

**NSLPP MEETING HELD ON 06/07/2022****Attachments:**

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

**ADDRESS/WARD:** 15A Lower Wycombe Road, Neutral Bay (C)**APPLICATION No:** DA 395/21**PROPOSAL:** Alterations and additions to dwelling, landscaping, and associated works.**PLANS REF:**

Plan No.	Rev.	Description	Prepared by	Dated	Received
DA100	B	Site & Roof Plan	RJP Design	06/11/2021	19/11/2021
DA101	A	Roof Plan	RJP Design	14/06/2021	19/11/2021
DA102	A	Second Floor Plan	RJP Design	14/06/2021	19/11/2021
DA103	A	First Floor Plan	RJP Design	14/06/2021	19/11/2021
DA104	A	Ground Floor Plan	RJP Design	14/06/2021	19/11/2021
DA105	A	Basement Floor Plan	RJP Design	14/06/2021	19/11/2021
DA106	A	Northern Elevation	RJP Design	14/06/2021	19/11/2021
DA107	A	Elevations – Sheet 2	RJP Design	14/06/2021	19/11/2021
DA108	A	Southern Elevation	RJP Design	14/06/2021	19/11/2021
DA109	A	Elevations – Sheet 4	RJP Design	14/06/2021	19/11/2021
DA110	A	Section A/1 – A/1	RJP Design	14/06/2021	19/11/2021
DA111	A	Section – Sheet 2	RJP Design	14/06/2021	19/11/2021
DA200	A	Plan – Proposed Fish Pont	RJP Design	14/06/2021	19/11/2021
DA201	A	Section A/1–A/1 – Proposed Fish Pond	RJP Design	14/06/2021	19/11/2021
DA108	A	Section A/2–A/2 – Proposed Fish Pond	RJP Design	14/06/2021	19/11/2021
DA500	B	Landscape Plan	RJP Design	06/11/2021	19/11/2021
DA501	A	Landscape Plan – Detail Sheet 1	RJP Design	14/06/2021	19/11/2021
DA502	B	Landscape Plan – Detail Sheet 2	RJP Design	06/11/2021	19/11/2021
DA503	A	Landscape Plan – Landscape Notes	RJP Design	14/06/2021	19/11/2021
DA800	A	Schedule of Colours & Finishes	RJP Design	14/06/2021	19/11/2021

**OWNER:** Alexander Laykoski and Denny Jane Nolan-Laykoski**APPLICANT:** Alexander Laykoski C/- Nolan Planning Consultants**AUTHOR:** Andrew Beveridge, Assessment Officer**DATE OF REPORT:** 6 July 2022**DATE LODGED:** 27 September 2021**RECOMMENDATION:** Approval

## EXECUTIVE SUMMARY

This development application seeks NSLPP approval for alterations and additions of the existing 4 storey single dwelling at 15A Lower Wycombe Road, Neutral Bay, including a northern extension and garage within the front setback and the elevator tower connecting all levels of the dwelling, and associated works.

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

As the proposal involves works to the existing residential dwelling that are in exceedance of the maximum permitted height limit of 8.5m by 3.9m or 45.88%, the applicant has submitted a written request seeking a variation to the building height development standard in accordance with Clause 4.6 of NSLEP 2013. The applicant's submission has been considered with reference to the Land and Environment Court's decision in *Wehbe v Pittwater Council [2007] NSWLEC 827* in order to justify the proposed variation. The applicant's Clause 4.6 is considered to be satisfactory given the site circumstances and on the basis that it will not have a significant impact upon the amenity of adjoining properties or the character of the conservation area.

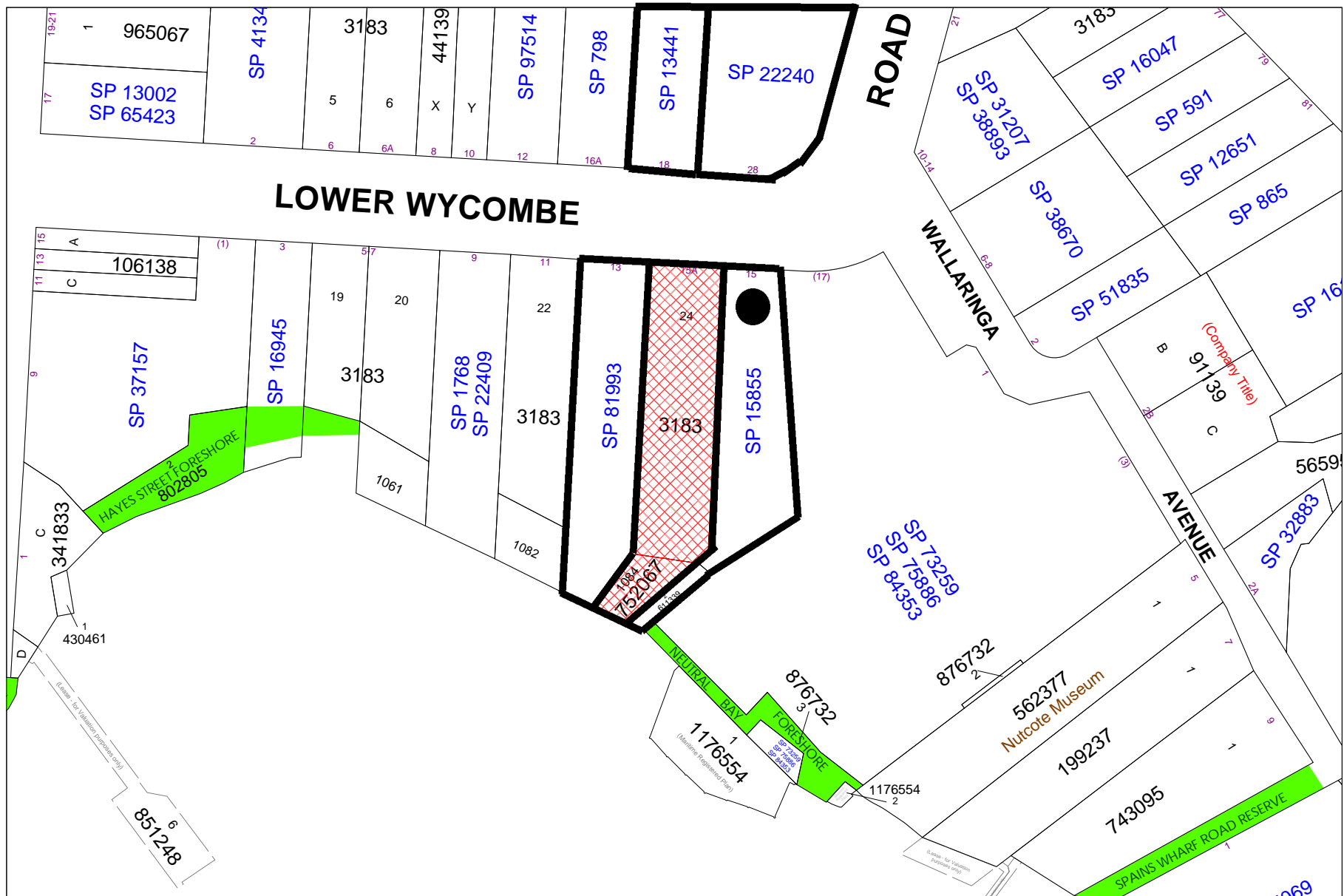
Notification of the proposal has attracted one submissions raising concern regarding solar access to the east, and the assessment has considered the performance of the application against Council's planning requirements. The solar access impacts resulting from the northern garage extension are considered to be minor and acceptable within the site circumstances.

The impacts of the overall development upon the Kurraba Point Conservation Area and the Sydney Harbour foreshore have also been assessed and, subject to satisfying recommended conditions, was found to be generally acceptable on the basis that the works will maintain a sympathetic scale and will match the built form character of the original house through the use of characteristic materials and colours.

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

Having regard for the potential impacts upon the amenity of adjoining properties and heritage conservation area, subject to conditions, the development application is considered to be satisfactory and is recommended for **approval**.

**LOCATION MAP**



□ Property/Applicant ● Submitters - Properties Notified

## **DESCRIPTION OF PROPOSAL**

The proposed works are for various alterations and additions to an existing detached house. In detail the proposed works are for:

### **Second Floor/Roof Level (FFL 21.74 – Roof Ridge: RL 25.77)**

- Construction of a new elevator overrun tower with a pitched roof and new extension to the existing roof to accommodate new elevator and stair lobby.
- In-fill of existing northern window facing the proposed new garage.
- New timber window to replace existing southern gable aluminium window.

### **First Floor/Street Level (Dwelling – FFL 18.32)**

- Construction of a new attached double garage with a pitched roof adjacent to the eastern side boundary, with access provided over the existing hardstand parking area to the west, and the provision of a vehicle turntable.
- Demolition of the existing front fence and replacement with a new sandstone wall on the eastern half of the street frontage and a metal palisade sliding gates and fence on the western half of the street frontage.
- New planter boxes within the existing front setback.
- Minor internal reconfigurations including the removal of internal walls, infill of existing window facing new garage, and replacement of the existing southern verandah flooring.
- The addition of new accessible level dwelling entrance walkway from the existing hard stand area to access dwelling elevator.

### **Ground Level (Dwelling – FFL 14.67)**

- Minor changes to the internal layout including the replacement of the flooring for the existing southern verandah, and new access to the lift shaft connecting to all other levels
- A new bedroom with an ensuite bathroom to be located in the area underneath the new garage structure.
- New lobby to connect the bedroom to the rest of the dwelling.

### **Basement Level (Dwelling: FFL 12.07 – Patio: FFL 11.92)**

- New internal stairs to connect the basement level to the dwelling above, access to lift shaft, new gas fireplace, and new storage room.

### **Landscaping**

- An extension to the patio area further to the south of the dwelling, new stairs and landscaping connecting to the rear garden.
- Removal of the existing water feature, and addition of a new water feature in a central location further south.
- A new excavated seating area at the southern end of the garden.

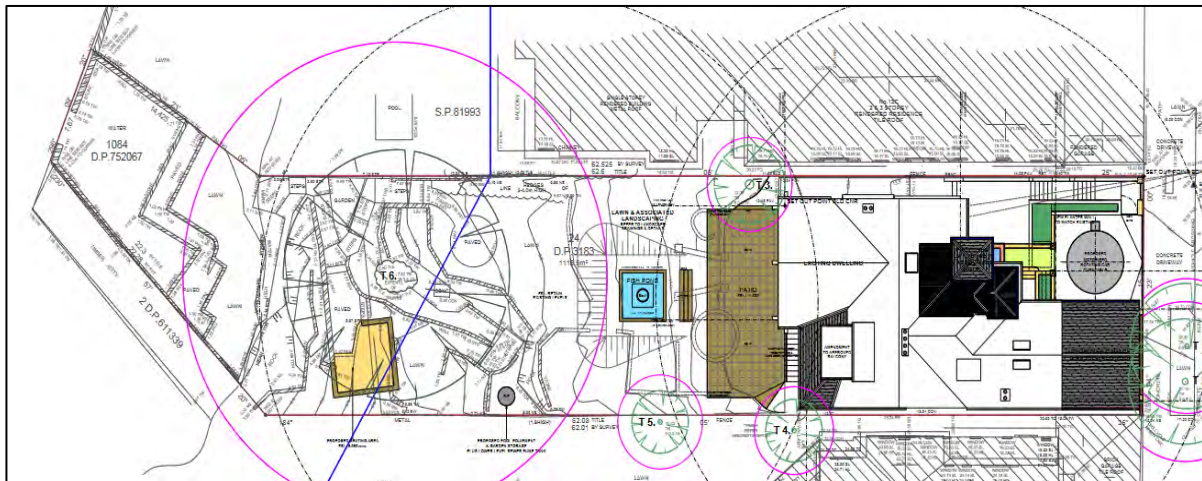


Figure 1. Site plan.



Figure 2. Eastern side elevation.



Figure 3. Northern front elevation.



Figure 4. Southern rear elevation.



*Figure 5. Western side elevation.*

## **STATUTORY CONTROLS**

North Sydney Local Environmental Plan 2013 (NSLEP 2013)

- Zoning – R3 Medium Density Residential
- Item of Heritage – No
- In Vicinity of Item of Heritage – Yes (18 Wycombe Rd, I0738; 20 Wycombe Rd, I0741; 1 Wallaringa Avenue, I0736)
- Conservation Area – Yes (Kurraba Point Conservation Area, CA16)
- Foreshore Building Line – Yes
- Environmental Planning & Assessment Act 1979

SEPP (Biodiversity and Conservation) 2021

- Chapter 2 – Vegetation in non-rural areas
- Chapter 10 – Sydney Harbour Catchment

SEPP (Resilience and Hazards) 2021

- Chapter 2 – Coastal Management
- Chapter 4 – Remediation of Land

SEPP (Building Sustainability Index: BASIX) 2004

Local Development

Foreshore Development

## **POLICY CONTROLS**

Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005

North Sydney Development Control Plan 2013 (NSDCP 2013)

- Appendix 1 (Heritage) – Neutral Item

North Sydney Local Infrastructure Contributions Plan 2020

## **DESCRIPTION OF LOCALITY**

The subject site is legally described as Lot 24 in DP 3181 and Lot 1084 in DP 752067 and is known as 15A Lower Wycombe Road, Neutral Bay. The subject site has a north-south orientation sloping down towards Neutral Bay and Sydney Harbour and is situated on the southern side of Lower Wycombe Road with a total area of 1115.5m<sup>2</sup>.

The site contains an existing multi-level Federation Arts and Crafts style single dwelling house built circa 1908, with a hardstand car space within the north-western corner of the site, and a metal palisade and masonry front fence. The rear garden slopes down to the foreshore frontage and includes multiple rock walls, outcrops, and a tidal pool at the southern end of the site. The area is characterised by a mixture of detached dwellings ranging in height from one to two storeys and residential flat buildings. Photos of the site and surrounding properties are provided below.

The subject site was originally subdivided in 1895 as Lot 24, Section A, of the Cleve Villa Estate. In the 1907-1908 Rate and Valuation Book for Warringa Ward, the site was shown as having been acquired by Alfred Saunders, a jeweller of George Street Sydney, with an unfinished house on the site. This house was noted as finished in the following rate book (1908-1910), with the house name recorded as “Stratford” in the 1911-1913 rate book. Originally addressed as No. 17 Wycombe Road, by 1920 the site address was changed to 15A Lower Wycombe Road.



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

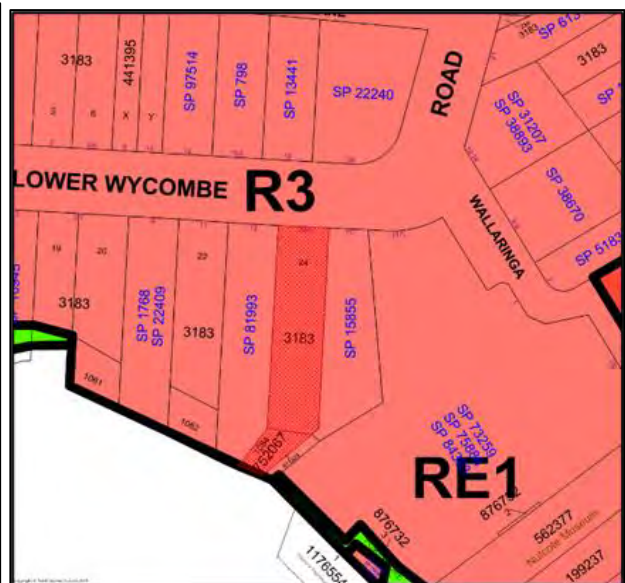


Figure 7. NSLEP Zoning Map with the subject hatched red in the R3 Zone.

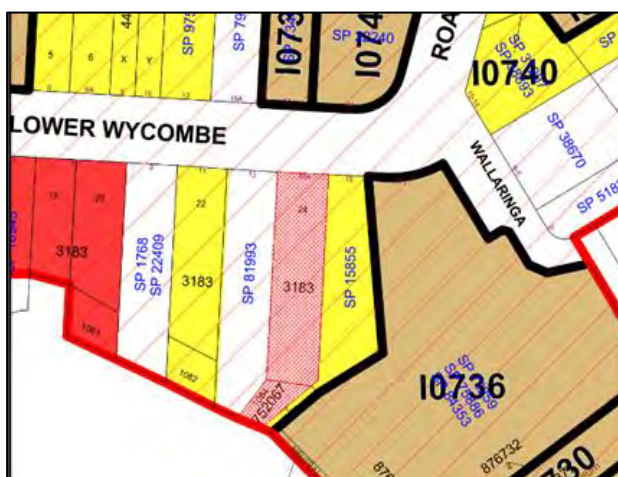


Figure 8. NSLEP and NSDCP Heritage map with the subject hatched red.



Figure 9. View of the site from Lower Wycombe Road.



Figure 10. View of the southern elevation from the rear garden.



Figure 11. View of the front setback looking east towards No. 15 Lower Wycombe Road.

## RELEVANT HISTORY

**Development Application No. 31/13** (lodged 13 February 2013) proposing alterations to the existing dwelling including stone garden stairs and a lower-level rear wall was approved by Council under delegation on 4 April 2013.

**Development Application No. 269/13** (lodged 20 August 2013) for alterations and additions comprising a car stand area over utility room at the front of site, was approved by Council under delegation on 5 December 2013.

**Development Application No. 101/14** (lodged 7 April 2014) for alterations and additions comprising modifications to the roof over the main entrance and the provision of a small balcony to the south eastern gable of the dwelling, was approved by the North Sydney Independent Planning Panel (NSIPP) on 4 June 2014.

A Pre-lodgement meeting was held on 11 December 2018 between Council and the applicants to discuss draft plans proposing a scheme very similar to that currently proposed under DA 395/21. The result of the discussion was that any new built elements such as a lift tower would not be objected to provided that they were sympathetically designed in a style to match the dwelling.

**Development Application No. 244/20** (lodged 2 October 2020) for internal works to the ground and basement levels of the dwelling, including excavation for new basement rooms and various internal reconfigurations, was approved by Council on 4 November 2020. **Section 4.55 Application No. 244/20/2** was subsequently approved for additional excavation works to the basement for storage and water-proofing works on 7 June 2021.

## CURRENT HISTORY

Date	Action
19 November 2021	The application was lodged with Council.
24 November 2021	The subject application was notified to surrounding properties and the Neutral Precinct Committee (Hayes and Kurraba Precinct Committees being inactive) between 3 December 2021 and 17 December 2021. One (1) submission was received.
2 February 2022	A site inspection was undertaken by Council Officers.



8 April 2022	Internal referral comments were received from Council's Conservation Planner.
12 May 2022	A meeting was held between Council Officers and the applicants to discuss the resolution of the application.

## REFERRALS

### Building

The proposed works that are 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/BCA standards, a Section 4.55 application would be necessary.

### Engineering

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

*A condition is recommended to ensure that the footpath boundary levels match the existing footpath boundary levels and that any twisting of the driveway access to ensure vehicles do not scrape must occur wholly within the subject property, which is recommended in the eventuality that the internal parking slab levels are modified in order to accommodate proposed turntable. The current vehicular crossing is acceptable and will not require conditions. Stormwater (as proposed) will be directed via the existing stormwater outlet.*

Consequently, **Condition C8** has been recommended to follow the requirements of Council's Development Engineer.

### Heritage

Council's Conservation Planner has provided the following comments:

*The form of the proposed tower is in keeping with the architectural style and the building form of the dwelling. Given the site context on the southern side of Lower Wycombe Street and the later installation of the garaging at 15 Lower Wycombe Street, no objection is raised to the proposed new garage. Its design follows a descending scale and avoids the garage doors directly fronting Wycombe Road. The existing driveway will be maintained and the impact from the turning circle will be nominal. The impact from the proposed amalgamation of the lower ground area that sits below the street and below the new garage structure, to extend the floor plan of the existing dwelling, will also create minimal impact on heritage significance and streetscape character in this part of Lower Wycombe Road.*

*There are several fenestration changes that seek to replace existing aluminium windows and/or replacement of the southern facing patio doors with new glazed timber framed doors. The impact from these changes are minimal and supported. The proposed modifications to the roof deck on the southern roof plane are acceptable and relate to an earlier approval [DA101/14]. Overall, the modifications to improve accessibility are supported.*

**Officer's Comment:** The comments provided above by Council's Conservation Planner are supported. Consequently, several conditions have been recommended to ensure the heritage significance of the subject site is maintained, including the provision of sympathetic materials and also the minimisation of glazing as seen from the harbour public domain (see conditions **A3, C6, C15, and E4**).

### **Landscaping**

Council's Landscape Development Officer has reviewed the proposal and provided the following comments:

*The following conditions shall be applied:*

- T1 Tristaniopsis laurina (6x6m) and T2 Sapium sebiferum (6.5 x 8m) located in the council verge in front of 15A Lower Wycombe St shall be protected in accordance with AS4970, 1.8m high steel mesh tree protection fencing shall be installed, and a collective tree bond totalling \$14,000 shall be applied.*
- T3-T6 shall be protected in accordance with AS4970.*
- A project arborist shall be appointed to supervise all excavation and construction works within the TPZ of any protected tree.*
- Sensitive construction techniques including hand excavation shall be carried out within the TPZ of any protected tree.*
- No pruning has been assessed as being required, so none shall be permitted.*
- The arborist report prepared by Landscape Matrix dated 19/8/21 and all recommendations contained therein shall be strictly adhered to.*

Consequently, several conditions are recommended to ensure the protection of trees and to ensure an appropriate landscaped context and amenity for the site (see conditions **C10, C11, C12, D1, D2, D3, E9, G4, G6, and I2**).

### **SUBMISSIONS**

On 24 November 2021, the subject application was notified to surrounding properties and the Neutral Precinct Committee (Hayes and Kurraba Precinct Committees being inactive) between 3 December 2021 and 17 December 2021. One (1) submission was received.

The issues raised in the submission are summarised below and addressed later in this report. The original submission 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.

#### **Basis of Submissions**

- The proposed garage may result in the loss of light access to the east facing bedroom window of 15 Lower Wycombe Road.

## CONSIDERATION

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

### **SEPP (Biodiversity and Conservation) 2021 – Chapter 2 – Vegetation in non-rural areas**

On 1 March 2022, the *SEPP (Biodiversity and Conservation) 2021* came into effect, consolidating several planning policies to form chapters within the new SEPP without significant amendment. Under Chapter 2 of this SEPP, which comprises the former *SEPP (Vegetation in Non-Rural Areas) 2017*, the proposed development would not require the removal of any significant vegetation defined under this SEPP.

### **SEPP (Biodiversity and Conservation) 2021 – Chapter 10 – Sydney Harbour Catchment**

Chapter 10 of this SEPP, which since 1 March 2022 comprises the former *SREP (Sydney Harbour Catchment) 2005*, applies to this site and is required to be considered in the assessment of the application. The site is within the Foreshores and Waterways Area adjoining but not including the zone **W8 - Scenic Waters Passive Use**, and the instrument identifies matters for consideration in the assessment of the application. The relevant matters are considered as follows:

**Clause 21 Biodiversity, ecology, and environment protection** – The proposal is unlikely to have an adverse environmental impact as the works are sufficiently set back from the waterway and will not physically damage or interfere with the ecological or water qualities of Sydney Harbour. The closest element of the works, being the new excavated seating area in the southern garden area is approximately 24m from the waterway's foreshore.

**Clause 22 Public Access to, and use of, foreshores and waterways** – There is no public access to Sydney Harbour through the subject site. However, the residents of the subject site would continue to enjoy access to Neutral Bay.

**Clause 23 Maintenance of a working harbour** – The proposal would have no impact upon the use of the Harbour.

**Clause 24 Interrelationship of waterway and foreshore uses** – The works would not disrupt the relationship between the waterway and the foreshore.

