



NSLPP MEETING HELD ON 06/03/24

Attachments:

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

ADDRESS/WARD: 17 Elamang Avenue, Kirribilli

APPLICATION No: D216/23

PROPOSAL: Alterations and additions to an existing attached dual occupancy and a change of use to a single dwelling including internal alterations, a new attic addition, a new swimming pool and associated landscape works

PLANS REF:

Plan No.	Description	Prepared by	Dated
DA02 Rev C	Site Plan	Corben Architects	2/2/2024
DA03 Rev B	Level 1 Demolition Plan	Corben Architects	13/11/2023
DA04 Rev B	Level 2 Demolition Plan	Corben Architects	13/11/2023
DA05 Rev C	Level 3 Demolition Plan	Corben Architects	2/2/2024
DA06 Rev C	Level 4 Demolition Plan	Corben Architects	2/2/2024
DA07 Rev C	Roof Demolition Plan	Corben Architects	2/2/2024
DA08 Rev B	Proposed Level 1 Plan	Corben Architects	13/11/2023
DA09 Rev B	Proposed Level 2 Plan	Corben Architects	13/11/2023
DA10 Rev C	Proposed Level 3 Plan	Corben Architects	2/2/2024
DA11 Rev C	Proposed Roof plan	Corben Architects	2/2/2024
DA13 Rev C	Eastern & Western Elevations	Corben Architects	2/2/2024
DA14 Rev C	Northern Elevation	Corben Architects	2/2/2024
DA15 Rev C	Southern Elevation	Corben Architects	2/2/2024
DA16 Rev C	Section - AA	Corben Architects	2/2/2024
DA17 Rev B	Sections BB & CC	Corben Architects	13/11/2023
DA25 Rev B	External Finishes	Corben Architects	13/11/2023
DA201 Rev B	DA Front Garden	Secret Gardens	15/09/23
DA202 Rev B	DA Rear Garden	Secret Gardens	15/09/23

OWNER: Teresa Jane Harvey

APPLICANT: Teresa Jane Harvey

AUTHOR: Robin Tse, Senior Assessment Officer

DATE OF REPORT: 21 February 2024

DATE LODGED: 14 July 2023

RECOMMENDATION: Approval

EXECUTIVE SUMMARY

This development application seeks NSLPP approval for alterations and additions to an existing heritage listed attached dual occupancy and a change of use to a single dwelling including internal alterations, a new roof addition, a new swimming pool and associated landscape works at No.17 Elamang Avenue, Kirribilli.

The application is referred to the North Sydney Local Planning Panel for determination because the proposal is subject to a variation to the building height development standard is greater than 10%, which requires determination of the application by the Panel in accordance with the directions from the Minister of Planning.

Notification of the proposal has attracted no submissions.

The assessment has considered the performance of the application against Council's planning requirements.

The development application has been assessed against the *North Sydney LEP 2013* and North Sydney DCP 2013 and was found to be generally satisfactory.

The proposed alterations and additions to an existing heritage listed dual occupancy for use as a single dwelling that is a permissible form of development in an R2 Low Density Residential Zone.

This report has considered a written request submitted by the applicant seeking a variation to Clause 4.3 in *North Sydney LEP* concerned with the height of buildings height pursuant to Clause 4.6 of the LEP.



The variation to the building height development standard is justifiable because the building elements above the LEP maximum building height are unlikely to have an adverse impact on the character of the locality and would not cause material amenity impacts for the adjoining properties in terms of view loss, overshadowing and loss of privacy subject to the imposition of appropriate conditions.

Council's Conservation Planner has raised no objection to the proposal subject to the imposition appropriate conditions of consent.

Having regard to the provisions of Section 4.15(1) of the EP&A Act 1979 the application is considered to be satisfactory and therefore can be approved subject to the imposition of appropriate conditions.

LOCATION MAP



 Property/Applicant ● Submitters - Properties Notified 

DESCRIPTION OF PROPOSAL

The application seeks NSLPP approval for alterations and additions to an existing heritage listed attached dual occupancy for use as a single dwelling.

The proposed works are summarised as follows:

Level 1:

- (a) Partial demolition of external walls as per demolition plans, including the forward projecting bedroom;
- (b) Internal demolition and removal of partition walls and internal staircase;
- (c) Removal of bathroom and laundry fitouts;
- (d) Carry out excavation within the subfloor area;
- (e) Internal reconfiguration and renovations including construction of new partition walls and installation of new doors/windows; and
- (f) Construction of new staircase and installation of a new internal lift to connect all levels.

Level 2:

- (a) Partial demolition of external walls as per demolition plans, including the projecting terrace and balconies on the front (Careening Cove) elevation, doors opening onto these balconies and the entry door;
- (b) Internal demolition and removal of partition walls and internal staircase;
- (c) Removal of bathroom and laundry fit outs;
- (d) Internal reconfiguration and renovations including construction of new partition walls and installation of new doors/windows;
- (e) Removal of door set from within the arched openings in the southern (side) elevation and partially infill the opening and install a window set within the arch;
- (f) Construction of new terrace with timber balustrade in the northern corner; and
- (g) Construction of new staircase and installation of a new internal lift to connect all levels.

Level 3:

- (a) Demolition of a balcony on the Careening Cove elevation;
- (b) Infill window and add two new window openings to the northern (side) elevation;
- (c) Infill three windows and create window openings for two new windows in the southern (side) elevation;
- (d) Removal of the shingled bay window in the northern corner of the dwelling;
- (e) Removal of bathroom and kitchen fit outs;
- (f) Internal reconfiguration and renovations including removal of partition walls and creation of large openings and construction of new internal walls, bathrooms and a kitchen;
- (g) Removal of the former kitchen fireplace in the rear room and retain and support the chimney;
- (h) Removal of the fireplace adjacent to the existing kitchen, retain and support the chimney including relocation of the mantelpiece and coal grate;
- (i) Construction of new staircase and installation of a new internal lift to connect all levels;
- (j) Construction of new terrace off the new open plan dining and family rooms;

Level 4 (Roof Level)

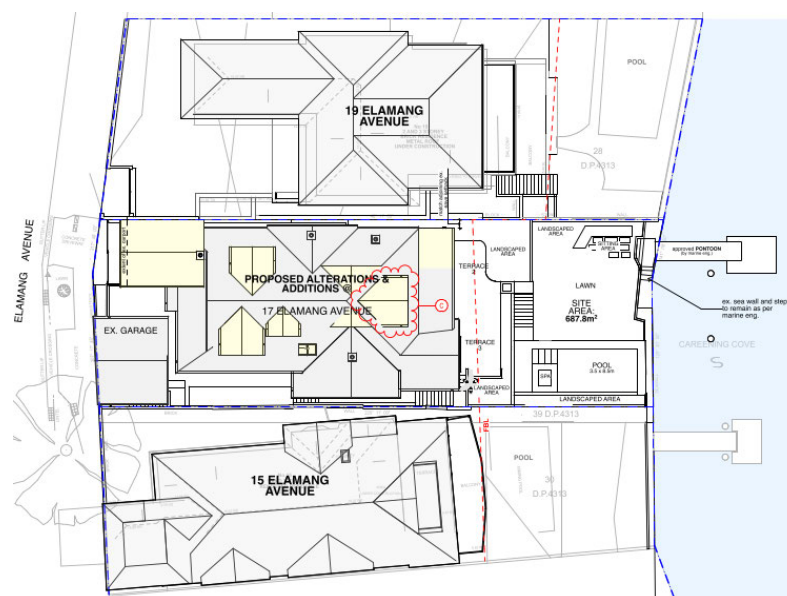
- (a) Partial removal of existing roof to allow for proposed attic addition and existing roof over the entrance porch in the street (Elamang Avenue) elevation to allow for proposed works to the existing garage;
- (b) Construction of a new attic addition comprising of a bedroom (with WIR and ensuite), hall, lift, stairs and study;
- (c) Construction of dormers in the northern and southern roof planes;
- (d) Construction of alterations to eastern (Careening Cove) roof plane, including a provision of a new dormer for bedroom 1; and
- (e) Installation of a new skylight in the southern roof plane.

The proposed works will convert the existing attached dual occupancy for use as a single dwelling comprising the following:

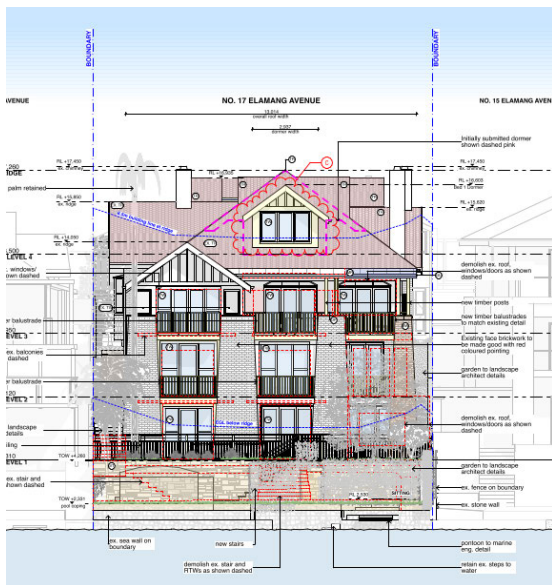
- Level 1 - Dining room, rumpus, games/play, cellar, bathroom, hall, lift and stairs.
- Level 2 – 3 x bedrooms (with study nook, one bedroom with ensuite), sitting room, terrace, bathroom, laundry, media, stairs & lift.
- Level 3 - Entry hall, stairs & lift, powder room, bathroom, two bedrooms, living room, dining, kitchen & pantry, family room and terrace.
- Level 4 – 1 x bedroom (with WIR and ensuite), hall, lift, stairs and study.

Other Works:

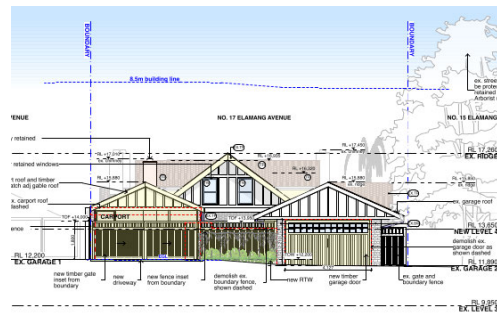
- (a) Conversion of an existing double carport to a double garage;
- (b) Alterations to the existing double garage;
- (c) A new swimming pool within the garden fronting Careening Cove; and
- (d) Landscaping works including tree removal and new planting within the property.



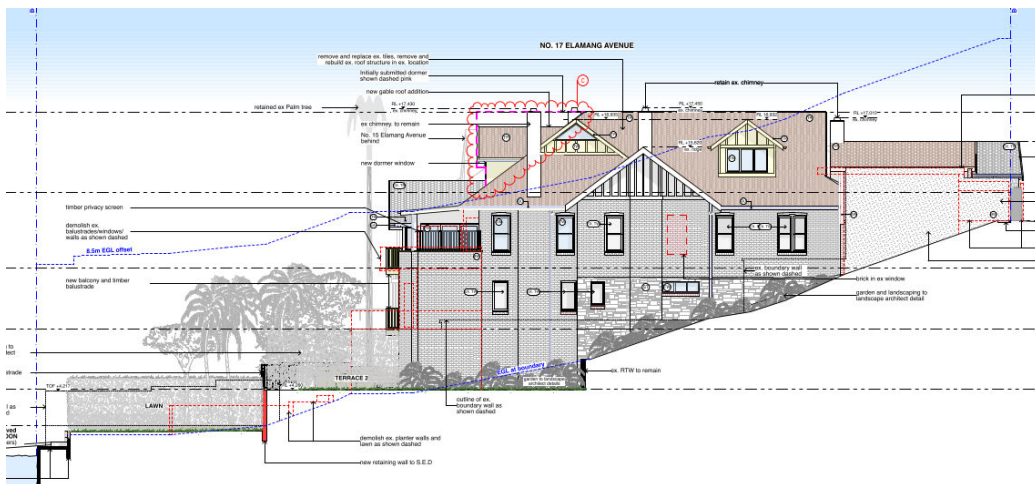
Site Plan



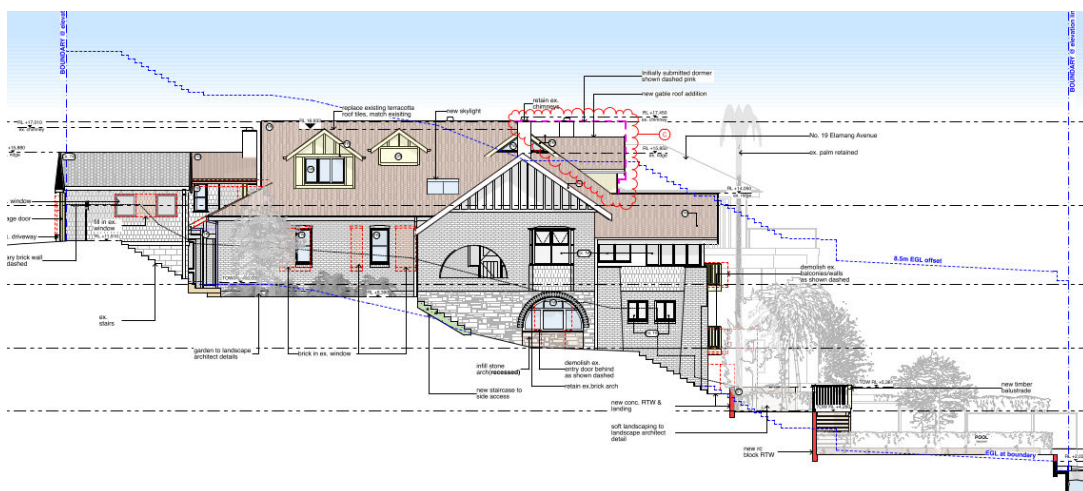
Carreing Cove (Eastern) Elevation



Elamang Avenue (Western) Elevation



Northern Elevation



Southern Elevation

Figures 1 – 5: Proposed development

STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning - R2 (Low Density Residential)
- Item of Heritage – Yes
- In Vicinity of Item of Heritage – Yes (Nos. 8 & 10 Elamang Avenue and Nos 85-87 Carabella Street (Loreto School))
- Conservation Area - Yes (Careening Cove Conservation Area)
- Foreshore Building Line - Yes
- *Environmental Planning & Assessment Act 1979 (As amended)*
- *SEPP (Resilience and Hazards) 2021 – Chapters 2, 4 and 6*
- *SEPP (Biodiversity and Conservation) 2021 – Chapter 4*
- *SEPP (Sustainable Buildings) 2022*
- Local Development

POLICY CONTROLS

North Sydney DCP 2013

Foreshore and Waterways DCP 2005

North Sydney Local Infrastructure Contributions Plan 2020

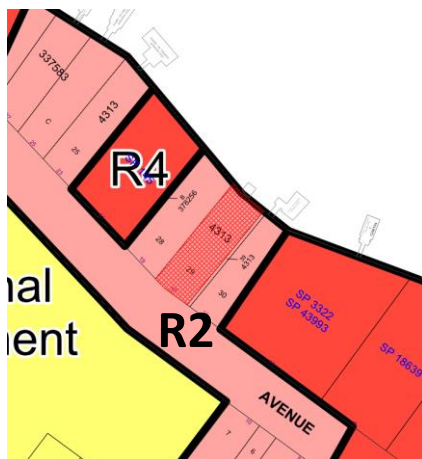


Figure 6: Zoning



Figure 7: Heritage and Conservation

DESCRIPTION OF LOCALITY

The subject site is located on the north-eastern (low) side of Elamang Avenue and known as Lot 29 DP4313 and No.17 Elamang Avenue. It is rectangular in shape and has a total area of 687.8sqm. The site slopes from its street boundary down towards the Careening Cove property boundary with a fall of approximately 9.52m.

Currently occupying the subject site is a three storey attached dual occupancy with a double garage and a double carport off Careening Road.

The locality is characterised by a range of residential developments including single dwellings, dual occupancies and apartment buildings.

To the north-west of the subject site is a recently completed part 3/4 storey detached dwelling at No. 19 Elamang Avenue. A part 2/3 storey terrace detached dwelling is located to the south-east at No. 15 Elamang Avenue. To the east of the subject site is Careening Cove. Across Elamang Avenue to the west of the subject site is Loreto School.



Careening Cove Elevation



Elamang Avenue Elevation

Figure 8 & 9: Subject site

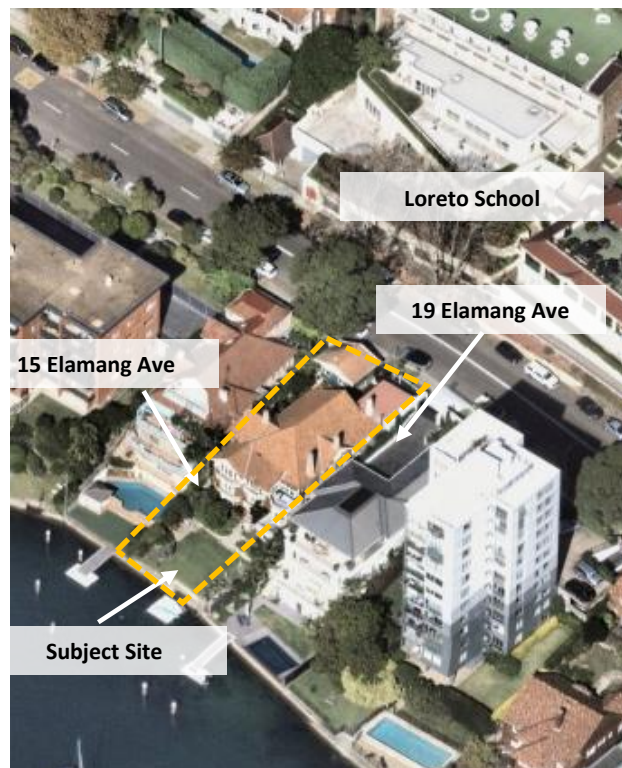


Figure 10: The Locality

RELEVANT HISTORY

Previous Application

- **1989** – Council granted a building approval (**BA89/338**) for the construction of the existing garage, the replacement of windows in the harbour-side elevation and new balconies to the main floor level in the harbourside elevation. The approved works were carried out.
- **1999** – Council granted a development consent (**DA552/99**) for an extension in the roof, a new garage/carport and new terraces facing the water. The approved carport and the new terraces were constructed. However, the approved extension into the roof was not implemented.

Current Application

- **13 July 2023** – The subject Development Application (**D216/23**) for alterations and additions to an existing heritage listed dual occupancy for use as a single dwelling was lodged with Council via the Planning Portal.
- **28 July to 11 August 2023** - The application was notified to adjoining properties and the Milson Precinct seeking comment on the proposal. Council received no submissions.
- **29 August 2023** – An inspection of the subject site was conducted by Council Officers.
- **30 August 2023** – Written comments were provided by Council Officers to the applicant covering heritage, planning and landscaping aspect of the proposed development.
- **13 November 2023** – The applicant submitted amended plans addressing comments made by Council Officers. The applicant submitted amended plans addressing the heritage concerns resulting a reduction in size of the dormer on Careening Cove elevation and increase the setback of the proposed double garage from Elamang Avenue.
- **24 January 2024** – A meeting was held with the applicant and the applicant's experts to discuss any outstanding issues.
- **2 February 2024** – The applicant submitted updated plans to address the issues raised in the earlier meeting with a further reduction in the size of the dormer on Careening Cove elevation.

INTERNAL 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 was referred to Council's Conservation Planner who provided the following comments:

Heritage Impact Assessment

North Sydney LEP 2013 Clause 5.10

The amended proposal now satisfies this clause in that the primary façade will be improved by the removal of the circa 1989 works and the reinstated façade will be an improved heritage outcome. The primary form and roof planes will remain discernible and the six proposed dormers will be acceptable in size.

The proposed dormer on the primary façade has been amended to be sympathetic to the fenestration and the balcony has been deleted.

The remnant original internal fabric on Level 3 will be retained, salvaged reused or reinstated (subject to the application of the additional conditions below).

North Sydney DCP 2013

An assessment of the proposal, with reference to Part B Section 13 of the North Sydney DCP 2013 has been made with the following elements of the DCP being of note:

13.4 Development in the Vicinity of Heritage Items - *The proposed development will have a satisfactory impact upon the nearby heritage items.*

13.5.1 Heritage Items – Objective O1 – Ensure changes to heritage items are based on an understanding of the heritage significance of the heritage item - *The original primary room configuration is evident and will be retained. The primary form will be improved by the removal of the circa 1989 balconies on the primary façade and the new balconies and fenestration on the primary façade will be more sympathetic to the original character and Federation style of the building.*

13.5.2 Form, Massing and Scale - Objective O1 To allow new alterations and additions to heritage items, where new work does not impact on the heritage significance of the heritage item - *No objection is raised to the proposed form of the dwelling. The demolition of the brick addition on the East Elevation is supported as it currently detracts from the aesthetic significance of the primary façade.*

13.5.5 Interior Layouts –

Objective O1 To ensure that significant interior elements are retained and preserved.

P3 Kitchens or bathrooms must not be located within primary rooms of significance, unless all of the following are achieved:

- (a) all of the original interior detailing is retained;***
- (b) the volume of the room can still be appreciated;***
- (c) the original use of the room is still interpretable;***
- (d) new services do not adversely impact on significant fabric; and***
- (e) the works can be fully reversed, such that the room may revert to its original purpose.***

The interior has been largely gutted as a result of the 1989 works, however, Level 3 retains some original decorative features including joinery and plasterwork. The amended proposal seeks to retain all original chimney breasts on Level 3 and remove the last remaining timber mantle piece and cast iron grate for salvage and re-use in the proposed dining room. (see photo below) This is not best practice, however it is noted that these elements are proposed to be re-located to a room where they will have greater appreciation and that the applicant has now documented that original joinery elsewhere is to be retained and ceilings reinstated.



Figure 11. Original mantle and fireplace that will be salvaged and relocated to the living room.

The amended documentation indicates that the Level 3 primary rooms will require the removal and reinstatement of the original horse hair and plaster ceilings, roses and cornices. As these cannot easily be removed with disintegrating, a condition is recommended below to ensure that they will be retained, and where damaged, replaced to match. The property is not in a conservation area, so it cannot be downgraded to contributory status. Instead, it either remains as a heritage item or loses its scheduled listing in the LEP. Removal of the last surviving interior architectural features will question its heritage status.

No objection is raised to the proposed lift or to the other interior alterations within the secondary rooms.

13.9.1 Skylights, Solar Panels and Satellite Dishes – Objective O1 To ensure that skylights, solar panels and satellite dishes do not detrimentally impact upon the significance of heritage items and heritage conservation areas - No objection is raised to the proposed skylight on the side roof elevation.

13.9.2 Dormers –

- P1 Are to comply with the requirements for dormers in s.1.4.11 to Part B of the DCP.**
- P2 New dormer windows are to be secondary in scale to the roof and setback from the eaves and ridge line.**
- P8 The design of the dormer is to complement the style and detailing of the existing building and its roof. Figures B-13.21 and B-13.24 show examples of Victorian and Edwardian dormer windows. Federation dormers: Width (A) = 1200mm (max) Width (A):Height (B) = 1:1 to 1.2:1**

The amended dormer on the waterfront elevation is now considered to be satisfactory. Although it will be greater than 1500 mm in height it will have acceptable proportions given the large size of the dwelling and its roof plane. The amended fenestration pattern and the deletion of the previously proposed balcony is supported.

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 - *The demolition of the existing balconies on the East Elevation is acceptable as these date from 1989 and have no heritage significance. The proposed new balconies are more sympathetic in design and will utilise a Federation style balustrade.*

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 - *No objection is raised to the proposed materials schedule.*

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 - *The retention of the existing garage is acceptable. The modification of the existing northern carport to have a pitched roof is acceptable.*

13.9.6 Fences – Objective O1 To ensure that fences are consistent with the characteristic elements of the heritage item or heritage conservation area - *The existing street boundary fence will be largely retained.*

Conclusion/Recommendations

The amended proposal is considered to be satisfactory subject to the application of the conditions below:

Heritage Requirements

The following heritage requirements are to be met to ensure that the heritage status of the dwelling is retained:

- a) No demolition of the chimney breasts within the dwelling is given or implied.*
- b) Original floorboards, skirting boards, picture rails, architraves and doors to be retained except where noted on the plans for demolition.*
- c) All original plaster ceilings, cornices and ceiling roses to be retained on Level 3 within the proposed kitchen, proposed dining room, proposed living room and existing hallway.*
- d) The original fireplace cast iron grate and timber mantle piece on Level 3 are to be salvaged, including the tiles, for re-use in the proposed dining room. Any elements damaged during removal are to be repaired or replaced with similar Federation style products.*
- e) The proposed new hearth and firebox to the proposed living room are to be Federation in style and to utilise a salvaged Federation style timber mantle piece.*

- f) *New windows and doors are to be timber framed.*
- g) *Original interior sliding glazed doors on Level 3 to be retained.*
- h) *New balustrades to East Elevation to have a painted finish.*
- i) *Existing kitchen exhaust fan to the front entrance porch is to be removed and infilled to match existing brickwork.*
- j) *New front fence and gates to have a painted finish.*

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

(Reason: To ensure that original heritage fabric is retained and new fabric is sympathetic to its heritage listing)

External Finishes & Materials

External finishes and materials must be in accordance with the submitted schedule on Drawing DA25 Revision B, dated 3 November 2023, prepared by Corben Architects and received by Council on 30 June 2023 unless otherwise modified by Council in writing.

