

**NSLPP MEETING HELD ON 07/12/2022****Attachments:**

1. Architectural Plans
2. Landscape Plans
3. View Analysis and Addendum Report
4. Survey Plan

ADDRESS/WARD: 45 Thomas Street, McMahons Point**APPLICATION No:** DA72/22

PROPOSAL: Demolition of existing structures, removal of five (5) trees, construction of a 3 storey dwelling house and associated civil and landscaping works (including new driveway crossover)

PLANS REF:

Plan No.	Rev/Issue	Description	Prepared by	Dated
DA-A-001	-	Notes	Smith & Tzannes	7 Feb 22
DA-A-010	A	Site Plan	Smith & Tzannes	10 Nov 22
DA-A-100	-	Lower Ground	Smith & Tzannes	7 Feb 22
DA-A-101	-	Upper Ground	Smith & Tzannes	7 Feb 22
DA-A-102	A	First Floor	Smith & Tzannes	10 Nov 22
DA-A-103	A	Roof	Smith & Tzannes	10 Nov 22
DA-A-200	A	Section 01	Smith & Tzannes	10 Nov 22
DA-A-201	-	West Elevation	Smith & Tzannes	7 Feb 22
DA-A-202	A	East Elevation	Smith & Tzannes	10 Nov 22
DA-A-203	-	North Elevation	Smith & Tzannes	7 Nov 22
DA-A-204	A	South Elevation	Smith & Tzannes	10 Nov 22
DA-A-900	A	Finishes Schedule	Smith & Tzannes	10 Nov 22
1-5	A	Site Landscape Plans Front Landscape Plan Rear Landscape Plan First Floor Landscape Plan Landscape Specifications	Tranquillity Landscape Design	5 Nov 21 / 5 Jul 21

OWNER: D Krawitz**APPLICANT:** B Brennan**AUTHOR:** Miguel Rivera, Senior Assessment Officer**DATE OF REPORT:** 24 November 2022**DATE LODGED:** 10 March 2022**RECOMMENDATION:** Approval

EXECUTIVE SUMMARY

The Applicant seeks development consent from the North Sydney Local Planning Panel (NSLPP) for the demolition of existing structures, removal of five (5) trees, construction of a 3-storey dwelling house and associated civil and landscaping works (including new driveway crossover) on land identified as No. 45 Thomas Street, McMahons Point, and legally described as Lot 6 in DP 1225595.

The application is required to be reported to the NSLPP for determination in accordance with Directions of the NSW Minister of Planning. The development is considered as contentious development, in that more than ten (10) unique submissions were received.

Council's notification of the original plans has attracted a total of eleven (11) submissions from eight (8) individual addresses and the Union Precinct Committee, raising concerns regarding bulk and scale, impacts associated with view loss, amenity, privacy and solar access, impacts on boundary fencing and landscaping, rear setback variation and setbacks from boundaries, excavation, stormwater management, local character and streetscape, and loss of trees.

The development application has been assessed against the North Sydney Local Environmental Plan 2013 (NSLEP 2013), North Sydney Development Control Plan 2013 (NSDCP 2013) and the relevant State Planning Policies (SEPPs). The proposed development is fully compliant with the maximum height of buildings development standard and is considered to be a satisfactory design response to the site's constraints, context and setting.

A detailed view loss assessment has been carried out following installation of indicative height poles on site reflecting the proposed built form. The impacts of the proposal have been considered against the of built form controls for height, form and setbacks which apply to the land. The resulting view impacts are considered to be reasonable and acceptable in the context of the site as well as the proposal's performance and compliance to provisions for height, bulk and massing, under Council policy.

The site is located within the Union, Bank and Thomas Streets Conservation Area (CA15). The existing dwelling is not considered to be representative of the characteristics of this conservation area, and no objection is raised to its demolition. The proposed new built form is considered to be appropriately responsive and sympathetic to the site constraints and context, and is considered to have a neutral impact on the established character of the conservation area.

The assessment of the proposed development has considered the concerns raised in the submissions as well as the performance of the application against Council's planning requirements. Following this assessment, and having regard to the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended), the application is recommended for approval given the proposal's compliance to and consistency with the key objectives and controls within the respective SEPPs and under Council policy including NSLEP 2013 and NSDCP 2013, and lack of adverse impacts from the development on adjoining and surrounding properties.

DESCRIPTION OF PROPOSAL

The proposal before the Panel is for demolition of existing structures, removal of five (5) trees, construction of a dwelling house and associated civil and landscaping works (including new driveway crossover).

Specifically, the proposed development involves the following elements:

Demolition and tree removal:

- Demolition of the existing dwelling house, attached garage, rear access stairs and external laundry/storage structure.
- Removal of five (5) trees including a single street tree (Bottlebrush).

Construction:

- Construction of a new stepped, part-2, part-3 storey dwelling house comprising the following:
 - Lower Ground: tandem two (2) vehicle garage; home office; bathroom; cellar and plant/store.
 - Upper Ground: Three (3) bedrooms with ensuite bathrooms; study; laundry; balcony and courtyard.
 - first Floor: Open plan living/dining/kitchen with butler's pantry; rumpus room; powder room; and terrace.
 - Roof: Installation of solar panels on the western half of the roof;
 - Internal lift and stair access to each level.

Ancillary works:

- Site preparation works including excavation and removal of elevated, built-up areas.
- New stormwater infrastructure.
- New driveway crossover and internal driveway.
- Landscaping works including plantings within the rear, side courtyard and street level courtyard and a new replacement street tree.

A site plan, floor plans, elevations and section are shown in Figures 1 to 9 below.

The cost of works of the proposed development is estimated to be \$1,299,557.00.

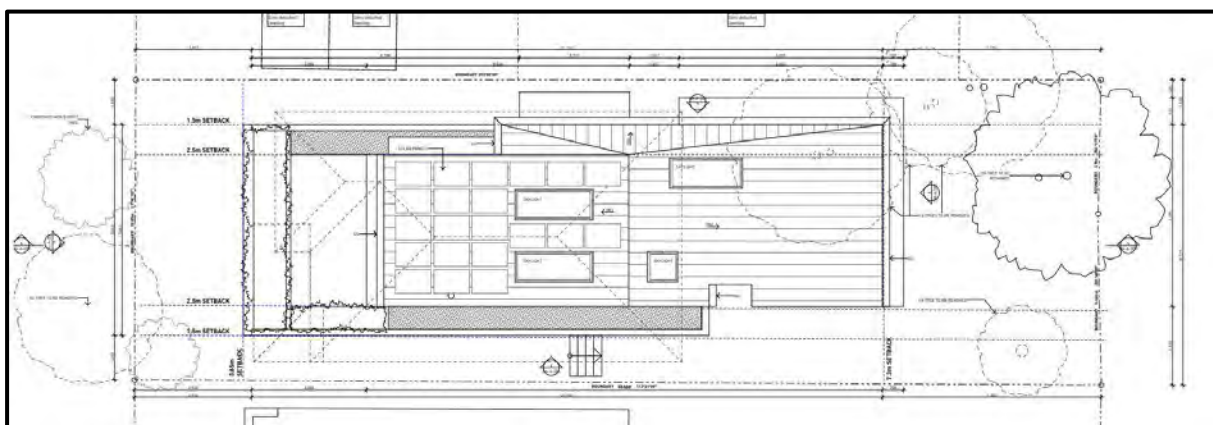


Figure 1: Site plan

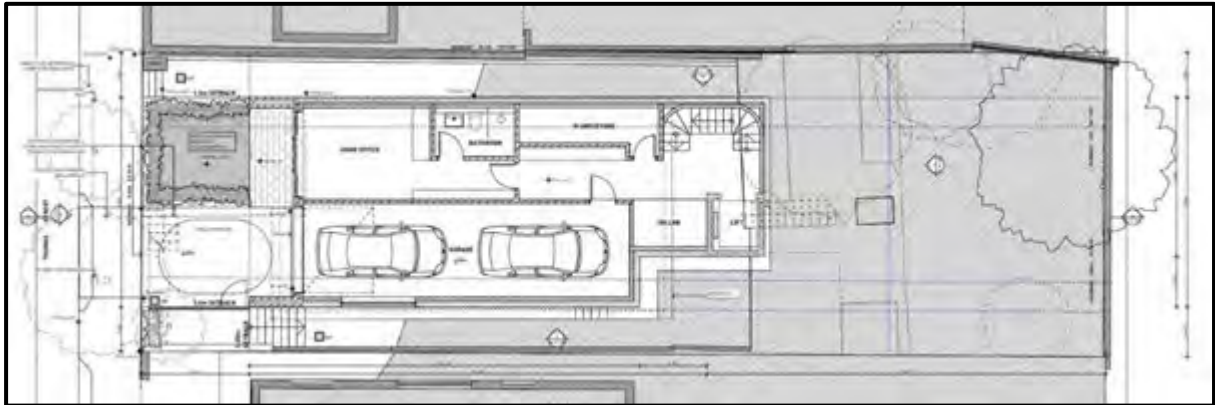


Figure 2: Lower ground floor

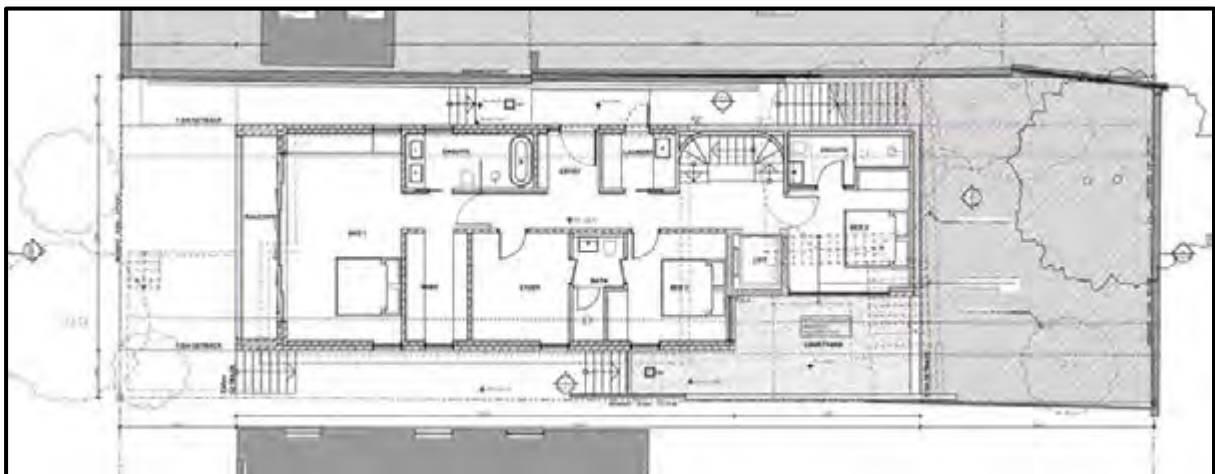


Figure 3: Upper ground floor

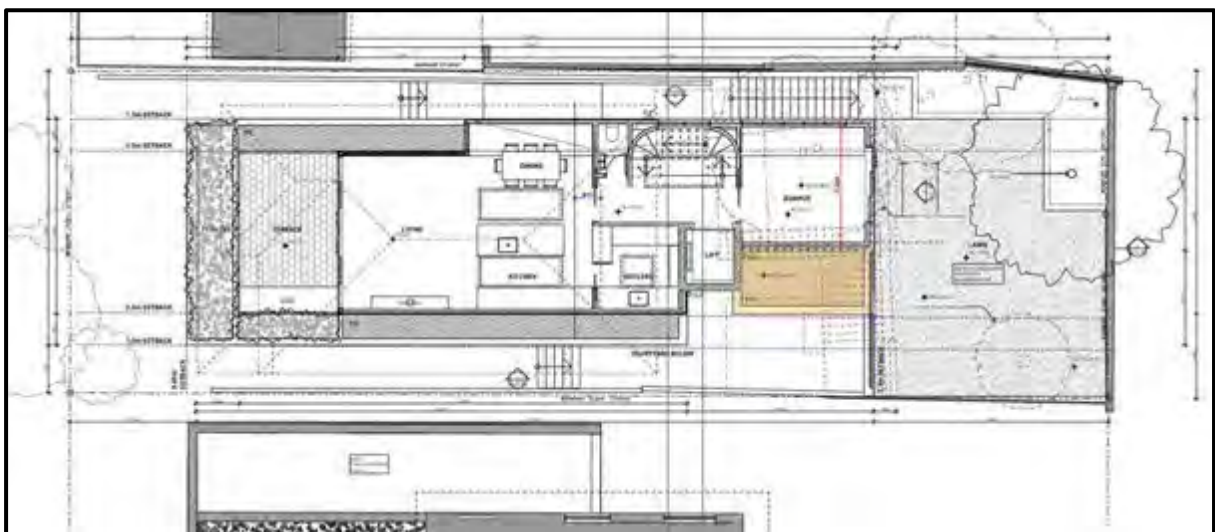


Figure 4: first floor

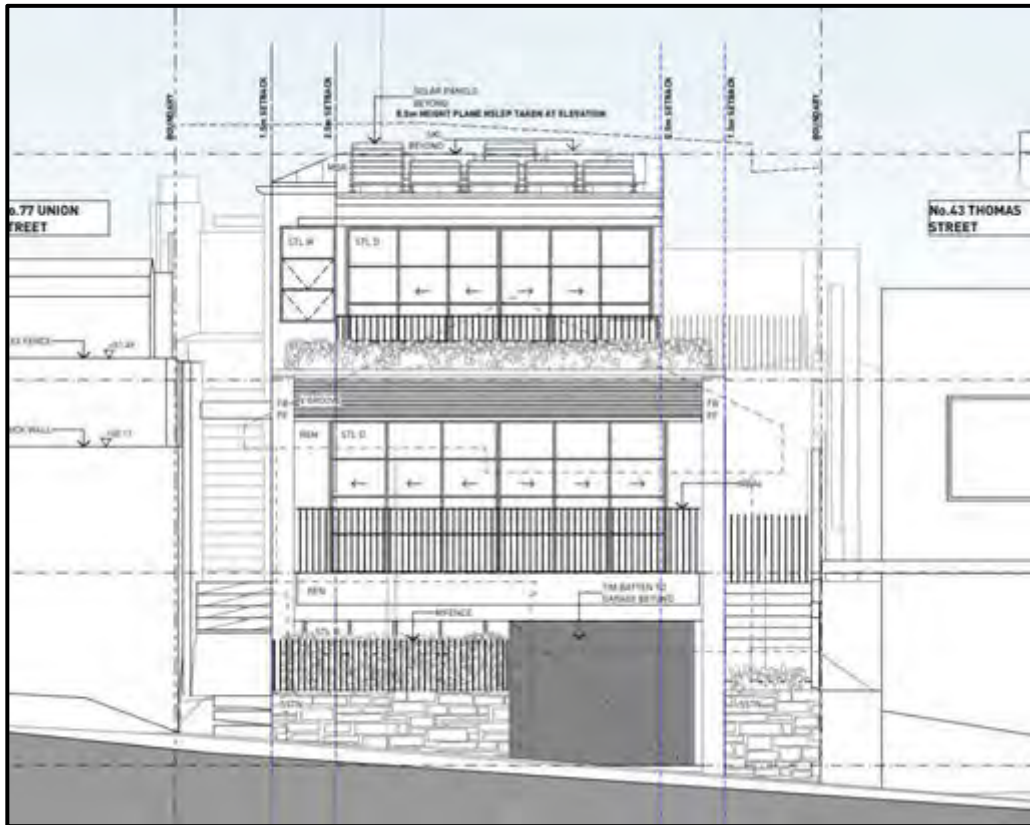


Figure 5: West (front) elevation

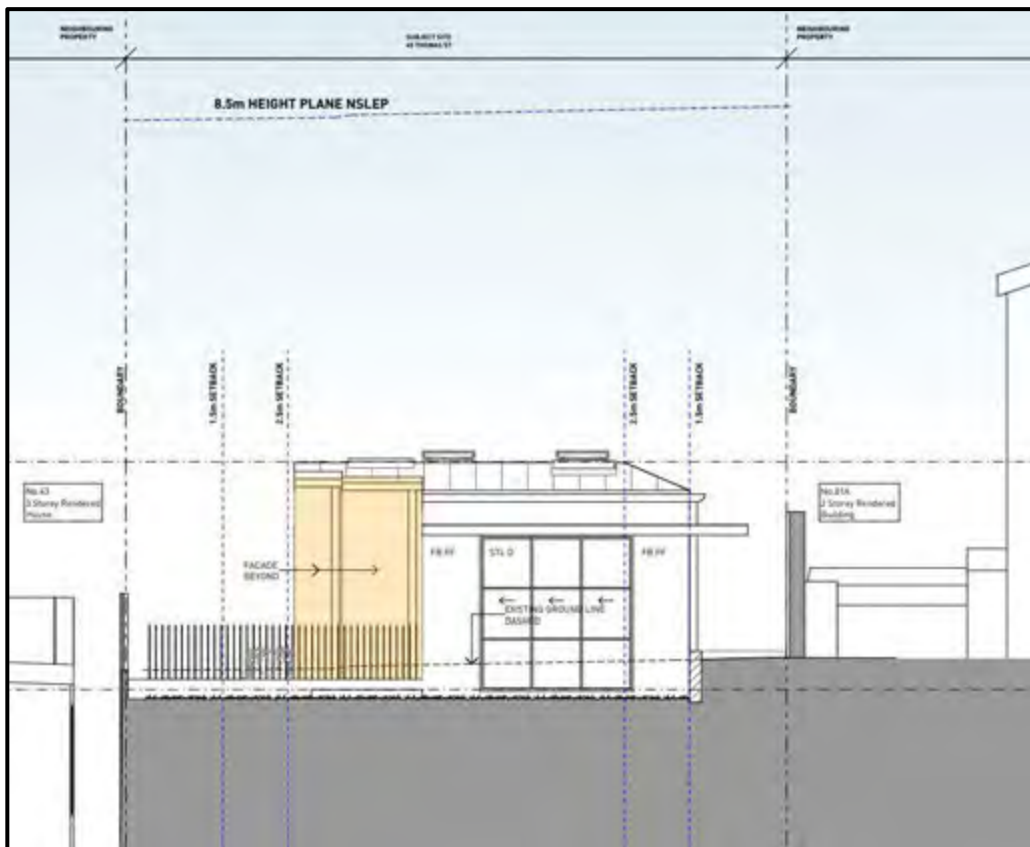


Figure 6: East (rear) elevation



Figure 7: North elevation

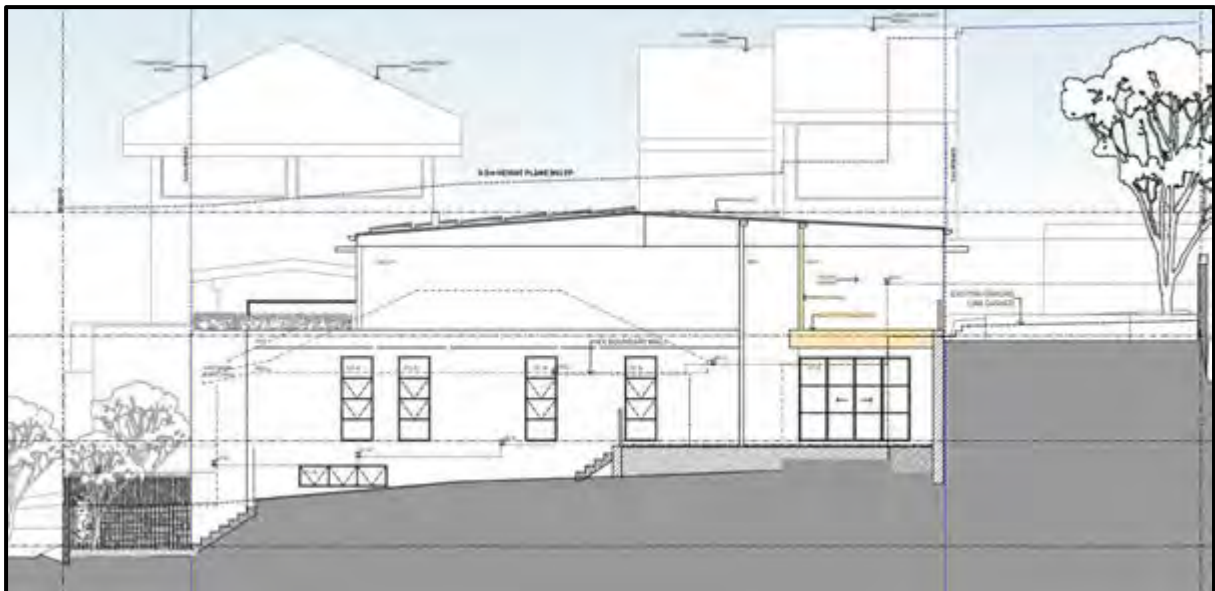


Figure 8: South elevation

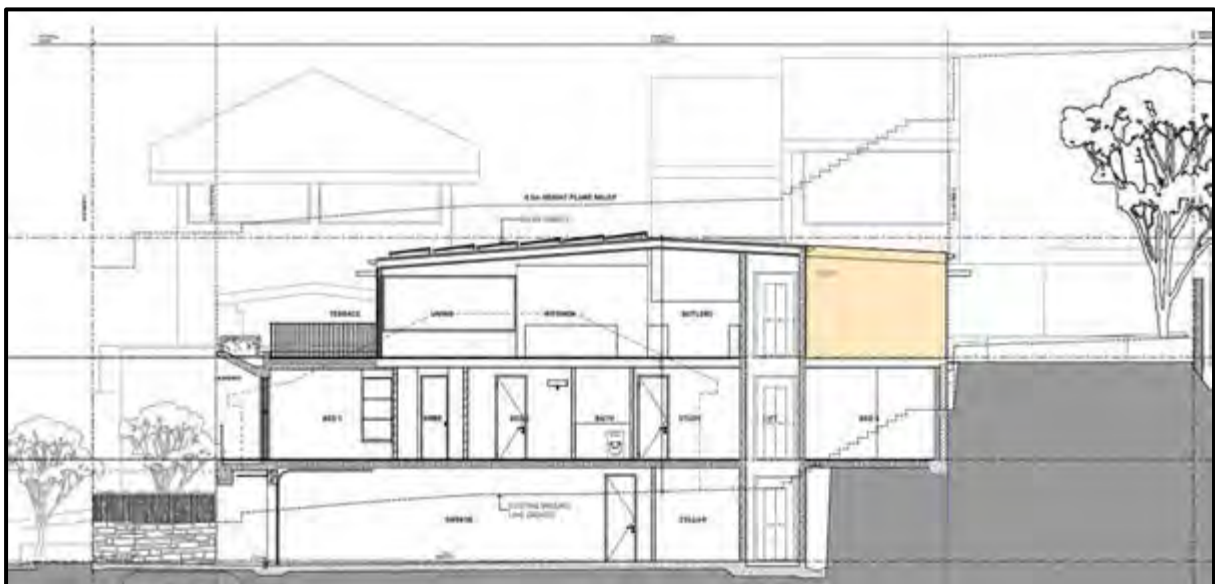


Figure 9: Section

STATUTORY CONTROLS

Environmental Planning and Assessment Act 1979 (as amended)

Environmental Planning and Assessment Regulation 2021

North Sydney Local Environmental Plan 2013 (NSLEP 2013):

- Zoning – R3 – Medium Density Residential
- Clause 5.10 – Heritage conservation:
 - Item of heritage – No
 - In vicinity of heritage item – Yes, adjoins heritage items I0499 – No. 77 Union Street, I0500 – No. 79 Union Street and I0501 – No. 77 Union Street, along northern boundary:
 - Conservation area – Yes, neutral item within Union, Bank and Thomas Streets Conservation Area (CA15)
- Clause 6.9 – Limited development in foreshore area – No
- Clause 6.10 – Earthworks – Yes

State and regional environmental planning policies:

- SEPP (Biodiversity and Conservation) 2021
- SEPP (Resilience and Hazards) 2021
- SEPP (Building Sustainability Index: BASIX) 2004

POLICY CONTROLS

North Sydney Local Infrastructure Contributions Plan 2020

North Sydney Development Control Plan 2013 (NSDCP 2013)

DESCRIPTION OF LOCALITY

The subject site identified as No. 45 Thomas Street, McMahons Point, and is legally known as Lot 6 in DP 1107009. The site is rectangular-shaped, narrow and elongated allotment that is located on the eastern side of Thomas Street, and comprising a total area of 328.3m² (Refer to Figure 10). The site currently has vehicular access off Thomas Street and relatively steep and challenging topography, with a 7.24m fall to Thomas Street.



*Figure 10: Aerial map showing subject site (outlined in yellow) and surrounding properties.
(Source: Council SIS Maps)*

The subject site adjoins several heritage items (I0499 – No. 77 Union Street, I0500 – No. 79 Union Street and I0501 – No. 77 Union Street) and is within the Union, Bank and Thomas Streets Conservation Area (CA15), which are listed under Schedule 5 of the NSLEP 2013 (refer to Figure 11).

The subject site is predominantly modified with a single storey dwelling house, front garage, rear outbuilding (comprising a separate storage and laundry zone), retaining walls and access stairs occupying much of the site (refer to Figures 12 to 21). The only existing landscaped areas are situated in built-up and elevated areas within the rear yard, and these are in the form of overgrown garden beds and some scattered trees (refer to Figures 12 to 21).

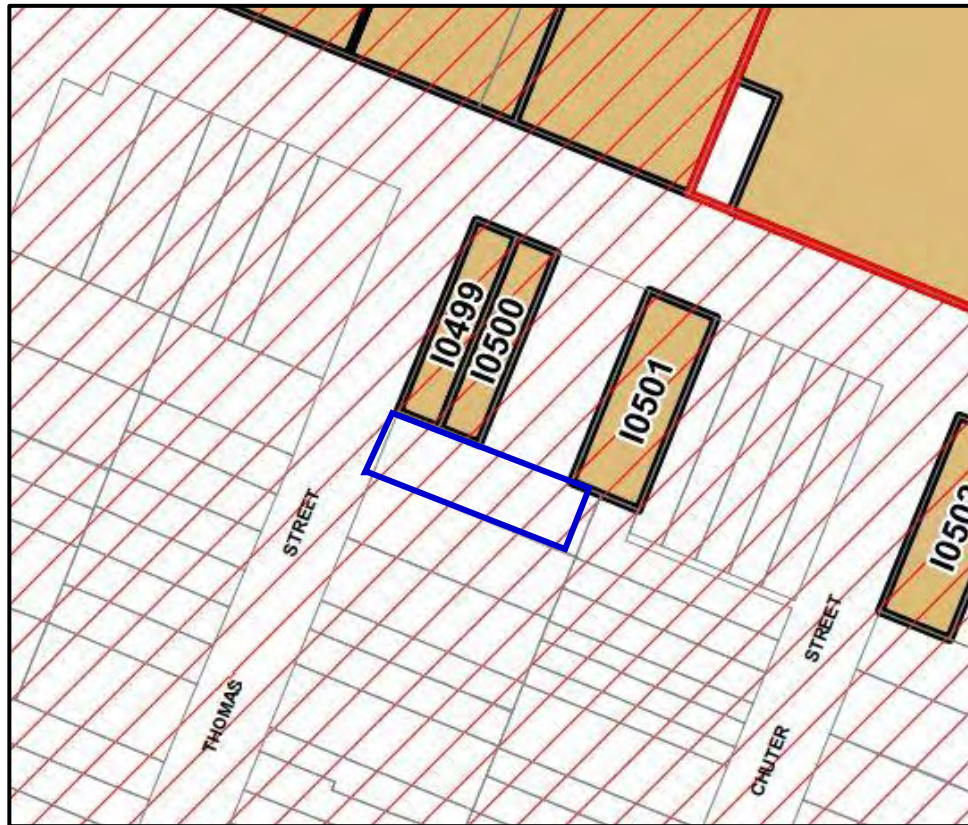


Figure 11: Heritage map showing subject site (outlined in blue) and surrounding properties. Heritage items – shaded in brown, Union, Bank and Thomas Streets Conservation Area (CA15) – in red hatching. (Source: NSLEP 2013 - Heritage Mapping)



Figure 12: Front of dwelling within subject site



Figure 13: Closer view of the front setback of site



Figure 14: Existing paved path and fencing/walls along northern side setback



Figure 15: Rear of dwelling and existing built-up area and access stairs



Figure 16: Existing outbuilding comprising storage and laundry and attached awning in rear yard



Figure 17: Access stairs leading to upper portions of rear yard



Figure 18: Landscaped area in easternmost portion of rear yard – view towards eastern (rear) boundary



Figure 19: Existing paved path and fencing/walls along southern side setback – view towards rear yard



Figure 20: Existing paved path and fencing/walls along southern side setback – view towards Thomas Street



Figure 21: Elevated courtyard in front setback and adjacent to existing garage

The immediate locality features a low-medium density residential, suburban character that is predominantly comprised of detached dwelling houses and attached/semi-detached dwellings on sloping sites and views of the water and foreshore (including Sydney Harbour) and Sydney city business district (CBD), along a narrow, steep street lined with *Callistemon* (bottlebrush) trees (refer to Figures 12 and 22 to 28). The front setbacks of residences along Thomas Street are characterised by small courtyards and discrete roofed porches, various fencing styles (such as metal palisade, timber picket, masonry walls, tall hedging) and minimal, informal plantings such as small trees and shrubs.

A low-rise Inter-war style shop top housing building (No. 69-71 Union Street) is located north-west of the site, located at the corner of Thomas Street and Union Street, with shops facing Union Street (refer to Figure 24). The architectural styles within the vicinity and along Thomas Street appear eclectic and diverse – however, the general vicinity comprises mostly traditional and heritage forms that are in-tact, reflecting the conservation area.

The site is surrounded and adjoined by the following residences:

- Front: dwelling house at No. 60 Thomas Street (refer to Figure 25).
- Rear: semi-detached dwelling at No. 34 Chuter Street.
- North-adjointing: 77, 79, 81S and 81 Union Street.
- South-adjointing: 43 Thomas Street (refer to Figure 26).



Figure 22: Immediate streetscape – Thomas Street (view to the south)



Figure 23: Streetscape – Thomas Street (view to the north – towards Union Street)



Figure 24: Shop top housing at No. 69-71 Union Street



Figure 25: Front of dwelling house at No. 60 Thomas Street



Figure 26: Front of building at No. 43 and 41 Thomas Street



Figure 27: Front of semi-detached housing at No. 37 and 39 Thomas Street



Figure 28: Front of semi-detached housing at No. 56 and 58 Thomas Street

The Union, Bank and Thomas Streets Conservation Area is an urbanised residential area characterised by 19th and early 20th century cottages, including attached, semi-detached and detached houses. The buildings are typically single to 2-storey on small lots interspersed with pockets of larger, two storey Victorian terraces, early 20th century housing, and 3-storey Inter-war residential flat buildings. A range of architectural styles are represented in the Conservation Area, including Victorian Georgian, Victorian Regency, Victorian Filigree, Victorian Italianate, Federation Queen Anne and Federation Arts and Crafts, most of which are interpreted in a simplified manner.

There are pocket parks and lookouts distributed throughout the area. The streetscape is also defined by regular, processional planting in the street reserves, and by extensive use of stone elements within streets and street formations. The unique topography of the locality facilitates views and vistas down streets and in-between buildings, running south off Union Street, including Dumbarton and Thomas Streets.

RELEVANT HISTORY

Previous applications

DA208/18 – 45 Thomas Street, McMahons Point

On 13 July 2018, Council’s Development Review Panel rejected development application DA208/18. This application sought consent for demolition of an existing dwelling house and construction of a new dwelling house. The application was rejected due to incomplete documentation including insufficient detail in demolition and architectural plans and no geotechnical report.

DA261/18 – 45 Thomas Street, McMahons Point

On 26 November 2018, development application DA261/18 was withdrawn by the respective applicant. This application sought consent for demolition of an existing dwelling house and construction of a new dwelling house.

Pre-Lodgement Meeting – 45 Thomas Street, McMahons Point

A Pre-Lodgement Meeting was undertaken via Zoom with the Applicant and Council officers. The minutes of this meeting were distributed to the Applicant on 16 December 2021.

The following matters/issues were raised in the meeting and detailed in the Pre-Lodgement Meeting Minutes:

- Building height.
- View loss impacts.
- Overshadowing.
- Landscaping.
- Car parking.
- Materials.
- Heritage status and significance.

Current Application

Date	Action
10 March 2022	The subject application was lodged with Council.
25 March 2022	The application was notified as per Council's Community Participation Plan. The notification period ended on 8 April 2022. A total of 11 submissions were received during this period.
20 May 2022	A site inspection was conducted by Council's Assessment Officer.
22 June 2022	A Request for Information (RFI) Letter was sent to the Applicant via the Planning Portal. The letter advised the following matters that required addressing: <ul style="list-style-type: none">• View loss analysis.• Response to submissions.
19 August 2022	The Applicant submitted additional information via the Planning Portal. The Applicant also confirmed that height poles were installed and surveyed to assist in further assessment in relation to view loss.
17, 18, 19 and 22 August 2022	Several site inspections were conducted by Council's Assessment Officer at the following locations, in response to submissions: No. 32 and 34 Chuter Street, McMahons Point; No. 43 Thomas Street, McMahons Point; and No. 79, 81, and Units 1 and 2 of No. 81A Union Street, McMahons Point.
7 September 2022	A site inspection was undertaken by Council's Assessment Officer and Conservation Planner.
4 November 2022	

14 November 2022	<p>Council's Assessment Officer contacted the Applicant's Architect – advising them of first floor rumpus room and intention to reduce its dimensions and increase setback from the southern boundary.</p> <p>The Applicant provided amended plans via the Planning Portal that reduce the rumpus room and increase setback from the southern boundary. In light of the extent of changes and the improved outcome presented by the amended design, the revised plans did not require neighbour notification.</p>
------------------	---

INTERNAL REFERRALS

ENGINEERING

Council's Development Engineer reviewed the application and confirmed that no objections were raised with regard to the proposed vehicular access and parking, and stormwater management system, subject to the imposition of recommended conditions.

Planning comment: The above comments are noted and concurred with. Any recommended conditions will be included should consent be granted.

HERITAGE

Council's Conservation Planner assessed the application in relation to heritage matters and provided the following advice:

The following assessment of the proposed works at 45 Thomas Street involving the demolition of the existing structures on the site and to carry out excavation to make way for a new part 2/part 3 storey minimalist style contemporary dwelling with onsite parking for two car spaces in a tandem arrangement has been undertaken in relation to Clause 5.10 of NSLEP 2013 and section 13 of NSDCP 2013.

s13.4 Development in the vicinity of heritage items.

As referenced above, the north-eastern (side) elevation of 45 Thomas Street abuts the heritage group at 77-81 Union Street. The heritage items are distinct from the subject site because of their formal address to Union Street and are contained by the large retaining wall at the rear. Should the dwelling on the site be demolished, it will not adversely impact on the setting, curtilage or significance of the heritage items.

s13.6 Neutral items

In this instance and location, the existing mid-century dwelling is not defining nor representative of the predominant mid to late Victorian architectural style of the Union, Bank and Thomas Street conservation area. The dwelling has undergone unsympathetic alterations to the front elevation and its current lack of landscaping and relatively deep setback weakens its presentation to the street. Additionally, the impact from the adjoining development at 23 Thomas Street and the retaining wall of the heritage item group at 77-81 Union Street creates a tunnel effect. The existing garage is a later addition, built to the street boundary. The sandstone garden wall is compatible with the character of the Union, Bank and Thomas Street conservation area.

s13.6.1 General Objectives O1 Ensure that new development is designed to retain and compliment the character and significance of the conservation area-

s13.6.2 Form, Massing and Scale - Objective O1 To ensure new development has a compatible and complimentary building form and scale to that which characterises the conservation area-

See comments above relating to s13.6 Neutral items

The revised design of the subject proposal to increase the setback of the upper, third level has been reduced to minimise its visual impact. It has been setback by 2.5m so that it is not directly visible in the Thomas Street elevation. The overall height has been adjusted to minimise the impact on the setting and views relating to the heritage group facing Union Street and the surrounding area generally.

s13.6.3 Roofs - Objective O1 To maintain the characteristic roof profiles and roofing materials within a heritage conservation area-

No objection is raised to the shallow sloped roof. It will not be directly visible in the Thomas Street elevation generally given it is setback.

s13.9.4 Materials - Objective O1 To ensure that materials and finishes are consistent with the characteristic elements of the heritage item or heritage conservation areas -

Whilst the rendered finish is appropriate, the extensive glazed openings are uncharacteristic within the conservation area. It is recommended that the proposal be revised to increase the solid to void ratio and reduce the amount of glazed area by at least one third (33.3%) on all levels. At the first floor level at least, the introduction of a central column is recommended. All the glazing should be set-in from the side boundaries. The windows in the ground floor level will need to be realigned with the revised window openings above. It is also recommended that the black framed windows utilise a neutral colour.

s13.9.5 Garages and Carports- Objective O1 To ensure that vehicular accommodation does not detrimentally impact upon the significance of the heritage item or heritage conservation area-

It is noted that the proposed 2-car garage will replace an existing single car garage currently built to the street alignment. There is potential to recess the garage entry albeit for a nominal amount of 0.2m approximately, and to reduce the size of the garage door to minimise the dominant impact of a garage element.

s13.9.6 Fences – Objective O1 To ensure that fences are consistent with the characteristic elements of the heritage item or heritage conservation area-

The sandstone base/retention of the earlier portion of the boundary fence is supported. There is potential to lower the paling fence height. A lower fence will allow visibility of the dwelling beyond to improve its connection with the public domain and the landscaping in the foreground will also link in with the streetscape to improve an openness to the streetscape rather than create a hard edge to the street.

s13.8 Demolition of neutral items

Council may consider the demolition of a neutral item, but only where the applicant can demonstrate the following outcomes:

- (a) The existing building is not capable of adaptation or modification in a way that will reasonably meet contemporary amenity and living standards while also improving the appearance and contribution of the building to the area's character.*
- (b) That any replacement building improves the contribution of the site to the area's character in terms of form, setbacks, bulk, scale, materials and style.*

Refer to s13.6 Neutral items above. The existing dwelling does not have the potential to meet the threshold for heritage listing. Given the deep setback of the existing built form and the ascending topography to the rear, the site has limited potential for a reasonable additional that would meet contemporary amenity and living standards. It is noted that earlier two DA's were withdrawn and refused respectively. The current approach is acceptable and subject to the recommended conditions.

