

**NSLPP MEETING HELD ON 01/05/24****Attachments:**

1. Site Plan
2. Architectural Plans
3. Clause 4.6 Height of Buildings

ADDRESS/WARD: 70 Carabella Street, Kirribilli (C)**APPLICATION No:** DA 345/23 (PAN-398453)**PROPOSAL:** Alterations and additions to dwelling including demolition, new garage, and associated landscape works.**PLANS REF:**

Plan No.	Revision	Description	Prepared by	Dated	Received
AD-03 100	A	Site Plan + Analysis	Raddatz-Kueber	08/12/2023	20/12/2023
AD-01 101	A	Ex – Plan-L00 + L01 & L02	Raddatz-Kueber	08/12/2023	20/12/2023
AD-01 102	A	Ex – Plan-L03 & L04 + L05	Raddatz-Kueber	08/12/2023	20/12/2023
AD-01 103	A	Ex – Plan-Roof	Raddatz-Kueber	08/12/2023	20/12/2023
AD-03 101	A	Plan – L00 + L01 & L02	Raddatz-Kueber	08/12/2023	20/12/2023
AD-03 102	A	Plan – L03 + L04	Raddatz-Kueber	08/12/2023	20/12/2023
AD-03 103	A	Roof	Raddatz-Kueber	08/12/2023	20/12/2023
AD-03 201	A	Elevations – 01	Raddatz-Kueber	08/12/2023	20/12/2023
AD-03 202	A	Elevations – 02	Raddatz-Kueber	08/12/2023	20/12/2023
AD-03 203	A	Elevations – 03	Raddatz-Kueber	08/12/2023	20/12/2023
AD-03 301	A	Section – AA	Raddatz-Kueber	08/12/2023	20/12/2023
AD-03 302	A	Section – BB	Raddatz-Kueber	08/12/2023	20/12/2023
AD-03 303	A	Section – CC + DD	Raddatz-Kueber	08/12/2023	20/12/2023
SCH-03-06 001	A	Finishes & Materials Schedule	Raddatz-Kueber	08/12/2023	20/12/2023
SCH-03-06 002	A	Finishes & Materials Schedule	Raddatz-Kueber	08/12/2023	20/12/2023
L110	-	Site Plan DA	Tarn	23/10/2023	20/12/2023
L103	-	Landscape Plan DA	Tarn	23/10/2023	20/12/2023
L105	-	Roof Planting/Schedule	Tarn	23/10/2023	20/12/2023

OWNER: Heather Walsh and Paul Walsh**APPLICANT:** Christopher Raddatz, Raddatz-Kueber Pty Ltd**AUTHOR:** Andrew Beveridge, Senior Assessment Officer**DATE OF REPORT:** 17 April 2024**DATE LODGED:** 20 December 2023**SUBMISSIONS:** Two (2)**RECOMMENDATION:** Approval

EXECUTIVE SUMMARY

This development application seeks NSLPP approval for alterations and additions to an existing terrace style dwelling including demolition, new garage, and associated landscape works, at 70 Carabella Street, Kirribilli.

The application is reported to the North Sydney Local Planning Panel for determination as the application is seeking a variation to a development standard by more than 10% and creates additional height and floorspace yield to the building.

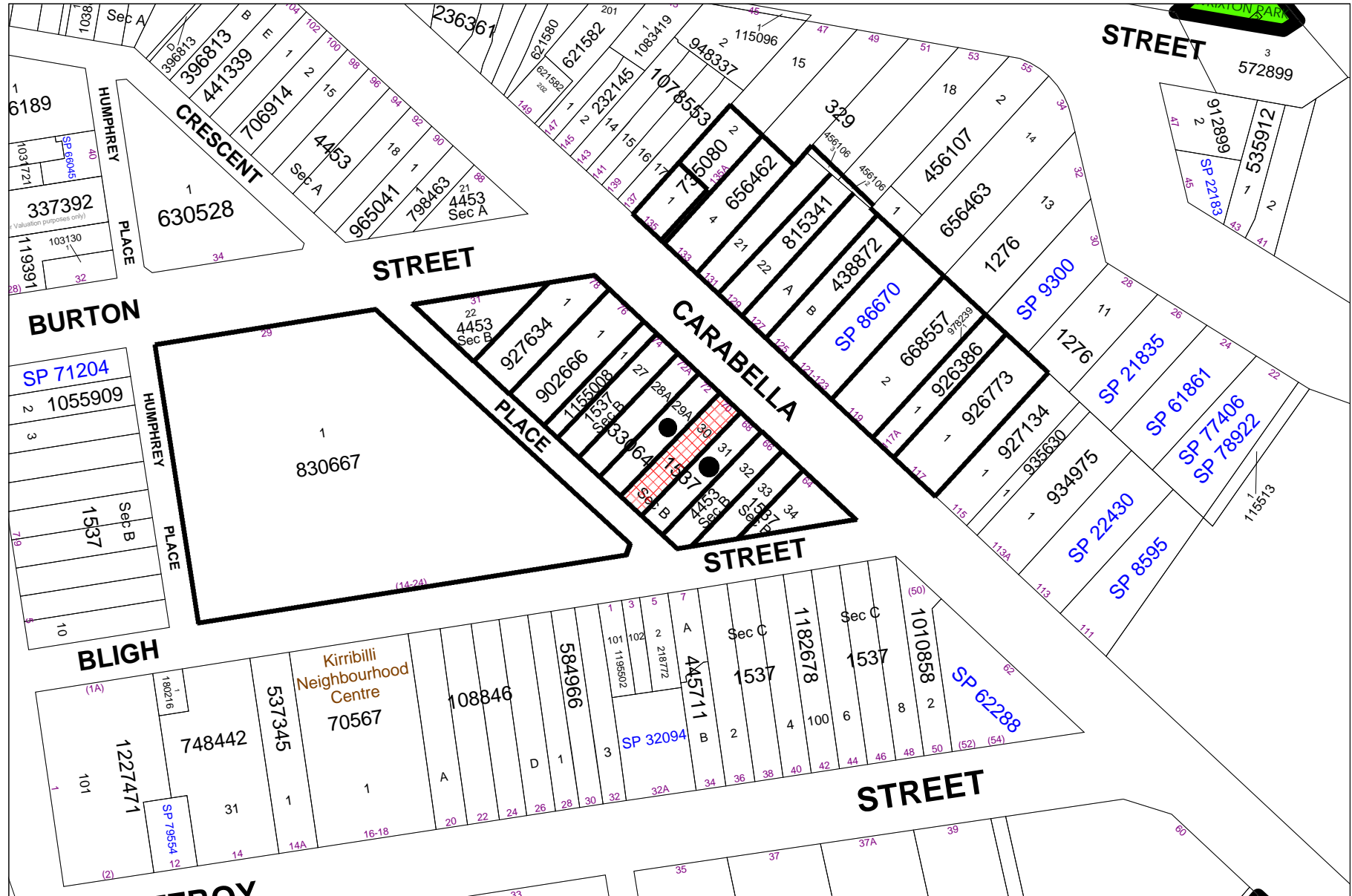
The proposed development breaches the maximum permitted building height of 8.5m by approximately 11.99m, equating to a maximum variation of 3.49m or 41.05%. The applicant's submission has been considered with reference to the Land and Environment Court's decision in *Wehbe v Pittwater Council [2007] NSWLEC 827* in order to justify the proposed variation. The applicant's submission has been considered with reference to the Land and Environment Court's decision in *Wehbe v Pittwater Council [2007] NSWLEC 827* in order to justify the proposed variation. The applicant's Clause 4.6 is considered to be satisfactory given the site circumstances and on the basis that it will not have a significant impact upon the general amenity of adjoining properties.

The application was notified in accordance with the community engagement protocol and Council received two submissions. The amenity impacts upon adjoining have been assessed and are considered to be relatively minor and acceptable within the site circumstances. The works will also maintain a sympathetic scale that is consistent with the existing building and surrounding buildings, and accords with the built form of the neighbourhood and the sloping topography of the site.

Subject to the satisfaction of conditions, it is considered that the proposal is acceptable as it will not result in any significant adverse impacts upon the locality or adjoining properties, and the streetscape character will be maintained. The proposed development would be in the public interest as the submitted written request is considered to be well founded and worthy of support.

Having regard for the potential impacts upon the amenity of adjoining properties and the surrounding neighbourhood, subject to conditions, the development application is considered to be satisfactory and is recommended for **approval**.

LOCATION MAP



Property/Applicant ● Submitters - Properties Notified

DESCRIPTION OF PROPOSAL

The development application seeks consent for alterations and additions to an existing terrace dwelling including demolition, new garage, and associated landscape works, at 70 Carabella Street, Kirribilli. The proposed works include:

- Partial demolition works to the existing dwelling, including rectification works to the existing built form, principally the front of site access stairs, front ground floor verandah, front first and second floor terraces and front roof.
- Excavation works at the rear of the dwelling to a depth of 1.3m to enable at-grade access to the rear courtyard from the ground floor level, additional subfloor area, and the addition of bicycle storage under the new garage.
- Construction of a new two storey rear extension with varied pitch metal roofing behind the retained existing ridge. Reconfiguration of internal floor plans to allow for lift addition and new staircase.
- Reconstruction of the attic bedroom with a new rear projecting dormer and skylights.
- Construction of a new parapet metal roof double garage; and
- New site landscaping within the rear courtyard.

The completed dwelling will comprise the following:

Lower ground floor level (FFL 29.49)

- Expanded subfloor area for storage purposes and provision of an electric hot water service heat pump.

Ground floor level (FFL 32.57)

- Dwelling entry, hallway, front living room (existing), lift to upper levels, toilet, and open plan kitchen and dining area with direct access to the rear courtyard.

First floor level (FFL 35.87)

- Master bedroom suite with walk-in-robe and ensuite bathroom, lift, sitting room, and study with direct access to the existing front terrace.

Second floor level/attic floor level (FFL 39.16 as existing)

- Lift, bathroom, two bedrooms, each with built in robes and direct access to the rectified front terrace/balcony.

Roof level (ridge height of RL 49.92 retained as existing)

- New pitched metal roofing with two skylights and solar panels on rear roof plane;

New garage (FFL 33.75 as existing and parapet roof RL 36.985)

- New metal roofed and metal panel door double garage with waste storage and bicycle parking underneath at courtyard level (FFL 32.57).

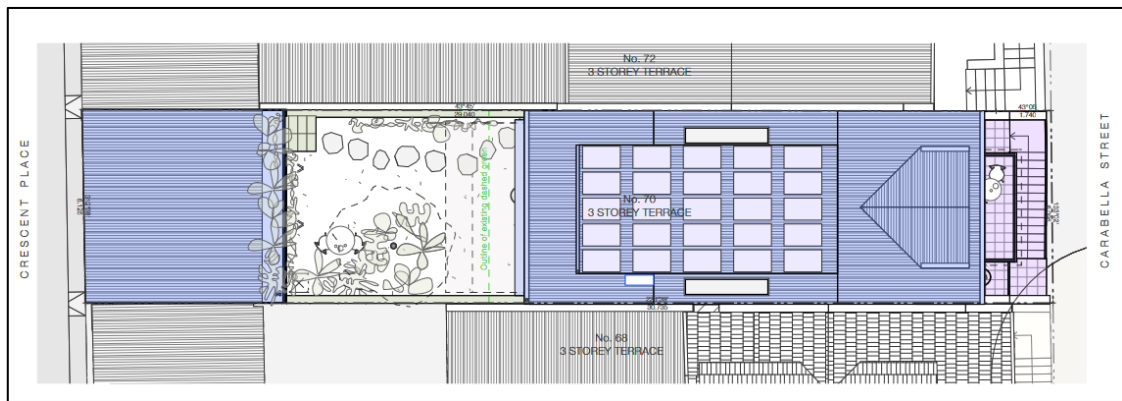


Figure 1. Proposed site plan.

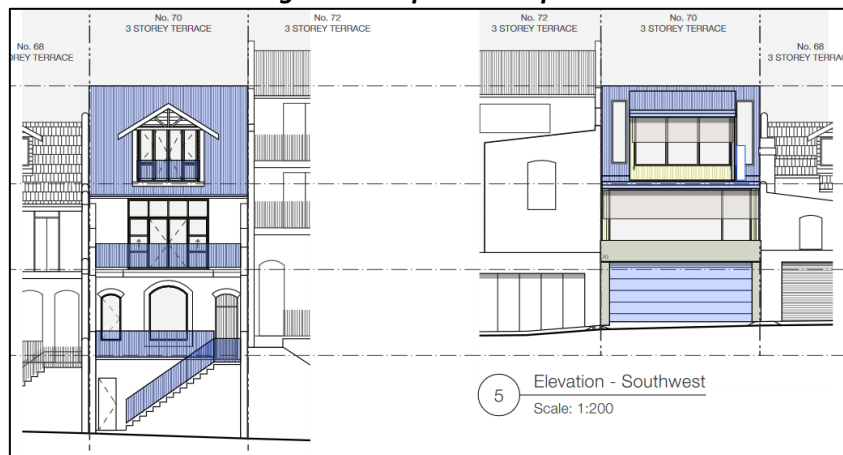


Figure 2. Proposed northeastern (left – Carabella Street) and southwestern (right – Crescent Place) elevations.

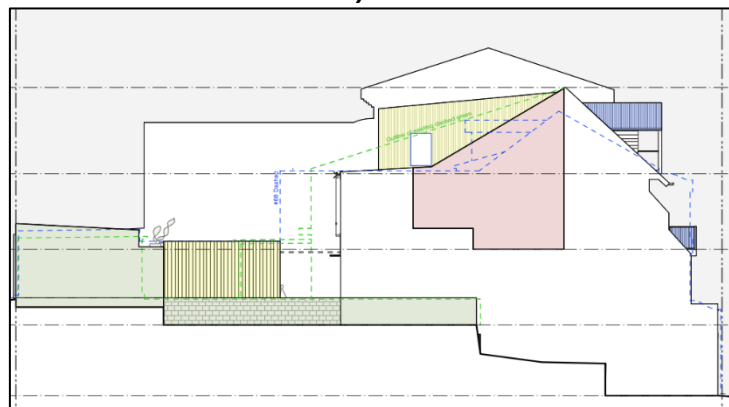


Figure 3. Proposed southeastern side elevation.

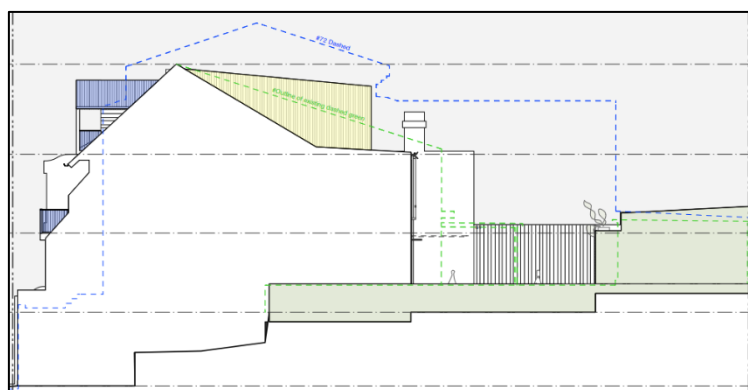


Figure 4. Proposed northwestern side elevation.

STATUTORY CONTROLS

North Sydney Local Environmental Plan 2013

- Zoning – R2 Low Density Residential
- Item of Heritage – No
- In Vicinity of Item of Heritage – Yes (64 Carabella, I0200; 66 Carabella, I0201; 119 Carabella, I0210; 29 Burton St, I0188)
- Conservation Area – Yes (Careening Cove Conservation Area, CA10)

Environmental Planning and Assessment Act 1979

SEPP (Biodiversity and Conservation) 2021

- Chapter 2 – Vegetation in non-rural areas
- Chapter 6 – Water Catchments

SEPP (Resilience and Hazards) 2021

- Chapter 4 – Remediation of Land

SEPP (Sustainable Buildings) 2022

Local Development

POLICY CONTROLS

North Sydney Development Control Plan 2013 (NSDCP 2013)

- Appendix 1 (Heritage) – Neutral Item

North Sydney Local Infrastructure Contributions Plan 2020

DESCRIPTION OF LOCALITY

The site (Lot 30, Sec B, DP 1537) is on the south-western side of Carabella Street between Burton Street to the northwest and Bligh Street to the southeast, and has a total site area of 187.7m². The site falls to the north east towards Careening Cove, with the dwelling located several meters above the Carabella Street level.

Currently existing on the site is a detached dwelling that forms part of a terraced group of attached and semi-detached dwellings of a similar appearance at Nos. 68-74 Carabella Street. The dwelling currently on site dates from 1991-1992 and comprises rendered and painted masonry and a terracotta roof in the Post-Modern style with some Victorian and Federation style influences to be sympathetic with the surrounding streetscape. This dwelling replaced a circa 1894 single storey dwelling on the site. There is a double carport/garage at the rear of the site facing the laneway at Crescent Place.

Surrounding development is predominately residential with a mixture of apartment buildings, single dwellings, and Victorian/Federation terraces. The Crescent Place/Bligh Street laneway streetscape at the rear presents a diverse range of styles and types of additions, with the immediate context of the subject site dominated by carports/garages to the laneway and a range of contemporary and historic style rear additions and dormer windows. Images of the site and local area are provided below.



Figure 5. Aerial photograph of subject site (outlined yellow).

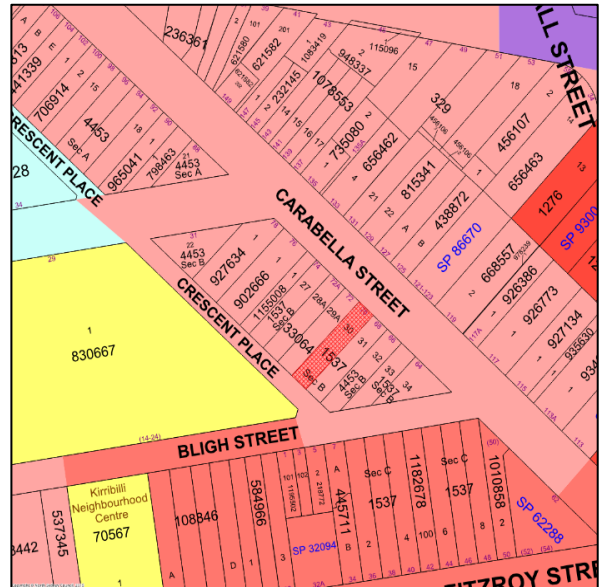


Figure 6. NSLEP Zoning Map with the subject hatched red in the R2 Zone.

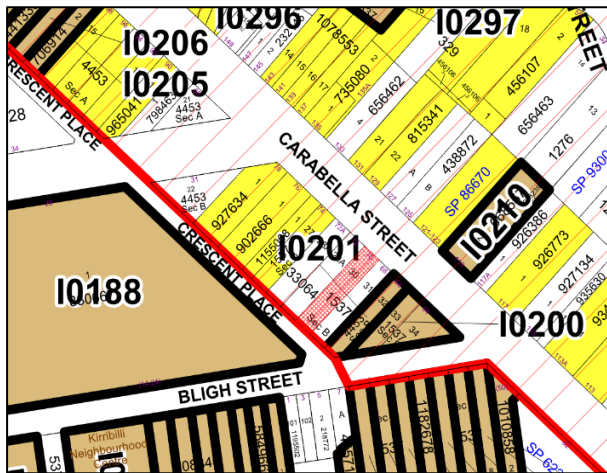


Figure 7. NSLEP and NSDCP Heritage map with the subject hatched red.

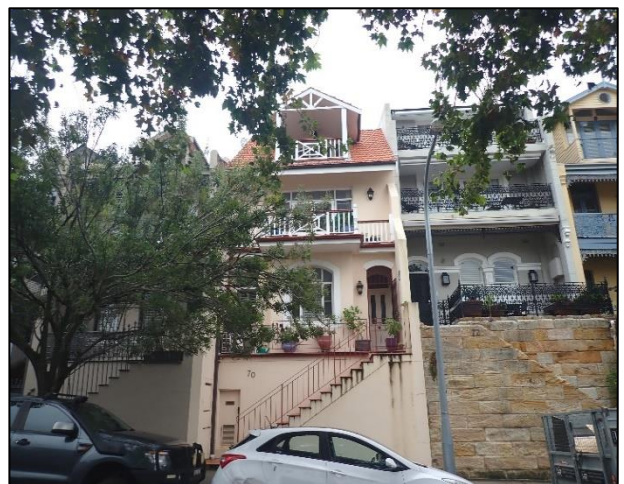


Figure 8. View of the site from Carabella Street.



Figure 9. View of the site from Crescent Place.



Figure 10. View from the existing first floor rear window facing Crescent Place.

RELEVANT DEVELOPMENT HISTORY

Development Application No. 1454/89 (lodged 23 November 1989) for the demolition of the existing Victorian single storey dwelling and the construction of a new two storey 3-bedroom terraced house and attic level accommodation, with a small single carport at the rear was approved by Council on 17 September 1990. Building consent was subsequently approved under **Building Application No. 90/402** on 17 May 1991. However, the approved dwelling was never constructed and was subsequently superseded by DA 1242/91.

Development Application No. 1242/91 (lodged 2 July 1991) for the demolition of the existing Victorian single storey dwelling and the construction of a new two storey 3-bedroom terraced house and attic level accommodation, with a small single carport at the rear, was approved by Council on 30 September 1991. Further modifications to windows were approved on 16 June 1992. Building works were approved under **Building Application No. 91/539** on 24 October 1991.

Development Application No. 1025/92 (lodged 24 January 1992) for the extension of the approved single carport at the rear to be a double carport across the entire site width, was approved on 7 May 1992.

