

**NSLPP MEETING HELD ON 01/12/21****Attachments:**

1. Site Plan
2. Architectural Plans
3. Clause 4.6 Statement (Building Height)

ADDRESS/WARD: 80 Cairo Street, Cammeray (T)**APPLICATION No:** DA 209/21**PROPOSAL:** Substantial alterations and additions to an existing dual occupancy including a new car space in the existing garage, and a roof extension.**PLANS REF:**

Plan No.	Rev No.	Description	Prepared by	Dated
A-001	3	Site/Roof Plan	Atlas Urban	05/10/2021
A-005	3	Materials Schedule	Atlas Urban	05/10/2021
A-101	3	Garage Plan	Atlas Urban	05/10/2021
A-102	3	Lower Ground Floor Plan	Atlas Urban	05/10/2021
A-103	3	Lower Ground Floor Plan	Atlas Urban	05/10/2021
A-104	3	Ground Floor Plan	Atlas Urban	05/10/2021
A-105	3	First Floor Plan	Atlas Urban	05/10/2021
A-200	3	North Elevation	Atlas Urban	05/10/2021
A-201	3	North Elevation	Atlas Urban	05/10/2021
A-202	3	South Elevation	Atlas Urban	05/10/2021
A-203	3	West Elevation	Atlas Urban	05/10/2021
A-204	3	East Elevation	Atlas Urban	05/10/2021
A-300	3	Section	Atlas Urban	05/10/2021
A-301	3	Section	Atlas Urban	05/10/2021
-	-	Painting Specifications	Design Research Associates	06/06/2021

OWNER: Brigit Salter**APPLICANT:** Belinda Walter, Atlas Urban**AUTHOR:** Andrew Beveridge, Assessment Officer**DATE OF REPORT:** 18 November 2021**DATE LODGED:** 8 July 2021**RECOMMENDATION:** Approval (Deferred commencement)

EXECUTIVE SUMMARY

This development application seeks NSLPP approval for extensive alterations and additions of the existing dual occupancy building on site including a new car space in the existing garage, and a roof extension.

This application is reported to North Sydney Local Planning Panel for determination because the proposed works breach the building height limit by greater than 10% and requires determination by the panel.

As the proposal involves works to the existing residential dwelling that are in exceedance of the maximum permitted height limit by 2.7m (31.76%), the applicant has submitted a written request seeking a variation to the building height development standard in accordance with Clause 4.6 of NSLEP 2013. The applicant's submission has been considered with reference to the Land and Environment Court's decision in *Wehbe v Pittwater Council [2007] NSWLEC 827* in order to justify the proposed variation. The applicant's Clause 4.6 is considered to be satisfactory given the site circumstances and on the basis that it will not have a significant impact upon the views or general amenity of adjoining properties.

Notification of the proposal has attracted no submissions and the assessment has considered the performance of the application against Council's planning requirements. The view impacts resulting from the western roof extension have been assessed with regard to the Tenacity planning principle, where the impacts are considered to be minor and acceptable within the site circumstances.

The impacts of the overall development upon the heritage significance of the site, being located within the Plateau Conservation Area, have also been assessed and, subject to satisfying recommended conditions, was found to be generally acceptable on the basis that the majority of the works will be contained within the existing footprint of the dwelling and will maintain a sympathetic scale in relation to the existing dwelling.

However, the proposed additional dormer on the western roof extension, and the ground and lower ground floor level deck extensions, however, are not considered to be acceptable on the basis that these works are over-scaled, will detract from the original dwelling, and will be highly visible from the street and the public domain. The proposed replacement steel balustrade, slate roof and the proposed colour palette are also considered to be unsympathetic to the heritage values of the dwelling and conservation area. These alterations and additions are recommended to be altered and/or deleted from the plans by deferred commencement condition.

Subject to the satisfaction of conditions, it is considered that the proposal is acceptable as it will not result in any significant adverse impacts upon the locality or adjoining properties, and the overall heritage significance of the site and streetscape character will be maintained. The proposal will also not result in any unreasonable impacts on the amenity of adjoining properties such as impacts to views, overshadowing or loss of privacy.

Having regard for the potential impacts upon the amenity of adjoining properties and the heritage significance of the site, subject to conditions, including satisfying deferred commencement conditions, the development application is considered to be satisfactory and is recommended for **part approval**.

LOCATION MAP



Property/Applicant ● Submitters - Properties Notified

DESCRIPTION OF PROPOSAL

The application seeks approval for alterations and additions to the existing dual occupancy at 80 Cairo Street, Cammeray, as shown below:

Garage Level (RL 68.17)

- Retain the existing vehicular crossing and garage opening.
- Excavation to allow for an additional car space (3.8m x 6.2m), new bin storage, and a new internal lift to access the upper floors.

Lower Ground Floor Level (RL 70.96 – 75.71)

- New storeroom over the existing garage under new terrace with planter boxes.
- Reconfiguration of pedestrian stairs to Pine Street and associated landscaping.
- No works to existing secondary dwelling (RL 75.71).
- New planter, paving and landscaping (RL 75.71)
- New lift access to lower floors.
- Replacement of existing stairs and extension of the deck to the western side of the house.

Ground Floor Level (RL 78.76)

- Internal reconfiguration of main dwelling to enlarge bedrooms, to add a new family bathroom, and a new kitchen.
- Extension of existing balcony to the north and the addition of a new deck to the east in front of the existing projecting gable within the original dwelling.
- Replacement of the existing balustrade.
- Replacement of existing paving in the front setback to Cairo Street and the addition of new landscaping.

First Floor Level (RL 82.29)

- New western extension of first floor level with a gable-end roof, and internal reconfiguration of the existing level to create a main bedroom, study, sitting room/bedroom, WIR and bathroom.
- New dormer windows on southern and northern roof planes.
- New skylights over stairs, WIR, and hallway.
- Replacement of existing balcony dormer balustrade.

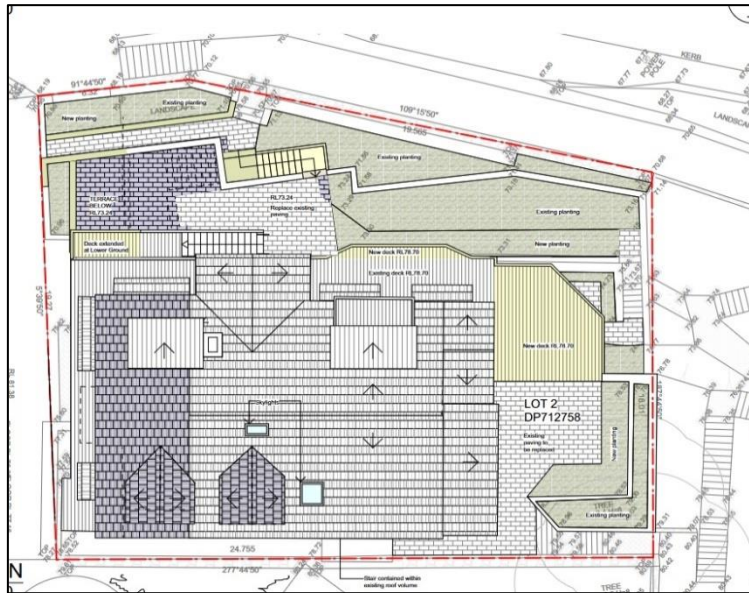


Figure 1. Site plan of the proposed works.

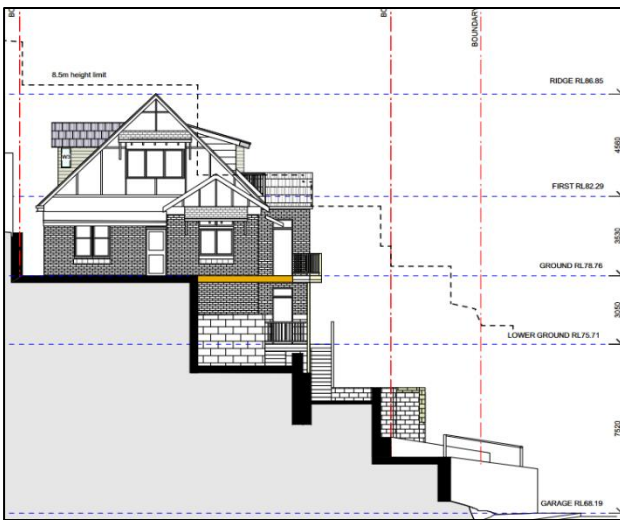


Figure 2. Eastern (front) elevation.

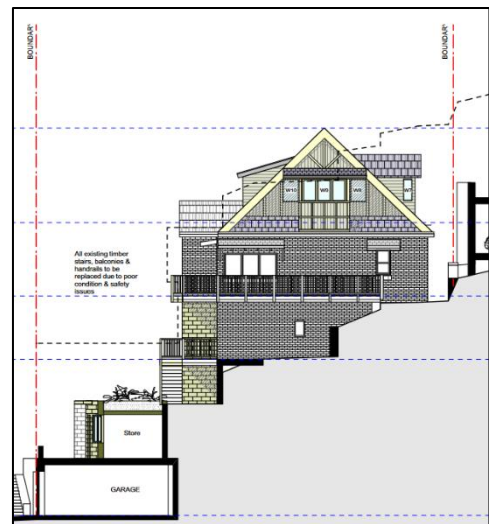


Figure 3. Western (rear) elevation

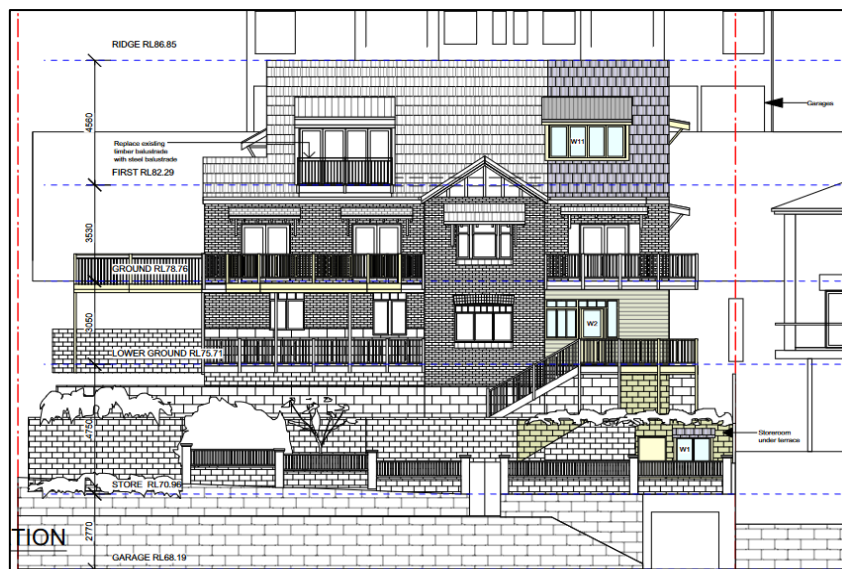


Figure 4. Northern side (Pine Street) elevation.

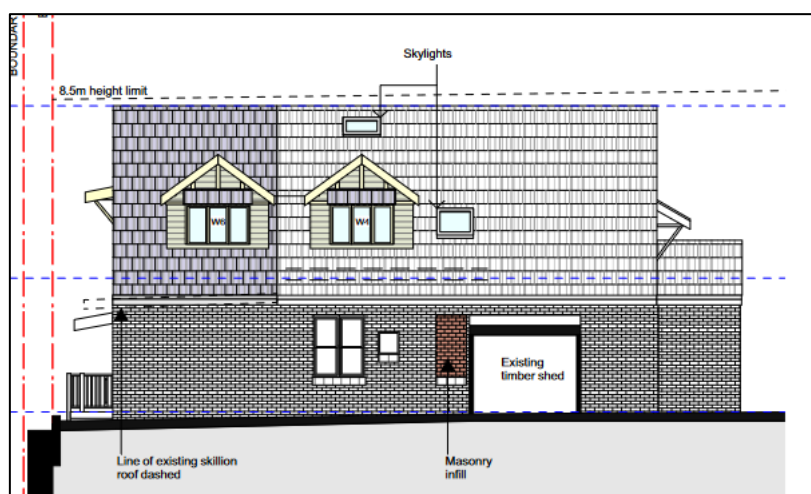


Figure 5. Southern side elevation.

STATUTORY CONTROLS

North Sydney Local Environmental Plan 2013 (NSLEP 2013)

- Zoning – R2 Low Density Residential
- Item of Heritage – No
- In Vicinity of Item of Heritage – No
- Conservation Area – Yes (Plateau Conservation Area, CA02)

Environmental Planning & Assessment Act 1979

SREP (Sydney Harbour Catchment) 2005

Draft Environment SEPP 2017

SEPP No. 55 – Remediation of Land & Draft SEPP

SEPP No. 19 – Bushland in Urban Areas

SEPP (Vegetation in Non-Rural Areas) 2017

SEPP (Building Sustainability Index – BASIX) 2004

Local Development

POLICY CONTROLS

North Sydney Development Control Plan 2013 (NSDCP 2013)

- Bushland Buffer – Buffer Area B (300m)
- Appendix 1 (Heritage) – Neutral Item

North Sydney Local Infrastructure Contributions Plan 2020

DESCRIPTION OF LOCALITY

The subject site is located on the western side of Cairo Street in Cammeray, with a secondary side frontage to Pine Street to the north. The subject site is legally described as Lot 2 DP 712758 and is known as 80 Cairo Street Cammeray. The 460.7m² site currently supports an existing 3-storey Federation cottage built in 1911, that is currently a dual occupancy, with a smaller dwelling added to the lower ground level in 1993.

Originally part of the Cooliatta Estate subdivided on 21 August 1889, the title of 80 Cairo Street (Lot 25, Sec 4, DP 2407, now comprising the lots of Nos. 80 Cairo Street and 32D Pine Street) was acquired by Alfred Clutterbuck, who built the house in 1911. Clutterbuck was a local builder, and used the house as his residence until 8 September 1926. In the Tunks Ward Rate & Valuation Book the name of the house was recorded as “*Awanui*”. The subject site was subdivided in 1984, splitting off the western rear garden to create No. 32D Pine Street.

The building on site has its primary eastern façade on Cairo Street facing the Ellis Lookout Reserve, with an asymmetrical massing of a projecting bay with a gable end and a small front verandah. However, due to the subject site’s position at the end of Cairo Street with a topography that slopes steeply to the north towards Pine Street, and the most visible façade of the dwelling is the northern side elevation facing Pine Street.

To take advantage of this northerly side aspect and views, the northern elevation of the dwelling has several levels of integrated balconies and a balcony dormer window on the first-floor level. The “Cape Cod” style first-floor level with the balcony dormer was added in 1981. On-site parking is provided via a small, integrated garage added in 1991 within the north-western corner of the site that is accessed via Pine Street.

The site is a Neutral Item within the Plateau Conservation Area and surrounding development generally comprises single-storey and two-storey, freestanding Federation, and late Victorian dwellings. The adjoining site to the south at 74-78 Cairo Street, is an eight-storey 1968 residential flat building of 31 units known as “*Bellevue Towers*”, which is an uncharacteristic item within the conservation area.

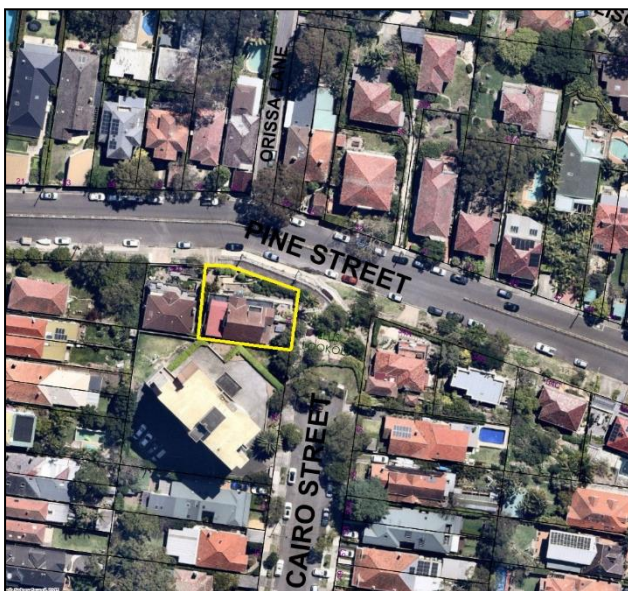


Figure 6. Aerial photograph of subject site (outlined yellow) and surrounding development

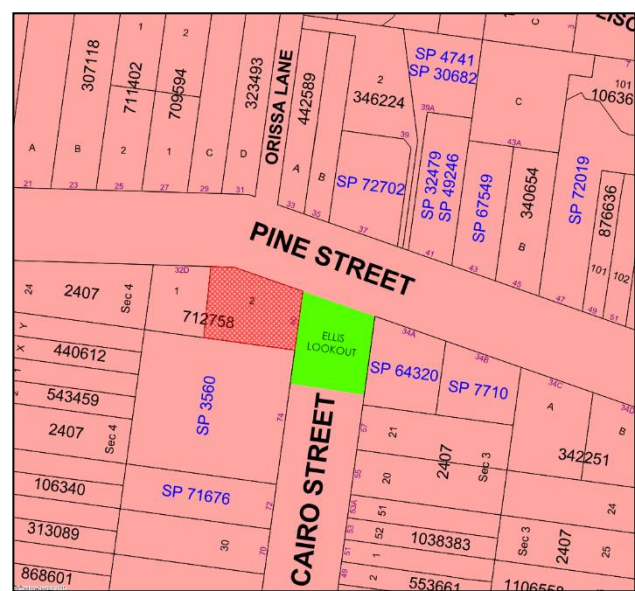


Figure 7. NSLEP Zoning map with the subject site hatched red in the R2 Zone

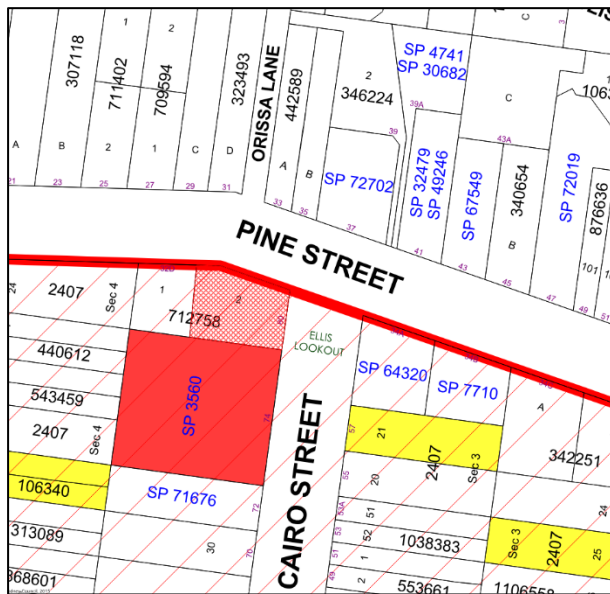


Figure 8. NSLEP and NSDCP Heritage map with the subject site hatched red.



Figure 9. The subject site's eastern (front) elevation as viewed from Cairo Street at the top of Ellis Lookout.



Figure 10. View of the subject site's eastern (front) elevation as viewed from the bottom of Ellis Lookout.



Figure 11. The subject site's northern elevation from the northern side of Pine Street.



Figure 12. The subject site's northern (side) and western (rear) elevations from the northern side of Pine Street.

RELEVANT HISTORY

Building Application No. 811/11 (lodged 18 December 1911) for the construction of a cottage on the subject site (Alfred Clutterbuck, owner and builder) was approved by Council on 22 December 1911.

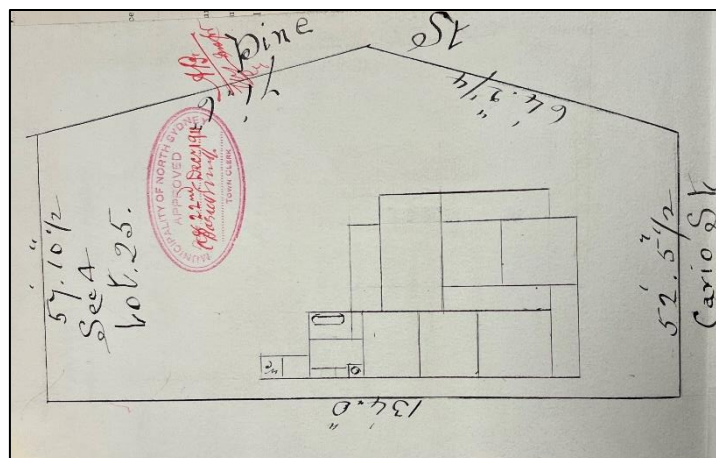


Figure 13. Block plan of No. 80 Cairo Street, as originally approved by Council on 22 December 1911.

Building Application No. 638/77 (lodged 14 November 1977) for alterations and additions to the existing dwelling was approved by Council on 13 December 1977.

Building Application No. 611/79 (lodged 21 September 1979) for the addition of an above-ground swimming pool, and associated deck and fencing to the Pine Street frontage was approved by Council on 12 October 1979.

Building Application No. 450/81 (lodged 10 July 1981) for the addition of a new first floor level into the existing roof (Cape Cod Australia Pty Ltd, applicant) was approved by Council's Town Planning and Building Committee on 24 August 1981.

Development Application No. 1331/84 (lodged 26 July 1984) for the subdivision of the site into two lots, creating No. 32D Pine Street to the west, was approved by Council 3 October 1984.

Building Application No. 536/86 (lodged 25 July 1986) for a footpath extension along the Pine Street boundary of the site was approved by Council on 8 August 1986.

Development Application No. 1432/90 (lodged 23 October 1990) for the construction of a single space garage accessed via Pine Street was approved by Council on 22 March 1991. Building works were subsequently approved under **Building Application No 224/91** (lodged 3 May 1991) on 7 August 1991. A Section 102 modification to this consent for the construction of a brick and wrought iron fence along the Pine Street and eastern boundaries of the site was approved by Council on 17 September 1992.

Development Application No. 1531/92 (lodged 21 December 1992) for alterations and additions to the existing dwelling consisting of an extension to the dining room, new decks, and roof alterations, alongside the creation of a new secondary dwelling to create a dual occupancy on site, was approved by Council on 16 March 1993. Building works were subsequently approved under **Building Application No 353/93** (lodged 22 June 1993) on 14 October 1993. Amendments to the Building Consent including various internal reconfigurations were subsequently approved on 22 June 1995.

Development Application No. 1252/95 (lodged 31 May 1995) for the strata subdivision of the site was approved by Council on 14 July 1995. However, this strata subdivision was never undertaken, and the consent subsequently lapsed.

Development Application No. 1136/97 (lodged 11 July 1997) for alterations to the existing dual occupancy including a first-floor extension to the west over the existing flat-roofed ground floor section of the dwelling to provide an additional bedroom and bathroom, was approved by Council on 9 October 1997. However, this extension was never built, and the consent expired on 9 October 2000.

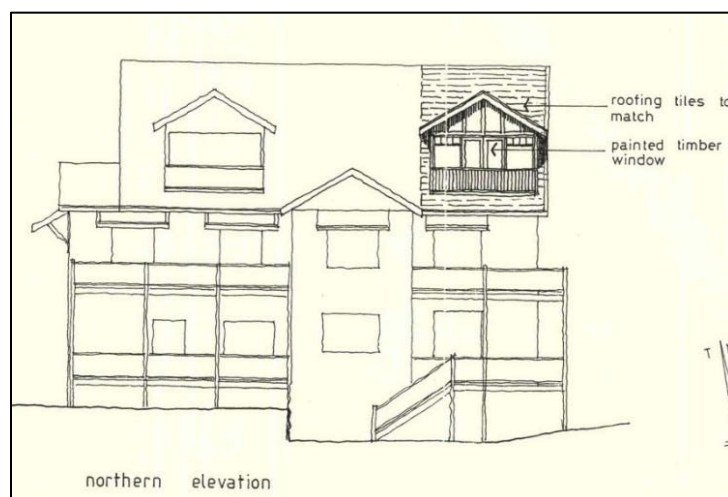


Figure 14. Northern elevation of No. 80 Cairo Street, showing the unbuilt first floor western roof extension and balcony dormer as approved under DA 1136/97.

Current Application History

A brief history of the current application is summarised below: -

Date	Action
8 July 2021	The application was lodged with Council
14 July 2021	The subject application was notified to adjoining properties and the Bay Precinct Committee (The Plateau Precinct Committee being inactive) between 23 July 2021 and 6 August 2021. No submissions were received.
27 August 2020	Following a preliminary assessment, a letter was sent to the applicant raising concerns about the likely heritage impact of the proposal, its compliance with the site coverage and landscaped area controls in NSDCP 2013, and the status of the existing secondary dwelling.
27 September 2021	A meeting was held between Council Officers and the applicants to discuss the above issues. Following the meeting, Council advised the applicant that amended plans were required to resolve some of the issues, including the need to readvertise the application as works to an existing dual occupancy, would be acceptable in part.
19 October 2021	A site inspection was undertaken by Council Officers.
20 October 2021	Amended plans making various changes to the original proposal, with the inclusion of new landscaped areas, were lodged with Council.

25 October 2021	The amended application was renotified to adjoining properties and the Bay Precinct Committee (The Plateau Precinct Committee being inactive) between 29 October 2021 and 12 November 2021. No submissions were received.
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INTERNAL REFERRALS

Building

The proposed works the subject of this application have not been assessed in accordance with compliance with the National Construction Code of Australia. This would need to be undertaken prior to the issue of a Construction Certificate. Should significant changes be required to achieve compliance with NCC standards, a Section 4.55 application would be necessary.

Engineering

The proposal was referred to Council's Development Engineer, who recommended the imposition of several conditions regarding vehicle access, excavation, and stormwater management (refer to conditions **C1, C4, C7, C8, C12, C14, C23, D3, E3, E5, E4, E6, E7, E12, E23, G1** and **G3**).

Heritage

Given that the subject site is a Contributory Item located within a conservation area, the application was referred to Council's Conservation Planner who made the following comments on the proposal:

Heritage Status and Significance

The subject property is a neutral item located within the Plateau Conservation Area. The building was designed to be viewed in the round from the public reserve that connects Cairo and Pine Streets and also has a striking presence when viewed from Pine Street due to its elevated position. It has two primary facades, being on the north and east elevations. The two-storey brick and tile building has been highly modified with balconies added to the primary northern facade, an addition on the west elevation and an over-scaled balconied dormer on the North Elevation that provides habitable space within the roof. Various alterations have occurred to the original dwelling built in 1911, including the creation of a separate apartment.

