

**NSLPP MEETING HELD ON 01/02/2023****Attachments:**

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

ADDRESS/WARD: 12 Shellbank Parade, Cremorne**APPLICATION No:** DA 74/2022**PROPOSAL:** Partial demolition, alterations and additions to existing dwelling house, including a new garage and associated works.**PLANS REF:**

Plan No.	Rev No.	Description	Prepared by	Dated
001	J	Site Plan	Potter & Wilson	9/11/2022
100	J	Ground Floor Plan	Potter & Wilson	9/11/2022
101	J	First Floor Plan	Potter & Wilson	9/11/2022
102	J	Second Floor Plan	Potter & Wilson	9/11/2022
103	J	Third Floor Plan	Potter & Wilson	9/11/2022
104	J	Roof Plan	Potter & Wilson	9/11/2022
200	J	North Elevation	Potter & Wilson	9/11/2022
201	J	East and Shellbank Parade Elevation	Potter & Wilson	9/11/2022
202	J	South Elevation	Potter & Wilson	9/11/2022
203	J	West Elevation	Potter & Wilson	9/11/2022
300	J	Section 1 – Sheet 1	Potter & Wilson	9/11/2022
301	J	Section 1 – Sheet 2	Potter & Wilson	9/11/2022
1020	J	Landscape Plan	Potter & Wilson	9/11/2022

OWNER: Christopher Lyons Neville**APPLICANT:** Christopher Lyons Neville**AUTHOR:** Planning Ingenuity, Town Planning Consultants**DATE OF REPORT:** 23 January 2023**AMENDED:** 18 November 2022**DATE LODGED:** 15 March 2022**RECOMMENDATION:** Approval

EXECUTIVE SUMMARY

This development application seeks approval for partial demolition, alterations and additions to existing detached dwelling at No. 12 Shellbank Parade, Cremorne.

The proposal is reported to North Sydney Local Planning Panel for determination in accordance with the directive of the Ministry for Planning, Industry and Environment as it involves a variation to the LEP height of building development standard in excess of 10%.

Notification of the proposal has attracted a total of five (5) submissions, including a submission from a North Sydney Councillor, raising particular concerns about visual privacy impacts, setback of the proposed garage and streetscape presentation. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

The proposed development has been considered in accordance with the matters for consideration as outlined in section 4.15(1) of the Act and is found to be generally satisfactory.

The proposed development for alterations and additions to an existing detached dwelling is a form of development permissible on land zoned C4 (Environmental Living).

The proposal also meets the relevant provisions of NSLEP 2013 with the exception of part of the existing building and new additions which exceed the maximum permitted building height. A written clause 4.6 exemption has been submitted to justify the variation which is considered to be well founded because there would be no material impacts on the amenity of the adjoining properties subject to the imposition of appropriate conditions. The development is also generally in accordance with the relevant objectives/requirements of the NSDCP 2013.

The proposed development includes minor internal reconfigurations, amendments to existing balconies and privacy screens, and extension of the existing garage. There are only minor changes to the overall building envelope of the dwelling and the built form character as viewed from the street and the waterways will remain largely unaltered.

The proposed works would not result in material impacts to the surrounding dwellings regarding solar access, views or privacy. The proposed development is considered reasonable and is recommended for **approval** subject to the imposition of conditions of consent.

DESCRIPTION OF PROPOSAL

The applicant is seeking development consent for partial demolition, alterations and additions to existing four (4) storey detached dwelling house, including a new garage and associated works. Specifically, the application's Statement of Environmental Effects lists the proposed alterations and additions as comprising the following:

Ground Floor (FFL 3.890)

- *Demolition of internal and external walls, removal of door openings on northern elevation and replacement with new door openings*
- *Minor extension to existing pool deck at the rear of the dwelling*
- *Replace most of the existing timber decking at rear with paving at the same level*

First Floor (FFL 8.350)

- *Demolition of the existing balcony and the box window (adjacent to bedroom 4) and replace with a balcony structures with rounded edge*
- *Demolition of the existing shade structure at rear of bedroom 2 and replacement of window and door openings*
- *Replacement of existing windows and doors adjacent to bedroom 4*

Second Floor (FFL 12.460)

- *An extension to the living room towards the rear (waterfront) boundary*
- *Deletion of existing deck 4 within the north-eastern side setback area adjacent to sitting area*
- *Infill existing courtyard area off living room to create one larger open living/sitting room area (northern side of dwelling)*
- *Enlarge powder room*
- *Demolition of existing balcony structure at rear and replacement with rounded balcony with built in planter box off existing deck adjacent to living area*
- *Demolition of existing balcony and replacement with new balcony structure connected to new balcony in front of existing deck*
- *Replacement of existing windows and door openings adjacent to dining and kitchen area*
- *Minor extension to existing sunshade over rear deck (Deck 2)*

Third Floor (FFL 16.560)

- *Demolition of existing single garage and carport*
- *Construction of a double garage and associated driveway off Shellbank Parade*
- *Widening of existing vehicle crossover to 6.5 metres*
- *Creation of new enlarged rounded balcony on rear elevation with shade structure*
- *Replacement of existing hardstand area at front of dwelling with landscaping*
- *Extend existing ensuite to Bedroom 1 at the north-eastern corner of dwelling*
- *Internal demolition works to improve internal layout*

Roof (FFL 21.330)

- *Two new skylights (to ensuite and bedroom on third floor level)*
- *New awning for weather protection to front entry*

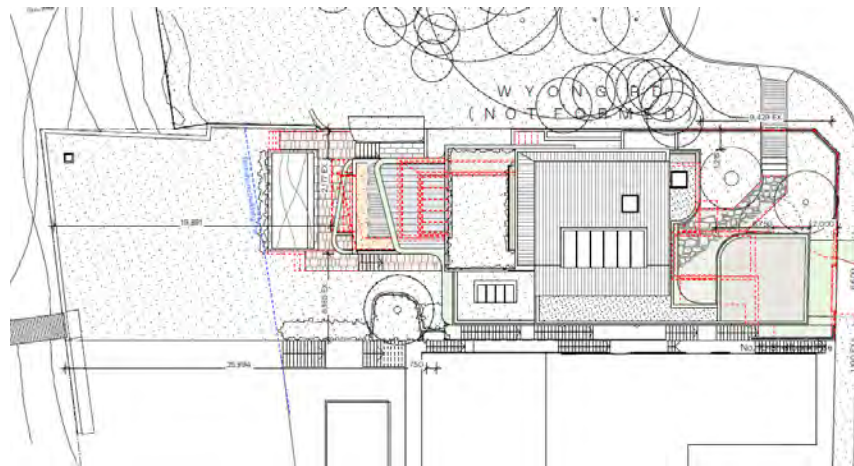


Figure 1: Proposed Site Plan

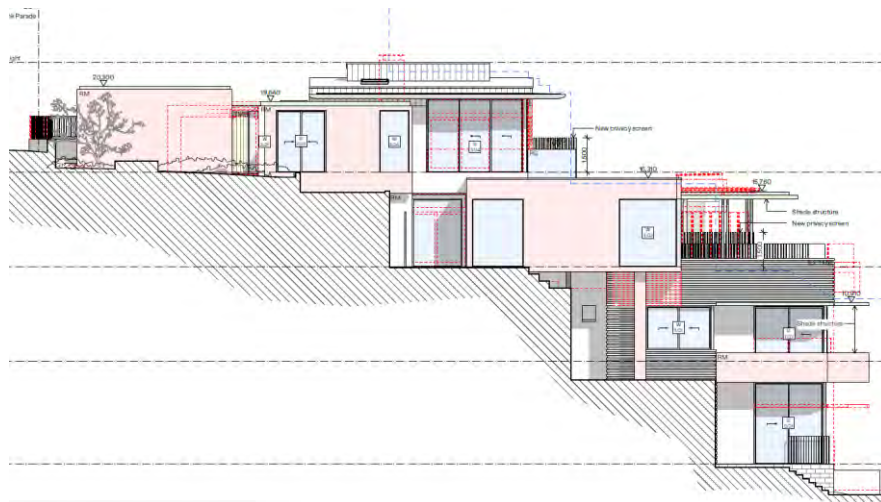


Figure 2: Proposed North-eastern (side) Elevation

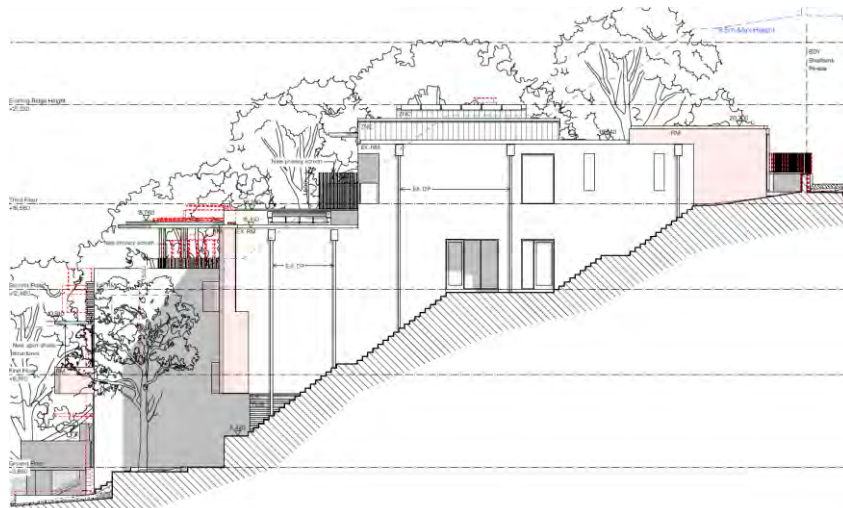


Figure 3: Proposed South-western (side) Elevation

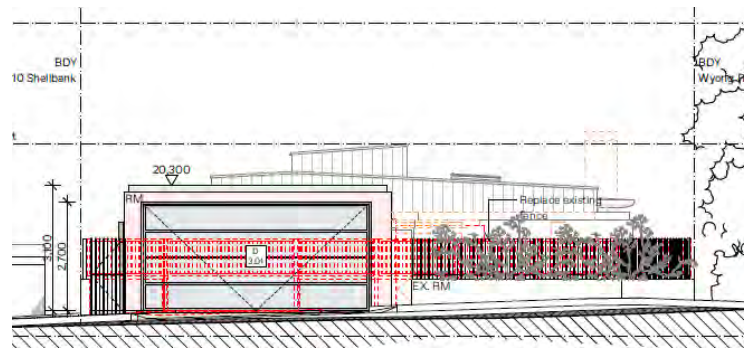


Figure 4: Proposed Street Elevation (south-east)

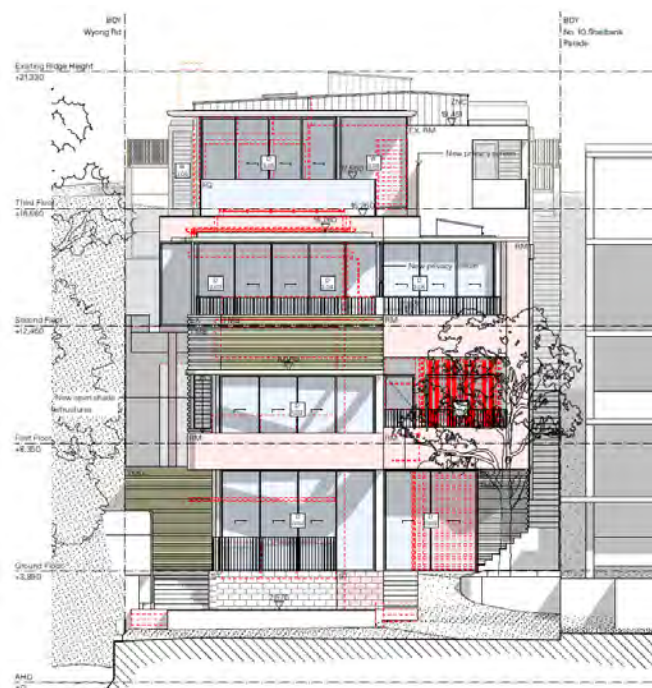


Figure 5: Proposed Waterfront (Rear) Elevation

STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning – C4 Environmental Living
- Item of Heritage – No
- In Vicinity of Item of Heritage – Yes (Pedestrian steps and walkway connecting Wyong Road and Shellbank Avenue within Mosman LGA)
- Conservation Area – No
- Foreshore Building Line – Yes

Environmental Planning & Assessment Act 1979 (As amended)

Environmental Planning & Assessment Regulations 1996

SEPP (Biodiversity and Conservation) 2021

SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Housing) 2021

SEPP (Resilience and Hazards) 2021

SEPP (Transport & Infrastructure) 2021

Foreshore Development
Local Development

POLICY CONTROLS

NORTH SYDNEY DCP 2013
North Sydney Local Infrastructure Contributions Plan 2020
Sydney Harbour Foreshores & Waterways Area DCP 2005

DESCRIPTION OF LOCALITY

The site is known as 12 Shellbank Parade, Cremorne, and is legally identified as Lot 137 in DP 10291. The site is relatively rectangular in shape and is located on the north western (low) side of Shellbank Parade.

The site has a south eastern frontage to Shellbank Parade of 13.41m with a corner splay of 2.555m, a rear north western boundary to the foreshore of 15.24m, a north eastern side boundary of 55.63m, and a south western side boundary of 55.265m. The site has a total area of 855.97m². The site consists of steep topography, with a fall of approximately 17m from the street frontage to the rear of the site.

The site is within a residential area, with the immediate locality characterised by large dwelling houses up to four storeys. A four storey dwelling house with an attached garage and carport is located at the front of the site, and an inground swimming pool is within the rear yard.

A foreshore building line, identified under Clause 6.9 of NSLEP 2013 traverses the rear of the site. The foreshore area consists of lawn space and a sea wall with a jetty extending into Middle Harbour.

The subject site adjoins Council's Shellbank Reserve along the north-eastern (side) property boundary. Further to the east is a residential area characterised by large dwellings within Mosman LGA. It is also noted Shellbank Parade continues within Mosman LGA as Shellbank Avenue.

A four (4) storey detached dwelling adjoins the subject site to the south-west at No.10 Shellbank Parade. Across the street is a three (3) storey detached dwelling at No.15 Shellbank Parade.

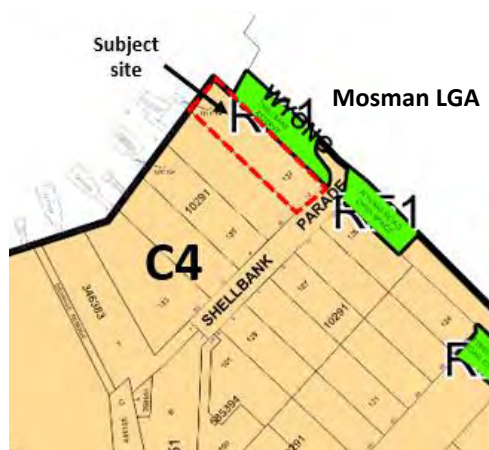


Figure 6: Zoning



Figure 7: Building Height



Figure 8: Foreshore building line (red) and foreshore area (shaded pink) affecting the subject site (dashed red)



Figure 9: Subject Site, as viewed from Shellbank Parade



Figure 10: Subject Site, as viewed from the rear yard adjacent to the waterway

RELEVANT HISTORY

Previous applications

Date	Action
21/06/2004	Development application (DA8/04) was approved by Council for demolition of an existing dwelling house and construction of a multi-storey residential dwelling house.
13/01/2021	Development application (DA284/20) was approved under delegated authority for alterations and additions to a detached dwelling.
21/12/2021	Development application (DA 435/21) for part demolition and alterations and additions to an existing dwelling, including new garage was rejected by Council due to insufficient information.

Current Application

Date	Action
15/03/2022	The subject development application (DA 74/22) for partial demolition, alterations and additions to an existing dwelling house, including a new garage and associated works was lodged with Council.
1/04/2022 – 19/04/2022	The application was notified to adjoining properties and the Willoughby Bay precinct. Four (4) submissions were received.
1/09/2022	A site inspection was undertaken by Council assessment staff and the Consultant Town Planner (Planning Ingenuity).
13/09/2022	A request for additional information was sent to the applicant by email, requesting amendments to the proposal in relation to the garage, site coverage and privacy impacts.
18/11/2022	Amended plans and a revised clause 4.6 variation were submitted.
25/11/2022 – 09/12/2022	The amended application was notified to adjoining properties and the Willoughby Bay precinct. One (1) submission was received.

INTERNAL REFERRALS

BUILDING

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

ENGINEERING

The application was referred to Council's Senior Development Engineer who raised no in-principle objection subject to the imposition of appropriate engineering conditions (Conditions C12, E1, E2, E3, E4, E5, G1 and G2)

LANDSCAPING

The application was referred to Council's Landscape Development Officer, who raised no objection to the proposed development subject to the following conditions:

- *The existing screen of Dracena sp. inside north-eastern perimeter fencing shall be retained and protected in accordance with AS4970. The section of this screening required to be removed for construction of new garage shall be transplanted into area 8 shown on landscape Plan (to the West of new garage) (Condition C16).*
- *2 x existing Plumeria sp. within the front setback area 6 shown on landscape Plan shall be retained and protected in accordance with AS4970 (Condition C16).*
- *1 x Magnolia grandiflora (10x8m) located on the southern boundary of the subject site (rear setback) shall be retained and protected in accordance with AS4970. Marked up photos of any pruning required shall be provided to council's LDO for approval prior to any pruning being undertaken. Minor pruning only shall be permitted. No more than 5% total canopy shall be removed. All pruning shall be undertaken by a qualified arborist (AQ3) in accordance with AS4373. Scaffolding shall be erected in such a way as to minimise the need for any pruning, small frangible branches should be tied back where possible. The limb shown in Image 5 of the Arborist Report prepared by Treetalk Arboricultural Consulting dated March 2022 shall not be removed at the point depicted. Only smaller branches located further from the trunk shall be considered for pruning (Condition C16).*
- *All recommendations contained within the Arborist Report prepared by Treetalk Arboricultural Consulting dated March 2022 shall be strictly adhered to, with the exception of the pruning as outlined above (Condition C16).*
- *All trees and vegetation located in the reserve adjacent to the northern boundary of the subject site shall be retained and protected in accordance with AS4970. No pruning shall be permitted. 1.8m high steel mesh tree protection fencing shall be installed across the eastern perimeter of the reserve. No access to site via the adjacent reserve shall be permitted. A collective tree bond of \$50,000 shall be applied to the trees and vegetation within the adjacent reserve, including but not limited to 1 x large centrally located Angophora costata, and 5 s Syzigium sp, (6m) (Conditions C15, C16).*
- *Sensitive construction techniques including hand excavation, pier and beam construction, and flexible location of piers/footings shall be used within the TPZ of any protected tree (Condition C16).*

EXTERNAL REFERRALS

The proposed development does not require any external referrals.

SUBMISSIONS

On 1 April 2022 Council notified adjoining properties and the Willoughby Bay Precinct of the proposed development seeking comment between 1 April 2022 and 19 April 2022. Council received four (4) submissions and the issues raised are summarised below.

Basis of Submissions

- Visual privacy impacts
- Height variation/non-compliance
- Garage setback
- Streetscape presentation

The adjoining properties and the Willoughby Bay Precinct were notified about the amended plans between 25 November and 9 December 2022. A further submission was received where concerns were raised about the inadequate setback of the proposed double garage from Shellbank Parade and the associated impacts on the streetscape and character of the neighbourhood.

The issues raised in the submissions are to be 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.

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

Chapter 2 – Vegetation in Non-Rural Areas

The proposal meets the objectives of the SEPP because there would be no clearance of native vegetation nor any impacts on bushland in the vicinity of the subject site.

Chapter 6 - Water Catchment

Having regard to the SEPP (Biodiversity and Conservation) 2021 with respect to the Sydney Harbour Catchment 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.

The proposed works, involving alterations and additions to an existing dwelling house, are sufficiently separated from the natural waterbody. The proposal would have no adverse impacts on views from the waterway and the biodiversity of the foreshore/waterways. As such, the development is acceptable having regard to the provisions contained within the SEPP (Biodiversity and Conservation) 2021 and the Sydney Harbour Foreshores and Waterways DCP 2005.

SEPP (Resilience and Hazards) 2021

The provisions of SEPP (Resilience and Hazards) 2021 require Council to consider the likelihood that the site is contaminated and to address methods necessary to remediate the site. The subject site has previously been used only for residential purposes and as such is unlikely to contain any contaminants. Therefore, the site is considered suitable for the continued residential use and the requirements of the SEPP have been satisfactorily addressed.

SEPP (Building Sustainability Index: BASIX) 2004

A valid BASIX Certificate (No. A442348_03) has been submitted with the application to satisfy the Aims of the SEPP.

