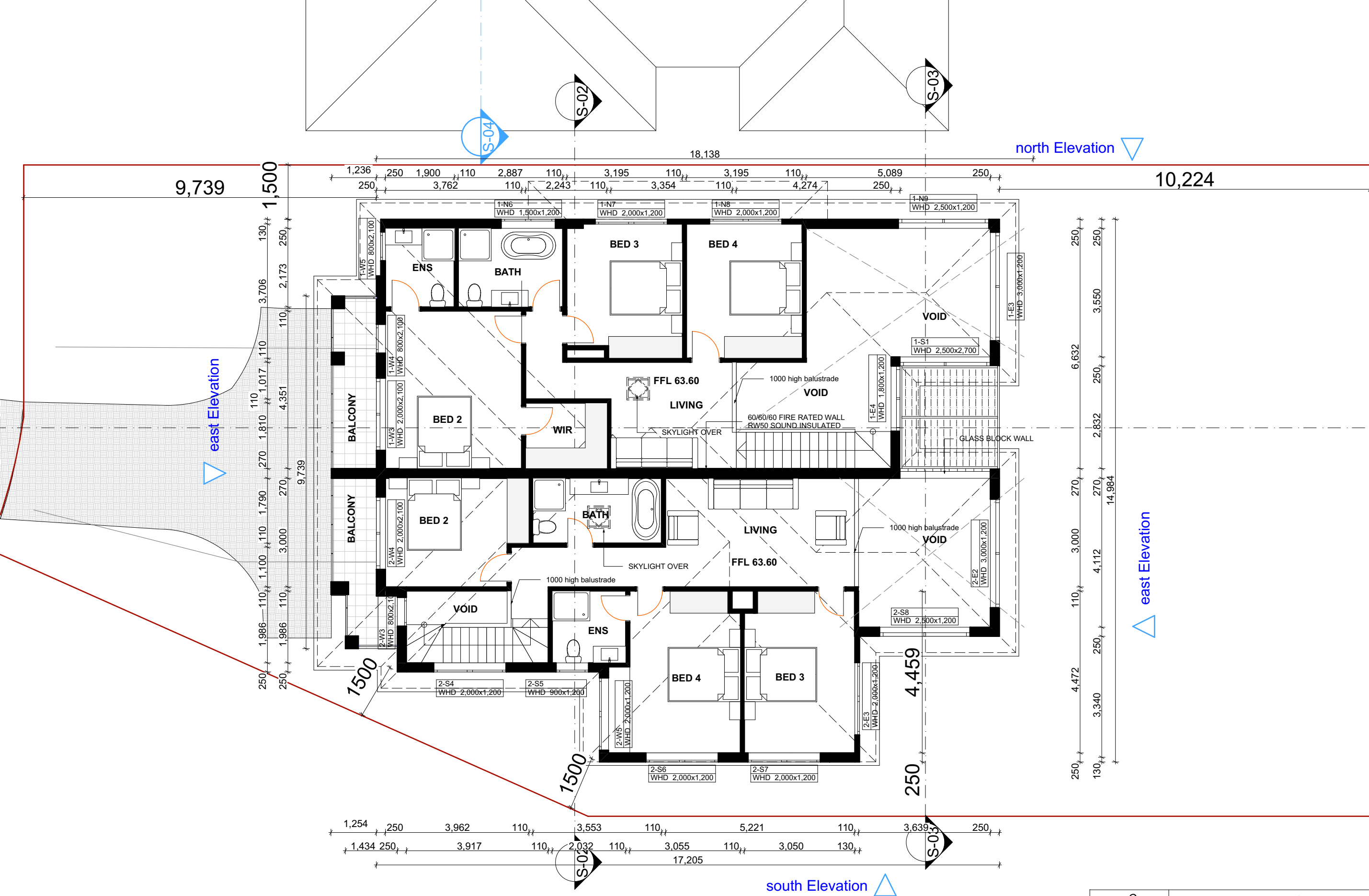
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Drg Title

GROUND FLOOR
SCALE 1:200

C	Amendment as per council flood Engineer			29.04.2024
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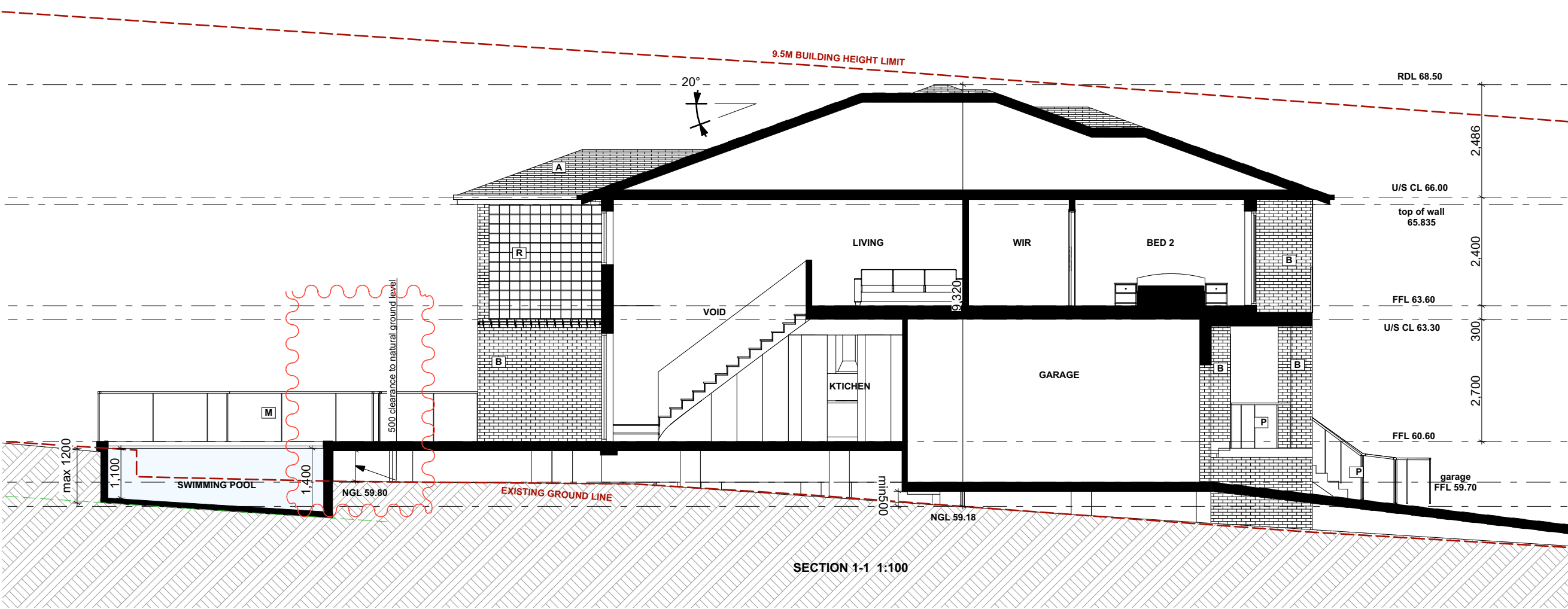
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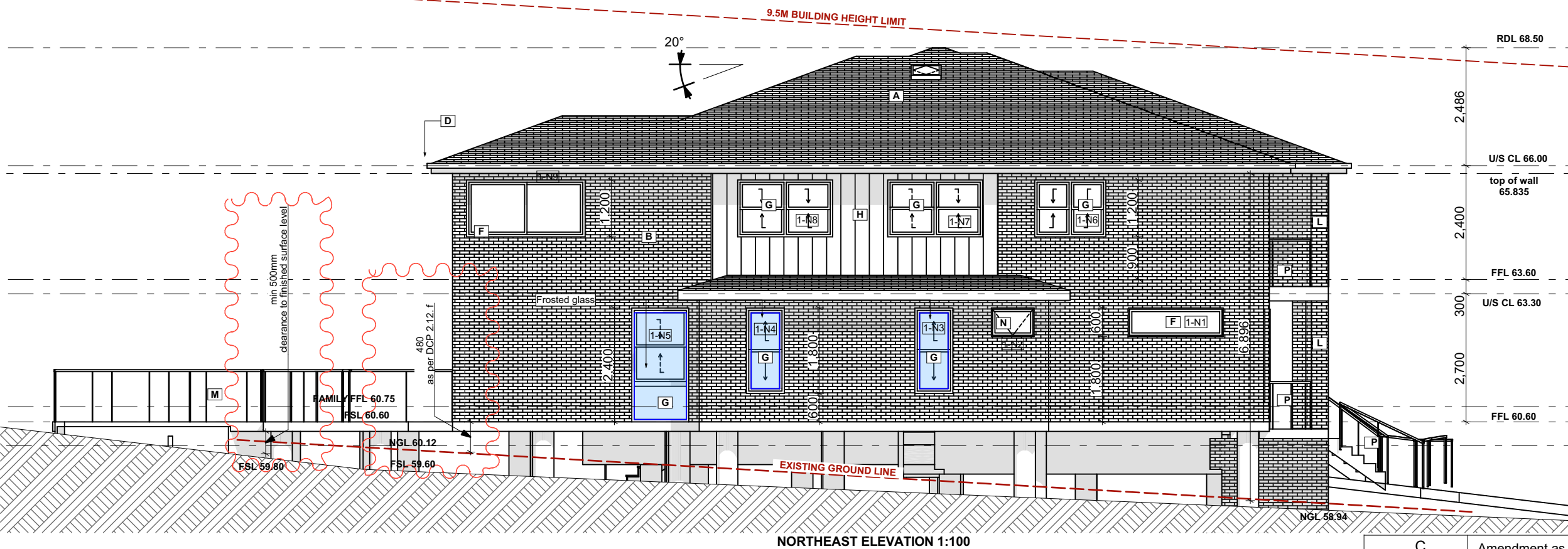
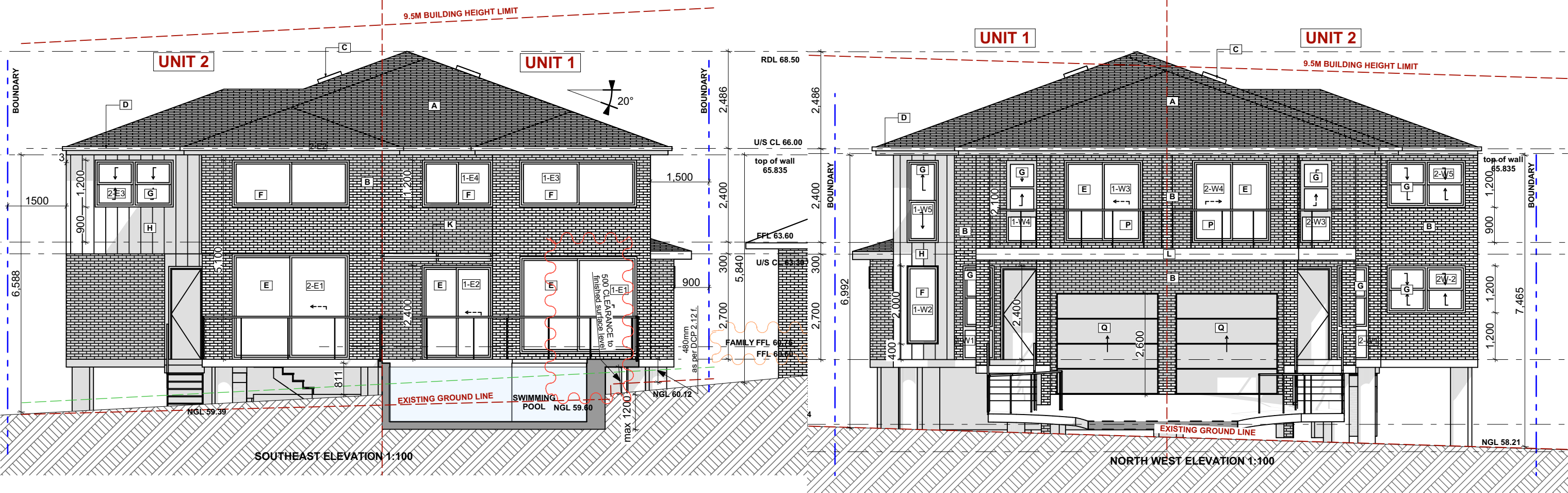
FIRST FLOOR PLAN



C	Amendment as per council flood Engineer			29.04.2024
B	Amendment as per council EMAIL .5.03.2024			08.03.2024
A	Amendment as per council letter PAN-370085			08.10.2023
No.	Revision			Date
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B		Amendment as per council EMAIL .5.03.2024		08.03.2024		A	
A		Amendment as per council letter PAN-370085		08.10.2023		No.	
		Revision		Date		Drawn	
SH		Checked TC		Approved		Scale	
						AS STATED	
Project No		Drawing No		Date		Revision No.	
2123-208		A4		Apr 2024		C	



- A SELECTED CONCRETE ROOF TILES
- B SELECTED FACE BRICK
- C SKYLIGHT
- D COLORBOND FASCIA AND GUTTER
- E POWDERCOATED ALUMINIUM SLIDING DOOR
- F POWDERCOATED ALUMINIUM FIXED WINDOW
- G POWDERCOATED ALUMINIUM DOUBLE HUNG WINDOW
- H SELECTED CLADDING
- K SELECTED ALUM. VERGOLA
- M POOL FENCE
- N POWDERCOATED ALUMINIUM AWNING WINDOW
- P 1000mm HIGH GLASS BALUSTRADE
- Q AUTOMATIC PANEL LIFT GARAGE DOOR
- R GLASS BLOCK

