

**NSLPP MEETING HELD ON 7/02/24****Attachments:**

1. Site Plan
2. Architectural Plans
3. Clause 4.6 Statement
4. Landscape Plan
5. Sun's Eye Diagram/Shadow Diagrams
6. Heritage Impact Statement

ADDRESS/WARD: 115 Blues Point Road, McMahons Point 2060 (L/E)**APPLICATION No:** DA 205/23**PROPOSAL:** Alterations and additions to a dwelling including new lift, formal vehicular access from lane, and new landscaping**PLANS REF:**

Plan No.	Rev	Description	Prepared by	Dated
A101	E	Existing Ground Floor and Demolition Plan	Barbara Architecture & Interiors	24/10/23
A102	E	Existing First Floor Plan and Demolition Plan	Barbara Architecture & Interiors	24/10/23
A103	E	Existing Second Floor Plan and Demolition Plan	Barbara Architecture & Interiors	24/10/23
A104	E	Existing Roof and Demolition Plan	Barbara Architecture & Interiors	24/10/23
A111	E	Proposed Ground Floor Plan	Barbara Architecture & Interiors	24/10/23
A112	E	Proposed First Floor Plan	Barbara Architecture & Interiors	24/10/23
A113	E	Proposed Second Floor Plan	Barbara Architecture & Interiors	24/10/23
A114	E	Proposed Roof Floor Plan	Barbara Architecture & Interiors	24/10/23
A211	E	Proposed Elevations 01	Barbara Architecture & Interiors	24/10/23
A212	E	Proposed Elevations 02	Barbara Architecture & Interiors	24/10/23
A311	E	Proposed Sections	Barbara Architecture & Interiors	24/10/23
A312	E	Proposed Sections 2	Barbara Architecture & Interiors	24/10/23
A705	E	Schedule of Materials and Finishes	Barbara Architecture & Interiors	24/10/23
L/01	A	Proposed Landscape Plan	A Total Concept Landscape Architects & Swimming Pool Designers	16/01/24

OWNER: Bruce MacLean Smith & Lauren Ann Smith**APPLICANT:** Felicity King**AUTHOR:** Report of Rachel Wu, Graduate Assessment Officer**DATE OF REPORT:** 16 January 2024**DATE LODGED:** 7 July 2023**DATE AMENDED:** 31 October 2023; 17 January 2024**RECOMMENDATION:** Approval, subject to conditions

EXECUTIVE SUMMARY

This development application is an amended development application which seeks approval for alterations and additions to an existing semi-detached dwelling including a new lift, formal vehicular access from lane and new landscaping at the rear. The proposed alterations and additions are in a contemporary architectural form and primarily affect internal areas and the rear of the existing dwelling.

The application is reported to North Sydney Local Planning Panel for determination as a departure from the requirements of Clause 4.3 (Height of Building) development standard by greater than 10% in an R3 zone. In accordance with the Minister's Directions the application must be determined by the Local Planning Panel.

The applicant has provided a written submission pursuant to Clause 4.6 of the LEP 2013 which satisfactorily addresses that compliance with the development standard Clause 4.3 (Height of Buildings) would be unreasonable and unnecessary in the circumstances as the development achieves the objectives of the height development standard. The written request includes sufficient environmental planning grounds to justify the contravention and adequately demonstrates that the proposal would achieve the objectives for the R3 (Medium Density Residential) zone.

The subject site is a contributory item located on the east of Blues Point Road within the R3 Medium Density zone. The subject site contains a semi-detached, three-storey brick terrace dwelling with metal roof and no formal garage space. The site adjoins a number of terrace style shops that are of a similar scale and rhythm, but which are located in an adjoining zone, being the E1 Local Centre zone.

Council's Conservation Planner has raised concern in relation to the impacts of the proposal on the rear laneway given the contemporary form of the proposed additions. The proposal has been amended to address these concerns and to reduce the overall scale of the additions at the rear, whilst retaining a contemporary form. The amended proposal has partly addressed the concerns raised. Conditions are recommended to require further detailed design amendments to reduce the impact of the additions on the heritage significance of the building and those in the vicinity of the site whilst retaining improved amenity for occupants.

Notification of the proposal has attracted nil (0) submission. The assessment however concludes that conditions will be required to manage potential impacts on privacy and to require additional landscaping to be provided within the rear courtyard space.

Following this assessment the development application is considered to be reasonable in the circumstances and is recommended for **approval** subject to conditions.

DESCRIPTION OF PROPOSAL

The applicant is seeking development consent for alterations and additions to an existing dwelling including a new lift, formal vehicular access from lane, and new landscaping.

Ground Floor Level

- Partial demolition of the rear wing, including kitchen, dining, living room, garage and storage area;
- Internal alterations and reconfiguration accommodating a new sitting room, bedroom, bathroom and laundry;
- New rear addition accommodating a double garage, workshop/store and bin and bike store;
- New internal stairs and lift;

First Floor Level

- Partial demolition of the rear wing including Bedroom 3 and 4 and internal stairs;
- New rear and side additions accommodating the internal stairs Bedroom 2 and Bedroom 3/Study;
- Internal alterations and reconfiguration accommodating a new Master Bedroom with WIR and Ensuite, a Bathroom, and cellar;
- New internal stairs and lift;

Second Floor Level

- Partial demolition of rear wing and principal building including open-plan living area, bathroom and office;
- Demolition of existing side/rear balcony;
- New rear and south-facing balcony;
- Internal alterations and reconfiguration accommodating a new open plan kitchen, dining and lounge, new WC;
- New internal stairs and lift;

Roof Level

- Solar Panels;
- Re-roofing;

External

- Minor works to principal building façade including repointing brickwork, fretwork and new windows to uppermost level;
- Demolition of existing northern (side) and eastern (rear) boundary fences; and front fence;
- New northern (side) and eastern (rear) boundary fences; and new front fence;
- New metal sliding vehicular access gate;
- New driveway;
- New skylights
- New landscaping works

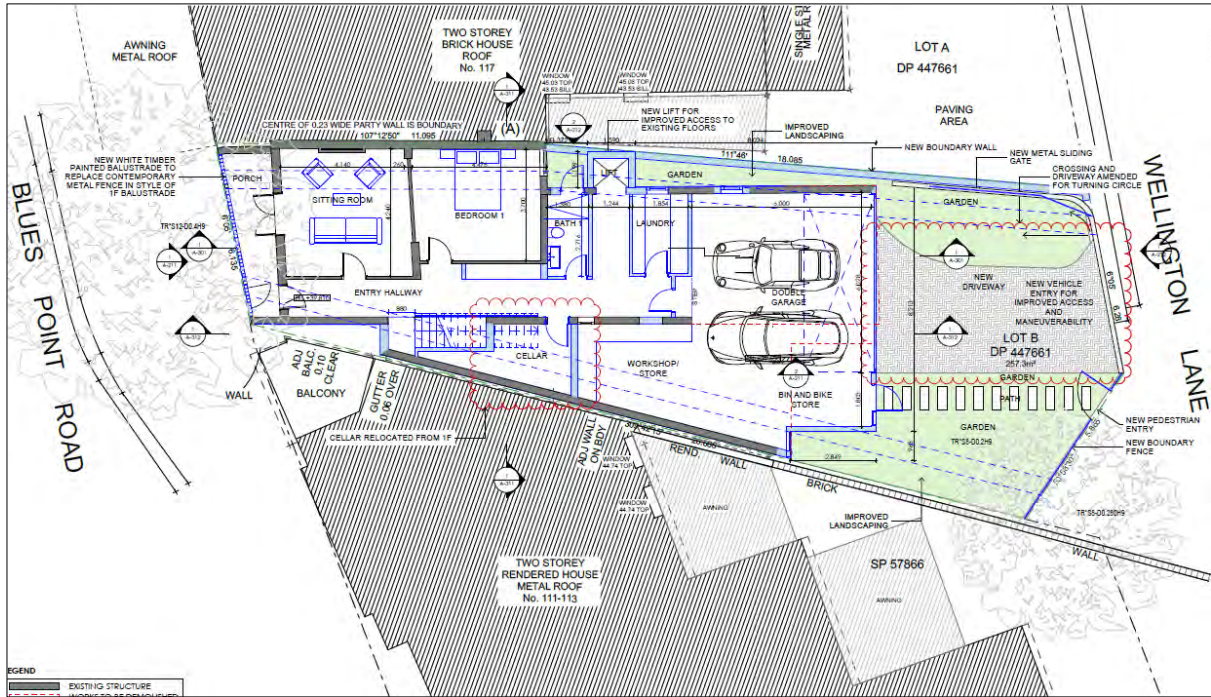


Figure 1: Proposed Ground Floor Plan

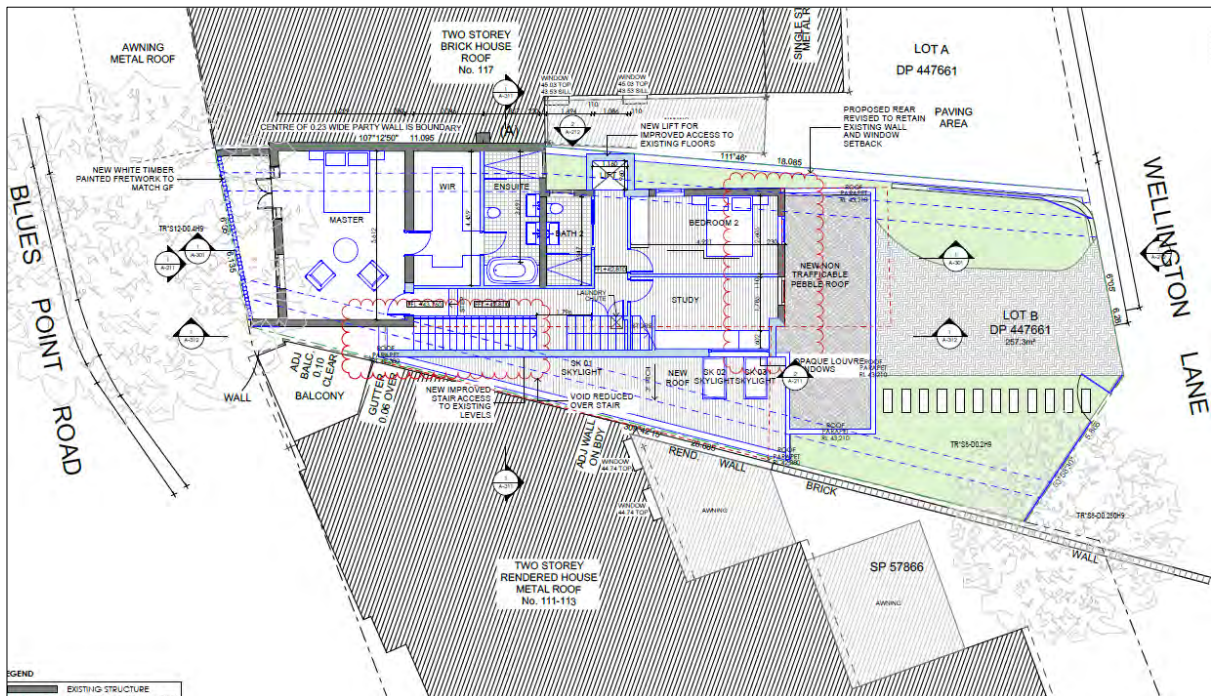


Figure 2: Proposed First Floor Plan

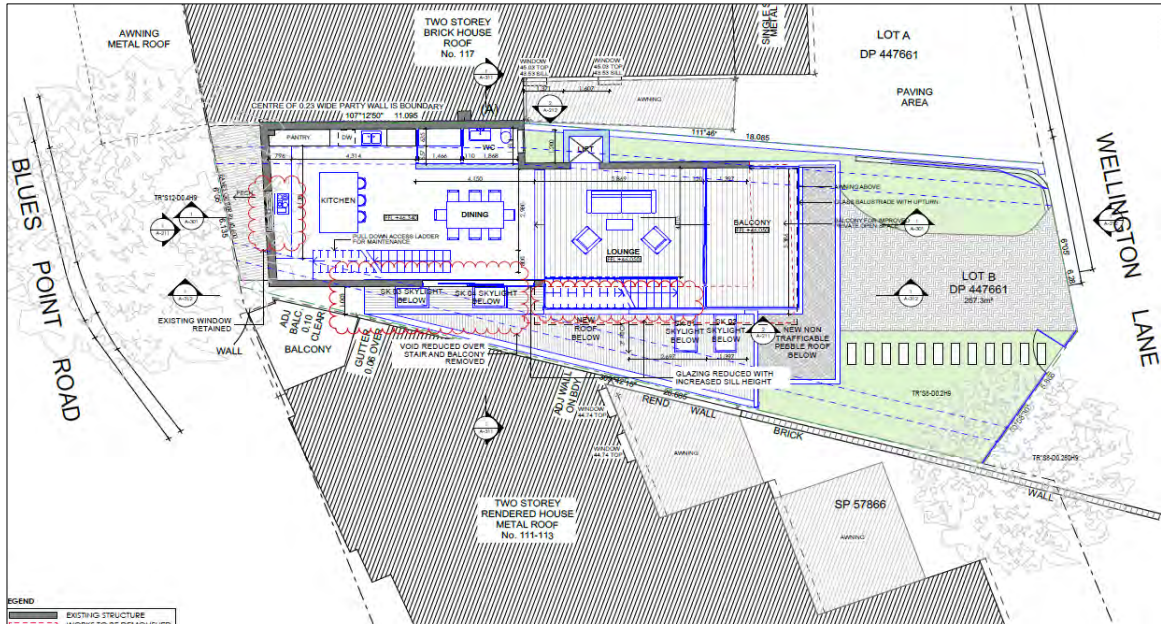


Figure 3: Proposed Second Floor Plan

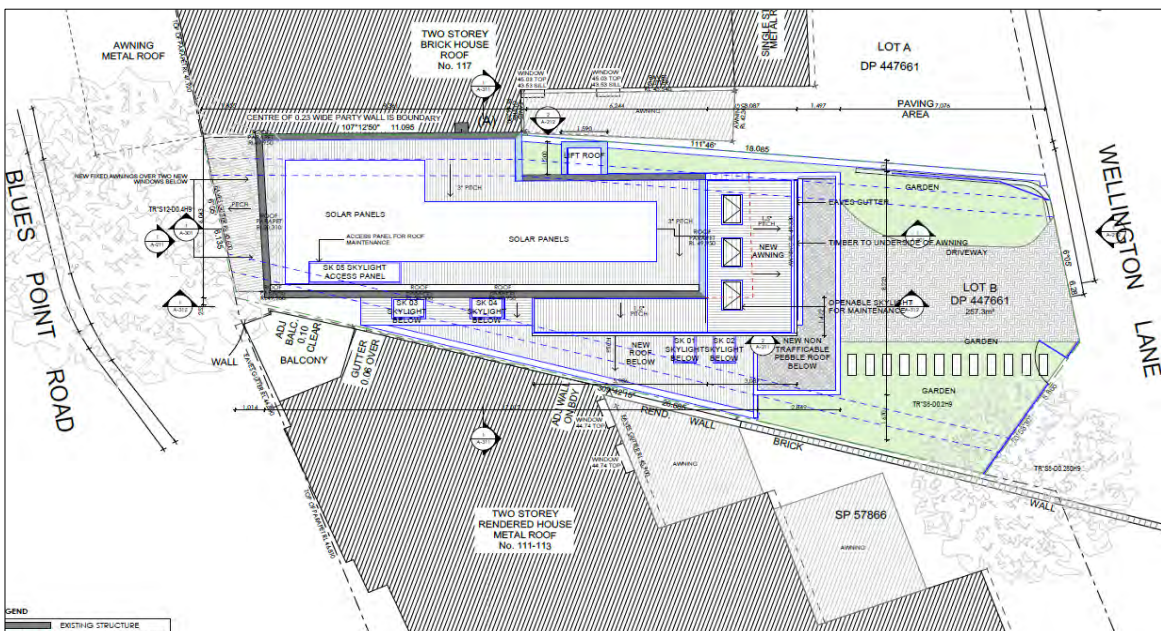


Figure 4: Proposed Roof Plan

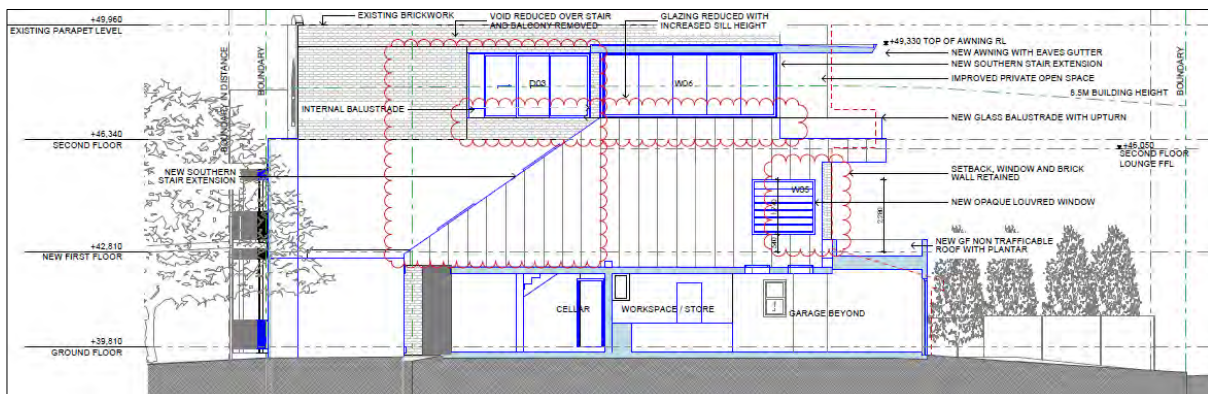


Figure 5: Proposed South Elevation

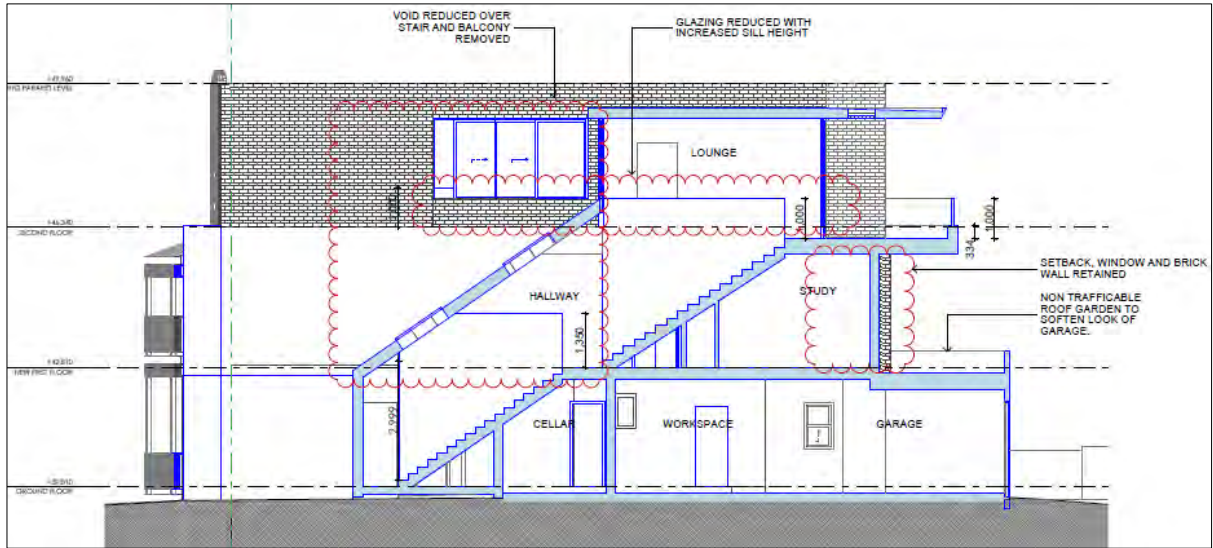


Figure 6: Proposed Long Section



Figure 7: Proposed Long Section

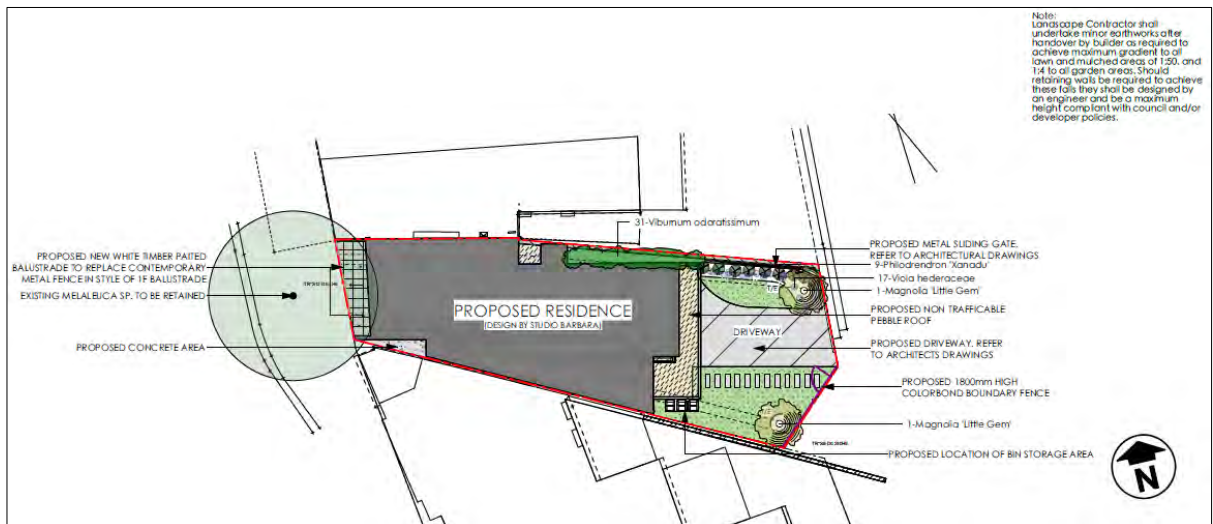


Figure 7a: Proposed Landscape Plan

STATUTORY CONTROLS

North Sydney Local Environmental Plan 2013 (NSLEP 2013)

- Zoning – R3 Medium Density Residential
- Item of Heritage - No
- In Vicinity of Item of Heritage – Yes, No.4 Waiwera Street (10353) ‘House’; 16-22 Waiwera Street
- Conservation Area – Contributory Item within McMahons Point North Conservation Area (CA13)
- Foreshore building line (FSBL) - No
- Cl4.3 Height of Building – 8.5m

Environmental Planning & Assessment Act 1979 (as amended)

Environmental Planning and Assessment Regulation 2021

SEPP (Biodiversity and Conservation) 2021

SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Resilience and Hazards) 2021

Local Development

POLICY CONTROLS

North Sydney Development Control Plan 2013 (NSDCP 2013)

North Sydney Local Infrastructure Contributions Plan

DESCRIPTION OF LOCALITY

The subject site is formally described as Lot B in DP447661, commonly known as No.115 Blues Point Road, McMahons Point. Existing on the site is a three-storey Federation Style terrace. The total site area indicated on the survey is 257.3m² by calculation and 221.3m² stated by DP447661. The Applicant stated that the area under the Land title was a measurement from the historical deposited plan which is a rough number calculated by NSW Land Registry Services usually to work out Land Tax and is not an accurate method. The Applicant stated that the older the creation date of the Deposited Plan, the more likely it is to be inaccurate and therefore site area calculation should utilise the area measured in the survey instead.

The subject site is a contributory item located on the east of Blues Point Road within the R3 Medium Density zone. The subject site has an irregular wedge shape with 6.135m frontage to Blues Point Road, 5.865m and 6.28m to the eastern (rear) boundary; 29.18m combined northern boundary that shares 11.095m wide party wall with No.117 Blues Point Road; and 26.685m to the southern boundary.

The subject site consisted of a carport in the past that was approved for removal although no further garage or carport was proposed thereafter. Access to the demolished carport was via Wellington Lane at the rear. The existing site still retains vehicular access from the rear and informal car parking on the rear yard gravel.

North of the subject site are sites zoned E1 Local Centre providing a range of retail, business and services. Adjoining the subject site to the north is an existing commercial building. South and southwest of the subject site are terraces zoned R3 Medium Density Residential. South of the subject site is No.103 – 113 Blues Point Road, a two-storey with basement rendered apartment complex.

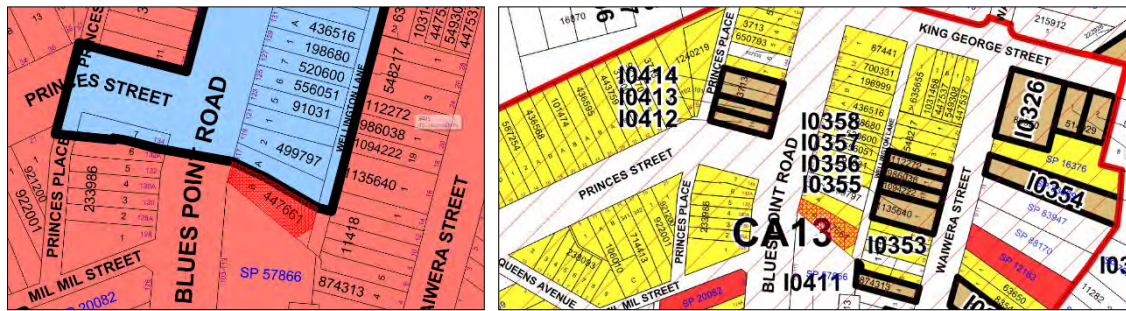


Figure 8/8a: Subject site zoned R3 and is a contributory item within the McMahons Point North Conservation Area



Figure 9: Subject site (brown brick) besides the original gas station (south) in 1985



Figure 9a (left): Subject site (brown brick) viewed from Blues Point Road
Figure 9b (right): View of existing southern balcony through gap between subject site and No.111-113 Blues Point Road

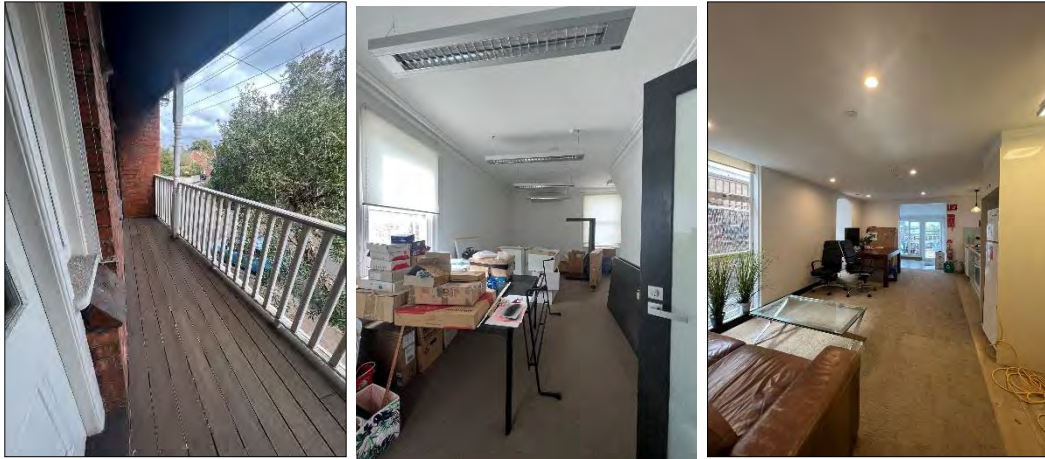


Figure 9c (left): View of existing front porch on the First Floor

Figure 9d (middle): Existing First Floor Bedroom 4, view towards the rear

Figure 9e (left): Ground Floor view from the Living Room towards the kitchen and rear

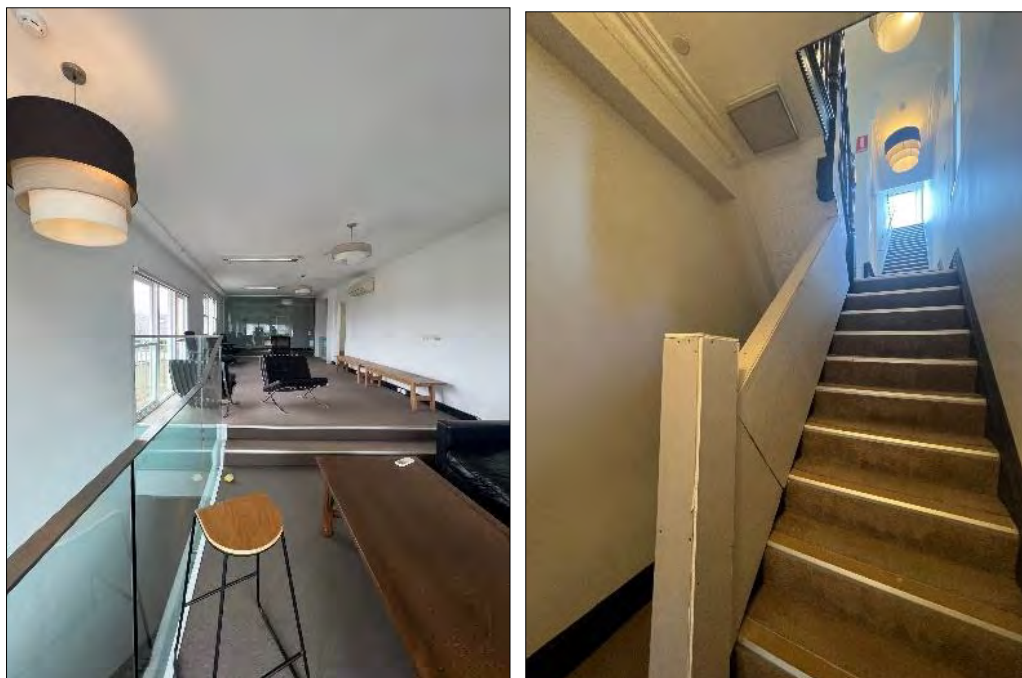


Figure 9f (left): View towards existing Office from Second-Floor rear

Figure 9g (right): View towards the stairs leading to First and Second Floor



Figure 9h: Existing opening on 2nd floor indicating view towards Sydney CBD and Harbour

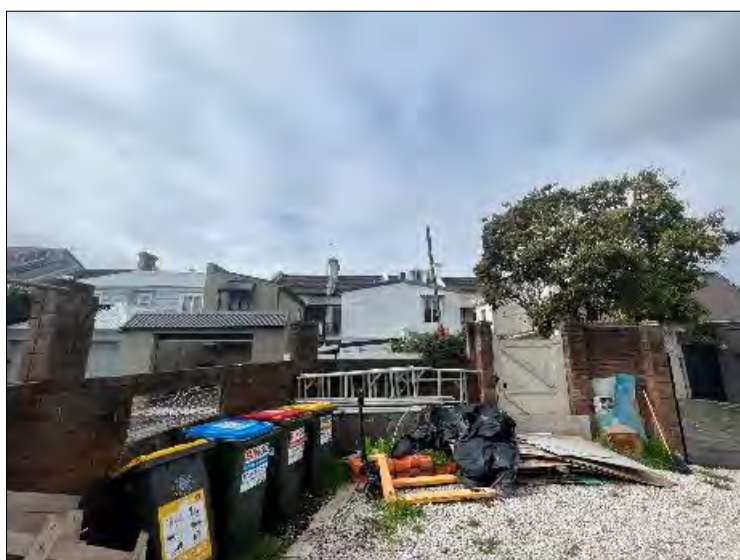


Figure 9i (left): Area of rear yard proposed for new driveway



Figure 9j (right): View towards the rear from existing garage



Figure 9k (right): View from Second Floor office towards the rear



Figure 10/11: Subject site viewed from Wellington Lane



Figure 12/13: Subject site viewed from Wellington Lane

RELEVANT HISTORY

A Pre DA meeting was held on 13 May 2021 between the Council and the previous owners regarding alterations and additions to an existing terrace dwelling including two hardstand spaces, demolition of the existing ground floor lean-to; infill under the existing balcony on the southern side; formalise vehicular access; construct new stairs from first to second floor and a rooftop terrace.

The Applicant was advised that it is unclear if prior consent has been granted for the use of the rear areas of the site for the purposes of car parking, and will be requested as STC information if not provided with the DA lodgement package. The Applicant was also advised that *“Council recommends an uncovered single car space to ensure the subject site meets the landscaped area and site coverage requirements, which are specified in the DCP 2013.”*

The Applicant was advised that glass balustrades are considered to be an uncharacteristic built material for the conservation area.

The Applicant was advised to *“consider deletion of the southern side balcony on the 2nd storey to minimise potential overlooking impacts to adjoining properties. Consider whether privacy measure might be required in this area, including potential horizontal privacy screens/shelf.”*

Previous Applications

Pre 98 Development Application P76/115/3 granted approval by Council on 16 December 1985 for alterations and additions to an existing two-storey dwelling house comprising a 3rd level for residential use only.

Development Application DA1317/85 (P76/115/3) granted approval on 3 January 1986 for alterations and additions to an existing 2-storey dwelling house comprising a 3rd level for residential use only. The maximum height of the proposal is 10.09m approximately above ground level. The use of the building (dwelling-house), although not permitted under IDO 60 or the D.L.E.P., complies because the building was existing at the time the IDO came into force.

The consent includes condition D9:

“That the windows to the proposed laundry and kitchen facing Blues Point Road to be amended to the satisfaction of the Director of Development”.

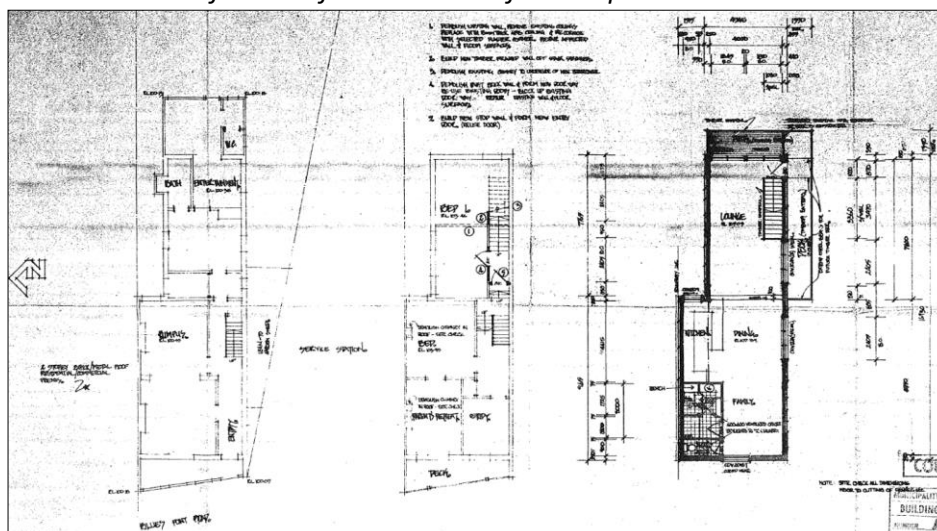


Figure 15a: Approved plans (left to right: Ground Floor to Second Floor)

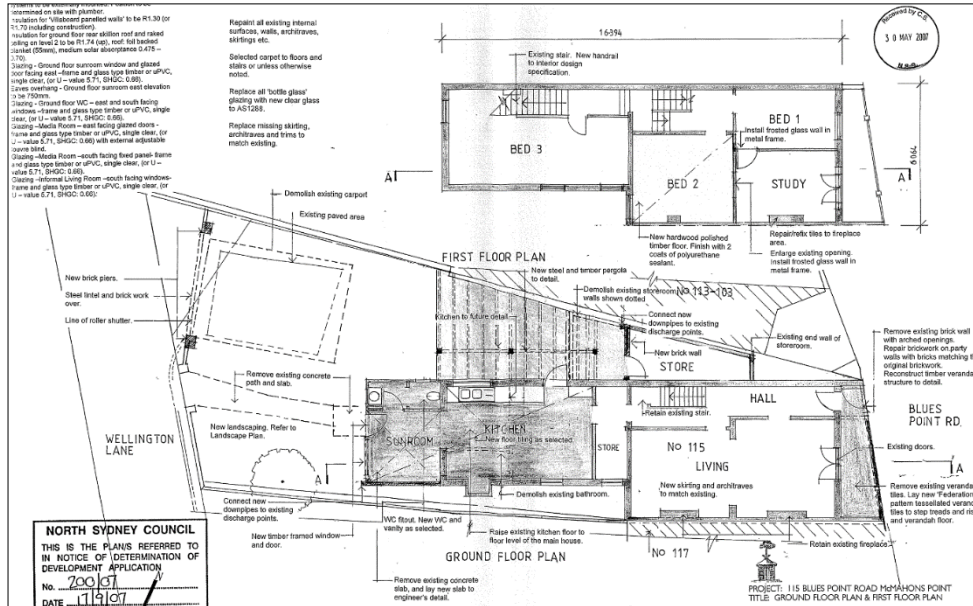


Figure 14a: Approved Ground and First Floor DA200/07 showing demolished carport, although no garage proposed

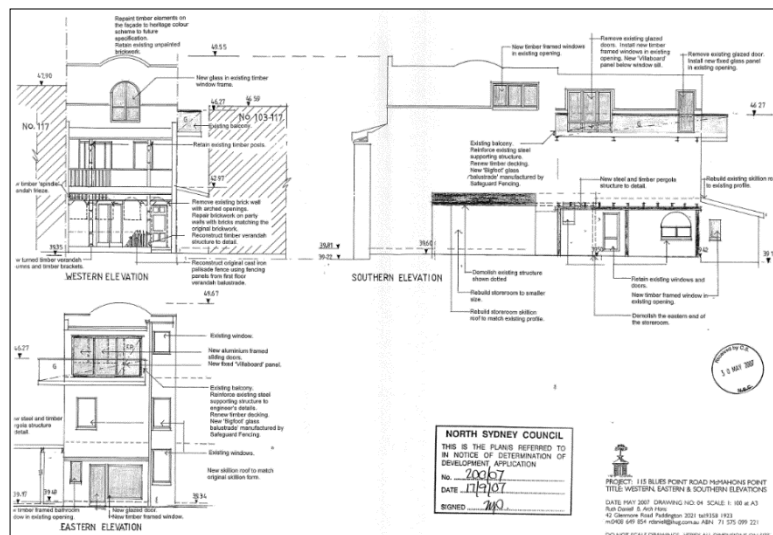


Figure 15: Approved Western (front), eastern and southern elevation

Modification Application DA200/07/2 granted approval on 10 December 2007 for the modification of development consent DA200/07 to delete conditions C1, C2, C11, E1, G1 and G3; and insert in lieu of, the following new conditions C5 and C6:

“Rear Fence

C5. *The rear fence shall be a maximum height of 2.7 metres. No approval is given for any garage door structure within the rear fence. Details demonstrating compliance with this condition shall be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.*

(Reason: To ensure the height of the rear fence is consistent with the laneway.)

Vehicular Access

C6. *No approval is given or implied for any vehicular access over the land affected by Part Conveyance 777 BK 1834. Amended plans shall be submitted prior to the Certifying Authority showing no vehicular access over the land affected by Part Conveyance 777 BK 1834 for approval prior to the issue of any Construction Certificate.*

(Reason: To ensure legal access to the property.)"

Modification Application DA200/07/3 regarding modification changes to conditions was withdrawn by the applicant on 28 July 2008 following a Council Withdrawal Letter dated 1 July 2008:

"Detailed assessment of your application has been carried out. You are advised that your application for use of the triangular piece of land legally recognised in Part Conveyance 777 BK 1834, is unable to be supported.

It is noted from your letter dated 29 May 2008 that ownership of the land is unknown, and the land has been used in connection with your land for in excess of 12 years without complaint or claim. In that regard you are willing to lodge a Primary Application for Adverse Possession with the NSW Department of Lands, and to indemnify Council against any potential claims to the land. Despite this, Council is not legally permitted to approve any further usage or development of this parcel of land without legal owner's consent.

It is recommended that you lodge a Primary Application for Adverse Possession to the NSW Department of Lands to be registered as documentary titleholder of the parcel of Land. Once this has been received, you may reapply to Council for the usage and development of this land.

In light of the above points, Council strongly recommends the withdrawal of the application to allow for the partial refund of fees. Council requests the application be withdrawn in writing within seven (7) days of this letter or the application will be determined by way of refusal under delegated authority."

Current application

Date	Action
7/7/2023	Lodged with Council.
27/7/2023	Comments received from Council's Engineer.
28/7/2023	The application was notified as per Council's Community Participation Plan. The notification period ended on 11 August 2023. No submissions were received during this period.
2/8/2023	Site inspection completed by Council's Conservation Planner and Assessment Officer.
18/8/2023	Comments received from Council's Conservation Planner.
18/9/2023	Amended Plans/Additional Information Request Letter sent to Applicant.
27/9/2023	Applicant requested two-week extension to the existing two weeks for RFI response.
29/9/2023	Council granted Applicant's request for extension to provide documents by 16 October 2023.
13/10/2023	Applicant emailed to say revised documents shall be sent over the next week.
20/10/2023	Applicant emailed to say that the last consultant report will be submitted to Council the following week (by 27 th October).

31/10/2023	Amended architectural plans, SEE and BASIX certificate submitted by Applicant to the Portal. Applicant sent through response from their heritage consultant and architect, and RFI response involving sun's eye diagrams and vehicle turning circles by email.
21/12/2023	Informed Applicant that the development application will be reported to the North Sydney Local Planning Panel meeting in February 2024 for determination due to significant increase in overall building height/yield.
2/1/2024	Council requested amended landscape plan that reflects the amended architectural plans.
17/1/2024	Applicant submitted amended landscape plan.

REFERRALS

BUILDING

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

HERITAGE

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

ORIGINAL DA

"1. Heritage Status and Significance

115 Blues Point Road is not identified as an item of environmental heritage but is identified as a contributory item within the McMahons Point North conservation area. With reference to NSDCP 2013 Part C s9.7.3 the conservation area is significant:

- (a) For its consistent character and unity that derives from its dense urban subdivision pattern and history and which is still clearly seen in the development of the area.*
- (b) As a predominantly early 20th century precinct with a mix of Federation and 1920's one and two storey housing and a very fine grouping of early 20th century buildings along Blues Point Road.*
- (c) For the streetscape qualities of the Blues Point Road shops.*
- (d) For its high-quality streetscapes, particularly in Princes and Waiwera Streets'*

The site is immediately adjacent to the Blues Point Village properties containing property numbers 117-139 Blues Point Road. They are all identified as contributory items with the exception of the neutral item at No.119 Blues Point Road, the single storey dry cleaning building. They are characterised by small scale shops, small scale shops with shop-top housing or small-scale shops with shop-top housing and parapet. To the south, there is a two-storey development designed in an historicist style...on the site of a former petrol station (refer Heritage report for No. 115 Blues Point Road prepared by Ruth Daniels May 2007) identified as being neutral within the conservation area. The site is in the vicinity of several locally significant heritage items No.4-28 Waiwera Street that back onto Wellington Lane.

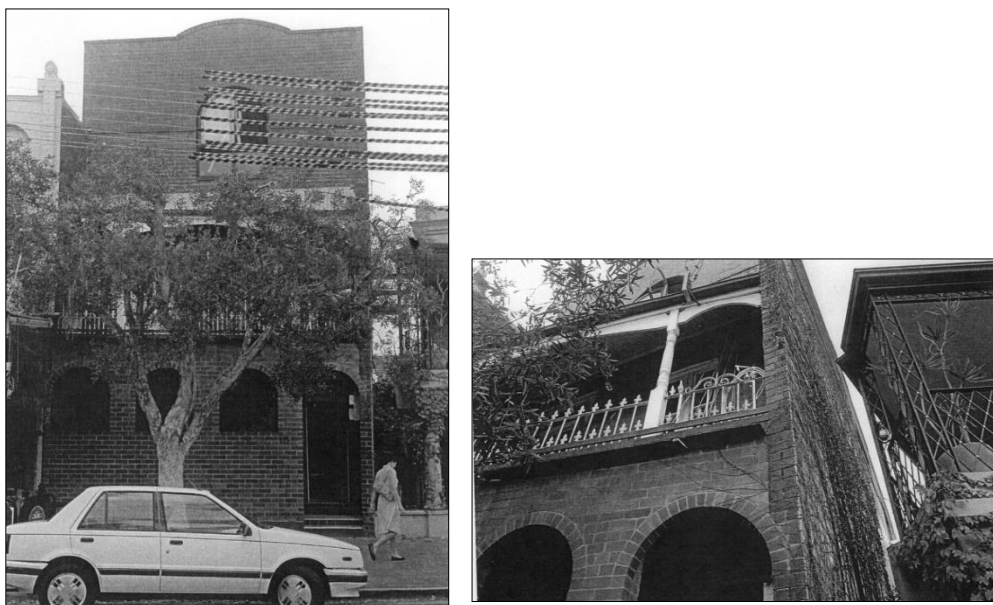


Figure 16/17: Photographs of front façade provided in the heritage impact statement of DA200/07

The ground floor facing Blues Point Road had a brick wall built on the front boundary and that the original cast iron fence and gate had been relocated to form a balustrade to the first-floor balcony. Substantial alterations were carried out under DA200/07 that removed the unsympathetic fabric and enhanced the aesthetic value of the building to both Blues Point Road and Wellington Lane by reconstruction of the verandah to the western elevation of the building to Blues Point Road; replacing the ‘unsympathetic side accretions’ with a pergola and new storage to the Wellington Lane elevation; and a parapeted carport with a garden setting.

The works to the rear maintained the existing envelope and overall footprint of the building. The brick portal frame to the carport and roller shutter door as approved under the DA no longer exist and the storage has been modified. Window and door openings were conditioned to be timber-framed not aluminium to remain consistent with the style of the building and the character of buildings in the surrounding conservation area.

A site inspection of the premises was undertaken on 2 August 2023.

2. Heritage Impact Assessment and Recommendations:

The following assessment of the proposed changes to the front elevation relating to:

- *the insertion of two vertically proportioned windows in the uppermost level to replace the existing arched window;*
 - *general conservation works; and*
 - *major changes to the building footprint and elevation to the rear;*
- has been undertaken in relation to the relevant provisions of NSDCP 2013 Part B: s13 in terms of meeting the objectives of NSLEP 2013 Clause 5.10.*

13.4 Development in the Vicinity of Heritage Items-

See s13.9.5 below.

- 13.6.1** *General Objectives O1 Ensure that new development is designed to retain and complement the character and significance of the conservation area-*
- 13.6.2** *Form, Massing and Scale - Objective O1 To ensure new development has a compatible and complimentary building form and scale to that which characterises the conservation area-*
- 13.6.1** *General Objective O2 Ensure that contributory items are retained and where practical improved, with a focus to locate new work to the rear or away from publicly visible elevations of the building-*

BLUES POINT ROAD ELEVATION



The uppermost level is not reliant on its main light source being the arched window. There are glazed windows and door openings to the existing balcony in the southern wall and east facing elevation. The arched window is an element that retains an association with its northern neighbour at No.117 Blues Point Road and is an architectural expression seen in the corner building opposite at No.134 Blues Point Road and links the buildings together. The recommendation is to retain the arched opening as it is for its historicism within the context and evolution of the Blues Point streetscape.

Wellington Lane Elevation



The evidence pertaining to No.115 and No.117 Blues Point Road having the same architectural form can be seen in the rear, Wellington Lane elevation. Despite the uncharacteristic upper-level addition and balcony, the early form is legible as is the building footprint and fenestration pattern. The proposed changes to the rear do not occur within the building envelope nor maintain its prominence. Extending the rear building line and altering the overall footprint of the building in a way that visually increases its bulk and scale distorts its existing building form.

The proposed additions to the rear are uncharacteristic to the form of the building and create an adverse impact in terms of the proposed bulk and scale of the new work. The proposed first floor roof garden is not supported and is not a characteristic element in Wellington Lane (see images below in APPENDIX 1).

13.6.5 Internal Layouts – Objective O1- ‘To ensure that significant interiors are retained.’

The stair servicing the ground and first floor levels is significant to the existing building and appears to be original to the building. The proposed change to the front primary rooms is also not supported. The changes towards the rear are generally acceptable given the level of new work that has previously occurred. The proposed lift will be located externally in the rear, northern elevation where its impact is likely to be minimal.

13.8 Demolition –

Major changes to the building footprint and elevation are proposed to the rear resulting in the loss of the building’s form and footprint.

‘13.9.3 Verandahs and Balconies- Objective O2 To encourage the retention and reinstatement of original verandahs and balconies, especially where they are significant or contributory to an individual, row or group of buildings.’

See above.

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

The proposed first floor rear balcony and expansive glazed area with a low solid to void ratio is uncharacteristic within the conservation area. This is compounded by the proposed increase in the overall bulk and scale of the work at the rear of the building. The excessive use of glass is not supported.

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

Wellington Lane has a service lane character for both the commercial and residential properties that back onto it. Notwithstanding, however, the proposed carparking changes are uncharacteristic to the Federation character of the existing building and should be reviewed and revised to suit the period of the building. No approval for the current garage arrangement has been sighted.

‘13.9.6 Fences – Objective O1 To ensure that fences are consistent with the characteristic elements of the heritage item or heritage conservation area.’

Noting the changes to accommodate the carparking, the retention and making good of the existing brick garden fence to the rear is supported in general.

3. Conclusion

With reference to the above, the proposed changes at the rear:

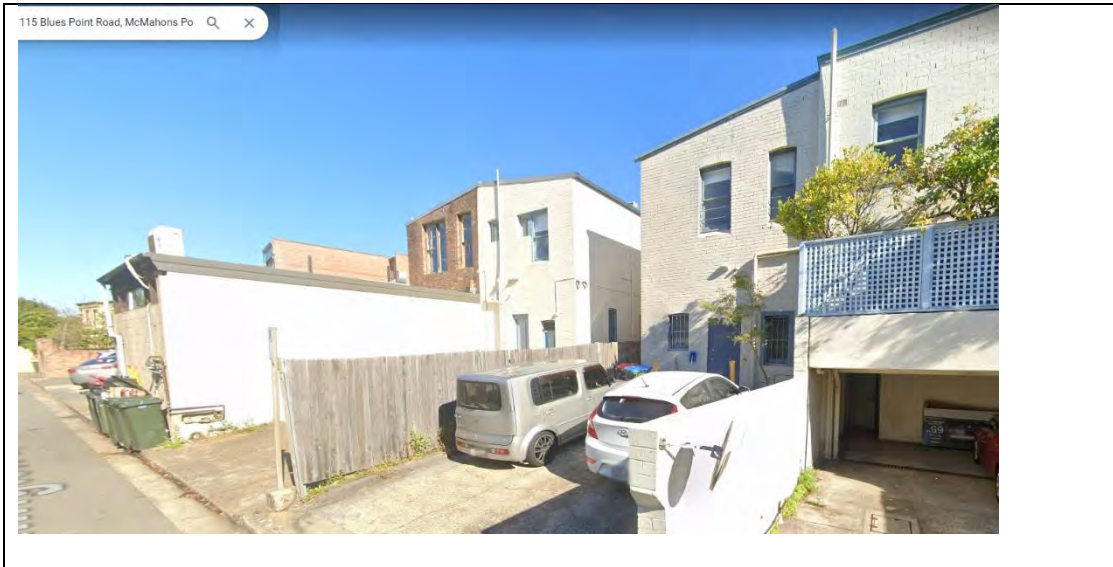
- *have an excessive bulk and scale that extend beyond the building envelope and distort the early footprint of the existing building;*
- *the carparking changes are uncharacteristic to the Federation form of the building;*

- *the stair servicing the ground and first floor levels is significant to the existing building and appears to be original to the building;*
- *the proposed first floor roof garden is not characteristic in Wellington Lane; and*
- *the overall solid to void ratio is low and the resulting amount of glazing is an uncharacteristic element in Wellington Lane.*

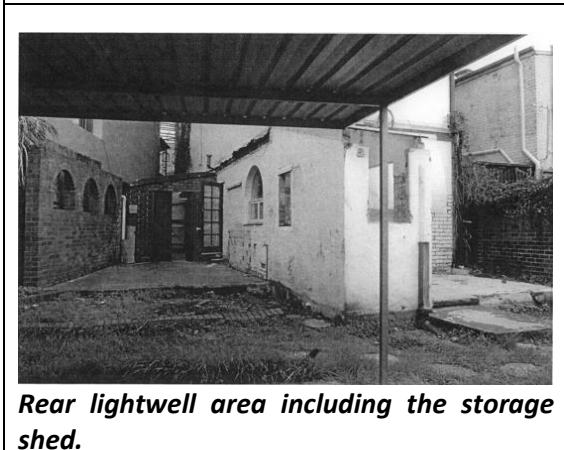
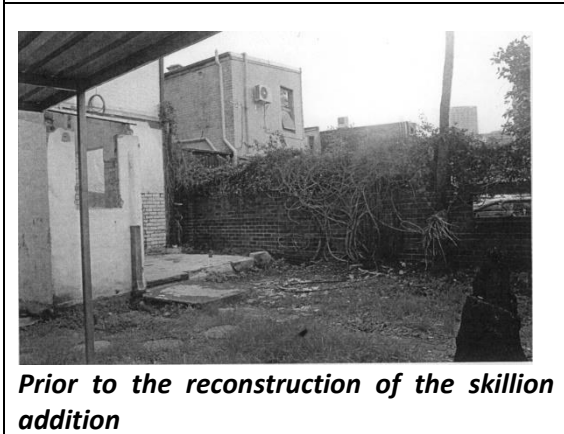
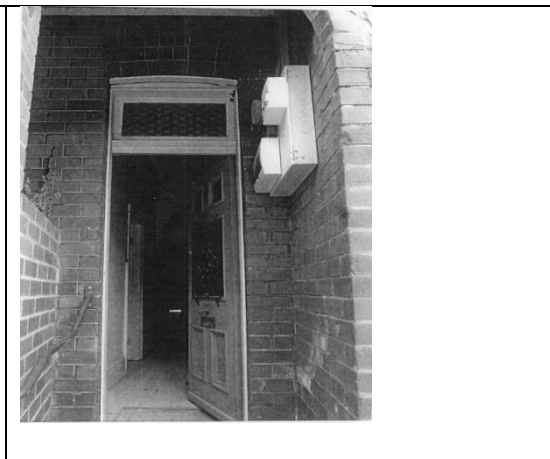
The changes to the rear are not in keeping with the Federation character of the building generally and the adjacent buildings within the Blues Point Village. The form, mass and scale of the new works are out of character with the McMahons Point North Conservation Area and are not supported in the current form. Revisions to address the above are recommended and the applicant should be advised accordingly.