RELEVANT APPLICATION HISTORY

Date	Action
20 December 2023	The application was lodged with Council.
2 January 2024	The subject application was notified to adjoining properties and the Milson Precinct Committee (Bradfield Precinct Committee being inactive) between 12 January 2024 and 26 January 2024. Two (2) submissions were received.
16 February 2024	A visit to the subject site was undertaken by Council Officers.
20 February 2024	Referral comments were received from Council's Conservation Planner.

REFERRALS

Ausgrid

Due to the proximity of the proposal to overhead and underground electricity infrastructure, the proposal was referred to Ausgrid under Section 2.48 of the *SEPP (Transport and Infrastructure) 2021*. Ausgrid raised no objection to the proposal, subject to appropriate care being taken to identify and avoid nearby infrastructure. This is appropriately covered by the recommended conditions of consent.

Building

The proposed works that are 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/BCA standards, a Section 4.55 application would be necessary.

Engineering

The proposal was referred to Council's Development Engineer, who raised no objection subject to the imposition appropriate conditions (see conditions **C1, C2, C3, C4, C6, C12, and C13**).

Heritage

Council's Conservation Planner has reviewed the proposal and provided the following comments:

The subject property is a Neutral item located within the Careening Cove Conservation Area. The existing terrace dates from 1992 and was approved under DA 1242/91. It is constructed with rendered and painted masonry and a terracotta roof in the Post-Modern style with some Victorian and Federation style influences. It was designed to respond to the immediate streetscape of Victorian and Federation style terraces and semi-detached dwellings and replaced a single storey circa 1894 Victorian/Federation style brick and tile bungalow.

No objection is raised to the demolition of the existing garage, the rear of the building or to the reconfiguration of the interior as it has no heritage significance. The works will have low impact to the nearby heritage items including St Aloysius Primary School at the rear, 64 and 66 Carabella St to the south east or to 199 Carabella which is diagonally opposite.

The proposed changes to the front façade are acceptable as the balustrades do not comply with the NCC and the replacement steel palisade balustrades are consistent with the Area Character Statement.

The large format glazing W4 at the rear is acceptable as it will not be visible from the public domain due to the massing and scale of the garage.

The following aspects of the proposal however do not satisfy clause 5.10 of NSLEP 2013 or Part B Section 13 of NSDCP 2013:

13.6.4 Additional Storeys and Levels

P3 Typically, additions should be set back behind the main roof lines and should be located substantially within the existing roof – The proposed rear dormer has been designed to provide the volume of space for the bedroom and does not comply as the room will not be substantially within the main roof.

13.9.2 Dormers

P3 (d) surrounding properties have dormers visible from the street – The nearby dormers in the Careening Cove Conservation Area are typically traditionally proportioned as seen at 100, 102 and 149 Carabella St as well as at 33 and 35 Willoughby Street.

P6 Dormers on the street elevation of a building must not comprise more than 1/3 of the width of the roof plane upon which they are placed – The proposed rear dormer does not comply as it will be visible from Crescent Place and exceeds one third of the width of the roof plane as measured at the eaves. The dormer is designed to provide the volume of the room rather than just providing light and ventilation to the attic space. It will be approximately 1800mm in height and 2200 mm wide.

It is recommended that the rear dormer be limited to 1200mm in width and 1200 mm height.

P12 Where side and rear elevations are visible from the street, dormers are to be similar in scale to front dormers – The dormer at the rear will be visible from Crescent Place and is considered to be over-scaled.

13.10.4 Two Storey Detached and Attached Dwellings

O1 To retain the integrity and form of the original building – The proposed additions at the rear to not comply. It is recommended that the rear dormer be reduced in size.

P2 New additions should generally comply with the examples illustrated in Figures 13.47 to 13.49 – The proposed additions at the rear do not comply. It is recommended that the rear dormer be reduced in size.

13.9.4 Materials, Finishes and Colours

O1 To ensure that materials and finishes are consistent with the characteristic elements of the heritage item or heritage conservation areas – A painted finish rather than a stained/oiled finish should be used on the exterior timber work. The sandstone should be rock or split faced. The garage door should be a panel lift door.

The above comments are broadly supported. Consequently, several standard conditions have been recommended to ensure that the works are sympathetic to the surrounding conservation area (see conditions **A4, C12, C21, and E7**). The comments and recommendations regarding the size of the rear dormer/attic level addition are noted. However, it is recommended that this be approved as proposed, as the immediate context of the site as viewed from Crescent Place and Blight Street, both of which are considered to be mostly secondary laneways for the properties that have frontages to these streets, comprises a diverse range of built forms and the addition is unlikely to be significantly out of character with surrounding developments. This includes a wide range of sizes and styles of rear additions and dormers. As such, the heritage impact is considered to be minimal both to the neutral item and the wider conservation area and is further discussed elsewhere in this report.

Landscaping

A referral to Council's Landscape Development Officer was not considered to be necessary given that the overall impacts upon landscaping are minimal, landscaped area is compliant with the NSDCP control, and appropriate bonds and protection conditions have been recommended for the street tree. Consequently, several conditions have been recommended to ensure the protection of significant trees and maintaining an appropriate landscaped context (see conditions **C14, D1, D2, E11, G4, G6, I1**).

SUBMISSIONS

On 2 January 2024, the subject application was notified to adjoining properties and the Milson Precinct Committee (Bradfield Precinct Committee being inactive) between 12 January 2024 and 26 January 2024. Two (2) submissions were received. The issues raised in the submissions are summarised below and addressed later in this report.

Basis of Submissions

- Request a dilapidation report be required as part of any consent.
- Concern regarding the choice of materials and their impact upon the conservation area, particularly metal roofing, and railings.
- Concern regarding stormwater flows, additional landscaping, and excavation upon the walls of adjoining property.
- The proposal will adversely impact upon the solar access amenity of adjoining property.

- The proposal will adversely impact upon the privacy of adjoining property.
- The proposal has an excessive bulk and scale, and height, that is not characteristic of the area.
- Concern that the proposed excavation will impact upon the stability of adjoining sites.
- Concern regarding the stormwater impacts.

CONSIDERATION

Environmental Planning and Assessment Act 1979

The relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

SEPP (Biodiversity and Conservation) 2021 – Chapter 2 – Vegetation in non-rural areas

The proposed development would not require the removal of any significant vegetation defined under this SEPP or have any impact upon any bushland areas. Appropriate conditions have been recommended for the protection of the significant street tree and the maintenance of sufficient landscaped context.

SEPP (Biodiversity and Conservation) 2021 – Chapter 6 – Water Catchments

Under Chapter 6 of this SEPP, the subject site is not highly visible from Sydney Harbour or its foreshores, and the proposal is unlikely to have an adverse impact upon the scenic, ecological, or water quality of Sydney Harbour or its waterways and is considered acceptable.

SEPP (Resilience and Hazards) 2021 – Chapter 4 – Remediation of Land

The provisions of the SEPP require Council to consider the likelihood of land contamination and any remediation necessary to rehabilitate the site. Council's records indicate that the site has previously been used for residential development since its original subdivision and as such is unlikely to contain any contamination. Therefore, the requirements of the above SEPP have been satisfactorily addressed.

SEPP (Sustainable Buildings) 2022

The applicant has submitted a valid BASIX Certificate (A1374152_03) to satisfy the requirements of the above SEPP.

North Sydney Local Environmental Plan 2013

Permissibility

The subject site is zoned R2 Low Density Residential zone under the provisions of the *NSLEP 2013*. The proposal involves alterations and additions to an existing detached dwelling which is a permissible form of development in the zone with consent from Council.

Objectives of the zone

The objectives of the Zone R2 are stated below:

- To provide for the housing needs of the community within a low-density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To encourage the development of sites for low density housing, including dual occupancies, if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.
- To ensure that a high level of residential amenity is achieved and maintained.

The proposed development will maintain the existing detached development in an area characterised by lower density residential development, and will ensure a high level of amenity for the residents as well maintaining the amenity of neighbouring properties and the character of the Careening Cove Conservation Area. Subject to appropriate conditions, the proposal involves alterations and additions that will not have a significant impact upon the natural or cultural heritage of the area.

Clause 4.3 – Height of buildings

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

Non-compliant Building Element	Control	Height	Variation
Attic level/second floor	8.5m	11.99m	41.05% (3.49m)

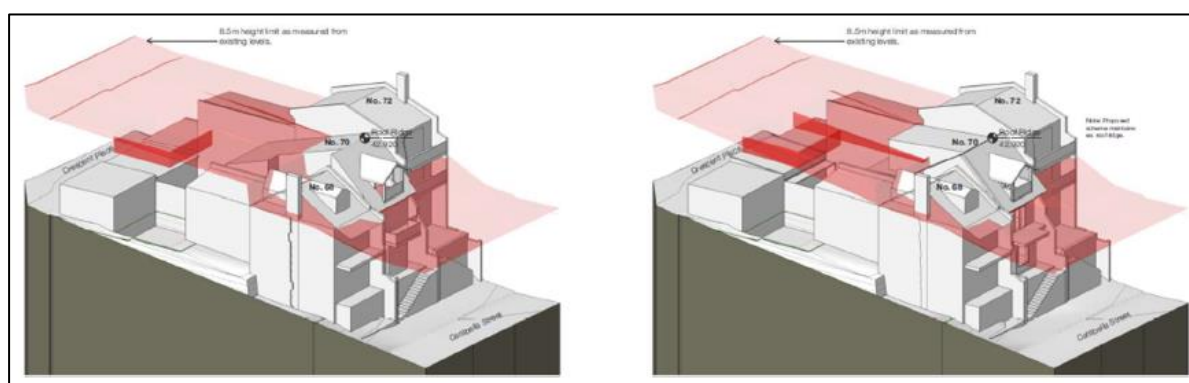


Figure 11. Height Plane Diagram for the existing (Left) and proposed (Right) sites.

Clause 4.6 – Contravention of a Development Standard

The subject site has a height limit of 8.5m pursuant to clause 4.3(2). The existing terrace has a maximum height of 11.99m, which is not being altered and is in variance with the height control by 3.49m (41.05%). However, while it is noted that there will be no change to the maximum ridge height of the existing building, with the attic level extension further to the rear, the proposal requires a variation of the Development Standard in clause 4.3 in NSLEP 2013. A written request to contravene the development standard for height has been submitted and has been considered below.

Extent of the Variation

The proposed works would exceed the maximum permitted height. The existing and proposed heights of the building have a maximum variation of 3.49m (41.05%) from the development standard.

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

For reference the objectives of the development standard are as follows:

Clause 4.3(1) of *North Sydney Local Environmental Plan 2013*

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

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

The applicant’s written request relies upon *Webhe Test 1* to demonstrate that compliance with the development standard is unreasonable and unnecessary in this instance as the objectives of the development standard would be achieved notwithstanding the non-compliance with the development standard. The development is considered below, having regard to the objectives of the development standard.

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

The proposed works would be mostly contained within the existing building footprint above ground level and would not alter the development’s overall relationship to the topography, continuing the stepped built form of the existing building. The site’s ground level falls by approximately 4.5, from the rear to the Carabella Street. The proposal includes excavation up to a depth of 1.3m at the rear section of the ground floor level and rear courtyard to enable a more consistent floor level and improve accessibility. This excavation will not be highly visible from the public domain and the overall form and character of the existing dwelling, with its characteristic relationship to the area’s topography, will be maintained.

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

There would be no view loss for adjoining dwellings given that majority of the works would be contained within the existing footprint, and the portion on the attic level extension above the height limit will not be higher than the existing roof ridge height of the existing dwelling. As such view impacts are likely to be negligible for any adjoining or nearby property or the public domain.

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

The levels of solar access for nearby properties will not substantially change as a result of the proposal. The majority of shadows cast by the new additions will fall within existing shadows cast by the building and adjoining buildings.

The proposed rear attic level extension will create some additional overshadowing to the rear roof planes of No. 68 Carabella Street to the south-east. This overshadowing comprises some shadows at 12pm on 21 June to the roof plane and a small northern section of the attic level rear dormer. However, this area is already heavily overshadowed by adjoining buildings at this time, and the additional impacts are likely to be minor/negligible. Additional shadows will be cast during the March and September equinox over the rear attic level roof plane of No. 68, in particular the northern side skylight, which provides light to the internal staircase of this dwelling. The equinox shadows will partially overshadow this skylight at 12pm and completely overshadow this skylight by 3pm.

However, it is noted that this skylight is on a southern rear roof plane, and continuous solar access through the day is unlikely to be possible, as significant shadows are cast by the existing properties at 70-72 Carabella Street in the afternoon over this site. This skylight is also for a transitory staircase space and the additional shadows are unlikely to have a significant adverse effect upon the amount of light and solar access provided to any of the primary living spaces for 68 Carabella Street.

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

The proposed rear attic level extension is unlikely to create significant additional privacy impacts when compared to existing. The new rear dormer/attic extension will face the rear laneway at Crescent Place, and similar to other nearby additions will have some degree of mutual overlooking to the rear open spaces of nearby properties to the south-east. However, this window will be for a bedroom space and is unlikely to create significant opportunities for overlooking. It is also noted that the surrounding developments includes a high number of similarly-styles additions and openings facing towards the rear, with a level of mutual overlooking to be expected within the immediate context. The 4.6 statement has adequately addressed this provision.

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

The site is located within the R2 Low Density Residential zone and adjoins the SP2 (Educational Establishment) zone to the south-west and the R3 Medium Density Residential zone to the south-east. The proposed works will largely retain the existing footprint of the building, with some additions partially above the height limit, with a development that is broadly consistent with residential developments in the R2 and R3 zones. The proposed additions will not interfere nor encroach upon the SP2 zone of the St Aloysius College Junior School.

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

The proposed scale and density of the development is appropriate for the site and does not result in significant non-compliances with Council's controls. While the proposal involves works to a building with an existing non-compliance in building height, the overall development is generally compatible with the existing building and surrounding buildings, particularly given its status as a neutral item built in the 1990s, with the majority of changes occurring to the secondary rear elevation facing the laneway and not impacting upon the primary façade facing Carabella Street.

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

The proposal involves works to an existing 3-storey building, including the extension of the attic level at the rear. As the number of storeys in this development does not change, rather the floor levels are being rationalised, the built form character of the area is unlikely to be significantly changed by this development, which will remain compatible with surrounding buildings.

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

The applicant has provided the following grounds for the variation to the permissible height limit:

- *As addressed earlier in this report and in the documentation prepared by Raddatz – Kueber, Zoltan Kovacs Architect, TARN and other technical inputs for the DA, the proposal clearly improves the roof geometry of the dwelling at its rear, whilst not increasing the dwelling's maximum height and not resulting in any unreasonable amenity and environmental impacts to neighbours.*
- *The SEE and supporting documentation submitted with the DA provides a holistic environmental planning assessment of the proposal and demonstrates that subject to adopting a range of reasonable mitigation measures, there are sufficient environmental planning grounds to support the development. In particular, the submitted documentation demonstrates that despite the contravention to the height standard, it nonetheless enables the relatively modest and appropriate redevelopment of the site to occur, which is clearly not incompatible with the established neighbouring built form context.*
- *The non-complying works to the rear:*
 - *architecturally integrate the rear elevation and improves roof geometry;*

- *are sited behind and slightly below the main roof ridge and are not visible from Carabella Street. Although the rear elevation is visible from Crescent Place (a service laneway), it nonetheless presents as a scale, form and detail that is more traditional and typical for the locality than that existing. Additionally they are at a lower height and are provided with a larger rear setback than the neighbours;*
- *enable improved internal amenity and equitable access;*
- *provide visual interest;*
- *achieve a human scale whilst improving the building's rhythm;*
- *will not result in unreasonable amenity impacts to neighbouring and nearby properties or the surrounding public domain.*
- *The site's ground surface falls approximately 4.5m to the north east. Although the terrace sits on an established building pad, there is significant variation between the front and rear of both the ground floor (1.24m) and first floor (0.91m) levels. This existing condition results in an inefficient and multiple level and stepped internal floorplan layout. To improve this condition and increase the occupant's amenity, excavation within the rear yard to a depth of 1.3m is proposed. This work will enable the provision of continuous floor levels and at grade access from the rear primary living rooms to the rear courtyard. The overall size and usability (flat) of the courtyard has increased from that existing as a result of the improved / rationalised internal floorplan. This proposed design condition is clearly a desirable outcome as it lowers (by re-benching the ground floor level) the terrace's rear as compared to that existing. The two storey component of the terrace at its rear is sited well below the height standard.*
- *The existing terrace house departs from the standard and the maximum height is not altered.*
- *Compliance with the standard would require demolition of the existing dwelling. Demolition is unlikely given its Careening Cove HCA location, undesirable, economically impractical and inconsistent with the objects of the Act.*
- *The proposal does not change the bulk, mass and orientation of the structure facing the street. As its presentation to Carabella Street largely remains unaltered (other than for rectification works), there is no perception of additional visual built form dominance irrespective of its compliance with the standard.*
- *The proposed works above standard are inconsequential from a planning perspective as the overall built form is not incompatible with its established and/or likely future locational context including that desired and expressed by the relevant planning controls.*
- *The site is proportioned to allow the efficient realisation and internalisation of the impacts of the proposed built form without an adverse visual impact or perceived built form dominance. The existing and unaltered maximum departure to the height standard has been arranged considering the site's existing built form and the neighbouring / nearby context. In this regard and as demonstrated by the DCP 2013 assessment at Section 4.1.6 of the separately submitted SEE, the existing and proposed works above the standard maintain environmental amenity relative to:*
 - *solar access and overshadowing;*
 - *access to natural daylight and ventilation;*
 - *aural and visual privacy;*
 - *views and vistas from neighbouring and nearby properties and the public domain; and*

- *visual impact and massing.*
- *Appropriate environmental initiatives are proposed.*

The above environmental planning grounds are considered to be well-grounded and are adequately justified within the submitted 4.6 variation request. Furthermore, the amenity impacts of the development are considered to be minimal and compliant with Council's controls in Part B of NSDCP 2013. The proposed alterations to the existing building will not significantly alter the existing scale of the building and have been designed to be relatively sympathetic to the surrounding area by confining the majority of visible changes to the secondary rear frontage facing the laneway. The proposal is therefore considered to be acceptable within the site circumstances.

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

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

Conclusion

The applicant has submitted a written request pursuant to Clause 4.6 in *NSLEP 2013*. The written request has adequately addressed subclause (3) and, subject to satisfying conditions, is considered to be acceptable because it is consistent with the relevant development standard and the objectives of the zone.

Clause 5.10 – Heritage conservation

It is considered that the works will be generally sympathetic to the existing neutral item within the conservation area by maintaining a sympathetic character and scale and maintain the general appearance of the primary façade to Carabella Street, with the majority of visible works confined to the rear secondary frontage to Crescent Place. The proposed works will not have any impact upon any nearby heritage items.

Clause 6.10 – Earthworks

The proposal requires excavation to facilitate the lower ground floor level at the rear. Subject to conditions to ensure that site stability is maintained, these excavation works are unlikely to affect the stability and topography of the site and adjoining sites.

Council's Development Engineer has raised no objection in this regard, subject to appropriate conditions to minimise any impacts upon adjoining sites (see engineer's conditions on page 8 of this report). The works are therefore considered compliant in this regard.

North Sydney Development Control Plan 2013

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013		
PART B - SECTION 1 - Residential Development		
	<i>Complies</i>	<i>Comments</i>
1.2 Function		
Mixed residential population Maintaining residential accommodation	Yes	The proposal will not change the accommodation provision or use of the existing dwelling.

1.3 Environmental criteria		
Topography	Yes (Acceptable on merit)	<p>The proposed works would be mostly contained within the existing building footprint above ground level and would not alter the development's overall relationship to the topography, continuing the stepped built form of the existing building. The proposal includes excavation up to a depth of 1.3m at the rear section of the ground floor level and rear courtyard to enable a more consistent floor level and improve accessibility.</p> <p>This excavation will not be highly visible from the public domain and the overall form and character of the existing dwelling, with its characteristic relationship to the area's topography, will be maintained. Council's Development Engineer has also raised no objection, subject to appropriate conditions.</p>
Properties in proximity to Bushland	N/A	The site is not within proximity to any bushland areas.
Properties on Bush Fire Prone Land	N/A	The site is not classified as Bush Fire Prone Land.
Properties with a foreshore building line	N/A	The site does not include foreshore land.
Views	Yes	There would be no view loss for adjoining dwellings given that majority of the works would be contained within the existing footprint, and the portion on the attic level extension above the height limit will not be higher than the existing roof ridge height of the existing dwelling. As such view impacts are likely to be negligible for any adjoining or nearby property or the public domain.
Solar access	Yes	<p>The levels of solar access for nearby properties will not substantially change as a result of the proposal. The majority of shadows cast by the new additions will fall within existing shadows cast by the building and adjoining buildings.</p> <p>The proposed rear attic level extension will create some additional overshadowing to the rear roof planes of No. 68 Carabella Street to the south-east. This overshadowing comprises some shadows at 12pm on 21 June to the roof plane and a small northern section of the attic level rear dormer. However, this area is already heavily overshadowed by adjoining buildings at this time, and the additional impacts are likely to be minor/negligible. Additional shadows will be cast during the March and September equinox over the rear attic level roof plane of No. 68, in particular the northern side skylight, which provides light to the internal staircase of this dwelling. The equinox shadows will partially overshadow this skylight at 12pm and completely overshadow this skylight by 3pm.</p> <p>However, it is noted that this skylight is on a southern rear roof plane, and continuous solar access through the day is unlikely to be possible, as significant shadows are cast by the existing properties at 70-72 Carabella Street in the afternoon over this site. This skylight is also for a transitory staircase space and the additional shadows are unlikely to have a significant adverse effect upon the amount of light and solar access provided to any of the primary living spaces for 68 Carabella Street.</p>
Acoustic privacy Visual privacy	Yes	The proposed works are unlikely to create significant additional privacy impacts when compared to existing. The new rear dormer/attic extension window, and the rear first floor level window, will face the rear laneway at Crescent Place, and similar to other nearby additions will have some degree of mutual overlooking to the rear open spaces of nearby properties to the south-east. However, these windows will be for bedroom spaces and are unlikely to create significant opportunities for overlooking.