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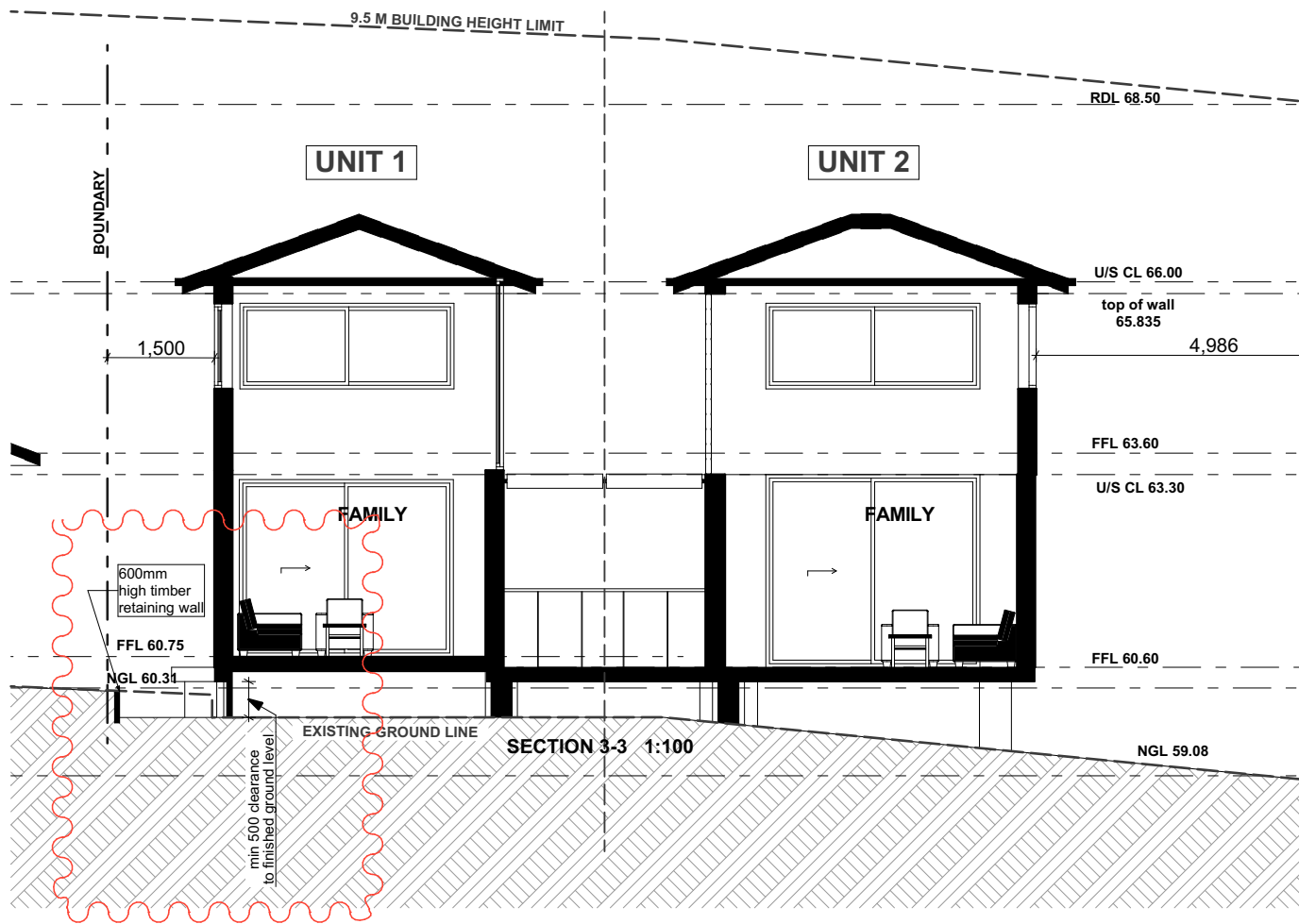
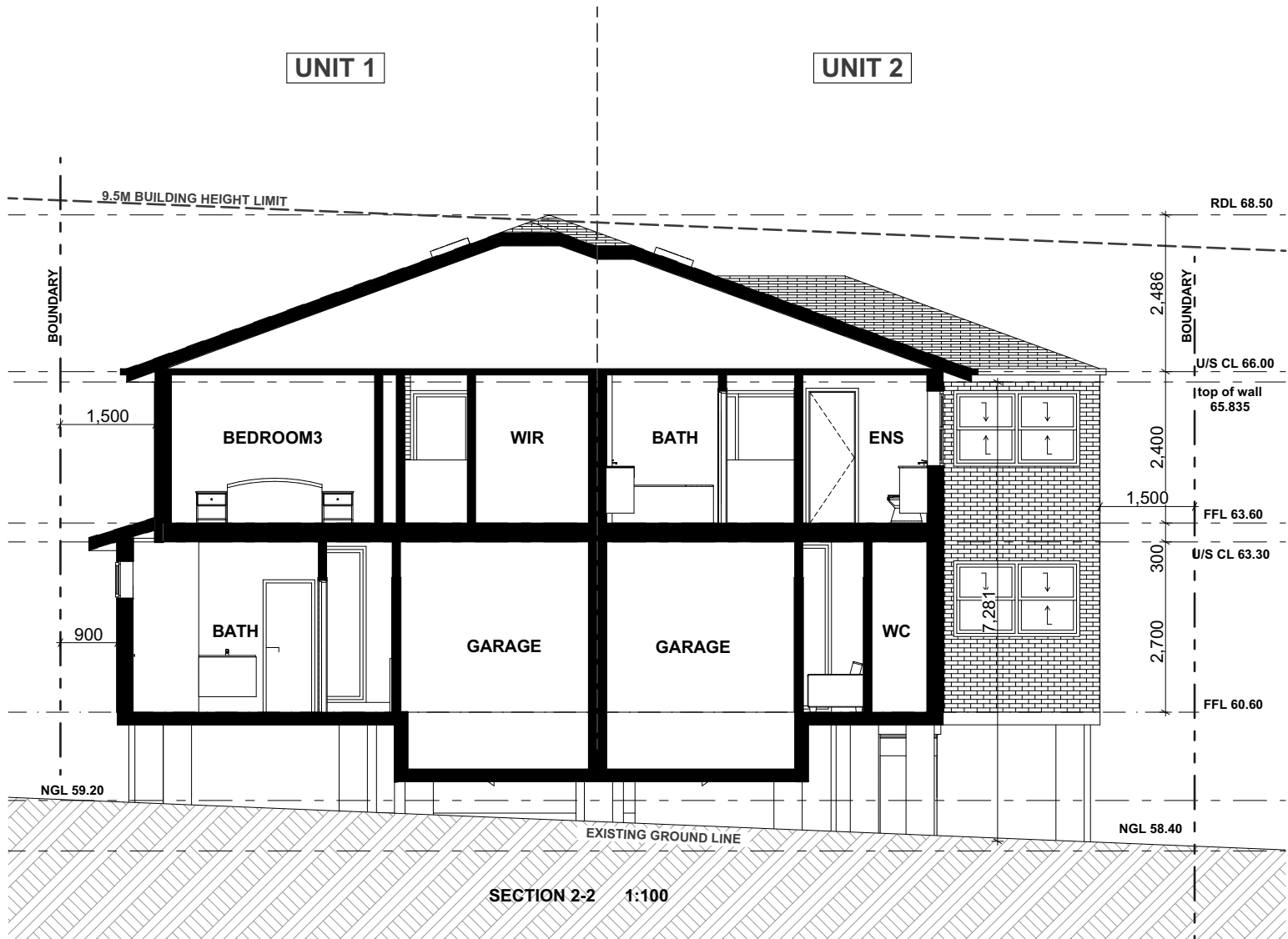
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Drg Title

BUILDING ELEVATIONS

C	Amendment as per council flood Engineer			29.04.2024
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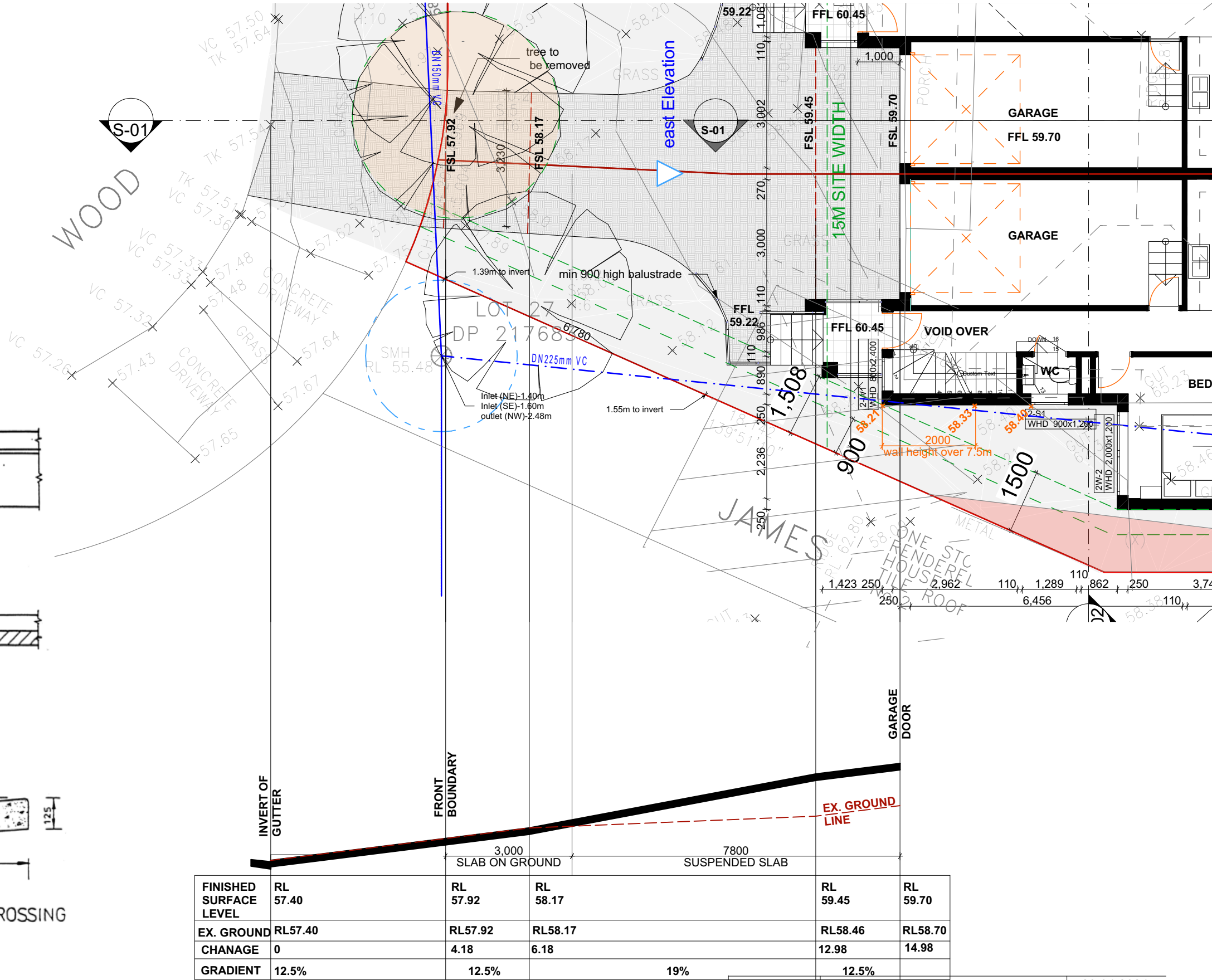
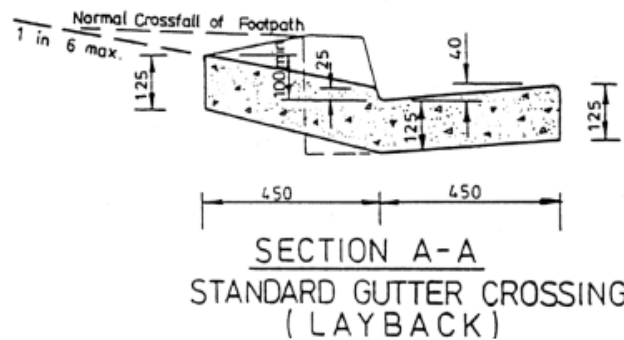
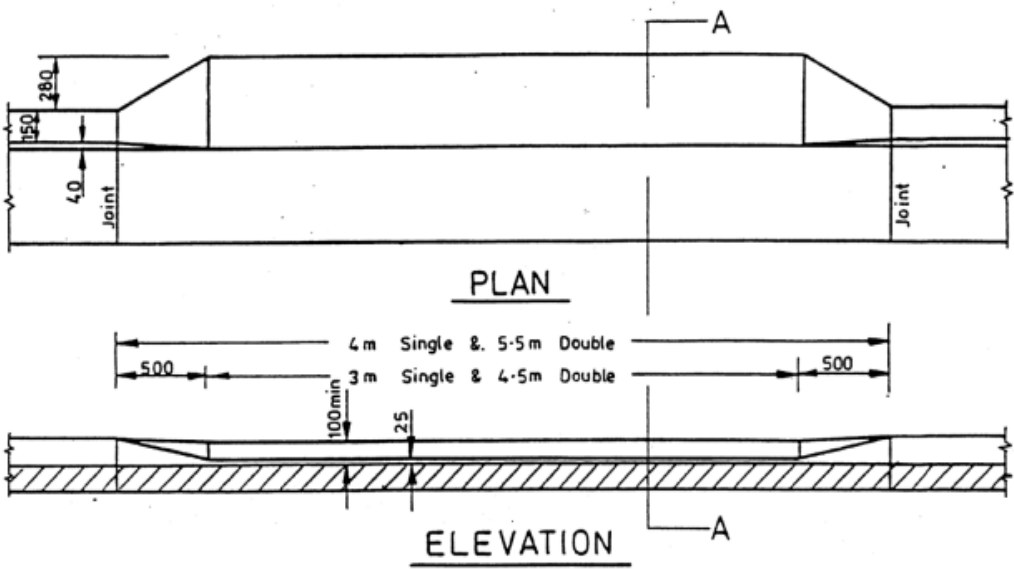
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Drg Title

BUILDING SECTION

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STANDARD VEHICULAR CROSSING



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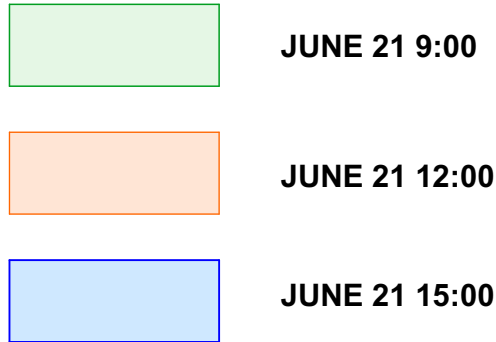



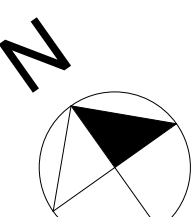
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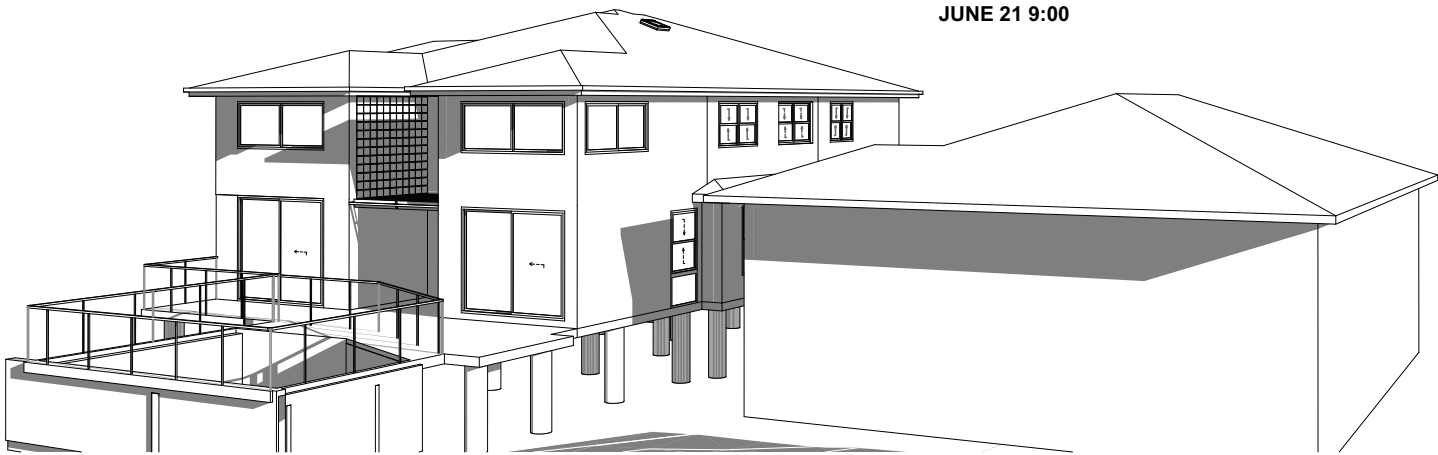
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DRIVEWAY SECTION