APPENDIX 1

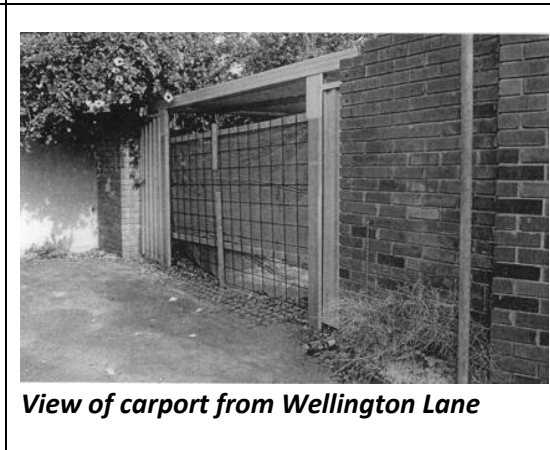
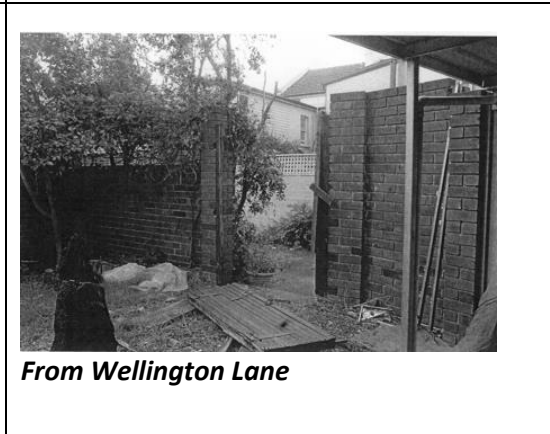




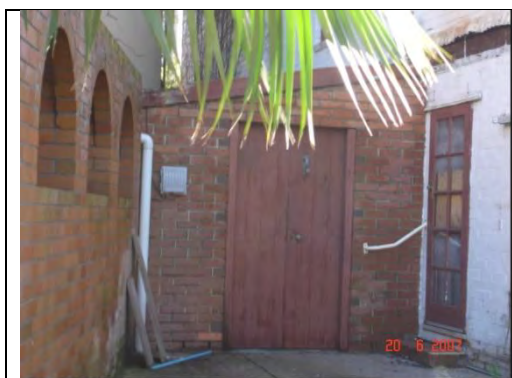
Images relating to works under DA200/07



Rear lightwell area including the storage shed.



View of carport from Wellington Lane shed.



Previous storage shed



View of carport towards Wellington Lane

Planning comment: Amended plans have been provided by the Applicant dated 24 October 2023 to address the concerns raised by Council’s Conservation Planner regarding the front and rear façade windows to retain the solid to void ratio with the exception of the second-floor balcony which proposes floor to ceiling glass doors.

The existing development is identified as a contributory item and retains its contributory significance to Blues Point Road. The proposal is considered to provide improved amenity to subject site and adjoining neighbours with the enclosure of stairs to the south replacing the existing First Floor southern balcony, and provision of formal garage space to the residents with access from Wellington Lane which consists of numerous existing garages and hardstands.

The proposed development (as amended) provides a non-trafficable pebble roof. A condition is recommended to be imposed in the consent for the non-trafficable pebble roof to be a green roof instead as this would provide a better environmental outcome through the absorption and retention of solar heat. The proposal also provides for improved landscaped area at the rear.

A condition is recommended to better reflect the scale and of the traditional rear wing and to reduce the effect of the proposed glass balustrade and upturn to the rear laneway. It is recommended that the following condition be imposed:

Design Amendments

- C18. The plans referred to in condition A1 are to be amended to provide for the following changes:
- i. The proposed second floor balcony and awning are to be reduced in width to match the width of the existing rear wing;
 - ii. The wall return on the southern elevation at Level 1 is to be reduced to have a minimum 1.5metres set back from the rear elevation and is to be finished in traditional masonry to match existing;
 - iii. The cladding to the second floor balcony is to be of solid masonry form to match the masonry cladding;
 - iv. The wall return on the eastern elevation of the proposed Bin and Bike Store is to increase in rear setback by a minimum of 0.5m from that proposed.
 - v. The proposed lift on the northern boundary is to be constructed within the building in the approximate location between the proposed Ground Floor Bath 1 and Laundry.
 - vi. The non-trafficable pebble roof proposed above the ground floor rear portion of the dwelling is to be converted into a green roof.
 - vii. The section of the northern wall to the existing Ground Floor Storage proposed for demolition is to be retained commencing at the landing of the existing stairs.

- viii. The proposed roof material being Klip Lok steel roof is to be a changed to corrugated metal roof.

The Certifying Authority must ensure the amendments required by this condition are included in the Construction Certificate Drawings.

(Reason: To reduce the impact of the contemporary built form to the laneway and to ensure development minimises impact on heritage significance of the contributory building and consistency with DCP objectives and controls)

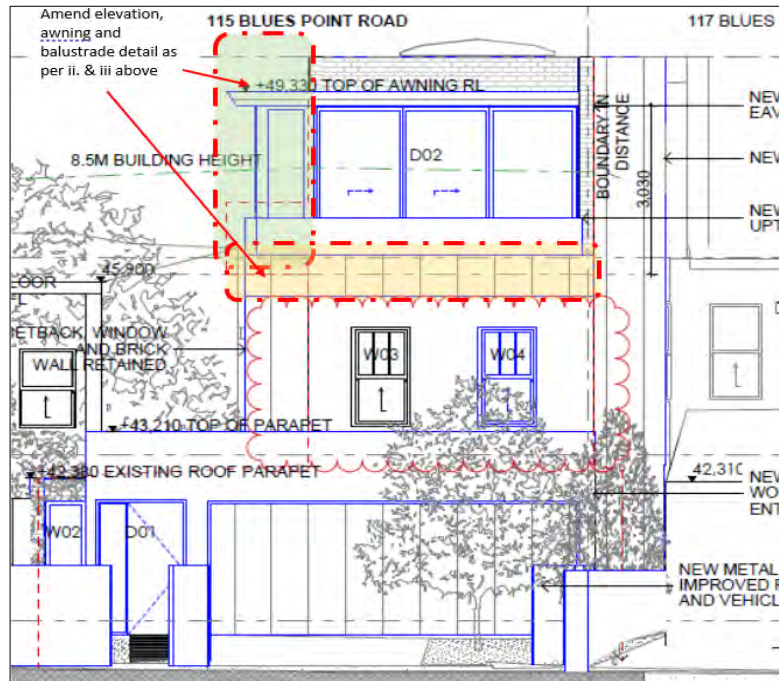


Figure 18: Area of design amendments reflecting the recommended condition and shown on the eastern elevation

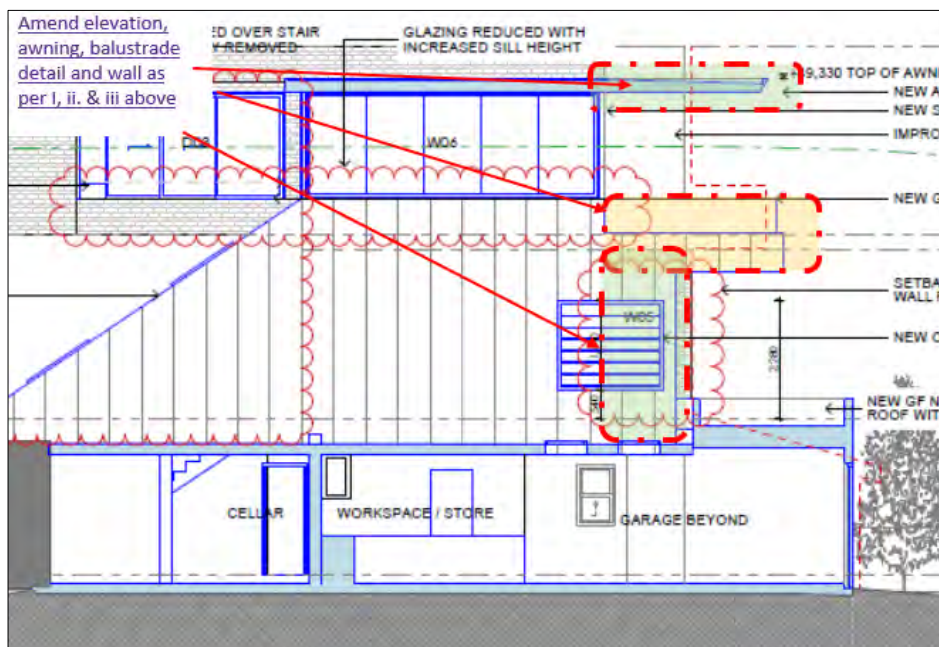


Figure 19: Area of design amendments reflecting the recommended condition and shown on section



Figure 20: Existing rear façade of subject site

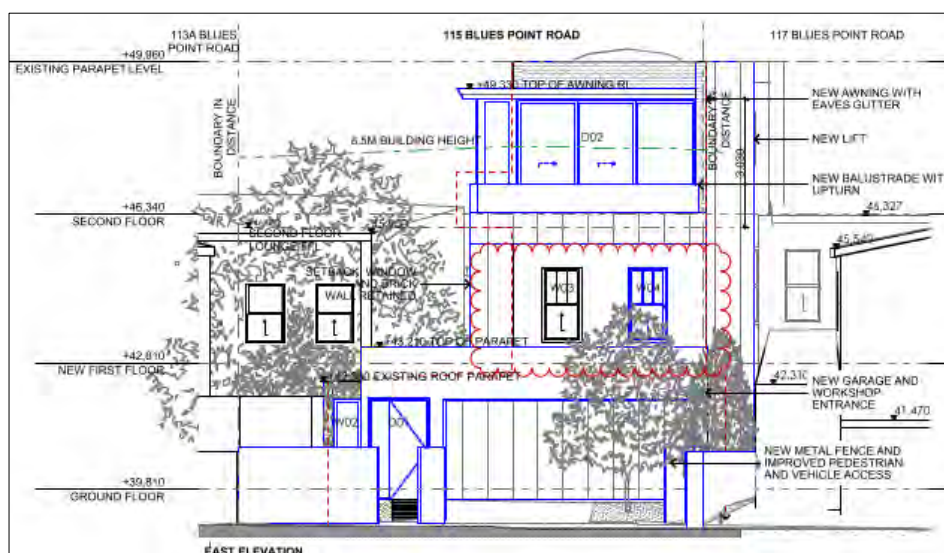


Figure 21: Proposed rear façade with floor to ceiling glass openings

ENGINEERING

The application has been referred to Council's Development Engineer who provided the following comments:

“In reference to the proposed development, the following matters have been considered.

Traffic Management:

Difficult site access from Wellington Lane. Construction Traffic Management Plan will be required.

Appropriate conditions shall be imposed in this regard.

Stormwater:

The submitted stormwater management design plans are considered satisfactory.

Appropriate conditions shall be imposed in this regard.

Parking and Access:

Relocating the vehicular access northwards will greatly improve the accessibility for vehicles and bring the property into line with all other existing vehicular access in Wellington Lane. However, a swept paths diagram should be submitted.

Appropriate conditions shall be imposed in this regard.

Sediment and Erosion controls

Appropriate conditions shall be imposed in this regard.

Excavation and Retaining Walls

No excavations are proposed with this development application.

No conditions applied.

Recommendation

The application has been assessed and it is recommended that the following conditions to be included in the Development Consent.”

Planning comment: The above comments are noted, and the recommended conditions are included in the consent.

SUBMISSIONS

Original Plans

The application has been notified in accordance with Council’s Community Participation Plan with adjoining properties and the Lavender Bay/Euroka Precinct notified between **28 July – 11 August 2023**. Council received no submissions during the period of notification.

CONSIDERATION

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

SEPP (Resilience and Hazards) 2021

The provisions of Chapter 4 of this SEPP require Council to consider the likelihood that the site has previously been contaminated and to address the methods necessary to remediate the site. The subject site has a history of **residential use** and as such is unlikely to contain any contamination. The nature and location of the proposed development (involving alterations and additions to a dwelling house) are such that any applicable requirements of this SEPP have been satisfactorily addressed.

SEPP (Building Sustainability Index: BASIX) 2004

A valid BASIX Certificate Number _04, dated 24 October 2023, for alterations and additions to a semi-detached dwelling house has been submitted with the application to satisfy the Aims of the SEPP.

NORTH SYDNEY LOCAL ENVIRONMENT PLAN 2013

1. Aims of Plan

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

2. Permissibility

The site is zoned **R3 Medium Density** zone under the provisions of the North Sydney Local Environmental Plan 2013 (NSLEP 2013). Development for the purposes of alterations and additions to a semi-detached dwelling is permissible with the consent of Council.

3. Objectives of the zone

The objectives for an R3 Medium Density 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 amended plans better reflect the character of the conservation area and the item as a contributory item. Subject to the imposition of recommended conditions in the consent, the proposal is satisfactory in this regard.

4. Principal Development Standards

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

Compliance Table –

North Sydney Local Environmental Plan 2013			
Site Area – 257.3m ²	Proposed	Control	Complies
Clause 4.3 – Heights of Building	10.4m (NGL to solar panel) or RL49,960	8.5m	No Variation 22.35% (1.9m)
	10.8m Existing height to front parapet from NGL		No Existing variation 27.6% (2.3m)

*Clause 4.6 submitted by Applicant, discussed below

5. Height of Building

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

- “(a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*
- (b) to promote the retention and, if appropriate, sharing of existing views,*
- (c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,*
- (d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,*
- (e) to ensure compatibility between development, particularly at zone boundaries,*
- (f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.*
- (g) to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone C4 Environmental Living.”*

The proposed works would have a height of 10.4m that fails to comply with the permissible height limit of 8.5m in accordance with clause 4.3 in NSLEP 2013 and creates a variation from the HOB control of 1.9m or 22.35%. The measurements are taken from the proposed Long Section from the natural ground floor (existing) to the roof solar panels.

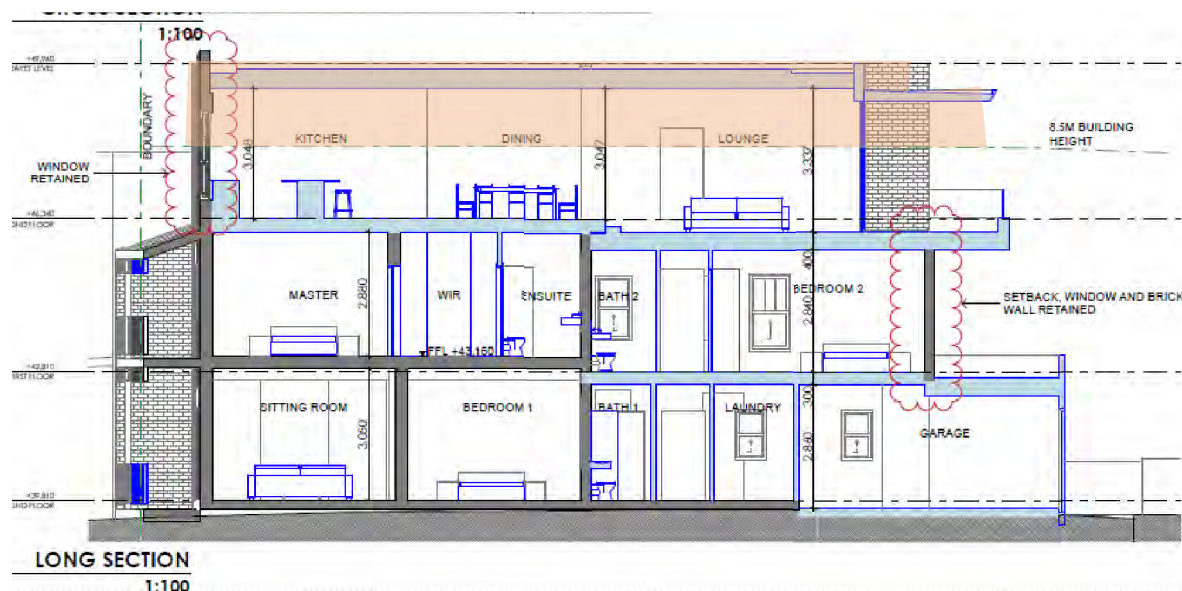


Figure 22: Extract from section showing proposed breach.

The existing building has a maximum height of 10.8m from the natural ground floor (existing) to the roof parapet. The proposal is lower than the maximum height of the building. In considering the breach to the height standard, Council identified the height of proposed works above the height standard as well as the existing height of the building, which is substantially above the maximum 8.5metre control. The works in breach of the height standard consist of the following:

- **New Roof with solar panels and skylight, second storey fitout and stairs**

The proposed works incorporate a new roof, solar panels and skylight, second-storey fitout and stairs to the roof for maintenance access. The proposed works obtain a height of 10.4m which is above the 8.5m maximum height control. However, the proposal remains beneath the height of the existing front parapet measured from the NGL (approximately 10.8m).

The proposal increases the overall height and bulk of the existing building. Proposed works that contribute to the overall increase of volume and bulk to the existing building include:

- Extension of footprint to the north for a Lift from Ground Floor to Second Floor
- Extension of Ground Floor to the south and east for bin and bike storage
- Extension of First Floor to the south and east for wider stair access, accommodation of a Study and new non-trafficable pebble roof
- Extension of the Second Floor to the south and east to accommodate the new stairs, Lounge Room and increased area of Balcony
- Construction of roof above the new stairs on the south
- Installation of solar panels on new roof

Due to the significant increase in the overall height and bulk of the existing building, the development application is reported to the North Sydney Planning Panel for determination in accordance with Panel directions on 8 November pursuant to s2.20(8) of the EPA Act.

A Clause 4.6 Height Variation Request has been submitted which provides justification for the non-compliance. The Clause 4.6 written request has been assessed below:

Clause 4.6 Exceptions to development standards

A written request prepared by Paro Consulting dated May 2023 was submitted as part of the application. The written request acknowledges the departure of more than 10% from the development standard.

Clause 4.6(3) states the following:

- (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 demonstration:*
 - (a) *The 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.*

The written request provided by Paro Consulting dated May 2023 has demonstrated that strict compliance is unreasonable and unnecessary in the circumstances of the case. The written request provides the following environmental planning grounds in support of the request which argues that the exceedance should be granted for the following reasons:

- “• *The proposed works will not increase the maximum height of the existing parapet roof and work will be predominately contained within the existing roof and building profile;*
- *The height non-compliance outside of the existing building profile relates to only to the new awning above the rear facing balcony but does not exceed the maximum height of the existing roof parapet and is located to the rear of the building and it is in itself an open lightweight type construction;*
- *The proposed height of the building will continue to read as 10.15m (as existing) as viewed externally from the site and from the primary street frontage of Blues Point Road and rear lane frontage to Wellington Lane;*
- *The new work at the rear has a contemporary character that will complement the built form of the conservation area;*
- *The area of non-compliance does not result in any adverse view loss, overlooking, visual bulk or overshadowing impacts or unreasonable sense of enclosure;*
- *Strict compliance with the development standard would not result in a better outcome for development but would result in a requirement to demolition the existing principal built form that is of contributory significance to the heritage conservation area; and*
- *Ability to satisfy the height objectives of the development standard and R3 Medium Density Zone objectives.”*

The proposed development is considered to be consistent with the objectives of the building height standard and objectives of the R3 Medium Density Residential zone as discussed below.

- a) ***To provide for the housing needs of the community within a high-density residential environment*** – The subject site continues to operate as a dwelling house for which the proposal seeks variation for height.

- b) *To provide a variety of housing types within a high-density residential environment*** – The site will continue to accommodate a dwelling house and provide for the housing needs of the community in a medium-density residential environment.
- c) *To enable other land uses that provide facilities or services to meet the day to day needs of residents*** – The proposal enables the site to continue to operate as a dwelling house providing for the needs of residents including the formal garage space.
- d) *To encourage the development of sites for high density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area*** – The proposed development retains generally the same footprint and retains the development’s contributory item significance within McMahons Point North Conservation Area.
- e) *To ensure that a reasonably high level of residential amenity is achieved and maintained*** – The proposal is unlikely to create an adverse impact on residential amenity in terms of solar access, visual privacy and views.

As detailed earlier within this report, the proposal is considered to achieve the objectives of the R3 Medium Density Residential zone on the basis that the proposal improves amenity for the occupants of the dwelling while not adversely impacting view, solar access or privacy for surrounding properties.

In conclusion, the amended written request seeking a variation to the building height control is considered to be well founded, has demonstrated that compliance with the standard is unreasonable and unnecessary in the circumstances of the case and has provided sufficient environmental planning grounds which support the request. While the breach to the building height standard exceeds a 10% variation, it is consistent with the objectives of the building height control and the R3 Medium Density Residential zone.

6. Heritage Conservation

The subject site is listed as a Contributory Item within McMahons Point North Conservation Area (CA13) under Schedule 5 within NSLEP 2013 and consequently *CI5.10 Heritage Conservation* planning objectives apply to the site:

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

Appropriate conditions are recommended in the consent to conserve the environmental heritage of North Sydney.

7. Earthworks

Minimal earthworks are proposed. The proposal will not impact on land stability or drainage patterns.

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013

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

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 1- Residential Development		
	<i>complies</i>	<i>Comments</i>
1.2 Social Amenity		
1.2.1 Population Mix	Yes	The proposal will not impact on affordable housing in the area, housing for seniors, and will retain the population mix on site.
1.3 Environmental Criteria		
1.3.1 Topography	Yes	Minimal earthworks are proposed. The proposal will not impact on land stability or drainage patterns.
1.3.7 Solar Access <ul style="list-style-type: none"> • More than 3 hours between 9am – 3pm • RFB – 70% of dwellings 2hrs solar access 	No Existing	<p>Lot 6 within 103-113 Blues Point Road in the southern adjoining property contains an existing awning over the terrace/open space at the rear (refer red highlight in Figure 15d below).</p> <p>Based on the submitted shadow diagrams (Figure 21-23) for winter solstice between the hours 9am – 3pm, the proposed shadows are substantially the same as that existing, which does not receive the minimum three hours of solar access.</p> <p>The proposed development does not exacerbate the lack of solar access to the existing rear private open space of Lot 6 at 103-113 Blues Point Road which already contains an awning (refer Figure 16 below) shielding the area of solar access at the rear during winter solstice.</p> <p>A photo from <i>realestate.com.au</i> appears to show the rear upper floor windows to Lot 7 at 103-113 Blues Point Road (as seen in Figure 18) to be windows to a bedroom (Figure 19), looking out to Welling Lane with the chimneys of 22 Wellington Lane visible (Figure 20). The space is therefore not a main living space which requires a minimum of 3 hours of solar access as prescribed in NSDCP 2013.</p> <p>The shadow diagrams for March and September equinoxes are similar to the existing shadows received during March and September equinoxes by adjoining properties and thereby considered satisfactory.</p>

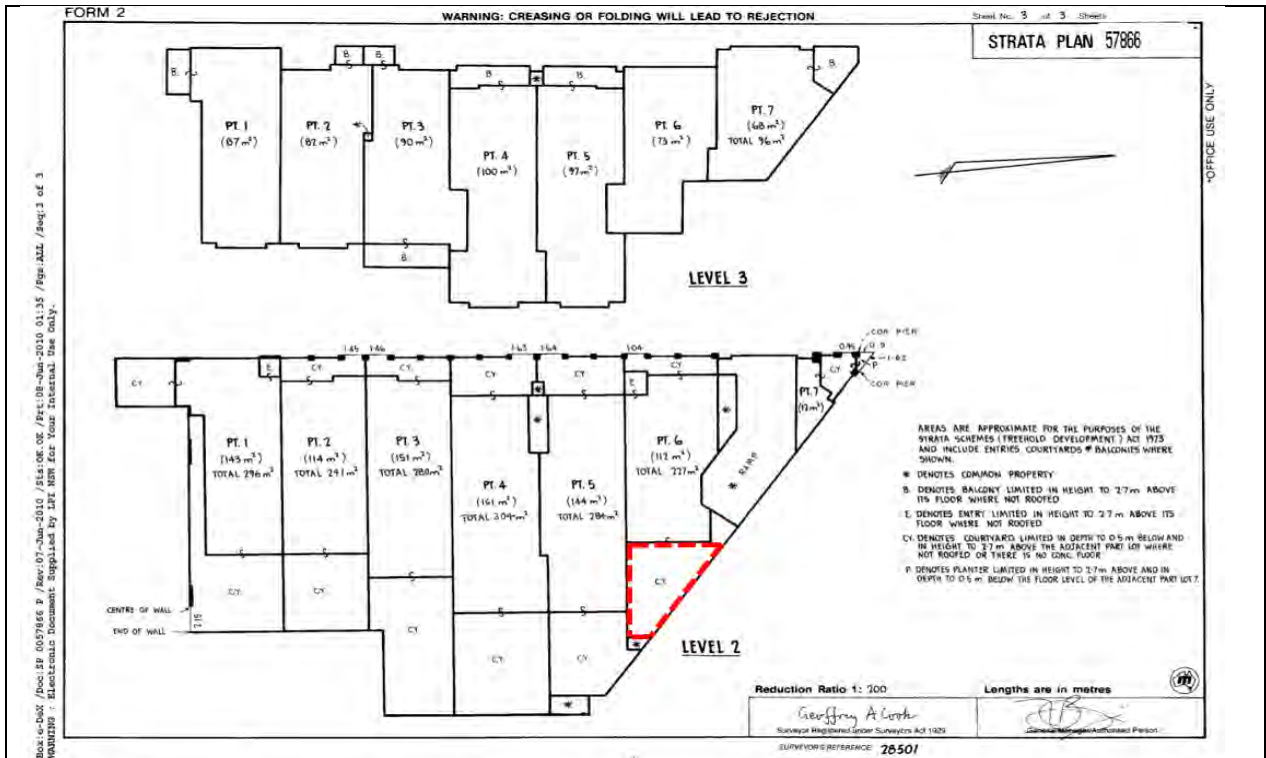


Figure 15d: Strata Plan 57866 for 103-113 Blues Point Road (southern residential apartment). Area of private open space at rear of Lot 6 highlighted in red

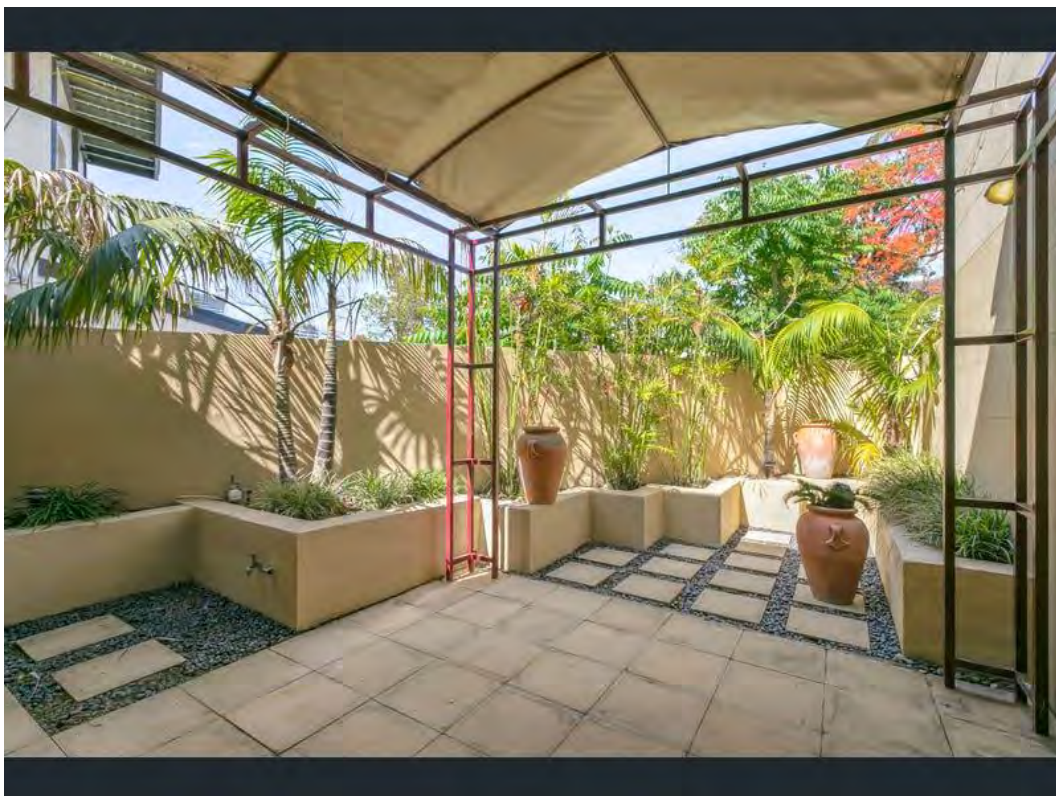


Figure 16: Awning over private open space of Lot 6 of 103-113 Blues Point Road. Photo from Realestate.com.au (May 2011)



Figure 17: View from Living space of Lot 6 to outdoor terrace/open space



Figure 18: Rear windows of Lot 7 at 103-113 Blues Point Road appears to be a bedroom space based on photo below showing rear view (Chimneys of 22 Wellington Lane)

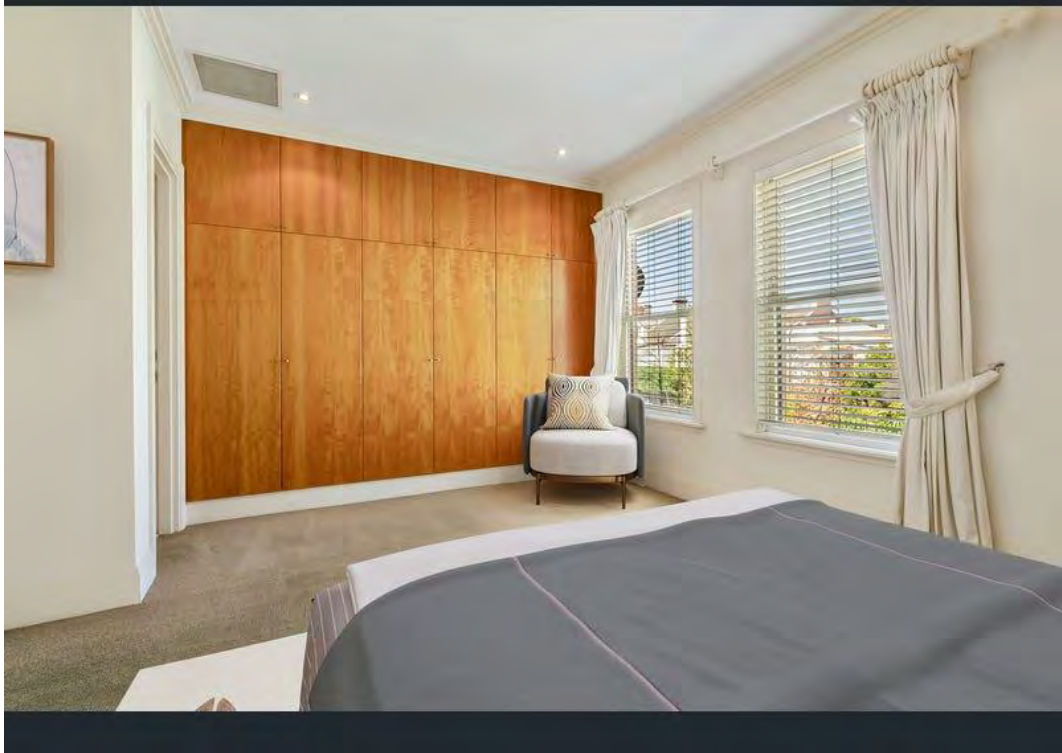


Figure 19: Photo taken from Realestate.com.au of 113 Blues Point Road, appears to be Lot 7

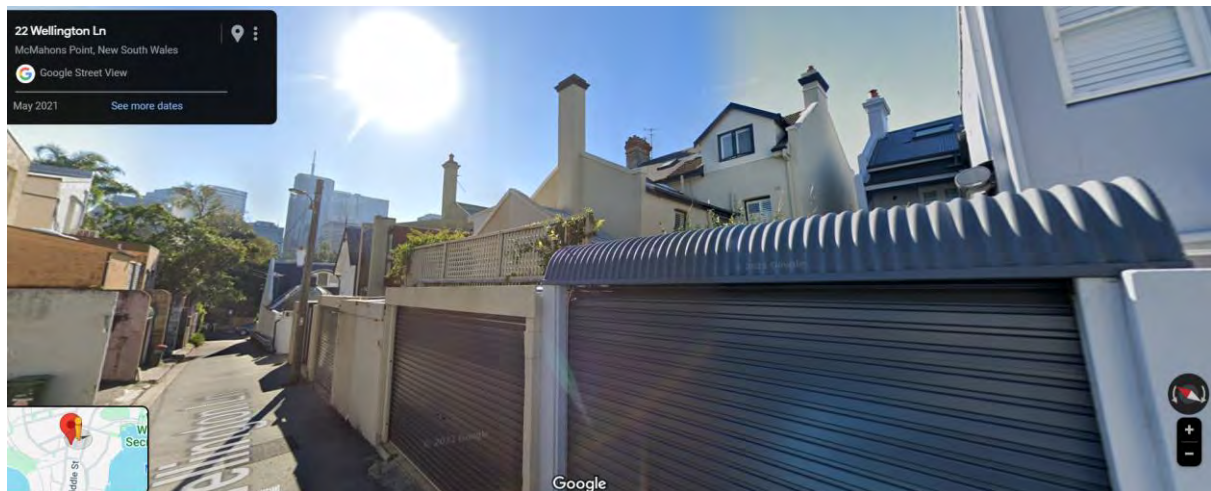


Figure 20: Google view snapshot 2021 showing view towards 22 Welling Lane

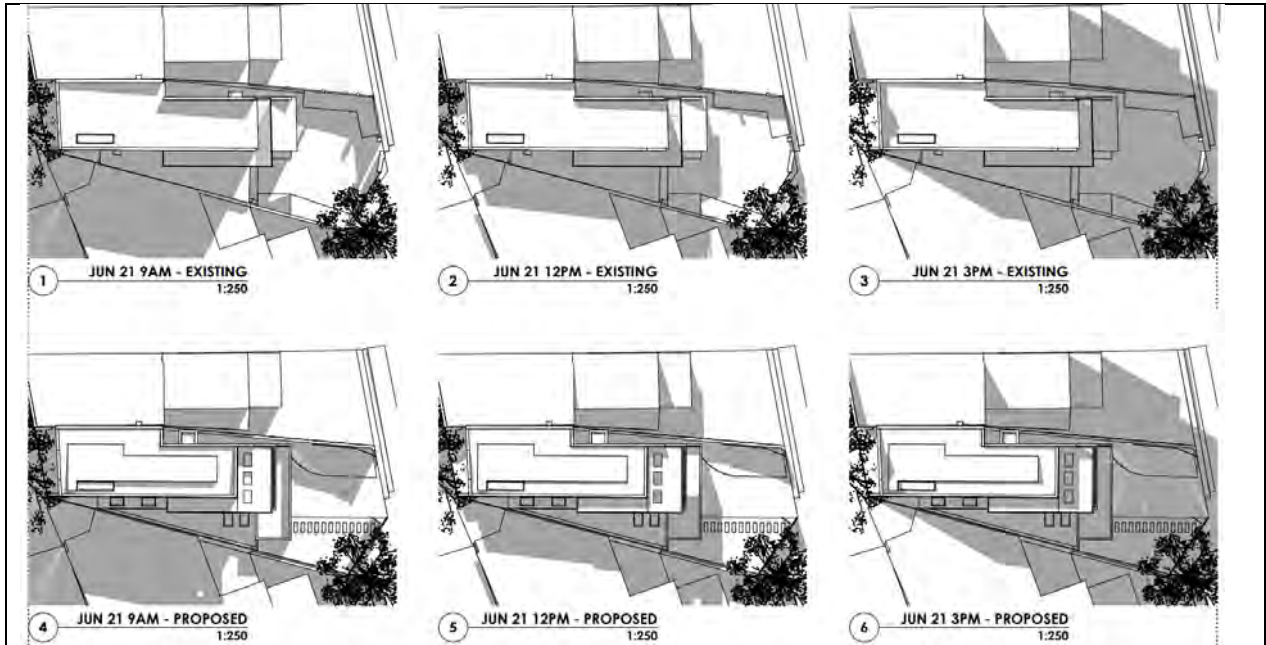


Figure 21: Submitted existing and proposed shadow diagrams

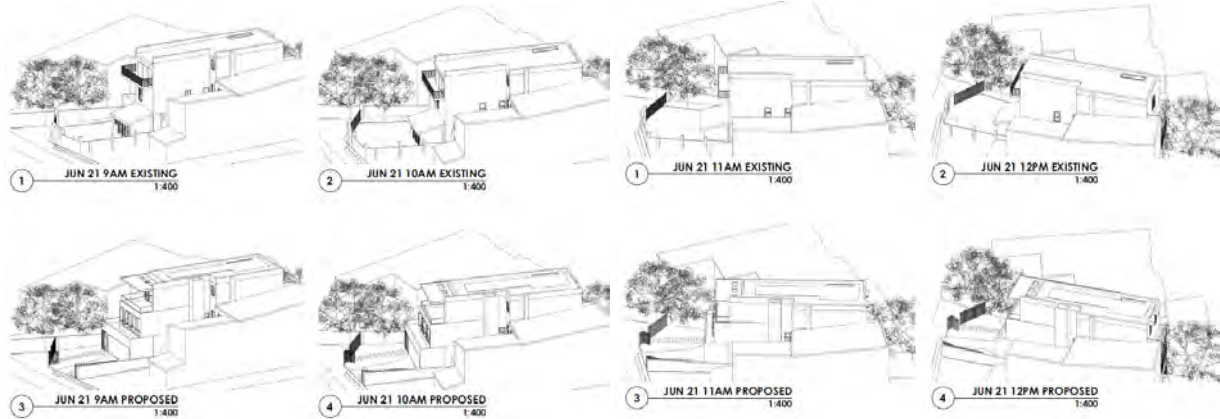


Figure 22: Submitted hourly "sun's-eye" view diagrams on winter solstice

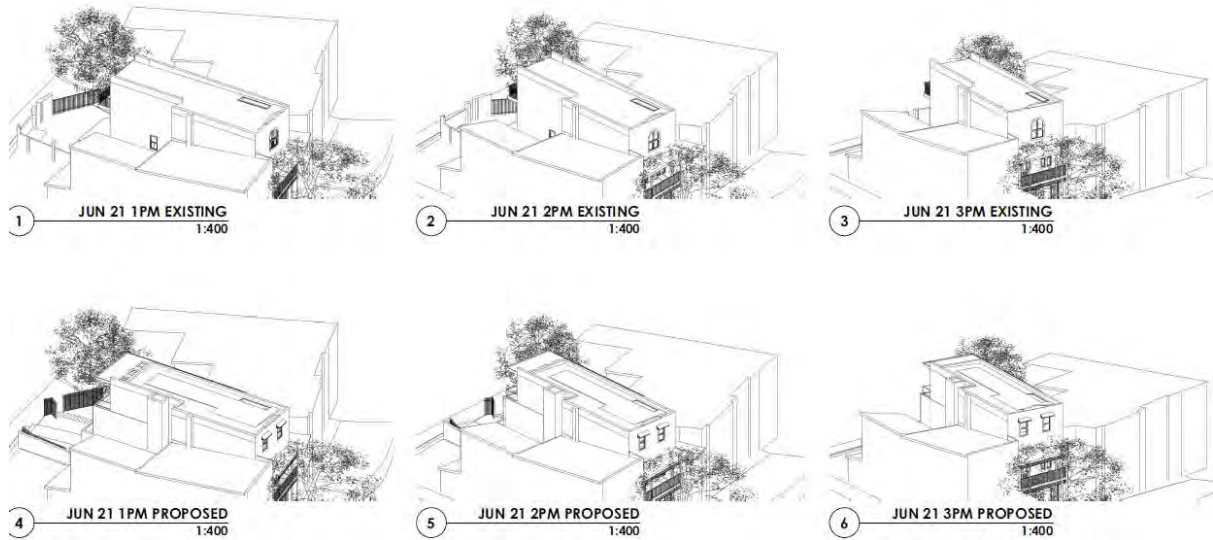


Figure 23: Submitted hourly "sun's-eye" diagram for winter solstice

<p>1.3.8 Acoustic Privacy</p> <ul style="list-style-type: none"> • Living areas Day/Night \leq 40_dBA • Sleeping areas Day/Night \leq 35_dBA 	<p>Yes</p>	<p>The existing second storey balcony on the eastern elevation has a depth of 1.4m. The proposed balcony is 3.2m. Despite the increased depth which may accommodate more people on the balcony outside, the second-floor proposed balcony is another level above and faces east (rear) away from the adjoining properties either side so that sound transmission travels towards a different direction and will have lesser direct impact. The proposal removes the outdoor balcony on the second-floor southern elevation by encasing and converting the area into a stairwell and is unlikely to impact on acoustic privacy.</p>																				
<p>1.3.10 Visual Privacy</p>	<p>Yes</p>	<p>The proposal is unlikely to adversely impact on the visual privacy of adjoining properties as the second-floor balcony is set back a minimum of 3m from the southern boundary and has an existing wall covering half the proposed balcony on the northern side of the proposed development. The proposed stairwell to the south is not considered to have significant impacts on visual privacy to the southern neighbours as it is not a space for prolonged period of use. The second-floor windows south of the dining space are proposed to contain an internal balustrade in addition to the minimum sill height of 700mm that will allow for adequate visual privacy to be maintained.</p> <p>The proposed second floor extends towards the rear by approximately 32cm and is considered satisfactory as there are no amenity impacts and remains consistent with the rear setbacks of adjoining dwellings.</p>																				
<p>1.4 Quality built form</p>																						
<p>1.4.4 Laneways</p> <ul style="list-style-type: none"> • 2 storey building – 10m setback • Carports/garages must not cover more than 50% of width to laneway • Fences/other structures – 1.2ms setback 	<p>No Acceptable</p>	<p>The subject site had approval for a rear fence in DA200/07. It is considered acceptable in this case that the rear fence is rebuilt without a 1.2m setback as prescribed in DCP control as the fencing of dwellings on the east side of Wellington Lane are all without 1.2m setback, and the west side of Wellington Lane consists of a mixture of hardstand/driveways. Consequently, the requirement for this setback from laneway is unlikely to contribute to better existing or future attractiveness or serviceability of the laneway.</p>																				
<p>1.4.6 Setback – Side</p>	<p>No Acceptable</p> <p>Existing Terrace</p>	<table border="1"> <thead> <tr> <th>Control</th> <th>Existing</th> <th>Proposed</th> <th>Compliance</th> </tr> </thead> <tbody> <tr> <td colspan="4">Zone R3 (Medium Density Residential)</td> </tr> <tr> <td>Ground Floor (Up to 4m) 900mm</td> <td>North: Nil – 0.5m South: Nil – 5.3m</td> <td>North: Nil – 0.5m South: Nil – 1.7m</td> <td>No, acceptable. See explanation below</td> </tr> <tr> <td>First Floor (up to 7m) 1.5m</td> <td>North: Nil – 0.75m South: Nil – 4.7m</td> <td>North: Nil – 0.5m South: Nil – 3.5m (SE corner of Study)</td> <td>No, acceptable. See explanation below</td> </tr> <tr> <td>Second Floor (Greater than 7m)</td> <td>North: Nil – 0.75m South: 0.2m – 4.5m</td> <td>North: Nil – 0.6m South: 0.2m – 3.9m</td> <td>No, acceptable. See explanation below</td> </tr> </tbody> </table>	Control	Existing	Proposed	Compliance	Zone R3 (Medium Density Residential)				Ground Floor (Up to 4m) 900mm	North: Nil – 0.5m South: Nil – 5.3m	North: Nil – 0.5m South: Nil – 1.7m	No, acceptable. See explanation below	First Floor (up to 7m) 1.5m	North: Nil – 0.75m South: Nil – 4.7m	North: Nil – 0.5m South: Nil – 3.5m (SE corner of Study)	No, acceptable. See explanation below	Second Floor (Greater than 7m)	North: Nil – 0.75m South: 0.2m – 4.5m	North: Nil – 0.6m South: 0.2m – 3.9m	No, acceptable. See explanation below
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	<p>The existing dwelling is a terrace house that is built boundary to boundary fronting Blues Point Road. The proposed development proposes new breaches to side setbacks in the following locations:</p> <ul style="list-style-type: none">• Lift installation on the northern boundary• First-Floor southern extension for new stairwell & Study• Second Floor minor eastern extension <p>The remaining alterations and additions proposed fall within the same building footprint as existing.</p> <p>Part B, s1.4.6 provision P3 states that Council may grant consent to a development with nil setback to a side boundary, only if the applicant addressed the questions below satisfactorily as identified in the Land and Environment Court Planning Principle "<i>Building to the side boundary in residential areas</i>" established in <i>Galea v Marrickville Council [2003] NSWLEC 113</i> and consideration has been given to that statement.</p> <p>a) Is the street characterised by terrace housing? Yes, Blue Point Road consists of numerous terrace housing on either side of the street.</p> <p>b) What is the height and length of the wall on the boundary? The proposal retains generally the same footprint in terms of boundary to boundary design with the exception of the proposed lift on the northern boundary. The proposal is unlikely to create additional amenity impacts from existing site conditions.</p> <p>c) Has the applicant control over the adjoining site(s) or the agreement of their owners? There are no relevant easements in this instance and proposed side setback does not limit access for maintenance to the site or adjoining properties.</p> <p>d) What are the impacts on the amenity and/or development potential of adjoining sites? There are not amenity impacts as described previously in the DCP table.</p> <p>e) Are there arrangements in place for the maintenance of the wall or gutters? Maintenance of the wall and gutters may still be carried out through the variations in side setbacks by the roof on the property.</p>
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<p>P1 Front setback</p>	<p>No change</p>	<p>No change is proposed that alters the built form from the existing front setback.</p>
<p>P5 Rear Setback – Rear</p> <ul style="list-style-type: none"> To match adjoining properties. 	<p>Yes</p>	<p>The rear setback generally remains consistent with adjoining dwellings on the ground and first floor. The existing second storey floor area is partly incorporated into the proposed balcony space which reduces the massing and increases the second-storey setback from the rear which improves on the existing site conditions and is satisfactory in this regard.</p>



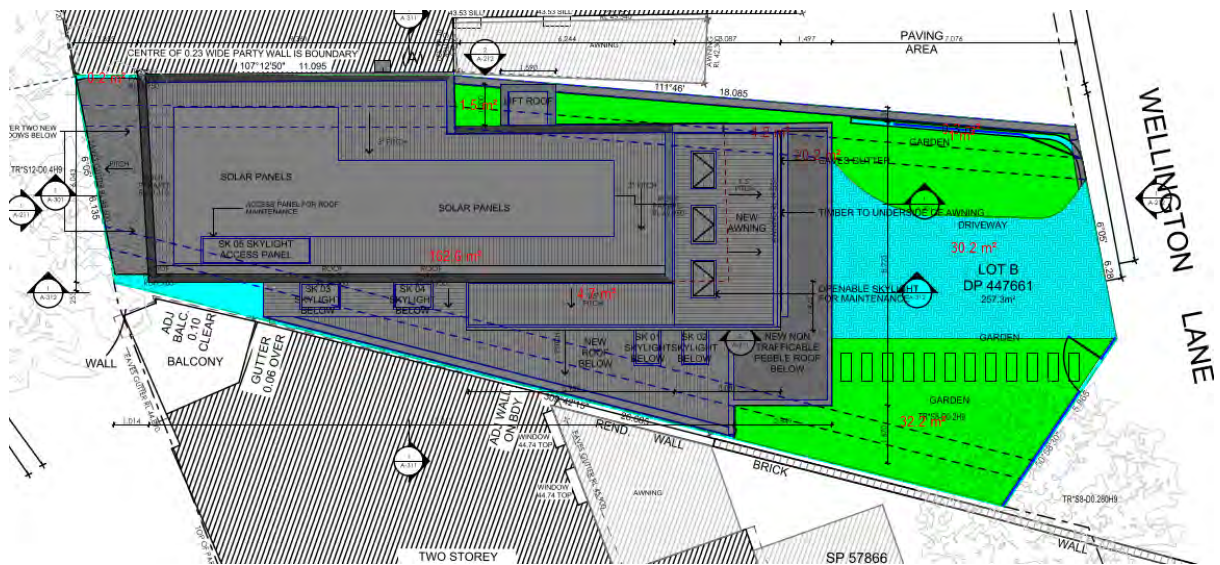
Figure 23a: Aerial view of subject site (Sixmaps 2023)

<p>1.4.7 Form Massing Scale</p>	<p>Yes Subject to conditions</p>	<p>The proposal generally retains the same building footprint with extensions mainly to the south and east. The second storey rear balcony steps into the existing floor area to introduce a larger balcony and therefore reduces the massing of the second floor when viewed from Wellington Lane. A condition is recommended to better reflect the scale of the traditional rear wing and to reduce the effect of the proposed glass balustrade and upturn to the rear laneway.</p>
<p>1.4.8 Built Form Character</p>	<p>Yes Subject to conditions</p>	<p>The amended plans incorporate partial design changes recommended by Council’s Conservation Planner and a condition of consent is recommended regarding maintenance of the rear wing in the design to ensure compatibility with the contributory item significance on the subject site and compatibility with the design in the locality. The proposal generally retains the existing footprint.</p>
<p>1.5 Quality Urban Environment</p>		
<p>1.5.4 Vehicle Access and Parking</p>	<p>Yes</p>	<p>Subject to conditions recommended by Council’s Engineer, the amended driveway design is considered acceptable.</p>

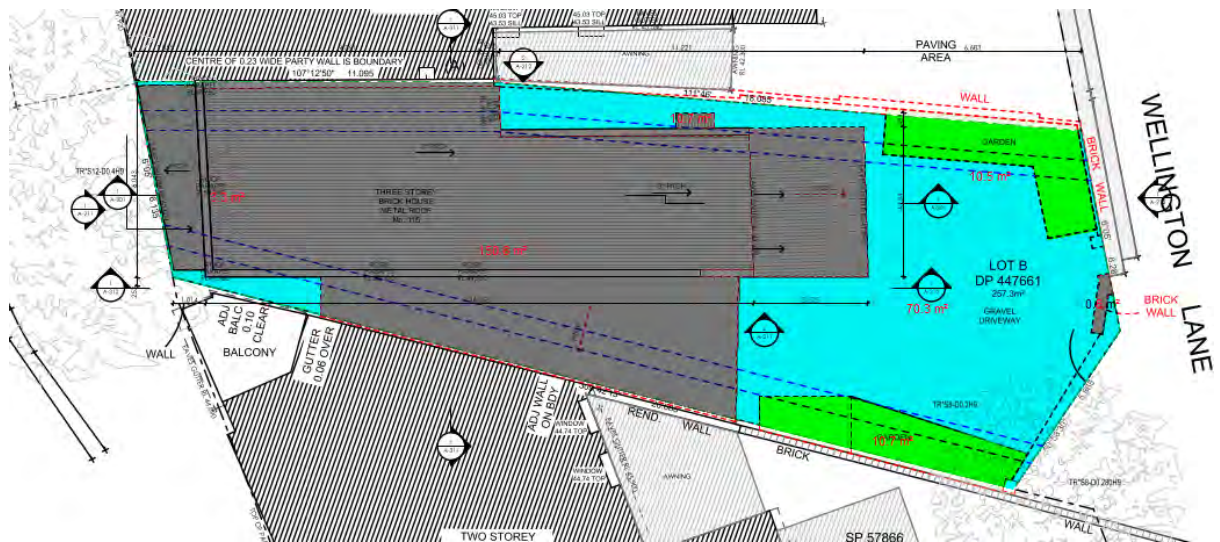
<p>1.5.5 Site Coverage</p> <p><i>Attached/ detached/ semi-detached dwelling</i> Site area = 257.3m²</p> <table border="1"> <thead> <tr> <th colspan="2">Table B-1.6: Max Site Coverage</th> </tr> <tr> <th>Lot Size</th> <th>Cover (max)</th> </tr> </thead> <tbody> <tr> <td>0-229</td> <td>60%</td> </tr> <tr> <td>230-499</td> <td>50%</td> </tr> <tr> <td>500-749</td> <td>40%</td> </tr> <tr> <td>750-999</td> <td>35%</td> </tr> <tr> <td>1000+</td> <td>30%</td> </tr> </tbody> </table> <p>1.5.6 Landscape Area</p> <p><i>Attached/ detached/ semi-detached dwelling</i> Site area = 257.3m²</p> <table border="1"> <thead> <tr> <th colspan="3">Table B-1.7: Landscape requirements</th> </tr> <tr> <th>Lot size</th> <th>Landscape (min)</th> <th>UBA (max)</th> </tr> </thead> <tbody> <tr> <td>0-229</td> <td>20%</td> <td>20%</td> </tr> <tr> <td>230-499</td> <td>30%</td> <td>20%</td> </tr> <tr> <td>500-749</td> <td>40%</td> <td>20%</td> </tr> <tr> <td>750-999</td> <td>45%</td> <td>20%</td> </tr> <tr> <td>1000+</td> <td>50%</td> <td>20%</td> </tr> <tr> <td>All</td> <td>40%</td> <td>15%</td> </tr> </tbody> </table>	Table B-1.6: Max Site Coverage		Lot Size	Cover (max)	0-229	60%	230-499	50%	500-749	40%	750-999	35%	1000+	30%	Table B-1.7: Landscape requirements			Lot size	Landscape (min)	UBA (max)	0-229	20%	20%	230-499	30%	20%	500-749	40%	20%	750-999	45%	20%	1000+	50%	20%	All	40%	15%	<p>Site Coverage No</p> <p>Landscape area No</p> <p>UBA: Yes</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 (50% or 128.65m² max)</td> <td>151.4m² (58.9%)</td> <td>166.2m² (64.6%)</td> <td>No Variation 14.6% or 37.6m²</td> </tr> <tr> <td>Landscaped area (30% or 77.19 m² min)</td> <td>21.2m² (8.2%)</td> <td>54.2m² (21%)</td> <td>No Improved. Variation 9% or 23m²</td> </tr> <tr> <td>Unbuilt-upon area (20% or 51.46m² max)</td> <td>84.3m² (32.8%)</td> <td>36.1m² (14%)</td> <td>Yes</td> </tr> </tbody> </table> <p>The subject site is calculated in the survey to be 257.3m² on but stated in the title as 221.3m². Council's GIS system calculates the area to be closer to 257.3m². The Applicant stated that the significant difference was due to the Deposited Plan being historical in nature and was an estimate of the area for the purpose of Land Tax rather than an accurate measurement provided by the Applicant's survey. The survey figure has been accepted for the purposes of this assessment.</p> <p>NSDCP 2013 prescribes the minimum and maximum area controls for site coverage, landscaped area and UBA as shown in the table above.</p> <p>The subject site is non-compliant with site coverage and landscaped area proposed with the variations detailed above. The variation to the site coverage control reflects the expansion of the building at the ground floor level, being the garage and workshop spaces, in addition to a minor additional area associated with the proposed stair at level 1. Recommended conditions of consent include a condition for design amendment to reduce the footprint of the proposal to minimise the environmental and heritage significance impact (contributory item) on the subject site and locality.</p> <p>The increase in site coverage is converted from the area representative of UBA on the site. These areas include the southeast corner of the site from gravel driveway to a double garage, bin and bike storage space.</p> <p>The proposal also demonstrates significant increase in landscaped area at the rear and northern boundary of the site.</p> <p>Subject to the recommended conditions of consent and the proposal's merit in improving the landscape area on site, the proposal is considered satisfactory.</p>	Control	Existing	Proposed	Compliance	Site coverage (50% or 128.65m² max)	151.4m ² (58.9%)	166.2m ² (64.6%)	No Variation 14.6% or 37.6m ²	Landscaped area (30% or 77.19 m² min)	21.2m ² (8.2%)	54.2m ² (21%)	No Improved. Variation 9% or 23m ²	Unbuilt-upon area (20% or 51.46m² max)	84.3m ² (32.8%)	36.1m ² (14%)	Yes
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Proposed Site Coverage Calculations

Site coverage: Grey
 Landscaped Area: Green
 Unbuilt-Upon Area: Blue



Existing Site Coverage Calculations



1.5.10 Private and Communal Open Space

- Private open space at ground level – 4m min dimension & 2m above ground level
- Must be provided off living areas

Yes

Control – lot size	Proposed	Compliance
Dwellings		
Up to 499m ² – 40m ²	Rear garden: approx.47m ² Second Floor Rear Balcony: 16 m ²	Yes

The ground floor rear garden that is located closer to the southern boundary has a minimum dimension of 4m. This is not provided off a living space contravening with DCP controls.