		It is also noted that the surrounding developments includes a high number of similarly-styles additions and openings facing towards the rear, with a level of mutual overlooking to be expected within the immediate context. The 4.6 statement has also adequately addressed this provision.
1.4 Quality Built Form		
Siting	Yes	The works are consistent with the existing siting of the building.
Laneways	Yes	The subject site includes a secondary frontage to the laneway on Crescent Place. The existing garage/carport will be replaced by a new garage with the same setbacks and footprint, which is consistent with garages along this laneway, with garages filling the entire/majority of the laneway frontage. Enforcing a 1.2m setback of the garage from the rear boundary is not considered to be warranted as this would not be consistent with the streetscape and would likely have an adverse impact upon the amount of usable/landscaped area at the rear.
Setbacks	Yes	Front The existing front setback of the building will be unchanged by this proposal.
	No (Acceptable on merit)	Side – West The proposal will maintain the existing 0m side setback to 72 Carabella Street and will not further encroach upon this setback, with no further changes to the existing wall. The proposed rear garage will replace the existing structure and will not change the setback in this regard. The attic level addition at the rear will have an approximate 1.1m setback to the east for 4.5m. While this is not compliant with the 2.5m side setback requirement, it is considered that this setback is acceptable on merit on the basis that it is broadly consistent with the objectives of this control and is unlikely to result in significant amenity impacts for the neighbour at 72 Carabella Street, which is much higher than the subject site.
	No (Acceptable on merit)	Side – East The existing 0m eastern side setback from the boundary shared with 68 Carabella Street will be maintained for the proposed additions at the rear, and will be extended by an additional 3.5m in the centre through the removal of the existing lightwell. The existing and proposed eastern side setback is not compliant with the control as a result of the terraced arrangement of the existing building with No. 68 Carabella Street to the east. The proposed rear garage will replace the existing structure and will not change the setback in this regard. The attic level addition at the rear will have an approximate 970mm setback to the east for 4.5m. While this is not compliant with the 2.5m side setback requirement, it is considered that this setback is acceptable on merit on the basis that it is broadly consistent with the objectives of this control and is unlikely to result in significant amenity impacts for the neighbour at 68 Carabella Street. The side setbacks of the rear additions broadly maintain the characteristic side setbacks and the development pattern of the conservation area, with Nos. 64-74 Carabella Street characterised as row-type/terraced housing with minimal to no side setbacks. Regarding the extended side setback by virtue of the infilled central lightwell, Council may consider an additional 0m setback to a side boundary subject to the satisfaction to the Land and Environment Court Planning Principle “building to the side boundary in residential area” established in <i>Galea V Marrickville Council</i> [2003] NSWLEC 113 as follows:

	<p>No (Acceptable on merit)</p>	<p>A) Is the street characterised by terrace housing? The street is characterised by detached, semi-detached and row-type/terraced single dwellings with minimal side setbacks. The subject site is a detached dwelling with nil side setbacks to each property of either side. Semi-detached and row-type/terraced dwellings are very common along this section of Carabella Street, and nil and minimal setbacks (0-1m) are therefore a characteristic feature along the street, as this reflects the pattern of late nineteenth/early twentieth century development of the area.</p> <p>B) What is the height and length of the wall on the boundary? The boundary wall extension has a proposed wall height of 2.6-7m along 3.5m of the boundary.</p> <p>C) Has the applicant control over the adjoining sites(s) or the agreement of their owners? The works will be confined within the existing site and no adjoining owners consent is required.</p> <p>D) What are the impacts on the amenity and/or development potential of adjoining sites? As noted earlier in this report regarding privacy, solar access, excavation, and other potential amenity issues, the proposed alterations and additions will not result in any significant amenity impacts for the adjoining property to the east, No. 68 Carabella Street. While some solar impacts have been noted to the east, this impact is not considered to be unreasonable given the orientation of the site.</p> <p>E) Are there arrangements in place for the maintenance of the wall or gutters? Conditions are recommended to ensure appropriate stormwater measures are constructed (see Condition C12).</p> <p>As a consequence of the above discussion, it is considered that the proposed additions are acceptable on merit on the primary basis that they are broadly consistent with existing development in the area that will not have any significant adverse environmental impacts for adjoining properties or the streetscape.</p> <p>Rear</p> <table border="1" data-bbox="959 1503 1318 1659"> <thead> <tr> <th colspan="2">Northern rear boundary</th> </tr> </thead> <tbody> <tr> <td>Existing</td> <td>12.8m (Dwelling) 0m (Garage/Carport)</td> </tr> <tr> <td>Proposed</td> <td>14m (Dwelling) 0m (Garage)</td> </tr> </tbody> </table> <p>The proposed and existing rear setbacks are not consistent with the rear setbacks of Nos. 68 and 72 Carabella Street. Nevertheless, the proposed increased rear setback is considered to be acceptable on merit on the basis that it is unlikely to result in significant additional amenity impacts upon adjoining properties, as demonstrated elsewhere in this report. It is also noted that there is no consistent characteristic rear setback for properties along the street. The existing 0m setback of the garage is being retained, which is consistent with the garages/carports of adjoining sites.</p>	Northern rear boundary		Existing	12.8m (Dwelling) 0m (Garage/Carport)	Proposed	14m (Dwelling) 0m (Garage)
Northern rear boundary								
Existing	12.8m (Dwelling) 0m (Garage/Carport)							
Proposed	14m (Dwelling) 0m (Garage)							
<p>Form, massing and scale</p>	<p>Yes</p>	<p>The proposed works are consistent with the built form, massing, and scale within the area by maintaining the overall maximum height and scale of the existing terraced dwelling. The proposed additions will not result in a built form that is significantly out of scale with nearby developments.</p>						

Built form character	Yes	The existing appearance of the dwelling as viewed from the street will not be substantially altered, so its neutral status within the conservation area will be maintained. The visual appearance and materials of the rear extensions are also consistent with development along Carabella Street, where more contemporary additions have been confined to the rear of properties.
Dwelling entry	N/A	The proposed modifications will have no impact on the dwelling entry.
Roofs	Yes	The proposed rear additions and garage will have a skillion and pitched roof at the rear, which is consistent with the characteristic roof forms of the surrounding area.
Dormers	No (Acceptable on merit)	<p>The proposed attic level rear dormer is oversized when compared to characteristic style dormers as noted in section 13.9.2 of NSDCP 2013. However, the dormer is considered to be acceptable on merit on the basis that it meets the objectives of Sections 1.4.11 and 13.9.2, including the following:</p> <ol style="list-style-type: none"> 1. The dormer is on the rear elevation facing the secondary frontage to the laneway at Crescent Place, and will not be visible from the primary frontage to Carabella Street. Therefore, the public domain/conservation area impacts of this dormer are likely to be minimal. 2. The dormer is set back from each side boundary, is below the maximum ridge height of the dwelling roof, and is substantially set back approximately 15.6m from the rear boundary to the laneway. 3. The built form character and scale of surrounding developments facing the secondary laneways at Crescent Place and Bligh Street is very diverse, with a wide range of different types and scales of rear additions. Therefore, the proposed dormer is unlikely to be significantly out of character with the surrounding area.
Colours and materials	Yes	The proposed colours and materials are generally consistent with the existing and surrounding dwellings within the conservation area. Council's Conservation Planner has recommended several amendments to ensure consistency with the conservation area (see Condition C21).
Front Fences	Yes	The existing front fencing/balustrading will be replaced with a new metal palisade style that will be consistent with the existing character of the neutral item, and will not detract from the conservation area.
1.5 Quality urban environment		
High quality residential accommodation	Yes	The amenity of the dwelling will be enhanced by this proposal through a rationalised internal floorplan and improved usability/accessibility of internal spaces.
Safety and security	Yes	Safety and security would not be compromised as a result of the subject development application.
Site Coverage, Unbuilt-Upon Area, and Landscaped Area	Yes (Acceptable on merit)	<p>The proposal includes compliant levels of landscaped area and unbuilt-upon area, which are significantly improved from existing noncompliant levels. While the proposal includes a non-compliant level of site coverage (13.2% over the 60% maximum control), this level is slightly reduced from existing (1.29%) which is a positive improvement. It is also noted that the surrounding area includes properties with very high levels of site coverage, so the existing and proposed levels are not out of character with the surrounding area.</p> <p>The proposed and existing levels of site coverage, landscaped area and unbuilt-upon area indicated in the table below:</p>

		Site Area: 187.7m²	Existing	Proposed	Complies
		Site Coverage 60% (max)	74.49% 139.83m ²	73.2% 137.4m ²	No (Reduced)
		Landscaped area 20% (min)	3.71% 6.98m ²	21.76% 40.85m ²	Yes
		Unbuilt-upon area 20% (max)	21.78% 40.89m ²	5.03% 9.45m ²	Yes
Vehicle Access and Car parking	Yes	The existing two-space parking provision is unchanged by this proposal. The proposed garage will replace the existing carport/garage in the same footprint and is consistent with development in the surrounding area, with carports and garages predominating the Crescent Place and Blight Street laneway frontages of sites.			
Landscaping and front gardens	Yes	The proposal will result in a significant improvement in landscaping through the removal of hard paving in the rear courtyard, and the addition of new planting beds.			
Private and communal open space	Yes	A substantial area of private open space is retained for the dwelling (47.1m ²).			
Garbage Storage	Yes	A bin storage area is proposed within the garage in close proximity to the Crescent Place laneway frontage.			
1.6 Efficient use of resources					
Stormwater management	Yes	The proposal is unlikely to have a significant impact upon stormwater flows. Appropriate conditions have been recommended Council's Development Engineer (see Condition C12).			
Energy Efficiency	Yes	A valid BASIX Certificate has been lodged with this proposal.			

Kirribilli Planning Area (Careening Cove Conservation Area)

Consideration has been given to the Character Statement for the Kirribilli Planning Area in Part C of NSDCP 2013, including Section 8.3 (Careening Cove Conservation Area) where this site is located. The proposal is acceptable as the works are visually recessive and sympathetic to the style and character of the existing neutral item, with the majority of the works only visible from the secondary rear laneway frontage of the site. The proposal is therefore likely to comply with the desired characteristic development of the neighbourhood, and is unlikely to create significant adverse impacts upon the amenity of nearby dwellings, subject to conditions.

LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN

The proposal, which involves development where the cost of the proposed development is more than \$100,000, is classified under the North Sydney Local Infrastructure Contributions Plan 2020 as a 'Type (c) development' that triggers a Section 7.12 contribution of **\$12,587.00**, for the purpose of local infrastructure provision.

Contribution amounts payable

Applicable contribution type		
s7.12 contribution details	Development cost:	\$1,258,650.00
<i>(payment amount subject to indexing at time of payment)</i>	Contribution:	\$12,587.00

A condition is recommended requiring payment prior to issue of any Construction Certificate (refer to **Condition C18**).

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 <i>Environmental Planning and Assessment (Amendment) Act 1979</i>	Yes

SUITABILITY OF THE SITE (Section 4.15 of the EPA&A 1979)

The proposal involves residential development in a residential zone, so the proposal is considered to be suitable for the subject site.

SUBMISSIONS (Section 4.15 of the EPA&A 1979)

The application was notified to surrounding properties and the Milson Precinct Committee. Two submissions were received. The following matters were raised in the submissions (summarised, *in italics*):

- ***Request a dilapidation report be required as part of any consent.***
- ***Concern regarding stormwater flows, additional landscaping, and excavation upon the walls of adjoining property.***
- ***Concern that the proposed excavation will impact upon the stability of adjoining sites.***
- ***Concern regarding the stormwater impacts.***

See the discussions earlier in this report regarding earthworks, topography, and stormwater, where it was considered that the level of works proposed are unlikely to have a significant adverse impact upon adjoining properties. It is noted that Council's Development Engineer has not raised any objection in this regard, subject to appropriate conditions, including requirements for dilapidation, structural adequacy, and geotechnical reports. No works are also proposed to the walls of adjoining properties, and it is noted that any such works (such as affixing items, painting etc.) would require the consent of the adjoining owners.

- ***Concern regarding the choice of materials and their impact upon the conservation area, particularly metal roofing, and railings.***
- ***The proposal has an excessive bulk and scale, and height, that is not characteristic of the area.***

See the discussion earlier in the report regarding built form character and heritage, where it was considered that the proposed additions are generally consistent with the character of the surrounding area, with the primary façade maintained and more contemporary styled additions confined to the rear and to the secondary laneway frontage. Council's Conservation Planner has also recommended conditions to ensure that materials and colours are consistent with the conservation area.

- ***The proposal will adversely impact upon the solar access amenity of adjoining property.***

See the discussion earlier in the report regarding solar access. The new rear additions will not result in significant new overshadowing for adjoining sites, with the orientation of the site meaning that the majority of new shadows will fall over existing shadows, walls, and roof planes.

- ***The proposal will adversely impact upon the privacy of adjoining property.***

See the discussion earlier in the report regarding privacy. It is considered that the proposal is unlikely to create significant additional privacy impacts, particularly given the existing surrounding context, with a high degree of mutual overlooking of surrounding properties.

PUBLIC INTEREST (Section 4.15 of the EPA&A 1979)

The proposal would provide improved amenity for the residents without causing any unreasonable impacts to the area character, the streetscape, and/or adjoining properties so the proposal would not be contrary to the public interest.

HOW THE COMMUNITY VIEWS WERE TAKEN INTO CONSIDERATION

The development application was notified in accordance with Council's Community Engagement Protocol and two submissions were received. Nevertheless, it is considered that, subject to conditions, the proposal would provide improved amenity for the residents without causing any unreasonable impacts to the streetscape, conservation area, and/or adjoining properties.

CONCLUSION AND REASONS

The matters for consideration as outlined in section 4.15(1) of the Act have been satisfied. The proposed development is permissible, meets the development standards and relevant provisions of NSLEP 2013 subject to the written request to vary the height of buildings development standard made pursuant to clause 4.6 of NSLEP 2013. The proposed development is also generally in accordance with the objectives in NSDCP 2013.

The proposed additions are mostly compliant with Council's controls in *NSDCP 2013*, with alterations and additions to an existing roof terrace that will not be highly visible from the public domain and will retain the neutral status of the existing dwelling within the conservation area. The clause 4.6 submitted demonstrates that in the particular circumstances of the case that strict compliance is unreasonable and unnecessary, and that there are sufficient environmental planning grounds to justify the variation.

There would be no unreasonable overshadowing, view loss, privacy loss and/or excessive bulk and scale as a result of the proposal given that the majority of the works will be mostly contained within the overall footprint of the existing building and will be sympathetic to the existing dwelling, and the adjoining buildings.

On balance, the application is considered reasonable and is recommended for **approval** subject to site specific and standard conditions.

RECOMMENDATION

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

THAT the North Sydney Local Planning Panel, exercising the functions of Council, assume the concurrence of the Secretary of The Department of Planning and Environment and invoke the provisions of Clause 4.6 in *NSLEP 2013* with regards to the non-compliance with Clause 4.3 and **grant consent** to Development Application No. 345/23 for alterations and additions to an existing dwelling, on land at 70 Carabella Street, Kirribilli, subject to the attached site specific and standard conditions:-

ANDREW BEVERIDGE
SENIOR ASSESSMENT OFFICER

Date: 17/04/2024

ISOBELLA LUCIC
TEAM LEADER ASSESSMENTS

Date: 17/04/2024

STEPHEN BEATTIE
MANAGER DEVELOPMENT SERVICES

Date: 17/04/2024

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
70 CARABELLA STREET, KIRRIBILLI
DEVELOPMENT APPLICATION NO. 345/23

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.	Revision	Description	Prepared by	Dated	Received
AD-03 100	A	Site Plan + Analysis	Raddatz-Kueber	08/12/2023	20/12/2023
AD-01 101	A	Ex – Plan-L00 + L01 & L02	Raddatz-Kueber	08/12/2023	20/12/2023
AD-01 102	A	Ex – Plan-L03 & L04 + L05	Raddatz-Kueber	08/12/2023	20/12/2023
AD-01 103	A	Ex – Plan-Roof	Raddatz-Kueber	08/12/2023	20/12/2023
AD-03 101	A	Plan – L00 + L01 & L02	Raddatz-Kueber	08/12/2023	20/12/2023
AD-03 102	A	Plan – L03 + L04	Raddatz-Kueber	08/12/2023	20/12/2023
AD-03 103	A	Roof	Raddatz-Kueber	08/12/2023	20/12/2023
AD-03 201	A	Elevations – 01	Raddatz-Kueber	08/12/2023	20/12/2023
AD-03 202	A	Elevations – 02	Raddatz-Kueber	08/12/2023	20/12/2023
AD-03 203	A	Elevations – 03	Raddatz-Kueber	08/12/2023	20/12/2023
AD-03 301	A	Section – AA	Raddatz-Kueber	08/12/2023	20/12/2023
AD-03 302	A	Section – BB	Raddatz-Kueber	08/12/2023	20/12/2023
AD-03 303	A	Section – CC + DD	Raddatz-Kueber	08/12/2023	20/12/2023
SCH-03-06 001	A	Finishes & Materials Schedule	Raddatz-Kueber	08/12/2023	20/12/2023
SCH-03-06 002	A	Finishes & Materials Schedule	Raddatz-Kueber	08/12/2023	20/12/2023
L110	-	Site Plan DA	Tarn	23/10/2023	20/12/2023
L103	-	Landscape Plan DA	Tarn	23/10/2023	20/12/2023
L105	-	Roof Planting/Schedule	Tarn	23/10/2023	20/12/2023

(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.

**70 CARABELLA STREET, KIRRIBILLI
DEVELOPMENT APPLICATION NO.345/23**

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

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

No Demolition of Extra Fabric

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

(Reason: To ensure compliance with the approved development)

External Finishes and Materials

A4. External finishes and materials must be in accordance with the submitted schedule (No. DA12, Revision A), dated 21 November 2023, prepared by COSO Architecture and received by Council on 23 November 2023.

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

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

C1. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the predeveloped 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)

- C2. 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)

- C3. A photographic survey and dilapidation report of adjoining property No's. 68 and 72 Carabella Street, Kirribilli, 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

- C4. A report prepared by an appropriately qualified and practising structural engineer detailing the structural adequacy of adjoining property Nos. 68 and 72 Carabella Street, Kirribilli, 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

- C5. A report prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction shall be submitted to the 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

- C6. Prior to issue of any Construction Certificate a Geotechnical/Civil Engineering report must be prepared which addresses at a minimum (but is not limited to) the following:

- a) the type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs must be related to Australian Height Datum;
- b) the appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations must be discussed and mechanisms to ameliorate any such impacts recommended;
- c) the proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support must be provided within the subject site);
- d) the existing groundwater levels in relation to the basement structure, where influenced;
- e) the drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilised in controlling groundwater. Where it is considered there is the potential for the development to create a "dam" for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path is constructed, artificial drains such as perimeter drains and through drainage may be utilised; and
- f) recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

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

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

The design principles for the geotechnical report are as follows:

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

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

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

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

Sediment Control

- C7. 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

- C8. 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)

Colours, Finishes and Materials (Conservation Areas)

- C9. The finishes, materials and exterior colours shall be complementary to the architectural style of the original building and sympathetic to the character of the Conservation Area. A schedule of finishes, materials and external colours shall be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

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

Skylight(s)

- C10. 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)

Work Zone

- C11. 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. Work Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Work Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the North Sydney Local Traffic Committee and submit a copy of this to the Principal Certifier to enable issue of the Construction Certificate.

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

(Reason: Amenity and convenience during construction)

Stormwater Disposal

C12. Stormwater runoff generated by the approved development must be conveyed by gravity to the existing site stormwater drainage disposal system. A licensed tradesman shall install plumbing components to achieve this requirement in accordance with the NCC and current plumbing standards and guidelines. 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 appropriate provision for disposal and stormwater management arising from the development)

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

C13. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$2,500.00 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:

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- 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)

Tree Bond for Public Trees

- C14. Prior to the issue of any construction certificate, security in the sum of \$8,000.00 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
<i>Fraxinus sp.</i> (7x8m)	Council verge in front of 68 Carabella Street.	\$8,000

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

Approval for Removal of Trees

- C15. The following tree(s) are approved for removal in accordance with the development consent:

Tree Species	Location	Height
<i>Fraxinus sp.</i>	Council verge in front of 68 Carabella Street.	7x8m

No pruning shall be permitted to the above protected tree. Scaffolding shall be designed to negate the need for any canopy pruning.

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. No canopy pruning shall be permitted to any protected tree. All scaffolding and associated building works shall be designed such that no canopy pruning is required.

(Reason: Protection of existing environmental and community assets)

Garbage and Recycling Facilities

- C16. 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)

Air Conditioners in Residential Premises

- C17. 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.
- (c) “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)

Section 7.12 Development Contributions

- C18. A monetary contribution pursuant to the provisions of Section 7.12 of *the Environmental Planning and Assessment Act 1979* is to be paid to Council, in accordance with the North Sydney Council’s Contribution Plan, to provide for local infrastructure improvements.

