

**NSLPP MEETING HELD ON 02/08/2023****Attachments:**

1. Site Plan
2. Architectural Plans
3. Clause 4.6 (HoB) Request

ADDRESS/WARD: 4 Warung Street, McMahons Point**APPLICATION No:** DA 235/2022

PROPOSAL: Alterations and additions to an existing dwelling house, including internal reconfigurations, a rear addition on the first and second floor levels, and associated works.

PLANS REF:

Plan No.	Rev No.	Description	Prepared by	Dated	
1002	B	Site Plan	Superdraft Australia	30/09/22	
1100	A	Basement Floor Plan		1/06/22	
1101	A	Ground Floor Plan		1/06/22	
1102	B	Level One Floor Plan		17/05/23	
1103	A	Level Two Floor Plan		1/06/22	
1104	B	Roof Plan		17/05/23	
2000	B	Section A		17/05/23	
2001	B	Section B		17/05/23	
3001	A	South Elevation		1/06/22	
3002	B	South Elevation		17/05/23	
3003	B	North Elevation		17/05/23	
3004	B	West Elevation		17/05/23	
9001	B	Finishes Schedule		17/05/23	
L-01	A	Landscape Plan		Ecodesign	10/05/23

OWNER: Brindavan Pandey and Aisha Darwich**APPLICANT:** Neda Khorsandian, SN Architects**AUTHOR:** Ruth Bennett, Senior Assessment Officer**DATE OF REPORT:** 24 July 2023**DATE LODGED:** 10 August 2022**AMENDED:** 23 June 2023**SUBMISSIONS:** 3 Objections**RECOMMENDATION:** Approval

EXECUTIVE SUMMARY

This development application seeks consent for alterations and additions to an existing dwelling house including internal reconfigurations, installation of a lift, a rear addition on the first and second floor levels with a gable roof form, installation of skylights, new balcony balustrades with privacy screens and privacy walls, and a new awning at the rear on land at 4 Warung Street, McMahons Point.

The application is reported to the North Sydney Local Planning Panel for determination in accordance with the Minister's Direction "Local Planning Panel Direction – Development Applications" dated 30 June 2020 as the proposed works seek a variation to the development standard in clause 4.3 *Height of Buildings* by more than 10%.

The proposed development breaches the maximum permitted building height of 8.5m by up to 4.17m, equating to a variation of 49%. The existing building has a maximum height of 12.67m at the front of the building, representing a variation of 49%. The proposed variations relate to the proposed alterations at the front of the building, including construction of a privacy screen on the first floor level and balustrading on the second floor level, internal installation of a lift, and the rear addition where the proposed pitched roof form breaches by 0.79m, equating to a variation of 9.2%.

The applicant has submitted a written request to vary the development standard in clause 4.3 made pursuant to clause 4.6 in NSLEP 2013. The written request demonstrates that compliance with the development standard is both unreasonable and unnecessary, and that there are sufficient environmental planning grounds to justify the variation. The proposed development would be in the public interest. The written request is considered to be well founded and worthy of support.

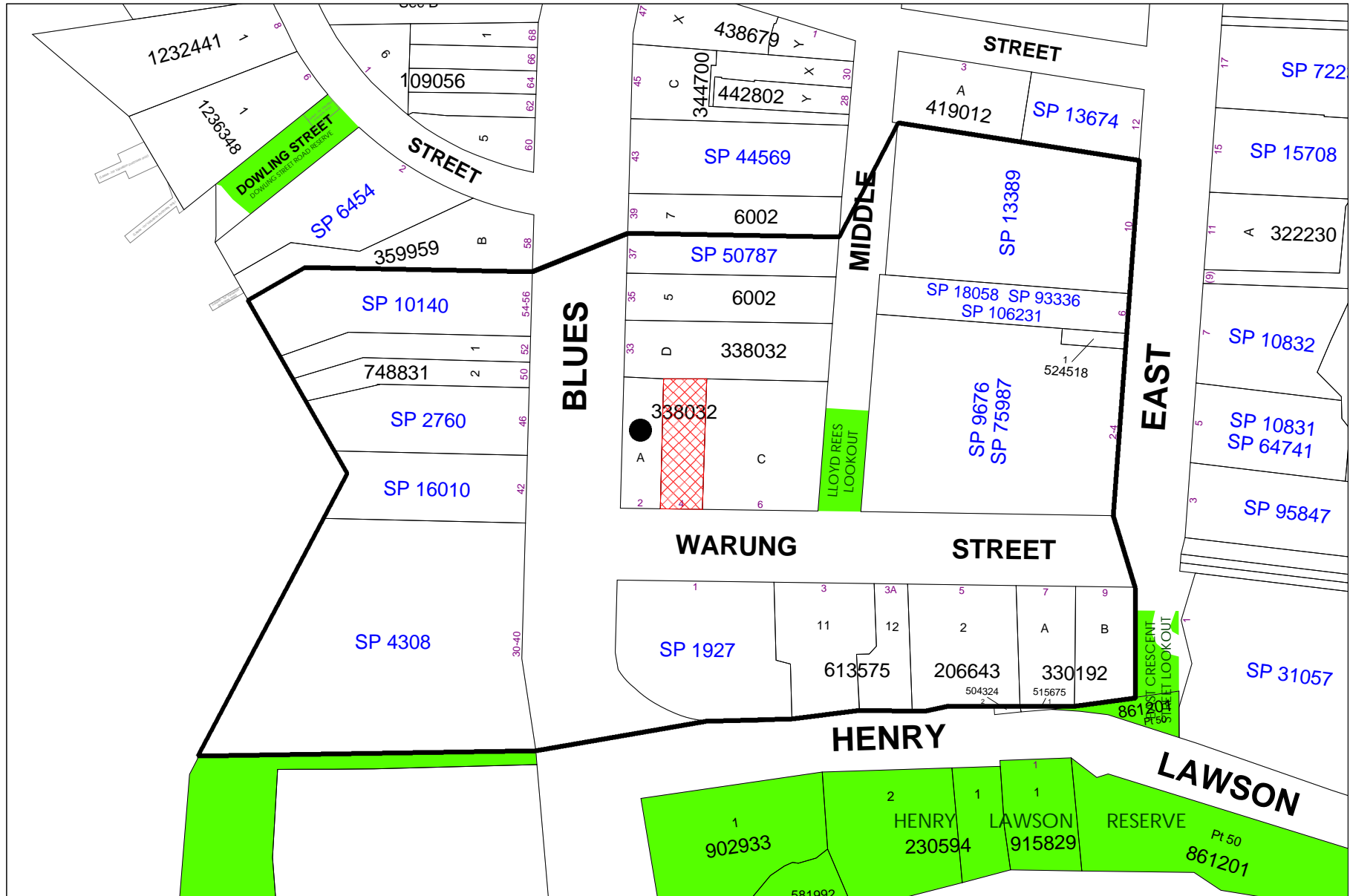
The subject site is identified as a neutral item in the McMahons Point South Conservation Area. The proposed works would have an acceptable impact on the significance of the conservation area given that the rear addition to the dwelling is not visible from Warung Street and provides a pitched tiled roof form at the rear which when viewed from Blues Point Road is characteristic of the house typology in the conservation area.

The proposed development would not have an adverse impact on the amenity of the adjoining properties with respect to privacy, overlooking and solar access. The proposed pitched roof rear addition provides for an ensuite and accommodates the proposed stairwell and lift, and a void at the rear to improve solar access to the north facing rear living area on the level below. The proposed rear additions are consistent with the envelope controls for the site, having regard to the characteristic setbacks within the area, however, would give rise to a breach to the maximum permitted building height control of 8.5m. No view impacts result from the proposed development.

The application and amended plans were notified in accordance with Council's Community Engagement Protocol and a total of 3 unique submissions were received raising concerns regarding the proposed height variation, potential for overlooking and overshadowing impacts, detriment effect on the adjoining dwelling due to the proposed bulk, height and scale, and consistency with the character of the McMahons Point South Conservation Area.

On balance, the application has met the relevant statutory requirements and the proposed development is considered reasonable and is therefore recommended for approval subject to site-specific and standard conditions of consent.

LOCATION MAP



Property/Applicant ● Submitters - Properties Notified

DESCRIPTION OF PROPOSAL

The development application seeks consent for alterations and additions to an existing dwelling house including internal layout reconfigurations and a rear extension to the first and second floor levels with a pitched gabled roof form, new balcony balustrades with privacy screens and privacy walls, and a new awning at the rear over the existing rear balcony.

The proposed works include:

Basement Level (RL 15.2410)

- New storage area and new lift to access levels above
- Replacement of the garage door

Ground Floor Level (RL 18.459)

- Demolition of the internal staircase and installation of a new staircase and lift
- Internal room reconfiguration to provide an entry, powder room, laundry, three bedrooms and two bathrooms
- External landscaping

First Floor Level (RL 21.556)

- Internal room reconfiguration to provide a living room and open plan kitchen / dining area
- Demolition of the internal staircase and installation of a new staircase and lift
- Demolition of the existing wintergarden roof and replacement with a flat roof with dentil moulding detailing and new operable louvres
- Replacement of the front balcony balustrading
- Reconfiguration of the existing rear balcony and installation of a new privacy screen to the west

Second Floor Level (RL 24.256)

- Demolition of the internal staircase and installation of a new staircase and lift
- Construction of a roof level addition to the rear with a gabled pitched roof form.
- The rear addition and reconfiguration of the existing rooms provides for a master bedroom, large bathroom, robes, and a rear void over the kitchen and dining area below.
- Replacement and reconfiguration of the doors onto the front balcony, installation of a fixed window, installation of a new balustrade and a privacy wall either side of the front balcony.

Roof

- Top of the existing ridge RL 27.910
- Top of the proposed rear gable roof ridge RL 27.709.
- Construction of four skylights, two within the existing front roof form and two within the rear roof addition.

Landscaping

- Removal of paving in the eastern side setback and laying of small pavers, and planting of groundcovers.
- Removal of a section of paving in the rear setback and laying of turf, planting of assorted species including lillypilly, bromeliad, tree fern, lady palm, and native violets.

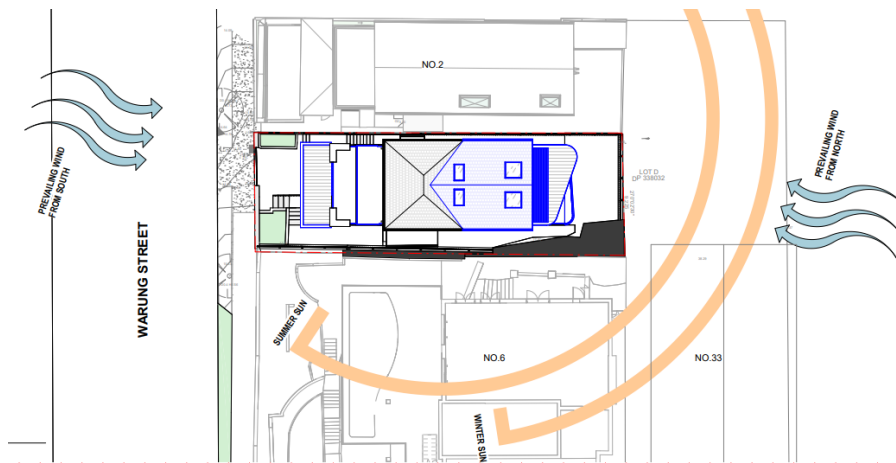


Figure 1. Site Plan

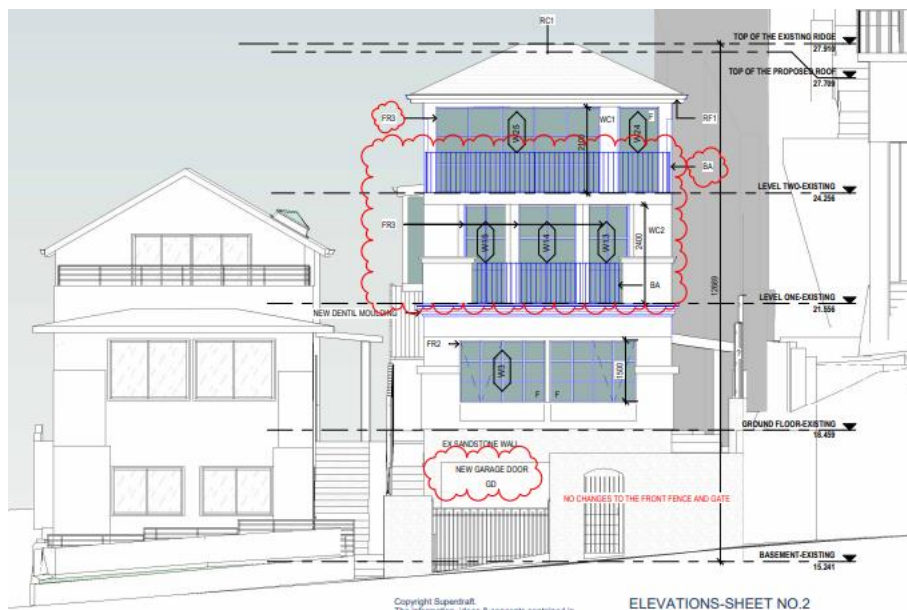


Figure 2. Proposed Southern Front Elevation

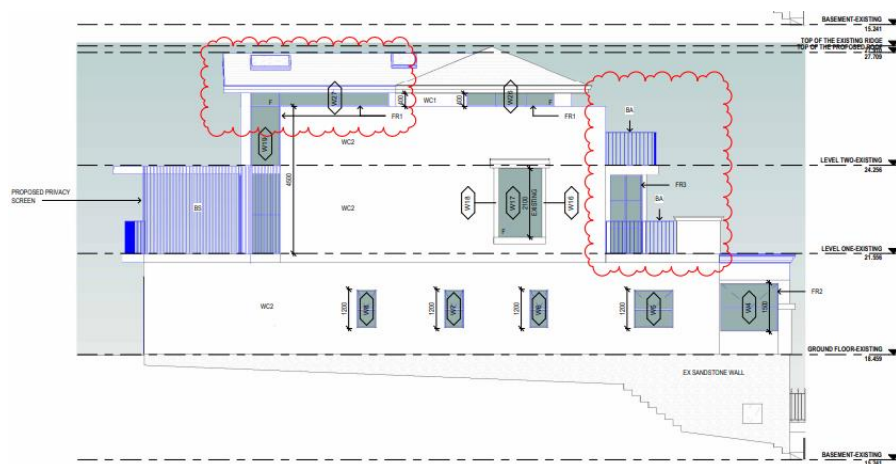


Figure 3. Proposed Western Side Elevation

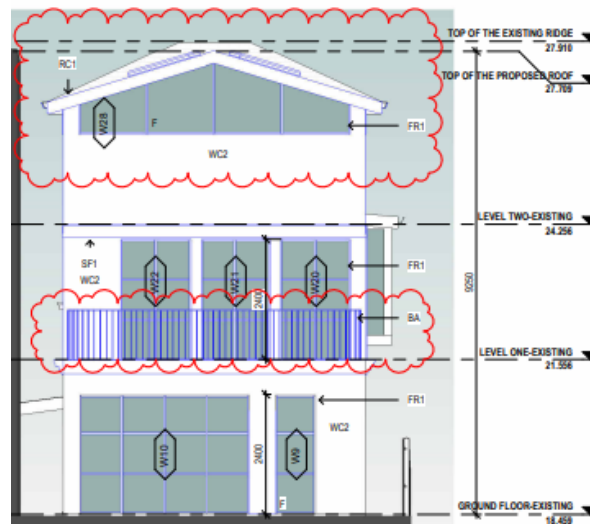


Figure 4. Proposed Northern Rear Elevation

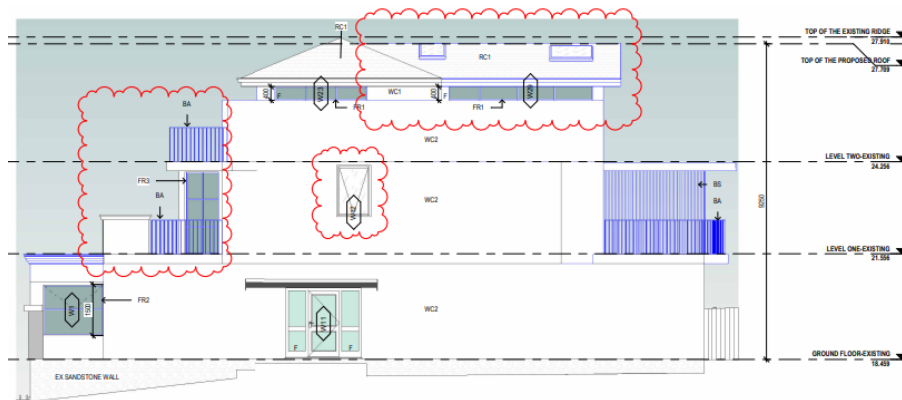


Figure 5. Proposed Eastern Side Elevation

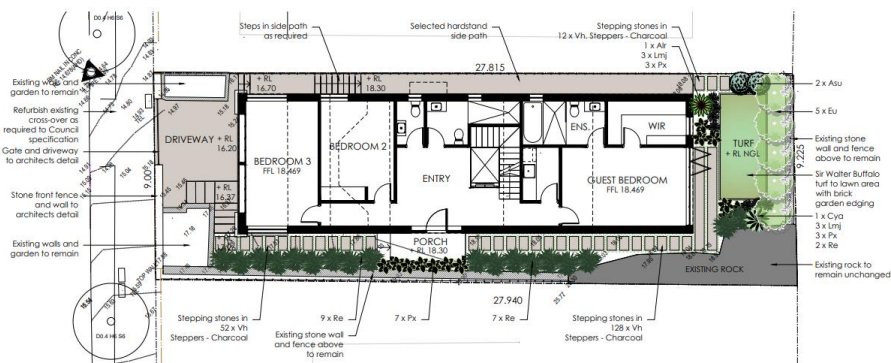


Figure 6. – Landscape Plan

STATUTORY CONTROLS

North Sydney Local Environmental Plan 2013

- Zoning – R3 Medium Density Residential
- Item of Heritage – No
- In Vicinity of Item of Heritage – Yes (Nos. 3, 5, 7 & 9 Warung Street, No. 58 Blues Point Road, Nos. 14-28 Blues Point Road (Blues Point Tower))
- Conservation Area – Yes, 'Neutral Item' McMahons Point South (CA14)

Environmental Planning & Assessment Act 1979 (As amended)

- S7.11/12 Infrastructure Contributions

Environmental Planning & Assessment Regulation 2021

State Environmental Planning Policies

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

POLICY CONTROLS

North Sydney Development Control Plan 2013

North Sydney Local Infrastructure Contributions Plan 2020

DESCRIPTION OF SITE AND LOCALITY

The subject site is described as Lot B DP 338032 and is known as No. 4 Warung Street, McMahons Point. It is located on the northern side of Warung Street near the eastern intersection with Blues Point Road. It is zoned R3 Medium Density Residential and is located within the McMahons Point South Conservation Area (refer to Figure 7 & 8 below). The site contains a dwelling house which, together with the adjoining dwelling at No.2 Warung Street, were constructed in ca. 1923 in the Inter-War bungalow style. Both dwellings have been substantially altered. The dwelling is a stepped three-storey building constructed of brick with a hipped roof that sits upon a rusticated sandstone base which contains the basement undercroft area (refer to Figure 9 below). The property to the west (No. 2 Warung Street) contains a part two-, part three-storey dwelling house and is located at a lower level than the subject site. The property to the east (No. 6 Warung Street) contains a dwelling house that is located at a substantially high level (refer to Elevations Sheets 1 and 2). The properties to the rear contain dwellings facing Middle Street (Nos. 33 and 35) which are also located at a higher level.

The property is identified as a neutral item within the McMahons Point South Conservation Area (CA14) in Schedule 5 of North Sydney LEP 2013. It is located in the immediate vicinity of several heritage items on Warung Street (Nos. 3, 5, 7 and 9) and at No. 58 and 14-28 Blues Point Road.

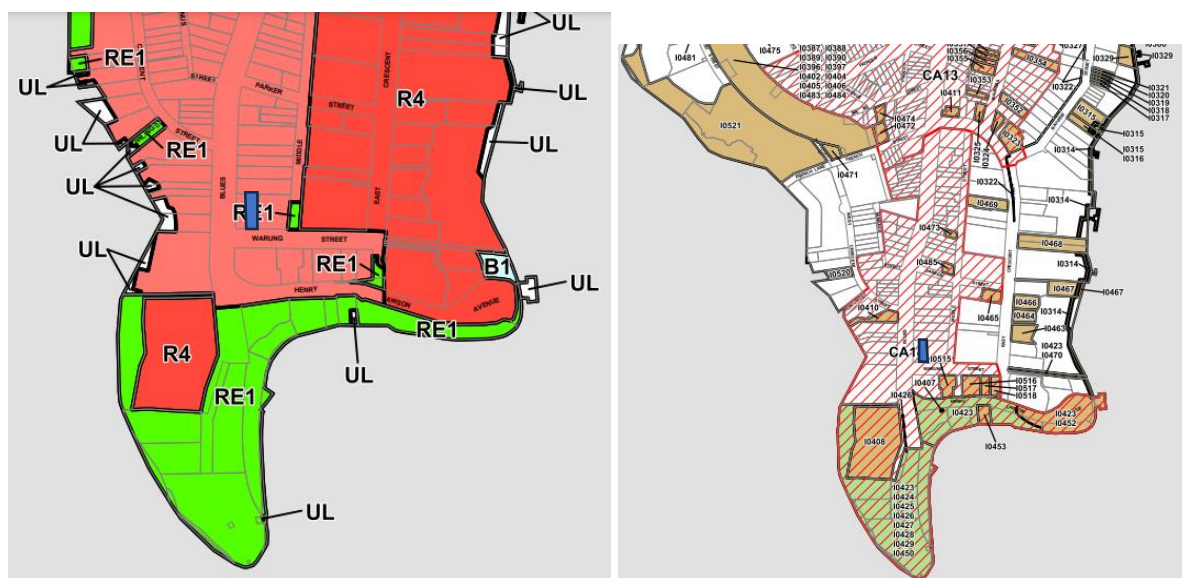


Figure. 7 & 8 – Site is zoned R3 Medium Density Residential and is within the McMahons Point South Conservation Area (CA14)

The site is rectangular in shape and has an area of 253.9sqm with a primary frontage of 9m to Warung Street, and a western side boundary of 27.815m, eastern side boundary of 27.94m and rear boundary of 9.225m. The land falls by 3.5m from the northern rear boundary to the southern street frontage. There is a high sandstone outcrop on the eastern side boundary at the rear. The site has on-site parking for one vehicle within a basement garage. The existing vegetation is limited to two garden beds within the front setback.

Surrounding development is residential, which includes a mix of dwellings of various heights and storeys, some of which are semi-detached and detached dwellings, and also includes residential flat buildings to the south and east.

Additional photos of the subject site and surrounding area are provided below.



Figure 9. Primary frontage of No. 2 and the subject site No.4 Warung Street



Figure 10. Aerial view of the site and adjoining buildings from the front

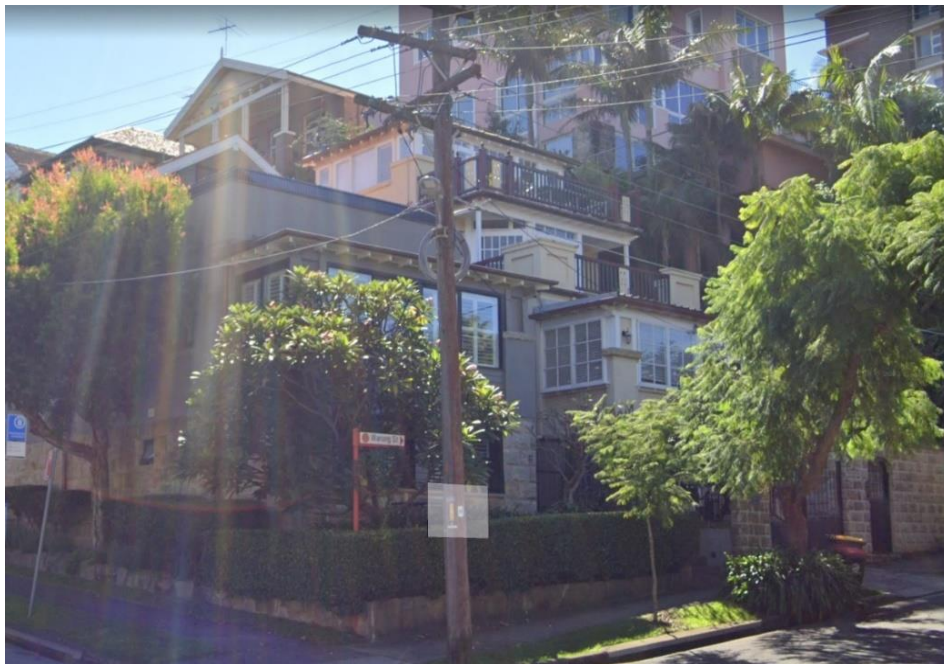


Figure 11. View of the site and adjoining buildings from the front



Figure 12. Aerial view of the site and adjoining buildings from the rear



Figure 13. Aerial view (Nearmap)

RELEVANT DEVELOPMENT HISTORY

Development Application **DA1398/1992** for alterations and two storey addition to an existing dwelling house was approved on 24 September 1992.

Building Application **BA642/1997** for alterations and additions to an existing dwelling house was approved on 29 August 1997.

Development Application **DA525/2006** for construction of an excavated garage under the existing dwelling house, new sunhood and antenna at the rear, landscaping works, and new entry was approved 16 January 2007.

Modification Application **DA525/2006/2** was approved on 3 December 2009.

RELEVANT APPLICATION HISTORY

Date	Assessment
10 August 2022	The subject development application was lodged with Council via the NSW Planning Portal.
26 August 2022	The application was notified in accordance with Council's Community Engagement Protocol from 26 August 2022 until 9 September 2022.
26 August 2022	A 'STC' letter was sent to the applicant requesting additional information including a cost summary report prepared by registered Quantity Surveyor, and a site areas compliance diagram.
20 October 2022	The additional information requested in Council's STC letter was provided.
9 January 2023	A site inspection was undertaken by Council assessment staff.

6 April 2023	Following a preliminary assessment, Council wrote to the applicant requesting amended plans to resolve various issues, particularly with respect to the heritage assessment undertaken by Council's Conservation Planner.
10 May 2023	A meeting was convened with the applicant to discuss Council's request for amended plans and further information.
23 June 2023	Amended plans were submitted to Council via the NSW Planning Portal.
7 July 2023	The amended application was renotified in accordance with Council's Community Engagement Protocol from 7 July 2023 until 21 July 2023.
17 July 2023	A meeting was convened with the Applicant and their consultant town planner requesting an amended clause 4.6 to address further matters.
18 July 2023	An amended clause 4.6 written was submitted to Council.

INTERNAL REFERRALS

Building

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

Engineering

The application was referred to Council's Development Engineers who raised no objection to the proposed development and recommended standard engineering conditions regarding stormwater disposal, sediment and erosion controls, excavation and protection of public infrastructure.

Heritage

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

1. Heritage Status and Significance

The subject property is a free-standing Federation style dwelling located on the northern side of Warung Street. It would have been a complementary pair with its adjoining neighbour to the west at No. 2 Warung Street which sits on the corner with Blues Point Road. The subject property comprises three storeys with a lower ground level garage to complement its early Federation style. These works were undertaken some time ago and prior to the implementation of the current NSDCP 2013. Each of the two upper levels are stepped back, maintaining vertically proportioned fenestration. The verandahs for both dwellings have been enclosed. More recently, a second storey at No. 2 Warung Street was added following a development approval.

