

**Item 1**
**12 Darvall Road, Eastwood - LDA2022/0162**
**Demolition, Torrens title subdivision installation of stormwater infrastructure and tree removal.**

**City of Ryde  
Local Planning Panel Report**

<b>DA Number</b>	LDA2022/0162
<b>Site Address &amp; Ward</b>	12 Darvall Road, Eastwood Lot C DP 972117 West Ward
<b>Zoning</b>	R2 Low Density Residential
<b>Proposal</b>	Demolition of the existing dwelling, Torrens title subdivision of one lot into two lots under a battle-axe arrangement, installation of stormwater infrastructure including drainage pipes, and tree removal.
<b>Owner &amp; Applicant</b>	Teamlink (Bayside) Pty Ltd
<b>Report Author</b>	Deren Pearson, Assessment Officer – Town Planner
<b>Lodgement Date</b>	1 June 2022
<b>No. of Submissions</b>	Nil
<b>Cost of Works</b>	\$12,000.00
<b>Reason for Referral to Local Planning Panel</b>	Departure from Development Standards – Development that contravenes a development standard imposed by an environmental planning instrument by more than 10%. <u>4.1C – Minimum lot sizes for battle-axe lots</u> – Clause 4.1C(3) requires a minimum lot size for battle-axe lots to be 740m <sup>2</sup> , excluding the access handle. The proposed rear lot has an area of 620.36m <sup>2</sup> , which is a variation of 119.64m <sup>2</sup> or 16.17% of the development standard.
<b>Recommendation</b>	Approval
<b>Attachments</b>	<b>Attachment 1</b> – Proposed subdivision plan, architectural plans & stormwater drainage plans <b>Attachment 2</b> – Applicant’s clause 4.6 written request to vary clause 4.1(3) and clause 4.1C(3) <b>Attachment 3</b> – Draft conditions of consent

## 1. EXECUTIVE SUMMARY

The proposal is for demolition of the existing dwelling, Torrens title subdivision of one lot into two lots under a battle-axe arrangement, installation of stormwater infrastructure including drainage pipes and on site detention (OSD), and tree removal on land at 12 Darvall Road, Eastwood.

The proposed lots do not satisfy the minimum lot sizes required by Ryde Local Environmental Plan (LEP) 2014. The minimum lot size for a battle-axe lot is 740m<sup>2</sup>, and 580m<sup>2</sup> for a regular lot. Proposed Lot 1 has an area of 537.30m<sup>2</sup> which results in a shortfall of 42.70m<sup>2</sup> or 7.36% as required by Clause 4.1 Minimum subdivision lot size. Proposed Lot 2 has an area of 620.36m<sup>2</sup> (excluding the 3m wide access handle and 713.21m<sup>2</sup> including the access handle). This lot results in a shortfall of 119.64m<sup>2</sup> or 16.17% as required by Clause 4.1C Minimum lot size for battle-axe lots.

The applicant has submitted a written justification seeking an exception to the above development standards under Clause 4.6 of Ryde LEP 2014. The request satisfactorily addresses the jurisdictional prerequisites required to satisfy the consent authority. The variation sought to the standard is considered to be satisfactory.

Assessment of the application against the relevant planning framework and consideration of matters by Council's technical departments have not identified any issues of concern that cannot be dealt with by conditions of consent. No submissions were received in response to the public notification of the application.

The proposal does not result in any significant adverse impacts upon neighbouring properties or the streetscape. The subject site is suitable for the proposed development. The application is therefore satisfactory when evaluated against section 4.15 of the *Environmental Planning and Assessment Act 1979*.

Given the ongoing residential use of the site, there is minimal contamination risk, and as such, no further information is required to satisfy Clause 4.6 of State Environmental Planning Policy (Resilience and Hazards) 2021.

This report recommends that the Panel support the use of Clause 4.6 to vary the development standards in this instance and approve the application subject to the recommended conditions at **Attachment 3**.

## 2. THE SITE AND LOCALITY

The site is legally described as Lot C within DP 972117 and is known as 12 Darvall Road, Eastwood. The site is rectangular in shape with a frontage of 21.04 metres to Darvall Road. The north and south side boundaries are 59.435 metres in length and the rear (east) boundary is 21.04 metres long. The site has an area of 1250.50m<sup>2</sup>.

The site currently accommodates a single dwelling house which is part one storey and part two storey. The existing dwelling is constructed of brick with a tile roof and has a rear sunroom extension with steel roofing. Vehicular access is from a concrete strip driveway located adjacent to the north side boundary to a single garage. Other site works include paved areas, boundary fencing and low garden walls.

The site has a cross-fall from south to north, with the land at the street frontage sloping from RL90.85 adjacent to the south side boundary to RL88.99 on the north side boundary, which is a slope of 8.84%. The cross-fall is generally consistent from the front of the site through to the rear boundary.

The site is not identified as being affected by any land hazards and it does not contain any heritage items, nor is it in the vicinity of any. The site does not contain any significant vegetation and all of the trees within the property are less than 5 metres in height.



Figure 1 - Aerial photograph of site



Figure 2 - The Site as Viewed from Darvall Road



**Figure 3 - Rear Yard of the Subject Site**

### **Adjoining properties**

The site is adjoined to the north by No. 10A Darvall Road, which contains a single storey dwelling house constructed of brick with a tile roof. The vehicular access to the property is located adjacent to the north side boundary and the single width concrete driveway accesses a detached single garage at the rear of the property. The site also contains a detached secondary dwelling to the rear of the principal dwelling. Complying development certificate was issued for the secondary dwelling by a private certifier (CDP2016/0600).



**Figure 4 - Neighbouring Dwelling House at 10A Darvall Road**

The site is adjoined to the south by No. 12A Darvall Road which contains a multi dwelling housing development constructed of brick with steel roofing. Development consent was granted by Council to Local Development Application LDA2018/0505 for the construction of four (4) multi dwelling housing dwellings at 12A Darvall Street and an occupation certificate was issued for the development by a private certifier on 2 March 2022. The dwelling with frontage to Darvall Road is two storey in height and the three (3) dwellings to the rear are single storey in height. Vehicular access to the development is provided adjacent to the south side boundary of that site. All four dwellings have private open space areas on the northern side of the building, oriented towards the subject site.



Figure 5 - Neighbouring Multi Dwelling Housing Development at 12A Darvall Road

### 3. THE PROPOSAL

Development consent is sought for demolition of the existing dwelling, Torrens title subdivision of one (1) lot into two (2) lots under a battle-axe arrangement, installation of stormwater infrastructure including drainage pipes and OSD, and tree removal.

Lot C is proposed to be subdivided into the following allotments:

Allotment	Area	Dimensions
Lot 1 (front)	537.30m <sup>2</sup>	18.040m frontage to Darvall Road  26.95m northern side boundary adjacent to the proposed access handle with a 3.606m splay to the rear boundary.  16.04m rear (east) boundary to proposed Lot 2.  29.95m southern side boundary.
Lot 2 (rear)	713.21m <sup>2</sup> (620.36m <sup>2</sup> excluding the access handle)	16.040m front boundary to proposed Lot 1.  3.00m frontage to Darvall Road.  The access handle is 3m in width and 29.95m in length with a 3.606m splay to provide space for vehicle manoeuvring.  The rear allotment has a width of 21.04m and a depth of 29.485m excluding the access handle

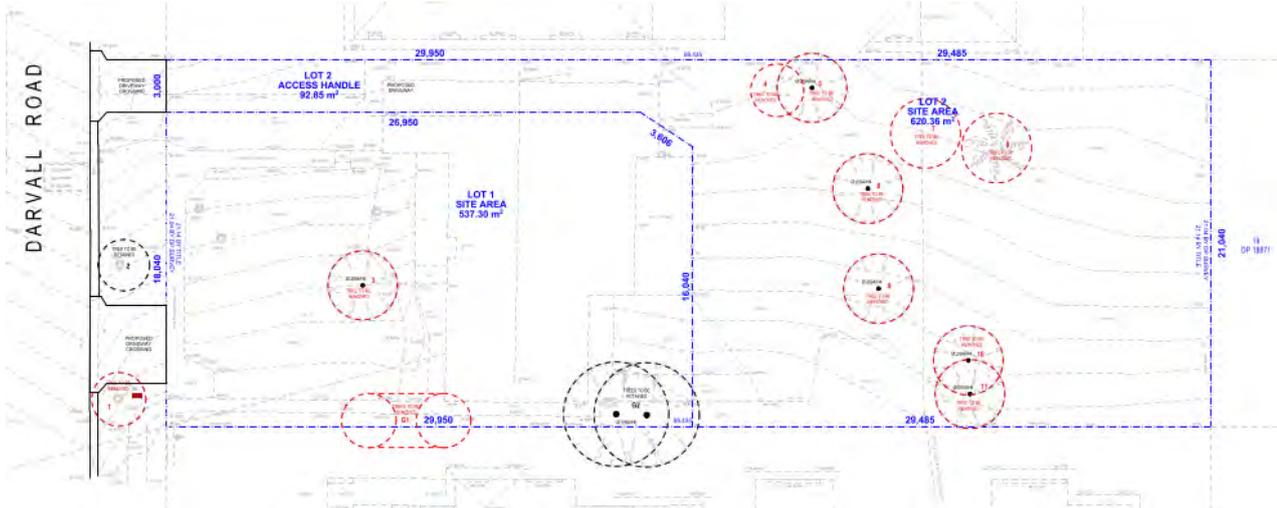


Figure 6 - Proposed Subdivision Plan

The applicant has provided indicative building envelopes on each lot (see **Figure 7**) to demonstrate that each newly created lot can be developed in the future without any unacceptable impact to adjoining properties. The building envelopes detailed on the plans detail the minimum boundary setbacks required by Ryde Development Control Plan 2014. Consent is not sought for these building envelopes and any future dwelling would be subject to a separate application.

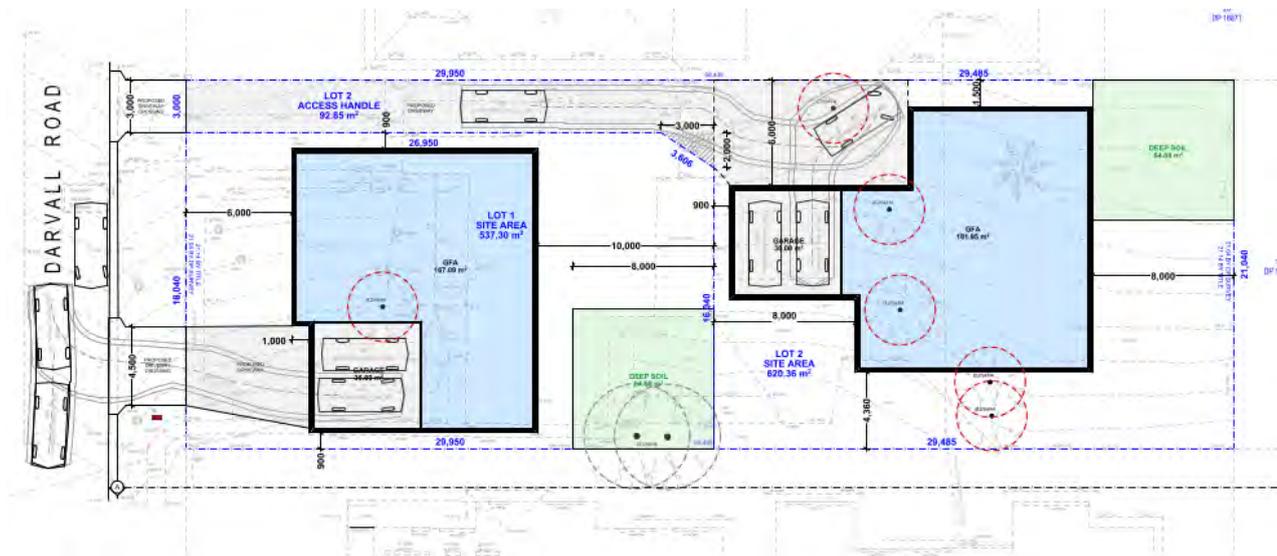


Figure 7 - Plan Detailing Indicative Building Envelope

The proposal includes a 4.5m wide concrete vehicular footpath crossing for proposed Lot 1 and a 3m wide concrete footpath crossing accessing a 3m wide concrete internal driveway along the access handle of proposed Lot 2. The internal driveway is 29.95 metres in length and 3 metres in width, with a splay at the entrance to proposed Lot 2 to allow for manoeuvring of vehicles. A boundary wall to a maximum height of 150mm is proposed for the length of the driveway due to the cross-fall of the land. The internal driveway has a gradient of 1.5%.

It is noted that Council's Senior Development Engineer has advised that OSD is not required at the subdivision stage and that this should form part of any future dwelling application on the site. Conditions of consent have been imposed to delete the proposed OSD.

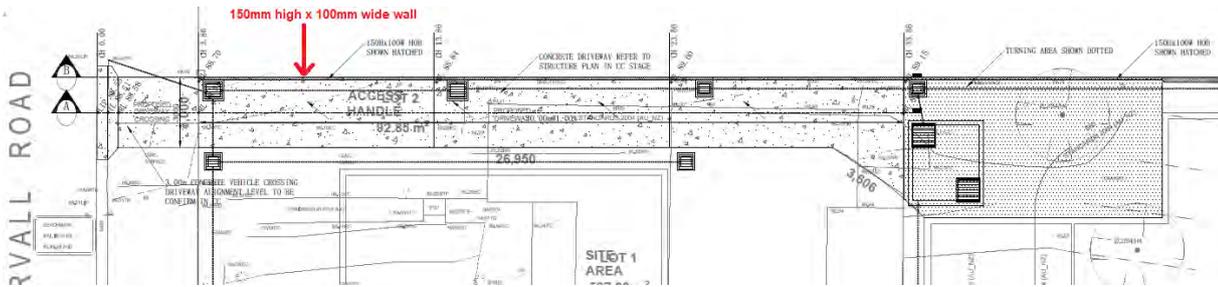
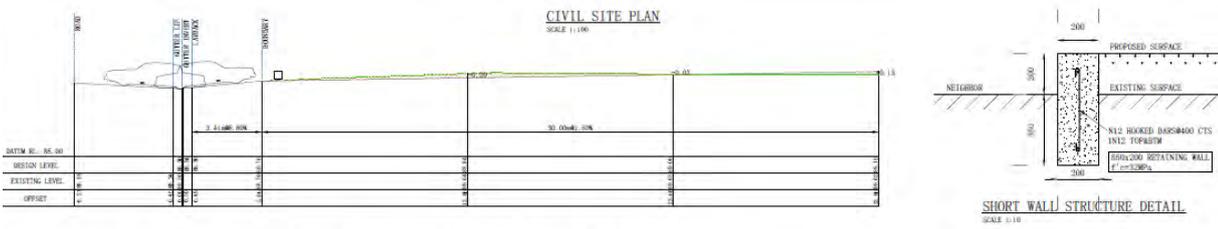


Figure 8 – Proposed Lot 2 Driveway Plan



DRIVEWAY LONGITUDINAL SECTION B (NORTH WEST BOUNDARY)  
SCALE 1:100

Figure 9 – Proposed Driveway and Short Wall Sections

The proposal includes the removal of ten (10) trees and one (1) group of trees as demonstrated in **Figure 10**:

- Tree 1: Weeping Bottlebrush (Street Tree)
- Tree 3: Port Wine Magnolia
- Tree 4: Sasanqua Camellia
- Tree 5: Rhododendron
- Tree 6: Citrus Tree
- Tree 7: Olive Tree
- Tree 8: Travellers Palm
- Tree 9: Citrus Tree
- Tree 10: Mango Tree
- Tree 11: Mango Tree
- Group 1: Bhutan Cyprus

The applicant has requested consent for removal of Tree 1 within the road reserve in front of the property, however Council’s Tree Management Officer has reviewed the proposal and requested that both tree Nos. 1 and 2 be removed with replacement planting of one native tree (Yellow Bloodwood).

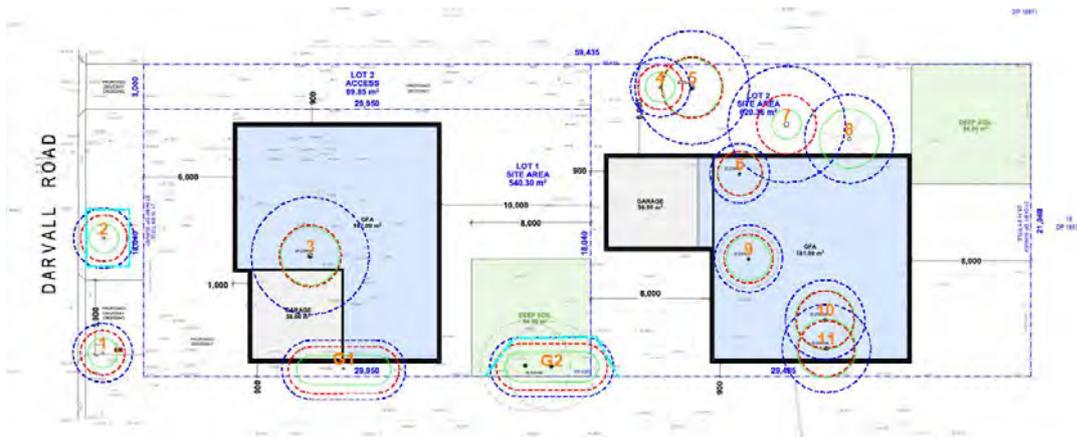


Figure 10 – Tree Removal Plan and Indicative Building Envelopes

**4. HISTORY**

Date	Action
1 June 2022	Application lodged.
9 June to 28 June 2022	Application notified. No submissions received.
23 June 2022	A request for information was sent to the applicant requesting: <ul style="list-style-type: none"> <li>- An amended Clause 4.6 variation request demonstrating that there are sufficient environmental planning grounds to justify contravening the development standards for minimum subdivision lot size</li> <li>- Details regarding the construction of the driveway along the access handle of proposed Lot 2</li> <li>- Shadow diagrams demonstrating the overshadowing effect that would result from a two storey dwelling being constructed within each indicative building envelope.</li> </ul>
22 July 2022	Further information was submitted by the applicant, including: <ul style="list-style-type: none"> <li>- Cover letter responding to Council’s request for further information</li> <li>- Amended Clause 4.6 Request</li> <li>- Amended plans with shadow diagrams included</li> <li>- Amended driveway plans</li> <li>- Amended stormwater plans</li> </ul>
1 August 2022	A request for information was sent to the applicant requesting: <ul style="list-style-type: none"> <li>- Correction of inconsistency in levels between the civil plans and stormwater plans</li> <li>- Inclusion of a retaining wall on the plans due to the proposed minor fill at the rear of the site.</li> </ul>
17 August 2022	Amended civil and stormwater plans submitted by Applicant.

**5. PLANNING ASSESSMENT**

This section provides an assessment of the DA against section 4.15(1) matters for consideration of the *Environmental Planning and Assessment Act 1979*.

**5.1 State Environmental Planning Instruments**

Instrument	Proposal	Compliance
<b>State Environmental Planning Policy Resilience and Hazards SEPP 2021</b>		
<b>Chapter 4 Remediation of land</b>		
The object of this Chapter is to provide for a Statewide planning approach to the remediation of contaminated land. 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.	Pursuant to Clause 4.6(1) considerations, the subject site has been historically used for residential purposes. As such, it is unlikely to contain any contamination and further investigation is not warranted in this case.	Yes

<b>State Environmental Planning Policy BASIX 2004</b>		
<p>The certificate demonstrates compliance with the provisions of the SEPP and is consistent with commitments identified in the application documentation.</p>	<p>The proposal is for Torrens title subdivision and associated works. The proposal does not involve the construction of any new dwellings, therefore the submission of a BASIX Certificate is not required.</p>	<p>N/A</p>
<b>State Environmental Planning Policy – Biodiversity and Conservation SEPP 2021</b>		
<b>Chapter 2 Vegetation in non-rural areas</b>		
<p>The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation.</p>	<p>The proposal includes the removal of 10 trees and 1 group of trees, being:</p> <ul style="list-style-type: none"> <li>- Tree 1: Weeping Bottlebrush (Street Tree)</li> <li>- Tree 3: Port Wine Magnolia</li> <li>- Tree 4: Sasanqua Camellia</li> <li>- Tree 5: Rhododendron</li> <li>- Tree 6: Citrus Tree</li> <li>- Tree 7: Olive Tree</li> <li>- Tree 8: Travellers Palm</li> <li>- Tree 9: Citrus Tree</li> <li>- Tree 10: Mango Tree</li> <li>- Tree 11: Mango Tree</li> <li>- Group 1: Bhutan Cyprus</li> </ul> <p>All of the trees to be removed from the site are exempt trees as identified in Part 9.5 Tree Preservation in RDCP 2014. The trees are either fruit trees or they are under 5m in height. For this reason, the trees are not identified as being significant vegetation. See <b>Figures 19, 20, 21 and 22.</b></p> <p>The proposal has been supported by an arborist report and landscape plan. The proposal does not unduly impact upon any existing biodiversity or trees or vegetation on the site.</p> <p>The proposal is considered satisfactory by Council’s Landscape Architect and Tree Management Officer.</p>	<p>Yes</p>
<b>Chapter 10 Sydney Harbour Catchment</b>		
<p>This Plan applies to the whole of the Ryde Local Government Area. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.</p>	<p>Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal.</p>	<p>Yes</p>

## **5.2 Draft Environmental Planning Instruments**

### **Draft Remediation of Land State Environmental Planning Policy (SEPP)**

The Draft Remediation of Land SEPP does not seek to change the requirement for consent authorities to consider land contamination in the assessment of DAs. As discussed within the SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land (formerly SEPP No. 55 – Remediation of Land) assessment above, the proposed land use is low density residential consistent with the historical use of the site. As such, it is unlikely to contain any contamination and further investigation is not warranted in this case.

### **Draft Environment SEPP**

The draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. The consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways and urban bushland areas. Changes proposed include consolidating SEPPs, which include:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposal is consistent with the provisions of the draft SEPP.

## **5.3 Ryde Local Environmental Plan 2014**

Under Ryde LEP 2014, the property is zoned R2 Low Density Residential, and the subdivision of land is permissible with Council's consent.

### **Aims and objectives for residential zones:**

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

The proposal is for Torrens title subdivision of low density residential lot into two lots. The proposal would provide for a variety of housing types and for the housing needs of the community within a low density residential environment. The second objective is not of relevance to the proposed development. The proposal has been supported by a satisfactory Clause 4.6 written variation which demonstrates the residential zone objectives are achieved despite the variation to the development standard. The proposed satisfies the relevant objectives for residential developments.

The following is a summary of the clauses under Ryde LEP 2014 applicable to the development:

Ryde LEP 2014	Proposal	Compliance
<b>2.6 Subdivision – consent requirements</b>		
(1) Land to which this Plan applies may be subdivided, but only with development consent.	Development consent is sought under the subject application.	Yes
(2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land.	The site does not contain a secondary dwelling.	Yes
<b>4.1 Minimum subdivision lot size</b>		
(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land. – <b>580 square metres.</b>	<p>Lot 1 - 537.30m<sup>2</sup> (Variation of 42.70m<sup>2</sup> and 7.36% of the development standard).</p> <p>Lot 2 – 713.21m<sup>2</sup> (620.36m<sup>2</sup> excluding the access handle) – see Clause 4.1C.</p> <p>See Clause 4.6 discussion below.</p>	<b>No, Clause 4.6 variation request submitted</b>
<b>4.1C Minimum lot sizes for battle-axe lots</b>		
(3) Despite clause 4.1, the minimum lot size for a battle-axe lot that is land to which this clause applies is <b>740 square metres.</b>	<p>Lot 2 – 713.21m<sup>2</sup>. The area of the allotment excluding the access handle is 620.36m<sup>2</sup></p> <p>(Variation of 119.64m<sup>2</sup> and 16.17% of the development standard). See Clause 4.6 discussion below.</p>	<b>No, Clause 4.6 variation request submitted</b>
<b>4.3(2) Height</b>		
9.5m	The proposal does not involve the construction of any new building.	N/A
<b>4.4(2) &amp; 4.4A(1) FSR</b>		
0.5:1	The proposal does not involve the construction of any new building.	N/A

<b>4.6 Exceptions to development standards</b>		
<p>(1) The objectives of this clause are as follows—</p> <p>(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,</p> <p>(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</p>	<p>Variations sought to:</p> <ul style="list-style-type: none"> <li>- Clause 4.1 Minimum subdivision lot size</li> <li>- Clause 4.1C Minimum lot size for battle-axe lots.</li> </ul>	<p>Refer to discussion below</p>
<b>6.2 Earthworks</b>		
<p>(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p>	<p>Minor earthworks are proposed to accommodate the construction of the driveways and stormwater drainage works. Up to 200mm of fill is proposed in the north-east corner of the site with a 200mm high retaining wall to retain the fill. Future DAs for construction of a dwelling on each new lot will also address this clause.</p>	<p>Yes</p>
<b>Clause 6.4 Stormwater management</b>		
<p>(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.</p>	<p>The application includes a stormwater management plan achieving compliance with Part 8.2 Stormwater Management of Ryde DCP 2014.</p> <p>The proposal has been considered acceptable by Council's Senior Development Engineer subject to conditions of consent (see <b>Conditions 30, 54, 63 and 64</b>).</p>	<p>Yes</p>

**Clause 4.6 Exceptions to development standards**

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

Several key Land and Environment Court (NSW LEC) planning principles and judgements have refined the manner in which variations to development standards are required to be approached. The key findings and directions of each of these matters are outlined in the following discussion.

The decision of Justice Lloyd in *Winten v North Sydney Council* established the basis on which the former Department of Planning and Infrastructure's Guidelines for varying development standards was formulated.

These principles for assessment and determination of applications to vary development standards are relevant and include:

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

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

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

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

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

The applicant has submitted a written request to vary the developments standards for minimum lot size. An assessment of the relevant provisions of Clause 4.6 is as follows:

***Whether compliance with the standard is unreasonable and unnecessary in the circumstances of the case***

The submission relies upon the common ways to demonstrate compliance with a development standard is unreasonable or unnecessary in accordance with *Wehbe v Pittwater Council (2007)*. The submission relies upon the objectives of the standard being achieved notwithstanding the non-compliance with the standard.

The objectives of the minimum subdivision lot size are set out in Clause 4.1 as follows:

- (a) to retain streetscape, amenity, landscaped areas and private open space in residential zones,*
- (b) to ensure that lot sizes enable sufficient areas of open space within each lot so as to enable the retention and embellishment of green linkage corridors in residential zones.*

The following justification was provided in the applicant's written request:

- (a) to retain streetscape, amenity, landscaped areas and private open space in residential zones,*

*The proposed subdivision will retain the streetscape character of Darvall Road. The proposal will result in Lot 1 presenting an 18m frontage to Darvall Road, which is consistent compared with existing lots to the south and complies with the requirements of the Ryde DCP.*

*The proposed subdivision will provide lots of a sufficient size to accommodate standard building envelopes with open space, deep soil, landscape, setbacks and parking arrangements provided in line with those respective requirements in the DCP. The proposed 3m access driveway along the northern boundary also complies with the minimum requirement under the DCP and will therefore be consistent with other battle-axe handles in the locality.*

*The building envelopes presented demonstrate that front setback landscape areas to the front of proposed Lot 1 will maintain a level of consistency with that of neighbouring properties along the western side of Darvall Road. The front setback required under the DCP is provided for and the minimum POS area has been accommodated. The regularity of the proposed lot shapes will support standard detached dwelling types comprising a minimum of 4 bedrooms, living areas and external landscape / POS.*

*Collectively, the subdivision layout achieves the intent of the objective.*

***Residential Amenity***

*Shadow diagrams prepared by Yuji Honda Architects have been prepared by Yuji Honda Architects in support of the application. The diagrams demonstrate the minor additional overshadowing impacts as a result of the indicative building envelopes.*

*The hourly shadow diagrams demonstrate that the residential amenity of the properties at 12A Darvall Road will not be adversely impacted. Small portions of private open spaces, living room windows and garage windows will be affected by small portions of additional shadow, however these impacts are minor and will not result in complete surfaces being shadowed.*

*The overshadowing impacts will not result in the properties at 12A Darvall Road being non-compliant with clause 2.14.1 of the Ryde DCP 2014 'Daylight and Sunlight Access'. Living space windows and private open space areas of 12A Darvall Road will receive at least 3 hours of uninterrupted solar access on 21 June as required by this clause, therefore there will be no adverse impact to residential amenity and the objective of this clause is achieved.*

*(b) to ensure that lot sizes enable sufficient areas of open space within each lot so as to enable the retention and embellishment of green linkage corridors in residential zones.*

*The proposed lots under the subdivision will be capable of providing sufficient open space areas that are in accordance with DCP requirements.*

*There are no designated 'green linkage corridors' applicable to the site, however, as above the lots will be capable of supporting standard dwelling types with compliant private open space and landscaped zones.*

The objectives of the minimum lot size for battle-axe lots are set out in Clause 4.1C as follows:

*(a) to maintain visual amenity and character of the land to which this clause applies,  
(b) to retain the residential amenity of that land by providing suitable landscaped areas and vehicular access.*

The following justification was provided in the applicant's written request:

*(a) to maintain visual amenity and character of the land to which this clause applies,*

*The proposed battle-axe lot will not adversely impact upon the visual amenity and character of Darvall Road and the surrounding locality.*

*The proposed accessway along the northern boundary has been designed in accordance with the minimum 3m wide DCP provision. The accessway is consistent with the driveway located to the south at 12A Darvall Road and will not disrupt the visual character or consistency of the streetscape.*

*The inclusion of the 3m wide accessway will not adversely impact the street frontage of Lot 1. The frontage to Darvall Road will be 18m wide which is compatible with the frontage widths of surrounding residential properties.*

*(b) to retain the residential amenity of that land by providing suitable landscaped areas and vehicular access.*

*The proposed battle-axe lot has been designed with a regular shape and size capable of supporting a standard dwelling with suitable landscaped areas, deep soil zones and*

vehicular access. Vehicular access will be provided from the accessway running along the northern boundary and will be a minimum 3m in width, in accordance with DCP provisions.

The Concept Building Envelopes prepared by Yuji Honda Architects demonstrate that the above can be achieved in compliance with LEP and DCP requirements. Additionally, the Shadow Diagrams prepared by Yuji Honda Architects demonstrate the minor extent of overshadowing impacts and that there will be no significant adverse impact on neighbouring residential amenity.

Accordingly, the subdivision layout as it relates to the battle-axe lot achieves the intent of the objective.

Strict compliance with the standards is also considered unreasonable and unnecessary in this case because there is clear evidence in the surrounding streetscape of examples where other standard and battle-axe lot arrangements are undersized, including:

- 17 and 17A Darvall Road to the south-west (where 17A, being the street facing lot has an area of 494sqm and the battle-axe lot No. 17 has an area of 536sqm inclusive of the driveway area);
- 1-3, 3A and 3B Darvall Road to the west. Lot 3A is irregularly shaped and has an area of 706sqm excluding the 128sqm access handle area. Lot 3B is also irregularly shaped and has an area of 681sqm excluding the 240sqm access handle.
- 2 and 2A Sybil Street to the south-west (where 2A, being the battle-axe lot has an area of 730sqm excluding the 142sqm access handle);
- 59A and 59B Rutledge Street to the south. 59B, being the battle-axe lot is undersized and has an area of 547sqm excluding the 50sqm access handle.

These non-compliant examples exist in stark contrast to the minimum standards and form part of the housing character of the immediate locality, particularly that of 17 and 17A Darvall Road where both lots front a public street on a corner. There is an eclectic mix of housing and lot types in the immediate surrounds, notwithstanding those minimum lot size standards, evidenced by at least 4 separate examples in the immediate locality, including on Darvall Road.

The main intent of the minimum lot size standard is to control density in the R2 Low Density Residential zone and maintain residential amenity. It is considered that the submitted plans prepared by Yuji Honda Architects clearly demonstrates that the proposed subdivision is capable of providing for a two-lot subdivision which can facilitate future dwellings that will achieve the following:

- Provide compliant setbacks and maintain the existing character of the streetscape;
- Provide appropriate private open space areas for future residents;
- Provide sufficient deep soil areas to facilitate tree planting;
- Will not adversely affect the residential amenity of neighbouring properties by way of overshadowing or visual privacy impacts.

The strict application of the minimum lot size provisions in this instance are unreasonable and unnecessary because the proposal aligns with the objectives of the R2 Low Density Residential zone.

Assessment Officer's Comments:

The written submission has demonstrated that the subject site is capable of being subdivided into two allotments in a manner in which each proposed lot would readily accommodate a single dwelling house that complies with the requirements of RLEP 2014 and RDCP 2014. The site has a width of 21.04 metres and the addition of a 3m wide access handle for the proposed rear allotment would not be out of character in the streetscape where other battle-axe handles exist. The width of the site also ensures that substantial landscaping is capable of being provided within the front setback of proposed Lot 1 as part of any future application for a new dwelling by way of a development application or a complying development certificate.

The subdivision pattern in the surrounding area is varied, consisting of a variety of lot sizes and shapes. The site is located in a residential area predominantly consisting of single dwelling houses with frontage to local roads. Several lots also contain a detached secondary dwelling to the rear of the principal dwelling. These lots are interspersed with dwelling houses on battle-axe allotments and multi dwelling housing developments. Battle-axe allotments are common in the vicinity of the site with several examples on Darvall Road, Sybil Street, Terry Road, Brush Road and Eric Street. A number of the nearby allotments are non-compliant with the current minimum lot sizes required by Clauses 4.1 and 4.1C of RLEP 2014. Whilst the standard has not been abandoned, the historic residential development in the area has resulted in a variety of lot sizes and shapes.

The following allotment is non-compliant with the current minimum 580m<sup>2</sup> lot size required by *Clause 4.1 Minimum subdivision lot size*:

- 17A Darvall Road – 476.20m<sup>2</sup> in area\*.

The following lots are non-compliant with the current minimum 740m<sup>2</sup> lot size required by *Clause 4.1C Minimum lot size for battle-axe lots*:

- 17 Darvall Road – 476.20m<sup>2</sup> in area excluding the access handle\*;
- 3A Darvall Road - 691.08m<sup>2</sup> in area excluding the access handle; and
- 3B Darvall Road - 733.67m<sup>2</sup> in area excluding the access handle.

\* It is noted the subdivision of 17/17A Darvall Road occurred in 1995, and was the subdivision of an existing dual occupancy development. This example is highlighted not as a matter of precedence, but to demonstrate that the existing subdivision pattern consists of a variety of lot sizes and shapes.



**Figure 11 - Surrounding subdivision pattern and non-complying lot sizes**

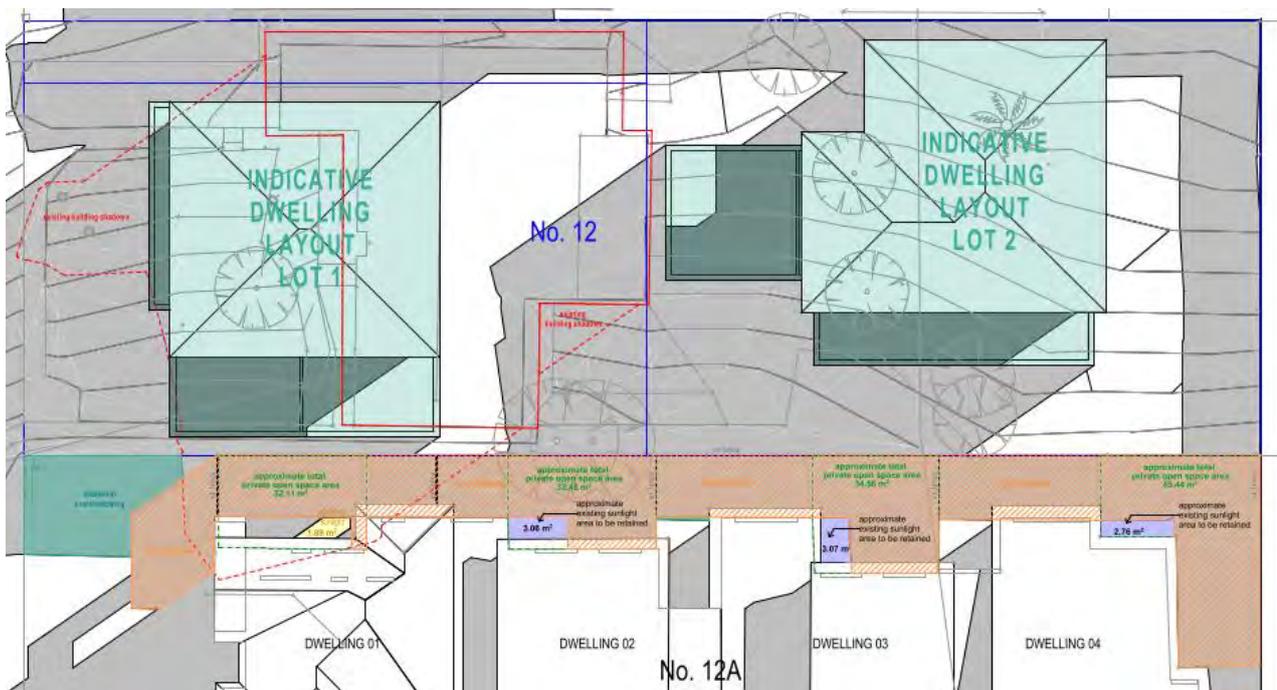
The proposal does not require the removal of any significant vegetation, nor does it encroach on any established green linkage corridors in the vicinity of the site. The surrounding development has varied rear setbacks with several secondary dwellings being located in close proximity of the rear boundary at 10A Darvall Street, 34 Harrison Avenue and 36 Harrison Avenue. The multi dwelling housing development at 12A Darvall Road is also constructed with a 3 metre setback to the rear property boundary. Therefore, the proposed subdivision with the future construction of a dwelling house on the rear lot would not interrupt any established character of landscaped rear setbacks that provide green linkage corridors. Notwithstanding the minimal rear setbacks on properties surrounding the site, the application demonstrates that a dwelling footprint can be provided with an 8 metre rear setback that complies with RDCP 2014, including an 8m x 8m deep soil area for the establishment of a canopy tree and understorey landscaping at the rear of the site.