Heritage assessment

An assessment of the proposal for alterations and additions at 45 Thomas Street has been undertaken in terms of North Sydney LEP 2013 Part 5 Clause 5.10 Heritage conservation and North Sydney DCP 2013 Part B, Section 13 Heritage and Conservation.

With reference to the above, should the application be approved, it is recommended that the following conditions be placed on the approval:

Non-standard conditions:

- 1. That the glazed openings facing Thomas Street are to be reduced in area by at least one third (33.3%) to express an increase in the solid to void ratios, particularly at the ground and first floor levels. NB: The steel framed windows and doors are to have a neutral colour.*
- 2. That the proposed garage door is to be recessed in area by 200mm to reduce, reduce the overall size of its opening, to reduce its visual impact on the Thomas Street streetscape*
- 3. That the overall height of the proposed metal fencing to the front courtyard be reduced by 50% or deleted to improve the interface of the landscaped front garden area with the Thomas Street streetscape.*

Standard Conditions:

- 4. **A3** No demolition of extra fabric*
- 5. **C12** Colours, Materials and Finishes (Conservation Areas)*
- 6. **E6** Removal of extra fabric*

Planning comment: The above comments are considered and generally concurred with. The proposed change to the new fence is not considered necessary as the combined stone/masonry/metal fence reflects the eclectic front fence styles featured in the immediate streetscape and along Thomas Street. Aside from the recommended change, all other heritage conditions will be included, should consent be granted.

LANDSCAPING

Council's Landscape Development Officer reviewed the application and provided the following commentary with regard to the proposed tree removal and new landscaping treatments:

The removal of the majority of mature site trees, and an existing street tree is not supportable. There is inadequate replacement tree planting proposed. The removal of T1 Cupressus sempervirens (10m) would appear to be unnecessary. The bulk and scale of the proposal would appear excessive and provides little in the way of landscaping to soften the built form.

The removal of Tree A Callistemon viminalis planted in the council verge in front of 45 Thomas Street may be considered based on the arborists findings should a suitably amended proposal be lodged, but a replacement Callistemon viminalis shall be planted to the north of the current location.

Should [the Panel] support the existing proposal, the following conditions shall apply:

- *All recommendations contained within the arborist report prepared by Martin Peacock Tree Care dated 9/2/22 shall be strictly adhered to.*
- *All trees to be retained shall be protected in accordance with AS4970, sensitive construction techniques shall be used within the TPZ of any protected tree.*
- *No SW or other services shall be directed through the RPZ of any protected tree.*
- *The replacement street tree shall be Callistemon viminalis (100l) and not Tristaniopsis laurina (75l) as shown in LS plan.*

Planning comment: The above comments are noted and considered. The proposed landscaped outcome is supported given the proposal complies with minimum landscape area requirements, complies with the maximum site coverage control and is located within a highly urban landscape character of the locality dominated by ridge top landscape features and underlying shallow rock shelves.

The proposed landscape design is considered to be in keeping with the proposed height and form of the proposed dwelling and is appropriate to the site context. The conditions recommended by Council's Landscape Development Officer are supported and are included in the draft conditions.

SUBMISSIONS

Original Plans

In accordance with Council's Community Participation Plan, Council notified adjoining properties and the Union Precinct Committee of the proposed development from 25 March to 8 April 2022. Council received 11 submissions during this period.

The matters raised in these submissions objecting to the proposed development are listed below:

Basis of Submissions

- Bulk and scale
- View loss impacts
- Amenity and privacy impacts
- Overshadowing
- Impacts on boundary fencing and landscaping
- Rear setback variation and setbacks from boundaries
- Excessive excavation
- Stormwater management
- Local character and streetscape
- Loss of trees

The above issues are summarised and addressed later in this report.

The original submissions may be viewed by way of DA tracking on Council's website https://www.northsydney.nsw.gov.au/Building_Development/Current_DAs and are available for review by NSLPP members.

Amended Proposal – 14 November 2022

The Applicant submitted an amended design and additional information in response to the submissions and any correspondence from Council. The nature of the changes within the final scheme were such that it was determined that a re-notification of the revised design and associated plans was not required as per Council's Community Participation Plan.

The revised design only entails a reduced footprint of the first floor rumpus room at the rear of the site, which has a greater and improved setback from the southern boundary. This change was in direct response to the potential shadow impacts associated with this space. The amended proposal is not considered to have additional or greater impacts compared to the original design in terms of views or streetscape impacts. Therefore, re-notification was not required in accordance with Council's Community Participation Plan.

CONSIDERATION

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

SEPP (Biodiversity and Conservation) 2021

The following sections apply to the proposed development and have been considered in the assessment:

Chapter 2 – Vegetation in non-rural areas

The proposed development involves the removal of vegetation including the removal of the following trees:

- Four (4) x site trees:
 - *Cupressus sempervirens* – Italian Cypress (ref: tree T1)
 - *Persea americana* – Avocado (ref: tree T3)
 - *Syzygium paniculatum* – Magenta Lilly Pilly (ref: tree T4)
 - *Callistemon viminalis* – Weeping Bottlebrush (ref: tree T6)

- One (1) x street tree:
 - Callistemon viminalis – Weeping Bottlebrush (ref: tree A)

An arborist report was provided as part of the subject application. The report noted that:

...the trees proposed to be removed are low arboricultural and landscape value and have been allocated a Retention Category of Consider for Removal.

Trees T1, T3 and T4 are proposed for removal as part of the landscape treatment for the site. Tree T6 falls within the proposed building footprint. Street tree A falls within the footprint of the proposed driveway crossover removal.

Council's Landscape Development Officer confirmed conditional support for proposed tree removal and landscaping treatments (refer to above section Internal Referrals – Landscaping). As such, the application satisfies the respective aims under Chapter 2 of this SEPP.

Chapter 10 – Sydney Harbour Catchment

It is noted that the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 has been included in Chapter 10 of this SEPP since its endorsement in December 2021. Having regard to Chapter 10 of this SEPP and the Sydney Harbour Foreshores and Waterways Area DCP 2005, the proposed development is not considered to be detrimental to the Harbour and will not unduly impose upon the character of the foreshore given the site's location in medium density, residential area of McMahons Point. The proposed development is of a bulk, scale and design that are proportionate and appropriate to the subject site and respective of site constraints and the site's location and setting within the Sydney Harbour Catchment. As such, the proposed development is acceptable having regard to the provisions contained within SREP 2005 and the Sydney Harbour Foreshores and Waterways DCP 2005.

SEPP (Resilience and Hazards) 2021

The provisions of Chapter 4 of this SEPP require Council to consider the likelihood that the site has previously been contaminated and to address the methods necessary to remediate the site. The subject site has been used as a dwelling house since 1943 and as such is unlikely to contain any contamination. The nature and location of the proposed development (involving demolition of an existing dwelling house and construction of a new dwelling house) are such that any applicable requirements of this SEPP have been satisfactorily addressed.

SEPP (Building Sustainability Index: BASIX) 2004

A valid BASIX Certificate has been submitted with the application to satisfy the aims of this SEPP.

NORTH SYDNEY LOCAL ENVIRONMENT PLAN (NSLEP 2013)

Aims of Plan

The development application has been assessed against the aims of the North Sydney Local Environmental Plan 2013 (NSLEP 2013) and is considered to be satisfactory with respect to the relevant aims of the Plan.

Permissibility

The site is zoned R3 – Medium Density Residential under the provisions of the North Sydney Local Environmental Plan 2013. Development for the purposes of a *dwelling house* is permissible with the consent of Council in the R3 – Medium Density Residential zone.

Objectives of the zone

The objectives of the R3 – Low Density Residential zone 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 current use of the site as a single dwelling house will be retained. The introduction of a new split-level dwelling house is considered a reasonable and acceptable redevelopment of the subject site that will enable adequate amenities, facilities and functional areas for future occupants without adversely impacting nor significantly compromising the amenity of neighbouring and surrounding properties. The new dwelling house has been designed with regard to the unique site constraints, topography and heritage setting of the site. The resultant built form is not considered an excessive, bulky building. This form demonstrates sufficient consistency and compatibility with surrounding and adjacent residential housing that respects the character of Thomas Street and the conservation area. As such, the proposed development (as amended) will result in a built form and architectural design that are considered acceptable and in-line with to the objectives of the R3 – Medium Density Residential Zone.

Principal Development Standards

The proposal has been assessed against the principal development standards applicable to the development under NSLEP 2013 as follows:

Compliance Table

North Sydney Local Environmental Plan 2013			
Site Area – 328.3m ²	Proposed	Control	Complies
Clause 4.1 – Subdivision lot size	Not applicable	Min. 230m ²	N/A No subdivision is proposed.
Clause 4.3 – Height of buildings	7.78m	Max. 8.5m	Yes

Height of Building

The following objectives for the permissible height limit are stated below:

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

The proposed development comprises a maximum height of 7.78m and is therefore compliant with the maximum permissible building height provision of 8.5m as per Clause 4.3 in NSLEP 2013. The proposed development will maintain an appropriate and reasonable level of amenity to neighbouring properties and is of a massing and scale that are consistent and compatible with the surrounding locality and conservation area.

Part 5 – Miscellaneous Provisions

Clause 5.10 – Heritage Conservation

The subject site adjoins several heritage items (I0499 – No. 77 Union Street, I0500 – No. 79 Union Street and I0501 – No. 77 Union Street) and is within the Union, Bank and Thomas Streets Conservation Area (CA15), which are listed under Schedule 5 of the NSLEP 2013. Figure 11 comprises a heritage map showing the subject site in relation to these items and the conservation area.

The following planning objectives apply to the proposed development:

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

The proposed demolition of the dwelling house is supported as it involves removal of a neutral item that does not highly contribute to the fabric and historical significance of the conservation area.

The proposed development introduces a new dwelling house, which features a built form, massing, aesthetic and architectural expression that are generally contemporary and distinct from the contributory and heritage-listed items in the immediate locality and conservation area. The new dwelling house is considered appropriate and respectful of the heritage setting as it will unlikely interrupt the prominent architectural language and style, aesthetic and development pattern that is unique to the Union, Bank and Thomas Streets Conservation Area and the immediate streetscape along Thomas Street.

The location of the subject site being in relation to the adjoining heritage items is such that the significance and prominence of these items are negligibly impacted, noting that the site adjoins the rear boundary of these items.

The proposed development has been assessed by Council's Conservation Planner against the objectives under Clause 5.10 and it was confirmed that the proposal is supported on heritage grounds, subject to the imposition of conditions.

Given the above considerations, the proposed development is considered acceptable and satisfies the heritage conservation provisions under Clause 5.10.

Part 6 – Additional local Provisions

Clause 6.10 – Earthworks

The proposed development involves a significant amount of excavation to facilitate the lower ground floor of a split-level dwelling house within a steep site and the removal of existing built-up areas and access stairs situated in the rear yard. An assessment has been carried out below having regard to Clause 6.10 in NSLEP 2013.

As per the provisions of Clause 6.10(3), the following matters are required to consider before consent can be issued.

- (3) Before granting development consent for earthworks (or for development involving *ancillary earthworks*), the consent authority must consider the following matters:

(a) *the likely disruption of, or any detrimental effect on:*

- (i) *drainage patterns and soil stability in the locality of the development, and*
(ii) *natural features of, and vegetation on, the site and adjoining land,*

The proposed earthworks involve substantial excavation of at least 2.15m to maximum 3.5m into the sloping sections of the site. These works are required to accommodate the lower ground floor and to remove existing fill and built-up zones in the rear yard.

Whilst the earthworks are situated wholly within the subject site, these are considered to be substantial with potential to affect soil stability, drainage patterns and adjoining land. The Applicant provided information (including a geotechnical report) that demonstrated the proposed earthworks can be appropriately undertaken and managed to minimise impacts, particularly on adjoining properties. Council's Engineer confirmed that subject to the imposition of conditions, the proposed earthworks are acceptable and any associated effects can be mitigated and managed. As such, the proposal can satisfy Clause 6.10.

(b) *The effect of the development on the likely future use or redevelopment of the land,*

The proposed development involves demolition of an existing dwelling house and construction of a new dwelling house. The current use of the land remains unchanged. The proposed earthworks do not significantly alter the existing topography of the site as the general slope towards Thomas Street is retained. The proposed earthworks are unlikely to impact the future use/redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both,

Given the residential history of the site it is unlikely that the site has experienced any significant contaminating activities which would cause concern relating to the quality of material to be utilised as fill or of any existing material that will be disturbed. Notwithstanding this, conditions can be imposed to identify, contain, manage and dispose of any uncovered contamination during earthworks, should consent be granted.

(d) the effect of the development on the existing and likely amenity of adjoining properties,

As mentioned above, the proposed earthworks are considered to be substantial and have the potential to affect land stability and adjoining land. Conditions can be imposed to manage such impacts as well as any associated construction impacts. The proposed development and associated earthworks are acceptable in this regard.

(e) the source of any fill material and the destination of any excavated material,

If the proposed development is supported, conditions can be imposed to ensure any fill material is adequate and fit for purpose and any waste material from excavation exported and disposed of appropriately.

(f) the likelihood of disturbing Aboriginal objects or relics,

The site has an extended history of residential accommodation usage with no surface outcropping of natural rock occurring on site. The likelihood of disturbing any relics is very low.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,

The site does not supply any drinking water catchments. If the proposed development is supported, appropriate sediment and erosion control measures can be included to prevent sediment movement into adjoining properties.

In accordance with the provisions of Clause 6.10(3) this assessment has considered the impact of the proposed excavation and filling within the site and to surrounding properties and found that the proposed earthworks are acceptable, subject to the imposition of conditions of development consent. Accordingly, the proposed development is acceptable and supportable in this regard.

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013

The proposed development has been assessed against the relevant objectives and controls under the NSDCP 2013. An assessment has been carried out below:

Part B, Section 1: Residential Development

Part B Section 1 – Residential Development		
Control	Compliance	Comments
1.2 Social amenity		
Maintaining residential Accommodation	Yes	The proposed development does not result in the loss of residential accommodation. It will maintain the existing use of the site as a single dwelling house.
1.3 Environmental criteria		

<p>Topography</p>	<p>Yes</p>	<p>The proposed development generally maintains the existing topography and current fall to the street; however, it is noted that significant cut and some fill are proposed to accommodate the basement/subterranean level (lower ground floor) and to ensure that the development relates more appropriately to the challenging topography of the site and to create transitional (access) and terraced areas along the side setbacks, and a single consolidated and levelled primary private open space at the rear. The resultant outcome will not generate any significant or adverse impacts on the structural stability of adjoining properties, does not disrupt drainage patterns and does not generate unreasonable overshadowing and amenity impacts.</p> <p>The Applicant has provided sufficient information (including a geotechnical report and revised drawings) to indicate that the demolition and excavation works are wholly contained within the subject site and that the structural stability of any boundary walls, neighbouring structures and adjoining land will not be compromised. Further, conditions will be incorporated into the consent to reinforce the above and ameliorate any concerns pertaining to structural stability of neighbouring properties.</p> <p>The site is challenged by steep topography and a number of built-up/fill areas that have the split the existing rear yard into various levels. The proposed development has been designed in consideration of these constraints, with the intention of rectifying and improving the current connection to private open spaces, whilst achieving the relevant objective and provisions under Section 1.3.1.</p>
<p>Views</p>	<p>Yes</p>	<p>The proposed development will result in some view loss impacts to the north-adjoining residences along Union Street. The most prominent and existing views from these properties are wide and distant water/land and horizon-skyline views, some of which are of the Sydney Harbour foreshore and Balls Head Bay. These views are generally taken from side boundaries and exist due to the conservatively sized, single storey cottage/dwelling house currently occurring within the subject site.</p> <p>As mentioned above, the proposed development is below the maximum building height limit under Clause 4.3 of the NSLEP 2013. It is also noted that the proposed new dwelling house steps down with the topography. The retention and sharing of views that primarily rely on open corridors and vistas created from less developed or underdeveloped properties over side boundaries are not considered pragmatic nor reasonable outcomes. Nevertheless, an assessment against the Tenacity test is provided</p>

	<p>below. In light of the above and the details contained below, any view loss impacts are considered reasonable and acceptable.</p> <p>See below detailed view loss assessment against the Tenacity test for affected properties.</p>
--	--

Context

The subject site is situated lower than the properties to the immediate north and along Union Street (including No.'s 77, 81A, 81, 83, Union Street). It is also lower than the properties at No. 32 and 34 Chuter Street. The sloping topography of the immediate vicinity and Thomas Street is such that the subject site sits above the neighbouring properties to the south and along Thomas Street. Thomas Street has a distinct north-south fall, with the lower areas located towards the existing railway line and foreshore area.

In general, the immediate locality does feature a number of existing distant views and vistas of the water and foreshore (including Balls Head Bay and Sydney Harbour) and some distant views of the Sydney city business district (CBD). These views are generally to the south/south-west (refer to Figures 29 and 30). To an extent, these views are created by the current local topography and are shared amongst properties through the positioning and separation, and controlled heights and massing of buildings. Specifically, the relationship between the subject site and adjoining neighbours and their orientation are such that existing views are enjoyed over side and rear boundaries of the subject site. The reasonable retention/preservation of these views are generally reliant upon the form, bulk and scale of any redevelopment therein and the applicable building envelope controls.

The above context has been considered in detail as part of the view loss assessment.



Figure 29: Location map of subject site and surrounding area. The subject site and immediate vicinity are outlined in yellow. Primary views/vistas to water and foreshore area (including Sydney Harbour) and distant views of the Sydney CBD are generally to the south/south-west. Source: Google maps



Figure 30: Map of subject site and immediate vicinity (outlined in yellow). Subject site shaded in purple, neighbouring properties objecting due to view loss shaded in red. Source: SIS Maps

Affected properties

The neighbouring properties that have objected to the proposal and have raised concern regarding view loss are shown in Figure 30 and are as follows:

- No. 32 Chuter Street
- No. 34 Chuter Street
- No. 79 Union Street
- Unit 1 of No. 81A Union Street
- Unit 2 of No. 81A Union Street
- No. 81 Union Street

A view loss assessment against the Tenacity test is provided below.

View loss assessment

The Tenacity test requires an assessment of view loss to be undertaken in the following four (4) steps:

Step 1: assessment of views to be affected. Water views are valued more highly than land views. Iconic views (for example, of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views. For example, a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

Step 2: consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic

Step 3: assess the extent of impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

Step 4: assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the Applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

The following is a view loss assessment against the Tenacity test.

Views from first floor sunroom and rear yard (No. 32 Chuter Street)

Step 1: wide and distant water/land and horizon-skyline views over a rear boundary. Views are generally partial, somewhat obstructed by existing built forms and trees (sunroom). There are limited views from the rear yard.

Step 2: views over rear boundary of No. 43 Thomas Street. Views can be either standing or sitting.

Step 3: negligible impacts. It is noted that there are no substantial views impacted by the proposal as the subject site is diagonal from this neighbour (not adjoining).

Step 4: the proposed development is compliant with regard to height, massing and setback and generally step with the existing topography of the site. The impacts are regarded as negligible given the type and quality of views and location of the site in relation to this neighbour.

Assessment: any view loss impacts are considered acceptable and reasonable given the above.



Diagonal view of subject site from rear yard of No. 32 Chuter Street



Westerly view from first floor balcony of No. 32 Chuter Street

Views from first floor balcony and rear yard (No. 34 Chuter Street)

Step 1: wide and distant water/land and horizon-skyline views over a rear boundary. View is generally a partial view, somewhat obstructed by existing built forms and trees (sunroom). There are limited views from the rear yard.

Step 2: views over rear boundary of subject site. Views can be either standing or sitting.

Step 3: negligible impacts.

Step 4: the proposed development is compliant with regard to height, massing and setback and generally step with the existing topography of the site. The impacts are regarded as negligible and reasonable given the type and quality of views and location of the site in relation to this neighbour. It is further noted that the expansive views from the balcony area towards the water/foreshore are unaffected by the proposal.

Assessment: any view loss impacts are considered acceptable and reasonable given the above.



View of subject site from rear yard of No. 34 Chuter Street – proposed built form shaded in green



View of subject site from first floor balcony of No. 34 Chuter Street – proposed built form shaded in green

Views from rear yard and first floor sunroom (No. 79 Union Street)

Step 1: wide and distant water/land and horizon-skyline views over a side boundary. Views from the ground floor are generally partial, somewhat obstructed by existing built forms and trees. Whole and distant views of some water/land interface exist for the first floor and upper floors.

Step 2: views over the side boundary of subject site and generally reliant upon retention of existing single storey dwelling house. Views can be either standing or sitting.

Step 3: low to moderate impacts.

Step 4: the proposed development is compliant with regard to height, massing and setback and generally step with the existing topography of the site. The primary views of the water/land interface from the first floor are generally retained.

Assessment: any view loss impacts are consistent with built form controls which apply to the land. The resulting view impacts are considered to be reasonable and acceptable in the circumstances.



View of subject site from rear yard of No. 79 Union Street – proposed built form shaded in green



View of subject site and towards Balls Head Bay from first floor sunroom of No. 79 Union Street – proposed built form shaded in green

Views from rear yard, first floor master bedroom and second floor balcony/terrace (Unit 1 of No. 81A Union Street)

Step 1: wide and distant water/land and horizon-skyline views over a side boundary. Views from the ground floor are generally partial, somewhat obstructed by existing built forms and trees. Whole and distant views of some water/land interface exist for the first floor and upper floors.

Step 2: views over the side boundary of subject site and generally reliant upon retention of existing single storey dwelling house. Views can be either standing or sitting.

Step 3: low to moderate impacts.

Step 4: the proposed development is compliant with regard to height, massing and setback and generally step with the existing topography of the site. The primary views of the water/land interface from the first floor and second floor are generally retained.

Assessment: any view loss impacts are considered acceptable and reasonable given the above.



View of subject site and towards Balls Head Bay from rear yard of Unit 1 of No. 81A Union Street – proposed built form shaded in green



View of subject site and towards Balls Head Bay from first floor bedroom windows of Unit 1 of No. 81A Union Street – proposed built form shaded in green



View of subject site and towards Balls Head Bay from first floor bedroom windows of Unit 1 of No. 81A Union Street – proposed built form shaded in green

Views from rear yard, ground floor kitchen and first floor balcony (Unit 2 of No. 81A Union Street)

Step 1: wide and distant water/land and horizon-skyline views over a side boundary. Views from the ground floor are generally partial, somewhat obstructed by existing built forms and trees. Whole and distant views of some water/land interface exist for the first floor and upper floors.

Step 2: views over the side boundary of subject site and generally reliant upon retention of existing single storey dwelling house. Views can be either standing or sitting.

Step 3: moderate impacts.

Step 4: Some impacts will occur on the current sky outlook and some distant views from the rear yard and ground floor kitchen. Despite this, the proposed development is compliant with regard to height, massing and setback and generally step with the existing topography of the site. The primary views of the water/land interface from the first floor are generally retained.

Assessment: any view loss impacts are considered acceptable and reasonable given the above.



View of subject site and towards Balls Head Bay from rear yard of Unit 2 of No. 81A Union Street – proposed built form shaded in green



Standing view of subject site and towards Balls Head Bay from kitchen of Unit 2 of No. 81A Union Street – proposed built form shaded in green



View of subject site and towards Balls Head Bay from first floor balcony of Unit 2 of No. 81A Union Street – proposed built form shaded in green

Views from rear yard and ground floor – combined kitchen/dining room (No. 81 Union Street)

Step 1: wide and distant water/land and horizon-skyline views over a side boundary. Views from the ground floor are very limited and highly obstructed by existing built forms and trees. Whole and distant views of some water/land interface exist for the first floor and upper floors.

Step 2: views over rear boundary of subject site. Views can be either standing or sitting.

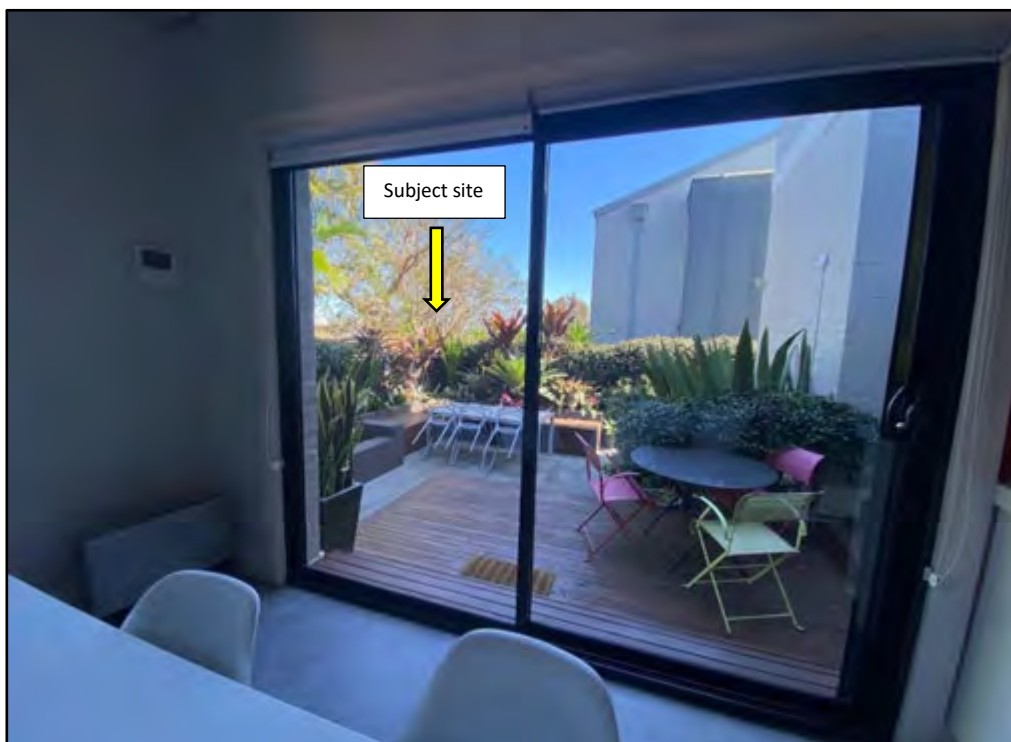
Step 3: negligible/low impacts.

Step 4: the proposed development is compliant with regard to height, massing and setback and generally step with the existing topography of the site. The primary views of the water/land interface from the first floor/upper floors are unaffected.

Assessment: any view loss impacts are considered acceptable and reasonable given the above.



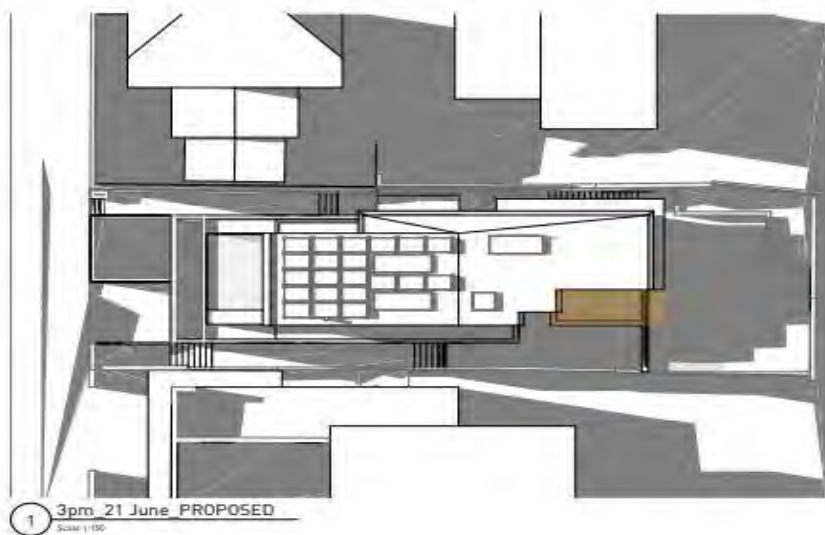
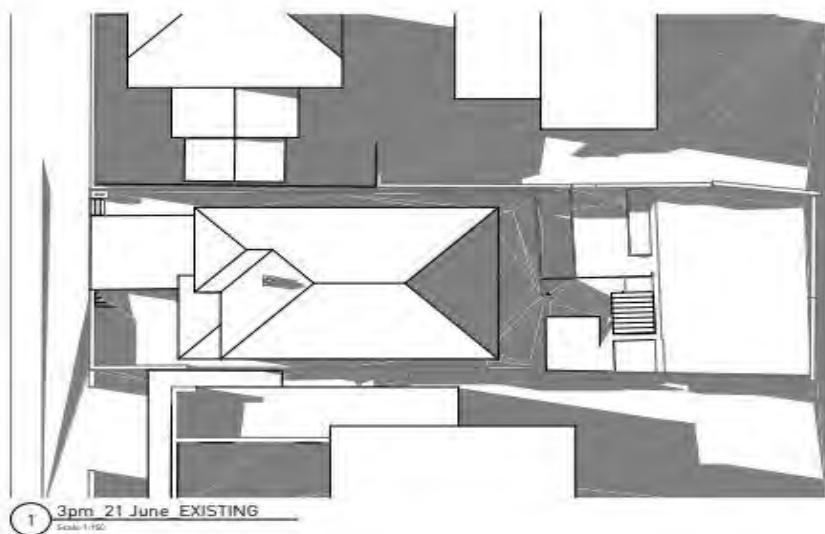
View of subject site from rear yard of No. 81 Union Street



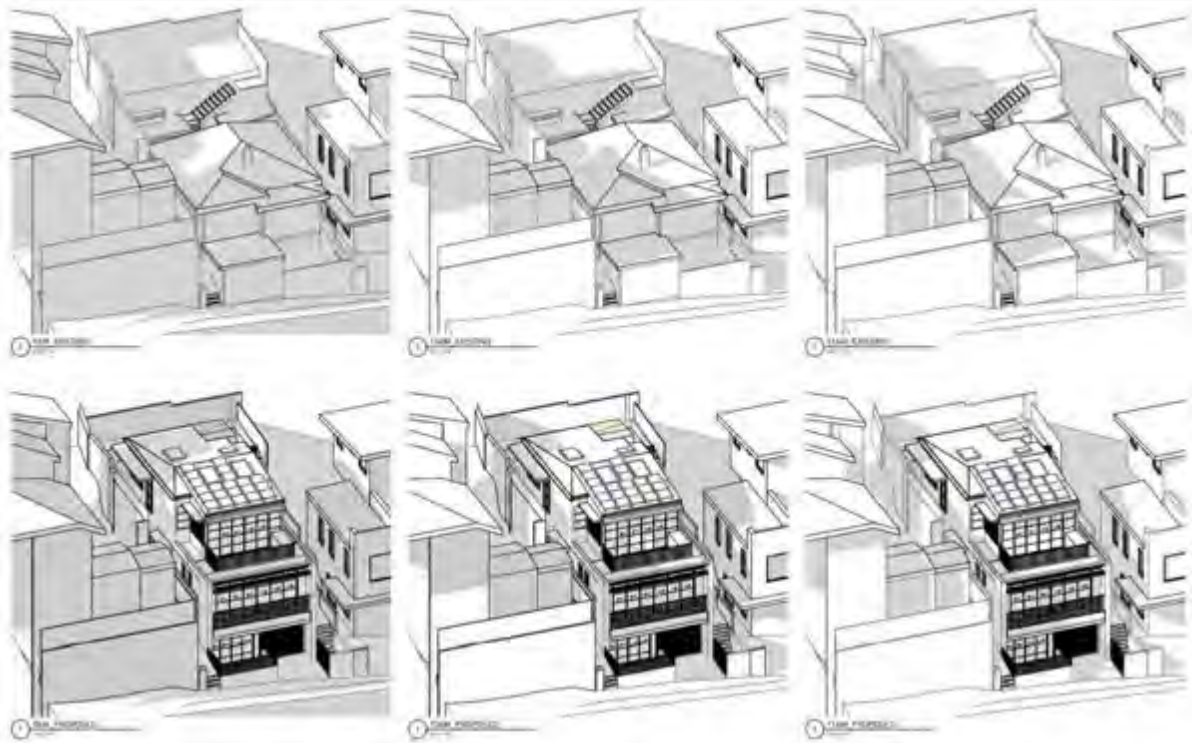
View of subject site from combined kitchen and dining room (ground floor) of No. 81 Union Street



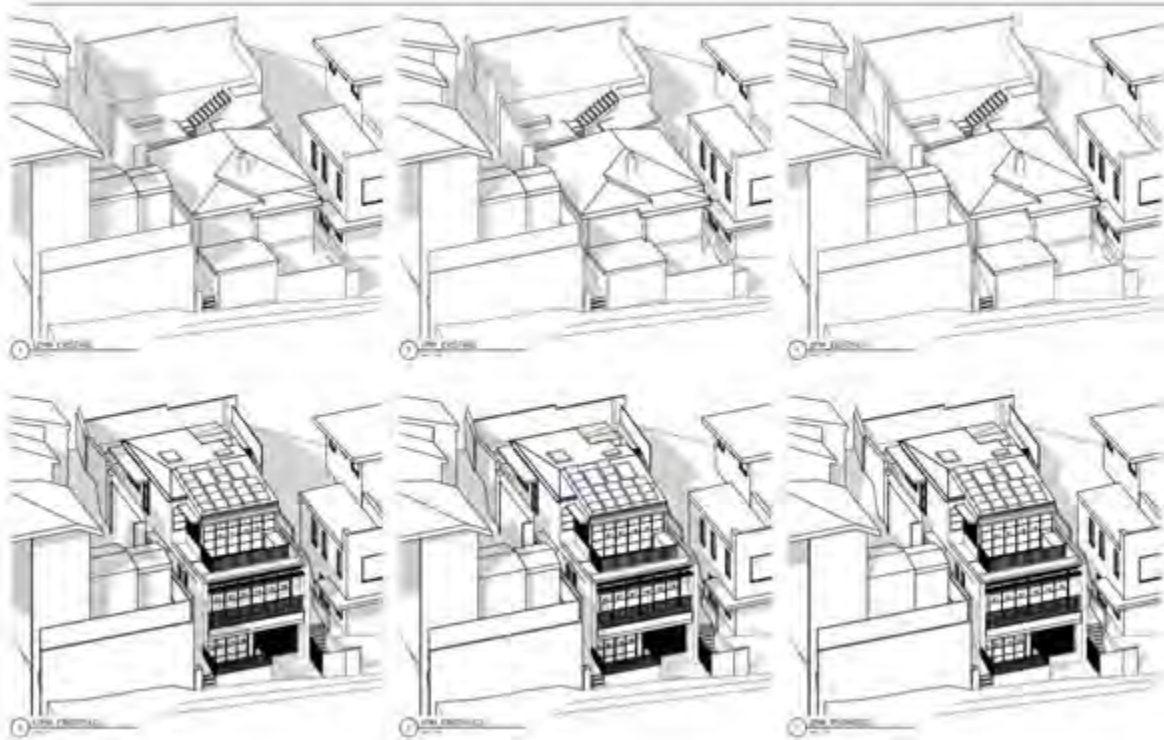
Shadow diagrams – 12-2pm mid-winter (21 June)



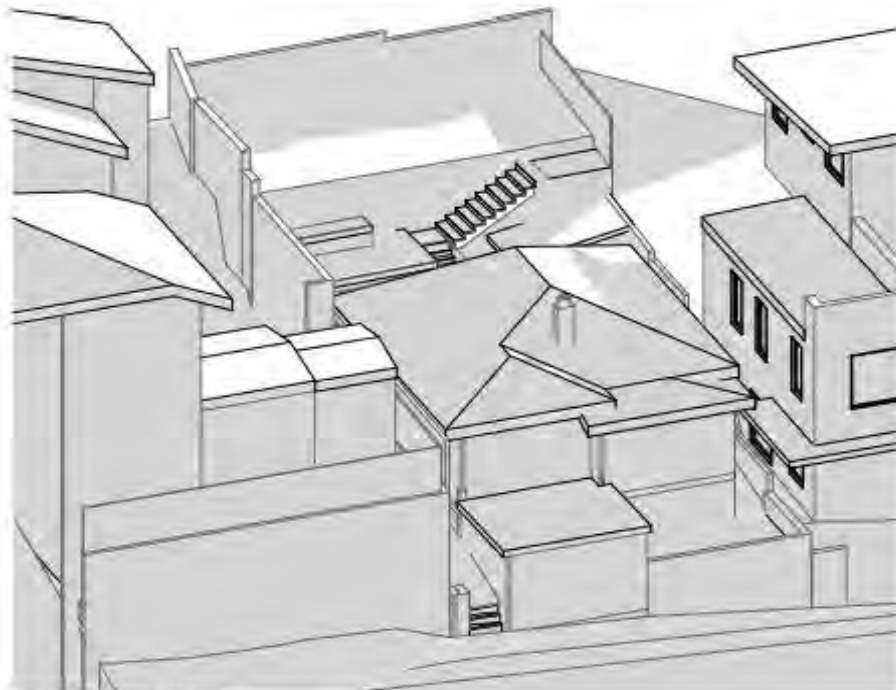
Shadow diagrams – 3pm, mid-winter (21 June)



Elevation shadow diagrams – 9-11am, mid-winter (21 June) only



Elevation shadow diagrams – 12-2pm, mid-winter (21 June) only



① 3PM EXISTING
Scale 1:150



① 3PM PROPOSED
Scale 1:150

Elevation shadow diagrams – 3pm, mid-winter (21 June) only

Overshadowing impacts

There is additional overshadowing created by the proposal as the existing development is a conservatively sized, single storey building. This additional overshadowing is mostly as a consequence of the new first floor introduced to the site. Notwithstanding this, the entire proposal is below the maximum height limit and the rear portion of the upper ground and first floors (as revised) are setback further from the southern boundary to enable greater separation and opportunity to achieve some solar access to the rear areas and northern façade of this neighbour.

