

**NSLPP MEETING HELD ON 02/06/21****Attachments:**

1. Site Plan
2. Architectural Plans
3. Clause 4.6 Variation

**ADDRESS/WARD:** 38 Cowdroy Avenue, Cammeray (T)**APPLICATION No:** DA 294/20

**PROPOSAL:** Substantial alterations and additions to dwelling including partial demolition of the existing dwelling, internal reconfiguration, a new double garage, additions to the main dwelling, a single storey rear addition, a new swimming pool and deck, earthworks and landscaping works.

**PLANS REF:**

<b>Drawing No./Rev</b>	<b>Title</b>	<b>Drawn by</b>	<b>Dated</b>
DA02 Rev B	Existing/Demolition	LQR Design	28/10/2020
DA03 Rev C	Site Plan/Roof Plan	LQR Design	19/05/2021
DA04 Rev C	Street Level	LQR Design	19/05/2021
DA05 Rev C	Entry/Level 2	LQR Design	19/05/2021
DA06 Rev C	Level 1	LQR Design	19/05/2021
DA07 Rev C	Ground Floor	LQR Design	19/05/2021
DA08 Rev D	Lower Ground	LQR Design	19/05/2021
DA09 Rev F	West Elevation	LQR Design	19/05/2021
DA10 Rev E	East Elevation	LQR Design	19/05/2021
DA11 Rev C	South/North	LQR Design	19/05/2021
DA12 Rev E	Section A-A	LQR Design	19/05/2021
DA12.1 Rev C	Section B-B	LQR Design	19/05/2021
DA12.2 Rev B	Section C-C	LQR Design	19/05/2021
DA13 Rev C	Exterior Finishes	LQR Design	19/05/2021

**OWNER:** Gabriel Caliguri**APPLICANT:** Troy Davis**AUTHOR:** Robin Tse, Senior Assessment Officer**DATE OF REPORT:** 24 May 2021**DATE LODGED:** 13 November 2020**AMENDED:** 18 March 2021**RECOMMENDATION:** Approval

## EXECUTIVE SUMMARY

This development application seeks approval from the North Sydney Local Planning Panel for substantial alterations and additions to an existing detached dwelling, a new rear addition, a swimming pool and associated earthworks and landscaping works.

**The proposal proposes a variation to the building height development standard which is greater than 10%, that requires determination of the application by the Panel as directed by the Minister of Planning, Industry and the Environment.**

Council's notification of the proposal has attracted one (1) submission raising concerns about the likely impacts of excavation works, the need for a dilapidation survey for an adjoining property and the support for the removal of two trees.

The proposal has been assessed against the North Sydney LEP 2013 and North Sydney DCP 2013 and generally found to be satisfactory.

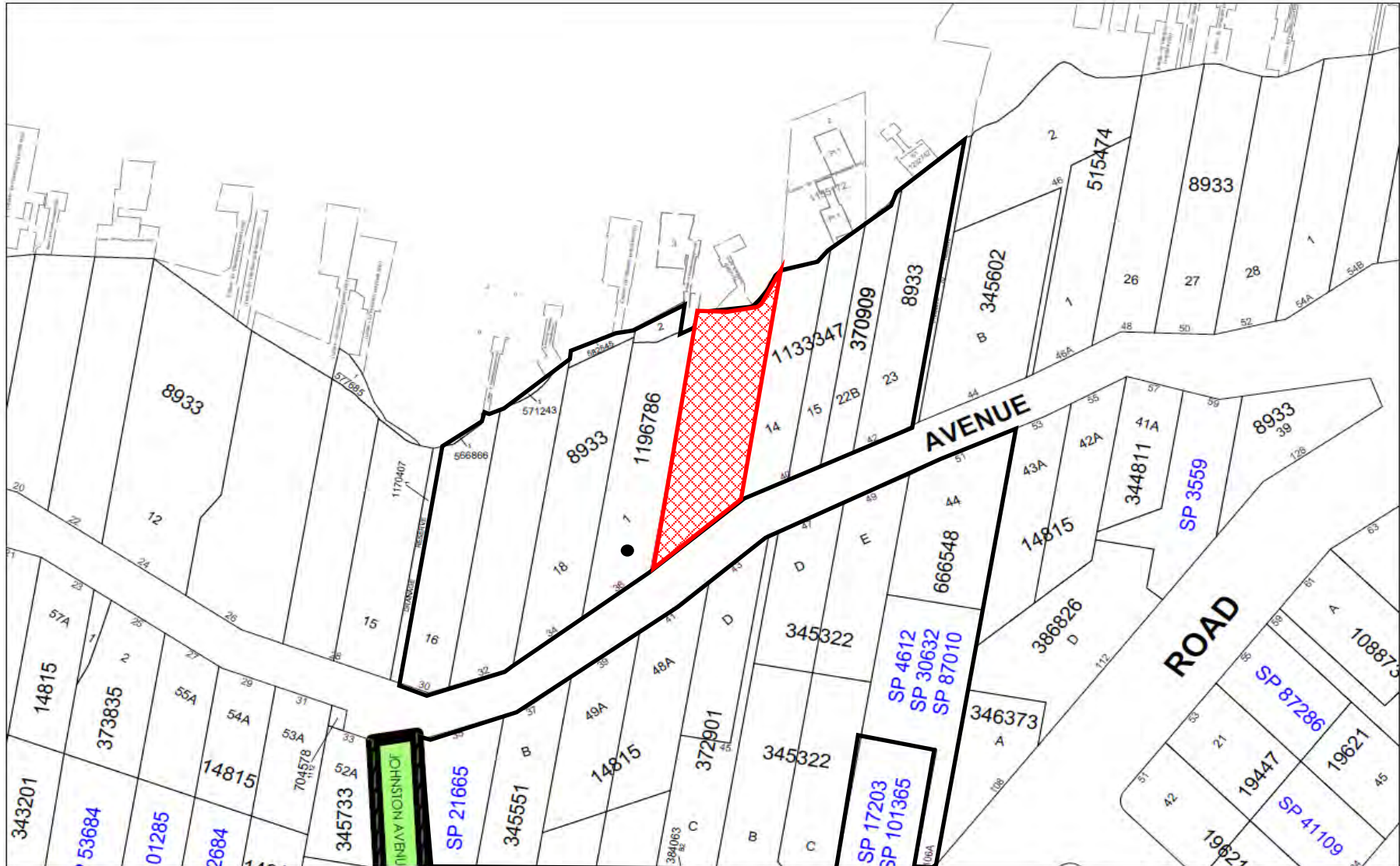
The variation to the building height development standard is justifiable because the building elements above the LEP maximum building height are unlikely to have material impacts on the overall character of the locality and would not cause material amenity impacts for the adjoining properties in terms of view loss, overshadowing and loss of privacy.



The variation to the DCP's site coverage and landscaped area controls are considered to be acceptable given that the design of the proposed single storey rear addition located away from the main dwelling together with a courtyard and roof garden above the addition would ensure the retention of an existing blackbutt tree whilst maintaining the landscape quality of the subject site with adequate landscaping and open space within the property.

The issues raised in the submissions received have also been addressed in the report.

The proposal, as amended by conditions, is considered to be reasonable in the circumstances and is recommended for **approval** subject to conditions.

**LOCATION MAP**



 Property/Applicant   ● Submitters - Properties Notified   

## **DESCRIPTION OF PROPOSAL**

The proposed works involve substantial alterations and additions to an existing dwelling at No. 38 Cowdroy Avenue, Cammeray. The proposed works are summarised as follows:

### ***Street Level (RL 22.92):***

- Demolition of the existing garage;
- Construction of a new 2-car garage with a flat roof, roof garden and suspended driveway;
- Construction of a new lift connecting the garage with levels 1 and 2 of the dwelling; and
- Construction of a concrete path and stairs from the street to dwelling entrance.

### ***Level 2 (RL 20.38):***

- Removal of the existing pitched and hipped roof of the main dwelling;
- Partial demolition of existing fabric including internal partitioning walls, external walls on the eastern and western elevations and a balcony on the northern elevation;
- Re-configuration of the internal layout to accommodate a sitting room/library, entrance hall, a master suite with walk-in-robe, an ensuite bathroom, a staircase and a lift shaft;
- Construction of a new balcony on the northern elevation;
- Construction of a new flat roof; and
- Construction of a new concrete path and stairs to the dwelling entrance hall from street level adjacent to the eastern property boundary.

### ***Level 1 (RL 17.30):***

- Partial demolition of the existing fabric including internal partitioning walls, external walls on the eastern and western elevations and a balcony on the northern elevation;
- Re-configuration of the internal layout to accommodate three bedrooms, three bathrooms, a study, a staircase and a lift shaft;
- Construction of a new balcony on the northern elevation; and
- Construction of a new concrete path and stairs adjacent to the eastern property boundary.

### ***Ground Floor (RL 14.30):***

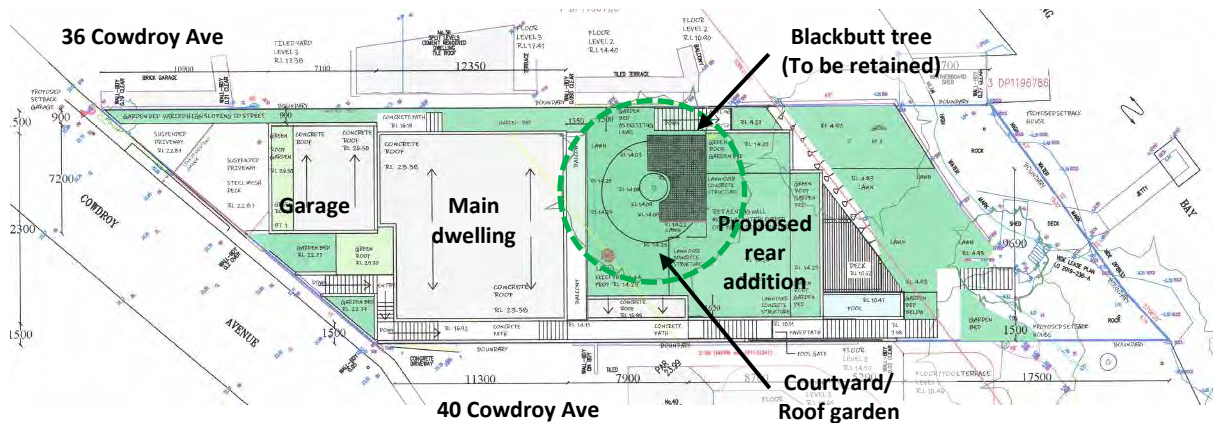
- Partial demolition of the existing fabric including internal partitioning walls, external walls on the eastern and western elevations;
- Re-configuration of the internal layout to provide a laundry and TV/study room;
- Construction of an enclosed access staircase to the new addition on the lower ground floor;
- Creation of a courtyard to the north of the main dwelling with the retention of an existing blackbutt tree and landscaping on the roof of the proposed addition to provide a roof garden; and
- Construction of a new concrete path and stairs adjacent to the eastern property boundary.

### ***Lower Ground Floor (RL 10.57):***

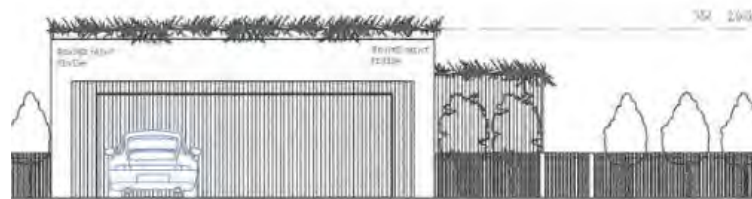
- Construction of a new addition containing an open-plan kitchen/living/dining area, a small WC;
- Construction of an enclosed access staircase connecting the new addition and the ground floor level of the main dwelling;

- Construction of a swimming pool on the eastern side of the new addition with a raised deck on the northern elevation of the new addition; and
- Construction of a new concrete path and a set of stairs down along the eastern side elevation towards Long Bay and the jetty.

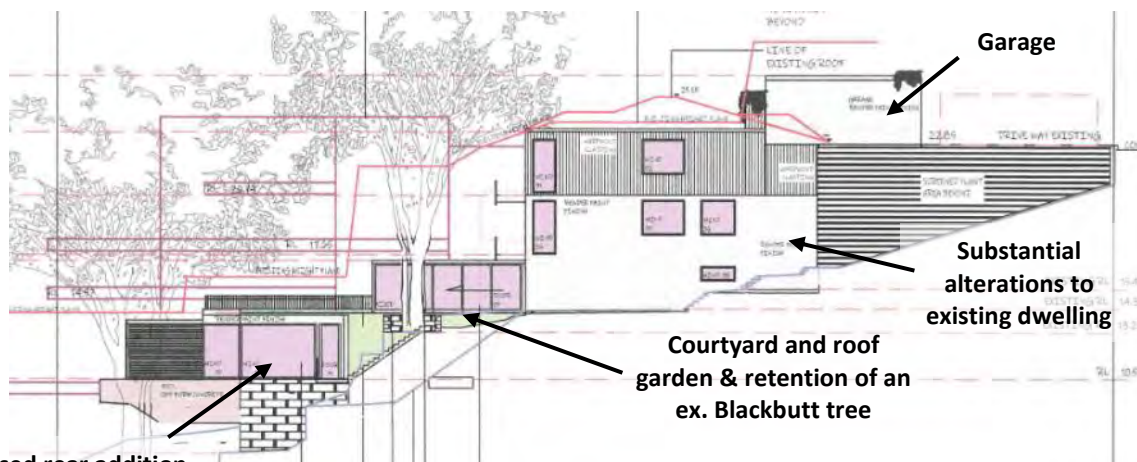
The proposal also involves landscape works including removal of one cedar tree (Himalayan Cedar) on a foreshore terrace and the retention of two mature blackbutt trees (*Eucalyptus Pilularis*) within the subject site between the northern building line of the main dwelling and the foreshore.



Site plan

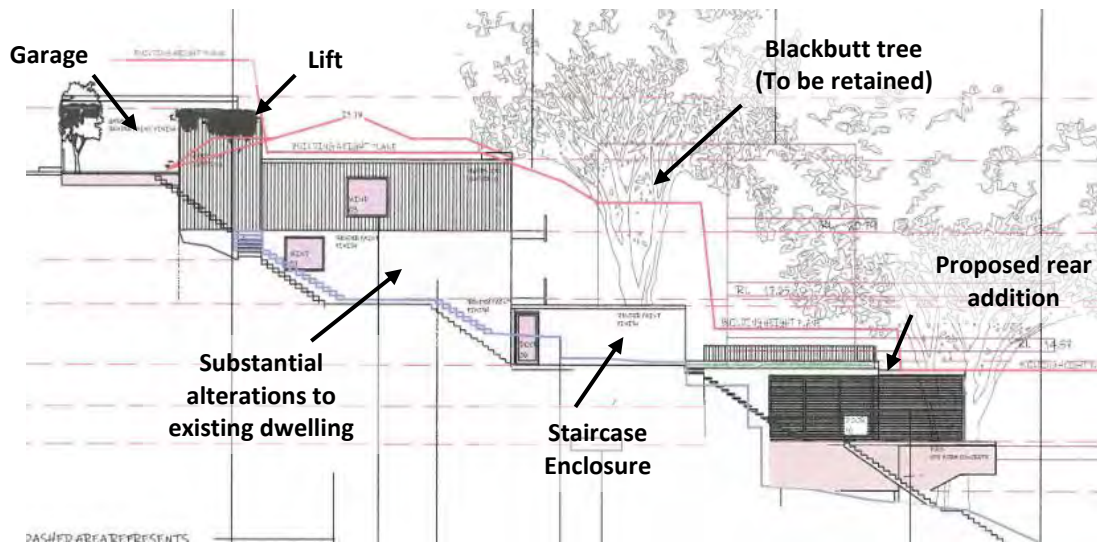


Southern (Cowdroy Ave) Elevation

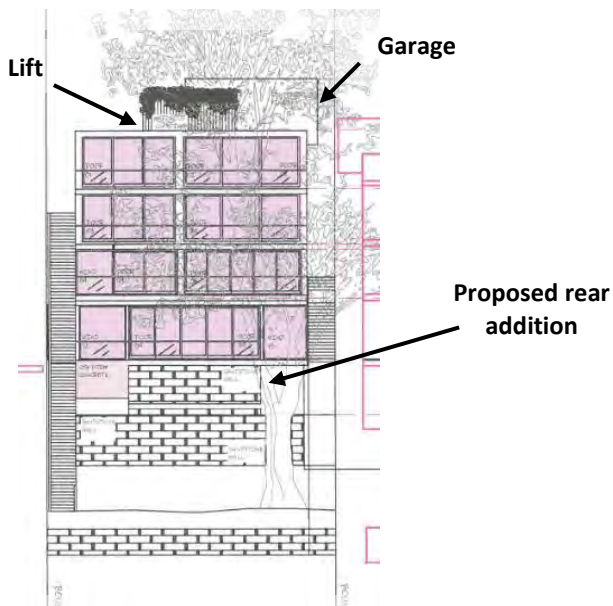


Proposed rear addition

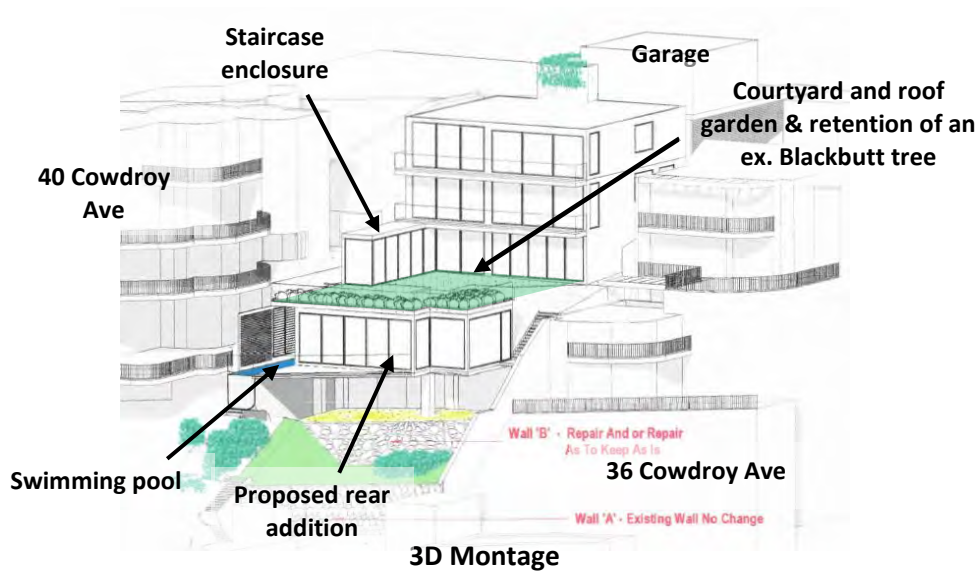
Western Elevation



Eastern Elevation



Northern Elevation



Figures 1 – 6: Proposed Development

## STATUTORY CONTROLS

North Sydney Local Environmental Plan 2013 (NSLEP 2013)

- Zoning – E4 Environmental Living
- Item of Heritage – No
- In Vicinity of Item of Heritage – No
- Conservation Area – No
- Foreshore Building Line – Yes (Northern end)

Environmental Planning & Assessment Act 1979

SREP (Sydney Harbour Catchment) 2005 & Draft Environment SEPP 2017

SEPP (Coastal Management) 2018

SEPP No. 55 – Remediation of Land & Draft SEPP

SEPP (Building Sustainability Index: BASIX) 2004

SEPP No. 19 – Bushland in Urban Areas

SEPP (Vegetation in Non-Rural Areas) 2017

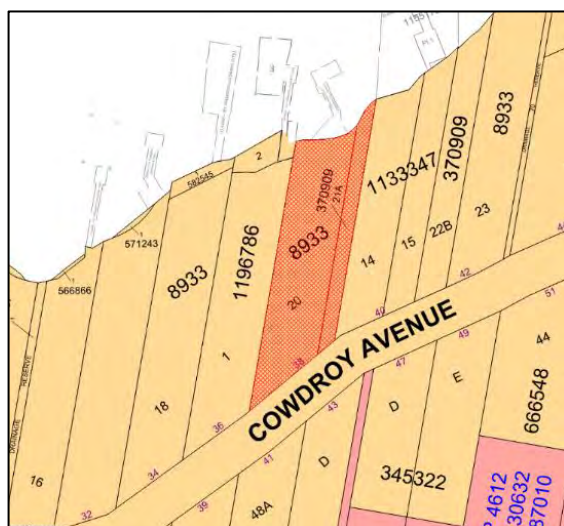
Local development

## POLICY CONTROLS

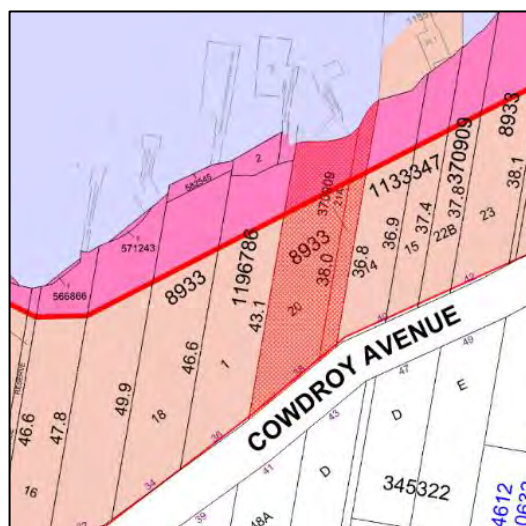
North Sydney Development Control Plan 2013 (NSDCP 2013)

- Bushland Buffer – Buffer Area B (300m)

Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005



*Figure 7: Zoning*



*Figure 8: Foreshore building line & Foreshore area*

## DESCRIPTION OF LOCALITY

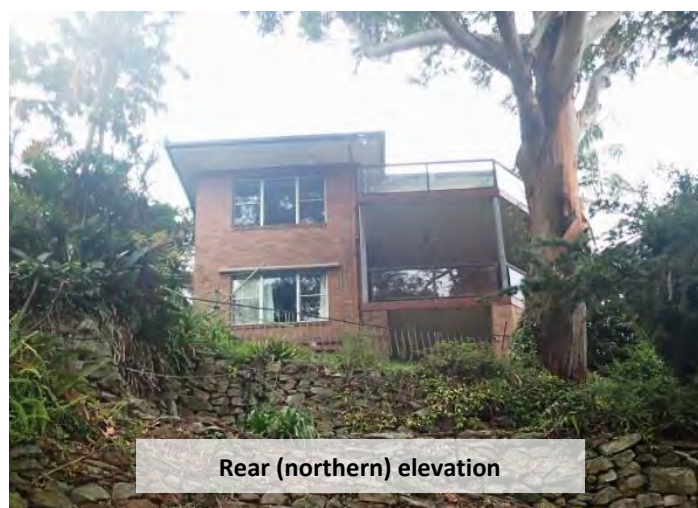
The subject site is known as 38 Cowdroy Avenue, Cammeray (Lot 20 DP 8933 and Lot 21A DP 37909), located on the northern side of Cowdroy Avenue. The trapezoid-shaped site has a total area of 825.1m<sup>2</sup>, with a south-north fall of approximately 20m.

First subdivided in 1919 and sold in 1932 as part of the ‘Cammeray Point Estate’, the subject site has been occupied since c.1955 by a three-storey detached dwelling with an elevated detached double garage facing Cowdroy Avenue.

The northern boundary of the property does have a direct foreshore frontage to Long Bay and has a jetty and mooring lease from Maritime Services. The northern garden section of the site falls within the Foreshore Building Line covered by the *SREP (Sydney Harbour Catchment) 2005*.

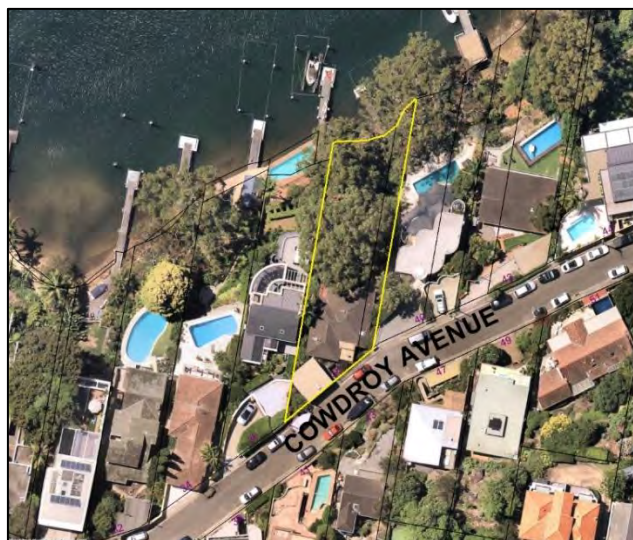
Surrounding development is predominately residential (with the exception of the Cammeray Marina to the east at No. 46 Cowdroy Avenue), comprising multi storey single dwellings that are designed to follow the steep natural topography of the area.

Adjoining the subject site to the west of the subject site is No. 36 Cowdroy Avenue, a 2-3-storey single dwelling with a detached garage facing Cowdroy Avenue like the subject site. To the east of the subject site is a four storey detached dwelling at No. 40 Cowdroy Avenue. The properties to the south of the subject site on the opposite (southern) side of Cowdroy Avenue (No's. 41, 43 Cowdroy Avenue) are elevated due to a rockface along the street.



*Figures 9 - 10: Subject site*





*Figure 11: The locality*

## RELEVANT HISTORY

### *Current Application:*

- **13 November 2020** – The subject Development Application (**D 294/20**) for substantial alteration and additions to the existing detached dwelling was lodged with Council.
- **27 November to 11 December 2020** - The subject application was notified to adjoining properties and the Bay Precinct Committee. One (1) submission was received.
- **27 November 2020** – A letter was sent to the applicant requesting the submission of a view loss analysis.
- **3 December 2020** – The Assessing Officer carried out an inspection of the subject site.
- **3 December 2020** – The applicant was requested to clarify various aspects of the proposed development including the extent of earthworks, the scope of works affecting the existing retaining structures within the rear terraces, the design details for the swimming pool and site coverage calculation.
- **14 December 2020** – Council Landscape Officer's comments were provided to the applicant for consideration.
- **18 January 2021** -The applicant submitted updated drawings in response to the enquiries from the Assessing Officer.
- **22 February 2021** – The applicant submitted a revised survey plan confirming the site area at 825.2sqm.
- **16 March 2021** – A site inspection was held attended by Council's Assessing Officer and Council's Landscape Officer together with the applicant's arborist.
- **18 March 2021** – Council received further plans showing how the proposed works would minimise the impacts on the existing root zone for the existing blackbutt tree within the rear yard.
- **6 May 2021** – The applicant provided further information about building height of the proposed garage.
- **20 May 2021** – The applicant submitted a Clause 4.6 statement seeking variation to the LEP maximum building height development standard with updated architectural plans.

## **REFERRALS**

### **Internal:**

#### **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 application was referred to Council Senior Development Engineer who raised no objection to the proposed development subject to the imposition of appropriate engineering conditions.

#### **Landscape**

The application was referred to Council's Landscape Officer who provided the following comments:

*"The latest updated drawings in response to our site visit, which show suspended mesh platform are considered to be generally acceptable.*

*It is recommended that appropriate conditions be imposed incorporating the following requirements:*

- *Removal of T2 Cedrus deodara would not be objected to subject to the replacement planting of 2 x Banksia integrifolia (75l) & 1 x Angophora hispida (45l) within the rear setback (water frontage, either level);*
- *All trees shown for retention shall be protected in accordance with AS4970;*
- *Project arborist to be commissioned;*
- *Sensitive construction methods including hand excavation, root mapping and flexible location of piers and structures within the TPZ for any protected trees shall be required;*
- *All recommendations and conditions contained within the Arborist Report prepared by Lee Hancock dated 1/10/20 shall be strictly adhered to; and*
- *Detailed landscape plan showing plant numbers, species and pot sizes shall be required."*

#### **Comment:**

Council's Landscape Officer's comments are noted and concurred with.

It is recommended that a condition be imposed requiring the submission of a revised landscape plan incorporating the relevant planting requirements as recommended by Council's Landscape Officer (**Condition C1**).

**External:**

**Sydney Water**

The application was referred to Sydney Water who have not responded to date. Notwithstanding this, standard conditions are recommended requiring the appropriate approvals from Sydney Water (**Condition D5**).

**SUBMISSIONS**

The subject application was notified to adjoining properties and the Bay Precinct Committee between 27 November and 11 December 2020. The notification attracted one (1) submission. The issues raised in the submission is summarised below:

Name/Address	Basis of Submission
MHDP Architects 271 Alfred Street North North Sydney (On behalf of the property owners of No.36 Cowdroy Avenue)	<ul style="list-style-type: none"><li>• The removal of two trees (T1 and T3) within the subject site is supported due to the concerns raised about the potential impacts of the proposed development on the health and structural integrity of these existing trees.</li><li>• The excavation works should be carried out in accordance with the recommendations in the applicant's geotechnical report.</li><li>• A dilapidation survey should be carried out for an adjoining property prior to any works on site.</li><li>• All damages caused by the development are to be rectified at the cost of the property owners of No. 38 Cowdroy Avenue.</li></ul>

**CONSIDERATION**

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

**Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

The subject site is located within the SREP 2005 Foreshore and Waterways Area, however, the subject site does not adjoin the foreshores of the Long Bay due to the marina with a frontage to the foreshores.

Consideration has been given to the relevant provisions of the SREP as follows:

***Part 1 - Preliminary***

***Clause 2 - Aims of Plan***

The proposal would not change the external appearance of the existing building significantly and generally supports the aims of the SREP for the protection of the foreshores and waterways.

***Part 2 – Planning Principles***

Consideration has been given to the following relevant planning principles and zone objectives as contained in the SREP:

*Clause 14 Foreshores and Waterways Area - Planning Principles*

*“Clause 14(a) development should protect, maintain and enhance the natural assets and unique environmental qualities of Sydney Harbour and its islands and foreshores,”*

**Comment:**

The proposal would have no adverse impact on the natural assets and environmental qualities Sydney Harbour and its islands and foreshores because no works have been proposed beyond the Foreshore Building Line. Furthermore, the design of the proposed development would be generally consistent with the existing surrounding developments in terms of height, bulk/scale and appearance.