**Clause 25 Foreshore and waterways scenic quality** – The scenic quality of the foreshore and waterways would be maintained due to substantial separation of the proposed works from the waterway. The proposed works to the dwelling and associated landscaping would also be sympathetic to the existing building and surrounding development, and would not be highly visible from the waterway. It is therefore considered that the proposal would not detract from the character and visual qualities of the foreshore and waterway of Sydney Harbour.

**Clause 26 Maintenance, protection, and enhancement of views** – The works will not impact upon views to/from Neutral Bay nor have any adverse effects on public places or landmarks.

**Clause 29 Referral to the Foreshores and Waterways Planning and Development Advisory Committee** – The application was not required to be referred to the Foreshores and Waterways Planning and Advisory Committee because the proposal does not constitute any of the development types listed in Schedule 2 of Chapter 10 of the SEPP.

### **SEPP (Resilience and Hazards) 2021 – Chapter 2 – Coastal Management**

On 1 March 2022, the *SEPP (Resilience and Hazards) 2021* came into effect, consolidating several planning policies to form chapters within the new SEPP without significant amendment. Chapter 2 of this SEPP comprises the former *SEPP (Coastal Management) 2018*, and as set out in Clause 3 of the *Coastal Management Act 2016*, the proposed development is consistent with the objectives of the SEPP. The proposal will not result in any removal of public access, overshadowing or loss of views of the public foreshore, and, subject to conditions is sympathetic to the scenic qualities of the coast, the heritage significance of the subject site and the Kurraba Point Conservation Area.

### **SEPP (Resilience and Hazards) 2021 – Chapter 4 – Remediation of Land**

On 1 March 2022, the *SEPP (Resilience and Hazards) 2021* came into effect, consolidating several planning policies to form chapters within the new SEPP without significant amendment. Chapter 4 of this SEPP comprises the former *SEPP 55 – Remediation of Land*, and requires Council to consider the likelihood of land contamination and any remediation necessary to rehabilitate the site. Council's records indicate that the site has previously been used for residential development since its original 1895 subdivision and as such is unlikely to contain any contamination. Therefore, the requirements of the above SEPP have been satisfactorily addressed.

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

The applicant has submitted a valid BASIX Certificate (A364062, dated 9 September 2021) to satisfy the requirements of the above SEPP.

### **North Sydney Local Environmental Plan 2013**

#### **Permissibility**

The subject site is Zoned R3 Medium Density Residential under the provisions of the NSLEP 2013. The proposal involves alterations and additions to an existing dwelling which is a permissible form of development in the Zone R3 with consent from Council.

#### **Objectives of the zone**

The objectives of the Zone R3 are stated below:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the development of sites for medium density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*
- *To provide for a suitable visual transition between high density residential areas and lower density residential areas.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

The proposed development is likely to achieve the above objectives for the reasons stated throughout this report.

**Clause 4.1 – Minimum lot size**

The subject site has a lot size of 1,115.5m<sup>2</sup>, which is substantially above the 230m<sup>2</sup> minimum lot size control for this site. As this proposal does not seek any form of subdivision of the lot, the proposal is not subject to the minimum lot size control.

**Clause 4.3 – Height of buildings**

Principal Development Standards – North Sydney Local Environmental Plan 2013			
Site Area – 1,115.5m <sup>2</sup>	Proposed	Control	Complies
Clause 4.3 – Heights of Building	Existing: 12.4m Proposed: 12.4m	8.5m	No

The building has an existing height of 12.4m that fails to comply (3.9m or 45.88%) with the permissible height limit of 8.5m in accordance with clause 4.3 in NSLEP 2013, however this will be unchanged by this proposal. As a result, the majority of the top second floor level is above the height limit, and the proposed changes to this level will also be above the height limit to a maximum height of 12.4m to match the existing roof ridge (45.88%), and consequently requires a variation of the Development Standard in clause 4.3 in NSLEP 2013 (see discussion below).

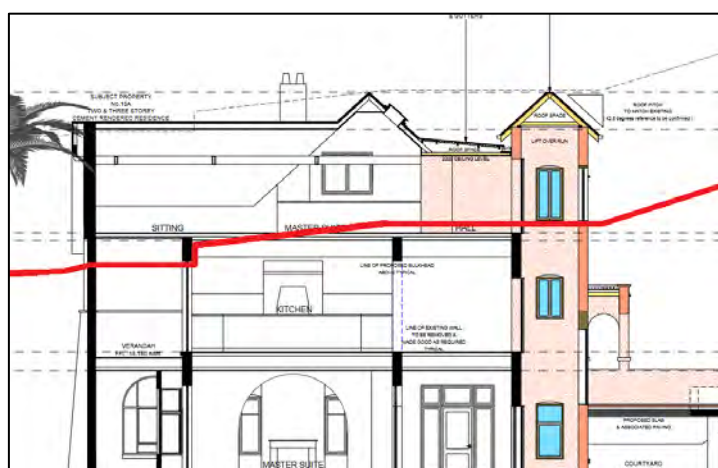


Figure 11. The proposed section looking west, showing the 8.5m height limit in red.

**Clause 4.6 – Exceptions to development standards**

The applicant has provided a written request to vary the development standard for height.

**Extent of the Variation**

The proposed works would exceed the maximum permitted height. The maximum height of the proposed second floor extension, being the new lift tower, results in a variation of 3.9m (45.88%) from the development standard, as shown in the above table. This variation is no higher than the existing variation of the dwelling.

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

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

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

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

- (a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*
- (b) to promote the retention and, if appropriate, sharing of existing views,*
- (c) to maintain solar access to existing dwellings, public reserves, and streets, and to promote solar access for future development,*
- (d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,*
- (e) to ensure compatibility between development, particularly at zone boundaries,*
- (f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.”*
- (g) to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and E4 Environmental Living.*

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

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

The proposed works to the dwelling are mostly contained within the existing building footprint at or above ground floor level and would not alter the development’s overall relationship to the topography. The only significant excavation required will be to extend the lift shaft to the basement level. This small area of excavation is located in a position immediately adjacent to the house in a location that would not impact upon the overall topography of the site. The proposed lift structure has also been sympathetically designed to be complementary to the architectural style of the original dwelling and does not project higher than the existing roof ridge to ensure that its scale is in proportion with the existing dwelling and its relationship to the land.

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

There would be no view loss for adjoining dwellings given that the proposed lift shaft and associated changes at the second floor level would not add any significant additional height to the building. The lift tower is also contained within a recess in the building’s design, so that it is only viewed as part of the overall building and not as a projecting element that would impact upon views from adjoining properties or the public domain.

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

Current levels of solar access will not substantially change as a result of the proposed changes to the second floor and lift tower. As the lift tower is contained within a corner section of the existing building, the majority of additional shadows cast will only fall over the subject site and existing shadows. These shadows will not adversely impact upon the main indoor and outdoor living spaces of adjoining dwellings. As a consequence, and as a result of retained side setbacks, the primary living areas and private open space for adjoining properties will continue to receive at minimum 3 hours of solar access.

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

The proposed works to the second floor level would not result in any privacy impacts upon adjoining properties. The new lift tower will not overlook any indoor or outdoor private areas of adjoining properties, and the new gable end window on the southern elevation will only look towards the harbour and not significantly overlook adjoining properties.

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

The site is located within the R3 Medium Density Residential zone and is surrounded by buildings within this zone. The proposed works have been sympathetically designed with reference to the existing dwelling and surrounding dwellings, and will be appropriate for zone.

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

The proposed scale and density of the development is appropriate for the site and does not result in significant non-compliances with Council's controls. While the proposal will result in a non-compliance in building height, this non-compliance is no higher than the existing building, the overall development is compatible with the existing building and surrounding buildings which have been designed to maintain views to the south in line with the sloping topography.

***(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 E4 Environmental Living.***

Due to the sloping topography of the neighbourhood to the south towards Sydney Harbour, particularly along the southern side of Lower Wycombe Road, a built form of 1-2 storeys is not typical, with a built form of 2-3 storeys being more typical as a response to the sloping topography. The existing building on the site is a 4-storey dwelling including the basement level, while adjoining buildings to the east and west with similar site conditions are 3-4 storeys in height. As a consequence, the proposal is considered to be acceptable on the basis that the existing number of storeys within the dwelling will not be altered with the new lift tower being a connecting element to all four levels of the dwelling, and will not result in significant impacts upon amenity or the character of the neighbourhood.

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

The applicant has provided the following grounds:

- *Compliance with the height control is constrained by the siting of the building and need to access all levels of the existing dwelling.*
- *The non-complying element relates to the lift structure only which is required to ensure equitable access. The lift has been designed to complement the character and external finishes of the existing building.*
- *The development does not result in a significant bulk when viewed from either the street or the neighbouring properties, and will not exceed the existing maximum ridge height of the dwelling.*
- *The development will maintain a compatible scale relationship with the existing residential development in the area. Development in the vicinity has a wide range of architectural styles and the given the variety in the scale of development, this proposal will reflect a positive contribution to its streetscape.*
- *The extent of the proposed new works where they are not compliant with Council's maximum height control do not present any significant impacts in terms of view loss for neighbours, loss of solar access or unreasonable bulk and scale.*
- *The proposal is supported by a Heritage Impact Statement.*

The proposed non-compliance with the height limit only relates to the changes at the top Second Floor Level and does not comprise the entirety of the proposed works. Furthermore, the amenity impacts of the development are considered to be acceptable and are compliant with Council's other controls in Part B of NSDCP 2013. The proposed additions have been designed to be sympathetic to the existing building through the use of a sympathetic scale and matching materials. The proposal is therefore considered to be acceptable within the site circumstances, with no significant additional height, bulk, or scale, nor any significant adverse impacts to the amenity of neighbouring properties, and is considered a reasonable improvement to the existing building.

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

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

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

The proposed development would be in the public interest because it is consistent with the objectives of the development standard for height and the objectives of the zone as discussed above. The proposal also provides improved accessibility for all levels of the dwelling to enable continued use of the property later in life and level disabled access from the street. It is also considered that the proposal does not result in any significant adverse impacts for the character of the surrounding area or the amenity of adjoining properties.



## **Conclusion**

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

### **Clause 5.10 – Heritage conservation**

Council's Conservation Planner has raised no objection to the proposal on the basis that the proposed additions, including the new garage and lift structure has been well integrated into the overall form and style of the original dwelling, and not considered to have a significant adverse effect upon the heritage significance of the neutral item within the Kurraba Point Conservation Area. A more detailed explanation of why the proposal is acceptable on heritage grounds is provided on pages 9-10 of this report, and is subject to the imposition of conditions (see conditions **A3**, **C6**, and **E4**).

### **Clause 6.9 – Limited development on foreshore area**

The majority of the proposed works fall outside of the foreshore building line area. However, the south alcove seating area, which is nevertheless set back approximately 24m from the foreshore, is partially located within the foreshore building line area. This proposed landscaping feature is a relatively minor addition that will involve some small areas of excavation and fill areas to level the area to the existing level of the footpath. This is not considered to have an adverse impact upon the waterway, flora, and fauna or the heritage and environmental significance of the surrounding area. The new seating area would also not have a significant impact upon existing runoff and drainage.

### **Clause 6.10 – Earthworks**

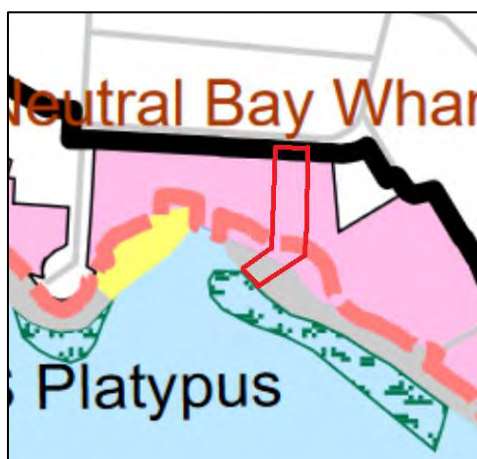
The proposed works will entail some minor earthworks to facilitate the levelling of the rear courtyard area, the addition of new stairs and the levelling of the southern alcove seating area in the lower garden. This excavation will mostly affect existing paved or landscaped areas, and subject to conditions is unlikely to negatively affect drainage patterns, soil stability, natural features, or adjoining properties. Other excavation includes the extension of the lift shaft to the basement level. This excavation will be located immediately adjacent to the dwelling and will not significantly alter the topography or stability of the site and is acceptable subject to conditions to control runoff and investigate stability prior to construction. The works are therefore considered compliant in this regard.

### **Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005**

The *Sydney Harbour Foreshores and Waterways Area DCP 2005* is required to be considered in the assessment of a development application within the Foreshores and Waterways Area. It is considered that the proposed development is generally acceptable with regard to the performance criteria for this area as the proposal is for alterations and additions to an existing dwelling and associated landscaping works. All of the works are low in scale, visually recessive, and substantially set back from the foreshore and waterway area, that are nevertheless compatible with adjoining properties along the foreshore.

## Part 2 – Ecological Assessment

Part Two of the DCP identifies the guidelines for ecological assessment of developments. This policy identifies matters for consideration, which are intended to reinforce existing controls within other planning instruments with the specific purpose to ensure development is sympathetic to the ecological communities and environmental qualities of the area covered by SREP 2005. The area of the proposed works is identified as being within the 'Urban Development with Scattered Trees', which has a low conservation value. While the lower foreshore portion of the site is also identified as being in the 'Rocky Platform' ecological community that is adjacent to 'Seagrass Beds', both of which have a high conservation value, the proposed works do not fall within the area of these communities.



**Figure 13. Extract from the ecological communities map of the Foreshores and Waterways DCP, with the approximate area of the subject site outlined in red. The pink denotes the 'Urban Development with Scattered Trees' area, grey for 'Rocky Platform', and the green for 'Seagrass Beds'.**

The relevant matters under the low value performance criteria have been reviewed and it is considered that the proposal will not result in any significant environmental impacts to the site, subject to conditions to protect significant trees and to minimise runoff. The proposal will not result in any impacts upon the adjacent high conservation value communities as they will be significantly separated from the waterway and immediate foreshore area, will not result in the removal of any significant vegetation, or any interference with the existing runoff or flows to and from the harbour.

## Part 3 – Landscape Assessment

Part Three of the DCP identifies the guidelines the landscape assessment of developments. This policy identifies matters for consideration with the specific purpose to ensure development is sympathetic to the environmental qualities of the specific area's landscape character area. The area of the proposed works is identified as being within the Type 8 Landscape Character area:

*These areas have a high level of built form with waterside commercial, industrial, and residential uses. The commercial and industrial uses play an important role in terms of tourism and maritime services which support water-based activities. There are special features in these areas that contribute to the visual character of the area that should be maintained.*

The relevant matters under the Type 8 performance criteria have been reviewed and it is considered that the proposal will maintain and enhance the location's passive access to and utilisation of the foreshore frontage. The proposed works will also be of a submissive bulk, scale, and designed to maintain the existing ecological values of the site and will not result in any adverse impact upon the environmental significance of the harbour foreshore location.

#### Part 4 – Design Guidelines for Water-based and Land/Water Interface Developments

Part Four of the DCP identifies the design guidelines for water-based and land/water interface developments. This policy identifies matters for consideration, which are intended to reinforce existing controls within other planning instruments with the specific purpose to ensure development is sympathetic to the natural and cultural qualities of the area covered by SREP 2005. The relevant matters are considered as follows:

**Section 4.2 General Requirements** – The proposed landscaping works will maintain existing levels of public access and views to and from the Harbour. The works will not interfere with existing navigation, functions, and recreational use of the harbour. The works are also sympathetic in terms of bulk and scale and are compatible with adjoining properties when viewed from the Harbour.

**Section 4.5 Built Form** – The design of the landscaping works in the form of the southern alcove seating area in the lower garden are minimal and sympathetic to the existing scale and nature of additions within the foreshore area. The works will not have any impact upon significant trees or vegetation and the landscaped context of the site from the harbour will be maintained.

#### North Sydney Development Control Plan 2013

<b>Part B Section 1 – Residential Development</b>		
<i>Section</i>	<i>Complies</i>	<i>Comments</i>
<b>1.2 Social Amenity</b>		
<b>Population Mix</b>	Yes	The existing 3-bedroom dwelling will be increased to four bedrooms as a result of the garage extension over the existing northern courtyard area. The existing dwelling does not involve affordable housing.
<b>Maintaining residential accommodation</b>		
<b>Affordable housing</b>		
<b>1.3 Environmental criteria</b>		
<b>Topography</b>	Yes	The proposed works will entail some earthworks to facilitate the levelling of the rear courtyard area, the addition of new stairs and the levelling of the southern alcove seating area in the lower garden. This excavation will mostly affect existing paved or landscaped areas, and subject to conditions is unlikely to negatively affect drainage patterns, soil stability, natural features, or adjoining properties. Other excavation includes the extension of the lift shaft to the basement level. This excavation will be located immediately adjacent to the dwelling and will not significantly alter the topography or stability of the site and is acceptable subject to conditions to control runoff and investigate stability prior to construction. The works are therefore considered compliant in this regard.
<b>Properties adjoining bushland</b>	N/A	The property does not adjoin bushland.
<b>Properties on Bush Fire Prone Land</b>	N/A	The site is not classified as Bush Fire Prone Land.

<b>Properties within a foreshore building line</b>	Yes	The majority of the proposed works are outside of the foreshore area and will not have any impact upon foreshore land or the scenic quality of foreshore lands. The proposal is also satisfactory having regard to the relevant SEPPs and SREPs and the Sydney Harbour Foreshores and Waterways Area DCP (2005) as discussed in detail earlier within this report.
<b>Views</b>	Yes	There would be no view loss for adjoining dwellings given that the proposed works to the existing building, particularly the new garage and the lift tower would not add any significant additional height to the building and the existing ridge height is unchanged. The lift tower is also contained within a recess in the building's design, so that it is only viewed as part of the overall building and not as a projecting element that would impact upon views from adjoining properties or the public domain.
<b>Solar access</b>	Yes	<p>Current levels of solar access will not substantially change as a result of the proposed changes to the second floor and lift tower. As the lift tower is contained within a corner section of the existing building, the majority of additional shadows cast will only fall over the subject site and existing shadows. These shadows will not adversely impact upon the main indoor and outdoor living spaces adjoining dwellings. As a consequence, and as a result of retained side setbacks, the primary living areas and private open space for adjoining properties will continue to receive at minimum 3 hours of solar access.</p> <p><b><u>No. 15 Lower Wycombe Road (east)</u></b>          The garage addition will result in some additional shadows to the western side elevation of No. 15 Lower Wycombe Road in the afternoon at 3pm. However, the western elevation windows of No. 15 are already significantly overshadowed at this time and indeed throughout the day due to the topography of the area, with the lower elevation of the houses on the southern side of the road compared to street level, and the relatively close position of the buildings at Nos. 15-15A Lower Wycombe Road, with the garage of No. 15 lower Wycombe Road located on the boundary with the subject site.          In summary, the solar access impacts are considered to be relatively minor and acceptable within the site circumstances and the particular site conditions in relation to neighbouring properties.</p>
<b>Acoustic and Visual privacy</b>	Yes	<p><b>EAST:</b> The two ground floor level bedroom windows will overlook an existing wall beneath the garage of No. 15 Lower Wycombe Road and will have no privacy impact. The two windows above these windows at first floor (street) level are high sill-height clerestory style windows for the garage which will have no privacy impact.</p> <p><b>NORTH:</b> There are no windows or openings on this elevation that would result in any privacy impact.</p> <p><b>SOUTH:</b> The proposed enlarged southern gable-end window is likely to result in some additional overlooking to the rear gardens of adjoining properties as is recommended to be no wider than the existing window in this location to reduce the amount of glazing on this primary façade (see <b>Condition C15</b>).</p> <p><b>WEST:</b> The new ground floor windows on the western elevation will overlook the existing boundary fence and wall of shared with No 17 Lower Wycombe Road and will not result in additional privacy impacts. The west-facing windows of the lift tower will not have any privacy impacts as they are for a transitory space that will not permit significant opportunities for overlooking.</p>
<b>1.4 Quality Built Form</b>		
<b>Context</b>	Yes	The context of the dwelling as viewed from Lower Wycombe Road will be changed by this proposal through the addition of the lift tower and the new garage within the located of the existing front courtyard area.

		Nevertheless, these works are considered to be acceptable additions to the streetscape presentation of the site on the basis that they have been designed in a manner that is sympathetic and submissive in design to the original circa 1908 Federation dwelling, will not result in the loss of landscaped context of the site, and will easily blend within the streetscape as matching additions to the secondary street façade of this dwelling, which was originally designed to face the Harbour and significant water views.																			
<b>Streetscape</b>	Yes	Bonds have been recommended for Council's footpaths and street trees outside the site (see Condition <b>C9</b> and <b>C10</b> ).																			
<b>Siting</b>	Yes	The proposed additions will be located in a manner consistent with the existing north-south orientation of the dwelling and will not affect the siting of the dwelling from the street.																			
<b>Setbacks</b>	Yes (Acceptable on merit)	<table border="1"> <thead> <tr> <th>Control</th> <th>Existing</th> <th>Proposed</th> <th>Complies</th> </tr> </thead> <tbody> <tr> <td>Front (maintain alignment of adjoining)</td> <td>5.5m</td> <td>500mm</td> <td><b>Yes</b></td> </tr> <tr> <td rowspan="2">Side (900mm ground) (1.5m for second storey up to 7m)</td> <td>1.5m (W, house)</td> <td>1.5m (W, house) 4.2m (W, lift) 7.8m (W, garage)</td> <td><b>Unchanged</b> <b>Yes</b> <b>Yes</b></td> </tr> <tr> <td>900mm (E, house)</td> <td>900mm (E house &amp; garage)</td> <td><b>No</b></td> </tr> <tr> <td>Rear (Match adjoining)</td> <td>50m</td> <td>Unchanged</td> <td><b>Yes</b></td> </tr> </tbody> </table> <p>While the existing minimum 5.5m front setback is being significantly reduced by the addition of the garage, this new structure has a setback of 500mm to the front boundary. This is compatible with the setbacks of the two adjoining garage structures at 13 and 15 Lower Wycombe Road which both have a nil setback to the street.</p> <p>The existing 900mm eastern side setback from the side boundary with 15 Lower Wycombe Road is extended for an additional 5.9m to the northern front boundary up to a height of 5.2m (ground to eave) to accommodate the new garage and lower level extension. This setback is compliant up to 4m, when the 1.5m setback control applies.</p> <p>Nevertheless, it is considered that this minor non compliance is acceptable on merit on the basis of the following:</p> <ol style="list-style-type: none"> <li>1. The side setback is consistent with the existing side setback of the building, and does not encroach further into the side setback with No. 15 Lower Wycombe Road.</li> <li>2. The garage and lower level extension will be built immediately adjacent to the existing garage structure of No. 15 Lower Wycombe Road, which has a similar bulk and scale and has a nil side setback from the subject site.</li> <li>3. The windows on the eastern elevation will not result in any privacy impacts to the east.</li> <li>4. As the lower level extension is located below street level, the new structure will present as a single storey structure to the street, and will not result in significant adverse visual impacts from the public domain or adjoining properties.</li> </ol>	Control	Existing	Proposed	Complies	Front (maintain alignment of adjoining)	5.5m	500mm	<b>Yes</b>	Side (900mm ground) (1.5m for second storey up to 7m)	1.5m (W, house)	1.5m (W, house) 4.2m (W, lift) 7.8m (W, garage)	<b>Unchanged</b> <b>Yes</b> <b>Yes</b>	900mm (E, house)	900mm (E house & garage)	<b>No</b>	Rear (Match adjoining)	50m	Unchanged	<b>Yes</b>
Control	Existing	Proposed	Complies																		
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	900mm (E, house)	900mm (E house & garage)	<b>No</b>																		
Rear (Match adjoining)	50m	Unchanged	<b>Yes</b>																		