NORTH SYDNEY LOCAL ENVIRONMENT PLAN (NSLEP 2013)

Permissibility

The proposed development seeks consent for alterations and additions to an existing dwelling house. Dwelling houses are a permissible form of development in the C4 Environmental Living zone, and as such the proposal is permissible in the zone with development consent

Objectives of the zone

The objectives for the C4 Environmental Living zone are stated below:

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

The proposed alterations and additions are generally contained within the existing building envelope and would not impact any area of special ecological or scientific values. The proposed development will improve the existing amenity of the residential dwelling on the site without significant adverse impacts on the amenity of adjoining properties. The changes to the external appearance of the dwelling will be an aesthetic improvement which will not be out of character with the aesthetics and scenic quality of foreshore development in the locality. As such, the proposal is consistent with the relevant objectives of the zone.

Part 4 – Principal Development Standards

Principal Development Standards – North Sydney Local Environmental Plan 2013				
Site Area – 855.97m²	Existing	Proposed	Control	Complies
Clause 4.1 – Minimum lot size	855.97m ²	855.97m ²	450m ²	YES
Clause 4.3 – Heights of Building	11.9m	11.9m	8.5m	NO

3. Height of Building

The height of buildings development control is 8.5m pursuant to clause 4.3 in NSLEP 2013. The objectives for the height of buildings control 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.*

The proposal will not alter the maximum building height of the existing dwelling which is 11.9m and exceeds the height of buildings control of 8.5m in accordance with Clause 4.3 in NSLEP 2013. Some of the proposed building elements would be located above the LEP building height limit.

The proposed replacement shade structure/awning over deck 2 off the second floor living/dining area, at 11.9m above the existing ground level, would breach the LEP building height limit by up to 3.4m as shown in Figure 11 below.

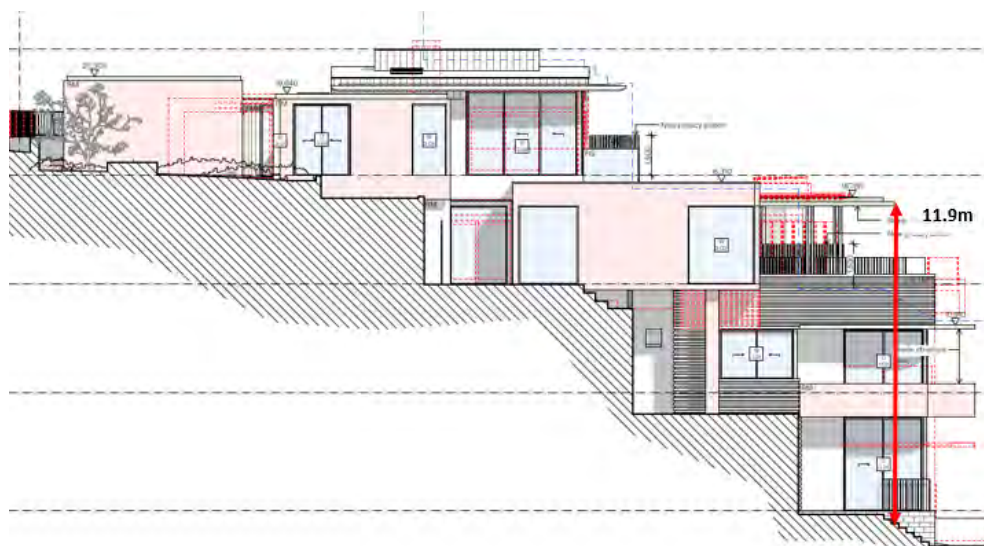


Figure 11: Building height non-compliance

In accordance with the requirements of Clause 4.6 in NSLEP 2013 the applicant's written submission is assessed below.

Clause 4.6 – Exception to Development Standards

A written request to exceed the development standard for height has been submitted with the application and has been considered below.

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

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

The proposed alterations above the height limit relate to balustrades, sunshades and privacy screening at the rear of the dwelling. The non-compliant elements do not alter the existing stepped built form of the dwelling which is matched to the natural topography of the site. The proposal is considered to maintain conformity to the natural landform. The proposed non-compliances do not extend above the maximum building height of the existing dwelling.

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

The proposed alterations that are above the 8.5m height limit do not extend above the maximum height of the existing dwelling on the site. The non-compliant elements are located at the rear of the dwelling and as such are not visible from Shellbank Parade. The proposed works do not extend beyond the rear setback of the existing dwelling. Therefore, there would be no material impact to views available from any surrounding dwelling or the public domain, due to the topography of the site and relative position of adjoining and nearby dwellings and existing lines of sight to the waterway.

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

The proposed alterations that are above 8.5m are minor in extent and do not contribute any significant building bulk nor add to the shadows cast by the building onto adjoining land. This has been demonstrated in the shadow diagrams submitted with the application where the works above the 8.5m height control cast shadows within the site between 9am and 3pm midwinter. As such, the proposal would have no additional impact on the existing levels of solar access available to surrounding dwellings, public areas or potential future development.

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

The proposed alterations that are above the height limit include the privacy screens to the balconies at the rear of the dwelling and awnings. The proposal was amended to replace a balcony with a non-trafficable planter and open shade structure to Bedroom 2 at the first floor level and to reduce the size of the balcony to Bedroom 4, whilst also making a portion of this non-trafficable. The new privacy screens proposed above the building height limit have been incorporated in response to concerns raised by the adjoining property to ensure privacy is maintained.

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

The proposed development would be compatible with the surrounding development. Whilst the subject site adjoins Shellbank Reserve on land zoned RE1 (Public Recreation), the proposal would have no additional adverse impacts on this adjoining land because it is primarily covered by natural vegetation with no pedestrian access.

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

The proposed alterations above the building height limit are contained within the building footprint of the existing development and do not add any significant bulk or scale to the existing dwelling. The non-compliant works proposed are not inconsistent with the character of the area.

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

It is considered that there are sufficient environmental planning grounds in the circumstances of the case that justify the contravention of the development standard as the proposed works above the maximum building height limit do not result in any additional amenity impacts such as privacy or visual bulk, the works meet the objectives of the height control and the proposal is consistent with the objectives for development in Zone C4. The works that are proposed above the 8.5m height control are minor functional and amenity enhancements to the existing built form.

Whether the proposed development will be in the public interest?

The proposed development is considered to be in the public interest as it is consistent with the objectives of the zone and with the objectives of the development standard as discussed above.

Concluding Remarks

The written request to vary the development standard provided by the applicant is considered well founded. The written request demonstrates that compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case and that there are sufficient planning grounds to justify the variation. The proposed development is considered to be in the public interest. The proposed works enhance the functionality and the amenity of the dwelling for occupants without detrimental environmental or amenity impacts within or beyond the site. The proposed works cannot be achieved by other means or design features which would comply with the height control. It is recommended that the variation be supported in these circumstances.

Part 5 – Miscellaneous Provisions

Clause 5.10 – Heritage Conservation

The subject site is not in close proximity to any heritage items within North Sydney LGA, however, the site is located within close proximity to a heritage item of local significance listed under the Mosman LEP 2013. This item is listed in Schedule 5 Part 1 to Mosman LEP 2013 as I481 and is described as ‘pedestrian steps and walkway’ located within the Wyong Road road reserve extending through to Shellbank Avenue. The heritage item includes streetscape elements within the unmade portion of the road reserve between Shellbank Avenue and Wyong Road located to the south-east on the opposite (high) side of the street.

The proposed works will not have any adverse impacts on the heritage significance of Item I481 or its context and setting.

Part 6 – Additional Local Provisions

Division 2 – General Provisions

4. Limited development on foreshore area

The subject site is located on the foreshores of Sydney Harbour where a foreshore building line applies. The proposal has been assessed under clause 6.9 in NSLEP 2013 which states as follows:

“Development consent must not be granted for development on land in the foreshore area except for the following purposes:

- (a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area,*
- (b) the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so,*
- (c) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*

Development consent must not be granted under subclause (2) unless the consent authority is satisfied that:

- (a) the development will contribute to achieving the objectives for the zone in which the land is located, and*
- (b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*
- (c) the development will not cause environmental harm such as:
 - (i) pollution or siltation of the waterway, or*
 - (ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
 - (iii) an adverse effect on drainage patterns, and**
- (d) the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*
- (e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*
- (f) any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*
- (g) in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*
- (h) sea level rise or change of flooding patterns as a result of climate change has been considered.”*

The proposed alterations and additions are located entirely above the foreshore building line and will not have any adverse impact on the foreshore area or the waterway. The proposed works will be consistent with the general character and aesthetics of the existing dwelling and that of surrounding dwellings within the foreshore locality.

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013

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

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 1- Residential Development		
	<i>Complies</i>	<i>Comments</i>
1.3 Environmental Criteria		
1.3.1 Topography	Yes	The proposed alterations relate to upper elements of the existing dwelling and would not affect the existing topography of the site. No significant excavation or filling is proposed.
1.3.4 Foreshore Frontage	Yes	The proposed works are located outside the foreshore area. The works will not substantially change the visual impact of the dwelling as viewed from the waterway and foreshore.
1.3.6 Views	Yes	The proposed alterations do not add considerable bulk or scale to the existing dwelling and are considered to retain existing sight lines and views to the waterway for neighbouring properties and public places. The proposed works do not extend any further than the existing rear building line.
1.3.7 Solar Access	Yes	The additional overshadowing arising from the proposed alterations would be minor in extent, mostly contained within the site and would not cause any adverse impacts to surrounding dwellings or the public domain in terms of solar access.
1.3.8 Acoustic Privacy	Yes	The proposed works do not increase the intensity of use on the site. There are no significant changes proposed to the existing layout of the dwelling, size of windows or balcony areas. Changes made to existing balconies are not considered to have any adverse impacts in terms of the acoustic privacy of the neighbouring property. Privacy screens and planters have been included to decks where appropriate.
1.3.10 Visual Privacy	Yes (via conditlon)	<p>The site is situated on the foreshore and has a single shared boundary with No. 10 Shellbank Parade along the south-western side. The other side boundary adjoins Council’s Shellbank Reserve that is primarily covered by natural vegetation with no pedestrian access.</p> <p>The proposal will replace existing windows and doors within the dwelling, however, does not introduce any new windows or openings oriented towards the south-western side boundary, shared with No. 10 Shellbank Parade.</p> <p>The proposal will extend the balcony off Bed 4 at the first floor level and the deck (deck 5) off Bed 1 of the third floor level. The applicant has amended the original scheme with the reduction in the size of deck 2 on the second floor level and deck 5 on the third floor level as well as the installation of planter beds and/or of privacy screens on the western edge of the deck to provide additional visual privacy for the adjoining property to the west at No. 10 Shellbank Parade. It is considered that visual privacy can be further enhanced by an increase in the height of the privacy screens from 1.5m to 1.8m. A condition is recommended accordingly (Condition C1).</p> <p>The proposal, as amended by conditions of consent, is considered to be satisfactory having regard to visual privacy.</p>

1.4 Quality built form																																																																			
1.4.1 Context	Yes	The proposed alterations involve relatively minor changes to the existing dwelling. The proposed works are not considered to have an adverse impact on the residential amenity of the surrounding properties and do not alter the existing dwellings compatibility with the character of the locality.																																																																	
1.4.3 Streetscape	Yes	The proposed garage, as amended to provide a 2m setback from the street boundary, is considered appropriate for the site and locality and is generally in keeping with the streetscape character of Shellbank Parade.																																																																	
1.4.5 Siting	Yes	The proposed works will not change the existing siting of the development.																																																																	
1.4.6 Setback																																																																			
Front setback	Yes	The proposed garage structure, as amended, is setback 2m from the front boundary. The proposed setback is appropriate given the setback of other dwellings and structures along Shellbank Parade, including at the neighbouring site at No. 10 Shellbank Parade. The garage will present an appropriate bulk and scale when viewed from the street frontage. The proposal retains existing landscaping within the front setback area which further minimises the visual bulk of the garage and dwelling.																																																																	
Rear setback	Yes	The proposal introduces new elements at the rear of the dwelling, however there is no change to the existing rear setback of the dwelling and all works proposed are located outside the foreshore area.																																																																	
Side setback	Acceptable	<p>A side boundary setback compliance table is provided below:</p> <table border="1"> <thead> <tr> <th>Elevation</th> <th>Existing</th> <th>Proposed</th> <th>Control</th> <th>Complies</th> </tr> </thead> <tbody> <tr> <td colspan="5"><i>Ground Floor</i></td> </tr> <tr> <td>- NE Elevation</td> <td>3.3m</td> <td>3.3m</td> <td>900mm</td> <td>YES</td> </tr> <tr> <td>- SW Elevation</td> <td>1.1m</td> <td>1.1m</td> <td>900mm</td> <td>YES</td> </tr> <tr> <td colspan="5"><i>First Floor</i></td> </tr> <tr> <td>- NE Elevation</td> <td>2.181m</td> <td>2.181m</td> <td>900mm</td> <td>YES</td> </tr> <tr> <td>- SW Elevation</td> <td>1.1m</td> <td>1.1m</td> <td>-1.5m*</td> <td>NO</td> </tr> <tr> <td colspan="5"><i>Second Floor</i></td> </tr> <tr> <td>- NE Elevation</td> <td>1.8m</td> <td>1.214m</td> <td>900mm</td> <td>NO</td> </tr> <tr> <td>- SW Elevation</td> <td>1.1m</td> <td>1.1m</td> <td>-2.5m*</td> <td>NO</td> </tr> <tr> <td colspan="5"><i>Third Floor</i></td> </tr> <tr> <td>- NE Elevation</td> <td>2.3m</td> <td>1.214m</td> <td>900mm -</td> <td>NO</td> </tr> <tr> <td>- SW Elevation</td> <td>1.1m</td> <td>1.1m</td> <td>2.5m*</td> <td>NO</td> </tr> </tbody> </table> <p>* Variable side boundary setbacks apply to the side (eastern and western) elevations of the proposed dwelling due to the sloping landform within the subject site.</p> <p>The proposed alterations largely comply with the minimum side setbacks and/or are consistent with the side setbacks of the existing dwelling. The key side boundary setback variation occurs on the second floor level for the proposed works associated with the extension of the living room at the second floor level.</p>	Elevation	Existing	Proposed	Control	Complies	<i>Ground Floor</i>					- NE Elevation	3.3m	3.3m	900mm	YES	- SW Elevation	1.1m	1.1m	900mm	YES	<i>First Floor</i>					- NE Elevation	2.181m	2.181m	900mm	YES	- SW Elevation	1.1m	1.1m	-1.5m*	NO	<i>Second Floor</i>					- NE Elevation	1.8m	1.214m	900mm	NO	- SW Elevation	1.1m	1.1m	-2.5m*	NO	<i>Third Floor</i>					- NE Elevation	2.3m	1.214m	900mm -	NO	- SW Elevation	1.1m	1.1m	2.5m*	NO
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		<p>In addition, the key new additions, namely the living room extension on the second floor and the ensuite bathroom/walk-in-robe extension for Bed 1 on the third floor, are located on the north-eastern side of the subject that adjoins Council's Shellbank Reserve. Therefore, the proposed extension is considered appropriate given that it does not introduce any privacy impacts and excessive visual bulk affecting any residential nearby.</p> <p>Furthermore, the proposed setback non-compliance is largely a result of the topography of the land, in which the dwelling and proposed alterations adequately respond to.</p>
1.4.7 Form Massing Scale	Yes	<p>The proposed alterations will not significantly increase or alter the existing form and scale of the dwelling. The extension of the living room and infill of the deck at the second floor will add some additional bulk to the dwelling, however, will provide appropriate setbacks and maintain sightlines to the waterway.</p> <p>The proposed garage structure will add some bulk to the existing development, however, the garage is single storey and is adequately setback from the front and side boundaries. Furthermore, the garage is not inconsistent with the character of development along the streetscape within the immediate locality.</p> <p>In addition, a condition is recommended requiring a 250mm setback of the garage door from the face of the garage structure to provide visual interest for the street elevation of the proposed garage (Condition C2).</p>
1.4.8 Built Form Character	Yes	<p>The proposed alterations will not significantly alter the existing built form character of the dwelling. The proposal, as amended by conditions of consent, involves building and balcony extensions which are well integrated within the existing built form and enhance the character and functionality of the dwelling, without any material amenity impacts on surrounding development.</p>
1.4.9 Dwelling Entry	Yes	<p>The proposed alterations would relocate the existing dwelling entry slightly to the west facing the new courtyard between the main dwelling and the new double garage. The new dwelling entry is visible from the public domain and would be in an appropriate location with a direct path of travel to street.</p>
1.4.10 Roofs	Yes	<p>There is no change to the existing roof form except for the addition of two new skylights and extension of the existing roof form over the extended ensuite and garage structure.</p>
1.4.12 Materials	Yes	<p>The proposed materials and finishes are consistent with the existing character of the dwelling and the surrounding contemporary foreshore development. A condition is recommended requiring the submission of a schedule of materials and finishes to ensure compatibility with the surrounding developments (Condition C9).</p>
1.4.14 Front Fences	Yes	<p>The existing front fence is proposed to be replaced and slightly modified to incorporate the additional driveway width proposed. The design of the fencing is consistent with the existing fence, with an open design for the upper portion to allow for the dwelling and front garden to be visible from the street.</p>
1.5 Quality Urban Environment		
1.5.3 Safety and Security	Yes	<p>The proposed garage structure would provide additional safety and security for the dwelling and allow for additional storage.</p>

<p>1.5.4 Vehicular access and Parking</p>	<p>Yes (via condition)</p>	<p>The proposal seeks to extend the width of the driveway to 5.5m to allow for the new double garage structure. The structure, as amended, will be setback 2m from the front boundary and is setback from the side boundary.</p> <p>Council's Senior Development Engineer has raised no objection to the proposed garage and the driveway crossing subject to the imposition of appropriate engineering conditions (Condition C12).</p> <p>The siting of the garage is considered appropriate and the provision of two parking spaces on the site complies with the DCP maximum parking requirement for a dwelling with three or more bedrooms.</p>																				
<p>1.5.6 Site coverage, Unbuilt Area and Landscaped Area</p>	<p>No (Acceptable on merit)</p>	<p>A site coverage, unbuilt upon area and landscaped area compliance table is provided below.</p> <table border="1" data-bbox="687 723 1390 1050"> <thead> <tr> <th>Control</th> <th>Existing</th> <th>Proposed</th> <th>Control</th> <th>Compliance</th> </tr> </thead> <tbody> <tr> <td>Site coverage</td> <td>41% (355m²)</td> <td>41% (353.8m²)</td> <td>35% (max)</td> <td>No</td> </tr> <tr> <td>Landscaped area</td> <td>41% (347.2m²)</td> <td>45% (385.6m²)</td> <td>45% (min)</td> <td>Yes</td> </tr> <tr> <td>Unbuilt-upon area</td> <td>18% (153.3m²)</td> <td>14% (116.1m²)</td> <td>20% (max)</td> <td>Yes</td> </tr> </tbody> </table> <p>The existing non-compliance with the site coverage provision primarily arises from the inclusion of external staircases in the site coverage calculation. The existing staircases follow the topography of the site and do not increase the bulk and scale of the development. Furthermore, the applicant replaces a first floor balcony off bed 2 with an open construction to minimise privacy impacts, bulk and scale of the development and to maintain site coverage within the subject site.</p> <p>There would be an increase in landscaped area with more planting along the side boundary setbacks and the creation of a new courtyard between the proposed garage and the dwelling entrance.</p> <p>The proposal is considered to be acceptable having regard to the site circumstances.</p>	Control	Existing	Proposed	Control	Compliance	Site coverage	41% (355m ²)	41% (353.8m ²)	35% (max)	No	Landscaped area	41% (347.2m ²)	45% (385.6m ²)	45% (min)	Yes	Unbuilt-upon area	18% (153.3m ²)	14% (116.1m ²)	20% (max)	Yes
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<p>1.5.7 Landscaping 1.5.8 Front Gardens</p>	<p>Yes (via condition)</p>	<p>The proposal will retain the existing Frangipani Trees and lower planting beneath within the front setback area. These are feature trees which contribute to the garden setting of the site within the natural landscape and are positive contributions to the streetscape.</p> <p>In addition, Council's Landscape Development Officer has raised no objection to the proposal subject to the imposition of appropriate conditions as indicated earlier in this report.</p>																				
<p>1.5.11 Swimming Pools</p>	<p>Yes (via condition)</p>	<p>No change is proposed to the existing swimming pool. Existing timber decking surrounding the pool will be replaced with paving, however, will sit at the same level.</p> <p>Appropriate safety conditions are recommended to ensure swimming pool safety with the replacement of paving around the pool.</p>																				
<p>1.5.12 Garbage Storage</p>	<p>Yes (via condition)</p>	<p>A condition is recommended to ensure adequate provision of storage facilities for general waste and recycling materials (Condition C17).</p>																				

1.6 Efficient Use of Resources		
Energy Efficiency	Yes	The applicant has submitted an updated BASIX certificate.

Part C of NSDCP 2013 – Character Statements

North Cremorne Planning Area (Northern Foreshores Neighbourhood)

The proposal is generally consistent with the character of the area and Part C of NSDCP 2013 and in particular Section 5 of the Character Statement for the North Cremorne Planning Area and Section 5.4 for the Northern Foreshores Neighbourhood for the reasons provided in this report.

