Item 2
6 Delmar Parade, Gladesville
Partial demolition of an existing dwelling, construction of a two-storey dwelling, retention of the garage, and associated landscaping

Report prepared by: Senior Town Planner

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

City of Ryde
Local Planning Panel Report

DA Number	LDA2022/0383
Site Address & Ward	6 Delmar Parade, Gladesville East Ward
Zoning	R2 Low Density Residential
Proposal (as amended)	Partial demolition of an existing dwelling, construction of a two-storey dwelling, retention of the garage, and associated landscaping
Property Owner	Marco Salvati
Applicant	Marco Salvati
Report Author	Tony Collier - Senior Town Planner
Lodgement Date	6 December 2022
Notification - No. of Submissions	Four (4) submissions received (one in support)
Cost of Works	$985,160.00
Reason for Referral to LPP	Departure from Development Standards – Development that contravenes a development standard by more than 10%. Development Standard: Height of Buildings

Recommendation	Approval
Attachments	1. Draft Conditions of Consent 2. DCP Compliance Table 3. Architectural and Landscaping Plans 4. Applicant's Clause 4.6 Request

1. Executive Summary

This report considers a development application under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) on land at 6 Delmar Parade, Gladesville, which is legally described as Lot 19 in DP 16334.

The subject development application (LDA2022/0383) was lodged on 6 December 2022 and seeks consent for the partial demolition of an existing dwelling, the construction of a two-storey dwelling, retention of the garage, and associated landscaping.

In accordance with the *Environmental Planning and Assessment Act 1979*, Section 9.1 – Directions by the Minister, this application is reported to the Ryde Local Planning Panel for determination as it is development that contravenes a development standard by more than 10%.

Clause 4.3 of the *Ryde Local Environmental Plan 2014* (RLEP) is a principal development standard which establishes that development is not to exceed a building height of 9.5m. The development proposes a building height of between 7.05m and 12.3m and therefore breaches the requirement of Clause 4.3 by 2.8m. This represents a variation of 29.5%.

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

- Clause 2.5.1 – Streetscape.
- Clause 2.6.1 – Deep Soil Areas.
- Clause 2.6.2 – Topography and Excavation.
- Clause 2.8 – Building Height (Wall Plate Height).
- Clause 2.9.1 – Front Setbacks (existing approved garage).
- Clause 2.9.2 – Side Setbacks.
- Clause 2.9.3 – Rear Setbacks.
- Clause 2.13 – Landscaping.

The non-compliances are addressed in the body of the report and are considered to be of a minor nature given the topographical constraints of the site and are supported on merit.

The application was notified between 7 December 2022 and 14 January 2023 in accordance with the Ryde Community Participation Plan. Three (3) submissions were

received in objection to the proposal and one (1) submission was received in support of the proposal. The issues raised in the submissions are:

- Building height.
- Floor space ratio.
- Front setback.
- Side setback.
- Landscaped area.
- Visual privacy.
- View sharing.

The above issues are discussed in detail in the 'Submissions' section of this report. It was found that each of the issues raised did not warrant the refusal of the application.

Having regard to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, it is recommended that Development Application No. LDA2022/0383 be granted consent.

2. The Site and Locality

Figure 1 – Arial view of the site and surrounds.

The site is located at the northern side of Delmar Parade and is legally described as Lot 19 in DP 16334. The property is commonly known as 6 Delmar Parade, Gladesville.

The site is rectangular in shape with a frontage of 13.715m and a depth of 45.52m. The site has a surveyed area of 583m².

The site accommodates a single storey detached brick and tile dwelling, retaining walls, and a detached double garage.

The front 12m of the site is subject to a steep fall of 7.0m. The front 8.0m of this area has been excavated under LDA2016/0361 to accommodate a double garage and storage room which extends across the entire frontage of the site. This results in a split level site whereby the detached garage is located at the lower street level and the dwelling is located on elevated platform above and behind the garage.

Figures 2 to 13 below show the site and its surrounds as of 3 May 2023.

Figure 2 – The subject site.

Figure 3 – 4 Delmar Parade.

Figure 4 – 8 Delmar Parade.

Figure 5 – 42 Amiens Street (Rear View).

Figure 6 – 44 Amiens Street (Rear View).

Figure 7 – 46 Amiens Street (Rear View).

Figure 8 – Rear of the subject site.

Figure 9 – Setback alignment 4 Delmar Parade

Figure 10 – Frontage of subject dwelling.

Figure 11 – Eastern side setback.

Figure 12 – Rear courtyard and retaining wall.

Figure 13 – Western side setback.

3. The Proposal

The applicant seeks consent for the partial demolition of an existing dwelling, construction of a two-storey dwelling, retention of the garage, and associated landscaping.

In detail, the development (as lodged) comprises:

Partial Demolition

- Demolition of all internal walls to the dwelling (retention of part external side walls).
- Part demolition of external retaining wall surrounding the rear courtyard area.
- Demolition of internal walls within the garage.
- Part demolition of external access steps at the eastern side of the site.

Construction

- Construction of a two-storey detached dwelling comprising:

Ground Floor (RL 19.880)
- Open plan living room/dining room and kitchen/pantry.
- Lounge room.
- Bedroom 1.
- Laundry and amenities.
- Lift and staircase.

First Floor (RL 23.180)
- Master bedroom (suspended by cables within a void area at the cantilevered front section of the dwelling).
- Bedroom 2.
- Bedroom 4.
- Amenities.
- Lift and staircase.

Garage (RL 10.980)
- Retention of the existing garage (including approved parking arrangement).
- Construction of new internal walls to create two plant rooms.
- Installation of a ‘green roof’ to the existing concrete roof.

External Works
- Terracing of rear yard to include a 1.3m high retaining wall to separate upper (RL 20.33) and lower (RL 19.58) terraces.
- New external steps adjacent to the eastern boundary.

Letter to the Applicant

On 4 January 2024 an email was sent to the applicant which raised the following issues:

- Methodology of the suspension of the master bedroom.
- Inconsistency between demolition plans and proposed floor plans.
- Clarification of retaining wall along eastern side boundary.
- Wrap around balcony across the rear of the first floor resulting in overlooking.

Amended Proposal

Amended plans were submitted to Council on 7 February 2023 in response to Council’s letter to the applicant.

The amended proposal includes the following changes:

- Deletion of wrap-around balcony at the rear of the first floor. This now incorporates two separate balconies to Bedrooms 2 and 4 only.
- Incorporation of rear terracing to include planter adjacent to the eastern side boundary.
- Detail provided regarding the cable suspension of the first floor Master Bedroom.

The amendments were not considered to generate additional impact on neighbouring property and therefore, were not required to be notified in accordance with Council's Community Participation Plan.

4. Background

4.1 History of the site

LDA2016/0361

This application was lodged with Council on 2 August 2016 for demolition works and construction of a garage and workshop/storage.

The design and area of the garage is the same as that retained in the current development application (see **Figures 26 and 27** later in this report).

The application was approved on 14 September 2016.

4.2 Application History

The following table provides a timeline of events pertinent to the current application:

Date	Action
06/12/2022	Application Lodged
07/12/2022 to 01/01/2023	Notification only (no reference to Integrated Development)
03/05/2023	Site inspection conducted.
04/05/2023	Letter (RFI) #1 sent to the applicant.
18/05/2023	Request from the applicant for extension to RFI #1 response to end of May.
30/05/2023	Request for extension granted.
06/06/2023	Email to the applicant requesting update on RFI #1 response.
13/06/2023	Request from the applicant for extension to RFI #1 response to end of June.
13/06/2023	Request for extension granted.
04/07/2023	Email to the applicant requesting update on RFI #1 response.
07/07/2023	Applicant submits response to RFI #1.
25/10/2023	Letter (RFI) #2 sent to the applicant.
01/11/2023	Meeting held with applicant.

10/11/2023	Request from the applicant for extension to RFI #2 response to 24/11/2023.
10/11/2023	Request for extension granted.
07/12/2023	Applicant submits response to RFI #2.
04/01/2024	Email RFI #3 to the applicant.
07/02/2024	Applicant submits response to RFI #3.

5. Planning Assessment

The following planning policies and controls are of relevance to the development:

- State Environmental Planning Policy Resilience and Hazards SEPP 2021;
- State Environmental Planning Policy Biodiversity and Conservation SEPP 2021;
- State Environmental Planning Policy Building Sustainability Index: BASIX 2004;
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development;
- Ryde Local Environmental Plan 2014; and
- Ryde Development Control Plan 2014:
    - Part 4.4 Ryde Town Centre
    - Part 7.2 Waste Minimisation and Management;
    - Part 9.2 Access People with Disabilities; and
    - Part 9.3 Car Parking.

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)

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

The 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	Proposed	Compliance
State Environmental Planning Policy (Resilience and Hazards) 2021		
Chapter 4 Remediation of Land		
The provisions of this SEPP requires Council to consider the potential for a site to be contaminated.	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. Standard conditions are imposed relating to the disposal of asbestos if found in the demolition of the existing dwelling and any associated structures (see **Conditions 11 to 12**).	Yes Subject to conditions
State Environmental Planning Policy BASIX		
The certificate demonstrates compliance with the provisions of the SEPP and is consistent with commitments identified in the application documentation.	A BASIX Certificate (see Certificate No. 1322544S-03 dated 8 November 2022) has been submitted with the application. Standard conditions have been included in the Draft Consent requiring compliance with this BASIX certificate (see **Conditions 1, 4 and 48**).	Yes Subject to conditions
State Environmental Planning Policy (Biodiversity and Conservation) 2021		
Chapter 2 Vegetation in Non-Rural Areas		
The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation.	The proposal does not involve the removal of any trees in the front setback. Small shrubs will be required to be removed in the rear yard. The shrubs are not identified as being significant vegetation. The proposal is considered satisfactory by Council's Landscape Architect.	Yes
Chapter 6 Water Catchments		
This Plan applies to the whole of the Ryde Local Government Area. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.	Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal.	Yes

5.3 Ryde Local Environmental Plan 2014

The subject site is zoned R2 Low Density Residential under the RLEP.

The proposal is defined as follows:

Dwelling means "*a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile*".

Development for the purpose of a dwelling is permissible with consent within the R2 Low Density Residential zone.

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

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

The proposal is for the provision of a detached dwelling which 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 proposal satisfies the relevant objectives for residential development.

Part 4 – Principal Development Standards

The development is subject to the following development standards.

Standard	Requirement	Proposed	Variation	Compliance
4.3 – Height of Buildings	9.5m	7.5m to ***12.5m***	31.5% (+3.0m)	**No***
4.4 – Floor Space Ratio	0.5:1 (291.35m²)	0.5:1 (291.25m²)	N/A	Yes

***** See Clause 4.6 below.

Clause 4.6 – Exceptions to Development Standards

The provisions of Clause 4.6 were amended on 15 September 2023 and commenced 1 November 2023.

The changes apply only to development applications lodged after 1 November 2023. Any development applications lodged but not determined on 1 November 2023 will continue to be assessed under the previous clause.

As this application was lodged and not determined prior to 1 November 2023, the following consideration is given against the previous clause.

The applicant's detailed request to vary the development standard under Clause 4.6 is at **Attachment 4** to this report.

The following assessment of the variation to Clause 4.3 - Height of Buildings development standard, has taken into consideration the judgements contained within

Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 - Objectives

1) The objectives of this clause are as follows:

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

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

Comment
Clause 4.3 - Height of Buildings development standard is not expressly excluded from the operation of this clause.

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

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

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

a) the consent authority is satisfied that:

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

b) the concurrence of the Secretary has been obtained.

Clause 4.6(3)(a) Justification Consideration

Clause 4.6(3)(a) requires the consent authority to be satisfied that the applicant's written request, in seeking to justify the contravention of the development standard, has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment
The applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In this regard, the applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

Clause 4.6(3)(b) Justification Consideration

Clause 4.6(3)(b) requires the consent authority to be satisfied that the applicant's written request, in seeking to justify the contravention of the development standard, has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment
In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that that there are sufficient environmental planning grounds to justify contravening the development standard:

> *'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EP&A Act, including the objects in s 1.3 of the EP&A Act.'*

Section 1.3 Objects of the EP&A Act reads as follows:

a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources.
b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment.

c) *to promote the orderly and economic use and development of land.*
d) *to promote the delivery and maintenance of affordable housing.*
e) *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats.*
f) *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage).*
g) *to promote good design and amenity of the built environment.*
h) *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants.*
i) *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State.*
j) *to provide increased opportunity for community participation in environmental planning and assessment.*

The applicant's written request states, in part, that the variations:

- *The majority of the dwelling complies with the maximum 9.5m height limit as it applies across the site.*
- *At the southernmost part of the dwelling where the natural ground falls towards the street across the rock face, the upper level and roof of the dwelling breaches the maximum height limit. The breach of the building height only occurs to one sixth of the overall dwelling depth and represents a very minor portion of the development.*
- *The extent of the roof area under the control far out weights the area over the control.*
- *As demonstrated in the supporting VIA* [View Impact Analysis] *by DWA* [Dalgliesh Ward Architects]*, the proposed design has no significant impact on the streetscape or impacts to existing views from residential neighbours to the north.*
- *The height variation is a result of the rock ledge and the aggressive drop at the front of the site.*
- *The variation is limited to the front portion of the dwelling which is consistent with other recently constructed waterfront properties in the area, including the neighbour to the east at 4 Delmar Parade.*
- *Given the characteristics of the streetscape and the fact that the dwelling will sit high above the street there is no visual perception of, or discernible additional height caused by the breach.*
- *The area of the southern façade that is not compliant with the HOB* [Height of Buildings] *limit currently exists and is not a new addition or alteration seeking approval with this application.*
- *The non-compliance does not contribute to significant additional overshadowing of neighbouring properties.*
- *There are no significant additional impacts as a result of the height departure when compared to a compliant RLEP and RDCP controls.*
- *Within this context the existing height is compatible with the surrounding height and satisfies the relevant height objectives*

The reference to the VIA is not accurate as it bases its findings on images (particularly at 44 Amiens Street) which portray an approved development only (i.e. under LDA2015/0635) and not what exists on the site at the moment. Notwithstanding the

VIA, Council has conducted a separate view analysis under Clause 2.14.4 (View Sharing) of the RDCP later in this report. In that analysis it was considered that the development would have a moderate impact upon views obtained by 44 Amiens Street (given the remaining available range of views) however, it was considered on balance that the proposal was reasonable.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying the relevant Objectives of the EP&A Act under cl 1.3(c) and (g).

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6(3)(b).

Clause 4.6(4)(a)(i) Adequacy of Response to Sub-Clause (3)

Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) Public Interest Consideration

Clause 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

> *(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

<u>Comment</u>
In considering whether the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Objectives of the Development Standard

The objectives of the standard, pursuant to Clause 4.3 – Height of Buildings of the RLEP are:

a) to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development.

In the request the applicant states:

> *"The view of the height and the built form and design of the proposed dwelling when viewed from Delmar Parade is compatible with that of other larger, contemporary double storey dwellings in the street. The development generally*

sits within the compliant height plane that applies to the land and the only breach occurs to the front of the dwelling where the landform steeply falls across the rock shelf. Accordingly, the overall bulk, scale of form of the dwelling is considered acceptable having regard to its compatibility with neighbouring properties.

The proposal is within the scale and form anticipated by the RLEP and appropriate for a site".

Comment
Delmar Parade is subject to an ongoing replacement or upgrading of housing stock.

The contemporary design of the proposed dwelling is consistent with this process and of the emerging character of the local area.

The frontage of the proposed dwelling is cantilevered over the existing embankment and appears to suggest that the development is stepped forward of the permitted front setback building alignment. On review (and notwithstanding the retention of the existing garage), the cantilevered frontage of the dwelling is setback 9.5m from the front boundary which is significantly greater than the permitted 6.5m front setback under the RDCP. This setback represents an acceptable balance between the front setbacks of the two neighbouring properties at 4 Delmar Parade (5.5m) and 8 Delmar Parade (11.2m).

Therefore, the street frontage (in terms of horizontal setback, vertical scale, and architectural design) proposed by the development is considered to be in proportion with, and in keeping with, the character of nearby development.

The non-compliant element to the building height does not alter this outcome and it is therefore agreed that the development is consistent with this objective.

b) to minmise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area.

In the request the applicant states:

"Shadow diagrams are submitted with the DA plan set. The diagrams demonstrate that neighbouring properties to the east, west and south of the site will continue to receive 3 hours of solar access to northern living room windows and the rear private open space.

The proposed built form being contemporary in its style does not seek to mimic any themes of development and is compatible with the streetscape, particularly the neighbouring dwelling to the east at 4 Delmar Parade. The finishes are compatible with the residential character of the area. The form, layout and overall scale of the development is compatible with the surrounding context and waterfront setting".

Comment
A review of the shadow diagrams submitted with the application confirms that the development would, on balance, not unreasonably impact upon surrounding

development or the public domain between 9.00am and 3.00pm on 21 June (as required by the RDCP).

Figures 14 to 16 below illustrate the shadows cast by the development on 21 June.

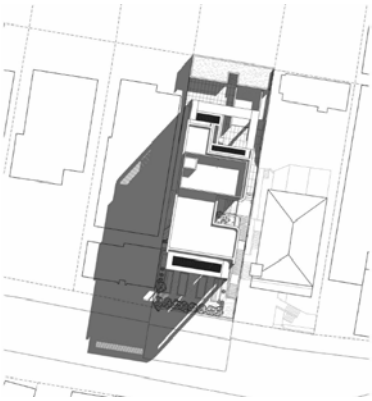


Figure 14 – 9.00am

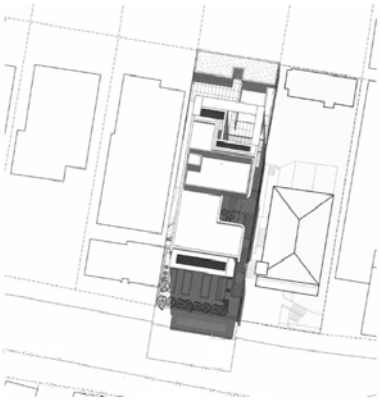


Figure 15 - Noon

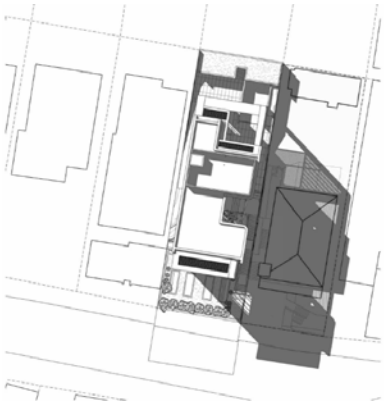


Figure 16 – 3.00pm

Clause 2.14.1 ('Daylight and Sunlight Access') under Part 3.3 of the RDCP requires that, for neighbouring properties:

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.*

Figures 14 to 16 demonstrate that the shadows cast by the development do not reduce sunlight access to the ground level private open space areas of the two neighbouring properties (being 4 and 8 Delmar Parade) to less than two hours between 9.00am and 3.00pm on June 21. Furthermore, **Figures 14 to 16** demonstrate that the shadows cast by the development do not reduce sunlight access to the north-facing living areas of the two neighbouring properties to less than three hours between 9.00am and 3.00pm on June 21.

It is therefore agreed that the development is consistent with this objective in that it maintains a compliant level of overshadowing as determined by the RDCP, and that the development is compatible with the appearance of the area given the scope and scale of development occurring in vicinity of the site.

c) to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure.

In the request the applicant states:

"Not relevant to this application".

Comment
Although not relevant as the development does not propose lot consolidation, the proposal maintains the overarching residential use and activity which encourages sustainable integrated land use and transport development around key public transport infrastructure.

The non-compliant elements to building height do not alter this outcome and it is therefore considered that the development is consistent with the intent of this objective.

d) to minimise the impact of development on the amenity of surrounding properties.

In the request the applicant states:

> *"As outlined above the built form and height of the proposed dwelling will not result in any significant adverse impacts to neighbouring residential amenity with regard to view loss, overshadowing and privacy. Minimal additional shadowing of the neighbouring properties will occur as a result of the proposal. The proposed height and overall bulk of the dwelling is commensurate to that of neighbouring sites. Shadows are cast predominantly over Delmar Parade throughout the year due to north-south orientation of the site.*
>
> *Similar levels of shadowing occur over the POS* [private open space] *areas of the neighbours.*
>
> *The rear yards of each dwelling receive sufficient sunlight throughout the day in midwinter.*
>
> *With regard to view loss the proposal results in some loss of water and district views to properties in Amiens Street. The view loss needs to be assessed against the view loss that would occur as a result of a compliant development in terms of height, FSR and setbacks.*
>
> *The plan shows the height and setbacks from a compliant form which is based on the RLEP and RDCP provisions. The analysis confirms that the view loss arising from the compliant RLEP and RDCP controls is greater than the proposed development with its non-compliant height over the rock ledge. The VIA prepared by DWA darted 8th August 2022 confirms that the views retained to 42, 44, 46 Amiens Street and 8 Delmar Parade.*

Comment
The key aspects of amenity impact are discussed as follows:

Sunlight Access

Clause 2.14.1 ('Daylight and Sunlight Access') under Part 3.3 of the RDCP establishes controls which address sunlight access. This is discussed in detail in the RDCP section of this report and under the objectives of the development standard.

In summary, the shadows cast by the development do not reduce sunlight access to the ground level private open space areas of the two neighbouring properties (being 4 and 8 Delmar Parade) to less than two hours between 9.00am and 3.00pm on June 21.

Furthermore, the shadows cast by the development do not reduce sunlight access to the north-facing living areas of the two neighbouring properties to less than three hours between 9.00am and 3.00pm on June 21.

Visual Privacy

Clause 2.14.2 ('Visual Privacy') under Part 3.3 of the RDCP establishes controls which address visual privacy. This is discussed in detail in the RDCP section of this report.

Notwithstanding, the building height non-compliance (being the subject of this Clause 4.6 request) does not result in any adverse visual privacy impact.

View Sharing

Clause 2.14.4 ('View Sharing') under Part 3.3 of the RDCP establishes controls which address view sharing. This is discussed in detail in the RDCP section of this report and comprehensively within the request to vary the development standard.

In summary, the development does not unreasonably reduce view sharing from neighbouring properties and, when considered against the planning principles established under the NSW Land and Environment Court case *Tenacity Consulting v Warringah [2004] NSWLEC 140*, the extent of impact is reasonable.

e) to emphasise road frontages along road corridors.

In the request the applicant states:

> *"Not relevant to this application".*

<u>Comment</u>
The design outcome is such that it will not alter the existing presentation of residential development along the road corridor of Delmar Parade and would not detract from emphasising the road frontage of the local roadway.

The non-compliant element to building height does not exacerbate this outcome and it is therefore considered that the development is consistent with this objective.

Objectives of the Zone

The objectives of the R2 Low Density Residential zone are:

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

In the request the applicant states:

"No change to the density of development. The land-use remains a detached dwelling house within a low-density residential area, albeit an additional level on top of the existing dwelling is proposed".

Comment
The development replaces the existing dwelling with a new dwelling therefore resulting in no change to the existing density and housing provision in the zone.

The development will therefore 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.***

In the request the applicant states:

"The development and specifically the variation does not reduce the potential for other land uses on surrounding sites".

Comment
It is agreed that the development provides a diverse and active street frontage to attract pedestrian traffic and to contribute to vibrant, diverse, and functional streets and public spaces.

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

In the request the applicant states:

"The proposal delivers a superior degree of residential liveability and amenity for the site in a manner that is anticipated in a waterfront setting".

Comment
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.

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 Height of Buildings Development Standard is assumed.

Conclusion to Clause 4.6 Consideration

The written submission from the applicant has adequately demonstrated that the contravention of the Height of Buildings development standard prescribed by Part 4.3 of the RLEP 2014 is justified pursuant to the relevant matters for consideration prescribed by Clause 4.6.

The applicant's Clause 4.6 written request to vary the height of buildings development standard in Clause 4.3 of *Ryde Local Environmental Plan 2014* is acceptable as the proposal satisfies the objectives of the zone and the development standard, is consistent with the scale anticipated on this site and will read favourably in the context of the redevelopment of neighbouring sites in the future. Compliance with this development standard is unreasonable or unnecessary in the circumstances of this specific proposal; and there are sufficient environmental planning grounds to justify contravening this development standard.

Council is satisfied that the applicant's written requests has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that sufficient environmental planning grounds have been demonstrated to justify the contravention of the standard.

Council is satisfied that the proposal is in the public interest and that it is consistent with the objective of the development standard and those applicable to development within the zone.

Accordingly, the proposal is in the public interest and is consistent with the objectives of the Clause 4.3 development standard. Departure from the standard is supported in this instance.

Other Applicable RLEP Clauses

The development is subject to the following additional clauses.

Clause	Proposal	Compliance
6.2 – Acid Sulfate Soils		
The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	The site is at the south-western edge of a Class 5 acid sulfate soil area and 470m west of a Class 3 acid sulfate soil area. The development involves minimal excavation and will therefore not disturb, expose or drain acid sulfate soils and cause environmental damage.	Yes
6.2 - Earthworks		

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	The frontage of the site is located within a 'slope instability (M3A) Moderate Risk area. The application is accompanied by a Slope Risk Assessment dated 20 June 2023 as prepared by Douglas Partners. The Slope Risk Assessment has been reviewed by Council's consulting Geotechnical Engineer who advises that post construction risk to property is assessed as low and risk to life as acceptable subject to the recommendations of the geotechnical investigation report being followed. The Slope Risk Assessment (including its recommendations) is included as a supporting document under **Condition 1** in the draft consent. The development will therefore not have a detrimental impact on environmental functions and processes, neighbouring uses or features of the surrounding land. There are no heritage items located within the site or within visual proximity to the site. The submitted Geotechnical Report has been included at **Condition 1** to ensure appropriate measures are undertaken throughout the site preparation of the development.	Yes Subject to condition
6.4 – Stormwater Management		
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.	The application has been reviewed by Council's Development Engineer who does not raise any objection to the proposal subject to conditions (see **Conditions 1, 26, 27, 43, 49 and 52**).	Yes Subject to conditions.

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.

A full assessment of the proposal under the RDCP is illustrated in the compliance table at **Attachment 1**.

The provisions of the RDCP have been considered in this assessment and it is concluded that the proposed is consistent with the aims and objectives of the RDCP.

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 control. These matters are discussed below:

Detailed consideration of non-compliances

Clause 2.5.1 – Streetscape

Clause 2.5.1(b) requires that the design of front gardens is to complement and enhance streetscape character.

As noted under Clause 2.9.1 ('Front Setbacks') later in this report, the development includes an existing garage which is sited at a nil setback to the front property boundary.

As noted earlier in this report (see 'Development History'), the garage was approved by Council on 14 September 2016 under LDA2016/0361.

The development proposes to retain the garage in-situ and change the arrangement and purpose of the interior western side from a workshop/storage area to a plant room. The applicant proposes to install a green roof over the existing garage however, this will not necessarily enhance the streetscape beyond what already exists.

Therefore, unlike the complete redevelopment of a site, in this instance it is not possible to include a front garden which would complement and enhance streetscape character.

