

Item 4
6 Shackel Avenue, Gladesville - APL2022/0003
Section 8.3 Review of Determination of LDA2021/0278 for alterations and additions to existing residential dwelling

Report prepared by: Consultant Town Planner

 Report approved by: Acting Senior Coordinator Assessment
 Executive Manager City Development

**City of Ryde
Local Planning Panel Report**

DA Number	APL2022/0003
Site Address	6 Shackel Avenue, Gladesville NSW 2111 Lot 19 DP 10340
Zoning	R2 Low Density Residential
Proposal	Section 8.3 Review of Determination of LDA2021/0278 for alterations and additions to existing residential dwelling.
Property Owners	Roumany and Mariam Gadalla
Applicant	Nicole Matak
Report Author	Sonya Constantinou, Consultant Planner
Lodgement Date	30 August 2021
Notification No. of Submissions	No submissions received.
Cost of Works	\$1,731,000.00
Reason for Referral to LPP	Departure from development standards – contravention of the height of buildings and floor space ratio development standards by more than 10% - <i>Schedule 1, Part 3 of Local Planning Panels Direction</i> . The former development application (LDA2021/0278) was determined by the RLPP, the review of determination decision must be conducted by the panel as per section 8.3(4) of the <i>Environmental Planning and Assessment Act 1979</i> .
Recommendation	Refusal

Attachments	<p>Attachment 1 – DCP Compliance Table</p> <p>Attachment 2 – Sydney Foreshores DCP Compliance Table</p> <p>Attachment 3 – Plans submitted with APL2022/0003</p> <p>Attachment 4 – Building Application No. 1075/86 – plans and approval</p> <p>Attachment 5 – Clause 4.6 written variation requests</p>
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1. Executive Summary

The subject application (APL2022/0003) at 6 Shackel Avenue, Gladesville (Lot 19 DP 10340) is a Review of Determination of Development Application LDA2021/0278 pursuant to Section 8.2 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The proposal seeks consent for alterations and additions to an existing dwelling house.

The development application was refused by the Ryde Local Planning Panel (RLPP) on 12 May 2022 for reasons including the non-compliant height and FSR, insufficient information relating to acid sulfate soils and BASIX Certificate. The development was also found to be inconsistent with the suite of built form controls contained within Ryde Development Control Plan 2014 (RDCP). The development was also considered unsuitable for the subject site and approval would be contrary to the public interest.

In accordance with Section 8.3(4) of the EP&A Act, as the former development application (LDA2021/0278) was determined by the RLPP, the review of determination decision must also be conducted by the RLPP. Further, in accordance with Section 9.1 – Directions by the Minister, this application is reported to RLPP for determination as it proposes a departure from two development standards, with each departure being in excess of 10%.

The dwelling house for which the proposed alterations and additions are to occur includes unauthorised building works. During the assessment of the Development Application, a site inspection within the existing dwelling was not able to be undertaken. As part of the assessment of this Review, a site inspection was undertaken on 12 October 2022. The inspection, in conjunction with a review of the Building Application No. 1075/86 which provided consent for the erection of the dwelling house on the subject site, confirms unauthorised works have been undertaken.

It is unreasonable to approve new works which rely upon unauthorised works. A Building Information Certificate has not been obtained; therefore, consent cannot be granted for alterations to, and use of, an unauthorised structure at this stage.

The proposal is accompanied by Clause 4.6 written requests to contravene the Clause 4.3 Height and Clause 4.4 Floor Space Ratio development standards under the RLEP 2014. The written requests do not demonstrate sufficient environmental planning grounds to justify the contraventions. The reasons provided are either the applicant's perceived benefits of the proposal, or general descriptions of aspects of the proposed development.

These do not form sufficient environmental planning grounds. Environmental planning grounds relate to the subject matter, scope and purpose of the EP&A Act and its Objects.

The proposal has been assessed in accordance with the relevant environmental planning instruments and local provisions in accordance with Section 4.15 of the EP&A Act. The subject site is not suitable for the proposed development, and it is recommended the refusal of LDA2021/0278 is confirmed and the subject application be refused.

2. The Site & Locality



Figure 1 Aerial photograph of the subject site (outlined in orange) and the surrounding locality

The site is identified as Lot 19 in DP 10340 and the address is No.6 Shackel Avenue, Gladesville. The allotment is generally rectangular with the exception of the splayed southern boundary which follows the harbour shoreline. The allotment has an area of 682.9m², and a frontage of 16.46m to Shackel Avenue.

The area and dimensions of the site is shown below (note that the submitted survey does not provide the southern boundary length that adjoins Sydney Harbour):

6 Shackel Avenue	
Northern Boundary (Street Frontage)	16.46m
Eastern Boundary	45.47m
Western Boundary	37.74m
Site Area	682.9m ²

The site is located on the southern side of Shackel Avenue and experiences a significant fall of approximately 7.93m from the northern street frontage (RL 9.44) to the southern rear boundary (RL 1.51).

The site currently accommodates a four (4) level rendered dwelling house with a tile roof (**Figure 2**), which was approved under Building Application No. 1075/86 on 12 December 1988 (**Attachment 3**). Due to the slope of the site, the dwelling presents as a predominantly two (2) storey dwelling, with a third level being visible in the oblique angle along the southern elevation (**Photograph 2**). The upper level is partly contained within the roof form which pitches away from Shackel Avenue.

The double garage and associated elevated driveway is the predominant feature of the building's streetscape presentation.



Figure 2 Existing dwelling as viewed from Shackel Avenue Source: CPS site inspection



Figure 3 Southern elevation of the existing dwelling as viewed from Shackel Avenue. Source: Google street view 16/10/2022

Adjoining to the west is No. 8 Shackel Avenue which comprises of a multi-level rendered dwelling that appears as a two storey dwelling from the public domain (**Figure 4**), but three (3) storeys from the rear.



Figure 4 Adjoining dwelling situated at 8 Shackel Avenue Source: CPS site inspection

Adjoining to the east of the subject site is No. 4 Shackel Avenue which comprises of a multi-level rendered dwelling that appears as single storey garages from the streetscape (**Figure 5**). The dwelling is three (3) storeys in scale as viewed from the rear.

In response to the topography of the surrounding area, dwellings on the southern side of Shackel Avenue present as single and two storeys in scale containing third and fourth levels presenting to the waterway. Garages and parking areas are predominant features of the streetscape.



Figure 5 Adjoining property to the east, No. 4 Shackel Avenue. Source: CPS site inspection

Located to the north, across Shackel Avenue, is Nos. 3 and 5 Shackel Avenue which each contain three storey rendered dwellings with integrated garages (**Figure 6**). To the south, the site has a water frontage to the adjoining Parramatta River and views are available from properties on both sides of Shackel Avenue, with views from the higher dwellings on the northern side of Shackel Avenue available over the dwellings on the southern side.

Minimal landscaping and tree coverage is present in the surrounding locality, with the topography falling southwards towards the waterfront. On street parking is available on both sides of Shackel Avenue, although is limited in some parts due to the locations of wide vehicular crossings.



Figure 6 Dwellings located on the northern side of Shackel Avenue. No.3 located to the right and No. 5 on the right.
Source: CPS site inspection

3. The Review

The subject application is a review of the RLPP's decision to refuse LDA2021/0278.

The application proposes alterations and additions to an existing residential dwelling at 6 Shackel Avenue, Gladesville. The proposed works include:

Sub Ground-Floor FFL4.0 (Figure 7)

- Internal wall demolition.
- Addition of a powder room within marked existing subfloor.

- Increase in the width and reduction in the length of the bar area and gym (marked as an existing “covered outdoor area”).
- Addition of an outdoor alfresco area, facing the waterfront.
- Reconfigure window layout.

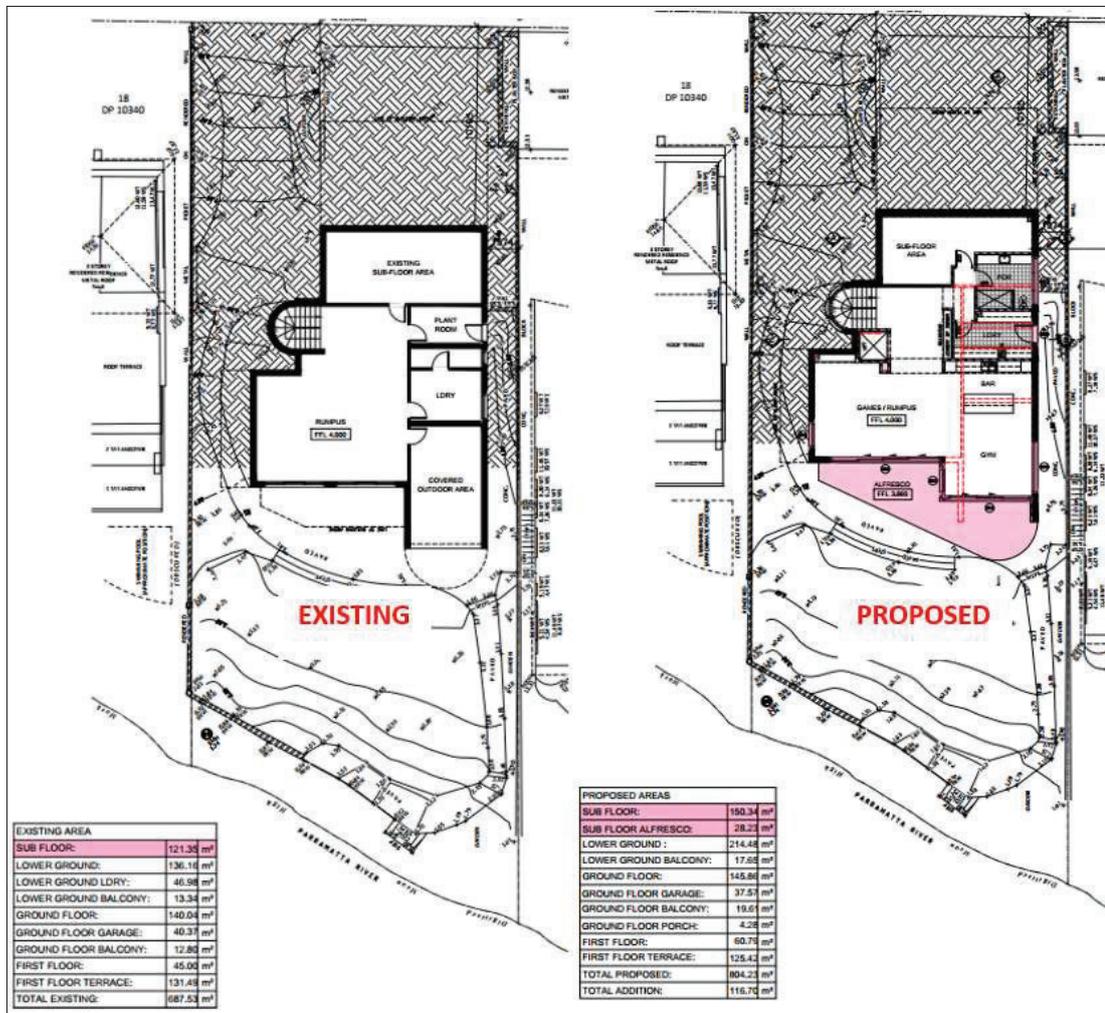


Figure 7: Proposed floor plan changes to subfloor level Source: Architectural Plans prepared by Construction by Design

Lower Ground Floor FFL6.87 (Figure 8)

- Internal wall demolition.
- Alteration of bedroom layout.
- Repurpose of the undercroft area into floor space.
- Alterations to existing sub-floor area to create habitable floor space for a bedroom with ensuite.
- Extend the balcony area forward towards the southern edge of the building.
- Extend the corner of bedroom 1 into the existing balcony area.
- Reconfigure window layout.

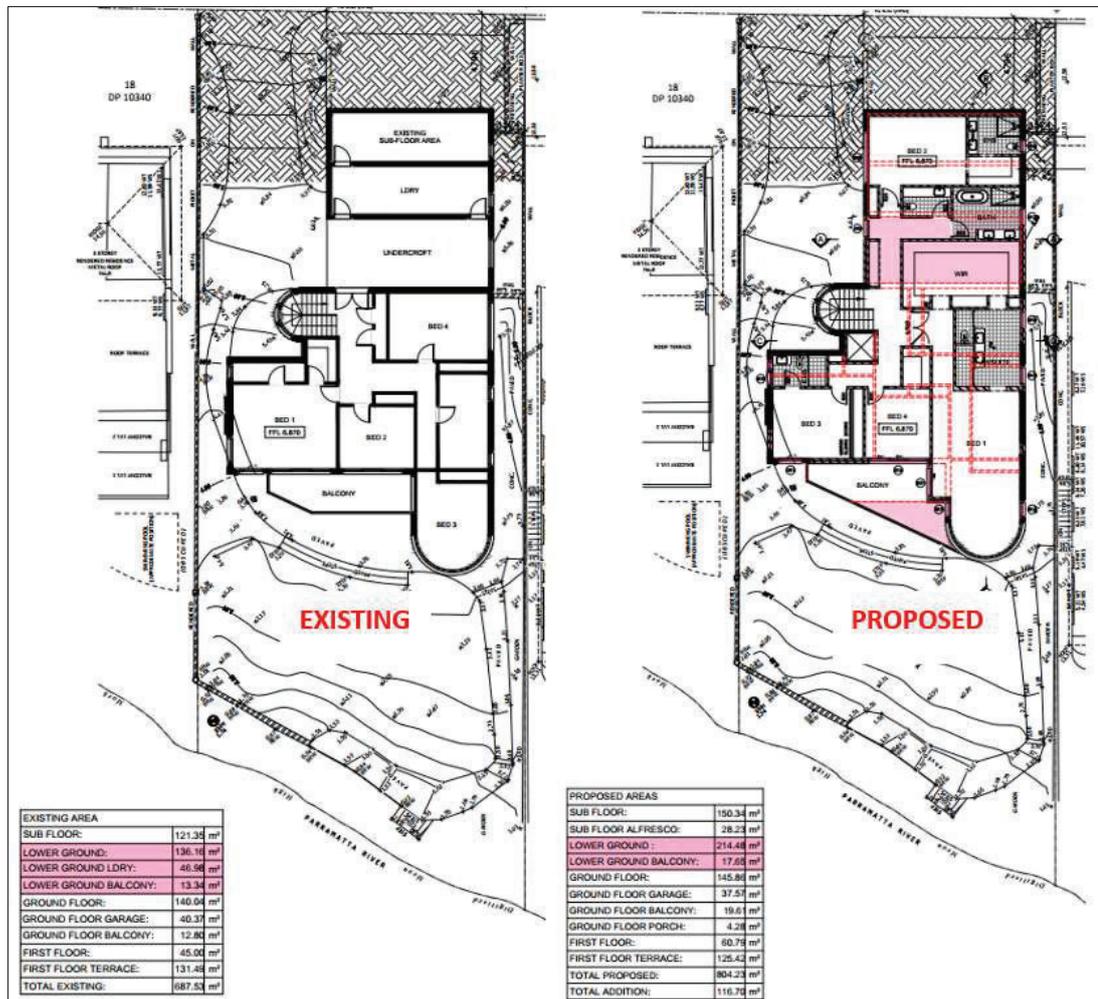


Figure 8: Proposed floor plan changes to lower ground floor level. Source: Architectural Plans prepared by Construction by Design

Ground Floor FFL10.090 (Figure 9)

- Internal wall demolition.
- Alteration of floor layout to create an open plan living, dining and kitchen area.
- Enclosure and relocation of the front door.
- Extension of the balcony area, resulting in a reduction in gross floor area in this location.
- Reconfigure window layout, including new living room window visible from Shackel Avenue.

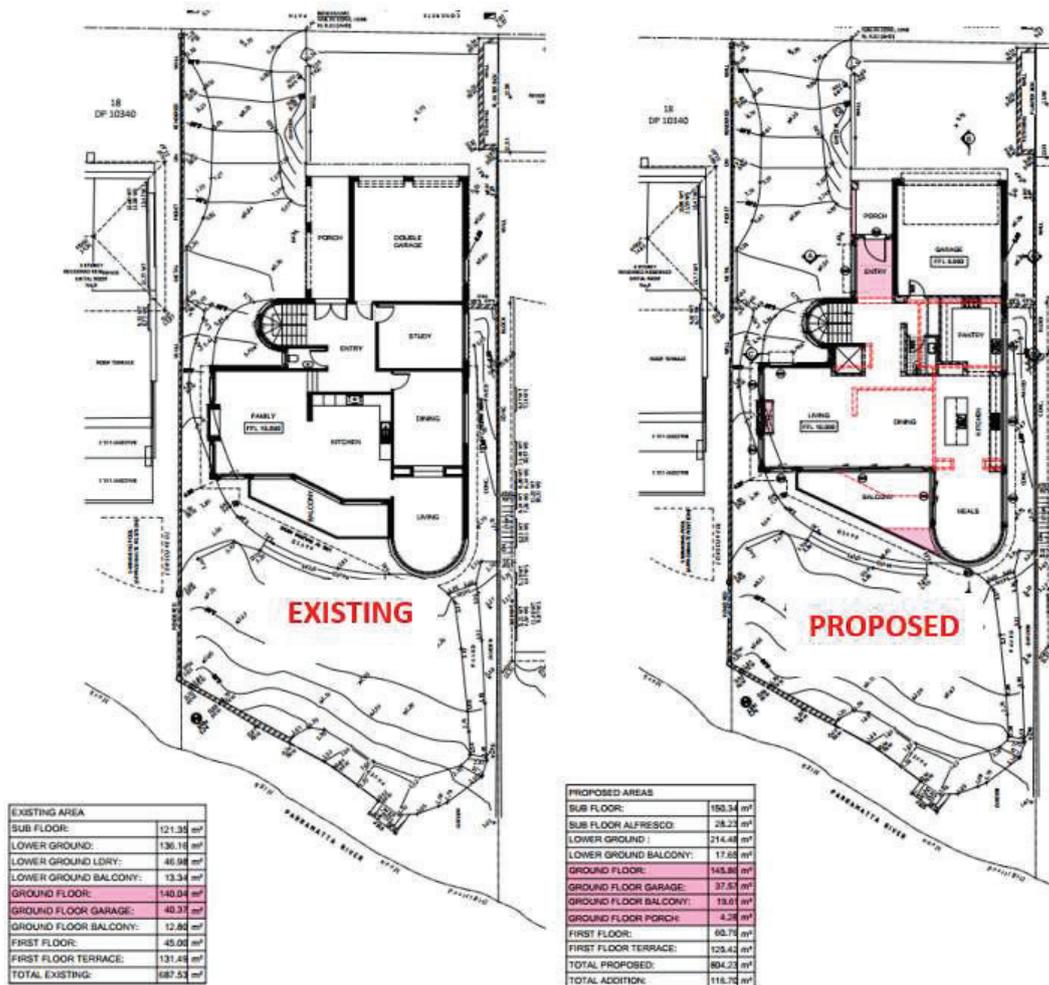


Figure 9: Proposed floor plan changes to ground floor level. Source: Architectural Plans prepared by Construction by Design

First Floor FFL13.600 (Figure 10)

- Increase in floor space to the first floor, via the extension of the southern building elevation.
- Repurpose first floor into a study/library.
- Alterations to the external terrace including a BBQ area, the area of the terrace will be slightly reduced due to the increase in size of the study/library.
- The proposal includes the addition of a new roof.

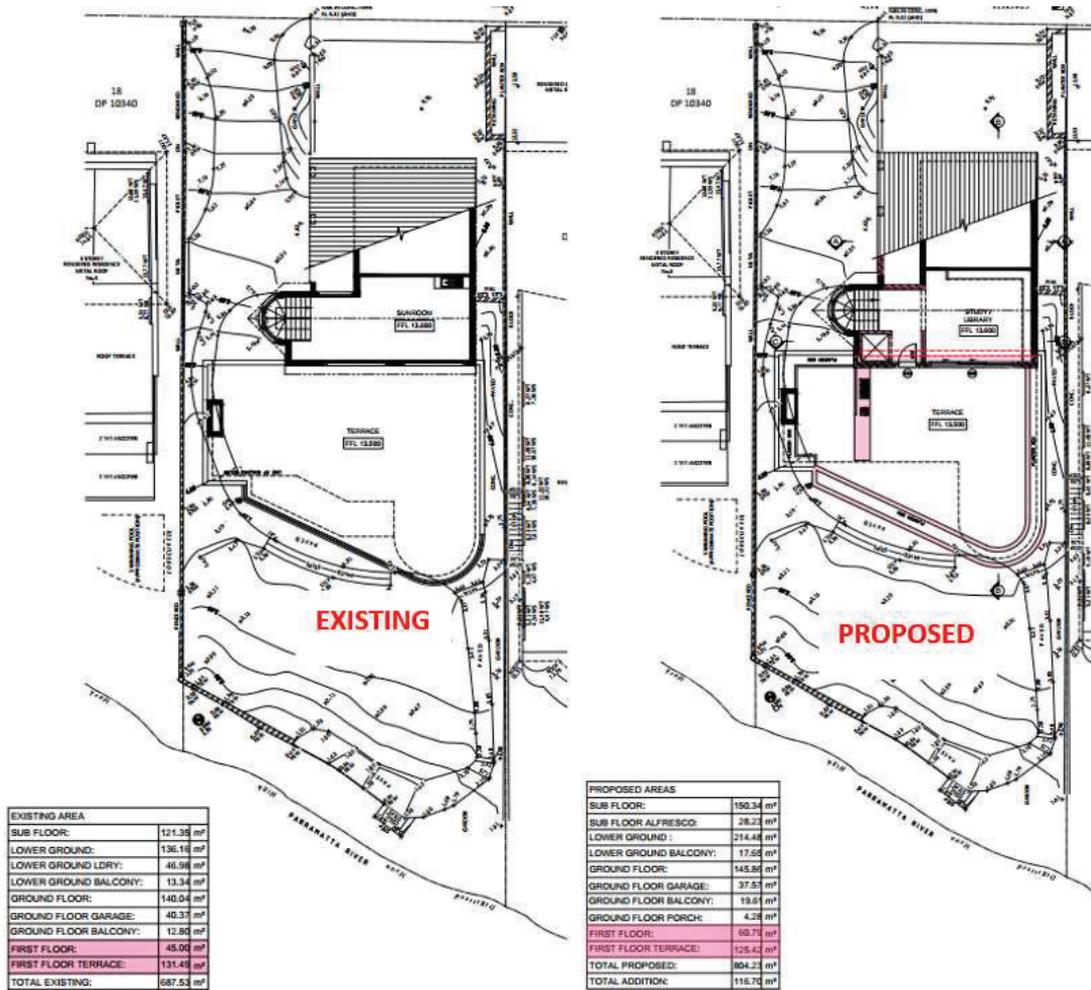


Figure 10: Proposed floor plan changes to first floor level. Source: Architectural Plans prepared by Construction by Design

A new lift is also proposed to connect at each level.

The plans submitted with the review application, labelled as ‘existing floor plan’, are inconsistent with those that were approved under Building Application No. 1075/86 and with observations made onsite on 12 October 2022. Such inconsistencies include, but are not limited to:

- The covered outdoor area at the sub-ground level which is currently utilised as a bedroom (**Figure 11**)
- The ‘existing sub-floor’ area at the sub-ground level (**Figure 12 and 13**)
- The laundry and bathroom at the lower ground floor level (**Figure 14 and 15**)
- The balustrade at the first floor of the dwelling (**Figure 16**)

These details are expanded upon further within the floor space ratio discussion with Section 5.2 of the report below.



Figure 11 The existing dwelling showing the "Outdoor Covered Area", which is internalised within the dwelling and currently used as bedroom. Outlined undertaken by CPS: Source: Architectural Plans prepared by Construction by Design



Figure 12 The 'existing sub-floor area' looking west. Source: CPS site inspection October 2022



Figure 13 The 'existing sub-floor' area looking in a north eastern direction. Source: CPS site inspection October 2022



Figure 14 The laundry and bathroom at the lower ground floor level. The door to the subfloor area could not be opened and therefore no images are provided. The outlines undertaken by CPS. Source: CPS site inspection.



Figure 15 The location of the subfloor and laundry and bathroom at lower ground floor level as viewed from the western elevation. Outlines made by CPS. Source: CPS site inspection



Figure 16 Balustrade at the first floor of the dwelling. Source: CPS site inspection.

Key changes from the refused development under LDA2021/278

The following changes have been made to the plans or supporting information since the refusal of LDA2021/278.

- The FRS calculation is addressed in the Clause 4.6 variation submission
- The overall height of the building remains unchanged however, the roofing materials are modified from concrete roof tiles to sheet metal
- The first floor terrace is slightly extended over the open terrace below with planter around the edge
- The architectural plans more accurately reflect the extent of works and there is no excavation warranting an acid sulphate report
- New clause 4.6 submission in respect of the height and floor space ratio
- New BASIX Certificate
- A geotechnical report.

4. Background

12 December 1988	Building Application No. 1075/86 provided consent for the erection of the dwelling house on the subject site. The approval was signed by a senior building surveyor who undertook an inspection of the property and confirmed that the development has been built in accordance with Ordinance No. 70 and without material deviation from the approved plans that pertained to the subject approval (provided at Attachment 3). There are no additional approvals from the intervening period that apply to the subject site available on Council's records.
12 May 2022	LDA2021/0278 for alterations and additions to the existing residential dwelling was refused by the RLPP. The reasons for refusal are included after this table.
30 August 2022	APL2022/0003 was submitted on the planning portal.
7 September 2022 – 23 September 2022	The application was notified in accordance with the Ryde Community Participation Plan. No submissions were received during this period.
12 October 2022	A site inspection was undertaken.

The reasons for refusal by the RLPP are as follows:

1. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development is inconsistent with the provisions of *Ryde Local Environmental Plan 2014* in that:

- The proposed development does not comply with the height of buildings standard prescribed by Clause 4.3 of *Ryde Local Environmental Plan 2014*. Whilst the current dwelling already exhibits a non-compliance, the development extends existing visual impacts to neighbouring land, and the Clause 4.6 written request to vary the development standard is not adequate.
 - The proposed development does not comply with the floor space ratio standard prescribed by Clause 4.4 of *Ryde Local Environmental Plan 2014*. Whilst the current dwelling already exhibits a non-compliance, the development extends existing visual impacts to neighbouring land, and the Clause 4.6 written request to vary the development standard is not adequate.
 - There is insufficient information provided to confirm if the proposal satisfies Clause 6.1 Acid Sulfate Soils as it is unclear if the development will involve the disturbance of more than 1 tonne of soil, and/or if the works are likely to lower the watertable.
 - The proposal is inconsistent with Clause 6.2 as the proposed earthworks are unsympathetic to the natural topography of the site, resulting in unacceptable impacts on the development as viewed from the waterway and neighbouring properties
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development is inconsistent with the provisions of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 in that no amended BASIX Certificate has been provided with the application as required by section 37 (4)(a) of the Regulations.
3. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development is inconsistent with the provisions of clause 25 of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* in that the scale, form, design and siting of the building is not compatible with the likely future character of the locality and that the development detracts from the character of the waterways.
4. The development is inconsistent with a number of provisions of the *Ryde Development Control Plan 2014*, specifically:
- The proposed development is inconsistent with sections 2.5.1 Streetscape and 2.6.2 Topography and Excavation.
 - The proposal results in an excessive floor space area and is inconsistent with section 2.7 Floor Space Ratio.
 - The proposal seeks to extend the existing wall plate height and height in storeys non-compliances associated with Section 2.8.2 of the RDCP 2014.
 - The proposal seeks to lower the ceiling height of the first floor study/library area to 2.39m and this results in a non-compliant floor to ceiling height, short of that required by Section 2.8.2 of the RDCP 2014

- The waste storage area is not identified within the plans as prescribed in Section 2.3 of Part 7.2
 - No Erosion and Sediment Control Plan was submitted with the DA, as prescribed by Section 2.1.2 of Part 8.1.
 - Insufficient information has been submitted to enable a proper assessment of the proposed overshadowing provisions contained within Section 2.14.1 Daylight and Sunlight Access
5. The site is unsuitable for the proposed development pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
6. Having regard to the reasons noted above, pursuant to the provisions of Section 4.15(1)(d) and Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, approval of the development application is not in the public interest

5. Planning Assessment

5.1 Environmental Planning and Assessment Act 1979

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

Section 1.3 Objects of the Act

1.3 Objects of Act (cf previous s 5)

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

The proposal seeks to utilise a structure that has been unlawfully constructed to further contravene principal development standards. In the absence of a BIC to regularise the unauthorised building works, the proposal can be seen as failing to promote the orderly development of land.

Section 8.2 Reviews

The following table details the relevant sections in respect to a Section 8.2 review.

PROVISION	COMMENT
Section 8.2 determinations and decisions subject to review	
<p>(1) The following determinations or decisions of a consent authority under Part 4 are subject to review under this Division:</p> <p>(a) the determination of an application for development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),</p> <p>(b) the determination of an application for the modification of a development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),</p> <p>(c) the decision of a council to reject and not determine an application for development consent.</p>	<p>The subject application is prescribed as a type pursuant to Section 8.2(1)(a).</p>
<p>(2) However, a determination or decision in connection with an application relating to the following is not subject to review under this Division:</p> <p>a) a complying development certificate, (b) designated development, (c) Crown development</p>	<p>The review is of a development application which was not a designated or crown development.</p>
8.3 Application for and conduct of review	
<p>(2) A determination or decision cannot be reviewed under this Division—</p> <p>a) after the period within which any appeal may be made to the Court has expired if no appeal was made, or</p> <p>b) after the Court has disposed of an appeal against the determination or decision.</p>	<p>The application was determined on 12 May 2022, which is after the prescribed period under the COVID amendments. Accordingly, the Section 8.2 must be reviewed within 6 months from the date of determination of the LDA. The lapsing date for the period is therefore 12 November 2022. as per subclause 8.10(1)(a).</p>
<p>(3) In requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having</p>	<p>In accordance with Section 8.3(3), The applicant has made amendments to the application. The amendments made by the applicant include:</p>

<p>regard to the amended development, but only if it is satisfied that it is substantially the same development.</p>	<ul style="list-style-type: none"> • The FRS calculation is addressed in the Clause 4.6 variation submission • The overall height of the building remains unchanged however, the roofing materials are modified from concrete roof tiles to sheet metal • The first floor terrace is slightly extended over the open terrace below with planter around the edge • The architectural plans more accurately reflect the extent of works and there is no excavation warranting an acid sulphate report • New clause 4.6 submission in respect of the height and floor space ratio • New BASIX Certificate • A geotechnical report. <p>The application as amended is substantially the same development as the development described in the original application.</p>
<p>(5) The review of a determination or decision made by a local planning panel is also to be conducted by the panel.</p>	<p>As the original determination was made by the LPP, this review must also be conducted by the LPP.</p>
<p>8.4 Outcome of review</p>	
<p>After conducting its review of a determination or decision, the consent authority may confirm or change the determination or decision.</p>	<p>As a consequence of the review, it is recommended that the decision to refuse LDA2021/0278 be maintained.</p>
<p>8.5 Miscellaneous provisions relating to reviews</p>	
<p>(1) The regulations may make provision for or with respect to reviews under this Division, including—</p> <p>a) specifying the person or body with whom applications for reviews are to be lodged and by whom applications for reviews and the results of reviews are to be notified, and</p> <p>b) setting the period within which reviews must be finalised, and</p> <p>c) declaring that a failure to finalise a review within that time is taken to be a confirmation of the determination or decision subject to review.</p>	<p>The application was notified in accordance with the Ryde Community Participation Plan between 7 September 2022 to 23 September 2022. As a result, no submissions were received objecting to the development.</p> <p>The application was determined on 12 May 2022, which is after the prescribed period under the COVID amendments. The lapsing date for the period in which to determine the application is therefore 12 November 2022.</p>
<p>(2) The functions of a consent authority in relation to a matter subject to review under this Division are the same as the functions in connection with the original application or determination.</p>	<p>The development application was refused by the LPP. The subject review is being determined by the LPP, with alternate panel members to that of the original proposal.</p>

(3) If a decision to reject an application for development consent is changed on review, the application is taken to have been lodged on the date the decision is made on the review.	Noted.
(4) If a determination is changed on review, the changed determination replaces the earlier determination on the date the decision made on the review is registered on the NSW planning portal.	Noted.
(5) Notice of a decision on a review to grant or vary development consent is to specify the date from which the consent (or the consent as varied) operates.	Noted.
(6) A decision after the conduct of a review is taken for all purposes to be the decision of the consent authority.	Noted.
(7) If on a review of a determination the consent authority grants development consent or varies the conditions of a development consent, the consent authority is entitled (with the consent of the applicant and without prejudice to costs) to have an appeal against the determination made by the applicant to the Court under this Part withdrawn at any time prior to the determination of that appeal.	Noted.