The proposal is considered to be generally in keeping with the desired low density built form for the neighbourhood as the proposed alterations are relatively minor in extent and do not add excessive bulk or scale to the existing dwelling.

LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN

The proposal is subject to Local Infrastructure Contributions in accordance with the North Sydney Local Infrastructure Contributions Plan (as amended). The required contribution has been calculated in accordance with the applicable contribution rates as follows

Applicable Contribution Type		
S7.12 contribution detail	Development cost:	\$550,000.00
(payment amount subject to indexing at time of payment)	Contribution:	\$5,500.00

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

ALL LIKELY IMPACTS OF THE DEVELOPMENT

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

ENVIRONMENTAL APPRAISAL	CONSIDERED
1. Statutory Controls	Yes
2. Policy Controls	Yes
3. Design in relation to existing building and natural environment	Yes
4. Landscaping/Open Space Provision	Yes
5. Traffic generation and Carparking provision	Yes

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

SUBMITTERS CONCERNS

The application was notified to adjoining properties and the Willoughby Bay Precinct. Council received four (4) submissions. The notification of the amended plans attracted one (1) submission. The concerns raised in the submissions received are addressed below.

Visual privacy impacts:

- *The proposed works remove the full height privacy screening from the existing deck 2 on the second level*
- *The proposed works remove the existing screening planter on the southern side of deck 2 on the second level*
- *The expansion of the existing balconies is likely to promote increased overlooking*

Comments

The proposed development has been amended to incorporate privacy screening to deck 2 at the second floor level and deck 5 at the third floor level. This screening will be conditioned to reach a height of 1.8m to ensure privacy for the dwelling at No. 10 Shellbank Parade is maintained (**Condition C1**). In addition, the applicant has amended the original proposal to retain the planter at the existing height on the south-western side of deck 2 at the second floor level to minimise visual privacy impacts for the adjoining property.

The applicant has also amended the design to reduce the balcony extensions proposed in the original scheme. The balcony off Bed 2 has been converted into a non-trafficable open shade structure. The balcony extension off Bed 4 has been reduced in extent and will be screened. Deck 2 is no longer proposed to be extended and the planter surrounding the decking will be retained. The extension of deck 5 has been reduced and the deck is to be fitted with 1.8m high privacy screen as per the requirement of **Condition C1**.

Height Variation/Non-compliance:

- ***The height variation would cause overlooking into primary living areas of the adjoining property to the west of the subject site***

Comments

The proposed height non-compliances relate to awning and balcony elements and do not contain any large window openings to habitable spaces. Whilst the height variation is not considered to introduce material privacy impacts, the applicant has amended the original proposal including the retention of a planter and 1.5m high privacy screen along the south-western edge of deck 2 on the second floor level to minimise visual privacy impacts for the adjoining property. As indicated earlier in this report, a condition has been recommended to increase the height of the privacy screen to 1.8m to ensure the protection of visual privacy for the adjoining property (**Condition C1**).

Garage Setback/Streetscape Presentation:

- ***There are no garages within Shellbank Parade with a nil setback to the street***
- ***Creates a visual barrier***
- ***Garages to be setback 1000mm from the front boundary***

Comments

The proposed development, as amended by the applicant, will provide a 2m setback from the garage structure to the front boundary with Shellbank Parade. The proposed setback is considered appropriate and consistent with the character of development along Shellbank Parade, and will ensure vistas along the sites side boundaries are maintained. The garage will not create a visual barrier to the dwelling or vegetation within the front setback of the site, which will be retained.

In addition, a condition is recommended requiring a 250mm setback of the garage door from the face of the garage structure to provide visual interest on the street elevation of the proposed garage (**Condition C2**).

PUBLIC INTEREST

The proposal is not considered to be contrary to the public interest.

SUITABILITY OF THE SITE

The subject site is considered suitable for the proposed alterations.

CONCLUSION + REASONS

The proposed development has been considered in accordance with the matters for consideration as outlined in section 4.15(1) of the Act and is found to be generally satisfactory.

The proposed development for alterations and additions to an existing detached dwelling is a form of development permissible on land zoned C4 (Environmental Living).

The proposal also meets the relevant provisions of NSLEP 2013 with the exception of part of the existing building and new additions which exceed the maximum permitted building height. A written clause 4.6 exemption has been submitted to justify the variation which is considered to be well founded because there would be no material impacts on the amenity of the adjoining properties subject to the imposition of appropriate conditions. The development is also generally in accordance with the relevant objectives/requirements of the NSDCP 2013.

The proposed development includes minor internal reconfigurations, amendments to existing balconies and privacy screens, and extension of the existing garage. There are only minor changes to the overall building envelope of the dwelling and the built form character as viewed from the street and the waterway will remain largely unaltered.

Council received five (5) submissions following two rounds of notification that raised concerns about privacy, streetscape appearance and building height that have been addressed throughout this report including the imposition of appropriate conditions of consent.

The proposed works would not result in material impacts to the surrounding dwellings regarding solar access, views or privacy. The proposed development is considered reasonable and is recommended for approval subject to conditions of consent.

HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?

The proposed development was notified to adjoining properties and the Willoughby Bay Precinct for 14 days in April 2022. The amended plans were also notified in November 2022. A total of five (5) submissions were received raising a number of concerns as indicated earlier in this report. The concerns arising from the proposal have been addressed throughout the report including the recommendation for the imposition of appropriate conditions of consent to maintain the amenity of adjoining properties.

RECOMMENDATION

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

THAT the North Sydney Local Planning Panel, exercising the functions of Council, assume the concurrence of the Secretary of The Department of Planning, Industry, and Environment and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 Height of Buildings and grant consent to Development Application No. DA74/2022 for partial demolition, alterations and additions to existing dwelling house, including a new garage and associated works on land at No. 12 Shellbank Parade, Cremorne subject to the following site specific and standard conditions:-

Design Modifications

- C1. The height of the proposed privacy screens along the south-western edges of Deck 2 on the second floor level and Deck 5 on the third floor are to be increased in height to 1.8m as measured from the finished floor levels of Decks 2 and 5 to ensure visual privacy protection for the adjoining property.

Amended plans reflecting the above requirements must be prepared and submitted for approval of the Certifying Authority with the Construction Certificate.

(Reason: To ensure the privacy protection for the adjoining property.)

Garage Door

- C2. The garage door shall provide a 250mm setback from the outer face of the external wall of the proposed garage structure on the street (Shellbank Parade) elevation.

Amended plans reflecting the above requirements must be prepared and submitted for approval of the Certifying Authority with the Construction Certificate.

(Reason: To provide visual interest and enhance streetscape.)

**PLANNING INGENUITY
TOWN PLANNING CONSULTANTS**

**ROBYN PEARSON
TEAM LEADER ASSESSMENTS**

**STEPHEN BEATTIE
MANAGER DEVELOPMENT SERVICES**

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
12 SHELLBANK PARADE, CREMORNE
DEVELOPMENT APPLICATION NO. 74/22

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 No.	Description	Prepared by	Dated
001	J	Site Plan	Potter & Wilson	9/11/2022
100	J	Ground Floor Plan	Potter & Wilson	9/11/2022
101	J	First Floor Plan	Potter & Wilson	9/11/2022
102	J	Second Floor Plan	Potter & Wilson	9/11/2022
103	J	Third Floor Plan	Potter & Wilson	9/11/2022
104	J	Roof Plan	Potter & Wilson	9/11/2022
200	J	North Elevation	Potter & Wilson	9/11/2022
201	J	East and Shellbank Parade Elevation	Potter & Wilson	9/11/2022
202	J	South Elevation	Potter & Wilson	9/11/2022
203	J	West Elevation	Potter & Wilson	9/11/2022
300	J	Section 1 – Sheet 1	Potter & Wilson	9/11/2022
301	J	Section 1 – Sheet 2	Potter & Wilson	9/11/2022
1020	J	Landscape Plan	Potter & Wilson	9/11/2022

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

Plans on Site

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

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

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

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DEVELOPMENT APPLICATION NO. 74/22**Page 2 of 27

No Demolition of Extra Fabric

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

(Reason: To ensure compliance with the approved development)

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

- C1. The height of the proposed privacy screens along the south-western edges of Deck 2 on the second floor level and Deck 5 on the third floor are to be increased in height to 1.8m as measured from the finished floor levels of Decks 2 and 5 to ensure visual privacy protection for the adjoining property.

Amended plans reflecting the above requirements must be prepared and submitted for approval of the Certifying Authority with the Construction Certificate.

(Reason: To ensure the privacy protection for the adjoining property.)

Garage Door

- C2. The garage door shall provide a 250mm setback from the outer face of the external wall of the proposed garage structure on the street (Shellbank Parade) elevation.

Amended plans reflecting the above requirements must be prepared and submitted for approval of the Certifying Authority with the Construction Certificate.

(Reason: To provide visual interest and enhance streetscape.)

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.

**12 SHELLBANK PARADE, CREMORNE
DEVELOPMENT APPLICATION NO. 74/22**

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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)

Structural Adequacy of Adjoining Properties - Excavation Works

- C4. A report prepared by an appropriately qualified and practising structural engineer detailing the structural adequacy of adjoining property No. 10 Shellbank Parade, Cremorne, which certifies the ability to withstand the proposed excavation and outlines any measures required to be implemented to ensure that no damage will occur to adjoining properties during the course of the works, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The measures outlined in the certified report must be complied with at all times.

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

Structural Adequacy of Existing Building

- C5. A report prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction shall be submitted to the Certifying Authority for approval prior to issue of any Construction Certificate. The certified report must also include all details of the methodology to be employed in construction phases to achieve the above requirements. The methodology in the certified report must be complied with at all times.

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

Sediment Control

- C6. 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.

**12 SHELLBANK PARADE, CREMORNE
DEVELOPMENT APPLICATION NO. 74/22**

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

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

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

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

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

Waste Management Plan

C7. 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)

**12 SHELLBANK PARADE, CREMORNE
DEVELOPMENT APPLICATION NO. 74/22**

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Skylight(s)

- C8. Skylight flashing(s) and frame(s) to be coloured to match the roof material. Skylight(s) to sit no higher than 100 mm above roof plane when in a closed position. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

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

External Colours and Finishes

- C9. The external colours and finishes shall match those as existing and/or be compatible with surrounding development. A schedule of external colours and finishes must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

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

Roofing Materials - Reflectivity

- C10. 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

- C11. 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.

**12 SHELLBANK PARADE, CREMORNE
DEVELOPMENT APPLICATION NO. 74/22**

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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)

Obtain Driveway Crossing Permit under S.138 Roads Act 1993

C12. Prior to the issue of the Construction Certificate, North Sydney Council must issue the applicant with a driveway crossing and road infrastructure works permit to suit the approved off-street parking facilities. To obtain the permit, an application must be made to Council on a 'Vehicular Access Application' form with payment of the adopted assessment/inspection fees. Council will require civil design construction drawings and certification from the applicant's Civil Engineer to verify design details and enable permit issue. The responsibility for accuracy of the design fully rests with the designing engineer. All responsibility on implementation and supervision of works specified on design plans fully rests on designing engineer or whoever is chosen to be applicant's engineering representative. The civil design drawings shall detail the following infrastructure construction requirements of Council in relation to the consent:

- a) The proposed vehicular access ways must comply with AS 2890.1 and Council's current Vehicular Access Application Guidelines and Specification (gutter bridges not permitted) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or parking floor.
- b) The width of the extended vehicular layback must be 6.5m (including the wings).
- c) The boundary footpath levels, gutter levels and road shoulder levels on Shellbank Parade. must stay unchanged.
- d) The kerb gutter, and 600 mm road shoulder wide- strip, adjacent to all new layback and gutter works, on Shellbank Pde. must be reconstructed, to ensure uniformity in the road reserve.
- e) The design detail has to be provided with vehicular access application and must include sections along centre-line and extremities of the crossing at a scale of 1:25. Sections are to be taken from the centre of the roadway through to the parking area itself and shall include all changes of grade and levels, both existing and proposed.

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- f) A longitudinal section along the footpath property boundary at a scale of 1:50 is required and shall include all changes of grade and levels, both existing and proposed.
- g) The sections must show the calculated clearance to the underside of any overhead structure.

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

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

Stormwater Disposal

- C13. Stormwater runoff generated by the approved development must be conveyed by gravity to the existing site stormwater drainage disposal system. A licensed tradesman shall install plumbing components to achieve this requirement in accordance with the BCA and current plumbing standards and guidelines. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure appropriate provision for disposal and stormwater management arising from the development)

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

- C14. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$4,000.00 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.

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

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

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

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

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

Tree Bond for Public Trees

- C15. Prior to the issue of any construction certificate, security in the sum of \$50,000.00 must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

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

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

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

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

SCHEDULE

- A collective tree bond of \$50,000 for the trees and vegetation within the adjacent Shellbank Reserve, including but not limited to 1 x large centrally located *Angophora costata*, and 5 s *Syzigium sp.* (6m)

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

Protection of Trees

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

- Existing screen of *Dracena sp.* inside north-eastern perimeter fencing shall be retained and protected in accordance with AS4970. The section of this screening required to be removed for construction of new garage shall be transplanted into area 8 shown on Landscape Plan (to the west of new garage) .
- 2 x existing *Plumeria sp.* within the front setback area 6 shown on landscape plan (drawing numbered 1020 Rev J, dated 9 November 2022, prepared by Potter & Wilson) shall be retained and protected in accordance with AS4970.
- 1 x *Magnolia grandiflora* (10x8m) located on the southern boundary of the subject site (rear setback) shall be retained and protected in accordance with AS4970.

Marked up pics of any pruning required shall be provided to Council's Landscape Development Officer for approval prior to any pruning being undertaken. Minor pruning only shall be permitted. No more than 5% total canopy shall be removed. All pruning shall be undertaken by a qualified arborist (AQ3) in accordance with AS4373. Scaffolding shall be erected in such a way as to minimise the need for any pruning, small frangible branches should be tied back where possible. The limb shown in Image 5 of the Arborist Report prepared by Treetalk Arboricultural Consulting dated March 2022 shall not be removed at the point depicted. Only smaller branches located further from the trunk shall be considered for pruning.

All recommendations contained within the Arborist Report prepared by Treetalk Arboricultural Consulting dated March 2022 shall be strictly adhered to, with the exception of the pruning as outlined under item (c) above.

All trees and vegetation located in the reserve adjacent to the northern boundary of the subject site shall be retained and protected in accordance with AS4970. No pruning shall be permitted. 1.8m high steel mesh tree protection fencing shall be installed across the eastern perimeter of the reserve. No access to site via the adjacent reserve shall be permitted.

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Sensitive construction techniques including hand excavation, pier and beam construction, and flexible location of piers/footings shall be used within the TPZ of any protected tree.

(Reason: To protect existing vegetation on the site)

Garbage and Recycling Facilities

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

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

Asbestos Material Survey

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

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

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

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

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

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Air Conditioners in Residential Premises

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

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

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

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

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

(Reason: To maintain residential amenity)

Pool Access

C20. Access to the pool must be restricted by a child resistant barrier in accordance with the regulations prescribed in the Swimming Pools Act 1992, and the barrier is to conform to the requirements of the applicable Australian Standard. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the safety of children and make applicant aware of the need to comply with applicable pool fencing legislation)

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Section 7.12 Contributions

- C21. A monetary contribution pursuant to the provisions of Section 7.12 of the Environmental Planning and Assessment Act 1979 is to be paid to Council, in accordance with the North Sydney Council's Contribution Plan. Based on the cost of development a total contribution of **\$5,500.00** is to be paid to Council to provide for additional local infrastructure improvements.

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

The above amount will be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution. A copy of the North Sydney Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at www.northsydney.nsw.gov.au

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

Security Deposit/Guarantee Schedule

- C22. All fees and security deposits/guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security Deposit/Guarantee	Amount (\$)
Street Tree Bond (on Council Property)	\$50,000.00
Engineering Construction Bond	\$4,000.00
TOTAL BONDS	\$54,000.00

Note: The following fees applicable

Fees	
Section 7.12 Contributions	\$5,500.00
TOTAL FEES	\$5,500.00

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)

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BASIX Certificate

C23. 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. A442348_03 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

C24. Submitted landscape plan (Drawing Numbered 1020 Rev J, dated 9 November 2022 and prepared by Potter and Wilson) must be amended as follows:

- (a) Existing screen of *Dracena* sp. inside NE perimeter fencing shall be retained and protected in accordance with AS4970. The section of this screening required to be removed for construction of new garage shall be transplanted into area 8 as shown on the submitted landscape Plan (to the West of new garage).
- (b) 2 x existing *Plumeria* sp. within the front setback area 6 shown on submitted landscape plan shall be retained and protected in accordance with AS4970.
- (c) 1 x *Magnolia grandiflora* (10x8m) located on the southern boundary of the subject site (rear setback) shall be retained and protected in accordance with AS4970. Minor pruning only shall be permitted. No more than 5% total canopy shall be removed. All pruning shall be undertaken by a qualified arborist (AQ3) in accordance with AS4373. Scaffolding shall be erected in such a way as to minimise the need for any pruning, small frangible branches should be tied back where possible. The limb shown in Image 5 of the Arborist Report prepared by Treetalk Arboricultural Consulting dated March 2022 shall not be removed at the point depicted. Only smaller branches located further from the trunk shall be considered for pruning.
- (d) All trees and vegetation located in the Shellbank Reserve adjacent to the north-eastern boundary of the subject site shall be retained and protected in accordance with AS4970.

The amended landscape plan must be submitted for the written approval of Council's Landscape Development Officer.

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

(Reason: To ensure the quality of landscaping within the subject site and surrounding properties.)

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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)

Public Liability Insurance - Works on Public Land

- D2. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy is to note and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

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

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

Commencement of Works' Notice

- D3. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two days' notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

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

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

- E1. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Developer will be held responsible for any breaches of this condition and will incur any fines associated with enforcement by Council regulatory officers.

(Reason: To ensure that existing kerbside parking provisions are not compromised during works)

Road Reserve Safety

- E2. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site.

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

(Reason: Public Safety)

Service Adjustments

- E3. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the person acting on the consent and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of the development (including water, phone, gas and the like). Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.

(Reason: To ensure the service requirements are met)

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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)

Council Inspection of Public Infrastructure Works

- E5. During the works on public infrastructure reverting to Council's care and control, Council's development engineer may undertake inspections of the works at the following hold points:

- a) Vehicular access; and
- b) Associated road civil works

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

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

Removal of Extra Fabric

- 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.

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

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

Noise and Vibration

- 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)

No Work on Public Open Space

- E9. No work can be undertaken within adjoining public lands (i.e., Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the developer is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

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

Developer's Cost of Work on Council Property

- E10. The developer must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

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

No Removal of Trees on Public Property

- E11. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

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

Special Permits

- 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)

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4) Kerbside restrictions, construction zones

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

(Reason: Proper management of public land)

Construction Hours

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
C4 (Environmental Living)	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)

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Site Amenities and Facilities

- E15. Where work involved in the erection and demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements, must be provided and maintained at all times. The type of workplace determines the type of amenities required.

Further information and details can be obtained from the Internet at www.workcover.nsw.gov.au.

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

Health and Safety

- E16. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site and provide a contact telephone number for enquiries.

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

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

Prohibition on Use of Pavements

- E17. 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

- E18. 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)

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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:

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

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

(Reason: Prescribed - Statutory)

Appointment of a Principal Certifying Authority (PCA)

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

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

Construction Certificate

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

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

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)

**12 SHELLBANK PARADE, CREMORNE
DEVELOPMENT APPLICATION NO. 74/22**

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Critical Stage Inspections

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

(Reason: Statutory)

Excavation/Demolition

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

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

Protection of Public Places

- F8. 1) A hoarding and site fencing must be erected between the work site and adjoining public place.
- 2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- 3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 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)

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

Infrastructure Repair and Completion of Works

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

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

(Reason: Maintain quality of public assets)

Certification - Civil Works

- G2. An appropriately qualified and practicing Civil Engineer must certify to the Certifying Authority that the vehicular crossing and associated works and road works were constructed in accordance with this consent and any approval for works in the road reserve issued by the Council. A copy of the certificate must be submitted to Council (if it is not the Certifying Authority), upon completion of the development works and prior to the issue of an Occupation Certificate.