Clause 2.6.1 – Deep Soil Areas

Clause 2.6.1(a) requires development to provide a deep soil area of at least 35% of the site area (i.e. 203.9m²).

The development provides a total deep soil area of 150.6m² which equates to 25.8% of the site area and represents a variation of 26.1% (i.e. 53.3m²).

It is noted that the site currently accommodates 180m² deep soil area (including the exposed rock ledge). This equates to 30.9% of the site area. Therefore, the development reduces this provision by 29.4m² (i.e. by 16.3%).

Notwithstanding, the developable area of the site is noted as being heavily constrained due to its topography and retention of the existing garage structure. The developable area is effectively 492.4m². The proposed provision of deep soil area of 150.6m² would therefore equate to 30.5%.

Figure 17 below shows the area (shaded in green) which is assessed as deep soil area. The area shaded in red is proposed to comprise a green roof above the garage however, this area fails to provide sufficient soil depth to qualify as deep soil area.

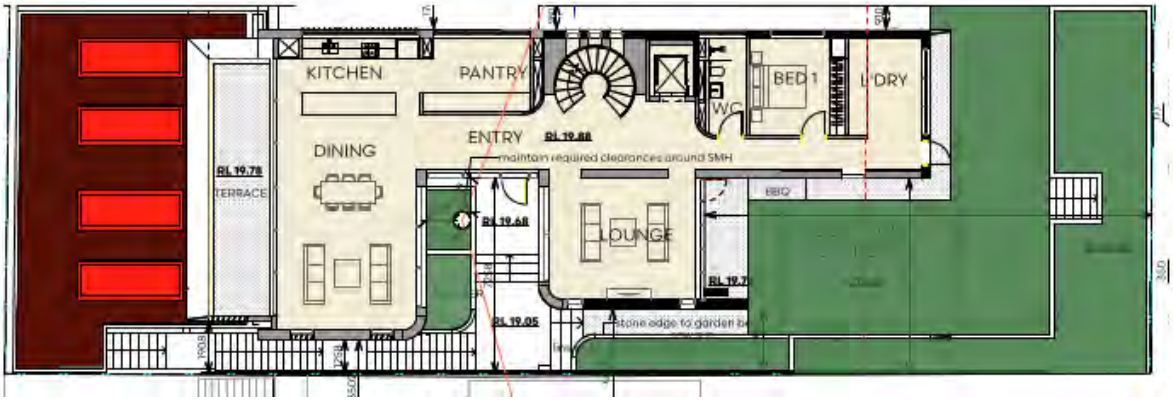


Figure 17 – Provision of deep soil area.

Clause 2.6.1(b) requires that the site is to provide a minimum continuous area of 8m x 8m (i.e. 64m²) in the rear yard.

As seen in **Figure 17** above, notwithstanding the retaining wall which terraces the rear yard, the development provides a continuous area of 7.26m x 15m (i.e. 108.9m²) which exceeds the area required despite not meeting the minimum dimension.

The non-compliance is assessed against the objectives of the control as follows:

- ***To ensure that land retains its ability to absorb rainwater so as to reduce stormwater runoff and to increase the moisture level of the soil for the use of trees and other vegetation.***

The proposal has been reviewed by Council's Development Engineer and Landscape Architect, both of which support the development as being capable of absorbing rainwater so as to reduce stormwater runoff and increasing the moisture level of the soil for the use of trees and other vegetation.

- ***To ensure that each building allotment has a minimum deep soil area.***

The site includes provision for a minimum deep soil area.

- ***To retain and enhance vegetation corridors.***

The site is not located within an identified vegetation corridor.

- ***To provide space for mature tree growth and other vegetation.***

Although the site does not contain any mature trees, sufficient area is located at the rear terraced yard of the site to enable plantings.

- ***To generally retain existing mature trees and vegetation.***

The site does not contain any existing mature trees.

- ***To enable movement of fauna along vegetation corridors.***

The site is not located within an identified vegetation corridor.

Given the above considerations, the non-compliance is supported.

Clause 2.6.2 – Topography and Excavation

Clause 2.6.2©(i) requires that the maximum height of retaining walls outside the building footprint is 0.9m. The development includes the retention of an existing retaining wall of 1.8m which extends across the width of the site to enable terracing of the rear yard.

The retention of the existing retaining wall is considered to be acceptable as this will not exacerbate the current situation with respect to landform, site levels at the boundary, and privacy.

Clause 2.8 – Building Height

Clause 2.8(a) requires development to provide a maximum wall plate height of up to 8.0m for a roof which has a continuous parapet.

The development provides a wall plate height of between 7.05m and 12.5m. As seen in **Figures 18 and 19** below (as shaded in red), the non-compliant elements are located at the front of the dwelling at both the east and west side elevations.

Figure 18 – Non-compliant wall plate height at the eastern elevation.

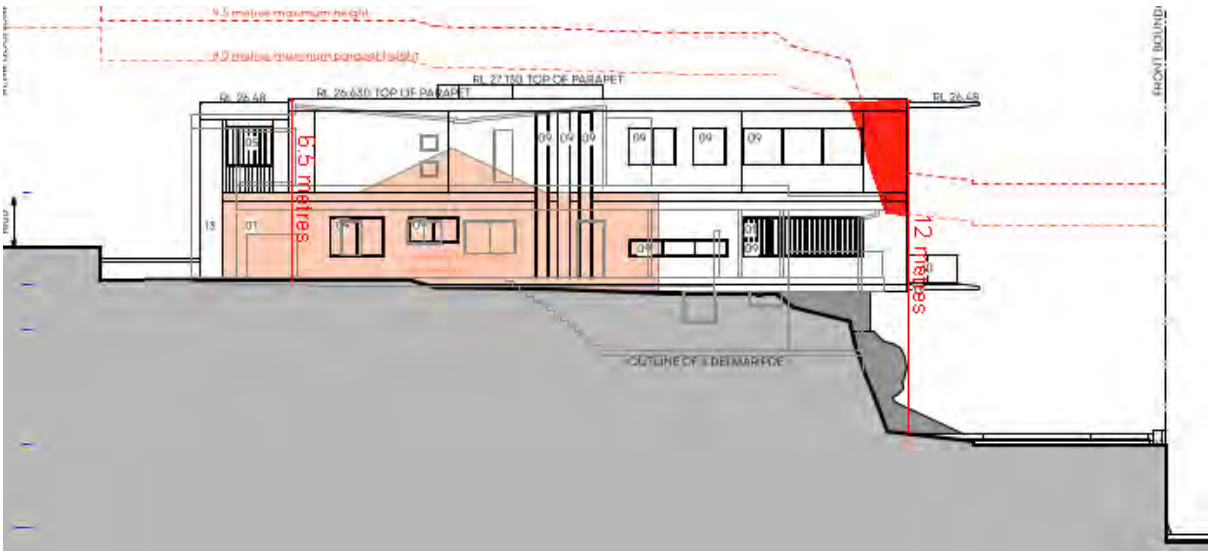


Figure 19 – Non-compliant wall plate height at the western elevation.

The non-compliance is assessed against the objectives of the control as follows:

- ***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.***

The proposed height of the development is pronounced by the overhanging roof element of the front terrace. This is evident in the section at **Figure 20** below.

Figure 20 – Non-compliant building height (Section 2 view).

As can be seen in **Figure 20**, the overhanging elements comprises a visually permeable structure which does not add any vertical bulk and scale to the development. The impression of additional bulk and scale is a result of the upward view to the underside of the roof overhang although, as noted later in **Figure 28**, the proposed front setback has been designed to respond to an average across development in the western section of Delmar Parade which has been guided by the rock ledge which extends across the frontages of properties.

Figure 21 – View west (4 Delmar Road in the foreground).

Figure 22 – View east – 8 Delmar Road in the foreground and 4 Delmar Road in the background. The subject site is in between the two.

Figure 23 – View east along Delmar Road generally.

Figure 24 -View west along Delmar Road generally.

- ***To ensure that the height of dwellings does not exceed 2 storeys.***

The RLEP defines a storey as:

> *"a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:*
>
> *(a) a space that contains only a lift shaft, stairway or meter room, or*
> *(b) a mezzanine, ©(c) an attic".*

The development includes a cantilevered frontage which overhangs the embankment. This necessitates a construction methodology which includes a sub-floor area to enable the elevation (see **Figure 25** below).

The sub-floor area is situated between the natural ground level and the ground floor level and is not considered to constitute *a space within a building that is situated between one floor level and the floor level next above*.

Figure 25 – Cross-section of the development (sub-floor area shaded in blue).

Given the above considerations, the non-compliance is supported.

Clause 2.9.1 – Front Setbacks

Clause 2.9.1(a) requires development to provide a front setback of generally 6.0m from the front property boundary.

The development includes an existing garage which is sited at a nil setback to the front property boundary.

The proposed dwelling is setback between 6.6m and 6.8m (at the roof overhang) and therefore complies.

As noted earlier in this report (see 'Application History'), the garage was approved by Council on 14 September 2016 under LDA2016/0361.

The development proposes to retain the garage in-situ and change the arrangement and purpose of the interior western side from a workshop/storage area to a plant room. **Figures 26 and 27** below show the approved and modified garage.

Figure 26 – Approved garage.

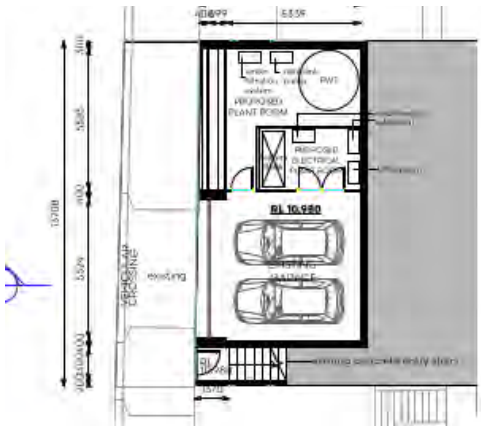


Figure 27 – Proposed modification to garage.

Despite the non-compliance, this application does not seek to change or enlarge the garage and therefore, while the non-compliance is acknowledged, the retention of the garage in situ is supported.

With regard to the building setback of the dwelling, as noted earlier this complies with the setback requirement of Clause 2.9.1. However, it is worth noting that the positioning of the frontage of the dwelling is at an approximate average between 4 Delmar Parade and 4 Delmar Parade as illustrated in **Figure 28** below, and in **Figures 21 to 24** previously.

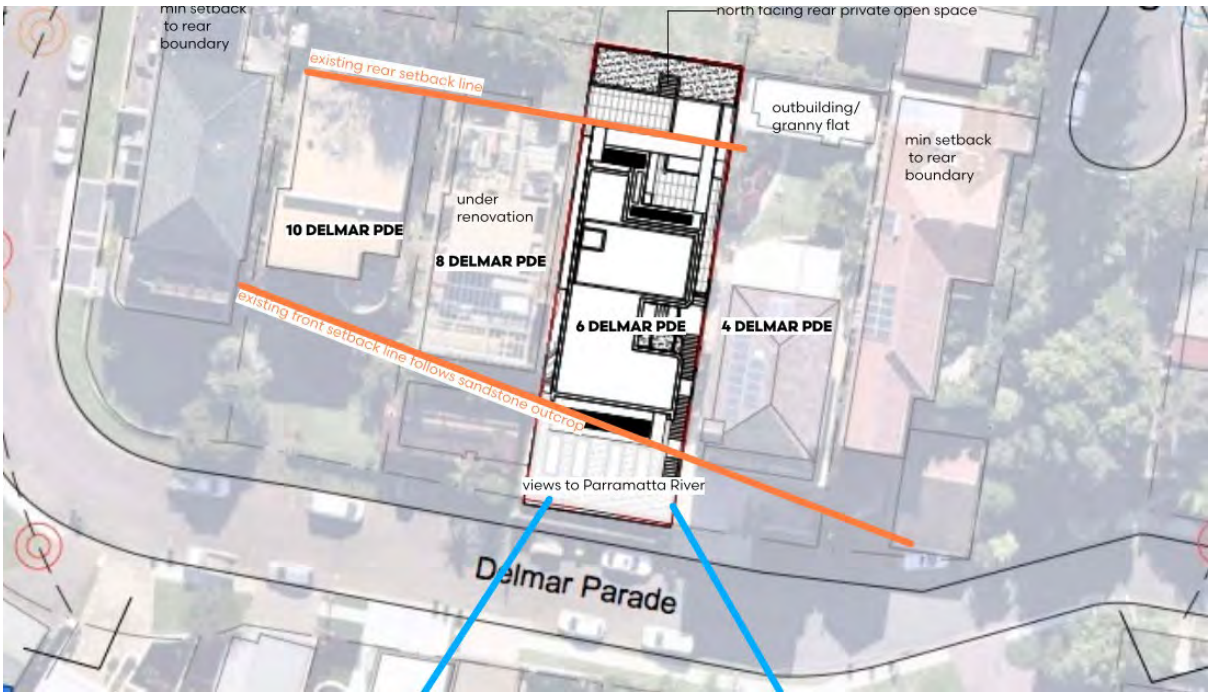


Figure 28 – Front setback alignment (depicted by the orange line).

Clause 2.9.2 – Side Setbacks

Clause 2.9.2(b) requires the outside walls of a two-storey dwelling to be set back from side boundaries not less than 1.5m.

The development includes the following side setbacks (non-compliances in bold italic):

Elevation/Level	Setback	Variation
East/Ground	***1.258m*** to 7.26m	16.1% (-0.242m)
East/Upper	***1.258m*** to 6.108m	16.1% (-0.242m)
West/Ground	***0.91m***	39.3% (-0.59m)
West/Upper	***0.91m*** to 1.5m	39.3% (-0.59m)

Figures 29 and 30 show the areas of non-compliance (shaded in red which indicate the required setback of 1.5m).

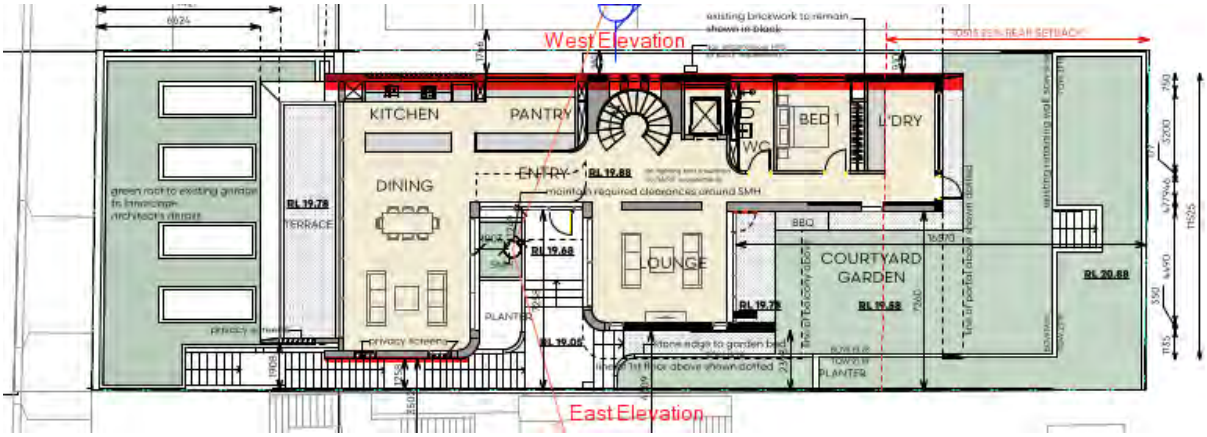


Figure 29 – Non-compliant side setbacks at the ground floor level.

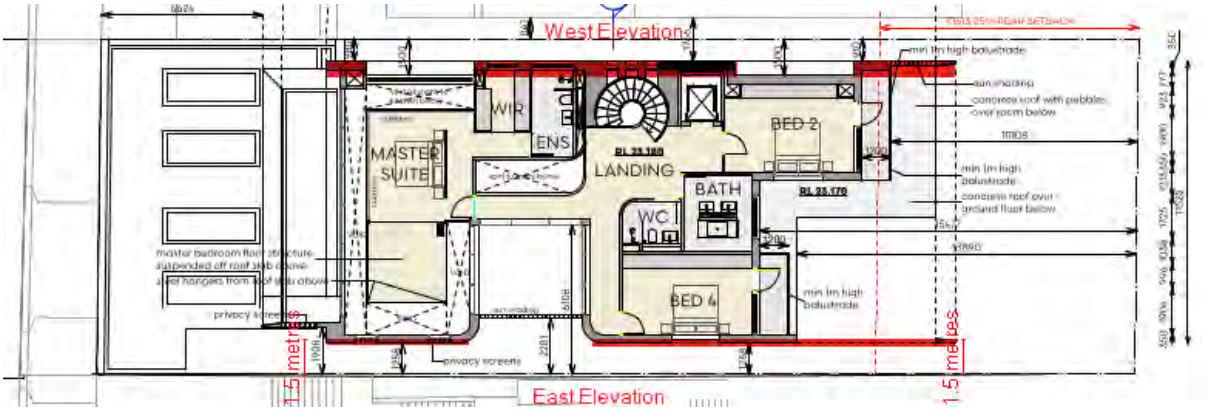


Figure 30 – Non-compliant side setbacks at the upper floor level.

The non-compliance is assessed against the objectives of the control as follows:

- ***To enable building siting to be compatible with the streetscape.***

With respect to the relationship of side setbacks to the streetscape, the intent is to provide sufficient separation to allow for generous landscape settings of residential development within low density zones.

The side setbacks are situated in an elevated aspect from the street and are therefore not readily visible from Delmar Parade.

The elevation and recessed aspect of the developable area of the site conceals the proposed side setbacks and, given the minor departure from the required 1.5m setback (as illustrated in **Figures 29 and 30** above), would not result in a detrimental impact to the current visual and landscaped quality of the streetscape.

- ***To provide car access.***

The non-compliant elements do not impact on the provision of car parking for this development.

- ***To provide access to the rear of the allotment.***

The non-compliant elements do not impact upon rear access of the property.

Given the above considerations, the non-compliance is supported.

Clause 2.9.3 – Rear Setbacks

Clause 2.9.3(a) requires that 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 8.0m, whichever is the greater.

Given the length of the side boundaries at 42.52m, 25% equates to 10.63m. The development proposes a varied rear setback as follows (non-compliance in bold italic):

Element	Proposed Rear Setback	Compliance
Rear Screen	***7.5m***	**No** 29.4% (-3.13m)
Rear Ground Floor Terrace Dwelling	 ***7.5m*** to 14.9m ***8.2m*** to 16.6m	 **No** 29.4% (-3.13m) **No** 22.8% (-2.43m)
Rear First Floor Balcony Dwelling	 ***10.1m*** to 14.2m 11.3m to 15.4m	 **No** 4.9% (-0.53m) Yes

Figures 31 and 32 below show the non-compliant elements (note that the non-compliant elements listed above are contained within the red shaded area which depicts the extent of the rear screen).

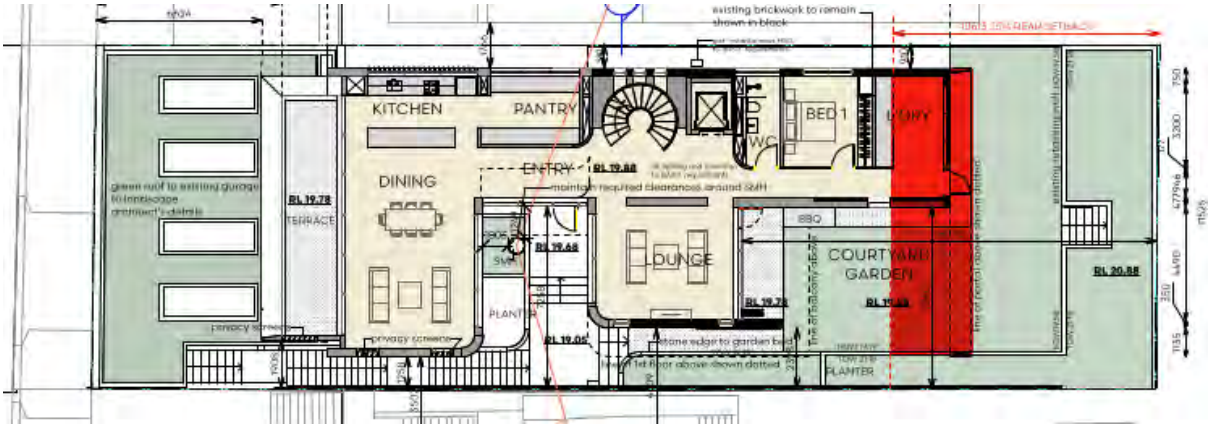


Figure 31 – Non-compliant rear setbacks at the ground floor level.

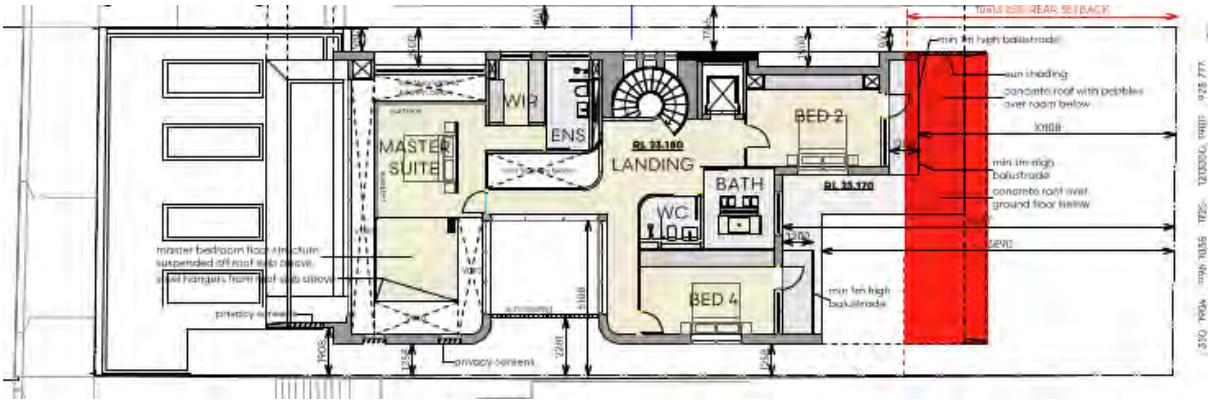


Figure 32 – Non-compliant rear setbacks at the ground floor level.

The non-compliance is assessed against the objectives of the control as follows:

- ***To provide an area for private outdoor recreation and relaxation.***

The rear yard is designed to achieve a greater area than that currently provided for by the existing dwelling.

The recessed courtyard, which is shaded by a floating screen, allows for an improved and accessible area which would be more amendable than the limited and linear space currently offers.

- ***To allow space for vegetation, mature trees and deep soil zones.***

The rear yard does not contain any notable vegetation and no mature trees. Deep soil is limited to the rear upper terrace which has a width of 4.0m from the rear boundary. This has been increased to between 7.5m and 14.9m.

The rear yard, in both the existing and proposed configurations, is limited in the planting of canopy trees which is not considered to be a viable outcome due to the adverse impact this would have upon view sharing from the neighbouring properties at the rear (see separate discussion under Clause 2.13 'Landscaping' below).

- ***To separate dwellings to achieve privacy.***

The rear of the dwelling includes a floating screen which extends across the rear elevation (see **Figure 36** later in this report).

This will provide sufficient visual privacy subject to a condition in the draft consent which requires that the slats used in the screen are angled to prevent overlooking into rear neighbouring yards (see **Condition 19(b)**).

- ***To enable contiguous vegetation corridors across blocks.***

The site is not located within an identified vegetation corridor.

Given the above considerations, the non-compliance is supported.

Clause 2.13 – Landscaping

Clause 2.13(h) requires that the front garden is to have at least one (1) tree capable of a minimum mature height of 10m with a spreading canopy.

Clause 2.13(i) requires that, where the backyard does not have a mature tree at least 15m 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 15m and is to have a spreading canopy. The tree is to be located in the 8m x 8m deep soil area.

In both instances it is considered to be not viable to plant a 10m high canopy tree in the front yard and a 15m high canopy tree in the rear yard because:

a) The front yard is occupied by a retained garage which extends across the entire frontage of the site and accommodates the full front setback area (as seen earlier in **Figures 26 and 27**). Despite the proposed green roof on the garage, this would not provide sufficient soil depth to support a canopy tree.

b) The planting of a tall canopy tree within the rear yard would extend well above the permitted building height of 9.5m and, consequently have a detrimental impact upon the view sharing of the rear properties along Amiens Street.

It is noted that Council's consulting Landscape Architect had requested conditions be imposed which require the planting of a 15m high canopy tree within the rear yard, however, for the reasons provided above, these have been omitted from the draft consent.

Given the above considerations, the non-compliance is supported.

Consideration of other matters (Neighbour Amenity)

The following does not respond to any non-compliance but provides detailed consideration of amenity impacts upon neighbouring properties.

Clause 2.14.1 – Daylight and Sunlight Access

Clause 2.14.1(e) requires that, for neighbouring properties:

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.

A review of the shadow diagrams submitted with the application confirms that the development would not unreasonably impact upon surrounding development or the public domain between 9.00am and 3.00pm on 21 June.

Figures 33 to 35 below illustrate the shadows cast by the development on 21 June and demonstrates that the shadows cast by the development do not reduce sunlight access to the ground level private open space areas of the two neighbouring properties (being 4 and 8 Delmar Parade) to less than two hours between 9.00am and 3.00pm on June 21.

Furthermore, the shadow diagrams demonstrate that the shadows cast by the development do not reduce sunlight access to the north-facing living areas of the two

neighbouring properties to less than three hours between 9.00am and 3.00pm on June 21.

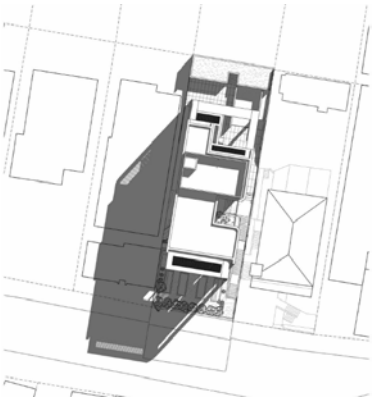


Figure 33 – 9.00am

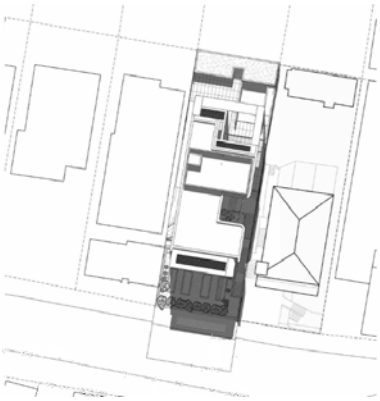


Figure 34 - Noon

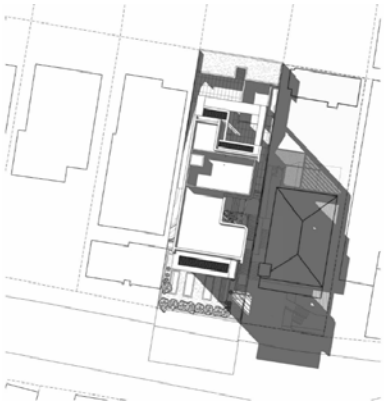


Figure 35 – 3.00pm

Clause 2.14.2 – Visual Privacy

The development (as amended) includes balconies at the rear of the first-floor level of the dwelling which may result in overlooking opportunity into the rear yards of neighbouring properties to the north, east and west.

