

**NSLPP MEETING HELD ON 03/08/2022****Attachments:**

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

**ADDRESS/WARD:** 145 Carabella Street, Kirribilli**APPLICATION No:** D46/22**PROPOSAL:** Alterations and additions to an existing two (2) storey dwelling including a second floor addition at the rear of the dwelling.**PLANS REF:**

Plan No.	Description	Prepared by	Dated
DA05 Rev D	Ground Floor plans	Progressive Plans	28.02.22
DA06 Rev D	First Floor plans	Progressive Plans	28.02.22
DA07 Rev D	Second Floor plans	Progressive Plans	28.02.22
DA08 Rev D	Roof/Concept Stormwater plans	Progressive Plans	28.02.22
DA09 Rev D	Elevations – Northeast & Southwest	Progressive Plans	28.02.22
DA10 Rev D	Elevations - Northwest	Progressive Plans	28.02.22
DA11 Rev D	Elevations - Southeast	Progressive Plans	28.02.22
DA12 Rev D	Section A	Progressive Plans	28.02.22
DA13 Rev D	Sections - B & C	Progressive Plans	28.02.22
DA14 Rev D	Existing & Proposed Street Elevation	Progressive Plans	28.02.22
DA22 Rev D	Front Finishes Board	Progressive Plans	28.02.22
DA23 Rev D	Rear Finishes Board	Progressive Plans	28.02.22

**OWNER:** Leon Varley**APPLICANT:** Jan Lichtenberg**AUTHOR:** Robin Tse, Senior Assessment Officer**DATE OF REPORT:** 26 July 2022**DATE LODGED:** 11 February 2022**RECOMMENDATION:** Approval (Deferred Commencement)

## EXECUTIVE SUMMARY

This development application seeks NSLPP approval for alterations and additions to an existing two (2) storey dwelling including a second floor addition at the rear of the dwelling at No.145 Carabella Street, Kirribilli.

**The application is referred to the North Sydney Local Planning Panel for determination because the proposal is subject to a variation to the building height development standard is greater than 10%, which requires determination of the application by the Panel in accordance with the directions from the Minister of Planning.**

Notification of the proposal has attracted five (5) submissions including two (2) submissions each from two (2) households and one (1) submission in support of the proposal. The submission raising objection to the proposal raised particular concerns about privacy impacts on the adjoining properties and the need for protection of existing building structures of an adjoining property during any construction phase of the development. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

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

The application proposes alterations and additions to an existing two storey detached dwelling that is a permissible form of development in an R2 Low Density Residential Zone.

This report has considered a written request submitted by the applicant seeking a variation to Clause 4.3 in North Sydney LEP concerned with the height of buildings height pursuant to Clause 4.6 of the LEP.

The variation to the building height development standard is justifiable because the building elements above the LEP maximum building height are unlikely to have an adverse impact on the 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 subject to the imposition of the recommended deferred commencement condition AA1 requiring further design amendments for the first and second floor balconies.

The design of the proposal is generally consistent with the character of the Careening Cove conservation area. The landscape quality of subject site would be improved with the proposed front garden and the additional landscaping within the rear yard.



Council's Conservation Planner has raised no objection to the proposal subject to the imposition appropriate conditions of consent.

The issues raised in the submissions have been addressed in this report.

Having regard to the provisions of Section 4.15(1) of the EP&A Act 1979 the application is considered to be satisfactory and therefore can be approved subject to the imposition of deferred commencement conditions.

LOCATION MAP



 Property/Applicant    ● Submitters    - Properties Notified    

## DESCRIPTION OF PROPOSAL

The application seeks NSLPP approval for alterations and additions to an existing two (2) storey dwelling including a second floor rear addition. The proposed works are summarised as follows:

### Ground Floor:

- (a) Removal of an existing of an internal spiral staircase and installation of a replacement staircase to the first floor;
- (b) Demolition of the existing external wall and the bay window on the front (street) elevation and construction of a new wall with a front entrance door and two windows;
- (c) Removal of an existing masonry boundary fence on the street elevation and the installation of a new palisade style front fence; and
- (d) Refurbishment of the front garden to provide new planting and paving.

### First Floor:

- (a) Demolition of the existing first floor containing two bedrooms, a bathroom and a balcony at the rear; and
- (b) Construction of a new first floor containing two (2) bedrooms with ensuite bathrooms, a study, a stairwell and a balcony at the rear.

### Second Floor:

- (a) Construction of a new second floor addition containing a master bedroom with an ensuite bathroom, a walk-in-robe, a stairwell and a balcony at the rear; and

### Roof:

- (a) Installation of five (5) skylights, two (2) skylights on the front roof plane and the remaining three (3) skylights on the rear roof plane; and
- (b) Installation of solar panels on the rear roof plane.

The existing covered right of passageway will be retained.

For the purpose of clarity, the side (north-western) elevation that adjoins No.147 Carabella Street will be referred as the northern elevation in this report. Similarly, the side (south-eastern) elevation that adjoins No.143 Carabella Street will be referred as southern elevation.

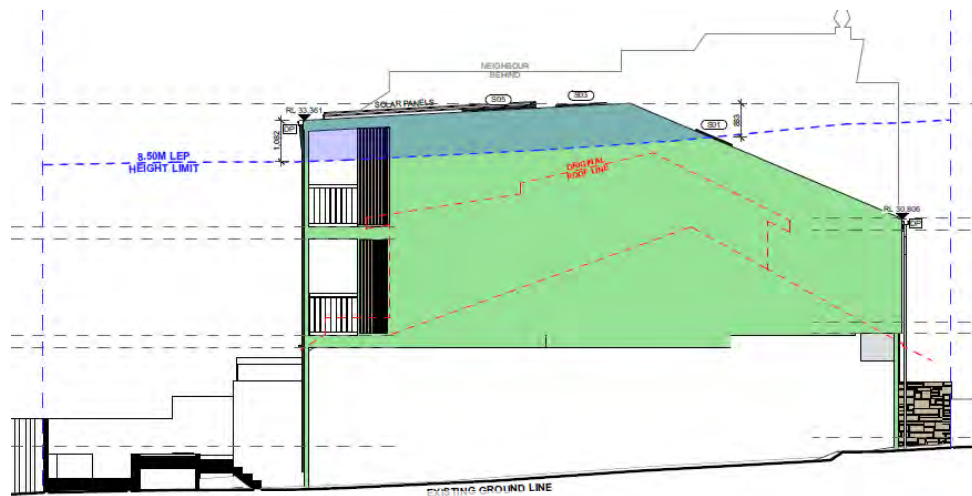
**Note:** Whilst it may appear as if the subject dwelling shares common party walls, it has been confirmed that the dwelling is independent from the adjacent buildings and does not share common party walls with the immediate adjoining properties.



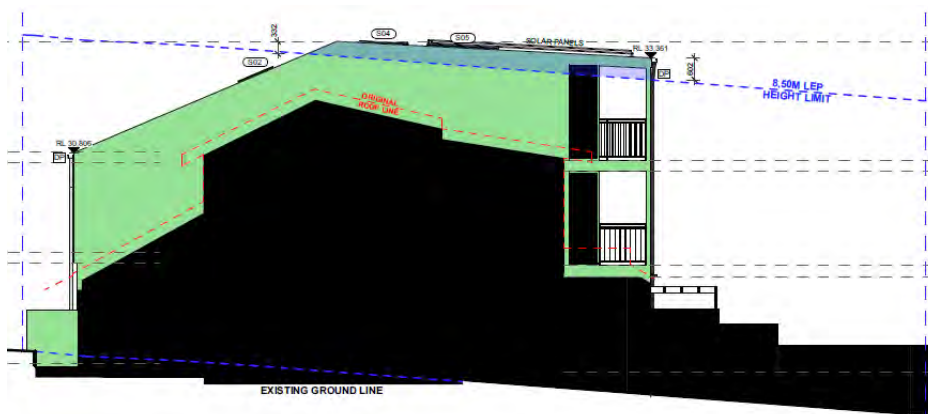


Front (Carabella Street) Elevation

Rear (North-eastern) Elevation



Northern Elevation



Southern Elevation

Figures 1 – 4: Proposed development



**Figure 5: Montage of the proposed development**

## **STATUTORY CONTROLS**

### North Sydney LEP 2013

- Zoning - R2 (Low Density Residential)
- Item of Heritage – No (Neutral Item)
- In Vicinity of Item of Heritage – Yes (Nos. 29, 31 and 45 Willoughby Street)
- Conservation Area - Yes (Careening Cove Conservation Area)
- Foreshore Building Line - No
- Environmental Planning & Assessment Act 1979 (As amended)
- Environmental Planning & Assessment Regulations 1996
- SEPP (Resilience and Hazards) 2021 – Chapters 2, 4 and 10
- SEPP (Biodiversity and Conservation) 2021 – Chapter 4
- SEPP (Building Sustainability Index: BASIX) 2004
- Local Development

## **POLICY CONTROLS**

### North Sydney DCP 2013

### North Sydney Local Infrastructure Contributions Plan 2020

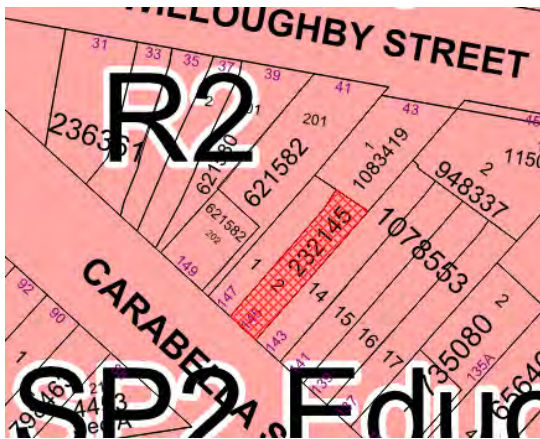


Figure 6: Zoning



Figure 7: Heritage and Conservation

## DESCRIPTION OF LOCALITY

The subject site is located on the north-eastern (low) side of Carabella Street and known as Lot 2 DP232145 and No.145 Carabella Street. It is rectangular in shape and has a total area of 120sqm. The site slopes gently from its street boundary down towards the rear boundary with a fall of approximately 1.5m.

Currently occupying the subject site is a two storey attached dwelling with a covered right of passageway along the north-western property boundary with No.147 Carabella Street.

The locality is characterised by a range of residential developments including single dwellings, dual occupancies and apartment buildings. The nearby properties along the north-eastern (low) side of Carabella Street are characterised by terraces with two (2) storey frontage to Carabella Street and a three (3) storey built form at the rear due to the sloping nature of the land.

To the north-west of the subject site is a 2 storey dwelling at No. 147 Carabella Street, which adjoins the subject property. A two storey terrace with a three storey rear addition is located to the south-east of the subject site at No.143 Carabella Street. To the rear (North-east) of the subject site is a two storey detached dwelling with an attic located at No.43 Willoughby Street.



Figure 8: Subject site (Carabella Street Elevation)





**Figure 9: Subject site (Rear Elevation)**



**Figure 10: The Locality**

## RELEVANT HISTORY

### Current Application

- **11 February 2022** – The subject Development Application (**D46/22**) for alterations and additions to an existing two (2) storey dwelling was lodged with Council.
- **16 February 2022** – A letter was sent to the applicant requiring the submission of revised drawings showing additional information about the adjoining properties.
- **25 February to 11 March 2022** - The application was notified to adjoining properties and the Milson Precinct seeking comment on the proposal. A total of five (5) submissions were received including two (2) submissions each from two (2) household and one (1) submission in support.
- **22 March 2022** – The applicant submitted the requested information.

## INTERNAL REFERRALS

### Building

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

### Heritage

The application was referred to Council's Conservation Planner who provided the following comments:

*The subject Neutral item, located within the Careening Cove Conservation Area, has low heritage significance and exhibits negligible physical evidence of its early origins as it currently presents as a contemporary dwelling.*

*Early photographs in Council's collection and the applicant's heritage assessment indicated that the subject dwelling was a matching pair with No 147 Carabella Street however, it has since been modified into a two storey dwelling as a result of building applications lodged in 1969, 1977, 1979 and 1986. The scale, massing and form of the existing dwelling result in the dwelling sitting neutrally in the streetscape however, the high front boundary wall, the pop-up roof addition and the concrete roof tiles are detracting elements in the streetscape. No objection is therefore made to altering the front facade and the overall form of the existing building.*

*The proposal is considered to satisfy clause 5.10 of NSLEP 2013 in that the resultant development will still sit neutrally in the streetscape and its character will remain contemporary in style. Although the building presents as single storey with a roof top addition, no objection is made to the proposed full, two-storey terrace building typology as this is a building form common within the conservation area as seen at Nos. 137-143 Carabella Street.*

*The following controls in NSDCP 2013 are of note:*

**13.4 Development in the Vicinity of Heritage Items** - *The proposed works will have low impact upon the heritage significance and setting of the nearby heritage items located at 29, 31 and 45 Willoughby Road as well as 100 to 108 Carabella Street as there is adequate separation and they have lot boundary curtilage. There will be no impact to the state-listed Sydney Harbour Bridge.*

**13.6.1 General Objectives O1 Ensure that new development is designed to retain and complement the character and significance of the conservation area** - *There will be a neutral impact to the character of the conservation area as the highly modified single dwelling will be converted to a conventional terrace.*

**13.6.3 Roofs - Objective O1 To maintain the characteristic roof profiles and roofing materials within a heritage conservation area** - The proposed CustomOrb Accent 35 roofing will have a corrugated profile and is satisfactory. No objection is raised to the 3 degree roof at the rear as it will not be visible from the public domain.

**13.6.4 Additional Storey and Levels - Objective O1 To ensure that the streetscape and context of the heritage conservation area are respected** - The proposal is not compliant in that the new additions will not be concealed behind the ridge of the existing dwelling. No objection is raised however, as the existing form lacks architectural integrity and the proposed alternative terrace form is considered to acceptable in this location in the context of the nearby rows of terraces.

**13.9.1 Skylights, Solar Panels and Satellite Dishes – Objective O1 To ensure that skylights, solar panels and satellite dishes do not detrimentally impact upon the significance of heritage items and heritage conservation areas** - The skylights on the front roof plane are not supported as they will be clearly visible from Burton Street. It is recommended that they be deleted and alternative means be used to gain light to the centre of the dwelling.

Alternative options are to have the study and ensuite more open to the bedroom space with half height walls and plantation shutters above for privacy or no walls.

No objection is raised to the proposed solar panels as they will be located on the rear of the building and not visible from the public domain.

**13.9.3 Verandahs and Balconies - Objective O2 To encourage the retention and reinstatement of original verandahs and balconies, especially where they are significant or contributory to an individual, row or group of buildings** - No objection is raised to the proposed balconies as they are consistent in character with nearby dwellings.

**13.9.4 Materials - Objective O1 To ensure that materials and finishes are consistent with the characteristic elements of the heritage item or heritage conservation areas** - Conditions are recommended below to ensure that the materials and finishes are sympathetic to the character of the conservation area and the original dwelling.

**13.9.6 Fences – Objective O1 To ensure that fences are consistent with the characteristic elements of the heritage item or heritage conservation area** - The proposed fencing is an improvement to the existing 1.8m high wall, however, it is recommended that the new fencing be reduced in height to 1.2m and have 50% open construction.

**13.9.7 Gardens - P2 Do not develop front garden areas for car parking or pave extensively** - The proposed soft landscaping in the front courtyard is supported.

## **RECOMMENDATIONS**

The following conditions are recommended:

### **Heritage Requirements (Condition AA2)**

*The following heritage requirements are to be applied to the proposed development:*

- a) The two skylights on the front roof plane to the study and ensuite are to be deleted.*
- b) New roofing is to have a corrugated profile similar to CustomOrb Accent 35. Standing seam is not to be substituted.*
- b) New sandstone on the front wall to have a rock or split-faced finish.*
- c) The new fence is to have 50% open construction and is to be limited to 1.2m in height.*
- d) Solar panels on the rear roof plane are to be laid flat on the roof.*
- f) New windows and doors on the front facade are to be timber framed. All other windows and doors are to have aluminium or steel framing sections of a width 45mm or wider, or are to be timber-framed.*

*The Certifying Authority must also 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 be sympathetic to the character of the conservation area and the original dwelling.)*

### **External Finishes & Materials (Condition C1)**

*External finishes and materials must be in accordance with the submitted schedule dated 28 February 2022, prepared by progressive Plans and received by Council on 21 March 2022 unless otherwise modified by Council in writing.*

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

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

### **Skylight (s) (Condition C2)**

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

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

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



## **ENGINEERING**

The application was referred to Council's Development Engineer who raised no objection to the proposal because the development would be carried out primarily within the existing building footprint resulting in no additional stormwater runoff and therefore no specific stormwater management requirements. Furthermore, the proposal does not involve on-site parking and no additional engineering requirements for new driveway crossings.

## **LANDSCAPING**

Whilst the proposed development does not involve changes to the existing landscape treatments within the rear garden, it is noted that there is a significant shortfall of landscaped area (17%) within the subject site when compared the DCP's minimum landscaped area requirement of 20%.

The applicant's proposal involving the replacement of the 1.8m high masonry front fence and the re-instatement of the front garden with soft landscaping is supported as this will provide soft landscaping on the main street frontage. In addition, the existing planter beds within the rear garden along the northern and rear property boundaries can be extended to provide more soft landscaping within the rear yard. These measures would significantly increase the landscaped area within the subject site from the existing 2.18% to 6.42%.

A condition is recommended requiring design amendments within the rear yard and the submission of a landscape plan for the subject site to ensure a desirable landscaping outcome for the subject site and the locality (**Condition AA3**). In addition, appropriate conditions are also recommended requiring the protection of an existing street tree in front of the subject site.

## **SUBMISSIONS**

### **Original proposal**

The application was notified to adjoining properties and the Milson Precinct seeking comment on the proposal between 25 February to 11 March 2022. A total of five (5) submissions were received including two (2) submissions each from two (2) households and one (1) submission in support.

The matters raised in the submissions are listed below:

### **Basis of Submissions**

- The proposed balconies at the rear must be setback from the common property boundary with the adjoining property to the north-west to reduce privacy impacts.
- Dimensions of the proposed privacy screens should be detailed and an additional privacy screen is required for the new balcony on the top (second floor) level.
- The existing right of passageway should remain unaltered with no new construction within its width and height.
- Concerns raised about the impacts of the construction works on the adjoining property to the north-west, including weather protection for the walls/structures along the common property boundary.
- Submission prepared on behalf of an adjoining property to the rear of the subject site.
- Concerns raised about the privacy impacts of the proposed balconies on the rear elevation on the adjoining property to the north-east (rear), including the existing backyard and the internal area of a future roof addition.

- Adverse impacts on the outlook to the sky from an adjoining property towards the subject site.

The issues raised in the submissions are summarised below and addressed later in this report. The original submissions may be viewed by way of DA tracking on Council's website [https://www.northsydney.nsw.gov.au/Building\\_Development/Current\\_DAs](https://www.northsydney.nsw.gov.au/Building_Development/Current_DAs) and are available for review by NSLPP members.

## **CONSIDERATION**

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

On 1 March 2022, forty-five (45) State Environmental Planning Policies (SEPPs) were consolidated into one of the eleven (11) new SEPPs. These changes affect a number of SEPPs to be considered in this report.

It is however noted that the consolidation primarily involves the transfer of the repealed SEPPs to form new chapters within the new SEPPs without significant amendments (i.e. will only involve a change in clause numbers and consequential amendments such as removal of introductory/duplicated provisions). Consequently, there would be no material changes to the requirements between the repealed SEPPs and the new consolidated SEPPs.

- SEPP 55 (Remediation of Land) – Chapter 4 in SEPP (Resilience and Hazards) 2021
- SEPP (Vegetation in Non-Rural Areas) 2017 - Chapter 2 in SEPP (Biodiversity and Conservation) 2021
- SEPP No 19—Bushland in Urban Areas - Chapter 6 in SEPP (Biodiversity and Conservation) 2021
- SREP (Sydney Harbour Catchment) 2005 - Chapter 10 in SEPP (Biodiversity and Conservation) 2021

### **SEPP (Resilience and Hazards) 2021 - Chapter 4**

SEPP 55 (Remediation of Land) has been consolidated into the new **SEPP (Resilience and Hazards) 2021** and the provisions of the former SEPP are contained under Chapter 4 of the new SEPP.

The above SEPP require Council to consider the likelihood that the site has previously been contaminated and to address the methods necessary to remediate the site. The subject site has been used for residential purposes for a long period of time and as such is unlikely to contain any contamination; therefore, the requirements of the former SEPP 55 have been satisfactorily addressed.

### **SEPP (Biodiversity and Conservation) 2021 - Chapter 2**

SEPP (Vegetation in Non-Rural Area) 2017 has been consolidated into the new **SEPP (Biodiversity and Conservation) 2021** and the provisions of the former SREP are contained under Chapter 2 of the new SEPP.

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

#### **SEPP (Biodiversity and Conservation) 2021 - Chapter 6**

SEPP 19 (Bushland in Urban Area) has been consolidated into the new **SEPP (Biodiversity and Conservation) 2021** and the provisions of the former SREP are contained under Chapter 6 of the new SEPP.

The proposed development is consistent with the relevant objectives and provisions of the new SEPP because the proposal does not involve removal of significant vegetation. Appropriate conditions have also been recommended requiring a landscape plan for the front garden and protection of an existing street tree.

#### **SEPP (Biodiversity and Conservation) 2021 - Chapter 10**

SREP (Sydney Harbour Catchment) 2005 has been consolidated into the new **SEPP (Biodiversity and Conservation) 2021** and the provisions of the former SREP are contained under Chapter 10 of the new SEPP.

Having regard to the relevant provisions of the SREP (Sydney Harbour Catchment) 2005, the proposed development is not considered to be detrimental to the Harbour and will not unduly impose upon the character of the foreshore given the subject site is not highly visible from the harbour as the site is far enough away from the foreshores of Sydney Harbour as to have no impacts on the harbour and its foreshores. As such, the development satisfies the provisions contained within the above SREP and Chapter 10 of the new SEPP.

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

A valid BASIX Certificate (No. A436484) has been submitted with the application to satisfy the aims of the SEPP (**Conditions C22 and G5**).

#### **NORTH SYDNEY LOCAL ENVIRONMENT PLAN (NSLEP 2013)**

##### **1. Permissibility**

The subject site is zoned Residential R2 (Low Density Residential) under the provisions of the North Sydney Local Environmental Plan 2013 (NSLEP 2013). Development for the purposes of alterations and additions to an existing dwelling is permissible with Council's development consent.