Heritage Impact Assessment

a) North Sydney LEP 2013 Clause 5.10

The following proposed works are considered to satisfy clause 5.10 of NSLEP 2013 in that they will have minimal impact visual impact to the conservation area and to its remnant significance:

- The excavation for the garage extension will not be visible from the public domain and will have no impact to the streetscape appearance of the building.*

- *The storeroom over the garage has been designed to be consistent with the style of the dwelling. Although the works will be seen in the context of the primary facade, they will be set below the subfloor dwelling in an area of low significance.*
- *New retaining walls in northern setback.*
- *New entry to Lower Ground entry and internal changes*
- *Roof addition on western side of building as it is characteristically pitched and detailed and will replace an existing uncharacteristic contemporary roof.*
- *Two dormers on the South Elevation as these are not located on a primary roof plane.*
- *Masonry infill to window on the southern elevation is acceptable as this window is located in an area of low significance.*
- *Replacement of all existing timber stairs, balconies, and handrails due to deterioration.*

The following elements of the proposal, however, are considered to have a negative impact upon the character of the conservation area and do not satisfy this clause:

- *The expanded decks to west, north, and east on lower ground and ground levels as these detract from the form of the building in that they are over-scaled as compared to verandahs that are characteristic to Federation style buildings which are typically integrated into the building form and roof planes.*
- *The new dormer on northern elevation as this dormer will, by virtue of its accumulative impact with the existing northern dormer would overwhelm the primary roof plane.*
- *The changes to balustrade on the existing dormer to steel palisade as this will introduce a new balustrade detail to the front façade and will allow the existing glazed doors to be visible from the public domain.*
- *The exterior colour scheme appears overly dark with little contrast and hence not sympathetic to the conservation area.*

b) North Sydney DCP 2013

An assessment of the proposal, with reference to Part B Section 13 of the North Sydney DCP 2013 has been made with the following elements of the DCP being of note:

13.4 Development in the Vicinity of Heritage Items – There are no heritage items in the immediate vicinity.

13.6.1 General Objective O2 Ensure that contributory items are retained and where practical improved, with a focus to locate new work to the rear or away from publicly visible elevations of the building – The proposed new deck and dormer additions will be highly visible and will further detract from the building's remnant heritage significance, introducing additional uncharacteristic elements. By contrast, no objection is raised to the proposed new pitched roof as it will remove a skillion roof which is more typically located at the rear.

13.6.2 Form, Massing and Scale – Objective O1 To ensure new development has a compatible and complimentary building form and scale to that which characterises the conservation area – No objection is raised to the new roof form as it will result in a characteristic roof plane. Objection is raised to the proposed deck extensions as these will result in further accretions to the previously modified building.

13.6.3 Roofs – Objective O1 To maintain the characteristic roof profiles and roofing materials within a heritage conservation area – No objection is raised to the proposed new pitched roof subject to terracotta roof tiles being used to match the existing. Slate is not recommended.

13.6.5 Internal Layouts – Objective O1 – To ensure that significant interiors are retained – No objection is raised to the proposed interior modifications, including the insertion of a lift, as the property is not a heritage item and is already modified internally.

13.9.1 Skylights, Solar Panels and Satellite Dishes – Objective O1 To ensure that skylights, solar panels and satellite dishes do not detrimentally impact upon the significance of heritage items and heritage conservation areas – No objection is raised to the proposed skylights on the South Elevation.

13.9.2 Dormers – Provision P2 – New dormer windows are to secondary in scale to the roof and setback from the eaves and ridge line – No objection is raised to the proposed two dormers on the south elevation. Although they are over-scaled and do not strictly comply in terms of their proportions, these will not be highly visible from the public domain. Objection is raised to the proposed northern dormer as it will further detract from the roofscape which has already be compromised by the existing over-scaled balconied dormer that is not characteristic to the Federation style in Cammeray and the Plateau Conservation Area. The two northern dormers will be able to be seen simultaneously from Pine Street and will result in the building appearing as a three storey dwelling.

13.9.3 Verandahs and Balconies – Objective O2 To encourage the retention and reinstatement of original verandahs and balconies, especially where they are significant or contributory to an individual, row or group of buildings – The existing decks on the northern and western elevation are not characteristic of Federation style buildings as they are not integrated into the built form. Their further extension will exacerbate their negative impact. It is recommended that they be deleted from the proposal by way of condition.

13.9.4 Materials – Objective O1 To ensure that materials and finishes are consistent with the characteristic elements of the heritage item or heritage conservation areas – The submitted Materials Schedule includes slate roof tiles which are inconsistent with the existing Marseilles terracotta tile roof and are not supported. The plans also indicate the replacement of a timber balustrade on the existing balcony dormer with a steel palisade. This is not supported as it will introduce an uncharacteristic contemporary material and will result in the wide glazed opening of the dormer being more visible from the public domain.

13.9.5 Garages and Carports – Objective O1 To ensure that vehicular accommodation does not detrimentally impact upon the significance of the heritage item or heritage conservation area – No objection is raised to the additional internal space.

13.9.6 Fences – Objective O1 To ensure that fences are consistent with the characteristic elements of the heritage item or heritage conservation area – No changes are proposed to the northern or western fences.

13.10.4 Two Storey Detached and Attached Dwellings – Provision P2 New additions should generally comply with the examples illustrated in Figures 13.47 to 13.49 – The proposal does not technically comply; however, it is considered to be acceptable in this particular circumstance as the new roof addition is located on an existing addition and results in the replacement of a skillion roof plane being replaced with a characteristically pitched roof.

Conclusion

The proposal is considered to have a negative impact to the character of the conservation area. It is therefore recommended that the deck extensions, northern dormer and proposed exterior materials and colour scheme be deleted by way of a condition.

The comments of Council's Conservation Planner are supported and consequently, several conditions have been recommended to ensure that the heritage significance of dwelling within the Plateau Conservation Area is maintained, including the deletion of the submitted materials and colours schedules, as well as the proposed northern elevation dormer, and deck extensions (see conditions **AA1, A3, A4, C6, C10, C11, E2, and E8**).

Landscaping

The proposal was referred to Council's Landscape Development Officer, who provided the following comments:

The following public trees/vegetation shall be protected in accordance with AS4970, and have bonds applied as below:

- *1 x *Tristaniopsis laurina*, 3 x *Callistemon viminalis* & associated shrubs in garden bed at northern end of Cairo St - \$10,000 (collective). 1.8m high steel mesh tree protection fencing shall be installed.*
- *1 x *Erythrina crista galli* (8x10m) to west of pedestrian path at northern end of Cairo St - \$8,000 (subject to confirmation of ownership). 1.8m high steel mesh tree protection fencing shall be installed.*
- *All trees and vegetation in public garden beds adjacent to the site boundaries of 80 Cairo St - \$ \$10,000 (collective).*
- *1 x *Plumeria* sp. in front of 32D Pine St - \$5,000, 1.8m high steel mesh tree protection fencing shall be installed on footpath in order to protect branches/canopy. No pruning shall be permitted.*

- *1 x Tristaniopsis laurina planted in the council verge in front of 74-78 Cairo st shall be protected in accordance with AS4970 and 1.8m high steel mesh tree protection fencing shall be installed to minimise risk through heavy vehicle manoeuvring - no bond required.*
- *2 x Callistemon citrinus planted adjacent to footpath in front of 74-78 Cairo St shall be protected in accordance with AS4970.*
- *Paving to upper level, shown for removal, shall be left in situ until other building works are complete (this area shown as stockpile) to protect TPZ of existing trees. Paving may be removed after, to facilitate new landscaping.*
- *1 x mature Callistemon viminalis planted adjacent to the pedestrian gate on the upper level (Cairo St) entrance to the subject site shall be protected in accordance with AS4970*
- *A mature hedge on the eastern boundary of 32D Pine St is likely to be largely protected by existing retaining walls and site topography, but it shall be protected in accordance with AS4970, any work within the TPZ shall be carried out using sensitive construction techniques and no roots greater than 30mm shall be cut. no canopy pruning shall be permitted*
- *All areas of existing landscaping shown to be retained on lodged drawings shall be protected in accordance with AS4970*
- *A large clump of mature Dypsis lutescens within the front setback of 80 Cairo St will likely be removed to allow proposed works (though no mention is made of this in lodged documentation).*
- *A minimum of 3 x canopy trees (45l) capable of attaining a mature height in excess of 7m shall be planted within the northern setback of 80 Cairo Street.*

The comments of Council's Landscape Development Officer are supported. Consequently, several conditions have been recommended to ensure the landscaped setting of the subject site is maintained (see conditions **C15, C16, D1, D2, E13, E14, and G25**). However, it is recommended that only one additional tree be conditioned for planting within the northern side setback on account of the topography of this area of the site, which mostly comprises natural sandstone rock and relatively low-depth planters and garden beds that would restrict the ability to support new trees and/or deep-soil planting (see **Condition C25**).

SUBMISSIONS

Original proposal

On 14 July 2021, the subject application was notified to adjoining properties and the Bay Precinct Committee (The Plateau Precinct Committee being inactive) between 23 July 2021 and 6 August 2021. No submissions were received.

Amended Proposal

On 25 October 2021, the amended application was renotified to adjoining properties and the Bay Precinct Committee (The Plateau Precinct Committee being inactive) between 29 October 2021 and 12 November 2021. No submissions were received.

CONSIDERATION

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended), are assessed under the following headings:

SREP – (Sydney Harbour Catchment) 2005

Having regard to the SREP (Sydney Harbour Catchment) 2005 and the Sydney Harbour Foreshores and Waterways Area DCP 2005, the proposed development is not considered to be detrimental to the Harbour and will not unduly impose upon the character of the foreshore given the site's location in Cammeray. As such, the development is acceptable having regard to the provisions contained within SREP 2005 and the Sydney Harbour Foreshores and Waterways DCP 2005.

Draft SEPP Environment 2017

This draft SEPP proposes to integrate the provisions of seven (7) SEPPs/SREPs including SREP (Sydney Harbour Catchment) 2005. The majority of the current provisions of SREP (Sydney Harbour Catchment) 2005 would be transferred to the draft SEPP with necessary updates and some amendments. The proposal would not offend the relevant provisions of the draft SEPP due to the nature of the proposed development as a dwelling not highly visible from the harbour and negligible impacts on the scenic quality and the ecology of Sydney Harbour and its foreshores.

SEPP 55 – Remediation of Land & Draft

The provisions of SEPP 55 require Council to consider the likelihood that the site has previously been contaminated and to address the methods necessary to remediate the site. The subject site has only previously been used for residential purposes since its original 1889 subdivision and as such is unlikely to contain any contamination; therefore, the requirements of SEPP 55 and the Draft SEPP have been satisfactorily addressed.

SEPP 19 – Bushland in Urban Areas

The provisions of SEPP 19 require Council to assess the protection and preservation of bushland within urban areas. No bushland areas will be affected by the proposed modifications, and the landscaped context of the site will be enhanced through the addition of new landscaped areas, and new trees (recommended by condition).

SEPP – (Vegetation in Non-Urban Areas) 2017

The *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* (Vegetation SEPP) works together with the *Biodiversity Conservation Act 2016* and the *Local Land Services Amendment Act 2016* to create a framework for the regulation of clearing of native vegetation in NSW.

The SEPP will ensure the biodiversity offset scheme (established under the Land Management and Biodiversity reforms) will apply to all clearing of native vegetation that exceeds the offset thresholds in urban areas and environmental conservation zones that does not require development consent. The proposal meets the objectives of the SEPP because there would be no clearance of native vegetation, or any material impacts on bushland in the vicinity of the subject site.

SEPP (Building Sustainability Index: BASIX) 2004

A valid BASIX Certificate (*No. A415290_02 dated 19 October 2021*) has been submitted with the application to satisfy the Aims of the SEPP. An amended BASIX will also be required following recommended amendments to the plans by way of deferred commencement (**See Conditions No. AA2, C24, and G6**).

NORTH SYDNEY LOCAL ENVIRONMENT PLAN (NSLEP 2013)

1. Permissibility

The subject site is Zoned R2 Low Density Residential under the provisions of the NSLEP 2013. The proposal involves alterations and additions to an existing dual occupancy (attached) development which is a permissible form of development in the Zone R2 with consent from Council.

2. Objectives of the zone

The objectives of the Zone R2 are stated below:

- *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 encourage the development of sites for low density housing, including dual occupancies, if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

Subject to the satisfaction of conditions to ensure that the cultural heritage of the area is preserved, in particular Deferred Commencement Condition AA1 that deletes several uncharacteristic additions, the proposed development is likely to achieve the above objectives for the reasons stated throughout this report.

Part 4 – Principal Development Standards

Principal Development Standards – North Sydney Local Environmental Plan 2013			
Site Area – 460.7m ²	Proposed	Control	Complies
Clause 4.3 – Heights of Building	11.4m (Existing) 11.2m (New works)	8.5m	NO
Clause 6.6 Dual Occupancy:			
• Appearance as a dwelling house	Yes	Yes	YES
• Level of attachment to common wall (80%) or common floor to ceiling (80%)	Yes	Yes	YES
• Minimum lot size – 450m ²	460.7m ²	450m ²	YES

3. Height of Buildings

The proposed works would have a height of 11.2m that fails to comply with the permissible height limit of 8.5m in accordance with clause 4.3 in NSLEP 2013. Due to the steep natural fall of the site, several sections of the proposed first floor extension will result in a maximum variance of 2.7m (31.76%). The maximum height of the existing dwelling is approximately 11.4m, in excess of the Clause 4.3 Development Standard (2.9m or 34.11%), and consequently requires a variation of the Development Standard in clause 4.3 in NSLEP 2013 (see discussion below).

Clause 4.6 – Exceptions to development standards

The applicant has provided a written request to vary the development standard for height. **(Attachment 2).**

Extent of the Variation

The proposed works would exceed the maximum permitted height. The proposed height of the building (in part) results in a variation of 2.7m (31.76%) from the development standard, as shown in the above table. The maximum height of the existing dwelling, which is not being altered, is approximately 11.4m, with a variation of 2.9m or 34.11%.

Clause 4.6(3)(a) Is compliance with the development standard unreasonable and unnecessary in the circumstances of the case?

For reference the objectives of the development standard are as follows:

Clause 4.3(1) of North Sydney Local Environmental Plan 2013

“(1) The objectives of this clause are as follows:

- (a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*
- (b) to promote the retention and, if appropriate, sharing of existing views,*
- (c) to maintain solar access to existing dwellings, public reserves, and streets, and to promote solar access for future development,*
- (d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,*
- (e) to ensure compatibility between development, particularly at zone boundaries,*
- (f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.”*

The Applicant’s written request relies upon *Webhe Test 1* to demonstrate that compliance with the development standard is unreasonable and unnecessary in this instance as the objectives of the development standard would be achieved notwithstanding the non-compliance with the development standard. The development is considered below, having regard to the objectives of the development standard.

(1)(a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,

The majority of the proposed works to the dwelling are contained within the existing building footprint and would not alter the development’s overall relationship to the topography. The First-Floor extension will continue the same line and scale of the existing roof further to the west over an existing flat-roofed section of the building. The excavation to create a larger garage level, and associated landscaping changes, will not significantly impact upon the natural fall of the site or on any significant natural landforms.

(1)(b) to promote the retention and, if appropriate, sharing of existing views,

The first-floor apartment (Unit 4) in the north-western corner of the residential flat building immediately to the south of the subject site at No. 74-78 Cairo Street, has a view and outlook across the site which will be impacted by the development.

The applicant has provided a View Impact Assessment for the flat building at No. 74-78 Cairo Street. Council officers have carried out a view impact assessment for No. 74-78 Cairo Street below. Council Officers were unable to gain access to the first-floor unit in No. 74-78 Cairo Street in order to undertake a comprehensive view impact assessment. Consequently, Council had to rely upon the survey, contour plans, the streetscape and external ground levels on the plans.

Planning Principle – View Sharing

To understand whether the proposal will ensure a reasonable level of view sharing for adjoining properties, consideration is given to the four (4) step process adopted by Commissioner Roseth of the NSW Land and Environment Court in *Tenacity Consulting v Warringah Council [2004] NSWLEC 140*.

1. Assessment of views to be affected;


“Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.”

2. Consider from what part of the property the views are obtained.

“For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.”

The below table describes the view to be affected, along with the part of the subject site from which the views are obtained:

Address	View	Part of Property
Unit 4/74-78 Cairo Street	First floor balcony – northerly views towards Northbridge; North-westerly view towards Northbridge and the 1892 Long Gully Bridge. North east views towards Tunks Park, Long Bay, and Cammeray Marina.	The affected views are the district views of Northbridge from the northwest Bedroom (north-east-facing window) and the northeast-facing balcony of the unit on looking north and northwest.

	<p>First floor bedroom – northerly views towards Northbridge; North-westerly view towards Northbridge and the 1892 Long Gully Bridge.</p>	
<p>Views from balcony (in yellow) and from bedroom (in red) to north and northwest across the subject site and No. 32D Pine Street.</p>		

3. Assess the extent of the impact in qualitative terms as negligible, minor, moderate, severe or devastating.

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

Unit 4/74-78 Cairo Street

First floor balcony – The first-floor balcony would retain all its north-eastern views towards the Long Bay and Tunks Park. While the lower part of the northern and north-western district views of Northbridge may be lost as a result of the new western first floor extension, the comparison of levels between the ridge height of the development and the eye height for the first-floor apartments of No. 74-78 Cairo Street, show that the majority of the northerly and north-westerly outlook will be retained. The ridge height of the development (RL 86.85) will be lower than the balcony balustrade of Unit 4.

First floor bedroom – The first-floor bedroom would retain all its north-eastern views towards Long Bay and Tunks Park. While the lower part of the northern view district view may be lost as a result of the new western first floor extension, the comparison of levels between the ridge height of the development and the eye height for the first-floor apartments of No. 74-78 Cairo Street, show that the majority of the northerly outlook will be retained. The ridge height of the development (RL 86.85) will be lower than the sill height of the north-west bedroom of Unit 4. Only oblique north-western views are obtained but it is considered that the majority of this view will be retained towards the Long Gully Bridge

Overall, the view impacts to this property are assessed as minor. Refer to **Figures 16 and 17** below.



Figure 16: Western elevation plan of the proposal showing the level difference between the subject site and No. 74-78 Cairo Street to the south (left).



Current northern view (from ground floor level of 74-78 Cairo Street; Long Gully Bridge is to the left out of shot).

Current northern/north-west view (from ground floor level of 74-78 Cairo Street).

Figure 17: Current N and NW views from 74-78 Cairo Street over the subject site.

4. Assess the reasonableness of the proposal that is causing the impact.

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

The proposed development results in a breach of the NSLEP height control of 8.5m by up to 2.7m or 31.76% from the development standard. The maximum height of the existing dwelling, which is not being altered, is approximately 11.4m. This height breach occurs at the western end of the First-floor extension. The potential partial loss of a district view towards Northbridge created for the first-floor apartment at No. 74-78 Cairo Street, despite being created as a result of non-complying building elements, is considered to be relatively minor and reasonable in their impact due to the minor nature of the views impacted, and will have a minimal impact upon the overall views available for this dwelling elsewhere, particularly towards the northeast.

The affected views are across to Northbridge, which is considered to be a minor view that is accessed across side boundaries. Only a section of this view will be affected by the proposed works and other more significant views are enjoyed by the residents of this dwelling to the north-east (towards Long Bay) and north-west (towards the Long Gully Bridge), that will largely be unaffected by the proposal. Accordingly, it is considered unnecessary to require design changes to retain the minor view with no iconic features. Therefore, the proposal is considered to provide reasonable view sharing.

(1)(c) to maintain solar access to existing dwellings, public reserves, and streets, and to promote solar access for future development,

Current levels of solar access will not substantially change as a result of the proposal given the northerly aspect of the subject site and adjoining properties, with the properties to the south being highly elevated above the ridge height of the subject dwelling. As a consequence, and as a result of retained side setbacks, the primary living areas and private open space for adjoining properties will continue to receive at minimum 3 hours of solar access.

Some additional shadows will fall at 9.00am (21 June) to the south-eastern corner of No. 32D Pine Street to the east, and the north-western communal open space of No. 74-78 Cairo Street to the south. However, the dwelling at 32D Pine Street has its primary living areas and habitable spaces orientated towards the north, with no significant impact upon the overall solar access for the site, particularly resulting from the proposed western first floor extension.

The north-western communal open space of 74-78 Cairo Street will continue to receive sunlight access in the affected area from 12pm. Although additional afternoon shadows will be created in the afternoon for 74-78 Cairo Street, the new shadows will largely fall over existing shadows and will not affect any habitable or private open space areas that are likely to fall over the driveway and roof of the parking garage.

(1)(d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,

The proposed first floor extension largely maintains existing privacy levels for adjoining properties, with the new windows to the south and west unlikely to create additional overlooking to any private internal or external spaces of the adjoining properties.

The southern dormer windows (W6 for the study; W4 for the bathroom) facing No. 74-78 Cairo Street will overlook the existing parking levels of the building and will not directly overlook any units within this building.

The new western windows (W7 and W8 for the study; W9 and W10 for the bedroom) will mostly overlook the existing eastern wall and roof plane of No. 32D Pine Street to the west, and are set back a minimum of 5.2m from the eastern building line of 32D Pine Street. These windows are also small and located in a study and a bedroom being low use rooms which will further minimise privacy impacts to the west.

(1)(e) to ensure compatibility between development, particularly at zone boundaries,

The site is located within the R2 Low Density Residential zone and is surrounded by buildings within the R2 zone on three sides, with the exception of the eastern boundary which directly adjoins the Ellis Lookout Reserve (zoned RE1 Public Recreation). Subject to the satisfaction of relevant conditions, it is considered that the proposed western extension is unlikely to result in a development that is incompatible with the R2 and RE1 zones.

(1)(f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.

The proposed scale and density of the development is appropriate for the site and does not result in significant non-compliances with Council's controls, subject to conditions. While the proposal will result in some non-compliance in building height, the overall development is compatible with the existing and that of surrounding dwellings which have been designed to maintain views to the north. The 3-4 storey northern elevation is consistent with the stepped facades of other buildings that follow the natural topography of south-north sloping sites.

The proposed north-facing dormer window is not considered to be characteristic of the area or the Plateau Conservation Area, as it will result in a northern roof plane that is dominated by dormer windows given the presence of a wide balcony dormer on the north-eastern corner of the roof plane. The proposed new dormer will be a further uncharacteristic addition to the northern elevation of the site, which is highly visible from the public domain, particularly on Pine Street.

Having regard to a previous approval in 1997 on this site for a western roof extension and a balcony dormer, a consent which was never constructed and expired in 2000, it should be noted that this approval was granted under the *North Sydney Local Environmental Plan 1989*, which predates Council's current controls for conservation areas and dormer windows by two planning instruments.

The unbuilt 1997 approval does not represent a type of development that would be acceptable today with regard to Council's current controls and should not be used as a precedent for guiding future development on sites within the conservation area. The current controls in NSDCP 2013 seek improvements to neutral items in order to achieve contributory status. As a result, the proposed dormer window addition is not considered to promote the character of the area and is recommended to be deleted by way of a Deferred Commencement Condition (refer to **Condition AA1**).

Clause 4.6(3)(b) Are there sufficient environmental planning grounds to justify the variation

The applicant has provided the following grounds:

- *The proposal is consistent with the scale and massing of surrounding developments in the streetscape;*
- *The proposal does not dominate adjoining spaces;*
- *The proposal breach in itself, does not adversely impact on adjoining development by way of overshadowing, privacy or views;*
- *There is an absence of environmental harm associated with the non-compliance with the development standard;*
- *The roof extension is consistent with the built form as previously approved under DA1136/97 granted on 9 October 1997 but never constructed.*

The 8.5m height limit for this site is variable in levels given the existing natural fall and topography of the site. As a result, the proposed non-compliance with the height limit only relates to the western section of the first floor and does not comprise the entirety of the proposed works. Furthermore, on assessment of the amenity impacts of the development the development is considered to be acceptable and is compliant with Council's other controls in Part B of NSDCP 2013. While some elements of the first-floor extension will be uncharacteristic to the Plateau Conservation Area and the original 1911 dwelling, conditions are recommended to alter and/or delete these elements, particularly regarding the over-scaled north-facing dormer window and the types of replacement materials and colours (see **Condition AA1**). Subject to the satisfaction of the recommended conditions, the proposal is therefore considered to be acceptable on merit within the site circumstances, with no significant adverse impacts to the amenity and privacy of neighbouring properties, or upon the conservation area, and is considered a reasonable improvement to the existing building.

Clause 4.6(4)(a)(ii) Applicant's written request

The written request provided by the applicant adequately addresses the matters required by subclause (3) as discussed above.

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

Subject to the satisfaction of the recommended conditions to ensure the character of the proposal is consistent with the Plateau Conservation Area and the original 1911 dwelling, the proposed development would be in the public interest because it is consistent with the objectives of the development standard for height and the objectives of the zone as discussed above. With the deletion of the north-facing dormer window and the use of materials and colours that are appropriate for the original style of the dwelling and the conservation area, it is also considered that the proposal does not result in any significant adverse impacts for the character of the surrounding area.

Conclusion

The applicant has submitted a written request pursuant to Clause 4.6 in NSLEP 2013. The written request has adequately addressed sub clause (3) and, subject to satisfying conditions, is considered to be in the public interest because it is consistent with the relevant development standard and the objectives of the zone.

4. Heritage Conservation

The subject site is a Neutral Item located within the Plateau Conservation Area under Schedule 5 in NSLEP 2013, so the following planning objectives apply to the site:

- (a) to conserve the environmental heritage of North Sydney,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings, and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

As noted in the comments from Council’s Conservation Planner earlier in this report, a large proportion of the proposed works are considered to satisfy clause 5.10 in that they will have minimal impact visual impact upon the conservation area and upon the heritage significance of the original dwelling. These elements include:

1. The works to the garage, the storeroom above the garage and associated landscaping changes.
2. The various internal reconfigurations and new lower ground level dwelling entrance.
3. The overall western first floor roof extension,
4. The two southern dormer windows and the masonry infill of an existing window on the southern elevation.
5. The replacement of all existing timber stairs, balconies, and balustrades.

However, several proposed elements are considered to have a negative impact upon the heritage values and character of the subject site and the surrounding conservation area:

1. The proposed deck expansions to the east, north and west on the lower ground level and ground level of the building, will serve to create additional visual clutter and greater cumulative modern additions that take the dwelling further away from its original design (see **Figures 20-21** below). It is considered that the deck extensions will detract from the form and scale of the original dwelling and smaller-scale balconies (see **Figures 18-19** below). These additions will also be highly visible contemporary built elements from the public domain on Pine Street and the Ellis Lookout Reserve at the end of Cairo Street. In particular, the eastern deck extension will be an excessively over-scaled, cantilevered structure that will have an adverse impact upon the visibility of the site, the original dwelling, and the visual curtilage of the Ellis Lookout Reserve.



