

Item 3
73 Wharf Road Gladesville
Change of use to existing hall located on L1 of the boat shed & training facility to dormitory style accommodation for overnight stays for up to 36 students of the Sydney Grammar School

Report prepared by: Senior Town Planner

 Report approved by: Senior Coordinator - Development Assessment
 Manager - Development Assessment
 Director - City Planning and Environment

**City of Ryde
Local Planning Panel Report**

DA Number	LDA2021/0191
Site Address & Ward	73 Wharf Road, Gladesville East Ward
Zoning	R2 Low Density Residential
Proposal	Change of use of existing hall located on Level 1 of the boat shed and training facility to a dormitory style accommodation for overnight stays for up to 36 students of Sydney Grammar School
Property Owner	Sydney Grammar School
Applicant	Greg Whitbread
Report Author	Shannon Butler – Senior Town Planner
Lodgement Date	7 June 2021
No. of Submissions	14 submission received against the proposal and one (1) submission in support during first notification. During the second notification period, three (3) submissions received objecting and one petition containing 25 signatures.
Cost of Works	\$250,000.00

Reason for Referral to LPP	Contentious Development (b) in any other case – is the subject of 10 or more unique submissions by way of objection. <i>Schedule 1, Part 2 of Local Planning Panels Direction</i>
Recommendation	Approval
Attachments	Attachment 1: Conditions of Consent Attachment 2: SREP Compliance Table Attachment 3: Sydney Harbour Foreshores & Waterways Area DCP Compliance Table Attachment 4: Plan of Management for Facility Attachment 5: Architectural Plans Attachment 6: Legal advice on Clause 35(11) of SEPP (Educational Establishments and Child Care Facilities) 2017

1. Executive Summary

The following report is an assessment of Local Development Application LDA2021/0191 for the change of use of the existing hall located on Level 1 of the existing boat shed and training facility to a dormitory style accommodation for overnight stays for up to 36 students of Sydney Grammar School.

This application is reported to the Ryde Local Planning Panel for determination as it is a contentious development that is the subject of 10 or more unique submissions by way of objection, in accordance with the *Environmental Planning and Assessment Act 1979*, Section 9.1 - Directions by the Minister.

The subject site contains an existing two storey boat shed building positioned at the rear of the site, fronting Parramatta River to the west of the site. The boatshed dates back to 1922 and has been owned by Sydney Grammar School since then.

In accordance with DCP 2014 Part 2: Community Participation Plan, the owners of surrounding properties were given notice of the application between 9 June 2021 and 30 June 2021. Fourteen (14) submissions were received objecting to the development and one (1) submission was received in support of the proposal. The amended proposal was renotified between 4 January and 1 February 2022. In response, four (4) submissions were received in objection and a petition containing 25 signatures was received. The submissions raised concerns with the short fall of parking and impacts upon Wharf Road, permissibility, acoustic impacts, amenity impacts and impacts resulting from bus manoeuvring. The submissions are addressed in the body of the report and do not warrant refusal of the application.

The proposal was amended during the assessment phase to propose that students will be transported by a Coaster style bus to the facility in the afternoon and then picked

up by the same sized bus the following morning. The proposal includes a turning area on site to facilitate bus manoeuvring to enable entering and exiting in a forward direction.

The proposal has been assessed in accordance with the relevant environmental planning instruments and local provisions in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP & A Act). The application is recommended for approval subject to recommended conditions of consent.

2. The Site and Locality



Figure 1 - Aerial photograph of site and locality

The site is legally described as Lot 1 DP 844466 and is commonly known as 73 Wharf Road, Gladesville. The site is irregular in shape with an eastern frontage of 28.3m to Wharf Road and an area of 1,824m². The site falls from the front to the rear by approximately 6.5m.

There is a two storey boat shed building positioned at the rear of the site, fronting Parramatta River to the west of the site (**Figures 3 and 5**). The boat shed is owned by Sydney Grammar School. The boatshed dates back to 1922 and has been owned by Sydney Grammar School since then.

The boat shed contains a large open hall area on the first floor with separate rooms off this area including a kitchen, office, gym, amenities and storage. The first floor also contains a wrap-around verandah to the western, southern and eastern sides. The Ground Floor Level contains storage for boats and associated equipment.

The site is terraced and landscaped with a variety of trees, shrubs and turf. There are pedestrian paths leading from Wharf Road to the boat house and to the wharves to the rear of the site. There is a small hardstand parking area located in the front south-eastern corner of the site, accessed via Wharf Road.



Figure 2 - The site as viewed from Wharf Road



Figure 3 – Front façade of existing building

Development in the locality is primarily for residential and educational purposes. Residential development is characterised by large multi-level detached dwellings varying diversely in age, scale and architectural style. The residential dwellings to the north and south of the site contains ancillary structures such as swimming pools and jetties along the waterfront. There is an educational facility located on the eastern side of Wharf Road which contains a large boatshed associated with Sydney Church of England Grammar School (Shore School).



Figure 4 – View within site looking towards Wharf Road



Figure 5 – View of existing first floor hall

3. The Proposal

The proposal seeks consent for alterations and additions to the existing Sydney Grammar School Boat Shed to allow for overnight accommodation for a maximum of 36 students and three staff. The overnight accommodation is proposed to operate on a Tuesday, Wednesday and Thursday during the school rowing season from the first week in September to the first week in December. It would then resume on the third week of January and finish on the third week of March each year.

It is proposed that the students will be transported by a Coaster style bus (a Coaster style bus referred to throughout this report is a 7.7 metre long mini bus capable of transporting up to 20 passengers) to the facility in the afternoon and then picked up by coach the following morning. The buses are proposed to drive onto the site and turn within the site to exit in a forward direction. An additional hardstand area is proposed within the front setback to facilitate the turning movements within the site.

The applicant has advised that staff will supervise the students at all times when they are at the facility. The overnight stay is to allow the students to train for rowing and on completion of the training the students will be required to complete any homework prior to lights out at 10:00pm. The applicant has advised that no parties or loud music will be allowed during the afternoon and evening on the overnight stays.

The proposed alteration and addition works comprise the following:

- Construction of an accessible walkway at 1:20 and an accessible ramp at 1:14 leading from the front south-eastern corner of the site to the first floor verandah of the boat shed.
- Constructing a new pedestrian gate at the southern end of the front fence for the new accessible walkway.
- Reconfiguring the garden bed and constructing a paved area to the east of the boat shed.

- Constructing a storage shed for kayaks in the eastern part of the site. The kayak shed is 8.5m x 4.5m in size, with a maximum height of 3.5m.
- Constructing a new unisex accessible toilet facility at the ground floor of the boat shed.
- Constructing new stairs leading from the proposed paved area west of the boat shed to the first floor verandah of the boat shed.
- Reconfiguring and extending the existing student toilet facilities on the first floor of the boat shed and providing accessible facilities.
- Construction of improved unisex accessible facilities for staff on the first floor.
- Allowing for the provision of 36 student and three staff temporary mattresses on the first floor of the boat shed to facilitate overnight accommodation as required.
- Constructing an additional hardstand area within the front setback to facilitate Coaster bus turning to allow for forward ingress and egress.
- Fire safety and Building Code of Australia (BCA) compliance upgrades.

The proposal includes the removal of one (1) Native Daphne tree.

Amended Plans

The proposal was amended to propose that students will be transported by a Coaster style bus to the facility in the afternoon and then picked up by the same sized bus the following morning. A hard stand area was also provided to enable buses to manoeuvre on site so the buses can enter and exit the site in a forward direction.

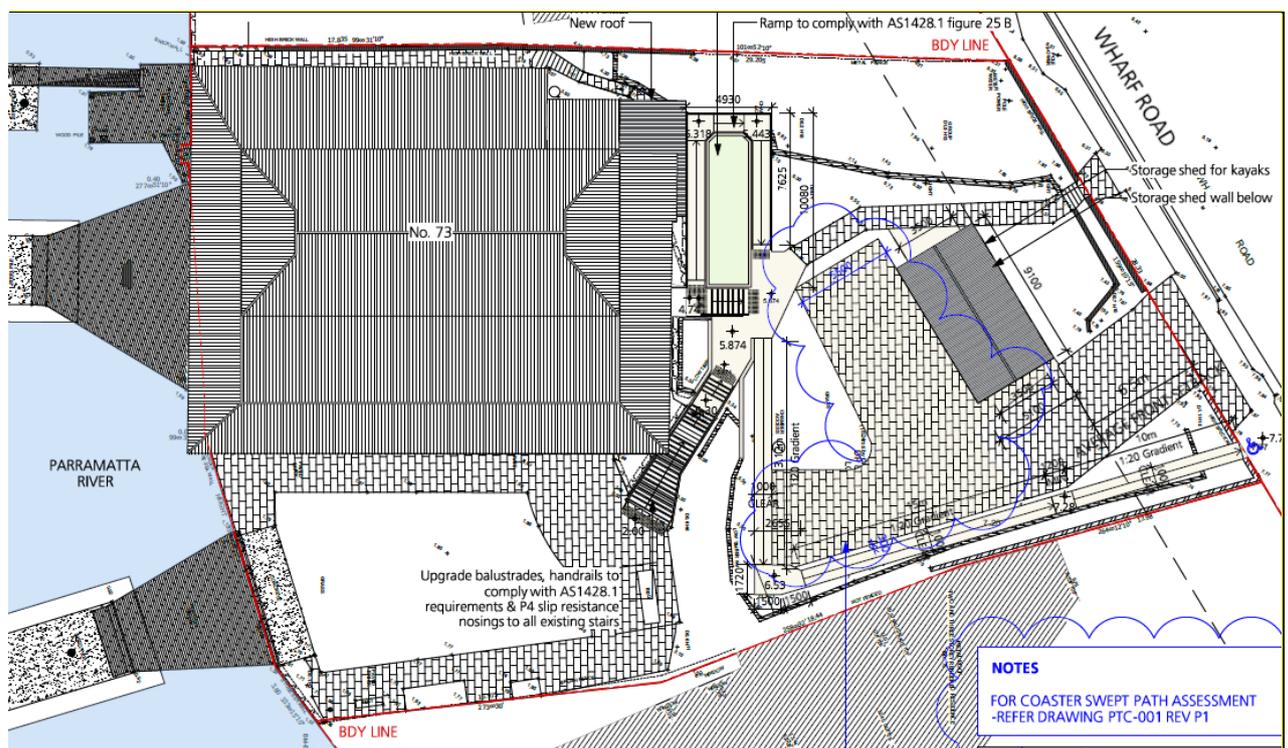


Figure 6 – Extract of proposed site plan (as amended)



Figure 7 – Extract of proposed first floor plan depicting layout of student mattresses

4. Background

4.1 Site History

1922	The boatshed dates back to 1922 and has been owned by Sydney Grammar School since then.
23 May 1984	Building Application consent No. 733/84 was granted for alterations and additions to the existing boat shed.
3 November 2016	Development Consent No. LDA2016/0358 was granted for an upgrade of the existing rowing pontoon.

4.2 Application History

7 June 2021	Local Development Application LDA2021/0191 was lodged with Council.
9 June 2021 to 30 June 2021	The Application was notified to adjoining property owners in accordance with the Ryde Community Participation Plan. Fourteen (14) submissions were received objecting to the proposal and one (1) submission was received in support.
5 July 2021	A letter was sent to the applicant requesting additional information on the following aspects: <ul style="list-style-type: none"> - Additional information was requested in relation to compliance with Subclause 35(11) of SEPP (Educational Establishments and Child Care Facilities) 2017. - Additional information was requested in relation to car parking and proposed drop off/pick up arrangements for students.

	<ul style="list-style-type: none"> - Additional information was requested in relation to the management of the overnight accommodation to address acoustic impacts.
6 August 2021	The applicant submits additional information in response to Council's request of 5 July 2021.
25 August 2021	A letter was sent to the applicant requesting clarification on a number of points relating to the submitted acoustic assessment.
8 September 2021	A further letter was sent to the applicant requesting an amended stormwater drainage plan and additional information in relation to the proposed arrangements relating to the pick-up and drop-off of students. Concern was raised in relation to the use of a coach to transport students to and from the site.
14 September 2021	An amended acoustic report was submitted in response to Council's letter dated 25 August 2021.
29 September 2021	An amended stormwater plan and letter from the applicant's traffic consultant were submitted by the applicant in response to Council's letter dated 8 September 2021. The letter from the traffic consultant supported the intended arrangement for the use of a coach to transport students to and from the site, with students alighting the coach adjacent to the intersection of Wharf Road and Pile Street.
11 October 2021	A final letter was sent to the applicant requesting that consideration be given to the use of a smaller vehicle (minibus/minivan) rather than a full-size coach for the transporting of students. The turning of such a vehicle could be accommodated by the existing internal manoeuvring area on the subject site.
5 November 2021	A response letter was submitted by the applicant from their traffic consultant outlining that the number of students being transported is sufficient to warrant the use of larger coaches and it is not practicable to undertake these journeys using a number of smaller vehicles, which would also generate more traffic movements.
23 November 2021	An email was sent to the applicant advising that the proposal for the use of coaches to drop students at the intersection of Wharf Road and Pile Street was not supported and an opportunity was provided to submit further information to address the issue. The use of coaches to drop students at the intersection of Wharf Road and Pile Street was not supported as there is no formal bus stop at this location, it would reduce the availability of on-street parking at the location and would have resulted in the students being required to walk over 150 metres to the site from the location which would be a poor safety outcome.
10 December 2021	A response email was received from the applicant's planning consultant providing swept turning paths for a 7.7m Coaster style bus to enter and exit the site in a forward direction.
21 December 2021	Amended architectural plans were submitted by the applicant depicting an extended hardstand area within the front setback to allow for turning movements for a Coaster style bus.
4 January 2022 to 1 February 2022	The amended proposal was notified. In response, three (3) submissions were received in objection and one petition containing 25 signatures was received.
7 February 2022	An email was sent to the applicant requesting the provision of documentation to establish the registration type of the school, as required by the <i>Education Act 1990</i> . The information was requested to verify that the boat shed is an extension of the registerable school and the elements may be made out to rely upon Clause35(11)

	(repealed) of SEPP (Educational Establishments and Child Care Facilities) 2017 under the definition supplied in the <i>Education Act 1990</i> .
15 March 2022	Additional information was submitted by the applicant which included details of the registration of the school and a document provided to the New South Wales Education Standards Authority which details the boatshed as being a key facility of the school.

5. Planning Assessment

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

- State Environmental Planning Policy (Transport and Infrastructure) 2021 – Chapter 3 Educational Establishments and Child Care Facilities;
- State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 Vegetation in Non-Rural Areas;
- State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 2 Coastal Management;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 10 Sydney Harbour Catchment;
- Sydney Harbour Foreshores and Waterways Area Development Control Plan
- Ryde Local Environmental Plan 2014; and
- Ryde Development Control Plan 2014:
 - Part 3.3: Dwelling Houses and Dual Occupancy (Attached);
 - Part 7.2: Waste Minimisation and Management; and
 - Part 8.2: Stormwater & Floodplain Management.

5.1 State Environmental Planning Instruments

State Environmental Planning Policy (Transport and Infrastructure) 2021 – Chapter 3 Educational Establishments and Child Care Facilities

The proposal has been considered under repealed Part 4 of SEPP (Education Establishments and Child Care Facilities) 2017 which provides specific development controls for schools. At the time of lodgement of the development application, the applicant sought to rely on the provisions of Clause 35(11) of the SEPP for permissibility, which specified the following:

(11) Development for the purpose of residential accommodation for students that is associated with a school may be carried out by any person with development consent on land within the boundaries of an existing school.

On 17 December 2021, SEPP (Educational Establishments and Child Care Facilities) was amended. Various amendments were undertaken including the repeal of Clause 35(11). However, pursuant to Schedule 5(3)(a) Savings and transitional provisions of SEPP (Educational Establishments and Child Care Facilities) Amendment 2021, this amendment does not apply to a development application made but not finally

determined before the commencement. The subject application was made on 7 June 2021 and therefore relies upon the savings provision for permissibility.

Council's records indicate that the boat shed on the site was approved as a school boat shed. Whilst it is acknowledged that the boat shed is a school owned facility, consideration has been given as to whether the boat shed can be categorised as a 'school' as per Clause 35(11) of the SEPP. In order to seek to address this matter, the applicant submitted legal advice prepared by Boskovitz lawyers (**Attachment 6**). The advice relies upon both the Building Application 733/84 consent for alterations and additions to an existing school boat shed and the judgement in *Londish v Knox Grammar School (1997) 97 LGERA 1*, where the building which is ancillary to the school can be defined as an educational establishment.

The legal advice has been reviewed by Council's General Counsel who provided the following advice:

Dependant on the registration type of the school, as required in Education Act 1990, the School may have an argument that the shed is a part of the school. If the boat shed is listed as part of the School and used as such then there is an argument that the definition of school as set out in Clause 5 of SEPP (Educational Establishments and Child Care Facilities) 2017 (now Clause 3.3 of SEPP (Transport and Infrastructure) 2021) may be met. If this definition is met then the Clause relied upon by the applicant will become available to seek the application sought. Part 7 of the Education Act 1990 sets out the types of Non Government School and what they are required to meet. Depending on whether the boat shed has been included as part of the registerable school may depend on whether this definition has been met.

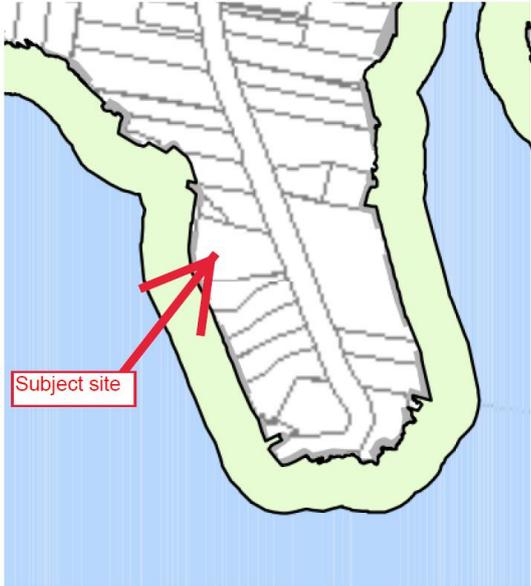
Essentially, if the Applicant is able to establish the use is for the School (and only for the purposes of what a school is required to do to be registerable), and the boat shed is an extension of the registerable school then the elements may be made out to rely on Clause 35(11) (repealed) of the SEPP under the definition supplied in the Education Act 1990.

In response, the applicant was requested to provide details of the registration of the school to verify whether the boat shed was part of the school. The applicant provided a document titled Educational Facilities Policy and Overview which is one of the main documents supplied to the New South Wales Education Standards Authority (NESA) for the registration of the College Street school campus. The policy outlines the boatshed as being a key facility of the school providing facilities for co-curricular sport and outdoor education. Therefore, the proposal provides a facility under the control, care and responsibility of the school as the premises forms part of an existing school. On this basis, the ancillary use forms part of the School's facility and the premises can be considered under Clause 35(11).

As a result, development for the purpose of residential accommodation for students may be carried out by any person with development consent on the subject site.