The neighbouring buildings to the north and east of Nos. 2 and 4 Warung Street sit above both sites looking down on their rooftops. The rear elevation of the subject site is only obliquely visible from Blues Point Road whereby any new work will not be highly visible in the public domain. The proposed new work to the rear is supported as it has a gable style roof to complement the approved roof at the adjoining site at No. 2 Warung Street. The details relating to the garage door are to be in keeping with the early Federation form of the dwelling. The replacement of the street facing fenestration is to be of timber construction and any changes to the fencing facing Warung Street is to be constructed from traditional steel palisade with a painted or powder-coated finish.

The details of the type of railing to replace the existing is supported. Its simplicity will especially improve the outcome at the second floor level. The solid 'ends' of the balcony on the first floor level are to remain in place to retain some compatibility between the subject site and its neighbour at 2 Warung Street.

While noting that the overall objective is to ensure the visual outcome for the balustrade is recessive, it is noted however that the proposed white finish will match with the fenestration.

Conclusions and Recommendations

The proposal can be supported on heritage grounds as per the following recommended conditions:

Non-standard Conditions

- 1. Any new fencing facing Warung Street is to be constructed from traditional timber pickets or traditional steel palisade with paint or powder-coat finish. The fencing is to be no higher than 1.2m above natural ground. No approval is given for a flat steel fencing or metallic finish.*
- 2. The proposed changes to the garage opening are to reflect the Federation style of the original dwelling.*

(Reason: To protect the setting and views to and from the nearby heritage items and the character and significance of the McMahons Point South conservation area.)

Standard Conditions

- A3 No demolition of extra fabric*
- C4 Colours, Finishes and Materials (Conservation Areas)*
- E4 Removal of extra fabric*

SUBMISSIONS

The development application was notified in accordance with Council's Community Engagement Protocol from 26 August 2022 until 9 September 2022. Two submissions were received objecting to the proposed development.

Amended plans were received on 23 June 2023 which amended the originally proposed second floor level addition to provide for a gable roof at the rear and amended the front balcony balustrade and materials. The overall height of the building at the rear was increased from RL 26.900 under the original proposal to RL 27.709, an increase of 791mm, due to the change from a flat roof to a pitched roof.

The amended plans were renotified in accordance with Council's Community Engagement Protocol from 7 July 2023 and 21 July 2023. One further submission was received.

Basis of Submissions

The issues raised in the objections to both the original and amended schemes remain relevant matters for consideration and are summarised below:

- *No.4 Warung Street was previously modified in an unsympathetic way with a third floor level added between 1995 and 2001.*
- *An unsympathetic renovation should not be allowed. The origins of the building should be enhanced and respected.*
- *Disagrees with view stated in the Heritage Report that the proposed works would still see the property remain as a neutral item, if approval were granted it would become an uncharacteristic item.*
- *Proposed features are not sympathetic and aesthetically appropriate being a Greek Revival look with contemporary stark white/black colour scheme which will degrade the Sydney sandstone bungalow.*
- *Objection to the design of all elevations particularly the front elevation.*
- *Concerns are raised regarding overshadowing and privacy impacts, including overlooking into the skylights of a bedroom from windows W19 and W27.*
- *The first floor level balcony extension would cause overlook the adjoining courtyard.*
- *Concerns regarding the accuracy of shadow diagrams.*
- *The angled extensions to the rear balconies may cause privacy impacts to the adjoining rear courtyard.*
- *A major part of the dwelling is already well above the maximum height limit of 8.5m and the application proposes to further increase the portion of the dwelling that is non-compliant.*
- *There is no lift overrun shown in the diagrams. A lift overrun will contravene the height standard.*

Amended Proposal

- *The proposed development would not comply with the maximum permitted height of buildings development standard in clause 4.3 in NSLEP 2013.*
- *The written request made pursuant to clause 4.6 in NSLEP 2013 for an exemption to the height of buildings development standard is inadequate to justify the proposed variation.*
- *The proposed addition should be categorised as a fourth storey addition. References within the submitted SEE and clause 4.6 written request identifying the addition as Level Two are misleading.*
- *The proposed scale, height and bulk of the building will have a detrimental impact on the adjoining property.*
- *Concerns are raised regarding overshadowing and privacy impacts, including overlooking and overshadowing to the adjoining rear courtyard.*
- *The proposed development is inconsistent with the objectives of the zone.*
- *The proposed development is not in the public interest.*

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

CONSIDERATION

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

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural area

Section 2.6 of the Policy specifies that a person must not clear declared vegetation in a non-rural area of the State without consent. The Policy confers the ability for a council to declare vegetation in a Development Control Plan where consent is required to remove or impact the vegetation. Section 16 of Part B in NSDCP 2013 specifies declared trees for the purpose of the SEPP which includes primarily trees over 5m in height or crown width. There are no trees on site or street trees in front of the property.

Chapter 6 Sydney Harbour Catchment

The subject site is not located within the Foreshores and Waterways Area as mapped in the Sydney Harbour Foreshores and Waterways map. The site falls just outside of the boundary, nevertheless, the proposed development is unlikely to have an adverse impact on the scenic quality of the Harbour or its foreshores given that the proposed alterations that would be visible are generally consistent with the existing built form and scale of the building.

There would be no adverse impacts relating to water quality or quantity entering Sydney Harbour, being a regulated catchment for the purpose of Section 6.6 of the Policy.

State Environmental Planning Policy (Resilience and Hazards) 2021

Section 4.6 of the SEPP requires the consent authority to consider whether the land is contaminated, and if so whether the land is suitable for the intended use, or any remediation measures required. Council's records indicate that the site has historically been used for residential development and as such is unlikely to contain any contamination. The subject site is therefore considered suitable for the proposed use given that contamination is unlikely.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A valid BASIX Certificate (*A460629_03*) for alterations and additions to a dwelling has been submitted to satisfy the requirements of the Policy (**Condition C15, G4**)

NORTH SYDNEY LOCAL ENVIRONMENT PLAN (NSLEP 2013)

Aims of Plan

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

Permissibility

The subject site is zoned R3 Medium Density Residential. The proposed development seeks consent for alterations and additions to an existing dwelling house. Dwelling houses are a permissible form of development within the R3 Medium Density Residential zone.

Objectives of the zone

The objectives of the R3 Medium Density Residential zone are stated below:

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

The proposed development is consistent with the objectives of the zone. The proposed development will provide improved accommodation for the occupants of the dwelling. The dwelling house is a type of residential accommodation that is encouraged within the medium density residential area where, and in the case of the proposed development, it does not compromise the amenity or heritage significance of the surrounding area.

The proposed development would achieve a high level of residential amenity for the dwelling whilst maintaining a high level of residential amenity for the adjoining properties. There is no material impact to the privacy, solar access or views of the surrounding properties, with a very minor increase in overshadowing upon the front section of the roof of No. 2 Warung Street which will not impact upon its internal solar amenity, or upon the solar access provided to their rear courtyard.

The proposed works, including the rear addition are consistent with the character of the conservation area and would not adversely affect the significance of the conservation area or any surrounding heritage items.

Clause 4.3 - Height of Building

The subject site has a maximum permitted building height of 8.5m pursuant to subclause 4.3(2) in NSLEP 2013.



Figure 14. NSLEP 2013 Height of Buildings map (subject site highlighted)

The extent of the proposed variations is identified in the table below, referencing the diagram in Figure 15 further below. The proposed rear addition on the second floor level has a maximum building height of 9.29m, being a variation of 790mm or 9.2%. The lateral extent of the variation relates to the whole of the rear roof's central gabled form. The existing top floor level and roof form at the front of the dwelling which are proposed to be altered under the proposal also do not comply with the development standard, having a maximum building height of 12.67m, being a variation of 4.17m or 49%.

Non-compliance Building Element	Control	Height	Variation
Existing front roof and southern ridgeline (front elevation)	8.5m	12.67m	4.17m (49%)
Privacy screen on the first floor level		9.1m	0.6m (7.5%)
Balustrade on the second floor level		10.8m	2.3m (27%)
Rear northern ridgeline and roof form		9.29m	0.79m (9.2%)

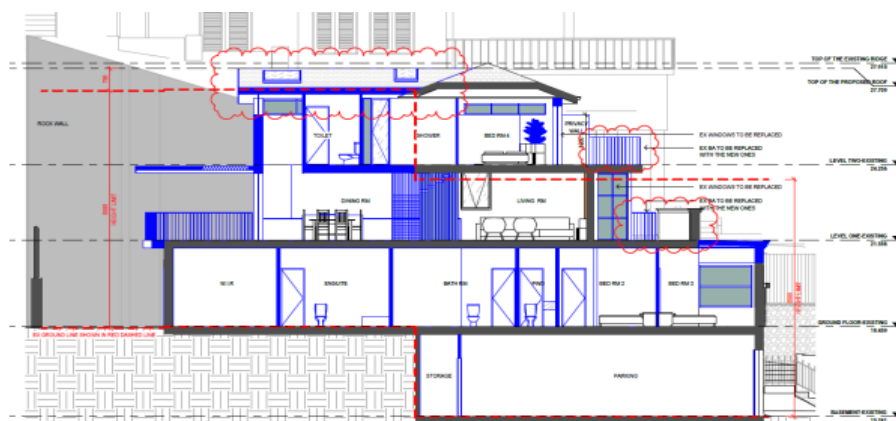


Figure 2: Western section showing the existing and proposed variation (Section B)

Figure 15. Excerpt from Section B to demonstrate height variations

Clause 4.6 – Contravention of a Development Standard

A written request to contravene the height of building development standard has been submitted (**Attachment 3**) 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?

The most common way to demonstrate that compliance with the development standard is unreasonable and unnecessary is to demonstrate that the objectives of the development standard are met notwithstanding the non-compliance. This is identified as test 1 in *Wehbe vs Pittwater Council* [2007] NSWLEC 827 (“Wehbe”).

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

The written request has demonstrated how the proposed development conforms to and reflects the slope of the land. Firstly, the proposed development does not seek to alter the existing ground levels or slope of the land which falls from the north to the south and from the east to the west. The breaching elements within the existing dwelling do not alter the form of the building. The elements which protrude above the maximum building height at the rear are limited to the roof form and skylights, which are not overly perceivable from the public domain. The gable roof form which contains the new floor space, increases the floor area of the building by 19sqm and is contained behind the existing building form.

The neighbouring buildings to the north and east of No. 4 Warung Street sit significantly above it looking down on its rooftop. The rear elevation is only obliquely visible from Blues Point Road whereby any new work will not be highly visible in the public domain.

The written request has also identified the challenging site topography, and the existing ground floor level which is approximately 3.2m above street level. It states that the proposed height variation is minor in relation to the heights of other buildings including 6 Warung Street and 33, 35 and 37 Blues Point Road.

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

The written request states that views are not impacted by the proposed height variation as the rear addition to the existing upper most level is no higher than the existing ridge, and the dwelling is located lower than other buildings that overlook the site, thereby maintaining views over the subject site.

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

The written request and accompanying solar access drawings demonstrate that the proposed development would maintain solar access to surrounding dwellings. The additional overshadowing caused by the non-compliant portion of the proposed addition would affect a minor part of the roof form of No. 2 Warung Street towards the front at 9am in mid-winter. The additional overshadowing would not impact the internal area of the dwelling or the external private open space. The additional overshadowing would not materially impact the amenity of the adjoining properties.

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

The written request has demonstrated that the proposed alterations and additions would maintain privacy for residents of the existing dwelling and that the building height variation does not lead to increased privacy impacts. Privacy measures include highlight windows within the second floor level bathroom and on the northern elevation. The void has been designed to effectively obstruct any overlooking to adjoining properties.

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

The written request demonstrates that the proposed development is compatible with the surrounding development, given the unique topography. The design has maintained the existing building envelope with a rear addition on the top level. The proposal maintains an appropriate transition in building heights in relation to its surroundings.

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

The written request demonstrates that the proposed development would be compatible with the scale of surrounding properties. The surrounding area is characterised by a mixture of buildings of various styles and building forms, driven by the unique topography, and consequently there is no consistency within the area. The alterations are generally contained within the existing building envelope and are intended to enhance the existing dwelling without compromising the scale and design of the dwelling. The existing scale is maintained, and there is no increase in density despite the site being zoned R3 Medium Density Residential. The building height variation does not result in a development that would be incompatible with the character of the area including the heritage conservation area.

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

The written request has demonstrated that this objective is achieved. The existing dwelling is three storeys, and the proposal does not seek to increase the number of storeys. The alteration will maintain the existing built form which is considered appropriate for the site and surrounding area.

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

The written request has provided several environmental planning grounds to justify the variation on pages 11-14 of the written request which are briefly summarised below.

- The variation is caused due to the unique topography of the site, and the need to design in response to the characteristics and constraints of the site.
- The majority of the dwelling is situated well below the height limit.
- The height variation does not change the existing site coverage and can be supported on environmental grounds.
- The proposed void at the rear of level two and the use of highlight windows will provide appropriate screening to reduce privacy impacts to the adjoining properties, including the rear of No. 2 Warung Street. Privacy screens also assist with mitigating privacy impacts.

- The proposed development is consistent with the objectives of the R3 Medium Density Residential zone.
- The scale and design of the proposed building is consistent with the character of the locality, being compatible with the conservation area.
- The non-compliant aspects of the addition do not create any unreasonable amenity impacts to the adjoining properties in terms of privacy, views or solar access.
- View impacts have been avoided as the rear addition does not extend beyond the existing ridge line and the site is lower than the adjoining properties to the rear.
- The proposal achieves compliance with solar access despite the minor building height variation. The additional shadow impact on adjacent properties is minimal and solely affects the roof of No. 2 Warung Street at 9am, rather than its windows, skylights or private open space.
- The proposed development is an appropriate planning outcome for the site constraints and would not result in a built form inconsistent with those found in the immediate and wider context satisfying s1.3(c) of the EP&A Act.

The statements in the written request are generally agreed with and address the site circumstances, and adequately identify that there are sufficient environmental planning grounds to justify the variation in the circumstances of the case.

The proposed built form is considered to be appropriate having regard to the surrounding context. The form, massing and scale of the building is consistent with surrounding development and continues to reflect the stepping down of development to follow the sloping topography of the area. The rear addition is efficient in its use of space whilst retaining the existing building footprint. The internal alterations to reconfigure the room layout and size, staircase, and incorporate a new lift will provide for a high level of amenity and useability within the dwelling, with no increase in density or population. The associated impacts for adjoining properties, on balance, are considered reasonable.

Clause 4.6(4)(a)(i) Applicant's written request

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

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

The proposed development would be in the public interest because it is consistent with the objectives of the standard proposed to be varied and the objectives of the R3 Medium Density Residential zone as discussed above.

Concurrence with the Minister

A Local Planning Panel as consent authority may assume concurrence with the Minister as per the Planning Circular PS 20-002.

Conclusion

The written request to vary the development standard provided by the applicant is considered to be 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. It is recommended that the variation be supported in these circumstances.

Clause 5.10 - Heritage Conservation

The subject site is located in the McMahons Point South Conservation Area listed in Schedule 5 to NSLEP 2013 and is located opposite local heritage items at Nos. 3, 5, 7, and 9 Warung Street. It is in the vicinity of items of heritage in Blues Point Road: Nos. 14-28 Blues Point Road (Blues Point Tower) and No.58 Blues Point Road. The proposal was amended as requested by Council's Conservation Planner, to alter the materiality, design, and rear roof form to ensure it would not adversely affect the heritage significance of the conservation area. The rear addition is not visible from the heritage items, and is only obliquely visible from Blues Point Road, and the revised roof form will complement the approved roof of the adjoining property, No. 2 Warung Street. The alterations to the front elevation are minor and will ensure the character of the dwelling which is a 'neutral' item remains a 'neutral' item within the conservation area and the detail, i.e., windows, balustrades, privacy screen and privacy walls, garage door are in keeping with the Federation style bungalow form of the dwelling. This will ensure that the proposal is sympathetic to the surrounding dwellings and will not impact on the character and significance of the conservation area.

POLICY CONTROLS

North Sydney Development Control Plan 2013

Part B Section 1- Residential Development		
	<i>Complies</i>	<i>Comments</i>
1.2 Function		
Maintaining residential accommodation	Yes	The proposed development would retain the existing residential density on the site.
Maintaining affordable housing	Yes	Part 3 Retention of Affordable Housing in SEPP (Housing) 2021 does not apply to the proposed development.
1.3 Environmental Criteria		
Topography	Yes	There is no change to the siting of the building. Minor excavation within the basement is required to install the lift. All proposed habitable floor space is located above existing ground level. Conditions are recommended by Council's Development Engineer to ensure the structural integrity of adjoining land is maintained.
Views	Yes	Views are gained from the subject site and surrounding properties to Sydney Harbour and its features. The proposed development will not result in any material view impacts as the proposed works are primarily located within the existing building form or are located towards the rear, set below the existing roof line. The properties to the rear are located at a significantly higher elevation and would retain views over the proposed development.

<p>Solar Access</p>	<p>Yes</p>	<p>The subject site is orientated north-south. The majority of the existing shadowing falls over Warung Street, rather than adjoining dwellings. The proposed rear addition would result in some additional overshadowing to the front roof section of the adjoining property to the west (No. 2 Warung Street). This is not a material impact as the shadow at 9am is limited to the eastern roof plane and does not overshadow the skylights within the roof or the internal living spaces or rear courtyard. Reasonable levels of solar access would be maintained.</p> <p>Although the subject site is located at a higher level than the principal private open space or living areas of the adjoining dwelling at No. 2, the fact that No. 6 Warung Street is located at a much higher level to both Nos. 2 and 4 Warung Street effectively causes considerable overshadowing to both dwellings.</p>
<p>Acoustic Privacy</p>	<p>Yes</p>	<p>The proposed rear addition contains a bathroom, robe area, and a void within the gable roofed rear addition. The use of the bathroom and dressing area is not considered to result in any acoustic impacts above those anticipated from development within a residential environment. There is minimal change to the size and configuration of the existing front and rear balconies / terraces. There is not considered to be any potential for noise impacts from the lift and conditions are recommended to manage acoustic impacts from the lift equipment to maintain acoustic privacy.</p>
<p>Visual Privacy</p>	<p>Acceptable</p>	<p>The proposed addition would not materially impact the privacy of surrounding properties. The proposed windows within the rear addition on the second floor level are highlight windows. The remaining windows replace existing fenestration.</p> <p>West – No. 2 Warung Street</p> <p>The existing dwelling is located at a higher level than the adjoining property to the west given the fall of the land along Warung Street.</p> <p>The proposed full height window (W19) within the northwestern corner of the dining room of the first floor level will have a condition imposed to require opaque or obscure glazing to ensure no privacy impacts to the adjoining property and to maintain amenity (Condition C12).</p> <p>The front balconies have side privacy walls and a side privacy screen to prevent any overlooking. The rear balcony on level one incorporates a full height privacy screen to address any privacy impact.</p> <p>The proposed windows within the rear addition at level two for the bathroom, robe area and void incorporate highlight windows on the northern and western elevations and have an outlook over the adjoining roof form. The sill heights prevent any overlooking. The location of the void also ensures occupants do not gain direct views to the adjoining property.</p>

		<p>East – No. 6 Warung Street</p> <p>The existing dwelling is located at a significantly higher level than the subject site given the fall of the land along Warung Street. Due to the elevation of the existing building and the sandstone wall outcrop on the eastern boundary there would be no privacy impacts caused for No. 6 Warung Street.</p> <p>The proposed privacy screens and privacy walls within the front and rear elevations will satisfactorily address privacy concerns for adjoining properties.</p>
1.4 Quality built form		
Context	Yes	The proposed built form responds to the existing highly altered character of the dwelling which has been markedly altered from its original iteration as a Sydney sandstone bungalow ca. 1923 in the Federation style. The proposed alterations to the dwelling are primarily within the existing dwelling. The rear addition on the first and second floor levels will not be visible from the street. This will ensure that there are minimal impacts on the significance of the conservation area.
Siting	Yes	There is no change to the existing siting of the dwelling, fronting Warung Street.
Front Setback	Yes	There is no change to the existing front building line, which generally aligns with the adjoining dwelling at No. 2 Warung Street.
Setback – Side and Rear	<p>Yes – eastern elevation</p> <p>No – western elevation</p>	<p>The existing eastern side setback of 2.245m at ground level and 2.217m on the first and second floor levels generally comply. Notwithstanding, the adjoining property to the east, No. 6 Warung Street, is located at a significantly higher level than the subject site and therefore the proposed development would not affect its amenity.</p> <p>The existing western side setback of 0.905m is to be retained. The proposed rear extension on the first and second floor levels propose to retain this setback and does not comply with the provision in Section 1.4.6 of Part B in NSDCP 2013 which requires a 1.5m setback at the first floor level and 2.5m setback at the second floor level.</p> <p>The proposed setbacks are nonetheless supported as the objectives of the setback provisions are achieved despite the non-compliance:</p> <p><i>01. To reinforce the characteristic pattern of setbacks and building orientation with the street.</i></p> <p>The existing setback at the front of the building remains unchanged and would not alter the pattern of setbacks as viewed within the streetscape.</p> <p>The proposed side setbacks on the upper levels are comparable to other detached dwellings in the vicinity of the site, including No.2 Warung Street which has a uniform setback of 1.5m to its eastern boundary.</p>

		<p>02. To control the bulk and scale of buildings. The proposed rear addition on the first and second floor levels is located behind the primary building line and maintains the existing side setback of 905mm at ground level. The proposed pitched roof at the rear maintains an appropriate scale for a single detached dwelling within the streetscape.</p> <p>03. To provide separation between buildings. The existing 905-908mm side setback from the western boundary is non-compliant with the minimum setback provision. The adjoining dwelling at No.2 Warung Street has a 1.5m side setback from its eastern boundary. The combined setbacks provide a reasonable degree of building separation having regard to the small size of the sites and the constraint of the sandstone outcrop wall along the eastern boundary and part of the rear boundary, and having regard to the generally limited setbacks evident within the surrounding area, noting the R3 Medium Density Residential zoning.</p> <p>04. To preserve the amenity of existing dwellings and provide amenity to new dwellings in terms of shadowing, privacy, views, ventilation and solar access. The development will not give rise to any material overshadowing or overlooking as a result of the proposed setbacks.</p>
Rear Setback – Rear	Yes	The existing rear setback of 4.305m at ground level is proposed to be retained with the proposed rear setback the first and second floor levels being set back 4.547m and 7.279m, respectively. The proposed setbacks are consistent with the existing rear building line shared between the subject dwelling and the adjoining dwelling to the west (No. 2 Warung Street).
Form Massing Scale	Yes	The proposed rear addition maintains a similar bulk and scale and is compatible with the existing building typology of the subject dwelling and adjoining property, having regard to the fall of the land towards the west. The proposed rear additions would sit behind the existing building form.
Built Form Character	Yes	The proposed built form character is compatible with the existing and surrounding development, in particular: <ul style="list-style-type: none"> • The proposed development will retain the size, location and proportions of distinctive features of the dwelling, including the pitched roof form, and the fenestration and balustrading on the front elevation, so as to at least maintain the neutrality of the property within the conservation area; • The proposed development will retain a sandstone base and the design and detailing of elements on the front elevation such as the timber windows, balustrading, privacy walls, privacy screen and garage door is compatible with the character of the Inter-War period, Federation style bungalow.
Dwelling Entry	Yes	The existing front gate and entry path at the Warung Street frontage with an entry path along the eastern side boundary to the front door will be retained.
Roofs	Yes	The existing roof form at the front of the dwelling will remain unchanged. The proposed gable roof form at the rear of the dwelling is characteristic of the surrounding roofs and will be visually recessive as it sits below the roof form at the front of the dwelling.

Colours and Materials	Yes	The retention of the sandstone base, and use of terracotta tile roofing, rendered brick walls, timber soffit and doors and windows on the front elevation, metal framed doors and windows at the rear, fascia and guttering and metal batten screen and balustrades will maintain the character of the neutral item and would reflect and reinforce the existing character of this locality. The selected black, white and grey colours would compliment the Federation-style architectural features.																									
Front Fences	Yes	There is no change proposed to the existing sandstone front boundary wall.																									
1.5 Quality Urban Environment																											
Safety and Security	Yes	The property will maintain its secure perimeter and direct sightlines to the street.																									
Vehicle Access and Parking	Yes	The existing garage and vehicular access will be unchanged with provision for one vehicle within the basement garage being maintained. The existing provision of a single car space is adequate given the parking rates in Section 10.2 of Part B in NSDCP 2013 establish a maximum only.																									
Site Coverage, Unbuilt Upon Area and Landscaped Area (lot size 230-499m ²) (cl.B1.5.5)	Acceptable	<p>The site has an area of 253.9m². The relevant site coverage and unbuilt upon area and landscape area provisions for dwelling houses in the R3 Medium Density Residential zone are assessed in the table below.</p> <table border="1"> <thead> <tr> <th>Control</th> <th>Existing</th> <th>Proposed</th> <th>Compliance</th> </tr> </thead> <tbody> <tr> <td>Site Coverage</td> <td>119.5m²</td> <td>119.5m²</td> <td rowspan="2">Yes</td> </tr> <tr> <td>50%</td> <td>47%</td> <td>47%</td> </tr> <tr> <td>Unbuilt-upon Area</td> <td>93m²</td> <td>50m²</td> <td rowspan="2">Yes</td> </tr> <tr> <td>20%</td> <td>36%</td> <td>19%</td> </tr> <tr> <td>Landscape Area</td> <td>7m²</td> <td>50m²</td> <td rowspan="2">No, variation of 11%</td> </tr> <tr> <td>30%</td> <td>3%</td> <td>19%</td> </tr> </tbody> </table> <p>The proposed development complies with the maximum 50% site coverage and 20% unbuilt upon area provisions applicable to the proposed development.</p> <p>The existing and proposed landscaping do not comply with the 30% minimum landscaping requirement, however, the proposed landscaping will increase from 7m² (two garden beds in front setback) to 50m², which will provide 19% landscaped area on the site which is a significant improvement.</p> <p>The development is nevertheless supported as it satisfies the objectives of the landscaping provision, despite the improved variation, as it would go further to promote the character of the neighbourhood, improving the retention and absorption of surface drainage water on site and improving the quantity and quality of landscaping.</p> <p>The rear courtyard would be improved, with turf and plantings in the side and rear setback. The sandstone wall outcrop will be retained. The characteristic landscaped front garden will be retained to provide for streetscape amenity.</p>	Control	Existing	Proposed	Compliance	Site Coverage	119.5m ²	119.5m ²	Yes	50%	47%	47%	Unbuilt-upon Area	93m ²	50m ²	Yes	20%	36%	19%	Landscape Area	7m ²	50m ²	No, variation of 11%	30%	3%	19%
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Excavation	Yes	Minor excavation up to 500mm is proposed within the existing basement to install the proposed lift. The proposed excavation is set back from the boundaries and is unlikely to have any adverse impacts.																									

Landscaping	Yes	The proposed landscaping would improve the quality and quantity of landscaping throughout the site and incorporates appropriate species.
Front Gardens	Yes	The two existing front garden beds will be retained.
Private and Communal Open Space	Yes	The dwelling will maintain approximately 27m ² of ground level private open space within the rear setback. Additionally, the proposed balconies and terraces would supplement the ground level private open space.
Garbage Storage	Yes	Adequate provision is made for the storage of bins within the garage.
1.6 Efficient Use of Resources		
Energy Efficiency	Yes	The development meets BASIX requirements.

Part C – Section 9.8 – McMahons Point South Conservation Area Character Statement

The subject site is located within the McMahons Point South Conservation Area of the Lavender Bay Planning Area and is listed as a 'neutral' item. The character statement identifies the significant elements of the area including the characteristic topography of the land, with Blues Point Road running down the ridge to the Blues Point peninsula with the landform falling away on either side. Expansive views are enjoyed down Sydney Harbour and towards the Sydney CBD, Berry's Bay and Balmain from the foreshore that is defined by an escarpment along the northern side of Henry Lawson Avenue. The heritage character of the area includes 1840s stone cottages, Federation dwelling houses and residential flat building and Inter-war buildings. Front gardens supplement street plantings. Other urban elements such as stone retaining walls and rocky outcrops combine with avenue plantings to create a sense of place.