5.2 State Environmental Planning Instruments

Instrument	Proposal	Compliance
State Environmental Planning Policy Resilience and Hazards SEPP 2021		
Chapter 2 Coastal Management		
The aim of this Policy is to promote an integrated and coordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the <i>Coastal Management Act 2016</i> including the management objectives for coastal management areas.	<p>The site is mapped as being within a coastal environment area on the Coastal Management Map.</p> <p>Pursuant to Clause 2.10(3) the land is within the Foreshore and Waterways Area as defined in SREP(Sydney Harbour Catchment) 2005. Accordingly, this Section of the SEPP is not applicable to the development.</p>	Yes

Chapter 4 Remediation of land		
<p>The object of this Chapter is to provide for a Statewide planning approach to the remediation of contaminated land.</p> <p>The aims are to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.</p>	<p>Pursuant to Clause 4.6(1) considerations, the subject site has been historically used for residential purposes. As such, it is unlikely to contain any contamination and further investigation is not warranted in this case.</p>	<p>Yes</p>
State Environmental Planning Policy BASIX 2004		
<p>The certificate demonstrates compliance with the provisions of the SEPP and is consistent with commitments identified in the application documentation.</p>	<p>A BASIX Certificate (see Certificate No. (A418573_02 dated 9 August 2022) has been submitted with the Section 8.3 review The BASIX commitments have been included on the architectural plans. The amended BASIX Certificate addresses Reason 2 of the refusal.</p>	<p>Yes</p>
State Environmental Planning Policy – Biodiversity and Conservation SEPP 2021		
Chapter 2 Vegetation in non-rural areas		
<p>The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation.</p>	<p>No tree removal is included as part of this application. However, if approval is recommended by the panel, Council’s Landscape Architect has recommended a condition requiring that an arborist is required on site should stormwater pipes affect the root zone of existing trees in the event the application was recommended for approval.</p> <p>The proposal is considered satisfactory by Council’s Landscape Architect.</p>	<p>Yes</p>
Chapter 10 Sydney Harbour Catchment		
<p>This Plan applies to the whole of the Ryde Local Government Area. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.</p>	<p>The site is located within the Foreshores and Waterways Area and subject to consideration under the provisions of the SEPP. The compliance table is provided in Attachment 2.</p> <p>The site is mapped pursuant to Clause 10.13 as being zoned W8 Scenic Waters Passive Use. Pursuant to Clause 10.13(3) land</p>	<p>Yes</p>

	<p>within the W8 zone comprises the waters between the mean high water mark and a line running parallel to and 30 metres to the seaward of the mean high water mark.</p>	
<p>The objectives of the W8 zone are as follows:</p> <p><i>(a) to give preference to unimpeded public access along the intertidal zone, to the visual continuity and significance of the landform and to the ecological value of waters and foreshores,</i></p> <p><i>(b) to allow low-lying private water-dependent development close to shore only where it can be demonstrated that the preferences referred to in paragraph (a) are not damaged or impaired in any way, that any proposed structure conforms closely to the shore, that development maximises open and unobstructed waterways and maintains and enhances views to and from waters in this zone,</i></p> <p><i>(c) to restrict development for permanent boat storage and private landing facilities in unsuitable locations,</i></p> <p><i>(d) to allow water dependent development only where it can be demonstrated that it meets a demonstrated demand and harmonises with the planned character of the locality,</i></p> <p><i>(e) to ensure that the scale and size of development are appropriate to the locality and protect and improve the natural assets and natural and cultural scenic quality of the surrounding area, particularly when viewed from waters in this zone or areas of public access.</i></p>	<p>The proposal is consistent with objectives of the zone as the proposal does not impede public access and the proposed works result in an acceptable visual presentation to the waterway. The proposal does not include any private water dependant development close to the shore or permanent boat storage or private landing.</p> <p>Pursuant to Clause 10.15 the proposed works are not located within the foreshore which is zoned W8. The proposed works are located behind the mean high water mark.</p> <p>The proposed works are not considered to be of an appropriate scale and size which is appropriate to the locality and results in any adverse impacts upon the scenic quality of the area.</p> <p>Based on the above, reason 3 for refusal has not been satisfied.</p>	<p>No</p>

5.3 Ryde Local Environmental Plan 2014 (RLEP 2014)

The subject site is zoned R2 Low Density Residential under the provisions of RLEP 2014. The proposal is for alterations and additions to the existing dwelling and is a permissible form of development.

The following table provides a summary of the key provisions that apply to the proposal:

Clause	Proposal	Compliance
4.3 Height of Buildings		
9.5m	<p>The maximum height of the proposed development is 13.34m.</p> <p>Roof Ridge RL (material changes): 13.34m (40.42%)</p> <p>First floor balustrade change (RL not marked): 11.65m (22.63%)</p> <p>Extension of first floor to the south: 12.25m (28.95%)</p> <p>Refer to discussion below.</p>	No
4.4 Floor Space Ratio		
0.5:1 (341.45m ²)	<p>Existing FSR: 0.53:1 (364m²)</p> <p>Proposed FSR: 0.66:1. (451.17m²)</p> <p>This results in a maximum 32.13% variation.</p> <p>Refer to discussion below.</p>	No
4.6 Exceptions to development standards		
<p>(1) The objectives of this clause are as follows—</p> <p>(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,</p> <p>(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</p>	<p>The Clause 4.6 written requests are discussed below.</p>	No
5.10 Heritage Conservation		
<p>(1) The objectives of this clause are as follows—</p> <p>(a) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(b) to conserve the heritage significance of heritage items and heritage</p>	<p>The subject site does not contain an item of environmental heritage and is not located within a heritage conservation area. The nearest heritage item is Item 4 (houses) which is located approximately 120m north-east of the site and located at 23-31 Amiens Street.</p> <p>Considering the distance to the nearest heritage item, the proposal is considered unlikely to impact on the heritage significance of that item.</p>	Yes

Clause	Proposal	Compliance
<p>conservation areas, including associated fabric, setting and views,</p> <p>(c) To conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance</p>		
6.1 Acid Sulfate Soils		
<p>(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.</p>	<p>The subject site is affected by Class 5 acid sulfate soils. A Geotechnical Investigation Report has been prepared by Geotechnical Consultants Australia to accompany the application. The assessment undertaken screened for the presence of Actual Acid Sulphate Soils (AASS) and Potential Acid Sulphate Soils (PASS) in accordance with the ASSMAC guidelines and in general with the National Acid Sulphate Soils Guidance Manual. The samples collected from the boreholes has determined that there are no acid sulfate soils present on site.</p> <p>The information submitted has addressed Reason 1 point 3 for refusal of LDA2021/278.</p>	Yes
6.2 Earthworks		
<p>(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p>	<p>The Geotechnical Investigation Report provided with the application notes that approximately 500mm – 1m of excavation is proposed on site and is located within the existing building envelope.</p> <p>This is discussed in further detail below.</p>	Yes
6.4 Stormwater Management		
<p>(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.</p>	<p>The proposed stormwater management plan has been reviewed by Council's Senior Engineer and deemed acceptable should the application be recommended for approval.</p>	Yes
6.5 Limited Development on Foreshore Area		
<p>(1) The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.</p>	<p>The proposal does not seek any building works within the foreshore area or impacts upon public access to the foreshore. No issues have been raised from Council's Senior Development Engineer in relation to drainage impacts on the waterway.</p>	Yes

Clause 2.3 – Zone Objectives

Aims and objectives for residential zones are as follows:

- 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 alterations and additions to an existing four level dwelling. Although large two and three storey dwellings are not unusual in the locality, the scale of the existing building is larger than anticipated within a low-density environment, or found within the immediate surrounds. The proposal seeks to increase the size of this building, and it is not compatible with providing housing in a low-density residential environment. The second objective is not of relevance to the proposed development.

The proposal has been not supported by satisfactory Clause 4.6 written requests. The documents do not adequately demonstrate the residential zone objectives are achieved despite the variation to the development standards.

Clause 4.6 Exceptions to Development Standards

Clause 4.6 of the RLEP 2014 provides flexibility in the application of planning controls by allowing Council to approve a development application that does not comply with a development standard. The development contravenes both Clause 4.3 Height and Clause 4.4 Floor Space Ratio standards and written requests have been submitted. These are discussed below.

Clause 4.3 Height of Buildings

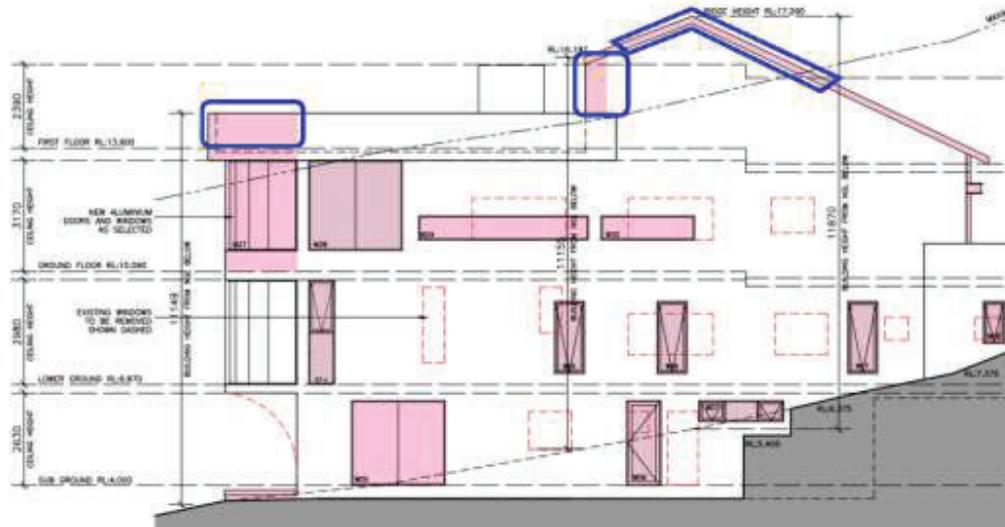
The development contravenes Clause 4.3(2) of RLEP 2014, which prescribes a maximum building height of 9.5m. The existing development has a height of 13.34m, being from the roof ridge (RL17.29) to the sub ground floor level (RL 3.95).

The proposed additions do not exceed the maximum building height of the dwelling, however, the proposed works including the provision of a planter box at first floor level and the proposed 600mm southern extension at the First Floor Level mean more of the building will contravene the height standard.

The proposed planter box results in a maximum building height of 11.65m. The increase to the First Floor results in a maximum building height of 12.25m. The proposal also seeks to replace the roof tiles with metal sheeting, which has an unchanged RL 17.290, resulting in a maximum building height of 13.34m. The applicant has submitted a Clause 4.6 request prepared by Andrew Martin Planning dated August 2022 (**Attachment 5**) to vary the development standard.

A comparison of the approved plans under Building Application No. 1075/86, the existing plans submitted as part of the application, and the proposed development is shown in the **Table 1** below. The comparison of the plans demonstrates inconsistencies between the approved development and those shown as existing and relied upon to facilitate the proposed works.

**Proposed
Plans under
APL2022/0003
Eastern
Elevation**



The proposal seeks a 300mm increase in the height of an existing First Floor terrace (planter box and associated balustrade), and a proposed 600mm southern extension of the building at the First Floor Level, both as marked in blue above.

The applicant has used height measurements relying upon the ground levels that may have existed before the dwelling was constructed (1980s), rather than the excavated levels now evident on site.

The definition of ‘building height’ and ‘ground level (existing)’ as per the Dictionary of the RLEP 2014 has been provided below for reference:

building height (or height of building) means—

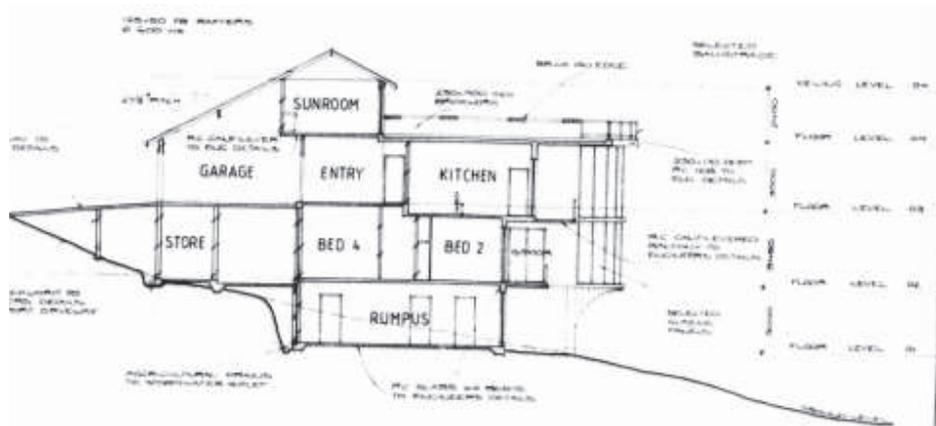
- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,*

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

ground level (existing) means the existing level of a site at any point.

Council has undertaken the height based on the submitted survey which includes contours and a spot level of RL3.95 adjacent to the laundry door at the sub floor level.

**Approved Plans
Western
Elevation**



**Existing Plans
Western
Elevation**



**Proposed Plans
Western
Elevation**



The additions will also create a continuous building height measured at 10.65m, although “ground level (existing)” would be unchanged by this aspect.

The written request indicates a maximum height of 11.87m or a variation of 24.9%. This is inconsistent with Council's calculation. The development contravenes the building height development standard as shown in **Table 2** below. The percentage variations to the development standard are as follows:

Table 2 Building Height contravention

Aspect of building	Maximum building height	Variation to development standard
Roof of dwelling (material changes)	13.34m	40.42%
First floor balustrade change (not marked)	11.65m	22.63%
Extension of first floor to the south	12.25m	28.95%

An assessment of the relevant provisions of Clause 4.6 is as follows:

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

The written request provides the reasons why compliance with the standard is unreasonable and/or unnecessary, with selected excerpts shown below with Council's comments below.

Unreasonable and unnecessary

- *The view of the height and the built form and design of the existing dwelling when viewed from Shackel Avenue remains unchanged by the proposal. Upgrades to the Shackel Avenue façade include new garage doors (change from 2 x single doors to 1 x double door) and change from roof tiles to non-reflective sheet metal roofing. Neither of these changes alters the overall height or bulk and scale. The photographs provided as part of the S8.2 Review report confirm that the overall scale and form ranges from 2 – 4 storeys. The changes do not alter the number of storeys visible from the street or the river. The dwelling remains compatible with the character of the area. This objective is satisfied.*

Planner's comment: This justification is not agreed with. The proposed works extend the building envelope and contravene the height standard. Whilst the proposal does not include additional storeys to the dwelling, the proposed changes do increase the bulk and scale of the development which will be visible from adjoining properties, in the oblique

angel from Shackel Avenue and from the waterway. Whilst large dwellings are part of the character along the southern side of Shackel Avenue stepping down to the waterfront, the desired character is compliance with the height development standard. The proposal exacerbates and further contravenes the standard and this is not compatible with the character of the area.

- *The building envelope, footprint, orientation and siting of the dwelling remains unchanged under the S8.2 proposal. The majority of the building works are internal alterations with consequential changes to window openings and doors as a result of either the reconfigured layout, additional GFA and new layout on the two lower floor levels. The height of the dwelling house remains unchanged by the proposed works and the shadow diagrams submitted with the s8.2 Review Plan set demonstrate that the shadows fall on the neighbouring properties as per the current building and are not increased to a level that would change the residential amenity of either property.*

Planner's comment: The proposed works are consistent with those refused under the Development Application LDA2021/278. However, the internal works referred to relate to a range of unauthorised works that have been carried out on the site which has added new components to the building, and also altered the existing ground level.

The proposal contains numerous elements which would increase the building envelope in some way. Most of these elements would not create additional overshadowing, given they are located to the south of, and/or at a lower height than, an existing shadowing element. However, the raised balustrade height on the first floor terrace would have the potential to increase overshadowing to the subject site and neighbouring properties. The submitted shadow diagrams do not provide shadows cast by neighbouring buildings, or provide any comparison between existing and proposed shadows, to enable a proper assessment of the increased shadow impacts. Insufficient information has been submitted to quantify the applicant's claim all shadows fall within the existing shadow cast.

- *As outlined above the built form and height of the existing dwelling is not altered by the subject proposal. The height variation is existing and the variation, of itself, does not adversely impact on either of the adjoining properties by virtue of overshadowing, additional bulk, scale or substantial changes to view sharing opportunities by either adjoining property. On this basis, there is minimal additional impact associated with the proposal on the amenity of adjoining properties. The objective is satisfied.*

Assessment Officer's Comments: This reason is disagreed with. The proposal does alter the built form and the height of the existing dwelling. Whilst the existing maximum height is not exceeded, the proposed works do contravene the development standard. The application has not been supported by sufficient information to quantify the resultant shadow impact. The proposed works do increase the bulk of the development, particularly along the southern and western elevations.

- *The proposal satisfies the objectives of the development standard as the height variation is existing and there is no change to the maximum height of the existing dwelling house. The building alterations are predominantly internal to the building envelope and the proposal does not unduly change the interrelationship of the dwelling with either of the adjoining properties or the streetscape character of Shackel Avenue. The proposed works modernise the dwelling and provide improved internal living amenity and functionality for its residents.*

Assessment Officer's Comments: The applicant contends the objectives are satisfied on the basis of the proposal maintaining the existing height, works being predominantly internal and there being minimal impact from the proposal. However, whilst the overall height of existing dwelling is not extended any further, the applicant fails to recognise the proposed new works do lead to additional contraventions of the building height standard that will be visible from the waterway areas.

The proposed works rely upon unauthorised works. It is unreasonable to consider a written request to contravene the building height development standard when the building to be altered includes unauthorised components.

The existing contravention of both the building height and FSR standards indicates a maximum built form has already been reached on site. Further contravention of the standards has not been adequately justified as unreasonable or unnecessary in the circumstances of the case.

Environmental planning grounds

The justification in the applicant's request and Assessment Officer's comments are below:

- *The overall height of No. 6 Shackel Avenue Gladesville is not altered by the proposed alterations to the existing dwelling house. The pitch of the roof and height of the ridgeline (RL17.29m AHD) is not changed by the proposal. Only the roof tiles are to be changed to non-reflective metal sheeting.*

Planner's comment: The maximum height and ridgeline of RL17.29 is maintained. However, new works are proposed which exceed the 9.5 metre height standard.

- *The site slopes from north to south from Shackel Avenue to the waterway (Parramatta River).*

Planner's comment: This comment on the site's topography, is not an environmental planning ground to support contravention of the development standard.

- *The dwelling house, when viewed from Shackel Avenue appears as one storey to the garage and two storeys to side façade.*

Planner's comment: This is disagreed with. The full height of the building and the proposed works are visible in the oblique view from Shackel Avenue and clearly from the waterway area.

- *It is only a small section of the southern façade (rear) of the dwelling that exceeds the HOB maximum limit.*

Planner's comment: Built form is not perceived in a single aspect. The existing dwelling contravenes the height standards. It is not agreed the 600mm extension at first floor should be viewed as minimal in this context without viewing the contravention in totality and how the entire dwelling is perceived from adjoining properties, the streetscape and waterway. The breach is visible from all aspects.

- *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.*

Planner's comment: This statement fails to recognise whilst the overall height of existing dwelling is not increased, the proposed new works do contravene the height standard and the height breach sought to be justified is not reflective of the calculated height. The works are visible from the waterway and in the oblique view from the streetscape. The statement also fails to acknowledge the proposed works to the southern elevation rely upon works which have been undertaken without consent.

- *The non compliance is existing and therefore does not contribute to additional shadow.*

Planner's comment: The proposal includes new works at first floor level which contravene the height standard and are sited at the southern edge of the building and therefore do

have potential to cast additional shadows outside of the existing built form. The application has not been supported by sufficient information to quantify the resultant shadow impact.

- *There are no additional impacts as a result of the height departure.*

Planner's comment: The applicant has not provided sufficient documentation to demonstrate this.

- *Within this context the existing height is compatible with the surrounding height and satisfies the relevant height objectives.*

Planner's comment: The reasons provided by the applicant do not demonstrate sufficient environmental planning grounds. The reasons provided are either simple statements of fact, or descriptions of aspects of the proposed development. Environmental planning grounds relate to the subject matter, scope and purpose of the EP&A Act and its Objects.

The reliance upon the existing dwelling being non-compliant, and the proposal not exceeding this maximum height (albeit still contravening the development standard), does not mean the height is compatible with surrounding development. The existing contravention of both built form standards indicates a maximum has already been reached on site.

Is the proposal in the public interest?

Pursuant to clause 4.6(4)(ii), a development will be in the public's interest if it is consistent with the objectives of the development standard and also the zone objectives in which the particular development is carried out. The objectives of Clause 4.3 and an assessment are provided below:

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,*

The additional height is visible in the oblique angle from Shackel Avenue. The additional height is also visible from Parramatta River and the adjoining dwellings. The existing height contravention combined with the new works contravening the standard is reflective of a maximum building envelope having already been achieved on the subject site. Further increases in height are not in keeping with the character of the local area.

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

Planner's comment: Insufficient information has been submitted to demonstrate the extent of additional shadow impact. The proposed first floor additions which increase the built form in a southerly direction has potential to alter the existing shadow cast upon adjoining properties.

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

Planner's comment: This objective is not applicable.

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

Planner's comment: The additions to the building will not cause any disruption to views.

(e) to emphasise road frontages along road corridors.

Planner's comment: This objective is not applicable.

The proposal is inconsistent with the public interest for the following reasons:

- The development is inconsistent with the objectives of the standard and zone as required by Clause 4.6(4)(a)(i).
- The proposal does not achieve the objectives of the standard as required by Clause 4.6(3)(a).

Clause 4.4 – Floor Space Ratio

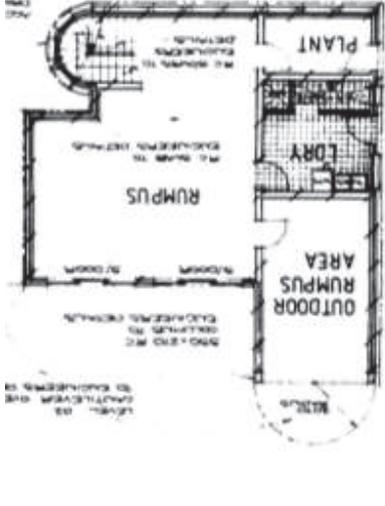
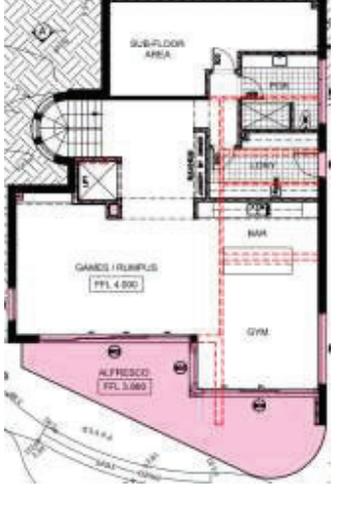
Clause 4.4(2) of RLEP 2014 provides that the maximum floor space ratio (FSR) for buildings on the subject site is not to exceed 0.5:1 or 341.45m². The submitted Clause 4.6 written request prepared by Andrew Martin Planning dated July 2022 indicates that the existing dwelling has a gross floor area (GFA) of 0.57:1 (386.8m²), and the proposed alterations and additions result in a FSR of 0.66:1 (451.17m²).

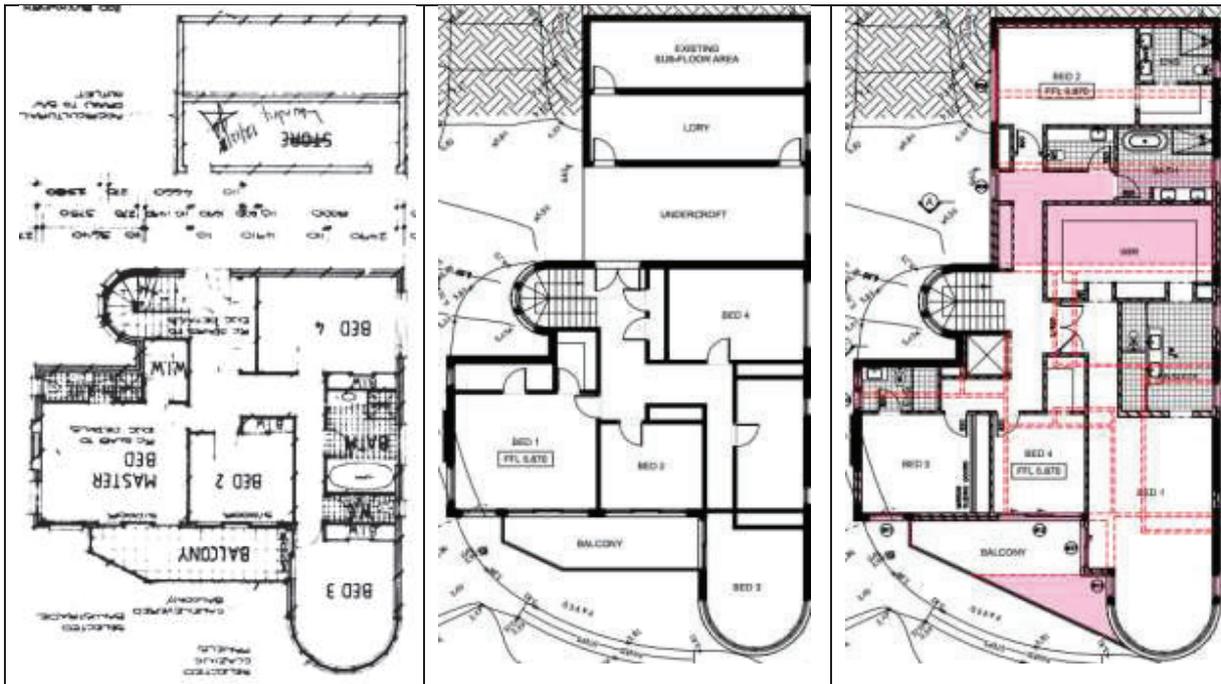
However, the site inspection carried out has highlighted that there are inconsistencies between Building Application No. 1075/86 and the development currently on site. The GFA of the dwelling based upon the areas approved under Building Application No. 1075/86 is 364m² or an FSR of 0.53:1.

The discrepancy in calculations is a result upon the applicant relying upon the existing built form on site and Council's reliance upon the development as approved under Building Application No. 1075/86.

The proposed alterations and additions to the existing dwelling seek to alter the floor area of the development on each level. The comparison of the additional floor area on each floor level has been summarised in **Table 3** and the propose works are shown in pink.

Table 3 Comparison of approved GFA, existing dwelling and proposal

Approved Plans	Existing Plans	Proposed Plans
		
<p>Sub-Ground Floor</p> <p>The proposed development seeks to utilise aspects of the ‘existing’ subfloor area. The subfloor extends beyond the approved building floor plate. The subfloor has an area of 28m², approximately 7m² of the subfloor will contribute to GFA.</p> <p>The outdoor rumpus area has been enclosed and is currently used as a bedroom which contributes to GFA. The proposed additions also seeks to alter the width of the rumpus and the gym area and as such, alters the appearance of the development as viewed from the waterway and from the neighbouring properties.</p>		

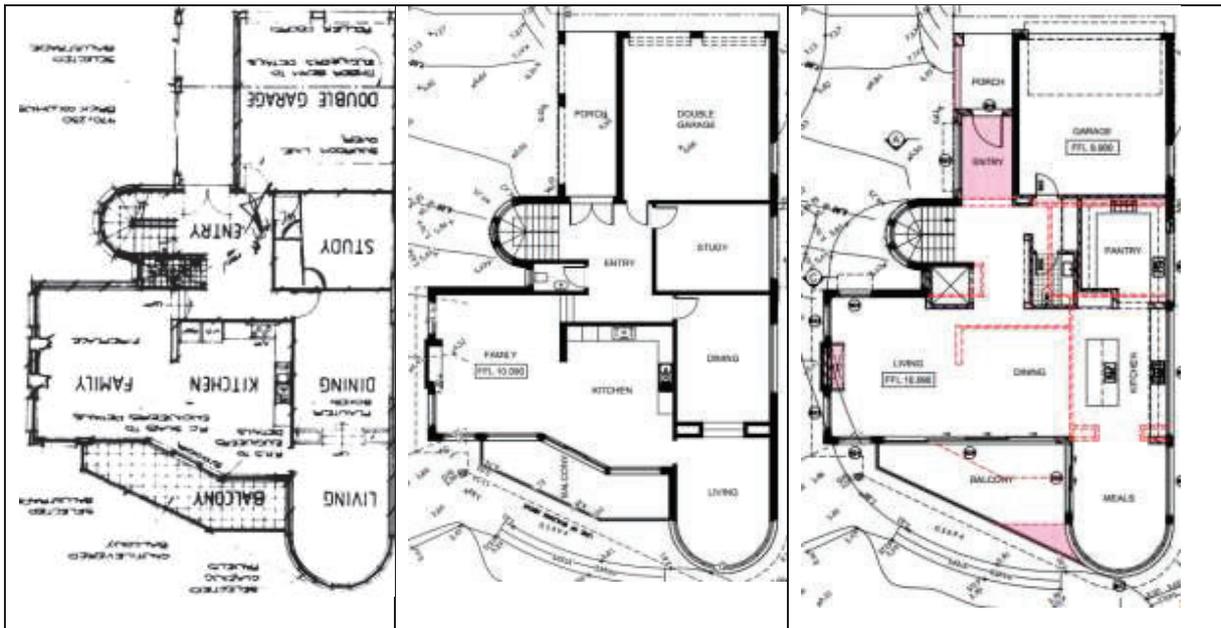


Lower Ground Floor

The proposed alterations and additions to this level include extending the balcony, resulting in approximately 6.5m² of additional area. Whilst this does not increase GFA, it does increase the floor plate of the building.