##### **2. Objectives of the zone**

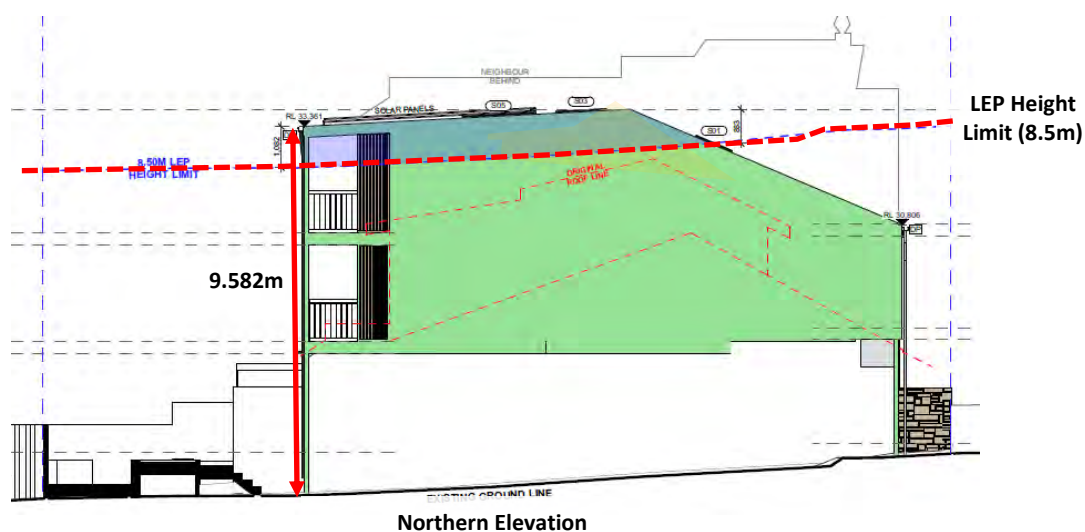
The proposed development is considered to be generally satisfactory in meeting the objectives of the R2 zone as discussed throughout this report.

### Part 4 – Principal Development Standards

Principal Development Standards – North Sydney Local Environmental Plan 2013			
Site Area - 120m <sup>2</sup>	Proposed	Control	Complies
Clause 4.3 – Heights of Building	9.582m	8.5m	No (Clause 4.6 Development Standard variation received)

### 3. Height of Building

The maximum height of the proposed second floor rear addition would breach the LEP building height control by up to 1.082m as illustrated below in **Figure 6**.



**Figure 11: Proposed development and LEP height limit**

The applicant has submitted a written request seeking a variation to the building height development standard in accordance with Clause 4.6 of NSLEP 2013.

### 4. Clause 4.6 Exceptions to Development Standards

The proposed breach has been assessed against the requirements of Clause 4.6 of NSLEP 2013 and the objectives of the building height control. These matters have been considered below: -

- (1)(a) **To promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient** – The design of the proposed works generally respects the existing sloping landform of the subject site.
- (1)(b) **To promote the retention and, if appropriate, sharing of existing views** - The new building elements in breach of the LEP building height limit would be the upper section of the proposed addition at the rear of the main dwelling.

Consideration has been given to the likely view impacts from the proposed building elements above the LEP height limit on the adjoining properties as follows:

*Nos 43, 45 Willoughby Street:*

These adjoining properties to the rear (north-east) of the subject site are unlikely to be affected by the proposal in terms of view loss because the subject site is located away from the significant views as seen from these adjoining properties towards the north, east and south-east. The proposed development may have some impacts on the outlook to the sky as seen from the rear of Nos 43 and 45 Willoughby Street, however, such impacts are not considered to be material as indicated in **Figure 12** below.



**Figure 12: The subject site as seen from the rear yard of No.43 Willoughby Street**

*No.143 Carabella Street:*

This adjoining property is located to the south-east of the subject site and the significant district and water views can be seen toward the south-east of this adjoining property. The proposed works would be located away from the significant view, therefore, there would be no adverse view impacts for this property.

*No.147 Carabella Street:*

This adjoining property is located to the north-west of the subject site and is occupied by a two storey dwelling with a first floor balcony at the rear. There would be no view impacts from the non-complying building elements on the proposed second floor addition because these elements would not be obstructing significant views as seen from the first floor balcony of No.147 Carabella Street because of the lower height of this adjoining dwelling.

An inspection of the first floor rear balcony at No.147 Carabella Street has revealed that the proposed first floor balcony at the rear of the subject dwelling would have no material impacts on the water views as seen from No.147 Carabella Street as illustrated in **Figure 13** below.

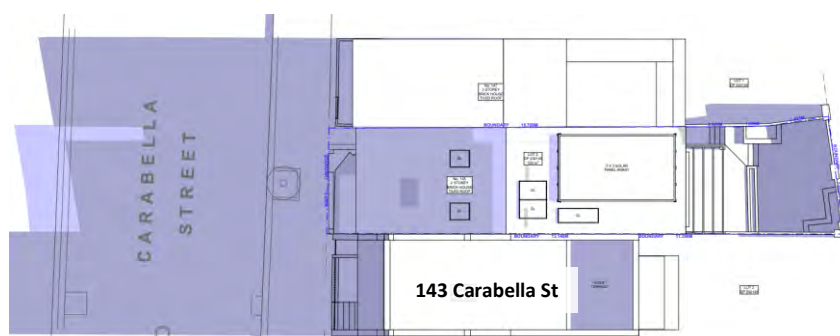


**Figure 13: The view as seen from the first floor balcony at the rear of No.147 Carabella Street across the side property boundary of the subject site**

Nos. 88, 90 Carabella Street:

These properties are located on the opposite side of Carabella Street from the subject site. The building elements above the LEP height limit are unlikely to cause material impacts on significant views towards the south-east to the harbour because of the obstruction caused by the existing terrace at Nos 143 Carabella Street that has a building height up to 2 metres above the maximum building height of the proposed development. It is also noted that no submissions have been received from these properties.

- (1)(c) To maintain solar access to existing dwellings, public reserves and streets, and to promote solar access to future development** – An examination of the submitted shadow diagrams has revealed that the new shadows caused by the non-complying building elements, would generally fall on the adjoining property to the south-east at No.143 Carabella Street and Carabella Street (**Figures 14-16**).



9 AM





**Figures 14-16: Shadow diagrams (Mid-winter)**

It is considered that the proposed development would have no material shadowing impacts on No.143 Carabella Street because of the following reasons:

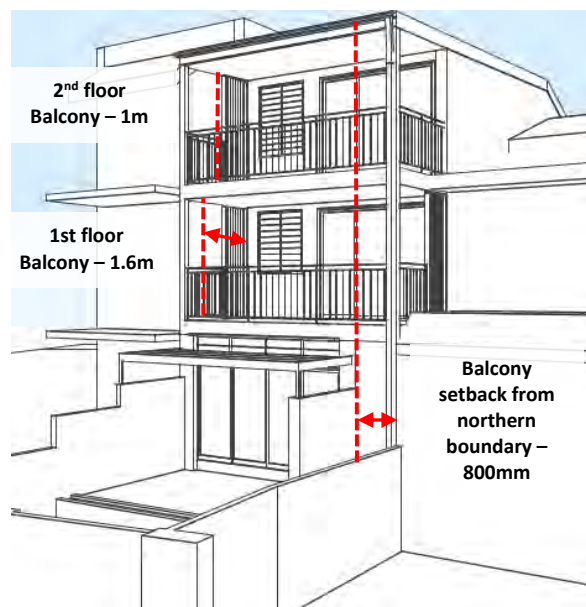
- (a) There are no window openings on the side elevation of No.143 Carabella Street facing the subject site;
- (b) The rear façade of No.143 Carabella Street would receive the required 3 hours of sunlight during mid-winter; and
- (c) There would be no increase in shadowing on the front elevation of No.143 Carabella Street.

**(1)(d) To maintain privacy for residents of existing dwelling and to promote privacy for residents of new buildings** – The upper portion of the proposed second floor rear balcony would breach the LEP building height control by up to 1.082m. It is considered that the depth of the proposed second floor balcony (at 2.14m) can be reduced to 1m in order to minimise privacy impacts for the adjoining properties, particularly the overlooking onto the rear garden of No.43 Willoughby Street.

Furthermore, the depth of the proposed first floor balcony (at 2.2m) can be reduced to match that of the existing first floor balcony (at 1.65m) to minimise any further visual and/or acoustic privacy impacts for the adjoining properties.



In addition, the northern edge of the proposed first and second floor balconies do not provide setback from the common property boundary with No.147 Carabella Street. It is considered that the northern edge of the first and second floor balconies are to be setback from the common property boundary with No.147 Carabella Street by 800mm to match the width of the right-of-passageway on the ground floor (**Figure 17**).



**Figure 17: Design amendments (Deferred commencement)**

In addition, the installation of full height privacy screen along the northern edges of the first and second floor balconies should enhance visual privacy protection for No.147 Carabella Street.

These design amendments would reduce privacy impacts for No.147 Carabella Street and would be consistent with rear balconies at No.143 Carabella Street with a setback from the side property boundary.

A deferred commencement condition requiring the above design amendments is recommended to minimise privacy impacts for the adjoining properties (**Condition AA1**).

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

The design of the proposed development, as amended by the deferred commencement condition AA1, is generally consistent with the characteristic height, bulk, scale and built form of other properties within the Conservation Area. Council's Conservation Planner has raised no objection to the proposal on heritage grounds and found the height, form and scale of the proposed structures are generally acceptable as detailed earlier in this report subject to the imposition of appropriate conditions.

Furthermore, the proposal would be generally consistent with the development density and residential character with a design which would retain the characteristic built form and streetscape within the conservation area as well as the adjoining properties.

**(1)(g) *To maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone E4 Environmental Living***

The proposal would maintain the characteristic two storey built form on the street frontage. Whilst the proposed rear elevation would be three (3) storeys, this built form is characteristic on the rear elevations of the nearby properties, particularly Nos 137 – 143 Carabella Street.

**Whether there are sufficient environmental planning grounds to justify contravening the development standard?**

It is concluded that the building elements above the LEP building height limit would have no material impacts on neighbouring properties and the locality in terms of the built forms within the locality and the amenity of the surrounding properties subject to the design amendments as required by the deferred commencement conditions. There are sufficient environmental planning grounds to justify contravening the building height control.

**Whether the proposed development will be in the public interest?**

The proposed development, as amended by the deferred commencement condition AA1, is considered to maintain reasonable residential amenity for surrounding properties. The proposal is therefore unlikely to offend the public interest.

**Conclusion**

It is concluded that the proposal would have no material impact on neighbouring properties in terms of the characteristic built forms within the conservation area and the general amenity of adjoining properties subject to the imposition of the deferred commencement condition. Having regard to the above, the request under Clause 4.6 of NSLEP 2013 seeking a variation to the LEP building height control is considered well-founded and strict compliance with the standards is unnecessary.

**5. Heritage Conservation**

The application has been assessed against the relevant heritage objectives and provisions as contained in the North Sydney LEP 2013, and found to be generally satisfactory as indicated in the comments from Council's Conservation Planner because the proposal is likely to retain the character and significance of the Conservation Area.

The design amendments as required by the deferred commencement condition AA1 would have no material impacts on the significance of the subject dwelling and the conservation area because the required design changes are located on the rear elevation of the dwelling and not visible from the street/public domain.

## 6. Earthworks

The proposed development does not involve new earthworks/excavation within the subject site.

### NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013

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

<b>DEVELOPMENT CONTROL PLAN 2013 – Part B Section 1- Residential Development</b>		
	<i>complies</i>	<i>Comments</i>
<b>1.2 Social Amenity</b>		
<b>1.2.1 Population Mix</b> <b>1.2.2 Maintaining Residential Accommodation</b> <b>1.2.3 Affordable Housing</b> <b>1.2.4 Housing for Seniors/Persons with disability</b>	No change	The proposal would not change the population mix, the supply of residential accommodation, affordable housing and housing for senior/persons with disabilities within the locality.
<b>1.3 Environmental Criteria</b>		
<b>1.3.1 Topography</b>	Yes	The proposed development generally respect the existing landform of the subject site.
<b>1.3.2 Bushland</b>	N/A	The subject site is not in close proximity to bushland or natural reserves.
<b>1.3.3 Bush Fire Prone Land</b>	N/A	The subject site is not affected by any bushfire prone land as identified in Bushfire Prone Land map for the North Sydney LGA.
<b>1.3.6 Views</b>	Yes	As indicated earlier in the report, the proposed development would have no material impacts on significant views as seen from the adjoining properties.
<b>1.3.7 Solar Access</b>	Yes	The proposal is unlikely to cause material overshadowing for the adjoining properties as indicated earlier in this report.
<b>1.3.8 Acoustic Privacy</b> <b>1.3.10 Visual Privacy</b>	Yes (via condition)	<p>Consideration has been given to the likely privacy impacts from the proposed first and second floor balconies on the rear elevation as indicated earlier in this report including the recommendation for a deferred commencement condition (<b>Condition AA1</b>) requiring design amendments to minimise privacy impacts for the adjoining properties.</p> <p>There would be no material privacy impacts for the proposed works on the front elevation given that the separation distance between the front building façade of the subject dwelling and the nearest residential property on the opposite side of Carabella Street would be in excess of 20m.</p> <p>Furthermore, there would be no change to the use and design of the rear yard within the subject site, therefore, no additional privacy impacts are anticipated.</p>
<b>1.4 Quality built form</b>		
<b>1.4.1 Context</b>	Yes	The proposed development, involving a second floor addition at the rear of the dwelling, would maintain the two storey built form and appearance on the street frontage and is generally consistent with the context of existing development along Carabella Road and within the Careening Cove conservation area.

<p><b>1.4.2 Subdivision Pattern</b>  <b>1.4.5 Siting</b></p>	<p>No Change</p>	<p>The proposal would not change the subdivision pattern of the subject site and the siting/orientation of the subject building.</p>																				
<p><b>1.4.6 Setback – Side</b></p>	<p>No (acceptable on merit)</p>	<p>A compliance table relating to side boundary setbacks is provided below:</p> <table border="1" data-bbox="710 409 1396 779"> <thead> <tr> <th>Elevation</th> <th>Existing</th> <th>Proposed</th> <th>Control</th> <th>Complies</th> </tr> </thead> <tbody> <tr> <td>Ground floor: - N Elevation (No.147) - S Elevation (No.143)</td> <td>0mm 0mm</td> <td>0mm 0mm</td> <td>900mm 900mm</td> <td><b>No</b> <b>No</b></td> </tr> <tr> <td>First Floor: - N Elevation (No.147) - S Elevation (No.143)</td> <td>0mm 0mm</td> <td>0mm 0mm</td> <td>1.5m 1.5m</td> <td><b>No</b> <b>No</b></td> </tr> <tr> <td>Second Floor - N Elevation (No.147) - S Elevation (No.143)</td> <td>0mm 0mm</td> <td>0mm 0mm</td> <td>2.5m 2.5m</td> <td><b>No</b> <b>No</b></td> </tr> </tbody> </table> <p>The proposal would involve building works adjacent to the common property boundaries with the adjoining properties to the north and south, namely Nos. 147 and 143 Carabella Street respectively.</p> <p>It is however noted that the subject site does not share a common wall with the adjoining properties to the north and south.</p> <p>The existing roof over the right of passageway is a cantilevered structure supported by the main dwelling within the subject site. The proposed addition adopts a similar design principle so that the new structures along the northern property boundary with No.147 Carabella Street are cantilevered and supported by the main dwelling structure.</p> <p>The existing main dwelling has a separate wall along the southern property boundary with No.143 Carabella Street as indicated on the survey plan. The proposed addition would be supported by this existing or a modified wall separate form from any structures within No.143 Carabella Street.</p> <p>It is noted that the zero side boundary setback complies with the DCP Character Statement for development within the Careening Cove Conservation Area.</p> <p>Notwithstanding the above, consideration has been given to the provisions in P3 Section 1.4.6 in Part B of NSDCP 2013 as well as the L&amp;E Court planning principle established in <i>Galea v Marrickville Council [2003] NSWLEC 113</i> to ascertain the appropriateness of the proposal:</p> <p><b>(a) Is the street characterised by terrace building?</b></p> <p>There are a number of terraces along Carabella Street and the proposed works would not alter the character of the street.</p> <p><b>(b) What is the height and length of the wall on the boundary</b></p> <p>Northern Boundary:</p> <p>The new wall along the northern boundary would be 15m and up to 2.6m higher that the roof plane of No.147 Carabella Street. However, the new wall would not be highly visible from the Carabella Street given that a two storey built form is maintained on the front elevation. Furthermore, the new wall at the rear of the dwelling would not be highly visible from No.147 Carabella Street because of the primarily outlook of this property towards the east away from the new wall.</p> <p>Southern Boundary:</p>	Elevation	Existing	Proposed	Control	Complies	Ground floor: - N Elevation (No.147) - S Elevation (No.143)	0mm 0mm	0mm 0mm	900mm 900mm	<b>No</b> <b>No</b>	First Floor: - N Elevation (No.147) - S Elevation (No.143)	0mm 0mm	0mm 0mm	1.5m 1.5m	<b>No</b> <b>No</b>	Second Floor - N Elevation (No.147) - S Elevation (No.143)	0mm 0mm	0mm 0mm	2.5m 2.5m	<b>No</b> <b>No</b>
Elevation	Existing	Proposed	Control	Complies																		
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		<p>The new wall along the southern property boundary with No.143 Carabella Street will not be taller than the existing side boundary wall of the terrace at No.143 Carabella Street.</p> <p><b>(c) Has the applicant control over the adjoining site or the agreement of their owners</b></p> <p>As indicated earlier in this report, there is no common walls along the side property boundaries with No.143 and 147 Carabella Street and the proposed works would be designed and to be carried out entirely within the subject site. Property owners consent is therefore not required. However, a condition is recommended that any works must not encroach onto the adjoining properties (<b>Condition C3</b>).</p> <p><b>(d) What are the impacts on the amenity and/or development potential of the adjoining sites</b></p> <p>The proposal would not cause material impacts on the amenity of the adjoining properties in terms of overshadowing, view or privacy loss as detailed earlier in this report.</p> <p><b>(e) Are there arrangements in place for the maintenance of the wall or gutters</b></p> <p>Whilst no details have been provided by the applicant with regard to maintenance of the walls and gutters of the adjoining property, it is considered that the issue of access and maintenance of the structure adjacent to the property boundaries would be a civil matter between the property owners.</p>
<b>P1 Front setback</b>	Yes	<p>The proposed works would not change the building setback from the front (Carabella Street) property boundary.</p> <p>The proposed removal of the existing masonry wall along the front property boundary with palisade style fencing is supported.</p>
<b>P5 Rear Setback – Rear</b>	Yes	<p>The proposed second floor rear addition would maintain the rear property boundary setback for the ground level at 7m. The design amendment for the second floor balcony as required by the deferred commencement condition would increase the building setback for the new second floor balcony at the rear to a complying 8m as stipulated in the DCP character statement (<b>Condition AA1</b>).</p>
<b>1.4.7 Form Massing Scale 1.4.8 Built Form Character</b>	Yes	<p>As indicated in Council’s Conservation Planner’s comments earlier in this report, the design of the proposed addition is generally consistent with the characteristic built form within the conservation area by maintaining a two storey street frontage and three storey at the rear of the main dwelling similar to the existing terraces to the south including Nos 137 – 143 Carabella Street.</p> <p>In addition the proposed removal of the masonry wall on the street frontage is supported because this would provide an opportunity to re-instate the front garden with lower front fencing and to enhance the character of the streetscape.</p>
<b>1.4.10 Roofs</b>	Yes	<p>The proposed pitched roof form on the front elevation and the skillion roof at the rear is considered to be acceptable.</p>
<b>1.4.9 Dwelling Entry</b>	Yes	<p>The proposal would improve the visual presence of the main dwelling entry off Carabella Street with the removal of the existing masonry wall and the re-instatement of a front garden.</p>

1.4.12 Materials	Yes	The proposed colours and materials, featuring primarily traditional materials, are considered to be generally acceptable subject to the further requirements as detailed in Condition C# in order to ensure the use of characteristic/sympathetic materials/colours.																				
1.4.14 Front Fences	Yes	<p>The proposed removal of the existing masonry wall and the installation of palisade style fencing is supported.</p> <p>Council's Conservation Planner has recommended a condition requiring the design of the fencing to maintain a minimum transparency of 50% to ensure consistency with the character of the conservation area.</p>																				
<b>1.5 Quality Urban Environment</b>																						
1.5.4 Vehicle Access and Parking	No change	The subject site has no on-site parking and the subject application does not alter this aspect of the existing development.																				
1.5.5 Site Coverage 1.5.6 Landscape Area	No (acceptable on merit)	<p>A table is provided below showing the level of compliance with DCP's site coverage, unbuilt upon area and landscaped area requirements:</p> <table border="1" data-bbox="710 795 1388 1265"> <thead> <tr> <th>Site Area : 120sqm</th> <th>Existing</th> <th>Proposed</th> <th>Control</th> <th>Compliance</th> </tr> </thead> <tbody> <tr> <td>Site coverage</td> <td>77.66sqm (64.72%)</td> <td>77.22sqm (64.35%)</td> <td>60%</td> <td>No</td> </tr> <tr> <td>Unbuilt-upon area</td> <td>39.76sqm (33.13%)</td> <td>38.89sqm (32.41%)  35.09sqm* (29.23%)</td> <td>20%</td> <td>No</td> </tr> <tr> <td>Landscaped area</td> <td>2.62sqm (2.18%)</td> <td>3.95sqm (3.29%)  7.75sqm* (6.42%)</td> <td>20%</td> <td>No</td> </tr> </tbody> </table> <p>* Deferred Commencement amendments</p> <p>The existing development does not comply with the DCP site coverage, unbuilt upon and landscaped area requirements.</p> <p>As indicated earlier in this report, the proposal for the re-instatement of the front garden with soft landscaping is supported.</p> <p>Furthermore, the extension of the existing planter beds within the rear garden along the northern and rear property boundaries would improve the provision of landscaped area within the subject site.</p> <p>Accordingly, a condition is recommended requiring design amendments within the rear yard and the submission of a landscape plan for the subject site to ensure a desirable landscaping outcome for the subject site and the locality (<b>Condition AA3</b>).</p>	Site Area : 120sqm	Existing	Proposed	Control	Compliance	Site coverage	77.66sqm (64.72%)	77.22sqm (64.35%)	60%	No	Unbuilt-upon area	39.76sqm (33.13%)	38.89sqm (32.41%)  35.09sqm* (29.23%)	20%	No	Landscaped area	2.62sqm (2.18%)	3.95sqm (3.29%)  7.75sqm* (6.42%)	20%	No
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Landscaped area	2.62sqm (2.18%)	3.95sqm (3.29%)  7.75sqm* (6.42%)	20%	No																		
1.5.7 Excavation	Yes	The proposal does not involve new earthworks/excavation within the subject site.																				
1.5.8 Landscaping 1.5.9 Front Gardens	Yes (via Condition)	<p>The proposed re-instatement of the front garden with new lower front fencing is supported. A condition is recommended requiring the submission of a landscape plan for the front garden to ensure a desirable landscaping outcome for the subject site and the conservation area (<b>Conditions AA3 and G6</b>).</p> <p>As indicated earlier in this report, the requirement for an extension of the existing planter beds within the rear garden along the northern and rear property boundaries would improve the provision of landscaped area within the subject site (<b>Condition AA3</b>).</p>																				

<b>1.5.13 Garbage Storage</b>	Yes (via condition)	A standard condition requiring the provision of adequate storage for general waste and recyclable materials can be imposed should approval be granted for the proposed development.
<b>1.6 Efficient Use of Resources</b>		
<b>1.6.1 Energy Efficiency</b>	Yes	The applicant has submitted a valid BASIX certificate.

***Kirribilli Planning Area (Careening Cove Conservation Area) - Part C of NSDCP 2013***

The proposal, as amended by the deferred commencement conditions, is generally consistent with Part C of North Sydney DCP 2013 in particular Section 8 of the Character Statement for Kirribilli Planning Area and Section 8.3 for Careening Cove Conservation Area.

The proposed development is generally consistent with the built characteristic building elements within the conservation area.

**LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN**

The proposal is subject to Local Infrastructure Contributions in accordance with the North Sydney Local Infrastructure Contributions Plan 2020.