(Reason: Compliance with the Consent)

Pool Access

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

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

Pool Safety Requirements

- G4. A notice must be displayed in a prominent position in the immediate vicinity of the pool at all times showing:
- a) Appropriate instructions of artificial resuscitation methods.
 - b) A warning stating:
 - (i) "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL", and

**12 SHELLBANK PARADE, CREMORNE
DEVELOPMENT APPLICATION NO. 74/22**

Page 25 of 27

- (ii) "POOL GATES MUST BE KEPT CLOSED AT ALL TIMES", and
- (iii) "KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900 MILLIMETRES CLEAR OF THE POOL FENCE AT ALL TIMES",

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

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

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

Damage to Adjoining Properties

- G5. 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

- G6. 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

- G7. 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)

**12 SHELLBANK PARADE, CREMORNE
DEVELOPMENT APPLICATION NO. 74/22**

Page 26 of 27

Disposal Information

G8. Upon completion of works and prior to occupation, a report including the following information must be provided to Council's Open Space and Environmental Services Department:

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

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

BASIX Completion Certificate

G9. 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)

Compliance with Certain Conditions

G10. Prior to the issue of any Occupation Certificate Conditions C1, C2 and C23 must be certified as having been implemented on site and complied with.

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

I. Ongoing/Operational Conditions

Single Occupancy

I1. Nothing in this consent authorises the use of the premises other than for a single occupancy.

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

Maintenance of Approved Landscaping

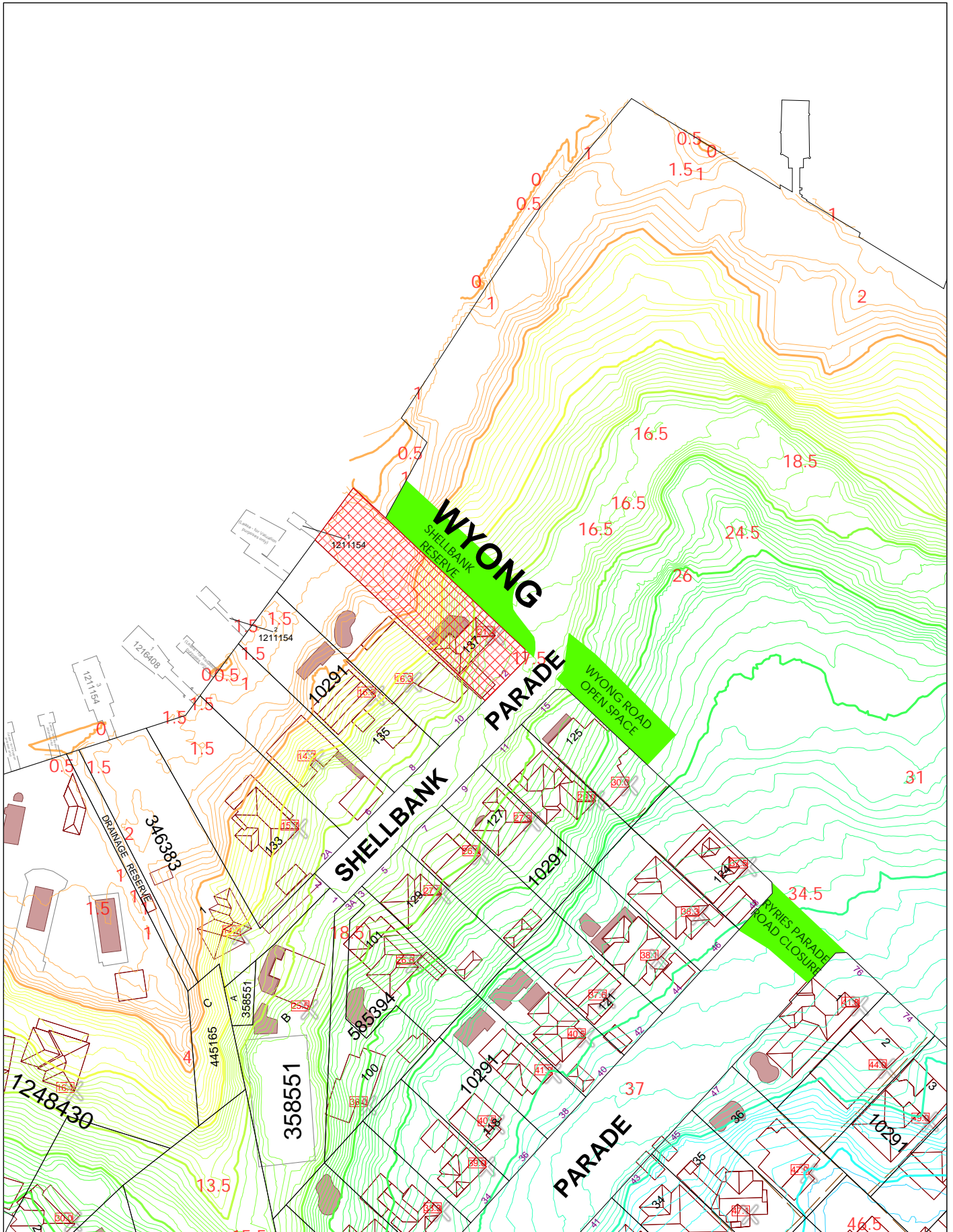
I2. The owner(s) of the premises at No. 12 Shellbank Parade is to maintain the landscaping as shown on the landscaped plans as modified by Condition C23 in this consent.

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.

**12 SHELLBANK PARADE, CREMORNE
DEVELOPMENT APPLICATION NO. 74/22**Page 27 of 27

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 nondeciduous or the reverse of any these) a modification to this consent will be required.

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



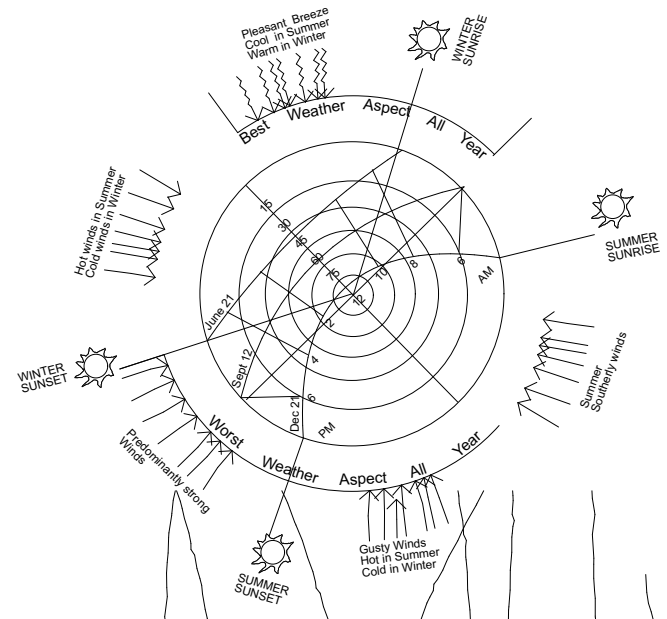
North Sydney Council

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

SITE CALCULATIONS

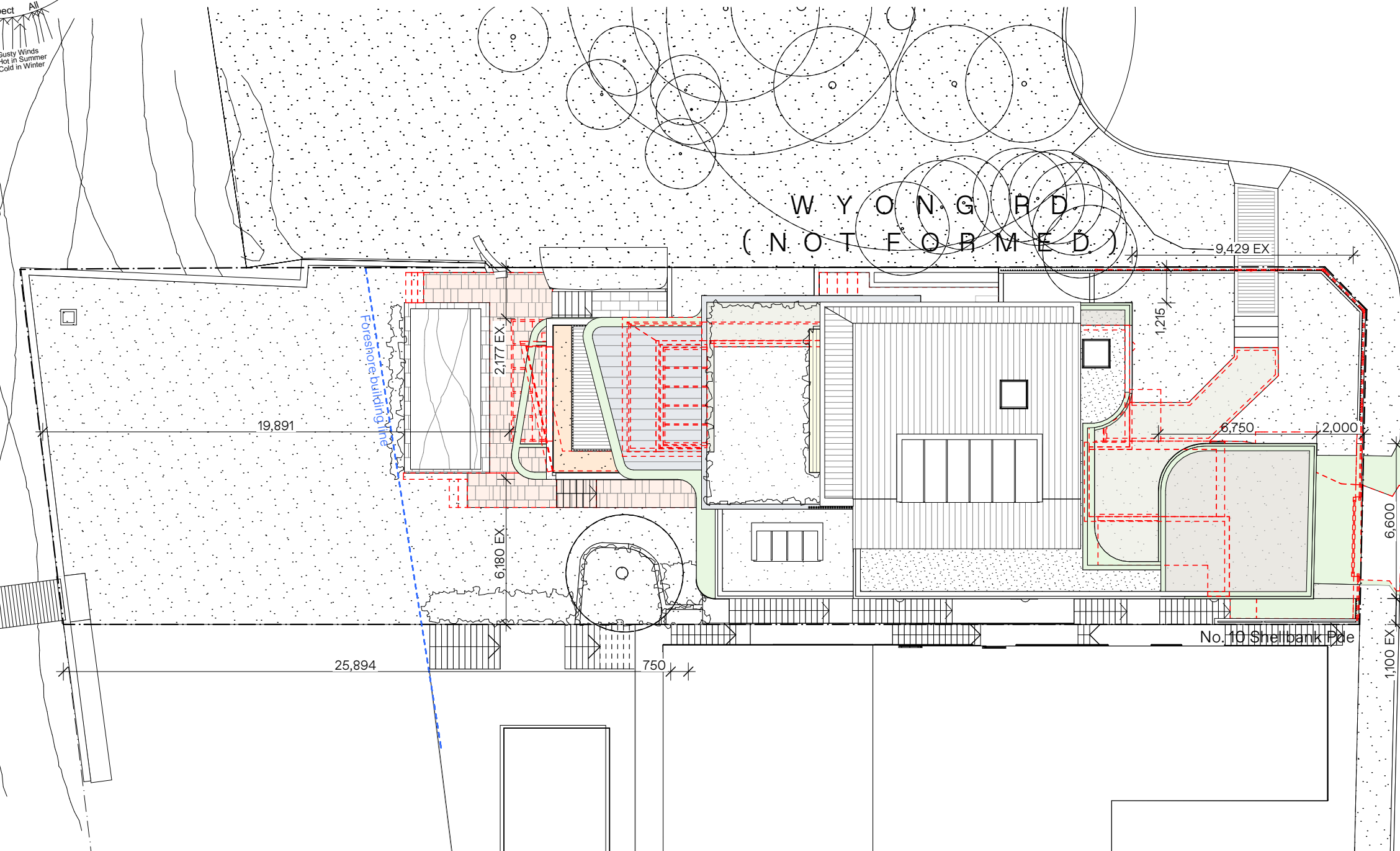
	LEP Control	Existing	Proposal
Site Area	855.5m ²	855.5m ²	855.5m ²
Landscaped Area	45% min. (385.0m ²)	41% (347.2m ²)	45% (385.6m ²)
Height of Buildings	8.5m max.	8.10m	8.10m
Site Coverage	35% max. (299.4m ²)	41% (355.0m ²)	41% (353.8m ²)
Private Open Space	50m ² min.	234m ²	234m ²
Unbuilt Upon Area	20% (171.1m ²)	18% (153.3m ²)	14% (116.1m ²)



LONG BAY

WYONG RD
(NOT FORMED)

SHELLBANK PARADE



Key

Retain		New Construction		Glass	
Demolish		Masonry/Paving		Metal	
		Concrete		Landscape/Earthwork	
		Fibre Cement/Timber			

Abbreviations

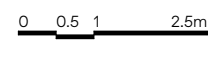
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ADJ	Adjustable	FB	Face Brick	PB	Plasterboard	TM	Timber	C	Updated for planning	10/11/2021	
BDY	Site Boundary	FC	Fibre Cement	PV	Paving	TMD	Timber Deck	D	Updated for planning	19/11/2021	
BWK	Brickwork	FG	Fixed Glazing	RM	Rendered Masonry	TMF	Timber Floor	E	Development Application	03/12/2021	
CON	Concrete	FW	Floor Waste	RT	Roof Tile	WB	Weatherboard	F	DA Amendments	10/02/2022	
COS	Confirm on Site	GDR	Grated Drain	SK	Skylight	WPB	Water Resistant PB	G	DA Area Amendments	26/04/2022	
CPT	Carpet	GLV	Glass Louvre	SS	Stainless Steel	WT	Water Tank	H	DA Balcony Amendments	21/06/2022	
DP	Downpipe	HWU	Hot Water Unit	ST	Stone	ZNC	Zinc	J	DA Amendments	09/11/2022	
EQ	Equal	JU	Joinery Unit	REM.	Remainder						

Project
12 Shellbank Parade, Cremorne
Lot 137 DP10291

Client
Chris Neville

Drawing Title
Site Plan

Scale 1:100
@A3



Proj No 135
Dwg No 001
Date 9/11/2022

Rev J

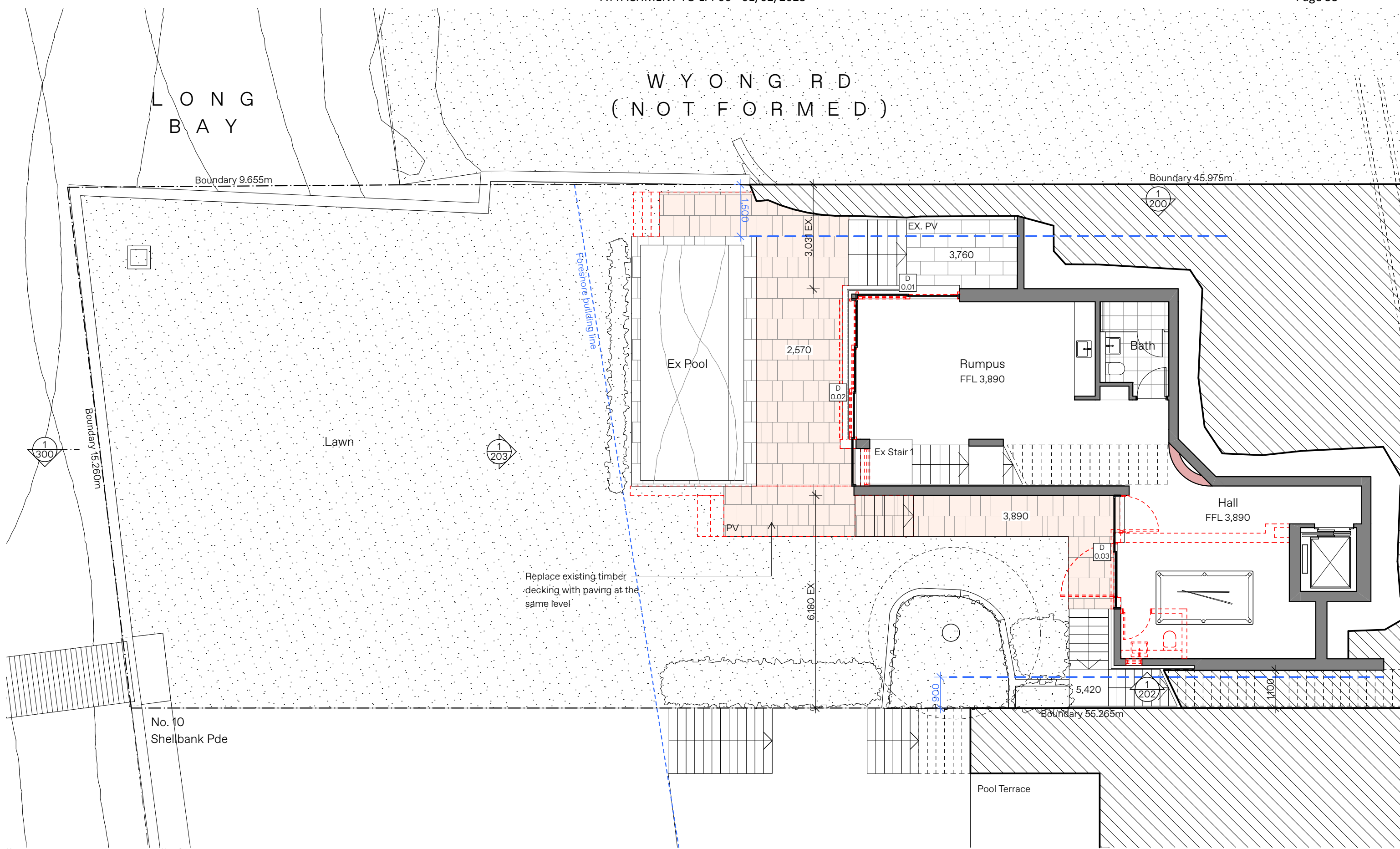
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LONG BAY

WYONG RD
(NOT FORMED)



Key		New Construction		Glass	
Retain		Masonry/Paving		Metal	
Demolish		Concrete		Landscape/Earthwork	
		Fibre Cement/Timber			

Abbreviations	Rev	Description	Date	North / Keyplan
AC Air Conditioning	C	Updated for planning	10/11/2021	
ADJ Adjustable	D	Updated for planning	19/11/2021	
BDY Site Boundary	E	Development Application	03/12/2021	
BWK Brickwork	F	DA Amendments	10/02/2022	
CON Concrete	G	DA Area Amendments	26/04/2022	
COS Confirm on Site	H	DA Balcony Amendments	21/06/2022	
CPT Carpet	J	DA Amendments	09/11/2022	
DP Downpipe				
EQ Equal				
EX Existing				
FB Face Brick				
FC Fibre Cement				
FG Fixed Glazing				
FW Floor Waste				
GDR Grated Drain				
GLV Glass Louvre				
HWU Hot Water Unit				
JU Joinery Unit				
MDR Metal Deck Roof				
PB Plasterboard				
PV Paving				
RM Rendered Masonry				
RT Roof Tile				
SK Skylight				
SS Stainless Steel				
ST Stone				
REM. Remainder				
TIL Tile				
TM Timber				
TMD Timber Deck				
TMF Timber Floor				
WB Weatherboard				
WPB Water Resistant PB				
WT Water Tank				
ZNC Zinc				

Project
12 Shellbank Parade, Cremorne
Lot 137 DP10291

Client
Chris Neville

Drawing Title
Ground Floor Plan

Scale 1:100
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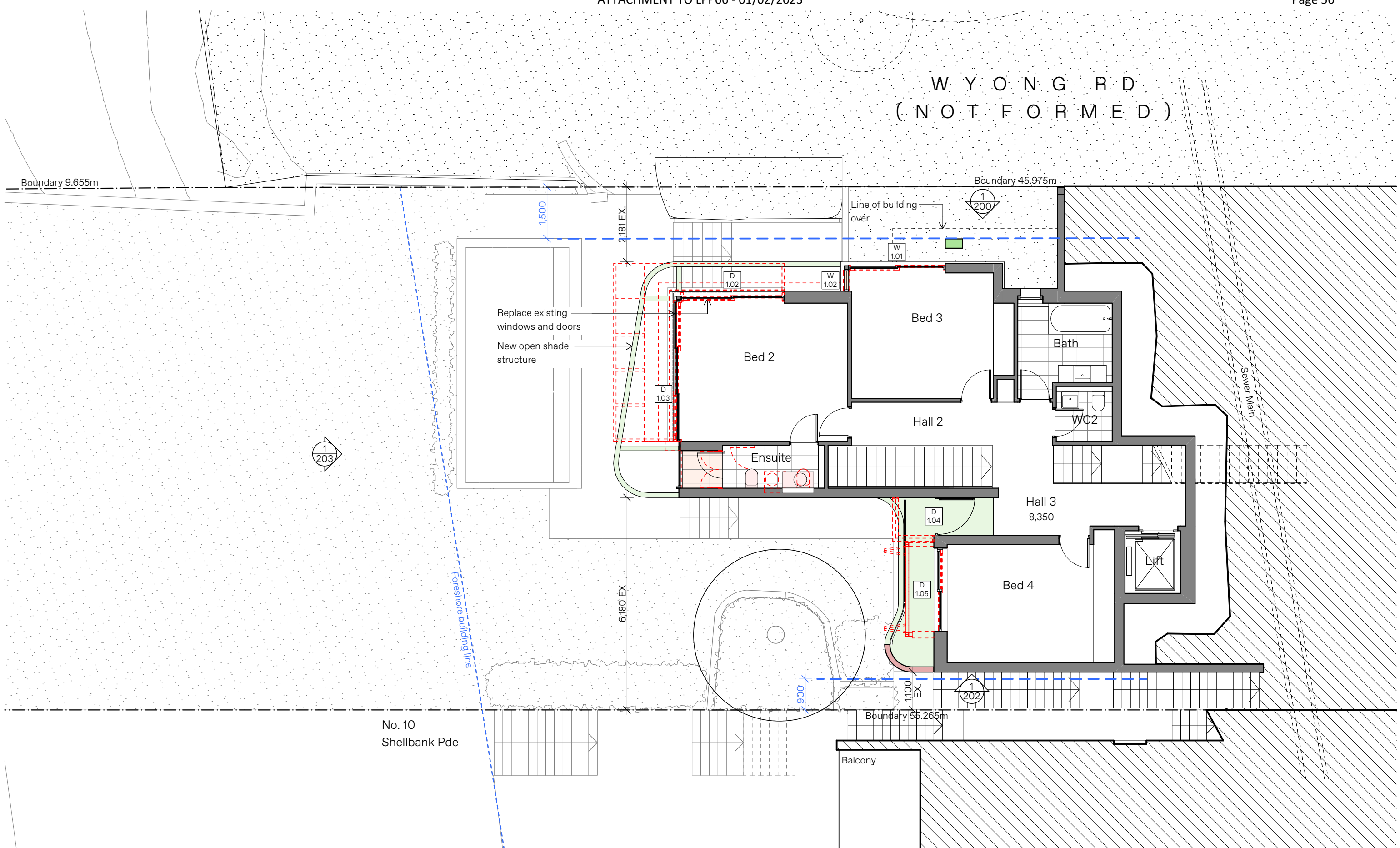
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Date 9/11/2022
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W Y O N G R D
(N O T F O R M E D)