Other relevant State Environmental Planning Instruments

Instrument	Proposal	Compliance
State Environmental Planning Policy – Resilience and Hazards 2021		
- Chapter 2 Coastal Management		
<p>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 Coastal Management Act 2016 including the management objectives for coastal management areas.</p>	<p>The site is mapped as being within a coastal environment area and coastal use area on the Coastal Management Map.</p> <p>The proposal is subject to the provisions of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP 2005) and pursuant to Clause 13(3) and Clause 14(2) of the SEPP, as the land is subject to the SREP Sydney Harbour Foreshore (being land within the Foreshore and waterways area) the provisions of these clauses do not apply. An assessment of the proposal pursuant to the SREP and Sydney Harbour Foreshores and Waterways Area DCP 2005 is made below.</p>	<p>Yes</p>
- Chapter 4 Remediation of Land		
<p>The object of Chapter 4 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>The site has been used for the purpose of a school boat shed since 1922 and there is no evidence of any potentially contaminating uses occurring during the operation in that time. It can be concluded that there is no likelihood of contamination on this site, further, there are no works proposed which would require unearthing contaminated soils. No further consideration is therefore required under Clause 7(1)(b) and (c) of SEPP 55.</p>	<p>Yes</p>
State Environmental Planning Policy – Biodiversity and Conservation 2021		
- Chapter 2 Vegetation in non-rural areas		
<p>The objective of Chapter 2 of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation.</p>	<p>The proposal includes the removal of one (1) tree a <i>Pittosporum undulatum</i> (Native Daphne) as a result of the proposed access ramp. The tree is identified as being low significance as it cannot be seen from the streetscape or water.</p> <p>The application has been supported by an arborist report and landscape plan. The proposal is considered to be satisfactory by Council's Landscape Architect subject to the recommended conditions of consent.</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 SREP. The compliance table is provided in Attachment 2.</p> <p>The site adjoins an area zoned W8 Scenic Waters Passive Use pursuant to Clause 16 as shown in Figure 7.</p>  <p style="text-align: center;">Figure 7 – SREP (Sydney Harbour Catchment) 2005 Zoning Map</p>	<p>Yes</p>
	<p>The proposal is consistent with the objectives of the W8 Scenic Waters Passive Use pursuant to Clause 17. The proposal does not impede public access and the proposed works result in an acceptable visual presentation to the waterway consistent with the scale of adjoining development. 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 18 the proposed works are not located within the foreshore which is zoned W8.</p>	

5.2 Ryde Local Environmental Plan 2014

The subject site is zoned R2 Low Density Residential pursuant to Ryde Local Environmental Plan 2014 (RLEP). The proposal seeks to rely on the provisions of SEPP (Transport and Infrastructure) 2021 Chapter 3 Education Establishments and Child Care Facilities for permissibility, as detailed earlier in this report. Notwithstanding,

the proposed development is not inconsistent with the objectives of the R2 Low Density Residential zone. The proposal provides for student accommodation within the existing building on site. The proposal maintains the low density environment of the surrounding area. The objectives of the R2 Low Density Residential zone 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.*

Clause	Proposal	Compliance
4.3(2) Height of Buildings		
9.5m	7.63m	Yes
4.4(2) Floor Space Ratio		
0.5:1 (912m ²) SA: (1,824m ²)	GFA of 427.5m ² resulting in an FSR of 0.23:1.	Yes
5.10 Heritage Conservation		
(1) The objectives of this clause are as follows— (a) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views, (c) To conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance	The subject site or building are not listed as heritage items under Schedule 5 of the RLEP 2014. However, the site is located in the vicinity of a local heritage item at 76 Wharf Road, being a dwelling identified as Item 169 under Schedule 5 of the RLEP 2014. Given the scope of the proposed works and the distance from the heritage item (being approximately 80 metres) and the fact that there is established vegetation and fencing located between the proposed works and the item, it is considered that a heritage management document is not required. The development is not in the visual catchment of the heritage item. The proposal is not considered to result in any significant impact on the nearby heritage item.	Yes
6.1 Acid Sulfate Soils		
(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	The subject site is identified as potentially containing class 5 acid sulfate soils, therefore, the proposal has been considered against the provisions of Clause 6.1 of RLEP. The proposed works are not within 500 metres of any adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.	Yes

Clause	Proposal	Compliance
	The proposed works will not disturb, expose or drain acid sulfate soils or cause environmental damage, as a result an acid sulfate soils management plan is not required to be submitted.	
6.2 Earthworks		
(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	The proposal includes minor excavation works associated with footings for ancillary structures only. The proposal does not result in any detrimental impacts to environmental functions and is considered satisfactory in regard to Clause 6.2(3).	Yes
6.4 Stormwater Management		
(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>The proposal is consistent with the provisions of Clause 6.4(3). The proposed works have been designed to minimise the impacts of urban stormwater on adjoining properties and waterways. The revised stormwater plan depicts the stormwater runoff being collected from the roof of the proposed kayak storage shed which will drain to the existing site stormwater pipe. A new downpipe has been provided for the extended roof and it is noted on the plan that the extended roof will be connected to the existing stormwater line. No detailed stormwater design has been provided, however, it is deemed satisfactory as it is a small roof extension and contractor/plumber will be able to determine the stormwater connection from the proposed downpipe to the existing site drainage system during construction.</p> <p>The proposal has been considered acceptable by Council's Senior Development Engineer.</p>	Yes
Clause 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>(2) Development Consent can be granted for the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area.</p>	<p>The western portion of the site is identified as a foreshore area on the RLEP maps, see Figure 8 below:</p>  <p>Figure 8 – Aerial photograph of site depicting foreshore building line in red</p>	

Clause	Proposal	Compliance
<p>(3) Development consent must not be granted unless the consent authority is satisfied:</p> <p>(a) The development will contribute to achieving the objectives of the zone</p> <p>(b) The appearance of the structure from the waterway and foreshore areas will be compatible with the surrounding area</p> <p>(c) The development will not cause environmental harm such as pollution or siltation, impacts to the marine habitat or impact on drainage patterns</p> <p>(d) The development will not cause congestion or generate conflict between people using open space areas or the waterway</p> <p>(e) Opportunities to provide continuous public access along the foreshore and to the waterway</p> <p>(f) Any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land</p> <p>(g) In the case of alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore</p> <p>(h) Sea level rise or change of flooding patterns as a result of climate change</p>	<p>The proposal is for the alteration of an existing building located partly in the foreshore area. The proposed building works are located in the eastern portion of the site and are not located within the identified foreshore area. The proposal does not result in any further encroachment into the foreshore area.</p> <p>The proposal is considered satisfactory in regard to Clause 6.5(3) for the following reasons:</p> <ul style="list-style-type: none"> • The proposal is not inconsistent with the relevant objectives of R2 zoned land. • The proposed external works are located to the east of the existing building presenting to the Wharf Road frontage. The proposed ancillary works are compatible with the surrounding area. • The proposal will not result in any additional environmental harm such as siltation or any adverse effects on drainage patterns. • The proposal will not result in congestion or generate conflict between people using open space areas or the waterway. The existing rowing season usage of the waterway will remain. • There is no opportunity to provide public access to the foreshore given that all land is privately owned. • The proposal does not compromise the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out. • The proposed alterations to the building will not result in an adverse impact on the amenity or aesthetic appearance of the foreshore. • The proposed works are located to the east of the foreshore area and do not increase the vulnerability of the existing building to flooding or sea level rise. 	

5.3 Draft Environmental Planning Instruments

There are no relevant draft Environmental Planning Instruments for consideration.

5.4 Development Control Plans

Sydney Harbour Foreshores and Waterways Area DCP 2005

As the site falls within the Foreshores and Waterways Area of the SREP 2005, the Sydney Harbour Foreshores and Waterways Area DCP 2005 is relevant to this assessment. A full assessment of the proposal under the Sydney Harbour Foreshores and Waterways Area DCP 2005 is illustrated in the compliance table at **Attachment 2**. The proposal is compliant with the controls within the Sydney Harbour Foreshores and Waterways Area DCP 2005.

Ryde Development Control Plan 2014 (RDCP 2014)

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

- Part 7.2: Waste Minimisation and Management; and
- Part 8.2: Stormwater & Floodplain Management.

As the subject site is located within the R2 Low Density Residential zone, the proposal has been assessed against Part 3.3: Dwelling Houses and Dual Occupancy (Attached) of RDCP 2014 as a merit consideration, or guide to the expected character, given that it is not strictly applicable to the proposal as it is neither a dwelling house or dual occupancy:

DCP 2014	Proposed	Compliance
Part 3.3 - Dwelling Houses and Dual Occupancy (attached)		
2.6.1 Deep Soil Areas		
a) Sites are to have a deep soil area that is at least 35% of the area of the allotment. b) The deep soil area must include: <ul style="list-style-type: none"> i) An area with a minimum dimension of 8m x 8m in the back yard. ii) A front garden which is to be completely permeable with the exception of the driveway, pedestrian path and garden walls. c) Deep soil areas are to have soft landscaping.	539.02m ² (or 29.5%) of the site is proposed to comprise deep soil area. There is a deep soil area exceeding 8m x 8m located on the southern side of the boat shed building. The front garden area is largely permeable with the exception of the proposed bus turning area and kayak shed and the existing footpath. The deep soil areas contain suitable soft landscaping.	No, however overall deep soil area is considered satisfactory given the non-residential use of the site and that there is extensive landscaped areas within the street setback area.

DCP 2014	Proposed	Compliance
e) Deep soil areas are to be 100% permeable to water and cannot be covered by structures, paving or the like, or have below surface structures such as stormwater detention elements.	The deep soil areas are 100% permeable to water.	
2.9 Setbacks		
2.9.1 Front setbacks		
(a) Dwellings are generally to be set back 6m from street front boundary (b) On corner sites, the setback secondary frontage minimum 2m (c) Garages and carports, including semi-basement garages and attached garages, set back min 1m from façade (d) The front setback free of structures. The exception is car parking structures which comply with 2.11.	The proposed kayak shed has a 6.5m front setback and complies with the 6m requirement.	Yes
2.9.2 Side Setbacks		
(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 a min of 20% of the width of the lot or 8m, whichever is greater.	The kayak shed side setbacks comply. The boatshed building is setback as follows: North – 1.17m South – 10m The north setback of the main building does not comply but this is an existing situation and is not exacerbated by the proposal.	No, but is an existing non-compliance.
2.9.3 Rear Setbacks		
(a) The rear setback min 25% of the site length or 8m, whichever is greater.	The existing boat shed setback varies between 2.11m to 3.12m to the rear boundary. This is an existing situation not exacerbated by the proposal.	No, but is an existing non-compliance.

Comment: The proposal results in a non-compliance with the required deep soil area. The non-compliance occurs as a result of providing a paved turning bay area within the front setback to facilitate the manoeuvring of the bus. The objectives of the control are to ensure the land retains its ability to absorb rainwater so as to reduce stormwater run-off and increase the moisture level of soil for the use of trees and other vegetation. The proposed paving is permeable which facilitates stormwater management. The proposal does not seek to remove any significant vegetation from the site. The proposal maintains the existing building side setbacks and accommodates sufficient area to accommodate vegetation. The proposal is considered satisfactory with regard to the DCP chapter on a merit basis.

6. The Likely Impacts of the Development

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

7. Suitability of the Site for the Development

The site is zoned R2 Low Density Residential. The proposal seeks consent for the change of use of the existing hall located on Level 1 of the existing boat shed and training facility to a dormitory style accommodation for overnight stays for up to 36 students and other minor works to facilitate overnight stays.

The site is mapped as containing Class 5 acid sulfate soils, being land within 500m of actual acid sulfate soils. The extent of works is such that it is not considered to come into contact with or affect the profile of any area containing actual acid sulphate soils.

The site is located within 100m of one (1) heritage item being:

- Item name: House; Address: 76 Wharf Road

The item is of local significance, as outlined in Schedule 5 of RLEP 2014. Despite being within 100m of the item, the proposal is considered to satisfy the objectives of Clause 5.10 of RLEP 2014 by conserving the heritage significance of the heritage item, including associated fabric, settings and views.

The proposal is considered to be suitable for the site.

8. The Public Interest

The public interest is best served by the consistent application of the requirements of relevant Environmental Planning Instruments and by Council ensuring that any adverse effects on the surrounding area and the environment is minimised. The proposal has been assessed against the relevant planning instruments and is considered to be acceptable.

The proposal does not result in any unacceptable impacts upon adjoining properties or the streetscape. On this basis, the proposal is not considered to raise any issues that would be contrary to the public interest.

9. Public Notification and Submissions

In accordance with DCP 2014 Part 2: Community Participation Plan and Procedure, the owners of surrounding properties were given notice of the application between 9 June 2021 and 30 June 2021. 14 submissions were received objecting to the development and one submission was received in support.

The amended plans were renotified from 4 January 2022 to 1 February 2022. Three (3) submissions were received in objection and a petition was received containing 25 signatures.

The submissions during the initial notification period raised the following concerns:

- *There is ample accommodation at the top of Wharf Road for the students.*

Comment: The location of similar accommodation options for the students in close proximity to the site is not a matter for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979. The subject application seeks the use of the subject site to allow for dormitory style accommodation for up to 36 students during the rowing season in accordance with the provisions of Subclause 35(11) of State Environmental Planning Policy (Education Establishments and Child Care Facilities) 2017.

- *There is no parking proposed to be provided within the site for the 39 guests. Parking in Wharf Road is a nightmare when both boat sheds are functioning at the same time. Vehicles are often parked over driveways.*

Comment: The applicant has amended the proposal to result in all students and teachers being transported to the site in Coaster style buses. The buses will travel to the site in the afternoon to drop the students and return the following morning to collect them. The buses are proposed to enter the site and traverse the proposed additional hardstand area within the front setback to make a three point turn in order to result in entering and exiting the site in a forward direction. It is anticipated that this arrangement will reduce the instances of vehicles parking over driveways. A suitable condition of consent is recommended in relation to the transport arrangements for the land use (**Condition No. 67**). The subject boat shed has historically operated without the provision of on-site car parking and there is limited scope for the provision of parking on the subject site. It is anticipated that the proposed bus transport arrangements will overcome the absence of on-site parking.

- *The objector has had two insurance claims regarding damage to their fence caused by buses related to the boat sheds backing into the fence while attempting to turn on Wharf Road.*

Comment: The narrow width of Wharf Road and its unsuitability to cater for full size buses is noted and has been a key issue during the assessment of the application. The

proposal has been amended to result in all students and teachers being transported to the site in Coaster style buses. The buses are proposed to enter the site and traverse the proposed additional hardstand area within the front setback to make a three-point turn in order to result in entering and exiting the site in a forward direction. **Condition No. 67** is recommended in relation to the transport arrangements for the landuse.

- *The zoning of the site does not allow for student accommodation. The existing boat shed is located in the foreshore area and dormitory style accommodation is not permitted. Only structures for boating facilities such as boat sheds, boat ramps and jetties are permitted.*

Comment: The proposal relies on the provisions of Subclause 35(11) of State Environmental Planning Policy (Education Establishments and Child Care Facilities) 2017 for permissibility and does not rely upon Ryde LEP 2014. Whilst this Subclause of the SEPP was repealed on 17 December 2021, a savings provision is applicable for development applications made but not finally determined before the commencement of the amendment. The proposal seeks to utilise an existing building for the dormitory style accommodation and proposes the construction of a kayak shed within the front setback which meets the definition of boat shed pursuant to RLEP 2014 and is permissible with consent on the subject site.

- *Buses are often reversed on Wharf Road in order to exit after dropping students.*

Comment: The proposal has been amended to utilise Coaster style buses and provision of a hardstand turning area. The buses will enter the site and uses the proposed hardstand area within the front setback to make a three point turn in order to enable buses to exit in a forward direction.

- *The proposal will result in additional noise impact which already exists with the school boat shed and starts at 5am on most weekends in summer.*

Comment: The application has been assessed by Council's Environmental Health Officer with regard to acoustic impact and the following conclusion was reached:

In consideration of previous concerns held, and the applicant response, the acoustic impact of the proposed development is considered to be minimal. This is conditional on the proposed development's compliance with project criteria outlined within Resonate Consultant's Amended Acoustic Report, dated 31 August 2021. This is also conditional on the requirements of any relevant legislation, including but not limited to the requirements of the Protection of the Environment Operations Act 1997 NSW and its regulations.

A number of conditions of consent are recommended to address the use of the site to limit the acoustic impact of the proposal (**Conditions 13, 62, 69, 70, 71, 72, 73, 74, 75 and 76**).

If Council does receive noise complaints, condition 67 would require the school to provide an acoustic report. The acoustic report is to be prepared as far as practical without the knowledge of the proponent. Should the noise levels exceed the relevant

criterion, additional noise mitigation or management measures will be required to be implemented.

It should also be noted that this proposal will not affect any operations on a Saturday morning. The proposal is to permit the overnight accommodation on a Tuesday, Wednesday and Thursday during the rowing season which occurs from the first week in September to the first week in December and the third week in January to the first week in March.

- *The end of Wharf Road is a quiet and peaceful pocket of Gladesville. Dormitory, hostel type accommodation with 36 students will disturb the current tranquil environment. The students will likely have parties which will result in noise disturbance for residents.*

Comment: The proposal has been supported by an acoustic report and plan of management demonstrating the proposal will not result in any adverse acoustic impacts upon surrounding properties. The overnight accommodation is restricted to Tuesday, Wednesday and Thursday during the school rowing season from the first week in September to the first week in December. It would then resume on the third week of January and finish on the third week of March each year.

The students will be supervised by three (3) teachers who will stay overnight to monitor the students and prevent activities which will impact on the amenity of nearby residents. No music or noise generating activities are proposed to be conducted after 10pm during the night-time period and **Conditions 74 to 76** are recommended in this regard.

Further, all students and teachers are proposed to travel to and from the site in Coaster style buses given that there is limited scope for the provision of on-site car parking given the site's constraints. It is considered that the proposed management arrangements for the dormitory accommodation will prevent it from impacting significantly on the amenity of the surrounding residential environment. The provisions of the Protection of the Environment Operations Act 1997 are applicable to the site and allows Council to take enforcement action in the event of 'offensive noise' impacts resulting from the land use.

- *Both schools with boat sheds on Wharf Road are affluent and students drive themselves to training which results in congestion and parking problems.*

Comment: The applicant has submitted a Plan of Management which outlines that transport to and from the site for students and teachers in association with the overnight accommodation is proposed to be provided by way of a Coaster style bus. It is noted that a Coaster bus seats approximately 20 passengers and the full cohort of students staying overnight will be 36. With three staff and 39 passengers in total, this will require two buses. The bus arrivals and departures are proposed to be staggered to prevent congestion. The students will board the buses at the school's College Street, Darlinghurst campus in the afternoon and will be transported back there the following morning. As a result of these arrangements, it is not proposed that students will drive themselves to training. **Condition No. 67** is recommended requiring compliance with the Plan of Management relating to off-street parking.

Second notification period

- *It is unlikely that the 36 parents will deliver their sons to the Sydney Grammar School campus so that they may catch one of the buses to the rowing facility. Who will police this arrangement? There is no doubt that sensible parents will deliver their children to the site in private cars and make the traffic problems worse.*

Comment: The applicant has submitted a Plan of Management outlining that all staff and students will be transported from the College Street, Darlinghurst campus to the boatshed in two Coaster style mini buses. The mini buses will drive into the site, drop off passengers, turn around on site and exit the site in a forward direction. A condition of consent is recommended requiring compliance with the arrangements outlined in the Plan of Management. This condition will be enforceable by Council's Compliance Team.

- *Residents have had to contact the Police on many occasions in an attempt to quieten the noise coming from the boat shed. The proposal will worsen this situation.*

Comment: The proposal has been supported by an acoustic report and Plan of Management demonstrating the proposal will not result in any adverse acoustic impacts upon surrounding properties. The overnight accommodation is restricted to Tuesday, Wednesday and Thursday during the school rowing season from week one in September to week one in December. It would then resume on the third week of January and finish on the third week of March each year.

The students will be supervised by three (3) teachers who will stay overnight to monitor the students and prevent activities which will impact on the amenity of nearby residents. No music or noise generating activities are proposed to be conducted after 10pm during the night-time period and **Conditions 74 to 76** are recommended in this regard.

The provisions of the Protection of the Environment Operations Act 1997 are applicable to the site and allow Council to take enforcement action in the event of 'offensive noise' impacts resulting from the land use. Further, the submitted Plan of Management includes email and phone contact details in the event that any adjoining resident wishes to lodge a noise (or other) complaint in relation to the operation of the facility.

- *It is unclear why Council would consider approving a waterfront hotel in the middle of a residential area with the frontage a couple of metres from the water.*

Comment: The proposal is not a 'waterfront hotel', rather it seeks to provide for dormitory style accommodation for up to 36 students during the rowing season in accordance with the provisions of Subclause 35(11) of State Environmental Planning Policy (Education Establishments and Child Care Facilities) 2017. It is proposed that there will be three teachers on the site at all times to supervise the behaviour and activity of the students.