***Part 3 – Foreshores and Waterways Area***

***Foreshore and waterways scenic quality***

*Clause 17 Zone Objectives – Scenic Waters Active Use (W6):*

- (a) to allow a range of public and private water-dependent development close to shore only where it can be demonstrated that such development minimises alienation of waters in this zone from public use and is not constrained by shallow water depth, navigational conflicts or severe wave action,*
- (b) to minimise the number and extent of structures over waters in this zone through mechanisms such as the sharing of structures between adjoining waterfront property owners,*
- (c) to ensure remnant natural features, aquatic habitat (including wetlands) and public access along the intertidal zone are not damaged or impaired in any way by development,*
- (d) to minimise any adverse effect on views to and from waters in this zone and on the scenic values of the locality as a result of the size of vessels capable of being accommodated within the development.*

**Comments:**

The proposed development is generally consistent with the above zone objectives for the following reasons:

- (a) There would be no change to the level of access to the foreshore because there is no public access to the subject site via the foreshore;
- (b) The proposed development would not encroach onto the foreshores and the bulk, scale and appearance of the proposed development would be generally consistent with the surrounding developments as well as the character of the locality.

*Clause 25 - Foreshore and waterways scenic quality*

- (a) *the scale, form, design and siting of any building should be based on an analysis of:*
  - (i) *the land on which it is to be erected, and*
  - (ii) *the adjoining land, and*
  - (iii) *the likely future character of the locality,*
- (b) *development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries, ”*

*Clause 26 - Maintenance, protection and enhancement of views*

- (a) *development should maintain, protect and enhance views (including night views) to and from Sydney Harbour,*
- (b) *development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items,*
- (c) *the cumulative impact of development on views should be minimised.*

**Comment:**

The proposal would have no adverse impacts on scenic quality and views because the proposed development would be generally consistent with the surrounding developments in terms of height, bulk and scale.

**SYDNEY HARBOUR FORESHORES AND WATERWAYS AREA DCP 2005**

**Ecological Assessment**

The subject site contains urban development with scattered trees, which attract low conservation values respectively under the Sydney Harbour Foreshores and Waterways DCP (Foreshores & Waterways DCP).

Consideration has been given to the relevant provisions in Section 2 of the Foreshores & Waterways DCP. It is considered that the proposal would have minimal ecological impacts as the proposal would be located entirely within the urban development community which has a low conservation value. The proposed works are also consistent with the relevant provisions relating to developments within areas of low conservation values as outlined in Section 2.4 of the Foreshore & Waterways DCP.

**Landscape Assessment**

The subject site is located in Landscape Character Area 3 in the Foreshores & Waterways DCP which aims *to allow suitable development that is of an appropriate scale whilst maintaining the natural shorelines and vegetation.* The proposal is consistent with the character statement and landscape performance criteria for this area with a development with appropriately form and scale with no works proposed on the foreshores.

## **Design Guidelines**

The proposal has been assessed in accordance with the general requirements in Section 5 – Design guidelines – Land Based Developments of the Foreshores & Waterways DCP and is satisfactory. The proposal would be consistent with Section 5.4 of the Foreshores & Waterways DCP relating to the sympathetic built form and design of developments.

As such, the proposed development satisfies the provisions as contained within SREP 2005 and the Foreshore & Waterways DCP.

## **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 not being highly visible from the harbour and negligible impacts on the scenic quality and the ecology of Sydney Harbour and its foreshores.

## **SEPP No. 19 – Bushland in Urban Areas**

The site is identified on Council's Bushland Buffer Map as being within 300m of bushland (Buffer Area 'B'). The provisions of SEPP 19 require Council to assess the protection and preservation of bushland within urban areas.

Whilst the applicant has proposed the removal of a non-native Himalayan cedar tree from the site, the proposal would retain two mature blackbutt trees within the rear setback. A condition is also recommended requiring the submission of a revised landscape plan to ensure the landscape quality within the subject site (**Condition C1**). Therefore, the proposal is generally consistent with the aims and objectives of the SEPP.

## **SEPP (Vegetation in Non-Rural Areas) 2017**

The proposed development would not require the removal of any significant native vegetation. Therefore, the proposal is generally consistent with the aims and objectives of this SEPP and the proposal will not adversely impact upon the local urban ecology and nearby bushland areas.

## **SEPP (Building Sustainability Index: BASIX) 2004**

The applicant has submitted a valid BASIX Certificate (A389905) to satisfy the requirements of the above SEPP.

## **NORTH SYDNEY LEP 2013**

### **1. Permissibility within the zone**

The subject application involves alterations and additions to an existing dwelling that is a permissible form of development in the E4 – Environmental Living Zone.

## 2. Zone Objectives

The objectives for an Environmental Living Zone (E4) are listed below:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

The subject dwelling is located away from the foreshores of the Long Bay so as not to have any impact on marine life, aquatic vegetation and/or water quality. The proposal, with a design to ensure the retention of a mature native blackbutt tree with a courtyard to the north of the main dwelling and a roof garden above the proposed addition, would achieve the planning objectives for an E4 (Environmental Living) Zone.

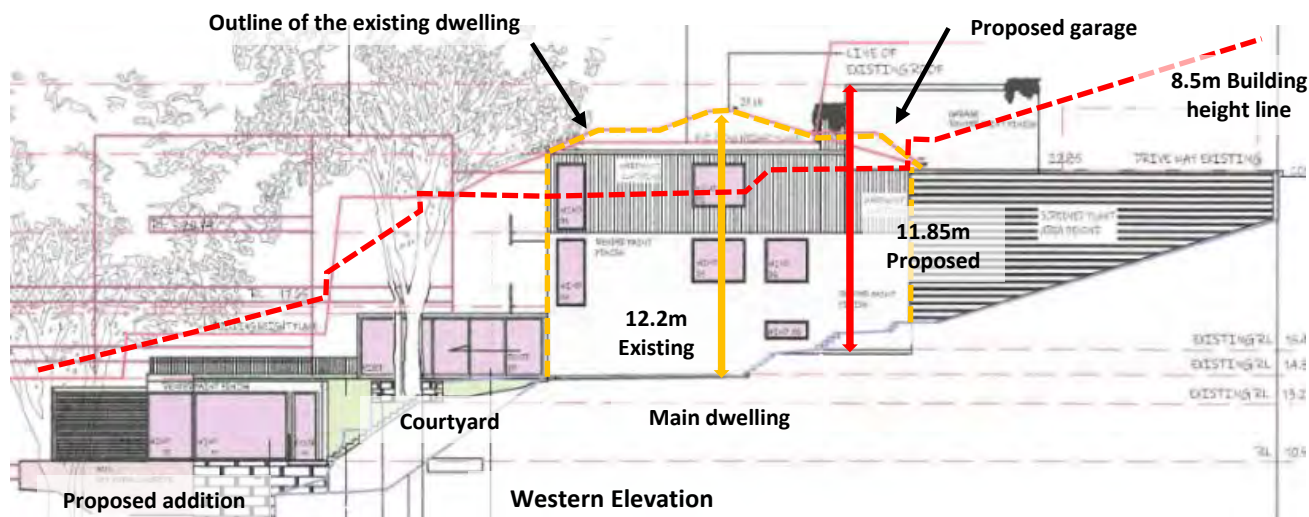
### NSLEP 2013 Compliance Table

<b>Principal Development Standards – North Sydney Local Environmental Plan 2013</b>				
<b>Site Area – 825.1m<sup>2</sup></b>	<b>Existing</b>	<b>Proposed</b>	<b>Control</b>	<b>Complies</b>
Clause 4.3 – Heights of Building	12.2m	11.85m	8.5m	NO (refer to Clause 4.6 Submission)

## 3. Building Height

The existing dwelling has a maximum building height of 12.2m and does not comply with the LEP maximum building height limit due to the sloping landform of the subject site. The proposed development would have a maximum height of 11.2m resulting a non-compliance with the LEP maximum height limit (8.5m) by up to 3.35m.

The new building elements above the 8.5m building height limit primarily relate to upper section of the proposed garage and Level 2 of the main dwelling due to the sloping landform of the subject site. It is however noted that Level 2 and the roof of the existing dwelling breaches the LEP maximum height limit by up to 3.7m as illustrated below.



**Figure 12: Building heights of the proposed development**

The applicant has therefore lodged a clause 4.6 statement seeking a variation to the height limit that is considered below in conjunction with the planning objectives for the height control.

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

The subject land falls significantly towards the northern (foreshore) boundary and the proposed development respects the existing landform with a stepped building form comprising a courtyard to the north of the main dwelling featuring a retained blackbutt tree and garden on the roof of the proposed single storey rear addition to reinforce the sloping landform of the subject site.

**(b) To promote the retention and, if appropriate, sharing of existing views,**

A view assessment in accordance with the four (4) step process adopted by Commissioner Roseth of the NSW Land and Environment Court centering around *Tenacity Consulting v Warringah Council [2004] NSWLEC 140* (also known as the Tenacity Test) is detailed below to ascertain the potential impacts on views currently enjoyed by the adjoining/nearby properties, particularly Nos. 36 and 40 Cowdroy Avenue and the properties to the south across the street at Nos. 41 and 43 Cowdroy Avenue.

Given that the properties affected did not raise concerns about the loss of significant views, the assessment is carried out using photographs/plans/information publicly available and plans/documents found in Council record.

**First Step:**

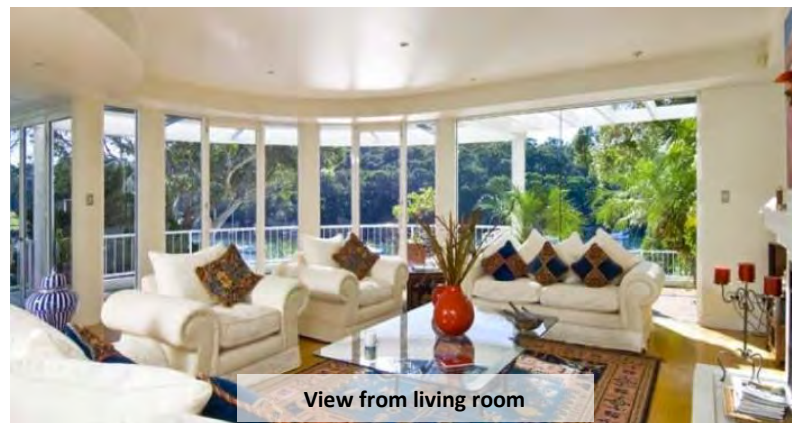
*“The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view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



***Comment:***

***No. 36 Cowdroy***

The views from this three storey detached dwelling located to the west of the subject site include water views and land-water interface of Long Bay as well as district views towards the north and north-west as seen from the windows of the main living areas on the northern and western elevations of the dwelling away from the subject site.

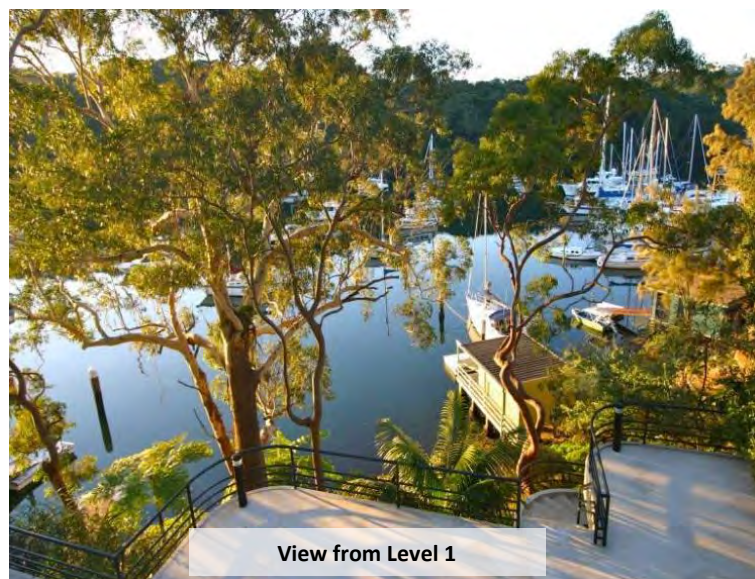
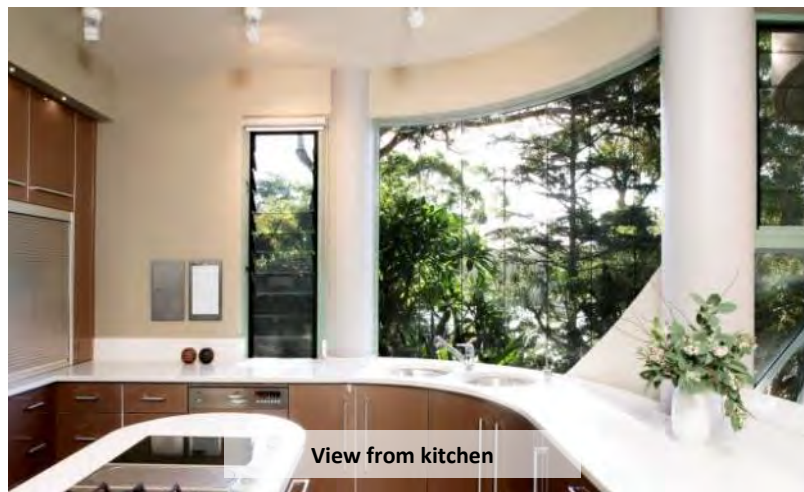


***Figures 13 & 14: – No. 36 Cowdroy Avenue and views from living room***

The proposal would not cause any material view loss given that the proposed development is located to the east of No. 36 Cowdroy Avenue away from northern and western windows of this adjoining property.

***No. 40 Cowdroy Avenue***

The views from this part three/four storey detached dwelling located on the east of the subject site include water views and land-water interface of Long Bay as well as district views towards the north and north-west as seen from windows for the main living areas on the northern and western elevations of this adjoining dwelling.



***Figures 15 & 17: – No. 40 Cowdroy Avenue and views from kitchen and Level 1***

The proposal would not cause any material view loss given that the proposed works to the main dwelling and the proposed staircase enclosure to the new addition would not project beyond the west facing windows of this adjoining property and cause additional view loss. Furthermore, the proposed addition would not cause material view loss for a study on Level 1 of the adjoining dwelling because the water and district views to the

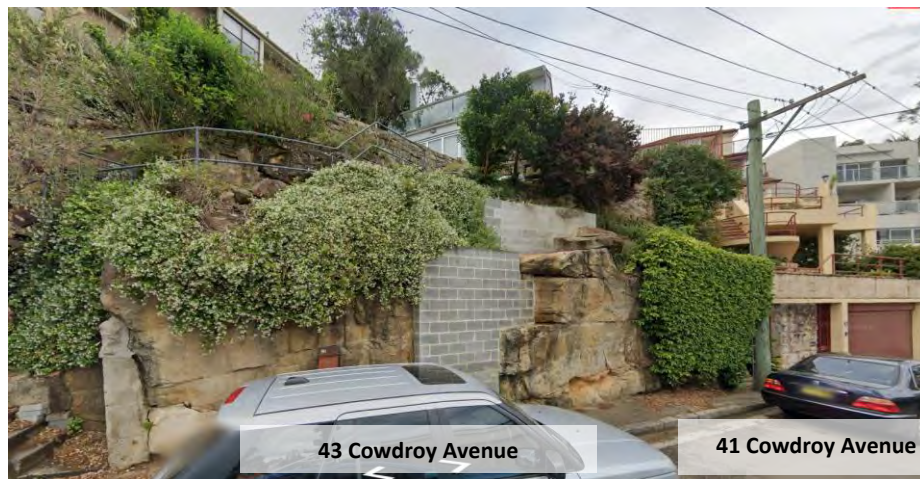
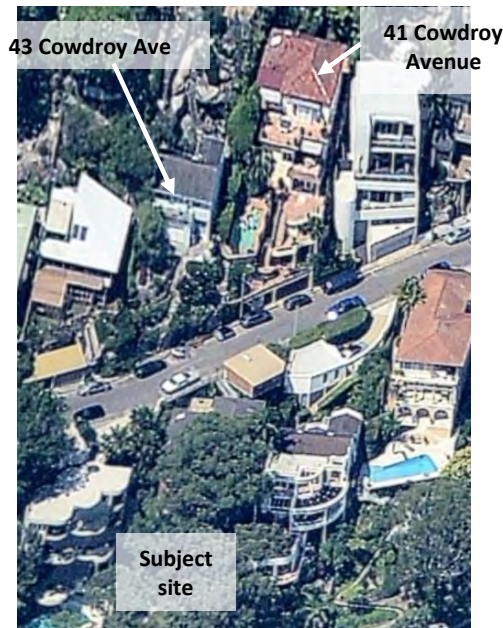
north are unaffected by the proposed development. The applicant has also agreed to install a fixed angled privacy screen adjacent to the swimming pool to minimise view impacts for the Level 1 terrace of this adjoining property. A condition is recommended specifying the design of the privacy screen to ensure the protection of visual privacy and preservation of views (**Condition C2**).

No. 41 Cowdroy Avenue

This three storey detached dwelling located on the southern (high) side of Cowdroy Avenue with a garage on the street level and a raised terrace above the garage. A swimming pool is located within the front setback approximately 6m above the street level in front of the main dwelling.

It is noted that the views from this adjoining property include water views of Long Bay and district views across the bay. However, the buildings on the northern side of Cowdroy Avenue, including the subject site, are not highly visible from the main dwelling because of the elevated nature of the property.

Given that the maximum height of the main dwelling would not be higher than that of the existing structure and the proposed garage would remain as a single storey building as seen from the street, the proposal is unlikely to cause material view loss for the adjoining property at No. 41 Cowdroy Avenue.



***Figures 18 & 19: Nos. 41 & 43 Cowdroy Avenue and the subject site  
(Aerial photo and street view)***

**No. 43 Cowdroy Avenue**

This two storey detached dwelling located on the southern (high) side of Cowdroy Avenue above a rock face and a raised terrace. The dwelling is accessed from the street level by a staircase.

Similar to the neighbouring property at No. 41 Cowdroy Avenue, the views from this adjoining property include water views of Long Bay and district views across the bay. However, the buildings on the northern side of Cowdroy Avenue, including the subject site, are not highly visible from the main dwelling because of the elevated nature of the property.

It is therefore considered that the view impacts for this adjoining property resulting from the proposed development would not be material due to the elevated nature of the adjoining properties at No's. 41 and 43 Cowdroy Avenue.

*Second Step:*

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

**Comment:**

No. 36 Cowdroy Avenue

The view from the windows on the northern elevation of No. 36 Cowdroy Avenue are obtained across the northern (rear) property boundary and the eastern side property boundary shared with the subject site.

No. 40 Cowdroy Avenue

The view from the windows on the northern and western elevations of No. 40 Cowdroy Avenue are obtained across the northern (rear) property boundary and the western side boundary shared with the subject site.

No's. 41 & 43 Cowdroy Avenue

The view from the northern windows of No's. 41 and 43 Cowdroy Avenue are obtained across the front (street) boundary of the subject site.

*Third Step:*

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

**Comment:**

No. 36 Cowdroy Avenue

Given the windows of main living areas within this adjoining property are orientated away from the subject site towards the north and north-west, the impacts on views (if any) would be negligible.

No. 40 Cowdroy Avenue

Whilst the windows of the main living areas of this adjoining property orientated to the north and west across the side property boundary shared with the subject site, there would be no impacts on the significant water and district views to the north.

Furthermore, the impacts on views towards the west resulting from the proposed works would be minimised by the following:

- (a) The proposed works within the main dwelling would generally be contained within the building envelope of the existing structures
- (b) The northern building line of the main dwelling would generally be maintained; and
- (c) The proposed addition would follow the sloping landform and existing retaining structure towards the rear boundary.

It is therefore considered that the view impacts for the adjoining property at No. 40 Cowdroy Avenue would be negligible.

No's. 41 & 43 Cowdroy Avenue

There are no impacts on views as seen from these adjoining properties to the south because of the elevated nature of these properties.

*Fourth Step:*

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

***Comment:***

As mentioned earlier in this report, there would be no material view impacts caused by the proposed works including building elements above the LEP building height limit.

The building height, bulk and scale of the proposed development are generally consistent with existing developments on the northern side of Cowdroy Avenue.

**It is concluded that the proposal is capable of addressing the issues raised from the Tenacity test and the Clause 4.6 Submission seeking variation to the building height development standard can be supported.**

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

The building elements in breach of the LEP building height limit would not cause material overshadowing of the adjoining properties to the east and west with the retention of sunlight to main living areas during mid winter (21 June) because there would be no significant changes to the building envelope of the existing main dwelling. The additional shadows from the proposed garage would generally fall on the garages/driveways of the adjoining properties or on the carriageway of Cowdroy Avenue.

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

Consideration has been given to the new openings and/or balcony on Level 2 of the main dwelling as follows:

- (a) *Eastern Elevation* - The applicant has proposed a new window to the internal stairwell and the eastern end of a new balcony on the eastern elevation. The stairwell window would have no privacy impact because it would adjoin the existing driveway and vegetation along the property boundary of the adjoining property to the east at No. 40 Cowdroy Avenue. Furthermore, the balcony would have no material privacy impact as it overlooks a blank wall on the western elevation of No. 40 Cowdroy Avenue;
- (b) *Western Elevation* - The applicant has proposed a bedroom window, an ensuite bathroom window and a balcony on the western elevation. The proposed windows/balcony would have no additional privacy impacts on the adjoining property at No. 36 Cowdroy Avenue because there are 2 x bedroom windows, 2 x bathroom windows and a large balcony on the western elevation of Level 2 of the existing dwelling.
- (c) *Northern Elevation* – The northerly orientation and outlook of the proposed openings above the maximum building height limit towards Long Bay are unlikely to cause any material privacy impacts on the adjoining properties.

Furthermore, the proposed garage would not cause material privacy impacts for the adjoining properties because no windows/opening have been proposed on eastern and western elevations facing Nos. 36 or 40 Cowdroy Avenue.

- (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 proposal would not change the use of the land for the existing dwelling and the design, scale and built form of the proposal is generally consistent with surrounding developments.

Having regard to the planning objectives of the LEP height control, the building elements in breach of the LEP building height limit would not cause any material loss of solar access, adverse privacy loss and/or view loss as detailed later in this report. Consequently, the clause 4.6 submission is supported given that it would be unreasonable for Council to insist upon strict compliance when the objectives would be satisfied with the proposal.

***That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and***

Strict compliance with the building height control is considered to be unreasonable and unnecessary as the elements in breach of the height control will not have material impacts on the character of the locality and/or the amenity of adjoining properties.

As has been demonstrated above, the new building elements above the LEP height limit will not be easily discernible from the public domain or result in unacceptable loss of significant views, overshadowing or privacy impacts as outlined earlier in this report.

A part three/four storey built form on this site is considered to be generally consistent with the new dwellings along the northern side of Cowdroy Avenue.

***That there are sufficient environmental planning grounds to justify contravening the development standard.***

The development would provide good internal amenity for the proposed dwelling. The proposed garage would be setback from the street frontage as compared to the zero setback of the existing garage. Furthermore, the non-complying building elements are unlikely to cause material impacts on the amenity of the adjoining properties as detailed throughout this report.

***The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and***

The written justification as submitted by the applicant seeking variation to Clause 4.3(2) in NSLEP 2013 is considered to be well founded in the site circumstances. Compliance with the maximum building height control is therefore considered to be unreasonable and unnecessary in the circumstances, as the objectives of the zone and the control are achieved despite the non-compliance subject to the imposition of appropriate conditions of consent.

#### **4. Foreshore Building Line (Clause 6.9)**

The applicant has proposed a concrete stairs/pathway from the street boundary to the foreshore. A section of this stairway/pathway is located within the Foreshore Building Area.

Consideration has been given to the objective and provisions pursuant to Clause 6.9 of the LEP in relation to development in foreshore area. It is considered that the proposal is consistent with the objective of Clause 6.9 because the proposed stairway/pathway within the foreshore building area would have no additional impacts on the foreshores, its significance and the amenity of the locality because this structure would replace the existing stairs/pathway to the foreshore.

The proposal is also consistent with the provisions under Clause 6.9(3) of the LEP in relation to development on foreshore area as follows:

- (a) The appearance stairway/pathway within the foreshore area would be generally compatible with the surrounding development;
- (b) The proposal would not change the level public access to the foreshore given the existing foreshore that adjoins the subject site is privately owned;
- (c) The proposed stairway/pathway is unlikely to cause any adverse impacts on the significance (historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic) of the property; and
- (d) The proposed structure would have no adverse impacts on the amenity or aesthetic appearance of the foreshore as detailed throughout this report.



Therefore, the proposed concrete stairway/pathway satisfies the LEP's objectives and provisions in relation to development on foreshore area.

## 5. Earthworks (Clause 6.10)

The proposal would involve excavation within the rear yard for the proposed single storey addition and the repositioning of retaining walls. The applicant has submitted a preliminary geotechnical report including certain recommendations relating to work methods. There would be some earthworks required within the underfloor area of the main dwelling in order to facilitate the proposed works for a study and TV room on that level.

Consideration has been given to the LEP's objectives for earthworks as contained in Clause 6.10(3) of NSLEP 2013. The proposal is unlikely to cause disruption or detrimental effect on drainage patterns, soil stability as well as significant change to the natural features and significant vegetation within the site subject to the imposition of a condition requiring the submission of a full geotechnical report as recommended by Council's Development Engineer.

In addition, appropriate conditions requiring dilapidation survey for the adjoining properties have been recommended to ensure the structural integrity of these properties (**Conditions C5 and C6**).

The proposed excavation work is unlikely to cause adverse impacts on the amenity of the adjoining properties during the construction phase of the proposed development with the recommendation for the imposition of appropriate conditions of consent relating to construction hours, air quality, noise/vibration, health and safety (**Conditions E9, E10, E16 and E20**).

## DCP 2013 Compliance Table

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 1- Residential Development		
	<i>Complies</i>	<i>Comments</i>
<b>1.2 Social Amenity</b>		
<b>Population Mix/ Maintaining Residential Accommodation Affordable Housing for Seniors/Persons with disability</b>	Yes	The proposal would not change the existing use of the property as a single dwelling. Therefore, there would be no impact upon population mix, the level of residential accommodation, affordable housing, housing for seniors and/or people with disabilities.
<b>1.3 Environmental Criteria</b>		
<b>Topography</b>	Yes	The proposal has a stepped built form that follows the sloping landform with a courtyard in front of the main dwelling and a single storey addition under the courtyard/roof garden.
<b>Views</b>	Yes	A detailed view assessment in accordance with the four (4) step process adopted by Commissioner Roseth of the NSW Land and Environment Court centering around <i>Tenacity Consulting v Warringah Council [2004] NSWLEC 140</i> (also known as the Tenacity Test) has been carried out earlier in this report where it was found that there would be no unreasonable view loss.
<b>Solar Access</b>	Yes	The proposed works within the main dwelling generally retain the building height and envelope of the existing building. Therefore, whilst the proposal would cause some additional shadowing onto the neighbouring properties

during midwinter, there will be no material shadowing impacts on these adjoining properties:

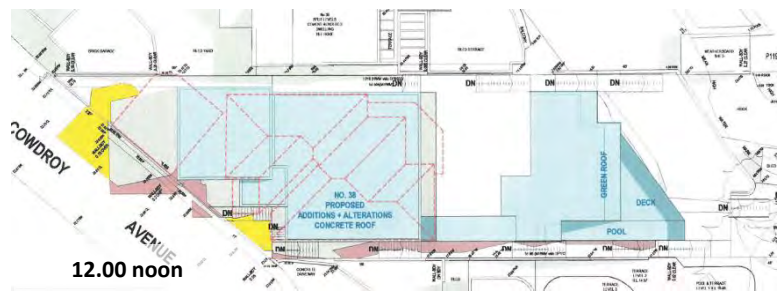
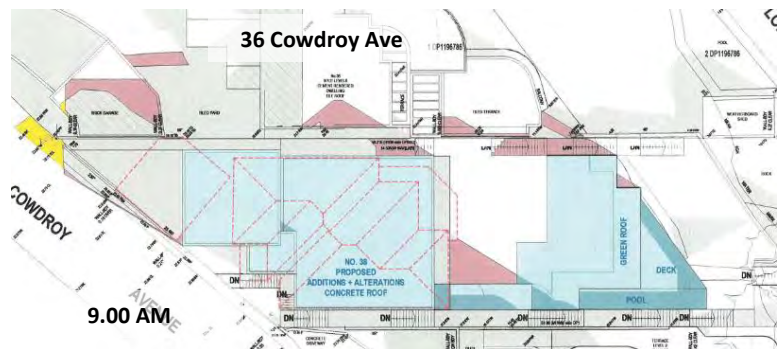
*No. 36 Cowdroy Avenue:*

There would be some additional shadowing on the eastern blank wall and the roof of this adjoining property to the west between 9am and 11am during mid winter. There would be some additional shadows from the proposed single storey addition but the shadow would mainly fall on the boundary fence and a blank wall on the eastern elevation of No. 36 Cowdroy Avenue (**Figure 17**). The windows of this adjoining dwelling are primarily orientated to the north or west away from the subject site and would receive the required three hours of sunlight during mid winter

*No. 40 Cowdroy Avenue:*

There would be no material shadowing impacts on the adjoining property to the east at No. 40 Cowdroy Avenue for the following reasons:

- (a) The additional shadows from the main dwelling would fall on the elevated driveway and the vegetation adjacent to the driveway within the adjoining property; and
- (b) The height of the proposed single story addition would be lower than that of the adjoining Level 2 terrace of No. 40 Cowdroy Avenue. Therefore, any shadow from this new structure would fall on the boundary fence or within the subject site during mid winter.