Key		New Construction		Glass	
Retain		Masonry/Paving		Metal	
Demolish		Concrete		Landscape/Earthwork	
		Fibre Cement/Timber			

Abbreviations	EX	MDR	TIL	Rev	Description	Date	North / Keyplan
AC	Existing	Metal Deck Roof	Tile	C	Updated for planning	10/11/2021	
ADJ	Adjustable	Plasterboard	Timber	D	Updated for planning	19/11/2021	
BDY	Site Boundary	Paving	Timber Deck	E	Development Application	03/12/2021	
BWK	Brickwork	Rendered Masonry	Timber Floor	F	DA Amendments	10/02/2022	
CON	Concrete	Roof Tile	Weatherboard	G	DA Area Amendments	26/04/2022	
COS	Confirm on Site	Skylight	Water Resistant PB	H	DA Balcony Amendments	21/06/2022	
CPT	Carpet	Stainless Steel	Water Tank	J	DA Amendments	09/11/2022	
DP	Downpipe	Stone	Zinc				
EQ	Equal	Remainder					

Project
12 Shellbank Parade, Cremorne
Lot 137 DP10291

Client
Chris Neville

Drawing Title
First Floor Plan

Scale 1:100
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Proj No 135
Dwg No 101
Date 9/11/2022

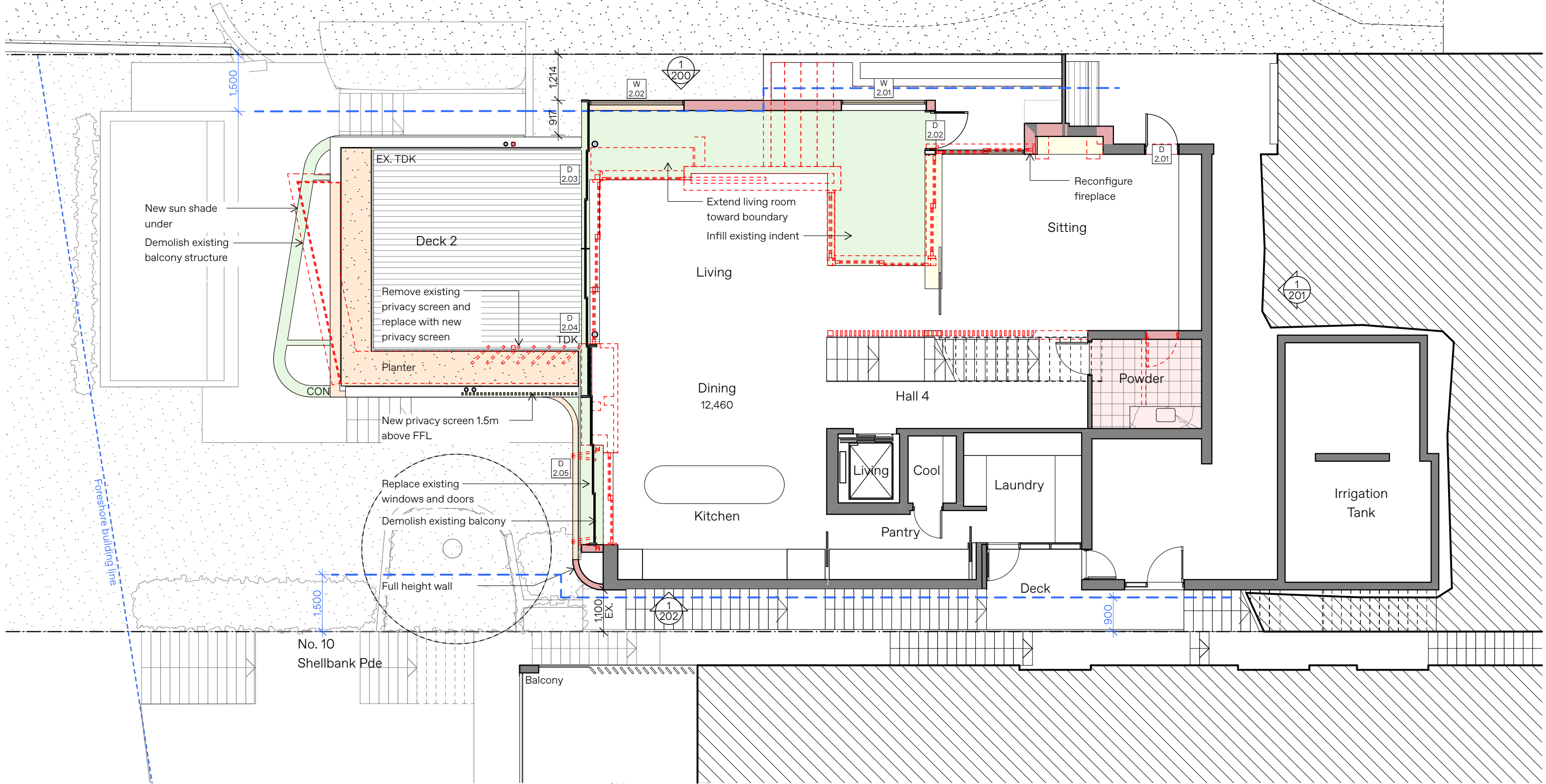
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W Y O N G R D
(N O T F O R M E D)



Key		New Construction			Glass	
Retain		Masonry/Paving		Concrete	Metal	Landscape/Earthwork
Demolish		Concrete		Fibre Cement/Timber		

Abbreviations	EX Existing	MDR Metal Deck Roof	TIL Tile	Rev Description	Date	North / Keyplan
AC Air Conditioning	FB Face Brick	PB Plasterboard	TM Timber	C Updated for planning	10/11/2021	
ADJ Adjustable	FC Fibre Cement	PV Paving	TMD Timber Deck	D Updated for planning	19/11/2021	
BDY Site Boundary	FG Fixed Glazing	RM Rendered Masonry	TMF Timber Floor	E Development Application	03/12/2021	
BWK Brickwork	FW Floor Waste	RT Roof Tile	WB Weatherboard	F DA Amendments	10/02/2022	
CON Concrete	GDR Grated Drain	SK Skylight	WPB Water Resistant PB	G DA Area Amendments	26/04/2022	
COS Confirm on Site	GLV Glass Louvre	SS Stainless Steel	WT Water Tank	H DA Balcony Amendments	21/06/2022	
CPT Carpet	HWU Hot Water Unit	ST Stone	ZNC Zinc	J DA Amendments	09/11/2022	
DP Downpipe	JU Joinery Unit	REM. Remainder				
EQ Equal						

Project
12 Shellbank Parade, Cremorne
Lot 137 DP10291

Client
Chris Neville

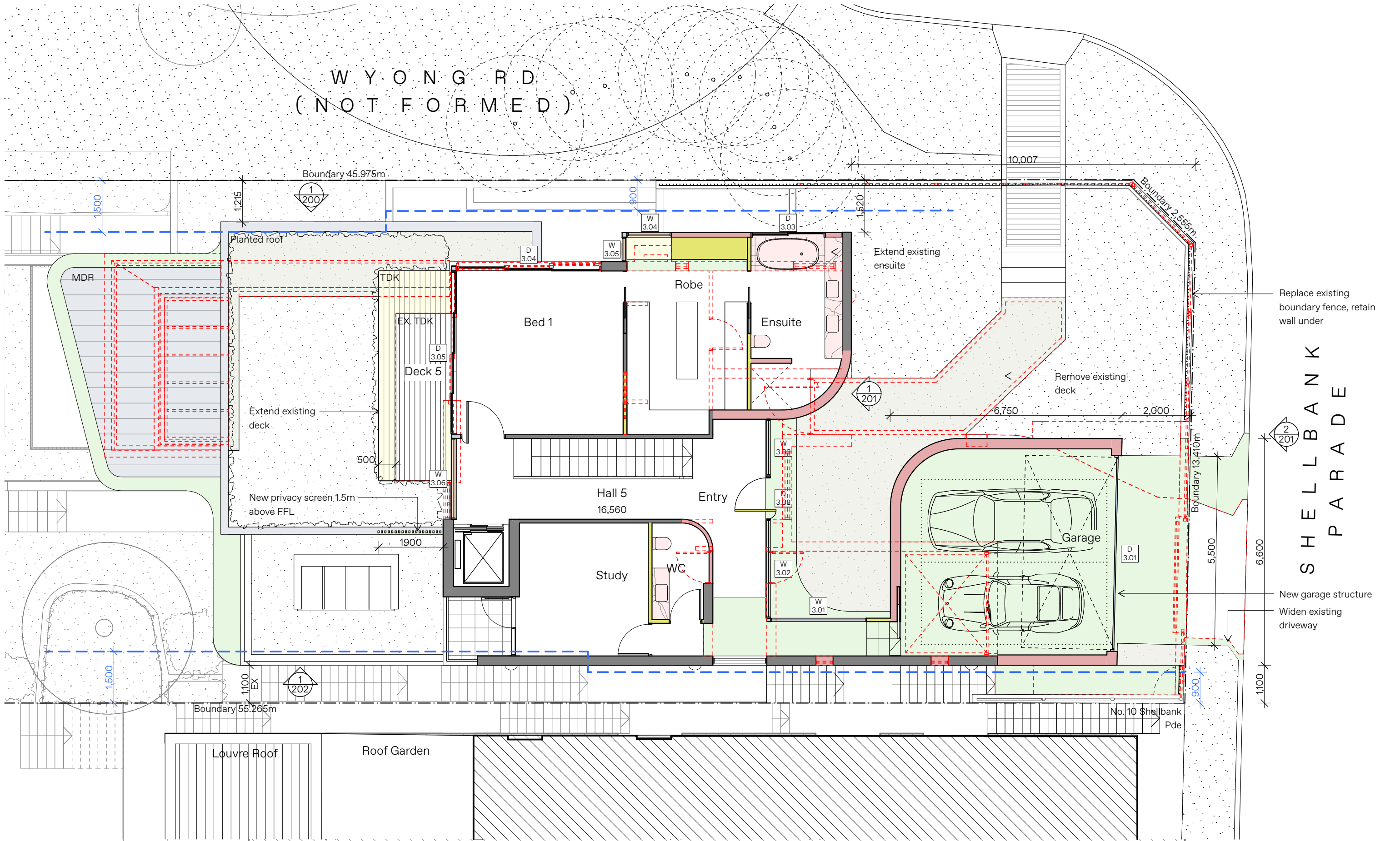
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Proj No 135 Dwg No 102 Date 9/11/2022 Rev J

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Key		New Construction		Glass	
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Demolish		Concrete		Landscape/Earthwork	
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COS Confirm on Site	H	DA Balcony Amendments	21/06/2022	
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GLV Glass Louvre				
HWU Hot Water Unit				
JU Joinery Unit				
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REM. Remainder				
TIL Tile				
TM Timber				
TMD Timber Deck				
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Project: 12 Shellbank Parade, Cremorne
 Lot 137 DP10291

Client: Chris Neville

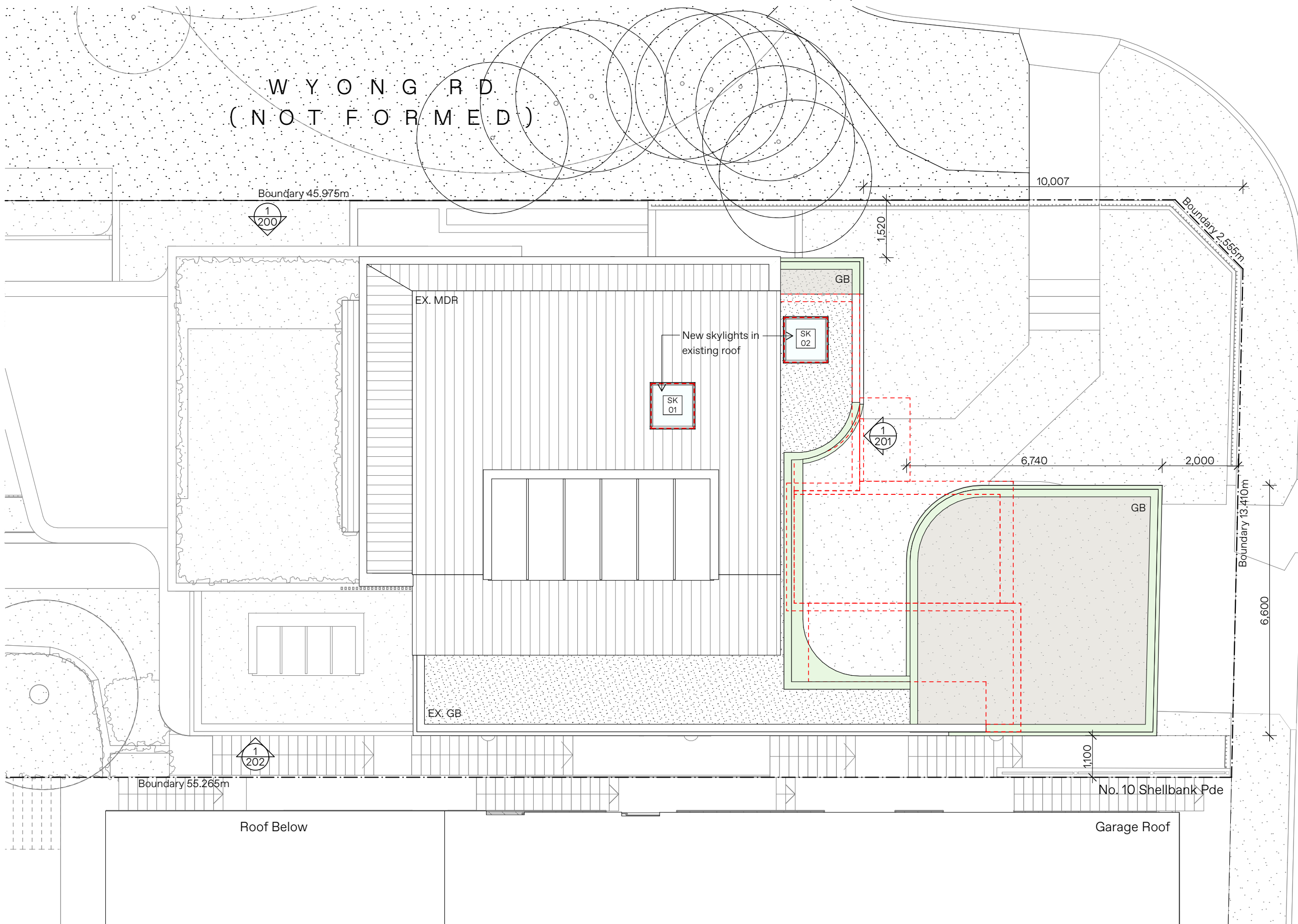
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Proj No: 135 | Dwg No: 103 | Date: 9/11/2022 | Rev: J

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SHELLBANK
PARADE

Key	
Retain	
Demolish	

New Construction	
Masonry/Paving	
Concrete	
Fibre Cement/Timber	

Glass	
Metal	
Landscape/Earthwork	

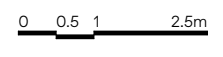
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BDY	Site Boundary	03/12/2021	
BWK	Brickwork	10/02/2022	
CON	Concrete	26/04/2022	
COS	Confirm on Site	21/06/2022	
CPT	Carpet	09/11/2022	
DP	Downpipe		
EQ	Equal		
EX	Existing		
FB	Face Brick		
FC	Fibre Cement		
FG	Fixed Glazing		
FW	Floor Waste		
GDR	Grated Drain		
GLV	Glass Louvre		
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PB	Plasterboard		
PV	Paving		
RM	Rendered Masonry		
RT	Roof Tile		
SS	Stainless Steel		
ST	Stone		
REM.	Remainder		
TIL	Tile		
TM	Timber		
TMD	Timber Deck		
TMF	Timber Floor		
WB	Weatherboard		
WPB	Water Resistant PB		
WT	Water Tank		
ZNC	Zinc		
C	Updated for planning		
D	Updated for planning		
E	Development Application		
F	DA Amendments		
G	DA Area Amendments		
H	DA Balcony Amendments		
J	DA Amendments		

Project
12 Shellbank Parade, Cremorne
Lot 137 DP10291

Client
Chris Neville

Drawing Title
Roof Plan

Scale 1:100
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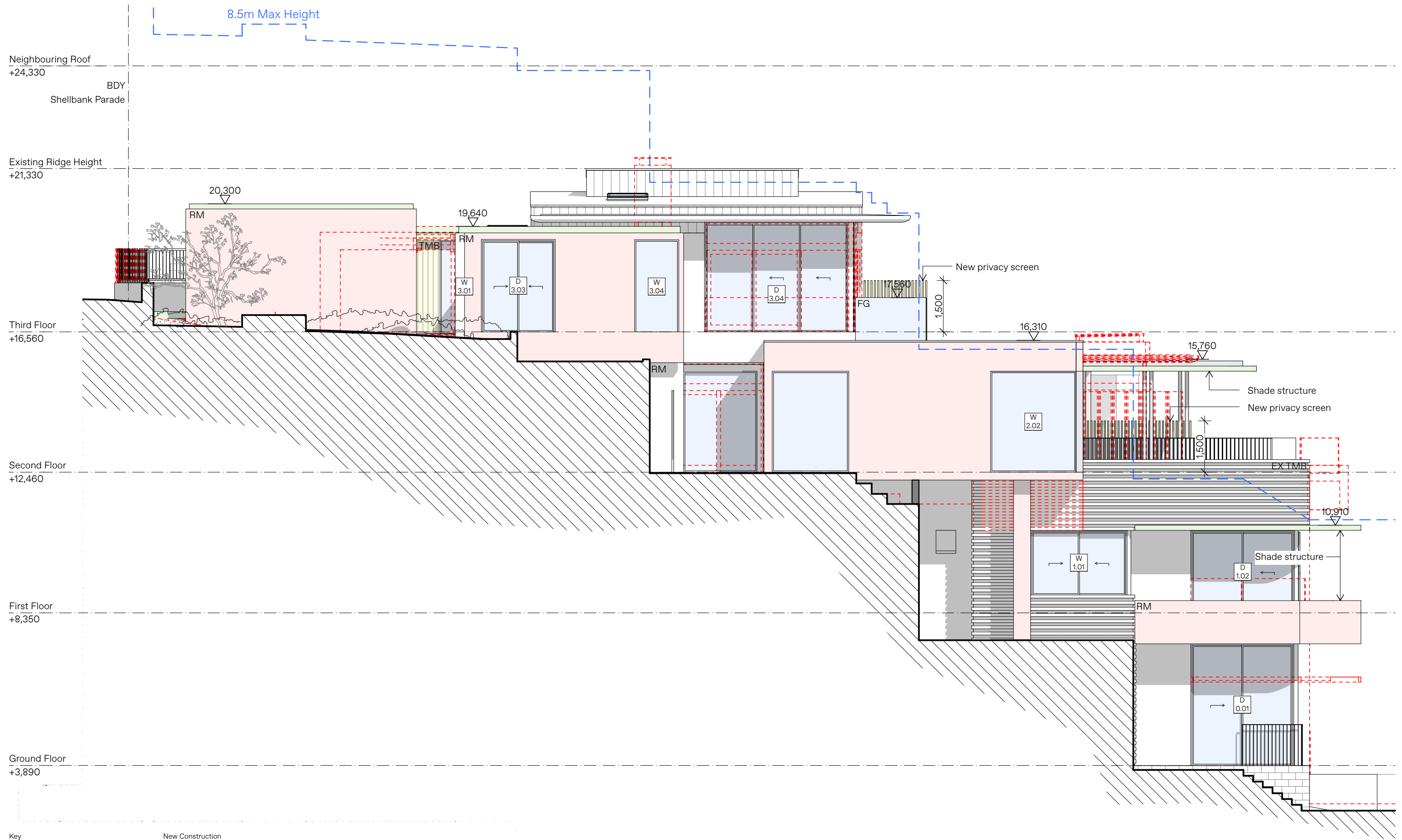


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Key		New Construction		Glass	
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Demolish		Concrete		Landscaped/Earthwork	
		Fibre Cement/Timber			