The north-facing windows within a combined living/dining/kitchen room of the dwelling at No. 43 Thomas Street are mostly impacted by the additional overshadowing created from introducing a split-level dwelling house within the subject site (in replacement of a single storey building). It is noted, however, that the combined living/dining/kitchen room features west-facing windows in the living room that provide ample solar access to this room. The design of this space ensures that a minimum three (3) hours of sunlight is accessed and that the above solar access requirement is achieved.



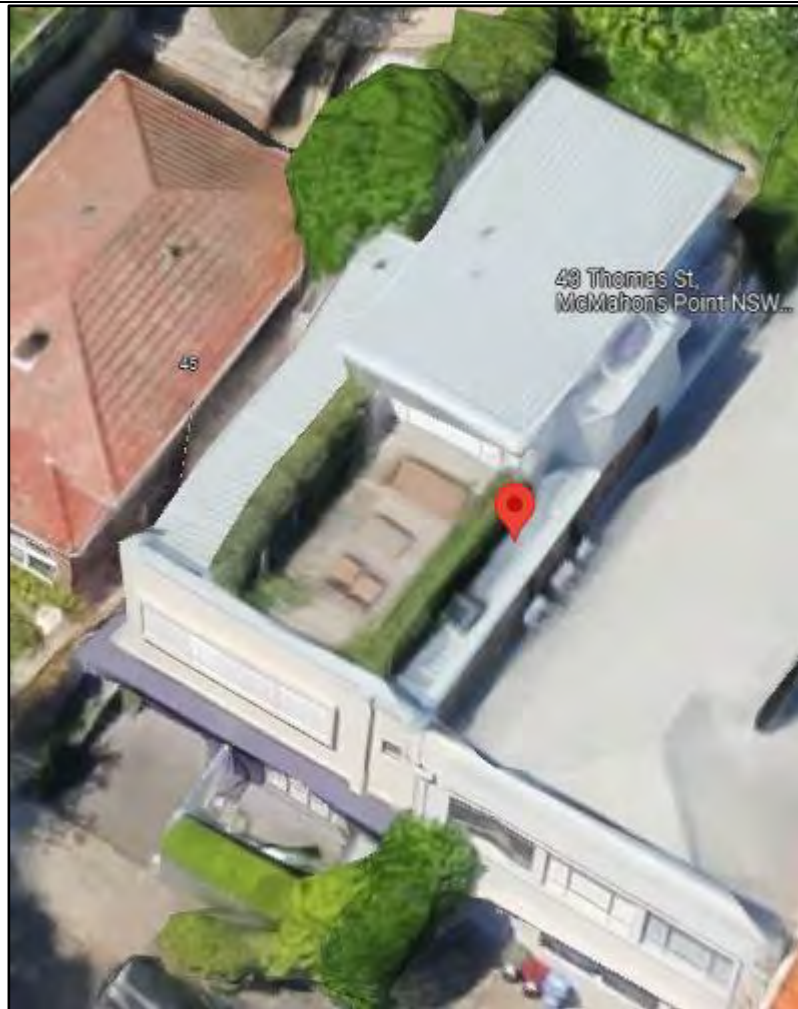
Combined living/dining/kitchen room of No. 43 Thomas Street – north-facing windows indicated by yellow arrows, west-facing windows indicated by red arrows

The rear private open space of No. 43 Thomas Street will be affected by the proposed development. This space is already challenged in terms of solar access given its aspect, sunken location and existing vegetation and structures that limit light penetration. Whilst the DCP requirement cannot be achieved for this space, the amended design does feature additional setbacks (from the southern boundary) for the first floor rumpus room, which provides some solar access to this space. A review of overshadowing impacts indicated that a portion (at least 30%) of the rear private open space of No. 43 Thomas Street will receive two (2) hours of solar access during mid-winter.



Existing rear private open space facing east – note existing boundary wall and vegetation

Further, an elevated, west-orientated and front-facing private open space exists for No. 43 Thomas Street. This space retains the current ample solar access benefiting this space, thereby ensuring the DCP requirement is achieved.

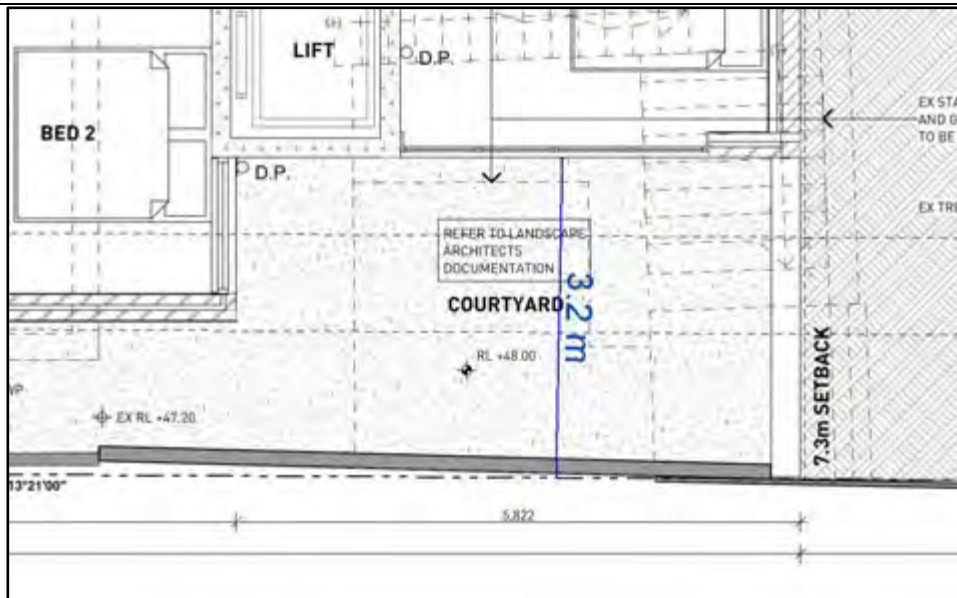


Residence at No. 43 Thomas Street showing elevated private open space (west-orientated)
 Source: Google Maps

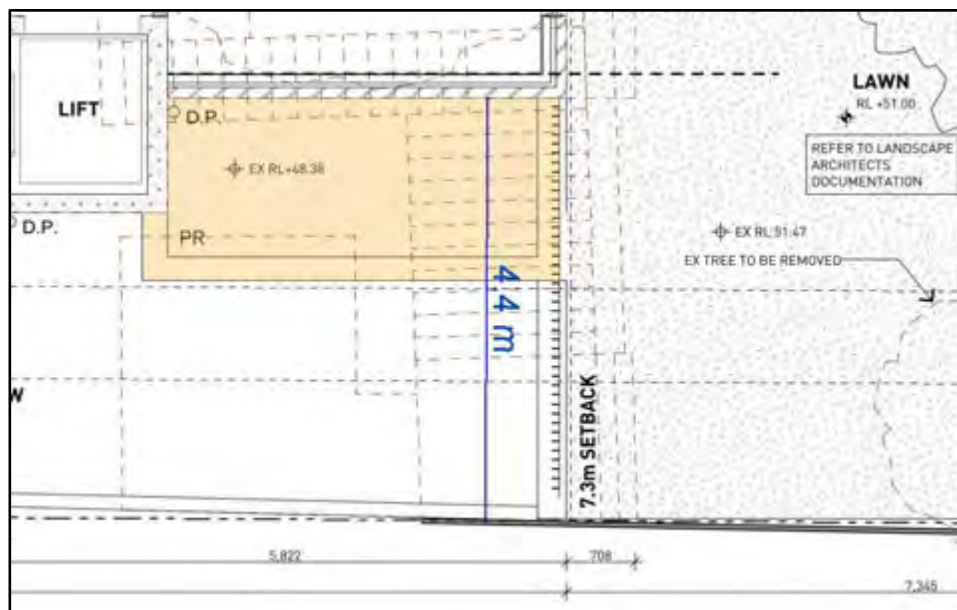
In light of the above solar access and overshadowing analysis and considerations pertaining to the built form and setbacks as well as the challenges presented by site constraints, orientation, setting and surrounds, any potential overshadowing impacts generated by the proposed development are considered reasonable and acceptable, and further, demonstrate compliance with the relevant solar access objectives and provisions under the DCP.

Acoustic privacy	Yes	Within a low-medium density residential area exposed to local roads. Bedrooms appear to be situated away from roads.
Visual privacy	Yes	<p><u>First floor</u></p> <p>Properties to the north sit at high elevations and will not be impacted.</p> <p>Rumpus room windows/openings face east and overlook the courtyard.</p> <p>Living room and terrace face the street. A planter box and recessing of the terrace reduced potential overlooking from these areas;</p> <p><u>Upper ground floor</u></p> <p>These spaces are bedrooms, bathrooms, a study, walk-in-robe and laundry – all low activity rooms. Windows are off-set from the windows of the south-adjointing neighbour.</p>

		<p><u>Private open space (rear)</u></p> <p>The finished floor level of this space will be reduced compared to existing and modified to create a single even surface. It will not result in any significant overlooking impacts.</p>
<p>1.4 Quality built form</p>		
<p>Context</p>	<p>Yes</p>	<p>The proposed development is designed, located and orientated in a manner that responds appropriately to the existing characteristics, opportunities and constraints of the site.</p>
<p>Streetscape</p>	<p>Yes</p>	<p>The existing crossing and street tree are proposed to be removed and a new crossing and tree are proposed. These are generally supported as confirmed by Council's Engineer and Landscape Development Officer.</p>
<p>Siting</p>	<p>Yes</p>	<p>Building footprint is appropriate to the site and relates to adjoining properties.</p>
<p>Setback – front</p> <p>The front setback must match the alignment of the primary facades of buildings on adjoining properties. Where different setbacks occur, the average of the setbacks of those primary facades is to be used.</p>	<p>Yes</p>	<p>The proposed development comprises a front setback of 3.65m, which matches the front setback of the dwelling at No. 43 Thomas Street.</p>
<p>Setback – side</p> <p>1st storey (up to 4m): min. 0.9m 2nd storey (up to 7m): min. 1.5m</p>	<p>Yes – all floors</p>	<p>The proposed development features minimum side setbacks of:</p> <p><u>First floor</u></p> <ul style="list-style-type: none"> • 1.5m (northern boundary) • 2.5m (southern boundary) <p><u>Lower and upper ground floors</u></p> <ul style="list-style-type: none"> • 1.5m (both boundaries) <p>These setbacks are fully compliant with the minimum requirements. It is further noted that the design features sufficient articulation and modulation. In particular, the visual bulk and interruption of the southern elevation is facilitated by additional southern side setbacks of the ground floor (bedroom 3) and the first floor rumpus room, which are 3.2m and 4.4m, respectively.</p>



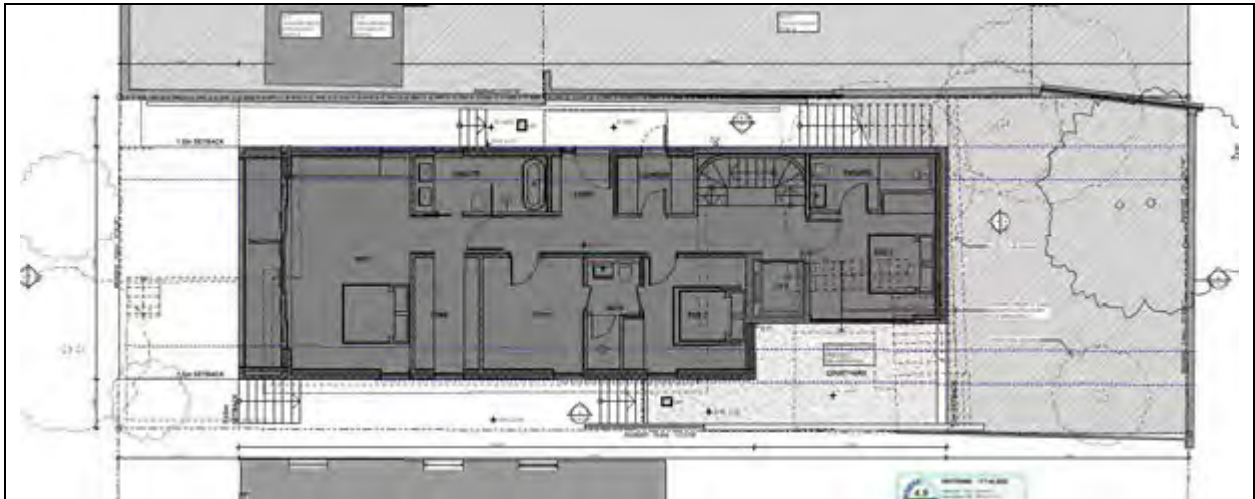
Bedroom 3 (upper ground floor) side setback from southern boundary



Rumpus room (first floor) side setback from southern boundary

<p>Setbacks – rear</p> <p>Provide rear building setbacks that match those on adjoining properties, or, if adjoining properties are not characteristic, with setbacks identified in the relevant area character statement.</p>	<p>Yes</p>	<p><u>Context</u></p> <p>The rear setback of the proposed development is 7.345m.</p> <p>The existing rear setbacks of immediate/adjoining development is as follows:</p> <ul style="list-style-type: none"> • No. 45 Thomas Street (existing house): 14m • No. 43 Thomas Street: 11m • No. 41 Thomas Street: 5m • No. 39 Thomas Street: 11m <p>It is evident that the rear setback and pattern of development along the eastern side of Thomas Street is not distinct nor highly defined given the range of setbacks existing in the streetscape. If an average setback was taken for the two (2) closest properties (No. 41 and 43 Thomas Street), the rear building line would be calculated at 8m.</p>
--	------------	---

		The proposed rear setback involves some additional rearward projection compared to the south-adjointing neighbour (No. 43 Thomas Street). This setback is considered to have merit and is justified given that it is comparable to an average setback (8m) as mentioned above. Further, the amended ground floor (bedroom 3) has additional setback of 3.2m and the first floor rumpus room has additional setback of 4.4m from the southern boundary to assist in minimising bulk, scale and presentation of the southern elevation, and minimising any associated overshadowing and amenity impacts.												
Form, massing and scale	Yes	The form, massing and scale of the proposed development are consistent with surrounding, characteristic buildings. The bulk and scale are balanced by landscaping treatments and minimised by appropriate setbacks, articulation, fenestration, modulation and material changes.												
Built form character	Yes	The proposed development introduces a contemporary style dwelling house with a low pitched roof in a streetscape dominated by traditional, heritage-style dwellings.												
Dwelling Entry	Yes	Acceptable.												
Roofs	Yes	Roof form is a low pitched and hipped style that is generally acceptable for the streetscape.												
Materials	Yes	The proposed development features off-white rendered and grey-cladded walls, timber battens and screens, black metal balustrades, sandstone cladding, ample glazing treatments and black framed doors and windows. These materials and colouration are acceptable and compatible with the streetscape character of the locality and are reflective of more contemporary forms of development along Thomas Street.												
Front fences	Yes	Front fence of masonry/stone cladding design with vertical metal slats on top. Appears acceptable but requires detail on heights from existing ground. Perimeter planting behind the fence assists in softening its appearance.												
1.5 Quality urban environment														
Vehicle Access and Parking (Inclusive of considerations required under Part B Section 10 Car Parking and Transport of NSDCP 2013)	Yes	A maximum of two (2) spaces behind the building line are proposed for the new dwelling.												
Site Coverage Site area: 328.3m² Site coverage requirements for detached, attached or semi-detached dwellings:	Yes	A maximum of 50% site coverage (164.15m ²) is allowed for dwellings on the subject site. The proposed building footprint of the proposed development is calculated to be 142m ² , which is 43.3% of the site area and therefore demonstrates compliance.												
<table border="1"> <thead> <tr> <th>Lot Size (m²)</th> <th>Site Coverage (max.)</th> </tr> </thead> <tbody> <tr> <td>0-229</td> <td>60%</td> </tr> <tr> <td>230-499</td> <td>50%</td> </tr> <tr> <td>500-749</td> <td>40%</td> </tr> <tr> <td>750-999</td> <td>35%</td> </tr> <tr> <td>1000+</td> <td>30%</td> </tr> </tbody> </table>			Lot Size (m ²)	Site Coverage (max.)	0-229	60%	230-499	50%	500-749	40%	750-999	35%	1000+	30%
Lot Size (m ²)	Site Coverage (max.)													
0-229	60%													
230-499	50%													
500-749	40%													
750-999	35%													
1000+	30%													



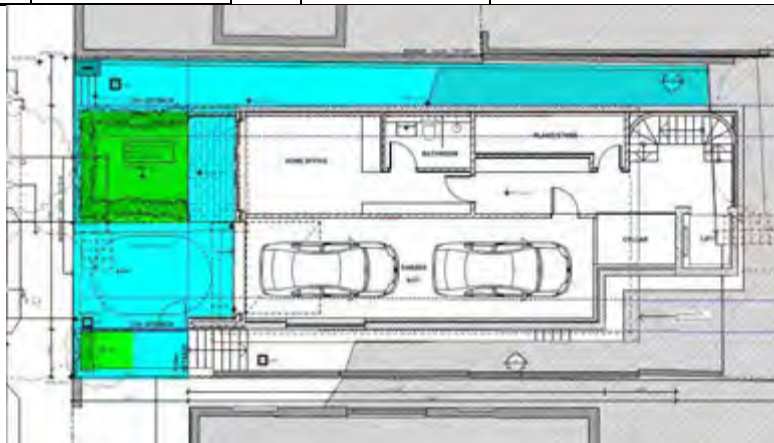
Compliance diagram – site coverage (shaded in dark grey)

Landscape Area
Site area: 328.3m²
Landscape area requirements for detached, attached and semi-detached dwellings:

Lot Size (m ²)	Landscaped area (min.)
0-229	20%
230-499	30%
500-749	40%
750-999	45%
1000+	50%

Yes

A minimum landscaped area of 30% (98.49m²) of the site area is required. The total landscaped area proposed is 106.3m² or 32.4% of the site area. The proposal is compliant with this requirement.





Compliance diagrams – landscaped area (shaded in green) and un-built upon area (shaded in cyan)

<p>Un-built upon area Site area: 328.3m² Un-built upon area requirements for detached, attached and semi-detached dwellings:</p> <table border="1" data-bbox="261 958 655 1182"> <thead> <tr> <th>Lot Size (m²)</th> <th>Un-built upon area (max.)</th> </tr> </thead> <tbody> <tr> <td>0-229</td> <td>20%</td> </tr> <tr> <td>230-499</td> <td>20%</td> </tr> <tr> <td>500-749</td> <td>20%</td> </tr> <tr> <td>750-999</td> <td>25%</td> </tr> <tr> <td>1000+</td> <td>20%</td> </tr> </tbody> </table>	Lot Size (m ²)	Un-built upon area (max.)	0-229	20%	230-499	20%	500-749	20%	750-999	25%	1000+	20%	<p>No</p>	<p>A maximum un-built upon area of 20% (65.66m²) of the site area is allowed. The total un-built upon area proposed is 80m² or 24.4% of the site area. The proposed development is non-compliant with this requirement. Any additional un-built upon areas are only associated with the side passageways and steps that are required for access and traversing the steep topography. On balance, the provision of these areas to enable function and amenity for future occupants is considered a good outcome achieved for the site that warrants merit applied to the variation. As such, the proposed variation is acceptable and supportable.</p>
Lot Size (m ²)	Un-built upon area (max.)													
0-229	20%													
230-499	20%													
500-749	20%													
750-999	25%													
1000+	20%													
<p>Landscaping</p>	<p>Yes</p>	<p>Acceptable treatments that allow appropriate softening of the building.</p>												
<p>Private and Communal Open Space Site area: 328.3m² Minimum area at ground level: 40m²</p>	<p>Yes</p>	<p>A minimum of 56m² is provided.</p>												
<p>1.6 Efficient Use of Resources</p>														
<p>Energy Efficiency</p>	<p>Yes</p>	<p>The applicant has provided a BASIX Certificate in support of the development application which requires suite of energy efficiency measures such as:</p> <ul style="list-style-type: none"> • Energy efficient internal appliances • Energy efficient lighting • Thermal insulation levels for glazing, walls and ceilings <p>A condition can be imposed to ensure that the measures contained within the BASIX Certificate are undertaken at all stages of the development process.</p>												
<p>Passive Solar Design</p>	<p>Yes</p>	<p>The development will perform adequately in this regard.</p>												
<p>Natural Ventilation</p>	<p>Yes</p>	<p>The proposed development comprises an adequate number of openings that provide natural ventilation to all habitable rooms within the building.</p>												

Hot Water Systems	N/A	
Water Conservation	N/A	
Stormwater Management	Yes	The proposed development has been assessed by Council's Engineer. The proposed stormwater management is acceptable and supportable, subject to recommended conditions of consent.
Waste Management and Minimisation	Yes	A waste management plan is provided, which adequately details the management of waste generated from demolition and construction works.
Green Roofs	N/A	The proposed development does not trigger the relevant controls for green roofs.
Wind Turbines	N/A	Wind turbines are not proposed.

Part B, Section 13: Heritage and Conservation

The following table assesses the proposed development with respect to the relevant objectives and controls under Part B, Section 13 of the NSDCP 2013.

Part B, Section 13: Heritage and Conservation		
Objectives/Controls	Complies	Comments
<p>13.6.1 General objectives</p> <p>O1 Ensure that new development is designed to retain and complement the character and significance of the conservation area (refer to Part C of this DCP for a description of the significance of the heritage conservation area).</p> <p>O3 Enable neutral items to be improved such that they contribute to the character of the heritage conservation area through the removal of unsympathetic and inappropriate elements, and reinstating missing details where appropriate.</p>	Yes	The proposed development is generally consistent with the objectives and provisions for works to neutral items within heritage conservation areas. The proposed development has been sympathetically and sensitively designed with regard to the site being within a conservation area and adjoining the rear of heritage items such that the new house will not be regarded as an uncharacteristic item and the neutral item status of the site can be preserved.
<p>13.6.2 Form, massing and scale</p> <p>P1 Development should reflect the bulk, mass, scale, orientation, curtilage and setbacks of surrounding heritage and contributory items.</p> <p>P2 Development should recognise and complement the predominant architectural scale and form of the area.</p> <p>P3 Do not obstruct existing views in the public domain, including slot views over and between buildings as these provide connection and contribute to the context of the area's location.</p>	Yes	The proposed development involves removal of the existing neutral item (dwelling house) from the site and introduces a modern style, split-level dwelling house that steps with the steep topography of the subject site. The proposed development has been sympathetically and sensitively designed with regard to the site being within a conservation area and adjoining the rear of heritage items such that the new house will not be regarded as an uncharacteristic item and the neutral item status of the site can be preserved. The development features appropriate setbacks and building separation that reflect the general pattern of development within the locality. The proposed materiality, fenestration and articulation of the dwelling house are considered sympathetic and responsive to and in context with the conservation area.

<p>P5 Achieve a neutral outcome to neutral items or improved outcome to neutral items which were constructed in the core period of development.</p> <p>P7 Respond to characteristic building alignments by not building forward of the established or characteristic front setback.</p> <p>P8 Repeat any consistent pattern of side and rear setbacks.</p> <p>P9 New work may adopt a contemporary character.</p>		
<p>13.6.3 Roofs</p> <p>P1 Roof form, pitch and materials are to be compatible with heritage and contributory items in the conservation area, as identified in the relevant character area statement (refer to Part C of the DCP).</p>	<p>Yes</p>	<p>The proposed roof of the new dwelling house is considered contextually appropriate as it features a low pitch and subtle gable. This form, whilst uncommon to the streetscape, is consistent with neutral/uncharacteristic items and contemporary buildings in the conservation area, which generally feature a flat roof or low pitched roof. This form provides an appropriate distinction from contributory items that have more prominent and traditional pitch roof forms.</p>
<p>13.6.4 Additional storeys and levels</p> <p>O1 To ensure that the streetscape and context of the heritage conservation area are respected.</p>	<p>Yes</p>	<p>The proposed development incorporates split-levels, facilitated by creating a lower ground level that is generally below ground and constructed within current built-up portions of the site. The articulation and modulation of the levels above existing ground are such that the scale of the streetscape and context of the conservation area are respected. The resultant building presents as a 2-storey dwelling, thereby demonstrating a consistent form, scale and aesthetic as existing forms along the street and surrounds.</p>
<p>13.8 Demolition</p> <p>Demolition of neutral items</p> <p>P5 Neutral items should not be demolished and demolition will generally not be supported by Council.</p> <p>P6 Despite P5 above, Council may consider the demolition of a neutral item, but only where the applicant can demonstrate:</p> <p>(a) the existing building is not capable of adaptation or modification in a way that will reasonably meet contemporary amenity and living standards while also improving the appearance and contribution of the building to the area's character.</p> <p>(b) that any replacement building improves the contribution of the site to the area's character in terms of form, setbacks, bulk, scale, materials and style.</p>	<p>Yes</p>	<p>The proposed demolition of the existing dwelling house and construction of a new built form within the site demonstrate consistency with the objectives and the provisions and is supported by Council's Conservation Planner (see comments above).</p>

<p>(c) that sustainability outcomes of the proposed replacement development reasonably justify the change.</p> <p>(d) that all reasonable alternatives to demolition have been considered.</p>		
<p>13.9.1 Skylights, solar panels and satellite dishes</p>	<p>Yes</p>	<p>The proposed solar panels for the new dwelling will have negligible impacts on the heritage significance of the contributory item and its setting within a heritage conservation area.</p>
<p>13.9.2 Dormer windows 13.9.3 Verandahs and balconies 13.9.6 Fences</p>	<p>Yes</p>	<p>No dormer windows are proposed.</p> <p>The proposed front terrace is generally open form, complemented by screen plantings within planter beds and is similar in form and design to the existing front terrace of No. 43 Thomas Street.</p> <p>The proposed front fence is acceptable (subject to minor changes to the metal portion, as confirmed by Council's Conservation Planner). In general, the new fence will utilise a design and materiality (stone materials and open metal columns) that are similar to the current front fence and existing fencing along Thomas Street.</p>
<p>13.9.4 Materials, colours and finishes</p> <p>P8 Ensure materials, finishes and colours are compatible with the characteristic built elements of the heritage conservation area as described in the relevant Area Character Statement (refer to Part C of the DCP).</p>	<p>Yes</p>	<p>As mentioned above, the proposed materiality, colouration and finishes of the proposed development are acceptable subject to conditions imposed by Council's Conservation Planner. The new components are considered to have materials and colours that are consistent and complimentary to the contributory item.</p>
<p>13.9.5 Garages and carports</p> <p>O1 To ensure that vehicular accommodation does not detrimentally impact upon the significance of the heritage item or heritage conservation area.</p> <p>O2 To ensure that off-street car parking does not dominate the streetscape.</p>	<p>Yes</p>	<p>The proposed garage involves tandem spaces in the lower ground level. This garage has a setback of 3.65m from the front boundary and is situated further back compared to the existing garage (which has a nil front setback). The proposed garage will not dominate the streetscape and feature materiality and colouration that are consistent with the overall scheme. The inclusion of conditions to recess and reduce the visual prominence of the garage door will further assist in achieving compliance with these objectives and controls.</p>
<p>19.9.7 Gardens</p> <p>O1 To ensure that significant landscape features and trees are retained and reflected in new development.</p>	<p>Yes</p>	<p>The proposed landscaping treatments feature a number of garden beds, planter beds surrounding the front terrace, side passageways with ground covers and steppers, hedging/screen planting adjacent to property boundaries, trees and grassed lawn areas that are considered sufficient in softening the development, framing the new dwelling house and improving the overall aesthetic, presentation and landscaped outcome of the existing development. The proposal is considered to have a more positive contribution to the streetscape by facilitating these landscaping treatments.</p>

<p>13.10.3 Larger scale single dwellings</p> <p>O1 Maintain the scale, form and integrity of the original or main building.</p> <p>O2 Retain original significant details.</p> <p>O3 Retain original outbuildings.</p>	<p>Yes</p>	<p>The proposed development is considered to comprise of architectural expression, height, bulk and scale that are reasonable and compatible with the conservation area and with respect to adjoining heritage items.</p>
--	------------	---

Part C: Character Statements

Section 9 – Lavender Bay Planning Area

Section 9.10 – Union, Bank and Thomas Streets Conservation Area

The application has been assessed against the relevant controls in the Character Statements under Part C in NSDCP 2013 below:

Part C, Section 9.10: Union, Bank and Thomas Streets Conservation Area		
Control	Complies	Comments
9.10.4 Significant elements		
Topography	Yes	The proposed development involves substantial excavation to facilitate the lower ground floor and provide improved connection between the dwelling and the built-up areas comprising the rear yard. Despite some changes proposed to the topography, the general fall towards Thomas Street is unchanged.
Subdivision	N/A	The proposed development does not involve any subdivision or land consolidation.
Streetscape	Yes	The proposed development provides an appropriate streetscape response and introduces additional landscaping and a distinct front setback compared to the existing dwelling. The final scheme may be considered an improvement in terms of visual presentation from public domain. The proposed development will result in the streetscape being appropriately maintained.
9.10.5 Characteristic buildings		
<p>A mixture of</p> <p>(a) 19th and early 20th Century cottages, including attached, semi-detached and detached single storey dwellings in the Victorian Georgian, Victorian Regency, Victorian Filigree, Victorian Italianate.</p> <p>(b) Two storey, Victorian Filigree, Victorian Italianate attached dwellings</p> <p>(c) Early 20th Century single and two storey Federation Queen Anne and Federation Arts and Crafts housing.</p> <p>(d) Three storey Inter-war residential flat buildings.</p>	Yes	The proposed development involves removal of a neutral item. It does not affect the contributory items and characteristic buildings within the conservation area. The introduction of a contemporary built form is reflective of more modern residences that are neutral/uncharacteristic in nature.
9.10.6 Characteristic built elements		
Siting	Yes	The proposed development demonstrates sufficient setbacks that are consistent with the dwellings in the immediate vicinity including those on the eastern side of Thomas Street.

Form, massing and scale	Yes	The proposed development is an acceptable outcome. Its design, bulk and massing are proportionate to the site, demonstrate compliance with relevant provisions and controls, are sympathetic to the streetscape and conservation area and will not be highly visible from public domain.
Roofs	Yes	Acceptable – as confirmed by Council’s Conservation Planner.
Materials Sandstone bases; face brick; original rendered walls. Slate; glazed terracotta tiled roofs. Timber windows, doors and joinery. Original front garden landscaping stone-flagged driveways and flagging paths.	Yes	The proposed development comprises a taupe-coloured rendered masonry/brick and taupe-coloured wall cladding, dark grey metal roof, black metal framed doors and windows and sandstone cladding. These materials commonly occur in built forms within the vicinity and are considered acceptable.
Windows and doors	Yes	The proposed windows and doors are of an acceptable design.
Fences	Yes	Acceptable – see above.
Car accommodation	Yes	Acceptable – see above.
3.6.6 Characteristic built elements		
Uncharacteristic elements Over-scaled additions; Carports and garages to front of lot; dormers and conditions to front and side roofs; removal of original details; painting and rendering of face brickwork; high fences to street; inappropriate fence details; paving of gardens.	Yes	Acceptable – see above and as confirmed by Council’s Conservation Planner.

LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN

The subject application has been assessed against the North Sydney Local Infrastructure Contribution Plan 2020 and is subject to the payment of contributions towards the provision of local infrastructure. A Section 7.11 levy is not applicable as the proposed development does not result in an intensification of the current residential use.

A Section 7.12 levy is applicable and has been calculated in accordance with the plan. The contribution payment has been calculated as follows:

Contribution amounts payable

Applicable contribution type		
s7.12 contribution details	Development cost:	\$1,299,557.00.
<i>(payment amount subject to indexing at time of payment)</i>	Contribution:	\$12,995.57

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	Yes
7. Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8. Site Management Issues	Yes
9. All relevant S4.15 considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

SUBMITTERS CONCERNS

The application was notified to adjoining properties and the Union Precinct Committee. Council received 11 submissions where the following matters were raised:

- Bulk and scale
- View loss impacts
- Amenity and privacy impacts
- Overshadowing
- Impacts on boundary fencing and landscaping
- Rear setback variation and setbacks from boundaries
- Excessive excavation
- Stormwater management
- Local character and streetscape
- Loss of trees

Council's responses to the above matters and issues are provided below.

- Bulk and scale

Response: The Assessment section above provides adequate discussion on the proposed development in terms of bulk and scale. The amended design is fully compliance with site coverage, landscaped area and setback controls – ensuring the build form, scale and massing are appropriate and proportionate to the site. The above discussion has highlighted this and has addressed the bulk and scale issue raised in submissions.

- View loss impacts

Response: The Assessment section above provides a detailed view loss analysis.

- Amenity and privacy impacts – balcony and outdoor terrace (deck over garage)

Response: The Assessment section above provides adequate discussion on the proposed development in terms of amenity and privacy impacts.

- Overshadowing impacts

Response: The Assessment section above provides a detailed discussion on the proposed development in terms of overshadowing.

- Impacts on boundary fencing and landscaping

Response: The Applicant advised the following:

It is proposed to retain the existing masonry boundary wall between the site and 43 Thomas Street. The neighbouring properties planting will remain untouched. The existing stair structure and landing on the subject site will be removed and earth for the lawn area (RL 51.00) will be retained in alignment with the rear wall of the proposal.

There will only be the removal of the existing laundry/store and cutback of the existing landing and stair to the proposed new retaining wall perpendicular to the fence and meeting the house.

Further, conditions can be imposed to ensure any adjoining properties are unaffected in terms of respective structural stability and landform and existing neighbouring vegetation.

- Rear setback variation and setbacks from boundaries

Response: The Assessment section above provides adequate commentary on the proposed development in terms of setbacks. The proposed setbacks are considered acceptable and reasonable and achieve general compliance with respective DCP objectives and controls.

- Excessive excavation

Response: It is acknowledged that substantial excavation is proposed to accommodate the lower ground floor and to resolve the unique level differences within the rear yard. The resultant outcome provides a more pragmatic and connected private open space that is better negotiated and accessed compared to the existing development. The Assessment section above provides details in relation to the proposed earthworks against Council policy.

A geotechnical report was submitted as part of the subject application. Council's Development Engineer confirmed support for the proposal subject to conditions including those that will minimise potential impacts on ground stability and appropriate management of excavated and fill material.

- Stormwater management

Response: Council's Development Engineer confirmed support for the proposed stormwater management system, subject to conditions.

- Local character and streetscape

Response: The Assessment section above provides a detailed discussion on the proposed development with regard to streetscape compatibility.

- Loss of trees

Response: Council's Landscape Development Officer provided advice on the proposed tree removal (see Referrals section above).

PUBLIC INTEREST

The proposed development is considered to be in the public interest for the reasons stated throughout this report.

SUITABILITY OF THE SITE

The proposed development is located in the R3 – Medium Density Residential zone where development for the purpose of a *dwelling house* is a permissible form of development, with consent from Council. Consequently, the proposal is considered to be suitable for the site having regard to the merits of the proposal as described in the above report.

CONCLUSION

The proposal was considered under the relevant Environmental Planning Instruments and policies including NSLEP 2013 and NSDCP 2013 and general found to be satisfactory.

The application proposes demolition of an existing dwelling house and construction of a new dwelling house, which are permissible forms of development in the R3 – Medium Density Residential zone.

With regard to the potential impacts upon the amenity of adjoining properties and the unique context of the site, subject to conditions, the development application is considered to be satisfactory and is recommended for approval.

Council's notification of the original plans has attracted a total of eleven (11) submissions from eight (8) individual addresses and the Union Precinct Committee, raising concerns regarding bulk and scale, impacts associated with view loss, amenity, privacy and solar access, impacts on boundary fencing and landscaping, rear setback variation and setbacks from boundaries, excavation, stormwater management, local character and streetscape, and loss of trees. These concerns and issues have been discussed in this report and are addressed with appropriate conditions of consent.

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

HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?

The subject application was notified to adjoining properties and the Edward Precinct Committee for fourteen (14) days where a number of issues were raised that have been addressed in this report where appropriate conditions of consent have been recommended to maintain the amenity of adjoining properties and the character of the streetscape and Union, Bank and Thomas Streets Conservation Area (CA15).

RECOMMENDATION

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

THAT the North Sydney Local Planning Panel exercising the functions of Council as the consent authority grant consent to Development Application No. DA72/22 for demolition of existing structures, removal of five (5) trees, construction of a 3-storey dwelling house and associated civil and landscaping works (including new driveway crossover) on land at No. 45 Thomas Street, McMahons Point (Lot 1 in DP 225595) subject to the following site specific and standard conditions:

Design Changes – Heritage

- C1. The architectural plans must be amended as follows:
- The glazed openings facing Thomas Street must be reduced in area by at least one third (33.3%) to express an increase in the solid to void ratios, particularly at the ground and first floor levels.
 - The steel framed windows and doors facing Thomas Street must have a neutral colour.
 - The proposed garage door must be recessed in area by 200mm to reduce the overall size of its opening and to reduce its visual impact on the Thomas Street streetscape

(Reason: To improve the design response of the approved development to the streetscape setting and character of Thomas Street and to preserve the significance and character of the Union, Bank and Thomas Streets Conservation Area)

Lift Design

- C2. The architectural plans must be amended to indicate any overrun for the approved lift (if any). Any lift overrun must be situated below the roof area and must not extent beyond any portion of the roof. The entire lift and associated components must be designed to be hidden from view from any property and from public domain.