		5. As noted on page 20 of this report, solar access impacts are considered to be relatively minor and acceptable within the site circumstances and the particular site conditions in relation to neighbouring properties.
<b>Form, massing &amp; scale</b>	Yes	The proposed works are consistent with the built form, massing, and scale within the area. While the existing appearance of the dwelling from Lower Wycombe Road frontage will be altered by the addition of the lift tower and the garage, the new built form will be sympathetic to the existing dwelling by maintaining a submissive height, form, and scale that will easily blend within the streetscape as matching additions to the secondary street façade of this dwelling.
<b>Built form character</b>	Yes	The proposed works are consistent with the existing character of the dwelling and the streetscape by using a traditional form and materials that match the existing dwelling and the characteristic materials of the Kurraba Point Conservation Area. A muted colour palette, and material such as sandstone for the front fence, rendered masonry walls, timber-framed openings, and tiled roofs, will be sympathetic to the surrounding neighbourhood.
<b>Dwelling entry</b>	Yes	The dwelling entrance to Lower Wycombe Road will be maintained, with some adjustments to enable level access to the elevator tower entrance from the garage level to improve accessibility.
<b>Roofs</b>	Yes	<p>The new garage roof will be a steep-pitched roof form with a gable end facing the street, which repeats the gable-end roof of the rest of the dwelling behind, at a lower level, which is characteristic of the roof forms within the conservation area. The lift tower will have a peaked hip roof in tiles to match the existing roof, which will help integrate the new tower with the remaining building.</p> <p>The proposed low hipped roof for the surrounding Level 2 extension to accommodate the new tower will be in metal, but due to their low pitch and submissive form in relation to the remaining roof and new lift tower, will not be highly visible from the street. A condition is recommended to ensure that the metal roof sheeting has a profile that is appropriate for the conservation area (See condition <b>C15</b>).</p>
<b>Colours and materials</b>	Yes	The proposed colours and materials are acceptable as they are sympathetic to the original dwelling and the conservation area, including the muted colour palette, and the use of characteristic materials such as sandstone for the front fence, rendered masonry walls, timber-framed openings, and tiled roofs to match existing.
<b>Front fences</b>	Yes	<p>Due to the sloping street frontage of the site, the proposed front fence has a variable height from 1m at the eastern end to 1.9m at the western end. However, this is considered to be acceptable on the basis that this fence will be a mostly open metal palisade design between sandstone block piers that will permit a high level of visibility of the site to and from the street.</p> <p>The lower eastern end of the fence where it covers the width of the garage, will be mostly solid, but has a submissive height with a planter between the fence and garage to soften the built form. As this fence retains public domain views of the site and an appropriate landscaped context alongside characteristic materials, the fence is acceptable.</p>
<b>1.5 Quality urban environment</b>		
<b>High quality residential accommodation</b>	Yes	The internal amenity of the dwelling will be enhanced by this proposal through the provision of a more usable indoor and outdoor living spaces, and greater accessibility to the multi-level dwelling through the provision of a level entrance and lift access.
<b>Site coverage, Landscaped Area and Un-Built Upon Area</b>	Yes/No (Conditioned)	The proposed and existing levels of site coverage, landscaped area and un-built upon area indicated in the table below:

		<table border="1" data-bbox="756 264 1374 651"> <tr> <td><b>Site Area:</b> <i>1,115.5m<sup>2</sup></i></td> <td><b>Existing</b></td> <td><b>Proposed</b></td> <td><b>Complies</b></td> </tr> <tr> <td><b>Site Coverage</b> <b>30% (max)</b></td> <td>22.4% (250.5m<sup>2</sup>)</td> <td>26.2% (293.3m<sup>2</sup>)</td> <td><b>Yes</b></td> </tr> <tr> <td><b>Landscaped area</b> <b>50% (min)</b></td> <td>44.1% (493m<sup>2</sup>)</td> <td>42.3% (472.9m<sup>2</sup>)</td> <td><b>No – Reduced</b></td> </tr> <tr> <td><b>Un-built upon area</b> <b>20% (max)</b></td> <td>33.3% (372m<sup>2</sup>)</td> <td>31.3% (349.3m<sup>2</sup>)</td> <td><b>No – Reduced</b></td> </tr> </table> <p>The proposal involves a small 1.89% loss of landscaped area across the site, which takes the site further away from compliance with the minimum 50% control. While unbuilt-upon area is being reduced, this is largely as a result of the additional site coverage over existing paved areas, and the increase in paving at the rear of the site has resulted in an additional loss of landscaping.</p> <p>It is recommended, that a condition be imposed that requires 1.89% or 21m<sup>2</sup> of the proposed paving to be converted to landscaped area, so that the proposal is neutral in its impact on landscaped area, and is not further reduced (see <b>Condition C19</b>).</p> <p>Unbuilt-upon area is being reduced overall and with the condition will be further reduced by the same amount to represent 328.3m<sup>2</sup> or 29.4% of the site, which is a positive outcome (see <b>Condition C19</b>).</p>	<b>Site Area:</b> <i>1,115.5m<sup>2</sup></i>	<b>Existing</b>	<b>Proposed</b>	<b>Complies</b>	<b>Site Coverage</b> <b>30% (max)</b>	22.4% (250.5m <sup>2</sup> )	26.2% (293.3m <sup>2</sup> )	<b>Yes</b>	<b>Landscaped area</b> <b>50% (min)</b>	44.1% (493m <sup>2</sup> )	42.3% (472.9m <sup>2</sup> )	<b>No – Reduced</b>	<b>Un-built upon area</b> <b>20% (max)</b>	33.3% (372m <sup>2</sup> )	31.3% (349.3m <sup>2</sup> )	<b>No – Reduced</b>
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<b>Safety and Security</b>	Yes	Safety and security would not be compromised as a result of the subject development application. The proposal maintains the existing security and natural surveillance of the subject site to and from the street.																
<b>Vehicle Access and Car parking</b>	Yes	<p>The proposed double parking within the garage is acceptable for a dwelling with three bedrooms or more as specified within Section 10 of NSDCP 2013. Council’s Development Engineer has also reviewed the proposed vehicular crossing and access and raised no objection subject to appropriate conditions (see <b>Conditions C8</b>).</p> <p>While the addition of a garage within the front setback is not compliant with Council’s controls, it is considered to be acceptable on merit for the following reasons:</p> <ol style="list-style-type: none"> <li>1. Garages within the front setback of harbour-facing properties on the southern side of Lower Wycombe Road are an existing feature of the streetscape. This includes the substantial triple garage at No. 15 Lower Wycombe and smaller garages at Nos. 3, 9, 13A, and 13B Lower Wycombe Road.</li> <li>2. The new garage will be integrated as part of the existing building, with matching materials and built form, while also maintaining a scale that is submissive to the original house and sympathetic to the conservation area.</li> <li>3. The garage will be placed within an existing recessed paved courtyard area and will not require the removal of significant trees or landscaping, and will be further softened by a small planter box within the setback between the front boundary and the garage.</li> </ol>																
<b>Landscaping and front gardens</b>	Yes	<p>As some landscaping will be lost due to the new and reconfigured paved area within the rear garden, a condition is recommended to ensure that landscaping is maintained at existing levels overall (see <b>Condition C19</b>).</p> <p>Council’s Landscape Development Officer has raised no objection to the proposed landscaping subject to the protection of significant trees (see <b>Condition C10 and C12</b>).</p>																

<b>Garbage Storage</b>	Yes	Sufficient space is provided within the new garage for the storage of garbage bins.
<b>1.6 Efficient use of resources</b>		
<b>Energy efficiency</b>	Yes	A valid BASIX Certificate has been lodged with this proposal.
<b>Stormwater management</b>	Yes	All stormwater pipes will connect to the existing system.

**South Cremorne Planning Area (Kurraba Point Conservation Area)**

Consideration has been given to the Character Statement for the South Cremorne Planning Area in Part C of NSDCP 2013, particularly Section 6.2 (Kurraba Point Conservation Area) where this site is located. The proposal is acceptable as the proposed works are sympathetic and compatible with existing development in the neighbourhood and the development conforms to the relevant provisions in Part B in NSDCP 2013. It is considered that the impact of the development upon the heritage character of locality is considered to be acceptable due to the new works adopting a sympathetic character and submissive form in relation to the existing building and the surrounding area. Conditions are recommended to ensure that the type of materials and colours, and the amount of glazing, is appropriate for the conservation area.

**LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN**

The proposal, which involves development where the cost of the proposed development is more than \$100,000, is classified under the North Sydney Local Infrastructure Contributions Plan 2020 as a 'Type (c) development' that triggers a Section 7.12 contribution of **\$5,890.00**, for the purpose of local infrastructure provision.

**Contribution amounts payable**

<b>Applicable contribution type</b>		
<b>s7.12 contribution details</b>	Development cost:	\$589,000.00
<i>(payment amount subject to indexing at time of payment)</i>	Contribution:	\$5,890.00

A condition is recommended requiring payment prior to issue of any Construction Certificate (refer to **Condition C16**).

**ALL LIKELY IMPACTS OF THE DEVELOPMENT**

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

**ENVIRONMENTAL APPRAISAL**

**CONSIDERED**

- |    |   |     |
|----|---|-----|
| 1. | Statutory Controls  | Yes |
| 2. | Policy Controls   | Yes |
| 3. | Design in relation to existing building and natural environment | Yes |
| 4. | Landscaping/Open Space Provision                                | Yes |



5.	Traffic generation and Carparking provision	Yes
6.	Loading and Servicing facilities	N/A
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8.	Site Management Issues	Yes
9.	All relevant S4.15 considerations of <i>Environmental Planning and Assessment (Amendment) Act 1979</i>	Yes

#### **SUITABILITY OF THE SITE (Section 4.15 of the EPAA 1979)**

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

#### **SUBMISSIONS (Section 4.15 of the EPAA 1979)**

The subject application was notified to adjoining properties and the Neutral Precinct Committee (Hayes and Kurraba Precinct Committees being inactive) between 3 December 2021 and 17 December 2021. One (1) submission was received raising concerns regarding solar access. The issues raised in the submission are summarised below and addressed with planning comments:

- ***The proposed garage may result in the loss of light access to the east-facing bedroom window of 15 Lower Wycombe Road.***

See the comments on page 20 of this report against Council's solar access controls, where it was noted that while some minor solar access may be lost to the east in the afternoon, this impact is considered to be relatively minor and acceptable in the site circumstances when considering the position and topography of the adjoining sites and the existing levels of overshadowing.

#### **PUBLIC INTEREST (Section 4.15 of the EPAA 1979)**

The proposal would provide improved amenity for the residents without causing any unreasonable impacts to the area's character, the streetscape, and/or adjoining properties, so the proposal would not be contrary to the public interest, subject to conditions.

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

The subject application was notified to adjoining properties and the Neutral Precinct Committee seeking comment and one submission was received raising concerns regarding solar access. As demonstrated in this report it is considered that the proposal will not have any significant impact upon the general amenity, privacy, views, stability, or solar access for adjoining properties, subject to appropriate conditions of consent to maintain residential amenity, ensure the works are safe for the community, and maintain the heritage significance of the dwelling within the conservation area.

## **CONCLUSION AND REASONS**

The development application has been assessed against the relevant planning instruments and policies, in particular the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013, and generally found to be satisfactory.

While the proposal involves works that are in exceedance of the maximum permitted height limit, they are considered to be satisfactory given the site circumstances and on the basis that it will not add additional ridge height to the dwelling, and will not have a significant impact upon the amenity of adjoining properties or the character of the conservation area.

The development is compliant with Council's site coverage controls, and broadly complies with the objectives and provisions for setbacks and bulk and scale and the Kurraba Point Conservation Area. While there will be a non-compliance with the height and the eastern side setback, this is considered to be acceptable on merit on the basis that the proposal would not have significant overall amenity impacts upon adjoining properties.

There would be no unreasonable overshadowing, view loss, privacy loss and/or excessive bulk and scale as a result of the proposal. The solar access impacts resulting from the northern garage extension and overall have been assessed and are considered to be minor and acceptable within the site circumstances. The proposed works have been sympathetically designed with reference to the character and scale of the existing Federation dwelling and the conservation area.

The impacts of the overall development upon the Kurraba Point Conservation Area and the Sydney Harbour foreshore have also been assessed and, subject to satisfying recommended conditions, was found to be generally acceptable on the basis that the works will maintain a sympathetic scale and will match the built form character of the original house through the use of characteristic materials and colours.

The application is considered to be acceptable in the circumstances and it is recommended for **approval** subject to site-specific and standard conditions.

## **RECOMMENDATION**

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

**THAT** the North Sydney Local Planning Panel, exercising the functions of Council, assume the concurrence of the Secretary of The Department of Planning and Environment and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 and **grant consent** to Development Application No. 395/21 for the construction of alterations and additions to the existing dwelling within a conservation area including an elevator tower and garage, on land at 15A Lower Wycombe Road, Neutral Bay, subject to the following site specific and standard conditions:-

### **Driveway and vehicular access**

- C8 The proposed footpath boundary levels must match the level of the existing footpath boundary levels and if the internal parking slab levels are modified in order to accommodate the proposed turntable, any change to the existing driveway access must not cause scraping to the underside of vehicles and must be contained wholly within the subject property

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

(Reason: To maintain an acceptable vehicular access to the site.)

### **Heritage Requirements**

- C15 Details demonstrating compliance with the following are to be submitted with the Construction Certificate:

**a) Southern Gable-end Window**

The new gable end window on the rear southern elevation at the second floor level must be no wider than the existing window to be replaced on the gable end. This window must be timber-framed and have a glazing that is vertical in profile.

**b) New Windows and Doors**

New windows and doors on the northern and southern elevations shall be timber framed. All other new windows and doors are to have aluminium or steel framing sections of a width 45mm or wider, or are to be timber framed.

**c) Roof Sheeting**

The new metal roof planes with a pitch greater than 2° are to have a traditional corrugated roof profile equal to Custom Orb. No approval is given for min-orb or tray profile roof sheeting on these planes.

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

(Reason: To ensure the use of materials is consistent and sympathetic to the character of the conservation area and the original dwelling)

### **Landscape Amendments**

- C19 The site plan and landscape plan must be amended as follows to provide an appropriate landscaped setting and to demonstrate an improved level of compliance with the landscaped area and unbuilt-upon area controls:

- 1) A portion of the paved areas located within the rear garden, to an area of approximately 21m<sup>2</sup>, must be converted into lawn, garden beds, planters, or some other form of soft landscaping.

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

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

**ANDREW BEVERIDGE**  
**ASSESSMENT OFFICER**

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

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

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**NORTH SYDNEY COUNCIL**  
**CONDITIONS OF DEVELOPMENT APPROVAL**  
**15A LOWER WYCOMBE ROAD, NEUTRAL BAY**  
**DEVELOPMENT APPLICATION NO. 395/21**

**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.	Rev.	Description	Prepared by	Dated	Received
DA100	B	Site & Roof Plan	RJP Design	06/11/2021	19/11/2021
DA101	A	Roof Plan	RJP Design	14/06/2021	19/11/2021
DA102	A	Second Floor Plan	RJP Design	14/06/2021	19/11/2021
DA103	A	First Floor Plan	RJP Design	14/06/2021	19/11/2021
DA104	A	Ground Floor Plan	RJP Design	14/06/2021	19/11/2021
DA105	A	Basement Floor Plan	RJP Design	14/06/2021	19/11/2021
DA106	A	Northern Elevation	RJP Design	14/06/2021	19/11/2021
DA107	A	Elevations – Sheet 2	RJP Design	14/06/2021	19/11/2021
DA108	A	Southern Elevation	RJP Design	14/06/2021	19/11/2021
DA109	A	Elevations – Sheet 4	RJP Design	14/06/2021	19/11/2021
DA110	A	Section A/1 – A/1	RJP Design	14/06/2021	19/11/2021
DA111	A	Section – Sheet 2	RJP Design	14/06/2021	19/11/2021
DA200	A	Plan – Proposed Fish Pont	RJP Design	14/06/2021	19/11/2021
DA201	A	Section A/1–A/1 – Proposed Fish Pond	RJP Design	14/06/2021	19/11/2021
DA108	A	Section A/2–A/2 – Proposed Fish Pond	RJP Design	14/06/2021	19/11/2021
DA500	B	Landscape Plan	RJP Design	06/11/2021	19/11/2021
DA501	A	Landscape Plan – Detail Sheet 1	RJP Design	14/06/2021	19/11/2021
DA502	B	Landscape Plan – Detail Sheet 2	RJP Design	06/11/2021	19/11/2021
DA503	A	Landscape Plan – Landscape Notes	RJP Design	14/06/2021	19/11/2021
DA800	A	Schedule of Colours & Finishes	RJP Design	14/06/2021	19/11/2021

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

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**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)*****Dilapidation Report Damage to Public Infrastructure**

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

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

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

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

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

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

- C2. A photographic survey and dilapidation report of adjoining properties Nos. 13 and 15 Lower Wycombe Road 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 of Existing Building**

- C3. 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**

- C4. 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.

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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**

C5. 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)**

- C6. The finishes, materials and exterior colours shall be complementary to the architectural style of the original building and sympathetic to the character of the Conservation Area. A schedule of finishes, materials and external colours shall be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

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

**Work Zone**

- C7. 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)

**Driveway and Vehicular Access**

- C8. The proposed footpath boundary levels must match the level of the existing footpath boundary levels and if the internal parking slab levels are modified in order to accommodate the proposed turntable, any change to the existing driveway access must not cause scraping to the underside of vehicles and must be contained wholly within the subject property

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

(Reason: To maintain an acceptable vehicular access to the site.)

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

- C9. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$2,500.00 to be held by Council for the payment of cost for any/all of the following:
- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
  - b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with this consent.
  - c) remedying any defects in any such public work that arise within six months after the work is completed.

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

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

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

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

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

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**Tree Bond for Public Trees**

- C10. Prior to the issue of any construction certificate, security in the sum of \$14,000.00 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

Tree Species	Location	Bond
T1 <i>Tristaniaopsis laurina</i> (6x6m)	Council verge in front of 15A Lower Wycombe Road.	\$14,000
T2 <i>Sapium sebiferum</i> (6.5x8m)		

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

**Tree Protection Measures**

- C11. The tree protection measures contained in the arborist report prepared by Landscape Matrix (Guy Paroissien), dated 19 August 2021, and received by Council on 19 November 2021, shall be shown clearly on the Construction Certificate drawings. Plans and specifications showing the said tree protection measures must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

To ensure the protection of all trees to be retained, the following measures are also to be undertaken:

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- a) All documentation for the Construction Certificate application must show the site trees to be retained, and retention of the adjoining trees, with their positions and diameters of trunks and crowns (canopies) to be clearly and accurately shown in relation to all levels of the proposed development.
- b) Strict adherence to the tree protection and management requirements detailed in the arborist report prepared by Landscape Matrix, dated 19 August 2021, and received by Council on 19 November 2021, shall be observed at all times.
- c) Sensitive construction techniques including hand excavation, pier and beam construction, and flexible location of piers shall be carried out within the TPZ of any protected tree. No pruning of any protected tree is permitted.
- d) A project arborist shall be appointed and shall supervise all excavation and construction works within the TPZ of any protected tree.

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

(Reason: To ensure the protection of significant trees, and that appropriate tree protection measures are shown on construction drawings)

**Protection of Trees**

- C12. 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, and as per recommendation of the arborist report prepared by Landscape Matrix, dated 19 August 2021:

Tree	Location	Height
T1 <i>Tristaniopsis laurina</i>	Council verge in front of 15A Lower Wycombe Road.	6x6m
T2 <i>Sapium sebiferum</i>	Council verge in front of 15A Lower Wycombe Road.	6.5x8m
T3 <i>Washingtonia robusta</i>	Rear setback of 15A Lower Wycombe Road.	16x4m
T4 <i>Acmena smithii</i>	Rear setback of 15A Lower Wycombe Road.	6x5-7m
T5 <i>Washingtonia robusta</i>	Rear setback of 15A Lower Wycombe Road.	19x4m
T6 <i>Ficus obliqua</i>	Rear setback of 15A Lower Wycombe Road.	16x22m

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.

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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**

C13. 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**

C14. 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)

**Heritage Requirements**

C15. Details demonstrating compliance with the following are to be submitted with the Construction Certificate:

**a) Southern Gable-end Window**

The new gable end window on the rear southern elevation at the second floor level must be no wider than the existing window to be replaced on the gable end. This window must be timber-framed and have a glazing that is vertical in profile.

**b) New Windows and Doors**

New windows and doors on the northern and southern elevations shall be timber framed. All other new windows and doors are to have aluminium or steel framing sections of a width 45mm or wider, or are to be timber framed.

**c) Roof Sheeting**

The new metal roof planes with a pitch greater than 2° are to have a traditional corrugated roof profile equal to Custom Orb. No approval is given for min-orb or tray profile roof sheeting on these planes.

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

(Reason: To ensure the use of materials is consistent and sympathetic to the character of the conservation area and the original dwelling)

**Section 7.12 Development Contributions**

C16. A monetary contribution pursuant to the provisions of Section 7.12 of the Environmental Planning and Assessment Act 1979 is to be paid to Council, in accordance with the North Sydney Council's Contribution Plan. Based on the cost of development a total contribution of **\$5,890.00** is to be paid to Council to provide for additional local infrastructure improvements.

The contribution MUST BE paid prior to the issue of any Construction Certificate.

The above amount will be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution.

A copy of the North Sydney Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at [www.northsydney.nsw.gov.au](http://www.northsydney.nsw.gov.au)

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

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**Security Deposit/Guarantee Schedule**

- C17. 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)	\$14,000.00
Footpath Damage Bond	\$2,500.00
<b>TOTAL BONDS</b>	<b>\$16,500.00</b>

Note: The following fees applicable

<b>Fees</b>	
Section 7.12 Development Contributions	\$5,890.00
<b>TOTAL FEES</b>	<b>\$5,890.00</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**

- C18. 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. A364062, dated 9 September 2021 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)

**Landscape Amendments**

- C19. The site plan and landscape plan must be amended as follows to provide an appropriate landscaped setting and to demonstrate an improved level of compliance with the landscaped area and unbuilt-upon area controls:
- 1) A portion of the paved areas located within the rear garden, to an area of approximately 21m<sup>2</sup>, must be converted into lawn, garden beds, planters, or some other form of soft landscaping.

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

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

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

**Protection of Public Trees**

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

Tree	Location	Protection
T1 <i>Tristaniopsis laurina</i> (6x6m)	Council verge in front of 15A Lower Wycombe Road.	1.8m-high steel mesh tree protection fencing.
T2 <i>Sapium sebiferum</i> (6.5x8m)	Council verge in front of 15A Lower Wycombe Road.	1.8m-high steel mesh tree protection fencing.

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

(Reason: Protection of existing environmental and community assets)

**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 as per Condition C12 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.

All protected trees shall be protected in accordance with AS4970, sensitive construction techniques shall be carried out within the TPZ of any protected tree. No pruning shall be permitted to any protected tree.

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: -

(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)

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DEVELOPMENT APPLICATION NO. 395/21**Page 15 of 27

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**Removal of Extra Fabric**

- E4. 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**

- E5. 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**

- E6. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

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

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

- E7. 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)

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**No Removal of Trees on Public Property**

- E8. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

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

**Protection of Trees**

- E9. All trees required to be retained, as part of this consent must be protected from any damage during construction works in accordance with AS4970-2009. All recommendations contained within the arborist report prepared by Landscape Matrix, dated 19 August 2021, and received by Council on 19 November 2021, must be implemented for the duration of the works.

Sensitive construction techniques shall be carried out within the TPZ of any protected tree. No pruning to any protected tree shall be permitted.