The proposal also seeks to enclose the undercroft area of the building as highlighted in pink, which was not marked on the approved plans and is currently able to be used for pedestrian access and parking. The area currently used for a laundry, was approved for the purpose of a store room. The area behind the laundry was not intended to be accessed but is accessible as illustrated within **Figure 14 and 15**.

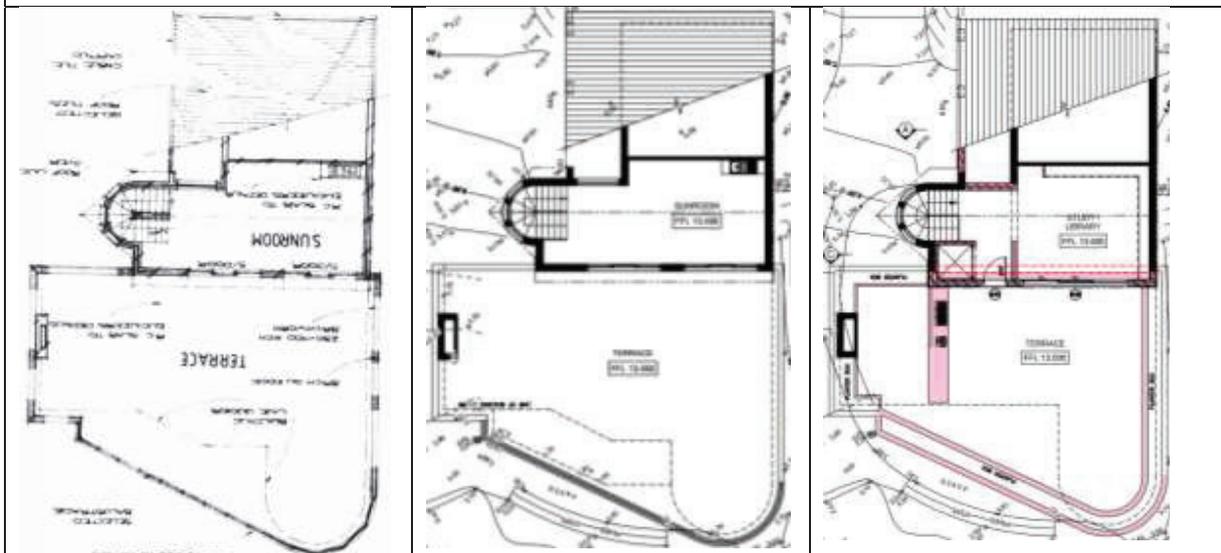
The proposal seeks to extend bedroom 1 into an area currently used for the balcony (not coloured on the plans).



Ground Floor

The additions on this level include the enclosure of the pedestrian entry area directly under the existing roof and next to the garage. This addition will have an area of 6m².

The proposal also seeks to increase the area of the existing balcony by approximately 7m². It is also noted, that the garage was approved with double doors which has since been replaced by a single door.



First Floor

The additions proposed seek to increase the dimensions of the room located upon the first floor. The width of the study/library area will be increased by 600mm.

In addition to the above, the proposal includes a new lift shaft from the subfloor level to the first-floor level. The proposal seeks to provide additional floor area on each level of the four-level dwelling house, however some of the additional floor area does not contribute to the gross floor area.

An assessment of the relevant provisions of Clause 4.6 is as follows:

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

The written request provides the reasons why compliance with the standard is unreasonable and/or unnecessary, with selected excerpts shown below:

Unreasonable and unnecessary

- *The bulk of the existing dwelling is substantially the same when viewed from both Shackel Avenue and the waterway to the south of the site (Parramatta River). The alterations that increase the overall GFA are internalised within the existing building envelope and predominantly within the lower two levels of the existing dwelling.*

Planner's comment: The proposed additions will be visible from all elevations and results in an increased bulk along the western elevation which is visible from the streetscape. The proposed works at the lower and subfloor increase the scale of the development. The existing envelope of the building has not been lawfully approved and therefore using the existing scale as justification is fraught.

- *The proposal does seek to increase the total GFA of the existing dwelling. However, the additional floor area is internalised within the existing building envelope and not discernible from the street or as an extension of the building when viewed from the water. Therefore, it is absorbed into the existing built form. There are a number of large dwellings along the waterfront of the Parramatta River (refer to photographs within the S8.2A report. The proposal is not increasing the bulk or scale of the development when compared to the existing building or others within the vicinity of the subject site and is acceptable for this specific area.*

Planner's comment: The existing dwelling has a greater height and scale to surrounding dwellings on the southern side of Shackel Avenue. The first floor is sited above neighbouring dwellings and creates a fourth level when viewed from the waterfront. The upper three levels are all visible from Shackel Avenue. The works proposed are visible from the waterfront, streetscape and surrounding properties. The existing contravention

is further increased, which new development is expected to comply with. The justification fails to recognise the extension of the height contravention, and the extent of increase in the contravention of both the height and FSR standards which is being proposed.

- *The proposal satisfies the objectives of the development standard as the FSR variation is existing and there is no change to the overall built form, bulk or scale of the existing dwelling house. The building alterations are predominantly internal to the building envelope and the proposal does not unduly change the interrelationship of the dwelling with either of the adjoining properties or the streetscape character of Shackel Avenue. The works are considered to be improvements to the dwelling which will modernise the dwelling and provide improved internal living amenity and functionality for its residents.*

Planner's comment: The written variation relies upon a GFA achieved by unauthorised works to minimise the extent of breach that would be approved as part of this application. The development cannot rely upon unauthorised works to justify the contravention of the development standard. The contention that the application increases the GFA internally within the existing building envelope is not orderly development of land given the envelope has not been lawfully approved and is contrary to the EP&A Act. To further contravene the FSR standard is not considered to be reasonable.

Environmental planning grounds

The justification in the applicant's request and Assessment Officer's comments are below:

- *The FSR of the dwelling is currently non-compliant (14%). The proposal seeks to increase the GFA of 64.37sqm to better utilise the existing building envelope and improve the living areas of the dwelling. This is a logical and practical approach to proposed alterations without undue impacts on the adjoining properties, riverscape, streetscape or natural environment.*

Planner's comment: The written request does not reflect the approved dwelling's floor space. A detailed assessment of the approved dwelling, existing dwelling, and the proposed works have been undertaken above. Unauthorised works have been undertaken on site which has increased the GFA and the proposal now seeks to utilise these areas and use them to minimise the extent of the contravention proposed. Reliance upon unauthorised works to facilitate the proposed works, and then indicating the proposal uses the existing building envelope to improve the functionality of the dwelling is not reasonable.

- *The additional GFA does not alter the building envelope of No. 6 Shackel Avenue Gladesville.*

Planner's comment: This statement fails to recognise the proposed increase in GFA is within areas which are unauthorised. The building envelope has been increased unlawfully and is proposed to be increased further as part of this application. The increase in the envelope contravenes both the height and FSR development standard.

- *The large majority of the additional floor area is achieved via reconfiguration of the existing sub-floor and lower ground floor areas, not by extension of the outer walls of the dwelling or excavation works.*

Planner's comment: **Figure 17** shows the approved area beneath the garage. The undercroft area is currently open on each end of the building; it is shown between the Store and Bed 4. The submitted plans do not include a long section north – south taken along the western portion of the building which would reflect works being undertaken. However, the western elevation (**Figure 18**) shows both works having been undertaken within the subfloor and lower ground floor areas. The proposal is not for a simple reconfiguration of the existing area, as these areas have not been lawfully approved.

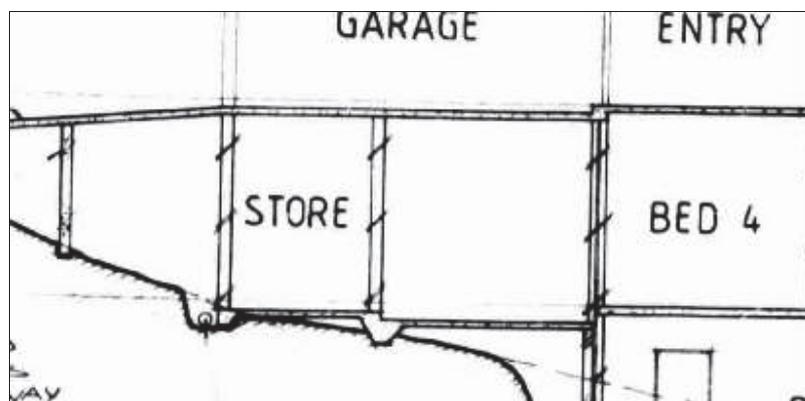


Figure 17: Section of approved undercroft area, taken from approved plans

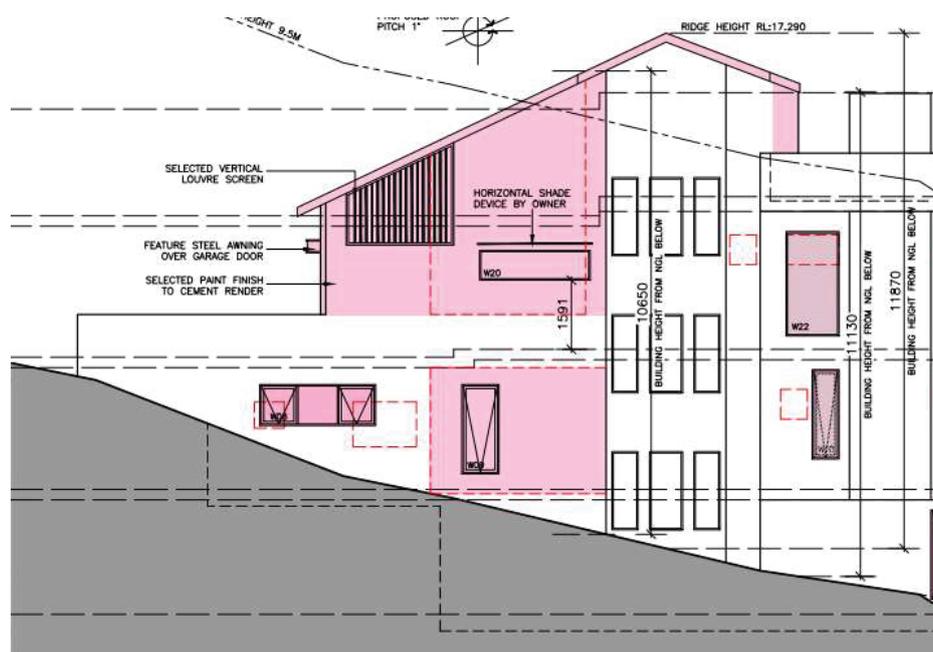


Figure 18 Western elevation refer to as Elevation 2 Sheet 9

- *The existing dwelling comprises four floor levels; the proposal does not alter the number of storeys when viewed from either Shackel Avenue or the waterway to the south of the site.*

Planner's comment: The subject dwelling has a greater height and scale to surrounding dwellings on the southern side of Shackel Avenue, with the first floor sitting above neighbouring dwellings and creating a fourth level when viewed from the waterway. The upper three levels are all visible from Shackel Avenue.

There is limited variation or articulation provided to the dwelling, and the dwelling presents discordantly within the street, with limited landscaping provided to offset this impact. The enclosure of the entry way and undercroft area when viewed from the Shackel Avenue streetscape will extend the three-storey appearance from the street as depicted within **Figure 19**. The enclosure of this space exacerbates the prominence of the dwelling.



Figure 19: The existing dwelling as viewed from Shackel Avenue looking south towards the subject site. The red highlight demonstrates the new allocation of gross floor area. Source: CPS site inspection.

- *There are no impacts arising from the internalised GFA increase of the dwelling. The consequential changes to the floor level layouts required changes to the window and door openings shown in the s8.2 Review Plan set (shaded pink).*

Planner's comment: The GFA increases relate to the areas which are unauthorised. The application has failed to acknowledge or address these issues and rather relies upon these areas to minimise the extent of contravention which results as part of the proposed development.

- *The non-compliance is existing and therefore does not contribute to additional shadow impact on either adjoining property.*

Planner's comment: This comment is disagreed as the extent of contravention has not been accurately reflected. The variation indicates a larger existing FSR of 0.57:1 when the approved dwelling had an approved FSR of 0.53:1. The inconsistencies in the GFA is reflected in **Table 3** above. The proposal includes works to the first floor by increasing the projection by 600mm. The submitted shadow diagrams do not provide sufficient information to ascertain the extent of change proposed as a result of the development.

- *There are no additional impacts as a result of the FSR departure.*

Planner's comment: The proposal has not demonstrated there is no resultant shadow impact. The proposal will further increase the existing size and bulk of the dwelling as viewed from both the north and the south. The proposal increases the floor plate of each floor, and further increases the size of the development. The existing dwelling contains limited articulation and variation when viewed from Shackel Avenue, and has a jarring four storey appearance when viewed from the Parramatta River. The proposal exacerbates the existing issues by the removal of building articulation along the northern façade and an increase in the size of the building envelope. The development does not include any material improvements or landscaping works within the front of the site to soften the built form.

- *No change to the height.*

Planner's comment: The development is supported by a Clause 4.6 seeking variation to the contravention of Clause 4.3 Height development standard. The proposal results in a contravention of the height standard.

- *No impacts of the additional FSR that would limit the development potential of the adjoining sites.*

Assessment Officer's Comments: The impacts of the proposed contraventions have not been adequately addressed in the development application.

Is the proposal in the public interest?

Pursuant to clause 4.6(4)(ii), a development will be in the public's interest if it is consistent with the objectives of the development standard and the zone objectives in which the particular development is carried out. The objectives of Clause 4.4 and an assessment are provided below:

4.4 Floor space ratio

(a) *to provide effective control over the bulk of future development,*

The additional floor space adds unnecessary bulk to a development which is not in character with the streetscape as discussed above.

(b) *to allow appropriate levels of development for specific areas,*

The existing dwelling is one of the larger dwellings within Shackel Avenue and presents as four stories to the waterfront. The additions proposed increase the scale of the dwelling as viewed in the oblique angle from Shackel Avenue. The existing dwelling presently contravenes both built form development standards and any further floor space is unreasonable and inappropriate for the subject site.

(c) in relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.

This objective is not applicable.

The proposal does not satisfy the objectives of Clause 4.4.

The proposal is inconsistent with the public interest as required by Clause 4.6(4)(a)(ii) for the following reasons:

- The development is inconsistent with the objectives of the standard and zone as required by Clause 4.6(4)(a)(i).
- The proposal fails to achieve the objectives of the standard as required by Clause 4.6(3)(a).

Summary

The applicant has submitted a Clause 4.6 written request that seeks to justify contravention of the development standards Clause 4.3(2) Height and Clause 4.4(2) Floor Space Ratio. Pursuant to Clause 4.6(3)(a) of RLEP 2014, the written requests have not demonstrated that compliance with the development standards is unreasonable or unnecessary in the circumstances of the case. The written request has not demonstrated that there are sufficient environmental planning grounds to justify contravening the development standards, as required by Clause 4.6(3)(b).

The proposed development relies upon unauthorised works to facilitate the proposed alterations and additions which contravene the development standards. The proposal seeks to utilise a structure that has been unlawfully approved. Orderly development of the land would first need a Building Information Certificate to regularise unauthorised structures.

The additions proposed will further increase the existing size and bulk of the dwelling from both the north and the south, as well as the extent of the departures from the development standards. The proposal increases the floor plate of each floor, and further increases the

size of the development. The existing dwelling contains limited articulation and variation in materiality when viewed from Shackel Avenue and has a jarring four storey appearance viewed from Parramatta River.

The additions do not seek to counteract any of these existing issues, and instead seeks to exacerbate them through the further removal of building articulation on the northern façade and an increase in the size of the building envelope. No improvements to variation, or to landscaping located towards the street, are proposed to offset any of these impacts. In these respects, the amended Clause 4.6 written requests do not demonstrate that compliance with the development standards is unreasonable or unnecessary in the circumstances of the case.

If approved, several of the proposed changes, such as the extension of GFA into the balconies and the associated increase in balcony size, the southward extension of GFA within the first floor (i.e., rooftop) terrace, the utilisation of unauthorised subterranean floor space, and the extension of the entry area into the porch, could all be extended further in a future application seeking further departures from the development standards.

The assessment concludes that the applicant's written request has not adequately addressed the matters required to be demonstrated by subclause (3) of Clause 4.6 of RLEP 2014, and the proposed development is not in the public interest because it does not meet the objectives of the R2 zone, nor of Clause 4.3 and Clause 4.4.

Pursuant to Clause 4.6(4)(a)(i) of RLEP 2014, Council is not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3). Council is of the opinion that the proposed development will be contrary to the public interest.

The concurrence of the Planning Secretary is not required. Circular PS 08-003 issued on 9 May 2008 informed Council that it may assume the Director-General's concurrence for exceptions to development standards.

Accordingly, the proposed variations are not supported and Reason 1 of the determination is maintained.

5.4 Draft Environmental Planning Instruments

There are no relevant draft Environmental Planning Instruments for consideration.

5.5 Development Control Plans

Ryde Development Control Plan 2014 (RDCP 2014)

The proposal is subject to the provisions of the following parts of RDCP 2014:

- Part 3.3: Dwelling Houses and Dual Occupancy
- Part 7.2: Waste Minimisation and Management
- Part 8.1: Construction Activities
- Part 8.2: Stormwater & Floodplain Management
- Part 9.3: Parking Controls

A full list of the existing and new non-compliances can be found in the Compliance Check at **Attachment 1**. Non-compliances which are a result of the proposed development and are relevant to the recommendation of refusal, are detailed below.

Reason 4 of the refusal is maintained with the exception of the points relating to topography and excavation, wall plate height, floor to ceiling height, waste storage and an erosion and sediment control plan has been submitted. Concerns remain relating to the non-complaint height, FSR and inconsistency with the streetscape.

Part 3.3 – Dwelling Houses and Dual Occupancy

Section 2.5.1 Streetscape

Section 2.5.1 provides objectives and controls that ensure dwellings are in character with the streetscape and add to the amenity of the locality. When viewed from Shackel Avenue, the existing building is currently characterised by limited building articulation. The dwelling features a prominent garage located forward of the building line, and an adjacent second driveway that is not shown on the previous approval for the site. The western portion of the dwelling, when viewed from Shackel Avenue, primarily contains rendered walls, with limited windows or modulation, with the render being continued through to the barrier on the western side of the driveway and the planter box on the eastern side of the driveway.

The proposal seeks to reduce the building articulation further by enclosing the lower ground floor undercroft area, and extending the building entry partway into the existing porch. The proposal also seeks to raise the height of the western driveway barrier. This reason for refusal is maintained.

2.6.2 Topography and Excavation

Section 2.6.2 Topography and excavation has been satisfied, noting that the development does not propose any additional excavation to the topography of the land. Notwithstanding, works have been undertaken unlawfully which has altered the ground levels.

Section 2.7 Floor Space Ratio (FSR)

The proposal contravenes the FSR development standard resulting in a FSR of 0.66:1 and is unacceptable. This reason for refusal is maintained.

Section 2.8.1 Building Height

The existing development is four storeys in scale and has an existing maximum wall plate height of approximately 13.55m. The existing building exceeds the two storey scale and building wall height of 7.5m prescribed by Section 2.8.1. It should be noted that:

- The maximum wall plate height is prescribed as either 7.5m, measured to the underside of an eave, or 8m measured to the top of a parapet; the existing dwelling contains both roof forms, and the existing wall height exceeds both requirements.
- Unlike the height of buildings development standard (clause 4.3 of RLEP 2014), which is measured from ground level (existing), the wall plate height is measured from finished ground level.

The proposal does not seek to increase either the number of storeys or the maximum wall height. However, due to the utilisation of building areas that have not been approved, adjacent to the lowest level of the development, and southward projection of new works at the uppermost level, the proposal will increase the length of the four storey portion, as well as the extent of the wall plate height non-compliance.

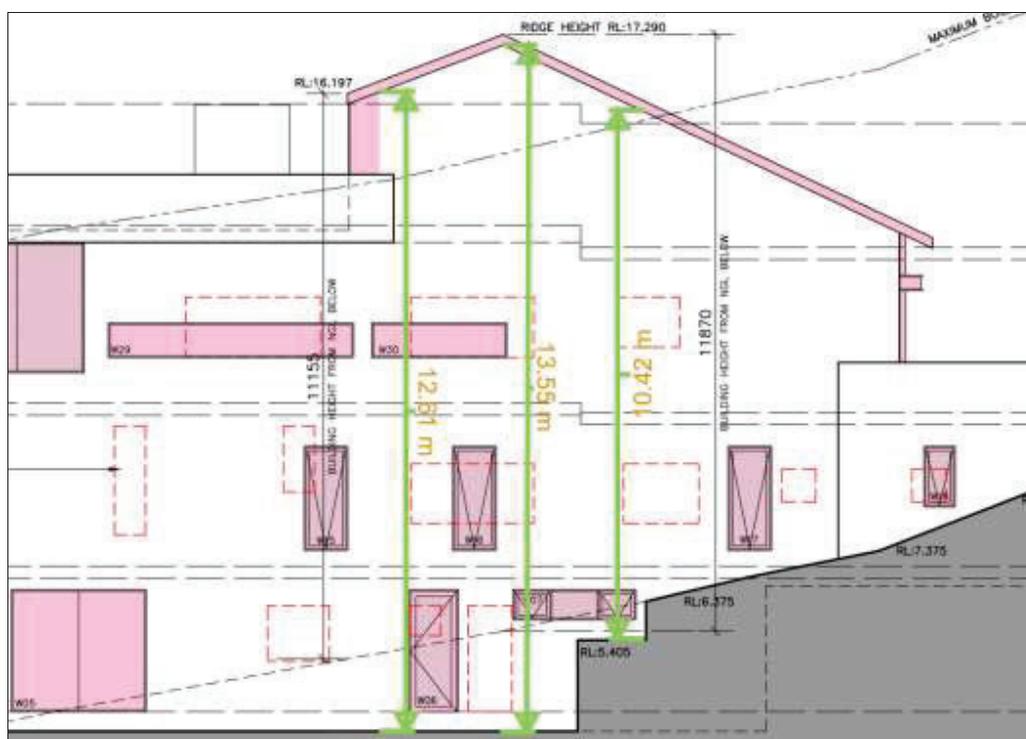


Figure 20: Extract of eastern elevation showing the existing maximum wall plate height (13.55m) and areas of further non-compliance to both the height in storeys and the wall plate height

As with the abovementioned non-compliances, the proposed height non-compliances are not a result of simply transitioning from higher ground levels at the street to lower ground levels towards the water, nor are they associated with any vertical circulation areas that might assist in stepping the building towards the rear. The non-compliances are a consequence of adding to the relatively large and non-compliant gross floor area already contained on the site. In this respect, the non-compliances are not reasonable and are not supported.

There is no reasonable rationale for the non-compliances associated with any site constraint. Approval of the subject application could facilitate further applications for further increases in building height, provided with similar rationale to the subject application, and in that respect, approval is not in the public interest. This reason for refusal is maintained.

Section 2.8.2 Ceiling height

The ceiling height of the first floor study/library area has been justified via the Building Code Assessment Performance Based Solutions Report and this is no longer a reason for refusal.

Section 2.14.1 – Solar access

The proposal contains numerous elements which would increase the building envelope in some way. Most of these elements would not create additional overshadowing, given they are located to the south of, and/or at a lower height than, an existing shadowing element. However, the raised balustrade height on the first floor terrace would have the potential to increase overshadowing to the subject site and neighbouring properties.

The submitted shadow diagrams do not provide shadows cast by neighbouring buildings, or provide any comparison between existing and proposed shadows, so as to enable a proper assessment of the increased shadow impacts. This information is particularly important in the context of the requested variation to development standards, and the commentary within the provided Clause 4.6 Written Requests that indicates that the proposal will not cause additional overshadowing to adjoining properties. For these reasons, the shortfall in overshadowing information is included within the recommended reasons for refusal.

Part 7.2 – Waste Minimisation and Management

2.3 All Developments

The waste storage area has been clearly indicated on the plans, satisfying Part 7.2 and therefore no longer a reason for refusal.

Part 8.1 – Construction Activities

2.1.2 Erosion and Sediment Control Plan

An Erosion and Sediment Control Plan was submitted with the review and Section 2.1.2 of Part 8.1 of RDCP 2014 is satisfied. This no longer forms a reason for refusal.

5.6 Planning agreements or draft planning agreements

The application is not the subject of any planning agreements or draft planning agreements.

5.7 Section 7.11 - Development Contributions Plan 2020

No developer contributions would be payable given the proposed development does not seek new housing allotments or additional new dwellings.

5.8 Any matters prescribed by the regulations

The Regulations guides the processes, plans, public consultation, impact assessment and decision made by local councils, the Department of Planning, Industry and Environment and others. The matters for consideration contained from clause 61 to clause 64 of *Environmental Planning and Assessment Regulation 2021* are of limited relevance to this application.

6. The Likely Impacts of the Development

The assessment demonstrates that the proposal seeks to utilise a structure that has been unlawfully approved and that the variations to the development standards, as well as other non-compliances associated with the scale of the development, are not warranted and will exacerbate the existing discordancy of the dwelling when viewed from surrounding areas.

7. Suitability of the Site for the Development

The assessment has demonstrated the proposal contravenes the built form development standards and is inconsistent with policy controls. The proposal seeks to utilise a structure that has been unlawfully approved. A Building Information Certificate has not been approved, therefore consent cannot be granted for alterations to, and use of, an unauthorised structure.

The submitted existing floor plans are inconsistent with Building Application No. 1075/86. The proposed alterations and additions seek to utilise these areas to facilitate the proposed development. A review of these plans in addition to the observations made onsite on 12 October 2022. Such inconsistencies include, but are not limited to:

- The covered outdoor area at the sub-ground level which is currently utilised as a bedroom (**Photograph 6**)
- The 'existing sub-floor' area at the sub-ground level (**Photograph 7 and 8**)

- The laundry and bathroom at the lower ground floor level (**Photograph 9 and 10**)
The balustrade at the first floor of the dwelling (**Photograph 11**)

A works as executed survey (in plan, elevation and section form) undertaken and signed by a registered surveyor is required to ensure there is an accurate depiction of what has been built on the land. The surveyed works as executed plans, elevations and sections then need to form the basis of the application to regularise unauthorised building works on site under a Building Information Certificate.

The development is unsuitable for the subject site. The existing building is not lawful. The structural conformity of the built form and compliance with the Building Code of Australia needs to be ascertained. Retrospective consent cannot be granted through a development application for the unauthorised works. Reason 5 of the determination is maintained.

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 unacceptable. The proposal contravenes both principal development standards. The proposal seeks variation to Clause 4.3 and 4.4 and has not been supported by a satisfactory Clause 4.6 written variations. On this basis, the proposal is contrary to the public interest. Reason 6 of the determination is maintained.

9. Submissions

The application was notified on 7 September 2022 – 23 September 2022 and advertised in accordance with the Ryde Community Participation Plan. No submissions were received during this period.

10. Referrals

The Section 8.3 application was not required to be referred to any internal or external bodies. The original application was supported by both the Development Engineer and Landscape Architect.

11. CONCLUSION

After consideration of the development against the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* and the relevant statutory and policy provisions, the proposal is recommended for refusal for the following reasons:

- The proposal seeks to utilise a structure that has been unlawfully constructed. A Building Information Certificate (BIC) has not been obtained; therefore, consent cannot be granted for alterations to, and use of, an unauthorised structure. It would be inappropriate to grant consent to the s.8.2 review of the proposed development when:
 - The structural adequacy of the building to accommodate the proposed alterations and additions to the dwelling house, and its conformity with the Building Code of Australia has not been ascertained,
 - The form of the building is different to that proposed under Building Application No. 1075/86, with the review documentation suggesting that retrospective consent is being sought for unapproved works and modifications to the building, and
 - The Applicant has not obtained approval for a BIC to prevent Council from making an order under the Act or the Local Government Act 1993 for the unauthorised components of the existing building to be repaired, demolished, altered, added to or rebuilt.
- The proposal fails to achieve compliance with the height of buildings development standard prescribed for the subject site, resulting in a 40.42% variation to the Height of Buildings standard, which is not adequately supported by the Clause 4.6 written request.
- The proposal contravenes Clause 4.4 Floor Space Ratio with a resultant FSR of 0.66:1. The submitted Clause 4.6 written request is inadequate.
- The proposal results in a built form that has unacceptable impacts to the streetscape and waterway.
- The development is unsuitable for the subject site.
- The development has not been supported by sufficient information to demonstrate the resultant shadow impact.
- The development is not compatible with the streetscape character due to the excessive height, FSR and building wall plate height.
- Approval of this development would be contrary to the public interest.

12. RECOMMENDATION

That the Ryde Local Planning Panel confirm the refusal of LDA2021/078 by refusing Section 8.3 Review of Determination APL2022/0003 for alterations and additions to existing residential dwelling, for the following reasons:

1. The site is not suitable for the proposed development pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*. The proposal seeks to utilise a structure that has been unlawfully constructed. A Building

Information Certificate has not been obtained. Development consent cannot be granted for alterations to, and use of, an unauthorised structure.

2. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development is inconsistent with the provisions of *Ryde Local Environmental Plan 2014* in that:
 - The proposed development does not comply with the height of buildings standard prescribed by Clause 4.3 of *Ryde Local Environmental Plan 2014*. Whilst the current dwelling already exhibits a non-compliance, the development extends existing visual impacts to neighbouring land, and the Clause 4.6 written request to vary the development standard is not adequate.
 - The proposed development does not comply with the floor space ratio standard prescribed by Clause 4.4 of *Ryde Local Environmental Plan 2014*. Whilst the current dwelling already exhibits a non-compliance, the development extends existing visual impacts to neighbouring land, and the Clause 4.6 written request to vary the development standard is not adequate.
3. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development is inconsistent with the provisions of clause 25 of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* in that the scale, form, design and siting of the building is not compatible with the likely future character of the locality and that the development detracts from the character of the waterways.
4. The development is inconsistent with provisions of the *Ryde Development Control Plan 2014*, specifically:
 - The proposed development is inconsistent with sections 2.5.1 Streetscape.
 - The proposal results in an excessive gross floor area and is inconsistent with section 2.7 Floor Space Ratio.
 - The proposal seeks to extend the existing wall plate height and height in storeys non-compliances associated with Section 2.8.2 of the RDCP 2014.
 - Insufficient shadow diagrams have been provided to satisfy Section 2.14.1 – Solar access.
5. Having regard to the reasons noted above, pursuant to the provisions of Section 4.15(1)(d) and Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, approval of the development application is not in the public interest.