(Reason: To ensure the lift component is not visible from any property and from public domain, and to achieve an acceptable outcome for the locality and conservation area)

MIGUEL RIVERA
SENIOR ASSESSMENT OFFICER

DAVID HOY
TEAM LEADER (ASSESSMENTS)

STEPHEN BEATTIE
MANAGER DEVELOPMENT SERVICES

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
45 THOMAS STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 72/22

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/Issue	Description	Prepared by	Dated
DA-A-001	-	Notes	Smith & Tzannes	7 Feb 22
DA-A-010	A	Site Plan	Smith & Tzannes	10 Nov 22
DA-A-100	-	Lower Ground	Smith & Tzannes	7 Feb 22
DA-A-101	-	Upper Ground	Smith & Tzannes	7 Feb 22
DA-A-102	A	First Floor	Smith & Tzannes	10 Nov 22
DA-A-103	A	Roof	Smith & Tzannes	10 Nov 22
DA-A-200	A	Section 01	Smith & Tzannes	10 Nov 22
DA-A-201	-	West Elevation	Smith & Tzannes	7 Feb 22
DA-A-202	A	East Elevation	Smith & Tzannes	10 Nov 22
DA-A-203	-	North Elevation	Smith & Tzannes	7 Nov 22
DA-A-204	A	South Elevation	Smith & Tzannes	10 Nov 22
DA-A-900	A	Finishes Schedule	Smith & Tzannes	10 Nov 22
1-5	A	Site Landscape Plans Front Landscape Plan Rear Landscape Plan First Floor Landscape Plan Landscape Specifications	Tranquillity Landscape Design	5 Nov 21 / 5 Jul 21

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

Plans on Site

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

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

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

**45 THOMAS STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 72/22**

Page 2 of 35

No Demolition of Extra Fabric

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

(Reason: To ensure compliance with the approved development)

External Finishes and Materials

- A4. External finishes and materials must be in accordance with the submitted and approved schedule referenced in Condition A1 and dated 10 November 2022, prepared by Smith & Tzannes unless otherwise modified by Council in writing.

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

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

- C1. The architectural plans must be amended as follows:

- The glazed openings facing Thomas Street must be reduced in area by at least one third (33.3%) to express an increase in the solid to void ratios, particularly at the ground and first floor levels.
- The steel framed windows and doors facing Thomas Street must have a neutral colour.
- The proposed garage door must be recessed in area by 200mm to reduce the overall size of its opening and to reduce its visual impact on the Thomas Street streetscape

(Reason: To improve the design response of the approved development to the streetscape setting and character of Thomas Street and to preserve the significance and character of the Union, Bank and Thomas Streets Conservation Area)

Lift Design

- C2. The architectural plans must be amended to indicate any overrun for the approved lift (if any). Any lift overrun must be situated below the roof area and must not extent beyond any portion of the roof. The entire lift and associated components must be designed to be hidden from view from any property and from public domain.

(Reason: To ensure the lift component is not visible from any property and from public domain, and to achieve an acceptable outcome for the locality and conservation area)

Dilapidation Report Damage to Public Infrastructure

- C3. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

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

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

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

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

Dilapidation Report Private Property (Excavation)

- C4. A full dilapidation survey and report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

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

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

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

**45 THOMAS STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 72/22**

Page 4 of 35

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

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

Dilapidation Survey Private Property (Neighbouring Buildings)

C5. A photographic survey and dilapidation report of adjoining properties Nos. 43 Thomas Street, 77, 79, 81A, 81 Union Street and 34 Chuter Street detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The survey and report are to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Certifying Authority, prior to the issue of any Construction Certificate.

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

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

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

(Reason: Proper management of records)

Shoring for Adjoining Property

- C6. Where any shoring for excavation is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising structural engineer, showing all details, including the extent of encroachment and the method of removal and de-stressing of shoring elements, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. A copy of this documentation must be provided to the Council for record purposes.

Note: Approval of engineering drawings for shoring works to be located on adjoining property by the Certifying Authority does not authorise a trespass on private or public land. All relevant permissions/legal rights must be obtained to undertake any works on adjoining land.

(Reason: To ensure the protection of existing public infrastructure and adjoining properties)

Structural Adequacy of Adjoining Properties - Excavation Works

- C7. A report prepared by an appropriately qualified and practising structural engineer detailing the structural adequacy of adjoining property Nos. 43 Thomas Street, 77, 79, 81A, 81 Union Street and 34 Chuter Street, which certifies their ability to withstand the proposed excavation and outlines any measures required to be implemented to ensure that no damage will occur to adjoining properties during the course of the works, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The measures outlined in the certified report must be complied with at all times.

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

Structural Adequacy of Existing Building

- C8. A report prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction shall be submitted to the Certifying Authority for approval prior to issue of any Construction Certificate. The certified report must also include all details of the methodology to be employed in construction phases to achieve the above requirements. The methodology in the certified report must be complied with at all times.

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

Geotechnical Report

- C9. Prior to issue of any Construction Certificate a Geotechnical/Civil Engineering report must be prepared which addresses at a minimum (but is not limited to) the following:
- a) the type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0 m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs must be related to Australian Height Datum;
 - b) the appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations must be discussed and mechanisms to ameliorate any such impacts recommended;
 - c) the proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support must be provided within the subject site);
 - d) the existing groundwater levels in relation to the basement structure, where influenced;
 - e) the drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilised in controlling groundwater. Where it is considered there is the potential for the development to create a “dam” for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path is constructed, artificial drains such as perimeter drains and through drainage may be utilised; and
 - f) recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by an appropriately qualified consulting geotechnical/hydrogeological engineer with previous experience in such investigations and reporting.

**45 THOMAS STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 72/22**

Page 7 of 35

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

The design principles for the geotechnical report are as follows:

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

The report, satisfying the requirements of this condition, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The professional recommendations, implementation program, monitoring program, mitigation measures and the like contained in the report must be implemented in full during the relevant stages of excavation and construction.

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

Sediment Control

- C10. Where construction or excavation activity requires the disturbance of the soil surface or existing vegetation, erosion and sediment control techniques, as a minimum, are to be in accordance with the publication *Managing Urban Stormwater: Soils and Construction* (4th edition, Landcom, 2004) commonly referred to as the "Blue Book" or a suitable and effective alternative method.

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

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

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

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

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

Waste Management Plan

- C11. 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)

- C12. 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)

External Finishes and Materials

- C13. The external colours and finishes must be in accordance with the approved schedule of finishes and materials. 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 quality built form of development)

Roofing Materials - Reflectivity

- C14. Roofing materials must be factory pre-finished with low glare and reflectivity properties to be compatible with the colours of neighbouring buildings. The selected roofing material must not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development)

Work Zone

- C15. 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)

Maintain Property Boundary Alignment Levels

- C16. Except where otherwise approved by Council, the property boundary alignment levels must match the levels which existed prior to the commencement of works. Plans and specifications which document existing and proposed levels adjacent to the site boundaries and which comply with the requirements of 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 interface between property and public land remains uniform)

Obtain Driveway Crossing Permit under S.138 Roads Act 1993

C17. A driveway crossing and roads infrastructure works permit to suit the approved off-street parking facilities must be granted by the Council prior to the issue of any Construction Certificate. In order to obtain a permit under S.138 of the Roads Act 1993, an application must be made to Council on the 'Vehicular Access Application' form with payment of the adopted assessment/inspection fees. Council will require civil design construction drawings and certification from the applicant's Civil Engineer to verify design details and enable issue of the permit. The requirements of the permit must be complied with at all times.

The civil design drawings must include the following at a minimum;

- a) the vehicular access way must comply with AS 2890.1 and Council's current Vehicular Access Application Guidelines and Specification (gutter bridges not permitted) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or parking floor;
- b) the width of the vehicular layback must be 3.5m (including the wings);
- c) the vehicular crossover must be set square to the kerb;
- d) the crossover (between the layback and the property boundary) must be placed on a single straight grade of approximately 4.5%, falling to the back of the layback;
- e) the gutter levels and boundary footpath levels must match the existing levels and shall not be altered, unless agreed by Council;
- f) the works will require reconstruction of the carriageway shoulder extending out 600mm from the gutter lip in AC10 - 50mm thick, adjacent to all new kerb/gutter and layback works;
- g) any twisting of the driveway and pedestrian access must occur entirely within the subject property;
- h) construction of a fully new replacement concrete footpath is required across the entire site frontage in Thomas Street. The footpath shall be designed (at a single straight grade of 3% falling to top of kerb) so that it is uniform without showing signs of dipping or rising particularly at entrances.
- i) construction of a fully new kerb and gutter is required across the entire site frontage in Thomas Street, except in the location of the new layback.
- j) all inspection openings, utility services must be adjusted to match the proposed driveway levels;

**45 THOMAS STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 72/22**

Page 12 of 35

- k) sections along centre-line and extremities are required at a scale of 1:50 to be taken from the centre-line of the roadway through to the parking area itself and must include all changes of grade and levels both existing and proposed;
- l) a longitudinal section along the gutter line at a scale of 1:50 showing how it is intended to blend the vehicular crossing with the existing kerb and gutter;
- m) a longitudinal section along the footpath property boundary at a scale of 1:50 is required;
- n) the sections must show the calculated clearance to the underside of any overhead structure;
- o) Pipelines within the footpath area must be hot dipped galvanized steel rectangular hollow section with a minimum wall thickness of 4.0 millimetres and a section height of 100 millimetres.

The permit must be granted by Council prior to the issue of any Construction Certificate.

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

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

Stormwater Management and Disposal Design Plan - Construction Issue Detail

- C18. Prior to issue of any Construction Certificate, a site drainage management plan must be prepared by a qualified drainage design engineer. The site drainage management plan must detail the following requirements of North Sydney Council:
- a) compliance with BCA drainage requirements, Council's Engineering Performance guide and current Australian Standards and guidelines, such as AS/NZ3500.3.2 2003, National Plumbing and Drainage Code.
 - b) stormwater runoff and subsoil drainage generated by the approved development must be conveyed in a controlled manner by gravity to Thomas Street;
 - c) the stormwater drainage system shall be designed for an average recurrence interval (A.R.I) of 1 in 20 years.
 - d) all redundant stormwater pipelines within the footpath area shall be removed and footpath and kerb shall be reinstated.

**45 THOMAS STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 72/22**

Page 13 of 35

- e) pipelines within the footpath area shall be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 millimetres and a section height of 100 millimetres.
- f) the design and installation of the rainwater tank(s) must comply with BASIX and Sydney Water requirements. Overflow from the tank(s) shall be connected by gravity to the stormwater disposal system;
- g) any proposed fence/building structure is to be constructed so as not to impede the natural overland flow;
- h) provision is to be made for the collection and disposal in an approved manner of any overland flow entering the subject property, or concentrated as a result of the proposed works.
- i) surface inlet pits shall be located to catch surface flows and shall be provided at all pipe junctions, changes in pipe direction exceeding 45 degrees, prior to connection to the public drainage system and shall be of sufficient size to accept the flow.
- j) all sub-soil seepage drainage shall be discharged via a suitable silt arrester pit. Details of all plans certified as being adequate for their intended purpose and compliant with the provisions of AS3500.3.2 by an appropriately qualified and practising civil engineer shall be submitted with the application for a Construction Certificate.
- k) prevent any stormwater egress into adjacent properties by creating physical barriers and surface drainage interception.

A site drainage management plan which complies 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 controlled stormwater management and disposal without nuisance)

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

C19. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$5,000.00 to be held by Council for the payment of cost for any/all of the following:

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,

- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with this consent.
- c) remedying any defects in any such public work that arise within six months after the work is completed.

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

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

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

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

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

Tree Protection Measures to be shown on Construction Drawings

C20. The tree protection measures contained in the arborist report prepared by Martin Peacock Tree Care, dated 9 February 2022, and received by Council on 10 March 2022, shall be shown clearly on the Construction Certificate drawings.

In addition to the above measures, the following measures must be shown on the Construction Certificate drawings:

- All trees shown for retention must be protected in accordance with AS4970. Sensitive construction techniques including hand excavation, pier and beam construction and flexible location of piers must be undertaken within the tree protection zone (TPZ) of any protected tree.

**45 THOMAS STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 72/22**

Page 15 of 35

- No stormwater infrastructure or other services shall be directed through the root protection zone (RPZ) of any protected tree.

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

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

Protection of Trees

- C21. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 - Protection of trees on development sites:

Tree	Location	Height (m)
T2 – site tree <i>Weeping Bottlebrush – Callistemon viminalis</i>	Eastern portion of rear private open space	7m
G5 – site tree <i>Mixed species group of palms</i>	North-eastern corner of rear private open space	6m

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.

Sensitive construction techniques including hand excavation, pier and beam, flexible location of piers/footings must be used within the TPZ of any protected tree. No roots greater than 40mm shall be cut.

Canopy pruning for any protected tree is not permitted.

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

(Reason: Protection of existing environmental and community assets)

Approval for Removal of Trees

- C22. The following five (5) trees are approved for removal in accordance with the development consent:

**45 THOMAS STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 72/22**

Page 16 of 35

Tree	Location	Height (m)
T1 – site tree <i>Italian Cypress – Cupressus sempervirens</i>	Rear yard, near southern boundary	9m
T3 – site tree <i>Avocado – Persea americana</i>	Rear yard, near northern boundary	6m
T4 – site tree <i>Magenta Lilly Pilly – Syzygium paniculatum</i>	Rear yard, near northern boundary	4m
T6 – site tree <i>Weeping Bottlebrush – Callistemon viminalis</i>	Rear yard, near northern boundary	6m
A – street tree <i>Weeping Bottlebrush – Callistemon viminalis</i>	Road reserve, immediately in front of No. 45 Thomas Street	5m

The removal of the above trees must be compensated by replacement tree planting within the subject site as indicated on the approved landscape plan and plant schedules.

Removal or pruning of any other tree on the site is not approved, excluding species exempt under Council's Tree Preservation Order.

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

(Reason: Protection of existing environmental and community assets)

Air Conditioners in Residential Premises

C23. The use of any air conditioner installed on the premises must comply with the requirements of the Protection of the Environment Operations (Noise Control) Regulations 2008 and State Environmental Planning Policy (Infrastructure) 2007 and must not:

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

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

**45 THOMAS STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 72/22**

Page 17 of 35

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

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

(Reason: To maintain residential amenity)

Section 7.12 Contributions

- C24. A monetary contribution pursuant to the provisions of Section 7.12 of the Environmental Planning and Assessment Act 1979, in accordance with the North Sydney Local Infrastructure Contributions Plan for the public amenities/services detailed in column A below and, for the amount detailed in column B below, must be paid to Council.

The total contribution is **\$12,995.57**.

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

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

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

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

Security Deposit/Guarantee Schedule

- C25. All fees and security deposits/guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security Deposit/Guarantee	Amount (\$)
Infrastructure Damage Bond	\$5,000.00
TOTAL BONDS	\$5,000.00

Note: The following fees applicable

Fees	
Section 7.12 Contributions	\$12,995.57
TOTAL FEES	\$12,995.57

**45 THOMAS STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 72/22**

Page 18 of 35

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

C26. 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. 12482385 for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

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

Amendments to the Landscape Plan

C27. The landscape plan must be amended as follows to provide an appropriate landscaped setting and improved street tree specimen:

- The replacement street tree must be changed to *Callistemon viminalis* with minimum container/pot size of 100 L.
- Any plantings in the front setback, which are to be established immediately behind the front fence/front wall (except for the grassed lawn and garden beds to the north and south of the lawn) must be designed to be highly visible in the streetscape. These plantings must be situated on raised planters or raised garden beds to ensure their presentation will not be obscured by the front fence/wall.

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 the landscaping treatments reflect the approved scheme and to achieve an acceptable streetscape outcome)

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

Protection of Trees

- D1. 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

- D2. All protected trees on-site that are specifically nominated to be retained by notation on plans or by condition as a requirement of this consent must be tagged with luminous tape or the like for purposes of identification prior to demolition, excavation or construction works and must remain so for the duration of works on the site. No materials or builders' waste are to be stored in the vicinity of the nominated tree/trees at any time.

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

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

Public Liability Insurance - Works on Public Land

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

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

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

Asbestos Material Survey

- D4. Prior to the commencement of any works, 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)

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*

Reuse of Sandstone

- E1. Sandstone blocks (if any) removed from the site are to be either stored for re-use on site or offered to Council in the first instance.

**45 THOMAS STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 72/22**

Page 21 of 35

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

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

Parking Restrictions

E2. 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

E3. 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

- E4. 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)

Progress Survey

- E5. In order to ensure compliance with approved plans, a Survey Certificate, to Australian Height Datum, must be prepared by a Registered Surveyor as follows:
- a) at the completion of the first structural floor level indicating the level of that floor and the relationship of the building to the boundaries;
 - b) at the completed height of the building, prior to the placement of concrete form work, or the laying of roofing materials; and
 - c) at completion, the relationship of the building, and any projections thereto, to the boundaries.

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

(Reason: To ensure compliance with approved plans)

Removal of Extra Fabric

- E6. 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

E7. 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

E8. 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)

Applicant's Cost of Work on Council Property

E9. The applicant must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

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

Protection of Trees

E10. 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 contained in the arborist report prepared by Martin Peacock Tree Care, dated 9 February 2022, and received by Council on 10 March 2022 must be implemented for the duration of the works.

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.

**45 THOMAS STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 72/22**

Page 24 of 35

Notes:

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.

An application to modify this consent pursuant to Section 4.55 of the Environmental Planning and Assessment Act 1979 will be required to address the non-compliance with any of the conditions of consent relating to the retention of nominated trees, and Council may require tree replenishment.

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

Trees to be Removed

- E11. All trees on the site must be protected and retained save for those expressly identified below as being approved for removal:

Tree	Location	Height (m)
T1 – site tree <i>Italian Cypress – Cupressus sempervirens</i>	Rear yard, near southern boundary	9m
T3 – site tree <i>Avocado – Persea americana</i>	Rear yard, near northern boundary	6m
T4 – site tree <i>Magenta Lilly Pilly – Syzygium paniculatum</i>	Rear yard, near northern boundary	4m
T6 – site tree <i>Weeping Bottlebrush – Callistemon viminalis</i>	Rear yard, near northern boundary	6m
A – street tree <i>Weeping Bottlebrush – Callistemon viminalis</i>	Road reserve, immediately in front of No. 45 Thomas Street	5m

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

Special Permits

- E12. 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)

**45 THOMAS STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 72/22**

Page 26 of 35

Construction Hours

- E13. 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

- E14. 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

- E15. 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)

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.

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

Imported Fill Material

- E18. The only waste derived fill material that may be received at the development site is:
- a) Virgin excavated natural material (within the meaning of the Protection of the Environment Operations Act 1997); and
 - b) Any other waste-derived material the subject of a resource recovery exemption under cl. 51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material.

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

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

Waste Disposal

- E19. 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

- E20. 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:

**45 THOMAS STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 72/22**

Page 29 of 35

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

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

(Reason: Prescribed - Statutory)

Appointment of a Principal Certifying Authority (PCA)

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

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

Construction Certificate

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

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

Occupation Certificate

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

(Reason: Statutory)

Critical Stage Inspections

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

(Reason: Statutory)

Commencement of Works

- F7. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two (2) days' notice to North Sydney Council of the person's intention to commence the erection of the building.

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

Excavation/Demolition

- F8. 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)

**45 THOMAS STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 72/22**

Page 31 of 35

Protection of Public Places

- F9.
- 1) A hoarding and site fencing must be erected between the work site and adjoining public place.
 - 2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
 - 3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
 - 4) Any such hoarding, fence or awning is to be removed when the work has been completed.
 - 5) No access across public reserves or parks is permitted.

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

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

Site Sign

- F10.
- 1) A sign must be erected in a prominent position on the site
 - a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
 - 2) Any such sign must be maintained while to building work or demolition work is being carried out but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

G. *Prior to the Issue of an Occupation Certificate*

Infrastructure Repair and Completion of Works

G1. Prior to the issue of any Occupation Certificate any and all works relating to the development:

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

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

(Reason: Maintain quality of public assets)

Certification - Civil Works

G2. a) An appropriately qualified and practising Civil Engineer must certify to the Certifying Authority that the stormwater drainage system is constructed in accordance with this consent and the provisions of the applicable Australian Standard. A copy of the certificate must be submitted to Council (if it is not the Certifying Authority) upon completion of the development works and prior to the issue of an Occupation Certificate.

- b) An appropriately qualified and practicing Civil Engineer must certify to the Certifying Authority that the vehicular crossing and associated works and road works were constructed in accordance with this consent and any approval for works in the road reserve issued by the Council. A copy of the certificate must be submitted to Council (if it is not the Certifying Authority), upon completion of the development works and prior to the issue of an Occupation Certificate.

(Reason: Compliance with the Consent)

Damage to Adjoining Properties

G3. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

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

Utility Services

- G4. 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

- G5. For building works where asbestos based products have been removed or altered, an asbestos clearance certificate signed by an appropriately qualified person (being an Occupational Hygienist or Environmental Consultant) must be submitted to and approved by the Certifying Authority (and a copy forwarded to Council if it is not the Certifying Authority) for the building work prior to the issue of any Occupation Certificate, the asbestos clearance certificate must certify the following:

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

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

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

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

Height

- G6. Upon completion of the works and prior to the issue of any Occupation Certificate the RL of the development measured at the ridge of the first floor roof of the approved dwelling house must be surveyed and certified by an appropriately qualified and practising surveyor as compliant with the maximum approved levels in accordance with the approved plan showing height or alternatively RL 54.670 AHD. This survey and certification must be submitted to the Certifying Authority with the application for an Occupation Certificate and a copy provided to Council (if it is not the Certifying Authority).

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

**45 THOMAS STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 72/22**Page 34 of 35

BASIX Completion Certificate

- G7. In accordance with Section 45 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, prior to issuing a final occupation certificate, the Principal Certifier must provide a BASIX completion receipt.

(Reason: To ensure compliance with the Regulations)

Landscaping

- G8. The landscaping shown in the approved landscape plans and as modified in this consent, must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

Required Screen Plantings

- G9. The screen planting required by this consent must be completed prior to the issue of any Occupation Certificate. The specified landscape elements must be provided and maintained in accordance with the requirements of this consent at all times.

(Reason: To ensure privacy is maintained)

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

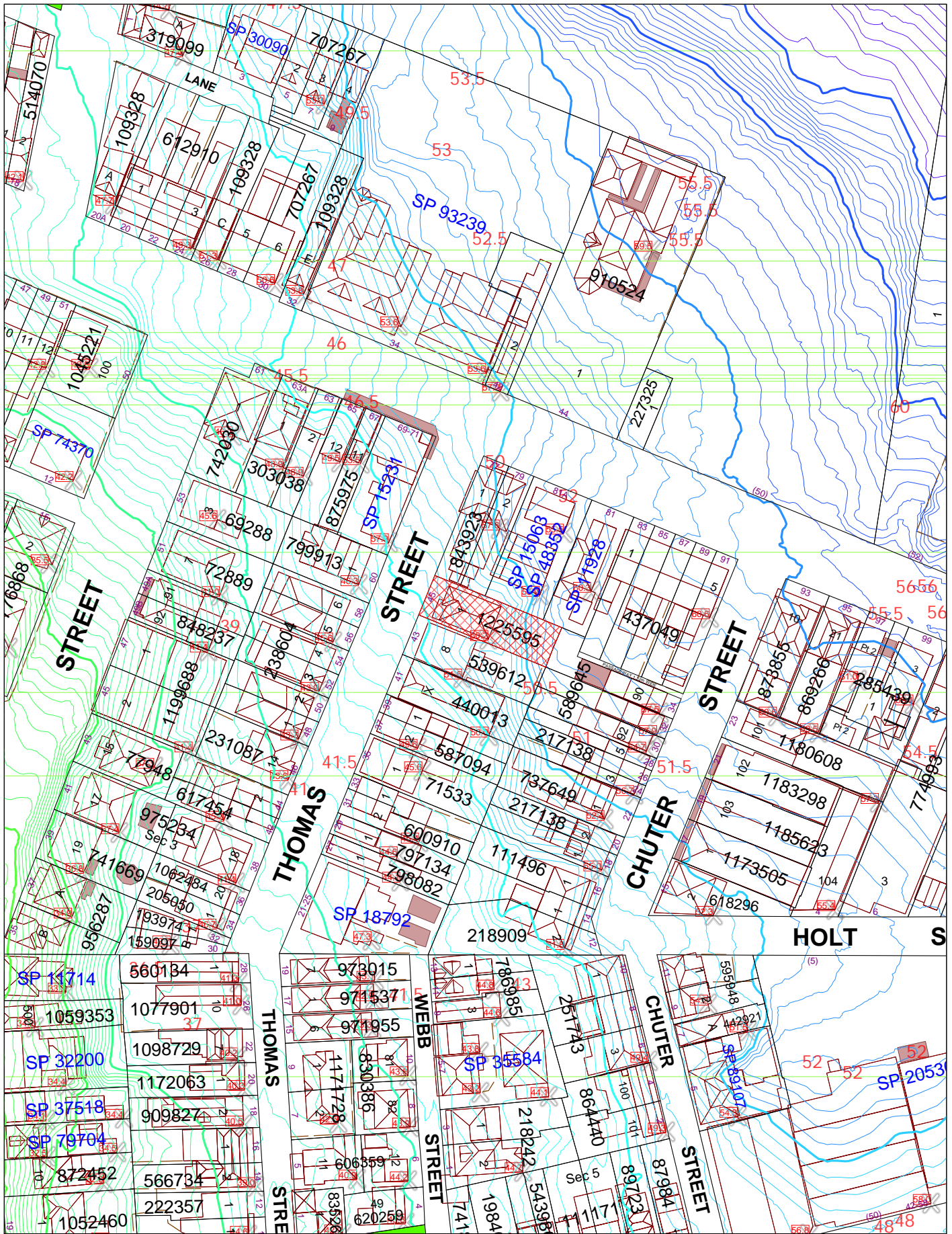
- I2. The owner of the premises at No. 45 Thomas Street, McMahon's Point, must maintain the landscaping approved by this consent generally in accordance with the approved landscape plans and as modified by conditions in this consent.

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

**45 THOMAS STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 72/22**Page 35 of 35

Should it be desired to substitute plants which are not of the same mature height, canopy density and nature (particularly flowering for non-flowering, native for exotic, deciduous for non-deciduous or the reverse of any these) a modification to this consent will be required.

(Reason: To ensure adequate landscaping treatments, as approved by this consent, are established within the site and maintained in perpetuity)



North Sydney Council

Copyright © North Sydney Council - No part of this map may be reproduced without permission. Commercial decisions should not be made based on information contained in this map without first checking details held by the responsible Government authority.

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

DRAWING SCHEDULE

Table with 2 columns: DRAWING No., DESCRIPTION. Lists drawings from DA to DA-A-866, including elevational and site plan drawings.

BASIX COMMITMENTS

Summary of BASIX Commitments for 45 Thomas Street McMahons Point. Includes sections for Water Commitments, Energy Commitments, and Other Commitments.

February 2022 BSA Reference: 17654 Building Sustainability Assessments. Includes sections for Thermal Performance Specifications, External Wall Construction, Internal Wall Construction, Roof Construction, Ceiling Construction, Floor Construction, Windows, Skylights, and Shade Elements.

LEGEND

Legend table mapping alphanumeric codes (e.g., AC, AL, AD) to their corresponding architectural or construction descriptions.

Legend table mapping alphanumeric codes (e.g., EA, EDB, ELECT) to their corresponding architectural or construction descriptions.

SYMBOL LEGEND

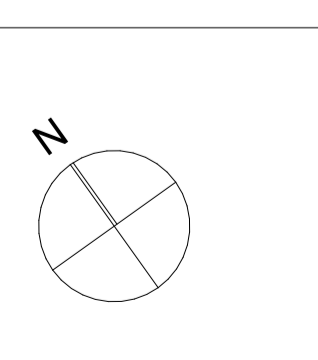
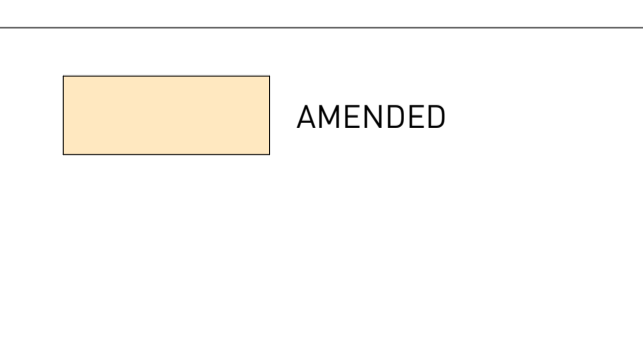
Symbol Legend table showing symbols for spot levels, area levels, door tags, window tags, and areas not included in scope of works.

GENERAL NOTES

Textual notes providing additional instructions and requirements, including references to other drawings and standards.

NOTES section containing numbered instructions regarding drawing scales, site dimensions, and drawing preparation.

LEGEND section containing a key for the AMENDED symbol and instructions on how to refer to notes.



© SMITH & TZANNES PTY LTD

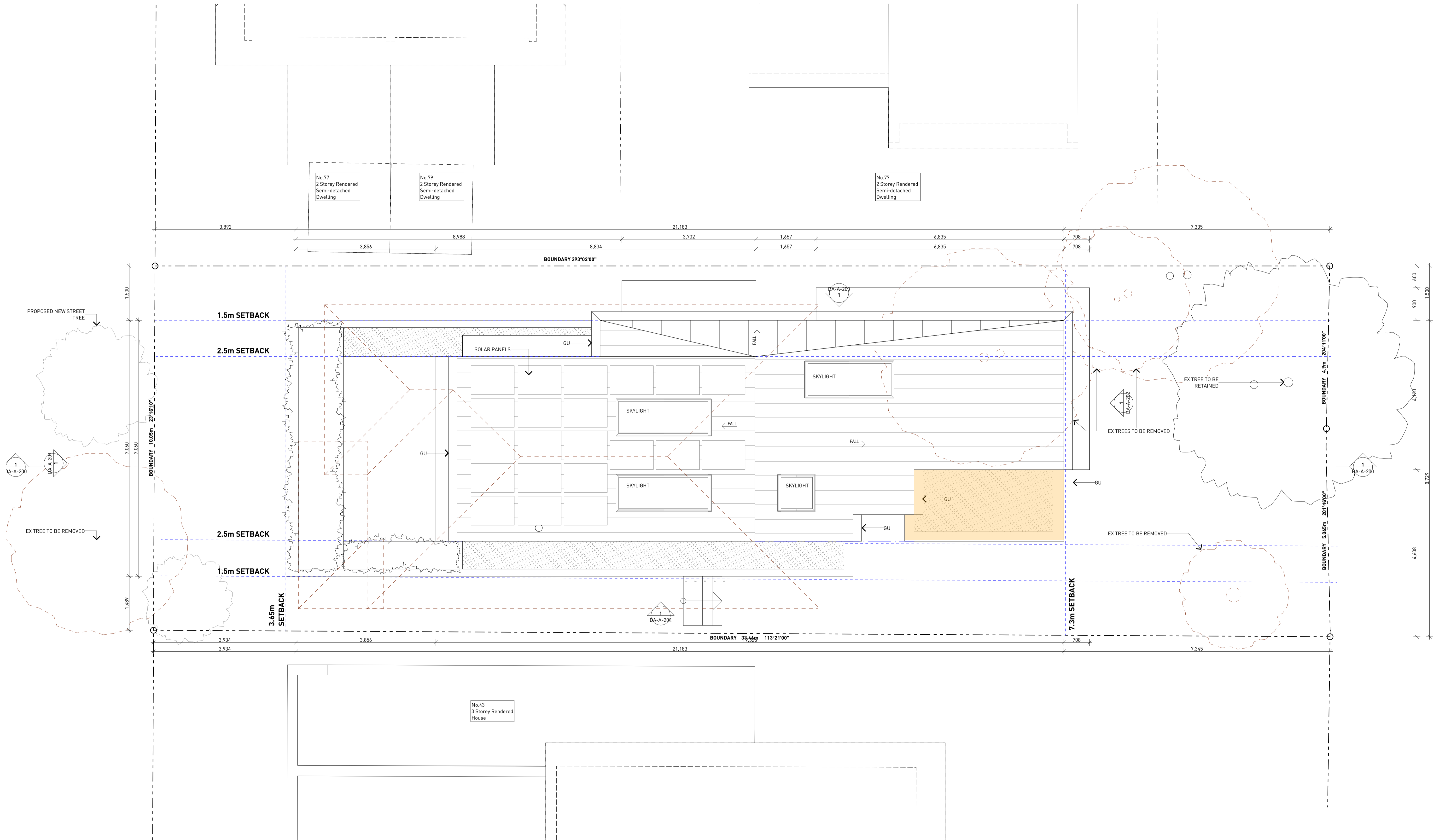
Revision table with columns for revision number (0, 5, 10), date, and description.

DOCUMENT NOTES DA SUBMISSION REV - 07-02-2022 DEVELOPMENT APPLICATION

PROJECT 45 Thomas Street McMahons Point CLIENT Bernadette Brennan

Architectural firm information for SMITH & TZANNES, including contact details and a logo.

20_088 DA-A-001



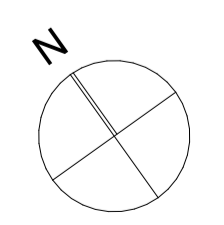
1 SITE PLAN
Scale 1:50

NOTES

1. NEVER scale off drawings, use figured dimensions only.
2. Verify all dimensions on site prior to commencement & report discrepancies to the architect.
3. Drawings describe scope of works and general set out. These drawings are not shop drawings. Set out to be undertaken by surveyor on site. Shop drawings should be prepared where required or necessary.
4. The copyright of this design remains the property of Humphrey & Edwards. This design is not to be used, copied or reproduced without the authority of Smith & Tzannes.
5. This drawing is only to be used by the stated Client in the stated location for the purpose it was created. Do not use this drawing for construction unless designated.

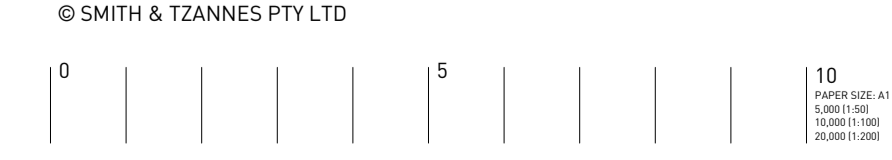
LEGEND
Refer to the notes page for a legend that includes further notes and an explanation of abbreviations.

 AMENDED



DOCUMENT
SITE PLAN
DOCUMENT
DA SUBMISSION
REV A 10-11-2022
STAGE
DEVELOPMENT APPLICATION

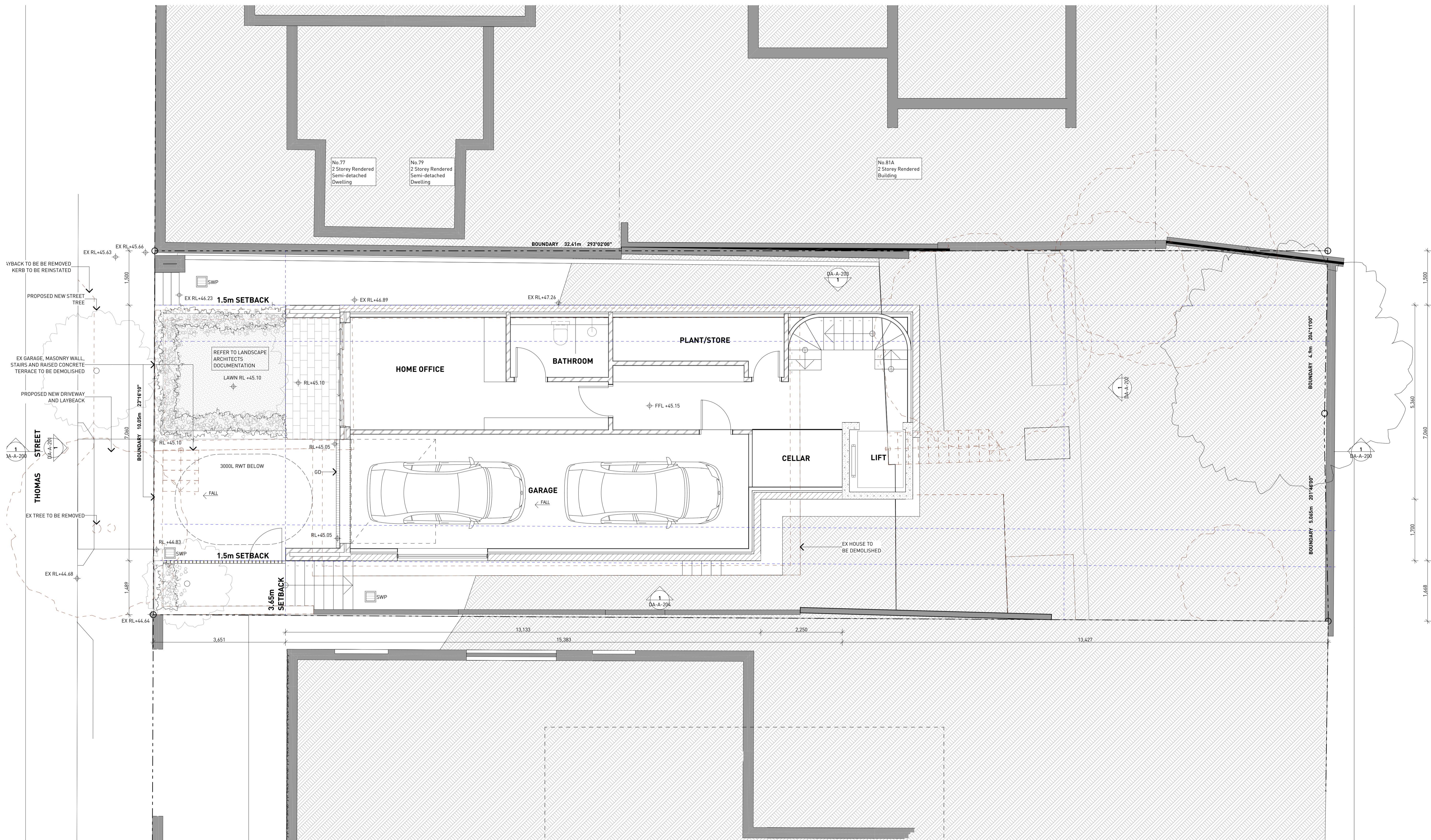
PROJECT
45 Thomas Street
45 Thomas Street McMahon's Point
CLIENT
Bernadette Brennan



ARCHITECTURE URBAN PLANNING
M1/147 McEvoy St Alexandria NSW 2015
P 02 9516 2022 E email@smithtzannes.com.au
smithtzannes.com.au
Nominated Architect: Peter Smith (Reg 7024)



20_088 DA-A-010



1 LOWER GROUND
Scale 1:50

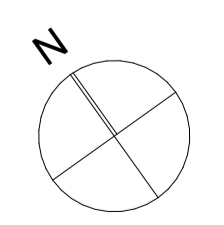
NOTES

1. NEVER scale off drawings, use figured dimensions only.
2. Verify all dimensions on site prior to commencement & report discrepancies to the architect.
3. Drawings describe scope of works and general set out. These drawings are not shop drawings. Set out to be undertaken by surveyor on site. Shop drawings should be prepared where required or necessary.
4. The copyright of this design remains the property of Humphrey & Edwards. This design is not to be used, copied or reproduced without the authority of Smith & Tzannes.
5. This drawing is only to be used by the stated Client in the stated location for the purpose it was created. Do not use this drawing for construction unless designated.