The desired built form controls identify the characteristic siting of the development which seeks to provide adequate separation to the foreshore area, and to retain views, particularly water views from neighbouring properties and the public domain. The characteristic built elements include siting buildings forward on lots with larger rear garden and consistent setbacks, with a vertically proportioned building form for detached and attached dwellings, with roofs pitched between 30 and 45 degrees, and traditional materials such as masonry, timber windows and doors, sandstone base courses, face brick, terracotta tiles, and corrugated metal. Low fences in timber or iron palisade are referenced.

The proposed development retains the existing views of the foreshore and has no impact to water views. The design of the front elevation, rear addition within a gable roof form, and rear elevation is consistent with the desired built form within the vicinity in terms of bulk/scale, architectural design, setbacks, and colours and materials, and suitable landscaping embellishment has been provided. The proposed alterations and additions to the existing dwelling, which is a neutral item, would be generally consistent with the character for development within the McMahons Point South Conservation Area.

Section 7.12 CONTRIBUTIONS

The proposed development would not increase the number of dwellings on the site and therefore a contribution levied under section 7.11 of the Act is not required in accordance with Council's Infrastructure Contributions Plan. Instead, a contribution is required to be levied under Section 7.12 of the Act. The contribution is equal to 1% of the building cost which was identified as \$965,355 in the submitted cost summary report. The total contribution payable is therefore \$9,654.

Condition C13 is recommended requiring the payment to be made prior to the issue of the Construction Certificate.

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	N/A
9. All relevant S79C considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

SUBMITTERS CONCERNS

The application was notified to surrounding properties and the Lavender Bay Precinct in accordance with Council's Community Engagement Protocol from 26 September until 9 October 2022. Council received one submission in support of the application and two submissions objecting to the application.

Amended plans were received on 23 June 2023 which amended the originally proposed first and second floor level additions to provide for a gable roof form at the rear and amended the front balcony balustrades and materials. The overall height of the building at the rear was increased from RL 26.90 under the original proposal to RL 27.709, an increase of 790mm, due to the change from a flat skillion roof to a pitched roof. A landscape plan was also provided.

The amended plans were renotified in accordance with Council's Community Engagement Protocol from 7 July 2023 until 21 July 2023. One further submission was received which objected to the amended scheme.

The issues raised in the objections to both the original and amended schemes remain relevant matters for consideration and are addressed below:

History of Site, Design, and Materials and Colours

- *No.4 Warung Street was previously modified in an unsympathetic way with a third floor level added between 1995 and 2001. An unsympathetic renovation should not be allowed. The origins of the building should be enhanced and respected.*
- *Disagrees with view stated in the Heritage Report that the proposed works would still see the property remain as a neutral item, if approval were granted it would become an uncharacteristic item.*
- *Proposed features are not sympathetic and aesthetically appropriate being a Greek Revival look with contemporary stark white/black colour scheme which will degrade the Sydney sandstone bungalow.*
- *Objection to the design of all elevations particularly the front elevation.*

Comment:

This report is concerned with the assessment of the amended application before it. There are a range of housing types within the vicinity, and the existing dwelling has been greatly modified and added to over previous decades. The dwelling is currently a neutral item and will be maintained as such, notwithstanding the proposed additions which have been assessed by Council's Conservation Planner.

Overlooking/Privacy Impacts

- *Concerns are raised regarding privacy impacts, including overlooking into the skylights of a bedroom from windows W19 and W27.*
- *The first floor level balcony extension would cause overlook the adjoining courtyard.*
- *Proposal should be modified to prevent any loss of privacy.*

Comment:

The majority of proposed works are located within the existing building envelope. There is an increase in the height at the rear of the dwelling. Privacy screens and privacy walls have been proposed on both front and rear elevations to address privacy concerns. Highlight windows have been provided within the rear addition on the second floor level which prevents any overlooking. A condition has also been recommended requiring opaque glazing for window W19 to maintain the amenity of the adjoining dwelling at No. 2 Warung Street.

Overshadowing/Solar Access

- *Concerns regarding the accuracy of shadow diagrams.*
- *Concerns are raised regarding overshadowing impacts.*

Comment:

Given that the site orientated on a north-south axis it is evident that the majority of the overshadowing will fall within Warung Street and there will be minimal overshadowing of adjoining dwellings. The overshadowing to the front portion of the eastern roof plane of No.2 Warung Street occurs at 9am only. Window W27 is a highlight window and therefore will not create any privacy impacts.

Building Height

- *The proposed development would not comply with the maximum permitted height of buildings development standard in clause 4.3 in NSLEP 2013.*
- *The written request made pursuant to clause 4.6 in NSLEP 2013 for an exemption to the height of buildings development standard is inadequate to justify the proposed variation.*
- *There is no lift overrun shown in the diagrams. A lift overrun will contravene the height standard.*

Comment:

The proposed works above the maximum height limit on the front elevation include a privacy screen on the first floor level, a balustrade on the second floor level, and two skylights. There is no increase to the existing front roof portion of the building that is above the height standard. The proposed lift and stairwell on the second floor level would exceed the maximum height limit but are located within the existing building envelope and will not be visible from the exterior of the dwelling.

Under the amended application, the rear roof addition was increased in height to accommodate a more characteristic pitched roof form, resulting in a 790mm variation.

The written request made pursuant to clause 4.6 in NSLEP 2013 regarding the non-compliance with the height of building development standard has been further amended and is considered to demonstrate that compliance with the development standard is unreasonable and unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify variation from the control.

SUITABILITY OF THE SITE

The site is zoned R3 Medium Density where dwelling houses are a permissible form of development. The proposal is considered suitable for the site having regard to the merits of the proposal and the context and constraints of the site.

PUBLIC INTEREST

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

HOW THE COMMUNITY VIEWS WERE TAKEN INTO CONSIDERATION

The application and amended plans were notified in accordance with Council's Community Engagement Protocol and a total of 3 unique submissions were received raising concerns regarding the height variation, potential for overlooking and overshadowing impacts, detrimental effect on the adjoining dwelling due to the proposed bulk, height and scale, and consistency with the character of the McMahons Point South Conservation Area. The submissions informed the amended plans and all remaining issues have been addressed in this assessment report.

CONCLUSION + REASONS

After a detailed assessment of the application, it was found that the matters for consideration as outlined in section 4.15(1) of the Act have been satisfied. The proposed development is permissible in the R3 Medium Density Residential zone.

The proposed development exceeds the maximum permitted building height development standard by 790mm or 9% for the rear gable roof form, and by up to 4.17m or 49% for the alterations to the front elevation (privacy screen, balustrade, fenestration), the four skylights, and for the internal lift and staircase at the second floor level. The variation is supported by a written request to vary the development standard pursuant to clause 4.6 in NSLEP 2013. The written request demonstrates that strict compliance with the development standard is both unreasonable and unnecessary because the proposed development would be consistent with the objectives of the height of buildings development standard and there are sufficient environmental planning grounds to justify the variation in the circumstances. The proposed development would be in the public interest because it is consistent with the objectives of the zone and the standard to be varied.

The proposed development would improve the amenity of the existing dwelling by providing reconfigured internal spaces and increased residential accommodation. The landscaping works will provide a landscaped setting which will improve the external amenity and provide a garden setting for the private open space area. There is no increase in the overall building footprint, and the number of bedrooms and bathrooms remains unchanged. The appearance of the building is satisfactorily retained where visible within the public domain and the use of colours and materials are in keeping with the Inter-war period bungalow, with Federation detailing, form of the dwelling.

The proposed development would not have an unreasonable impact on the amenity of the surrounding properties with regards to the retention of views, privacy and solar access. There is no impact on views and any potential privacy impacts have been addressed with various privacy treatments including highlight windows, privacy screens and privacy walls. The potential overshadowing would not materially affect the amenity of the adjoining dwelling. The rear gable roof form whilst visible from Blues Point Road is of a style, form and material that is in keeping with the conservation area, and thus is reasonable even with consideration of the height non-compliance.

The proposed awning roof over the rear balcony is curvilinear in shape. While a contemporary feature, it is not overtly visible from Blues Point Road and is considered acceptable due to its recessive nature, not being visible from the primary frontage of Warung Street.

The application was notified in accordance with Council's Community Engagement Protocol and was amended in part in response to issues raised in submissions. The issues raised in a subsequent submission have been addressed in detail in this report.

On balance, having regards to the merits of the proposal the application is considered reasonable and is recommended for approval.

RECOMMENDATION

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

THAT the North Sydney Local Planning Panel, exercising the functions of Council, as the consent authority, assume the concurrence of the Secretary, Department of Planning and Environment to invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 in NSLEP 2013 to grant consent to Development Application No. 235/2022 for alterations and additions to an existing dwelling house alterations and additions to an existing dwelling house, including an internal reconfiguration, rear addition on the first and second floor levels, and associated works on land at No. 4 Warung Street, McMahons Point subject to the following site specific and the attached standard conditions.

Privacy Measures

C12. The following privacy measures are to be provided:

- (a) Window W19 on the western elevation of the first floor level (Dwg 1102 Level One Floor Plan by Superdraft Australia Pty Ltd, Revision B, dated 17/05/2023) must be fitted with obscure or frosted glazing and the opening aperture is to be limited to 100mm to still allow ventilation whilst retaining privacy between the subject dwelling and the adjoining property to the west.

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 maintain privacy between the subject dwelling and No. 2 Warung Street)

Ruth Bennett
SENIOR ASSESSMENT OFFICER

Michael Stephens
A/TEAM LEADER ASSESSMENTS

Stephen Beattie
MANAGER DEVELOPMENT SERVICES

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
4 WARUNG STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 235/22

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
1002	B	Site Plan and Site Analysis	Superdraft Australia	30/09/22
1100	A	Basement Floor Plan	Superdraft Australia	1/06/22
1101	A	Ground Floor Plan	Superdraft Australia	1/06/22
1102	B	Level One Floor Plan	Superdraft Australia	17/05/23
1103	A	Level Two Floor Plan	Superdraft Australia	1/06/22
1104	B	Roof Plan	Superdraft Australia	17/05/23
2000	B	Section A	Superdraft Australia	17/05/23
2001	B	Section B	Superdraft Australia	17/05/23
3002	B	Elevations Sheet No 2 – South Elevation - Proposed	Superdraft Australia	17/05/23
3003	B	Elevations Sheet No 3 – North & East Elevation – Existing and Proposal	Superdraft Australia	17/05/23
3004	B	Elevations Sheet No 4 – West Elevation – Existing and Proposed	Superdraft Australia	17/05/23
9001	B	Finishes Schedule	Superdraft Australia	17/05/23
L-01	A	Landscape Plan	Ecodesign Pty Ltd	10/05/23

(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.

**4 WARUNG STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 235/22**

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

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

No Demolition of Extra Fabric

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

(Reason: To ensure compliance with the approved development)

External Finishes and Materials

A4. External finishes and materials must be in accordance with the submitted Finishes Schedule dated 17/05/23, Issue B, prepared by Superdraft Australia and received by Council on 23/06/23 unless otherwise modified by Council in writing.

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

C. *Prior to the Issue of a Construction Certificate (and ongoing, where indicated)***Dilapidation Report Damage to Public Infrastructure**

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

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

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

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

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

Structural Adequacy of Existing Building

- C2. 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)

Waste Management Plan

- C3. A Waste Management Plan is to be submitted for approval by the Certifying Authority prior to the issue of any Construction Certificate. The plan must include, but not be limited to:
- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
 - b) The design of the on-site waste storage and recycling area; and
 - c) Administrative arrangements for waste and recycling management during the construction process.

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

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

Colours, Finishes and Materials (Conservation Areas)

- C4. The finishes, materials and exterior colours shall be complementary to the architectural style of the original building and sympathetic to the character of the Conservation Area. A schedule of finishes, materials and external colours shall be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

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

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Skylight(s)

- C5. 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)

Roofing Materials - Reflectivity

- C6. 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

- C7. If a Work Zone is proposed, an application must be made to the North Sydney Local Traffic Committee to install the 'Work Zone'. A Work Zone permit is required to be issued by the Council prior to the issue of any Construction Certificate.

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

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

(Reason: Amenity and convenience during construction)

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Stormwater Disposal - Drainage Plan

- C8. Prior to the issue of any Construction Certificate, site drainage plans must be prepared by a licensed plumber or drainage engineer. The site drainage plans must be designed in accordance with the following criteria:
- a) compliance with BCA drainage requirements and current Australian Standards and guidelines,
 - b) stormwater runoff and subsoil drainage generated by the approved development must be conveyed in a controlled manner by gravity to Warung Street,
 - c) new pipelines within council land shall be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 millimetres and a section height of 100 millimetres,
 - d) the design and installation of the Rainwater Tanks shall comply with BASIX and Sydney Water requirements. Overflow from tank shall be connected by gravity to the stormwater disposal system, and
 - e) prevent any stormwater egress into adjacent properties by creating physical barriers and surface drainage interception.

Drainage 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: Proper disposal of stormwater)

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

- C9. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of **\$5,000.00** to be held by Council for the payment of cost for any/all of the following:
- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
 - b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with this consent.
 - c) remedying any defects in any such public work that arise within six months after the work is completed.

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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)

Asbestos Material Survey

C10. 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.

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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)

Noise from Plant and Equipment

C11. The operation of the lift must not:

- (a) Contribute an LAeq(15min) which will cause the total LAeq(15min) from all plant and equipment operating contemporaneously on the site or in the strata scheme or in the mixed strata schemes to exceed the RBL by more than 5dB when measured at the boundary of any affected receiver. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy shall be applied.
- (b) Cause “offensive noise” as defined in the *Protection of the Environment Operations Act 1997*.

“affected receiver” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship, commercial premises and parks and such other affected receiver as may be notified by the Council in writing.

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

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

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

Privacy Measures

C12. The following privacy measures are to be provided:

- (a) Window W19 on the western elevation of the first floor level (Dwg 1102 Level One Floor Plan by Superdraft Australia Pty Ltd, Revision B, dated 17/05/2023) must be fitted with obscure or frosted glazing and the opening aperture is to be limited to 100mm to still allow ventilation whilst retaining privacy between the subject dwelling and the adjoining property to the west.

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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 maintain privacy between the subject dwelling and No. 2 Warung Street)

Section 7.12 Contributions

- C13. A monetary contribution pursuant to the provisions of Section 7.12 of the Environmental Planning and Assessment Act 1979 is to be paid to Council, in accordance with the North Sydney Council's Contribution Plan, to provide for local infrastructure improvements.

Based on the cost of development at the date of determination, the total contribution payable to Council is **\$9,654.00**.

Indexation

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

Timing of Payment

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

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

(Reason: To provide for local infrastructure identified in the North Sydney Council Local Contributions Plan 2020)

Security Deposit/Guarantee Schedule

- C14. All fees and security deposits/guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security deposit/ guarantee	Amount (\$)
Infrastructure Damage Bond	\$5000.00
TOTAL BONDS	\$5000.00

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Note: The following fees applicable

Fees	
Section 7.12 Contribution	\$9,654.00
Others	
TOTAL FEES	\$9,654.00

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)

BASIX Certificate

- C15. 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. A460629_03 dated 17 June 2022 for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

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

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

Public Liability Insurance - Works on Public Land

- D1. 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)

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Sydney Water Approvals

- D2. Prior to the commencement of any works, the approved plans must be submitted to Sydney Water to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Certifying Authority must ensure that Sydney Water has appropriately stamped the plans before the commencement of building works.

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

(Reason: To ensure compliance with Sydney Water requirements)

Asbestos Material Survey

- D3. Prior to the commencement of any works, a report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

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

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

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

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

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Commencement of Works' Notice

- D4. 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)

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Temporary Disposal of Stormwater Runoff

- E3. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to reasonably manage and control runoff as far as the approved point of stormwater discharge. Such ongoing measures must be to the satisfaction of the Certifying Authority.

(Reason: Stormwater control during construction)

Removal of Extra Fabric

- E4. Should any portion of the existing building, trees, or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification of the damage is to be given to Council forthwith. No work is to resume until the written approval of Council to do so is obtained. Failure to comply with the provisions of this condition may result in the Council taking further action including legal proceedings if necessary.

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

Dust Emission and Air Quality

- E5. The following must be complied with at all times:
- (a) Materials must not be burnt on the site.
 - (b) Vehicles entering and leaving the site with soil or fill material must be covered.
 - (c) Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction.
 - (d) Odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

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

Noise and Vibration

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

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

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No Work on Public Open Space

- E7. 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)

Applicant's Cost of Work on Council Property

- E8. The Applicant must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

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

No Removal of Trees on Public Property

- E9. 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

- E10. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development must occur entirely on the property.

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

1) **On-street mobile plant**

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

(Reason: Proper management of public land)

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2) **Hoardings**

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

(Reason: Proper management of public land)

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

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

(Reason: Proper management of public land)

4) **Kerbside restrictions, construction zones**

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

(Reason: Proper management of public land)

Construction Hours

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

Location	Standard Construction Hours	
	Day	Hours
R3 Medium Density Residential zone	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.

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

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

Installation and Maintenance of Sediment Control

- E12. Erosion and sediment controls must be installed and maintained at all times in accordance with the Sediment and erosion control plan submitted and approved with the Construction Certificate.

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

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

Sediment and Erosion Control Signage

- E13. A durable sign must be erected during building works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained. A sign of the type referred to in this condition is available from Council.

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

Site Amenities and Facilities

- E14. Where work involved in the erection and demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements, must be provided and maintained at all times. The type of workplace determines the type of amenities required.

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

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

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Health and Safety

- E15. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site and provide a contact telephone number for enquiries.

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

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

Prohibition on Use of Pavements

- E16. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

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

Plant and Equipment Kept Within Site

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

Details of Council requirements for permits on public land for standing plant, hoardings, storage of materials and construction permits 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)

Waste Disposal

- E18. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

(Reason: To ensure the lawful disposal of construction and demolition waste)

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Asbestos Removal

E19. All demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with National Occupational Health and Safety Commission.

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

Service Adjustments

E20. 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)

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

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- ii) the name of the insurer by which the work is insured under Part 6 of that Act, or
- (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- 2) If arrangements for doing residential building work are changed while the work is in progress such that the information submitted to Council in accordance with this conditions is out of date, work must cease and no further work may be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

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

(Reason: Prescribed - Statutory)

Appointment of a Principal Certifying Authority (PCA)

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

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

Construction Certificate

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

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

**4 WARUNG STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 235/22**

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Occupation Certificate

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

(Reason: Statutory)

Mandatory Critical Stage Inspections

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

(Reason: Statutory)

Excavation/Demolition

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

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

Protection of Public Places

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

**4 WARUNG STREET, MCMAHONS POINT
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- 5) No access across public reserves or parks is permitted.

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

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

Site Sign

- F9. 1) A sign must be erected in a prominent position on the site
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2) Any such sign must be maintained while to building work or demolition work is being carried out but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

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

Infrastructure Repair and Completion of Works

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

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

(Reason: Maintain quality of public assets)

**4 WARUNG STREET, MCMAHONS POINT
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Damage to Adjoining Properties

- G2. 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

- G3. 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)

BASIX Completion Certificate

- G4. 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)

Asbestos Clearance Certificate

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

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

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

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

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

**4 WARUNG STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 235/22**Page 22 of 22

Landscaping

- G6. The landscaping shown in the approved landscape plan Drawing L-01, Landscape Plan, prepared by Ecodesign Pty Ltd, Revision A, dated 10 May 2023, must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

Compliance with Certain Conditions

- G7. Prior to the issue of any Occupation Certificate, Condition C12 Privacy must be certified as having been implemented on site and complied with.

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

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

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

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

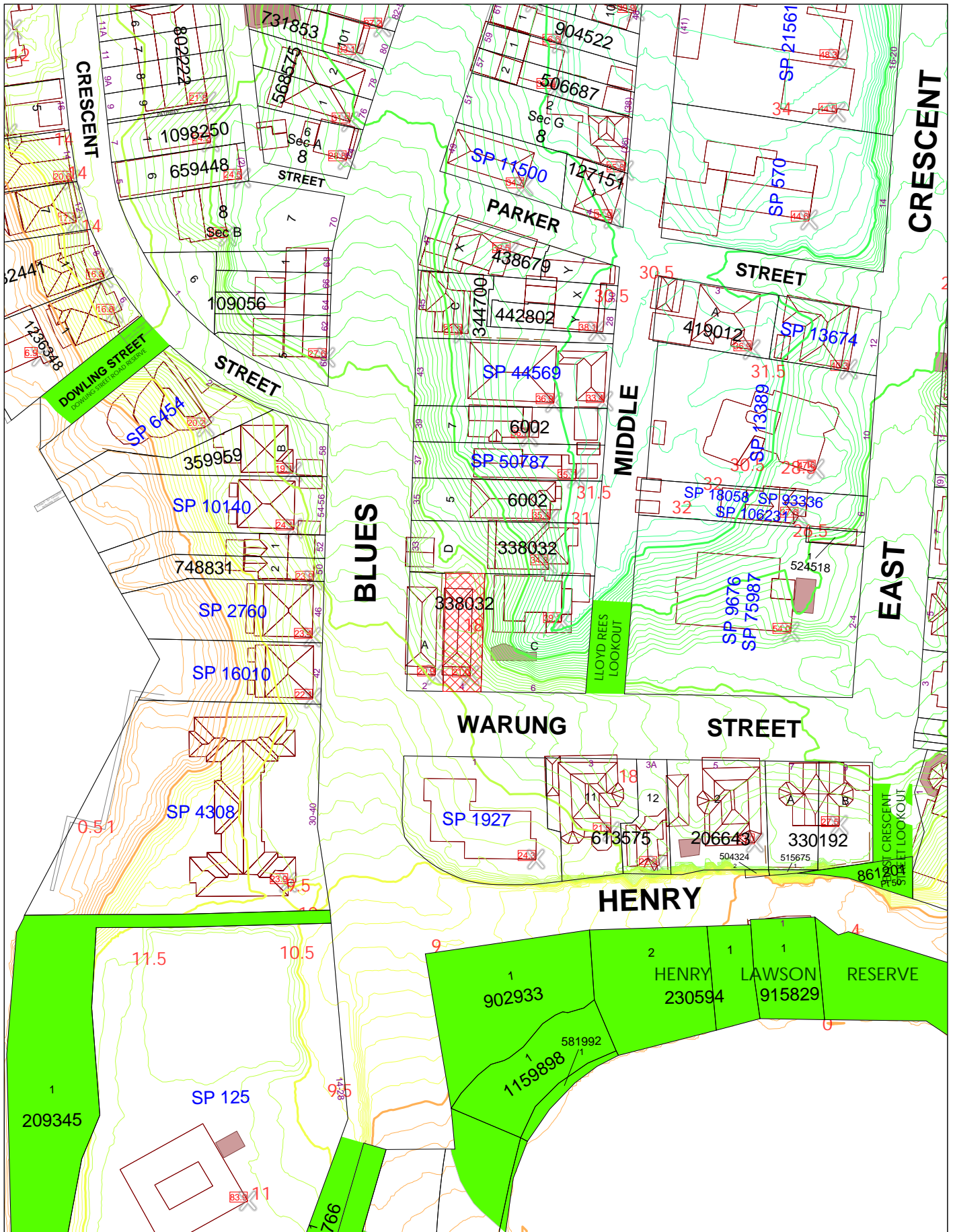
Maintenance of Approved Landscaping

- I2. The owner of the premises at 4 Warung Street, McMahons Point is to maintain the landscaping approved by this consent generally in accordance with drawing number L-01 drawn by Ecodesign Pty Ltd, dated 10/05/23.

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.

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

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



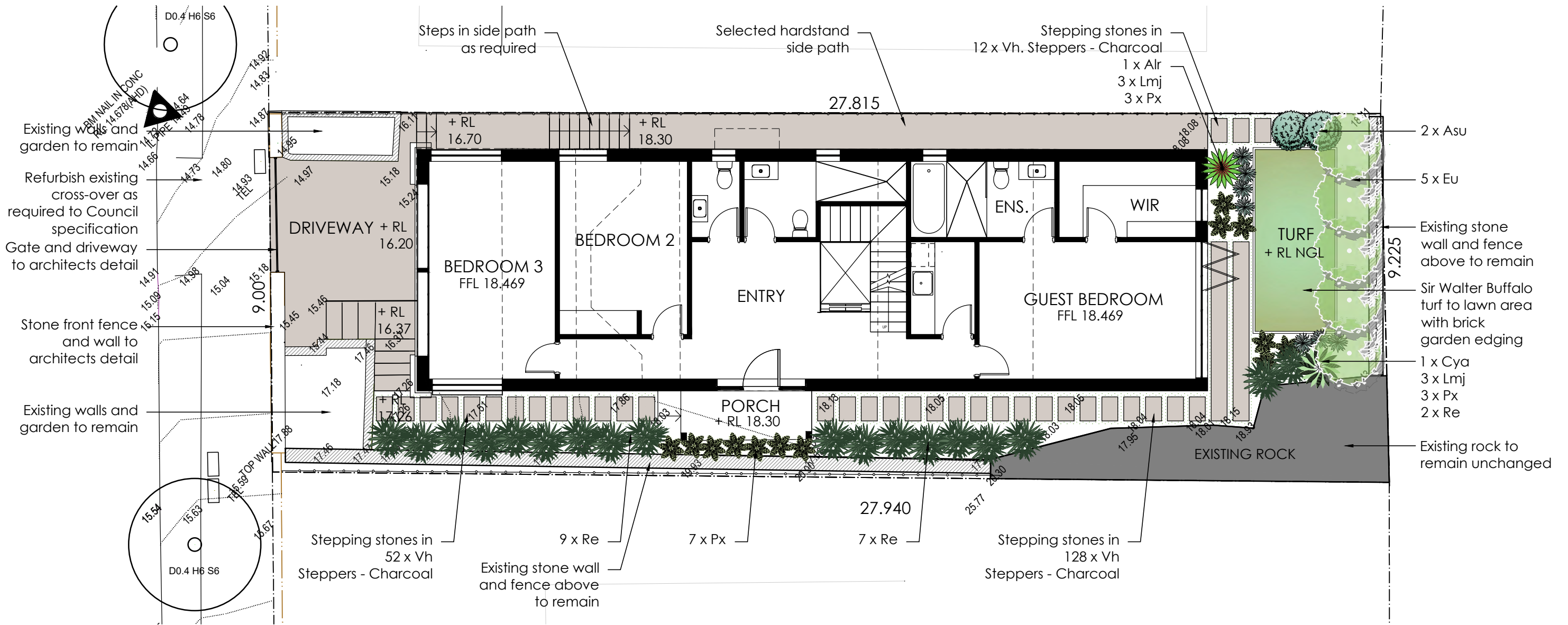
North Sydney Council

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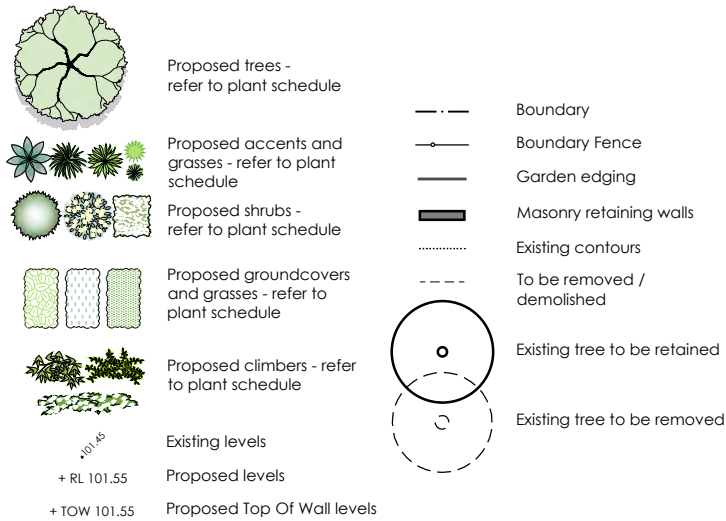
Further details can be obtained by calling (02) 9936 8100 or e-mail mapping@northsydney.nsw.gov.au.