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

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

LANDSCAPING

The application, including the amended plans, was referred to Council's Landscape Development Officer who considered the proposed landscaping treatments generally acceptable subject to the imposition of appropriate conditions.

ENGINEERING

The application was referred to Council's Development Engineer who raised no objection to the proposal subject to the imposition of appropriate engineering conditions.

SUBMISSIONS

The application was notified to adjoining properties and the Milson Precinct seeking comment on the proposal between 28 July and 11 August 2023. The notification has attracted no submissions.

As mentioned earlier in this report, the applicant submitted amended plans resulting a reduction in the size of the dormer on Careening Cove elevation and a smaller garage on Elamang Avenue elevation. Therefore, these amendments would result in lesser impacts on the surrounding properties. Notification of the amended plans is waived in accordance with Section 3.6 of North Sydney Community Engagement Protocol.

CONSIDERATION

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

Environmental Planning and Assessment Act 1979 (as amended) Environmental Planning and Assessment Regulation 2000

SEPP (Biodiversity and Conservation) 2021

Chapter 2 – Vegetation in Non-Rural Areas

The proposal generally meets the objectives of the SEPP because the current application does not involve clearance of native vegetation or any materials impacts on bushland (if any) in the vicinity of the subject site.

Chapter 6 - Sydney Harbour Catchment

Having regard to the provisions of Chapter 6 of the SEPP and the Sydney Harbour Foreshores and Waterways Area DCP 2005, the proposed development would be visible from the Harbour, it is not considered to be detrimental to general scenic quality and the ecology of the Harbour and will not unduly impose upon the overall character of the foreshore given that the scale and the localised nature of the proposed development. Furthermore, the proposal would not adversely affect the environmental processes, including in relation to water quality and biodiversity.

As such, the development is generally acceptable having regard to the provisions contained within Chapter 6 of the above SEPP and the Sydney Harbour Foreshores and Waterways DCP 2005.

State Environmental Planning Policy (Resilience and Hazards) 2021

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

State Environmental Planning Policy (Sustainable Buildings) 2022

On 1 October 2023, the *SEPP (Sustainable Buildings) 2022* came into effect, which repealed the *SEPP (Building Sustainability Index: BASIX) 2004*. However, as this application was submitted prior to the commencement date of the *SEPP (Sustainable Building) 2022*, the new BASIX standards do not apply. A valid BASIX Certificate has been (A492739_03) provided.

NORTH SYDNEY LOCAL ENVIRONMENT PLAN (NSLEP 2013)

1. Permissibility

The subject site is zoned Residential R2 (Low Density Residential) under the provisions of the *North Sydney Local Environmental Plan 2013 (NSLEP 2013)*. Development for the purposes of alterations and additions to an existing attached dual occupancy and a change of use to a single dwelling is permissible with Council's development consent.

2. Objectives of the zone

The proposed development is considered to be generally satisfactory in meeting the objectives of the R2 zone as discussed throughout this report.

Part 4 – Principal Development Standards

Principal Development Standards – North Sydney Local Environmental Plan 2013			
Site Area – 687.8m ²	Proposed	Control	Complies
Clause 4.3 – Heights of Building	12.411m	8.5m	No (Clause 4.6 Development Standard variation received)

3. Height of Building

The maximum height of the proposed dormer on Careening Cove elevation at 12.411m would breach the 8.5m LEP building height control by up to 3.911m as illustrated below in **Figure 12**.



Figure 12: Proposed development and LEP height limit

The applicant has submitted a written request seeking a variation to the building height development standard in accordance with Clause 4.6 of *NSLEP 2013*.

4. Clause 4.6 Exceptions to Development Standards

The proposed breach has been assessed against the requirements of Clause 4.6 of *NSLEP 2013* and the objectives of the building height control. These matters have been considered below: -

(1)(a) To promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient – The design of the proposed works generally respects the overall form of the existing building and the sloping landform of the subject site.

(1)(b) To promote the retention and, if appropriate, sharing of existing views - The new building elements in breach of the LEP building height limit would primarily be located on the eastern side of the roof over the existing building. Consideration has been given to the likely view impacts of the proposal on the surrounding properties, particularly the immediate adjoining properties at Nos. 15 and 19 Elamang Avenue.

It is considered that the building elements over the LEP building height limit would have no material impacts on the significant water/skyline views to the east/south-east as seen from the adjoining properties at Nos. 15 and 19 Elamang Avenue due to the locations of these non-complying building elements away from the main windows and balconies on the eastern elevation of these adjoining properties.

(1)(c) To maintain solar access to existing dwellings, public reserves and streets, and to promote solar access to future development – An examination of the submitted shadow diagrams has revealed that the new shadows caused by the non-complying building elements, would mainly fall on the roof of the subject building or the roof of the adjoining property to the south at No.15 Elamang Avenue after 12noon during mid winter. Some additional shadowing from the double garage would fall on Elamang Avenue and within the subject site. It is therefore considered that there would be no material shadowing impacts on the adjoining properties. **(Figures 13-15).**





Figures 13-15: Shadow diagrams (Mid-winter)

- (1)(d) To maintain privacy for residents of existing dwelling and to promote privacy for residents of new buildings** – The windows over the LEP maximum building height limit would be two highlight windows for the new bedroom (bedroom 1) on the northern and southern elevations within the new attic addition and the new dormer window on the eastern elevation facing Careening Cove. These new windows would have no material privacy impacts on the adjoining properties to the north and south due to its design and/or orientation away from main habitable rooms within the surrounding properties.

- (1)(e) To ensure compatibility between development, particularly at zone boundaries**
(1)(f) To encourage an appropriate scale and density of development that is in accordance with, and promotes the character of the area

The design of the proposed development, as amended by the applicant, is generally consistent with the characteristic height, bulk, scale and built form of other properties within the Conservation Area. Council's Conservation Planner has raised no objection to the proposal on heritage grounds and found the design of the proposed structures are generally acceptable as detailed earlier in this report subject to the imposition of appropriate conditions.

Furthermore, the proposal would be generally consistent with the development density and residential character with a design which would generally retain the built form of the subject heritage item and streetscape within the locality.

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

The proposal would generally maintain the characteristic two storey built form on the street frontage. Whilst the proposed eastern elevation would be three (3) storeys with a dormer for the new attic addition, this built form is generally consistent with the adjoining single dwellings at Nos.15 and 19 Elamang Avenue.

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

It is concluded that the building elements above the LEP building height limit would have no material impacts on neighbouring properties and the locality in terms of the built forms within the locality and the amenity of the surrounding properties subject to the imposition of appropriate conditions. There are sufficient environmental planning grounds to justify contravening the building height control.

Whether the proposed development will be in the public interest?

The proposed development is considered to maintain reasonable residential amenity for surrounding properties. The proposal is therefore unlikely to offend the public interest.

Conclusion

It is concluded that the proposal would have no material impact on neighbouring properties in terms of the built forms within the locality and the general amenity of adjoining properties subject to the imposition of appropriate conditions. Having regard to the above, the request under Clause 4.6 of *NSLEP 2013* seeking a variation to the LEP building height control is considered well-founded and strict compliance with the standards is unnecessary.

5. Heritage Conservation

The application has been assessed against the relevant heritage objectives and provisions as contained in the *North Sydney LEP 2013*, and found to be generally satisfactory as indicated in the comments from Council's Conservation Planner.

6. Limited development on foreshore area

The subject site is located on the foreshores of Sydney Harbour where a foreshore building line applies (**Figure 16**).



Figure 16: Foreshore building line

The proposed works to the existing building would be carried out away from the foreshore area.

The proposed swimming pool is a form of development permissible within the foreshore area in accordance with Clause 6.9(2) of North Sydney LEP 2013.

7. Earthworks

The proposal would involve some excavation within the underfloor area of the existing building to provide additional accommodation and to facilitate the construction of a lift shaft connecting all levels.

The proposed works would be carried out entirely within the building footprint of the existing building and are unlikely to result in material impacts on the overall landform, drainage and structural integrity of the adjoining properties subject to imposition of appropriate conditions.

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	No change	The proposal would not change the population mix, the supply of residential accommodation, affordable housing and housing for senior/persons with disabilities within the locality.
1.2.2 Maintaining Residential Accommodation		
1.2.3 Affordable Housing		
1.2.4 Housing for Seniors/Persons with disability		

1.3 Environmental Criteria		
1.3.1 Topography	Yes	The proposed development generally respect the existing landform of the subject site.
1.3.2 Bushland	N/A	The subject site is not in close proximity to bushland or natural reserves.
1.3.3 Bush Fire Prone Land	N/A	The subject site is not affected by any bushfire prone land as identified in Bushfire Prone Land map for the North Sydney LGA.
1.3.6 Views	Yes	As indicated earlier in the report, the proposed development would have no material impacts on significant views as seen from the adjoining properties.
1.3.7 Solar Access	Yes	The proposal is unlikely to cause material overshadowing for the adjoining properties as indicated earlier in this report.
1.3.8 Acoustic Privacy	Yes	<p>The proposal is unlikely to cause unreasonable noise nuisance for the adjoining properties because the proposal would revert the building to use as a single dwelling.</p> <p>Furthermore, the proposal also involves the removal of an external terrace on Level 2 with semi-enclosed replacement terrace.</p> <p>In addition, the proposal also includes the removal of entrance doorway on Level 2 to minimise pedestrian traffic along the pathway adjacent to southern building setback.</p> <p>Appropriate conditions are also recommended to minimise noise from air conditioners/plant equipment.</p> <p>The proposed swimming pool is unlikely to cause noise nuisance to the adjoining properties given the location of this building element away from the main dwellings within the adjoining properties and the mutual noise impacts from existing swimming pools within the adjoining properties.</p>
1.3.10 Visual Privacy	Yes (via condition)	<p>The proposed fenestration changes to northern and southern elevations would result in fewer window openings on Levels 1 to 3 facing the adjoining properties at Nos. 15 and 19 Elamang Avenue.</p> <p>A privacy screen is proposed on the northern edge of the Level 3 terrace off the dining area to provide visual privacy protection for the adjoining property at No. 19 Elamang Avenue.</p> <p>The new bedroom 1 highlight windows on the northern and southern elevations of the Level 4 roof plane would have no visual privacy impacts on the adjoining properties.</p> <p>The new bathroom window on the Level 4 dormer (W4.03) on the northern elevation would be frosted via Condition C31. The new study window on the Level 4 dormer on the southern elevation would not result in adverse visual privacy impacts because it would overlook the roof of No 15 Elamang Avenue.</p> <p>There would be no visual privacy impacts resulting from the new dormer window on the eastern elevation as this window overlook the eastern garden and Careening Cove.</p> <p>Furthermore, the boundary fencing and existing planting along the side property boundaries will continue to provide visual privacy protection for the adjoining properties.</p>

1.4 Quality built form																											
1.4.1 Context	Yes	The proposed development would maintain the overall form of the existing building and is generally consistent with the context of the locality with a mixture of building typologies.																									
1.4.2 Subdivision Pattern 1.4.5 Siting	No Change	The proposal would not change the subdivision pattern of the subject site and the siting/orientation of the subject building.																									
1.4.6 Setback – Side	No (acceptable on merit)	<p>A compliance table relating to side boundary setbacks is provided below:</p> <table border="1"> <thead> <tr> <th>Elevation</th> <th>Existing</th> <th>Proposed</th> <th>Control</th> <th>Complies</th> </tr> </thead> <tbody> <tr> <td>Level 1: - N Elevation (No.19) - S Elevation (No.15)</td> <td>120mm 1.5m</td> <td>944mm 1.5m</td> <td>900mm 900mm</td> <td>Yes Yes</td> </tr> <tr> <td>Level 2: - N Elevation (No.19) - S Elevation (No.15)</td> <td>120mm 1.38m</td> <td>944mm 1.38m</td> <td>900mm - 1.5m*</td> <td>No No</td> </tr> <tr> <td>Level 3 - N Elevation (No.19) - S Elevation (No.15)</td> <td>0mm 900mm</td> <td>0mm 900mm</td> <td>900mm - 1.5m*</td> <td>No No</td> </tr> <tr> <td>Level 4 - N Elevation (No.19) - S Elevation (No.15)</td> <td>N/A N/A</td> <td>2.8m 3.5m</td> <td>1.5m - 2.5m*</td> <td>Yes Yes</td> </tr> </tbody> </table> <p>* Variable setback due to sloping landform</p> <p>The proposal does involve significant changes to the existing external walls of the existing building on Level 1 to Level 3. This has resulted in no change to the northern and southern side property boundary setbacks for Level 2 and 3.</p> <p>The applicant also proposed the removal of an existing bedroom on Level 1 resulting an improvement to the northern building setback from 120mm to a complying 940mm.</p> <p>The proposed attic addition also complies with the side boundary building setback requirements as shown on the compliance table above.</p> <p>It is however noted that the existing northern carport has zero side boundary setback and the proposed garage replacing the carport would maintain zero setback from the northern property boundary.</p> <p>Therefore, consideration has been given to the provisions in P3 Section 1.4.6 in Part B of NSDCP 2013 as well as the L&E Court planning principle established in <i>Galea v Marrickville Council [2003] NSWLEC 113</i> to ascertain the appropriateness of the proposal:</p> <p>(a) Is the street characterised by terrace building?</p>	Elevation	Existing	Proposed	Control	Complies	Level 1: - N Elevation (No.19) - S Elevation (No.15)	120mm 1.5m	944mm 1.5m	900mm 900mm	Yes Yes	Level 2: - N Elevation (No.19) - S Elevation (No.15)	120mm 1.38m	944mm 1.38m	900mm - 1.5m*	No No	Level 3 - N Elevation (No.19) - S Elevation (No.15)	0mm 900mm	0mm 900mm	900mm - 1.5m*	No No	Level 4 - N Elevation (No.19) - S Elevation (No.15)	N/A N/A	2.8m 3.5m	1.5m - 2.5m*	Yes Yes
Elevation	Existing	Proposed	Control	Complies																							
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Level 3 - N Elevation (No.19) - S Elevation (No.15)	0mm 900mm	0mm 900mm	900mm - 1.5m*	No No																							
Level 4 - N Elevation (No.19) - S Elevation (No.15)	N/A N/A	2.8m 3.5m	1.5m - 2.5m*	Yes Yes																							

		<p>Whilst there are no terraces within the visual catchment of the subject site, the proposed works are generally compatible with the character of the subject building and the locality.</p> <p>(b) What is the height and length of the wall on the boundary</p> <p>The new wall along the northern boundary would maintain the height of the existing wall with a maximum height of 5m and no change to the light of the wall that also serves as the boundary fence.</p> <p>(c) Has the applicant control over the adjoining site or the agreement of their owners</p> <p>The proposal northern wall of the garage would be located wholly within the subject site. Therefore, property owners consent is therefore not required. However, a condition is recommended that any works must not encroach onto the adjoining properties (C3).</p> <p>(d) What are the impacts on the amenity and/or development potential of the adjoining sites</p> <p>The proposal would not cause material impacts on the amenity of the adjoining properties in terms of overshadowing, view or privacy loss given it location immediately adjacent to the garage building of No.19 Elamang Avenue.</p> <p>(e) Are there arrangements in place for the maintenance of the wall or gutters</p> <p>Whilst no details have been provided by the applicant with regard to maintenance of the walls and gutters of the adjoining property, it is considered that the issue of access and maintenance of the structure adjacent to the property boundaries would be a civil matter between the property owners.</p> <p>It is considered that the proposed zero setback for the proposed garage along the northern property boundary is acceptable.</p>
<p>P1 Front setback</p>	<p>Yes</p>	<p>The proposed works would not change the overall building setback from the front (Careening Cove) property boundary.</p> <p>The proposed removal of an existing Level 1 bedroom in front of the main eastern building line is supported because this would provide a more consistent front building setback for the subject heritage listed building.</p>
<p>P5 Rear Setback – Rear</p>	<p>Yes</p>	<p>The proposed attic addition would not change the overall building setback from the western (Elamang Avenue) boundary.</p> <p>The proposed northern garage would provide some visual relief as seen from the street with a setback of up to 1.2m from the street boundary.</p>
<p>1.4.7 Form Massing Scale 1.4.8 Built Form Character</p>	<p>Yes</p>	<p>As indicated in Council’s Conservation Planner’s comments earlier in this report, the design of the proposed works, including the attic addition with new dormers, is generally consistent with the built form of the subject heritage listed building by maintaining the overall three storey form, bulk and scale of the building.</p> <p>In addition, the design of the proposal does not detract from the significance and character of the existing heritage listed building.</p>

1.4.10 Roofs	Yes	The proposed pitched, hipped and gable roof forms are considered to be acceptable for the subject heritage listed building.																				
1.4.9 Dwelling Entry	No change	The proposal would not change the existing dwelling entry on the southern elevation of the building.																				
1.4.12 Materials	Yes	The proposed colours and materials, featuring primarily traditional materials, are considered to be generally acceptable subject to the further requirements as detailed in Condition C13 in order to ensure the use of characteristic/sympathetic materials/colours.																				
1.5 Quality Urban Environment																						
1.5.4 Vehicle Access and Parking	No (Acceptable on merit)	The subject site currently has four (4) carparking spaces and this will be retained. Whilst the proposal does not comply with DCP's maximum parking requirement for a single dwelling with three or more bedrooms, no objection is raised because of the shortage of on-street parking within the locality and likely impacts on the demand for on-street parking should there be a reduction in parking within the subject site.																				
1.5.5 Site Coverage 1.5.6 Landscape Area	No (acceptable on merit)	<p>A table is provided below showing the level of compliance with DCP's site coverage, unbuilt upon area and landscaped area requirements:</p> <table border="1" data-bbox="746 922 1437 1209"> <thead> <tr> <th>Site Area : 687.8sqm</th> <th>Existing</th> <th>Proposed</th> <th>Control</th> <th>Compliance</th> </tr> </thead> <tbody> <tr> <td>Site coverage</td> <td>376.1sqm (54.6%)</td> <td>369.4sqm (53.7%)</td> <td>40%</td> <td>No</td> </tr> <tr> <td>Unbuilt-upon area</td> <td>89.2sqm (13%)</td> <td>92.7sqm (13.5%)</td> <td>20%</td> <td>Yes</td> </tr> <tr> <td>Landscaped area</td> <td>222.5sqm (32.4%)</td> <td>225.7sqm (32.8%)</td> <td>40%</td> <td>No</td> </tr> </tbody> </table> <p>The existing development does not comply with the DCP site coverage, and landscaped area requirements.</p> <p>It is however noted that the proposal would result in slight improvements to site coverage and landscaped area. The site coverage increase from the swimming pool is offset by the removal of some existing structures such as the Level 1 bedroom and external staircases.</p> <p>The proposal is therefore considered to be acceptable given that the level of compliance with DCP requirements is generally maintained.</p>	Site Area : 687.8sqm	Existing	Proposed	Control	Compliance	Site coverage	376.1sqm (54.6%)	369.4sqm (53.7%)	40%	No	Unbuilt-upon area	89.2sqm (13%)	92.7sqm (13.5%)	20%	Yes	Landscaped area	222.5sqm (32.4%)	225.7sqm (32.8%)	40%	No
Site Area : 687.8sqm	Existing	Proposed	Control	Compliance																		
Site coverage	376.1sqm (54.6%)	369.4sqm (53.7%)	40%	No																		
Unbuilt-upon area	89.2sqm (13%)	92.7sqm (13.5%)	20%	Yes																		
Landscaped area	222.5sqm (32.4%)	225.7sqm (32.8%)	40%	No																		
1.5.7 Excavation	Yes	The proposed excavation works would be carried out entirely within the building footprint of the existing building and are unlikely to result in material impacts on the overall landform, drainage and structural integrity of the adjoining properties subject to imposition of appropriate conditions.																				
1.5.8 Landscaping	Yes (via Condition)	Council's Landscape Development Officer has reviewed the submitted landscape plan and was found generally satisfactory subject to imposition of appropriate conditions.																				

1.5.11 Swimming Pools	Yes	Consideration has been given to the relevant DCP requirements as follows: <table border="1" data-bbox="804 331 1378 584" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>Control</th> <th>Proposed</th> <th>Compliance</th> </tr> </thead> <tbody> <tr> <td>Setback 1.2m min</td> <td>1.2m</td> <td>Yes</td> </tr> <tr> <td>Height -500m max</td> <td>500m</td> <td>Yes</td> </tr> <tr> <td>Nearest habitable room – 6m min.</td> <td>7.4m</td> <td>Yes</td> </tr> </tbody> </table> <p>The proposed swimming pool complies with the key DCP requirements as shown on the compliance table above. Appropriate conditions are recommended to ensure compliance with the relevant safety and noise requirements.</p>	Control	Proposed	Compliance	Setback 1.2m min	1.2m	Yes	Height -500m max	500m	Yes	Nearest habitable room – 6m min.	7.4m	Yes
Control	Proposed	Compliance												
Setback 1.2m min	1.2m	Yes												
Height -500m max	500m	Yes												
Nearest habitable room – 6m min.	7.4m	Yes												
1.5.13 Garbage Storage	Yes (via condition)	A standard condition requiring the provision of adequate storage for general waste and recyclable materials can be imposed should approval be granted for the proposed development.												
1.6 Efficient Use of Resources														
1.6.1 Energy Efficiency	Yes	The applicant has submitted a valid BASIX certificate.												

Kirribilli Planning Area (Careening Cove Conservation Area) - Part C of NSDCP 2013

The proposal, as amended by the applicant, is generally consistent with Part C of North Sydney DCP 2013 in particular Section 8 of the Character Statement for Kirribilli Planning Area and Section 8.2 for Kirribilli Neighbourhood.

The proposed development is generally consistent with the built characteristic building elements within the neighbourhood.

LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN

The proposal is subject to Local Infrastructure Contributions in accordance with the North Sydney Local Infrastructure Contributions Plan 2020.

It is noted that the proposed development does not involve an increase in population, therefore the proposal is subject to a S7.12 levy in accordance with Sections 1.3.3 and 1.4 of North Sydney Local Infrastructure Contribution Plan 2020 because the cost of the development is over \$100,000.00.

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

Applicable Contribution Type		
S7.12 contribution detail	Development cost:	\$ 3,220,000.00
(payment amount subject to indexing at time of payment)	Contribution:	\$32,200.00

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

ALL LIKELY IMPACTS OF THE DEVELOPMENT

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

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

PUBLIC INTEREST

The proposal is considered to be in the public interest for the reasons stated throughout this report subject to the imposition of appropriate conditions.

SUITABILITY OF THE SITE

The proposal would be located in a R2 (Low Density Residential) zone where alterations and additions to an existing dual occupancy and a change of use to a single 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 subject to the imposition of appropriate conditions.

CONCLUSION

The development application has been assessed against the *North Sydney LEP 2013* and North Sydney DCP 2013, and was found to be generally satisfactory.

The proposed alterations and additions to an existing heritage listed dual occupancy for use as a single dwelling that is a permissible form of development in an R2 Low Density Residential Zone.

This report has considered a written request submitted by the applicant seeking a variation to Clause 4.3 in *North Sydney LEP 2013* concerned with the height of buildings height pursuant to Clause 4.6 of the LEP.

The variation to the building height development standard is justifiable because the building elements above the LEP maximum building height are unlikely to have an adverse impact on the character of the locality and would not cause material amenity impacts for the adjoining properties in terms of view loss, overshadowing and loss of privacy subject to the imposition of appropriate conditions.

Council's Conservation Planner has raised no objection to the proposal subject to the imposition appropriate conditions of consent.

Having regard to the provisions of Section 4.15(1) of the *EP&A Act 1979* the application is considered to be satisfactory and therefore can be approved subject to the imposition of appropriate conditions.

HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?

The application was notified to adjoining properties and the Milson Precinct seeking comment on the proposal between 28 July and 11 August 2023. Council has received no submissions.

RECOMMENDATION

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

THAT the North Sydney Local Planning Panel, exercising the functions of Council, as the consent authority, assume the concurrence of the Director General of the Department of Planning and invoke the provisions of Clause 4.6 in *NSLEP 2013* with regards to the non-compliance with Clause 4.3 of *NSLEP 20013* and grant consent to Development Application No. 216/23, at No.17 Elamang Avenue, Kirribilli, subject to the following site specific and attached standard conditions

Heritage Requirements

- C1 The following heritage requirements are to be met to ensure that the heritage status of the dwelling is retained:
- (a) No demolition of the chimney breasts within the dwelling is given or implied;
 - (b) Original floorboards, skirting boards, picture rails, architraves and doors to be retained except where noted on the plans for demolition;
 - (c) All original plaster ceilings, cornices and ceiling roses to be retained on Level 3 within the proposed kitchen, proposed dining room, proposed living room and existing hallway;
 - (d) The original fireplace cast iron grate and timber mantle piece on Level 3 are to be salvaged, including the tiles, for re-use in the proposed dining room. Any elements damaged during removal are to be repaired or replaced with similar Federation style products;
 - (e) The proposed new hearth and firebox to the proposed living room are to be Federation in style and to utilise a salvaged Federation style timber mantle piece;
 - (f) New windows and doors are to be timber framed;
 - (g) Original interior sliding glazed doors on Level 3 to be retained;
 - (h) New balustrades to East Elevation to have a painted finish;

- (i) Existing kitchen exhaust fan to the front entrance porch is to be removed and infilled to match existing brickwork; and
- (j) New front fence and gates to have a painted finish.