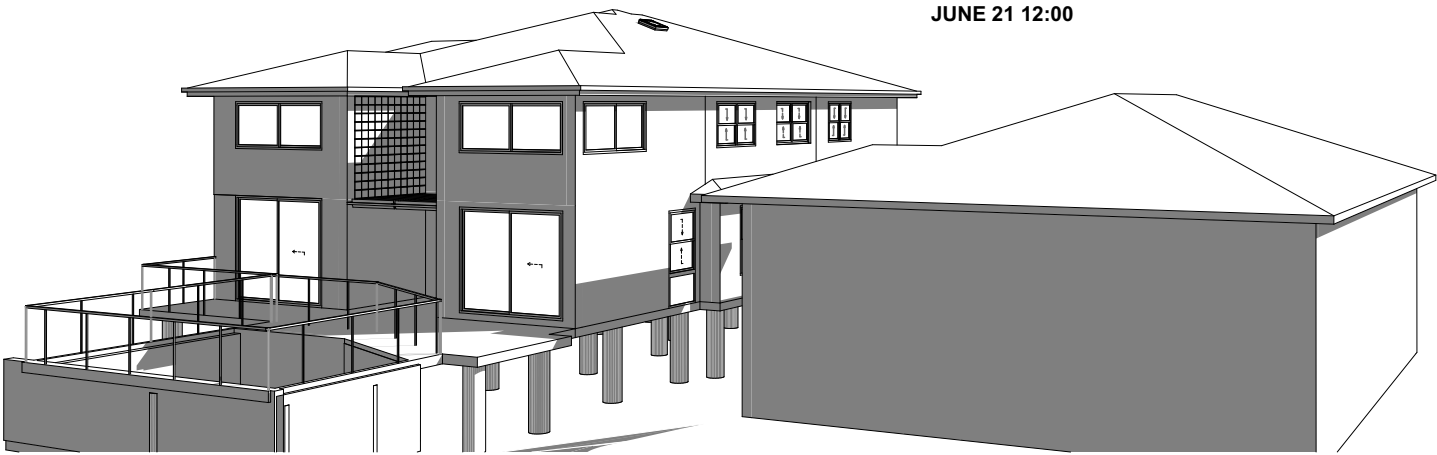
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No.	Revision			Date
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Project No 2123-208		Drawing No A6		Revision No. C



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			A	Amendment as per council letter PAN-370085		08.10.2023	
Client			No.	Revision		Date	
			Drawn SH	Checked TC	Approved	Scale AS STATED	Date Apr 2024
			Project No 2123-208		Drawing No A7		Revision No. C



JUNE 21 9:00



JUNE 21 12:00



JUNE 21 15:00

Project
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Drg Title

SHADOW DIAGRAM 3D

C	Amendment as per council flood Engineer			29.04.2024
B	Amendment as per council EMAIL .5.03.2024			08.03.2024
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Window List			
ID		W x H Size	View from Reveal Side
1-E1	---	3,000×2,480	
1-E2	---	1,800×2,400	
1-E3	---	3,000×1,200	
1-E4	---	1,800×1,200	
1-N1	---	2,000×600	
1-N2	---	900×600	
1-N3	---	800×1,800	
1-N4	---	800×1,800	
1-N5	---	1,200×2,400	
1-N6	---	1,500×1,200	

1-N7	---	2,000×1,200	
1-N8	---	2,000×1,200	
1-N9	---	2,500×1,200	
1-S1	---	2,500×2,700	
1-W1	---	800×2,400	
1-W2	---	800×2,000	
1-W3	---	2,000×2,100	
1-W4	---	800×2,100	
1-W5	---	800×2,100	
2-E1	---	3,000×2,700	
2-E2	---	3,000×1,200	
2-E3	---	2,000×1,200	

2-N1	---	2,500×2,536	
2-S1	---	900×1,200	
2-S2	---	1,500×1,200	
2-S3	---	2,000×2,400	
2-S4	---	2,000×1,200	
2-S5	---	900×1,200	
2-S6	---	2,000×1,200	
2-S7	---	2,000×1,200	
2-S8	---	2,500×1,200	
2W-2	---	2,000×1,200	
2-W1	---	800×2,400	
2-W3	---	800×2,100	

2-W4	---	2,000×2,100	
2-W5	---	2,000×1,200	

Project	New dual occupancy
Client	4 WOOD STREET EASTWOOD NSW 2121



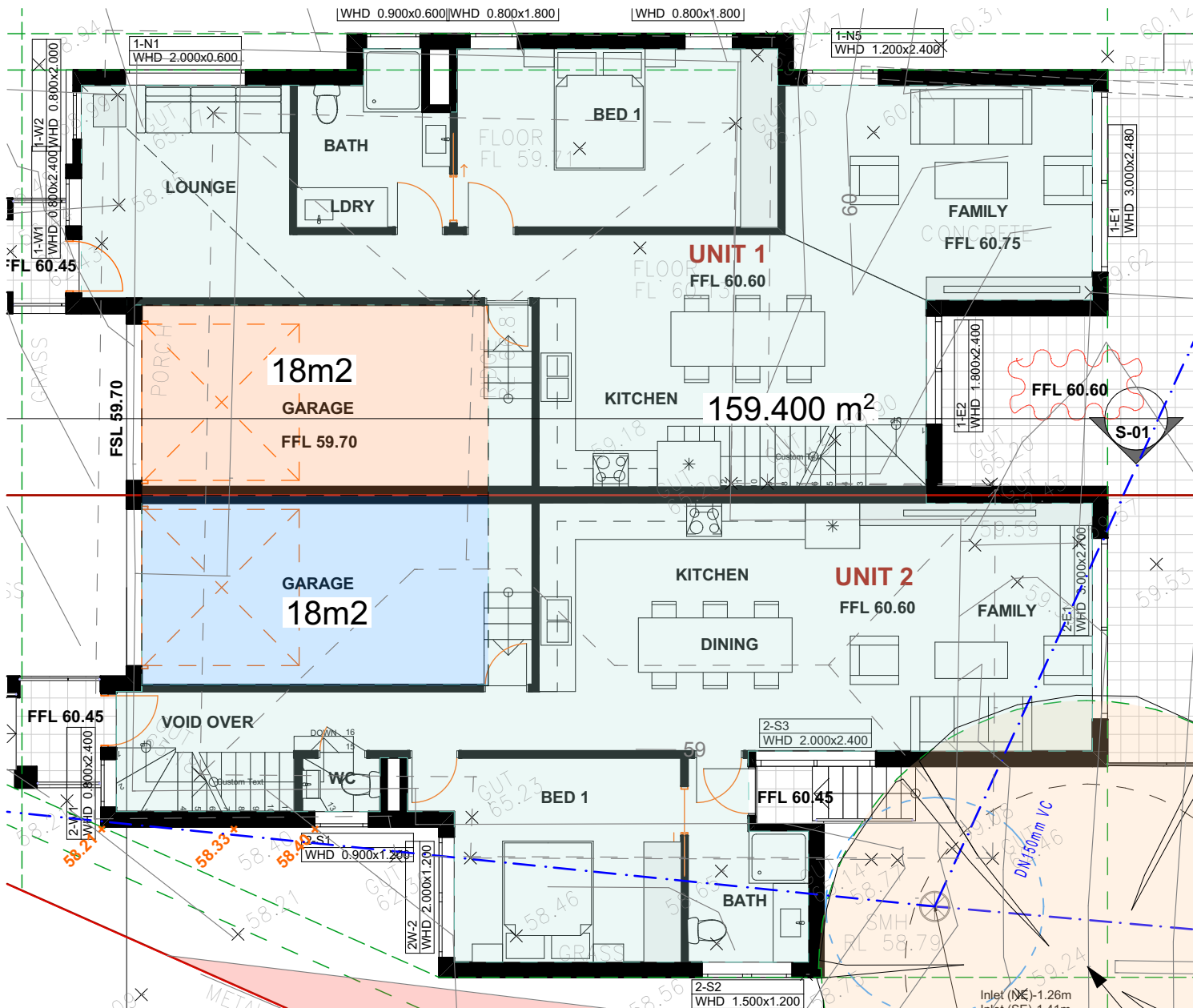
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Drg Title

WINDOW SCHEDULE

C	Amendment as per council flood Engineer			29.04.2024
B	Amendment as per council EMAIL .5.03.2024			08.03.2024
A	Amendment as per council letter PAN-370085			08.10.2023
No.	Revision			Date
Drawn SH	Checked TC	Approved	Scale AS STATED	Date Apr 2024
Project No 2123-208		Drawing No A8		Revision No. C



GROUND FLOOR PLAN 1:100



FIRST FLOOR PLAN 1:100

CALCULATIONS:

PROPOSED GROUND FLOOR GROSS FLOOR AREA : 159.4M2
PROPOSED FIRST FLOOR GROSS FLOOR AREA: 149.6M2
TOTAL GROSS FLOOR AREA: 309M2

Project
New dual occupancy
4 WOOD STREET EASTWOOD NSW 2121
Client

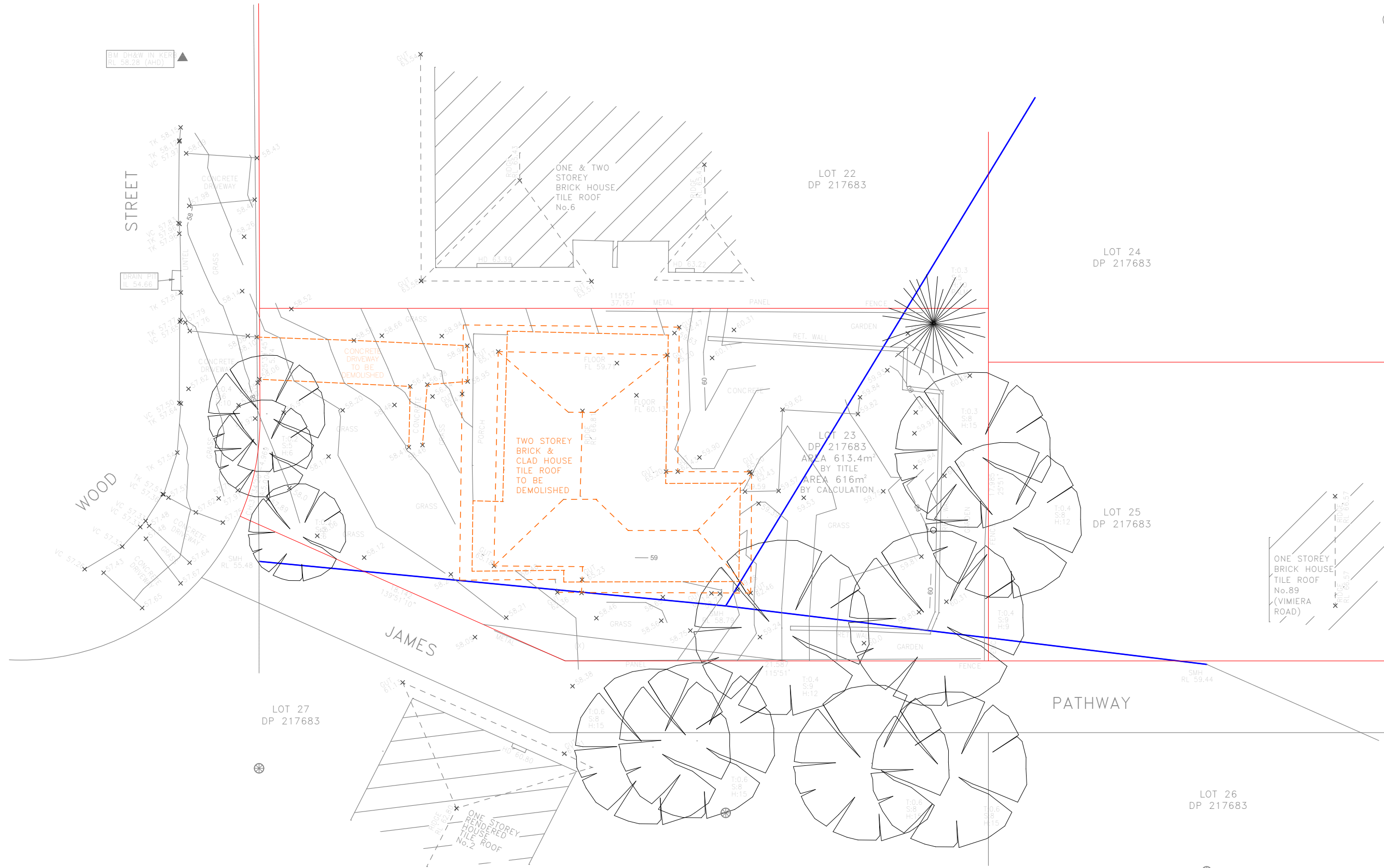


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Drg Title

FLOOR AREA
CALCULATIONS

C	Amendment as per council flood Engineer			29.04.2024
B	Amendment as per council EMAIL .5.03.2024			08.03.2024
A	Amendment as per council letter PAN-370085			08.10.2023
No.	Revision			Date
Drawn SH	Checked TC	Approved	Scale AS STATED	Date Apr 2024
Project No 2123-208		Drawing No A9		Revision No. C



DEMOLITION PLAN 1:200

Project
New dual occupancy
4 WOOD STREET EASTWOOD NSW 2121
Client



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Drg Title

DEMOLITION PLAN

C	Amendment as per council flood Engineer			29.04.2024
B	Amendment as per council EMAIL .5.03.2024			08.03.2024
A	Amendment as per council letter PAN-370085			08.10.2023
No.	Revision			Date
Drawn SH	Checked TC	Approved	Scale AS STATED	Date Apr 2024
Project No 2123-208		Drawing No A10		Revision No. C



Project
New dual occupancy
4 WOOD STREET EASTWOOD NSW 2121
Client

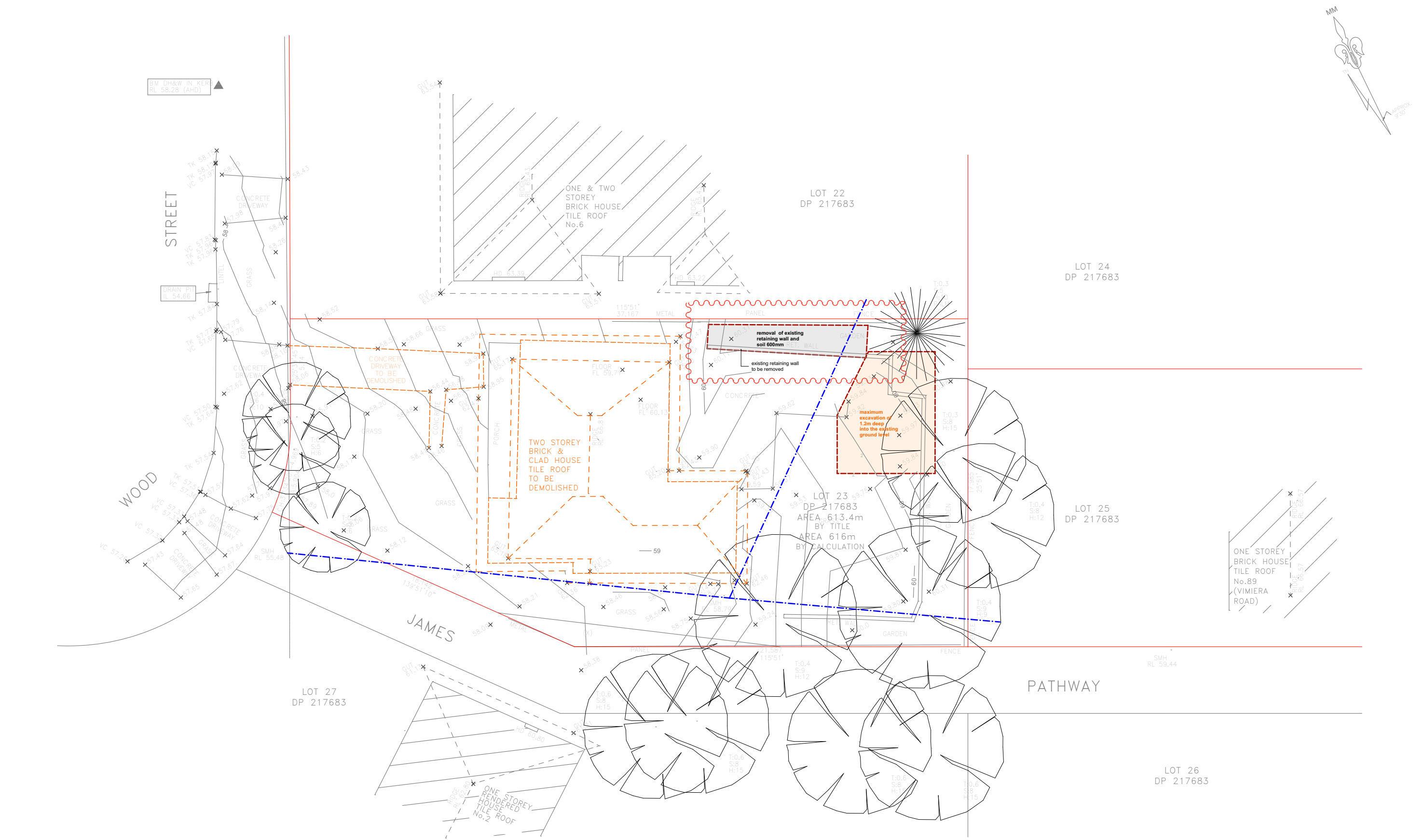


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Drg Title
SCHEDULE OF FINISHES

C	Amendment as per council flood Engineer			29.04.2024
B	Amendment as per council EMAIL .5.03.2024			08.03.2024
A	Amendment as per council letter PAN-370085			08.10.2023
No.	Revision			Date
Drawn SH	Checked TC	Approved	Scale AS STATED	Date Apr 2024
Project No 2123-208		Drawing No A11		Revision No. C



Project
New dual occupancy
4 WOOD STREET EASTWOOD NSW 2121

Client



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Drg Title

CUT AND FILL PLAN

C	Amendment as per council flood Engineer			29.04.2024
B	Amendment as per council EMAIL .5.03.2024			08.03.2024
A	Amendment as per council letter PAN-370085			08.10.2023
No.	Revision			Date
Drawn SH	Checked TC	Approved	Scale AS STATED	Date Apr 2024
Project No 2123-208		Drawing No A12		Revision No. C

Clause 4.6 Variation Request

4 Wood Street,
Eastwood NSW 2122

Clause 4.6 – Exceptions to Development Standards

VARIATION TO THE MINIMUM LOT FRONTAGE FOR DUAL OCCUPANCIES (attached)
- cl. 4.1B RYDE LEP 2014

6th September 2023

Prepared by:

D&E Homes Developments P/L

PO BOX 1700,
HORNSBY WESTFIELD NSW 1635

Mob: 0478 594 210
Email: info@dehomes.com.au

Variation to the minimum lot sizes for Dual Occupancies under clause 4.1B RYDE Local Environmental Plan 2014

D&E Homes Developments Pty Ltd has prepared this clause 4.6 request (the “request”) to assist in gaining development consent for ‘Construction of a dual occupancy(attached)’.