Figure 18. View looking west towards the subject site from the public footpath on the lower section of the Ellis Lookout Reserve. This currently open view of the projecting gable end of the original 1911 dwelling will be largely obscured by the proposed deck extension



Figure 19. View looking south from the northern side of Pine Street towards the subject site. This view of the dwelling, particularly of the original eastern gable end, will be further obscured by the eastern deck extension.



**Figure 20. A close-up view of No. 80 Cairo Street from a 1939 photograph, showing the extent of the original balconies, which were partially enclosed with a roof on the ground floor level, and inset behind the eastern gable end of the dwelling. Source: Garibaldi Tyler (1939) – ‘Long Gully Bridge, Cammeray’
<https://www.flickr.com/photos/183133849@N08/50257808758/>**



Figure 21. A 1939 photograph of the northern slopes of Cammeray and the Long Gully Bridge, with No. 80 Cairo Street shown by the red circle. Source: Garibaldi Tyler (1939) – ‘Long Gully Bridge, Cammeray’ <https://www.flickr.com/photos/183133849@N08/50257808758/>

2. The north-facing first-floor dormer window, in combination with the existing over-scaled balcony dormer window to the east, will result in a northern roof plane that is dominated by dormer windows comprising more than 1/3 of its length.
3. The proposed replacement of the existing timber balustrades of the balcony dormer on the northern elevation with a steel palisade will introduce an uncharacteristic contemporary material to this dwelling in the conservation area and will allow the glazed opening of the dormer to be more visible from the street.
4. The proposed slate roof to replace the existing red tiled roof is also not characteristic.
5. The proposed exterior colour scheme comprising ‘Resene Nocturnal’, ‘Half Nocturnal’ and ‘Black White’ is a dark palette with little contrast, and is not sympathetic to the conservation area or for a property within a bushland buffer zone, which specify muted and neutral tones.

As a consequence of the above uncharacteristic additions and alterations, conditions have been recommended to ensure that the heritage significance of dwelling within the Plateau Conservation Area is maintained, including the deletion of the submitted materials and colours schedules, as well as the proposed northern elevation dormer, and deck extensions (see conditions **AA1, A3, A4, C6, C10, C11, E2, and E8**).

Division 2 – General Provisions

5. Dual Occupancies

The subject site proposes works to an existing attached dual occupancy, which was originally approved by Council in 1993. Clause 6.6 of NSLEP 2013 contains requirements relating to the erection of a dual occupancy, which would include alterations to the building as defined in section 1.4 of the Act.

(1) *Development consent must not be granted for the erection of a dual occupancy unless:*

(a) *the form of the building will appear as a dwelling house, and*

The existing dual-occupancy development would continue to appear as a single dwelling house when viewed from Cairo Street, Pine Street, and surrounding properties, which is emphasised through the shared pedestrian and vehicular entry from Pine Street.

(b) *the dwellings in the dual occupancy will be attached by at least 80% of the common wall or 80% of the common floor or ceiling, and*

The two dwellings will continue to be attached by at least 80% of the common floor/ceiling between the ground and lower ground levels.

(c) *the area of the lot on which the dual occupancy is to be situated is at least 450 square metres.*

The subject site has a site area of 460.7m², which complies with the minimum lot size of 450m² required for the erection of a dual occupancy.

(2) *A dual occupancy must not be erected on land that is located within a heritage conservation area or on which a heritage item is located unless—*

(a) *there is no existing building erected on the land, or*

(b) *the dual occupancy—*

(i) *will be situated substantially within the fabric of an existing building, and*

(ii) *will conserve the appearance of the existing building, as visible from a public place, and*

(iii) *will conserve the majority of the significant fabric of the existing building.*

The dual occupancy is existing and no change to the existing use is proposed. Subject to conditions (see **Condition AA1**), the works will maintain the overall appearance of the existing building from the public domain and not affect any significant fabric.

The proposed development is considered to satisfy the requirements of clause 6.6 concerned with dual occupancy development in NSLEP 2013.

6. Earthworks

The application involves excavation to allow for the extension of the existing garage at the Pine Street level to create an additional parking space, storage and lift access to the lower ground level of the building to a maximum depth of 2.8m. The proposed excavation will mostly affect existing paved areas within the northern side setback, but will not have a significant impact upon any nearby trees or significant landscaping. Subject to appropriate conditions (see Conditions **C2, C3, C4, C5, C6, and C7**) the proposed excavation is unlikely to negatively affect drainage patterns, soil stability, natural features, or adjoining properties. The works are therefore considered compliant in this regard.

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013

The proposal has been assessment under the following heading within NSDCP 2013:

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 1- Residential Development		
	<i>complies</i>	<i>Comments</i>
1.2 Social Amenity		
1.2.1 Population Mix	Yes	The proposed works will not alter the existing function of the dual occupancy dwellings on the site. The proposal does not involve affordable housing or senior/disability housing.
1.2.2 Maintaining Residential Accommodation		
1.2.3 Affordable Housing		
1.2.4 Housing for Seniors/Persons with disability		
1.3 Environmental Criteria		
1.3.1 Topography	Yes	The proposed excavation works to extend the existing garage and create new storage and lift access, are acceptable as they are setback more than 1m from all property boundaries, and will not impact upon any significant trees, landscaping, or natural features of the site. The natural topography, drainage patterns and landform will be retained.
1.3.2 Bushland	Yes	The site does not directly adjoin bushland, but is located within a bushland buffer zone. The proposed works will not have a significant impact upon nearby bushland and will retain all significant site trees.
1.3.3 Bush Fire Prone Land	N/A	The subject site is not identified as Bush Fire Prone Land.
1.3.4 Foreshore Frontage	N/A	The subject site does not include foreshore land.
1.3.6 Views	Yes	View loss has been discussed on pages 18-21 of this report, where it was considered to be acceptable on merit and will not have a significant impact upon view sharing for adjoining properties.
1.3.7 Solar Access	Yes	<p>Current levels of solar access will not substantially change as a result of the proposal given the northerly aspect of the subject site and adjoining properties, with the properties to the south highly elevated above the southern building line of the dwelling. As a consequence, and as a result of retained side setbacks, the primary living areas and private open space for adjoining properties will continue to receive 3 hours of solar access.</p> <p>Some additional shadows will fall at 9.00am (21 June) to the south-eastern corner of No. 32D Pine Street to the east, and the north-western communal open space of No. 74-78 Cairo Street to the south. However, the dwelling at 32D Pine Street has its primary living areas and habitable spaces orientated towards the north, with no significant impact upon the overall solar access for the site, particularly resulting from the proposed western first floor extension.</p> <p>The north-western communal open space of 74-78 Cairo Street will continue to receive sunlight access in the affected area from 12pm. Although additional afternoon shadows will be created in the afternoon for 74-78 Cairo Street, the new shadows will largely fall over existing shadows and will not affect any habitable of private open space areas by fall over the driveway and roof of the parking garage.</p>

<p>1.3.8 Acoustic Privacy 1.3.10 Visual Privacy</p>	<p>Yes</p>	<p>There are no new openings on the lower ground or ground floor levels that will result in additional privacy impacts.</p> <p>South The southern dormer windows (W6 for the study; W4 for the bathroom) facing No. 74-78 Cairo Street will overlook the existing parking levels of the building and will not directly overlook any units within this building.</p> <p>West The new western windows (W7 and W8 for the study; W9 and W10 for the bedroom) will mostly overlook the existing eastern wall and roof plane of No. 32D Pine Street to the west, and are set back a minimum of 5.2m from the eastern building line of 32D Pine Street. These windows will also be small in size and located in a study and a bedroom being low use rooms that will further minimise privacy impacts to the west.</p> <p>East/North Although the proposed new deck extensions to the north and east, and the north-facing dormer window, will not result in any overlooking or acoustic privacy loss for adjoining properties, they are recommended to be deleted from the plans for heritage reasons (see Condition AA1).</p>
<p>1.4 Quality built form</p>		
<p>1.4.1 Context</p>	<p>Yes (Conditioned)</p>	<p>The existing context of the subject site as visible from the northern end of Cairo Street will not be significantly altered as a result of the proposed works. The front setback will be improved with additional landscaping.</p> <p>The context of the dwelling from Pine Street and the Ellis Lookout Reserve will however be significantly altered. While some elements on the northern elevation would be acceptable, the changes to the garage and the western roof extension, other additions including the north-facing dormer window and ground floor and lower ground floor deck extensions, and proposed materials and colours, are not considered to be sympathetic or characteristic to the Plateau Conservation Area. As a consequence, these elements are proposed to be deleted by condition (see Condition AA1).</p>
<p>1.4.3 Streetscape</p>	<p>Yes</p>	<p>No changes are proposed to existing streetscape elements. The existing street trees and Council infrastructure have been recommended to be protected with bonds.</p>
<p>1.4.4 Laneways</p>	<p>N/A</p>	<p>The subject site does not adjoin a laneway.</p>
<p>1.4.5 Siting</p>	<p>Yes</p>	<p>The rear first floor extension is aligned with the orientation and siting of the existing building on the subject site that has external walls parallel to the side boundaries. Consequently, the proposed works will not affect the characteristic siting of the dwelling from the street.</p>

1.4.6 Setbacks	No (Acceptable on merit and conditioned)	Control	Proposed	Complies
		Front (maintain alignment of adjoining)	6.6m (dwelling - unchanged) 2-4.1m (ground floor deck)	Yes No
		Side (1.5m for second storey up to 7m)	4.2m (N, ground floor deck) 6.9m (N, lower ground & ground floor) 10.1m (N, first floor) 1.8m (S, first floor)	Yes Yes Yes Yes
		Rear (Match adjoining)	0m (Existing garage) 0m (storeroom above garage) 2m (Lift) 1m (deck) No change (Ground Floor) 1.9m (First floor)	Yes
		<p>Front Setback</p> <p>The proposed works will not alter the current front setback, which generally aligns with the average setback of 4m for properties along Cairo Street. The front setback resulting from the ground floor deck (2m tapering to 4.1m) extension towards the east results in a noncompliance with the front setback. This new deck extension is not acceptable as it creates additional visual bulk in a highly visible location when viewed from the public domain within the eastern front setback that will obscure the original 1911 gable-end of the dwelling (refer to Figures 18-20 on pages 25-26 of this report). Consequently, it is recommended that this deck extension be deleted from the application. (see Condition AA1).</p> <p>Side Setback (North)</p> <p>The works to the northern side setback retain substantial setbacks which are compliant with Council’s controls. Nevertheless, it has been recommended that the deck extensions be deleted from the plans (see Condition AA1), which will further increase the proposed setbacks.</p> <p>Side Setback (South)</p> <p>There are no changes to the existing setbacks on the lower ground and ground floor levels. The new dormer windows to the western first-floor roof extension will have a setback of 1.8m, which is compliant with the 1.5m control for first floor additions.</p>		

		<p>Rear Setback (West)</p> <p>The proposed changes to the rear boundary are acceptable on merit on the basis that the current site has an atypical rear setback as a result of the 1984 subdivision, which removed the subject site’s rear garden and created No. 32D Pine Street to the west. As a consequence, the existing dwelling is already located in close proximity to the rear boundary. The western first floor extension will fill the existing footprint of the ground floor level below and will maintain an acceptable setback of 1.8m from the rear boundary that will not result in any significant amenity impacts upon the adjoining property.</p> <p>The proposed new lift and deck to the lower ground level will be integrated within the existing building footprint or are at a lower level so as to not result in any adverse impacts.</p> <p>The proposed storeroom above the garage continues the existing nil setback of the garage and unlikely to result in any amenity impacts upon No.32D Pine Street due to its distance from that dwelling and the topography of the site, with the storeroom obscured to the west by existing high boundary fencing and trees.</p>
<p>1.4.7 Form Massing Scale</p>	<p>Yes (Conditioned)</p>	<p>Whilst the proposal involves a breach of the height limit by 2.7m, this breach is no higher than the existing breach (2.9m), and the new western first floor extension of the roof will continue to have the same form and scale as the existing roof which is acceptable.</p> <p>The proposed eastern deck extension will be cantilevered over the site towards the public pathway in the Ellis Lookout Reserve and have a scale that is considered to be excessive and inconsistent with surrounding development, particularly for other properties within the conservation area (refer to Figures 18-20 on pages 25-26 of this report).</p> <p>The proposed north-facing dormer within the first-floor roof extension will also have a scale that is excessive for a dormer window and will cumulatively result in the northern roof plane being dominated by dormer windows having an area of more 1/3 of the street-facing roof plane. Consequently, the deck extension and the dormer are recommended to be deleted by condition (see Condition AA1).</p>

<p>1.4.8 Built Form Character</p>	<p>Yes (Conditioned)</p>	<p>While some proposed additions would be acceptable, such as most internal changes, the changes to the garage and the western roof extension, other additions including the north-facing dormer window and ground floor and lower ground floor deck extensions, and proposed materials and colours, are not considered to be sympathetic or characteristic to the Plateau Conservation Area.</p> <p>The new deck expansions to the east, north and west on the lower ground and ground levels of the building will serve to create additional visual clutter that will further detract from the form and scale of the original dwelling, and will be highly visible contemporary built elements from the public domain from Pine Street and the Ellis Lookout Reserve at the end of Cairo Street. In particular, the eastern deck extension will be an over-scaled cantilevered structure that will have an adverse impact upon the visibility of the site, and the visual curtilage of the Ellis Lookout Reserve.</p> <p>The north-facing first-floor dormer window, in combination with the existing over-scaled balcony dormer window to the east, will result in a northern roof plane that is dominated by dormer windows comprising more than 1/3 of its length.</p> <p>The proposed replacement of the existing timber balustrade of the balcony dormer on the northern elevation with a steel palisade will introduce an uncharacteristic contemporary material to this dwelling in the conservation area and will allow the glazed dormer opening to be more visible from the street.</p> <p>As a consequence, these elements are proposed to be deleted and/or altered by condition (see Condition AA1).</p>
<p>1.4.9 Dwelling Entry</p>	<p>Yes</p>	<p>The existing upper dwelling entry from Cairo Street will be maintained. The dwelling entry from Pine Street will be altered by new timber stairs, planter boxes and proposed new lift, which will further enhance the visibility, safety, and sense of address for this entry.</p>
<p>1.4.10 Roofs</p>	<p>Yes</p>	<p>The proposed western roof extension maintains the existing pitched roof form and gable end, which is sympathetic to the existing dwelling and is characteristic to the conservation area.</p>

<p>1.4.11 Dormers</p> <ul style="list-style-type: none"> • Reflect the style of the building and character of neighbourhood. • Not to result in adverse impacts to Conservation Area • No more than 1/3 of the width of the roof plane where facing street. • 1.5m from base to ridge where facing the street 	<p>Yes (Conditioned)</p>	<p><u>Northern</u> The northern dormer is over-scaled at 3.1m in width and a height of 2.3m from base to ridge, and when combined with the eastern end balcony dormer will comprise more than 1/3 of the street-facing roof plane. The proposed new northern dormer window will further detract from the roofscape which has already been compromised by the existing over-scaled balconied dormer that is not characteristic to the Federation style in Cammeray and the Plateau Conservation Area. When combined, the two northern dormers will be highly visible from Pine Street and will result in the building appearing as three storey dwelling with the first floor no longer having the overall appearance as a dwelling with rooms within the roof form. Consequently, the proposed new dormer is recommended to be deleted by Condition AA1.</p> <p>It should be noted that the deletion of the northern dormer window, which is accessed by a new bedroom at this level, will not affect the ability of this bedroom to access natural light and ventilation, which will be provided by the two new windows on the western gable end.</p> <p>While balcony dormers are no longer permitted, the works to the existing balcony dormer, namely, to replace the existing balustrade, is acceptable. However, the proposed steel replacement balustrade is not acceptable as it is a contemporary material that is not sympathetic to the conservation area in a highly visible location. Consequently, the proposed balustrade is recommended to be deleted by condition (see Condition AA1).</p> <p><u>Southern</u> The proposed two dormers on the southern elevation are acceptable on the basis that they will not be highly visible from the public domain, and in terms of their materials and form are sympathetic to the existing style of the dwelling.</p>
<p>1.4.12 Materials</p>	<p>No</p>	<p>The proposed schedule of materials and paint schedule provided with the application are not considered to be acceptable or sympathetic to the character of the existing 1911 dwelling or the Plateau Conservation Area. The proposed steel balustrade replacements add an uncharacteristic contemporary material to areas that are highly visible from the public domain.</p> <p>The proposed slate roof will replace the existing characteristic tiled roof of the existing dwelling and is not supported. The proposed colour scheme is also too dark, with little contrast and is not sympathetic to the colour scheme used on the existing dwelling or the conservation area. Consequently, the proposed materials and colours are recommended to be deleted by condition to be replaced with more sympathetic colours and materials (see Condition AA1).</p>

1.4.14 Front Fences	N/A	No change is proposed.			
1.5 Quality Urban Environment					
1.5.1 High Quality Residential Accommodation	Yes	The proposed works would provide additional amenity for residents by creating additional living areas and improving the connection between the dwellings, the garage, and the garden.			
1.5.3 Safety and Security	Yes	Safety and security would not be compromised as a result of the subject development application.			
1.5.4 Vehicle Access and Parking	Yes	The application proposes an additional parking space within the existing single car garage, by way of additional excavation. This is supported on the basis that it will not create significant new visible bulk and scale to the existing garage and will be integrated within the topography of the site. With one space for each dwelling within the dual occupancy, this is the maximum allowed within the parking provision for dual occupancies in Section 10 (Car Parking and Transport), Clause 10.2 of NDSCP 2013.			
1.5.5 Site Coverage 1.5.6 Landscape Area	No (Acceptable on merit)	Site Area: 460.7m²	Existing	Proposed	Complies
		Site Coverage (45% max)	40.89% (188.4m ²)	44.4% (204.6m ²)	Yes
		Landscaped area (40% min)	14.3% (65.9m ²)	15.7% (75.7m ²) Condition: 18.03% (83.1m ²)	No (Increased)
		Unbuilt-upon area (15% max)	39.5% (182.1m ²)	39% (179.6m ²) Condition: 37.3% (172.2m ²)	No (reduced)
		<p>The proposal results in improvements to existing non-compliances in landscaped area and unbuilt-upon area, which is a positive result. Nevertheless, as the proposed eastern deck extension will be deleted by condition, the levels will be further improved with 7.4m² of additional landscaping (See Condition AA1).</p> <p>The non-compliances are considered to be acceptable on merit as they are not being exacerbated, and are indeed improved, by this proposal.</p>			
1.5.8 Landscaping	Yes (Conditioned)	The proposal will create some additional landscaping across the site to further enhance the landscaped setting. No significant trees are proposed for removal and a condition is recommended for one additional tree within the northern side setback (see Condition C25).			
1.5.9 Front Gardens	Yes (Conditioned)	The existing front garden will be enhanced through new landscaping and the deletion of the eastern deck will result in the retention of existing landscaping and built form as visible from Cairo Street and the Ellis Lookout Reserve (See Condition AA1).			

1.5.10 Private and Communal Open Space	Yes	A substantial amount of private open space will continue to be provided for both dwellings.
1.5.13 Garbage Storage	Yes	A new dedicated garbage storage area is proposed for the extended garage.
1.6 Efficient Use of Resources		
1.6.1 Energy Efficiency	Yes (Conditioned)	A valid BASIX Certificate was provided with the application. As the recommended conditions will change some of the commitments therein, a condition is recommended to provide an updated certificate to account for these changes (see Condition AA2).
1.6.2 Passive Solar Design		
1.6.7 Water Conservation		
1.6.8 Stormwater Management	Yes	All stormwater will connect to the existing system.

Cammeray Planning Area (Plateau Conservation Area) – Part C of NSDCP 2013

Consideration has been given to the Character Statement for the Cammeray Planning Area in Part C of NSDCP 2013, particularly Section 4.5 (Plateau Conservation Area) where this site is located. The proposal, subject to satisfying recommended conditions, was found to be generally acceptable on the basis that the majority of the works will be contained within the existing footprint of the dwelling and will maintain a sympathetic scale in relation to the existing dwelling.

The proposed additional dormer on the western roof extension and the ground and lower ground floor level deck extensions, however, are not considered to be acceptable on the basis that these works are over-scaled, will detract from the original dwelling, and will be highly visible from the street and public domain. The proposed replacement steel balustrade, slate roof and colour palette are also considered to be unsympathetic to the heritage values of the dwelling and conservation area. These alterations and additions are recommended to be modified and/or deleted from the plans by deferred commencement condition.

LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN

The subject application has been assessed against the North Sydney Local Infrastructure Contribution Plan 2020 and is subject to payment of contributions towards the provision of local infrastructure. The contribution has been calculated in accordance with Council’s Contributions Plan as follows:

Contribution amounts payable

Applicable contribution type		
s7.12 contribution details	Development cost:	\$758,136.53
<i>(payment amount subject to indexing at time of payment)</i>	Contribution:	\$7,581.00

A condition is recommended requiring payment prior to issue of any Construction Certificate (refer to **Condition C22**).

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL	CONSIDERED
1. Statutory Controls	Yes
2. Policy Controls	Yes
3. Design in relation to existing building and natural environment	Yes
4. Landscaping/Open Space Provision	Yes
5. Traffic generation and Carparking provision	Yes
6. Loading and Servicing facilities	N/A
7. Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8. Site Management Issues	Yes
9. All relevant S4.15 considerations of the Environmental Planning and Assessment (Amendment) Act 1979	Yes

SUBMISSIONS

The original and amended applications were notified to adjoining properties and the Bay Precinct Committee (The Plateau Precinct Committee being inactive). No submissions were received.

PUBLIC INTEREST

Subject to the satisfaction of conditions, in particular deferred commencement **Condition AA1** to minimise the impact of the works upon the heritage values of the site and the conservation area, the proposal would provide improved amenity for the residents without causing any unreasonable impacts to the streetscape, conservation area and/or adjoining properties. Therefore, the proposal would not be contrary to the public interest.

SUITABILITY OF THE SITE

The proposal involves residential development in a residential zone, so the proposal is considered to be suitable for the subject site.

HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?

The subject application was notified to adjoining properties and the Bay Precinct Committee seeking comment and no submissions were received. Despite this, an extensive review of potential view impacts was undertaken, with these impacts found to be acceptable. Furthermore, appropriate conditions are recommended to maintain residential amenity and the heritage values of the neutral item within the Plateau Conservation Area.

CONCLUSION AND REASONS

The proposal was considered under the relevant Environmental Planning Instruments and policies including NSLEP 2013 and NSDCP 2013 and generally found to be satisfactory, subject to the satisfaction of recommended conditions of consent.

As the proposal involves works to the existing residential dwelling that are in exceedance of the maximum permitted height limit, the applicant has submitted a written request seeking a variation to the building height development standard in accordance with Clause 4.6 of NSLEP 2013. The applicant's submission has been considered with reference to the relevant planning principle in order to justify the proposed variation. The applicant's Clause 4.6 is considered to be satisfactory given the site circumstances and on the basis that it will not have a significant impact upon the views or general amenity of adjoining properties.

Notification of the proposal has attracted no submissions and the assessment has considered the performance of the application against Council's planning requirements. The view impacts resulting from the western roof extension have been assessed with regard to the Tenacity planning principle, where the impacts are considered to be minor and acceptable within the site circumstances.

The impacts of the overall development upon the heritage significance of the site, being located within the Plateau Conservation Area, have also been assessed and, subject to satisfying recommended conditions, was found to be generally acceptable on the basis that the majority of the works will be contained within the existing footprint of the dwelling and will maintain a sympathetic scale in relation to the existing dwelling.

The proposed additional dormer on the western roof extension and the ground and lower ground floor level deck extensions, however, are not considered to be acceptable on the basis that these works are over-scaled, will detract from the original dwelling and its setting within the conservation area, and will be highly visible from the street and public domain. The proposed replacement steel balustrade, slate roof and colour palette are also considered to be unsympathetic to the heritage values of the dwelling and conservation area. These alterations and additions are recommended to be modified and/or deleted from the plans by deferred commencement condition.

Subject to the satisfaction of conditions, it is considered that the proposal is acceptable as it will not result in any significant adverse impacts upon the locality or adjoining properties, and the heritage significance of the site and streetscape will be maintained. The proposal will also not result in any unreasonable impacts to the amenity of adjoining properties such as impacts to views, overshadowing or loss of privacy.

Having regard for the potential impacts upon the amenity of adjoining properties and the heritage significance of the site, subject to conditions, including satisfying deferred commencement conditions, the development application is considered to be satisfactory and is recommended for approval.

RECOMMENDATION

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the North Sydney Local Planning Panel, exercising the functions of Council, assume the concurrence of the Secretary of The Department of Planning, Industry, and Environment and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 and grant **deferred commencement consent** to Development Application No. 209/21 for substantial alterations and additions to an existing dual occupancy including a new car space in the existing garage, and a roof extension, on land at 80 Cairo Street, Cammeray, subject to the following attached conditions:-

AA. Deferred Commencement Condition

This consent shall not operate until the following deferred commencement conditions have been satisfied.

The applicant must satisfy Council as to the matters specified in the deferred commencement conditions within 12 months of the date of the grant of this consent.

If the applicant fails to satisfy Council as to the matters specified in the deferred commencement conditions within 12 months of the date of the grant of this consent this consent will lapse in accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979.

NOTE: Consideration should be given to providing the evidence to Council to allow sufficient time to consider the same and form a view as to whether the deferred commencement conditions are satisfied or not. You are also advised of your appeal rights under clause 95(6) of the Environmental Planning and Assessment Regulation 2000, which provides that: *If the consent authority has not notified the applicant within the period of 28 days after the applicant's evidence is produced to it, the consent authority is, for the purposes only of section 8.7 of the Act, taken to have notified the applicant that it is not satisfied as to those matters on the date on which that period expires.*

Deferred Commencement Matters

Amended Plans (Heritage)

AA1. The following items are not approved by this consent and are to be deleted from the plans:

- a) The submitted Materials Schedule ('A-005') by Atlas Urban dated 5 October 2021, titled Drawing DA_3 and received at Council on 21 October 2021, to be replaced with more appropriate materials that are compatible with the character of the conservation area such as Marseilles unglazed terracotta roof tiles, timber picket style balustrades, face brick to be unpainted.
- b) The proposed new dormer to the north-western roof plane.
- c) The proposed deck extensions to the Lower Ground and Ground Levels.
- d) Alterations to the existing balustrade materials on the northern dormer from timber to steel palisade.

- e) The submitted exterior colour scheme ('Painting Specifications'), dated 6 June 2021, and prepared by Design Research Associates, comprising 'Resene Nocturnal', 'Half Nocturnal' and 'Black White', are not recommended given their likely detrimental impact upon the significance of the conservation area.