*Figures 20 – 22: Shadow Diagram (Mid Winter)*

		There would be some additional shadows fall on Cowdroy Avenue and this is considered to be acceptable.
<b>Acoustic Privacy</b>	Yes (via condition)	<p>The proposed works within the main dwelling are unlikely to cause additional noise nuisance for the adjoining properties to the east and west of the site because there would fewer windows/opening on the eastern and western elevations of the main dwelling. The proposed balconies on the northern elevation of Levels 1 &amp; 2 of the main dwelling would replace larger balconies on these levels.</p> <p>The proposed swimming pool and associated terrace are unlikely to have material noise impacts on the adjoining property to the east at No. 40 Cowdroy Avenue as the privacy screen along the eastern property boundary would provide a buffer between the two properties.</p> <p>The noise impacts from the proposed swimming pool and terrace would not cause a material loss of amenity for the adjoining property to the west at No .36 Cowdroy Avenue due to easterly aspect of the proposed pool/terrace away from No. 36 Cowdroy Avenue to the west.</p> <p>Appropriate conditions have also been recommended to ensure that the noise from plant and pool equipment would comply with the relevant noise criteria/requirements (<b>Condition C24</b>).</p>
<b>Visual Privacy</b>	Yes (via condition)	<p>The proposed works within the main dwelling are unlikely to cause additional visual privacy impacts on the adjoining properties because there would be fewer windows on the eastern and western elevations of the existing dwelling. The proposed balconies on northern elevation of Levels 1 and 2 would be smaller than the existing balconies in terms of size and depth.</p> <p>The windows and glazed doors on the northern elevation of the main dwelling would primarily overlook the rear yard of the subject site and are unlikely to cause material overlooking of the adjoining properties.</p> <p>The proposed rear addition, swimming pool and terrace are unlikely to cause visual privacy impacts for the adjoining properties to the east and west with the proposed privacy screen on the eastern property boundary and the existing blank wall on the eastern elevation of No. 36 Cowdroy Avenue to the west.</p> <p>Furthermore, a condition is recommended specifying the design of the privacy screen to ensure the protection of visual privacy and preservation of views (<b>Condition C2</b>).</p> <p>In addition, the rear gardens of the subject site and the adjoining properties are subject to mutual overlooking from swimming pools and terraces at the rear of the adjoining properties.</p> <p>The proposal is therefore considered to be acceptable in terms of visual privacy having regard to the site circumstances.</p>
<b>1.4 Quality built form</b>		
<b>Context</b>	Yes	<p>The proposal is generally consistent with the context and built form within the locality. The proposed works would provide a more contemporary appearance and is considered to be consistent with the design of developments recently completed along the northern side of Cowdroy Avenue.</p> <p>The proposed development respects the sloping landform of the subject site featuring a stepped profile with a landscaped courtyard to the north of the main dwelling to allow with retention of significant blackbutt trees. The proposed single storey rear addition at the lower ground level would reinforce the stepped profile of the development and would maintain the landscape quality and character of the subject site and the locality.</p>

<b>Streetscape</b>	Yes (via condition)	Council's Development Engineer has raised no objection to the proposal subject to the imposition of appropriate engineering conditions to ensure that the protection of Council's infrastructure along Cowdroy Avenue.																																																																																
<b>Siting</b>	Yes	The proposal will generally maintain the existing building orientation and siting consistent with adjoining properties. The orientation of the replacement garage would be consistent with the main dwelling and is considered to be acceptable.																																																																																
<b>Front Setback</b>	Yes	<p>The proposal would replace the existing garage that has zero front setback by a new garage with variable front boundary setback of up to 8.5m. The proposal is considered to be acceptable because it would reduce the visual dominance of the garage as seen from the street.</p> <p>The front boundary setback of the main dwelling would generally remain unchanged.</p>																																																																																
<b>Side Setbacks</b>	No (acceptable on merit)	<p>The sloping landform has resulted a variable side boundary setback along the eastern and western elevations as detailed in the compliance table below.</p> <table border="1" data-bbox="671 835 1377 1615"> <thead> <tr> <th>Elevation</th> <th>Existing</th> <th>Proposed</th> <th>Control</th> <th>Complies</th> </tr> </thead> <tbody> <tr> <td colspan="5"><i>Lower Ground Level</i></td> </tr> <tr> <td>- E Elevation</td> <td>N/A</td> <td>1.5m</td> <td><b>900mm</b></td> <td>YES</td> </tr> <tr> <td>- W Elevation</td> <td>N/A</td> <td>1.5m</td> <td><b>-1.5m</b></td> <td>YES</td> </tr> <tr> <td colspan="5"><i>Ground level</i></td> </tr> <tr> <td>- E Elevation</td> <td>1.5m</td> <td>1.5m</td> <td><b>900mm</b></td> <td>YES</td> </tr> <tr> <td>- W Elevation</td> <td>1.5m</td> <td>1.5m</td> <td><b>900mm</b></td> <td>YES</td> </tr> <tr> <td colspan="5"><i>Level 1</i></td> </tr> <tr> <td>- E Elevation</td> <td>1.5m</td> <td>1.5m</td> <td><b>900mm</b></td> <td>YES</td> </tr> <tr> <td>- W Elevation</td> <td>1.5m</td> <td>1.5m</td> <td><b>-1.5m*</b></td> <td>YES</td> </tr> <tr> <td colspan="5"><i>Level 2</i></td> </tr> <tr> <td>- E Elevation</td> <td>1.5m</td> <td>1.5m</td> <td><b>900mm</b></td> <td>NO</td> </tr> <tr> <td>- W Elevation</td> <td>1.5m</td> <td>1.5m</td> <td><b>- 2.5m*</b></td> <td>NO</td> </tr> <tr> <td colspan="5"><i>Street Level</i></td> </tr> <tr> <td>- E Elevation</td> <td>N/A</td> <td>7m</td> <td><b>900mm</b></td> <td>YES</td> </tr> <tr> <td>- W Elevation</td> <td>0mm</td> <td>1m</td> <td><b>- 2.5m*</b></td> <td>NO</td> </tr> </tbody> </table> <p>* Variable side boundary setbacks apply to the side (eastern and western) elevations of the proposed dwelling due to the sloping landform within the subject site.</p> <p>The key building elements causing the non-compliance with side building setbacks outside the building envelope of the existing dwelling are the proposed rear addition on the lower ground level and the proposed garage on the street level.</p> <p><i>Proposed Rear Addition:</i></p> <p>The non-compliance primarily relates to the northern end of the swimming pool that would be above 4m above the existing ground level. The variation is considered to be acceptable because the building element that breach the side boundary setback control only involves a minor portion of the swimming pool. The non-complying element would have no adverse impacts on the characteristic side setbacks within the locality and the amenity of the adjoining properties would generally be maintained.</p>	Elevation	Existing	Proposed	Control	Complies	<i>Lower Ground Level</i>					- E Elevation	N/A	1.5m	<b>900mm</b>	YES	- W Elevation	N/A	1.5m	<b>-1.5m</b>	YES	<i>Ground level</i>					- E Elevation	1.5m	1.5m	<b>900mm</b>	YES	- W Elevation	1.5m	1.5m	<b>900mm</b>	YES	<i>Level 1</i>					- E Elevation	1.5m	1.5m	<b>900mm</b>	YES	- W Elevation	1.5m	1.5m	<b>-1.5m*</b>	YES	<i>Level 2</i>					- E Elevation	1.5m	1.5m	<b>900mm</b>	NO	- W Elevation	1.5m	1.5m	<b>- 2.5m*</b>	NO	<i>Street Level</i>					- E Elevation	N/A	7m	<b>900mm</b>	YES	- W Elevation	0mm	1m	<b>- 2.5m*</b>	NO
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		<p>Furthermore, the single storey built form of the proposed rear addition is considered to be appropriate in terms of bulk and scale and would reflect the sloping landform of the subject site.</p> <p><i>Proposed Garage:</i></p> <p>Whilst the western elevation of the propose garage does not comply with the DCP's 2.5m minimum side boundary setback requirement, the proposed garage would replace an existing garage with zero boundary setbacks to the western side property boundary as well as the street boundary. The visual dominance of proposed garage would be reduced as seen from the adjoining property to the west at No. 36 Cowdroy Avenue and from the street.</p> <p>Furthermore, the proposed garage would not cause material impacts on the amenity of the adjoining properties to the east and west ion terms of the loss of significant view, solar access and privacy as detailed throughout this report.</p> <p><i>Main Dwelling:</i></p> <p>The proposed works within the main dwelling would not result in significant changes to the existing building envelope and the level of compliance with the DCP's side boundary setback controls. Therefore, there would be no additional impacts in terms of bulk and scale and other impacts on the amenity of the adjoining properties.</p> <p>It is therefore considered that the variations to the side boundary setbacks area acceptable on merit.</p>
<b>Rear Setback</b>	Yes	<p>The proposed rear addition would provide a minimum setback of 14.5m from the rear (northern) property boundary. The setback of the proposed rear addition is also consistent with those of the adjoining properties at No's. 36 and 40 Cowdroy Avenue.</p>
<b>Form Massing Scale/ Built Form Character</b>	Yes	<p>The form, massing, scale and bulk of the proposal is generally consistent with the existing dwellings found on the northern (low) side of Cowdroy Avenue.</p> <p>The proposal would not involve a significant increase in the building bulk of the main dwelling as the existing building envelope is generally maintained.</p> <p>The proposed single storey rear addition on the new lower ground level responds appropriately to the sloping landform of the subject site and maintain a stepped profile for the proposed development.</p> <p>The proposed contemporary built form is acceptable given that the subject site is not a heritage item or located within a conservation area. Furthermore, other examples of contemporary architecture are also found on the adjoining properties.</p>
<b>Dwelling Entry</b>	Yes	<p>The existing dwelling entry does not address the street and is not highly visible. The applicant has proposed a pedestrian gate to a new staircase/pathway to a new dwelling entry on Level 2 of the main dwelling.</p> <p>Whilst the new dwelling entry is still not highly visible from the street due to the sloping landform of the subject site, the new pedestrian gate on the street level would provide a stronger sense of address for the subject property.</p>
<b>Roofs</b>	Yes	<p>The flat roof form for the proposed garage and the main dwelling are considered to be acceptable within the locality given that contemporary architectural design and flat roofs are featured in the adjoining properties at No's. 36 and 40 Cowdroy Avenue and other nearby properties within the locality.</p>

<b>Materials</b>	Yes (via condition)	<p>The applicant has submitted a drawing indicating external materials utilising timber and masonry materials.</p> <p>The applicant has also proposed a steel mesh design for the elevated driveway to maintain permeability of water to the landscaped area below.</p> <p>A condition of consent has been recommended requiring the submission of a schedule of colours, materials and finishes are compatible with the character of the locality (<b>Condition C11</b>).</p>																				
<b>Front Fences</b>	Yes	<p>The applicant has proposed new 1m high timber front fence along Cowdroy Avenue. The design of the proposed front fencing is considered to be appropriate in term of height and transparency.</p>																				
<b>1.5 Quality Urban Environment</b>																						
<b>Vehicular Access</b>	Yes	<p>The applicant has proposed a new elevated driveway off Cowdroy Avenue to the proposed garage. Council's Development Engineer has raised no in-principle objection to the proposal subject to the imposition of appropriate engineering conditions.</p>																				
<b>Parking</b>	Yes	<p>The proposed garage would continue to provide two off-street parking spaces which complies with the maximum parking requirement for a detached dwelling with 3 bedrooms or over as stipulated in NSDCP 2013.</p>																				
<b>Site Coverage Unbuilt upon area Landscape Area</b>	No (acceptable on merit and via conditon)	<p>The site coverage/unbuilt upon and landscaped areas are detailed below.</p> <table border="1" data-bbox="676 920 1369 1245"> <thead> <tr> <th>Site Area:</th> <th>Existing</th> <th>Proposed</th> <th>Complies</th> </tr> </thead> <tbody> <tr> <td><b>825.1m<sup>2</sup></b></td> <td></td> <td></td> <td></td> </tr> <tr> <td><b>Site Coverage (max 35%)</b></td> <td>229 m<sup>2</sup> (28%)</td> <td>324 m<sup>2</sup> (39%)</td> <td>No</td> </tr> <tr> <td><b>Landscaped Area (min 45%)</b></td> <td>634.1m<sup>2</sup> (64%)</td> <td>337m<sup>2</sup> (41%)</td> <td>No</td> </tr> <tr> <td><b>Unbuilt Upon Area (max 20%)</b></td> <td>62m<sup>2</sup> (8%)</td> <td>164.1m<sup>2</sup> (20%)</td> <td>Yes</td> </tr> </tbody> </table> <p>The site coverage of the proposed development at 39% does not comply with the DCP maximum site coverage requirement (35%) for the subject site.</p> <p>The following factors are considered to be relevant in the consideration of the variation to the DCP's site coverage requirements:</p> <ul style="list-style-type: none"> <li>(a) The proposed rear addition is designed and located away from the main dwelling to allow the preservation of the existing garden to north of the existing dwelling and the retention of an existing blackbutt tree. The use of the roof of the proposed rear addition as a roof garden would provide additional landscaped private open space;</li> <li>(b) An addition attached to the northern elevation of the main dwelling is likely to achieve a more complying site coverage, however this design is likely to have a greater adverse impact on blackbutt tree;</li> <li>(c) The courtyard to the north of the main dwelling and the roof of the proposed rear addition would be landscaped and provide a landscaped garden at the rear of the property. This aspect of the design would promote the landscape character of properties within the E4 (Environmental Living) zone;</li> <li>(d) An examination of the nearby properties on the northern side of Cowdroy Avenue (namely Nos.32 – 40 Cowdroy Avenue) has revealed that the site coverage of these property would be above the DCP requirement between 38% and 47%;</li> <li>(e) The subject property would remain as a single dwelling; and</li> <li>(f) A condition is recommended for the submission of a revised landscape plan to ensure an appropriate landscaping outcome of the subject property (<b>Condition C1</b>).</li> </ul>	Site Area:	Existing	Proposed	Complies	<b>825.1m<sup>2</sup></b>				<b>Site Coverage (max 35%)</b>	229 m <sup>2</sup> (28%)	324 m <sup>2</sup> (39%)	No	<b>Landscaped Area (min 45%)</b>	634.1m <sup>2</sup> (64%)	337m <sup>2</sup> (41%)	No	<b>Unbuilt Upon Area (max 20%)</b>	62m <sup>2</sup> (8%)	164.1m <sup>2</sup> (20%)	Yes
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		Having regard to the above factors, the variation is therefore considered to be acceptable and the proposal is generally consistent with the DCP site coverage objectives.												
<b>Excavation</b>	Yes	<p>As mentioned earlier in this report the proposal would involve excavation within the rear yard for the proposed single storey addition and the repositioning of retaining walls.</p> <p>The proposal is unlikely to cause disruption or detrimental effect on drainage patterns, soil stability as well as significant change to the natural features and significant vegetation within the site subject to the imposition of a condition requiring the submission of a full geotechnical report as recommended by Council's Development Engineer.</p> <p>In addition, appropriate conditions requiring dilapidation survey for the adjoining properties have been recommended to ensure the structural integrity of these properties (<b>Conditions C5 and C6</b>).</p>												
<b>Landscaping Front Gardens</b>	Yes (via condition)	<p>The proposal would maintain the landscape quality of the subject site with the creation of a landscaped courtyard in front of the main dwelling and extended over the roof of the proposed addition featuring the retained blackbutt tree.</p> <p>A condition is recommended requiring the submission of a revised landscaped plan for the subject site, including planting details as well as the requirements from Council's Landscape Officer, to ensure that appropriate landscaping is provided within the property (<b>Condition C1</b>).</p>												
<b>Garbage Storage</b>	Yes (via condition)	A standard condition is recommended requiring the proposed garbage storage area to comply with the relevant Council requirements ( <b>Condition C20</b> ).												
<b>Swimming Pool</b>	No (acceptable on merit and via condition)	<p>The application has proposed the construction of a swimming pool and an associated terrace off the proposed rear addition.</p> <table border="1" data-bbox="639 1160 1370 1359"> <thead> <tr> <th>Control</th> <th>Proposed</th> <th>Compliance</th> </tr> </thead> <tbody> <tr> <td>Setback 1.2m min</td> <td>1.5m</td> <td>Yes</td> </tr> <tr> <td>Height -500mm max</td> <td>4m (max.)</td> <td>No</td> </tr> <tr> <td>Nearest habitable room – 6m min.</td> <td>4.5m (min)</td> <td>No (acceptable on merit - subject to privacy screen and <b>Condition C2</b>)</td> </tr> </tbody> </table> <p>The elevated design of the northern end of the swimming pool is due to the sloping terrain of the subject site and is considered to be acceptable given the steep fall of the land and no material amenity impacts on the adjoining properties.</p> <p>The swimming pool would be within 4.5m from a study within No.40 Cowdroy Avenue, the remaining habitable rooms of this property and the other adjoining properties would be in excess of 6m from the proposed swimming pool.</p> <p>In addition, the applicant has proposed the installation of a privacy screen to provide privacy protection for the adjoining property to the east. Appropriate conditions are also recommended relating to the operation of swimming pool pumps to minimise impacts on the amenity of the adjoining properties (<b>Condition C24</b>).</p>	Control	Proposed	Compliance	Setback 1.2m min	1.5m	Yes	Height -500mm max	4m (max.)	No	Nearest habitable room – 6m min.	4.5m (min)	No (acceptable on merit - subject to privacy screen and <b>Condition C2</b> )
Control	Proposed	Compliance												
Setback 1.2m min	1.5m	Yes												
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Nearest habitable room – 6m min.	4.5m (min)	No (acceptable on merit - subject to privacy screen and <b>Condition C2</b> )												
<b>1.6 Efficient Use of Resources</b>														
<b>Energy Efficiency</b>	Yes (via condition)	The applicant has provided a BASIX Certificate in support of the development application. A condition is recommended to ensure that the measures contained within the BASIX Certificate are undertaken at all stages of the development process ( <b>Condition C30</b> ).												

**Cammeray Planning Area (Cammeray Neighbourhood)**

The proposal has also been assessed under the above where the proposal, as amended by conditions of consent, was found to be acceptable in terms of the desired future character of that part of Cammeray particularly in maintaining a stepped built form for properties on sloping land.

**NORTH SYDNEY LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN 2020**

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 contributions payable have been calculated in accordance with Council’s Contributions Plan as follows:

**Contribution amounts payable**

<b>Applicable contribution type</b>		
<b>s7.12 contribution details</b>	Development cost:	\$2,100,000.00
<i>(payment amount subject to indexing at time of payment)</i>	Contribution: (1% of the development cost)	\$21,000.00

Accordingly, a condition requiring the payment of contributions at the appropriate time is recommended (**Condition C28**).

**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 Environmental Planning and Assessment (Amendment) Act 1979      | Yes |



## SUBMITTERS CONCERNS

The subject application was notified to adjoining properties and the Bay Precinct Committee between 27 November and 11 December 2020. The notification attracted one (1) submission. The issues raised in the submission is summarised below:

The issues raised in the submissions received are addressed as follows:

- ***The removal of two trees (T1 and T3) within the subject site is supported due to the concerns raised about the potential impacts of the proposed development on the health and structural integrity of these existing trees.***

### **Comment:**

Council's Landscape Officer supports the applicant's arborist recommendation for the retention of 2 x blackbutt trees (i.e. T1 and T3). Appropriate conditions have been recommended to ensure the proper protection of T1 and T3 (**Conditions C17, C18, D2 and D3**) and other significant vegetation within the subject site.

- ***The excavation works should be carried out in accordance with the recommendations in the applicant's geotechnical report.***
- ***A dilapidation survey should be carried out for an adjoining property prior to any works on site.***

### **Comment:**

A condition is recommended requiring the submission of a further geotechnical report based on the geotechnical report original submitted by the applicant (**Condition C8**). A further condition is recommended to ensure geotechnical stability during works (**Condition E6**).

In addition, appropriate conditions requiring dilapidation survey for the adjoining properties have been recommended to ensure the structural integrity of these properties (**Conditions C5 and C6**).

- ***All damages caused by the development are to be rectified at the cost of the property owners of No. 38 Cowdroy Avenue.***

### **Comment:**

A standard condition is recommended in relation to damages to the adjoining properties to ensure that the rights of the adjoining property owners are protected as far as possible (**Condition G10**).

## PUBLIC INTEREST

The proposal, subject to the imposition of conditions of consent, is considered to be in the public interest for the reasons stated throughout this report.

## **SUITABILITY OF THE SITE**

The proposal would be located in an E4 (Environmental Living) zone where alterations and additions to an existing dwelling is a permissible form of development. Consequently, the proposal is considered to be suitable for the site having regard to the merits of the proposal and the imposition of appropriate conditions as described in the above report.

## **CONCLUSION + REASONS**

The proposal has been assessed against the North Sydney LEP 2013 and North Sydney DCP 2013 and generally found to be satisfactory.

The variation to the building height development standard is justifiable because the building elements above the LEP maximum building height are unlikely to have material impacts on the overall character of the locality and would not cause material amenity impacts for the adjoining properties in terms of view loss, overshadowing and loss of privacy.

The variation to the DCP's site coverage and landscaped area controls are considered to be acceptable given that the design of the proposed single storey rear addition located away from the main dwelling together with a courtyard and roof garden above the addition would ensure the retention of an existing blackbutt tree whilst maintaining the landscape quality of the subject site with adequate landscaping and open space within the property.

The issues raised in the submissions received have also been addressed in the report.

Having regard to the merits of the proposal, the application is recommended for approval subject to the imposition of conditions and appropriate standard and site specific conditions.

## **HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?**

The subject application was notified to adjoining properties and the Bay Precinct Committee between 27 November and 11 December 2020. The notification attracted one (1) submission and the matters raised in the submissions have been addressed earlier in the assessment report.

## **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, as the consent authority, assume the concurrence of the Secretary, 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 of NSLEP 2013 and grant deferred commencement consent to Development Application No. 294/20 for the substantial alterations and additions to an existing detached dwelling, a new rear addition and associated earthworks/landscaping works on land at No. 38 Cowdroy Avenue, Cammeray, subject to the following site specific and attached standard conditions:-:-

### **Revised Landscape Plan**

- C1. The applicant shall submit a revised landscape plan, based on DA 14 Rev C and DA 15 Rev B, dated 19/05/21, prepared by IQR Design, incorporating the following:
- (a) Planting of 2 x *Banksia integrifolia* (75l) & 1 x *Angophora hispida* (45l) within the rear setback (water frontage, either level) as replacement plant for the removal of T2 (*Cedrus deodara*);
  - (b) Appropriate landscaping treatments with soft landscaping must be provided on the area under the meshed elevated driveway. This area must be free from any placement of plant and/or equipment and the western elevation must be open and not enclosed; and
  - (c) Details of the locations of all plant species and a schedule of plant numbers, pot sizes and mature height of each plant specie.

The applicant must submit detailed landscape plan(s) complying with the requirements of this consent for the written approval of Team Leader Assessment in consultation with Council's Landscape Officer.

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

(Reasons: To ensure landscaping quality for the subject site and the locality)

### **Privacy Screen – Swimming Pool**

- C2. The privacy screen on the eastern edge of the proposed swimming pool should be provided to a height of 1.8m with angled vertical timber louvres to ensure privacy protection while preserving views for the adjoining property to the east at No. 36 Cowdroy Avenue.

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

(Reason: To protect privacy and to minimise view impacts for the adjoining property)

**ROBIN TSE**  
**SENIOR ASSESSMENT OFFICER**

**ROBYN PEARSON**  
**TEAM LEADER (ASSESSMENTS)**

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**GAVIN McCONNELL**  
**A/MANAGER DEVELOPMENT SERVICES**

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**NORTH SYDNEY COUNCIL**  
**CONDITIONS OF DEVELOPMENT APPROVAL**  
**38 COWDROY AVENUE, CAMMERAY**  
**DEVELOPMENT APPLICATION NO. 294/20**

**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.

<b>Drawing No./Rev</b>	<b>Title</b>	<b>Drawn by</b>	<b>Dated</b>
DA02 Rev B	Existing/Demolition	LQR Design	28/10/2020
DA03 Rev C	Site Plan/Roof Plan	LQR Design	19/05/2021
DA04 Rev C	Street Level	LQR Design	19/05/2021
DA05 Rev C	Entry/Level 2	LQR Design	19/05/2021
DA06 Rev C	Level 1	LQR Design	19/05/2021
DA07 Rev C	Ground Floor	LQR Design	19/05/2021
DA08 Rev D	Lower Ground	LQR Design	19/05/2021
DA09 Rev F	West Elevation	LQR Design	19/05/2021
DA10 Rev E	East Elevation	LQR Design	19/05/2021
DA11 Rev C	South/North	LQR Design	19/05/2021
DA12 Rev E	Section A-A	LQR Design	19/05/2021
DA12.1 Rev C	Section B-B	LQR Design	19/05/2021
DA12.2 Rev B	Section C-C	LQR Design	19/05/2021
DA13 Rev C	Exterior Finishes	LQR Design	19/05/2021
DA22	Plan over Survey	LQR Design	15/01/2021
DA23	Section G	LQR Design	17/03/2021

(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)

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DEVELOPMENT APPLICATION NO. 294/20**

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**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)

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

**Revised Landscape Plan**

C1. The applicant shall submit a revised landscape plan, based on DA 14 Rev C and DA 15 Rev B, dated 19/05/21, prepared by IQR Design, incorporating the following:

- a) Planting of 2 x *Banksia integrifolia* (75l) & 1 x *Angophora hispida* (45l) within the rear setback (water frontage, either level) as replacement plant for the removal of T2 (*Cedrus deodara*);
- b) Appropriate landscaping treatments with soft landscaping must be provided on the area under the meshed elevated driveway. This area must be free from any placement of plant and/or equipment and the western elevation must be open and not enclosed; and
- c) Details of the locations of all plant species and a schedule of plant numbers, pot sizes and mature height of each plant specie.

The applicant must submit detailed landscape plan(s) complying with the requirements of this consent for the written approval of Team Leader Assessment in consultation with Council's Landscape Officer.

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

(Reasons: To ensure landscaping quality for the subject site and the locality.)

**Privacy Screen – Swimming Pool**

C2. The privacy screen on the eastern edge of the proposed swimming pool should be provided to a height of 1.8m with angled vertical timber louvres to ensure privacy protection while preserving views for the adjoining property to the east at No. 36 Cowdroy Avenue.

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

(Reason: To protect privacy and to minimise view impacts for the adjoining property)

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**Dilapidation Report Damage to Public Infrastructure**

- C3. 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)**

- C4. 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.

The dilapidation report and survey is 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.

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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/ies prior to the commencement of construction)

**Dilapidation Survey Private Property (Neighbouring Buildings)**

C5. A photographic survey and dilapidation report of adjoining properties No's. 36 and 40 Cowdroy Avenue 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 is 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)

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**Structural Adequacy of Adjoining Properties – Excavation Works**

C6. A report prepared by an appropriately qualified and practising structural engineer detailing the structural adequacy of adjoining properties No's. 36 and 40 Cowdroy Avenue, which certifies their 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**

C7. 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**

C8. Prior to issue of any Construction Certificate a Geotechnical/Civil Engineering report with reference to the findings and recommendations of the "Report on Geotechnical Site Investigation", dated August 2020 and prepared by Grozier Geotechnical Consultants, 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 temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support must be provided within the subject site);



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- 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 utilised in controlling groundwater. Where it is considered 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 utilised; 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/ hydrogeological engineer 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 minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development;

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- 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**

- C9. 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 & 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.

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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**

C10. 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)

**External Colours and Finishes**

C11. The external colours and finishes shall match those existing / or be compatible with surrounding development. A schedule of external colours, materials and finishes for the proposed development, including the material for the steel mesh elevated driveway, must be submitted for the written approval Team Leader Assessments.

The Certifying Authority must ensure that the architectural plans, schedule of external materials, colours and finishes and other specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure that the completed colours and finishes of the works are compatible with surrounding development)

**Roofing Materials - Reflectivity**

- C12. Roofing materials must be factory pre-finished with low glare and reflectivity properties to be compatible with the colours of neighbouring buildings. The selected roofing material must not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties. 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 excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development)

**Work Zone**

- C13. 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)

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**Obtain Driveway Crossing Permit under S.138 Roads Act 1993**

C14. Prior to the issue of the Construction Certificate, North Sydney Council must issue the applicant with a driveway crossing and road infrastructure works permit to suit the approved off-street parking facilities. To obtain the permit, an application must be made to Council on a '*Vehicular Access Application*' form with payment of the adopted assessment/inspection fees. Council will require civil design construction drawings and certification from the applicant's Civil Engineer to verify design details and enable permit issue. The responsibility on implementation and supervision of works specified on design plans fully rests on the designing engineer or whoever is chosen to be applicant's engineering representative. The civil drawings shall detail **the following infrastructure construction requirements of Council in relation to the consent.**

- a) The proposed vehicular access ways must comply with AS 2890.1 and Council's current Vehicular Access Application Guidelines and Specification (gutter bridges not permitted) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or parking floor.
- b) The redundant layback crossing on Cowdroy Avenue must be reinstated as upright kerb gutter and concrete footpath.
- c) The vehicular laybacks must be set square to the kerb.
- d) The crossing (between the layback and the property boundary) must be perpendicular on a single straight grade of approximately 4.5%, falling to the back of the layback.
- e) The gutter levels and road shoulder levels on Cowdroy Avenue must stay unchanged.
- f) The kerb gutter, and 600 mm road shoulder wide- strip, adjacent to all new layback and gutter works, on Cowdroy Avenue must be reconstructed, to ensure uniformity in the road reserve.
- g) The full property frontage footpath on Cowdroy Avenue must be reconstructed.
- h) All inspection openings, utility services must be adjusted to match the proposed driveway levels and location.
- i) The design detail has to be provided with **vehicular access application** and must include sections along centre-line and extremities of the crossing at a scale of 1:25. Sections are to be taken from the centre of the roadway through to the parking area itself and shall include all changes of grade and levels, **both** existing and proposed.
- j) A longitudinal section along the gutter line of Cowdroy Avenue at a scale of 1:50 showing how it is intended to transition the layback with the existing gutter levels and shall include all changes of grade and levels, **both** existing and proposed.
- k) A longitudinal section along the footpath property boundary at a scale of 1:50 is required and shall include all changes of grade and levels, **both** existing and proposed.
- l) The sections must show the calculated clearance to the underside of any overhead structure.
- m) Pipelines within the footpath area must be hot dipped galvanized rectangular steel hollow section with a minimum wall thickness of 4.0 millimetres and a section height of 100 millimetres.

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All driveway and infrastructure works on the road reserve must proceed in accordance with the terms of the permit issued by Council. Inspections by Council will be required as specified on the permit. The Certifying Authority issuing the Construction Certificate must ensure that the permit issued by Council is obtained prior to its issue, is referenced on and accompanies the relevant Construction Certificate issued.