The property is located on the eastern side of Wood Street, Eastwood. The proposed attached dual occupancy is to be constructed on Lot 23 in DP 217683 No 4 Wood Street EASTWOOD (the “site”). The property contains a double storey dwelling house to be demolished as part of the development application. The proposal involves the erection of a new building as a dual occupancy (attached).

The site is an irregular block measuring 37m in length and a rear boundary width of 18m. The site tapers into the curvature frontage to Wood Street.

The site has a total area of 616m².

The proposed development detailed under the Statement of Environmental Effects prepared in support of the development application includes an assessment of the proposed works. In consideration of this matter, we have:

- Undertaken a review of the relevant provisions of the Inner Ryde Local Environmental Plan 2014 (the “LEP”).
- Undertaken a review of the relevant sections of the Inner City of Ryde Development Control Plan 2014 (the “DCP”); and
- Considered the relevant provisions of the Environmental Planning and Assessment Act, 1979 (the “Act”) and the Environmental Planning & Assessment Regulation, 2021 (the “Regs”).

1. INTRODUCTION & BACKGROUND

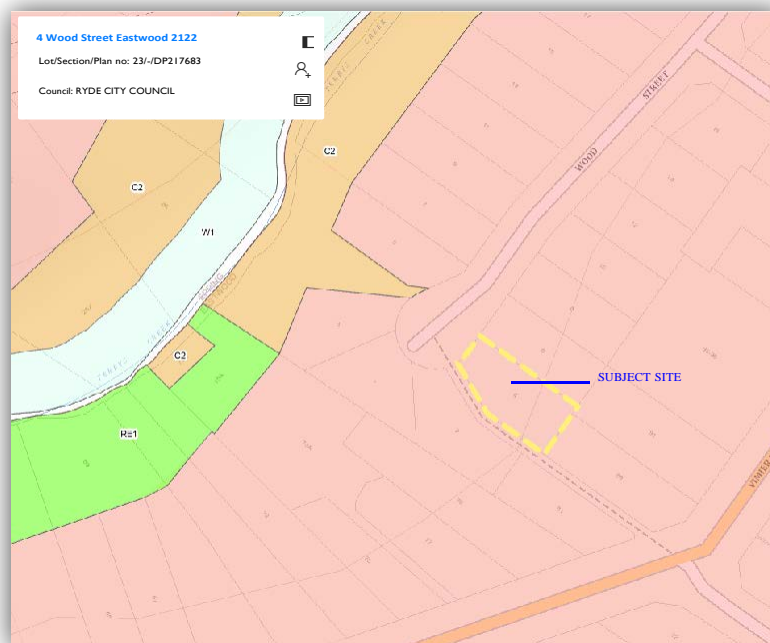
1.1 Introduction

D&E Homes Developments Pty Ltd is providing urban planning services to the owners of the site in support of the above-described development application submitted to Ryde City Council.

The purpose of this request is to seek a variation to clause 4.1B(2)(b) of the LEP. The proposed development includes:

- Demolition of the existing dwelling house.
- Construction of a new dual occupancy (attached) on the site and in-ground pool.

Figure 1- Extract of the LEP zoning map (courtesy NSW Planning Portal)



The site is zoned R2 Low Density Residential under the provisions of the Ryde Local Environmental Plan 2014 (LEP). 'Dual occupancies (attached)' are permissible with development consent.

Clause 4.1B of the LEP states:

“4.1B Minimum lot sizes for dual occupancies

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

(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.

The site area is greater than the minimum 580m² prescribed under clause 4.1B(2)(a) above.

The primary frontage to the cul-de-sac head of Wood Street is 10.7m in width due to the 'taper' of the front portion of the site. The majority of the site (approx. 70%) has a width that is greater than 15m being a site width at the rear of 18m.

The primary frontage of the site to Wood Street does not comply with the minimum 15m frontage development standard prescribed under clause 4.1B(2)(b) above.

1.2 CLAUSE 4.6 FRAMEWORK

Clause 4.6 (Exceptions to Development Standards) provides a mechanism for a Consent Authority to grant flexibility in Development Standards when it considers this would result in improved planning outcomes for and from a development.

Clause 4.6(3)(a) and (b) requires that a consent authority must not grant a variation to a development standard unless it is satisfied:

“(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;”

Additionally, there is Case Law precedence that must be considered prior to determining any variation request under the Clause. The Land and Environment Court Case law has set questions to be addressed in requests for variations facilitated by Clause 4.6. The relevant precedence is in:

- Wehbe v Pittwater Council (2007); and, more recently
- Four2Five Pty Ltd v Ashfield Council (2015).

More recently, in two recent decisions (one in the Court of Appeal and one in the Land and Environment Court), Preston CJ further clarified the requirements for clause 4.6 requests and sought to unify the approaches in Initial Action and Al Maha.

1. Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61

At first instance, Grey C refused development consent to the DA. One of the bases on which consent was refused was that the Commissioner was not satisfied that the Applicant's 4.6 variation request had adequately addressed the matters required to be demonstrated by cl 4.6(3).

On appeal to a judge of the Land and Environment Court (Preston CJ), Baron argued that the

Commissioner had misdirected herself by asking whether she was 'directly and reasonably satisfied' with the reasons given in the 4.6 request. The applicant made this submission in reliance on Preston CJ's statement in Initial Action (at [25]) that:

"...the consent authority, or the Court on appeal, does not have to directly form the opinion of satisfaction regarding the matters in cl 4.6(3)(a) and (b), but only indirectly form the opinion of satisfaction that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3)(a) and (b)."

After a detailed consideration of the issue (at [74]-[81]), His Honour rejected the applicant's argument. At [78], His Honour held:

"The consent authority's consideration of the applicant's written request, required under cl 4.6(3), is to evaluate whether the request has demonstrated the achievement of the outcomes that are the matters in cl 4.6(3)(a) and (b). Only if the request does demonstrate the achievement of these outcomes will the request have "adequately addressed the matters required to be demonstrated" by cl 4.6(3), being the requirement in cl 4.6(4)(a)(i) about which the consent authority must be satisfied. The request cannot "adequately" address the matters required to be demonstrated by cl 4.6(3) if it does not in fact demonstrate the matters."

2. RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130

After the decision in Baron Corporation, the Court of Appeal once again considered the proper construction of clause 4.6 in RebelMH. Preston CJ sat in the Court of Appeal and delivered the Court's reasons.

The development in question contravened the height development standard set out in the North Sydney Local Environmental Plan 2013 ('NSLEP') and a clause 4.6 variation request was therefore required.

At first instance, Moore J dismissed the appeal as he was not satisfied that the request had adequately addressed the matters required to be demonstrated by cl

4.6(3) of the LEP. His Honour also found that the proposed development was not in the public interest because it was not consistent with objectives (b) and (f) of the height development standard. Objective (b) was to promote the retention and sharing of existing views and Objective (f) was to encourage an appropriate scale and density of development that was in accordance with the character of an area.

On appeal, the applicant argued that Moore J had misconstrued and misapplied cl 4.6 by finding that to 'adequately address' the matters required to be demonstrated in cl 4.6(3), the request had to actually demonstrate those matters, rather than merely seek to demonstrate those matters.

The Court rejected this argument. After setting out Preston CJ's conclusions in *Baron Corp*, the Court reaffirmed (at [51]):

"... in order for a consent authority to be satisfied that an applicant's written request has "adequately addressed" the matters required to be demonstrated by cl 4.6(3), the consent authority needs to be satisfied that those matters have in fact been demonstrated. It is not sufficient for the request merely to seek to demonstrate the matters in subcl (3) (which is the process required by cl 4.6(3)), the request

must in fact demonstrate the matters in subcl (3) (which is the outcome required by cl 4.6(3) and (4)(a)(i))."

This application to vary a development standard is framed to provide responses to each of the heads of consideration under Clause 4.6 and to address the precedence set by the relevant Case Law. It is set out as follows:

1. Verification that a statutory Development Standard is proposed to be varied.
2. Description and quantification of the proposed variation.
3. Justification on merit of the validity of the variation requested (with particular attention to the current case law precedence in *Four2Five vs Pty Ltd v Ashfield Council & Wehbe v Pittwater Council* (2007)). Particularly, clause 4.6(3)(a) identifies that the request must demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances.
4. Assessment against the remaining relevant statutory heads of consideration in the LEP 2013 and other relevant case law.
5. As required by clause 4.6(3)(b) the request will demonstrate that there are sufficient environmental grounds to justify contravening the development standard.

2. DEVELOPMENT STANDARD PROPOSED TO BE VARIED

Clause 4.1B of the LEP states:

"4.1B Minimum lot sizes for dual occupancies

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

(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.

The site area is greater than the minimum 580m² prescribed under clause 4.1B(2)(a) above.

The primary frontage to the cul-de-sac head of Wood Street is 10.7m due to the 'taper' of the front portion of the site. The majority of the site (approx. 60%) has a width that is greater than 15m being a site width at the rear of 18m.

The primary frontage of the site to Wood Street does not comply with the minimum 15m frontage development standard prescribed under clause 4.1B(2)(b) above.

The Land and Environment Court of NSW in *Bramley v Coffs Harbour City Council* [2014] NSWLEC 1194 considered a development proposal involving a clause 4.6 submission seeking variation to the height standard. Commissioner Brown at para. 28 to 29 described the clause 4.6 assessment framework as follows:

"28. Clause 4.6 of LEP 2013 imposes four preconditions on the Court in exercising the power to grant consent to the proposed development. The first precondition (and not necessarily in the order in cl 4.6) requires the Court to be satisfied that the proposed development will be

consistent with the objectives of the zone (cl 4.6(4)(a)(ii)). The second precondition requires the Court to be satisfied that the proposed development will be consistent with the objectives of the standard in question (cl 4.6(4)(a)(ii)). The third precondition requires the Court to consider a written request that demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and with the Court finding that the matters required to be demonstrated have been adequately addressed (cl 4.6(3)(a) and cl 4.6(4)(a)(i)). The fourth precondition requires the Court to consider a written request that demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard and with the Court finding that the matters required to be demonstrated have been adequately addressed (cl 4.6(3)(b) and cl 4.6(4)(a)(i)).

29. In considering the question of consistency, I have adopted approach of the former Chief Judge, Justice Pearlman in *Schaffer Corporation v Hawkesbury City Council* (1992) 77 LGRA 21 where, Her Honour expresses the following opinion at [27]:

The guiding principle, then, is that a development will be generally consistent with the objectives, if it is not antipathetic to them. It is not necessary to show that the development promotes or is ancillary to those objectives, nor even that it is compatible.”

NOTE: Bold and underlining by author.

Accordingly, the proposed dual occupancy (attached) is on a site with an area that is greater than the minimum site area requirement of clause 4.1B(2)(a) of the LEP. The site frontage to Wood Street is 10.7m and constitutes a variation to the minimum site frontage development standard contained within the LEP and requires the proponent to formally seek a variation under the provisions of clause 4.6 of the LEP.

3. EXTENT OF VARIATION SOUGHT

The purpose of this request is to seek a variation to the minimum site primary road frontage requirement prescribed under clause 4.1B(2)(b) of the LEP.

The request seeks a variation to the 15m minimum site primary road frontage standard prescribed under the Ryde LEP. The plans submitted as part of the development application form the basis for this clause 4.6 variation request. The site has a primary road frontage to Wood Street of 10.7m.

4. JUSTIFICATION FOR CONTRAVENTION OF THE DEVELOPMENT STANDARD

The proposed variation is justified below firstly via a merit – based assessment on the recent case law and subsequently against the relevant heads of consideration in the LEP 2013. Case law (Winten Property Group v North Sydney Council, 2001 & Wehbe v Pittwater Council, 2007) sets the basis for decision making on tests to assess variations to a Development Standard founded in whether the varied development would achieve the objectives of the relevant zoning and the Development Standard. In the decision in Four2Five Pty Ltd v Ashfield Council, 2015, Commissioner Pearson found that merely showing that the development achieves the objectives of the development standard would be insufficient to justify that a development is unreasonable or unnecessary in the circumstances of the case for the purposes of a Clause 4.6 objection. This refined the test set in Wehbe v Pittwater Council to include an obligation to tie the test to outcomes specific to the proposed development and its site as

opposed to grounds that would apply to any similar development on the site or in the vicinity. Consent authorities have since been applying this site & development specific test (“the Four2Five Test”) to objections under Clause 4.6. The merit - based assessment of this variation request is based on this test.

With respect to the Four2Five test, there are several outcomes for the development on this site that go to justification of the variation request for minimum lot primary frontage width of 15m.

These include:

- The shape and locality of the site and the opportunities and constraints that arise for its development (in part) as a result.
- The potential for negative town planning and urban outcomes that may arise from strict compliance with the requirement are negligible when considering the context of the site with surrounding development.
- The unique qualities of the site and the proposed attached dual occupancy on the lot that is less than the minimum primary street frontage standard will maintain and enhance these and the character of the locality.
- The shape and locality of the site and the opportunities and constraints that arise for its development as a result.
- The extent of the non-compliance is negligible in the context of the existing built form.
- Scale of the building as viewed from the adjoining roadway is negligible. The proposed building in the context of the backdrop of the existing dwelling house is considered reasonable.
- The development complies with the adopted planning provisions contained within the DCP as relevant to Dual Occupancy development.
- The development will result in a built form that is consistent with the objectives of the R2 zone contained under the Ryde LEP.

Whilst the development application has been under the provisions of Ryde LEP, we note that there are development standards that apply to dual occupancy development under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 for complying development. Whilst the SEPP is not a matter for consideration in the circumstances, it is noted that there are standards for lot requirements under section 3B.8(2) that state:

“(2) The width of the parent lot must not be less than the following when measured at the building line—

- (a) if the car parking space for the parent lot is accessed only from a secondary road, parallel road or lane—12m,
- (b) otherwise—15m.”