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JU Joinery Unit				
MDR Metal Deck Roof				
PB Plasterboard				
PV Paving				
RM Rendered Masonry				
RT Roof Tile				
SK Skylight				
SS Stainless Steel				
ST Stone				
REM. Remainder				
TIL Tile				
TM Timber				
TMD Timber Deck				
TMF Timber Floor				
WB Weatherboard				
WPB Water Resistant PB				
WT Water Tank				
ZNC Zinc				

Project
12 Shellbank Parade, Cremorne
Lot 137 DP10291

Client
Chris Neville

Drawing Title
North Elevation

Scale 1:100
@A3

Proj No 135
Dwg No 200
Date 9/11/2022

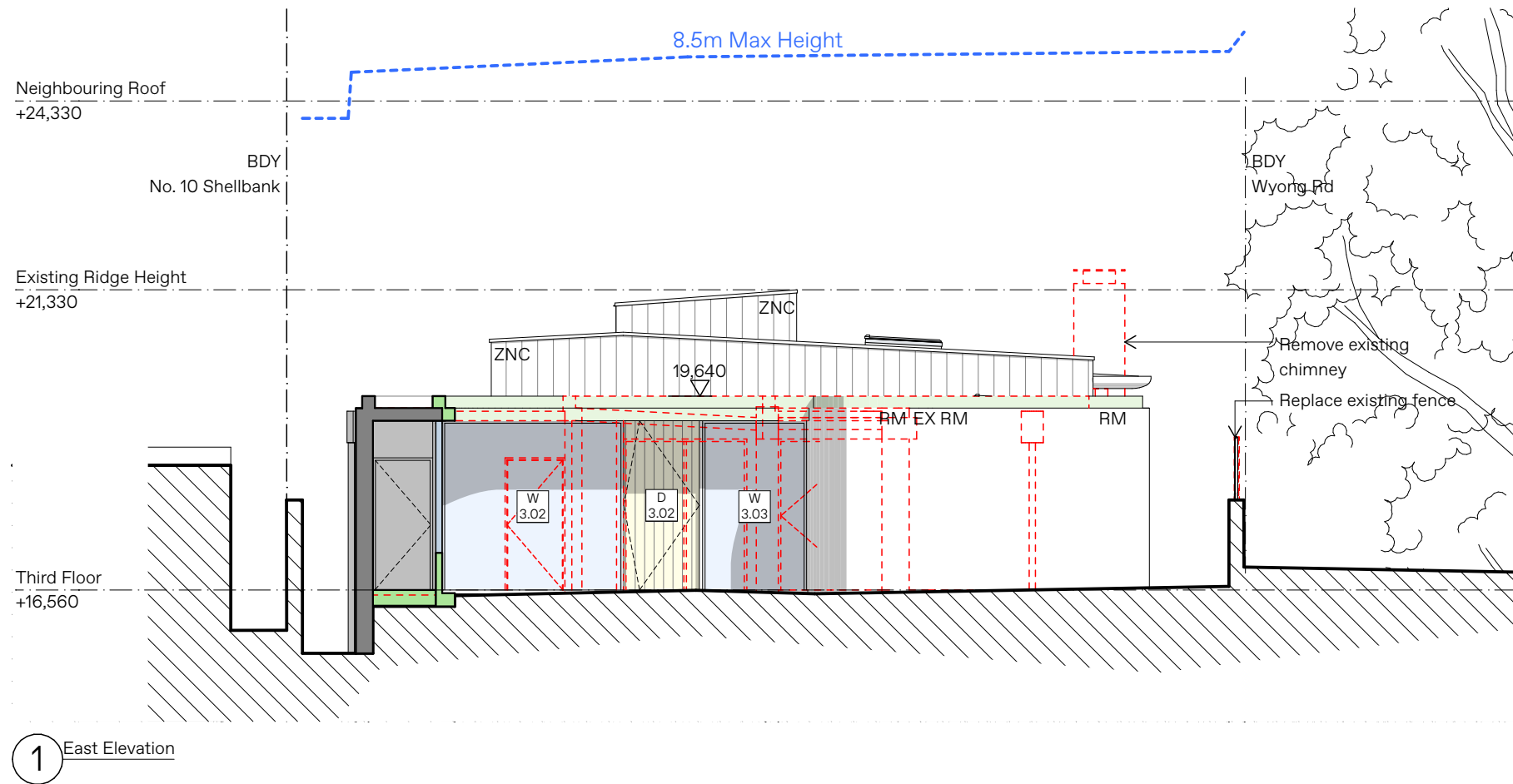
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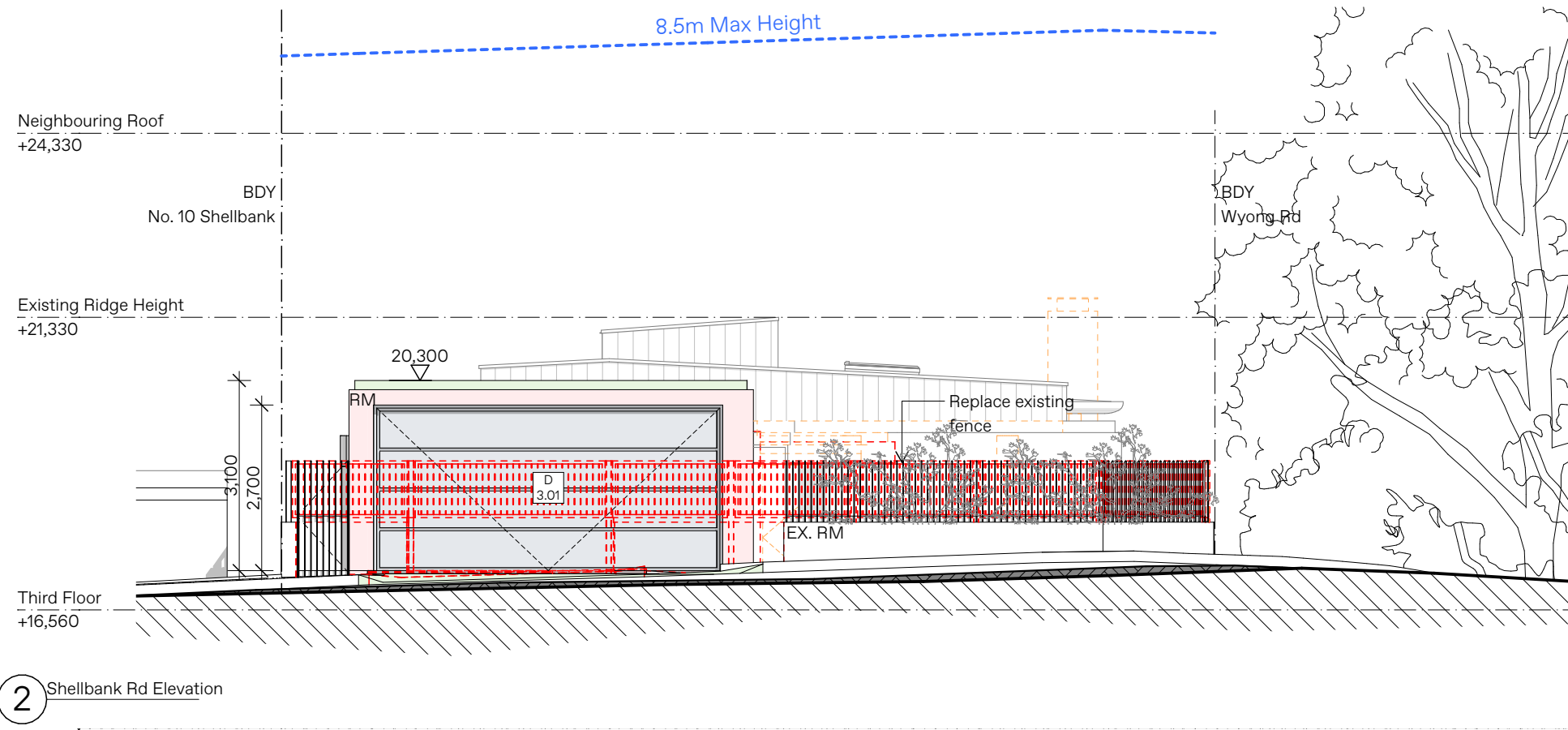
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1 East Elevation



2 Shellbank Rd Elevation

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TIL Tile				
TM Timber				
TMD Timber Deck				
TMF Timber Floor				
WB Weatherboard				
WPB Water Resistant PB				
WT Water Tank				
ZNC Zinc				

Project
12 Shellbank Parade, Cremorne
Lot 137 DP10291

Client
Chris Neville

Drawing Title
East and Shellbank Parade Elevations

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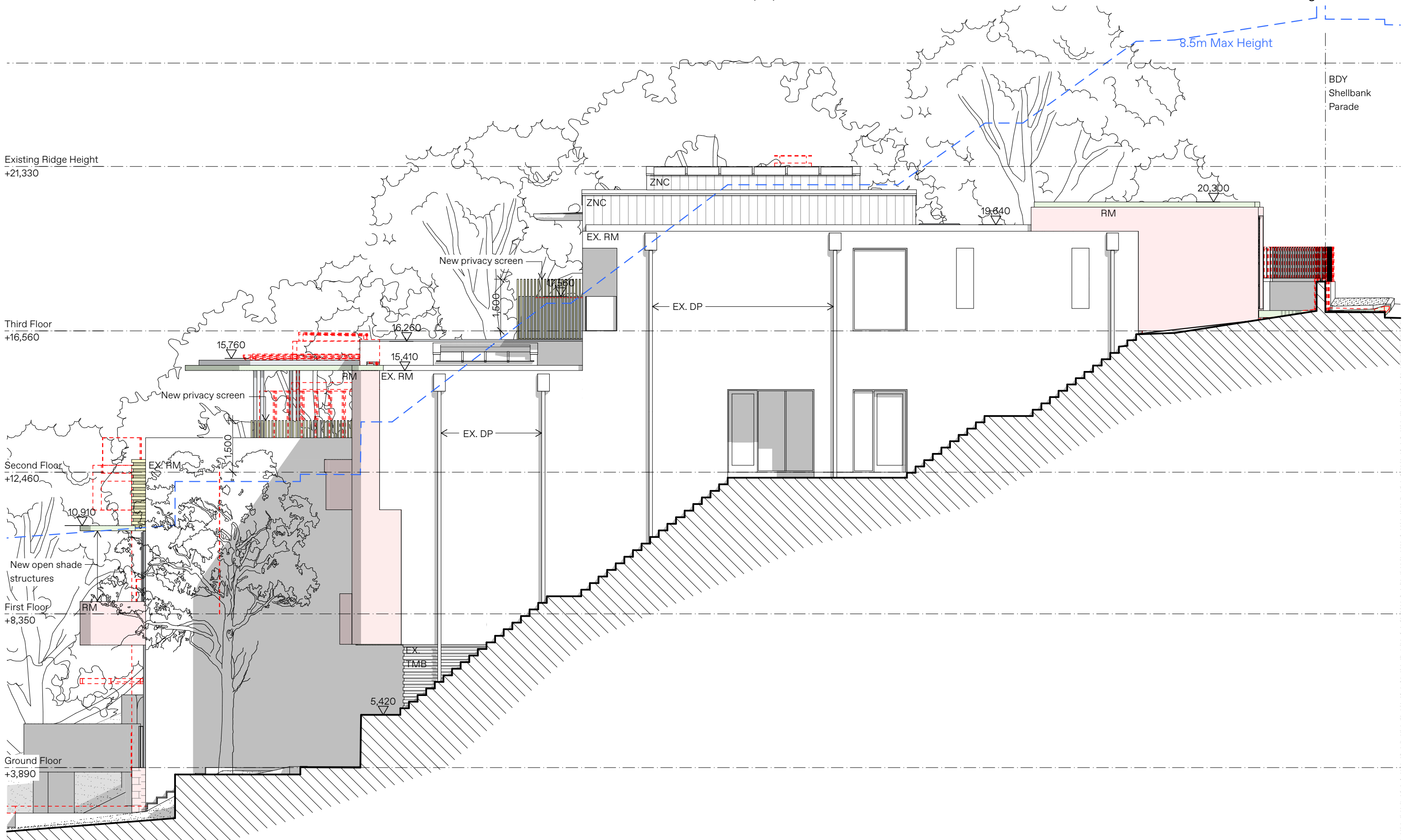
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Proj No 135
Dwg No 201
Date 9/11/2022
Rev J





Key

Retain		New Construction		Glass	
Demolish		Masonry/Paving		Metal	
		Concrete		Landscape/Earthwork	
		Fibre Cement/Timber			

Abbreviations

AC	Air Conditioning	EX	Existing	MDR	Metal Deck Roof	TIL	Tile	Rev	Description	Date	North / Keyplan
ADJ	Adjustable	FB	Face Brick	PB	Plasterboard	TM	Timber	C	Updated for planning	10/11/2021	
BDY	Site Boundary	FC	Fibre Cement	PV	Paving	TMD	Timber Deck	D	Updated for planning	19/11/2021	
BWK	Brickwork	FG	Fixed Glazing	RM	Rendered Masonry	TMF	Timber Floor	E	Development Application	03/12/2021	
CON	Concrete	FW	Floor Waste	RT	Roof Tile	WB	Weatherboard	F	DA Amendments	10/02/2022	
COS	Confirm on Site	GDR	Grated Drain	SK	Skylight	WPB	Water Resistant PB	G	DA Area Amendments	26/04/2022	
CPT	Carpet	GLV	Glass Louvre	SS	Stainless Steel	WT	Water Tank	H	DA Balcony Amendments	21/06/2022	
DP	Downpipe	HWU	Hot Water Unit	ST	Stone	ZNC	Zinc	J	DA Amendments	09/11/2022	
EQ	Equal	JU	Joinery Unit	REM.	Remainder						

Project
12 Shellbank Parade, Cremorne
Lot 137 DP10291

Client
Chris Neville

Drawing Title
South Elevation

Scale 1:100 @A3

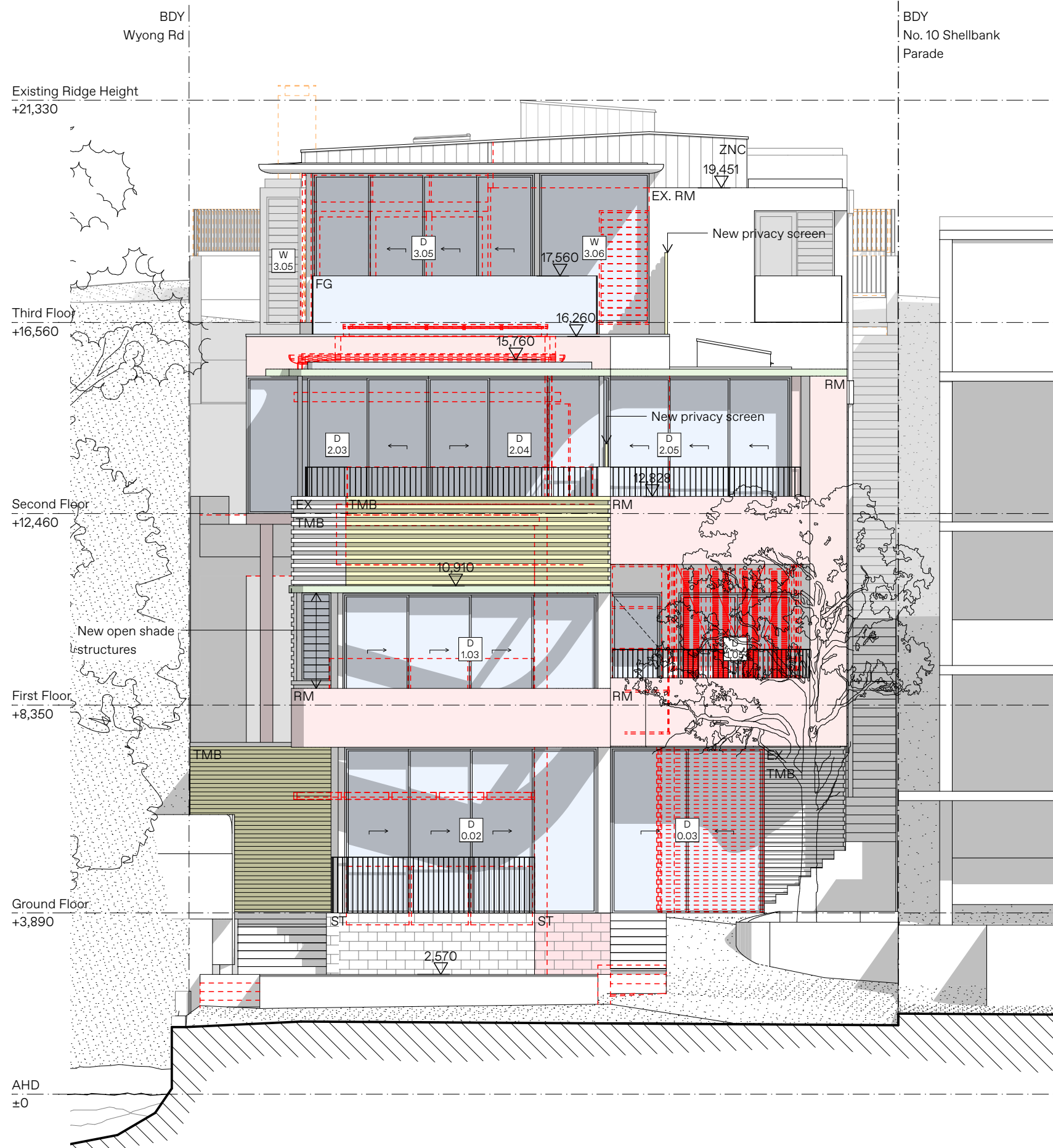
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Date 9/11/2022

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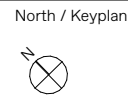
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Key		New Construction	
Retain		Masonry/Paving	
Demolish		Concrete	
		Fibre Cement/Timber	
		Glass	
		Metal	
		Landscape/Earthwork	

Abbreviations	Rev	Description	Date
AC Air Conditioning	C	Updated for planning	10/11/2021
ADJ Adjustable	D	Updated for planning	19/11/2021
BDY Site Boundary	E	Development Application	03/12/2021
BWK Brickwork	F	DA Amendments	10/02/2022
CON Concrete	G	DA Area Amendments	26/04/2022
COS Confirm on Site	H	DA Balcony Amendments	21/06/2022
CPT Carpet	J	DA Amendments	09/11/2022
DP Downpipe			
EQ Equal			
EX Existing			
FB Face Brick			
FC Fibre Cement			
FG Fixed Glazing			
FW Floor Waste			
GDR Grated Drain			
GLV Glass Louvre			
HWU Hot Water Unit			
JU Joinery Unit			
MDR Metal Deck Roof			
PB Plasterboard			
PV Paving			
RM Rendered Masonry			
RT Roof Tile			
SK Skylight			
SS Stainless Steel			
ST Stone			
REM. Remainder			
TIL Tile			
TM Timber			
TMD Timber Deck			
TMF Timber Floor			
WB Weatherboard			
WPB Water Resistant PB			
WT Water Tank			
ZNC Zinc			