- *The objector is sick of guiding long vehicles back up the street so they can reverse into the Shore boat shed driveway and get out of the street.*

Comment: The proposal includes the construction of an on site turning bay for Coaster style mini buses which will transport the students from the College Street, Darlinghurst school campus. There will be no need for the buses associated with the school to reverse up the street given the proposed turning bay.

- *There is significant noise generated from the gym within the boat shed. You can hear and feel big weights hitting the support rack or the ground.*

Comment: The Plan of Management has been amended to outline that gym use will not be permitted after 7:30pm nightly. Further **Condition No. 87** is recommended to outline that the gymnasium shall not be used between the hours of 7:30pm to 7:00am daily.

10. Referrals

Senior Development Engineer. The amended proposal was referred to Council's Senior Development Engineer who provided the following comments:

Stormwater Management: *The revised stormwater plan showed the stormwater runoff collected from the roof of the proposed kayak storage shed will drain to the existing site stormwater pipe and a new downpipe has been provided for the extended roof and noted on the plan the extended roof will be connected to the existing stormwater line. No detailed stormwater design is provided, however, it can be accepted as it is a small roof extension and contractor/plumber will be able to determine the stormwater connection from the proposed downpipe to the existing site drainage system during construction.*

No drainage detail has been provided for the proposed paved area for loading of bus. This can be dealt with a condition of consent regarding stormwater runoff to connect to existing drainage system.

Vehicle Access and Parking: *The development proposes to employ two mini buses to bring students and staff onsite. As indicated in the submitted Plan of Management report by Greg Whitbread (Property Manager of Sydney Grammar School), the minibus will drive into the site, drop off passengers, turn around then exit the site in a forward direction. A swept path diagram has been prepared to demonstrate a 7.7m long coach bus can enter the site, drop off, carry out a 3-point turn and exit the site in a forward direction.*

Council's Traffic Team has reviewed the submitted Plan of Management report and the submitted swept path diagram and found the revised pickup and drop-off arrangement acceptable. Hence Development Engineering raises no objection.

There are no objections to the proposed development with respect to the engineering components, subject to the application of the recommended conditions being applied to any development consent being issued for the proposed development. (Conditions 8, 9, 10, 11, 31, 32, 53, 54 and 59).

City Works (Traffic) The amended proposal was referred to Council's City Works (Traffic) department and the following final comments were provided:

The applicant originally proposed to have students and staff dropped off or picked up by a private coach at the intersection of Wharf Road and Pile Street, which is located approximately 190m to the north of the development site. Council's City Works (Traffic)

team have previously raised concerns regarding this proposed transportation arrangement, which are detailed below:

- Students and staff could walk to/from the site in clusters/groups resulting in students and staff being pushed onto the trafficable pavement of Wharf Road, which affects their safety as well as the efficiency of traffic flow along Wharf Road.
- The proposed transportation arrangements would also require the coach to temporarily park on-street which would take away parking opportunities for surrounding residents.
- Potential manoeuvring issues associated with the use of a full-size private coach (which could be around 12.5m in length) within the surrounding lower order residential roads.

The applicant proposes to address the abovementioned concerns by employing two (2) minibuses to directly transport students and staff to/from the site (rather than being dropped off/picked up on-street). An internal manoeuvring area is also proposed to be provided within the site to enable a mini-bus (7.7m in length) to be able to enter the site in a forward direction, turnaround and exit the site in a forward direction as demonstrated in the swept path assessment provided by PTC dated 30 November 2021. The arrival and departure times of the minibuses are to be staggered to avoid congestion within the site and queuing/parking within Wharf Road.

Each minibus has a passenger seating capacity of 20 seats. Based on a proposed maximum on-site population of 36 students and three (3) staff, up to two (2) minibuses would be required to transport students and staff to and from the site, which could generate up to four (4) vehicle trips per hour (2 minibuses in and 2 minibuses out). Such a level of traffic generation is not expected to alter the existing traffic conditions within the surrounding road network.

Based on the abovementioned discussion, City Works (Traffic) have no objections to the proposal subject to following conditions (**Conditions 12, 38 and 67**).

Landscape Architect. The application was referred to Council's Landscape Architect who raised no objection to the proposed development subject to recommended conditions (**Conditions 40, 41, 42, 43, 44, 45, 55, 56, 57, 58 and 60**).

Environmental Health Officer. The amended application was referred to Council's Environmental Health Officer and the following comments were provided:

Based on previous referral comments, the public submissions, as well as amended plans submitted to Council by the applicant, this discussion will focus on acoustic concerns previously held by Council and how the applicant has responded to them.

Acoustics:

Resonate Consultants were engaged by the applicant to prepare a noise impact assessment for the proposed student accommodation at 73 Wharf Road, Gladesville. Concerns were identified by Council's Environmental Health in previous referral comments. The applicant has responded to these concerns and submitted an amended acoustic report. The applicant's response to these concerns are detailed below:

1. Confirmation guidelines used to assess acoustic impact are applicable to proposed development.

Confirmation has been provided by Resonate Consultants in response letter that guidelines were applicable. Guidelines used were actually used as a conservative measure in acoustic predictions.

2. Acoustic impact of noise generating activities during night-time hours not assessed.

Resonate Consultants in their response letter confirmed that activities during this period were assessed. Additionally, further clarification was provided that the proposed development will comply with project criteria.

3. Further information relating to proposed construction of a solid barrier.

The acoustic report was updated to include further information regarding the solid barrier at northern end of the proposed development's western boundary. Originally no reference was made to the specific details of the boundary's construction requirements, nor was the barrier included in architectural drawings. Architectural drawings have been amended to include the barrier. The amended acoustic report has specified that the barrier must have a solid construction and extend from the floor of the balcony to the roof, with no gaps or holes. It is suggested the barrier can be constructed of a 0.55mm profiled metal panel, a sheet of weather resistant plasterboard, 6.38mm glazing or 17.5mm thick weather resistant plywood.

4. Confirmation all acoustic impact elements of the proposed development have been considered.

A number of references were made potentially not characteristic of what had fully been assessed within the original acoustic report such as a gymnasium, functions and events. Resonate Consultants in their response provided clarification on any uses of the proposed development not included in the acoustic reports scope. Functions as a use were removed from the amended acoustic report and the gymnasium is an existing use and not a new one.

5. Further clarification required on how 88db(A) will not be exceeded.

The RBL assessed at the proposed development's location was significantly lower than 88db(A), therefore this amount of noise, as a proposed limit, would potentially be considerably impactful to nearby sensitive receivers. Reference was also made that this was the noise limit for functions at the proposed development. Resonate consultants in their response clarified that functions have been removed as a proposed use of the development, as well as 88db(A) is a conservative assumption and the project criteria can be complied with at assessed residential receivers.

6. Further information relating to restricted access at south and east boundaries during functions

The original acoustic report specified that access will be restricted to the south and east boundaries whilst functions are being held at the proposed development. In Resonate Consultants response, it was confirmed that functions have been removed from the report and as a proposed use, negating the need for restricted access.

Summary

In consideration of previous concerns held, and the applicant's response, the acoustic impact of the proposed development is considered to be minimal. This is conditional on the proposed development's compliance with project criteria outlined within Resonate Consultant's Amended Acoustic Report dated 31 August 2021, reference number: S210547RP1 Revision A. This is also conditional on the requirements of any relevant legislation, including but not limited to the requirements of the Protection of the Environment Operations Act 1997 NSW and its regulations.

Conclusion

*The proposal satisfies the requirements of Council's controls and can be supported, subject to recommended conditions of consent (**Conditions 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 33, 34, 35, 61, 62, 63, 64, 65, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83 and 84**)*

Fire Safety. The application was referred to Council's Senior Co-ordinator Building Compliance to review the proposed fire safety upgrades in light of the proposed use of the facility for overnight accommodation for students and the following comments were provided:

The proposal is to allow for overnight accommodation for student rowers and associated staff by utilising the main hall area on level 1 as "dorm style" accommodation with mattresses laid out on the floor. These mattresses will only be laid out when overnight accommodation is required and mattresses will be stored away at all other times allowing for a clear multi-use space.

The current building would be classified as Class 7b (boat storage) on ground level with Class 9b (school facility) on level 1. This application intends to allow for partial Class 3 (dorm style use) for overnight stays to be applied to level 1 only and no change in use is proposed on ground level.

Pursuant to Clause 64 of the Environmental Planning and Assessment Regulation, prior to the issue of a Construction Certificate, a building in respect of which there is a change of building use and building works must comply with the appropriate fire safety provisions applicable to the proposed new use. Council considers it appropriate to require the existing building to be brought into total conformity with the Building Code of Australia

Note: *The obligation under this condition to comply with the Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in the relevant Development Consent. (**Conditions 30 and 66**).*

11. Conclusion

After consideration of the development against section 4.15 of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, the proposal is suitable for the subject site and is not contrary to the public interest. The reasons for the decision are as follows:

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

3. The proposal (as amended) is considered to be of low impact to adjoining properties and the surrounding environment.
4. The proposal is not contrary to the public interest.
5. The submissions received in response to this DA have been considered and addressed in this report. None of the issues raised warrant the refusal of the subject DA.

12. Recommendation

That the Ryde Local Planning Panel, as the consent authority, grant consent to LDA2021/0191 for the change of use of the existing hall located on Level 1 of the boat shed and training facility to a dormitory style accommodation for overnight stays for up to 36 students at 73 Wharf Road Gladesville, subject to the draft conditions contained in Attachment 1.

ATTACHMENTS

- 1 Draft Conditions of Consent
- 2 SREP Compliance Table
- 3 Sydney Harbour Foreshores & Waterways Area DCP Compliance Table
- 4 Amended Plan of Management for Facility
- 5 Architectural Plans
- 6 Legal Advice on Clause 35(11) of SEPP (Educational Establishments and Child Care Facilities) 2017

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ATTACHMENT 1 – DRAFT CONDITIONS OF CONSENT 73 WHARF ROAD, GLADESVILLE (LDA2021/0191)

GENERAL

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

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

Plan no.	Drawn by	Dated
Architectural Plans		
Location Plans DA02/20-001	JCA Architects	April 2021
Existing Site Plan DA02/20-002	JCA Architects	December 2021
Existing Ground Floor Plan DA02/20-003	JCA Architects	April 2021
Existing First Floor Plan DA02/20-004	JCA Architects	September 2021
Existing Eastern Elevation DA02/20-006	JCA Architects	March 2021
Existing Southern Elevation DA02/20-007	JCA Architects	March 2021
Proposed Site Plan DA02/20-010	JCA Architects	December 2021
Proposed Ground Floor Plan DA02/20-011	JCA Architects	April 2021
Proposed First Floor Plan DA02/20-012	JCA Architects	September 2021
Proposed Section AA DA02/20-013	JCA Architects	September 2021
Proposed Eastern Elevation DA02/20-014	JCA Architects	March 2021
Proposed Southern Elevation DA02/20-015	JCA Architects	March 2021
Proposed Front Fence Details DA02/20-016	JCA Architects	March 2021
Proposed Kayak Shed Details DA02/20-017	JCA Architects	March 2021
Plan of Management		
Plan of Management – Off-street parking	Sydney Grammar School	18 February 2022

Document(s)	Dated
Site Waste Minimisation and Management Plan (SWMMP)	30/10/2020

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

- (a) The site plan is to be amended to relocate the existing vehicular access crossing to the north to align with the existing gate entrance.

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

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

Conditions of Consent for LDA2021/0191 :-

2. **Inconsistency between documents.** In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

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

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

Reason: Statutory requirement.

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

Reason: To ensure reasonable standards of amenity for occupants of neighbouring properties

5. **Hoardings.**

(a) A hoarding or fence must be erected between the work site and any adjoining public place.

(b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.

Reason: To ensure public safety.

6. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.

Reason: To ensure development occurs within the site boundaries.

7. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.

Reason: To ensure public spaces are unobstructed during construction.

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

Reason: To ensure compliance Australian Standards and Council's DCP Part 8.2.

9. **Service Alterations.** All services or utilities required to be altered in order to complete the development works are to be undertaken in accordance with the requirements of

Conditions of Consent for LDA2021/0191 :-

the relevant service provider (eg Telstra, Jemena, Ausgrid, etc), with all costs associated with this alteration to be borne by the applicant.

Reason: To ensure access to public utilities.

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

Reason: To maintain public infrastructure.

11. **Road Opening Permit.** In accordance with the requirements of the Roads Act, the applicant must obtain consent (*Road opening Permit*) from Council prior to any excavation being undertaken in the road reserve (this includes verge and public footpath areas). No works shall be carried out in the road reserve without this permit being paid and a copy kept on the site.

Reason: Statutory requirement (Roads Act 1993 Section 138) and to maintain the integrity of Council's infrastructure.

12. **Traffic Management.** Traffic management procedures and systems must be in place and practised during the construction period to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 - 2019 and Part 8.1 of City of Ryde *Development Control Plan 2014: Construction Activities*.

Reason: To ensure public safety during works.

13. **Compliance with Acoustic Report** - All control measures nominated in the Acoustic Report No. S210547RP1, dated Tuesday 31 August 2021, prepared by Resonate Consultants must be implemented.

Reason: To demonstrate compliance with submitted reports.

14. **Construction Environmental Management Plan** - Prior to the commencement of construction, the Applicant must submit a Construction Environmental Management Plan (CEMP) to the Certifier and provide a copy to Council. The CEMP must include, but not be limited to, the following:

(a) Details of:

- (i) hours of work;
- (ii) 24-hour contact details of site manager;
- (iii) management of dust and odour to protect the amenity of the neighbourhood;
- (iv) stormwater control and discharge;
- (v) measures to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site;
- (vi) groundwater management plan including measures to prevent groundwater contamination;

Conditions of Consent for LDA2021/0191 :-

- (vii) external lighting in compliance with AS 4282-2019 Control of the obtrusive effects of outdoor lighting;
- (viii) community consultation and complaints handling;
- (b) Construction Noise and Vibration Management Sub-Plan;
- (c) Construction Waste Management Sub-Plan;
- (d) Construction Soil and Water Management Sub-Plan;
- (e) Flood Emergency Response;
- (f) an unexpected finds protocol for contamination and associated communications procedure;
- (g) waste classification (for materials to be removed) and validation (for materials to remain) be undertaken to confirm the contamination status in these areas of the site

Reason: To minimise impact on existing environment.

15. **Safety Data Sheets** - To ensure correct handling of hazardous materials, Safety Data Sheets (SDS) must be held at the facility for all hazardous materials. These can be obtained free of charge from the supplier.

Reason: To ensure compliance with the Work Health and Safety Act 2011. Or Work Health and Safety Regulation 2017

16. **Duty to Notify Pollution Incidents** - Council being the 'appropriate regulatory authority' must be notified immediately of any pollution incident where material harm to the environment is caused or threatened. This duty extends to persons carrying on an activity, employers and employees, contractors and the occupier of the premises where the incident occurs.

Reason: To comply with the requirements of the Protection of the Environment Operations Act 1997.

17. **Spill clean-up equipment** - Sufficient supplies of appropriate absorbent materials and /or other spill clean-up equipment shall be kept on site to recover any liquid spillage. Liquid spills shall be cleaned up using dry methods only.

Reason: To ensure that any liquid spills can be contained on site and prevent the contamination of stormwater drains.

18. **Dangerous goods storage** - All Dangerous Goods shall be stored in accordance with:
- (a) AS 1940-2017 : The Storage and Handling of Flammable and Combustible Liquids and
 - (b) Work Health and Safety Act 2011
 - (c) Model code of Practice: Managing risks of Hazardous Chemicals in the workplace

Reason: To ensure that the dangerous goods are correctly contained.

19. **External garbage storage areas** - External areas used for the storage of garbage must be roofed and paved with concrete graded to a grated drain connected to the sewerage system.
A hose cock must be provided adjacent to the garbage storage area to facilitate cleaning of the containers and storage area.

Conditions of Consent for LDA2021/0191 :-

Reason: To maintain the amenity of the area.

20. **Installation of grease trap** - A grease trap must be installed if required by Sydney Water Corporation. The grease trap must be located outside the building or in a dedicated grease trap room and be readily accessible for servicing. Access through areas where exposed food is handled or stored or food contact equipment or packaging materials are handled or stored is not permitted.

Reason: To ensure the provisions of safe food handling and public health are maintained

21. **Provision for installation of kitchen exhaust systems** - Adequate provision must be made for the installation of kitchen exhaust systems to the proposed food premises.

Reason: To control offensive emissions and ensure the protection of the environment.

22. **Waste data maintained** - A Waste Data file is to be maintained, recording building/demolition contractor's details and waste disposal receipts/dockets for any demolition or construction wastes from the site. These records must be retained and made available to Council on request.

Reason: To confirm waste minimisation objectives are met.

23. **Storage and removal of wastes** - All demolition and construction wastes must be stored in an environmentally acceptable manner and be removed from the site at frequent intervals.

Reason: To prevent any nuisance or danger to health, safety or the environment.

24. **General requirements for liquid and solid waste** - Liquid and solid wastes generated on the site shall be collected, transported and disposed of in accordance with the Protection of the Environment Operations (Waste) Regulation 2005 and in accordance with DECC the Environmental Guidelines Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999). NSW EPA Waste Classification Guidelines

Reason: To prevent pollution of the environment.

PRIOR TO CONSTRUCTION CERTIFICATE

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

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

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

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

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

Reason: To ensure compliance with the Australian Standards.

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

Reason: To ensure the structure integrity and compliance with relevant standards.

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

Reason: Statutory requirement.

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

Reason: Statutory requirement.

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

Reason: To ensure the use of appropriate roofing material to minimise reflectivity and impacts upon amenity.

Reason: To ensure existing trees are protected.

30. **Compliance with Building Code of Australia.** Prior to the issue of a Construction Certificate, the certifier must undertake an assessment of the proposed use and all building work to ensure that the existing building is brought into total conformity with the Building Code of Australia (BCA) (as in force on the date of the application for the relevant Construction Certificate was made). Suitable documentary evidence such as a BCA report and fire engineering report are required to form part of the supporting documents for the construction certificate approval documentation.

Reason: Statutory requirement.

31. **Stormwater Management – Drain to existing drainage system.** The discharge to the existing stormwater management system must be inspected by a suitably qualified civil

Conditions of Consent for LDA2021/0191 :-

engineer or licensed plumber to ensure it is of adequate capacity to accommodate additional stormwater runoff from the development and without adverse impacts to neighbouring properties. The appointed expert must prepare documentation and plans addressing the following matters which are to be provided with the application for a Construction Certificate;

- a) Detail the proposed drainage system and its point of discharge to the existing stormwater management system,
- b) Deduce the configuration of the existing stormwater management system downstream of the proposed connection and the manner of discharge from the site,
- c) Confirm that, subject to any upgrade to the system as required by part (e) of this condition, the existing stormwater management system is of adequate capacity such to accommodate the additional stormwater runoff from the development,
- d) Nominate the location and configuration of any rainwater tank required by BASIX commitments or nominated on the architectural plan, including the overflow connection to the stormwater management system.
- e) Specify any remedial works to the existing stormwater management system downstream of the proposed connection required in order to;
 - ensure the continued use of the stormwater management service,
 - address any adverse effects to the subject site or downstream property, evident on the lot, and
 - ensure the state of the existing stormwater system crossing the footpath / kerb outlet is in accordance with Council's DCP Part 8.2 (*Stormwater and Floodplain Management*) (where applicable).

Reason: To ensure suitable stormwater discharge for the site.

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

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

The ESCP must be submitted with the application for a Construction Certificate. This condition is imposed to protect downstream properties, Council's drainage system and natural watercourses from sediment build-up transferred by stormwater runoff from the site.

Reason: To minimise impacts on the environment during works.

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33. **Construction Noise Management Plan (demo & construction)** - A construction noise management plan must be prepared by a suitably qualified and experienced noise expert in accordance with the noise management levels in EPA's *Interim Construction Noise Guideline* and accompany the application for a Construction Certificate. The Certifying Authority must be satisfied the Construction Noise Management Plan will minimise noise impacts on the community during the construction of the development.