The development is within the environmental capacity of the site as demonstrated by the supporting documentation that forms part of the DA.

5. ASSESSMENT AGAINST THE STATUTORY HEADS OF CONSIDERATION

The proposed variation is assessed below against the relevant sub-clauses in Clause 4.6 of the LEP.

5.1 Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (Cl.4.6(3)(a))

In his decision in *Wehbe v Pittwater Council* [2007] NSW LEC 827 (relating to the now repealed State Environmental Planning Policy No.1), Chief Justice Preston expressed the view that there are 5 different ways in which a Development Standard may be shown to be unreasonable or unnecessary

(And so that an objection to the development standard may be well founded). In accordance with this precedent, the proposed variation is tested below against each of these.

- The objectives of the standard are achieved notwithstanding non-compliance with the standard.

The objective underpinning the minimum primary road frontage development standard is to permit the construction of a dual occupancy (attached) that is appropriate for the site constraints, development potential and infrastructure capacity of the locality.

The objectives of the standard can be achieved, notwithstanding the non-compliance with the minimum lot frontage requirement, and that a superior development outcome would result. Most of the site width is greater than the 15m frontage standard. The non-compliance with the standard is attributed to the configuration of the lot that 'tapers' to the cul-de-sac head of Wood Street. This applies to several lots at the cul-de-sac head of Wood Street that have been developed with dwelling houses that have a width and scale that presents to the street greater than the scale and width of the proposed dual occupancy building.

- The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary

The underlying objective or purpose of the standard is relevant to this development but, as illustrated in the plans that form part of the development application, it is achieved through a higher quality urban planning and urban design outcome. This also accounts for the constraints of the land.

- The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable

The underlying object or purpose of the standard would not be defeated or thwarted if compliance was required. However, strict compliance with the development standard would result in a missed opportunity specific to this site to develop a high-quality development that will present in a positive manner to the adjacent roadway.

- 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

Council has departed on the development standard in historic planning circumstances in the locality.

It is considered that compliance with the standard in the circumstances is unreasonable and unnecessary when considering historic approvals by the council in the locality.

- The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

The proposed variation is consistent with the heads of consideration set by the decision of *Wehbe v*

Pittwater Council [2007] and thus that for this particular case it would be unreasonable to strictly apply the numerical height standard for the development.

5.2 There are sufficient environmental planning grounds to justify contravening the development standard (Cl.4.6(3)(b))

The merit - based justification above in this request provides strong evidence that the proposed site area variation would have clear positive outcomes including the protection and enhancement of identified values specific to the site and provision of high-quality residential development in the locality.

The site area variation is a negligible issue within the context of the greater planning benefit.

In this regard, there are sufficient environmental planning grounds specific to this site to justify the proposed departure from the development standard.

The non-compliance with the standard is attributed to the configuration of the lot that 'tapers' to the cul-de-sac head of Wood Street. This applies to several lots at the cul-de-sac head of Wood Street that have been developed with dwelling houses that have a width and scale that presents to the street greater than the scale and width of the proposed dual occupancy building (refer to Figure 2).

Figure 2- Aerial photograph (courtesy Six Maps)



5.3 The proposal will be in the public interest because it is consistent with the objectives of the relevant development standard and the objectives for development within the relevant zone (Cl.4.6(4)(a)(ii))

The analysis provided in the SEE indicates that the proposed minimum frontage standard variation will result in a development that is consistent with the objectives of the R2 Low Density Residential zone

and the lot size standard within the LEP.

In *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130

- Case concerned a DA for a 5-storey residential flat building that did not comply with the applicable development standard for height under North Sydney Local Environmental Plan 2013.
- One of the issues raised in the appeal to the Court of Appeal was whether, in order for a consent authority to be satisfied that an applicant's request has "adequately addressed" the matters required to be demonstrated by cl 4.6(3), the consent authority needs to be satisfied that those matters have in fact been demonstrated.
- The appellant contended that clause 4.6(4)(a)(i) should be read as requiring the consent authority to be satisfied that the written request covers or deals with the required matters and that it was not necessary for the consent authority to agree with the conclusions of a request, nor the accuracy of the factual assertions

contained within it. In other words, the appellant asserted that the consent authority only needed to be satisfied that the written request contained an argument about each of the matters required to be demonstrated by cl 4.6(3).

- Justice Payne said:

“Clause 4.6(3) requires the consent authority to have “considered” the written request and identifies the necessary evaluative elements to be satisfied. To comply with subcl (3), the request must demonstrate that compliance with the development standard is “unreasonable or unnecessary” and that “there are sufficient environmental planning grounds to justify” the contravention. It would give no work to subcl 4.6(4) simply to require the consent authority to be satisfied that an argument addressing the matters required to be addressed under subcl (3) has been advanced.”

- Justice Preston (sitting in the Court of Appeal) said at 51:

“...in order for a consent authority to be satisfied that an applicant’s written request has “adequately addressed” the matters required to be demonstrated by cl 4.6(3), the consent authority needs to be satisfied that those matters have in fact been demonstrated. It is not sufficient for the request merely to seek to demonstrate the matters in subcl (3) (which is the process required by cl 4.6(3)), the request must in fact demonstrate the matters in subcl (3) (which is the outcome required by cl 4.6(3) and (4)(a)(i)).”

It is considered that the public benefit will not be undermined by varying the minimum lot street frontage development standard. The proposed development is consistent with the adopted planning controls for the site.

6. SECRETARY’S CONCURRENCE

Under Clause 4.6(5) of the LEP, the Secretary’s concurrence is required prior to any variation being granted. The proposal is assessed below against the matters to be considered by the Secretary.

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

The variation to the minimum lot area development standard will raise no matters that could be deemed to have State or Regional Significance. The proposed variation will have no potential for impacts outside the immediate vicinity of the site.

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

Maintaining the development standard in this case will not compromise that development form envisaged by the planning controls adopted by council.

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

We know of no other specific matters that would require the Secretary's consideration prior to granting concurrence.

7. CONCLUSION

The proposed development satisfies the test established by the Land and Environment Court of NSW in *Wehbe -v- Pittwater Council* [2007] NSW LEC 827 as being appropriate for consideration of "unreasonable or unnecessary" circumstances in the application of Clause 4.6 variation request because:

- the objectives of the standard are achieved notwithstanding non-compliance with the standard.
- the underlying objective or purpose of the standard is not relevant to the development therefore compliance is unnecessary in the context of the facts of this case.
- the underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable - it would not result in the orderly and economic development of the land.

In the circumstances set out above there are sufficient environmental planning grounds to vary the numerical standard in this matter. Requiring strict compliance with the standard would hinder attainment of the relevant objects of the Environmental Planning and Assessment Act 1979.



Danny Huang

M. Arch; BTP, B.E.

Director

D&E Homes Developments Pty Ltd

Statement of Environmental Effect

- Attached dual occupancies at
4 Wood st Eastwood

Subject site details

Subject land: Lot 23 Dp217683

Zoning: R2

Land size: 613.4sqm by title, 616by calculation

The site is a irregular block measuring 37m in length and 18m in width, the frontage is 10.7m totaling approximately 616sqm in size. It is east facing, with the land sloping downwards towards the west.

The current existing double-story house will be demolished.

Proposed development is demolition of the existing house and erect a new attached dual occupancy and a swimming pool at the rear.

No subdivision Statement

There is no subdivision proposed as part of this application.

The proposed development is permissible under LEP as the following

Zone R2 Low Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for a variety of housing types.

2 Permitted without consent

Home occupations

3 Permitted with consent

Bed and breakfast accommodation; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies (attached); Dwelling houses; Environmental protection works; Group homes; Health consulting rooms; Home-based child care; Home businesses; Home industries; Hospitals; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Residential care facilities; Respite day care centres; Roads; Secondary dwellings; Tank-based aquaculture

4 Prohibited

Any development not specified in item 2 or 3

Design response

- The proposed dual occupancies(attached) is permissible

4.1B Minimum lot sizes for dual occupancies

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

Design response

- The land is 616sqm greater than required 580 sqm
- The primary road frontage is 10.7m which is shorter than the required 15m, it will be addressed in the Clause 4.6 variation submitted with DA

Environmental Mapping Constraints Key Observations – LEP 2014

- Land Zoning: The site is zoned under Ryde Local Environmental Plan 2014
- Heritage: Not mapped as a Heritage item.
- Height Building: Mapped with a Building Height of 9.5 m.
- Lot Size: Mapped with minimum Lot Size of 580 sqm.
- Bushfire Prone Land: affected by Bushfire. Please refer to the Bushfire report submitted with DA
- Flood Prone land: Flood Prone Land. The proposed building complies with the recommendations in the flood report submitted with DA.
- Land slip: Not identified as Land slip
- Biodiversity value: not mapped as Biodiversity value
- Local council: City of Ryde council

Clause 4.6(4)(ii) a development will be in the public's interest if it is consistent with the objective of the development standard and also the zone objectives in which the particular development is carried out. The R2 zone objectives is as follows:

- **To provide for the housing needs of the community within a low density residential environment.**
In the context of Macquarie Park's high-rise developments and the increasing demand for more affordable, low-density housing options, Eastwood emerges as a prime location for fulfilling these needs. Despite its proximity to Macquarie University and Macquarie Park, Eastwood maintains a predominantly low-density residential environment. This presents an opportunity to cater to individuals and families seeking alternatives to high-rise living while still enjoying the convenience of proximity to educational and employment hubs. Our proposed duplex at 4 Wood Street aligns perfectly with this demand, offering a viable housing solution that blends seamlessly with Eastwood's established low-density character. By providing a more affordable option in this sought-after area, our development contributes to enhancing the diversity and accessibility of housing choices within the community, ensuring that individuals can find suitable accommodations that meet both their lifestyle preferences and financial constraints.
- **To enable other land uses that provide facilities or services to meet the day to day needs of residents.**
In addressing site constraints and infrastructure capacity, our design prioritizes sustainability and resilience. We have considered that our development integrates seamlessly with the existing infrastructure while minimizing any adverse impacts. From stormwater management to traffic flow, every aspect of our proposal has been meticulously planned to enhance the overall livability and functionality of the area.
- **To provide for a variety of housing types.**
In alignment with the state government's initiative to promote the missing middle housing typology, such as duplexes and terraces, as a bridge between single housing and high-density developments, our project plays a crucial role in filling this gap. Our proposed development serves as a cornerstone in realizing this vision by offering a much-needed housing option that is not only sensitive to the low-density residential environment but also

provides a stepping stone towards densification. We firmly believe that our project represents a significant contribution to the housing landscape, aligning with the state's objectives to diversify housing options and promote sustainable community development.

Part: 3.3 Dwelling Houses and Dual Occupancy (attached) City of Ryde Development Control Plan 2014

2.1 Desired Future Character

The desired future character of dwelling houses refers to the complete building, whether this is the result of the construction of a completely new house, or of an addition or alteration to an existing house. The desired future character of the low density residential areas of the City of Ryde is one that: Has a low scale determined by a maximum 2 storey height limit;

Has a low density with free-standing dwellings;

Has a limited number of dual occupancy (attached) buildings, and these buildings look similar to detached dwellings;

Has dwellings located in a landscape setting which includes a clearly defined front garden and back yard;

Has buildings which are well designed and have a high degree of amenity;

Has streetscapes made up of compatible buildings with regard to form, scale, proportions (including wall plate heights) and materials;

Has streetscapes with dwellings that have a generally consistent front setback and consistent street orientation;

Has garages and other structures which are not prominent elements in the streetscape and which are compatible with the character of the dwelling;

Requires minimal disturbance to the natural topography, which means that excavation is to be minimised;

Has backyards, which are maximised in size;

Has backyards which form a connected strip of vegetation in neighbourhoods and which include large trees;

Has allotments with large deep soil areas which allow rainwater to be absorbed and trees to be planted;

Has mature trees in streets, front gardens and backyards (existing mature trees are retained and new tree plantings encouraged); and

Has character areas where special features are retained and enhanced.

Objectives 1.

To ensure that development is consistent with the desired future character of the low density residential areas.

Controls

a. Development is to be consistent with the desired future character of the low density residential areas.

Design response

- The design of the proposed attached dual occupancies closely resembles that of detached dwellings in terms of form, scale, proportions, and materials.
- The well-defined front garden and back yard spaces provide ample room for the growth of substantial trees, enhancing the natural landscape both at the front and rear of the properties.
- The front setback aligns seamlessly with the street's established setback, ensuring a consistent streetscape.
- The inclusion of front balconies, a verandah, and thoughtful garage setback adds visual interest to the facade while effectively reducing the perceived massiveness of the structures.
- Notably, the back yard swimming pool requires minimal excavation, as it features an innovative design with half of the pool above ground and a compact size.
- The proposed building character adheres to a low-density residential house aesthetic, thoughtfully mirroring the existing street character in terms of roof form, materials, and overall building scale.

2.3 Dual Occupancy (attached) Dual occupancy (attached)

Dual occupancy (attached) buildings are two attached dwellings in a single building set on a single allotment.

Dual occupancy (attached) buildings provide an alternative, more affordable, type of housing within a building form which is similar to the character of low density residential houses, particularly with regard to bulk, scale and built form. It is important that such buildings do not have an adverse impact on the existing streetscape.

Objectives 1.

To provide an alternative form of housing that has a low density residential character and is consistent with the appearance of dwelling houses.

2. To protect the existing streetscape by limiting the number of dual occupancy (attached) buildings in a street.
3. To limit an increase in residential densities within low density areas.
4. To ensure that dual occupancy (attached) buildings are similar in appearance to dwelling houses.

Controls

- a. New Dual occupancy (attached) buildings are to meet the controls for new dwelling houses set out in 2.2.1.
- b. Alterations and additions to dual occupancy (attached) buildings are to meet the requirements set out in 2.2.2.

Note: Ryde Local Environmental Plan 2014 Clause 4.1B Minimum lot sizes for dual occupancies and multi dwelling housing requires a minimum road frontage of 15 m and lot size of 580 m² for dual occupancies (attached)

Design response

- Two deep soil areas are designated at the front and rear of the property.
- The proposed building maintains a maximum height of two storeys.
- Emphasis is placed on orienting main entrances, facades, and primary visual features toward the street, fostering a strong connection to the neighborhood and enhancing the overall streetscape. (Please refer to the submitted landscape plan for further details.)
- The front garden and side fence design aim to clearly demarcate the boundary between private property and public domain. The garage is thoughtfully set back within the building facade, featuring a discreet garage door opening. The incorporation of front garden existing trees retained will additionally provide screening for the garage doors.
- The design of the proposed building is responsive to site constraints and opportunities identified during the site analysis.
- The land area exceeds the minimum requirement, measuring 616 sqm compared to the mandated 580 sqm.
- While the primary road frontage is shorter than the required 15m at 10.7m, this will be addressed through a Clause 4.6 variation submitted with the Development Application (DA).

2.5 Public Domain Amenity

Public domain relates to those aspects of the urban environment which are either owned publicly or accessible to and enjoyed by the public. In residential areas this includes: streetscapes (which encompass elements such as roadways, verges, footpaths, nature strips, street tree plantings and laneways); and public views and vistas. New developments can help to enhance amenity within the public domain by recognising and respecting the existing qualities and unique characteristics of the place. In locations where the character is either not well established or needs improvement, new development can contribute to strengthening and creating character through appropriate landscaping, setbacks, selection of materials and building design.

Design response

- Preservation of existing verges, footpaths, nature strips, and street tree plantings, along with the path alongside the property, is a key priority.

- Meticulous design of the front yard garden ensures a meaningful contribution to the overall streetscape enhancement.

2.5.1 Streetscape Streetscape

controls seek to ensure that dwellings and gardens relate well to each other, and to the landscape setting along the street. The primary elements that create streetscape character are:

- the relationship of street levels to the topography of the land on either side of the street;
- the width, layout, landscaping and materials of the street including street trees and footpaths;
- buildings and front gardens;
- building setbacks, building height; and
- relationship of buildings to the topography and to other buildings in the streetscape.