(Reason: To facilitate appropriate vehicular access to private sites, without disruption to pedestrian and vehicular traffic)

**Stormwater Management and Disposal Design Plan – Construction Issue**

C15. 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 towards the bay waters
- c) Pipelines within the footpath area shall be hot dipped galvanized steel rectangular hollow section with a minimum wall thickness of 4.0 millimetres and a section height of 100 millimetres.
- d) 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 compliant 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.
- e) The design and installation of the Rainwater Tanks shall comply with Basix and **Sydney Water** requirements. Overflow from tank shall be connected by gravity to the stormwater disposal system.
- f) Prevent any stormwater egress into adjacent properties by creating physical barriers and surface drainage interception.

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)

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

- C16. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$4,500.00 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 6 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 6 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 Protection Measures to be shown on Construction Drawings**

- C17. The tree protection measures as contained in the Arboricultural Impact Assessment, dated 1 October 2020 and prepared by Lee Hancock Consulting Arborist, shall be clearly shown on the Construction Certificate drawings.

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Sensitive construction methods including hand excavation, root mapping and flexible location of piers and structures within the TPZ for any protected trees shall be required and detailed in the Construction Certificate drawings where appropriate.

Plans and specifications showing the said tree protection measures must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure the construction plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that appropriate tree protection measures are shown on construction drawings)

**Protection of Trees**

- C18. The following tree(s) as identified in the Arboricultural Impact Assessment, dated 1 October 2020 and prepared by Lee Hancock Consulting Arborist, 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
T1 <i>Eucalyptus pilularis</i> (Blackbutt)	North of the main dwelling	18m
T3 <i>Eucalyptus pilularis</i> (Blackbutt)	Rear garden near the foreshore	17m
T4 <i>Angophora costata</i> (Sydney Red Gum)	Rear garden near the foreshore	7m
T5 <i>Angophora costata</i> (Sydney Red Gum)	Adjacent to the eastern property boundary (neighbouring property)	7m

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 tree(s) 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)

**Approval for removal of Trees**

- C19. The following tree is approved for removal in accordance with the development consent:

Tree	Location	Height
T2 <i>Cedrus deodara</i> (Himalayan Cedar)	Rear garden	12m



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Removal of any other tree on the site is not approved, excluding species exempt under Council's Tree Preservation Order. Any tree(s) 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**

C20. 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**

C21. 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)

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**Noise from Plant and Equipment**

C22. 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**

C23. 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 8.00am and after 10.00pm on any Saturday, Sunday or Public Holiday; or
  - (ii) before 7.00am or after 10.00pm 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.

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“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)

**Swimming Pool Pumps on Residential Premises**

C24. The Certifying Authority must be satisfied that the swimming pool pump to be installed on the premises 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 8.00am and after 8.00pm on any Sunday or Public Holiday; or
  - (ii) before 7.00am or after 8.00pm on any other day
  
- (c) 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 shall 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.

Details demonstrating compliance with the requirements of this condition must be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

(Reason: To maintain residential amenity)

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**Pool Access**

C25. Access to the pool must be restricted by a child resistant barrier in accordance with the regulations prescribed in the Swimming Pools Act 1992, and the barrier is to conform to the requirements of the applicable Australian Standard. 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 safety of children and make applicant aware of the need to comply with applicable pool fencing legislation)

**Swimming Pool Water to Sewer**

C26. The swimming pool, including overflow water, must be drained to the sewer. The consent of Sydney Water to dispose of wastewater must be obtained prior to the issue of any Construction Certificate. Plans and specifications complying with this condition and any conditions/ requirements of Sydney Water 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 comply with this condition and any conditions/ requirements imposed by Sydney Water.

(Reason: Water from a swimming pool is classified as wastewater and cannot be legally disposed of into the stormwater system)

**Pool Filter**

C27. The pool filtering equipment must be encased by a soundproof cover and must be located six (6) metres from any habitable room in a dwelling on a neighbouring property. 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 noise generated by equipment does not result in offensive noise)

**Section 12 Development Contributions**

C28. 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 **\$21,000.00** is to be paid to Council to provide for additional local infrastructure improvements.

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The contribution MUST BE paid prior 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](http://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 Schedule**

C29. 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:

<b>Security deposit/ guarantee</b>	<b>Amount (\$)</b>
Engineering Construction Bond	\$4,500.00
<b>TOTAL BONDS</b>	<b>\$4,500.00</b>

Note: The following fees applicable

<b>Fees</b>	
Section 7.12 Development Contribution	\$21,000.00
<b>TOTAL FEES</b>	<b>\$21,000.00</b>

The security required by the above schedule 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.

(Reason: Compliance with the development consent)

**BASIX Certificate**

C30. 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. A389905 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)

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

**Project Arboriculturist to be Engaged**

D1. The applicant must engage an arboriculturist to ensure compliance with the tree protection measures as required in this consent.

- The project arboriculturist shall inspect tree protection measures and certify in writing to the Principal Certifying Authority the measures comply with the approved Tree Protection Plan and as directed by the project arboriculturist before work commences.
- The project arboriculturist shall provide guidance and oversight of tree protection and management to ensure that the stability and ongoing viability of trees being retained is not compromised.
- The project arboriculturist must contact the tree pruning contractor and Council's Tree Management Officer (giving at least 2 working days' notice) to arrange a joint site meeting, prior to commencing any pruning, to determine the exact location and extent of pruning that is permissible, with the tree pruning contractor to comply with any instructions issued by Council, acting reasonably.
- Any pruning must be undertaken by a practicing arborist with a minimum Australian Qualification Framework Level 3 in arboriculture, in accordance with the principles of the Australian Standard AS 4373-2007 'Pruning of Amenity Trees,' and the NSW Work Cover Code of Practice for the Amenity Tree Industry (1998), as well as any instructions issued on site by Council, acting reasonably.
- The practicing arborist must keep a log of dates and times of when they attended the site, the type of works that were performed, and must form part of the certification required prior to Occupation.

(Reason: To ensure compliance with tree protection measures)

**Protection of Trees**

D2. All trees that are specifically nominated to be retained by notation on plans or by condition as a requirement of this consent must be maintained and protected during demolition, excavation and construction on the site in accordance with AS4970-2009 (Protection of trees on development sites). A report containing recommendations, and methods of tree protection prepared by an appropriately qualified person must be provided to the Certifying Authority for approval by an appropriately qualified person prior to commencement of any works on the site. Any recommendations must be undertaken for the duration of works on the site.

(Reason: To ensure compliance with the requirement to retain significant planting on the site)

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**Temporary Fences and Tree Protection**

- D3. All protected trees on-site that are specifically nominated as per Condition C18 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.

Sensitive construction methods including hand excavation, root mapping and flexible location of piers and structures within the TPZ for any protected trees shall be required.

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**

- D4. 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)

**Sydney Water Approvals**

- D5. Prior to the commencement of any works, the approved plans must be submitted to Sydney Water to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Certifying Authority must ensure that Sydney Water has appropriately stamped the plans before the commencement of building works.

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Notes:

- **Sydney Water Building Plan Approvals** can be obtained from the Sydney Water Tap in™ online service. Building plans must be submitted to the Tap in™ to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. For further information visit <http://www.sydneywater.com.au/tapin/index.htm> or call 13 000 TAP IN (1300 082 746) for further information.

(Reason: To ensure compliance with Sydney Water requirements)

**Commencement of Works Notice**

- D6. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least 2 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***

**Parking Restrictions**

- E1. 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 kerbside parking provisions are not compromised during works)

**Road Reserve Safety**

- E2. 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.



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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**

E3. 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)

**Cigarette Butt Receptacle**

E4. 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)

**Service adjustments**

E5. 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 Applicants 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)

**Geotechnical Stability during Works**

E6. 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.

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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 report as required by **Condition C8** in this consent 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)

**Council Inspection of Public Infrastructure Works**

E7. During the works on public infrastructure reverting to Council's care and control, Council's development engineer must undertake inspections of the works at the following hold points: -

a) Vehicular access; and associated road civil works.

All works must proceed in accordance with Roads Act 1993 approvals or other permits relating to roads issued by Council. A minimum of 48 hours' notice must be given to Council to book an inspection. Work must not proceed until the works or activity covered by the inspection is approved.

(Reason: To ensure quality of construction joints and connections in the drainage system)

**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.

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- (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)

**Developer's Cost of Work on Council Property**

- E11. The developer 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**

- E12. 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**

- E13. 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.

The tree protection measures, recommendations and/or conditions, as contained in the Arboricultural Impact Assessment, dated 1.10.2020 and prepared by Lee Hancock Consulting Arborist, must be adhered to at all times during the construction of the proposed development.

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.

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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 4.55 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)

**Trees to be Removed**

- E14. All trees on the site must be protected and retained save for those expressly identified below as being approved for removal: -

<b>Tree</b>	<b>Location</b>	<b>Height</b>
<i>T2 Cedrus deodara</i> (Himalayan Cedar)	Rear garden	12m

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

**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**

Eg. 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)

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**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:

<b>Standard Construction Hours</b>		
<b>Location</b>	<b>Day</b>	<b>Hours</b>
<b>All other zones</b>	Monday – Friday	7.00am – 5.00pm
	Saturday	8.00am – 1.00pm
	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.

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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 & Enforcement Policy.

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

**Installation and Maintenance of Sediment Control**

E17. 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 & 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**

E18. 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)

**Site Amenities and Facilities**

E19. Where work involved in the erection and demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements, must be provided and maintained at all times. The type of work place determines the type of amenities required.

Further information and details can be obtained from the Internet at [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

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

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**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](http://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 & 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](http://www.northsydney.nsw.gov.au).

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

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**Imported Fill Material**

E24. The only waste derived fill material that may be received at the development site is: -

- a) Virgin excavated natural material (within the meaning of the Protection of the Environment Operations Act 1997); and
- b) Any other waste-derived material the subject of a resource recovery exemption under cl. 51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material.

Any waste-derived material the subject of a resource recovery exemption received at the development site, must be accompanied by documentation as the material's compliance with the exemption conditions and must be provided to the Certifying Authority on request.

(Reason: To ensure that imported fill is of an acceptable standard for environmental protection purposes)

**Waste Disposal**

E25. 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**

E26. 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)



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**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)

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**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)

**Mandatory Critical Stage Inspections**

- F6. Building work must be inspected by the Principal Certifying Authority on the critical stage occasions prescribed by the EP&A Act and its Regulations, and as directed by the appointed Principal Certifying Authority.

(Reason: Statutory)

**Excavation/Demolition**

- F7. 1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- 2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- 3) 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)

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**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)

**Certification- Civil Works**

- G2. An appropriately qualified and practicing Civil Engineer must certify to the Certifying Authority that the vehicular crossing and associated works and road works were constructed in accordance with this consent and any approval for works in the road reserve issued by the Council.

A copy of the certificate must be submitted to Council (if it is not the Certifying Authority), upon completion of the development works and prior to the issue of an Occupation Certificate.

(Reason: Compliance with the Consent)

**Pool Access**

- G3. Access to the pool must be restricted by a child resistant barrier in accordance with the regulations prescribed in the Swimming Pools Act 1992, and the requirements of the applicable Australian Standard. The pool must not be filled with water or be allowed to collect stormwater until the installation of the child resistant barrier is completed. Certification from an appropriately qualified person confirming compliance with these requirements must be provided prior to the issuing of any Occupation Certificate.

(Reason: To ensure that any person acting upon this consent is aware of their obligations under the provisions of the Swimming Pools Act)

**Pool Safety Requirements**

- G4. A notice must be displayed in a prominent position in the immediate vicinity of the pool at all times showing:
- a) Appropriate instructions of artificial resuscitation methods.

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- b) A warning stating:
- (i) "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL", and
  - (ii) "POOL GATES MUST BE KEPT CLOSED AT ALL TIMES", and
  - (iii) "KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900 MILLIMETRES CLEAR OF THE POOL FENCE AT ALL TIMES",

Details demonstrating compliance are to be provided with any Occupation Certificate issued for the pool.

This notice must be kept in a legible condition and at the poolside.

(Reason: To ensure an adequate level of safety for young pool users)

**Utility Services**

- G5. 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**

- G6. 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](http://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)

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**Disposal Information**

G7. Upon completion of works and prior to occupation, a report including the following information must be provided to Council's Open Space and Environmental Services Department:

- a) the total tonnage of all waste and excavated material disposed of from the site (including any tipping dockets); and
- b) the disposal points and methods used.

(Reason: To ensure appropriate disposal methods are undertaken for auditing and inspection purposes)

**BASIX Completion Certificate**

G8. 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)

**Landscaping**

G9. The landscaping shown in the approved landscape plans as required by Condition C1 of this consent, must be completed prior to the issue of any Occupation Certificate.

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

**Damage to Adjoining Properties**

G10. 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.

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

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

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

**Compliance with Certain conditions**

G11. Prior to the issue of any Occupation Certificate, Conditions C1, C2 and C11 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)

***I. On-Going / Operational Conditions***

**Pool Filter**

II. The swimming pool pump installed at the premises must not operate so as to:

- (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);
  - (j) before 8.00am and after 8.00pm on any Sunday or Public Holiday; or
  - (ii) before 7.00am or after 8.00pm 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 shall 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 ensure noise generated by equipment does not result in offensive noise)

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**Single Occupancy**

- I2. Nothing in this consent authorises the use of the premises other than for a single occupancy.

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

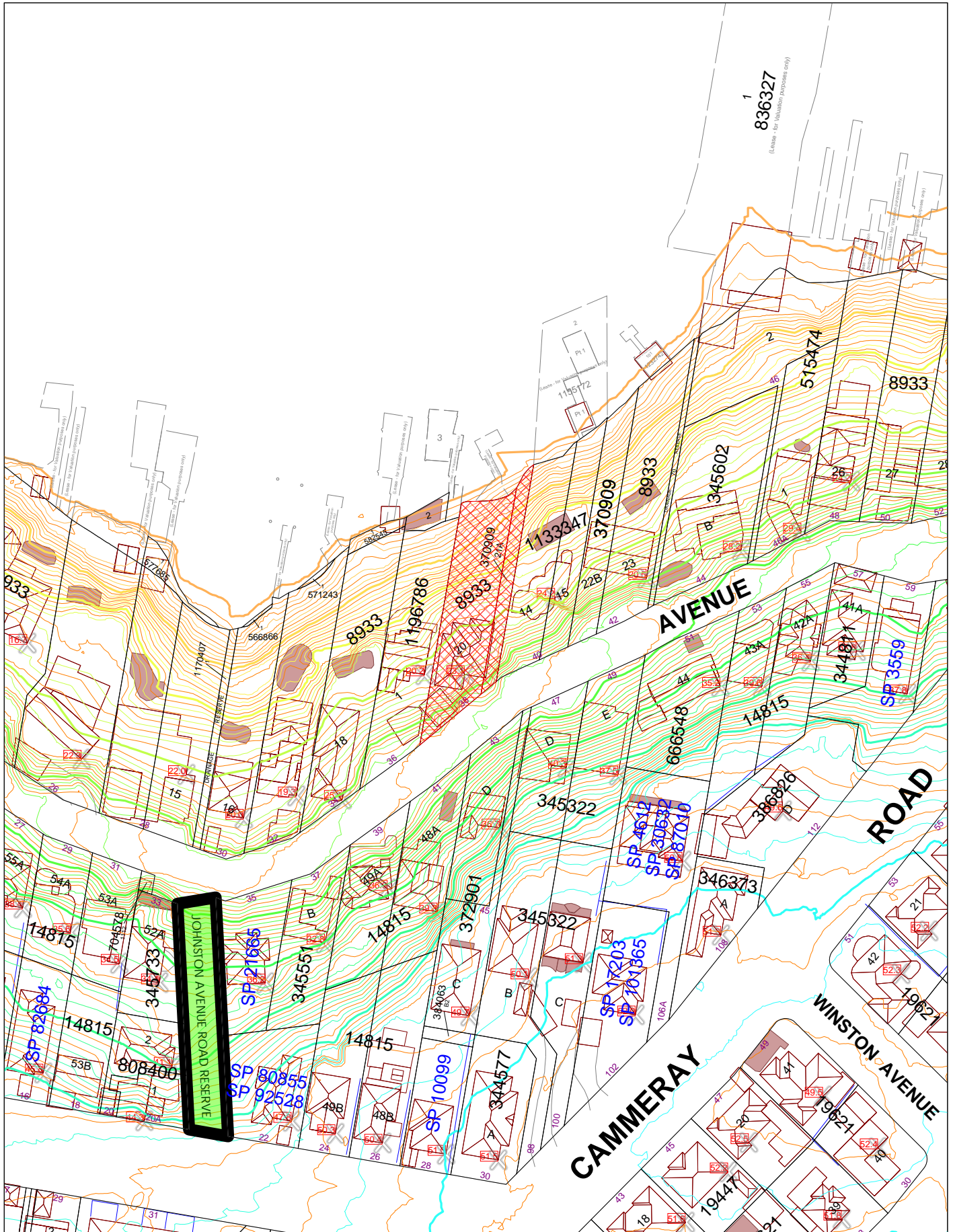
**Maintenance of Approved Landscaping**

- I3. The owner of the premises at No. 38 Cowdroy Avenue, Cammeray is to maintain the landscaping approved by this consent generally in accordance with the landscape plans as required by Condition C1 of this consent.

Any replacement plants required shall be advanced in growth and be selected to maintain the anticipated mature height, canopy density and nature of those plant species as originally approved.

(Reason: To ensure maintenance of the amenity, solar access and views of adjoining properties)

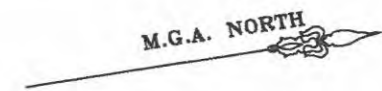
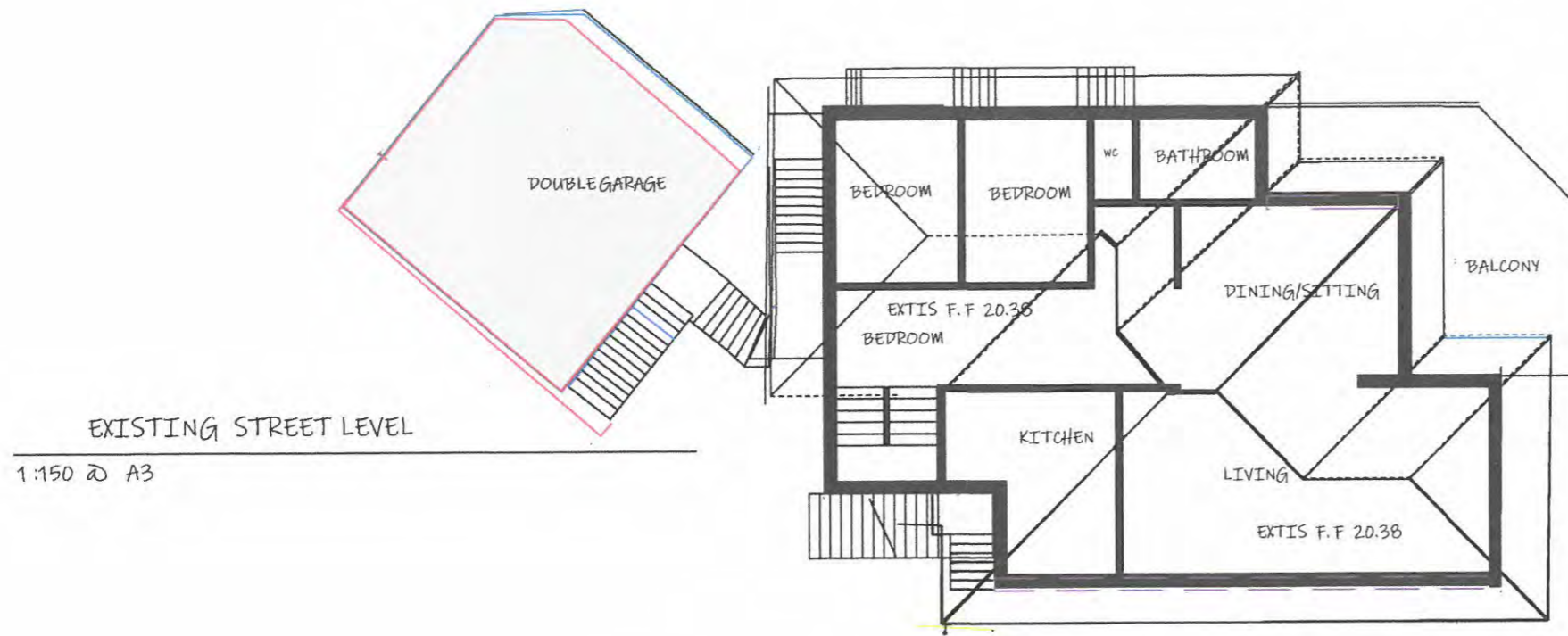




**North Sydney Council**

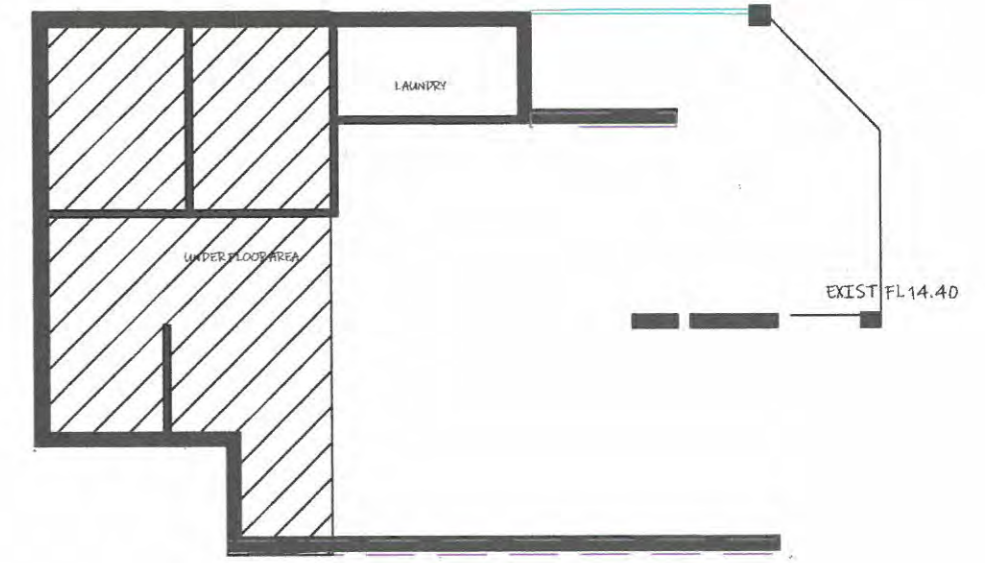
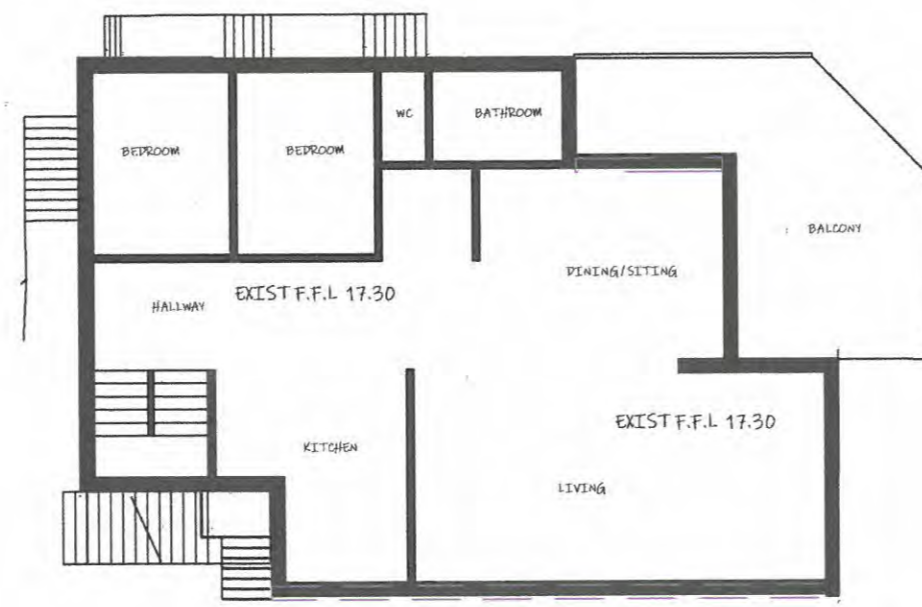
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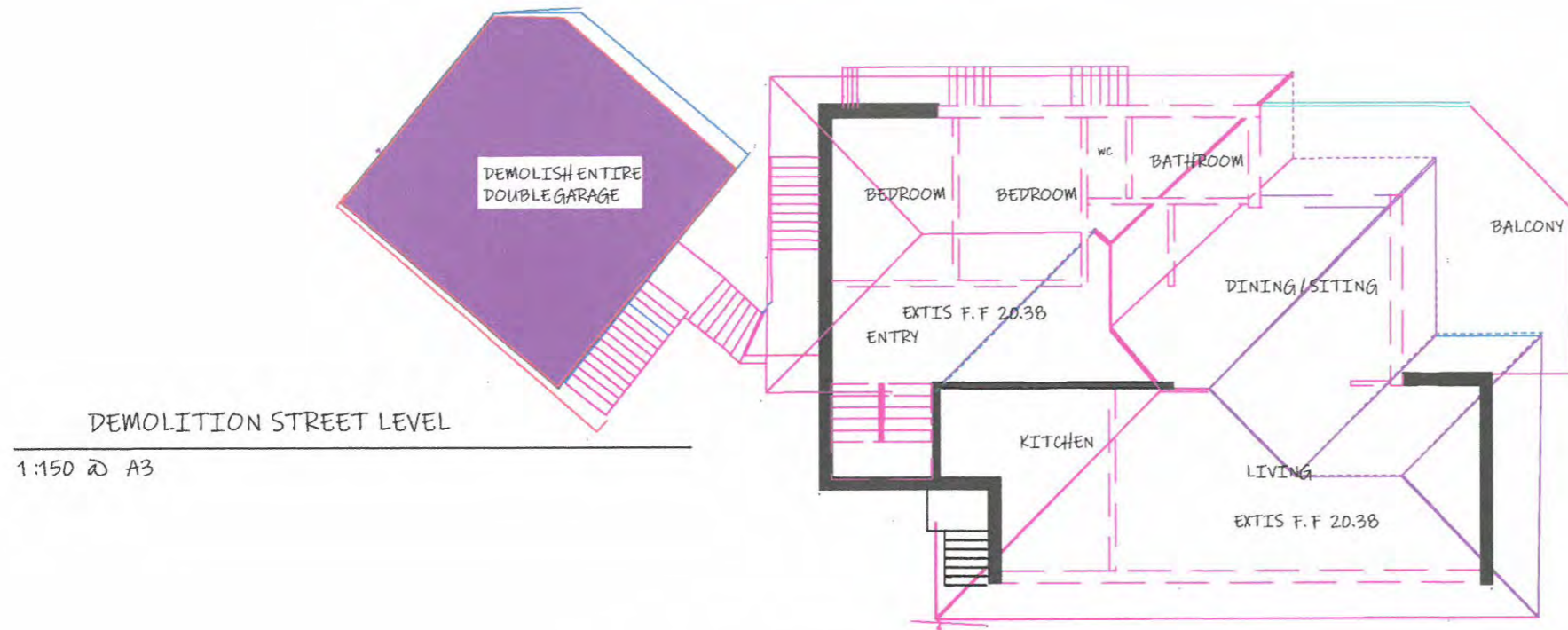
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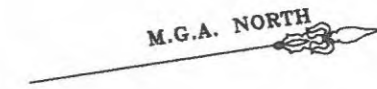
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DEMOLITION STREET LEVEL

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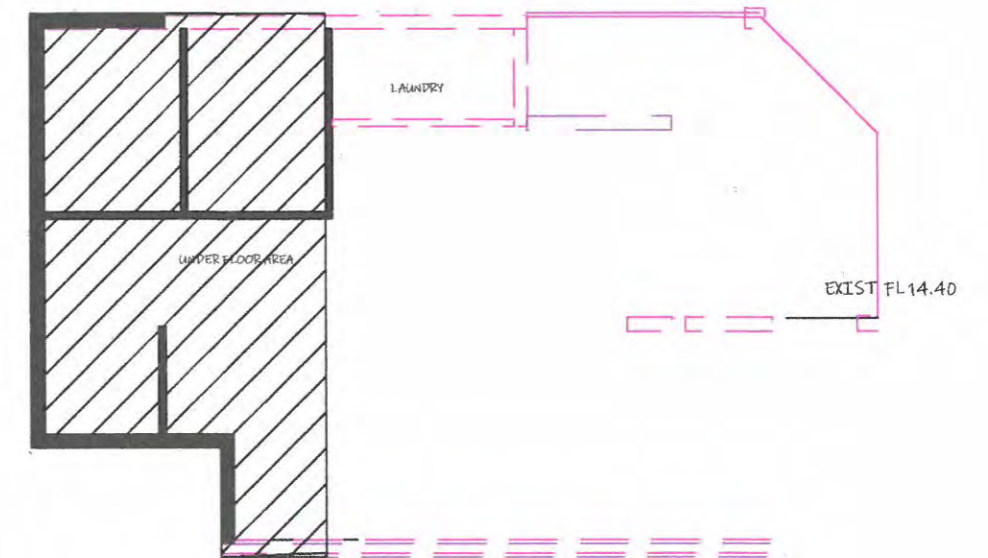
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DEMOLITION LEVEL 1