The Construction Noise Management Plan must include:

- (a) hours of construction
- (b) Identification of nearby residences and other sensitive land uses.
- (c) Assessment of expected noise impacts.
- (d) describe the measures to be implemented to manage high noise generating works such as piling, in close proximity to sensitive receivers
- (e) include strategies that have been developed with the community for managing high noise generating works.
- (f) Community Consultation and the methods that will be implemented for the whole project to liaise with affected community members to advise on and respond to noise related complaints and disputes.
- (g) include a complaints management system that would be implemented for the duration of the construction
- (h) include a program to monitor and report on the impacts and environmental performance of the development

Reason: To prevent loss of amenity to the area and maintain appropriate amenity to nearby occupants.

34. **Fit-out plans (Design)** - Detailed plans of all food preparation, beverage and waste storage areas shall be submitted to the principal certifying authority (PCA) prior to the issue of the construction certificate.

The fit-out of the food premises shall comply with:

- (a) Australian Standard AS4674-2004 - Design, Construction and Fit-out of Food Premises.
- (b) Food Safety Standards 3.2.3 Food Premises and Equipment
- (c) The cool rooms shall be provided with safety devices to comply with G1.2 of the BCA.

If a Private Certifier is to be used, the final inspection shall be carried out by a suitably qualified person to ensure that food standards are met. Council's Environmental Health Officer may be engaged to carry out the required inspection for a prescribed fee.

Note: Copies of AS 4764 - 2004 may be obtained from Standards Australia Copies of the Food Standards Code may be obtained from Australia and New Zealand Food Authority.

Reason: To ensure design of the premises meets relevant public health standards.

35. **Food premises DA/CC where plans satisfy both asses** - Final design drawings are to be submitted to the principal certifying authority prior to commencement of work, demonstrating that the design and construction of any food / beverage preparation facilities and waste storage areas associated satisfy the requirements of food safety

Conditions of Consent for LDA2021/0191 :-

standards prescribed under the Food Act 2003, as well as Australian Standard AS 4674 - 2004: 'Design, Construction and Fit-out of Food Premises'.

Reason: To ensure design of the premises meets relevant public health standards.

PRIOR TO COMMENCEMENT OF CONSTRUCTION

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

36. Site Sign

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

Reason: Statutory requirement.

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

Reason: To ensure to site is safely secured.

38. **Road Activity Permits** - To carry out any work in, on or over a public road (including verge), consent from Council is required as per the *Roads Act 1993*. Prior to the commencement of the relevant works and considering the lead times required for each application, permits for the following activities, as required and as specified in the form "*Road Activity Permits Checklist*" (available from Council's website) are to be obtained and copies submitted to Council with the *Notice of Intention to Commence Public Domain Works*.

- a) Road Use Permit - The applicant shall obtain a Road Use Permit where any area of the public road or footpath is to be occupied as construction workspace, other than activities covered by a Road Opening Permit or if a Work Zone Permit is not obtained. The permit does not grant exemption from parking regulations.
- b) Work Zone Permit - The applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site. Separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane.

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- c) Road Opening Permit - The applicant shall apply for a road-opening permit and pay the required fee where the applicant is required to dig into or adjust Council Assets (Assets include all facilities within the road reserve). Additional road opening permits and fees are required where there are connections to public utility services (e.g. telephone, telecommunications, electricity, sewer, water or gas) within the road reserve. No opening of the road or footpath surface shall be carried out without this permit being obtained and a copy kept on the site.
- d) Elevated Tower, Crane or Concrete Pump Permit - The applicant shall obtain an Elevated Tower, Crane or Concrete Pump Permit where any of these items of plant are placed on Council's roads or footpaths. This permit is in addition to either a Road Use Permit or a Work Zone Permit.
- e) Crane Airspace Permit - The applicant shall obtain a Crane Over Airspace Permit where a crane on private land is operating in the air space of a Council road or footpath. Approval from the Roads and Maritime Services for works on or near State Roads is required prior to lodgement of an application with Council. A separate application for a Work Zone Permit is required for any construction vehicles or plant on the adjoining road or footpath associated with use of the crane.
- f) Hoarding Permit - The applicant shall obtain a Hoarding Permit and pay the required fee where erection of protective hoarding along the street frontage of the property is required. The fee payable is for a minimum period of 6 months and should the period be extended an adjustment of the fee will be made on completion of the works. The site must be fenced to a minimum height of 1.8 metres prior to the commencement of construction and throughout demolition and/or excavation and must comply with WorkCover (New South Wales) requirements.
- g) Skip Bin on Nature Strip - The applicant shall obtain approval and pay the required fee to place a Skip Bin on the nature strip where it is not practical to locate the bin on private property. No permit will be issued to place skips.

Reason: To ensure compliance with Roads Act 1993.

39. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Any doors/ gates on the boundary must be installed so they do not open onto any footpath.

Reason: To ensure that all works occur within site boundaries.

40. **Tree Retention.** As identified in the Arboricultural Impact Assessment (AIA) prepared by Naturally Trees dated 26/02/2021. The following trees on site or adjoining the site are to be retained and protected:

Tree No.	Species "Common name"
1	<i>Platanus x acerifolia</i> (London Plane)
2	<i>Angophora costata</i> (Sydney Red Gum)
3	<i>Ficus rubiginosa</i> (Port Jackson Fig)

Conditions of Consent for LDA2021/0191 :-

4	<i>Plumeria rubra</i> (Red Frangipani)
6	<i>Ficus rubiginosa</i> (Port Jackson Fig)
7	<i>Angophora costata</i> (Sydney Red Gum)
8	<i>Melaleuca armillaris</i> (Bracelet Honey Myrtle)

Reason: To ensure the retention of existing trees on the site.

41. **Tree Protection** is to be installed before demolition and construction commences as indicated in the Arboricultural Impact Assessment (AIA) "Appendix 8 Tree Management Plan" prepared by Naturally Trees dated 26/02/2021.

Reason: To ensure that trees to be retained are suitably protected during works.

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

Reason: To ensure that trees to be retained are suitably protected during works.

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

Reason: To ensure that trees to be retained are suitably protected during works.

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

Reason: To allow Council to make contact with the project arborist if required.

45. **Arboricultural Impact Assessment (AIA).** All items in the AIA outlined in: "Section 4 Arboricultural Method Statement" prepared by Naturally Trees dated 26/02/2021, are to be implemented.

Reason: To ensure that the items in the arborist report are suitably implemented.

DURING CONSTRUCTION

Unless otherwise specified, the following conditions in this Part of the consent must be complied with at all times during the construction period. Where applicable, the

Conditions of Consent for LDA2021/0191 :-

requirements under previous Parts of the consent must be implemented and maintained at all times during the construction period.

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

Reason: Statutory requirement.

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

Reason: To protect the amenity of surrounding residents during construction.

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

Reason: To protect the environment and the amenity of surrounding properties.

49. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:

- a. Fill is allowed under this consent;
- b. The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
- c. the material is reused only to the extent that fill is allowed by the consent.

Reason: To protect the environment.

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

Reason: To ensure safety and amenity of the area.

51. **Site Facilities**

The following facilities must be provided on the site:

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

Reason: Statutory requirement.

52. **Site maintenance**

The applicant must ensure that:

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

Reason: To ensure the site is appropriately maintained.

Conditions of Consent for LDA2021/0191 :-

53. **Stormwater Management.** Appropriate measures are to be implemented, such as the grading of surface levels in the vicinity of the works, to ensure that stormwater runoff from the development does not adversely impact downstream property and is managed in a manner which generally complies with the objectives of Council’s DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures.

Reason: To minimise the impact of stormwater on downstream properties.

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

Reason: To prevent impacts of erosion and sediment.

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

Reason: To minimise impacts on trees to be retained.

56. **Tree Removal.** As identified in the Arboricultural Impact Assessment (AIA) prepared by Naturally Trees dated 26/02/2021. The following trees on site are to be removed:

Tree No.	Species “Common name”
5	<i>Pittosporum undulatum</i> (Native Daphne)

Reason: To set out trees approved to be removed.

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

PROJECT PHASE	ACTIVITIES	PROJECT ARBORIST to
Initial Site Preparation	Establish/delineate TPZ Install protective measures and undertake soil rehabilitation for all trees to be retained.	Project Arborist to mark Tree Protection Zones and install fences, mulch, irrigation and signage Issue a Certification of Compliance of tree protection measures being in place and soil rehabilitation undertaken
Construction work	Liaison with site manager, compliance and any deviation from approved plan	Maintain or amend protective measures Supervision and monitoring formal notification of any deviation from approved tree protection plan

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Stormwater connection installation through TPZ, Implement hard and soft landscape works	Supervise Installation of pipes within tree TPZ	Excavate trench through TPZ under Arborist supervision, install pipework, remove selected protective measures as necessary and perform remedial tree works Issue a Certificate of Compliance
Practical Completion	Tree vigour and structure Assessment and undertake soil rehabilitation for all retained trees	Remove all remaining tree Protection measures Certification of tree protection and soil rehabilitation for Protected Trees
Defects liability / maintenance period	Tree vigour and structure	Undertake any required remedial tree works Certification of tree protection if necessary

Reason: To set out required inspections by project arborist.

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

Reason: To set out requirements for arborist.

PRIOR TO OCCUPATION CERTIFICATE

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

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

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

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

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

Reason: To outline the required engineering compliance certificates.

- 60. Compensatory Tree planting – front setback.** One *Banksia integrifolia* (Coastal Banksia) with a minimum 200mm diameter pot size to be planted in the front setback.

Reason: To ensure that the front setback maintains a landscaped presentation.

- 61. All works/methods/procedures/control measures** - Prior to the issue of an occupation certificate (Interim or Final) written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority and Council, stating that all works/methods/procedures/control measures approved by Council in the following report has been completed:
- (a) Acoustic Report No. S210547RP1, dated Tuesday 31 August 2021, prepared by Resonate Consultants

Reason: To demonstrate compliance with submitted reports.

- 62. Noise Limits** - Noise generated at the premises must not exceed the noise limits specified in the Acoustic Report No. S210547RP1, dated Tuesday 31 August 2021, prepared by Resonate Consultants submitted with the development application.

Reason: To demonstrate compliance with the submitted report

- 63. Registration of retail food business (Council)** - Prior to an Occupation Certificate being issued, the retail food business must submit a food business registration with Council.

Reason: Compliance with the requirements of the Food Act.

- 64. Certify mechanical ventilation installation** - Adequate ventilation to work areas and other occupied enclosures shall be provided in accordance with the requirements of the Building Code of Australia. Where any system of mechanical ventilation is installed, certification that the system functions in accordance with Australian Standard AS/NZS 1668.2.2012 is to be provided to the certifying authority prior to occupation of the premises.

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Reason: To comply with the Building Code of Australia and the relevant Australian Standard.

65. **Certify fit-out complies with food safety standards** - Certification to be provided to the principal certifying authority (PCA), prior to occupation, that the fit-out of the food premises has been completed in accordance with plans complying with food safety standards prescribed under the Food Act 2003, and the requirements of Australian Standard AS 4674 - 2004.

It is incumbent on the PCA to determine the competency of the person providing this certification, based on that person's qualifications, experience and currency of practice.

Reason: To ensure construction and fit-out of the premises meets relevant public health standards.

66. **Fire Safety Statement.** Pursuant of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 part 3 division 1, the Principal Certifier must submit the annual Fire Safety Statement to council with all the essential statutory fire safety measures installed in the building as part of the Occupation Certificate approval documentation.

Reason: Statutory requirement.

OPERATIONAL CONDITIONS

The conditions in this Part of the consent relate to the on-going operation of the development and shall be complied with at all times.

67. **Transportation Arrangements** – In accordance with the Plan of Management – Off-Street Parking, prepared by Sydney Grammar School, dated 18 February 2022, the drop-off or pick-up of students and staff travelling to and from the site in association with the overnight accommodation is to be undertaken within the site only. No drop-off or pick-up activities associated with the transportation of students and staff in association with the overnight accommodation is to occur within the surrounding public roads (e.g. Wharf Road). The largest bus used to transport children to the site is to be a Coaster style bus being 7.7m long mini bus that is capable of transporting up to 20 passengers.

Reason: To minimise the impact of the development on public roads.

68. **Air Emissions (Use of Premises)** - The use of the premises must not give rise to the emission of gases, vapours, dusts or other impurities which are a nuisance, injurious or prejudicial to health. Gaseous emissions from the development must comply with the requirements of the Protection of the Environment Operations Act, 1997 and Regulations. Uses that produce airborne particulate matter must incorporate a dust collection system.

Reason: To control offensive emissions and ensure the protection of the local environment.

Conditions of Consent for LDA2021/0191 :-

69. **Council may require acoustical consultant's report** - If required by Council, acoustic compliance testing is to be completed. The acoustic assessment is to be carried out by an appropriately qualified person, being a member of either the Australian Acoustical Society (AAS) or Association of Australasian Acoustic Consultants (AAAC), and an acoustic compliance report submitted to Council within 14 days of testing.

- a) The acoustic testing shall be undertaken on an evening/night where the building is being used to accommodate students and teachers overnight and as far as practical without the knowledge of the proponent.
- b) Following the acoustic testing, verification is to be provided from the school that 36 students and 3 teachers were on site during the testing. If this requirement is not satisfied, the acoustic testing shall be repeated.
- c) This report should include details verifying that the noise control measures recommended in the Acoustic Report referred to in condition No.13 are attenuating noise to an acceptable noise level in accordance with the relevant criterion.
- d) Noise monitoring shall be undertaken at the nearest sensitive receiver as identified in the Acoustic Report and any other location to determine compliance with the relevant criterion as identified in the Acoustic report referred to in condition No. 13.

Should the noise levels exceed the relevant criterion during compliance testing, additional noise mitigation or management measures may be required to be implemented. Details are to be submitted to Council for approval of any mitigation or management measures. The proponent is then to implement these measures within 14 days of Council confirming its acceptance of the additional measures.

Reason: To demonstrate compliance with relevant legislation

70. **Noise and vibration from plant or equipment** - Unless otherwise provided in this Consent, the operation of any plant or equipment installed on the premises must not cause:

- (a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the *New South Wales Industrial Noise Policy* (EPA, 2000).
- (b) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*.
- (c) The transmission of vibration to any place of different occupancy.

Reason: To prevent loss of amenity to the area.

71. **No 'offensive noise'** - Noise and vibration from the use and operation of any plant and equipment and/or building services associated with the premises shall not give rise to 'offensive noise' as defined by the Protection of the Environment Operations Act 1997.

Reason: To reduce noise levels.

Conditions of Consent for LDA2021/0191 :-

72. **Noise from mechanical equipment** - The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997.

Reason: To protect the amenity of the area.

73. **Air Conditioners in Building** - The air conditioner/s must not:
(1) emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):

(a) before 8.00am and after 10.00pm on any Saturday, Sunday or public holiday; or

(b) before 7.00am and after 10.00pm on any other day.

- (2) emit a sound pressure level when measured at the boundary of any other residential property, at a time other than those as specified in (1), which exceeds the background (LA90, 15 minute) by more than 5dB(A).

The source noise level must be measured as a LAeq 15 minute.

Reason: To prevent loss of amenity to the area.

74. **No live music** - No live music or entertainment shall be provided within the premises.

Reason: To protect the amenity of the surround neighbourhood.

75. **Noise to street** - There are to be no external speakers at the premises.

Reason: To prevent loss of amenity to the area.

76. **Noise Limits (noise must not be audible)** - Notwithstanding compliance with any other noise conditions of this consent, noise from the premises or related activities must not be audible in any habitable room in any residential premises between the hours of 10pm and 7.00am

Reason: To maintain appropriate amenity to nearby occupants.

77. **Remove putrescible waste at sufficient frequency** - All putrescible waste shall be removed from the site with sufficient frequency to avoid nuisance from pests and odours.

Reason: To ensure provision of adequate waste disposal arrangements.

78. **Management of waste storage facilities** - All waste storage areas are to be maintained in a clean and tidy condition at all times.

Reason: To ensure the ongoing management of waste storage areas.

79. **Storage and disposal of wastes** - All wastes generated on the premises must be stored and disposed of in an environmentally acceptable manner.

Reason: To ensure the ongoing management of waste storage areas.

Conditions of Consent for LDA2021/0191 :-

80. **Waste containers** - An adequate number of suitable waste containers must be kept on the premises for the storage of garbage and trade waste.

Reason: To ensure waste is adequately stored within the premises.

81. **Storage of bins between collection periods** - Between collection periods, all waste/recyclable materials generated on site must be kept in enclosed bins with securely fitting lids so the contents are not able to leak or overflow. Bins must be stored in the designated waste/recycling storage room(s) or area(s) between collection periods.

Reason: To ensure waste is adequately stored within the premises.

82. **Disposal of liquid wastes** - All liquid wastes generated on the premises must be treated and discharged to the sewerage system in accordance with the requirements of Sydney Water Corporation or be transported to a liquid waste facility for recycling or disposal.

Reason: To ensure compliance with Sydney Water's requirements and protect the environment.

83. **Food premises** - The operation of the premises is to comply with the relevant provisions of the Food Act 2003, Food Regulation 2015 and the Australia New Zealand Food Authority Food Standards Code.

Reason: To ensure operation of the premises complies with the relevant legislation and standards.

84. **Lights out at 10pm** – During the use of the site for overnight accommodation, lights shall be turned off at 10pm and no noise shall be omitted from the building.

Reason: To maintain the residential amenity of the locality.

85. **Capacity and Operation of Overnight Accommodation** – The overnight accommodation shall be limited to a maximum capacity of 36 students and three (3) teachers at any one time. The overnight accommodation shall be associated with rowing education/training only and shall operate only on a Tuesday, Wednesday and Thursday night during the school rowing season from week one in September to week one in December and resume on the third week of January and finish on the third week of March each year.

Reason: To maintain the residential amenity of the locality.

86. **Plan of Management.** The facility shall operate in accordance with the Plan of Management, prepared by Sydney Grammar School, dated 18 February 2022.

Reason: To maintain the residential amenity of the locality.

87. **Use of Gymnasium.** The gymnasium within the building shall not be used between the hours of 7:30pm and 7:00am daily.

Reason: To maintain the residential amenity of the locality.

Conditions of Consent for LDA2021/0191 :-

End of conditions.