LEGEND

Refer to the notes page for a legend that includes further notes and an explanation of abbreviations.

 AMENDED



DOCUMENT
LOWER GROUND

DOCUMENT
DA SUBMISSION

REV - 07-02-2022

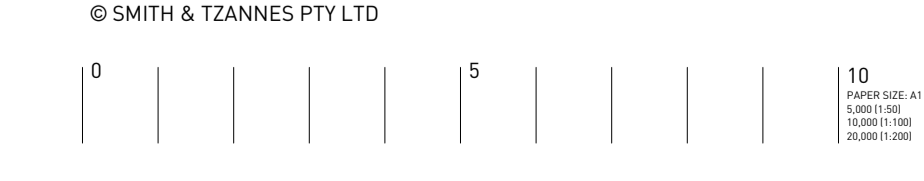
MODEL 20_088 Model DA

STAGE
DEVELOPMENT APPLICATION

PROJECT
45 Thomas Street

45 Thomas Street McMahon's Point

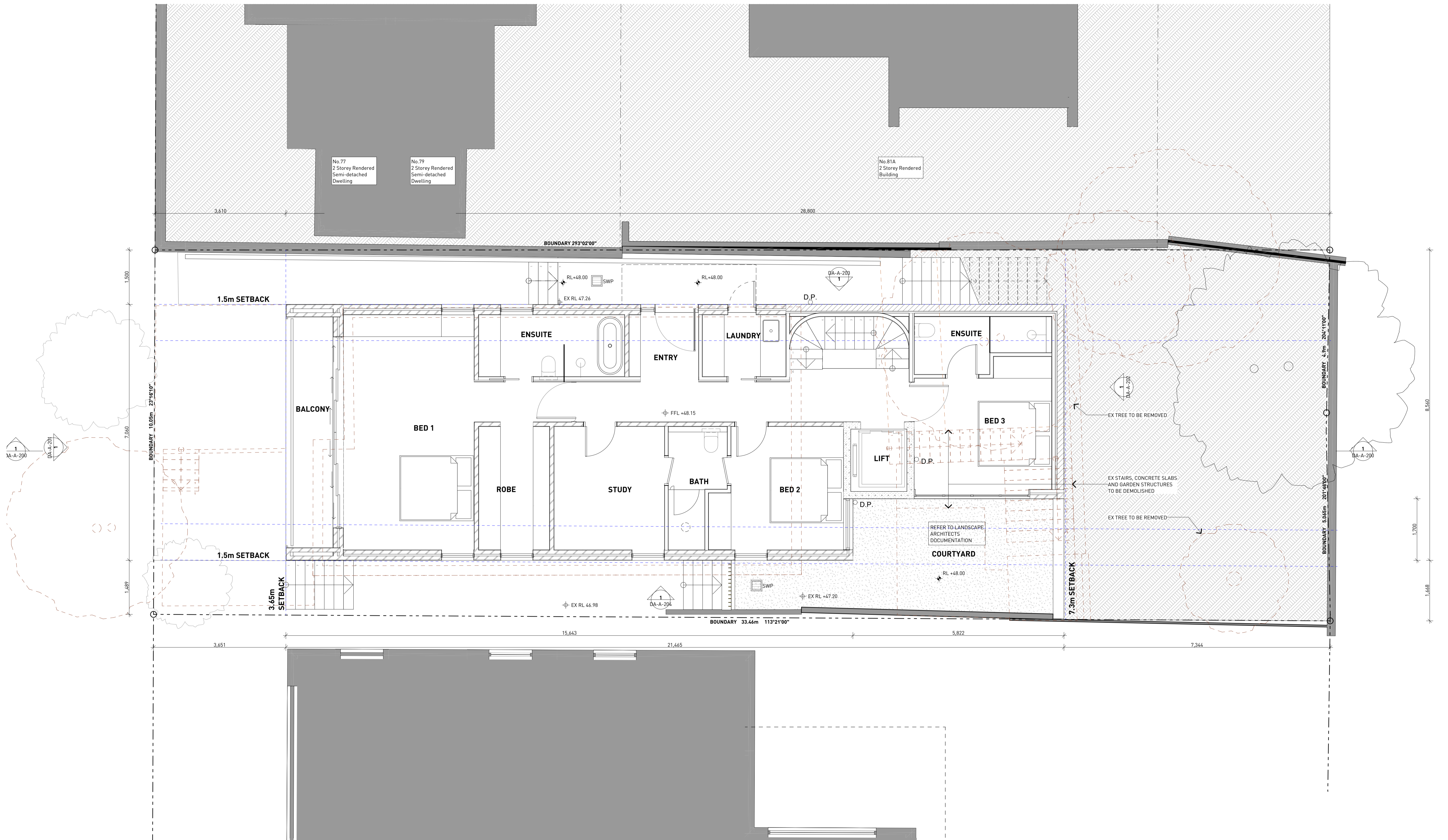
CLIENT **Bernadette Brennan**



ARCHITECTURE URBAN PLANNING
M1/147 McEvoy St Alexandria NSW 2015
P 02 9516 2022 E email@smithtzannes.com.au
smithtzannes.com.au
Nominated Architect: Peter Smith (Reg 7024)



20_088 DA-A-100



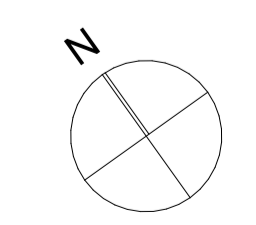
1 UPPER GROUND
Scale 1:50

NOTES

1. NEVER scale off drawings, use figured dimensions only.
2. Verify all dimensions on site prior to commencement & report discrepancies to the architect.
3. Drawings describe scope of works and general set out. These drawings are not shop drawings. Set out to be undertaken by surveyor on site. Shop drawings should be prepared where required or necessary.
4. The copyright of this design remains the property of Humphrey & Edwards. This design is not to be used, copied or reproduced without the authority of Smith & Tzannes.
5. This drawing is only to be used by the stated Client in the stated location for the purpose it was created. Do not use this drawing for construction unless designated.

LEGEND
Refer to the notes page for a legend that includes further notes and an explanation of abbreviations.

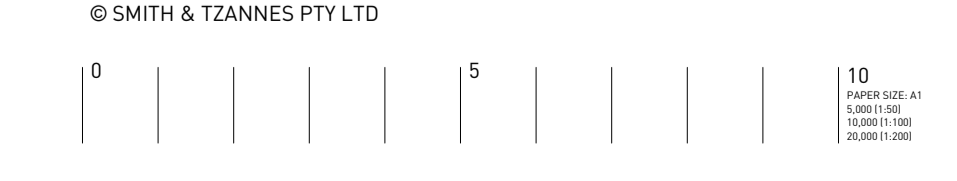
 AMENDED



DOCUMENT
UPPER GROUND
DOCUMENT
DA SUBMISSION
REV - 07-02-2022
STAGE
DEVELOPMENT APPLICATION

MODEL 20_088 Model DA

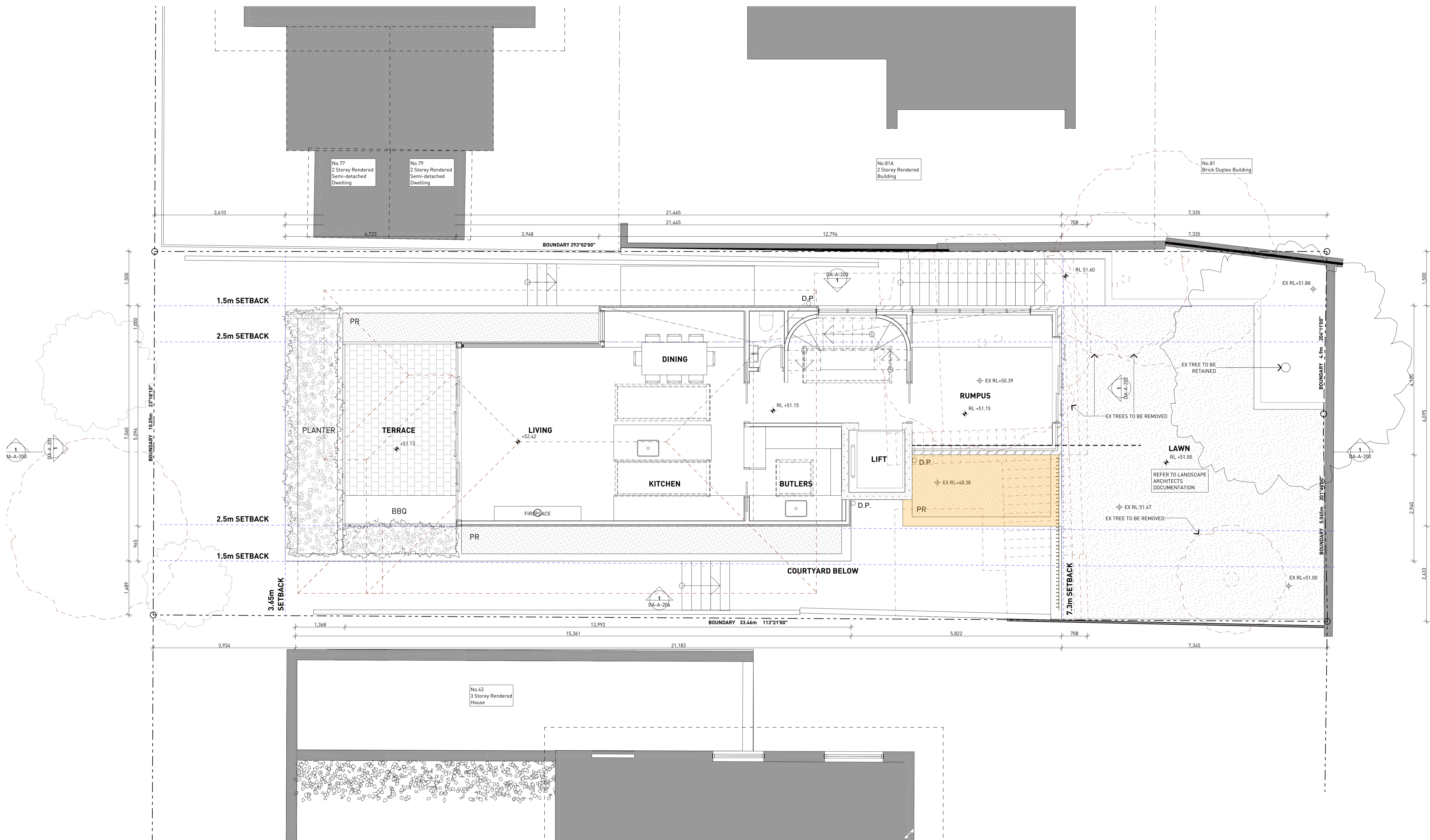
PROJECT
45 Thomas Street
45 Thomas Street McMahon's Point
CLIENT **Bernadette Brennan**



ARCHITECTURE URBAN PLANNING
M1/147 McEvoy St Alexandria NSW 2015
P 02 9516 2022 E email@smithtzannes.com.au
smithtzannes.com.au
Nominated Architect: Peter Smith (Reg 7024)



20_088 DA-A-101

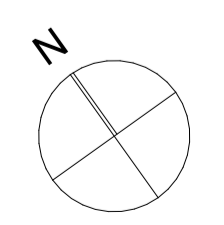


1 FIRST FLOOR
Scale 1:50

- NOTES**
- NEVER scale off drawings, use figured dimensions only.
 - Verify all dimensions on site prior to commencement & report discrepancies to the architect.
 - Drawings describe scope of works and general set out. These drawings are not shop drawings. Set out to be undertaken by surveyor on site. Shop drawings should be prepared where required or necessary.
 - The copyright of this design remains the property of Humphrey & Edwards. This design is not to be used, copied or reproduced without the authority of Smith & Tzannes.
 - This drawing is only to be used by the stated Client in the stated location for the purpose it was created. Do not use this drawing for construction unless designated.

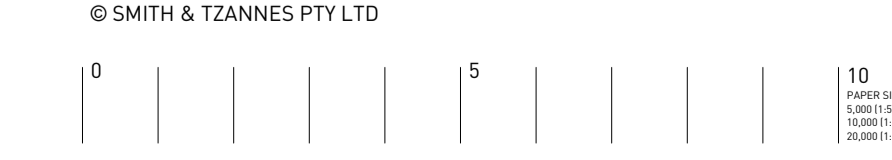
LEGEND
Refer to the notes page for a legend that includes further notes and an explanation of abbreviations.

AMENDED



DOCUMENT
FIRST FLOOR
DOCUMENT
DA SUBMISSION
REV A 10-11-2022
STAGE
DEVELOPMENT APPLICATION

PROJECT
45 Thomas Street
45 Thomas Street McMahon's Point
CLIENT
Bernadette Brennan

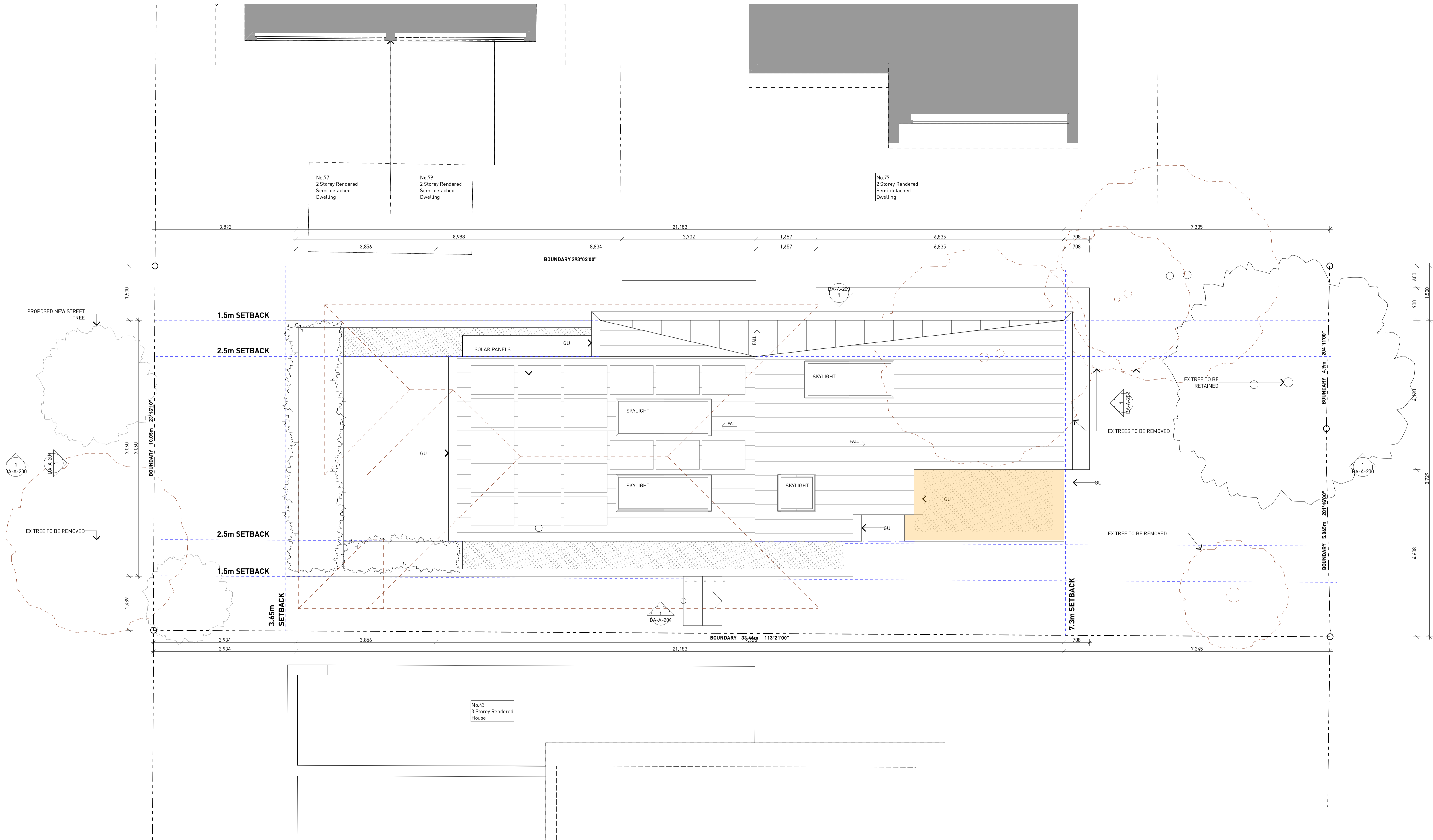


10
DATE PLOTTED: 11/11/2022
SCALE: 1:50

ARCHITECTURE URBAN PLANNING
M1/147 McEvoy St Alexandria NSW 2015
P 02 9516 2022 E email@smithtzannes.com.au
smithtzannes.com.au
Nominated Architect: Peter Smith (Reg 7024)



20_088 DA-A-102

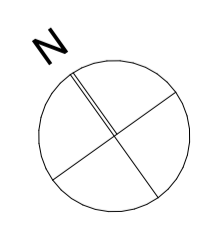


1 ROOF
Scale 1:50

- NOTES**
- NEVER scale off drawings, use figured dimensions only.
 - Verify all dimensions on site prior to commencement & report discrepancies to the architect.
 - Drawings describe scope of works and general set out. These drawings are not shop drawings. Set out to be undertaken by surveyor on site. Shop drawings should be prepared where required or necessary.
 - The copyright of this design remains the property of Humphrey & Edwards. This design is not to be used, copied or reproduced without the authority of Smith & Tzannes.
 - This drawing is only to be used by the stated Client in the stated location for the purpose it was created. Do not use this drawing for construction unless designated.

LEGEND
Refer to the notes page for a legend that includes further notes and an explanation of abbreviations.

 AMENDED



DOCUMENT
ROOF

DOCUMENT
DA SUBMISSION

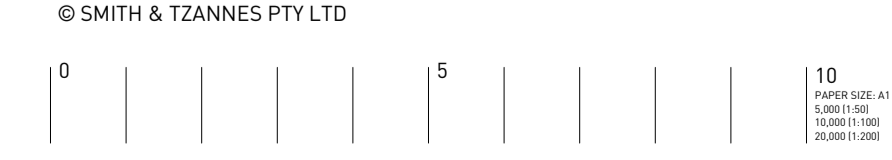
REV A 10-11-2022 MODEL 20_088 Model DA

STAGE
DEVELOPMENT APPLICATION

PROJECT
45 Thomas Street

45 Thomas Street McMahon's Point

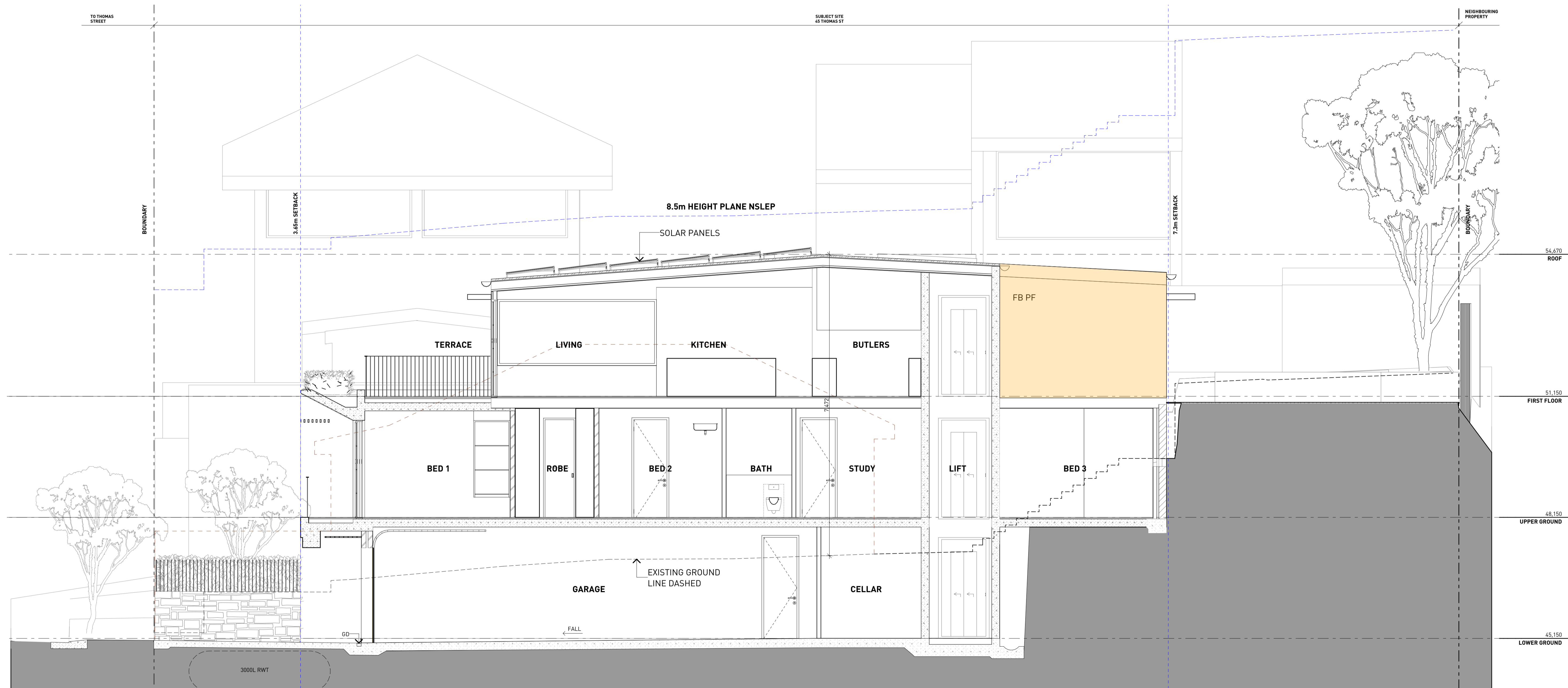
CLIENT Bernadette Brennan



ARCHITECTURE URBAN PLANNING
M1/147 McEvoy St Alexandria NSW 2015
P 02 9516 2022 E email@smithtzannes.com.au
smithtzannes.com.au
Nominated Architect: Peter Smith (Reg 7024)



20_088 DA-A-103



1 SECTION 01
Scale 1:50

- NOTES**
1. NEVER scale off drawings, use figured dimensions only.
 2. Verify all dimensions on site prior to commencement & report discrepancies to the architect.
 3. Drawings describe scope of works and general set out. These drawings are not shop drawings. Set out to be undertaken by surveyor on site. Shop drawings should be prepared where required or necessary.
 4. The copyright of this design remains the property of Humphrey & Edwards. This design is not to be used, copied or reproduced without the authority of Smith & Tzannes.
 5. This drawing is only to be used by the stated Client in the stated location for the purpose it was created. Do not use this drawing for construction unless designated.

LEGEND
Refer to the notes page for a legend that includes further notes and an explanation of abbreviations.

AMENDED

© SMITH & TZANNES PTY LTD
0 5 10
DRAWN: [unclear]
CHECKED: [unclear]
DATE: 20/08/22

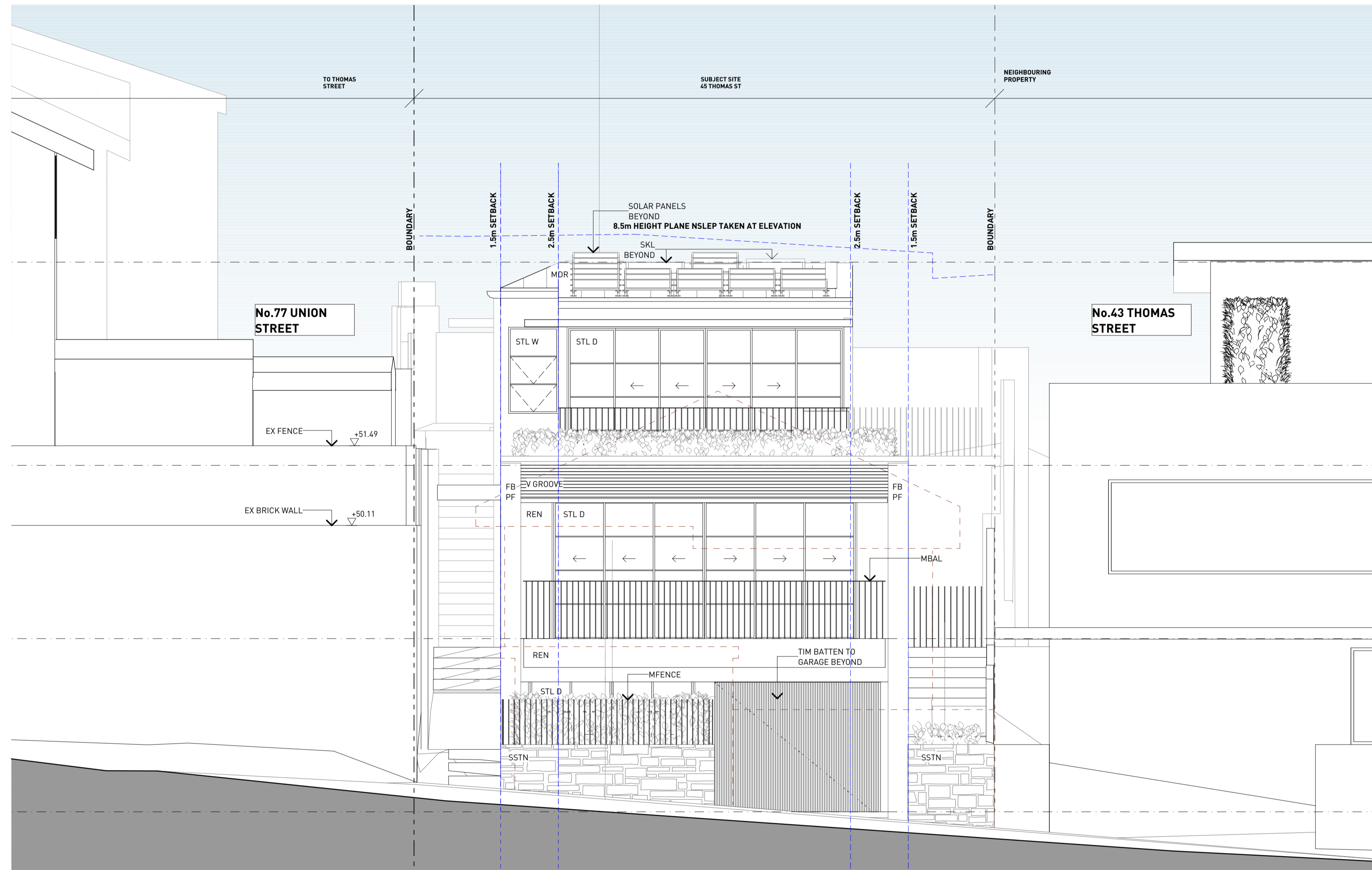
DOCUMENT
SECTION 01
DOCUMENT
DA SUBMISSION
REV A 10-11-2022
STAGE
DEVELOPMENT APPLICATION

PROJECT
45 Thomas Street
45 Thomas Street McMahon's Point
CLIENT
Bernadette Brennan

ARCHITECTURE URBAN PLANNING
M1/147 McEvoy St Alexandria NSW 2015
P 02 9516 2022 E email@smithtzannes.com.au
smithtzannes.com.au
Nominated Architect: Peter Smith (Reg 7024)



20_088 DA-A-200



1 WEST ELEVATION
Scale 1:50

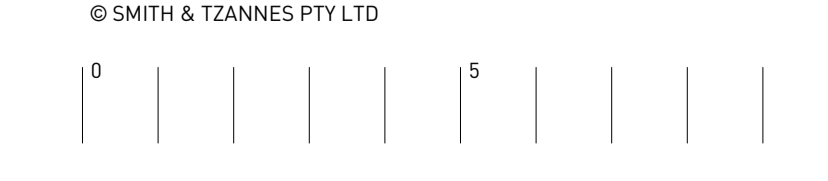
- NOTES**
1. NEVER scale off drawings, use figured dimensions only.
 2. Verify all dimensions on site prior to commencement & report discrepancies to the architect.
 3. Drawings describe scope of works and general set out. These drawings are not shop drawings. Set out to be undertaken by surveyor on site. Shop drawings should be prepared where required or necessary.
 4. The copyright of this design remains the property of Humphrey & Edwards. This design is not to be used, copied or reproduced without the authority of Smith & Tzannes.
 5. This drawing is only to be used by the stated Client in the stated location for the purpose it was created. Do not use this drawing for construction unless designated.

LEGEND
Refer to the notes page for a legend that includes further notes and an explanation of abbreviations.

AMENDED

DOCUMENT
WEST ELEVATION
DOCUMENT
DA SUBMISSION
REV - 07-02-2022
MODEL 20_088 Model DA
STAGE
DEVELOPMENT APPLICATION

PROJECT
45 Thomas Street
45 Thomas Street McMahon's Point
CLIENT **Bernadette Brennan**

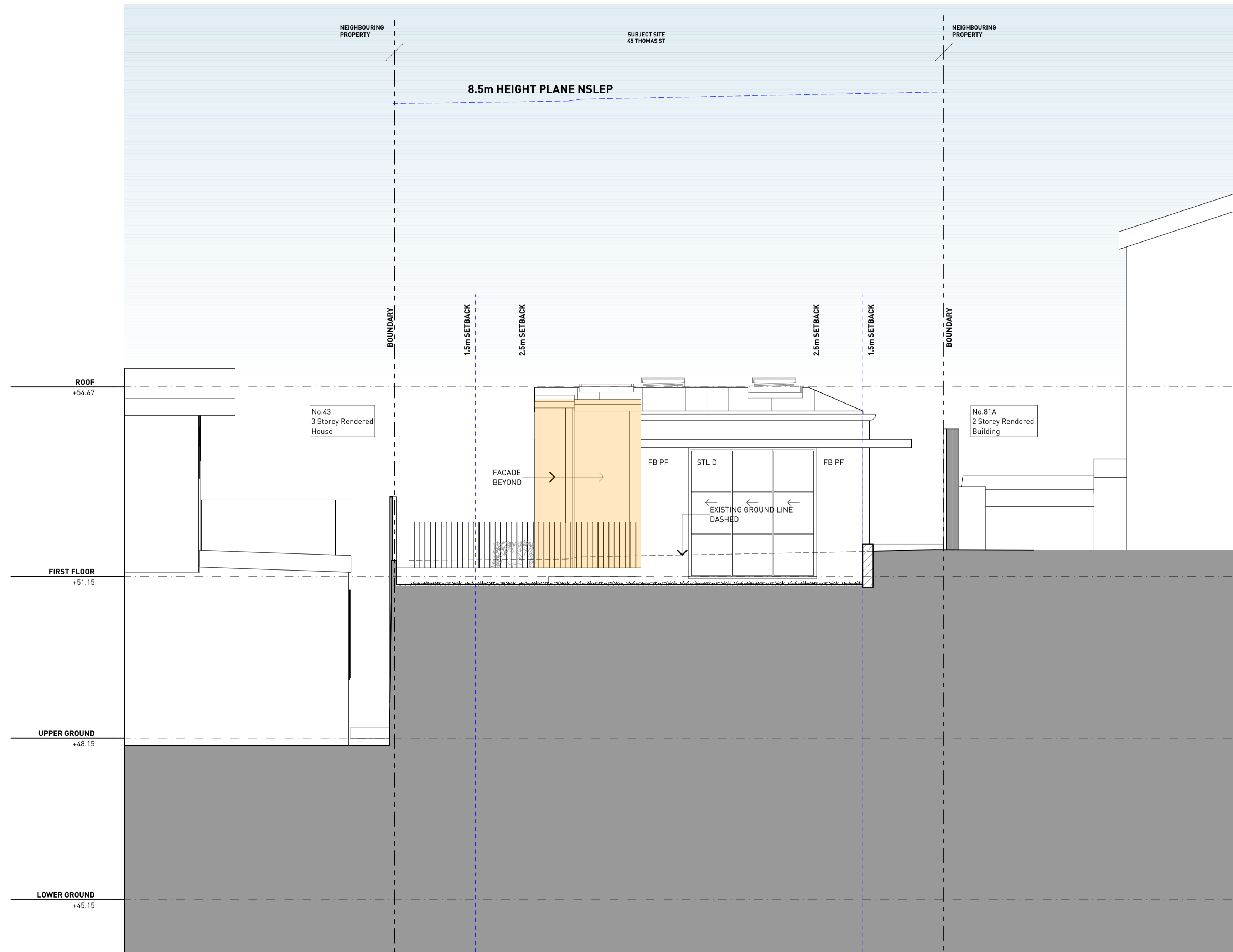


10
DATE PLOTTED: 11/02/2022
SCALE: 1:50
DRAWN BY: [Name]

ARCHITECTURE URBAN PLANNING
M1/147 McEvoy St Alexandria NSW 2015
P 02 9516 2022 E email@smithtzannes.com.au
smithtzannes.com.au
Nominated Architect: Peter Smith (Reg 7024)



20_088 DA-A-201



1 EAST ELEVATION
Scale 1:50

- NOTES**
1. NEVER scale off drawings, use figured dimensions only.
 2. Verify all dimensions on site prior to commencement & report discrepancies to the architect.
 3. Drawings describe scope of works and general set out. These drawings are not shop drawings. Set out to be undertaken by surveyor on site. Shop drawings should be prepared where required or necessary.
 4. The copyright of this design remains the property of Humphrey & Edwards. This design is not to be used, copied or reproduced without the authority of Smith & Tzannes.
 5. This drawing is only to be used by the stated Client in the stated location for the purpose it was created. Do not use this drawing for construction unless designated.

LEGEND
Refer to the notes page for a legend that includes further notes and an explanation of abbreviations.

 AMENDED

DOCUMENT
EAST ELEVATION

DOCUMENT
DA SUBMISSION

REV A 10-11-2022 MODEL 20_088 Model DA

STAGE
DEVELOPMENT APPLICATION

PROJECT
45 Thomas Street

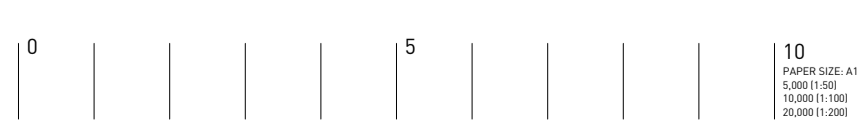
45 Thomas Street McMahon's Point

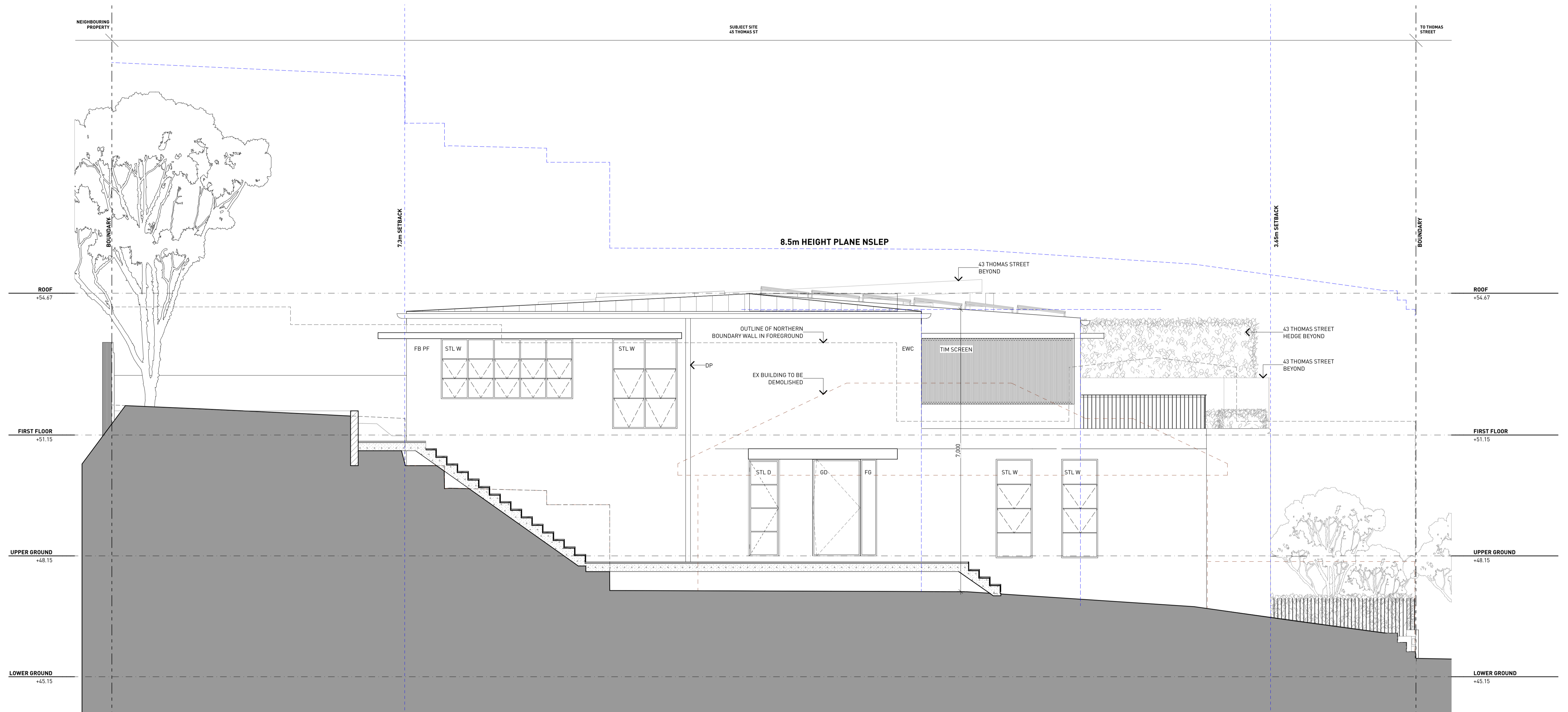
CLIENT **Bernadette Brennan**

ARCHITECTURE URBAN PLANNING
M1/147 McEvoy St Alexandria NSW 2015
P 02 9516 2022 E email@smithtzannes.com.au
smithtzannes.com.au
Nominated Architect: Peter Smith (Reg 7024)



20_088 DA-A-202





1 NORTH ELEVATION
Scale 1:50

- NOTES**
- NEVER scale off drawings, use figured dimensions only.
 - Verify all dimensions on site prior to commencement & report discrepancies to the architect.
 - Drawings describe scope of works and general set out. These drawings are not shop drawings. Set out to be undertaken by surveyor on site. Shop drawings should be prepared where required or necessary.
 - The copyright of this design remains the property of Humphrey & Edwards. This design is not to be used, copied or reproduced without the authority of Smith & Tzannes.
 - This drawing is only to be used by the stated Client in the stated location for the purpose it was created. Do not use this drawing for construction unless designated.