		<p>Due to the constrained nature of the subject site, a private open space in the form of a rear balcony is provided off the second floor living area towards the rear of the site. The proposed balcony receives solar access and retains some privacy by the northern brick wall extending across half of the balcony depth. This design accords with P2 within this section of the DCP and is considered acceptable.</p> <p>The total area of useable private open space is calculated to be 47m² on the ground floor through the garden area north and south of the proposed driveway, and 16m² via the second-floor rear balcony and satisfies the minimum area of 40m².</p>
1.6 Efficient Use of Resources		
1.6.1 Energy Efficiency	Yes	See amended BASIX certificate number: _04 dated 24 October 2023
1.6.2 Passive Solar Design	Yes	See amended BASIX certificate
1.6.3 Thermal Mass and Insulation	Yes	See amended BASIX certificate
1.6.4 Natural Ventilation	Yes	See amended BASIX certificate
1.6.6 Hot Water Systems	Yes	See amended BASIX certificate
1.6.7 Water Conservation	Yes	See amended BASIX certificate
1.6.8 Stormwater Management	Yes	See amended BASIX certificate
1.6.9 Water Management and Minimisation	Yes	See amended BASIX certificate
1.6.10 Green Roofs	Yes Subject to conditions	Pebbled roof is proposed for the roof to the First Floor and a recommended condition for this to be replaced with a green roof is included at the end of this report.

Area Character Statement (Part C, NSDCP 2013)

Section 9 – Lavender Bay Planning Area

Section 9.7 – McMahons Point North Conservation Area

The proposed development is generally consistent with the area character statement with the proposed car accommodation located off rear lanes and consistent setbacks. The ACS prescribes wall materials to be rendered brick, face brick or timber weatherboard. The materials proposed are rendered brick on the ground and first floor with Colorbond cladding incorporated for the garage door on the ground floor and parts of the wall on the first storey and considered generally acceptable.

The roof is proposed to be Klip Lok steel roof. This is inconsistent with the corrugated metal roof description in the area character statement.

LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN

The proposal is subject to Local Infrastructure Contributions (s7.12 contribution) in accordance with the North Sydney Local Infrastructure Contributions Plan (as amended).

The application proposes a 4-bedroom development that is a decrease from the existing 6-bedroom dwelling. As the proposal does not create a net resident increase, s7.11 contribution fees do not apply. The proposal has a cost estimate of more than \$100,000.00 and therefore s7.12 contribution fees apply.

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

Applicable Contribution Type		
S7.12 contribution detail	Development cost:	\$ 1,248,000.00
(payment amount subject to indexing at time of payment)	Contribution:	\$ 12,480.00

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

ALL LIKELY IMPACTS OF THE DEVELOPMENT

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

ENVIRONMENTAL APPRAISAL

CONSIDERED

- | | |
|---|-----|
| 1. Statutory Controls | YES |
| 2. Policy Controls | YES |
| 3. Design in relation to existing building and natural environment | YES |
| 4. Landscaping/Open Space Provision | YES |
| 5. Traffic generation and Carparking provision | YES |
| 6. Loading and Servicing facilities | YES |
| 7. Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.) | YES |
| 8. Site Management Issues | YES |
| 9. All relevant S4.15 considerations of Environmental Planning and Assessment (Amendment) Act 1979 | YES |

SUBMITTERS CONCERNS

The application was notified to adjoining properties and the Lavender Bay/Euroka Precinct. Council received nil (0) submissions during the notification period.

PUBLIC INTEREST

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

SUITABILITY OF THE SITE

The proposal would be located in an R3 Medium Density Residential zone where alterations and additions to a semi-detached dwelling are a permissible form of development. Consequently, the proposal is considered to be suitable for the site having regard to the merits of the proposal as described in the above report.

CONCLUSION

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

The application proposes alterations and additions to an existing semi-detached dwelling in an R3 Medium Density Residential zone including a new lift, formal vehicular access from lane and new landscaping.

The application is reported to North Sydney Local Planning Panel for determination as a departure from the Cl4.3 Height of Building development standard by greater than 10% in an R3 zone and which is not within the constraints of the delegation given to staff by the Panel. In accordance with the Minister's Directions the application must be determined by the Local Planning Panel.

The applicant has provided a written submission pursuant to Clause 4.6 of the LEP 2013 which satisfactorily addresses that compliance with the development standard Clause 4.3 (Height of Buildings) would be unreasonable and unnecessary in the circumstances as the development achieves the objectives of the height development standard. The written request includes sufficient environmental planning grounds to justify the contravention and adequately demonstrates that the proposal would achieve the objectives for the R3 (Medium Density Residential) zone.

The subject site is a contributory item located on the east of Blues Point Road within the R3 Medium Density zone. The subject site contains a semi-detached, three-storey brick terrace dwelling with metal roof and no formal garage space. The site adjoins a number of terrace style shops that are of a similar scale and rhythm, but which are located in an adjoining zone, being the E1 Local Centre zone.

Council's Conservation Planner has raised concern in relation to the impacts of the proposal on the rear laneway given the contemporary form of the proposed additions. The proposal has been amended to address these concerns and to reduce the overall scale of the additions at the rear, whilst retaining a contemporary form. The amended proposal has partly addressed the concerns raised. Conditions are recommended to require further detailed design amendments to reduce the impact of the additions on the heritage significance of the building and those in the vicinity of the site whilst retaining improved amenity for occupants.

Notification of the proposal has attracted nil (0) submission. The assessment however concludes that conditions will be required to manage potential impacts on privacy and to require additional landscaping to be provided within the rear courtyard space.

Following this assessment, the development application is considered to be reasonable in the circumstances and is recommended for **approval** subject to conditions.

HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?

The subject application was notified to adjoining properties and the Lavender Bay/Euroka Precinct for 14 days where no submissions were received. Appropriate conditions of consent have been recommended to maintain the amenity of adjoining properties and the character of the streetscape/conservation area.

RECOMMENDATION

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

THAT the North Sydney Local Planning Panel, exercising the functions of Council, assume the concurrence of the Secretary of The Department of Planning, Industry, and Environment and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 and grant consent to Development Application No. 205/23 for alterations and additions to a semi-detached dwelling on land at 115 Blues Point Road, McMahons Point subject to the following site specific and standard conditions:-

Low Level Plantings on Second Floor Rear (Eastern) balcony

A5. Low Level Plantings are to be planted along the edges of the Second-Floor balcony (eastern elevation) in the form of planter boxes.

(Reason: Visual Privacy for subject site and adjoining dwellings)

Design Amendments

C18. The plans referred to in condition A1 are to be amended to provide for the following changes:

- i. The proposed second floor balcony and awning are to be reduced in width to match the width of the existing rear wing;
- ii. The wall return on the southern elevation at Level 1 is to be reduced to have a minimum 1.5metres set back from the rear elevation and is to be finished in traditional masonry to match existing;
- iii. The cladding to the second floor balcony is to be of solid masonry form to match the masonry cladding;
- iv. The wall return on the eastern elevation of the proposed Bin and Bike Store is to increase in rear setback by a minimum of 0.5m from that proposed.
- v. The proposed lift on the northern boundary is to be constructed within the building in the approximate location between the proposed Ground Floor Bath 1 and Laundry.
- vi. The non-trafficable pebble roof proposed above the ground floor rear portion of the dwelling is to be converted into a green roof.
- vii. The section of the northern wall to the existing Ground Floor Storage proposed for demolition is to be retained commencing at the landing of the existing stairs.
- viii. The proposed roof material being Klip Lok steel roof is to be a changed to corrugated metal roof.

The Certifying Authority must ensure the amendments required by this condition are included in the Construction Certificate Drawings.

(Reason: To reduce the impact of the contemporary built form to the laneway and to ensure development minimises impact on heritage significance of the contributory building and consistency with DCP objectives and controls)

RACHEL WU
ASSESSMENT OFFICER

Dated: 23 January 2024

DAVID HOY
TEAM LEADER (ASSESSMENTS)

Dated: 23 January 2024

STEPHEN BEATTIE
MANAGER DEVELOPMENT SERVICES

Dated: January 2024

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
115 BLUES POINT ROAD, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 205/23

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 endorsed with Council's approval stamp and other documentation listed in the table to this clause, or cited by other conditions, and as amended by other conditions of this consent.

Plan No.	Rev	Description	Prepared by	Dated
A101	E	Existing Ground Floor and Demolition Plan	Barbara Architecture & Interiors	24/10/23
A102	E	Existing First Floor Plan and Demolition Plan	Barbara Architecture & Interiors	24/10/23
A103	E	Existing Second Floor Plan and Demolition Plan	Barbara Architecture & Interiors	24/10/23
A104	E	Existing Roof and Demolition Plan	Barbara Architecture & Interiors	24/10/23
A111	E	Proposed Ground Floor Plan	Barbara Architecture & Interiors	24/10/23
A112	E	Proposed First Floor Plan	Barbara Architecture & Interiors	24/10/23
A113	E	Proposed Second Floor Plan	Barbara Architecture & Interiors	24/10/23
A114	E	Proposed Roof Floor Plan	Barbara Architecture & Interiors	24/10/23
A211	E	Proposed Elevations 01	Barbara Architecture & Interiors	24/10/23
A212	E	Proposed Elevations 02	Barbara Architecture & Interiors	24/10/23
A311	E	Proposed Sections	Barbara Architecture & Interiors	24/10/23
A312	E	Proposed Sections 2	Barbara Architecture & Interiors	24/10/23
A705	E	Schedule of Materials and Finishes	Barbara Architecture & Interiors	24/10/23
L/01	A	Proposed Landscape Plan	A Total Concept Landscape Architects & Swimming Pool Designers	16/01/24

(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 plans endorsed with Council's approval stamp, 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 Certifier.

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DEVELOPMENT APPLICATION NO. 205/23**

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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 Principal Certifier 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 schedule dated 24 October 2023, prepared by Barbara Architecture & Interiors and received by Council on 31 October 2023 unless otherwise modified by Council in writing. Substitution of materials must not be undertaken, except where otherwise approved in writing by Council.

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

Low Level Plantings on Second Floor Rear (Eastern) balcony

A5. Low Level Plantings are to be planted along the edges of the Second floor balcony (eastern elevation in the form of planter boxes.

(Reason: Visual Privacy for subject site and adjoining dwellings)

B. Matters to be completed before the lodgement of an application for a construction certificate

Construction and Traffic Management Plan (Major DAs and sites with difficult access)

B1. Prior to issue of any Construction Certificate, a Construction Traffic Management Plan must be prepared by a suitably qualified and experienced traffic consultant. The following matters must be specifically addressed in this Plan:

- a) A plan view (min 1:100 scale) of the entire site and frontage roadways indicating:
 - i. Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways;
 - ii. Signage type and location to manage pedestrians in the vicinity;
 - iii. The locations of any proposed Work Zones in the frontage roadways;

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DEVELOPMENT APPLICATION NO. 205/23**

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- iv. Locations and type of any hoardings proposed;
 - v. Area of site sheds and the like;
 - vi. Location of any proposed crane standing areas;
 - vii. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
 - viii. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected; and
 - ix. The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.
- b) A Traffic Control Plan(s) for the site incorporating the following:
- i. Traffic control measures proposed in the road reserve that are in accordance with the TfNSW publication "Traffic Control Worksite Manual" and designed by a person licensed to do so (minimum TfNSW 'red card' qualification).
 - ii. The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
- c) A detailed description and map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided detailing light traffic roads and those subject to a load or height limit must be avoided at all times.
- A copy of this route is to be made available to all contractors and must be clearly depicted at a location within the site.**
- d) A Waste Management Plan in accordance with the provisions of Part B Section 19 of the North Sydney DCP 2013 must be provided. The Waste Management Plan must include, but not be limited to, the estimated volume of waste and method of disposal for the construction and operation phases of the development, design of on-site waste storage and recycling area and administrative arrangements for waste and recycling management during the construction process;
- (e) Evidence of TfNSW concurrence where construction access is provided directly or within 20m of an Arterial and/or Classified Road;
- (f) A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements; and
- (g) For those construction personnel that drive to the site, the Site Manager shall attempt to provide on-site parking so that their personnel's vehicles do not impact on the current parking demand in the area.

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DEVELOPMENT APPLICATION NO. 205/23**

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A suitably qualified and experienced traffic engineer or consultant must prepare the Construction and Traffic Management Plan.

As this plan has a direct impact on the local road network, it must be submitted to and reviewed by Council prior to the issue of any Construction Certificate. A certificate of compliance with this condition from Council's Development Engineers as to the result of this review must be obtained and must be submitted as part of the supporting documentation lodged with the Principal Certifier for approval of the application for a Construction Certificate.

The construction management measures contained in the approved Construction and Traffic Management Plan must be implemented prior to the commencement of, and during, works on-site.

All works must be undertaken in accordance with the approved Construction and Traffic Management Plan.

A copy of the approved Construction and Traffic Management Plan must be kept on the site at all times and be made available to any officer of the Council on request.

Notes:

- 1) To apply for certification under this condition, an '*Application to satisfy development consent*' must be prepared and lodged with North Sydney Council. North Sydney Council's adopted fee for certification of compliance with this condition must be paid upon lodgement.
- 2) Any use of Council property will require appropriate approvals and demonstration of liability insurances prior to such work commencing.
- 3) Failure to provide complete and detailed information may result in delays. It is recommended that your Construction and Traffic Management Plan be lodged with Council as early as possible.
- 4) Dependent on the circumstances of the site, Council may request additional information to that detailed in the condition above.

(Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the demolition and construction process in a manner that respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community)

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

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

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

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

Dilapidation Survey Private Property (Neighbouring Buildings)

- C2. A photographic survey and dilapidation report of adjoining properties No's. 117 and 103-113 Blues Point Road, detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, MUST BE submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The survey and report are to be prepared by an appropriately qualified person and a copy to be given to the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Principal Certifier, prior to the issue of any Construction Certificate.

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

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

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DEVELOPMENT APPLICATION NO. 205/23**

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

(Reason: Proper management of records)

Structural Adequacy (Semi Detached and Terrace Buildings)

- C3. A report from an appropriately qualified and practising structural engineer, certifying the structural adequacy of the adjoining properties No's. 117 and 103-113 Blues Point Road, which certifies their ability to withstand the proposed works and outlines any measures required to be implemented to ensure that no damage will occur to adjoining premises during the course of the works, must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The measures outlined in the certified report must be complied with at all times.

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

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

Structural Adequacy of Existing Building

- C4. 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 Principal Certifier 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)

Colours, Finishes and Materials (Conservation Areas)

- C5. 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 Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier 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.)

Skylight(s)

- C6. Skylight flashing(s) and frame(s) to be coloured to match the roof material. Skylight(s) to sit no higher than 100mm above roof plane when in a closed position. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

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

No External Service Ducts

- C7. Service ducts must be provided within the building to keep external walls free of plumbing, drainage or any other utility installations. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure quality built form of the development)

Work Zone

- C8. 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 Principal Certifier 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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Maintain Property Boundary Alignment Levels

- C9. Except where otherwise approved by Council, the property boundary alignment levels must match the levels which existed prior to the commencement of works. Plans and specifications which document existing and proposed levels adjacent to the site boundaries and which comply with the requirements of this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate.

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

(Reason: To ensure interface between property and public land remains uniform)

Obtain Driveway Crossing Permit under S.138 Roads Act 1993

- C10. A driveway crossing and roads infrastructure works permit to suit the approved off-street parking facilities must be granted by the Council prior to the issue of any Construction Certificate. In order to obtain a permit under S.138 of the Roads Act 1993, an application must be made to Council on the 'Vehicular Access Application' form with payment of the adopted assessment/inspection fees. Council will require civil design construction drawings and certification from the applicant's Civil Engineer to verify design details and enable issue of the permit. The requirements of the permit must be complied with at all times.

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

- a) the vehicular access way must comply with AS 2890.1 and Council's current Vehicular Access Application Guidelines and Specification (gutter bridges not permitted) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or parking floor,
- b) the redundant layback crossing must be reinstated as kerb gutter and footpath,
- c) the width of the vehicular layback must be 4.5 metres (including the wings),
- d) the vehicular crossover must be set square to the kerb,
- e) the crossing (between the layback and the property boundary) must be placed on a single straight grade of approximately 4.5%, falling to the back of the layback,
- f) the gutter levels must match the existing levels and shall not be altered,
- g) the works will require reconstruction of the carriageway shoulder extending out 600mm from the gutter lip in AC10 - 50mm thick, adjacent to all new layback and kerb/gutter works,
- h) any twisting of driveway access must occur entirely within the subject property,
- i) all inspection openings, utility services must be adjusted to match the proposed driveway levels,
- j) sections along centreline and extremities are required at a scale of 1:50 to be taken from the centreline of the roadway through to the parking area itself and must include all changes of grade and levels both existing and proposed,

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- k) a longitudinal section along the gutter line at a scale of 1:50 showing how it is intended to blend the vehicular crossing with the existing kerb and gutter,
- l) a longitudinal section along the footpath property boundary at a scale of 1:50 is required, m) the sections must show the calculated clearance to the underside of any overhead structure,
- n) all details of internal ramps between parking levels, and
- o) a swept path analysis is required demonstrating that an 85th percentile vehicle can manoeuvre in and out of the garage spaces in accordance with AS 2890.1 2004 "Off Street Parking".

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

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

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

Stormwater Disposal – Drainage Plan

C11. 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 Blues Point Road and/or Wellington Lane,
- 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)

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

- C12. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$10,000.00 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 6 months after the work is completed.

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

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

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

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

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

Tree Bond for Public Trees

- C13. Prior to the issue of any construction certificate, security in the sum of \$5,000.00 must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

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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 6 months from the issue of any final Occupation Certificate but only upon inspection and release by Council's Landscape Development Officer.

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

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

SCHEDULE

Tree No /Species	Location	Height (m)
Melaleuca SP.	Frontage of 115 Blues Point Road	As shown on survey prepared by C&A Surveyors, dated 25 November 2022, Revision V2

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

Asbestos and Hazardous Material Survey

- C14. A report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

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

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

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The report must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier 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)

Section 7.12 Development Contributions

- C15. 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 \$12,480.00.

Indexation

The monetary contribution required under this consent will be indexed between the date of the grant of the consent and the date on which the contribution is paid 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

- C16. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security Deposit/Guarantee	Amount (\$)
Street Tree Bond (on Council Property)	\$5,000.00
Infrastructure Damage Bond	\$10,000.00
TOTAL BONDS	\$15,000.00

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Note: The following fees applicable

Fees	
S7.12 Local Infrastructure Contributions	\$12,480.00
TOTAL FEES	\$12,480.00

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

C17. Under clause 75 of the Environmental Planning & Assessment Regulation 2021, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. _04, dated 24 October 2023 for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier 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)

Design Amendments

C18. The plans referred to in condition A1 are to be amended to provide for the following changes:

- i. The proposed second floor balcony and awning are to be reduced in width to match the width of the existing rear wing;
- ii. The wall return on the southern elevation at Level 1 is to be reduced to have a minimum 1.5metres set back from the rear elevation and is to be finished in traditional masonry to match existing;
- iii. The cladding to the second floor balcony is to be of solid masonry form to match the masonry cladding;
- iv. The wall return on the eastern elevation of the proposed Bin and Bike Store is to increase in rear setback by a minimum of 0.5m from that proposed.
- v. The proposed lift on the northern boundary is to be constructed within the building in the approximate location between the proposed Ground Floor Bath 1 and Laundry.
- vi. The non-trafficable pebble roof proposed above the ground floor rear portion of the dwelling is to be converted into a green roof.
- vii. The section of the northern wall to the existing Ground Floor Storage proposed for demolition is to be retained commencing at the landing of the existing stairs.

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- viii. The proposed roof material being Klip Lok steel roof is to be a changed to corrugated metal roof.

The Certifying Authority must ensure the amendments required by this condition are included in the Construction Certificate Drawings.

(Reason: To reduce the impact of the contemporary built form to the laneway and to ensure development minimises impact on heritage significance of the contributory building and consistency with DCP objectives and controls)

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

Protection of Trees

- D1. The following tree(s) are required to be protected and retained as part of the of this development consent in accordance with AS4970-2009 (Protection of trees on development sites).

Tree No /Species	Location	Height (m)
Melaleuca SP.	Frontage of 115 Blues Point Road	As shown on survey prepared by C&A Surveyors, dated 25 November 2022, Revision V2

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

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

(Reason: Protection of existing environmental and community assets)

Public Liability Insurance – Works on Public Land

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

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(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)

Notification of New Addresses

- D3. Prior to the commencement of any building works, an application must be made and written confirmation received from North Sydney Council of the allocated street address (house number) and/ or unit numbers of the completed project.

A plan for the proposed dwelling and unit numbering must be submitted to Council for approval with the application for new addresses. Applications for numbering will be considered in accordance with the *NSW Geographical Names Board* requirements outlined in the document titled '*NSW Addressing User Manual*'.

The approved numbering will be recorded in Council's Land & Property Information database and must be clearly displayed at the property at all times. Council will also notify relevant public authorities and some service providers of the approved addresses (including Australia Post). A list of current authorities and service providers notified by Council will be included in the address approval notice.

These details will be recorded in Council records and must be displayed at the property in accordance with the provisions of the applicable Australian Standard relating to rural and urban addressing. A copy of the allocation confirmation must be submitted to the Principal Certifier with the application for a Construction Certificate.

(Reason: To ensure that Council records are accurate, and that house numbering complies with the requirements of the NSW Geographical Names Board and Council's *Property Addressing Policy*)

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 2 days notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

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

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

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

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

Road Reserve Safety

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

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

(Reason: Public Safety)

Temporary Disposal of Stormwater Runoff

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

(Reason: Stormwater control during construction)

Council Inspection of Public Infrastructure Works

E4. During the works on public infrastructure reverting to Council's care and control, Council's development engineer may undertake inspections of the works at the following hold points: -

- Formwork for layback, kerb/gutter, footpath, etc.

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

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

Removal of Extra Fabric

E5. 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

E6. 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

- E7. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

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

No Work on Public Open Space

- E8. No work can be undertaken within adjoining public lands (i.e., Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the developer is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

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

Developer's Cost of Work on Council Property

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

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

No Removal of Trees on Public Property

- E10. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

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

Protection of Trees

- E11. All trees required to be retained, as part of this consent must be protected from any damage during construction works in accordance with AS4970-2009.

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

Notes:

- a. If the nominated tree is damaged to a significant degree or removed from the site without prior written approval being obtained from Council, the issuing of fines or legal proceedings may be commenced for failure to comply with the conditions of this consent.

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

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

Benchmarks

- E12. All permanent survey markers must be retained, undamaged, and not relocated.

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

Special Permits

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

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

1) **On-street mobile plant**

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

(Reason: Proper management of public land)

2) **Hoardings**

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

(Reason: Proper management of public land)

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

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

(Reason: Proper management of public land)

4) **Kerbside restrictions, construction zones**

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

(Reason: Proper management of public land)

Construction Hours

- E14. Construction activities and works approved under this consent must be restricted to within the hours stipulated in the following table:

Standard Construction Hours		
Location	Day	Hours
All zones	Monday - Friday	7.00am - 5.00pm
	Saturday	8.00am - 1.00pm
	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, the EPA Noise Policy for Industry 2017 and any Construction Noise Management Plan required under this consent.

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

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

Out of hours' Work Permits

E15. Where it is necessary for works to occur outside those hours allowed by these conditions, an application may be made to Council's Customer Services Centre for a permit to carry out works outside of the approved hours. If a permit is issued the works approved must be carried out in accordance with any requirements specified in the permit. Permits will only be approved if **public safety is at risk**. Applications which seek a variation to construction hours solely to benefit the developer will require the lodgement and favourable determination of a modification application pursuant to the provisions of Section 4.55 of the Environmental Planning and Assessment Act 1979.

Notes:

- 1) Failure to obtain a permit for work outside of the approved hours will result in on the spot fines being issued, or Council pursuing any action required (including legal proceedings) to have the out of hours work cease, without prior warning.
- 2) Applications for out of hour's works should be lodged with Council no later than seven (7) calendar days prior to the date of the intended works.
- 3) Examples of activities for which permits may be granted include:
 - the erection of awnings,
 - footpath, road and other infrastructure works which cannot be carried out for public convenience reasons within normal hours,
 - the erection and removal of hoardings and site cranes, and
 - craneage of materials which cannot be done for public convenience reasons within normal working hours.
- 4) Examples of activities for which permits WILL NOT be granted include:
 - extended concrete pours
 - works which are solely to convenience the developer or client, and
 - catch up works required to maintain or catch up with a construction schedule.
- 5) Further information on permits can be obtained from the Council website at www.northsydney.nsw.gov.au.

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

Installation and Maintenance of Sediment Control

E16. 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.

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

Sediment and Erosion Control Signage

E17. 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

E18. 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 work-place determines the type of amenities required.

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

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

Health and Safety

E19. 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)

Community Information

E20. Reasonable measures must be undertaken at all times to keep nearby residents informed about the proposed work, such as by way of signs, leaflets, public meetings and telephone contact numbers, to ensure that adjoining residents are aware of the likely duration of the construction works on the site.

(Reason: To ensure that residents are kept informed of activities that may affect their amenity)

Prohibition on Use of Pavements

- E21. 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

- E22. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

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

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

Waste Disposal

- E23. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

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

Asbestos Removal

- E24. All demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with National Occupational Health and Safety Commission.

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

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

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

(Reason: Prescribed - Statutory)

Home Building Act

- F2. 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) for which the *Home Building Act 1989* requires there to be a contract of insurance under Part 6 of that Act must not be carried out unless the Principal Certifier for the development to which the work relates has given North Sydney Council written notice of the contract of insurance being issued and of the following:
- a) in the case of work for which a principal contractor is required to be appointed:
 - i) the name and licence number of the principal contractor, and
 - ii) the name of the insurer by which the work is insured under Part 6 of that Act, or
 - (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- 2) If arrangements for doing residential building work are changed while the work is in progress such that the information submitted to Council in accordance with this condition is out of date, work must cease, and no further work may be carried out unless the Principal Certifier 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 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 Certifier for the building work in accordance with the provisions of the EP&A Act and its Regulations.

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

Construction Certificate

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

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

Occupation Certificate

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

(Reason: Statutory)

Critical Stage Inspections

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

(Reason: Statutory)

Commencement of Works'

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

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

Excavation/Demolition

- F8. 1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- 2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- 3) Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.

**115 BLUES POINT ROAD, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 205/23**

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(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

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

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

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

Site Sign

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

(Reason: Prescribed - Statutory)

G. *Prior to the Issue of an Occupation Certificate***Infrastructure Repair and Completion of Works**

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

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

(Reason: Maintain quality of Public assets)

Certification – Civil Works

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

(Reason: Compliance with the Consent)

Damage to Adjoining Properties

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

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

Utility Services

- G4. All utility services shall be adjusted to the correct levels and/or location/s required by this consent, prior to issue of an occupation certificate. This shall be at no cost to Council.

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

BASIX Completion Certificate

- G5. In accordance with Section 45 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, prior to issuing a final occupation certificate the Principal Certifier must provide a BASIX completion receipt.

(Reason: To ensure compliance with the Regulations)

Landscaping

- G6. The landscaping shown in the approved landscape plan numbered L/01 prepared by A Total Concept Landscape Architects & Swimming Pool Designers dated 16 January 2024 and received by Council on 17 January 2024 must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

I. On-Going / Operational Conditions**First Use of Premise – Further consent required**

- I1. A separate development application for the fitout and use of [insert specific premises/tenancy] must be submitted to and approved by Council prior to that fitout or use commencing.

(Reason: To ensure development consent is obtained prior to uses commencing)



North Sydney Council

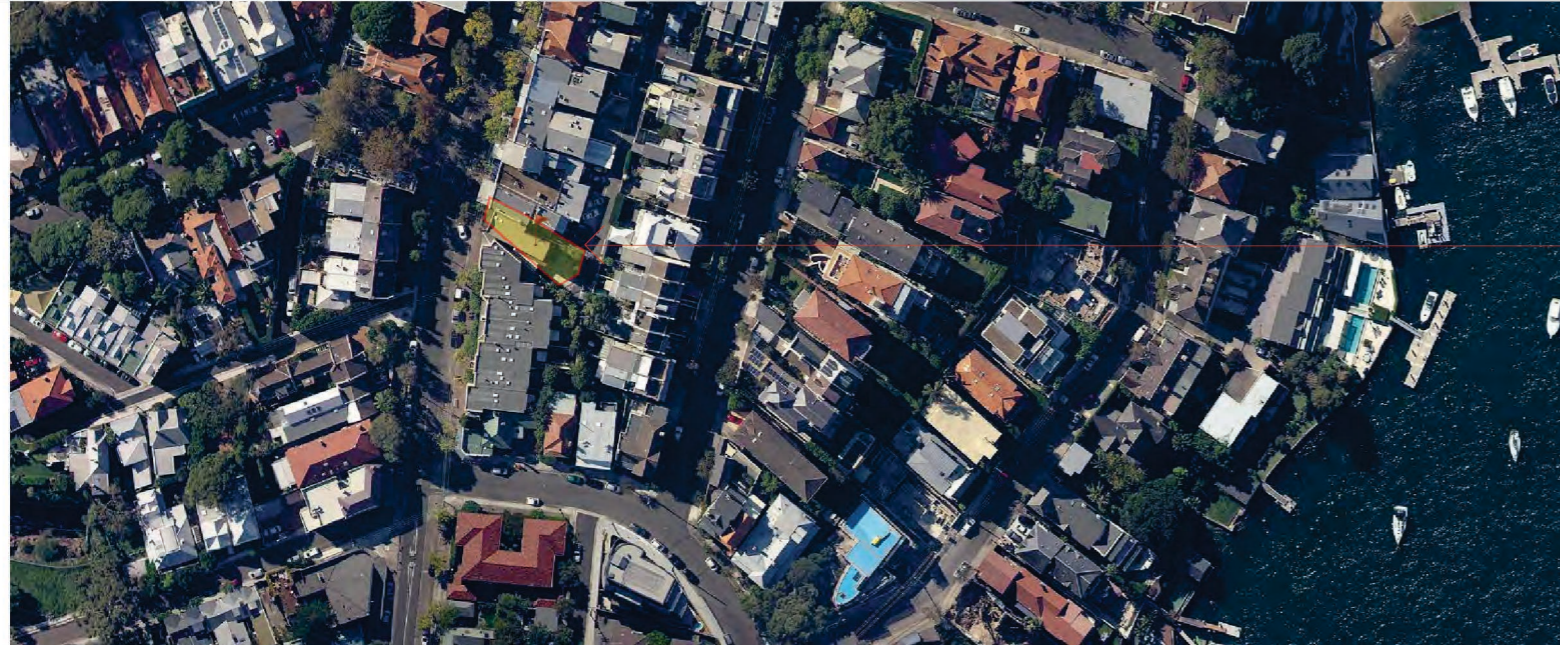
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Scale: 1:1200 approx.

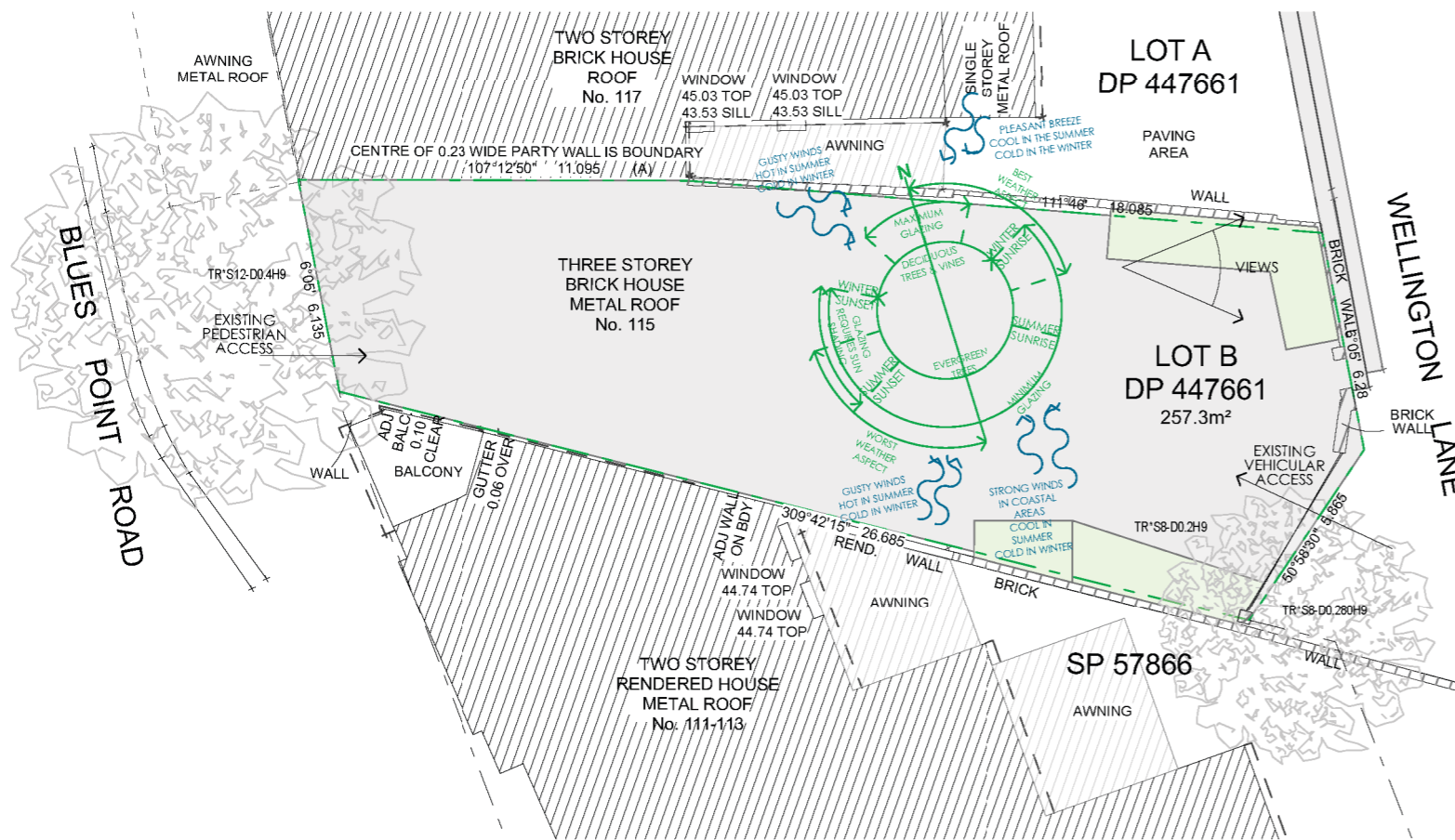


PROPOSED ALTERATION AND ADDITIONS TO A RESIDENTIAL SINGLE DWELLING
DA SUBMISSION AT 115 BLUES POINT ROAD, MCMAHONS POINT, NSW, 2060



THE SITE

1 LOCATION PLAN
1:2000



2 SITE PLAN
1:200

DWG NO.	DWG TITLE	SCALE	SHEET SIZE	CURRENT REVISION	CURRENT ISSUE DATE
A-000	COVER, DRAWING REGISTER & LOCATION PLAN	1:200	A3	E	24.10.2023
A-001	PROPOSED SITE PLAN AND AREA CALCULATIONS	1:200	A3	E	24.10.2023
A-101	EXISTING GROUND FLOOR AND DEMOLITION PLAN	1:100	A3	E	24.10.2023
A-102	EXISTING FIRST FLOOR PLAN AND DEMOLITION PLAN	1:100	A3	E	24.10.2023
A-103	EXISTING SECOND FLOOR PLAN AND DEMOLITION PLAN	1:100	A3	E	24.10.2023
A-104	EXISTING ROOF AND DEMOLITION PLAN	1:100	A3	E	24.10.2023
A-111	PROPOSED GROUND FLOOR PLAN	1:100	A3	E	24.10.2023
A-112	PROPOSED FIRST FLOOR PLAN	1:100	A3	E	24.10.2023
A-113	PROPOSED SECOND FLOOR PLAN	1:100	A3	E	24.10.2023
A-114	PROPOSED ROOF FLOOR PLAN	1:100	A3	E	24.10.2023
A-211	PROPOSED ELEVATIONS 01	1:100	A3	E	24.10.2023
A-212	PROPOSED ELEVATIONS 02	1:100	A3	E	24.10.2023
A-311	PROPOSED SECTIONS	1:100	A3	E	24.10.2023
A-312	PROPOSED SECTIONS 2	1:100	A3	E	24.10.2023
A-701	SHADOW DIAGRAMS - 21ST JUNE	1:250	A3	E	24.10.2023
A-702	SHADOW DIAGRAMS - 21ST SEP	1:250	A3	E	24.10.2023
A-703	SHADOW DIAGRAMS - 21ST MAR	1:250	A3	E	24.10.2023
A-705	SCHEDULE OF MATERIALS AND FINISHES	1:250	A3	E	24.10.2023
A-706	BASIX COMMITMENTS	1:250	A3	E	24.10.2023

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GENERAL NOTES

REFER TO REPORTS: BASIX REPORT
LANDSCAPE PLAN - A TOTAL CONCEPT
STATEMENT OF ENVIRONMENTAL EFFECTS - PARO CONSULTING
HERITAGE IMPACT STATEMENT - WEIR PHILIPS
CONCEPT STORMWATER MANAGEMENT PLAN AND SEDIMENT EROSION CONTROL PLAN - NB CONSULTING

REFER ALL QUERIES & DISCREPANCIES TO THE ARCHITECT. ALL MEASUREMENTS ARE IN MM UNLESS OTHERWISE NOTED.

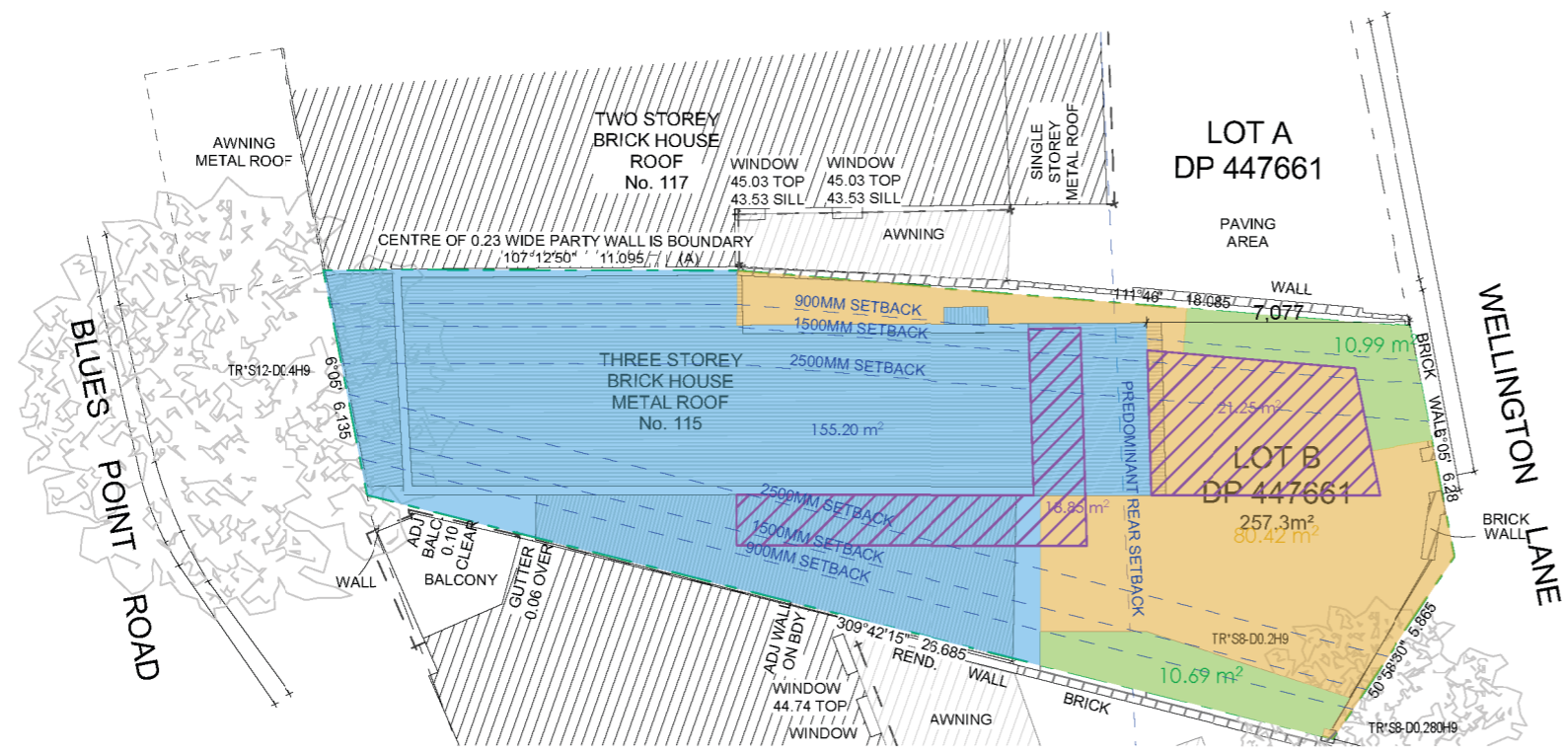
STANDARD OF WORK & REGULATIONS:
ALL WORK IS TO BE CARRIED OUT IN ACCORDANCE WITH:
- NCC 2019
- CONDITIONS OF SERVICE SUPPLY AUTHORITIES
- ALL RELEVANT AUSTRALIAN STANDARDS

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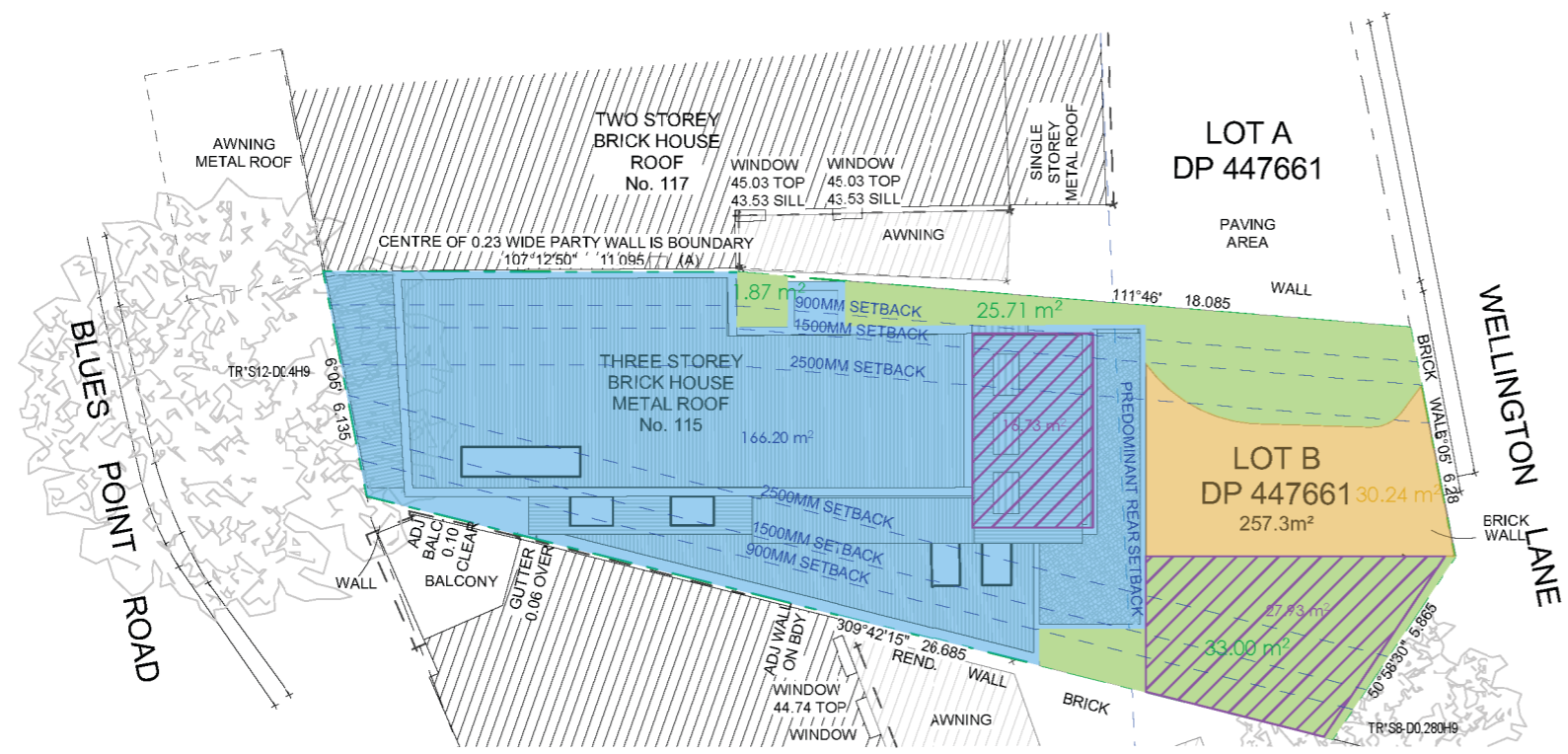
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E: felicity@studiobarbara.com.au
REGISTERED ARCHITECT:
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<p>CHECKED ALL DIMENSIONS ON SITE PRIOR TO THE COMMENCEMENT OF WORK DO NOT SCALE OFF DRAWING ALL WORKS TO COMPLY WITH RELEVANT AUTHORITIES REQUIREMENTS ALL WORKS TO COMPLY WITH NCC (FORMERLY THE BCA) COPYRIGHT IN ALL DOCUMENTS AND DRAWINGS PREPARED BY STUDIO BARBARA ALL WORKS TO COMPLY WITH ALL RELEVANT AUSTRALIAN STANDARDS NOT FOR CONSTRUCTION</p>	<p>DATE 03.05.23 21.09.23 28.09.23 17.10.23 24.10.23</p>	<p>REVISION A B C D E</p>	<p>ISSUE ISSUED FOR DEVELOPMENT APPLICATION DA AMENDMENTS DA AMENDMENTS AMENDMENTS ISSUED FOR DA AMENDMENTS ISSUED FOR DA</p>
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<p>ISSUE FOR DEVELOPMENT APPLICATION</p>	<p>CLIENT BRUCE AND LAUREN SMITH</p>	<p>PROJECT LOT B DP 447661 115 BLUES POINT ROAD MCMAHONS POINT, NSW, 2060</p>	<p>DRAWING COVER PAGE, DRAWING REGISTER & LOCATION PLAN</p>	<p>DRAWN WSL</p> <p>CHECKED FK</p> <p>REVISION E</p>	<p>PROJECT NO. 2208</p> <p>SCALE @ A3</p> <p>DWG NO. A-000</p>
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1 SITE PLAN AND AREA CALCULATIONS 1:200



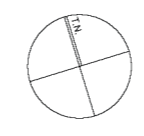
2 SITE PLAN AND AREA CALCULATIONS PROPOSED 1:200

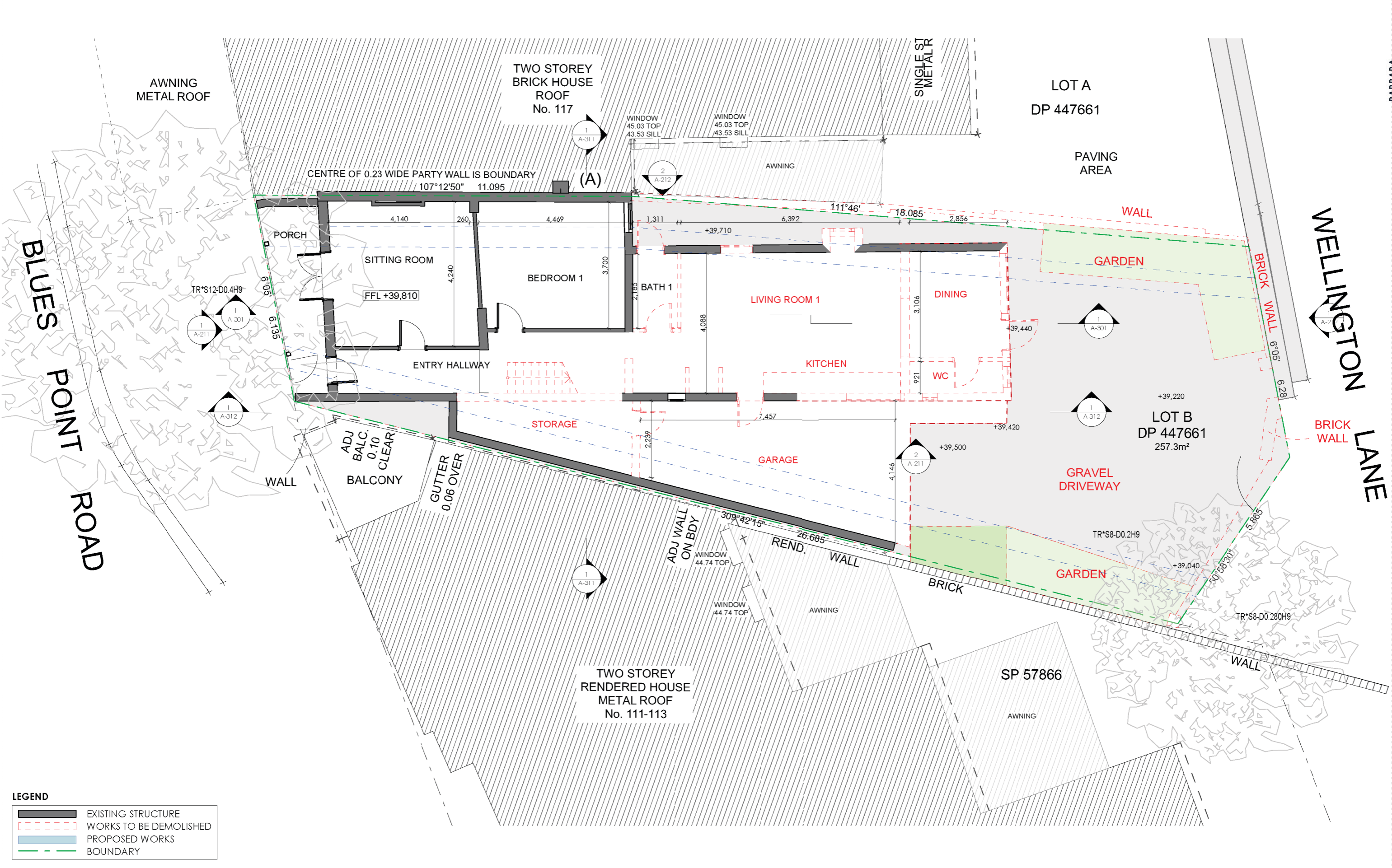
SITE INFORMATION & BUILDING CONTROLS		COMPLIES WITH CONTROLS	COMMENTS
NORTH SYDNEY LOCAL ENVIRONMENTAL PLAN 2013			
LOT:	B		
DP:	447661		
LAND ZONING:	R3 - MEDIUM DENSITY RESIDENTIAL		
HEIGHT OF BUILDINGS:	8.5M		
FSR:	N/A		
MINIMUM LOT SIZE:	230		
HERITAGE:	MCMAHONS POINT NORTH SIGNIFICANCE: LOCAL		
LAND RESERVATION AQUISITION:	N/A		
FORESHORE BUILDING LINE:	N/A		
ACID SULFATE SOILS:	N/A		
LOCAL ABORIGINAL LAND COUNCIL:	METROPOLITAN		

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013				
SETBACKS				
ORIENTATION	SIDE	CONTROL	EXISTING (mm)	COMPLIES
NORTH	SIDE	0.9M (<4M FIRST STOREY), 1.5M (<7M SECOND STOREY) 2.5M (>7M)	0mm	YES. NO CHANGE TO EXISTING
SOUTH	SIDE	0.9M (<4M FIRST STOREY), 1.5M (<7M SECOND STOREY) 2.5M (>7M)	0mm	YES. NO CHANGE TO EXISTING
WEST	FRONT	PREDOMINANT FRONT BUILDING LINE	0mm	YES. NO CHANGE TO EXISTING
EAST	REAR	PREDOMINANT REAR BUILDING LINE.	7075mm	YES. NO CHANGE TO EXISTING