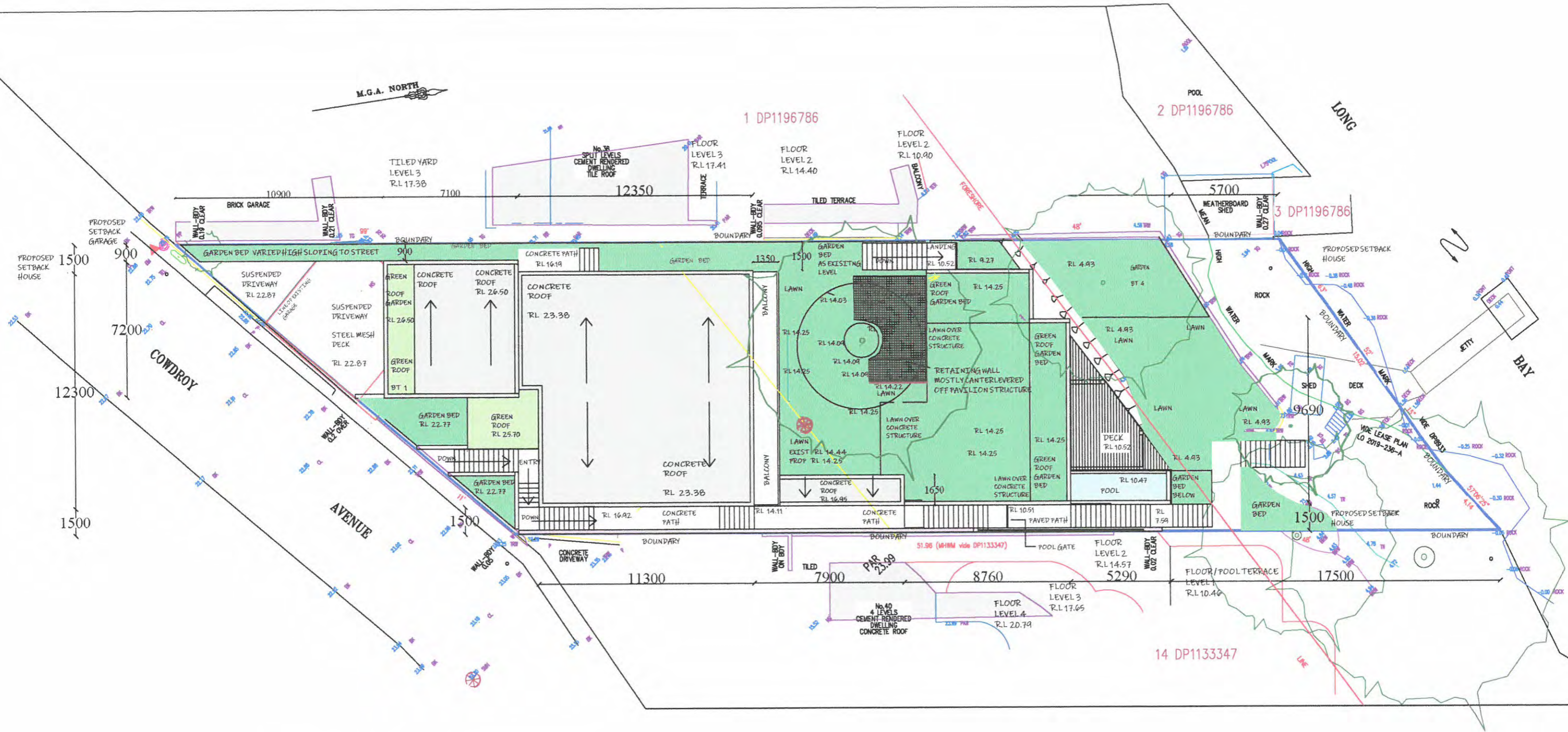
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DEMOLITION GROUND LEVEL

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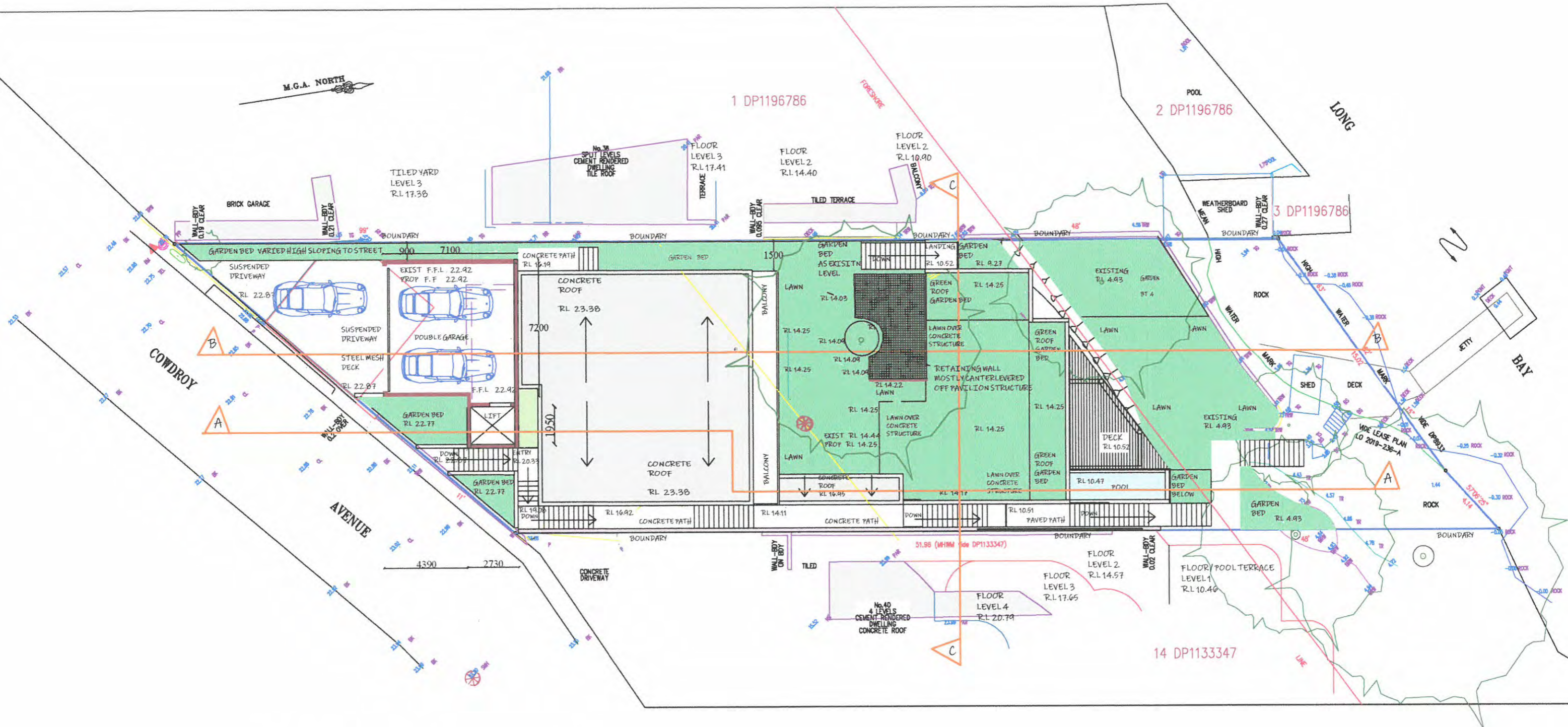
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SITE PLAN / ROOF PLAN

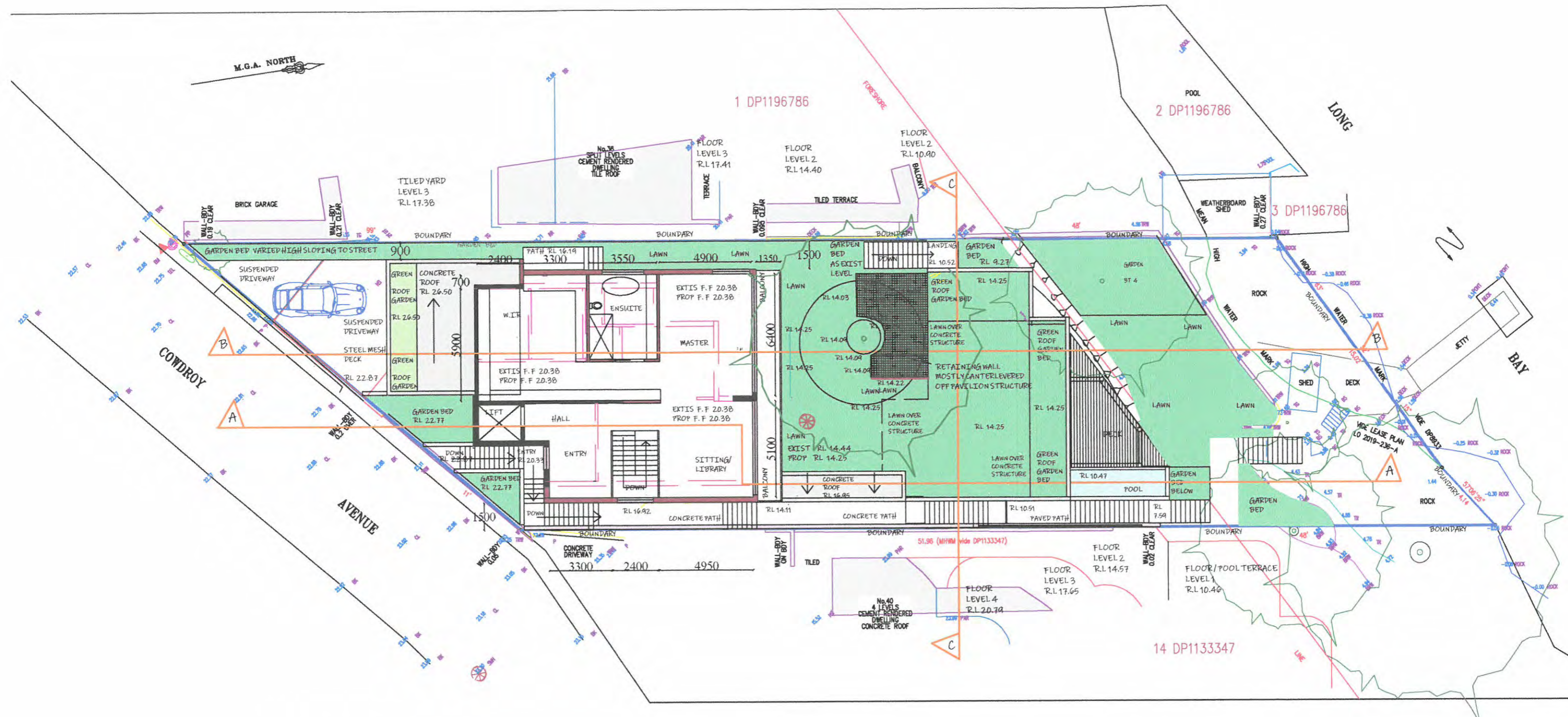
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<b>LEGEND</b> LAWN / GARDEN <span style="display:inline-block; width:15px; height:10px; background-color:#90EE90; border:1px solid black;"></span> BALCONY/DECK <span style="display:inline-block; width:15px; height:10px; border:1px solid black;"></span> ROOFING <span style="display:inline-block; width:15px; height:10px; background-color:#D3D3D3; border:1px solid black;"></span> GREEN ROOF <span style="display:inline-block; width:15px; height:10px; background-color:#90EE90; border:1px solid black;"></span> POOL <span style="display:inline-block; width:15px; height:10px; background-color:#ADD8E6; border:1px solid black;"></span> CONCRETE/PATH DRIVEWAY <span style="display:inline-block; width:15px; height:10px; background-color:#D3D3D3; border:1px solid black;"></span>		DRAWING NUMBER <b>DA 03</b> REVISION C	DRAWING NAME SITE PLAN / ROOF PLAN DATE 19/05/21 SCALE 1:200 @ A3	L.Q.R DESIGN E. troyd6615@gmail.com P. 0481 736 734	DEVELOPMENT APPLICATION 38 COWDROY AVE CAMMERAY PREPARED FOR MR G CALIGURI SCALE BAR 1:200 	<b>L.Q.R</b> DESIGN
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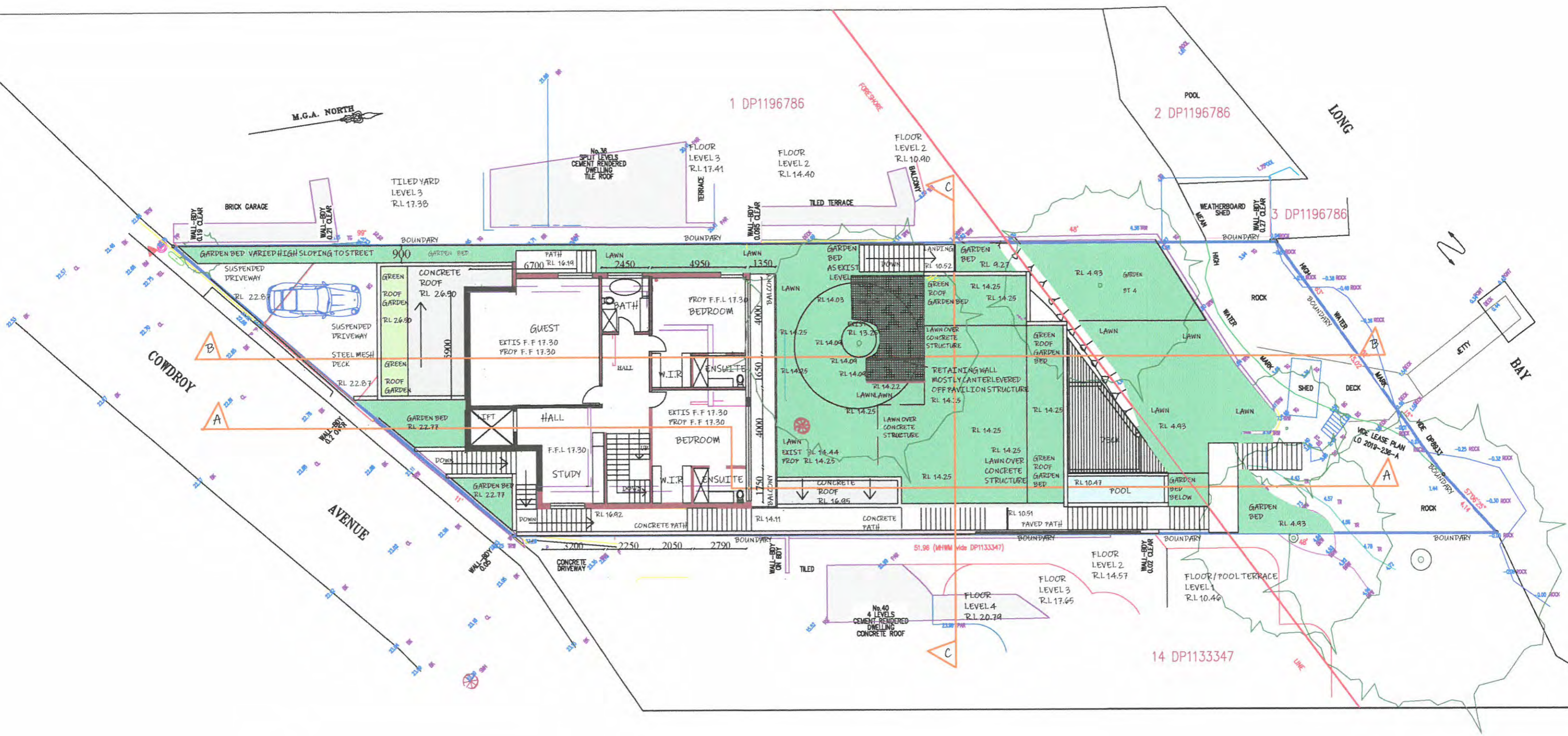
GARAGE / STREET LEVEL  
1:200 @ A3

<b>LEGEND</b> LAWN/GARDEN  BALCONY/DECK GREEN ROOF  POOL ROOFING NEW STRUCTURE	DRAWING NUMBER <b>DA 04</b> REVISION C	DRAWING NAME STREET LEVEL DATE 19/05/21 SCALE 1:200 @ A3	L.Q.R DESIGN E. troyd6615@gmail.com P. 0481 736 734	DEVELOPMENT APPLICATION 38 COWDROY AVE CAMMERAY PREPARED FOR MR G CALIGURI SCALE BAR 1:200 	<b>L.Q.R</b> DESIGN
	14 DP1133347				



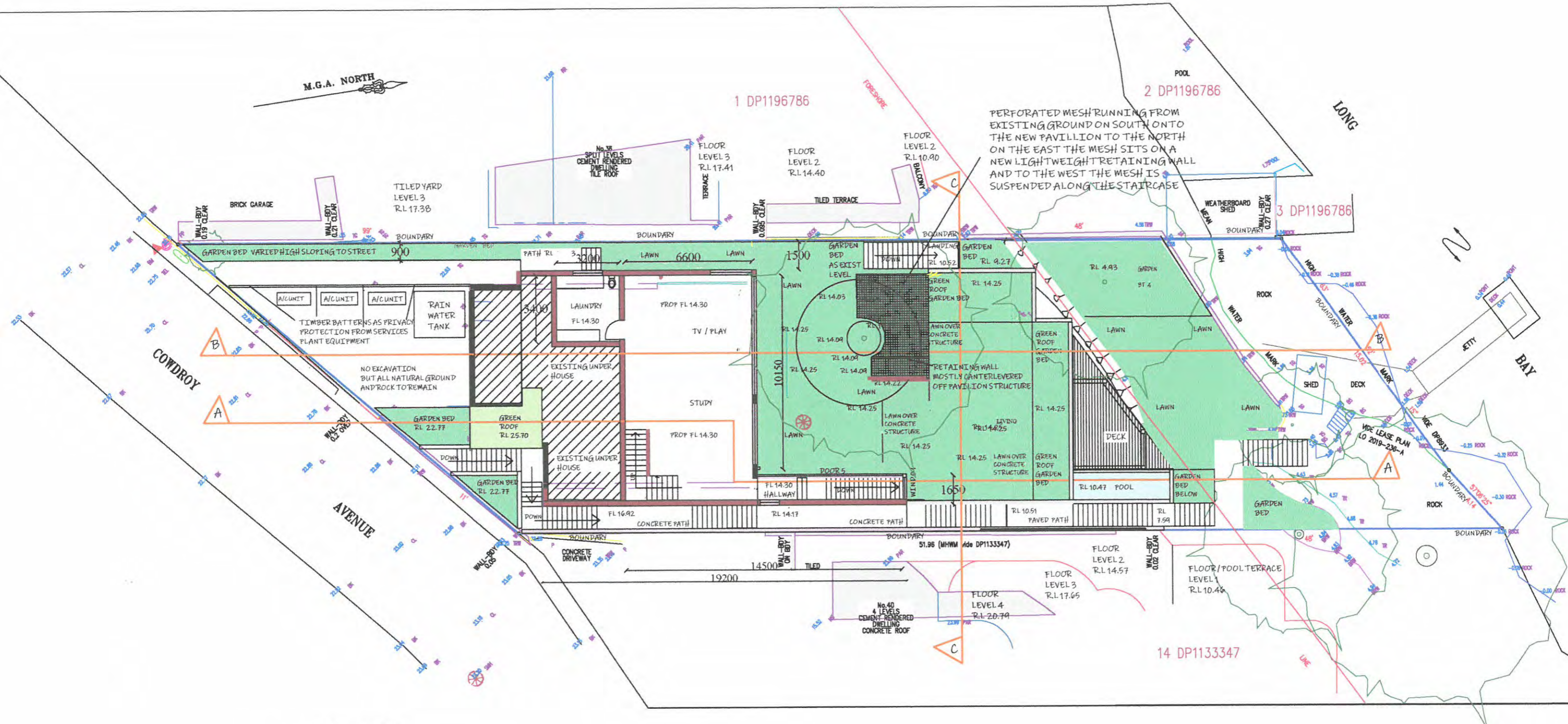
ENTRY / LEVEL 2  
1:200 @ A3

<b>LEGEND</b> LAWN/GARDEN <span style="display:inline-block; width:15px; height:15px; background-color:lightgreen; border:1px solid black;"></span> BALCONY/DECK <span style="display:inline-block; width:15px; height:15px; border:1px solid black;"></span> ROOFING <span style="display:inline-block; width:15px; height:15px; background-color:lightgrey; border:1px solid black;"></span> EXISTING STRUCTURE <span style="display:inline-block; width:15px; height:15px; background-color:black; border:1px solid black;"></span> POOL <span style="display:inline-block; width:15px; height:15px; border:1px solid black;"></span> NEW STRUCTURE <span style="display:inline-block; width:15px; height:15px; background-color:lightcoral; border:1px solid black;"></span>		DRAWING NUMBER <b>DA 05</b> REVISION C	DRAWING NAME ENTRY / LEVEL 2 DATE 19/05/21 SCALE 1:200 @ A3	L.Q.R DESIGN E. troyd6615@gmail.com P. 0481 736 734	DEVELOPMENT APPLICATION 38 COWDROY AVE CAMMERAY PREPARED FOR MR G CALIGURI SCALE BAR 1:200 	<b>L.Q.R</b> DESIGN
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LEVEL 1  
1:200 @ A3

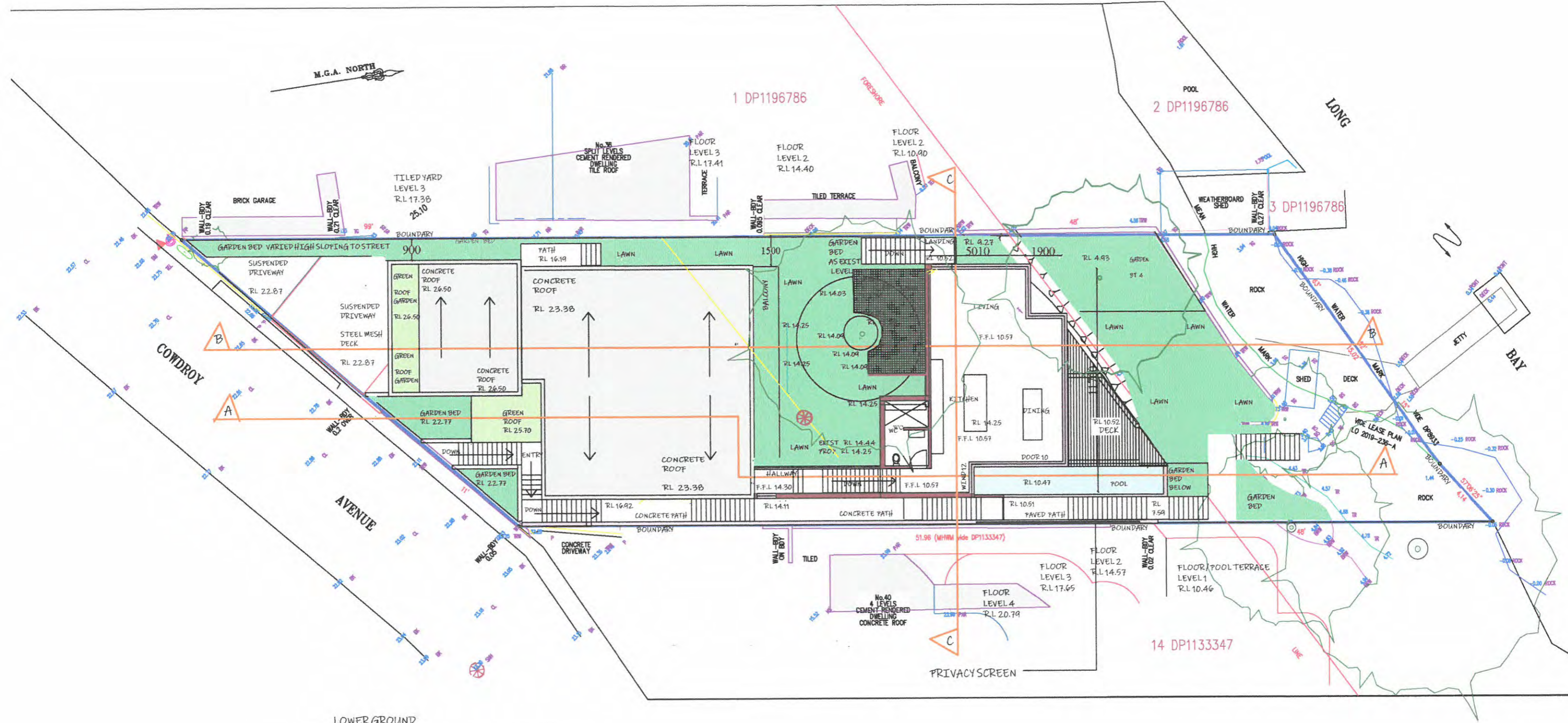
<b>LEGEND</b> EXIST DEMOL  BALCONY/DECK  ROOFING EXISTING STRUCTURE  POOL  NEW STRUCTURE		DRAWING NUMBER <b>DA 06</b> REVISION C	DRAWING NAME LEVEL 1 DATE 19/05/21 SCALE 1:200 @ A3	L.Q.R DESIGN E. troyd6615@gmail.com P. 0481 736 734	DEVELOPMENT APPLICATION 38 COWDROY AVE CAMMERAY PREPARED FOR MR G CALIGURI SCALE BAR 1:200 	<b>L.Q.R</b> DESIGN
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GROUND FLOOR  
1:200 @ A3

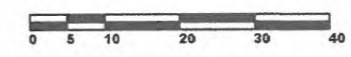
<b>LEGEND</b> LAWN/GARDEN  BALCONY/DECK EXISTING STRUCTURE  POOL		<b>DRAWING NUMBER</b> <b>DA 07</b> REVISION C		<b>DRAWING NAME</b> PLANT & EQUIP AREA DATE 19/05/21 SCALE 1:200 @ A3		<b>L.Q.R DESIGN</b> E. troyd6615@gmail.com P. 0481 736 734		<b>DEVELOPMENT APPLICATION</b> 38 COWDROY AVE CAMMERAY PREPARED FOR MR G CALIGURI		<b>L.Q.R DESIGN</b>
ROOFING NEW STRUCTURE		SCALE BAR 1:200 								

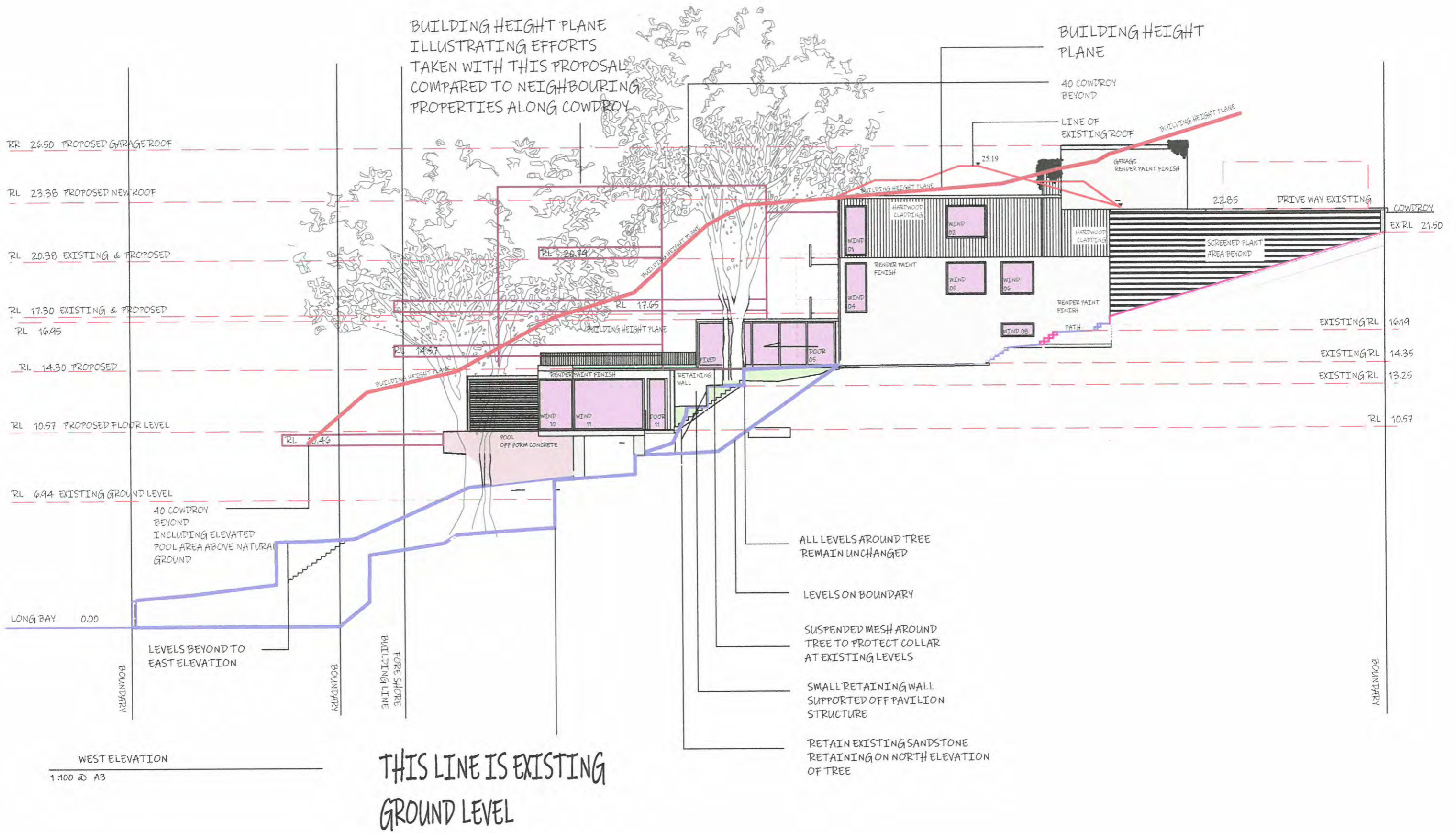




LOWER GROUND  
1:200 @ A3

<b>LEGEND</b> LAWN/GARDEN <span style="display:inline-block; width:15px; height:15px; background-color:#90EE90; border:1px solid black;"></span> BALCONY/DECK <span style="display:inline-block; width:15px; height:15px; border:1px solid black;"></span> ROOFING <span style="display:inline-block; width:15px; height:15px; background-color:#D3D3D3; border:1px solid black;"></span> NEW DOORS <span style="display:inline-block; width:15px; height:15px; background-color:#FFB6C1; border:1px solid black;"></span> POOL <span style="display:inline-block; width:15px; height:15px; background-color:#ADD8E6; border:1px solid black;"></span> NEW STRUCTURE <span style="display:inline-block; width:15px; height:15px; background-color:#8B0000; border:1px solid black;"></span>		DRAWING NUMBER <b>DA 08</b> REVISION D	DRAWING NAME LOWER GROUND DATE 19/05/21 SCALE 1:200 @ A3	L.Q.R DESIGN E. troyd6615@gmail.com P. 0481 736 734	DEVELOPMENT APPLICATION 38 COWDROY AVE CAMMERAY PREPARED FOR MR G CALIGURI	L.Q.R DESIGN
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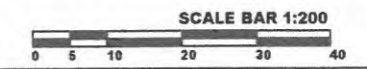
LEGEND		
WIND/DOORS	RENDER PAINT	ROOFING
GREEN ROOF	OFF FORM CONC	TIMBER CLADD