It is noted that the proposed development does not involve an increase in population, therefore the proposal is subject to a S7.12 levy in accordance with Sections 1.3.3 and 1.4 of North Sydney Local Infrastructure Contribution Plan 2020 because the cost of the development is over \$100,000.00.

The required contribution has been calculated in accordance with the applicable contribution rates as follows

<b>Applicable Contribution Type</b>		
S7.12 contribution detail	Development cost:	\$ 520,000.00
(payment amount subject to indexing at time of payment)	Contribution:	\$5,200.00

Conditions requiring payment of contributions are included in the attached recommended conditions of consent.

**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 |



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4.	Landscaping/Open Space Provision	Yes
5.	Traffic generation and Carparking provision	N/A
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 application was notified to adjoining properties and the Milson Precinct seeking comment on the proposal between 25 February to 11 March 2022. A total of five (5) submissions were received including two (2) submissions each from two (2) households and one (1) submission in support.

The matters raised in the submissions objecting to the proposal are addressed as follows:

- ***The proposed balconies at the rear must be setback from the common property boundary with the adjoining property to the north-west to reduce privacy impacts.***
- ***Dimensions of the proposed privacy screens should be detailed and an additional privacy screen is required for the new balcony on the top (second floor) level.***
- ***Concerns raised about the privacy impacts of the proposed balconies on the rear elevation on the adjoining property to the north-east (rear), including the existing backyard and the internal area of a future roof addition.***

#### Comment:

As indicated earlier in this report, a deferred commencement condition (**Condition AA1**) requiring design amendments to the first and second floor balconies on the rear elevation are required to minimise privacy impacts for the adjoining properties, particularly No.147 Carabella Street to the north and No.43 Willoughby Street to the rear of the subject site.

- ***Concerns raised about the impacts of the construction works on the adjoining property to the north-west, including weather protection for the walls/structures along the property boundary.***

#### Comment:

A condition is recommended requiring the suitable weather protection measures to be applied to the existing walls/structures along the side (northern) property boundary with No.147 Carabella Street in order to prevent water penetration during the construction of the proposed development (**Condition D1**).

- ***The existing right of passageway should remain unaltered with no new construction within its width and height.***

**Comment:**

A condition is recommended specifying that the new works should not encroach onto any adjoining properties and the right of passageway along the northern property boundary should remain clear at all times (**Condition C3**).

**PUBLIC INTEREST**

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

**SUITABILITY OF THE SITE**

The proposal would be located in a R2 (Low Density Residential) zone where alterations and additions to an existing dwelling are a permissible form of development. Consequently, the proposal is considered to be suitable for the site having regard to the merits of the proposal subject to the imposition of deferred commencement condition AA1 as described in the above report.

**CONCLUSION**

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

The application proposes alterations and additions to an existing two storey detached dwelling that is a permissible form of development in an R2 Low Density Residential Zone.

This report has considered a written request submitted by the applicant seeking a variation to Clause 4.3 in North Sydney LEP concerned with the height of buildings height pursuant to Clause 4.6 of the LEP.

The variation to the building height development standard is justifiable because the building elements above the LEP maximum building height are unlikely to have an adverse impact on the 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 subject to the imposition of the recommended deferred commencement condition AA1 requiring further design amendments for the first and second floor balconies.

The design of the proposal is generally consistent with the character of the Careening Cove conservation area. The landscape quality of subject site would be improved with the proposed front garden and the additional landscaping within the rear yard.

Council's Conservation Planner has raised no objection to the proposal subject to the imposition appropriate conditions of consent.

The issues raised in the submissions have been addressed in this report.

Having regard to the provisions of Section 4.15(1) of the EP&A Act 1979 the application is considered to be satisfactory and therefore can be approved subject to the imposition of deferred commencement conditions.

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

The application was notified to adjoining properties and the Milson Precinct seeking comment on the proposal between 25 February to 11 March 2022. A total of five (5) submissions were received including two (2) submissions each from two (2) households and one (1) submission in support. The matters raised in the submissions have been addressed throughout this 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 Director General of the Department of Planning and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 of NSLEP 20013 and grant deferred commencement consent to Development Application No. 46/22 for 145 Carabella Street, Kirribilli, subject to the following site specific and attached standard conditions

### **AA. Deferred Commencement Condition**

This consent shall not operate until the following deferred commencement condition(s) has/have been satisfied.

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

**If the applicant fails to satisfy Council as to the matters specified in the deferred commencement conditions within 12 months from the date of this consent. It will lapse in accordance with Section 4.16(3) of the Environmental Planning and Assessment Act 1979.**

### **Deferred Commencement Matters**

#### **Modifications to First and Second Floor Rear Balconies**

- AA1. The design of the first and second floor balconies on the rear elevation of the proposed dwelling must be modified as follows:
- (a) The north-western edges of the proposed first and second floor balconies shall provide a setback from the norther-western common property boundary with No.147 Carabella Street by a minimum of 800mm;
  - (b) The depth of the first floor balcony shall be amended to 1600mm from the rear (north-eastern) building line of the main dwelling;
  - (c) The depth of the second floor balcony shall be amended to 1000mm from the rear (north-eastern) building line of the main dwelling;
  - (d) The depth of the awning over the second floor balcony shall match the depth of the second floor balcony (1000mm); and

- (e) Full height privacy screens shall be installed along the north-western edge of the first and second floor balcony.

(Reason: To minimise privacy impacts on the adjoining properties.)

### Heritage Requirements

AA2. The following heritage requirements are to be applied to the proposed development:

- (a) The two skylights on the front roof plane to the study and ensuite are to be deleted;
- (b) New roofing is to have a corrugated profile similar to CustomOrb Accent 35. Standing seam is not to be substituted;
- (c) New sandstone on the front wall to have a rock or split-faced finish;
- (d) The new front fence is to have 50% open construction and is to be limited to 1.2m in height;
- (e) Solar panels on the rear roof plane are to be laid flat on the roof; and
- (f) New windows and doors on the front facade are to be timber framed. All other windows and doors are to have aluminium or steel framing sections of a width 45mm or wider, or are to be timber-framed.

(Reason: To be sympathetic to the character of the conservation area and the original dwelling.)

### Landscaping

AA3. The existing planter beds within the rear yard adjacent to the northern and the rear (eastern) property boundaries are to be extended to the northern corner of the subject site to provide a continuous planter bed along the northern and rear (eastern) edges of the rear yard.

The applicant must submit a landscape plan showing the landscaping treatments for the new planter beds within the front and rear gardens including the species names, number and pot sizes of new planting.

(Reasons: To ensure a desirable landscaping outcome for the subject site and the locality.)

**This consent shall not operate until such time as the written approval from Council's Manager Development Services stating that the requirements of this condition have been satisfied.**

**B. Subject to the above deferred commencement conditions being satisfied within 12 months of the date of this determination, the consent shall operate in accordance with the attached conditions including the following and site specific conditions:**

### External Finishes & Materials

C1. External finishes and materials must be in accordance with the submitted schedule dated 28 February 2022, prepared by progressive Plans and received by Council on 21 March 2022 unless otherwise modified by Council in writing.

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

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

### **Skylight (s)**

C2 Skylight flashing(s) and frame(s) to be coloured to match the roof material. Skylight(s) to sit no higher than 100mm above roof plane when in a closed position. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

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

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

### **No encroachment of works**

C3 The proposed works must not encroach onto any adjoining properties in particular the existing right of way along the north-western property boundary.

Pedestrian access through the right-of-way must not be obstructed at any time.

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

(Reasons: To ensure no encroachment onto the adjoining properties and right-of-way.)

### **Protection for Existing Structures**

D1. Prior to the commencement of any construction works, the applicant must undertake suitable measures on the existing wall of the dwelling at No.147 Carabella Street along the north-western boundary to prevent water penetration through the wall to No. 147 Carabella Street.

Note: The applicant shall consult with the property owners of No.147 Carabella Street prior to the commencement of works.

(Reasons: To ensure protection of an adjoining property.)

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

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**ROBYN PEARSON**  
**TEAM LEADER ASSESSMENTS**

**STEPHEN BEATTIE**  
**MANAGER DEVELOPMENT SERVICES**

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**NORTH SYDNEY COUNCIL**  
**CONDITIONS OF DEVELOPMENT APPROVAL**  
**145 CARABELLA STREET, KIRRIBILLI**  
**DEVELOPMENT APPLICATION NO. 46/22**

**AA. Deferred Commencement Conditions**

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

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

**If the applicant fails to satisfy Council as to the matters specified in the deferred commencement conditions within 12 Months of the date of the grant of this consent this consent will lapse in accordance with Section 4.16(3) of the Environmental Planning and Assessment Act 1979.**

**Modifications to First and Second Floor Rear Balconies**

AA1. The design of the first and second floor balconies on the rear elevation of the proposed dwelling must be modified as follows:

- (a) The north-western edges of the proposed first and second floor balconies shall provide a setback from the norther-western common property boundary with No.147 Carabella Street by a minimum of 800mm;
- (b) The depth of the first floor balcony shall be amended to 1600mm from the rear (north-eastern) building line of the main dwelling;
- (c) The depth of the second floor balcony shall be amended to 1000mm from the rear (north-eastern) building line of the main dwelling;
- (d) The depth of the awning over the second floor balcony shall match the depth of the second floor balcony (1000mm); and
- (e) Full height privacy screens shall be installed along the north-western edge of the first and second floor balcony.

(Reason: To minimise privacy impacts on the adjoining properties.)

**Heritage Requirements**

AA2. The following heritage requirements are to be applied to the proposed development:

- (a) The two skylights on the front roof plane to the study and ensuite are to be deleted;
- (b) New roofing is to have a corrugated profile similar to CustomOrb Accent 35. Standing seam is not to be substituted;
- (c) New sandstone on the front wall to have a rock or split-faced finish;

**145 CARABELLA STREET, KIRRIBILLI  
DEVELOPMENT APPLICATION NO. 46/22**

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- (d) The new front fence is to have 50% open construction and is to be limited to 1.2m in height;
- (e) Solar panels on the rear roof plane are to be laid flat on the roof; and
- (f) New windows and doors on the front facade are to be timber framed. All other windows and doors are to have aluminium or steel framing sections of a width 45mm or wider, or are to be timber-framed.

(Reason: To be sympathetic to the character of the conservation area and the original dwelling.)

### Landscaping

- AA3. The existing planter beds within the rear yard adjacent to the northern and the rear (eastern) property boundaries are to be extended to the northern corner of the subject site to provide a continuous planter bed along the northern and rear (eastern) edges of the rear yard.

The applicant must submit a landscape plan showing the landscaping treatments for the new planter beds within the front and rear gardens including the species names, number and pot sizes of new planting.

(Reasons: To ensure a desirable landscaping outcome for the subject site and the locality.)

**This consent shall not operate until such time as the written approval from Council's Manager Development Services stating that the requirements of this condition have been satisfied.**

- B. Subject to the above deferred commencement conditions being satisfied within 12 months of the date of this determination, the consent shall operate in accordance with the site specific and the attached standard conditions:**

**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.

Plan No.	Description	Prepared by	Dated
DA05 Rev D	Ground Floor plans	Progressive Plans	28.02.22
DA06 Rev D	First Floor plans	Progressive Plans	28.02.22
DA07 Rev D	Second Floor plans	Progressive Plans	28.02.22
DA08 Rev D	Roof/Concept Stormwater plans	Progressive Plans	28.02.22
DA09 Rev D	Elevations – Northeast & Southwest	Progressive Plans	28.02.22
DA10 Rev D	Elevations - Northwest	Progressive Plans	28.02.22
DA11 Rev D	Elevations - Southeast	Progressive Plans	28.02.22



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DA12 Rev D	Section A	Progressive Plans	28.02.22
DA13 Rev D	Sections - B & C	Progressive Plans	28.02.22
DA14 Rev D	Existing & Proposed Street Elevation	Progressive Plans	28.02.22
DA22 Rev D	Front Finishes Board	Progressive Plans	28.02.22
DA23 Rev D	Rear Finishes Board	Progressive Plans	28.02.22

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

**Plans on Site**

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

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

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

**No Demolition of Extra Fabric**

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

(Reason: To ensure compliance with the approved development)

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

**External Finishes & Materials**

- C1. External finishes and materials must be in accordance with the submitted schedule dated 28 February 2022, prepared by progressive Plans and received by Council on 21 March 2022 unless otherwise modified by Council in writing.

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

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

**Skylight (s)**

- C2. Skylight flashing(s) and frame(s) to be coloured to match the roof material. Skylight(s) to sit no higher than 100mm above roof plane when in a closed position. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

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

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

**No encroachment of works**

- C3. The proposed works must not encroach onto any adjoining properties in particular the existing right of way along the north-western property boundary.

Pedestrian access through the right-of-way must not be obstructed at any time.

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

(Reasons: To ensure no encroachment onto the adjoining properties and right-of-way.)

**Dilapidation Report Damage to Public Infrastructure**

- C4. 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.

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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 Survey Private Property (Neighbouring Buildings)**

- C5. A photographic survey and dilapidation report of adjoining properties Nos. 143 and 147 Carabella Street detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The survey and report are to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Certifying Authority, prior to the issue of any Construction Certificate.

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

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

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

(Reason: Proper management of records)

**Structural Adequacy (Semi-detached and Terrace Buildings)**

- C6. A report from an appropriately qualified and practising structural engineer, certifying the structural adequacy of the adjoining properties Nos. 143 and 147 Carabella Street which certifies their ability to withstand the proposed works and outlines any measures required to be implemented to ensure that no damage will occur to adjoining premises 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.

Under no circumstances shall the party or common wall be extended or altered without the prior written consent of the adjoining owner. Any such extension of the party wall shall be noted on title by way of appropriate easement or Section 88B instrument.

(Reason: To ensure the protection and structural integrity of adjoining properties, and that common law property rights are recognised)

### **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)

### **Sediment Control**

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

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

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

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

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

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

### **Waste Management Plan**

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

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

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

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

### **Colours, Finishes and Materials (Conservation Areas)**

C10. The external finishes, materials and exterior colours, other than those specified on the approved plans and as amended by Condition AA2, shall be complementary to the architectural style of the original building and sympathetic to the character of the Conservation Area. A schedule of finishes, materials and external colours shall be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

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

**Roofing Materials - Reflectivity**

- C11. 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**

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

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

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

(Reason: Amenity and convenience during construction)

**Stormwater Disposal**

C13. Stormwater runoff generated by the approved development must be conveyed by gravity to the existing site stormwater drainage disposal system. A licensed tradesman shall install plumbing components to achieve this requirement in accordance with the BCA and current plumbing standards and guidelines. 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 appropriate provision for disposal and stormwater management arising from the development)

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

C14. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$3,000.00 to be held by Council for the payment of cost for any/all of the following:

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with this consent.
- c) remedying any defects in any such public work that arise within six months after the work is completed.

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

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

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

- where the damage constitutes a hazard in which case Council may make use of the security immediately;

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

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

**Tree Bond for Public Trees**

- C15. Prior to the issue of any construction certificate, security in the sum of \$3,000.00 must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

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

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

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

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

**SCHEDULE**

<b>Tree</b>	<b>Location</b>	<b>Height (m)</b>
1 x Street tree	Council verge in front of the subject site	1.8m

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



### Protection of Trees

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

Tree	Location	Height (m)
1 x Street tree	Council verge in front of the subject site	1.8m

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)

### Garbage and Recycling Facilities

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

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

### Asbestos Material Survey

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

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

- a) the removal of asbestos must be undertaken by a WorkCover licensed contractor;

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

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

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

#### **Air Conditioners in Residential Premises**

C19. The use of any air conditioner installed on the premises must comply with the requirements of the Protection of the Environment Operations (Noise Control) Regulations 2008 and State Environmental Planning Policy (Infrastructure) 2007 and must not:

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

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

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

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

(Reason: To maintain residential amenity)

### Section 7.12 Contributions

- C20. 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, to provide for local infrastructure improvements.

Based on the cost of development at the date of determination, the total contribution payable to Council is \$5,200.00.

#### Indexation

The monetary contribution required under this consent will be indexed at the time of payment in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

#### Timing of Payment

The contribution must be paid to Council prior to issue of any Construction Certificate for any work approved by this consent.

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 provide for local infrastructure identified in the North Sydney Council Local Contributions Plan 2020)

### Security Deposit/Guarantee Schedule

- C21. 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>
Street Tree Bond (on Council Property)	\$3,000.00
Footpath Damage Bond	\$3,000.00
<b>TOTAL BONDS</b>	<b>\$6,000.00</b>

Note: The following fees applicable

<b>Fees</b>	
Section 7.12 Contributions	\$5,200.00
<b>TOTAL FEES</b>	<b>\$5,200.00</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**

C22. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. A436484 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)***

#### **Protection for Existing Structures**

D1. Prior to the commencement of any construction works, the applicant must undertake suitable measures on the existing wall of the dwelling at No.147 Carabella Street along the north-western boundary to prevent water penetration through the wall to No. 147 Carabella Street.

Note: The applicant shall consult with the property owners of No.147 Carabella Street prior to the commencement of works.

(Reasons: To ensure protection of an adjoining property.)

#### **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)

### Temporary Fences and Tree Protection

- D3. All protected trees on-site that are specifically nominated 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. No materials or builders' waste are to be stored in the vicinity of the nominated tree/trees at any time.

Appropriate fencing or barricades in accordance with AS4970-2009 (Protection of trees on development sites), not less than the distance shown 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:

#### Schedule

Tree	Location	Height (m)
1 x Street tree	Council verge in front of the subject site	1.8m

(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)

### Commencement of Works' Notice

- D5. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two days' notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

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

**E. During Demolition and Building Work****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.

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)

**Service Adjustments**

- E4. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the person acting on the consent and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the 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)

**Cigarette Butt Receptacle**

- E5. 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)

**Progress Survey**

- E6. In order to ensure compliance with approved plans, a Survey Certificate, to Australian Height Datum, must be prepared by a Registered Surveyor as follows:
- a) at the completion of the first structural floor level indicating the level of that floor and the relationship of the building to the boundaries;
  - b) at the completed height of the building, prior to the placement of concrete inform work, or the laying of roofing materials; and
  - c) at completion, the relationship of the building, and any projections thereto, to the boundaries.

Progress certifications in response to points (a) through (c) must be provided to the Certifying Authority for approval at the time of carrying out relevant progress inspections. In the event that such survey information is not provided or reveals discrepancies between the approved plans and the proposed works, all works, save for works necessary to bring the development into compliance with the approved plans, must cease. Works may only continue upon notification by the Certifying Authority to the Applicant that survey information (included updated survey information following the carrying out of works to comply with the approved plans) complies with this condition.

(Reason: To ensure compliance with approved plans)

**Removal of Extra Fabric**

- E7. 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**

- E8. The following must be complied with at all times:
- (a) Materials must not be burnt on the site.
  - (b) Vehicles entering and leaving the site with soil or fill material must be covered.
  - (c) Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction.
  - (d) Odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

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

**Noise and Vibration**

- E9. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

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

**No Work on Public Open Space**

- E10. No work can be undertaken within adjoining public lands (i.e., Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the developer is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

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



**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)

**Special Permits**

E13. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development must occur entirely on the property.

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

1) **On-street mobile plant**

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

(Reason: Proper management of public land)

2) **Hoardings**

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

(Reason: Proper management of public land)

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

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

(Reason: Proper management of public land)

4) **Kerbside restrictions, construction zones**

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

(Reason: Proper management of public land)

**Construction Hours**

E14. 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	7.00 am - 5.00 pm
	Saturday	8.00 am - 1.00 pm
	Sunday, Public holiday	No work permitted

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

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

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

**Installation and Maintenance of Sediment Control**

- E15. Erosion and sediment controls must be installed and maintained at all times in accordance with the Sediment and erosion control plan submitted and approved with the Construction Certificate.

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

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

**Sediment and Erosion Control Signage**

- E16. 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**

- E17. 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 workplace 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)

**Health and Safety**

- E18. 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)

**Prohibition on Use of Pavements**

- E19. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

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

**Plant and Equipment Kept Within Site**

- E20. 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)

**Waste Disposal**

- E21. 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**

- E22. All demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with National Occupational Health and Safety Commission.

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

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

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

(Reason: Prescribed - Statutory)

**Home Building Act**

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

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

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

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

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

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

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

(Reason: Prescribed - Statutory)

**Appointment of a Principal Certifying Authority (PCA)**

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

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

**Construction Certificate**

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

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

**Occupation Certificate**

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

(Reason: Statutory)

**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.

**145 CARABELLA STREET, KIRRIBILLI  
DEVELOPMENT APPLICATION NO. 46/22**

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- 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)

**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***

**Damage to Adjoining Properties**

- G1. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

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

**Utility Services**

- G2. 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**

- G3. 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)



**Disposal Information**

G4. 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 docket); and
- (b) the disposal points and methods used.

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

**BASIX Completion Certificate**

G5. 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**

G6. The landscaping shown on the approved landscape plan as required by Condition AA3 in this consent must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

**Compliance with Certain conditions**

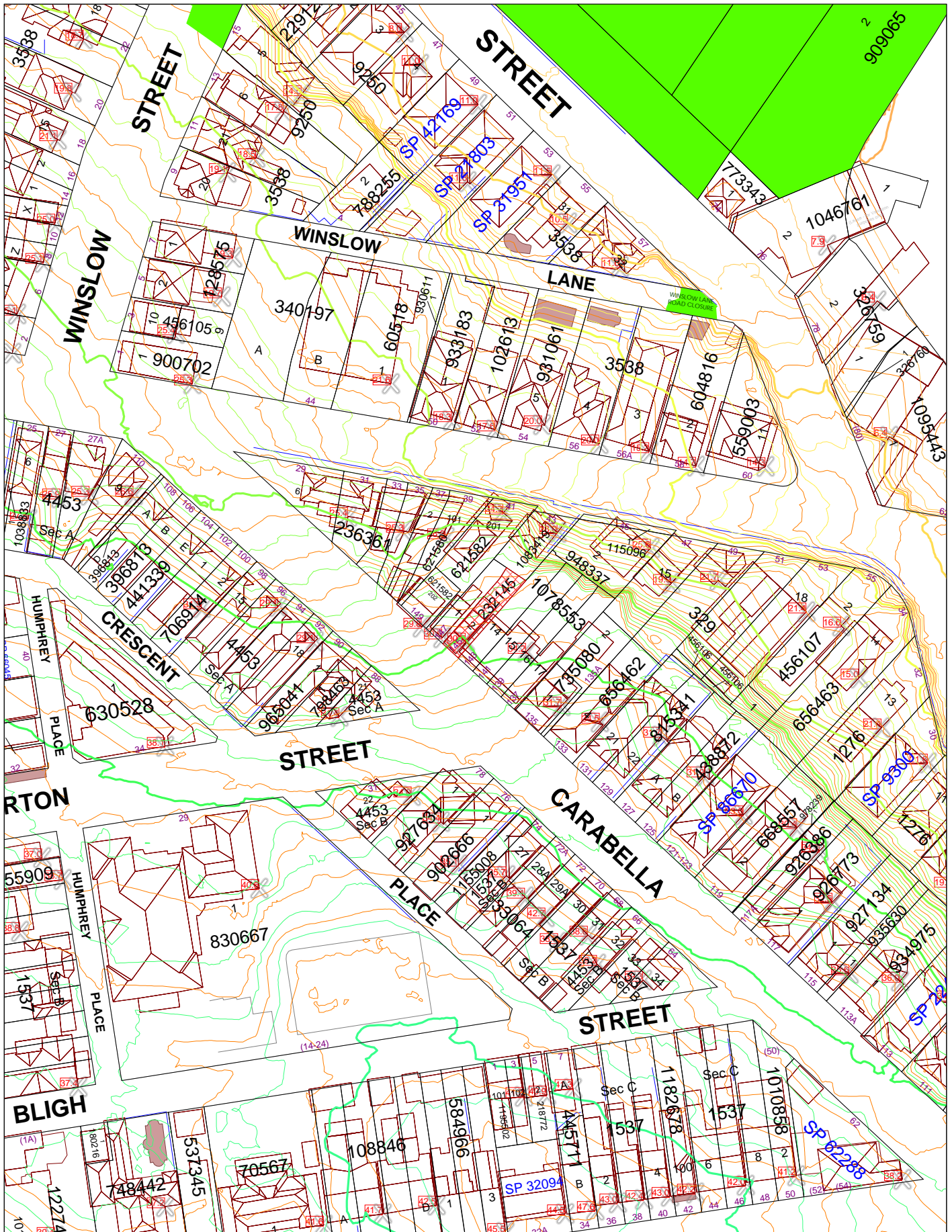
G7. Prior to the issue of any Occupation Certificate, Conditions C1, C2, C3 and D1 must be certified as having been implemented on site and complied with.