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

Notes:

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

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

**Special Permits**

- E10. 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)

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**Construction Hours**

- E11. Construction activities and works approved under this consent must be carried out only within the hours stipulated in the following table:

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

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

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

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

**Installation and Maintenance of Sediment Control**

- E12. 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**

- E13. 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)

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**Site Amenities and Facilities**

- E14. 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**

- E15. 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**

- E16. 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**

- E17. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

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

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

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**Waste Disposal**

E18. 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**

E19. 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:



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- (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)

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**Occupation Certificate**

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

(Reason: Statutory)

**Mandatory Critical Stage Inspections**

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

(Reason: Statutory)

**Excavation/Demolition**

- F7. 1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- 2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- 3) Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.

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

**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.

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- 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)

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**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)

**Certification of Tree Condition**

- G4. Prior to the issue of an Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Certifying Authority, describing the health of the tree(s) specifically nominated below:

Tree	Location	Height
T1 <i>Tristaniopsis laurina</i>	Council verge in front of 15A Lower Wycombe Road.	6x6m
T2 <i>Sapium sebiferum</i>	Council verge in front of 15A Lower Wycombe Road.	6.5x8m
T3 <i>Washingtonia robusta</i>	Rear setback of 15A Lower Wycombe Road.	16x4m
T4 <i>Acmena smithii</i>	Rear setback of 15A Lower Wycombe Road.	6x5-7m
T5 <i>Washingtonia robusta</i>	Rear setback of 15A Lower Wycombe Road.	19x4m
T6 <i>Ficus obliqua</i>	Rear setback of 15A Lower Wycombe Road.	16x22m

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

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

**BASIX Completion Certificate**

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 in the approved landscape plans numbered DA500 (Rev. B Dated 6 November 2021), DA501 (Rev. A dated 14 June 2021), DA502 (Rev. B dated 6 November 2021), and DA503 (Rev. A dated 14 June 2021), prepared by RJP Design must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

**Damage to Adjoining Properties**

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

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

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

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

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

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

**Unpaved Verge**

G8. The unpaved verge area must be constructed/reconstructed with an appropriate species of grass prior to completion of the works at no cost to Council.

(Reason: To ensure that community assets are presented in accordance with reasonable community expectations)

**Compliance with Certain conditions**

G9. Prior to the issue of any Occupation Certificate, Condition C15 (Heritage Requirements) 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)

**Maintenance of Approved Landscaping**

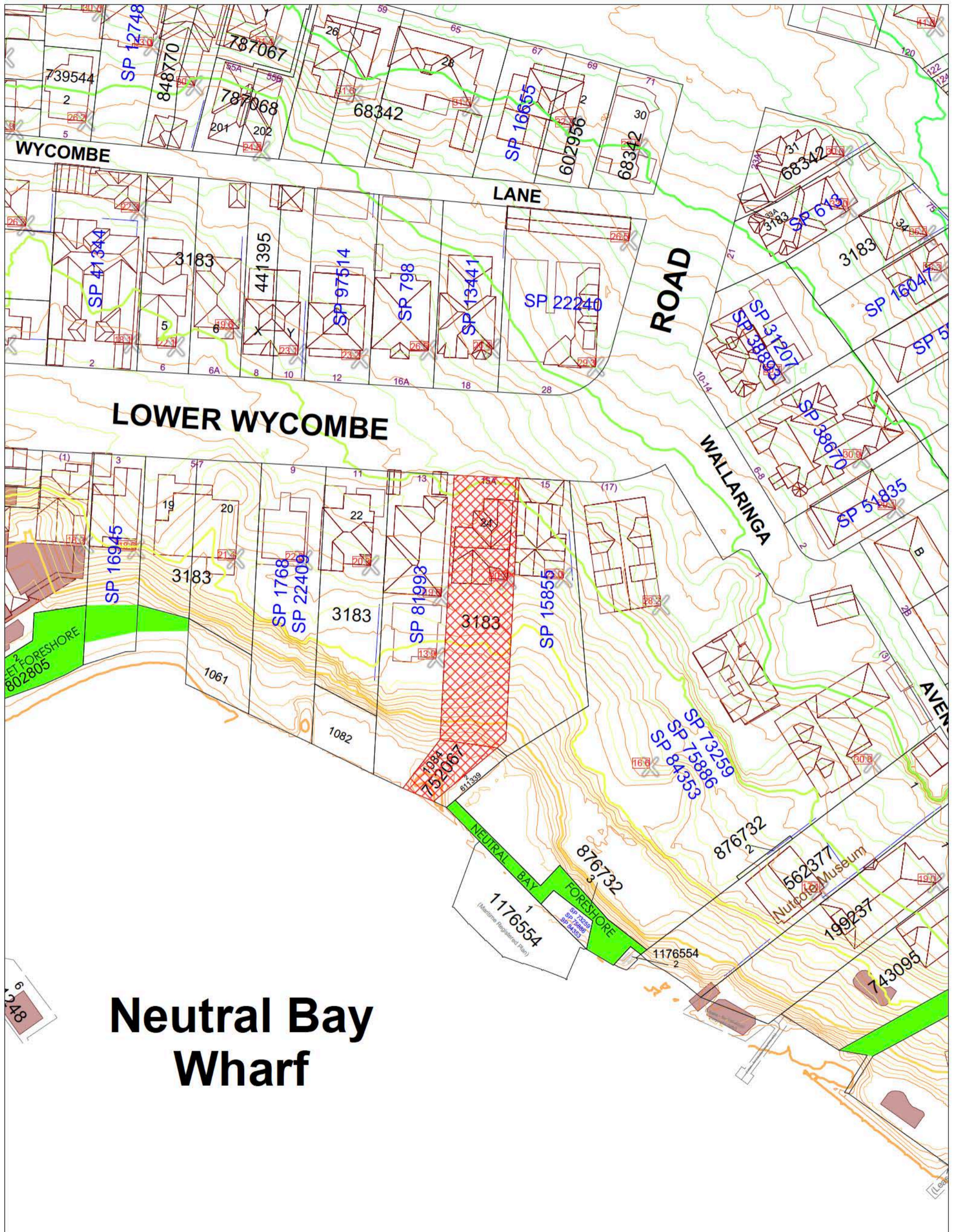
I2. The owner of the premises at 15A Lower Wycombe Road, Neutral Bay is to maintain the landscaping approved by this consent generally in accordance with the landscape plans numbered DA500 (Rev. B dated 6 November 2021), DA501 (Rev. A dated 14 June 2021), DA502 (Rev. B dated 6 November 2021), and DA503 (Rev. A dated 14 June 2021), prepared by RJP Design.

**15A LOWER WYCOMBE ROAD, NEUTRAL BAY  
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Any replacement plants required shall be advanced in growth and be selected to maintain the anticipated mature height, canopy density and nature of those plant species as originally approved.

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



# Neutral Bay Wharf



## North Sydney Council

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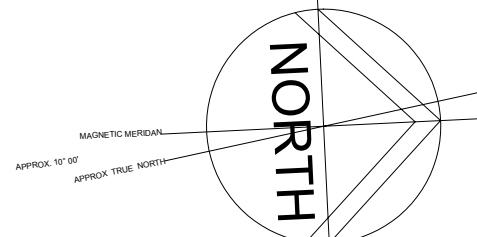
Further details can be obtained by calling (02) 9936 8100 or e-mail [mapping@northsydney.nsw.gov.au](mailto:mapping@northsydney.nsw.gov.au).



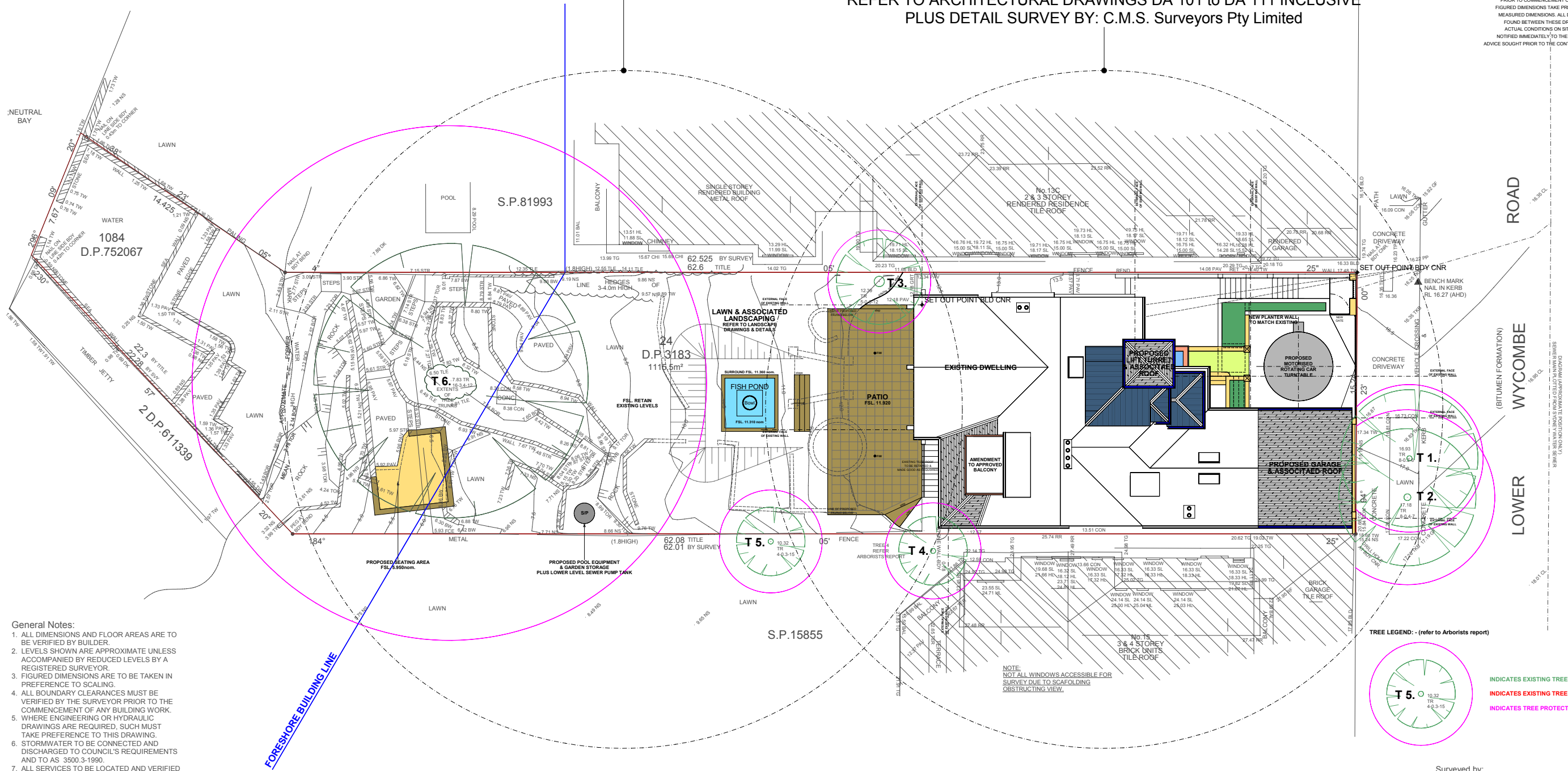


SUBJECT OF THIS DEVELOPMENT APPLICATION  
 PROPOSED ALTERATIONS & ADDITIONS TO THIS EXISTING RESIDENCE  
 REFER TO ARCHITECTURAL DRAWINGS DA 200 TO DA 202 INCLUSIVE

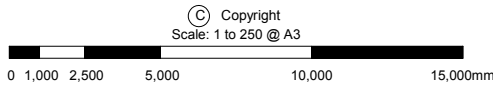
SUBJECT OF THIS DEVELOPMENT APPLICATION  
 PROPOSED ALTERATIONS & ADDITIONS TO THIS EXISTING RESIDENCE  
 REFER TO ARCHITECTURAL DRAWINGS DA 101 TO DA 111 INCLUSIVE  
 PLUS DETAIL SURVEY BY: C.M.S. Surveyors Pty Limited



DO NOT SCALE DIMENSIONS.  
 ALL DIMENSIONS ARE TO BE VERIFIED ON SITE  
 PRIOR TO COMMENCEMENT OF ANY WORKS.  
 FIGURED DIMENSIONS TAKE PRECEDENCE OVER  
 MEASURED DIMENSIONS. ALL DISCREPANCIES  
 FOUND BETWEEN THESE DRAWINGS AND  
 ACTUAL CONDITIONS ON SITE ARE TO BE  
 NOTIFIED IMMEDIATELY TO THE ARCHITECT AND  
 ADVISE SOUGHT PRIOR TO THE CONTINUATION OF WORKS.



- General Notes:
1. ALL DIMENSIONS AND FLOOR AREAS ARE TO BE VERIFIED BY BUILDER.
  2. LEVELS SHOWN ARE APPROXIMATE UNLESS ACCOMPANIED BY REDUCED LEVELS BY A REGISTERED SURVEYOR.
  3. FIGURED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCALING.
  4. ALL BOUNDARY CLEARANCES MUST BE VERIFIED BY THE SURVEYOR PRIOR TO THE COMMENCEMENT OF ANY BUILDING WORK.
  5. WHERE ENGINEERING OR HYDRAULIC DRAWINGS ARE REQUIRED, SUCH MUST TAKE PREFERENCE TO THIS DRAWING.
  6. STORMWATER TO BE CONNECTED AND DISCHARGED TO COUNCIL'S REQUIREMENTS AND TO AS 3500.3-1990.
  7. ALL SERVICES TO BE LOCATED AND VERIFIED BY THE BUILDER WITH THE RELEVANT AUTHORITIES PRIOR TO THE COMMENCEMENT OF ANY BUILDING WORKS.



Note: Stormwater from the proposed alterations & additions is to be connected to the existing Approved Stormwater System  
**OVERALL SUBJECT SITE - SITE & ROOF PLAN**

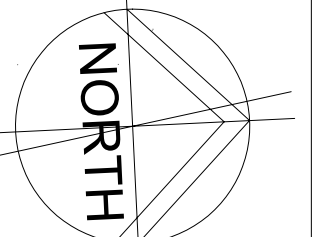
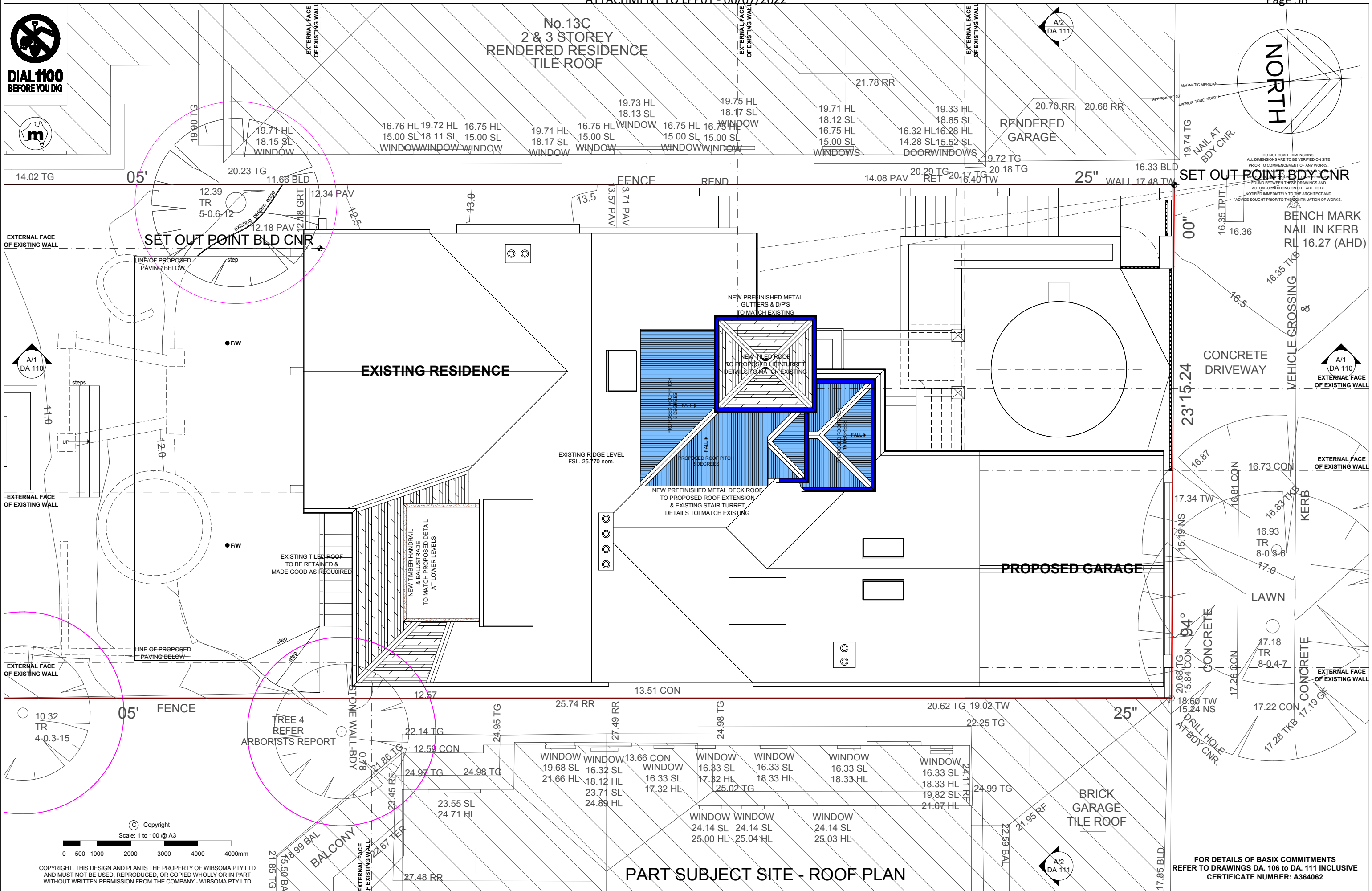
Surveyed by:  
**C.M.S. Surveyors Pty Limited**  
 SURVEYORS  
 ACN: 096 240 201  
 PO Box 463 Dee Why NSW 2099  
 2099 South Creek Road, Dee Why NSW 2099  
 Telephone: (02) 9971 4822  
 Facsimile: (02) 9971 4822  
 E-mail: info@cmsurveyors.com.au

FOR DETAILS OF BASIX COMMITMENTS  
 REFER TO DRAWINGS DA. 106 TO DA. 111 INCLUSIVE  
 CERTIFICATE NUMBER: A364062

ISSUE		<p style="text-align: center;"><b>ISSUED DEVELOPMENT APPLICATION APPROVAL</b></p>	TITLE		<p style="text-align: center;"><b>PROPOSED ALTERATIONS &amp; ADDITIONS TO EXISTING RESIDENCE</b></p>	DOCUMENTATION		SITE		
B	TIDAL POOL REFERENCE REMOVED ISSUED FOR DEVELOPMENT APPLICATION APPROVAL		06/11/2021	CLIENT		<p style="text-align: center;"><b>Mr. A &amp; Mrs. D Laykoski</b></p>	<p>Wilsboma Pty Ltd trading as RJP Design                  PO Box 186 Pymble B/C 2073 NSW                  ABN: 71 002 429 236                  ACN: 002 429 236                  E: bob@rjpdesign.com.au                  P: 0403 886 502</p>	15A LOWER WYCOMBE ROAD, NEUTRAL BAY, NSW. 2089 BEING LOT 24 IN D.P.3183		
A	ISSUED FOR DEVELOPMENT APPLICATION APPROVAL		14/06/2021	DATE		<p style="text-align: center;"><b>ARCHITECTURAL DESIGN SOLUTIONS</b></p>		SCALE	DRAWN	CHECKED
						1 to 250 @ A3	R.P.	R.B.	J.E.A.	JUNE 21
								JOB	REV.	
								LAYKOSKI	DA. 100	B



DIAL 110 BEFORE YOU DIG



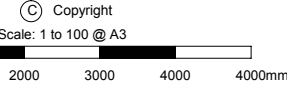
DO NOT SCALE DIMENSIONS. ALL DIMENSIONS ARE TO BE VERIFIED ON SITE PRIOR TO COMMENCEMENT OF ANY WORKS.

BENCH MARK NAIL IN KERB RL 16.27 (AHD)

VEHICLE CROSSING & CONCRETE DRIVEWAY

LAWN, CONCRETE, KERB, DRILL HOLE AT BLDY CNR.

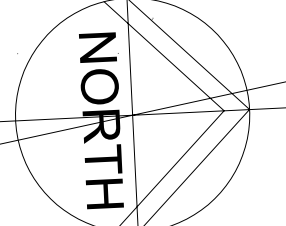
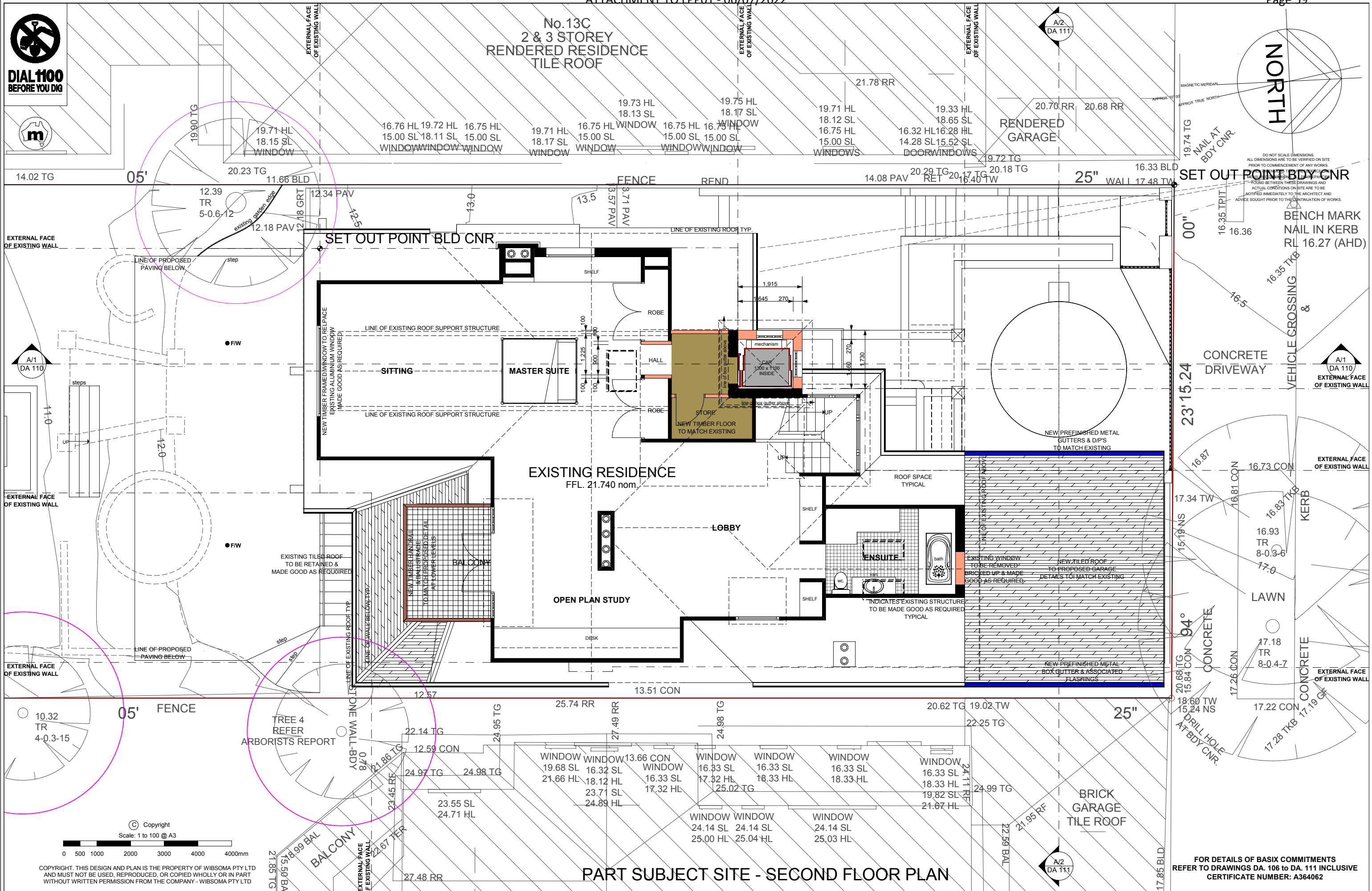
FOR DETAILS OF BASIX COMMITMENTS REFER TO DRAWINGS DA. 106 TO DA. 111 INCLUSIVE CERTIFICATE NUMBER: A364062