Plans and specifications which comply with this condition must be submitted for the written approval of Council's Team Leader Assessment in consultation with Council's Conservation Planner.

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

(Reason: To ensure that original heritage fabric is retained and new fabric is sympathetic to its heritage listing)

External Finishes & Materials

- C2 External finishes and materials must be in accordance with the submitted schedule on Drawing DA25 Revision B, dated 3 November 2023, prepared by Corben Architects and received by Council on 30 June 2023 unless otherwise modified by Council in writing.

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

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

No encroachment of works

- C3 The proposed works must not encroach onto any adjoining properties.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reasons: To ensure no encroachment onto the adjoining properties.)

ROBIN TSE
SENIOR ASSESSMENT OFFICER

ISOBELLA LUCIC
TEAM LEADER ASSESSMENTS

STEPHEN BEATTIE
MANAGER DEVELOPMENT SERVICES

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
17 ELAMANG AVENUE, KIRRIBILLI
DEVELOPMENT APPLICATION NO. 216/23

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.	Description	Prepared by	Dated
DA02 Rev C	Site Plan	Corben Architects	2/2/2024
DA03 Rev B	Level 1 Demolition Plan	Corben Architects	13/11/2023
DA04 Rev B	Level 2 Demolition Plan	Corben Architects	13/11/2023
DA05 Rev C	Level 3 Demolition Plan	Corben Architects	2/2/2024
DA06 Rev C	Level 4 Demolition Plan	Corben Architects	2/2/2024
DA07 Rev C	Roof Demolition Plan	Corben Architects	2/2/2024
DA08 Rev B	Proposed Level 1 Plan	Corben Architects	13/11/2023
DA09 Rev B	Proposed Level 2 Plan	Corben Architects	13/11/2023
DA10 Rev C	Proposed Level 3 Plan	Corben Architects	2/2/2024
DA11 Rev C	Proposed Roof plan	Corben Architects	2/2/2024
DA13 Rev C	Eastern & Western Elevations	Corben Architects	2/2/2024
DA14 Rev C	Northern Elevation	Corben Architects	2/2/2024
DA15 Rev C	Southern Elevation	Corben Architects	2/2/2024
DA16 Rev C	Section - AA	Corben Architects	2/2/2024
DA17 Rev B	Sections BB & CC	Corben Architects	13/11/2023
DA25 Rev B	External Finishes	Corben Architects	13/11/2023
DA201 Rev B	DA Front Garden	Secret Gardens	15/09/23
DA202 Rev B	DA Rear Garden	Secret Gardens	15/09/23

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

Plans on Site

- A2. A copy of all 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.

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)

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

Heritage Requirements

C1. The following heritage requirements are to be met to ensure that the heritage status of the dwelling is retained:

- (a) No demolition of the chimney breasts within the dwelling is given or implied;
- (b) Original floorboards, skirting boards, picture rails, architraves and doors to be retained except where noted on the plans for demolition;
- (c) All original plaster ceilings, cornices and ceiling roses to be retained on Level 3 within the proposed kitchen, proposed dining room, proposed living room and existing hallway;
- (d) The original fireplace cast iron grate and timber mantle piece on Level 3 are to be salvaged, including the tiles, for re-use in the proposed dining room. Any elements damaged during removal are to be repaired or replaced with similar Federation style products;
- (e) The proposed new hearth and firebox to the proposed living room are to be Federation in style and to utilise a salvaged Federation style timber mantle piece;
- (f) New windows and doors are to be timber framed;
- (g) Original interior sliding glazed doors on Level 3 to be retained;
- (h) New balustrades to East Elevation to have a painted finish;
- (i) Existing kitchen exhaust fan to the front entrance porch is to be removed and infilled to match existing brickwork; and
- (j) New front fence and gates to have a painted finish.

Plans and specifications which comply with this condition must be submitted for the written approval of Council's Team Leader Assessment in consultation with Council's Conservation Planner.

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

(Reason: To ensure that original heritage fabric is retained and new fabric is sympathetic to its heritage listing)

External Finishes & Materials

- C2. External finishes and materials must be in accordance with the submitted schedule on Drawing DA25 Revision B, dated 3 November 2023, prepared by Corben Architects and received by Council on 30 June 2023 unless otherwise modified by Council in writing.

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

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

No encroachment of works

- C3. The proposed works must not encroach onto any adjoining properties.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reasons: To ensure no encroachment onto the adjoining properties.)

Dilapidation Report Damage to Public Infrastructure

- C4. 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 Report Private Property (Excavation)

- C5. A full dilapidation survey and report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

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

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

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

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

(Reason: To record the condition of property/ies prior to the commencement of construction)

Dilapidation Survey Private Property (Neighbouring Buildings)

- C6. A photographic survey and dilapidation report of adjoining properties No's. 15 and 19 Elamang Avenue 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.

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

(Reason: Proper management of records)

Structural Adequacy of Adjoining Properties – Excavation Works

- C7. A report prepared by an appropriately qualified and practising structural engineer detailing the structural adequacy of adjoining properties No's. 15 and 19 Elamang Avenue, which certifies their ability to withstand the proposed excavation and outlines any measures required to be implemented to ensure that no damage will occur to adjoining properties during the course of the works, must be submitted to the 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.

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

Structural Adequacy of Existing Building

- C8. A report prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction shall be submitted to the 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)

Geotechnical Report

- C9. A report prepared by an appropriately qualified Geotechnical Engineer certifying that the existing rock formations and substrate on the site is capable of:
- a) withstanding the proposed loads to be imposed;
 - b) withstanding the extent of the proposed excavation, including any recommendations for shoring works that may be required to ensure the stability of the excavation;
 - c) providing protection and support of adjoining properties; and
 - d) the provision of appropriate subsoil drainage during and upon completion of construction works

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

Recommendations made in the certified report must be complied with at all times.

Building plans and specifications submitted for approval with any construction certificate application must comply with (a), (b), (c) and (d) above and the certified report, including any recommendations made in the said certified report.

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 structural integrity of the subject site and adjoining sites during the excavation process)

Sediment Control

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

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

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

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

The 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 protect the environment from the effects of sedimentation and erosion from development sites)

Waste Management Plan

- C11. A Waste Management Plan is to be submitted for approval by the Principal Certifier prior to the issue of any Construction Certificate. The plan must include, but not be limited to:
- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
 - b) The design of the on-site waste storage and recycling area; and
 - c) Administrative arrangements for waste and recycling management during the construction process.

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

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

Heritage Architect to be commissioned

- C12. An appropriately qualified and experienced heritage architect must be commissioned to assist the design development, contract documentation and overseeing of construction works on the site for their duration by undertaking regular inspections of the works in progress and providing advice in relation to heritage matters.

Written details of the engagement of the experienced heritage architect must be submitted to the Principal Certifier prior to the issue of any Construction Certificate.

Note: if advice provided by the heritage architect is to the effect that works requiring development consent be carried out, such works would require a Modification under s 4.55 of the *Environmental Planning and Assessment Act 1979* or further development application. This condition, and any advice given by the heritage architect, should not be construed as authorising the carrying of development with/ otherwise than in accordance with the development consent.

(Reason: To ensure that all matters relating to significant fabric and spaces are resolved and recorded using best practice for heritage conservation)

Colours, Finishes and Materials

- C13. The finishes, materials and exterior colours, other than those specified in Conditions C1 and C2 shall be complementary and sympathetic to the architectural style of the subject heritage listed building.

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 Heritage Area.)

Skylight(s)

- C14. 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)

Roofing Materials - Reflectivity

- C15. Roofing materials must be factory pre-finished with low glare and reflectivity properties to be compatible with the colours of neighbouring buildings. The selected roofing material must not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties. Plans and specifications which comply with this condition must be submitted to the 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 that excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development)

Work Zone

- C16. If a Work Zone is required a Work Zone permit is to be obtained from Council prior to the issue of any Construction Certificate.

Note: For major development an application for work zone permit must be considered by the North Sydney Local Traffic Committee.

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. Works 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 Works 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)

Stormwater Management and Disposal Design Plan – Construction Issue Detail

- C17. Prior to issue of any Construction Certificate, a site drainage management plan must be prepared by a qualified drainage design engineer. The site drainage management plan must detail the following requirements of North Sydney Council:

- a) Compliance with BCA drainage requirements, Councils Engineering Performance guide and current Australian Standards and guidelines, such as AS/NZ3500.3.2 1998, National Plumbing and Drainage Code.

- b) Stormwater runoff and subsoil drainage generated by the approved dwellings must be conveyed in a controlled manner by gravity to the Bay waters via existing stormwater outlet
- c) 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.
- d) Provide the silt arrestor pit before discharging to the Bay waters.

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

The Certifying Authority issuing the Construction Certificate must ensure that the approved drainage plan and specifications, satisfying the requirements of this condition, is referenced on and accompanies the Construction Certificate.

(Reason: To ensure controlled stormwater management and disposal without nuisance)

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

- C18. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$5,000.00 to be held by Council for the payment of cost for any/all of the following:
- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
 - b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and [environmental controls](#)) required in connection with this consent
 - c) remedying any defects in any such public work that arise within 6 months after the work is completed.
 - d) Council reserves the right to retain all bonds on infrastructure works relating to the completion of required Infrastructure work for a 12-month defect liability period. Council may elect to provide a lesser period for minor residential work.

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 or Manager of Development Services.

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 Principal Certifier 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)

Arborist to be commissioned

- C19. An experienced AQF Level 5 consulting arborist must be commissioned to assist the design development, contract documentation and overseeing of construction works on the site for their duration by undertaking regular inspections of the works in progress and providing advice in relation to tree matters.

Written details of the engagement of the experienced arborist must be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

Note: This condition, and any advice given by the consulting arborist, should not be construed as authorising the carrying of development with/ otherwise than in accordance with the development consent.

(Reason: To ensure that all matters relating to trees are resolved and recorded using best practice.)

Tree Protection

- C20. To ensure the protection of all trees to be retained, the following measures are to be undertaken:

- a) All documentation for the Construction Certificate application must show the site trees to be retained, and retention of the adjoining trees, with their positions and diameters of trunks and crowns (canopies) to be clearly and accurately shown in relation to all levels of the proposed development.
- b) All plans and correspondences must refer to the required compliance with the approved Tree Protection and Management Plan, and clearly show the assigned number of each tree on site, adjoining and Council land.

- c) A Consulting Arboriculturist (“the project arboriculturist”), who holds a minimum Australian Qualification Framework Level 5 in Arboriculture, is a registered consulting member of a nationally recognised arboricultural organisation or association, and who does not remove or prune trees in the North Sydney local government area, shall be engaged before work commences for the duration of site preparation, demolition, construction and landscaping.
- d) The project arboriculturist shall inspect, monitor, supervise, provide recommendations and written reports and certification relating to protection of the trees and compliance with the conditions of consent.
- e) The contact details of the project arboriculturist shall be advised to council before work commences and maintained up to date for the duration of works. If a new project arborist is appointed details of the new project arborist shall be notified to council within 7 days.

(Reason: Tree protection measures)

Tree Bond for Public Trees

- C21. Prior to the issue of any construction certificate, security in the sum of \$12,000.00 must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

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

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

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

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

SCHEDULE

Tree Species	Location	Bond
T1 <i>Lophostemon confertus</i> - 12x10m	Council verge in front of 17 Elamang Avenue	\$9,000

T7 <i>Magnolia X soulangiana</i> - 1.5x1m	Council verge in front of 17 Elamang Avenue	\$1,500
1 x <i>Callistemon</i> sp. (3m)	Council verge in front of 15 Elamang Avenue	\$1,500

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

Tree Protection Measures to be shown on Construction Drawings

C22. The tree protection measures contained in the arborist report prepared by Ezigrow, dated 25 August 2023, shall be shown clearly on the Construction Certificate drawings Plans and specifications showing the said tree protection measures must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure the construction plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

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

Protection of Trees

C23. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Tree	Location	Height
T1 <i>Lophostemon confertus</i>	Council verge in front of 17 Elamang Avenue	12x10m
T7 <i>Magnolia X soulangiana</i>	Council verge in front of 17 Elamang Avenue	1.5x1m
1 x <i>Callistemon</i> sp.	Council verge in front of 15 Elamang Avenue	3m
T3 & T4 <i>Plumeria acutifolia</i> (to be transplanted)	Rear setback of 17 Elamang Avenue	4x5m
T2 <i>Archontophoenix alexandrae</i>	Rear setback of 17 Elamang Avenue	12x4m
All trees and vegetation	Adjacent boundaries to 17 Elamang Avenue	variable

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

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

(Reason: Protection of existing environmental and community assets)

Approval for Removal of Trees

- C24. The following tree(s) are approved for removal in accordance with the development consent:

Trees that are acceptable to remove	Location	Height
<i>T5 Magnolia 'Teddy Bear'</i>	Rear setback of 17 Elamang Avenue	4x2m
<i>T6 Araucaria heterophylla</i>	Rear setback of 17 Elamang Avenue	4x3m

Removal or pruning of any other tree on the site is not approved, excluding species exempt under Section 16 of the North Sydney DCP 2013.

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)

Pruning of Trees

- C25. All pruning works shall to the following tree(s) shall be undertaken under the guidance of an appropriately qualified arborist/tree surgeon in accordance with Australian Standard AS 4373-2007 - Pruning of Amenity Trees:

Trees that may Require Pruning	Location	Height
<i>T3 & T4 Plumeria acutifolia</i> (to be transplanted)	Rear setback of 17 Elamang Avenue	4x5m

A report detailing the measures to be employed during construction shall be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. All measures required by the said report must be complied with at all times in the carrying out of the development.

(Reason: To ensure the protection and longevity of existing significant trees)

Garbage and Recycling Facilities

- C26. Adequate provision must be made for the storage of waste and recyclable material generated by the premises. Plans and specifications which comply with this condition must be submitted to the 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 the provision of appropriate waste facilities and to ensure efficient collection of waste by collection contractors)

Asbestos and Hazardous Material Survey

- C27. 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.

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)

Noise from Plant and Equipment

- C28. The use of all plant and equipment installed on the premises must not:

- (a) Contribute an LAeq(15min) which will cause the total LAeq(15min) from all plant and equipment operating contemporaneously on the site or in the strata scheme or in the mixed strata schemes to exceed the RBL by more than 5dB when measured at the boundary of any affected receiver. The modifying factor adjustments in Section 4 of the EPA Noise Policy for Industry 2017 shall be applied.
- (b) Cause "offensive noise" as defined in the *Protection of the Environment Operations Act 1997*.

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

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

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

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

Air Conditioners in Residential Premises

C29. The use of any air conditioner installed on the premises must comply with the requirements of the Protection of the Environment Operations (Noise Control) Regulations 2017 and State Environmental Planning Policy (Infrastructure) 2007 and must not:

- (a) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
 - (i) before 8.00am and after 10.00pm on any Saturday, Sunday or Public Holiday; or
 - (ii) before 7.00am or after 10.00pm on any other day
- (b) cause an LAeq(15min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the EPA Noise Policy for Industry 2017 will be applied.

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

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

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

(Reason: To maintain residential amenity)

Swimming Pool Pumps on Residential Premises

C30. The Principal Certifier must be satisfied that the swimming pool pump to be installed on the premises must not:

- a) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
 - (i) before 8.00am and after 8.00pm on any Sunday or Public Holiday; or
 - (ii) before 7.00am or after 8.00pm on any other day

- (c) cause an LAeq(15min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the EPA Noise Policy for Industry 2017 shall be applied.

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

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

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

Details demonstrating compliance with the requirements of this condition must be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

(Reason: To maintain residential amenity)

Privacy

- C31. The following privacy devices are to be provided:

Obscured or frosted glazing shall be applied to the Level 4 bathroom window (W4.03) to ensure visual privacy protection for the subject site and the adjoining property to the north.

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 an adequate level of privacy is provided to adjoining property located at 19 Elamang Avenue)

Pool Access

- C32. Access to the pool must be restricted by a child resistant barrier in accordance with the regulations prescribed in the Swimming Pools Act 1992, and the barrier is to conform to the requirements of the applicable Australian Standard. Plans and specifications complying with this condition must be submitted to the 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 safety of children and make applicant aware of the need to comply with applicable pool fencing legislation)

Swimming Pool Water to Sewer

C33. The swimming pool, including overflow water, must be drained to the sewer. The consent of Sydney Water to dispose of wastewater must be obtained prior to the issue of the relevant Construction Certificate. Plans and specifications complying with this condition and any conditions/ requirements of Sydney Water 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 comply with this condition and any conditions/ requirements imposed by Sydney Water.

(Reason: Water from a swimming pool is classified as wastewater and cannot be legally disposed of into the stormwater system)

Pool Filter

C34. The pool filtering equipment must be encased by a soundproof cover and must be located six (6) metres from any habitable room in a dwelling on a neighbouring property. 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 noise generated by equipment does not result in offensive noise)

Section 7.12 Development Contributions

C35. 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 \$32,200.00.

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

C36. 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)	\$12,000.00
Footpath Damage Bond	\$5,000.00
TOTAL BONDS	\$17,000.00

Note: The following fees applicable

Fees	
Section 7.12 Contributions	\$32,200.00
TOTAL FEES	\$32,200.00

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

C37. 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. A492739_03 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)

Amendments to the Landscape Plan

C38. The landscape plan must be amended as follows to provide an appropriate landscaped setting:

- 1 x *Plumeria acutifolia* shown in plant schedule but not depicted on plans shall be deleted from LS Plan.
- A Tree protection, management and ongoing maintenance plan prepared by a qualified (AQ5) arborist/horticulturalist shall be required, detailing methods of transplanting and maintenance for T3 & T4 *Plumeria acutifolia* (4x5m).

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

(Reason: To ensure residential amenity)

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

Protection of Trees

D1. All trees that are specifically nominated to be retained by notation on plans or by condition as a requirement of this consent must be maintained and protected during demolition, excavation and construction on the site in accordance with AS4970-2009 (Protection of trees on development sites). A report containing recommendations, and methods of tree protection prepared by an appropriately qualified person must be provided to the Certifying Authority for approval by an appropriately qualified person prior to commencement of any works on the site. Any recommendations must be undertaken for the duration of works on the site.

Sensitive construction techniques including hand excavation, pier & beam construction & flexible location of piers/footings shall be used within the TPZ of any protected tree. No roots greater than 40mm shall be cut. No stormwater or any other underground services shall be directed through the TPZ of any protected tree.

Palm fronds and other overhanging foliage shall be tied back if required and not pruned. Trunk protection shall be put in place on any section of unprotected trunk of T2 *Archontophoenix alexandrae* (12x4m) that is within 2m of any construction works, scaffolding, or associated works.

(Reason: To ensure compliance with the requirement to retain significant planting on the site)

Tree Protection Measures

D2. The tree protection measures detailed in the approved Tree Protection and Management Plan, and as directed by the project arboriculturist shall be established before work commences.

(Reason: To ensure that the stability and ongoing viability of trees being retained are not compromised Tree protection measures)

Project Arborist

D3. A project arborist must be engaged to ensure adequate protection of trees affected by the proposed development:

- The project arboriculturist shall inspect tree protection measures and certify in writing to the Principal Certifying Authority the measures comply with the approved Tree Protection Plan and as directed by the project arboriculturist before work commences.
- The project arboriculturist shall provide guidance and oversight of tree protection and management to ensure that the stability and ongoing viability of trees being retained is not compromised.
- The project arboriculturist must contact the tree pruning contractor and Council's Tree Management Officer (giving at least 2 working days' notice) to arrange a joint site meeting, prior to commencing any pruning, to determine the exact location and extent of pruning that is permissible, with the tree pruning contractor to comply with any instructions issued by Council, acting reasonably.
- Any pruning must be undertaken by a practicing arborist with a minimum Australian Qualification Framework Level 3 in arboriculture, in accordance with the principles of the Australian Standard AS 4373-2007 'Pruning of Amenity Trees,' and the NSW Work Cover Code of Practice for the Amenity Tree Industry (1998), as well as any instructions issued on site by Council, acting reasonably.
- The practicing arborist must keep a log of dates and times of when they attended the site, the type of works that were performed, and must form part of the certification required prior to Occupation.

(Reason: Tree protection measures)

Protection of Public Trees

D4. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Tree	Location	Protection
T1 <i>Lophostemon confertus</i> (12x10m)	Council verge in front of 17 Elamang Avenue	1.8m high steel mesh tree protection fencing, Trunk, branch & root protection
T7 <i>Magnolia X soulangiana</i>	Council verge in front of 17 Elamang Avenue	1.8m high steel mesh tree protection fencing
1 x <i>Callistemon</i> sp.	Council verge in front of 15 Elamang Avenue	1.8m high steel mesh tree protection fencing

Trunk protection to be installed by first wrapping the stem of the tree in hessian or like material then strapping timber battens over the top. It is recommended that timber battens with the dimensions of length 2000mm, width 75mm and depth 50mm are used. The battens are not to be directly screwed or nailed into the tree.

(Reason: Protection of existing environmental and community assets)

Temporary Fences and Tree Protection

- D5. All protected trees on-site that are specifically nominated as per Condition C18 to be retained by notation on plans or by condition as a requirement of this consent must be tagged with luminous tape or the like for purposes of identification prior to demolition, excavation or construction works and must remain so for the duration of works on the site. No materials or builder's waste are to be stored in the vicinity of the nominated tree/trees at any time.

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

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

Public Liability Insurance – Works on Public Land

- D6. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy is to note and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

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

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

Notification of New Addresses

- D7. 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*)

Sydney Water Approvals

D8. Prior to the commencement of any works, the approved plans must be submitted to Sydney Water to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Principal Certifier must ensure that Sydney Water has appropriately stamped the plans before the commencement of building works.

Notes:

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

(Reason: To ensure compliance with Sydney Water requirements)

Commencement of Works' Notice

D9. 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 Principal Certifier.

(Reason: Stormwater control during construction)

Progress Survey

- E4. In order to ensure compliance with approved plans, a Survey Certificate, to Australian Height Datum, must be prepared by a Registered Surveyor as follows: -
- a) at the completion of the first structural floor level indicating the level of that floor and the relationship of the building to the boundaries;
 - b) at the completed height of the building, prior to the placement of concrete form work, or the laying of roofing materials; and
 - c) at completion, the relationship of the building, and any projections thereto, to the boundaries.

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

(Reason: To ensure compliance with approved plans)

Removal of Extra Fabric

- 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 or the person, company or other entity that is acting upon this consent, 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. All recommendations contained within the tree report prepared by Ezigrow dated 25 August 2023 must be implemented for the duration of the works.

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

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.
- 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)

Trees to be Removed

- E12. All trees on the site must be protected and retained save for those expressly identified below as being approved for removal:

Trees that are acceptable to remove	Location	Height
<i>T5 Magnolia 'Teddy Bear'</i>	Rear setback of 17 Elamang Avenue	4x2m
<i>T6 Araucaria heterophylla</i>	Rear setback of 17 Elamang Avenue	4x3m

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

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)

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
Residential 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)

Service Adjustments

- E15. The adjustment or inclusion of any new utility service or facilities must be carried out by an appropriately contractor in accordance with the requirements of the relevant utility authority.

These works shall be at no cost to Council. It is the Applicant's responsibility to contact the relevant utility authorities to ascertain the impacts of the proposal upon utility services prior to the commencement of any work, including demolition (including water, phone, gas and the like).

Council accepts no responsibility for any impact on or influence upon utility services provided by another authority.

(Reason: To ensure the service requirements are met)

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.

(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)

Prohibition on Use of Pavements

- E20. 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

- E21. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

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

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

Imported Fill Material

E22. The only waste derived fill material that may be received at the development site is:

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

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

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

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)

Excavation/Demolition

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

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

Protection of Public Places

- F8.
- 1) A hoarding and site fencing must be erected between the work site and adjoining public place.
 - 2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
 - 3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
 - 4) Any such hoarding, fence or awning is to be removed when the work has been completed.
 - 5) No access across public reserves or parks is permitted.

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

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

Site Sign

- F9.
- 1) A sign must be erected in a prominent position on the site
 - a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - c) showing the name, address and telephone number of the Principal 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. 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. Council's development engineer must be contacted to arrange inspections of the completed works in the Public Domain.

(Reason: Maintain quality of Public assets)

Pool Access

G2. Access to the pool must be restricted by a child resistant barrier in accordance with the regulations prescribed in the Swimming Pools Act 1992, and the requirements of the applicable Australian Standard. The pool must not be filled with water or be allowed to collect stormwater until the installation of the child resistant barrier is completed. Certification from an appropriately qualified person confirming compliance with these requirements must be provided prior to the issuing of any Occupation Certificate.

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

Pool Safety Requirements

G3. A notice must be displayed in a prominent position in the immediate vicinity of the pool at all times showing:

- a) Appropriate instructions of artificial resuscitation methods.
- b) A warning stating:
 - (i) "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL", and
 - (ii) "POOL GATES MUST BE KEPT CLOSED AT ALL TIMES", and
 - (iii) "KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900 MILLIMETRES CLEAR OF THE POOL FENCE AT ALL TIMES",

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

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

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

Damage to Adjoining Properties

G4. 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

G5. 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)

Notification of New Address Developments

G6. Prior to any Occupation Certificate being issued, the person acting upon this consent must comply with the following: -

(a) Notify Australia Post of the address(es) as issued by Council and the location in plan form of any secondary, internal addresses, in relation to built public roads. Check Australia Post Website (www.auspost.com.au) to find your nearest Australia Post Delivery Facility.