DRAWING NUMBER	DRAWING NAME
<b>DA 09</b>	WEST ELEVATION
REVISION F	DATE 19/05/21 SCALE 1:200 @ A3

L.Q.R DESIGN
E. troyd6615@gmail.com
P. 0481 736 734

DEVELOPMENT APPLICATION
38 COWDROY AVE CAMMERAY PREPARED FOR MR G CALIGURI

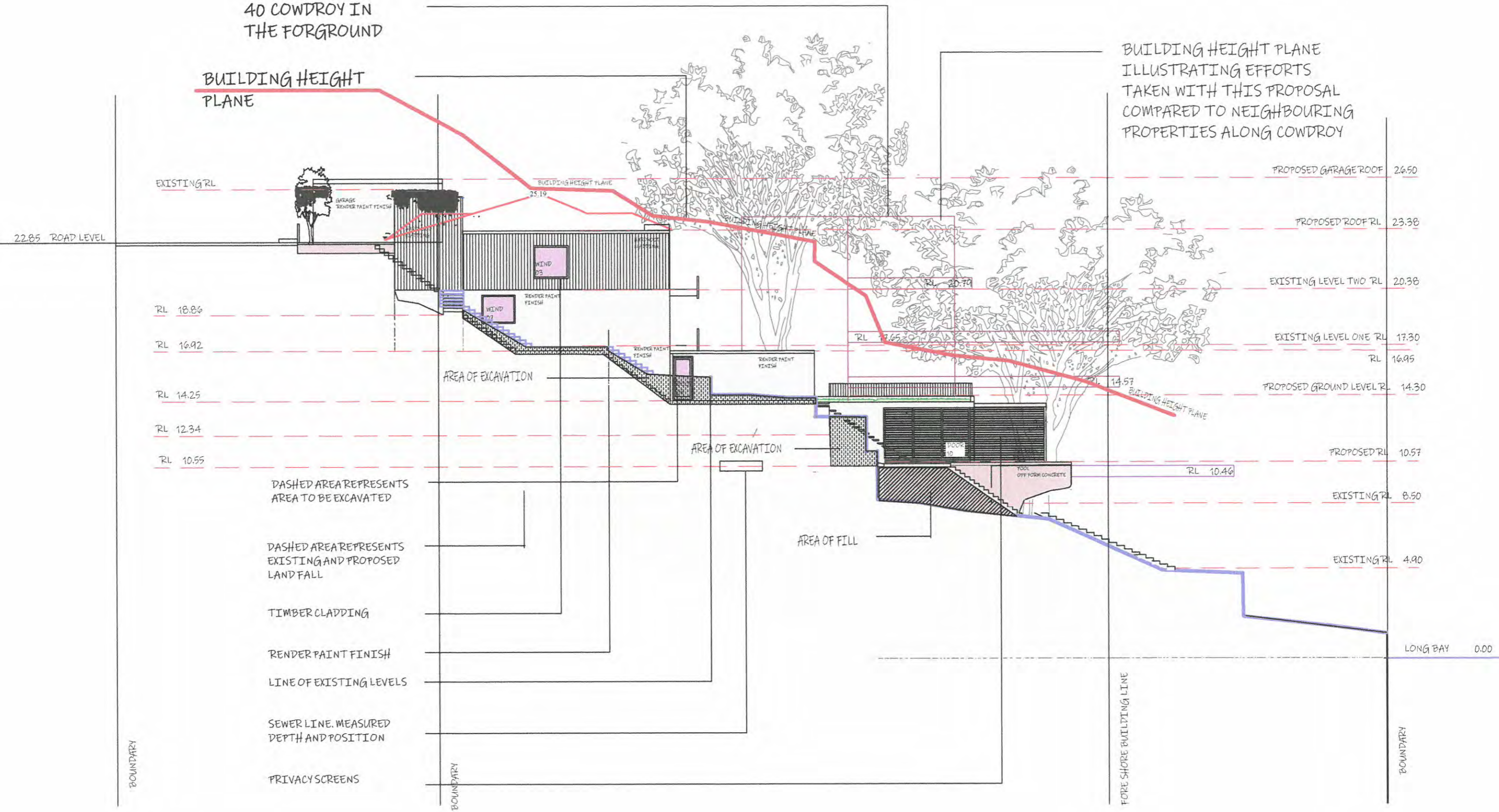
L.Q.R DESIGN
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40 COWDROY IN THE FOREGROUND

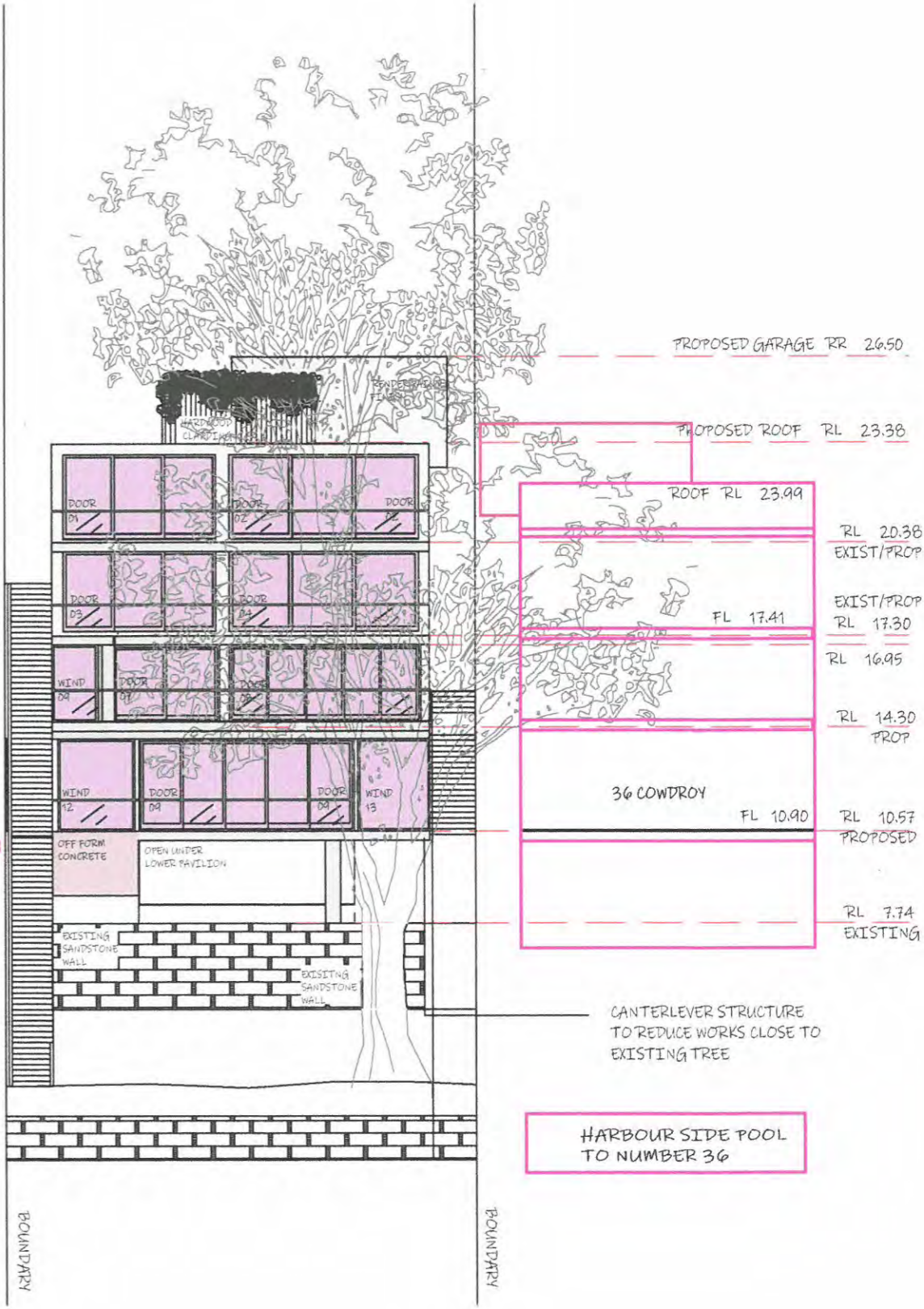
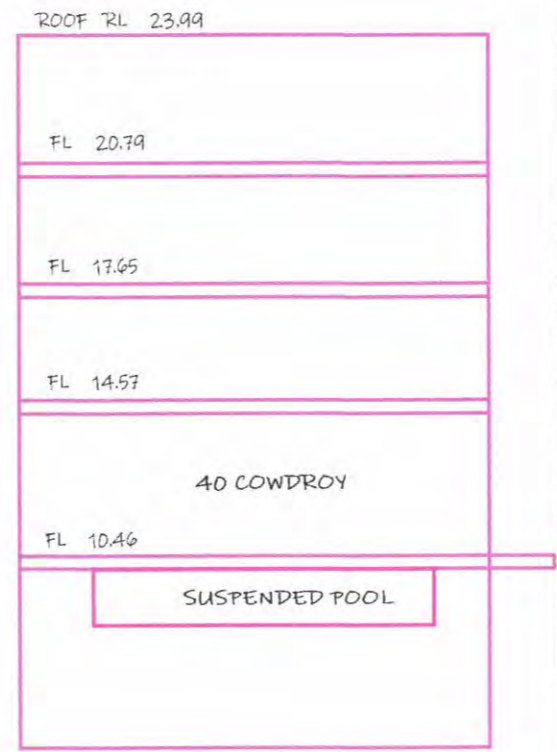
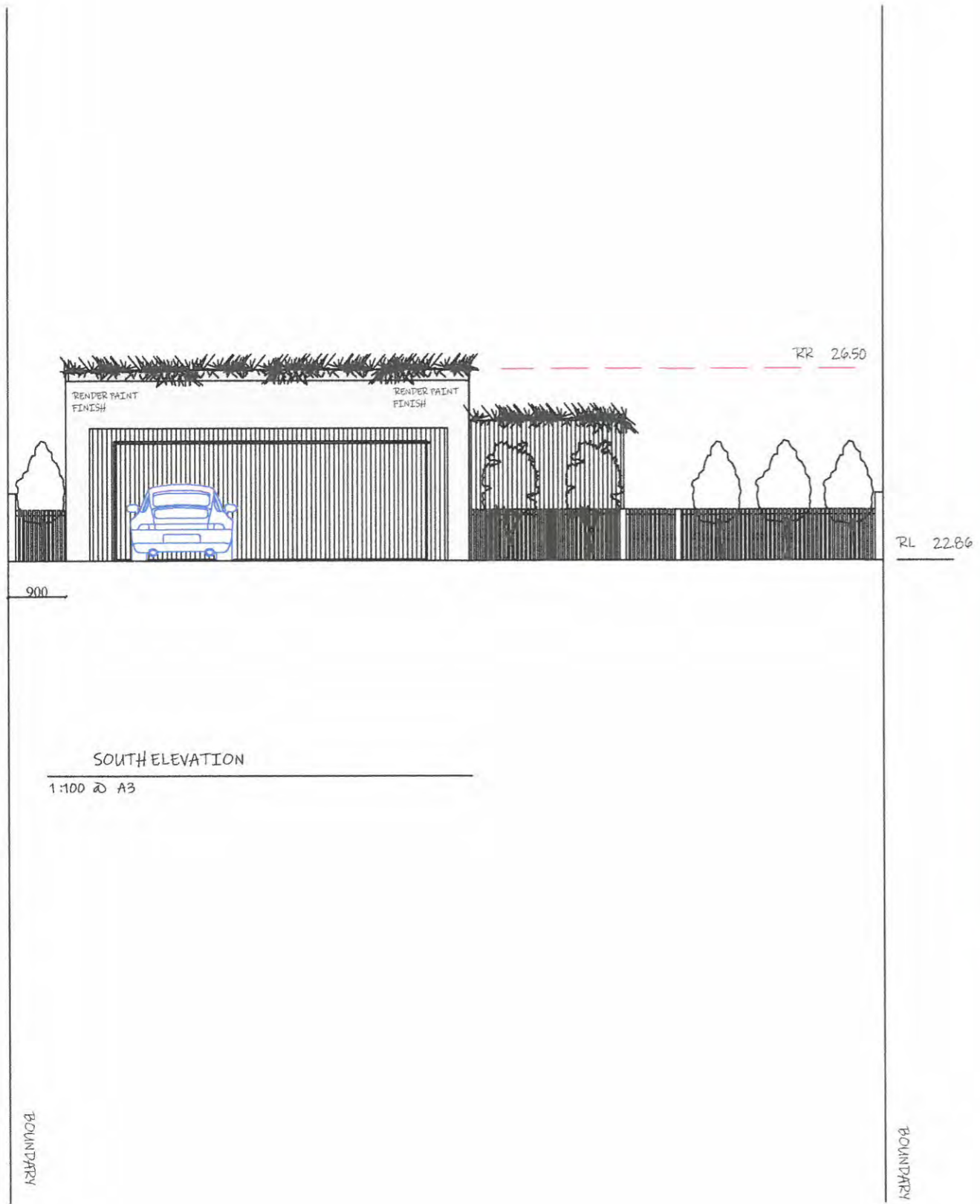
BUILDING HEIGHT PLANE

BUILDING HEIGHT PLANE ILLUSTRATING EFFORTS TAKEN WITH THIS PROPOSAL COMPARED TO NEIGHBOURING PROPERTIES ALONG COWDROY



EAST ELEVATION  
1:200 @ A3

<b>LEGEND</b> WIND/DOORS  RENDER PAINT  ROOFING GREEN ROOF  OFF FORM CONC  TIMBER CLADD		DRAWING NUMBER <b>DA 10</b> REVISION E	DRAWING NAME EAST ELEVATION DATE 19/05/21 SCALE 1:200 @ A3	L.Q.R DESIGN E. troyd6615@gmail.com P. 0481 736 734	DEVELOPMENT APPLICATION 38 COWDROY AVE CAMMERAY PREPARED FOR MR G CALIGURI SCALE BAR 1:200 	<b>L.Q.R</b> DESIGN
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HARBOUR SIDE POOL TO NUMBER 36

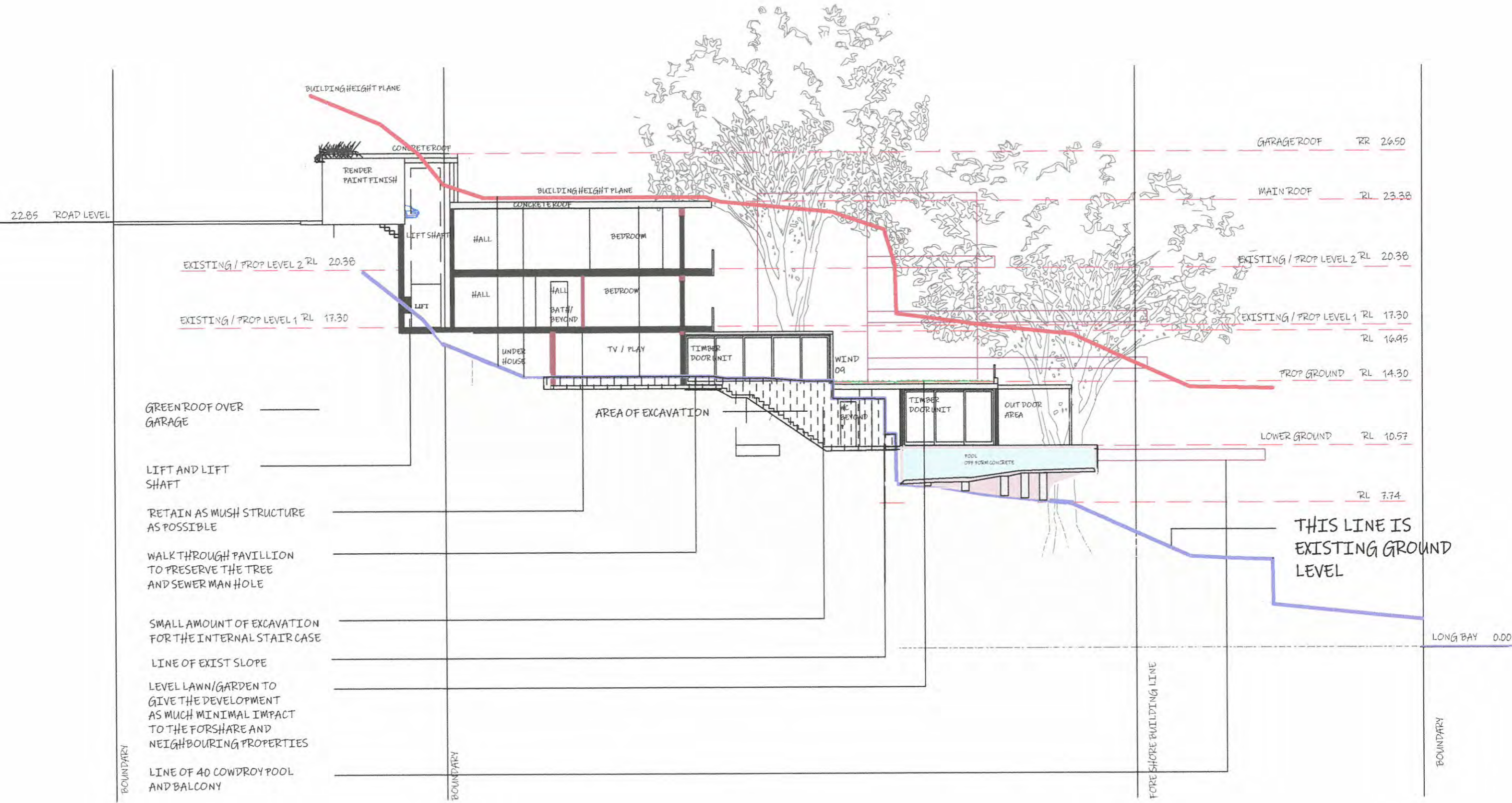
LEGEND			
WIND/DOORS		RENDER PAINT	
GREEN ROOF		OFF FORM CONC	
ROOFING		TIMBER CLADD	

DRAWING NUMBER	DA 11
DRAWING NAME	SOUTH / NORTH
DATE	19/05/21
SCALE	1:200 @ A3
REVISION	C

L.Q.R DESIGN
E. troyd6615@gmail.com
P. 0481 736 734

DEVELOPMENT APPLICATION
38 COWDROY AVE CAMMERAY
PREPARED FOR MR G CALIGURI
SCALE BAR 1:200

L.Q.R DESIGN



GREENROOF OVER GARAGE

LIFT AND LIFT SHAFT

RETAIN AS MUSH STRUCTURE AS POSSIBLE

WALK THROUGH PAVILLION TO PRESERVE THE TREE AND SEWER MAN HOLE

SMALL AMOUNT OF EXCAVATION FOR THE INTERNAL STAIR CASE

LINE OF EXIST SLOPE

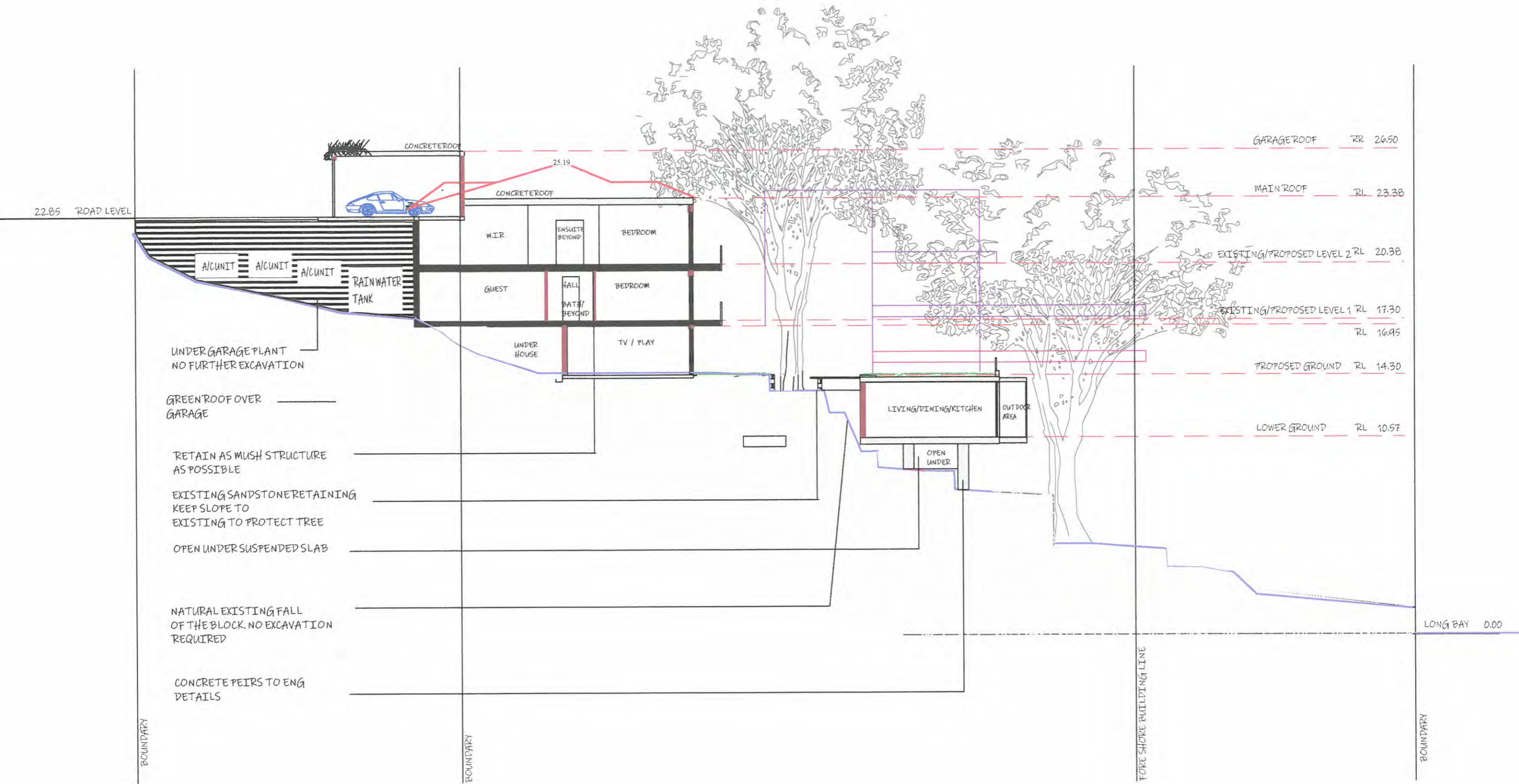
LEVEL LAWN/GARDEN TO GIVE THE DEVELOPMENT AS MUCH MINIMAL IMPACT TO THE FORSHARE AND NEIGHBOURING PROPERTIES

LINE OF 40 COWDROY POOL AND BALCONY

THIS LINE IS EXISTING GROUND LEVEL

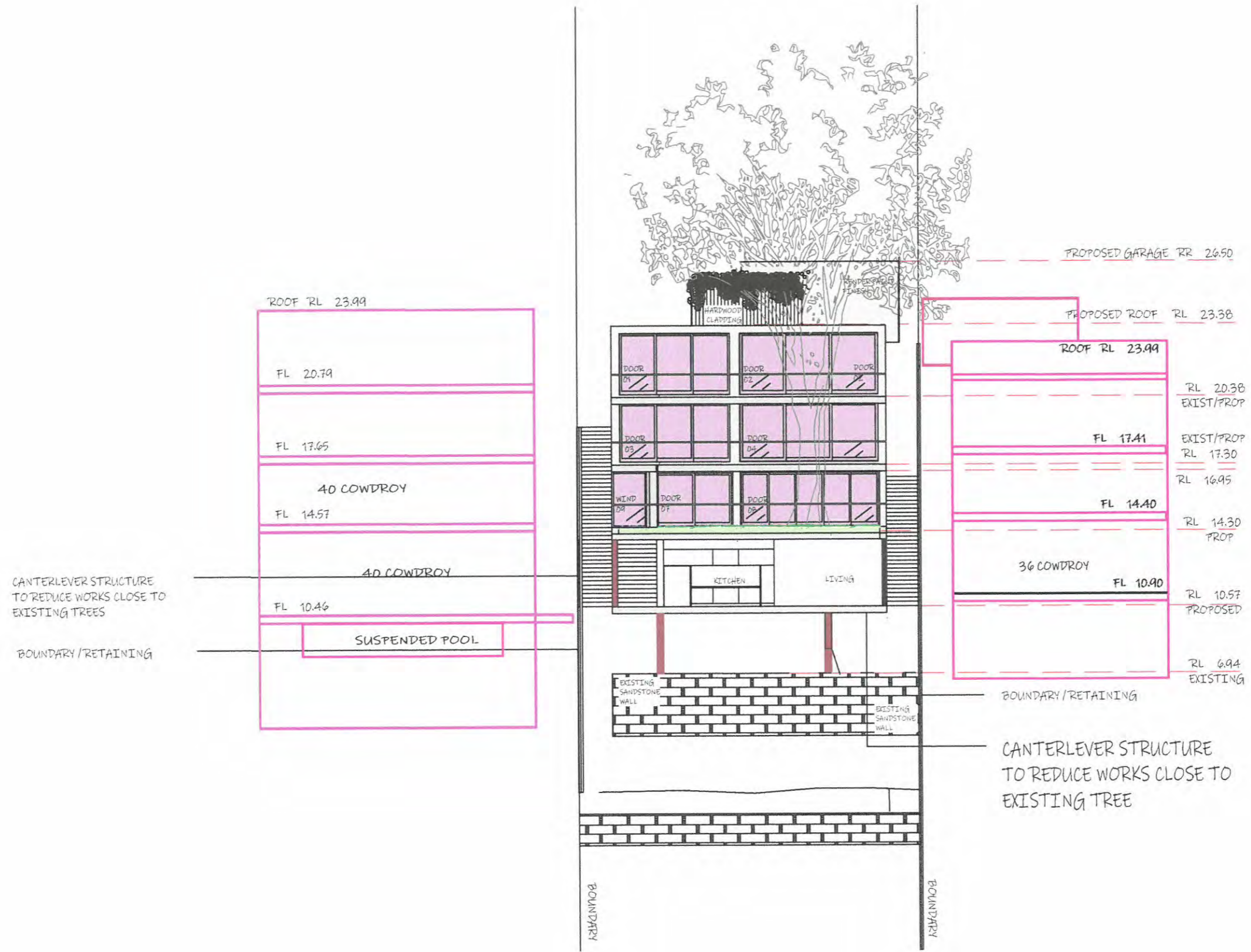
SECTION A - A  
1:200 @ A3

<b>LEGEND</b> RENDER PAINT  CLADDING  CONCRETE EXISTING STRUCTURE  POOL  NEW STRUCTURE		DRAWING NUMBER <b>DA 12</b> REVISION E	DRAWING NAME SECTION A - A DATE 19/05/21 SCALE 1:200 @ A3	L.Q.R DESIGN E. troyd6615@gmail.com P. 0481 736 734	DEVELOPMENT APPLICATION 38 COWDROY AVE CAMMERAY PREPARED FOR MR G CALIGURI SCALE BAR 1:200 	<b>L.Q.R</b> DESIGN
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SECTION B - B  
1:200 @ A3

<b>LEGEND</b> RENDER PAINT  CLADDING  CONCRETE EXISTING STRUCTURE  POOL  NEW STRUCTURE		DRAWING NUMBER <b>DA 12.1</b> REVISION C	DRAWING NAME SECTION B - B DATE 19/05/21 SCALE 1:200 @ A3	L.Q.R DESIGN E. troyd6615@gmail.com P. 0481 736 734	DEVELOPMENT APPLICATION 38 COWDROY AVE CAMMERAY PREPARED FOR MR G CALIGURI SCALE BAR 1:200 	<b>L.Q.R</b> DESIGN
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SECTION C - C

1:200 @ A3

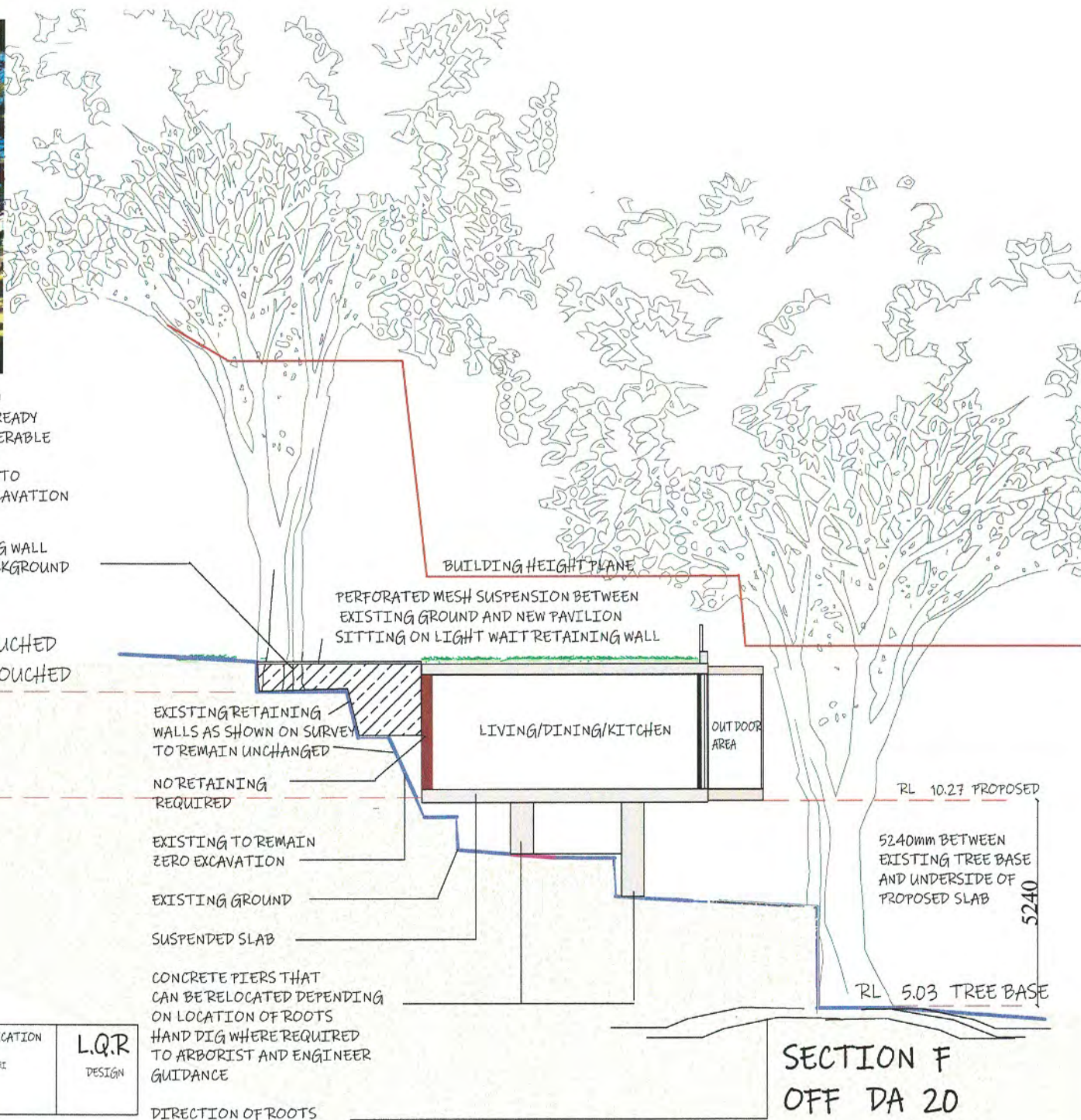
<b>LEGEND</b> WIND/DOORS  RENDER PAINT  ROOFING GREEN ROOF  OFF FORM CONC  TIMBER CLADD		DRAWING NUMBER <b>DA 12.2</b> REVISION B	DRAWING NAME SECTION C - C DATE 19/05/21 SCALE 1:200 @ A3	L.Q.R DESIGN E. troyd6615@gmail.com P. 0481 736 734	DEVELOPMENT APPLICATION 38 COWDROY AVE CAMMERAY PREPARED FOR MR G CALIGURI SCALE BAR 1:200 	<b>L.Q.R</b> DESIGN
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TREE 1 IS ALREADY POSITIONED RIGHT ON THE EDGE OF THE CLIFF AS THE SITE DROPS OFF DRAMATICALLY