SITE AREA	257.3M2 (SITE SURVEY)
MAXIMUM SITE COVERAGE	50% OF SITE
PRIVATE OPEN SPACE	MIN 40M2 AND MIN DIMENSION OF 4M
MINIMUM LANDSCAPED AREA	30% OF SITE AREA
DEEP SOIL ZONE	N/A
UNBUILT UPON AREA	MAX 20% OF SITE AREA

AREA CALCULATION						
COLOUR	DESCRIPTION	EXISTING AREA (SQM)	EXISTING % OF SITE AREA	PROPOSED AREA (SQM)	PROPOSED % OF SITE AREA	COMMENTS
	LANDSCAPED AREA	21.68	8.4%	60.58	23.5%	IMPROVED - REMAINS NON COMPLIANT
	SITE COVERAGE	155.20	60.3%	166.20	64.6%	REMAINS NON COMPLIANT
	UNBUILT UPON AREA	80.42	31.3%	30.24	11.8%	IMPROVED - COMPLIANT
	PRIVATE OPEN SPACE	40.1		44.66		IMPROVED - COMPLIANT





LEGEND

- EXISTING STRUCTURE
- WORKS TO BE DEMOLISHED
- PROPOSED WORKS
- BOUNDARY

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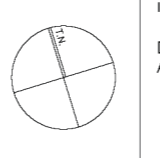
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CLIENT
BRUCE AND
LAUREN SMITH

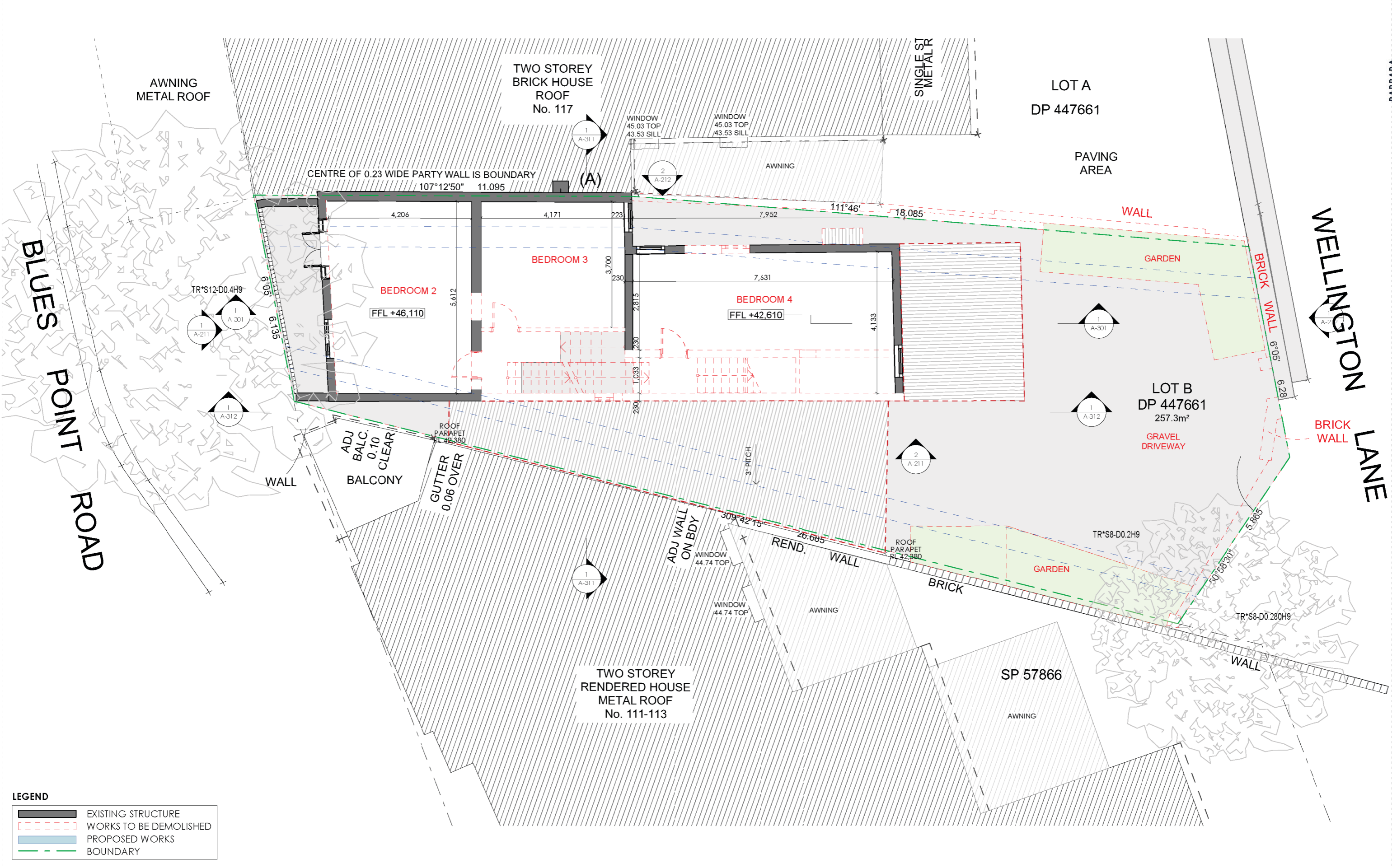
PROJECT
LOT B DP 447661
115 BLUES POINT ROAD
MCMAHONS POINT,
NSW, 2060



ISSUE FOR
DEVELOPMENT
APPLICATION

DRAWING
**EXISTING GROUND FLOOR AND
DEMOLITION PLAN**

DRAWN WSL	PROJECT NO. 2208
CHECKED FK	SCALE 1:100@ A3
REVISION E	DWG NO. A-101



LEGEND

	EXISTING STRUCTURE
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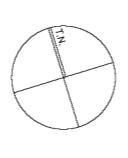
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ISSUE FOR
DEVELOPMENT APPLICATION

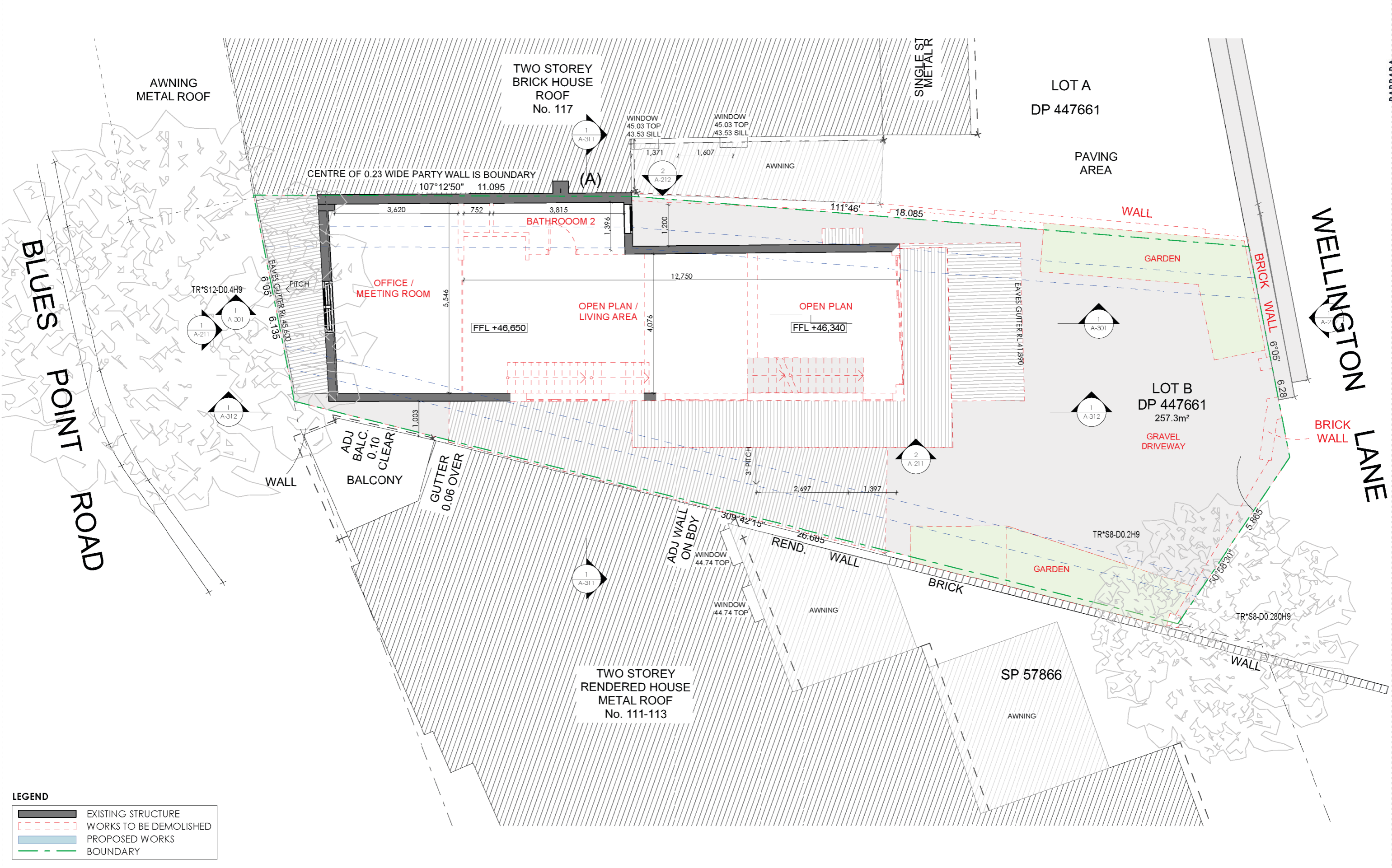
CLIENT
BRUCE AND LAUREN SMITH

PROJECT
LOT B DP 447661
115 BLUES POINT ROAD
MCMAHONS POINT,
NSW, 2060



DRAWING
EXISTING FIRST FLOOR AND DEMOLITION PLAN

DRAWN WSL	PROJECT NO. 2208
CHECKED FK	SCALE 1:100@ A3
REVISION E	DWG NO. A-102



LEGEND

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	PROPOSED WORKS
	BOUNDARY

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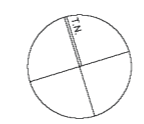
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ISSUE FOR
DEVELOPMENT APPLICATION

CLIENT
BRUCE AND LAUREN SMITH

PROJECT
LOT B DP 447661
115 BLUES POINT ROAD
MCMAHONS POINT,
NSW, 2060



DRAWING
EXISTING SECOND FLOOR AND DEMOLITION PLAN

DRAWN
WSL

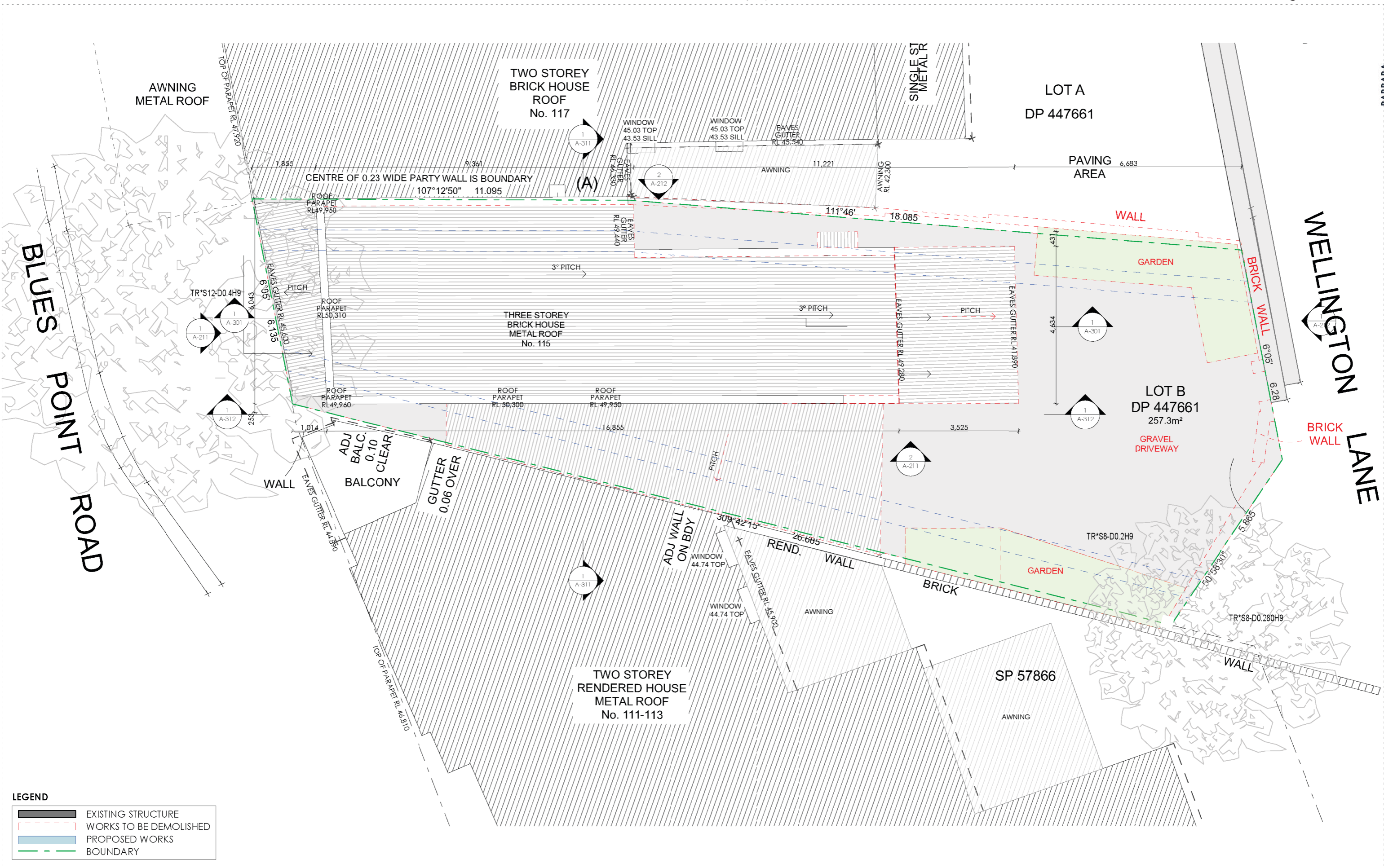
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PROJECT NO.
2208

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A-103



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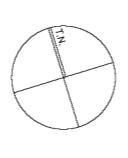
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ISSUE FOR
DEVELOPMENT APPLICATION

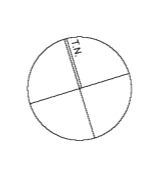
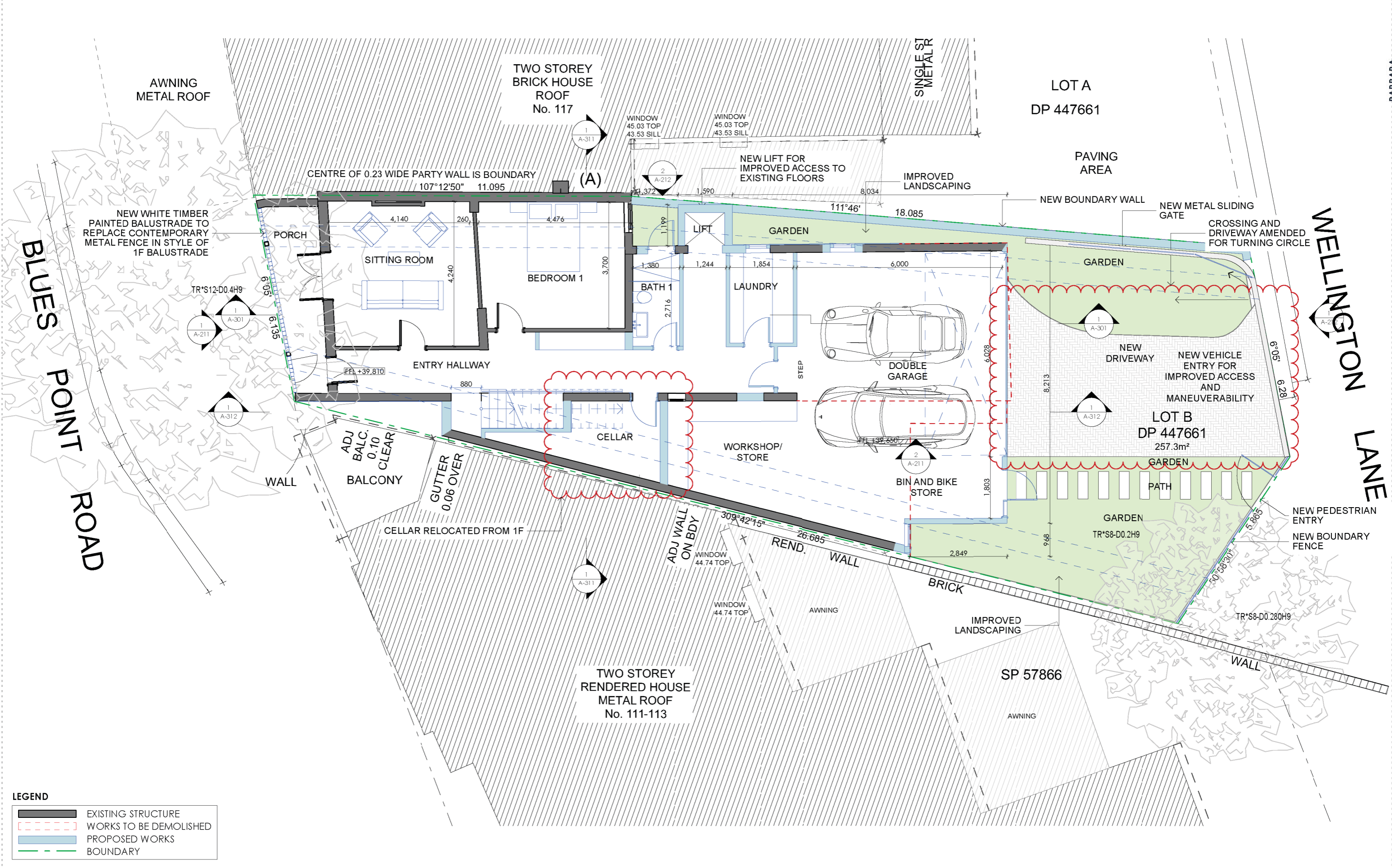
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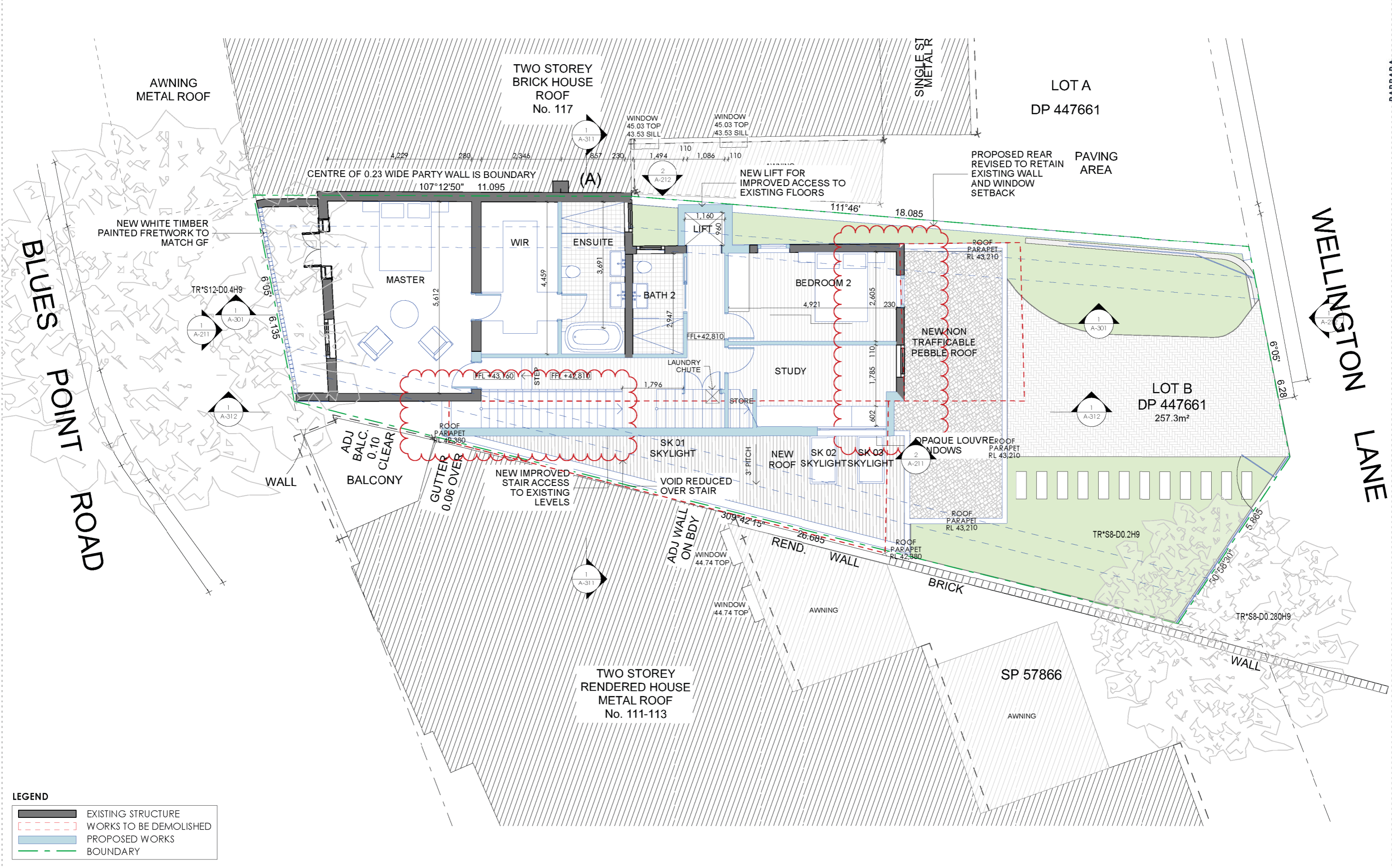
PROJECT
LOT B DP 447661
115 BLUES POINT ROAD
MCMAHONS POINT,
NSW, 2060



DRAWING
EXISTING ROOF AND DEMOLITION PLAN

DRAWN WSL	PROJECT NO. 2208
CHECKED FK	SCALE 1:100@ A3
REVISION E	DWG NO. A-104





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- PROPOSED WORKS
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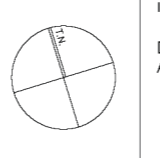
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21.09.23	B	DA AMENDMENTS
28.09.23	C	DA AMENDMENTS
17.10.23	D	AMENDMENTS ISSUED FOR DA
24.10.23	E	AMENDMENTS ISSUED FOR DA

ISSUE FOR
DEVELOPMENT APPLICATION

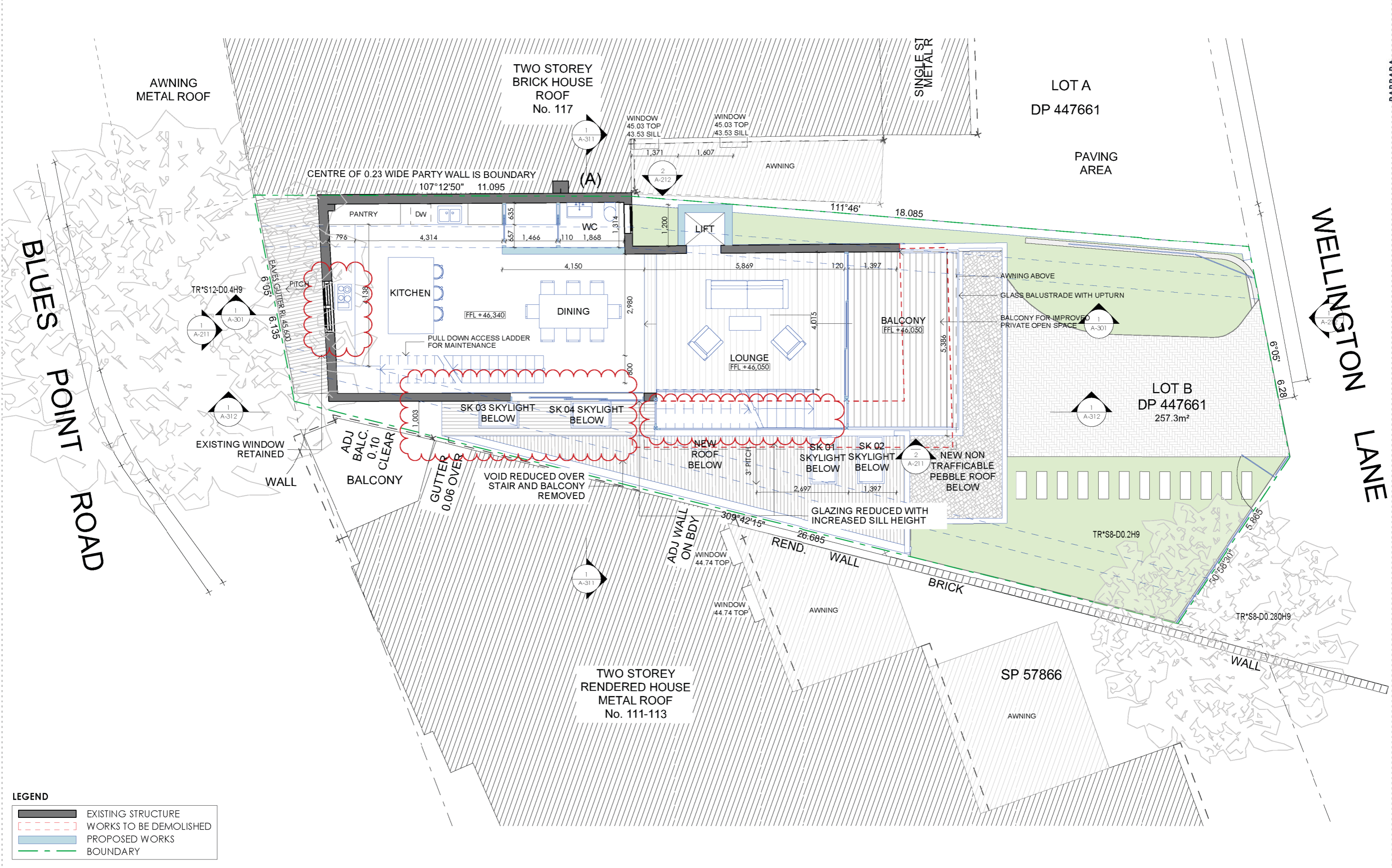
CLIENT
BRUCE AND LAUREN SMITH

PROJECT
LOT B DP 447661
115 BLUES POINT ROAD
MCMAHONS POINT,
NSW, 2060



DRAWING
PROPOSED FIRST FLOOR PLAN

DRAWN WSL	PROJECT NO. 2208
CHECKED FK	SCALE 1:100@ A3
REVISION E	DWG NO. A-112



LEGEND

	EXISTING STRUCTURE
	WORKS TO BE DEMOLISHED
	PROPOSED WORKS
	BOUNDARY

BARBARA
ARCHITECTURE & INTERIORS

SUITE 6/20 MADDOX ST,
ALEXANDRIA NSW
T: + (61) 400 304 070
E: felicity@studiobarbara.com.au
REGISTERED ARCHITECT:
NSW #10607 Felicity King

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ALL WORKS TO COMPLY WITH ALL RELEVANT AUSTRALIAN STANDARDS
NOT FOR CONSTRUCTION

DATE	REVISION	ISSUE
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ISSUE FOR
DEVELOPMENT APPLICATION

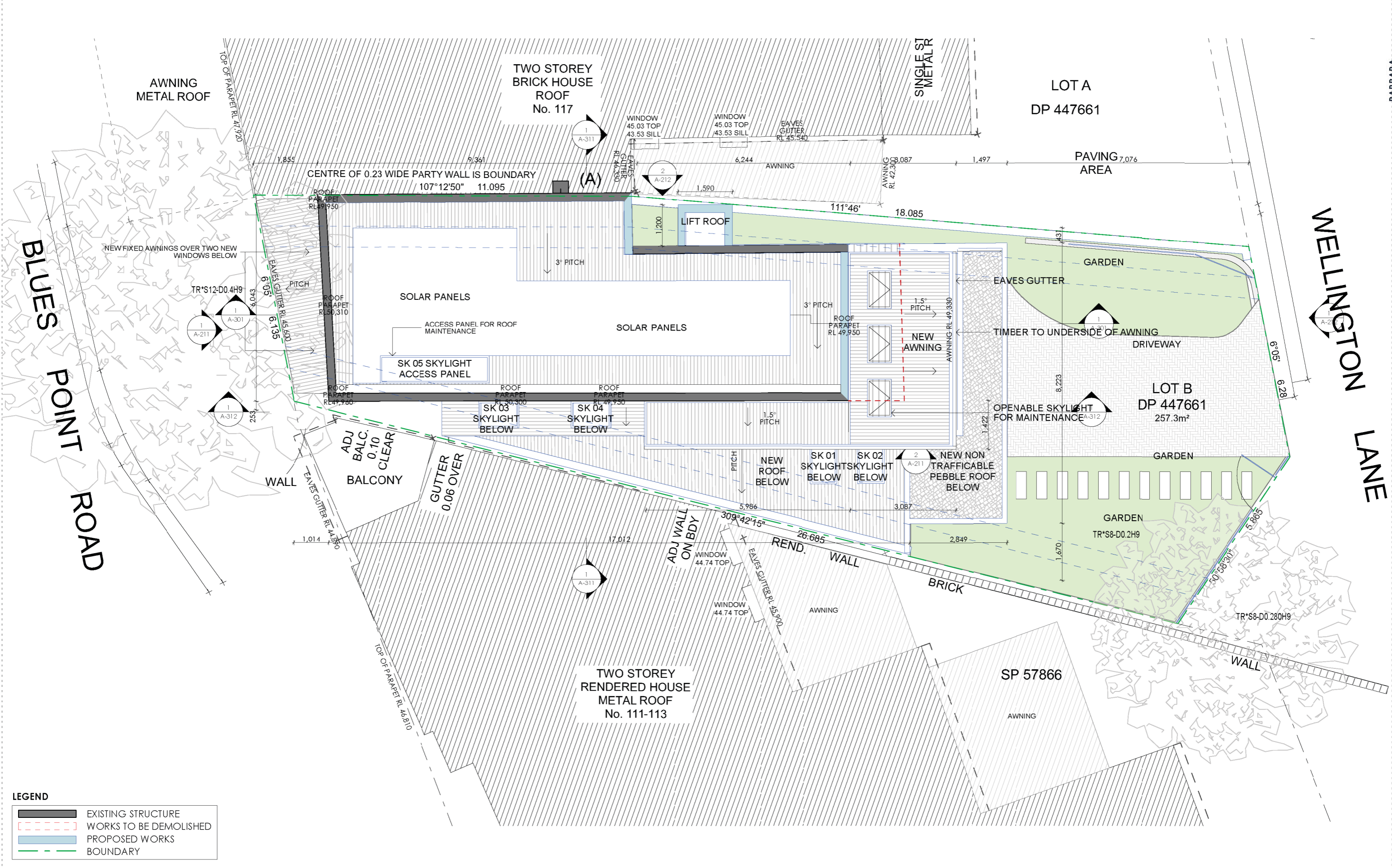
CLIENT
BRUCE AND LAUREN SMITH

PROJECT
LOT B DP 447661
115 BLUES POINT ROAD
MCMAHONS POINT,
NSW, 2060



DRAWING
PROPOSED SECOND FLOOR PLAN

DRAWN WSL	PROJECT NO. 2208
CHECKED FK	SCALE 1:100@ A3
REVISION E	DWG NO. A-113



LEGEND

- EXISTING STRUCTURE
- WORKS TO BE DEMOLISHED
- PROPOSED WORKS
- BOUNDARY

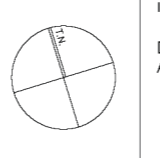
BARBARA ARCHITECTURE & INTERIORS
 SUITE 6/20 MADDOX ST, ALEXANDRIA NSW
 T: + (61) 400 304 070
 E: felicity@studiobarbara.com.au
 REGISTERED ARCHITECT: NSW #10607 Felicity King

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24.10.23	E	AMENDMENTS ISSUED FOR DA

CLIENT
 BRUCE AND LAUREN SMITH

PROJECT
 LOT B DP 447661
 115 BLUES POINT ROAD
 MCMAHONS POINT,
 NSW, 2060



DRAWING
 PROPOSED ROOF FLOOR PLAN

ISSUE FOR
 DEVELOPMENT APPLICATION

DRAWN
 WSL

CHECKED
 FK

REVISION
 E

PROJECT NO.
 2208

SCALE
 1:100@ A3

DWG NO.
 A-114

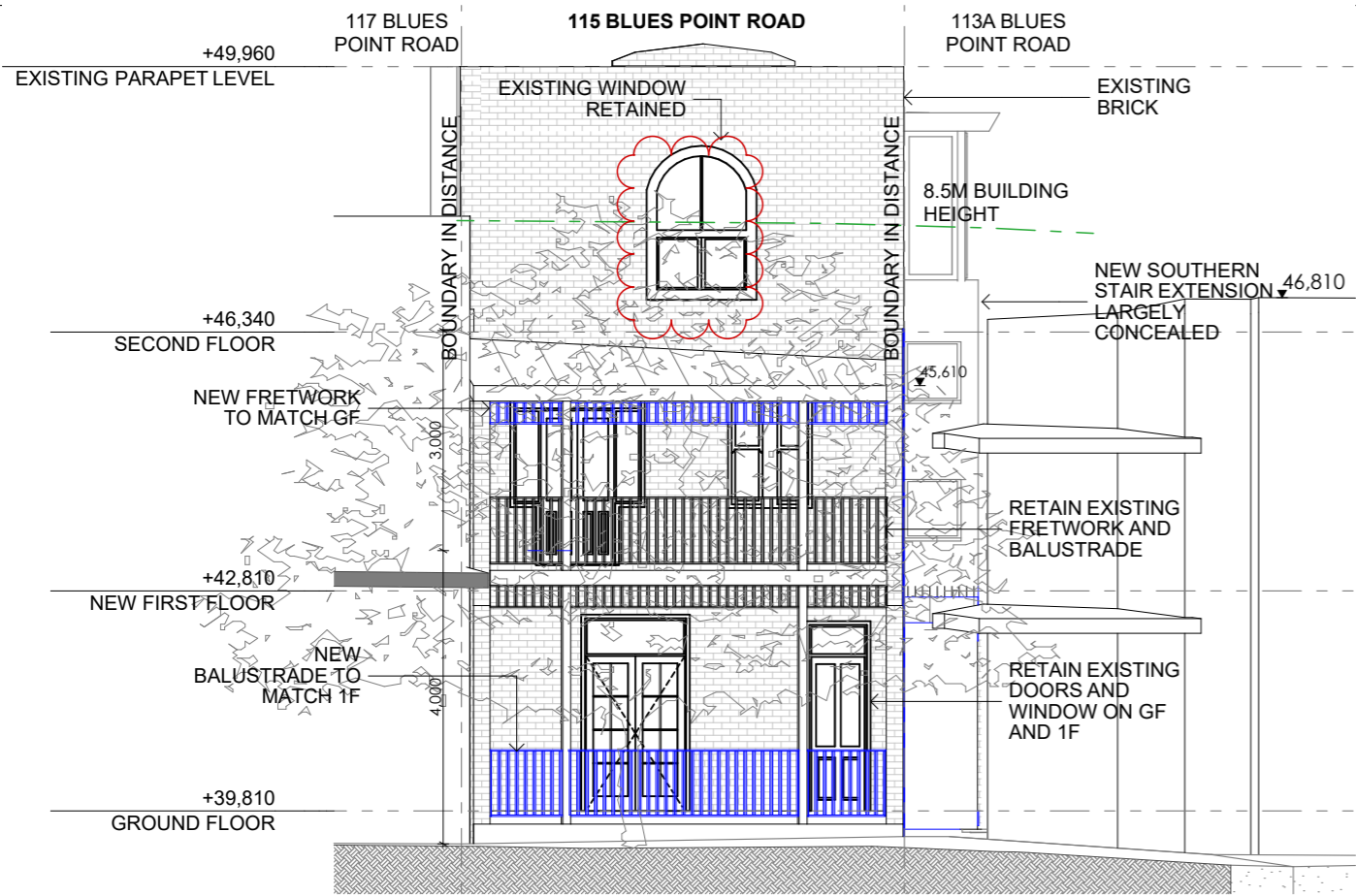
PROJECT NO.
 2208

SCALE
 1:100@ A3

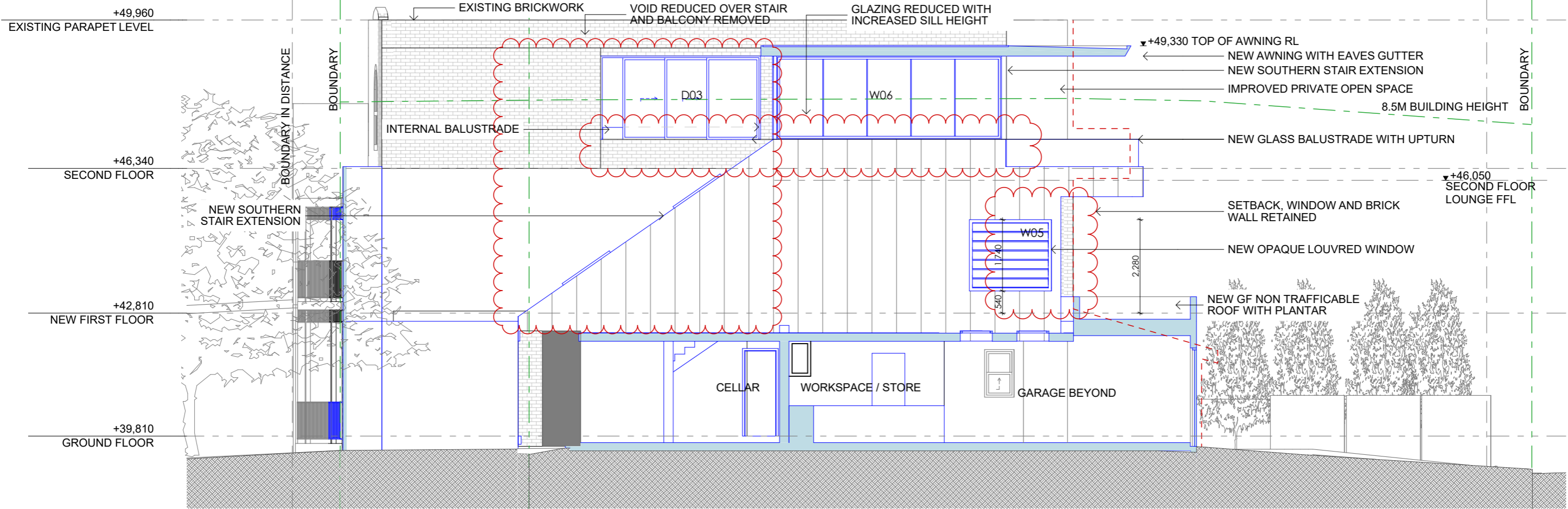
DWG NO.
 A-114

LEGEND

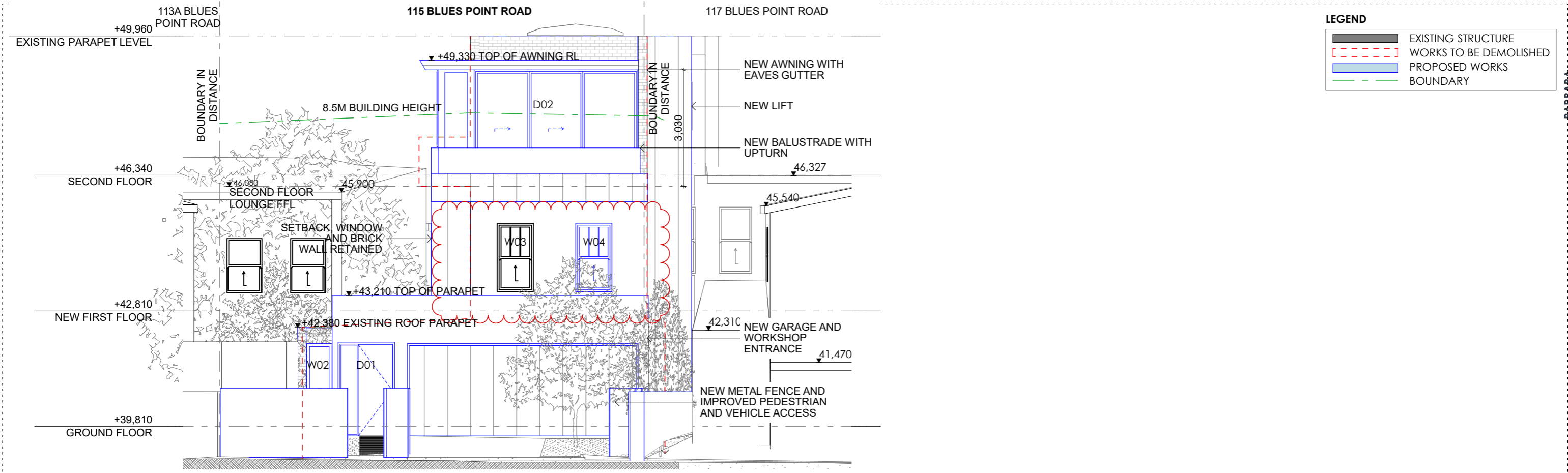
- EXISTING STRUCTURE
- WORKS TO BE DEMOLISHED
- PROPOSED WORKS
- BOUNDARY



WEST ELEVATION

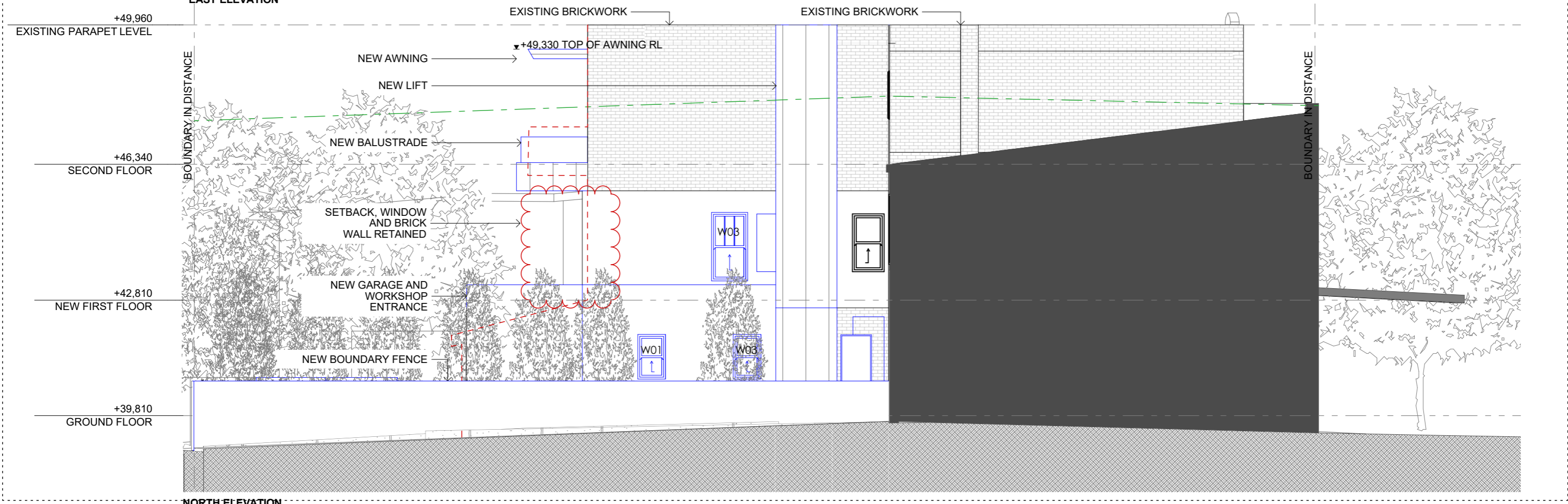


SOUTH ELEVATION



LEGEND

- EXISTING STRUCTURE
- WORKS TO BE DEMOLISHED
- PROPOSED WORKS
- BOUNDARY



BARBARA
ARCHITECTURE & INTERIORS

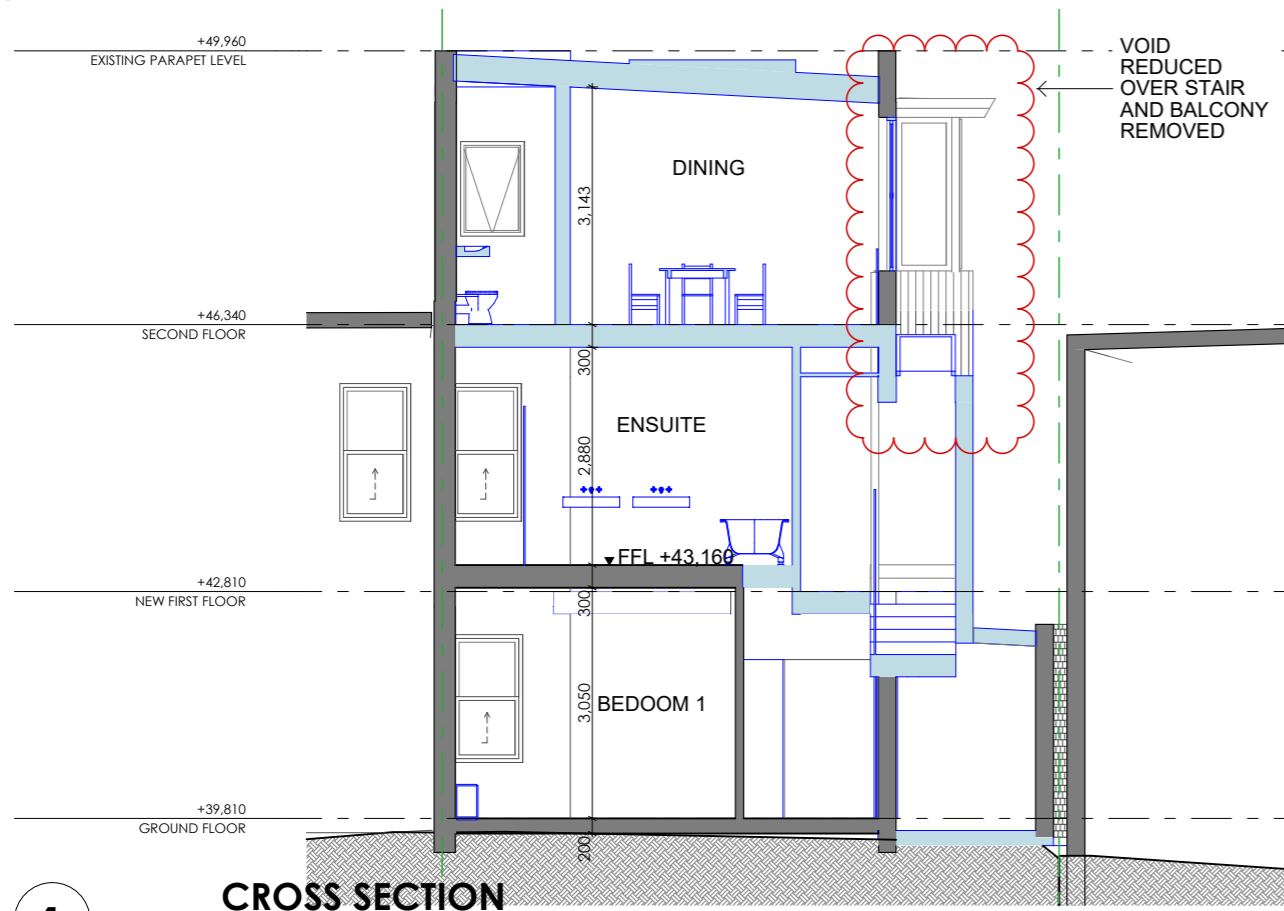
SUITE 6/20 MADDOX ST,
ALEXANDRIA NSW
T: +(61) 400 304 070
E: felicity@studiobarbara.com.au
REGISTERED ARCHITECT:
NSW #10607 Felicity King

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ISSUE FOR	CLIENT	PROJECT	DRAWING
DEVELOPMENT APPLICATION	BRUCE AND LAUREN SMITH	LOT B DP 447661 115 BLUES POINT ROAD MCMAHONS POINT, NSW, 2060	PROPOSED ELEVATIONS 02

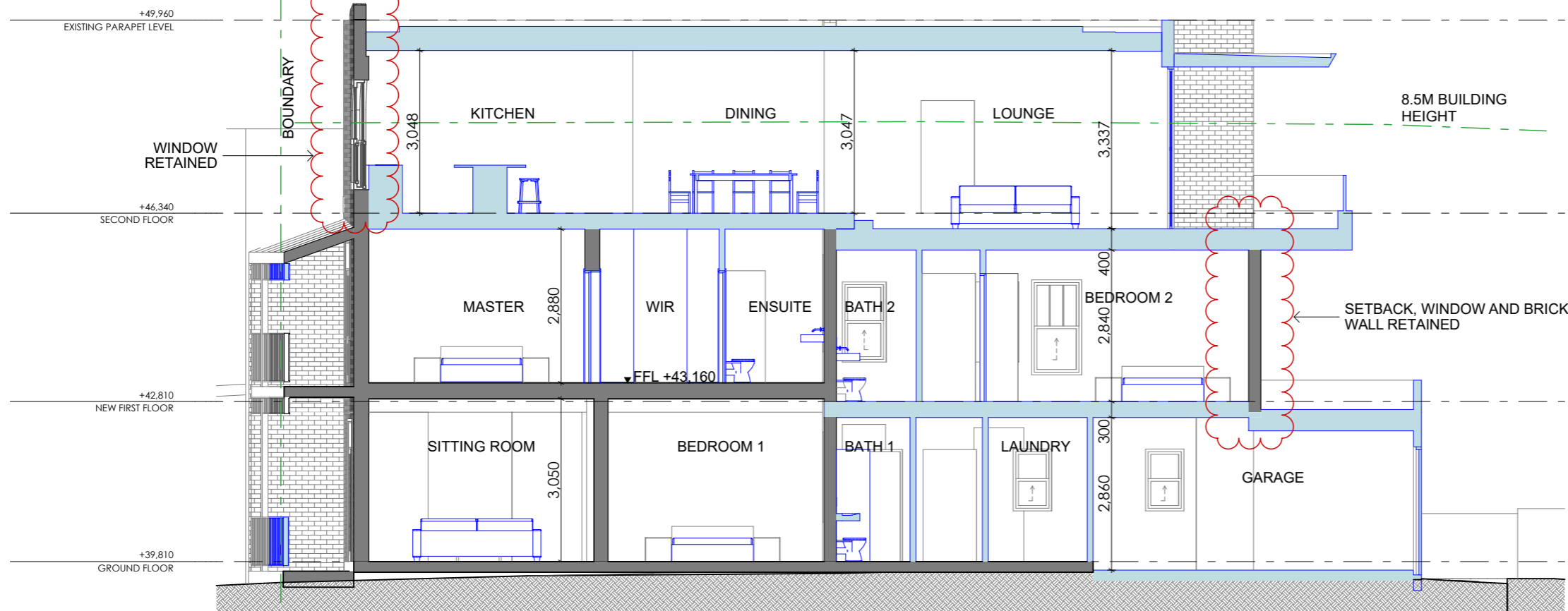
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WSL	2208
CHECKED	SCALE
FK	1:100@ A3
REVISION	DWG NO.
E	A-212



CROSS SECTION

1

1:100



LONG SECTION

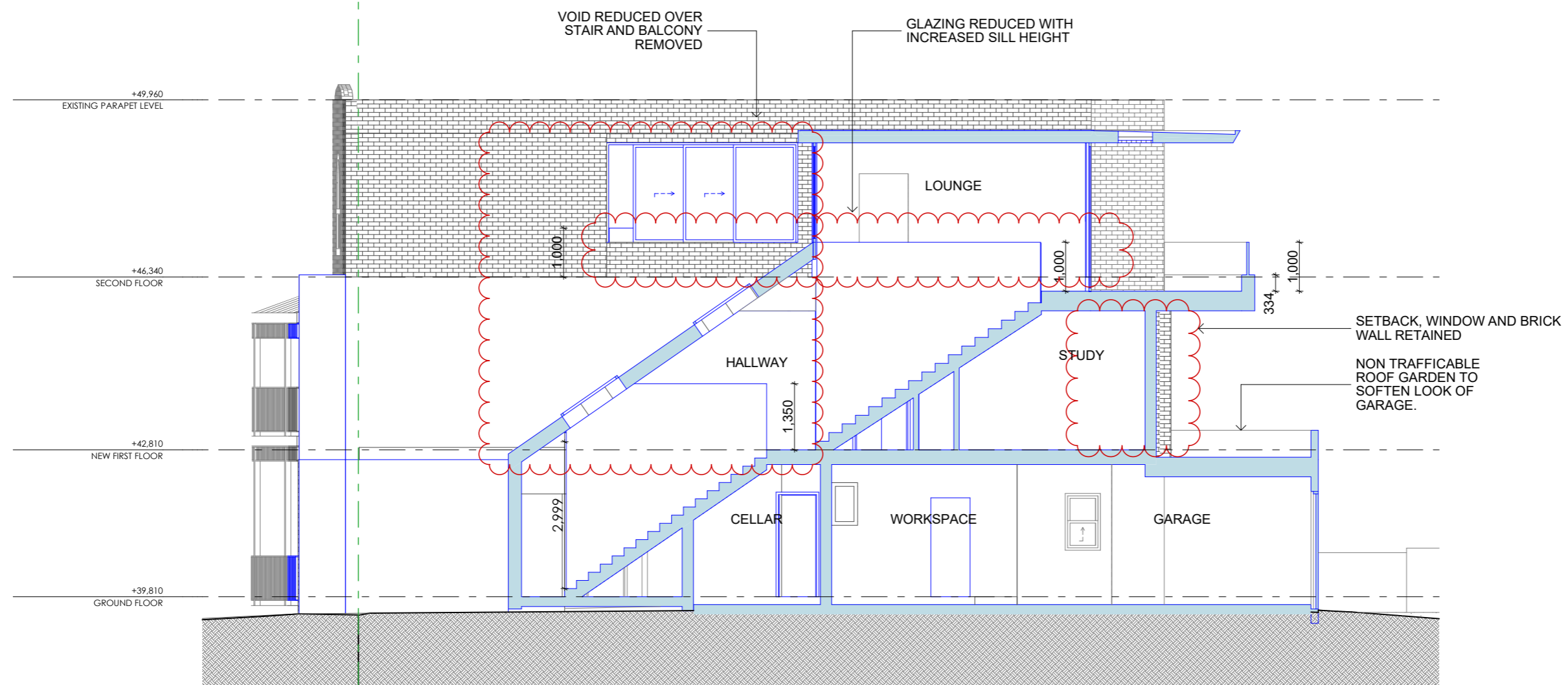
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LEGEND