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

***I. Ongoing/Operational Conditions*****Single Occupancy**

I1. 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)



**North Sydney Council**

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





**EXCEEDS 8.5M HEIGHT LIMIT BY 592-1,067MM  
MEASURED FROM REAR OF HOME**



**CONTACT**  
**LEON & HARMONY VARLEY**  
 DIRECTORS  
 (02) 9997 3997  
 0400 699 850  
 2A/2C BUNGAN STREET  
 MONA VALE, NSW, 2103  
 HELLO@PROGRESSIVEPLANS.COM.AU  
 WWW.PROGRESSIVEPLANS.COM.AU

**NOTES**  
 THE BUILDER SHALL CHECK AND VERIFY ALL DIMENSIONS AND VERIFY ALL ERRORS AND OMISSIONS TO THE DRAFTING OFFICE. DO NOT SCALE THE DRAWING. DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNTIL ISSUED BY THE DRAFTING OFFICE FOR CONSTRUCTION AND NOTED ON THE TITLE BLOCK. THE WORK MUST BE VERIFIED BY STRUCTURAL ENGINEER BEFORE WORK COMMENCES.

REV.	NOTES.	INITIAL	DATE
A	CONCEPT DESIGN	AF	09.07.21
B	PRE-DA SUBMISSION	AF	27.08.21
C	DA SUBMISSION	JB	04.02.22
D	DA COUNCIL UPDATE	AF	28.02.22

**CLIENTS:**  
**JAN LOCHTENBERG**  
**SITE ADDRESS:**  
 145 CARABELLA STREET  
 KIRRIBILLI, NSW, 2068

<b>DRAWING TITLE:</b> LEP 8.5M HEIGHT CONTROL	
<b>SCALE:</b> NTS	<b>DATE:</b> 28/2/22
<b>PROJECT NO:</b> 1010	<b>DRAWING NO:</b> DA02





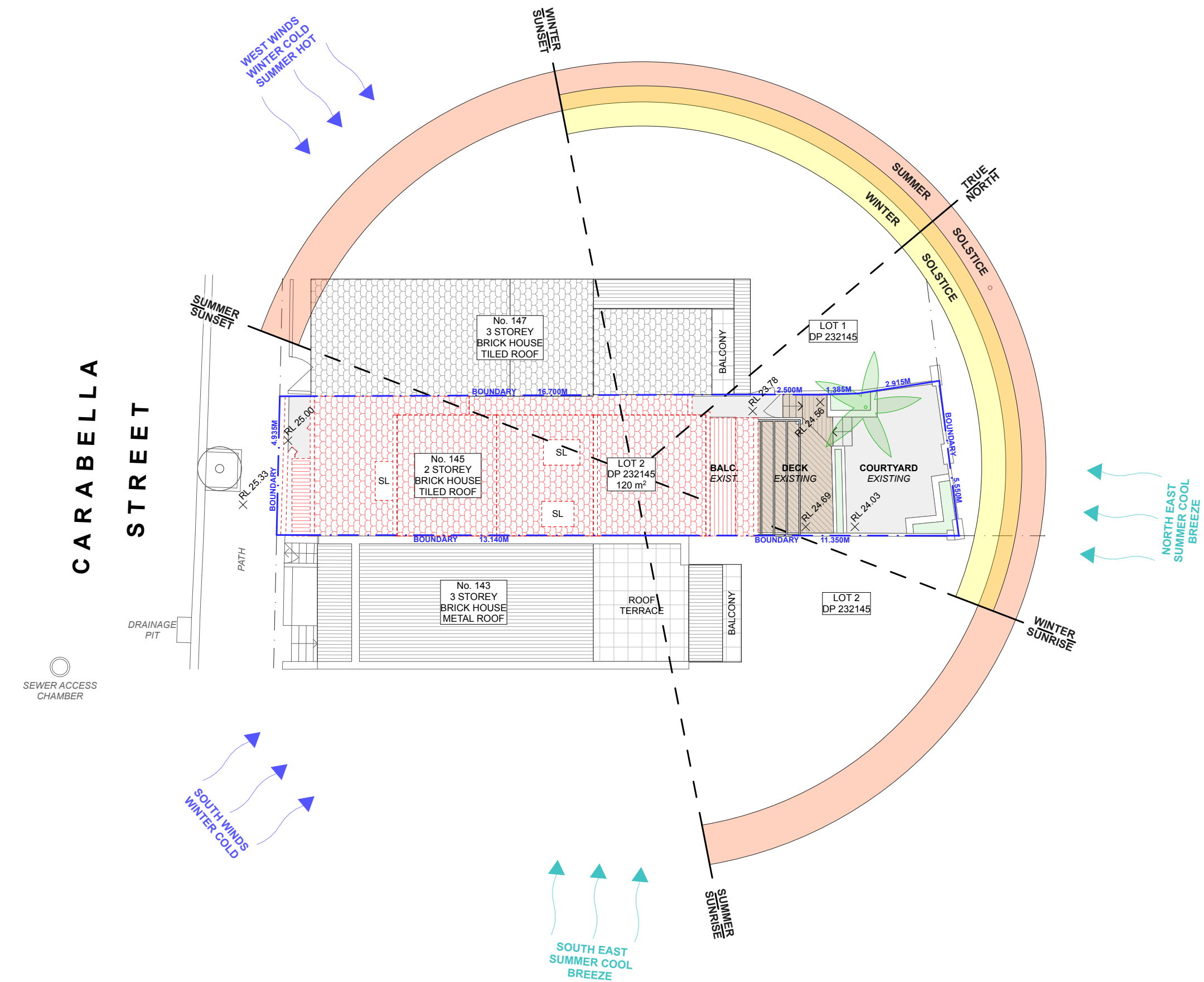
EXTERNAL VIEW



LOCATION MAP



AERIAL MAP



1

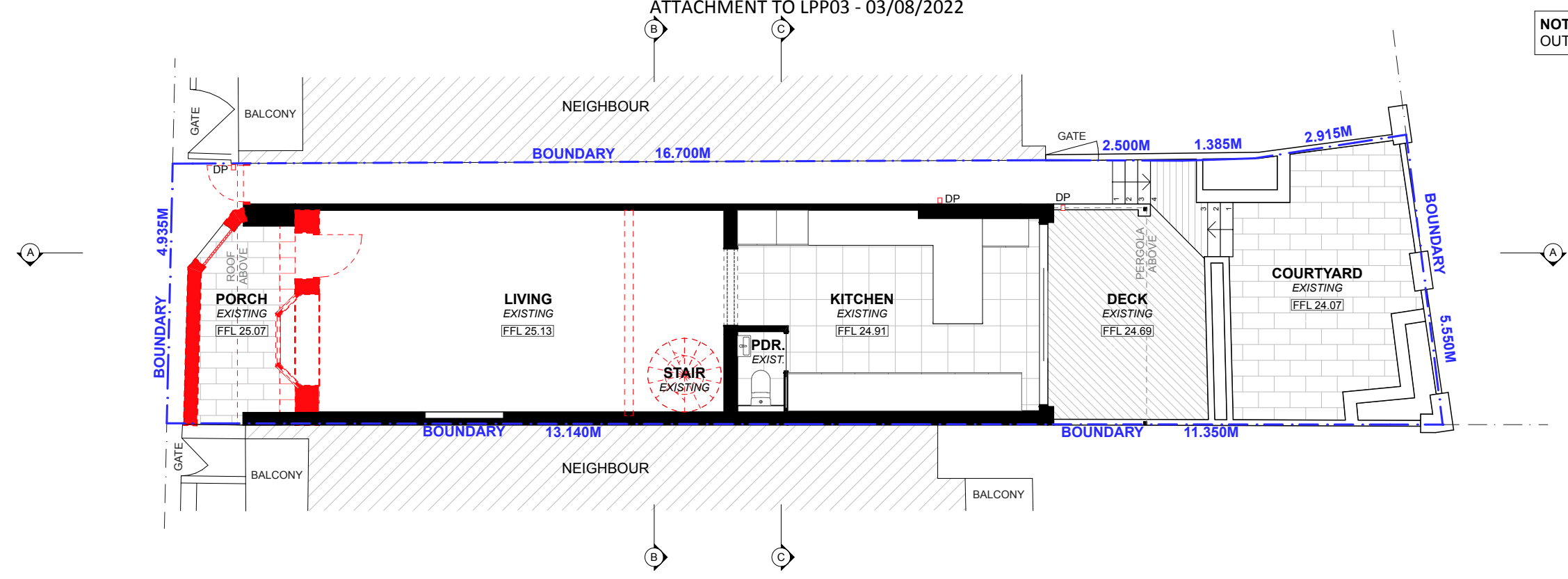
**SITE ANALYSIS**

**1:150**

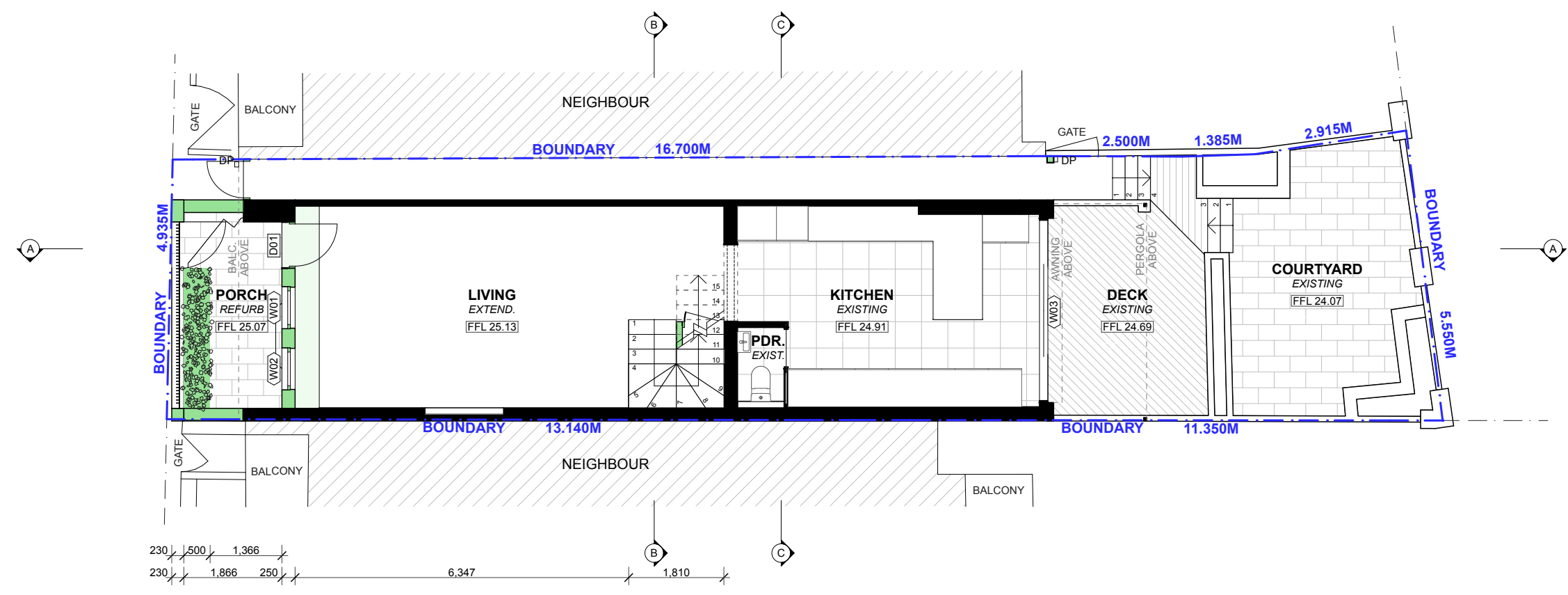
NOTE: ALL DEMOLITION WORK TO BE CARRIED OUT IN ACCORDANCE WITH AS2601-2001

	<p><b>CONTACT</b>  <b>LEON &amp; HARMONY VARLEY</b>                  DIRECTORS                  (02) 9997 3997                  0400 699 850                  2A/2C BUNGAN STREET                  MONA VALE, NSW, 2103                  HELLO@PROGRESSIVEPLANS.COM.AU                  WWW.PROGRESSIVEPLANS.COM.AU</p>	<p><b>NOTES</b>                  THE BUILDER SHALL CHECK AND VERIFY ALL DIMENSIONS AND VERIFY ALL ERRORS AND OMISSIONS TO THE DRAFTING OFFICE. DO NOT SCALE THE DRAWING. DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNTIL ISSUED BY THE DRAFTING OFFICE FOR CONSTRUCTION AND NOTED ON THE TITLE BLOCK. THE WORK MUST BE VERIFIED BY STRUCTURAL ENGINEER BEFORE WORK COMMENCES.</p>	<table border="1"> <thead> <tr> <th>REV.</th> <th>NOTES.</th> <th>INITIAL</th> <th>DATE</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>CONCEPT DESIGN</td> <td>AF</td> <td>09.07.21</td> </tr> <tr> <td>B</td> <td>PRE-DA SUBMISSION</td> <td>AF</td> <td>27.08.21</td> </tr> <tr> <td>C</td> <td>DA SUBMISSION</td> <td>JB</td> <td>04.02.22</td> </tr> <tr> <td>D</td> <td>DA COUNCIL UPDATE</td> <td>AF</td> <td>28.02.22</td> </tr> </tbody> </table>	REV.	NOTES.	INITIAL	DATE	A	CONCEPT DESIGN	AF	09.07.21	B	PRE-DA SUBMISSION	AF	27.08.21	C	DA SUBMISSION	JB	04.02.22	D	DA COUNCIL UPDATE	AF	28.02.22	<p><b>LEGEND</b></p> <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: black; margin-right: 5px;"></span> EXISTING</li> <li><span style="display: inline-block; width: 15px; height: 15px; border: 1px dashed red; margin-right: 5px;"></span> DEMOLISHED</li> <li><span style="display: inline-block; width: 15px; height: 15px; border: 1px solid black; margin-right: 5px;"></span> EXISTING ROOF</li> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: #cccccc; margin-right: 5px;"></span> PROPOSED ROOF</li> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: #d9ead3; margin-right: 5px;"></span> LANDSCAPE / GRASS</li> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: #f4cccc; margin-right: 5px;"></span> CONCRETE / PAVERS</li> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: #fce4d6; margin-right: 5px;"></span> TIMBER DECK</li> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: #a6c9ec; margin-right: 5px;"></span> POOL / WATER</li> <li><span style="display: inline-block; width: 15px; height: 15px; border-bottom: 1px dashed black; margin-right: 5px;"></span> SEDIMENT EROSION FENCE</li> </ul>	<p><b>ABBREVIATIONS</b></p> <ul style="list-style-type: none"> <li>DP: DEPOSIT PLAN</li> <li>RL: REDUCED LEVEL</li> <li>SP: STRATA PLAN</li> </ul>	<p><b>NORTH POINT</b></p>	<p><b>CLIENTS:</b>                  JAN LOCHTENBERG</p> <p><b>SITE ADDRESS:</b>                  145 CARABELLA STREET                  KIRRBILLI, NSW, 2068</p>	<p><b>DRAWING TITLE:</b>                  SITE ANALYSIS</p> <p><b>SCALE:</b> 1:155,                  1:162 @A3</p> <p><b>DATE:</b>                  28/2/22</p> <p><b>PROJECT NO:</b>                  1010</p> <p><b>DRAWING NO:</b>                  DA03</p>
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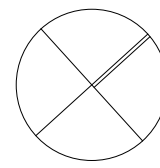
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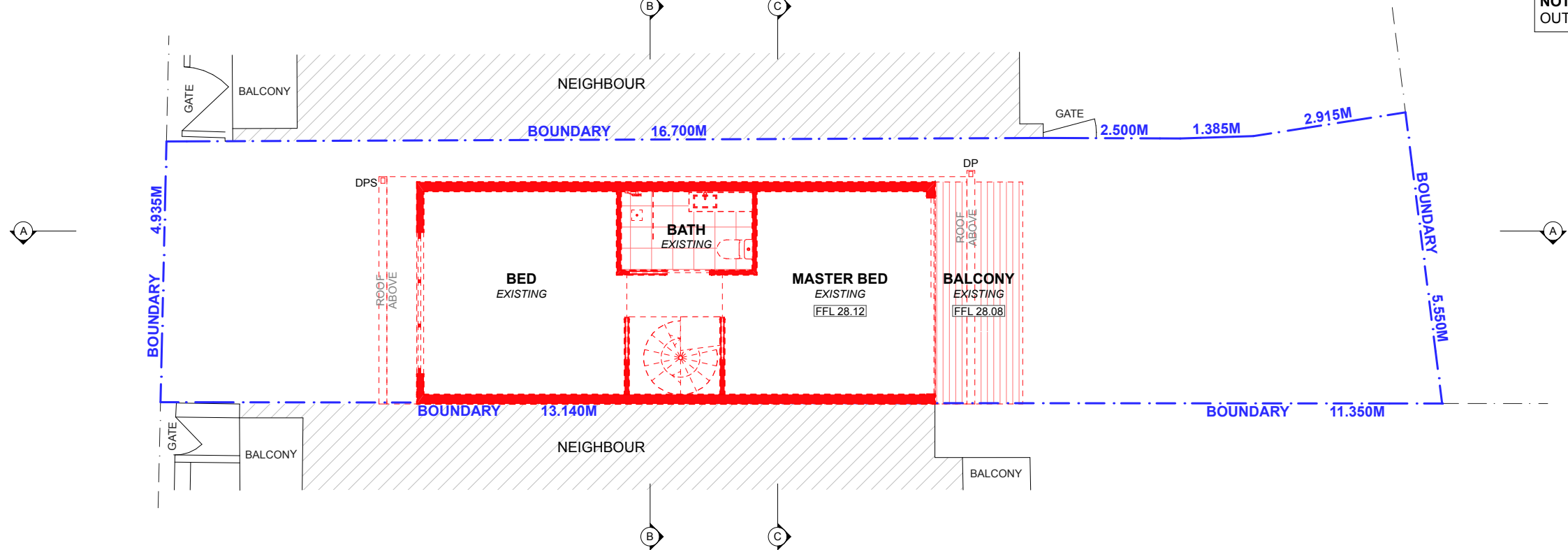
1 EXISTING GROUND FLOOR PLAN 1:100



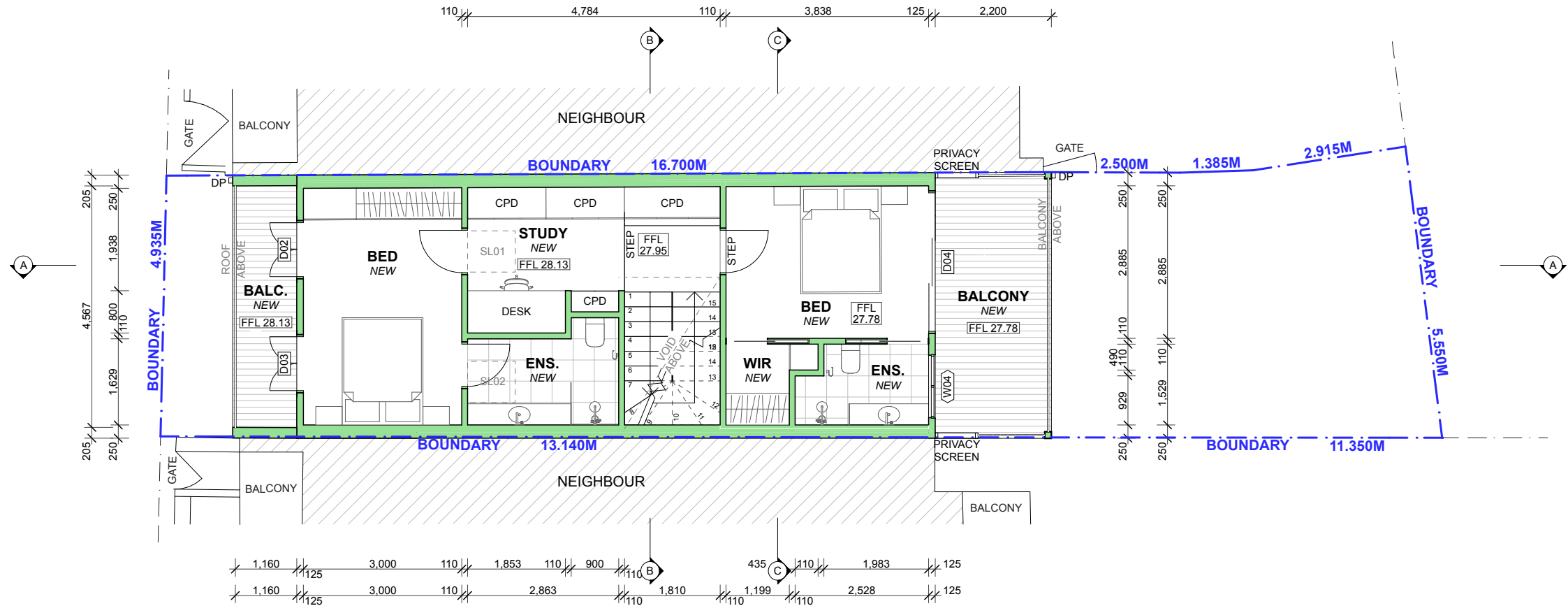
2 PROPOSED GROUND FLOOR PLAN 1:100

	<b>CONTACT</b> LEON & HARMONY VARLEY DIRECTORS  (02) 9997 3997 0400 699 850 2A/2C BUNGAN STREET MONA VALE, NSW, 2103 HELLO@PROGRESSIVEPLANS.COM.AU WWW.PROGRESSIVEPLANS.COM.AU	<b>NOTES</b> THE BUILDER SHALL CHECK AND VERIFY ALL DIMENSIONS AND VERIFY ALL ERRORS AND OMISSIONS TO THE DRAFTING OFFICE. DO NOT SCALE THE DRAWING. DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNTIL ISSUED BY THE DRAFTING OFFICE FOR CONSTRUCTION AND NOTED ON THE TITLE BLOCK. THE WORK MUST BE VERIFIED BY STRUCTURAL ENGINEER BEFORE WORK COMMENCES.	<table border="1"> <thead> <tr> <th>REV.</th> <th>NOTES.</th> <th>INITIAL</th> <th>DATE</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>CONCEPT DESIGN</td> <td>AF</td> <td>09.07.21</td> </tr> <tr> <td>B</td> <td>PRE-DA SUBMISSION</td> <td>AF</td> <td>27.08.21</td> </tr> <tr> <td>C</td> <td>DA SUBMISSION</td> <td>JB</td> <td>04.02.22</td> </tr> <tr> <td>D</td> <td>DA COUNCIL UPDATE</td> <td>AF</td> <td>28.02.22</td> </tr> </tbody> </table>	REV.	NOTES.	INITIAL	DATE	A	CONCEPT DESIGN	AF	09.07.21	B	PRE-DA SUBMISSION	AF	27.08.21	C	DA SUBMISSION	JB	04.02.22	D	DA COUNCIL UPDATE	AF	28.02.22	<b>LEGEND</b> ■ EXISTING ■ DEMOLISHED ■ PROPOSED	<b>ABBREVIATIONS</b> CPD: CUPBOARD DP: DOWNPIPE DPS: DOWN PIPE SPITTER DPRH: DOWN PIPE RAIN HEAD FFL: FINISHED FLOOR LEVEL FW: FLOOR WASTE HWS: HOT WATER SYSTEM RL: REDUCED LEVEL SA: SMOKE ALARM	<b>NORTH POINT</b> 	<b>CLIENTS:</b> JAN LOCHTENBERG  <b>SITE ADDRESS:</b> 145 CARABELLA STREET KIRRIBILLI, NSW, 2068	<b>DRAWING TITLE:</b> GROUND FLOOR PLANS  <table border="1"> <tr> <td><b>SCALE:</b> 1:100 @A3</td> <td><b>DATE:</b> 28/2/22</td> </tr> <tr> <td><b>PROJECT NO:</b> 1010</td> <td><b>DRAWING NO:</b> DA05</td> </tr> </table>	<b>SCALE:</b> 1:100 @A3	<b>DATE:</b> 28/2/22	<b>PROJECT NO:</b> 1010	<b>DRAWING NO:</b> DA05
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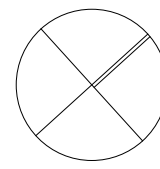