The following heritage requirements are to be met, and the lodged plans herein listed in the Schedule of Condition A1 must be amended to show the following:

- a) New roof tiles are to match the existing roof tiles.
b) Face brickwork on the original dwelling is not to be painted.
c) Replacement balustrades, staircase and handrails are to be constructed in timber and are to be painted to match the building's exterior colour scheme.
d) New retaining walls are to match the existing materials.
e) New windows and doors on the North Elevation are to be timber framed. All other new windows are to have aluminium or steel framing sections of a width 45mm or wider, or are to be timber framed.
f) New front door to be a timber high-waisted Federation style door with two or three vertical moulded panels at the base and glazed upper panel.

The applicant must submit architectural plans and documentation complying with the requirements of this consent for the written approval of Team Leader Assessments.

(Reason: To retain the heritage significance of the Federation style building in the conservation area; and to ensure the use of materials, finishes, and colours that are consistent with the character of the Conservation Area and the original dwelling)

Updated BASIX Certificate

AA2. The applicant must submit an updated BASIX Certificate complying with the requirements of this consent as amended under **Condition AA1**, for the written approval of Team Leader Assessments.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

This consent shall not operate until such time as the written approval stating that the requirements of these conditions have been satisfied.

Upon satisfaction of the deferred commencement conditions, the attached conditions apply:

ANDREW BEVERIDGE
ASSESSMENT OFFICER

ROBYN PEARSON
TEAM LEADER ASSESSMENTS

STEPHEN BEATTIE
MANAGER DEVELOPMENT SERVICES

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
80 CAIRO STREET, CAMMERAY
DEVELOPMENT APPLICATION NO. 209/21

AA Deferred Commencement Condition

This consent shall not operate until the following deferred commencement conditions have been satisfied.

The applicant must satisfy Council as to the matters specified in the deferred commencement conditions within 12 months of the date of the grant of this consent.

If the applicant fails to satisfy Council as to the matters specified in the deferred commencement conditions within 12 months of the date of the grant of this consent this consent will lapse in accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979.

NOTE: Consideration should be given to providing the evidence to Council to allow sufficient time to consider the same and form a view as to whether the deferred commencement conditions are satisfied or not. You are also advised of your appeal rights under clause 95(6) of the Environmental Planning and Assessment Regulation 2000, which provides that: *If the consent authority has not notified the applicant within the period of 28 days after the applicant's evidence is produced to it, the consent authority is, for the purposes only of section 8.7 of the Act, taken to have notified the applicant that it is not satisfied as to those matters on the date on which that period expires.*

Deferred Commencement Matters

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AA1. The following items are not approved by this consent and are to be deleted from the plans:

- a) The submitted Materials Schedule ('A-005') by Atlas Urban dated 5 October 2021, titled Drawing DA_3 and received at Council on 21 October 2021, to be replaced with more appropriate materials that are compatible with the character of the conservation area such as Marseilles unglazed terracotta roof tiles, timber picket style balustrades, face brick to be unpainted.
- b) The proposed new dormer to the north-western roof plane.
- c) The proposed deck extensions to the Lower Ground and Ground Levels.
- d) Alterations to the existing balustrade materials on the northern dormer from timber to steel palisade.
- e) The submitted exterior colour scheme ('Painting Specifications'), dated 6 June 2021, and prepared by Design Research Associates, comprising 'Resene Nocturnal', 'Half Nocturnal' and 'Black White', are not recommended given their likely detrimental impact upon the significance of the conservation area.

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DEVELOPMENT APPLICATION NO. 209/21**

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The following heritage requirements are to be met, and the lodged plans herein listed in the Schedule of Condition A1 must be amended to show the following:

- a) New roof tiles are to match the existing roof tiles.
- b) Face brickwork on the original dwelling is not to be painted.
- c) Replacement balustrades, staircase and handrails are to be constructed in timber and are to be painted to match the building's exterior colour scheme.
- d) New retaining walls are to match the existing materials.
- e) New windows and doors on the North Elevation are to be timber framed. All other new windows are to have aluminium or steel framing sections of a width 45mm or wider, or are to be timber framed.
- f) New front door to be a timber high-waisted Federation style door with two or three vertical moulded panels at the base and glazed upper panel.

The applicant must submit architectural plans and documentation complying with the requirements of this consent for the written approval of Team Leader Assessments.

(Reason: To retain the heritage significance of the Federation style building in the conservation area; and to ensure the use of materials, finishes, and colours that are consistent with the character of the Conservation Area and the original dwelling)

Updated BASIX Certificate

AA2. The applicant must submit an updated BASIX Certificate complying with the requirements of this consent as amended under **Condition AA1**, for the written approval of Team Leader Assessments.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

This consent shall not operate until such time as the written approval stating that the requirements of these conditions have been satisfied.

Upon satisfaction of the deferred commencement conditions, the following conditions apply:

A. *Conditions that Identify Approved Plans***Development in Accordance with Plans/Documentation**

A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

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Plan No.	Rev No.	Description	Prepared by	Dated
A-001	3	Site/Roof Plan	Atlas Urban	05/10/2021
A-101	3	Garage Plan	Atlas Urban	05/10/2021
A-102	3	Lower Ground Floor Plan	Atlas Urban	05/10/2021
A-103	3	Lower Ground Floor Plan	Atlas Urban	05/10/2021
A-104	3	Ground Floor Plan	Atlas Urban	05/10/2021
A-105	3	First Floor Plan	Atlas Urban	05/10/2021
A-200	3	North Elevation	Atlas Urban	05/10/2021
A-201	3	North Elevation	Atlas Urban	05/10/2021
A-202	3	South Elevation	Atlas Urban	05/10/2021
A-203	3	West Elevation	Atlas Urban	05/10/2021
A-204	3	East Elevation	Atlas Urban	05/10/2021
A-300	3	Section	Atlas Urban	05/10/2021
A-301	3	Section	Atlas Urban	05/10/2021

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Plans on Site

- A2. A copy of all stamped approved plans, specifications and documents (including the plans, specifications and documents submitted and approved with the Construction Certificate) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the certifying authority upon their request.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance)

No Demolition of Extra Fabric

- A3. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans.

(Reason: To ensure compliance with the approved development)

External Finishes and Materials

- A4. The proposed external finishes, colours and materials specified within the submitted schedule ('A-005') dated 5 October 2021, prepared by Atlas Urban and the Painting Specifications dated 6 June 2021, prepared by Design Research Associates, are not approved, and must not be used. Colours, finishes, and materials, must be in accordance with those specified in Conditions **AA1** and **C10** of this consent. A revised schedule of materials, finishes, and colours, in accordance with the above conditions must be submitted to Council, for the written approval of Council's Team Leader Assessments, prior to the issue of any Construction Certificate.

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on, and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

C. *Prior to the Issue of a Construction Certificate (and ongoing, where indicated)*

Dilapidation Report Damage to Public Infrastructure

- C1. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The developer may be held liable for all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition.

The developer shall bear the cost of carrying out works to restore all public infrastructure damaged as a result of the carrying out of the development, and no occupation of the development shall occur until damage caused as a result of the carrying out of the development is rectified.

A copy of the dilapidation survey and report must be lodged with North Sydney Council by the Certifying Authority with submission of the Construction Certificate documentation.

(Reason: To record the condition of public infrastructure prior to the commencement of construction)

Dilapidation Report Private Property (Excavation)

- C2. A full dilapidation survey and report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

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The dilapidation report and survey are to be prepared by a consulting structural/geotechnical engineer agreed to by both the applicant and the owner of any affected adjoining property.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only and may be used by the developer or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: To record the condition of property/i.e., prior to the commencement of construction)

Dilapidation Survey Private Property (Neighbouring Buildings)

- C3. A photographic survey and dilapidation report of adjoining properties Nos. 74-78 Cairo Street and 32D Pine Street detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, **SHALL BE** submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The survey and report are to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Certifying Authority, prior to the issue of any Construction Certificate.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the photographic survey and dilapidation report is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: Proper management of records)

Structural Certification of the Stability of Council's Retaining Wall (Excavation)

- C4. The applicant must provide structural certification to Council prior to issue of any Construction Certificate that the proposed excavation will not undermine the embankment and stability of the structural viability of the wall and embankment. The applicant must undertake all necessary works (design and construction) to ensure the wall will stay structurally sound.

The applicant must engage a Structural and Geotechnical Engineer and submit documentation to Council prior to issue of any Construction Certificate. All costs associated with any potential damage and reconstruction work must be borne by the applicant.

(Reason: To record the condition of property/ies prior to the commencement of construction)

Structural Adequacy of Adjoining Properties - Excavation Works

- C5. A report prepared by an appropriately qualified and practising structural engineer detailing the structural adequacy of adjoining property No. 32D Pine Street, which certifies the ability to withstand the proposed excavation and outlines any measures required to be implemented to ensure that no damage will occur to adjoining properties during the course of the works, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The measures outlined in the certified report must be complied with at all times.

(Reason: To ensure the protection and structural integrity of adjoining properties in close proximity during excavation works)

Structural Adequacy of Existing Building

- C6. A report prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction shall be submitted to the Certifying Authority for approval prior to issue of any Construction Certificate. The certified report must also include all details of the methodology to be employed in construction phases to achieve the above requirements. The methodology in the certified report must be complied with at all times.

(Reason: To ensure the structural integrity of the building is maintained)

Geotechnical Report

- C7. Prior to issue of any Construction Certificate a Geotechnical/Civil Engineering report must be prepared which addresses at a minimum (but is not limited to) the following: -
- a) The type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs must be related to Australian Height Datum;
 - b) The appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations must be discussed and mechanisms to ameliorate any such impacts recommended;
 - c) The proposed method to support the excavation, temporarily and permanently, for the basement adjacent to adjoining property, structures, and road reserve if nearby (full support must be provided within the subject site);
 - d) The existing groundwater levels in relation to the basement structure, where influenced;
 - e) The drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilized in controlling groundwater. Where it is considered that there is the potential for the development to create a "dam" for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path is constructed, artificial drains such as perimeter drains and through drainage may be utilized; and
 - f) Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by an appropriately qualified consulting geotechnical/hydro geological engineer or suitable qualified expert with previous experience in such investigations and reporting.

It is the responsibility of the consulting geotechnical/ hydrological specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent property and structures both during and after construction. The report must contain site-specific geotechnical recommendations and shall specify the necessary hold/inspection points by relevant professionals as appropriate.

The design principles for the geotechnical report are as follows:

- a) no ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure;
- b) no changes to the ground water level are to occur as a result of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- c) no changes to the ground water level are to occur during the construction of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- d) vibration is to be minimized or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development;
- e) appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these Design Principles; and
- f) An adverse impact can be assumed to be crack damage as identified within the relevant Australian Standard for determining such damage.

The report, satisfying the requirements of this condition, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The professional recommendations, implementation program, monitoring program, mitigation measures and the like contained in the report must be implemented in full during the relevant stages of excavation and construction.

(Reason: To ensure the structural integrity of the subject site and adjoining sites during the excavation process)

Sediment Control

- C8. Where construction or excavation activity requires the disturbance of the soil surface or existing vegetation, erosion and sediment control techniques, as a minimum, are to be in accordance with the publication *Managing Urban Stormwater: Soils and Construction* (4th edition, Landcom, 2004) commonly referred to as the "Blue Book" or a suitable and effective alternative method.

A Sediment Control Plan must be prepared and submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate and prior to any works commencing. The Sediment Control Plan must be consistent with the Blue Book and disclose:

- a) All details of drainage to protect and drain the site during the construction processes;
- b) All sediment control devices, barriers and the like;
- c) Sedimentation tanks, ponds or the like;
- d) Covering materials and methods; and
- e) A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.
- f) Methods for the temporary and controlled disposal of stormwater during construction.

All works must be undertaken in accordance with the approved Sediment Control plan.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Waste Management Plan

C9. A Waste Management Plan is to be submitted for approval by the Certifying Authority prior to the issue of any Construction Certificate. The plan must include, but not be limited to:

- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
- b) The design of the on-site waste storage and recycling area; and
- c) Administrative arrangements for waste and recycling management during the construction process.

The approved Waste Management Plan must be complied with at all times in the carrying out of the development.

(Reason: To encourage the minimisation of waste and recycling of building waste)

Colours, Finishes and Materials (Conservation Areas)

C10. The finishes, materials and exterior colours shall be complementary to the architectural style of the original building and sympathetic to the character of the Conservation Area. A schedule of finishes, materials and external colours shall be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

(Reason: To ensure that the completed colours, finishes and materials are complementary to the Conservation Area)

Skylight(s)

C11. Skylight flashing(s) and frame(s) to be coloured to match the roof material. Skylight(s) to sit no higher than 100 mm above roof plane when in a closed position. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To minimise the visual impact of the skylight(s) on the roof plane)

Work Zone

C12. If a Work Zone is proposed, an application must be made to the North Sydney Local Traffic Committee to install the 'Work Zone'. A Work Zone permit is required to be issued by the Council prior to the issue of any Construction Certificate.

Work Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Work Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Work Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the North Sydney Local Traffic Committee and submit a copy of this to the Certifying Authority to enable issue of the Construction Certificate.

Where approval of the 'Work Zone' is given by the Committee, the requirements of the Committee, including installation of the necessary 'Work Zone' signage and payment of any fees, must occur prior to commencement of any works on the site. Further, at the expiration of the Work Zone approval, the developer is required to remove the Work Zone signs and reinstate any previous signs, all at the developer's cost. The requirements imposed by the Committee on the Work Zone permit (or permits) must be complied with at all times.

(Reason: Amenity and convenience during construction)

Stormwater Management and Disposal Design Plan – Construction Issue Detail

- C13. Prior to issue of the Construction Certificate, the applicant shall have a site drainage management plan prepared by a qualified drainage design engineer. The site drainage management plan must detail the following requirements of North Sydney Council:
- a) Compliance with BCA drainage requirements, Councils Engineering Performance guide and current Australian Standards and guidelines, such as AS/NZ3500.3.2 1998, National Plumbing and Drainage Code.
 - b) Stormwater runoff and subsoil drainage generated by the approved dwellings must be conveyed in a controlled manner by gravity to Council's kerb in Pine Street.
 - c) All sub-soil seepage drainage shall be discharged via a suitable silt arrester pit.

Details of all plans certified as being adequate for their intended purpose and complaint with the provisions of AS3500.3.2 by an appropriately qualified and practising civil engineer, shall be submitted with the application for a Construction Certificate.

Details demonstrating compliance are to be submitted with the Construction Certificate. The Certifying Authority issuing the Construction Certificate must ensure that the approved drainage plan and specifications, satisfying the requirements of this condition, is referenced on and accompanies the Construction Certificate.

(Reason: To ensure controlled stormwater management and disposal without nuisance)

Bond for Damage and Completion of Infrastructure Works - Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement

- C14. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$20,000.00 to be held by Council for the payment of cost for any/all of the following:
- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
 - b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with this consent.
 - c) remedying any defects in any such public work that arise within six months after the work is completed.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of six months from the issue of any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Engineers.

Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following:

- where the damage constitutes a hazard in which case Council may make use of the security immediately;
- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and
- the Certifying Authority must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure)

Tree Bond for Public Trees

C15. Prior to the issue of any construction certificate, security in the sum of \$25,000 must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate but only upon inspection and release by Council's Landscape Development Officer.

If any tree is removed or damaged Council may deduct from this security the reasonable cost of replacement with a tree of the same species and to a similar stage of growth it would have attained at the completion of the work.

In the case of any tree, which cannot be replaced with a similar specimen, the security for that tree will be forfeited to Council and used to provide replacement street plantings.

**80 CAIRO STREET, CAMMERAY
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SCHEDULE

Tree Species	Location	Bond
1 x <i>Tristaniopsis laurina</i> , 3 x <i>Callistemon viminalis</i> and associated shrubs	In garden bed (Ellis Lookout Reserve) at the northern end of Cairo Street.	\$10,000 (collective)
All trees and vegetation in public garden beds.	Adjacent to the site boundaries of 80 Cairo Street.	\$10,000 (collective)
1 x <i>Plumeria sp.</i>	In garden bed in front of 32D Pine Street.	\$5,000

(Reason: Protection of existing environment public infrastructure, community assets and significant trees)

Protection of Trees

C16. The following trees and landscaping are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Tree	Location	Height
1 x <i>Tristaniopsis laurina</i> , 3 x <i>Callistemon viminalis</i> and associated shrubs	In garden bed (Ellis Lookout Reserve) at the northern end of Cairo Street.	Various
All trees and vegetation in public garden beds.	Adjacent to the site boundaries of 80 Cairo Street.	Various
1 x <i>Plumeria sp.</i>	In garden bed in front of 32D Pine Street.	-
1 x <i>Erythrina crista galli</i>	To the west of pedestrian path at the northern end of Cairo Street within the site of 74-78 Cairo Street.	8x10m
1 x <i>Tristaniopsis laurina</i>	Council verge in front of 74-78 Cairo Street.	-
2 x <i>Callistemon citrinus</i>	Within the front setback of 74-78 Cairo Street.	-
1 x <i>Callistemon viminalis</i>	Adjacent to the pedestrian gate on the upper level (Cairo Street) entrance to the site.	-
Mature hedge of <i>Cupressocyparis leylandii</i>	On the eastern boundary of 32D Pine Street.	Various
All areas of existing landscaping shown to be retained on lodged drawings.	Within the site of 80 Cairo Street.	Various

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on, and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Any trees shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

Garbage and Recycling Facilities

C17. Adequate provision must be made for the storage of waste and recyclable material generated by the premises. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the provision of appropriate waste facilities and to ensure efficient collection of waste by collection contractors)

Asbestos Material Survey

C18. A report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

- a) the removal of asbestos must be undertaken by a WorkCover licensed contractor;
- b) all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- d) Waste disposal receipts must be provided to the Certifying Authority as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the report, and other plans, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the long-term health of workers on site and occupants of the building is not put at risk unnecessarily)

Location of Plant

C19. All plant and equipment (including but not limited to air conditioning equipment) is to be located within the basement of the building and is not to be located on balconies or the roof. Plans and specifications complying with this condition must be submitted to the Certifying Authority for Approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Minimise impact on surrounding properties, improved visual appearance and amenity for locality)

Noise from Plant and Equipment

C20. The use of all plant and equipment installed on the premises must not:

- (a) Contribute an LAeq(15min) which will cause the total LAeq(15min) from all plant and equipment operating contemporaneously on the site or in the strata scheme or in the mixed strata schemes to exceed the RBL by more than 5dB when measured at the boundary of any affected receiver. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy shall be applied.
- (b) Cause "offensive noise" as defined in the *Protection of the Environment Operations Act 1997*.

"affected receiver" includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship, commercial premises and parks and such other affected receiver as may be notified by the Council in writing.

"boundary" includes any window or elevated window of an affected receiver.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

Air Conditioners in Residential Premises

C21. The use of any air conditioner installed on the premises must comply with the requirements of the Protection of the Environment Operations (Noise Control) Regulations 2008 and State Environmental Planning Policy (Infrastructure) 2007 and must not:

- (a) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
- (i) before 8.00 am and after 10.00 pm on any Saturday, Sunday or Public Holiday; or
- (ii) before 7.00 am or after 10.00 pm on any other day
- (b) cause an LAeq(15min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy will be applied.

“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

“boundary” includes any window or elevated window of an affected residence.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

(Reason: To maintain residential amenity)

Section 7.12 Development Contributions

- C22. A monetary contribution pursuant to the provisions of Section 7.12 of the Environmental Planning and Assessment Act 1979 is to be paid to Council, in accordance with the North Sydney Council’s Contribution Plan. Based on the cost of development a total contribution of **\$7,581.00** is to be paid to Council to provide for additional local infrastructure improvements.

The contribution MUST BE paid prior to the issue of any Construction Certificate. The above amount will be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution.

A copy of the North Sydney Contribution Plan can be viewed at North Sydney Council’s Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council’s website at www.northsydney.nsw.gov.au

(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new development)

Security Deposit/Guarantee and Fee Schedule

C23. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security deposit/ guarantee	Amount (\$)
Street Tree Bond (on Council Property)	\$25,000.00
Infrastructure Damage Bond	\$20,000.00
TOTAL BONDS	\$45,000.00

Note – The following fees are also applicable:

Fees	Amount (\$)
Section 7.12 Development Contributions	\$7,581.00
TOTAL FEES	\$7,581.00

(Reason: Compliance with the development consent)

BASIX Certificate

C24. Under clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. **A415290_02**, and as subsequently updated by **Condition AA2** of this consent, for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on, and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

Amendments to the Landscape Plans

C25. The landscaping shown on the approved plans must be amended as follow to provide an appropriate landscaped setting:

- 1) A minimum of 1 x canopy trees (45-litre pot size) capable of attaining a mature height in excess of 7m shall be planted within the northern setback of 80 Cairo Street.

An amended site plan and landscape plan complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the amended plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure residential amenity and to demonstrate compliance with Council's controls)

D. Prior to the Commencement of any Works (and continuing where indicated)**Protection of Public Trees**

- D1. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Tree	Location	Protection
1 x <i>Tristaniopsis laurina</i> , 3 x <i>Callistemon viminalis</i> and associated shrubs	In garden bed (Ellis Lookout Reserve) at the northern end of Cairo Street.	1.8m high steel mesh tree protection fencing.
1 x <i>Plumeria sp.</i>	In garden bed in front of 32D Pine Street.	1.8m high steel mesh tree protection fencing. No pruning is permitted.
1 x <i>Tristaniopsis laurina</i>	Council verge in front of 74-78 Cairo Street.	1.8m high steel mesh tree protection fencing.

- A minimum of 3 x canopy trees (45l) capable of attaining a mature height in excess of 7m shall be planted within the northern setback of 80 Cairo Street.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on, and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Protection of existing environmental and community assets)

Temporary Fences and Tree Protection

- D2. All protected trees on-site that are specifically nominated as per **Condition C16** to be retained by notation on plans or by condition as a requirement of this consent must be tagged with luminous tape or the like for purposes of identification prior to demolition, excavation or construction works and must remain so for the duration of works on the site.

Appropriate fencing or barricades in accordance with AS4970-2009 (Protection of trees on development sites), not less than the distance of the perimeter of the garden bed specified in the schedule hereunder, must be installed to the satisfaction of the Certifying Authority prior to demolition or commencement of any works and must be maintained for the duration of the works.

(Reason: To protect the trees to be retained on the site during construction works)

Public Liability Insurance - Works on Public Land

- D3. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy is to note and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.

(Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land)

Commencement of Works' Notice

- D4. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two days' notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

(Reason: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

E. *During Demolition and Building Work***Cigarette Butt Receptacle**

- E1. A cigarette butt receptacle is to be provided on the site for the duration of excavation/demolition/construction process, for convenient use of site workers.

(Reason: To ensure adequate provision is made for builders' waste)

Re-use of Sandstone

- E2. Sandstone blocks (if any) removed from the site are to be either stored for re-use on site or offered to Council in the first instance.

Note: The provisions of the Heritage Act may also apply to altering any sandstone elements on any site.

(Reason: To allow for preservation of cultural resources within the North Sydney Council area)

Parking Restrictions

- E3. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council.

Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Developer will be held responsible for any breaches of this condition, and will incur any fines associated with enforcement by Council regulatory officers.

(Reason: To ensure that existing kerb-side parking provisions are not compromised during works)

Service Adjustments

- E4. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the person acting on the consent and in accordance with the requirements of the relevant utility authority.

These works shall be at no cost to Council. It is the Applicant's full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of the development (including water, phone, gas, and the like).

Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.

(Reason: To ensure the service requirements are met)

Road Reserve Safety

- E5. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site.

Where public infrastructure is damaged, repair works must be carried out in when and as directed by Council officers (at full Developer cost). Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

(Reason: Public Safety)

Temporary Disposal of Stormwater Runoff

- E6. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to reasonably manage and control runoff as far as the approved point of stormwater discharge. Such ongoing measures must be to the satisfaction of the Certifying Authority.

(Reason: Stormwater control during construction)

Geotechnical Stability During Works

- E7. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure.

Geotechnical aspects of the development work, namely appropriate excavation method and vibration control, support and retention of excavated faces, and hydro geological considerations must be undertaken in accordance with the recommendations of the Geotechnical Engineer and all subsequent geotechnical inspections carried out during the excavation and construction phase.

Approval must be obtained from all affected property owners, including North Sydney Council where rock anchors (both temporary and permanent) are proposed below adjacent private or public property.

(Reason: Ensure appropriate professional are engaged at appropriate stages during construction)

Removal of Extra Fabric

- E8. Should any portion of the existing building, trees, or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification of the damage is to be given to Council forthwith. No work is to resume until the written approval of Council to do so is obtained. Failure to comply with the provisions of this condition may result in the Council taking further action including legal proceedings if necessary.

(Reason: To ensure compliance with the terms of this development consent)

Dust Emission and Air Quality

- E9. The following must be complied with at all times:

(a) Materials must not be burnt on the site.

- (b) Vehicles entering and leaving the site with soil or fill material must be covered.
- (c) Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction.
- (d) Odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

Noise and Vibration

- E10. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

No Work on Public Open Space

- E11. No work can be undertaken within adjoining public lands (i.e., Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the developer is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

(Reason: Protection of existing public infrastructure and land and to ensure public safety and proper management of public land)

Applicant's Cost of Work on Council Property

- E12. The applicant must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

(Reason: To ensure the proper management of public land and funds)

No Removal of Trees on Public Property

- E13. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

(Reason: Protection of existing environmental infrastructure and community assets)

Protection of Trees

- E14. All trees required to be retained, as part of this consent must be protected from any damage during construction works in accordance with AS4970-2009.

All areas of existing landscaping shown to be retained on lodged drawings shall be protected in accordance with AS4970. Sensitive construction techniques shall be carried out within the TPZ of any protected tree. No roots greater than 30mm shall be cut and no pruning to any protected tree shall be permitted. No canopy pruning shall be permitted to any protected tree.

Paving to the upper ground level (eastern front setback), shown for removal, shall be left in situ until other building works are complete (this area shown as stockpile) to protect the TPZ of existing trees. Paving may be removed after, to facilitate new landscaping.

In the event that any tree required to be retained is damaged during works on the site, notice of the damage must be given to Council forthwith.

Notes:

- 1) If the nominated tree is damaged to a significant degree or removed from the site without prior written approval being obtained from Council, the issuing of fines or legal proceedings may be commenced for failure to comply with the conditions of this consent.
- 2) An application to modify this consent pursuant to Section 96 of the *Environmental Planning and Assessment Act 1979* will be required to address the non-compliance with any of the conditions of consent relating to the retention of nominated trees, and Council may require tree replenishment.

(Reason: Protection of existing environmental infrastructure and community assets)

Special Permits

- E15. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development must occur entirely on the property.