(Reason: To ensure that Council records are accurate, that house numbering complies with the requirements of Council's House Numbering Policy and to assist emergency services.)

Asbestos Clearance Certificate

G7. For building works where asbestos based products have been removed or altered, an asbestos clearance certificate signed by an appropriately qualified person (being an Occupational Hygienist or Environmental Consultant) must be submitted to and approved by the Principal Certifier (and a copy forwarded to Council if it is not the Principal Certifier) for the building work prior to the issue of any Occupation Certificate, the asbestos clearance certificate must certify the following: -

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

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

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

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

Certification of Tree Condition

G8. Prior to the issue of an Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Principal Certifier, describing the health of the tree(s) specifically nominated below: -

Tree	Location	Height
T1 <i>Lophostemon confertus</i>	Council verge in front of 17 Elamang Avenue	12x10m
T7 <i>Magnolia X soulangiana</i>	Council verge in front of 17 Elamang Avenue	1.5x1m
1 x <i>Callistemon</i> sp.	Council verge in front of 15 Elamang Avenue	3m
T3 & T4 <i>Plumeria acutifolia</i> (to be transplanted)	Rear setback of 17 Elamang Avenue	4x5m
T2 <i>Archontophoenix alexandrae</i>	Rear setback of 17 Elamang Avenue	12x4m
All trees and vegetation	Adjacent boundaries to 17 Elamang Avenue	variable

The report must detail the condition and health of the nominated tree(s) upon completion of the works, and shall certify that the tree(s) has/have not been significantly damaged during the works on the site, and has/have reasonable prospects for survival.

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

Disposal Information

G9. Upon completion of works and prior to occupation, a report including the following information must be provided to Council's Open Space and Environmental Services Department:

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

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

BASIX Completion Certificate

G10. 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

G11. The landscaping shown in the approved landscape plan numbered DA201 Rev B and DA202 Rev B prepared by Secret Garden dated 15 September 2023 and as modified by Condition C38 in this consent must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

Unpaved Verge

G12. The unpaved verge area must be constructed or reconstructed and planted with an appropriate species of grass prior to completion of the works at no cost to Council.

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

Compliance with Certain conditions

G13. Prior to the issue of any Occupation Certificate, Conditions C1, C2, C3, C13 and C31 must be certified as having been implemented on site and complied with.

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

I. On-Going / Operational Conditions

Pool Filter

- I1. The swimming pool pump installed at the premises must not operate so as to:
- (b) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
 - (j) before 8.00am and after 8.00pm on any Sunday or Public Holiday; or
 - (ii) before 7.00am or after 8.00pm on any other day
 - (c) cause an LAeq(15min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the EPA Noise Policy for Industry 2017 shall be applied.

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

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

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

(Reason: To ensure noise generated by equipment does not result in offensive noise)

Single Occupancy

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

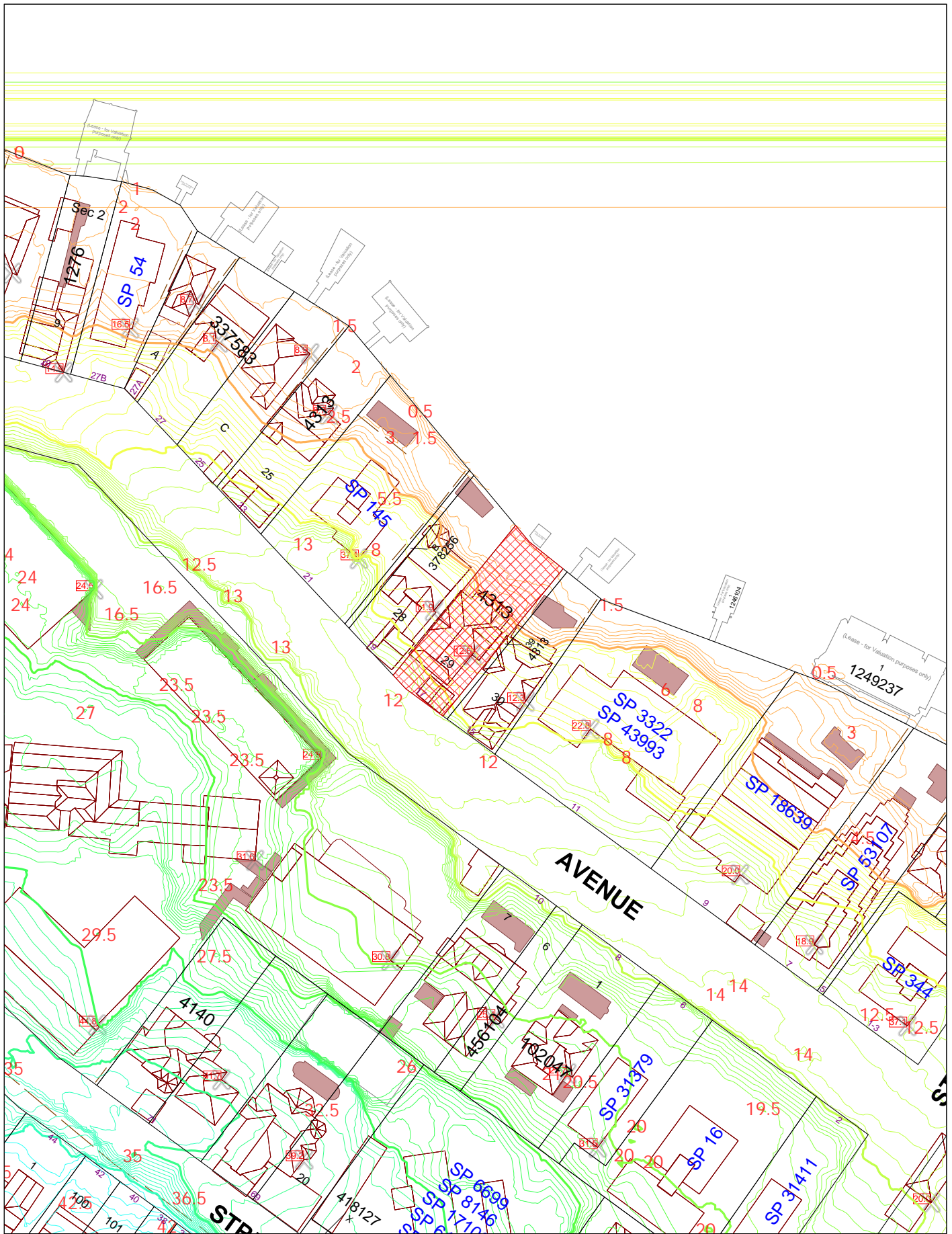
(Reason: To ensure compliance with the terms of this consent)

Maintenance of Approved Landscaping

13. The owner of the premises at 17 Elamang Avenue is to maintain the landscaping approved by this consent generally in accordance with Landscape Plan prepared by Secret Gardens, dated 15 September 2023.

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

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






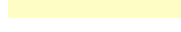
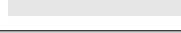
North Sydney Council

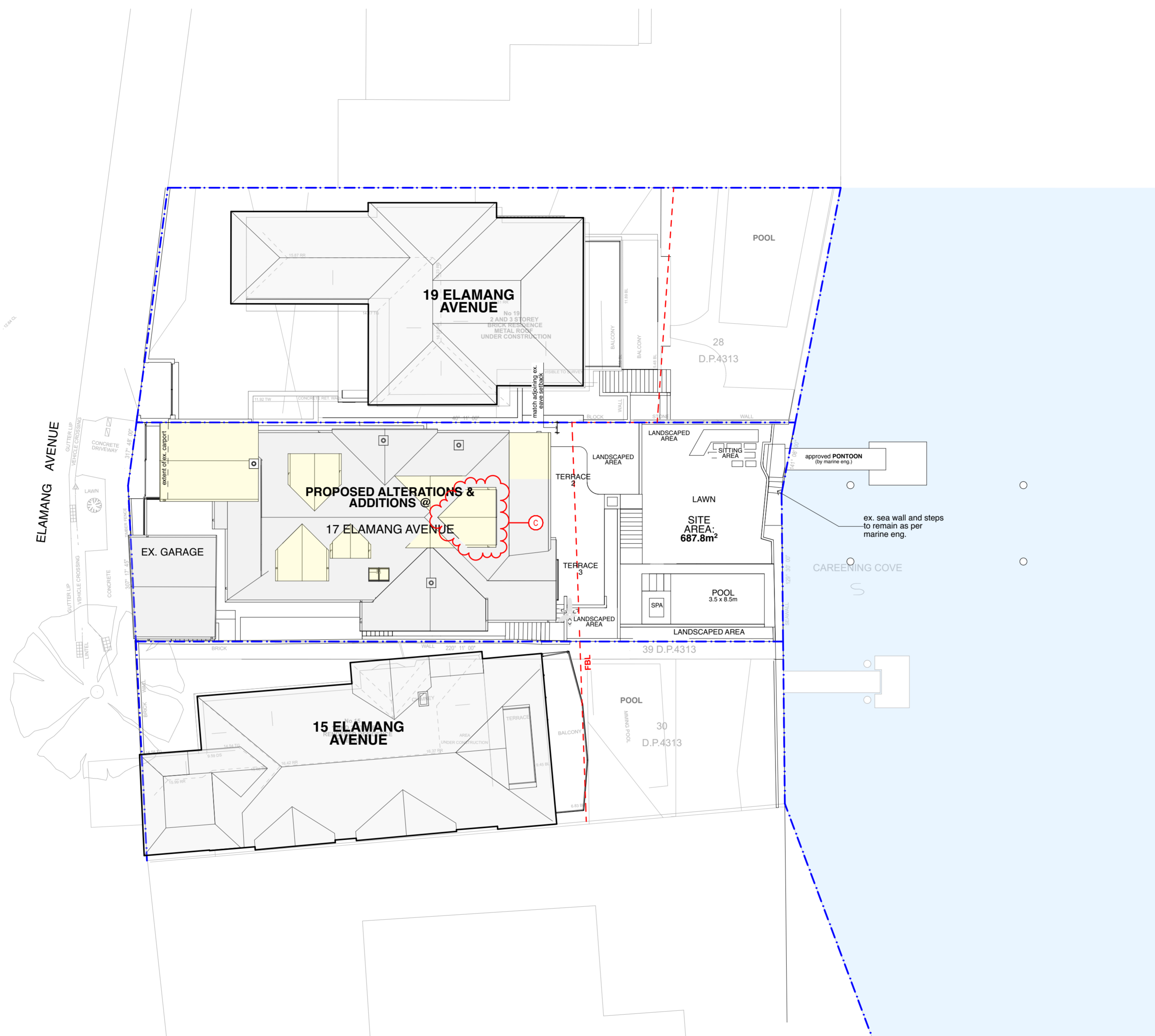
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Further details can be obtained by calling (02) 9936 8100 or e-mail mapping@northsydney.nsw.gov.au.

Scale: 1:1200 approx.



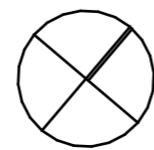
Wall Type Legend	
	existing structure to be demolished
	existing structure to remain
	proposed structure
	proposed alterations and additions
	existing dwelling footprint/volume



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C	2/2/2024	Amended per Council Heritage officer request

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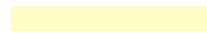
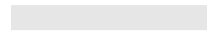
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 PO Box 1021 Neutral Bay NSW 2089 Australia
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 mail@corben.com.au
 corben.com.au
 Nominated Architect: Philip Corben (Reg. No. 4616)

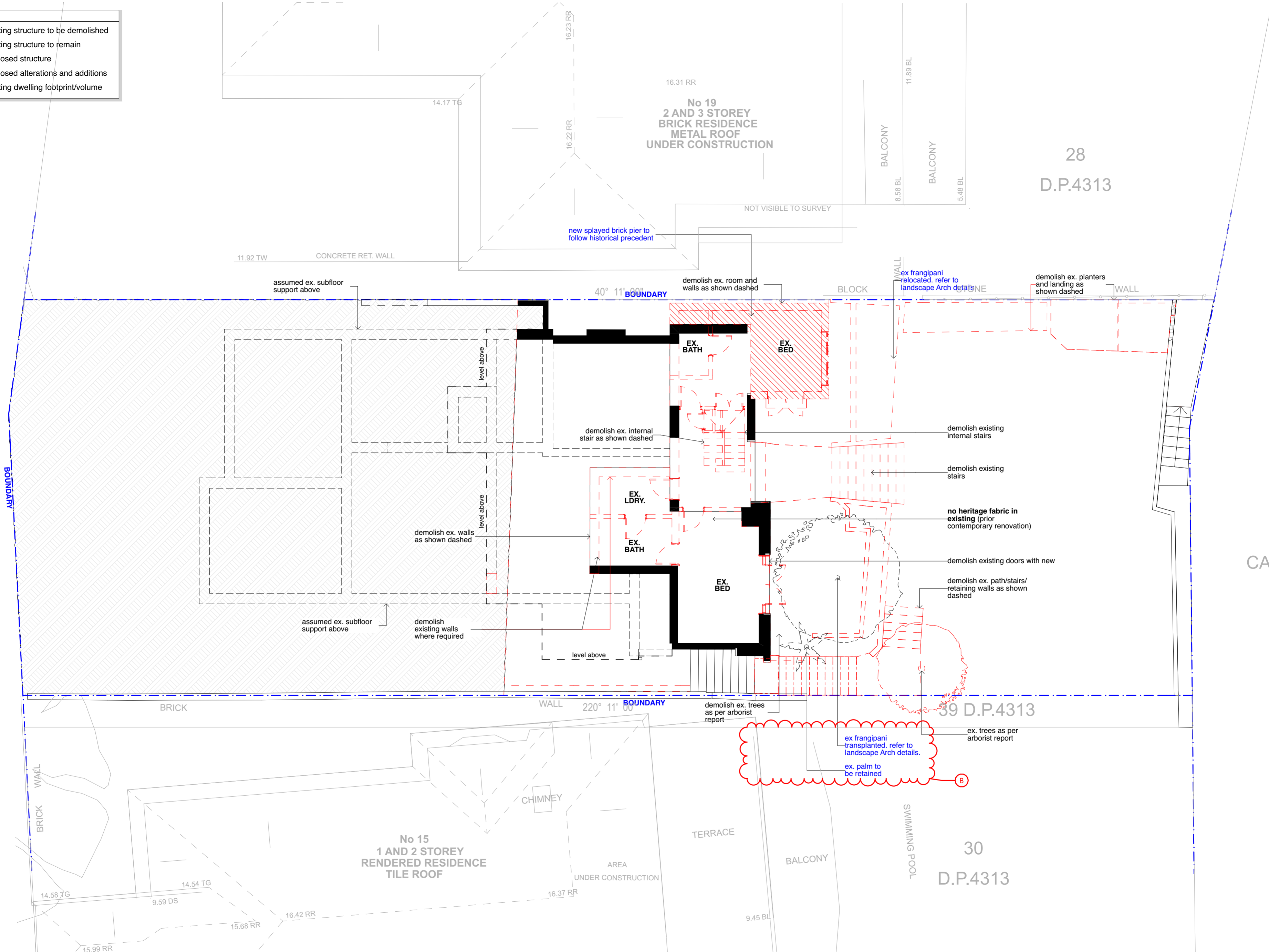
project Harvey House
address 17 Elamang Avenue
 Kirribilli NSW
client Tess & Alex Harvey

title Site Plan
issue Development Application

job no. HHK
drawn AN
checked PC
scale 1:200

dwg no. DA02
revision C

Wall Type Legend	
	existing structure to be demolished
	existing structure to remain
	proposed structure
	proposed alterations and additions
	existing dwelling footprint/volume



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Nominated Architect Philip Corben (Reg. No. 4616)

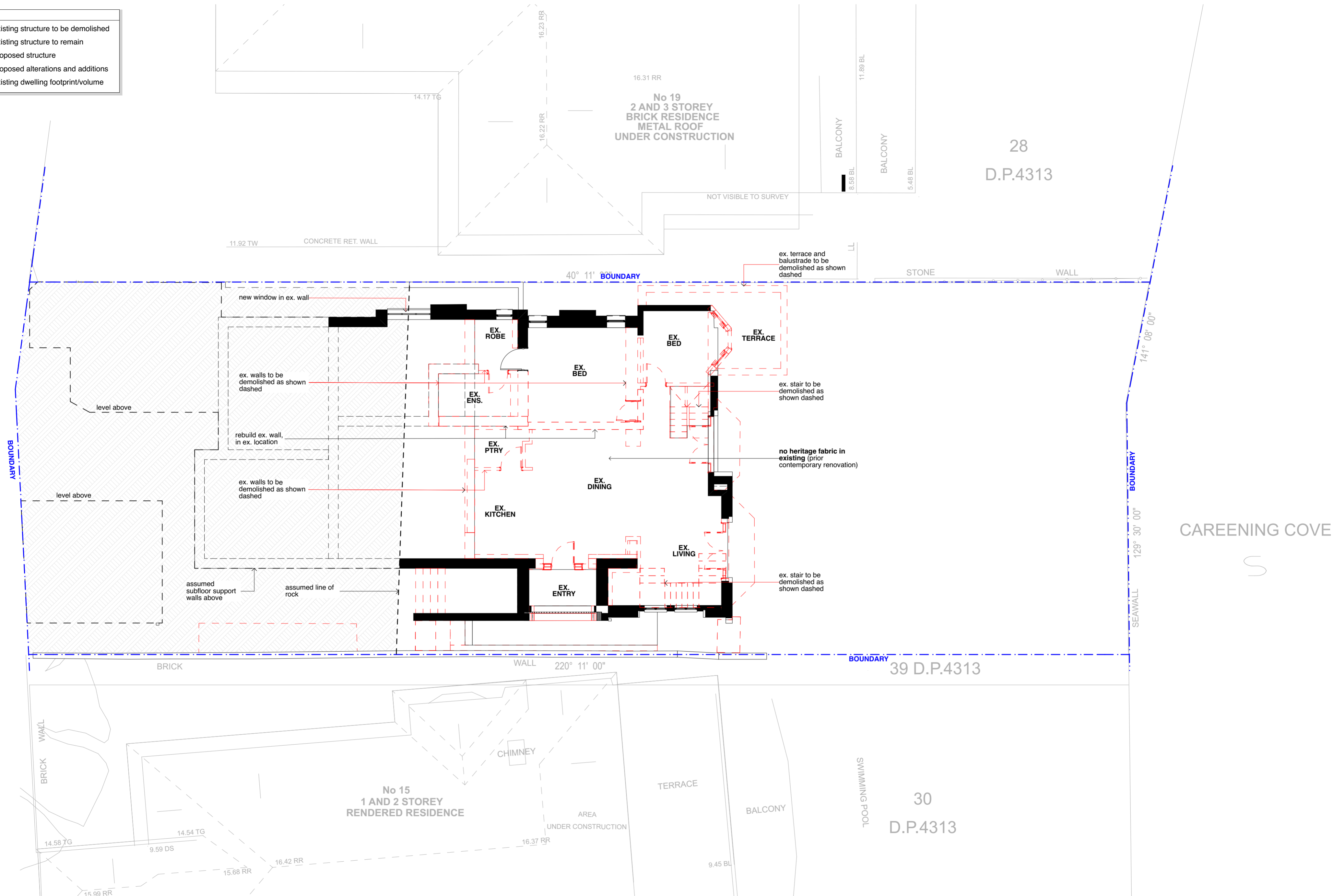
project	Harvey House
address	17 Elamang Avenue Kirribilli NSW
client	Tess & Alex Harvey

title	Level 1 Demolition Plan
issue	Development Application

job no.	HHK
drawn	AN
checked	PC
scale	NTS

dwg no.	DA03
revision	B

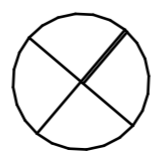
Wall Type Legend	
	existing structure to be demolished
	existing structure to remain
	proposed structure
	proposed alterations and additions
	existing dwelling footprint/volume



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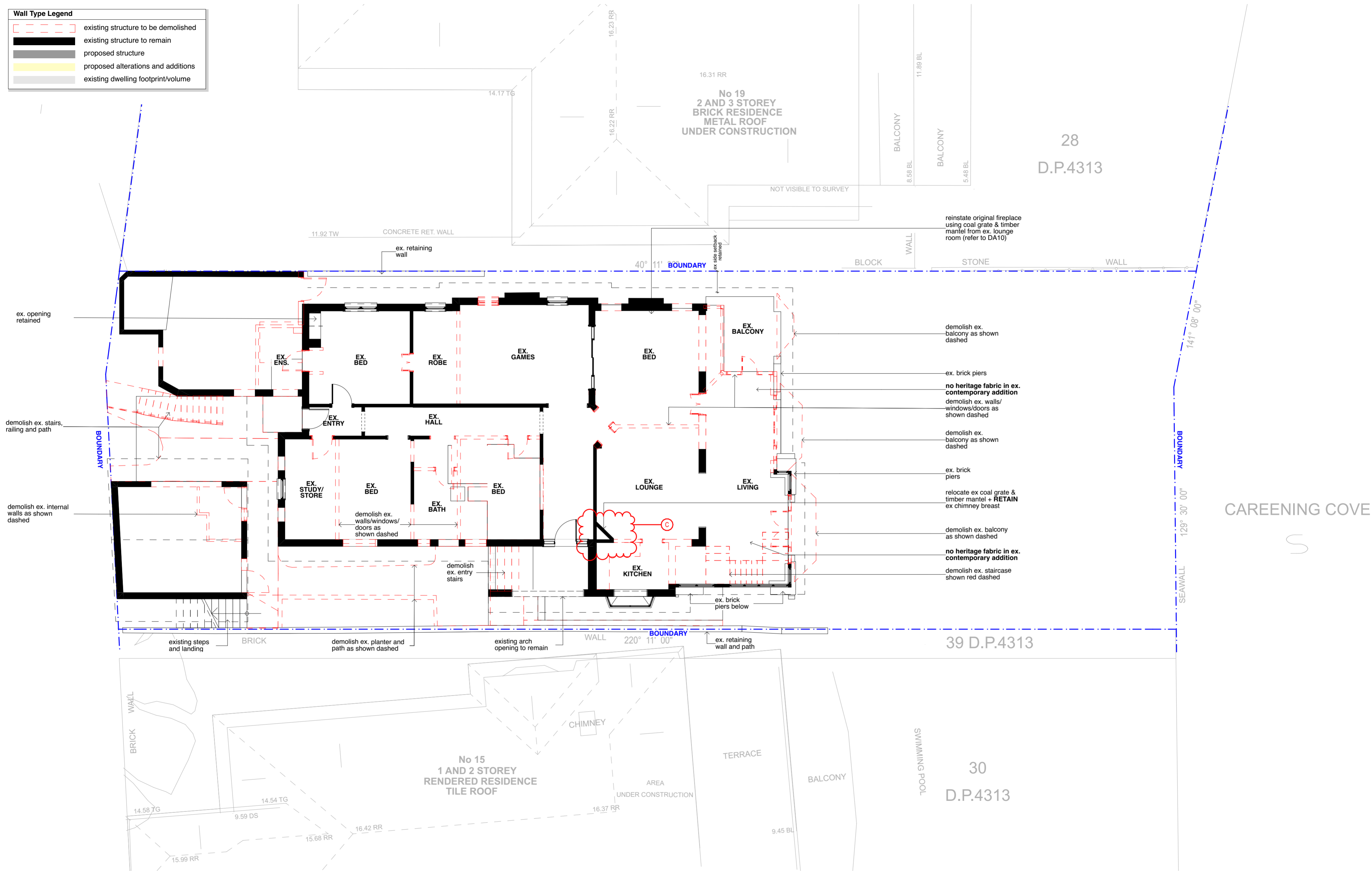
project Harvey House
address 17 Elamang Avenue Kirribilli NSW
client Tess & Alex Harvey

title Level 2 Demolition Plan
issue Development Application

job no. HHK
drawn AN
checked PC
scale NTS

dwg no. DA04
revision B

Wall Type Legend	
	existing structure to be demolished
	existing structure to remain
	proposed structure
	proposed alterations and additions
	existing dwelling footprint/volume



No 19
2 AND 3 STOREY
BRICK RESIDENCE
METAL ROOF
UNDER CONSTRUCTION

28
D.P.4313

39 D.P.4313

30
D.P.4313

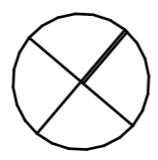
No 15
1 AND 2 STOREY
RENDERED RESIDENCE
TILE ROOF