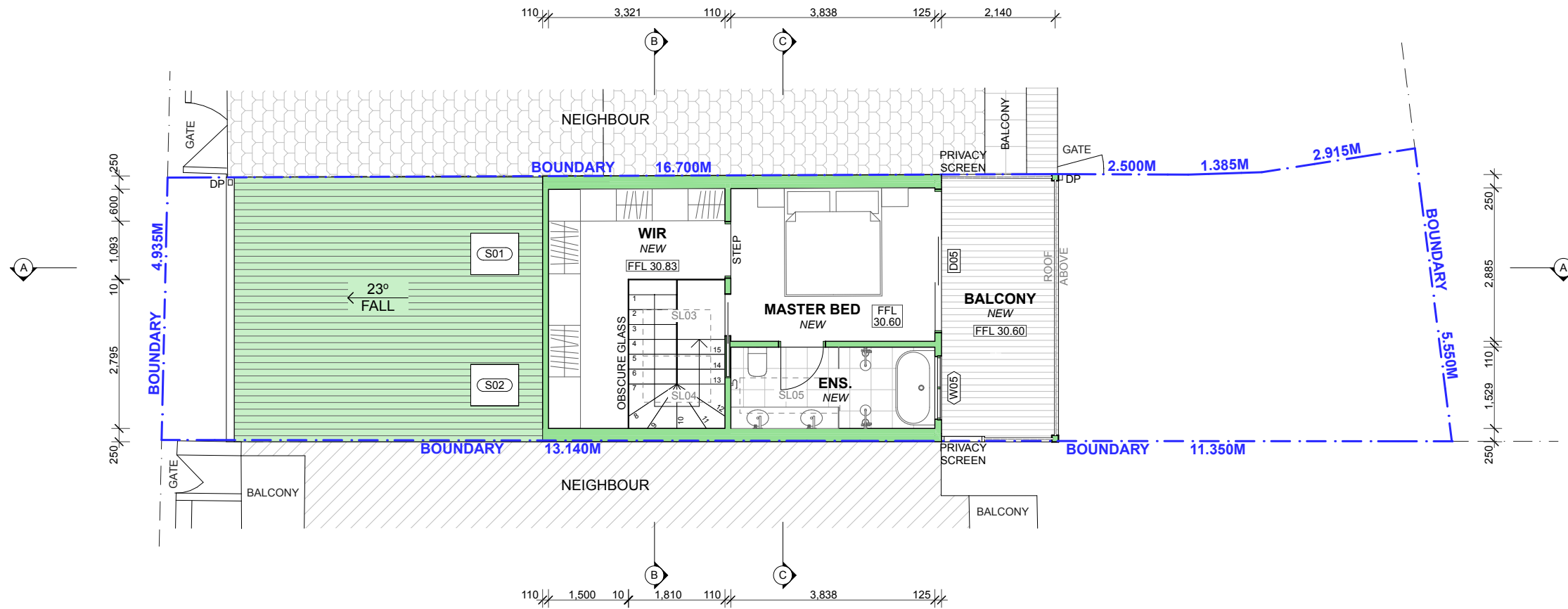


1 EXISTING FIRST FLOOR PLAN 1:100



2 PROPOSED FIRST FLOOR PLAN 1:100

 <p><b>PROGRESSIVE PLANS</b> BUILDING DESIGN</p>	<p><b>CONTACT</b> <b>LEON &amp; HARMONY VARLEY</b> DIRECTORS</p> <p>(02) 9997 3997 0400 699 850 2A/2C BUNGAN STREET MONA VALE, NSW, 2103 HELLO@PROGRESSIVEPLANS.COM.AU WWW.PROGRESSIVEPLANS.COM.AU</p>	<p><b>NOTES</b></p> <p>THE BUILDER SHALL CHECK AND VERIFY ALL DIMENSIONS AND VERIFY ALL ERRORS AND OMISSIONS TO THE DRAFTING OFFICE. DO NOT SCALE THE DRAWING. DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNTIL ISSUED BY THE DRAFTING OFFICE FOR CONSTRUCTION AND NOTED ON THE TITLE BLOCK. THE WORK MUST BE VERIFIED BY STRUCTURAL ENGINEER BEFORE WORK COMMENCES.</p>	<table border="1"> <thead> <tr> <th>REV.</th> <th>NOTES.</th> <th>INITIAL</th> <th>DATE</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>CONCEPT DESIGN</td> <td>AF</td> <td>09.07.21</td> </tr> <tr> <td>B</td> <td>PRE-DA SUBMISSION</td> <td>AF</td> <td>27.08.21</td> </tr> <tr> <td>C</td> <td>DA SUBMISSION</td> <td>JB</td> <td>04.02.22</td> </tr> <tr> <td>D</td> <td>DA COUNCIL UPDATE</td> <td>AF</td> <td>28.02.22</td> </tr> </tbody> </table>	REV.	NOTES.	INITIAL	DATE	A	CONCEPT DESIGN	AF	09.07.21	B	PRE-DA SUBMISSION	AF	27.08.21	C	DA SUBMISSION	JB	04.02.22	D	DA COUNCIL UPDATE	AF	28.02.22	<p><b>LEGEND</b></p> <p>■ EXISTING  <span style="border: 1px dashed red; display: inline-block; width: 10px; height: 10px;"></span> DEMOLISHED  <span style="border: 1px solid green; display: inline-block; width: 10px; height: 10px;"></span> PROPOSED</p>	<p><b>ABBREVIATIONS</b></p> <p>CPD: CUPBOARD              DP: DOWNPIPE              DPS: DOWN PIPE SPITTER              DPRH: DOWN PIPE RAIN HEAD              FFL: FINISHED FLOOR LEVEL              FW: FLOOR WASTE              HWS: HOT WATER SYSTEM              RL: REDUCED LEVEL              SA: SMOKE ALARM</p>	<p><b>NORTH POINT</b></p> 	<p><b>CLIENTS:</b> <b>JAN LOCHTENBERG</b></p> <p><b>SITE ADDRESS:</b> <b>145 CARABELLA STREET</b> <b>KIRRIBILLI, NSW, 2068</b></p>	<p><b>DRAWING TITLE:</b> <b>FIRST FLOOR PLANS</b></p> <table border="1"> <tr> <td><b>SCALE:</b> 1:100 @A3</td> <td><b>DATE:</b> 28/2/22</td> </tr> <tr> <td><b>PROJECT NO:</b> 1010</td> <td><b>DRAWING NO:</b> DA06</td> </tr> </table>	<b>SCALE:</b> 1:100 @A3	<b>DATE:</b> 28/2/22	<b>PROJECT NO:</b> 1010	<b>DRAWING NO:</b> DA06
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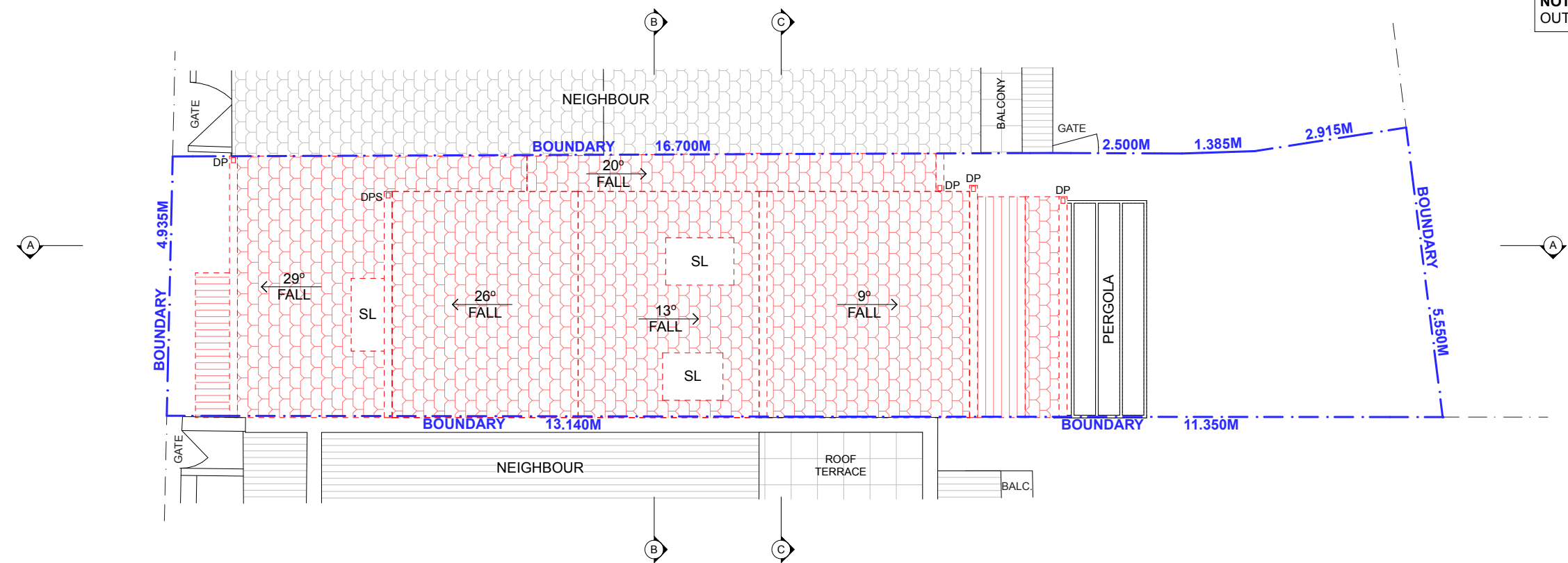


**NOTE:** PROPOSED DOWNPIPES TO DRAIN INTO EXISTING STORMWATER LINES

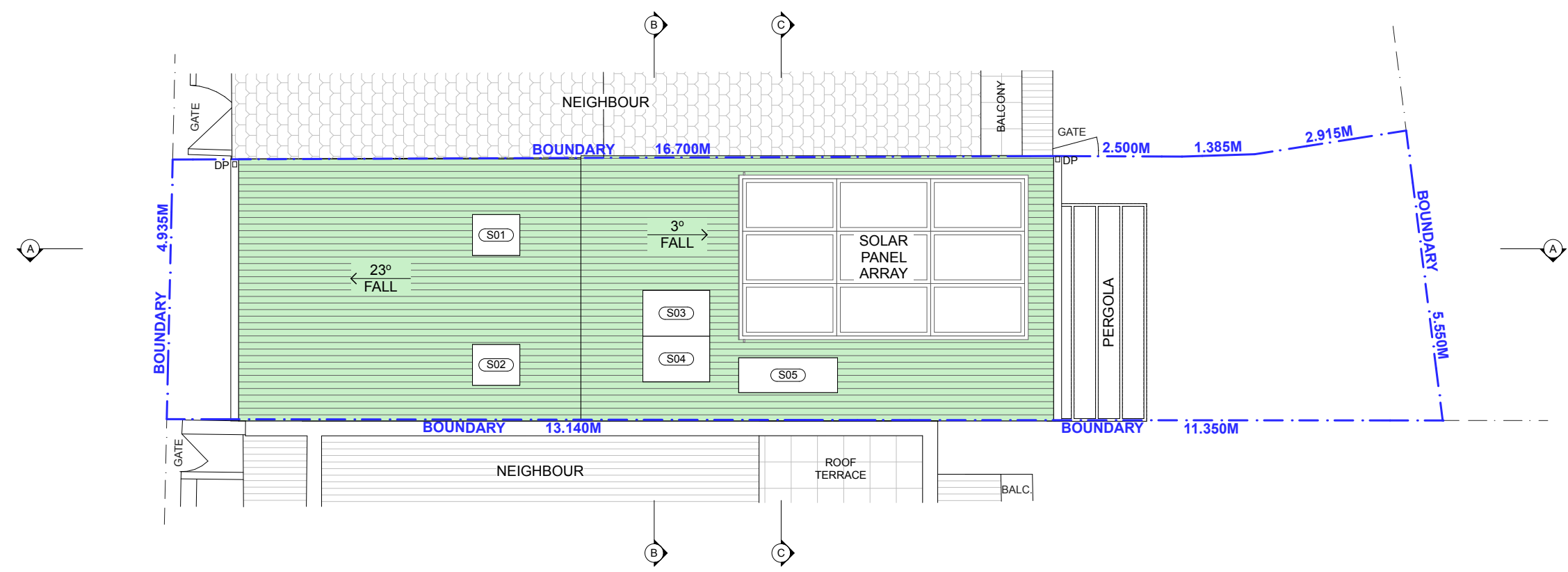
**1 PROPOSED SECOND FLOOR PLAN 1:100**

	<b>CONTACT</b> <b>LEON &amp; HARMONY VARLEY</b> DIRECTORS  (02) 9997 3997 0400 699 850 2A/2C BUNGAN STREET MONA VALE, NSW, 2103 HELLO@PROGRESSIVEPLANS.COM.AU WWW.PROGRESSIVEPLANS.COM.AU	<b>NOTES</b> THE BUILDER SHALL CHECK AND VERIFY ALL DIMENSIONS AND VERIFY ALL ERRORS AND OMISSIONS TO THE DRAFTING OFFICE. DO NOT SCALE THE DRAWING. DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNTIL ISSUED BY THE DRAFTING OFFICE FOR CONSTRUCTION AND NOTED ON THE TITLE BLOCK. THE WORK MUST BE VERIFIED BY STRUCTURAL ENGINEER BEFORE WORK COMMENCES.	<table border="1"> <thead> <tr> <th>REV.</th> <th>NOTES.</th> <th>INITIAL</th> <th>DATE</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>CONCEPT DESIGN</td> <td>AF</td> <td>09.07.21</td> </tr> <tr> <td>B</td> <td>PRE-DA SUBMISSION</td> <td>AF</td> <td>27.08.21</td> </tr> <tr> <td>C</td> <td>DA SUBMISSION</td> <td>JB</td> <td>04.02.22</td> </tr> <tr> <td>D</td> <td>DA COUNCIL UPDATE</td> <td>AF</td> <td>28.02.22</td> </tr> </tbody> </table>	REV.	NOTES.	INITIAL	DATE	A	CONCEPT DESIGN	AF	09.07.21	B	PRE-DA SUBMISSION	AF	27.08.21	C	DA SUBMISSION	JB	04.02.22	D	DA COUNCIL UPDATE	AF	28.02.22	<b>LEGEND</b> ■ EXISTING □ DEMOLISHED ■ PROPOSED	<b>ABBREVIATIONS</b> CPD: CUPBOARD DP: DOWNPIPE DPS: DOWN PIPE SPITTER DPRH: DOWN PIPE RAIN HEAD FFL: FINISHED FLOOR LEVEL FW: FLOOR WASTE HWS: HOT WATER SYSTEM RL: REDUCED LEVEL SA: SMOKE ALARM	<b>NORTH POINT</b> 	<b>CLIENTS:</b> <b>JAN LOCHTENBERG</b>  <b>SITE ADDRESS:</b> 145 CARABELLA STREET KIRRIBILLI, NSW, 2068	<b>DRAWING TITLE:</b> SECOND FLOOR PLAN  <table border="1"> <tr> <td><b>SCALE:</b> 1:100 @A3</td> <td><b>DATE:</b> 28/2/22</td> </tr> <tr> <td><b>PROJECT NO:</b> 1010</td> <td><b>DRAWING NO:</b> DA07</td> </tr> </table>	<b>SCALE:</b> 1:100 @A3	<b>DATE:</b> 28/2/22	<b>PROJECT NO:</b> 1010	<b>DRAWING NO:</b> DA07
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NOTE: ALL DEMOLITION WORK TO BE CARRIED OUT IN ACCORDANCE WITH AS2601-2001



1 EXISTING ROOF PLAN 1:100

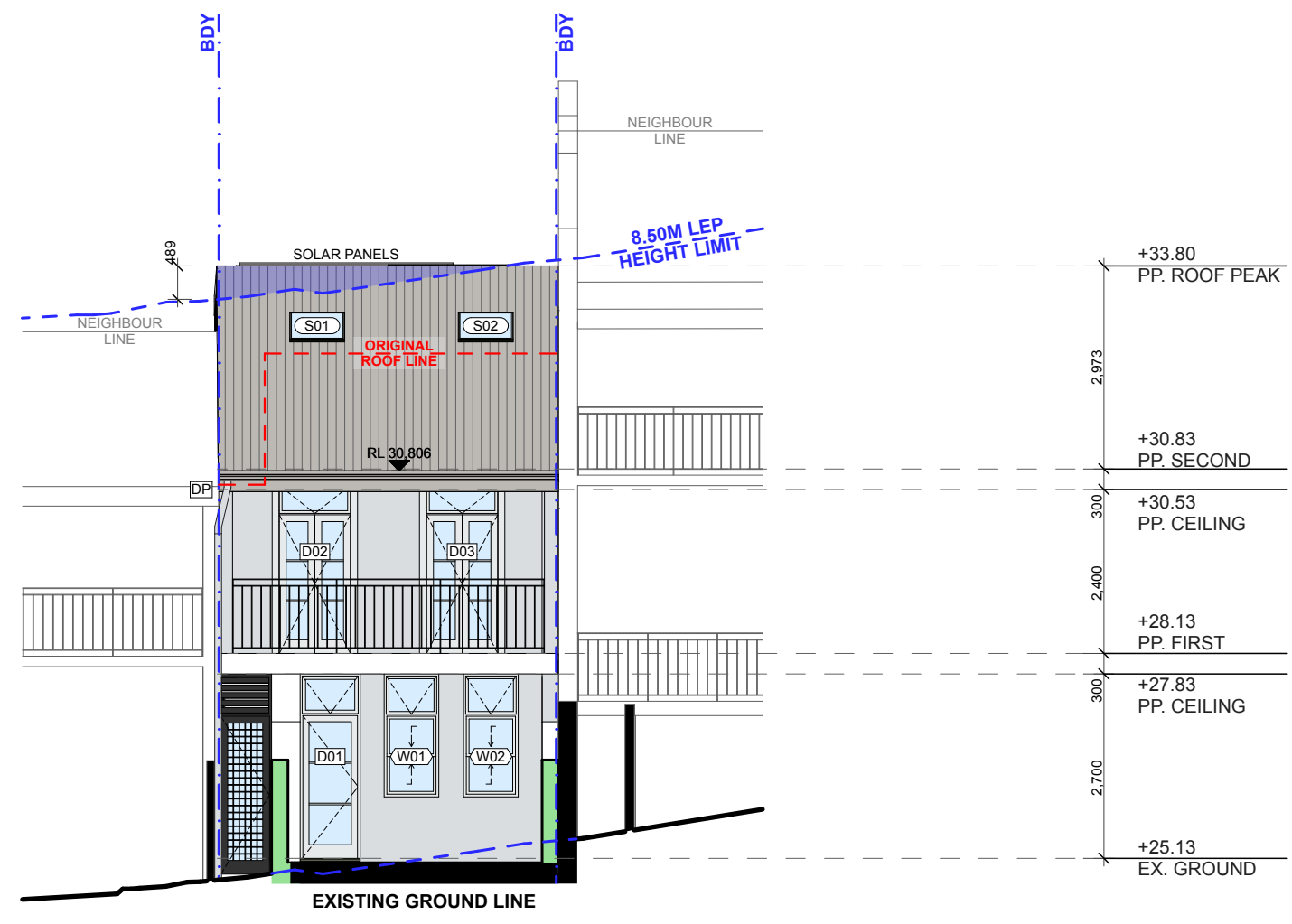
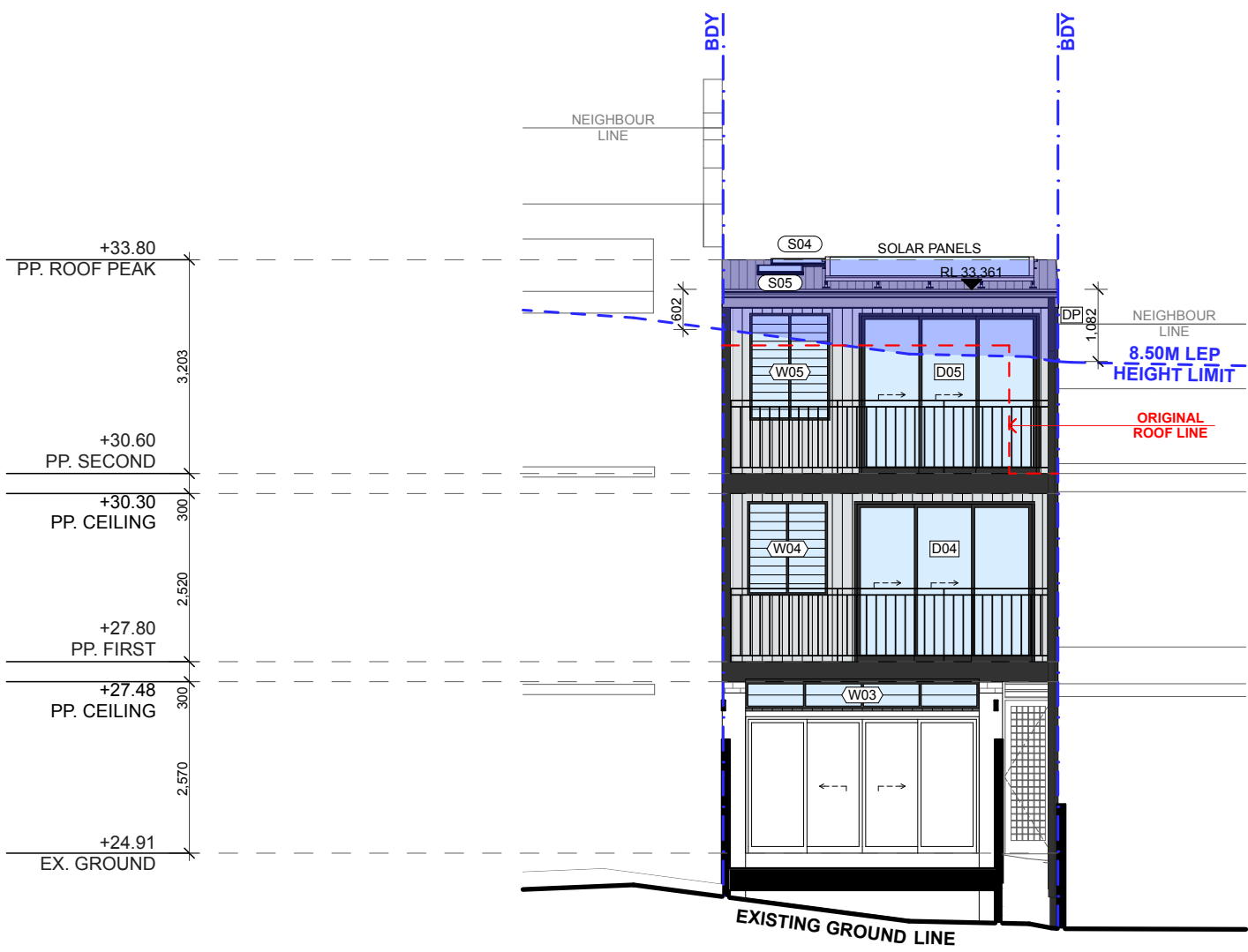