The developer, owner or builder may apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property. In the event that a permit is granted by Council for the carrying out of works, processes, storage of materials, loading and unloading associated with the development on Council's property, the development must be carried out in accordance with the requirements of the permit. A minimum of forty-eight (48) hours' notice is required for any permit:

1) On-street mobile plant

E.g., cranes, concrete pumps, cherry-pickers, etc. - restrictions apply to the hours of operation, the area of operation, etc. Separate permits are required for each occasion and each piece of equipment. It is the developer's, owner's and builder's responsibilities to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

(Reason: Proper management of public land)

2) Hoardings

Permits are required to erect Class A and Class B hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

(Reason: Proper management of public land)

3) Storage of building materials and building waste containers (skips) on Council's property

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given. Storage of building materials and waste containers on open space reserves and parks is prohibited.

(Reason: Proper management of public land)

4) Kerbside restrictions, construction zones

Attention is drawn to the existing kerbside restrictions adjacent to the development. Should alteration of existing kerbside restrictions be required, or the provision of a construction zone, the appropriate application must be made and the fee paid to Council. Alternatives to such restrictions may require referral to Council's Traffic Committee and may take considerable time to be resolved. An earlier application is suggested to avoid delays in construction programs.

(Reason: Proper management of public land)

Construction Hours

- E16. Construction activities and works approved under this consent must be carried out only within the hours stipulated in the following table:

Location	Standard Construction Hours	
	Day	Hours
All Other Zones	Monday - Friday	7.00 am - 5.00 pm
	Saturday	8.00 am - 1.00 pm
	Sunday, Public holiday	No work permitted

Construction activities for development approved under this consent must be carried out in accordance with the standard construction hours above and any Construction Noise Management Plan required under this consent.

In the event of breach to the approved hours of construction Council take may take enforcement action under Part 9 of the EP&A Act 1979 and in accordance with Council's adopted Compliance and Enforcement Policy.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

Out-of-Hours' Work Permits

- E17. Where it is necessary for works to occur outside those hours allowed by these conditions, an application may be made to Council's Customer Services Centre for a permit to carry out works outside of the approved hours. If a permit is issued the works approved must be carried out in accordance with any requirements specified in the permit. Permits will only be approved if **public safety is at risk**. Applications which seek a variation to construction hours solely to benefit the developer will require the lodgement and favourable determination of a modification application pursuant to the provisions of Section 96 of the Environmental Planning and Assessment Act 1979.

Notes:

- 1) Failure to obtain a permit for work outside of the approved hours will result in on the spot fines being issued, or Council pursuing any action required (including legal proceedings) to have the out of hours work cease, without prior warning.
- 2) Applications for out of hour's works should be lodged with Council no later than seven (7) calendar days prior to the date of the intended works.
- 3) Examples of activities for which permits may be granted include:
 - the erection of awnings,
 - footpath, road and other infrastructure works which cannot be carried out for public convenience reasons within normal hours,
 - the erection and removal of hoardings and site cranes, and

- craneage of materials which cannot be done for public convenience reasons within normal working hours.
- 4) Examples of activities for which permits WILL NOT be granted include;
- extended concrete pours
 - works which are solely to convenience the developer or client, and
 - catch up works required to maintain or catch up with a construction schedule.
- 5) Further information on permits can be obtained from the Council website at www.northsydney.nsw.gov.au.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

Installation and Maintenance of Sediment Control

- E18. Erosion and sediment controls must be installed and maintained at all times in accordance with the Sediment and erosion control plan submitted and approved with the Construction Certificate.

Erosion and sediment measures must be maintained in accordance with the publication Managing Urban Stormwater: Soils and Construction (4th edition, Landcom, 2004), commonly referred to as the “Blue Book” and can only be removed when development activities have been completed and the site fully stabilised.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Sediment and Erosion Control Signage

- E19. A durable sign must be erected during building works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained. A sign of the type referred to in this condition is available from Council.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Health and Safety

- E20. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site and provide a contact telephone number for enquiries.

Further information and details regarding occupational health and safety requirements for construction sites can be obtained from the internet at www.workcover.nsw.gov.au.

(Reason: To ensure the health and safety of the community and workers on the site)

Archaeological Discovery During Works

E21. Should any historical or Aboriginal relic be discovered on the site during demolition, excavation or site preparatory works, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW must be informed in accordance with the provisions of the Heritage Act 1977 and/or National Parks and Wildlife Act, 1974. Works must not recommence until such time as approval to recommence is given in writing by Council or a permit from the Director of the NPWS is issued.

(Reason: To prevent the unnecessary destruction or removal of unrecorded historical or Aboriginal relics)

Prohibition on Use of Pavements

E22. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

(Reason: To ensure public safety and amenity on public land)

Plant and Equipment Kept Within Site

E23. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

Details of Council requirements for permits on public land for standing plant, hoardings, storage of materials and construction zones and the like are available on Council's website at www.northsydney.nsw.gov.au.

(Reason: To ensure public safety and amenity on public land)

Waste Disposal

E24. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

(Reason: To ensure the lawful disposal of construction and demolition waste)

Asbestos Removal

E25. All demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with National Occupational Health and Safety Commission.

(Reason: To ensure works are carried out in accordance with relevant WorkCover requirements)

F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation**National Construction Code**

F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

Home Building Act

F2. 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) for which the *Home Building Act 1989* requires there to be a contract of insurance under Part 6 of that Act must not be carried out unless the Principal Certifying Authority for the development to which the work relates has given North Sydney Council written notice of the contract of insurance being issued and of the following:

a) in the case of work for which a principal contractor is required to be appointed:

- i) the name and licence number of the principal contractor, and
- ii) the name of the insurer by which the work is insured under Part 6 of that Act, or

(b) in the case of work to be done by an owner-builder:

- (i) the name of the owner-builder, and
- (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

- 2) If arrangements for doing residential building work are changed while the work is in progress such that the information submitted to Council in accordance with this conditions is out of date, work must cease and no further work may be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

(Reason: Prescribed - Statutory)

Appointment of a Principal Certifying Authority (PCA)

- F3. Building work, demolition or excavation in accordance with the development consent must not be commenced until the developer has appointed a Principal Certifying Authority for the building work in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Construction Certificate

- F4. Building work, demolition or excavation in accordance with the development consent must not be commenced until a Construction Certificate for the relevant part of the building work has been issued in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Occupation Certificate

- F5. A person must not commence occupation or use of the whole or any part of a new building (new building includes an altered portion of, or an extension to, an existing building) unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifying Authority appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

Commencement of Works

- F6. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two (2) days' notice to North Sydney Council of the person's intention to commence the erection of the building.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Demolition

- F7. Demolition work must be undertaken in accordance with the provisions of AS2601-Demolition of Structures.

(Reason: To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage)

Protection of Public Places

- F8. 1) A hoarding and site fencing must be erected between the work site and adjoining public place.
- 2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- 3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 4) Any such hoarding, fence or awning is to be removed when the work has been completed.
- 5) No access across public reserves or parks is permitted.

Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained. Any application needs to be accompanied by plans indicating the type of hoarding and its layout. Fees are assessed and will form part of any approval given. These fees must be paid prior to the approval being given. Approval for hoardings will generally only be given in association with approved building works, maintenance or to ensure protection of the public. An application form for a Hoarding Permit can be downloaded from Council's website.

(Reason: To ensure public safety and the proper management of public land)

Site Sign

- F9. 1) A sign must be erected in a prominent position on the site
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2) Any such sign must be maintained while to building work or demolition work is being carried out but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

G. Prior to the Issue of an Occupation Certificate

Infrastructure Repair and Completion of Works

- G1. Prior to the issue of any Occupation Certificate any and all works relating to the development:
- a. in the road reserve must be fully completed; and
 - b. to repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) must be fully repaired;

to the satisfaction of Council Engineers at no cost to Council.

(Reason: Maintain quality of public assets)

Damage to Adjoining Properties

- G2. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

(Reason: To ensure adjoining owner's property rights are protected)

Utility Services

- G3. All utility services shall be adjusted to the correct levels and/or location/s required by this consent, prior to issue of an occupation certificate. This shall be at no cost to Council.

(Reason: To ensure compliance with the terms of this consent)

Asbestos Clearance Certificate

- G4. For building works where asbestos based products have been removed or altered, an asbestos clearance certificate signed by an appropriately qualified person (being an Occupational Hygienist or Environmental Consultant) must be submitted to and approved by the Certifying Authority (and a copy forwarded to Council if it is not the Certifying Authority) for the building work prior to the issue of any Occupation Certificate, the asbestos clearance certificate must certify the following:

- a) the building/land is free of asbestos; or
- b) the building/land has asbestos that is presently deemed safe.

The certificate must also be accompanied by tipping receipts, which detail that all asbestos waste has been disposed of at an approved asbestos waste disposal depot. If asbestos is retained on site the certificate must identify the type, location, use, condition and amount of such material.

Note: Further details of licensed asbestos waste disposal facilities can be obtained from www.epa.nsw.gov.au.

(Reason: To ensure that building works involving asbestos based products are safe for occupation and will pose no health risks to occupants)

Certification of Tree Condition

- G5. Prior to the issue of an Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Certifying Authority, describing the health of the tree(s) specifically nominated below: -

Tree	Location	Height
1 x <i>Tristaniopsis laurina</i> , 3 x <i>Callistemon viminalis</i> and associated shrubs	In garden bed (Ellis Lookout Reserve) at the northern end of Cairo Street.	Various
All trees and vegetation in public garden beds.	Adjacent to the site boundaries of 80 Cairo Street.	Various
1 x <i>Plumeria sp.</i>	In garden bed in front of 32D Pine Street.	-
1 x <i>Erythrina crista galli</i>	To the west of pedestrian path at the northern end of Cairo Street within the site of 74-78 Cairo Street.	8x10m
1 x <i>Tristaniopsis laurina</i>	Council verge in front of 74-78 Cairo Street.	-
2 x <i>Callistemon citrinus</i>	Within the front setback of 74-78 Cairo Street.	-

**80 CAIRO STREET, CAMMERAY
DEVELOPMENT APPLICATION NO. 209/21**

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1 x <i>Callistemon viminalis</i>	Adjacent to the pedestrian gate on the upper level (Cairo Street) entrance to the site.	-
Mature hedge of <i>Cupressocyparis leylandii</i>	On the eastern boundary of 32D Pine Street.	Various

The report must detail the condition and health of the nominated trees upon completion of the works and shall certify that the trees have not been significantly damaged during the works on the site and have reasonable prospects for survival.

(Reason: To ensure compliance with the terms of this consent)

BASIX Completion Certificate

G6. In accordance with Clause 154C of the Environmental Planning and Assessment Regulation 2000, prior to issuing a final occupation certificate the Certifying Authority must apply to the Director-General for a BASIX completion receipt.

(Reason: To ensure compliance with the specified BASIX Certificate)

Damage to Adjoining Properties

G7. On completion of the development the subject of this consent and prior to the issue of the Occupation Certificate, a report is to be prepared by an appropriately qualified consultant and is to be provided to the Certifying Authority (and a copy to Council if it is not the Certifying Authority) certifying:

- a) whether any damage to adjoining properties has occurred as a result of the development;
- b) the nature and extent of any damage caused to the adjoining property as a result of the development;
- c) the nature and extent of works required to rectify any damage caused to the adjoining property as a result of the proposed development;
- d) the nature and extent of works carried out to rectify any damage caused to the adjoining property as a result of the development; and
- e) the nature and extent of any agreements entered into for rectification of any damage caused to the adjoining property as a result of the development.

The report and certification must reference the dilapidation survey and reports required to be provided to the Certifying Authority in accordance with this consent.

Where works required to rectify any damage caused to adjoining property as a result of the development identified in the report and certification have not been carried out, a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible prior to the issue of an Occupation Certificate.

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DEVELOPMENT APPLICATION NO. 209/21**Page 34 of 34

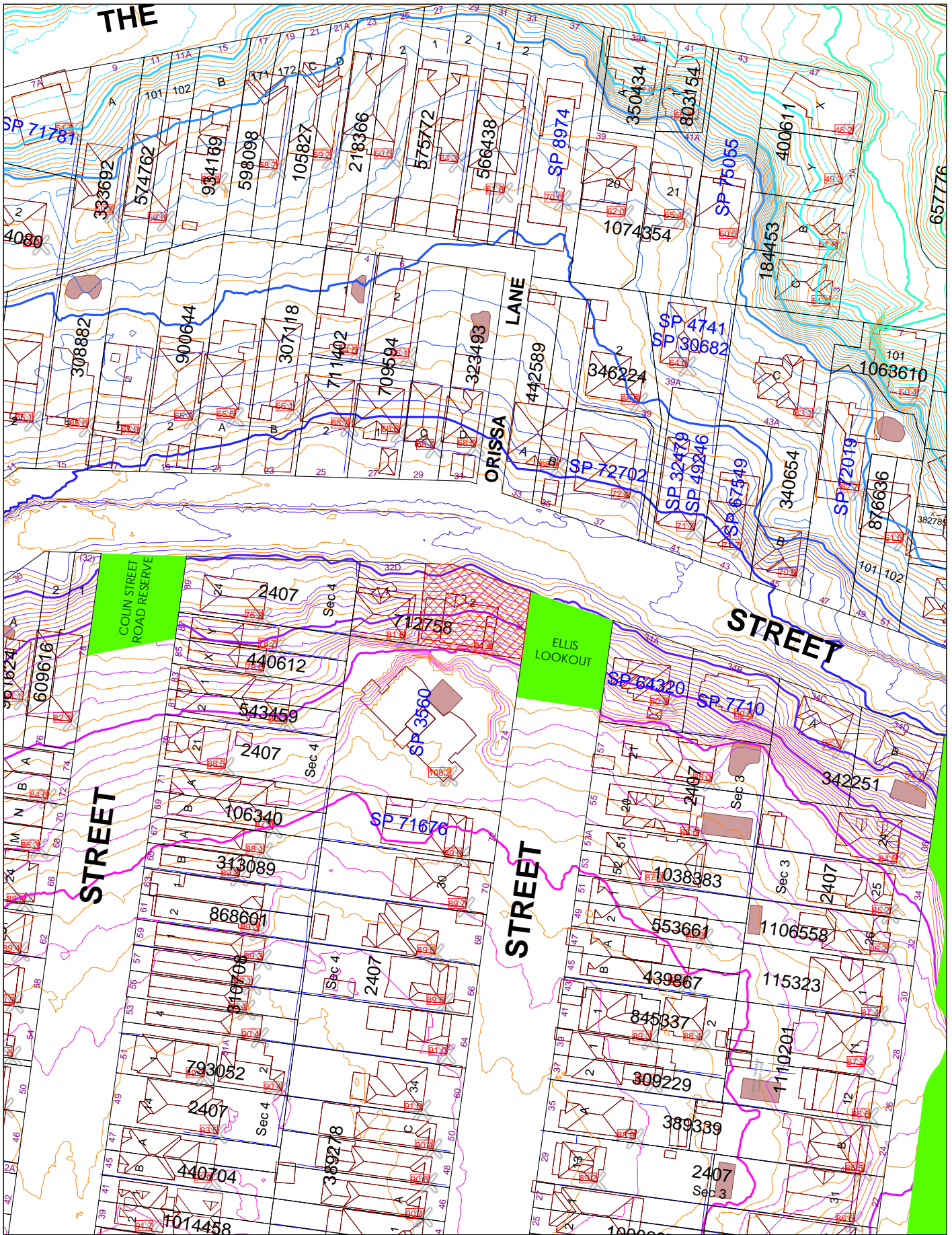
All costs incurred in achieving compliance with this condition shall be borne by the developer.

(Reason: To ensure adjoining owner's property rights are protected in so far as possible)

Compliance with Certain conditions

G8. Prior to the issue of any Occupation Certificate, Condition C25 must be certified as having been implemented on site and complied with.

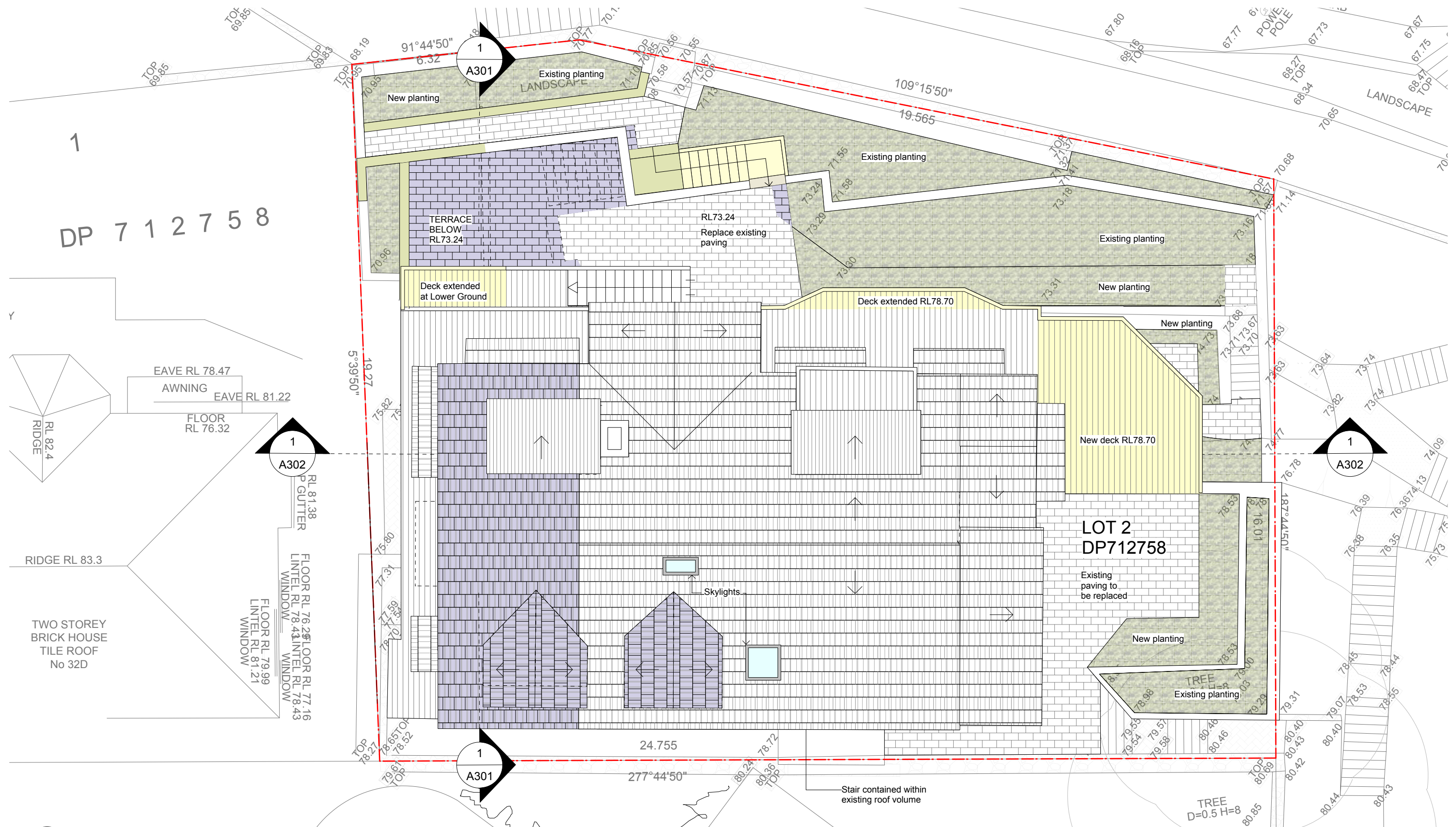
(Reason: To ensure the development is completed in accordance with the requirements of this consent)



North Sydney Council

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Further details can be obtained by calling (02) 9936 8100 or e-mail mapping@northsydney.nsw.gov.au.



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Rev.	Date	Description
3	5.10.21	Modified DA application
2	14.9.21	Modified DA application
1	6.7.21	Development application

Project Title
ALTERATIONS & ADDITIONS
 80 CAIRO STREET
 CAMMERAY NSW 2062
 CLIENT: BRIGIT & BRIAN SALTER

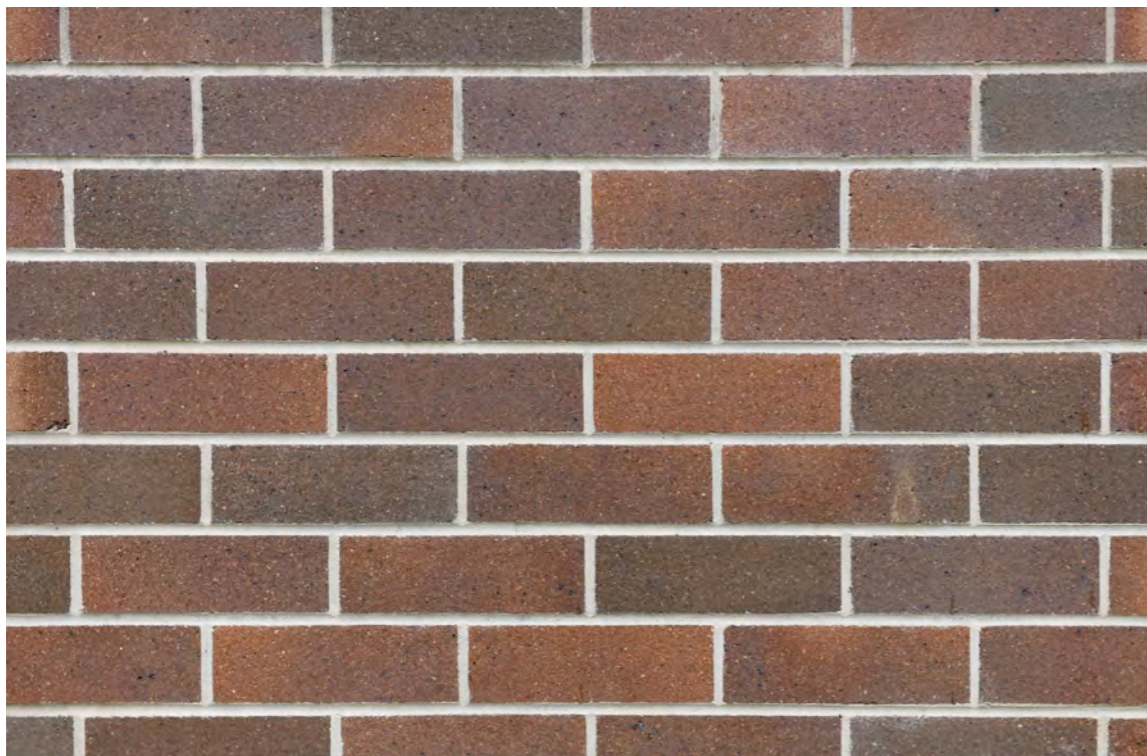
Sheet Title		
SITE PLAN		
Drawn By	BW	Job No. 20-09
Scale	1:200	Drawing No. A001
Date	5.10.21	Revision. DA_3