ATTACHMENT 2 – SYDNEY REGIONAL ENVIRONMENTAL PLAN COMPLIANCE TABLE

Provision	Proposal	Compliance
<i>Cl. 21 Biodiversity, Ecology and Environmental Protection</i>		
(a) Development should have neutral or beneficial effect on quality of water entering waterways	The proposal will not result in any further effect on the quality of water entering waterways. No issues have been raised by Council's Senior Development Engineer in relation to the proposed stormwater system.	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>With all works associated with the proposed development occurring well above the Mean High Water Mark MHWM it is considered there will be minimal impacts on any terrestrial and aquatic species, populations and ecological communities.</p> <p>The proposal is unlikely to cause any adverse overshadowing impact on adjacent aquatic areas.</p> <p>Given the above, it is considered the proposed development will protect terrestrial and aquatic vegetation.</p>	Yes
(c) Development should promote ecological connectivity between neighbouring areas of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities)	<p>All works associated with the proposed development will occur above the MHWM. No removal of vegetation within the foreshore building area is proposed.</p> <p>Accordingly, the proposed development is not considered to have a negative impact on ecological connectivity of aquatic vegetation.</p>	Yes
(d) Development should avoid indirect impacts on aquatic vegetation (such as changes to flow, current and wave action and changes to water	All works associated with the proposed development will occur above the MWHM.	Yes

Provision	Proposal	Compliance
quality) as a result of increased access	Accordingly, the proposed development is not considered to have any indirect impact on aquatic vegetation.	
(e) Development should protect and reinstate natural intertidal foreshore areas, natural landforms and native vegetation	<p>All works associated with the proposed development will occur above the MHWM. No tree removal in the foreshore building area will occur.</p> <p>Accordingly, the proposed development is considered to protect the natural intertidal foreshore, natural landforms & native vegetation with minimal adverse impacts on the natural environment.</p>	Yes
(f) Development should retain, rehabilitate and restore riparian land	<p>All works associated with the proposed development will occur above the MHWM.</p> <p>The proposed development is not considered to have any adverse impacts. The proposed development does not aim to rehabilitate or restore riparian land.</p>	Yes
(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	<p>All works associated with the proposed development will occur above the MHWM.</p> <p>An acceptable buffer is considered to be provided to maintain all ecological integrity.</p>	Yes
(h) The cumulative environmental impact of development	All works associated with the proposed development will occur above the MHWM. It is considered the cumulative environmental impact of development to be minimal.	Yes
(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	Yes

Provision	Proposal	Compliance
	continued history of boat shed use on the subject site and the surrounding area.	
Cl. 22 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	There is no existing public use of this part of the foreshore. Access to public will not be restricted any further than existing as result of the proposed development. No adverse impacts on watercourses, wetlands, riparian lands or remnant vegetation has been identified.	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	Land below high water mark remains available for public access (by boat) and presents no change from the existing relationship.	N/A
(d) The undesirability of boardwalks as a means of access across or along land below the mean high water mark if adequate alternative public access can otherwise be provided.	Not proposed	N/A
(e) The need to minimise disturbance of contaminated sediments	<p>All works associated with the proposed development will occur above the MWHM.</p> <p>The proposal is considered not to disturb any contaminants in water/sediments.</p> <p>Additionally, sediments are considered unlikely to be containment due to continued history of use on</p>	Yes

Provision	Proposal	Compliance
	the subject site and the surrounding area.	
Cl. 24 Interrelationship of Waterway and Foreshore Uses		
(a) Development should promote equitable use of the waterway, including use by passive recreation craft	The 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 foreshore and presents no change from the existing relationship with the waterway.	Yes
(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 (with the exception of the proposed use of the first floor for dormitory style accommodation) 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
Cl. 25 Foreshore and Waterways Scenic Quality		
(a) The scale, form, design and siting of any building should be based on an analysis of:		
(l) the land on which it is to be erected, and	The proposal is considered to respect the existing topography, vegetation and foreshore of the subject site and surrounding land.	Yes

Provision	Proposal	Compliance
	The development will be viewable from the water. The scale of the proposed development is considered appropriate in this instance.	
(II) the adjoining land, and	The proposed development does not create any additional overshadowing impacts upon surrounding properties. The overall bulk and scale of the building is considered acceptable and is supported for the reasons detailed in the assessment report.	Yes
(III) the likely future character of the locality	The proposed development is consistent with the current and likely future character of the locality.	Yes
(b) development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries	The proposed development will not create adverse impacts on the visual qualities of Sydney Harbour.	Yes
(c) the cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores	Proposed development is totally land based and proposes no water based development. It is therefore considered that proposed development does not detract from the character of the waterways and adjoining foreshores.	N/A
Cl. 26 Maintenance, Protection and Enhancement of Views		
(a) Development should maintain, protect and enhance views (including night views) to and from Sydney Harbour	Views to and from Sydney Harbour will be generally maintained.	Yes
(b) Development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items	Views and vistas to and from public places, landmarks and heritage items have generally been unchanged as a result of the proposed development. It is considered that adverse impacts have been minimised.	Yes

Provision	Proposal	Compliance
(c) The cumulative impact of development on views should be minimised	The cumulative impact on views from the harbour is considered to be minimal as a result of the proposed development.	Yes
Cl. 29 Consultation required for certain development applications		
(1) The consent authority must not grant development consent to the carrying out in the Foreshores and Waterways Area of development listed in Schedule 2, unless: (a) it has referred the development application to the Advisory Committee, and (b) it has taken into consideration any submission received from the Advisory Committee within 30 days after the date on which the application was forwarded to the Committee.	It is acknowledged that the subject site is located within the Foreshores and Waterways Area (Figure 1). As per Cl.29(3) the proposed works are generally within the existing building footprint within the foreshore and waterways area on the site, and as such, there is no significant increase to the scale, size or intensity of the use of the building. Accordingly, the development application has not been referred to the Advisory Committee.	Yes
(2) In the case of an application to carry out development for more than one purpose, of which one or more is listed in Schedule 2 and one or more is not, the consent authority is only required to refer to the Advisory Committee that part of the application relating to development for a purpose so listed.	(2) Noted.	Noted.
(3) This clause does not apply to development that consists solely of alterations or additions to existing buildings or works and that, in the opinion of the consent authority, is minor and does not, to any significant extent, increase the scale, size or intensity of use of those buildings or works.	The proposal is for minor works to the existing building that are generally located within the existing building footprint.	Yes
Wetlands Protection Area along Lane Cove / Parramatta River frontage	Subject site is located in closer proximity to the wetlands protection area	Yes

Provision	Proposal	Compliance
	along Parramatta River (Figure 2)	
Cl. 62 Requirement for Development Consent		
(4) Development may be carried out only with development consent	The proposed development is currently seeking development consent via LDA2021/0191 under assessment with Ryde City Council.	Yes
Cl. 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 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 majority of existing vegetation being retained.	Yes
(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	The proposed development is considered to have no adverse affects on surface and groundwater	Yes

Provision	Proposal	Compliance
<p>of the surrounding areas, including salinity and water quality and whether the wetland ecosystems are groundwater dependant,</p> <p>(c) Whether adequate safeguards and rehabilitation measures have been, or will be, made to protect the environment.</p> <p>(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).</p> <p>(e) Whether the development adequately preserves and enhances local native vegetation,</p> <p>(f) Whether the development application adequately demonstrates:</p> <p>(i) how the direct and indirect impacts of the development will preserve and enhance wetlands, and</p>	<p>characteristics of the site and surrounding areas due to the development being in compliance with the stormwater controls set out in the Ryde DCP 2014.</p> <p>Council's standard conditions will be imposed to ensure all runoff, sedimentation & siltation is controlled so as to protect the environment.</p> <p>The proposal is located in close proximity to the wetlands protection area and is considered to be consistent with principles set out in <i>The NSW Wetlands Management Policy</i>.</p> <p>The development is considered to adequately preserve the local native vegetation by proposed works being above the MHWM.</p> <p>The development is identified as being within proximity to a wetland protection area. The works are above the MHWM. As such, it is considered that the proposed development is unlikely to have any direct or indirect impacts on the wetland. The development will not enhance the wetlands.</p>	<p></p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p>
<p>(ii) how the development will preserve and enhance the</p>	<p>The works are above the MHWM. It is considered that the proposed development is</p>	<p>Yes</p>

Provision	Proposal	Compliance
<p>continuity and integrity of the wetlands, and</p> <p>(iii) how soil erosion and siltation will be minimised both while the development is being carried out and after it is completed, and</p> <p>(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</p>	<p>unlikely to adversely impact the continuity and integrity of the wetlands.</p> <p>Conditions are recommended for erosion and sediment control measures to be implemented during construction to ensure there is no adverse impact on waterway.</p> <p>The standard conditions of consent will provide sufficient sediment control measures to ensure that the intertidal zone is kept free from pollutants arising from the development.</p>	<p>Yes</p> <p>Yes</p>
<p>(v) that the nutrient levels in the wetlands do not increase as a consequence of the development, and</p> <p>(vi) that stands of vegetation (both terrestrial and aquatic) are protected or rehabilitated, and</p> <p>(vii) that the development minimises physical damage to aquatic ecological communities, and</p>	<p>The development is considered not to result in any increase in nutrient levels in any surrounding wetlands due to the works being above the MHWM.</p> <p>Additionally, sediment and soil erosion control measures will be put in place during construction to mitigate any adverse effects as a result of runoff.</p> <p>No development is proposed within the stands of existing vegetation (both terrestrial and aquatic) therefore protecting them from any adverse impacts.</p> <p>The development has aimed to minimise any adverse impacts on the aquatic ecological communities as the works are above the MHWM.</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p>

Provision	Proposal	Compliance
(viii) that the development does not cause physical damage to aquatic ecological communities,	The works are above the MHW. It is considered that no physical damage to aquatic ecological communities will occur as 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.	No conditions to be imposed on the development in regard to carrying out works to preserve or enhance the surrounding wetlands.	Yes

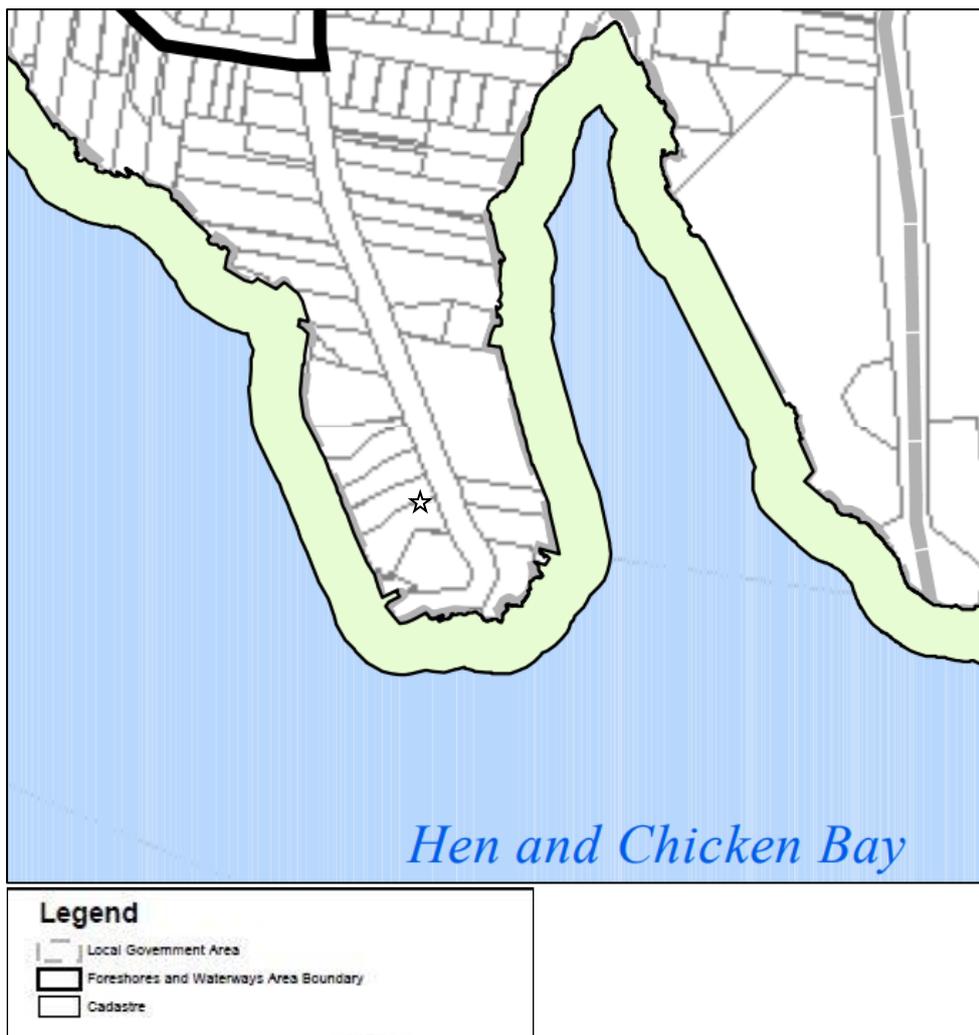


Figure 1: The map above illustrates the subject site at 73 Wharf Road Gladesville lies within catchment boundary that is governed by the Sydney Harbour Catchment REP (marked with ☆).

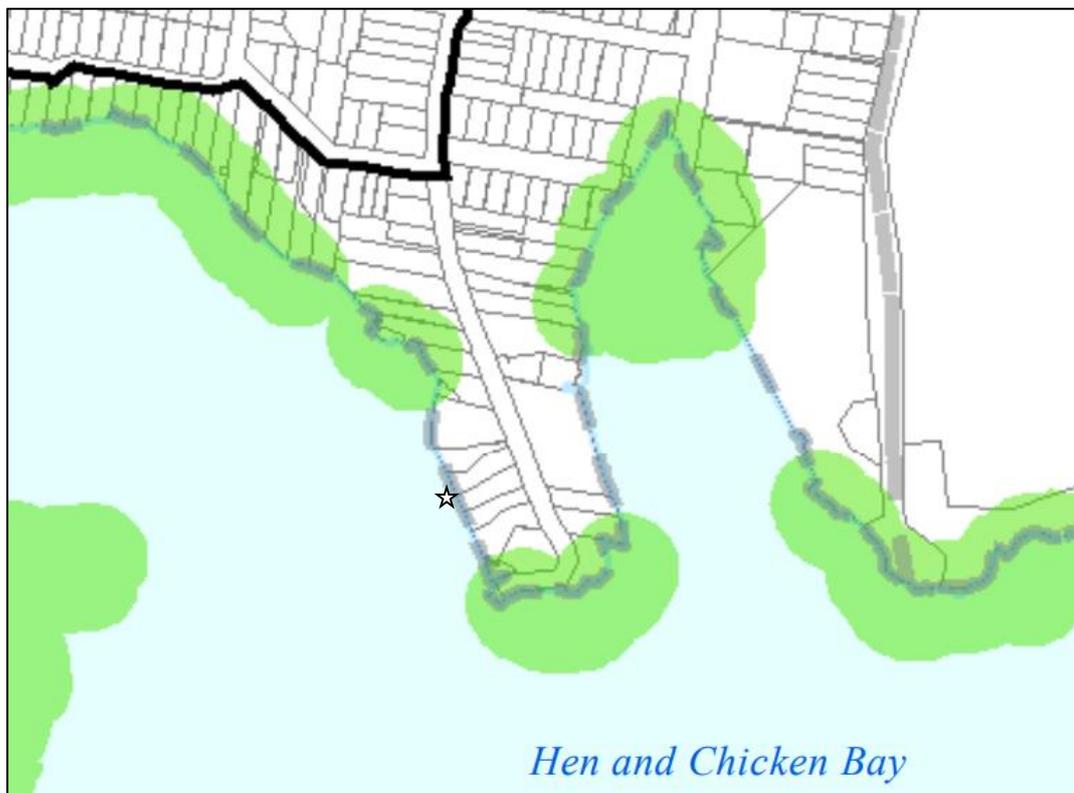


Figure 2: The map above illustrates that according to the Sydney Harbour Foreshore Authority REP the subject site at 73 Wharf Road Gladesville is located in close proximity to a Wetlands Protection Area (marked with ☆).

**ATTACHMENT 3 -SYDNEY HARBOUR FORESHORES & WATERWAYS AREA
DCP FOR SREP (SYDNEY HARBOUR CATCHMENT) 2005 (SHFWADCP 2005)
COMPLIANCE TABLE**

In accordance with Section 3 of the SHFWADCP 2005, the following is an assessment of the proposed development against the performance criteria for the established Landscape Character type attributed to the subject site by the SHFWADCP 2005.

For the purposes of the following assessment, the subject site has been identified as being located with the Landscape Character Type 14, being the low topographic developed areas of Parramatta River (Refer to Figure 3)

Provision	Proposal	Compliance
<p>Statement of Character and Intent: These areas are mostly developed with detached residential development on the upper slopes and boat shed and wharves along the foreshore. Further development in these areas must consider protecting key visual elements including rock outcrops, native vegetation, vegetation in and around dwellings and maintaining the density and spacing of development.</p>	<p>The proposed development is for the purposes works to the existing boat shed. The proposed development is not considered to impact on any rock outcrops or native vegetation being located a considerable distance from rock outcrops and existing foreshore vegetation. Accordingly, the proposed development is considered to be consistent with the character and intent for development in the Landscape Character Type 14 area.</p>	<p>Yes</p>
<p>Performance criteria:</p> <ul style="list-style-type: none"> ▪ consideration is given to the cumulative and incremental effects of further development along the foreshore and to preserving the remaining special features; ▪ development is to avoid substantial impact on the landscape qualities of the foreshore and minimise the removal of natural foreshore vegetation, radical alteration of natural ground levels, the dominance of structures protruding from rock walls or ledges or the erection of sea walls, retaining walls or terraces; ▪ landscaping is carried out between buildings to soften the built environment; and 	<ul style="list-style-type: none"> ▪ Consideration has been given to the cumulative and incremental effects of further development along the foreshore. The proposed development is consistent with surrounding development in terms of design, and bulk and scale. ▪ It is considered that minimal impacts will result as part of the development, no natural existing foreshore vegetation is proposed to be removed, natural ground levels close to the shoreline have been maintained and no erection of rock walls, sea walls or ledges have been proposed. 	<p>Yes</p>

Provision	Proposal	Compliance
<ul style="list-style-type: none"> existing ridgeline vegetation and its dominance as the backdrop to the waterway, is retained. 	<ul style="list-style-type: none"> Minor additional landscaping provided on side boundaries No existing mature ridgeline vegetation was identified during the site inspection. 	
(a) Development should have neutral or beneficial effect on quality of water entering waterways	The proposed 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

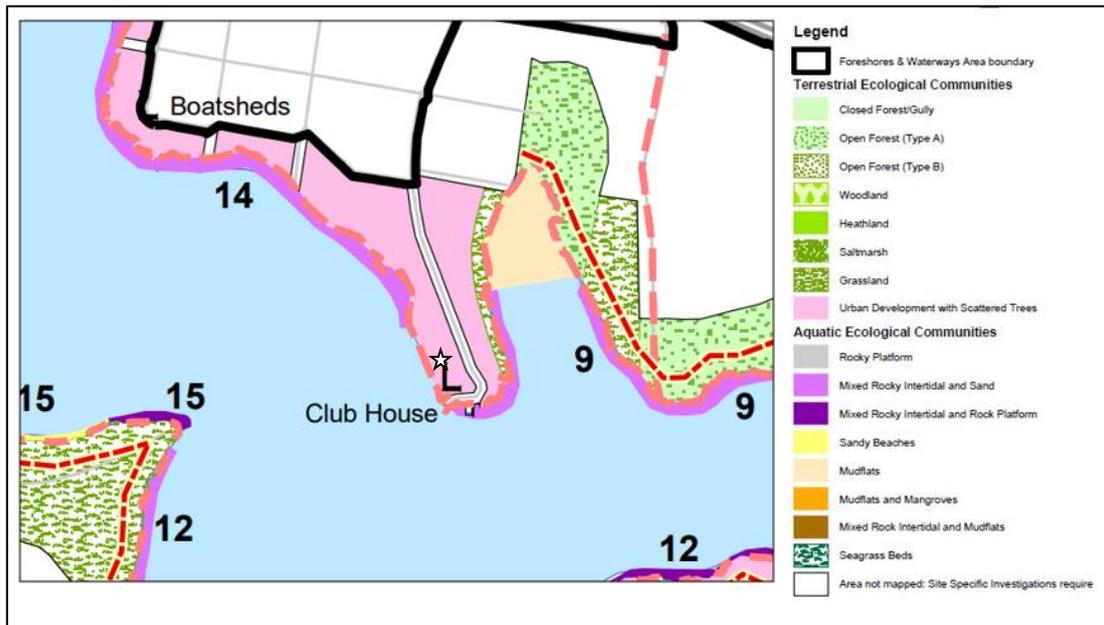


Figure 3: The above map illustrates the subject site at 73 Wharf Road Gladesville has a terrestrial ecological community of urban development with scattered trees with no aquatic ecological communities identified (marked with ☆).



18 February 2022

City of Ryde Council
1 Pope Street
RYDE NSW 2112

PAN 85099
Local Development Application No. LDA2021/0191

PLAN OF MANAGEMENT

Background

This Plan of Management has been prepared as part of the development application for the use of the existing School Boatshed for overnight accommodation for a total of 36 students and 3 staff members.

The students and staff members will be transported to the Boatshed in two coaster minibuses.

The traffic consultant (PTC) prepared a swept path analysis which demonstrates that a coaster minibus can enter the site, drop off, carry out a three point turn and exit the site in a forward direction. Refer to drawing PTC-001 Rev P1.

Management

Two coaster minibuses carrying approximately 20 passengers each will be required to transport 36 boys and 3 staff members to and from the Boatshed for the proposed overnight stays.