2 PROPOSED ROOF / CONCEPT STORMWATER PLAN 1:100

NOTE: PROPOSED DOWNPIPES TO DRAIN INTO EXISTING STORMWATER LINES






































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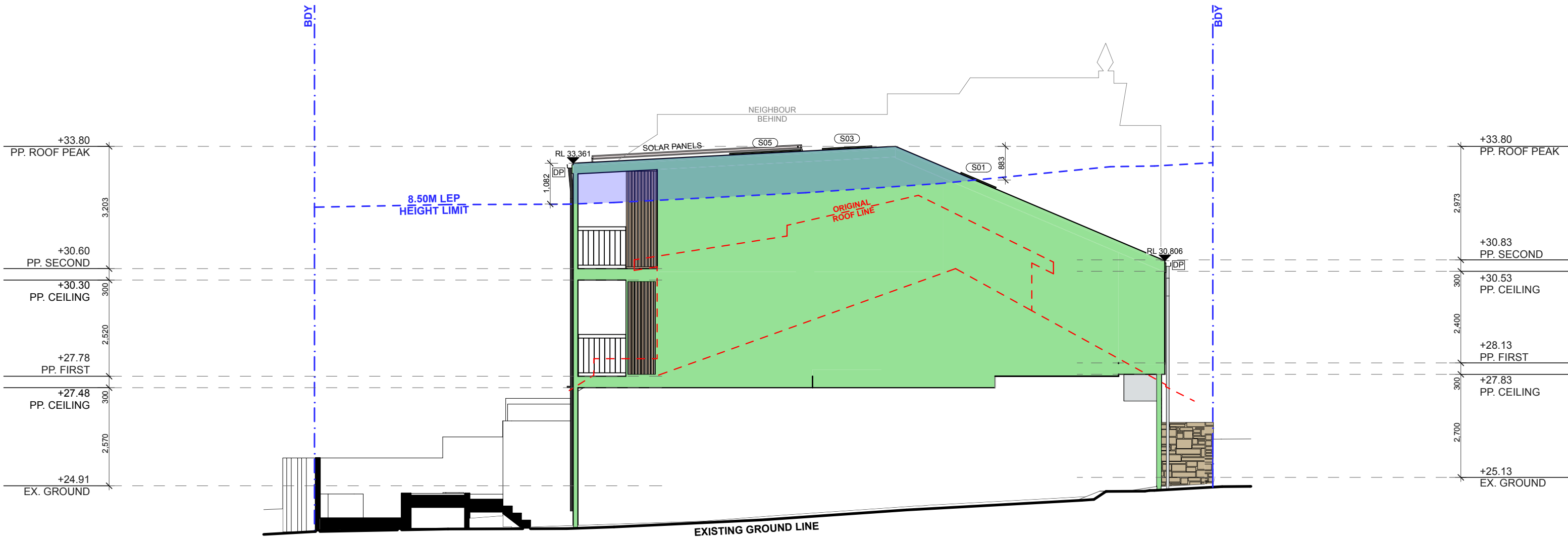




**1 NORTH EAST (REAR) ELEVATION 1:100**

**2 SOUTH WEST (FRONT) ELEVATION 1:100**

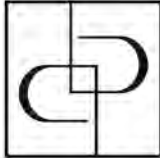
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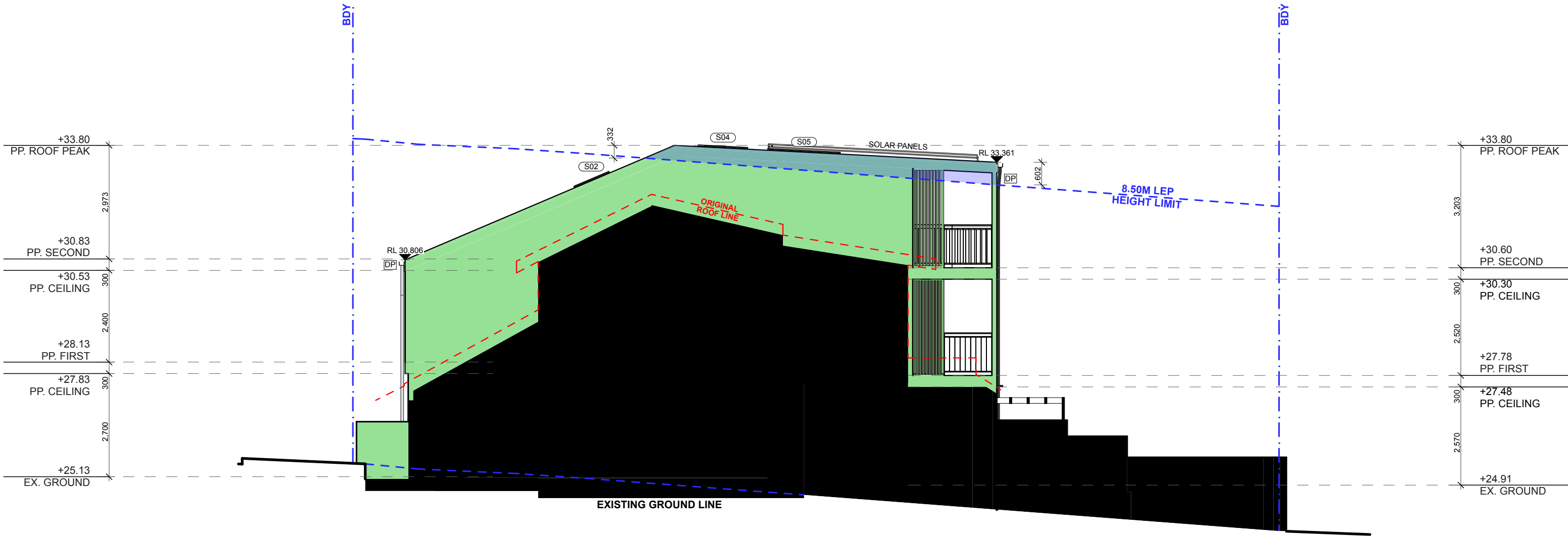


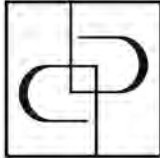
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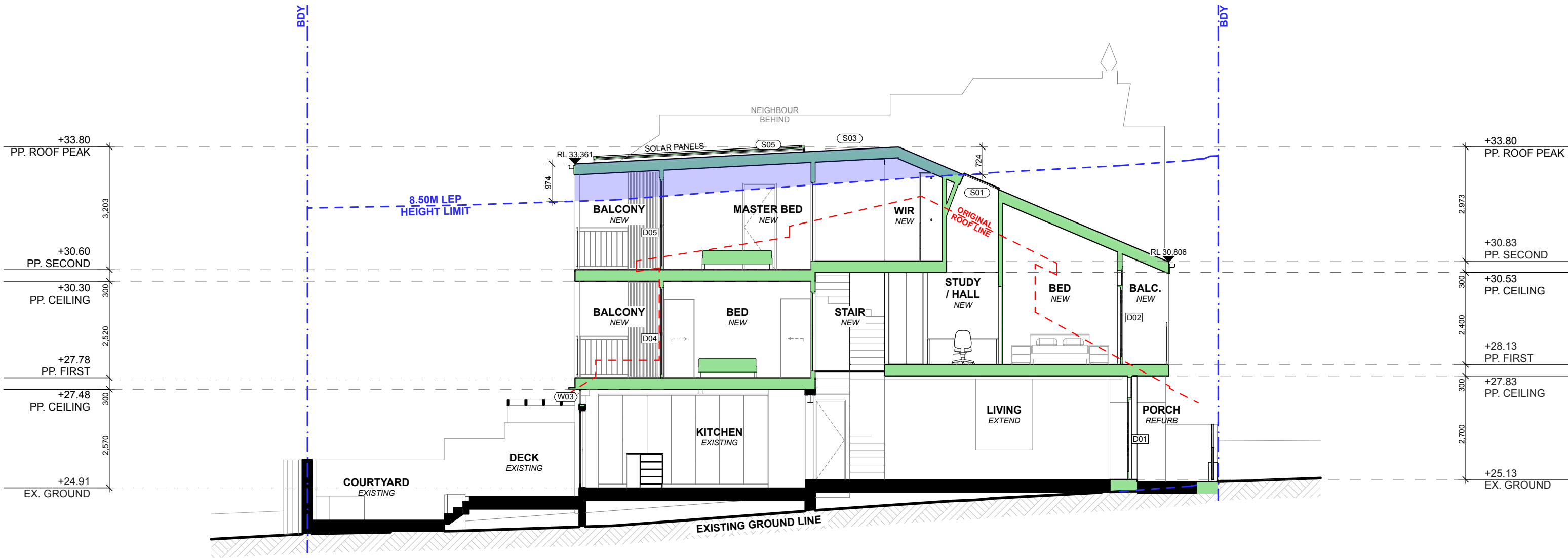
**NORTH WEST ELEVATION**

**1:100**

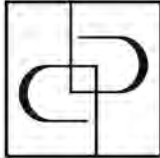
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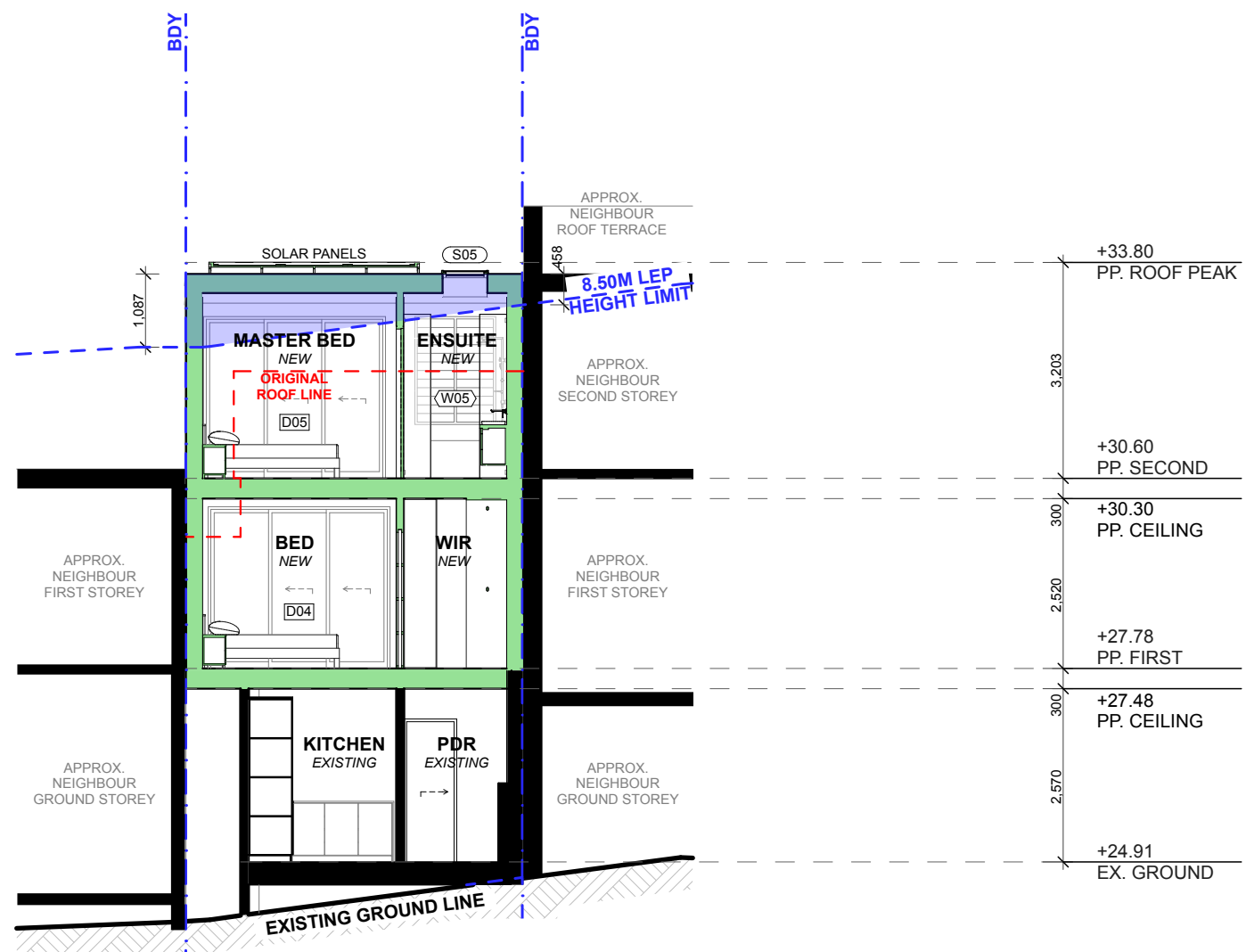
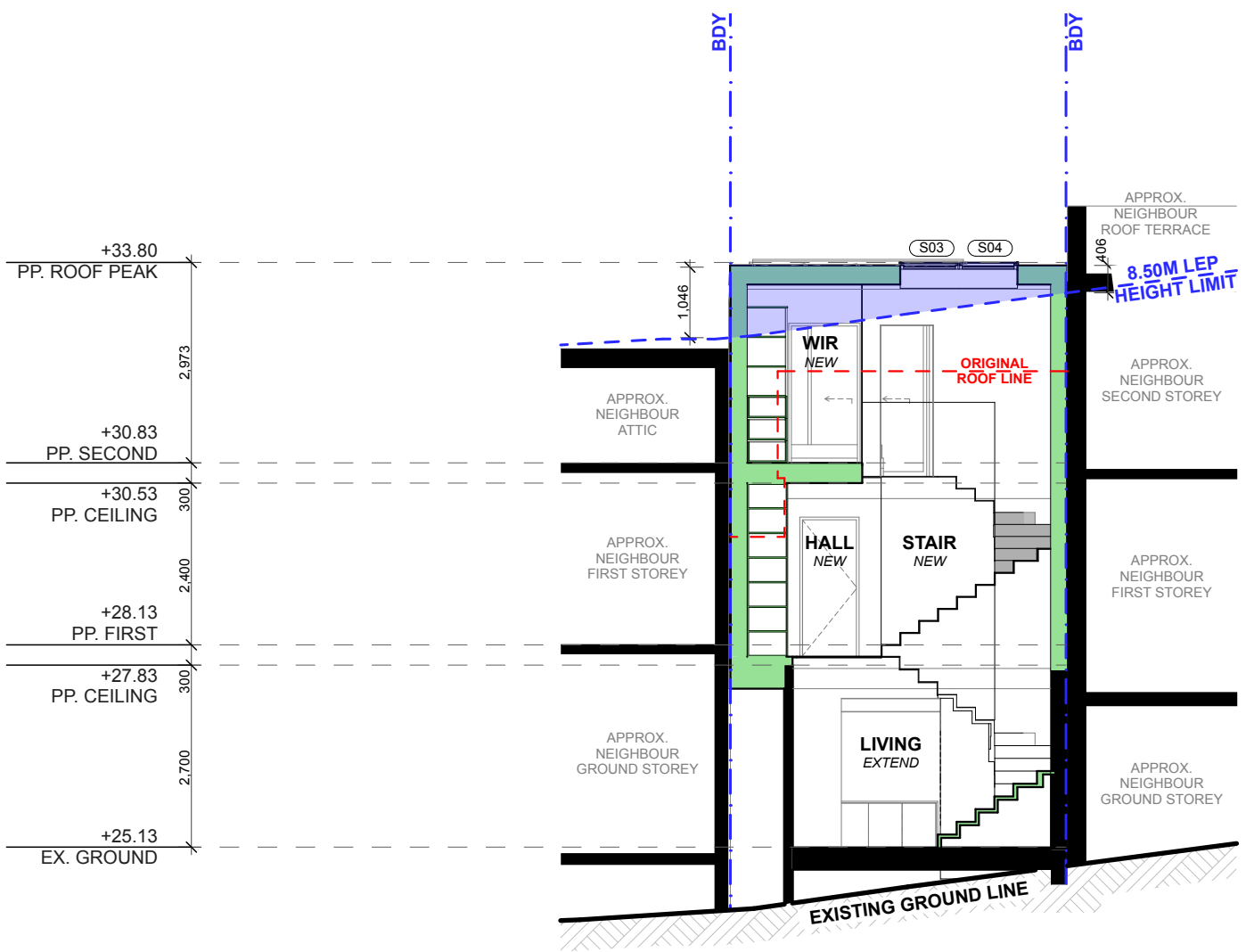


 <p><b>PROGRESSIVE PLANS</b> BUILDING DESIGN</p>	<p><b>CONTACT</b> <b>LEON &amp; HARMONY VARLEY</b> DIRECTORS</p> <p>(02) 9997 3997 0400 699 850 2A/2C BUNGAN STREET MONA VALE, NSW, 2103 HELLO@PROGRESSIVEPLANS.COM.AU WWW.PROGRESSIVEPLANS.COM.AU</p>	<p><b>NOTES</b></p> <p>THE BUILDER SHALL CHECK AND VERIFY ALL DIMENSIONS AND VERIFY ALL ERRORS AND OMISSIONS TO THE DRAFTING OFFICE. DO NOT SCALE THE DRAWING. DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNTIL ISSUED BY THE DRAFTING OFFICE FOR CONSTRUCTION AND NOTED ON THE TITLE BLOCK. THE WORK MUST BE VERIFIED BY STRUCTURAL ENGINEER BEFORE WORK COMMENCES.</p>	<table border="1"> <thead> <tr> <th>REV.</th> <th>NOTES.</th> <th>INITIAL</th> <th>DATE</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>CONCEPT DESIGN</td> <td>AF</td> <td>09.07.21</td> </tr> <tr> <td>B</td> <td>PRE-DA SUBMISSION</td> <td>AF</td> <td>27.08.21</td> </tr> <tr> <td>C</td> <td>DA SUBMISSION</td> <td>JB</td> <td>04.02.22</td> </tr> <tr> <td>D</td> <td>DA COUNCIL UPDATE</td> <td>AF</td> <td>28.02.22</td> </tr> </tbody> </table>	REV.	NOTES.	INITIAL	DATE	A	CONCEPT DESIGN	AF	09.07.21	B	PRE-DA SUBMISSION	AF	27.08.21	C	DA SUBMISSION	JB	04.02.22	D	DA COUNCIL UPDATE	AF	28.02.22	<p><b>LEGEND</b></p> <ul style="list-style-type: none"> <li>EXISTING - CUT ELEMENTS</li> <li>EXISTING - UNCUT ELEMENTS</li> <li>DEMOLISHED</li> <li>PROPOSED - CUT ELEMENTS</li> </ul> <p>TIMBER - OAK</p>	<p><b>ABBREVIATIONS</b></p> <p>BDY: BOUNDARY CPD: CUPBOARD DP: DOWNPIPE DPS: DOWN PIPE SPITTER DPRH: DOWN PIPE RAIN HEAD FFL: FINISHED FLOOR LEVEL HWS: HOT WATER SYSTEM RL: REDUCED LEVEL</p>	<p><b>CLIENTS:</b> <b>JAN LOCHTENBERG</b></p> <p><b>SITE ADDRESS:</b> <b>145 CARABELLA STREET</b> <b>KIRRBILLI, NSW, 2068</b></p>	<p><b>DRAWING TITLE:</b> <b>ELEVATIONS - SOUTH EAST</b></p> <table border="1"> <tr> <td><b>SCALE:</b> 1:100 @A3</td> <td><b>DATE:</b> 28/2/22</td> </tr> <tr> <td><b>PROJECT NO:</b> 1010</td> <td><b>DRAWING NO:</b> DA11</td> </tr> </table>	<b>SCALE:</b> 1:100 @A3	<b>DATE:</b> 28/2/22	<b>PROJECT NO:</b> 1010	<b>DRAWING NO:</b> DA11
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**1 SECTION A 1:100**