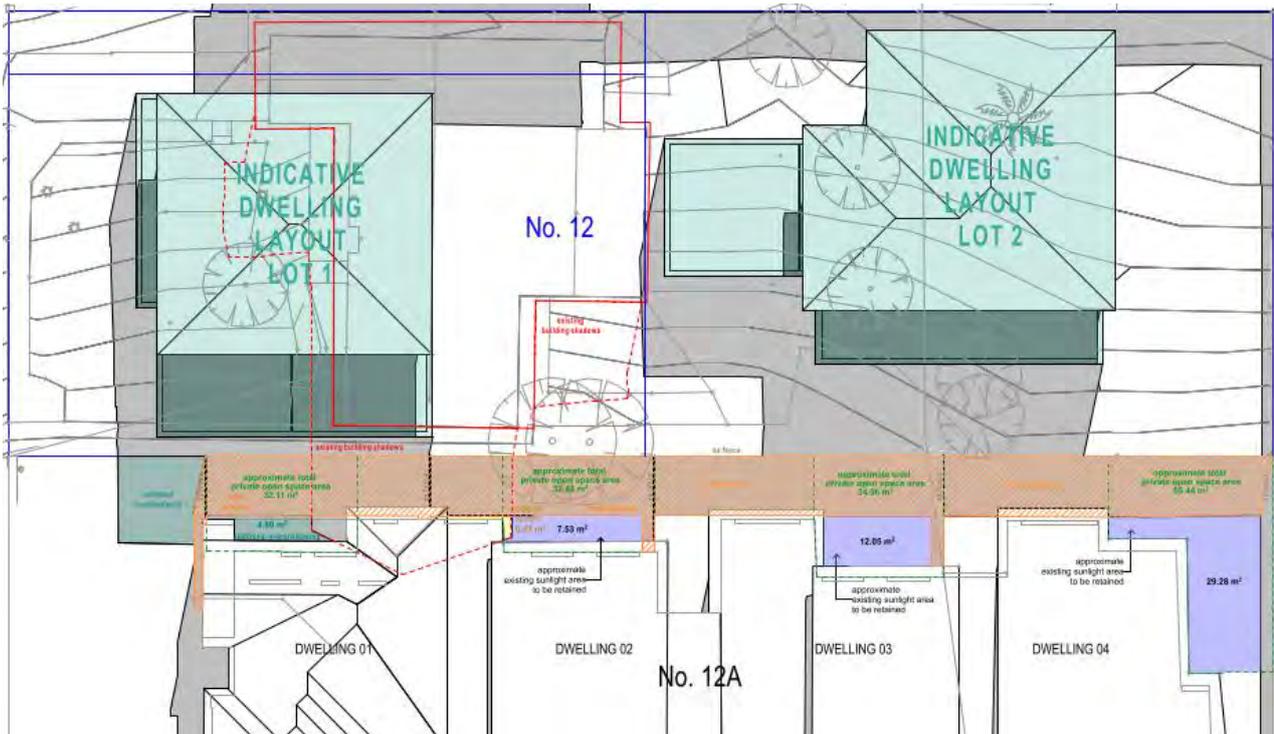
**Figure 12 - Canopy trees on surrounding sites are generally located within the 8m rear boundary setback**

The application details indicative building footprints for each proposed lot and it has also been supported by elevation plans and shadow diagrams demonstrating that the future construction of a two storey dwelling house on each allotment is feasible without resulting in any significant additional overshadowing of the neighbouring property to the south. The subject site is located to the north of a recently constructed multi dwelling housing development at 12A Darvall Road. The neighbouring development consists of four (4) dwellings with north facing living rooms and private open space areas. **Figures 13 to 15** below are extracts from the comprehensive shadow diagrams submitted by the applicant (included at **Attachment 1**):

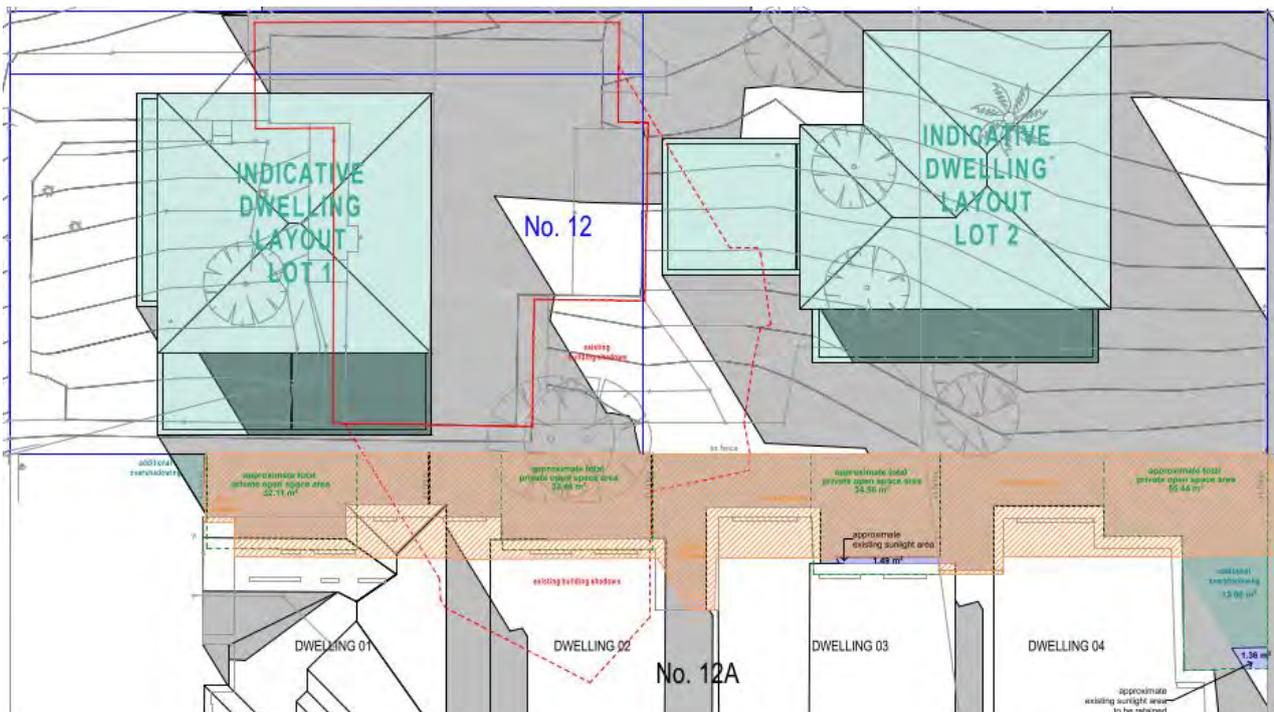
- Orange areas: existing fence shadows
- Purple areas: Existing sunlight areas to be retained
- Green areas: Additional overshadowing from potential future buildings
- Red areas: Shadows from existing dwelling
- Yellow areas: Additional sunlight from potential future dwelling construction



**Figure 13 - Shadow Diagrams - 9am. The orange shows the shadowing from the boundary fences. The green is additional shadowing. The purple is approximate existing sunlight area that is to be retained.**



**Figure 14 - Shadow Diagrams - 12pm.** The orange shows the shadowing from the boundary fences. The green is additional shadowing. The purple is approximate existing sunlight area that is to be retained.



**Figure 15 - Shadow Diagrams - 3pm.** The orange shows the shadowing from the boundary fences. The green is additional shadowing. The purple is approximate existing sunlight area that is to be retained.

The diagrams demonstrate that the neighbouring site at 12A Darvall Road experiences existing shading from the northern side boundary fence and that the future construction of dwelling houses on each of the proposed lots is able to be achieved without unreasonably

impacting upon sunlight to the private open space areas and living rooms of the neighbouring dwellings. The shadow diagrams have been prepared based on the first floor of a future dwelling on Lot 1 being setback 4.70m from the southern side boundary and the first floor on Lot 2 being set back 6.90m from the side boundary. These setbacks significantly exceed the minimum side setback of 1.5m required by RDCP 2014, however the site area of the two allotments is sufficient to support setbacks greater than the minimum required side building setbacks.

It is noted that the subject application is not required to demonstrate compliance with the solar access controls since the development does not include the construction of any dwellings. The extent of overshadowing resulting from the future construction of a dwelling house on each allotment must be considered in the assessment of any future development applications for the site, as required by the RDCP 2014. The NSW Housing Code also includes side setback standards greater than the minimum setbacks required by Council's DCP in order to limit overshadowing of neighbouring properties where approval is sought for a complying development certificate.

The submitted written request to vary the minimum lot size development standards successfully demonstrates that the proposal achieves the objectives of the standards and the low density residential zone, therefore compliance with the development standards is unreasonable and unnecessary.

### ***Environmental planning grounds to justify contravening the development standard***

The submitted request provides the following in response to addressing what the environmental planning grounds are for the variation:

*The sufficient environmental planning grounds to justify the proposed breaches to the standards are provided as follows:*

- The proposed variations are relatively minor in terms of the numeric shortfalls at 7.64% (Lot 1) and 16.12% (Lot 2). This is evidenced in the building envelope plans provided which demonstrate how a standard detached dwelling with compliant private open space, landscaping, deep soil, parking and access can be accommodated on each lot.*
- The proposed lots are of a regular shape which otherwise comply with the minimum lot dimensions specified in the Ryde DCP. Again, this assists with being able to accommodate a standard 4-bedroom dwelling on each lot with compliant landscape, private open space, etc.*
- The lot sizes proposed do not disrupt the visual quality or continuity of the streetscape. Only one lot will be visible from Darvall Road (Lot 1) which will have a compliant 18m wide frontage to the street. The rear battle-axe lot (Lot 2) being accessed from the access driveway along the northern boundary will not be visually dominant from the street given the level landform across the site and will be accessed by a compliant 3m access handle.*
- There are at least four (4) other examples of standard and battle-axe lots in the immediate locality, including Darvall Road, where undersized lots exist. Notwithstanding the current controls, these undersized lots contribute to an eclectic mix of residential lot types in the area and are evidence of where Council has historically supported the creation of such lots and dwellings. The example battle-axe lots immediately adjacent to the site also comprise highly irregular lot shapes at*

*3A and 3B Darvall Road. The narrow, irregular shaped battle-axe lots, both of which are undersized when the access handle is excluded, contain detached dwellings. The proposed lots are appropriately scaled and shaped to support a broader variety of housing types and are worthy of support when considered in their surrounding context.*

- *The design of the subdivision layout and indicative building envelopes provided retain the residential amenity of the neighbouring properties at 12A Darvall Road to the south in accordance with the objectives of clause 4.1 of the Ryde LEP 2014. The Shadow Diagrams prepared by Yuji Honda Architects clearly demonstrates that the private open space and living space areas of the neighbouring properties receive the minimum required solar access in accordance with section 2.14.1 of the Ryde DCP "Daylight and Sunlight Access". Therefore, the proposed lots can facilitate future dwellings which will not adversely impact upon the residential amenity of neighbours.*
- *The building envelope plans presented demonstrate that residential development of a kind that are permissible in the zone and consistent with the R2 zone objectives will ultimately be delivered on each of the lots.*
- *Notwithstanding the shortfalls proposed, the subdivision development can be undertaken without adversely impacting the surrounding environment.*
- *The proposed development will cause no direct adverse impacts to the surrounding residential amenity, with works to be undertaken strictly in accordance with Council's standard conditions of consent.*
- *The development is in the public interest as it will deliver two new residential lots capable of supporting detached dwellings, providing future low-density housing consistent with the zoning.*
- *The development represents the orderly economic use of the land to support new housing.*

*Based on the above, there are sufficient environmental planning grounds to justify contravening the minimum lot size standards in this instance.*

#### Assessment Officer's Comments:

The submission has established there are sufficient environmental planning grounds to justify contravening the standard in accordance with Clause 4.6(3)(b) and 4.6(4)(a)(i). The written request demonstrates that the proportions of the site are suitable to ensure the character of the area is not negatively impacted by the proposal. The front allotment has a proposed width of 18.04 metres, which is significantly wider than the common front boundary width of other lots on Darvall Road. The generous lot width would allow for substantial landscaping within the front setback and boundary setbacks that would provide for the amenity of the neighbouring properties to be maintained.

The applicant submitted shadow diagrams which are based on an indicative building footprint where the southern side setback of 4.36 metres significantly exceeds the minimum required setback of 1.5 metres, however the plans demonstrate that the proposed rear allotment is capable of accommodating a family sized dwelling without unreasonably overshadowing the multi dwelling housing development to the south at 12A Darvall Road.

The submission adequately demonstrates that there are sufficient environmental planning grounds to justify contravention of the development standards.

***Public interest – Development consistent with the zone objectives and objectives of the development standard***

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

As detailed in the discussion of whether compliance with the standard is unreasonable or unnecessary, the development is consistent with the objectives of the standard and this has been demonstrated in the submitted variation request. The development is considered to be consistent with the objectives of Clauses 4.1 and 4.1C of Ryde LEP 2014.

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

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

***Matters required to be taken into consideration by the Director-General before granting the concurrence***

Circular PS 08-003 issued on 9 May 2008 informed Council that it may assume the Director-General's concurrence for exceptions to development standards.

**Conclusion**

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

The proposal is consistent with the objectives of the development standard and the R2 Low Density Residential zone. The proposed subdivision of land provides for suitable site dimensions for the future construction of two single dwelling housing without unreasonably impacting upon the amenity of the neighbouring dwellings.

Accordingly, development consent may be granted to the proposal, despite the contravention of the primary road frontage development standard.

**5.4 Ryde Development Control Plan 2014**

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

### Part 3.3 Dwelling Houses and Dual Occupancy (attached)

#### **2.4 Subdivision**

Control 2.4 *Subdivision* of RDCP 2014 states that:

- a. *Where subdivision of land is proposed, each lot (other than a hatchet shaped lot) must have:*
  - i. *an area of not less than 580 m<sup>2</sup>;*
  - ii. *frontage to a road of not less than 10 m; and*
  - iii. *a width of not less than 15 m at a distance of 7.5 m from the frontage of the lot.*
  
- b. *Each hatchet shaped lot must have:*
  - i. *an area of not less than 740 m<sup>2</sup> (not including the access corridor and any part of the lot that is intended for access to other lots);*
  - ii. *a frontage to a road of not less than 3 m; and*
  - iii. *an access corridor not less than 3 m wide.*

The proposed Lot 1 has a total area of 537.30m<sup>2</sup>, resulting in non-compliance with control 2.4(a)(i). The road frontage resulting from the subdivision would be 18.04m and is compliant with controls 2.4(a)(ii) and (iii).

Proposed Lot 2 has an area of 620.36m<sup>2</sup> not including the access handle and is non-compliant with control 2.4(b)(i). The rear lot has a battle-axe handle with road frontage and width of 3 metres in accordance with controls 2.4(b)(ii) and (iii).

The objectives of the control are:

1. *To retain streetscape, amenity, landscaped areas and private open space in residential zones;*
2. *To maintain a consistent density of development in low density residential areas; and*
3. *To ensure that lot sizes enable sufficient areas of open space to be provided within each lot so as to enable the retention and embellishment of green linkage corridors within residential zones.*

The objectives 1 and 3 of control 2.4 in RDCP 2014 are consistent with objectives 1(a) and (b) in clause 4.1 of RLEP 2014, which are considered to be achieved as discussed within this report. Objective 2 of the control seeks to maintain a consistent density of development in low density areas, which the proposal has demonstrated. The proposal would provide for the future construction of two single dwelling houses with sufficient setbacks to neighbouring buildings and suitable deep soil areas for landscaping to be established. The proposal would not result in any unreasonable amenity impacts on the neighbouring property owners and the density of development is consistent with other development in the vicinity of the site. The proposal achieves the objectives of the control and is considered to be acceptable.

### Part 7.2 Waste Minimisation and Management

The proposed subdivision would provide adequate space for the storage of waste containers within both allotments, with a satisfactory grade for presenting waste containers for collection at the kerb.

The proposal includes demolition of the existing dwelling and it is supported by a Site Waste Minimisation Plan and a Demolition Work Method Statement.

Conditions of consent (see **Conditions 16, 18 and 19**) are recommended to ensure that demolition works are carried out in accordance with the Australian Standard AS 2601-1991: *The demolition of structures* and the guidelines published by Safework NSW for removal of any asbestos that is present during demolition works.

### Part 8.2 Stormwater and Floodplain Management

The proposal was supported by a stormwater management plan that details on site detention tank within both proposed allotments, with a discharge point in the kerb on Darvall Road. The proposal was referred to Council's Senior Development Engineer, who has advised that on site detention should not be installed during the subdivision work and should rather be included with the future application for development of each proposed allotment. The Senior Development Engineer has advised that the proposal is satisfactory, subject to conditions of consent (see **Conditions 30, 54, 63 and 64**).

### Part 8.3 Driveways

The proposal includes two new footpath crossovers to provide vehicular access for each proposed allotment. The existing footpath crossing is proposed to be demolished. RDCP 2014 requires the applicant to demonstrate that each new lot can be accessed by vehicles. The applicant has provided a driveway design for Lot 2 which involves a concrete driveway adjacent to the northern side boundary, supported by hob wall to a maximum height of 150mm abutting the northern side boundary. The proposal was referred to Council's Senior Development Engineer, who has advised that the proposal is satisfactory, subject to conditions of consent (see **Conditions 11, 31, 32, 33 and 55**).

### Part 9.5 Tree Preservation

The proposal includes the removal of ten (10) trees and one (1) group of trees:

- Tree 1: Weeping Bottlebrush (Street Tree)
- Tree 3: Port Wine Magnolia
- Tree 4: Camellia
- Tree 5: Rhododendron
- Tree 6: Citrus Tree
- Tree 7: Mission Olive
- Tree 8: Ravenala
- Tree 9: Citrus Tree
- Tree 10: Mango Tree
- Tree 11: Mango Tree
- Group 1: Himalayan Cyprus

The existing Crepe Myrtle (Tree 2) within the nature strip and a group of Himalayan Cyprus (Group 2) are proposed to be retained. Although the Crepe Myrtle is identified to be retained, Council's Tree Management Officer has requested its removal as it is not a good specimen. Replacement planting is proposed consisting of a Yellow Bloodwood.

All of the trees to be removed from within the site are exempt trees as identified in Part 9.5 Tree Preservation in RDCP 2014. The trees are either fruit trees or they are under 5m in height. For this reason, the trees are not identified as being significant vegetation.



Figure 16 - Trees to be removed at the front of the site



Figure 17 - Tree 1 (Weeping Bottlebrush) to be removed



**Figure 18 - Existing trees to be removed from north side of the rear yard**



**Figure 19 - Existing trees to be removed and retained on the south side of the rear yard**

Council's Landscape Architect has advised that the proposal is satisfactory with regard to tree preservation and landscaping, subject to conditions of consent (see **Conditions 41, 42, 43, 44, 57, 58 and 60**).

### **5.5 Section 7.11 - Development Contributions Plan 2020**

Council's current Section 7.11 Development Contributions Plan 2020 effective 8 September 2021 requires a contribution for the provision of various additional services required as a result of increased development density. The contribution is based on the number of additional dwellings there are in the development proposal. The contribution that are payable with respect to the increase in housing density on the subject site (being for residential development outside the Macquarie Park Area) are as follows:

<b>A – Contribution Type</b>	<b>B – Contribution Amount</b>
Community & Cultural	\$6,061.80
Open Space & Recreation	\$10,438.16
Transport Facilities	\$3,204.47
Plan Administration	\$295.57
<b>The total contribution is</b>	<b>\$20,000.00</b>

A Condition on the payment of Section 7.11 Contribution of **\$20,000.00** has been included in the draft notice of determination attached to this report (see **Condition 62**).

## 5.6 Any Planning Agreements

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

## 5.7 Any Matters Prescribed by the Regulations

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

### Australian Standard for Demolition - Clause 61(1)

Clause 61(1) of the Environmental Planning & Assessment Regulations 2021 requires the consent authority to consider the provisions of *Australian Standard AS 2601-2001: The demolition of structures*. The demolition of the existing structures will be carried out in accordance with the safe work method statement submitted with the application, the Australian Standards and guidelines published by Safework NSW. Conditions to this effect are included in the recommendation section of this report (see **Conditions 1, 14, 15, 16, 17, 18, 19, 20, 21 and 22**).

## 6. THE LIKELY IMPACTS OF THE DEVELOPMENT

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

## 7. THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

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

## 8. SUBMISSIONS

In accordance with the City of Ryde Community Participation Plan, owners of surrounding properties were given notice of the application. The notification period commenced 9 June 2022 and finished on 28 June 2022. No submissions were received in response to the notification.

## 9. 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 seeks variation to Clauses 4.1 and 4.1C of RLEP 2014 and has been supported by a satisfactory Clause 4.6 written variation. The proposal does not result in any adverse impacts upon adjoining properties or the streetscape. On this basis, the proposal is not considered to raise any issues that would be contrary to the public interest.

## 10. REFERRALS

### Development Engineer

The application as referred to Council's Senior Development Engineer who raised no objection to the proposal, subject to conditions of consent (see **Conditions 10, 11, 12, 13, 28, 29, 30, 31, 32, 36, 52, 53, 54, 55, 61, 63, 64, 65, 66, 67, 68, 69 and 74**).

The following commentary was provided:

#### Stormwater Management

*The civil plan now shows a wall up to the rear of the property to retain the fill. The height of the fill will be about 200mm and the wall height also will be similar. This wall needs to be extended to a small distance along the rear boundary too. This has been marked in red on the civil plan.*

*The OSD tanks are not required to be constructed at the subdivision stage. However, the 3.0m wide access handle using trafficable hard surface and the drainage pipes from each Lot to the street need to be constructed. A subdivision works certificate will be required for the development. The construction of 4.0m wide driveway is not required at this stage as the location may vary with the design of a new dwelling on the lot.*

*The existing structures need to be demolished prior to issue of a subdivision certificate. A condition has been provided to demolish the existing dwelling.*

#### Recommendation

*There are no objections to the proposed development with respect to the engineering components, subject to the application of conditions.*

The recommended conditions are included in the attached draft consent.

## Landscape Architect

The proposal includes the removal of ten (10) trees and one (1) group of trees:

- Tree 1: Weeping Bottlebrush (Street Tree)
- Tree 3: Port Wine Magnolia
- Tree 4: Camellia
- Tree 5: Rhododendron
- Tree 6: Citrus Tree
- Tree 7: Mission Olive
- Tree 8: Ravenala
- Tree 9: Citrus Tree
- Tree 10: Mango Tree
- Tree 11: Mango Tree
- Group 1: Himalayan Cyprus

The existing Crepe Myrtle (Tree 2) within the nature strip and a group of Himalayan Cyprus (Group 2) are proposed to be retained. Although the Crepe Myrtle is identified to be retained, Council's Tree Management Officer has requested its removal as it is not a good specimen. Replacement planting is proposed consisting of a Yellow Bloodwood.

The application was referred to Council's Landscape Architect who raised no objections to the proposal, subject to conditions of consent (see **Conditions 39, 40, 41, 42, 55, 56 and 58**). The following commentary was provided:

*An Arboricultural Impact Assessment (AIA) has been submitted with the application prepared by Hugh the Arborist dated 17/03/2022.*

*A summary of the existing trees identified in the Arboricultural Impact Assessment (AIA) are show in the table below:*

Tree No.	Species "Common name"	Proposed recommendation in AIA	Comment
1	<i>Callistemon viminalis</i> (Weeping Bottlebrush)	Remove Street tree. In footprint of driveway	Referred to TMO
2	<i>Lagerstroemia indica</i> (Crape Myrtle)	Retain Street tree. No encroachment	Referred to TMO
3	<i>Michelia figo</i> (Port Wine Magnolia)	Remove In footprint of proposed dwelling in Lot 1	Agree Exempt tree <5m high.
4	<i>Camellia sasanqua</i> (Sasanqua Camellia)	Remove In footprint of proposed dwelling in Lot 2	Agree Exempt tree <5m high.
5	<i>Rondeletia amoena</i> (Rondeletia)	Remove In footprint of proposed dwelling in Lot 2	Agree Exempt tree <5m high.
6	<i>Citrus sp.</i> (Citrus Tree)	Remove In footprint of proposed dwelling in Lot 2	Agree Exempt fruit tree.

7	<i>Olea europaea</i> (European Olive)	Remove Major encroachment of 21% into TPZ from proposed dwelling. On Lot 2	Agree Exempt fruit tree.
8	<i>Ravenala madagascariensis</i> (Traveller's palm)	Remove Major encroachment of 30% into TPZ from proposed dwelling. On Lot 2	Agree Exempt tree <5m high.
9	<i>Citrus sp.</i> (Citrus Tree)	Remove In footprint of proposed dwelling in Lot 2	Agree Exempt fruit tree.
10	<i>Mangifera indica</i> (Mango)	Remove In footprint of proposed dwelling in Lot 2	Agree Exempt fruit tree.
11	<i>Mangifera indica</i> (Mango)	Remove In footprint of proposed dwelling in Lot 2	Agree Exempt fruit tree.
G1	<i>Cupressus torulosa</i> (Bhutan Cypress)	Remove Group of 5 trees. Located adjacent to Dwelling on Lot 1	Agree Exempt tree <5m high.
G2	<i>Cupressus torulosa</i> (Bhutan Cypress)	Retain No proposed works or building footprints.	Agree Exempt tree <5m high.

Refer to Figure 20 below for location of trees:

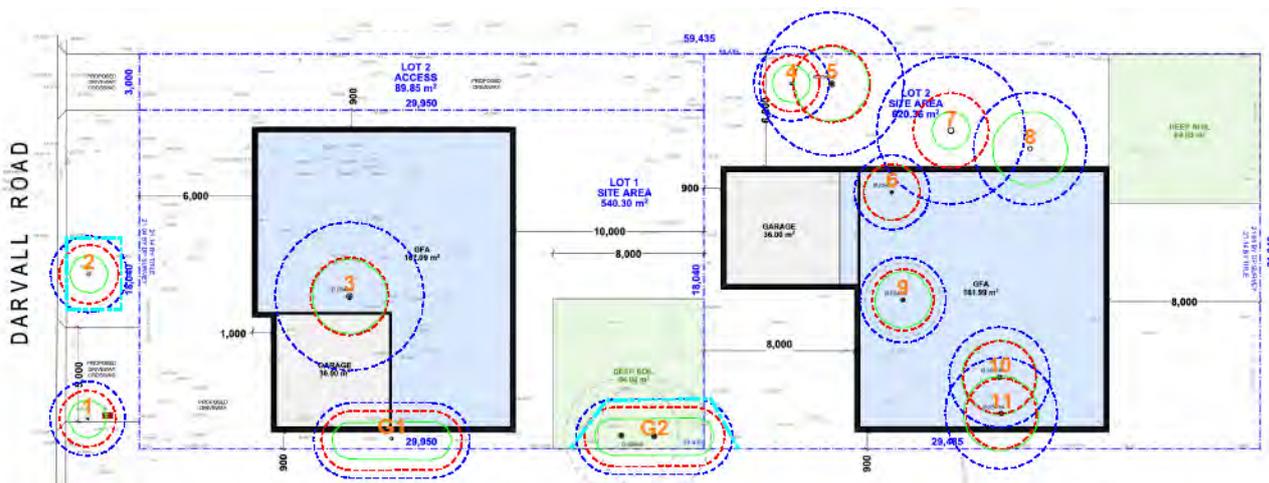


Figure 20 - Tree Location Plan

### Stormwater Plan

The stormwater infrastructure allows for retention of trees that are proposed for retention.

### Recommendations

There is no objection to the development if the following conditions are imposed.

### **Tree Management Officer**

The proposal was referred to Council's Tree Management Officer as the proposal seeks consent for the removal of Tree 1 (Weeping Bottlebrush) from within the nature strip in front of the property. Tree 2 (Crepe Myrtle) is also located within the nature strip and is proposed to be retained and protected.

The TMO has recommended that both trees should be removed and be replaced by one (1) *Corymbia eximia* (Yellow Bloodwood) and conditions to ensure the protection of this tree. The recommended conditions have been included in the attached draft consent (**Conditions 57 and 60**).

## **11. CONCLUSION**

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

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

## **12. RECOMMENDATION**

- A. That the Ryde Local Planning Panel accepts that the Clause 4.6 written request to vary the development standards for minimum lot sizes (Clauses 4.1 and 4.1C) in RLEP 2014 has adequately addressed the matters in sub clause (3) and will be in the public interest as it is consistent with the objectives of the development standards in Clause 4.1 and 4.1C and the objectives of the R2 Low Density Residential Zone of Ryde Local Environmental Plan 2014.
- B. That the Ryde Local Planning Panel, as the consent authority, grant development consent to Local Development Application LDA No. LDA2022/0162 for demolition of the existing dwelling, Torrens title subdivision of one lot into two lots under a battle-axe arrangement, installation of stormwater infrastructure including drainage pipes, and tree removal on land at 12 Darvall Road, Eastwood, subject to the conditions in **Attachment 3**.

## **ATTACHMENTS**

- 1** Proposed subdivision plan, architectural plans & stormwater drainage plans
- 2** Applicant's clause 4.6 written request to vary clause 4.1(3) Minimum subdivision lot size and clause 4.1C(3) Minimum lot size for battle-axe lots
- 3** Draft conditions of consent

Report prepared by:

**Deren Pearson**  
**Assessment Officer – Town Planner**

Report approved by:

**Madeline Thomas**  
**Senior Coordinator Development Assessment**

**Sandra Bailey**  
**Manager Development Assessment**

**Liz Coad**  
**Director - City Planning and Environment**

**NOTE:**

THE BOUNDARY INFORMATION SHOWN ON THIS PLAN REGARDING THE LOCATION OF THE PROPERTY BOUNDARIES HAS BEEN TAKEN FROM THE TITLE DEPOSITED PLAN. IT HAS BEEN PLOTTED AS REQUIRED UNDER DIVISION 1, SECTION 9(1) OF THE "SURVEYING AND SPATIAL INFORMATION REGULATION 2017" AND IS ACCURATE TO ABOUT ±0.05m. IT HAS NOT BEEN DETERMINED BY AN ACCURATE BOUNDARY SURVEY.

A DETAIL & LEVEL SURVEY IS NOT A "LAND SURVEY" AS DEFINED BY THE SURVEYING AND SPATIAL INFORMATION ACT, 2002. IF ANY CONSTRUCTION OR DESIGN WORK, WHICH RELIES ON CRITICAL SETBACKS FROM THE STREET OR BOUNDARIES IS PLANNED, IT WOULD BE IMPERATIVE TO CARRY OUT FURTHER SURVEY WORK TO DETERMINE THE BOUNDARY DIMENSIONS.

PRIOR TO ANY CONSTRUCTION WORK, SURVEY MARKS SHOULD BE PLACED TO DEFINE THE PROPERTY BOUNDARIES.

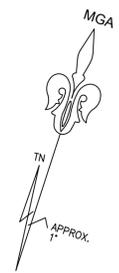
SERVICES SHOWN ARE INDICATIVE ONLY. POSITIONS ARE BASED ON SURFACE INDICATOR(S) LOCATED DURING FIELD SURVEY. CONFIRMATION OF THE EXACT POSITION SHOULD BE MADE PRIOR TO ANY EXCAVATION WORK. OTHER SERVICES MAY EXIST WHICH ARE NOT SHOWN.

LEVELS ARE BASED ON AUSTRALIAN HEIGHT DATUM (AHD) USING SSM 108453 WITH RL 68.42 (AHD).

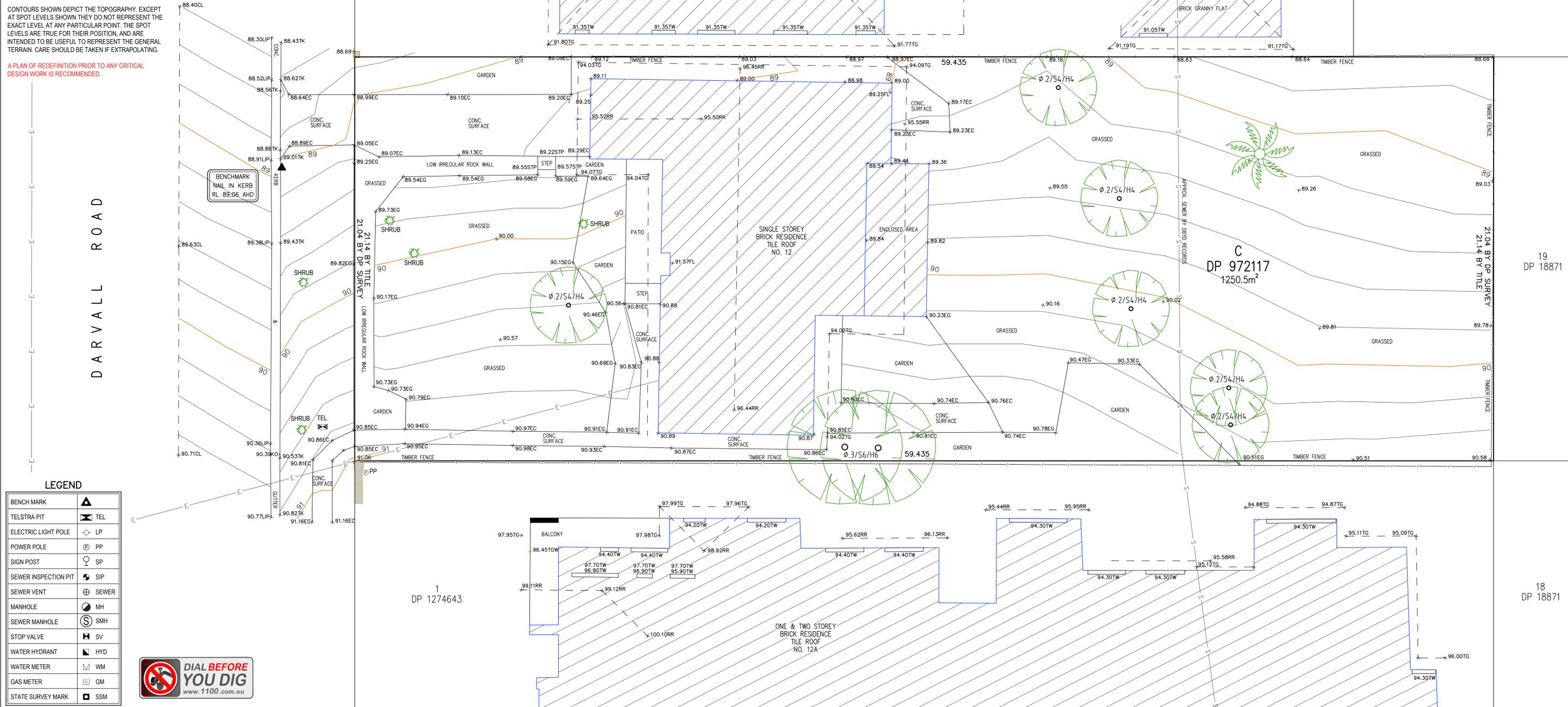
RIDGE & GUTTER HEIGHTS HAVE BEEN OBTAINED BY INDIRECT METHOD AND ARE ACCURATE TO ± 0.05m.

CONTOURS SHOWN DEPICT THE TOPOGRAPHY. EXCEPT AT SPOT LEVELS SHOWN THEY DO NOT REPRESENT THE EXACT LEVEL AT ANY PARTICULAR POINT. THE SPOT LEVELS ARE TRUE FOR THEIR POSITION, AND ARE INTENDED TO BE USEFUL TO REPRESENT THE GENERAL TERRAIN. CARE SHOULD BE TAKEN IF EXTRAPOLATING.