LEGEND
Refer to the notes page for a legend that includes further notes and an explanation of abbreviations.

AMENDED



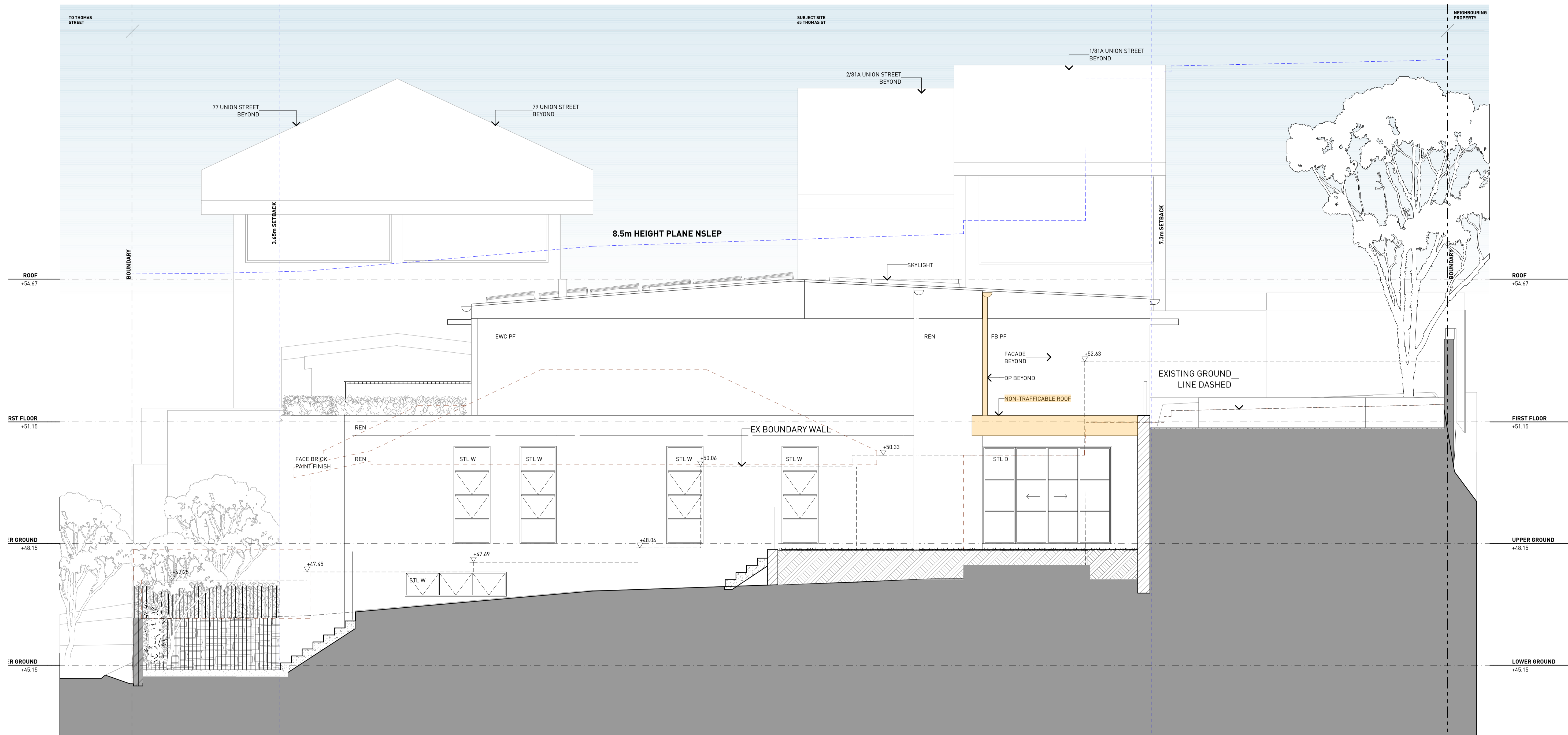
DOCUMENT
NORTH ELEVATION
DOCUMENT
DA SUBMISSION
REV - 07-11-2022
MODEL 20_088 Model DA
STAGE
DEVELOPMENT APPLICATION

PROJECT
45 Thomas Street
45 Thomas Street McMahon's Point
CLIENT
Bernadette Brennan

ARCHITECTURE URBAN PLANNING
M1/147 McEvoy St Alexandria NSW 2015
P 02 9516 2022 E email@smithtzannes.com.au
smithtzannes.com.au
Nominated Architect: Peter Smith (Reg 7024)



20_088 DA-A-203



1 SOUTH ELEVATION
Scale 1:50

- NOTES**
1. NEVER scale off drawings, use figured dimensions only.
 2. Verify all dimensions on site prior to commencement & report discrepancies to the architect.
 3. Drawings describe scope of works and general set out. These drawings are not shop drawings. Set out to be undertaken by surveyor on site. Shop drawings should be prepared where required or necessary.
 4. The copyright of this design remains the property of Humphrey & Edwards. This design is not to be used, copied or reproduced without the authority of Smith & Tzannes.
 5. This drawing is only to be used by the stated Client in the stated location for the purpose it was created. Do not use this drawing for construction unless designated.

LEGEND
Refer to the notes page for a legend that includes further notes and an explanation of abbreviations.

AMENDED



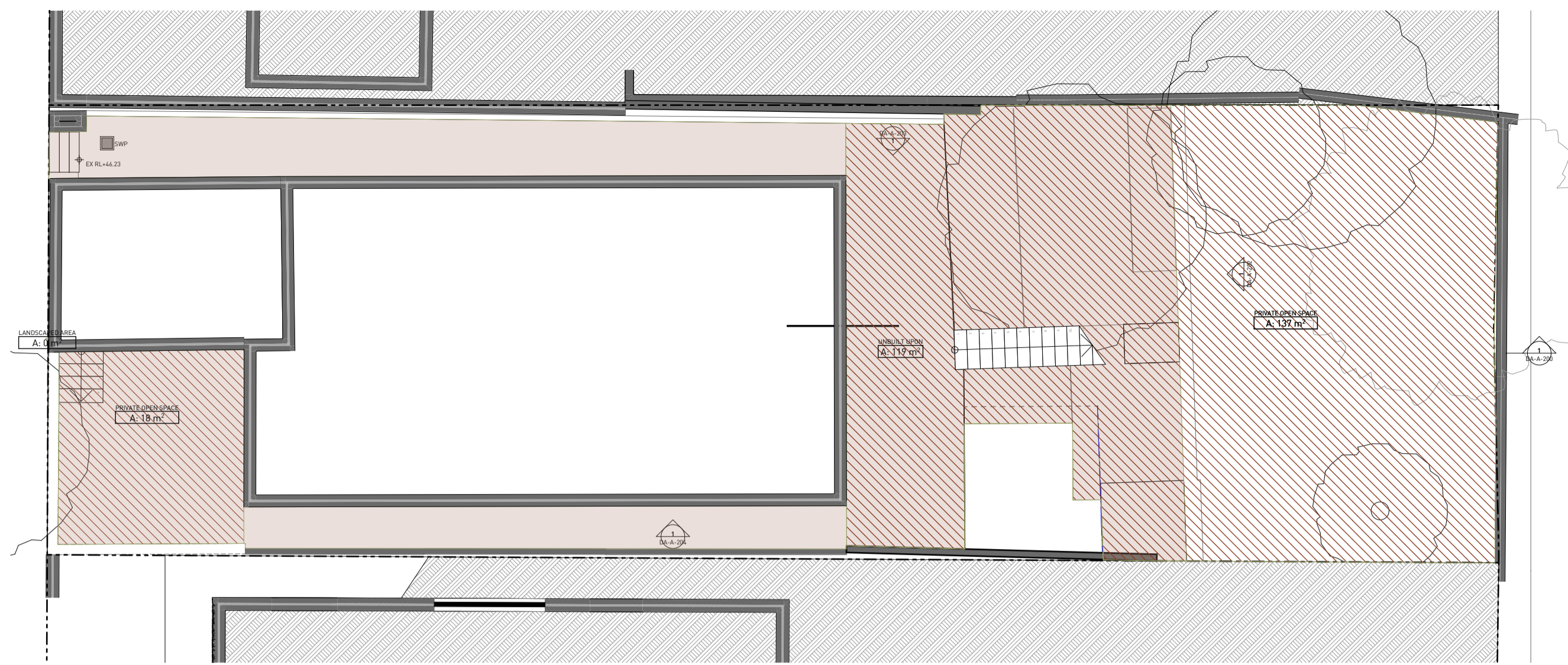
DOCUMENT
SOUTH ELEVATION
DOCUMENT
DA SUBMISSION
REV A 10-11-2022
MODEL 20_088 Model DA
STAGE
DEVELOPMENT APPLICATION

PROJECT
45 Thomas Street
45 Thomas Street McMahon's Point
CLIENT
Bernadette Brennan

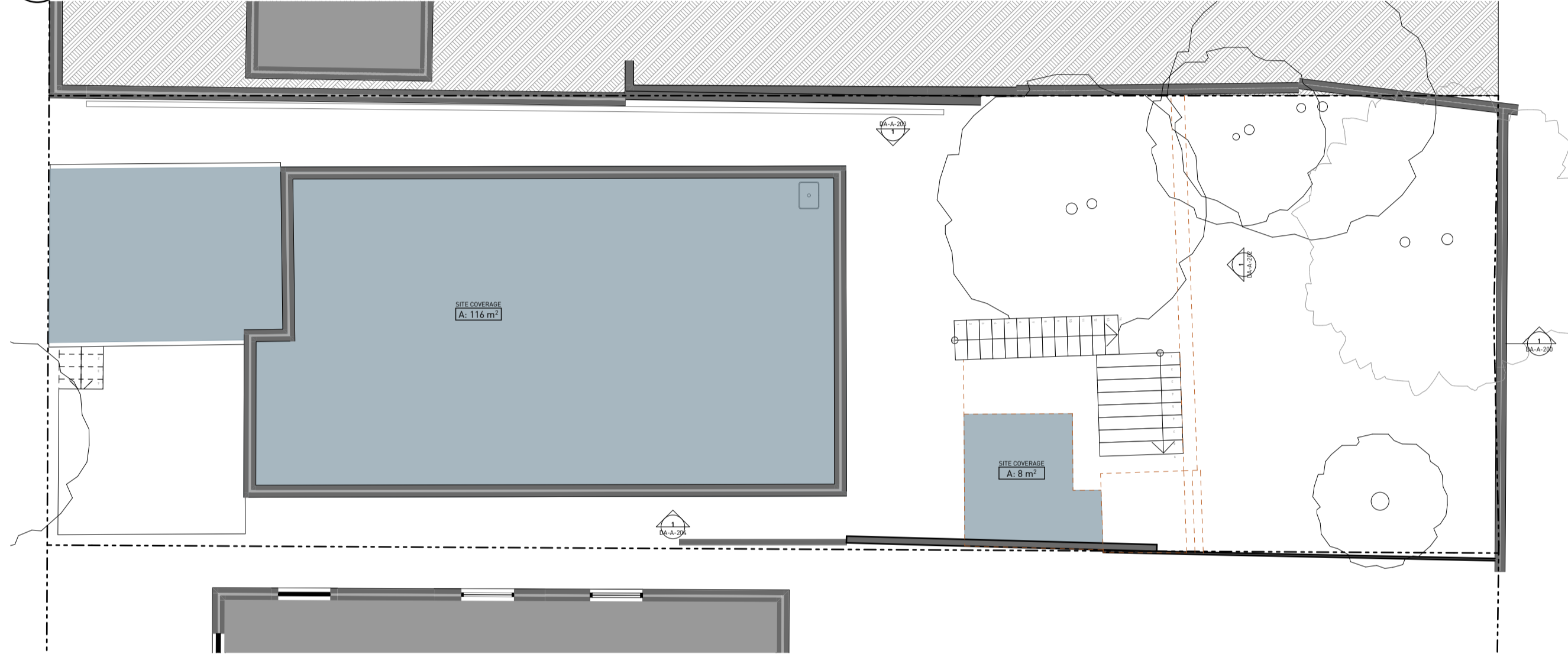
ARCHITECTURE URBAN PLANNING
M1/147 McEvoy St Alexandria NSW 2015
P 02 9516 2022 E email@smithtzannes.com.au
smithtzannes.com.au
Nominated Architect: Peter Smith (Reg 7024)



20_088 DA-A-204

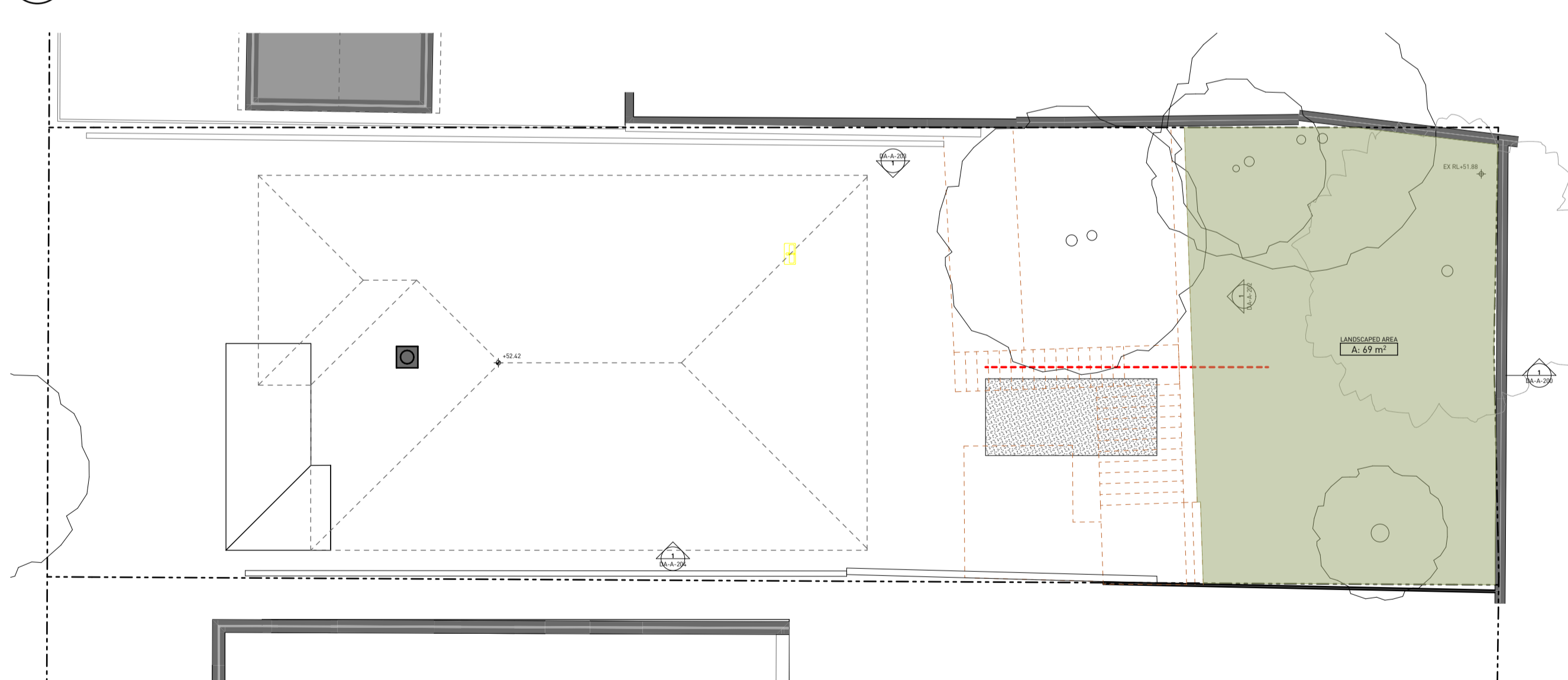


1 LOWER GROUND_Landscape EXISTING
Scale 1:100



1 LOWER GROUND_Landscape Proposed
Scale 1:100

1 UPPER GROUND_Landscape EXISTING
Scale 1:100



1 UPPER GROUND_Landscape Proposed
Scale 1:100

1 FIRST FLOOR_Landscape EXISTING
Scale 1:100



1 FIRST FLOOR_Landscape Proposed
Scale 1:100

DEVELOPMENT STATISTICS

SITE AREA 328.3 m²

SITE COVERAGE
Table B-1.6 Lot size 230-499m²
Permissible Max 50% = 164.15m²
Existing 21% = 124m²
Proposed 43.3% = 142m² COMPLIES

LANDSCAPED AREA
Table B-1.7 Lot size 230-499m²
Permissible Min 30% = 98.49m²
Existing 21% = 69m²
Proposed 34.1% = 112m² COMPLIES

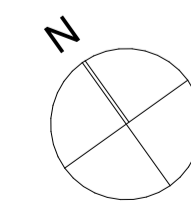
UNBUILT UPON AREA
Table B-1.7 Lot size 230-499m²
Permissible Max 20% = 65.66m²
Existing 36.2% = 119m²
Proposed 19.8% = 65m² COMPLIES

PRIVATE OPEN SPACE
Table B-1.8 Lot Size 230-499m²
Permissible Min 40m²
Existing 47.2% = 155m²
Proposed 31.7% = 104m² COMPLIES

- NOTES**
1. NEVER scale off drawings, use figured dimensions only.
 2. Verify all dimensions on site prior to commencement & report discrepancies to the architect.
 3. Drawings describe scope of works and general set out. These drawings are not shop drawings. Set out to be undertaken by surveyor on site. Shop drawings should be prepared where required or necessary.
 4. The copyright of this design remains the property of Humphrey & Edwards. This design is not to be used, copied or reproduced without the authority of Smith & Tzannes.
 5. This drawing is only to be used by the stated Client in the stated location for the purpose it was created. Do not use this drawing for construction unless designated.

LEGEND
Refer to the notes page for a legend that includes further notes and an explanation of abbreviations.

AMENDED



DOCUMENT
AREA CALCULATIONS

DOCUMENT
DA SUBMISSION

REV - 07-02-2022 MODEL 20_088 Model DA

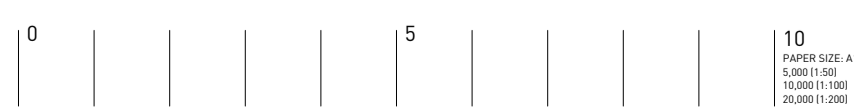
STAGE
DEVELOPMENT APPLICATION

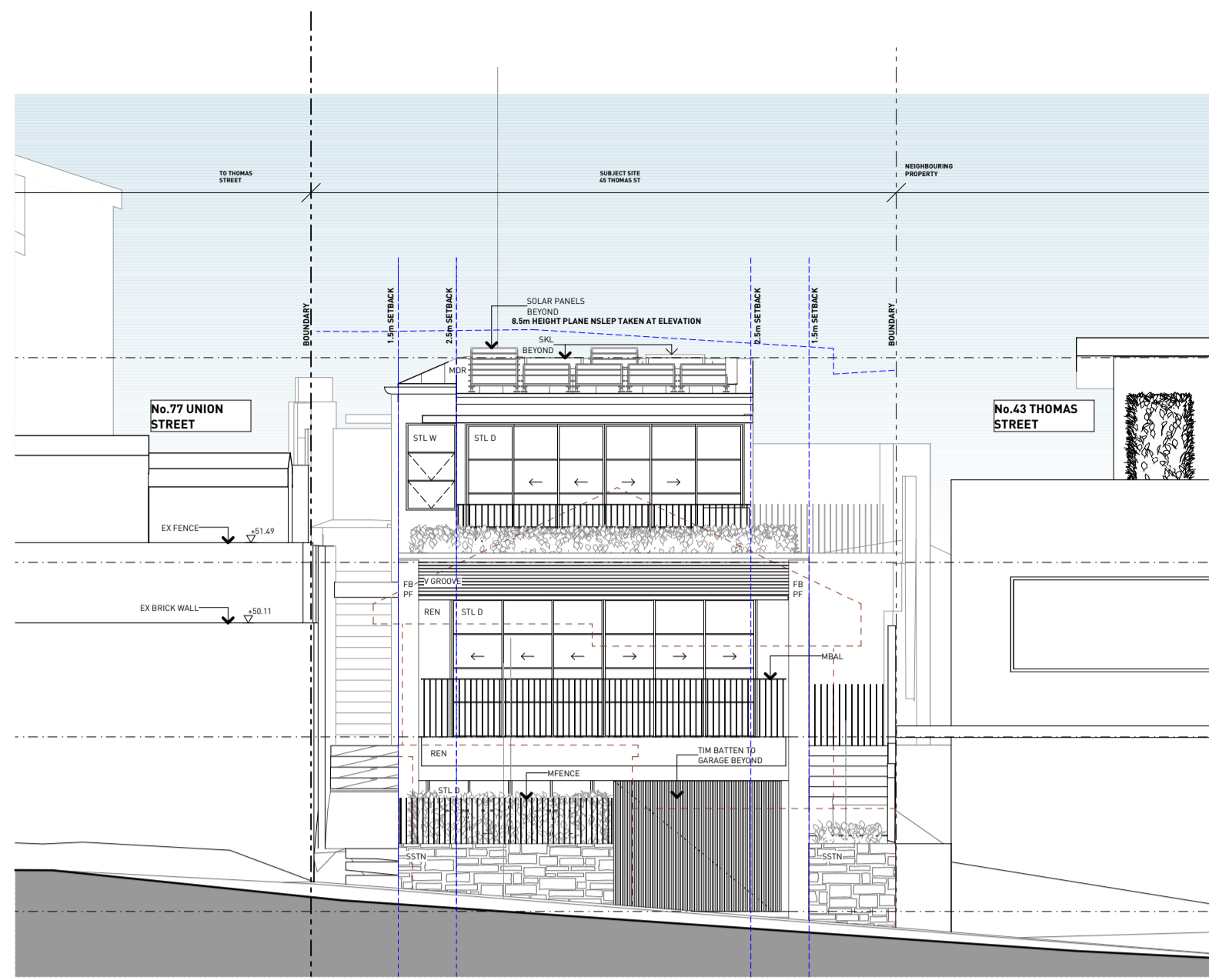
PROJECT
45 Thomas Street

45 Thomas Street McMahon's Point

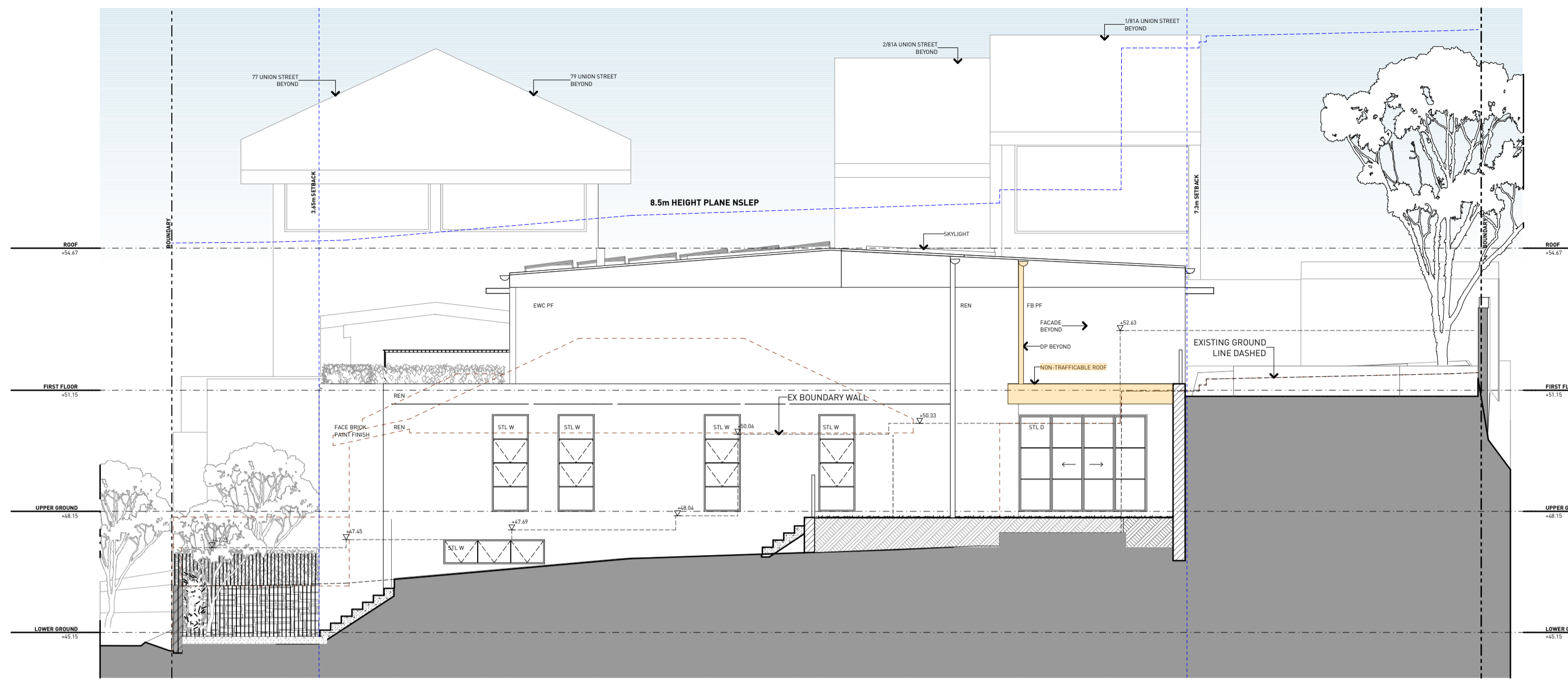
CLIENT **Bernadette Brennan**

ARCHITECTURE URBAN PLANNING
M1/147 McEvoy St Alexandria NSW 2015
P 02 9516 2022 E email@smithtzannes.com.au
smithtzannes.com.au
Nominated Architect: Peter Smith (Reg 7024)

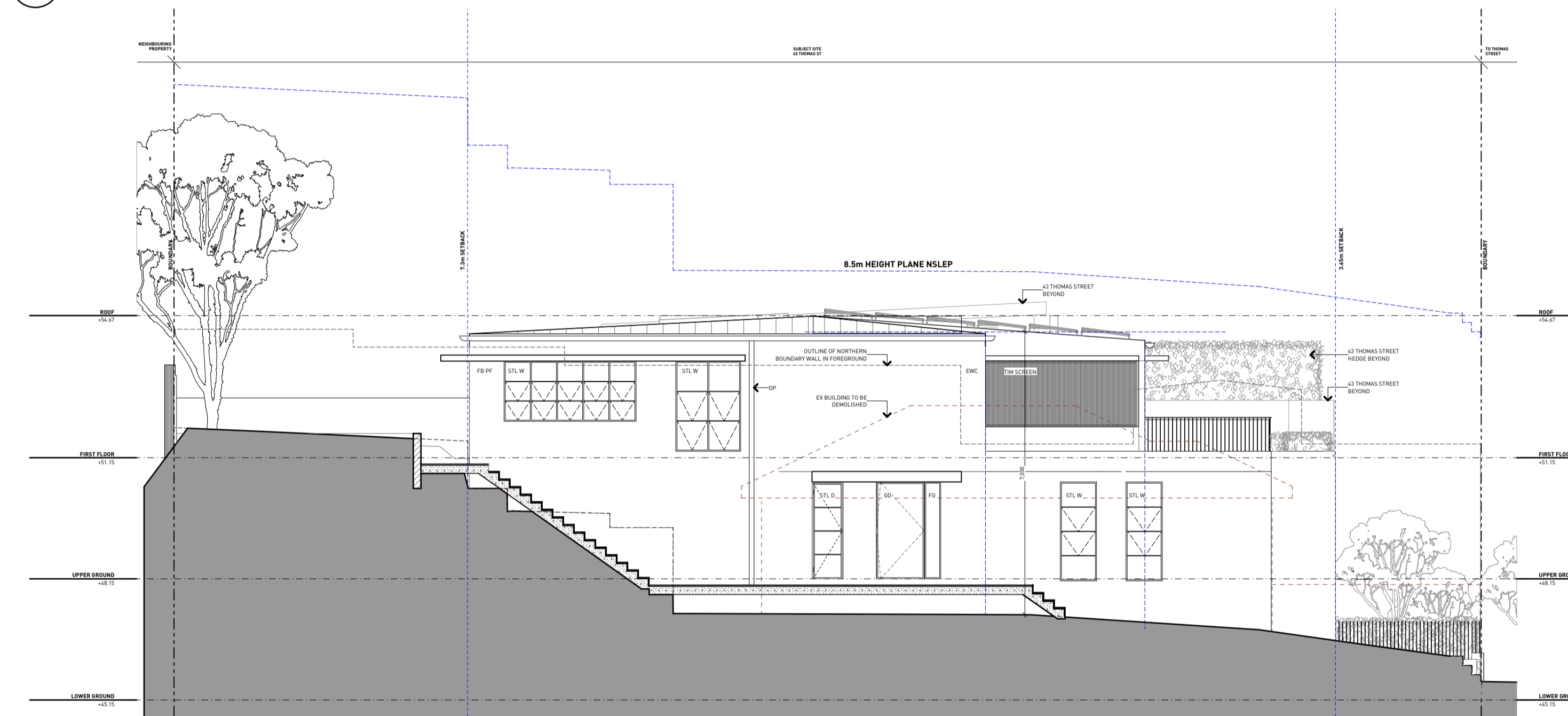




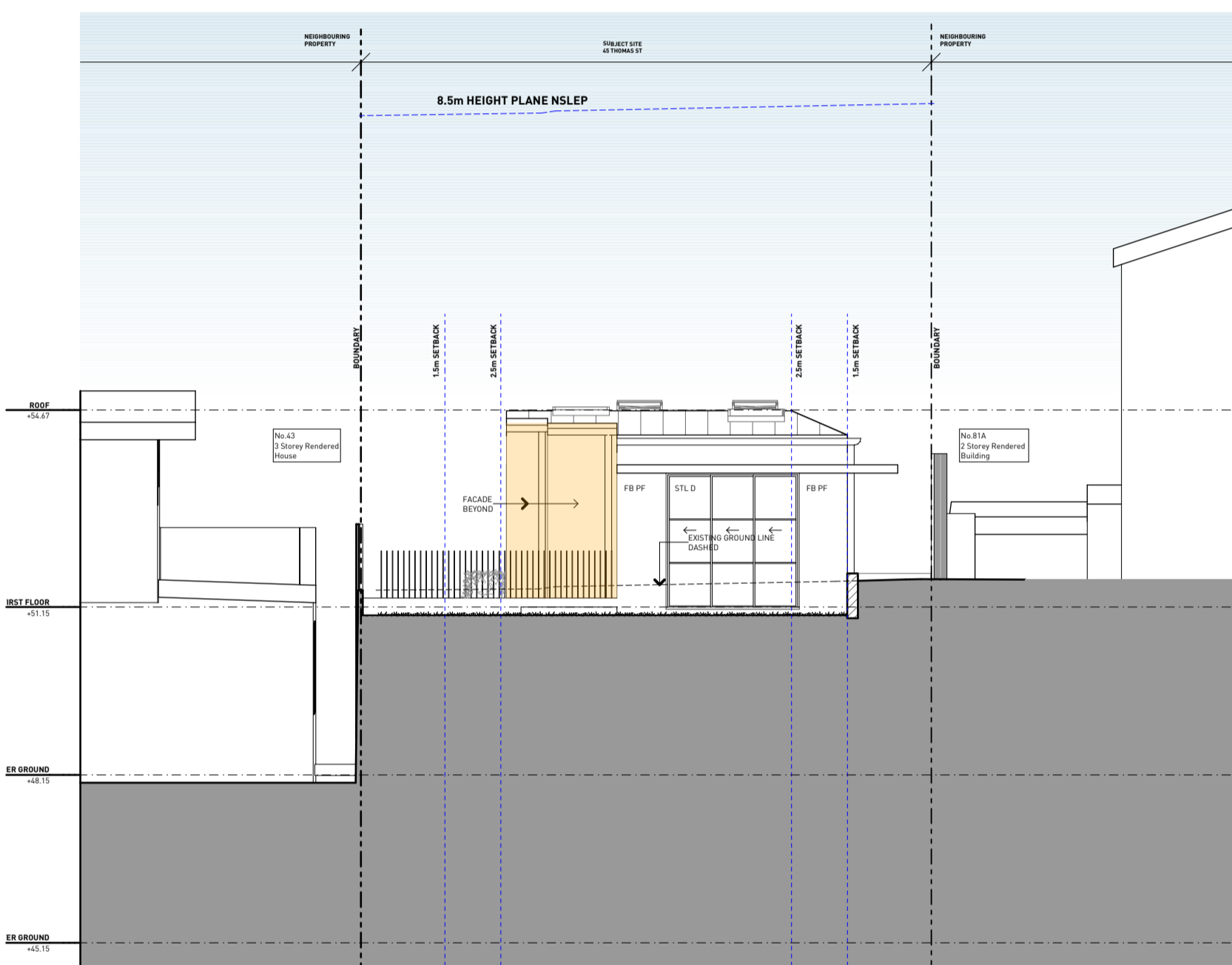
1 WEST ELEVATION
Scale 1:100



2 SOUTH ELEVATION
Scale 1:100



4 NORTH ELEVATION
Scale 1:100



3 EAST ELEVATION
Scale 1:100



[SSTN] SANDSTONE CLADDING



[STL D] STEEL FRAMED DOORS
[STL W] STEEL FRAMED WINDOWS
BLACK



[FB PF] FACE BRICK PAINT FINISH
[REN] RENDER PAINT FINISH
[V GROOVE] PAINT FINISH



[EWC] EXTERNAL WALL CLADDING
MID-TONE TAUPE



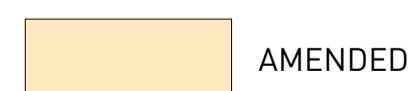
[MDR] METAL DECK ROOF
BASALT OR SIMILAR



[TIM] TIMBER BATTENS

- NOTES**
1. NEVER scale off drawings, use figured dimensions only.
 2. Verify all dimensions on site prior to commencement & report discrepancies to the architect.
 3. Drawings describe scope of works and general set out. These drawings are not shop drawings. Set out to be undertaken by surveyor on site. Shop drawings should be prepared where required or necessary.
 4. The copyright of this design remains the property of Humphrey & Edwards. This design is not to be used, copied or reproduced without the authority of Smith & Tzannes.
 5. This drawing is only to be used by the stated Client in the stated location for the purpose it was created. Do not use this drawing for construction unless designated.

LEGEND
Refer to the notes page for a legend that includes further notes and an explanation of abbreviations.