CAREENING COVE

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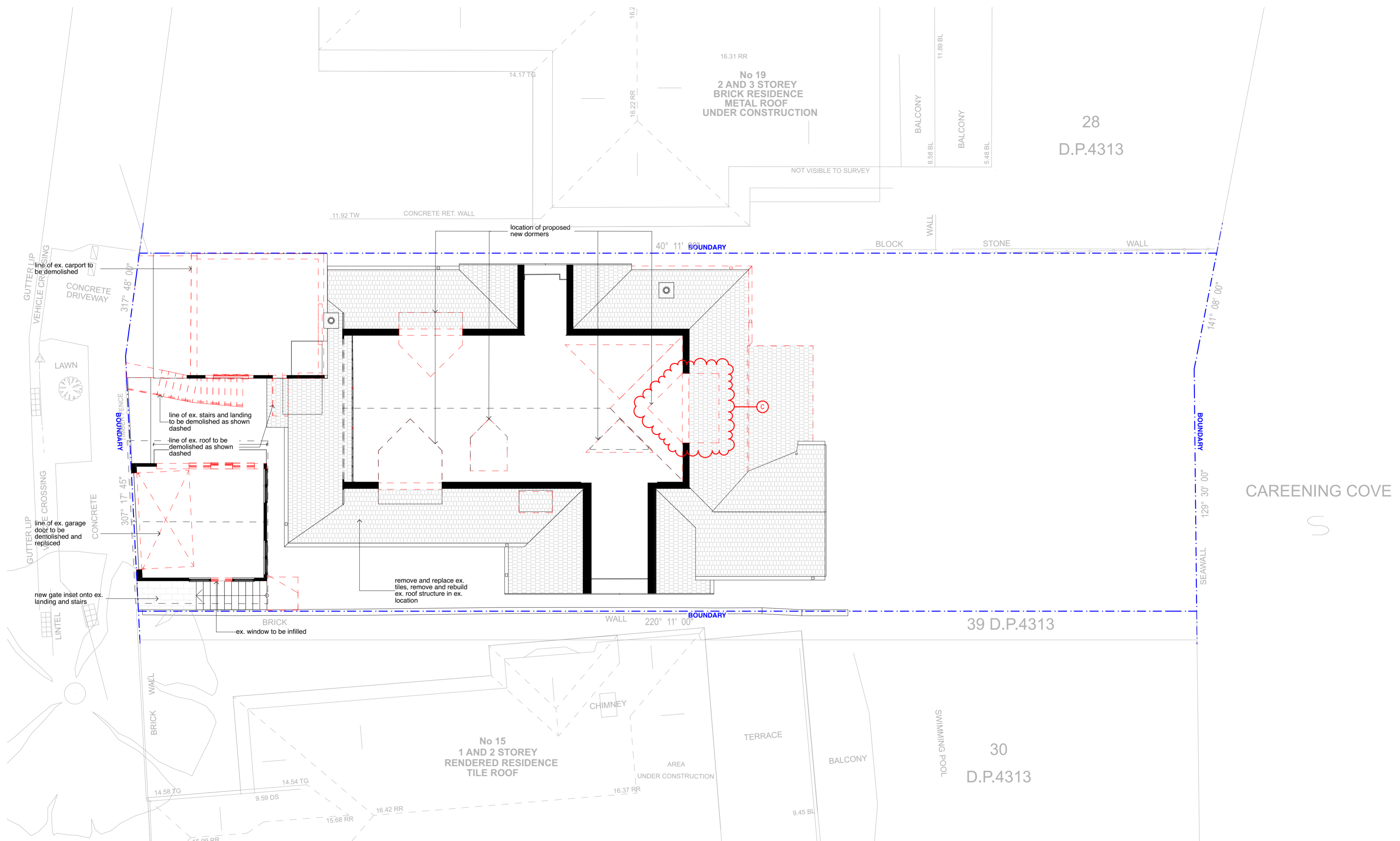
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 Nominated Architect: Philip Corben (Reg. No. 4616)

project	Harvey House
address	17 Elamang Avenue Kirribilli NSW
client	Tess & Alex Harvey

title	Level 3 Demolition Plan
issue	Development Application

job no.	HHK
drawn	AN
checked	PC
scale	1:100

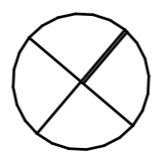
dwg no.	DA05
revision	C



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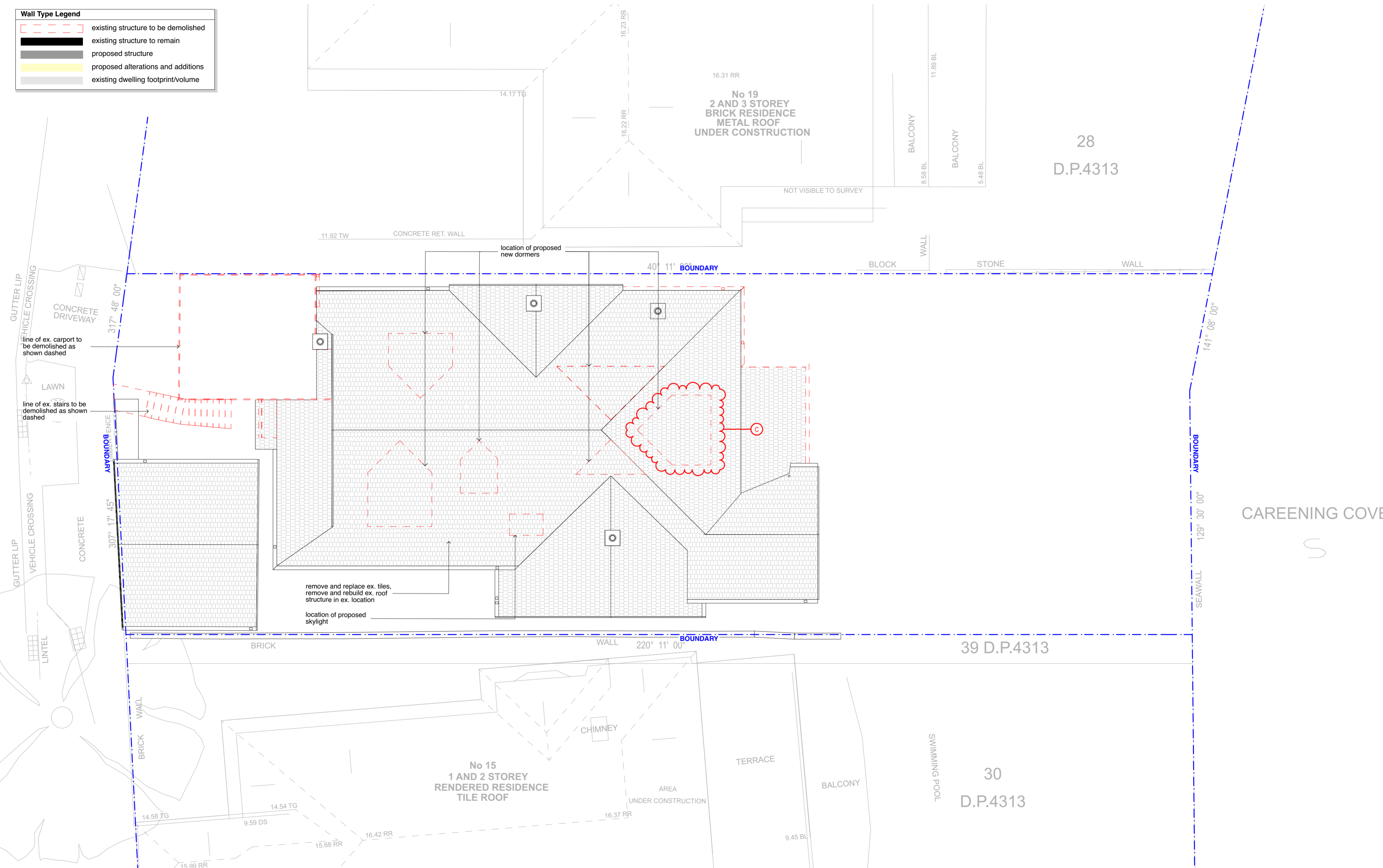
project Harvey House
address 17 Elamang Avenue Kirribilli NSW
client Tess & Alex Harvey

title Level 4 Demolition Plan
issue Development Application

job no. HHK
drawn AN
checked PC
scale 1:100

dwg no. DA06
revision C

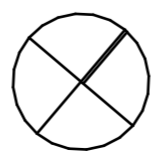
Wall Type Legend	
	existing structure to be demolished
	existing structure to remain
	proposed structure
	proposed alterations and additions
	existing dwelling footprint/volume



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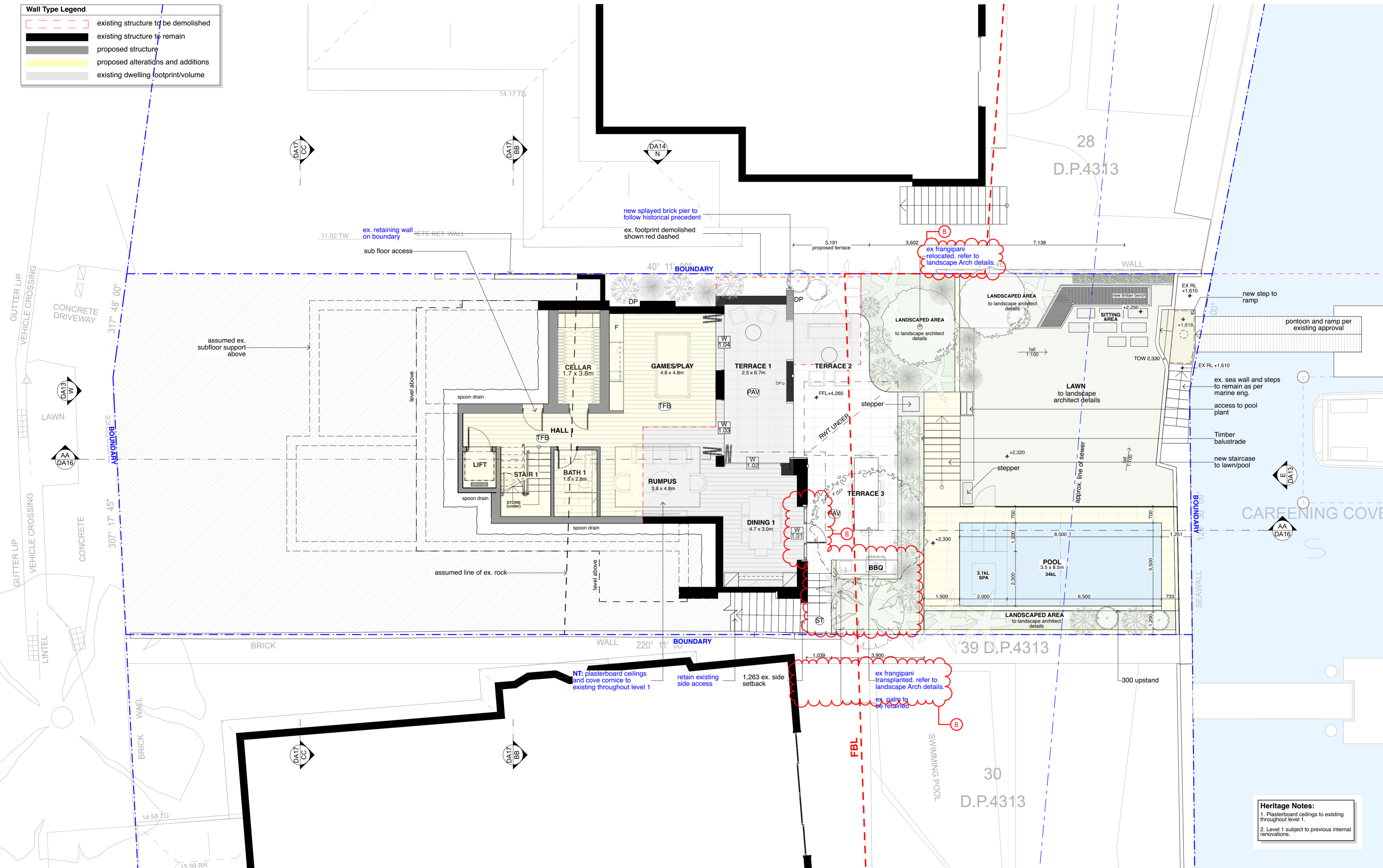
project	Harvey House
address	17 Elamang Avenue Kirribilli NSW
client	Tess & Alex Harvey

title	Roof Demolition Plan
issue	Development Application

job no.	HHK
drawn	AN
checked	PC
scale	1:100

dwg no.	DA07
revision	C

Wall Type Legend	
	existing structure to be demolished
	existing structure to remain
	proposed structure
	proposed alterations and additions
	existing dwelling footprint/volume



Heritage Notes:
 1. Plasterboard ceilings to existing throughout level 1.
 2. Level 1 subject to previous internal renovations.

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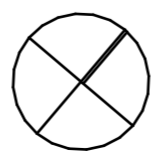
NT: plasterboard ceilings and cove cornice to existing throughout level 1

retain existing side access

1,263 ex. side setback

ex frangipani transplanted, refer to landscape Arch details

ex palms to be retained



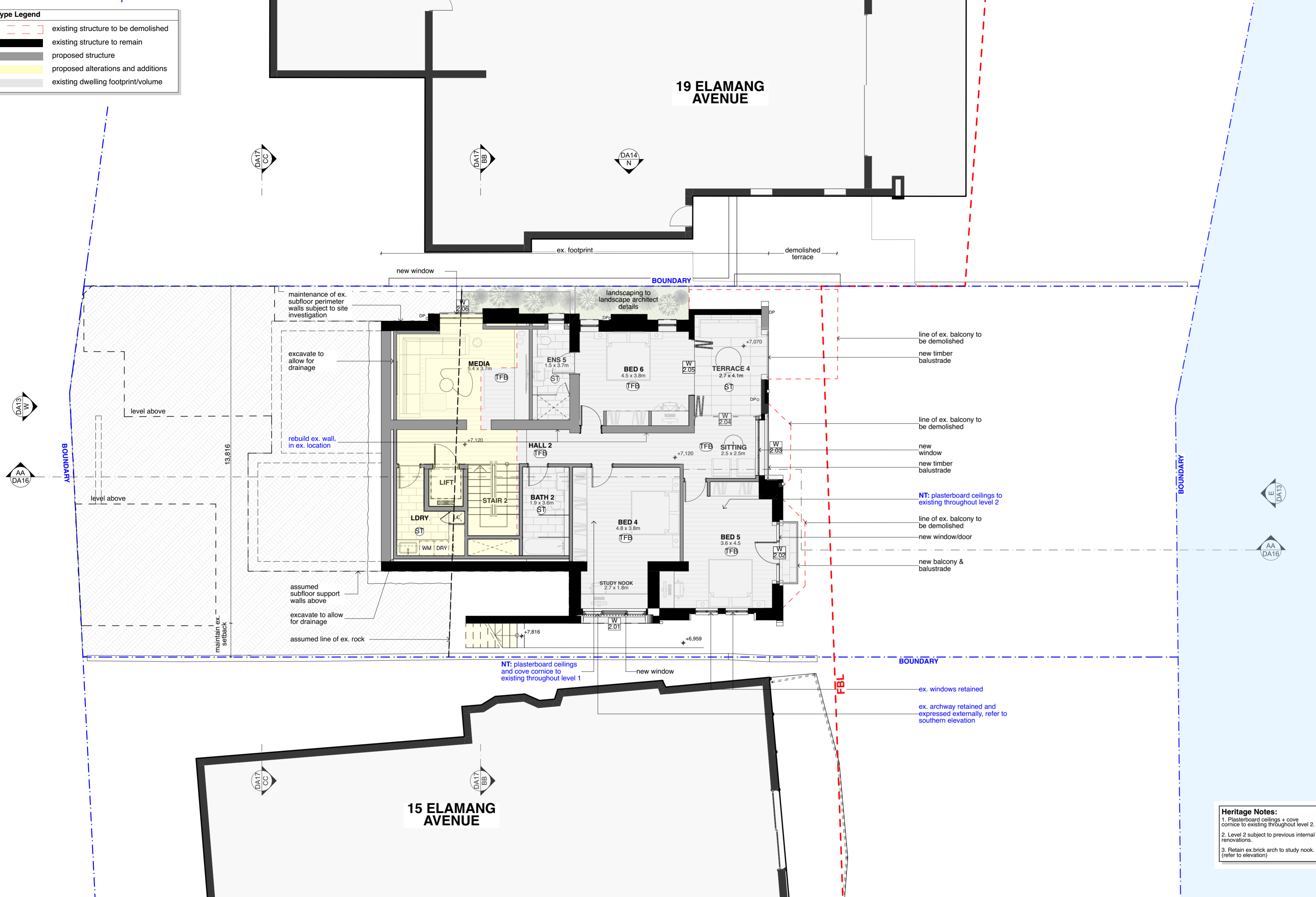
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 Nominated Architect: Philip Corben (Reg. No. 4616)

project Harvey House
address 17 Elamang Avenue Kirribilli NSW
client Tess & Alex Harvey

title Proposed Level 1 Plan
issue Development Application

job no. HHK
drawn AN
checked PC
scale NTS
dwg no. DA08
revision B

Wall Type Legend	
	existing structure to be demolished
	existing structure to remain
	proposed structure
	proposed alterations and additions
	existing dwelling footprint/volume



Heritage Notes:

1. Plasterboard ceilings + cove cornice to existing throughout level 2.
2. Level 2 subject to previous internal renovations.
3. Retain ex. brick arch to study nook. (refer to elevation)

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project Harvey House
address 17 Elamang Avenue Kirribilli NSW
client Tess & Alex Harvey

title Proposed Level 2 Plan
issue Development Application

job no. HHK
drawn AN
checked PC
scale NTS

dwg no. DA09
revision B

Wall Type Legend	
	existing structure to be demolished
	existing structure to remain
	proposed structure
	proposed alterations and additions
	existing dwelling footprint/volume

SCHEDULE OF HERITAGE ITEMS RETAINED (PER ROOM)

Existing Heritage Item	Retain	Re-instate
Bedroom 2		
ceiling		•
ceiling rose		•
cornice		•
skirting	•	
architrave	•	
picture rail	•	
door	•	
window	•	
fireplace opening	•	

Existing Heritage Item	Retain	Re-instate
Living Room		
ceiling		•
ceiling rose		•
cornice		•
skirting	•	
architrave	•	
picture rail	•	
doors	•	
windows (brick in 1 of 3)	•	
fireplace (currently enclosed)		•

Existing Heritage Item	Retain	Re-instate
Dining Room		
ceiling		•
ceiling rose		•
cornice		•
skirting	•	
architrave	•	
picture rail	•	
internal door	•	
fireplace (currently enclosed, reinstate using ex. FP in kitchen)		•

Existing Heritage Item	Retain	Re-instate
Hall/Entry		
ceiling		•
ceiling rose		•
cornice		•
skirting	•	
architrave	•	
picture rail	•	
openings	•	

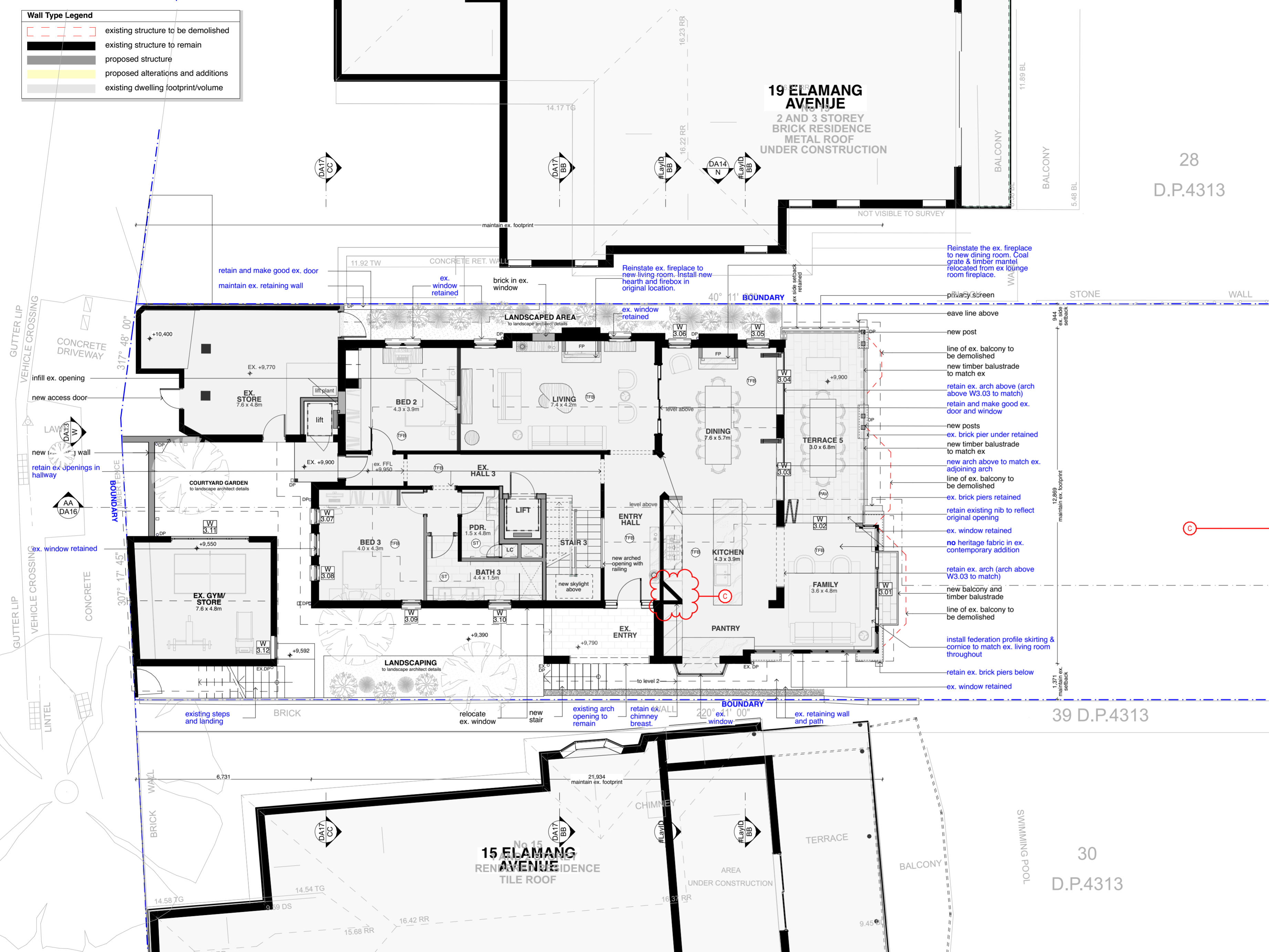
Existing Heritage Item	Retain	Re-instate
Kitchen		
ceiling		•
ceiling rose		•
cornice		•
skirting	•	where feasible
architrave	•	where feasible
picture rail	•	where feasible
fireplace (opening retained)	•	

NOTES:

- items noted as *Reinstate* will be removed, made good, and reinstalled
- items considered "*non-original*" will be replaced with the predominant profile/element found elsewhere within the existing house
- room names refer to proposed room locations
- Pantry, Terrace & Family excluded (contemporary renovation)

Heritage Notes (level 3):

1. Pantry, Family, & Terrace 5 areas were subject to previous renovations and contains plasterboard ceilings, down lights & cove cornice.
2. Retain ex. entry flooring + archway.
3. Reinstate ex. fireplace to new living room. Install new hearth and firebox in original location.
4. Reinstate the ex. fireplace to new dining room. Coal grate & timber mantel relocated from ex living room. Match ex. hearth tiles.
5. Retain all chimneys—fireplace opening in Bed 2 to be retained.
6. Existing openings in hallway to be retained.
7. Doors & windows to be retained and made good shown solid black.



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notes

1. Pantry, Family, & Terrace 5 areas were subject to previous renovations and contains plasterboard ceilings, down lights & cove cornice.

2. Retain ex. entry flooring + archway.

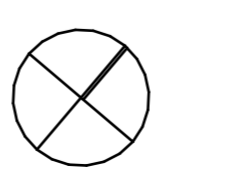
3. Reinstate ex. fireplace to new living room. Install new hearth and firebox in original location.

4. Reinstate the ex. fireplace to new dining room. Coal grate & timber mantel relocated from ex living room. Match ex. hearth tiles.