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PART SUBJECT SITE - ROOF PLAN

ISSUE	TITLE	DOCUMENTATION	SITE
	PROPOSED ALTERATIONS & ADDITIONS TO EXISTING RESIDENCE	RJP Design ARCHITECTURAL DESIGN SOLUTIONS	15A LOWER WYCOMBE ROAD, NEUTRAL BAY, NSW. 2089 BEING LOT 24 IN D.P.3183
ISSUED DEVELOPMENT APPLICATION APPROVAL	CLIENT	Wibsoma Pty Ltd trading as RJP Design PO Box 186 Pymble B/C 2073 NSW ABN: 71 002 429 236 ACN: 002 429 236 E: bob@rjpdesign.com.au P: 0403 896 502	SCALE 1 to 100 @ A3
DATE	Mr. A & Mrs. D Laykoski	ARCHITECTURAL DESIGN SOLUTIONS	DRAWN R.P. CHECKED R.B. APPROVED J.E.A. DATE JUNE 21
			JOB LAYKOSKI DWG NO. DA. 101 REV. A



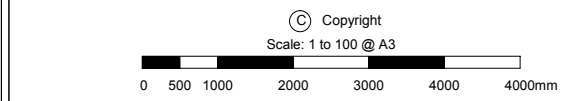
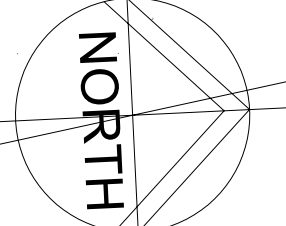
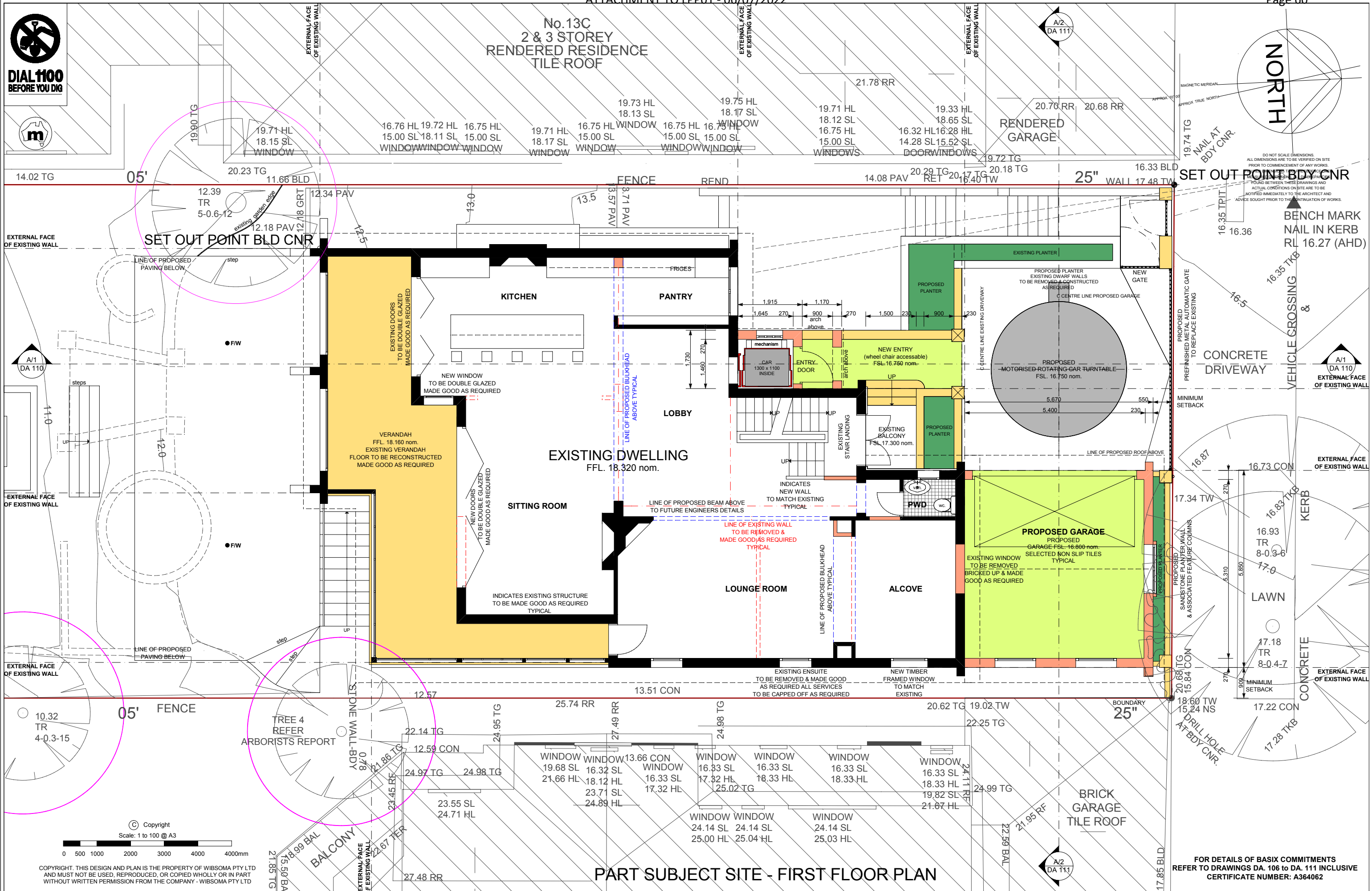
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**PART SUBJECT SITE - SECOND FLOOR PLAN**

FOR DETAILS OF BASIX COMMITMENTS REFER TO DRAWINGS DA. 106 to DA. 111 INCLUSIVE CERTIFICATE NUMBER: A364062

ISSUE		TITLE		DOCUMENTATION		SITE	
ISSUED FOR DEVELOPMENT APPLICATION APPROVAL		PROPOSED ALTERATIONS & ADDITIONS TO EXISTING RESIDENCE		RJP Design ARCHITECTURAL DESIGN SOLUTIONS		15A LOWER WYCOMBE ROAD, NEUTRAL BAY, NSW. 2089 BEING LOT 24 IN D.P.3183	
DATE		CLIENT		Wbsoma Pty Ltd trading as RJP Design PO Box 186 Pymble B/C 2073 NSW ABN: 71 002 429 236 ACN: 002 429 236 E: bob@rjpdesign.com.au P: 0403 896 502		SCALE DRAWN CHECKED APPROVED DATE 1 to 100 @ A3 R.P. R.B. J.E.A. JUNE 21	
DATE		Mr. A & Mrs. D Laykoski		JOB		REV. DATE	
DATE				LAYKOSKI		DA. 102 A	



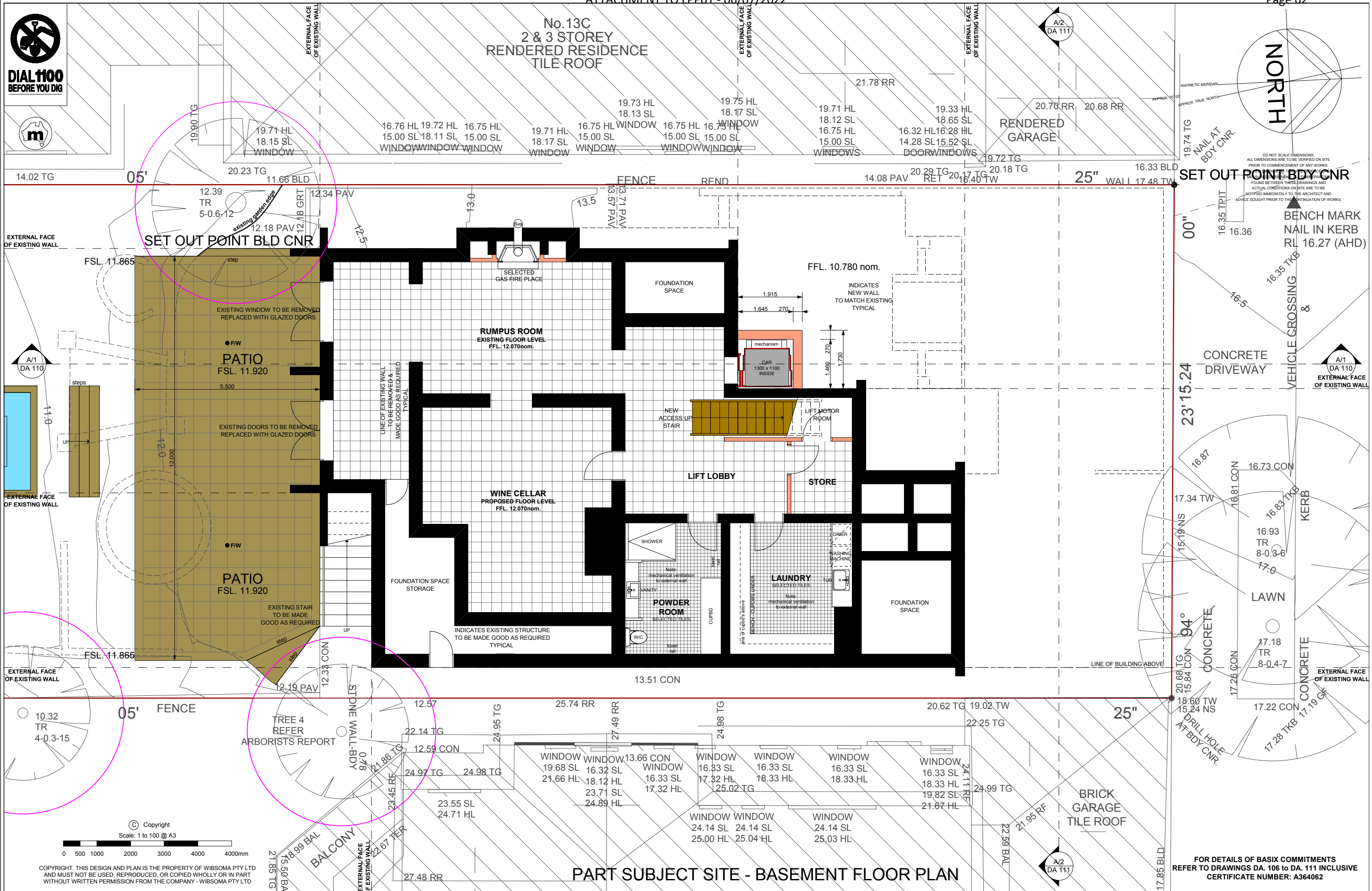
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**PART SUBJECT SITE - FIRST FLOOR PLAN**

**FOR DETAILS OF BASIX COMMITMENTS REFER TO DRAWINGS DA. 106 to DA. 111 INCLUSIVE CERTIFICATE NUMBER: A364062**

<p>ISSUE</p> <p><b>ISSUED DEVELOPMENT APPLICATION APPROVAL</b></p> <p>DATE: 14/06/2021</p>	<p>TITLE</p> <p><b>PROPOSED ALTERATIONS &amp; ADDITIONS TO EXISTING RESIDENCE</b></p> <p>CLIENT</p> <p><b>Mr. A &amp; Mrs. D Laykoski</b></p>	<p>DOCUMENTATION</p> <p><b>RJP Design</b> ARCHITECTURAL DESIGN SOLUTIONS</p> <p>Wbsoma Pty Ltd trading as RJP Design PO Box 186 Pymble B/C 2073 NSW ABN: 71 002 429 236 ACN: 002 429 236 E: bob@rjpdesign.com.au P: 0403 886 502</p>	<p>SITE</p> <p>15A LOWER WYCOMBE ROAD, NEUTRAL BAY, NSW. 2089 BEING LOT 24 IN D.P.3183</p> <p>SCALE: 1 to 100 @ A3</p> <p>DRAWN: R.P.</p> <p>CHECKED: R.B.</p> <p>APPROVED: J.E.A.</p> <p>DATE: JUNE 21</p> <p>JOB: LAYKOSKI</p> <p>REV. A</p>
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BENCH MARK NAIL IN KERB RL 16.27 (AHD)

VEHICLE CROSSING & CONCRETE DRIVEWAY

CONCRETE DRIVEWAY

CONCRETE DRIVEWAY

CONCRETE DRIVEWAY

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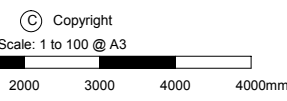
CONCRETE DRIVEWAY

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CONCRETE DRIVEWAY



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PART SUBJECT SITE - BASEMENT FLOOR PLAN

FOR DETAILS OF BASIX COMMITMENTS REFER TO DRAWINGS DA. 106 TO DA. 111 INCLUSIVE CERTIFICATE NUMBER: A364062

ISSUE	DATE
A	14/06/2021
ISSUED FOR DEVELOPMENT APPLICATION APPROVAL	
DATE	

ISSUED DEVELOPMENT APPLICATION APPROVAL

TITLE  
PROPOSED ALTERATIONS & ADDITIONS TO EXISTING RESIDENCE

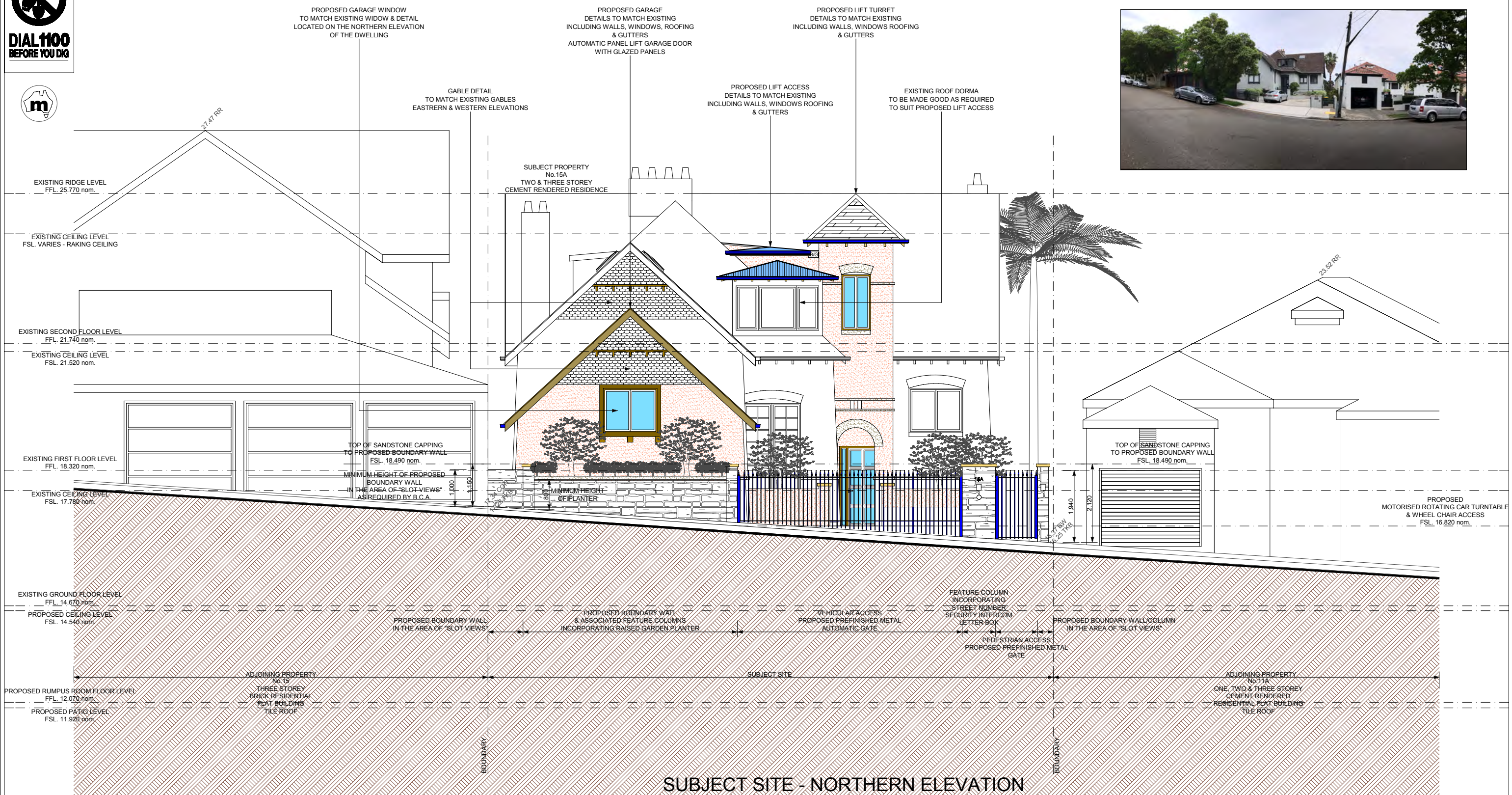
CLIENT  
Mr. A & Mrs. D Laykoski

DOCUMENTATION

Wbsoma Pty Ltd trading as RJP Design  
PO Box 186 Pymble B/C 2073 NSW  
ABN: 71 002 429 236  
ACN: 002 429 236  
E: bob@rjpdesign.com.au  
P: 0403 896 502

ARCHITECTURAL DESIGN SOLUTIONS

SITE	SCALE	DRAWN	CHECKED	APPROVED	DATE
15A LOWER WYCOMBE ROAD, NEUTRAL BAY, NSW. 2089 BEING LOT 24 IN D.P.3183	1 to 100 @ A3	R.P.	R.B.	J.E.A.	JUNE 21
			DWG NO.	REV.	
		LAYKOSKI	DA. 105	A	



**Scale: 1 to 100 @ A3**

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**Copyright**  
Scale: 1 to 100 @ A3

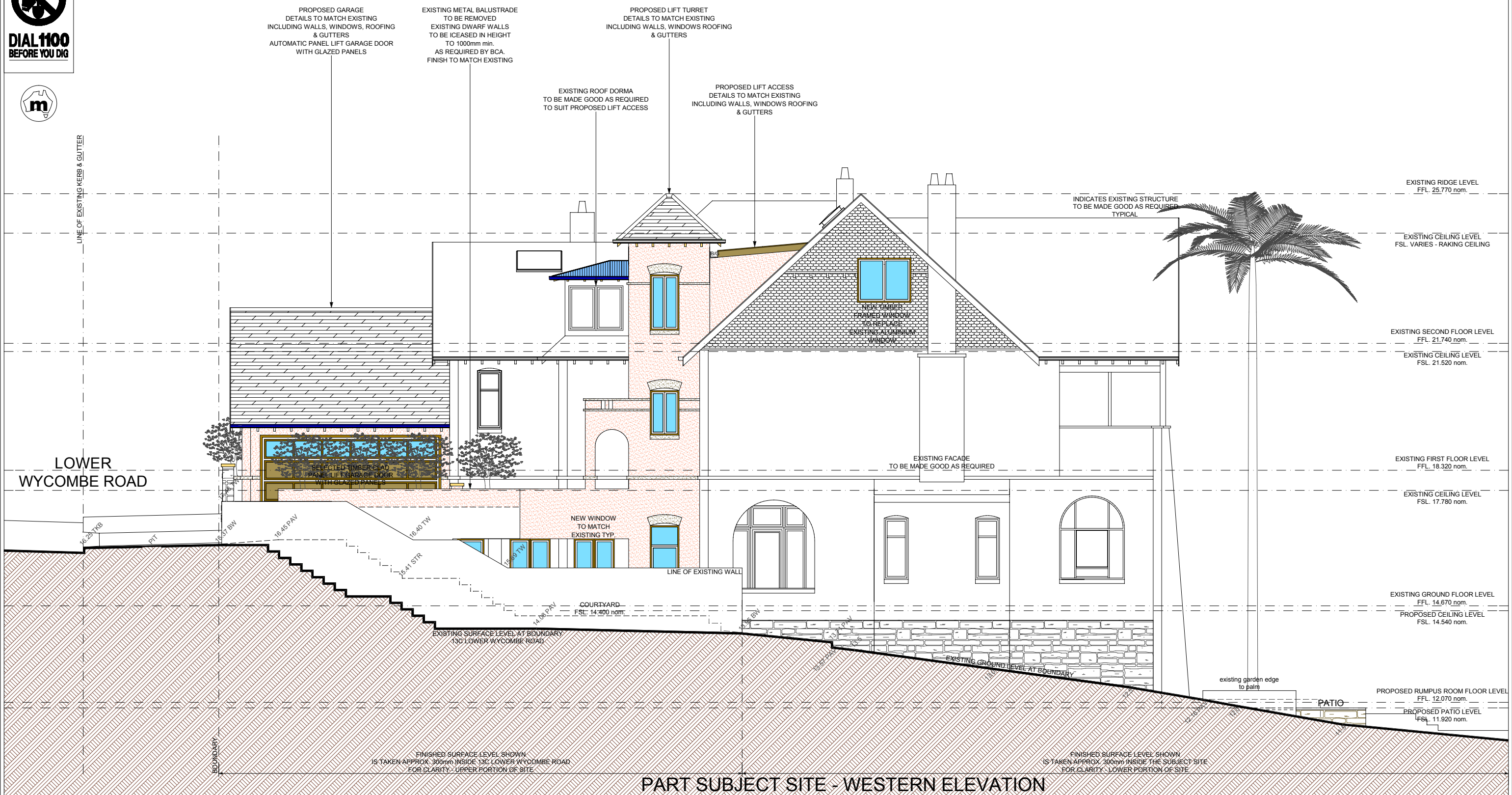
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**PART SUBJECT SITE - ELEVATIONS - SHEET 1.**

ISSUE		TITLE		DOCUMENTATION		SITE	
ISSUED FOR DEVELOPMENT APPLICATION APPROVAL		PROPOSED ALTERATIONS & ADDITIONS TO EXISTING RESIDENCE		RJP Design ARCHITECTURAL DESIGN SOLUTIONS		15A LOWER WYCOMBE ROAD, NEUTRAL BAY, NSW. 2089 BEING LOT 24 IN D.P.3183	
14/06/2021		Mr. A & Mrs. D Laykoski		Wibsoma Pty Ltd trading as RJP Design PO Box 186 Pymble B/C 2073 NSW ABN: 71 002 429 236 ACN: 002 429 236 E: bob@rjpdesign.com.au P: 0403 896 502		SCALE 1 to 100 @ A3	
DATE				ARCHITECTURAL DESIGN SOLUTIONS		DRAWN R.P.	
						CHECKED R.B.	
						APPROVED J.E.A.	
						DATE JUNE 21	
						REV. A	
						JOB LAYKOSKI	
						DWG NO. DA. 106	

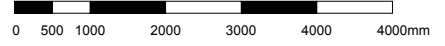


PART SUBJECT SITE - WESTERN ELEVATION



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PART SUBJECT SITE - ELEVATIONS - SHEET 2.

DO NOT SCALE DIMENSIONS. ALL DIMENSIONS ARE TO BE VERIFIED ON SITE PRIOR TO COMMENCEMENT OF ANY WORKS. FIGURED DIMENSIONS TAKE PRECEDENCE OVER MEASURED DIMENSIONS. ALL DISCREPANCIES FOUND BETWEEN THESE DRAWINGS AND ACTUAL CONDITIONS ON SITE ARE TO BE NOTIFIED IMMEDIATELY TO THE ARCHITECT AND ADVICE SOUGHT PRIOR TO THE CONTINUATION OF WORKS.