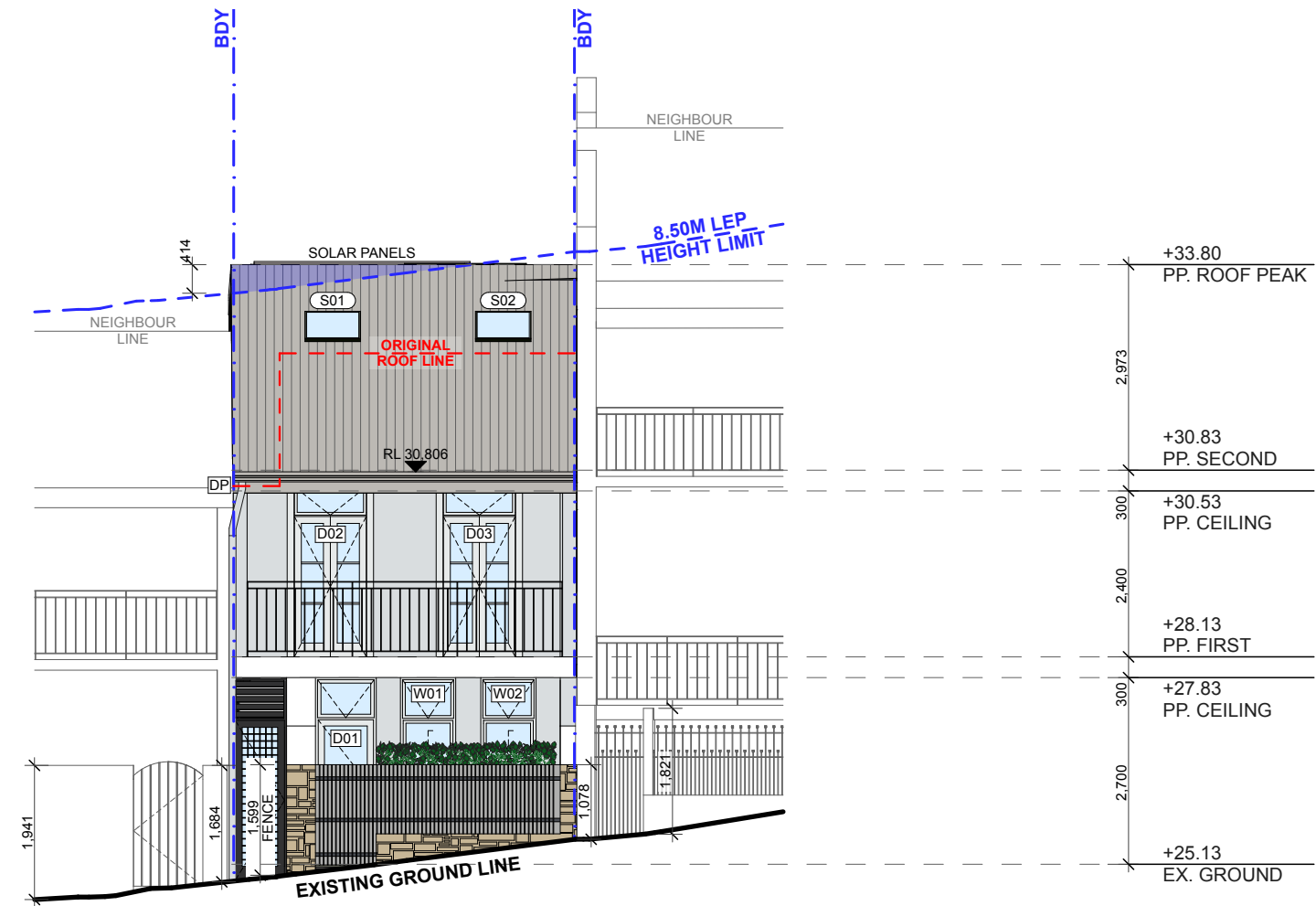
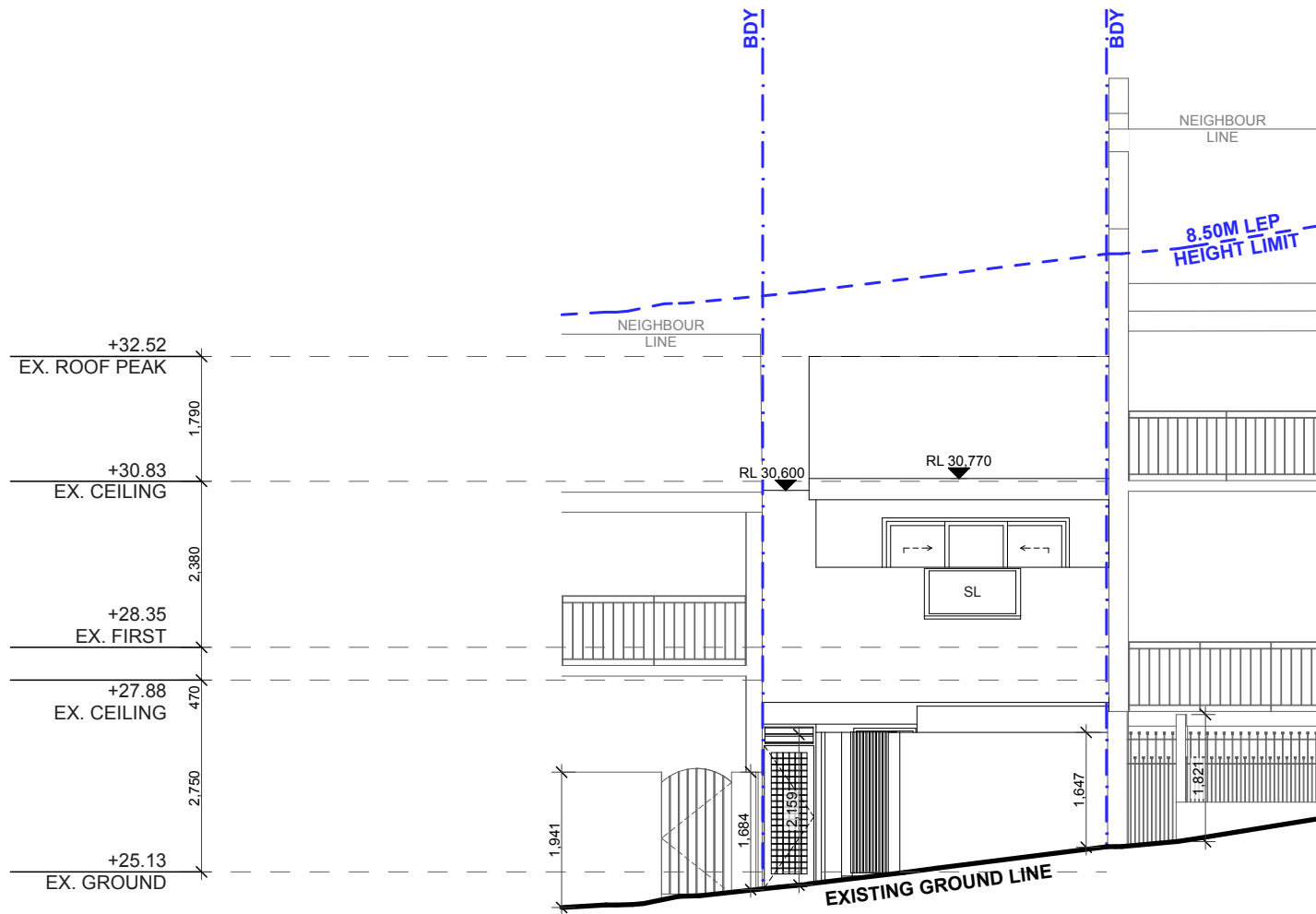
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**1 SECTION B 1:100**

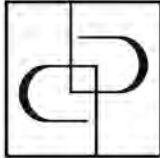
**2 SECTION C 1:100**

<p><b>PROGRESSIVE PLANS</b> BUILDING DESIGN</p>	<p><b>CONTACT</b> <b>LEON &amp; HARMONY VARLEY</b> DIRECTORS</p> <p>(02) 9997 3997 0400 699 850 2A/2C BUNGAN STREET MONA VALE, NSW, 2103 HELLO@PROGRESSIVEPLANS.COM.AU WWW.PROGRESSIVEPLANS.COM.AU</p>	<p><b>NOTES</b></p> <p>THE BUILDER SHALL CHECK AND VERIFY ALL DIMENSIONS AND VERIFY ALL ERRORS AND OMISSIONS TO THE DRAFTING OFFICE. DO NOT SCALE THE DRAWING. DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNTIL ISSUED BY THE DRAFTING OFFICE FOR CONSTRUCTION AND NOTED ON THE TITLE BLOCK. THE WORK MUST BE VERIFIED BY STRUCTURAL ENGINEER BEFORE WORK COMMENCES.</p>	<table border="1"> <thead> <tr> <th>REV.</th> <th>NOTES.</th> <th>INITIAL</th> <th>DATE</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>CONCEPT DESIGN</td> <td>AF</td> <td>09.07.21</td> </tr> <tr> <td>B</td> <td>PRE-DA SUBMISSION</td> <td>AF</td> <td>27.08.21</td> </tr> <tr> <td>C</td> <td>DA SUBMISSION</td> <td>JB</td> <td>04.02.22</td> </tr> <tr> <td>D</td> <td>DA COUNCIL UPDATE</td> <td>AF</td> <td>28.02.22</td> </tr> </tbody> </table>	REV.	NOTES.	INITIAL	DATE	A	CONCEPT DESIGN	AF	09.07.21	B	PRE-DA SUBMISSION	AF	27.08.21	C	DA SUBMISSION	JB	04.02.22	D	DA COUNCIL UPDATE	AF	28.02.22	<p><b>LEGEND</b></p> <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: black; border: 1px solid black; margin-right: 5px;"></span> EXISTING - CUT ELEMENTS</li> <li><span style="display: inline-block; width: 15px; height: 15px; border: 1px solid black; margin-right: 5px;"></span> EXISTING - UNCUT ELEMENTS</li> <li><span style="display: inline-block; width: 15px; height: 15px; border: 2px dashed red; margin-right: 5px;"></span> DEMOLISHED</li> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: lightgreen; border: 1px solid black; margin-right: 5px;"></span> PROPOSED - CUT ELEMENTS</li> </ul>	<p><b>ABBREVIATIONS</b></p> <p>BDY: BOUNDARY CPD: CUPBOARD DP: DOWNPIPE DPS: DOWN PIPE SPITTER DPRH: DOWN PIPE RAIN HEAD FFL: FINISHED FLOOR LEVEL HWS: HOT WATER SYSTEM RL: REDUCED LEVEL</p>	<p><b>CLIENTS:</b> <b>JAN LOCHTENBERG</b></p> <p><b>SITE ADDRESS:</b> <b>145 CARABELLA STREET</b> <b>KIRRIBILLI, NSW, 2068</b></p>	<p><b>DRAWING TITLE:</b> <b>SECTIONS - B &amp; C</b></p> <table border="1"> <tr> <td><b>SCALE:</b> 1:100 @A3</td> <td><b>DATE:</b> 28/2/22</td> </tr> <tr> <td><b>PROJECT NO:</b> 1010</td> <td><b>DRAWING NO:</b> DA13</td> </tr> </table>	<b>SCALE:</b> 1:100 @A3	<b>DATE:</b> 28/2/22	<b>PROJECT NO:</b> 1010	<b>DRAWING NO:</b> DA13
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**1** EXISTING STREET ELEVATION **1:100**

**2** PROPOSED STREET ELEVATION **1:100**

 <p><b>PROGRESSIVE PLANS</b> BUILDING DESIGN</p>	<p><b>CONTACT</b> <b>LEON &amp; HARMONY VARLEY</b> DIRECTORS  (02) 9997 3997 0400 699 850 2A/2C BUNGAN STREET MONA VALE, NSW, 2103 HELLO@PROGRESSIVEPLANS.COM.AU WWW.PROGRESSIVEPLANS.COM.AU</p>	<p><b>NOTES</b> THE BUILDER SHALL CHECK AND VERIFY ALL DIMENSIONS AND VERIFY ALL ERRORS AND OMISSIONS TO THE DRAFTING OFFICE. DO NOT SCALE THE DRAWING. DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNTIL ISSUED BY THE DRAFTING OFFICE FOR CONSTRUCTION AND NOTED ON THE TITLE BLOCK. THE WORK MUST BE VERIFIED BY STRUCTURAL ENGINEER BEFORE WORK COMMENCES.</p>	<table border="1"> <thead> <tr> <th>REV.</th> <th>NOTES.</th> <th>INITIAL</th> <th>DATE</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>CONCEPT DESIGN</td> <td>AF</td> <td>09.07.21</td> </tr> <tr> <td>B</td> <td>PRE-DA SUBMISSION</td> <td>AF</td> <td>27.08.21</td> </tr> <tr> <td>C</td> <td>DA SUBMISSION</td> <td>JB</td> <td>04.02.22</td> </tr> <tr> <td>D</td> <td>DA COUNCIL UPDATE</td> <td>AF</td> <td>28.02.22</td> </tr> </tbody> </table>	REV.	NOTES.	INITIAL	DATE	A	CONCEPT DESIGN	AF	09.07.21	B	PRE-DA SUBMISSION	AF	27.08.21	C	DA SUBMISSION	JB	04.02.22	D	DA COUNCIL UPDATE	AF	28.02.22	<p><b>LEGEND</b></p> <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: black; margin-right: 5px;"></span> EXISTING - CUT ELEMENTS</li> <li><span style="display: inline-block; width: 15px; height: 15px; border: 1px solid black; margin-right: 5px;"></span> EXISTING - UNCUT ELEMENTS</li> <li><span style="display: inline-block; width: 15px; height: 15px; border: 2px dashed red; margin-right: 5px;"></span> DEMOLISHED</li> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: lightgreen; margin-right: 5px;"></span> PROPOSED - CUT ELEMENTS</li> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: gray; margin-right: 5px;"></span> PAINT - COLORBOND MONUMENT</li> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: #ccc; margin-right: 5px;"></span> ROOF - COLORBOND BASALT</li> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: #add8e6; margin-right: 5px;"></span> GLAZING</li> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: #e0e0e0; margin-right: 5px;"></span> PAINT - DULUX HIGHGATE</li> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: #808080; margin-right: 5px;"></span> STACKED SANDSTONE</li> <li><span style="display: inline-block; width: 15px; height: 15px; background-color: #d3d3d3; margin-right: 5px;"></span> PAINT - DULUX LEXICON</li> </ul>	<p><b>ABBREVIATIONS</b></p> <ul style="list-style-type: none"> <li>BDY: BOUNDARY</li> <li>CPD: CUPBOARD</li> <li>DP: DOWNPIPE</li> <li>DPS: DOWN PIPE SPITTER</li> <li>DPRH: DOWN PIPE RAIN HEAD</li> <li>FFL: FINISHED FLOOR LEVEL</li> <li>HWS: HOT WATER SYSTEM</li> <li>RL: REDUCED LEVEL</li> </ul>	<p><b>CLIENTS:</b> <b>JAN LOCHTENBERG</b></p> <p><b>SITE ADDRESS:</b> <b>145 CARABELLA STREET</b> <b>KIRRBILLI, NSW, 2068</b></p>	<p><b>DRAWING TITLE:</b> <b>EXISTING &amp; PROPOSED STREET ELEVATIONS</b></p> <table border="1"> <tr> <td><b>SCALE:</b> 1:100 @A3</td> <td><b>DATE:</b> 28/2/22</td> </tr> <tr> <td><b>PROJECT NO:</b> 1010</td> <td><b>DRAWING NO:</b> DA14</td> </tr> </table>	<b>SCALE:</b> 1:100 @A3	<b>DATE:</b> 28/2/22	<b>PROJECT NO:</b> 1010	<b>DRAWING NO:</b> DA14
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<b>PROJECT NO:</b> 1010	<b>DRAWING NO:</b> DA14																														







**ROOF/GUTTER**  
 CUSTOM ORB ACCENT 35  
 COLORBOND BASALT

**WALLS**  
 DULUX HIGHGATE

**DOORS/WINDOWS**  
 DULUX LEXICON

**FENCE/GATES/BALUSTRADE**  
 COLORBOND MONUMENT BLACK MATTE



**CONTACT**  
**LEON & HARMONY VARLEY**  
 DIRECTORS  
 (02) 9997 3997  
 0400 699 850  
 2A/2C BUNGAN STREET  
 MONA VALE, NSW, 2103  
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**CLIENTS:**  
 JAN LOCHTENBERG  
**SITE ADDRESS:**  
 145 CARABELLA STREET  
 KIRRIBILLI, NSW, 2068

<b>DRAWING TITLE:</b> FRONT FINISHES BOARD	
<b>SCALE:</b> NTS	<b>DATE:</b> 28/2/22
<b>PROJECT NO:</b> 1010	<b>DRAWING NO:</b> DA22





**ROOF**  
**CUSTOM ORB ACCENT 35**  
**COLORBOND SURFMIST**

**FASCIA/GUTTER**  
**COLORBOND BASALT**

**WALLS**  
**VERTICAL WEATHER BOARDS**  
**DULUX HIGHGATE**

**PRIVACY SCREENS**  
**STAINED TIMBER**

**DOORS/WINDOWS/COLUMNS/GUTTERS/  
 PERGOLA/BULSTRADE**  
**COLORBOND MONUMENT BLACK MATTE**



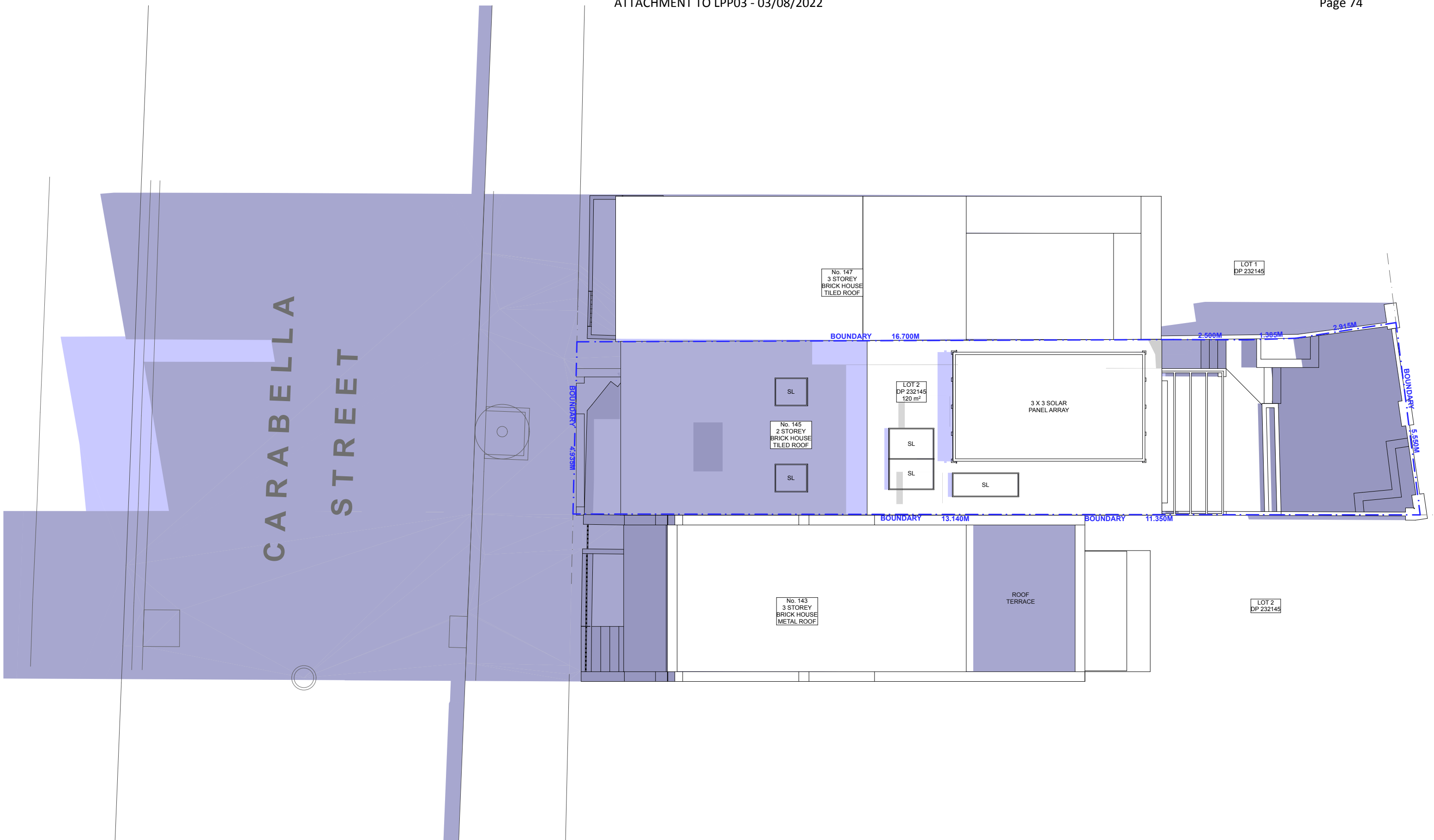
**CONTACT**  
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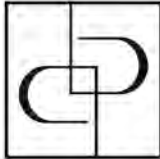
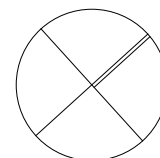
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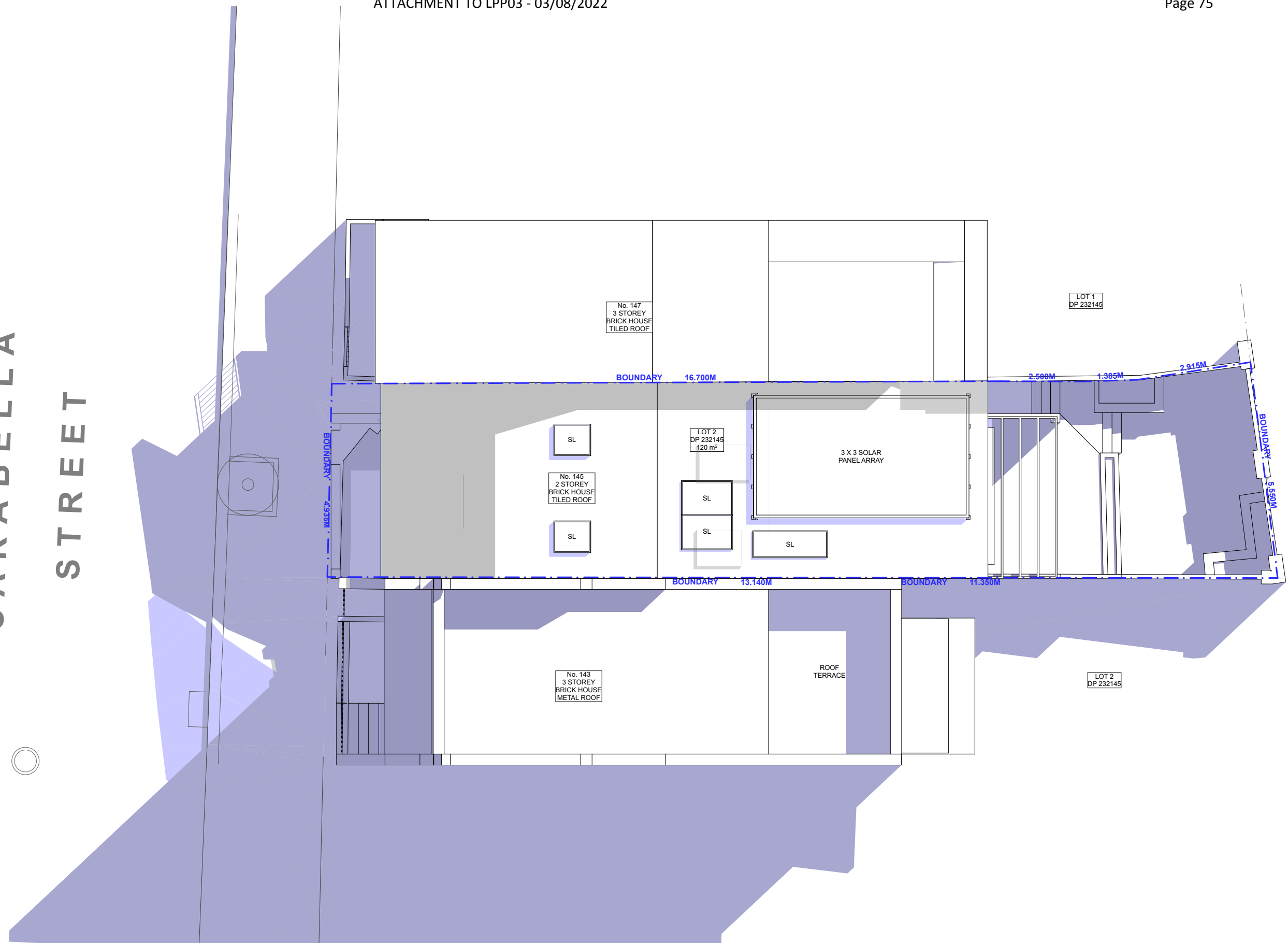
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<b>SCALE:</b> NTS	<b>DATE:</b> 28/2/22
<b>PROJECT NO:</b> 1010	<b>DRAWING NO:</b> DA23



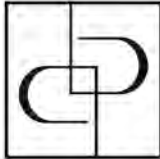
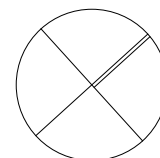
**1 SHADOW DIAGRAM - JUNE 21 - 9AM 1:100**