5. Retain all chimneys—fireplace opening in Bed 2 to be retained.

6. Existing openings in hallway to be retained.

7. Doors & windows to be retained and made good shown solid black.



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project Harvey House
address 17 Elamang Avenue Kirribilli NSW
client Tess & Alex Harvey

title Proposed Level 3 Plan
job no. HHK
drawn AN
checked PC
scale 1:100

dwg no. DA10
revision C

39 D.P.4313

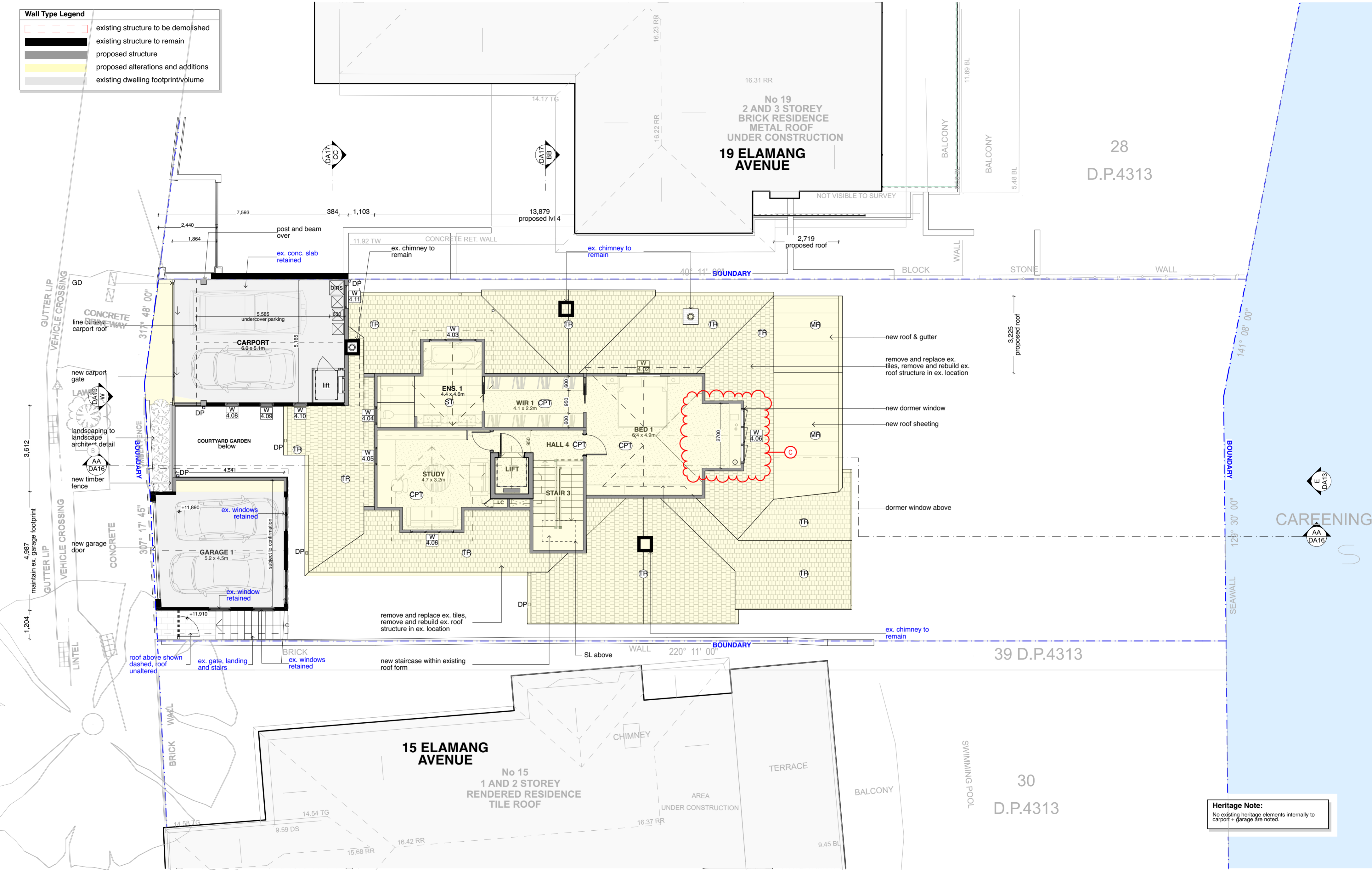
30 D.P.4313

28 D.P.4313

19 ELAMANG AVENUE
 2 AND 3 STOREY BRICK RESIDENCE
 METAL ROOF UNDER CONSTRUCTION

15 ELAMANG AVENUE
 RENOVATED RESIDENCE
 TILE ROOF

Wall Type Legend	
	existing structure to be demolished
	existing structure to remain
	proposed structure
	proposed alterations and additions
	existing dwelling footprint/volume



Heritage Note:
No existing heritage elements internally to carport + garage are noted.

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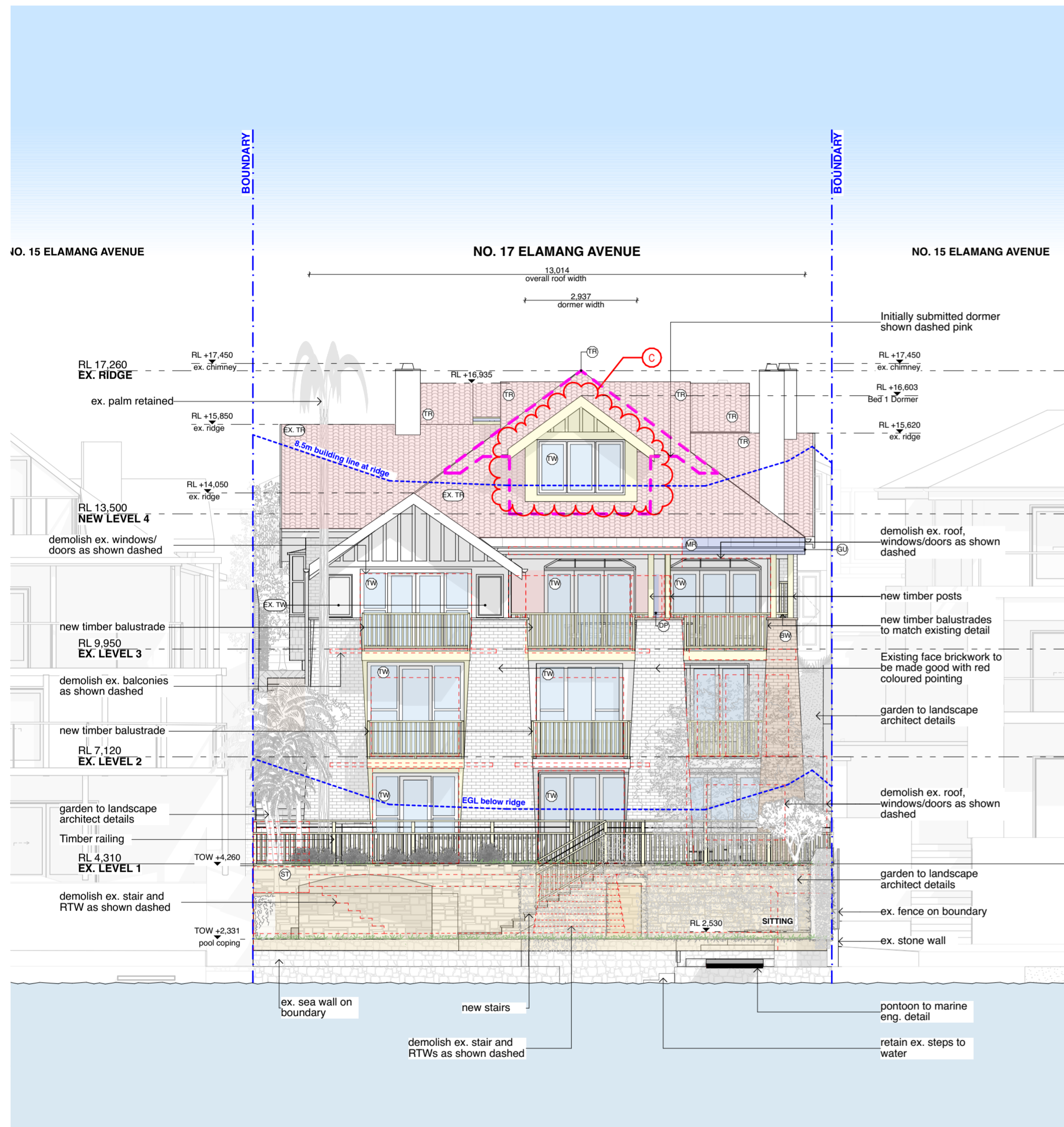
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 Nominated Architect: Philip Corben (Reg. No. 4616)

project	Harvey House
address	17 Elamang Avenue Kirribilli NSW
client	Tess & Alex Harvey

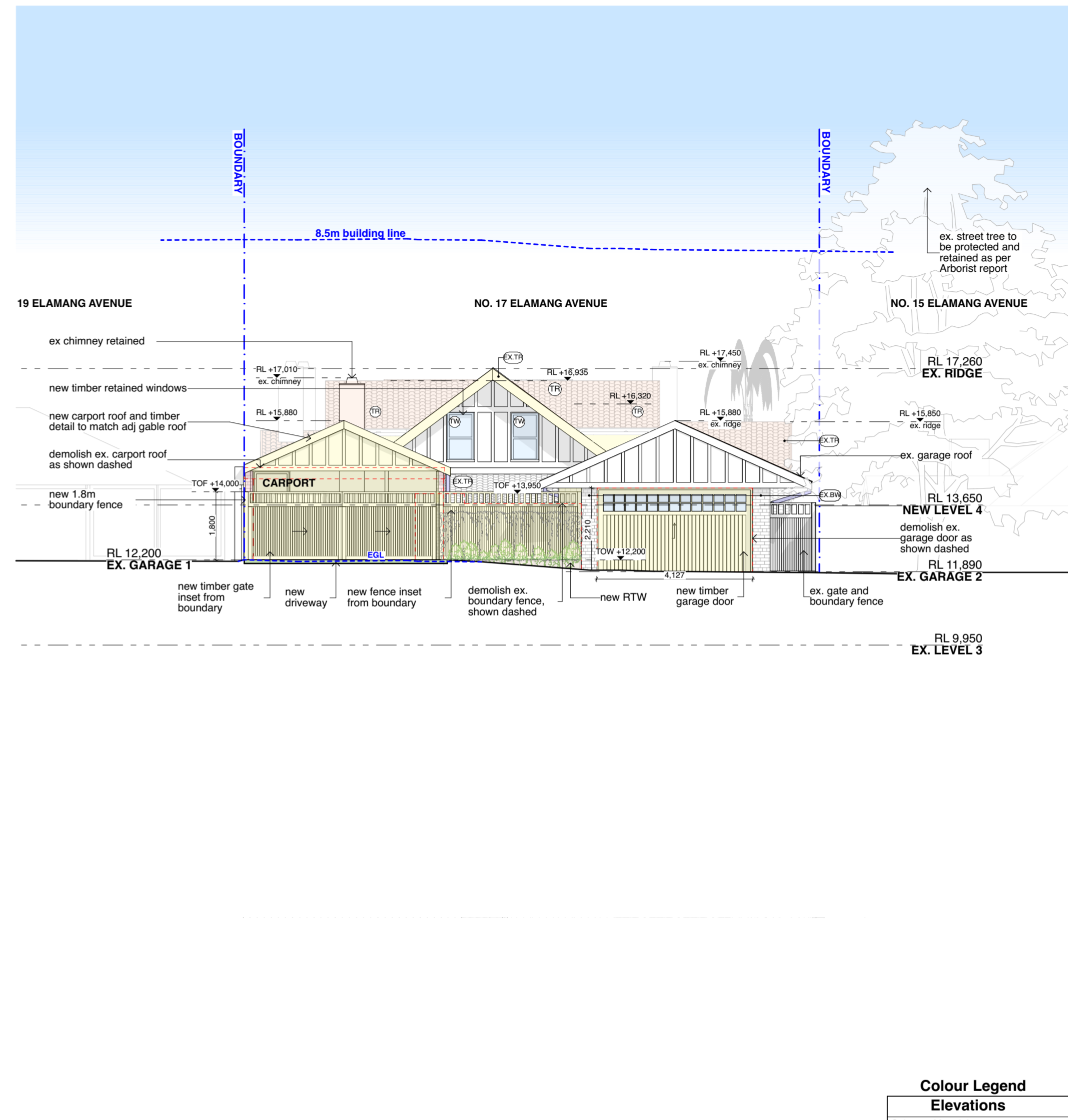
title	Proposed Level 4 Plan
issue	Development Application

job no.	HHK	dwg no.	DA11
drawn	AN	revision	C
checked	PC		
scale	1:100		



East Elevation

1:100



West Elevation

1:100

Colour Legend

Colour	Material
Light Blue	Tile
Light Green	Cement Render
Light Blue	Sheet metal / Aluminium / Steel
Light Blue	Glazing
Yellow	Structural Timber
Red	Brick
Grey	Stone
Black	Existing retained
Red Dashed	Demolished

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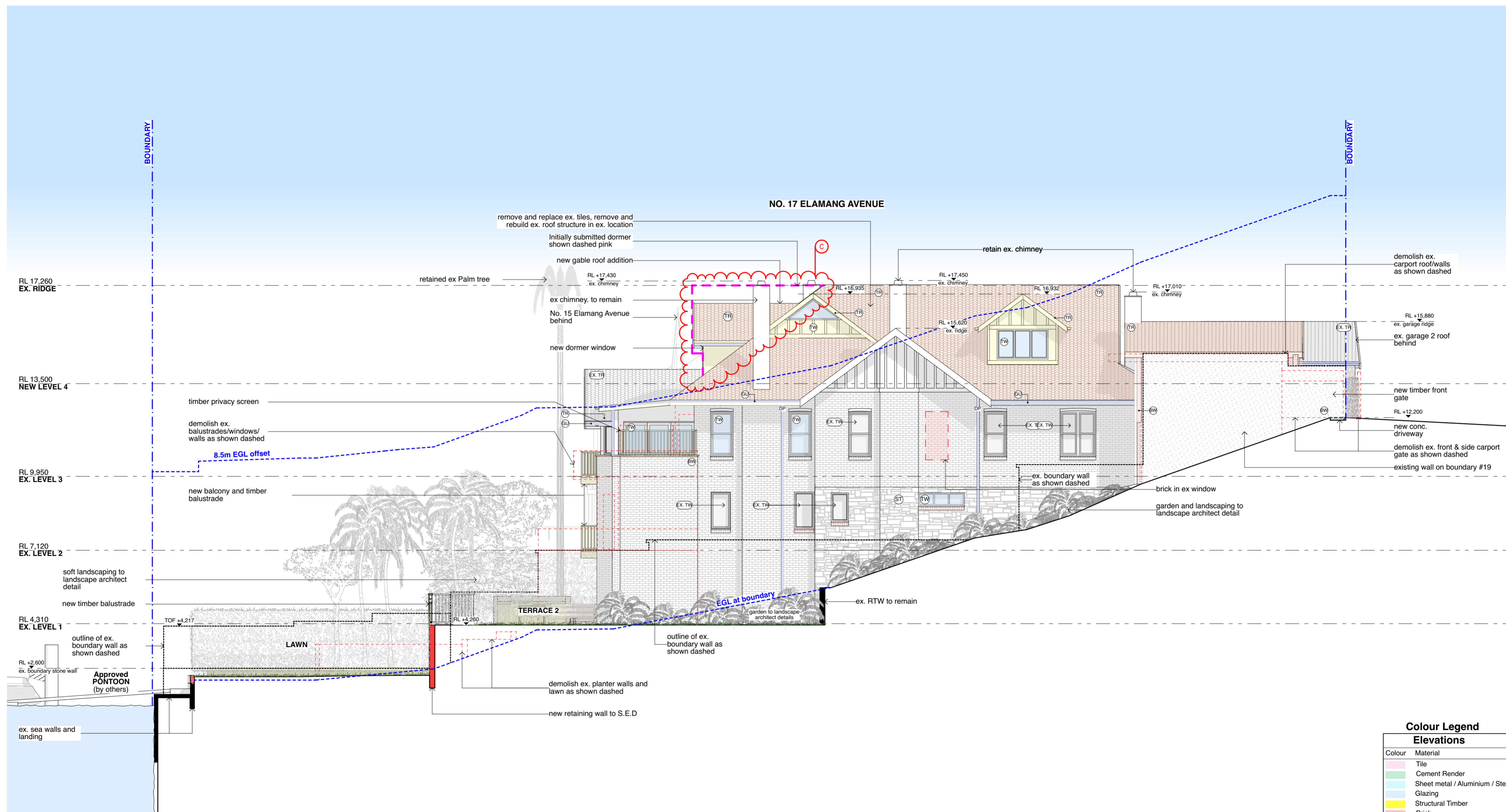
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 Nominated Architect: Philip Corben (Reg. No. 4616)

project Harvey House
address 17 Elamang Avenue Kirribilli NSW
client Tess & Alex Harvey

title Eastern & Western Elevations
issue Development Application

job no. HHK
drawn AN
checked
scale 1:100

dwg no. DA13
revision C



Colour Legend

Colour	Material
Light Blue	Tile
Light Green	Cement Render
Light Cyan	Sheet metal / Aluminium / Steel
Light Blue	Glazing
Yellow	Structural Timber
Red	Brick
Grey	Stone
Black	Existing retained
Red Dashed	Demolished

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revisions

RevID	Date	Description
A	16/6/2023	Development Application
B	13/11/2023	Development Application - Minor Amendments per Council request as scheduled on cover sheet DA00
C	2/2/2024	Amended per Council Heritage officer request

notes

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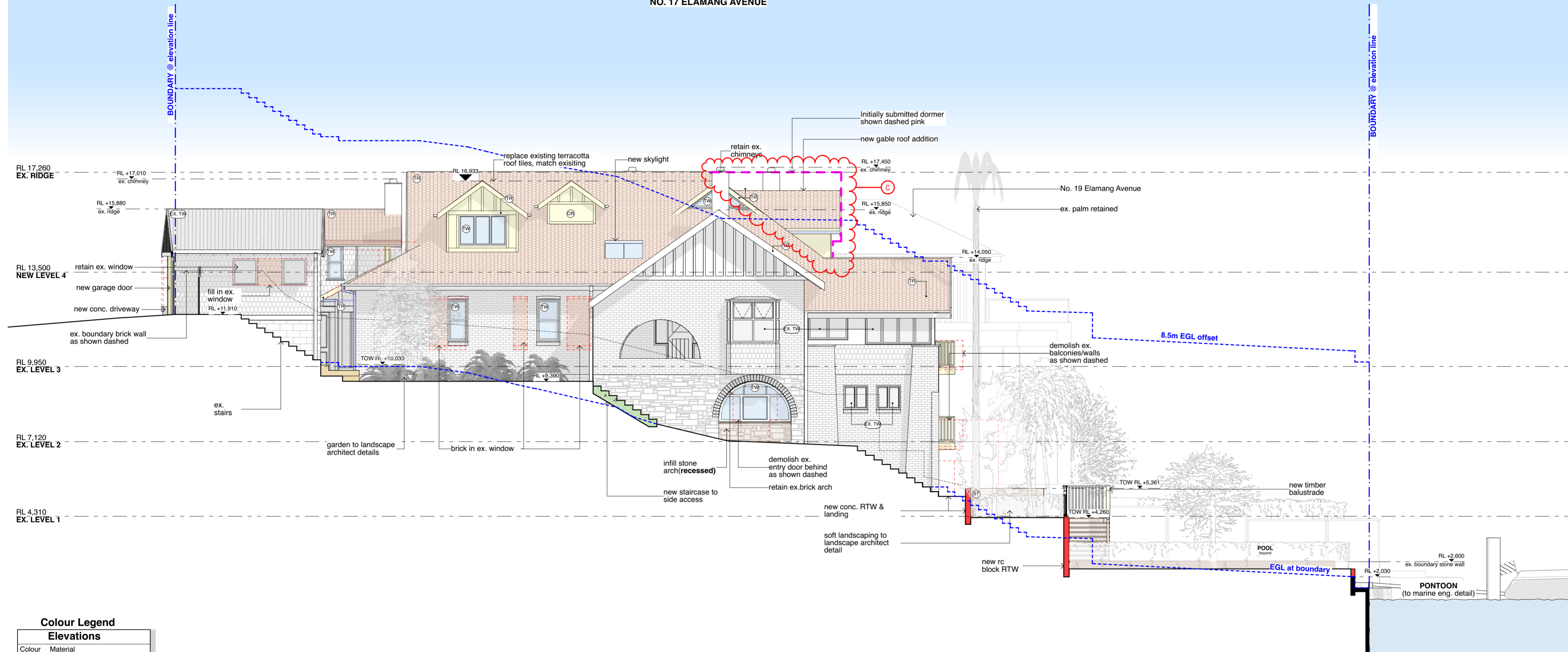
project Harvey House
address 17 Elamang Avenue Kirribilli NSW
client Tess & Alex Harvey

title Northern Elevation
issue Development Application

job no. HHK
drawn AN
checked
scale 1:100

dwg no. DA14
revision C

NO. 17 ELAMANG AVENUE



Colour Legend

Colour	Material
Light Green	Tile
Light Blue	Cement Render
Light Grey	Sheet metal / Aluminium / Steel
Light Yellow	Glazing
Light Brown	Structural Timber
Light Red	Brick
Light Orange	Stone
Black	Existing retained
Red Dashed	Demolished

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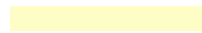

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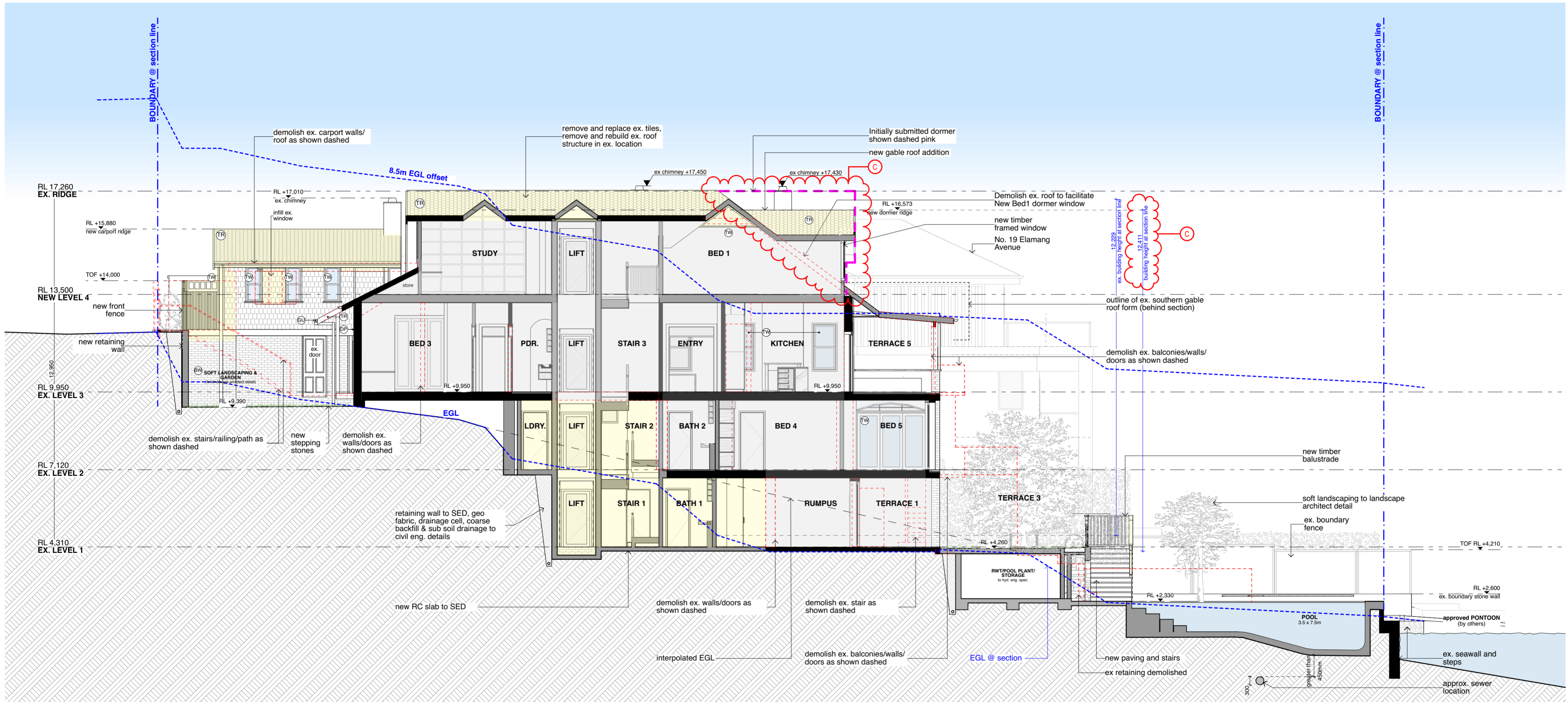
project Harvey House
address 17 Elamang Avenue Kirribilli NSW
client Tess & Alex Harvey

title Southern Elevation
issue Development Application

job no. HHK
drawn AN
checked
scale 1:100

dwg no. DA15
revision C

Wall Type Legend	
	existing structure to be demolished
	existing structure to remain
	proposed structure
	proposed alterations and additions
	existing dwelling footprint/volume