A PLAN OF REDEFINITION PRIOR TO ANY CRITICAL DESIGN WORK IS RECOMMENDED.



BOUNDARIES HAVE NOT BEEN LOCATED BY SURVEY. THE BOUNDARIES SHOWN ON THIS PLAN HAVE BEEN TAKEN FROM THE TITLE DEPOSITED PLAN AND ARE APPROXIMATE RELATIVE TO THE DETAIL SURVEY.



**LEGEND**

BENCH MARK	▲
TELSTRA PIT	⊠
ELECTRIC LIGHT POLE	⊕ LP
POWER POLE	⊕ PP
SIGN POST	⊕ SP
SEWER INSPECTION PIT	⊕ SIP
SEWER VENT	⊕ SEWER
MANHOLE	⊕ MH
SEWER MANHOLE	⊕ SMH
STOP VALVE	⊕ SV
WATER HYDRANT	⊕ HYD
WATER METER	⊕ WM
GAS METER	⊕ GM
STATE SURVEY MARK	⊕ SSM



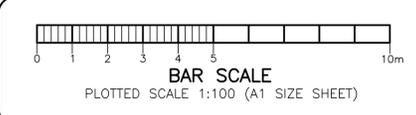
**TSS TOTAL SURVEYING SOLUTIONS**  
LANE COVE | CAMDEN | MANLY VALE | CENTRAL COAST

**NOTE:** INFORMATION CONTAINED IN THIS PLAN IS THE COPYRIGHT OF TOTAL SURVEYING SOLUTIONS. THE USE OR DUPLICATION WITHOUT THE WRITTEN CONSENT OF TOTAL SURVEYING SOLUTIONS CONSTITUTES AN INFRINGEMENT OF COPYRIGHT.

REVISION No.	REVISION DATE:	COMMENT:

**LEGEND:**

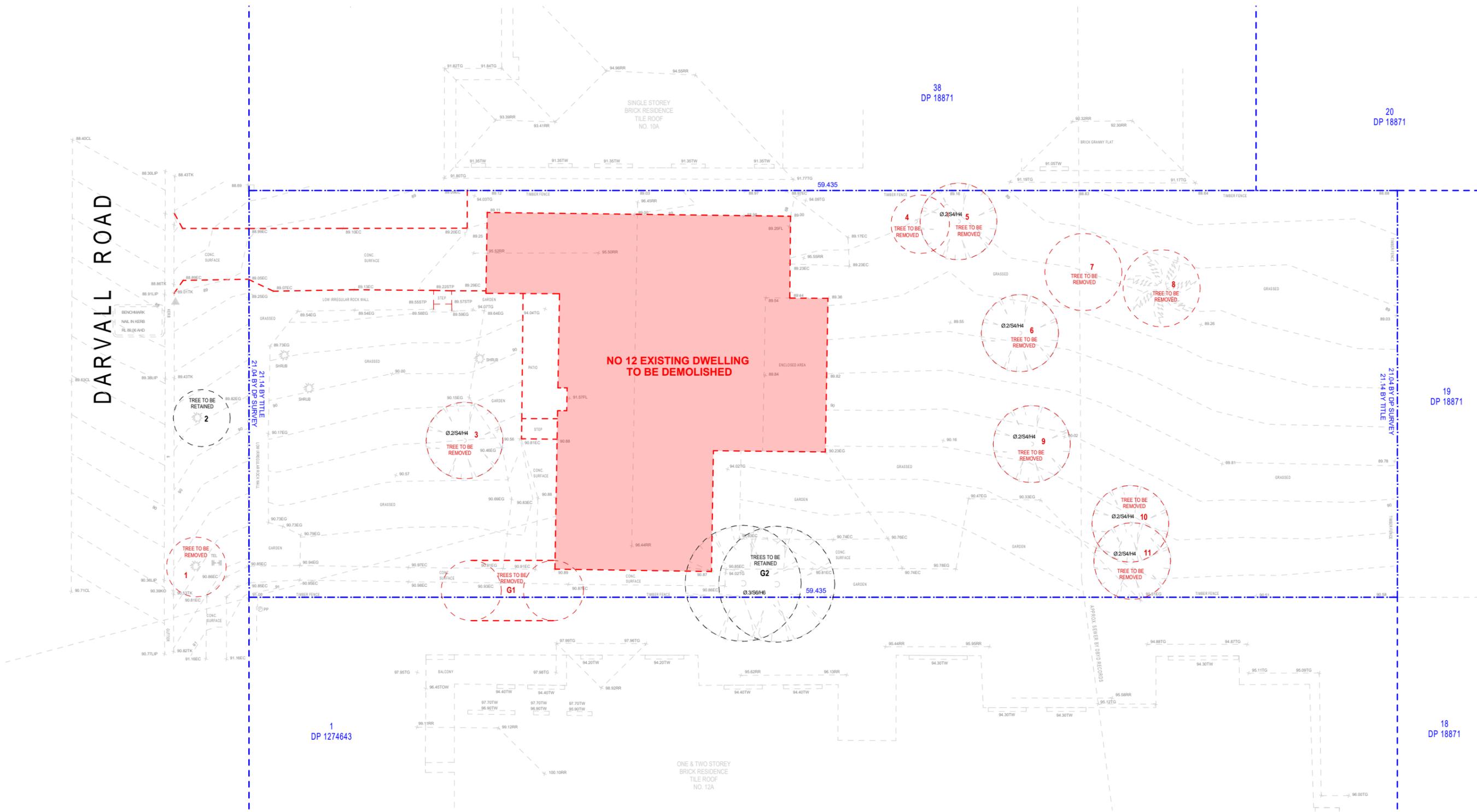
EB - EDGE OF BITUMEN	TG - TOP OF GUTTER
EC - EDGE OF CONCRETE	RR - ROOF RIDGE
TB - TOP OF BANK	FL - FLOOR LEVEL
BB - BOTTOM OF BANK	INV - INVERT LEVEL
TW - TOP OF WINDOW	ELEC - ELECTRICAL PIT
BW - BOTTOM OF WINDOW	⊕ 4/S10/H16 - DIAMETER/SPREAD/HEIGHT



**PLAN SHOWING DETAIL & LEVELS OVER LOT C IN DP 972117**

CLIENT: WALTON CHU  
PROJECT: EASTWOOD  
ADDRESS: 12 DARVALL ROAD, EASTWOOD

JOB No.: 211893	LGA: RYDE
PLAN No.: 211893-1	DATUM: AHD
DATE: 12/11/2021	SCALE: 1:100@A1
DRAWN: RB	CONT. INTERVAL: 0.20m
CHK: DF	SHEET 1 OF 1



**Demolition Plan**  
1:200

- NOTES**
- Drawings are subject to copyright and may not be copied, used or reproduced in any way without the express permission of the architect.
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Issue	Description	Checked By	Issue Date
C	For Land Subdivision	YT/GH	10/05/2022

ADDRESS  
12 DARVALL RD, EASTWOOD NSW 2122

PROJECT  
PROPOSED LAND SUBDIVISION

FOR  
Aust Sunshine Marketing

JOB No  
21016

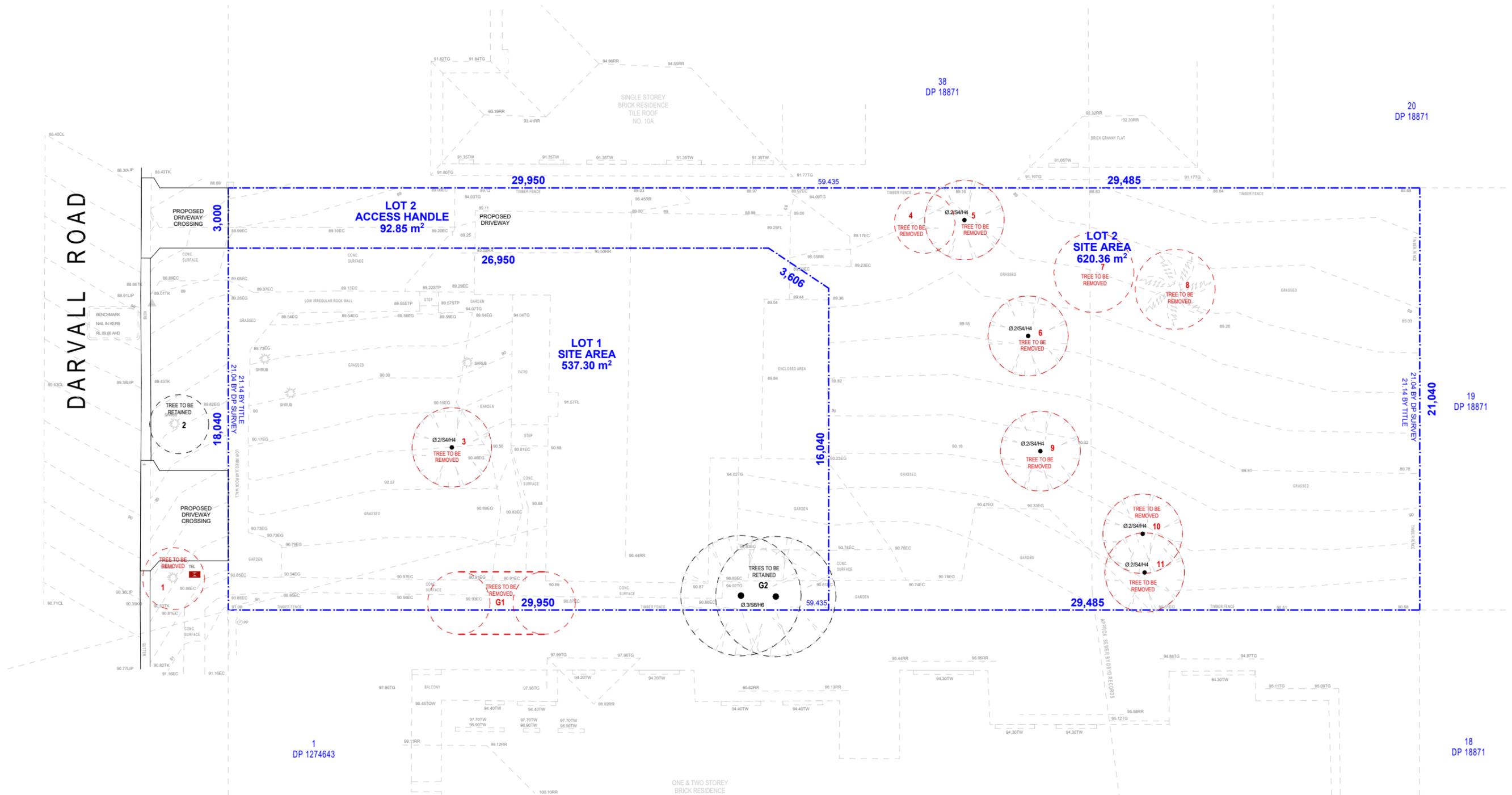
DATE  
NOV 2021

**YUJI HONDA ARCHITECTS**

DRAWING TITLE  
Demolition Plan

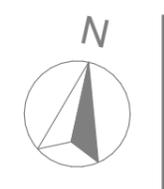
SCALE  
1:200  
@ A3  
DRAWN  
GH/YT

DRAWING NUMBER  
SP00  
ISSUE  
C



1. Subdivision Plan  
1:200

- NOTES
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PROJECT  
PROPOSED LAND SUBDIVISION

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Aust Sunshine Marketing

JOB No  
21016

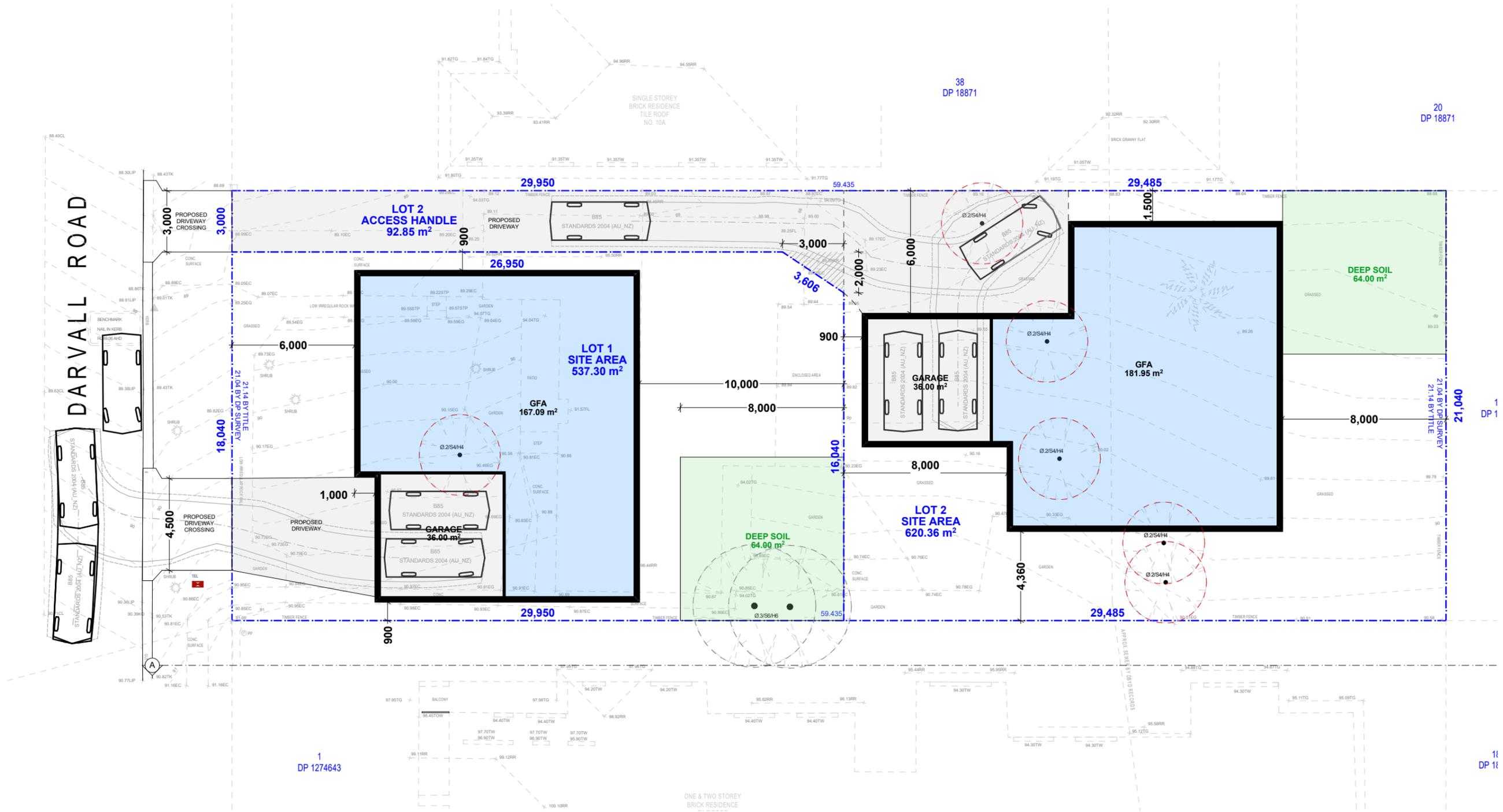
DATE  
NOV 2021

**YUJI HONDA ARCHITECTS**

DRAWING TITLE  
Subdivision Plan

SCALE  
1:200  
@ A3  
DRAWN  
GH/YT

DRAWING NUMBER  
SP01  
ISSUE  
C



1. Indicative Building Envelope Plan  
1:200

NOTES

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Issue	Description	Checked By	Issue Date
F	For Land Subdivision	GH/YT	21/07/2022

ADDRESS  
12 DARVALL RD, EASTWOOD NSW 2122

PROJECT  
PROPOSED LAND SUBDIVISION

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Aust Sunshine Marketing

JOB No  
21016

DATE  
NOV 2021

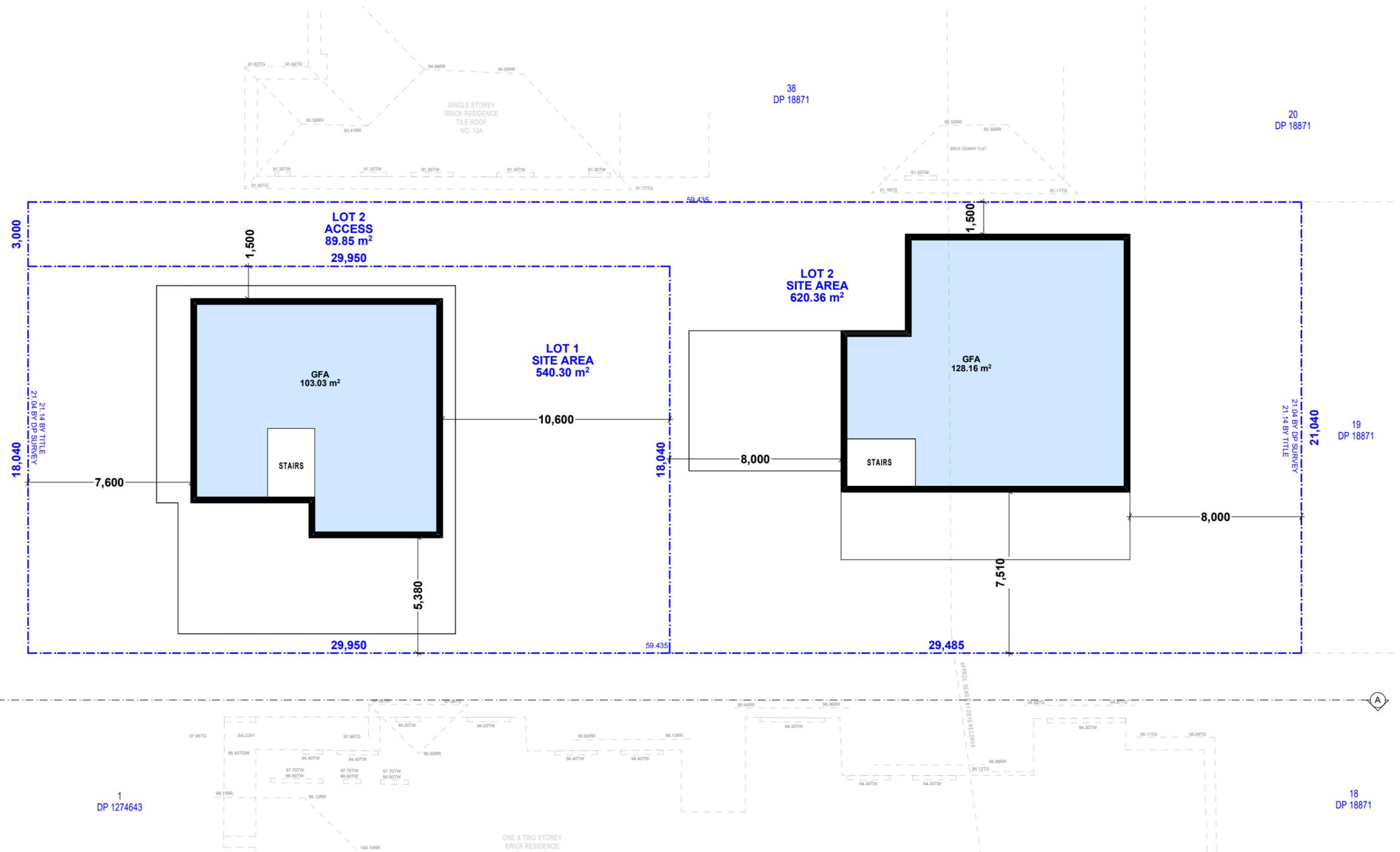
**YUJI HONDA ARCHITECTS**

DRAWING TITLE  
Indicative Building Layout - Ground Floor  
Plan

SCALE  
1:200  
@ A3  
DRAWN  
GH/YT

DRAWING NUMBER  
SP02  
ISSUE  
F

DARVALL ROAD



2. First Floor Plan  
1:200

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ADDRESS  
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PROJECT  
PROPOSED LAND SUBDIVISION

FOR  
Aust Sunshine Marketing

JOB No  
21016

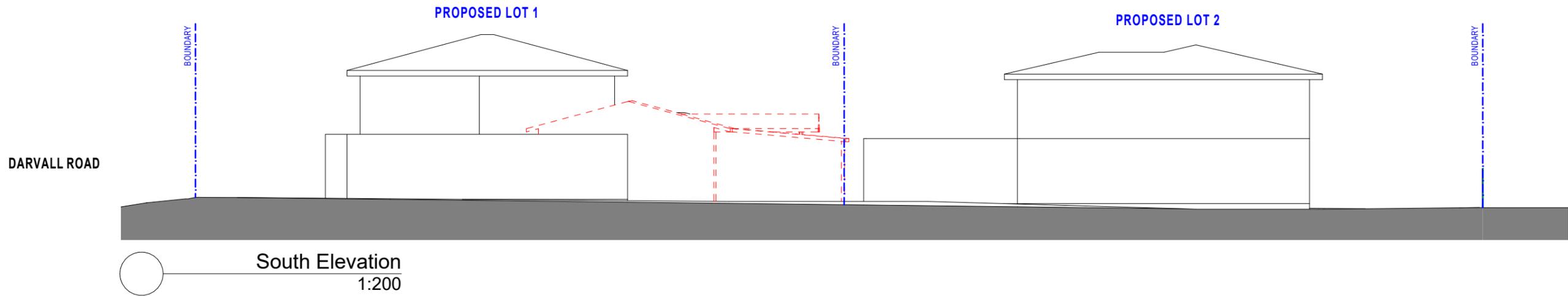
DATE  
NOV 2021

**YUJI HONDA ARCHITECTS**

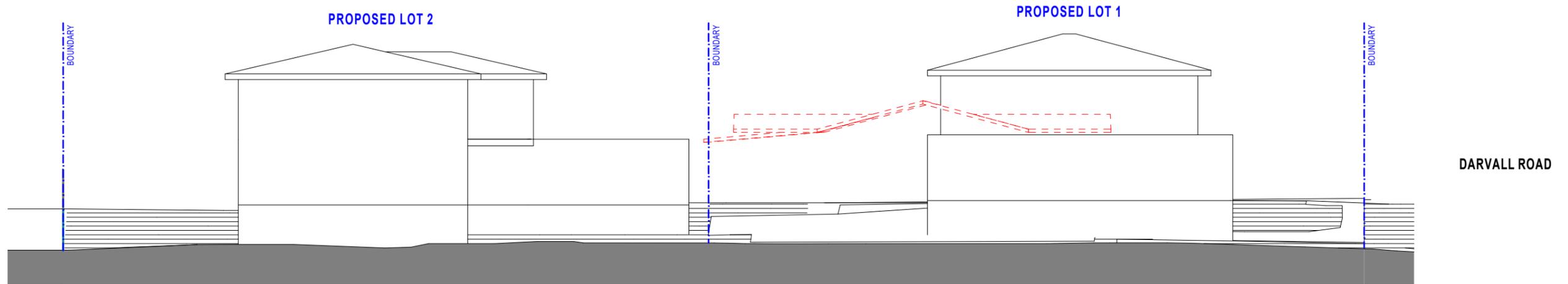
DRAWING TITLE  
Indicative Building Layout - First Floor Plan

SCALE  
1:200  
@ A3  
DRAWN  
GH/YT

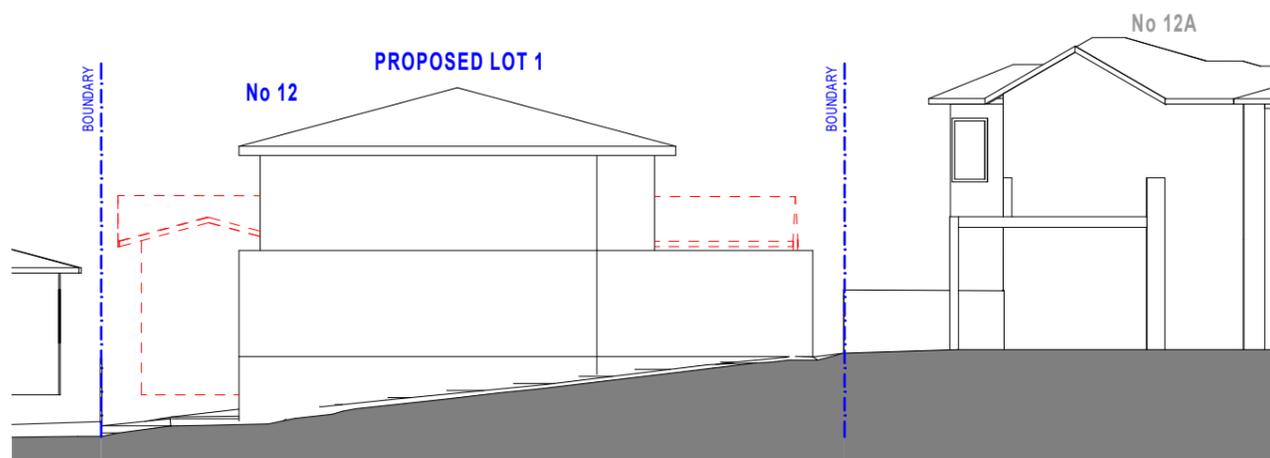
DRAWING NUMBER  
SP03  
ISSUE  
F



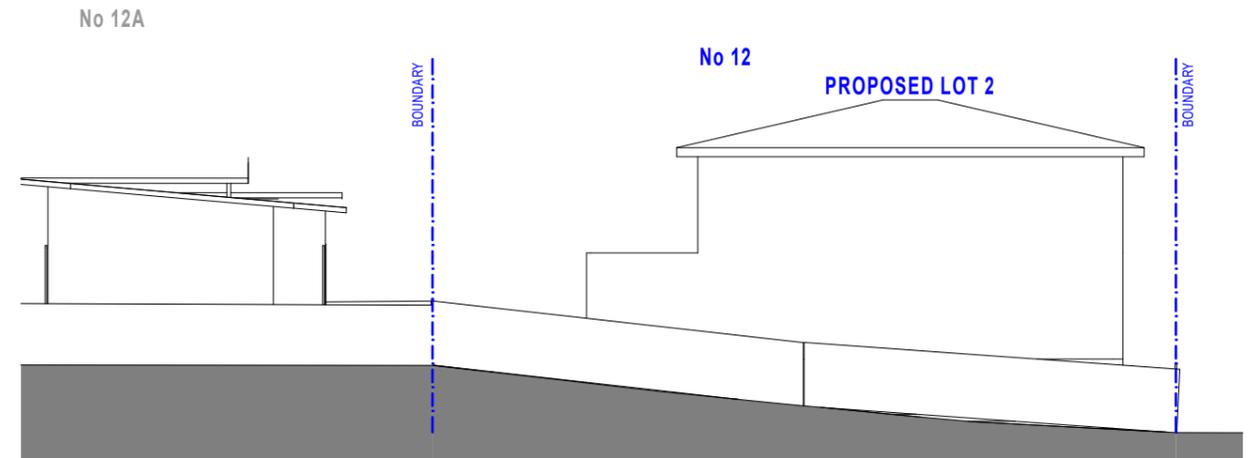
South Elevation  
1:200



North Elevation  
1:200



East Elevation  
1:200



West Elevation  
1:200

NOTES

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F	For Land Subdivision	GH/YT	21/07/2022

ADDRESS  
12 DARVALL RD, EASTWOOD NSW 2122

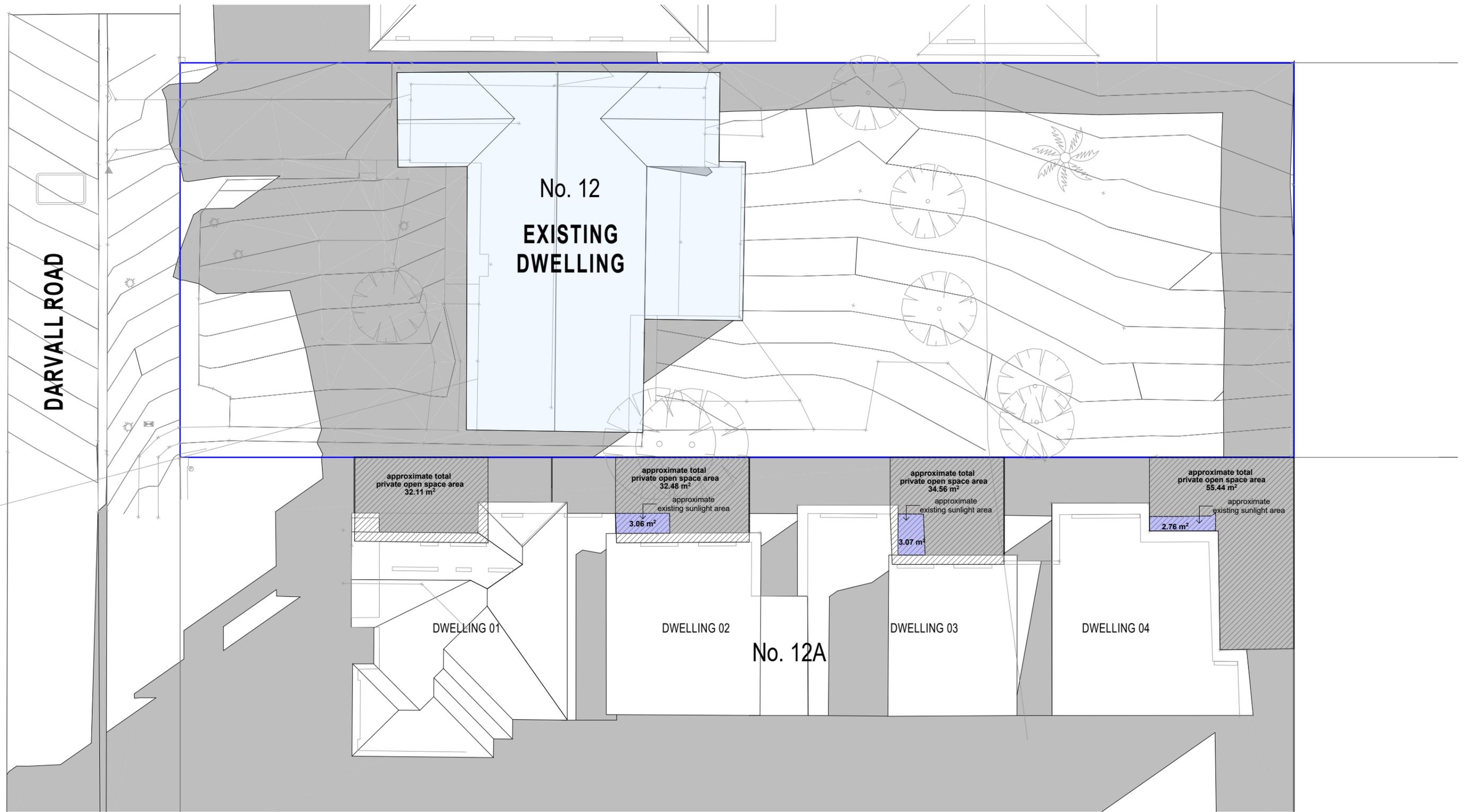
PROJECT  
PROPOSED LAND SUBDIVISION

FOR  
Aust Sunshine Marketing

JOB No  
21016

DATE  
NOV 2021

<b>YUJI HONDA ARCHITECTS</b>		
DRAWING TITLE	SCALE	DRAWING NUMBER
Elevations	1:200 @ A3	SP04
	DRAWN GH/YT	ISSUE F



DARVALL ROAD

No. 12  
EXISTING  
DWELLING

approximate total private open space area 32.11 m<sup>2</sup>

approximate total private open space area 32.48 m<sup>2</sup>  
approximate existing sunlight area 3.06 m<sup>2</sup>

approximate total private open space area 34.56 m<sup>2</sup>  
approximate existing sunlight area 3.07 m<sup>2</sup>

approximate total private open space area 55.44 m<sup>2</sup>  
approximate existing sunlight area 2.76 m<sup>2</sup>

DWELLING 01

DWELLING 02

No. 12A

DWELLING 03

DWELLING 04

June 21st - 9am Existing Shadows  
1:200

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F	For Land Subdivision	GH/YT	21/07/2022

ADDRESS  
12 DARVALL RD, EASTWOOD NSW 2122

PROJECT  
PROPOSED LAND SUBDIVISION

FOR  
Aust Sunshine Marketing

JOB No  
21016

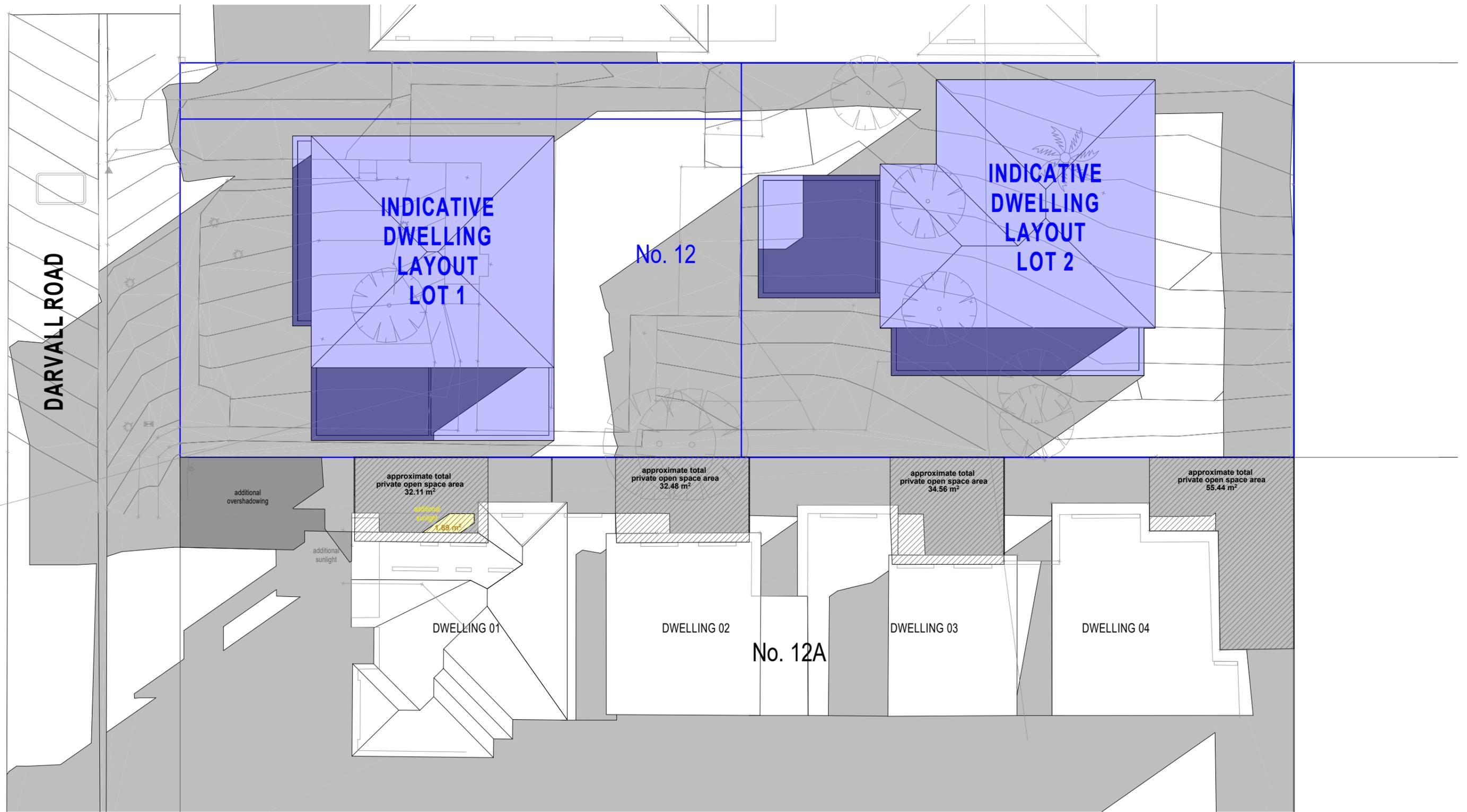
DATE  
NOV 2021

**YUJI HONDA ARCHITECTS**

DRAWING TITLE  
Shadow Diagrams - June 21st 9am Existing

SCALE  
1:200  
@ A3  
DRAWN  
GH/YT

DRAWING NUMBER  
SP05  
ISSUE  
F



June 21st - 9am Proposed Shadows  
1:200

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Issue	Description	Checked By	Issue Date
F	For Land Subdivision	GH/YT	21/07/2022