Aspects of development that help to create quality streetscapes, if well considered and designed, include:

- the design of the building, especially facades visible from the street;
- front and side boundary landscaping including boundary fences and walls;
- access and driveway design; widths, materials and location; and
- the building's size and shape, front elevation and roof form as seen from the street.

Objectives

1. To ensure the existing landform and landscape setting of the street is retained and reinforced by new dwellings.
2. To ensure new development is compatible with the positive characteristics of the existing streetscape and the desired future character of the low density residential areas.
3. To encourage the design of well proportioned elevations.
4. To ensure streets provide a high level of pedestrian amenity, access and safety.
5. To ensure garages are not dominant elements in the streetscape.
6. To ensure that the orientation of dwellings, garages and carports is consistent with the existing streetscape.

Controls

- a. Site design, building setbacks and the location and height of level changes are to respect the existing topographic setting of the street and the relationship of existing buildings in the street to the topography.
- b. The design of front gardens is to complement and enhance streetscape character by:
 - i. providing soft landscaping; lawn, trees and shrubs, between the street boundary and the dwelling;
 - ii. reflecting the character and height of fences and walls along the street, or the absence of front fences;
 - iii. reflecting the character and layout of established front gardens of other allotments in the street, particularly the older or original front garden landscapes;
 - iv. retaining, protecting or replacing existing vegetation and mature trees; and
 - v. ensuring no damage occurs to trees on neighbouring properties or on the street.
- c. Dwelling design is to enhance the safety and amenity of the streetscape by:
 - i. having front doors and windows facing the street, or if the front entry door is located at the side of the dwelling, its location is to be clearly apparent from the street; and
 - ii. having roof form and detailing that complements the proportions, massing and elevation composition of other buildings in the street.
- d. Carports and garages visible from the public street are to:
 - i. be compatible with the building design; and
 - ii. be set back behind the dwelling's front elevation.
- e. Driveways and hardstand areas are to be minimised so as to maximise deep soil areas and the opportunity for soft landscaping in the front garden, and to reduce the visual impact of driveways and hard surfaces from the street.
- f. Dwellings, garages and carports are to be orientated to match the prevailing orientation of such buildings in the streetscape.

- g. Facades visible from the public domain are to be well designed by:
 - i. having important elements such as front doors and building entry areas prominent in the building facade and clearly identifiable from the street;
 - ii. co-ordinating and integrating building services, such as drainage pipes, with overall facade design;
 - iii. integrating the design of architectural features, including stairs and ramps, and garage/ carport entries with the overall facade design, and by locating car parking structures on secondary streets where possible;
 - iv. ensuring corner buildings have attractive facades which address both street frontages, and include the careful placement and sizing of windows;
 - v. ensuring entrance porticos are single storey;
 - vi. the head height of doors and windows being preferably at a consistent level; and
 - vii. ensuring street facades are articulated to provide visual interest.

Design response

- Ensuring design setback consistency with the existing street layout.
- Front garden designed to accommodate deep soil for substantial trees and layered vegetation, including ground cover and shrubs.
- Thoughtful driveway design minimizes hard surface area, prioritizing landscape preservation.
- Commitment to protecting neighboring trees, preventing any potential damage.
- Dual occupancy entry doors oriented toward the street for accessibility and engagement.
- Utilization of a traditional hip roof design in harmony with the prevailing character of the street.
- Garage presence visible yet seamlessly integrated into the building facade, with further setback behind the front elevation.
- Building and garage orientation aligned with the prevailing streetscape.
- Front balconies and supporting columns enhance entry door visibility and street presence.
- Strategically located downpipes on balcony's less conspicuous corners or along boundary sides.
- Seamless integration of staircase, garage, and balcony within the facade design, utilizing diverse materials for enhanced aesthetics and cohesion.
- Consistent head height of doors and windows, maintaining visual harmony throughout the design.

2.5.3 Pedestrian and Vehicle Safety

Vehicles entering the street from private driveways need adequate visibility of the adjacent footpath in order to ensure pedestrian safety.

Objectives

1. To provide for pedestrian safety through adequate sight lines.

Controls

- a. Car parking structures are to be located to accommodate sightlines to the footpath and road.
- b. Fences which have the potential to block sight lines from the driveway to the footpath and road are to be splayed as shown in Figure 3.3.09.
- c. Refer to the relevant Australian Standards when designing driveways.

Design response

- Exclusion of a solid front fence near the driveway access, with a focus on planting soft landscape elements in the front yard.
- Implementation of a substantial setback for the garage from the front boundary.

2.6 Site Configuration

Site configuration is concerned with the location and layout of both structures and open spaces on a site.

Good design relates to the siting and design of buildings and open spaces, and to the existing characteristics of the site particularly in terms of existing mature vegetation and topography. This is to ensure that mature trees are retained, that structures work with the existing site levels and that excessive excavation is avoided.

2.6.1 Deep Soil Areas

Deep soil areas are areas of natural ground which have a relatively natural soil profile. They are areas free of structures (including underground structures) and hard surfaces. They are suitable for the growth of vegetation, particularly mature trees, and importantly, they allow water to be absorbed by the soil. The deep soil areas include 2 special areas, the front garden, and an area with the minimum dimensions of 8 m x 8 m in the back yard which is sufficiently large to support at least one mature tree.

Deep soil areas have significant environmental benefits including:

the promotion of the healthy growth of large trees;

the protection of existing mature trees and vegetation;

the retention of the natural hydrology of the site;

the improvement of the amenity of developments by providing areas for landscaping which can enhance microclimatic conditions; and

contributing to the retention and extension of vegetation corridors in the locality to enhance flora and fauna corridors.

Objectives

1. To ensure that land retains its ability to absorb rain water so as to reduce stormwater runoff and to increase the moisture level of the soil for the use of trees and other vegetation.
2. To ensure that each building allotment has a minimum deep soil area.
3. To retain and enhance vegetation corridors.
4. To provide space for mature tree growth and other vegetation.
5. To generally retain existing mature trees and vegetation.
6. To enable movement of fauna along vegetation corridors.

Controls

- a. Sites are to have a deep soil area that is at least 35% of the area of the allotment.
- b. The deep soil area must include:
 - i. an area with minimum dimensions of 8 m x 8 m in the back yard; and
 - ii. a front garden area which is to be completely permeable with the exception of the driveway, pedestrian path and garden walls.
- c. Allotments with dual occupancies need only have one 8 m x 8 m deep soil area for the allotment. The area does not need to be shared equally with each allotment.
- d. Deep soil areas are to have soft landscaping.
- e. Deep soil areas are to be 100% permeable to water and cannot be covered by structures, paving or the like, or have below surface structures such as stormwater detention elements.

Design response

- The proposed deep soil area accounts for 37% of the total allotment area, encompassing an 8m x 8m section within the back yard, while the entirety of the front garden area is pervious, with the exception of the driveway and stairs.
- Soft landscaping is the designated feature for the proposed deep soil area.
- The proposed deep soil area maintains 100% water permeability and is devoid of any structures, paving, or similar elements.

2.6.2 Topography and Excavation

The City of Ryde has a distinctive topography which provides the underlying framework for the character of its suburbs. The retention of this natural topography means that buildings can retain a consistent relationship to the topography within a streetscape. This relationship provides an important visual link between buildings. Deep excavations could not only disrupt the visual consistency of the streetscape but could disrupt the pattern of subsoil water flow and soil stability which may adversely affect neighbouring properties and the natural environment. The area of the site with natural ground levels should be maximised. The areas of excavation and fill are generally to be for the purpose of creating useable and practical outdoor recreation spaces where the existing ground level is not suitable and should not result in an unreasonable loss of the privacy or security of neighbours. The overland flow of stormwater should not be affected by excavation and fill. In the case where an allotment experiences overland flow, Council's development engineers are to be consulted prior to the preparation of plans.

Objectives

1. To retain natural ground levels and existing landform.
2. To create consistency along streetscapes.
3. To minimise the extent of excavation and fill.
4. To ensure that excavation and fill does not result in an unreasonable loss of privacy or security for neighbours.

Controls

- a. Building form and siting are to relate to the original topography of the land and of the streetscape.
- b. The area under the dwelling footprint may be excavated or filled so long as:
 - i. the topography of the site requires cut and/or fill in order to reasonably accommodate a dwelling;
 - ii. the depth of excavation is limited to 1.2 m maximum; and
 - iii. the maximum height of fill is 900 mm.
- c. Areas outside the dwelling footprint may be excavated and/or filled so long as:
 - i. the maximum height of retaining walls is no greater than 900 mm;
 - ii. the depth of excavation is not more than 900 mm;
 - iii. the height of fill is not more than 500 mm;
 - iv. the excavated and filled areas do not have an adverse impact on the streetscape; v. the filled areas do not have an adverse impact on the privacy of neighbours;
 - vi. the area between the adjacent side wall of the house and the side boundary is not filled; and
 - vii. the filled areas are not adjacent to side or rear boundaries.
- d. Fill is not allowed in areas of overland flow.

Refer to Part 8.2 Stormwater Management under this DCP.

- e. Generally the existing topography is to be retained. The areas of excavation and fill are to be minimised.

Site Description:

- The site exhibits an irregular shape, measuring 37.167 meters in length and 17.985 meters in width. The topography of the land slopes gradually from the southeast to the northwest and from the northeast to the southwest.

Design response

- The subject site requires minimal cut and fill due to the proposed building's ground floor, including the garage slab, being elevated with piles underneath to facilitate stormwater drainage and flood passage.
- The planned small-sized swimming pool will involve a maximum excavation of 1.2m into the natural ground. The pool coping will be suspended, maintaining a connection to the natural ground. Please refer to the "Cut and fill plan" submitted with DA.
- The proposed driveway slab will be upheld by piers where it is elevated from the natural ground level allows the flood water to pass through.
- Notably, no fill will be introduced in the areas adjacent to the side or rear boundaries.

2.7 Floor Space Ratio (FSR)

Floor space ratio (FSR) controls help determine the bulk and scale of new development. FSR is not to be the sole determinant of future built form; it needs to be linked with all other building envelope controls as well as streetscape and desired future character controls to achieve the desired building form. The FSR is an absolute maximum. This maximum may not be wholly achievable on all sites due to other design considerations, including streetscape, building bulk and scale and neighbours' amenity. The maximum FSR will generally only be achieved in a 2 storey dwelling.

Objectives

1. To ensure bulk and scale are compatible with the desired future character of the low density residential areas and of dwelling houses.
2. To define the allowable development density for sites.

Controls

- a. The floor space ratio must not be greater than 0.5:1 as per Ryde Local Environmental Plan 2014 Floor Space Ratio Map.
- b. A floor area of 36 m² may be excluded from the gross floor area when this area accommodates 2 car parking spaces. An area of 18 m² may be excluded when the area accommodates 1 car parking space.

Ryde LEP 2014 Dictionary

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- (a) the area of a mezzanine, and
 - (b) habitable rooms in a basement or an attic, and
 - (c) any shop, auditorium, cinema, and the like, in a basement or attic,
- but excludes—
- (d) any area for common vertical circulation, such as lifts and stairs, and
 - (e) any basement—
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
 - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
 - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
 - (h) any space used for the loading or unloading of goods (including access to it), and
 - (i) terraces and balconies with outer walls less than 1.4 metres high, and
 - (j) voids above a floor at the level of a storey or storey above.

Design response

- The proposed maximum floor space ratio is 0.5:1
- Please refer to the calculation plan submitted with DA

2.8 Height

2.8.1 Building Height

Height is an important control to ensure that future development responds to the desired 2 storey maximum scale, and to character of the street and to the local area, and to ensure that good daylight access is provided to existing and proposed dwellings. The allowable heights ensure new development is consistent with existing buildings in the street and locality. Height controls on individual sites may be further refined by consideration of the streetscape, solar access, roof design, residential amenity, setting and topography of the particular allotment.

Objectives

1. To ensure that the height of development is consistent with the desired future character of the low density residential areas and is compatible with the streetscape.
2. To ensure that the height of dwellings does not exceed 2 storeys.

Controls

- a. Building heights are to be in accordance with the Building Height Table below.

Building Height Table

	DWELLING HOUSE AND DUAL OCCUPANCY (ATTACHED) BUILDING	OUTBUILDINGS, INCLUDING GARAGES AND CARPORTS
Maximum building height	9.5 m	4.5 m
Maximum wall plate height	7.5 m or 8 m for a roof which has a continuous parapet	2.8 m
Maximum number of storeys	2, but a maximum of 1 floor level of the building including car parking level can be located above a garage which is attached to a dwelling, whether a semi-basement garage or a garage at grade.	1

Calculation Rules Building height is defined under Ryde LEP 2014. It is the vertical distance between existing ground level and the top most part of the building. The measurement of building height includes all roofs, but excludes communications devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues or the like. The height as specified is the maximum allowable. Wall plate height is the vertical distance between the finished ground level at any point and the point where the adjacent wall joins the roof, or to the underside of the eaves, or to the top of a parapet. The exception is where the existing ground level has been lowered through excavation. In this case, walls visible from the public domain are to have their wall plate height measured from the finished ground level. A storey is defined in Ryde Local Environmental Plan 2014

Design response

- The proposed maximum building height is 9.5m refer to the Section and Elevations submitted with DA.
- The maximum wall plate height is 7.5m please refer to the Elevations submitted with DA. A minor non-compliance is observed in a specific segment of the western corner of Unit 2, where the wall extends approximately 2 meters in length and exceeds the prescribed maximum height of 7.5 meters by 0.125 meters. Despite this slight deviation from the Development Control Plan (DCP) requirement, it is crucial to note that the impact is minimal. The small variation is not anticipated to have any significant adverse effects on neighboring properties or the adjacent laneway. Given its negligible nature, it is deemed suitable for consideration by the council.

2.8.2 Ceiling Height

Minimum ceiling heights provide for residential amenity.

Objectives

1. To provide amenity for dwellings.

Controls

- a. The minimum ceiling height for habitable rooms is to be 2.4 m. Calculation Rules Ceiling heights are measured from finished floor level to the finished ceiling level

Design response

- The proposed ceiling height for ground floor is 2.7m, for the first floor is 2.4m.

2.9 Setbacks

A setback is the distance between the outside face of a building wall and the adjacent allotment boundary. Setbacks are important as they determine the building's location in relation to the allotment boundaries, the street, and the

neighbouring buildings Setbacks allow space for landscaping, light and air, access to rear gardens, and provide for privacy between dwellings. The setbacks aim to maximise the area of the backyard, while providing for a front garden which can have trees and other plantings. The front setback has also been sized to accommodate the off-street parking of a car in the driveway.

2.9.1 Front Setbacks

Building orientation describes the direction the building faces relative to the front and side boundaries. Dwellings, garages and carports should be orientated to match the prevailing orientation of buildings in the street. The setback from the front boundary establishes the location of the building's front façade. Front setbacks help unify streetscapes by providing a consistent streetfront alignment for buildings, and by creating a transition between the public space of the street and the private space of the dwelling. Front setbacks can also be used to enhance the setting for the building as they provide deep soil areas for a front garden. The general 6 m front setback provides sufficient space at the front to park a car in the driveway.

Objectives

1. To create a transition between public and private space.
2. To provide consistent building setbacks along streets.
3. To provide for a front garden.
4. To ensure garages and carports are not prominent elements in the streetscape.

Controls

- a. Dwellings are generally to be set back 6 m from the street front boundary.
- b. On corner sites, the setback along the secondary street (the street to which the house has its secondary frontage) is to be a minimum of 2 m.
- c. Garages and carports, including semi-basement garages and attached garages, are to be set back a minimum of 1 m from the dwelling's front façade.
- d. The front setback is to be free of structures, and ancillary elements such as rainwater tanks and air conditioning units. The exception is car parking structures which comply with section 2.11.
- e. Attached garages, including semi-basement garages, on secondary street frontages do not need to be set back 1 m from the adjacent façade but are not to protrude forward of the adjacent facade. The exception is garages located on battleaxe (hatchet shaped) allotments. These garages do not need to be setback.
- f. 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.