- EXISTING STRUCTURE
- WORKS TO BE DEMOLISHED
- PROPOSED WORKS
- BOUNDARY

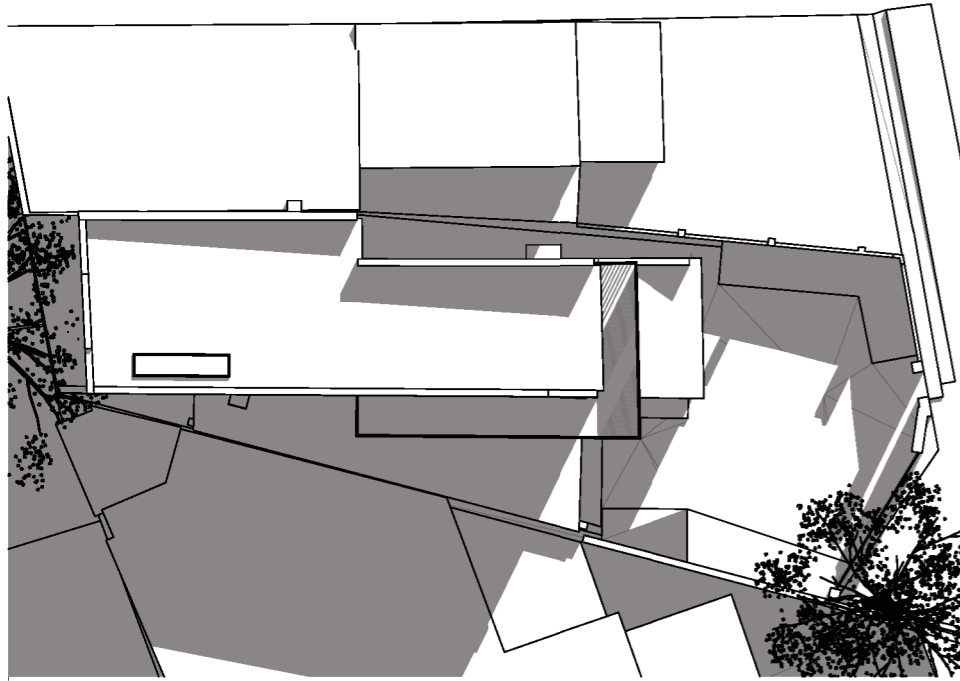
BARBARA



1 LONG SECTION
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LEGEND

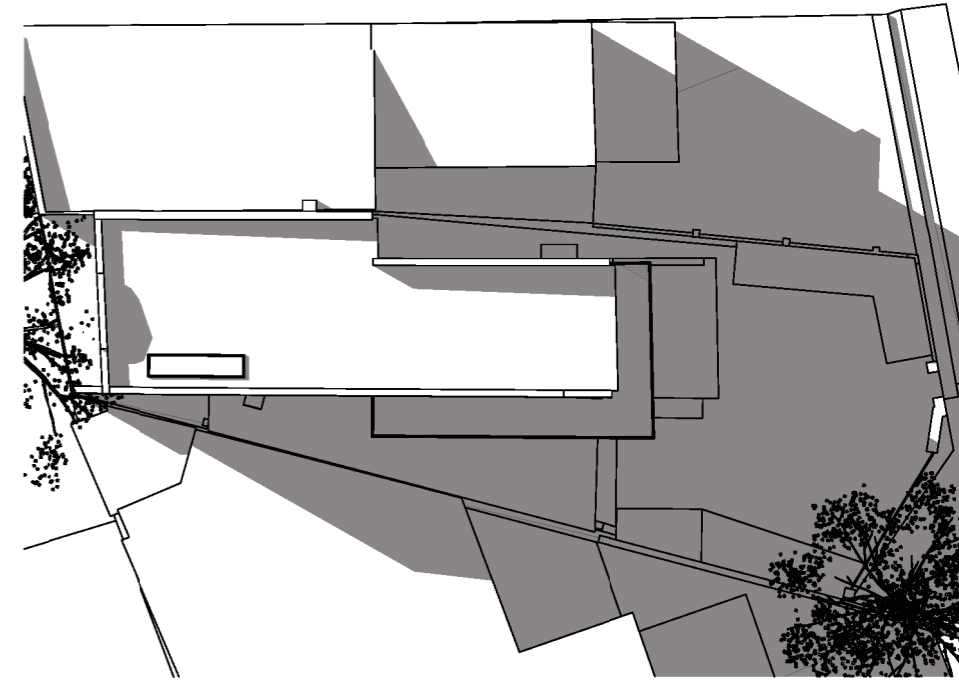
	EXISTING STRUCTURE
	WORKS TO BE DEMOLISHED
	PROPOSED WORKS
	BOUNDARY



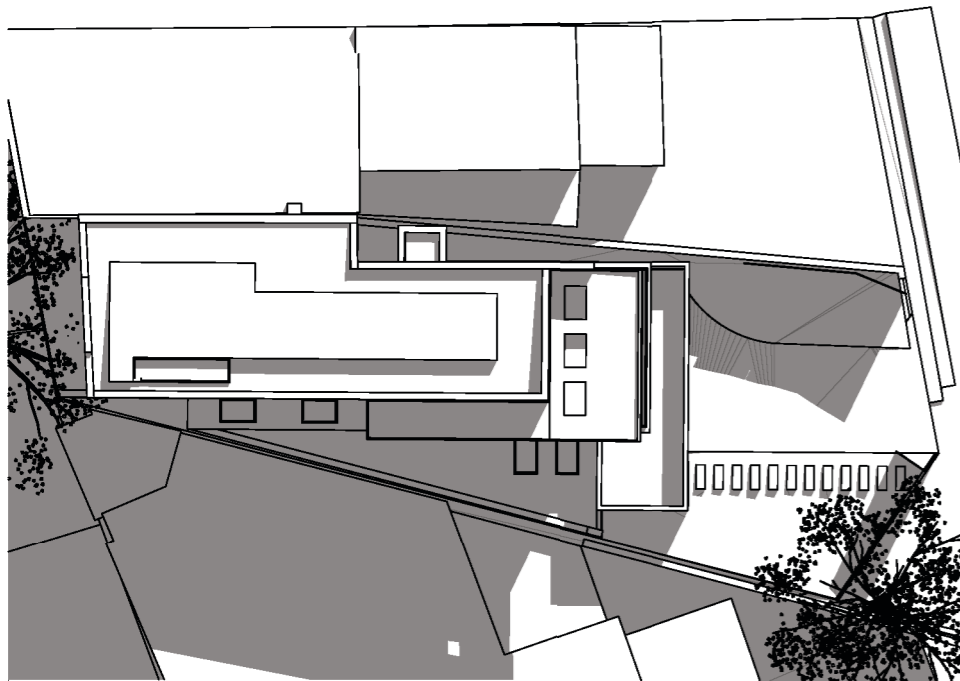
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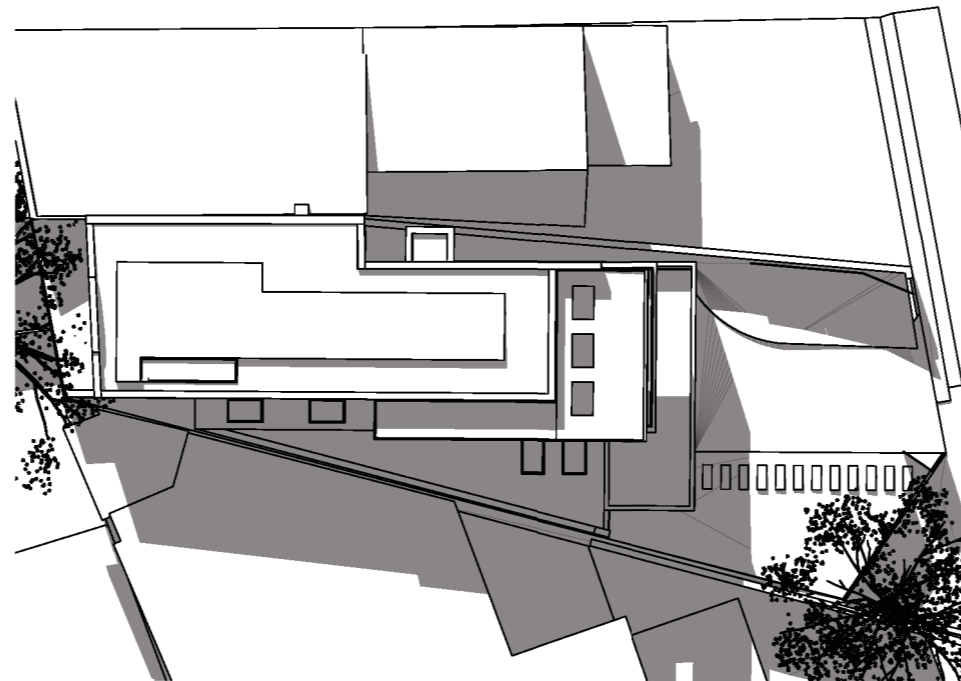
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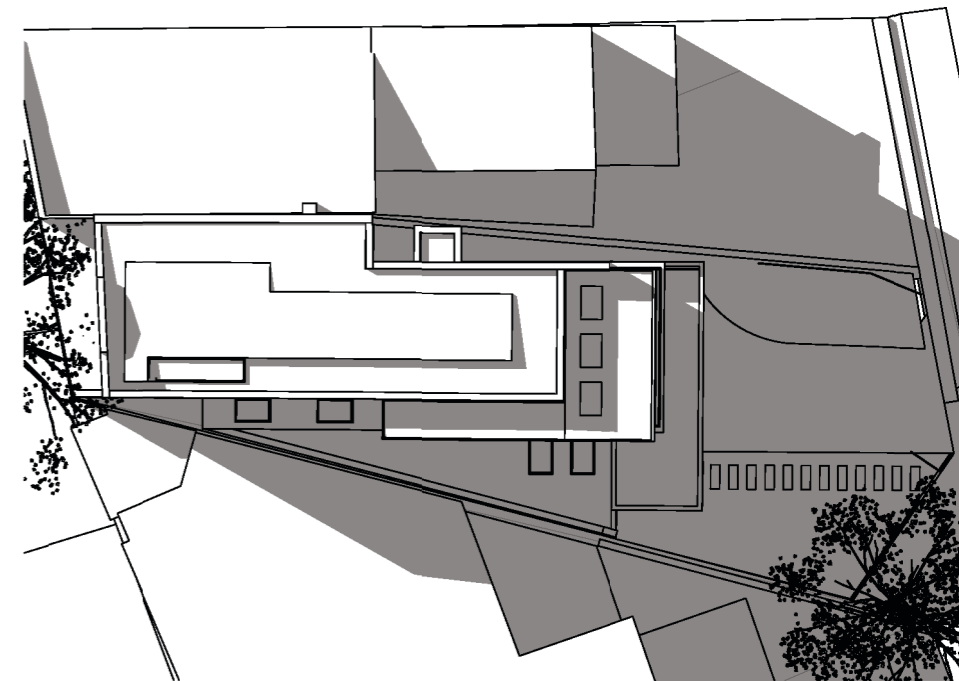
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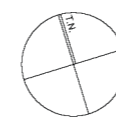
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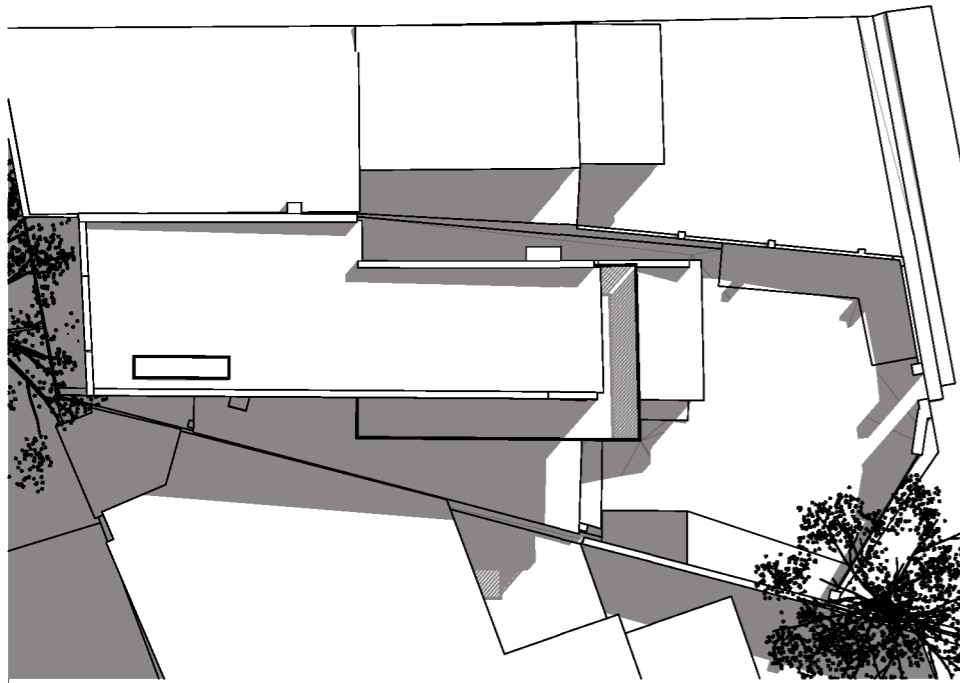


5 JUN 21 12PM - PROPOSED
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6 JUN 21 3PM - PROPOSED
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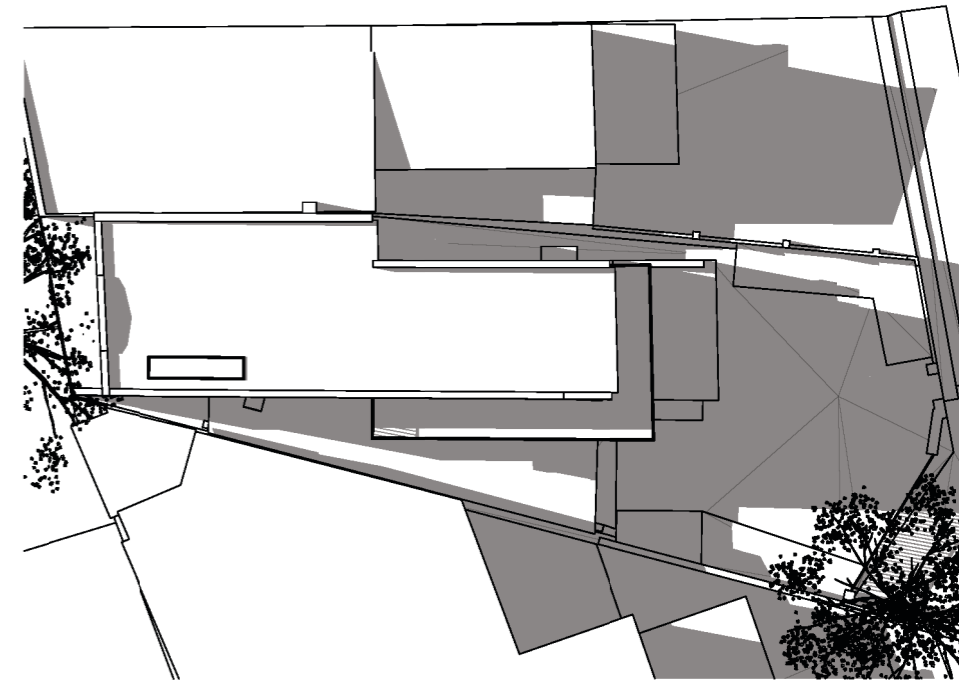




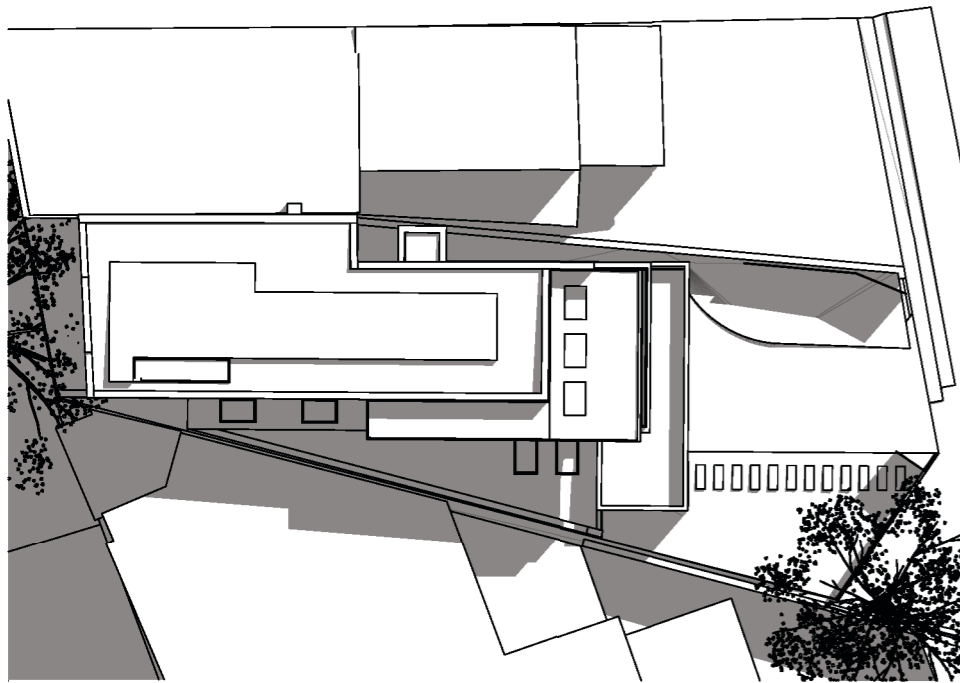
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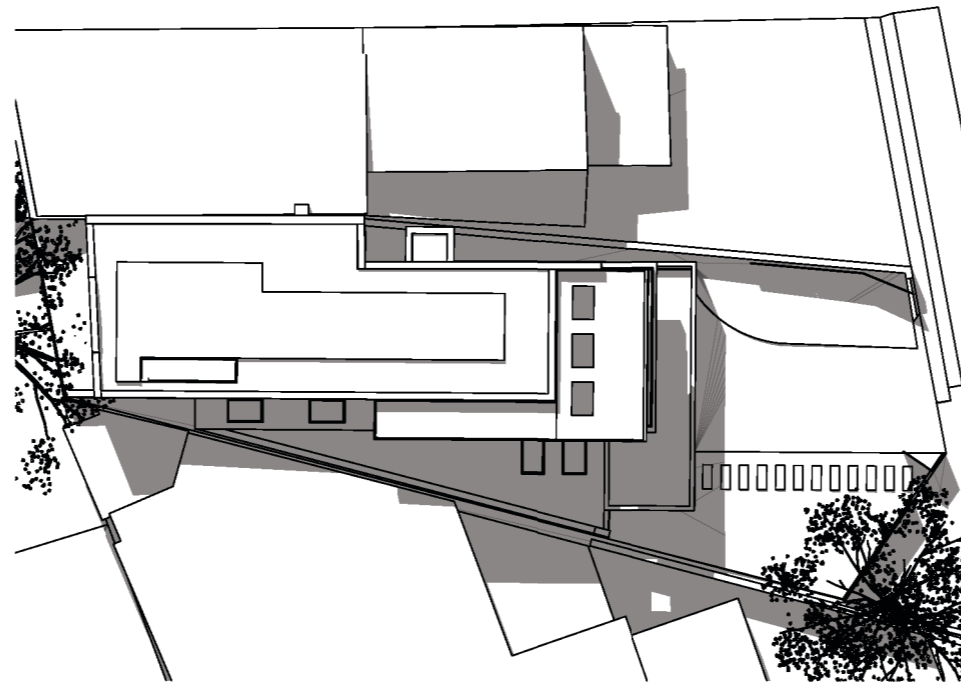
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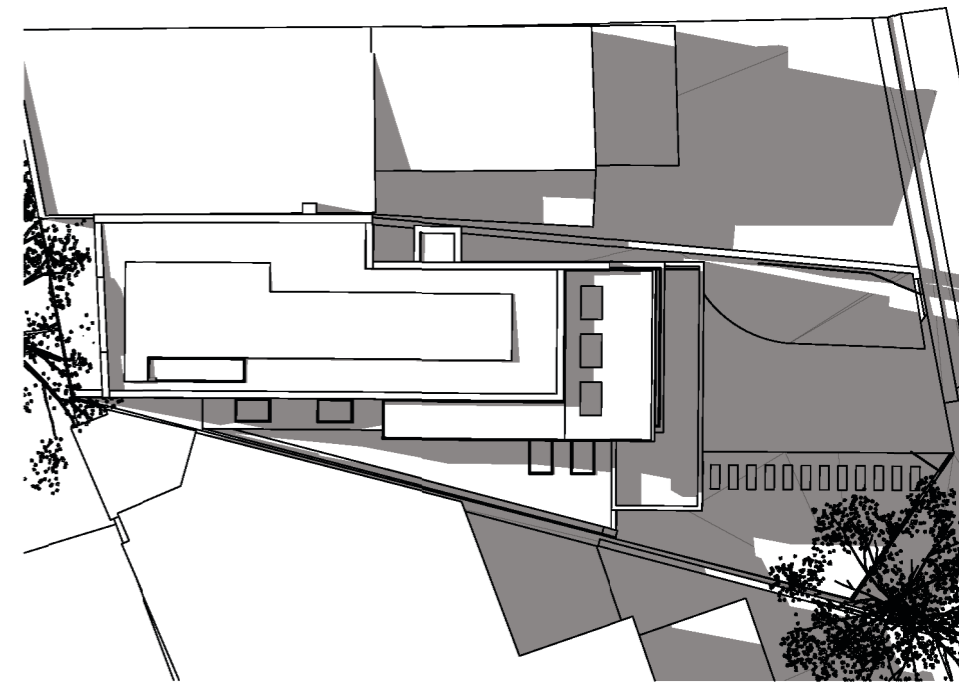
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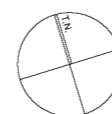
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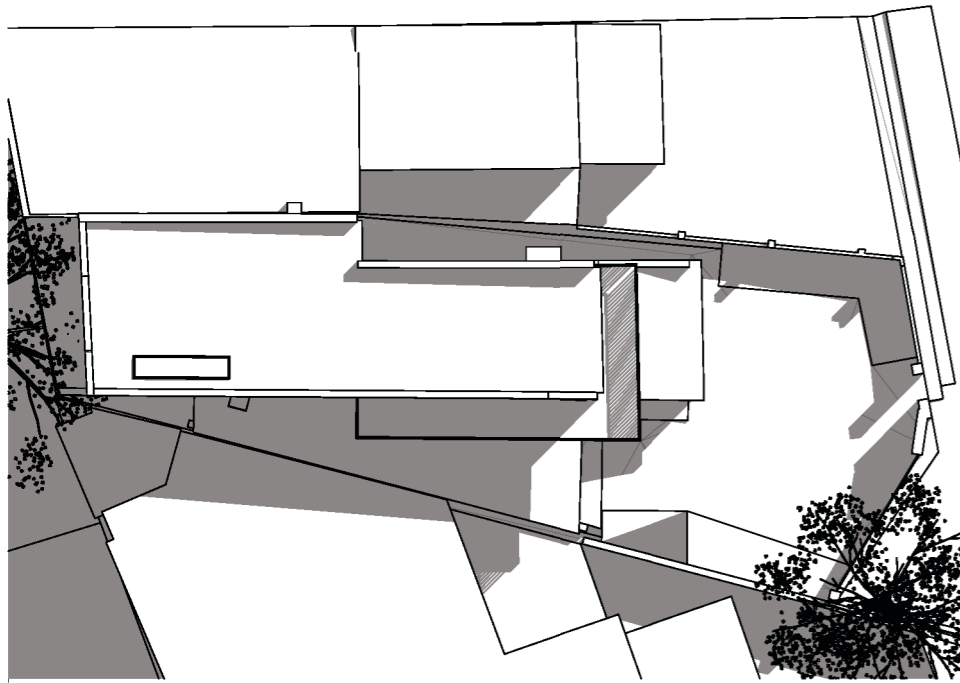


5 SEP 21 12PM - PROPOSED
1:250



6 SEP 21 3PM - PROPOSED
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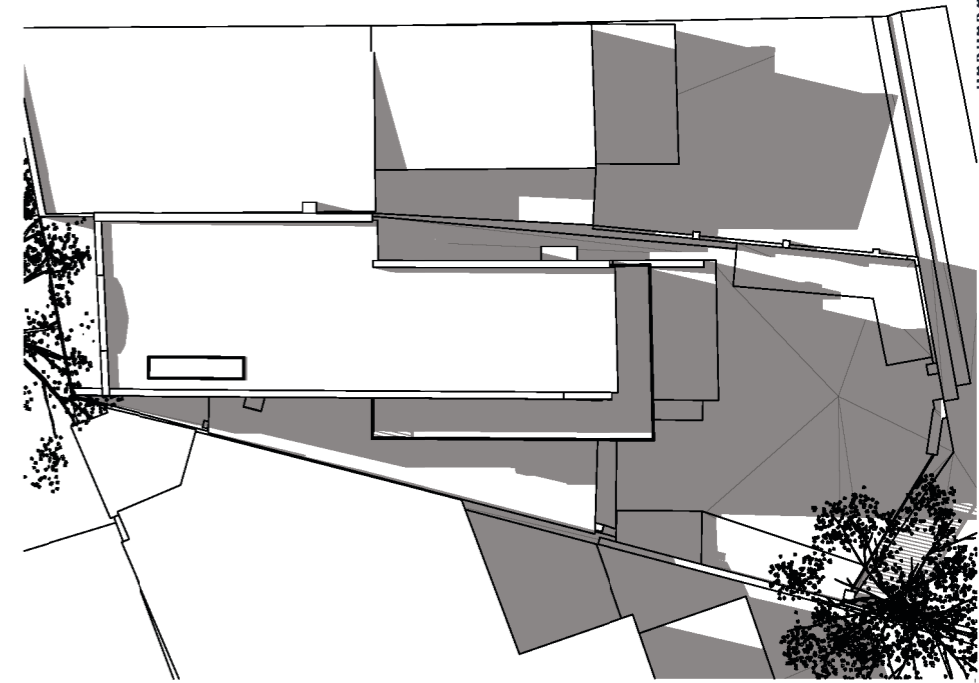




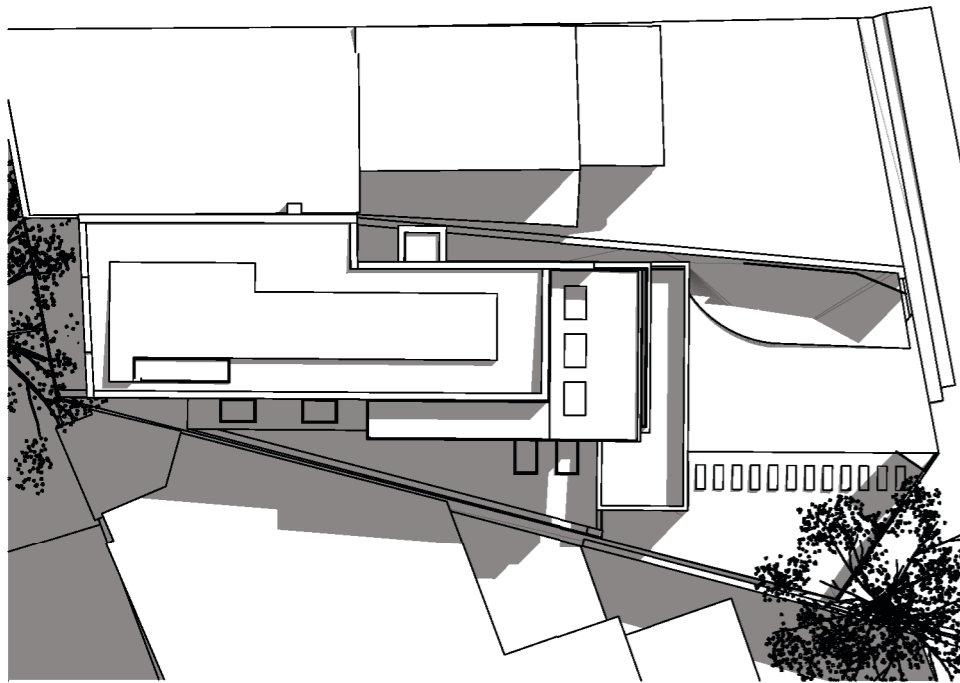
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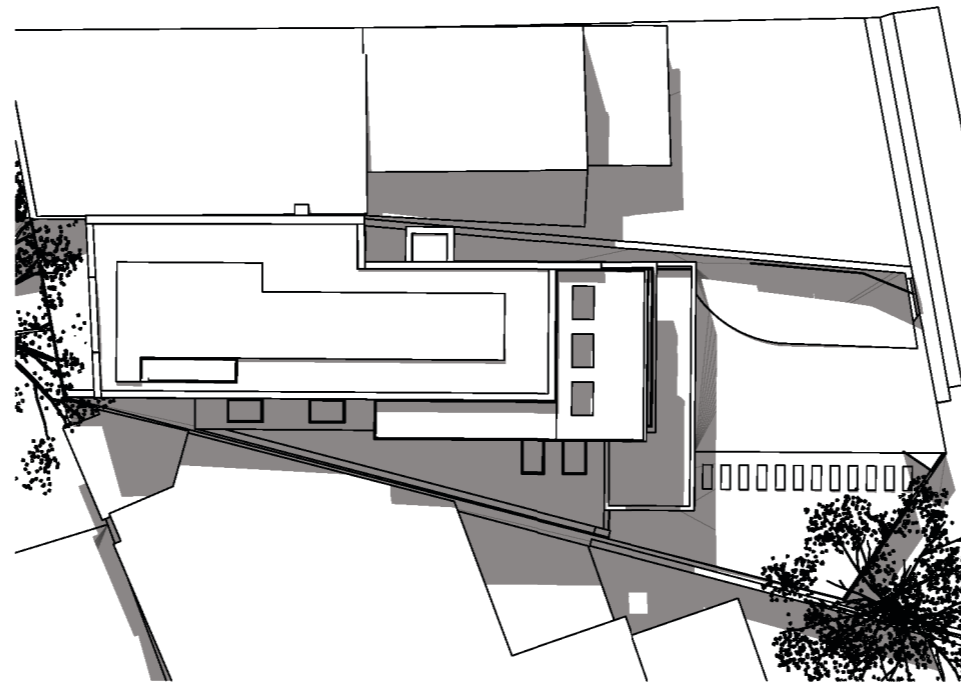
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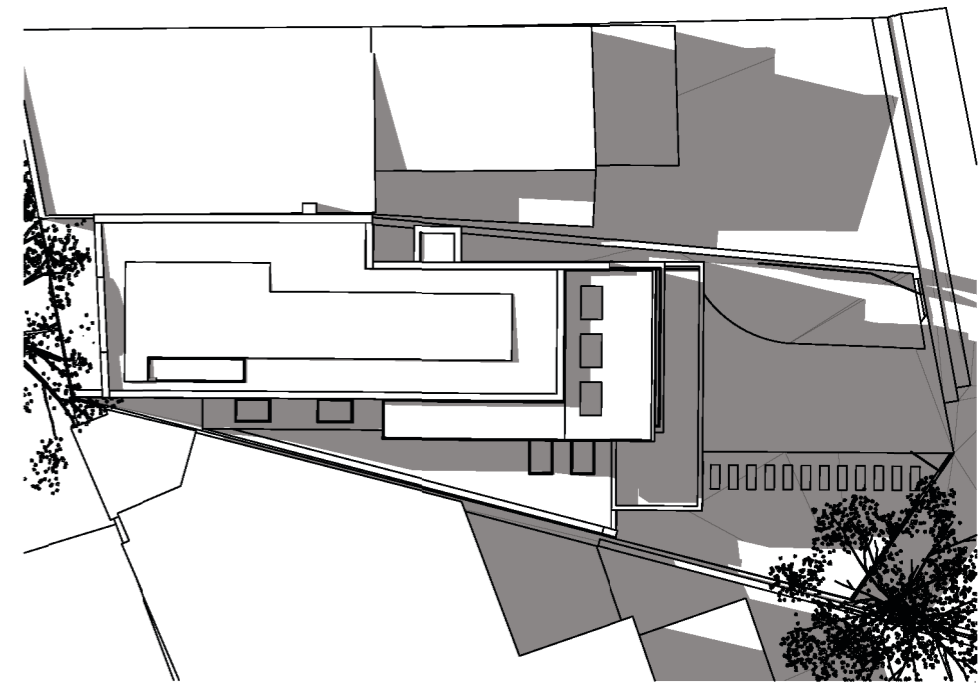
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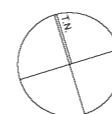
4 MAR 21 - 9AM PROPOSED
1:250



5 MAR 21 - 12PM PROPOSED
1:250



6 MAR 21 - 3PM PROPOSED
1:250





1 - WHITE METAL FENCE (REAR) / WHITE TIMBER BALUSTRADE (FRONT)



2 - DRIVEWAY



3 - LANDSCAPED PAVING



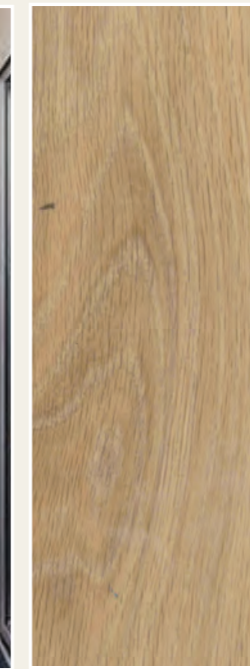
4 - BRICK WITH LIGHT RENDER, PAINTED FINISH (DULUX SURFMIST OR SIMILAR)



5 - COLORBOND CLADDING TO WALLS, BASALT OR WINDSPRAY OR SIMILAR. KLIPLOK COLORBOND ROOF - COLOR MATCH WALL



6 - ALUMINIUM FRAME WINDOWS



7 - TIMBER SOFFIT



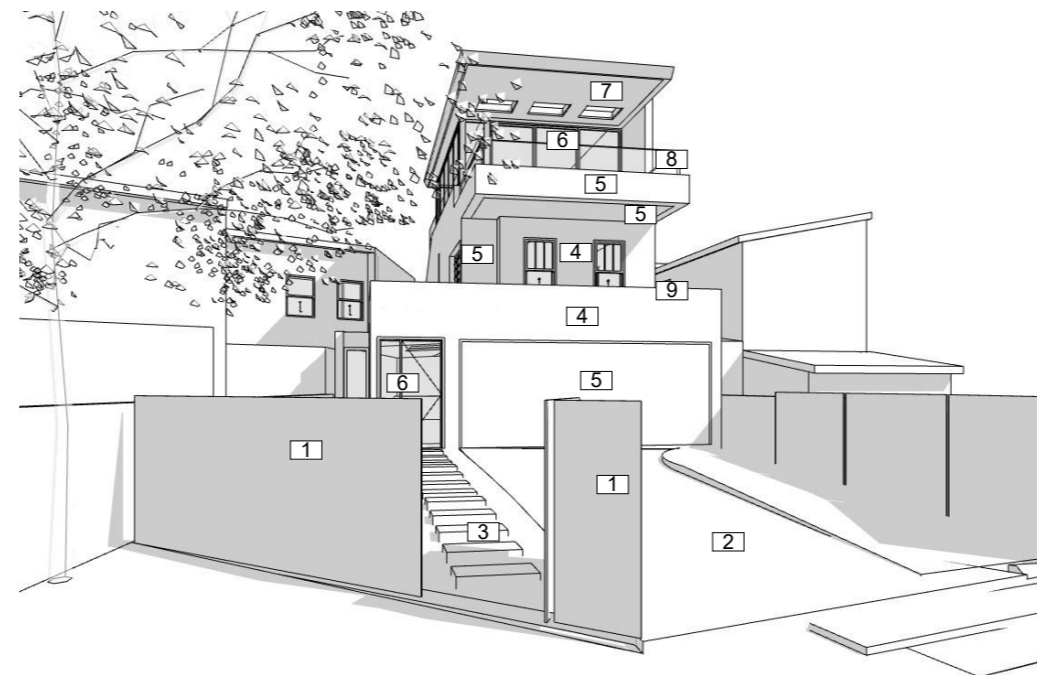
8 - GLASS BALUSTRADE



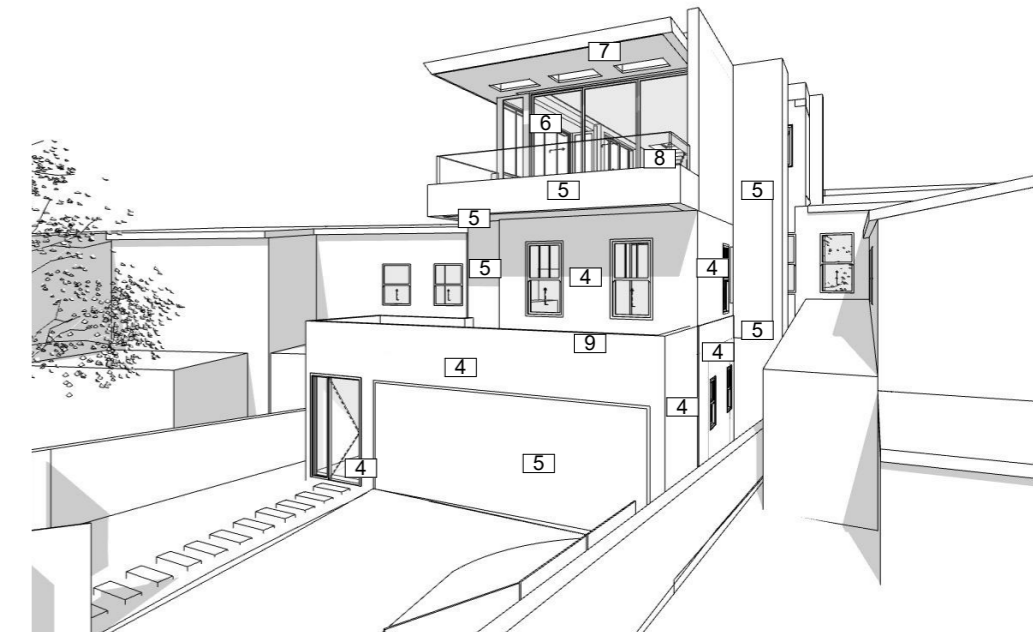
9 - PEBBLED ROOF



1 WESTERN STREET VIEW



2 SOUTH EASTERN REAR VIEW



3 NORTH EASTERN REAR VIEW

BARBARA

BASIX Certificate

Building Sustainability Index www.basix.nsw.gov.au

Alterations and Additions

Certificate number: _04

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments, have the meaning given by the document entitled "BASIX Definitions" dated 10/09/2020 published by the Department. This document is available at www.basix.nsw.gov.au

Secretary
Date of issue: Tuesday, 24 October 2023
To be valid, this certificate must be lodged within 3 months of the date of issue.



Project address	
Project name	Blues Point_04
Street address	115 BLUES POINT ROAD - MCMAHONS POINT 2060
Local Government Area	North Sydney Council
Plan type and number	Deposited Plan 447661
Lot number	B
Section number	-
Project type	
Dwelling type	Attached dwelling house
Type of alteration and addition	My renovation work is valued at \$50,000 or more, and does not include a pool (and/or spa).
N/A	N/A
Certificate Prepared by (please complete before submitting to Council or PCA)	
Name / Company Name:	FK BS PTY LTD
ABN (if applicable):	71646673332

Fixtures and systems	Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
Hot water			
The applicant must install the following hot water system in the development: solar (electric-boosted) system that is eligible to create Renewable Energy Certificates under the (Commonwealth) Renewable Energy (Electricity) Regulations 2001 (incorporating Amendment Regulations 2005 (No. 2)).	✓	✓	✓
Lighting			
The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.		✓	✓
Fixtures			
The applicant must ensure new or altered showerheads have a flow rate no greater than 9 litres per minute or a 3 star water rating.		✓	✓
The applicant must ensure new or altered toilets have a flow rate no greater than 4 litres per average flush or a minimum 3 star water rating.		✓	✓
The applicant must ensure new or altered taps have a flow rate no greater than 9 litres per minute or minimum 3 star water rating.		✓	✓

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 2m2, b) insulation specified is not required for parts of altered construction where insulation already exists.	✓	✓	✓																								
<table border="1"> <thead> <tr> <th>Construction</th> <th>Additional insulation required (R-value)</th> <th>Other specifications</th> </tr> </thead> <tbody> <tr> <td>concrete slab on ground floor.</td> <td>nil</td> <td>N/A</td> </tr> <tr> <td>suspended floor above garage: concrete (R0.6).</td> <td>nil</td> <td>N/A</td> </tr> <tr> <td>floor above existing dwelling or building.</td> <td>nil</td> <td>N/A</td> </tr> <tr> <td>external wall: concrete block/ plasterboard</td> <td>R1.18 (or R1.70 including construction)</td> <td></td> </tr> <tr> <td>external wall: framed (weatherboard, fibro, metal clad)</td> <td>R1.30 (or R1.70 including construction)</td> <td></td> </tr> <tr> <td>internal wall shared with garage: plasterboard (R0.36)</td> <td>nil</td> <td></td> </tr> <tr> <td>flat ceiling, flat roof: framed</td> <td>ceiling: R1.58 (up), roof: foil backed blanket (55 mm)</td> <td>medium (solar absorptance 0.475 - 0.70)</td> </tr> </tbody> </table>	Construction	Additional insulation required (R-value)	Other specifications	concrete slab on ground floor.	nil	N/A	suspended floor above garage: concrete (R0.6).	nil	N/A	floor above existing dwelling or building.	nil	N/A	external wall: concrete block/ plasterboard	R1.18 (or R1.70 including construction)		external wall: framed (weatherboard, fibro, metal clad)	R1.30 (or R1.70 including construction)		internal wall shared with garage: plasterboard (R0.36)	nil		flat ceiling, flat roof: framed	ceiling: R1.58 (up), roof: foil backed blanket (55 mm)	medium (solar absorptance 0.475 - 0.70)			
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internal wall shared with garage: plasterboard (R0.36)	nil																										
flat ceiling, flat roof: framed	ceiling: R1.58 (up), roof: foil backed blanket (55 mm)	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.		✓	✓
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.	✓	✓	✓
For projections described as a ratio, the ratio of the projection from the wall to the height above the window or glazed door sill must be at least that shown in the table below.	✓	✓	✓
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.	✓	✓	✓

Glazing requirements							Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
Windows and glazed doors glazing requirements									
Window/door number	Orientation	Area of glass including frame (m2)	Overshadowing height (m)	Overshadowing distance (m)	Shading device	Frame and glass type			
W01	N	0.84	1.55	1.18	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)			
W02	E	1.61	8.4	5	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)			
D01	E	3.36	8.4	5	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)			
W04	E	1.67	0	0	eave/ verandah/ pergola/balcony >=900 mm	timber or uPVC, single toned, (or U-value: 5.67, SHGC: 0.49)			
D02	E	14.09	0	0	projection/ height above sill ratio >=0.43	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)			

Glazing requirements							Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
Window/door number	Orientation	Area of glass including frame (m2)	Overshadowing height (m)	Overshadowing distance (m)	Shading device	Frame and glass type			
W05	S	3.44	0	0	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)			
W06	S	11.3	0	0	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)			
D03	S	7.92	0	0	none	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)			
W03	N	0.84	2.23	1.38	none	standard aluminium, single toned, (or U-value: 7.57, SHGC: 0.57)			
W07	N	1.67	2.23	3.01	external louvre/ blind (fixed)	timber or uPVC, single toned, (or U-value: 5.67, SHGC: 0.49)			

Glazing requirements				Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
Skylights						
The applicant must install the skylights in accordance with the specifications listed in the table below.						
The following requirements must also be satisfied in relation to each skylight:						
Each skylight 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.						
Skylights glazing requirements						
Skylight number	Area of glazing inc. frame (m2)	Shading device	Frame and glass type			
SK01	1.1	no shading	timber, low-E internal/argon fill/clear external, (or U-value: 2.5, SHGC: 0.456)			
SK02	1.1	no shading	timber, low-E internal/argon fill/clear external, (or U-value: 2.5, SHGC: 0.456)			
SK03	1.1	no shading	timber, low-E internal/argon fill/clear external, (or U-value: 2.5, SHGC: 0.456)			
SK04	1.1	no shading	timber, low-E internal/argon fill/clear external, (or U-value: 2.5, SHGC: 0.456)			
SK05	2.55	no shading	timber, low-E internal/argon fill/clear external, (or U-value: 2.5, SHGC: 0.456)			

Legend
In these commitments, "applicant" means the person carrying out the development.
Commitments identified with a ✓ in the "Show on DA plans" column must be shown on the plans accompanying the development application for the proposed development (if a development application is to be lodged for the proposed development).
Commitments identified with a ✓ in the "Show on CC/CDC plans & specs" column must be shown in the plans and specifications accompanying the application for a construction certificate / complying development certificate for the proposed development.
Commitments identified with a ✓ in the "Certifier check" column must be certified by a certifying authority as having been fulfilled, before a final occupation certificate for the development may be issued.



Clause 4.6 Variation Request

115 Blues Point Road, McMahons Point


Prepared by Paro Consulting

May 2023



Clause 4.6 Variation Request

Document status

Revision	Date	Name	Signature
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1. Introduction

This is a request to vary a development standard pursuant to the provisions of Clause 4.6 of the North Sydney Local Environmental Plan 2013 (NSLEP 2013), the relevant clause being **Clause 4.3(2)** of NSLEP 2013 (Height of Building).

The relevant maximum height of building control is **8.5m**, shown on the relevant Height of Buildings Map.

Height is a *development standard* for the purposes of the *EP&A Act 1979* as it prescribes a numerical value to an aspect of the permitted development (see Justice Mc Clellans decision in *Georgakis v North Sydney Council* [2004] NSWLEC 123).

This request to vary the Clause 4.3 of NSLEP 2013 has regard to the judgments in:

1. *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (“Initial Action”)
2. *Wehbe v Pittwater Council* [2007] NSWLEC 827 at [42] (“Wehbe”)
3. *SJD DB2 Pty Ltd v Woollahra Council* [2020] NSWLEC 1112 (“SJD DB2”).

This request to vary the height development standard considers the judgment in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (“Initial Action”).

The objectives of Clause 4.6 1(a) is to provide an appropriate degree of flexibility in applying certain development standards to particular development. The intent is to achieve better outcomes for and from development by allowing flexibility in particular circumstances in accordance with Clause 4.6 1(b).

The objective of Clause 4.6 (1)(a) is to provide an ‘*appropriate degree of flexibility in applying certain development standards to particular development*’. The intent is ‘*to achieve better outcomes for and from development by allowing flexibility in particular circumstances*’ in accordance with Clause 4.6 1(b).

The extent of the discretion available to the consent authority is unfettered (see SJD DB2) and therefore a variation can be granted to the height variation articulated in Section 3 of this written request.

The relevant architectural drawings relied upon are those prepared by Studio Barbarra Architecture.

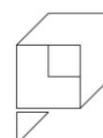
2. Development Standard to be Varied – Height

The relevant *development standard* to be varied is the 8.5m height control under Clause 4.3(2) of NSLEP 2013. Clause 4.3 of NSLEP 2013 relevantly provides:

4.3 Height of buildings

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

- (a) *to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*
- (b) *to promote the retention and, if appropriate, sharing of existing views,*
- (c) *to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,*



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

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

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

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

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The relevant height of buildings map is identified below.

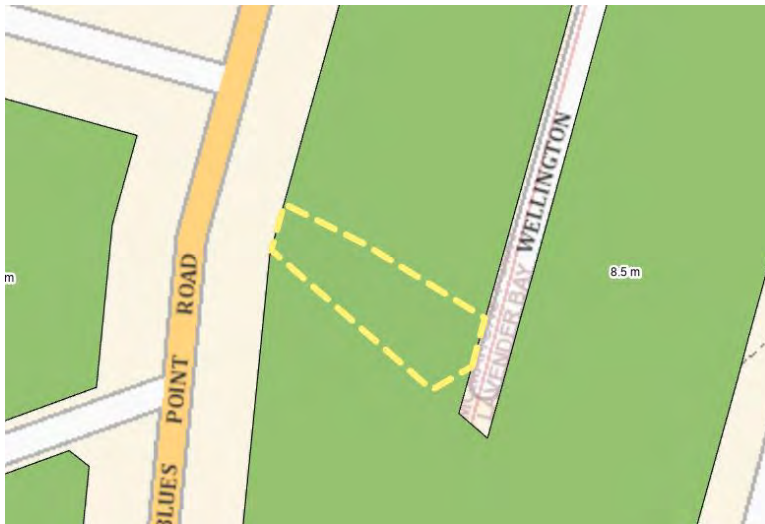


Figure 1. Extract of Building Height control Map (Source: ePlanning Spatial Viewer)

3. Nature and Extent of Variation Sought

The subject site has a maximum allowable building height of 8.5m, as shown in the North Sydney LEP 2013 Building Height Map.

The numeric value of the height of building development standard is 8.5m.

The existing dwelling has a height of 10.15m, as measured to the top of the existing roof parapet (to RL 49.96), as measured from existing ground level.

The proposed development attains a maximum height of:

- 10.15m, as measured to the top of the existing roof parapet (to RL 49.96) including internal works, new lift, solar panels, re-roofing and façade treatment work, resulting in a **1.65m** or **19.4%** variation to the height standard.
- 9.82m, as measured to the top of the new balcony awning at second floor level (to RL 49.33), resulting in a **1.32m** or **15.53%** variation to the height standard.

Figures 2 and 3. below provides a short and long section of the building and clearly identifying the extent of the variation to the height standard.



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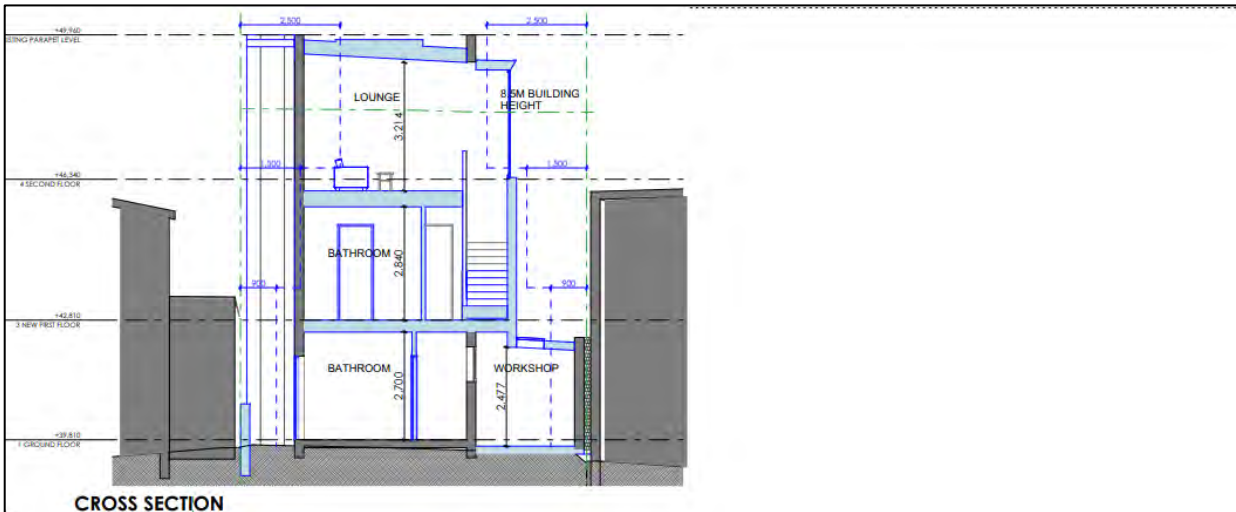


Figure 2. Short Section (Source: Barbara Architecture & Interiors)

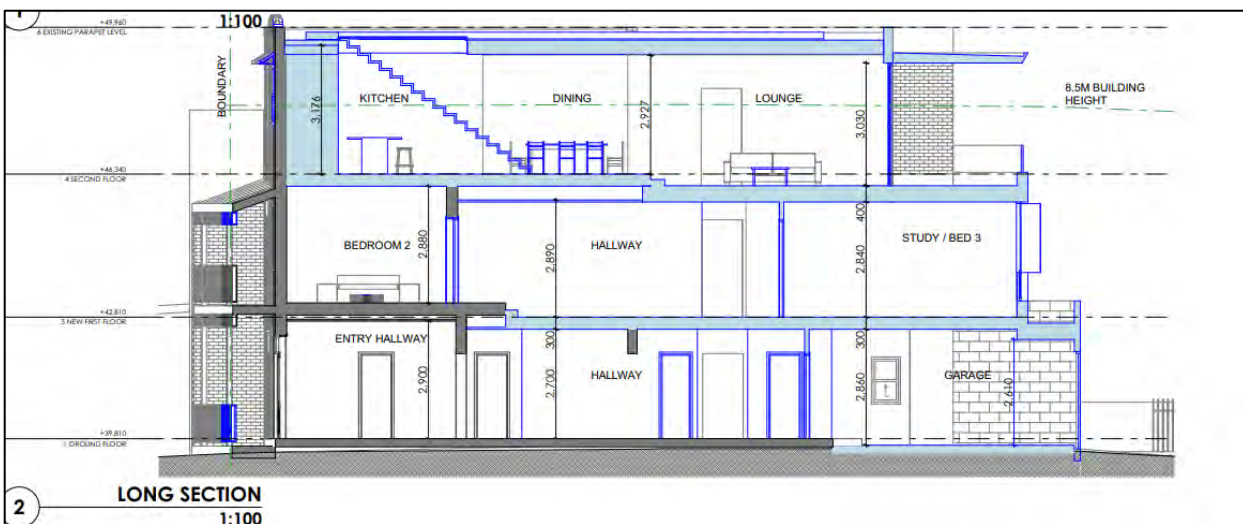


Figure 3. Long Section (Source: Barbara Architecture & Interiors)

4. Height – Development Standard

A development standard is defined in s1.4 of the *Environmental Planning and Assessment Act 1979* (“EPA Act”) to mean:

“provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*
- (b) the proportion or percentage of the area of a site which a building or work may occupy,*
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*
- (d) the cubic content or floor space of a building,*
- (e) the intensity or density of the use of any land, building or work,*



- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,*
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,*
- (h) the volume, nature and type of traffic generated by the development,*
- (i) road patterns,*
- (j) drainage,*
- (k) the carrying out of earthworks,*
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,*
- (m) the provision of services, facilities and amenities demanded by development,*
- (n) the emission of pollution and means for its prevention or control or mitigation, and*
- (o) such other matters as may be prescribed.”*

The 8.5m maximum height standard is a *development standard* as defined under the EP&A Act 1979.