1. Slate like roof tiles



3. Painted timber fretwork to existing balconies
- refer to colour schedule for paint selection



2. Existing facebrick to remain, re-pointed as required



4. Open metal balustrading to existing attic balcony and new side deck



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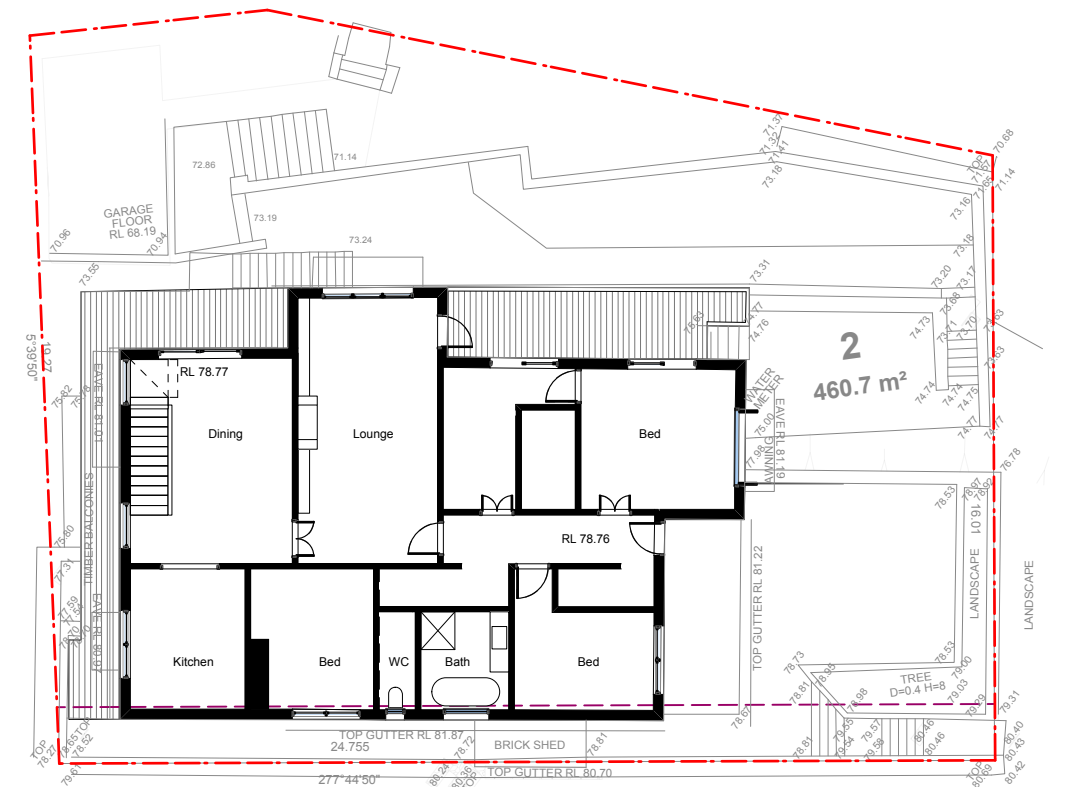
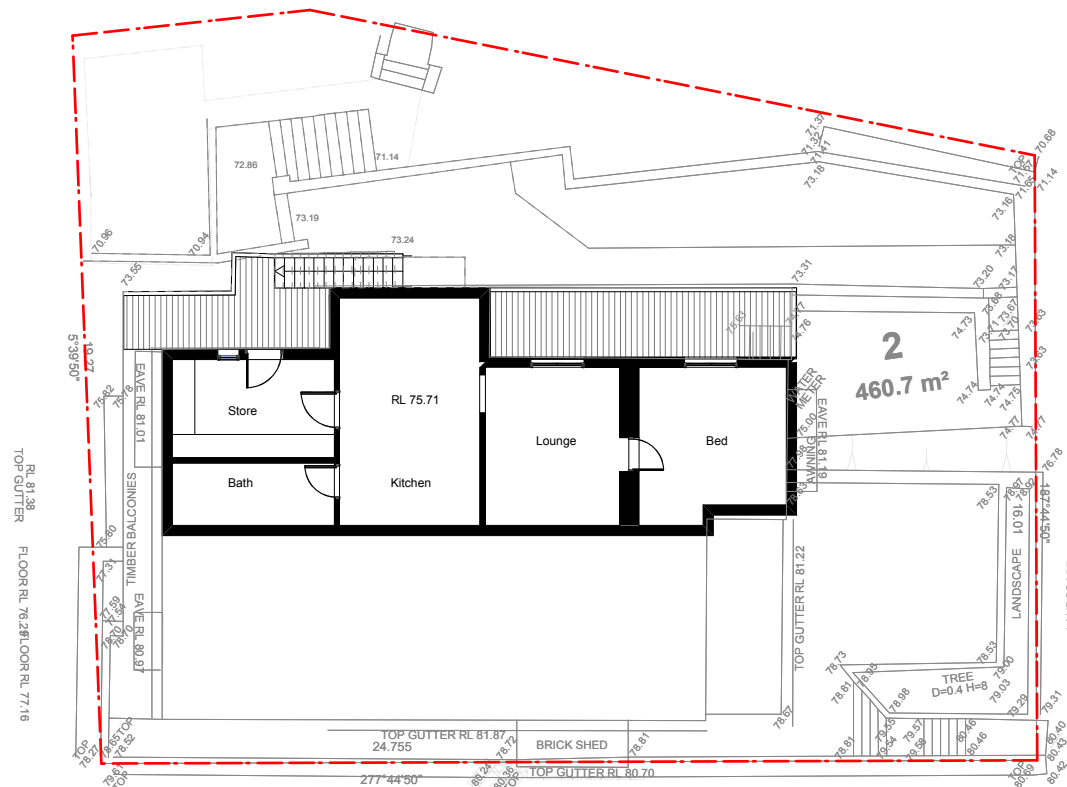
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ALTERATIONS & ADDITIONS
 80 CAIRO STREET
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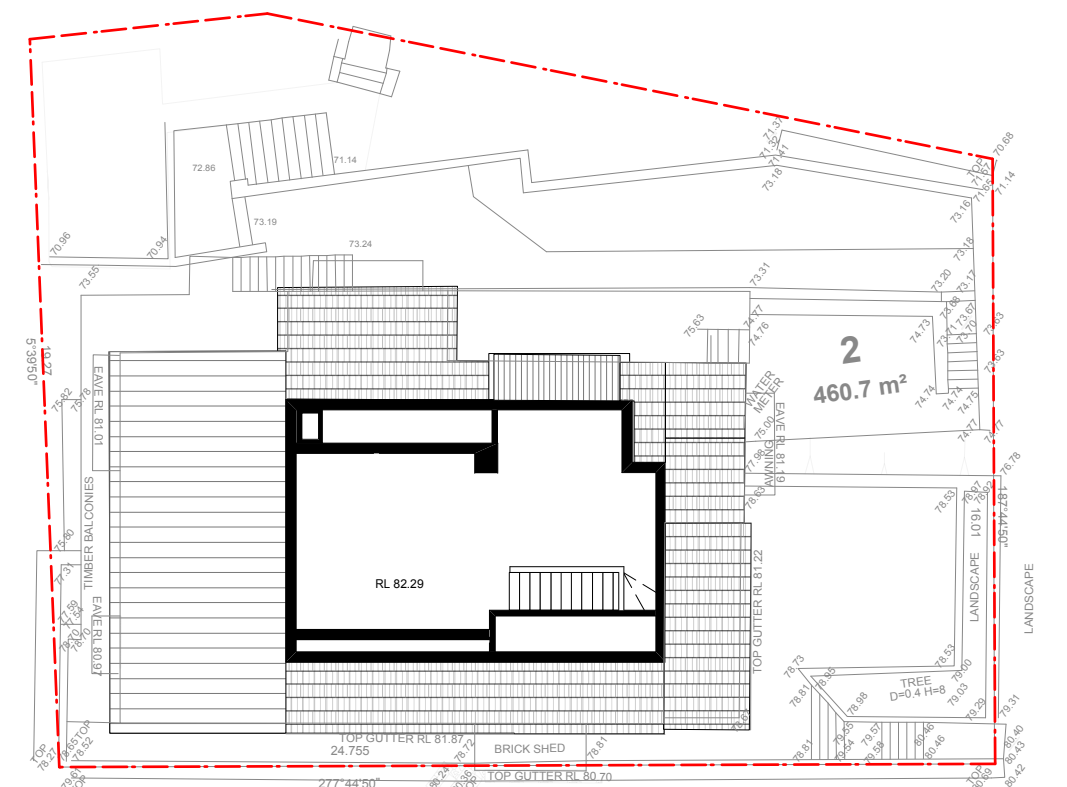
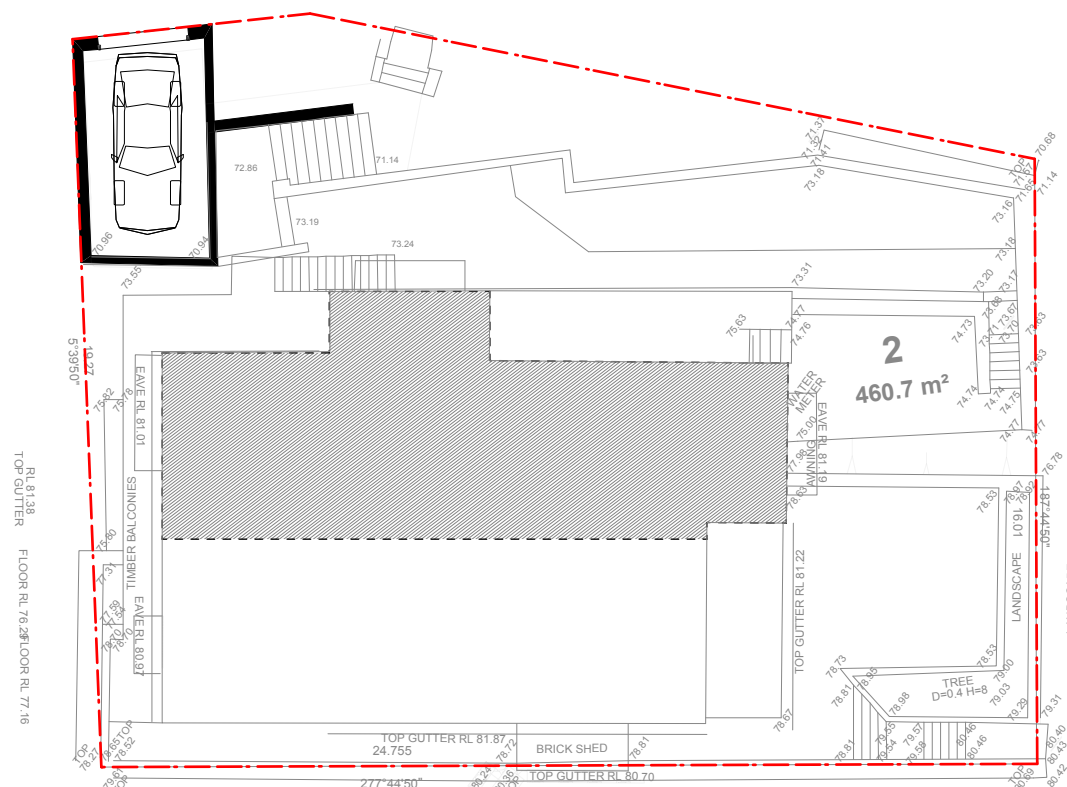
Sheet Title
MATERIALS SCHEDULE

Drawn By	BW	Job No.	20-09	Revision.	DA_3
Scale.	1:200	Drawing No.	A005		
Date	5.10.21				



2 LOWER GROUND - EXISTING
Scale: 1:200

3 GROUND - EXISTING
Scale: 1:200



1 GARAGE PLAN - EXISTING
Scale: 1:200

4 FIRST - EXISTING
Scale: 1:200



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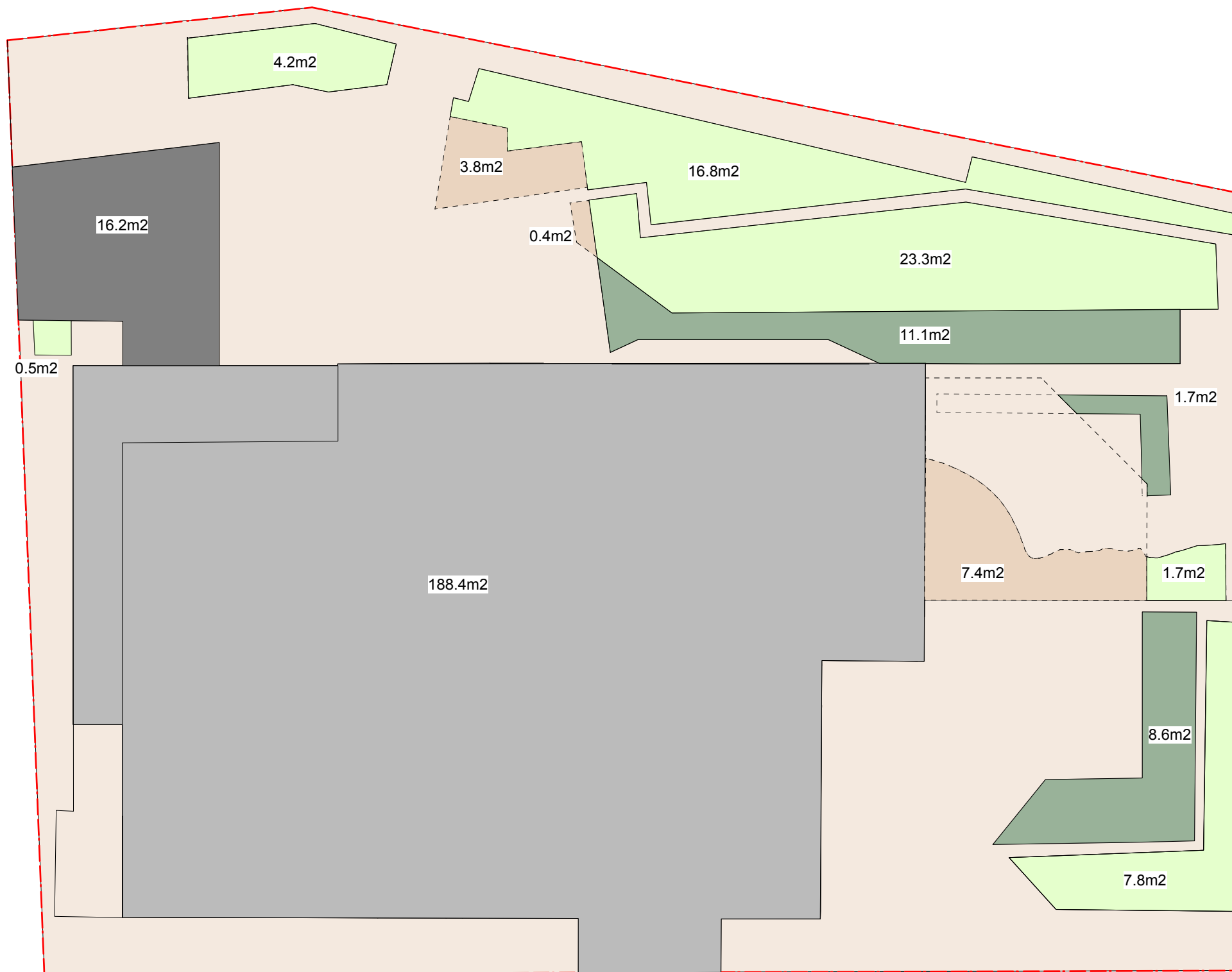
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Project Title
ALTERATIONS & ADDITIONS
80 CAIRO STREET
CAMMERAY NSW 2062
CLIENT: BRIGIT & BRIAN SALTER

Sheet Title
EXISTING FLOOR PLANS

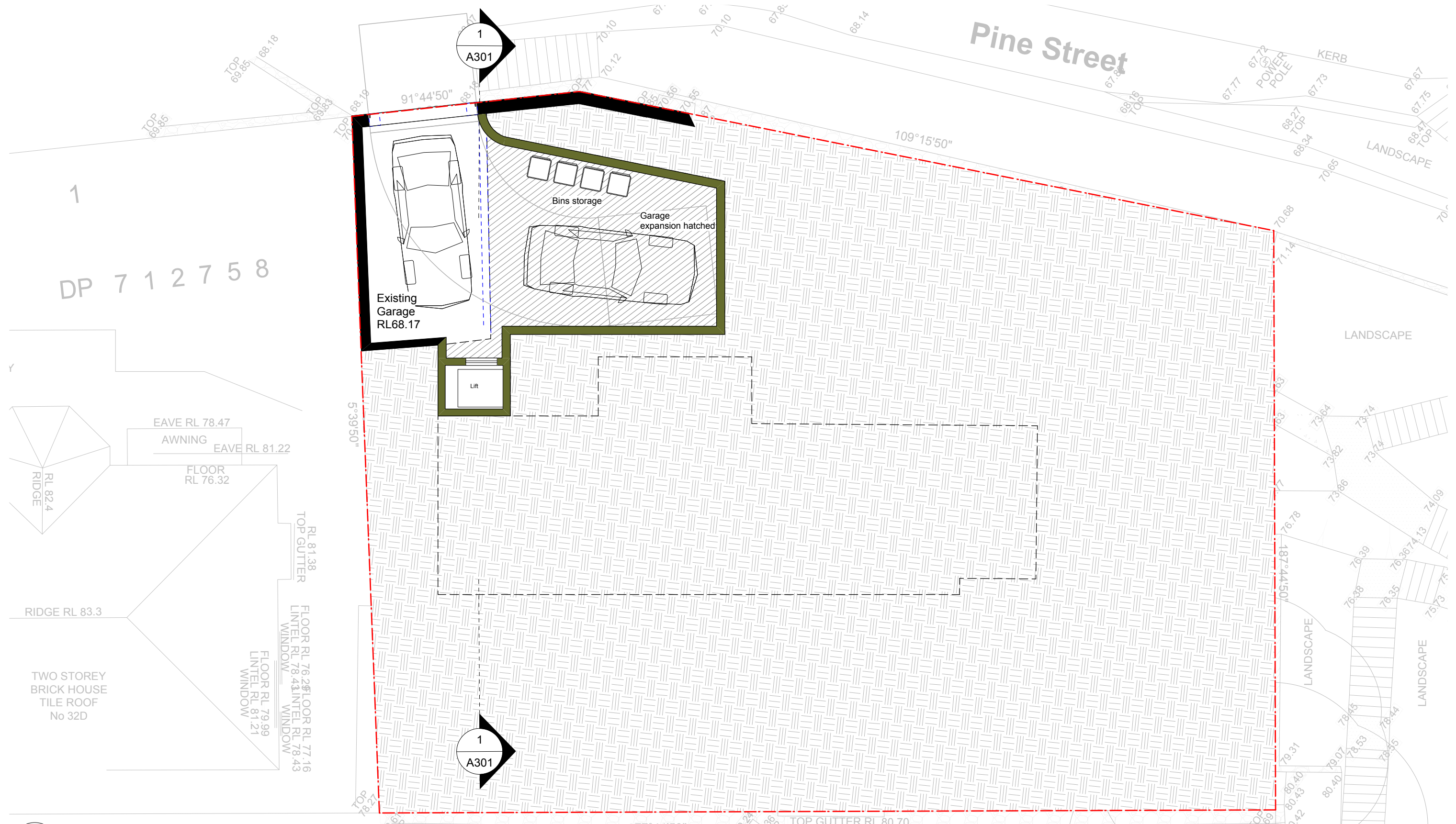
Drawn By	BW	Job No.	20-09	Revision.	DA_3
Scale.	1:200	Drawing No.	A002		
Date	5.10.21				



SITE COVERAGE CALCULATION		
	Site Area	460.7 m2
Maximum site coverage allowance 50% (230.35m2)		
	Existing	188.4m2
	New	16.2m2
Total site coverage		204.6m2 44.4%
LANDSCAPE AREA CALCULATION		
Minimum landscape area required		30% (138.21m2)
	Existing	65.9m2 14.3%
	Proposed	75.7m2 15.7%
Unbuilt upon area maximum required		20% (46.07m2)
	Existing	182.1m2 39.5%
	Proposed	179.6m2 39.0%

1 SITE COVERAGE PLAN
Scale: 1:100

	Suite 1, Level 1, 136 Willoughby Road Crows Nest NSW 2065 Ph/Fax: 02 9909 1291 Mob: 0415 675 098 Email: belindawalter1@gmail.com ABN: 92 698 129 524	COPYRIGHT THE INFORMATION SHOWN/ CONTAINED IN THE DRAWING FILE IS COPYRIGHT. THE INFORMATION MAY ONLY BE USED FOR THE PURPOSE FOR WHICH IT WAS PRODUCED. NO PART OF THE DRAWING/ FILE MAY BE USED OR REPRODUCED IN PART OR WHOLE FOR ANY OTHER CLIENT, PERSON OR COMPANY WITHOUT THE PRIOR WRITTEN PERMISSION OF BELINDA WALTER.	<table border="1"> <thead> <tr> <th>Rev.</th> <th>Date</th> <th>Description</th> </tr> </thead> <tbody> <tr> <td>3</td> <td>5.10.21</td> <td>Modified DA application</td> </tr> <tr> <td>2</td> <td>14.9.21</td> <td>Modified DA application</td> </tr> <tr> <td>1</td> <td>6.7.21</td> <td>Development application</td> </tr> </tbody> </table>	Rev.	Date	Description	3	5.10.21	Modified DA application	2	14.9.21	Modified DA application	1	6.7.21	Development application		Project Title ALTERATIONS & ADDITIONS 80 CAIRO STREET CAMMERAY NSW 2062 CLIENT: BRIGIT & BRIAN SALTER	Sheet Title SITE COVERAGE ANALYSIS
	Rev.	Date	Description															
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Scale.	1:200	Drawing No.	A003															
Date	5.10.21																	



KEY		GLASS		CONCRETE		TIMBER		MASONRY		TILES
		METAL		FIBRECEMENT		RENDER		PLASTERBOARD		

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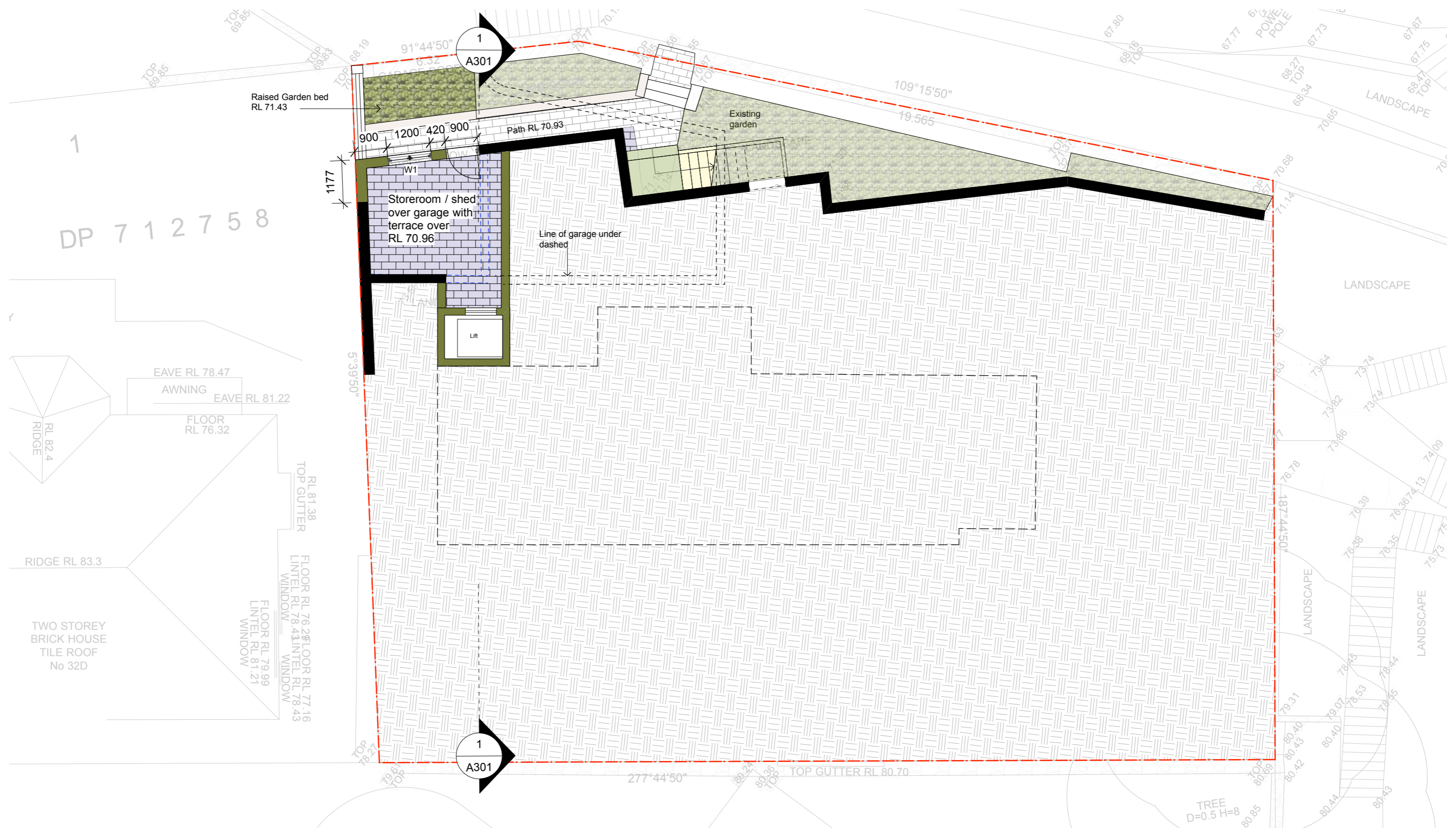
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Rev.	Date	Description
3	5.10.21	Modified DA application
2	14.9.21	Modified DA application
1	6.7.21	Development application

Project Title
ALTERATIONS & ADDITIONS
 80 CAIRO STREET
 CAMMERAY NSW 2062
 CLIENT: BRIGIT & BRIAN SALTER

Sheet Title GARAGE PLAN		
Drawn By BW	Job No. 20-09	Revision.
Scale. 1:200	Drawing No. A101	DA_3
Date 5.10.21		



KEY	GLASS	CONCRETE	TIMBER	MASONRY	TILES
	METAL	FIBRECEMENT	RENDER	PLASTERBOARD	

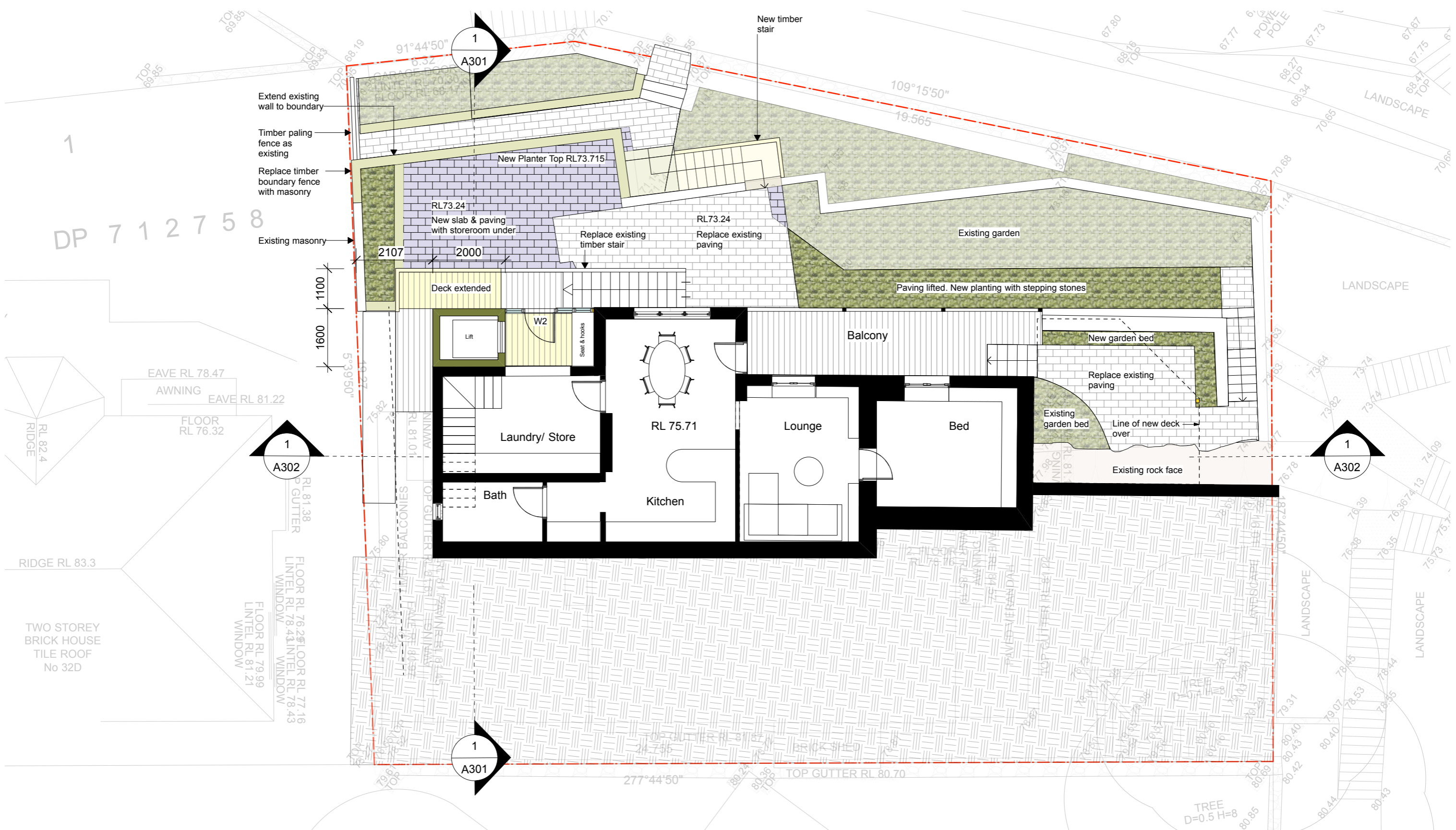
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ALTERATIONS & ADDITIONS
 80 CAIRO STREET
 CAMMERAY NSW 2062
 CLIENT: BRIGIT & BRIAN SALTER