ATTACHMENTS

- 1** Compliance Table – Ryde DCP
- 2** Compliance Table – Sydney Harbour Foreshores DCP
- 3** Architectural Plans - subject to copyright provision
- 4** Building Application No. 1075/86 – plans and approval
- 5** Clause 4.6 written variation requests to Height and FSR

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Attachment 1 - Compliance Check RDCP 2014

Assessment of alterations and additions to an existing dwelling house.

DCP 2014	Proposed	Compliance
Part 3.3 - Dwelling Houses and Dual Occupancy (attached)		
Section 1.0 Introduction		
Part 1.6 Site Analysis		
Site analysis to be submitted.	Site Analysis prepared by Construction by Design, Revision E, Dated 26.03.2021	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 proposal is inconsistent with the desired future character of the area.	No
2.2.2 Alterations and additions to Dwelling Houses		
(a) Alterations and additions designed to appear as a whole from public domain	The design of the alterations and addition will appear as a three storey dwelling with no articulation as viewed from Shackel Avenue.	Yes
(b) Alterations and additions are to improve the amenity and liveability of dwellings and sites, including practical and useable external spaces.	The proposal will improve the amenity and liveability of the dwelling.	Yes
(c) meet the controls for dwelling houses set out in section 2.2.1.	See below	Yes
2.2.1 controls		
(a) landscaped setting which includes significant deep soil areas at the front and rear.	No landscaping is located at the front of the dwelling, which is an existing non-compliance.	No – Existing
(b) Max 2 storeys high	Dwelling is 4 storeys high. It presents to the street as a 2 storey development, which is as existing.	No – Existing
(c) Addresses the street	Dwelling addresses Shackel Avenue	Yes
(d) Boundary between public and private space is clearly articulated	The boundary between public and private space is clearly defined	Yes
(e) Garages and carports are not to be visually prominent features	Garage is a prominent streetscape element, which is as existing.	No – Existing
(f) Dwellings are to respond appropriately to the site's constraints and	The alterations and additions to the dwelling do not respond to the	No

DCP 2014	Proposed	Compliance
opportunities as identified in the site analysis.	site constraints as identified in the site analysis.	
2.5 Public Domain Amenity		
2.5.1 Streetscape		
(a) Site design, building setbacks and level changes respect the existing topography.	The development has not been designed to respect the natural topography. The dwelling does not “step down” with the topography towards the water, which is a common feature in the adjoining dwellings on the south of Shackel Avenue.	No
(b) Front gardens to complement and enhance streetscape character	No front garden is proposed, which is as existing.	No – Existing
(c) Dwelling design is to enhance the safety and amenity of the streetscape	The building has been designed to enhance the safety and amenity of the streetscape.	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	The existing double garage is not proposed to change. The garage façade to the public domain will remain.	No – Existing
(e) Driveways and hard stand areas are to be minimised.	Driveway areas to remain as existing	Yes
(f) Dwellings, garages and carports are to be orientated to match the prevailing orientation of such buildings in the streetscape	Dwelling and garage match the orientation of the streetscape.	Yes
(g) Facades from the public domain are to be well designed.	The proposed façade does not promote visual interest from the public domain, and it provided with limited articulation and material variation.	No
2.5.3 Pedestrian & Vehicle Safety		
(a) Car parking located to accommodate sightlines to footpath & road in accordance with relevant Australian Standard.	Car parking is not proposed to significantly change. Parking accommodates sightlines to the footpath and road in accordance with AS 2890.1.	Yes
(b) Fencing that blocks sight lines is to be splayed.	Fences do not block sight lines from the garage.	Yes
(c) Refer to relevant AS when designed driveways	Complies with AS2890.1.	Yes
2.6 Site Configuration		

DCP 2014	Proposed	Compliance
2.6.1 Deep Soil Areas		
<p>(a) 35% of site area min.</p> <p>(b) Deep soil area must include: (i) Min 8x8m deep soil area in backyard. (ii) Front garden area to be completely permeable (exception driveway, pedestrian path and garden walls).</p> <p>(d) Deep soil areas to have soft landscaping</p> <p>(e) Deep soil areas to be 100% permeable. Not covered by structures, paving or the like, or have below surface structures such as stormwater detention elements.</p>	<p>190.26m² (27.86%). The deep soil area of the site is as existing. The backyard does not include a deep soil zone of 8x8m. This is an existing non-compliance.</p> <p>DSA includes soft landscaping.</p> <p>The proposal does not consist of any hard surface structures within the DSA.</p>	<p>No – Existing</p> <p>No – Existing</p> <p>Yes</p> <p>Yes</p>
2.6.2 Topography & Excavation		
<p>(a) Building form and siting relates to the original topography of the land and of the streetscape.</p> <p>(b) The area under the building footprint may be excavated or filled so long as: (i) the topography of the site requires cut and/or fill in order to reasonably accommodate a dwelling (ii) the depth of excavation is limited to 1.2m maximum (iii) the maximum height of fill is 900mm</p> <p>(c) Areas outside the dwelling footprint may be excavated and/or filled so long as: (i) the maximum height of retaining walls is not >900mm (ii) the depth of excavation is not >900mm (iii) the height of fill is not >500mm</p>	<p>The proposed development is not consistent with the original topography of the land and of the streetscape.</p> <p>The subfloor levels within the development have been constructed without approval. No excavation is proposed as part of this application.</p> <p>No cut is proposed.</p>	<p>No</p> <p>N/A</p> <p>N/A</p>

DCP 2014	Proposed	Compliance
<p>(iv) the excavation and filled areas do not have an adverse impact on the privacy of neighbours</p> <p>(v) the filled areas do not have an adverse impact on the privacy of neighbours</p> <p>(vi) the area between the adjacent side wall of the house and the side boundary is not filled</p> <p>(vii) the filled areas are not adjacent to side or rear boundaries</p> <p>(d) Fill is not allowed in areas of overland flow. Refer to Part 8.2 stormwater management</p> <p>(e) Generally the existing topography is to be retained.</p>	<p>Fill does not interfere with an overland flow path.</p> <p>No cut and fill are proposed.</p>	<p>N/A</p> <p>N/A</p>
2.7 Floor Space Ratio (FSR)		
<p>(a) FSR is 0.5:1 in accordance Clause 4.4</p> <p>(b) A floor area of 36m² maybe excluded when this area accommodates 2 car space. An area of 18m² may be excluded when the area accommodates 1 parking space.</p>	<p>Existing FSR: 0.53:1 (364m²) Proposed FSR: 0.66:1 (451.17m²)</p> <p>This results in a maximum 32.13% variation.</p> <p>The calculations exclude 34.26m² of garage area.</p>	<p>No</p> <p>Yes</p>
2.8 Height		
2.8.1 Building height		
<p>(a) Building heights are to be as follows:</p> <ul style="list-style-type: none"> - Maximum height of 9.5 metres for dwellings and dual occupancy. - Outbuildings including garages and carports maximum height 4.5 metres. 	<p>Roof RL (highest): RL 17.29 EGL (lowest) under: RL 3.95 Height of Building = 13.34m</p> <p>Various areas of non-compliance.</p>	<p>No – refer to assessment report</p>
<p><u>Maximum wall plate</u></p> <ul style="list-style-type: none"> - 7.5m max above FGL or - 8m max to top of parapet 	<p>TOW RL: 16.197 EGL below: RL 4.00</p>	<p>No</p>

DCP 2014	Proposed	Compliance
<p><i>NB:</i> <i>TOW = Top of Wall</i> <i>EGL = Existing Ground Level</i> - <i>FGL = Finished Ground Level</i></p>	<p>TOW Height = 12.197m</p> <p>The proposal seeks additional excavation under the building envelope resulting in a maximum wall plate of 12.2m.</p>	
<p><u>Maximum number of storeys:</u></p> <ul style="list-style-type: none"> - 2 storeys maximum (storey incl basement elevated greater than 1.2m above EGL). - 1 storey maximum above attached garage incl semi-basement or at-grade garages 	<p>4 storeys are as existing and it appears as double storey from street and public domain.</p>	<p>No – Existing</p>
2.8.2 Ceiling Height		
<p>(a) Habitable rooms to have 2.4m floor to ceiling height (min).</p>	<p>First floor habitable rooms have a minimum of 2.39m floor to ceiling height. The first floor is existing and has been provided with a BCA Performance Solution Report.</p>	<p>No – Existing</p>
2.9 Setbacks		
2.9.1 Front setbacks		
<p>(a) Dwellings are generally to be set back 6m from street front boundary</p> <p>(b) On corner sites, the setback secondary frontage minimum 2</p> <p>(c) Garages and carports, including semi-basement garages and attached garages, set back min 1m from façade</p> <p>(d) The front setback free of structures. The exception is car parking structures which comply with 2.11.</p> <p>(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.</p> <p>(f) The outside face of wall built above a garage aligns with the outside face of the garage wall below.</p>	<p>Dwelling setback 7.43m.</p> <p>Site is not located on a corner.</p> <p>Existing garage is not setback behind building line.</p> <p>Front setback is free of ancillary structures such as air-conditioning units, rainwater tanks and/or the like.</p> <p>The site does not contain a secondary street frontage.</p> <p>The walls above the garage align with the outside face of the garage below.</p>	<p>Yes</p> <p>N/A</p> <p>No – Existing</p> <p>Yes</p> <p>N/A</p> <p>Yes</p>
2.9.2 Side Setbacks		

DCP 2014	Proposed	Compliance
(a) One storey dwellings setback 900mm (b) Two storey dwellings setback 1.5m (c) The second storey addition to a single storey dwelling are to be set back 1.5m (d) Allotments wider than they are long, one side setback	Setbacks are existing.	No – Existing
2.9.3 Rear Setbacks		
(a) The rear setback min 25% of the site length or 8m, whichever is greater. (b) Allotments wider than they are long, min setback of 4m (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.	Rear setbacks is 15.59m and complies with the 11.37m requirement.	Yes
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. (h) Driveways not roofed. (i) Max 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	Two (2) spaces provided. Lockable garage is existing. Existing garage is not setback behind façade. Garage located as existing. The garage door is solid and does not consist of expanded mesh. No laneway access available. The driveway is not roofed. The driveway width is unchanged. Garage door is 5m wide. Not applicable. Site is not on a battle-axe allotment	Yes No – Existing Yes Yes N/A N/A Yes Yes N/A

DCP 2014	Proposed	Compliance
<p>and leave in forward direction</p> <p>(l) Garage doors not be recessed more than 300mm</p> <p>(m) Garage windows >900mm from boundaries</p> <p>(n) Free standing garages max GFA 36m²</p> <p>(o) Design and materials to complement dwelling</p> <p>(p) Setback at least 1m from façade</p> <p>(q) Carports not enclosed.</p>	<p>Garage door is not recessed by more than 300mm.</p> <p>No garage windows proposed.</p> <p>The garage is not free standing.</p> <p>The garage is integrated into the dwelling.</p> <p>Garage is not setback behind building façade.</p> <p>No carports are proposed.</p>	<p>Yes</p> <p>N/A</p> <p>N/A</p> <p>Yes</p> <p>No – Existing</p> <p>N/A</p>
2.11.2 Semi-basement Car Parking		
<p>(a) Ramps must start at least 2 m back from the street boundary. Ramps cannot be located on public land.</p> <p>(b) The walls of semi-basement car parks are not to extend beyond the walls of the dwelling above.</p> <p>(c) Semi-basement car parking can only be used where it is appropriate with regard to the topography of the site.</p>	<p>Semi-basement car parking is not proposed.</p>	<p>N/A</p>
2.12 Swimming Pools and Spas		
<p>(a) Swimming pools, fencing, gates and spas must comply with all relevant Acts. Regulations and Australian Standards.</p> <p>(b) Child resistant barrier.</p> <p>(c) Wall of dwelling may form part of the barrier.</p> <p>(d) If spa is covered by a child safe structure no barrier required.</p> <p>(e) Not within front setback.</p> <p>(f) Finished coping level not >500mm above adjacent ground level. Must not adversely impact on privacy of neighbours.</p> <p>(g) Setback 900mm from outside edge of coping, deck or pool surrounding</p>	<p>No swimming pools or spas are proposed.</p>	<p>N/A</p>

DCP 2014	Proposed	Compliance
<p>including paving. Further setback to preserve existing screen planting.</p> <p>(h) Screen planting minimum width of 900mm extend for the length of the pool. Dense hedge with minimum height of 2m and minimum spacing of plants 1m.</p> <p>(i) Min 3m from trunk of trees over 5m in height.</p> <p>(j) Pool pump/filter away from neighbouring dwgs. Acoustically enclosed noise does not exceed 5dB(a) above background at boundary.</p>		
2.13 Landscaping		
<p>(a) Major trees to be retained where practical</p> <p>(b) Lots adjoining bushland, protect and retain indigenous and native vegetation and use native indigenous plant spaces for a distance of 10m</p> <p>(c) Provide useful outdoor spaces</p> <p>(d) Physical connection between dwelling and external ground level</p> <p>(e) Provide landscape front garden. Hard paved areas no more than 40%.</p> <p>(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.</p> <p>(g) Landscape elements in front garden to be compatible with scale of dwelling.</p> <p>(h) Front garden at least 1 canopy tree at least 10m in height</p>	<p>No trees are proposed for removal. However, stormwater works on site may impact on existing palm trees.</p> <p>Not applicable. The Lot does not adjoin urban bushland.</p> <p>Outdoor spaces are useful for relaxation and recreation.</p> <p>Physical connection between the dwelling and external ground level is provided.</p> <p>The front setback is entirely paved. This is as existing.</p> <p>A pathway is existing along the western side boundary</p> <p>The proposal does not seek to provide add to the limited front landscaping currently provided.</p> <p>There are three (3) existing palms within the front setback with a height of approximately 10m.</p>	<p>Able to be addressed by condition</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>No – Existing</p> <p>Yes</p> <p>No - existing</p> <p>Yes</p>

DCP 2014	Proposed	Compliance
<p>(i) Mature tree at least 15m in rear garden with the DSA.</p> <p>(j) Locate and design landscaping to increase privacy between dwellings.</p> <p>(k) Hedge planting on boundary no greater than 2.7m</p> <p>(l) Retaining walls and other landscape elements not to obstruct stormwater overland flow.</p> <p>(m) OSD not to be located within front setback unless it is underneath driveway</p> <p>(n) Landscaping to include POS</p> <p>(o) Designed to improve energy efficiency of building and microclimate of external living areas.</p>	<p>A 15m tree is existing in the rear setback.</p> <p>No landscape changes are proposed.</p> <p>No retaining walls or landscape elements will impact stormwater overland flow.</p> <p>OSD is not proposed.</p> <p>The POS is not proposed to change.</p> <p>The BASIX certificate A418573_02 has been provided.</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p> <p>Yes</p>
2.14 Dwelling Amenity		
2.14.1 Daylight and Sunlight Access		
<p>(a) Living areas are to be predominantly located to the north where possible</p> <p>(b) Sites with northern side boundary to have increased setback of 4 metres is preferred.</p> <p><u>Subject Dwelling</u></p> <p>(c) Windows to north facing living areas of subject dwellings are to receive at least 3 hours of sunlight between 9am to 3pm on June 21.</p> <p>(d) Private open space is to receive at least 2 hours sunlight between 9am to 3pm on June 21.</p> <p><u>Neighbouring properties:</u></p> <p>(e) For neighbouring properties: (i) sunlight to 50% of principal areas of ground level POS is not reduced to</p>	<p>Existing living areas are oriented towards the south, with a new northern living room window proposed.</p> <p>Northern boundary is front boundary.</p> <p>The proposed north facing window achieves at least 3hrs sunlight between 9am and 3pm on June 21.</p> <p>The existing private open space does receive 2 hours of sunlight; although this solar access is primarily located towards the southern (harbour) boundary.</p> <p>The existing dwelling will not create additional overshadowing.</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

DCP 2014	Proposed	Compliance
<p>less than 2 hours between 9am to 3pm on 21 June (ii)windows to north facing living areas to receive at least 3 hours of sunlight between 9am and 3pm on 21 June over a portion of surface, where can be reasonably maintained given orientation and topography.</p>		
2.14.2 Visual Privacy		
<p>(a) Orientate the windows of main living spaces (living room, dining, kitchen, family etc) to the front and rear (b) Orientate terraces, balconies and outdoor living areas to front or rear and not side boundary (c) Terraces and balconies are not to overlook neighbour's living areas and POS (d) Living and kitchen windows, terraces and balconies are not to allow direct view into neighbouring dwelling or POS (e) Side windows are to be offset by sufficient distance to avoid visual connection between dwellings. (f) Splayed walls with windows are not to be located above ground level where the windows provide views into adjoining property.</p>	<p>Main living area windows orientated to the front and rear. The proposed outdoor terrace has been orientated towards the rear. Balconies overlook neighbours living areas and POS; however this is an existing arrangement. The proposal includes windows in the kitchen area that have direct lines of sight into neighbouring dwellings. Glazing is proposed to minimise privacy impacts. Windows have been screened to address potential privacy issues. No splayed walls with windows are proposed.</p>	<p>Yes Yes No - existing Yes Yes Yes</p>
2.14.3 Acoustic Privacy		
<p>(a) Noise of mechanical equipment does not exceed 5dB(A) above background noise measured in or on any premises in vicinity of the item. (b) Dwellings on arterial roads double glazed windows fronting road. (c) Dwellings on arterial roads acoustic seal on the front door.</p>	<p>Compliance is subject to condition of consent. The site does not adjoin an arterial road. As above.</p>	<p>Yes – Subject to Condition N/A N/A</p>

DCP 2014	Proposed	Compliance
(d) Dual occupancies are to be designed to reduce noise transmission between dwellings.	Proposal is not a dual occupancy.	N/A
2.14.4 View Sharing		
(a) The siting of development is to provide for view sharing.	Design amendments have removed potential view loss issues.	Yes
2.14.5 Cross Ventilation		
(a) Designed to optimise access to prevailing breezes and provide for cross ventilation.	The alterations and additions provide improved 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 colour to adjacent buildings (v)roof height is in proportion to the wall height of the building	The roof form consists of a pitched roof at the street frontage, and a flat roof design with a roof top terrace at the rear.	No changes
(b) The main roof not trafficable terrace.	As existing, a portion of the main roof is a terrace.	No – Existing
(c) Proposed attic contained within the volume of the roof space.	No changes proposed to attic area.	N/A
(d) Skylights to be minimised on roof planes visible from the public domain. Skylights are to be symmetrical.	No skylights are proposed.	N/A
(e) The front roof plane is not to contain both dormer and skylight. Dormers are preferred.	The proposal does not include dormer windows.	Yes
(f) Balconies and terraces are not to be set into roofs.	The existing balcony is not set into the roof.	N/A
(g) Scale of the roof is to be in proportion with the scale of the wall below.	The scale of the roof and wall below are consistent in size and scale.	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.	No changes proposed to attic area.	N/A
2.15.2 Attic Dormer Windows		

DCP 2014	Proposed	Compliance
<ul style="list-style-type: none"> (a) Dormer windows are not to increase volume of the roof space (b) Roof to have max 2 dormers with max total width of 3m (1.5m each) (c) Dormer window to be set 500mm below the ridge of roof and minimum of 1m above top of gutter (d) Total roof area max 8m² (4m² each if there are 2 proposed) measured in plan view. (e) The front face of dormer is to be setback 1m from external face of the wall below (f) Dormers are not to have balconies or terraces set into the roof. (g) Dormers in same roof plane are to be similarly sized and arranged sympathetically. 	<p>No dormer windows are proposed.</p>	<p>N/A</p>
2.16 Fences		
2.16.1 Front and return Fences and Walls		
<ul style="list-style-type: none"> (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) Fence's max 1.8m if 50% open with solid base max 900mm (f) Fences arterial road solid and 1.8m max (g) No Colorbond or timber paling. (h) Retaining walls max 900mm (i) Overland flow – fencing open not impede flow of water (j) Fence piers max 350mm. 	<p>No fences are proposed</p>	<p>N/A</p>
2.16.2 Side and Rear Fences and Walls		
<ul style="list-style-type: none"> (a) 1.8m Max side and rear fence (b) Overland flow - fencing to be open not impede flow of water 	<p>No fences are proposed</p>	<p>N/A</p>

DCP 2014	Proposed	Compliance
2.5 Residential Developments comprising 1 or 2 Dwellings		
(a) Space inside each dwelling for receptacles for garbage, recycling.	A dedicated bin storage area has been provided.	Yes
(b) Space provided outside the dwellings to store the required garbage, recycling and green waste bins. Screened from street. Easy access to wheel the bins to the kerbside.	An external area has been allocated on the site plan for storage of garbage bins.	Yes
Part 8: Engineering		
8.1 Construction Activities		
2.1.2 Erosion and Sediment Control Plan		
Erosion and sediment control plan to be submitted.	A Erosion and Sediment Control Plan has been submitted.	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 Drainage Plan prepared by SDS Engineering Job No.210529 and dated 18.08.2022. Compliance subject to conditions of consent.	Yes – Subject to Conditions
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	The site is not flood affected	N/A
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.	As above.	N/A
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.	As above.	N/A

Attachment 2 - Compliance Check SEPP (Biodiversity and Conservation) 2021, Chapter 10 Sydney Harbour Catchment

Assessment of Alterations & Additions to a Dwelling House

Provision	Proposal	Compliance
<i>Cl. 10.19 Biodiversity, Ecology and Environmental Protection</i>		
(a) Development should have neutral or beneficial effect on quality of water entering waterways	There is no change in land-use and the proposed works on the foreshore are limited to alterations and additions to the existing dwelling. The proposed development would have a neutral effect on the quality of water entering waterways.	Yes
(b) Development should protect and enhance terrestrial and aquatic species, populations and ecological communities and, in particular, should avoid physical damage and shading of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities)	<p>The proposal would be unlikely to result in any adverse impacts on any terrestrial and aquatic species, populations and ecological communities.</p> <p>From the information provided from the applicant, it is unknown if any additional shadow will result from the development to cause any adverse overshadowing impact on adjacent aquatic areas.</p>	No
(c) Development should promote ecological connectivity between neighbouring areas of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities)	All works associated with the proposal will occur entirely within the site. Accordingly, the proposed development is not considered to have a negative impact on ecological connectivity of aquatic vegetation.	N/A
(d) Development should avoid indirect impacts on aquatic vegetation (such as changes to flow, current and wave action and changes to water quality) as a result of increased access	All works associated with the proposal will occur entirely within the site. Accordingly, the proposed development is not considered to have any indirect impact on aquatic vegetation. It is noted that the proposed development is unlikely to cause any indirect impacts on the natural environment.	Yes
(e) Development should protect and reinstate natural intertidal foreshore	All works associated with the proposal will occur entirely within the site. The	N/A

Provision	Proposal	Compliance
areas, natural landforms and native vegetation	development will have a natural impact upon natural intertidal foreshore areas, natural landforms and native vegetation.	
(f) Development should retain, rehabilitate and restore riparian land	The proposed development does not aim to rehabilitate or restore riparian land.	N/A
(g) Development on land adjoining wetlands should maintain and enhance the ecological integrity of the wetlands and, where possible, should provide a vegetation buffer to protect the wetlands	The proposal does not adjoin wetlands.	N/A
(h) The cumulative environmental impact of development	There are no impacts on the biodiversity or ecology of the waterway.	N/A
(i) Whether sediments in the waterway adjacent to the development are contaminated, and what means will minimise their disturbance	Sediments in the adjoining waterway are not proposed to be disturbed during proposed works. Sediments are considered unlikely to be contained due to continued history of residential use on the subject site and the surrounding area.	Yes
Cl. 10.20 Public Access to, and Use of, Foreshores and Waterways		
(a) Development should maintain and improve public access to and along the foreshore, without adversely impacting on watercourses, wetlands, riparian lands or remnant vegetation	Access to the public will not be restricted any further than existing as a result of the proposed development. No adverse impacts on watercourses, wetlands, riparian lands or remnant vegetation has been identified given that no works are taking place within this zone.	Yes
(b) Development should maintain and improve public access to and from the waterways for recreational purposes (such as swimming, fishing and boating), without adversely impacting on watercourses, wetlands, riparian lands or remnant vegetation	The proposal will not impede or alter existing public access to the river.	Yes
(c) If foreshore land made available for public access is not in public ownership, development should provide appropriate tenure and management mechanisms to safeguard public access to, and public use of, that land	The foreshore is not accessible to the public, however the proposal does not impede public use of the waterway.	N/A
(d) The undesirability of boardwalks as a means of access across or along land below the mean high water mark if	Not proposed.	N/A

Provision	Proposal	Compliance
adequate alternative public access can otherwise be provided.		
(e) The need to minimise disturbance of contaminated sediments	All works are proposed well above MHHM and is considered not to disturb any contaminants in water/sediments. Additionally, sediments are considered unlikely to be containment due to continued history of residential use on the subject site and the surrounding area.	Yes
Cl. 10.21 Maintenance of a working harbour		
(a) foreshore sites should be retained so as to preserve the character and functions of a working harbour, in relation to both current and future demand,	The proposal does not alter the existing residential use of the site.	Yes
(b) consideration should be given to integrating facilities for maritime activities in any development,	The proposal does not relate to maritime activities.	N/A
(c) in the case of development on land that adjoins land used for industrial and commercial maritime purposes, development should be compatible with the use of the adjoining land for those purposes,	Site adjoins R2 low density residential zoned land.	N/A
(d) in the case of development for industrial and commercial maritime purposes, development should provide and maintain public access to and along the foreshore where such access does not interfere with the use of the land for those purposes.	Low density residential use.	N/A
Cl. 10.22 Interrelationship of Waterway and Foreshore Uses		
(a) Development should promote equitable use of the waterway, including use by passive recreation craft	Proposal will not inhibit or prevent equitable use of waterway by passive recreation craft and presents no change from the existing relationship with the waterway.	Yes
(b) Development on foreshore land should minimise any adverse impact on the use of the waterway, including the use of the waterway for commercial and recreational uses	Proposal will not inhibit or prevent equitable use of waterway for commercial or recreational uses and presents no change from the existing relationship with the waterway.	Yes
(c) Development on foreshore land should minimise excessive congestion of traffic in the waterways or along the foreshore	Development does not seek to increase or impede any existing traffic conditions in the waterway or along the	Yes

Provision	Proposal	Compliance
	foreshore and presents no change from the existing relationship with the waterway.	
(d) Water-dependent land uses should have propriety over other uses	Not applicable.	N/A
(e) Development should avoid conflict between the various uses in the waterways and along the foreshores	No change to existing use of site and waterway as part of the proposed development. It is therefore considered conflicts between various uses in the waterways & along the foreshore will be avoided.	Yes
(f) development on foreshore land should minimise any risk to the development from rising sea levels or changing flood patterns as a result of climate change.	No works are proposed within the foreshore area.	N/A
Cl. 10.23 Foreshore and Waterways Scenic Quality		
(a) The scale, form, design and siting of any building should be based on an analysis of:		
(I) the land on which it is to be erected, and	The proposal is out of character with the surrounding development.	No
(II) the adjoining land, and	The alterations and additions proposed to the dwelling will result in a larger dwelling compared to adjoining sites.	No
(III) the likely future character of the locality	The proposed development is not consistent or compatible with the current and likely future character of the locality.	No
(b) development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries	The proposed development would impacts on the visual qualities of Sydney Harbour.	No
(c) the cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores	Proposed development is not water based development.	N/A
Cl. 10.24 Maintenance, Protection and Enhancement of Views		
(a) Development should maintain, protect and enhance views (including night views) to and from Sydney Harbour	The proposal would not significantly impact upon views to the harbour from neighbouring properties.	Yes
(b) Development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items	The proposal would not impact upon views from public places, landmarks or heritage items.	Yes
(c) The cumulative impact of development on views should be minimised	There are no impacts upon views.	Yes

Provision	Proposal	Compliance
Cl. 10.62 Requirement for Development Consent		
(1) Development may be carried out only with development consent	Development consent is sought by current application.	Yes
(2) Development consent is not required by this clause:	Not applicable.	N/A
(a) For anything (such as dredging) that is done for the sole purpose of maintaining an existing navigational channel, or	The proposed development does not include maintenance of an existing navigational channel.	N/A
(b) For any works that restore or enhance the natural values of wetlands being works:	The proposed development does not include any works that aim to restore or enhance the natural values of wetlands.	N/A
(i) that are carried out to rectify damage arising from a contravention of this plan, and	Not applicable.	N/A
(ii) that are not carried out in association with another development, and	Not applicable.	N/A
(iii) that have no significant impact on the environment beyond the site on which they are carried out.	Not applicable.	N/A
Cl. 10.63 Matters for Consideration		
(2) The matters to be taken into consideration are as:		
(a) The development should have a neutral or beneficial effect on the quality of water entering the waterways,	The proposed development is for alterations and additions to the existing dwelling house. As there is no change in land-use proposed and works are considered minor in terms of biodiversity, ecology and environmental impacts it is considered the proposed development will have a neutral effect on the quality of water entering waterways.	Yes
(b) The environmental effects of the development, including effects on: (i) the growth of native plant communities,	No impact on the growth of native plant communities due to all existing vegetation being retained and all proposed	Yes

Provision	Proposal	Compliance
	works to be located away and above the MHWM.	
(ii) the survival of native wildlife populations,	Wildlife populations are considered to be unharmed as a result of the proposed development as there are no impacts to any known habitats.	Yes
(iii) the provision and quality of habitats for both indigenous and migratory species,	The quality of habitats for both indigenous and migratory species is fully retained as part of the proposed development.	Yes
(iv) the surface and groundwater characteristics of the site on which the development is proposed to be carried out and of the surrounding areas, including salinity and water quality and whether the wetland ecosystems are groundwater dependant,	The proposed development is considered to have no adverse affects on surface and groundwater characteristics of the site and surrounding areas due to there being no significant change to land use and the development being in compliance with the stormwater controls set out in the Ryde DCP 2014.	Yes
(c) Whether adequate safeguards and rehabilitation measures have been, or will be, made to protect the environment.	Appropriate safeguards to be put in place by way of Council's standard conditions to ensure all runoff, sedimentation & siltation is controlled so as to protect the environment. Rehabilitation measures are not considered necessary as no works being undertaken below and beyond the MHWM.	Yes
(d) Whether carrying out the development would be consistent with the principles set out in <i>The NSW Wetlands Management Policy</i> (as published in March 1996 by the then Department of Land and Water Conservation).	The proposal is not located within the wetlands protection area.	N/A
(e) Whether the development adequately preserves and enhances local native vegetation,	The development is considered to adequately preserve the local native vegetation through proposing no works below and beyond the MHWM, therefore retaining all existing local native vegetation.	Yes
(f) Whether the development application adequately demonstrates:		