Based on the cost of development at the date of determination, the total contribution payable to Council is \$12,587.00.

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

- C19. 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)	\$8,000.00
Infrastructure Damage Bond	\$2,500.00
TOTAL BONDS	\$10,500.00

Note: The following fees are applicable per **Condition C18**.

Fees	
Section 7.12 Development Contributions:	\$12,587.00
TOTAL FEES	\$12,587.00

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

- C20. Under clause 75 of the Environmental Planning and Assessment Regulation 2021, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. A1374152_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)

Heritage Requirements

- C21. Details demonstrating compliance with the following are to be submitted with the Construction Certificate:
- a) A painted finish (in a sympathetic colour) shall be used on all exterior timber work.
 - b) Any sandstone blockwork visible from the public domain shall be rock or split faced.

- c) The garage door shall be a panel lift door in a colour that is sympathetic to the surrounding area.
- d) Any solar panels are to be laid flat onto the roof planes and are not to be tilted.

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

(Reason: To be sympathetic to the character of the conservation area)

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).

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

Tree Protection

- D2. All protected trees on-site that are specifically nominated to be retained by notation on plans or by condition as a requirement of this consent must be 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 and beam construction, and the flexible location of piers/footings, shall be used within the Tree Protection Zone of any protected tree. No roots greater than 40mm shall be cut. No stormwater or any other underground services shall be directed through the Tree Protection Zone of any protected tree.

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
<i>Fraxinus sp.</i>	Council verge in front of 68 Carabella Street.	Trunk, branch and root protection.

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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.

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

(Reason: Protection of existing environmental and community assets)

Public Liability Insurance - Works on Public Land

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

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

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

Commencement of Works' Notice

- D4. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two days' notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

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

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

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

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

Road Reserve Safety

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

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

(Reason: Public Safety)

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)

Removal of Extra Fabric

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

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

Dust Emission and Air Quality

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

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

Noise and Vibration

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

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

No Work on Public Open Space

- E7. No work can be undertaken within adjoining public lands (i.e., Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the developer is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

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

Applicant's Cost of Work on Council Property

- E8. The applicant 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

- E9. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

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

Protection of Trees

- E10. All trees required to be retained, as part of this consent must be protected from any damage during construction works in accordance with AS4970-2009. 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)

Special Permits

- E11. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development must occur entirely on the property.

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

1) **On-street mobile plant**

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

(Reason: Proper management of public land)

2) **Hoardings**

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

(Reason: Proper management of public land)

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

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

(Reason: Proper management of public land)

4) **Kerbside restrictions, construction zones**

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

(Reason: Proper management of public land)

Construction Hours

- E12. Construction activities and works approved under this consent must be restricted to within the hours stipulated in the following table:

Location	Standard Construction Hours	
	Day	Hours
All zones (Excl. E2 Commercial Centre MU1 Mixed-use)	Monday - Friday	7.00 am - 5.00 pm
	Saturday	8.00 am - 1.00 pm
	Sunday, Public holiday	No work permitted

Construction activities for development approved under this consent must be carried out in accordance with the standard construction hours above, 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 and Enforcement Policy.

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

Service Adjustments

- E13. Where required, the adjustment or inclusion of any new utility service or facilities must be carried out by an appropriate 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)

Out-of-hours' Work Permits

- E14. Where it is necessary for works to occur outside those hours allowed by these conditions, an application may be made to Council's Customer Services Centre for a permit to carry out works outside of the approved hours. If a permit is issued the works approved must be carried out in accordance with any requirements specified in the permit. Permits will only be approved if **public safety is at risk**. Applications which seek a variation to construction hours solely to benefit the developer will require the lodgement and favourable determination of a modification application pursuant to the provisions of Section 4.55 of *the Environmental Planning and Assessment Act 1979*.

Notes:

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

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

Installation and Maintenance of Sediment Control

- E15. 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

- E16. 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

- E17. 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

- E18. 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

- E19. 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

- E20. All plant and equipment used in the undertaking of the development/works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

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

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

Waste Disposal

E21. 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)

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 Certifier (PC)

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)

Demolition

F6. 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

- F7.
- 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

- F8.
- 1) A sign must be erected in a prominent position on the site
 - a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - c) showing the name, address and telephone number of the Principal Certifier for the work.
 - 2) Any such sign must be maintained while to building work or demolition work is being carried out but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

G. Prior to the Issue of an Occupation Certificate

Infrastructure Repair and Completion of Works

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

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

to the satisfaction of Council Engineers at no cost to Council. Council's development engineer must be contacted to arrange inspections of the completed works in the Public Domain.

(Reason: Maintain quality of Public assets)

Damage to Adjoining Properties

G2. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

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

Utility Services

G3. All utility services shall be adjusted to the correct levels and/or location/s required by this consent, prior to issue of an occupation certificate. This shall be at no cost to Council.

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

Certification of Tree Condition

G4. 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 Species	Location	Height
<i>Fraxinus sp.</i>	Council verge in front of 68 Carabella Street.	7x8m

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

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

BASIX Completion Receipt

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

(Reason: To ensure compliance with the Regulations)

Landscaping

G6. The landscaping shown in the approved landscape plans and as amended by the conditions of this consent, must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

Compliance with Certain Conditions

G7. Prior to the issue of any Occupation Certificate, **Condition C21** (Heritage Requirements) must be certified as having been implemented on site and complied with.

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

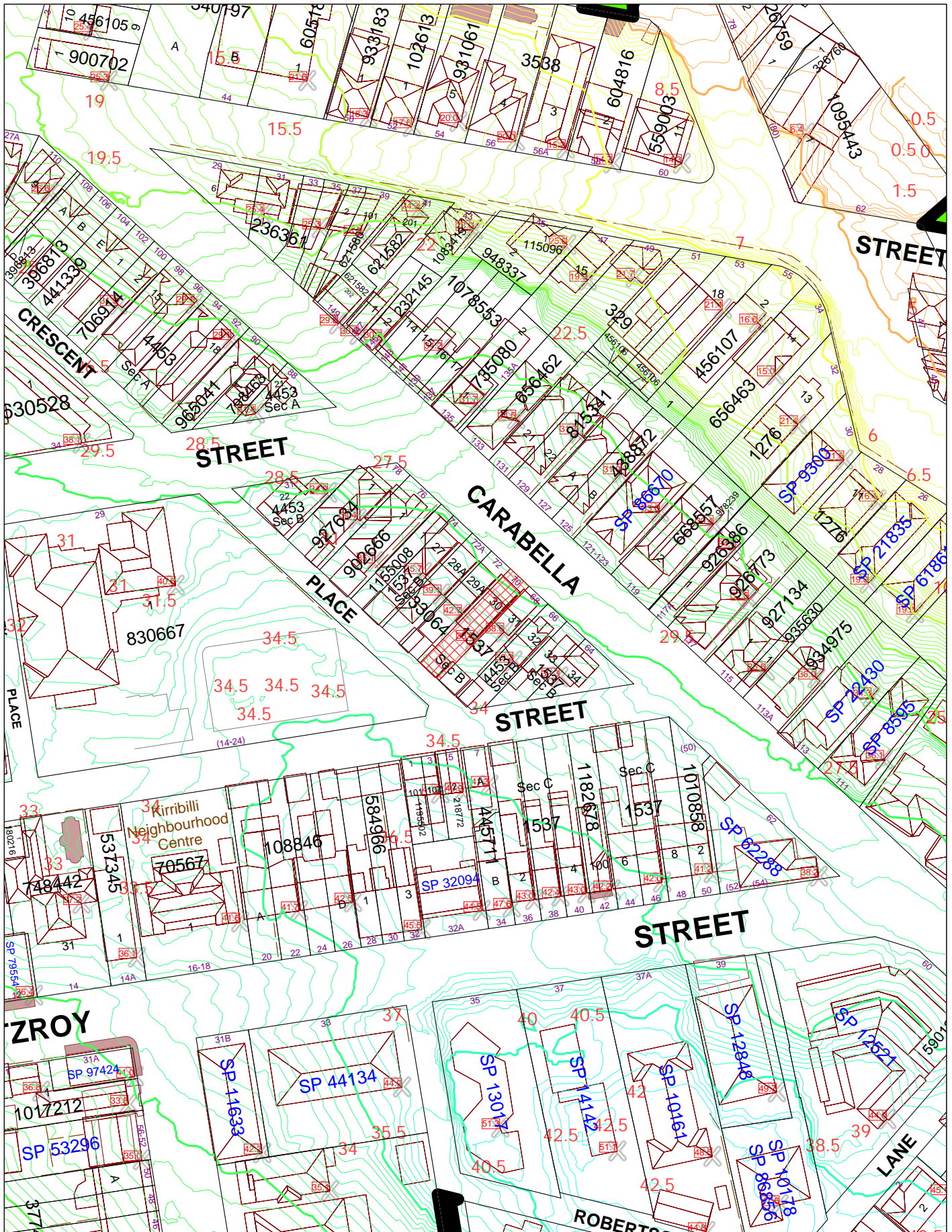
I. Ongoing/Operational Conditions

Maintenance of Approved Landscaping

I1. The owner of the premises at 70 Carabella Street, Kirribilli is to maintain the landscaping approved by this consent generally in accordance with the approved plans, and as amended by the conditions of this consent.

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

(Reason: To ensure maintenance of the amenity 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.

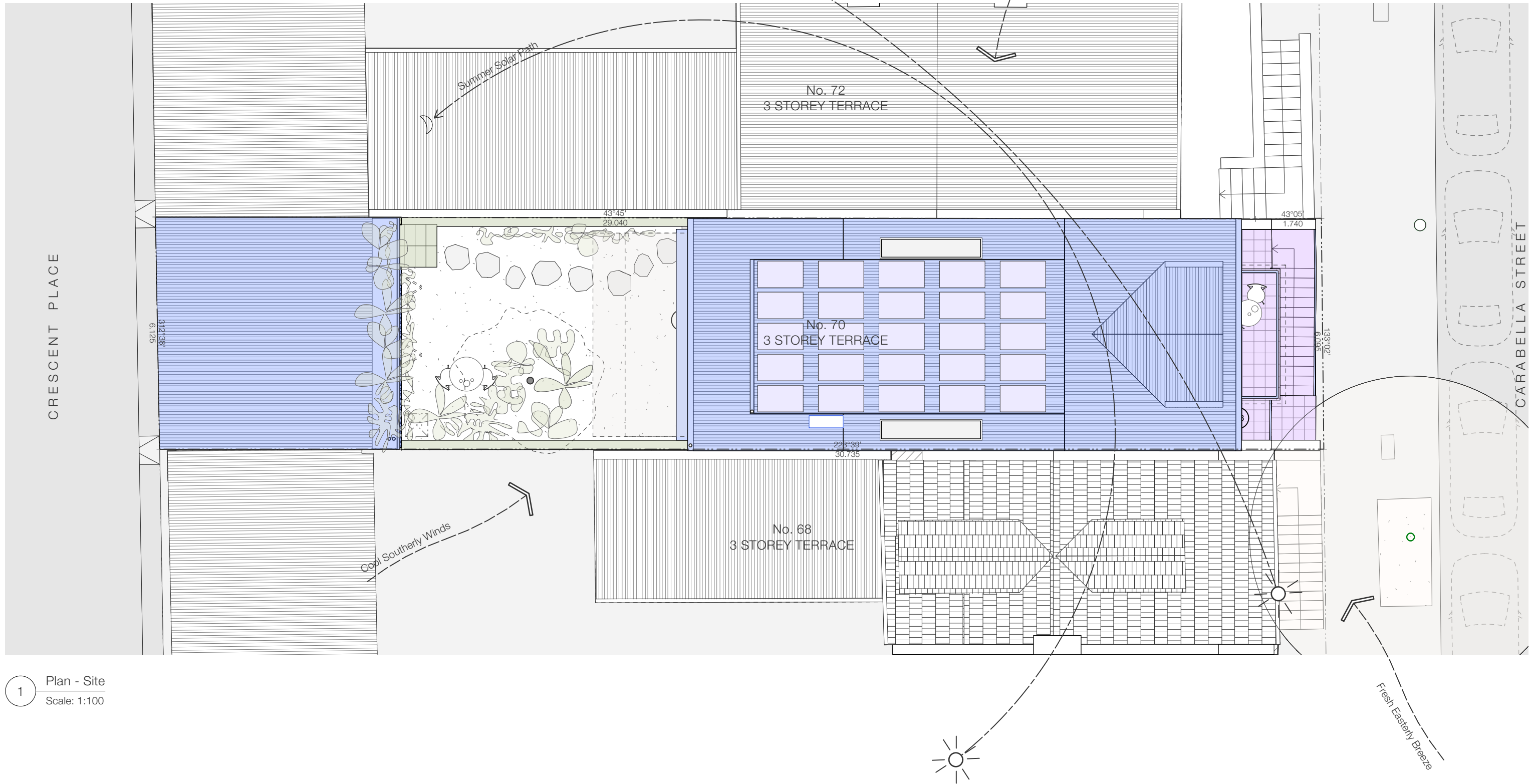
Scale: 1:1200 approx.



Material Palette

	Steel / Metal		Plaster		Timber		Tiles
	Concrete Finish		Glass		Brick		

NOTE
 Drawings to be read in conjunction with BASIX
 Certificate Number: A1374152_03



1 Plan - Site
 Scale: 1:100

raddatz—kueber

ABN 72 655 606 821
 Ph +61 478 763 110
 23 Ann St, Sury Hills NSW 2010
 office@raddatzkueber.com
 Nominated Architect: Christopher Raddatz
 NSW ARB Reg. 11144

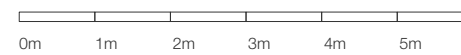
Important:

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Scale: 1:100



Status: **DEVELOPMENT APPLICATION**

Revision:	Date:	Description:
A	08/12/23	DA Issue

Number: AD-03 100

Drawing: PLAN-SITE PLAN + ANALYSIS

Project: Walsh Residence

Site Address: 70 Carabella St, Kirribilli, NSW 2061


Date of Issue:

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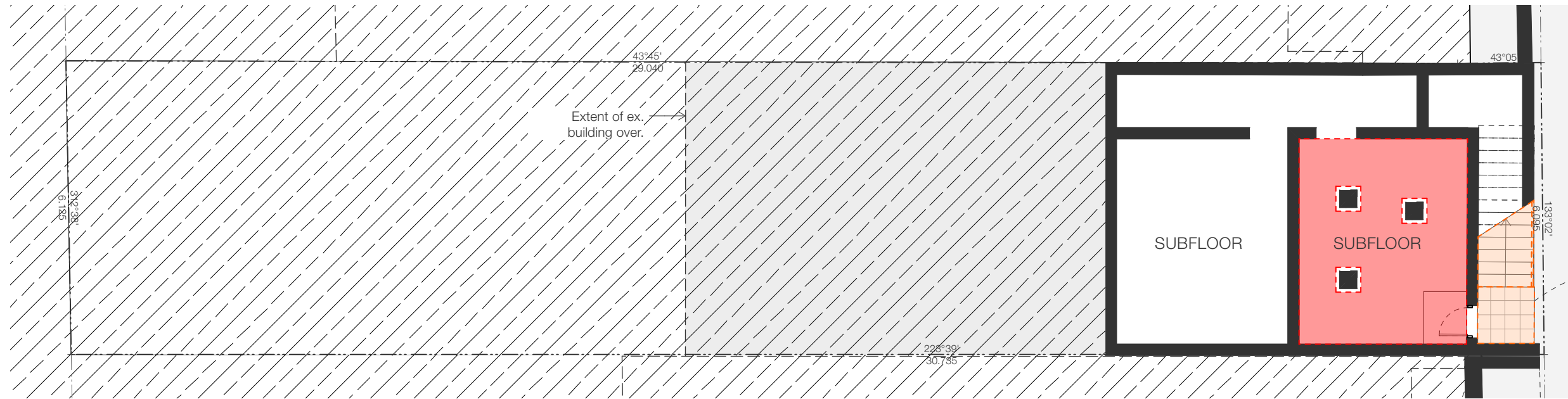
Document Set ID: 9836220
 Version: 1, Version Date: 13/12/2023

Legend: Demolition

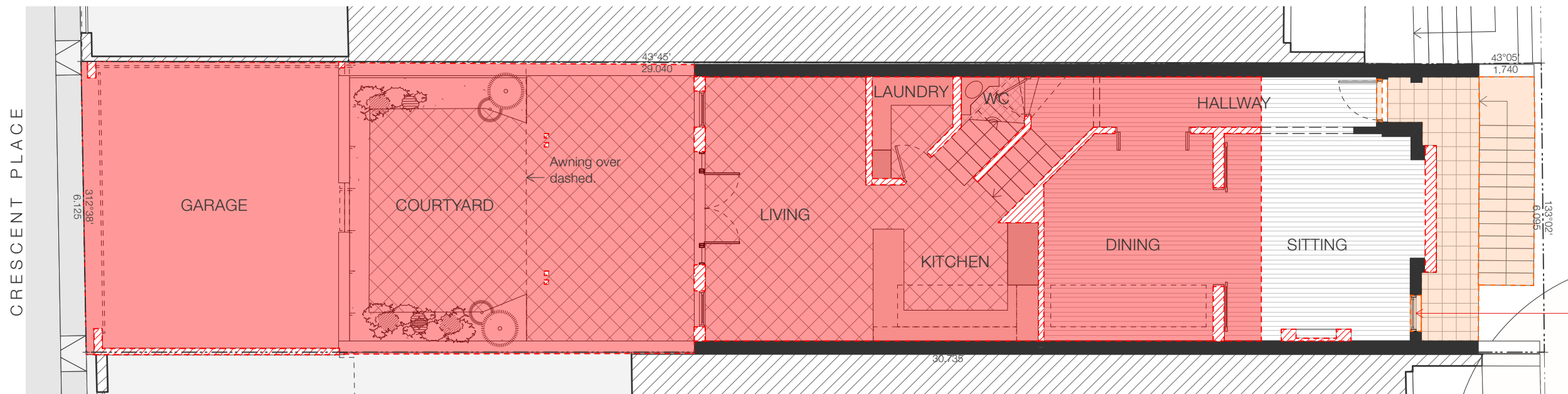
 Retention & Upgrade of Existing

 General Demolition

 Walls



1 Ex. Plan - L00
Scale: 1:100



2 Ex. Plan - L01 & 02
Scale: 1:100

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ABN 72 655 606 821
Ph +61 478 763 110

23 Ann St, Sury Hills NSW 2010
office@raddatzkueber.com
Nominated Architect: Christopher Raddatz
NSW ARB Reg. 11144

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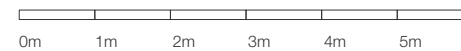
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Scale: 1:100



Status: **DEVELOPMENT APPLICATION**

Revision:	Date:	Description:
A	08/12/23	DA Issue

Number: AD-01 101

Drawing: EX - PLAN-L00 + L01 & L02

Project: Walsh Residence

Site Address: 70 Carabella St, Kirribilli, NSW 2061

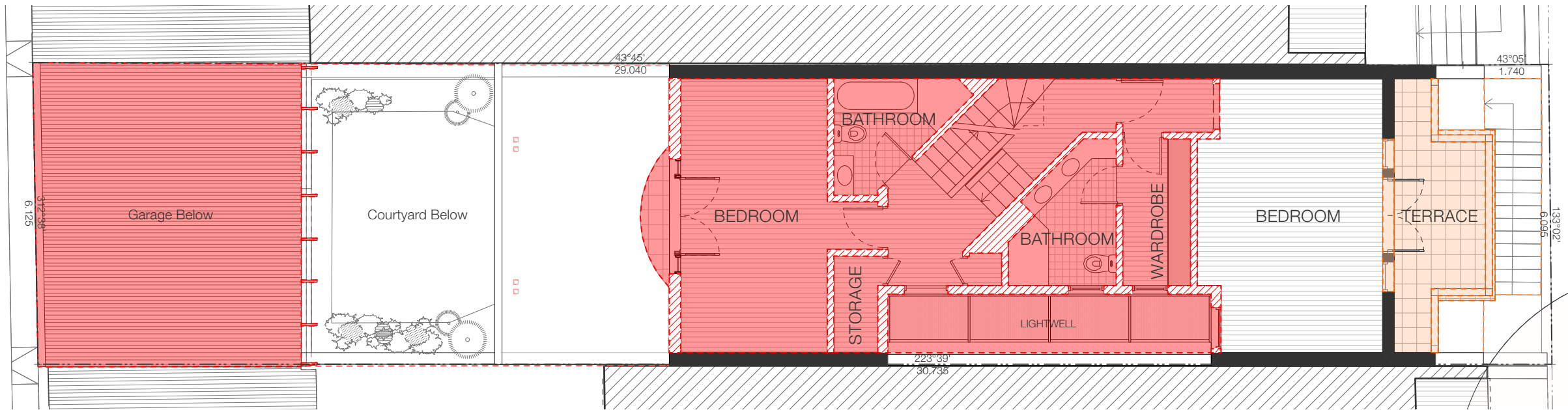
Date of Issue:

Legend: Demolition

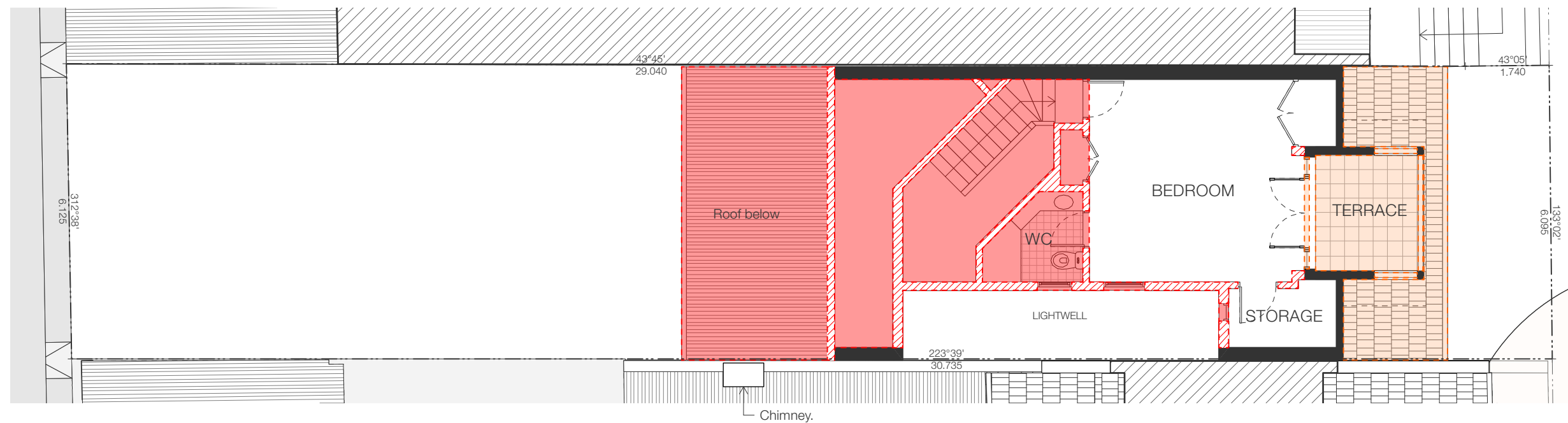
Retention & Upgrade of Existing

General Demolition

Walls



1 Ex. Plan - L03 & L04
Scale: 1:100



2 Ex. Plan - L05
Scale: 1:100

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ABN 72 655 606 821
Ph +61 478 763 110

23 Ann St, Sury Hills NSW 2010
office@raddatzkueber.com
Nominated Architect: Christopher Raddatz
NSW ARB Reg. 11144

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Version: 1, Version Date: 13/12/2023

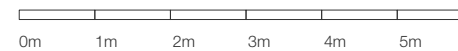
Important:

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Scale: 1:100



Status: **DEVELOPMENT APPLICATION**

Revision:	Date:	Description:
A	08/12/23	DA Issue

Number: AD-01 102

Drawing: EX - PLAN-L03 & L04 + L05

Project: Walsh Residence

Site Address: 70 Carabella St, Kirribilli, NSW 2061

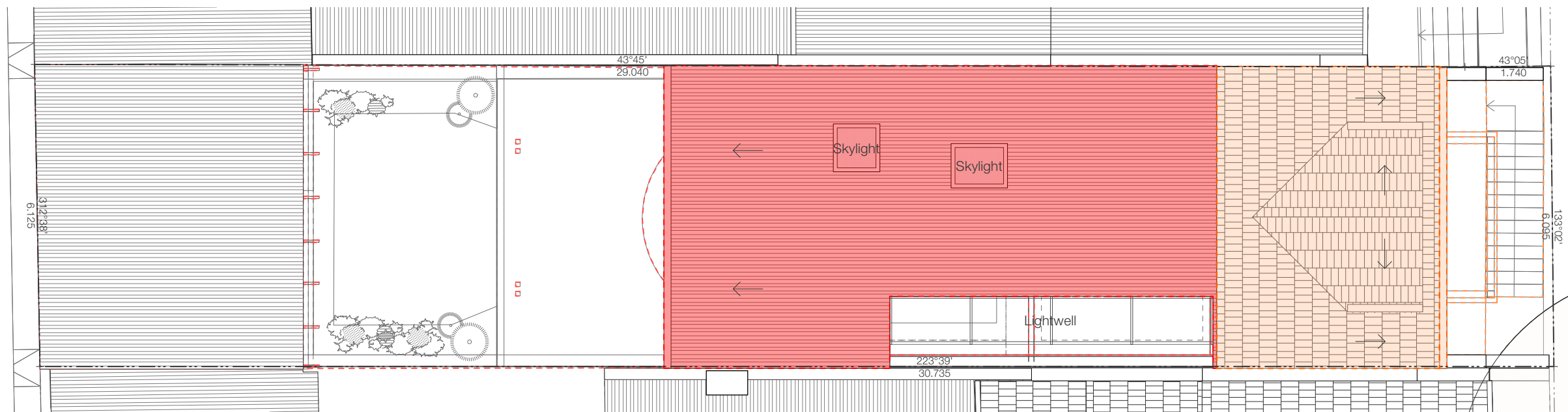
Date of Issue:

Legend: Demolition

 Retention & Upgrade of Existing

 General Demolition

 Walls



1 Ex. Plan - Roof
Scale: 1:100

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ABN 72 655 606 821
Ph +61 478 763 110

23 Ann St, Sury Hills NSW 2010
office@raddatzkueber.com
Nominated Architect: Christopher Raddatz
NSW ARB Reg. 11144

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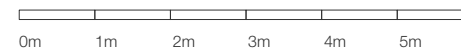
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Scale: 1:100



Status: **DEVELOPMENT APPLICATION**

Revision:	Date:	Description:
A	08/12/23	DA Issue

Number: AD-01 103

Drawing: EX - PLAN-ROOF

Project: Walsh Residence

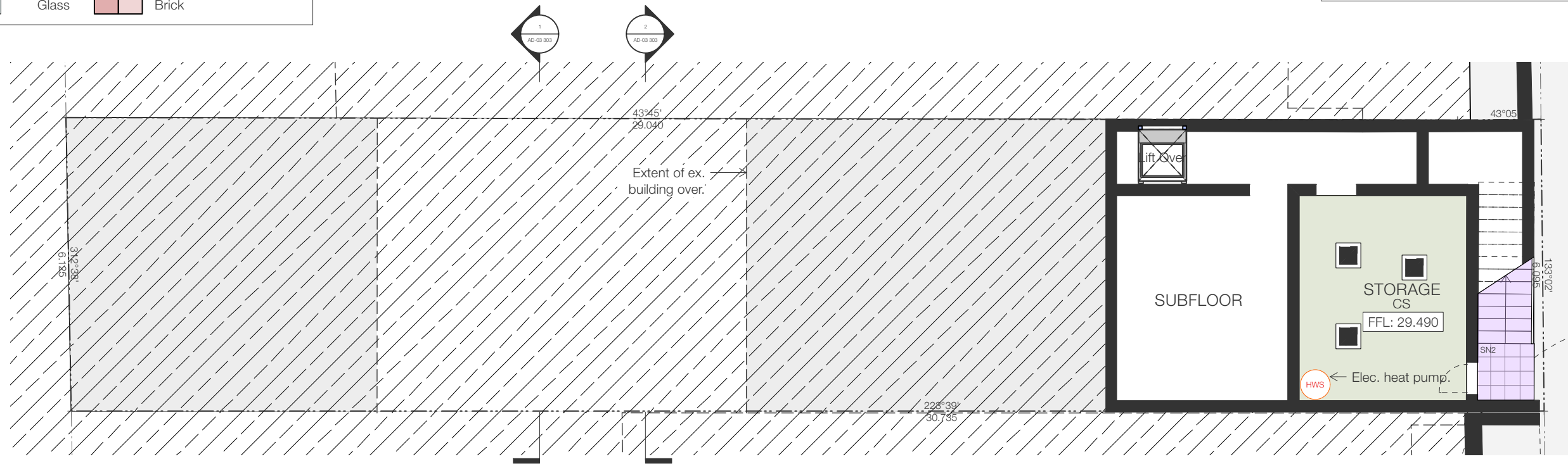
Site Address: 70 Carabella St, Kirribilli, NSW 2061

Date of Issue:

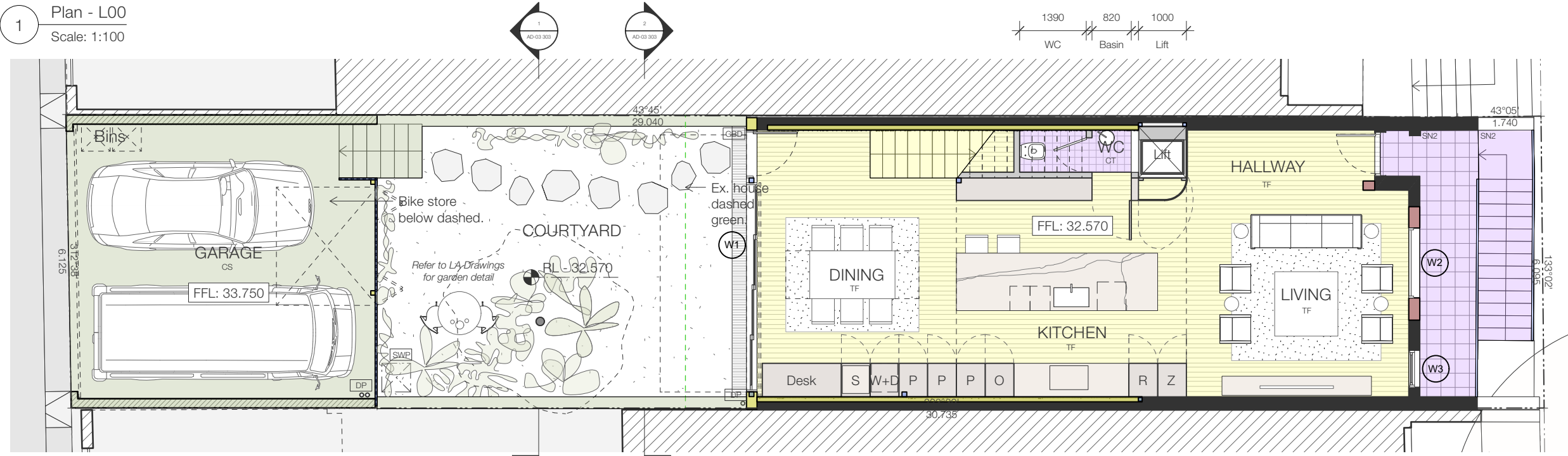
Material Palette

	Steel / Metal		Plaster		Timber		Tiles
	Concrete Finish		Glass		Brick		

NOTE
 Drawings to be read in conjunction with BASIX
 Certificate Number: A1374152_03



1 Plan - L00
 Scale: 1:100



2 Plan - L01 & L02
 Scale: 1:100

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ABN 72 655 606 821
 Ph +61 478 763 110

23 Ann St, Sury Hills NSW 2010
 office@raddatzkueber.com
 Nominated Architect: Christopher Raddatz
 NSW ARB Reg. 11144

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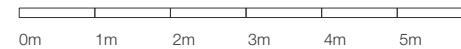
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Scale: 1:100



Status: **DEVELOPMENT APPLICATION**

Revision:	Date:	Description:
A	08/12/23	DA Issue

Number: AD-03 101

Drawing: PLAN-L00 + L01 & L02

Project: Walsh Residence

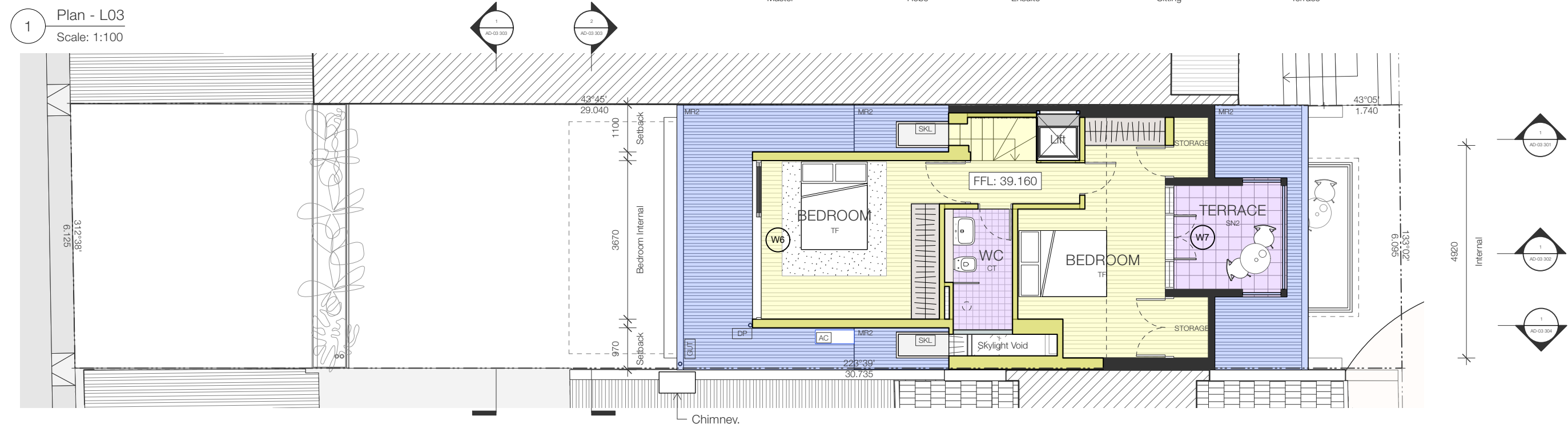
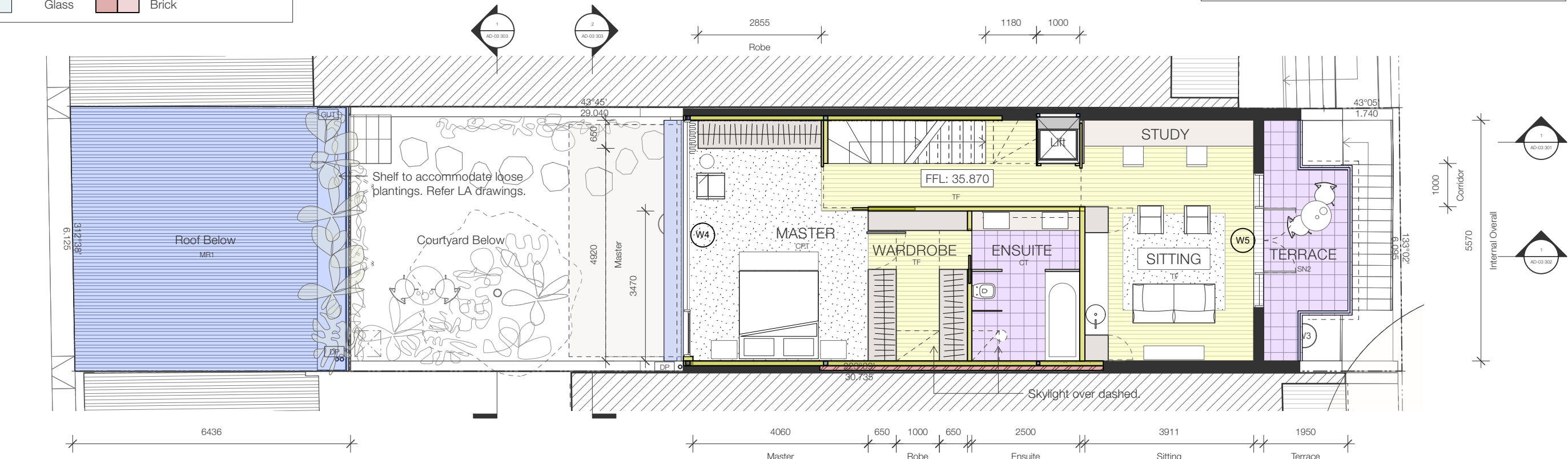
Site Address: 70 Carabella St, Kirribilli, NSW 2061

Date of Issue:

Material Palette

	Steel / Metal		Plaster		Timber		Tiles
	Concrete Finish		Glass		Brick		

NOTE
 Drawings to be read in conjunction with BASIX Certificate Number: A1374152_03



raddatz — kueber

ABN 72 655 606 821
Ph +61 478 763 110

23 Ann St, Sury Hills NSW 2010
office@raddatzkueber.com
Nominated Architect: Christopher Raddatz
NSW ARB Reg. 11144

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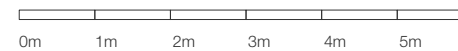
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All works to comply with the Building Code of Australia and all relevant Australian Standards and authority requirements.

Scale: 1:100



Status: **DEVELOPMENT APPLICATION**

Revision:	Date:	Description:
A	08/12/23	DA Issue

Number: AD-03 102








Drawing: PLAN-L03 + L04

Project: Walsh Residence

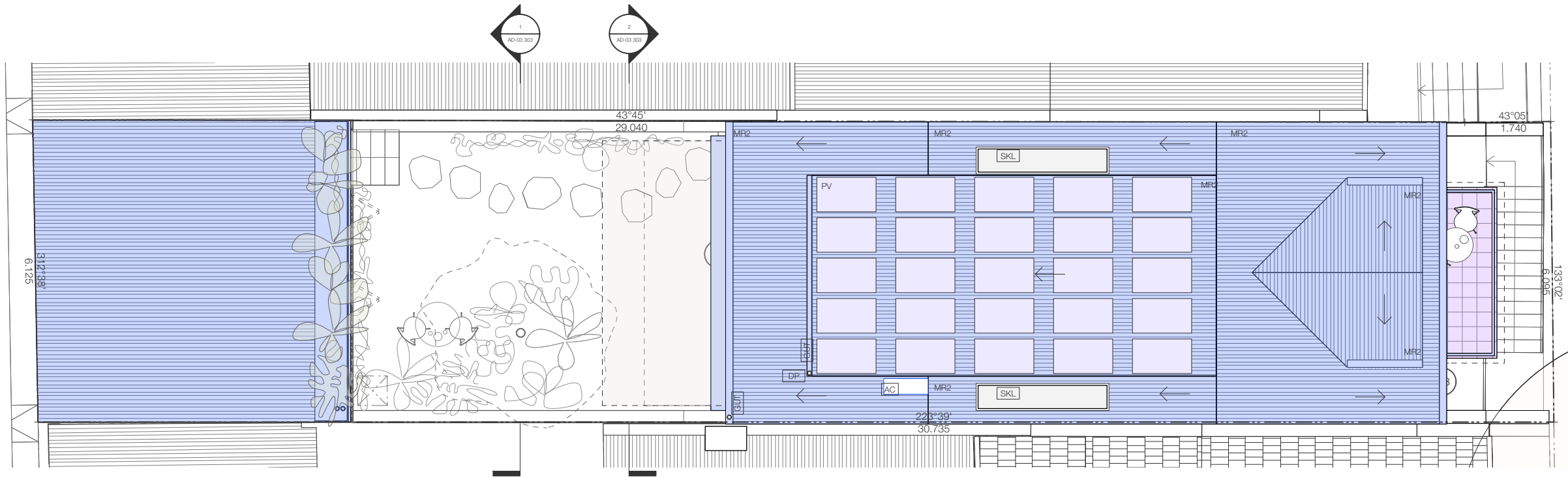
Site Address: 70 Carabella St, Kirribilli, NSW 2061

Date of Issue:

Material Palette

 Steel / Metal	 Plaster	 Timber	 Tiles
 Concrete Finish	 Glass	 Brick	

NOTE
 Drawings to be read in conjunction with BASIX
 Certificate Number: A1374152_03



1 Plan - Roof
 Scale: 1:100

raddatz—kueber

ABN 72 655 606 821
 Ph +61 478 763 110

23 Ann St, Sury Hills NSW 2010
 office@raddatzkueber.com
 Nominated Architect: Christopher Raddatz
 NSW ARB Reg. 11144

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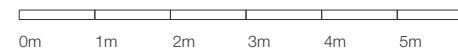
Important:

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All works to comply with the Building Code of Australia and all relevant Australian Standards and authority requirements.