Project
12 Shellbank Parade, Cremorne
Lot 137 DP10291

Client
Chris Neville

Drawing Title
West Elevation

Scale 1:100
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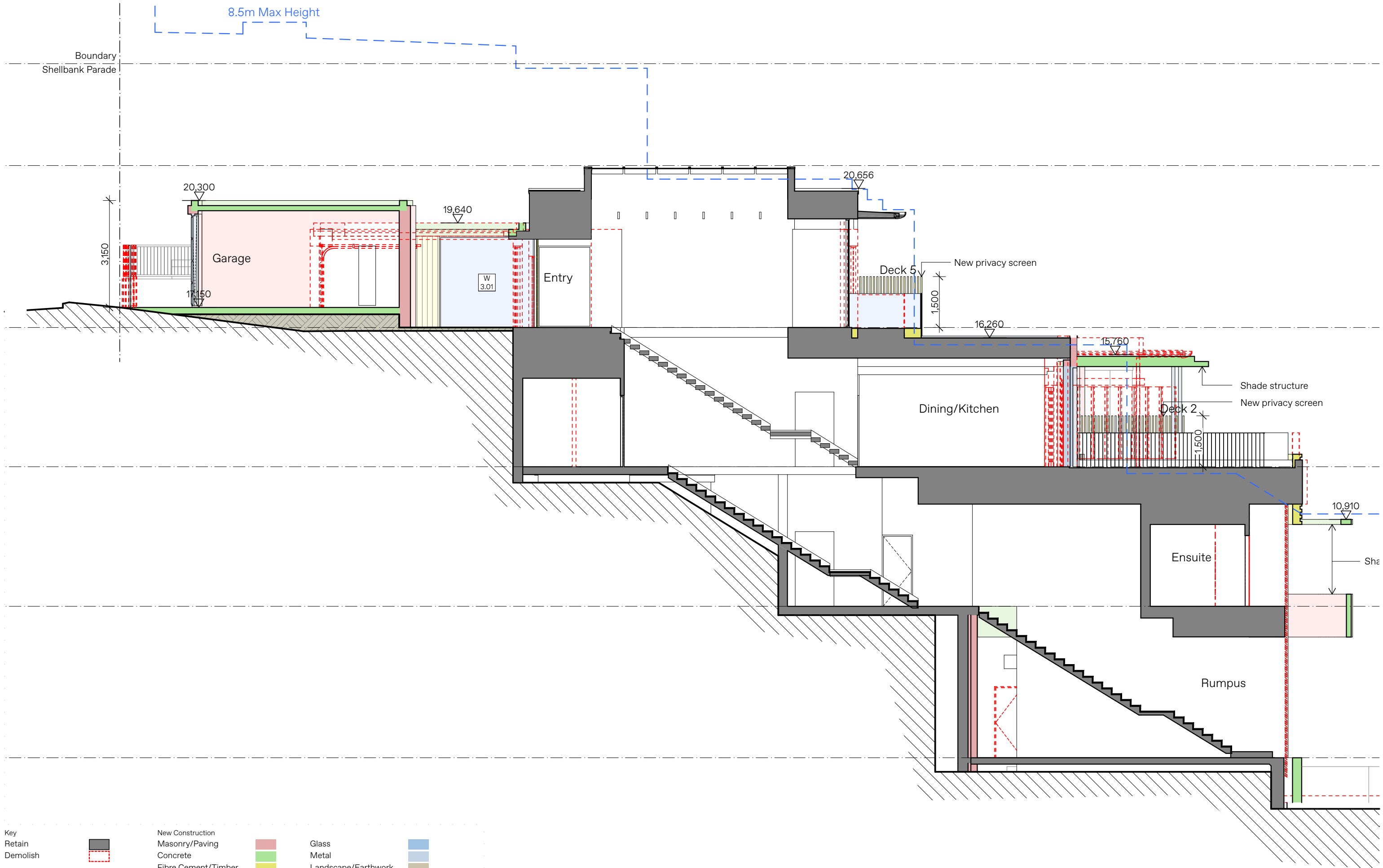
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Dwg No 203
Date 9/11/2022

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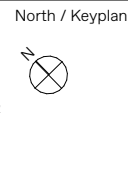
Rev J





Key		New Construction		Glass	
Retain		Masonry/Paving		Metal	
Demolish		Concrete		Landscape/Earthwork	
		Fibre Cement/Timber			

Abbreviations	Existing	Description	Date	North / Keyplan
AC	EX	Air Conditioning	10/11/2021	
ADJ	FB	Adjustable	19/11/2021	
BDY	FC	Site Boundary	03/12/2021	
BWK	FG	Brickwork	10/02/2022	
CON	FW	Concrete	26/04/2022	
COS	GDR	Confirm on Site	21/06/2022	
CPT	GLV	Carpet	09/11/2022	
DP	HWU	Downpipe		
EQ	JU	Equal		
	MDR	Metal Deck Roof		
	PB	Plasterboard		
	PV	Paving		
	RM	Rendered Masonry		
	RT	Roof Tile		
	WB	Weatherboard		
	WPB	Water Resistant PB		
	WT	Water Tank		
	ZNC	Zinc		
	TIL	Tile		
	TM	Timber		
	TMD	Timber Deck		
	TMF	Timber Floor		
	WB	Weatherboard		
	WPB	Water Resistant PB		
	WT	Water Tank		
	ZNC	Zinc		



Project
12 Shellbank Parade, Cremorne
Lot 137 DP10291

Client
Chris Neville

Drawing Title
Section 1 - Sheet 1

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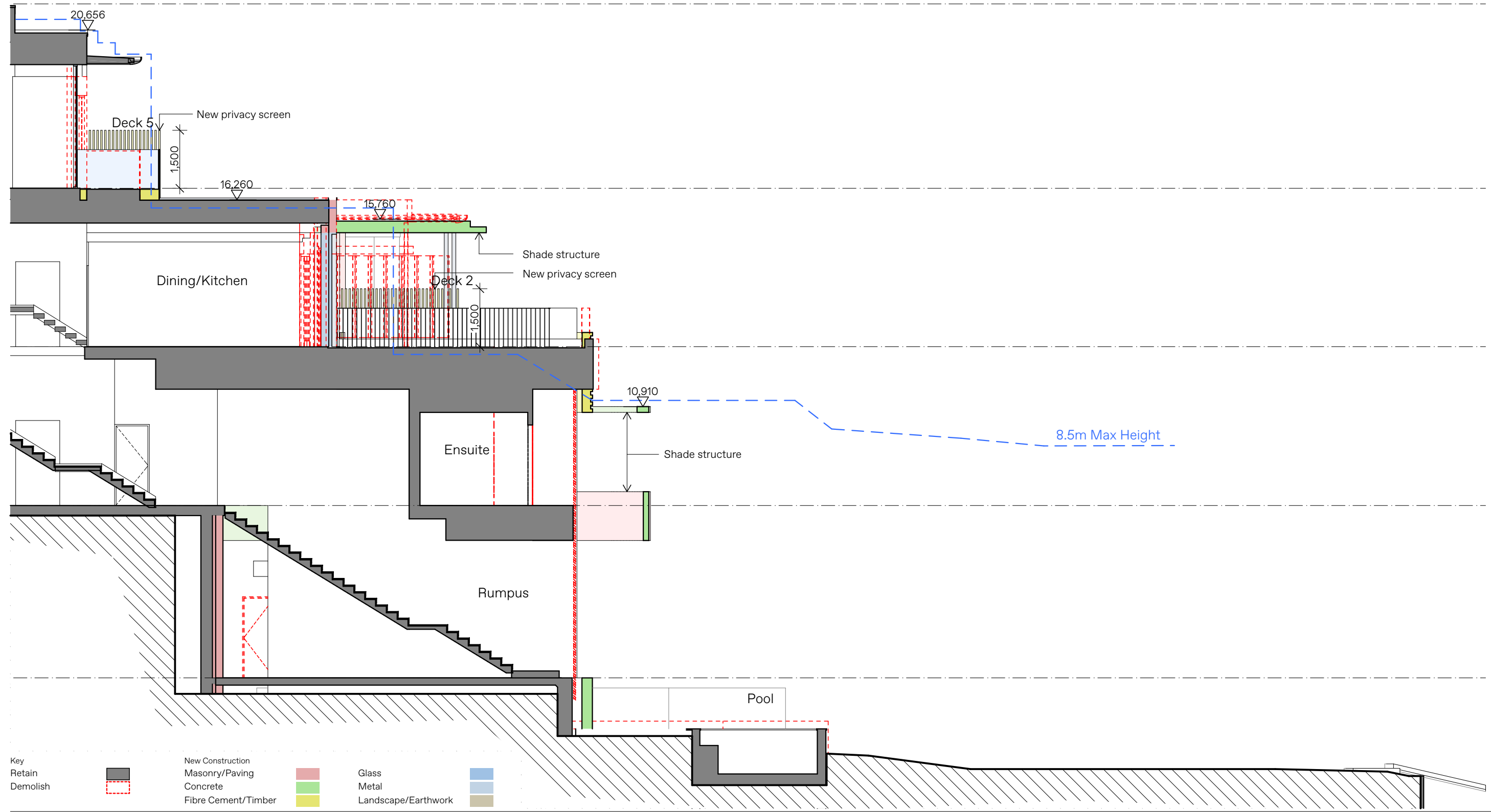
Proj No 135
Dwg No 300
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Rev J





Key		New Construction		Glass	
Retain		Masonry/Paving		Metal	
Demolish		Concrete		Landscape/Earthwork	
		Fibre Cement/Timber			

Abbreviations		Rev		Description		Date		North / Keyplan			
AC	Air Conditioning	EX	Existing	MDR	Metal Deck Roof	TIL	Tile	C	Updated for planning	10/11/2021	
ADJ	Adjustable	FB	Face Brick	PB	Plasterboard	TM	Timber	D	Updated for planning	19/11/2021	
BDY	Site Boundary	FC	Fibre Cement	PV	Paving	TMD	Timber Deck	E	Development Application	03/12/2021	
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CPT	Carpet	GLV	Glass Louvre	SS	Stainless Steel	WT	Water Tank	J	DA Amendments	09/11/2022	
DP	Downpipe	HWU	Hot Water Unit	ST	Stone	ZNC	Zinc				
EQ	Equal	JU	Joinery Unit	REM.	Remainder						

Project
12 Shellbank Parade, Cremorne
Lot 137 DP10291

Client
Chris Neville

Drawing Title
Section 1 - Sheet 2

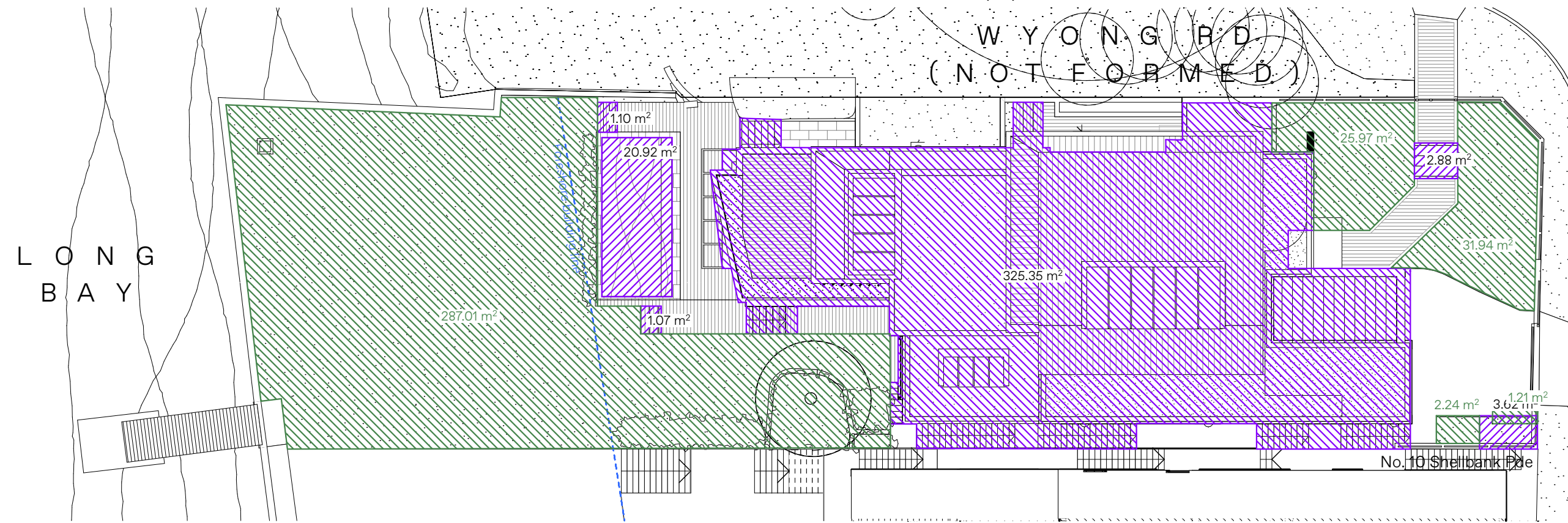
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Date 9/11/2022
Rev J

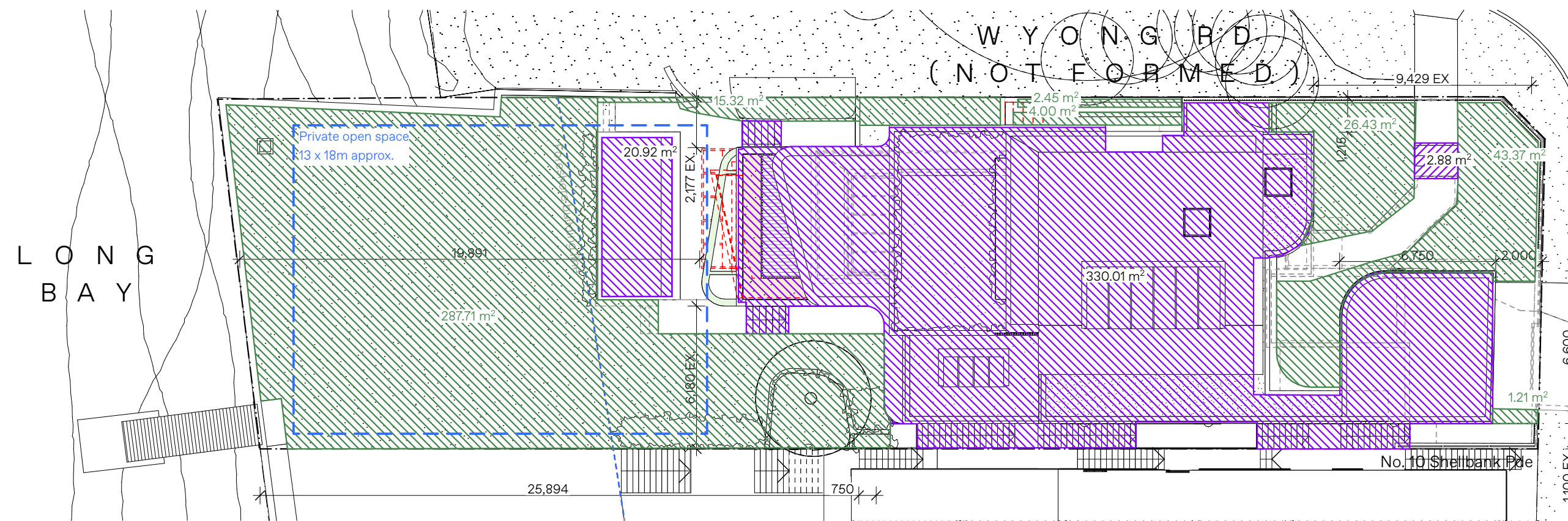
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1 Existing Site Coverage Plan

Landscape Area - 347.2m² Site Coverage Area - 355.0m² Unbuilt upon area - 153.3m²



2 Proposed Site Coverage Plan

Landscape Area - 385.6m² Site Coverage Area - 353.8m² Unbuilt upon area - 116.1m²

Abbreviations		Rev	Description	Date	North / Keyplan
AC	Air Conditioning	C	Updated for planning	10/11/2021	
ADJ	Adjustable	D	Updated for planning	19/11/2021	
BDY	Site Boundary	E	Development Application	03/12/2021	
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DP	Downpipe				
EQ	Equal				
EX	Existing				
FB	Face Brick				
FC	Fibre Cement				
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HWU	Hot Water Unit				
JU	Joinery Unit				
MDR	Metal Deck Roof				
PB	Plasterboard				
PV	Paving				
RM	Rendered Masonry				
RT	Roof Tile				
SK	Skylight				
SS	Stainless Steel				
ST	Stone				
REM.	Remainder				
TIL	Tile				
TM	Timber				
TMD	Timber Deck				
TMF	Timber Floor				
WB	Weatherboard				
WPB	Water Resistant PB				
WT	Water Tank				
ZNC	Zinc				

Project
12 Shellbank Parade, Cremorne
Lot 137 DP10291

Client
Chris Neville

Drawing Title
Site Coverage Area Plan

Scale 1:100
@A3
Proj No 135 Dwg No 602 Date 9/11/2022

Rev J

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Appendix 1:

Clause 4.6 Exceptions to Development Standards

Height of Buildings

12 Shellbank Parade, Cremorne

1. Introduction

Clause 4.6 of the North Sydney Local Environmental Plan 2013 (NSLEP 2013) permits departures from development standards in certain circumstances. In this case, it is necessary to consider if compliance with the development standard is consistent with the aims of the policy and, in particular, does compliance with the development standard tend to hinder the attainment of the objects specified in section 1.3 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* being:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*



The aims and objectives of North Sydney LEP 2013 Clause 4.6 are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Under Clause 4.6(3) and (4) of the NSLEP 2013, consent for a development that contravenes a development standard must not be granted unless the consent authority is satisfied that:

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

(3)(b) there are sufficient environmental planning grounds to justify contravening the development standard.

(4)(a)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,

These matters, along with case law judgements from the NSW Land and Environment Court, are addressed below.

2. Environmental Planning Instrument Details (Manly LEP 2013)

2.1 What is the name of the environmental planning instrument that applies to the land?

North Sydney Local Environmental Plan 2013

2.2 What is the zoning of the land?

E4 Environmental Living

2.3 What are the objectives of the zone?

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



2.4 What is the development standard being varied?

Cl 4.3 - Height of Buildings

2.5 Under what clause is the development standard listed in the environmental planning instrument?

Cl 4.3 of the North Sydney Local Environmental Plan 2013

2.6 What are the objectives of the development standard?

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

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

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

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

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

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

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

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

2.7 What is the numeric value of the development standard in the environmental planning instrument?

The numeric value of the height of buildings development standard applicable to the subject site is a maximum of 8.5m.

2.8 What is proposed numeric value of the development standard in your development application?

The development proposes a maximum height of 11.9 metres (being the maximum building height of the sunshade/canopy over Deck 2 at rear second floor level on the southern side).



2.9 What is the percentage variation (between your proposal and the environmental planning instrument)?

The percentage variation between the proposal and the environmental planning instrument is 33.3% or 3.4 metres.

3. NSW Land and Environment Court Case Law

Several key Land and Environment Court (NSW LEC) judgements have refined the manner in which variations to development standards are required to be approached. The key findings and direction of each of these matters are outlined in the following discussion.

3.1 *Wehbe v Pittwater* [2007] NSW LEC 827

The decision of Justice Preston in *Wehbe v Pittwater* [2007] NSW LEC 827, (expanded on the findings in *Winten v North Sydney Council*), identified 5 ways in which the applicant might establish that compliance with a development standard is unreasonable or unnecessary. It was not suggested that the five ways were the only ways that a development standard could be shown to be unreasonable or unnecessary.

The five ways outlined in *Wehbe* include:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard (First Way).*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (Second Way).*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (Third Way).*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (Fourth Way).*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (Fifth Way).*

In the *Micaul* decision Preston CJ confirmed that the requirements mandated by SEPP 1 (as discussed in *Wehbe*) are only relevant in demonstrating that compliance with a development standard is unreasonable or unnecessary for the purpose of Clause 4.6(3)(a).



3.2 Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC

In the matter of *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC*, initially heard by Commissioner Pearson, upheld on appeal by Justice Pain, it was found that an application under Clause 4.6 to vary a development standard must go beyond the five (5) part test of *Wehbe V Pittwater [2007] NSW LEC 827* and demonstrate the following:

1. Compliance with the particular requirements of Clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of the LEP;
2. That there are sufficient environment planning grounds, particular to the circumstances of the proposed development (as opposed to general planning grounds that may apply to any similar development occurring on the site or within its vicinity);
3. That maintenance of the development standard is unreasonable and unnecessary on the basis of planning merit that goes beyond the consideration of consistency with the objectives of the development standard and/or the land use zone in which the site occurs;
4. All three elements of clause 4.6 have to be met and it is best to have different reasons for each, but it is not essential.

3.3 Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7

In *Randwick City Council v Micaul Holdings*, the Court allowed a departure from development standards, provided the processes required by clause 4.6 are followed, a consent authority has a broad discretion as to whether to allow a departure from development standards under clause 4.6, even where the variation is not justified for site or development specific reasons.

Preston CJ noted that *the Commissioner did not have to be satisfied directly that compliance with each development standard was unreasonable or unnecessary in the circumstances of the case, but only indirectly by being satisfied that the appellant's written request had adequately addressed the matter in clause 4.6(3)(a) that compliance with each development standard was unreasonable or unnecessary.*

3.4 Zhang v City of Ryde

Commissioner Brown reiterated that clause 4.6 imposes three preconditions which must be satisfied before the application could be approved:

1. The consent authority must be satisfied that the proposed development will be consistent with the objectives of the zone;
2. The consent authority must be satisfied that the proposed development will be consistent with the objects of the standard which is not met; and
3. The consent authority must be satisfied that the written request demonstrates that compliance with the development standard is unreasonable or unnecessary in the



circumstances and there are sufficient environmental planning grounds to justify contravening the development standard.

It is only if all of these conditions are met that consent can be granted to the application, subject to an assessment of the merits of the application.

The Commissioner applied the now familiar approach to determining consistency with zone objectives by considering whether the development was antipathetic to the objectives.

In contrast to *four2five*, the reasons relied on to justify the departure from the standards in this case were not necessarily site specific.

3.5 Action Pty Ltd v Woollahra Municipal Council [2018]

In *Action Pty Ltd v Woollahra Municipal Council*, the court demonstrated the correct approach to the consideration of clause 4.6 requests, including that the clause does not require that a development that contravenes a development standard, must have a neutral or better environmental planning outcome than one that does not.

4. Consideration

The following section addresses the provisions of clause 4.6 of the MLEP 2013 together with principles established in the NSW Land and Environment Court Case Law outlined above.