ISSUE		TITLE		DOCUMENTATION		SITE	
ISSUED DEVELOPMENT APPLICATION APPROVAL		PROPOSED ALTERATIONS & ADDITIONS TO EXISTING RESIDENCE		Wbsoma Pty Ltd trading as RJP Design PO Box 186 Pymble B/C 2073 NSW ABN: 71 002 429 236 ACN: 002 429 236 E: bob@rjpdesign.com.au P: 0403 896 502		15A LOWER WYCOMBE ROAD, NEUTRAL BAY, NSW. 2089 BEING LOT 24 in D.P.3183	
A ISSUED FOR DEVELOPMENT APPLICATION APPROVAL		Mr. A & Mrs. D Laykoski		SCALE 1 to 100 @ A3 DRAWN R.P. CHECKED R.B. APPROVED J.E.A. DATE JUNE 21		DATE JUNE 21 REV. A DWG NO. DA. 107 JOB LAYKOSKI	
DATE							



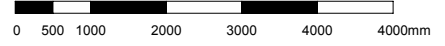


**SUBJECT SITE - SOUTHERN ELEVATION**



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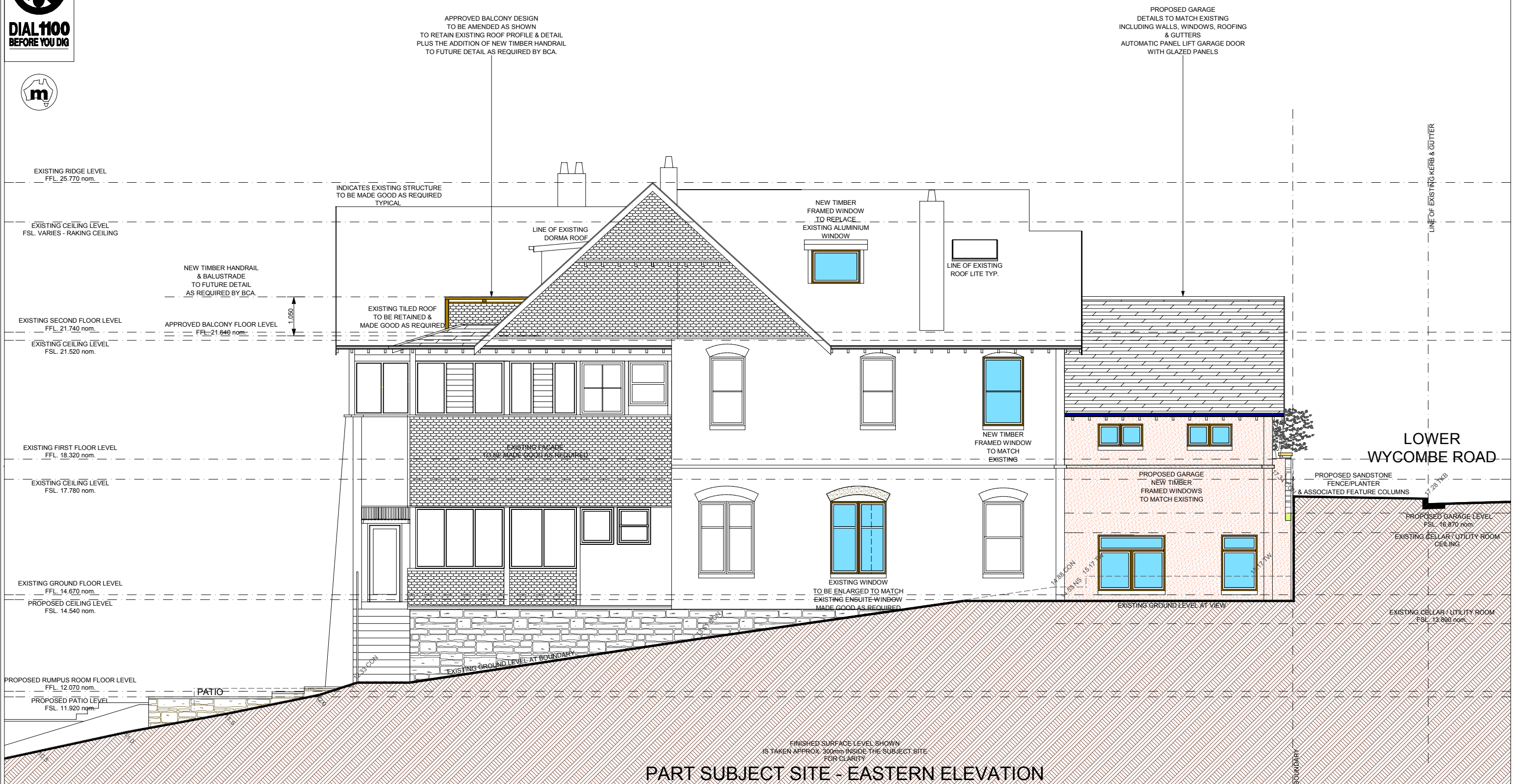


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**PART SUBJECT SITE - ELEVATIONS - SHEET 3.**

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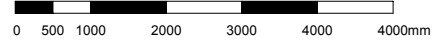
ISSUE		TITLE		DOCUMENTATION		SITE	
ISSUED DEVELOPMENT APPLICATION APPROVAL		PROPOSED ALTERATIONS & ADDITIONS TO EXISTING RESIDENCE		Wbsoma Pty Ltd trading as RJP Design PO Box 186 Pymble B/C 2073 NSW ABN: 71 002 429 236 ACN: 002 429 236 E: bob@rjpdesign.com.au P: 0403 896 502		15A LOWER WYCOMBE ROAD, NEUTRAL BAY, NSW. 2089 BEING LOT 24 IN D.P.3183	
A ISSUED FOR DEVELOPMENT APPLICATION APPROVAL		CLIENT		ARCHITECTURAL DESIGN SOLUTIONS		SCALE 1 to 100 @ A3 DRAWN R.P. CHECKED R.B. APPROVED J.E.A. DATE JUNE 21	
DATE		Mr. A & Mrs. D Laykoski		JOB		REV.	
				LAYKOSKI		DA. 108 A	



PART SUBJECT SITE - EASTERN ELEVATION



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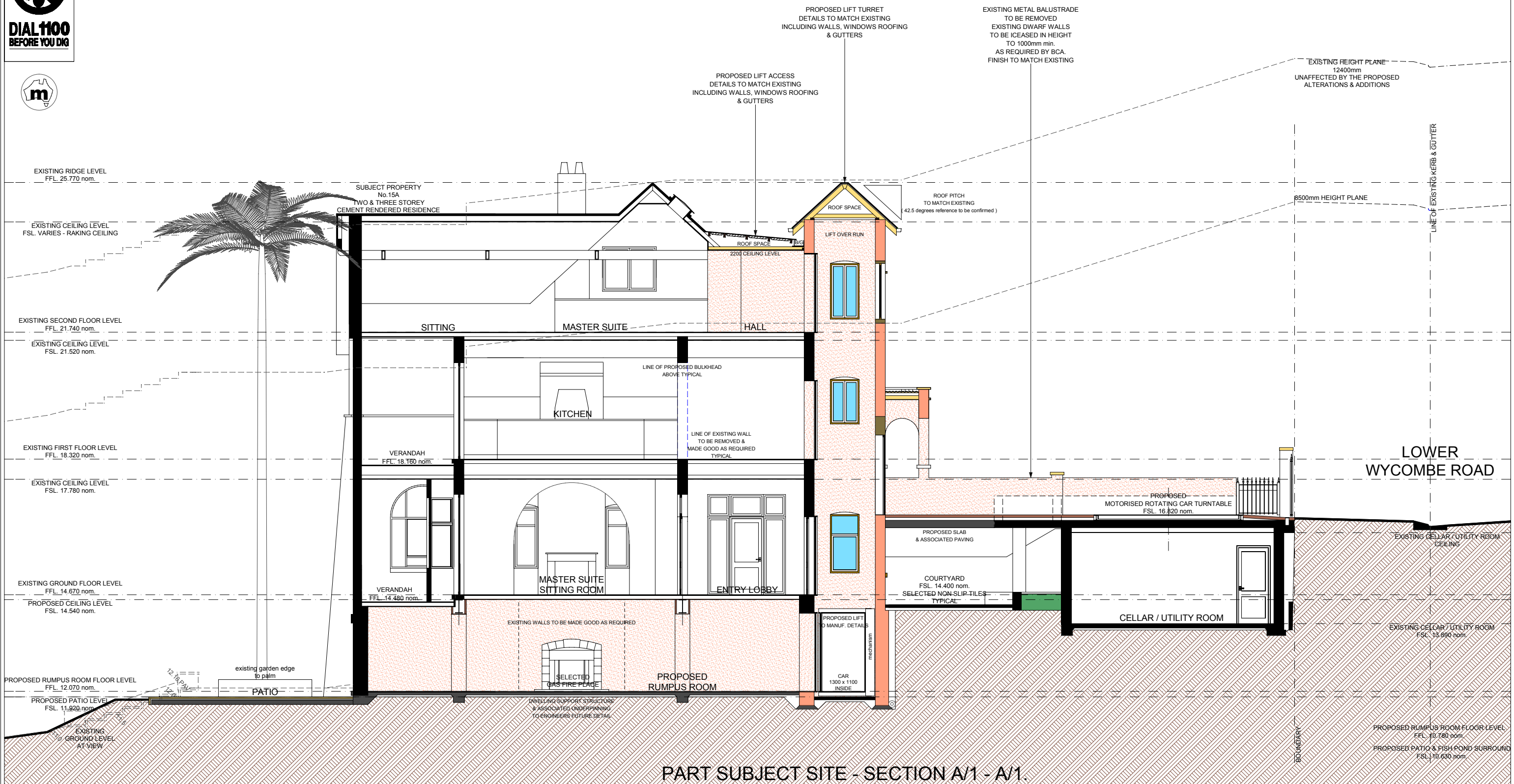


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PART SUBJECT SITE - ELEVATIONS - SHEET 4.

DO NOT SCALE DIMENSIONS. ALL DIMENSIONS ARE TO BE VERIFIED ON SITE PRIOR TO COMMENCEMENT OF ANY WORKS. FIGURED DIMENSIONS TAKE PRECEDENCE OVER MEASURED DIMENSIONS. ALL DISCREPANCIES FOUND BETWEEN THESE DRAWINGS AND ACTUAL CONDITIONS ON SITE ARE TO BE NOTIFIED IMMEDIATELY TO THE ARCHITECT AND ADVICE SOUGHT PRIOR TO THE CONTINUATION OF WORKS.

ISSUE		TITLE		DOCUMENTATION		SITE	
ISSUED DEVELOPMENT APPLICATION APPROVAL		PROPOSED ALTERATIONS & ADDITIONS TO EXISTING RESIDENCE		 Wibsona Pty Ltd trading as RJP Design PO Box 186 Pymble B/C 2073 NSW ABN: 71 002 429 236 ACN: 002 429 236 E: bob@rjpdesign.com.au P: 0403 896 502		15A LOWER WYCOMBE ROAD, NEUTRAL BAY, NSW. 2089 BEING LOT 24 in D.P.3183	
A ISSUED FOR DEVELOPMENT APPLICATION APPROVAL		Mr. A & Mrs. D Laykoski		SCALE 1 to 100 @ A3		DRAWN R.P. CHECKED R.B. APPROVED J.E.A. DATE JUNE 21	
DATE				JOB DWG NO. LAYKOSKI DA. 109		REV. A	



PART SUBJECT SITE - SECTION A/1 - A/1.



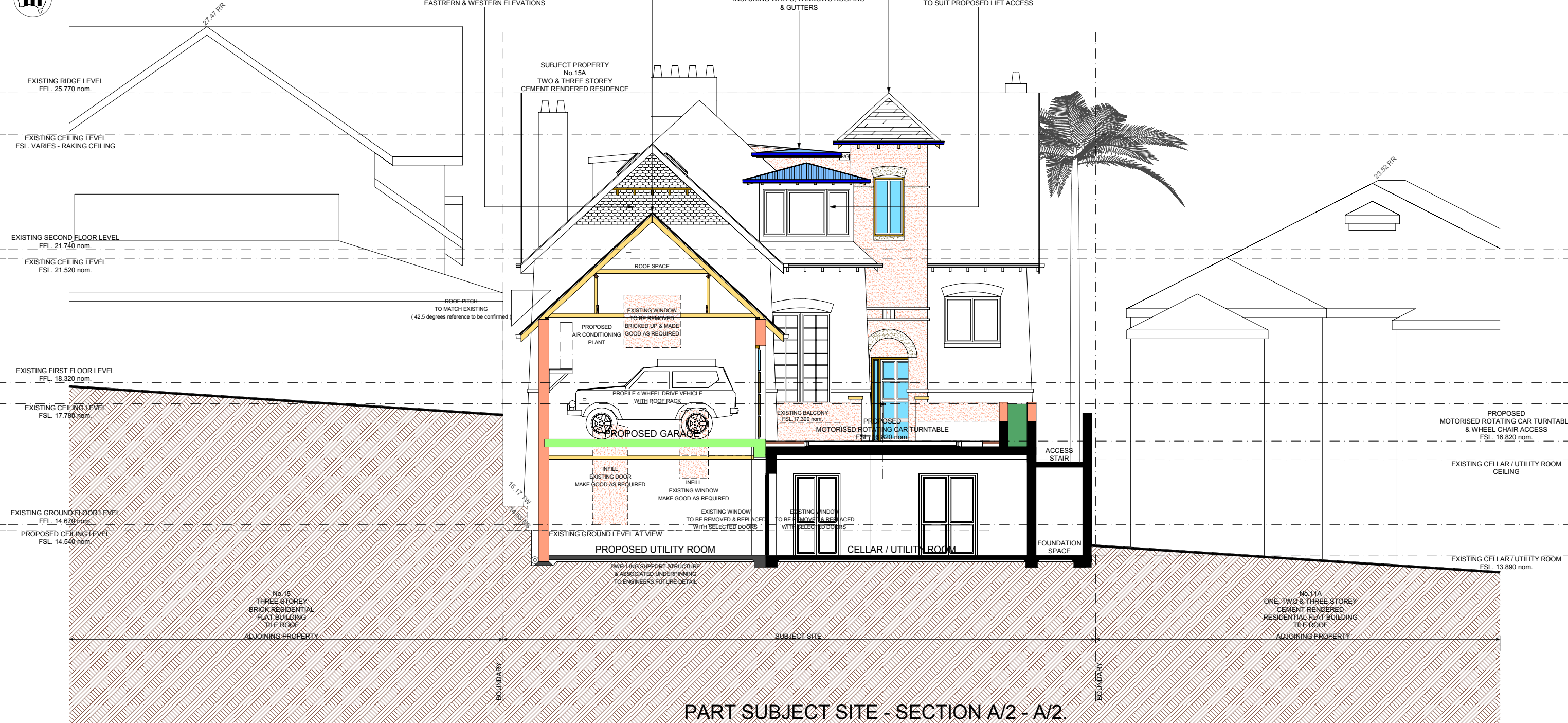
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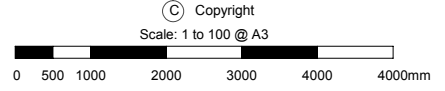
PART SUBJECT SITE - SECTION - SHEET 1.

DO NOT SCALE DIMENSIONS. ALL DIMENSIONS ARE TO BE VERIFIED ON SITE PRIOR TO COMMENCEMENT OF ANY WORKS. FIGURED DIMENSIONS TAKE PRECEDENCE OVER MEASURED DIMENSIONS. ALL DISCREPANCIES FOUND BETWEEN THESE DRAWINGS AND ACTUAL CONDITIONS ON SITE ARE TO BE NOTIFIED IMMEDIATELY TO THE ARCHITECT AND ADVICE SOUGHT PRIOR TO THE CONTINUATION OF WORKS.

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ISSUE	DATE																															
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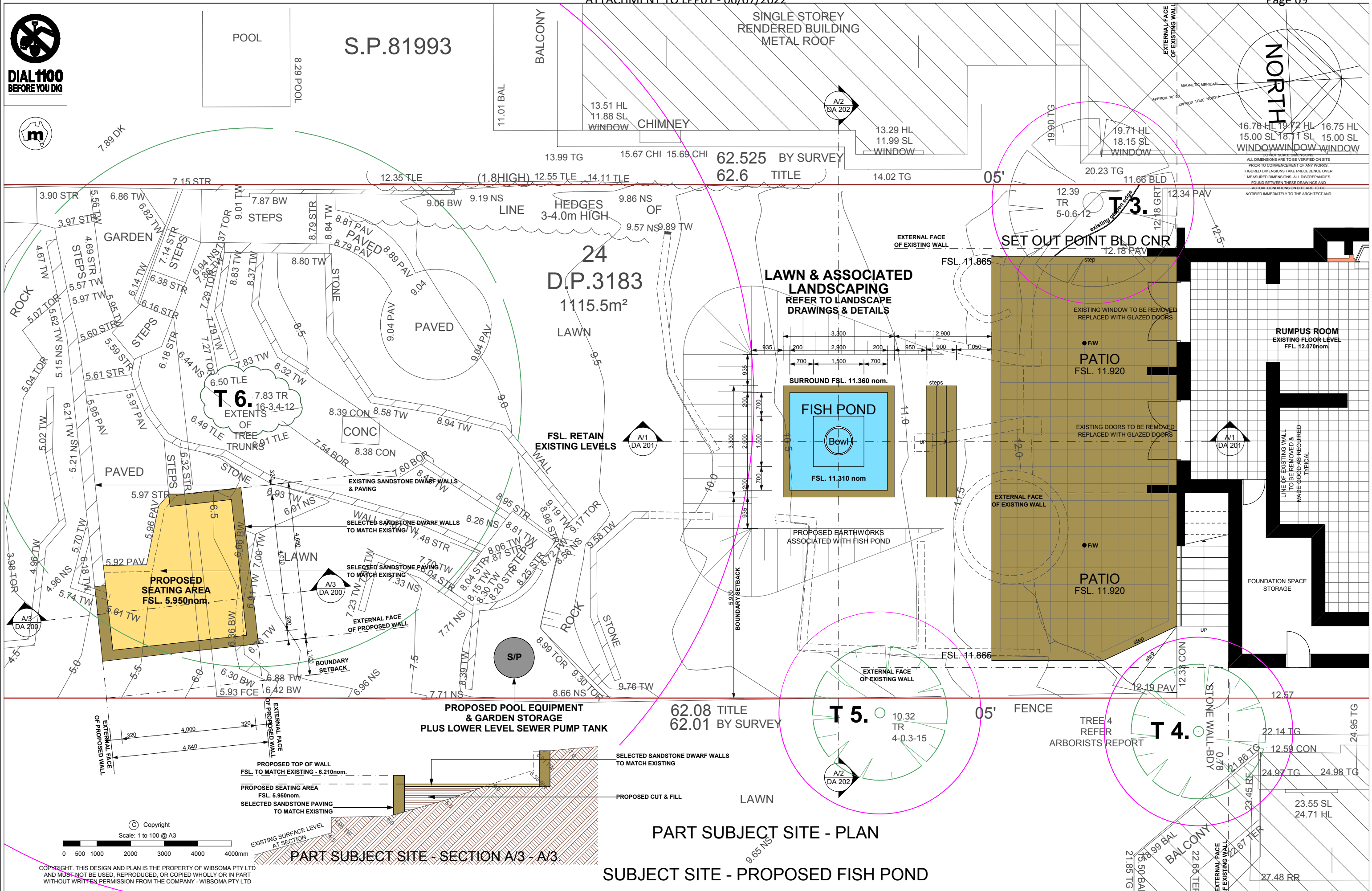
PART SUBJECT SITE - SECTION A/2 - A/2



PART SUBJECT SITE - SECTION - SHEET 2.

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ISSUE		TITLE		DOCUMENTATION		SITE	
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A		Mr. A & Mrs. D Laykoski		SCALE 1 to 100 @ A3 DRAWN R.P. CHECKED R.B. APPROVED J.E.A. DATE JUNE 21 JOB DWG NO. DA. 111 REV. A		SCALE 1 to 100 @ A3 DRAWN R.P. CHECKED R.B. APPROVED J.E.A. DATE JUNE 21 JOB DWG NO. DA. 111 REV. A	
ISSUED FOR DEVELOPMENT APPLICATION APPROVAL		DATE		DATE		DATE	
14/06/2021		DATE		DATE		DATE	

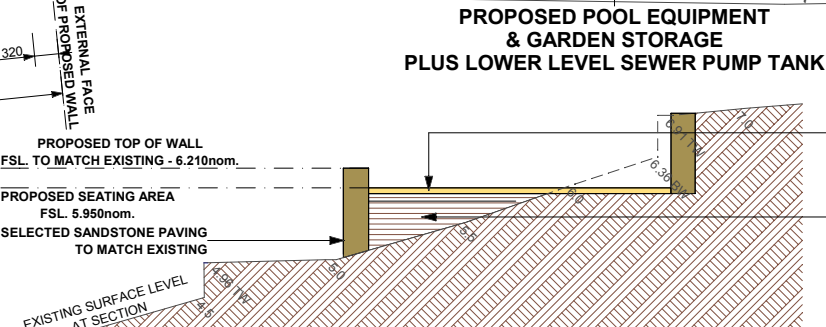


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FROM THESE DRAWINGS ARE  
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NOTIFIED IMMEDIATELY TO THE ARCHITECT AND

PART SUBJECT SITE - PLAN

SUBJECT SITE - PROPOSED FISH POND

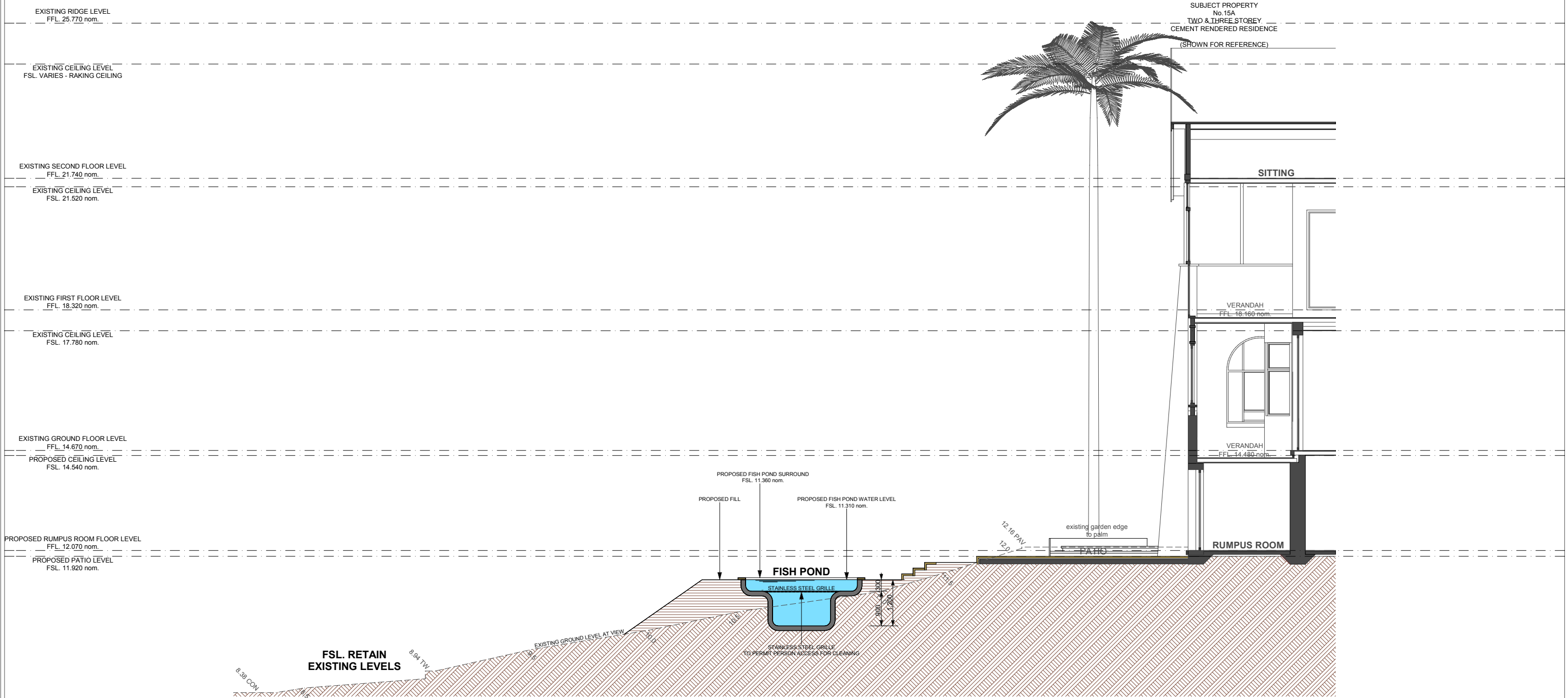
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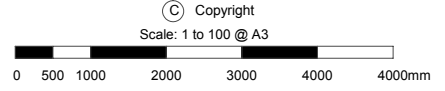
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ISSUE		TITLE		DOCUMENTATION		SITE	
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DATE: 14/06/2021				JOB: LAYKOSKI		REV. A	



PART SUBJECT SITE - SECTION A/1 - A/1.