5. Clause 4.6 of North Sydney Local Environmental Plan 2013

Clause 4.6 of the NSLEP 2013 provides a legal pathway by which an applicant can vary a *development standard*. Clause 4.6 of NSLEP 2013 relevantly provides 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 Planning Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Planning Secretary must consider—



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- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note—

When this Plan was made it did not include all of these zones.

- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following—
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,
 - (c) clause 5.4,
 - (caa) clause 5.5,
 - (ca) clause 4.3 in relation to land identified as "Area 1" on the [Special Provisions Area Map](#), other than subject land within the meaning of clause 6.19C,
 - (cab) clause 4.4, 5.6 or 6.19C in relation to land identified as "Area 1" on the [Special Provisions Area Map](#),
 - (cb) clause 6.3(2)(a) and (b),
 - (cba) clause 6.19A,
 - (cc) clause 6.20.

Response to Clause 4.6 1(a)(b) of NSLEP 2013

The following provides a response to the Clause 4.6 provisions:

"(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".*

The purpose of Clause 4.6 of NSLEP 2013 is to provide flexibility in the application of development standards.

Justification within this written request demonstrates that an appropriate degree of flexibility should be applied to this particular application notwithstanding the height variation articulated of this written request.



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The environmental planning grounds justifying the variation is provided in this written request.

The proposal whilst exceeding the height development standard provides an acceptable planning outcome based on the following:

- The proposed works will not increase the maximum height of the existing parapet roof and work will be predominately contained within the existing roof and building profile;
- The height non-compliance outside of the existing building profile relates to only to the new awning above the rear facing balcony but does not exceed the maximum height of the existing roof parapet and is located to the rear of the building and it is in itself an open lightweight type construction;
- The proposed height of the building will continue to read as 10.15m (as existing) as viewed externally from the site and from the primary street frontage of Blues Point Road and rear lane frontage to Wellington Lane;
- The new work at the rear has a contemporary character that will complement the built form of the conservation area;
- The area of non-compliance does not result in any adverse view loss, overlooking, visual bulk or overshadowing impacts or unreasonable sense of enclosure;
- Strict compliance with the development standard would not result in a better outcome for development but would result in a requirement to demolition the existing principal built form that is of contributory significance to the heritage conservation area; and
- Ability to satisfy the height objectives of the development standard and R3 Medium Density Zone objectives.

The following provides a response to relevant **Clause 4.6(2)** of NSLEP 2013 provisions. Clause 4.6(2) of NSLEP 2013 provides:

(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.

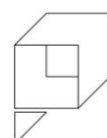
The HOB development standard is not expressly excluded from the operation of cl4.6 of NSLEP 2013 and accordingly, consent may be granted.

Clause 4.6 (3) of NSLEP 2013

Clause 4.6(3) relates to the making of a written request to justify the contravention of a development standard and states:

- (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. (our emphasis)*

The proposed development does not strictly comply with the HOB development standard pursuant to clause 4.3 of the NSLEP 2013. However, strict compliance is considered to be unreasonable and unnecessary in the circumstances of this case as detailed further in this written request. Sufficient environmental planning grounds exist to justify contravening the development standard.



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The proposed works will not increase the maximum height of the existing parapet roof and work will be predominately contained within the existing roof and building profile. In fact, the proposed height of the building will continue to read as 10.15m (as existing) as viewed externally from the site and from the primary street frontage of Blues Point Road and rear lane frontage to Wellington Lane. The new work is contained below the existing maximum building height of the building.

Clause 4.6(4) of NSLEP 2013 provides that consent must not be granted for development that contravenes a development standard unless:

- (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”.*

Sections below of this written request address the matters required under clause 4.6(4)(a)(i)(ii) of the NSLEP 2013 and clause 4.6(4)(b) of NSLEP 2013. Clause 4.6(5) provides that:

- (5) *In deciding whether to grant concurrence, the Secretary must consider:*
- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

This written request addresses the matters required under clause 4.6(5) of the NSLEP 2013.

Clauses 4.6(6) and (8) are not relevant to the proposed development.

Clause 4.6(7) is an administrative clause requiring the consent authority to keep a record of its assessment under this clause after determining a development application.

6. Relevant NSW LEC Decisions

Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118

In the Judgment of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* ('Initial Action'), Preston CJ indicated that cl4.6 does not directly or indirectly establish a test that a non-compliant development should have a neutral or beneficial effect relative to a compliant development. For example, a building that exceeds a development standard that has adverse amenity impacts should not be assessed on the basis of whether a complying development will have no adverse impacts. Rather, the non-compliance should be assessed with regard to whether the impacts are reasonable in the context of achieving consistency with the objectives of the zone and the objectives of the development standard. The relevant test is whether the environmental planning grounds relied upon and identified in the written request are “sufficient” to justify the non-compliance sought.



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In addition, Preston CJ ruled that cl 4.6 does not directly or indirectly establish a “test” that a development which contravenes a development standard results in a “*better environmental planning outcome*” relative to a development that complies with the development standard. There is no provision in the NSLEP 2013 clause 4.6 that requires a development that contravenes a development standard to achieve better outcomes.

Furthermore, Preston CJ ruled that it is incorrect to hold that the lack of adverse amenity impacts on adjoining properties is not a sufficient ground justifying the development contravening the development standard, when one way of demonstrating consistency with the objectives of a development standard is to show a lack of adverse amenity impacts.

Rebel MH Neutral Bay Pty Ltd v North Sydney Council [2018] NSWLEC 191 Moore J (herein referred to as Rebel MH”).

In Rebel MH Neutral Bay Pty Ltd v North Sydney Council [2018] NSWLEC 191 Moore J identifies the steps provided in *Initial Action* confirming what the consent authority must do in order to satisfy itself as follows:

“For me to grant development consent for this development as it contravenes the permitted maximum building height development standard, cl 4.6(4)(a) requires me to be satisfied that:

(1) The written request adequately demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of this proposed development (cl 4.6(3)(a) and cl 4.6(4)(a)(i)); and

(2) The written request adequately establishes sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b) and cl 4.6(4)(a)(i)); and

(3) The proposed development will be in the public interest because it is consistent with the objectives of the standard in question - set out in cl 4.3 of the LEP (cl 4.6(4)(a)(ii)); and

(4) The proposed development will be in the public interest because it is consistent with the objectives of the R4 High Density Residential Zone (cl 4.6(4)(a)(ii)),

For the first of the above matters, Preston CJ made it clear, in Initial Action at [25], that the Court need not be directly satisfied that compliance is unreasonable or unnecessary and sufficient environmental planning grounds exist, but rather that it “only indirectly form the opinion of satisfaction that the applicant’s written request has adequately addressed those matters.”

SJD DB2 Pty Ltd v Woollahra Council [2020] NSWLEC 1112 (SJD DB2).

This appeal sought consent for the construction of a six-storey Shop top housing development at 28-34 Cross Street Double Bay (the DA). The Court approved the proposed development, having a height of 21.21m where the control was 14.7m – representing a maximum variation of approximately 44% (or 6.51m) – and a floor space ratio (FSR) of 3.54:1 where the control was 2.5:1 – representing a variation of approximately 41%.

The Court drew from the decisions in *Initial Action* and *RebelMH* in the *SJD DB2* judgment and noted that although there are a number of ways to demonstrate that compliance with a development standard is unreasonable or unnecessary, it may be sufficient to establish only one way (at [35].) In considering the clause 4.6 variation requests submitted by the Applicant, the Court considered that they could be treated together, as the breaches they related to were fundamentally related, as where there is greater building form with additional height, so too is there greater floor area (at [63].)

Acting Commissioner Clay makes it clear in his judgment, ‘cl 4.6 is as much a part of [an LEP] as the clauses with development standards. Planning is not other than orderly simply because there is reliance on cl 4.6 for an appropriate planning outcome (at [73]).



7. Clause 4.6(3)(a): Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case

In dealing with the “unreasonable and unnecessary” Preston CJ identifies and validates the 5 options available to an applicant in *Wehbe v Pittwater Council* which can be adopted in dealing with the *unreasonable and unnecessary* test under Clause. 4.6(3)(a).

Preston CJ at states as follows:

“As to the first matter required by clause 4.6(3)(a), I summarised the common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary in Wehbe v Pittwater Council at [42]-[51]. Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.”

Based on the above the following identifies the first method identified in *Wehbe*:

*“Ways of establishing that compliance is unreasonable or unnecessary 42 An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the **objectives of the development standard are achieved notwithstanding non-compliance with the standard**: (our emphasis).*

Clause 4.6(3)(a) – UNREASONABLE AND UNNECESSARY

This clause 4.6 responds to the matters required to be demonstrated by sub-clause 4.6(3) namely:

- *that compliance with the development standard is unreasonable or unnecessary, in the circumstances of the case, and*
- *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Having considered the above, the applicant relies upon the first method demonstrating that compliance is *unreasonable and unnecessary* because the objectives of the height development standard are achieved notwithstanding the variation.

Test 1: The objectives of the development standard are achieved notwithstanding non-compliance with the standard

In dealing with the standard, it is necessary to identify the purpose of the height control and then progress to dealing with the achievement or otherwise with the height objectives. The relevant height objectives are identified and discussed below:

4.3 Height of buildings

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

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

The proposed works will not increase the maximum height of the existing parapet roof and work will be predominately contained within the existing roof and building profile and therefore sits with the natural landform of the site.

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

The proposed works will not increase the maximum height of the existing parapet roof and work will be predominately contained within the existing roof and building profile promoting the retention of existing views.



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

The proposed work above the height standard results in minimal additional shadow cast upon the neighbours. The proposal ensures that the neighbouring habitable room windows and private open space areas will not be further impacted by overshadowing between 9am to 3pm during the winter solstice.

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

The proposed work above the height standard relates to roofing and solar panels which results in no privacy impacts.

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

The proposed building height is less than or equal to that of the existing dwelling house on the site.

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

The proposal includes a scale and density consistent with the existing three storey dwelling house on the site.

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

The proposal includes a height, scale and density consistent with the existing three storey dwelling house on the site.

In summary, achieving compliance with the standard is unreasonable and unnecessary (clause 4.6(3)(a)) as notwithstanding the non-compliance, the development is consistent with the objectives of the standard (clause 4.6(4)(a)(ii)).

Test 2: The underlying objectives or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.

Not relied upon.

Test 3: The underlying objective or purpose of the standard would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable

The underlying purpose of the development standard is to present a building that is compatible with the height, context and character of the locality whilst preserving the amenity of neighbouring properties. Strict compliance with the height development standard would defeat or thwart the achievement of underlying objectives of the standard.

The proposed works will not increase the maximum height of the existing parapet roof and work will be predominately contained within the existing roof and building profile. Strict compliance with the development standard would require demolition of the existing principal built form that is of contributory significance to the heritage conservation area.

Test 4: The development standard has been virtually abandoned or destroyed by council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable

While the standard has not been virtually abandoned or destroyed, it is important to note that Council have consented to proposals in the locality with a building height that exceeds the development standard, as evidenced in the Register of Exceptions to Development Standards published on Council's website.

There are numerous examples of developments in the North Sydney LGA and in the immediate area which have been approved despite non-compliances with the maximum Height of Building development standard. Whilst each DA is assessed on its own merits and each site has different characteristics, Council has accepted variations to the maximum building height standard in the past.



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Further, the existing building height already exceeds the current 8.5m height of building standard and the new work will not increase the maximum height of the existing parapet roof and work will be predominately contained within the existing roof and building profile.

Test 5: The zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard is in circumstances of the case would also be unrealistic or unnecessary

Not relied upon.

8. Are there Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

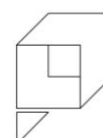
There are sufficient environmental planning grounds to justify the proposed variation to the development standard for the following reasons:

- The proposed works will not increase the maximum height of the existing parapet roof and work will be predominately contained within the existing roof and building profile;
- The height non-compliance outside of the existing building profile relates to only to the new awning above the rear facing balcony but does not exceed the maximum height of the existing roof parapet and is located to the rear of the building and it is in itself an open lightweight type construction;
- The proposed height of the building will continue to read as 10.15m (as existing) as viewed externally from the site and from the primary street frontage of Blues Point Road and rear lane frontage to Wellington Lane. The new work is contained below the existing maximum building height;
- The new work at the rear has a contemporary character that will complement the built form of the conservation area;
- The area of non-compliance does not result in any adverse view loss, overlooking, visual bulk or overshadowing impacts or unreasonable sense of enclosure;
- Strict compliance with the development standard would not result in a better outcome for development but would result in a requirement to demolition the existing principal built form that is of contributory significance to the heritage conservation area; and
- Ability to satisfy the height objectives of the development standard and R3 Medium Density Zone objectives.

9. Clause 4.6(4)(a)(ii) – Will the Proposed Development be in the Public Interest because it is Consistent with the Objectives of the Particular Standard and Objectives for Development within the Zone in which The Development is Proposed to be Carried Out?

The proposed development is consistent with the objectives of the height of buildings standard, as shown in Section 7. The proposal is also consistent with the land use objectives that apply to the site under NSLEP 2013 as demonstrated below. The site is located within the R3 Medium Density Residential Zone.

“To provide for the housing needs of the community within a medium density residential environment”.



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The proposal seeks consent for a height variation only. The site will continue to accommodate a dwelling house and provide for the housing needs of the community in a medium-density residential environment.

“To provide a variety of housing types within a medium density residential environment.”

The proposal seeks consent for a height variation only. The site will continue to accommodate a dwelling house and provide for the housing needs of the community in a medium-density residential environment.

“To enable other land uses that provide facilities or services to meet the day to day needs of residents”

The proposed height variation will not impact on the ability for facilities and services to meet the day to day needs of residents.

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

The proposed height of the dwelling is compatible with the character and amenity of the McMahons Point North local Heritage Conservation Area which is characterised by Victorian, Federation and Inter-war period residential and retail development.

“To provide for a suitable visual transition between high density residential areas and lower density residential areas”

Not applicable. The site does not adjoin a higher density or lower density residential area.

“To ensure that a high level of residential amenity is achieved and maintained”.

The proposed height variation does not adversely impact on the amenity of adjoining residents in regard to overshadowing, solar access, privacy or views.

10. Clause 4.6(5)(a) – Would Non-Compliance Raise any Matter of Significance for State or Regional Planning?

The proposed non-compliance with the development standard will not raise any matter of significance for State or regional environmental planning. It has been demonstrated that the proposed variation is appropriate based on the specific circumstances of the case and would be unlikely to result in an unacceptable precedent for the assessment of other development proposals.

11. Clause 4.6(5)(b) – Is There a Public Benefit of Maintaining the Planning Control Standard?

The proposed development achieves the objectives of the height of building development standard and the land use zoning objectives. The public benefit of maintaining the development standard is not considered significant given that the existing dwelling will continue to present a height as currently present on the site and the new work does not result in any adverse overshadowing, view loss or loss of privacy.

12. Clause 4.6(5)(c) – Are there any other matters required to be taken into consideration by the Secretary before granting concurrence?

Concurrence can be assumed. Nevertheless, there are no known additional matters that need to be considered within the assessment of the Clause 4.6 request and prior to granting concurrence, should it be required.



13. Conclusion

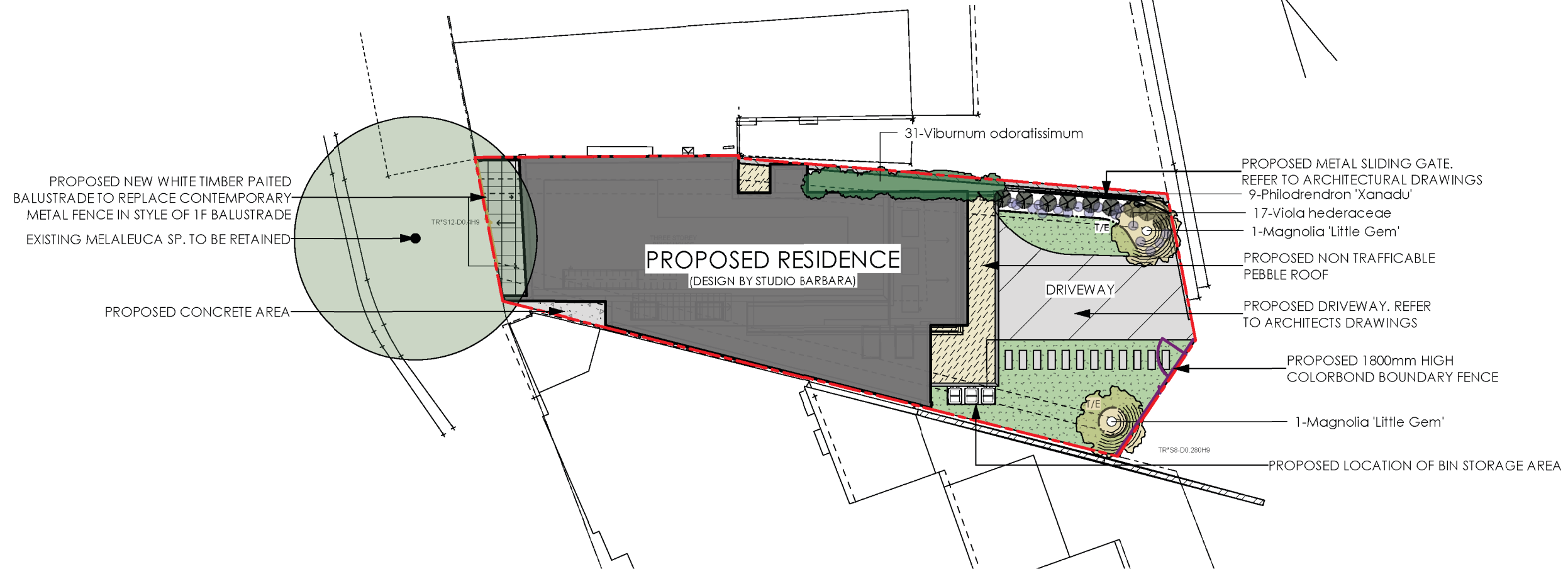
The proposal to exercise the flexibility afforded by Clause 4.6 of the NSLEP 2013 results in a better outcome, being an appropriate built form massing for the site. This variation request demonstrates, as required by Clause 4.6 of the NSLEP 2013, that:

- Compliance with the development standard is unreasonable and unnecessary, as the development will continue to achieve the objectives of the standard, despite the non-compliance;
- That there are sufficient environmental planning grounds to justify a contravention to the development standard;
- The development achieves the objectives of the development standard and is consistent with the objectives of the R3 Medium Density Residential land use Zone;
- The proposed development, notwithstanding the variation, is in the public interest and there is no public benefit in maintaining the standard in this instance; and
- The variation does not raise any matter of State or Regional Significance.

On this basis, therefore, it is considered appropriate to exercise the flexibility provided by Clause 4.6 in the circumstances of this application.



Note:
Landscape Contractor shall undertake minor earthworks after handover by builder as required to achieve maximum gradient to all lawn and mulched areas of 1:50, and 1:4 to all garden areas. Should retaining walls be required to achieve these falls they shall be designed by an engineer and be a maximum height compliant with council and/or developer policies.



PLANTING SCHEDULE

Latin Name	Common Name	Quantity	Scheduled Size	Spread	Height
Magnolia 'Little Gem'	Magnolia	2	75lt	3000	5000
Philodendron 'Xanadu'	Dwarf Philodendron	9	150mm	750	1000
Viburnum odoratissimum	Sweet Viburnum	31	150mm	1200	2500
Viola hederaceae	Native Violets	17	tube	400	300

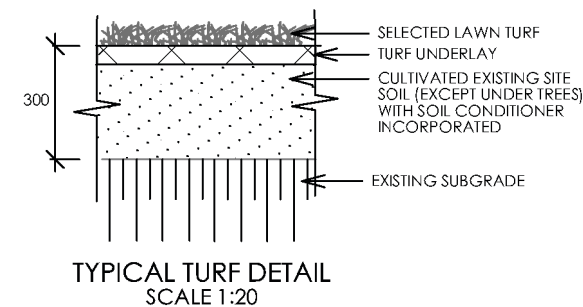
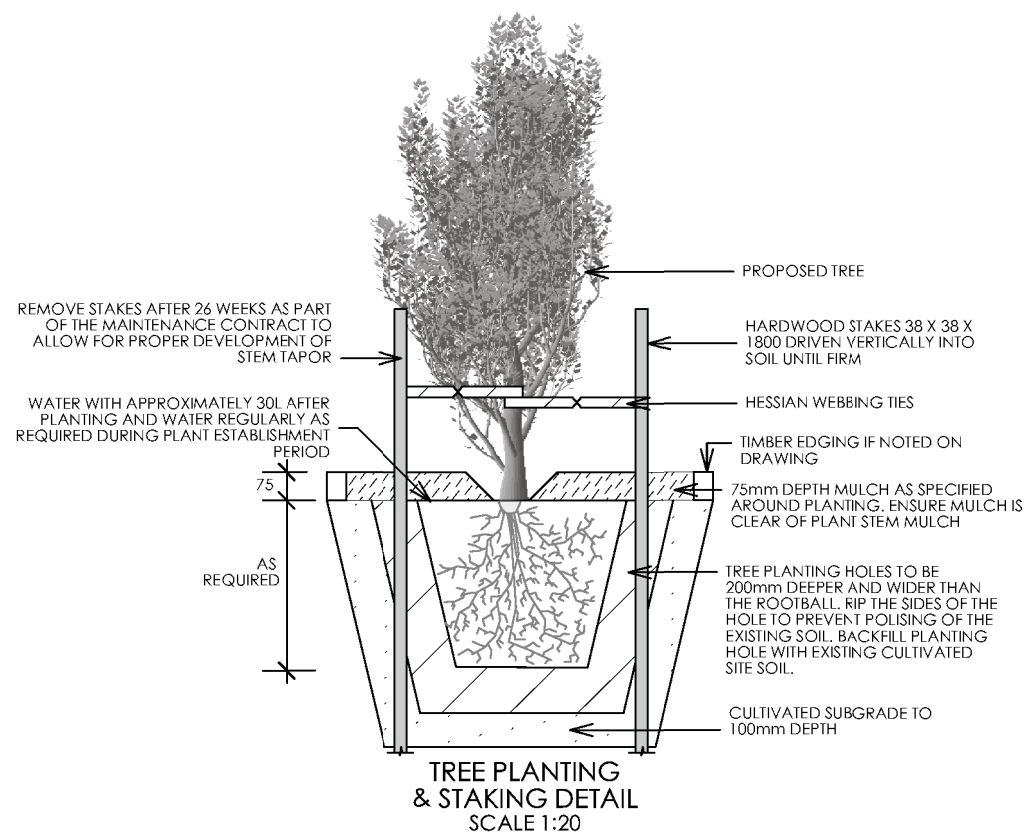
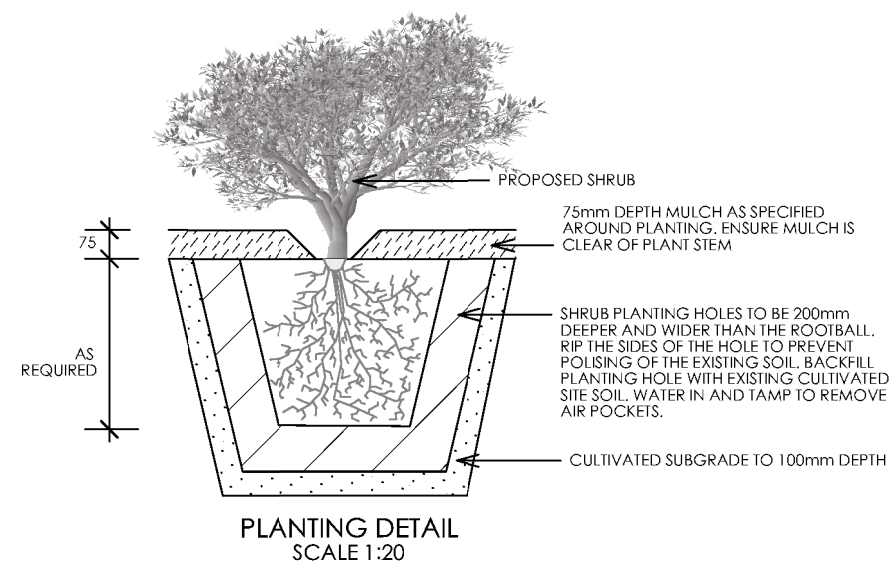
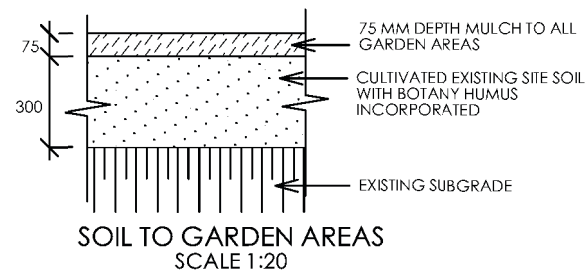
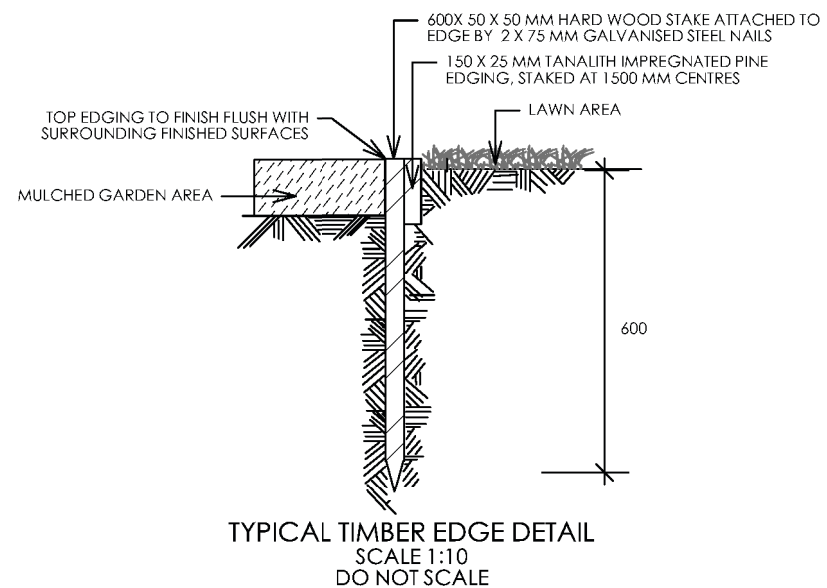
LEGEND:

- PROPOSED DRIVEWAY. REFER TO ARCHITECTS DETAIL
- PROPOSED CONCRETE AREA
- PROPOSED PAVED AREA
- LAWN AREA
- PROPOSED PEBBLE GARDEN AREA
- PROPOSED STEPPING STONES THROUGH GRASS
- EXISTING BRICK WALL REFER TO ARCHITECTURAL DRAWINGS
- PROPOSED PLANTER EDGE REFER TO ARCHITECTURAL DRAWINGS
- PROPOSED BOUNDARY WALL REFER TO ARCHITECTURAL DRAWINGS
- PROPOSED 1800mm HIGH COLORBOND BOUNDARY FENCE
- PROPOSED METAL SLIDING GATE REFER TO ARCHITECTURAL DRAWINGS
- PROPOSED NEW WHITE TIMBER PAINTED BALUSTRADE TO REPLACE CONTEMPORARY METAL FENCE IN STYLE OF 1F BALUSTRADE
- T/E --- TIMBER LAWN EDGE
- SITE BOUNDARY
- EXISTING TREE TO BE RETAINED

INDICATES NEW TREE SPECIES TO BE PLANTED

Notes:
1. All dimensions and levels shall be verified by Contractor on site prior to commencement of work.
2. All detailing of drainage to paved areas shall be by others.
3. All levels shall be determined by others and approved on site by client.
4. Extent, height and position of all retaining walls shall be determined by others and approved on site by client, to Structural Engineers detail.
5. Do not scale from drawings.
6. If in doubt contact the Landscape Architect.
7. All boundaries shall be surveyed prior to commencement of construction works.
8. This plan is for DA purposes only. It has not been detailed for construction.
9. All dimensions, levels and boundaries are nominal only.
10. This design shall not be copied, utilised or reproduced in any way without prior written permission of A Total Concept Landscape Architects.

DATE - 16/01/24	REVISION - 'A' UPDATED TO NEW ARCHITECTURALS
DRAWING PROPOSED LANDSCAPE PLAN	
ADDRESS 115 BLUES POINT ROAD MCMAHONS POINT, NSW, 2060	PROJECT # STUDIO BARBARA
CLIENT BRUCE AND LAUREN SMITH	DATE # 19.04.23 SCALE @ A3 1:200 DRAWN DY.S CHKD OC
DWG # L/01	
A Total Concept Landscape Architects & Swimming Pool Designers 65 West Street, North Sydney NSW 2060 Tel: (02) 9957 5122 Fx: (02) 9957 5922	
a total concept landscape architects & swimming pool designers	



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DATE - 16/01/24		REVISION - 'A' UPDATED TO NEW ARCHITECTURALS	
DRAWING LANDSCAPE DETAILS			
ADDRESS 115 BLUES POINT ROAD MCMAHONS POINT, NSW, 2060			PROJECT # STUDIO BARBARA
CLIENT BRUCE AND LAUREN SMITH		DATE # 19.04.23	DWG #
		SCALE @ A3 1:200	L/02
		DRAWN DY.S	
		CHKD OC	REVISION
A Total Concept Landscape Architects & Swimming Pool Designers 65 West Street, North Sydney NSW 2060 Tel: (02) 9957 5122 Fx: (02) 9957 5922			

OUTLINE LANDSCAPE SPECIFICATION

Preparation by Builder: Builder shall remove all existing concrete pathways, fences, footings, walls etc. not notated to be retained and complete all necessary excavation work prior to commencement on site by Landscape Contractor (Contractor). Builder shall also install new retaining walls, kerbs, layback kerb, crossover, pathways etc. and make good all existing kerbs, gutters etc. as necessary and to approval of Council. Builder shall ensure that a minimum 450mm of topsoil in garden areas and a minimum 150mm of topsoil in lawn areas exists. Should required depths not exist Builder shall contact Landscape Architect and ask for instructions prior to completion of excavation works.

Excavate as necessary, then fill with approved site topsoil to allow for minimum 500mm soil depth in garden areas and 150mm soil depth in lawn areas and to gain required shapes & levels. Ensure all garden and lawn areas drain satisfactorily. All levels & surface drainage shall be determined by others & approved on site by Head Contractor. Note: Approved imported topsoil mix may be utilised if there is insufficient site topsoil available. State in Tender a m3 rate for additional imported topsoil and the quantities of both site topsoil and imported topsoil allowed for in Tender.

Initial Preparation: Verify all dimensions & levels on site prior to commencement. Do not scale from drawings. Locate all underground & above ground services & ensure no damage occurs to them throughout contract. Spray approved weedicide to all proposed lawn & garden areas to manufacturer's directions. Remove existing concrete pathways, footings, walls etc. not notated to be retained & weeds from site. Levels indicated on Plan are nominal only and are derived from Architectural Plans & Drawings by others. Final structural integrity of all items shall be the sole responsibility of Landscape Contractor.

Tree Protection: Trees to be retained shall be protected during site works and construction by the erection of solid barricades to the specification of Council. Storage of machinery or materials beneath canopy of trees to be retained shall not be permitted. Changes to soil level and cultivation of soil beneath canopy of trees to be retained shall not be permitted unless under direct supervision of Landscape Architect. Existing trees shall be pruned to Landscape Architects onsite instructions.

Soil Preparation: Cultivate to depth of 300mm all proposed lawn & garden areas incorporating minimum 100mm depth of organic clay breaker into existing site soil. Do not cultivate beneath existing trees to be retained. In areas where fill is required gain required shapes & levels using a premium grade soil mix. In areas where excavation is required (if in clay) over excavate as required to allow for installation of 500mm depth of premium grade topsoil mix to garden areas and 300mm depth of premium grade topsoil mix to lawn areas. Undertake all required action to ensure that no rootballs of proposed plants sit in clay wells and that all garden areas and lawn areas drain satisfactorily. Note it is intended that wherever possible existing levels shall not be altered through garden and lawn areas. It is the Contractors responsibility to ensure that the end result of the project is that all lawn and garden areas drain sufficiently (both surface & subsurface). are at required finished levels and have sufficient soil depths to enable lawn and plants to thrive and grow. Should alternative works to those specified be required to achieve the above result, Contractor shall inform Builder at time of Tender and request instructions.

Lawn Edging and Stepping Stones:(i) 125 x 25mm approved tanalith impregnated pine edging shall be installed, to lines as indicated on plan and staked with approved stakes at maximum 1500mm centres at ends and changes of direction; stakes shall be nailed to edging with approved galvanised steel nails. Top of edging shall finish flush with surrounding surfaces. Top of stakes shall finish 25mm below top of edging.(ii) Contractor shall install approved bricks on edge on a minimum 100mm deep x 90mm wide concrete footing with brick tor set in, to lines nominated on plan as brick edging. Bricks shall be laid with a nominal 10mm wide approved coloured mortar joint. Bricks needing to be cut shall be done so with clean sharp cuts. Top of edging shall finish flush with surrounding finished surfaces. Approved sandstone stepping stones shall be positioned as indicated on plan on a 25mm river sand bed. Approved sandstone stepping stones shall be positioned as indicated on plan on a 25mm river sand bed.

Retaining Walls: Positions, detail and heights of retaining walls shall be by others.

Planting: Purchase plants from an approved nursery. Plants to be healthy & true to type & species. Set out plants to positions indicated on plan. Following approval, plant holes shall be dug approximately twice width and to 100mm deeper than plant rootballs that they are to receive. Base and sides of hole shall be further loosened. Fertiliser, followed by 100mm depth of topsoil mix shall then be placed into base of hole and lightly consolidated. Base of hole shall then be watered. Remove plant container and install plant into hole. Rootball shall be backfilled with surrounding topsoil and topsoil firmed into place. An approved shallow dish shall be formed to contain water around base of stem. Base of stem of plant shall finish flush with finished soil level. Once installed plant shall be thoroughly watered and maintained for the duration of the Contract.

Staking: All trees shall be staked using 2 x 38mm x 38mm x 2000mm long hardwood stakes per plant and with hessian webbing ties installed to Landscape Architect's on site instructions.

Mulching: Install 75mm depth of 25mm diameter hardwood mulch to all garden areas, coving mulch down around all plant stems & to finish flush with adjacent surfaces.

Turfing: Prepare for, level & lay cultivated Palmetto Buffalo turves to all areas nominated on plan as being lawn. Roll, water, fertilise, mow & maintain lawns as necessary until completion of maintenance period. At same time make good all existing lawn areas using same lawn type. Lawns in shade shall be over sown with an approved seed mix. Allow to retrim and returf councils nature strip as required.

Fencing: Retain all existing fences unless advised otherwise by builder. Install timber paling fences to heights indicated on Plan.

Paving: Areas to be paved shall be excavated or filled to allow for installation of bedding materials. Levels and falls shall be as per Plan. Surface drainage on paving shall be towards grated drains with all drains connected to stormwater system and installed by Builder.

Irrigation: Contractor shall supply and install an approved fully automatic, vandal resistant, computerised irrigation system to all garden and lawn areas, excluding council nature strip. Entire system shall be to approval of Water Board and shall utilise pop-up sprinklers and electronic controllers. Contractor shall be responsible to ensure that system is able to satisfactorily operate on available water pressure. Power supply for use by irrigation system shall be provided to an approved location near southwest corner of residence by others and shall consist of an approved weatherproof G.P.O. The irrigation system controller shall be housed in an approved waterproof cabinet mounted to external wall of residence.

Clotheslines: Contractor shall allow for all necessary labour and materials and shall install clotheslines to positions as indicated on plan to manufacturer's instructions to approval of Landscape Architect. Clothesline type shall be equal to 'Hills Foldalene'.

Completion: Prior to practical completion remove from site all unwanted debris occurring from work. Satisfy Council that all landscaping work has been undertaken in strict accordance with Councils landscape codes & guidelines.

Maintenance Period: A twelve month maintenance period shall be undertaken by owner or owners representative as set out herein. Owner shall have care and maintenance of all work specified under this Contract and shall rectify any defective work for a period of 52 weeks following Practical Completion of Landscape Works. This period shall be herein known as the Maintenance Period. Work shall also include for the care and maintenance of all existing vegetation to be retained and proposed vegetation. Site shall be attended at least weekly and as otherwise required. The following works shall be undertaken during the Maintenance Period.

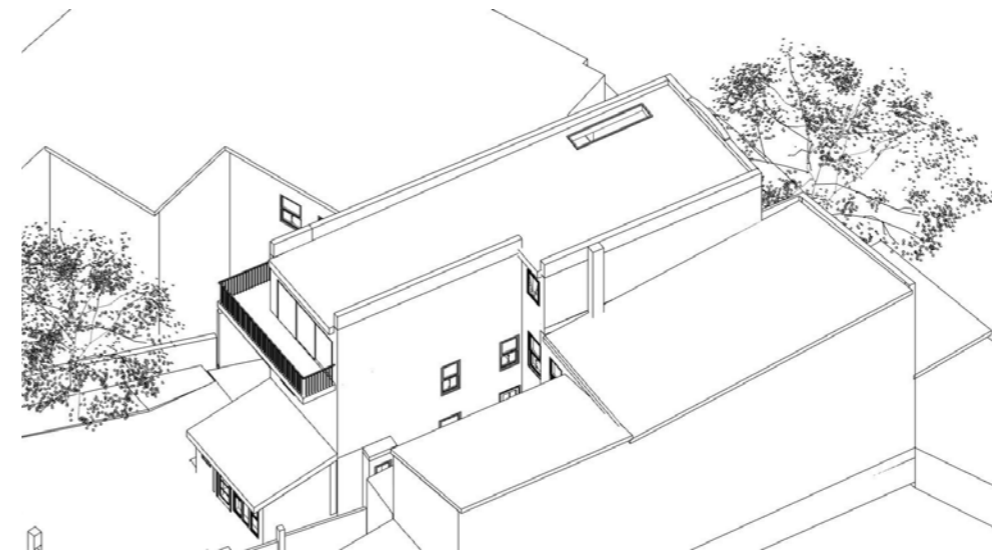
- (a) **Recurrent works** Undertake recurrent works throughout the Maintenance Period. These works shall include but are not limited to watering, weeding, fertilising, pest and disease control, returfing, staking and tying, replanting, cultivation, pruning, aerating, renovating, top dressing and the like.
- (b) **Watering** Regularly water all plants and lawn areas to maintain optimal growing conditions. Contractor shall adjust the water quantity utilised with regard to climatic conditions prevalent at the time.
- (c) **Replacements** Immediately replace plants which die or fail to thrive (at discretion of Landscape Architect) with plants of same species or variety and of same size and quality unless otherwise specified. Plant replacement shall be at Contractors expense, unless replacement is required due to vandalism or theft, which shall be determined by Landscape Architect. Required replacement of plants due to vandalism or theft shall be undertaken by Contractor and shall be paid for by Client at an agreed predetermined rate.
- (d) **Mulched surfaces** Maintain mulched surfaces in clean, tidy, weed-free condition and shall reinstate mulch as necessary to maintain specified depths.
- (e) **Stakes & ties** Adjust and/or replace stakes and ties as required. Remove stakes and ties at end of Maintenance Period if directed by Landscape Architect.
- (f) **Lawn areas** Lawn areas shall be mown at regular intervals to ensure non heading of lawn with a fine-cutting mulching mower and clippings left on lawn to mulch and self-fertilise lawn areas. Primary cut after laying of lawn by others shall be determined on site taking into consideration season, watering and growth rate of lawn. Following the primary cut all lawns shall be regularly mown as required to ensure a healthy lawn and a neat appearance. Care shall always be taken to ensure that no clippings are left on surrounding roads or garden areas after mowing. Replace lawn areas that fail to thrive at discretion of Landscape Architect. All new and made good lawn areas shall be barricaded off from pedestrian traffic by use of star pickets and brightly coloured plastic safety mesh until establishment of lawn. Barricades shall be removed upon establishment of lawn area.
- (g) **Weeding** Remove by hand, or by carefully supervised use of weedicide, any weed growth that may occur throughout Maintenance Period. This work shall be executed at weekly intervals so that all lawn and garden areas may be observed in a weed-free condition.
- (h) **Pruning** Prune new and existing plants (excluding existing trees) as necessary to maintain dense foliage conditions. Any rogue branches, or branches overhanging or obstructing pathways, roads, doorways, etc., shall be removed by approved horticultural methods.
- (i) **Spraying** Spraying for insect, fungal and disease attack shall be undertaken as required and in accordance with spray manufacturers recommendations at intervals taking into account the season of year during which landscape works are to be implemented.
- (j) **Tree Care** Should any existing trees be damaged during construction works immediately engage an experienced arboriculturist and then undertake any rectification work recommended by arboriculturist.

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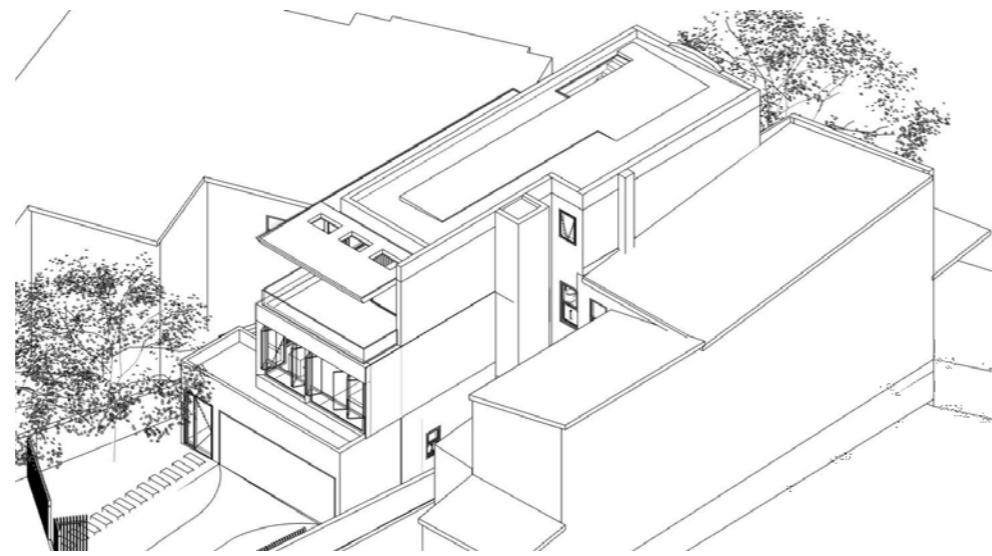
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CLIENT BRUCE AND LAUREN SMITH		DATE # 19.04.23	DWG # L/03
A Total Concept Landscape Architects & Swimming Pool Designers 65 West Street, North Sydney NSW 2060 Tel: (02) 9957 5122 Fx: (02) 9957 5922		SCALE @ A3 1:200	DRAWN DY.S
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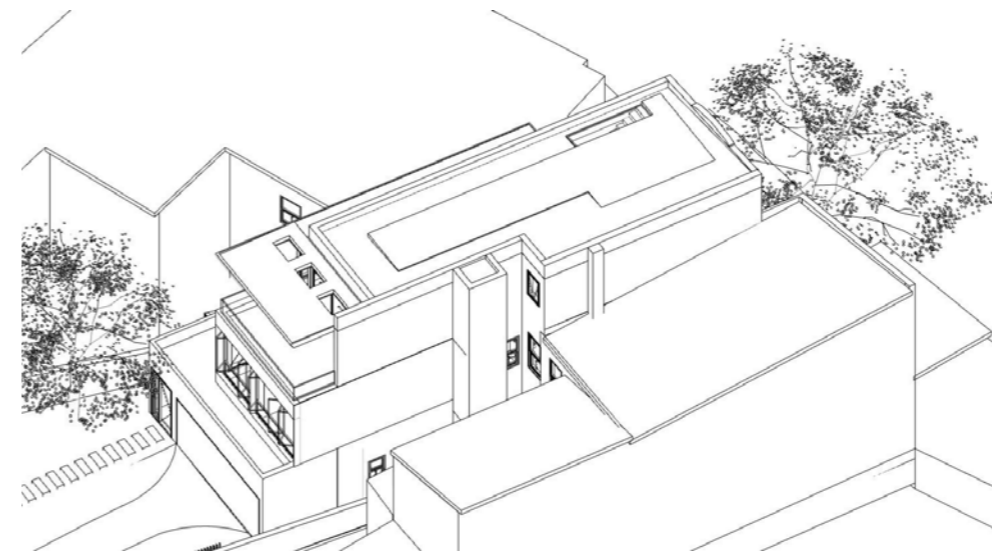
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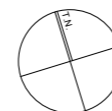
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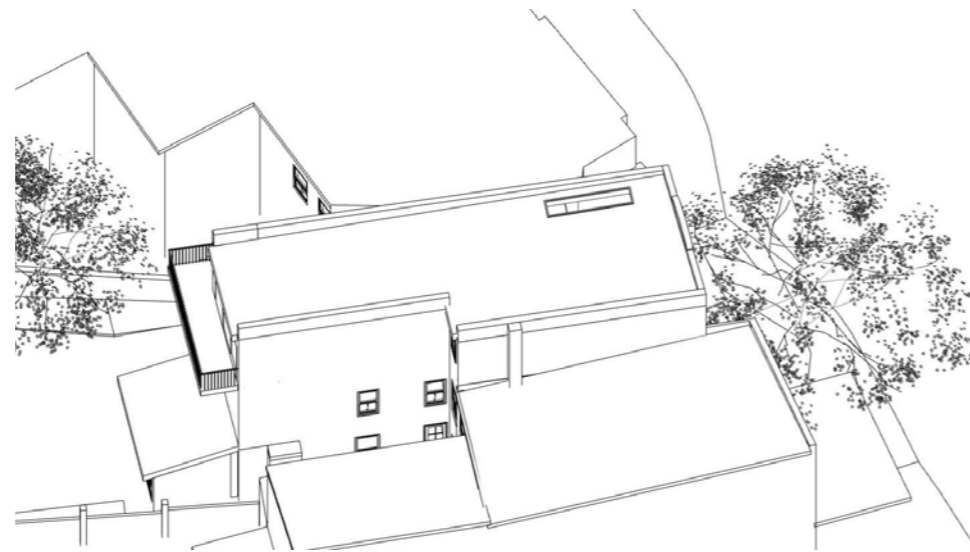


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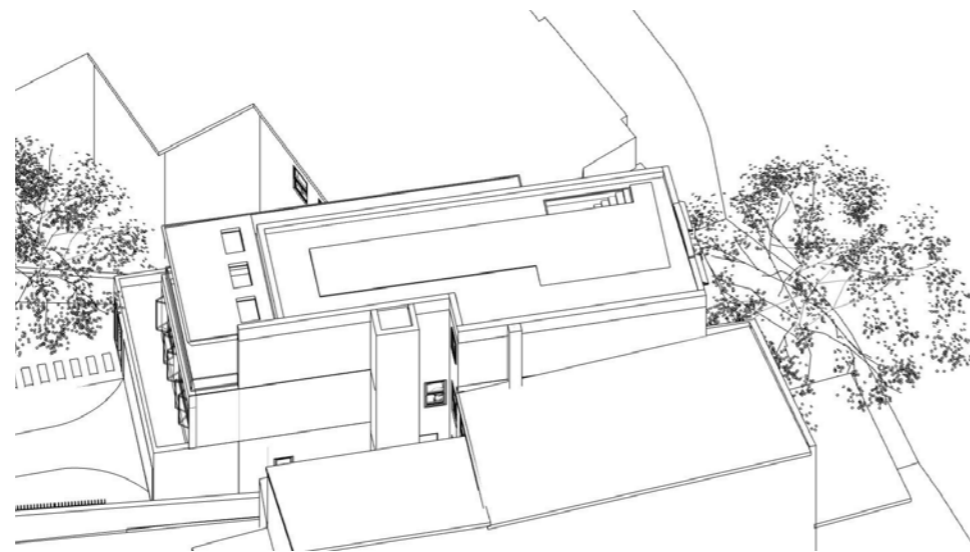




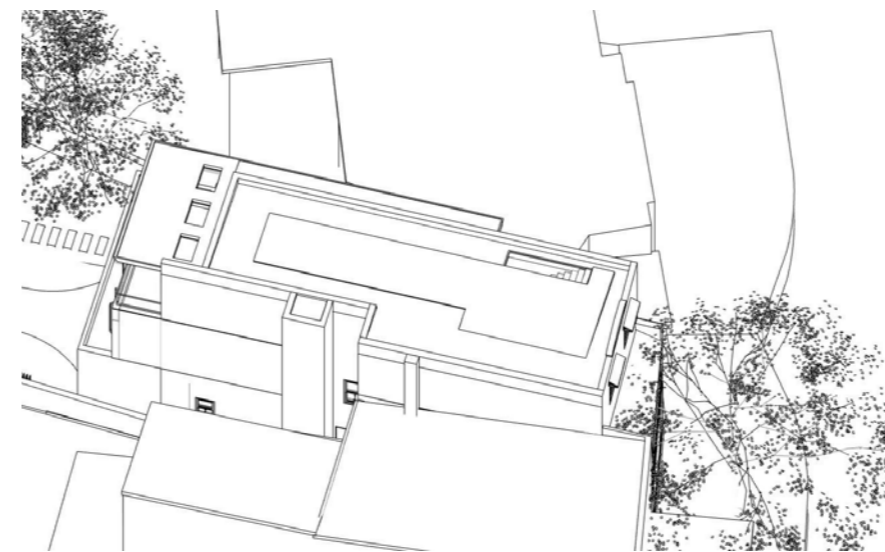
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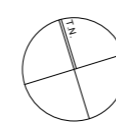
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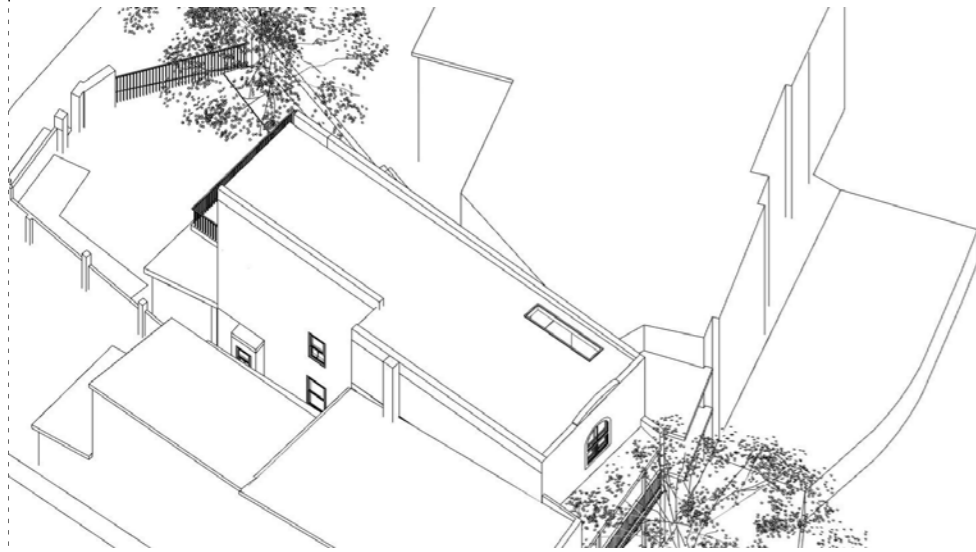


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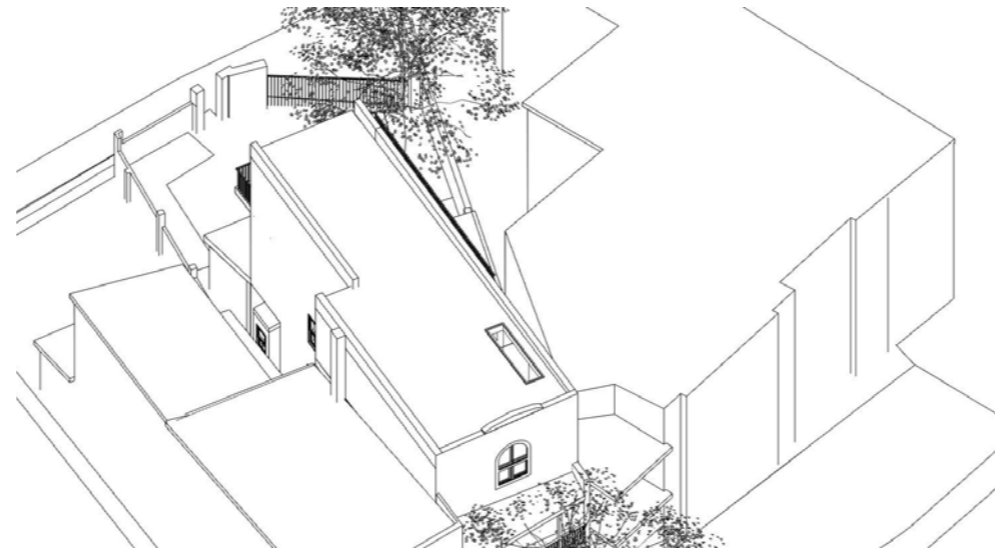