Scale: 1:100



Status: **DEVELOPMENT APPLICATION**

Revision:	Date:	Description:
A	08/12/23	DA Issue

Number: AD-03 103








Drawing: ROOF

Project: Walsh Residence

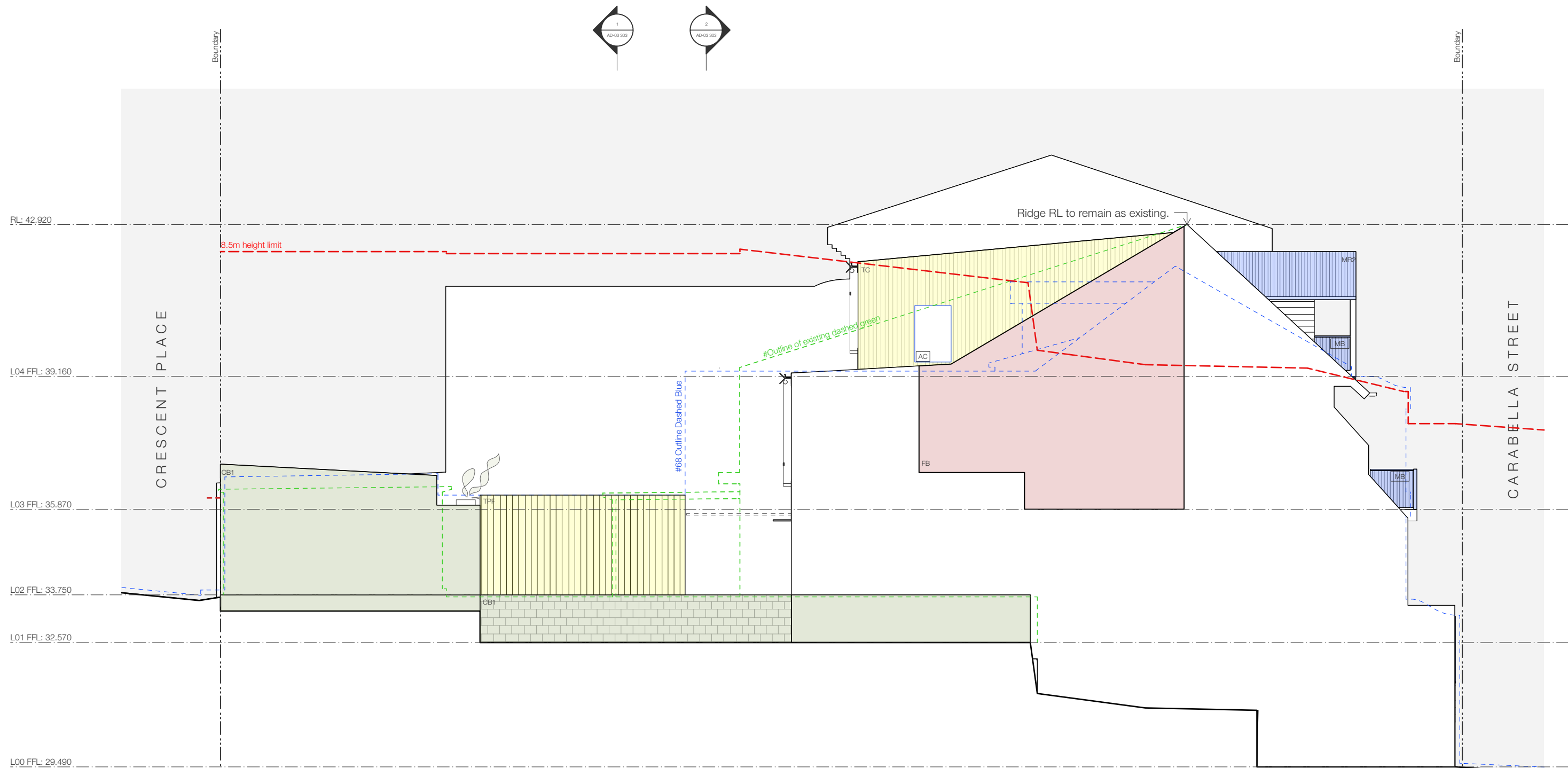
Site Address: 70 Carabella St, Kirribilli, NSW 2061

Date of Issue:

Material Palette

 Steel / Metal	 Plaster	 Timber	 Tiles
 Concrete Finish	 Glass	 Brick	

NOTE
 Drawings to be read in conjunction with BASIX
 Certificate Number: A1374152_03



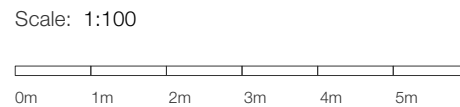
1 Southeastern Elevation
 Scale: 1:100

NOTE
 Drawings to be read in conjunction with BASIX
 Certificate Number: A1374152_03

raddatz — kueber

ABN 72 655 606 821
 Ph +61 478 763 110
 23 Ann St, Sury Hills NSW 2010
 office@raddatzkueber.com
 Nominated Architect: Christopher Raddatz
 NSW ARB Reg. 11144

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 Drawings & Schedules to be read in conjunction with all relevant specifications and consultants drawings.
 All works to comply with the Building Code of Australia and all relevant Australian Standards and authority requirements.



Status: **DEVELOPMENT APPLICATION**

Revision:	Date:	Description:
A	08/12/23	DA Issue

Number: AD-03 201

Drawing: ELEVATIONS - 01

Project: Walsh Residence
 Site Address: 70 Carabella St, Kirribilli, NSW 2061
 Date of Issue:

Material Palette

	Steel / Metal		Plaster		Timber		Tiles
	Concrete Finish		Glass		Brick		

NOTE
 Drawings to be read in conjunction with BASIX
 Certificate Number: A1374152_03



NOTE
 Drawings to be read in conjunction with BASIX
 Certificate Number: A1374152_03

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ABN 72 655 606 821
 Ph +61 478 763 110
 23 Ann St, Sury Hills NSW 2010
 office@raddatzkueber.com
 Nominated Architect: Christopher Raddatz
 NSW ARB Reg. 11144

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All works to comply with the Building Code of Australia and all relevant Australian Standards and authority requirements.

Scale: 1:100



Status: **DEVELOPMENT APPLICATION**

Revision:	Date:	Description:
A	08/12/23	DA Issue

Number: AD-03 202

Drawing: ELEVATIONS - 02

Project: Walsh Residence

Site Address: 70 Carabella St, Kirribilli, NSW 2061

Date of Issue:

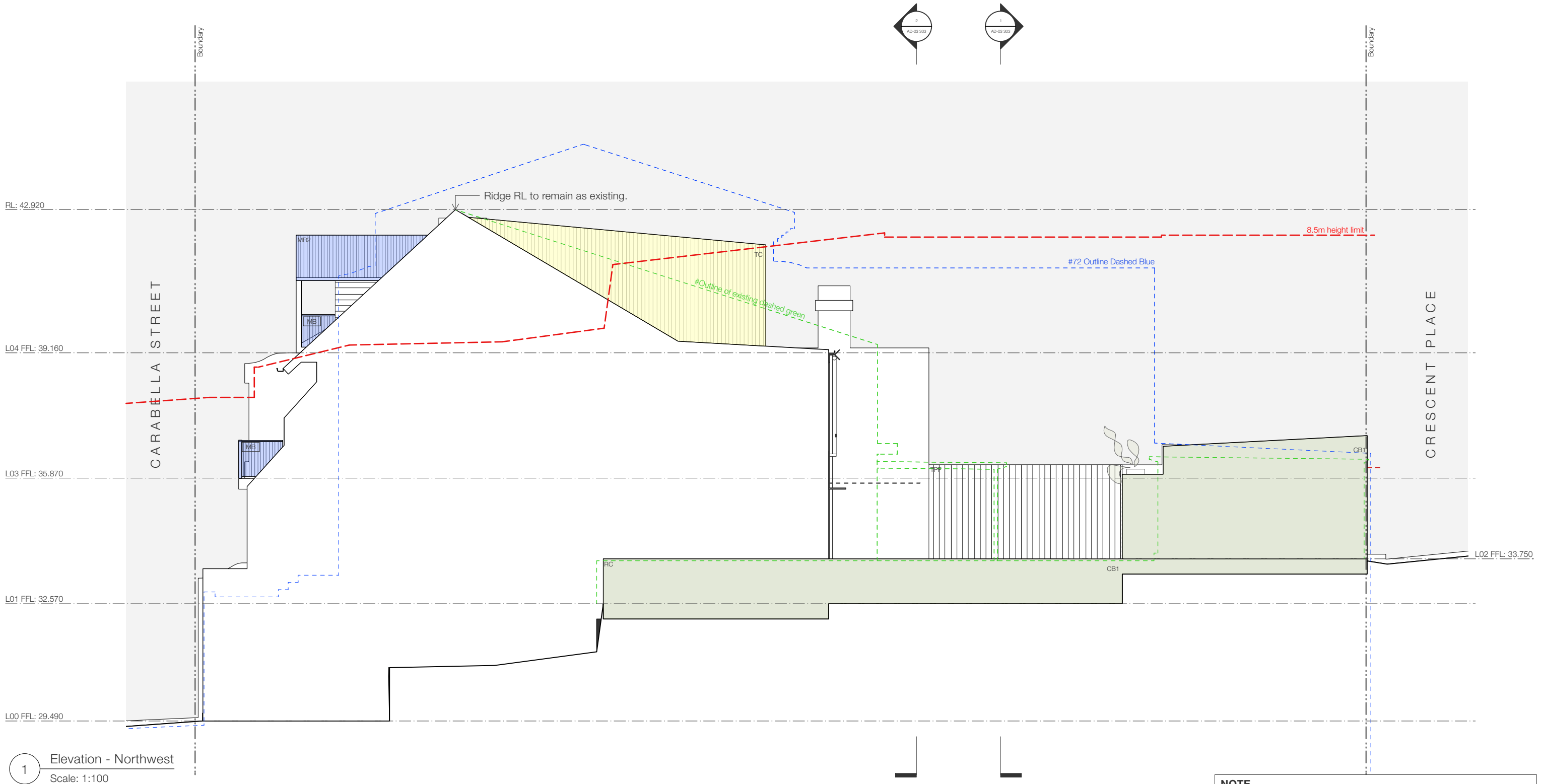
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Document Set ID: 9836220
 Version: 1, Version Date: 13/12/2023

Material Palette

	Steel / Metal		Plaster		Timber		Tiles
	Concrete Finish		Glass		Brick		

NOTE
 Drawings to be read in conjunction with BASIX
 Certificate Number: A1374152_03



1 Elevation - Northwest
 Scale: 1:100

NOTE
 Drawings to be read in conjunction with BASIX
 Certificate Number: A1374152_03

raddatz — kueber

ABN 72 655 606 821
 Ph +61 478 763 110
 23 Ann St, Sury Hills NSW 2010
 office@raddatzkueber.com
 Nominated Architect: Christopher Raddatz
 NSW ARB Reg. 11144

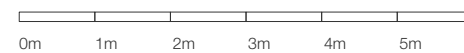
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All works to comply with the Building Code of Australia and all relevant Australian Standards and authority requirements.

Scale: 1:100



Status: **DEVELOPMENT APPLICATION**

Revision:	Date:	Description:
A	08/12/23	DA Issue

Number: AD-03 203

Drawing: ELEVATIONS - 03

Project: Walsh Residence








Site Address: 70 Carabella St, Kirribilli, NSW 2061

Date of Issue:

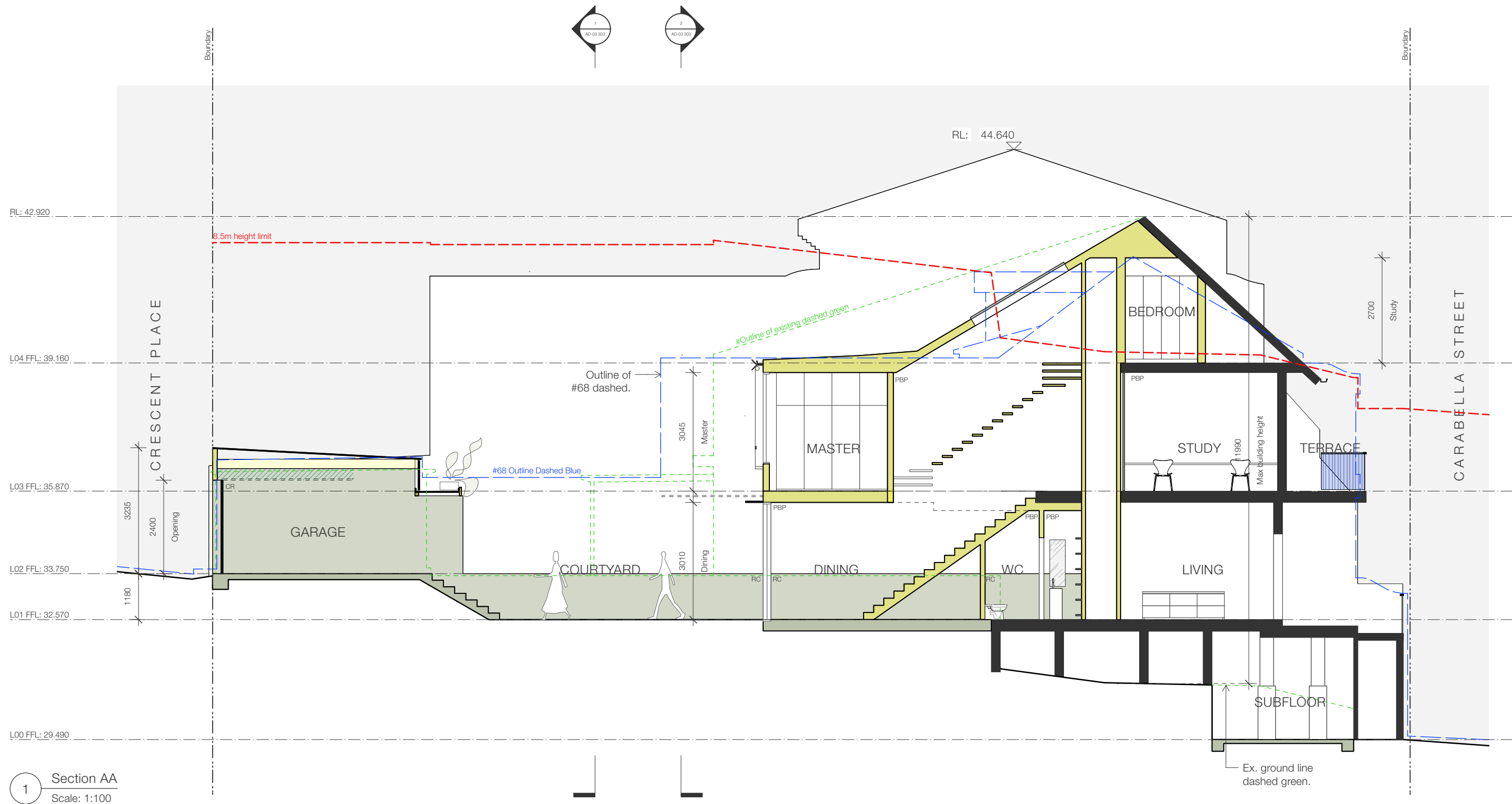
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Document Set ID: 9836220
 Version: 1, Version Date: 13/12/2023

Material Palette

 Steel / Metal	 Plaster	 Timber	 Tiles
 Concrete Finish	 Glass	 Brick	

NOTE
 Drawings to be read in conjunction with BASIX
 Certificate Number: A1374152_03

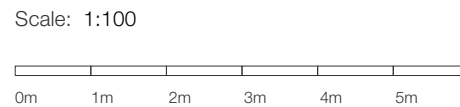


1 Section AA
 Scale: 1:100

raddatz — kueber

ABN 72 655 606 821
 Ph +61 478 763 110
 23 Ann St, Sury Hills NSW 2010
 office@raddatzkueber.com
 Nominated Architect: Christopher Raddatz
 NSW ARB Reg. 11144

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Status: **DEVELOPMENT APPLICATION**

Revision:	Date:	Description:
A	08/12/23	DA Issue

Number: AD-03 301

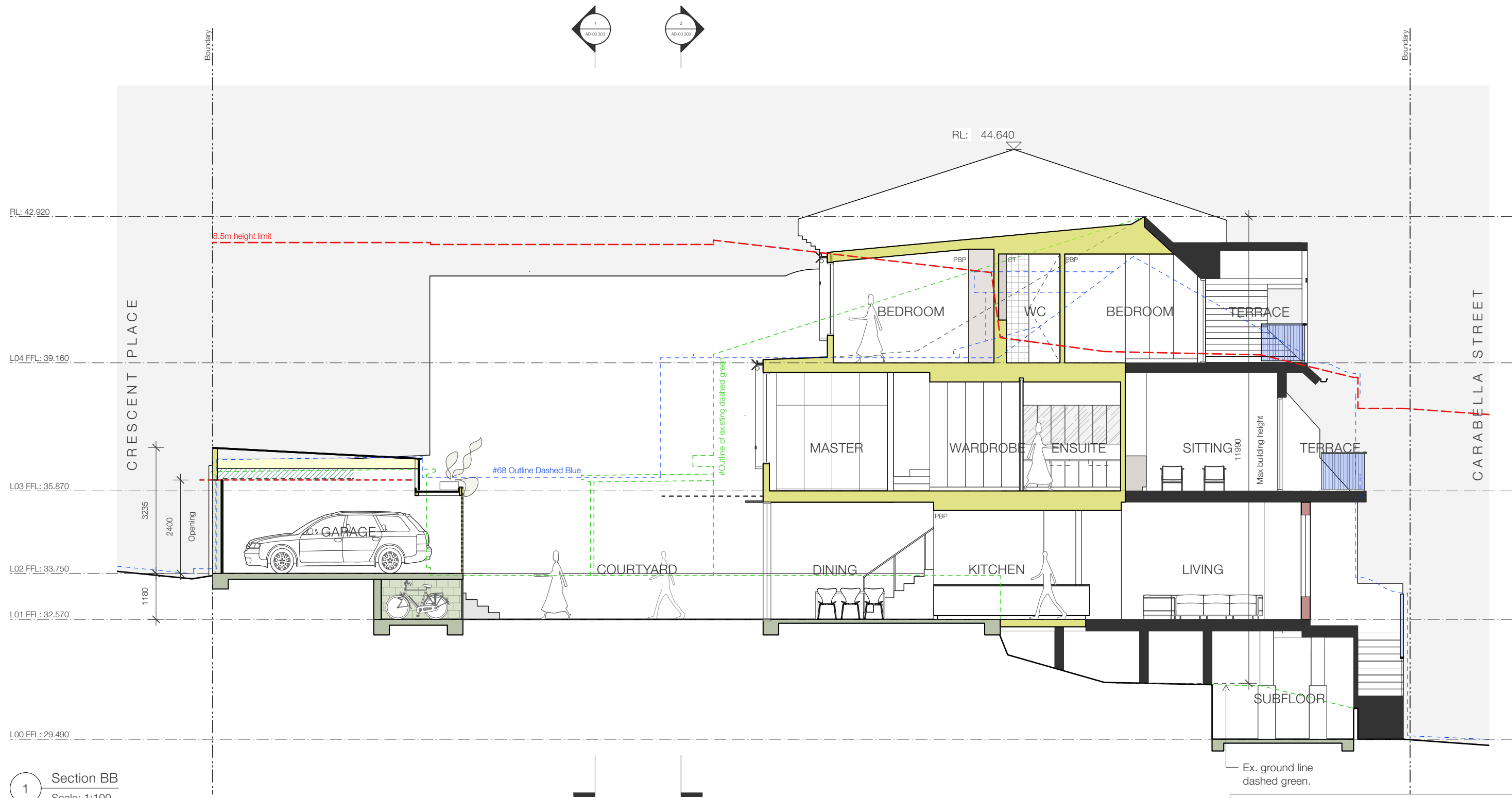
Drawing: SECTION - AA

Project: Walsh Residence
 Site Address: 70 Carabella St, Kirribilli, NSW 2061
 Date of Issue:

Material Palette

	Steel / Metal		Plaster		Timber		Tiles
	Concrete Finish		Glass		Brick		

NOTE
 Drawings to be read in conjunction with BASIX
 Certificate Number: A1374152_03



NOTE
 Drawings to be read in conjunction with BASIX
 Certificate Number: A1374152_03

raddatz — kueber

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 NSW ARB Reg. 11144

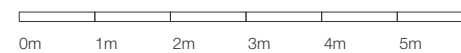
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All works to comply with the Building Code of Australia and all relevant Australian Standards and authority requirements.