Clause 4.6(3)(A) - Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case (and is a development which complies with the development standard unreasonable or unnecessary in the circumstances of the case)?

In order to demonstrate that compliance with the development standard is unreasonable or unnecessary, in the circumstances of the case, the Five (5) Part Test established in *Winten v North Sydney Council* and expanded by Justice Preston in *Wehbe v Pittwater* [2007] NSW LEC 827 is considered:

The five ways outlined in *Wehbe* include:

4.1 Five (5) Part Test - *Wehbe v Pittwater*

- 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard (First Way).***

The objectives of the standard are:



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

Comment

The variation is largely the result of the slope of the site and a need to construct within the constraints of the existing dwelling. The proposed works which occur above the maximum height limit include:

New sunshade/awning at rear first floor level

The new sunshade structure replaces an existing overhanging planter structure which currently sits higher than the proposed awning.

The maximum height of the new sunshade is 10.910 metres. This component of the proposed development is to provide weather protection to bedroom 2 at rear first floor level. The overall design of the dwelling continues to reflect the natural topography of the site, with the western elevation stepping down towards the water frontage.

Replacement/upgrade to existing sunshade structure above Deck 2 at second floor level

This results in a maximum building height to 11.9 metres on the south elevation (measured above the lowest landing to the external stair). See Figure 1 below. On the northern elevation this sunshade/roof measures 11.9 metres, which is lower (but projects slightly longer) than the existing canopy structure in this location. This component of the proposal also conforms to and reflects the natural landform, being an extension to an existing awning over an existing deck.

The new sunshade structure, which is a replacement of the existing sunshade structure, will not result in any adverse environmental impacts, including visual, solar access or view loss to the neighbouring dwelling.

Extension to the existing balustrading to existing Deck 5 at third floor level

The proposal retains the maximum height of the existing balustrading of 9.130 metres (on the northern elevation). See Figure 2.

The vast majority of the building complies with the maximum height control and the resulting dwelling presents as a compliant residence to Shellbank Parade.



It is noted that the small breaches at rear first, second and third floor levels do not result in an increase in the height of the existing dwelling (10.14 metres), which as a result of the slope of the site is not fully compliant with the maximum building height control.

Images 1 and 2 below from the architectural plans illustrate the resultant breaches on the northern and southern sides.

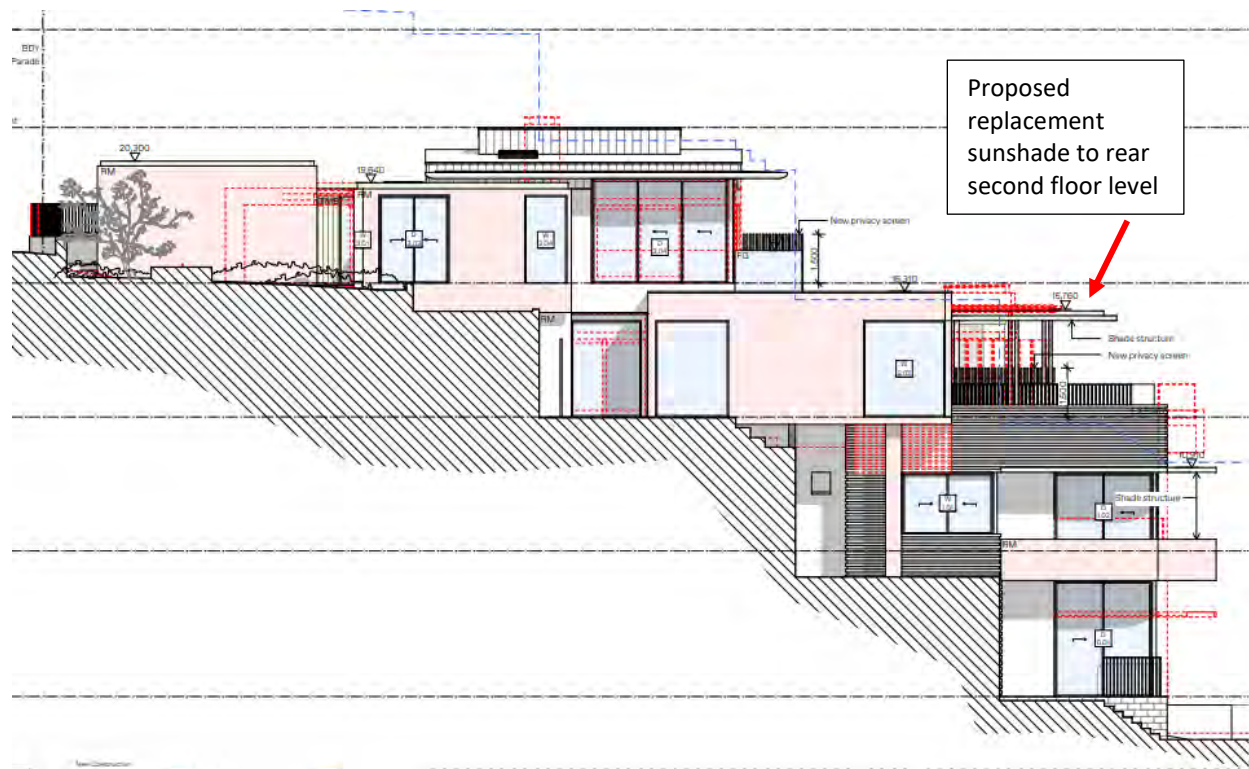


Figure 1. Excerpt from North Elevation (Architectural Drawing 200 – North Elevation)

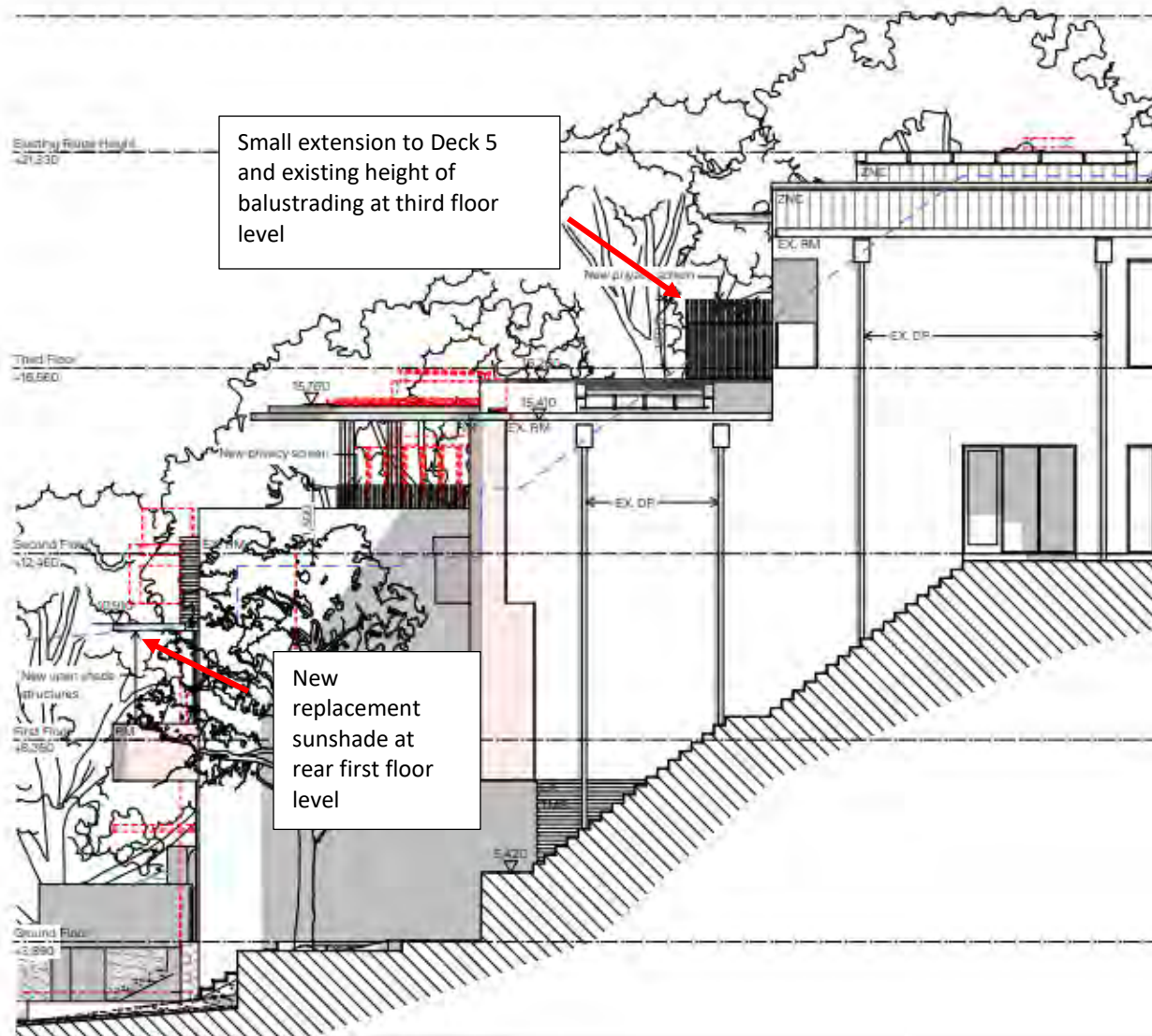


Figure 2. Excerpt from South Elevation (Architectural Drawing 202 – South Elevation)

As the site slopes, at the rear most point there are small breaches due to the site topography, but for the majority of the first, second and third-floor length, the height is under the height limit. The proposed variation remains compatible with the prevailing height of buildings within the immediate locality.

Consideration of the heights of neighbouring dwellings in the immediate locality (existing and approved) clearly demonstrates higher roof forms, including those above the maximum height control, consistently in the area.



As stated previously, the dwelling design steps with the site and the small variation results where the site drops away.

The variation is consistent with surrounding development, a result of the site topography and limited to a small form where impacts are negligible. It is considered this objective is met, despite the numerical variation.

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

Comment

No views are considered to be lost due to the nature of the proposed works, being sunshades and open balconies at the rear of the dwelling. These works are a minor addition to the existing building form, in terms of bulk and scale, on the site. Given this, there is no view loss as a result of the proposed variation. See Appendix 2: View Loss Analysis (Appendix 2 to the Statement of Environmental Effects).

It is considered this objective is met, despite the numerical variation.

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

Comment

The proposed variation to height does not result in any unreasonable solar access impacts to the one adjoining dwelling at Nos. 10 Shellbank Parade. Solar access for the neighbour is compliant with the vast majority of the dwelling under the height control.

Given that compliant solar access is achieved for the neighbour, despite the height variation sought, it is considered the underlying objective of this clause has been satisfied.

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

Comment

The small variations to the maximum height control do not result in any loss of privacy for neighbouring sites, with layout of lots and topography resulting in differing floor levels and natural screening through vegetation. It is noted that the variation is the result of a sunshades and the reconfiguration of existing decks at second and third floor levels (with the exception of the new deck at first floor level), resulting in a negligible impact on privacy for residents.



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

Comment

The proposed development is consistent in scale, if not lesser than neighbours.

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

Comment

The proposed variation to height results in a dwelling which is of compatible scale and well suits and complements the character of the Cremorne locality.

(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.

Comment

The number of storeys steps with the site and is unchanged from existing. The development retains its building form on the western elevation.

2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (Second Way).

This exception to development standards request does not rely on this reason.

3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (Third Way).

This exception to development standards request does not rely on this reason.

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

This exception to development standards request does not rely on this reason.

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



This exception to development standards request does not rely on this reason.

This clause 4.6 variation request establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development because the objectives of the standard are achieved and accordingly justifies the variation to the height of buildings control pursuant to the First Way outlined in Wehbe.

Thus, it is considered that compliance with Clause 4.6(3)(a) is satisfied.

4.2 Clause 4.6(3)(B) – Are there sufficient environmental planning grounds to justify contravening the development standard?

There are sufficient environmental planning grounds to permit the variation of the development standard. The development has been considered below with particular reference to the Objects of the Environmental Planning and Assessment Act 1979, which are accepted as the best gauge of *environmental planning grounds*.

In particular:

Detail of Variation

- The proposed variation between the proposal and the building height control is considered acceptable as it is for a very limited area, at the rear of the dwelling, where the proposed works are not visible from the street. The apparent bulk through the variation is negligible and not to the detriment of the apparent scale of the dwelling from any point satisfying Cl1.3(g).
- The small variation to the height primarily occurs to existing decks on the rear elevation. It continues to allow for the dwelling to step comfortably with the site and retain existing rooms. The impact of this keeps the dwelling consistent whilst improving the layout and appearance of the dwelling satisfying Cl1.3(g).

As the site slopes, at the rear most point there are small breaches, but the majority of the dwelling is below the maximum height limit and retains its existing height. This design allows for improved internal amenity to be achieved, providing liveable accommodation. The breach is required in this instance to achieve amenity and compliance with the development standard would be unreasonable.

Neighbour Amenity

Fulfillment of each of the criteria below demonstrates a development satisfying Cl1.3(g).

- The existing extensive setback to the rear boundary of 19.891 metres will be maintained, minimising the apparent bulk of the dwelling to the neighbouring property.



In addition to extensive and compliant setbacks, there is also substantial vegetation along the southern property boundary which provides a visual buffer to the neighbouring property at Nos. 10 Shellbank Parade. As such, it is considered that the small height variations will have no impact on the only adjoining neighbours at Nos. 10 Shellbank Parade. Therefore, compliance with the development standard would be unreasonable.

- Compliance with the height control at the rear would not result in a building which has a significantly lesser bulk and the impact to the neighbour of compliance would be barely discernible to Nos. 10 Shellbank Parade. Accordingly, compliance with the development standard in this instance is unreasonable.
- Solar access impacts as a result of the small height variation are negligible. Solar access on the neighbouring sites is compliant as the development is proposed as is detailed in the accompanying solar access diagrams. Accordingly, compliance with the development standard based on this would be unreasonable.
- The small variations to the height control have no impact on privacy for neighbours, being primarily confined to the installation of additional sunshades at rear second and first floor levels. Due to the site topography the new balcony at first floor level will also have a negligible impact on residential amenity due to site topography and existing mature vegetation providing a visual barrier to the lower levels of the dwelling from the neighbouring property. Accordingly, the variation is reasonable in the circumstances of the case.

Site Constraints

- The design with a minor variation to the height, is a result of the existing site slope and dwelling siting and it would be unreasonable to require compliance with the development standard, when the variation result allows for the orderly and economic use of the site and allows for an ecologically sustainable development revitalising an existing underdeveloped site satisfying Cl1.3(g) and (f).

Design and Streetscape Appeal

- Strict numerical compliance with the height control would not result in a better urban design outcome. The form and scale of the dwelling is consistent with the architectural character of the locality and will complete a very appealing design. Compliance with the development standard based on this would be unreasonable.



- The proposed development will not present with excessive bulk from the public domain with the sloping topography of the site resulting in the rear being hidden from view from Shellbank Parade satisfying Cl1.3(g). The streetscape appeal is unaffected by the small variation to the height standard as it will not be visible, and it would be unreasonable to require compliance with development standard based on this.



Consistent with Zone Objectives

- The extent of the variation is considered to be in the public interest as the proposal remains consistent with the objectives of the zone ensuring that appropriate and reasonable housing suitable for the local community is proposed. Compliance with the development standard based on this would be unreasonable.

Natural Environment

- The inclusion of the small height variations will have no impact on the natural environment. As the proposed works sit above natural ground level there will be no impact to the existing natural components of the site or neighbourhood. No landscape area is lost or impacted through the minor varied height satisfying Cl1.3(b). The natural environment is unaffected by the departure to the development standard and it would be unreasonable for the development to be refused on this basis.

Environmentally Sustainable Development

- The proposal represents an environmentally sustainable design allowing for extension of the life on an existing dwelling satisfying Cl1.3(f). Compliance with the development standard based on this would be unreasonable.

Social and economic welfare

- The small variations to the height as detailed above will have no social impacts for the site or local area satisfying Cl1.3(b) and accordingly refusal of the development based on this reason would be unreasonable.
- The small variations to the height as detailed above will have no economic impacts for the site or the local area satisfying Cl1.3(b) and accordingly refusal of the development based on this reason would be unreasonable.



Appropriate Environmental Planning Outcome

- The development proposed is not an overdevelopment of the site, being primarily a cosmetic alteration to the rear of the existing dwelling and satisfies the objectives of the zone and the development standard as is detailed earlier in the report.
- The variation does not result in a roof form or height beyond that which is found in the immediate context, including the immediately neighbouring site. The proposed variations will be compatible within the context in which it sits and are reasonable in the circumstances of the case satisfying Cl1.3(c). Compliance with the development standard based on this would be unreasonable.
- Removal of the non-compliance would not result in alter the perceived bulk and scale due to the minor nature, siting and topography.

The variation is confined to the rear and the discussion above reflects the unique circumstances for the subject site and proposed development, including an assurance of reasonable bulk and scale and retention of amenity. These are not simply benefits of the development as a whole, but are a direct result of the breach of the maximum height control.

The sufficient environmental planning grounds stipulated above demonstrate that the proposal aligns with the relevant objects of the EP&A Act i.e. the development is an orderly and economic and development of the land, notwithstanding the height variation.

4.3 Clause 4.6(4)(A)(ii) – Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and objectives for development within the zone which the development is proposed to be carried out.

The proposed development is consistent with the objectives of the standard (see Cl 4.6(3)(A)). An assessment of consistency with the objectives of the Zone is provided below:

Zone – E4 Environmental Living

Objectives of zone

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

Consistent. The proposal is for alterations and additions to an existing dwelling and will provide improved residential amenity for its occupants without being to the detriment of the qualities of the area and site.



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

Consistent. The proposed development retains the values of the locality and includes works primarily in already disturbed site areas.

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

Consistent. The development provides improved amenity for the site whilst also be appropriate with regard to impact on neighbouring sites with regard to views, privacy, solar access and general amenity. See Appendix 2: View Loss Analysis (Appendix 2 to the Statement of Environmental Effects).

Despite the proposal seeking an exception to the building height clause, the bulk and scale of the building will have minimal effects as it represents a minor exceedance confined to the rear and is consistent with surrounding development.

The proposed development is not contrary to the public interest, because it is consistent with the objectives of the standard (see Cl 4.6(3)(A)) and objectives for development within the zone.

Clause 4.6(5)(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning,

The non-compliance will not raise any matter of State or Regional Significance.

Clause 4.6(5)(b) the public benefit of maintaining the development standard,

The proposed development is not contrary to the public interest, accordingly there can be no quantifiable or perceived public benefit in maintaining the standard. The variation is reasonable, with the vast majority of the development easily complying and small component where the variation is sought being not easily visible from any viewpoint.

Clause 4.6(5)(c) any other matters required to be taken into consideration by the Secretary before granting concurrence

How would strict compliance hinder the attainment of the objects specified in Section 1.3 of the Act.

Strict compliance with the standard would hinder the attainment of the objects specified in section 1.3 of the Act

(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,



- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The proposed development allows for all of the above objects to be achieved. In particular, it is noted that there is no social or economic impact other than the benefit of a small amount of employment through the works which will be undertaken.

The upgrade and redevelopment of an existing dwelling to an improved standard is a positive environmentally sustainable result.

The development proposed a good design which is achieved partly through the minor development standard variation.

Strict compliance with the 8.5 metres height development standard would hinder the development for the purpose of *promoting the orderly and economic use and development of land, promoting good design and amenity of the built environment and promoting the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants.*



Conclusion

The proposed development is for alterations and additions to an existing residential dwelling on land zoned E4 – Environmental Living.

As stated above, the proposed non-compliance is considered acceptable given the scale of the proposed works and that the breaches relate to proposed upgrade/replacement of existing structures. The variation does not result in any unreasonable impacts and is largely the result of taking into account the slope of the site and working within the constraints of adding to an existing dwelling. It is of a very limited area and located at the rear of the dwelling resulting in it not being easily visible from any location and appearing appropriate and consistent from those areas where it may be viewed.

The proposed development presents with a compliant height to Shellbank Parade and does not present with excessive bulk in comparison to surrounding properties. There will not be any view loss and solar access is fully compliant with Council controls. It is considered that amenity will be retained for the adjoining neighbour.

Strict numerical compliance is considered to be unnecessary and unreasonable given that the proposed variation sought is consistent with the underlying objectives of the control despite the numerical variation, of which have been reasonably satisfied under the provisions of Clause 4.6.

The statement sufficiently demonstrates that compliance with the development standard is both unreasonable and unnecessary in this instance.

The sufficient environmental planning grounds stipulated within this request, demonstrate that the proposal aligns with the relevant objects of the EP&A Act i.e. the development is an orderly and economic and development of the land, notwithstanding the height variation.

The proposed variation satisfies the objectives of the zone, underlying intent of Clause 4.6 and Clause 4.3, and therefore the merits of the proposed variation are considered to be worthy of approval.