Calculation Rules

Setbacks are measured from the allotment boundary to the outside wall, or the outside face of any deck balcony or the like, or to the supporting posts of a carport or verandah.

Design response

- The proposed building has 9.7m front setback which is greater than 6m requirement, and it is also consistent with the street front setback.
- Garages have 1 m set back from the building front facade.

2.9.2 Side Setbacks

Side setbacks provide separation between dwellings for fire safety, privacy, light and air. They also provide access to the back garden for pedestrians or for a side driveway to a rear garage. Minimising side boundary setbacks allows the building to have a wider street and rear building frontage. However, consideration should be given to increasing side setbacks where the side boundary is to the north of the dwelling, so that greater sunlight access can be provided to north facing

living rooms.

Objectives

1. To enable building siting to be compatible with the streetscape.
2. To provide car access.
3. To provide access to the rear of the allotment.

Controls

- a. The outside walls of a one storey dwelling are to be set back from the side boundaries not less than 900 mm.
- b. The outside walls of a two storey dwelling are to be set back from side boundaries not less than 1.5 m.
- c. The outside walls of a second storey addition to a single storey dwelling are to be set back not less than 1.5 m from the side boundaries.
- d. Allotments which are wider than they are long, are to have one side setback a minimum of 20% of the width of the allotment or 8 m, whichever is the greater

Calculation Rules

Side setbacks are measured from the allotment's side boundary to the outside edge of the building elevation. Setbacks are measured at 90 degrees to the allotment boundary and are measured to the outer most edge of the building elevation including balconies, terraces and porches.

On allotments which are wider than they are long, and are of an irregular shape, the large side setback can be measured at the centre line of the allotment. In these cases, the side setback must be able to accommodate a deep soil area with the minimum dimensions of 8 m x 8 m.

Design response

- The proposed building has 1500mm side set back except a small portion of the ground floor external wall has 900mm setback.

2.9.3 Rear Setbacks

Rear setbacks provide open space to the rear of the allotment for mature tree growth and water percolation areas, as well as private areas for recreation and relaxation. Rear setbacks allow separation distances between neighbouring dwellings so as to provide for the visual and acoustic privacy of dwellings.

Objectives

1. To provide an area for private outdoor recreation and relaxation.
2. To allow space for vegetation, mature trees and deep soil zones.
3. To separate dwellings to achieve privacy.
4. To enable contiguous vegetation corridors across blocks

Controls

- a. The rear of the dwelling is to be set back from the rear boundary a minimum distance of 25% of the length of the site or 8 m, whichever is the greater.
- b. Allotments which are wider than they are long, and so cannot achieve the minimum rear setback requirement, are to have a minimum rear setback of 4 m.
- c. Dwellings on battle-axe (hatchet shaped) allotments are to be setback from the rear boundary of the front allotment. a minimum of 8 m. A single storey garage or outbuilding may be located within this setback.

Calculation Rules

Rear setbacks are measured from the rear boundary to the outside edge of the rear wall including any articulation to the building, such as balconies, terraces and decks.

Setbacks are measured at 90 degrees to the allotment boundary.

The rear setback must be able to accommodate a deep soil area with the minimum dimensions of 8 m x 8 m.

Design response

- The proposed building has 9.3m rear setback, which is 25% of the length of the site.

2.11 Car Parking and Access

The design of car parking is to be integrated with the overall site design in order to minimise the visual impacts of car parking structures. Wide expanses of garages and carports do not contribute in a positive way to the streetscape. Garages and carports are not to be prominent features either on the individual lot or within the streetscape. Likewise, driveway widths need to be minimised so that they do not dominate the front garden area. Garages should not be located below a 2 storey section of a building as the building would appear to be 3 storeys high.

Objectives

1. To provide for off-street parking.
2. To ensure car parking structures and garage doors are not prominent features with regard to either the individual lot or the streetscape.
3. To ensure that car parking structures are consistent with the design of the dwelling.

2.11.1 Car Parking Controls

a. Provision must be made for off street parking in accordance with Part 9.3 Parking Controls in this DCP.

Note: Part 9.3 requires as follows: - dwelling house = up to 2 spaces/dwelling - dual occupancy (attached) = 1 space/dwelling

- b. Parking spaces can be either in an enclosed structure (a surface or semi-basement garage) or a roofed open structure (a carport).
- c. Garages are to be located at least 1 m behind the front building elevation.
- d. A garage or carport may be located in front of an existing dwelling if:
 - i. there is no other suitable position on the allotment;
 - ii. there is no vehicular access to the rear or side of the allotment; and
 - iii. it is preferred that a garage or carport in front of a dwelling be a single car width.
- e. Garage doors are to be solid. Open doors such as expanded mesh doors are not acceptable.
- f. Garage and carport entries are preferably to be located off laneways and secondary street frontages where this is possible.
- g. The width of driveways should be minimised. Driveways should be a single car width except where they need to widen to provide access to a double garage.
- h. Driveways cannot be roofed.
- i. Garages and carports facing the public street are to have a maximum width of 6 m or 50% of the frontage, whichever is less.
- j. The total width of garage doors visible from a public place, such as the street, is not to exceed 5.7 m.
- k. Driveways for battle-axe allotments must be designed so that vehicles can enter and leave the site in a forward direction.
- l. Garage doors are not to be recessed more than 300 mm behind the outside face of the building element immediately above.
- m. Garage windows are to be at least 900 mm away from the boundary.
- n. Free standing garages are to have a maximum gross floor area of 36 m².
- o. The design and materials of garages and carports are to complement the dwelling.
- p. Garages, whether free standing or incorporated into the house, are to be set back at least 1 m from the building's front façade.
- q. Carports must not be enclosed.

Design response

- The proposed garage allocation provides 1 parking space per dwelling.
- The garages are contained within enclosed structures.
- A setback of 1 meter is maintained between the garages and the building's front elevation.
- Solid garage doors are stipulated as a requirement.
- The proposed driveway width is intentionally minimized, occupying only 30% of the frontage.
- Visible garage doors from the street maintain a width of less than 3 meters.
- Garage doors are limited to a recess of not more than 300mm behind the outside face of the building wall (lintel) immediately above.

2.12 Swimming Pools and Spas

Swimming pools and spas enhance the amenity and liveability of dwellings. However, care must be taken to ensure a high level of safety for children and to ensure they do not detract from the amenity of neighbours. It is important that swimming pools and pool fencing are not only built in accordance with the City of Ryde's planning controls, but also with the relevant NSW Government Acts and Regulations and with relevant Australian Standards. Swimming pool fences must comply with the relevant requirements for pool fences set out in the Swimming Pool Act 1992 (as updated) and with Australian Standards (such as Australian Standard 1926 (as updated)). Compliance with the Australian Standard will generally mean that a 1200 mm high fence with self-closing, self-latching gates will need to be provided. The protection of the privacy and amenity of adjoining residents is another important consideration. Some ways to achieve this are to ensure the width of coping is minimal where the edge of the pool is adjacent to neighbouring properties and by locating entertainment areas such as decks away from boundaries. The location and enclosure of the pool filter is also an issue as noise from the filter can disturb neighbours. Filters are preferably to be located away from boundaries. It is important that pools are located so that they will not damage mature trees, either on the subject site or those within neighbouring properties.

Objectives

1. To provide a place for recreation and enjoyment.
2. To provide a high level of child safety.
3. To minimise the impact of swimming pools and spas on neighbours.
4. To require swimming pools to comply with all relevant legislation and Australian Standards.

Controls

- a. Swimming pools, pool fencing, gates and spas including indoor swimming pools and access to these pools, must comply with all relevant Acts, Regulations and Australian Standards.
- b. Swimming pools must at all times be surrounded by a child-resistant barrier designed and located to separate the pool from any residential building and/or outbuildings (such as garages and sheds), situated on the site, with the exception of pool houses, and from any adjoining land. A child resistant barrier is one described in the Australian Standard for swimming pool fences.
- c. The wall of a residential building may form part of the child resistant barrier so long as the wall contains no openable door, window or other opening through which access may at any time be gained to the swimming pool.
- d. A spa pool is not required to be surrounded by a child resistant barrier provided that the spa pool is covered or secured by a child-safe structure (e.g. door, lid or mesh) that is fastened to the spa pool by a child-resistant device at all times when the spa pool is not in actual use.
- e. Pools are not to be located within the front garden setback.
- f. The finished coping level of the pool must not be higher than 500 mm above the adjacent existing ground level. This maximum height can only be achieved where it will not result in an unreasonably adverse impact on the privacy of neighbours.
- g. Pools are to be setback a minimum of 900 mm from the boundary, measured from the outside edge of the coping, deck or pool surrounds including paving, to allow sufficient space for screen planting. Further setbacks may be required to preserve existing screening vegetation.
- h. Screen planting is to be provided within a landscape bed, which is to have a minimum width of 900 mm and is to extend

for the length of the pool. Planting is to take the form of dense hedging with a minimum height of 2 m and minimum spacing of plants of 1 metre.

i. Pools are to be located at least 3 m minimum from the trunk of a tree over 5 m in height that is to be retained on the site or is located on a neighbouring property.

j. The pool pump/filter is to be located as far away as practicable from neighbouring dwellings and is to be enclosed in an acoustic enclosure that will ensure the noise emitted from the enclosure is not greater than 5dB(A) above the background noise level, measured at the boundary

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Design response

- The pool fence is set at a height of 1.2 meters and incorporates a childproof latching self-closing gate.
- The finalized coping level will be maintained within 500mm above the existing ground level facing the adjoining property. In cases where the coping level surpasses the threshold of 500mm from the natural ground, meticulous attention has been dedicated to ensuring that it avoids direct orientation toward adjacent properties.
- The proposed pool maintains a minimum setback of 1800mm from the boundary to accommodate screening plants.
- The chosen screen planting consists of dense hedging, standing at a minimum height of 2 meters and with a minimum spacing of 1 meter between plants.
- Ensuring ample clearance, the proposed pool maintains a minimum offset of 3 meters from the nearest tree trunk.
- The pool pump will be enclosed within a soundproof structure.
- Low planting has been strategically arranged around the perimeter of the swimming pool in accordance with AS 1926.1-2012. Please refer to the updated landscaped plan for details. Additionally, the coping facing the rear property will undergo a significant reduction to mitigate the impact of overlooking.

2.13 Landscaping

Landscaping encompasses the planning, design, construction and maintenance of private open space, gardens, driveways, parking areas, and utility areas. This includes both soft and hard landscape areas and all deep soil areas. Landscaping should retain significant natural features, particularly mature trees and other vegetation. The planting of endemic species is encouraged on allotments adjacent to bushland. The landscape design should ensure that vegetation, outdoor spaces and structures are considered together to achieve unity of design, greater amenity for occupants, and the best use of outdoor space. The design of landscape areas needs to be carefully considered and should be designed at the same time as the building.

Landscape design should consider usability, privacy and opportunities for social and recreation activities. Neighbours' amenity should also be respected. Landscaping also has an important role to play in improving environmental conditions such as storm water and rainwater absorption, habitat for native animals and plants, reducing bushfire risk, and helping to regulate the amenity of a development through such things as pergolas and tree plantings.

Objectives

1. To enhance the appearance and amenity of development.
2. To enhance the character of the locality and the streetscape.
3. To retain existing important landscape features.
4. To provide privacy between adjoining dwellings and their private open space.
5. To assist in the percolation of rainwater and reduction in stormwater runoff.
6. To improve microclimatic conditions on sites and the solar performance of dwellings.
7. To contribute to improving urban air quality.
8. To provide fauna and flora habitat.
9. To assist in the protection of urban bushland.

Controls

- a. Major existing trees are to be retained in a viable condition whenever practicable, through the appropriate siting of buildings, accessways and parking areas and through appropriate landscape treatment. Refer to Part 9.6 Tree Preservation in this DCP.
- b. On allotments adjoining bushland, protect and retain indigenous native vegetation and use native indigenous plant species for a distance of 10 m from any lot boundaries adjoining bushland.
- c. Provide useful outdoor spaces for liveability by coordinating the design of private open space, external living areas, driveways, parking areas, swimming pools, utility areas, deep soil areas and other landscaped areas with the design of the dwelling.
- d. Where the ground floor level of a dwelling is above the finished external ground level reached through a door or doorways, there is to be a physical connection made between these levels. Examples of a physical connection include stairs, terraces, and the like.
- e. Provide a landscaped front garden. Hard paved areas are to be minimised, and at a maximum, are to be no more than 40% of the front garden areas.
- f. A pathway is to be provided along one side of the dwelling so as to provide pedestrian access from the front garden to the rear yard. This access is not to be blocked by such things as landscaping features, rainwater tanks, hot water heaters and retaining walls. The pathway does not need to be provided on allotments which have rear lane access or are a corner allotment.
- g. Landscape elements in front gardens, particularly trees and other plants, are to be compatible with the scale of development.
- h. The front garden is to have at least 1 tree capable of a minimum mature height of 10 m with a spreading canopy.
- i. Where the backyard does not have a mature tree at least 15 m high, plant a minimum of one large canopy tree in the back yard. The tree is to be capable of a mature height of at least 15 m and is to have a spreading canopy. The tree is to be located in the 8 m x 8 m deep soil area.
- j. Locate and design landscaping to increase privacy between neighbouring dwellings.
- k. Hedge planting on boundaries is to consist of plant species which have a mature height no greater than 2.7 m.
- l. Retaining walls and other landscape elements are not to obstruct the stormwater overland flow path.
- m. On site stormwater detention is generally not to be located in the front setback unless it is a underground tank located beneath the driveway.
- n. Landscaping is to include ground level private open space for each dwelling.
- o. Landscaping is to be designed to improve the energy efficiency of buildings and the microclimate of external living areas.

Calculation Rules

Private open space:

- is a private outdoor recreational and relaxation space for a dwelling; and
- is located adjacent to internal living rooms and may take the form of a paved area, deck, terrace, courtyard, lawn area and the like.

Design response

- The retention of significant trees is in accordance with the Arborist report submitted alongside the Development Application (DA).
- Due to flood susceptibility, the building's ground floor slab is elevated and connected to the outdoor natural ground level by stairs.
- While the front yard hard stand surface slightly exceeds the 40% limit at 1.8%, this deviation is justified by the preservation of valuable front yard trees and the availability of ample deep soil area for additional tree growth. The driveway width is reduced to 30% of the frontage to minimize its impact.
- Pedestrian pathways along the sides of the dwellings, as indicated in the landscape plan, facilitate movement from the front garden to the rear yard.
- Thoughtful front garden design accommodates a 10m high tree, with a 15m high tree designated for the rear

garden.

- Screen planting is thoughtfully integrated to enhance privacy between neighboring dwellings, with boundary screen plants not exceeding 2.7m in mature height.
- Avoiding interference with flood patterns or overland flow, no additional retaining walls will be erected.
- Plant selection and placement are strategic, offering summer shading and winter light to the living spaces.
- Each dwelling enjoys private open space, as detailed in the site plan.

2.14 Dwelling Amenity

Dwelling amenity is the way in which the building is suitable for residential use. It includes the ability of spaces to adequately provide for their intended function and to respond to climatic conditions. The key aspects of building amenity include:

- daylight and sunlight access;
- visual privacy;
- acoustic privacy;
- cross ventilation; and
- view sharing.