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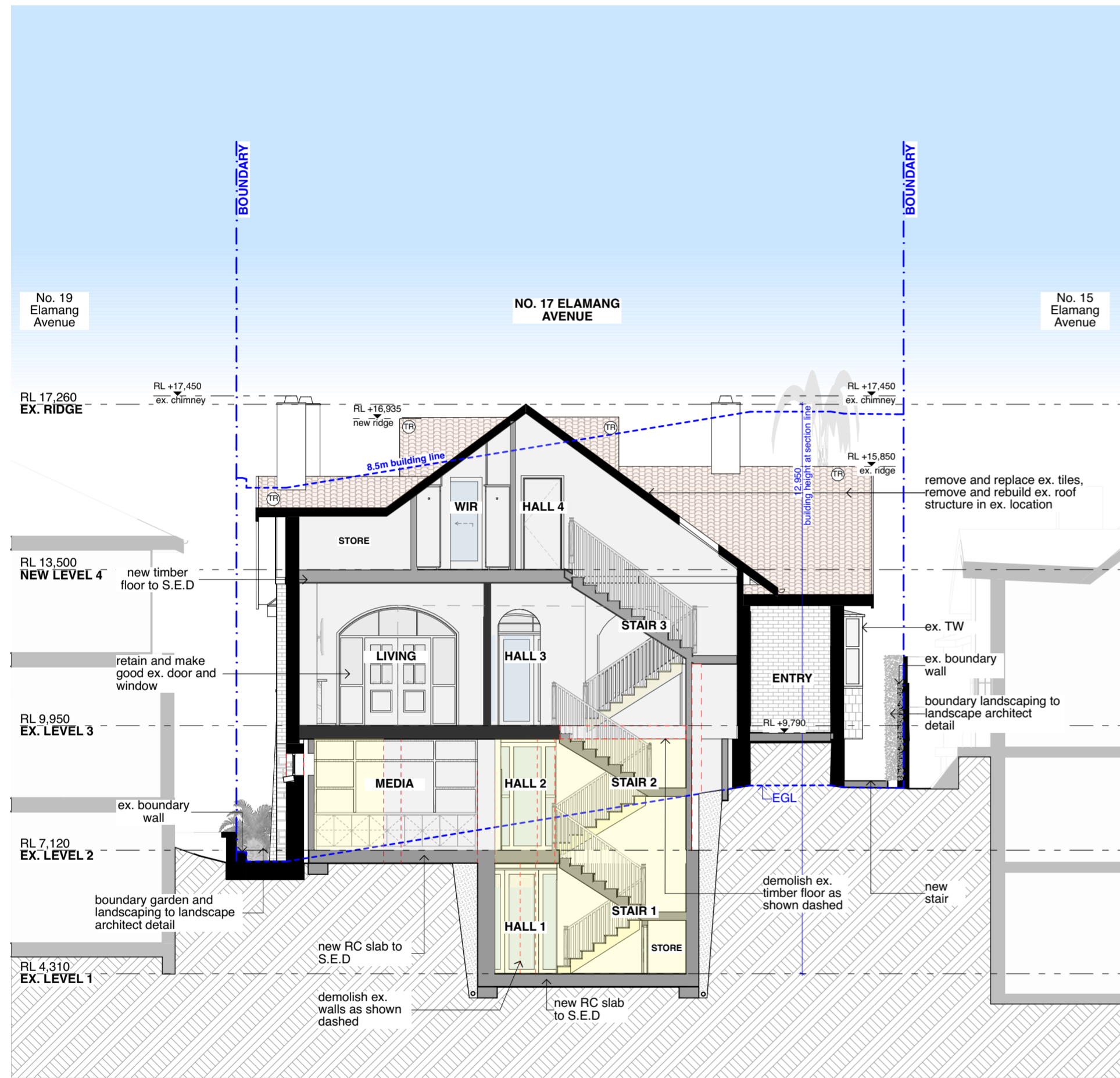
project Harvey House
address 17 Elamang Avenue Kirribilli NSW
client Tess & Alex Harvey

title Section AA
issue Development Application

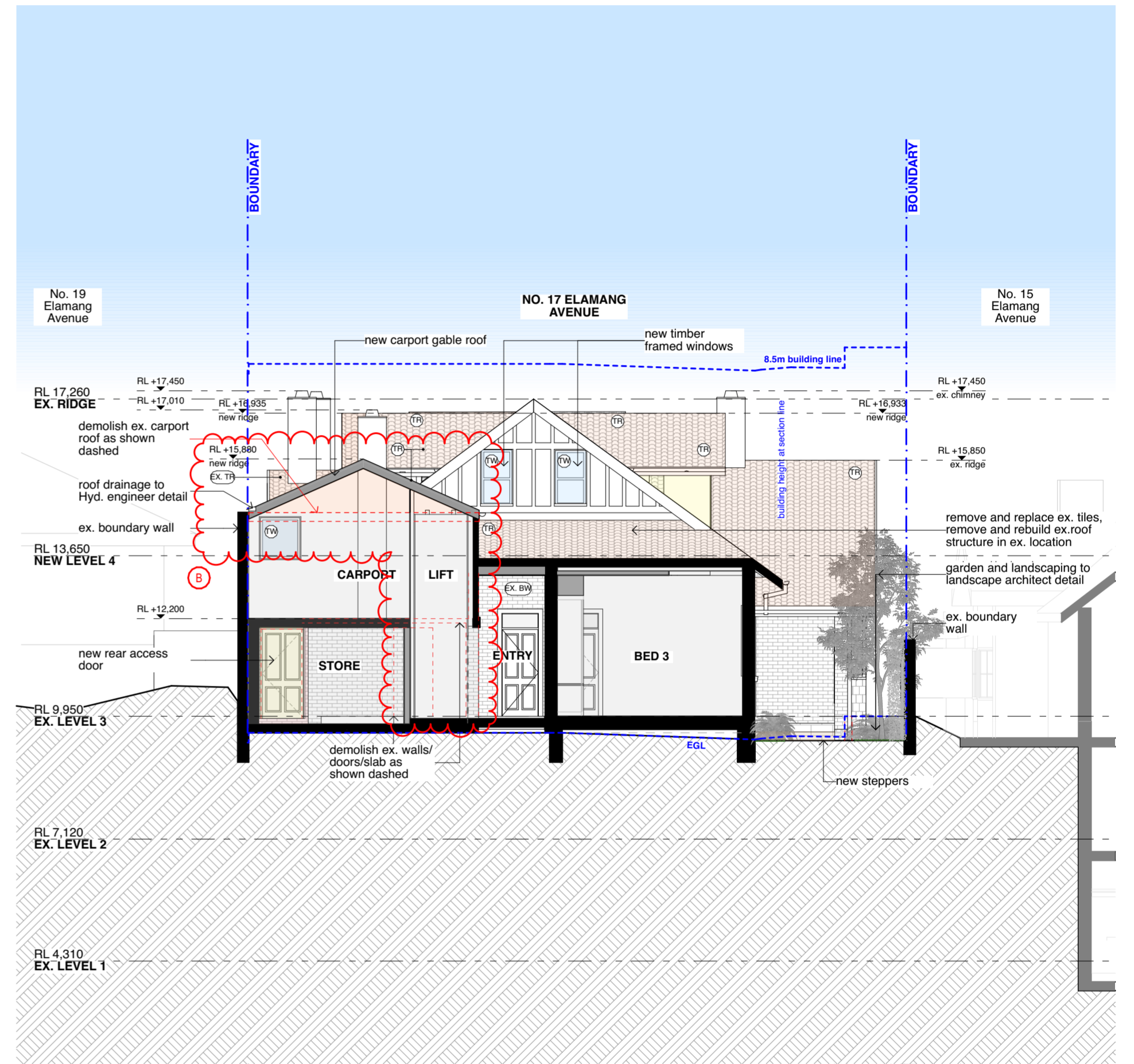
job no. HHK
drawn AN
checked
scale 1:100

dwg no. DA16
revision C

Wall Type Legend	
	existing structure to be demolished
	existing structure to remain
	proposed structure
	proposed alterations and additions
	existing dwelling footprint/volume



Section BB
1:100



Section CC
1:100

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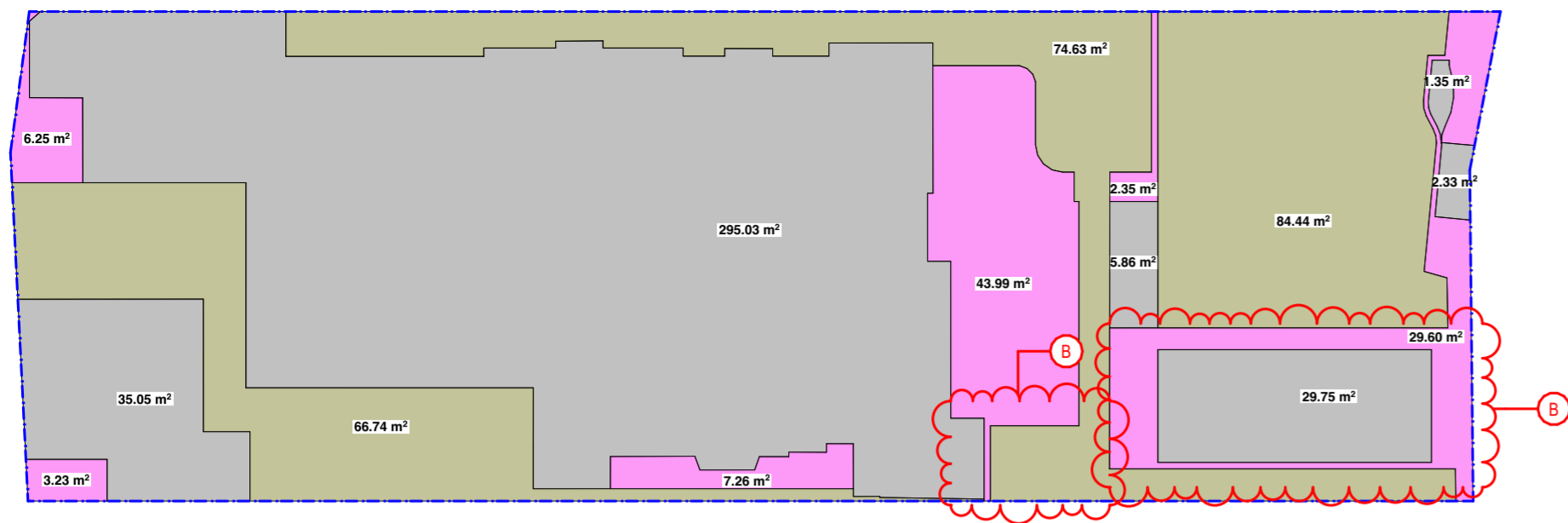
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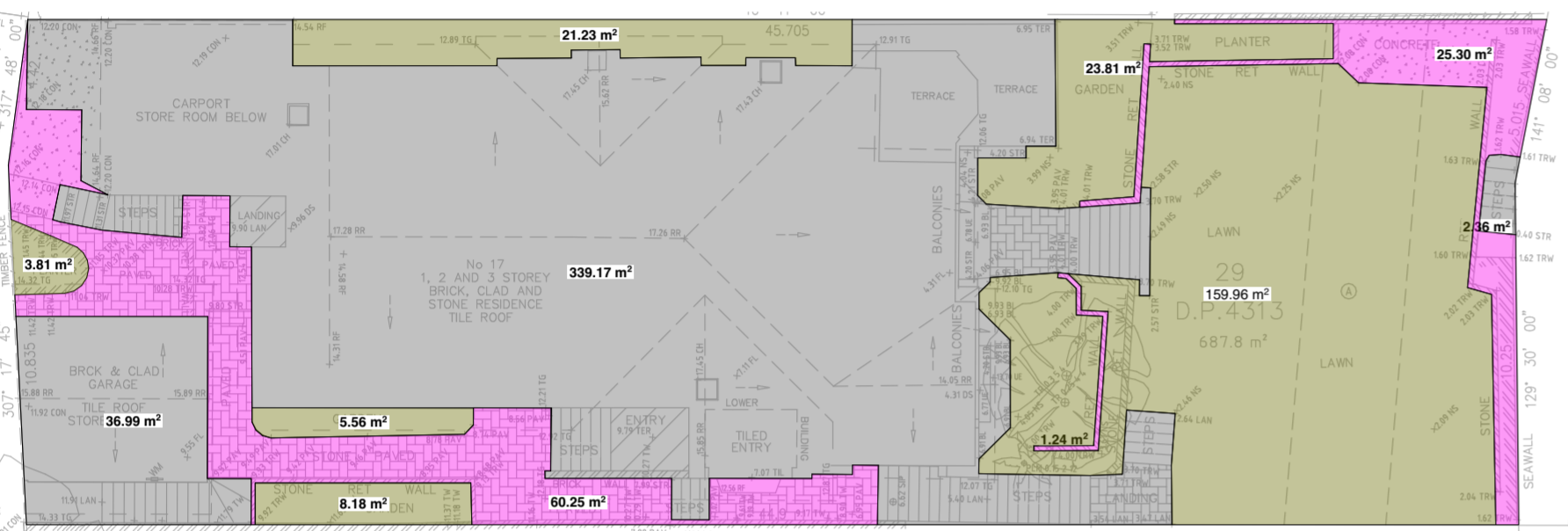
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project	Harvey House	title	Section BB & CC	job no.	HHK	dwg no.	DA17
address	17 Elamang Avenue Kirribilli NSW	client	Tess & Alex Harvey	drawn	AN	revision	B
issue	Development Application	checked	NTS	scale	NTS		



Proposed Compliance Diagram
1:200



Existing Compliance Diagram
1:200

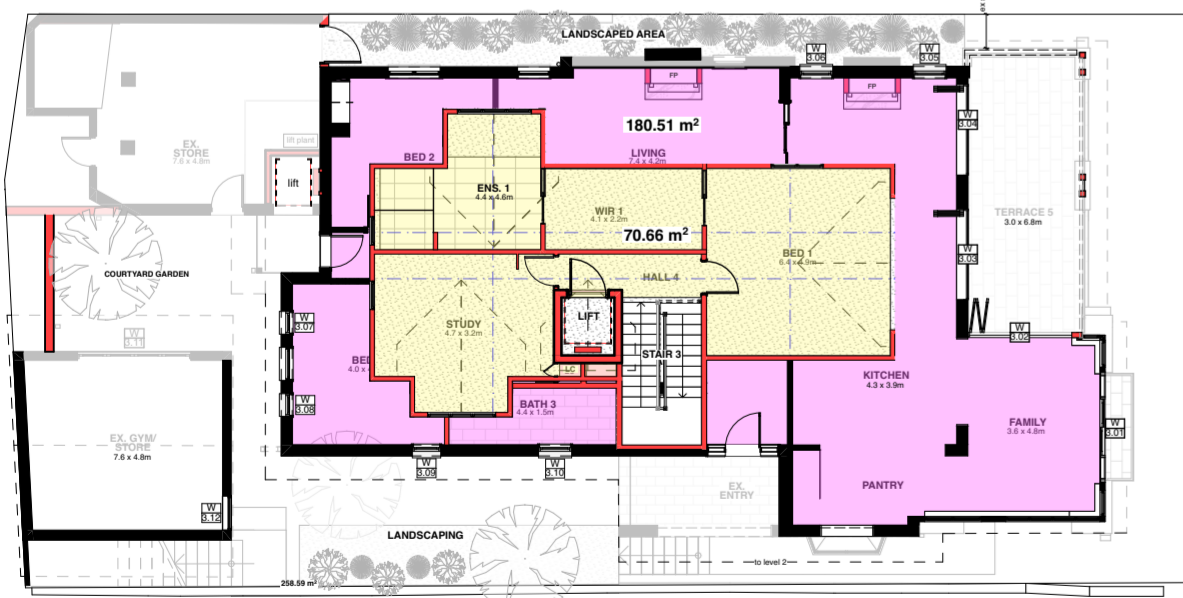
Site Cover, Unbuilt Upon Area & Landscaped Area

Total Site Area:		687.8m ²		
	Control	Existing	Proposed	
Site Coverage	275.12 max 40%	376.1 54.6%	369.37 53.70%	B
Landscaped Area	275.12 min 40%	222.5 32.4%	225.81 32.8%	
Unbuilt Upon Area	137.56 max 20%	89.2 13%	92.68 13.8%	

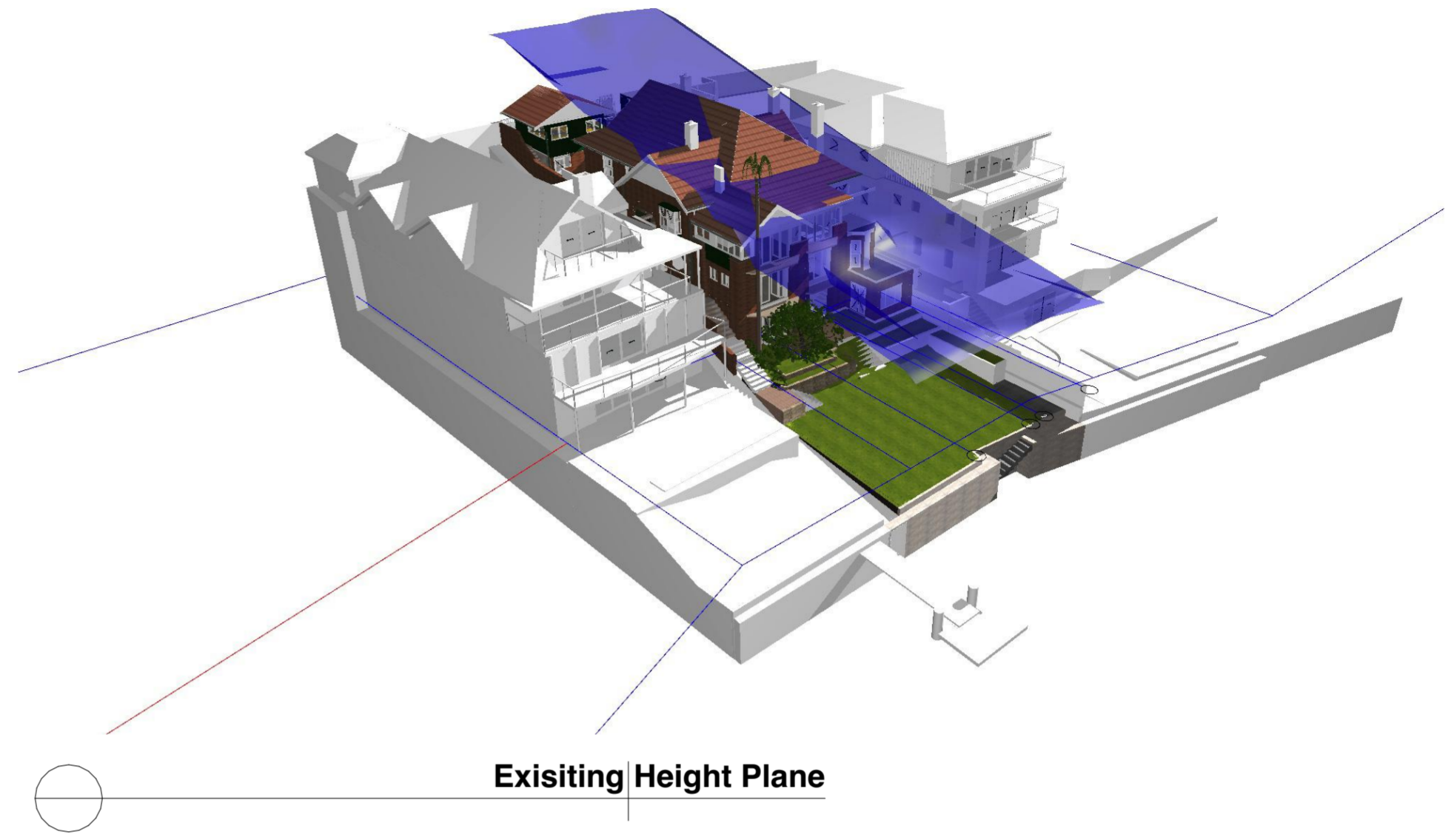
- > Proposal decreases existing site coverage by 0.9%
- > Proposal increases landscape area by 0.4%
- > Proposal complies with Unbuilt Upon Area

Attic Level vs Level 3 GFA Comparison

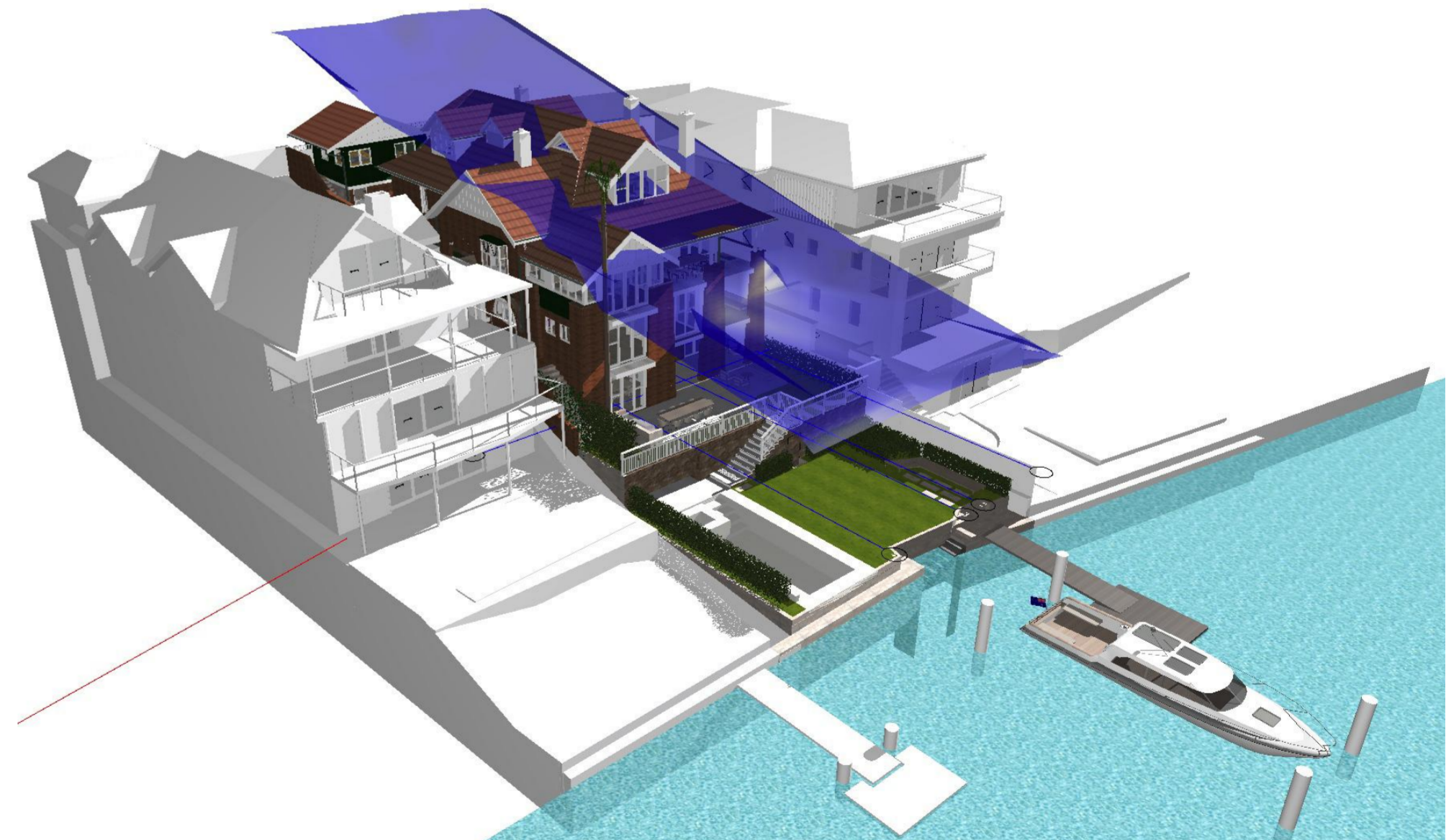
Level 3	180.51
Attic Level	70.66
Attic level is 39% of level 3 below	



Attic Level vs Level 3 Floor Area Calculation
1:200



Existing Height Plane



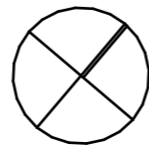
8.5m Building Height Plane

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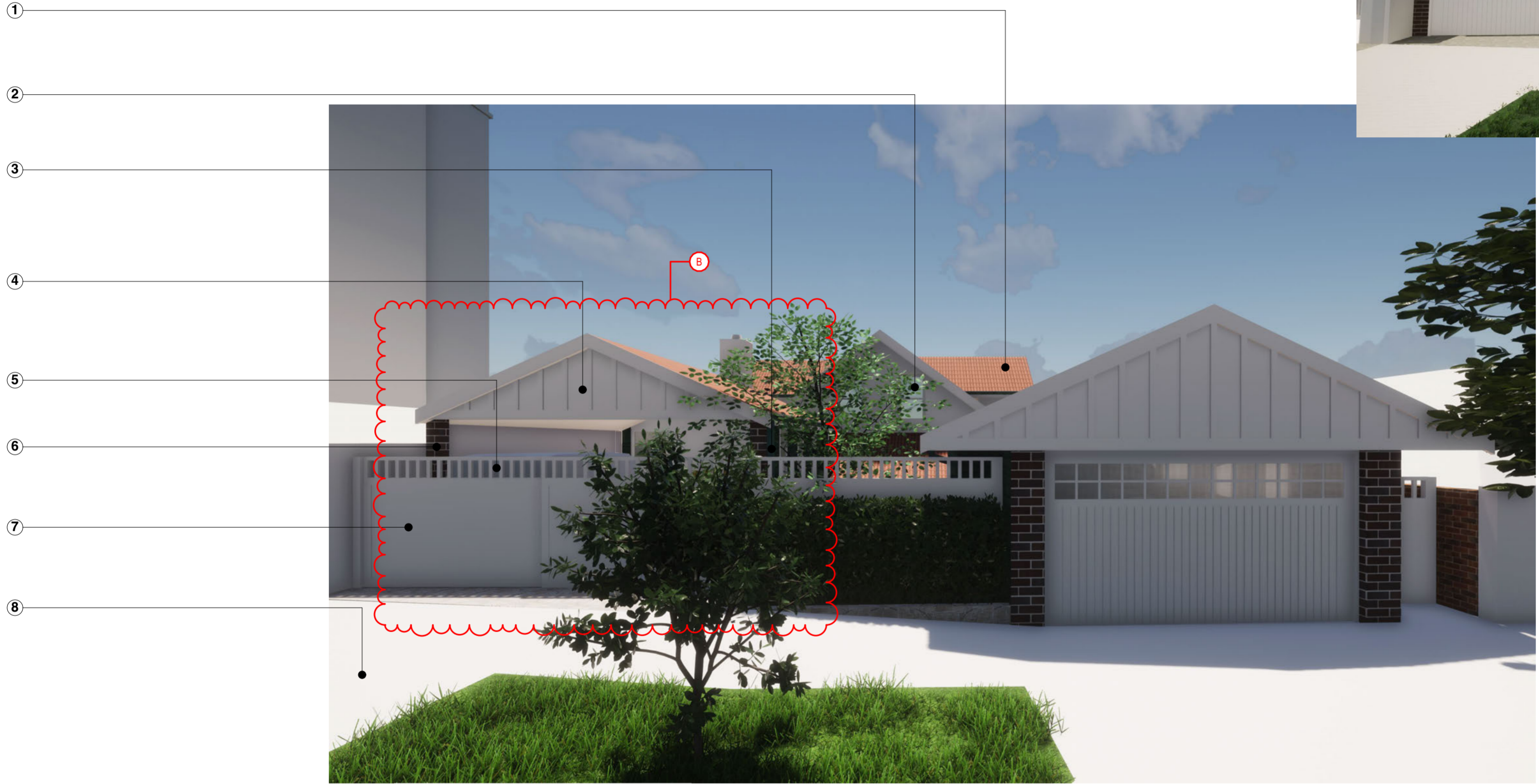
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Nominated Architect Philip Corben (Reg. No. 4616)

project	Harvey House	title	Compliance Diagrams	job no.	HHK	dwg no.	DA24
address	17 Elamang Avenue Kirribilli NSW	issue	Development Application	drawn	AN	revision	B
client	Tess & Alex Harvey	scale		checked	PC		
				scale	NTS		