Sydney Grammar School does not own coaster minibuses, and proposes to engage a professional bus company such as NSBC (North Sydney Bus Charter), which already provides transport services to the school, to supply two coaster minibuses with drivers to collect staff and students from the College Street, Darlinghurst campus, and transport them to the Boatshed. The minibus will drive into the site, drop off passengers, turn around then exit the site in a forward direction. The coaster minibus departure will be staggered to ensure there is no congestion at the entry to the site.

This arrangement means that there will be no necessity to provide additional off-street parking on site as the coaster buses will be leaving after drop off and returning at a designated collection time.

Further Operational Details

The proposal seeks to provide overnight accommodation for up to three nights a week during the rowing season (late-August to mid-March; being Terms 4 and 1).

The boatshed is currently used during this period for morning and afternoon training and the additional proposed use relates to the following only:

Afternoons and evenings:

- supervised study from 4-5pm
- dinner at 7.30pm
- study time/quiet time (gym use not permitted)
- bedtime at 9.30pm
- lights out 10pm

The boys will depart for school at 7.40am by minibus.

Boys will be supervised at all times by a staff member of Sydney Grammar School. The staff member will ensure that no music is played on a speaker during the study periods, and no speakers to be used in the outdoor areas. As per the existing operation, megaphones will not be used before 7am or after 8pm in the vicinity of the boatshed in accordance with the RMS regulations. No parties or the like will be permitted as part of the overnight accommodation. Staff will supervise to ensure this does not occur.

The School will maintain a register of noise complaints noting the author, time, and details of the complaint. This register will be checked regularly, and appropriate action taken in response to the complaints. This may include, but not limited to, direct correspondence with the aggrieved party. If local residents want to make a complaint, they should do so in writing to the Sportsmaster, sportsmaster@sydgram.nsw.edu.au, including all relevant details. During the evening, the Master of the Boatshed can be contacted on 8331 5460.

Sincerely,



GREG WHITBREAD

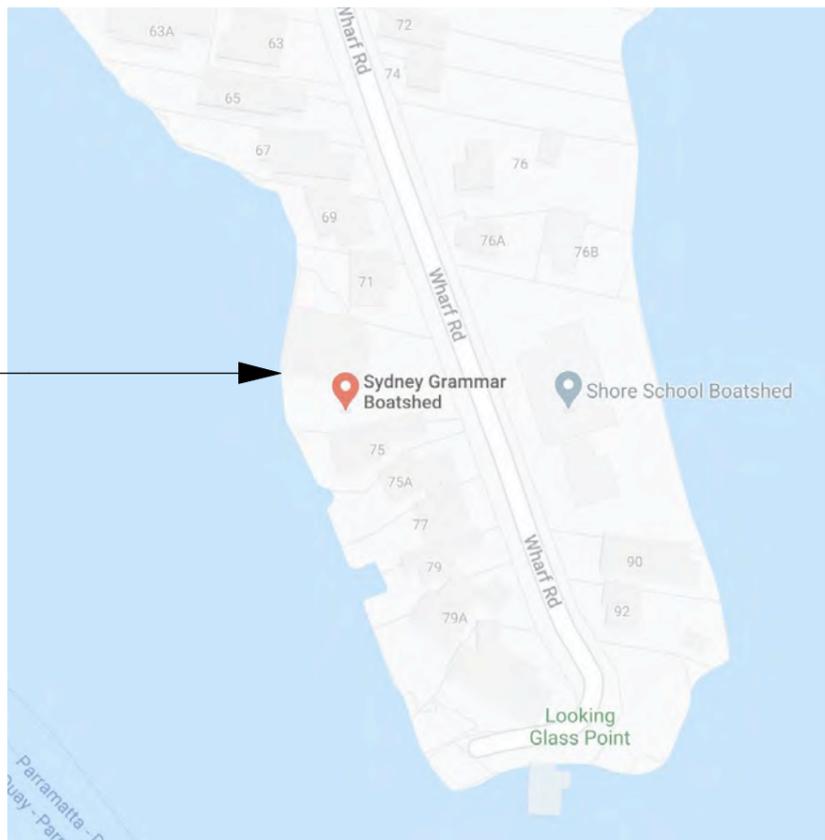
Property Manager

SGS Boatshed

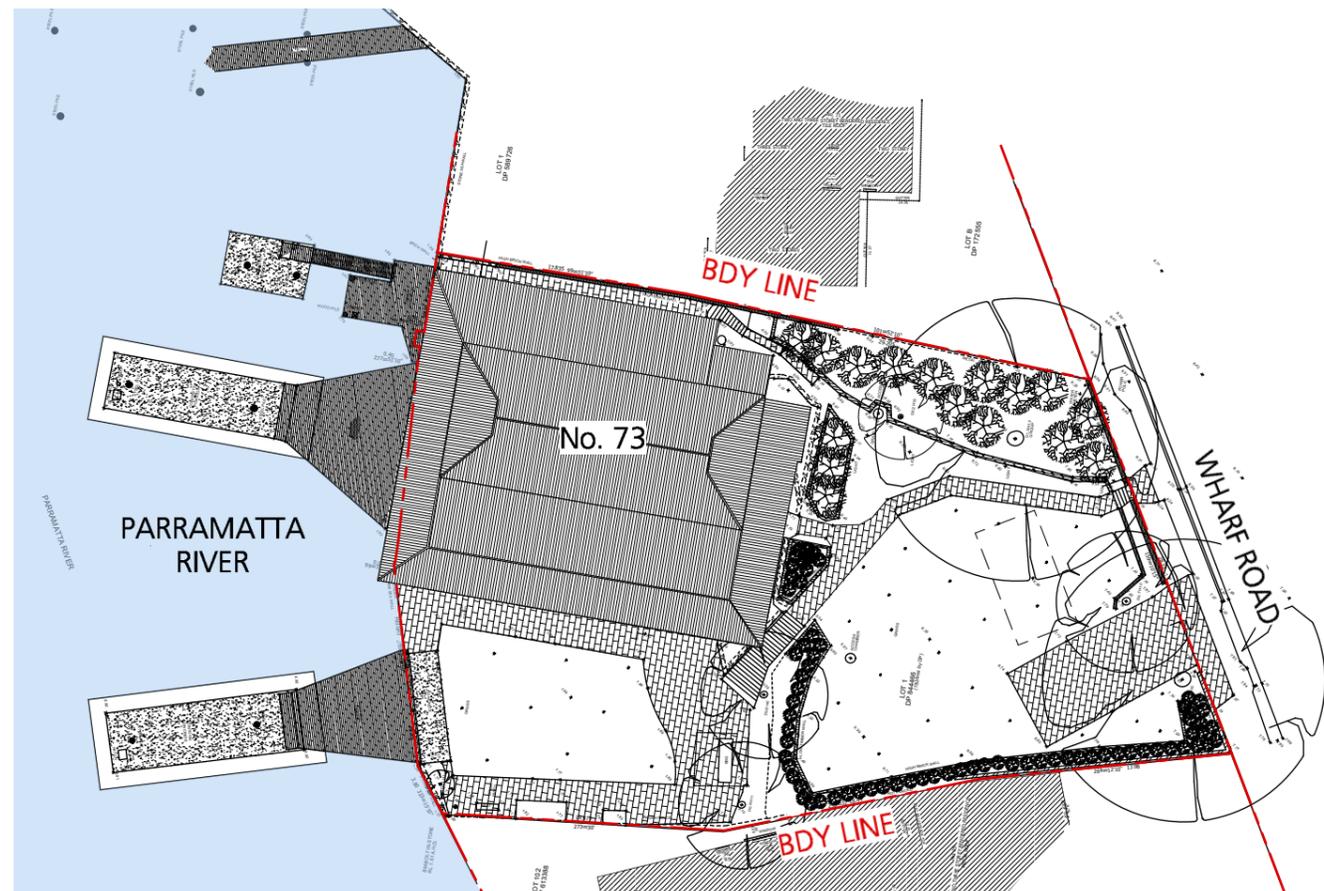


1 Location Plan
Scale: NTS

SGS Boatshed



2 Location Plan
Scale: NTS



3 Survey Plan
Scale: 1:500

Rev P3
Updated survey 20/04/2021

GENERAL NOTES

- Consult with ALL relevant authorities prior to commencing works
- DO NOT scale. All dimensions are nominal + should be confirmed on site prior to commencement
- Obtain setting out information from architect PRIOR to commencement
- Bring discrepancies to the immediate attention of the Architect
- If unsure of any aspect of the works seek instruction from the Architect before proceeding
- All drawings must be read in conjunction with the council consent, specification, schedules, site notes + instructions issued by the Architect
- This material / work is protected by Copyright

CONSULTANTS

BCA Consultant
BCG

Accessibility
BCA Access

Mechanical Engineer
ENGTCC

Hydraulic Engineer
JCL

Fire Engineer
MCD

Fire Services
FLOTH

Electrical Engineer
FLOTH

Surveyors
Frank M Mason & Co

Arborist
Naturally Trees



CLIENT
Brad Campbell
Sydney Grammar School

PROJECT
SGS GLADESVILLE BOATSHED
PROPOSED NO. 73 CHANGE OF USE

ADDRESS
73 WHARF RD
GLADESVILLE NSW 2111

DRAWING TITLE
SITE ANALYSIS

DRAWN BY
JC, CF, JW, ZW

SCALE
REFER INDIVIDUAL SCALE

ISSUE
FOR DA

REVISION
P3

DATE
APRIL 2021

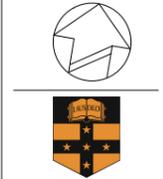
DRAWING NUMBER

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CONSULTANTS

BCA Consultant
 BCG
 Accessibility
 BCA Access
 Mechanical Engineer
 ENGTEC
 Hydraulic Engineer
 JCL
 Fire Engineer
 MCD
 Fire Services
 FLOTH
 Electrical Engineer
 FLOTH
 Surveyors
 Frank M Mason & Co
 Arborist
 Naturally Trees



CLIENT
 Brad Campbell
 Sydney Grammar School

PROJECT
 SGS GLADESVILLE BOATSHED
 PROPOSED NO. 73 CHANGE OF USE

ADDRESS
 73 WHARF RD
 GLADESVILLE NSW 2111

DRAWING TITLE
 EXISTING FIRST FLOOR PLAN

DRAWN BY
 JC, CF, JW, ZW

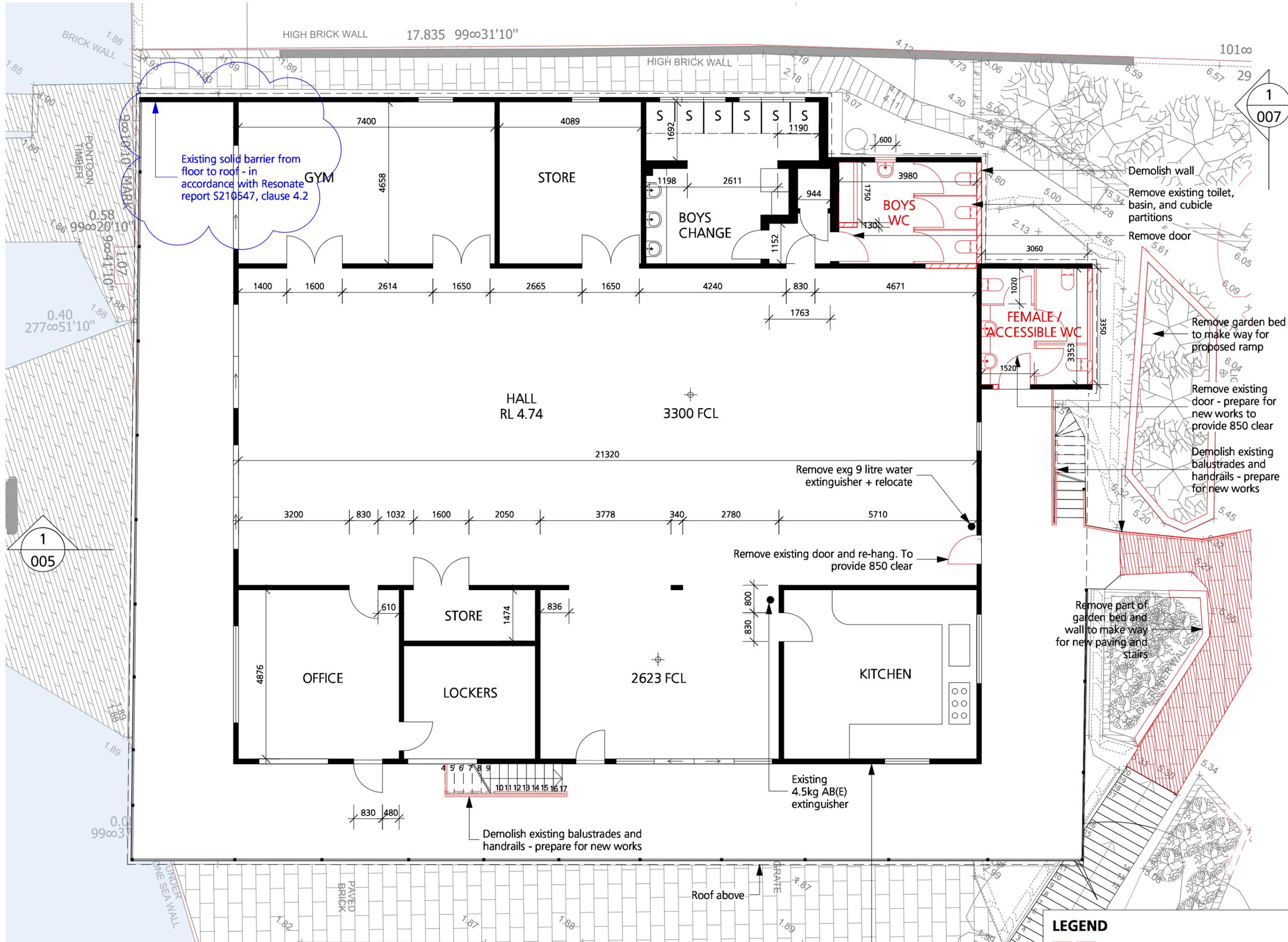
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 FOR DA

REVISION
 P4

DATE
 SEPTEMBER 2021

DRAWING NUMBER
 DA02/20-004



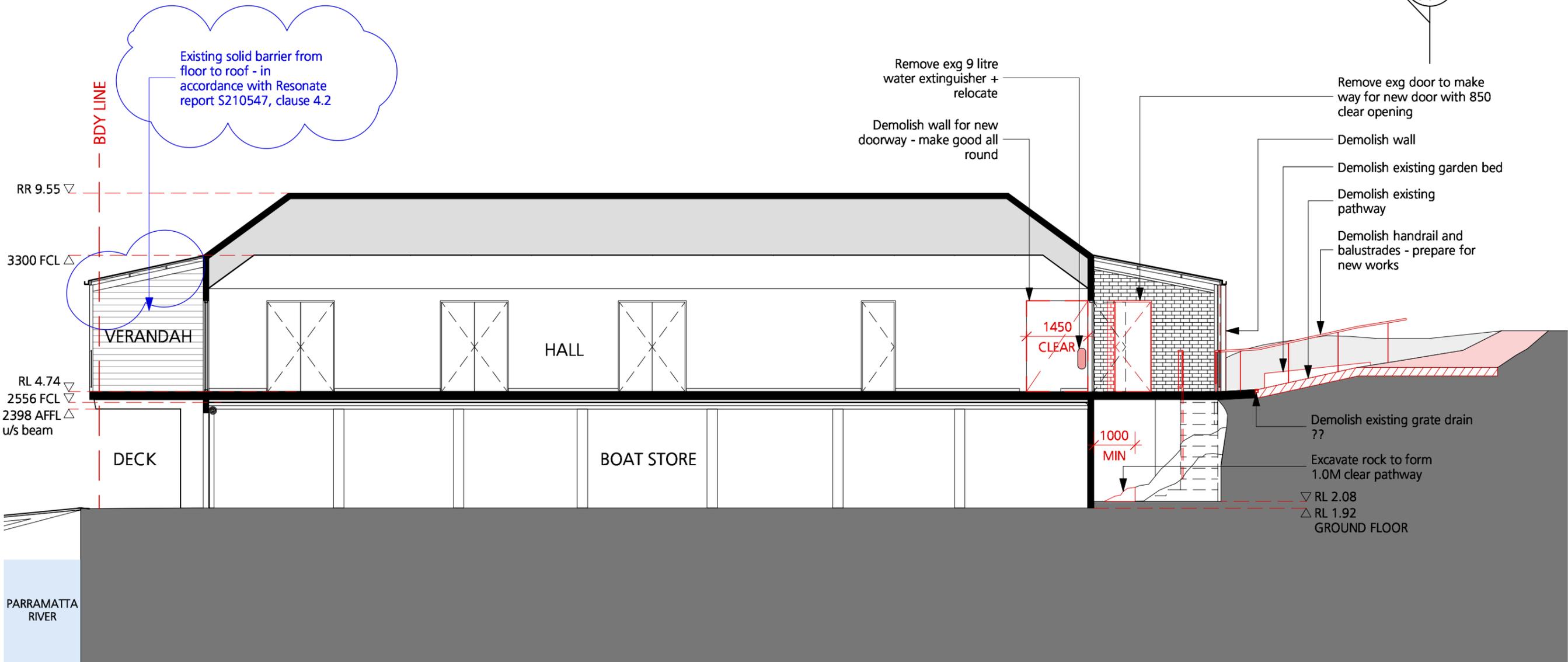
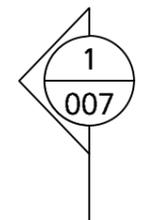
1 Existing First Floor Plan
 Scale: 1:100

Rev P3
 Updated survey 20/04/2021

LEGEND

Demolish / Remove

Existing structure (retained)

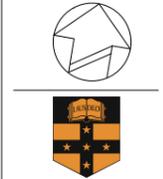


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 Mechanical Engineer
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 Hydraulic Engineer
 JCL
 Fire Engineer
 MCD
 Fire Services
 FLOTH
 Electrical Engineer
 FLOTH
 Surveyors
 Frank M Mason & Co
 Arborist
 Naturally Trees



CLIENT
 Brad Campbell
 Sydney Grammar School

PROJECT
 SGS GLADESVILLE BOATSHED
 PROPOSED NO. 73 CHANGE OF USE

ADDRESS
 73 WHARF RD
 GLADESVILLE NSW 2111

DRAWING TITLE
 EXISTING SECTION AA

DRAWN BY
 JC, CF, JW, ZW

SCALE
 1:100 @ A3

ISSUE
 FOR DA

REVISION
 P3

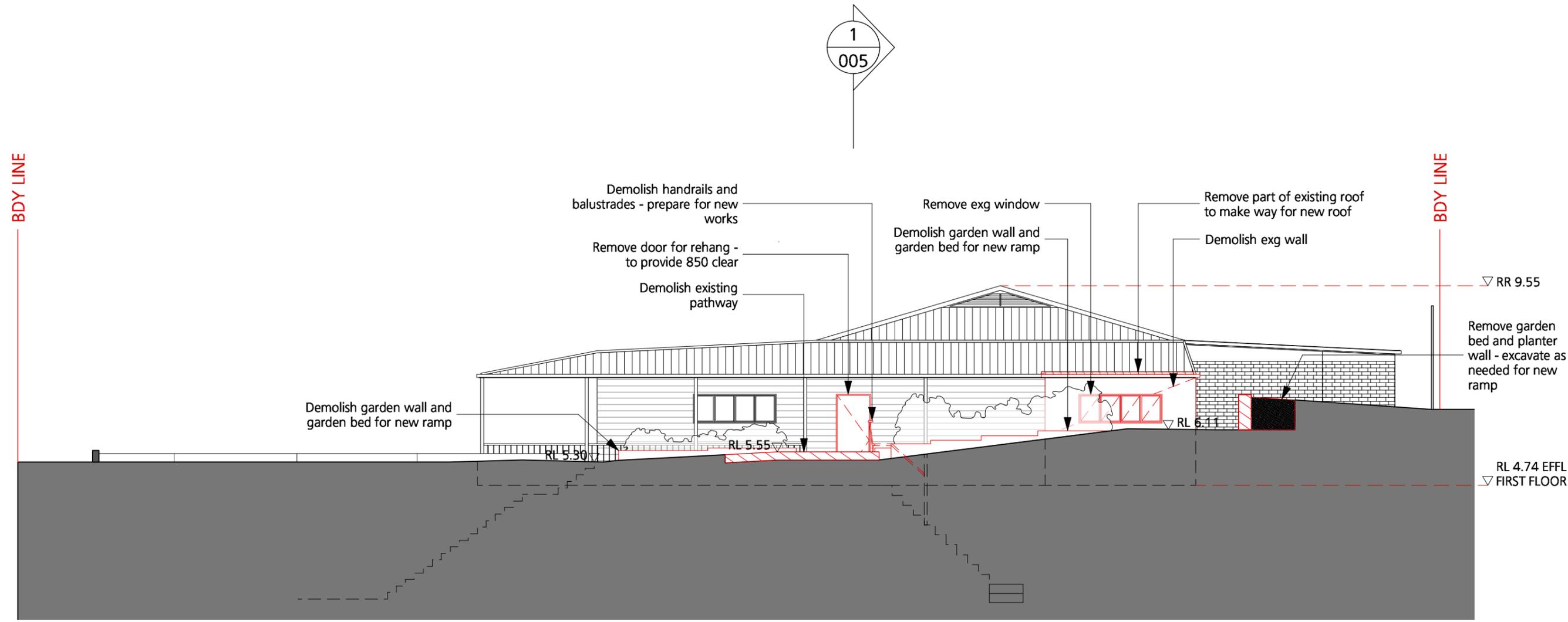
DATE
 SEPTEMBER 2021

DRAWING NUMBER

LEGEND

Demolish / Remove

Existing structure (retained)