On review, these two balconies have been treated to address overlooking concerns to the east and west due to the inclusion of solid side walls which limit direct overlooking. The northern edge of each balcony includes a 1.0m high balustrade only.

The balcony to Bedroom 2 is setback 10.108m from the rear boundary and the balcony to Bedroom 4 is setback 13.890m from the rear boundary. It is noted that the rear of the dwelling includes a floating screen which extends across the rear elevation (see **Figure 36** below). This will provide sufficient visual privacy subject to a condition in the draft consent which requires that the slats used in the screen are angled to prevent overlooking into rear neighbouring yards (see **Condition 19(b)**).

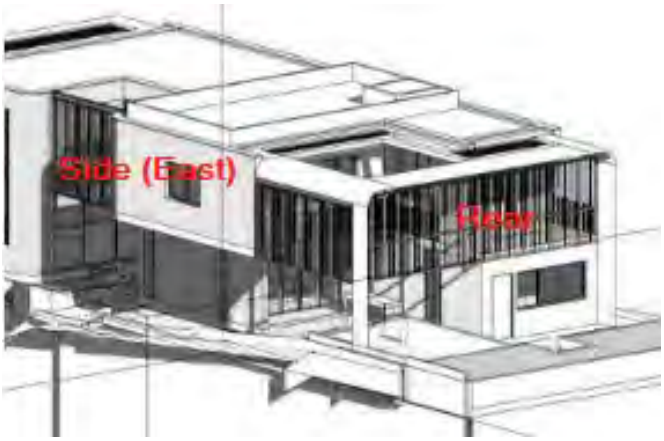


Figure 36 – Rear elevation and floating screen.

<u>Side Facing Windows (East)</u>

The side facing upper floor windows comprise a 2 x vertical profile secondary windows to the master bedroom, a recessed window, and a secondary window to Bedroom 4.

With respect to bedroom windows, the NSW Land and Environment Court (LEC) established in *Meriton v Sydney City Council [2004] NSWLEC 313* planning principles around visual privacy. In that case, the SC Roseth determined in Para 46 that overlooking from bedrooms was of minor impact when compared to overlooking from more frequently used habitable rooms, stating:

> *"The use of a space determines the importance of its privacy. Within a dwelling, the privacy of living areas, including kitchens, is more important than that of bedrooms. Conversely, overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time".*

The bedroom windows on both side elevations are secondary to the primary windows which face towards the front and rear respectively. This, together with the above principle, indicates that overlooking from these windows will be negligible in terms of visual privacy.

The recessed hallway is regarded as habitable space however, this area is addressed via a floating screen (as also seen in **Figure 36** above) which will negate overlooking.

<u>Side Facing Windows (West)</u>

The side facing upper floor windows comprise a secondary window to the master bedroom, 3 x vertical profile windows to the stairwell.

The matter of bedroom windows has already been discussed above.

The stairwell is regarded as habitable space and, due to its high frequency of use and estimated proximity to a neighbouring ground floor level bedroom window at 8 Delmar Parade, could present an overlooking opportunity (or promote the perception of being overlooked). In this respect it is considered appropriate to include a condition in the draft consent which requires the stairwell windows to be fitted with fixed obscure glazing (see **Condition 19(a)**).

Clause 2.14.4 – View Sharing

The objective of Clause 2.14.4 seeks to *ensure that new dwellings endeavour to respect important views from living areas within neighbouring dwellings*.

The application is accompanied by a comprehensive view sharing analysis (contained within the Clause 4.6 variation request) which examines view sharing from the following properties:

- 42 Amiens Street.
- 44 Amiens Street.
- 46 Amiens Street.
- 8 Delmar Parade.

Of the above properties, objections were received from 8 Delmar Parade and 44 Amiens Street with respect to view loss.

An attempt was made by the current assessment officer to obtain access of 8 Delmar Parade in order to confirm the rooms used in the earlier inspection. In the absence of a recent inspection, the approved plans of 8 Delmar Parade (under CDC 2001126) have been used to identify rooms within the dwelling where views are obtained.

Notwithstanding, the following assessment considers the impact of the development on view sharing from 8 Delmar Parade and is based upon the photographs taken at the inspection on 3 May 2023 and the view sharing analysis (contained within the Clause 4.6 variation request).

An inspection of views from 44 Amiens Street was conducted on 3 May 2023 and again on 5 April 2024.

Consideration of impact on 42 and 46 Amiens Street are taken from available plans only.

Views from 4 Delmar Parade are not considered to be impacted due to that development being sited well forward of the frontage of the subject development. Furthermore, it is noted that the submission received from 4 Delmar Parade did not raise view loss as an issue.

The following discussion provides an assessment of the matter against the planning principles established SC Roseth in the NSW Land and Environment Court case *Tenacity Consulting v Warringah [2004] NSWLEC 140* (paragraphs 26 to 29).

Principle 1 - Nature of the views to be affected

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

<u>Comment</u>

8 Delmar Parade

The affected view is to the south-east which includes district views of Chiswick and partial water views of the Parramatta River.

Figure 37 below shows the view angles available from the front terrace of 8 Delmar Parade. As can be seen, by virtue of its location and elevated position, 8 Delmar Parade currently enjoys sweeping district and water views from the south-east (indicated by the red dashed line) to the west. **Figure 37** also shows the location of 42, 44 and 46 Amiens Street to the north.

The development would reduce the south-east view angle by approximately 30° however, as can be seen in **Figure 38**, the remaining district and water views from the south/south-east to the west are unaffected.

Although including partial water views, the affected view does not contain any views which would be considered to be iconic or whole due to the inclusion of the dwelling at 4 Delmar Parade and lower-level roof tops, trees and powerline structures.

Views to the south and south-west are considered to be whole (as seen in **Figures 40 to 42**).

Figure 37 – View angles from 8 Delmar Parade (the blue shaded area is a visually permeable balcony).

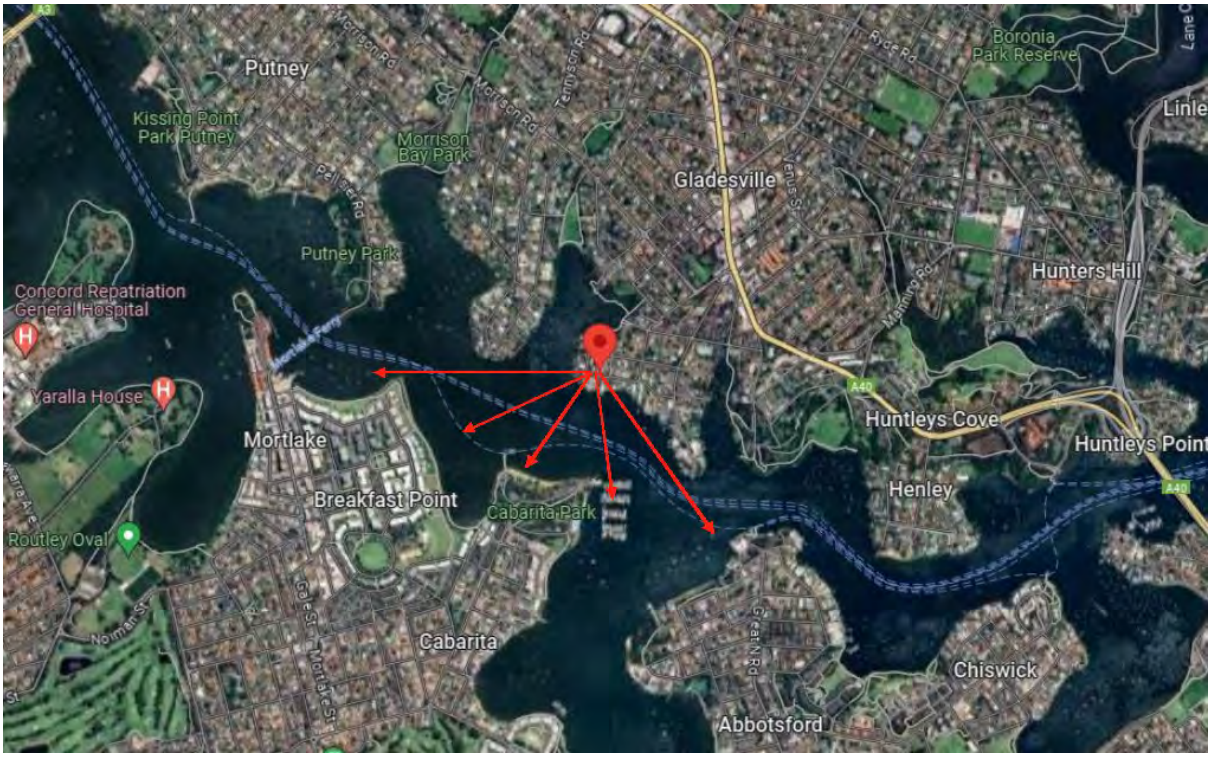


Figure 38 – The same view angles from 8 Delmar Parade (expanded).

Figures 39 to 42 below show the range of views available from 8 Delmar Parade. It is acknowledged that these views are taken from the subject site but are representative of the same quality of view obtained from 8 Delmar Parade.

Figure 39 – View south/south-east from the western side boundary (4 Delmar Parade is in the background).

Figure 40 – View to the south from the subject site.

Figure 41 – View to the south/south-west from the subject site.

Figure 42 – View to the south-west from the subject site (the front terrace of 8 Delmar Parade is in the foreground).

42 Amiens Street

Plans obtained for 42 Amiens Street reveal that the double storey dwelling includes its main living areas and a deck at the rear of the upper floor level (see **Figure 5** earlier in this report).

Views obtained from this level include water and district views from the south-east to the south-west.

44 Amiens Street

The affected view is to the south which includes partial water glimpses to the eastern side of the dwelling on the subject site, and district views of Cabarita Park on the opposite side of the Parramatta River.

Figures 43 to 46 below show the views from the elevated ground floor terrace and kitchen at the rear of the dwelling.

Figure 43 – View to the south over the subject site (red roof) from the elevated rear terrace.

Figure 44 – View south-east from the rear yard.

Figure 45 – View south-west from the rear terrace.

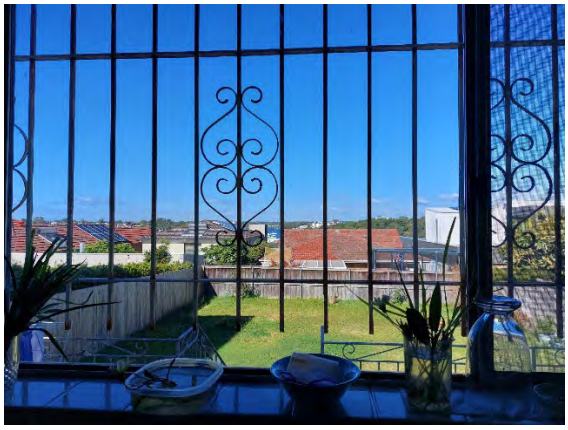


Figure 46 – View south from the kitchen.

46 Amiens Street

Plans obtained for 46 Amiens Street (LDA00/35 dated January 2000) reveal that the double storey dwelling (which was subject to alterations and additions) includes its main living areas at the front and rear of the ground floor level.

The upper floor addition includes the main bedroom and terrace at the rear (see **Figure 7** earlier in this report).

Views obtained from the ground floor level include water glimpses and district views from the south-east to the south-west (although this would be partially obstructed by the development at 8 Delmar Parade).

Principle 2 - What part of the affected property the views are obtained

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

<u>Comment</u>

8 Delmar Parade

The affected views are obtained across the front quarter of the eastern side boundary from a bar at the lower ground floor level (RL 17.44), the Living Room and Bedroom located at the ground floor (RL 20.18) and from the bedroom at the first-floor level (RL 23.155).

The views would be obtained from both a sitting and standing position in the Living Room although an optimum position would be standing due to the glass balustrade around the balcony at that level. Views from the bedrooms at the lower ground floor

level and at the first-floor level would be obtained from a standing position due to sill heights.

42 Amiens Street

Views which may be affected from the upper floor of 42 Amiens Street would be from the open plan living/dining room and deck and across the south-western quarter of the rear boundary.

Affected views would be from a sitting position as this would shallow the view angle across the subject site.

44 Amiens Street

The views are obtained from the elevated ground floor terrace, kitchen and laundry at the rear of the dwelling.

Views from the terrace are from both a sitting and standing position (although the view from a sitting position would be shallower than from a standing position) while views from the kitchen and laundry are from a standing position only due to the sill height.

46 Amiens Street

Views which may be affected from the ground floor of 46 Amiens Street would be from the open plan lounge area and across the south-eastern quarter of the rear boundary.

Affected views would be from a sitting and standing position due to the lower RL of the ground floor (note the plans for 46 Amiens Street do not provide RLs but it is estimated that the ground floor is similar to that of 44 Amiens Street).

Principle 3 - Extent of impact

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

<u>Comment</u>

8 Delmar Parade

As seen in **Figure 37 and 38** and in **Figures 39 to 42**, the extent of impact is a 30° cone across the south-eastern side of the property.

The remaining views from the south/south-east to the west remain unobstructed and extensive.

In this respect, the impact is qualitatively considered to be minor.

42 Amiens Street

Plans obtained for 42 Amiens Street reveal that the double storey dwelling includes its main living areas and a deck at the rear of the upper floor level (RL 27.45 – noting the proposed roof height of the subject development is at RL 26.630 to RL 27.130).

As seen earlier in **Figure 37**, the subject site is located to the south-west of 42 Amiens Street and would impact upon that sector of the view only. As noted earlier, the affectation would occur at a sitting position whereas the view from a standing position (i.e. at RL 28.95 using a typical eye height of 1.5m above the existing floor level) would enable water and district views to continue over the site and from the south-east to the west.

In this respect, the impact is qualitatively considered to be minor.

44 Amiens Street

As seen in **Figures 43 to 46**, the views available from the rear of 44 Amiens Street are limited to partial water glimpses at the eastern side of the existing subject dwelling, and limited district views across the top of the existing subject dwelling.

The development will obstruct the above-mentioned available views in their entirety although partial water and whole district views will continue to be available to the from the south-east and to the south-west.

In this respect, the impact is qualitatively considered to be moderate.

46 Amiens Street

Plans obtained for 46 Amiens Street reveal that the double storey dwelling includes its main living area at the rear of the ground floor level.

As seen earlier in **Figure 37**, the subject site is located to the south-east of 46 Amiens Street and would impact upon that sector of the view only although it should also be noted that this would be compounded by the impact of 8 Delmar Parade also (which is located the south of 46 Amiens Street).

As noted earlier, the affectation would occur at both a sitting and standing position due to the comparatively shallow floor level to that of the proposed roof level. Notwithstanding, partial water and whole district views will continue to be available from the south/south-west to the west.

In this respect, the impact is qualitatively considered to be moderate.

Principle 4 - Reasonableness of the proposal that is causing the impact.

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

Comment
The development includes non-compliances to a number of controls as detailed throughout this report. However, with respect to those controls which would have a direct impact on views (such as building height and side setbacks), it is considered that these non-compliances are minor (in the case of the side setbacks) and/or (in the case of the building height non-compliance which occurs at the front of the dwelling) are located in a part of the development which would not have an impact.

It is noted, despite the above-referenced non-compliances, that the majority of the development is sited well below the permitted building height (between 7.3m and 8.0m).

It is noted that a proposal for a first-floor addition to 44 Amiens Street was approved by Council on 29 April 2016 under LDA2015/0635. However, it was noted at the inspection on 5 April 2024 that no works had commenced on that property and therefore, the consent expired on 29 April 2023. Notwithstanding, should 44 Amiens Street be developed in the future to accommodate a two-storey dwelling, it is anticipated that this would improve view sharing from that property. Although not included or referenced in this assessment, these anticipated views are depicted in the View Analysis provided by the application (contained within the Clause 4.6 request).

Given the above circumstances, it is considered that the view sharing impact of the proposal is reasonable.

Conclusion to View Sharing Assessment

Notwithstanding the proposed numerical non-compliances with the Built Form Controls, the proposal is considered appropriate for the subject site and acceptable in this instance.

Accordingly, it is considered that the proposal is satisfactory in addressing the intent of Clause 2.14.4.

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

No contributions are applicable for this application.

5.8 Any matters prescribed by the regulation

Environmental Planning and Assessment Regulation 2021

The Regulation underpins the day-to-day operation of the NSW planning system. The Regulation guides the processes, plans, public consultation, impact assessment and decisions made by local councils, the Department of Planning and Environment and others.

Standard conditions are recommended relating to compliance with 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 within the RDCP, Referrals and submissions sections of this report.

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 an attached dual occupancy and associated works. The assessment has demonstrated the proposal is consistent with the statutory requirements and policy controls. The assessment demonstrates the proposal will not result in any significant adverse impacts upon adjoining properties or the streetscape.

The proposal is an appropriate development, and this has been demonstrated in this report.

The proposal is considered to be suitable for the site.

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 is compliant with the principal development standards with exception to Clause 4.3 (Height of Buildings) however, the submitted Clause 4.6 (Exception to

Development Standard) has been found to adequately demonstrate sufficient environmental planning grounds to support the variation.

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

On this basis, the proposal is not considered to raise any issues that would be contrary to the public interest.

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 December 2022 and 14 January 2023.

In response, three (3) submissions were received in objection to the proposal and one (1) submission was received in support of the proposal.

The application was amended during the assessment phase in response to issues raised by the assessment officer, however, the amended plans resulted in a lesser impact on surrounding properties and re-notification of the application was not warranted.

The issues raised in the submissions objecting to the proposal are:

- **Building height**

This issue was considered in detail earlier in this report under Clause 4.6 of the RLEP and under Clause 2.8 ‘Building Height’ of the RDCP.

In summary, the non-compliance occurs are the front of the dwelling which involves a roof overhang which cantilevers over a rock ledge.

The assessment under the above-mentioned controls has found that the degree of impacts is minimal, and that the visual presentation of the proposed front setback is commensurate with that along this section of Delmar Parade.

This issue does not warrant the refusal of the application.

- **Floor space ratio**

The application has been assessed and found to comply with the provisions of Clause 4.4 ‘Floor Space Ratio’ of the RLEP.

Floor Space Ratio (FSR) is based upon gross floor area (GFA) of which the RLEP Dictionary defines GFA as (bold italic used to emphasize areas within the development where exclusions to GFA and FSR have been applied):

"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****.*

With respect to the exclusion of stairwells, the NSW Land and Environment Court cases *Dwyer v Sutherland Shire Council [2018] NSWLEC 1543* and *Connoisseur Investments Pty Ltd v Sutherland Shire Council [2020] NSWLEC 1181* both considered the question of GFA/FSR within vertical circulation spaces (stairwells and lifts).

In *Dwyer v Sutherland Shire Council [2018] NSWLEC 1543* the Court held that the area above stairs that lead to an attic and studio was a void and was to be excluded from the calculation of GFA.

Similarly, in *Connoisseur Investments Pty Ltd v Sutherland Shire Council [2020] NSWLEC 1181* the Court agreed and accepted that:

- "*It is reasonable and typical to count [only] every alternate stairs flight*" in the calculation of GFA;
- "*Stairs to the basement are excluded*" from the calculation of GFA; and
- The floor area of a lift "*should be counted once only*" on any one level in the calculation of GFA.

The Court's reasoning in both Dwyer and Connoisseur Investments was premised on the exclusions for 'any area for common vertical circulation' and 'voids above a floor at the level of a storey or storey above' from the definition of GFA. In relation to the latter, the Court agreed and accepted that "at the level at which GFA is measured [i.e. 1.4m above a floor], stairs and lift wells appear as voids, or part voids, and do not constitute floor area that is available to be stood upon or counted" (Connoisseur Investments at [86]).

- **Front setback**

This issue was considered in detail earlier in this report under Clause 2.9.1 'Front Setbacks' of the RDCP.

In summary, the development includes an in-situ garage at nil setback to the front boundary which was approved under LDA2016/0361. Given the previous approval and that the development does not exacerbate this approved arrangement, the non-compliance is supported.

The proposed dwelling is setback between 6.6m and 6.8m (at the roof overhang) and therefore complies with Clause 2.9.1 to the RDCP.

This issue does not warrant the refusal of the application.

- **Side Setback**

This issue was considered in detail earlier in this report under Clause 2.9.2 'Side Setbacks' of the RDCP.

In summary, the non-compliances were found to be minor and that the development satisfied the objectives of the control. The proposal was supported in this regard.

This issue does not warrant the refusal of the application.

- **Landscaped area**

Concern is raised regarding the non-compliant provision of deep soil/landscaped area.

<u>Comment</u>
This issue was considered in detail earlier in this report under Clause 2.6.1 'Deep Soil Areas' of the RDCP.

In summary, the site is noted as being constrained such that the available building platform is reduced significantly. Notwithstanding the non-compliance, the proposed landscaping scheme on the site is considered to be of a more appropriate design in providing outdoor recreational area and water absorption than that which currently exists on the site.

This issue does not warrant the refusal of the application.

- **Visual privacy**

Concern is raised regarding visual privacy resulting from the development.

<u>Comment</u>
This issue was considered in detail earlier in this report under Clause 2.14.2 'Visual Privacy' of the RDCP.

In summary, the development was considered against planning principles established by the NSW Land and Environment Court in *Meriton v Sydney City Council [2004] NSWLEC 313* where visual privacy was found to be acceptable.

The development includes a stairwell at the western side elevation which is considered to potentially impact the neighbouring dwelling at 8 Delmar Parade. In this respect it is considered appropriate to include a condition in the draft consent which requires the stairwell windows to be fitted with fixed obscure glazing (see **Condition 19(a)**).

This issue does not warrant the refusal of the application.

- **View sharing**

Two submissions raise concern regarding the impact of the development on available water views to the south and south-east.

Comment
This issue was considered in detail earlier in this report under Clause 2.14.4 'View Sharing' of the RDCP.

In summary, the view assessment considered all properties which surround the site and found that the overall impact was minor to moderate and that the proposal could be supported.

This issue does not warrant the refusal of the application.

- **Acoustic Impact**

A submission raises concern regarding noise generated by gatherings in the rear yard of the property as a result of the proposed terrace.

Comment
The use is for a detached dwelling which is a permitted use within the zone. The residential activity within a dwelling is not a matter that can be legally controlled or regulated by Council.

Noise generated by the occupants of a residence is a civil matter and, should such events occur, are to be appropriately reported to the NSW Police by the affected neighbour.

This issue does not warrant the refusal of the application.

10. Referrals

Development Engineer

Council's Development Engineer has raised no objections to the proposal subject to conditions (see **Conditions 1, 26, 27, 43, 49 and 52**).

Landscape Architect

Council's Landscape Architect has raised no objections to the proposal subject to conditions requiring the planting of a canopy tree within the rear setback area.

In consideration, the planting of a tall canopy tree within the rear yard would extend well above the permitted building height of 9.5m and, consequently have a detrimental impact upon the view sharing of the rear properties along Amiens Street.

Therefore, the recommended condition has not been included in the draft consent.

Consultant Geotechnical Engineer

Council's consultant Geotechnical Engineer has raised no objections to the proposal subject to a condition which requires the development to comply to the recommendations contained in the submitted Geotechnical Report (see **Condition 1**).

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 4.3 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. LDA2022/0383 for the partial demolition of an existing dwelling, construction of a two-storey dwelling, retention of the garage, and associated landscaping on land at 6 Delmar Parade, Gladesville subject to the conditions in the attached draft consent.

ATTACHMENTS

1 Draft 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:

Tony Collier
Senior Town Planner

Report approved by:

Sohail Faridy
Senior Coordinator Development Assessment

Holly Charalambous
Acting Manager Development Assessment

Carine Elias
Acting Executive Manager City Development

ATTACHMENT 1 – DRAFT CONDITIONS

GENERAL CONDITIONS

1) **Approved plans and supporting documentation**

Development must be carried out in accordance with the following approved plans and recommendations contained in supporting documents, except where the conditions of this consent expressly require otherwise.

Architectural Plans		
Plan	**Date**	**Prepared by**
DA02 (Rev B) – Site/Roof Plan	01/12/2023	Dalgliesh Ward Architects
DA03 (Rev B) – Existing Plans and Proposed Demolition	01/12/2023	Dalgliesh Ward Architects
DA04 (Rev C) – Proposed Floor Plans	30/01/2024	Dalgliesh Ward Architects
DA05 (Rev C) – Sections 1 & 2	30/01/2024	Dalgliesh Ward Architects
DA06 (Rev C) – East & West Elevations	30/01/2024	Dalgliesh Ward Architects
DA07 (Rev C) – North & South Elevations	30/01/2024	Dalgliesh Ward Architects

Stormwater Plans (as amended in red)		
Plan	**Date**	**Prepared by**
Site Stormwater Management Layout (Issue A)	08/07/2022	ALW Design
Roof Layout & General Details (Issue A)	08/07/2022	ALW Design

Supporting Documents		
Document	**Date**	**Prepared by**
BASIX Certificate (1322544S-03)	08/11/2022	Northrop Consulting Engineers Pty Ltd
Geotechnical Desktop & Slope Risk Assessment	20/06/2023	Douglas Partners
Site Waste Minimisation and Management Plan	21/08/2022	Marco Salvati

The development is to be carried out generally in accordance with the following landscape plans, except where the conditions of this consent expressly require otherwise:

	Landscape Plans **Plan** / **Date** / **Prepared by** Ground Floor (Rev A) / 05/07/2022 / B+E Landscape Architects Roof Plan (Rev A) / 05/06/2022 / B+E Landscape Architects L03 (Rev A) / 05/06/2022 / B+E Landscape Architects L04 (Rev A) / 05/06/2022 / B+E Landscape Architects **Note**: The approved plans and documents must be read in conjunction with the design amendments listed in **Condition 19** below. In the event of any inconsistency with the approved plans 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**
	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: 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.
	Condition Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.
3)	**Erection of signs**
	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: 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: 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— 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.
4)	**BASIX**
	Compliance with all commitments listed in BASIX Certificate Number: 1322544S-03 and dated 8 November 2022.
	Condition Reason: Prescribed condition under section 75 of the Environmental Planning and Assessment Regulation 2021.
5)	**Notification of Home Building Act 1989 requirements**
	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: a. for work that requires a principal contractor to be appointed: i. the name and licence number of the principal contractor, and

	ii. 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: i. the name of the owner-builder, and ii. 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.
	Condition Reason: Prescribed condition under section 71 of the Environmental Planning and Assessment Regulation 2021.
6)	**Shoring and adequacy of adjoining property**
	1. This section applies to a development consent for development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor. 2. It is a condition of the development consent that the person having the benefit of the development consent must, at the person's own expense— a. protect and support the building, structure or work on adjoining land from possible damage from the excavation, and b. if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation. 3. This section does not apply if— a. the person having the benefit of the development consent owns the adjoining land, or b. the owner of the adjoining land gives written consent to the condition not applying
	Condition Reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.
7)	**Site Maintenance**
	For the period the site remains vacant of any development the subject of this consent, the site is to be regularly maintained in a tidy manner such that it does not become overgrown with weeds or subject to the leaving or dumping of waste.
	Condition Reason: To protect the amenity of the locality.
8)	**Hoardings**
	a) A hoarding or fence must be erected between the work site and any adjoining public place. b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.