EXISTING AREA BELOW TREE ONE THAT IS ALREADY CUT AWAY AND CONSIDERABLE LOWER. PERFECT FOR A STRUCTURE TO FIT INTO WITHOUT FURTHER EXCAVATION



RL 14.09 ROOT CROWN ON SOUTH REMAIN UNTOUCHED

RL 13.25 ROOT CROWN ON NORTH REMAINS UNTOUCHED

RL 10.27 PROPOSED

EXISTING RETAINING WALLS AS SHOWN ON SURVEY TO REMAIN UNCHANGED

NO RETAINING REQUIRED

EXISTING TO REMAIN ZERO EXCAVATION

EXISTING GROUND

SUSPENDED SLAB

CONCRETE PIERS THAT CAN BE RELOCATED DEPENDING ON LOCATION OF ROOTS  
HAND DIG WHERE REQUIRED TO ARBORIST AND ENGINEER GUIDANCE

DIRECTION OF ROOTS

PERFORATED MESH SUSPENSION BETWEEN EXISTING GROUND AND NEW PAVILION SITTING ON LIGHT WEIGHT RETAINING WALL

BUILDING HEIGHT PLANE

LIVING/DINING/KITCHEN

OUTDOOR AREA

RL 10.27 PROPOSED

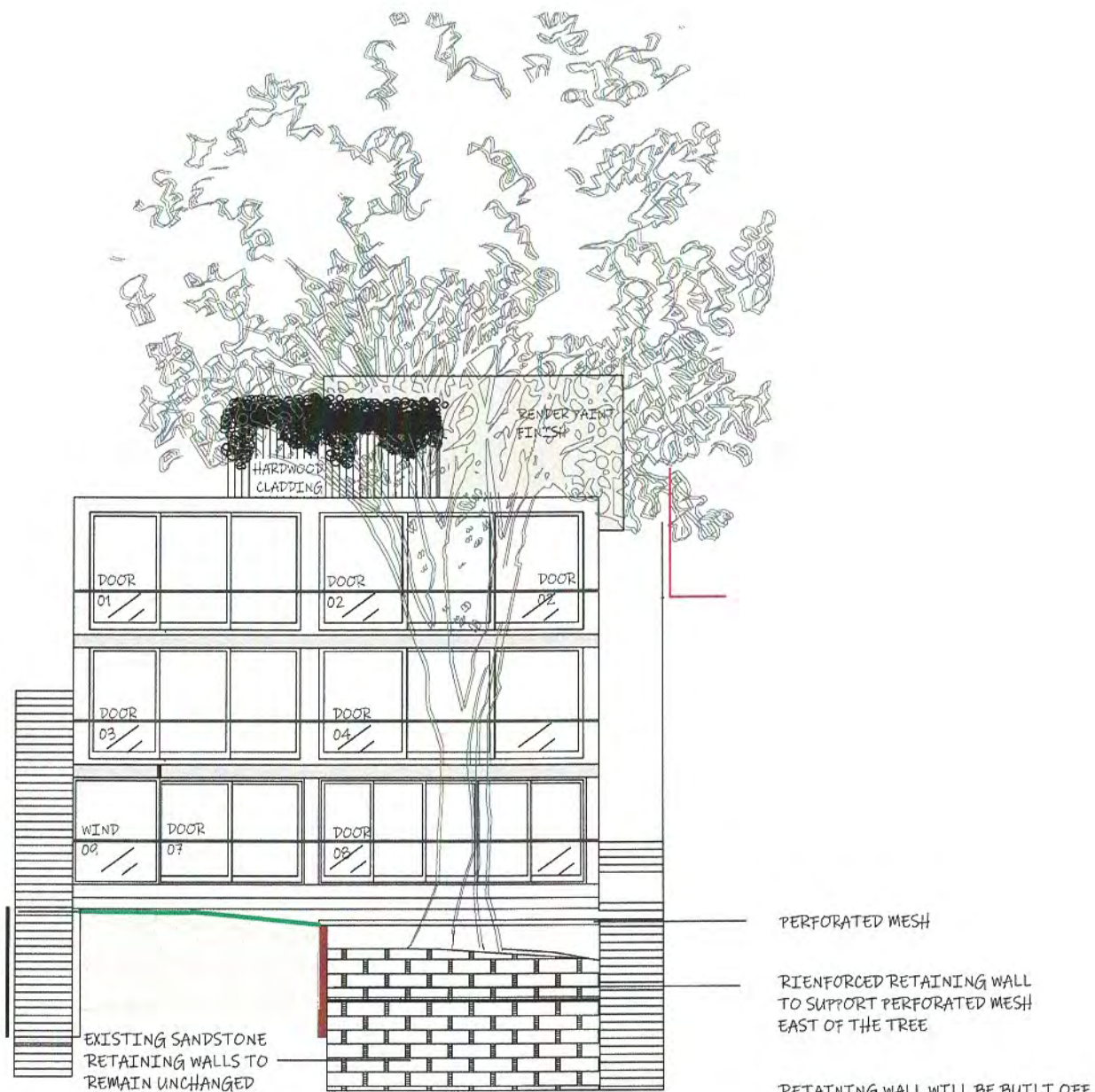
5240  
5240mm BETWEEN EXISTING TREE BASE AND UNDERSIDE OF PROPOSED SLAB

RL 5.03 TREE BASE

SECTION F  
OFF DA 20

DRAWING NUMBER <b>DA 22</b>	DRAWING NAME PLAN OVER SURVEY	LQR DESIGN E: <a href="mailto:muy66452@gmail.com">muy66452@gmail.com</a>	DEVELOPMENT APPLICATION 30 CONROY AVE CAMMERAY PREPARED FOR MR & CALLEGARI	L.Q.R. DESIGN
REVISION	SCALE N/A	F: 0481 796 734		





SECTION G  
OFF DA 7a

DRAWING NUMBER <b>DA 23</b>	DRAWING NAME SECTION G (PLAN 7a)	L.Q.R DESIGN E. moy10015@gmail.com	DEVELOPMENT APPLICATION 38 CONDOY AVE CAMMERAY PREPARED FOR MR G CALIGURI	L.Q.R DESIGN
REVISION	DATE 17/05/21 SCALE N/A	P. 0481 736 734		

PERFORATED MESH

RIENFORCED RETAINING WALL  
TO SUPPORT PERFORATED MESH  
EAST OF THE TREE

RETAINING WALL WILL BE BUILT OFF  
PAVILION STRUCTURE MOSTLY AND  
ALSO USING EXISTING GROUND UNDER  
SUPERVISION OF ARBORIST



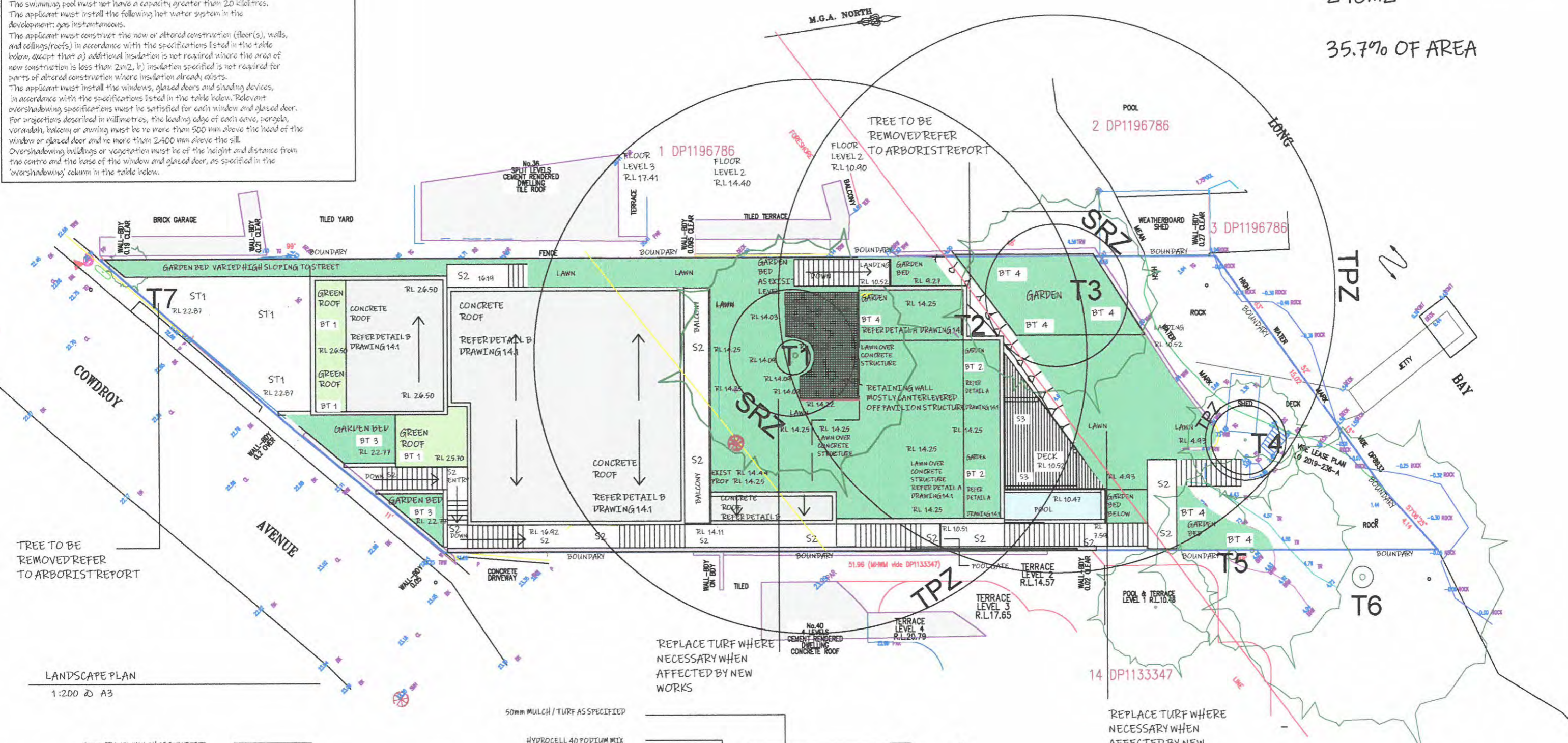
Building Sustainability Index www.basix.nsw.gov.au  
 Alterations and Additions  
 Certificate number: A389905

The applicant must install a rainwater tank of at least 950 litres on the site. This rainwater tank must meet, and be installed in accordance with, the requirements of all applicable regulatory authorities. The swimming pool must be outdoors. The swimming pool must not have a capacity greater than 20 kilolitres. The applicant must install the following hot water system in the development: gas instantaneous. The applicant must construct the new or altered construction (floor(s), walls, and ceilings/roofs) in accordance with the specifications listed in the table below, except that a) additional insulation is not required where the area of new construction is less than 2m<sup>2</sup>, b) insulation specified is not required for parts of altered construction where insulation already exists. The applicant must install the windows, glazed doors and shading devices, in accordance with the specifications listed in the table below. Relevant overshadowing specifications must be satisfied for each window and glazed door. For projections described in millimetres, the leading edge of each eave, pergola, verandah, balcony or awning must be no more than 500 mm above the head of the window or glazed door and no more than 2400 mm above the sill. Overshadowing buildings or vegetation must be of the height and distance from the centre and the base of the window and glazed door, as specified in the 'overshadowing' column in the table below.

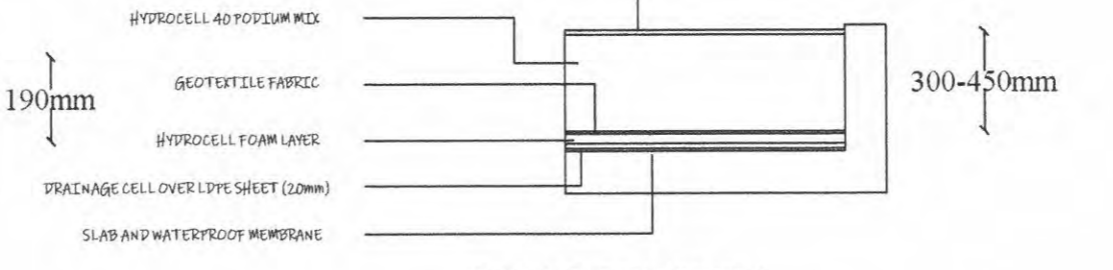
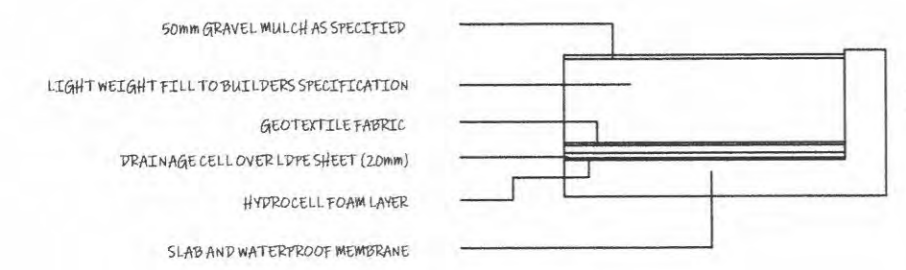
TOTAL SITE COVERAGE

298m<sup>2</sup>

35.7% OF AREA



LANDSCAPE PLAN  
1:200 @ A3



LEGEND	
LAWN/GARDEN	
BALCONY/DECK	
GREEN ROOF	
POOL	
ROOFING	
CONCRETE/PATH DRIVEWAY	

DRAWING NUMBER  
**DA 14**  
REVISION C

DRAWING NAME  
LANDSCAPING PLAN  
DATE 19/05/21  
SCALE 1:200 @ A3

L.Q.R DESIGN  
E. troyd6615@gmail.com  
P. 0481 736 734

DEVELOPMENT APPLICATION  
38 COWDROY AVE CAMMERAY  
PREPARED FOR MR G CALIGURI  
SCALE BAR 1:200

**L.Q.R**  
DESIGN

LEGEND

S1 COBBLESTONE



S3 25mm 140mm WIDE SPOTTED GUM DECKING



S2 NEW BOTACINO LIMESTONE



ST1 STEEL GRATE DECK ON DRIVE

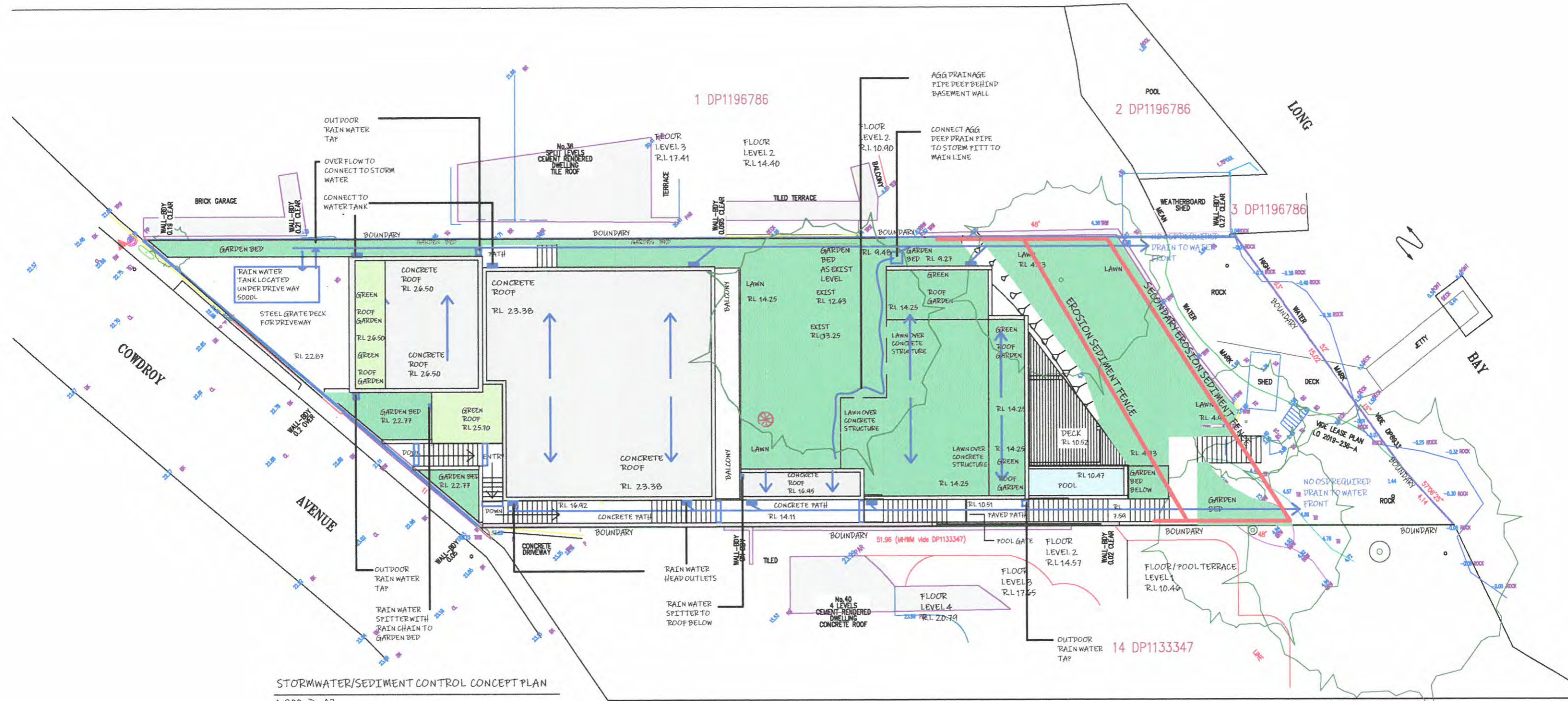


DA PLANT SCHEDULE

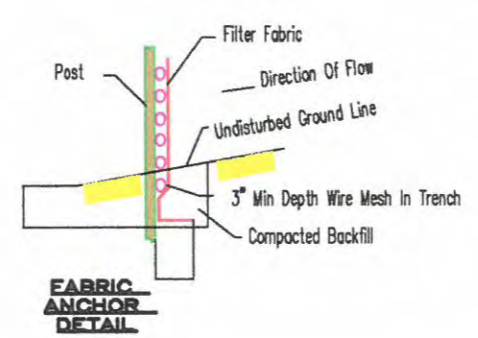
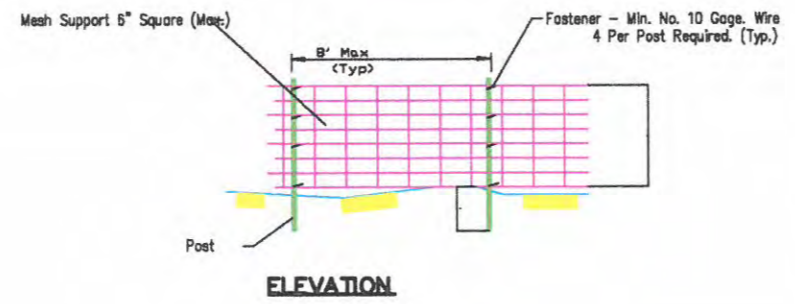
BOTANICAL NAME	COMMON NAME	POT SIZE	QUANTITY	MAX HEIGHT	BOTANICAL NAME	COMMON NAME	POT SIZE	QUANTITY	HEIGHT
<b>PLANTING TYPE (BT) 1</b>					<b>PLANTING TYPE (BT) 2</b>				
AEONIUM ARBOREUM ATROPURPUREUM	PURPLE AEONIUM	100mm	10-15	2000mm	ACTINOTUS MINOR*	LESSER FLANNEL FLOWER	100mm	10-15	300mm
BESCHOMERIA YUCCOIDES	MEXICAN LILY	200mm	8-12	2000mm	ACTINOTUS HELIANTHI*	FLANNEL FLOWER	200mm	8-12	1000mm
COTYLEDON ARBICULATA	PIGS EAR	150mm	15-20	1300mm	HIBBERTIA ASPERA*	ROUGH GUINEA FLOWER	150mm	15-20	600mm
CALANDRINA SPECTABILIS	ROCK PURSLANE	100mm	10-15	200mm	LOMATIA SILAIFOLIA*	CRINKLE BUSH	100mm	10-15	2000mm
DICHONDRA SILVERFOLIS	SILVER DICHANDRA	85mm	10-15	60mm	PETARGONIUM ODORATISSIMUM	APPLE GERANIUM	85mm	10-15	300mm
DISPHYMA CRASSIFOLIUM	ROUNDED NOON-FLOWER	100mm	10-15	300mm	RHAGODIA AUSSIE FLAT BUSH	SALT BUSH	100mm	10-15	500mm
KALANCHOE THYSIFLORA	FLAP JACKS	100mm	10-15	500mm	ROSMARINUS PROSTRATUS	PROSTRATE ROSEMARY	100mm	10-15	600mm
SEDUM HIDAKANUM	SEDUM	100mm	8-12	300mm	TYMUS VULGARE	CULINARY THYME	100mm	8-12	300mm
SENECIO ROWLEYANUS	STRING OF PEARLS	100mm	8-12	40mm	WESTRINGIA GREY BOX	GREY BOX	100mm	8-12	450mm
<b>PLANTING TYPE (BT) 3</b>					<b>PLANTING TYPE (BT) 4</b>				
DICHONDRA REPENS*	KIDNEYWEED	100mm	10-15	300mm	CALANDRINA SPECTABILIS	ROCK PURSLANE	100mm	10-15	700mm
LEUCOPOGON*	PINK BEARD HEALTH	200mm	8-12	2000mm	CALOCEPHALUS CITREUS	LEMON BEAUTY HEADS	200mm	8-12	600mm
PHILOTHECA MYOPOROIDES*	LONG LEAF WAX FLOWER	150mm	15-20	2000mm	DICHELACHNE CRINITA*	LONG HAIR PLUME GRASS	150mm	15-20	1500mm
					EUSTREPHUS LATIFOLIUS*	WOMBAT BERRY	100mm	10-15	5000mm
					LOMANDRA MULTIFLORA*	MATRUSH	85mm	10-15	850mm
					LOMANDRA OBLIQUA*	TWISTED MATRUSH	100mm	10-15	400mm
					VERONICA PLEBEIA*	TRAILING SPEEDWELL	100mm	10-15	150mm
					WAHLENBERGIA GRACILLIS*	SPRAWLING BLUEBELL	100mm	8-12	800mm
					SEDUM HIDAKANUM	SEDUM	100mm	8-12	300mm

\* DENOTES LOCALLY OCCURRING NATIVE SPECIES - FROM NATIVE PLANTS OF THE NORTH SYDNEY COUNCIL AREA  
 ANGOPHORA FORESHORE FOREST VEGETATION COMMUNITY  
 BLACKBUTT GULLY FOREST VEGETATION COMMUNITY

LEGEND	DRAWING NUMBER <b>DA 15</b> REVISION B	DRAWING NAME LANDSCAPING PLAN DATE 19/05/21 SCALE N/A	L.Q.R DESIGN E. troyd6615@gmail.com P. 0481 736 734	DEVELOPMENT APPLICATION 38 COWDROY AVE CAMMERAY PREPARED FOR MR G CALIGURI	<b>L.Q.R</b> DESIGN
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STORMWATER/SEDIMENT CONTROL CONCEPT PLAN  
1:200 @ A3



- NOTES:
1. Wires of mesh support shall be minimum gage no. 12.
  2. Temporary sediment fence shall be installed prior to any grading work in the area to be protected. They shall be maintained throughout the construction period and removed in conjunction with the final grading and site stabilization.
  3. Filter fabric shall meet the requirements of material specification 592 Geotextile Table 1 or 2, Class 1 with equivalent opening size of at least 30 for nonwoven and 50 for woven.
  4. Fence posts shall be either wood post with a minimum cross-sectional area of 3.0 sq. in. or a standard steel post.