Sheet Title			
LOWER GROUND FLOOR PLAN			
Drawn By	BW	Job No.	20-09
Scale	1:200	Drawing No.	A102
Date	5.10.21	Revision	DA_3



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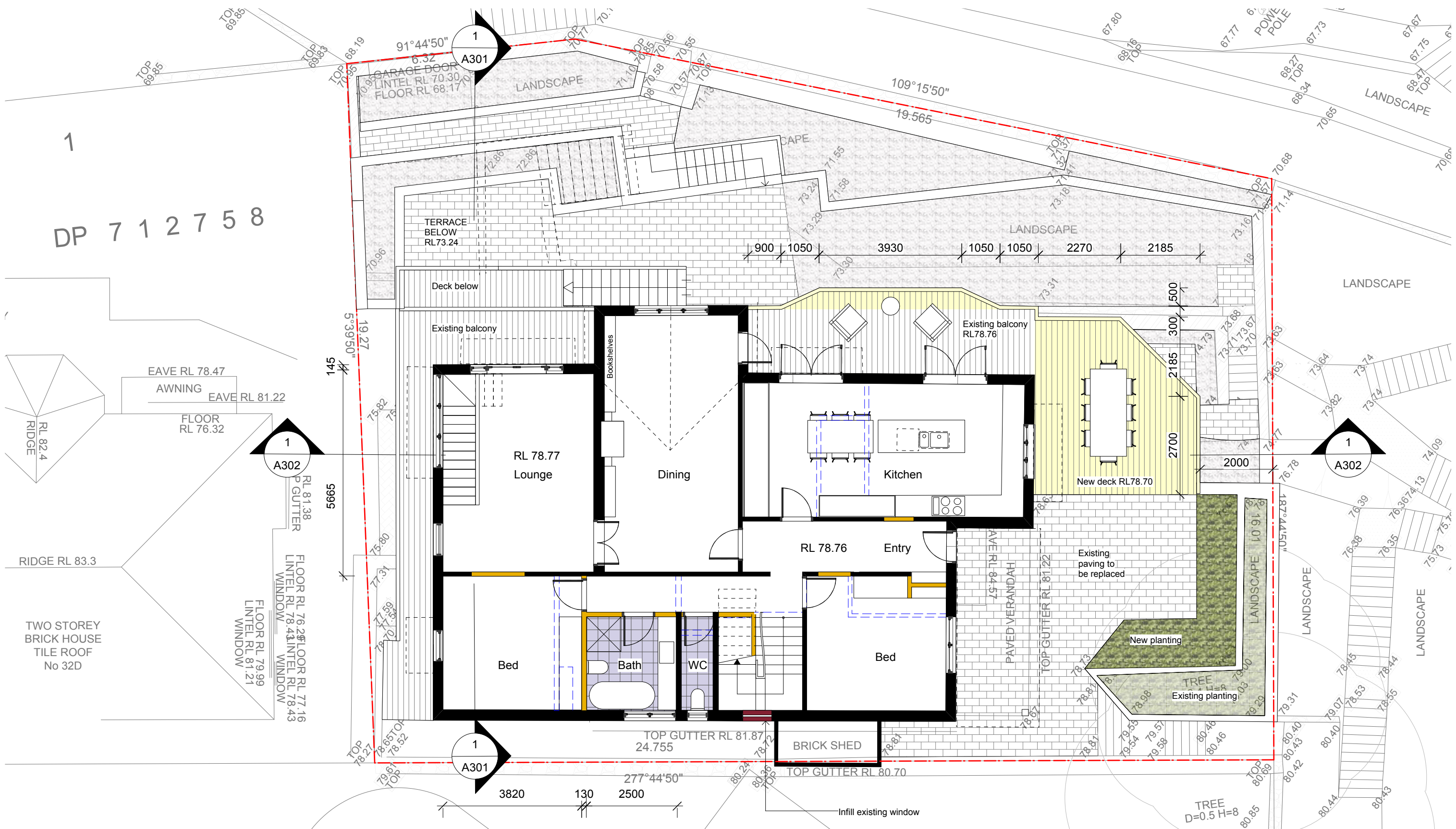
ALTERATIONS & ADDITIONS

 80 CAIRO STREET


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Sheet Title			
LOWER GROUND FLOOR PLAN			
Drawn By	BW	Job No.	20-09
Scale	1:200	Drawing No.	A103
Date	5.10.21	Revision.	DA_3



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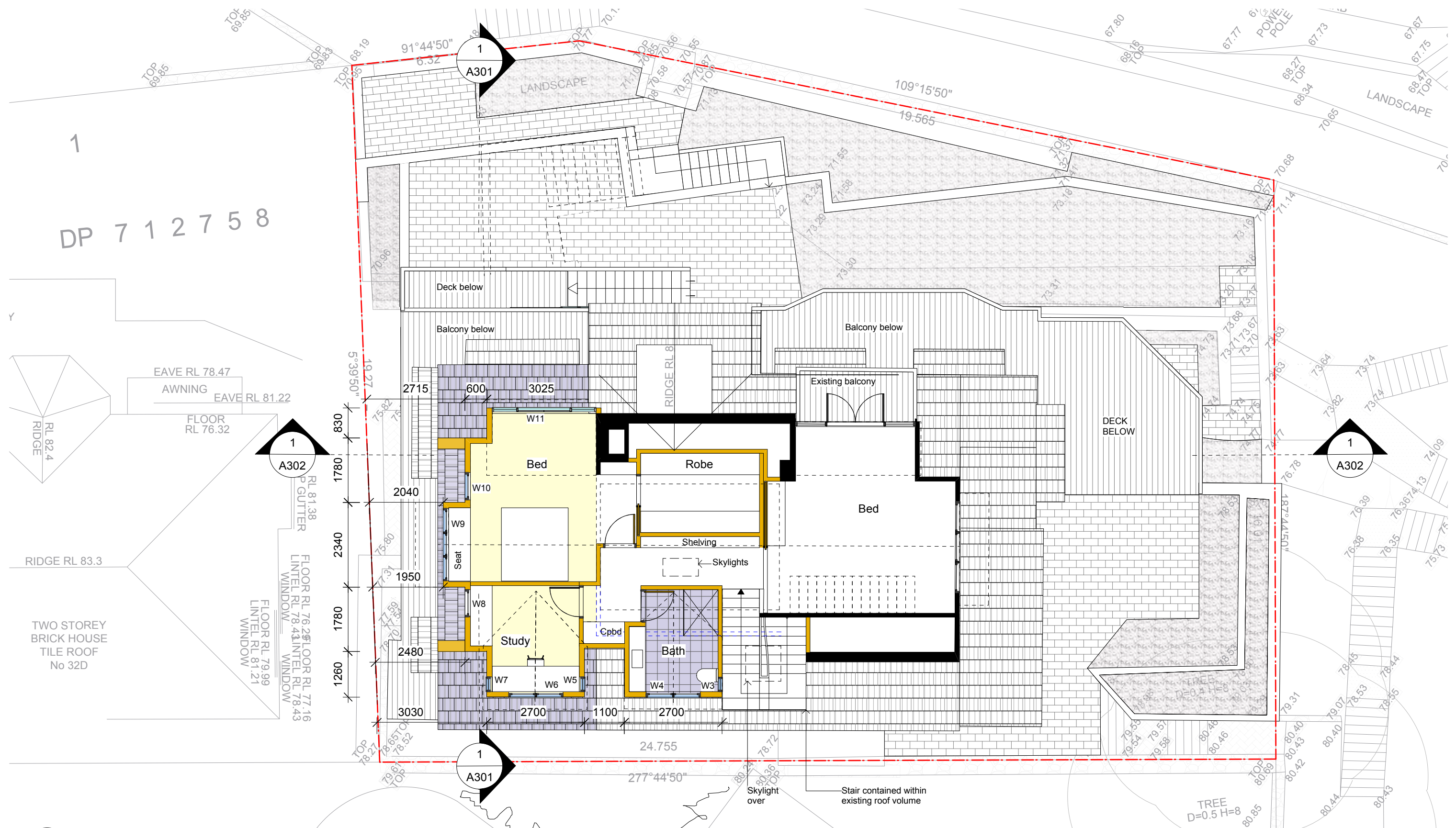

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 CAMMERAY NSW 2062
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Sheet Title		
GROUND FLOOR PLAN		
Drawn By	BW	Job No. 20-09
Scale	1:200	Drawing No. A104
Date	5.10.21	Revision. DA_3



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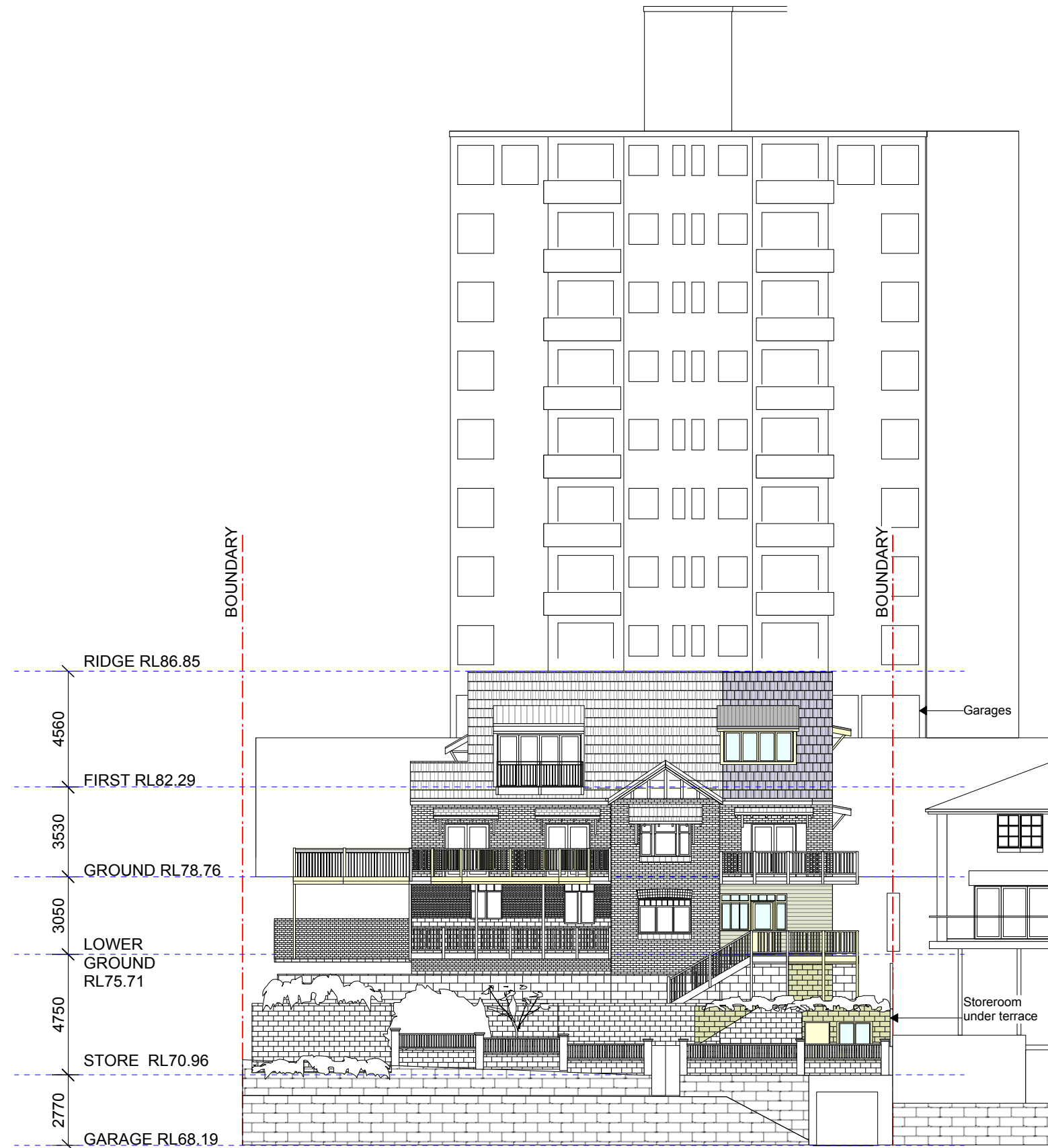
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 CAMMERAY NSW 2062
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Sheet Title FIRST FLOOR PLAN		
Drawn By BW	Job No. 20-09	Revision.
Scale 1:200	Drawing No. A105	DA_3
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ALTERATIONS & ADDITIONS
 80 CAIRO STREET
 CAMMERAY NSW 2062
 CLIENT: BRIGIT & BRIAN SALTER

Sheet Title			
NORTH ELEVATION & SECTION @1:200			
Drawn By	BW	Job No.	20-09
Scale.	1:200	Revision.	DA_3
Date	5.10.21	Drawing No.	A200

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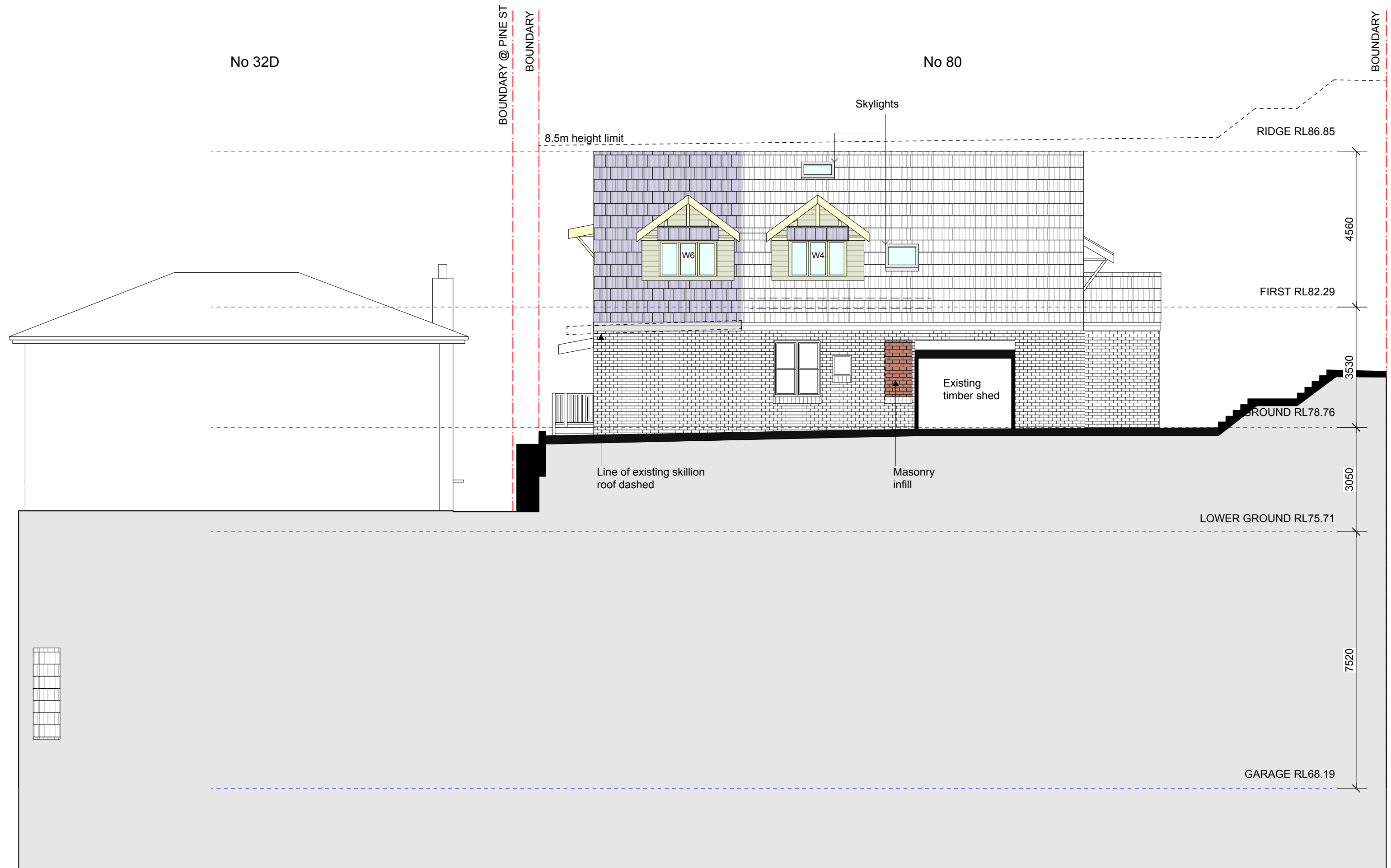
Project Title
ALTERATIONS & ADDITIONS
 80 CAIRO STREET
 CAMMERAY NSW 2062
 CLIENT: BRIGIT & BRIAN SALTER

Sheet Title
NORTH ELEVATION

Drawn By	BW	Job No.	20-09	Revision.	DA_3
Scale.	1:100	Drawing No.	A201		
Date	5.10.21				

No 32D

No 80



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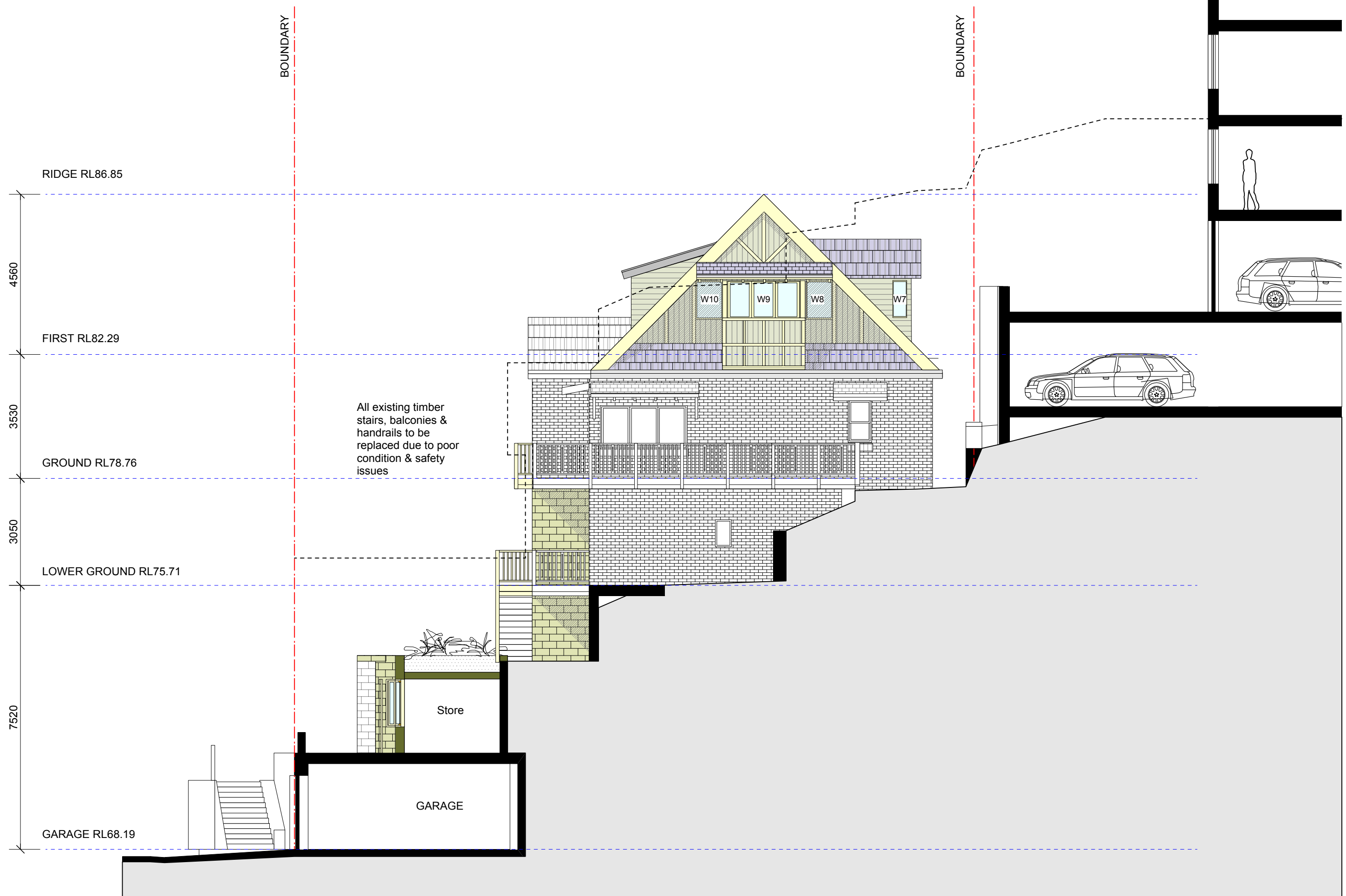
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Sheet Title			
SOUTH ELEVATION			
Drawn By	BW	Job No.	20-09
Scale.	1:100	Revision.	DA_3
Date	5.10.21	Drawing No.	





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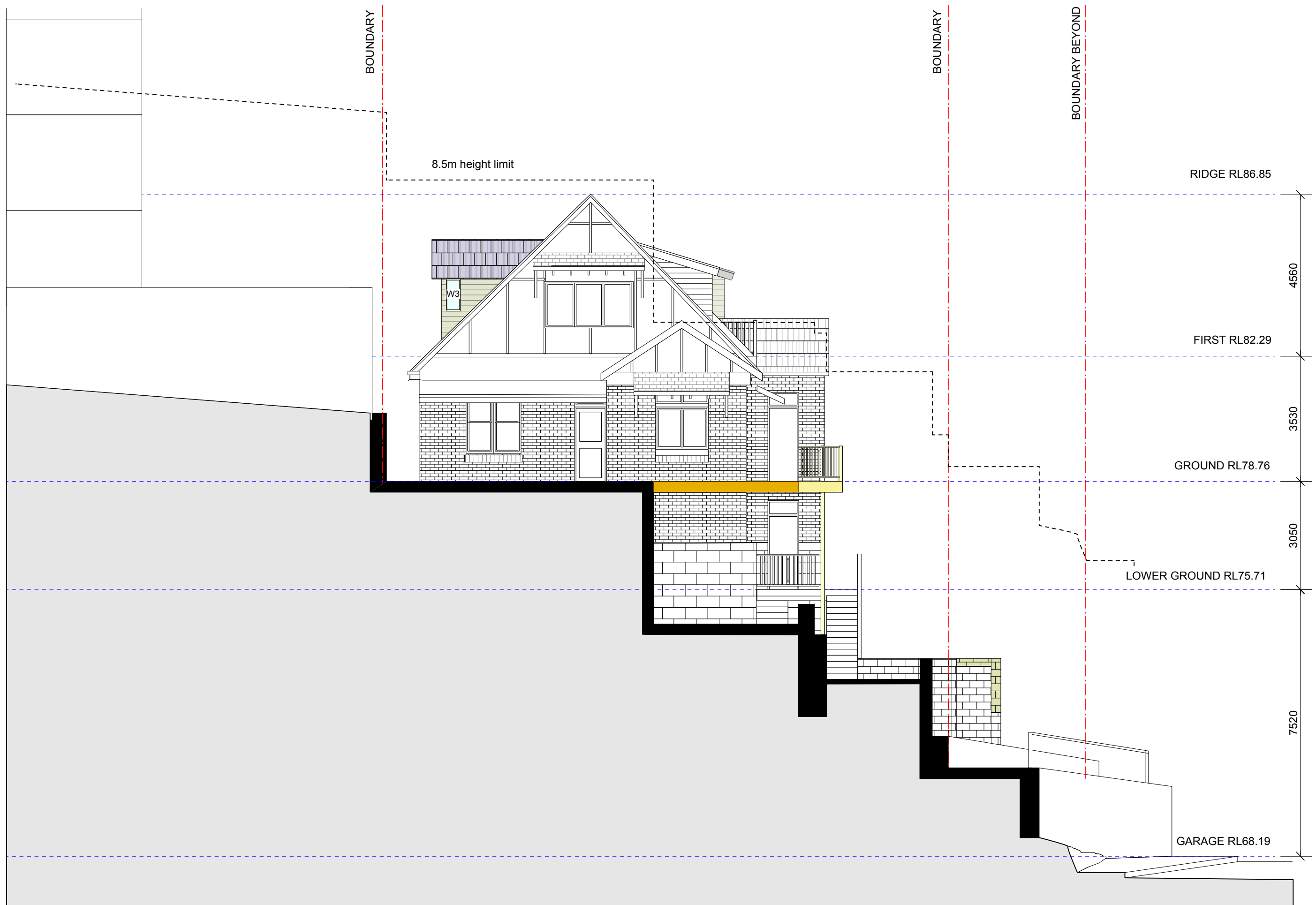
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ALTERATIONS & ADDITIONS
 80 CAIRO STREET
 CAMMERAY NSW 2062
 CLIENT: BRIGIT & BRIAN SALTER

Sheet Title
WEST ELEVATION

Drawn By	BW	Job No.	20-09	Revision.
Scale.	1:100	Drawing No.	A203	DA_3
Date	5.10.21			