Provision	Proposal	Compliance
(i) how the direct and indirect impacts of the development will preserve and enhance wetlands, and	No adverse impacts.	Yes
(ii) how the development will preserve and enhance the continuity and integrity of the wetlands, and	All works associated with the proposal will occur entirely within the site above the MHWM.	Yes
(iii) how soil erosion and siltation will be minimised both while the development is being carried out and after it is completed, and	Soil erosion and siltation is capable of being minimised during construction through implementation of sediment fences & sediment traps.	Yes
(iv) how appropriate on-site measures are to be implemented to ensure that the intertidal zone is kept free from pollutants arising from the development, and	The standard conditions of consent are capable of being imposed on any consent for the development to provide sufficient sediment control measures ensuring that the intertidal zone is kept free from pollutants arising from the development.	Yes
(v) that the nutrient levels in the wetlands do not increase as a consequence of the development, and	The development will not impact on wetlands.	N/A
(vi) that stands of vegetation (both terrestrial and aquatic) are protected or rehabilitated, and	No development is proposed within the stands of existing vegetation (both terrestrial and aquatic).	N/A
(vii) that the development minimises physical damage to aquatic ecological communities, and	The development minimises any adverse impacts on the aquatic ecological communities through ensuring no works are undertaken below the MHWM.	Yes
(viii) that the development does not cause physical damage to aquatic ecological communities,	With all works associated with the proposal being carried out entirely within the site above the MHWM, it is considered that no physical damage to aquatic ecological communities would occur as a result of the proposed development.	Yes
(g) Whether conditions should be imposed on the carrying out of the development requiring the carrying out of works to preserve or enhance the value of any surrounding wetlands.	Standard conditions required if approved.	Yes

LOT 19
D.P.: 10340
L.G.A.: RYDE COUNCIL

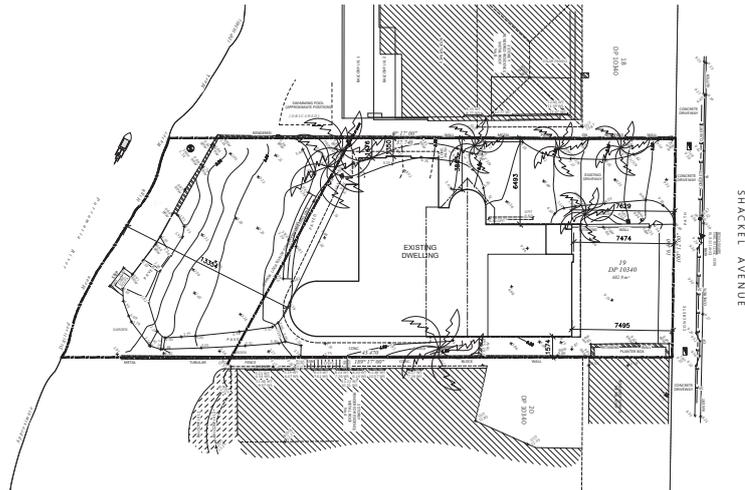
SITE AREAS	
LOT AREA:	882.00 m ²
BUILDING FOOTPRINT:	0.00 m ²
DRIVEWAY & PATHWAYS:	0.00 m ²
POOL AND SURROUNDING:	0.00 m ²
LANDSCAPING:	0.00 m ²
EXISTING AREAS	
SUB FLOOR:	121.58 m ²
LOWER GROUND:	136.18 m ²
LOWER GROUND LOBBY:	46.98 m ²
LOWER GROUND BALCONY:	13.34 m ²
GROUND FLOOR:	140.04 m ²
GROUND FLOOR GARAGE:	40.35 m ²
GROUND FLOOR BALCONY:	12.80 m ²
FIRST FLOOR:	145.00 m ²
FIRST FLOOR TERRACE:	131.48 m ²
TOTAL EXISTING:	887.83 m ²
PROPOSED AREAS	
SUB FLOOR:	150.34 m ²
SUB FLOOR ALFRESCO:	29.24 m ²
LOWER GROUND:	214.48 m ²
LOWER GROUND BALCONY:	17.85 m ²
GROUND FLOOR:	140.88 m ²
GROUND FLOOR GARAGE:	37.25 m ²
GROUND FLOOR BALCONY:	19.81 m ²
GROUND FLOOR PORCH:	4.26 m ²
FIRST FLOOR:	80.78 m ²
FIRST FLOOR TERRACE:	125.42 m ²
TOTAL PROPOSED:	854.22 m ²
TOTAL ADDITION:	116.39 m ²

BASIX SUMMARY TABLE

WATER COMMENTS	
FEATURES	
SHOWERHEAD RATING	5 STAR
TOILET RATING - (2018-19)	4 STAR
KITCHEN TAP FITTING RATING	5 STAR
BATHROOM TAP FITTING RATING	5 STAR
ENERGY COMMENTS	
HOT WATER	6 STAR GAS INSTANTANEOUS
VENTILATION	SELF SEALED FRAME
ARTIFICIAL LIGHTING	DOWNLIGHTS
COOKING APPLIANCES	GAS ET & ELEC. OVER
OUTSIDE CLOTHES LINE REQUIRED	N/A
WALL CONSTRUCTION	
EXTERNAL WALL SURFACE	
BRICK VENEER	YES
UNITED GLAZING	YES
WEATHERBOARD CLADDING	YES
EXTERNAL WALL INSULATION	R15
WALL COLOUR	
INTERNAL WALLS CAVITY 70mm GAP - NO INS.	REDUM
CEILING/ROOF CONSTRUCTION	
ROOFING MATERIAL	CORRUGATED IRON
ROOF INSULATION	R15 ANTON BLANKET
ROOF COLOUR	REDUM
CEILING INSULATION	R2.5

BASIX CERTIFICATE NUMBER: AL18073

CONSTRUCTION IS REQUIRED TO COMPLY WITH THE REQUIREMENTS STATED WITHIN THE FOLLOWING:
BASIX CERTIFICATE AL18073
DATED 02.06.2021



REFER TO HYDRAULIC DESIGN FOR STORMWATER LAYOUT

SITE NOTES

1. ALL LEVELS ARE APPROXIMATES ONLY & ARE TO BE CONFIRMED ON SITE WITH SUPERVISOR PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION.
2. EXTENT OF FILL & GUTTER INDICATED IS APPROXIMATE AND WILL BE DETERMINED ON SITE.
3. SEDIMENT BARRIERS AND SILTATION CONTROL IS SITE SPECIFIC AND IS TO COMPLY WITH COUNCIL REQUIREMENTS.
4. EXISTING VEGETATION ON SITE TO BE REMOVED EXCEPT WHERE INDICATED TO BE RETAINED.
5. NO WASTEWATER OR WATERCOURSES ON SITE.
6. TERMITES PROTECTION TO A3664.
7. TEMPORARY SECURITY FENCING TO THE PERIMETER OF BOUNDARY WHERE REQUIRED TO PREVENT PUBLIC ACCESS ONTO SITE.

TERMITE PROTECTION ACCORDANCE WITH A3664 OR A5364/1



SITE PLAN

CLIENT'S SIGNATURE: _____ DATE: _____

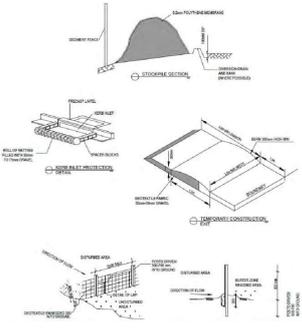
<p>CONSTRUCTION BY DESIGN 13 Birk Avenue, Sydney NSW 2010 P: 043 217 898 F: 02 9663 012 E: info@constructionbydesign.com.au www.constructionbydesign.com.au</p>	<p>GADALLA RESIDENCE</p> <p>ALTERATIONS AND ADDITIONS TO EXISTING DWELLINGS</p>		<p>Client: MR. R. GADALLA Site Address: LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111</p>
	<p>Drawn: LWNY Scale: 1:200 @ A2</p>	<p>Date: 28.03.21 Checked By:</p>	<p>Sheet: 2 Job No.: CBD3136</p>

GENERAL NOTES

- 01 ALL WORKS SHALL BE IN ACCORDANCE WITH B.C.A. AND AS/NZS 3.
- 02 ALL EXISTING LEVELS TO BE CONFIRMED BY BLOCK PRIOR TO CONSTRUCTION.
- 03 THE BUILDER SHALL ENSURE THAT THE SUBMITTER'S REQUIREMENTS CONFORM TO THE ARCHITECTURAL, STRUCTURAL AND LANDSCAPING DRAWINGS. IF THERE ARE ANY DISCREPANCIES BETWEEN THE DRAWINGS, THE BUILDER SHALL REPORT THE DISCREPANCIES TO THE ENGINEER PRIOR TO COMMENCEMENT OF ANY WORKS.
- 04 PRIOR TO COMMENCING ANY WORKS, THE BUILDER SHALL ENSURE THAT THE FINISH LEVELS OF THE SITE DRAINAGE SYSTEM CONFORMS WITH THE COUNCIL REQUIREMENTS. WHERE THE FINISH LEVELS OF ANY DISCREPANCIES SHALL BE REPORTED TO THE DESIGN ENGINEER.
- 05 THE DRAINAGE CONSTRUCTION IS TO OCCUR AND BE REPORTED AS NECESSARY ALL SLOPES ON SITE.
- 06 ALL LEVELS SHALL RELATE TO THE ESTABLISHED BENCH MARK. THIS IS TYPICALLY VICTORIA TROPICAL HEIGHT BENCH MARK (AUS).
- 07 ALL DOWNPIPES TO BE 100MM DIAMETER UNLESS NOTED OTHERWISE.
- 08 ALL DOWNPIPES TO HAVE LEAF GUARDS.
- 09 ALL LINES ARE TO BE 100MM DIAMETER UNLESS NOTED OTHERWISE. LINES ARE TO BE SEWER GRADE UNLESS NOTED.
- 10 ALL PIPES TO HAVE MINIMUM 100MM COVER IF LOCATED WITHIN PROPERTY.
- 11 ALL THE CLEANING ENDS (OR INSPECTION ENDS) FOR THE UNDERGROUND PIPES HAVE TO BE TAKEN UP TO THE FINISHED FINISH LEVEL FOR EASY CONSTRUCTION AND MAINTENANCE PURPOSES.
- 12 ALL SUBSOIL DRAINAGE SHALL BE OF A MINIMUM 100MM DIAMETER AND SHALL BE PROVIDED WITH A FILTER SOCK. THE SUBSOIL DRAINAGE SHALL BE INSTALLED IN ACCORDANCE WITH DETAILS TO BE PROVIDED BY THE LANDSCAPE ARCHITECT OR STRAIGHTENED ENGINEER.
- 13 ALL RETAINING WALLS SHALL BE CONSTRUCTED COMPLETELY WITHIN THE PROPERTY BOUNDARY LIMITS TO BE DETAILED BY THE STRUCTURAL ENGINEER. WALLS FORMING THE PRIVATE DETENTION SYSTEM SHALL BE OF MAJOR/RESIDENTIAL CONSTRUCTION AND WATER TIGHT.
- 14 ALL MULCH TO BE USED WITHIN THE AREA DESIGNATED AS ON-SITE DETENTION STORAGE SHALL BE OF A MINIMUM 100MM DEPTH. SUCH MULCH OR DECORATIVE COVER SHALL NOT BE USED WITHIN THE DETENTION STORAGE AREA.
- 15 ALL DOWNPIPES FORMING THE TREE ROOTS ROOT BARRIER TO BE INSTALLED ADJACENT TO TREE ZONES WHERE DRAINAGE MAY BE AT RISK.
- 16 ALL WORK WITHIN COUNCIL RESERVE TO BE INSPECTED BY COUNCIL PRIOR TO CONSTRUCTION.
- 17 COUNCIL'S ROAD FOOTWAY DESIGN LEVELS TO BE INCORPORATED INTO THE FINISHED LEVELS ONCE ISSUED BY COUNCIL.

SEDIMENT & EROSION CONTROL

- 51 PLANS ARE MINIMUM REQUIREMENTS AND ARE TO BE USED AS A GUIDE ONLY. EXACT MEASURES USED SHALL BE DETERMINED ON SITE IN CONJUNCTION WITH PROGRAM OF CONSTRUCTION WORKS.
- 52 IMMEDIATELY FOLLOWING SETTING OUT OF THE WORKS, BUT PRIOR TO COMMENCEMENT OF ANY CLEARING OR EXCAVATION, THE CONTRACTOR AND SUPERINTENDENT SHALL WALK THE SITE TO DETERMINE THE LOCATION AND TYPES OF EROSION AND SEDIMENT CONTROL MEASURES TO BE INSTALLED. THESE MEASURES SHALL BE IMPLEMENTED PRIOR TO ANY CLEARING OR EXCAVATION AND MAINTAINED UNTIL THE WORKS ARE COMPLETED AND NO LONGER POSING AN EROSION RISK, UNLESS OTHERWISE APPROVED BY THE SUPERINTENDENT.
- 53 IMMEDIATELY FOLLOWING SETTING OUT OF THE WORKS, BUT PRIOR TO COMMENCEMENT OF ANY CLEARING OR EXCAVATION, THE CONTRACTOR AND SUPERINTENDENT SHALL WALK THE SITE TO DETERMINE AND MARK THESE AREAS TO BE PROTECTED. THE CONTRACTOR SHALL TAKE ALL REASONABLE PRECAUTIONS TO MINIMIZE DISTURBANCE TO PROTECTED VEGETATION AND LEGAL ADJACENT OUTSIDE THE MINIMUM AREAS REQUIRED TO COMPLETE THE WORKS AND SHALL BE RESPONSIBLE FOR RECTIFICATION AT HIS OWN COST, OF ANY DISTURBANCE BEYOND THESE AREAS.
- 54 PROVIDE GULLY GRATE INLET SEDIMENT TRAPS AT ALL GULLY FITS.
- 55 PROVIDE SILT FENCING ALONG PROPERTY LINE AS DIRECTED BY SUPERINTENDENT.
- 56 ADDITIONAL CONTROL DEVICES TO BE PLACED WHERE DIRECTED BY THE PRINCIPLE.
- 57 ALTERNATIVE DESIGNS TO BE APPROVED BY SUPERINTENDENT PRIOR TO CONSTRUCTION.
- 58 WASH DOWNWATER AREA TO BE CONSTRUCTED WITH PROVISIONS RESTRICTING ALL SILT AND TRAFFICED DEBRIS FROM ENTERING THE STORMWATER SYSTEM.
- 59 NO WORK OR STOCKPILES OF MATERIALS TO BE PLACED OUTSIDE OF SITE WORK BOUNDARY.
- 60 APPROPRIATE EROSION AND SEDIMENT CONTROLS TO BE USED TO PROTECT STOCKPILES AND MAINTAINED THROUGHOUT CONSTRUCTION.
- 61 IT IS THE CONTRACTOR'S RESPONSIBILITY TO TAKE DUE CARE OF NATURAL VEGETATION. NO CLEARING IS TO BE UNDERTAKEN WITHOUT PRIOR APPROVAL FROM THE SUPERINTENDENT.
- 62 TO AVOID DISTURBANCE TO EXISTING TREES, EARTHWORKS WILL BE MODIFIED AS DIRECTED ON SITE BY THE SUPERINTENDENT.



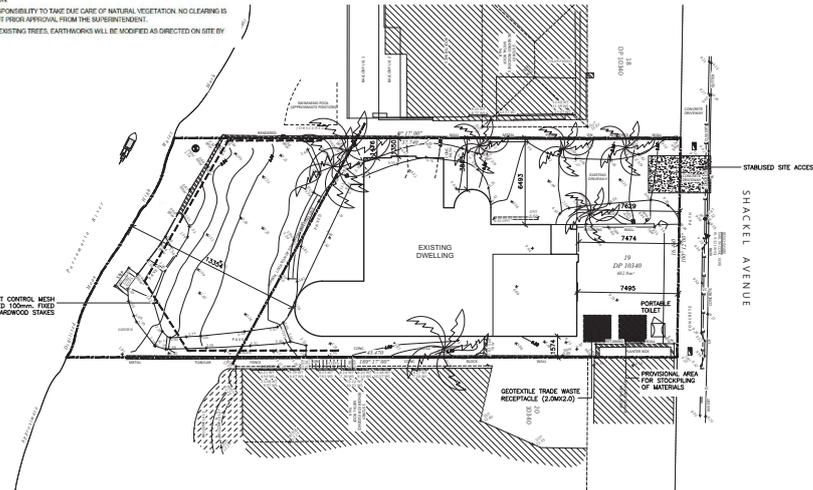
SEDIMENT & EROSION CONTROL

SITE NOTES

1. ALL LEVELS ARE APPROXIMATE ONLY & ARE TO BE CONFIRMED ON SITE WITH SUPERVISOR PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION.
2. EXTENT OF FILL & GUTTER INDICATED IS APPROXIMATE AND WILL BE DETERMINED ON SITE.
3. SEDIMENT BARRIERS AND SILTATION CONTROL IS SITE SPECIFIC AND IS TO COMPLY WITH COUNCIL REQUIREMENTS.
4. EXISTING VEGETATION ON SITE TO BE REMOVED EXCEPT WHERE INDICATED TO BE RETAINED.
5. NO WASTEWATER OR WATEROUSES ON SITE.
6. TEMPORARY PROTECTION TO ADOPT.
7. TEMPORARY SECURITY FENCING TO THE PERIMETER OF BOUNDARY WHERE REQUIRED TO PREVENT PUBLIC ACCESS ONTO SITE.



SITE MANAGEMENT PLAN

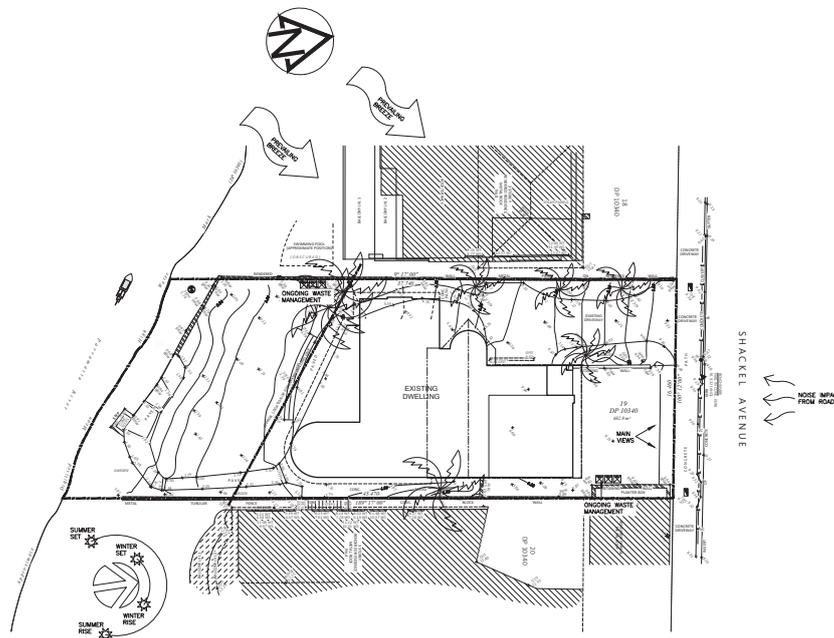


CLIENT'S SIGNATURE _____ DATE _____

 <p>CONSTRUCTION BY DESIGN 13 Birk Avenue, Brisbane QLD 4000 Ph 0421 217 898 F 02 3863 012 www.constructionbydesign.com.au</p>	<p>GADALLA RESIDENCE</p> <p>ALTERATIONS AND ADDITIONS TO EXISTING DWELLINGS</p>		Client MR. R. GADALLA Site Address LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111
	Drawn LWNY	Date 28.03.21	DA PLANS
Scale 1:200 @ A2	Checked By 2.1	Sheet 2.1	Job No. CBD3136

LOT 19
 D.P.: 10340
 L.G.A.: RYDE COUNCIL

CONSTRUCTION IS REQUIRED TO COMPLY WITH THE REQUIREMENTS STATED WITHIN THE FOLLOWING:
 BASIC CERTIFICATE A418573
 DATED 02.06.2021



SITE ANALYSIS PLAN

CLIENT'S SIGNATURE _____ DATE _____

 <p>CONSTRUCTION BY DESIGN 11 Birk Avenue, Sydney NSW 2010 Ph: 02 9551 2200 M: 0424 217 898 F: 02 9551 0112 www.constructionbydesign.com.au</p>	GADALLA RESIDENCE ALTERATIONS AND ADDITIONS TO EXISTING DWELLING		Client: MR. R. GADALLA Site Address: LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111
	Drawn: LWNY Scale: 1:200 @ A2	Date: 26.03.21 Checked By:	Sheet: 2.2 Job No.: CBD3136

LANDSCAPE SPECIFICATIONS

GENERAL

The contractor shall familiarize themselves with the site prior to tender.
 The contractor will be held responsible for any damage to utility services, pipes, building structures, paving surfaces, fencing, footways, kerbs, roads, and existing plant material.
 The site is to be left in a clean and tidy condition at the completion of works to the satisfaction of the site supervisor.
 No substitute material shall be made unless approvals have been given by Construction by Design.
 The contractor shall continuously maintain all areas of the contract during the progress of the works specified.

SITE PREPARATION

prepared sub-grade is to be free of stones larger than 100mm diameter, concrete, silt and any other foreign matter that could hinder plant growth.

MASS PLANTED AREAS

once clear of weed growth, grass and debris, sub-grade should be cultivated to a minimum depth of 150mm incorporating Dynacore, Uter or equivalent of the manufacturer's recommended rates.

PLANTING

All plant material is to be hardened off, disease and insect free and true to species, type and variety. Plants are to be well grown but not root bound and shall comply with Landscape "Guide to Purchasing Landscape Trees".
 All plants are to be removed from their containers prior to planting with as little disturbance to the root system as possible. Planting shall be carried out in dry soil or extreme weather conditions.
 Plants should be planted at the same depth as the plants were in the containers and allow for shallow saucer of soil to be formed around the plant to aid the penetration of water.
 All plant material should be watered thoroughly immediately after planting.
 The contractor shall be responsible for the failure of plants during construction, except for acts of vandalism.

STAKING

Stakes should be firmly attached to the stakes, in a way to avoid damage to the stem while allowing a small area of movement.

TURF AREAS

Turf areas should be cultivated before turfing by ripping or harrowing.
 At the completion of turfing the whole area shall be thoroughly soaked and kept moist till the completion of landscape works.

MULCH

All garden beds to be supplied with a min 100mm cover of organic mulch.

SOIL MIX

Soil mix for mass planted areas shall be 3 parts site soil to 1 part organic mix supplied by AHL or equivalent.

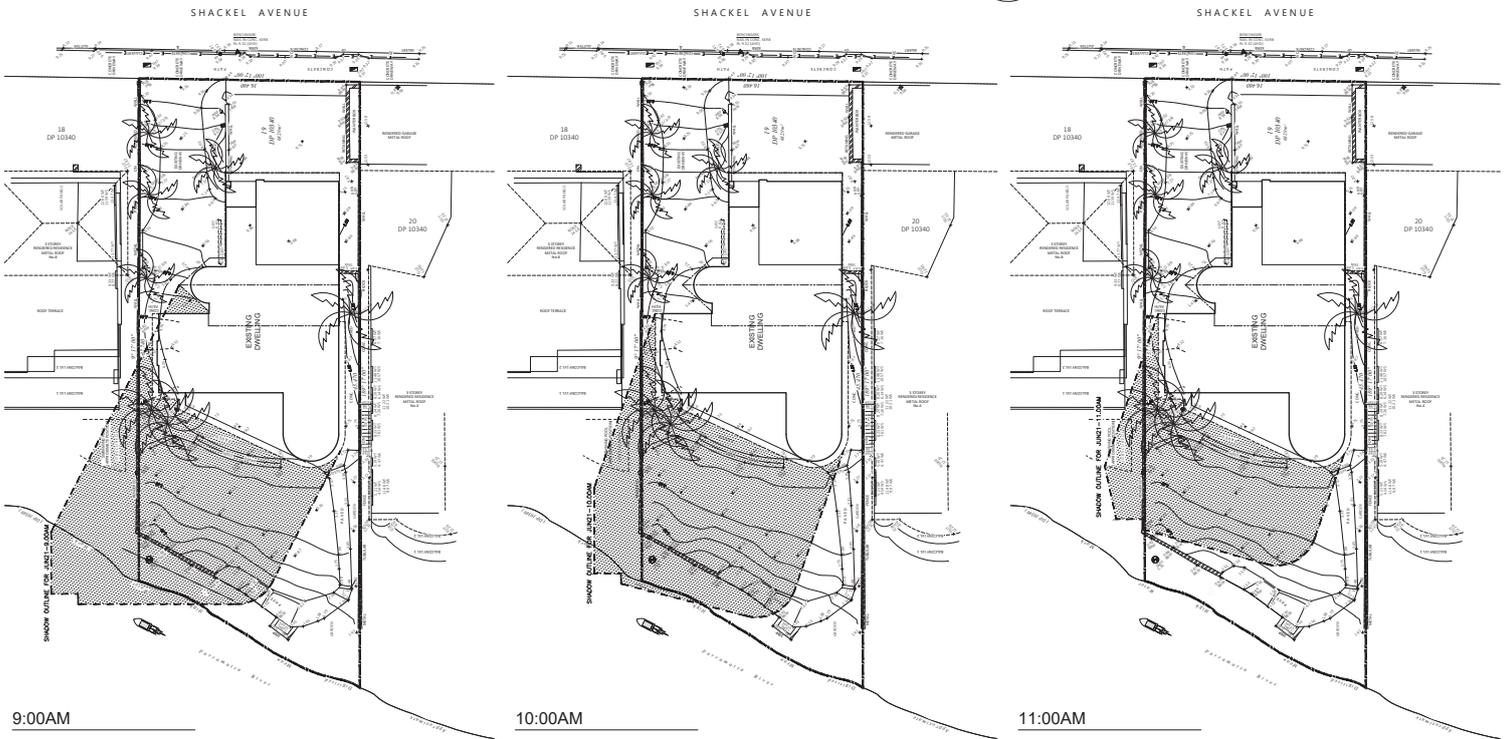
	RETAINING WALLS TO ENGINEERS DETAILS
	1800mm HIGH TIMBER LAPPED AND CAPPED BOUNDARY FENCE
	PAVED OUTDOOR ENTERTAINMENT AREA
	APPLIED FINISH TO CONCRETE DRIVEWAY
	GRASSED AREA



LANDSCAPE PLAN

CLIENT'S SIGNATURE _____ DATE _____

<p>CONSTRUCTION BY DESIGN 11 Birk Avenue, Sydney NSW 2159 PO Box 9211, Sydney NSW 2159 Ph 0421 217 898 F 02 9563 0112 www.constructionbydesign.com.au</p>	<p>GADALLA RESIDENCE</p> <p>Client: MR. R. GADALLA Site Address: LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111</p>	
	<p>Drawn: LWJNY Scale: 1:200 @ A2</p>	<p>Date: 26.03.21 Checked By:</p>



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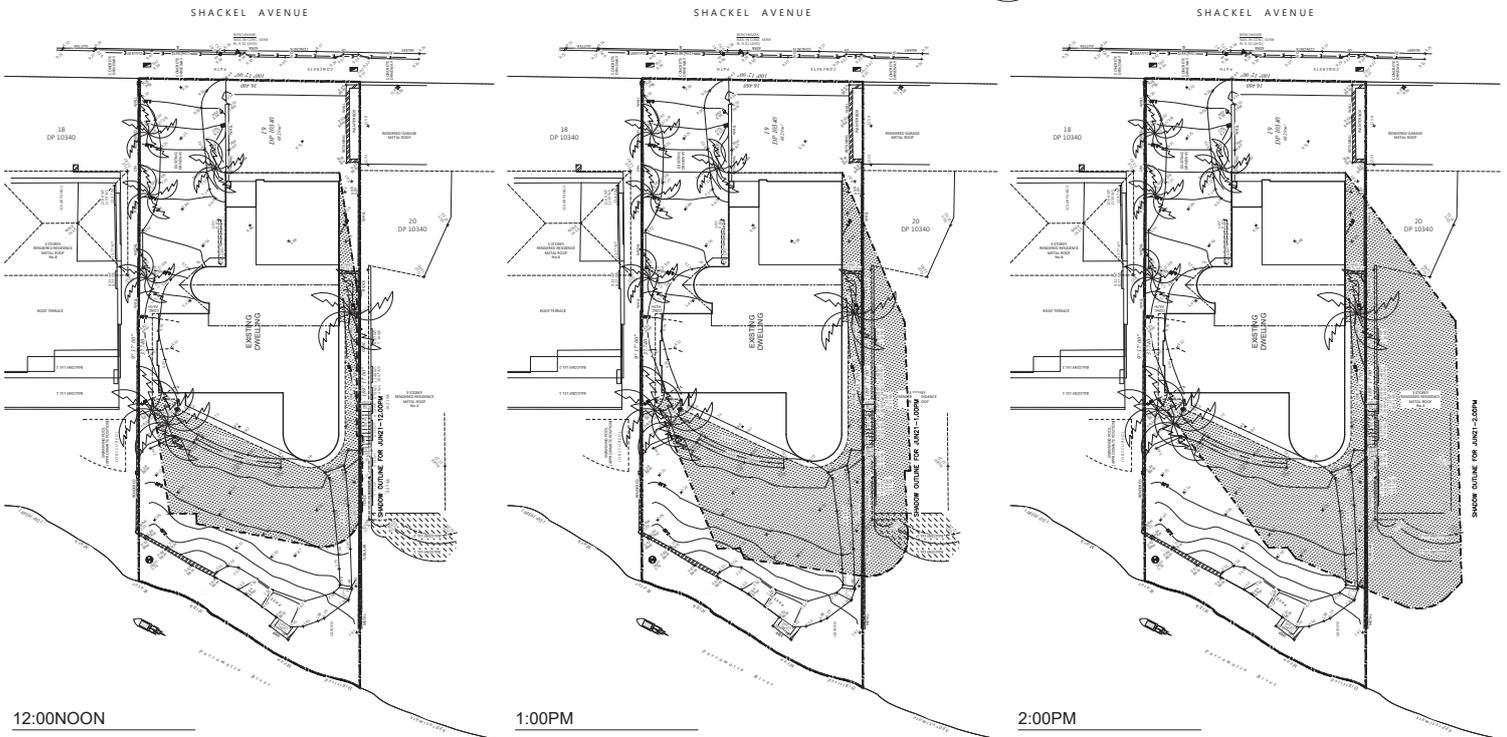
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11:00AM

SHADOW DIAGRAM JUNE 21st

CLIENT'S SIGNATURE _____ DATE _____

	CONSTRUCTION BY DESIGN <small>11 South Avenue, Sydney NSW 2010 Ph: 02 9333 1234 Fax: 02 9333 2755 M: 042 217 898 A: 02 9333 2512 www.constructionbydesign.com.au</small>		GADALLA RESIDENCE <small>Client: MR. R. GADALLA Site Address: LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111</small>	
	<small>Drawn: LWNY Date: 09.03.21</small> <small>Checked: 1:200 @ A2</small>		<small>DA PLANS</small> <small>Sheet: 2.3 Job No: CBD3136 Rev: 1</small>	