	Condition Reason: To ensure public safety.
9)	**Illumination of public place**
	Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place
	Condition Reason: To ensure public safety.
10)	**Noise mitigation**
	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.
	Condition Reason: To protect the amenity of the adjoining residents.
11)	**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.
12)	**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.
13)	**Design and Construction Standards**
	All engineering plans and work inside the property shall be carried out in accordance with the requirements of the relevant Australian Standard. All Public Domain works or modification to Council infrastructure which may be located inside the property boundary, must be undertaken in accordance with Council's DCP Part 8.5 (Public Civil Works) and Part 8.2 (Stormwater and Floodplain Management), except otherwise as amended by conditions of this consent.
	Condition Reason: To ensure that all works are undertaken in accordance with any relevant standard and DCP requirements.
14)	**Public Utilities and Service Alterations**
	All mains, services, poles, etc., which require alteration due to works associated with the development, shall be altered at the Applicant's expense. The Applicant shall 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 relevant Authorities requirements.

15)	**Ausgrid Conditions**
	Ausgrid Underground Cables are in the vicinity of the development Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways. It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Dial Before You Dig (DBYD). In addition to DBYD the proponent should refer to the following documents to support safety in design and construction: <u>SafeWork Australia – Excavation Code of Practice</u> Ausgrid's Network Standard NS156 which outlines the minimum requirements for working around Ausgrid's underground cables. The following points should also be taken into consideration. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable. **Ausgrid Overhead Powerlines are in the vicinity of the development** The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase. Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site. The "as constructed" minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website at www.ausgrid.com.au.

	It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer's cost. Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website: www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries For new connections or to alter the existing electrical connection to the property from the Ausgrid network, the proponent should engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable.
	Condition Rason: Statutory requirement.
16)	**Restoration**
	Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities, including repairs of damaged infrastructure as a result of the construction works associated with this development site, shall be undertaken by the Applicant in accordance with Council's standards and specifications, and DCP Part 8.5 (Public Civil Works), to the satisfaction of Council.
	Condition Reason: To ensure the amenity and state of the public domain is maintained.
17)	**Road Activity Permits**
	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 applicant 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 include Road Use Permit, Work Zone Permit, Road / Footpath / Driveway / Nature Strip / Kerb & 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.
	Condition Reason: To ensure the amenity and state of the public domain is maintained.
18)	**Protection of Public Domain**
	The public domain must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
	Condition Reason: To ensure public safety.

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

19)	**Design amendments**
	Before the issue of a construction certificate, the principal certifier must ensure the construction certificate plans and specifications detail the following required amendments to the approved plans and documents: a) **Privacy (Obscure Glazing).** The west-facing windows to the stairwell shall be amended with fixed (unopenable) obscure glazing for the full height. b) **Privacy (Privacy Screens).** The slats to the elevated screens across the rear and at the eastern side of the dwelling are to be positioned to avoid any overlooking into windows and private open spaces areas of neighbouring properties. Amended plans which address this condition are to be referred to Council for approval prior to the issuing of a Construction Certificate. c) **Tree/Planting Species (Rear Boundary).** The species of plantings along the rear boundary are to be changed to *Syzygium australe* and are not to achieve a height greater than 2.5m at maturity.
	Condition Reason: To require minor amendments to the plans endorsed by the consent authority following assessment of the development
20)	**Construction Site Management Plan**

	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:
	
	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:
	  a. Proposed truck movements to and from the site;
	  b. Estimated frequency of truck movements; and
	  c. Measures to ensure pedestrian safety near the site;
	5. Details of bulk earthworks to be carried out;
	6. The location of site storage areas and sheds;
	7. The equipment used to carry out works;
	8. The location of a garbage container with a tight-fitting lid;
	9. Dust, noise and vibration control measures;
	10. The location of temporary toilets;

	11. The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with: a. AS 4970 – Protection of trees on development sites; b. An applicable Development Control Plan; c. An arborist's report approved as part of this consent A copy of the construction site management plan must be kept on-site at all times while work is being carried out.
	Condition Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction
21)	**Long Service Levy**
	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 *Building and Construction industry Long Service Payments Act 1986*, section 34, and evidence of the payment is to be provided to principal certifier.
	Condition Reason: To ensure the long service levy is paid
22)	**Payment of security deposits**
	Before the issue of the relevant construction certificate, the applicant must: 1. make payment of **$1,810.00** for a security deposit to the consent authority and 2. provide the principal certifier with written evidence of the payment and the amount paid.
	Condition Reason: To ensure any damage to public infrastructure is rectified and public works can be completed
23)	**Utilities and services**
	Before the issue of the relevant construction certificate, written evidence of the following service provider requirements must be provided to the principal certifier: 1. a letter from Ausgrid demonstrating that satisfactory arrangements can be made for the installation and supply of electricity 2. 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 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.
	Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier
24)	**Structural Certification**
	Before to the issue of a Construction Certificate, structural certification prepared from a qualified practising structural engineer must be provided to the principal certifier.

	Condition Reason: To ensure the structural adequacy of the development.
25)	**Excavation adjacent to adjoining land**
	Before the issue of a Construction Certificate, if excavation extends below the footings of a building on adjoining land, the following is required: (a) The person causing the excavation must, at their own expense, protect and support the adjoining premises from possible damage from the excavation, and where necessary, underpin the adjoining premises to prevent any such damage. (b) The applicant must give at least seven (7) days notice to the adjoining owner(s) prior to excavating. (c) An owner of the adjoining land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the land being excavated or on the adjoining land. Details are to be provided to the principal certifier.
	Condition Reason: To protect adjoining land.
26)	**Stormwater Management**
	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.
	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.
27)	**Stormwater Management**
	Stormwater runoff from the development shall be collected and piped by gravity flow to Delma Parade, generally in accordance with the plans by ALW Designs Job No SW22225 S1 & S2 issue A dated 08/07/22 subject to any variations marked in red on the approved plans or noted following: a) Provision of a secondary overflow pipe from rainwater tank to the street in the event of a pipe blockage. Tank to be relocated closer to the front wall of the garage. b) Provision of an internal perimeter drain directing any overflow spillages from water tank out of the garage and away from the electrical plant room. c) Only roof water is to be connected to the water tank. The detailed plans, documentation and certification of the drainage system must be submitted with the application for a Construction Certificate and prepared by a suitably qualified Civil Engineer and comply with the following:

	• The certification must state that the submitted design (including any associated components such as WSUD measures, pump/ sump, absorption, onsite dispersal, charged system) are in accordance with the requirements of AS 3500.3 (2003) and any further detail or variations to the design are in accordance with the requirements of Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*) and associated annexures. • The submitted design is consistent with the approved architectural and landscape plan and any revisions to these plans required by conditions of this consent.
	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.
28)	**Erosion and Sediment Control Plan**
	An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified consultant, detailing soil erosion control measures to be implemented during construction. The ESCP is to be submitted with the application for a Construction Certificate. The ESCP must be in accordance with the manual "Managing Urban Stormwater: Soils and Construction" by NSW Department – Office of Environment and Heritage and must contain the following information: a) Existing and final contours. b) The location of all earthworks, including roads, areas of cut and fill. c) Location of all impervious areas. d) Location and design criteria of erosion and sediment control structures. e) Location and description of existing vegetation. f) Site access point/s and means of limiting material leaving the site. g) Location of proposed vegetated buffer strips h) Location of critical areas (drainage lines, water bodies and unstable slopes). i) Location of stockpiles. j) Means of diversion of uncontaminated upper catchment around disturbed areas. k) Procedures for maintenance of erosion and sediment controls. l) Details for any staging of works. m) Details and procedures for dust control. The ESCP must be submitted with the application for a Construction Certificate.
	Condition Reason: To protect downstream properties, Council's drainage system and natural watercourses from sediment build-up transferred by stormwater runoff from the site.

BEFORE BUILDING WORK COMMENCES

29)	**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: a. Infrastructure Restoration and Administration Fee

	b. Long Service Levy
	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.
30)	**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.

DURING BUILDING WORK

31)	**Hours of work**
	Site work must only be carried out between the following times: • 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
32)	**Implementation of the site management plans**
	While site work is being carried out: 1. the measures required by the construction site management plan and the erosion and sediment control plan (plans) must be implemented at all times, and 2. 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
33)	**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
34)	**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
35)	**Soil management**

	While site work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements: 1. All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification, and the volume of material removed must be reported to the principal certifier. 2. All fill material imported to the site must be: i. Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997*, or ii. a material identified as being subject to a resource recovery exemption by the NSW EPA, or iii. a combination of Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* and a material identified as being subject to a resource recovery exemption by the NSW EPA
	Condition Reason: To ensure soil removed from the site is appropriately disposed of and soil imported to the site is not contaminated and is safe for future occupants
36)	**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: 1. All footings / foundations in relation to the site boundaries and any registered and proposed easements 2. 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
37)	**Waste management**
	While site work is being carried out: 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: i) The contact details of the person(s) who removed the waste ii) The waste carrier vehicle registration. iii) The date and time of waste collection. iv) A description of the waste (type of waste and estimated quantity) and whether the waste is to be reused, recycled or go to landfill. v) The address of the disposal location(s) where the waste was taken.

	vi) 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. 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
	Condition Reason: To require records to be provided, during site work, documenting the lawful disposal of waste
38)	**Sediment and Dust control**
	During site works, no sediment, dust, soil or similar material shall leave the site.
	Condition Reason: To protect the amenity of the area.
39)	**Construction materials**
	All materials associated with construction must be retained within the site.
	Condition Reason: To ensure the public domain is not affected during construction.
40)	**Excavation**
	While site work is carried out, any 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.
	Condition Reason: To ensure work is completed in an appropriate manner.
41)	**Consent documents available on site**
	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.
	Condition Reason: To ensure Council Officers are able to access the consent during any site inspection.
42)	**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.
43)	**Stormwater Management (Construction)**
	The stormwater drainage system on the site must be constructed in accordance with the Construction Certificate version of the Stormwater Management Plan by ALW Designs Job No SW22225 S1 & S2 issue A dated 08/07/22 submitted in compliance to the condition labelled “Stormwater Management.” and the requirements of Council in relation to the connection to the public drainage system.
	Condition Reason: To ensure the stormwater system is constructed as approved.
44)	**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.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

45)	**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.
46)	**Removal of waste upon completion**
	Before the issue of an Occupation Certificate: a. 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 b. 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.
47)	**Repair of infrastructure**
	Before the issue of an Occupation Certificate: 1. any public infrastructure damaged as a result of the carrying out of work approved under this consent (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) must be fully repaired to the written satisfaction of Council, and at no cost to Council; or 2. if the works in (a) are not carried out to Council's satisfaction, Council may carry out the works required and the costs of any such works must be paid as directed by Council and in the first instance will be paid using the security deposit required to be paid under this consent.
	Condition reason: To ensure any damage to public infrastructure is rectified.
48)	**BASIX**
	Before the issue of any Occupation Certificate, documentary evidence of compliance with all commitments listed in the approved BASIX Certificate.

	Condition Reason: Statutory requirement.
49)	**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.
50)	**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: 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. e) Certification from an Engineer specialising in Flood and Overland Flow analysis that the finished surface levels and the habitable floor levels have been constructed in accordance with this development consent, that the overland flow path has been maintained as designed and that the requirements of the condition "Flood and Overland Flow Protection" have been satisfied. f) Certification from a suitably qualified geotechnical engineer confirming that the Geotechnical Monitoring Program (GMP) was implemented throughout the course of construction and that all structures supporting neighbouring property have been designed and constructed to provide appropriate support of the neighbouring property and with consideration to any temporary loading conditions that may occur on that site, in accordance with the relevant Australian Standard and building codes.

	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.
51)	**Completion of landscape works**
	Before the issue of an occupation certificate, the principal certifier must be satisfied all landscape 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)

PRIOR TO OCCUPATION

52)	**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
53)	**Disused 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
54)	**Engineering Compliance Certificates**
	To ensure that all engineering facets of the development have been designed and constructed to the appropriate standards, Compliance Certificates must be obtained for the following items and are to be submitted to the Accredited Certifier prior to the release of any Occupation Certificate. All certification must be issued by a qualified and practising civil engineer having experience in the area respective of the certification unless stated otherwise. a) Confirming that all components of the parking areas contained inside the site comply with the relevant components of AS 2890 and Council's DCP 2014 Part 9.3 (Parking Controls). b) Confirming that the Stormwater Management system servicing the development complies with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures, and has been constructed to function in accordance with all conditions of this consent relating to the discharge of stormwater from the site. c) Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including any on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.

	d) Confirming that erosion and sediment control measures were implemented during the course of construction and were in accordance with the manual *"Managing Urban Stormwater: Soils and Construction"* by the NSW Department – Office of Environment and Heritage and Council's DCP 2014 Part 8.1 (Construction Activities). e) Compliance certificate from Council confirming that all external works in the public road reserve 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

ONGOING USE

55)	**Air Conditioning equipment on Residential Premises**
	The air conditioning equipment must not: a) Emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open): i. before 8am and after 10pm on any Saturday, Sunday or public holiday; or ii. before 7am and after 10pm on any other day. b) 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). The source noise level must be measured as a LAeq 15 minute.
	Condition Reason: To ensure the use of air conditioning equipment on residential premises does not give noise to offensive noise.

Attachment 2 - DCP Compliance Table

Assessment of a Single Dwelling

Requirement	Comment	Compliance
Part 3.3 - Dwelling Houses and Dual Occupancy (attached)		
Section 1.0 Introduction		
Part 1.6 Site Analysis		
Site analysis to be submitted.	Drawing prepared by Dalgliesh Ward and dated 1/12/2023	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.	The development is consistent with the desired future character of the low density residential area	Yes
2.2 Dwelling Houses		
(a) Landscape setting which includes significant deep soil areas at the front and rear	Deep soil area is not provided at the front of the site	**No** Existing and retained situation (supported)
(b) Maximum two storeys high	Proposed dwelling is two storeys	Yes
(c) Dwellings address the street	The front entrance is located to the eastern side boundary and is setback 7.2 metres. The primary kitchen, dining and living area windows orientate to the street and the dwelling is considered to address the street.	Yes
(d) Boundary between public and private space is clearly articulated	Boundary between public and private space is clearly articulated	Yes
(e) Garages and carports are not to be visually prominent features	N/A – no changes proposed to the exterior of the garage (internal changes only)	Yes
(f) Dwellings are to response appropriately to the site analysis	Dwellings respond to the site analysis	Yes
2.5 Public Domain Amenity		
2.5.1 Streetscape		
(a) Site design, building setbacks and level changes respect the existing topography	Site design, building setbacks and level changes respect the existing topography	Yes
(b) Front gardens to complement and enhance streetscape character	A front garden has not been provided	**No**

Requirement	Comment	Compliance
(c) Dwelling design is to enhance the safety and amenity of the streetscape	Kitchen, dining and living windows and terrace orientate to the street	Yes
(d) 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	N/A – no changes proposed to the garage	Yes
(e) Driveways and hard stand areas are to be minimised	Driveways and hardstand areas are minimised	Yes
(f) Dwellings, garages and carports are to be orientated to match the prevailing orientation of such buildings in the streetscape	Dwellings are orientated to match the prevailing orientation of such building in the streetscape	Yes
(g) Facades from the public domain are to be well designed.	Facades from the public domain are well designed	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.	N/A – views to the water are not available from the street	Yes
(b) Garages/carports and outbuildings are not to be located within view corridor if they obstruct view.	N/A – views to the water are not available from the street	Yes
2.5.2 Pedestrian & Vehicle Safety		
(a) Car parking located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard. (b) Fencing that blocks sight lines is to be splayed. (c) Refer to relevant AS when designed driveways	N/A – no changes proposed to the garage	Yes
2.6 Site Configuration		

Requirement	Comment	Compliance
2.6.1 Deep Soil Areas		
(a) 35% of site area min.	25.8% (150.6m^2)	**No**
(b) Deep soil area must include:		
(i)Min 8x8m deep soil area in backyard.	8m x 8m has not been provided. However, the development provides a continuous area of 7.26m x 15m (i.e. 108.9m²) which exceeds the area required despite not meeting the minimum dimension.	**No**
(ii) Front garden area to be completely permeable (exception driveway, pedestrian path and garden walls).	N/A – given the topography of the site a front garden area has not been provided	
(c) Dual occupancies need only one 8m x 8m in back yard	N/A	N/A
(d) Deep soil areas to have soft landscaping	Deep soil areas have soft landscaping	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.	Deep soil areas are 100% permeable	Yes
2.6.2 Topography & Excavation		
(a) Building form and siting relates to the original topography of the land and of the streetscape.	Building form and siting relates to the original topography of the land and of the streetscape	Yes
(b) The area under the building footprint may be excavated or filled so long as:		
(i) the topography of the site requires cut and/or fill in order to reasonably	The topography of the site requires cut and fill to reasonably accommodate a dwelling	Yes

Requirement	Comment	Compliance
accommodate a dwelling		
(ii) the depth of excavation is limited to 1.2m maximum	320mm	Yes
(iii) the maximum height of fill is 900mm	500mm	Yes
(c) Areas outside the dwelling footprint may be excavation and/or filled so long as:		
(i) the maximum height of retaining walls is not >900mm	Retaining at 1.8m across the rear width of the site to provide a terraced lawn. This is existing.	**No**
(ii) the depth of excavation is not >900mm	420mm	Yes
(iii) the height of fill is not >500mm	N/A – no fill proposed outside the building footprint	Yes
(iv) the excavation and filled areas do not have an adverse impact on the privacy of neighbours	The excavation and filled areas do not have an adverse impact on the privacy of neighbours	Yes
(v) the filled areas do not have an adverse impact on the privacy of neighbours	N/A – no filled areas outside the building footprint	Yes
(vi) the area between the adjacent side wall of the house and the side boundary is not filled	N/A – no filled areas outside the building footprint	Yes
(vii) the filled areas are not adjacent to side or rear boundaries	N/A – filled areas outside the building footprint	Yes
(d) Fill is not allowed in areas of overland flow. Refer to Part 8.2 stormwater management	N/A – the site is not affected by overland flow	Yes

Requirement	Comment	Compliance
(e) Generally the existing topography is to be retained.	Generally, the existing topography is retained	Yes
2.7 Floor Space Ratio (FSR)		
(a) FSR is 0.5:1 in accordance Clause 4.4 (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.	Permitted: 0.5:1 (291.35m²) Proposed: 0.5:1 (291.25m²) It is noted 36m² has been excluded for 2 car spaces.	Yes Yes
2.8 Height		
2.8.1 Building height		
(a) Building heights are to be as follows: - Maximum height of 9.5 metres for dwellings and dual occupancy. - Outbuildings including garages and carports maximum height 4.5 metres.	Height of Building = 12.5m	**No**
<u>Maximum wall plate</u> - 7.5m max above FGL *or* - 8m max to top of parapet *NB:* *TOW = Top of Wall* *EGL = Existing Ground Level* - *FGL = Finished Ground Level*	TOW Height = 7.05m to 12.5m	**No**
<u>Maximum number of storeys:</u> - 2 storeys maximum (storey incl basement elevated greater than 1.2m above EGL).	Two storey dwelling proposed	Yes
- 1 storey maximum above attached garage incl semi-basement or at-grade garages	N/A – no storeys above garage	Yes
2.8.2 Ceiling Height		

Requirement	Comment	Compliance
(a) Habitable rooms to have 2.4m floor to ceiling height (min).	3m minimum room height.	Yes
2.9 Setbacks		
2.9.1 Front setbacks		
(a) Dwellings are generally to be set back 6m from street front boundary	6.6m to dwelling	Yes
(b) On corner sites, the setback secondary frontage minimum 2m	N/A – the site is not a corner allotment	Yes
(c) Garages and carports, including semi-basement garages and attached garages, set back min 1m from façade	N/A – no changes to existing garage	Yes
(d) The front setback free of structures. The exception is car parking structures which comply with 2.11.	Only the approved garage is located with the front setback	Yes
(e) Attached garages, including semi-basement garages on secondary frontages not to protrude forward of the façade. The exception is garages located on battle axe allotments. These garages do not need to be setback.	N/A – no changes to garage	Yes
(f) The outside face of wall built above a garage aligns with the outside face of the garage wall below.	N/A – the garage is detached from the dwelling	Yes
2.9.2 Side Setbacks		
(a) One storey dwellings setback 900mm	N/A	Yes
(b) Two storey dwellings setback 1.5m	Ground floor – 0.91m to 7.26m First floor – 0.91m to 6.108m	**No**
(c) The second storey addition to a single storey dwelling are to be set back 1.5m	N/A	Yes
(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	Yes

Requirement	Comment	Compliance
2.9.3 Rear Setbacks		
(a) The rear setback min 25% of the site length or 8m, whichever is greater.	A rear setback of 10.63m is 25% of site length. Proposed rear setback is 7.5m to 16.6m	**No**
(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 (b) Spaces can be enclosed or roofed. (c) Garages setback 1m behind front elevation. (d) Located forward of existing dwelling if: (i)there is no other suitable position (ii) no vehicular access to the rear of side of the site (iii)it is preferred that it is single car width. (e) Garages doors solid. No expanded mesh doors. (f) Preference located off laneways, secondary street frontages. (g) Driveway widths minimised. Driveways single car width except where needed to be widen to double garage access. (h) Driveways not roofed. (i) Min width 6m or 50% of the frontage whichever is less (j) Total width garage doors not be >5.7m (k) Driveways for battle axe enable vehicles to enter	N/A – no changes proposed to approved garage	N/A

Requirement	Comment	Compliance
and leave in forward direction (l) Garage doors not be recessed more than 300mm (m) Garage windows >900mm from boundaries (n) Free standing garages max GFA 36m² (o) Design and materials to complement dwelling (p) Setback at least 1m from façade (q) Carports not enclosed.		
2.13 Landscaping		
(a) Major trees to be retained where practical	No issues raised by Council's Consultant Landscape Architect	Yes
(b) Lots adjoining bushland, protect and retain indigenous native vegetation and use native indigenous plant spaces for a distance of 10m	N/A – the site is not affected by urban bushland	Yes
(c) Provide useful outdoor spaces	Useful outdoor spaces have been provided	Yes
(d) Physical connection between dwelling and external ground level	Physical connection between dwelling and external ground level	Yes
(e) Provide landscape front garden. Hard paved areas no more than 40%.	Retention of the existing garage within the front setback.	N/A
(f) Pathway along one side boundary connecting front to rear. Not to be blocked by ancillary structures. Not required where there is rear lane access or corner allotment.	Pathway provided along one side of dwelling	Yes
(g) Landscape elements in front garden to be compatible with scale of dwelling.	No issues raised by Council's Consultant Landscape Architect	Yes
(h) Front garden at least 1 canopy tree at least 10m in height	Not provided	**No**

Requirement	Comment	Compliance
(i) Mature tree at least 15m in rear garden with the DSA	One tree provided with a height of 10m	**No**
(j) Locate and design landscaping top increase privacy between dwellings	Screen planting provided on eastern side boundary and rear boundary	Yes
(k) Hedge planting on boundary no greater than 2.7m	14 x Lilypilly at 2.5m to the side. 10 x Vibernum at 3.0m along the rear (condition included to change species to Lilypilly).	Satisfactory subject to condition
(l) Retaining walls and other landscape elements not to obstruct stormwater overland flow.	No issues raised by Council's Development Engineer	Yes
(m) OSD not to be located within front setback unless it is underneath driveway	Rainwater tank located within existing garage. No issues raised by Council's Development Engineer	Yes
(n) Landscaping to include POS	Landscaping includes POS	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	Living area orientate north and south	**No**
(b) Sites with northern side boundary to have increased setback of 4 metres is preferred.	N/A – north orientates to the rear	Yes
<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.	North facing lounge window receives 3 hours from 9am 1 12pm	Yes
(d) Private open space is to receive at least 2 hours sunlight between 9am to 3pm on June 21.	POS receives 2 hours between 11am and 1pm	Yes
<u>Neighbouring properties:</u>		
(e) For neighbouring properties:		

Requirement	Comment	Compliance
(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	POS receives 2 hours of solar access	
(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.	North facing windows receive 3 hours of solar access	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	Kitchen window, pantry window, two dining windows, entry window and two lounge windows orientate to the side	**No**
(b) Orientate terraces, balconies and outdoor living areas to front or rear and not side boundary	Terraces and balconies orient to the front and the street	Yes
(c) Terraces and balconies are not to overlook neighbour's living areas and POS	Rear facing first floor balconies result in overlooking	**No**
(d) Living and kitchen windows, terraces and balconies are not to allow direct view into neighbouring dwelling or POS	Rear facing first floor balconies result in overlooking	**No**
(e) Side windows are to be offset by sufficient distance to avoid visual connection between dwellings.	4 Delmar – corridor window, entry window are not offset 8 Delmar – windows not shown on survey.	**No**
(f) Splayed walls with windows are not to be located above ground level where the windows	N/A – no splayed walls	Yes

Requirement	Comment	Compliance
provide views into adjoining property.		
2.14.3 Acoustic Privacy		
(a) Noise of mechanical equipment not exceed 5dB(A) above background noise measured in or on any premises in vicinity of the item.	N/A – air conditioning unit is not proposed	Yes
(b) Dwellings on arterial roads double glazed windows fronting road.	N/A	Yes
(c) Dwellings on arterial roads acoustic seal on the front door.	N/A	Yes
(d) Dual occupancies are to be designed to reduce noise transmission between dwellings.	N/A	Yes
2.14.4 View Sharing		
(a) The siting of development is to provide for view sharing.	The proposal provides for view sharing	Yes
2.14.5 Cross Ventilation		
(a) Designed to optimise access to prevailing breezes and provide for cross ventilation.	The plan layout is designed to optimise access to prevailing breezes and provides for cross ventilation	Yes
2.15 External Building Elements		
2.15.1 Roofs		
(a) Relate roof design to the desired built form by: (i) articulating the roof (ii) roof is consistent with the architectural character of dwelling (iii) eaves minimum 450mm overhang on pitched roofs (iv) compatible roof form, slope, material and	An articulated roof is proposed. The roof is consistent with the architectural character of the dwelling. N/A – no eaves, parapet roof proposed. The roof form, slope, material and colour is compatible with adjacent buildings. Roof height is in proportion to the wall height of the building.	Yes

Requirement	Comment	Compliance
colour to adjacent buildings (v) roof height is in proportion to the wall height of the building		
(b) The main roof not trafficable terrace.	Main roof is not a trafficable terrace	Yes
(c) Proposed attic contained within the volume of the roof space.	N/A	Yes
(d) Skylights to be minimised on roof planes visible from the public domain. Skylights are to be symmetrical.	Skylights are minimised and symmetrical	Yes
(e) The front roof plane is not to contain both dormer and skylight. Dormers are preferred.	N/A – no dormer windows	Yes
(f) Balconies and terraces are not to be set into roofs.	Balconies and terraces are not set into roofs	Yes
(g) Scale of the roof is to be in proportion with the scale of the wall below.	Scale of the roof is in proportion to the scale of the wall below	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	Yes
2.16 Fences		
2.16.1 Front and return Fences and Walls		
(a) Reflect the design of the dwelling (b) Materials compatible with the house and other fences in streetscape (c) Solid fence or wall max 900mm.Open light weight fence (timber picket) 1m. (d) Return fence is to be no higher than front fence (e) Fences max 1.8m if 50% open with solid base max 900mm	N/A – no front fence proposed	Yes