 <p><b>PROGRESSIVE PLANS</b> BUILDING DESIGN</p>	<p><b>CONTACT</b> <b>LEON &amp; HARMONY VARLEY</b> DIRECTORS</p> <p>(02) 9997 3997 0400 699 850 2A/2C BUNGAN STREET MONA VALE, NSW, 2103 HELLO@PROGRESSIVEPLANS.COM.AU WWW.PROGRESSIVEPLANS.COM.AU</p>	<p><b>NOTES</b></p> <p>THE BUILDER SHALL CHECK AND VERIFY ALL DIMENSIONS AND VERIFY ALL ERRORS AND OMISSIONS TO THE DRAFTING OFFICE. DO NOT SCALE THE DRAWING. DRAWINGS SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNTIL ISSUED BY THE DRAFTING OFFICE FOR CONSTRUCTION AND NOTED ON THE TITLE BLOCK. THE WORK MUST BE VERIFIED BY STRUCTURAL ENGINEER BEFORE WORK COMMENCES.</p>	<table border="1"> <thead> <tr> <th>REV.</th> <th>NOTES.</th> <th>INITIAL</th> <th>DATE</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>CONCEPT DESIGN</td> <td>AF</td> <td>09.07.21</td> </tr> <tr> <td>B</td> <td>PRE-DA SUBMISSION</td> <td>AF</td> <td>27.08.21</td> </tr> <tr> <td>C</td> <td>DA SUBMISSION</td> <td>JB</td> <td>04.02.22</td> </tr> <tr> <td>D</td> <td>DA COUNCIL UPDATE</td> <td>AF</td> <td>28.02.22</td> </tr> </tbody> </table>	REV.	NOTES.	INITIAL	DATE	A	CONCEPT DESIGN	AF	09.07.21	B	PRE-DA SUBMISSION	AF	27.08.21	C	DA SUBMISSION	JB	04.02.22	D	DA COUNCIL UPDATE	AF	28.02.22	<p><b>LEGEND</b></p> <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #808080; border: 1px solid black; margin-right: 5px;"></span> EXISTING SHADOWS</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #c0c0c0; border: 1px solid black; margin-right: 5px;"></span> PROPOSED SHADOW REDUCTIONS</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #e0e0e0; border: 1px solid black; margin-right: 5px;"></span> PROPOSED SHADOW ADDITIONS</li> </ul>	<p><b>ABBREVIATIONS</b></p> <p>DP: DEPOSIT PLAN SP: STRATA PLAN</p>	<p><b>NORTH POINT</b></p> 	<p><b>CLIENTS:</b> <b>JAN LOCHTENBERG</b></p> <p><b>SITE ADDRESS:</b> <b>145 CARABELLA STREET</b> <b>KIRRIBILLI, NSW, 2068</b></p>	<p><b>DRAWING TITLE:</b> <b>SHADOW DIAGRAM - WINTER SOLSTICE - 9AM</b></p> <table border="1"> <tr> <td><b>SCALE:</b> 1:100 @A3</td> <td><b>DATE:</b> 28/2/22</td> </tr> <tr> <td><b>PROJECT NO:</b> 1010</td> <td><b>DRAWING NO:</b> DA16</td> </tr> </table>	<b>SCALE:</b> 1:100 @A3	<b>DATE:</b> 28/2/22	<b>PROJECT NO:</b> 1010	<b>DRAWING NO:</b> DA16
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CARABELLA STREET

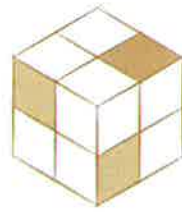


1 SHADOW DIAGRAM - JUNE 21 - 12PM 1:100

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**URBANISM**  
PLANNING & DEVELOPMENT

**VARIATION TO CLAUSE 4.6 OF NORTH SYDNEY LOCAL ENVIRONMENTAL PLAN 2013**

**145 CARABELLA STREET, KIRRIBILLI**

**ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING**

**VARIATION OF A DEVELOPMENT STANDARD REGARDING THE WORKS WITHIN  
COUNCIL'S MAXIMUM HEIGHT OF BUILDING AS DETAILED IN CLAUSE 4.3 OF THE  
NORTH SYDNEY LOCAL ENVIRONMENTAL PLAN 2013**

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Proposal: Alterations and additions to an existing Dwelling  
Address: 145 Carabella Street, Kirribilli  
Applicant: Progressive Plans

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## **1.0 Introduction**

This variation request is made pursuant to the provisions of Clause 4.6 of North Sydney Local Environmental Plan 2013 (NSLEP2013). It is requested that Council supports a variation to the maximum height of building as described in Clause 4.3 of the North Sydney Local Environmental Plan 2013 (NSLEP2013).

## **2.0 Background**

Clause 4.3 establishes the height of building for development within this area of the Kirribilli locality and refers to the maximum height of building noted within the "Height of Buildings Map".

The relevant height of building for this locality is 8.5m and is considered to be a 'development standard' as defined by Section 4 of the *Environmental Planning and Assessment Act 1979*.

The existing development has a height of building of less than 8.5 metres (approx. 8.20m). The alterations and additions that include addition of an upper and first floor level increase the height of building to 9.58m (8.5m permitted) which represents a 12.7% increase over the maximum building height control.

The proposal is considered acceptable and there are sufficient environmental planning grounds to justify contravening the development standard.

The controls of Clause 4.3 are considered to be a development standard as defined in the *Environmental Planning and Assessment Act, 1979*.

### 3.0 Purpose of Clause 4.6

The North Sydney Local Environmental Plan 2013 (NSLEP2013) contains its own variations clause (Clause 4.6) to allow a departure from a development standard. Clause 4.6 of the LEP is similar in tenor to the former State Environmental Planning Policy No. 1, however the variations clause contains considerations which are different to those in SEPP 1. The language of Clause 4.6(3)(a)(b) suggests a similar approach to SEPP 1 may be taken in part.

There is recent judicial guidance on how variations under Clause 4.6 of the LEP should be assessed.

In particular, the principles identified by Preston CJ in *Initial Action Pty Ltd vs Woollahra Municipal Council [2018] NSWLEC 118* have been considered in this request for a variation to the development.

### 4.0 Objectives of Clause 4.6

The objectives of Clause 4.6 are as follows:

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

The development will achieve a better outcome in this instance as the site will provide for the alterations and additions to an existing dwelling, which is consistent with the stated Objectives of the R2 Low Density Residential Zone, which are noted as:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage development of sites for low density housing, including dual occupancies, if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

As sought by the zone objectives, the proposed alterations and additions to an existing dwelling provide for the housing needs of the community within the low density residential environment, encourages development that does not compromise the amenity of the surrounding area or heritage conservation area in which it is located. The alterations and additions ensure that a high level of residential amenity is achieved and maintained.

The alterations and additions include:

Ground Floor

- Refurbishment of the existing front courtyard
- Replacement of the front of the dwelling with new entry door and windows;
- Replacement of the internal stairs

1st Floor

- Demolition of the existing attic (Master bedroom, rear balcony, bathroom, bedroom and stairwell)
- New upper level consisting of a new rear bedroom, WIR & ensuite with rear balcony, front bedroom & ensuite with front balcony, study and new stairwell.

2nd Floor

- New second floor including a master bedroom, WIR & ensuite and rear balcony.

The site and existing development are not a heritage items or adjoining or adjacent heritage items, however the site is within the locally significant Careening Cove Heritage Conservation Area. A Statement of Heritage Impact has been prepared by Heritage Consultant for the Applicant – Michael Bogle which concludes and recommends:

*The following section describes the “desired future outcomes for the Careening Cove Conservation Area.*

*Streetscapes vary, with irregular intersections, outward views and vistas to Sydney Harbour, hillside terraces and gardens and mixed street tree plantings. A key feature is the varied relationship of houses to the street with their steep topography. Houses are often set high on one side of the street above retaining walls and escarpments and on the other side set down or built close to the street alignment to minimise the impact of slope.”*

*Many of the earlier alterations and additions to this former two-room cottage make negative contributions to the Carabella Street streetscape by modifications to the fenestration, an awkward and unconventional dormer and window, the introduction of a bay window and the construction of a high masonry wall masking the frontage of the residence. The proposed design could make a positive contribution to the setting with the scale, composition, materials and detailing consistent with the neighbourhood character.*

*After consideration of the heritage implications for the Careening Cove Conservation Area and its impact on the nearby heritage items, I recommend the approval of the proposed Alterations and Additions.*

The height permitted by North Sydney Local Environmental Plan 2013 is 8.5m with the development in excess of this at 9.58m. The variation is a direct result of the topography of the

site and the existing ground floor level which is approximately 1m above ground level at its highest point (at the rear northern part of the site) with the majority of the building height otherwise complying. The overall height is less than the height of the adjoining dwellings to the south east. The North Sydney Local Environmental Plan 2013 does not prescribe an FSR for the site. The North Sydney Development Control Plan 2012 prescribes a site coverage, landscape area and unbuilt area to which the development reduces all the existing non-compliances, however small non-compliances remain. The non-compliances do not reduce the onsite amenity or increase the load on infrastructure (e.g. stormwater).

The setbacks at ground floor are unchanged by the alterations and additions, with access remaining along the right of way. At the upper floors the side setbacks will be extended to be built to boundary consistent with the adjoining dwellings. The front setback will be maintained at ground floor and extended at the upper floor to match the existing ground floor. Visually, the second floor will be concealed from the front elevation by the front roof form being setback from the front boundary. From the rear it is consistent with the upper and ground floors and consistent with the setback of the adjoining dwelling.

Access to the site remains unchanged from Carabella Street to the front of the site. No parking is currently provided on the site and the alterations and additions do not propose to add a parking space.

The alterations maintain privacy with the development being built to boundary with no windows to the side elevations at upper levels. The alterations and additions do not affect solar access to the neighbouring dwellings with the site and development located along the north-east to south-west axis casting shadows to the Carabella Street road reserve.

The site is essentially urban with views at upper level to Careening Cove and the Neutral Bay landscape beyond. The alterations and additions do not reduce views as no views are currently available from the Carabella Street streetscape.

The external building materials and colours and roof form of the alterations and additions will be consistent with the existing building.

Notwithstanding the non-compliance with the maximum height of building control, the works will maintain an attractive residential development that will not detract from the character and function of the local residential neighbourhood.

## **5.0 Onus on Applicant**

Clause 4.6(3) provides that:

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

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



- (b) *That there are sufficient environmental planning grounds to justify contravening the development standard."*

This submission has been prepared to support our contention that the development adequately responds to the provisions of 4.6(3)(a) & (b) above.

## **6.0 Justification of Proposed Variation**

There is jurisdictional guidance available on how variations under Clause 4.6 of the Standard Instrument & North Sydney Local Environmental Plan 2013 (NSLEP2013) should be assessed in *Initial Action Pty Ltd vs Woollahra Municipal Council [2018] NSWLEC 11* & *Samadi v Council of the City of Sydney [2014] NSWLEC 1199*.

Paragraph 27 of the judgement states:

*"Clause 4.6 of LEP 2014 imposes four preconditions on the Court in exercising the power to grant consent to the proposed development. The first precondition (and not necessarily in the order in cl 4.6) requires the Court to be satisfied that the proposed development will be consistent with the objectives of the zone (cl 4.6(4)(a)(ii)). The second precondition requires the Court to be satisfied that the proposed development will be consistent with the objectives of the standard in question (cl 4.6(4)(a)(ii)). The third precondition requires the Court to consider a written request that demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and with the Court finding that the matters required to be demonstrated have been adequately addressed (cl 4.6(3)(a) and cl 4.6(4)(a)(i)). The fourth precondition requires the Court to consider a written request that demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard and with the Court finding that the matters required to be demonstrated have been adequately addressed (cl 4.6(3)(b) and cl 4.6(4)(a)(i))."*

### **Precondition 1 - Consistency with zone objectives**

The proposed development of and use of the land within the R2 Low Density Residential Zone is consistent with the zone objectives, which are noted over as:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage development of sites for low density housing, including dual occupancies, if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

## Comments

It is considered that the proposed development is consistent with zone objectives for the following reasons:

- The proposal provides for the housing needs of the community. Specifically, the alterations and additions are to be undertaken by the owner comfort of the occupants and the liveability of the development.
- The proposal encourages development in the low density residential zone that does not compromise the amenity of the area or natural or cultural heritage. The site is within the Careening Cove heritage conservation area and the development has been assessed by Heritage Consultant for the Applicant – Michael Bogle as being suitable for the heritage conservation area. The setbacks at ground floor are unchanged by the alterations and additions, with access remaining along the right of way. At the upper floors the side setbacks will be extended to be built to boundary consistent with the adjoining dwellings. The front setback will be maintained at ground floor and extended at the upper floor to match the existing ground floor. Visually, the second floor will be concealed from the front elevation by the front roof form being setback from the front boundary. From the rear it is consistent with the upper and ground floors and consistent with the setback of the adjoining dwelling.
- The proposal ensures that a high level of residential amenity is achieved and maintained as again, the alterations and additions are to be undertaken by the owner comfort of the occupants and the liveability of the development. The alterations maintain privacy with the development being built to boundary with no windows to the side elevations at upper levels. The alterations and additions do not affect solar access to the neighbouring dwellings with the site and development located along the north-east to south-west axis casting shadows to the Carabella Street road reserve.

Accordingly, it is considered that the site may be developed with a variation to the prescribed maximum height of building control, whilst maintaining consistency with the zone objectives.

## Precondition 2 - Consistency with the objectives of the standard

The objectives of Clause 4.3 are articulated at Clause 4.3(1):

*“(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,
- (g) to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone E4 Environmental Living.

**Comments:**

It is considered that the proposed development is consistent with objectives of the development standard for the following reasons:

- The proposal does not change the ground level which is generally stepped with the topography of the land. The variation is a direct result of the topography of the site and the existing ground floor level which is approximately 1m above ground level at its highest point (at the rear northern part of the site) with the majority of the building height otherwise complying with the standard.
- The site is essentially urban with views at upper level to Careening Cove and the Neutral Bay landscape beyond. The alterations and additions do not reduce views as no views are currently available from the Carabella Street streetscape
- The site and development are located along the north-east to south-west axis with shadows being cast to the Carabella Street road reserve. The setbacks at ground floor are unchanged by the alterations and additions. At the upper floors the side setbacks will be extended to be built to boundary consistent with the adjoining dwellings. The front setback will be maintained at ground floor and extended at the upper floor to match the existing ground floor. The combination of the setbacks and height have little impact on the overall shadows cast compared to the existing situation as demonstrated in the accompanying shadow diagrams.
- The alterations maintain privacy with the development being built to boundary with no windows to the side elevations at upper levels.
- At the upper floors the side setbacks will be extended to be built to boundary consistent with the adjoining dwellings. The proposed height is less than that of the adjoining dwelling to the south east. The Heritage Impact Assessment concludes: *The proposed design could make a positive contribution to the setting with the scale, composition, materials and detailing consistent with the neighbourhood character.*
- The development presents to Carabella street as a two storey development. The rear of the site while appearing as three storeys, cannot be seen from Willoughby Street to the rear.

Accordingly, it is considered that the site may be developed with a variation to the prescribed maximum height of building control, whilst maintaining consistency with the development standard objectives.

Figure 1: Front and Rear Elevation



Source: Progressive Plans

Figure 2: 3D perspective of front elevation and adjoining developments along the streetscape



Source: Progressive Plans

**Precondition 3 - To consider a written request that demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case**

It is unreasonable and unnecessary to require strict compliance with the development standard as the proposal provides alterations and additions an existing dwelling.

Council's controls in Clause 4.3 provide a maximum height of building of 8.5m.

It is considered that the proposal achieves the objectives of Clause 4.3 and that the development is justified in this instance for the following reasons:

- 1) The development is modest in scale and does not add excessive bulk or scale as demonstrated in NSW Land and Environment Court in *Project Venture Developments v Pittwater Council [2005] NSWLEC 191*, which considered Scale and density in the context of the surrounding area which formed the following planning principle: Compatibility in the urban environment.

The planning principles provides: The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.

In order to test whether a proposal is compatible with its context, two questions should be asked.

- i. Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites*

In relation to the physical impacts, consideration is given to noise, overlooking, overshadowing and constraining development potential which can be assessed with relative objectivity (as was applied in this principle).

The development is for the alterations and additions an existing dwelling. The proposal is for alterations and additions to the existing residential dwelling involving minor alterations to the front of the dwelling at ground floor and an extension of the upper floor to provide for a three (3) bedroom dwelling. The development will not change the noise to or from the dwelling nor affect privacy not having windows to the adjoining dwellings. The development does not affect solar access as provided in the solar access diagrams.

- ii. Is the proposal's appearance in harmony with the buildings around it and the character of the street?*

The most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by **building height, setbacks and landscaping**. In special areas, such as conservation areas, **architectural style and materials** are also contributors to character.

The principle provides that Buildings do not have to be the same **height** to be compatible. In this regard, the height is proposed to be more consistent with the adjoining dwellings than is the current development.

The principle notes front and rear setbacks are an important element of urban character and determine the rhythm of building and void. While it may not be possible to reproduce the rhythm exactly, new development should strive to reflect it in some way. The development does not propose a change to the front or rear setback. The side setbacks will be built to boundary consistent with the adjoining dwellings. The development proposes a minor change to the landscaping on the site and proposes an improvement to the courtyard to the front of the site.

In relation to heritage, as noted, the site and existing development are not a heritage items or adjoining or adjacent heritage items, however the site is within the locally significant Careening Cove heritage conservation area. A Statement of Heritage Impact has been undertaken by Heritage Consultant for the Applicant – Michael Bogle which concludes and recommends:

*The following section describes the “desired future outcomes for the Careening Cove Conservation Area.*

*Streetscapes vary, with irregular intersections, outward views and vistas to Sydney Harbour, hillside terraces and gardens and mixed street tree plantings. A key feature is the varied relationship of houses to the street with their steep topography. Houses are often set high on one side of the street above retaining walls and escarpments and on the other side set down or built close to the street alignment to minimise the impact of slope.”*

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*After consideration of the heritage implications for the Careening Cove Conservation Area and its impact on the nearby heritage items, I recommend the approval of the proposed Alterations and Additions.*

Notwithstanding, in the most common sense, the Commissioner provides that most people “experience the urban environment without applying the kind of analysis described above” and simply moving around a city is enough for a person to respond to their surroundings and like in the planning principle that if simply taking a walk in this neighbourhood there is little chance that with the alterations and additions that this development would be seen “out of context” and therefore within a compatible **Scale and density in the context of the surrounding area.**

For the above reasons it would therefore be unreasonable and unnecessary to cause strict compliance with the standard.

**Precondition 4 - To consider a written request that demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard and with the Court [or consent authority] finding that the matters required to be demonstrated have been adequately addressed**

Council's controls in Clause 4.3 provide a maximum height of building of 8.5m for the subject development.

The existing development has a height of building of approximately 8.2m. The alterations and additions that include addition of an upper floor level increase the height of building to 9.58m (8.5m permitted) hence the non-compliance.

The development is justified in this instance for the following reasons:

- The development does not result in additional load on infrastructure, increase vehicle generation or the requirement for increased parking on the site. The development does not change pedestrian traffic in anyway.
- The development is contained within the existing setbacks of the existing development. The development does not decrease the private open space on the site or the access to that private open space.
- The development proposes materials consistent with the existing palette of materials and finishes in order to provide for high quality development that will enhance and complement the locality without impact on the character and amenity of the area.
- The development does not increase bulk or scale or decrease the landscaping area.
- The proposed works will provide for improved amenity for the occupants, which promotes good design which is consistent with the Objective 1.3 (g) of the EPA Act which is a suitable environmental planning ground which justifies the flexible application of the development standard.

Having regard to the above, it is considered there are sufficient environmental planning grounds to justify a variation of the development standard for maximum height of building.

In the recent 'Four2Five' judgement (*Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90*), Pearson C outlined that a Clause 4.6 variation requires identification of grounds that are particular to the circumstances to the proposed development. That is to say that simply meeting the objectives of the development standard is insufficient justification of a Clause 4.6 variation.

It should be noted that a Judge of the Court, and later the Court of Appeal, upheld the Four2Five decision but expressly noted that the Commissioner's decision on that point (that she was not "satisfied" because something more specific to the site was required) was simply a discretionary (subjective) opinion which was a matter for her alone to decide. It does not mean that Clause 4.6 variations can only ever be allowed where there is some special or particular feature of the site that justifies the non-compliance. Whether there are "sufficient environmental planning grounds to justify contravening the development standard", it is something that can be assessed on a case by case basis and is for the consent authority to determine for itself.

The decision on appeal of *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7* is to be considered. In this case the Council appealed against the original decision, raising very technical legal arguments about whether each and every item of clause 4.6 of the LEP had been meticulously considered and complied with (both in terms of the applicant's written document itself, and in the Commissioner's assessment of it). In February 2016 the Chief Judge of the Court dismissed the appeal, finding no fault in the Commissioner's approval of the large variations to the height and FSR controls.

While the judgment did not directly overturn the Four2Five decision an important issue emerged. The Chief Judge noted that one of the consent authority's obligation is to be satisfied that "the applicant's written request has adequately addressed ...that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case ...and that there are sufficient environmental planning grounds to justify contravening the development standard." He held that this means:

*"the Commissioner did not have to be satisfied directly that compliance with each development standard is unreasonable or unnecessary in the circumstances of the case, but only indirectly by being satisfied that the applicant's written request has adequately addressed the matter in subclause (3)(a) that compliance with each development standard is unreasonable or unnecessary".*

Accordingly, in regard to the proposed development at 145 Carabella Street, Kirribilli, the following environmental planning grounds are considered to be sufficient to allow Council to be satisfied that a variation to the development standard can be supported:

- The proposed alterations and additions are considered to promote good sustainable design and enhance the residential amenity of the buildings' occupants, which is consistent with the Objective 1.3 (g) of the EPA Act which is a suitable environmental planning ground which justifies the flexible application of the development standard
- The variation to the height of buildings control is inconsequential as it is of negligible impact to the streetscape and the amenity of neighbouring properties.

In the *Wehbe* judgment (*Wehbe v Warringah Council [2007] NSWLEC 827*), Preston CJ expressed the view that there are 5 different ways in which a SEPP 1 Objection may be well founded and that approval of the Objection may be consistent with the aims of the policy. These 5 questions may be usefully applied to the consideration of Clause 4.6 variations: -

- i. *the objectives of the standard are achieved notwithstanding non-compliance with the standard;*

**Comment:** Yes. Refer to comments under 'Justification of Proposed Variation' above which discusses the achievement of the objectives of the standard.

- ii. *the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

**Comment:** It is considered that the purpose of the standard is relevant and the purpose is



satisfied.

- iii. *the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

**Comment:** Compliance does not defeat the underlying object of the standard development. Furthermore, it is noted that development standards are not intended to be applied in an absolute manner; which is evidenced by clause 4.6 (1)(a) and (b).

- iv. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*

**Comment:** Not applicable.

- v. *the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

**Comment:** The development standard is applicable to and appropriate to the zone.

## 7.0 Conclusion

This development proposed a departure from the maximum height of building development standard, with the proposed alterations and additions providing a maximum height of building of 8.5m

This objection to the maximum building height specified in Clause 4.3 of the North Sydney Local Environmental Plan 2013 (NSLEP2013) adequately demonstrates that that the objectives of the standard will be met.

The bulk and scale of the proposed development is appropriate for the site and locality. Strict compliance with the maximum height of building would be unreasonable and unnecessary in the circumstances of this case and should be supported.

Kind regards



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