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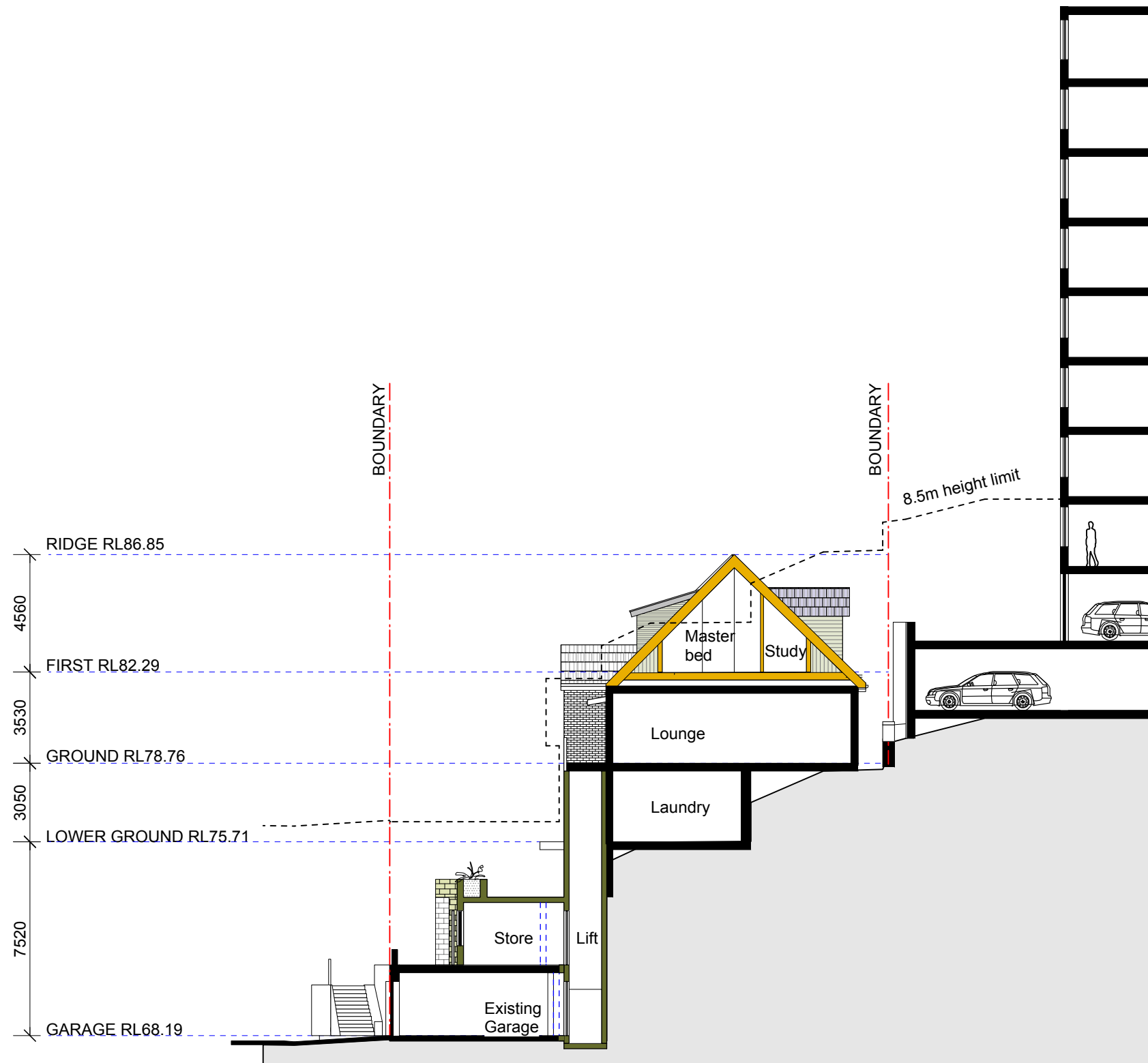
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Sheet Title
EAST ELEVATION

Drawn By	BW	Job No.	20-09	Revision. DA_3
Scale.	1:100	Drawing No.	A204	
Date	5.10.21			



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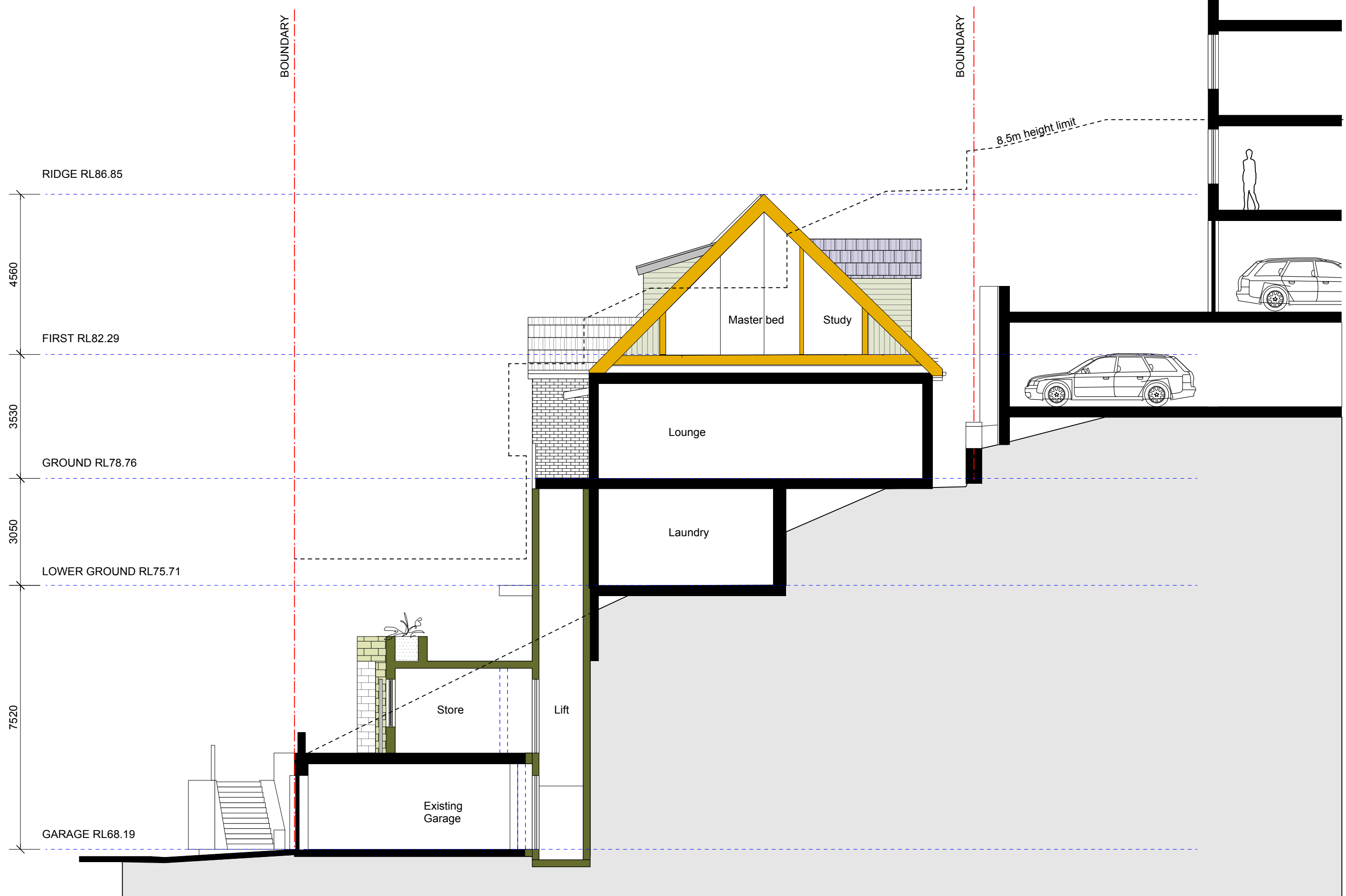
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Sheet Title
SECTION @ 1:200

Drawn By	BW	Job No.	20-09	Revision. DA_3
Scale.	1:200	Drawing No.	A300	
Date	5.10.21			



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Sheet Title
SECTION @ 1:100

Drawn By	BW	Job No.	20-09	Revision.
Scale.	1:100	Drawing No.	A301	DA_3
Date	5.10.21			

Painting Specifications – 80 Cairo Street Cammeray NSW 2062

Resene Paints

Artarmon Trade Centre, 2/87 Reserve Rd, Artarmon NSW 2064

Usual trade discount applies; Order paint online/telephone; Free onsite delivery.

Resene Paints: *Nocturnal* - N34-002-275

- All balcony balustrades, railings, baseboards, soffits, vertical posts
- Under-window supports, fascia, side panels and side boards
- All fences and gates

Resene Paints: *Half Nocturnal* - N40-003-264

- Outer window frames (including top main window) and bargeboards above main top window; inner window frames (lower main window)

Resene Paints: *Half Black White* - N94-004-096

- All inner window frames (including top main window) and inner bargeboards above main top window



**CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT
STANDARDS
(CI.4.3 HEIGHT OF BUILDINGS) UNDER
NORTH SYDNEY LEP 2013**

**To Accompany a
Development Application
For alterations and additions at
No. 80 Cairo Street, Cammeray**

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VARIATION SOUGHT

Permissible Height

Pursuant to Clause 4.3 of NSLEP 2013, the maximum height of a building on land in the R2 Low Density Residential zone, must not exceed 8.5m.

Proposed Height

The proposed roof extension exceeds the building height as demonstrated on the **Figure 1** below. The proposal results in a maximum building height of 11.2m continuing the existing roof line (max. existing height being 11.4m).

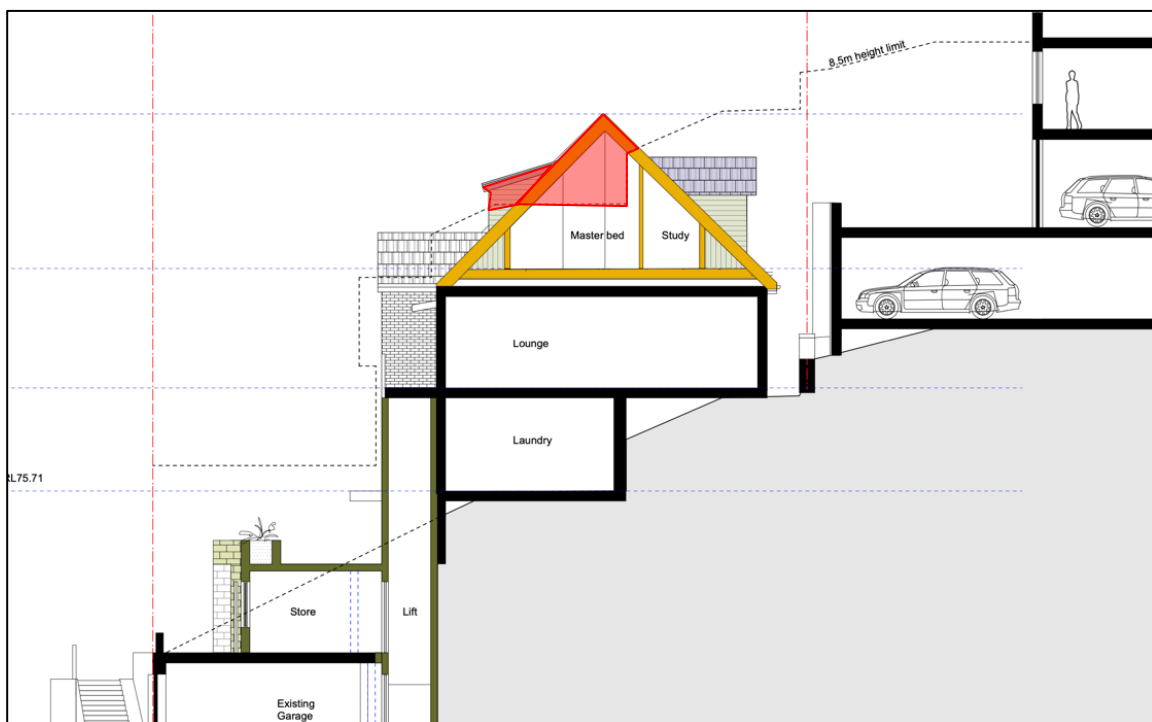


Figure 1: Proposed max. building height exceedance shown hatched in red

CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS

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:

1. *Compliance with the particular requirements of Clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of the LEP;*
2. *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); and*
3. *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.*

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Whebe v Pittwater Council (2007) NSWLEC 827 five (5) part “test” is set out below:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council’s own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; or*
5. *The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

Clause 4.6(3)(a) Development standard is unreasonable or unnecessary in the circumstances of the case

The decision in **Four2Five Pty Ltd v Ashfield Council (2015) NSW LEC 90** indicates that merely showing that the proposed development achieves the objectives of the development standard is insufficient to justify that compliance is unreasonable or unnecessary in the circumstances of the case, particularly for the purposes of Clause 4.6(3)(a).

As such compliance with the standard must be shown to be unreasonable or unnecessary in the circumstances of the case and must satisfy the five part “Whebe test” above.

With respect to the “Whebe test” above the following is noted:-

1. Refer to Clause 4.6(4)(a)(ii) below;
2. The very steep topography results in the non-compliance and in this case the standard **is not relevant** in order to achieve an appropriate built form;
3. Refer to Clause 4.6(4)(a)(ii) below;
4. In this instance, it is considered that the abandoning of the Height of Building standard in the circumstances of the case is appropriate and will not create a precedence – Refer to Clause 4.6(3)(b) below; and
5. Refer to Clause 4.6(3)(b) below.

Clause 4.6(3)(b) Sufficient environmental planning grounds to justify contravening the standard;

It is considered that sufficient planning grounds exist pursuant to Clause 4.6(3)(b) to justify contravening the maximum building height standard having regard for the following:-

- The proposal is consistent with the scale and massing of surrounding developments in the streetscape;
- The proposal does not dominate adjoining spaces;
- The proposal breach in itself, does not adversely impact on adjoining development by way of overshadowing, privacy or views;
- There is an absence of environmental harm associated with the non-compliance with the development standard;
- The roof extension is consistent with the built form as previously approved under DA1136/97 granted on 9 October 1997 but never constructed – refer to **Figure 2**;

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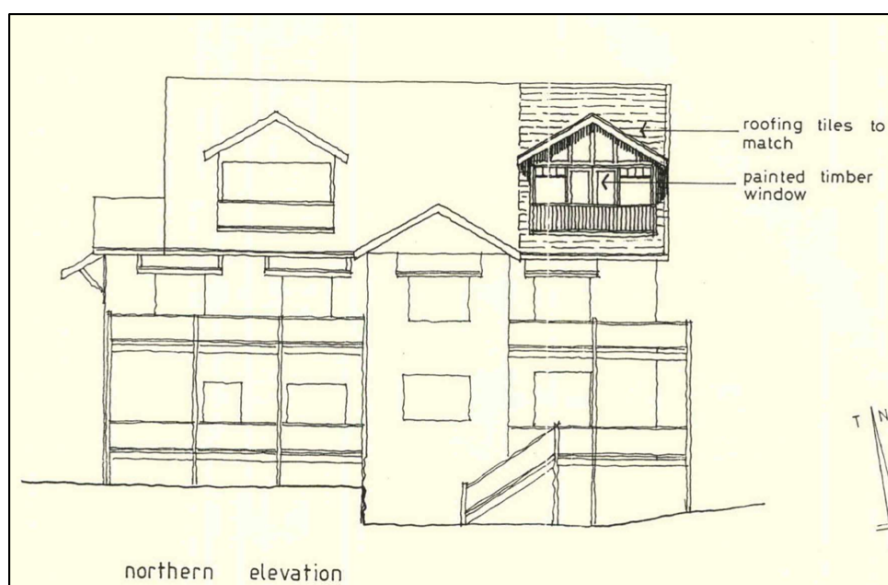


Figure 2: Built form previously approved under DA1136/97

- The appearance of the dwelling were changed considerably as a result of the Cape Cod alterations in the 1980s and it is considered that the proposed addition would 'finish' this earlier alterations and additions. The roof extension over the remaining third of the dwelling would thus form an integrated whole and balance the look of the building from the street.
- The proposed alterations and additions respect the heritage characteristics of the area and is consistent with the existing character, scale and form of the building.

As such there are sound planning grounds to vary the standard.

Clause 4.6(4)(a)(i) The applicants written request adequately addresses matters required under subclause (3)

This written request for an exception to Clause 4.3(2B) (Height of Buildings) is made in support of the proposed development for the alterations and additions to the existing dwelling at No. 80 Cairo Street, Cammeray.

Clause 4.6(4)(a)(ii) proposed development will be in the public interest because it is consistent with (1) the objectives of the height of buildings (2) the objectives of the R2 Low Density Residential Zone.

1. What is the underlying object or purpose of the standard?

The specific objectives of Clause 4.3 (Height of buildings) in North Sydney LEP 2013 are as follows:

- to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*
- to promote the retention and, if appropriate, sharing of existing views,*
- to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,*
- to maintain privacy for residents of existing dwellings and to promote privacy for residents of*

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new buildings,

- e) *to ensure compatibility between development, particularly at zone boundaries,*
- f) *to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area”.*

Consideration of each objective follows below:-

- a) ***to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,***

The proposal does not alter the natural landform. The topography falls steeply towards Pine Street as well as having a cross fall towards the west. The proposal does not disturb the existing sandstone ledges which are visible in outcrops at numerous locations within and surrounding the site.

The proposed massing steps down the slope resulting in a single storey with rooms in roof towards the south and a two storey with rooms in roof, built form fronting Pine Street.

- b) ***to promote the retention and, if appropriate, sharing of existing views,***

It is anticipated that existing views are obtained across the existing roof of the subject site towards the north east. The existing ridge is at RL86.85 (new works to continue existing ridge) whilst the finished floor level of the affected apartments is at RL86.45. Accordingly, as eye level is generally taken at 1.6m above FFL, the view line is well above the ridge of the subject site.

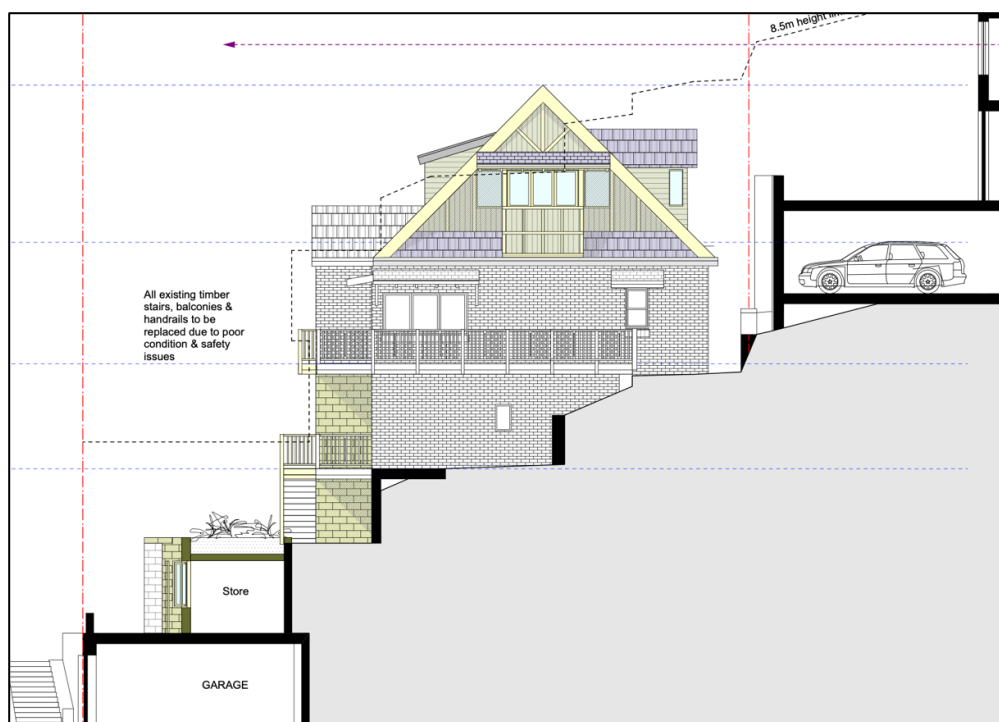


Figure 2: Retaining views from the units in Bellevue towers across the subject site

The non-complying built form (limited to the roof extension and part of the dormer fronting Pine Street) is **not** located within the primary view corridor which is towards the north-east. Rather the new built form is located towards the west of the subject site and more inclined to affect the district views towards Northbridge however, it is considered that the main view from the units within the Bellevue Towers to the Northbridge Suspension Bridge will be retained.

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Accordingly, having regard for the above the proposed development is considered to allow for a reasonable sharing of views.

c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,

Detailed shadow diagrams are attached at **Appendix 2**. The building elements in breach of the LEP building height limit, would not cause material overshadowing of the adjoining properties to the west at No. 32D Pine Street as the northern facing living areas would receive in excess of the required 3 hours of sunlight in mid- winter. The additional shadows caused by the non-complying roof would generally fall towards the first floor bedroom window within the eastern elevation of the adjoining dwelling. This window is only affected during the morning period with the additional shadow moving across the carpark of the Bellevue Towers at noon and 3pm.

Accordingly, the proposal will maintain reasonable access to sunlight to the north facing living room windows of No. 32D Pine Street during the winter solstice consistent with O1 “solar access” in Part B Section 1.3.7 and O4 “general objectives” in Part B Section 1.1.1 of the NSDCP 2013.

d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,

The proposed elements which exceed the building height, does not impact on privacy as it is limited to the roof form and street fronting dormer only.

General privacy discussion

The new bedroom and study windows within the western elevation are located a min. of 5.2m from the eastern facade of No.32D Pine Street. The proposed windows have been off-set and located well above the existing windows, overlooking the roof of No. 32D Pine Street – refer to **Photo 1** below.



Photo 1: View over existing roof of No 32D Pine Street

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Accordingly, the proposal maintains privacy for residents of existing dwellings whilst promoting privacy for residents of the subject dwelling.

- e) ***to ensure compatibility between development, particularly at zone boundaries, to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.***

The scale and density proposed is consistent with the character of the area, particularly with steep sloping sites (high side of Pine Street).

The roof extension is consistent with what was previously approved under DA1136/97 granted on 9 October 1997 but never constructed.

The development provides articulation along the facades with variations in materials and finishes to minimise the bulk and scale of the development when viewed from adjoining properties and the public domain / street. The proposed development does not dominate the surrounding properties by virtue of its bulk nor is it inconsistent with surrounding developments. The proposed massing or built form represents a single storey with rooms in roof at towards the west and a two storey with rooms in roof, fronting Pine Street.

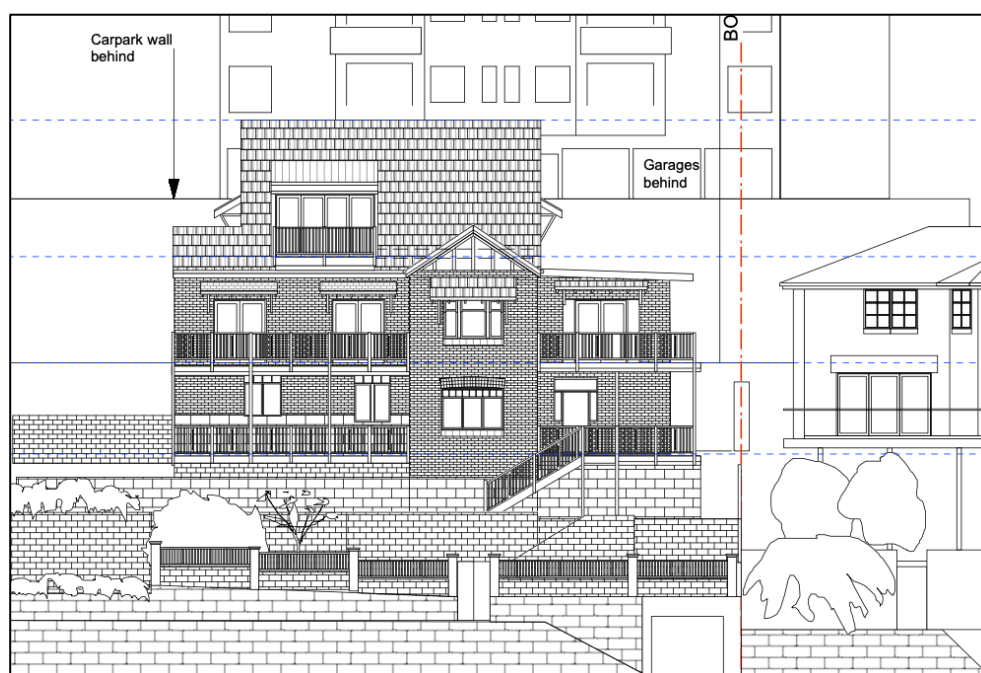


Figure 3: Existing built form

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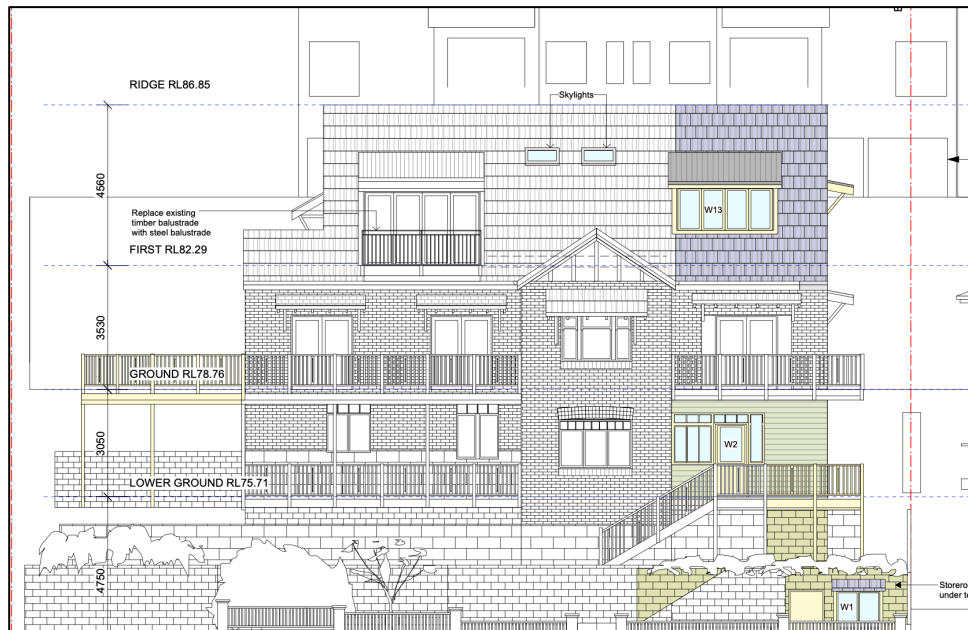


Figure 4: Proposed built form

2. Objectives of the R2 Low Density Residential Zone

Subclause (4) of clause 4.6 of NSLEP 2013 requires consideration of the proposal's consistency with both the objectives of the standard, and the objectives of the zone, which apply to the site.

Consistency with objectives underpinning the standard is provided above. Consideration of consistency with the objectives for the R2 Low Density Residential zone is addressed below:

- The proposal retains the low density residential zoning;
- The proposal maintains a compatible bulk and scale with surrounding residential premises; and
- The proposal result in no adverse amenity impacts on surrounding properties whilst providing for good internal amenity for future occupants.

In this regard, the departure from the LEP height control as proposed by this application would not result in any outcome that would be inconsistent with the zone objectives

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

Not required

Clause 4.6(5) In deciding whether to grant concurrence, the Secretary must consider:

Not required

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 1.3 of the EPA Act?

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The development is consistent with the objects of the Act, insofar as:-

- The proposal will result in the orderly and economic use and development of land as the site is of an appropriate size, location and land use zoning to enable the proposed development;
- Good design outcome consistent with the surrounding built form;
- Promote the continued management of the built heritage;
- Appropriate utility services are available; and
- There will be no unreasonable adverse amenity impacts on the environment.

Is the exception well founded?

The proposal adequately addressed the consistency of the proposed development with the underlying and stated purposes of the standard and the local planning objectives for the locality and objectives of the EP& A Act. The variation under Clause 4.6 is considered appropriate having regard for the environmental planning grounds and as such strict compliance with the development standard is unreasonable and unnecessary.

The objectives of Clause 4.6

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

The degree of flexibility sought in relation to the application of the building height required is consistent with the surrounding and adjoining premises.

It is considered that an appropriate outcome is achieved by allowing the non-compliance and the variation is supportable in the site circumstances.