12:00NOON

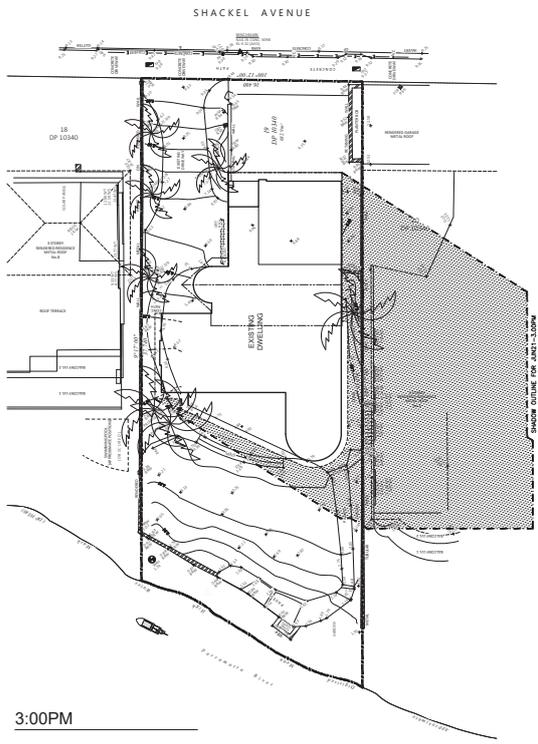
1:00PM

2:00PM

SHADOW DIAGRAM JUNE 21st

CLIENT'S SIGNATURE _____ DATE _____

 CONSTRUCTION BY DESIGN 11 Balm Avenue, Sydney NSW 2010 PO Box 6211, Gladesville NSW 1585 Ph 043 217 898 • F 02 9663 0112 • info@constructionbydesign.com.au • www.constructionbydesign.com.au	GADALLA RESIDENCE		Client MR. R. GADALLA
	ALTERATIONS AND ADDITIONS TO EXISTING DWELLINGS		Site Address LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111
Drawn LWNY	Date 26.03.21	Sheet 2.4	Job No. CBD03136
Scale 1:200 @ A2	Checked By		Rev. 1

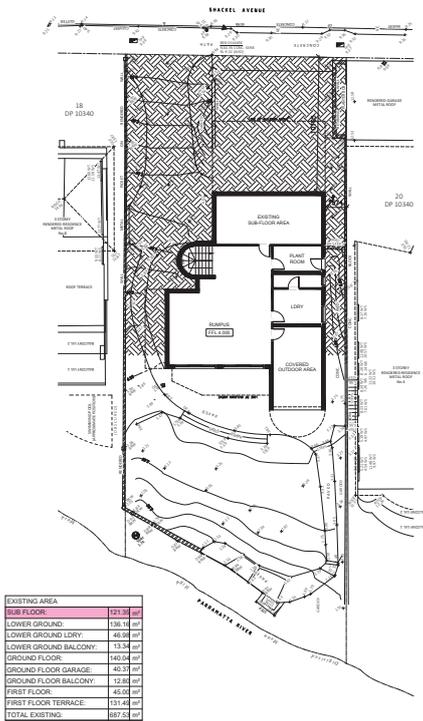


SHADOW DIAGRAM JUNE 21st

CLIENT'S SIGNATURE _____ DATE _____

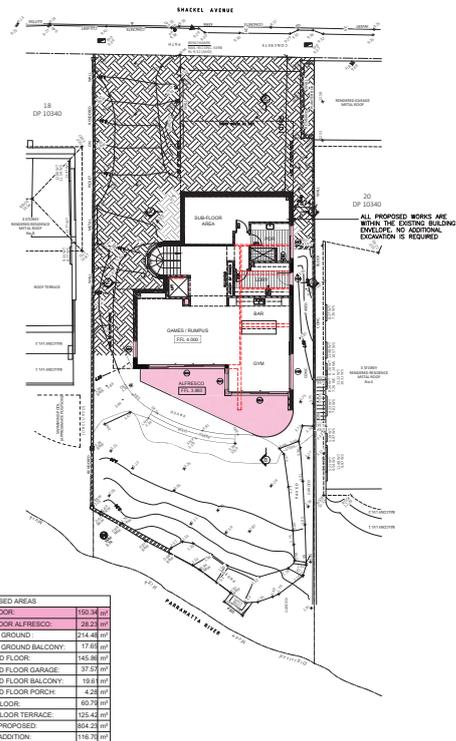
CONSTRUCTION BY DESIGN
 11 Bunkie Avenue, Sydney NSW 2150
 Ph 02 9551 2000 or 02 9551 2150
 M 043 211 898 F 02 9551 0112
 E info@constructionbydesign.com.au
 www.constructionbydesign.com.au

GADALLA RESIDENCE		Client: MR. R. GADALLA	
ALTERATIONS AND ADDITIONS TO EXISTING DWELLINGS		Site Address: LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111	
Drawn: LWNY	Date: 26.03.21	DA PLANS	
Scale: 1:200 @ A2	Checked By:	Sheet: 2.5	Job No: CBD3136
			Rev: 1



EXISTING AREA	
BASE FLOOR:	121.34 m ²
LOWER GROUND:	136.14 m ²
LOWER GROUND LDY:	46.98 m ²
LOWER GROUND BALCONY:	15.34 m ²
GROUND FLOOR:	140.04 m ²
GROUND FLOOR GARAGE:	40.37 m ²
GROUND FLOOR BALCONY:	12.88 m ²
FIRST FLOOR:	45.73 m ²
FIRST FLOOR TERRACE:	151.44 m ²
TOTAL EXISTING:	887.52 m ²

EXISTING FLOOR PLAN



PROPOSED AREAS	
BASE FLOOR:	150.34 m ²
SUB FLOOR ALFRESCO:	28.23 m ²
LOWER GROUND:	214.48 m ²
LOWER GROUND BALCONY:	17.49 m ²
GROUND FLOOR:	145.88 m ²
GROUND FLOOR GARAGE:	37.53 m ²
GROUND FLOOR BALCONY:	19.81 m ²
GROUND FLOOR PORCH:	4.28 m ²
FIRST FLOOR:	60.79 m ²
FIRST FLOOR TERRACE:	125.42 m ²
TOTAL PROPOSED:	804.25 m ²
TOTAL ADDITION:	116.73 m ²

PROPOSED FLOOR PLAN

NOTE:
ALL OPERABLE BEDROOM WINDOWS WITH A SILL HEIGHT UNDER 1700mm TO BE PROTECTED BY RESTRICTED OPENING OR OTHER METHOD IN ACCORDANCE WITH PART 3.5.2.6 OF THE NCC VOL. 2 2019
SMOKE ALARMS MUST BE INSTALLED IN ACCORDANCE WITH PART 3.7.3.5 OF THE NCC VOL. 2 2019
MECHANICAL VENTILATION MUST BE INSTALLED IN ACCORDANCE WITH PART 3.8.5.2(c) OF THE NCC VOL. 2 2019

NOTE:
(UNLESS NOTED OTHERWISE)
2450 CEILING:
300 DEEP BRUSHHEADS & SO. SETS.
150 DROPPED CEILING
2750 CEILING:
300 DEEP BRUSHHEADS, SO. SETS & DROPPED CEILING
SLABING HOME DOOR SIZE IS FOR STUD FRAME OPENING. SO SET FINISH PRIOR TO INSTALLING DOORS

CONSTRUCTION IS REQUIRED TO COMPLY WITH THE REQUIREMENTS STATED WITHIN THE FOLLOWING:
SACS CERTIFICATE A418073
DATED 02.06.2021

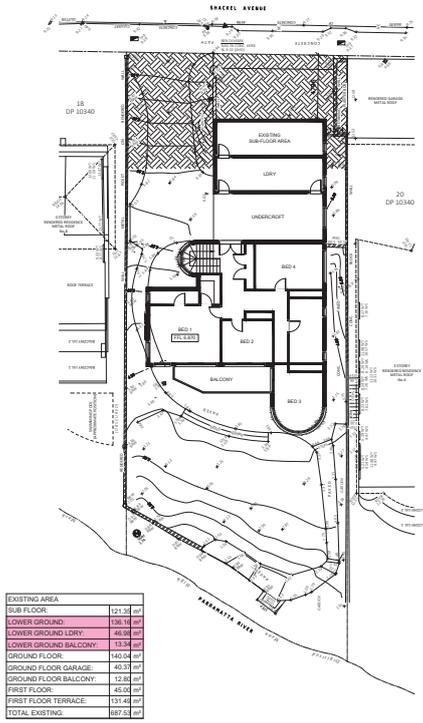
- WET AREAS ABOVE
- WALLS TO BE CONSIDERED
- EXISTING WALLS TO REMAIN
- PROPOSED WALLS
- PROPOSED BUILDING WORKS



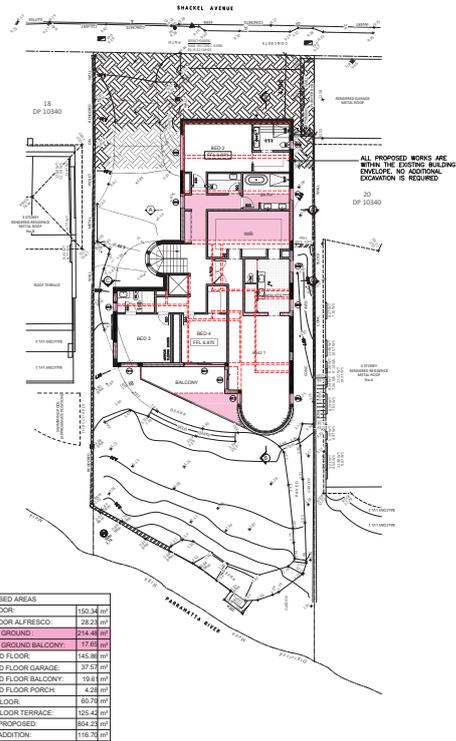
SUB-GROUND FLOOR PLAN

CLIENT'S SIGNATURE _____ DATE _____

<p>CONSTRUCTION BY DESIGN 13 Bunkers Avenue, Sydney NSW 2019 Ph: 0424 217 898 02 8863 0112 www.constructionbydesign.com.au</p>	<p>GADALLA RESIDENCE</p> <p>ALTERATIONS AND ADDITIONS TO EXISTING DWELLINGS</p>	<p>Client: MR. R. GADALLA Site Address: LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111</p>
	<p>Drawn: LWNY Date: 09.03.21 Scale: 1:200 @ A2</p>	<p>Checked By: _____ Sheet: 3 Job No.: CBD3136</p>



EXISTING FLOOR PLAN



PROPOSED FLOOR PLAN

NOTE:
ALL OPERABLE RESIDUAL WINDOWS WITH A SILL HEIGHT UNDER 1700mm TO BE PROTECTED BY RESTRICTED OPENING OR OTHER METHOD IN ACCORDANCE WITH PART 3.5.2.6 OF THE NCC VOL. 2 2019
SMOKE ALARMS MUST BE INSTALLED IN ACCORDANCE WITH PART 3.7.3.5 OF THE NCC VOL. 2 2019
MECHANICAL VENTILATION MUST BE INSTALLED IN ACCORDANCE WITH PART 3.8.5.2(c) OF THE NCC VOL. 2 2019

NOTE:
(UNLESS NOTED OTHERWISE)
2450 CEILING:
300 DEEP BUSHHEADS & SO. SETS.
150 DROPPED CEILING
2750 CEILING:
300 DEEP BUSHHEADS, SO. SETS & DROPPED CEILING
SLABING HOME DOOR SIZE IS FOR STUD FRAME OPENING. SO SET FINISH PRIOR TO INSTALLING DOORS

CONSTRUCTION IS REQUIRED TO COMPLY WITH THE REQUIREMENTS STATED WITHIN THE FOLLOWING:
SACS CERTIFICATE M118073 DATED 02.06.2021

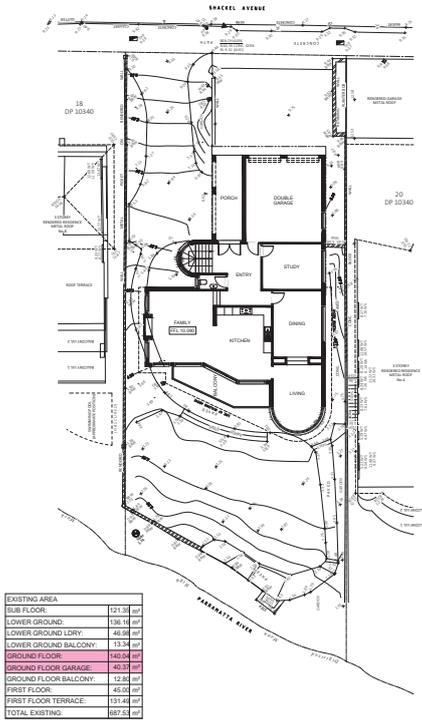
- WET AREAS ABOVE
- WALLS TO BE CONSIDERED
- EXISTING WALLS TO REMAIN
- PROPOSED WALLS
- PROPOSED BUILDING WORKS



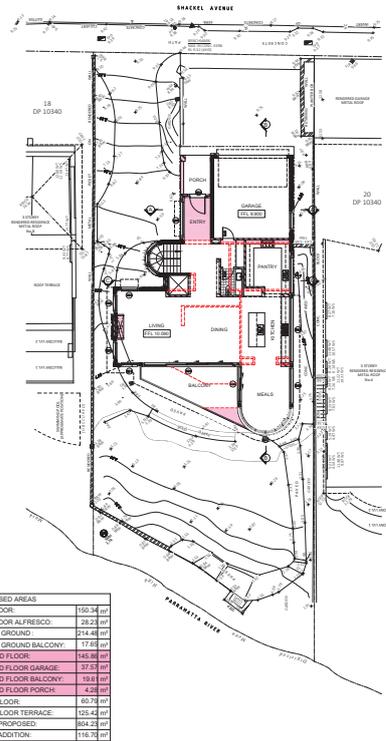
LOWER GROUND FLOOR PLAN

CLIENT'S SIGNATURE _____ DATE _____

 <p>CONSTRUCTION BY DESIGN 11 Bunkle Avenue, Sydney NSW 2150 Ph 0431 217 898 02 9863 0112 www.constructionbydesign.com.au</p>	<p>GADALLA RESIDENCE</p> <p>ALTERATIONS AND ADDITIONS TO EXISTING DWELLINGS</p>		<p>Client: MR. R. GADALLA</p> <p>Site Address: LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111</p>
	<p>Drawn: LWNY</p> <p>Scale: 1:200 @ A2</p>	<p>Date: 09.03.21</p> <p>Checked By:</p>	<p>Sheet: 4</p> <p>Job No: CBD0136</p>



EXISTING FLOOR PLAN



PROPOSED FLOOR PLAN

NOTE:
ALL OPERABLE RESIDUAL WINDOWS WITH A SILL HEIGHT UNDER 1700mm TO BE PROTECTED BY RESTRICTED OPENING OR OTHER METHOD IN ACCORDANCE WITH PART 3.5.2.6 OF THE NCC VOL. 2 2019
SMOKE ALARMS MUST BE INSTALLED IN ACCORDANCE WITH PART 3.7.3.5 OF THE NCC VOL. 2 2019
MECHANICAL VENTILATION MUST BE INSTALLED IN ACCORDANCE WITH PART 3.8.5.2(c) OF THE NCC VOL. 2 2019

NOTE:
(UNLESS NOTED OTHERWISE)
2450 CEILING:
300 DEEP BRUSHHEADS & SO. SETS.
150 DROPPED CEILING
2750 CEILING:
300 DEEP BRUSHHEADS, SO. SETS & DROPPED CEILING
SLIDING SHOWER DOOR SIZE IS FOR STUD FRAME OPENING. SO SET FINISH PRIOR TO INSTALLING DOORS

CONSTRUCTION IS REQUIRED TO COMPLY WITH THE REQUIREMENTS STATED WITHIN THE FOLLOWING:
BASIS CERTIFICATE A418073
DATED 02.06.2021

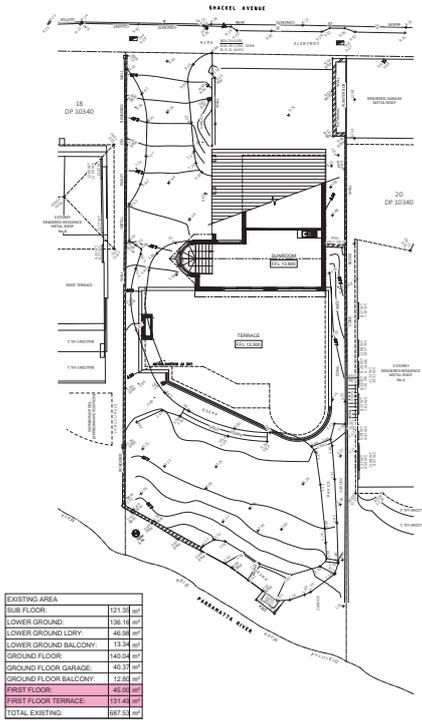
- WET AREAS ABOVE
- WALLS TO BE CONCRETE
- EXISTING WALLS TO REMAIN
- PROPOSED WALLS
- PROPOSED BUILDING WORKS



GROUND FLOOR PLAN

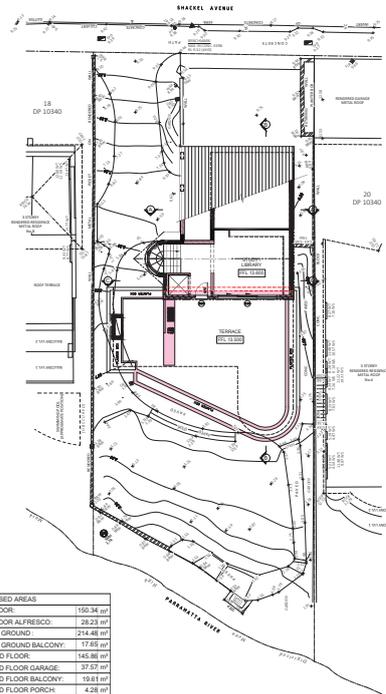
CLIENT'S SIGNATURE _____ DATE _____

	CONSTRUCTION BY DESIGN <small>11 Bunkle Avenue, Sydney NSW 2019 Ph: 0424 217 898 F: 02 9665 0112 www.constructionbydesign.com.au</small>		GADALLA RESIDENCE <small>Client: MR. R. GADALLA Site Address: LOT 19 No 6 SHACKLE AVENUE GLADESVILLE NSW 2111</small>	
	ALTERATIONS AND ADDITIONS TO EXISTING DWELLING <small>Drawn: LWNY Date: 09.03.21 Check: 1:200 @ A2 Checked By:</small>		DA PLANS <small>Sheet: 5 Job No: CBD03136 Rev: 1</small>	



EXISTING AREA	
SUB FLOOR	121.34 m ²
LOWER GROUND	138.14 m ²
LOWER GROUND LDYR	48.98 m ²
LOWER GROUND BALCONY	15.34 m ²
GROUND FLOOR	140.34 m ²
GROUND FLOOR GARAGE	40.37 m ²
GROUND FLOOR BALCONY	12.82 m ²
FIRST FLOOR	45.02 m ²
FIRST FLOOR TERRACE	131.44 m ²
TOTAL EXISTING	887.52 m ²

EXISTING FLOOR PLAN



PROPOSED AREAS	
SUB FLOOR	150.34 m ²
SUB FLOOR ALFRESCO	28.23 m ²
LOWER GROUND	214.48 m ²
LOWER GROUND BALCONY	17.89 m ²
GROUND FLOOR	145.89 m ²
GROUND FLOOR GARAGE	37.57 m ²
GROUND FLOOR BALCONY	19.81 m ²
GROUND FLOOR PORCH	4.28 m ²
FIRST FLOOR	60.74 m ²
FIRST FLOOR TERRACE	125.42 m ²
TOTAL PROPOSED	604.25 m ²
TOTAL ADDITION	116.70 m ²

PROPOSED FLOOR PLAN

NOTE:
ALL OPERABLE RESIDUAL WINDOWS WITH A SILL HEIGHT UNDER 1700mm TO BE PROTECTED BY RESTRICTED OPENING OR OTHER METHOD IN ACCORDANCE WITH PART 3.5.2.6 OF THE NCC VOL. 2 2019
SMOKE ALARMS MUST BE INSTALLED IN ACCORDANCE WITH PART 3.7.3.5 OF THE NCC VOL. 2 2019
MECHANICAL VENTILATION MUST BE INSTALLED IN ACCORDANCE WITH PART 3.8.5.2(c) OF THE NCC VOL. 2 2019

NOTE:
(UNLESS NOTED OTHERWISE)
2450 CEILING:
300 DEEP BRUSHHEADS & SO. SETS.
150 DROPPED CEILING
2750 CEILING:
300 DEEP BRUSHHEADS, SO. SETS & DROPPED CEILING
SLIDING SCREEN DOOR SIZE IS FOR STUD FRAME OPENING. SO SET FINISH PRIOR TO INSTALLING DOORS

CONSTRUCTION IS REQUIRED TO COMPLY WITH THE REQUIREMENTS STATED WITHIN THE FOLLOWING:
BASIS CERTIFICATE A418073
DATED 02.06.2021

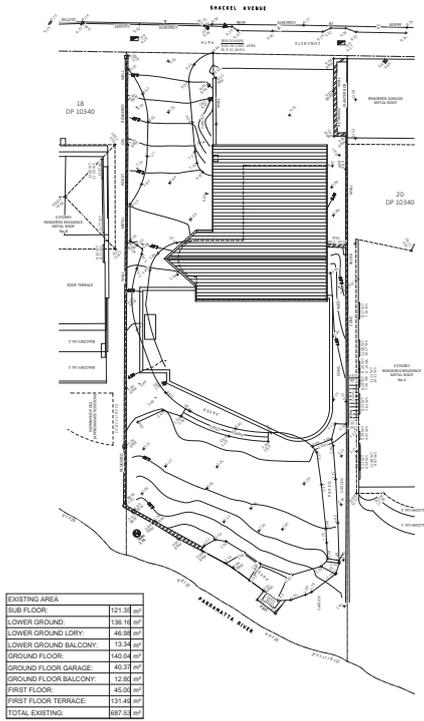
- WET AREAS ABOVE
- WALLS TO BE CONSIDERED
- EXISTING WALLS TO REMAIN
- PROPOSED WALLS
- PROPOSED BUILDING WORKS



FIRST FLOOR PLAN

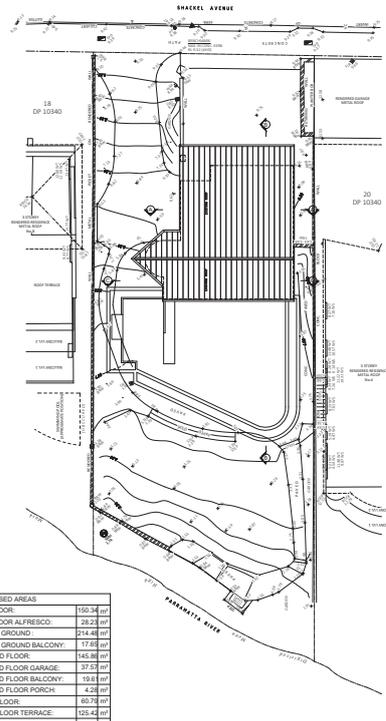
CLIENT'S SIGNATURE _____ DATE _____

<p>CONSTRUCTION BY DESIGN 11 Bunkle Avenue, Sydney NSW 2019 Ph: 0424 217 898 - 02 9593 0112 www.constructionbydesign.com.au</p>	<p>GADALLA RESIDENCE Client: MR. R. GADALLA Site Address: LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111</p>	<p>DA PLANS</p>
	<p>ALTERATIONS AND ADDITIONS TO EXISTING DWELLINGS</p>	<p>Drawn: LWNY Date: 28.03.21 Scale: 1:200 @ A2</p>



EXISTING AREA	
SUB FLOOR:	121.34 m ²
LOWER GROUND:	138.14 m ²
LOWER GROUND LDY:	48.98 m ²
LOWER GROUND BALCONY:	15.34 m ²
GROUND FLOOR:	140.04 m ²
GROUND FLOOR GARAGE:	40.37 m ²
GROUND FLOOR BALCONY:	12.88 m ²
FIRST FLOOR:	45.78 m ²
FIRST FLOOR TERRACE:	151.44 m ²
TOTAL EXISTING:	887.52 m ²

EXISTING ROOF PLAN



PROPOSED AREAS	
SUB FLOOR:	150.34 m ²
SUB FLOOR ALFRESCO:	28.23 m ²
LOWER GROUND:	214.48 m ²
LOWER GROUND BALCONY:	17.88 m ²
GROUND FLOOR:	145.88 m ²
GROUND FLOOR GARAGE:	37.53 m ²
GROUND FLOOR BALCONY:	19.81 m ²
GROUND FLOOR PORCH:	4.28 m ²
FIRST FLOOR:	60.78 m ²
FIRST FLOOR TERRACE:	125.42 m ²
TOTAL PROPOSED:	804.25 m ²
TOTAL ADDITION:	116.73 m ²

PROPOSED ROOF PLAN

NOTE:
ALL OPERABLE RESIDUAL WINDOWS WITH A SILL HEIGHT UNDER 1700mm TO BE PROTECTED BY RESTRICTED OPENING OR OTHER METHOD IN ACCORDANCE WITH PART 3.5.2.6 OF THE NCC VOL. 2 2019
SMOKE ALARMS MUST BE INSTALLED IN ACCORDANCE WITH PART 3.7.3.5 OF THE NCC VOL. 2 2019
MECHANICAL VENTILATION MUST BE INSTALLED IN ACCORDANCE WITH PART 3.8.5.2(c) OF THE NCC VOL. 2 2019

NOTE:
(UNLESS NOTED OTHERWISE)
2450 CEILING:
300 DEEP BRUSHHEADS & SO. SETS.
180 DROPPED CEILING
2750 CEILING:
300 DEEP BRUSHHEADS, SO. SETS & DROPPED CEILING
SLIDING SHOWER DOOR SIZE IS FOR STUD FRAME OPENING, SO SET FINISH PRIOR TO INSTALLING DOORS

CONSTRUCTION IS REQUIRED TO COMPLY WITH THE REQUIREMENTS STATED WITHIN THE FOLLOWING:
BASIS CERTIFICATE A418073
DATED 02.06.2021

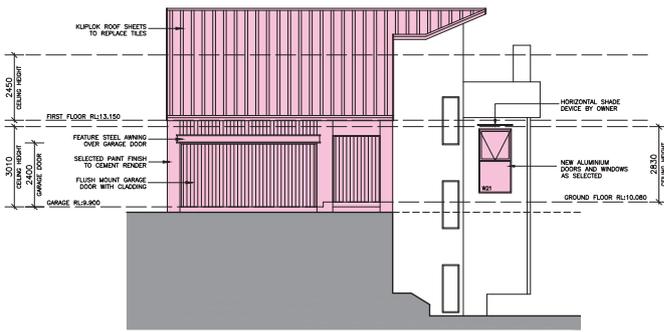
- WET AREAS ABOVE
- WALLS TO BE CONSIDERED
- EXISTING WALLS TO REMAIN
- PROPOSED WALLS
- PROPOSED BUILDING WORKS



ROOF PLAN

CLIENT'S SIGNATURE _____ DATE _____

	CONSTRUCTION BY DESIGN 11 Bunkle Avenue, Sydney NSW 2019 Ph: 0424 217 898 F: 02 9603 0112 www.constructionbydesign.com.au		GADALLA RESIDENCE Client: MR. R. GADALLA Site Address: LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111	
	ALTERATIONS AND ADDITIONS TO EXISTING DWELLINGS Drawn: LWNY Date: 09.03.21 Check: 1:200 @ A2 Checked By:		Sheet: 7 Job No.: DA PLANS Rev: 1 CBD03136	



PROPOSED ELEVATION 1
NORTH ELEVATION



EXISTING ELEVATION 1
NORTH ELEVATION

NOTE:
ALL OPERABLE BEDROOM WINDOWS WITH A SILL HEIGHT UNDER 1700mm TO BE PROTECTED BY RESTRICTED OPENING OR OTHER METHOD, IN ACCORDANCE WITH PART 3.9.2.6 OF THE NCC VOL. 2 2019.
BALUSTRADES TO BE INSTALLED IN ACCORDANCE WITH PART 3.9.2.3 OF THE NCC VOL. 2 2019.

NOTE:
(UNLESS NOTED OTHERWISE)
2400 CEILING:
300 DEEP BULKHEADS & 50 SETS
150 DROPPED CEILING
2750 CEILING:
300 DEEP BULKHEADS, 50 SETS
& DROPPED CEILING
SLIDING ROSE DOOR SIZE IS FOR STUD FRAME OPENING, SO SET FINISH PRIOR TO INSTALLING DOORS

CONSTRUCTION IS REQUIRED TO COMPLY WITH THE REQUIREMENTS STATED WITHIN THE FOLLOWING:

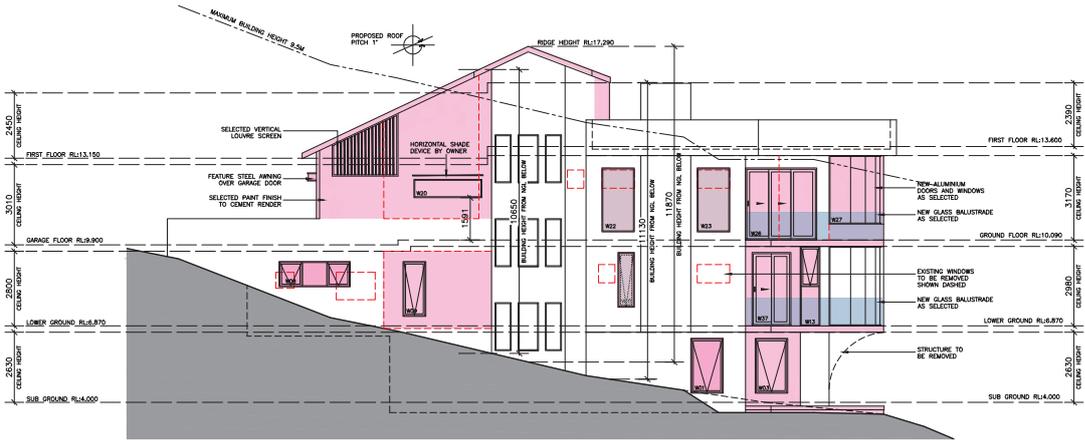
BANK CERTIFICATE A418573
DATED 06/04/2021

PROPOSED BUILDING WORKS
OBSCURE GLAZING TO WINDOWS

ELEVATION 1

CLIENT'S SIGNATURE _____ DATE _____

 <p>CONSTRUCTION BY DESIGN 11 Birkdale Avenue, Sydney NSW 2159 PO Box 2011, Sydney NSW 2011 NSW PH 0424 217 898 F 02 9885 0112 WWW.CONSTRUCTIONBYDESIGN.COM.AU</p>	<p>GADALLA RESIDENCE</p> <p>ALTERATIONS AND ADDITIONS TO EXISTING DWELLINGS</p>		<p>Client: MR. R. GADALLA</p> <p>Site Address: LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111</p>
	<p>Drawn: LWNY</p> <p>Scale: 1:100 @ A2</p>	<p>Date: 26.03.21</p> <p>Checked By:</p>	<p>Sheet: 8</p> <p>Job No: CBD3136</p>



PROPOSED ELEVATION 2
WEST ELEVATION



EXISTING ELEVATION 2
WEST ELEVATION

NOTE:
ALL OPERABLE BEDROOM WINDOWS WITH A SILL HEIGHT UNDER 1700mm TO BE PROTECTED BY RESTRICTED OPENING OR OTHER METHOD, IN ACCORDANCE WITH PART 3.9.2.6 OF THE NCC VOL. 2 2019.
BALUSTRADES TO BE INSTALLED IN ACCORDANCE WITH PART 3.9.2.3 OF THE NCC VOL. 2 2019.