Scale: 1:100



Status: **DEVELOPMENT APPLICATION**

Revision:	Date:	Description:
A	08/12/23	DA Issue

Number: AD-03 302

Drawing: SECTION - BB

Project: Walsh Residence

Site Address: 70 Carabella St, Kirribilli, NSW 2061

Date of Issue:

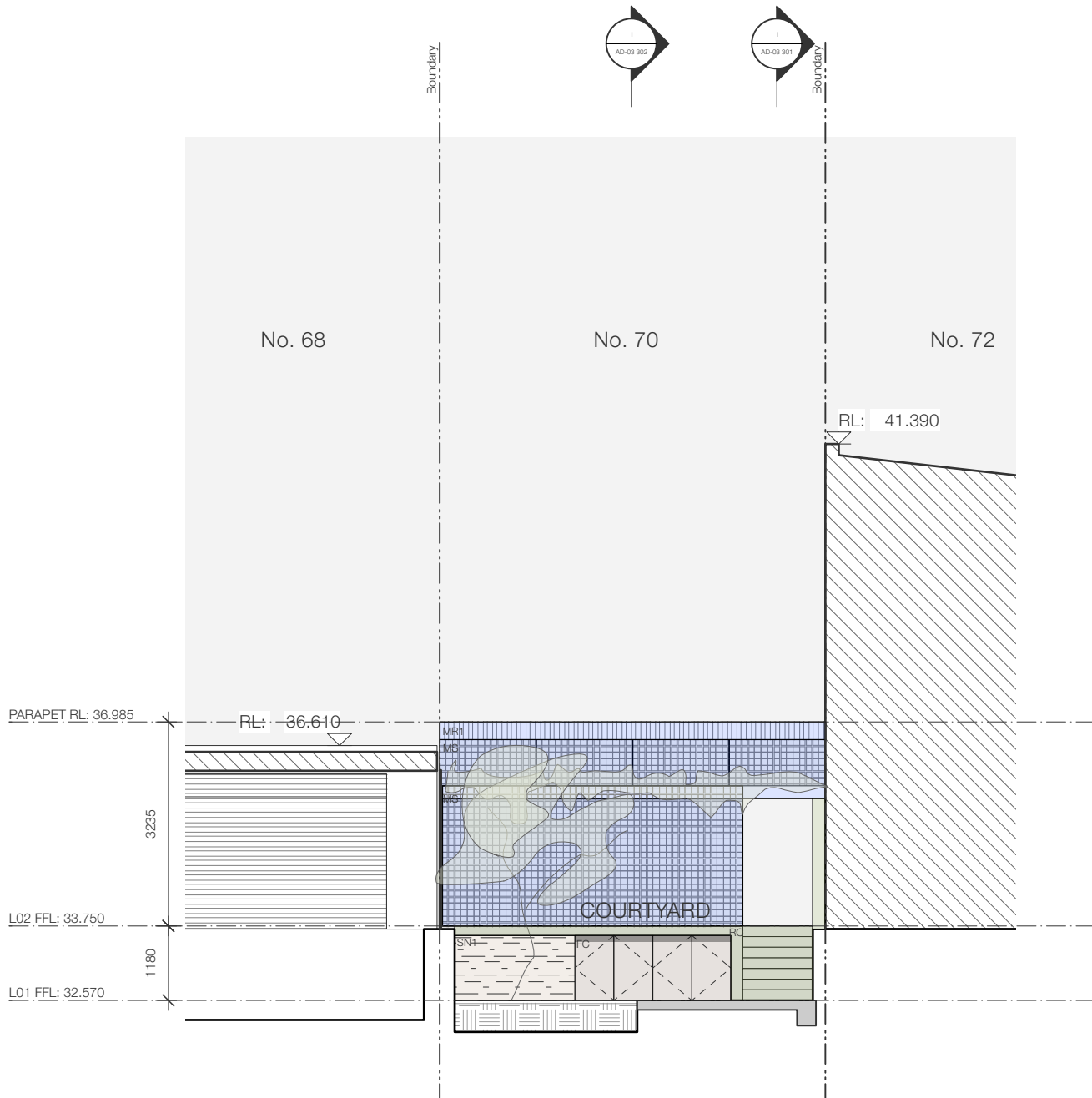
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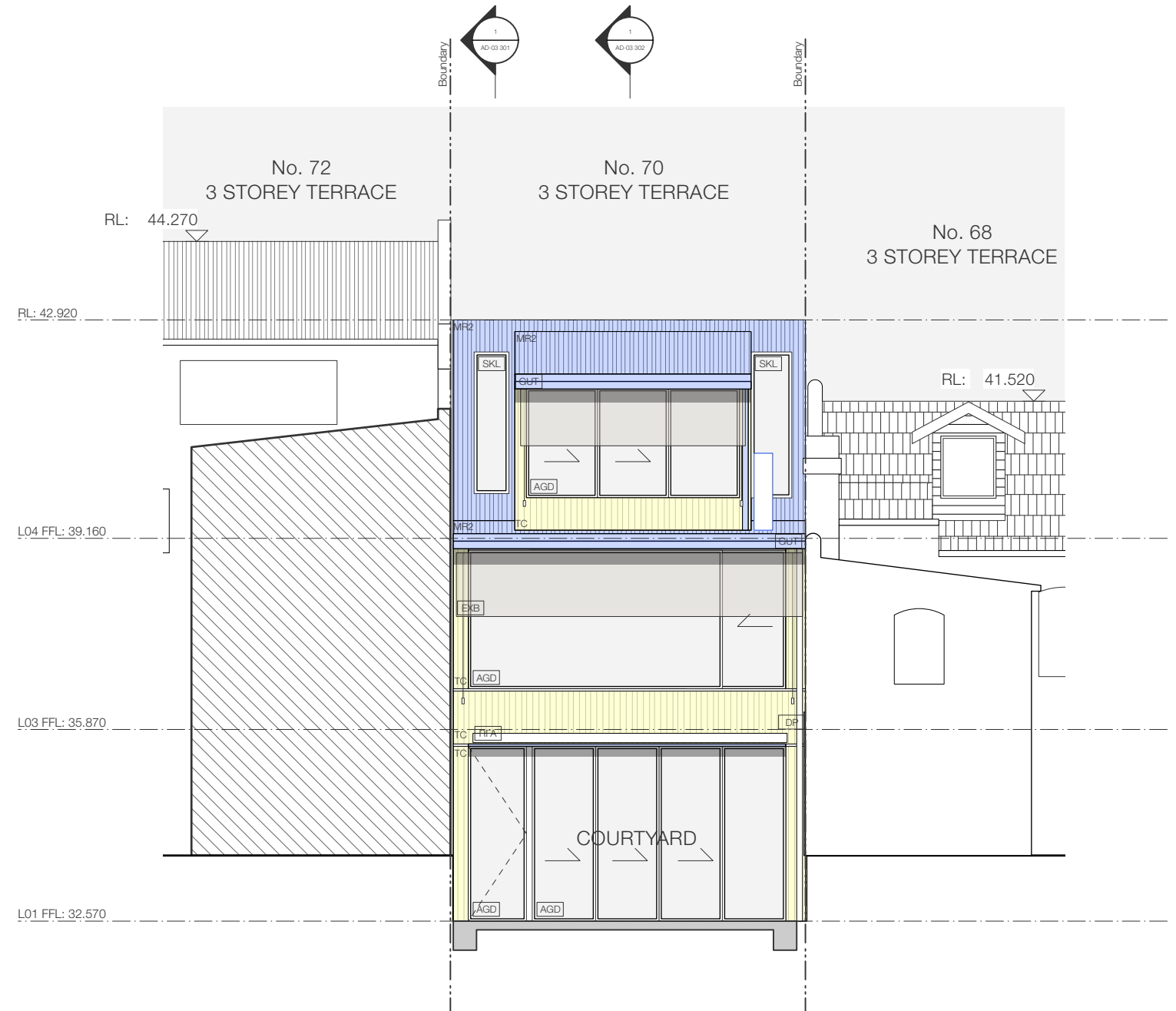
Material Palette

	Steel / Metal		Plaster		Timber		Tiles
	Concrete Finish		Glass		Brick		

NOTE
 Drawings to be read in conjunction with BASIX
 Certificate Number: A1374152_03



1 Section CC
 Scale: 1:100



2 Section DD
 Scale: 1:100

NOTE
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ABN 72 655 606 821
 Ph +61 478 763 110
 23 Ann St, Sury Hills NSW 2010
 office@raddatzkueber.com
 Nominated Architect: Christopher Raddatz
 NSW ARB Reg. 11144

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Scale: 1:100



Status: **DEVELOPMENT APPLICATION**

Revision:	Date:	Description:
A	08/12/23	DA Issue

Number: AD-03 303

Drawing: SECTION - CC + DD







Project: Walsh Residence



Site Address: 70 Carabella St, Kirribilli, NSW 2061

Date of Issue:

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Document Set ID: 9836220
 Version: 1, Version Date: 13/12/2023

ITEM	DESCRIPTION	IMAGE	FINISH	LOCATION & INSTALLATION
RC	Reinforced Concrete		Natural concrete finish.	Refer architectural drawings.
RFA	Retractable Fabric Awning		Fabric Awning.	Refer architectural drawings.
SN1	Stone Finish		Natural cut face sandstone finish.	Refer architectural drawings.
SN2	Stone Finish		Limestone Paver, natural finish	Refer architectural drawings.
TF	Timber Floors		Internal element. Natural timber flooring.	To internal floor generally. Refer architectural drawings.
TGD	Timber Glass Window or Door		Natural timber finish.	Refer architectural drawings.

ITEM	DESCRIPTION	IMAGE	FINISH	LOCATION & INSTALLATION
TPF	Timber Panel Fence		Natural Timber finish.	Refer architectural drawings.
TC	Timber Cladding		Western Red Cedar cladding. Finished with penetrating wood oil.	To internal linings generally. Refer architectural drawings.

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ABN 72 655 606 821
Ph +61 478 763 110

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office@raddatzkueber.com
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All works to comply with the Building Code of Australia and all relevant Australian Standards and authority requirements.

Scale: NTS

Status: **DEVELOPMENT APPLICATION**

Revision:	Date:	Description:
A	08/12/23	DA Issue




Number: SCH-03-06 002



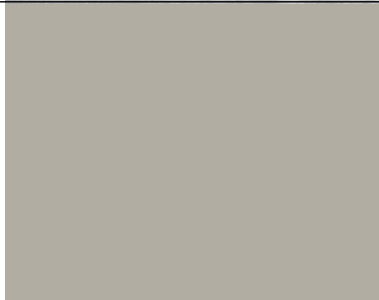
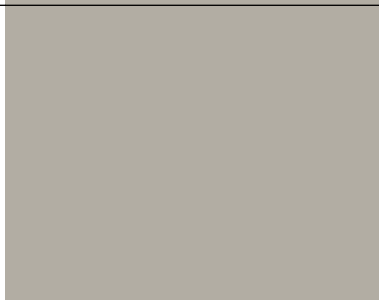
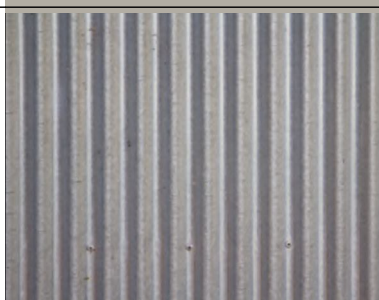

Drawing: FINISHES & MATERIALS SCHEDULE - SHEET 02

Project: Walsh Residence

Site Address: 70 Carabella St, Kirribilli, NSW 2061

Date of Issue:

ITEM	DESCRIPTION	IMAGE	FINISH	LOCATION & INSTALLATION
AGD	Aluminium Glass Window or Door		Natural aluminium frame, clear glass	Refer architectural drawings.
CPT	Carpet		Interior Element. TBC	To internal areas generally. Refer architectural drawings.
CR	Cement Render		Rendered Cement.	Refer architectural drawings.
CS	Concrete Slab		Natural concrete finish.	To floor slabs as indicated. Refer architectural drawings.
CT	Ceramic Tiles		Interior Element. TBC	To internal areas generally. Refer architectural drawings.
DP	Down Pipe		Galvanised metal finish. Lysaght ZINCALUME® steel finish.	Refer architectural drawings.

ITEM	DESCRIPTION	IMAGE	FINISH	LOCATION & INSTALLATION
EXB	External Blind		External Blind.	Refer architectural drawings.
GUT	Gutter		Galvanised metal finish. Lysaght ZINCALUME® steel finish.	Refer architectural drawings.
MGD	Metal Garage Door		Colourbond ULTRA, 'Dune' finish.	Refer architectural drawings.
MR1	Metal Roofing 01		Lysaght custom orb. Colourbond ULTRA, 'Dune' finish.	To roofs. Refer architectural drawings.
MR2	Metal Roofing 02		Lysaght custom orb. Lysaght ZINCALUME® steel finish.	To roofs. Refer architectural drawings.
PBP	Painted Plaster Board		Interior Element. TBC	To internal linings generally. Refer architectural drawings.

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ABN 72 655 606 821
Ph +61 478 763 110

23 Ann St, Sury Hills NSW 2010
office@raddatzkueber.com
Nominated Architect: Christopher Raddatz
NSW ARB Reg. 11144

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Scale: NTS

Status: **DEVELOPMENT APPLICATION**

Revision:	Date:	Description:
A	08/12/23	DA Issue

Number: SCH-03-06 001

Drawing: FINISHES & MATERIALS SCHEDULE - SHEET 01

Project: Walsh Residence

Site Address: 70 Carabella St, Kirribilli, NSW 2061

Date of Issue:

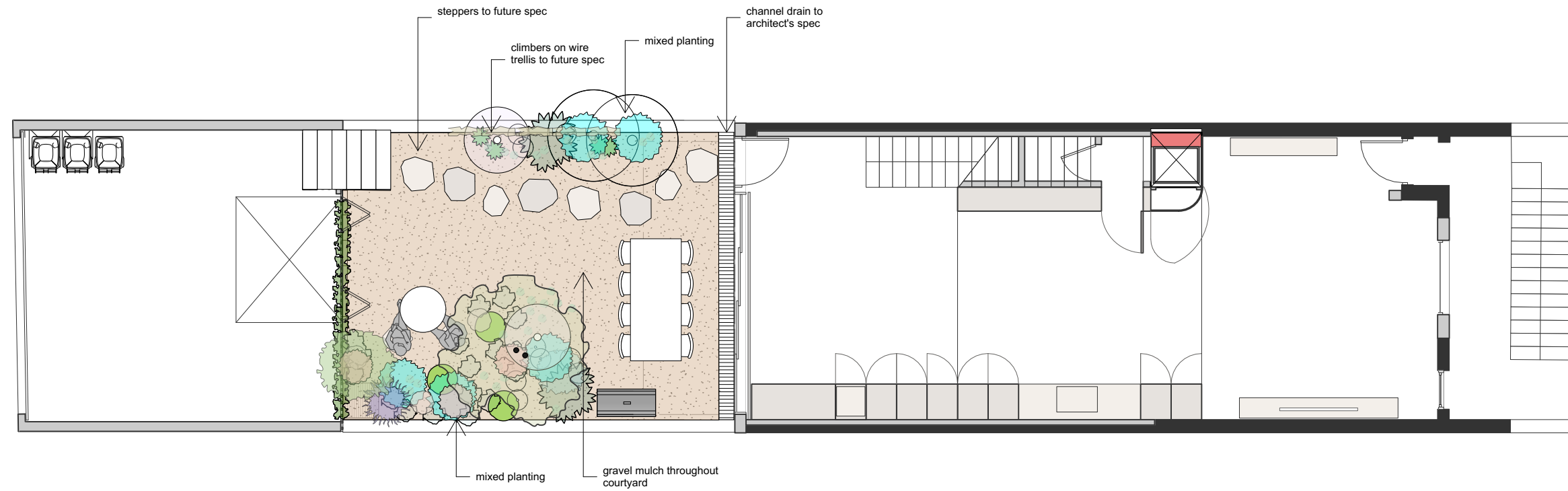
LANDSCAPE AREA

SITE AREA = **187.7m²**

LANDSCAPE AREA

REQUIRED: 20% = **37.54m²**

PROPOSED: = **40.7m²**



70 CARABELLA ST; LANDSCAPE DA SUBMISSION



www.tarn.studio
mail@tarn.studio
+61 488 673 143

161 ADDISON RD,
MARRICKVILLE,
SYDNEY
NSW 2024

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MEASUREMENTS ON SITE PRIOR TO
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PROJECT
70 CARABELLA ST; KIRRIBILLI [DA landscape set]

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@ A3
TITLE
SITE PLAN DA

SCALE
1:100

DATE
23/10/2023

DWG NO
L110

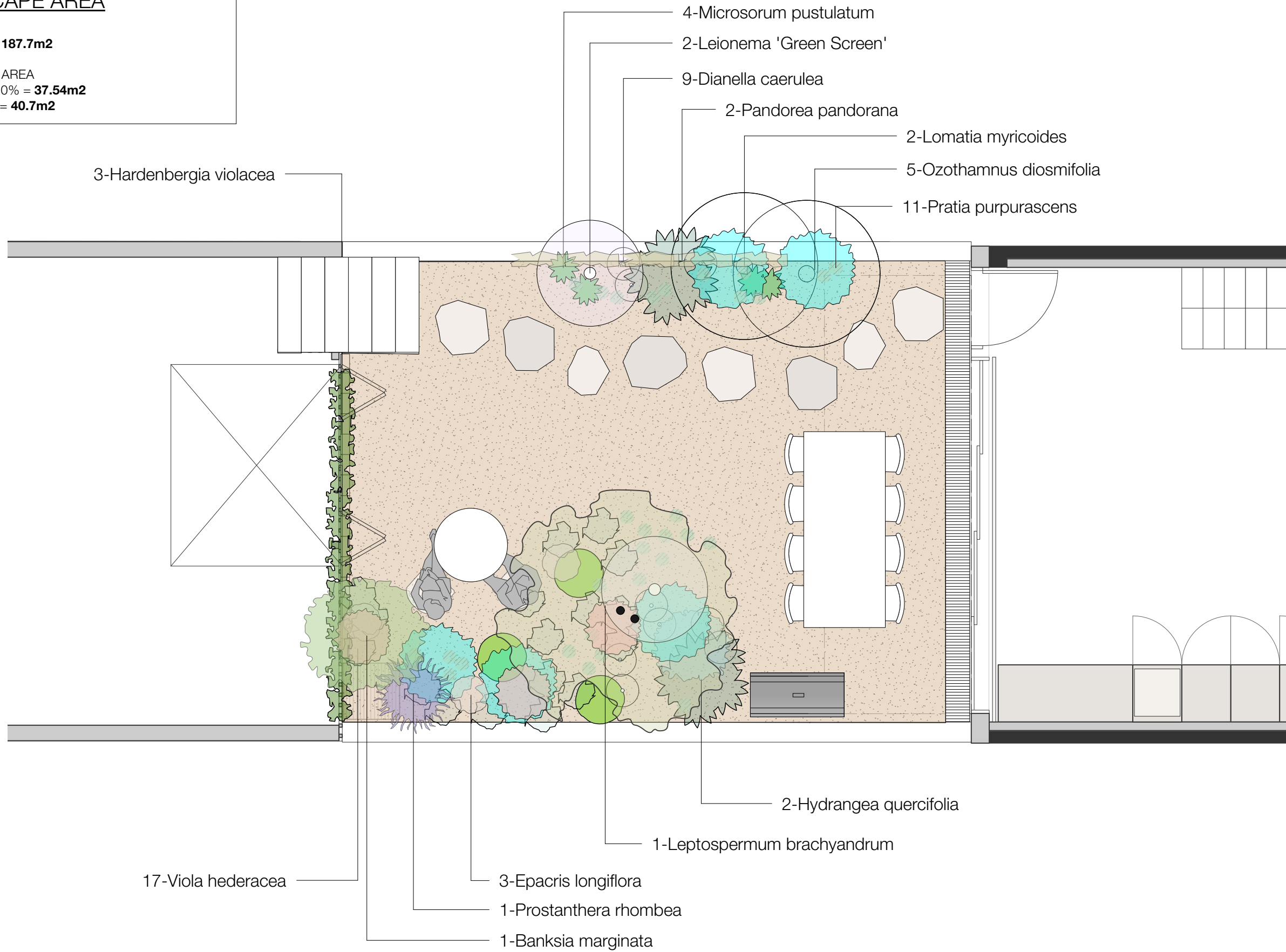
REV

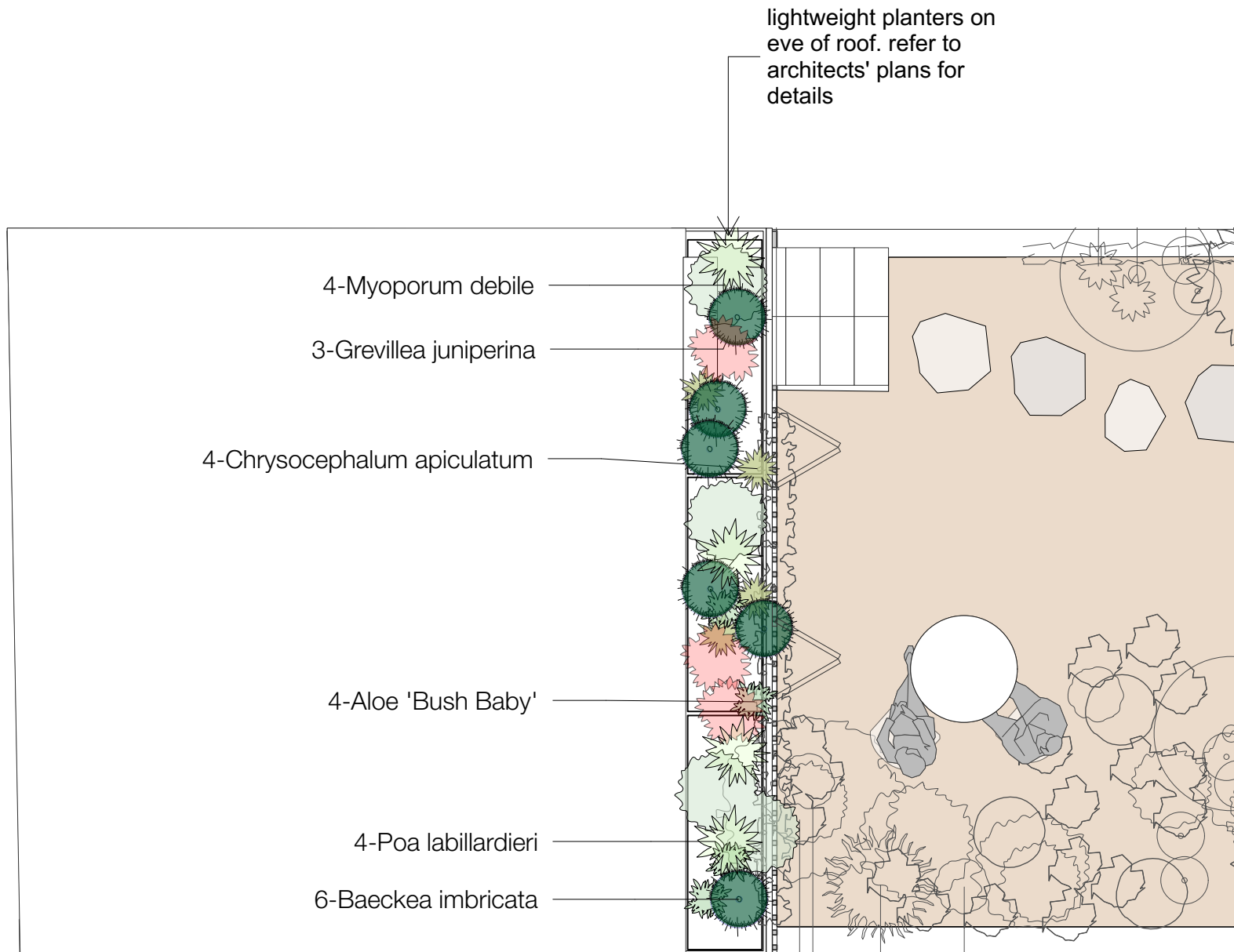
REV NO. REV DATE

LANDSCAPE AREA

SITE AREA = **187.7m2**

LANDSCAPE AREA
 REQUIRED: 20% = **37.54m2**
 PROPOSED: = **40.7m2**





PLANT SCHEDULE								
SYMBOL	ID	Qty	COMMON NAME	BOTANICAL NAME	MATURE HEIGHT	MATURE SPREAD	SCHEDULED SIZE	
	Al-bu-1	4	Bush Baby Aloe	<i>Aloe 'Bush Baby'</i>	Mature Height	Mature Spread		
	Ba-im	6	Heath Myrtle	<i>Baeckea imbricata</i>	0.6 - 0.75m	0.6 - 0.9m	140mm	
	Ba-ma	1		<i>Banksia marginata</i>	4 - 10m	2.0 - 3m	200mm	
	Ch-ap	4	Yellow buttons	<i>Chrysocephalum apiculatum</i>	Mature Height	Mature Spread	140	
	D-c	9	Paroo Lily, Blue Flax-lily	<i>Dianella caerulea</i>	0.45 - 0.6m	0.3 - 0.6m	140mm	
	Ep-lo	3	Native Fushia	<i>Epacris longiflora</i>	0.9 - 1.5m	0.3 - 0.6m	140mm	
	Gr-jun	3		<i>Grevillea juniperina</i>	1.5 - 3m	1.2 - 2.0m	140mm	
	Gr-ol	3	Red Spider Flower	<i>Grevillea oleoides</i>	1.5 - 3m	1.2 - 2.0m	100mm	
	Ha-viol	3		<i>Hardenbergia violacea</i>	3 - 5m	3.5 - 6m	140mm	
	Hy-qu	2	Oak-leaf Hydrangea	<i>Hydrangea quercifolia</i>	1.5 - 3m	1.2 - 2.0m	140mm	
	Le-br	1	Silver weeping tea tree	<i>Leptospermum brachyandrum</i>	20 - 25m	6 - 10m	45L	
	Le-GS	2		<i>Leionema 'Green Screen'</i>	1.5 - 3m	1.2 - 2.0m	140mm	
	LoMy	2	"River Lomatia, Mountain Beech, Long-leaf Lomatia"	<i>Lomatia myricoides</i>	3 - 5m	1.2 - 2.0m	300mm	
	Mi-pu	4	Kangaroo fern	<i>Microsorium pustulatum</i>	Mature Height	Mature Spread	200mm	
	My-de	4		<i>Myoporum debile</i>	0.9 - 1.5m	0.9 - 1.2m	140mm	
	Oz-di	5		<i>Ozothamnus diosmifolia</i>	0.9 - 1.5m	0.9 - 1.2m	140mm	
	P-Ha	3		<i>Helleborus argutifolius</i>	Height	Spread	140mm	
	Pa-pa	2	Wonga vine	<i>Pandorea pandorana</i>	Mature Height	Mature Spread	200	
	Pi-mul	1		<i>Pittosporum multiflorum</i>	0.9 - 1.5m	0.9 - 1.2m	140mm	
	Po-lab	4		<i>Poa labillardieri</i>	0.9 - 1.5m	0.9 - 1.2m	140mm	
	Pr-pu	30	White root	<i>Pratia purpurascens</i>	0.0 - 0.3m	0.0 - 0.3m	100mm	
	Pr-Sc	1		<i>Prostanthera rhombea</i>	1-2m	0.6-1m	140mm	
	Vi-he-1	17	Native Violet	<i>Viola hederacea</i>	0.0 - 0.3m	1.2 - 2.0m	Tube	
		Total	444					