Scale: 1:1200 approx.





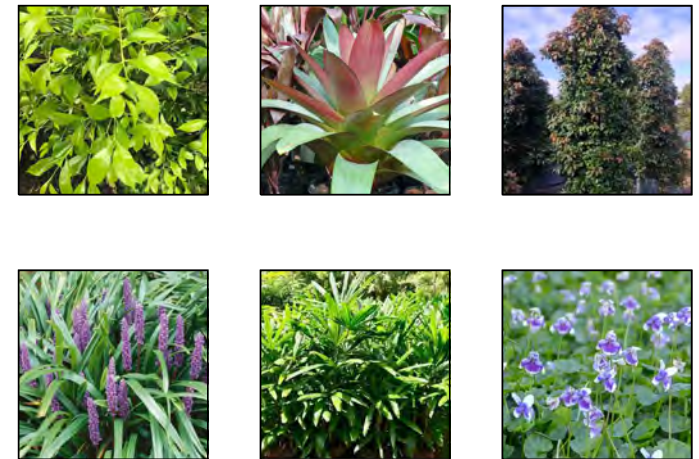
LEGEND



PLANT PALETTE

PLANT SCHEDULE Prepared by ecodeign Pty Ltd

SYMBOL	BOTANICAL NAME	COMMON NAME	QUANTITY	POT SIZE	MATURE SIZE
Asu	Acmena smithii 'Sublime'	Sublime Lillypilly	2	300mm	5m
Alr	Alcantarea imperialis rubra	Giant Bromeliad	1	300mm	1.2m
Cya	Cyathea cooperi	Tree Fern	1	1m trunk	4m
Eu	Elaeocarpus eumundii	Eumundi Quondong	5	45L	8m
Lmj	Liriope muscari 'Just Right'	Liriope	6	150mm	0.5m
Px	Philodendron 'Xanadu'	Philodendron	13	200mm	0.5m
Re	Rhapis excelsa	Lady Palm	16	300mm	3m
Vh	Viola hederacea	Native Violet	192	140mm	cover



REVISION	DESCRIPTION	DRAWN	CHECK	DATE
A	SUBMITTED FOR DA	GC	AS	10-05-23

ecodesign
outdoor living environments

PO Box 8136, Baultham Hills, NSW 2153
Ph: (02) 9680 7712 Fax: (02) 9680 7705
Email: info@ecodesign.com.au
Web: www.ecodesign.com.au
Member of the Australian Institute of Landscape Designers and Managers

- Do not scale from drawings
- Verify all measurements on site
- Notify ecodeign of any inconsistencies
- Copyright © ecodeign. All rights reserved
- Drawing remains the property of ecodeign
- All work to comply with relevant Australian Standards or Building Code of Australia
- All work to be performed by a suitably qualified tradesperson
- For application purposes only - NOT FOR CONSTRUCTION

ADDRESS
4 WARUNG STREET, MCMAHONS POINT

CLIENT
BRIN PANDEY

PROJECT
NEW RESIDENCE

DRAWING
LANDSCAPE PLAN

SCALE
1:100 @ A3

ISSUE
DA

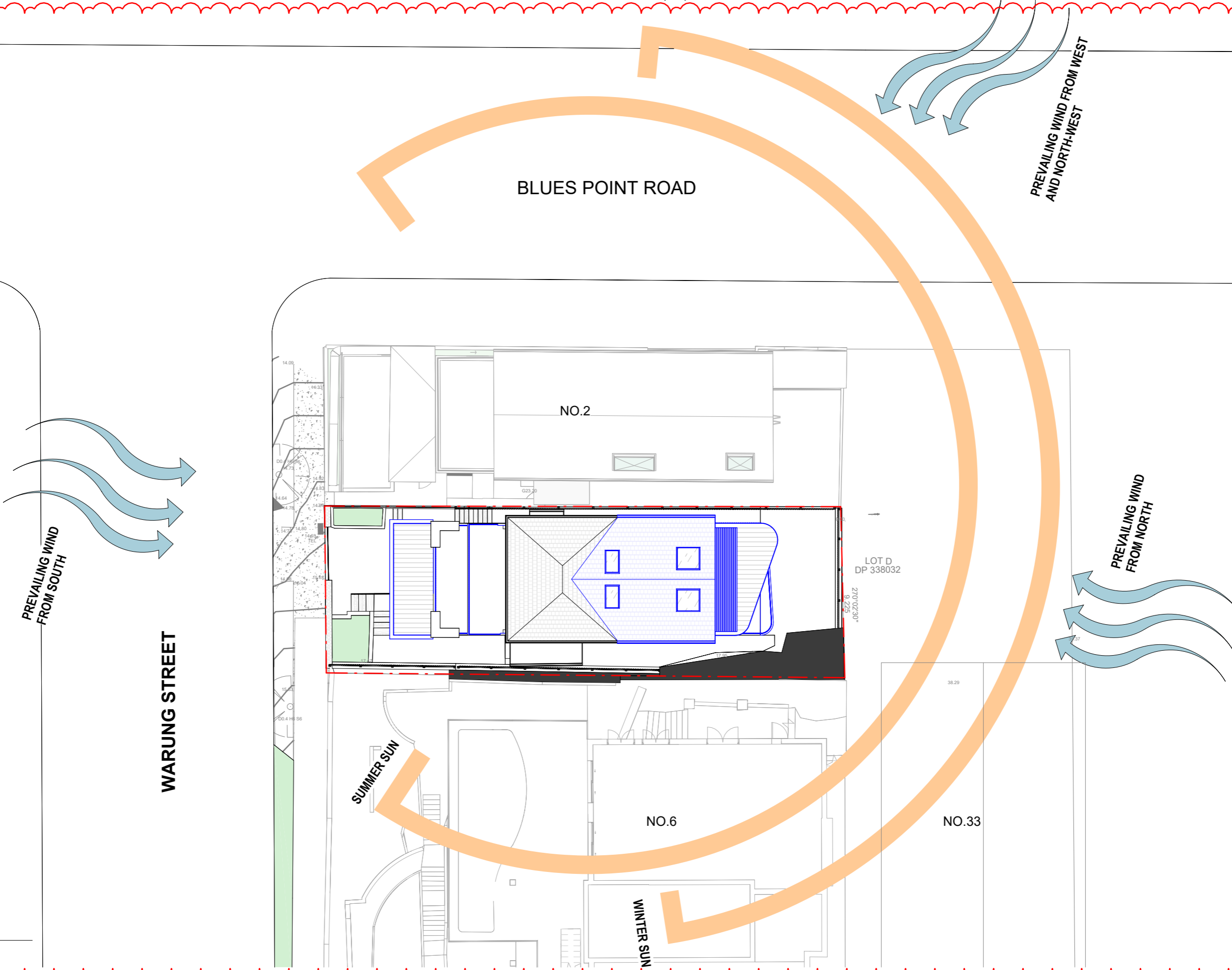
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DATE
10-05-23

REVISION
A



1 SITE PLAN
1 : 200

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SITE PLAN AND SITE ANALYSIS

PROPOSED ALTERATION AND ADDITION TO THE EX DWELLING

Brin Pandey

4 Warung Street, McMahon's Point, NSW 2060

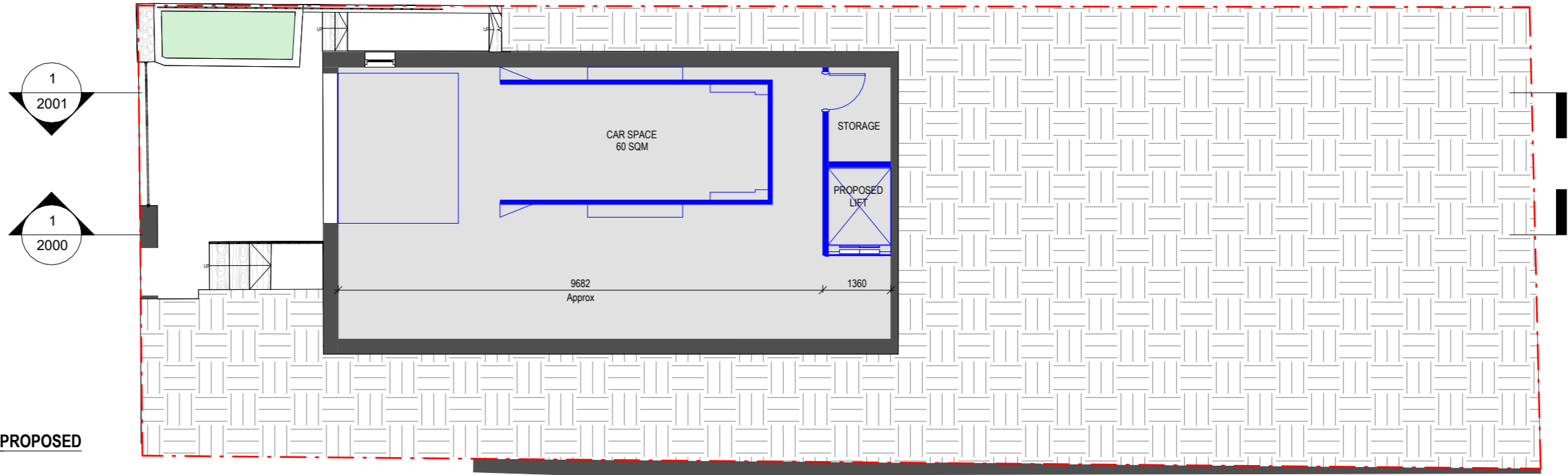
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1 BASEMENT FLOOR PLAN-PROPOSED
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BASEMENT FLOOR PLAN

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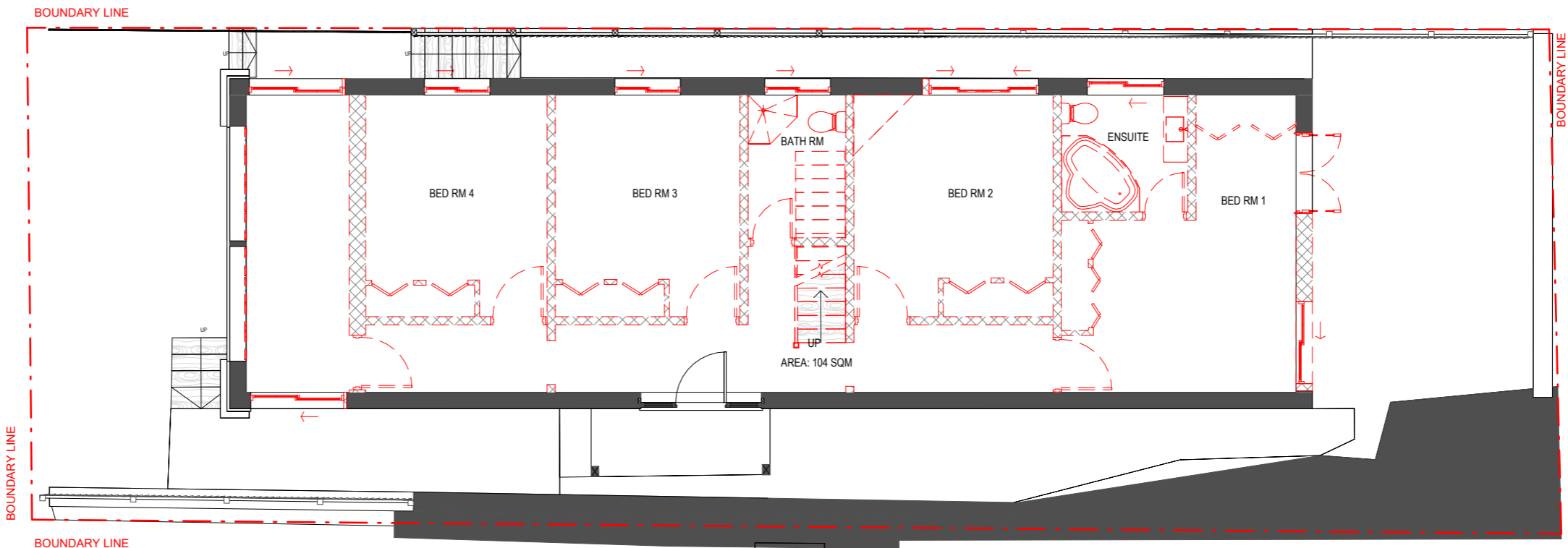
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Date 220601
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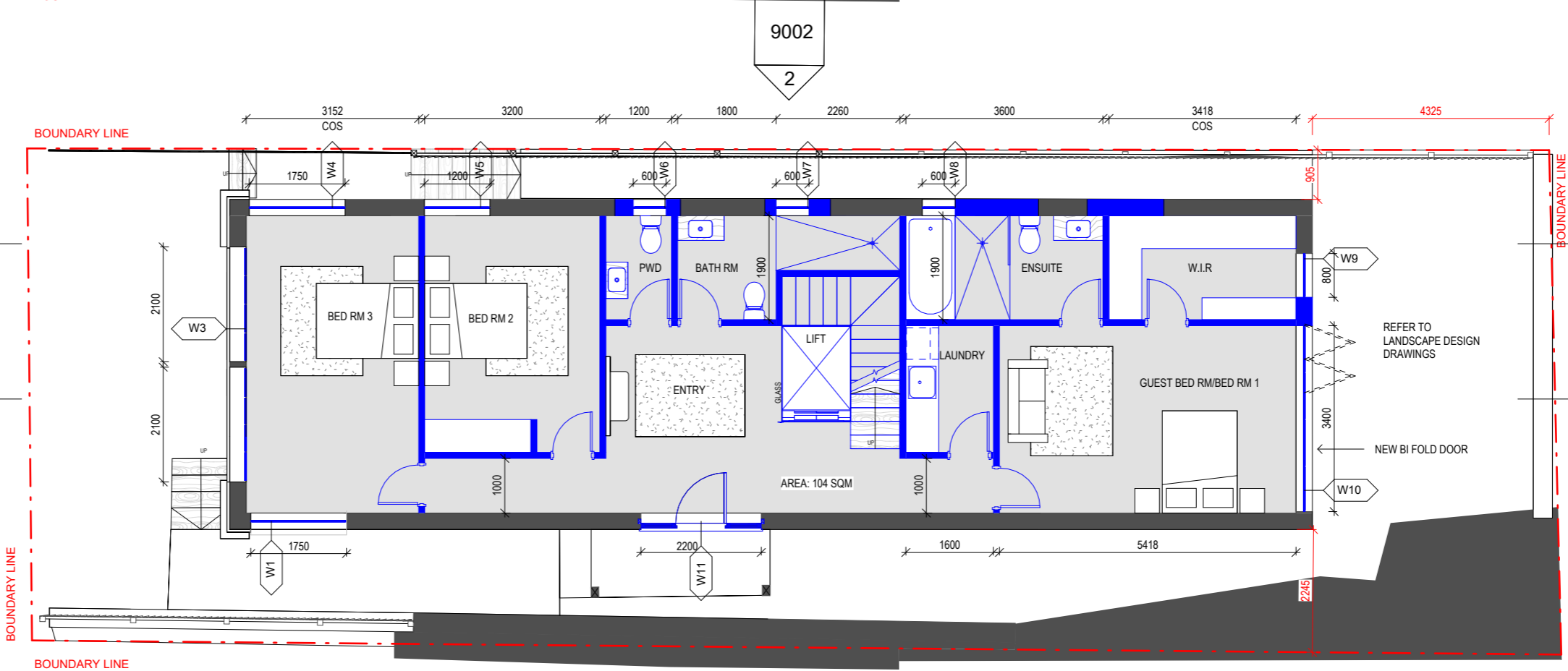


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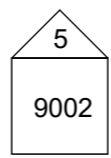
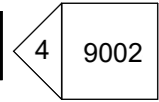
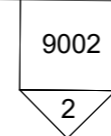
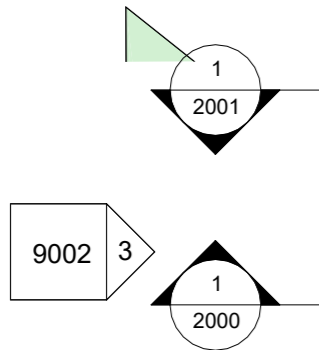
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2 GROUND FLOOR PLAN-DEMOLITION
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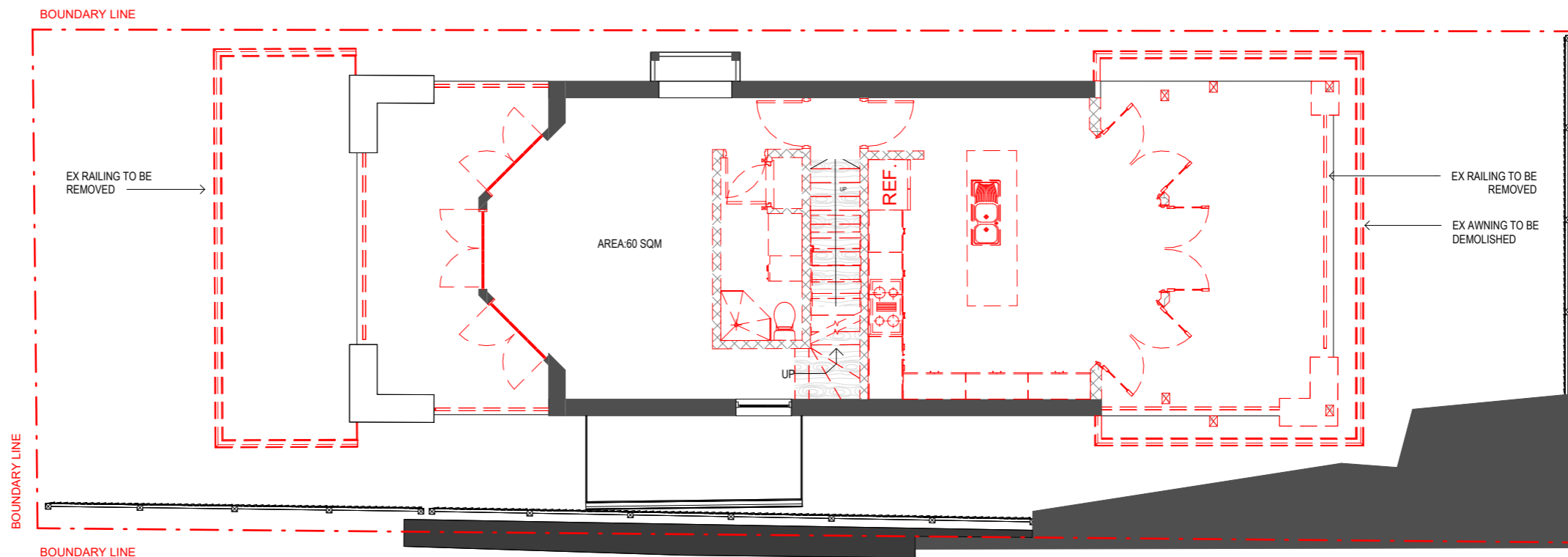


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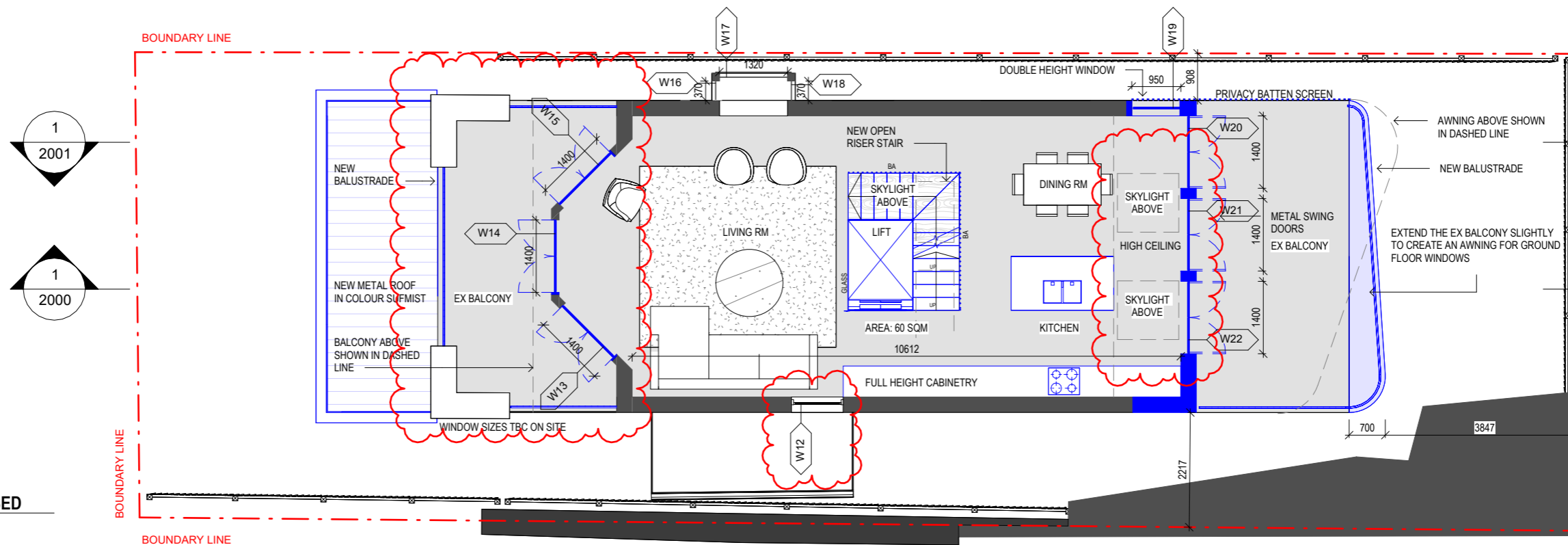
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1 LEVEL ONE PLAN-DEMOLITION

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2 LEVEL ONE PLAN-PROPOSED

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LEVEL ONE FLOOR PLAN

PROPOSED ALTERATION AND ADDITION TO THE EX DWELLING

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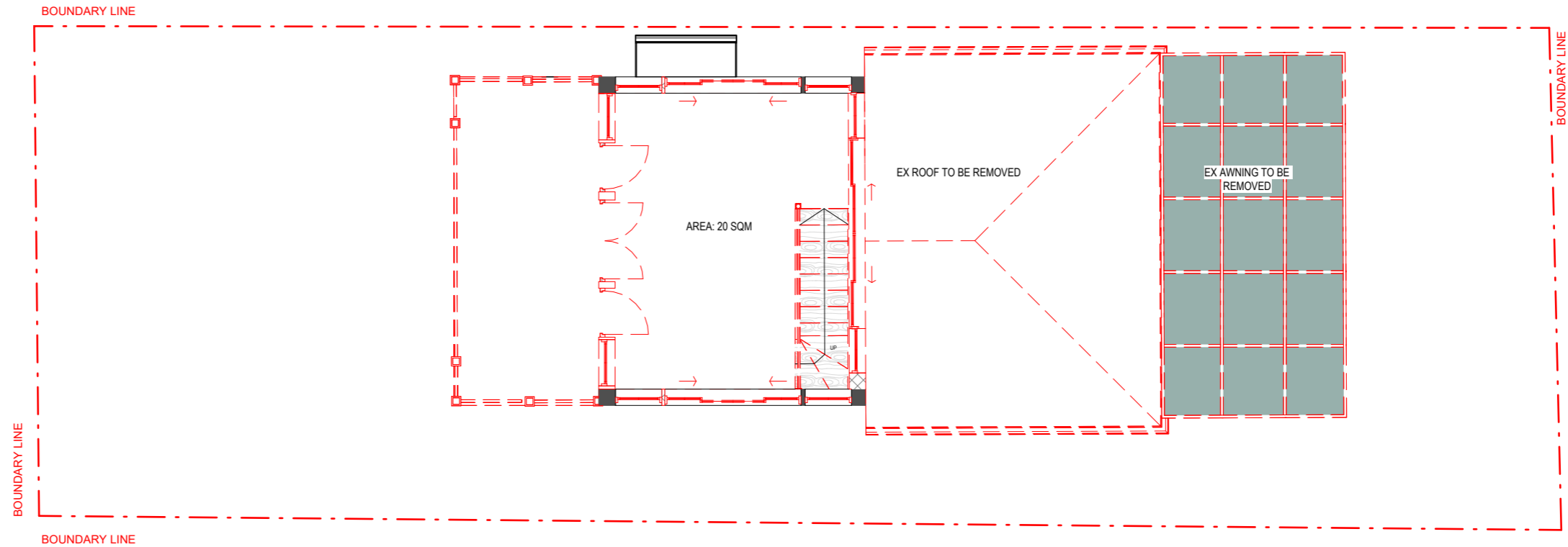
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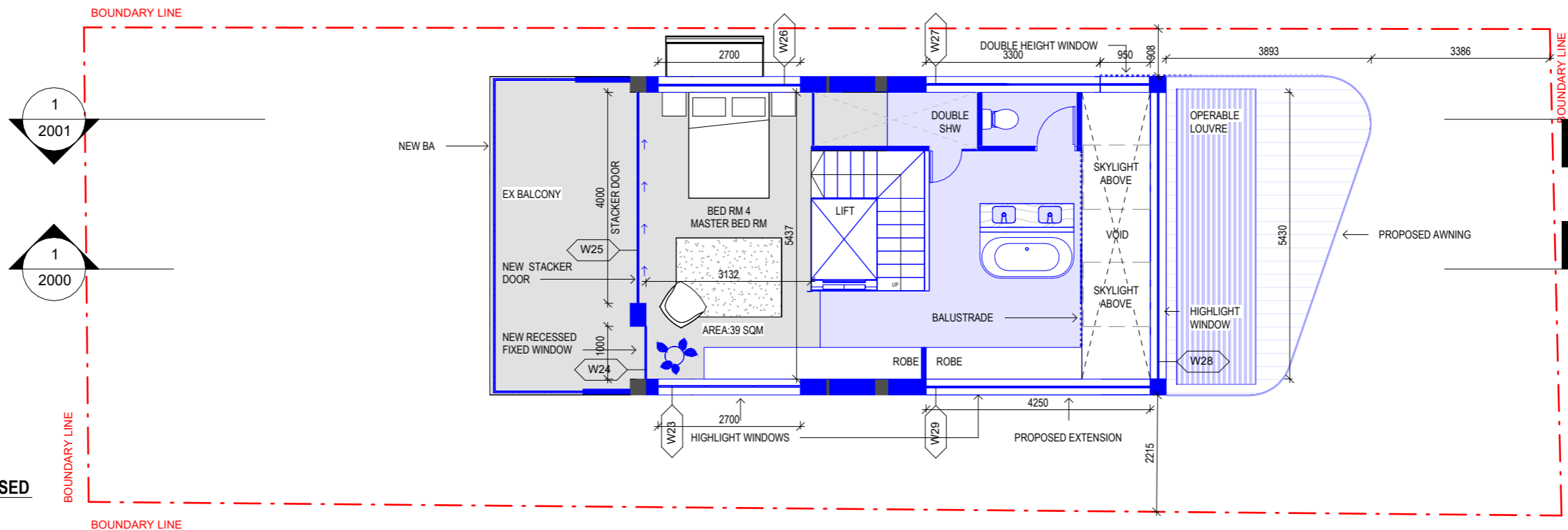