INITIALLY SUBMITTED ALTERATIONS AND ADDITIONS PROPOSAL



AMENDED PROPOSED ALTERATIONS AND ADDITIONS RENDERING



1 Tiled Terracotta Roof (to match existing)



2 Painted Timber Windows and Doors



3 Half round metal gutter & downpipes



4 Timber federation battens



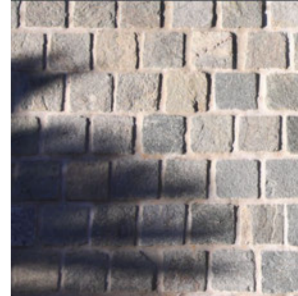
5 Painted Timber Gate & Fence



6 Brickwork (to match existing)



7 Painted Timber Garage Doors



8 Cobblestone Driveway and Entry Path



9 Coursed Sandstone Cladding (to match existing)

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revisions		
RevID	Date	Description
A	16/6/2023	Development Application
B	13/11/2023	Development Application - Minor Amendments per Council request as scheduled on cover sheet DA00

notes



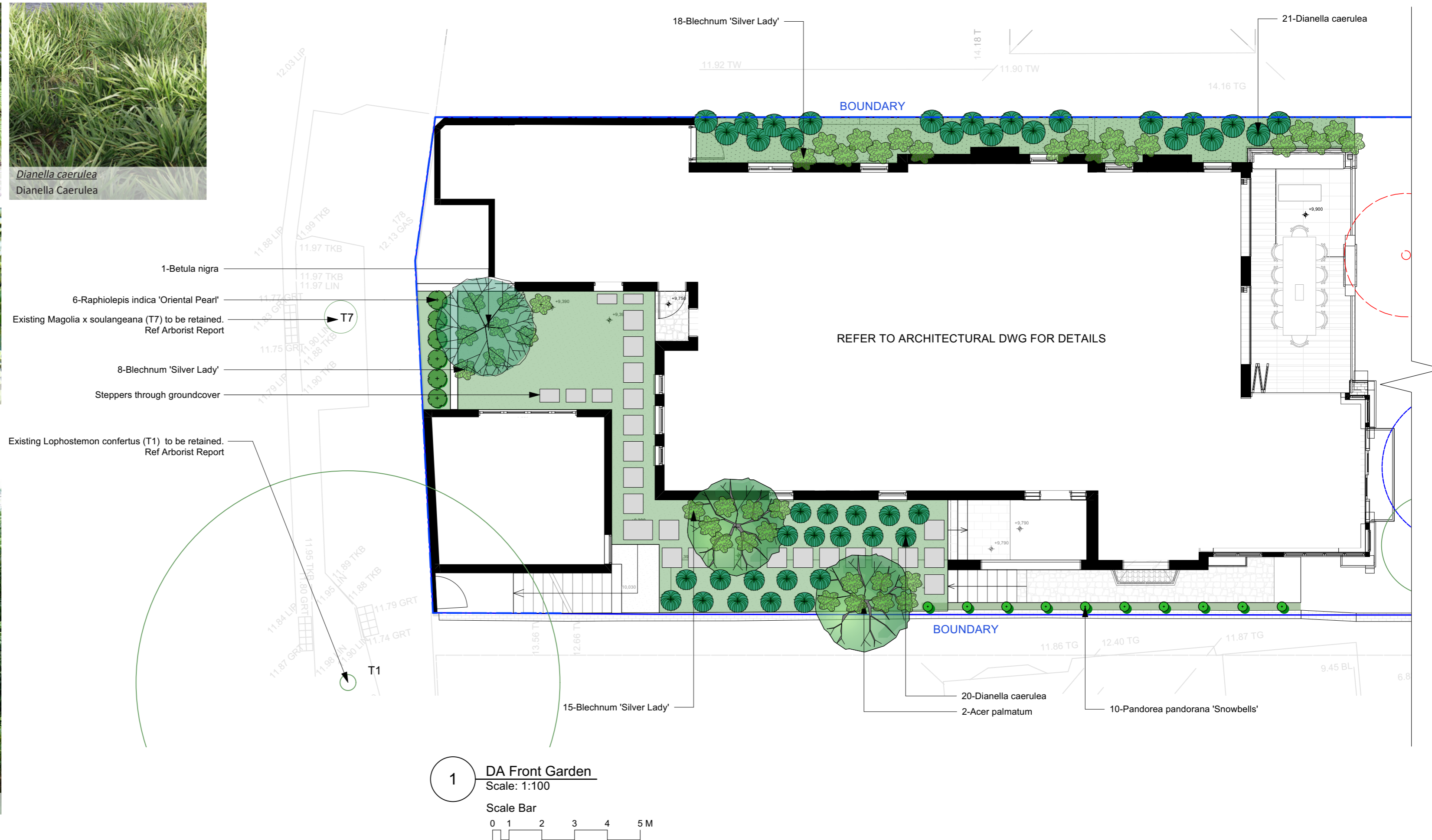
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 corben.com.au
 Nominated Architect Philip Corben (Reg. No. 4616)

project	Harvey House
address	17 Elamang Avenue Kirribilli NSW
client	Tess & Alex Harvey

title	Exterior Finishes
issue	Development Application

job no.	HHK
drawn	AN
checked	PC
scale	

dwg no.	DA25
revision	B



1 DA Front Garden
Scale: 1:100
Scale Bar
0 1 2 3 4 5 M

LEGEND

- GARDEN BED
- LAWN
- MULCH
- STONE STEPPER
- BOUNDARY
- T1 EXISTING TREE
- PROPOSED TREE
- PROPOSED PLANTING
- EXISTING TREE TO BE REMOVED
- EXISTING TREE TO BE RETAINED
- EXISTING TREE TO BE TRANSPLANTED

LANDSCAPE NOTES

EROSION CONTROL AND DRAINAGE
Install required sedimentation control devices as required by council DCPs. Proposed development to include new pits, grates and downpipes to accommodate runoff from hard surfaces to be connected to existing stormwater system to control flows. Subsoil drainage/Ag.lines to be used in garden beds.

PAVING/TIMBER DECKING/WALLING/POOL CONSTRUCTION
All hard landscaping work to be carried out in accordance with the building code of Australia and all relevant Australian standards and all codes and regulations of local council and other authorities.
All timber construction shall be in accordance with the timber framing code
All footings and walls to future structural engineers detail.

GENERAL PLANTING NOTES:

NOTE: It is recommended that all plants used be subject to an establishment period. During this period maintenance work carried out will include; watering, mowing, weeding, fertilising, pest and disease control, reseeding, returfing, staking and tying, replanting, cultivating, pruning, hedge clipping, aerating, reinstatement of mulch, top dressing and keeping the site neat and tidy.

NOTE: The establishment period is a critical time in the development of a new landscape. New plantings need to be watered, fertilised, and pruned to shape until they have become hardy enough to survive without help from people. Some plants will always need some extra care to survive.

NOTE: Plants shall be vigorous, well established, of good form consistent with species or variety, not soft or forced, free from disease and insect pests, with large healthy root systems and no evidence of having been restricted in growth or damaged. root system shall be well balanced in relation to the size of the plant.

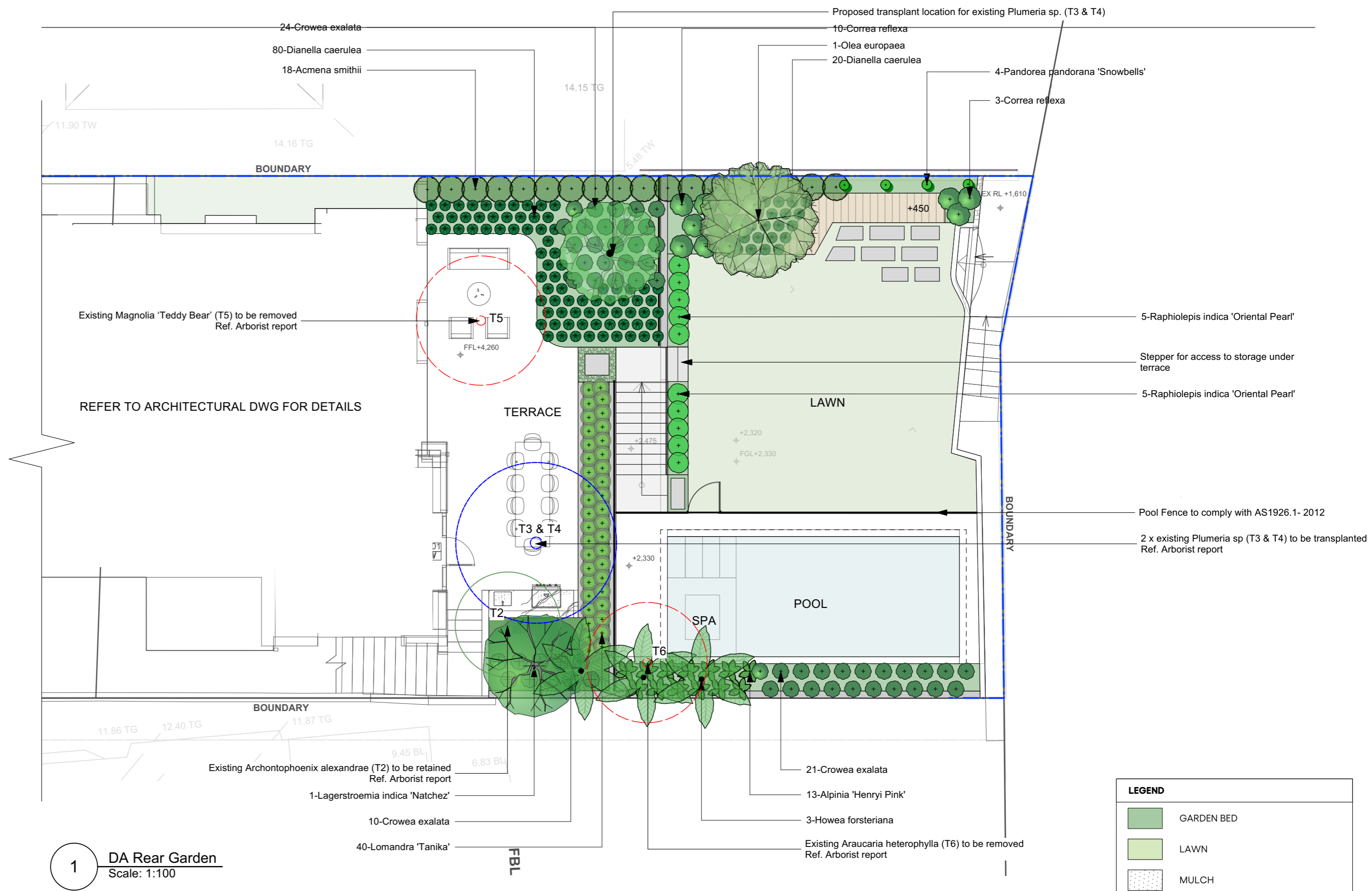
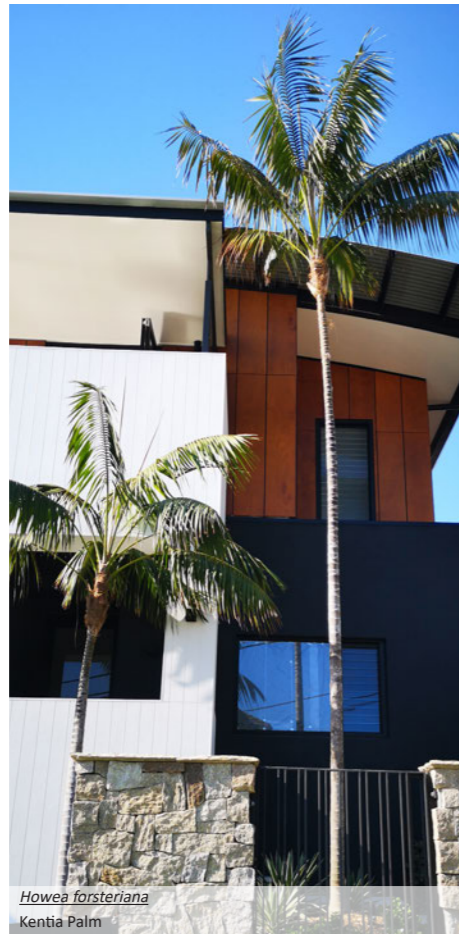
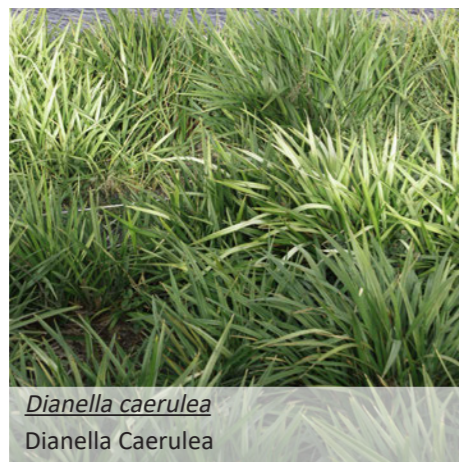
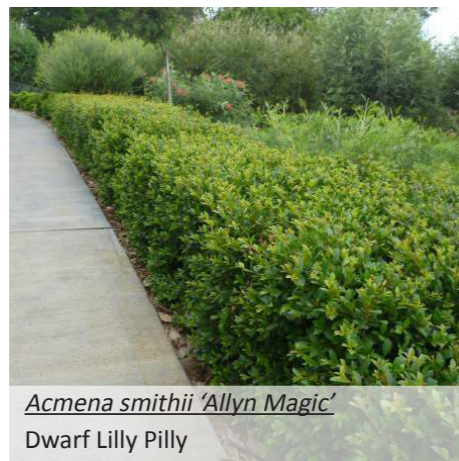
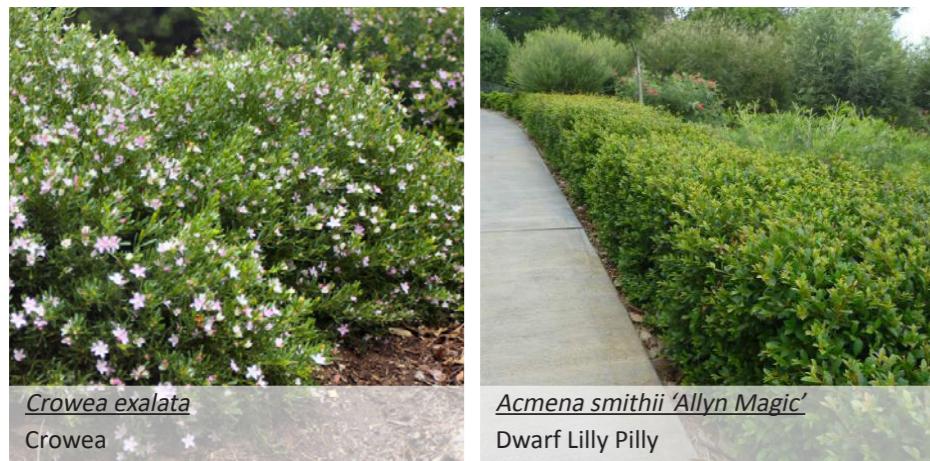
NOTE: Weed control shall be by hand pulling only.

NOTE: Install 'root barrier' or equivalent to manufacturers specifications to protect nearby structures and services.

NOTE: Maintain 600mm min. soil depth for planting beds and 300mm min. soil depth for lawns or in accordance to councils landscape plan

NOTE:
- Plans are to be read in conjunction with Architectural Plans prepared by Corben Architects
- Plans are to be read in conjunction with Arborist report by EziGrow dated - 25/08/2023

PLANT SCHEDULE				
Qty	Botanical Name	Common Name	Scheduled Size	Remarks
Trees				
2	Acer palmatum	Japanese Maple	200 Ltr	5m height
1	Betula nigra	Tropical Birch	75 Ltr	12m height
Shrubs				
6	Raphiolepis indica 'Oriental Pearl'	Indian Hawthorn	200mm	
Perennials				
41	Dianella caerulea	Cassa Blue Flax Lily	200 mm	
Groundcovers				
360	Dichondra repens	Kidney Weed	100 mm	
Climbers				
10	Pandorea pandorana 'Snowbells'	Wonga Wonga Vine	200mm	Train onto trellis
Ferns				
41	Blechnum 'Silver Lady'	Blechnum 'Silver Lady'	Silver Lady Fern	200mm



1 DA Rear Garden
Scale: 1:100
Scale Bar
0 1 2 3 4 5 M

Qty	Botanical Name	Common Name	Scheduled Size	Remarks
Trees				
1	Lagerstroemia indica 'Natchez'	Crepe Myrtle	200 Ltr	6m height
1	Olea europaea	Olive	45 Ltr	
1	Plumeria acutifolia	Frangipani	100 Ltr	height 4m / spread 5m
Palms - Cycads				
3	Howea forsteriana	Kentia Palm	100 Ltr	6m - 8m height
Shrubs				
18	Acmena smithii	Lillypilly	75 Ltr	Hedge to 3m height
13	Correa reflexa	Native Fuchsia	200 mm	
55	Crowea exalata	Australian Crowea	140 mm	
10	Raphiolepis indica 'Oriental Pearl'	Indian Hawthorn	200 mm	
Perennials				
100	Dianella caerulea	Cassa Blue Flax Lily	200 mm	
Grasses				
40	Lomandra 'Tanika'	Spiny-headed mat rush	140 mm	
Succulents				
13	Alpinia 'Henry Pink'	Pink Perfection	200 mm	
Climbers				
4	Pandorea pandorana 'Snowbells'	Wonga Wonga Vine	200mm	Train onto trellis

LEGEND

- GARDEN BED
- LAWN
- MULCH
- STONE STEPPER
- BOUNDARY
- EXISTING TREE
- PROPOSED TREE
- PROPOSED PLANTING
- EXISTING TREE TO BE REMOVED
- EXISTING TREE TO BE RETAINED
- EXISTING TREE TO BE TRANSPLANTED

NOTE:
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- Plans are to be read in conjunction with Arborist report by EziGrow dated - 25/08/2023

Rev	Amendment	Date	By	ADDRESS	PROJECT
A	DA Landscape Plan	23/06/23	NKL	17 Elamang Avenue Kirribilli NSW	Harvey Residence
B	DA Landscape Plan	15/09/23	CL		

SCALE: 1:100 DATE: 15/09/2023 DRAWN: ST DWG. TITLE: DA Rear Garden

**PROPOSED ALTERATIONS & ADDITIONS TO AN EXISTING DWELLING TOGETHER
WITH NEW SWIMMING POOL & SPA POOL, LANDSCAPING AND ANCILLARY WORKS
17 ELAMANG AVENUE, KIRRIBILLI**

**Clause 4.6 - Exceptions to development Standards
Variation to Clause 4.3 - Height of Building**

The proposal seeks a variation to the requirements of Clause 4.3(2) of the North Sydney LEP 2013. Clause 4.3(2) of the North Sydney LEP 2013 states that:

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 subject site is located within Building Height Area “1” and is therefore subject to a maximum building height control of 8.5m.

The proposed development will result in a built form which has a height in excess of the maximum 8.5m height of building control as required by Clause 4.3 of the North Sydney LEP 2013

The existing building erected upon the site currently has a building height of 12.229m.

The proposed alterations and additions have a maximum building height of 12.411m measured to the new gable roof addition resulting in a non-compliance.

The existing building results in a non-compliance of 3,729mm or 43.9%. The proposal results in an increased building height of 182mm and equates to a maximum non-compliance of 3,911mm and is a variation of 46%.

Given that the proposal does not strictly comply with the maximum height control of 8.5m as required by Clause 4.3 of the North Sydney LEP 2013 and in order for consent to be granted to the proposal a variation pursuant to Clause 4.6 of the LEP is required.

This Clause 4.6 variation has been prepared having regard to the recent decisions of the Land & Environment Court.

It is submitted that the variation is well founded and is worthy of the support of the Council.

The following is an assessment of the proposed variation against the requirements of Clause 4.6.

1. What are the objectives of Clause 4.6 and is the proposal consistent with them.

The objectives of Clause 4.6 of the LEP are:

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

It is my opinion, as is demonstrated by the responses to the questions below, that the proposed variation is consistent with the objectives of this clause.

2. Is the standard to be varied a Development Standard to which Clause 4.6 applies.

Clause 4.3 is contained within Part 4 of the LEP and which is titled Principal Development Standards. It is also considered that the wording of the Clauses is consistent with previous decisions of the Land & Environment Court of NSW in relation to matters which constitute development standards.

It is also noted that Clause 4.3 does not contain a provision which specifically excludes the application of Clause 4.6.

On this basis it is considered that Clause 4.3 is a development standard for which Clause 4.6 applies.

3. Is compliance with the development standard unreasonable or unnecessary in the circumstances of this case.

Sub-clause 4.6(3) sets out the matters that must be demonstrated by a written request seeking to justify a contravention of the relevant development standard (that is not expressly excluded from the operation of clause 4.6 under the North Sydney Local Environmental Plan 2013):

- (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.*

In *Wehbe v Pittwater Council* [2007] NSWLEC 827, Preston CJ set out five justifications that may be used to demonstrate that compliance with a development standard is unreasonable or unnecessary:

- The objectives of the development standard are achieved notwithstanding non-compliance with the standard.
- The underlying objective or purpose of the standard is not relevant to the development.
- The underlying objective or purpose would be defeated or thwarted if compliance was required.
- The standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and/or
- The zoning of the land was unreasonable or inappropriate such that the standards for that zoning are also unreasonable or unnecessary.

The first justification is applicable in this instance.

The following assessment of the proposal is provided against the objectives of Clause 4.3 of the North Sydney LEP 2013.

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

It is considered that the development continues to provide for a stepped built form which follows the natural gradient.

This is reflected by the ridge height of the proposed dormer being located 687mm below the ridge height of the existing dwelling.

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

The proposal is not considered to result in any disruption of views as a result of the non-compliance.

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

The proposed alterations and additions maintain solar access to the existing dwellings, public reserves and streets and in my opinion promote solar access for future development.

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

The proposal will not result in any unreasonable visual impacts, disruption of views or loss of privacy.

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

The proposed alterations and additions to an existing dual occupancy (attached) are compatible with the adjoining development and is not located at a zone boundary.

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

The proposed alterations and additions to the existing building are considered to result in a built form which is compatible with the height and scale of the existing building and surrounding and nearby development noting that only a minor increase of 182mm is proposed to the existing building height. The proposal will not result in any change in the current and desired future character of the locality and will continue to result in a built form which is compatible with the character of surrounding development, particularly in relation to height of building.

(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 proposal does not result in any additional storey and maintains the built form of the existing building.

On this basis, it is my opinion that strict compliance with the standard is unreasonable and unnecessary in the circumstances of this case.

4. Are there sufficient environmental planning grounds to justify contravening the development standard.

It is considered that a contravention of the development standard is justified on environmental planning grounds for the following reasons:

- The existing building currently has a height of 12.229m which exceeds the maximum 8.5m building height as required by Clause 4.3 of the LEP.
- The proposed alterations and additions have a maximum building height of 12.411m resulting in a non-compliance.

- The existing building results in a non-compliance of 3,729mm or 43.9%.
- The proposal results in an increase in the height of building (as defined) of 182mm and equates to a maximum non-compliance of 3,911mm and a variation of 46%. This is despite the RL of the proposed addition being 687mm lower than the existing ridge height.
- The non-compliance is primarily associated with the existing ridge height of the existing building and the heritage related objective for the proposed rear additions to tie in with the roof form of the existing dwelling.
- The variation is also a result of the sloping topography and existing excavated levels of the site.
- It is submitted that all reasonable efforts have been made to achieve a compliant height of building for the proposed additions. It is considered that any further lowering of the proposed 1.8m high pitching point would render the room unusable.
- The area of non-compliance does not result in the loss of any significant views from surrounding properties.
- The proposed non-compliance will not result in any additional negative impacts on the privacy or amenity of the adjoining properties.

Conclusion

It is therefore my opinion based upon the content of this submission that a variation of the height requirements of Clause 4.3 of the North Sydney LEP 2013 is appropriate in this instance.

Andrew Minto
Graduate Diploma (Urban & Regional Planning), Associate Diploma (Health & Building Surveying). MPIA.
MINTO PLANNING SERVICES PTY LTD
20th February 2024