AMENDED

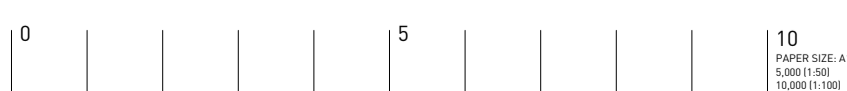
DOCUMENT
FINISHES SCHEDULE
DOCUMENT
DA SUBMISSION
REV A 10-11-2022
MODEL 20_088 Model DA
STAGE
DEVELOPMENT APPLICATION

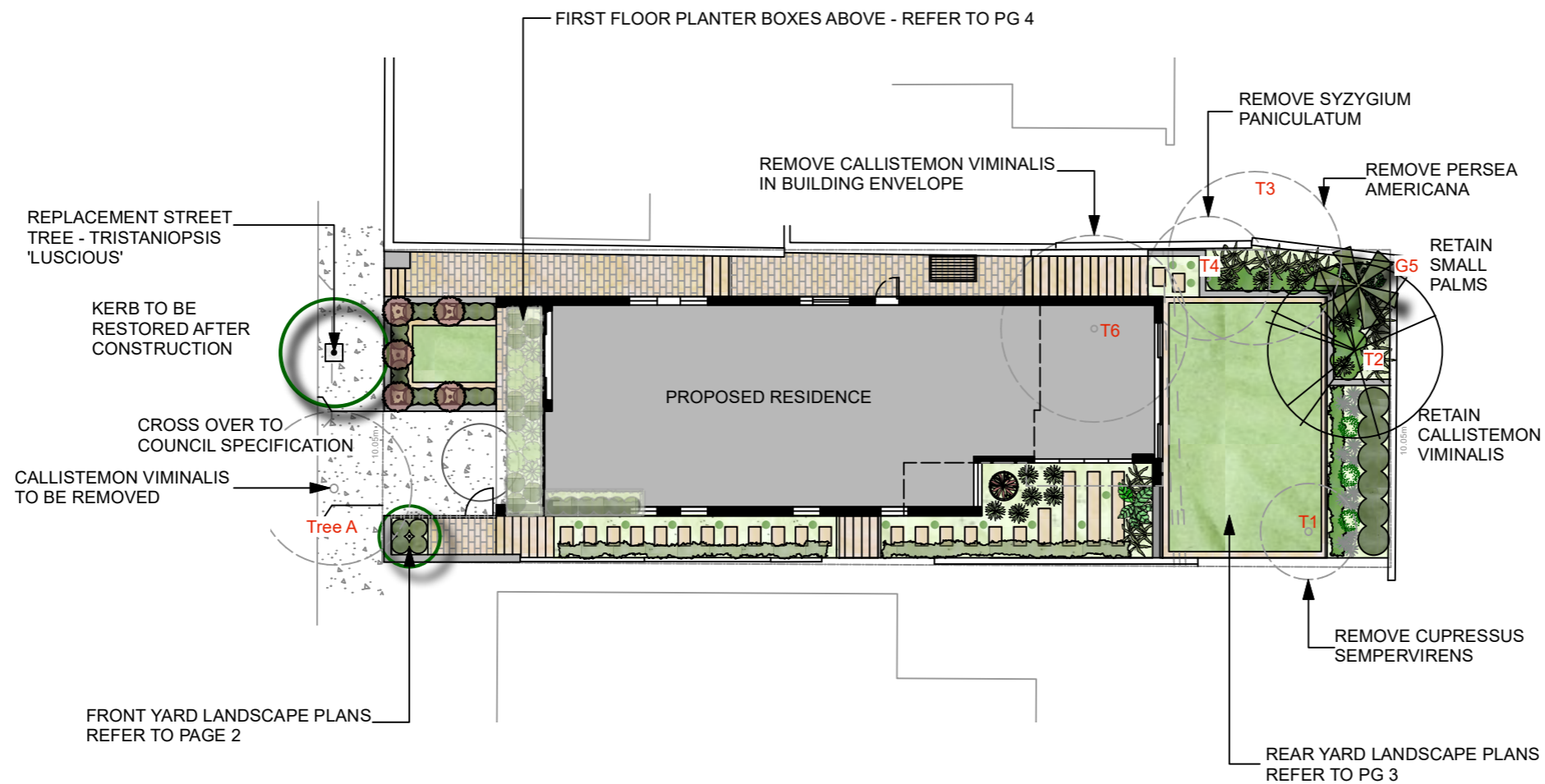
PROJECT
45 Thomas Street
45 Thomas Street McMahon's Point
CLIENT Bernadette Brennan

ARCHITECTURE URBAN PLANNING
M1/147 McEvoy St Alexandria NSW 2015
P 02 9516 2022 E email@smithtzannes.com.au
smithtzannes.com.au
Nominated Architect: Peter Smith (Reg 7024)

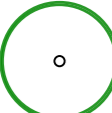
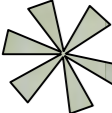
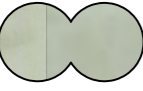






20_088 DA-A-900





LEGEND

-  NEW TREE
-  TREE FERN
-  SCREEN PLANTING
-  TREE REMOVED
-  GARDEN
-  SELECTED TILES
-  LAWN

REFER TO ARCHITECTS PLANS FOR LANDSCAPE AREA AND DEEP SOIL CALCULATIONS
EXISTING TREE 'S AS PER ARBORICULTURAL IMPACT ASSESSMENT BY MARTIN PEACOCK

LANDSCAPE PLANTING SCHEDULE

TREES AND PALMS

PLANT	SIZE	QTY
TRISTANIOPSIS LUSCIOUS	75L	1
MAGNOLIA LITTLE GEM	75L	1
CYATHEA COOPERI	45L	1

SCREEN PLANTING AND HEDGES

SYZYGIUM 'BACKYARD BLISS'	300MM	6
RHAPIS EXCELSA	45L	9

ORNAMENTAL PLANTS & SHRUBS

LOROPETALUM 'PLUM GORGEOUS'	250MM	5
ALCANTAREA RUBRA	300MM	1
WESTRINGIA 'GREY BOX'	200MM	3
RHAPHIOLEPSIS 'ORIENTAL PEAL'	200MM	4
RHAPHIOLEPSIS 'SNOW MAIDEN'	200MM	16
ASPLENIUM AUSTRALASICUM	200MM	3
BLECHNUM 'SILVER LADY'	200MM	11
LIGULARIA RENIFORMIS	200MM	15

GRASSES AND 'STRAPPY'

LOMANDRA TANIKA	150MM	12
-----------------	-------	----


GROUND COVER'S & CLIMBERS

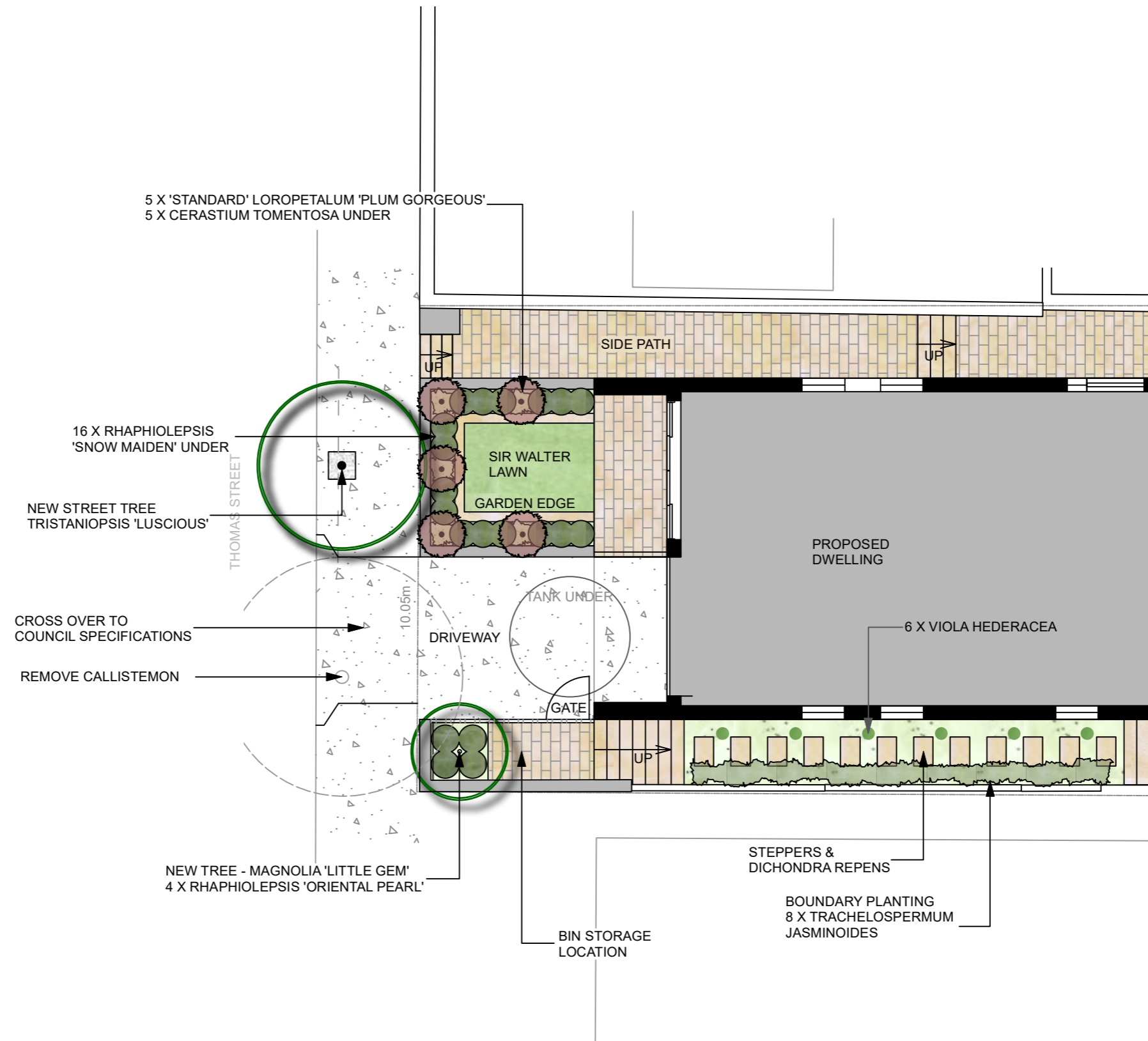
CERASTIUM TOMENTOSA	150MM	5
VIOLA HEDERACEA	150MM	15
DICHONDRA REPENS	100MM	50
CHRYSOCEPHALUM APICULATUM	100MM	9
TRACHELOSPERMUM JASMINOIDES	200MM	15


NATIVE PLANTS SHOWN RED

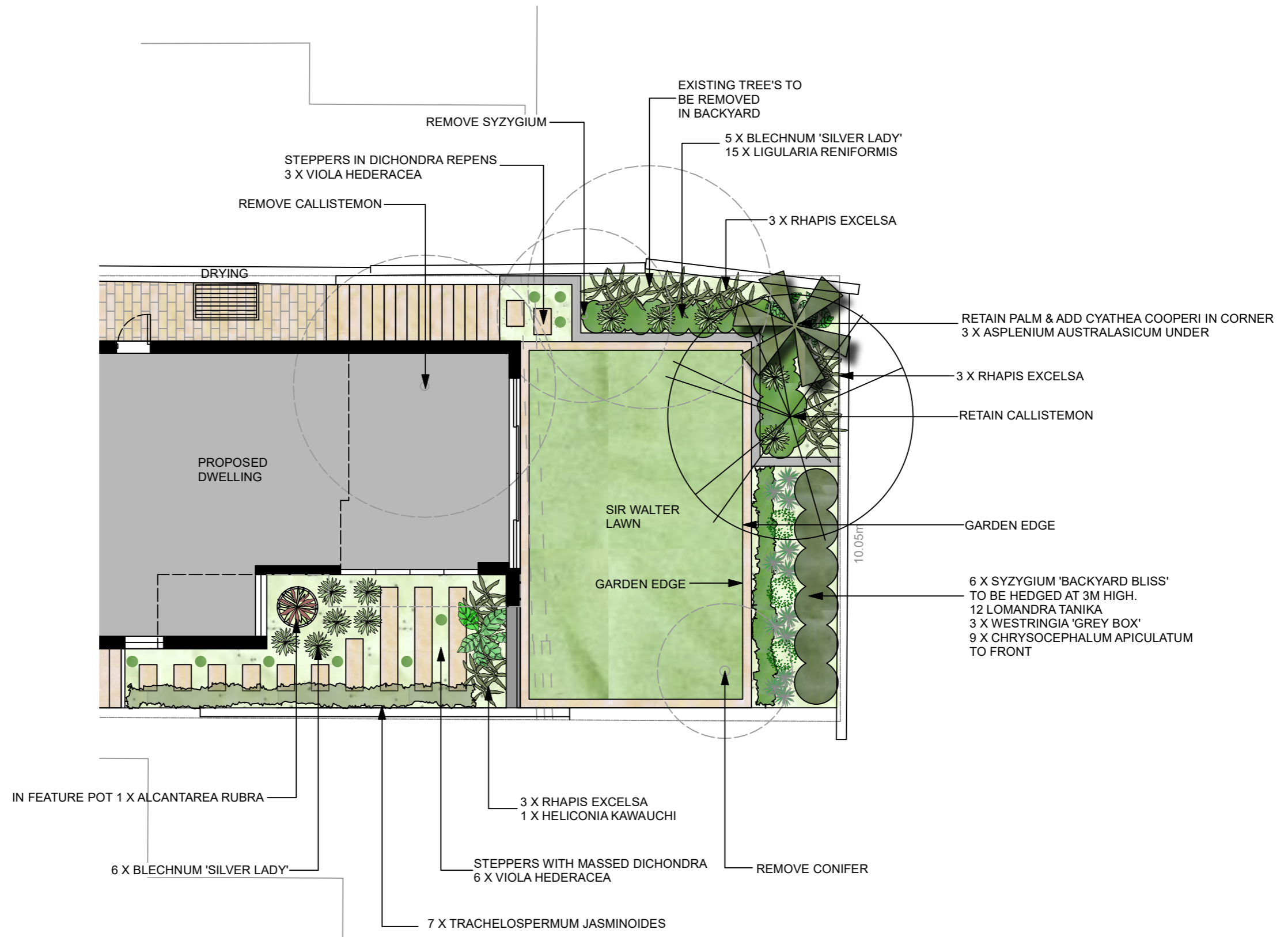
EXISTING TREES AS PER ARBORIST IMPACT ASSESSMENT

NO.	TREE	ACTION
T1	CUPRESSUS SEMPERVIRENS	REMOVE
T2	CALLISTEMON VIMINALIS	RETAIN
T3	PERSEA AMERICANA	REMOVE
T4	SYZYGIUM PANICULATUM	REMOVE
T5	MIXED SPP. PALM	RETAIN
T6	CALLISTEMON VIMINALIS	REMOVE
A	CALLISTEMON VIMINALIS	REMOVE

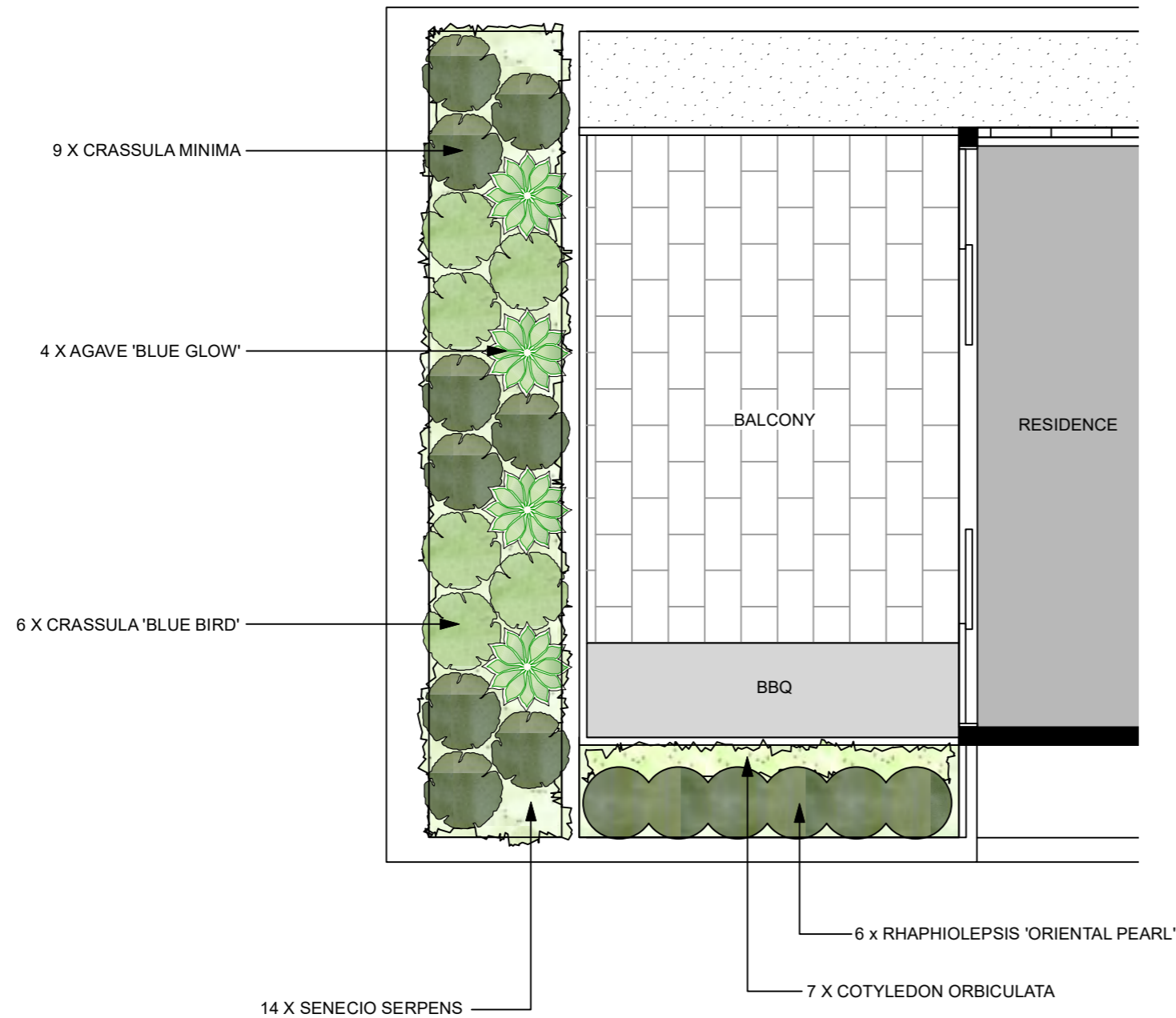
CLIENT: BERNADETTE BRENNAN	ADDRESS: 45 THOMAS STREET MCMAHONS POINT	ISSUE: Iss. A	PAGE: 1	 LANDSCAPE DESIGN p. 02 9526 7962
PLAN TYPE: SITE LANDSCAPE PLANS	NOTES: ALL DIMENSIONS TO BE VERIFIED ON SITE ALL WORKS TO BE IN ACCORDANCE WITH BCA AND RELEVANT GOVERNMENT CODES	SCALE AT A3: 1:200	DATE: 05/11/21	




<p>CLIENT: BERNADETTE BRENNAN</p>	<p>ADDRESS: 45 THOMAS STREET MCMAHONS POINT</p>	<p>ISSUE: Iss. A</p>	<p>PAGE: 2</p>	 <p>LANDSCAPE DESIGN p. 02 9526 7962</p>
<p>PLAN TYPE: FRONT LANDSCAPE PLAN</p>	<p>NOTES: ALL DIMENSIONS TO BE VERIFIED ON SITE ALL WORKS TO BE IN ACCORDANCE WITH BCA AND RELEVANT GOVERNMENT CODES</p>	<p>SCALE AT A3: 1:100</p>	<p>DATE: 05/11/21</p>	



<p>CLIENT: BERNADETTE BRENNAN</p>	<p>ADDRESS: 45 THOMAS STREET MCMAHONS POINT</p>	<p>ISSUE: Iss. A</p>	<p>PAGE: 3</p>	<p>LANDSCAPE DESIGN p. 02 9526 7962</p>
<p>PLAN TYPE: REAR LANDSCAPE PLAN</p>	<p>NOTES: ALL DIMENSIONS TO BE VERIFIED ON SITE ALL WORKS TO BE IN ACCORDANCE WITH BCA AND RELEVANT GOVERNMENT CODES</p>	<p>SCALE AT A3: 1:100</p>	<p>DATE: 05/11/21</p>	



PLANTING SCHEDULE - PLANTER BOXES		
PLANT	SIZE	QTY
CRASSULA MINIMA	300MM	9
AGAVE 'BLUE GLOW'	250MM	4
CRASSULA 'BLUE BIRD'	300MM	6
SENECIO SERPENS	150MM	14
RHAPHIOLEPSIS 'ORIENTAL PEARL'	300MM	6
COTYLEDON ORBICULATA	150MM	7

CLIENT: BERNADETTE BRENNAN	ADDRESS: 45 THOMAS STREET MCMAHONS POINT	ISSUE: Iss. A	PAGE: 4	 LANDSCAPE DESIGN p. 02 9526 7962
PLAN TYPE: FIRST FLOOR LANDSCAPE PLAN	NOTES: ALL DIMENSIONS TO BE VERIFIED ON SITE ALL WORKS TO BE IN ACCORDANCE WITH BCA AND RELEVANT GOVERNMENT CODES	SCALE AT A3: 1:100	DATE: 05/11/21	

SPECIFICATIONS

SITE PREPARATION

Planted material to be stored in pots on site in order to be replanted where specified.

Any existing trees and vegetation to be retained shall be preserved and protected from damage of any sort during the execution of landscape work. In particular, root systems of existing plants must not be disturbed. Any nearby site works should be carried out carefully using hand tools. Storage of materials, mixing of materials, vehicle parking, disposal of liquids, machinery repairs and refueling, site office and sheds, and the lighting of fires shall not occur within three (3) metres of any existing or new trees. Do not stockpile soil, rubble or other debris cleared from the site, or building materials within the drip line of existing or new trees. All vegetation not shown on plan to be removed. No tree removal is to occur without the presence of the Arborist.

SERVICES

Services and utilities shown have been located by physical evidence and/or by reference to surveys provided. Pits may not have been opened to verify the type of utility. Excavation has not been carried out to confirm underground location. Service details should be confirmed with the relevant service authority during design and prior to commencement of construction.

SOIL PREPARATION

Remove min. 300mm of existing site soil where it does not interfere with the roots of the existing trees Provide soil profiles as follows;

PLANTER BOX MIX

Similar to that supplied by ANL to all garden beds as specified on the plan

Any imported soil or soil blends using site topsoil materials used in the top 600mm of any landscaped area finished soil profile shall meet the requirements of AS 4419 - 2003 'soils for landscaping and garden use'. Soils shall be placed and compacted in layers to prevent undue settlement.

Sub-base filling and placement shall meet the Engineer's material and compaction requirements.

EROSION CONTROL

Where gradients in finished surface level exceed 1:2.5 mulch is to be held in place with an unobtrusive biodegradable fit for purpose netting with the netting to be fixed in place as the manufacturers specification for this particular situation.

STAKING

All trees not self supporting and trees generally shall be provided with pointed hardwood stakes as follows:

Trees up to container size of 25L - 2 x 25mm x 25mm x 1m high stakes at each

Trees above container size of 25L - 2 x 50 x 50 x 2.1 high stakes each

Ties shall be of 50mm wide jute mesh webbing tied ' figure eight pattern' to support the plant and ties to be fixed securely to stakes

SOIL IMPROVEMENT

Where site topsoil is to be used it shall be improved by adding Botany humas or similar at a ratio of 1:3 by volume.

PLANTING MATERIALS

Plants shall correspond to the planting index. There shall be no substitution in quality or quantity of material unless otherwise specified by the Landscape Architect. The Landscape Architect reserves the right to refuse any material showing signs of disease, distorted growth habit or malpractice. Plants to be placed in the ground no more than 48 hours after arrival on site. Plants to be planted in accordance with the planting detail. Planting holes to be dug double the width of the pot size and backfilled with organic soil and native fertilizer. The finished level of the plant is to finish flush with the existing pot level. No backfilling around the stem of the plant with either soil or mulch.

EDGING

Paver edge installed on mortar and bricktor between lawn and gardens.

TURF

Use Premium Sir Walter turf over 250mm ripped subgrade with minimum of 50mm turf underlay.

MULCH

All planter beds and garden areas shall have Cypress Mulch. All mulch is to be free of deleterious matter such as soil, weeds and sticks.

MAINTENANCE

On completion of work all planting areas are to be fertilised with organic life, slow release fertiliser (Osmocote 8-9 month) which is to be sufficiently watered in, as well as a soluble fertiliser similar to Seasol applied in accordance with the manufacturers details. Reapply as per directions. 'Watering In' period of 3 months is applicable. Water should be applied during this period so as plants do not get to the stage of wilting. Tip pruning is encouraged at 3 months to promote fuller growth.

HARD CONSTRUCTION

All civil, structural and hydraulic work associated with this project shall be to consulting Engineer's details. All external stairs to be constructed in accordance with Clause D2.13 of the Building Code of Australia.

NOTE: REFER TO ARCHITECT'S PLANS FOR LANDSCAPE AREA AND DEEP SOIL CALCULATIONS

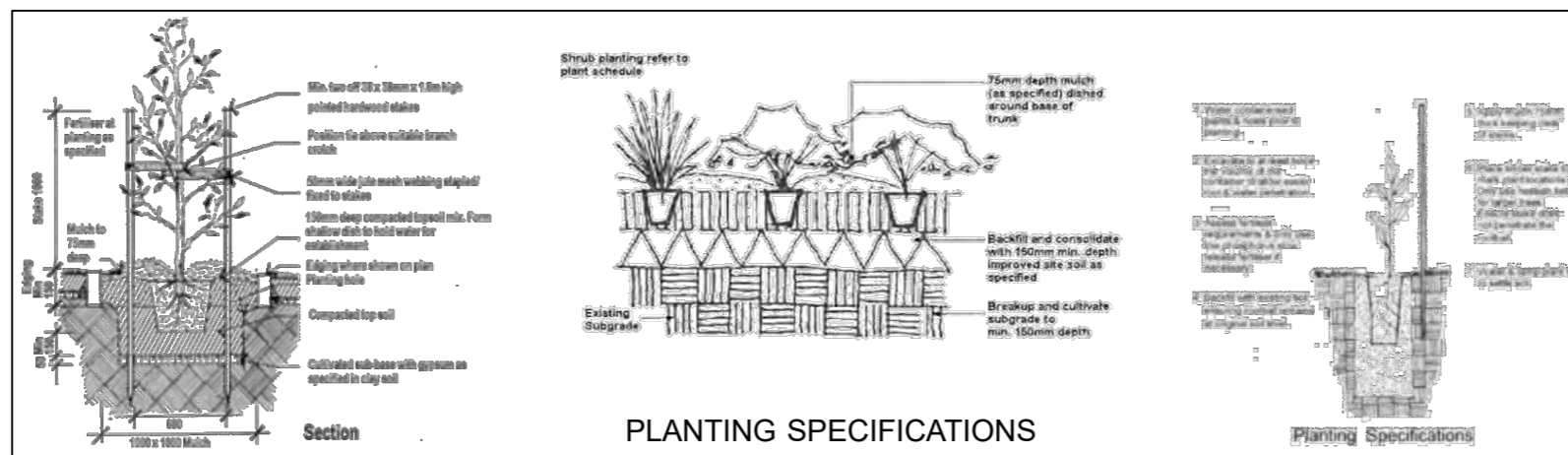
ADDRESS:

45 THOMAS STREET MCMAHONS POINT

CLIENT:

BERNADETTE BRENNAN

PLAN TYPE: LANDSCAPE SPECIFICATIONS	PAGE: 5
SCALE AT A3:	DATE: 05/07/21
	ISSUE: A



LANDSCAPE DESIGN
p. 02 9526 7962



Commercial and in Confidence Communication

RLA Ref: 10821

9 February 2022

Smith and Tzannes

Attention: Antoinette Cano

By email: Acano@smithtzannes.com.au

cc. bernadette@premierhomefinders.com.au

Dear Antoinette,

**45 Thomas Street, McMahon's Point
Preliminary Advice on View Sharing**

I refer to the above project. Thank you for the opportunity to be of assistance to you and your client Bernadette Brennan.

I prepared a report on the potential impacts on view sharing of the DA, on 23 June, 2021, which was submitted to North Sydney Council as Consent Authority.

I have subsequently been provided with proposed amended DA drawings prepared by Smith and Tzannes, which depict an amended design of the proposal. You have requested that I consider the potential impacts of the proposed amended design.

The amendments proposed include modifications to the first, ground floor and lower ground floors, as follows:

First Floor:

- Modification of floorplan. The living area has been set back to the 2.5m setback line required in 1.4.6 of NSDCP for the third storey, on the northern elevation and the rumpus room has been set back on the southern elevation to the 2.5m setback line.
- The relative positions of the stair and lift have been 'flipped' to allow for a lower and sloping roof form presented to the northern elevation.
- The roof form has been modified and no longer slopes down toward the external walls. The effect of the modified roof form has been to reduce the bulk of the roof and to decrease view impact on properties in Union Street, some of which have views across the subject site, as analysed in my report of 24 June, 2021.



Ground Floor:

The floor plan has been modified to suit the reversing of the positions of the stair and lift and the level now has 3 bedrooms and a study. Bedroom 3 is set back further north beyond the 2.5m setback line that applies to the first floor.

Lower Ground floor:

Modifications have been made to this level to respond to suit the flipping of the stair and lift.

Impacts of modifications on bulk and views

In relation to visual impact and view sharing, the amendments have reduced the horizontal extent and visible bulk of the third level of the building (first floor) as viewed from the street. The building would therefore better comply with existing and desired streetscape character.

The increased side setback proposed, complying with the 2.5m control in NSDCP 2013, on the north elevation, also reduces the bulk of the building as seen from neighbouring buildings, particularly those identified as potentially affected in my previous report, in Union Street. There is an amenity benefit in this reduction and the amendments can be supported in that regard.

A consequence of the setback of 2.5m now provided at the third level and the amendment to the roof form is that there would be the perception of greater spatial separation between the upper level of the proposed building and the buildings adjacent to the site in Union Street which have existing views over the site. The modifications proposed would slightly increase the access to views from these properties obliquely toward the south-west.

The increased setback to the third level, reduced visual bulk of the proposed building and greater sense of spaciousness for viewers from the rear of properties adjacent to the site in Union Street can also be supported on visual impact and view sharing grounds.

Please do not hesitate to call me if there are any questions with which I can be of assistance, or if you require clarification of any points.

Yours sincerely

A handwritten signature in black ink that reads 'Richard Lamb'. The signature is written in a cursive, flowing style with a large, prominent 'R' and 'L'.

Dr Richard Lamb

Preliminary advice on view sharing 45 Thomas Street McMahons Point



View sharing assessment

Report prepared for: Bernadette Brennan

Prepared by: Dr Richard Lamb

23 June 2021



RLA Ref: 10821

23 June 2021

Smith and Tzannes

Attention: Antoinette Cano

By email: Acano@smithtzannes.com.au
cc. bernadette@premierhomefinders.com.au

Dear Antoinette,

45 Thomas Street, McMahon's Point
Preliminary Advice on View Sharing

I refer to the above project. Thank you for the opportunity to be of assistance to you and your client Bernadette Brennan.

I have inspected the site and the visual exposure to adjacent properties of a likely dwelling replacing the existing dwelling on the site. As part of that inspection, I viewed the existing dwelling on the site, the views from the external areas on the site and the neighbouring buildings, to establish their likely views of and over the site, as a guide to potential impacts on view sharing.

Following my assessment I had regard to preliminary DA drawing prepared by Smith and Tzannes, which included computer generated images that were matched as far as is reasonably possible to photographs taken from residences adjacent to and north of the site in Union Street, from which there are views over the existing site. I understand that the photographs were obtained under GIPA from North Sydney Council and had been included in objections to an earlier development application on the subject site.

I am familiar with the adjacent part of Thomas Street, having undertaken visual impacts and view sharing assessments for properties close to the site in the past.

I noted that the building is a single -storey brick or brick veneer cottage that appears to be of 1960s origin but appears to also bear the evidence of being a make-over of an earlier dwelling, possibly an interwar cottage. I am aware that the site is in a Conservation Area. The cottage appears to be of no aesthetic merit or likely heritage significance, however issues of impact on the conservation area are for others with appropriate expertise to address.

1 Physical Setting

The existing dwelling is of no particular aesthetic merit. It is on the east side of Thomas Street. In common with the immediately opposite neighbour to the west in Thomas Street, it faces the street. The buildings immediately adjacent to the site and the dwelling directly opposite it to the west on its



north side, face Union Street, which is to the north of the site. Union Street is at a higher elevation than the site. Thomas Street falls in elevation toward the south from the intersection with Union Street. The slope begins to flatten adjacent to the site. A low ridge exists east of the intersection of Union and Thomas Streets near Chuter Lane, from which there is a cross fall toward the south-west across the site, however significant changes have occurred to the underlying levels as a result of excavation on the site, various parts of which other than the rear feature retaining structures.

The buildings that face Union Street on either side of the intersection with Thomas Street are of substantial height compared to the existing development on the site. As a result, views that include the site would be from the rear of those buildings. In the case of the buildings closest to the site on the east side of Thomas Street, which have the most direct views over the site, there is a significant difference in elevation, as the site and adjacent sites further south in Thomas Street appear to have been excavated below the original ground level. A high retaining wall exists between the site and the rear of adjacent properties that face Union Street.

In summary, the local underlying topography falls from east to west in the vicinity of the site with a cross fall from north-east to south-west, but has been significantly modified adjacent to and on the subject site.

2 Relationship between the site and neighbouring buildings

Development in Thomas Street is varied in scale and form in the immediate vicinity of the site. Buildings on the east side of Thomas Street in the vicinity of the site are predominantly late 19th century single-storey cottages or duplexes. Buildings on the same side of the street as the site are predominantly two-storey detached dwellings or duplexes. The built form on the west side of the street varies from a three-storey residential flat building that is also shop-top housing almost opposite the site and facing Union Street (Haxton Court), to single-storey duplex cottages that are typical of most of the west side of the street and most relevant to the streetscape presentation of the proposed development.

In the immediate vicinity of the site however, the two neighbouring buildings to the south of the site 41 and 43 Thomas Street are modified mid-late 20th century commercial developments.

To the north and in the immediate vicinity of the site there is also a varied built form. The site is to the rear of a varied and modified set of buildings that face Union Street on the high side of Thomas Street. On the north-east corner of the intersection is a two-storey 19th century semi-detached residential building, 77-79 Union Street, of red brick and slate roof character with Federation Arts and Crafts influences. The red brick façade and what may be the earlier part of the building faces Union Street. The rear of the building is rendered and painted and given its simpler plan, detailing and roof form, may be an addition to the original structure. The building has a high wall to Thomas Street, of random sandstone blocks and an outdoor living area on the west side semi with a shade structure over it, above a retaining wall between it and the site. This area would have views over the site. The eastern half of the semi has earlier back of house structures and a small outdoor space at elevated ground level. This would have views over the existing dwelling. Both semis in the building have glassed-in earlier verandas at the first floor, which would also provide views over the site, but from significantly higher than ground level on the site.

Immediately adjacent to the rear of the site are two dwellings set close to their rear (south) boundaries, at 1/81A and 2/81A Union Street. These are late 20th century court-yard form dwellings



that appear to be of two-three storeys in height at the rear, with garages facing Union Street which have accommodation at the first floors. They are on a subdivision of the earlier Italianate-styled 19th century property at 81 Union Street.

2/81A Union Street appears to have an elevated rear balcony and possibly a small rear yard with potential views over the site. 1/81A Union Street appears to have three levels of internal spaces with glazing and an upper level balcony, with potential for views over the site. The rear of 81 Union Street is further east than the side boundary of the site and windows as the rear of the dwelling appear to look over the garages at the back of the property.

Potential Views Sought

The local topography in the vicinity of the site, as noted above, falls generally toward the south and south-west. To the south is northern Sydney CBD and adjacent parts of Sydney Harbour off Barangaroo, Darling Island, Pyrmont and Jacksons Landing, while to the south-west is the Parramatta River. From a vantage point at the intersection of Union Street and Thomas Street, as an indication of access to views, looking south-south-west, features such as Darling Island, Jacksons Landing, Anzac Bridge, Balls Head, Goat Island, Balmain shorelines, Ballast Point and various landmarks, including those along the Balmain peninsula are identifiable. Higher view points may have views over Berrys Bay seen over low scale development in Thomas Street and Dumbarton Street.

Development on the site would not conflict with public views, such as the vista down Thomas Street and in my opinion, public views would not be lost as a result of development on the site, regardless of the height and bulk of a proposed building.

Potential for Impacts on View Sharing

The dwellings north of the site at 77-79 Union Street, 1/81A and 2/81A Union Street, 81 Union Street and Haxton Court, would have extensive views that include the items identified above. These include many items that are referred to as highly valued in the planning principle for view sharing with private dwellings in *Tenacity Consulting v Warringah [2004] NSWLEC 140*, such as water, land-water interfaces and icons.

The views would all be from the rear of the buildings. 77-79 and 81 Union Street are buildings clearly designed to address the street, views from the rear of which would be given less weight with regard to view sharing. The more recent buildings at 1/81A and 2/81A Union Street have a different relationship to the street and views from the rear of the dwellings would be an important consideration with regard to view sharing. Haxton Court would provide very limited views over Thomas Street but has scenic view from the rear of the wing that is parallel to Thomas Street.

Haxton Court

Dwellings in Haxton Court with south-facing windows would have expansive views that include valued scenic items. Units with south-facing or east-facing windows, although the latter are very limited, would also have views across the site toward the south-east, however these are unlikely to contain items that would be lost as a result of redevelopment of the site. In addition, the topography



in that direction features some taller buildings that exist in the view line in Holt and Mitchell Streets, meaning that items that would appear higher than a potential building on the site would be likely to block views further south-east.

81 Union Street

The dwelling least likely to be affected by view loss that is directly north of the site is 81 Union Street. There appear to be windows that have potential views south-west of the site at the rear of the dwelling. However, the rear of the property is only partly on the common boundary of the site and vegetation in the rear gardens of 81 Union Street and the subject site appears likely to significantly screen views over the site. Oblique views from the rear of 81 Union Street toward the south-west and over the site also appear likely to be constrained by 2/81A Union Street, which is built significantly closer to the rear boundary than 81 Union Street.

77-79 Union Street

77 Union Street

In relation to 77-79 Union Street, both dwellings have a small outdoor area to their elevated ground floor level, at the rear corners of the lot, outside what appears to possibly be an earlier laundry block, or similar. This structure is hard against the south boundary of the lot, which is also the boundary of the subject site.

The dwelling at 77 Union Street is on the west side of the lot and adjacent to the front of the subject site. As noted above, it has an outdoor area with shade sails on the south-west corner of its site, which is elevated above the subject site. Downward views are screened by lattice panels. This area, possibly for a standing rather than a seated viewer, would have views over the site that could potentially experience view loss.

While there may be potential for some view loss depending on the height and location of built form on the subject site, this area would also retain its existing views down the front setback of the subject site, down the Thomas Street axis and to the south-west toward and over Berrys Bay, with a wider view toward Balmain and the Parramatta River beyond. Views more directly south-east over the site from lower levels would be likely to be blocked by taller buildings in Holt and Mitchell Street, south-east of the site. This would need to be confirmed by personal inspection of the views if there is concern with regard to view sharing with the ground floor of 77 Union Street.

These observations are confirmed by the preliminary DA 3D modelling by Smith and Tzannes, which include a photograph taken from what is described as the courtyard at the rear, south-west corner of 79 Thomas Street and 3D modelling of preliminary DA drawings. The area has views that include areas of water toward Balmain and in Berrys Bay, with a horizon stretching from Pymont to Drummoyne.