GENERAL NOTES

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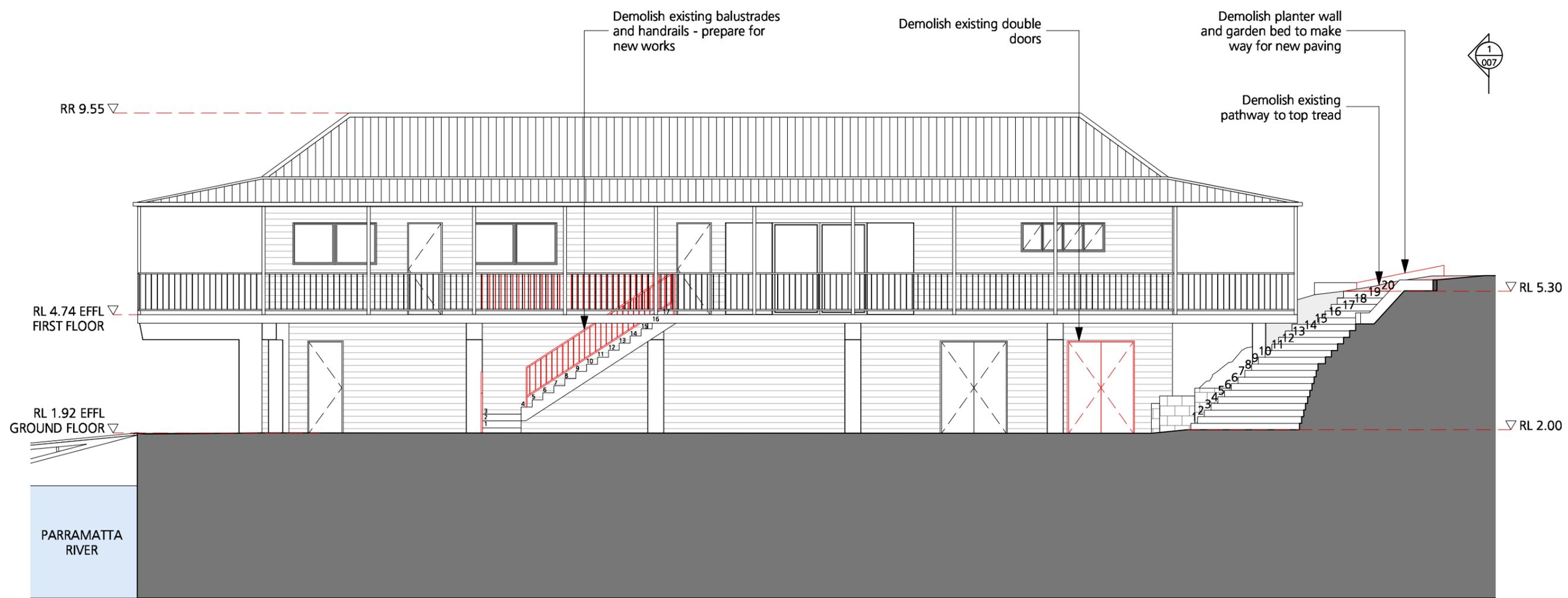
1 Existing Eastern Elevation
 Scale: 1:100


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 Sydney Grammar School
PROJECT
 SGS GLADESVILLE BOATSHED
 PROPOSED NO. 73 CHANGE OF USE
ADDRESS
 73 WHARF RD
 GLADESVILLE NSW 2111
DRAWING TITLE
 EXISTING
 EASTERN ELEVATION
DRAWN BY
 JC, CF, JW, ZW
SCALE
 1:100 @ A3
ISSUE
 FOR DA
REVISION
 P2
DATE
 MARCH 2021
DRAWING NUMBER

LEGEND

 Demolish / Remove

 Existing structure (retained)



GENERAL NOTES

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PROJECT
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ADDRESS
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DRAWING TITLE
 EXISTING
 SOUTHERN ELEVATION

DRAWN BY
 JC, CF, JW, ZW

SCALE
 1:100 @ A3

ISSUE
 FOR DA

REVISION
 P2

DATE
 MARCH 2021

DRAWING NUMBER

1 Existing Southern Elevation
 Scale: 1:100

LEGEND

Demolish / Remove

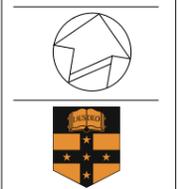
Existing structure (retained)

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PROJECT
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ADDRESS
 73 WHARF RD
 GLADESVILLE NSW 2111

DRAWING TITLE
 PROPOSED FIRST FLOOR PLAN

DRAWN BY
 JC, CF, JW, ZW

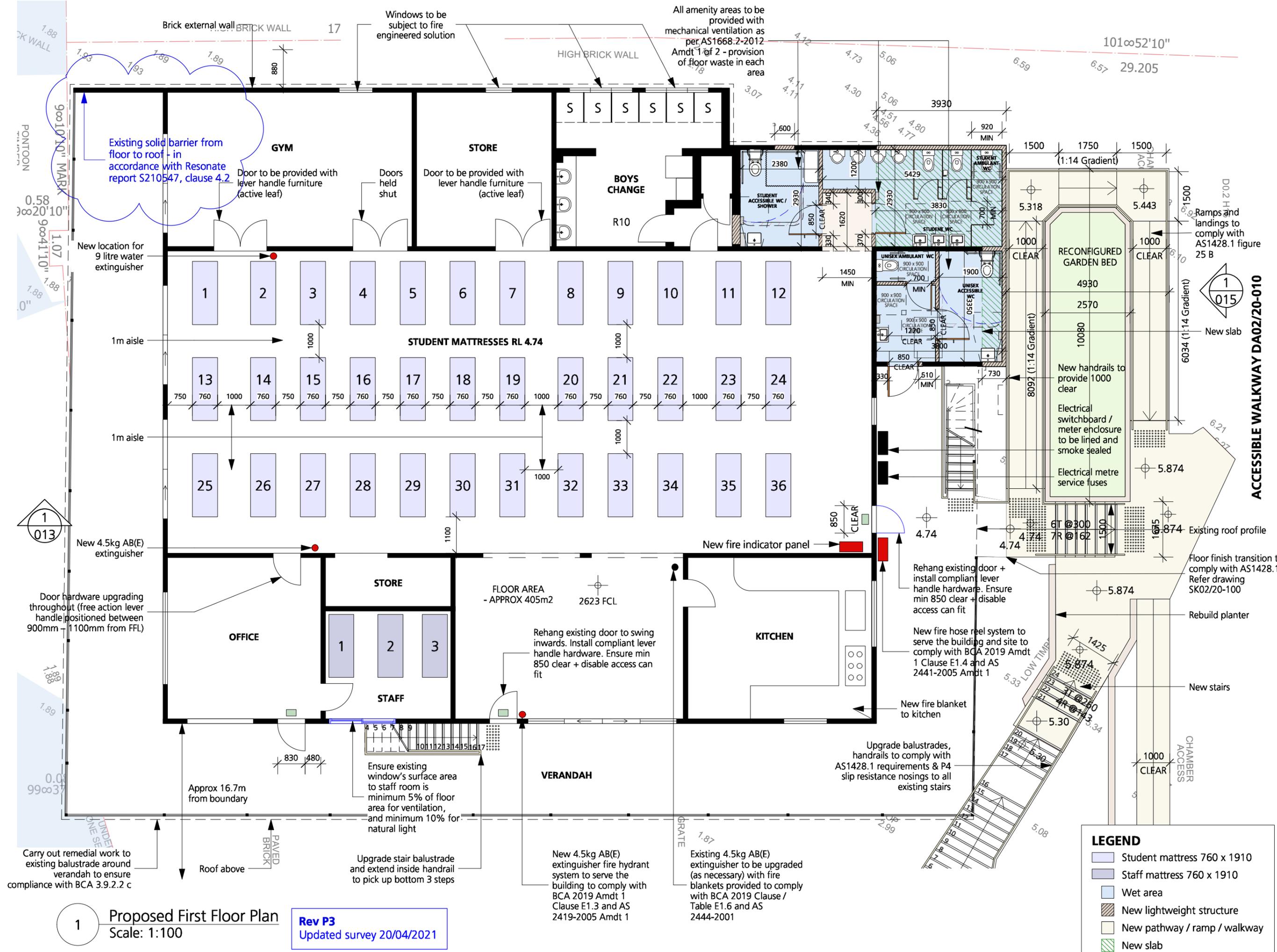
SCALE
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ISSUE
 FOR DA

REVISION
 P4

DATE
 SEPTEMBER 2021

DRAWING NUMBER
 DA02/20-012



LEGEND

- Student mattress 760 x 1910
- Staff mattress 760 x 1910
- Wet area
- New lightweight structure
- New pathway / ramp / walkway
- New slab

1 Proposed First Floor Plan
 Scale: 1:100
Rev P3
 Updated survey 20/04/2021

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 BCG PTC

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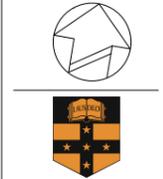
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PROJECT
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 PROPOSED NO. 73 CHANGE OF USE

ADDRESS
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DRAWING TITLE
 PROPOSED SITE PLAN

DRAWN BY
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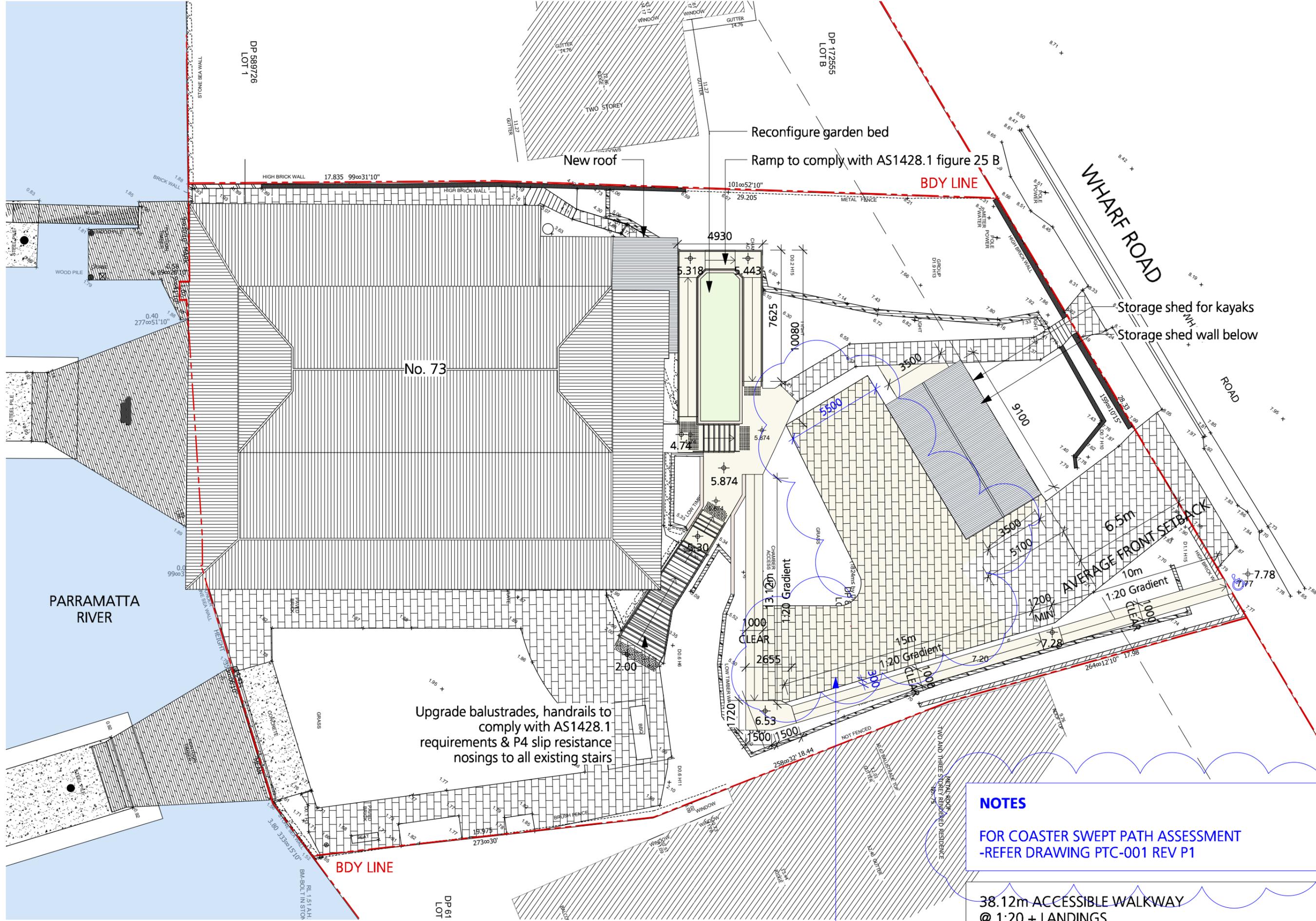
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ISSUE
 FOR DA

REVISION
 P4

DATE
 DECEMBER 2021

DRAWING NUMBER
 DA02/20-010



NOTES

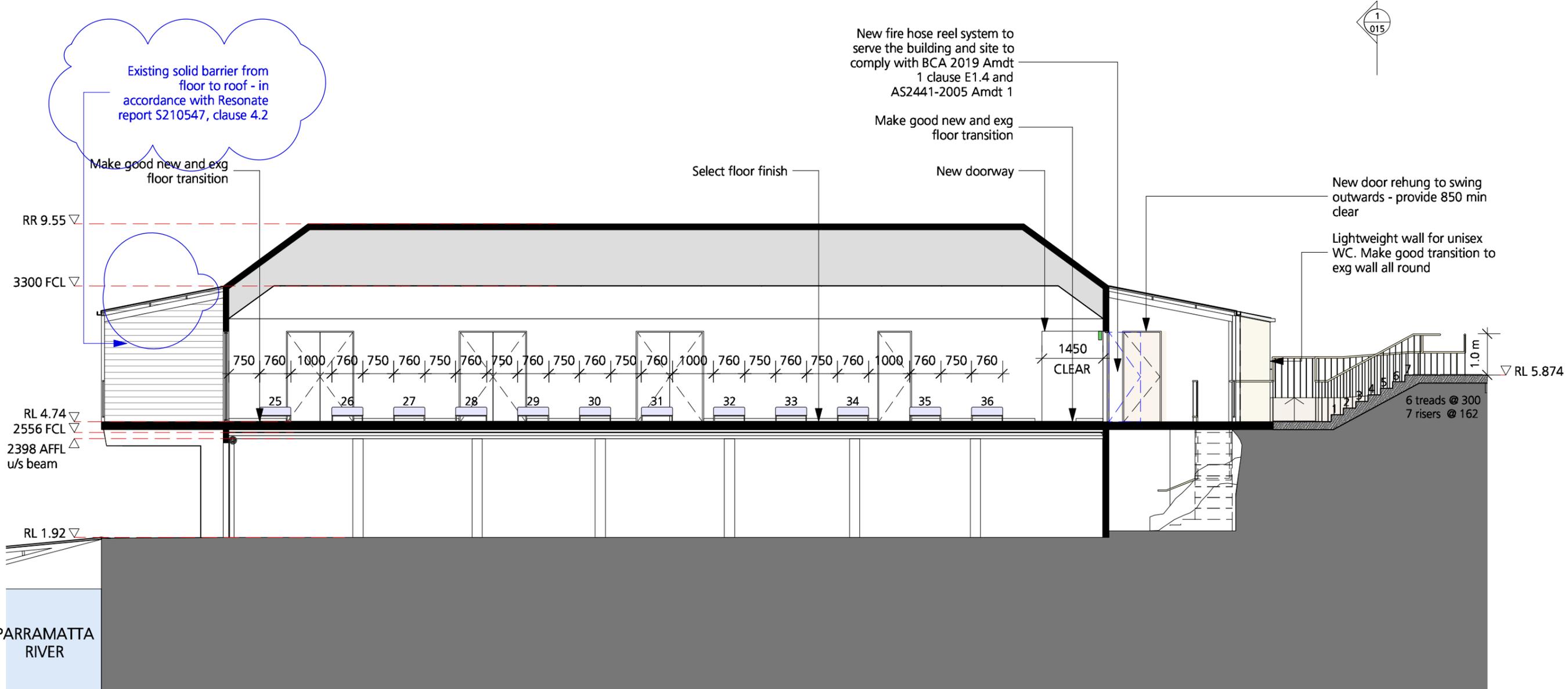
FOR COASTER SWEEP PATH ASSESSMENT
 -REFER DRAWING PTC-001 REV P1

38.12m ACCESSIBLE WALKWAY @ 1:20 + LANDINGS

15.8m ACCESSIBLE RAMP @ 1:14 REQUIRED TO FIRST FLOOR

R10 SLIP RESISTANCE REQUIRED

New coaster bus hardstand paving to match existing



1 Proposed Section AA
 Scale: 1:100

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DRAWING TITLE

PROPOSED
 SECTION AA

DRAWN BY

JC, CF, JW, ZW

SCALE

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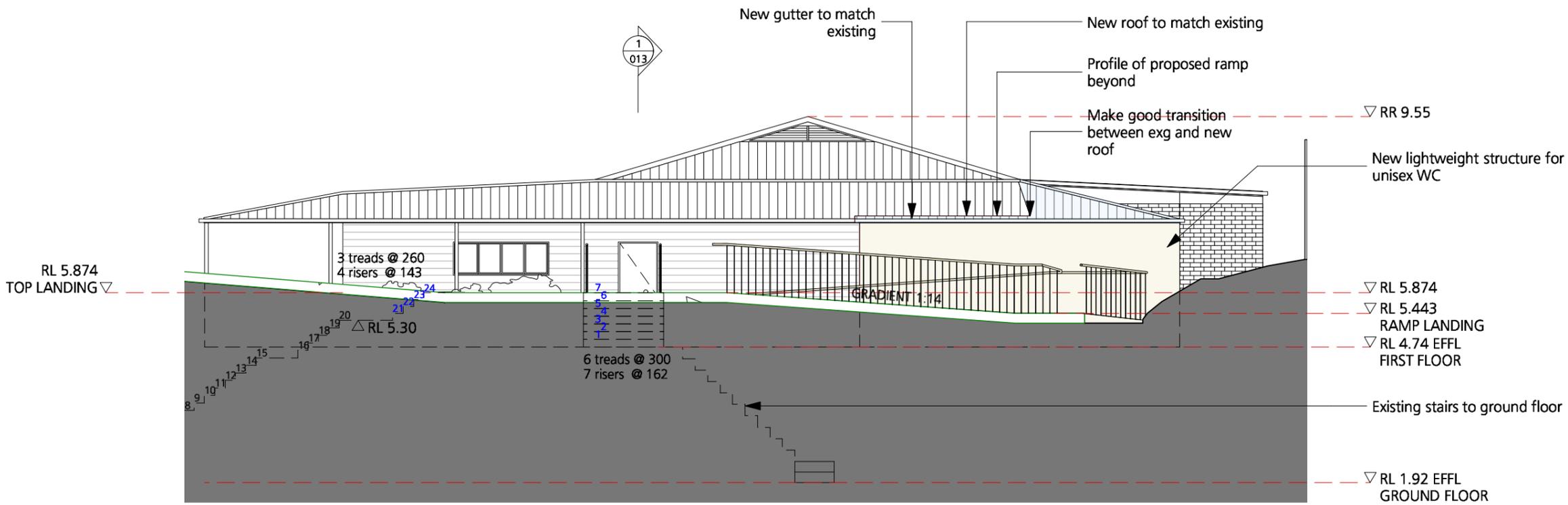
P3