LEGEND			
LAWN/GARDEN		BALCONY/DECK	
SEDIMENT CONTROL REFER DETAILS		POOL	
		ROOFING	
		STORMWATER	

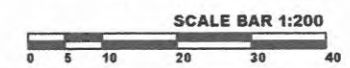
DRAWING NUMBER  
**DA 18**  
REVISION C

STORMWATER CONCEPT  
SEDIMENT CONTROL  
PLAN  
DATE 19/05/21  
SCALE 1:200 @ A3

L.Q.R DESIGN  
E. troyd66152@gmail.com  
P. 0481 736 734

DEVELOPMENT APPLICATION  
38 COWDROY AVE CAMMERAY  
PREPARED FOR MR G CALIGURI

**L.Q.R**  
DESIGN





1 3D View North-East

### Cad Draft P/L

ABN 27 083 288 153

SUITE 4, 670 DARLING STREET,  
ROZELLE, NSW  
P.O BOX 446 GLADESVILLE 2111

PH: 9555 8545

info@caddraftnsw.com.au

No.	Description	Date

No.38 COWDROY AVENUE  
CAMMERAY

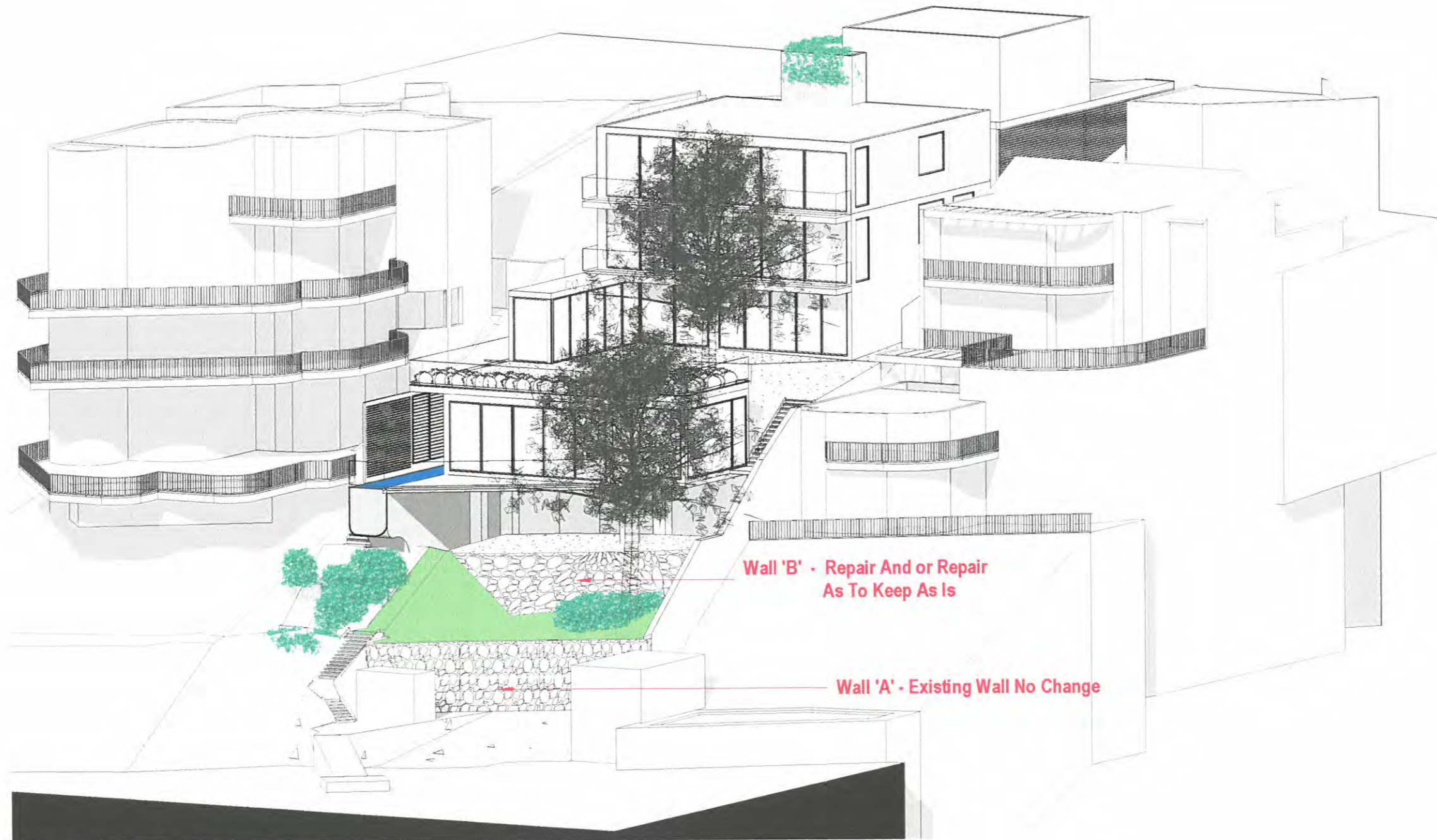
CLIENT:

### 3D Perspective North-East

Project number	20-92
Date	05-11-20
Drawn by	KP
Checked by	JD

C101

Scale



**1** 3D View North-West

### Cad Draft P/L

ABN 27 083 288 153

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No.	Description	Date

No.38 COWDROY AVENUE  
CAMMERAY

CLIENT:

### 3D Perspective North-West

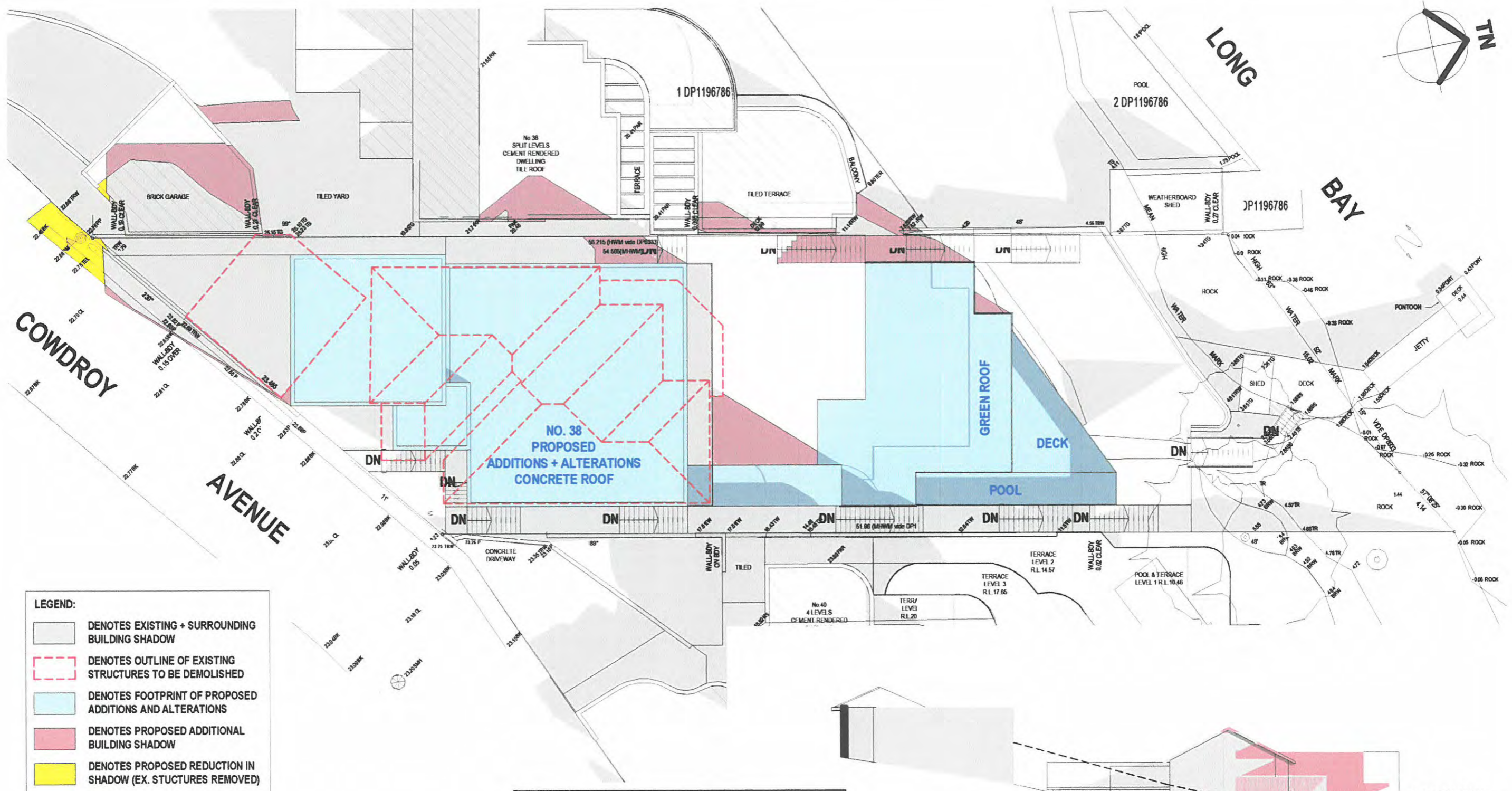
Project number 20-92

Date 05-11-20

Drawn by KP

Checked by JD Scale

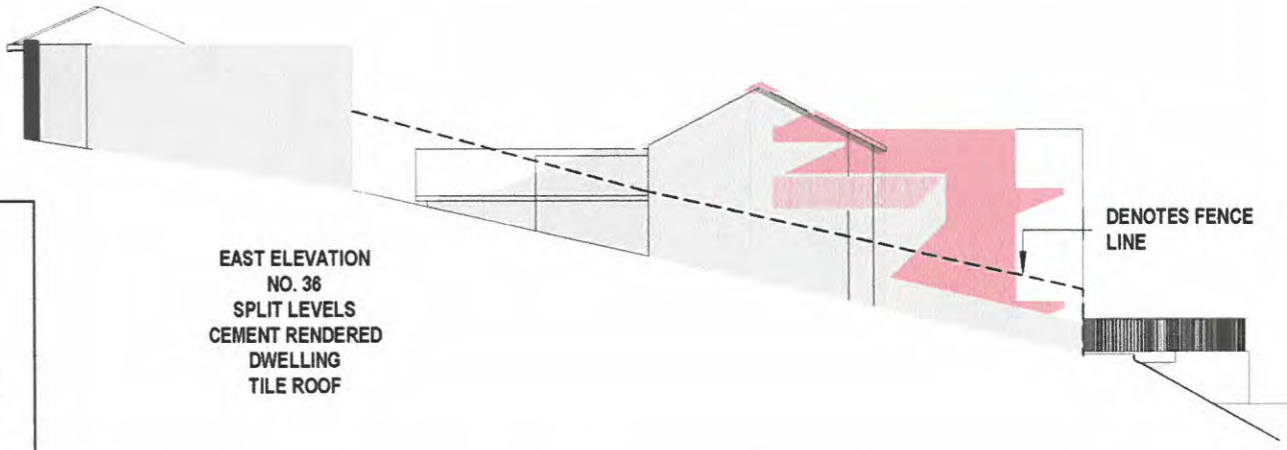
**C102**



- LEGEND:**
- DENOTES EXISTING + SURROUNDING BUILDING SHADOW
  - DENOTES OUTLINE OF EXISTING STRUCTURES TO BE DEMOLISHED
  - DENOTES FOOTPRINT OF PROPOSED ADDITIONS AND ALTERATIONS
  - DENOTES PROPOSED ADDITIONAL BUILDING SHADOW
  - DENOTES PROPOSED REDUCTION IN SHADOW (EX. STRUCTURES REMOVED)

**1** Shadowing June 21st 9.00am  
1 : 200

**NOTE:**  
SHADOWS SHOWN HAVE BEEN COMPILED FROM  
DETAIL & LEVEL SURVEY BY C-SIDE SURVEYORS  
REF NO. 19071-DET REV B DATED 12/05/2020 AND  
ARCHITECTURAL PLANS SUPPLIED BY L.Q.R. DESIGN  
DATED 3/10/20 REVISION A



**Cad Draft P/L**

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No.	Description	Date

SHADOW DIAGRAMS  
No.38 COWDROY AVENUE  
CAMMERAY

CLIENT:

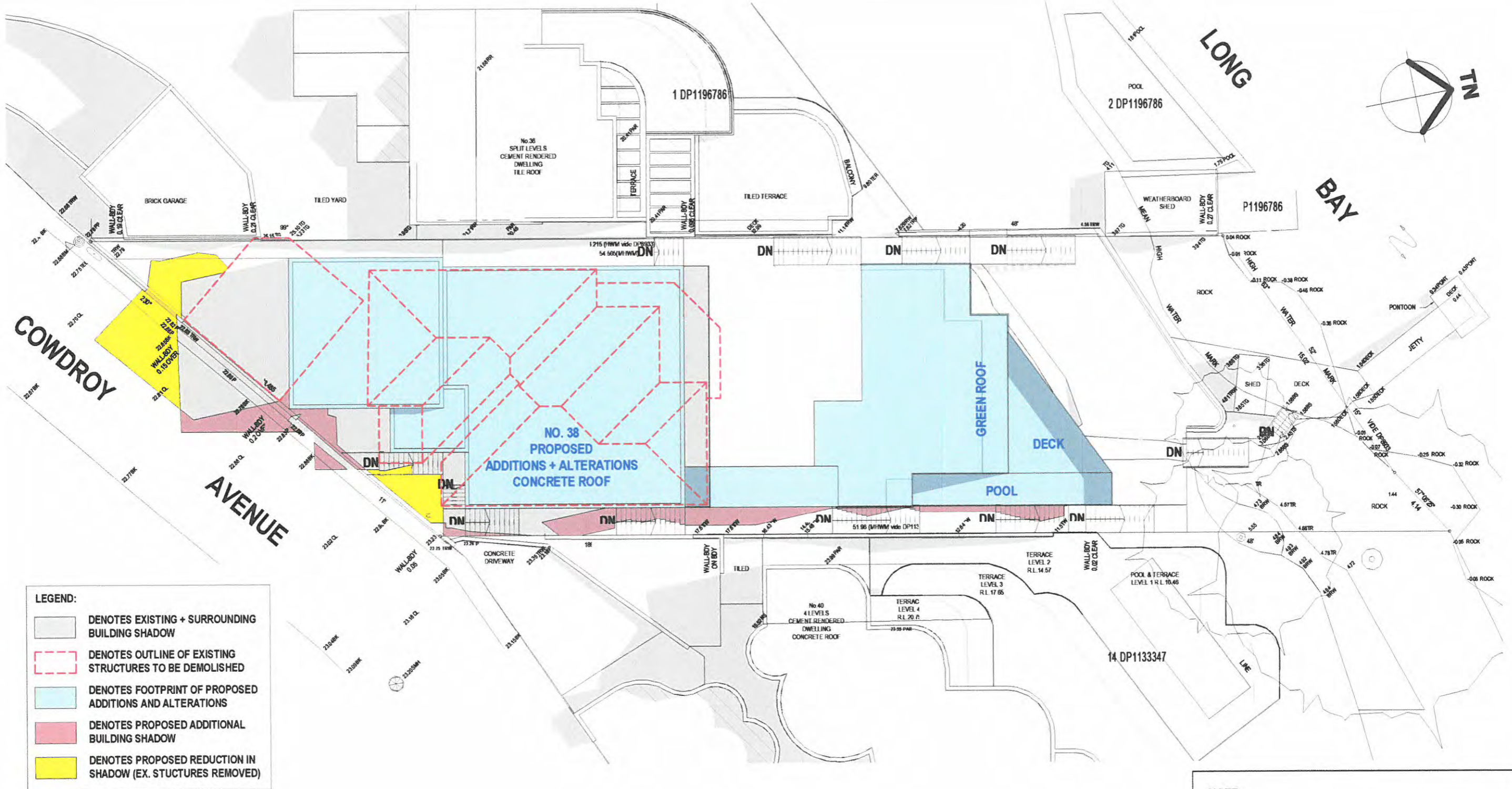
Shadowing June 21st 9.00am

Project number	20-92
Date	27-10-20
Drawn by	KP
Checked by	JD

**A100**

Scale 1 : 200





**1** Shadowing June 21st 12.00pm  
1 : 200

**Cad Draft P/L**

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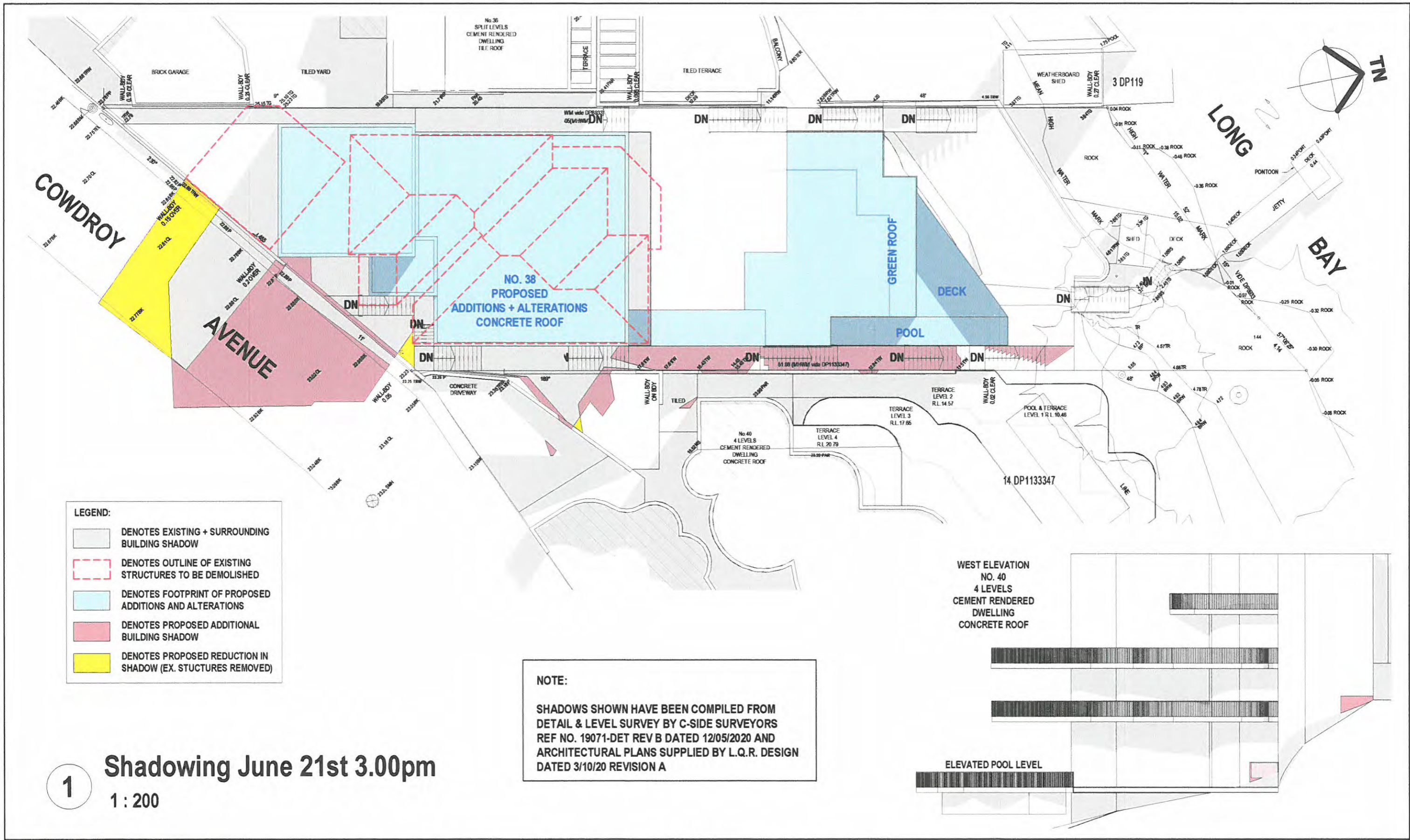
No.	Description	Date

SHADOW DIAGRAMS  
No.38 COWDROY AVENUE  
CAMMERAY

CLIENT:

Shadowing June 21st 12.00pm

Project number	20-92	<b>A101</b>
Date	27-10-20	
Drawn by	KP	
Checked by	JD	
Scale		1 : 200



**1** Shadowing June 21st 3.00pm  
 1 : 200

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No.	Description	Date

**SHADOW DIAGRAMS**  
 No.38 COWDROY AVENUE  
 CAMMERAY

**CLIENT:**

**Shadowing June 21st 3.00pm**

Project number	20-92	<b>A102</b>
Date	27-10-20	
Drawn by	KP	
Checked by	JD	
Scale	1 : 200	

**Statement of environmental effects**

**38 Cowdroy Avenue, Cammeray**

## **38 COWDROY AVE CAMMERAY**

**Clause 4.6 Exception to development standard**

**Of the North Sydney**

**Local Environmental Plan 2013.**

**Statement of environmental effects****38 Cowdroy Avenue, Cammeray****Clause 4.6 — Exception to Development Standards in relation to Clause 4.3(2) - Height of buildings, of the North Sydney Local Environmental Plan 2013.****1. Introduction.**

This written request is made pursuant to the provisions of Clause 4.6 of the North Sydney Local Environmental Plan 2013 (the LEP). A variation is sought in relation to the height of buildings standard of Clause 4.3(2), in relation to alterations and additions to the existing dwelling house, at 38 Cowdroy Avenue, Cammeray.

**Clause 4.6 Exceptions to development standards****(1) The objectives of this clause are as follows:**

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

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

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

- (a)** That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

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- (b) That there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless:
  - (a) **The consent authority is satisfied that:**
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by sub clause (3), and
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
  - (b) The concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
  - (a) Whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
  - (b) The public benefit of maintaining the development standard, and
  - (c) Any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

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- (a) The subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

**Note.** When this Plan was made it did not include all of these zones.

- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in sub-clause (3).
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:
- (a) A development standard for complying development,
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
- (c) Clause 5.4,
- (ca) in relation to land identified as "Land in St Leonards" on the Exceptions to Development Standards Map—clause 4.3 (2) by more than 3 meters (excluding plant rooms and similar structures),
- (cb) clause 6.3 (2) (a) and (b).
- (8A) Sub-clause (8) (Ca) ceases to apply on 31 December 2015.

An exception to a development standard is required because the height of the new garage will exceed the maximum 8.5m height of buildings standard. The height of the overall existing building will however be lowered by 1.81

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metres by replacing the pitched roof with a flat roof to reduce the overall bulk and scale.

**2. Is the provision a development standard? If so, is the operation of the flexibility provision excluded in the LEP?**

The relevant provision is a development standard as follows:

**Clause 4.3 — Height of Buildings**

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

A maximum height of 8.5m applies in accordance with Clause 4.3(2) as shown on the Height of Buildings Map of the LEP.

Also of relevance is the following standard definition for ground level existing:

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

**Details of the non-compliance with the standard**

The site is in located area "I" on the Height of Buildings Map. A maximum building height of 8.5m applies to land in area "I".

The existing roof is at RL 25.19 with a hipped roof which is being reduced in the proposed design by converting to a flat roof at RL 23.38. This is a huge 1.81 m height reduction and reduces bulk and scale of the existing building. An exception is required for the new garage. The existing garage is on the boundary and is being pushed back from the street to reduce bulk and scale from the street and to facilitate a single hardstand space in front of the garage which will also improve the amenity of the building with a visitor space. In addition, this will enable mobility access with a lift from the garage into the house. It is this modification that creates the need for the exception as natural ground level is lower deeper into the site.

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The exception is only for a length of 2.5m and the gain in improved setback from the street and amenity to the building warrants the exception.

The exception is required for the garage measured from the existing ground level at RL14.65, to the new garage roof at RL26.5 and therefore exceeds the height of building standard with an average overall height of 11.85m from existing ground level. This height exception is only for 2.5m in length on the block before the building steps down to the new concrete roof with the reduced overall building height.

**3. What is the underlying purpose or object of the standard?**

The objectives of the height of building standard is expressly set out in clause 4.3(1). This provides:

**Clause 4.3 (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.



**Statement of environmental effects****38 Cowdroy Avenue, Cammeray****4. Is the proposed development in the public interest because it is consistent with the underlying purpose or object of the standard and the objectives for development in the zone in which it is proposed to be carried out?**

In accordance with Clause 4.6(4) (a), development consent must not be granted to a development that contravenes a development standard unless Council is satisfied in relation to certain matters as follows:

Clause 4.6(4) Development consent must not be granted for development that contravenes a development standard unless:

**(a) The consent authority is satisfied that:**

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

**(b) The concurrence of the Director-General has been obtained.****Objectives of the standard**

The proposed development will be in the public interest because it is consistent with the objectives of the height of buildings standard for the following reasons:

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

The site is steeply sloping and the existing house is positioned on the higher part of the site relative to the foreshore. It contains three storeys inclusive of the existing under house area where the laundry is currently located. It has a vertically

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proportioned appearance and occupies a relative small building footprint of the site.

It does not have a stepped building form however the new additions are to be created underground following the fall of the land with a green roof which will have no impact on views for neighbouring buildings and appear to have no impact on the site in bulk and scale. The additions will enhance the appearance of the house from adjoining properties and from the harbour.

- (b) To promote the retention and, if appropriate, sharing of existing views,

The exception sought has no impact on views, and will only further enhance the street appearance of the building by setting the garage back from the street boundary reducing visual bulk from the street.

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

There will be no increase in shadowing only an improvement due to the removal of the pitched roof.

Due to the north to south orientation of the sites, solar access to the north facing windows of the main living areas will maintain 3 hours or more sunlight on the shortest winter day between 10am and 2pm. Solar access to the private open space below the house will be unaffected the proposal.

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

The adjoining houses also have generous balconies facing north to the views of Long Bay and the foreshores of Northbridge and there is presently a degree of mutual overlooking between properties and limited screening devices, which is acceptable considering the preference for retaining and sharing oblique views to

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compensate for overlooking the waterfront side of the adjoining and adjacent properties.

There will be a significant improvement in privacy with the new living spaces to be sited lower on the block and out of sightlines of the neighbouring buildings.

The privacy and overlooking between properties is considered to be acceptable in the urban context.

- (e) To ensure compatibility between development, particularly at zone boundaries,

The site does not adjoin a zone boundary and the proposed additions will maintain compatibility with the varied height and size, and mostly three storey form of surrounding development and will also be compatible with the variety of roof forms in the locality.

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

The scale of the proposed additions and maintaining the density of one existing dwelling house on the site is consistent with this objective and as previously outlined the area has a varied character in terms of the design height and size of dwelling houses and the proposed alterations and additions will be not be in conflict with the varied character of the area.

**Objectives of the zone**

The objectives of the E4 Environmental Living Zone are as follows:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.
- To ensure that a high level of residential amenity is achieved and maintained.

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The continued use of the land for residential purposes as a dwelling house is consistent with the objectives of the E4 Environmental Living zone and the proposal will be consistent with the aims and objectives of the LEP, and the objectives and planning controls of the DCP. The individual objectives of the E4 zone are addressed as follows:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.

The E4 zone allows for a range of low intensity residential uses on the land. The proposal involves alterations and additions to an existing dwelling that is a permissible use in this low impact residential zone.

- To ensure that residential development does not have an adverse effect on those values.

The site is presently occupied by a three storey dwelling house with off street parking in a double garage at the front of the house. The proposed alterations and additions are primarily within the existing building footprint and envelope of the building and the proposal for the new pavilion sits within the natural topography of the land with an intensive green roof.

It will not involve any development that would have the potential to impact of the environmental, ecological, scientific or aesthetic values of the area and will therefore be consistent with this objective.

- To ensure that a high level of residential amenity is achieved and maintained.

The proposed alterations and additions to the house will be consistent with this objective because it reduces the overall height and scale of the existing house and whilst there is a minor exception with the garage height it has no negative impact on neighbouring properties and improves the bulk and scale when viewed from the street.

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The existing dwelling house and garage are well clear (upslope) of the foreshore building line that traverses the site near the existing blackbutt tree. As an alternative to alterations and additions to the existing house the site also has the potential for redevelopment for a new dwelling house comprising multiple levels stepping down the site to the foreshore building line at a maximum height of 8,5m at any point. Such a proposal whilst compliant with the Council's planning controls would tend to have a greater impact on solar access and views enjoyed from the main living areas of the adjoining house at 40 Cowdroy Avenue. This form of development is also promoted by objective (a) of the standard - (a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient.

The proposal for alterations and additions to the existing house, has no impact on views and maintaining an acceptable level of privacy between dwellings, represents a better environmental planning outcome compared with the potential redevelopment option as outlined.

A variation to the 8.5m height of buildings standard in this case would be in the public interest because the proposal achieves an acceptable outcome and an appropriate level of consistency with the objectives of the standard, particularly in relation to compatibility with the local area character, and minimizing the effects of bulk and scale, and maintaining local amenity in particular views and view sharing.

**Clause 4.6(4) (b) Concurrence of the Director-General**

In accordance with Clause 4.6(4) (b) the concurrence of the Director-General is assumed.

**Statement of environmental effects****38 Cowdroy Avenue, Cammeray****5. Is compliance with the development standard unreasonable or unnecessary?**

The Chief Justice of the Land and Environment Court has held that there a number of ways in which compliance with a development standard can be shown to be unnecessary (in that the objective is achieved anyway) or unreasonable (in that no purpose would be served) are as follows:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard. Under this approach, development standards are viewed not as the planning objectives, but as a means to achieve those objectives. If there is an alternative means to achieve the objective, then the objective would be achieved anyway (and hence compliance with the standard is unnecessary) and there is no purpose served by requiring compliance with the standard (and hence compliance would be unreasonable). This tends to be the most common way of establishing that compliance is unreasonable or unnecessary.
2. To establish that the underlying objective or purpose of the standard is not relevant to the development, and hence compliance with the standard is unnecessary.
3. To establish that the underlying objective or purpose of the standard will be defeated if compliance was required, and hence compliance with the standard is unreasonable.

(Wehbe v Pittwater Council [2007] NSWLEC 827)

The first point is of primary relevance that is, that the objectives of the standard are achieved, notwithstanding the non-compliance with the numerical standard.

Compliance with the standard is considered to be unnecessary because the objectives of the development standard are achieved notwithstanding the non-compliance with the numerical height of buildings standard.

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Strict compliance with the height standard would involve maintaining the double garage on the road reserve boundary with no connection to the home. The repositioning creates the variation to height however improves the setback from the streetscape, improves the amenity with internal access to the home and a hardstand visitor space.

The proposed additions and the house overall and reduction in roof height will be clearly consistent and compatible in height, bulk and scale with the surrounding development that comprises a variety of styles of mostly three storey dwelling houses.

The reasons outlined demonstrate that the development standard is unnecessary in the circumstances of this proposal because the objectives of the standard are met.

**6. Are there sufficient environmental planning grounds to justify contravening the development standard?**

Of relevance is a recent judgement in the Land and Environment Court of NSW, Four2Five Pty Ltd v Ashfield Council (2015) NSWLEC 1009.

**In her Judgment Commissioner C Pearson stated that:**

- 59.** I am satisfied that the proposed development satisfies cl 4.6(4) (a) (ii). Clause 4.6(4)(a)(i) requires that the Court is satisfied that the written request has adequately addressed the matters required to be demonstrated by c14.6(3), namely that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.
- 60.** The environmental planning grounds identified in the written request are the public benefits arising from the additional housing and employment opportunities that would be delivered by the

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development, noting (at p 5) the close proximity to Ashfield railway station, major regional road networks and the Ashfield town Centre; access to areas of employment, educational facilities, entertainment and open space; provision of increased employment opportunities through the ground floor retail/business space; and an increase in the available housing stock. I accept that the proposed development would provide those public benefits, however any development for a mixed use development on this site would provide those benefits, as would any similar development on any of the sites on Liverpool Road in the vicinity of the subject site that are also in the 84 zone. These grounds are not particular to the circumstances of this proposed development on this site. To accept a departure from the development standard in that context would not promote the proper and orderly development of land as contemplated by the controls applicable to the 84 zoned land, which is an objective of the Act (s 5(a) (ii)) and which it can be assumed is within the scope of the "environmental planning grounds" referred to in d 4.6(4) (a) (i) of the LEP.

The Commissioner stated that she was not satisfied that the written request has demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard, or that compliance with the height standard is unreasonable or unnecessary in the circumstances of the case, as required by Clause 4.6(4)(a)(i), because the grounds referred to are not particular to the circumstances of the proposed development on this site, and accordingly the requirements of Clause 4.6(4) of the LEP are not met.

As has been demonstrated by the reasons given in the preceding section, the grounds justifying that compliance with the development standard is unnecessary and are particular to the circumstances of the proposed development on this site and as such I consider that the requirements of Clause 4.6(4) of the LEP are met.

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A height exception of the building already exists with the existing pitched roof and will be improved by replacing with a flat roof. The existing double garage will be relocated to improve the bulk and scale when viewed from the street and create internal access to the building. These changes will not contribute to the building being excessive in height and bulk and scale and will improve the amenity of adjoining and adjacent properties, and when viewed from the street.

As previously outlined the proposal for alterations and additions to the existing house, reduce overshadowing impacts, but no impact on views and maintaining privacy between dwellings, represents a better environmental planning outcome compared with the potential redevelopment option involving a new dwelling house on the site. A new house could comprise multiple levels stepping down the site to the foreshore building line at a maximum height of 8.5m at any point. In my opinion, such a proposal, whilst compliant with the Council's planning controls would tend to have a greater impact on solar access and views enjoyed from the main living areas of the adjoining house at 40 Cowdroy Avenue.

The proposal will be consistent with the relevant aims and objectives of the LEP, the objectives of the height of buildings standard and the objectives of the E4 Environmental Living zone.

For the reasons as outlined, there are sufficient environmental planning grounds particular to the circumstances of the proposed development on this steeply sloping site, to justify the departure from the height of buildings standard.

**7. Is the exception to the development standard well founded?**

This proposal represents an appropriate design for alterations and additions to the existing dwelling house that is elevated at the rear above a high undercroft/foundation area.

The area has a very diverse character of mostly three storey dwelling houses of various styles and sizes.

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The relocation of the garage where the departure from the height standard occurs, will not involve an adverse Impact on the amenity of neighbouring properties in relation to views and privacy.

For the reasons outlined in this statement, the objectives of the standard, the objectives and controls relating to siting and scale, height, view sharing and site coverage and landscaping of the DCP, and the objectives of the E4 Environmental Living Zone will be met.

This exception to the height of buildings standard is considered to be well founded and Council as the consent authority can be satisfied for the reasons outlined, that the proposed development will be in the public interest because it is consistent with the objectives of the height of buildings standard and the objectives of the E4 Environmental Living zone.