The upper level of 77 Union Street, which has a former veranda that has been glassed in, would provide extensive views that may include the CBD to the south as well as the scenic items referred to above. Given the height of this level above the existing ground level on the site, it is unlikely that development on the front of the site would have any significant effect on view sharing.



Preliminary assessment of the extent of impact on view sharing: 77 Union Street

It is questionable as to whether the planning principle has any work to do in relation to this view, as all items identified as valued in Step 1 of *Tenacity* would be retained.

Even if I am wrong and further steps are considered necessary, if considering Step 3 in *Tenacity*, which requires assessment of the extent of impact, the extent of impact on the courtyard of 77 Union Street would be negligible.

The photograph showing the view from the first floor glazed former balcony of 79 Thomas Street, shows essentially the composition of the view that would be available from the first floor of 77 Thomas Street, which is immediately adjacent and to its west (to the right, relative to the view shown). Impact on the view from the first floor of 77 Union Street can reasonably be assumed to be negligible. Therefore, answering the second part of Step 3 in *Tenacity*, if required, the overall impact on 77 Union Street with the proposed modelling would be negligible.

79 Union Street

79 Union Street has a similarly located outdoor area or courtyard at ground level to 77 Union Street, however this is on the east side of the lot and is approximately on the alignment of the centre of the existing dwelling on the subject site. This area has a shade or screening device over the north part of the courtyard. It is adjacent to what appears to be a narrow garden at the rear of the adjacent dwelling to the east at 2/81A Union Street. The views are confined by walls on both the east and west sides of the courtyard. A view from the centre of the courtyard would contain only the building on the subject site in the foreground and the north elevations of 43 Thomas Street, seen over the existing dwelling on the site.

A viewer at the brick balustrade of the courtyard would be able to have an oblique view over the front hips of the roof of the existing building on the subject site toward parts of Waverton, with areas of the Parramatta River visible.

The courtyard area of 79 Union Street has the potential to experience view loss as a result of the proposed height and massing of a new dwelling on the subject site. Should there be concerns in relation to view loss to this area, the impacts would need to be assessed by personal inspection of views.

Preliminary assessment of the extent of impact on view sharing: 79 Union Street

Applying the planning principle in *Tenacity* would be necessary in relation to 79 Union Street, as valued items in one of the views available would be lost.

In relation to Step 3 in *Tenacity*, the view directly south from the interior of the courtyard of 79 Union Street would be significantly changed by the presence of the proposed new building in the view line, blocking out the existing view of 43 Thomas Street. While the view would be changed, the extent of the impact on the view would be minor, as it does not contain items that are valued in *Tenacity*.

There is however, an oblique view toward the south-east from adjacent to the balustrade to the courtyard, which does contain valued items such as water and land-water interfaces in the Parramatta River. That view would be lost and replaced by the proposed building.

The view from the first floor glazed former balcony of 79 Thomas Street, referred to above in relation to the 77 Thomas Street, shows the composition of the view that would be available. The extent of



impact on the view from the first floor of 79 Union Street would be negligible. Therefore, answering the second part of Step 3 in *Tenacity*, which requires consideration of the extent of impact on the views from the whole property, the overall impact on 79 Union Street with the proposed modelling would be moderate.

1/81A and 2/81A Union Street

1/81A Union Street

Floor plans of the dwelling are available on real estate websites and have been used to interpret the potential for views over the subject site. 1/81A Union Street is the easternmost of the two dwellings on the subdivision of the original 81 Union Street. The two dwellings are differently detailed and distinctively different in appearance. 1/81A appears to be a rendered masonry building with steel roof. The garage structure has accommodation above as evident from the windows to a level above the garage and decorative clerestory window that faces north and toward the street. The garage 'pavilion' appears to be separated from the main part of the dwelling by a courtyard.

Seen from the subject site, the rear of the dwelling has extensive glazing that faces south and therefore over the rear of the site. The dwelling has what appears to be a loft or attic level, with a small balcony. This would also provide views over the site. The dwelling appears to have a small landscaped garden between the face of the dwelling and the common boundary with the site. There appear therefore to be three levels from which there could be views over the subject site. There is a high masonry wall between the garden and the subject site that appears likely to largely prevent overlooking from the garden/courtyard and the kitchen level behind, over the subject site. The wall has a step in it on the western side that might provide a viewer standing at the east side of the courtyard or floor of the kitchen level to have an oblique view over part of the subject site.

There does not appear to be a significant potential for view loss from the courtyard or the lower part of the rear of the dwelling of the kitchen that would be caused by the height and massing of a new dwelling on the site, as it would appear likely that the rear part of the site, which is most proximate to the direct view from 1/81A Union Street, would be most likely to be occupied by landscape or lower built form. It also appears unlikely that there could be a significant view from the courtyard at ground level other than obliquely over the lower part of the stepped masonry wall on the south side of the courtyard. Both the master bedroom and loft levels would have views over the site. It is unlikely that the upper level balcony or loft room leading onto it would be affected by view loss.

The two levels above ground level appear to also have the potential for oblique views toward the south-west over the existing dwelling on the site toward Berrys Bay, part of Waverton and the Parramatta River beyond.

Preliminary assessment of the extent of impact on view sharing: 1/81A Union Street

This assessment is based on preliminary 3D massing graphics prepared by Smith and Tzannes. There does not appear to be 3D modelling for 2/81A Union Street. The modelling has been matched to photographs stated to have been taken from the dwelling, as well as is reasonably possible. The exact locations from which the photographs were taken are not known, and have been assumed based on the locations of items in the views which are also on the survey plans.

Applying the planning principle in *Tenacity* would be necessary in relation to 1/81A Union Street, as valued items in the views available may be lost.



In relation to Step 3 in *Tenacity*, the view south-west from the rear courtyard would be lost. The extent of impact would be severe, as most of the view would be lost and replaced by the proposed building.

The view from the bedroom level of 1/81A Thomas Street would remain largely intact. Views from the uppermost level appear unlikely to be affected by impacts on view sharing. Therefore, answering the second part of Step 3 in *Tenacity*, which requires consideration of the extent of impact on the views from the whole property, the overall impact on 1/81A Union Street with the proposed modelling would be moderate. Severe impact would be confined to views from the ground floor.

2/81A Union Street

2/81A Union Street is the westernmost of the two dwellings on the subdivision of 81 Union Street. The form concept for the dwelling appears to be similar to 1/81A Union Street, being a courtyard house with a separate pavilion to the street, which includes the garage and accommodation above, with the main dwelling to the rear. 2/81A is weatherboard clad with a tiled roof. The overall height of the structure is less than 1/81A Union Street as it is of two, rather than three storeys in height at the rear.

Seen from the subject site, the rear pavilion of the dwelling is set back further from the common boundary with the subject site than 1/81A Union. It has a small first floor balcony. It has a narrow garden adjacent to the common boundary, of a similar depth to 1/81A Union Street, but rather than a masonry garden wall it has a timber lattice fence. The first floor balcony has a matching timber lattice balustrade. The lattice fence and balustrade would allow filtered views from ground level and the first floor balcony, over the subject site.

A standing viewer in the rear yard of 2/81A Union Street would have views over the subject site and overlook the rear of the site. These views are currently partly screened by existing vegetation in the subject site that is on the mid-level of the rear of the site. The views south-south-west from this location appear to be at an eye height where the building immediately south of the site at 43 Thomas Street would block the current view.

As the rear of the dwelling is situated toward the centre of the subject site, there is potential for view loss toward the south-south-west from the garden or the lower part of the rear of the dwelling that could be caused by the height and massing of a new dwelling on the site. The view orientation is similar to the vista down Thomas Street which centres approximately on Jacksons Landing and the Anzac Bridge. However, the view is also parallel to the street and is directly over closely spaced built form on the east side of Thomas Street, including 43 Thomas Street immediately south of the subject site which is significantly taller than the existing building on the site and which may significantly or partly block the view of scenic items in that direction. Whether there could be a significant impact on the view from the first floor balcony would require more detailed assessment.

As 2/81A Union Street is further west than 1/81A Union Street, it is likely that the quantum of view loss would be less than for the latter and further, it is unlikely that the topmost floor would experience any significant view loss.

While there does not appear to be a significant potential for significant view loss to this dwelling, if there are concerns for residents or Council in relation to view loss from the dwelling, the impacts would need to be assessed by personal inspection of the views and/or preparation of 3D modelling or photomontages to assist in analysing potential view sharing.



Consideration of Step 4 in *Tenacity*

Step 4 in *Tenacity*, which may be relevant in relation to views from some of the dwellings, concerns reasonableness. The following issues are relevant in that regard:

1. All dwellings have views with minor or negligible impacts on view sharing from most of the dwelling.
2. Views that are affected by a severe extent of impact are confined to the ground floor levels of 79, 1/81A and possibly 2/81A, Union Street, subject to further investigation.
3. The overall extent of impact considering the totality of views available from the dwellings potentially affected would be moderate for dwellings with severe impacts on the ground floor view, being 79, 1/81A and possibly 2/81A and minor or negligible for the rest of the dwelling.
4. It would be unreasonable to expect the views from ground floor levels of adjacent dwellings to be preserved, given the development standards and controls that apply to the site.
5. The proposed massing appears to represent a building envelope that is more than compliant with the development standard for height of buildings, which is the most relevant parameter as regards view sharing.
6. Implementation of the prevailing development standards would appear to inevitably cause some view losses for adjacent residences.
7. Despite the severe impacts on some views, the likely impacts of the proposed development on view sharing appear to be reasonable.

Please do not hesitate to call me if there are any questions with which I can be of assistance, or if you require clarification of any points.

Yours sincerely

Dr Richard Lamb



Plate 1

View of 1/81A Union Street from the rear garden of the subject site

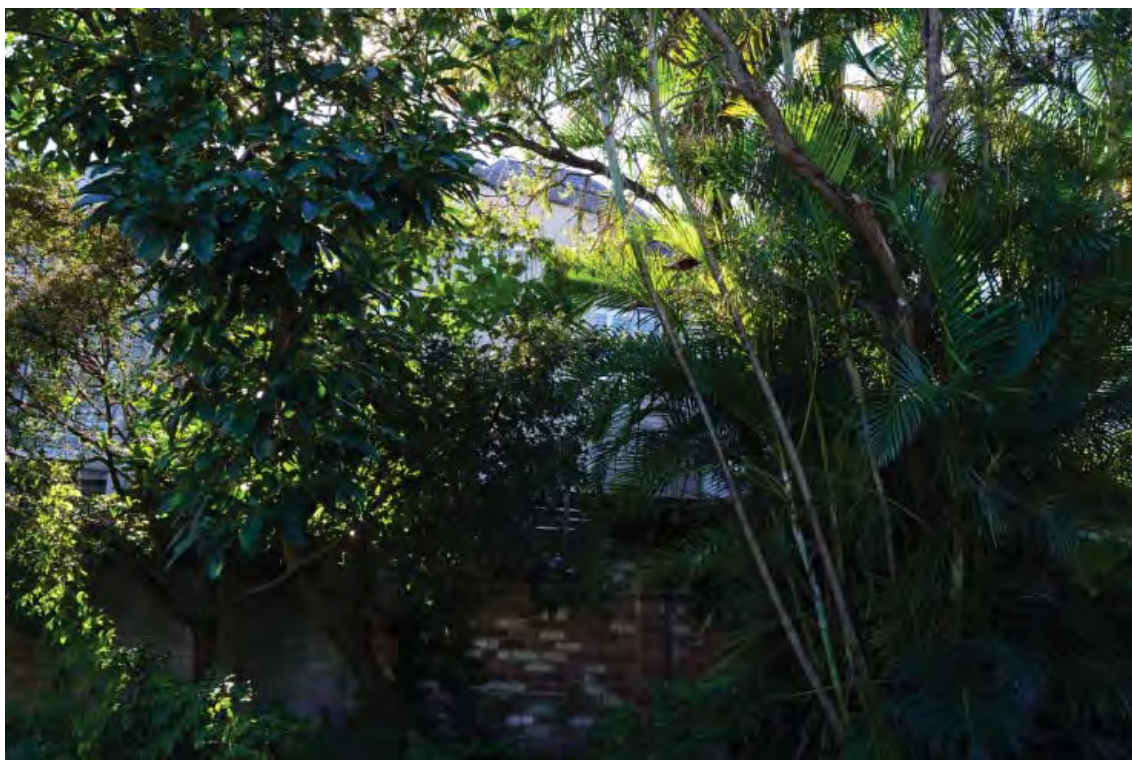


Plate 2

View of the rear of 81 Union Street from the rear garden of the subject site



Plate 3

View west toward Thomas Street from the rear garden of the subject site



Plate 4

View north-east from the rear garden of the subject site toward the rear of buildings in Union Street



Plate 5

View north-west from the rear garden of the subject site toward the rear of 77-79 Union Street with Haxton Court in the centre of the view



Plate 6

View south west from the rear garden of the subject site toward 43 Thomas street. This buildings is significantly higher than the existing building on the site.



Plate 7

View of 1/81A (right) and 2/81A (left) Union Street, from middle level garden at the rear of the subject site



Plate 8

Detail of the rear of 77-79 Union Street, with the fence to the garden of 2/81A Union Street visible on the right



Plate 9
Haxton Court as viewed from the front yard of the subject site adjacent to the garage

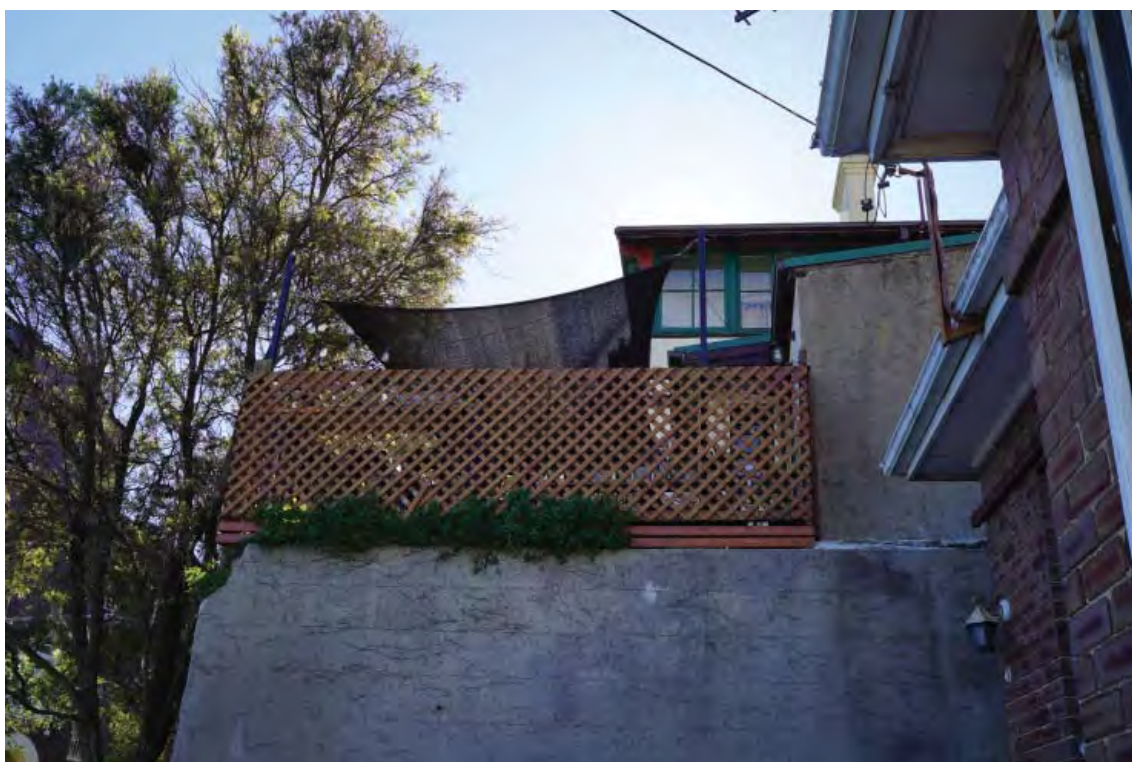


Plate 10
Detail of the outdoor area at the rear of 77 Union Street, seen from the front yard of the subject site



Plate 11

View south-south-west down the front setback and Thomas Street from the front yard on the subject site



Plate 12

View toward 1/81A (right) and 2/81A (left), Union Street, from existing ground level at the rear of the existing house in the subject site

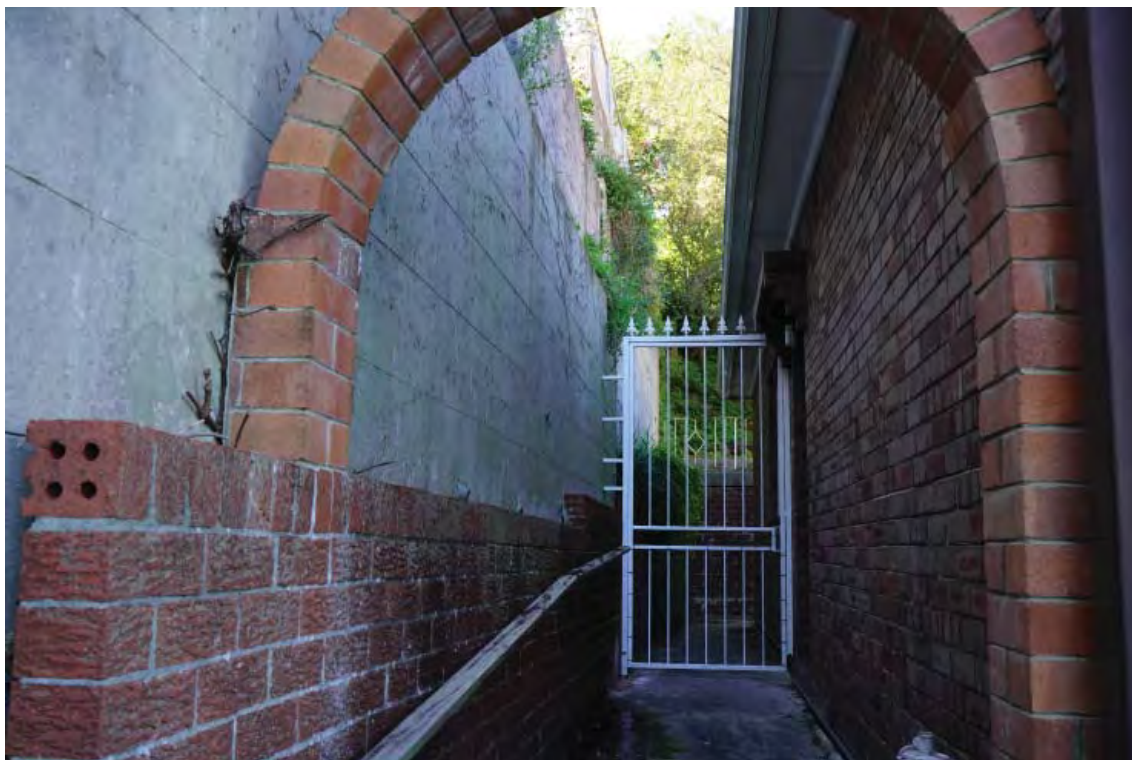


Plate 13

Detail of the retaining wall on the north boundary of the existing site, seen from the front gate



Plate 14

45 Thomas Street existing dwelling seen from the street near No.60



Plate 15

43 (left) and 41 (right) Thomas Street, seen from the street near No.60 Thomas Street



Plate 16

South elevation of Haxton Court seen from near No.58 Thomas Street



Plate 17

View of rear of properties facing Union Street that overlook the subject site



Plate 18

Streetscape on the east side of Thomas Street looking south from near No.56 Thomas Street



Plate 19

Streetscape on the west side of Thomas Street looking south-west from near No.40 Thomas Street

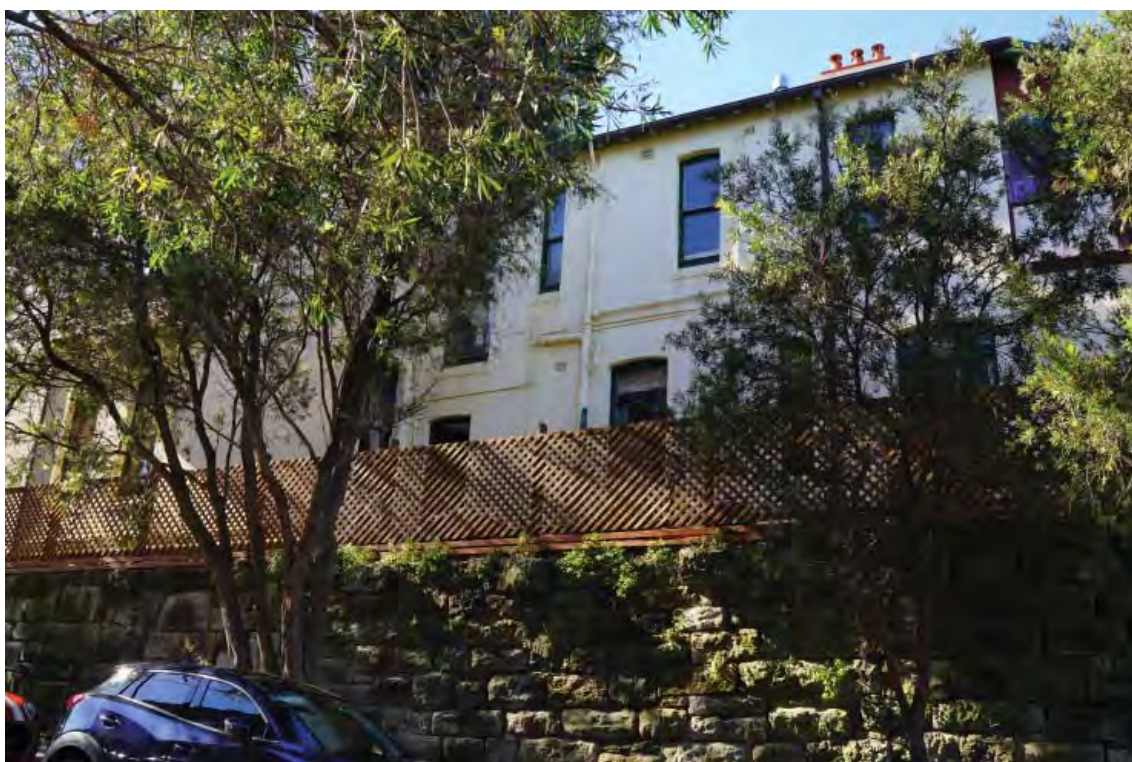


Plate 20

West elevation of 77-79 Union Street viewed from Thomas Street



Plate 21
East elevation of Haxton Court viewed from Thomas Street



Plate 22
77-79 Union Street, north elevation as viewed from Union Street near the intersection with Thomas Street



Plate 23
Shop top housing on the south west corner of the intersection of Union and Thomas Streets



Plate 24
View of 2/81A Union Street seen down the side setback of 79 Union Street



Plate 25
1/81A (on the left) and 2/81A Union Street (on the right) seen from Union Street

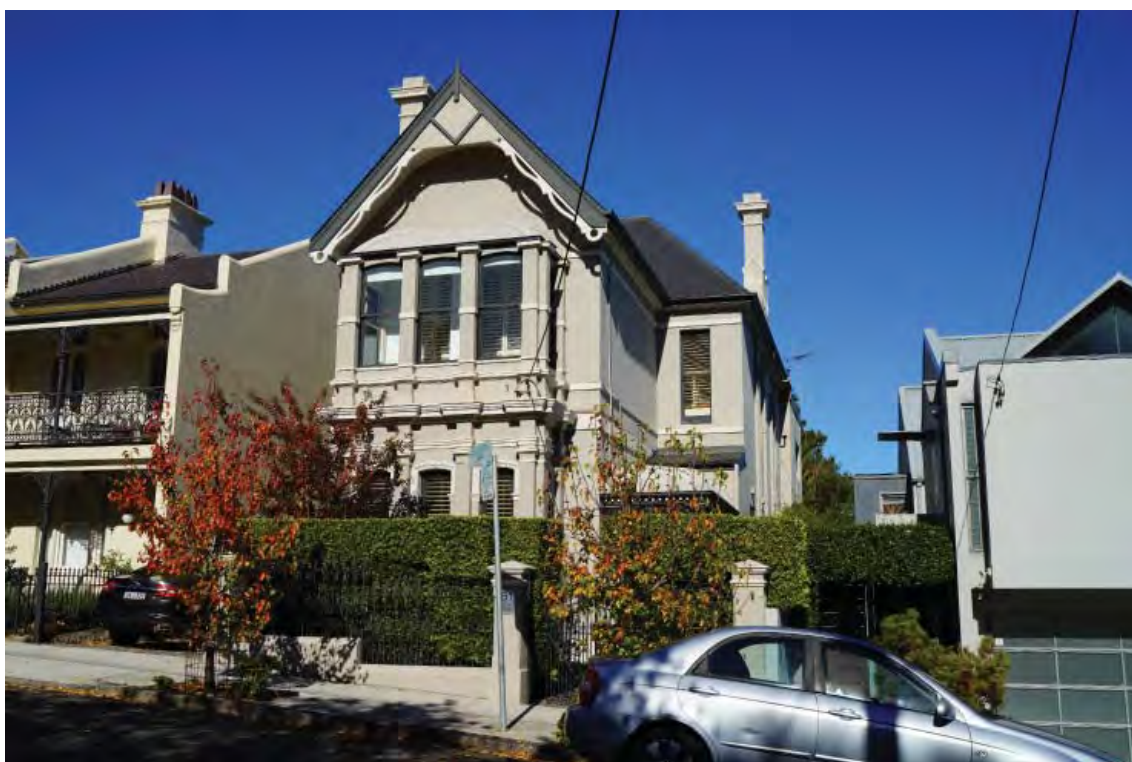


Plate 26
81 Union Street (centre of the frame) seen from Union Street



Plate 29

Axial view down Thomas Street from the intersection with Union Street, with the Anzac Bridge and buildings in Jacksons Landing in the view centre

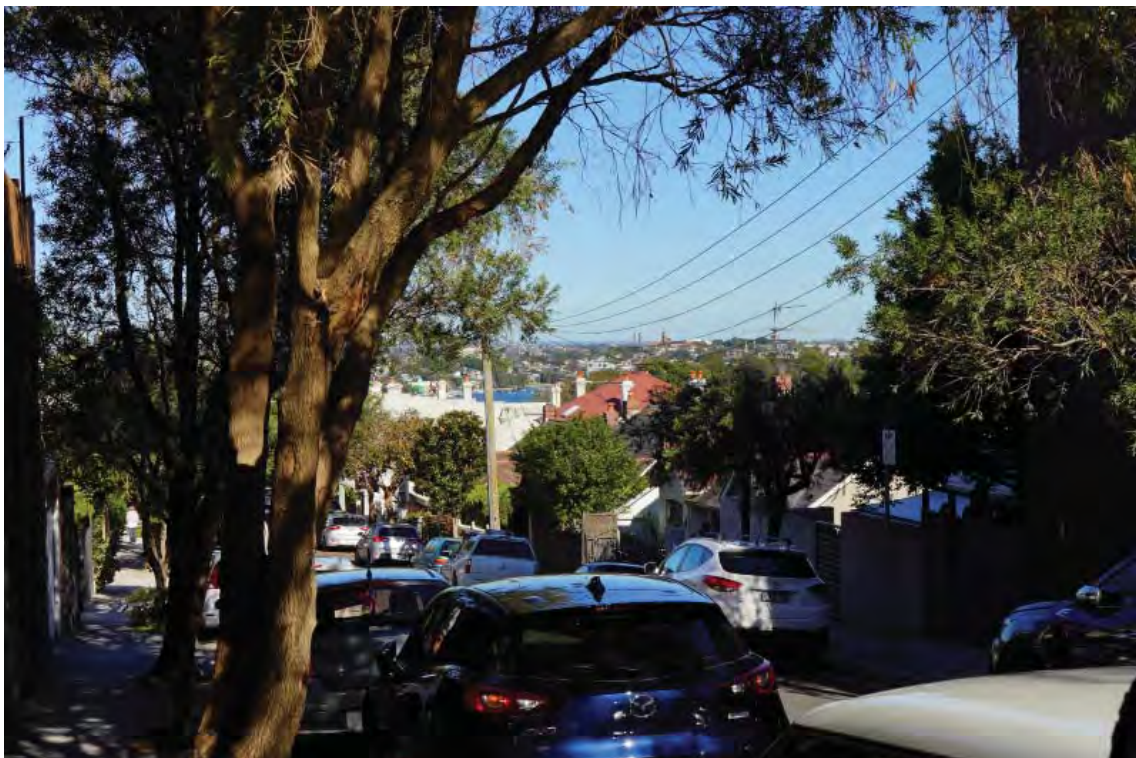


Plate 30

View south west toward Balmain from the east side of Thomas Street approximately 20m south of the intersection with Union street. The remaining chimneys of the White Bay power station and the steeple of St Augustine's Catholic Church in Jane Street, Balmain, are visible on the horizon

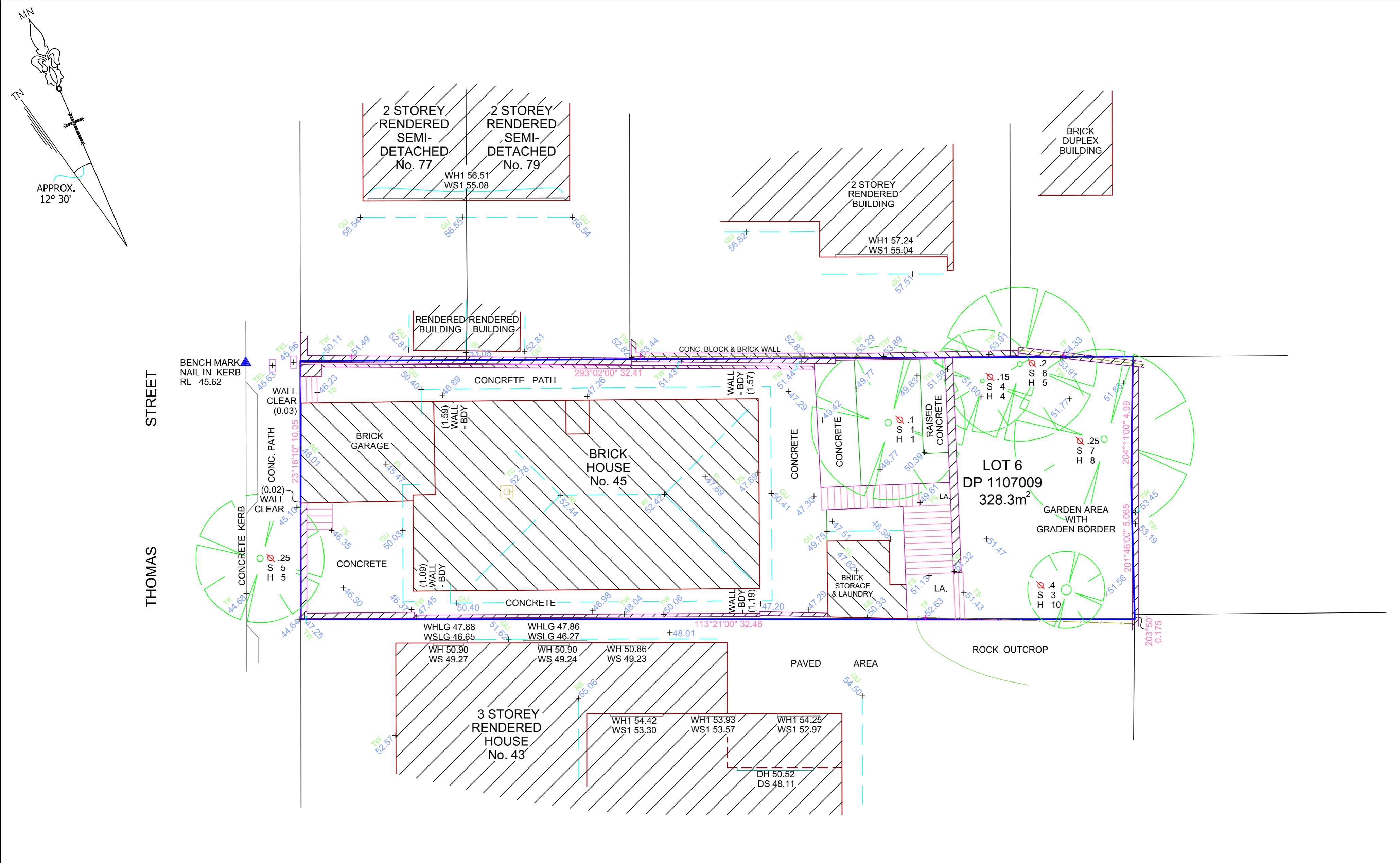
Summary Curriculum Vitae: Dr Richard Lamb



Summary

- Qualifications
 - Bachelor of Science - First Class Honours, University of New England in 1969
 - Doctor of Philosophy, University of New England in 1975
- Employment history
 - Tutor and teaching fellow – University of New England
 - Lecturer, School of Life Sciences, NSW Institute of Technology (UTS) 1975-1979
 - Senior lecturer in Landscape Architecture, Architecture and Heritage Conservation in the Faculty of Architecture, Design and Planning at the University of Sydney 1980-2009
 - Director of Master of Heritage Conservation Program, University of Sydney, 1998-2006
 - Principal and Director, Richard Lamb and Associates, 1989-2021
- Teaching and research experience
 - visual perception and cognition
 - aesthetic assessment
 - landscape assessment
 - assessment of heritage items and places
 - cultural transformations of environments
 - conservation methods and practices
- Academic supervision
 - Undergraduate honours, dissertations and research reports
 - Master and PhD candidates: heritage conservation and environment/behaviour studies
- Professional capability
 - Consultant specialising in visual and heritage impacts assessment
 - 30 year's experience in teaching and research on environmental assessment and visual impact assessment.
 - Provides professional services, expert advice and landscape and aesthetic assessments in many different contexts
 - Specialist in documentation and analysis of view loss and view sharing
 - Provides expert advice, testimony and evidence to the Land and Environment Court of NSW on visual contentions in various classes of litigation.
 - Secondary specialisation in matters of landscape heritage, heritage impacts and heritage view studies
 - Appearances in over 300 Land and Environment Court of New South Wales cases, submissions to Commissions of Inquiry and the principal consultant for over 1500 individual consultancies concerning view loss, view sharing, visual impacts and landscape heritage

A full CV can be viewed on the Richard Lamb and Associates website at www.richardlamb.com.au



The boundary definition shown on this plan represents our opinion and may be affected by subsequent registered plans in the area. The Survey revealed differences to the Title dimensions, as shown on the Plan. The records of the service authorities have not been investigated. Only those services that were visible and accessible at the date of survey have been shown. Services shown are indicative only. Other services may exist that are not shown. Therefore field confirmation of their exact position should be made prior to commencement of excavation. Any point or feature critical to the preparation of plans or construction should be accurately located prior to the completion of those plans or commencement of construction. Some roof ridge locations may be indicative only, being shown in order to demonstrate where a roof ridge height has been ascertained. Tree spreads are diagrammatic only and may not be symmetrical. Tree spreads and heights are by estimation only. Location and details of trees on adjoining properties may be by estimation only due to access and / or visibility restrictions. Stair risers, steps and landings have not been individually located, and are diagrammatic only. Gutter levels refer to the top of the gutter.

The subject land is held as a QUALIFIED TITLE with a Caution pursuant to Section 28J of the Real Property Act, 1900.

The subject land is held as a LIMITED TITLE with a Limitation pursuant to Section 28T(4) of the Real Property Act, 1900. The boundaries of the land comprised herein have not been investigated by the Registrar General.

WHLG - Window Head at lower ground floor level ; WSLG - Window Sill at lower ground floor level ; WHUG - Window Head at upper ground floor level ; WSUG - Window Sill at upper ground floor level ; WH - Window Head at ground floor level ; WSL - Window Sill at ground floor level ; WH1 - Window Head at first floor level ; WS1 - Window Sill at first floor level ; DH - Door Head at ground floor level ; DS - Door Step at ground floor level ; BA - Balcony ; BAW - Bottom of Awning ; BS - Bottom of Steps ; CL - Centreline ; DE - Decking ; FL - Floor Level ; FP - Flagpole ; GC - Gas service cover ; GM - Gas Meter ; GU - Top of Gutter ; HYD - Hydrant ; IL - Invert level ; LA - Landing ; LP - Light Pole ; NS - Natural Surface PA - Top of Parapet wall ; PE - Pool Edge ; PO - Porch ; PP - Power Pole ; RA - Railing ; RE - Roof Edge ; RI - Ridge ; SC - Service Cover ; SMH - Sewer Manhole ; SV - Stop Valve ; TAW - Top of Awning ; TC - Top of Chimney ; TEL - Telecommunications Pit ; TF - Top of Fence ; TI - Tiles ; TK - Top of Kerb ; TL - Traffic Lights ; TS - Top of Steps ; TW - Top of wall ; UE - Underside of eaves ; WM - Water Meter



HOR. SCALE 1 : 100
 VERT. SCALE N/A
 DATUM : AHD
 ORIENTATION :
 MAGNETIC NORTH

DATE 10-06-2016
 REF No. 30986-1
 DWG No. 30986-1-1
 SHEET 1 of 1
 PLAN SIZE : A2



JOHN B. STEPHEN
SURVEYING SERVICES
 Land Surveyors Development Consultants
 Ph : 1300 933 068 Mob : 0402 040 669
 Email : jbstephen@primus.com.au
 PO Box 1111, Green Valley NSW 2168

PLAN SHOWING LEVELS AND DETAIL
 + WALL TO BOUNDARY DISTANCES AT
 45 THOMAS STREET, McMAHONS POINT
 LOT 6 IN DP 1107009

© COPYRIGHT. All rights reserved. This document cannot be reproduced or copied in whole or part in any form without the prior written permission of John B Stephen & Associates. Any licence, express or implied, to use this document for any purpose whatsoever is restricted to the terms of the agreement or implied agreement between John B Stephen & Associates and the instructing Party.