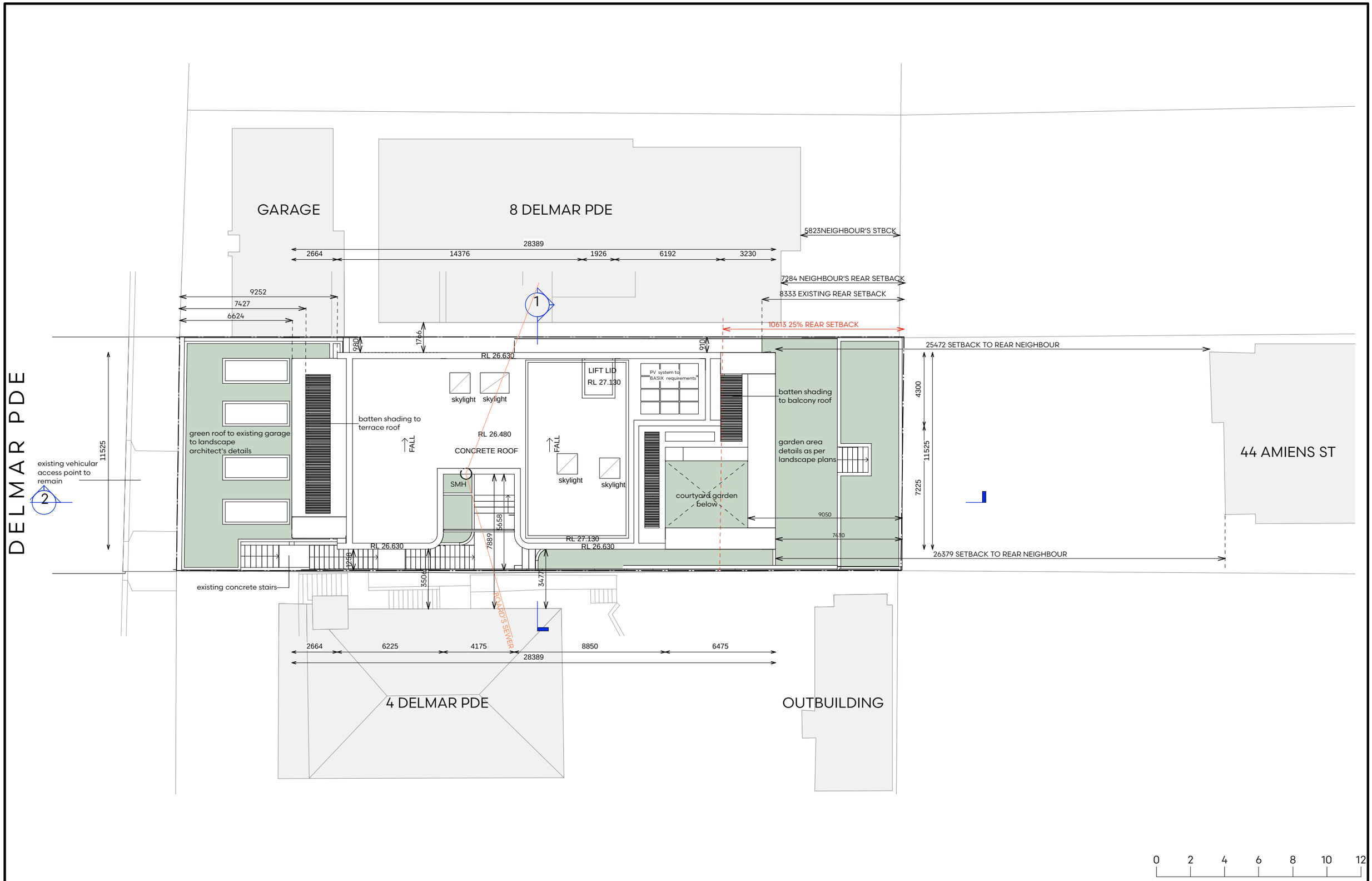
Requirement	Comment	Compliance
(f) Fences arterial road solid and 1.8m max (g) No Colorbond or timber paling. (h) Retaining walls max 900mm (i) Fence Overland flow - fencing open not impede flow of water (j) piers max 350mm.		
2.16.2 Side and Rear Fences and Walls		
(a) 1.8m Max side and rear fence	The existing side boundary fences are proposed to be made good 1.8m high fence proposed at the rear	Yes
(b) Overland flow - fencing to be open not impede flow of water	N/A – the site is not affected by overland flow	Yes
(c) No Barbed wire, broken glass or other dangerous elements.	N/A	Yes
(d) Fencing forward of the foreshore building line open and permeable.	N/A	Yes
Part 7: Environment		
7.1: Energy Smart, Water Wise		
3.0 The information Guide		
3.2 Required information		
(a) Energy efficiency performance report (b) Site analysis	BASIX Certificate: 1322544S_03 and dated 8 November 2022 Energy: 54 Water: 40 Plans consistent with Certificate	Yes
Part 7.2 Waste Minimisation and Management		
2.3 All developments		
(a) Developments must provide space for onsite waste containers	A Site Waste Minimisation and Management Plan has been submitted and is considered acceptable	Yes

Requirement	Comment	Compliance
(b) Compliant size of storage areas and number of storage containers. (c) Space to be provided for bulk waste where appropriate. (d) Storage of green waste provided (e) Stored within the boundaries of the site. (f) Site Waste Minimisation and Management Plan (SWMMP) to be submitted (g) Located to provide easy, direct and convenient access. (h) No incineration devices. (i) Collection point identified on plan. (j) Path for wheeling bin collection not less than 14		
2.4 Demolition and Construction		
(a) Demolition must comply with AS and WorkCover	Are works proposed to the rear retaining wall Building identification survey is acceptable.	Yes
(b) Demolition work plan submitted		Yes
(c) Dedicated area on site for stockpile of materials taking into account environmental factors and amenity impacts.		Yes
(d) Construction materials to be stored away from the waste materials on site.		Yes Conditioned
2.5 Residential Developments comprising 1 or 2 Dwellings		
(a) Space inside each dwelling for receptacles for garbage, recycling.	Provided	Yes
(b) Space provided outside the dwellings to store the required garbage, recycling and green waste bins. Screened from street. Easy access	Provided	Yes

Requirement	Comment	Compliance
to wheel the bins to the kerbside.		
Part 8: Engineering		
8.1 Construction Activities		
2.1.2 Erosion and Sediment Control Plan		
Erosion and sediment control plan to be submitted.	Conditions recommended	Yes
Part 8.2 Stormwater and Floodplain Management		
2.0 Stormwater Drainage		
(a) Drainage is to be piped in accordance with Section 2.0 Stormwater Drainage Application has been consideration satisfactory by Development Engineering and City Works.	Stormwater Plan prepared by alw design Job No. SW22225 Dwg No. SW22225-S1 and S2 Revision A and dated 8/07/2022 Proposal has been considered satisfactory by Council's Development Engineer	Yes
4.0 Flooding and Overland Flow		
4.4.1(a) 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 4.4.5(b) 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. 4.4.5(d) development must not divert major overland flows or reduce flood storage such to adversely impact the neighbouring property or surrounding area.	N/A – the site is not affected by flooding	Yes
Part 8.3 Driveways		
3.0 Existing footway crossings		
3.1(a) 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. 3.2(a) disused footway crossing slabs that become redundant	N/A – no changes proposed	Yes

Requirement	Comment	Compliance
are to be removed and footway restored.		
4.0 Designing internal access roads and parking spaces		
4.1 (a) the design of all parking spaces, circulation roads and manoeuvring areas on the property must confirm to the minimum requirements of AS2890.1-2004.	N/A – no changes proposed to parking	Yes
4.2 Design of Parking Spaces		
(b) Vehicles (85th percentile) to enter and leave designated parking space in a single 3 point turn manoeuvre. A 99th 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.	N/A – no changes proposed to parking	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 – no changes proposed No issues raised by Council's Development Engineer	Yes
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.	An accessible path has not been provided. This is considered acceptable given the slope of the site.	Yes
Part 9.3 Parking Controls		
2.2 Residential Lane Uses		
- Dwelling houses up to 2 spaces/dwelling	N/A – no changes to garage	Yes

Requirement	Comment	Compliance
- Dual occupancy 1 space/dwelling		



DALGLIESH WARD
AND ASSOCIATES PTY LTD
ARCHITECTS

PO BOX 36	GLADESVILLE NSW 2111
EMAIL :	STUDIO@DALGLIESHWARD.COM
GEOFF DALGLIESH	M : 0405 168 364
REGISTERED ARCHITECT	NO 7656
DANIEL WARD	M : 0416 228 374
REGISTERED ARCHITECT	NO 7672

NOTES
DA SUBMISSION AUGUST 2022

APPROVED

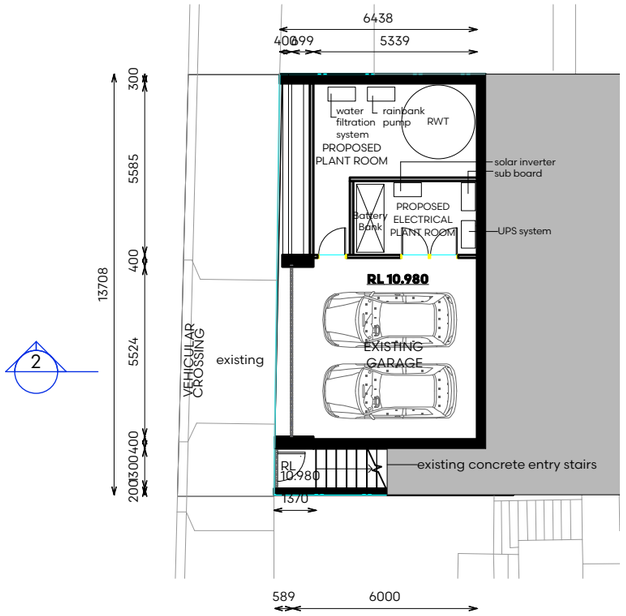
REVISIONS

PROJECT
NEW HOME AT 6 DELMAR PDE, GLADESVILLE
LOT: 19 DP: 16334 APPLICANTS: MR MARCO SALVATI

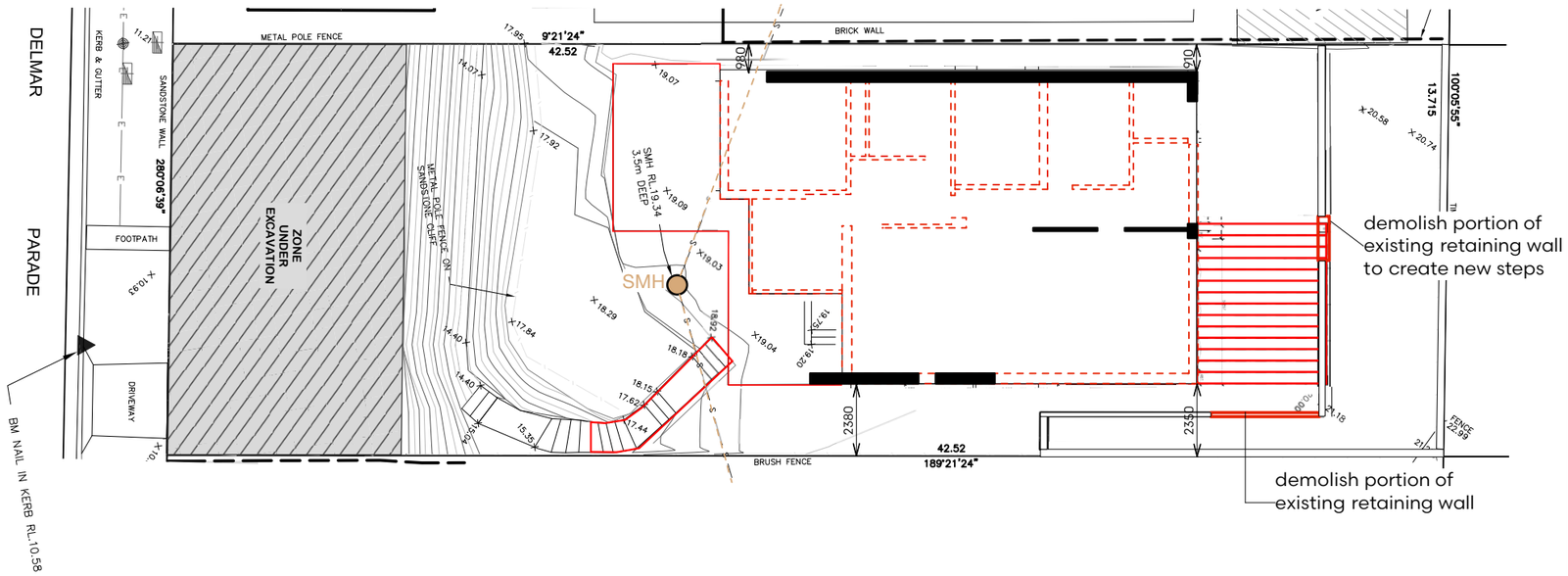
DRAWING TITLE
SITE / ROOF PLAN

PROJECT NO	-	REVISION	B
DRAWN	GJD	CHECKED	DTW
SCALE	1:200@A3	DRAWING NO	DA02
DATE	01/12/23		

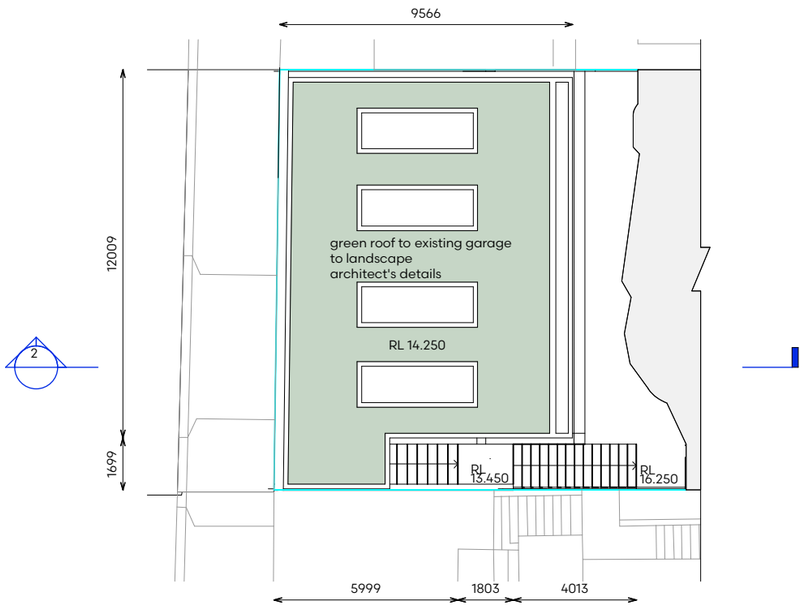
9 May 2024



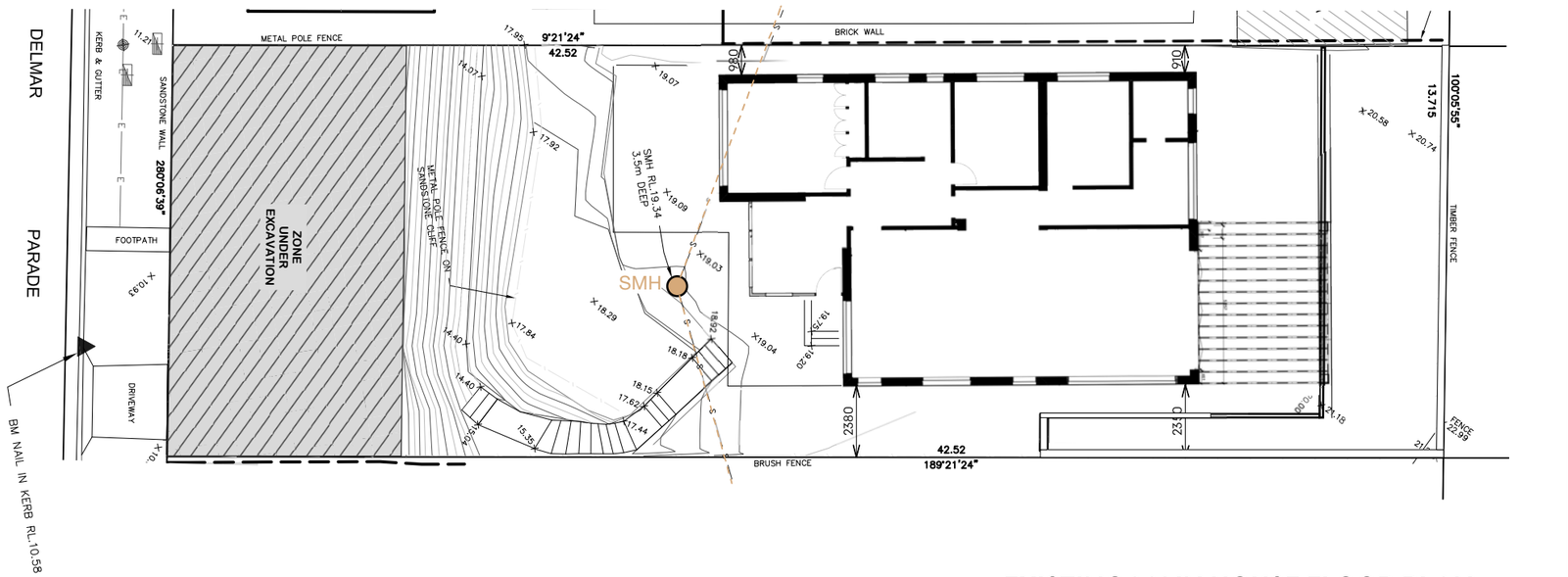
PROPOSED GARAGE PLAN



PROPOSED DEMOLITION PLAN



PROPOSED GARAGE ROOF PLAN



EXISTING MAIN HOUSE FLOOR PLAN

0 2 4 6 8 10 12

DALGLIESH WARD AND ASSOCIATES PTY LTD ARCHITECTS

PO BOX 36 GLADESVILLE NSW 2111
EMAIL : STUDIO@DALGLIESHWARD.COM
GEOFF DALGLIESH M : 0405 168 364
REGISTERED ARCHITECT NO 7656
DANIEL WARD M : 0416 228 374
REGISTERED ARCHITECT NO 7672

NOTES
DA SUBMISSION AUGUST 2022

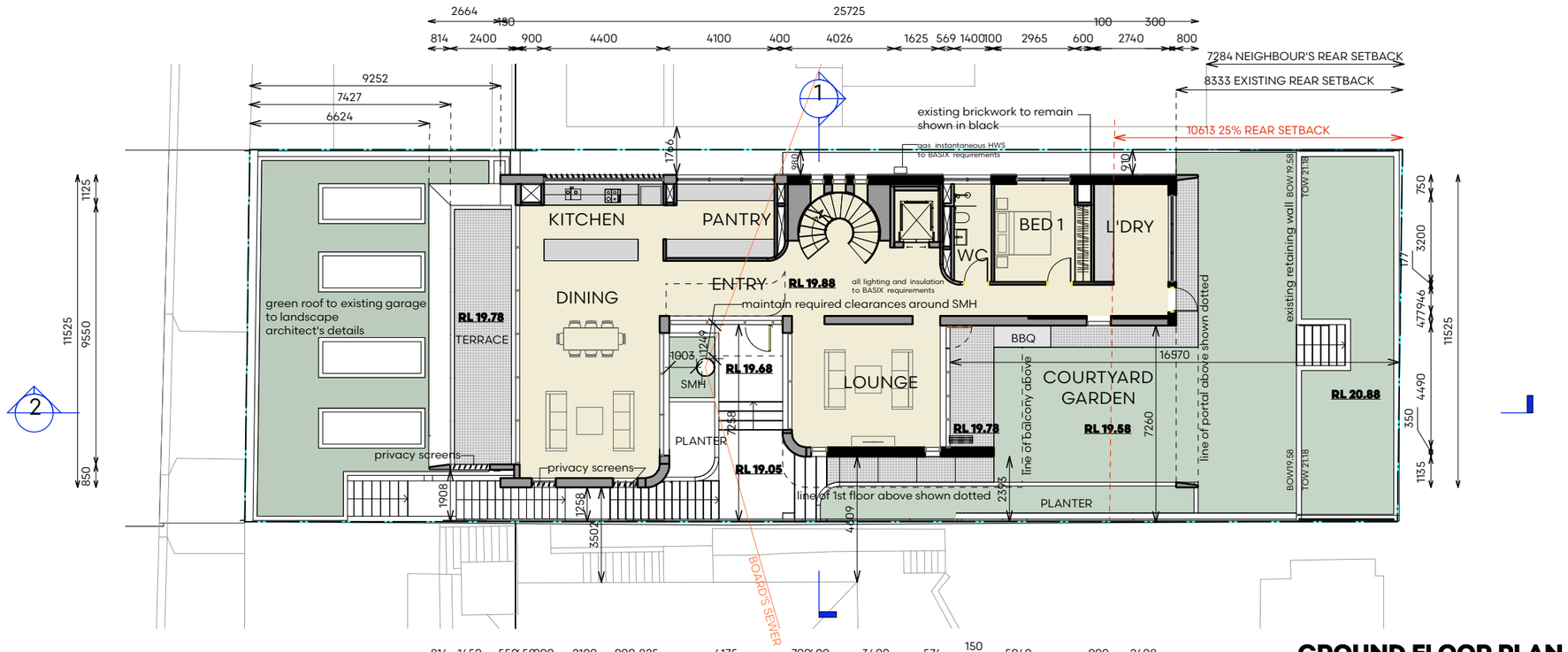
APPROVED

REVISIONS

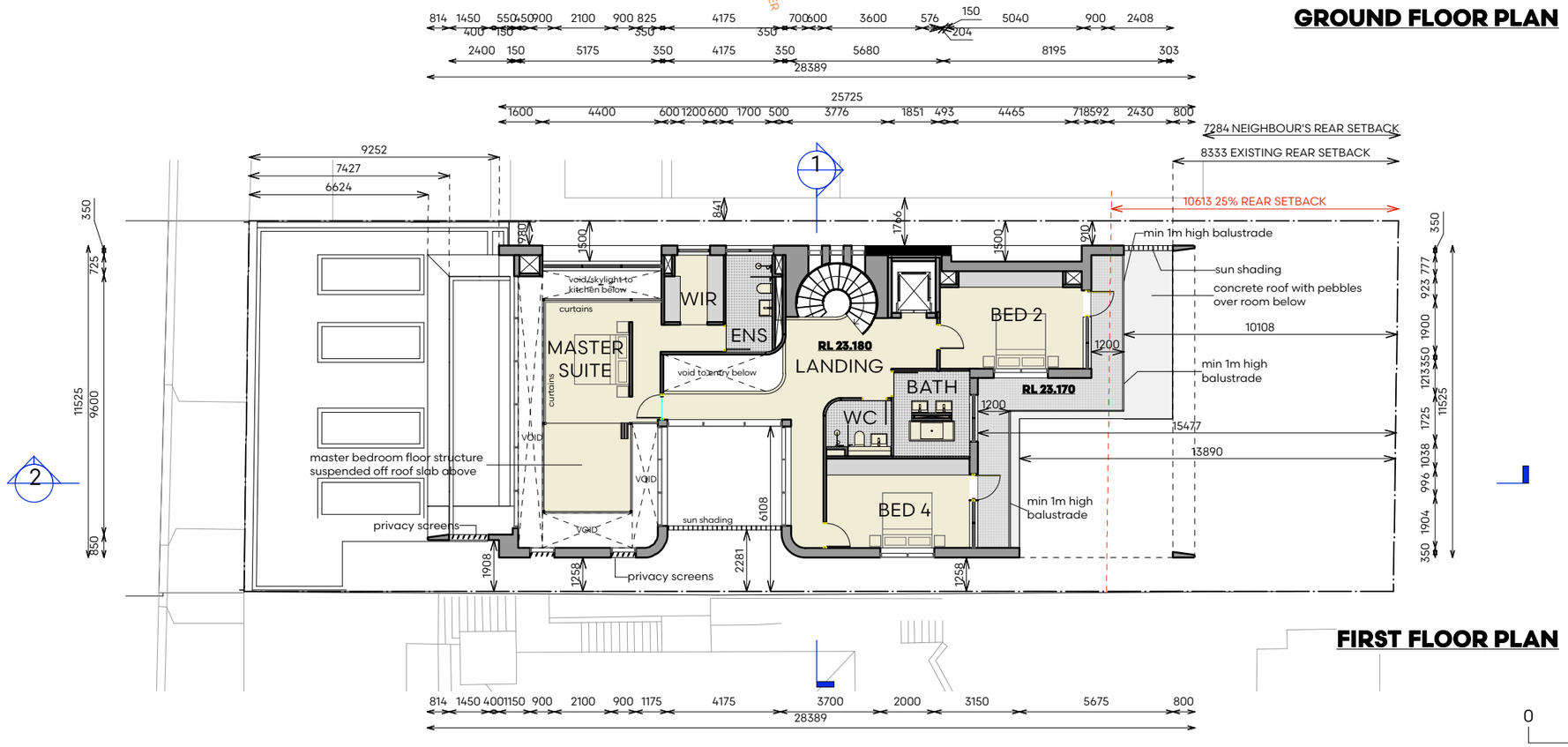
PROJECT
NEW HOME AT 6 DELMAR PDE, GLADESVILLE
LOT: 19 DP: 16334 APPLICANTS: MR MARCO SALVATI

DRAWING TITLE
EXISTING PLANS AND PROPOSED DEMOLITION

PROJECT NO	-	REVISION	B
DRAWN	GJD	CHECKED	DTW
SCALE	1:200@A3	DRAWING NO	DA03
DATE	01/12/23		



GROUND FLOOR PLAN



FIRST FLOOR PLAN

0 2 4 6 8 10 12

DALGLIESH WARD AND ASSOCIATES PTY LTD ARCHITECTS

PO BOX 36	GLADESVILLE NSW 2111
EMAIL :	STUDIO@DALGLIESHWARD.COM
GEOFF DALGLIESH	M : 0405 168 364
REGISTERED ARCHITECT	NO 7656
DANIEL WARD	M : 0416 228 374
REGISTERED ARCHITECT	NO 7672