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2 LEVEL TWO FLOOR PLAN-DEMOLITION
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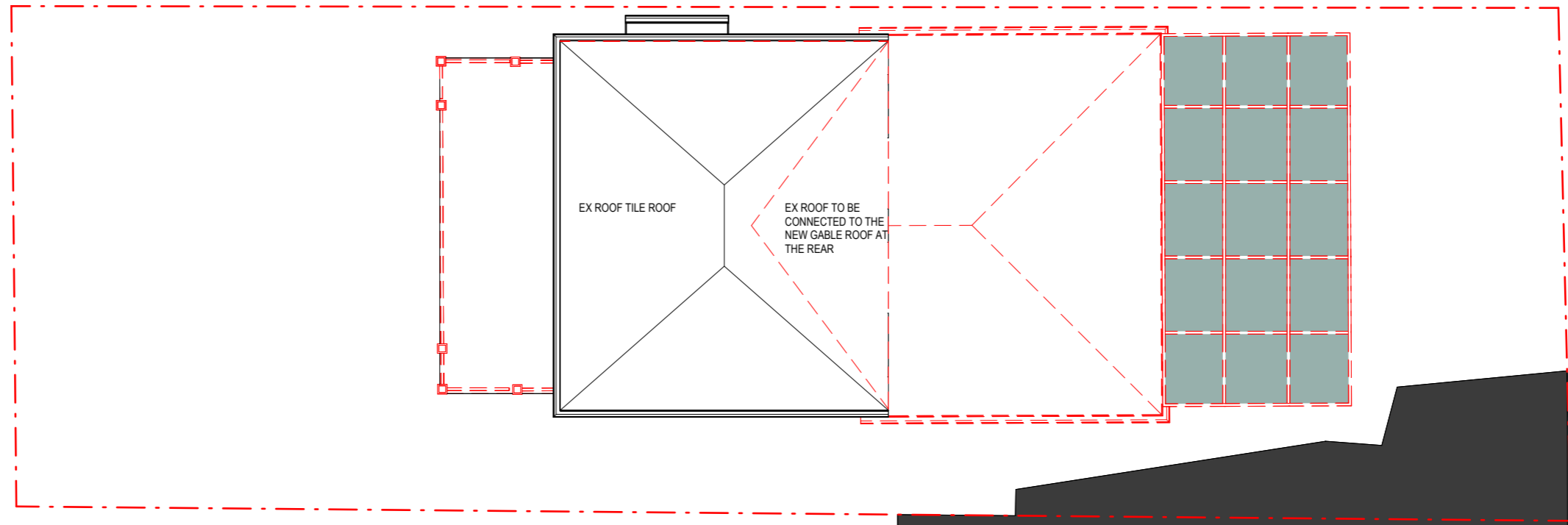


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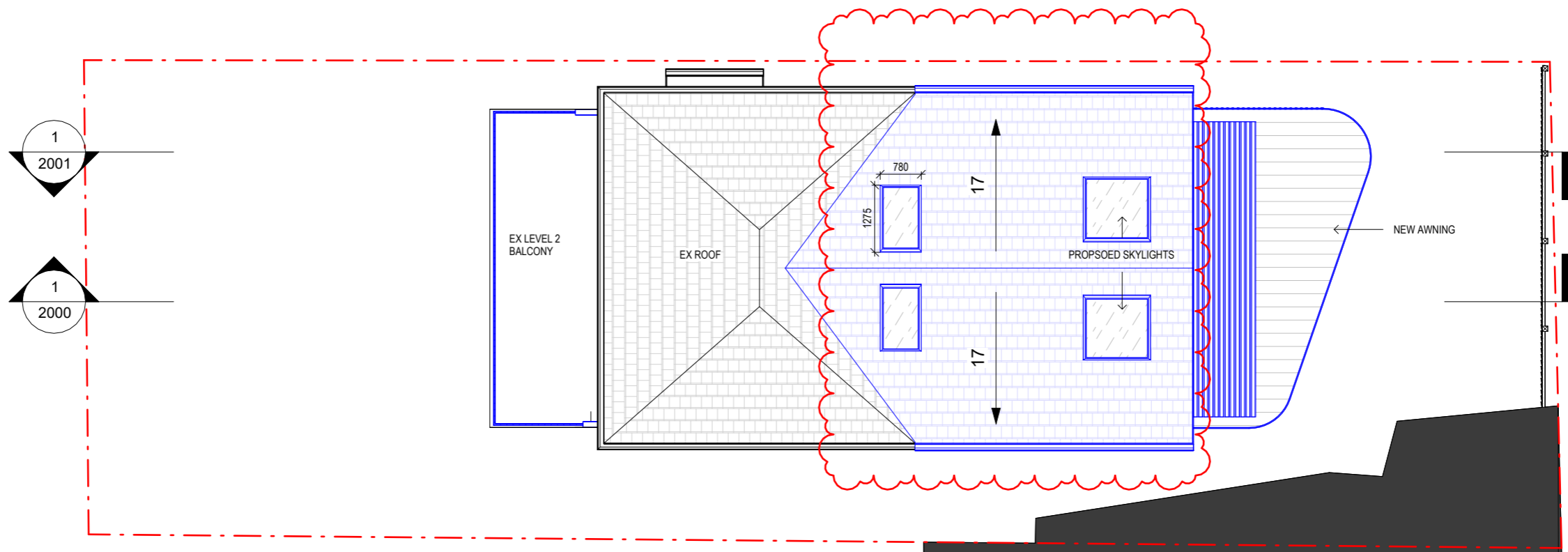


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1 ROOF PLAN-DEMOLITION
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2 ROOF PLAN-PROPSOED
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ROOF PLAN

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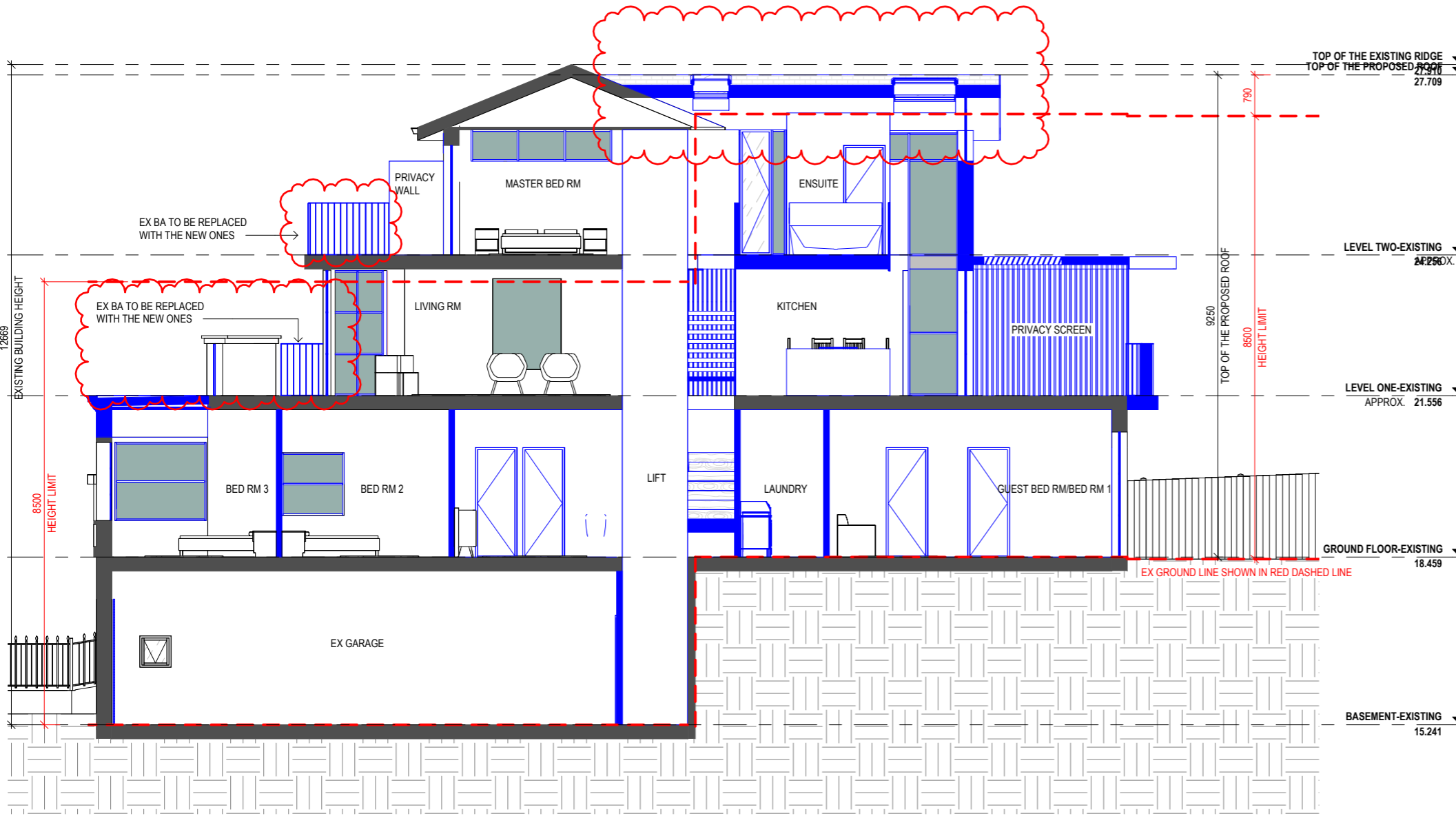
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DA





Construction	Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
Insulation requirements			
The applicant must construct the new or altered construction (floor(s), walls, and ceilings/roofs) in accordance with the specifications listed in the table below, except that a) additional insulation is not required where the area of new construction is less than 2m ² , b) insulation specified is not required for parts of altered construction where insulation already exists.			
	✓	✓	✓
Construction	Additional insulation required (R-value)	Other specifications	
concrete slab on ground floor.	nil		
suspended floor above garage: concrete (R0.6)	nil		
floor above existing dwelling or building.	nil		
external wall: brick veneer	R1.16 (or R1.70 including construction)		
flat ceiling, pitched roof	ceiling: R2.50 (up), roof: foil/sarking	medium (solar absorptance 0.475 - 0.70)	
flat ceiling, flat roof: concrete/plasterboard internal	ceiling: R2.50 (up), roof: foil/sarking	medium (solar absorptance 0.475 - 0.70)	

Glazing requirements	Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check		
Windows and glazed doors					
The applicant must install the windows, glazed doors and shading devices, in accordance with the specifications listed in the table below. Relevant overshadowing specifications must be satisfied for each window and glazed door.					
The following requirements must also be satisfied in relation to each window and glazed door:					
Each window or glazed door with standard aluminium or timber frames and single clear or toned glass may either match the description, or have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below. Total system U-values and SHGCs must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions.					
Each window or glazed door with improved frames, or polylytic low-e glass, or clear/air gap/clear glazing, or toned/air gap/clear glazing must have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below. Total system U-values and SHGCs must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions. The description is provided for information only. Alternative systems with complying U-value and SHGC may be substituted.					
For projections described in millimetres, the leading edge of each eave, pergola, verandah, balcony or awning must be no more than 500 mm above the head of the window or glazed door and no more than 2400 mm above the sill.					
Pergolas with polycarbonate roof or similar translucent material must have a shading coefficient of less than 0.35.					
External louvres and blinds must fully shade the window or glazed door beside which they are situated when fully drawn or closed.					
Pergolas with fixed battens must have battens parallel to the window or glazed door above which they are situated, unless the pergola also shades a perpendicular window. The spacing between battens must not be more than 50 mm.					
Overshadowing buildings or vegetation must be of the height and distance from the centre and the base of the window and glazed door, as specified in the 'overshadowing' column in the table below.					
Windows and glazed doors glazing requirements					
Window / door no.	Orientation	Area of glass inc. frame (m ²)	Overshadowing Height (m) Distance (m)	Shading device	Frame and glass type
W10	N	8.16	0 0	eave/verandah/pergola/balcony >=600 mm	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)
W9	N	1.92	0 0	eave/verandah/pergola/balcony	standard aluminium, single pyrolytic low-e,

1 SECTION A
1 : 100

Window / door no.	Orientation	Area of glass inc. frame (m ²)	Overshadowing Height (m) Distance (m)	Shading device	Frame and glass type
W6	W	0.72	7 2	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W5	W	1.44	7 2	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W4	W	2.7	7 2	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W17	W	2.73	4.7 2	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W19	W	2.28	2 2	external louvre/blind (fixed)	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W26	W	1.08	1.5 2	eave/verandah/pergola/balcony >=450 mm	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)
W27	W	1.91	1.2 2	eave/verandah/pergola/balcony >=450 mm	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)
W29	E	1.91	1.2 2	eave/verandah/pergola/balcony >=450 mm	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)
W23	E	1.08	1.5 2	eave/verandah/pergola/balcony >=450 mm	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)
W11	E	4.62	8 2	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W18	N	0.78	0 0	none	timber or uPVC, double Lo-Tsol/air gap/clear, (U-value: 2.3, SHGC: 0.19)
W16	S	0.78	0 0	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W12	E	2.4	5 2	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)

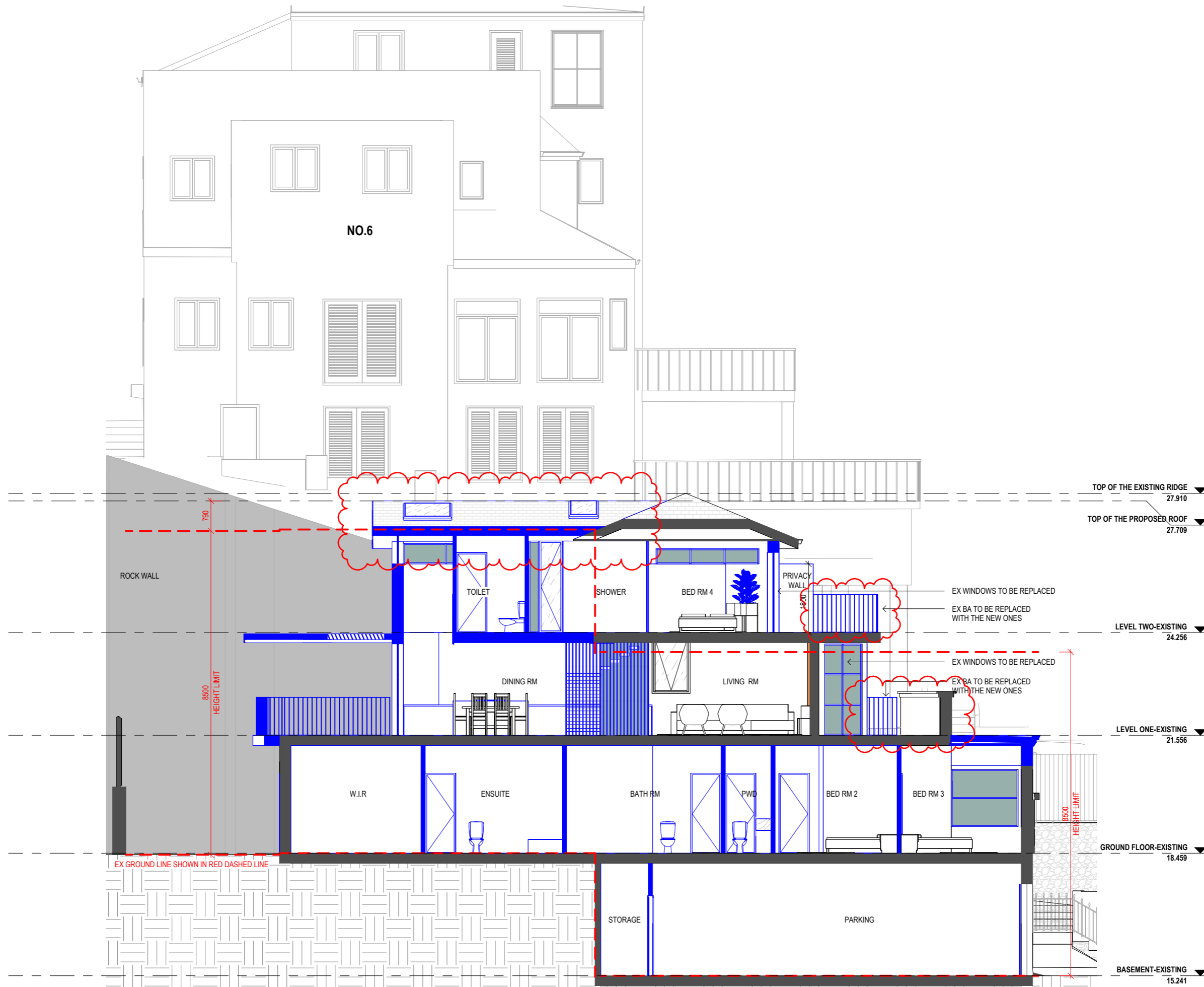
Window / door no.	Orientation	Area of glass inc. frame (m ²)	Overshadowing Height (m) Distance (m)	Shading device	Frame and glass type
W20	N	3.36	0 0	>=450 mm	(U-value: 5.7, SHGC: 0.47)
W21	N	3.36	0 0	eave/verandah/pergola/balcony >=900 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W22	N	3.36	0 0	eave/verandah/pergola/balcony >=900 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W28	N	3.04	0 0	eave/verandah/pergola/balcony >=900 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W2	S	3.15	0 0	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W3	S	3.15	0 0	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W14	S	3.36	0 0	eave/verandah/pergola/balcony >=450 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W13	SE	3.36	0 0	eave/verandah/pergola/balcony >=900 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W15	SW	3.36	0 0	eave/verandah/pergola/balcony >=900 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W25	S	8.4	0 0	eave/verandah/pergola/balcony >=450 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W24	S	2.1	0 0	eave/verandah/pergola/balcony >=450 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W8	W	0.72	7 2	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W7	W	0.72	7 2	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)

Window / door no.	Orientation	Area of glass inc. frame (m ²)	Overshadowing Height (m) Distance (m)	Shading device	Frame and glass type
W1	E	2.63	7 2	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W19Upper	W	1.71	3 2	none	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)

Skylight number	Area of glazing inc. frame (m ²)	Shading device	Frame and glass type
S1	1.63	no shading	timber, low-E internal/argon fill/clear external, (or U-value: 2.5, SHGC: 0.456)
S2	1.63	no shading	timber, low-E internal/argon fill/clear external, (or U-value: 2.5, SHGC: 0.456)
S3	1.63	no shading	timber, low-E internal/argon fill/clear external, (or U-value: 2.5, SHGC: 0.456)
S4	0.99	no shading	timber, low-E internal/argon fill/clear external, (or U-value: 2.5, SHGC: 0.456)
S5	0.99	no shading	timber, low-E internal/argon fill/clear external, (or U-value: 2.5, SHGC: 0.456)

LEGEND

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1 SECTION B
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SECTION B
PROPOSED ALTERATION AND ADDITION TO THE EX DWELLING

Brin Pandey

4 Warung Street, McMahon's Point, NSW 2060

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Job No: J2018
Page No: 2001
Scale: 1 : 100

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Date 230517
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- EXISTING
- TO BE DEMOLISHED
- PROPOSED



1 SOUTH ELEVATION-EXISTING
1:100

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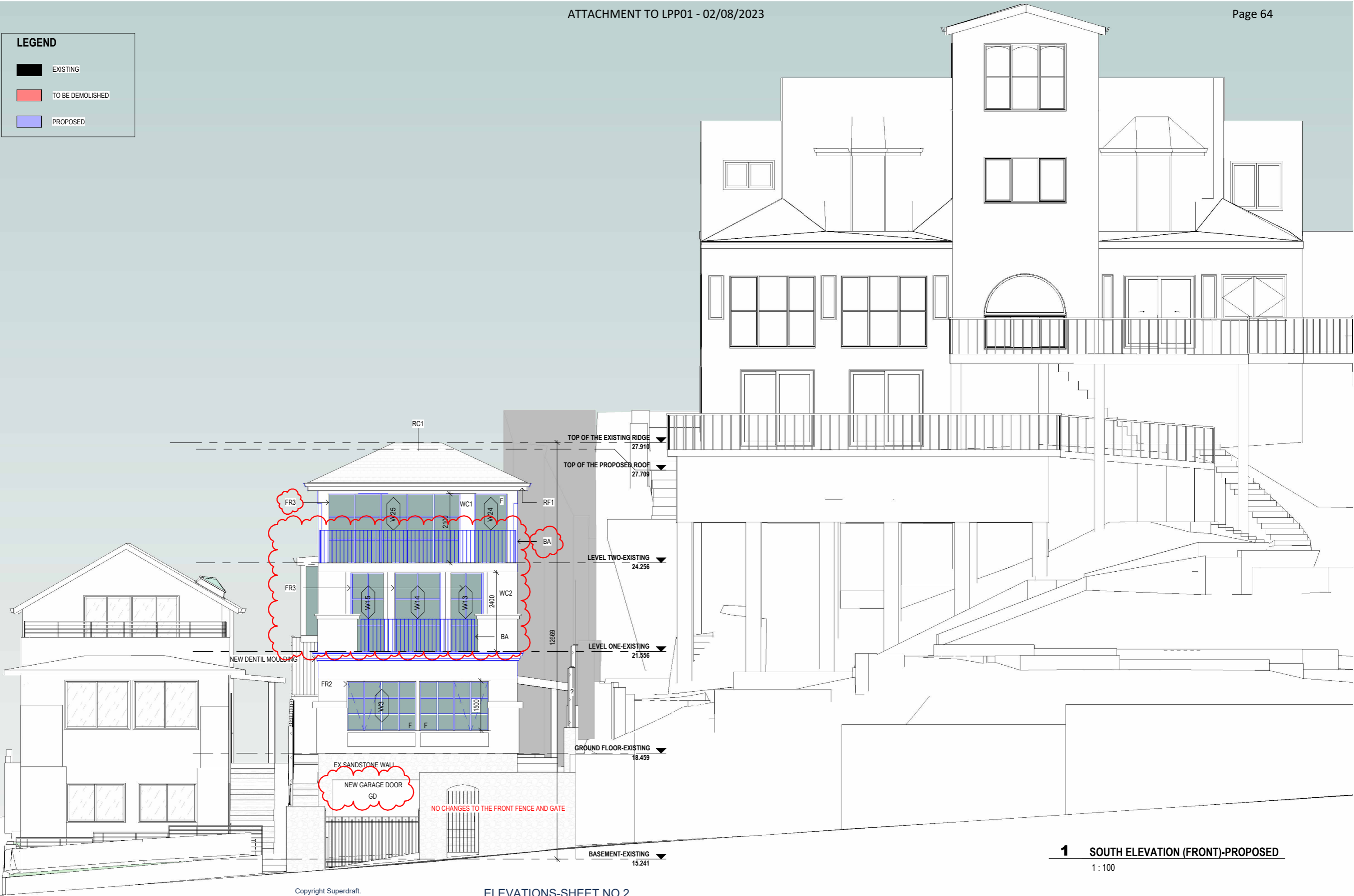
ELEVATIONS-SHEET NO.1
PROPOSED ALTERATION AND ADDITION TO THE EX DWELLING

Brin Pandey
4 Warung Street, McMahons Point, NSW 2060

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Job No:	J2018	Date	220601
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LEGEND

- EXISTING
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ELEVATIONS-SHEET NO.2

PROPOSED ALTERATION AND ADDITION TO THE EX DWELLING

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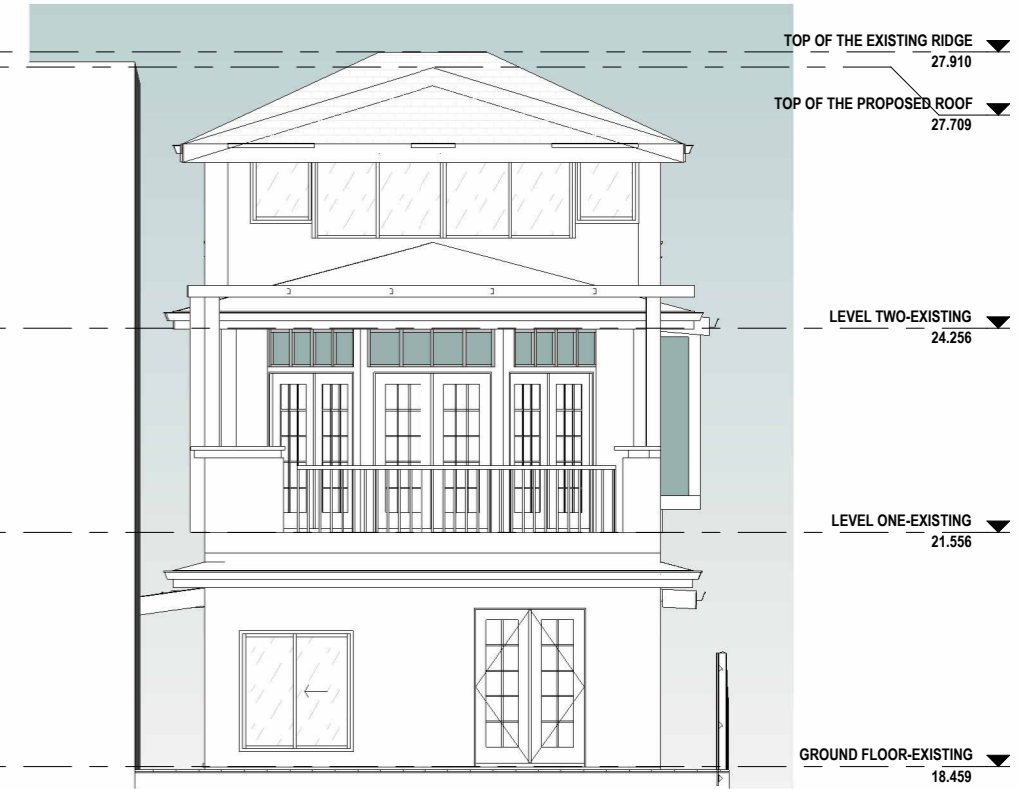
Rev. B
 Date: 230517
 DRAWN BY: NK
 AMENDMENT: AMENDED DA

1 SOUTH ELEVATION (FRONT)-PROPOSED
 1:100



TOP OF THE EXISTING RIDGE
27.910
TOP OF THE PROPOSED ROOF
27.709
LEVEL TWO-EXISTING
24.256
LEVEL ONE-EXISTING
21.556
GROUND FLOOR-EXISTING
18.459