SUBJECT SITE - PROPOSED FISH POND



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DATE				LAYKOSKI DA. 201		A	

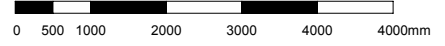


PART SUBJECT SITE - SECTION A/2 - A/2.

SUBJECT SITE - PROPOSED FISH POND

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Scale: 1 to 100 @ A3



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ISSUE	DATE
A	14/06/2021
ISSUED FOR DEVELOPMENT APPLICATION APPROVAL	
DATE	

ISSUED  
DEVELOPMENT APPLICATION  
APPROVAL

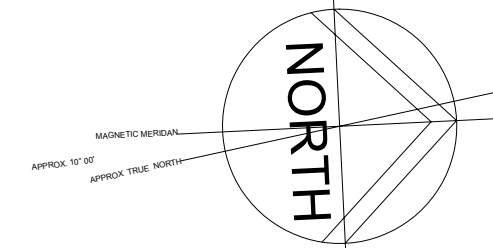
TITLE  
PROPOSED ALTERATIONS & ADDITIONS  
TO EXISTING RESIDENCE

CLIENT  
Mr. A & Mrs. D Laykoski

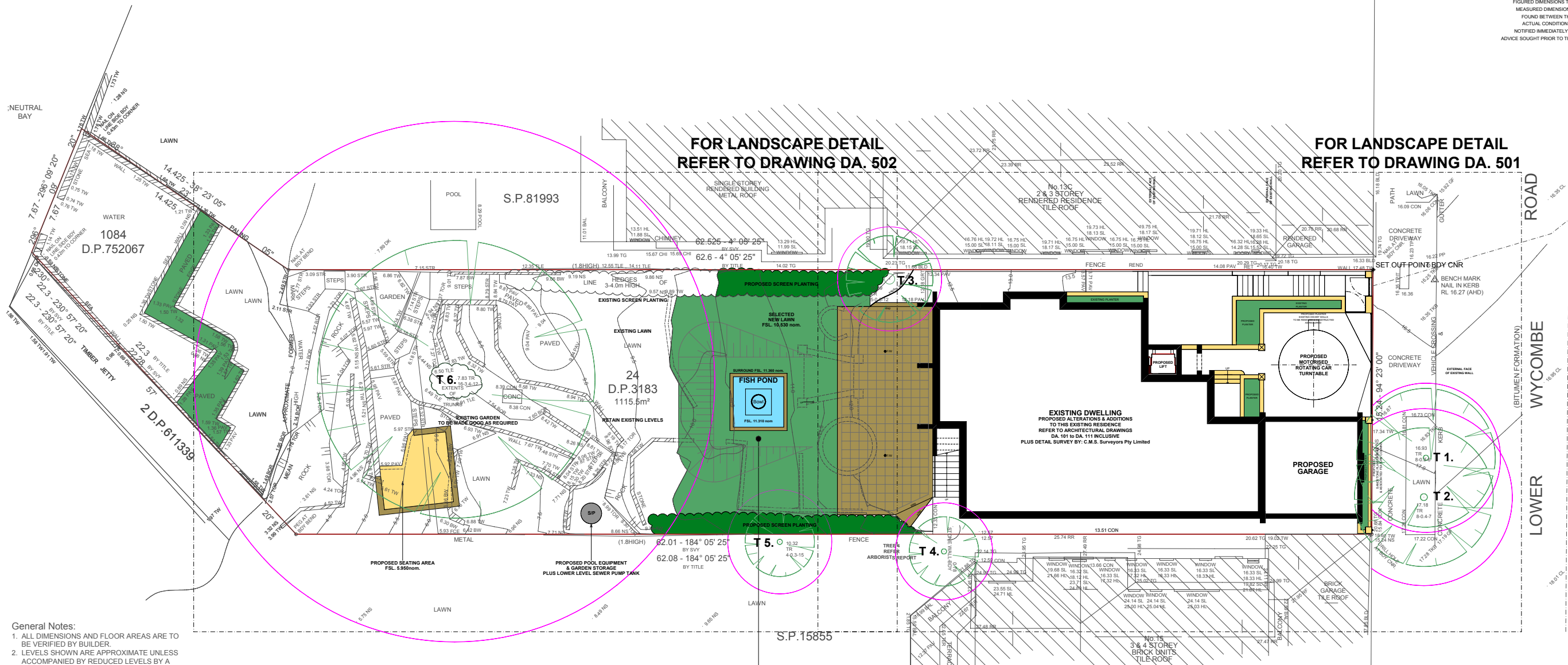
DOCUMENTATION

Wibsoma Pty Ltd trading as RJP Design  
PO Box 186 Pymble B/C 2073 NSW  
ABN: 71 002 429 236  
ACN: 002 429 236  
E: bob@rjpdesign.com.au  
P: 0403 896 502

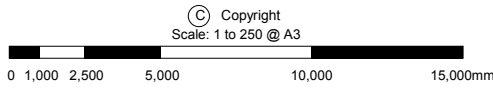
SCALE	DRAWN	CHECKED	APPROVED	DATE
1 to 100 @ A3	R.P.	R.B.	J.E.A.	JUNE 21
JOB	DWG NO.	REV.		
LAYKOSKI	DA. 108	A		



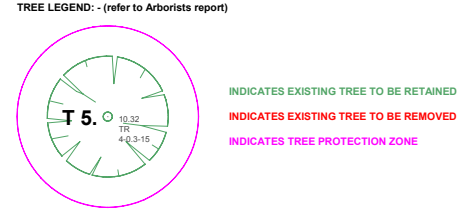
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- General Notes:**
1. ALL DIMENSIONS AND FLOOR AREAS ARE TO BE VERIFIED BY BUILDER.
  2. LEVELS SHOWN ARE APPROXIMATE UNLESS ACCOMPANIED BY REDUCED LEVELS BY A REGISTERED SURVEYOR.
  3. FIGURED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCALING.
  4. ALL BOUNDARY CLEARANCES MUST BE VERIFIED BY THE SURVEYOR PRIOR TO THE COMMENCEMENT OF ANY BUILDING WORK.
  5. WHERE ENGINEERING OR HYDRAULIC DRAWINGS ARE REQUIRED, SUCH MUST TAKE PREFERENCE TO THIS DRAWING.
  6. STORMWATER TO BE CONNECTED AND DISCHARGED TO COUNCIL'S REQUIREMENTS AND TO AS 3500.3-1990.
  7. ALL SERVICES TO BE LOCATED AND VERIFIED BY THE BUILDER WITH THE RELEVANT AUTHORITIES PRIOR TO THE COMMENCEMENT OF ANY BUILDING WORKS.



Note: Stormwater from the proposed alterations & additions is to be connected to the existing Approved Stormwater System  
**OVERALL SUBJECT SITE - LANDSCAPE PLAN**



Surveyed by:  
**C.M.S. Surveyors Pty Limited**  
 ACN: 096 240 201  
 PO Box 463 Dee Why NSW 2099  
 2288 South Creek Road  
 Dee Why NSW 2099  
 Telephone: (02) 9971 4802  
 Facsimile: (02) 9971 4822  
 E-mail: info@cmsurveyors.com.au

ISSUE		TITLE		DOCUMENTATION		SITE	
B	TIDAL POOL REFERENCE REMOVED ISSUED FOR DEVELOPMENT APPLICATION APPROVAL	06/11/2021	PROPOSED ALTERATIONS & ADDITIONS TO EXISTING RESIDENCE	RJP Design ARCHITECTURAL DESIGN SOLUTIONS		15A LOWER WYCOMBE ROAD, NEUTRAL BAY, NSW. 2089 BEING LOT 24 IN D.P.3183	
A	ISSUED FOR DEVELOPMENT APPLICATION APPROVAL	14/06/2021	Mr. A & Mrs. D Laykoski	Wilsboma Pty Ltd trading as RJP Design PO Box 186 Pymble B/C 2073 NSW ABN: 71 002 429 236 ACN: 002 429 236 E: bob@rjpdesign.com.au P: 0403 896 502		SCALE DRAWN CHECKED APPROVED DATE 1 to 250 @ A3 R.P. R.B. J.E.A. JUNE 21	
DATE				JOB		REV.	
		ISSUED DEVELOPMENT APPLICATION APPROVAL		LAYKOSKI		DA. 500 B	





No.13C  
2 & 3 STOREY  
RENDERED RESIDENCE  
TILE ROOF

RENDERED  
GARAGE

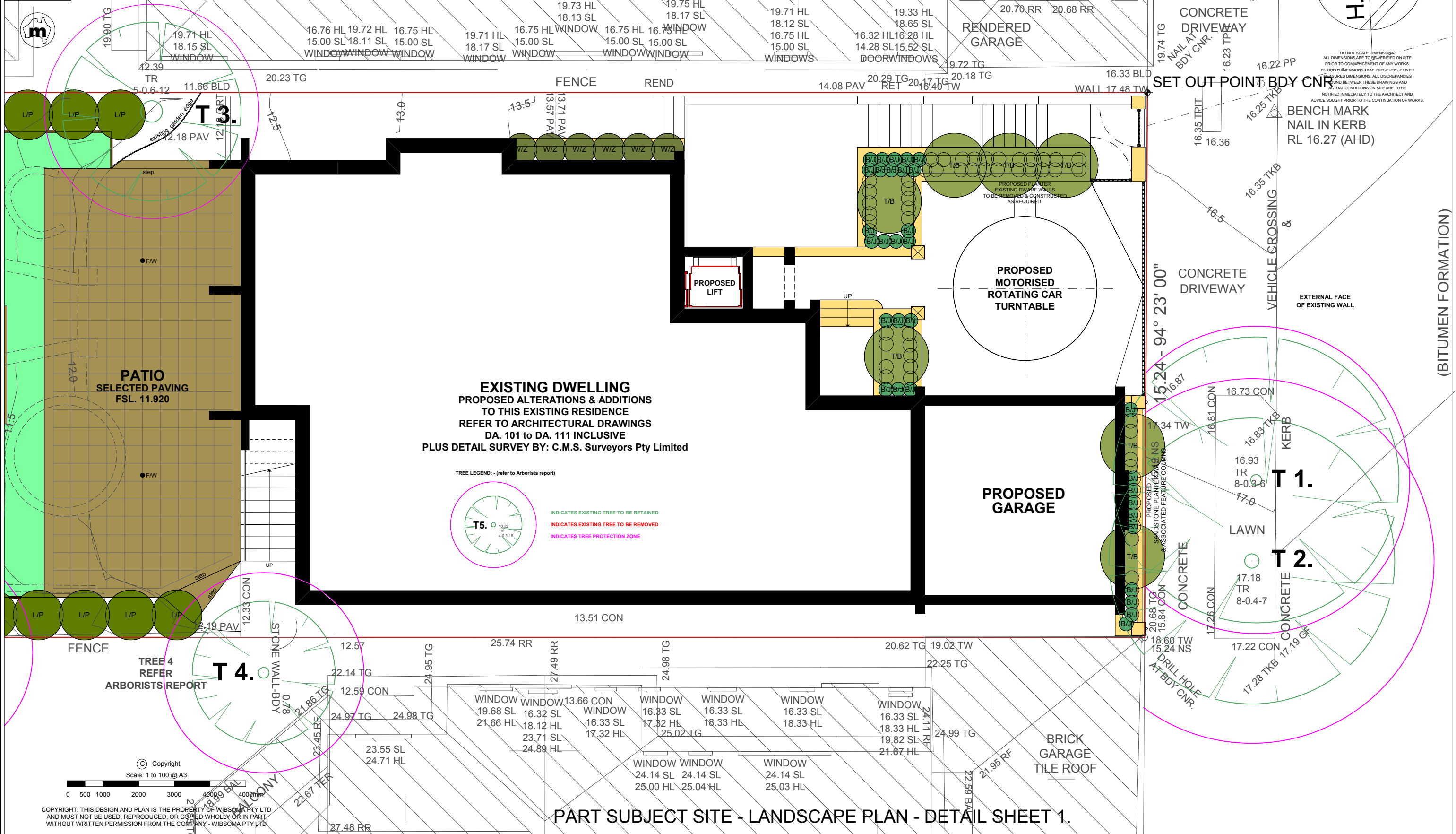
PROPOSED  
MOTORIZED  
ROTATING CAR  
TURNABLE

PROPOSED  
GARAGE

CONCRETE  
DRIVEWAY

CONCRETE  
DRIVEWAY

BRICK  
GARAGE  
TILE ROOF



PART SUBJECT SITE - LANDSCAPE PLAN - DETAIL SHEET 1.

DO NOT SCALE DIMENSIONS - ALL DIMENSIONS ARE TO BE VERIFIED ON SITE PRIOR TO COMMENCEMENT OF ANY WORKS. FIGURED DIMENSIONS TAKE PRECEDENCE OVER UNFIGURED DIMENSIONS. ALL DISCREPANCIES FOUND BETWEEN THESE DRAWINGS AND ACTUAL CONDITIONS ON SITE ARE TO BE NOTIFIED IMMEDIATELY TO THE ARCHITECT AND ADVICE SOUGHT PRIOR TO THE CONTINUATION OF WORKS.

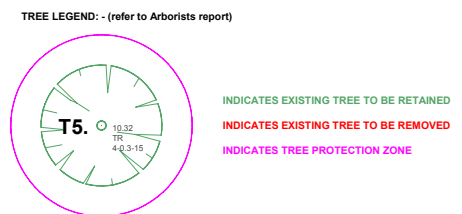
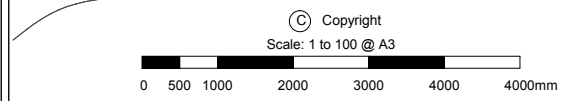
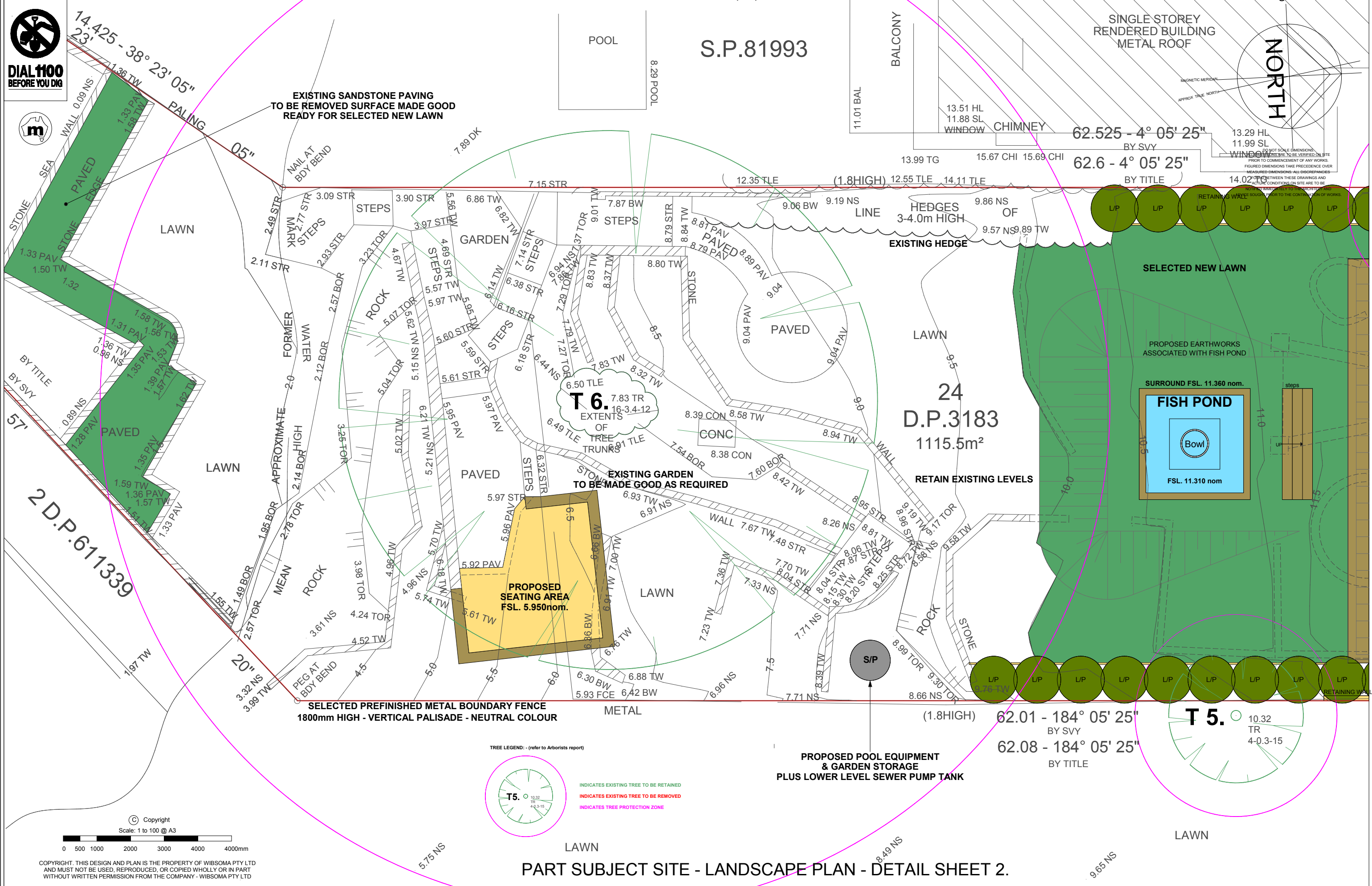
NORTH

(BITUMEN FORMATION)

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ISSUE	TITLE	DOCUMENTATION	SITE
ISSUED FOR DEVELOPMENT APPLICATION APPROVAL	PROPOSED ALTERATIONS & ADDITIONS TO EXISTING RESIDENCE		15A LOWER WYCOMBE ROAD, NEUTRAL BAY, NSW. 2089 BEING LOT 24 IN D.P.3183
DATE: 14/06/2021	CLIENT: Mr. A & Mrs. D Laykoski	Wibsoma Pty Ltd trading as RJP Design PO Box 186 Pymble B/C 2073 NSW ABN: 71 002 429 236 ACN: 002 429 236 E: bob@rjpdesign.com.au P: 0403 886 502	SCALE: 1 to 100 @ A3 DRAWN: R.P. CHECKED: R.B. APPROVED: J.E.A. DATE: JUNE 21
		ARCHITECTURAL DESIGN SOLUTIONS	JOB: LAYKOSKI DWG NO. DA. 501 REV. A



PART SUBJECT SITE - LANDSCAPE PLAN - DETAIL SHEET 2.

ISSUE	DATE
TIDAL POOL REFERENCE REMOVED ISSUED FOR DEVELOPMENT APPLICATION APPROVAL	06/11/2021
ISSUED FOR DEVELOPMENT APPLICATION APPROVAL	14/06/2021
DATE	

**ISSUED DEVELOPMENT APPLICATION APPROVAL**

**PROPOSED ALTERATIONS & ADDITIONS TO EXISTING RESIDENCE**

CLIENT: **Mr. A & Mrs. D Laykoski**

DOCUMENTATION

Wibsoma Pty Ltd trading as RJP Design  
 PO Box 186 Pymble B/C 2073 NSW  
 ABN: 71 002 429 236  
 ACN: 002 429 236  
 E: bob@rjpdesign.com.au  
 P: 0403 896 502

ARCHITECTURAL DESIGN SOLUTIONS

SCALE	DRAWN	CHECKED	APPROVED	DATE
1 to 100 @ A3	R.P.	R.B.	J.E.A.	JUNE 21
JOB	DWG NO.	REV.		
LAYKOSKI	DA. 502	B		



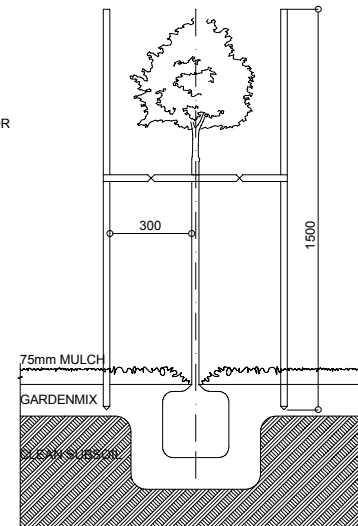
MAGNOLIA  
MAGNOLIA 'TEDDY BEAR'

PLANTING SCHEDULE:

PLANT SPECIES SIZE: STAKING: HEIGHT & SPREAD AT MATURITY:  
MAGNOLIA 'TEDDY BEAR' YES 2 - 4 m H x 2 - 3.5 m S



DO NOT CULTIVATE SOIL UNDER THOSE EXISTING TREES TO BE RETAINED. CULTIVATE ALL GARDEN BEDS PRIOR TO PLANTING WORKS WITH AN IMPORTED SOIL CONDITIONER AND COW MANURE MIX AVAILABLE FROM AUSTRALIAN NATIVE LANDSCAPES (ANL). DIG THOROUGHLY INTO EXISTING SOIL AND WATER GARDEN BEDS CONSISTANTLY PRIOR TO PLANTING WORKS. INCORPORATE AN AMPLE QUANTITY OF IMPORTED 'PREMIUM GARDEN MIX' AVAILABLE FROM AUSTRALIAN NATIVE LANDSCAPES (ANL) AND MIX THOROUGHLY WITH EXISTING SOIL. WHEN PLANTING EXOTIC PLANTS, INCORPORATE AN AMPLE QUANTITY OF IMPORTED 'NATIVE SOIL MIX' AVAILABLE FROM AUSTRALIAN NATIVE LANDSCAPES (ANL) AND MIX THOROUGHLY WITH EXISTING SOIL. WHEN PLANTING NATIVE PLANTS, WATER INSTALLED PLANTS THOROUGHLY. FERTILISE WITH OSMOCOTE 8-9 MONTHS LOW PHOSPHORUS AFTER WATERING. AS DETAILED IN PLANTING SCHEDULE TIE 50mm JUTE WEBBING TO 25 LITRE TREE AND STAPLE TO 2 x 1500 x 50 x 50mm HARDWOOD STAKES. MULCH - INSTALL 75mm AUSTRALIAN NATIVE LANDSCAPES (ANL) 'MINI NUGGETTS' TO ALL GARDEN BEDS, COVERING MULCH DOWN AROUND PLANT STEMS AND FLUSH WITH ADJACENT SURFACE.