NOTE:
(UNLESS NOTED OTHERWISE)
2400 CEILING:
300 DEEP BALUSTRADES & 50 SETS
150 DROPPED CEILING
2750 CEILING:
300 DEEP BALUSTRADES, 50 SETS
& DROPPED CEILING
SLIDING DOOR DOOR SIF IS FOR STUD FRAME OPENING, DO SET FINISH PRIOR TO INSTALLING DOORS

CONSTRUCTION IS REQUIRED TO COMPLY WITH THE REQUIREMENTS STATED WITHIN THE FOLLOWING:

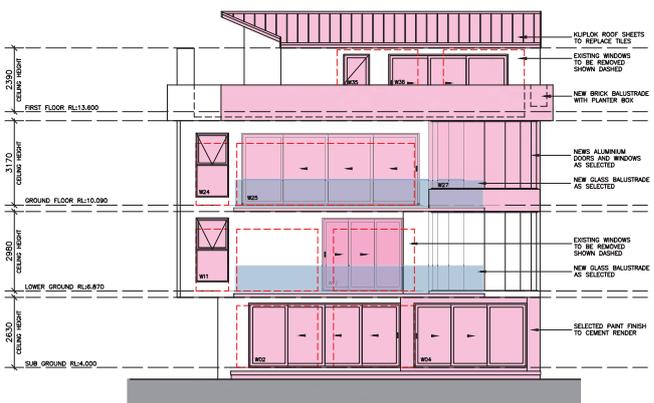
BANK CERTIFICATE M418573
DATED 02/04/2021

PROPOSED BUILDING WORKS
OPSCURE GLAZING TO WINDOWS

ELEVATION 2

CLIENT'S SIGNATURE _____ DATE _____

 <p>CONSTRUCTION BY DESIGN 11 Bunkers Avenue, Sydney NSW 2010 PO Box 999, Sydney NSW 2010 PH 0424 217 898 F 02 9665 0512 WWW.CONSTRUCTIONBYDESIGN.COM.AU</p>	<p>GADALLA RESIDENCE</p> <p>ALTERATIONS AND ADDITIONS TO EXISTING DWELLINGS</p>		<p>Client: MR. R. GADALLA</p> <p>Site Address: LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111</p>
	<p>Drawn: LWINY</p> <p>Scale: 1:100 @ A2</p>	<p>Date: 26.03.21</p> <p>Checked: _____</p> <p>Checked By: _____</p>	<p>Sheet: 9</p> <p>Job No: CBD3136</p> <p>Rev: 1</p>



PROPOSED ELEVATION 3
SOUTH ELEVATION



EXISTING ELEVATION 3
SOUTH ELEVATION

NOTE:
ALL OPERABLE BEDROOM WINDOWS WITH A SILL HEIGHT UNDER 1700mm TO BE PROTECTED BY RESTRICTED OPENING OR OTHER METHOD IN ACCORDANCE WITH PART 3.9.2.6 OF THE NCC VOL. 2 2019.
BALUSTRADES TO BE INSTALLED IN ACCORDANCE WITH PART 3.9.2.3 OF THE NCC VOL. 2 2019.

NOTE:
(UNLESS NOTED OTHERWISE)
2450 CEILING:
300 DEEP BALUSTRADES & 50 SETS.
150 DROPPED CEILING
2750 CEILING:
300 DEEP BALUSTRADES, 50 SETS & DROPPED CEILING
SLIDING ROSE DOOR SIZE IS FOR STUD FRAME OPENING, SO SET FINISH PRIOR TO INSTALLING DOORS

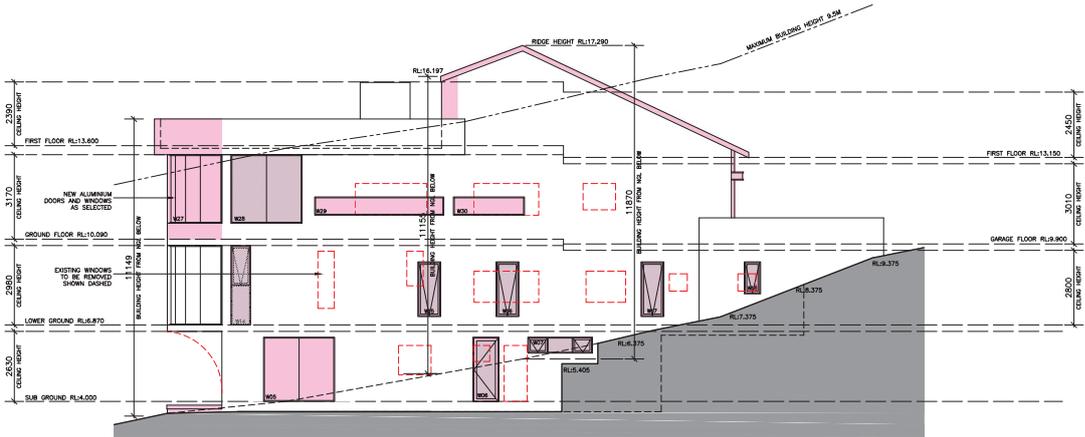
CONSTRUCTION IS REQUIRED TO COMPLY WITH THE REQUIREMENTS STATED WITHIN THE FOLLOWING:
BANK CERTIFICATE A418573
DATED 02/04/2021

PROPOSED BUILDING WORKS
OBSCURE GLAZING TO WINDOWS

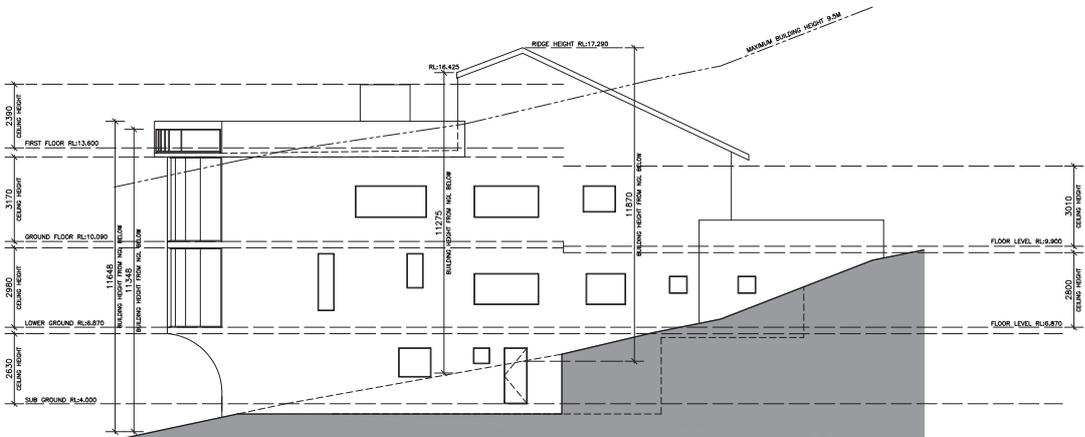
ELEVATION 3

CLIENT'S SIGNATURE _____ DATE _____

 <p>CONSTRUCTION BY DESIGN 11 Bunkle Avenue, Sydney NSW 2015 P 0424 231 898 F 02 9865 0512 E info@constructionbydesign.com.au www.constructionbydesign.com.au</p>	<p>GADALLA RESIDENCE</p> <p>Client: MR. R. GADALLA Site Address: LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111</p>	
	<p>ALTERATIONS AND ADDITIONS TO EXISTING DWELLINGS</p> <p>DA PLANS</p>	
<p>Drawn: LWNY Scale: 1:100 @ A2</p>	<p>Date: 26.03.21 Checked: [] Checked By: []</p>	<p>Sheet: 10 Job No: CBD3136 Rev: 1</p>



PROPOSED ELEVATION 4
EAST ELEVATION



EXISTING ELEVATION 4
EAST ELEVATION

NOTE:
ALL OPERABLE BEDROOM WINDOWS WITH A SILL HEIGHT UNDER 1700mm TO BE PROTECTED BY RESTRICTED OPENING OR OTHER METHOD IN ACCORDANCE WITH PART 3.9.2.6 OF THE NCC VOL. 2 2019.
BALUSTRADES TO BE INSTALLED IN ACCORDANCE WITH PART 3.9.2.3 OF THE NCC VOL. 2 2019.

NOTE:
(UNLESS NOTED OTHERWISE)
2450 CEILING:
300 DEEP BULKHEADS & 50. SETS.
150 DROPPED CEILING.
2750 CEILING:
300 DEEP BULKHEADS, 50. SETS & DROPPED CEILING.
SLIDING DOOR DOOR SIZE IS FOR STUD FRAME OPENING, DO SET FINISH PRIOR TO INSTALLING DOORS.

CONSTRUCTION IS REQUIRED TO COMPLY WITH THE REQUIREMENTS STATED WITHIN THE FOLLOWING:

BANK CERTIFICATE A418573
DATED 02/04/2021

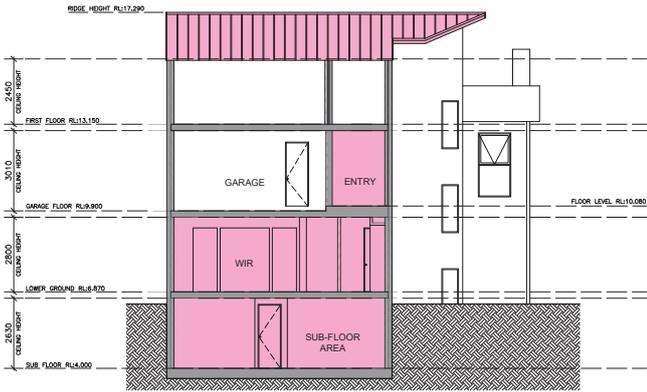
PROPOSED BUILDING WORK

OBSCURE GLAZING TO WINDOWS

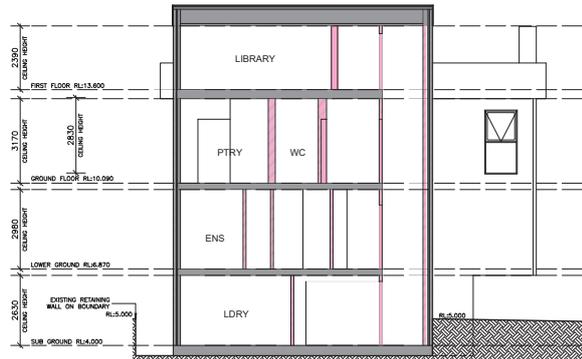
ELEVATION 4

CLIENT'S SIGNATURE _____ DATE _____

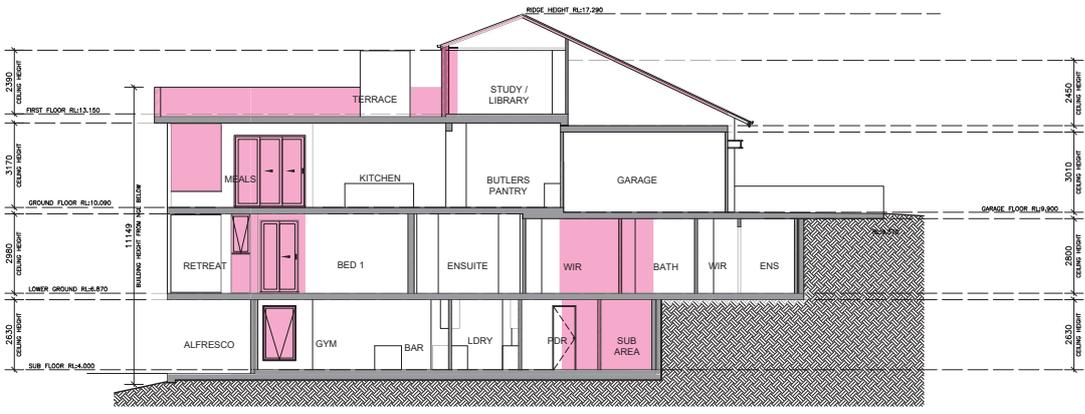
 <p>CONSTRUCTION BY DESIGN 11 South Avenue, Sydney NSW 2010 PO Box 2000, Sydney NSW 2010 PH 0421 211 898 F 02 9863 0112 www.constructionbydesign.com.au</p>	<p>GADALLA RESIDENCE</p> <p>ALTERATIONS AND ADDITIONS TO EXISTING DWELLINGS</p>		<p>Client: MR. R. GADALLA</p> <p>Site Address: LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111</p>
	<p>Drawn: LWNY</p> <p>Scale: 1:100 @ A2</p>	<p>Date: 26.03.21</p> <p>Checked: _____</p> <p>Checked By: _____</p>	<p>Sheet: 11</p> <p>Job No: CBD3136</p> <p>Rev: I</p>



PROPOSED SECTION A



PROPOSED SECTION C



PROPOSED SECTION B

NOTE:
ALL OPERABLE BEDROOM WINDOWS WITH A SILL HEIGHT UNDER 1700mm TO BE PROTECTED BY RESTRICTED OPENING OR OTHER METHOD IN ACCORDANCE WITH PART 3.9.2.6 OF THE NCC VOL. 2 2019
BALUSTRADES TO BE INSTALLED IN ACCORDANCE WITH PART 3.9.2.3 OF THE NCC VOL. 2 2019

NOTE:
(UNLESS NOTED OTHERWISE)
2400 CEILING:
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150 DROPPED CEILING
2700 CEILING:
300 DEEP BALUSTRADES, 50 SETS
& DROPPED CEILING
SLIDING ROSE DOOR SIF IS FOR STUD FRAME OPENING, SO SET FINISH PRIOR TO INSTALLING DOORS

CONSTRUCTION IS REQUIRED TO COMPLY WITH THE REQUIREMENTS STATED WITHIN THE FOLLOWING:

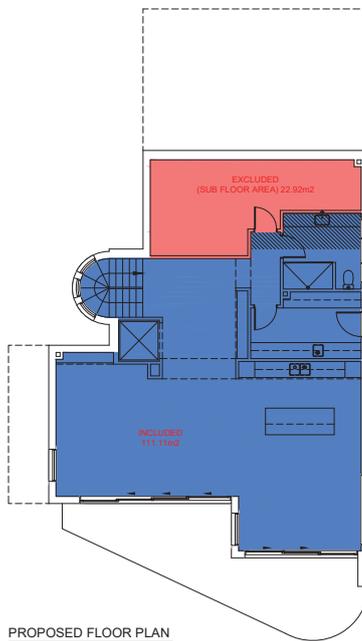
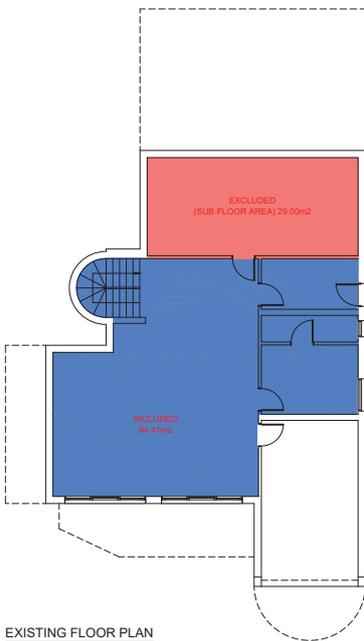
BANK CERTIFICATE M418573
DATED 02/04/2021

PROPOSED BUILDING WORKS
EXISTING GLAZING TO WINDOWS

SECTIONS

CLIENT'S SIGNATURE _____ DATE _____

 <p>CONSTRUCTION BY DESIGN 11 Squire Avenue, Sydney NSW 2151 PO Box 2000, Sydney NSW 2001 NSW PH 2424 217 898 F 02 9555 2012 www.constructionbydesign.com.au</p>	<p>GADALLA RESIDENCE</p> <p>ALTERATIONS AND ADDITIONS TO EXISTING DWELLINGS</p>		<p>Client: MR. R. GADALLA</p> <p>Site Address: LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111</p>
	<p>Drawn: LWINY</p> <p>Scale: 1:100 @ A2</p>	<p>Date: 28.03.21</p> <p>Checked: _____</p>	<p>Sheet: 12</p> <p>Job No: CBD0136</p>
	<p>DA PLANS</p>		<p>Rev: 1</p>



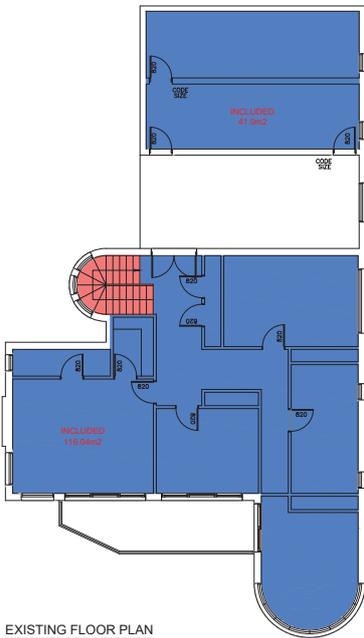
FDR AREA SCHEDULE		
FLOOR	EXISTING	PROPOSED
SUB	84.47m ²	111.17m ²
LOWER	147.04m ²	185.29m ²
GROUND	121.84m ²	122.14m ²
FIRST	33.35m ²	32.63m ²
TOTAL	396.90m²	451.17m²
ALLOWABLE (0.50x682.90m²)	341.45m²	

- EXCLUDED FLOOR SPACE
- INCLUDED FLOOR SPACE
- PROPOSED FLOOR AREA

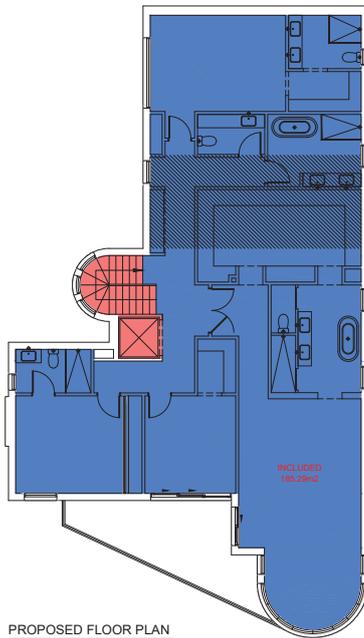
SUB-GROUND FLOOR PLAN
(FLOOR SPACE RATIO)

CLIENT'S SIGNATURE _____ DATE _____

	CONSTRUCTION BY DESIGN <small>11 Bunkle Avenue, Sydney NSW 2150 Ph: 02 9551 8888 - 02 9551 2150 M: 0424 217 898 - 02 9551 0112 E: info@constructionbydesign.com.au W: www.constructionbydesign.com.au</small>		GADALLA RESIDENCE <small>Client: MR. R. GADALLA Site Address: LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111</small>	
	<small>Drawn: LWNY Date: 26.03.21 Scale: 1:100 @ A2</small>	<small>Checked: [] Checked By: []</small>	<small>Sheet: 13</small>	<small>Job No: CBD3136</small>



EXISTING FLOOR PLAN



PROPOSED FLOOR PLAN

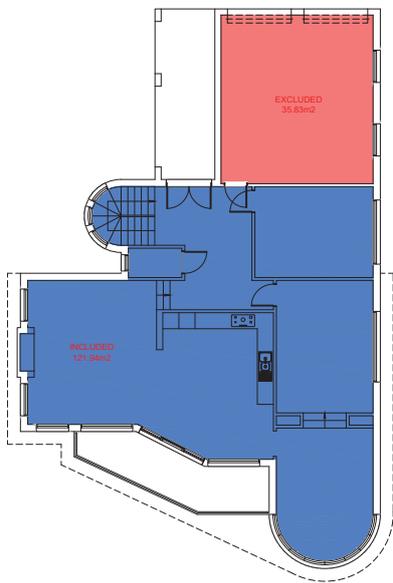
FOR AREA SCHEDULE		
FLOOR	EXISTING	PROPOSED
SUB	84.47m ²	111.17m ²
LOWER	147.04m ²	185.29m ²
GROUND	121.84m ²	122.14m ²
FIRST	33.35m ²	32.63m ²
TOTAL	396.70m²	451.17m²
ALLOWABLE (0.50x1682.30m²)		841.45m²

- EXCLUDED FLOOR SPACE
- INCLUDED FLOOR SPACE
- PROPOSED FLOOR AREA

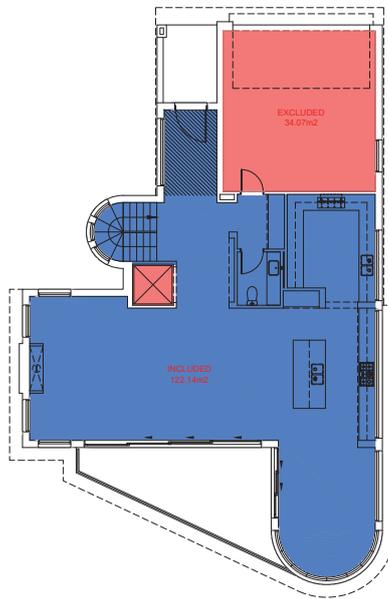
LOWER-GROUND FLOOR PLAN
(FLOOR SPACE RATIO)

CLIENT'S SIGNATURE _____ DATE _____

	CONSTRUCTION BY DESIGN <small>11 Bunkle Avenue, Sydney NSW 2151 Ph: 043 237 898 02 9663 0112 www.constructionbydesign.com.au</small>		GADALLA RESIDENCE <small>Client: MR. R. GADALLA Site Address: LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111</small>	
	<small>Drawn: LWINY</small> <small>Scale: 1:100 @ A2</small>	<small>Date: 26.03.21</small> <small>Checked By:</small>	<small>Sheet: 14</small> <small>Job No: CBD3136</small>	<small>DA PLANS</small> <small>Rev: 1</small>



EXISTING FLOOR PLAN



PROPOSED FLOOR PLAN

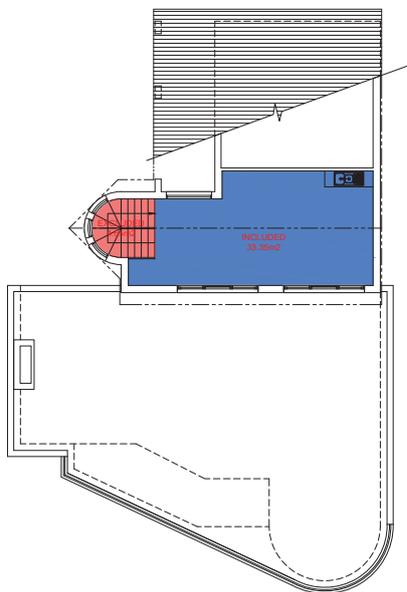
FOR AREA SCHEDULE		
FLOOR	EXISTING	PROPOSED
5/06	84.47m ²	111.17m ²
LOWER	147.04m ²	185.29m ²
GROUND	121.84m ²	122.14m ²
FIRST	33.35m ²	32.83m ²
TOTAL	286.80m²	451.17m²
ALLOWABLE (0.50x1682.90m²)		841.45m²

- EXCLUDED FLOOR SPACE
- INCLUDED FLOOR SPACE
- PROPOSED FLOOR AREA

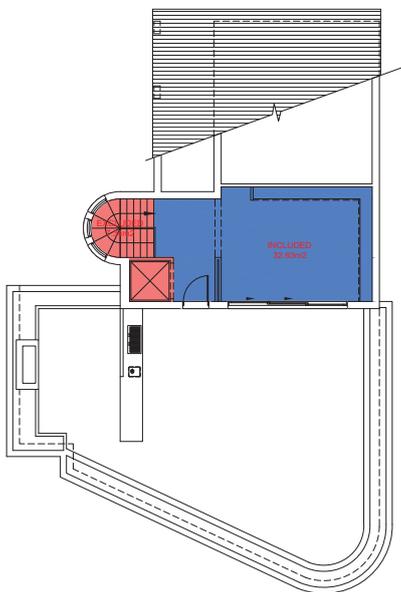
GROUND FLOOR PLAN
(FLOOR SPACE RATIO)

CLIENT'S SIGNATURE _____ DATE _____

	CONSTRUCTION BY DESIGN 11 Bloor Avenue, Sydney NSW 2150 Ph: 02 9551 8888 (02 9551 2715) M: 0424 217 898 F: 02 9551 0112 E: info@constructionbydesign.com.au www.constructionbydesign.com.au	GADALLA RESIDENCE ALTERATIONS AND ADDITIONS TO EXISTING DWELLINGS	Client: MR. R. GADALLA Site Address: LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111
	Drawn: LWNY Date: 26.03.21 Check: _____ Scale: 1:100 @ A2 Checked By: _____	Sheet: _____ Job No: 15 Title: DA PLANS Rev: 1 Code: CBD3136	



EXISTING FLOOR PLAN



PROPOSED FLOOR PLAN

FOR AREA SCHEDULE		
FLOOR	EXISTING	PROPOSED
SUB	84.47M2	111.11M2
LOWER	147.04M2	185.29M2
GROUND	121.84M2	122.14M2
FIRST	33.35M2	32.63M2
TOTAL	386.80M2	451.17M2
ALLOWABLE (0.50x1682.90M2)		841.45M2

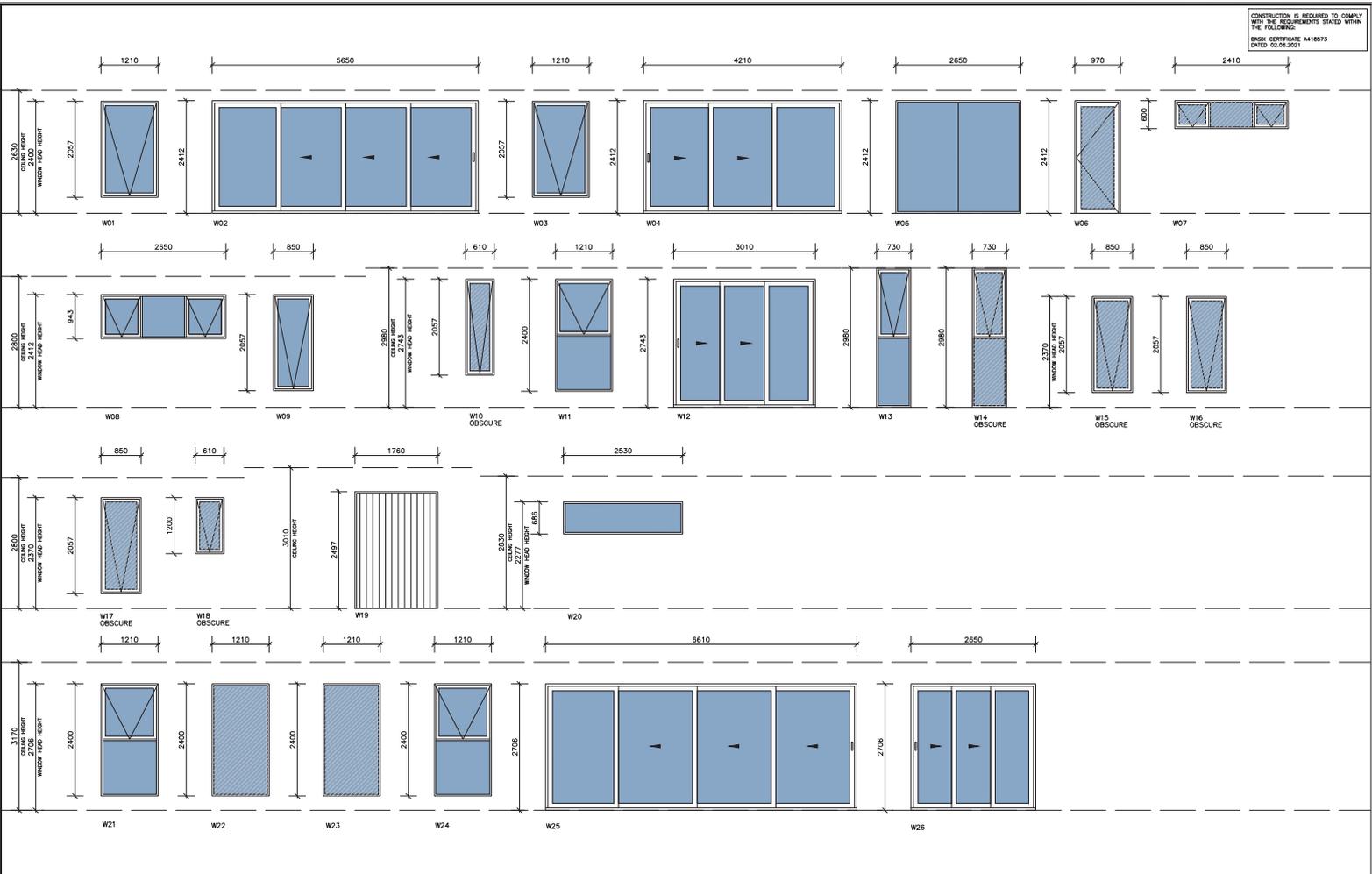
- EXCLUDED FLOOR SPACE
- INCLUDED FLOOR SPACE
- PROPOSED FLOOR AREA

FIRST FLOOR PLAN
(FLOOR SPACE RATIO)

CLIENT'S SIGNATURE _____ DATE _____

	CONSTRUCTION BY DESIGN <small>11 Bunkle Avenue, Sydney NSW 2150 Ph: 0424 217 898 F: 02 9863 0212 www.constructionbydesign.com.au</small>		GADALLA RESIDENCE <small>Client: MR. R. GADALLA Site Address: LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111</small>	
	<small>Drawn: LWJNY Date: 26.03.21 Scale: 1:100 @ A2 Checked By:</small>		ALTERATIONS AND ADDITIONS TO EXISTING DWELLINGS <small>DA PLANS</small> Sheet: 16 Job No: CBD3136 Rev: 1	

CONSTRUCTION IS REQUIRED TO COMPLY WITH THE REQUIREMENTS STATED WITHIN THE FOLLOWING:
 BASIS CERTIFICATE A418573
 DATED 02.08.2021