DATE

SEPTEMBER 2021

DRAWING NUMBER

DA02/20-013



1 Proposed Eastern Elevation
 Scale: 1:100

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DRAWING TITLE

PROPOSED
 EASTERN ELEVATION

DRAWN BY

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SCALE

1:100 @ A3

ISSUE

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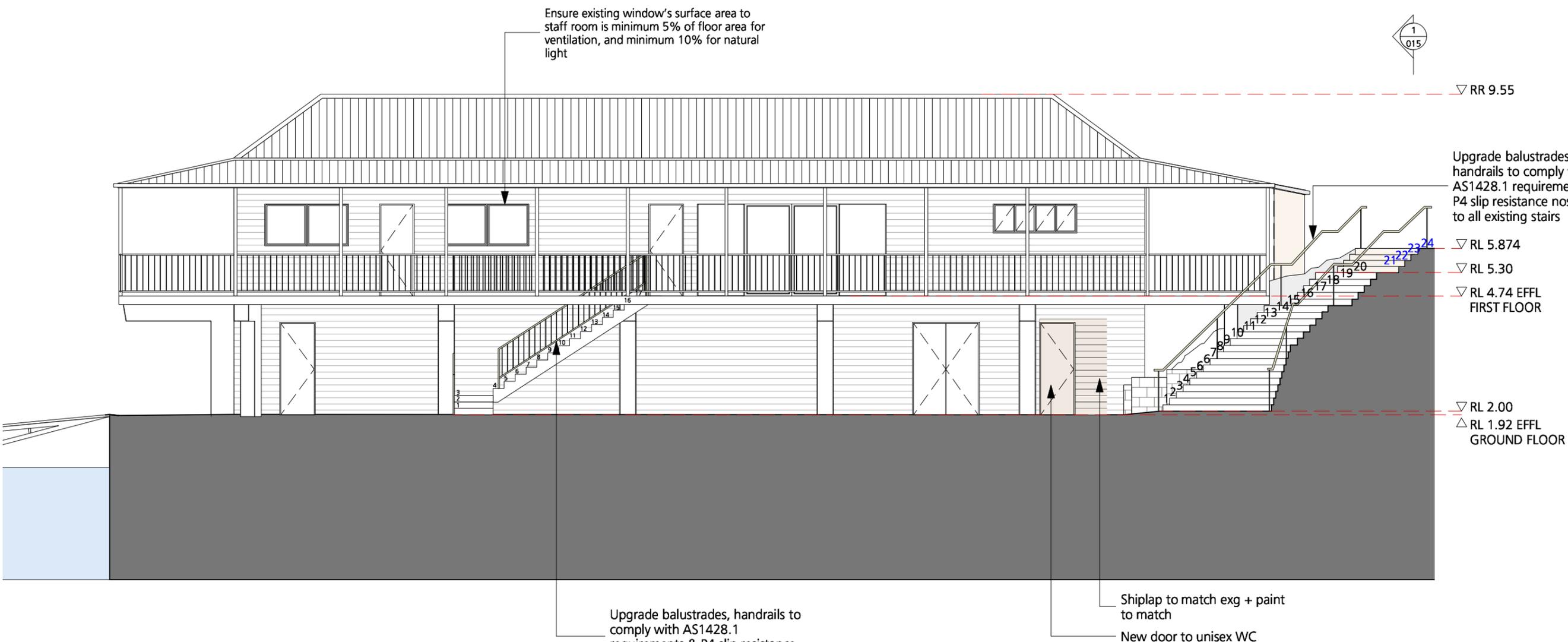
P2

DATE

MARCH 2021

DRAWING NUMBER

DA02/20-014



1 Proposed Southern Elevation
 Scale: 1:100

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DRAWING TITLE

PROPOSED
 SOUTHERN ELEVATION

DRAWN BY

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SCALE

1:100 @ A3

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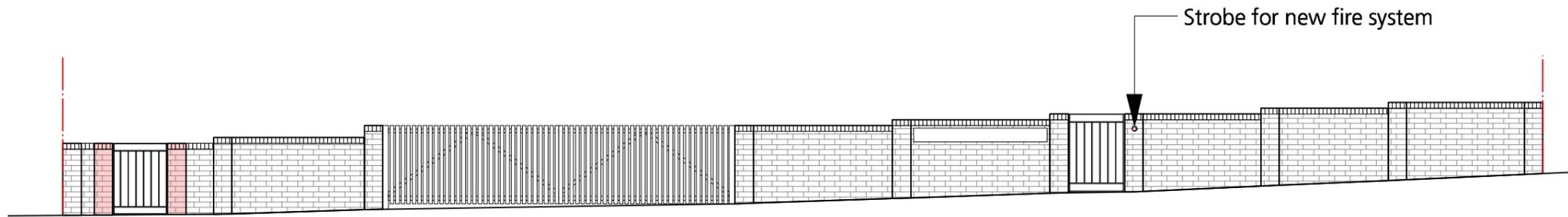
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DATE

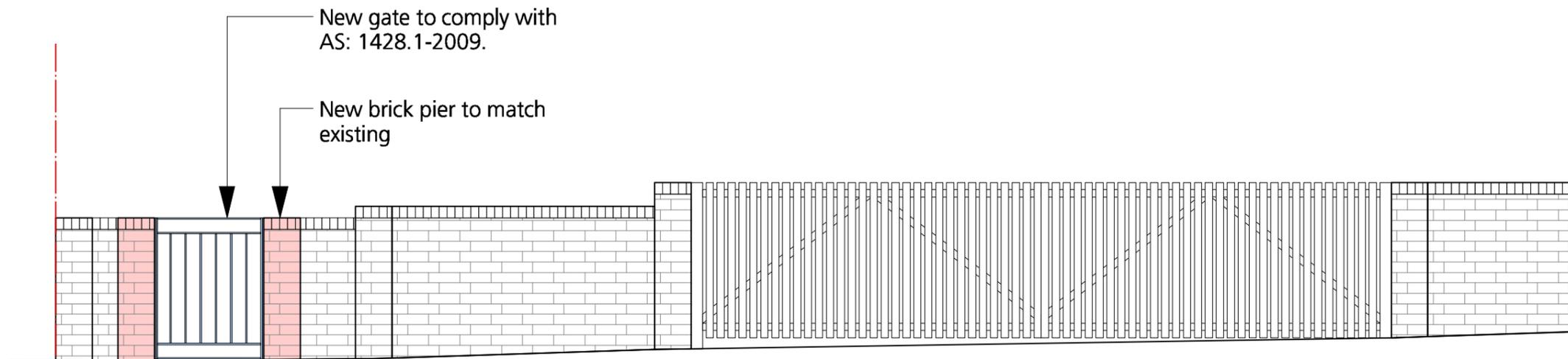
MARCH 2021

DRAWING NUMBER

DA02/20-015



1 Proposed Front Fence Elevation
Scale: 1:100



2 Proposed Front Gate Detail
Scale: 1:50

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DRAWING TITLE
PROPOSED
FRONT FACE ELEVATION

DRAWN BY
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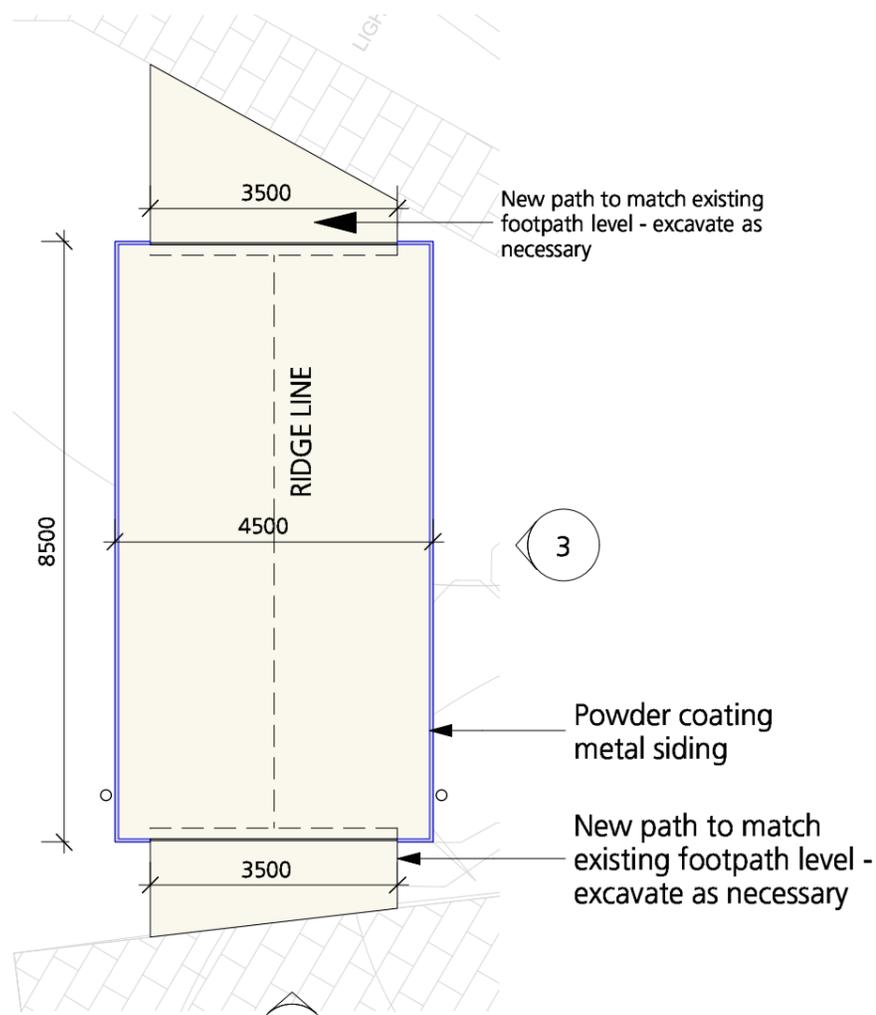
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ISSUE FOR DA

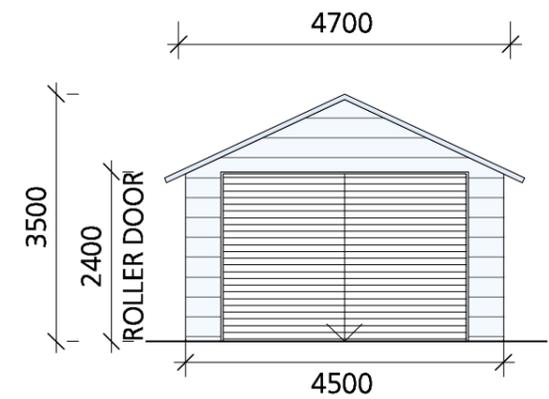
REVISION P2

DATE
MARCH 2021

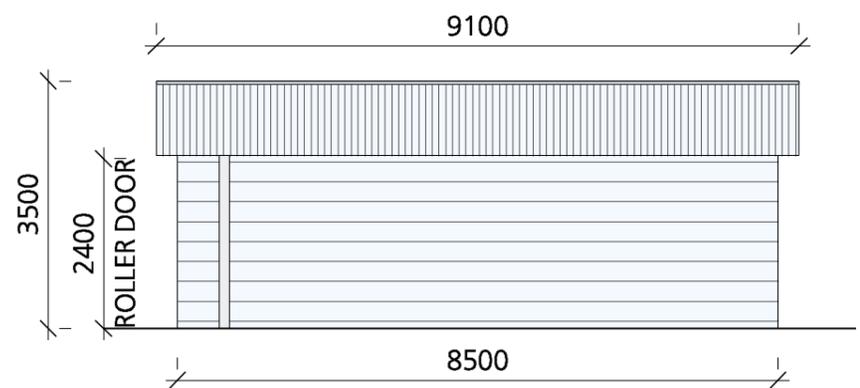
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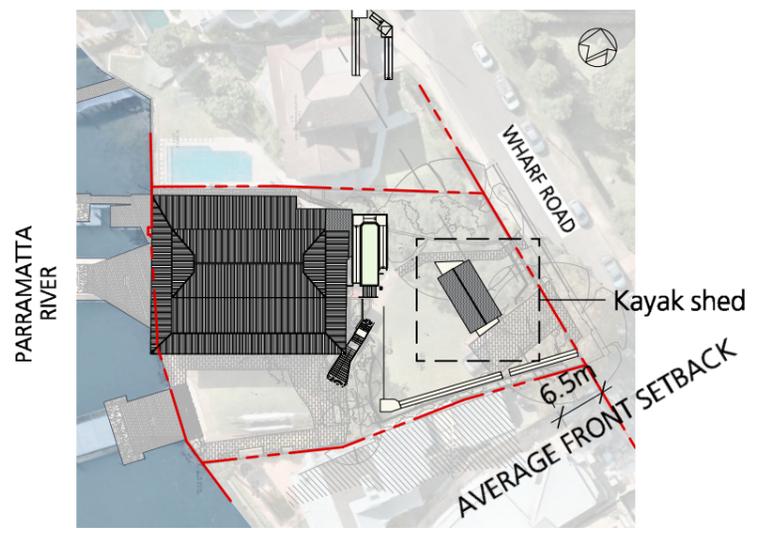
1 Proposed Kayak Shed Plan
Scale: 1:100



2 Proposed Kayak Shed Elevation 1
Scale: 1:100



3 Proposed Kayak Shed Elevation 2
Scale: 1:100



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DRAWING TITLE
 PROPOSED
 KAYAK SHED

DRAWN BY
 JC, CF, JW, ZW

SCALE
 1:100 @ A3

ISSUE
 FOR DA

REVISION
 P2

DATE
 MARCH 2021

DRAWING NUMBER



PROPERTY | PLANNING | CONSTRUCTION

14 July 2021

Our Ref: AB:2021/1644
Your Ref:

Mr John Cockings
JCA Architects
BY EMAIL:

Dear Sir

**RE: DEVELOPMENT APPLICATION LDA 2021/0191
PROPERTY: 73 WHARF ROAD, GLADESVILLE (the "Property")**

We thank you for your instructions in this matter in which your client Sydney Grammar School (the "**School**") requires some advice.

You have requested that we provide some written advice in respect of a 'Request for Information Letter' issued by the City of Ryde Council dated 5 July 2021 (the "**RFI**"). Specially you seek advice in respect to clause 1 of the RFI.

The RFI raises questions in respect to the operation of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (the "**ESEPP**") and specifically into the operation of clause 35(11) therein and the proposed compliance with same.

In this regard, we provide the following advice

1. The Property is known as Folio Identifier 1/844466 and is currently owned by The Trustees of Sydney Grammar School.
2. The Property is located in the City of Ryde Local Government Area.
3. The Property is currently used by the School for school related facilities and uses ancillary to the School including as a boatshed including areas allowing ancillary school uses such as a large open hall area, kitchen, office, gym, bathing and bathroom facilities and other areas for the purpose of storage.
4. We are instructed that the Property has been in the ownership of the Sydney Grammar School or its trustees since the early 1900s and has been used as a premises to facilitate the School's rowing program for a significant period of time.

Suite 110, Level 1, 203-233 New South Head Road, Edgecliff NSW 2027
PO Box 305, Edgecliff NSW 2027
Tel: (02) 8711 0944 Fax: (02) 8711 0955 Email: info@boskovitzlawyers.com

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Standards Legislation

5. We note that a Building Application 733/84 was approved on or about 23 May 1984 and the proposal approved was described as 'alterations and additions to an existing school boat shed.' (the "**1984 Consent**") For the purpose of this advice, the alterations are not important, but the description contained in the approval provides some evidence that there has been an existing use as a school boatshed for a period prior to 1984.
6. On the basis of the above information it is abundantly clear that the use of the Property has always been used for the School for School related activities. This is a position accepted in the RFI.
7. Clause 35(11) of the EESEPP provides that "development for the purpose of residential accommodation for students that is associated with a school may be carried out by any person with development consent on land within the boundaries of an existing school."
8. The key issue is whether or not the proposed development is "within the boundaries of an existing school".
9. The term "existing school" is not a defined term in the EESEPP, however "school" is.
10. The term "school" means "a government school or non-government school within the meaning of the Education Act 1990."
11. For the purposes of characterisation, it is reasonable to trace through the definitions/provisions for schools in the Education Act 1990 (the "**Act**") but is also largely unproductive.
12. The Act defines schools as follows
 - a. "non-government school" means a "registered non-government school";
 - b. "registered non-government school" means "a school, other than a government school, for the time being registered under Part 7."
13. In respect of the definition in paragraph 12b above, Part 7 of the Act merely sets out a process for registration as an individual school or part of a system and such is unproductive for our determination of the meaning of clause 35(11) of the EESEPP.
14. Of more relevance is the fact that at clause 5 of the EESEPP, a "school" is subsumed within the definition of "educational establishment." This means "a building or place used for education (including teaching), being—(a) a school".
15. In *Londish v Knox Grammar School (1997) 97 LGERA 1*, the Court of Appeal considered whether a boarding house located separately and away from the main campus at Knox Grammar School at Warrabee was an "educational establishment" or a "boarding house" For ease of reference we attach a copy of the case.
16. The Court of Appeal held that an offsite boarding house for students was nevertheless an "educational establishment.". Some of the relevant reasoning includes:
 - a. "This is a quite different relationship from that between a school, to whom the care and responsibility of the students has been entrusted by their parents, and its students. The degree of control and discipline which the school can be

expected, and claims to exercise, over the boarding students would be far greater than that which was sought to be exercised (or would be tolerated) by the tertiary students who occupy the Ashfield premises. All meals are provided by the school at the main school site and students are regulated in where and when they must undertake study and other activities. By contrast, the tertiary students (who are free to come and go as they please) provide their own meals with a kitchen available in each house for their use, are responsible for their own study time and the upkeep of their own rooms.”

- b. “Applying a purposive approach to the definition of boarding-house, it does not seem necessary for the school’s residential facility to be characterised as a boarding-house because of the degree to which the school is involved in, and exercises control over, the activities and life of the students. I am satisfied that the Knox boarding facility is ancillary to the educational establishment and is not a ‘boarding-house’.”
 - c. “Clearly the provision of boarding facilities and associated study and supervision is for an educational purpose, enabling students whose parents may live distant from the school or be taken away from home by work commitments, have a stable and continuous education, even if (which I expressly do not find) the boarding premises is not strictly an educational establishment as defined”
17. Applying this reasoning, we say that 1984 Consent for a boat shed, although off site, was sufficient to make the premises part of the overall “school” and “educational establishment”.

Relevantly, it was the provision of facilities, under the close control, care and responsibility of the school, consistent with the broader and wholistic educational purposes for which the school operates. The 1984 Consent was therefore effective for the purposes of the EESEPP to deem the premises part of an “existing school.”

18. On the basis of the above, it can be accepted that the ancillary use forms part of the School’s facility and premises and that the present application can be considered under clause 35(11).

We hope this advice assists.

If you have any other questions please do not hesitate to contact the author.

Yours faithfully,

BOSKOVITZ LAWYERS



ANTHONY BOSKOVITZ

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