ADDRESS  
12 DARVALL RD, EASTWOOD NSW 2122

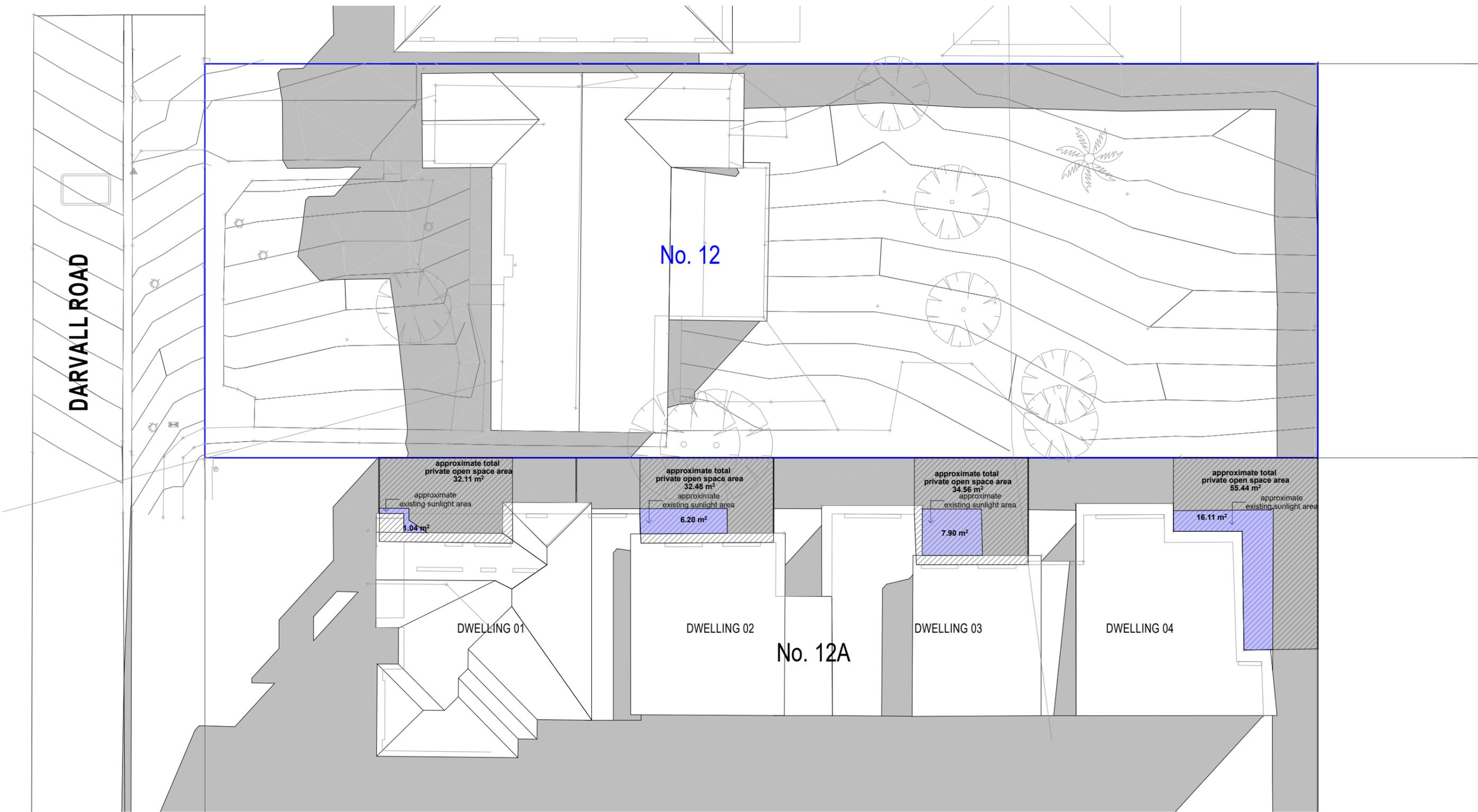
PROJECT  
PROPOSED LAND SUBDIVISION

FOR  
Aust Sunshine Marketing

JOB No  
21016

DATE  
NOV 2021

<b>YUJI HONDA ARCHITECTS</b>		
DRAWING TITLE	SCALE	DRAWING NUMBER
Shadow Diagrams - June 21st 9am Proposed	1:200 @ A3 DRAWN GH/YT	SP06 ISSUE F



Jun 21st - 10am Existing Shadows  
1:200

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F	For Land Subdivision	GH/YT	21/07/2022

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PROJECT  
PROPOSED LAND SUBDIVISION

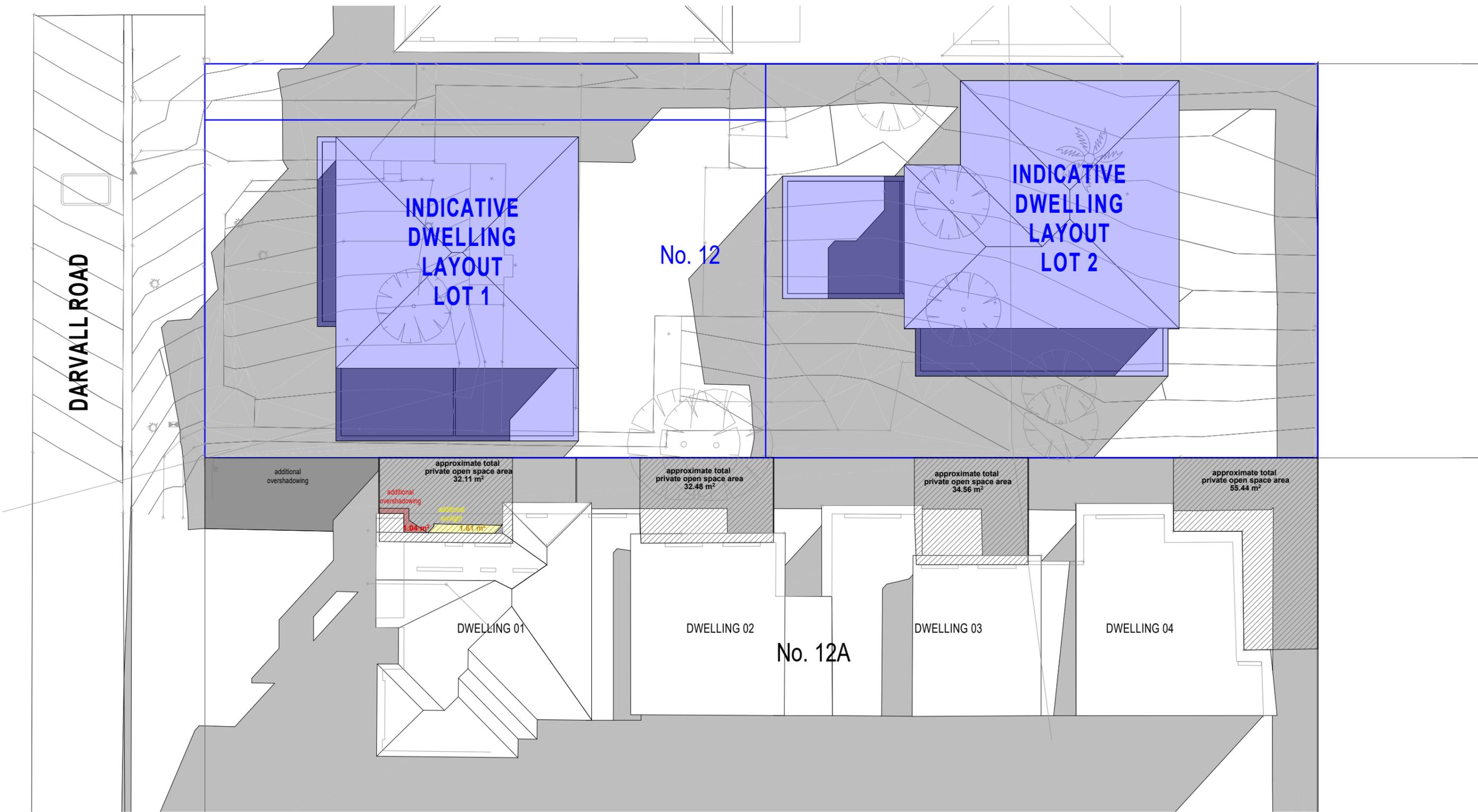
FOR  
Aust Sunshine Marketing

JOB No  
21016

DATE  
NOV 2021

**YUJI HONDA ARCHITECTS**

DRAWING TITLE	SCALE	DRAWING NUMBER
Shadow Diagrams - June 21st 10am Existing	1:200 @ A3	SP06a
	DRAWN	ISSUE
	GH/YT	F



Jun 21st 10am Proposed Shadows  
1:200

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F	For Land Subdivision	GH/YT	21/07/2022

ADDRESS  
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PROJECT  
PROPOSED LAND SUBDIVISION

FOR  
Aust Sunshine Marketing

JOB No  
21016

DATE  
NOV 2021

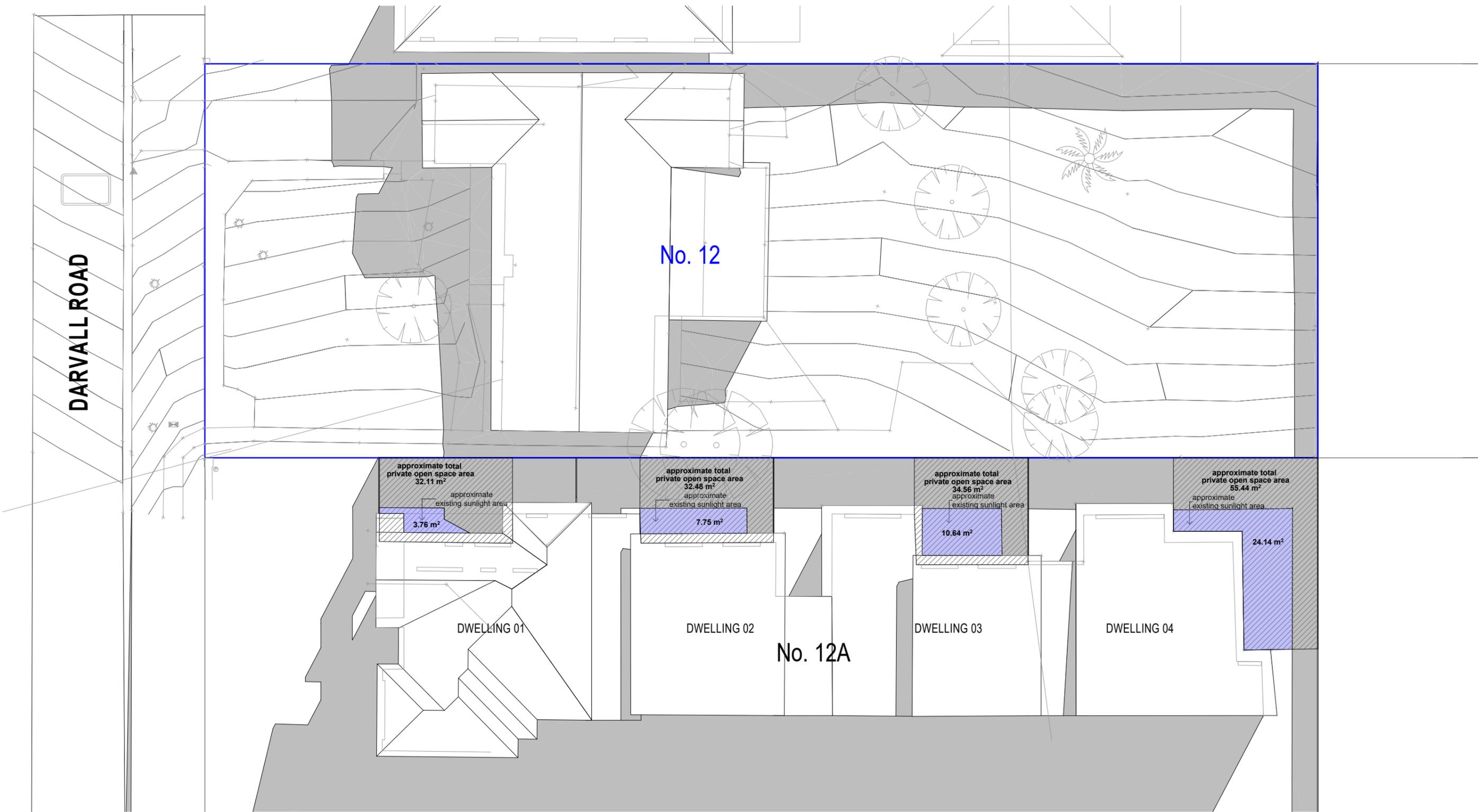
**YUJI HONDA ARCHITECTS**

DRAWING TITLE  
Shadow Diagrams - June 21st 10am Proposed

SCALE  
1:200  
@ A3  
DRAWN  
GH/YT

DRAWING NUMBER  
SP06b

ISSUE  
F



June 21st 11am Existing Shadows  
1:200

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PROJECT  
PROPOSED LAND SUBDIVISION

FOR  
Aust Sunshine Marketing

JOB No  
21016

DATE  
NOV 2021

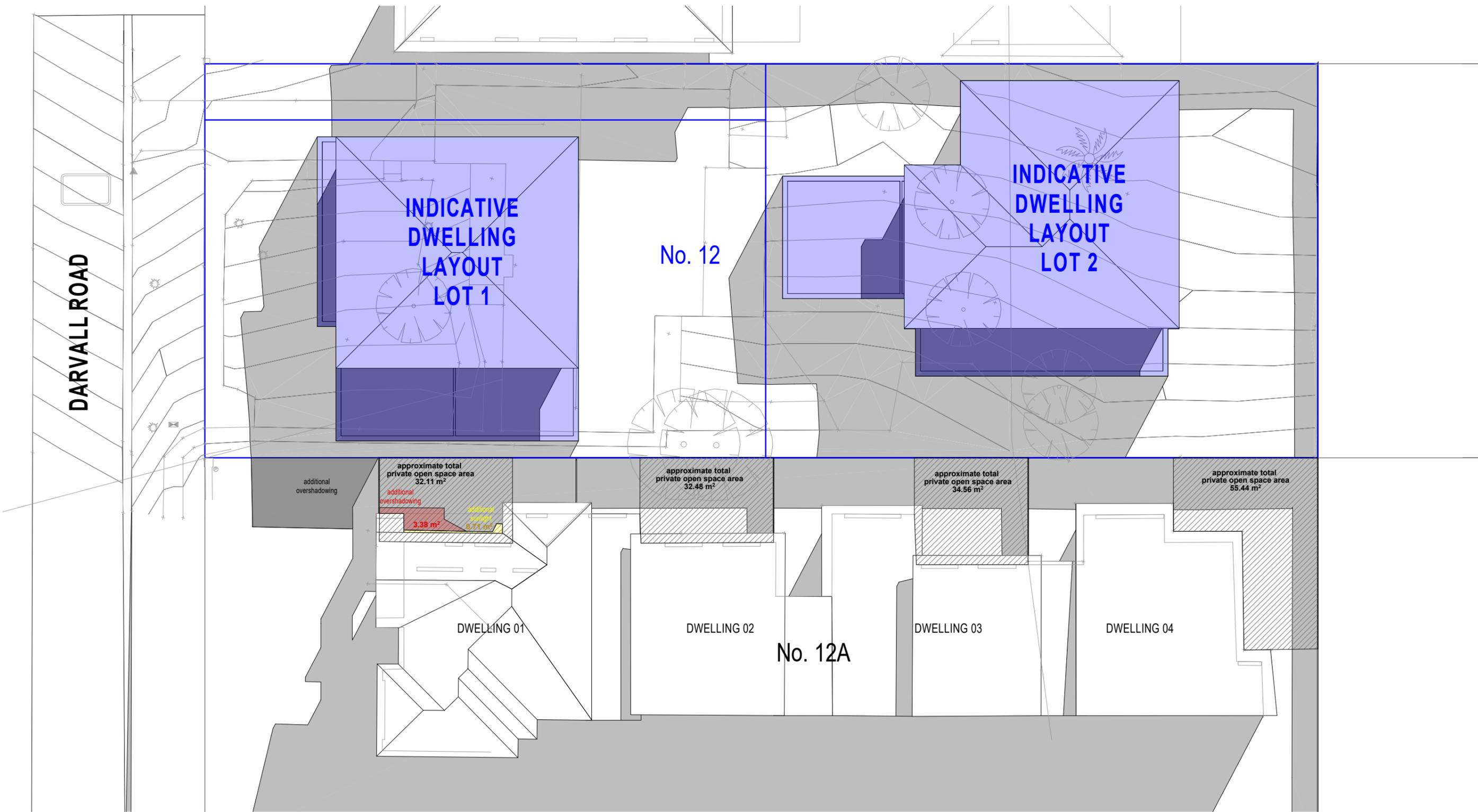
**YUJI HONDA ARCHITECTS**

DRAWING TITLE  
Shadow Diagrams - June 21st 11am Existing

SCALE  
1:200  
@ A3  
DRAWN  
GH/YT

DRAWING NUMBER  
SP06c

ISSUE  
F



June 21st 11am Proposed Shadows  
1:200

- NOTES
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F	For Land Subdivision	GH/YT	21/07/2022

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PROJECT  
PROPOSED LAND SUBDIVISION

FOR  
Aust Sunshine Marketing

JOB No  
21016

DATE  
NOV 2021

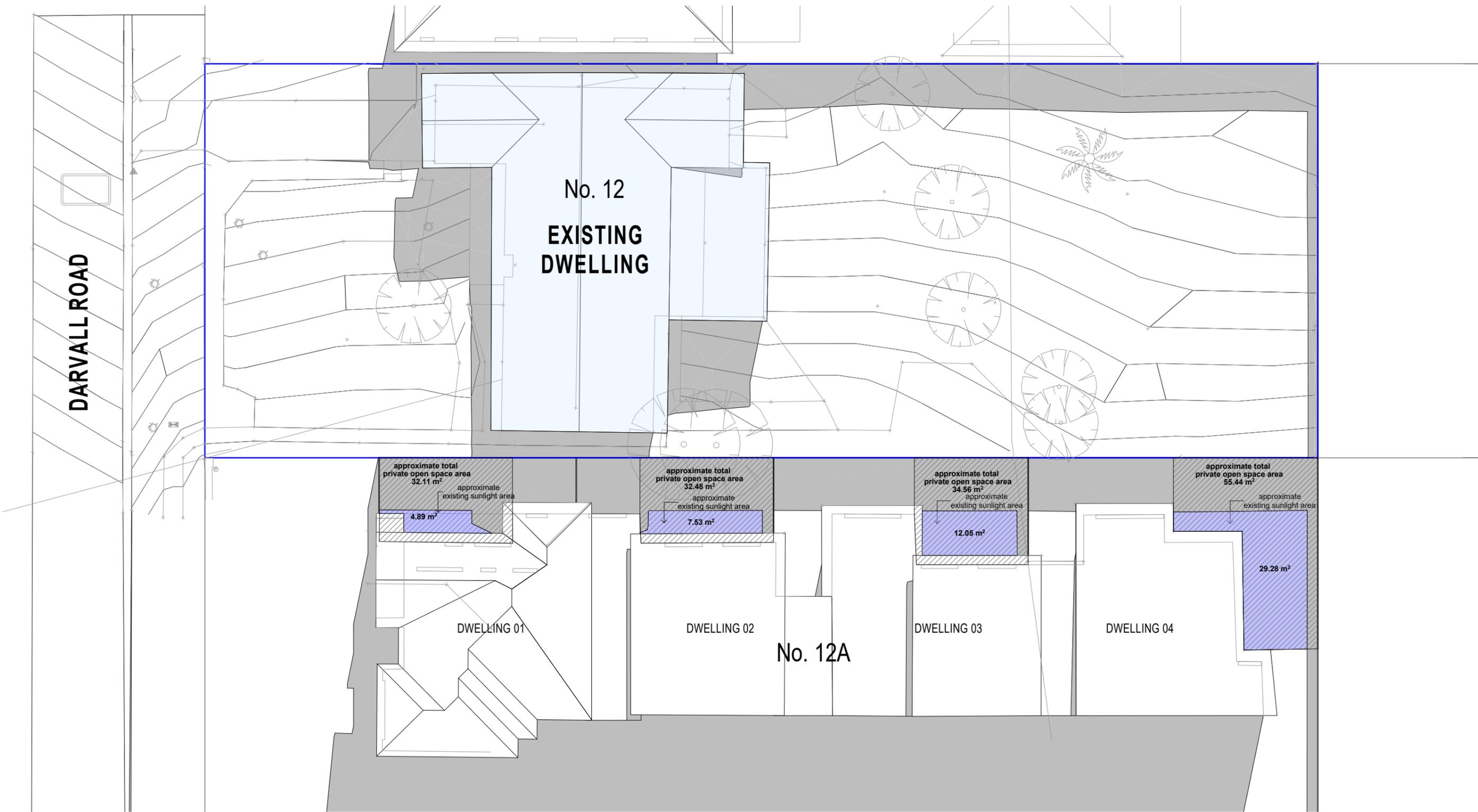
**YUJI HONDA ARCHITECTS**

DRAWING TITLE  
Shadow Diagrams - June 21st 11am Proposed

SCALE  
1:200  
@ A3  
DRAWN  
GH/YT

DRAWING NUMBER  
SP06d

ISSUE  
F



June 21st - 12pm Existing Shadows  
1:200

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PROJECT  
PROPOSED LAND SUBDIVISION

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Aust Sunshine Marketing

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DATE  
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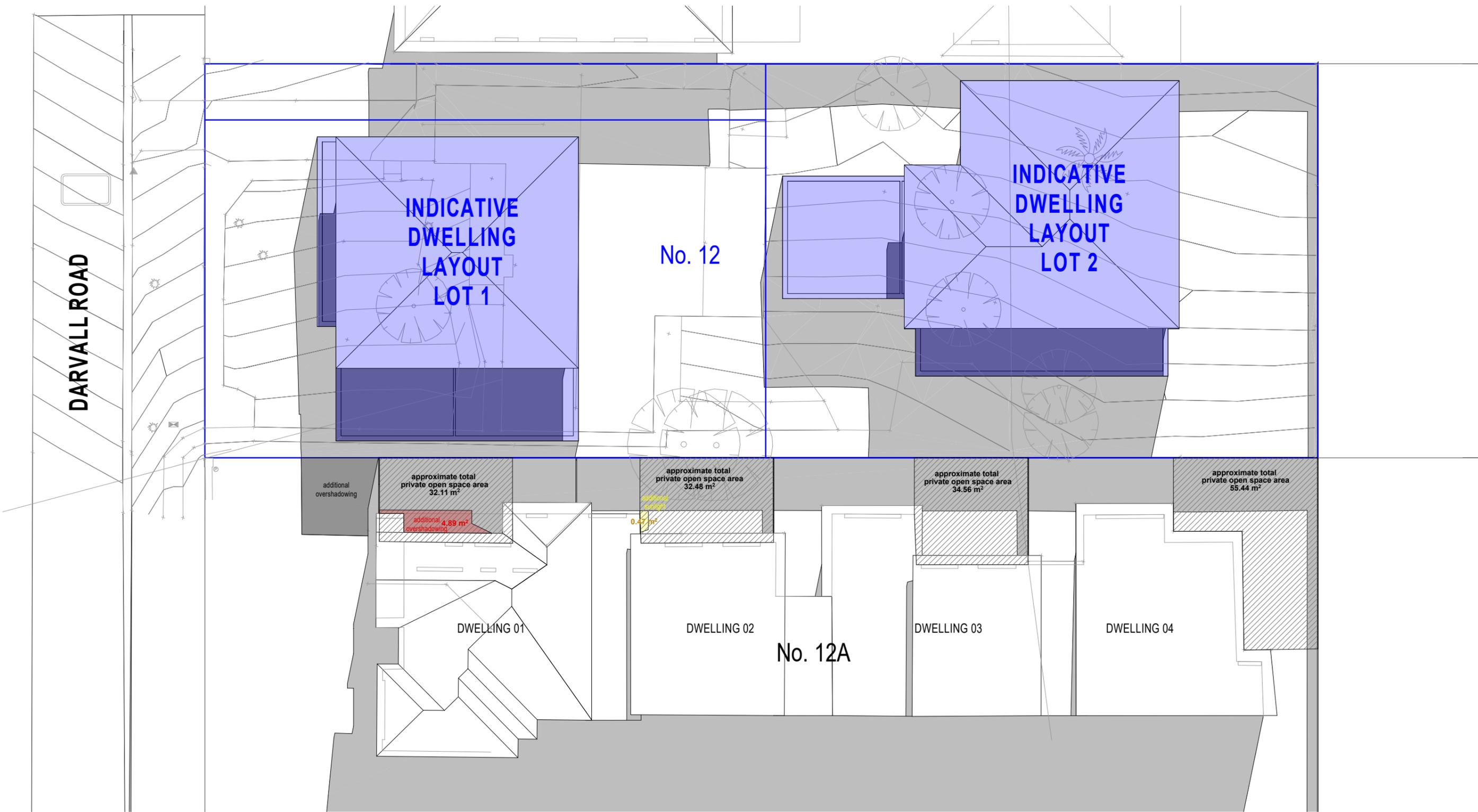
**YUJI HONDA ARCHITECTS**

DRAWING TITLE  
Shadow Diagrams - June 21st 12pm Existing

SCALE  
1:200  
@ A3  
DRAWN  
GH/YT

DRAWING NUMBER  
SP007

ISSUE  
F



June 21st - 12pm Proposed Shadows  
1:200

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F	For Land Subdivision	GH/YT	21/07/2022

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Aust Sunshine Marketing

JOB No  
21016

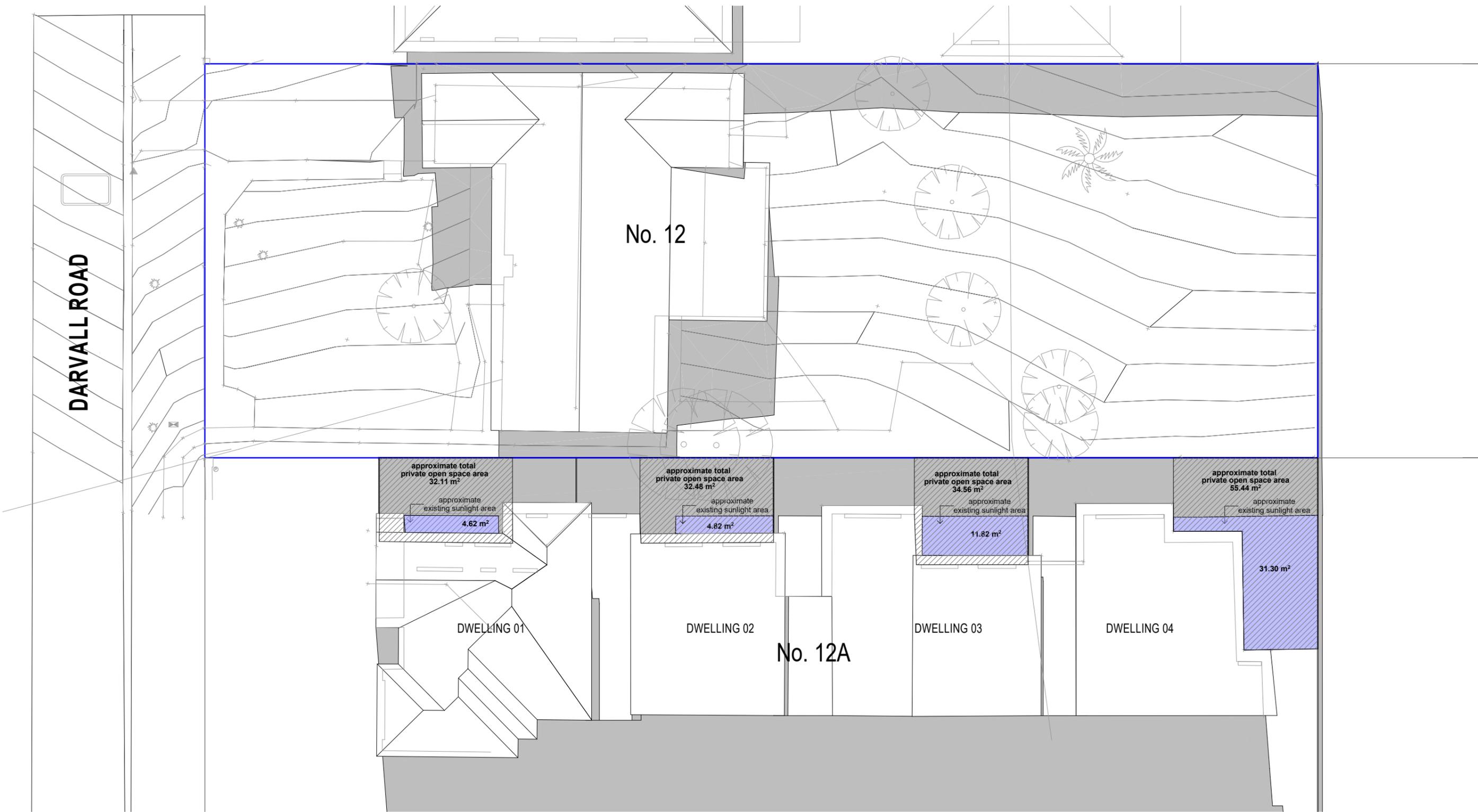
DATE  
NOV 2021

**YUJI HONDA ARCHITECTS**

DRAWING TITLE  
Shadow Diagrams - June 21st 12pm  
Proposed

SCALE  
1:200  
@ A3  
DRAWN  
GH/YT

DRAWING NUMBER  
SP08  
ISSUE  
F



June 21st - 1pm Existing Shadows  
1:200

NOTES

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Issue	Description	Checked By	Issue Date
F	For Land Subdivision	GH/YT	21/07/2022

ADDRESS  
12 DARVALL RD, EASTWOOD NSW 2122

PROJECT  
PROPOSED LAND SUBDIVISION

FOR  
Aust Sunshine Marketing

JOB No  
21016

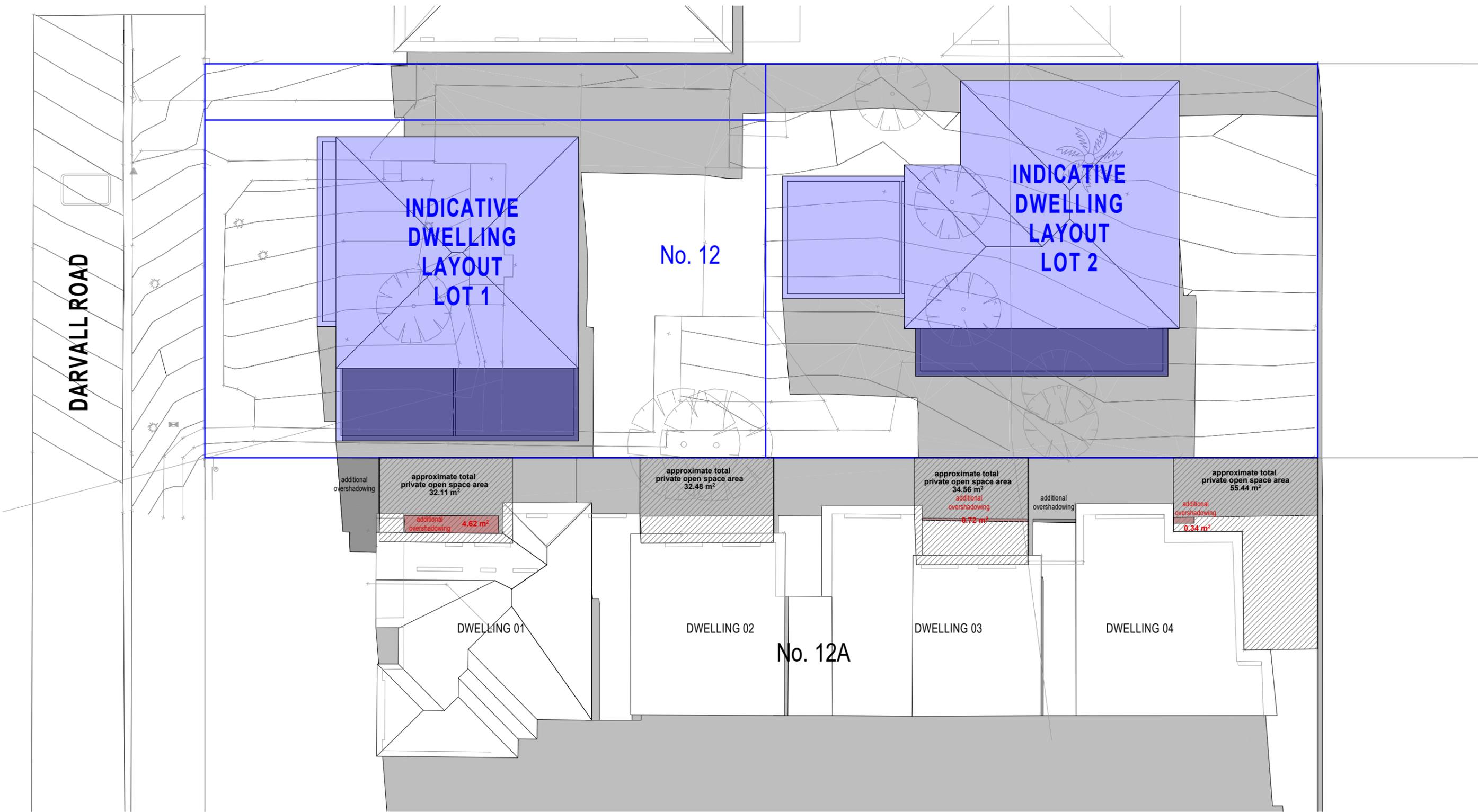
DATE  
NOV 2021

YUJI HONDA ARCHITECTS

DRAWING TITLE  
Shadow Diagrams - June 21st 1pm Existing

SCALE  
1:200  
@ A3  
DRAWN  
GH/YT

DRAWING NUMBER  
SP08a  
ISSUE  
F



June 21st - 1pm Proposed Shadows  
1:200

- NOTES
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Issue	Description	Checked By	Issue Date
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12 DARVALL RD, EASTWOOD NSW 2122

PROJECT  
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FOR  
Aust Sunshine Marketing

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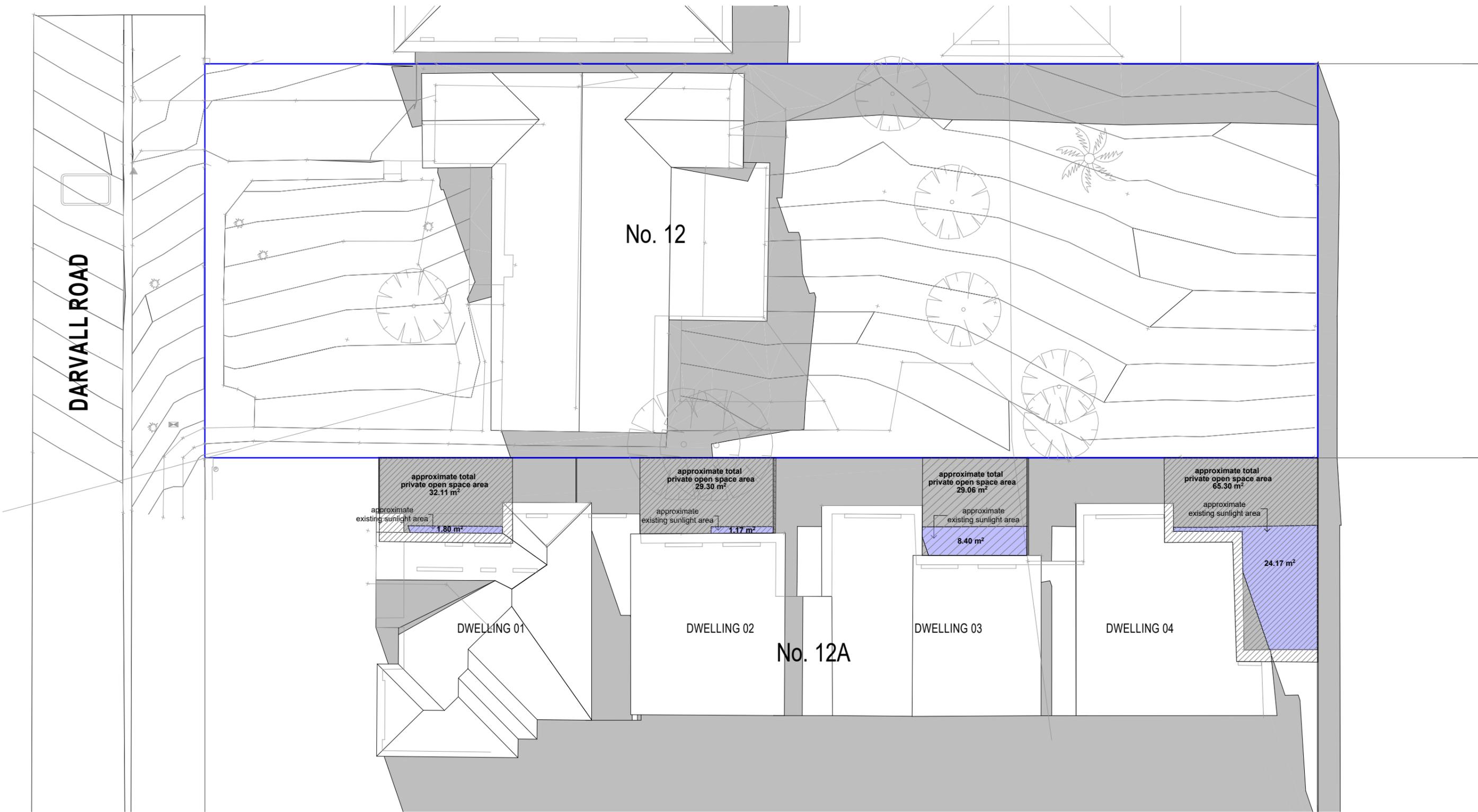
DATE  
NOV 2021