NOTES
DA SUBMISSION AUGUST 2022

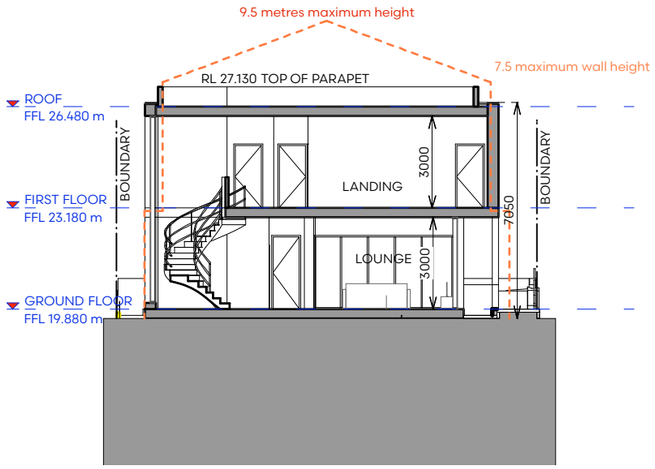
APPROVED

REVISIONS

PROJECT
NEW HOME AT 6 DELMAR PDE, GLADESVILLE
LOT: 19 DP: 16334 APPLICANTS: MR MARCO SALVATI

DRAWING TITLE
PROPOSED FLOOR PLANS

PROJECT NO	-	REVISION	B
DRAWN	GJD	CHECKED	DTW
SCALE	1:200@A3	DRAWING NO	DA04
DATE	01/12/23		



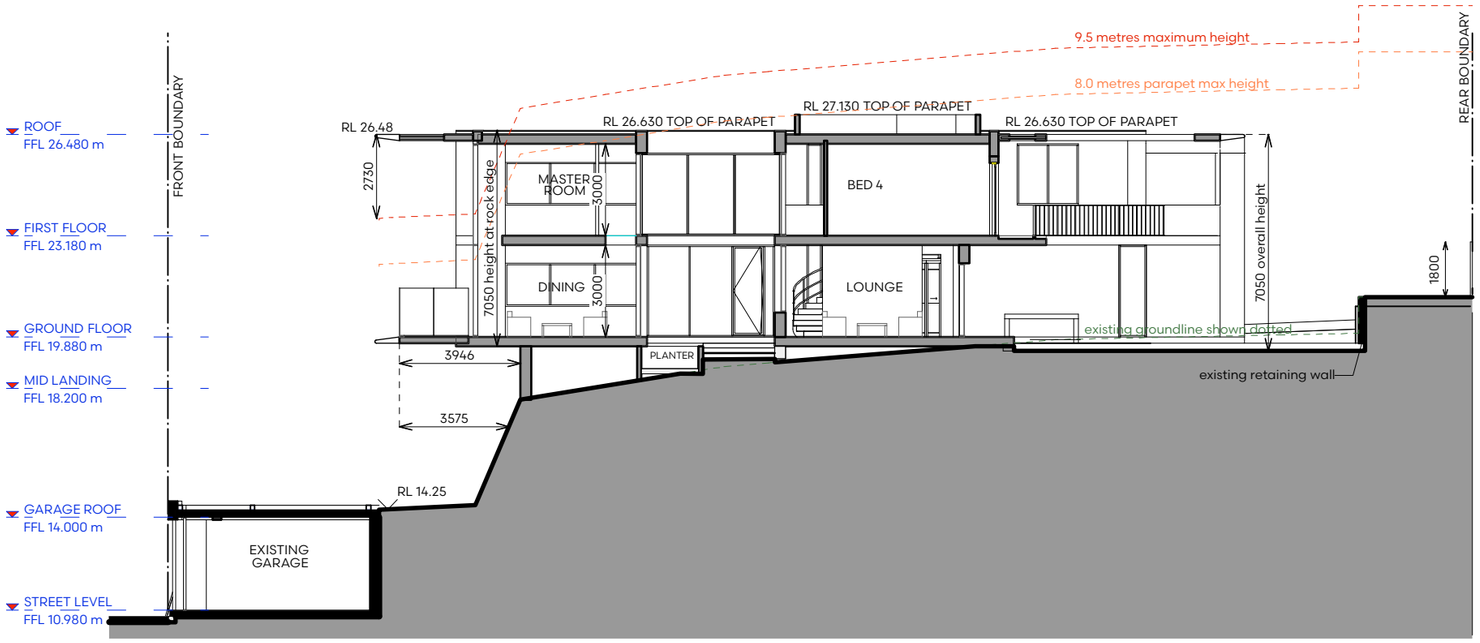
EXTERNAL FINISHES LEGEND

01	WHITE BRICK
02	WHITE RENDER WALL
03	EXPOSED CONCRETE WALL
04	BLUESTONE CLADDING
05	EXTRUDED ALUMINIUM BLADE (MONUMENT)
06	EXTRUDED ALUMINIUM FRAME (MONUMENT)
07	EXTRUDED ALUMINIUM BALUSTRADE
08	METAL ROOF CAPPING (MONUMENT)
09	CLEAR GLASS (CRYSTAL GREY)
10	CLEAR GLASS CRYSTAL GREY BALUSTRADE
11	STONE PAVER (SANDSTONE 1200 X 600)
12	FOLDED GARAGE DOOR EXTRUDED RHS
13	SOLID ALUMINIUM FOLDED CLADDING
14	EXTRUDED ALUMINIUM FOLDING DOOR

FLOOR FINISHES

CONC1	POLISHED CONCRETE FLOOR
CTL1	CERAMIC TILES

SECTION 1



SECTION 2

0 2 4 6 8 10 12

DALGLIESH WARD AND ASSOCIATES PTY LTD ARCHITECTS
PO BOX 36 GLADESVILLE NSW 2111
EMAIL : STUDIO@DALGLIESHWARD.COM
GEOFF DALGLIESH M : 0405 168 364
REGISTERED ARCHITECT NO 7656
DANIEL WARD M : 0416 228 374
REGISTERED ARCHITECT NO 7672

NOTES
DA SUBMISSION AUGUST 2022

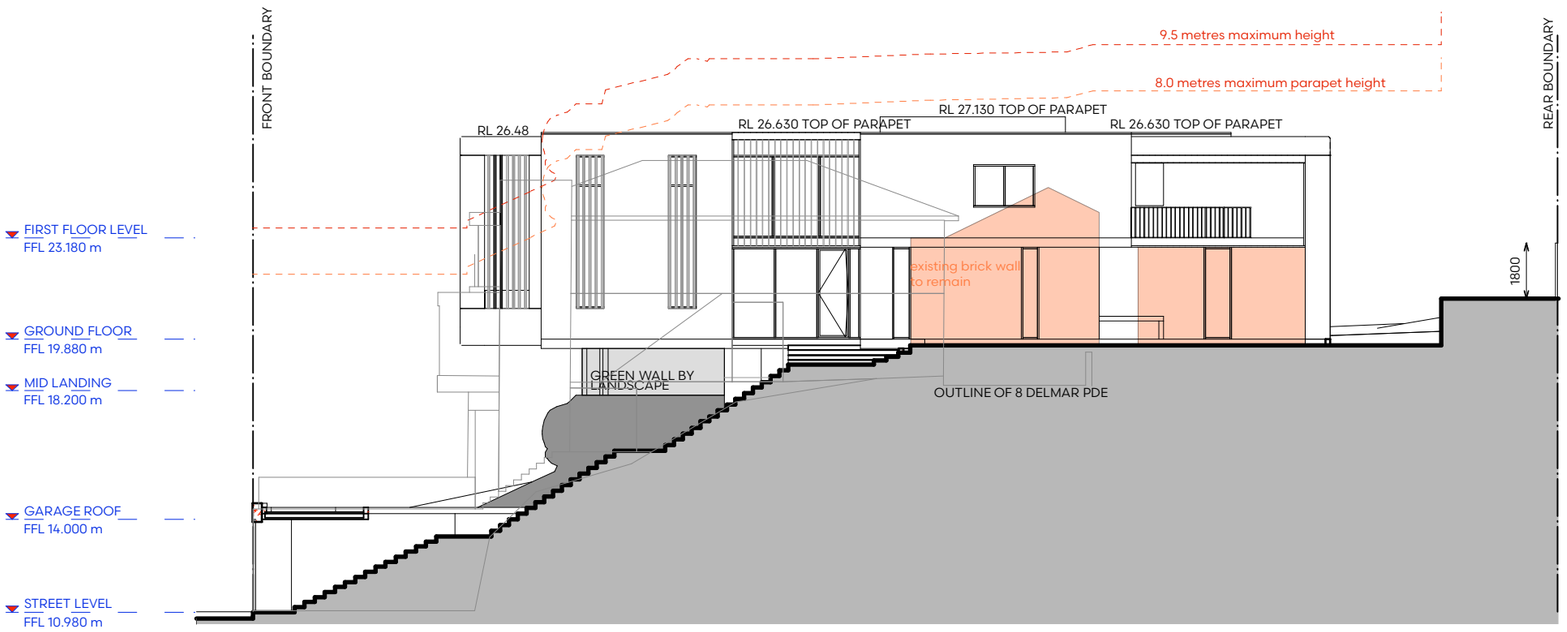
APPROVED

REVISIONS

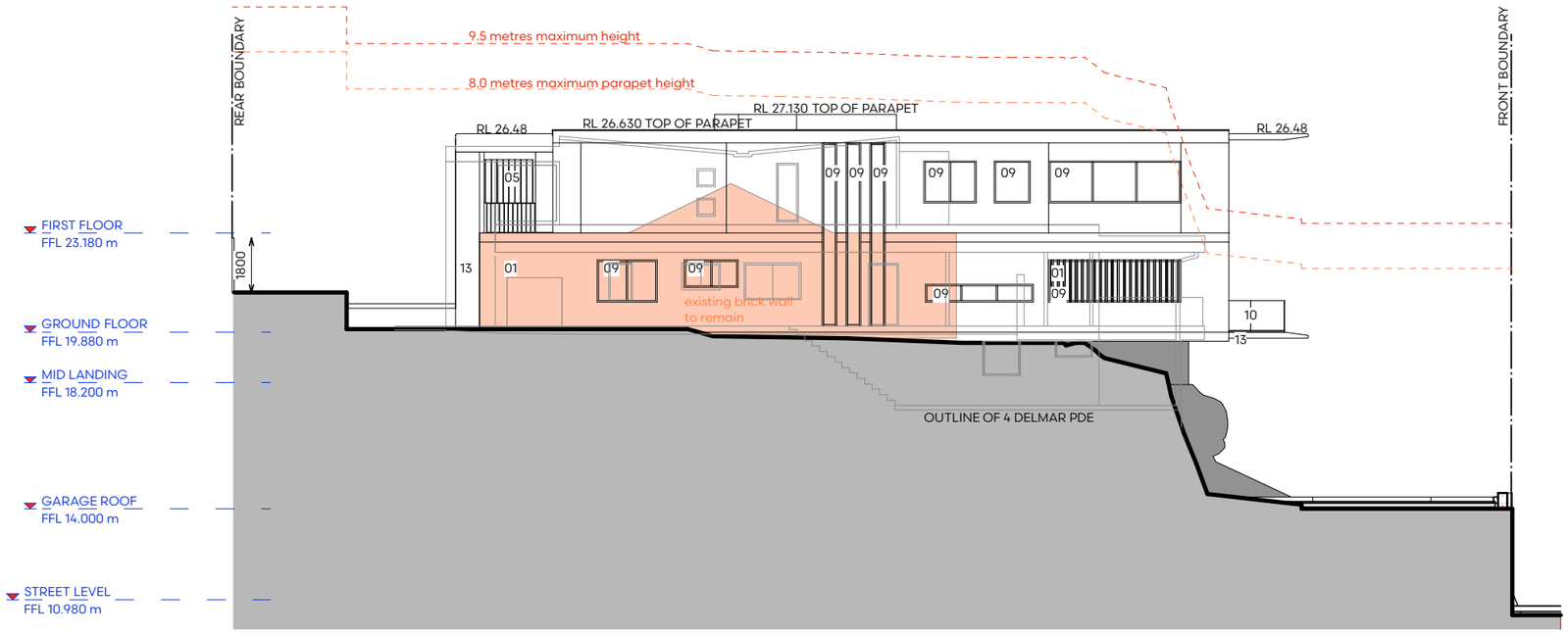
PROJECT
NEW HOME AT 6 DELMAR PDE, GLADESVILLE
LOT: 19 DP: 16334 APPLICANTS: MR MARCO SALVATI

DRAWING TITLE
SECTIONS 1 & 2

PROJECT NO	-	REVISION	B
DRAWN	GJD	CHECKED	DTW
SCALE	1:200@A3	DRAWING NO	DA05
DATE	01/12/23		



EAST ELEVATION



WEST ELEVATION

0 2 4 6 8 10 12

EXTERNAL FINISHES LEGEND

01	WHITE BRICK
02	WHITE RENDER WALL
03	EXPOSED CONCRETE WALL
04	BLUESTONE CLADDING
05	EXTRUDED ALUMINIUM BLADE (MONUMENT)
06	EXTRUDED ALUMINIUM FRAME (MONUMENT)
07	EXTRUDED ALUMINIUM BALUSTRADE
08	METAL ROOF CAPPING (MONUMENT)
09	CLEAR GLASS (CRYSTAL GREY)
10	CLEAR GLASS CRYSTAL GREY BALUSTRADE
11	STONE PAVER (SANDSTONE 1200 X 600)
12	FOLDED GARAGE DOOR EXTRUDED RHS
13	SOLID ALUMINIUM FOLDED CLADDING
14	EXTRUDED ALUMINIUM FOLDING DOOR

FLOOR FINISHES

CONC1	POLISHED CONCRETE FLOOR
CTL1	CERAMIC TILES

DALGLIESH WARD
AND ASSOCIATES PTY LTD
ARCHITECTS

PO BOX 36 GLADESVILLE NSW 2111
EMAIL : STUDIO@DALGLIESHWARD.COM
GEOFF DALGLIESH M : 0405 168 364
REGISTERED ARCHITECT NO 7656
DANIEL WARD M : 0416 228 374
REGISTERED ARCHITECT NO 7672

NOTES
DA SUBMISSION AUGUST 2022

APPROVED

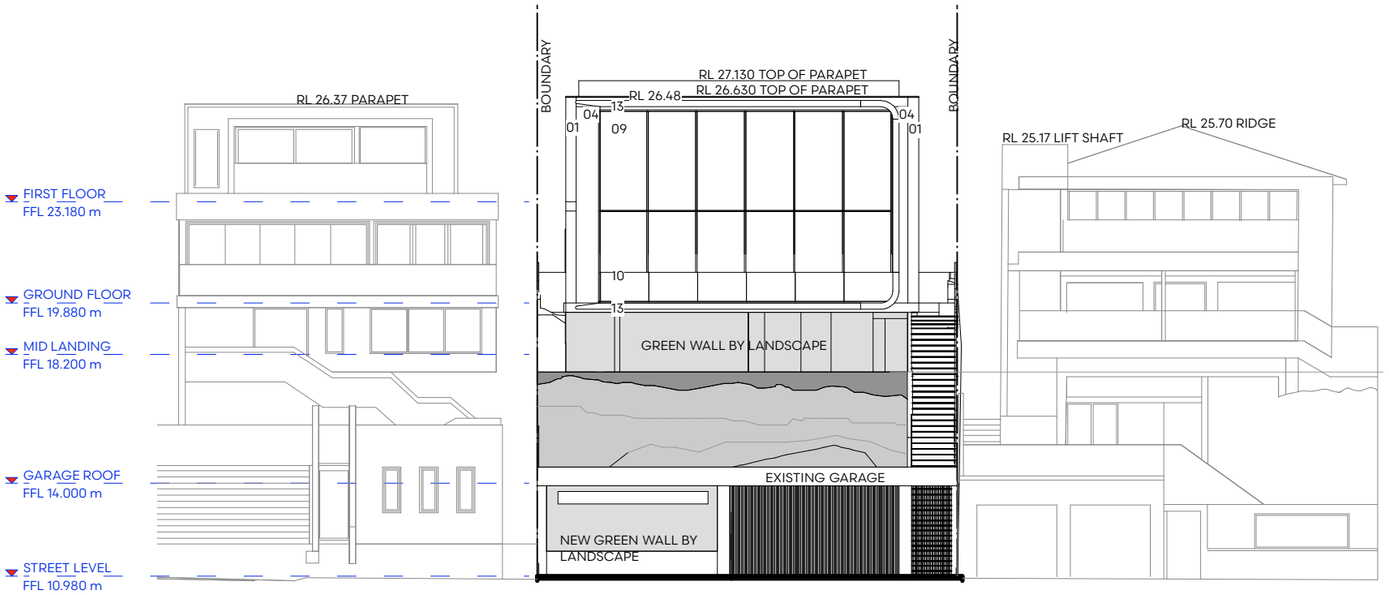
REVISIONS

PROJECT
NEW HOME AT 6 DELMAR PDE, GLADESVILLE
LOT: 19 DP: 16334 APPLICANTS: MR MARCO SALVATI

DRAWING TITLE
EAST AND WEST ELEVATIONS

PROJECT NO	-	REVISION	B
DRAWN	GJD	CHECKED	DTW
SCALE	1:200@A3	DRAWING NO	DA06
DATE	01/12/23		

NORTH (REAR) ELEVATION



SOUTH (STREET) ELEVATION

EXTERNAL FINISHES LEGEND

01	WHITE BRICK
02	WHITE RENDER WALL
03	EXPOSED CONCRETE WALL
04	BLUESTONE CLADDING
05	EXTRUDED ALUMINIUM BLADE (MONUMENT)
06	EXTRUDED ALUMINIUM FRAME (MONUMENT)
07	EXTRUDED ALUMINIUM BALUSTRADE
08	METAL ROOF CAPPING (MONUMENT)
09	CLEAR GLASS (CRYSTAL GREY)
10	CLEAR GLASS CRYSTAL GREY BALUSTRADE
11	STONE PAVER (SANDSTONE 1200 X 600)
12	FOLDED GARAGE DOOR EXTRUDED RHS
13	SOLID ALUMINIUM FOLDED CLADDING
14	EXTRUDED ALUMINIUM FOLDING DOOR

FLOOR FINISHES

CONC1	POLISHED CONCRETE FLOOR
CTL1	CERAMIC TILES

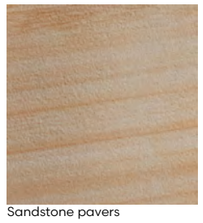
Austral Bricks Miro or similar
white face brick

Dulux Natural White or similar
Rendered Walls

Off form concrete walls

Bluestone cladding

Dulux Monument or similar
Aluminium blades, roof cappings etc


Sandstone pavers

Polished concrete

0 2 4 6 8 10 12

DALGLIESH WARD
AND ASSOCIATES PTY LTD
ARCHITECTS

PO BOX 36 GLADESVILLE NSW 2111
EMAIL : STUDIO@DALGLIESHWARD.COM
GEOFF DALGLIESH M : 0405 168 364
REGISTERED ARCHITECT NO 7656
DANIEL WARD M : 0416 228 374
REGISTERED ARCHITECT NO 7672

NOTES
DA SUBMISSION AUGUST 2022

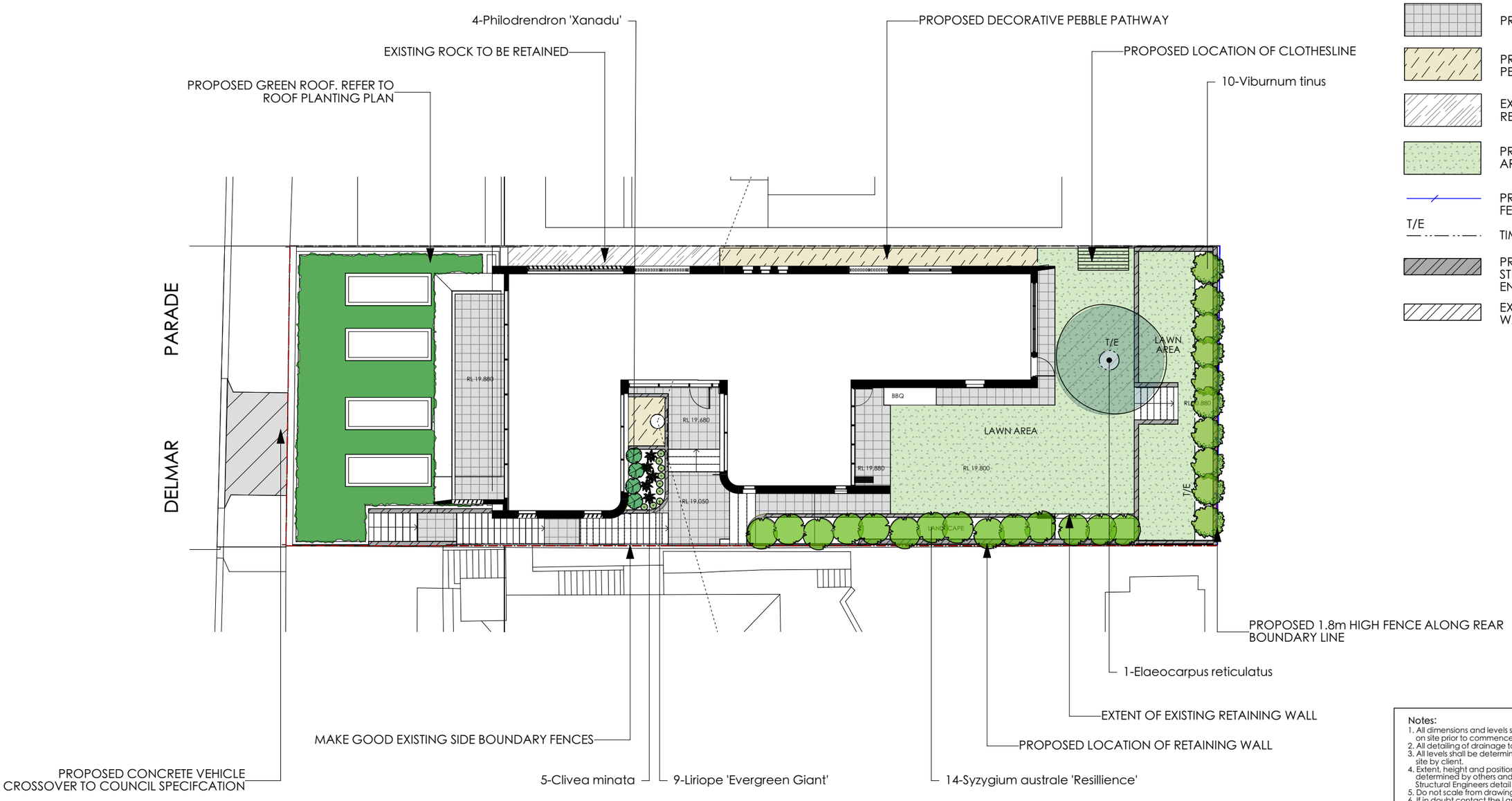
APPROVED

REVISIONS

PROJECT
NEW HOME AT 6 DELMAR PDE, GLADESVILLE
LOT: 19 DP: 16334 APPLICANTS: MR MARCO SALVATI

DRAWING TITLE
NORTH AND SOUTH ELEVATIONS

PROJECT NO	-	REVISION	B
DRAWN	GJD	CHECKED	DTW
SCALE	1:200@A3	DRAWING NO	DA07
DATE	01/12/23		



LEGEND

- PROPOSED VEHICULAR CROSSING TO COUNCIL SPECIFICATION
- PROPOSED TILED FINISH
- PROPOSED DECORATIVE PEBBLE
- EXISTING ROCK TO BE RETAINED
- PROPOSED LAWN AREA
- PROPOSED 1.8m HIGH FENCE
- T/E — TIMBER LAWN EDGE
- PROPOSED WALL TO STRUCTURAL ENGINEER'S DETAIL
- EXISTING RETAINING WALL

Notes:
1. All dimensions and levels shall be verified by Contractor on site prior to commencement of work.
2. All detailing of drainage to paved areas shall be by others.
3. All levels shall be determined by others and approved on site by client.
4. Extent, height and position of all retaining walls shall be determined by others and approved on site by client, to Structural Engineers detail.
5. Do not scale from drawings.
6. If in doubt contact the Landscape Architect.
7. All boundaries shall be surveyed prior to commencement of construction works.
8. This plan is for DA purposes only.
9. All dimensions, levels and boundaries are nominal only.
10. This design shall not be copied, utilised or reproduced in any way without prior written permission of B + E Landscape Architects.

LANDSCAPE PLAN - DEVELOPMENT APPLICATION

LANDSCAPE ARCHITECT
A 211/2B WHARF ROAD, MELROSE PARK
NSW 2114
M 0412 262 282
E bowie@belandscapearchitects.com.au

B+E LANDSCAPE ARCHITECTS

CLIENT

DELMAR PARADE

GROUND FLOOR

NOMINATED LANDSCAPE ARCHITECT: BOWIE WONG

PROJECT: 6 DELMAR PARADE, GLADESVILLE

DRAWN: BW

CHECKED: EA

A

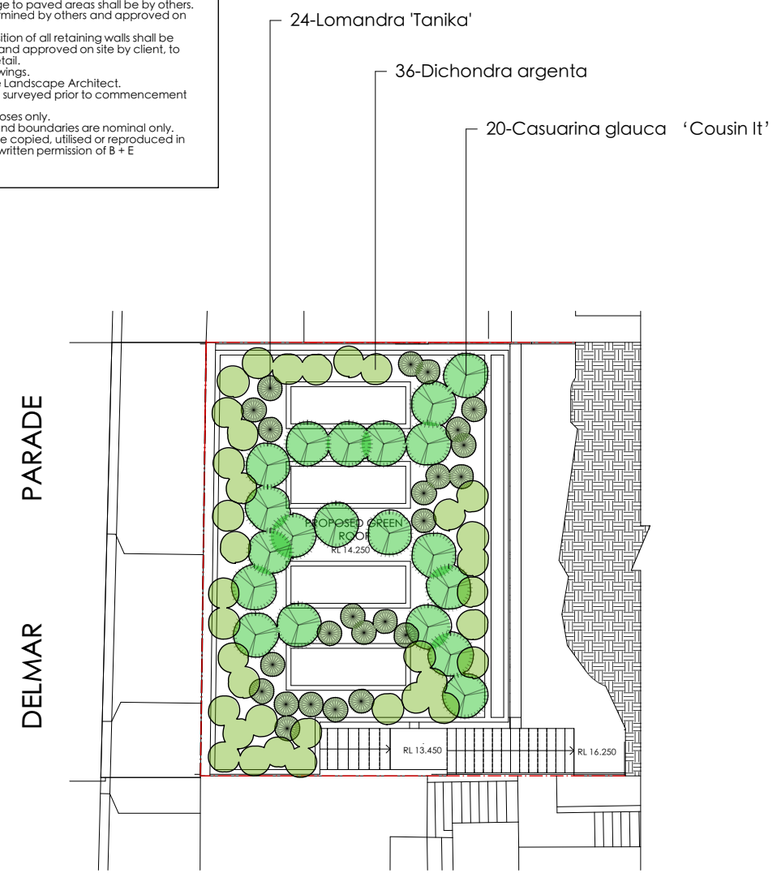
SCALE 1:200 @ A3 1:100 @ A1

DATE: 5TH JULY 2022

PROJECT: DELMAR

L01

Notes:
1. All dimensions and levels shall be verified by Contractor on site prior to commencement of work.
2. All detailing of drainage to paved areas shall be by others.
3. All levels shall be determined by others and approved on site by client.
4. Extent, height and position of all retaining walls shall be determined by others and approved on site by client, to Structural Engineers detail.
5. Do not scale from drawings.
6. If in doubt contact the Landscape Architect.
7. All boundaries shall be surveyed prior to commencement of construction works.
8. This plan is for DA purposes only.
9. All dimensions, levels and boundaries are nominal only.
10. This design shall not be copied, utilised or reproduced in any way without prior written permission of B + E Landscape Architects.