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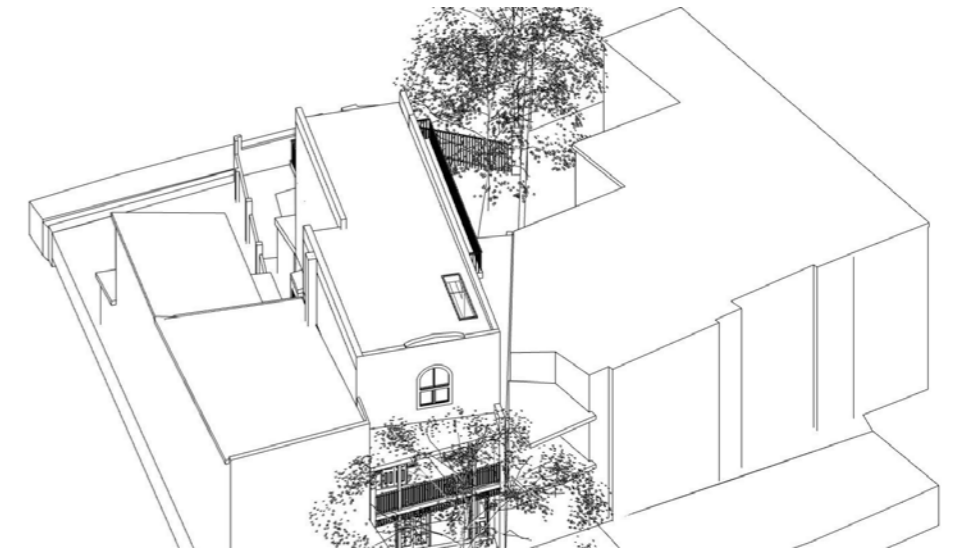




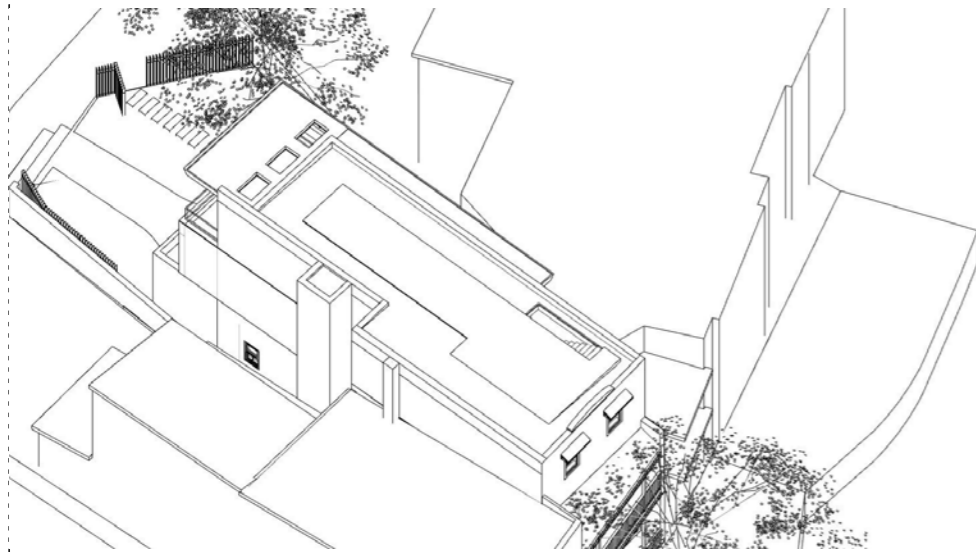
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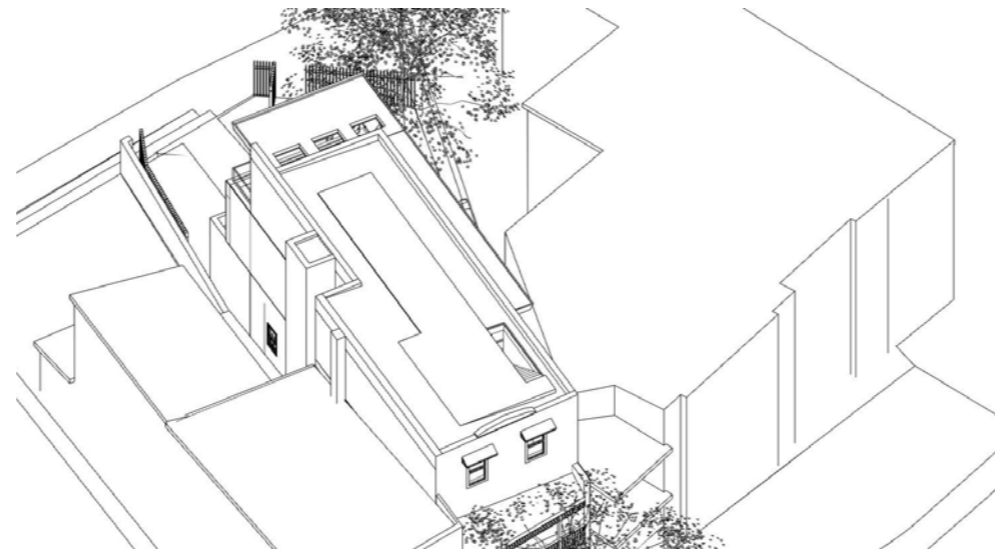
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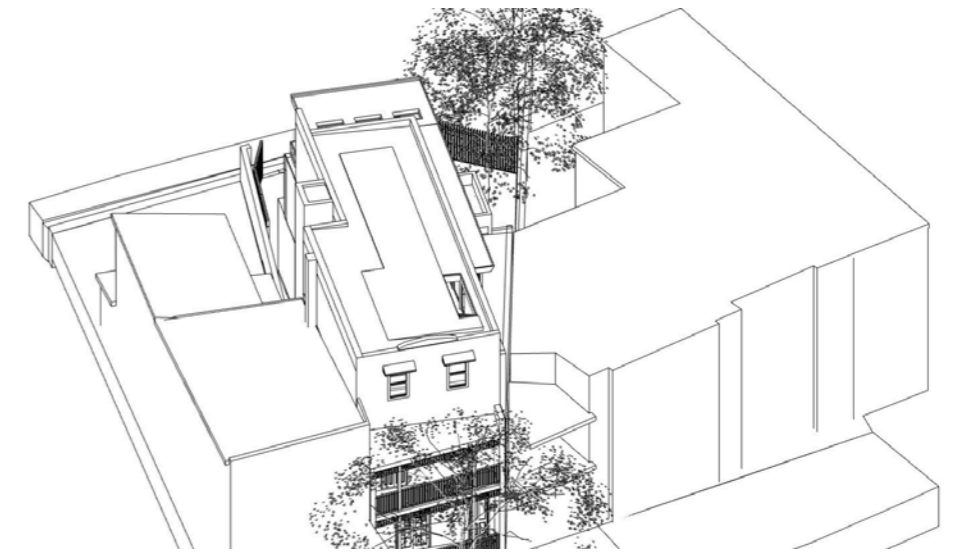
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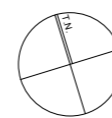
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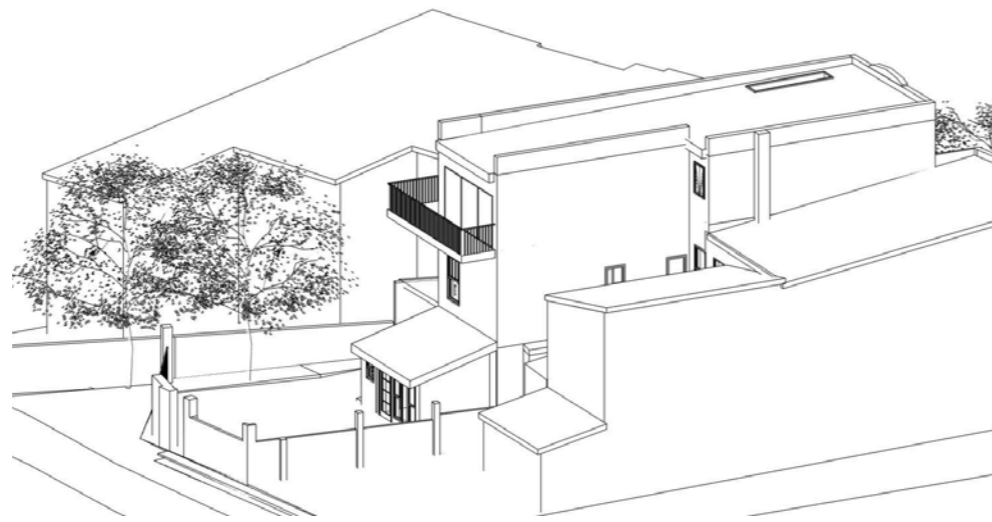


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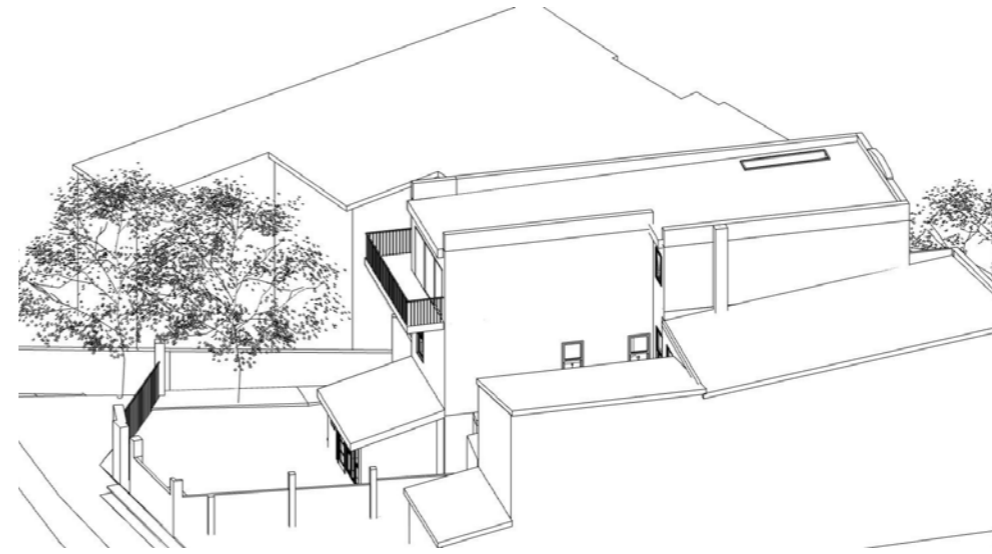


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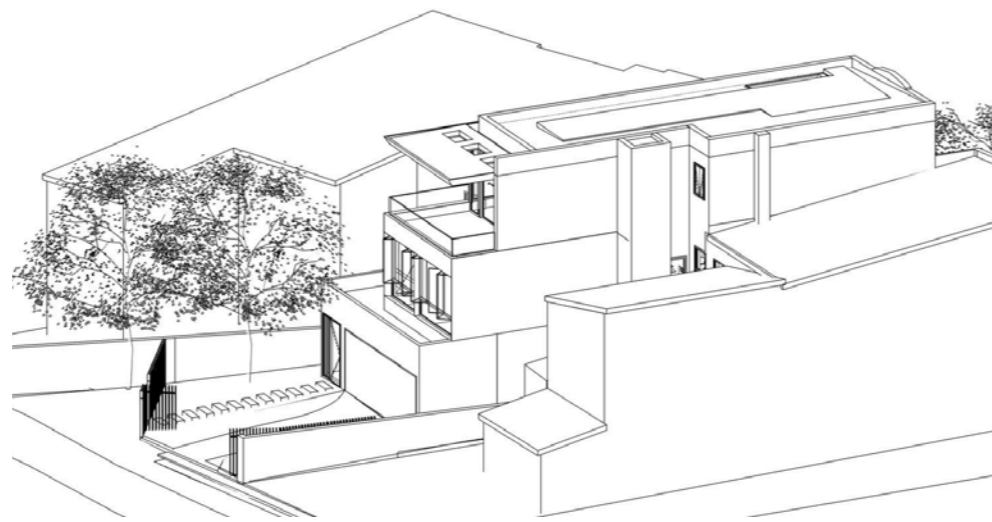




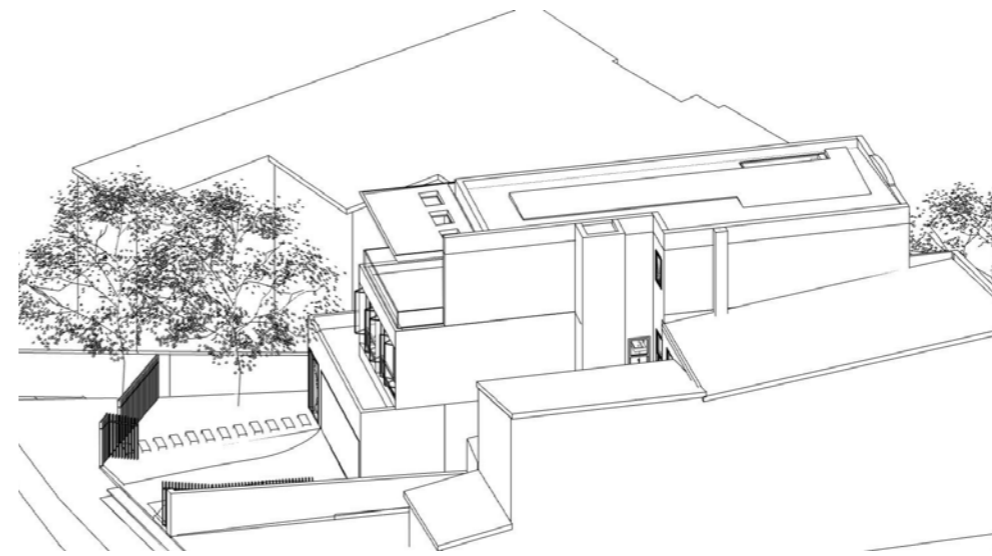
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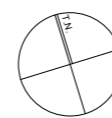
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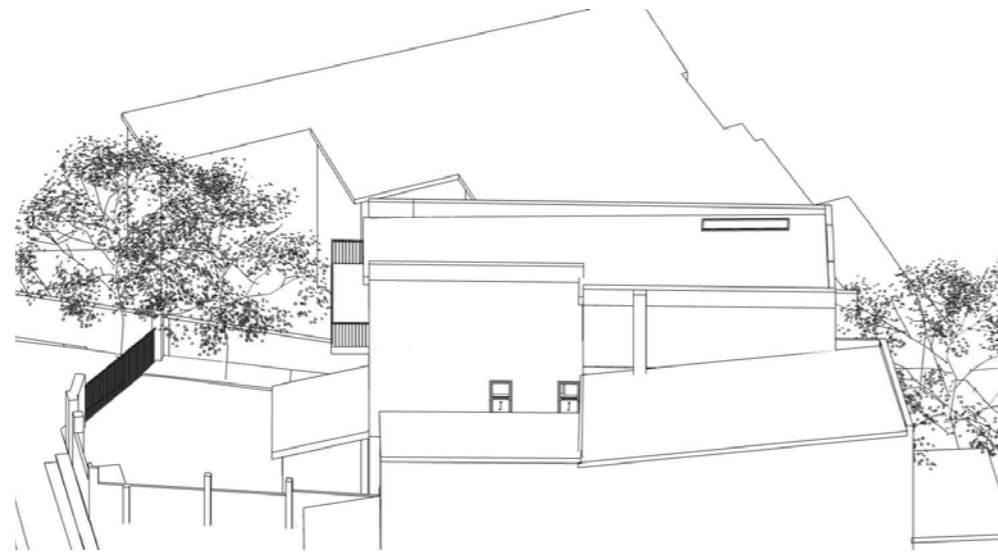


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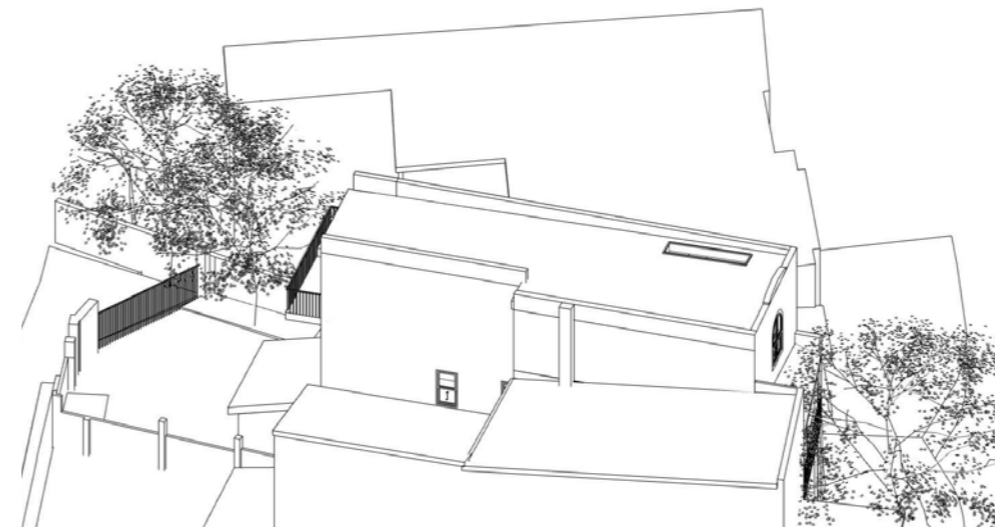


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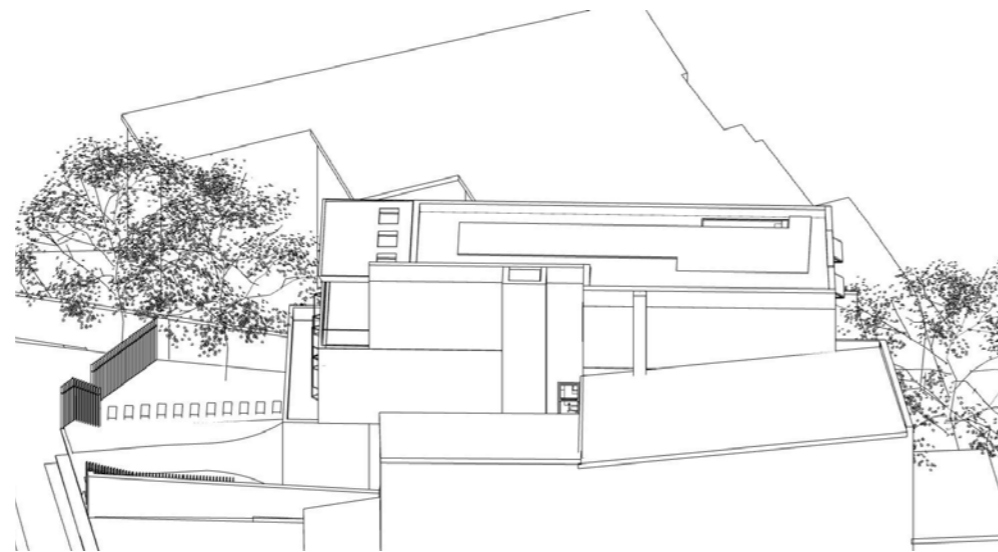




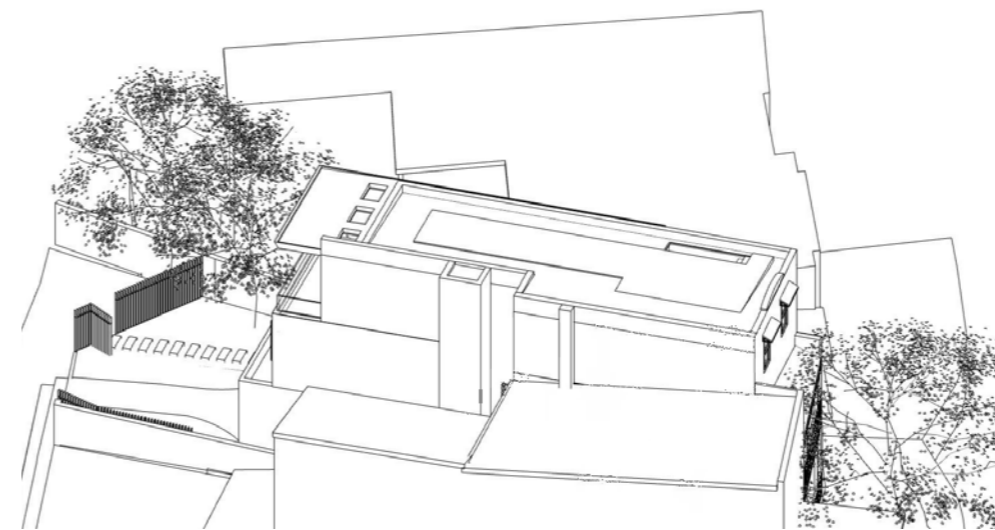
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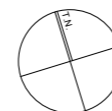
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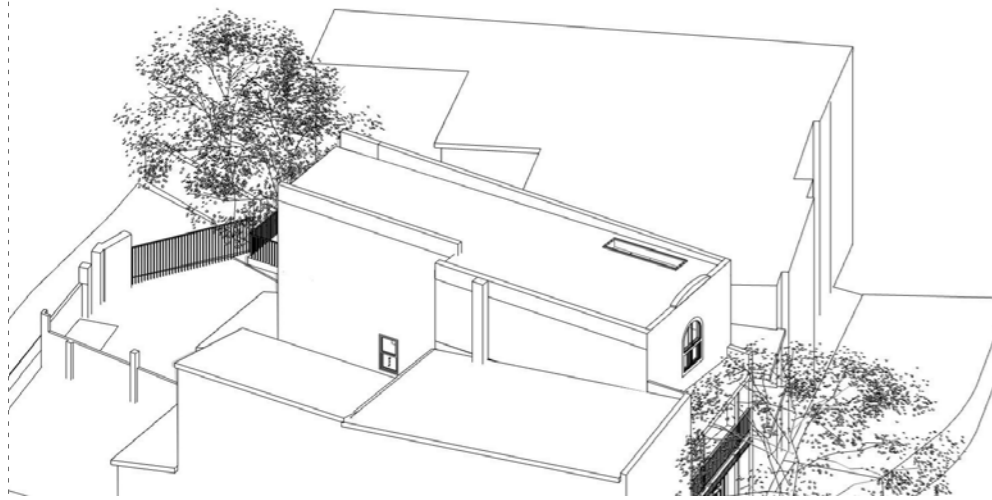


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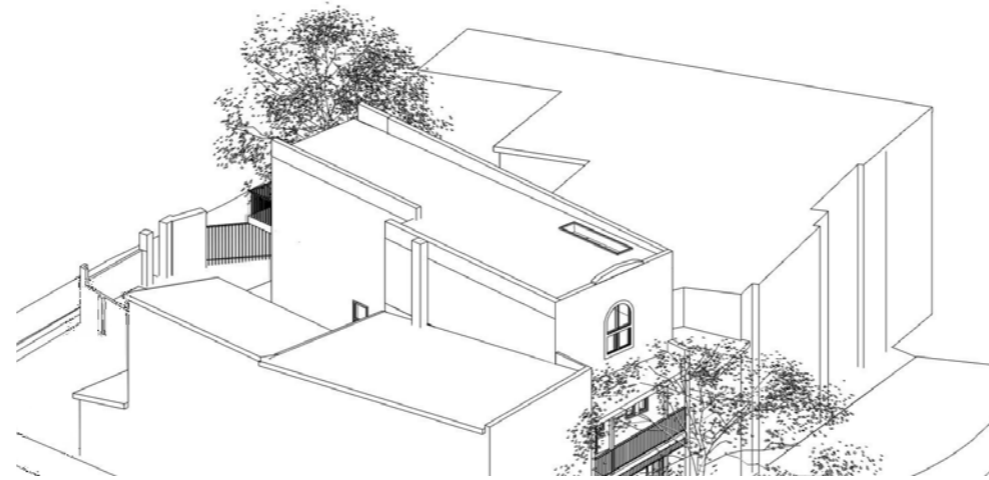


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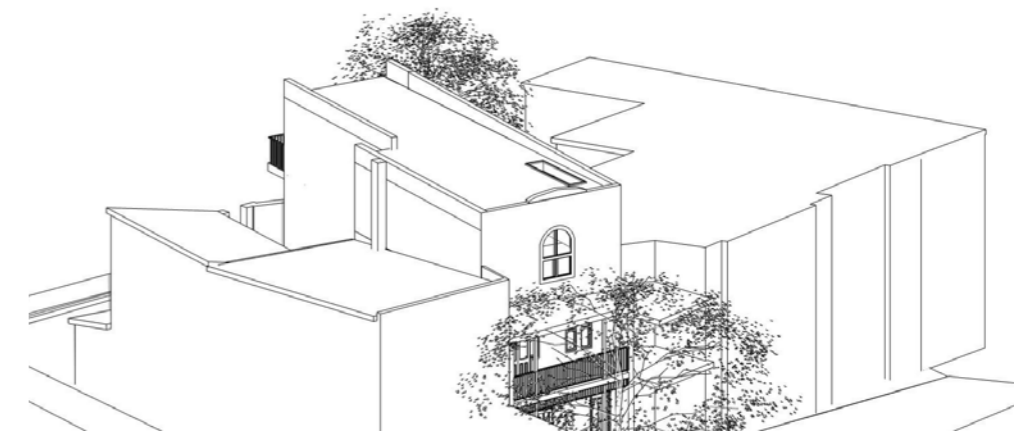




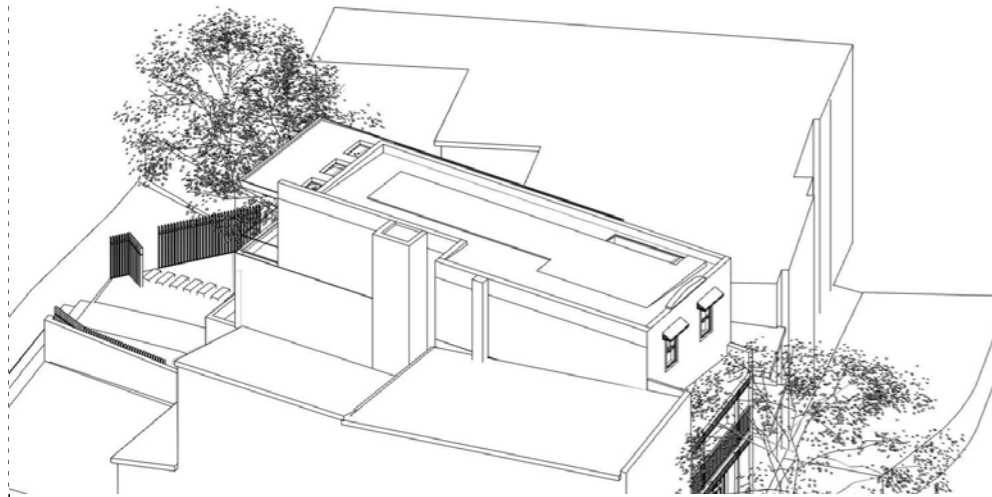
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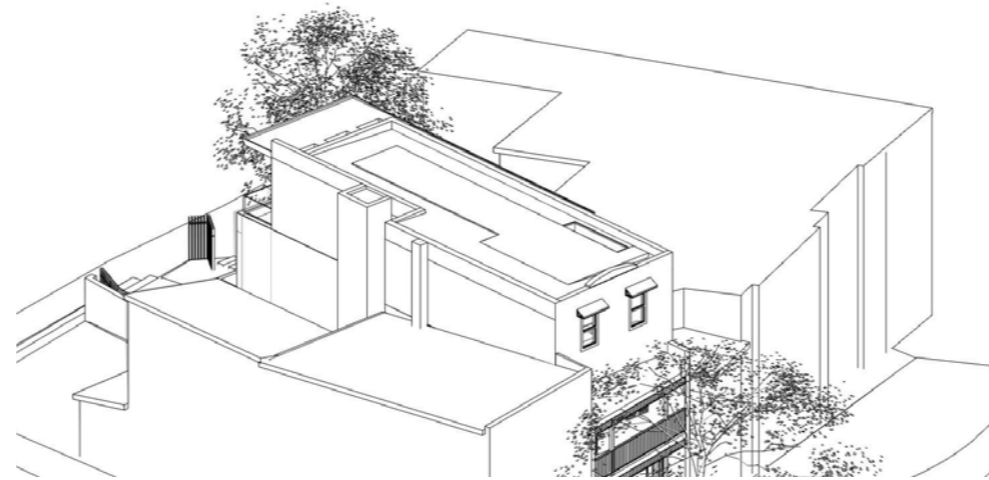
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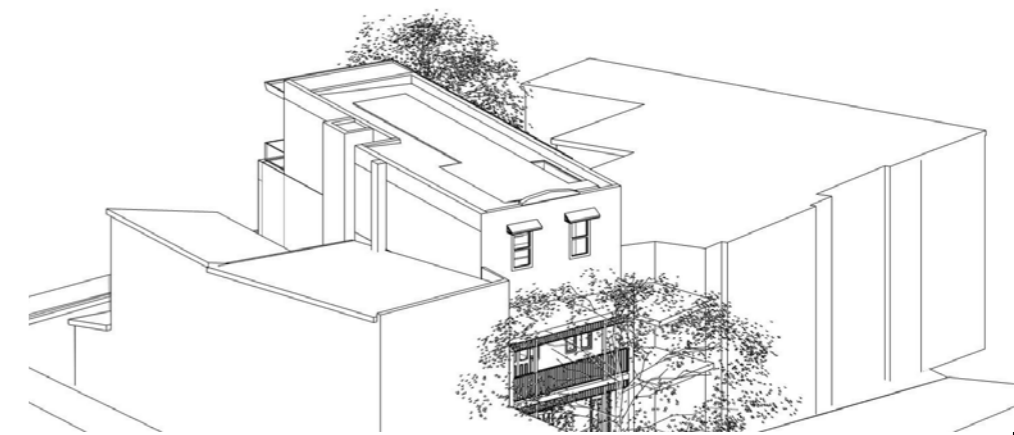
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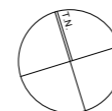
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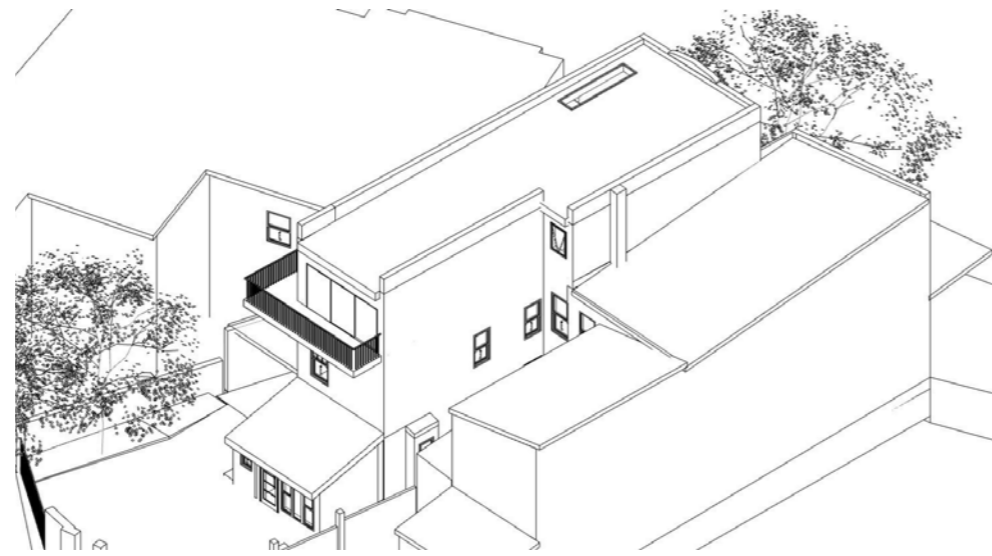


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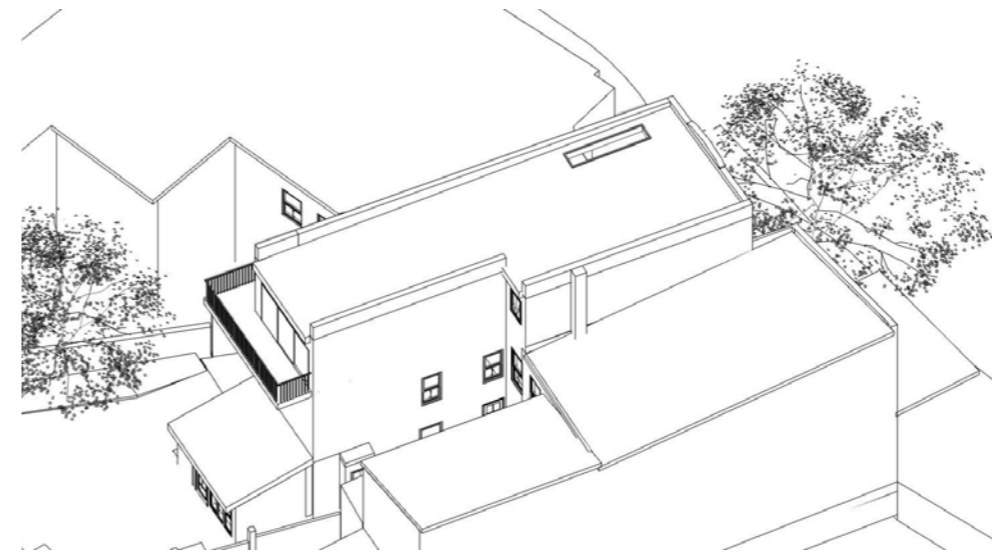


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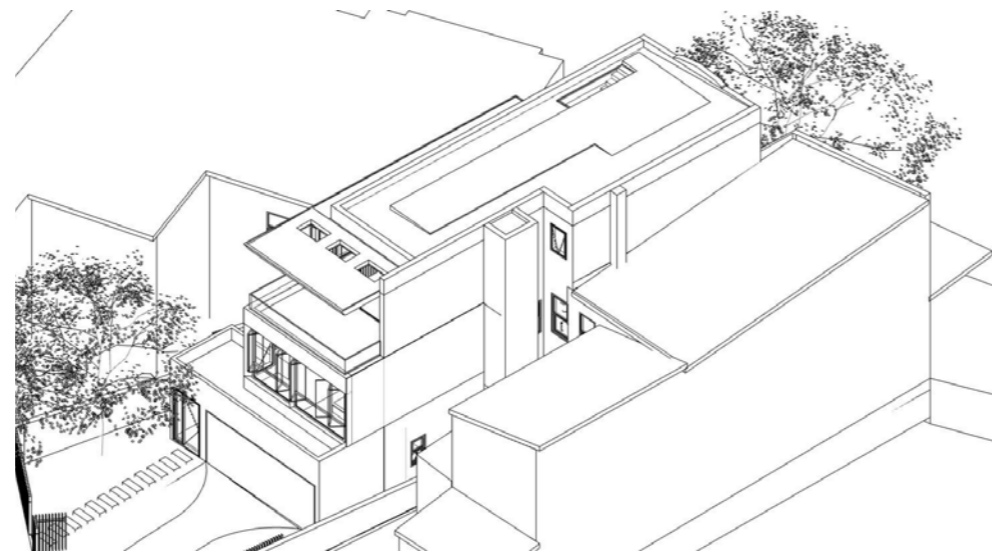




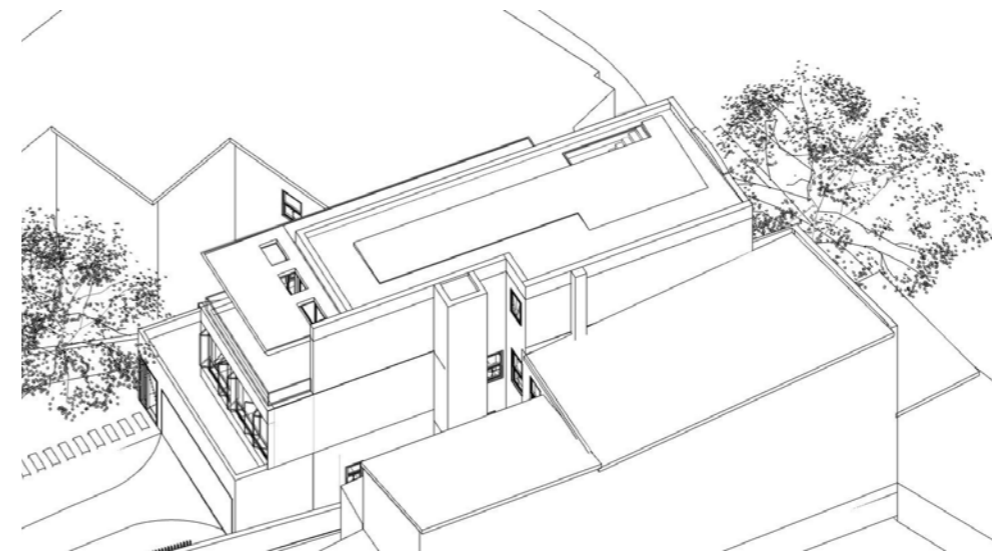
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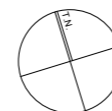
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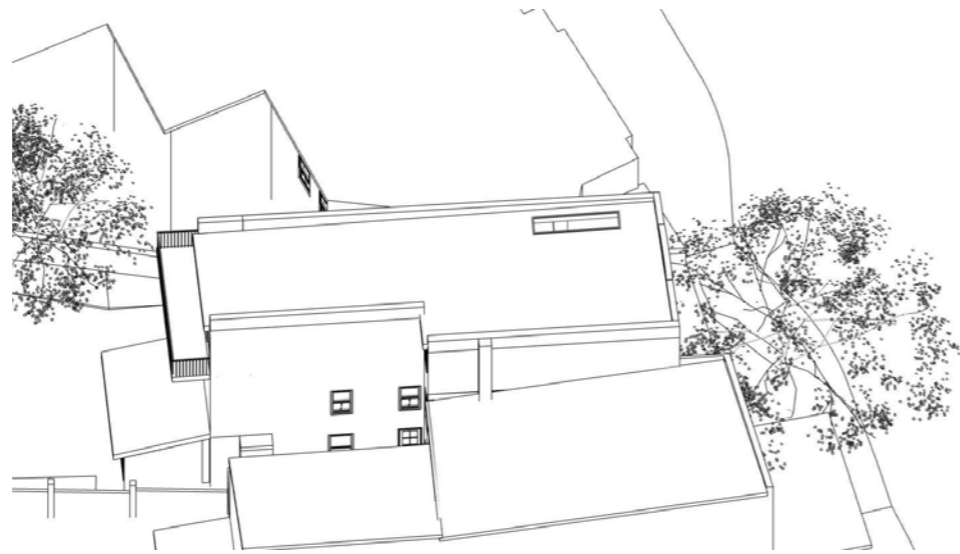


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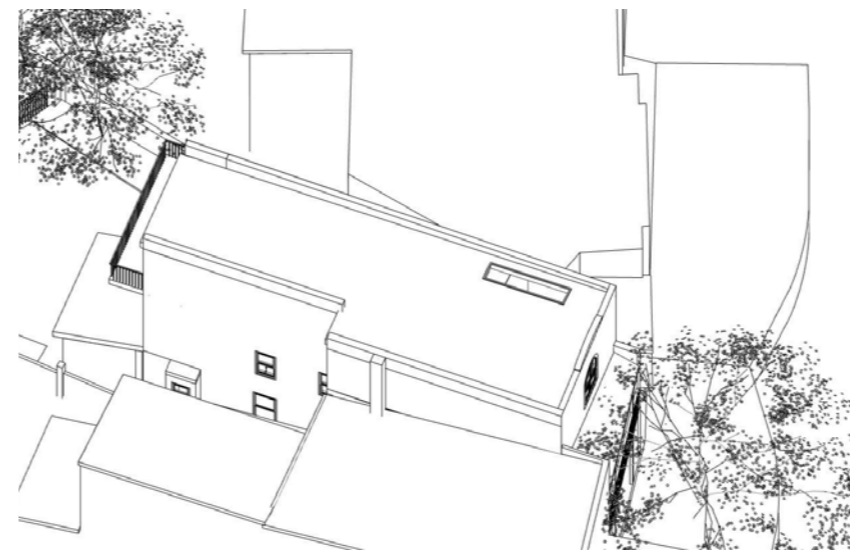


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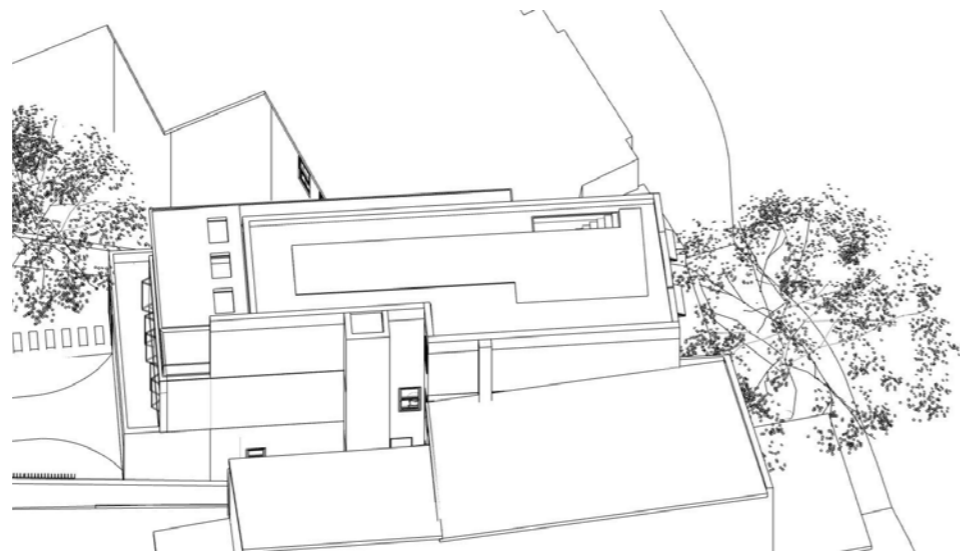




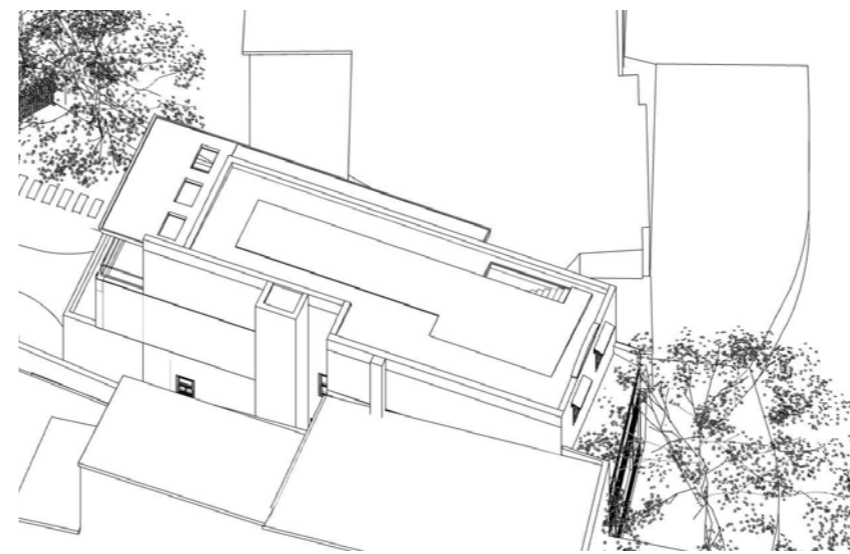
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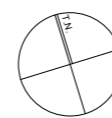
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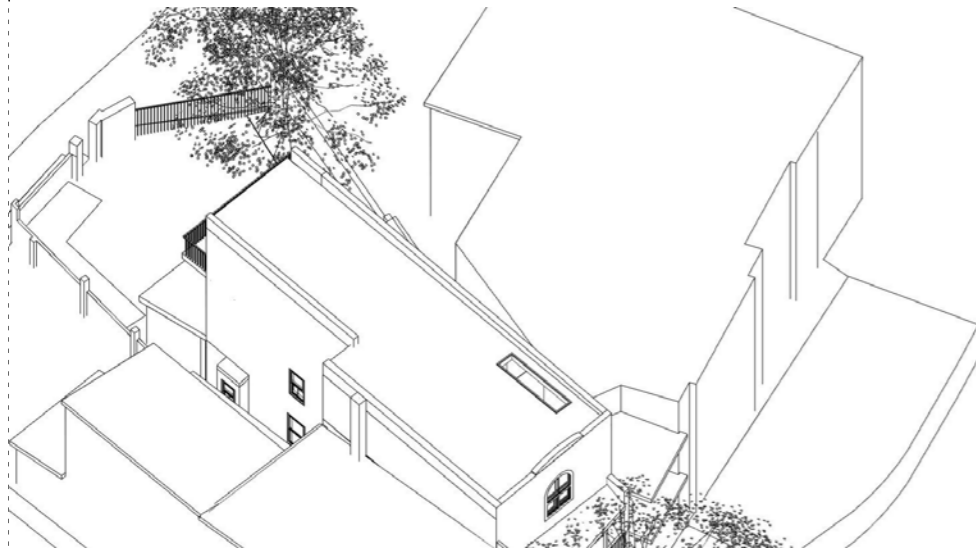


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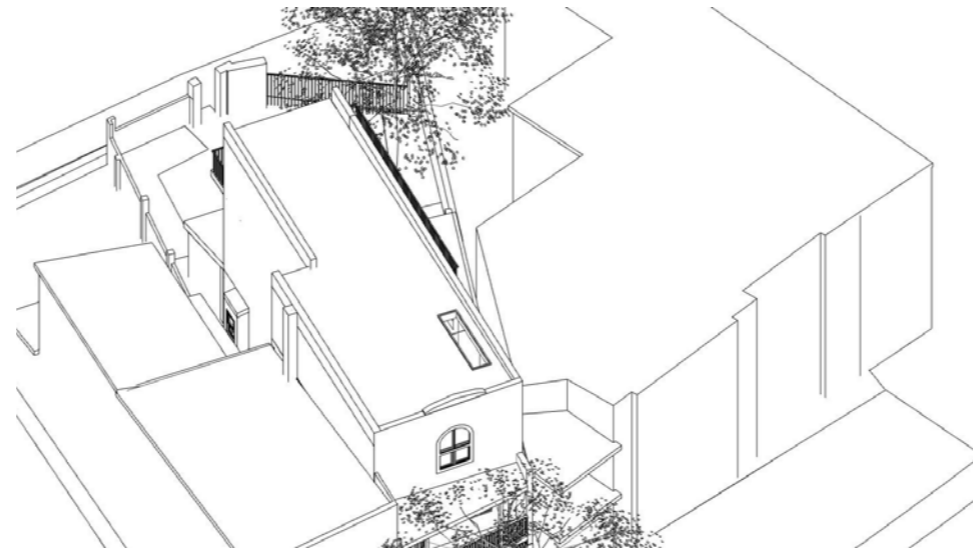


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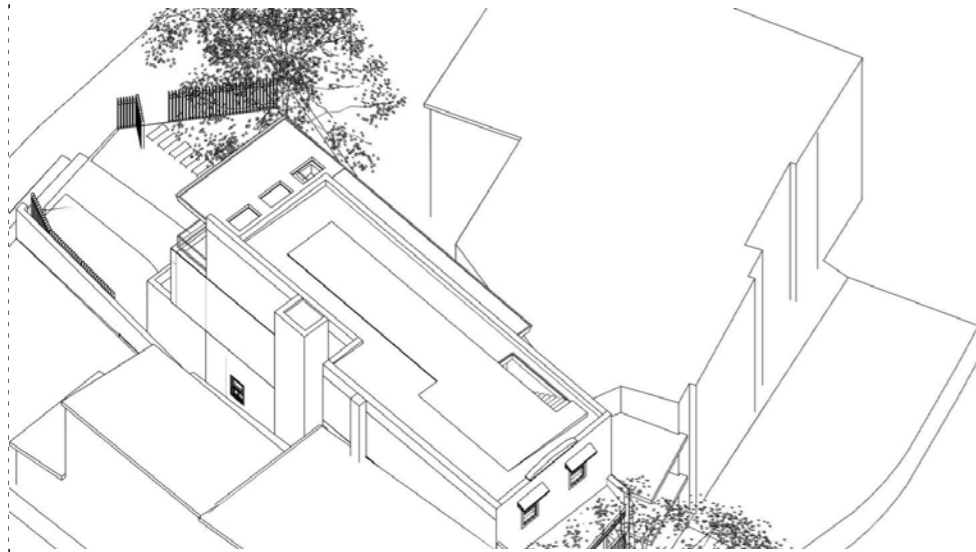
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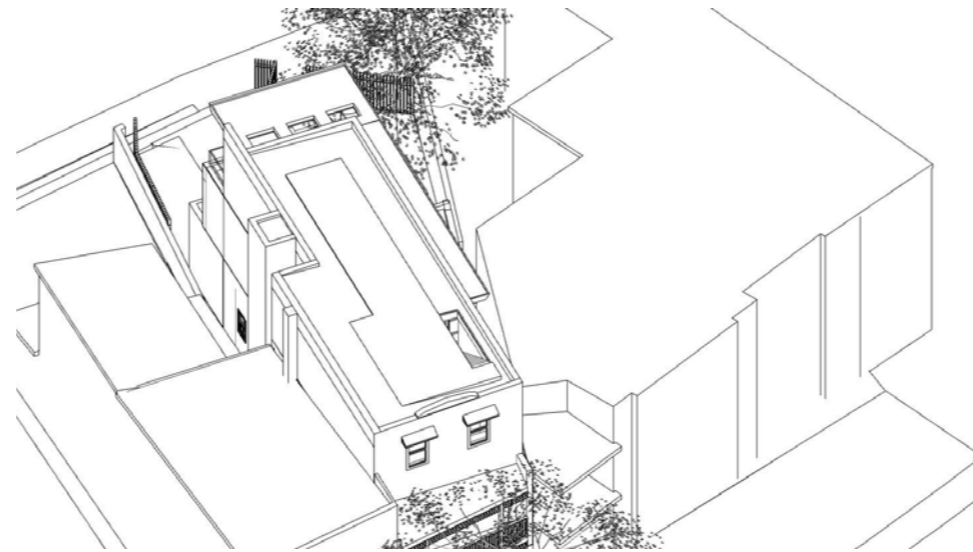
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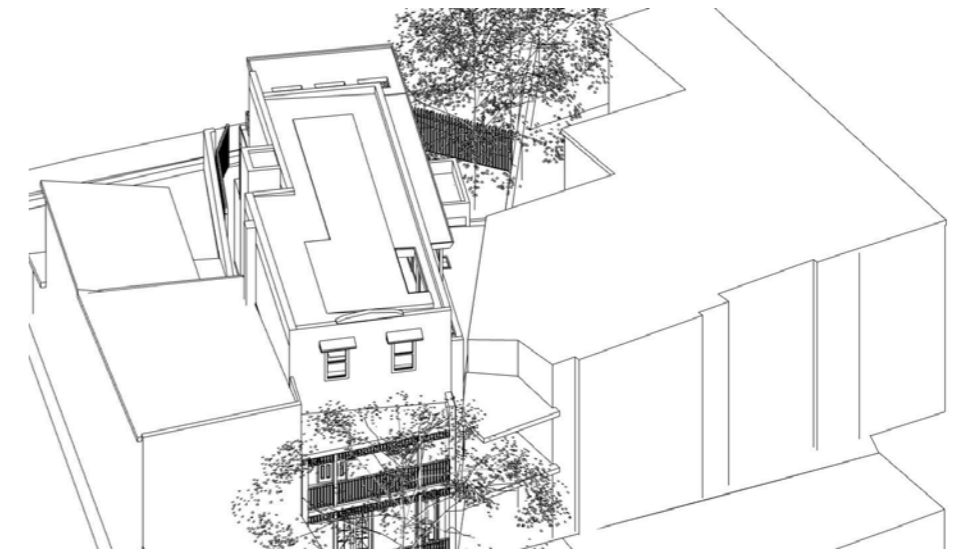
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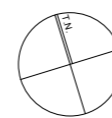
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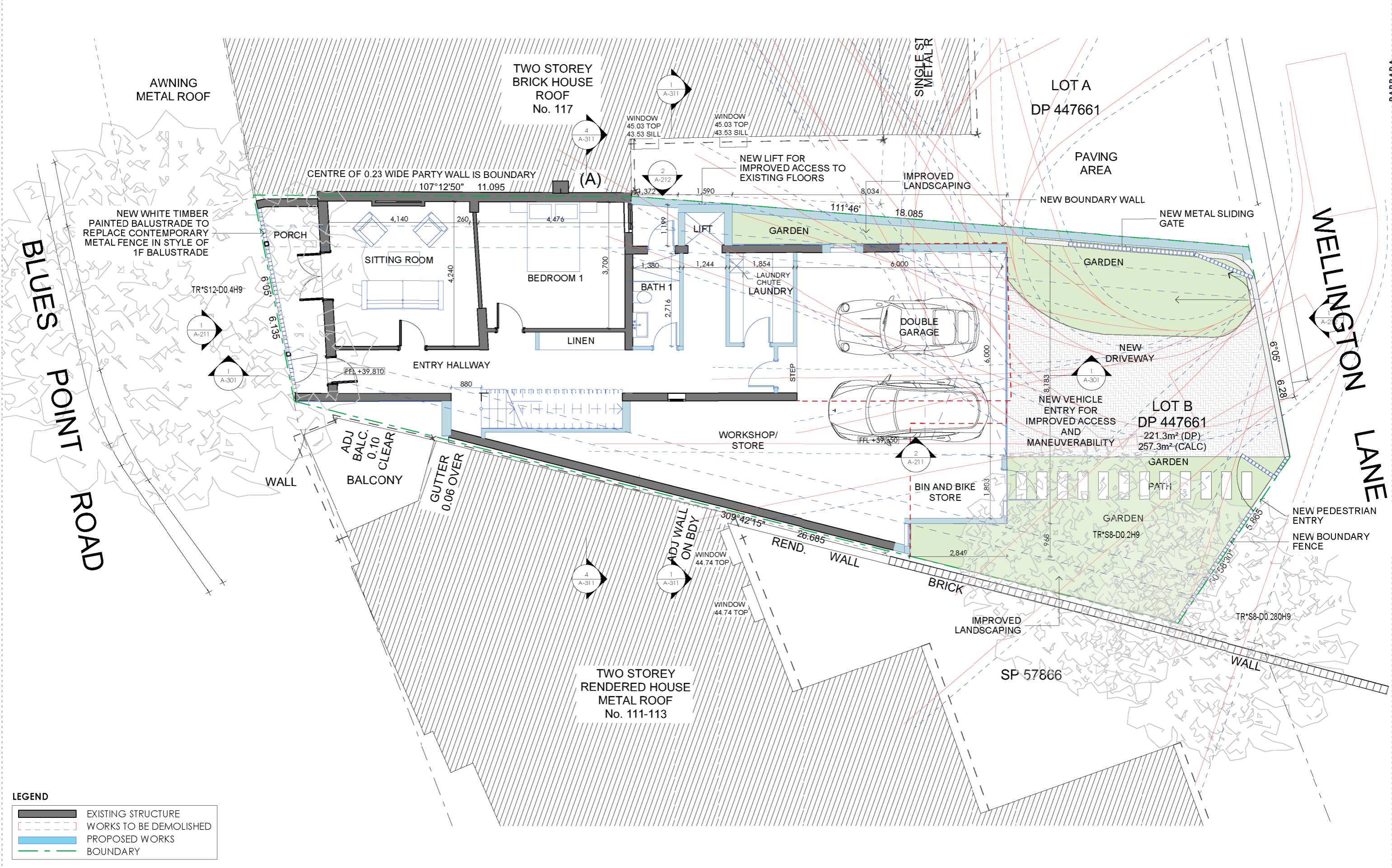


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LEGEND

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	WORKS TO BE DEMOLISHED
	PROPOSED WORKS
	BOUNDARY

BARBARA
ARCHITECTURE & INTERIORS

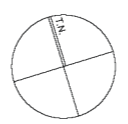
SUITE 6/20 MADDOX ST,
ALEXANDRIA NSW
T: +(61) 400 304 070
E: felicity@studiobarbara.com.au
REGISTERED ARCHITECT:
NSW #10607 Felicity King

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03.05.23
21.09.23

REVISION
A
B

ISSUE
ISSUED FOR DEVELOPMENT APPLICATION
DA AMENDMENTS



ISSUE FOR
DEVELOPMENT APPLICATION

CLIENT
BRUCE AND LAUREN SMITH

PROJECT
LOT B DP 447661
115 BLUES POINT ROAD
MCMAHONS POINT,
NSW, 2060

DRAWING
B85 TURNING CIRCLE

DRAWN WSL	PROJECT NO. 2208
CHECKED FK	SCALE 1:100@ A3
REVISION B	DWG NO. A-720

HERITAGE IMPACT STATEMENT



115 Blues Point Road, McMahons Point

June 2023 | J6115

**Weir
Phillips**
Heritage
and Planning

Level 19, 100 William Street, Sydney, NSW 2011
Phone: (02) 8076 5317

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Revision	Date	Person	Reviewed by
First Issue		CL	PS
Second Issue	9 June 2023	PN	PN

Cover Image: No.115 Blues Point Road from the pedestrian footpath.