**YUJI HONDA ARCHITECTS**

DRAWING TITLE  
Shadow Diagrams - June 21st 1pm Proposed

SCALE  
1:200  
@ A3  
DRAWN  
GH/YT

DRAWING NUMBER  
SP08b  
ISSUE  
F



June 21st - 2pm Existing Shadows  
1:200

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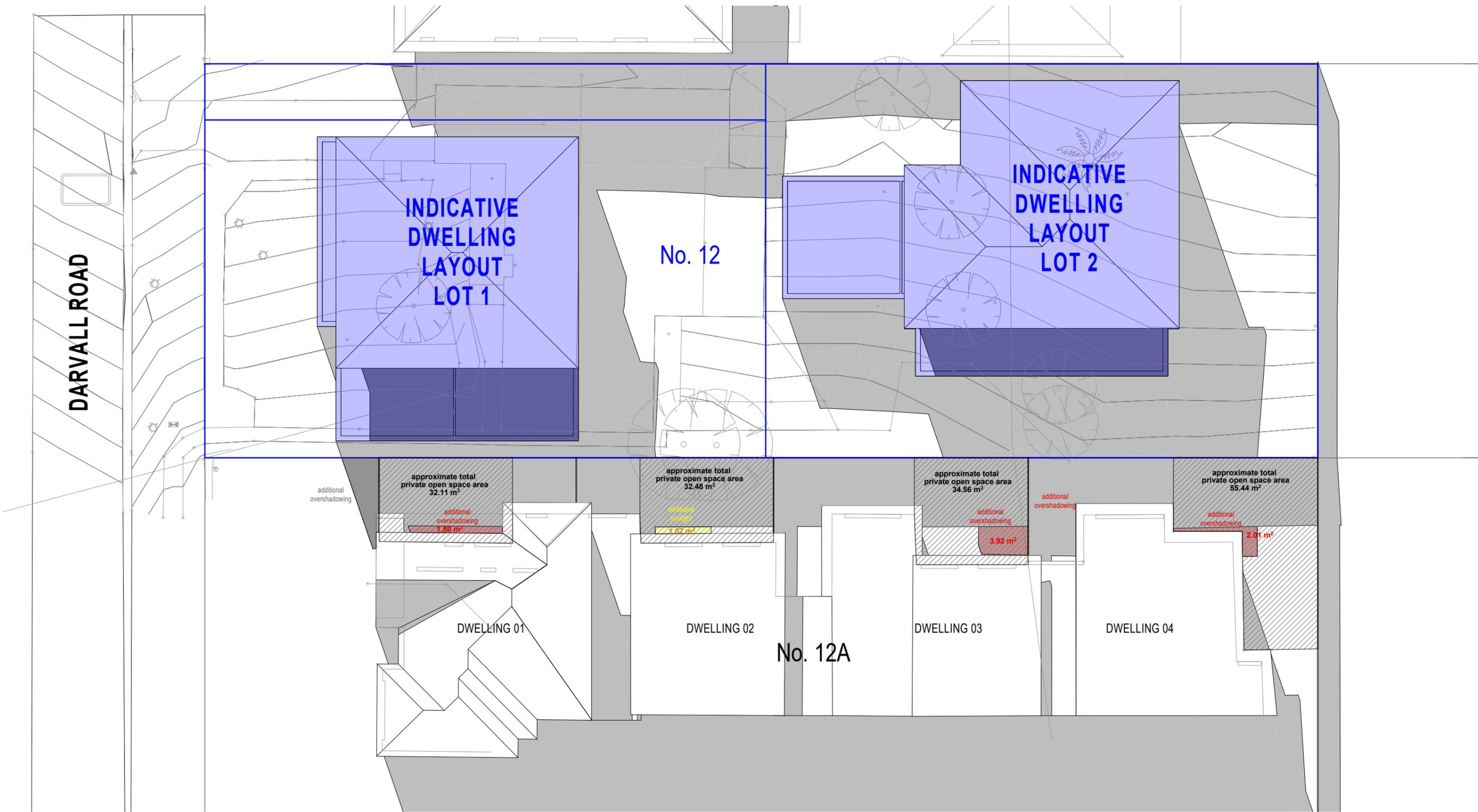
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NOV 2021

**YUJI HONDA ARCHITECTS**

DRAWING TITLE  
Shadow Diagrams - June 21st 2pm Existing

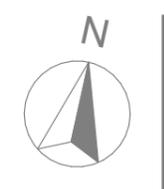
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1:200  
@ A3  
DRAWN  
GH/YT

DRAWING NUMBER  
SP8c  
ISSUE  
F



June 21st - 2pm Proposed Shadows  
1:200

- NOTES
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Issue	Description	Checked By	Issue Date
F	For Land Subdivision	GH/YT	21/07/2022

ADDRESS  
12 DARVALL RD, EASTWOOD NSW 2122

PROJECT  
PROPOSED LAND SUBDIVISION

FOR  
Aust Sunshine Marketing

JOB No  
21016

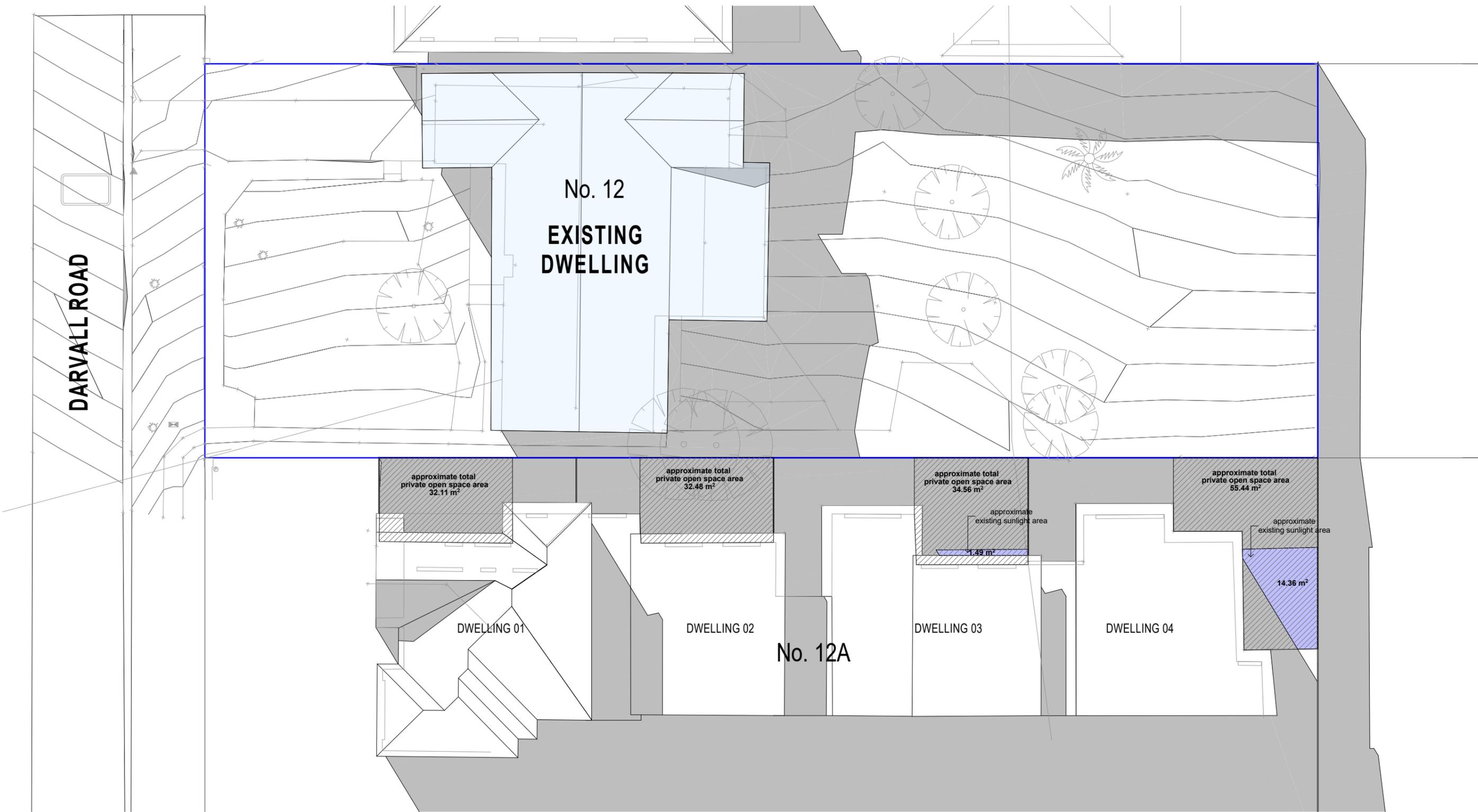
DATE  
NOV 2021

**YUJI HONDA ARCHITECTS**

DRAWING TITLE  
Shadow Diagrams - June 21st 2pm Proposed

SCALE  
1:200  
@ A3  
DRAWN  
GH/YT

DRAWING NUMBER  
SP8d  
ISSUE  
F



June 21st - 3pm Existing Shadows  
1:200

NOTES

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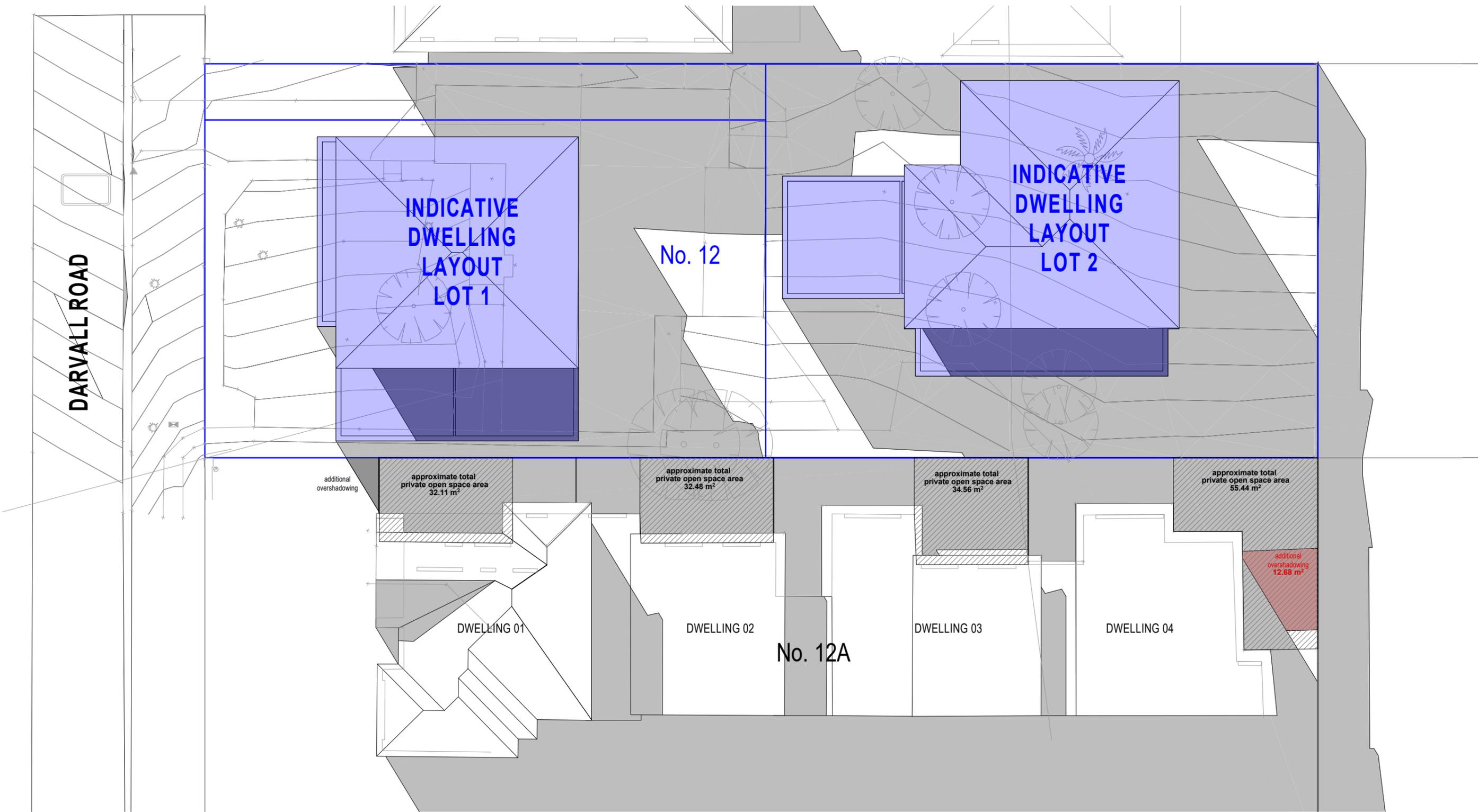
DATE  
NOV 2021

**YUJI HONDA ARCHITECTS**

DRAWING TITLE  
Shadow Diagrams - June 21st 3pm Existing

SCALE  
1:200  
@ A3  
DRAWN  
GH/YT

DRAWING NUMBER  
SP09  
ISSUE  
F



June 21st - 3pm Proposed Shadows  
1:200

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JOB No  
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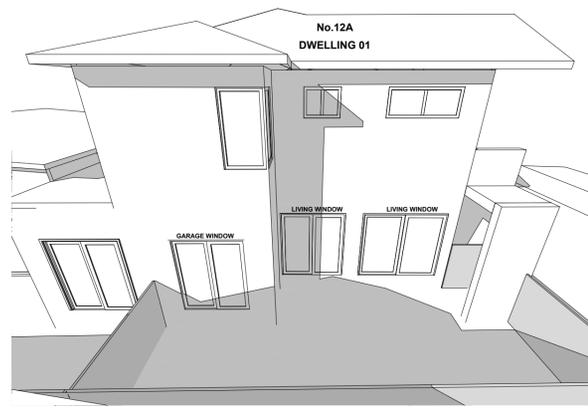
DATE  
NOV 2021

**YUJI HONDA ARCHITECTS**

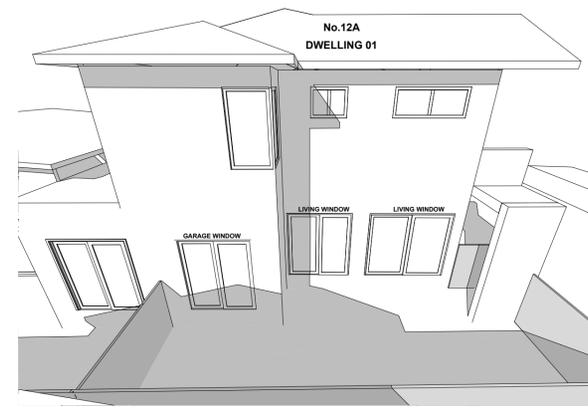
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Shadow Diagrams - June 21st 3pm Proposed	1:200	SP10
	@ A3	ISSUE
	DRAWN	F
	GH/YT	



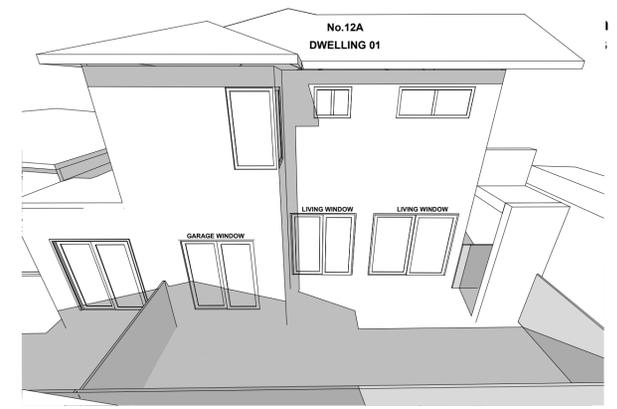
DWELLING 01 - June 21st - 9am Existing Shadows



DWELLING 01 - June 21st - 10am Existing Shadows



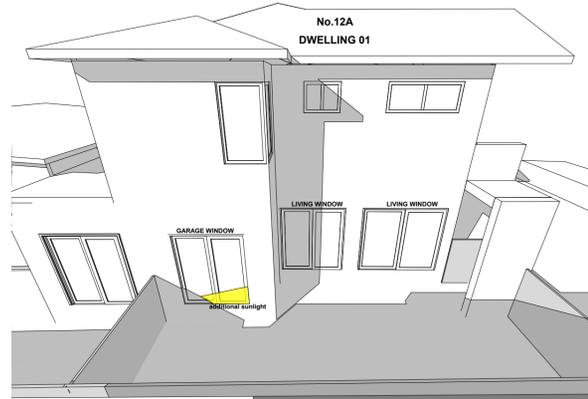
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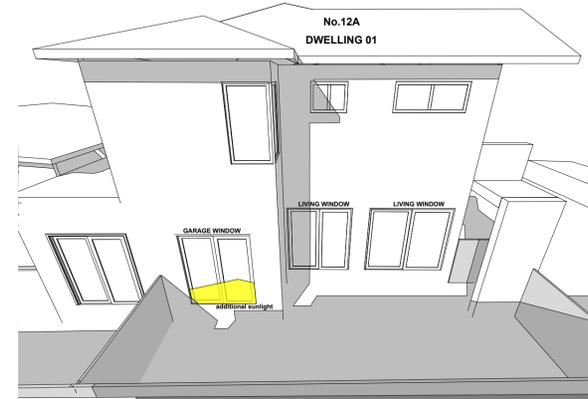
DWELLING 01 - June 21st - 12pm Existing Shadows



DWELLING 01 - June 21st - 9am Proposed Shadows



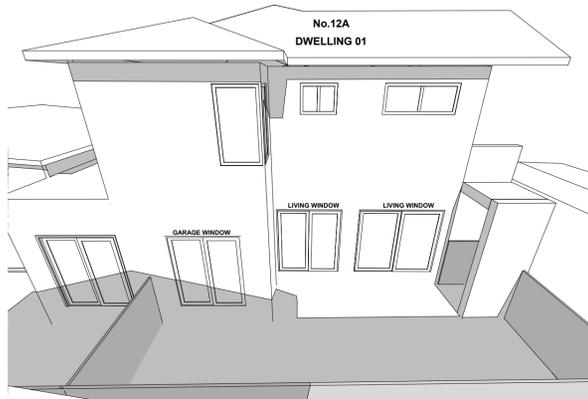
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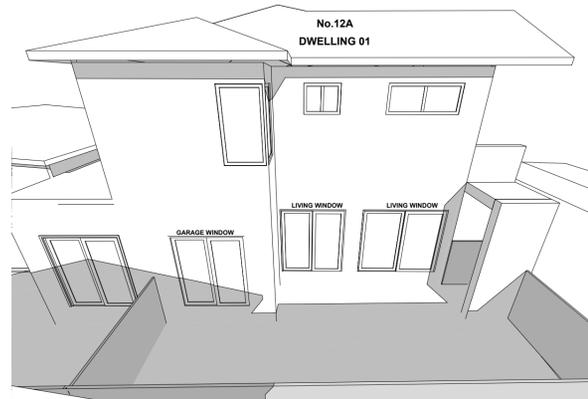
DWELLING 01 - June 21st - 11am Proposed Shadows



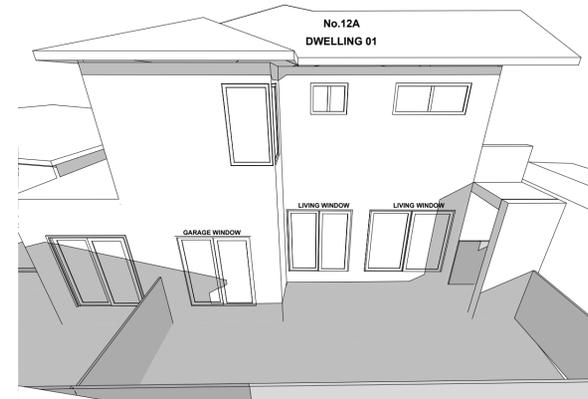
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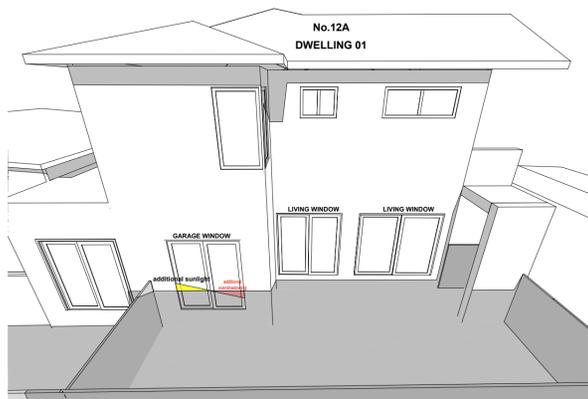
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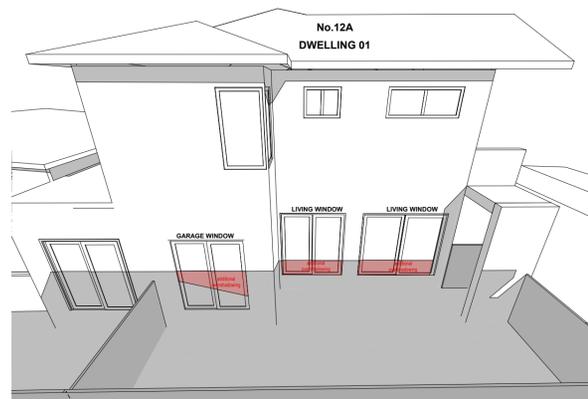
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DWELLING 01 - June 21st - 3pm Existing Shadows



DWELLING 01 - June 21st - 1pm Proposed Shadows



DWELLING 01 - June 21st - 2pm Proposed Shadows



DWELLING 01 - June 21st - 3pm Proposed Shadows

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PROJECT  
PROPOSED LAND SUBDIVISION  
ADDRESS  
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FOR  
Aust Sunshine Marketing

JOB No DATE  
21016 NOV 2021

Issue	Description	Checked By	Issue Date
F	For Land Subdivision	GH/NT	21/07/2022

**YUJI HONDA ARCHITECTS**

DRAWING TITLE  
No.12A DWELLING 01 - Overshadowing  
Perspectives - June21st

DRAWING NUMBER  
SP14

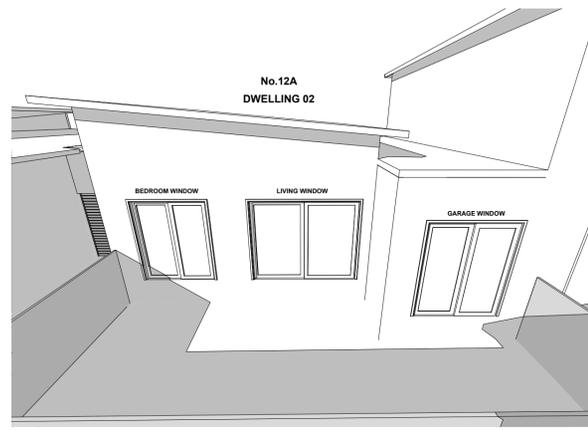
ISSUE  
F

SCALE  
@ A1

DRAWN  
GH



DWELLING 02 - June 21st - 9am Existing Shadows



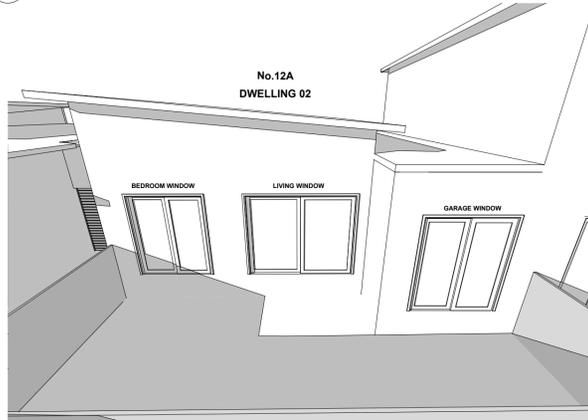
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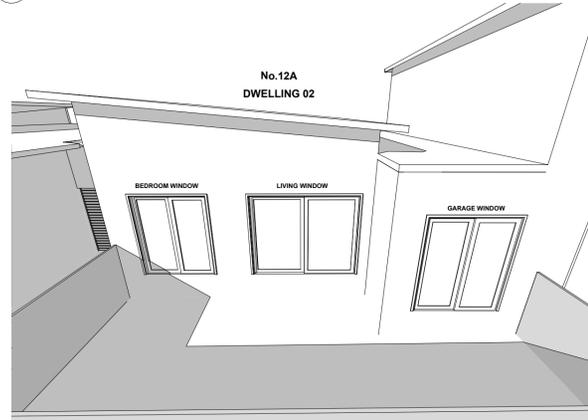
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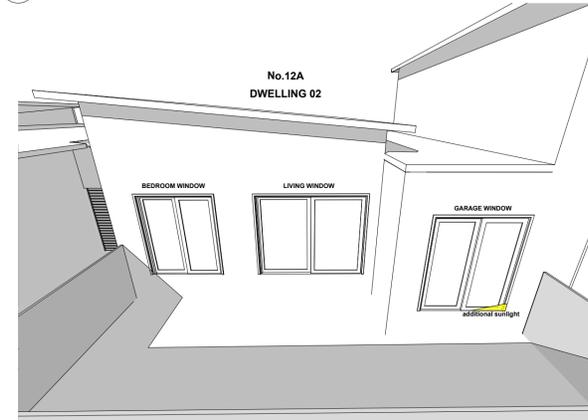
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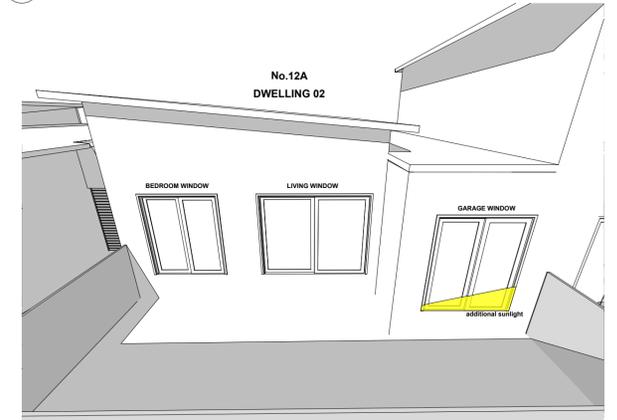
DWELLING 02 - June 21st - 9am Proposed Shadows



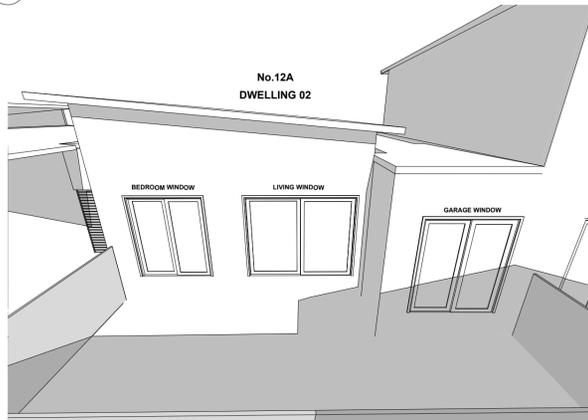
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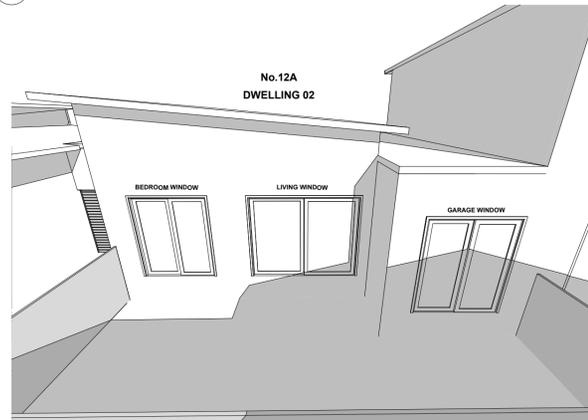
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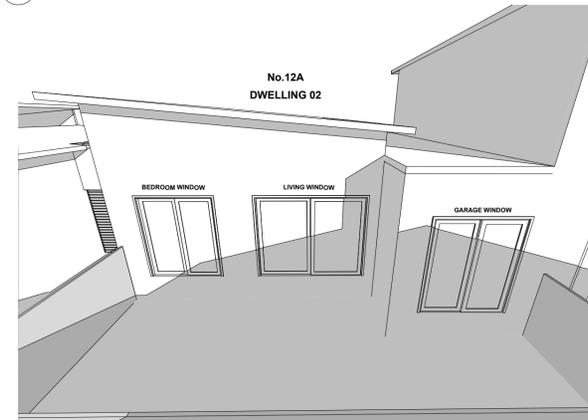
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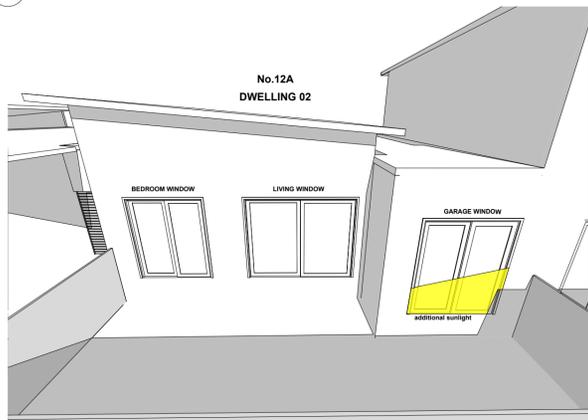
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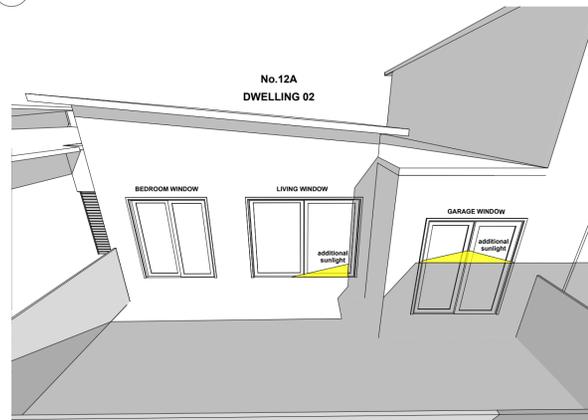
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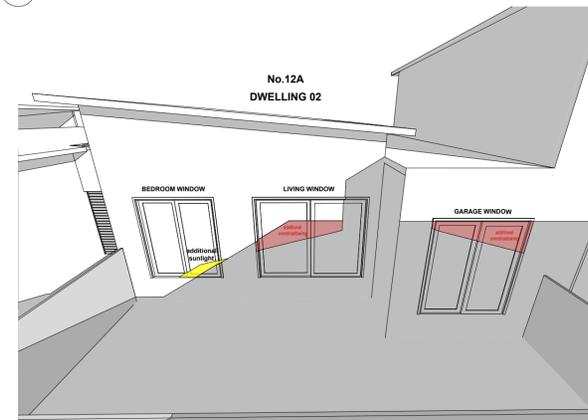
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DWELLING 02 - June 21st - 1pm Proposed Shadows



DWELLING 02 - June 21st - 2pm Proposed Shadows



DWELLING 02 - June 21st - 3pm Proposed Shadows

PRELIMINARY - WORK  
IN PROGRESS

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JOB No DATE  
21016 NOV 2021

Issue	Description	Checked By	Issue Date
F	For Land Subdivision	GHYT	21/07/2022

**YUJI HONDA ARCHITECTS**

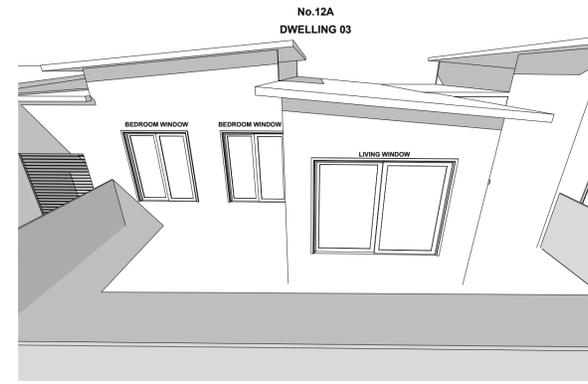
DRAWING TITLE No.12A DWELLING 02 - Overshadowing Perspectives - June21st	DRAWING NUMBER SP23
SCALE @ A1	ISSUE F



DWELLING 03 - June 21st - 9am Existing Shadows



DWELLING 03 - June 21st - 10am Existing Shadows



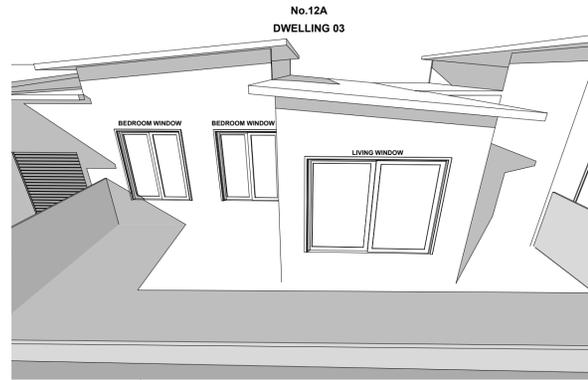
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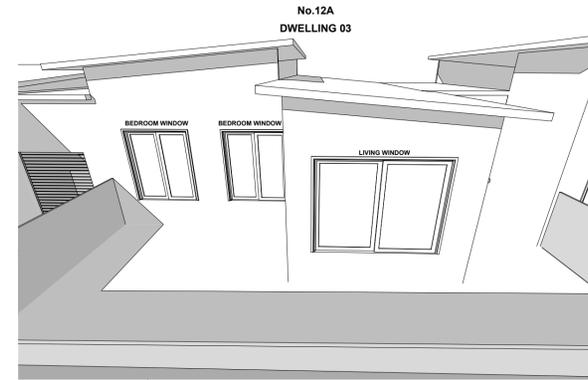
DWELLING 03 - June 21st - 12pm Existing Shadows



DWELLING 03 - June 21st - 9am Proposed Shadows



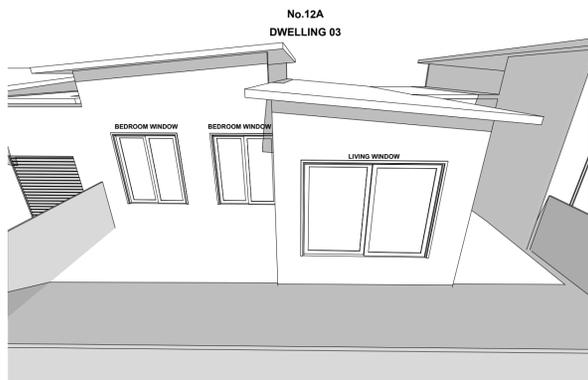
DWELLING 03 - June 21st - 10am Proposed Shadows



DWELLING 03 - June 21st - 11am Proposed Shadows



DWELLING 03 - June 21st - 12pm Proposed Shadows



DWELLING 03 - June 21st - 1pm Existing Shadows



DWELLING 03 - June 21st - 2pm Existing Shadows



DWELLING 03 - June 21st - 3pm Existing Shadows



DWELLING 03 - June 21st - 1pm Proposed Shadows



DWELLING 03 - June 21st - 2pm Proposed Shadows



DWELLING 03 - June 21st - 3pm Proposed Shadows

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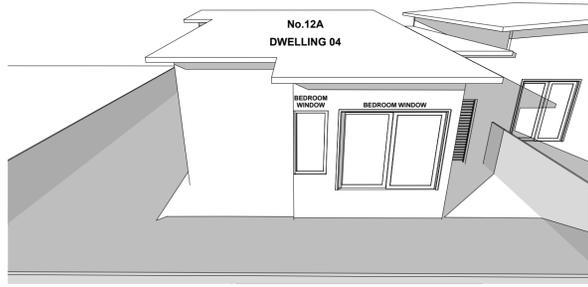
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No.12A DWELLING 03 -  
Overshadowing Perspectives - June21st

DRAWING NUMBER  
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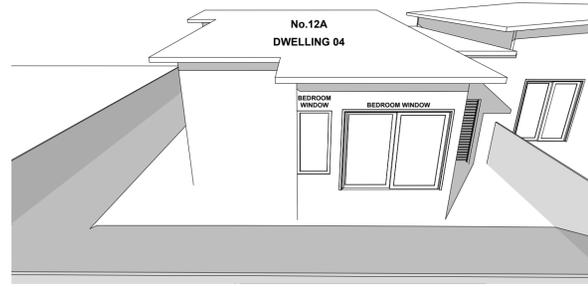
ISSUE  
F