9451



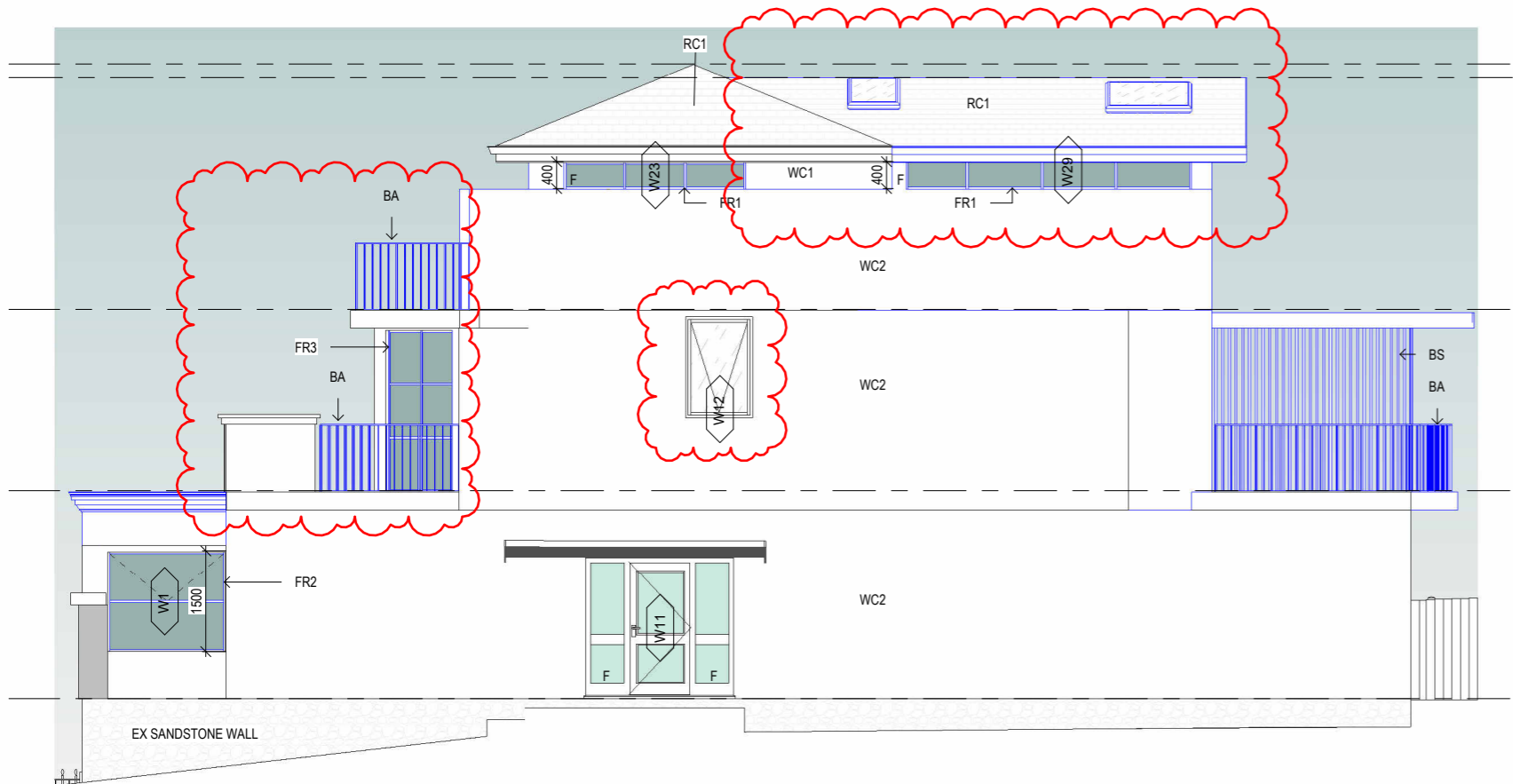
TOP OF THE EXISTING RIDGE
27.910
TOP OF THE PROPOSED ROOF
27.709
LEVEL TWO-EXISTING
24.256
LEVEL ONE-EXISTING
21.556
GROUND FLOOR-EXISTING
18.459

1 EAST ELEVATION-EXISTING

1 : 100

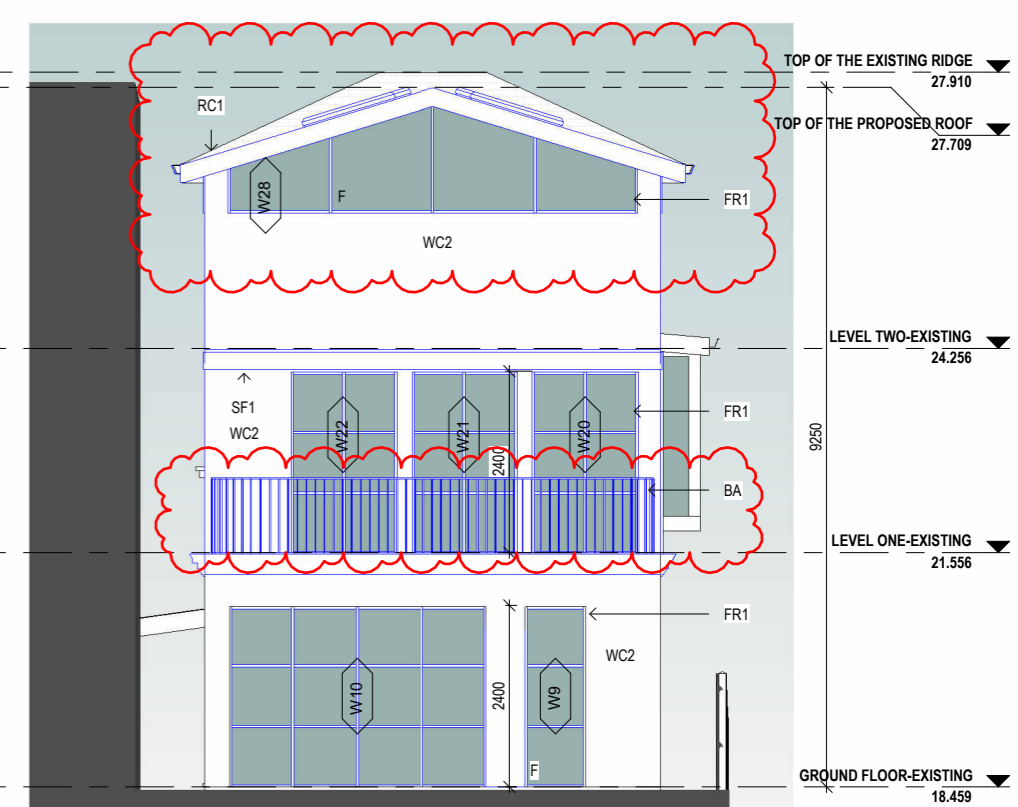
2 NORTH ELEVATION-EXISTING

1 : 100



TOP OF THE EXISTING RIDGE
27.910
TOP OF THE PROPOSED ROOF
27.709
LEVEL TWO-EXISTING
24.256
LEVEL ONE-EXISTING
21.556
GROUND FLOOR-EXISTING
18.459

9250



TOP OF THE EXISTING RIDGE
27.910
TOP OF THE PROPOSED ROOF
27.709
LEVEL TWO-EXISTING
24.256
LEVEL ONE-EXISTING
21.556
GROUND FLOOR-EXISTING
18.459

9250

3 EAST ELEVATION-PROPOSED

1 : 100

4 NORTH ELEVATION-PROPOSED

1 : 100

LEGEND

- EXISTING
- TO BE DEMOLISHED
- PROPOSED

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ELEVATIONS-SHEET NO.3

PROPOSED ALTERATION AND ADDITION TO THE EX DWELLING

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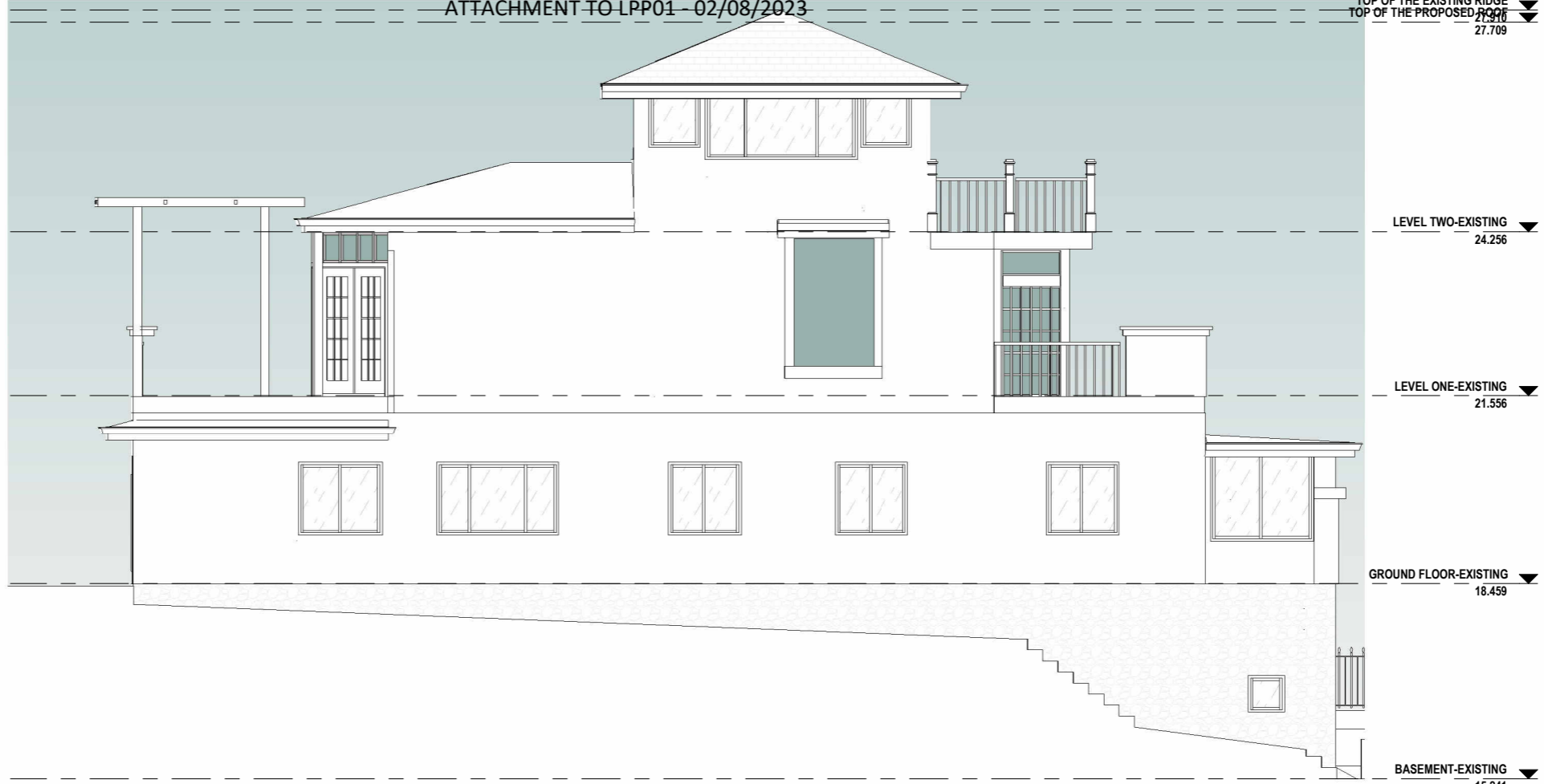
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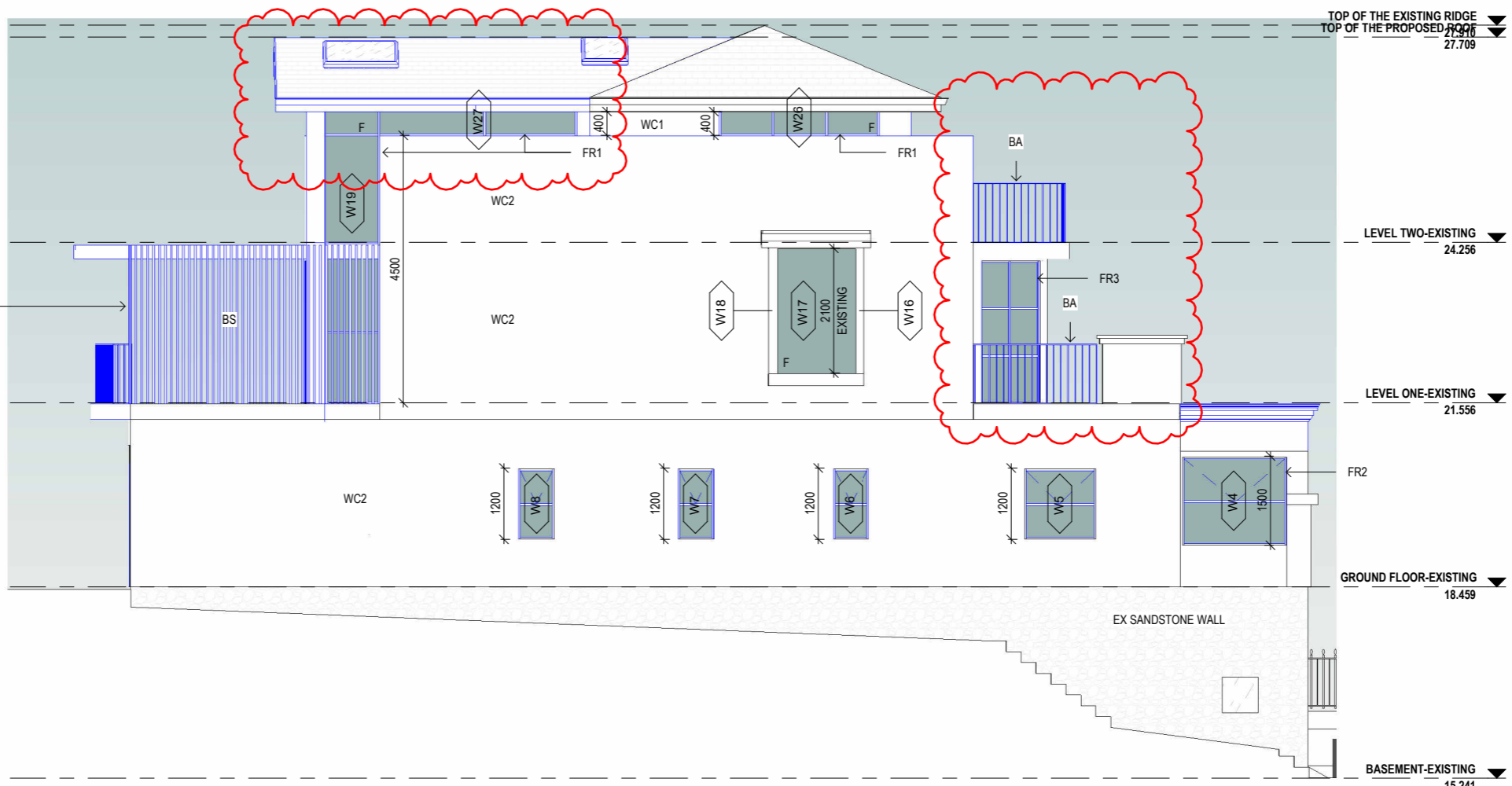
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1 WEST ELEVATION-EXISTING

1 : 100



2 WEST ELEVATION-PROPOSED

1 : 100

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PROPOSED ALTERATION AND ADDITION TO THE EX DWELLING

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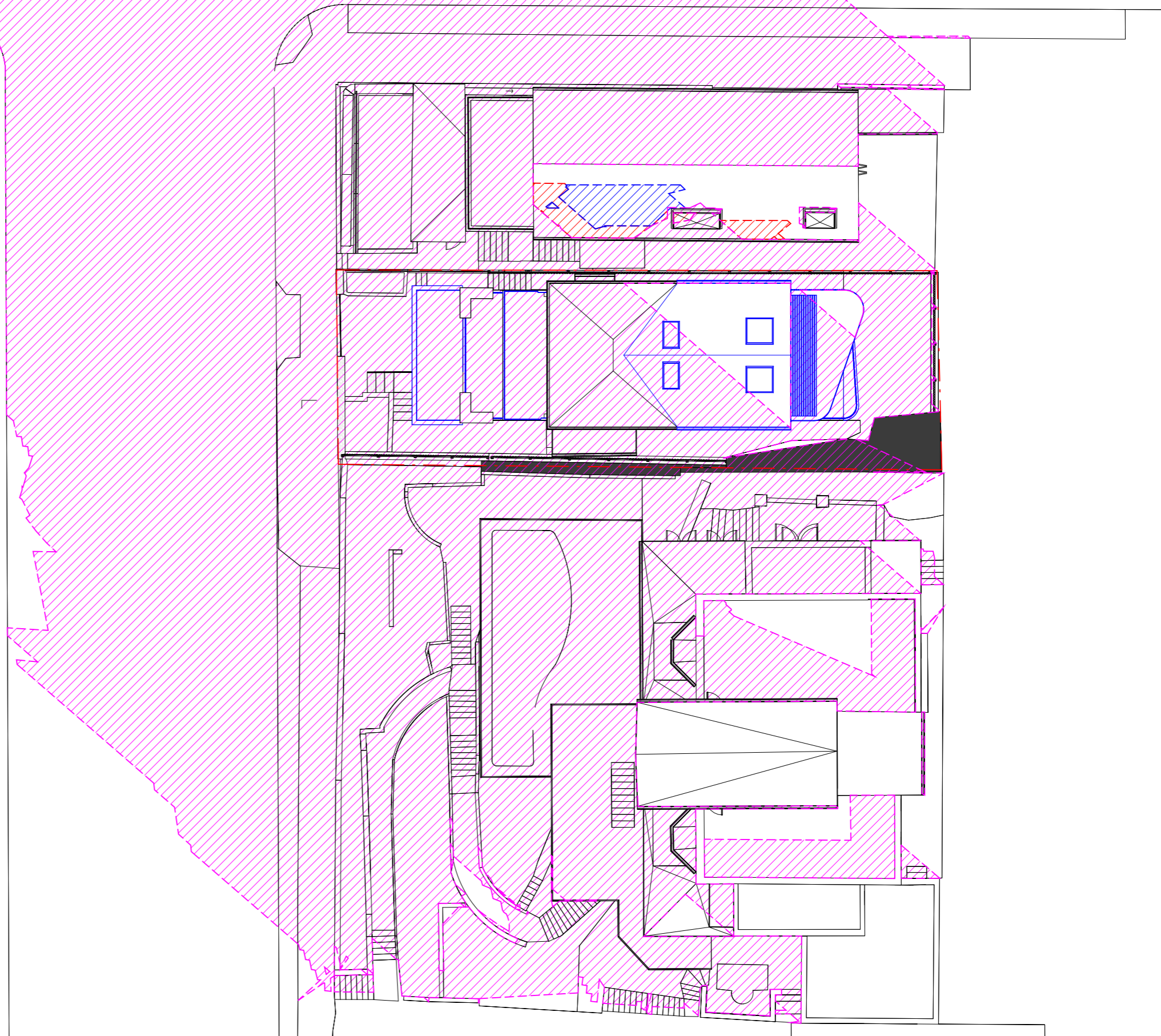
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DRAWN BY: NK
AMENDMENT: AMENDED DA




LEGEND

- EXISTING
- TO BE DEMOLISHED
- PROPOSED

BLUES POINT ROAD



SHADOW DIAGRAM LEGEND

-  SHADOWS CAST BY EXISTING NEIGHBOUR
-  SHADOWS CAST BY EXISTING BUILDING
-  ADDITIONAL SHADOWS CAST BY PROPOSED BUILDING

1 SHADOW DIAGRAM- 21TH JUNE-9AM

1 : 200

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SHADOW DIAGRAM- 21TH JUNE-9AM

PROPOSED ALTERATION AND
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BLUES POINT ROAD




WARUNG STREET

NO.2

NO.6

NO.33

SHADOW DIAGRAM LEGEND

-  SHADOWS CAST BY EXISTING NEIGHBOUR
-  SHADOWS CAST BY EXISTING BUILDING
-  ADDITIONAL SHADOWS CAST BY PROPOSED BUILDING

1 SHADOW DIAGRAM- 21TH JUNE-10 AM

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SHADOW DIAGRAM- 21TH JUNE-10 AM

PROPOSED ALTERATION AND ADDITION TO THE EX DWELLING

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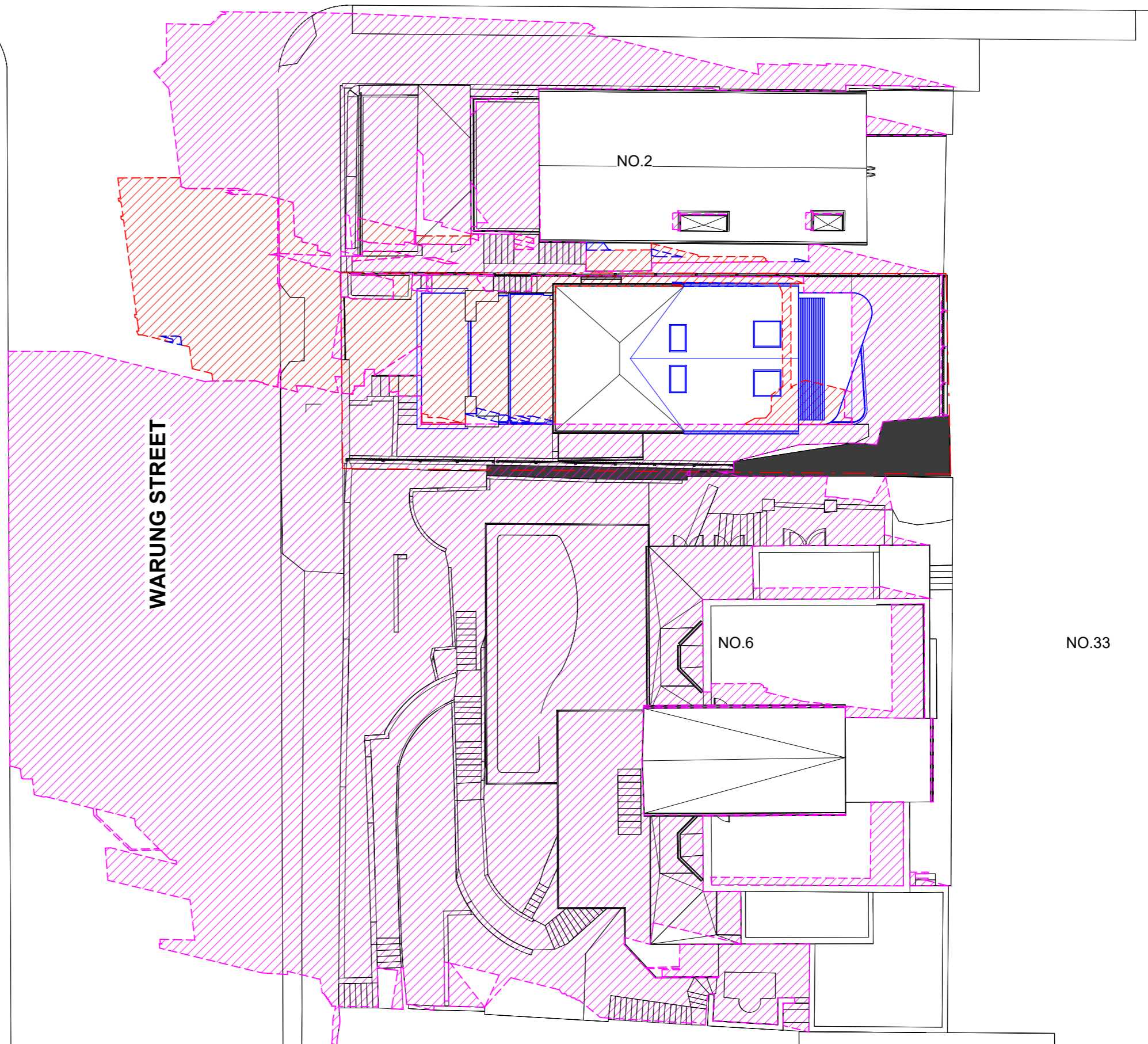
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BLUES POINT ROAD



WARUNG STREET

SHADOW DIAGRAM LEGEND

-  SHADOWS CAST BY EXISTING NEIGHBOUR
-  SHADOWS CAST BY EXISTING BUILDING
-  ADDITIONAL SHADOWS CAST BY PROPOSED BUILDING

1 SHADOW DIAGRAM- 21TH JUNE-11 AM

1 : 200

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PROPOSED ALTERATION AND ADDITION TO THE EX DWELLING

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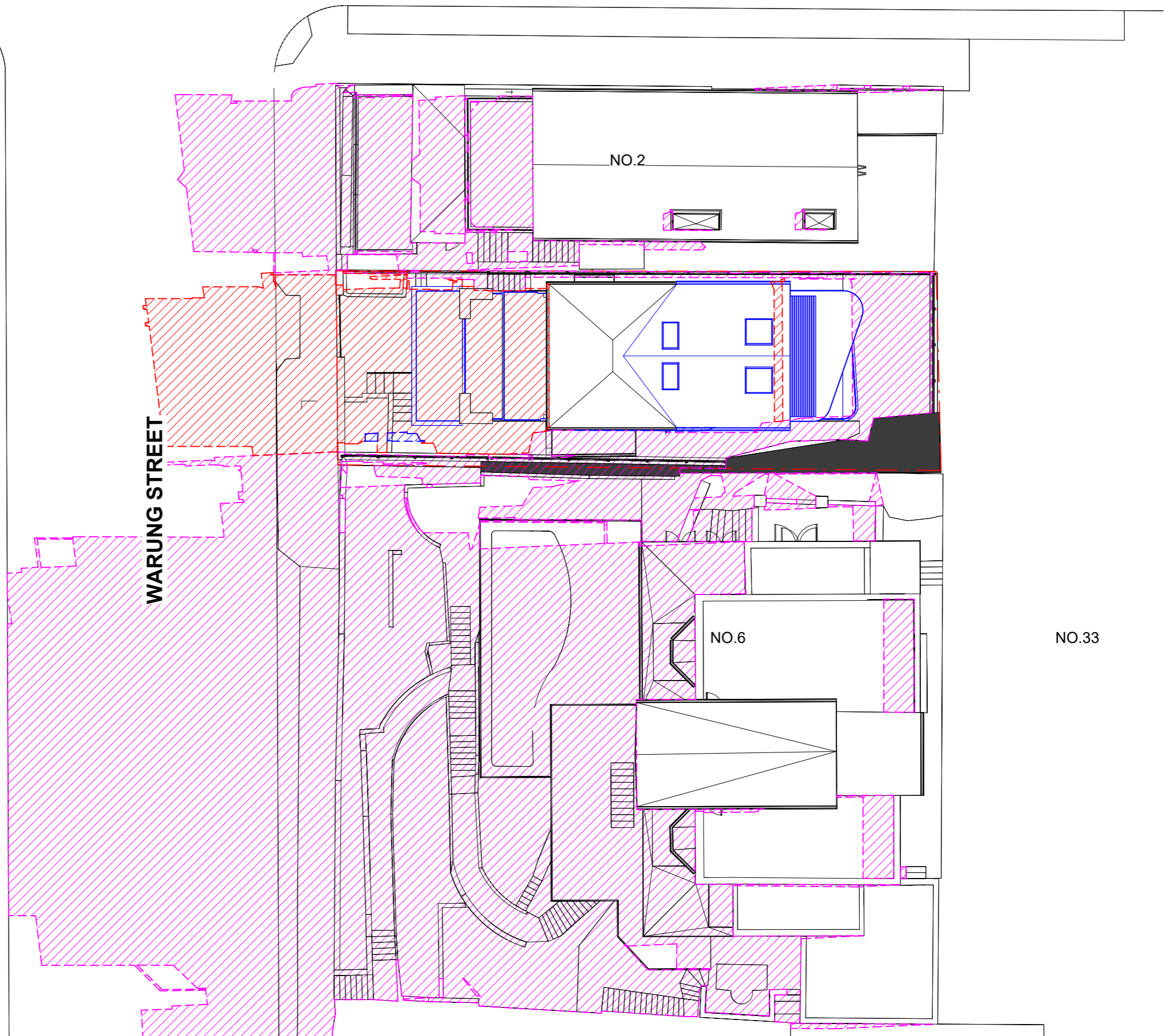
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BLUES POINT ROAD






WARUNG STREET

NO.2

NO.6

NO.33

SHADOW DIAGRAM LEGEND

-  SHADOWS CAST BY EXISTING NEIGHBOUR
-  SHADOWS CAST BY EXISTING BUILDING
-  ADDITIONAL SHADOWS CAST BY PROPOSED BUILDING

1 SHADOW DIAGRAM- 21TH JUNE-12 PM

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SHADOW DIAGRAM- 21TH JUNE-12 PM