We acknowledge that the land on which we live, learn and work as the traditional country of the Gadigal people of the Eora Nation. We acknowledge these traditional owners of this land and acknowledge their living cultures and the unique roles they have played in maintaining life, language, and culture in this region. We pay respect to their Elders past, present and emerging and all Aboriginal people.

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1.0 INTRODUCTION

1.1 Preamble

This Heritage Impact Statement has been prepared in conjunction with a Development Application for alterations and additions at No. 115 Blues Point Road, McMahons Point, New South Wales.

The site is located within the North Sydney Council area. The principal planning control for the site is the North Sydney Local Environmental Plan 2013 (LEP 2013). The site is not listed as a heritage item but is located within the McMahons Point North Heritage Conservation Area as defined by Schedule 5 Part 2 of the North Sydney LEP 2013. Under Part 5.10 of the LEP 2013:

(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or
 - (b) on land that is within a heritage conservation area, or
 - (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),
- require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

The appropriate heritage management document in this instance is a Heritage Impact Statement (HIS).

This report has been prepared at the request of the owners of the site and accompanies plans prepared by Barbara Architecture and Interiors..

1.2 Authorship

This HIS was prepared by Celine Louizos, B. Arch.Env, M.Herit.Cons. (cand.) and James Phillips, B.Sc.(Arch.), B.Arch., M.Herit.Cons.(Hons), of Weir Phillips Heritage and Planning.

1.3 Limitations

A detailed history of the site and a full assessment of significance to NSW Heritage Division standards were not provided for. The history contained in this statement was compiled from readily available sources listed under Section 1.5 below.

An Aboriginal history and assessment was not provided for. No historical archaeology was carried out on the site.

1.4 Methodology

This HIS has been prepared with reference to the NSW Heritage Division publications *Statements of Heritage Impact* (2002 update) and *Planning and Heritage* (1996) and also with reference to the Council planning documents listed under Section 1.5 below.

1.5 Physical Evidence

A site visit was carried out by the authors in December 2022. Unless otherwise stated, the photographs contained in this statement were taken at this time.

1.6 Documentary Evidence

1.6.1 General References

- *Sydney Morning Herald*, 'Advertising', 13 January 1937.
- (Aerial photograph over Blues Point Road and surrounding area), 1943.
<https://maps.six.nsw.gov.au>

1.6.4 Planning Documents

- *North Sydney Development Control Plan 2013*.
- *North Sydney Local Environmental Plan 2013*.

1.7 Site Location

No. 115 Blues Point Road, McMahon's Point is located on the eastern side of Blues Point Road (Figure 1). The site is identified as Lot B, DP447661.

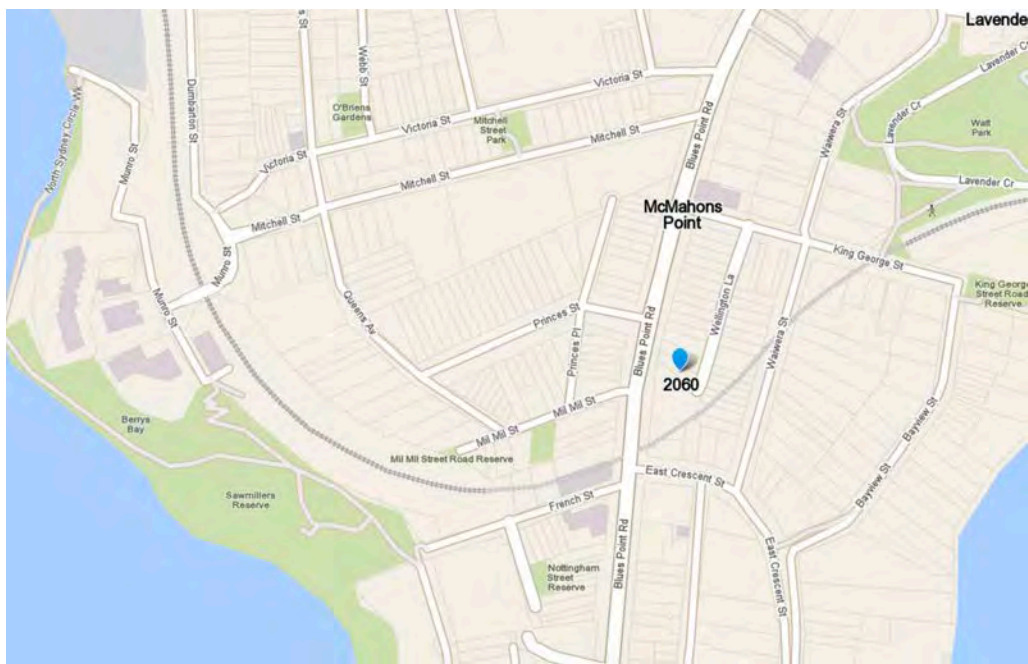


Figure 1: The location of the subject site, marked by the blue dot. Whereis.com

2.0 HISTORICAL DEVELOPMENT

2.1 Original Occupation

At the time of the arrival of the First Fleet in January 1788, the northern shores of Sydney Harbour were inhabited by a number of Aboriginal groups. The Cammeragal and the Wallumedegal, part of the larger Kuring-gai speaking group who occupied an area from North Head inland to the Hawkesbury River and north to Lake Macquarie, are traditionally recognised as the original occupants of the North Sydney and Mosman areas.

2.1 Billy Blue's Grant

In his *An Account of the English Colony in New South Wales*, published at the end of the eighteenth century, David Collins refers to the North Shore of Sydney Harbour, a designation that remains to this day.

From 16 January 1793, successive colonial governors granted land outside the declared boundaries of the township of Sydney in order to open up the land and augment the colony's food supplies. The subject property stands on 80 acres granted to the Jamaican emancipist William ('Billie') Blue (1767?-1834) under the hand of Governor Macquarie on 24 January, 1817. Blue's grant encompassed all of the peninsula known now as Blue's Point. When considered alongside other grants made on the North Shore during the period to 1830, Blue's 80 acre grant is comparatively modest, as befitting his status as an emancipist.

Blue's grant was subject to a number of conditions typical of the period: no land was to be sold or alienated for 5 years; within this time, 18 acres were to be cultivated. The Crown reserved the right to create a public road through the grant and to access all timber deemed 'fit for naval purposes.' The deed of grant specified that it be known by the name of 'Northampton.'¹

Blue worked as a waterman and collected and sold oysters and other items. For a brief period, he had served as harbour watchman and constable. Blue also established a harbour ferry service, giving rise to the nickname the 'Old Commodore'; his 'eccentric' and 'loquacious' character made him a popular figure. The Blue family occupied their North Shore grant and, by the early 1830s, they were reported as keeping a ferryboat and cultivating fruit and vegetables for the Sydney market.

Billy Blue died in 1834 at his property 'Northampton'; under the terms of his will, his grant was divided among his five surviving children, William, Robert, John, Susannah and Mary. Contrary to Blue's wishes, his family began to subdivide and sell their land within two years of his death.

2.2 Growth of the North Shore

The subdivision of Blue's grant occurred at the beginning of a significant period of development on the North Shore. In 1838, the Township of St. Leonards was declared; by 1846, the township boasted a population of just over 400 people. A year after the gazettal of St. Leonards, Blue Point Road was gazetted as a thoroughfare connecting the ferry wharf and the township. The road was sometimes known as St. Leonards Road or Lane Cove Road. A second township, North Sydney, was proclaimed in September 1854.

Outside of the townships, a pattern of harbourside villa estates developed as substantial residences were constructed at Neutral Bay, Kirribilli, Milsons Point and Lavender Bay by prominent merchants, colonial administrators and gentleman. Alongside these villas were more modest dwellings occupied by people able to obtain local or independent employment. Further development at this time was hampered by the fact that the harbour crossing was still reliant on private means. The establishment of the first all-passenger service between Milsons Point and Circular Quay in 1861, and the improvement of ferry services over time, would do much to stimulate progress during the late nineteenth century.

When the Municipality of North Sydney was surveyed between 1890 and 1896, Blues Point Road was well developed. Buildings ranged from modest single storey cottages to substantial harbour side villas. Foreshore sites were popular for ship building and

¹ Register of Grants, Serial 2, Page 122. NSW LPI.

related industries. John W. Eaton Ltd, for example, had relocated to Berry's Bay in 1879, occupying the land now Sawmiller Reserve.

Blues Point Road and the surrounding area continued to develop during the first part of the nineteenth century, particularly following the opening of a tramline to McMahons Point wharf in 1909. By the late 1920s, North Sydney municipality was approaching its limits with regard to suburban development. The last major subdivision in the area (in Cammeray) occurred around World War I. The population of the area reached 52,000 in 1925 and remained fairly stable for the following fifty years.² During this period many of the formerly large Victorian and Federation period estates were subdivided. Following the opening of the Harbour Bridge in 1933, the tram service along Blues Point Road closed and was replaced by a bus service, with its consequent impact on the streetscape.

2.5 No. 115 Blues Point Road

A land title search is required to confirm who purchased the subject site from the original subdivision and the subsequent chain of property transfers.

The first time the building can be confidently identified in the *John Sands' Sydney and Suburban Directories* is in 1911, where it was listed under its current address of No. 115 Blues Point Road and occupied by Frederick Richards. A construction date of c. 1910-1911 is consistent with the Federation style of the building.

Richards is continuously listed from 1911 through to the last edition of the *Sands' Directories* in 1932/33, which may suggest that he was the owner and/or builder of No. 115 Blues Point Road. Richards is recorded as having lived there until his death in 1937.³ The later history of the building has not been clearly ascertained.

Figure 2 shows an aerial photograph over the site c. 1943.

² Godden Mackay, *op cit.*, 1995, p.43.

³ *Sydney Morning Herald*, 'Advertising', 13 January 1937.



Figure 2: Aerial photograph over the site (c. 1943). The red arrow indicates the building.

SIX Maps

The site is clearly located in Figure 2. The site and wider area has undergone significant change. Many of the surrounding lots, particularly to the south, have been redeveloped into contemporary dwellings.

No historic photographs of the building at street level have been located.

3.0 SITE ASSESSMENT

3.1 The Site

For the following, refer to Figure 3, an aerial photograph over the site, and to the survey that accompanies this application.

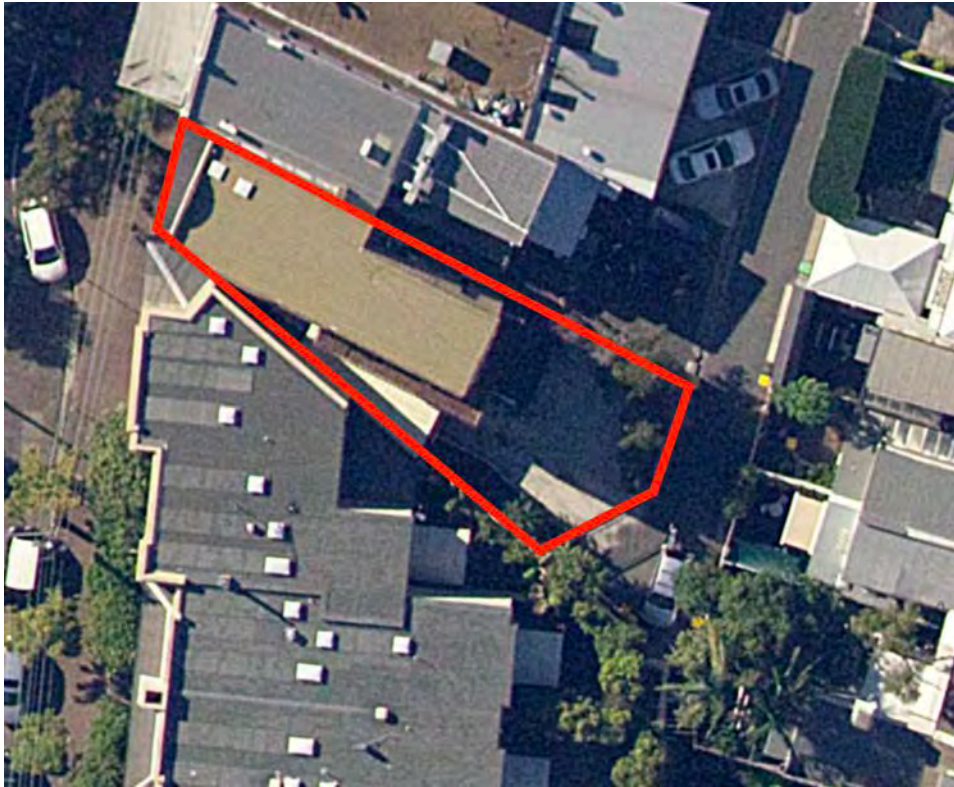


Figure 3: An aerial photograph over the subject site.

SIX Maps, accessed December 2023.

The site is located on the eastern side of Blues Point Road Street.

The site is a rectangular shape, with a Blues Point Road (western) boundary of approximately 6.135m; an northern side boundary of approximately 18.085m; a eastern boundary to Wellington Lane of approximately 12.145m; and a combined southern side boundary of approximately 26.685. The site is approximately 221.3sqm (by calculation). The site is generally flat .

The principal building form is set back from the front boundary by approximately 2.0m. The front portion of the building is set on its northern boundary and is set back from its southern side boundary providing for a narrow hardstand. The rear wing to the principal building form is located towards the eastern boundary of the site. The single-story rear lean-to is attached to the rear wing.

Narrow steps provide access to the front verandah and the front door. The front stairs and the front verandah are tiled. The northern boundary has a narrow set back from the adjacent property and is covered with gravel.

The garage is accessed off Wellington Lane and is located along the southern side of the rear wing and has polycarbonate roof sheeting. The rear yard is covered with gravel and there are perimeter garden beds located on the northern and southern boundary within the yard. There are several trees in the rear yard along the southern boundary.

Within the rear yard the northern side boundary and rear eastern boundary consists of a low height brick masonry wall. There is a timber pedestrian gate located within the rear eastern boundary fence.

Figure 4 to Figure 6 illustrate the subject site.



Figure 4: Looking directly towards the subject site from the street.

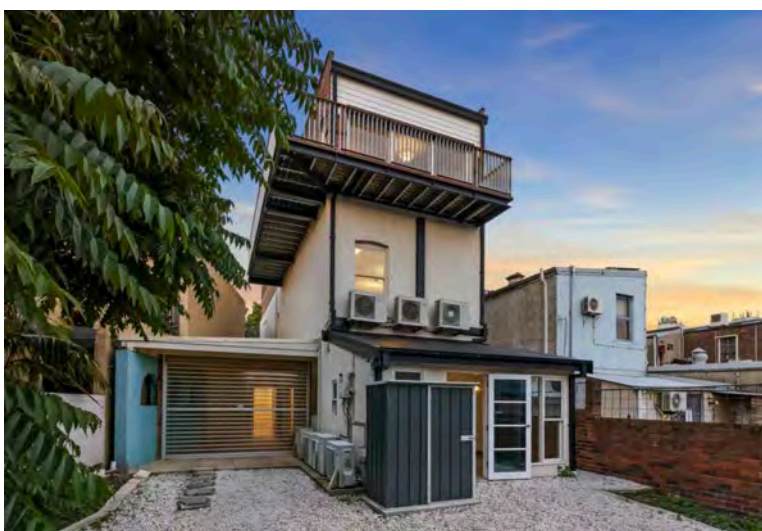


Figure 5: Looking towards the rear Eastern elevation of the site.



Figure 6: Looking towards the garage along the Southern elevation of the subject site.

3.2 The Building

3.2.1 The Exterior

No.115 Blues Point Road presents as a modified Federation Style terrace. The terrace is comprised of a three-storey principal building form, a three-storey rear wing

Principal Building Form

The dwelling on the site is an semi-dettached three-storey terrace. The principal elevation to Blues Point Road is constructed of face brick.

On the ground floor Verandah there is a pair of contemporary French doors with top lights above and a timber panelled entry door with highlight to the south side of the dwelling. At first floor level there is a pair of double hung timber framed windows and timber framed French doors that open onto the first-floor timber deck verandah with metal roof. At second floor level, there is a brick parapet roof with an arched brick detail and arched centrally located window. The roof is clad in corrugated steel.

The rear elevation of the dwelling consists of a ground floor rear lean to with a skillion roof clad in metal sheeting. The first-floor level consists of painted brick with one flat arched opening with a double hung timber framed window. The Second floor is comprised of light weight cladding with a timber balcony that wraps around onto the southern elevation. There is one timber framed double hung window at first floor level and one aluminium framed window at second floor level within this elevation.

The northern elevation is semi detached to the adjacent dwelling and consists of white painted brickwork at ground floor level and facebrick work at second and third floor level. There are two double hung timber framed windows located within this elevation.

The southern elevation consists of white painted brickwork up to second floor level, the third floor is facebrick. There are aluminium and timber framed windows located within these elevations.

Figure 7 to Figure 11 illustrate the building.

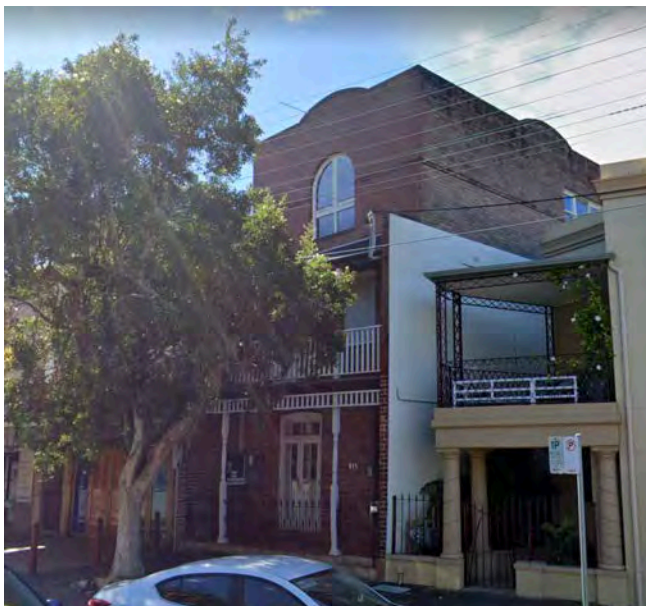


Figure 7: Looking directly towards the subject site.

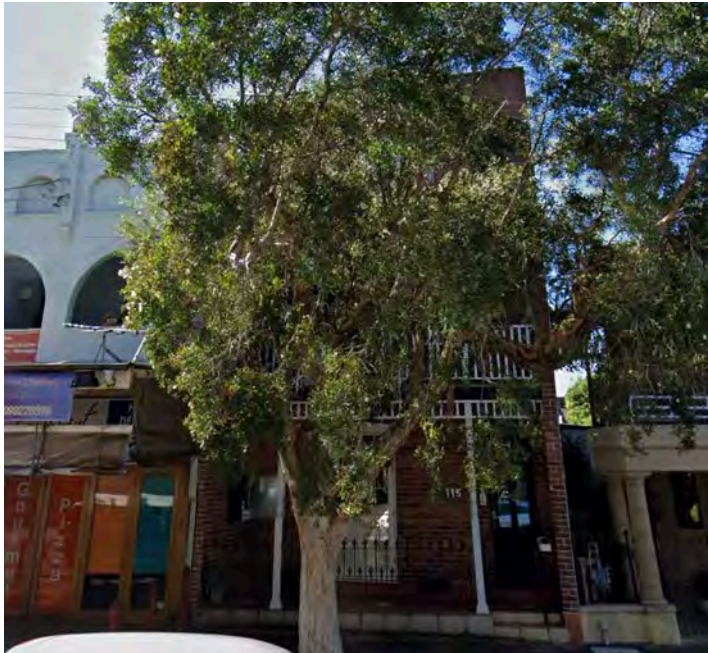


Figure 8: Looking towards the subject site from the opposite side of Blues Point Road.



Figure 9: View of the front elevation. From Blues Point Road.



Figure 10: Looking south west towards the north and east elevations of the rear wing



Figure 11: Looking towards the southern and eastern elevations of the rear wing.

3.2.2 The Interior

For the following, refer to Figure 12, an existing floorplan of the dwelling.



Figure 12: Existing floor plans.

The entry corridor accessed from Blues Point Road has contemporary carpet and provides access to bedroom 1 and bedroom 2 as well as a timber stair up to the first-floor level located within the principal building form. The corridor also provides access to the powder room, kitchen and the lean-to containing the rear additional room and powder room.

Both bedrooms are characterised by rendered and painted masonry walls and plain replacement gyprock ceilings with decorative plaster cornices, plain timber doors, timber skirting boards and decorative architraves. The original marble fireplaces remain in both bedrooms. The bathrooms and kitchen have contemporary fit outs.



Figure 13: Looking towards the corridor from the front entry.



Figure 14: Room 1 at ground floor level.



Figure 15: Room 2 at ground floor level.



Figure 16: Looking towards the entry corridor from the kitchen.

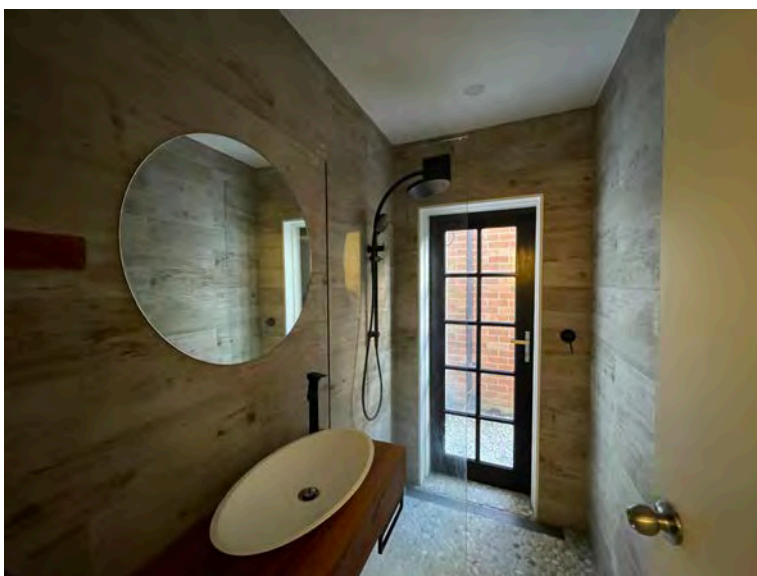


Figure 17: The bathroom at ground floor level.



Figure 18: The looking towards the rear yard from the back room of the dwelling.

First floor

Bedroom 3, Bedroom 4, and Room 5 are located within the principal building form at first floor level. Room 6 is located within the rear wing. Room 3 has a pair of double hung windows and contemporary French doors which open onto the balcony. There is an original timber fireplace located within this room. These rooms generally have similar finishes including rendered and painted masonry walls and plaster ceilings with timber panelled doors, timber skirting boards, decorative architraves, timber framed windows and carpeted floors.

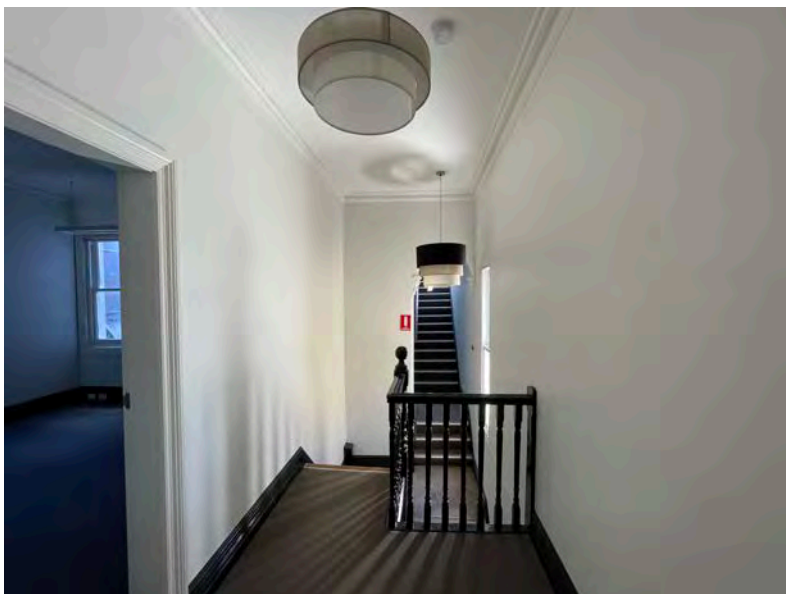


Figure 19: Looking towards the staircase from second floor level.



Figure 20: Room 3 at first floor level. Realestate.com.au

Second floor

The second-floor room is characterised by contemporary carpet, rendered and painted walls, contemporary timber framed windows and doors, and contemporary glass doors. The bathroom has contemporary finishes and fixtures. The balcony consists of contemporary timber decking with a metal balustrade.



Figure 21: Room 7 at second floor level. Realestate.com.au



Figure 22: Room 7 and balcony at second floor level. Realestate.com.au

3.3 The General Area

In order to understand the impact of the proposed development, the character of the surrounding area must first be understood and relationships between the site and any nearby heritage items established.

For the following, refer to Figure 23, an aerial photograph over the site and the surrounding area.

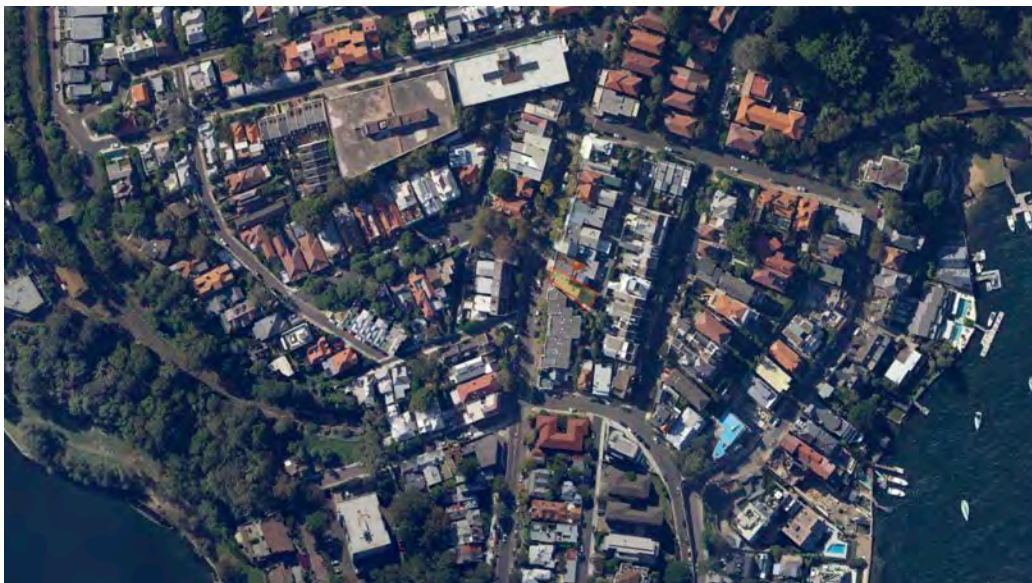


Figure 23: An aerial photograph showing the subject site and its surrounds. The subject site is outlined in red and indicated by the red arrow.

SIX Maps, accessed December 2023

Section 9.7 of the *North Sydney DCP 2013* provides the following description for the McMahons Point North Heritage Conservation Area, in which the subject site is located:

'The topography of the locality slopes down from North Sydney towards Blues Point. Blues Point Road runs down the ridge to the Blues Point peninsula with the landform falling away on either side. A steep escarpment runs parallel to the western side of Waiwera Street. The subdivision pattern is not strongly related to

the topography with irregular lots and street patterns. The area is characterised by Victorian, Federation and Inter-war period residential and retail development. Buildings are characteristically small to moderate sized group developments of attached dwellings and semi-detached dwellings. Characteristic building materials include dark brick, painted or rendered brick and weatherboards. Roofs are tiled, corrugated iron and sometimes slate. Details include use of sandstone in retaining walls and timber and plaster façade detailing. Princes Street is an intact example of a Federation subdivision and Blues Point Road is a significant commercial strip in North Sydney.'

3.3.1 Blues Point Road

Blues Point Road runs between Blue Street and terminates into a cul de sac towards Blues Bay. The street proceeds in a southerly direction from Blue Street. There are narrow footpaths to either side. Blues Point Road carries traffic in two directions and has Parking available on both sides of the street. There are narrow footpaths to either side and multiple mature street trees. There is one mature street tree directly in front of the subject site. The section of the street where the property is situated includes residential and business operations.

Figure 24 and Figure 25 illustrate Blues Point Road in vicinity of the subject site.



Figure 24: Looking East along Blues Point Road.

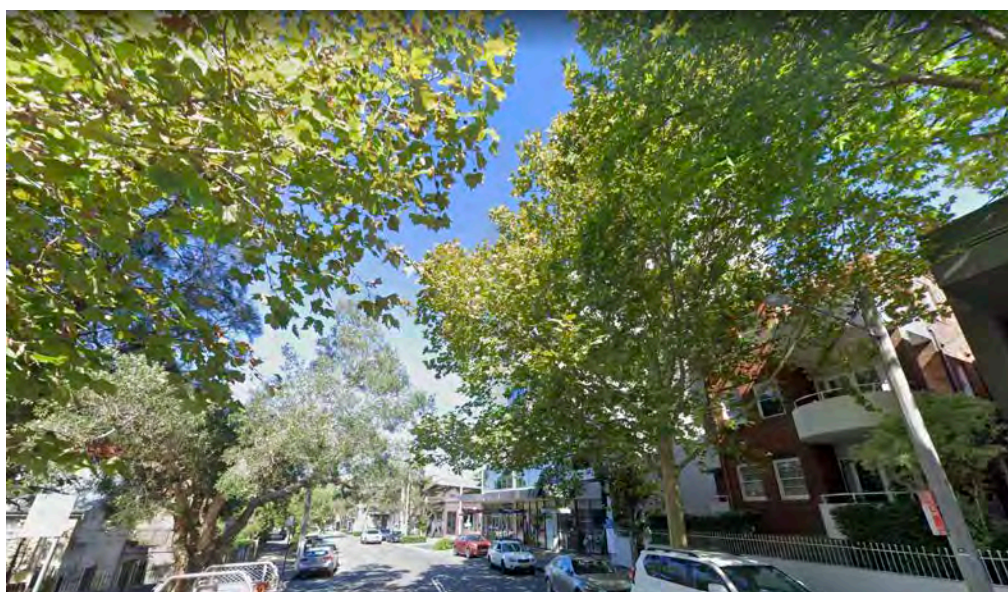


Figure 25: Travelling South along Blues Point Road. Google Maps

3.3.1 Wellington Lane

Wellington Lane runs north-south from King George Street and term and Point Piper Lane. It is essentially a service corridor that provides rear access to properties addressing Blues Point Road and Waiwera Street. The section of Wellington Lane in which the subject site is located is characterised by modern carports and garages, typically constructed from concrete or brick. Many of the rear elevations of dwellings have been significant altered such that there is no consistency along the lane.



Figure 26: Looking East towards the rear of No.26 Waiwera from Wellington Lane. Google Maps



Figure 27: Travelling South along Wellington Lane. Google Maps

4.0 ASSESSMENT OF SIGNIFICANCE

4.1 Summary of Existing Citations and Listings for the Site

No. 115 Blues Point Road, McMahons Point:

- Is not listed as a heritage item on the State Heritage Register under the auspices of the *NSW Heritage Act 1977*.
- Is not listed as an item of local heritage significance by Schedule 5 Part 2 of *North Sydney LEP 2013*.
- Is located within the McMahons Point North Heritage Conservation Area (CA13) as defined by Schedule 5 Part 1 of *North Sydney LEP 2013*.
- Is located within the immediate vicinity of one locally listed heritage item as identified by Schedule 5 Part 1 of *North Sydney LEP 2013*.

Section 9.7 of the *North Sydney DCP 2013* provides the following Statement of Significance for McMahons Point North Heritage Conservation Area:

The McMahon's Point North Conservation Area is significant:

(a) For its consistent character and unity that derives from its dense urban subdivision pattern and history and which is still clearly seen in the development of the area.

(b) As a predominantly early 20th century precinct with a mix of Federation and 1920's one and two storey housing and a very fine grouping of early 20th century buildings along Blues Point Road.

(c) For the streetscape qualities of the Blues Point Road shops.

(d) For its high quality streetscapes, particularly in Princes and Waiwera Streets

4.2 Contribution to the Conservation Area

Appendix 1 – Heritage – Contributory, Neutral & Uncharacteristic Items of the *North Sydney DCP 2013* identifies the subject site as being a contributory item within the McMahons Point North Heritage Conservation Area. Contributory items are identified by the DCP as being:

P1 'Detached and semi-detached dwelling houses, commercial buildings along Blues Point Road. Victorian Filigree, Federation Queen Anne, Free Style, Bungalow, Californian Bungalow, workers cottages.'

P2 'Two storey, Victorian Italianate/Filigree attached dwellings with verandahs to the street.'

P3 'Single storey and two storey Victorian and Edwardian commercial buildings.'

The contribution that this site makes to the public domain is largely derived from the way in which the terrace presents to Blues Point Road.

4.4. View Corridors

The principal view corridors towards No. 115 Blues Point Road are obtained from directly outside on Blues Point Road. On approach from the north and south, views across the front elevation are limited by the mature tree planted in the footpath. The narrow allotments along the street and close proximity of adjacent dwellings further hinders view corridors toward the subject site. Views towards the rear elevation principal form are available from Wellington Lane.

Figure 28 to Figure 33 view corridors towards the subject site as seen from the public domain.



Figure 28: Looking South along Blues Point Road. The subject dwelling is indicated by the red arrow. Google Maps



Figure 29: Looking North along Blues Point Road. The subject dwelling is indicated by the red arrow. Google Maps



Figure 30: Travelling East along Princes Street near the intersection between Blues Point Road. The subject dwelling is indicated by the red arrow. Google Maps



Figure 31: Looking West along Wellington Lane towards the subject site. Google Maps



Figure 32: Looking South along Wellington Lane. Google Maps

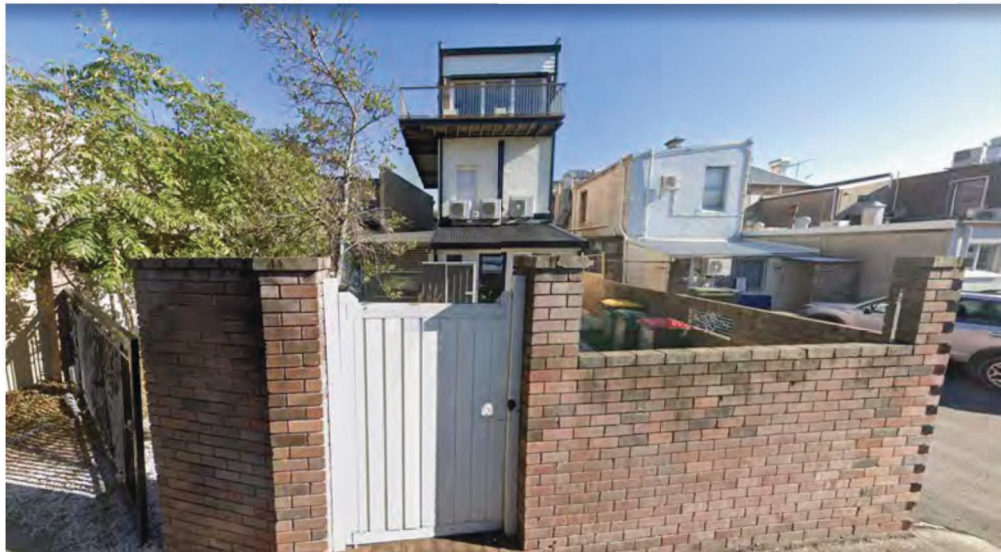


Figure 33: Looking directly towards the rear of the site from Wellington Lane. Google Maps

4.5 Heritage Items in the Vicinity of the Site

For the following refer to Figure 34, a detail from the North Sydney Council Heritage Map Sheet HER_002A. The subject site is outlined in blue. Heritage Conservations areas are hatched in red. Heritage items are coloured brown or green and numbered.

For the following, 'In the vicinity' has been determined by physical proximity to the site, existing and potential view corridors and the massing and scale of the proposed works.

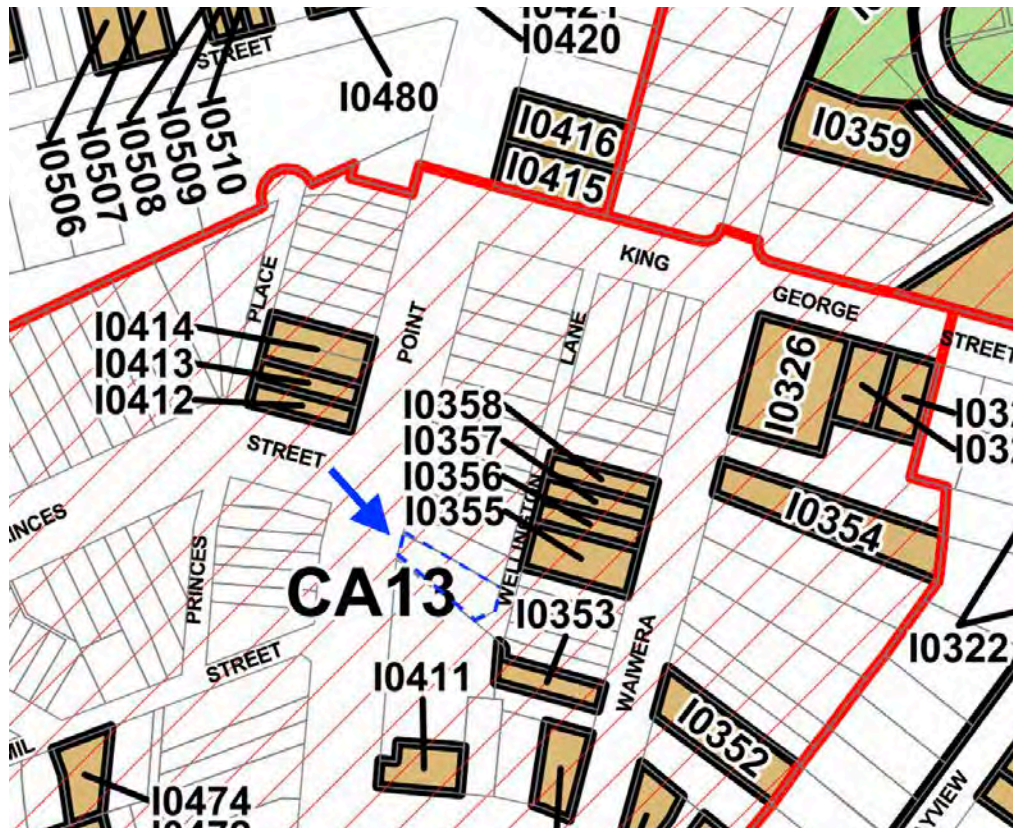


Figure 34: An extract from Heritage Map Sheet HER_002 from the North Sydney LEP 2013. The subject site is outlined in blue and is indicated by the blue arrow. North Sydney LEP 2013.

There are no heritage items listed on the State Heritage Register, under the auspices of the *NSW Heritage Act 1977*, in the vicinity of the site.

There are four heritage items listed by Schedule 5 Part 1 of the *North Sydney LEP 2013*, in the immediate vicinity of the site.

No.4 Waiwera Street, Lavender Bay, I0353 in Figure 34

This house is located to the south of the subject site on Waiwera road and has its rear boundary along Wellington Lane. The principal view corridors towards this item are from Waiwera street. The subject site is not visible in principal view corridors towards this item.

The state heritage inventory provides the following statement of significance for the subject site:

'An unusual and heavily decorated example of a two/three storey Victorian semi detached house in the Victorian Fee Classical Style, prominent in the local streetscape due to its style and ornate decoration.'

This statement has been adopted for the purposes of this assesment.



Figure 35: Looking directly towards No.4 Waiwera Street, Lavender Bay.

No. 16 Waiwera Street, Lavender Bay, I0355 in Figure 34

This house is located to the north east of the subject site on Waiwera road and has its rear boundary along Wellington Lane. The principal view corridors towards this item are from Waiwera street. The subject site is not visible in principal view corridors towards this item.

The state heritage inventory provides the following statement of significance for the subject site:

A good example of a single storey, late Victorian Italianate style, timber weatherboard cottage, an early survivor in a row of two storey terraced houses

This statement has been adopted for the purposes of this assesment.

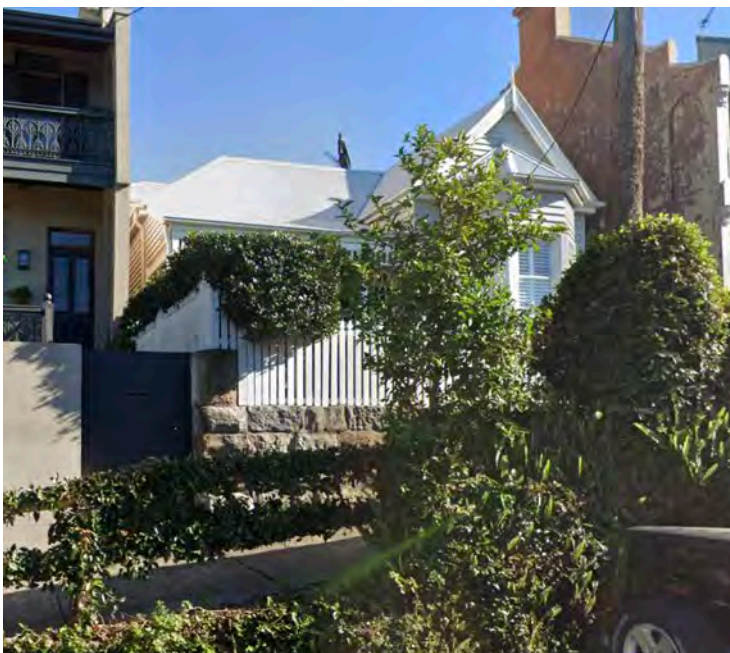


Figure 36: No.16 Waiwera Street, Lavender Bay.

No.136 Blues Point Road, McMahons Point, I0412 in Figure 34

This house is located to the north west of the subject site on Blues Point road and has its rear boundary along Princes Place. The principal view corridors towards this item are from Blues Point Road. The subject site is not visible in principal view corridors towards this item.



Figure 37: Looking towards No.136 Blues Point Road.

The State Heritage Inventory does not provide a statement of significance for the this site however it is likely significant as a federation period dwelling.

No.138 Blues Point Road, McMahons Point, I0413 in Figure 34

This house is located to the north west of the subject site on Blues Point road and has its rear boundary along Princes Place. The principal view corridors towards this item are from Blues Point Road. The subject site is not visible in principal view corridors towards this item.

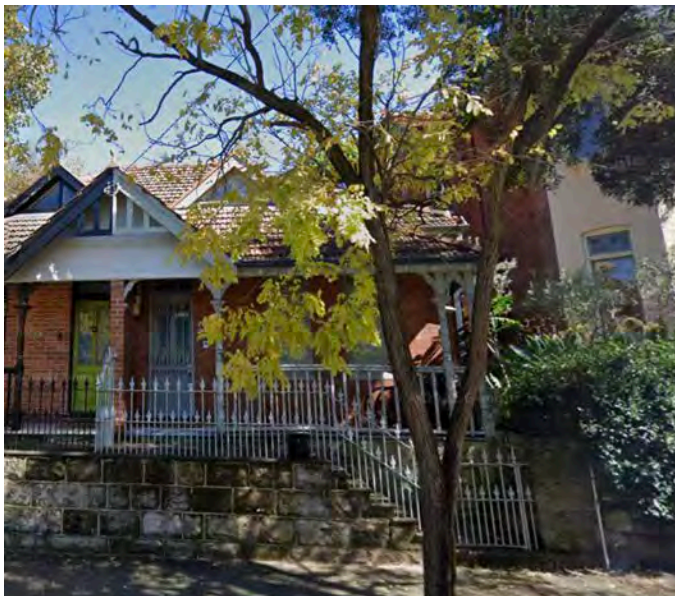


Figure 38: Looking towards No.138 Blues Point Road McMahons Point.

The State Heritage Inventory does not provide a statement of significance for the this site however it is likely significant as a federation period dwelling.

4.3 Integrity

The site is an example of a highly modified Federation terrace the following alterations and additions are noted:

Site

- The garage is a contemporary addition.
- The front verandah tiles are contemporary.
- The rear boundary fence and gate is not original.
- The timber balcony posts and balustrades to the front of the dwelling are contemporary.

Exterior

- The third floor level, parapet roof and balcony is a contemporary addition.
- The rear ground floor lean to is highly altered with new roofing, and glazing.
- The french doors located to the front of the dwelling at ground floor level are contemporary.
- The timber work to the front elevation of the dwelling is not original.
- The arched metal window within the kitchen is contemporary.
- The french doors to the ground floor eastern elevation and aluminium framed glazing throughout the dwelling are contemporary.

Interior

- The interior bathrooms and kitchen are contemporary.
- The carpet is contemporary.
- The gyprock ceilings are contemporary.
- The aluminium framed windows and doors throughout the dwelling are not original.
- The stair case to the third floor level is contemporary.

5.0 THE PROPOSAL

The following should be read in conjunction with the plans prepared by Barbara Architecture and interiors that accompany this Development Application.

It is proposed to retain the existing dwelling, and modify the interior and the rear of the dwelling at ground floor level, first floor level and second floor level as noted in detail below:

Dwelling

Exterior works to the dwelling

- Retain and conserve the principal building form and front elevation.
- Replace the rear elevation of the dwelling at ground floor level, first floor level and second floor level.
- Extend the dwelling along the southern side to accommodate a new stair case
- Extend the rear wing to include a garage at ground floor level
- Extend the rear wing at first floor level to include a roof garden to the rear.
- Extend the rear wing at second floor level to include a balcony.
- Install a new colourbond roof with skylights
- Install a new lift shaft along the northern elevation of the dwelling

- Remove and replace the arched window at second floor level with two timber framed double hung windows
- Install new windows and doors to the rear and side elevation northern and southern elevations

Interior Works to the Dwelling

- Retain original detailing such as the fireplace and ornate archway at ground floor level.
- Retain the room layout of the front section of the dwelling at ground floor level.
- Extend the dwelling along the southern side to accommodate a new staircase.
Reconfigure the layout of the ground floor level at the rear to include a bathroom, laundry, lift shaft. The nibs will be retained.
- Reconfigure the layout of the ground floor level at the rear to include a bathroom, laundry and lift shaft
- Reconfigure and extend the first floor level to include a master bedroom with a walkin wardrobe and ensuite, a second bedroom, a study, bathroom and cellar
- Reconfigure and extend the second floor level to include a kitchen, dining room, lounge room and balcony.

Site Works

- New pervious paving surface to the driveway
- New fence to the northern boundary
- New landscaping works
- New fence to the rear and side boundaries

The following materials and finishes are proposed:

- Kliplok colorbond windspray
- Painted brick
- White metal fence and balustrade
- Paved driveway
- Metal framed windows and doors
- Glass balustrae

6.0 EFFECT OF WORK

Methods of Assessment

The following is a merit-based assessment. It does not consider compliance or otherwise with Council's numerical controls except where non-compliance would result in a heritage impact. Refer to the Statement of Environmental Effects that accompanies this application. The following assessment is made with an understanding of the objectives and controls provided by the *North Sydney LEP 2013* and the *North Sydney DCP 2013*.

Effect of Work on Conservation Area

The proposed works will have an acceptable impact on McMahon's Point North Conservation Area for the following reasons:

- No changes are proposed to the lot boundaries. The subdivision pattern of the area is retained.

- The front elevation of the terrace is highly modified with a contemporary third floor addition, replacement timber balustrading and tiling. The proposed double hung windows to the front elevation of the third floor will replace a contemporary arched window.
- The proposed works are predominantly located to the rear, in areas that have modified by past works.
- The proposed narrow addition to the southern elevation of the terrace is minor in scale to the bulk, form and mass of the dwelling and is obscured from the principal view corridors of the Heritage Conservation Area by the adjoining high density contemporary development.
- The proposed works will still enable the dwelling to continue to be read from Blues Point Road as a Federation period dwelling within the Heritage Conservation Area.
- The extension of the rear of the dwelling will have an acceptable impact for the following reasons:
 - The new works are located to the rear of the site. As set out above, the principal view corridors towards this site are all obtained from Blues Point Road. Its contribution to the Conservation Area is determined by the way it presents to Blues Point Road.
 - The rear elevation of the terrace has already been highly modified, as have the rear elevations of the adjacent buildings.
 - The proposed works are confined to the less significant and highly modified rear elevation that is altered with contemporary metal framed doors and windows, a second floor addition including a balcony, and a contemporary garage addition.
 - There is little or no consistency to the rear elevation of the semi-detached adjacent terrace. The majority of dwellings on Blues Point Road have been modified to the rear.
- The proposed balcony at second floor level will have an acceptable impact as this part of the dwelling has already been altered with contemporary window openings.
- The proposed internal works are to highly altered interiors that represent low integrity with predominantly replacement gyprock, coverings and finishes.
- The materials palette, which includes sandstone cladding and timber framed windows, will have an acceptable impact because these are materials found in the terrace row and Conservation Area. The glass and metal balustrade will read clearly as contemporary within the conservation area.
- The new garage will have an acceptable impact because it replaces an existing carport and will sit within a streetscape characterised by contemporary garages and carports. The roof garden will provide amenity within a lot constrained by its small narrow dimensions.

Effect of Work on Heritage Items in the Vicinity

The proposed works will have an acceptable impact on the heritage item in the vicinity **No.136 Blues Point Road McMahons Point and No.138 Blues Point Road McMahons Point** for the following reasons:

- The main view corridor towards this item is from directly outside on the Blues Point Road on the opposite side of the street. The subject site is separated from the item by the Road and will not be visible in the principal view corridors towards the terrace.

- The heritage items are separated from the subject site by Wellington Lane. The proposed works will have little to no visibility in the setting of the item as the works are contained to the rear of the site.
- The proposed works will have no impact on the ability for the public to understand the significance of the item.

The proposed works will have an acceptable impact on the heritage items **No.4 Waiwera Street, Lavender Bay** and **No. 16 Waiwera Street, Lavender Bay** in the vicinity for the following reasons:

- The main view corridor towards this item is from directly outside on the Waiwera Street. The subject site is located to the rear and will not be visible in the principal view corridors towards the terrace.
- The heritage items are separated from the subject site by Wellington Lane. The proposed works will have little to no visibility in the setting of the item as the works are contained to the rear of the site.
- The proposed works will have no impact on the ability for the public to understand the significance of the item.

7.0 CONCLUSION

This Heritage Impact Statement has been prepared in conjunction with a Development Application for alterations and additions to an existing dwelling at No. 115 Blues Point Road McMahons Point, New South Wales. The site is not listed as heritage item but is located within the McMahons Point North Heritage Conservation Area (HCA) as defined by Schedule 5 Part 2 of the *North Sydney LEP 2013*.

The proposed works will have an acceptable impact on the fabric of nearby heritage items and the McMahons Point North Conservation Area and will not block significant view corridors to or from them. The proposed works are predominantly confined to the rear of the dwelling and are mainly visible to the Heritage Conservation Area from the less significant view corridors from Wellington Lane. The proposed internal works are to an already highly altered interior that has little remaining significant fabric.

The proposed alterations and additions are appropriate in scale and form with regard to surrounding HCA and heritage items in the vicinity; and will read within the setting/view corridors of items as a well-considered piece of contemporary architecture, one of several contemporary style structures within the immediate area.

The proposed works to the subject site sit outside the settings of the heritage items in the vicinity and are sufficiently removed from them to not encroach on any significant view corridors.

No. 115 Blues Point Road will continue to be read and understood as a highly modified Federation terrace within to the HCA. The proposed works fulfil the aims and objectives of the *North Sydney LEP 2013* and the *North Sydney DCP 2013* by improving the quality and diversity of housing options in McMahons Point while respecting the heritage significance of the area in which it lies.