SCALE  
@ A1

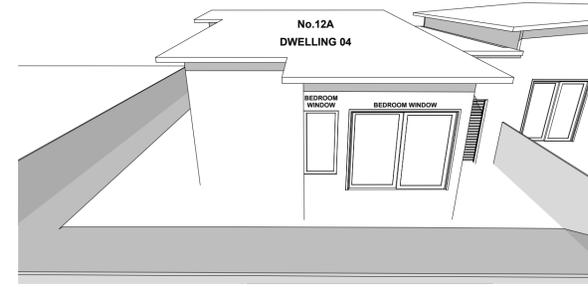
DRAWN  
GH



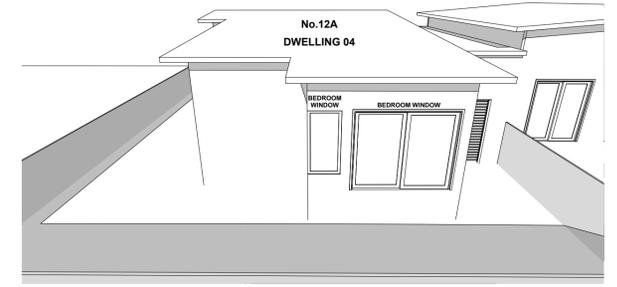
DWELLING 04 - June 21st - 9am Existing Shadows



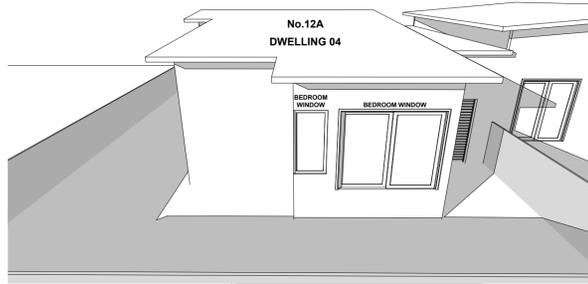
DWELLING 04 - June 21st - 10am Existing Shadows



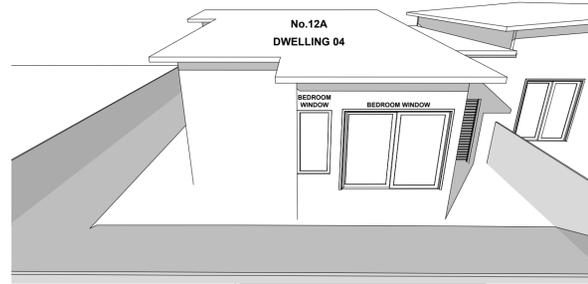
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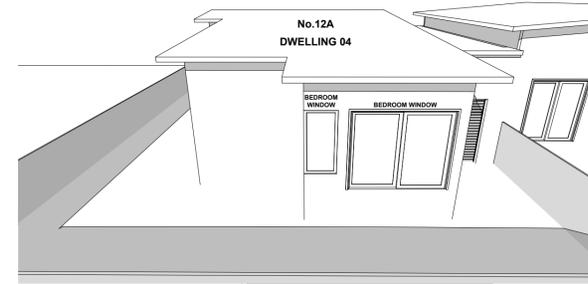
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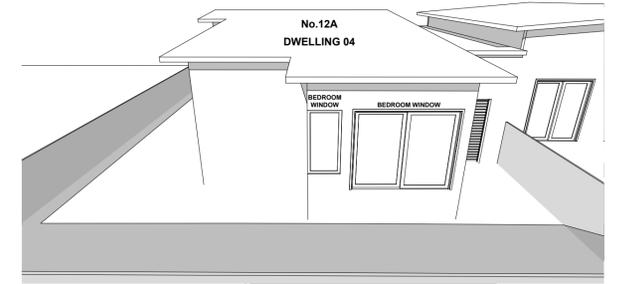
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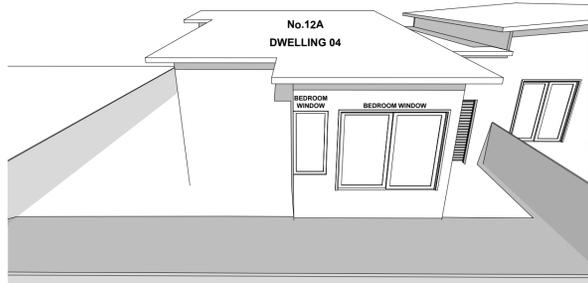
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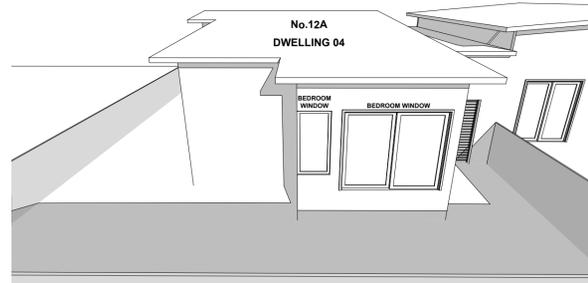
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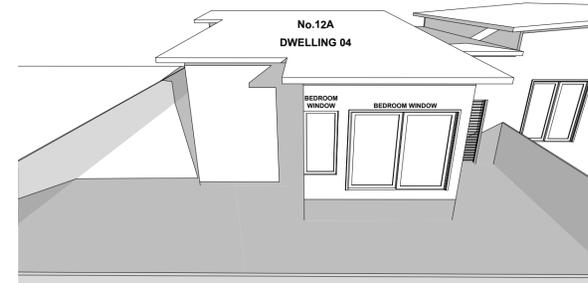
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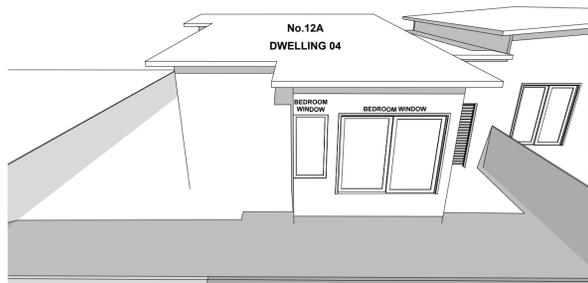
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DWELLING 04 - June 21st - 2pm Existing Shadows



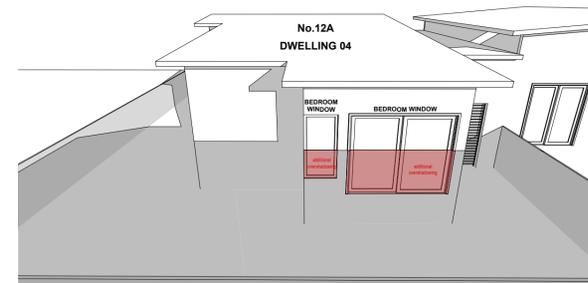
DWELLING 04 - June 21st - 3pm Existing Shadows



DWELLING 04 - June 21st - 1pm Proposed Shadows



DWELLING 04 - June 21st - 2pm Proposed Shadows



DWELLING 04 - June 21st - 3pm Proposed Shadows

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JOB No DATE  
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Issue	Description	Checked By	Issue Date
F	For Land Subdivision	GHYT	21/07/2022

**YUJI HONDA ARCHITECTS**

DRAWING TITLE  
No.12A DWELLING 04 -  
Overshadowing Perspectives - June21st

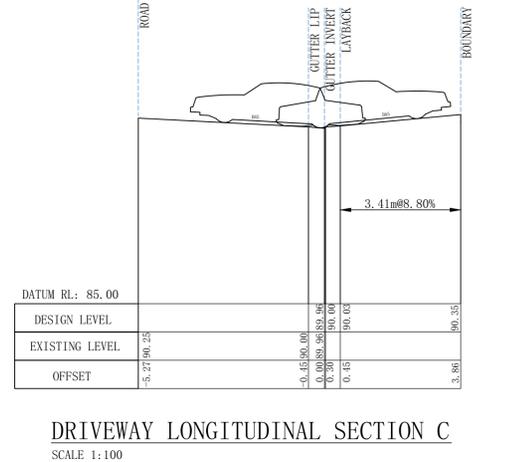
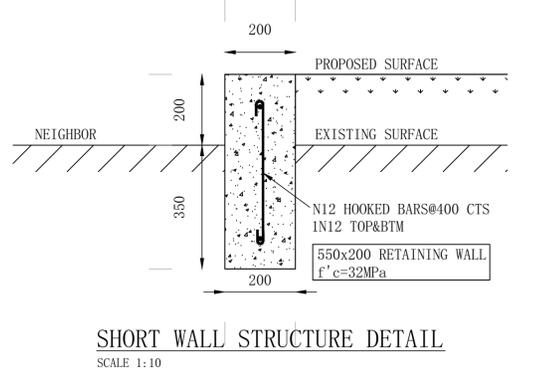
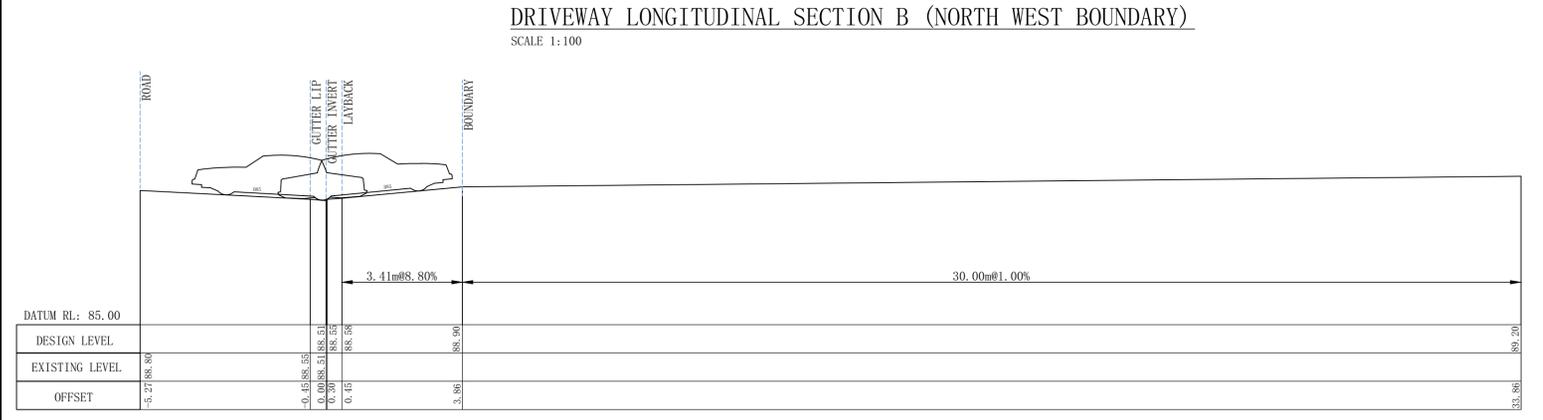
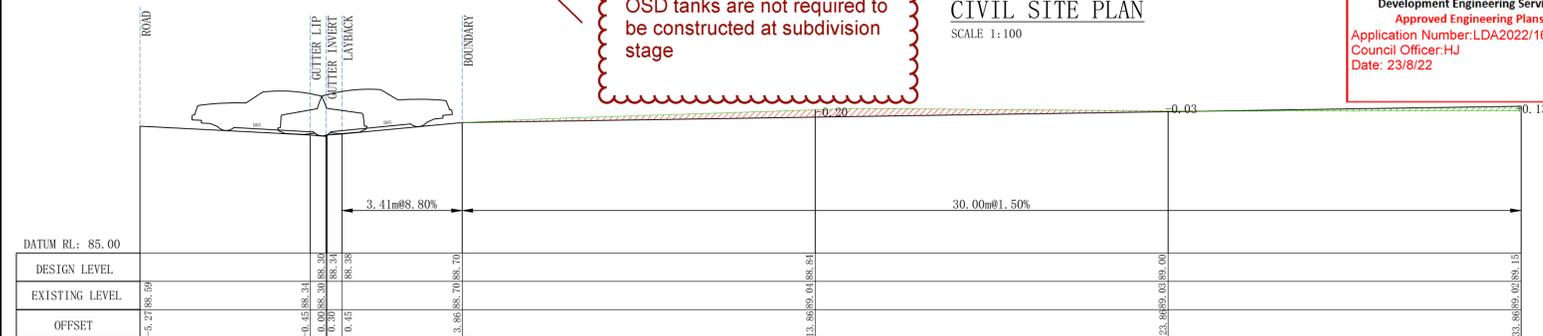
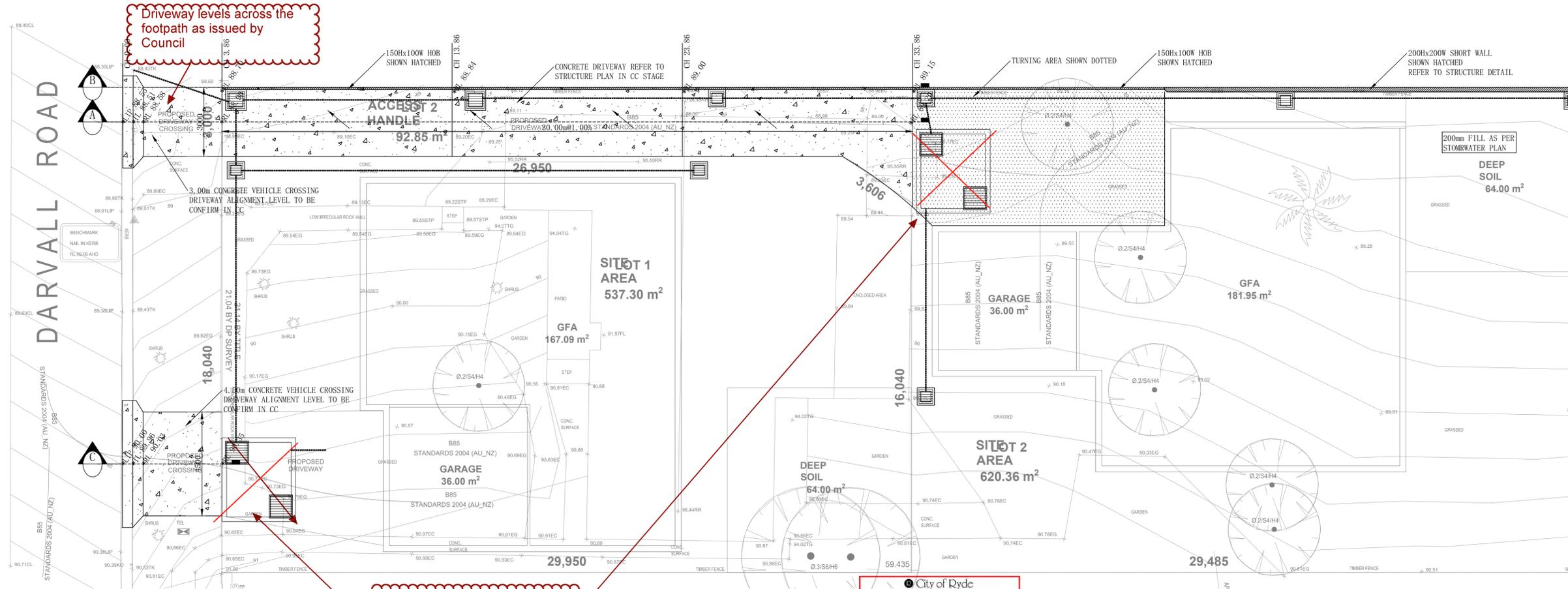
DRAWING NUMBER  
SP25

ISSUE  
F

SCALE  
@ A1

DRAWN  
GH

**NOTE RE. SERVICES**  
 APPROXIMATE LOCATIONS OF EXISTING SERVICES SHOWN ON LONGITUDINAL SECTION. EXACT LOCATIONS & DEPTHS TO BE ACCURATELY LOCATED BY THE BUILDING CONTRACTOR BY CONTACTING THE RELEVANT AUTHORITIES BEFORE COMMENCEMENT OF ANY WORKS



**GENERAL NOTES.**

- ALL WORKS TO BE CARRIED OUT IN ACCORDANCE WITH COUNCIL'S STANDARDS AND SPECIFICATIONS AS DIRECTED BY THE ENGINEER.
- THE CONTRACTOR IS NOT TO ENTER UPON NOR DO ANY WORKS WITHIN ADJACENT LANDS WITHOUT THE WRITTEN PERMISSION OF THE LAND OWNER.
- ALL FILLING TO BE COMPACTED TO A MINIMUM 95% OF THE STANDARD MAXIMUM DRY DENSITY AS TESTED IN ACCORDANCE WITH E.1.1 OF AS1289-1977.
- FILL MATERIAL TO BE APPROVED BY THE CONSTRUCTION ENGINEER.
- SURPLUS EXCAVATED MATERIAL TO BE PLACED WHERE DIRECTED BY THE ENGINEER.
- A MINIMUM 50mm APPROVED GRANULAR BEDDING TO BE PROVIDED BENEATH ALL CONCRETE.
- ALL CONCRETE WORKS TO BE CONSTRUCTED TO GRADE 25MPa CONCRETE U. N. O.
- ALL DISTURBED TURFED AREAS AND BATTERS TO BE TOPSOILED, TURFED OR SPRAY GRASSED.
- ALL MEASUREMENTS IN MILLIMETERS UNLESS OTHERWISE NOTED.
- MEASUREMENTS SHALL BE TAKEN FROM THE FIGURED DIMENSIONS AND ARE NOT TO BE SCALED FROM THE DRAWINGS.
- PROVISION FOR TRAFFIC CONTROL DURING CONSTRUCTION TO BE IN ACCORDANCE WITH AS 1742.3 - 2009.
- DRAINAGE LINES ON PLANS ARE DIAGRAMMATIC ONLY AND PIPE CENTRELINES SHALL ENTER AND EXIT PITS AT THE CENTRE OF THE RESPECTIVE PIT WALLS.
- EROSION AND SEDIMENT CONTROLS ARE TO BE IMPLEMENTED IN ACCORDANCE WITH E. P. A. REQUIREMENTS.
- CONTRACTOR IS TO CLEAR SITE BY REMOVING ALL SURPLUS SPOIL, RUBBISH, ETC.
- UTILITY INFORMATION SHOWN ON THE DRAWINGS IS INTENDED TO DEPICT THE PRESENCE OF SERVICES ONLY. ACTUAL LOCATION SHOULD BE VERIFIED ON SITE PRIOR TO CONSTRUCTION.
- A ROAD-OPENING PERMIT SHALL BE OBTAINED FOR WORKS IN THE ROAD RESERVE PRIOR TO COMMENCEMENT OF WORK IN THE ROAD RESERVE.
- IT IS THE CONTRACTOR'S RESPONSIBILITY TO ENSURE THAT ALL WORKS ARE CARRIED OUT IN ACCORDANCE WITH THE OCCUPATIONAL HEALTH AND SAFETY ACT 2000.

NOT FOR CONSTRUCTION

Rev	Description	By	App Date
D	FOR DA APPROVAL	IN	16/08/22
C	FOR DA APPROVAL	IN	05/07/22
B	FOR DA APPROVAL	IN	24/05/22
A	FOR DA APPROVAL	IN	03/05/22

Engineering Consultant  
**STRONGHOLD ENGINEERS**  
 Email: admin@shens.com.au  
 Suite 79 89-91 JONES STREET  
 ULTIMO NSW 2007

Client  
**YUJI HONDA ARCHITECTS**

Project  
**12 DARVALL ROAD,  
 EASTWOOD NSW**

Drawing Title  
**CIVIL SITE PLAN**

Project Number  
**SH22163**

Drawing Number  
**C01**

Revision  
**D**

Engineer  
**SH**

Drawn  
**IN**

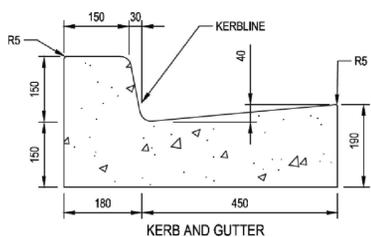
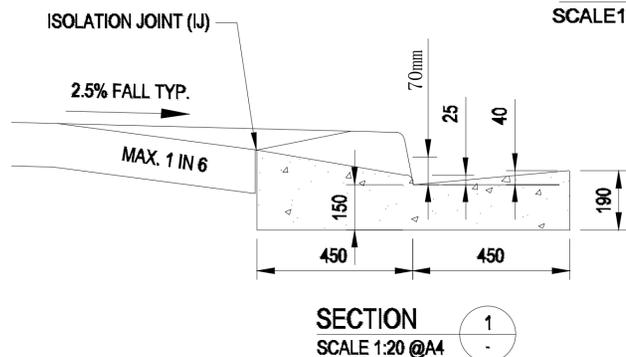
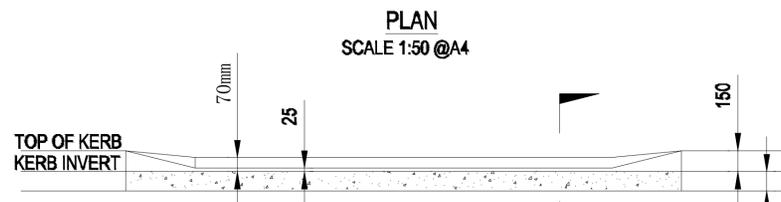
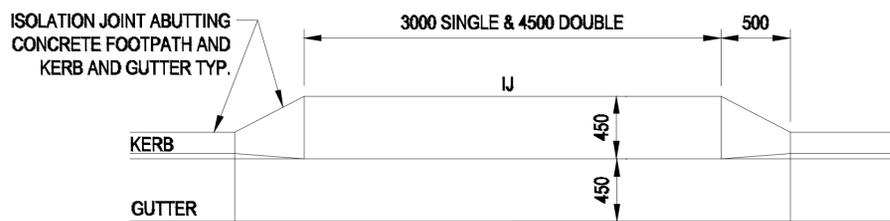
Date  
**03/05/22**

Scale  
**1:100 A1**

FOR DA APPROVAL

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**NOTE RE. SERVICES**  
 APPROXIMATE LOCATIONS OF EXISTING SERVICES SHOWN ON LONGITUDINAL SECTION. EXACT LOCATIONS & DEPTHS TO BE ACCURATELY LOCATED BY THE BUILDING CONTRACTOR BY CONTACTING THE RELEVANT AUTHORITIES BEFORE COMMENCEMENT OF ANY WORKS

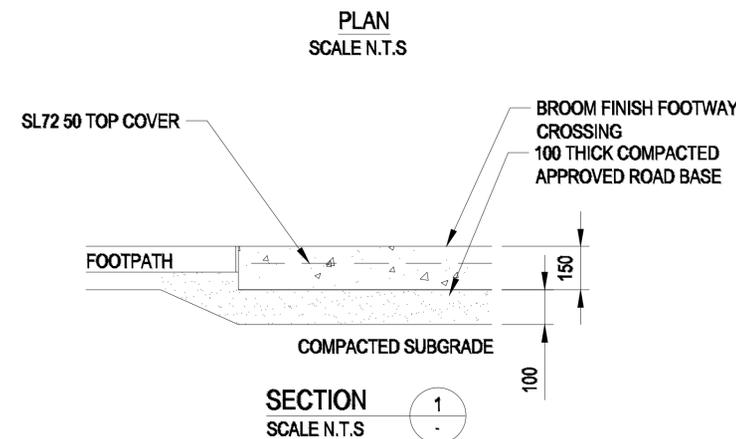
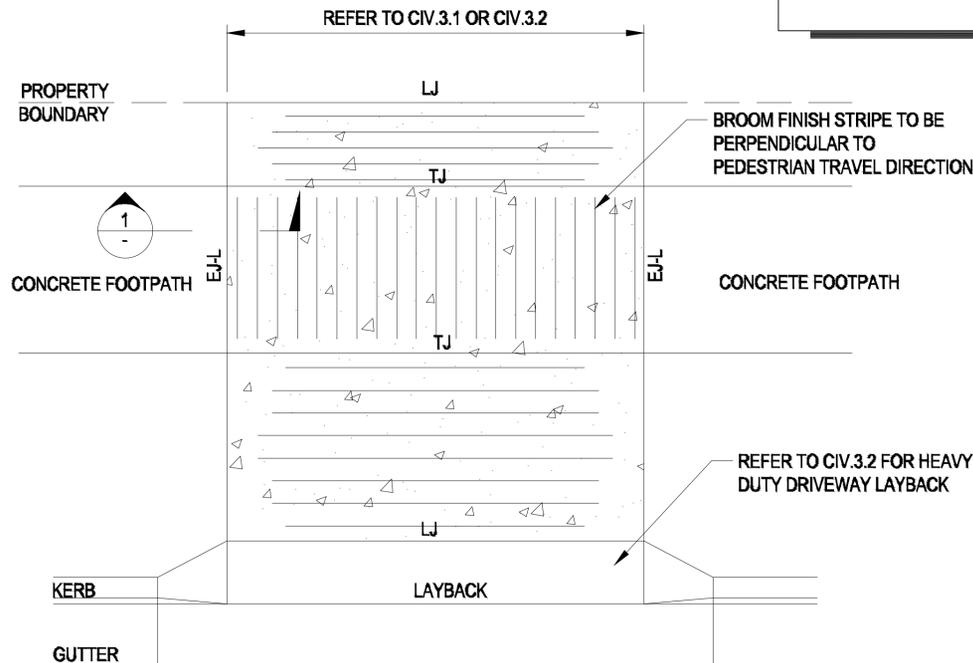


**COUNCIL VEHICLE CROSSING STANDARD DRAWING**  
 SCALE NTS

City of Ryde  
 Development Engineering Service  
 Approved Engineering Plans  
 Application Number: LDA2022/162  
 Council Officer: HJ  
 Date: 23/8/22

**NOTES:**

- STANDARD LAYBACK SHALL CONSIST OF 150mm MINIMUM THICK UNREINFORCED CONCRETE OVER 150mm MINIMUM THICKNESS COMPACTED APPROVED ROADBASE.
- THE LAYBACK SHALL BE STEEL FLOAT FINISHED.
- EXPANSION JOINTS SHALL BE PLACED AT INTERVALS OF 6m MAXIMUM AND 4m MINIMUM. REFER TO CIV.11 FOR JOINTS DETAIL.
- CONCRETE SHALL HAVE A 28 DAY STRENGTH OF 25MPA MINIMUM.
- CONCRETE SHALL BE PLACED WITH A MAXIMUM SLUMP OF 80mm.
- SUBJECT TO APPROVAL FROM COUNCIL'S ENGINEER THE NOMINAL HEIGHT OF DRIVEWAY LAYBACK MAY BE LOWERED TO MINIMUM 75mm TO MEET B85 DESIGN VEHICLE REQUIREMENT.
- THE COUNCIL ENGINEER REQUIRES 24 HOURS NOTICE PRIOR TO POURING OF CONCRETE TO INSPECT THE FORMWORK. NO CONCRETE SHALL BE POURED UNTIL THE EXCAVATION AND FORMWORK HAS BEEN INSPECTED.
- REFER TO CIV.1.2.1 FOR ROAD RESTORATION DETAIL.
- ALL DIMENSIONS IN MILLIMETRES UNLESS NOTED OTHERWISE (U.N.O)



**NOTES:**

- MEDIUM DUTY FOOTWAY CROSSING ARE TYPICALLY USED FOR ACCESS TO MEDIUM TO LARGE RESIDENTIAL, AND COMMERCIAL AND INDUSTRIAL PROPERTIES.
- REFER TO CIV.11 FOR JOINT DETAIL.
- CONCRETE EDGES SHALL BE FINISHED WITH AN EDGING TOOL.
- CONCRETE SHALL HAVE A 28 DAY STRENGTH OF 25MPA MINIMUM.
- CONCRETE SHALL BE PLACED WITH A MAXIMUM SLUMP OF 80MM.
- MINIMUM CONCRETE COVER SHALL BE 40mm UNLESS NOTED OTHERWISE.
- THE COUNCIL ENGINEER REQUIRES 24 HOURS NOTICE PRIOR TO POURING OF CONCRETE TO INSPECT THE FORMWORK. NO CONCRETE SHALL BE POURED UNTIL THE EXCAVATION AND FORMWORK HAS BEEN INSPECTED.
- REFER TO CIV.5 SERIES FOR STANDARD FOOTPATH DETAILS.
- ALL DIMENSIONS IN MILLIMETRES UNLESS NOTED OTHERWISE.

**COUNCIL DRIVEWAY STANDARD DRAWING**  
 SCALE NTS

NOT FOR CONSTRUCTION

Rev	Description	By	App	Date
D	FOR DA APPROVAL	IN	ST	16/08/22
C	FOR DA APPROVAL	IN	ST	05/07/22
B	FOR DA APPROVAL	IN	ST	24/05/22
A	FOR DA APPROVAL	IN	ST	03/05/22

Engineering Consultant  
**STRONGHOLD ENGINEERS**  
 Email: admin@shens.com.au  
 Suite 79 99-97 JONES STREET  
 ULTIMO NSW 2007

Client  
**YUJI HONDA ARCHITECTS**

Project  
 12 DARVALL ROAD,  
 EASTWOOD NSW

Drawing Title  
**CIVIL DESIGN DETAILS**

THESE DRAWINGS AND THE DESIGNS WITHIN ARE COPYRIGHT. THEY ARE NOT TO BE USED FOR ANY PURPOSE OTHER THAN THE NOMINATED PROJECT. THE DRAWINGS REMAIN THE PROPERTY OF SHENS AND ARE NOT TO BE REPRODUCED OR ALTERED WITHOUT WRITTEN PERMISSION.

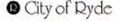
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 Revision: D  
 Engineer: SH  
 Drawn: IN  
 Date: 03/05/22  
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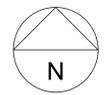
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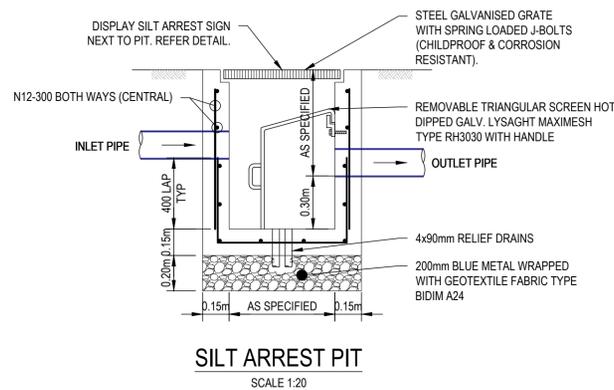
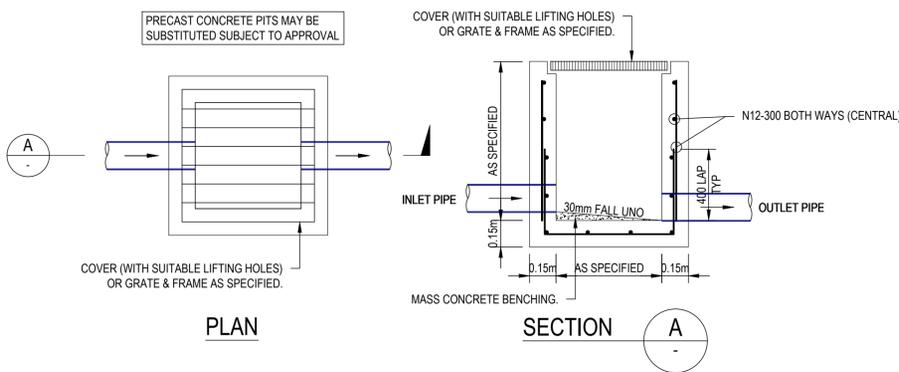
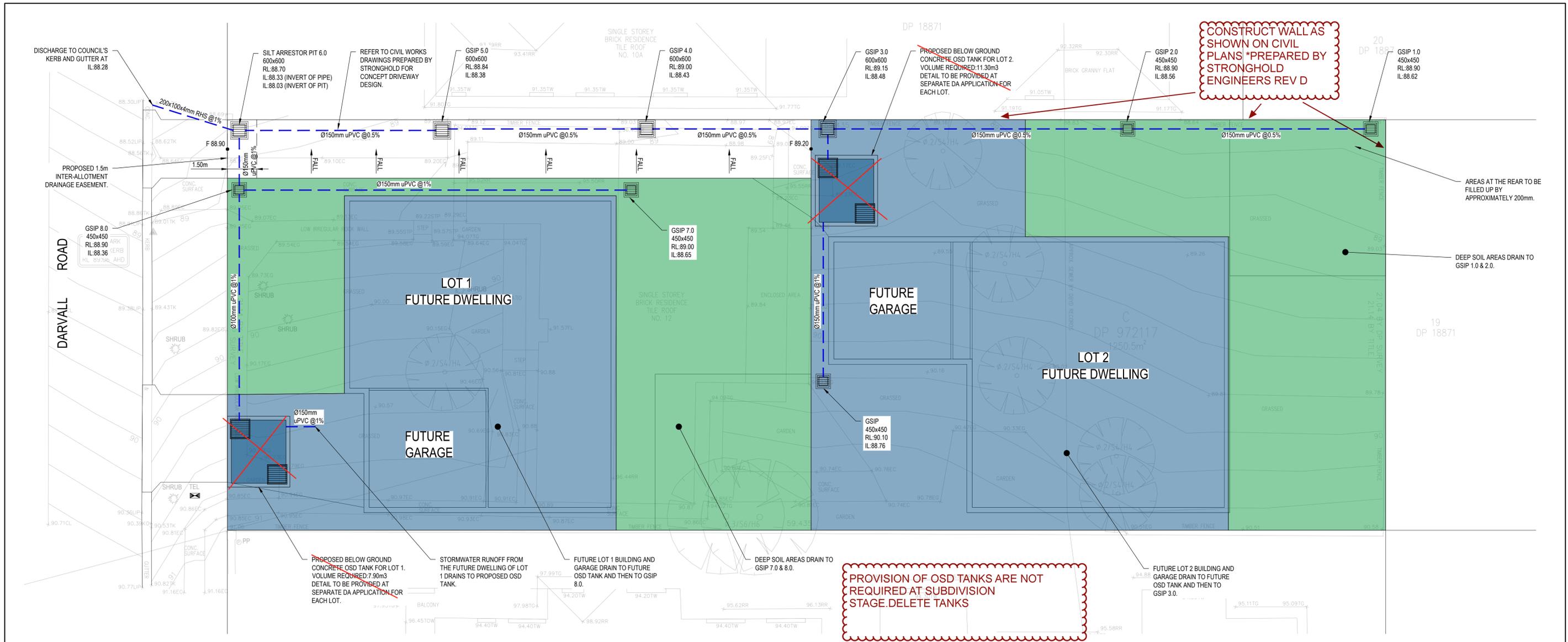
# PROPOSED LAND SUBDIVISION 12 DARVALL ROAD, EASTWOOD STORMWATER CONCEPT DESIGN



DRAWING REGISTER		
DRAWING NO.	TITLE	REVISION
DA-SW100	COVERSHEET	6
DA-SW200	STORMWATER CONCEPT PLAN - SITE PLAN & DETAILS	6
DA-SW600	EROSION AND SEDIMENT CONTROL - PLAN & DETAILS	6

 City of Ryde  
 Development Engineering Service  
 Approved Engineering Plans  
 Application Number: LDA 2022/162  
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6 9/08/2022 UPDATED SW FOR DA J.H. J.H. 5 4/05/2022 ISSUE FOR DA J.H. J.H. 4 28/04/2022 ISSUE FOR DA J.H. J.H. 3 27/04/2022 ISSUE FOR COORDINATION J.H. J.H. 2 18/03/2022 ISSUE FOR DA J.H. J.H. 1 9/03/2022 PRELIMINARY ISSUE J.H. J.H.		Client <b>Aust Sunshine Marketing</b>  Architect <b>Yuji Honda</b>	<b>JCO CONSULTANTS PTY LTD</b> 46 WALKER STREET, RHODES, NSW. EMAIL: Jason@jcoconsultants.com.au		Project PROPOSED LAND SUBDIVISION 12 DARVALL ROAD, EASTWOOD STORMWATER CONCEPT DESIGN Drawing Title <b>COVERSHEET</b>	Job Number <b>20220026</b> Drawing Number <b>DA-SW100</b>	Scale NTS Date 9/08/2022 Size A1 Datum A.H.D.	North Point 	Status <b>FOR APPROVAL</b> NOT FOR CONSTRUCTION Scale
REV.	DATE	AMENDMENT	INT.	APP.	Design	Drawn	Validate		
					J.H.	J.H.	J.H.		