PROPOSED ALTERATION AND
 ADDITION TO THE EX DWELLING

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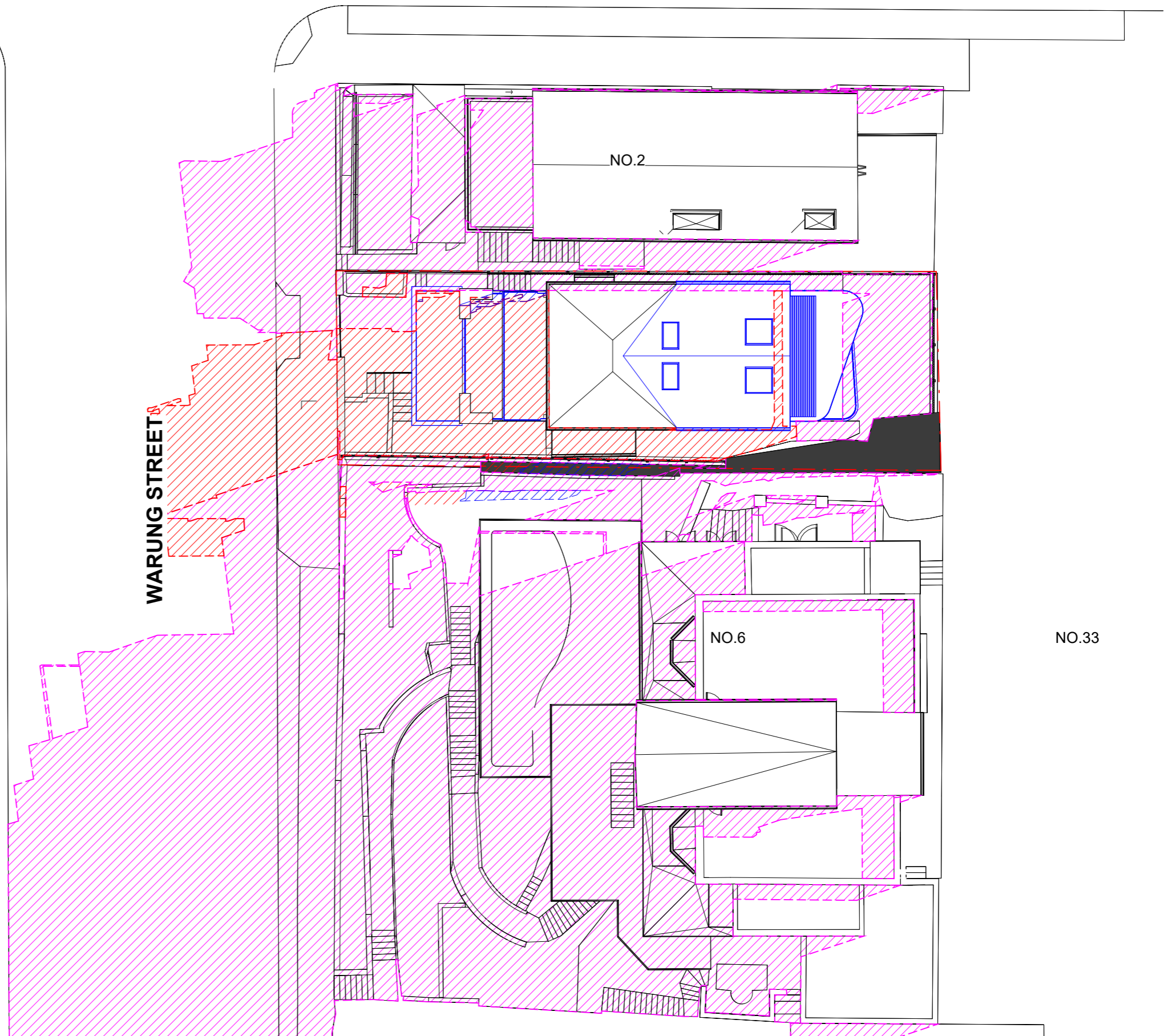
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BLUES POINT ROAD



SHADOW DIAGRAM LEGEND

-  SHADOWS CAST BY EXISTING NEIGHBOUR
-  SHADOWS CAST BY EXISTING BUILDING
-  ADDITIONAL SHADOWS CAST BY PROPOSED BUILDING

1 SHADOW DIAGRAM- 21TH JUNE-1 PM

1 : 200

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SHADOW DIAGRAM- 21TH JUNE-1 PM

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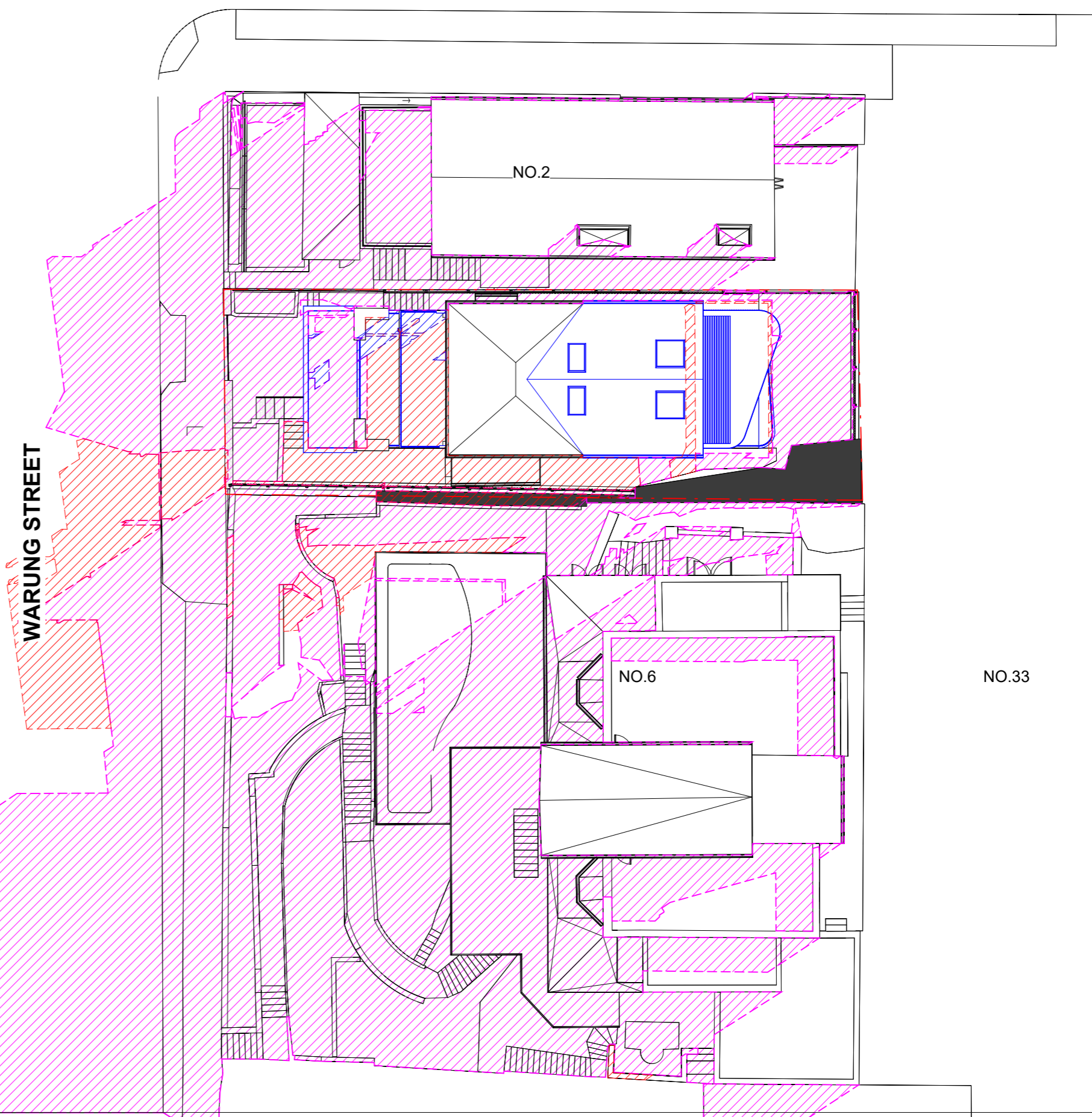
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BLUES POINT ROAD






WARUNG STREET

NO.2

NO.6

NO.33

SHADOW DIAGRAM LEGEND

-  SHADOWS CAST BY EXISTING NEIGHBOUR
-  SHADOWS CAST BY EXISTING BUILDING
-  ADDITIONAL SHADOWS CAST BY PROPOSED BUILDING

1 SHADOW DIAGRAM- 21TH JUNE-2 PM

1 : 200

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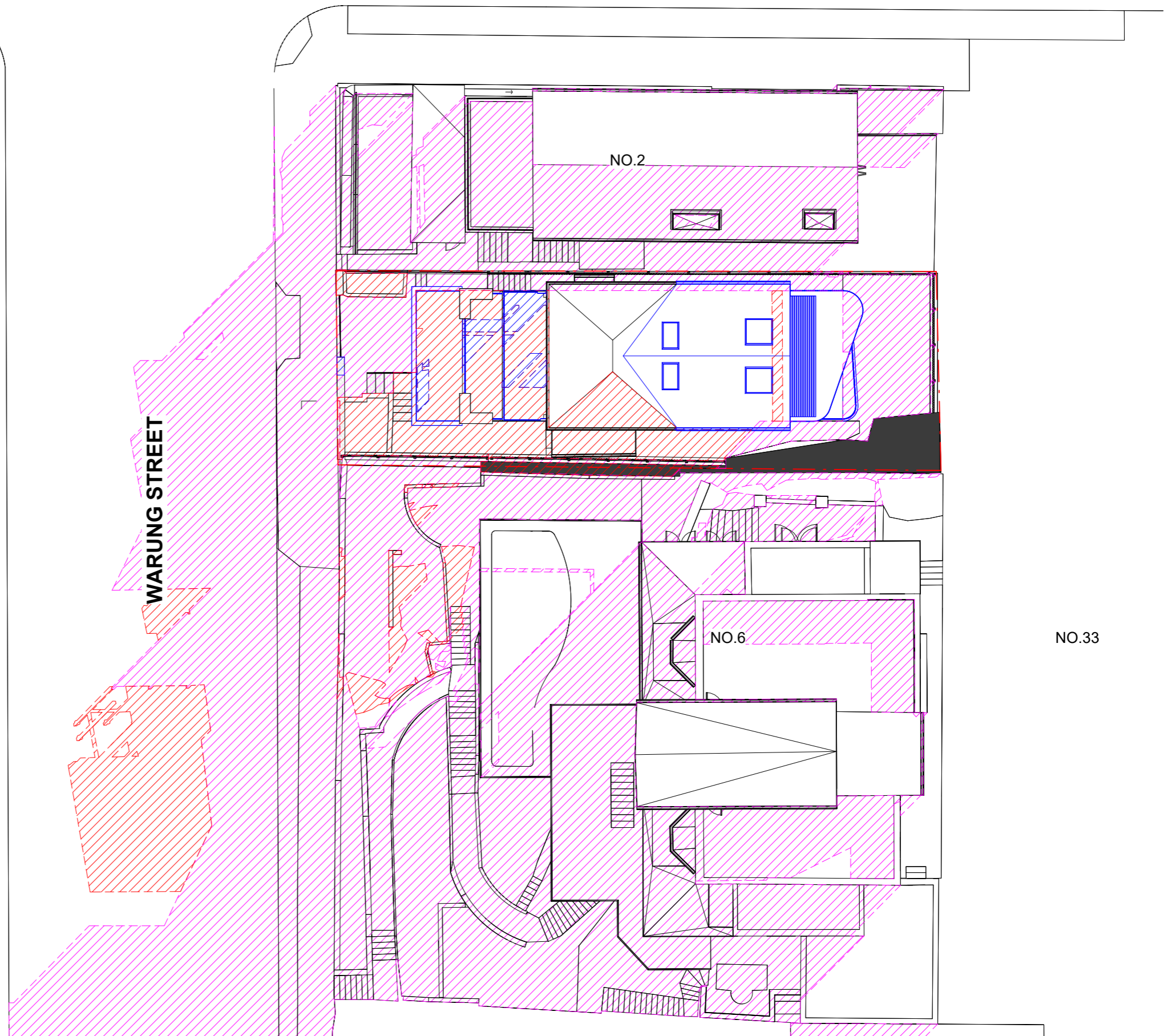
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BLUES POINT ROAD






WARUNG STREET

NO.2

NO.6

NO.33

SHADOW DIAGRAM LEGEND

-  SHADOWS CAST BY EXISTING NEIGHBOUR
-  SHADOWS CAST BY EXISTING BUILDING
-  ADDITIONAL SHADOWS CAST BY PROPOSED BUILDING

1 SHADOW DIAGRAM- 21TH JUNE-3 PM

1 : 200

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SHADOW DIAGRAM- 21TH JUNE-3 PM

PROPOSED ALTERATION AND ADDITION TO THE EX DWELLING

Brin Pandey

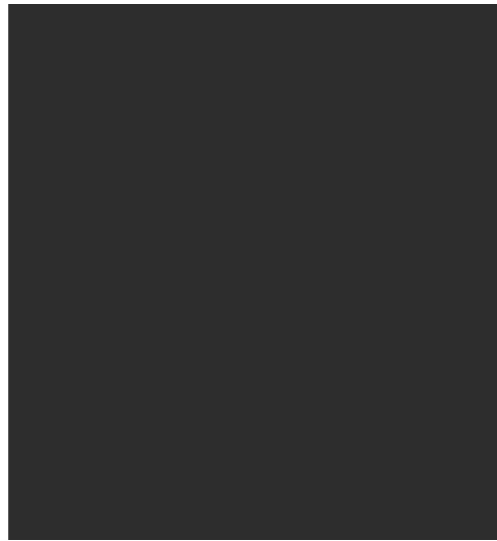
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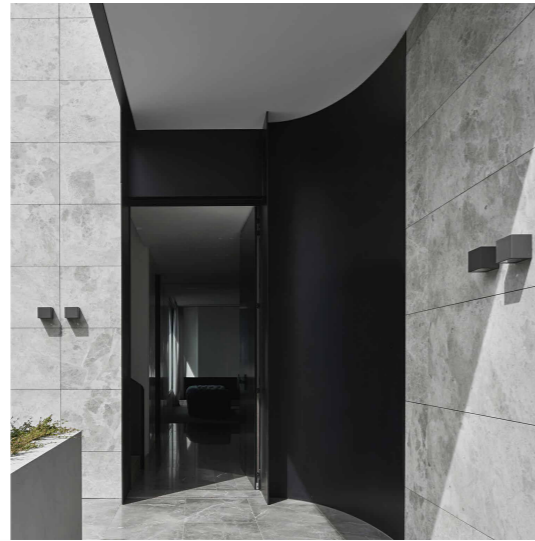
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FINISHES SCHEDULE



PT1: PAINT FINISH
COLOUR: DURATEC ZEUS BLACK - MATT



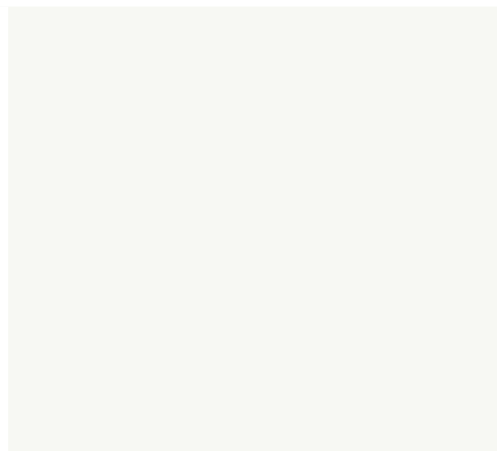
WC1: METAL CLAD
POWDER COATED IN COLOUR PT1



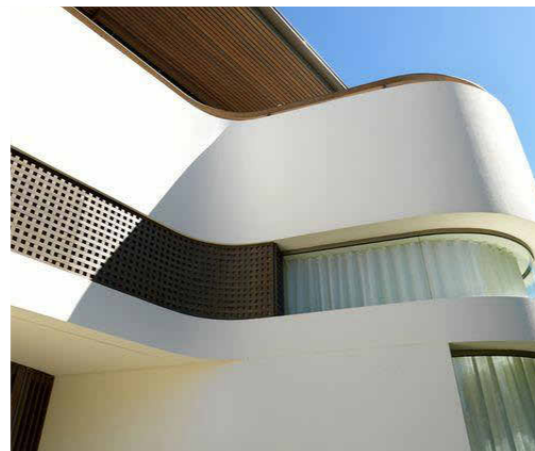
NOTE: WINDOWS AND DOORS (FACING BACKYARD)
FR1: METAL FRAME DOOR AND WINDOWS
FRAME COLOUR: POWDER COATED IN COLOUR PT1



RF1: METAL FASCIA AND GUTTER
COLOUR: POWDER COATED IN COLOUR PT1



PT2: PAINT FINISH
COLOUR: DULUX CASPER WHITE QUARTER OR SIMILAR



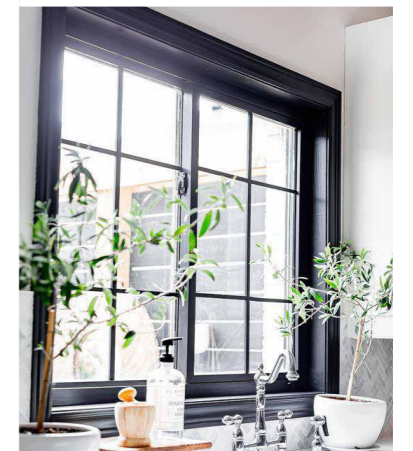
WC2: BRICK WALL TO BE RENDERED IN COLOUR PT2



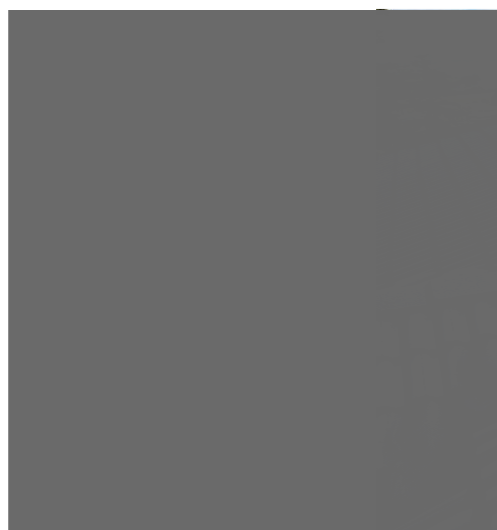
BA: METAL BALUSTRADE
POWDERCOATED IN COLOUR PT2



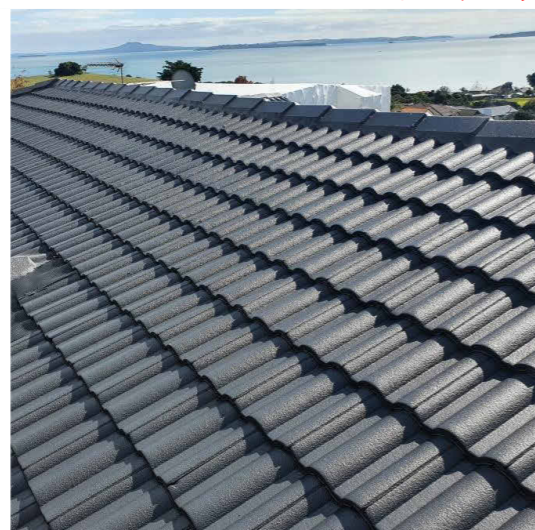
FR2: TIMBER FRAME DOOR AND WINDOWS
COLOUR: PAINTED IN COLOUR PT2



FR3: TIMBER FRAME DOOR AND WINDOWS (FACING WARUNG STREET)
COLOUR: PAINTED IN COLOUR MATT BLACK



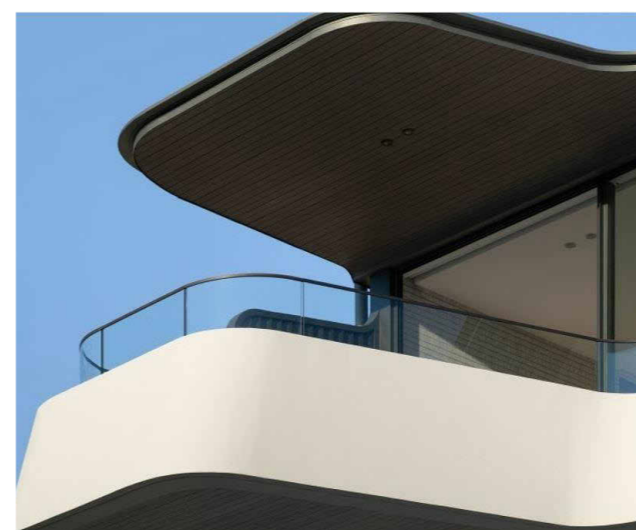
PT3: PAINT FINISH
COLOUR: COLORBOND BASALT



RC1: ROOF TILE (MATCH THE EXISTING)
PAINTED IN COLOUR PT3



BS: PRIVACY BATTEN SCREEN (BALCONY AT THE REAR)
POWDERCOATED IN COLOUR PT2



SF1: TIMBER SOFFIT (AWNING ABOVE THE REAR BALCONY)



GD: GARAGE DOOR
FEDERATION STYLE GARAGE DOOR
PAINTED IN COLOUR PT2

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4 Warung Street, McMahon's Point, NSW 2060

Designed By: NK
Job No: J2018
Page No: 9001
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Rev. B
Date 230517
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Request to Vary Building Height Under Clause 4.6 of North Sydney Local Environmental Plan 2013

Proposed Alterations and Additions at 4 Warung Street, McMahons Point

July 2023



Navon Planning ABN 78 425 016 053

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Consistent with the R3 Medium Density Residential Zone Objectives	11
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Introduction

This request made under Clause 4.6 of the North Sydney Local Environmental Plan 2013 accompanies a proposal for alterations and additions at 4 Warung Street, McMahons Point. It should be read in conjunction with the Statement of Environmental Effects prepared by Navon Planning. The proposal involves a variation to Clause 4.3 Height of building under the North Sydney LEP 2013. This request to vary the development standard is considered appropriate for the proposal as will be discussed below. The proposal does not involve any other development standard variations.

The Site and Surrounding Area

The site is a single allotment with a total area of 253.9sqm at 4 Warung Street, McMahons Point and the legal description of the site is Lot B DP 338032. The site is rectangular in shape and slopes from north to south and from east to west. The property currently supports a four storey detached dwelling including a basement. The upper floors enjoy views towards Henry Lawson Reserve, Blues Bay and Sydney Harbour. The residential buildings in the surrounding area include a mix of dwellings with various building heights and storeys some of which are semi-detached and detached dwellings and as well as some residential flat buildings.

The Proposed Variation

The North Sydney LEP 2013 include provisions for exception to development standards as follows.

4.6 Exceptions to development standards

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

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

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



- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*

In accordance with Clause 4.6 (4)(a)(i), this written request addresses the matters required to be demonstrated by Clause 4.6 (3) relating to the proposed variation under Clause 4.3 of the North Sydney LEP 2013.

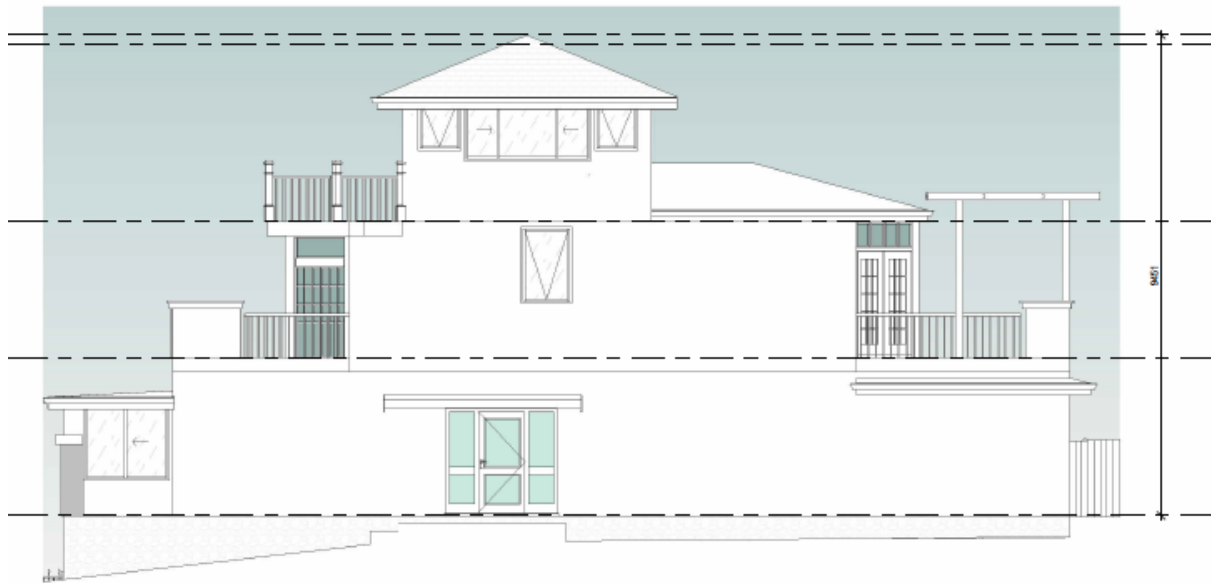
The proposal seeks to maintain the existing building height of 12.67m and varies from Council's maximum building height of 8.5m by 49% (4.17m). It is recognised the existing dwelling already exceeds the maximum building height. The privacy screen extends 2.3m above the maximum building height, although does not protrude beyond the existing 12.67m height. The rear addition exceeds the building height by 790mm or 9%.

Maximum building height: 8.5m

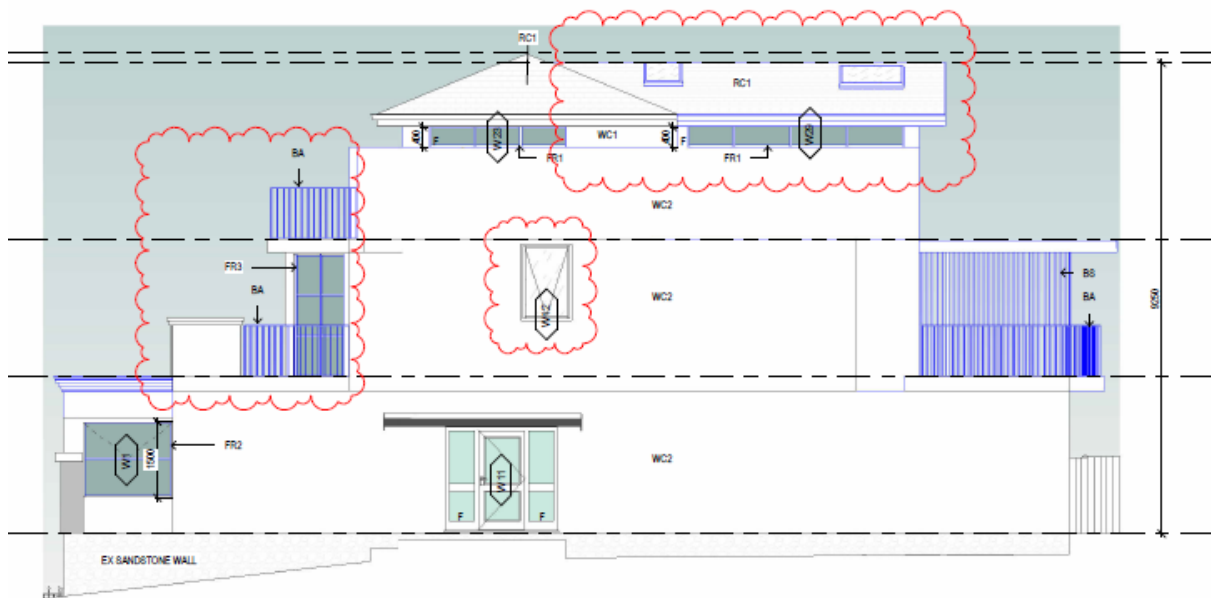
Existing height- 12.67m

Proposed height- 12.67m (no change)

Figures 1 and 2 below show the existing and proposed side elevations, demonstrating the minor change to the building envelope. As per Figures 3 and 4 below, the only elements that protrude above the maximum building height are the new roof, privacy screens and balustrade associated with the existing building. All other alterations are below the maximum building height.