PREPARATION OF SOIL: PREPARE EXISTING SOIL IN PROPOSED GARDEN BEDS WITH A SOIL CONDITIONER SUCH AS IMPORTED COMPOST AND COW MANURE MIX TO IMPROVE WATER HOLDING CAPACITY, BODY, STRUCTURE, AND INCREASE ORGANIC MATTER. SPREAD CONDITIONER AND COW MANURE OVER GARDEN BEDS AT LEAST 2 WEEKS PRIOR TO INSTALLATION OF PLANT MATERIAL. CULTIVATE TOP 300mm DEPTH OF SOIL IN GARDEN BEDS BY DIGGING MANURE INTO SOIL. SPREAD LUCEN HAY OVER GARDEN BEDS AND ALLOW TO SETTLE FOR 2 WEEKS. WATER THOROUGHLY, MAINTAINING WATER SUPPLY THROUGHOUT THE NEXT COUPLE OF WEEKS. THE LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR ENSURING SOIL IS CULTIVATED TO A SUITABLE DEPTH AND IS WELL PREPARED PRIOR TO THE INSTALLATION OF PLANT MATERIAL.

INSTALLATION OF PAVER/BRICK/EDGING: A STRECHER OR SINGLE BRICK PAVER EDGE IS TO BE INSTALLED TO SEPARATE TURF AND GARDEN BEDS. SECURE PAVERS ON ROUGH MORTAR FOOTING 100mm THICK AND ENSURE UNIFORM 10mm JOINTS BETWEEN EACH BRICK TO CREATE FLUSH STRUCK JOINTS. PAVER/BRICK EDGING BAGGED IN A COLOYR AS SPECIFIED BY CLIENT AND TO COMPLEMENT THE PROPOSED DWELLING.

INSTALLATION OF PLANT MATERIAL: ALL PLANTS ARE TO BE TRUE TO THE NAME AND VARIETY REFER TO THE PLANTING SCHEDULE FOR SPECIES, CONTAINER SIZE AND QUANTITY, ALSO REFER TO THE PLANTING AND STAKING DETAIL FOR INSTALLATION - STAKING, TYING FERTILISING AND MULCHING. NOTE: SUBSTITUTES IN VARIETY AND SIZE SHALL NOT BE MADE WITHOUT THE APPROVAL OF THE LANDSCAPE ARCHITECT.

TURFING: AREAS TO BE TURFED SHALL BE GRADED SUFFICIENTLY TO ALLOW A MINIMUM DEPTH OF 100mm OF SOIL. SOIL SHALL CONSIST OF 20% TOPSOIL AND 80% COURSE SAND. TURF SHALL BE SIR WALTER SOFT LEAF BUFFALO. IF NECESSARY AS DRAINAGE LINES IN SOAK ARE TO BE INSTALLED UNDER TURFED AREAS AND CONNECTED TO THE BUILDER STORMWATER SYSTEM.

IRRIGATION: THE LANDSCAPE CONTRACTOR SHALL PROVIDE FOR A FULLY AUTOMATIC, WATER BOARD APPROVED, VANDAL-RESISTANT, COMPUTERISED IRRIGATION SYSTEM TO WATER ALL GARDEN AREAS. PLANTS TO BE IRRIGATED SO NO WATER SHADOW AND OVERSPRAY ONTO PAVEMENT/PEDESTRIAN AREAS OCCURS. THE COMPLETED SYSTEM WILL INCLUDE A DEVICE TO PREVENT WATERING DURING PERIODS OF RAIN/EXCESS MOISTURE. 12 MONTHS WARRANTY ON THE SYSTEM SHALL BE PROVIDED BY THE LANDSCAPE CONTRACTOR.

PRESERVATION OF EXISTING TREES: THE CONTRACTOR SHALL PROTECT ALL TREES TO BE RETAINED ASSOCIATED WITH THE BUILDING WORKS PRIOR TO COMMENCEMENT OF CONSTRUCTION. A PROTECTIVE FENCE SHALL BE INSTALLED AROUND THE CANOPY OF THE TREE AND WHERE POSSIBLE FENCE TREES IN GROUPS. HARDWOOD TIMBERS 2000mm LG X 50mm x 100mm SHALL BE INSTALLED AROUND THE TRUNK AT 150mm CENTRES AND SECURED WITH 8 GAUGE WIRE AT 300mm CENTRE SPACING. DISTURBANCE TO EXISTING GROUND LEVELS BENEATH THE BRANCH SPREAD, EITHER BY COMPACTION, HEAVY MACHINERY, PILING OF MATERIALS OR CUTTING AWAY OF SOIL SHALL NOT TAKE PLACE.

PROPOSED EARTHWORKS AND SOIL PREPARATION: WHERE EARTHWORKS OCCUR, THE EXCAVATOR SHALL STRIP APPROVED TOPSOIL FROM THE AREAS TO BE EXCAVATED AND STORE THE MATERIAL TO UTILISE DURING PLANTING. EXCAVATION CARRIED OUT WHERE NECESSARY, INCLUDING OVER EXCAVATION IN THE GARDEN AND LAWN AREAS (AS REQUIRED) TO ENSURE MINIMUM 300mm DEPTH OF CULTIVATED TOPSOIL IS AVAILABLE, THE LANDSCAPE CONTRACTOR SHALL ENSURE TOPSOIL IS FREE OF UNWANTED MATTER SUCH AS STONES, CLAY LUMPS, WEEDS, TREE ROOTS, RUBBISH AND ANY MATERIAL TOXIC TO PLANTS.

INSTALLATION OF STEPPING PADS: SELECTED NON SLIP STEPPING PADS 400 x 400 x 50mm THK ARE TO PROVIDE A PERVIOUS ACCESS PATH AROUND DWELLINGS. NON SLIP STEPPING PADS ARE TO BE SECURED LEVEL AND EVEN ON A ROUGH CONCRETE FOOTING MINIMUM 75mm THICK. ENSURE FINISHED SURFACE LEVEL OF NON SLIP STEPPING PADS IS FLUSH WITH ADJOINING/ADJACENT FINISHED SURFACE LEVELS.

PREPARATION OF GARDEN AREAS: ANY EXISTING WEED SPECIES ON THE SITE ARE TO BE REMOVED EITHER PHYSICALLY OR BY CHEMICAL METHODS (SPRAY ROUNDUP/GYSHOPHATE AS PER MIXING RATES AND INSTRUCTIONS ON MANUFACTURES PACKAGING). EXISTING SOIL CULTIVATED PRIOR TO PLANTING WORKS - REFER TO PREPARATION OF SOIL AND PLANTING PLUS PLANTING AND STAKING DETAIL. SOIL IN GARDEN BEDS SHALL BE FREE OF UNWANTED MATTER SUCH AS STONES, CLAY LUMPS, WEEDS, TREE ROOTS, RUBBISH AND ANY MATERIAL TOXIC TO PLANTS.

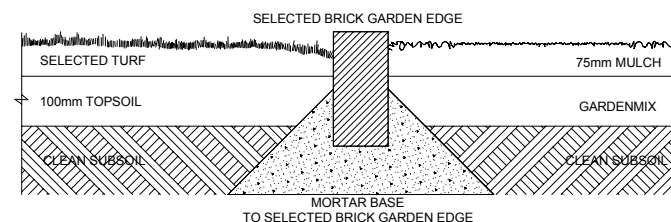


LILLY PILLY  
SYZGIUM AUSTRALE 'RESILIENCE'

PLANT SPECIES SIZE: STAKING: HEIGHT & SPREAD AT MATURITY:  
LILLY PILLY SYZGIUM AUSTRALE 'RESILIENCE' YES 2.5 m H x 1.2 m S



PLANTING & STAKING  
DETAILS



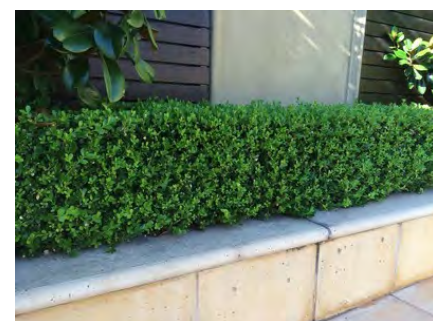
EDGING DETAIL  
TURFING TO MULCHED GARDENS

PROPOSED BRICK GARDEN EDGE - INDICATED THUS



WESTRINGIA ZENA

PLANT SPECIES SIZE: STAKING: HEIGHT & SPREAD AT MATURITY:  
WESTRINGIA ZENA NO 0.6 m H x 0.9 m S

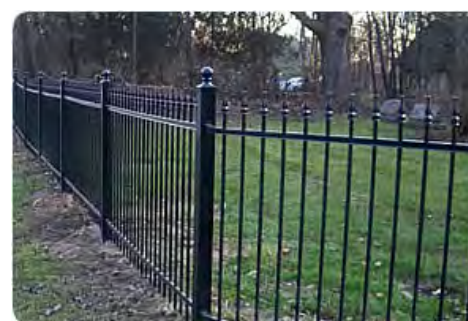


JAPANESE BOX  
BUXUS MICROPHYLLA 'JAPONICA'

PLANT SPECIES SIZE: STAKING: HEIGHT & SPREAD AT MATURITY:  
JAPANESE BOX BUXUS MICROPHYLLA 'JAPONICA' NO 0.4 m H x 0.3 m S



GROUND COVERS: ARE TO BE SUPPLIED AND INSTALLED AS REQUIRED  
CARPOBROTUS GLAUCESCENS - COASTAL MOONFLOWER, PIGFACE, ICEPLANT  
DIANELLA CAERULEA - PAROO LILLY, BLUE FLAX LILLY



SELECTED PREFINISHED METAL BOUNDARY FENCE  
1800mm HIGH - VERTICAL PALISADE - NEUTRAL COLOUR



SELECTED TURFING  
SIR WALTER SOFT LEAF BUFFALO

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PART SUBJECT SITE - LANDSCAPE PLAN - LANDSCAPE NOTES

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ISSUE		TITLE		DOCUMENTATION		SITE	
ISSUED DEVELOPMENT APPLICATION APPROVAL		PROPOSED ALTERATIONS & ADDITIONS TO EXISTING RESIDENCE		RJP Design ARCHITECTURAL DESIGN SOLUTIONS		15A LOWER WYCOMBE ROAD, NEUTRAL BAY, NSW. 2089 BEING LOT 24 IN D.P.3183	
A		Mr. A & Mrs. D Laykoski		Wbsoma Pty Ltd trading as RJP Design PO Box 186 Pymble B/C 2073 NSW ABN: 71 002 429 236 ACN: 002 429 236 E: bob@rjpdesign.com.au P: 0403 896 502		SCALE DRAWN CHECKED APPROVED DATE GRAPHIC @ A3 R.P. R.B. J.E.A. JUNE 21 JOB DWG NO. REV. LAYKOSKI DA. 503 A	
ISSUED FOR DEVELOPMENT APPLICATION APPROVAL						14/06/2021	
DATE							



SUBJECT SITE - EXISTING STREET VIEW



**SUBJECT SITE - NORTHERN ELEVATION**

**FINISHES SCHEDULE:**  
 ALL NEW FINISHES ARE TO MATCH EXISTING  
 ALL EXISTING SURFACES & FIXTURES ARE TO BE MADE GOOD AS REQUIRE  
 SELECTED SANDSTONE TO FRONT FENCE WITH ASSOCIATED METAL WORK - Colorbond Monument  
 EXISTING TILED ROOF TO BE MADE GOOD AS REQUIRED WITH ASSOCIATED METAL WORK - Colorbond Monument

**Hog Bristle® Half W**

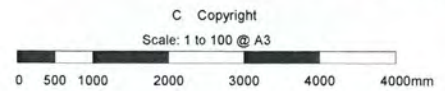
**FINISHES SCHEDULE:**  
 PROPOSED DWELLING COLOUR: DULUX - HOG BRISTLE HALF

**Hog Bristle® W**

**FINISHES SCHEDULE:**  
 PROPOSED TIMBER TRIM/FRET WORK COLOUR: DULUX - HOG BRISTLE

**Hog Bristle® Quarter W**

**FINISHES SCHEDULE:**  
 PROPOSED WINDOW FRAME COLOUR: DULUX - HOG BRISTLE QUARTER



**PART SUBJECT SITE - SHEDULE OF COLOURS & FINISHES**

DO NOT SCALE DIMENSIONS  
 ALL DIMENSIONS ARE TO BE VERIFIED ON SITE  
 PRIOR TO COMMENCEMENT OF ANY WORKS  
 FIGURED DIMENSIONS TAKE PRECEDENCE OVER  
 MEASURED DIMENSIONS. ALL DISCREPANCIES  
 FOUND BETWEEN THESE DRAWINGS AND  
 ACTUAL CONDITIONS ON SITE ARE TO BE  
 NOTIFIED IMMEDIATELY TO THE ARCHITECT AND  
 ADVICE SOUGHT PRIOR TO THE CONTINUATION OF WORKS.

ISSUE <b>ISSUED DEVELOPMENT APPLICATION APPROVAL</b>		TITLE <b>PROPOSED ALTERATIONS &amp; ADDITIONS TO EXISTING RESIDENCE</b>		DOCUMENTATION 		SITE <b>15A LOWER WYCOMBE ROAD, NEUTRAL BAY, NSW. 2089 BEING LOT 24 in D.P.3183</b>	
CLIENT <b>Mr. A &amp; Mrs. D Laykoski</b>		SCALE <b>1 to 100 @ A3</b>		DRAWN <b>R.P.</b>		CHECKED <b>R.B.</b>	
DATE <b>14/06/2021</b>		APPROVED <b>J.E.A.</b>		DATE <b>JUNE 21</b>		JOB <b>LAYKOSKI</b>	
REVISION DESCRIPTION <b>A ISSUED FOR DEVELOPMENT APPLICATION APPROVAL</b>		DWG NO. <b>DA. 800</b>		REV. <b>A</b>		DATE <b>14/06/2021</b>	

# NOLAN PLANNING CONSULTANTS

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**VARIATION OF A DEVELOPMENT STANDARD REGARDING THE MAXIMUM  
BUILDING HEIGHT AS DETAILED IN CLAUSE 4.3 OF THE NORTH SYDNEY  
LOCAL ENVIRONMENTAL PLAN 2013  
AMENDED JUNE 2022**

**15A LOWER WYCOMBE ROAD, NEUTRAL BAY**

**FOR PROPOSED ADDITIONS AND ALTERATIONS TO THE EXISTING  
DWELLING INCLUDING CONSTRUCTION OF A NEW GARAGE AND  
ASSOCIATED LANDSCAPING**

**For:** Additions and alterations to the existing dwelling including construction of a new garage and associated landscaping  
**At:** 15A Lower Wycombe Road, Neutral Bay  
**Owner:** Mr & Mrs Laykoski  
**Applicant:** Mr & Mrs Laykoski

## **1.0 Introduction**

This written request is made pursuant to the provisions of Clause 4.6 of North Sydney Local Environmental Plan 2013. In this regard it is requested Council support a variation with respect to compliance with the maximum building height as described in Clause 4.3 of the North Sydney Local Environmental Plan 2013 (NSLEP 2013).

## **2.0 Background**

Clause 4.3 restricts the height of a building within this area of the Neutral Bay locality and refers to the maximum height noted within the "*Height of Buildings Map*."

The relevant building height 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.

Due to the siting of the existing building and the need for a passenger lift, the proposed new works will be up to approximately 11.9m in height, which results in a variation of 3.4m or 40%.

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 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. These cases are taken into consideration in this request for variation.

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 standard.

### 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 alterations and additions to an existing single detached dwelling development which is permissible in this zone. The non-compliance is a result of the requirement of a lift to enable residents to access all levels of the property with the new work located 500mm below the maximum ridge height of the existing dwelling. It is noted that the lift does not extend beyond the height of the existing dwelling. The proposal is consistent with the stated Objectives of the R3 Medium Density Residential Zone, which are noted as:

- To provide for the housing needs of the community within a medium density residential environment.*
- To provide a variety of housing types within a medium density residential environment.*
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- To encourage the development of sites for medium density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*
- To provide for a suitable visual transition between high density residential areas and lower density residential areas.*
- To ensure that a high level of residential amenity is achieved and maintained.*

*As sought by the zone objectives, the proposal will provide for alterations and additions to an existing multi dwelling development which are sensitive to the location and the topography of the locality.*

The proposal includes modulated wall lines and a consistent palette of materials and finishes in order to provide for high quality development that will enhance and complement the locality.

Notwithstanding the non-compliance with the maximum height control, the new works will provide an attractive residential development that will add positively to 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 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 2013 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 site is located in the R3 Medium Density Residential Zone. The objectives of the R1 zone are noted as:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the development of sites for medium density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*
- *To provide for a suitable visual transition between high density residential areas and lower density residential areas.*
- *To ensure that a high level of residential amenity is achieved and maintained. As sought by the zone objectives, the proposal will provide for alterations and additions to an existing multi dwelling development which are sensitive to the location and the topography of the locality.*

### **Comments**

It is considered that notwithstanding the extent of the non-compliance with the maximum building height control, the proposed additions to the existing building will be consistent with the individual Objectives of the R3 Medium Density Residential zone for the following reasons:

- ***To provide for the housing needs of the community within a medium density residential environment.***

The R3 Medium Density Residential Zone contemplates a mix of residential uses on the land including attached dwellings, duplexes and multi dwelling housing. The housing needs of the community are appropriately provided for in this instance through the proposed additions to the existing dwelling house which will provide form an appropriate level of family accommodation and in a form which respect the predominant height and scale of the surrounding dwellings.



The development incorporates a new lift to enable access to all levels of the dwelling for residents with mobility issues. The lift shaft whilst exceeding the height controls does not extend above the ridge of the existing dwelling.

Further, the dwelling and its additions are well modulated and will ensure the development minimises the visual impact when viewed from the surrounding public and private areas.

The compatible form and scale of the new works will meet the housing needs of the community within an existing single detached dwelling which is a permissible use in this medium density residential zone.

- ***To provide a variety of housing types within a medium density residential environment.***

The new works will provide for additions to an existing single detached dwelling house, which does not detract from the character and variety of housing choice in the immediate area.

- ***To enable other land uses that provide facilities or services to meet the day to day needs of residents.***

The development does not suggest any alternate land uses and this Objective is not directly relevant to the subject single residential proposal.

- ***To encourage the development of sites for medium density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.***

The proposal does not propose medium density housing and it is considered more appropriate to retain the existing single detached dwelling.

- ***To provide for a suitable visual transition between high density residential areas and lower density residential areas.***

The site adjoins two multi dwelling housing development, and together they provide a good transition between higher and lower density areas.

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

The proposed additions maintain a high level of amenity to the adjoining properties. That has been achieved through appropriate location of windows and room uses. The proposed works improve amenity to the subject dwelling by improving functionality and access for those with mobility issues.

Accordingly, it is considered that the site may be further developed with a variation to the prescribed maximum building height 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.*

## **Comments**

Despite the minor variation to the maximum building height, the proposed alterations and additions are considered to be in keeping with the relevant Objectives of Clause 4.3 for the following reasons:

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

The Objective of Clause 4.3 (1)(a) seeks to ensure development flows the natural topography.

The proposed non-compliance relates only to the lift shaft, with the remainder of the new works complying with the height control. The lift enables access to all levels for people with mobility issues. The lift shaft has been designed to complement the existing character of the building. The lift does not extend above the height of the existing ridge. The structure is not elevated above ground level but rather is excavated into the site. The non-compliance results as a need to access to the existing upper level and incorporate external features to match the existing dwelling.

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

The proposed lift shaft will not obstruct any existing views. The lift is located on the front portion of the dwelling with the structure not extending above the ridge height of the existing dwelling, being 500mm below the existing ridge height. Further the lift structure is setback from the side boundary to ensure any existing view corridor between dwellings is retained. The proposed non-compliance does not result in any loss of views from surrounding properties or the public domain.

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

The proposed additions result in very minimal additional overshadowing. The only additional shadow cast is over the roof forms of the adjoining properties. There is no additional overshadowing to public areas or streets.

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

The proposed works and non-complying height element do not result in any loss of privacy to the adjoining properties. The non-complying component relates to a lift structure which does not result in any loss of privacy. The new garage which is a non-habitable structure and located adjacent to another garage on the adjoining property, will not diminish privacy of the surrounding properties.

The alterations to the upper levels of the dwelling do not incorporate any new windows on the side elevations. Further they provide for the reinstatement of existing verandahs and will not reduce privacy of the adjoining properties.

The lower level provides for two new windows, however these are at ground level and will not provide views into the adjoining properties.

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

The proposal provides and maintains an appropriate compatibility between the adjoining properties. The works retain the single dwelling residential character and sits comfortably between the two adjoining multi dwelling housing developments.

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

The proposed additions and in particular the lift structure do not result in an unreasonable bulk or scale. The proposal results in a single detached dwelling in a locality characterised by larger multi dwelling developments. The proposed works do not extend above the height of the existing structure and the works will not be prominent nor out of character with the surrounding development.

Notwithstanding the non-compliance with the height control, the proposal achieves the objectives of Clause 4.3 of the NSLEP.

**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 for additions and alterations to an existing dwelling where the proposed works do not extend beyond the height of the existing building. The only non-complying portion of the proposal is the lift structure which does not existing the ridge height of the existing dwelling and is required to ensure access to all levels of the dwelling for those with mobility issues. A family member is confined to a wheelchair and access to all levels is required. The lift ensures this equitable access whilst at the same time ensuring that there is no detrimental impact on the adjoining properties and no loss of existing views.

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: -

1. *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.

2. *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 but the purpose is satisfied.

3. *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; however, compliance would prevent the approval of an otherwise supportable 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).

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

**Comment:** Not applicable.

5. *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.

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 overall height of 8.5m for the subject development.

Due to the existing overall building height and need to provide equitable access to all levels of the dwelling, the proposed new works will be up to approximately 11.9 in height.

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

- Compliance with the height control is constrained by the siting of the building and need to access all levels of the existing dwelling.
- The non-complying element relates to the lift structure only which is required to ensure equitable access. The lift has been designed to complement the character and external finishes of the existing building.
- The development does not result in a significant bulk when viewed from either the street or the neighbouring properties, and will not exceed the existing maximum ridge height of the dwelling.
- The development will maintain a compatible scale relationship with the existing residential development in the area. Development in the vicinity has a wide range of architectural styles and the given the variety in the scale of development, this proposal will reflect a positive contribution to its streetscape.

- The extent of the proposed new works where they are not compliant with Council's maximum height control do not present any significant impacts in terms of view loss for neighbours, loss of solar access or unreasonable bulk and scale.
- The proposal is supported by a Heritage Impact Statement.
- The lift structure is required to ensure the equitable access for all people and accommodate a roof form to complement the existing dwelling.
- The existing dwelling exceeds the maximum height control and the proposed lift element does not exceed the existing ridge height (lift element is 500mm below existing roof ridge).

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

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 recent 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 of this year 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 v Ashfield* 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, when assessed against the relevant Objects of the Environmental Planning & Assessment Act 1979, (NSW) outlined in s1.3, 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 external form of the proposed dwelling is stepped to follow the sloping topography of the site and results in a dwelling which is compatible in scale to its surrounding neighbours, which promotes the orderly & economic use of the land.
- Similarly, the proposed development will provide for an appropriate level of family accommodation and improved amenity within a built form to enable equitable access to all levels of the dwelling which is compatible with the streetscape of Lower Wycombe Road, which also promotes the orderly and economic use of the land.
- The proposal is considered to promote good design and amenity to the local built environment as appropriate views, solar access and privacy will be maintained for the neighbouring properties.

The above are the environmental planning grounds which are the circumstance which are particular to the development which merit a variation to the development standard.



## 7.0 Conclusion

This development proposed a departure from the maximum building height development standard, with the proposed alterations and additions to the existing multi dwelling development to provide a maximum overall height of 11.9m.

This variation occurs as a result of the siting of the existing building and sloping topography of the site.

This written request to vary the maximum building height specified in Clause 4.3 of the North Sydney LEP 2013 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 building height control would be unreasonable and unnecessary in the circumstances of this case.

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