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REV.	DATE	AMENDMENT	INT.	APP.
6	9/08/2022	UPDATED SW FOR DA	J.H	J.H
5	4/05/2022	ISSUE FOR DA	J.H	J.H
4	28/04/2022	ISSUE FOR DA	J.H	J.H
3	27/04/2022	ISSUE FOR COORDINATION	J.H	J.H
2	18/03/2022	ISSUE FOR DA	J.H	J.H
1	9/03/2022	PRELIMINARY ISSUE	J.H	J.H

Client  
**Aust Sunshine Marketing**

Architect  
**Yuji Honda**

**JCO CONSULTANTS PTY LTD**

46 WALKER STREET,  
RHODES, NSW.  
EMAIL: Jason@jcoconsultants.com.au



Project  
**PROPOSED LAND SUBDIVISION  
12 DARVALL ROAD, EASTWOOD  
STORMWATER CONCEPT DESIGN**

Drawing Title  
**STORMWATER CONCEPT PLAN - SITE PLAN & DETAILS**

Design: J.H | Drawn: J.H | Validate: J.H

Job Number  
**20220026**

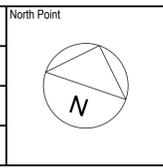
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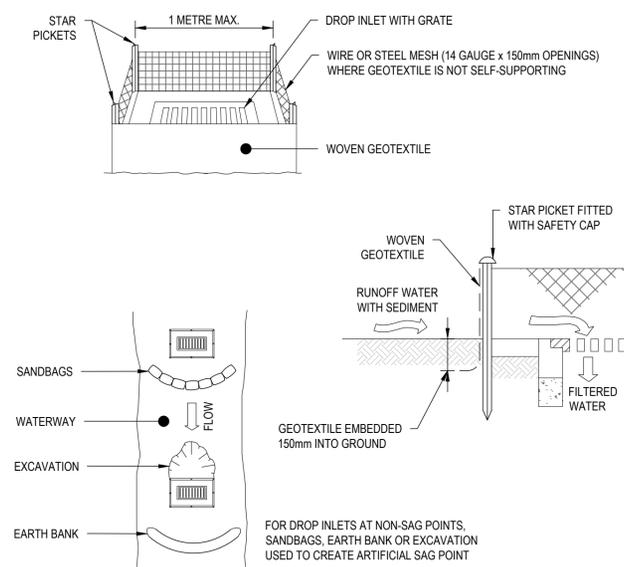
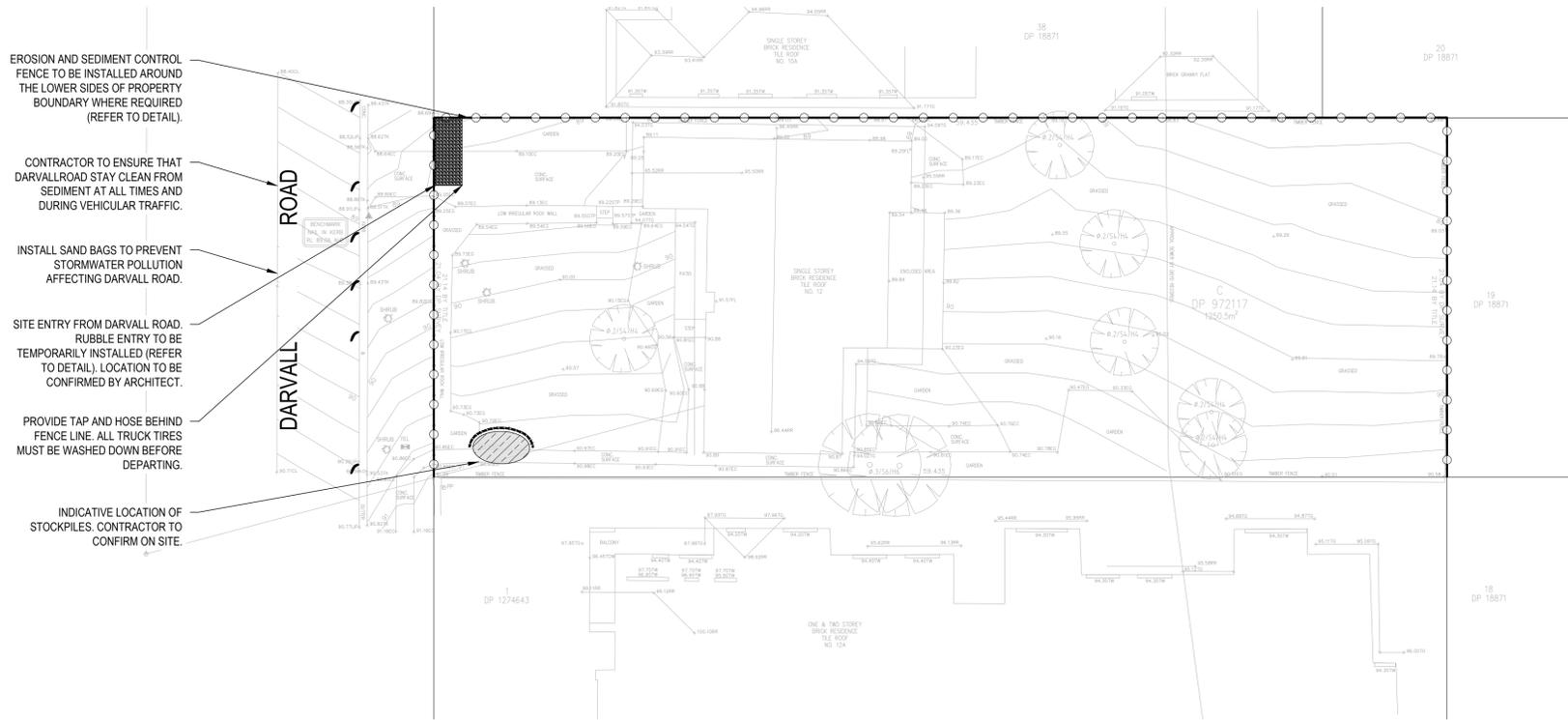
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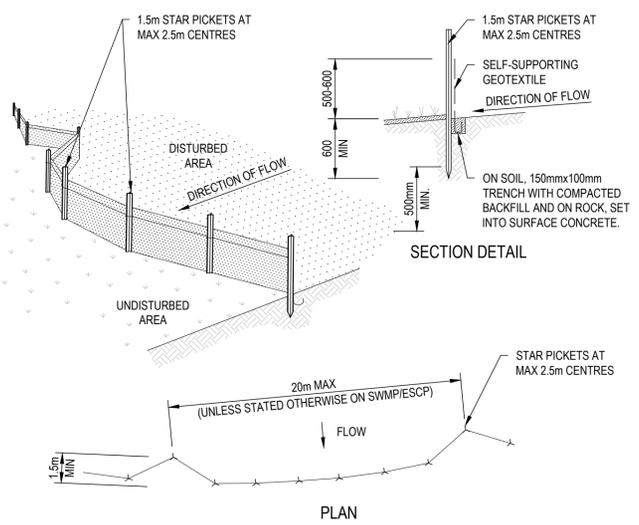
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NOT FOR CONSTRUCTION**

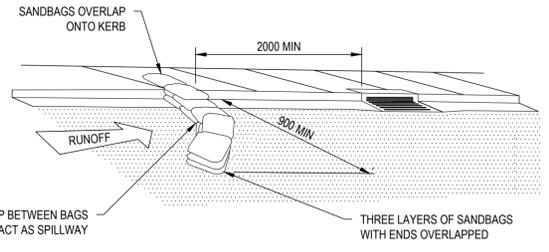


- CONSTRUCTION NOTES**
- FABRICATE A SEDIMENT BARRIER MADE FROM GEOTEXTILE OR STRAW BALES.
  - FOLLOW STANDARD DRAWING 6-7 AND STANDARD DRAWING 6-8 FOR INSTALLATION PROCEDURES FOR THE STRAW BALES OR GEOFABRIC. REDUCE THE PICKET SPACING TO 1 METRE CENTRES.
  - IN WATERWAYS, ARTIFICIAL SAG POINTS CAN BE CREATED WITH SANDBAGS OR EARTH BANKS AS SHOWN IN THE DRAWING.
  - DO NOT COVER THE INLET WITH GEOTEXTILE UNLESS THE DESIGN IS ADEQUATE TO ALLOW FOR ALL WATERS TO BYPASS IT.

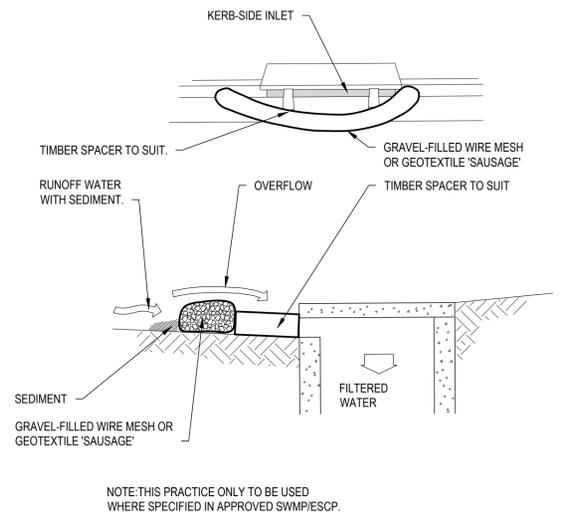


- CONSTRUCTION NOTES**
- CONSTRUCT SEDIMENT FENCES AS CLOSE AS POSSIBLE TO BEING PARALLEL TO THE CONTOURS OF THE SITE, BUT WITH SMALL RETURNS AS SHOWN IN THE DRAWING TO LIMIT THE CATCHMENT AREA OF ANY ONE SECTION. THE CATCHMENT AREA SHOULD BE SMALL ENOUGH TO LIMIT WATER FLOW IF CONCENTRATED AT ONE POINT TO 50 LITRES PER SECOND IN THE DESIGN STORM EVENT, USUALLY THE 10-YEAR EVENT.
  - CUT A 150mm DEEP TRENCH ALONG THE UPSLOPE LINE OF THE FENCE FOR THE BOTTOM OF THE FABRIC TO BE ENTRENCHED.
  - DRIVE 1.5 METRE LONG STAR PICKETS INTO GROUND AT 2.5 METRE INTERVALS (MAX) AT THE DOWNSLOPE EDGE OF THE TRENCH. ENSURE ANY STAR PICKETS ARE FITTED WITH SAFETY CAPS.
  - FIX SELF-SUPPORTING GEOTEXTILE TO THE UPSLOPE SIDE OF THE POSTS ENSURING IT GOES TO THE BASE OF THE TRENCH. FIX THE GEOTEXTILE WITH WIRE TIES OR AS RECOMMENDED BY THE MANUFACTURER. ONLY USE GEOTEXTILE SPECIFICALLY PRODUCED FOR SEDIMENT FENCING. THE USE OF SHADE CLOTH FOR THIS PURPOSE IS NOT SATISFACTORY.
  - JOIN SECTIONS OF FABRIC AT A SUPPORT POST WITH A 150mm OVERLAP.
  - BACKFILL THE TRENCH OVER THE BASE OF THE FABRIC AND COMPACT IT THOROUGHLY OVER THE GEOTEXTILE.

City of Ryde  
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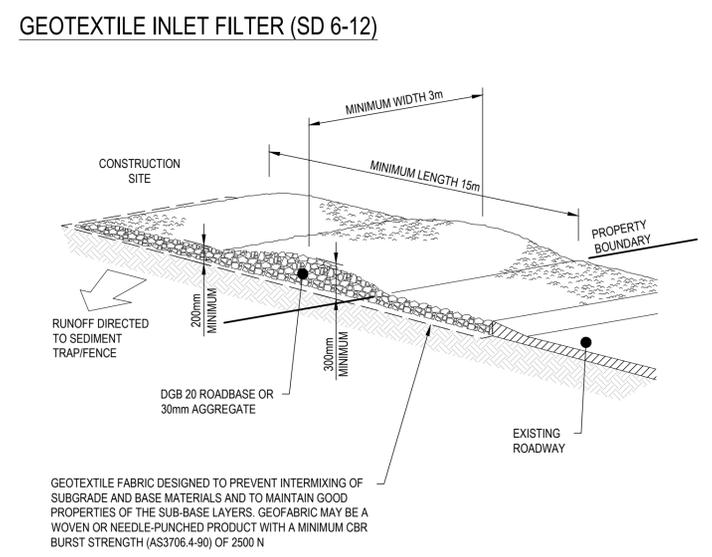


**SANDBAG SEDIMENT TRAP**



- CONSTRUCTION NOTES**
- INSTALL FILTERS TO KERB INLETS ONLY AT SAG POINTS.
  - FABRICATE A SLEEVE MADE FROM GEOTEXTILE OR WIRE MESH LONGER THAN THE LENGTH OF THE INLET PIT AND FILL IT WITH 25mm TO 50mm GRAVEL.
  - FORM AN ELLIPTICAL CROSS-SECTION ABOUT 150mm HIGH x 400mm WIDE.
  - PLACE THE FILTER AT THE OPENING LEAVING AT LEAST A 100mm SPACE BETWEEN IT AND THE KERB INLET. MAINTAIN THE OPENING WITH SPACER BLOCKS.
  - FORM A SEAL WITH THE KERB TO PREVENT SEDIMENT BYPASSING THE FILTER.
  - SANDBAGS FILLED WITH GRAVEL CAN SUBSTITUTE FOR THE MESH OR GEOTEXTILE PROVIDING THEY ARE PLACED SO THAT THEY FIRMLY ABUT EACH OTHER AND SEDIMENT-LADEN WATERS CANNOT PASS BETWEEN.

**MESH AND GRAVEL INLET FILTER (SD 6-11)**



- CONSTRUCTION NOTES**
- STRIP THE TOPSOIL, LEVEL THE SITE AND COMPACT THE SUBGRADE.
  - COVER THE AREA WITH NEEDLE-PUNCHED GEOTEXTILE.
  - CONSTRUCT A 200mm THICK PAD OVER THE GEOTEXTILE USING ROAD BASE OR 30mm AGGREGATE.
  - ENSURE THE STRUCTURE IS AT LEAST 15 METRES LONG OR TO BUILDING ALIGNMENT AND AT LEAST 3 METRES WIDE.
  - WHERE A SEDIMENT FENCE JOINS ONTO THE STABILISED ACCESS, CONSTRUCT A HUMP IN THE STABILISED ACCESS TO DIVERT WATER TO THE SEDIMENT FENCE.

**STABILISED SITE ACCESS (SD 6-14)**

**SEDIMENT FENCE (SD 6-8)**

<table border="1"> <tr> <th>REV.</th> <th>DATE</th> <th>AMENDMENT</th> <th>INT.</th> <th>APP.</th> </tr> <tr> <td>6</td> <td>9/08/2022</td> <td>UPDATED SW FOR DA</td> <td>J.H.</td> <td>J.H.</td> </tr> <tr> <td>5</td> <td>4/05/2022</td> <td>ISSUE FOR DA</td> <td>J.H.</td> <td>J.H.</td> </tr> <tr> <td>4</td> <td>28/04/2022</td> <td>ISSUE FOR DA</td> <td>J.H.</td> <td>J.H.</td> </tr> <tr> <td>3</td> <td>27/04/2022</td> <td>ISSUE FOR COORDINATION</td> <td>J.H.</td> <td>J.H.</td> </tr> <tr> <td>2</td> <td>18/03/2022</td> <td>ISSUE FOR DA</td> <td>J.H.</td> <td>J.H.</td> </tr> <tr> <td>1</td> <td>9/03/2022</td> <td>PRELIMINARY ISSUE</td> <td>J.H.</td> <td>J.H.</td> </tr> </table>		REV.	DATE	AMENDMENT	INT.	APP.	6	9/08/2022	UPDATED SW FOR DA	J.H.	J.H.	5	4/05/2022	ISSUE FOR DA	J.H.	J.H.	4	28/04/2022	ISSUE FOR DA	J.H.	J.H.	3	27/04/2022	ISSUE FOR COORDINATION	J.H.	J.H.	2	18/03/2022	ISSUE FOR DA	J.H.	J.H.	1	9/03/2022	PRELIMINARY ISSUE	J.H.	J.H.	<p>Client <b>Aust Sunshine Marketing</b></p> <p>Architect <b>Yuji Honda</b></p>	<p><b>JCO CONSULTANTS PTY LTD</b></p> <p>46 WALKER STREET, RHODES, NSW. EMAIL: Jason@jcoconsultants.com.au</p>		<p>Project <b>PROPOSED LAND SUBDIVISION 12 DARVALL ROAD, EASTWOOD STORMWATER CONCEPT DESIGN</b></p> <p>Drawing Title <b>EROSION AND SEDIMENT CONTROL - PLAN &amp; DETAILS</b></p>	<p>Job Number <b>20220026</b></p> <p>Drawing Number <b>DA-SW600</b></p>	<p>Scale 1:200</p> <p>Date 9/08/2022</p> <p>Size A1</p> <p>Datum A.H.D.</p>	<p>North Point</p>	<p>Status <b>FOR APPROVAL NOT FOR CONSTRUCTION</b></p> <p>Scale 0 1 2 4 6 8 10m SCALE 1:100 @A1</p>
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## **CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARD**

### **CLAUSE 4.1 MINIMUM SUBDIVISION LOT SIZE & CLAUSE 4.1C MINIMUM LOT SIZE FOR BATTLE-AXE LOTS**

#### **PROPOSED RESIDENTIAL SUBDIVISION OF 12 DARVALL ROAD, EASTWOOD INTO TWO LOTS**

##### **1 Introduction**

This report has been prepared by APP Corporation in accordance with Clause 4.6 (Cl 4.6) of the Ryde Local Environment Plan 2014 (Ryde LEP 2014) to support a development application (DA) submitted to the City of Ryde Council for a proposed residential subdivision of 12 Darvall Road, Eastwood into two lots.

This Cl 4.6 variation request seeks to vary the minimum lot size development standard under Clauses 4.1 and 4.1C of the Ryde LEP 2014. Specifically, it seeks to vary the minimum lot size requirements for a 580sqm 'standard lot' and a 740sqm battle-axe lot to allow for proposed lot sizes of 537.30sqm (Lot 1) and 620.36sqm (Lot 2) respectively.

The objectives of Clause 4.6 are to provide an appropriate degree of flexibility in the application of development standards to achieve better outcomes. In this instance, the variation of 42.70sqm (7.64%) for the standard lot (Lot 1) and 119.64sqm (16.12%) for the battle-axe lot (Lot 2) is consistent with objectives for minimum lot size standards and will achieve a development outcome which is compatible with the character of neighbouring development in the low-density residential zone and will not adversely affect the residential amenity of neighbouring properties. The application of Clause 4.6 in this instance will facilitate the orderly use and development of the site in a manner which is otherwise compatible with the existing residential character of the area and surrounding built form approvals.

This Clause 4.6 variation request is based on the subdivision plan prepared by Yuji Honda Architects, dated 17 March 2022, Statement of Environmental Effects prepared by APP dated March 2022 and other supporting documentation supplied with the DA.

##### **2 What is the Environmental Planning Instrument that applies to the land?**

The Environmental Planning Instrument (EPI) that applies to the site (12 Darvall Road, Eastwood) is the Ryde Local Environment Plan 2014 (Ryde LEP 2014).

##### **3 What is the zoning of the land?**

The site is zoned R2 Low Density Residential as prescribed by the Ryde LEP 2014 (see Figure 1). Clause 2.6 of the Ryde LEP states that land to which the Plan applies may be subdivided, but only with development consent. Accordingly, development consent is sought for the subdivision of the site into two new residential lots.

It is worth acknowledging too that no physical works associated with the construction of future dwellings on each of the lots is sought under this DA. At Council's request, detailed building envelopes and a solar analysis of possible future dwelling forms has been undertaken to demonstrate the extent of solar access to be maintained to neighbouring properties.

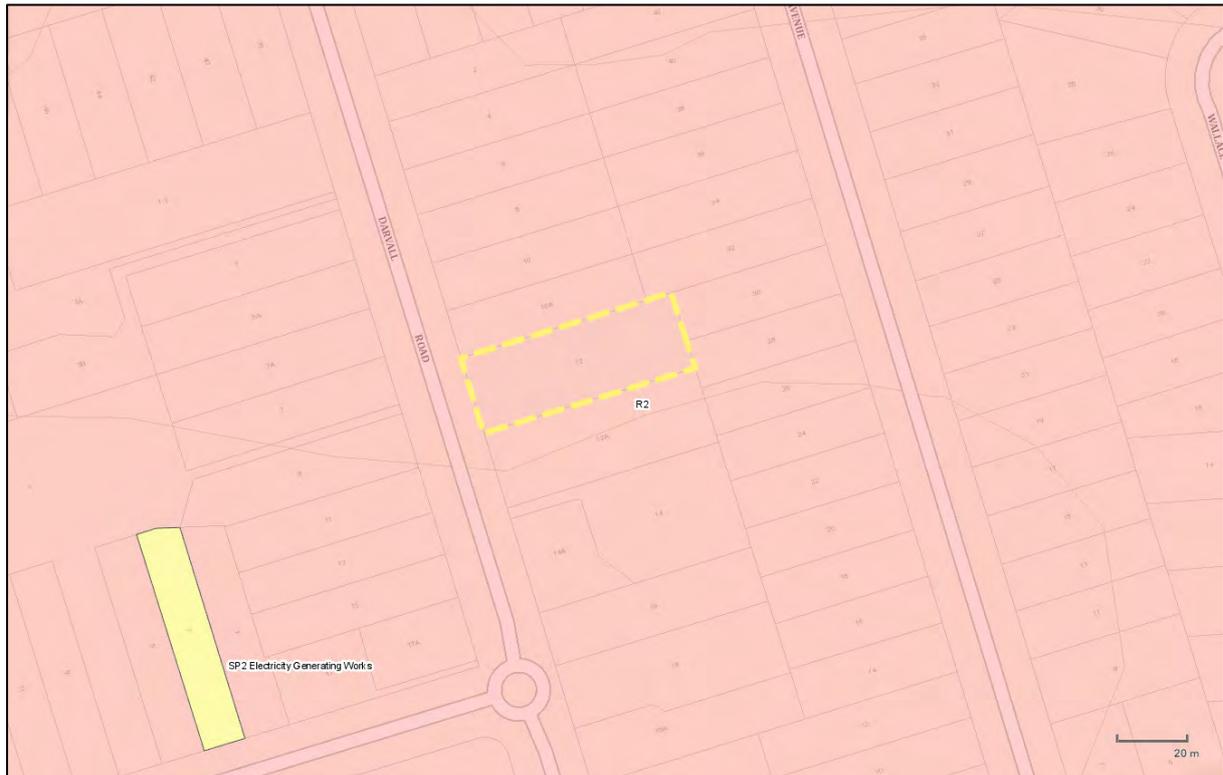


Figure 1 Zoning Map (Source: eSpatial Viewer – Planning Portal) (The site outlined in yellow)

#### 4 What is the development standard being varied?

The development standards sought to be varied are Cl 4.1 'Minimum subdivision lot size' and Cl 4.1C 'Minimum lot size for battle-axe lots' in the Ryde LEP 2014 (provided below).

##### 4.1 Minimum subdivision lot size

(1) The objectives of this clause are as follows—

(a) to retain streetscape, amenity, landscaped areas and private open space in residential zones,  
(b) to ensure that lot sizes enable sufficient areas of open space within each lot so as to enable the retention and embellishment of green linkage corridors in residential zones.

(2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.

(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

(4) This clause does not apply in relation to the subdivision of any land—

(a) by the registration of a strata plan or strata plan of subdivision under the Strata Schemes Development Act 2015,  
or

(b) by any kind of subdivision under the Community Land Development Act 1989.

Under Cl 4.1, the minimum lot size for standard lots applicable to the site is shown to be 580 metres on the Lot Size Map\_02 (see Figure 2).



Figure 2 Extract of Ryde LEP 2014 Minimum Lot Size Map 02. L = 580 (site outlined)

#### 4.1C Minimum lot size for battle-axe lots

(1) The objectives of this clause are as follows—

- (a) to maintain visual amenity and character of the land to which this clause applies,
- (b) to retain the residential amenity of that land by providing suitable landscaped areas and vehicular access.

(2) This clause applies to land in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R4 High Density Residential other than land identified as North Ryde Station Precinct on the Centres Map.

**(3) Despite clause 4.1, the minimum lot size for a battle-axe lot that is land to which this clause applies is 740 square metres.**

(4) If a lot is a battle-axe lot or other lot with an access handle and is land to which this clause applies, the area of the access handle is not to be included in calculating the lot size.

## 5 Extent of Variation

The requested variation is outlined as follows:

Lot	LEP Minimum Lot Size Control	Proposed Lot Size	Shortfall Breach	% non-compliance
1	580sqm	537.30sqm	42.70sqm	7.64% shortfall
2	740sqm	620.36sqm	119.64sqm	16.12% shortfall

## 6 Is the control a Development Standard / is it excluded from the operation of Clause 4.6 of the EPI?

A development standard is defined in s1.4 of the EP&A Act as presented below. Parts relevant to the subject case have been underlined.

"provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,
- (b) the proportion or percentage of the area of a site which a building or work may occupy,
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,
- (d) etc.."

The minimum lot size controls of 580sqm for a standard low density residential lot and 740sqm for a battle-axe lot applying to the site are development standards.

Clause 4.6(2) (Cl 4.6) states that development consent may be granted for development even though the development would contravene a development standard. However, this does not apply to a development standard that is expressly excluded under Cl 4.6(8) of the Ryde LEP 2014. Given the minimum lot size standard is not identified under Cl 4.6(8), it is therefore not specifically excluded from the operation of Cl 4.6 of Ryde LEP 2014.

## 7 Discussion of the Variation to Minimum Lot Size Standard and Local Precedence

The lot size variations sought are shown in the subdivision plan in Figure 3 and building envelope plan in Figure 4.

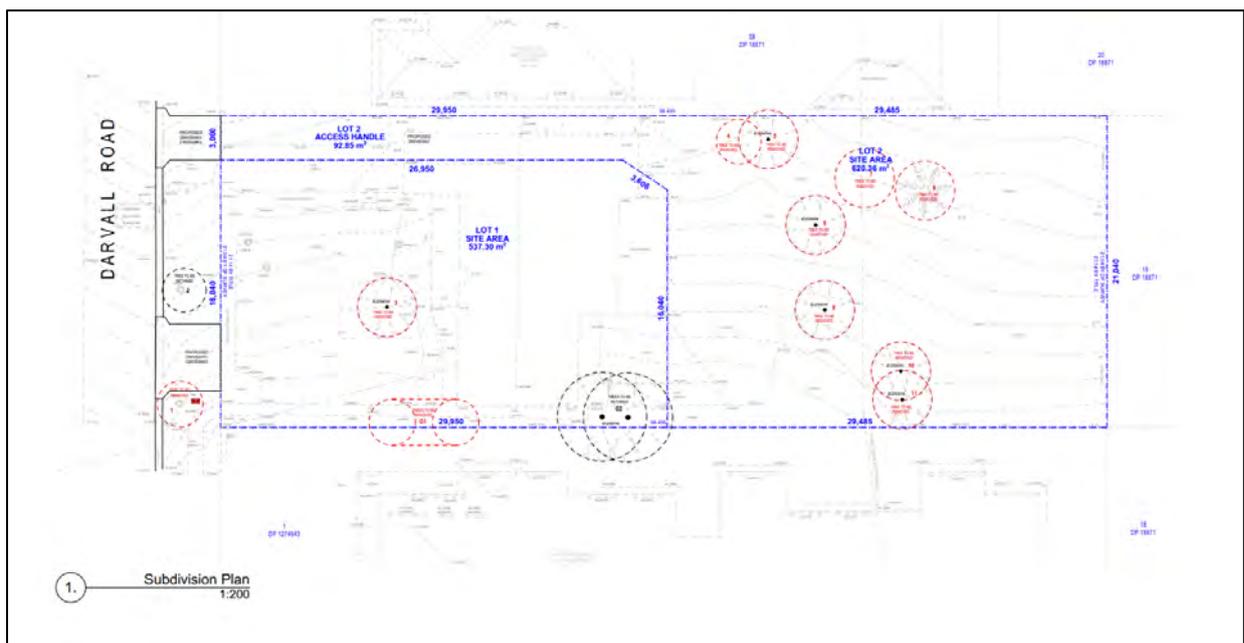


Figure 3 - Subdivision Layout (Source: Yuji Honda Architects)

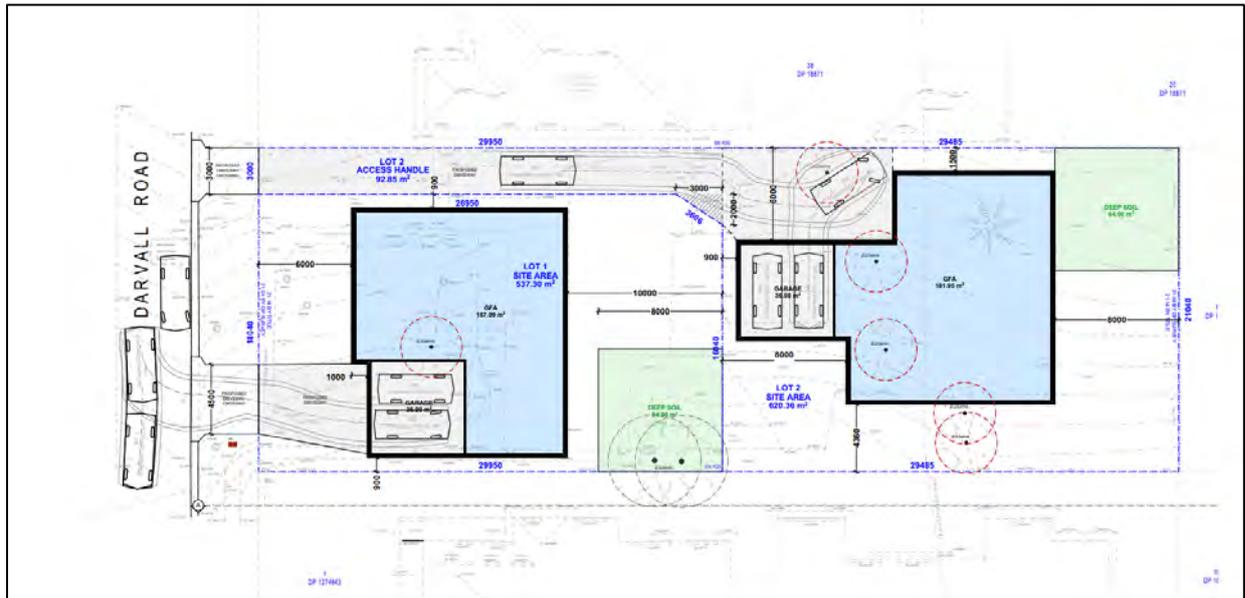


Figure 4- Concept Building Envelope (Source: Yuji Honda Architects)

The proposed lot sizes allow for future residential development in the form of two detached dwellings with adequate building envelopes, compliant setbacks, open space arrangements and vehicular access as demonstrated in Figure 4 above.

Whilst battle-axe lots are not the predominant lot form in the Eastwood locality, there are examples of similar lot configurations in the immediate surrounds which fall short of the minimum lot size requirements, including:

- 17 and 17A Darvall Road to the south-west (where 17A, being the street facing lot has an area of 494sqm and the battle-axe lot No. 17 has an area of 536sqm inclusive of the driveway area);
- 1-3, 3A and 3B Darvall Road to the west. Lot 3A is irregularly shaped and has an area of 706sqm excluding the 128sqm access handle area. Lot 3B is also irregularly shaped and has an area of 681sqm excluding the 240sqm access handle.
- 2 and 2A Sybil Street to the south-west (where 2A, being the battle-axe lot has an area of 730sqm excluding the 142sqm access handle);
- 59A and 59B Rutledge Street to the south. 59B, being the battle-axe lot is undersized and has an area of 547sqm excluding the 50sqm access handle.

The adjoining property at 12A Darvall Road, Eastwood comprises a multi-dwelling housing development of 3 x three-bedroom dwellings and 2 x two bedroom dwellings accessed from a 3m wide battle-axe-style driveway. The parent lot size of 12A Darvall Road at 1289sqm is slightly larger than the 1,256sqm lot size of the subject site, however it comprises five dwellings where the proposed subdivision will only enable two (2). It is understood that this neighbouring development was approved under an historic version of Ryde LEP 2014 where multi dwelling housing was a permissible form of development in the R2 zone. This is no longer the case due to subsequent amendments made to the Ryde LEP 2014.

Notwithstanding this, the neighbouring development does contribute to the built form character of the area and streetscape along Darvall Road immediately adjacent to the site. The subject proposal presents an overall density which is greatly reduced from that of the neighbouring property and provides a suitable

level of separation between the future dwellings as demonstrated in Figure 4.

#### Residential Amenity

The proposed development's non-compliance with minimum lot size standards within the Ryde LEP will not result in adverse impacts to the residential amenity of surrounding neighbours. The proposed subdivision and resultant lots are envisaged to house two-storey dwellings, as demonstrated above in Figure 4. The proposal has considered potential impacts upon neighbouring properties including comprehensive hourly shadow diagrams prepared by Yuji Honda Architects, shown below at Figures 5 to 11. Additional diagrams are included in the appended architectural set which demonstrate the overshadowing effects on the façade of each property at 12A Darvall Road.

The overshadowing study has demonstrated that there are minor overshadowing impacts on the neighbouring properties to the south at 12A Darvall Road. The additional overshadowing impacts will predominately affect small portions of the northern facades of 12A, however there are no significant portions of 12A which will be affected by the additional areas of overshadowing. The additional areas of overshadowing include small sections of windows, small portions of open space and small sections of garage windows.

Importantly, the minor overshadowing impacts do not result in the properties at 12A Darvall Road becoming non-compliant with clause 2.14.1 of the Ryde DCP 2014 'Daylight and Solar Access' which reads:

*For neighbouring properties ensure:*

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

The private open space areas and windows to living areas still receive sunlight to at least 50% of their areas and this access to sunlight is not reduced to less than two hours on 21 June. Windows to living areas all receive at least 3 hours of sunlight between 9am-3pm on 21 June over a portion of their surface, therefore the residential amenity of dwellings at 12A Darvall Road is not adversely impacted by the indicative building layouts on the proposed lots.