GREENWALL PLANT SCHEDULE

PROPOSED AUSTRALIAN NATIVE PLANT SPECIE

(Plant sheduled size and quantities to be confirmed prior to construction)

Latin Name	Common Name
Philodendron scandens	Heart-Leaf Philodendron
Neomarica gracilis	Walking Iris
Begonia coccinea	Angel Wing Begonia
Nephrolepis spp.	Boston Fern
Peperomia clusiifolia (pink edge)	Baby Rubber Plant
Hibbertia scandens	Climbing Guinea Flower
Pteris tremula	Australian Brake
Trachelospermum jasminoides	Star Jasmine
Philodendron xanadu	Xanadu Philodendron

PLANT SCHEDULE

(GROUND AND ROOF)

PROPOSED AUSTRALIAN NATIVE PLANT SPECIE

Latin Name	Common Name	Quantity	Scheduled Size	Spread	Height
Casuarina glauca 'Cousin It'	She-oak	20	200mm	1500	200
Clivea minata	Clivea	5	200mm	600	600
Dichondra argenta	Dichondra 'Silver Falls'	36	150mm	1000	100
Elaeocarpus reticulatus	Blueberry Ash	1	75Lt	5000	10000
Liriope 'Evergreen Giant'	Giant Lilyturf	9	200mm	300	300
Lomandra 'Tanika'	Dwarf Lomandra	24	200mm	800	600
Philodrendron 'Xanadu'	Dwarf Philodendron	4	200mm	750	1000
Syzygium australe 'Resillience'	Lillypilly	14	200mm	1500	2500
Viburnum tinus	Viburnum	10	200mm	1500	3000

LANDSCAPE PLAN - DEVELOPMENT APPLICATION

LANDSCAPE ARCHITECT
A 211/2B WHARF ROAD, MELROSE PARK
NSW 2114
M 0412 262 282
E bowie@belandscapearchitects.com.au

B+E LANDSCAPE ARCHITECTS

CLIENT

DELMAR PARADE

ROOF PLAN

NOMINATED LANDSCAPE ARCHITECT

BOWIE WONG

PROJECT: 6 DELMAR PARADE, GLADESVILLE

DRAWN: BW

CHECKED: EA

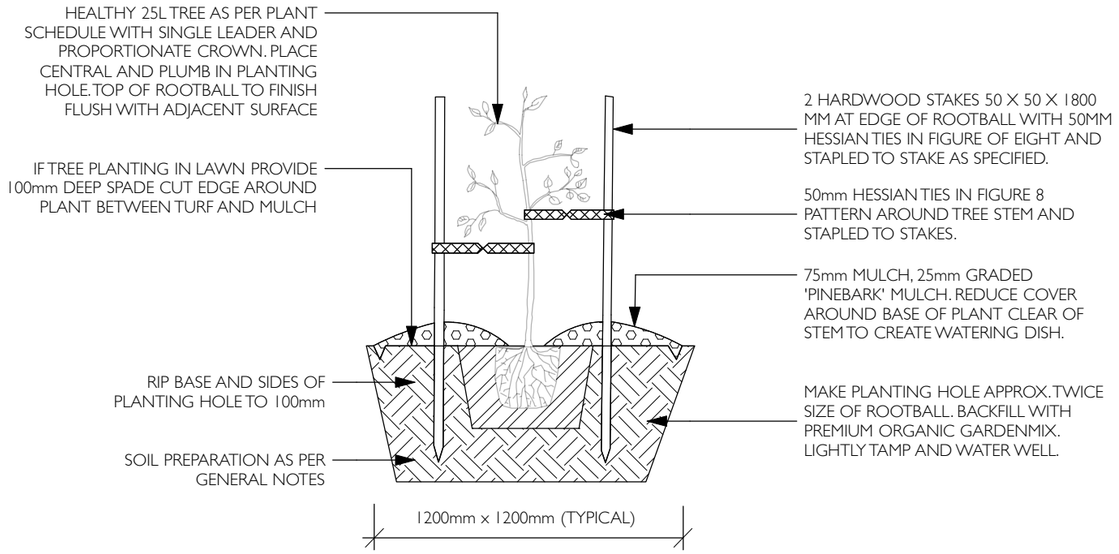
A

SCALE 1:200 @ A3 1:100 @ A1

DATE: 5TH JULY 2022

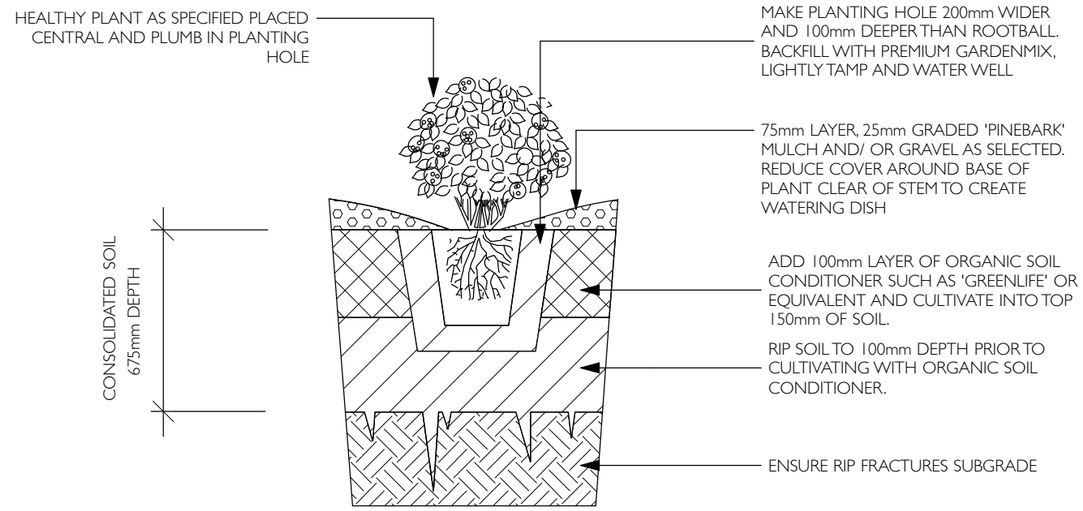
PROJECT: DELMAR

L02



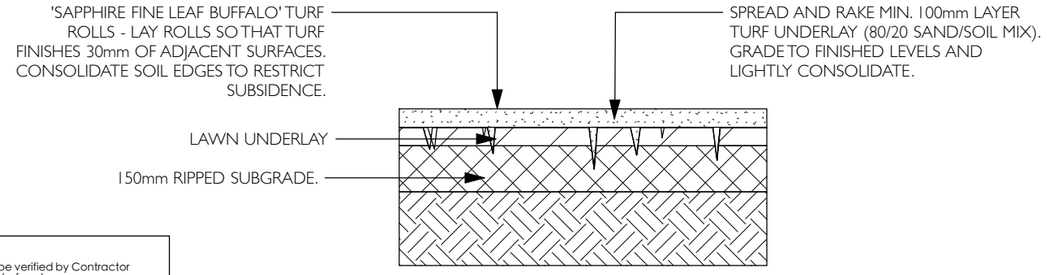
TYPICAL TREE PLANTING AND STAKING DETAIL

SCALE 1:20



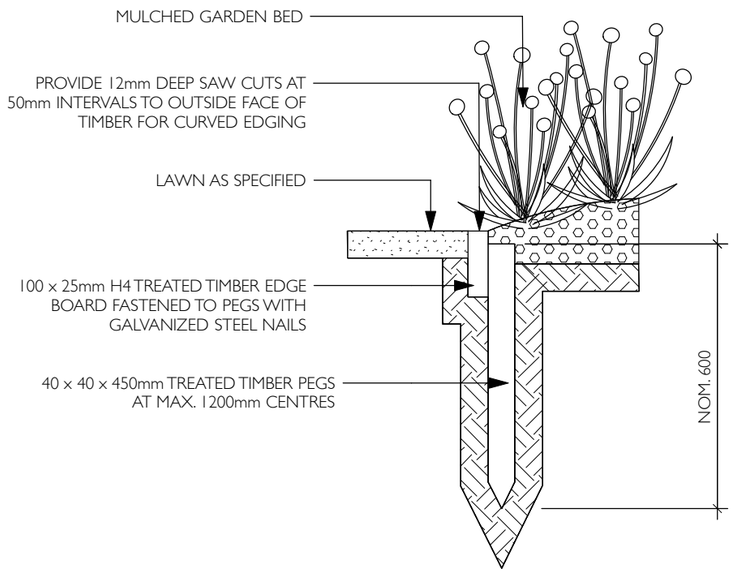
TYPICAL PLANTING DETAIL

SCALE 1:20



TYPICAL LAWN DETAIL

SCALE 1:20



TYPICAL TIMBER LAWN EDGING DETAIL

SCALE 1:50

Notes:
1. All dimensions and levels shall be verified by Contractor on site prior to commencement of work.
2. All detailing of drainage to paved areas shall be by others.
3. All levels shall be determined by others and approved on site by client.
4. Extent, height and position of all retaining walls shall be determined by others and approved on site by client, to Structural Engineers detail.
5. Do not scale from drawings.
6. If in doubt contact the Landscape Architect.
7. All boundaries shall be surveyed prior to commencement of construction works.
8. This plan is for DA purposes only.
9. All dimensions, levels and boundaries are nominal only.
10. This design shall not be copied, utilised or reproduced in any way without prior written permission of B + E Landscape Architects.

LANDSCAPE DETAILS

LANDSCAPE ARCHITECT
A 211/2B WHARF ROAD, MELROSE PARK
NSW 2114
M 0412 262 282
E bowie@belandscapearchitects.com.au

B+E LANDSCAPE ARCHITECTS

CLIENT

DELMAR PARADE

NOMINATED LANDSCAPE ARCHITECT

BOWIE WONG

PROJECT: 6 DELMAR PARADE, GLADESVILLE

DRAWN: BW

CHECKED: EA

A

SCALE: REFER TO SCALE

DATE: 5TH JULY 2022

PROJECT: DELMAR

L03

OUTLINE LANDSCAPE SPECIFICATION (AS APPLICABLE)

Preparation by Builder: Builder shall remove all existing concrete pathways, fences, footings, walls etc. not notated to be retained and complete all necessary excavation work prior to commencement on site by Landscape Contractor (Contractor). Builder shall also install new retaining walls, kerbs, layback kerb, crossover, pathways etc. and make good all existing kerbs, gutters etc. as necessary and to approval of Council. Builder shall ensure that a minimum 450mm of topsoil in garden areas and a minimum 150mm of topsoil in lawn areas exists. Should required depths not exist Builder shall contact Landscape Architect and ask for instructions prior to completion of excavation works.
Excavate as necessary, then fill with approved site topsoil to allow for minimum 500mm soil depth in garden areas and 150mm soil depth in lawn areas and to gain required shapes & levels. Ensure all garden and lawn areas drain satisfactorily. All levels & surface drainage shall be determined by others & approved on site by Head Contractor. Note: Approved imported topsoil mix may be utilised if there is insufficient site topsoil available. State in Tender a m3 rate for additional imported topsoil and the quantities of both site topsoil and imported topsoil allowed for in Tender.
Initial Preparation: Verify all dimensions & levels on site prior to commencement. Do not scale from drawings. Locate all underground & above ground services & ensure no damage occurs to them throughout contract. Spray approved weedicide to all proposed lawn & garden areas to manufacturer's directions. Remove existing concrete pathways, footings, walls etc. not notated to be retained & weeds from site. Levels indicated on Plan are nominal only and are derived from Architectural Plans & Drawings by others. Final structural integrity of all items shall be the sole responsibility of Landscape Contractor.
Tree Protection: Trees to be retained shall be protected during site works and construction by the erection of solid barricades to the specification of Council. Storage of machinery or materials beneath canopy of trees to be retained shall not be permitted. Changes to soil level and cultivation of soil beneath canopy of trees to be retained shall not be permitted unless under direct supervision of Landscape Architect. Existing trees shall be pruned to Landscape Architects onsite instructions.
Soil Preparation: Cultivate to depth of 300mm all proposed lawn & garden areas incorporating minimum 100mm depth of organic clay breaker into existing site soil. Do not cultivate beneath existing trees to be retained. In areas where fill is required gain required shapes & levels using a premium grade soil mix. In areas where excavation is required (if in clay) over excavate as required to to allow for installation of 500mm depth of premium grade topsoil mix to garden areas and 300mm depth of premium grade topsoil mix to lawn areas. Undertake all required action to ensure that no rootballs of proposed plants sit in clay wells and that all garden areas and lawn areas drain satisfactorily. Note it is intended that wherever possible existing levels shall not be altered through garden and lawn areas. It is the Contractors responsibility to ensure that the end result of the project is that all lawn and garden areas drain sufficiently (both surface & subsurface), are at required finished levels and have sufficient soil depths to enable lawn and plants to thrive and grow. Should alternative works to those specified be required to achieve the above result, Contractor shall inform Builder at time of Tender and request instructions.
Lawn Edging and Stepping Stones: (i) 125 x 25mm approved tanalith impregnated pine edging shall be installed, to lines as indicated on plan and staked with approved stakes at maximum 1500mm centres at ends and changes of direction; stakes shall be nailed to edging with approved galvanised steel nails. Top of edging shall finish flush with surrounding surfaces. Top of stakes shall finish 25mm below top of edging. (ii) Contractor shall install approved bricks on edge on a minimum 100mm deep x 90mm wide concrete footing with brick tor set in, to lines nominated on plan as brick edging. Bricks shall be laid with a nominal 10mm wide approved coloured mortar joint. Bricks needing to be cut shall be done so with clean sharp cuts. Top of edging shall finish flush with surrounding finished surfaces. Approved sandstone stepping stones shall be positioned as indicated on plan on a 25mm river sand bed. Approved sandstone stepping stones shall be positioned as indicated on plan on a 25mm river sand bed.
Retaining Walls: Positions, detail and heights of retaining walls shall be by others.
Planting: Purchase plants from an approved nursery. Plants to be healthy & true to type & species. Set out plants to positions indicated on plan. Following approval, plant holes shall be dug approximately twice width and to 100mm deeper than plant rootballs that they are to receive. Base and sides of hole shall be further loosened. Fertiliser, followed by 100mm depth of topsoil mix shall then be placed into base of hole and lightly consolidated. Base of hole shall then be watered. Remove plant container and install plant into hole. Rootball shall be backfilled with surrounding topsoil and topsoil firmed into place. An approved shallow dish shall be formed to contain water around base of stem. Base of stem of plant shall finish flush with finished soil level. Once installed plant shall be thoroughly watered and maintained for the duration of the Contract.
Staking: All trees shall be staked using 2 x 38mm x 38mm x 2000mm long hardwood stakes per plant and with hessian webbing ties installed to Landscape Architect's on site instructions.
Mulching: Install 75mm depth of 25mm diameter hardwood mulch to all garden areas, coving mulch down around all plant stems & to finish flush with adjacent surfaces.
Turfing: Prepare for, level & lay cultivated Palmetto Buffulo turves to all areas nominated on plan as being lawn. Roll, water, fertilise, mow & maintain lawns as necessary until completion of maintenance period. At same time make good all existing lawn areas using same lawn type. Lawns in shade shall be over sown with an approved seed mix. Allow to retrim and returf councils nature strip as required.
Fencing: Retain all existing fences unless advised otherwise by builder. Install timber paling fences to heights indicated on Plan.
Paving: Areas to be paved shall be excavated or filled to allow for installation of bedding materials. Levels and falls shall be as per Plan. Surface drainage on paving shall be towards grated drains with all drains connected to stormwater system and installed by Builder.
Irrigation: Contractor shall supply and install an approved fully automatic, vandal resistant, computerised irrigation system to all garden and lawn areas, excluding council nature strip. Entire system shall be to approval of Water Board and shall utilise pop-up sprinklers and electronic controllers. Contractor shall be responsible to ensure that system is able to satisfactorily operate on available water pressure. Power supply for use by irrigation system shall be provided to an approved location near southwest corner of residence by others and shall consist of an approved weatherproof G.P.O. The irrigation system controller shall be housed in an approved waterproof cabinet mounted to external wall of residence.
Clotheslines: Contractor shall allow for all necessary labour and materials and shall install clotheslines to positions as indicated on plan to manufacturer's instructions to approval of Landscape Architect. Clothesline type shall be equal to 'Hills Foldaline'.
Completion: Prior to practical completion remove from site all unwanted debris occurring from work. Satisfy Council that all landscaping work has been undertaken in strict accordance with Councils landscape codes & guidelines.
Maintenance Period: A twelve month maintenance period shall be undertaken by owner or owners representative as set out herein. Owner shall have care and maintenance of all work specified under this Contract and shall rectify any defective work for a period of 52 weeks following Practical Completion of Landscape Works. This period shall be herein known as the Maintenance Period. Work shall also include for the care and maintenance of all existing vegetation to be retained and proposed vegetation. Site shall be attended at least weekly and as otherwise required. The following works shall be undertaken during the Maintenance Period.
(a) Recurrent works Undertake recurrent works throughout the Maintenance Period. These works shall include but are not limited to watering, weeding, fertilising, pest and disease control, returfing, staking and tying, replanting, cultivation, pruning, aerating, renovating, top dressing and the like.
(b) Watering Regularly water all plants and lawn areas to maintain optimal growing conditions. Contractor shall adjust the water quantity utilised with regard to climatic conditions prevalent at the time.
(c) Replacements Immediately replace plants which die or fail to thrive (at discretion of Landscape Architect) with plants of same species or variety and of same size and quality unless otherwise specified. Plant replacement shall be at Contractors expense, unless replacement is required due to vandalism or theft, which shall be determined by Landscape Architect. Required replacement of plants due to vandalism or theft shall be undertaken by Contractor and shall be paid for by Client at an agreed predetermined rate.
(d) Mulched surfaces Maintain mulched surfaces in clean, tidy, weed-free condition and shall reinstate mulch as necessary to maintain specified depths.
(e) Stakes & ties Adjust and/or replace stakes and ties as required. Remove stakes and ties at end of Maintenance Period if directed by Landscape Architect.
(f) Lawn areas Lawn areas shall be mown at regular intervals to ensure non heading of lawn with a fine-cutting mulching mower and clippings left on lawn to mulch and self-fertilise lawn areas. Primary cut after laying of lawn by others shall be determined on site taking into consideration season, watering and growth rate of lawn. Following the primary cut all lawns shall be regularly mown as required to ensure a healthy lawn and a neat appearance. Care shall always be taken to ensure that no clippings are left on surrounding roads or garden areas after mowing. Replace lawn areas that fail to thrive at discretion of Landscape Architect. All new and made good lawn areas shall be barricaded off from pedestrian traffic by use of star pickets and brightly coloured plastic safety mesh until establishment of lawn. Barricades shall be removed upon establishment of lawn area.
(g) Weeding Remove by hand, or by carefully supervised use of weedicide, any weed growth that may occur throughout Maintenance Period. This work shall be executed at weekly intervals so that all lawn and garden areas may be observed in a weed-free condition.
(h) Pruning Prune new and existing plants (excluding existing trees) as necessary to maintain dense foliage conditions. Any rogue branches, or branches overhanging or obstructing pathways, roads, doorways, etc., shall be removed by approved horticultural methods.
(i) Spraying Spraying for insect, fungal and disease attack shall be undertaken as required and in accordance with spray manufacturers recommendations at intervals taking into account the season of year during which landscape works are to be implemented.
(j) Tree Care Should any existing trees be damaged during construction works immediately engage an experienced arboriculturist and then undertake any rectification work recommended by arboriculturist.

LANDSCAPE SPECIFICATION

LANDSCAPE ARCHITECT
A 211/2B WHARF ROAD, MELROSE PARK
NSW 2114
M 0412 262 282
E bowie@belandscapearchitects.com.au

B+E LANDSCAPE ARCHITECTS

CLIENT

DELMAR PARADE

NOMINATED LANDSCAPE ARCHITECT

BOWIE WONG

PROJECT: 6 DELMAR PARADE, GLADESVILLE

DRAWN: BW

CHECKED: EA

A

DATE: 5TH JULY 2022

PROJECT: DELMAR

L04

andrewmartin PLANNING

CLAUSE 4.6 VARIATION TO

CLAUSE 4.3 (2) (HEIGHT OF BUILDING) UNDER

RYDE LOCAL ENVIRONMENTAL PLAN 2014 (RLEP 2014)

6 Delmar Parade,

GLADESVILLE

July 2023

Andrew Martin Planning Pty Ltd - Town | Urban | Environmental ABN 71 101 798 001

02 9518 4120 0405 449 150 amartin@amplanning.com.au PO Box 601 Pyrmont NSW 2009

www.amplanning.com.au

9 May 2024

Section 1 Background

- The subject site is legally identified as 6 Delmar Parade, Gladesville (Lot 19 DP 16334).

Figure A: Aerial View of subject site

- The site is zoned **R2 Low Density Residential** under the Ryde Local Environmental Plan 2014 (RLEP 2014) where a dwelling house is permissible with consent.
- The relevant *development standard* subject of the variation request is the **9.5m** maximum **height of building** control under **clause 4.3 of RLEP 2014**.
- Clause **4.6(2)** confirms that environmental planning instruments (EPIs) are subject to the provisions of Clause 4.6.
- Clause **4.6(8)** does not exclude a variation to the provisions of the **9.5m** maximum height of building *development standard*.
- This written variation forms part of the written material to be considered by the Consent Authority in determining the subject development application.

Section 2 Introduction

- This is a written request to vary **Clause 4.3** of the **RLEP 2014** being the **9.5m** maximum height *development standard*.
- The variation request is made under **Clause 4.6** of **RLEP 2014.**
- The proposed alterations and additions will introduce a new upper level and portions of the roof line which exceeds the **9.5m** maximum building height for the site.
- The subject application proposes a maximum height variation of 2.98m to the ridgeline of the proposed parapet and roof line at the southern part of the site.
- Height is a *development standard* for the purposes of the *EP&A Act 1979* as it prescribes a numerical value to an aspect of the permitted development (see Justice Mc Clellans decision in Georgakis v North Sydney Council [2004] NSWLEC 123)
- This request to vary the Clause 4.3 of **RLEP 2014** has regard to the judgments in:
  a. *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* ("Initial Action")
  b. *Wehbe v Pittwater Council* [2007] NSWLEC 827 at [42] ("Wehbe")
  c. *SJD DB2 Pty Ltd v Woollahra Council [2020] NSWLEC 1112 (SJD DB2).*
- The objective of Clause 4.6 (1)(a) is to provide an *'appropriate degree of flexibility in applying certain development standards to particular development'*. The intent is '*to achieve better outcomes for and from development by allowing flexibility in particular circumstances'* in accordance with Clause 4.6 1(b).
- The extent of the discretion available to the consent authority is unfettered (see SJD DB2) and therefore a variation can be granted to the height variation articulated in Section 3 of this written request.
- The relevant plans relied upon are those identified as the plans prepared by Dalgliesh Ward and Associates Architects.

Section 3 Development Standard to be Varied

The relevant *development standard* to be varied is the **9.5m** maximum height control under Clause 4.3(2) of RLEP 2014. **Clause 4.3** of the **RLEP 2014** relevantly provides:

4.3 Height of buildings

(a) to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development,
(b) to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area,
(c) to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure,
(d) to minimise the impact of development on the amenity of surrounding properties,
(e) to emphasise road frontages along road corridors.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The relevant height of buildings map is identified below:

Figure B: Height map extract from RLEP 2014

The subject site is mapped **"J" – 9.5m (max).**

Section 4 Nature of Variation Sought

The requested variation is as follows:

- The maximum height of the dwelling above existing ground level is 12.48m. The maximum height variation as measured to the line of the parapet and roof is **2.98m** or 31.3%. See Figure C below.

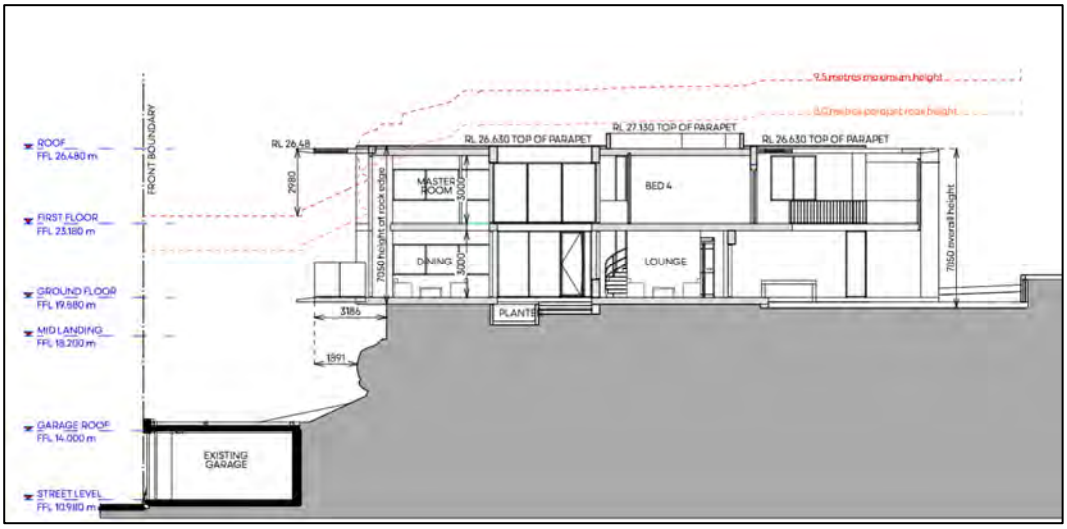


Figure C: Section plan of dwelling house showing proposed extent of variation to 9.5m HOB development standard under RLEP 2014

Section 5 Clause 4.3 Height - Development Standard

A *development standard* is defined in S 1.4 of the *Environmental Planning and Assessment Act 1979* ("EPA Act") to mean:

> *"provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:*
> *(a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*
> *(b) the proportion or percentage of the area of a site which a building or work may occupy,*
> *(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*
> *(d) the cubic content or floor space of a building,*
> *(e) the intensity or density of the use of any land, building or work,*
> *(f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,*
> *(g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,*
> *(h) the volume, nature and type of traffic generated by the development,*
> *(i) road patterns,*
> *(j) drainage,*
> *(k) the carrying out of earthworks,*
> *(l) the effects of development on patterns of wind, sunlight, daylight or shadows,*
> *(m) the provision of services, facilities and amenities demanded by development,*
> *(n) the emission of pollution and means for its prevention or control or mitigation, and*
> *(o) such other matters as may be prescribed." (our emphasis)*

The **9.5m** maximum height standard is a *development standard* as defined under the *EP & A Act 1979.*

Section 6 - Clause 4.6 of Ryde Local Environmental Plan 2014 (RLEP 2014)

6.1 Clause 4.6 of the **RLEP 2014** provides a legal pathway by which an applicant can vary a *development standard*. Clause 4.6 of **RLEP 2014** relevantly provides as follows:

> *"4.6 Exceptions to development standards*
>
> *(1) The objectives of this clause are as follows--*
> *(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
> *(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
> *(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
> *(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating--*
> *(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
> *(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
> *(4) Development consent must not be granted for development that contravenes a development standard unless--*
> *(a) the consent authority is satisfied that--*
> *(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
> *(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
> *(b) the concurrence of the Planning Secretary has been obtained.*
> *(5) In deciding whether to grant concurrence, the Planning Secretary must consider--*
> *(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
> *(b) the public benefit of maintaining the development standard, and*
> *(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*
> *(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if--*
> *(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
> *(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
>
> *Note : When this Plan was made it did not include all of these zones.*
>
> *(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
> *(8) This clause does not allow development consent to be granted for development that would contravene any of the following--*
> *(a) a development standard for complying development,*
> *(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
> *(c) clause 5.4,*
> *(caa) clause 5.5,*
> *(ca) clause 4.3, to the extent that it applies to the land identified as "Town Core" on the Ryde Town Centre Precincts Map,*
> *(cb) clause 4.1A, to the extent that it applies to the Torrens title subdivision of a dual occupancy (attached),*
> *(cc) clause 6.9.*

Response to Clause 4.6 of RLEP 2014

The following provides a response to the Clause 4.6 provisions:

1. We deal with **Clause 4.6 (1)(a) and (b)** below:

   1) The objectives of this clause are as follows—

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

The purpose of Clause 4.6 of RLEP 2014 is to provide flexibility in the application of development standards (see SJD DB2).