2.14.1 Daylight and Sunlight Access

Sunlight Sunlight is direct light from the sun. The use of passive solar design in dwellings is encouraged. Sydney has a temperate sub-tropical climate and well designed houses in Sydney should only require a limited amount of heating and cooling. The heat load resulting from direct solar penetration into buildings during the hotter months can be a major problem, and so it is important that dwellings are designed to optimise the benefits of sunlight, whilst minimising its negative effects. Key aspects to be considered in the design of dwellings are: orientation, material selection, type and placement of windows, ceiling heights, and sun shading devices. Considered design will result in a comfortable living environment and will assist in reducing energy consumption. The orientation of the allotment, the immediate subdivision pattern and the local topography, have a significant impact on the ability to provide solar access. Sites on the southern side of a hill, for example, may not receive the same level of sunlight access as other sites. On allotments where the side boundary has a northerly aspect, consideration should be given to increasing the side setback to improve sunlight access and to prevent overshadowing by future development on neighbouring allotments.

It is also important when designing new buildings to consider the impact of the new development on the solar access of the neighbour. Ideally, solar access should be maximised in winter and minimised in summer. A northerly aspect is most desirable as it provides the most solar access in winter and is relatively easy to shade in summer. A westerly aspect is least desirable, particularly in summer. Protection for a westerly aspect can be achieved by using such elements as vertical sun shading devices, blinds and deciduous trees. Daylight Daylight is diffuse light from a sunlit sky. Good levels of daylight in a dwelling improve amenity and reduce the need for artificial lighting. Good levels of daylight can be achieved through the careful consideration of window size, location and proportion.

Objectives

1. To maximise sunlight and daylight access.
2. To ensure that new development maintains appropriate sunlight access to neighbouring dwellings and neighbouring private open space.
3. To encourage the use of passive solar design.

Controls

- a. Living areas are to be located predominantly to the north where the orientation of the allotment makes this possible.
- b. Dwellings on allotments which have a side boundary with a northerly aspect are to be designed to maximise sunlight access to internal living areas by increasing the setback of these areas. In these cases a minimum side setback of 4 m is

preferred.

- c. Windows to north-facing living areas of the subject dwelling are to receive at least 3 hours of sunlight between 9 am and 3 pm on 21 June over a portion of their surface.
- d. Private open space of the subject dwelling is to receive at least two hours sunlight between 9 am and 3 pm on June 21.
- e. For neighbouring properties ensure:
 - i. sunlight to at least 50% of the principal area of ground level private open space of adjacent properties is not reduced to less than two hours between 9 am and 3 pm on June 21; and
 - ii. windows to north-facing living areas of neighbouring dwellings receive at least 3 hours of sunlight between 9 am and 3 pm on 21 June over a portion of their surface, where this can be reasonably maintained given the orientation topography of the subject and neighbouring sites.

Design response

- The orientation of the living areas in the dwellings is predominantly northeast-facing.
- A strategic setback has been incorporated for the north-facing dwelling, ensuring optimal sunlight penetration into the south-facing dwelling.
- Each living area is designed to receive a minimum of 3 hours of sunlight between 9 am and 3 pm on June 21, promoting a comfortable and well-lit interior environment. Please refer the submitted drawing named “shadow diagram 3D”.
- Private open spaces for each dwelling are meticulously planned to receive a minimum of 2 hours of sunlight between 9 am and 3 pm on June 21, enhancing outdoor livability.
- A commitment is made to provide adequate sunlight to at least 50% of the private open space of neighboring properties, with no less than 2 hours of sunlight between 9 am and 3 pm on June 21.
- The northern-facing living areas of neighboring dwellings are thoughtfully designed to receive a minimum of 3 hours of sunlight between 9 am and 3 pm on June 21.
- For detailed visuals, please refer to the shadow diagram submitted alongside the Development Application (DA), which outlines these solar access considerations.
- The living area situated at the rear of Unit 1 does not achieve the prescribed 4-meter setback to the side boundary. This design variation is intentional, as the living area relies on elevated ceilings and strategically positioned first-floor windows to facilitate increased sunlight penetration. This design approach not only creates a distinct separation between the living areas of Unit 1 and Unit 2 but also ensures that northern sunlight is accessible to the living space of Unit 2. Additionally, a glass block wall, serving the dual purpose of being a 60/60/60 fire-rated structure and allowing transparency for sunlight penetration, is oriented towards the north over the Unit 2 living area.

2.14.2 Visual Privacy

Visual privacy allows residents to carry out private activities within all rooms and private open spaces without compromising the functioning of internal and external spaces. Visual privacy is determined by the nature of adjacent developments, site configuration topography, the scale of the development, and the layout of individual dwellings. Living areas should be located to the front and rear elevations where privacy and outlook are more easily achieved. Locating the majority of living area windows facing towards the street and the rear boundaries means that the windows of ancillary rooms will face the side boundaries. This allows the building to be located closer to the side boundaries as there are fewer privacy impacts. It is not necessary to provide the same degree of privacy protection to all parts of a neighbouring site. Higher levels of privacy are to be provided to both internal living areas and to the external living area. Overlooking from bedroom windows is less of a concern than overlooking from the windows of other habitable rooms. Terraces and balconies from living areas located above ground level can have a significant impact on the amenity of neighbours with regard to loss of visual privacy and increase in noise levels. Such features will not be allowed except where it can be

demonstrated that neighbours' privacy is not compromised. Terraces which are recessed into the building so that the balustrade is approximately in line with the abutting walls are likely to have an adverse impact on neighbours' privacy.

1. To provide appropriate levels of visual privacy to internal living spaces and external private open space.
2. To facilitate outlook and views from principal rooms in dwellings and private open spaces without compromising visual privacy of neighbours.
3. To provide a level of surveillance over the street.
4. To minimise overlooking of neighbouring dwellings.

Controls

- a. Orientate the windows of the main internal living spaces such as living rooms, dining rooms, kitchens, family rooms and the like, generally to the front or to the rear of allotments.
- b. Orientate terraces, balconies and outdoor living areas to either the front or the rear of allotments, and not to the side boundaries.
- c. Terraces and balconies are not to overlook neighbour's living areas and private open space.
- d. Living room and kitchen windows, terraces and balconies are not to allow a direct view into neighbouring dwellings or neighbouring private open space.
- e. Side windows are to be offset by distances sufficient to avoid visual connection between windows of the subject dwelling and those of the neighbouring dwelling.
- f. Splayed walls with windows are not to be located above ground level where the windows will provide views into neighbouring allotments.

Design response

- **Windows that face the northern neighboring property will be fitted with frosted glass to enhance privacy and mitigate any potential visual intrusion.**
- The primary orientation of the living areas in the dwellings is toward the northeast.
- The design of the proposed balconies ensures they are positioned facing the front of the lot.
- The balconies have been carefully arranged to prevent any overlooking of neighboring living areas or private open spaces.
- Window placement has been thoughtfully executed to prevent views into neighboring dwellings or their private open spaces from any of the living room or kitchen windows.
- Window arrangement has been meticulously planned to avoid directly facing neighboring dwelling windows, ensuring privacy for both residences.

2.14.3 Acoustic Privacy

Acoustic privacy is a measure of sound insulation between individual dwellings, and between external and internal spaces. Designing for acoustic privacy relates to the location and separation of buildings and the location of living areas and above ground external areas such as terraces. The proximity of the building to major external noise sources such as busy roads is also a major consideration. Setbacks, separation between dwellings, and the appropriate location of external living areas, provide the primary method of ensuring acoustic privacy.

Objectives

1. To provide a high level of acoustic privacy.
2. To minimise the impacts of noise generating uses such as traffic, air conditioners, pumps, and other mechanical equipment.

Controls

- a. The noise of an air conditioner, pump, or other mechanical equipment must not exceed the background noise level by more than 5dB(A) when measured in or on any premises in the vicinity of the item. This may require the item to have a sound proofed enclosure.
- b. Dwellings located on arterial roads are preferably to have double glazed windows where these windows face the road

and provide light to living rooms or bedrooms. This is the case whether or not the dwelling has a solid masonry wall to the arterial road.

c. Dwellings located on arterial roads are preferably to have an acoustic seal on the front door to reduce noise transmission.

d. Dual occupancies (attached) are to be designed to reduce noise transmission between dwellings. One way to achieve this is to locate noisy areas next to each other and quieter areas next to other quiet areas, for example, living rooms with living rooms, bedrooms with bedrooms, kitchens with kitchens.

Design response

- The air conditioner unit is positioned beneath the suspended slab and encased with louvers, effectively mitigating noise emissions.
- Similarly, the pool pump is enclosed within a soundproof enclosure, ensuring minimal noise disturbance.
- Notably, the property is situated within a tranquil cul-de-sac, emphasizing the importance of maintaining a peaceful environment.
- The floor layout design for the attached dual occupancy is thoughtfully arranged, with noisy areas positioned adjacent to each other, while quieter areas are situated next to other peaceful spaces. This strategic arrangement enhances comfort and minimizes potential noise disruption.

2.14.4 View Sharing

View sharing is where development is designed so as to retain the private views enjoyed from existing dwellings on neighbouring sites. However the equitable sharing of views is desired and existing dwellings will not always be able to retain existing views across neighbouring allotments.

Objectives

1. To ensure new dwellings endeavour to respect important views from living areas within neighbouring dwellings.

Controls

- a. The siting of development is to provide for view sharing.

Design response

- The sole view available from the property is of the bushland situated to the western side, positioned behind the houses on the opposite side of the street.
- The side setback of the proposed building has been meticulously designed to create a view path for the property located at the rear, optimizing the appreciation of the surrounding landscape.

2.14.5 Cross Ventilation

Cross ventilation is the flow of outside air through a dwelling. In Sydney's humid sub-tropical climate the thermal comfort of a dwelling is greatly enhanced through a design which optimises the movement of air. A plan layout, including careful placement of openings which capitalise on the cooling southerly and north-easterly breezes, enhances amenity and reduces cooling costs. Louvre windows can assist in optimising the movement of air, as can ceiling fans. Higher floor to ceiling heights also help rooms remain cooler in the summer months.

Objectives

1. To optimise the comfort of a dwelling by ensuring good cross-ventilation.
2. To maximise ceiling heights.

Controls

- a. The plan layout, including the placement of openings, is to be designed to optimise access to prevailing breezes and to provide for cross-ventilation.

Design response

- Considerable attention has been given to the design of window areas to ensure effective ventilation within the dwellings.
- Ample large windows are strategically placed on the northeast-facing walls, contributing to enhanced natural

ventilation and airflow.

- A 2-story high void is incorporated into the northeast-facing living area, creating a hot air tunnel effect that facilitates the movement of air from the southwest side toward the northeast windows. This design element promotes efficient air circulation and cooling throughout the living space.

2.15 External Building Elements

External building design elements include:

Fences and walls;

Roofs; and

Façades visible from streets and other public spaces.

These external building elements are highly visible from the street and contribute to the character of the streetscape. The design of external building elements should:

- make a positive contribution to the attractiveness of the streetscape;
- can assist in creating a high level of thermal comfort and amenity for dwellings; and
- contribute to a consistent built character along the street.

Design response

- The front facade is a harmonious blend of brick and cladding materials, creating depth and visual interest.
- To contribute to the streetscape, a section of the front facade features partial render. This rendered area is delicately textured and painted in a soft, neutral color that complements the brickwork. The render acts as a frame, drawing attention to the entrance and the balcony above.
- The house boasts a traditional tiled hip roof that gracefully echoes the architectural character of the streetscape. Its dark grey tone tiles and symmetrical design blend seamlessly with the surrounding homes, imparting a timeless charm.

2.15.1 Roofs

The roof is an important architectural element, both for the individual building and for the area. The shape and form of a roof should be compatible with the buildings in the streetscape and neighbourhood. Roofs should be relative in scale to that part of the building below. Generally the roof height should be no more than a storey in height.

Objectives

1. To contribute to the design and performance of buildings.
2. To integrate the design of the roof, including roof elements such as dormer windows, into the overall elevation and building composition.
3. To contribute to a consistent and attractive streetscape.
4. To provide shading and weather protection.

Controls

a. Relate roof design to the desired built form by:

i. Articulating the roof;

ii. Ensuring that the roof form is consistent with the architectural character of the dwelling;

iii. Providing eaves with a minimum overhang of 450 mm to pitched roofs;

iv. Using a compatible roof form, slope, material and colour to adjacent buildings; and

v. Ensuring the roof height is in proportion to the wall height of the building.

b. The main roof is not to be a trafficable terrace.

c. An attic, where provided, is to be contained within the volume of the roof space.

d. The number of skylights is to be minimised on roof planes visible from the public domain. Skylights are to be arranged symmetrically.

e. The front roof plane is not to have both dormer windows and skylights. Dormers are preferred.

- f. Balconies and terraces are not to be set into roofs.
- g. The scale of the roof is to be in proportion with the scale of the walls below.
- h. Attics may be located in the garage roofs if the garage is located next to the dwelling. Garages located within the front or rear setbacks, are not to have attics.

Design response

- The proposed roof design has been thoughtfully articulated to adhere to the town planning requirements.
- It mirrors the architectural character of the dwelling and maintains consistency with adjacent buildings by utilizing a compatible roof form, slope, material, and color.
- The design features substantial eaves, meeting a minimum overhang of 450 mm to pitched roofs, while ensuring a proportional relationship between roof and wall heights.
- Skylights are to be thoughtfully placed, minimizing visibility from the public domain.
- The scale of the roof is meticulously balanced with the walls below, maintaining harmonious proportions.

2.16 Fences

Fences and walls can define boundaries between an allotment and a neighbouring allotment. The design of fences and walls has an impact on the amenity of the public domain and the streetscape character. The visual impact, scale and design of fences need to be carefully considered. The fences which bound an allotment are described as:

- The front fence;
- The return fences;
- Side fences; and
- Rear fence.

Objectives

1. To define the boundaries between public and private land.
2. To define the boundaries between neighbouring properties.
3. To contribute to the streetscape appearance.
4. To enhance the usability of private open space.
5. To offer acoustic and visual privacy on noisy roads.

2.16.1 Front and return Fences and Walls

Controls

- a. Front and return fences are to reflect the design of the dwelling.
- b. Front and return fences and walls are to be constructed of materials compatible with the house and with other fences and walls within the streetscape.
- c. A solid front or return fence is to be no higher than 900 mm. An open lightweight fence, such as a timber picket fence may be up to 1 m high.
- d. A return fence is to be no higher than the front fence.
- e. Fences may have a maximum height of 1.8 m so long as the fence is an open fence with an openness ratio of at least 50%. The fence may have a solid base so long as the base is no higher than 900 mm.
- f. Fences along arterial roads may be solid masonry up to a maximum height of 1.8 m. g. Front and return fences are not to be Colorbond or timber paling. h. Retaining walls which are part of a front or return fence are to have a maximum height of 900 mm.
- i. In areas of overland flow, fencing shall be of open construction so that it does not impede the flow of water.
- j. Fence piers are to have a maximum width of 350 mm

2.16.2 Side and rear Fences and Walls

Controls

- a. The maximum height for side and rear fences is to be 1.8 m.

b. In areas of overland flow, all fencing shall be of open construction so that it does not impede the flow of water.

c. Barbed wire, broken glass and other dangerous elements must not be used in the construction of fences.

d. Any fencing located forward of the foreshore building line shall be of open, permeable construction.

Calculation Rules

The height of a fence on the street alignment is to be measured above the level of the adjacent footpath or verge. The level of the footpath or verge may be obtained from Council's Development Engineers

Design response

- The existing side fence and rear fence will be retained
- It is a flood affected site, there will be no front fence to be proposed.

Conclusion

The proposed dual occupancies represent a harmonious and considered addition to the local built environment. The meticulous attention to architectural character, roof design, landscape design and overall proportionality ensures seamless integration with the existing streetscape. By adhering to the specified town planning requirements, these dual occupancies align with the vision of the City of Ryde Council for sustainable and aesthetically pleasing urban development. The proposed design is contributing positively to the fabric of the community while embracing the values and aspirations set forth by the Ryde Council. The size and scale of the development complements the existing character of the area without having an adverse impact on the amenity, privacy and existing levels of solar access currently enjoyed by the neighbouring properties. Accordingly, it is recommended that the development proposal be supported.