Figure 5- 9am proposed shadows

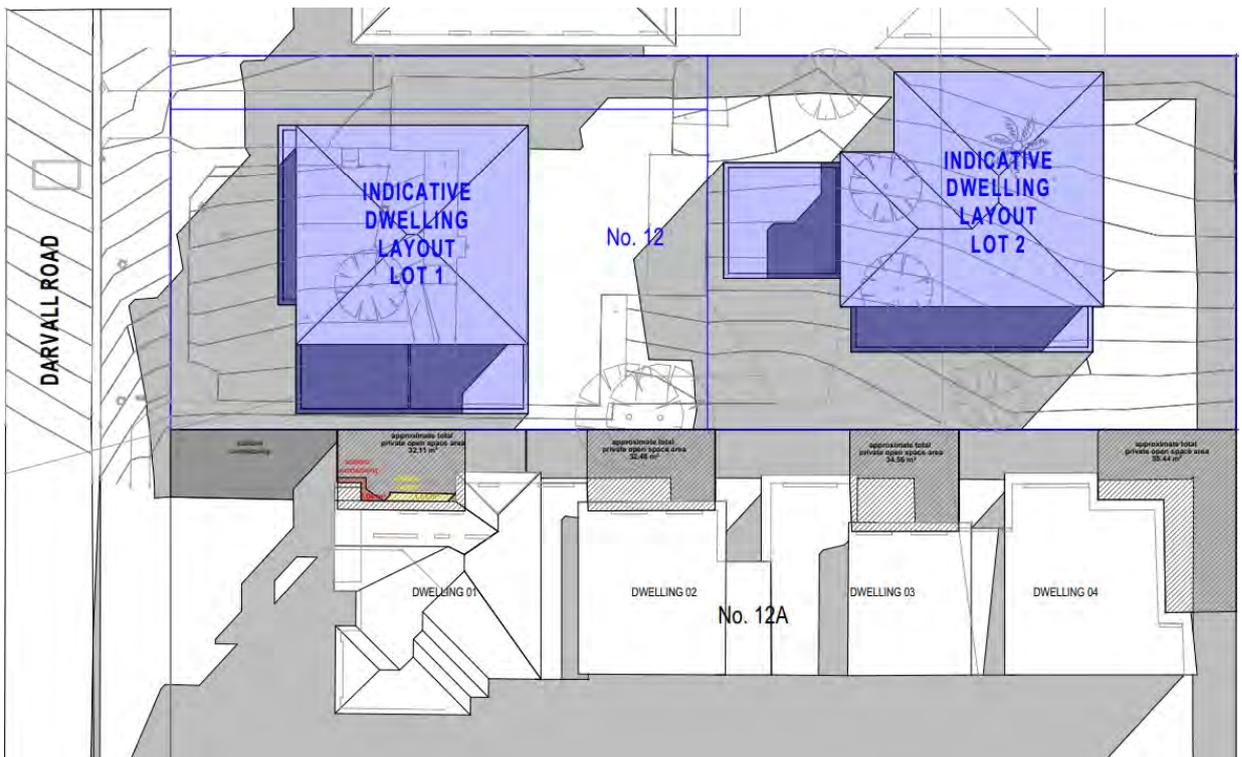


Figure 6- 10am proposed shadows

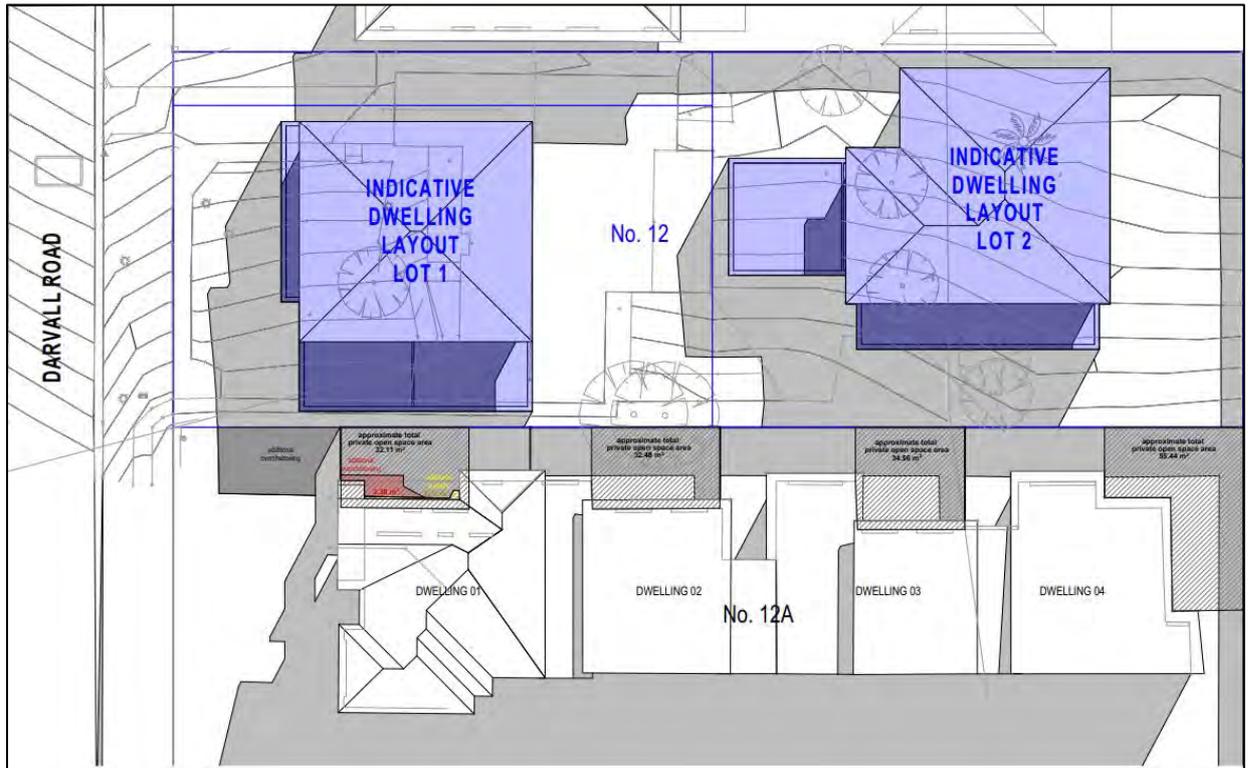


Figure 7- 11am proposed shadows



Figure 8- 12pm proposed shadows



Figure 9- 1pm proposed shadows

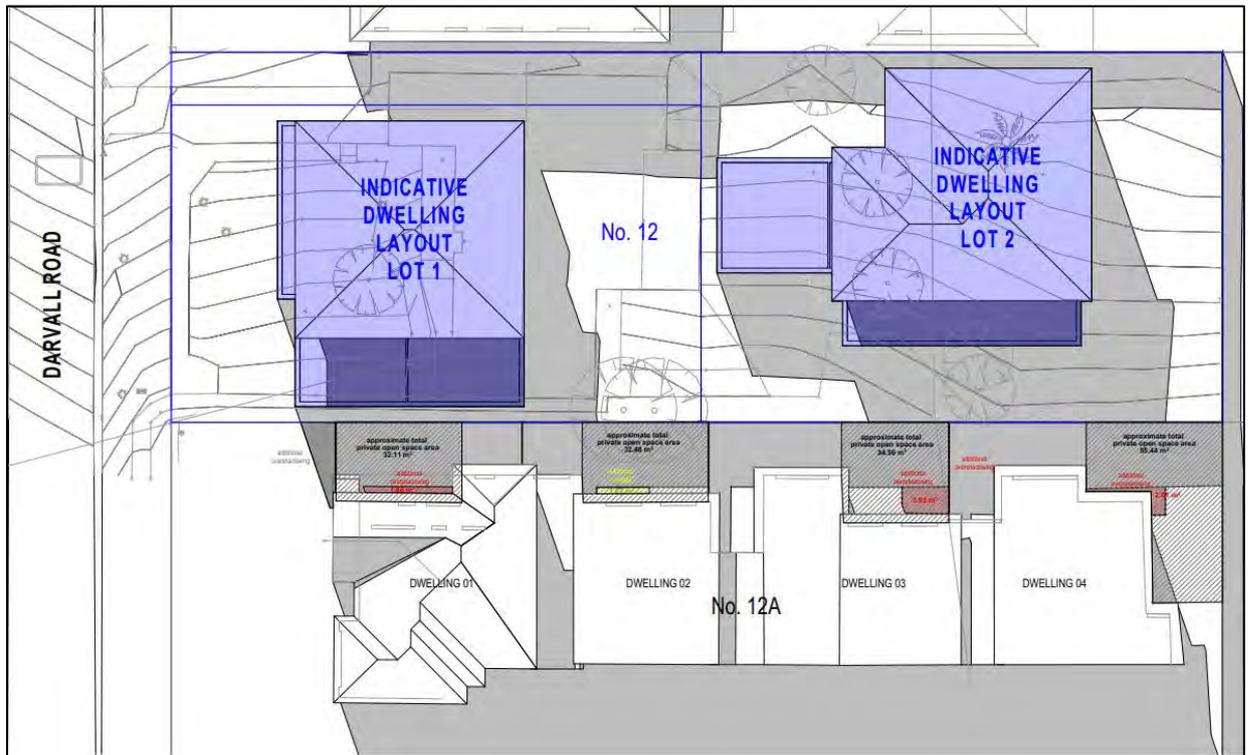


Figure 10- 2pm proposed shadows



Figure 11- 3pm proposed shadows

## 8 Discussion of Relevant Provisions under Clause 4.6

The following provides a response to relevant Clause 4.6 provisions.

Clause 4.6(2) provides that:

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

As identified above, the minimum lot size development standards are not expressly excluded from the operation of cl4.6 and accordingly, consent may be granted.

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

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

The proposed development does not meet the minimum lot sizes permitted under clauses 4.1 and 4.1C of the Ryde LEP 2014. This written request has been prepared to outline why strict compliance is

considered to be unreasonable and unnecessary in the circumstances of this case and that there are sufficient environmental planning grounds to justify contravening the development standard.

*(4) Development consent must not be granted for development that contravenes a development standard unless—*

*(a) the consent authority is satisfied that—*

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

*(b) the concurrence of the Planning Secretary has been obtained.*

The consent authority can be satisfied that this request adequately addresses the matters in that:

- The proposed development is in the public interest because it is consistent with the objectives of the minimum lot size standards and the objectives for development in the R2 Low Density Residential zone;
- The concurrence of the Secretary is not assumed in this instance given that clause 4.1C seeks to be varied by more than 10%.

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

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

Concurrence is sought in this particular instance on the basis that:

- The contravention of minimum lot size standard does not raise any matter of significance for State or regional environmental planning, and
- The contravention does not undermine the importance of retaining the development standard, and;
- All other relevant matters have been addressed in this written request.

## **9 Compliance with the development standard is unreasonable or unnecessary in the circumstances of this case [Clause 4.6 (3)(a)]**

This request responds to the following matters:

- *That compliance with the development standard is unreasonable or unnecessary, in the circumstances of the case, and*
- *That there are sufficient environmental planning grounds to justify contravening the development standard.*

The requirement for strict compliance with the Minimum Lot Size development standards prescribed under Cl 4.1 and 4.1C of the Ryde LEP 2014 are considered unreasonable and unnecessary in the circumstances of this case as the development achieves the objectives of the Minimum Lot Size development standards (Cl 4.1 and 4.1C). Table 1 presents the objectives of Cls 4.1 and 4.1C and the merits of the proposed development.

Table 1- Proposed developments consistency with the objectives of Cl 4.1 and 4.1C

Objective	Discussion
<b>Cl 4.1 Minimum Subdivision Lot Size</b>	
<i>(a) to retain streetscape, amenity, landscaped areas and private open space in residential zones,</i>	<p>The proposed subdivision will retain the streetscape character of Darvall Road. The proposal will result in Lot 1 presenting an 18m frontage to Darvall Road, which is consistent compared with existing lots to the south and complies with the requirements of the Ryde DCP.</p>
	<p>The proposed subdivision will provide lots of a sufficient size to accommodate standard building envelopes with open space, deep soil, landscape, setbacks and parking arrangements provided in line with those respective requirements in the DCP. The proposed 3m access driveway along the northern boundary also complies with the minimum requirement under the DCP and will therefore be consistent with other battle-axe handles in the locality.</p>
	<p>The building envelopes presented in Figure 4 demonstrate that front setback landscape areas to the front of proposed Lot 1 will maintain a level of consistency with that of neighbouring properties along the eastern side of Darvall Road. The front setback required under the DCP is provided for and the minimum POS area has also been accommodated. The regularity of the proposed lot shapes will support standard detached dwelling types comprising a minimum of 4 bedrooms, living areas and external landscape / POS.</p>
	<p>Collectively, the subdivision layout achieves the intent of the objective.</p>
	<p><u>Residential Amenity</u>            Shadow diagrams prepared by Yuji Honda Architects have been prepared by Yuji Honda Architects in support of the application. The diagrams demonstrate the minor additional overshadowing impacts as a result of the indicative building envelopes.</p>
	<p>The hourly shadow diagrams demonstrate that the residential amenity of the properties at 12A Darvall Road will not be adversely impacted. Small portions of private open spaces, living room windows and garage windows will be affected by small portions of additional shadow, however these impacts are minor and will not result in complete surfaces being shadowed.</p>
	<p>The overshadowing impacts will not result in the properties at 12A Darvall Road being non-compliant with clause 2.14.1 of the Ryde DCP 2014 'Daylight and Sunlight Access'. Living space windows and private open space areas of 12A Darvall Road will receive at least 3 hours of uninterrupted solar access on 21 June as required by this</p>

clause, therefore there will be no adverse impact to residential amenity and the objective of this clause is achieved.

*(b) to ensure that lot sizes enable sufficient areas of open space within each lot so as to enable the retention and embellishment of green linkage corridors in residential zones.*

The proposed lots under the subdivision will be capable of providing sufficient open space areas that are in accordance with DCP requirements.

There are no designated 'green linkage corridors' applicable to the site, however, as above the lots will be capable of supporting standard dwelling types with compliant private open space and landscaped zones.

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#### **CI 4.1C Minimum Lot Size for Battle-Axe Lots**

*(a) to maintain visual amenity and character of the land to which this clause applies,*

The proposed battle-axe lot will not adversely impact upon the visual amenity and character of Darvall Road and the surrounding locality.

The proposed accessway along the northern boundary has been designed in accordance with the minimum 3m wide DCP provision. The accessway is consistent with the driveway located to the south at 12A Darvall Road and will not disrupt the visual character or consistency of the streetscape.

The inclusion of the 3m wide accessway will not adversely impact the street frontage of Lot 1. The frontage to Darvall Road will be 18m wide which is compatible with the frontage widths of surrounding residential properties.

*(b) retain the residential amenity of that land by providing suitable landscaped areas and vehicular access.*

The proposed battle-axe lot has been designed with a regular shape and size capable of supporting a standard dwelling with suitable landscaped areas, deep soil zones and vehicular access. Vehicular access will be provided from the accessway running along the northern boundary and will be a minimum 3m in width, in accordance with DCP provisions.

The Concept Building Envelopes prepared by Yuji Honda Architects demonstrate that the above can be achieved in compliance with LEP and DCP requirements. Additionally, the Shadow Diagrams prepared by Yuji Honda Architects demonstrate the minor extent of overshadowing impacts and that there will be no significant adverse impact on neighbouring residential amenity.

Accordingly, the subdivision layout as it relates to the battle-axe lot achieves the intent of the objective.

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Strict compliance with the standards is also considered unreasonable and unnecessary in this case because there is clear evidence in the surrounding streetscape of examples where other standard and

battle-axe lot arrangements are undersized, including those referenced under (7) above. These non-compliant examples exist in stark contrast to the minimum standards and form part of the housing character of the immediate locality, particularly that of 17 and 17A Darvall Road where both lots front a public street on a corner. There is an eclectic mix of housing and lot types in the immediate surrounds, notwithstanding those minimum lot size standards, evidenced by at least 4 separate examples in the immediate locality, including on Darvall Road.

The main intent of the minimum lot size standard is to control density in the R2 Low Density Residential zone and maintain residential amenity. It is considered that the submitted plans prepared by Yuji Honda Architects clearly demonstrates that the proposed subdivision is capable of providing for a two-lot subdivision which can facilitate future dwellings that will achieve the following:

- Provide compliant setbacks and maintain the existing character of the streetscape;
- Provide appropriate private open space areas for future residents;
- Provide sufficient deep soil areas to facilitate tree planting;
- Will not adversely affect the residential amenity of neighbouring properties by way of overshadowing or visual privacy impacts.

The strict application of the minimum lot size provisions in this instance are unreasonable and unnecessary because the proposal aligns with the objectives of the R2 Low Density Residential zone.

#### **10 There are sufficient environmental planning grounds to justify contravening the development standard [Clause 4.6(3)(b)]**

In *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 2018, Preston CJ observed that in order for there to be 'sufficient' environmental planning grounds to justify a written request to contravene a development standard under Cl 4.6, the request must justify contravening the development standard, and not simply 'promote the benefits of carrying out the development as a whole'.

The SEE prepared in support of this DA provides a comprehensive assessment of relevant EPIs, concluding that there are sufficient grounds to support the development, despite the minimum lot size shortfalls detailed in this request. The SEE and accompanying documentation supports the overall development and is content that the outcome is appropriate on environmental planning grounds.

The sufficient environmental planning grounds to justify the proposed breaches to the standards are provided as follows:

- The proposed variations are relatively minor in terms of the numeric shortfalls at 7.64% (Lot 1) and 16.12% (Lot 2). This is evidenced in the building envelope plans provided at Figure 4 which demonstrate how a standard detached dwelling with compliant private open space, landscaping, deep soil, parking and access can be accommodated on each lot.
- The proposed lots are of a regular shape which otherwise comply with the minimum lot dimensions specified in the Ryde DCP. Again, this assists with being able to accommodate a standard 4-bedroom dwelling on each lot with compliant landscape, private open space, etc.
- The lot sizes proposed do not disrupt the visual quality or continuity of the streetscape. Only one lot will be visible from Darvall Road (Lot 1) which will have a compliant 18m wide frontage to the street. The rear battle-axe lot (Lot 2) being accessed from the access driveway along the northern boundary will not be visually dominant from the street given the level landform across the site, and will be accessed by a compliant 3m access handle.
- There are at least four (4) other examples of standard and battle-axe lots in the immediate locality, including Darvall Road, where undersized lots exist. Notwithstanding the current controls, these

undersized lots contribute to an eclectic mix of residential lot types in the area and are evidence of where Council has historically supported the creation of such lots and dwellings. The example battle-axe lots immediately adjacent to the site also comprise highly irregular lot shapes at 3A and 3B Darvall Road. The narrow, irregular shaped battle-axe lots, both of which are undersized when the access handle is excluded, contain detached dwellings. The proposed lots are appropriately scaled and shaped to support a broader variety of housing types and are worthy of support when considered in their surrounding context.

- The design of the subdivision layout and indicative building envelopes provided retain the residential amenity of the neighbouring properties at 12A Darvall Road to the south in accordance with the objectives of clause 4.1 of the Ryde LEP 2014. The Shadow Diagrams prepared by Yuji Honda Architects clearly demonstrates that the private open space and living space areas of the neighbouring properties receive the minimum required solar access in accordance with section 2.14.1 of the Ryde DCP “Daylight and Sunlight Access’. Therefore, the proposed lots can facilitate future dwellings which will not adversely impact upon the residential amenity of neighbours.
- The building envelope plans presented in Figure 4 demonstrate that residential development of a kind that are permissible in the zone and consistent with the R2 zone objectives will ultimately be delivered on each of the lots.
- Notwithstanding the shortfalls proposed, the subdivision development can be undertaken without adversely impacting the surrounding environment.
- The proposed development will cause no direct adverse impacts to the surrounding residential amenity, with works to be undertaken strictly in accordance with Council’s standard conditions of consent.
- The development is in the public interest as it will deliver two new residential lots capable of supporting detached dwellings, providing future low-density housing consistent with the zoning.
- The development represents the orderly economic use of the land to support new housing.

Based on the above, there are sufficient environmental planning grounds to justify contravening the minimum lot size standards in this instance.

**11 The proposal will be in the public interest because it is consistent with the objectives of the zone [Clause 4.6(4)(a)(ii)]**

In addition to consistency with the objectives of the relevant development standards, the DA is also consistent with the objectives of the R2 Low Density Residential zone as outlined in Table 2 below:

*Table 2- Proposed developments consistency with the objectives of the R2 Low Density Residential zone*

Objective	Discussion
<i>To provide for the housing needs of the community within a low density residential environment.</i>	The proposal will modestly contribute to an increase in local housing supply in the area by creating an additional residential lot / opportunity for future dwellings. The proposal will not impact upon the existing character and streetscape of the low-density residential environment and as discussed above, will be consistent with the eclectic mix of lot types in the area.
<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	Not relevant.

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*To provide for a variety of housing types.*

The proposal involves a battle-axe subdivision arrangement which provides for modest diversity of housing / lot types in the area. Whilst most houses in the locality are not situated on battle-axe lots, there is precedent for this housing type as presented above in (7).

The proposed lots, whilst undersized, are of a regular shape which will be capable of supporting a wider variety of future dwelling types and designs, albeit the sitting of the dwellings has been clearly demonstrated in Figure 4 and tested for compliance.

The slight reduction in the area of these lots does not compromise the prevailing subdivision pattern, achievement of compliant lot frontages and will not drastically impact on the amenity of neighbouring properties. The slight variation in the lot size will contribute modest diversity of product within an established residential area which is in the interests of the public.

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## **12 There are no other matters required to be taken into consideration by the Secretary [Clause 4.6(5)(c)]**

It is considered that all matters required to be taken into account by the Secretary before granting approval have been adequately addressed as part of this Cl 4.6 variation request to Clauses 4.1 and 4.1C of the Ryde LEP 2014.

## **13 Conclusion**

This variation request demonstrates, as required by Cl 4.6 of the Ryde LEP 2014 that:

- Compliance with the development standards would be unreasonable and unnecessary in the circumstances having regard to the objectives of the standards, the objectives of the R2 Low Density Residential zone and the surrounding local context.
- There are sufficient environmental planning grounds to justify the contravention (refer to points presented in 10).
- The variations sought are relatively minor, numerically speaking, and will not inhibit the construction of otherwise compliant future detached dwellings on each of the lots.
- The proposed lots will deliver an overall site density which is consistent with the R2 zoning and lot size standard objectives and deliver an increased supply of housing in the area that maintains the existing residential character. The density proposed is also greatly reduced when compared with that of the completed residential development to the south at 12A Darvall Road.
- The development will not adversely affect the residential amenity of adjacent properties.
- The development achieves the objectives of the development standard and is consistent with the objectives of the R2 Low Density Residential zone.
- In this circumstance, the proposed development, notwithstanding the variation, is in the public interest and represents the orderly economic use of the land. The minor variations to the lot area requirements in this instance will contribute modest diversity and availability of new land lots within an established residential area.
- The variation does not raise any matter of State or Regional planning significance.

Therefore, it is considered appropriate that the consent authority exercise the flexibility provided by Cl 4.6 in the circumstances of this application.

## ATTACHMENT 3 – Draft conditions of consent

LDA2022/0162: 12 Darvall Road, Eastwood

### GENERAL

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

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

Document Description	Date	Plan No/Reference
Demolition Plan, prepared by Yuji Honda Architects	10/05/2022	SP00 (Issue C)
Subdivision Plan, prepared by Yuji Honda Architects	10/05/2022	SP01 (Issue C)
Civil Site Plan, prepared by Stronghold Engineers	16/08/22	C01 (Rev D)
Civil Design Details, prepared by Stronghold Engineers	16/08/22	C02 (Rev D)
Cover Sheet, prepared by JCO Consultants Pty Ltd	09/08/2022	DA-SW100 (Rev 6)
Stormwater Concept Plan – Site Plan & Details, prepared by JCO Consultants Pty Ltd	09/08/2022	DA-SW200 (Rev 6)
Erosion and Sediment Control – Plan & Details, prepared by JCO Consultants Pty Ltd	09/08/2022	DA-SW600 (Rev 6)
Arboricultural Impact Assessment, prepared by Hugh The Arborist	17 March 2022	12 Darvall Road, Eastwood NSW (Revision 1)
Site Waste Minimisation and Management Plan (SWMMP), prepared by Teamlink (Bayside) Pty Ltd	-	12 Darvall Road, Eastwood NSW
Safe Work Method Statement – Demolition, prepared by Aussie Digging Force	26/05/2022	12 Darvall Road, Eastwood NSW

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

(Reason: Statutory requirement).

3. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the

person having the benefit of the development consent must, at the person's own expense:

- (a) Protect and support the adjoining premises from possible damage from the excavation, and
- (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.

(Reason: Statutory requirement).

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

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

### **Protection of Adjoining and Public Land**

5. **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).

6. **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).

7. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

(Reason: To ensure public safety).

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

(Reason: to ensure public safety).

9. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RMS, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.

(Reason: Access to public utilities).

10. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 138 of the Roads Act 1993.

(Reason: To ensure compliance with the requirements of the Roads Act 1993).

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

(Reason: To ensure that all works are undertaken in accordance with any relevant standard and DCP requirements.)

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

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

13. **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: To ensure the amenity and state of the public domain is maintained.)

## DEMOLITION CONDITIONS

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

A Construction Certificate is not required for Demolition.

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

(Reason: Statutory requirement)

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

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

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

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

(Reason: Statutory requirement).

17. **Excavation**

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

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

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

(Reason: Safety).

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

(Reason: Safety).

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

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

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

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

22. **Imported fill – type.** All imported fill must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*.

(Reason: To protect the environment).

## PRIOR TO SUBDIVISION WORKS CERTIFICATE

A Subdivision Works Certificate must be obtained from a Private Certifier 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 Subdivision Works 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 Private Certifier is responsible for determining compliance with the conditions in this Section of the consent.

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

23. **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 **Subdivision Works Certificate**.

(Reason: Statutory requirement).

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

(Reason: Statutory requirement).

25. **Infrastructure Restoration and Administration Fee** must be paid to Council in accordance with Council's Management Plan prior to the release of the **Subdivision Works Certificate**.

(Reason: Statutory requirement).

26. **Access Levels for the Access Handle.** The applicant is to apply to Council, pay the required fee, and have issued site specific access levels for the access handle by Council prior to the issue of the **Subdivision Works Certificate**.

(Reason: Statutory requirement).

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

(Reason: Statutory requirement).

28. **Stormwater Management – Subdivision Works Certificate.** Stormwater runoff from the subdivided lot(s) shall be collected and piped by gravity flow in accordance with the requirements of Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management), associated annexures and in accordance with the approved Stormwater Management plan prepared by JCO Consultants Pty Ltd Job No 20220026 Drw No DA-SW-100 & DA-SW200 Rev 6 dated 9/8/22 subject to amendments as noted below:

- Deletion of OSD tanks from plans. As there are no buildings constructed at this stage, OSD will not be required with the subdivision works.
- Construction of minor retaining wall/kerb along northern & eastern boundaries to retain cut/fill proposed

Accordingly, detailed engineering plans and certification demonstrating compliance with this condition are to be submitted with the application for a Subdivision Works Certificate.

(Reason: To ensure the newly created lots have access to adequate drainage services.)

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

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

30. **Battle-axe Handle.** The minimum perpendicular width of the access handle shall be 3.0m. Detailed plans must be submitted depicting a compact engineered surface suitable for vehicular movements for the length of the battle-axe handle and to comply with Council's DCP 2014 Part 8.3. These plans must be to the satisfaction of the appointed Principal Certifying Authority.

(Reason: To ensure the serviceability of infrastructure to the development property is consistent with the life of the development and provides safe and efficient access to the site.)

31. **Road and Public Domain Works.** To ensure the serviceability of infrastructure adjacent the development property is consistent with the life of the development and provides safe and efficient access to the site, the following Public Domain works are required:

- a) Construction of a new concrete vehicular crossing 3.0 m wide fronting the battle axe lot. The existing driveway does not conform to the current standards.

- b) Reinstatement of damaged sections of kerb and gutter for the site frontage.

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

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

(Reason: To ensure the serviceability of infrastructure adjacent the development property is consistent with the life of the development and provides safe and efficient access to the site.)

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 Subdivision Works Certificate. The ESCP must be in accordance with the manual "Managing Urban Stormwater: Soils and Construction" by NSW Department – Office of Environment and Heritage and must contain the following information;

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

The ESCP must be submitted with the application for a Subdivision Works Certificate or any work which disturbs the landform.

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

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

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

And

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

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

(Reason: Statutory requirement).

## **PRIOR TO COMMENCEMENT OF SUBDIVISION WORKS**

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.

34. **Existing Buildings.** The existing dwelling and structures on each proposed Lot shall be demolished and debris removed from site.

(Reason: To allow for the subdivision works to be carried out)

35. **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).

36. **Excavation adjacent to adjoining land**

- (a) If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must, at their own expense, protect and support the adjoining premises from possible damage from the excavation, and where necessary, underpin the adjoining premises to prevent any such damage.
- (b) The applicant must give at least seven (7) days notice to the adjoining owner(s) prior to excavating.
- (c) An owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

(Reason: Statutory requirement).

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: Statutory requirement).

38. **Proposed Property Addressing.** Proposed addressing for the new development must have been lodged with Council, prior to the commencement of construction.(Reason: To ensure the address of the development meets Council's requirements).

39. **Tree Retention.** As identified in the Arboricultural Impact Assessment (AIA) prepared by Hugh the Arborist dated 17/03/2022. The following trees on site or adjoining the site are to be retained and protected:

Tree No.	Species (Common name)	Notes
G2	<i>Cupressus torulosa</i> (Bhutan Cypress)	On site

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

40. **Tree Protection.** All tree protection works including installation of any fencing is to be undertaken prior to any demolition or site clearing works on site.(Reason: To protect existing trees before any work on site commences.)
41. **Tree Protection Fencing.** All trees to be retained on site and on adjoining site are to have protective fencing and signage around TPZs and must be located in accordance with AS4970-2009: Protection of trees on development sites. In this regard, any fencing required to be constructed around the TPZ is to be in accordance with AS4687 Temporary fencing and hoardings.(Reason: To protect existing trees before any work on site commences.)
42. **Tree protection – no unauthorised removal.** This consent does not authorise the removal of trees unless specifically permitted by a condition of this consent or identified as approved for removal on the stamped plans.

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

## DURING CONSTRUCTION

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

43. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Private Certifier during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2021*.

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

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

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

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

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

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

47. **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 ensure fill is consistent with the consent).

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

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

49. **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).

50. **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 during construction).

51. **Work within public road.** At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the

minimum standards outlined in Australian Standard No. AS1742.3-1996 “Traffic Control Devices for Work on Roads”.

(Reason: To ensure works do not disrupt pedestrians and vehicular traffic).

52. **Stormwater Management - Construction.** The stormwater drainage system on the site must be constructed in accordance with the plans submitted in compliance with the condition labelled “Stormwater Management – Subdivision Works Certificate.” and any requirements of Council in relation to the connection to the public drainage system.

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

53. **Battle-axe Handle - Construction.** The battle-axe handle driveway on the site must be constructed in accordance with the Subdivision Works Certificate version of the plans for the access handle as submitted in compliance to the condition labelled “Battle-axe Handle.”

(Reason: To ensure the battle axe driveway is constructed as approved)

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 soil erosion and the discharge of sediment over the land.)

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 ensure any excavation works are not detrimental to the health of the tree.)

56. **Tree Removal.** As identified in the Arboricultural Impact Assessment (AIA) prepared by Hugh the Arborist dated 17/03/2022. The following trees on site are to be removed:

Tree No.	Species (Common name)	Notes
1	<i>Callistemon viminalis</i> (Weeping Bottlebrush)	Refer to Street tree conditions
2	<i>Lagerstroemia indica</i> (Crape Myrtle)	Refer to Street tree conditions
3	<i>Michelia figo</i> (Port Wine Magnolia)	On site
4	<i>Camellia sasanqua</i> (Sasanqua Camellia)	On site
5	<i>Rondeletia amoena</i> (Rondeletia)	On site

6	<i>Citrus sp.</i> (Citrus Tree)	On site
7	<i>Olea europaea</i> (European Olive)	On site
8	<i>Ravenala madagascariensis</i> (Traveller's palm)	On site
9	<i>Citrus sp.</i> (Citrus Tree)	On site
10	<i>Mangifera indica</i> (Mango)	On site
11	<i>Mangifera indica</i> (Mango)	On site
G1	<i>Cupressus torulosa</i> (Bhutan Cypress)	On site

(Reason: To ensure only the trees approved for removal are in fact removed)

57. **Street trees.** One (1) Crepe Myrtle (*Lagerstroemia indica*) and one (1) Weeping Bottle Brush (*Callistemon viminalis*) identified as Trees 1 and 2 and located in the road reserve at the front of 12 Darvall Road, Eastwood, shall be removed in accordance with the following requirements:

- (a) All relevant legislation and WHS regulations be adhered to whilst undertaking the works.
- (b) A bond shall be placed upon each tree to be retained to the value of \$1000 each as required by **condition number 60**. The bond is to be paid prior to the release of the construction certificate.
- (c) The pot size of the replacement trees shall be no less than 45L at the time of planting.
- (d) The trees shall be planted in accordance with Section 6 of Council's Tree Management Technical Manual.
- (e) The trees are to be planted in an appropriate location so to not impede line of sight for vehicles entering and exiting the driveway at this or neighbouring properties

(Reason: To identify street trees approved for removal and requirement of replacement plantings).

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 ensure that any tree work is carried out by a qualified Arborist)

59. **Consent documents available on site.** At all times during the construction, a copy of the development consent and the approved stamped plans is to be kept on site. These documents are to be made available to any Council Officer as requested.

(Reason: To ensure Council Officers are able to access the consent during any site inspection).

## PRIOR TO THE ISSUE OF THE COMPLIANCE CERTIFICATE FOR SUBDIVISION WORKS

A Compliance Certificate must be obtained from a Private Certifier.

Prior to issue, the Private Certifier must ensure that all works are completed in compliance with the approved subdivision works certificate plans and all conditions of this Development Consent.

Unless an alternative approval authority is specified (eg Council or government agency), the Private Certifier 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.

60. **Tree bonds.** Prior to the issue of a Subdivision Works Certificate a bond shall be placed upon the one (1) *Corymbia eximia* (Yellow Bloodwood) tree that is required to be planted by **condition number 57** to the value of \$1000. This bond must be paid to Council prior to the issue of a Subdivision Works Certificate. A receipt must be provided to the Certifying Authority prior to the issue of the Subdivision Certificate. The bond is not redeemable until after 12 months of the issuing of the Subdivision Certificate. Council's Tree Management Officer must inspect the trees prior to the bond being released and all trees shall be in good health and vigour upon inspection. If the trees are found to be in poor condition or vigour, the bond will not be released.

(Reason: To ensure the protection of street trees.)

61. **Subdivision Works - Compliance Certificates.** Compliance Certificates must be obtained for the following items and are to be submitted with the application for a Subdivision Certificate. All certification must be issued by a qualified and practising civil engineer having experience in the area respective of the certification unless stated otherwise.
- a) Confirming that the Stormwater Management system servicing the development complies with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures, and has been constructed to function in accordance with all conditions of this consent relating to the discharge of stormwater from the site.
  - b) Confirming that access handle has been constructed as per approved design plans and complies with Council's DCP 2014 Part 8.3.
  - 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 have been completed to Council's satisfaction.

(Reason: To ensure that all works required to implement the subdivision have been designed and constructed to appropriate standards.)

## PRIOR TO THE ISSUE OF THE SUBDIVISION CERTIFICATE

The following conditions in this Part of the consent apply to the Subdivision component of the development.

All conditions in this Part of the consent must be complied with prior to the issue of a Subdivision Certificate.

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

<b>A – Contribution Type</b>	<b>B – Contribution Amount</b>
Community & Cultural	\$6,061.80
Open Space & Recreation	\$10,438.16
Transport Facilities	\$3,204.47
Plan Administration	\$295.57
<b>The total contribution is</b>	<b>\$20,000.00</b>

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

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

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

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

(Reason: Statutory requirement).

63. **Compliance Certificate, Subdivision Works.** A compliance certificate associated with the development and any related S4.55 applications, must be issued for the entire development prior to the release of the Subdivision Certificate by the Principal Certifying Authority. Copies of the compliance certificate and the associated documents are to be submitted to Council prior to the issue of the Subdivision Certificate.

(Reason: To ensure that all works required to implement the subdivision have been constructed to appropriate standards.)

64. **Final Plan of Subdivision.** The submission of a final plan of subdivision suitable for endorsement by the Authorised Officer.

(Reason: To ensure that the final subdivision plan is adequate for acceptance of Land Registry Services.)

65. **Final plan of subdivision - Title Details.** The final plan of subdivision shall note all existing and/or proposed easements, positive covenants and restrictions of the use of land relating to the title.

(Reason: To disclose any easements or covenants burdening the land.)

66. **Removal of encroachments.** All structures, services etc. are to be wholly contained within the legal property boundaries of each lot. All existing structures and services etc are either to be demolished, relocated and/or have appropriate easement/s registered over the encroachment to ensure their legal operation.

(Reason: To avoid dispute over the maintenance or preservation of encroaching structures.)

67. **Easement for Drainage of Water.** The drainage system servicing one of the lots is noted to traverse the alternate lot(s) and therefore an Easement for Drainage of Water must be created over the respective part(s) of the drainage system. The easement width, location and alignment must be in accordance with the Council's DCP Parts 8.2 (*Stormwater and Floodplain Management*) and Part 8.4 (*Title Encumbrances*) and is to be based on recent Works-As-Executed plans of the stormwater system. Plans and documentation complying with this condition must be submitted with the application for a Subdivision Certificate.

(Reason: To ensure drainage services and conveyance of stormwater runoff are maintained.)

68. **88B Instrument.** The submission of an instrument under Section 88B of the Conveyancing Act 1919, creating any Easements, Positive Covenants and Restrictions on use (where required) noting the "Council of the City of Ryde" being the authority empowered to release vary or modify the same.

(Reason: To facilitate the registration of any instrument accompanying the subdivision certificate.)

69. **Subdivision Certificate - Compliance Certificates.** The following compliance certificates must be provided to Council prior to the release of the Subdivision Certificate;

- a) Surveyor Certification – A registered surveyor must certify that necessary easements have been created for all services and structures which encroach into adjacent lots and that all remaining services, dwelling and structures are contained wholly within their respective allotments.
- b) Sydney Water (Section 73 Compliance Certificate) - A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water will determine the availability of water and sewer services, which may require extension, adjustment or connection to Sydney Water mains.
- c) Other Utility Providers – Written confirmation confirming compliance with the requirements (including financial costs) of electrical and telecommunication providers (e.g. AusGrid, Telstra).

(Reason: To ensure the newly created lots have access to and can maintain essential services.)

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

(Reason: Statutory requirement).

70. **Notice of Arrangement (Utility Provider).** Notice of Arrangement and compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Ausgrid, Sydney Water, Telstra, Council etc).

(Reason: Statutory requirement).

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

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

And

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

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

(Reason: Statutory requirement).

72. **Official Property Addressing.** The property addressing displayed on the administration sheets of a subdivision or strata plan, must be in accordance with the official property addressing allocated by Council's Land Information Section.

(Reason: To assist in way finding).

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

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

(Reason: Statutory requirement).

74. **Stormwater Management - Work-as-Executed Plan.** A Work-as-Executed plan (WAE) of the as constructed Stormwater Management System and the access handle must be submitted with the application for a Subdivision Certificate. The WAE must be prepared and certified (signed and dated) by a Registered Surveyor and is to clearly show the details of constructed stormwater drainage system and finished surface levels which convey stormwater runoff and surface levels for the access handle.

(Reason: To clarify the configuration of the completed stormwater management system and ensure that all required easements and covenants are implemented upon subdivision.)