1 EAST ELEVATION-EXISTING
1: 100



3 EAST ELEVATION-PROPOSED
1: 100

Figure 1: Existing and proposed east elevation

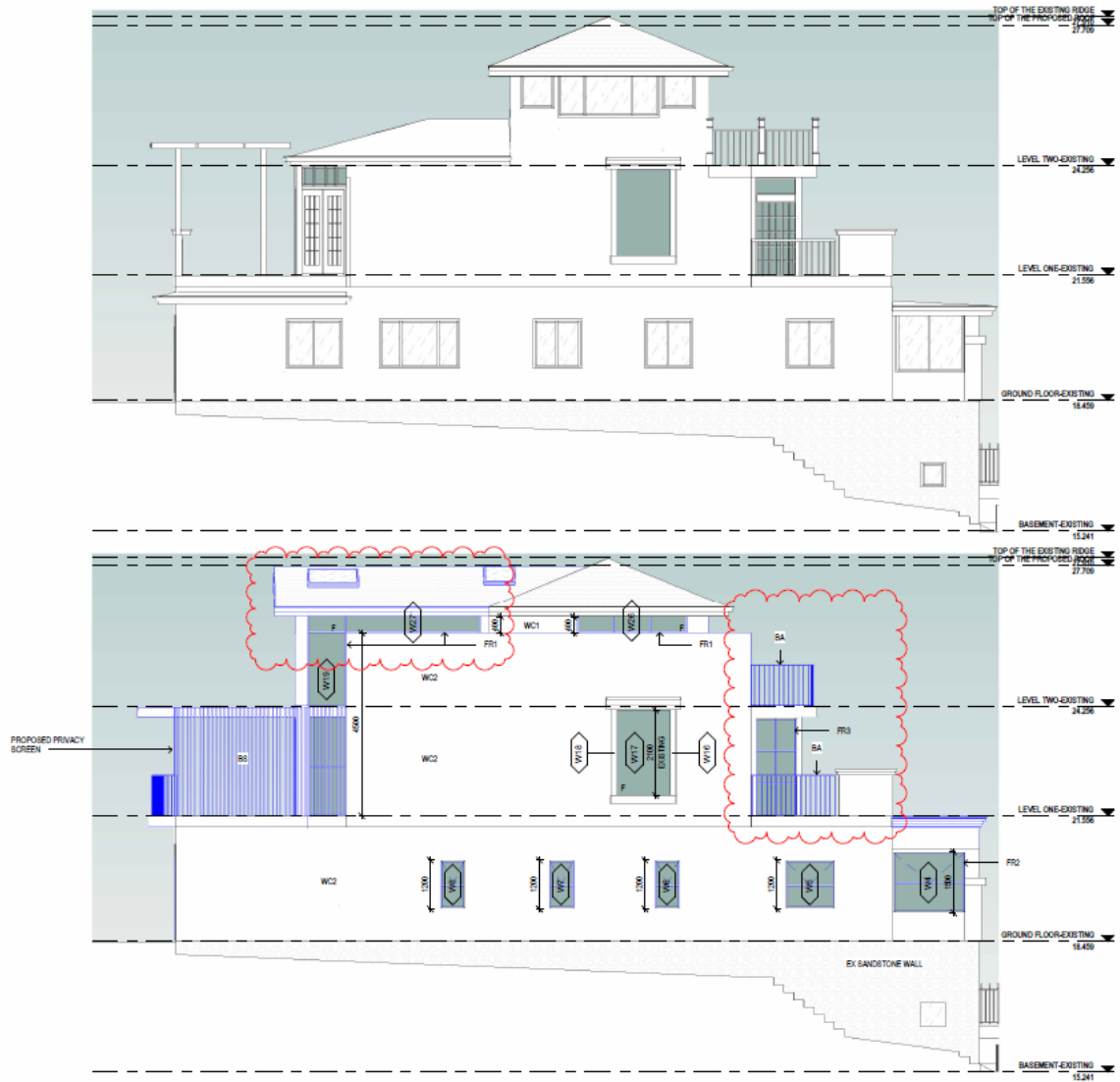


Figure 2: Existing and proposed west elevation

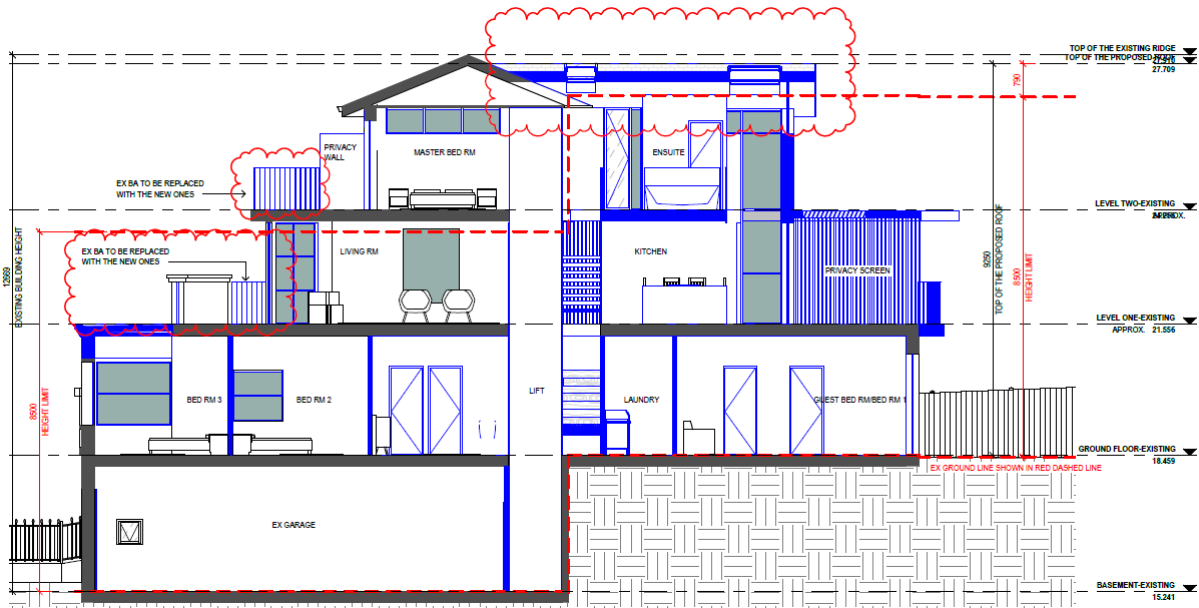


Figure 3: Eastern section showing the existing and proposed variation (Section A)

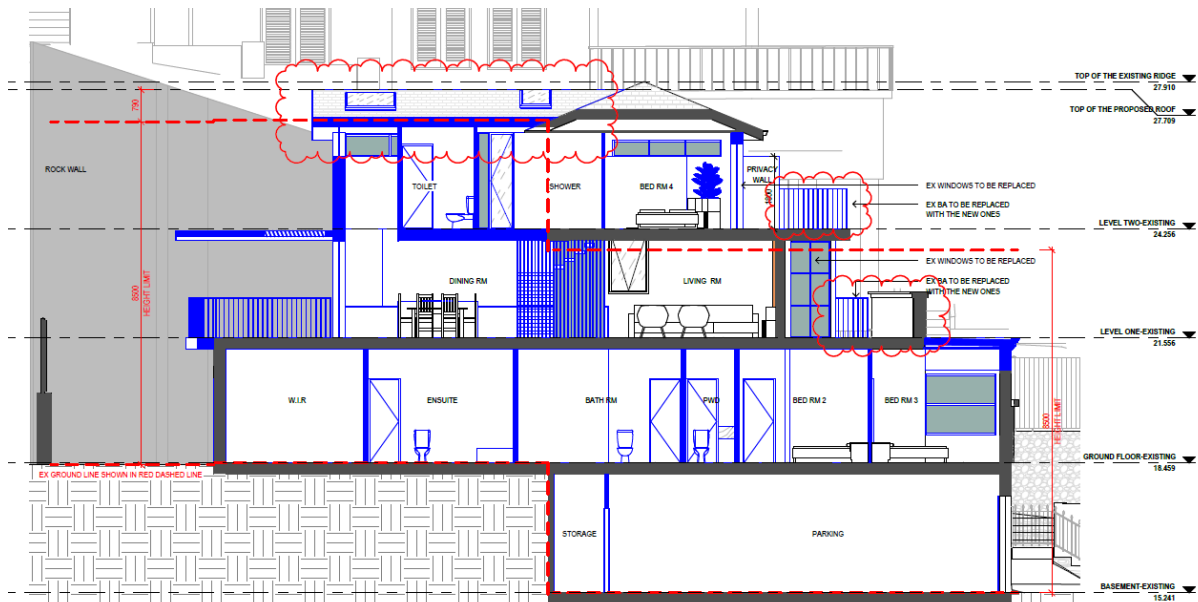


Figure 4: Western section showing the existing and proposed variation (Section B)

The assessment in this report addresses the Clause 4.6 criteria demonstrating the proposed building height:

- is consistent with the objectives of the height of buildings development standard
- is consistent with the objectives of the R3 Medium density residential zone
- is consistent with State and regional policies
- results in a better planning outcome
- is justified on environmental grounds
- is in the public interest

Consistent with the Height of Buildings Objectives

Clause 4.3 of the North Sydney LEP 2013 includes objectives for height of buildings standard. These objectives are addressed in relation to the proposal as follows:

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

Comments: The proposed variation does not increase the existing height variation given the alterations are generally contained within the existing building envelope. The existing dwelling is already four storeys due to the steep slope and therefore the main addition to the top level is located to the rear and behind the existing ridge. The proposal and associated variation are therefore integrated with the site topography.

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

- Comments: Views are not impacted by the proposed height variation and this is due to the rear addition to the top level being no higher than the existing ridge and the dwelling is located lower than other buildings that overlook the site, including 6 Warung Street, 33 and 35 Blues Point Road, shown in Figure 5 below. Figure 6 below is a photo taken from the main living/dining room of 35 Blues Point Road overlooking the site. The site is not visible in this photo because it is located much lower down towards the road. Therefore, existing views can be retained from nearby properties despite the building height variation.



Figure 5: The site and nearby properties



Figure 6: View from 35 Blues Point Road looking south-west (realestate.com.au)



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

Comments: The majority of shadowing produced is from the existing dwelling and surrounding buildings and mostly falls over the road. Additional shadowing over adjoining properties is very limited. As demonstrated by shadow diagrams provided later in this report, future development of surrounding sites are not impacted by the proposal.

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

Comments: Privacy has been carefully considered in the design and the building height variation does not lead to increased privacy impacts. Privacy measures have been incorporated, such as highlight windows with a sill height of 1.m in the shower and toilet area. Additionally, to ensure privacy and prevent any overlooking of the rear courtyard of 2 Warung Street, a void has been designed that effectively obstructs any visual access.

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

Comments: The site is not located next to a zone boundary, however the proposed variation is considered to be compatible with the existing dwelling and unique topography. This is reflected in the skilful design that largely maintains the existing building envelope with a minor rear addition on the top level. The proposal can therefore maintain an appropriate transition in building heights in relation to surrounding buildings.

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

Comments: The surrounding area is characterised by a mixture of buildings of various styles and built forms, driven by the unique topography. Consequently, there is no consistency within the area. The proposal alterations are generally contained within the existing building envelope and are intended to enhance the existing dwelling without compromising the scale and design of the dwelling. The proposed works maintain the existing scale of the detached dwelling and does not increase the existing density, despite the site being zoned within a R3 Medium Density Residential zone. The proposal and the associated building height variation ensures the dwelling can remain compatible within the character of the area including the heritage conservation area.



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

Comments: The existing dwelling is four storeys and the proposal does not seek to increase the number of storeys. Therefore the proposed alterations maintain the existing built form, which is considered to be appropriate for the site and surrounding area.

Consistent with the R3 Medium Density Residential Zone Objectives

The land use table of the North Sydney LEP 2013 includes objectives for the site's R3 medium density residential zoning classification. These objectives in relation to the proposal are addressed below.

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

Comment: The proposed alterations retain the low density scale of the site and provides the residents with improved internal and external amenity. The proposed building height variation does not conflict with the medium density residential environment as considered under Council's provisions. The installation of the lift in the four storey dwelling will improve the needs of the residents to enable them to age in place. The proposal is therefore compatible with the existing and desired character of the surrounding area.

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

Comment: The proposed alterations maintain the existing dwelling.

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

Comment: The proposal relates to a residential dwelling and not any other land use.

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

Comment: The modest alterations to the existing dwelling do not compromise the amenity of the surrounding area.

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



Comment: The proposal maintains the existing building envelope of the existing dwelling, considered to be a suitable visual transition in relation to the larger buildings within the vicinity of the site.

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

Comment: The proposed alterations are sought to improve the internal and external amenity of the existing dwelling without compromising the amenity of the nearby neighbours.

Consistent with State and Regional Policies

The proposed variations ensure the site can achieve a high-quality outcome without compromising the desired future character or the amenity of the surrounding area. The proposal is consistent with the objects of the Environmental Planning and Assessment Act 1979 and with relevant state and regional policies.

Results in a Better Planning Outcome

The proposal is expected to generate a better planning outcome for the following reasons:

- The proposed variation to the building height improves the amenity for the residents without any significant impacts to the amenity of adjoining properties in terms of solar access, views, and visual and acoustic privacy.
- The proposed alterations can be undertaken without increasing the existing building height variation.
- The proposed works that trigger the variation are located at the rear (except the replacement of the front balustrade) is considered to be a better planning and design outcome than locating these works to the front. As the works are located to the rear, they reduce the amenity and generate no additional streetscape impacts.
- The rear roof addition was modified from the originally submitted skillion roof which was below the maximum building height, to a gable roof. which is now 790mm above the maximum building height. The current design was revised as per the advice from Council's heritage officer. Such a design measure also ensures the dwelling and the associated additions remain neutral within the heritage conservation area.



- Improvements to the façade and their associated building height variations were made in response to Council's heritage officer's recommendations.

Justification on Environmental Grounds

The following environmental planning grounds are sufficient in justifying the proposed variation of the building height provisions:

- The proposed alterations have been designed in response to the characteristics and constraints of the site and responds to the topography of the land, which in the circumstances of this case, slopes from the rear towards the street. The majority of the dwelling is situated well below the height limit (See Figures 3 and 4 above).
- The height variation is appropriately integrated with the existing dwelling.
- The height variation does not require any changes to the existing site coverage and landscaping calculations and therefore can be supported on environmental grounds.
- The proposed void at the rear provides appropriate screening to reduce privacy impacts to adjoining properties, including the rear of 2 Warung Street.
- The proposed variation maintains the dwelling's ability to be compatible within the heritage conservation area.
- The non-compliant aspects of the additions do not create any unreasonable amenity impacts to the adjoining properties in terms of privacy, views, or solar access.
- Regarding privacy impacts, the skilful design incorporates highlight windows on the sides of the top level. Installation of the privacy screens and the void also assist with mitigating privacy impacts.
- View impacts have been carefully addressed through the skilful design as the rear addition does not extend beyond the existing ridge line and given the site is lower than the northern properties. This is discussed previously in relation to the building height objectives.

- In relation to shadowing, the plans below shows the existing shadowing cast by the neighbouring buildings (pink), the existing dwelling (red) and proposed shadowing (blue), which demonstrate how the proposal can achieve compliance with solar access, despite the minor building height variation. The existing shadows cast by adjoining buildings is substantial. It is also acknowledged that the majority of the existing shadowing falls over Warung Street, rather than adjoining dwellings. The additional shadow impact on adjacent properties is minimal and solely affects the roof of 2 Warung Street at 9am, rather than its windows, skylights or private open space.

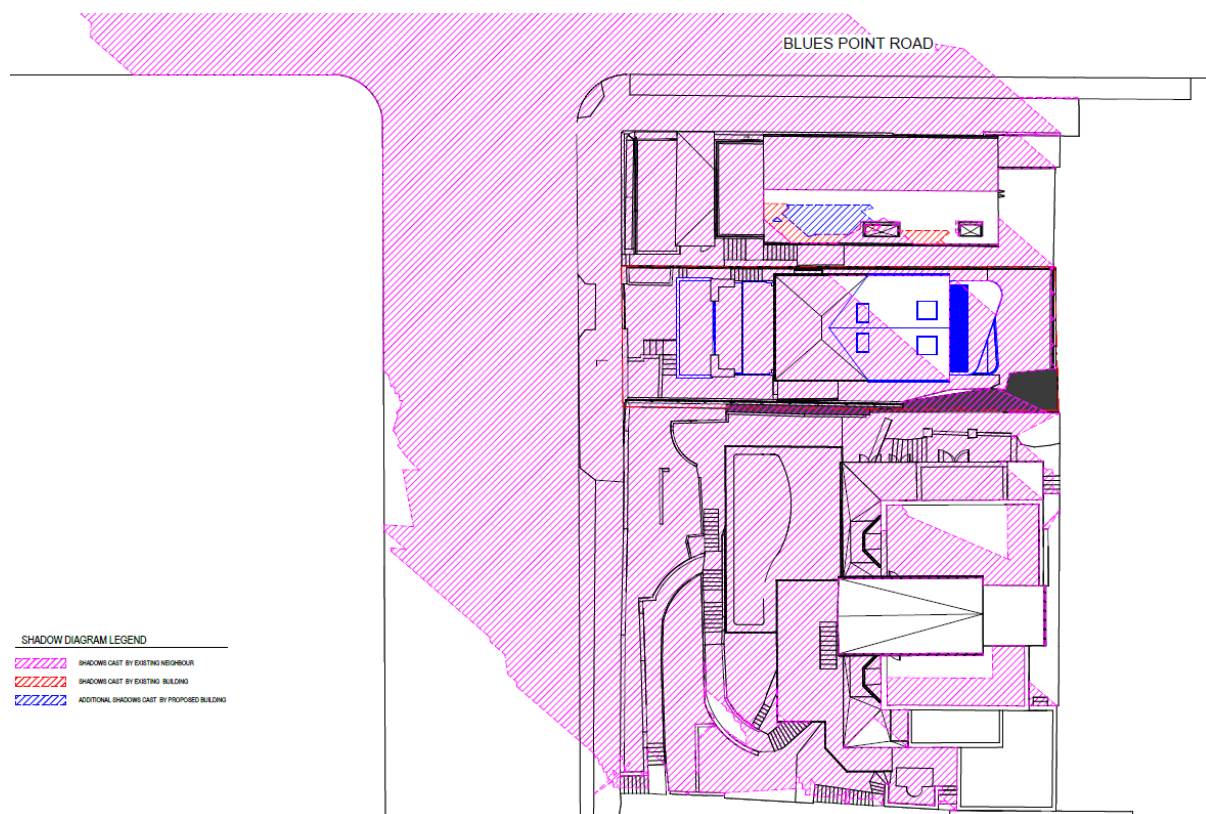


Figure 7: Proposed shadows at 9am (21 June)

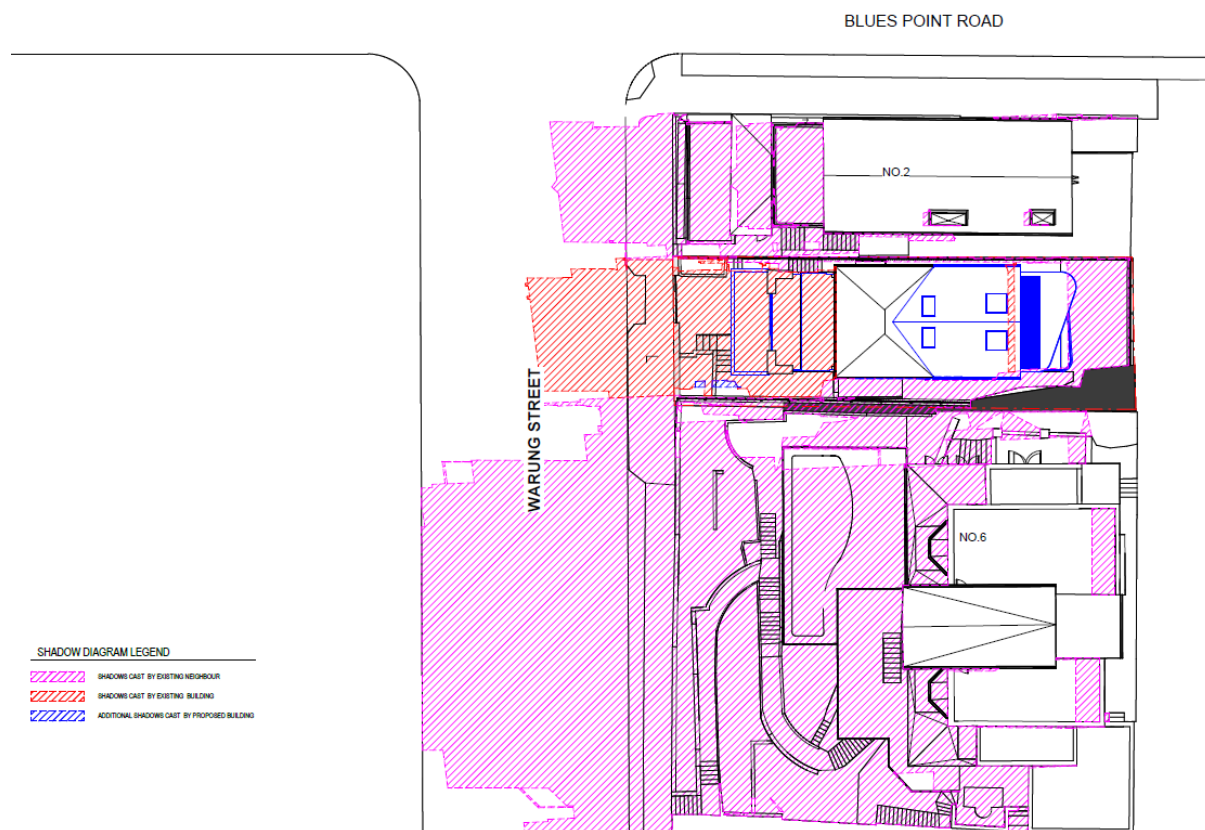


Figure 8: Proposed shadows at 12pm (21 June)

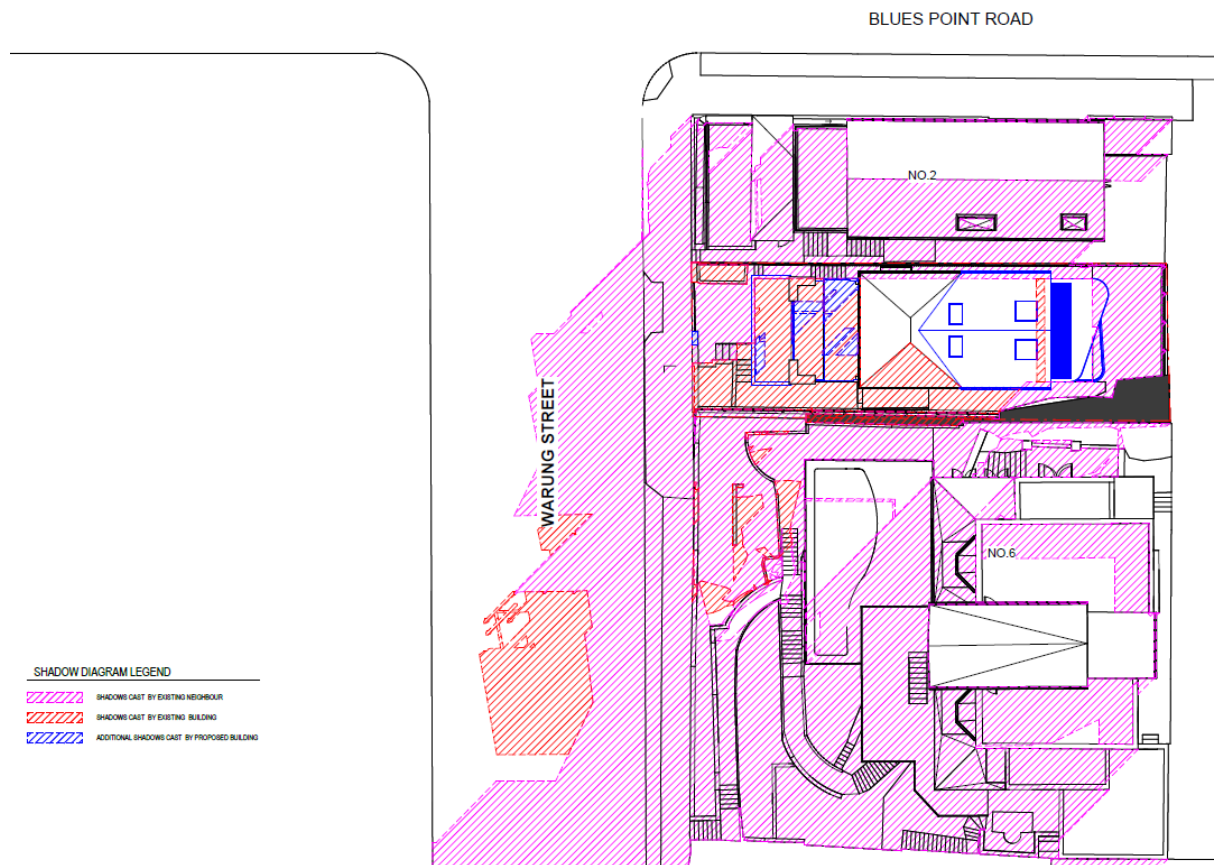


Figure 9: Proposed shadows at 3pm (21 June)

Is in the Public Interest

The proposal and associated variation to the height of building is in the public interest. The proposal provides improved internal and external amenity for the residents. The variation is accommodated without generating any unreasonable impacts to the adjoining amenity or public domain.

Unreasonable and Unnecessary Building Height Development Standard

Wehbe V Pittwater Council (2007) NSWLEC 827 sets out the methods of establishing why compliance with the development standards are unreasonable or unnecessary. The application of the height of building provision to the proposal is considered unreasonable and unnecessary, consistent with for the following reasons:



- The dwelling is already above the maximum building height and it is unreasonable and unnecessary to expect the owner to demolish this part of the dwelling to comply.
- The maximum building height applicable to the site does not take into consideration the challenging site topography. The ground floor and rear yard of the existing dwelling is also approximately 3.2m above street level and therefore it is already higher than a typical dwelling on a flat site which is usually at the same level as street level.
- The proposed height variation is minor in relation to the heights of other buildings including 6 Warung Street and 33, 35 and 37 Blues Point Road.
- The variation is associated with replacing the existing balustrade with a new compliant balustrade and privacy screens at the front to improve privacy for both the residents of the dwelling and adjoining dwellings.
- These works to the existing building that are above the building height maximum will not create adverse amenity impacts to adjoining properties.
- The variation associated with the rear remain behind the existing ridge and do not increase the existing building height.
- Strict compliance with building height in the circumstances of this proposal will not impact views or provide any amenity benefits to the adjoining properties.

Conclusion

Based on the above assessment, the proposal at 4 Warung Street, McMahons Point can achieve full compliance with the objectives and intentions of both Clause 4.3 Height of buildings and the R3 Medium Density Residential zone under the North Sydney LEP 2013. This report also validates the proposal can be justified to provide a better planning outcome and the building height standard applicable is unreasonable and unnecessary given the existing site conditions and the desired future character of McMahons Point.

The proposal will not lead to unreasonable amenity impacts to the surrounding residential properties in terms of bulk, scale, privacy and overshadowing. The proposed alterations and additions have been designed to provide a high standard of amenity for the residents and will enhance the existing streetscape. The proposed building height variation should therefore be considered favourably by Council.