Justification within this written request (see Sections 7 – 9) demonstrates that an appropriate degree of flexibility should be applied to this particular application notwithstanding the height variation articulated in Section 4 of this written request.

The environmental planning grounds justifying the variation is provided in Section 8 of this written request.

The proposal whilst exceeding the **height** development standard provides an acceptable planning outcome with regard to the following:

- The proposed dwelling largely complies with the maximum height standard, with only a small portion of the parapet and roof line across the southern part of the dwelling breaching the 9.5m limit.
- The variation at the parapet is 650mm lower than the roof and is significantly less than the architectural roof element.
- The rear roof is 2.372m under the height control.
- The site slopes gradually from north to south, however, the property falls sharply across the southern portion of the site towards Delmar Parade due to the rock outcrop.
- The dwelling house, when viewed in the context of the streetscape sits well above the street level and presents an overall height and form which is commensurate to other contemporary double storey dwellings in the street.
- The area of the southern façade that is not compliant with the HOB limit is equivalent to roughly one sixth of the total depth of the dwelling. The remaining roof line adheres to a compliant height or is well under the height.
- The increased bulk, scale and height of the dwelling sought as part of this application does not result in excessive view impacts when compared to a compliant height development to neighbouring properties to the north as detailed in the supporting View Impact Analysis (VIA).
- The non-compliance does not contribute to unreasonable overshadowing impacts to neighbouring properties.
- There are no additional adverse impacts as a result of the height departure.
- The dwelling remains compatible with the local context where compatibility is not sameness.

2. In summary **clause 4.6(2)** is addressed and is satisfied because:

   a) Clause 4.6(2) requires the control to be a *development standard*.
   b) The **9.5m** height control is a *development standard* as it relates to the height of a building and therefore is capable of being varied by a written request.
   c) The provisions of Clause 4.3 of **RLEP 2014** are not expressly excluded under Clause 4.6(8) of the **RLEP 2014.**

3. **Clause 4.6 (3)** requires the making of a written request to justify the contravention of a *development standard* and states as follows:

> *"(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
>
> > *(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
> >
> > *(b) that there are sufficient environmental planning grounds to justify contravening the development standard."*

The proposed development departs from the **9.5m** maximum height control under **Clause 4.3** of the **RLEP 2014.**

Strict compliance with the **9.5m** height *development standard* is considered to be '*unreasonable and unnecessary in the circumstances of this case'* as justified in this written variation request.

The relevant justification dealing with **Clause 4.6 (3)(a)** criteria is contained in **Section 7** of this written variation request**.**

This written variation request demonstrates that strict compliance is unreasonable and unnecessary in the circumstances of this case and sufficient environmental planning grounds exist to justify contravening the development standard as detailed in **Section 8** of this written request.

4. **Clause 4.6 (4)** provides that consent must not be granted for development that contravenes a *development standard* unless the consent authority is satisfied as to:

> *(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
> *(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
> *(b) the concurrence of the Planning Secretary has been obtained.*

Sections below of this written variation request address the matters required under cl4.6(4)(a) and cl4.6(4)(b) of the **RLEP 2014.**

Section 9 addresses 4.6(4) (a) and (b) criteria.

Clause 4.6(5) provides that:

(5) In deciding whether to grant concurrence, the Planning Secretary must consider—
(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
(b) the public benefit of maintaining the development standard, and
(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.

Section 10 below in this written variation request addresses the matters required under Clause 4.6(5) of the **RLEP 2014**.

Clauses 4.6(6) and (8) are not relevant to the proposed development and cl 4.6(7) is an administrative clause requiring the consent authority to keep a record of its assessment under this clause after determining a development application.

5. **Clause 4.6(a)(b)** is not relevant to this application

6. **Clause 4.6 (7)** is a matter for the consent authority

7. **Clause 4.6(8)** confirms that the **9.5m** maximum **height control** is not a matter excluded from clause 4.6.

Section 7 Compliance is Unreasonable or Unnecessary - Clause 4.6(3)(a)

In dealing with the "unreasonable and unnecessary" we refer to Preston CJ where he identifies and validates at least 5 arguments available to an applicant in *Wehbe v Pittwater Council* which can be adopted in dealing with the *unreasonable and unnecessary* test under **Cl. 4.6(3)(a).**

Preston CJ concluded as follows:

> "*As to the first matter required by cl 4.6(3)(a), I summarised the common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary in Wehbe v Pittwater Council at [42]-[51]. Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary."*
>
> *'An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the* ***objectives of the development standard are achieved notwithstanding non-compliance with the standard'*** (our emphasis)

The first way identified in *Wehbe* is to justify this written variation (as set out at 42 of the judgment):

> *"42 An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard"*

This written **9.5m** height variation request relies in the first instance by demonstrating that compliance is *unreasonable and unnecessary* as the objectives of the development standard are achieved notwithstanding, a variation with the development standard.

Clause 4.3 of the **RLEP 2014** provides express objectives of the *development standard*. Clause 4.3 relevantly provides:

'4.3 Height of buildings

(a) to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development,
(b) to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area,
(c) to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure,
(d) to minimise the impact of development on the amenity of surrounding properties,
(e) to emphasise road frontages along road corridors.

The relevant objectives are discussed below:

(a) to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development,

The view of the height and the built form and design of the proposed dwelling when viewed from Delmar Parade is compatible with that of other larger, contemporary double storey dwellings in the street. The development generally sits within the compliant height plane that applies to the land and the only breach occurs to the front of the dwelling where the landform steeply falls across the rock shelf. Accordingly, the overall bulk, scale of form of the dwelling is considered acceptable having regard to its compatibility with neighbouring properties.

The proposal is within the scale and form anticipated by the RLEP and appropriate for a site. This objective is satisfied.

(b) to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area,

Shadow diagrams are submitted with the DA plan set. The diagrams demonstrate that neighbouring properties to the east, west and south of the site will continue to receive 3 hours of solar access to northern living room windows and the rear private open space.

The proposed built form being contemporary in its style does not seek to mimic any themes of development and is compatible with the streetscape, particularly the neighbouring dwelling to the east at 4 Delmar Parade. The finishes are compatible with the residential character of the area. The form, layout and overall scale of the development is compatible with the surrounding context and waterfront setting.

(c) to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure,

Not relevant to this application.

(d) to minimise the impact of development on the amenity of surrounding properties,

As outlined above the built form and height of the proposed dwelling will not result in any significant adverse impacts to neighbouring residential amenity with regard to view loss (see below), overshadowing and privacy. Minimal additional shadowing of the neighbouring properties will occur as a result of the proposal. The proposed height and overall bulk of the dwelling is commensurate to that of neighbouring sites. Shadows are cast predominantly over Delmar Parade throughout the year due to north-south orientation of the site.

Similar levels of shadowing occur over the POS areas of the neighbours.

The rear yards of each dwelling receive sufficient sunlight throughout the day in mid-winter.

With regard to view loss the proposal results in some loss of water and district views to properties in Amiens Street. The view loss needs to be assessed against the view loss that would occur as a result of a compliant development in terms of height, FSR and setbacks.

The plan show the height and setbacks from a compliant form which is based on the RLEP and RDCP provisions. The analysis confirms that the view loss arising from the compliant

RLEP and RDCP controls is greater than the proposed development with its non compliant height over the rock ledge. The VIA prepared by DWA darted 8th August 2022 confirms that the views retained to 42, 44, 46 Amiens Street and 8 Delmar Parade.

DWA provide photomontage images using survey information to locate the 3D model in the view, other surveyed markers, and visual features to confirm alignment of the model of the proposed development to the photographs, furthermore photomontage images depicting an envelope compliant the Ryde Development Control Plan (RDCP) are established as reference points.

Figure 1: 6 Delmar Parade, Visual Analysis Locations – (DWA)

In addition to the above DWA provide part of the view analysis is consideration for 3 dominant properties in the vicinity of 6 Delmar Parade. These properties are 12 Delmar Parade, 4 Delmar Parade and 11 Shackle Avenue (as a direct continuation of Delmar Parade). The character of 6 Delmar Parade is dominated by the alignment, setbacks, and site response of 4 Delmar Parade. 4 Delmar Parade currently presents as a 4 level home as it responds to similar constraints to adjacent sites. The below aerial image shows the dominant properties and alignment between the dominant properties, furthermore potential future building alignments to normalise the surrounding character.

Figure 2: Delmar Parade, Dominant Built Form Alignments (DWA)

In addition to and to compliment the design development associated with the view analysis the following relevant specific client project brief elements have also been considered by DWA.

Actively seeks to avoid the appearance of a built form scale of greater than 2 storeys
Maintains the natural geology of the site, furthermore, celebrate the weathered riverside Sydney sandstone shelf.
Maximise landscape opportunities to improve environmental outcomes through the use of contemporary landscape systems.
Maintain private outdoor space

DWA provide a view analysis points have been taken from the following locations:

- 42 Amiens Street
- 44 Amiens Street
- 46 Amiens Street
- 8 Delmar Parade

DWA provide the following series of block model photomontage images demonstrate the current conditions, allowable envelope consistent with RDCP, expected built form outcome as well as a comparison of RDCP envelope overlayed on the proposal.

The following provides the view impacts applying a compliant RLEP FSR and Height a and RDCP setbacks.

42 Amiens Street Gladesville

Photo taken from the top balcony of 42 Amines Street looking over Parramatta River to Cabarita Park and Breakfast Point

Figure 3: Photo 001 Existing Condition

Figure 4: Photomontage 001 – DCP Maximum Envelope

Figure 5: Photomontage 001a - Proposal maintains more water views when compared to RLEP and RDCP compliant scheme. Foreshore south side visible.

Figure 6: Photomontage 001a + DCP Maximum Envelope

44 Amiens Street Gladesville

Photo taken from the proposed top balcony of DA Approved 44 Amiens Street looking over Parramatta River to Cabarita Park.

Figure 7: Photo 002 Existing Condition

Figure 8: Photomontage 002 – DCP Maximum Envelope

Figure 9: Photomontage 002a – Proposal which provides more water view than the RLEP and RDCP compliant scheme. Foreshore southern side of Parramatta Rover visible.

Figure 12: Photomontage 002a + DCP Maximum Envelope

46 Amiens Street Gladesville

Photo taken from the top balcony of 46 Amines Street looking over Parramatta River to Cabarita Park and Abbotsford Point

Figure 13: Photo 003 Existing Condition

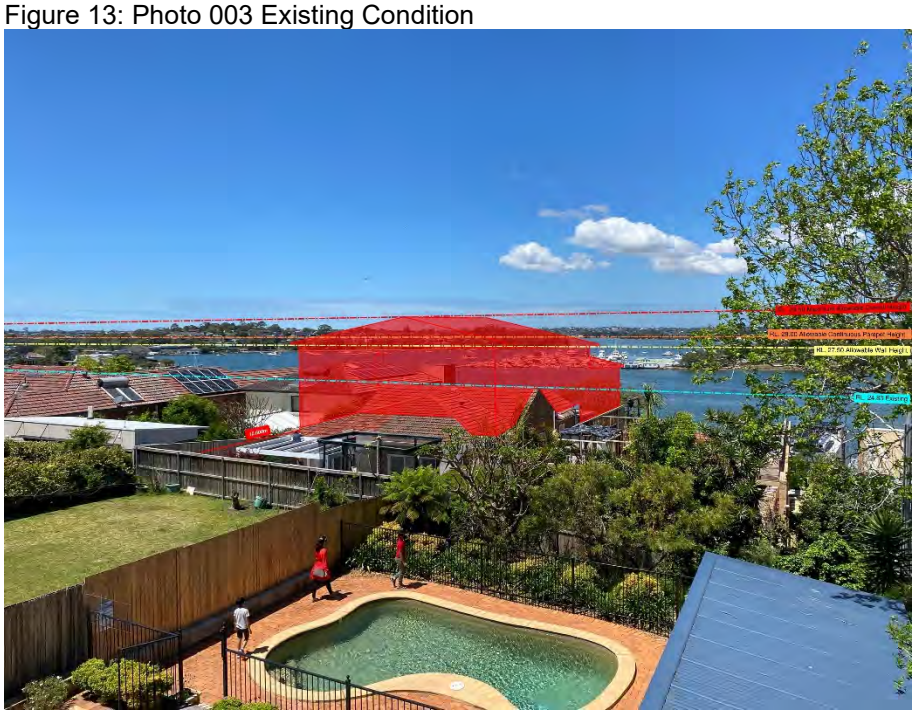


Figure 14: Photomontage 003 – DCP Maximum Envelope

Figure 15: Photomontage 003a – Proposal provides more water view as well as the marina to the southern side of Parramatta River when compared to RLEP and a RDCP compliant scheme.

Figure 16: Photomontage 003a + DCP Maximum Envelope

8 Delmar Parade Gladesville

Photo taken from the balcony of 8 Delmar Parade looking over Parramatta River to Cabarita Park and Abbotsford Point

Figure 17: Photo 004 Existing Condition

Figure 18: Photomontage 004 which does not cause any water view loss as a direct result of the height variation.

Figure 19: Photomontage 004 + Maximum Parapet Extent

Supplementary Ground Floor View Analysis in Response to RFI

The ground floors of rear properties to the north while considered during the design development were not originally included in the impact assessment, at councils request these have now been included to demonstrate the assessments above as reflected from the respective ground or living areas.

42 Amiens Street Gladesville

Figure 20: Images from Ground Alfresco, 8 Delmar Under Construction

Figure 21: Bulking Analysis from Ground Alfresco

Figure 23: Images from Dining

Figure 23: Bulking Analysis from Dining

44 Amiens Street Gladesville

Figure 24: Images from Kitchen

Figure 25: Bulking Analysis from Kitchen

Figure 26: Images from Alfresco, 8 Delmar Under Construction

Figure 26: Bulking Analysis from Alfresco

46 Amiens Street Gladesville

Figure 27: Images from Ground Balcony

Figure 27: Bulking Analysis from Ground Balcony

DCP Obstruction Envelope Comparing Proposed Envelope Outline

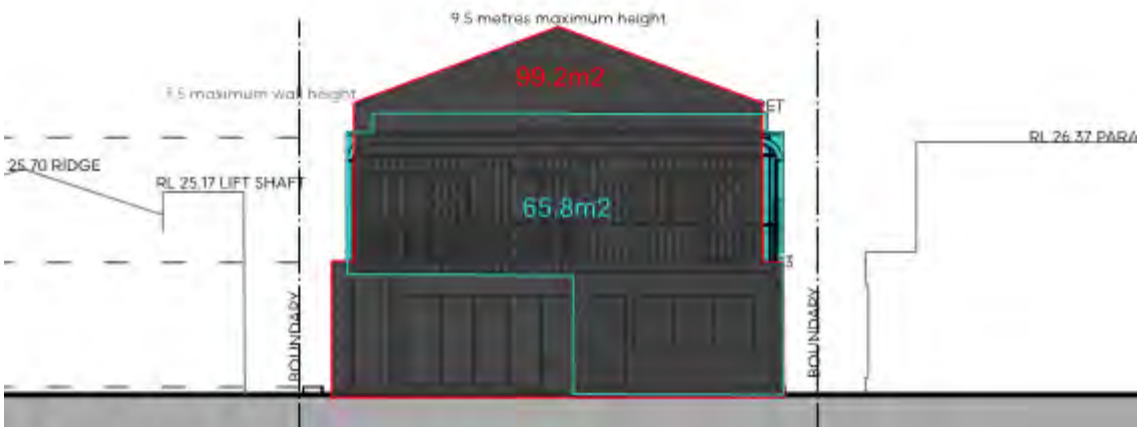


Figure 28: Section Taken at Rear

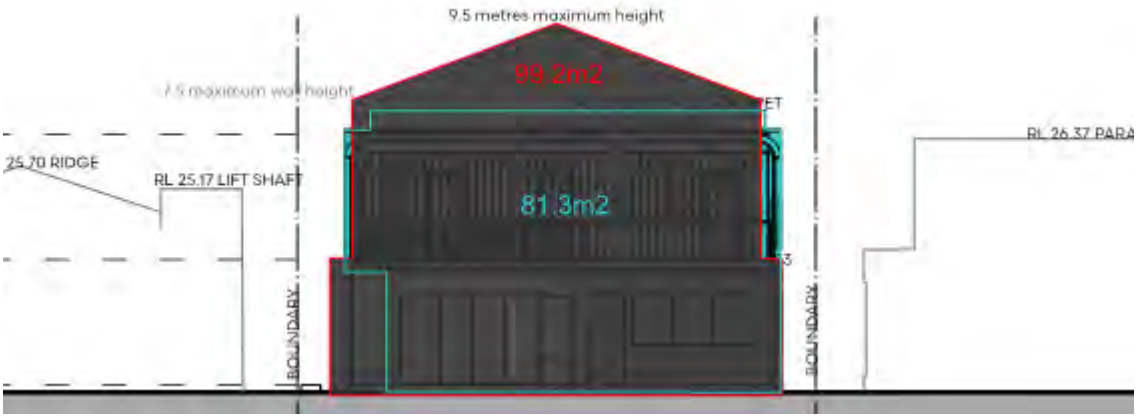


Figure 29: Section Taken at Mid Rear

The above demonstrates how the porposed envelope provides a greater volume than the proposal which has an acceptable level of impact. The proposal has less built form volume and imapct when compared to the allowable DCP envelope for the site (see red outline). Reductions in the order 19%-25%.

Overall the proposal with its departing parapet and roof maintains more water views than a RLEP and RDCP compliant scheme. The section and elevation plans show that the height departure is caused by the aggressive drop in levels across the rock shelf. On this basis the height variation is supported because the proposal has less impact than a compliant development. The height variations is a result of the site levels. As shown the extent of the building footprint well under the control far outweighs the area over the control. In our opinion it is difficult to maintain views from a ground floor area over the rear boundary.

The objective is satisfied.

(e) to emphasise road frontages along road corridors.

Not relevant to this application.

Summary:

The proposal satisfies the objectives of the development standard as the height variation proposed does not result in a built form outcome which is inconsistent with the streetscape, nor unreasonably impacting upon the residential amenity of the area which includes views. The proposed works modernise the dwelling and provide improved internal living amenity and functionality for its residents.

Section 8 Sufficient Environmental Planning Grounds – Clause 4.6(3)(b)

Clause 4.6 (3)(b) prescribes the following:

> *(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
> *(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
> ***(b) that there are sufficient environmental planning grounds to justify contravening the development standard.***

The following provides sufficient environmental planning grounds to warrant the variation:

- The majority of the dwelling complies with the maximum 9.5m height limit as it applies across the site.
- At the southernmost part of the dwelling where the natural ground falls towards the street across the rock face, the upper level and roof of the dwelling breaches the maximum height limit. The breach of the building height only occurs to one sixth of the overall dwelling depth and represents a very minor portion of the development.
- The extent of the roof area under the control far out weights the area over the control.
- As demonstrated in the supporting VIA by DWA, the proposed design has no significant impact on the streetscape or impacts to existing views from residential neighbours to the north.
- The height variation is a result of the rock ledge and the aggressive drop at the front of the site.
- The variation is limited to the front portion of the dwelling which is consistent with other recently constructed waterfront properties in the area, including the neighbour to the east at 4 Delmar Parade.
- Given the characteristics of the streetscape and the fact that the dwelling will sit high above the street there is no visual perception of, or discernible additional height caused by the breach.
- The area of the southern façade that is not compliant with the HOB limit currently exists and is not a new addition or alteration seeking approval with this application.
- The non compliance does not contribute to significant additional overshadowing of neighbouring properties.
- There are no significant additional impacts as a result of the height departure when compared to a compliant RLEP and RDCP controls.
- Within this context the existing height is compatible with the surrounding height and satisfies the relevant height objectives

Clause 1.3 Objects of the EP and Act 1979

In explaining the sufficient environmental planning grounds referred to in cl 4.6 Preston CJ in 'Initial Action' considers that it is available to the applicant to also deal with the Objectives of the Act under S1.3 when considering a Clause 4.6 variation. Clause 1.3 of the EP and A Act 1979 relevantly provides:

"1.3 Objects of Act

The objects of this Act are as follows:

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

> *(d) to promote the delivery and maintenance of affordable housing,*
> ***(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,***
> *(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
> ***(g) to promote good design and amenity of the built environment,***
> ***(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,***
> *(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
> *(j) to provide increased opportunity for community participation in environmental planning and assessment. (emphasis added)*

The proposal accepting the height variation described in section 3 reasonably satisfies the objectives of under s1.3 *EP&A Act 1979.* The plans by *Dalgleish Ward Architects* satisfy the objectives in bold (as above) given that:

- The height exceedance is considered to be minor in the overall context of the development proposal and streetscape character because of the aggressive site level change.
- The development achieves the zone objectives (the dwelling is a detached two storey dwelling which is consistent with other such dwellings in the established low density neighbourhood);
- The proposed alterations and additions make the best use of land currently serviced by existing infrastructure;
- The proposed landuse and alterations are permissible under the RLEP 2014;
- The proposal represents an economically viable development of the site, that is both capable and suitable for the site, when assessed on a merit based assessment under the s4.15 heads of the consideration of the *EP&A Act 1979*.
- Redevelopment to a compliant height is not viable or practical in this instance given the variance in the natural landform across the southern portion of the site.

Notwithstanding the above Preston CJ clarified in *Micaul* and *Initial Action*, that sufficient environmental planning grounds may also include demonstrating a lack of adverse amenity impacts. In this case, these include:

- There is no significant detrimental impact to the existing viewing rights of neighbouring properties to the north as evidenced in the supporting analysis which models a height, FSR and setback compliant development in red.
- Solar access is not drastically altered to neighbouring properties and the overall shadowing impacts are minor.
- When viewed in the context of the streetscape the development is compatible with other contemporary waterfront properties, including the scale, form and height of the dwelling at No. 4 Delmar Parade.
- The proposal will upgrade the streetview of the building and modernise the southern elevation from Parramatta River.

Section 9 Matters for Consideration - Clause 4.6(4)(a)(i)(ii)

The relevant provisions under clause 4.6(4)(a)(i) and (ii) are provided below:

> *(4) Development consent must not be granted for development that contravenes a development standard unless—*
> *(a) the consent authority is satisfied that—*
> *(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
> *(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

The relevant provisions of clause 4.6(4) are addressed below:

Clause 4.6(4)(a)(i)

The written request addresses the relevant matters set out in clause 4.6 (3) in section

Provision of Clause 4.6	Addressed in Written Request Report
(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:	**Yes - Section 7 and 8**
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	**Yes - Section 7**
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.	**Yes - Section 8**

Clause 4.6(4)(a)(ii)

The proposed development will be in the public interest because it is consistent with the objectives of the 9.5m height control development standard and the objectives for development within the R2 Low Density Residential zone. In this section "Consistency" means "not antipathetic to" rather than the higher threshold of "promotes" or "is compatible" with the objectives.

Clause 4.6(4)(a)(ii) requires a two part test. Each part is addressed within the written request as specified below.

In the first instance Clause 4.6(4)(a)(ii) requires an investigation into the objectives of the standard and this is provided at **Section 7** thus satisfying Clause 4.6(4)(a)(ii)**.**

A review of the Zone Objectives confirms that sufficient environmental planning grounds exist to support the height variation given that the objectives are satisfied.

An enquiry is made below in relation to the ability of the proposal to '*be in the public interest*', notwithstanding the variation, because it is able to reasonably satisfy the stated objectives of the R2 Low Density Residential zone.

The zone objectives are:

R2 Low Density Residential

The objectives of the R2 Low Density Residential zone are as follows:

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.*

The objectives are addressed below:

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

No change to the density of development. The landuse remains a detached dwelling house within a low density residential area, albeit an additional level on top of the existing dwelling is proposed. The objective is achieved.

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

The development and specifically the variation does not reduce the potential for other land uses on surrounding sites. The objective is achieved.

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

The proposal delivers a superior degree of residential liveability and amenity for the site in a manner that is anticipated in a waterfront setting. The objective is achieved.

<u>Summary:</u>

The proposal satisfies the R2 Low Density Residential zone objectives.

10.0 Other Matters For Consideration

Step 4 - Clause 4.6(4)(b) – The Concurrence of the Secretary has been obtained

On 21 February 2018, the Secretary of the Department of Planning and Environment issued a Notice ('the Notice') under cl. 64 of the *Environmental Planning and Assessment Regulation 2000* (the EP&A Regulation) providing that consent authorities may assume the Secretary's concurrence for exceptions to development standards for applications made under cl4.6 of the ALEP.

The Court has power to grant development consent to the proposed development even though it contravenes Clause 30AA Number of boarding rooms development standard, without obtaining or assuming the concurrence of the Secretary by reason of s39(6) of the *Land and Environment Court Act 1979* (the Court Act).

Clause 4.6(5) - Concurrence Considerations

In the event that concurrence cannot be assumed pursuant to the Notice, cl4.6(5) of the LEP provides that in deciding whether to grant concurrence, the Secretary must consider:

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

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

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

The proposed contravention of the development standard has been considered in light of cl4.6(5) as follows:

- The proposed non-compliance does not raise any matter of significance for State or regional environmental planning as it is peculiar to the design of the existing dwelling house on this particular site. The height variation and circumstances of this case are not directly transferrable to any other site in the immediate locality, wider region or the State and the scale of the proposed development does not trigger any requirement for a higher level of assessment;

- As indicated in **Sections 7 – 9**, the proposed contravention of the development standard is considered to be in the public interest because it is consistent with the objectives of the **R2 Low Density Residential** zone and the objectives of the **9.5m** maximum height standard.

The proposed development contravenes **Clause 4.3** of the **RLEP 2014** being a *development standard* and height is not excluded from the application of **clause 4.6 of RLEP 2014.**

This written request to vary the development standard has been prepared in accordance with **cl4.6 of the RLEP 2014** and demonstrates that strict compliance with the development standard is unreasonable and unnecessary for the reasons outlined in this submission.

In addition, this written request outlines sufficient environmental planning grounds to justify the contravention of the development standard.

Andrew Martin *MPIA*
Planning Consultant