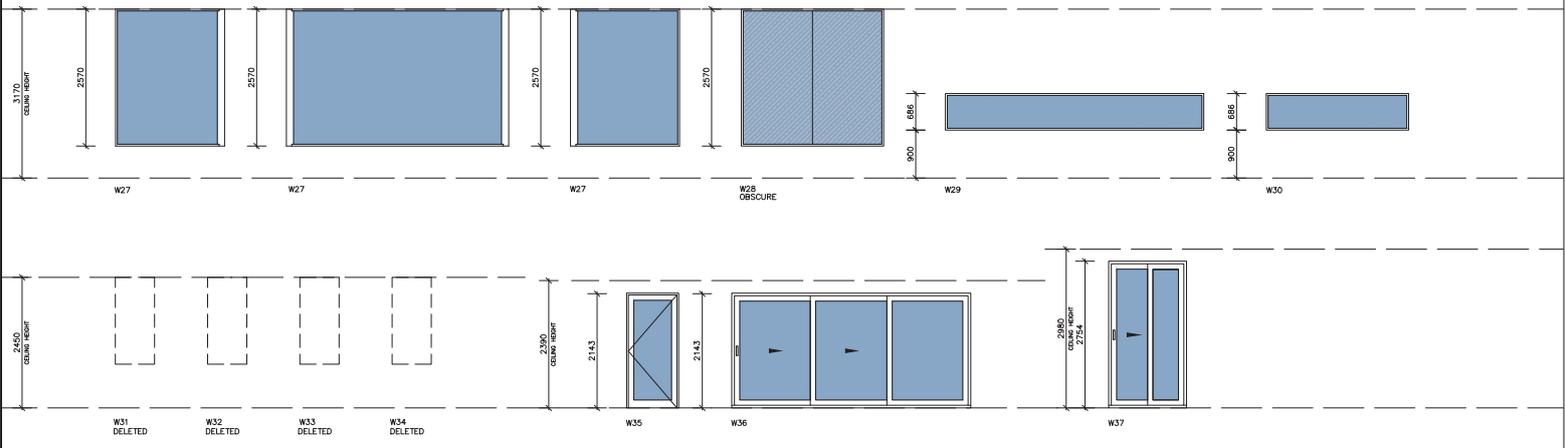


WINDOW SCHEDULE

CLIENT'S SIGNATURE: _____ DATE: _____

 <p>CONSTRUCTION BY DESIGN 11 Birk Avenue, Sydney NSW 2010 Ph: 02 9211 8888 • Fax: 02 9211 7110 M: 0424 217 898 • E: CB@cbd.com.au www.constructionbydesign.com.au</p>	GADALLA RESIDENCE Client: MR. R. GADALLA Site Address: LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111	
	ALTERATIONS AND ADDITIONS TO EXISTING DWELLINGS	
	Drawn: LWJNY Scale: 1:50 @ A2 Date: 26.03.21 Checked By:	Sheet: 17 Job No: CBD3136 Rev: 1

CONSTRUCTION IS REQUIRED TO COMPLY WITH THE REQUIREMENTS STATED WITHIN THE FOLLOWING:
 BATH CERTIFICATE A418573
 DATED 22/06/2021

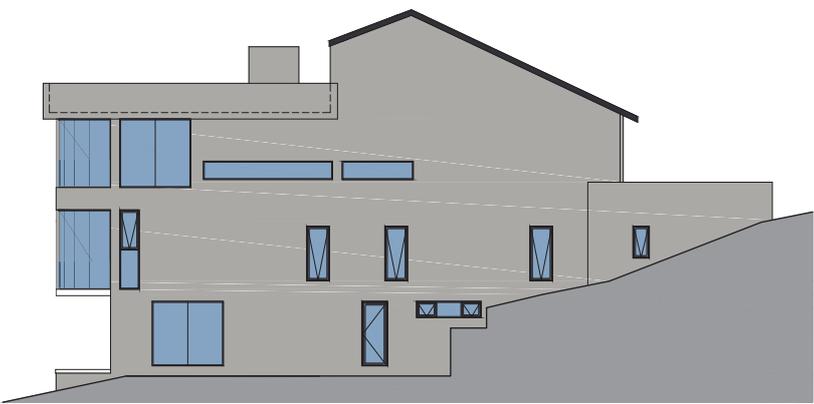
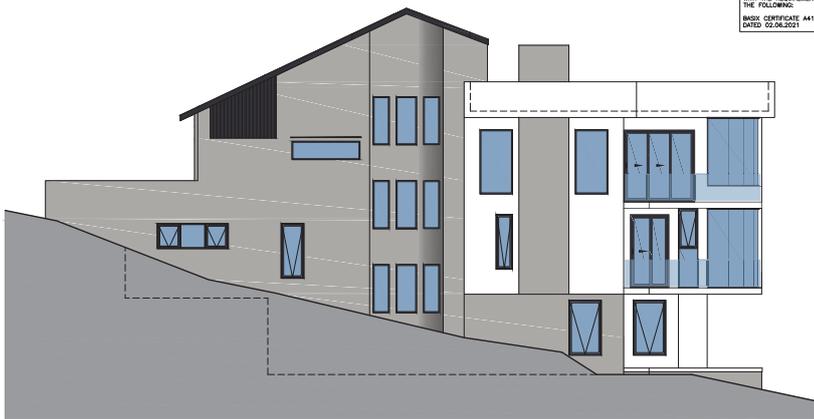


WINDOW SCHEDULE

CLIENT'S SIGNATURE _____ DATE _____

 <p>CONSTRUCTION BY DESIGN 11 Birk Avenue, Sydney NSW 2150 Ph: 02 9211 8888 02 9211 2150 M: 042 217 898 02 9885 0112 E: info@constructionbydesign.com.au W: www.constructionbydesign.com.au</p>	GADALLA RESIDENCE ALTERATIONS AND ADDITIONS TO EXISTING DWELLINGS		Client: MR. R. GADALLA Site Address: LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111
	Drawn: LWINY Scale: 1:50 @ A2 Date: 28.03.21 Checked By:	Sheet: 18 Job No: CBD3136	DA PLANS Rev: 1

CONSTRUCTION IS REQUIRED TO COMPLY WITH THE REQUIREMENTS STATED WITHIN THE FOLLOWING:
 BSAK CERTIFICATE A418573
 DATED 02.06.2021



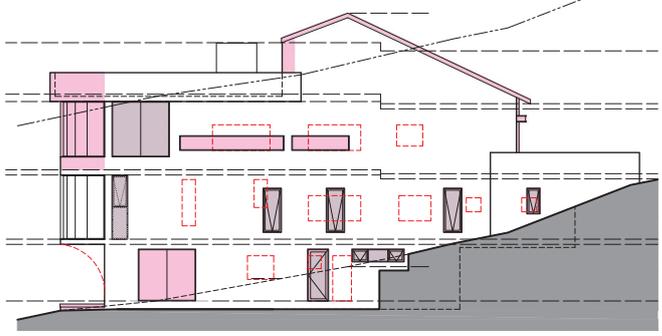
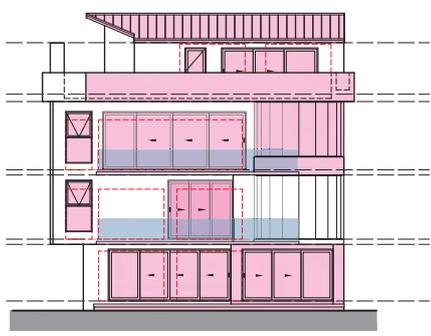
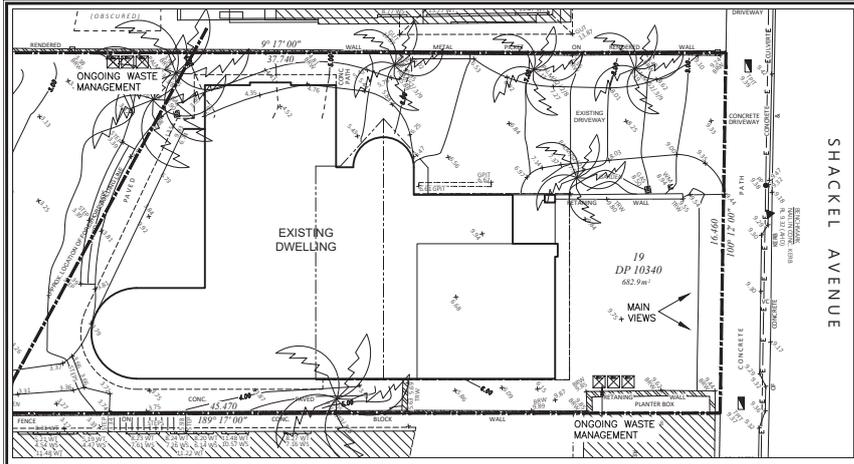
■ CEMENT RENDER
 TAUBMANS COLORBOND
 'SHALE GREY'

■ ROOF COLOUR, GARAGE DOOR &
 WINDOW FRAMES
 TAUBMANS COLORBOND 'MONUMENT'

COLOUR SCHEDULE

CLIENT'S SIGNATURE _____ DATE _____

 <p>CONSTRUCTION BY DESIGN 11 Bloor Avenue, Sydney NSW 2155 PO Box 6011, Sydney NSW 2155 M 042 217 898 F 02 9663 0112 E info@constructionbydesign.com.au www.constructionbydesign.com.au</p>	GADALLA RESIDENCE ALTERATIONS AND ADDITIONS TO EXISTING DWELLINGS		Client MR. R. GADALLA Site Address LOT 19 No 6 SHACKEL AVENUE GLADESVILLE NSW 2111
	Drawn LWNY	Date 26.03.21	DA PLANS
	Scale 1:100 @ A2	Checked By	Sheet 19 Job No. CBD3136 Rev. 1



 <p>CONSTRUCTION BY DESIGN 11 Suter Avenue, Murrumbidgee NSW 2155 PO Box 6021 Rouse Hill NSW 2155 m 0434 217 896 f 02 8882 9012 e info@constructionbydesign.com.au w www.constructionbydesign.com.au</p>	<p>GADALLA RESIDENCE ALTERATIONS AND ADDITIONS TO EXISTING DWELLING</p>	<p>Client: MIR. R. GADALLA Site Address: LOT 19 No.6 SHACKEL AVENUE GLADESVILLE NSW 2111</p>
	<p>Drawn: LLWNY Scale: NTS</p>	<p>Date: 26.03.21 Checked: NTS Checked By:</p>

**CLAUSE 4.6 VARIATION TO
CLAUSE 4.3 (2) (HEIGHT OF BUILDING) UNDER
RYDE LOCAL ENVIRONMENTAL PLAN 2014
(RLEP 2014)**

***6 Shackel Avenue
GLADESVILLE***

August 2022



Section 1 Background

- The subject application, to which this Clause 4.6 variation relates, is a s8.2 Review of Determination application for the refusal of a Development Application by Ryde City Council for additions and alterations to an existing dwelling house, at 6 Shackel Avenue, Gladesville. The relevant DA No. is LDA2021/0278.
- The subject site is legally identified as 6 Shackel Avenue, Gladesville (Lot 19 DP 10340).



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 existing building, with pitched roof, exceeds the **9.5m** maximum building height for the site.
- The subject application proposes a maximum height variation of 2.37m being the ridgeline of the proposed mansard roof that replaces the existing pitched roof of the building.
- The existing pitched hipped roof currently breaches the height control, and the proposed maximum roof height lowers/reduces the non-compliance.
- 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 Construction by Design, submitted with the s8.2 Review application.

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 11.87m. The maximum height variation as measured to the ridgeline of the roof is 2370mm or 24.9%. See Figure C below.

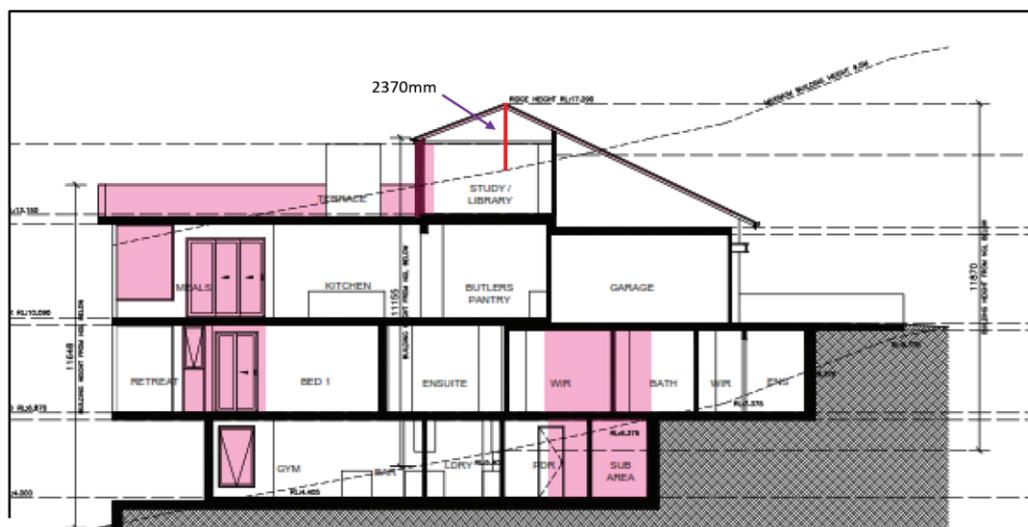


Figure C: Section plan of dwelling house showing existing HOB variation to 9.5m HOB development standard under RLEP 2014

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 provision of:

- The overall height of No. 6 Shackel Avenue Gladesville is not altered by the proposed alterations to the existing dwelling house. The pitch of the roof and height of the ridgeline (RL17.29m AHD) is not changed by the proposal. Only the roof tiles are to be changed to non-reflective metal sheeting.
- The existing and proposed HOB is shown in Figure C above.
- The site slopes from north to south from Shackel Avenue to the waterway (Parramatta River).
- The dwelling house, when viewed from Shackel Avenue appears as one storey to the garage and two storeys to side façade.
- It is only a small section of the southern façade (rear) of the dwelling that exceeds the HOB maximum limit.
- The area of the southern façade that is not compliant with the HOB limit exists, it is not a new addition or alteration seeking approval with this application.
- There is no part of this application that seeks to extend the HOB variation over and above the existing HOB variation.
- The non compliance is existing and therefore does not contribute to additional shadow.
- There are no additional impacts as a result of the height departure.



Figure D: Street view of building showing external appearance to Shackel Avenue as one/two storeys

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 does not comply with 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 existing dwelling when viewed from Shackel Avenue remains unchanged by the proposal. Upgrades to the Shackel Avenue façade include new garage doors (change from 2 x single doors to 1 x double door) and change from roof tiles to non-reflective sheet metal roofing. Neither of these changes alters the overall height or bulk and scale. The photographs provided as part of the S8.2 Review report confirm that the overall scale and form ranges from 2 – 4 storeys. The changes do not alter the number of storeys visible from the street or the river. The dwelling remains compatible with the character of the area. This objective is satisfied.

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

The building envelope, footprint, orientation and siting of the dwelling remains unchanged under the S8.2 proposal. The majority of the building works are internal alterations with consequential changes to window openings and doors as a result of either the reconfigured layout, additional GFA and new layout on the two lower floor levels. The height of the dwelling house remains unchanged by the proposed works and the shadow diagrams submitted with the s8.2 Review Plan set demonstrate that the shadows fall on the neighbouring properties as per the current building and are not increased to a level that would change the residential amenity of either property.

(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 existing dwelling is not altered by the subject proposal. The height variation is existing and the variation, of itself, does not adversely impact on either of the adjoining properties by virtue of overshadowing, additional bulk, scale or substantial changes to view sharing opportunities by either adjoining property. On this basis, there is minimal additional impact associated with the proposal on the amenity of adjoining properties. 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 is existing and there is no change to the maximum height of the existing dwelling house. The building alterations are predominantly internal to the building envelope and the proposal does not unduly change the interrelationship of the dwelling with either of the adjoining properties or the streetscape character of Shackel Avenue. 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 overall height of No. 6 Shackel Avenue Gladesville is not altered by the proposed alterations to the existing dwelling house. The pitch of the roof and height of the ridgeline (RL17.29m AHD) is not changed by the proposal. Only the roof tiles are to be changed to non-reflective metal sheeting.
- The existing and proposed HOB is shown in Figure C above.
- The site slopes from north to south from Shackel Avenue to the waterway (Parramatta River).
- The dwelling house, when viewed from Shackel Avenue appears as one storey to the garage and two storeys to side façade.
- It is only a small section of the southern façade (rear) of the dwelling that exceeds the HOB maximum limit.
- 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 is existing and therefore does not contribute to additional shadow.
- There are no additional impacts as a result of the height departure.
- 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 *Construction by Design* satisfy the objectives in bold (as above) given that:

- The height exceedance is existing and is not altered by the proposal. The built form and building envelope are not changed by the proposed S8.2 works.
- The development achieves the zone objectives (the dwelling remains as a single dwelling within a low density neighbourhood);
- The proposed alterations are predominantly internal and make 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.
- The urban design outcomes, incorporating the existing building envelopment, which includes the existing height variation complements the existing and likely future character of the area.

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 change to the height of the dwelling house and therefore no impact on view sharing from properties on the northern side of Shackel Avenue.
- Solar access is not altered from the existing built form and building envelope on the site.
- The dwelling appears as one/two storeys when viewed from Shackel Avenue;
- Only aesthetic changes are proposed to the Shackel Avenue façade as part of this application (garage doors and roof material).
- 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
<i>(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:</i>	Yes - Section 7 and 8
<i>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</i>	Yes - Section 7
<i>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</i>	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 single dwelling house within a low density residential area. 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.***

No change to the housing type. The landuse remains a single dwelling house within a low density residential area. The objective is achieved.

Summary:

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:

- whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- the public benefit of maintaining the development standard, and*
- 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**

**CLAUSE 4.6 VARIATION TO
CLAUSE 4.4 (FLOOR SPACE RATIO)
UNDER
RYDE LOCAL ENVIRONMENTAL PLAN 2014
(RLEP 2014)**

6 Shackel Avenue
GLADESVILLE

July 2022



Section 1 Background

- The subject application, to which this Clause 4.6 variation relates, is a s8.2 Review of Determination application for the refusal of a Development Application by Ryde City Council for additions and alterations to an existing dwelling house, at 6 Shackel Avenue, Gladesville. The relevant DA No. is LDA2021/0278.
- The subject site is legally identified as 6 Shackel Avenue, Gladesville (Lot 19 DP 10340).



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 **0.5:1** maximum **floor space ratio (FSR)** control under **clause 4.4 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 **0.5:1** maximum floor space ratio *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 4.4** of the **RLEP 2014** being the **0.5:1** maximum floor space ratio *development standard*.
- The variation request is made under **Clause 4.6** of **RLEP 2014**.
- The existing building exceeds the **0.5:1** maximum floor space ratio for the site.
- The subject application proposes an increase in the GFA of the existing dwelling house or 66m². This results in an increase in the FSR calculation for the site from an existing FSR of 0.57:1 to a proposed FSR of 0.66:1. Both calculations are non-compliant with the development standard.
- The additional GFA is achieved via internal alterations to the lower two floor levels of the existing dwelling. The two levels are predominantly reconfigured to provide for improved living and better connection between the indoor and outdoor living spaces on those floor levels. A minor increase occurs due to the infill of the existing entry.
- Floor space ratio 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 4.4 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 FSR variation articulated in Section 3 of this written request.
- The relevant plans relied upon are those identified as the plans prepared by *Construction by Design*, dated 26.3.21 submitted with the s8.2 Review application.

Section 3 Development Standard to be Varied

The relevant *development standard* to be varied is the **0.5:1** maximum floor space ratio control under Clause 4.3(2) of RLEP 2014. **Clause 4.4** of the **RLEP 2014** relevantly provides:

4.4 Floor Space Ratio

- (1) *The objectives of this clause are as follows—*
 - (a) *to provide effective control over the bulk of future development,*
 - (b) *to allow appropriate levels of development for specific areas,*
 - (c) *in relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.*
- (2) *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

The relevant FSR map is identified below:

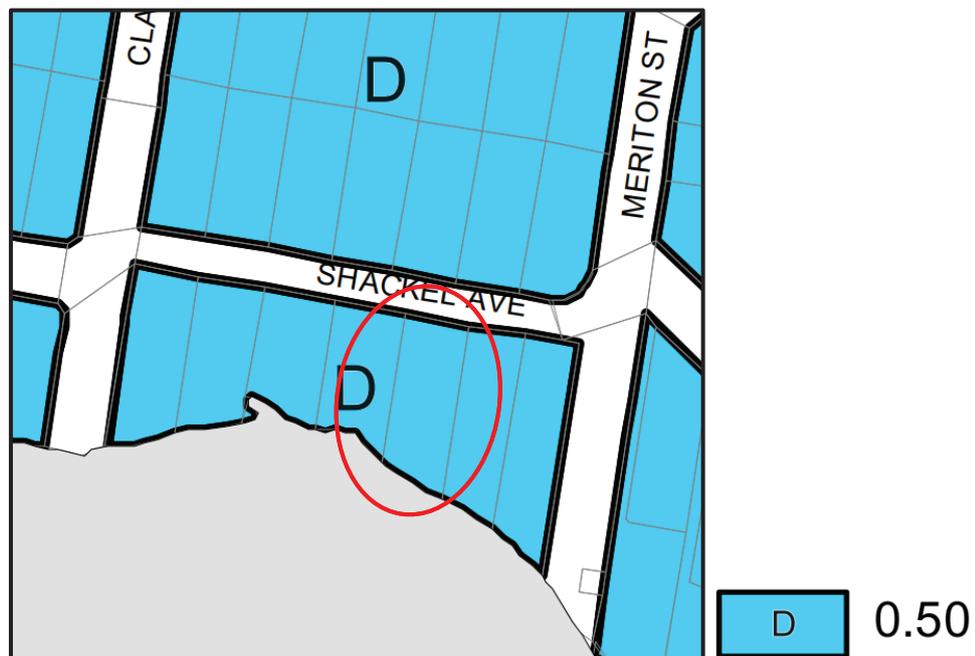


Figure B: FSR map extract from RLEP 2014

The subject site is mapped “D” – 0.5:1(max).

Section 4 Nature of Variation Sought

The requested variation is as follows:

Site area: 682.9m²
Existing GFA: 386.8m²
Existing FSR: **0.57:1 (variation of 0.07:1 or 14%)**

FSR AREA SCHEDULE		
FLOOR	EXISTING	PROPOSED
SUB	84.47M2	111.11M2
LOWER	147.04M2	185.29M2
GROUND	121.94M2	122.14M2
FIRST	33.35M2	32.63M2
TOTAL	386.80M2	451.17m2
ALLOWABLE (0.50X682.90M2)		341.45M2

Proposed GFA: 451.17m²
Diff GFA: +64.37m²
Proposed FSR: **0.66:1 (variation of 0.16:1 or 32%)**

The following figures provide a comparison (by shading and colour) of the floor areas of each level – existing and proposed.



SUB-GROUND FLOOR PLAN



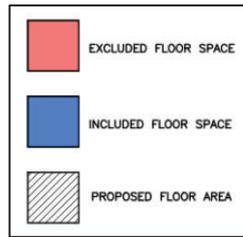


Figure C: Sub-floor plans – existing and proposed - showing changes to floor layout and area of additional GFA



Figure D: Lower Ground Floor Plans – existing and proposed – showing changes to floor layout and area of additional GFA



Figure E: Ground Floor Plans – existing and proposed – showing changes to floor layout and area of additional GFA

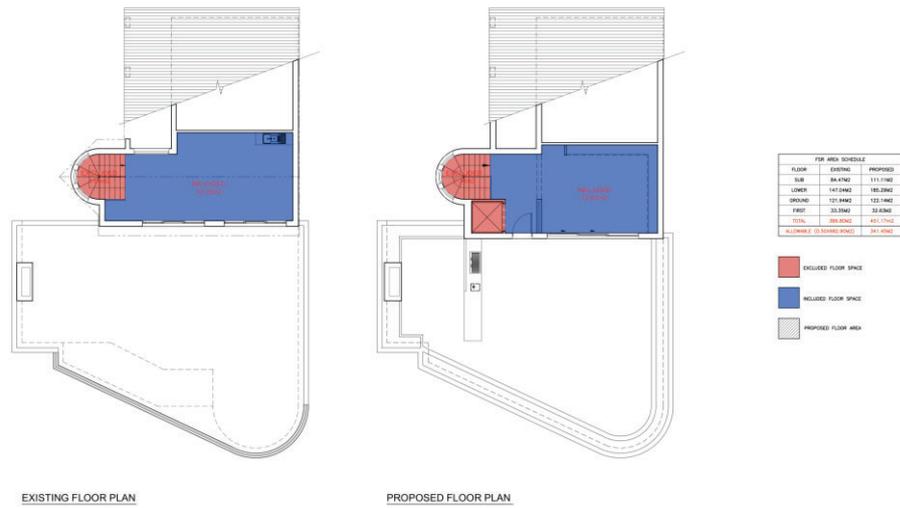


Figure F: First Floor Plans – existing and proposed – showing changes to floor layout and small reduction in GFA

Section 5 Clause 4.4 Floor Space Ratio - 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 **0.5:1** floor space ratio 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 FSR 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 FSR development standard provides an acceptable planning outcome with regard to the provision of:

- The overall maximum height does not change.
- The additional GFA does not alter the building footprint of No. 6 Shackel Avenue Gladesville.
- The existing and proposed FSRs of the dwelling house are shown in Figures C - F above.

- The large majority of the additional floor area is achieved via reconfiguration of the existing sub-floor and lower ground floor areas, not by extension of the outer walls of the dwelling or additional excavation works.
 - The existing dwelling comprises four floor levels; the proposal does not alter the visible number of storeys when viewed from either Shackel Avenue or from the waterway to the south of the site.
 - The FSR non-compliance is existing.
 - There are no adverse impacts arising from the internalised increase in the GFA of the dwelling. The consequential changes to the floor level layouts required changes to the window and door openings shown in the s8.2 Review Plan set (shaded pink).
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 **0.5:1 FSR** control is a *development standard* as it relates to the total floor area ratio to the site area and therefore is capable of being varied by a written request.
 - c) The provisions of Clause 4.4 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 existing and proposed development does not comply with the **0.5:1 FSR** control under **Clause 4.4** of the **RLEP 2014**.

Strict compliance with the **0.5:1 FSR 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 **0.5:1 FSR 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 **0.5:1 FSR** variation request demonstrates that compliance is *unreasonable and unnecessary* as the objectives of the development standard are achieved notwithstanding, a variation with the development standard.

Clause 4.4 of the **RLEP 2014** provides express objectives of the *development standard*. Clause 4.4 relevantly provides:

'4.4 Floor space ratio

- (a) *to provide effective control over the bulk of future development,*
- (b) *to allow appropriate levels of development for specific areas,*
- (c) *in relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.*

The relevant objectives are discussed below:

(a) to provide effective control over the bulk of future development

The bulk of the existing dwelling is substantially the same when viewed from both Shackel Avenue and the waterway to the south of the site (Parramatta River). The alterations that increase the overall GFA are internalised within the existing building envelope and predominantly within the lower two levels of the existing dwelling. The objective is satisfied.

(b) to allow appropriate levels of development for specific areas

The proposal does seek to increase the total GFA of the existing dwelling. However, the additional floor area is internalised within the existing building envelope and not discernible from the street or as an extension of the building when viewed from the water. Therefore, it is absorbed into the existing built form. There are a number of large dwellings along the waterfront of the Parramatta River (refer to photographs within the S8.2A report. The proposal is not increasing the bulk or scale of the development when compared to the existing building or others within the vicinity of the subject site and is acceptable for this specific area. The objective is satisfied.

(c) in relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.

Not relevant to this application.

Summary:

The proposal satisfies the objectives of the development standard as the FSR variation is existing and there is no change to the overall built form, bulk or scale of the existing dwelling house. The building alterations are predominantly internal to the building envelope and the proposal does not unduly change the interrelationship of the dwelling with either of the adjoining properties or the streetscape character of Shackel Avenue. The works are considered to be improvements to the dwelling which will 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 FSR of the dwelling is currently non-compliant (14%). The proposal seeks to increase the GFA of 64.37sqm to better utilise the existing building envelope and improve the living areas of the dwelling. This is a logical and practical approach to proposed alterations without undue impacts on the adjoining properties, riverscape, streetscape or natural environment.
- The additional GFA does not alter the building envelope of No. 6 Shackel Avenue Gladesville.
- The large majority of the additional floor area is achieved via reconfiguration of the existing sub-floor and lower ground floor areas, not by extension of the outer walls of the dwelling or excavation works.
- The existing dwelling comprises four floor levels; the proposal does not alter the number of storeys when viewed from either Shackel Avenue or the waterway to the south of the site.
- There are no impacts arising from the internalised GFA increase of the dwelling. The consequential changes to the floor level layouts required changes to the window and door openings shown in the s8.2 Review Plan set (shaded pink).
- The non-compliance is existing and therefore does not contribute to additional shadow impact on either adjoining property.
- There are no additional impacts as a result of the FSR departure.
- No change to the height
- No impacts of the additional FSR that would limit the development potential of the adjoining sites

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 FSR variation described in section 3 reasonably satisfies the objectives of under s1.3 *EP&A Act 1979*. The plans by *Construction by Design* satisfy the objectives in bold (as above) given that:

- A level of FSR exceedance is existing and while the GFA and FSR calculation are increased and changed, the built form and building envelope are not changed by the proposed works.
- The development achieves the zone objectives, where relevant to the subject proposal (the dwelling remains a single dwelling within a low-density neighbourhood);
- The proposed alterations are predominantly internal and make 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 FSR is not viable or practical and would result in a devaluation of the dwelling. There is no valid reason to require compliance in this case when the additional GFA does not impact on the neighbourhood or more broadly the underlying principles of the development standard.
- The urban design outcomes, incorporating the existing building envelopment, which includes the FSR variation is not antipathetic to the existing and likely future character of the area.

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:

- The additional FSR does not alter the bulk and scale of the dwelling house and therefore no impact on view sharing from properties on the northern side of Shackel Avenue.
- The internalised additional GFA will not be discernible from the waterway or Shackel Avenue.
- Solar access is not altered from the existing built form and building envelope on the site.
- The dwelling appears as one/two storeys when viewed from Shackel Avenue;
- Only aesthetic changes are proposed to the Shackel Avenue façade as part of this application (garage doors and roof material).
- 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
<i>(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:</i>	Yes - Section 7 and 8
<i>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</i>	Yes - Section 7
<i>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</i>	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 FSR control (in this case 0.5:1) 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 FSR 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. The landuse remains a single dwelling house within a low density residential area. 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.***

No change to the housing type. The landuse remains a single dwelling house within a low density residential area. The objective is achieved.

Summary:

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 FSR variation and its 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 **0.5:1** maximum FSR standard.

The proposed development contravenes **Clause 4.4** of the **RLEP 2014** being a *development standard* and FSR 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.



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