CLAUSE 4.6 VARIATION TO THE HEIGHT OF BUILDINGS DEVELOPMENT STANDARD

Alterations and Additions

70 Carabella Street, Kirribilli

Prepared on behalf of

Paul & Heather Walsh c/- Raddatz - Kueber

4 DECEMBER 2022

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1.0 INTRODUCTION

This Exception to Development Standards Submission accompanies a Development Application (**DA**) proposing alterations and additions to the existing dwelling house and its surrounds at 70 Carabella Street, Kirribilli (the **site**).

Calculations in this submission are based on plans and information provided by Raddatz - Kueber. This submission should be read in conjunction with the Statement of Environmental Effects (**SEE**) prepared by Lockrey Planning and Development Solutions (**LPDS**) and all other supporting technical documentation submitted with the DA.

As noted in the separate SEE, the existing and proposed to be altered dwelling departs from the height of buildings standard (**height standard**) at Clause 4.3 of North Sydney Local Environmental Plan 2013 (**LEP 2013**).

As required pursuant to Clause 4.6(3) of LEP 2013, this submission provides a written request to North Sydney Council (the **Council**) that seeks to justify the proposal's existing and unaltered maximum departure from the height standard is acceptable from an environmental planning point of view and that compliance with the standard is both unreasonable and unnecessary given the circumstances of the case.

This submission (relative to format and content) takes into consideration relevant (current) NSW Land and Environment Court (**NSW LEC**) judgements.

2.0 DESCRIPTION OF THE PLANNING INSTRUMENT, DEVELOPMENT STANDARD AND PROPOSED VARIATION

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

North Sydney Local Environmental Plan 2013 (LEP 2013).

2.2 What is the zoning of the land?

The land (the site) is zoned R2 Low Density Residential.

2.3 What are the objectives of the zone?

The objectives of the R2 Low Density Residential zone are:

- to provide for the housing needs of the community within a low density residential environment.
- to enable other land uses that provide facilities or services to meet the day to day needs of residents.
- to encourage development of sites for low density housing, including dual occupancies, if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.
- to ensure that a high level of residential amenity is achieved and maintained.

2.4 What is the development standard being varied?

Development Standards are defined under Section 1.4 of the Environmental Planning and Assessment Act, 1979 (the Act) as follows:

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

- (a) *the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*
- (b) *the proportion or percentage of the area of a site which a building or work may occupy,*
- (c) ***the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,***
- (d) *the cubic content or floor space of a building,*
- (e) *the intensity or density of the use of any land, building or work,*
- (f) *the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,*
- (g) *the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,*

- (h) *the volume, nature and type of traffic generated by the development,*
- (i) *road patterns,*
- (j) *drainage,*
- (k) *the carrying out of earthworks,*
- (l) *the effects of development on patterns of wind, sunlight, daylight or shadows,*
- (m) *the provision of services, facilities and amenities demanded by development,*
- (n) *the emission of pollution and means for its prevention or control or mitigation, and*
- (o) *such other matters as may be prescribed. (my emphasis)*

The height control at Clause 4.3 of LEP 2013 is clearly a development standard as it relates to:

- the character, location, siting, bulk, scale, shape, size, **height**, density, design or external appearance of a building or work as specified by **subclause (c)**.

2.5 Is the development standard a performance based control? Give details.

The height standard is both a numerical standard and a performance based standard as it contains stated objectives to which compliance with the standard is targeted to achieve.

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

The height standard is listed at Clause 4.3(2) of LEP 2013.

2.7 What are the objectives of the development standard?

The objectives of the height standard are stated at Clause 4.3(1) of LEP 2013 and are:

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

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

Clause 4.3(2) of LEP 2013 establishes a maximum building height of 8.5m for the site.

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

As existing, the terrace has a maximum height of 11.99m (roof ridge RL 49.92 as measured from ground level existing). The terrace’s maximum height is not altered, although works are proposed to its maximum height and which also includes other works above the 8.5m height threshold.

The 8.5m height standard is shown dashed red at **Figure 1**. Comparison existing and proposed front and rear of terrace 8.5m height envelope diagrams are provided at **Figures 2 and 3**.

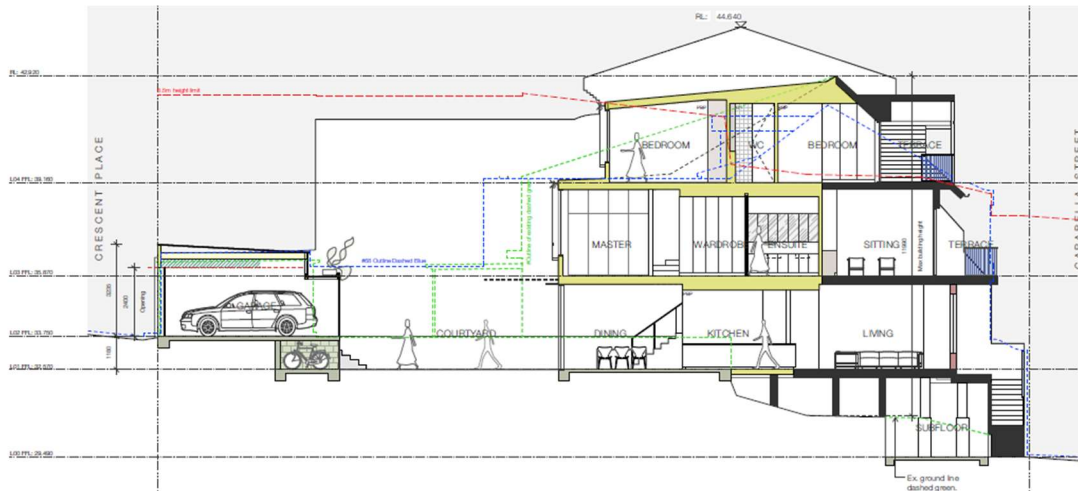


Figure 1 – Proposed long Section BB

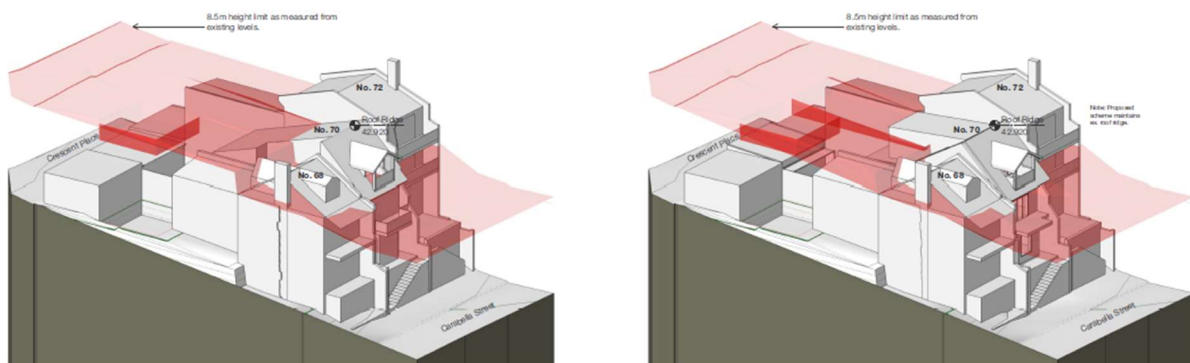


Figure 2 – Comparison of the existing and proposed front of terrace height compliance diagram

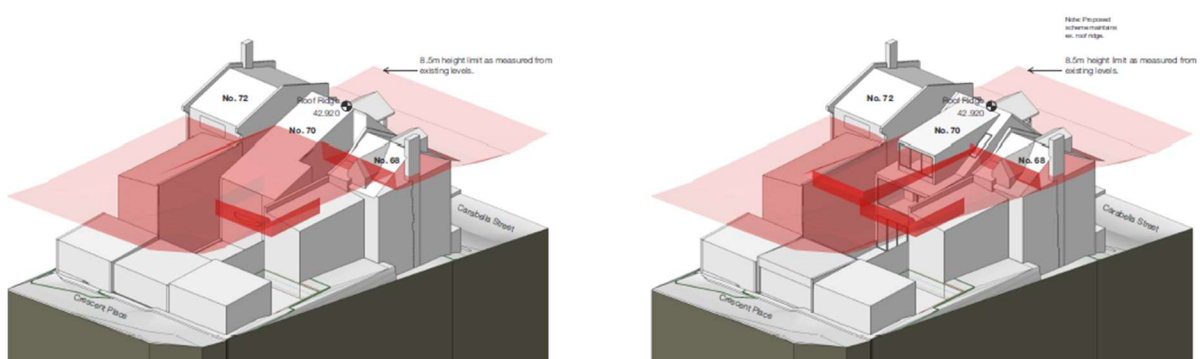


Figure 3 – Comparison of the existing and proposed rear of terrace height compliance diagram

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

As works are proposed to the terrace's existing maximum height of 11.99m, the departure is 44.1% or 3.49m.

3.0 ASSESSMENT OF THE PROPOSED VARIATION

3.1 Is the proposed development in the public interest because it is consistent with the objectives for development in the zone and the objectives of the particular standard?

3.1.1 Objectives of the zone

As stated at Clause 2.3 of LEP 2013, the objectives of the R2 Low Density Residential zone are:

- to provide for the housing needs of the community within a low density residential environment.
- to enable other land uses that provide facilities or services to meet the day to day needs of residents.
- to encourage development of sites for low density housing, including dual occupancies, if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.
- to ensure that a high level of residential amenity is achieved and maintained.

The site may be developed with the stated variations to the height of buildings standard. Consistency is not readily quantifiable in absolute numerical terms. The proposed development despite its departure from the height of buildings development standard is consistent with the stated objectives of the R2 Low Density Residential zone and is therefore considered to be a suitable and appropriate redevelopment of the site as it:

- maintains a low density single dwelling house land use on the site;
- maintains the availability of residential accommodation and housing choice/type on residentially zoned land;
- maintains a built form that is not incompatible with the locality's established and likely future built form character;
- maintains amenity levels for adjacent landowners;
- proposes a high quality architectural design and improved landscape condition that will be a positive contribution to the natural and cultural heritage of the Careening Cove HCA; and
- non-residential land uses are not proposed however, the occupants can work from home as/if required and will also continue to patronage nearby amenities, services and facilities.

3.1.2 The height standard's objectives

The proposal despite its departure from the height standard is nonetheless consistent with the relevant objectives and therefore provides an appropriate planning outcome for the following reasons:

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

- The site's ground surface falls approximately 4.5m to the north east. This is a consistent characteristic of properties on the southern side of Carabella Street. These properties, including the site sit approximately 3m above the Carabella Street footpath level. Although the terrace sits on an established building pad, there is significant variation between the front and rear of both the ground floor (1.24m) and first floor

(0.91m) levels. This existing condition results in an inefficient and multiple level and stepped internal floorplan layout. To improve this condition and increase the occupant's amenity, excavation within the rear yard to a depth of 1.3m is proposed. This work will enable the provision of continuous floor levels and at grade access from the rear primary living rooms to the rear courtyard. The overall size and usability (flat) of the courtyard has increased from that existing as a result of the improved / rationalised internal floorplan. This proposed design condition is clearly a desirable outcome as it lowers (by re-benching the ground floor level) the terrace's rear as compared to that existing. The two storey component of the terrace at its rear is sited well below the height standard.

- Excavation within the existing building footprint to increase the floor to ceiling height within the existing lower ground (sub-floor) level is proposed. These works are not visible from the public domain and do not in any way influence the terrace's overall height, bulk and scale.
- Excavation within the existing (and new) building footprint of the garage for a bike storage zone is proposed. These works do not influence the overall height of the garage as its FFL remains the same as existing.
- The site's topography and natural landforms otherwise remain unaltered.
- The altered built form sits comfortably within and is clearly not incompatible considering its established and likely future built form context.

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

- The site and its neighbouring properties are provided with multiple views and vistas. They include to the north west and the North Sydney CBD and its surrounds, the east towards Careening Cove and Sydney Harbour generally and to the south towards Milsons Point. Typically, these views are provided at the upper floors levels (including elevated external open space) of neighbouring terraces and from either front or rear facing rooms. Side views are generally not available given the zero building alignment of the dwellings. The proposed works will not result in the loss of existing views and vistas from the neighbouring properties. The consistent front and rear building alignments (reduced from existing) and the new works albeit above the height standard are provided against solid masonry walls or where openings are not provided. The site's overall built form sits comfortably (is not incompatible) within the established and likely future built form context.
- Within the site's local planning area / neighbourhood there is no significant views and vistas that are specifically to be retained within the site's immediate visual catchment, other than for slot views between buildings. As the existing built form has a zero building alignment with its neighbours, there is not an identifiable impact to slot view between buildings.
- Considering the terrace and its neighbours sit approximately 3m above the carriageway and footpath level of Carabella Street, there will be no identifiable impact to views and vistas from that public domain. Although the rear elevation is visible from Crescent Place (a service laneway), it nonetheless presents as a scale, form and detail that is more traditional and typical for the locality than that existing.

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

- As the principal building envelope is not dissimilar to that existing or sits adjacent solid masonry walls of the neighbouring terraces, there is no material impact beyond that existing to each side neighbour or the neighbour to the rear at any critical period of the day.

- At various times of the day, the proposal (as does all other adjacent built form) casts shadows over roofed areas, some skylights, and the rear yards. There is no additional impact to front or rear openings to primary living rooms. Solar access to living areas and private open space within a highly constrained urban environment has been maintained.
- The limited overshadowing of the proposal is acceptable in the circumstances of the case as it occurs for short periods of time and in the winter arc of the sun. Additional solar access is clearly provided during the equinox, which is often the true test of the acceptability of a building envelope.
- Overshadowing is expected at some stage of the day, irrespective of the built form. Any resultant overshadowing impact will not preclude the redevelopment of any neighbouring property.
- The site's primary living rooms will receive adequate levels of direct solar access and natural ventilation.
- An appropriate portion of the site's landscaped and private open space area receives satisfactory levels of direct solar access.
- Any property to the south will be overshadowed at certain periods of the day irrespective of the built form proposed or existing.
- The design is consistent with the objectives of the control as it ensures the form and scale of the built form is not excessive and is not incompatible considering the locality's established and likely future built form context.

Objective (d) - to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings:

- The site and its neighbouring and nearby properties to the north, east and west are all zoned R2 Low Density Residential. Land (St Aloysius College Junior School grounds) to the site's south and (opposite side of Crescent Place) is zoned SP2 Educational Establishment. Land further to the south east is zoned R3 Medium Density Residential. The locality has and continues to undergo periodic regeneration. Despite being within the Careening Cove HCA, the integrity of the locality's building stock varies and demonstrates a range of architectural scale, form, style and detail. The site is flanked by two and three storey late Victorian solitary terraces on both sides that also have zero building alignments to side boundaries, elevated external open space, perimeter rear screen planting, garaging at the rear and a high site coverage relative to built form. Mutual overlooking of neighbouring and nearby properties is inevitable / commonplace.
- The relationship between the site and its nearest built form neighbours (to each side) is the critical element relative to the retention of visual privacy. The following is noted:
 - the established front building alignment is not altered;
 - the rear building alignment is less than existing (refer **Figure 1**) and although extended at the second / attic floor level it does not extend beyond solid masonry walls of the neighbouring dwellings;
 - side elevation openings are logically not proposed;
 - the rear building alignment of the neighbours extends beyond that proposed;
 - additional elevated external open space is not proposed. The existing front and ground, first and second / attic floor level terraces are retained albeit rectified. Existing openings are also unaltered;
 - provision of a retractable rear ground floor level awning;

- all primary living rooms are at the ground floor level and logically oriented internal to the site's rear courtyard;
 - retention of existing and new varied boundary fencing within the rear yard and new perimeter screen planting, including on top of the garage;
 - the ground and first floor FFL's are lower than existing as a result of the benching of the rear of the terrace and the rear courtyard;
 - the principal area of private open space is at the site's rear, has been benched approximately 1.3m lower than that existing and is therefore screened from view;
 - other than a front facing first floor level sitting room, all first and second / attic floor level rooms are bedrooms or service rooms; and
 - the curtilage to the neighbours has been maintained.
- Given the proximity of built form and the small and narrow allotments, overlooking to and from neighbouring properties exists. However, due to the above design measures, the proposal will not increase mutual overlooking to an unacceptable level. The nature of such an urban environment is that all future development seeks to maximise levels of residential amenity and density through design. Privacy concerns have not impacted on the redevelopment of neighbouring and properties. The proposal will not materially increase privacy concerns to unacceptable levels.

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

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

Objective (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 site and its neighbouring and nearby properties to the north, east and west are all zoned R2 Low Density Residential. Land (St Aloysius College Junior School grounds) to the site's south and (opposite side of Crescent Place) is zoned SP2 Educational Establishment. Land further to the south east is zoned R3 Medium Density Residential – see **Figure 1** within the SEE for further information). The overall curtilage to the SP2 zoned land and the R3 zoned land has been maintained.
- There will be no future conflict between the site and the nearby SP2 or R3 zoned land. Other than the school (on the SP2 zoned land), low density dwelling houses (terraces predominantly) are the clear predominant land use / built form character. The altered built form is not incompatible considering its established and likely future built form context, including that to the site's west.
- The proposed departure to the height standard and the development generally are not inconsistent with the relevant objectives of the standard because they do not materially alter the existing correlation between building height and density, and the correlation is appropriate under the circumstances. Nor do they alter the buildings' compatibility with the bulk, scale, streetscape or desired future character of the locality, and that compatibility is appropriate under the circumstances given that the environmental amenity of the neighbouring properties and the surrounding public domain has been preserved (maintained).
- The R2 Low Density Residential zoning and associated low density planning controls (i.e. the 8.5m height standard), encourages two storey dwellings. The terrace as existing is a hybrid of either three storeys or

two storeys plus an attic floor level. The neighbouring terraces share the same built form characteristic. The existing terrace form and character are maintained. Changes affecting the streetscape are negligible in their impact.

- The proposed alterations and additions are confined within the existing footprint and the roof level changes actually represent a reduction in the building envelope. The proposal does not affect the curtilage, setbacks, form, scale and style of the established front building alignment and streetscape presentation to Carabella Street. The existing scale is maintained. There are no additional storeys, only a rationalisation of the existing levels. The level changes occur behind the main ridge line and the changes correspond to the existing levels at the front. Therefore, the departure from the standard is inconsequential from a planning perspective as the site's altered built form is not incompatible with its established and/or likely future locational context including that desired future character as expressed by the relevant planning controls. The altered terrace's appropriate height, bulk and scale and relationship with its neighbours when viewed from the front and rear is shown at **Figures 4 and 5**.

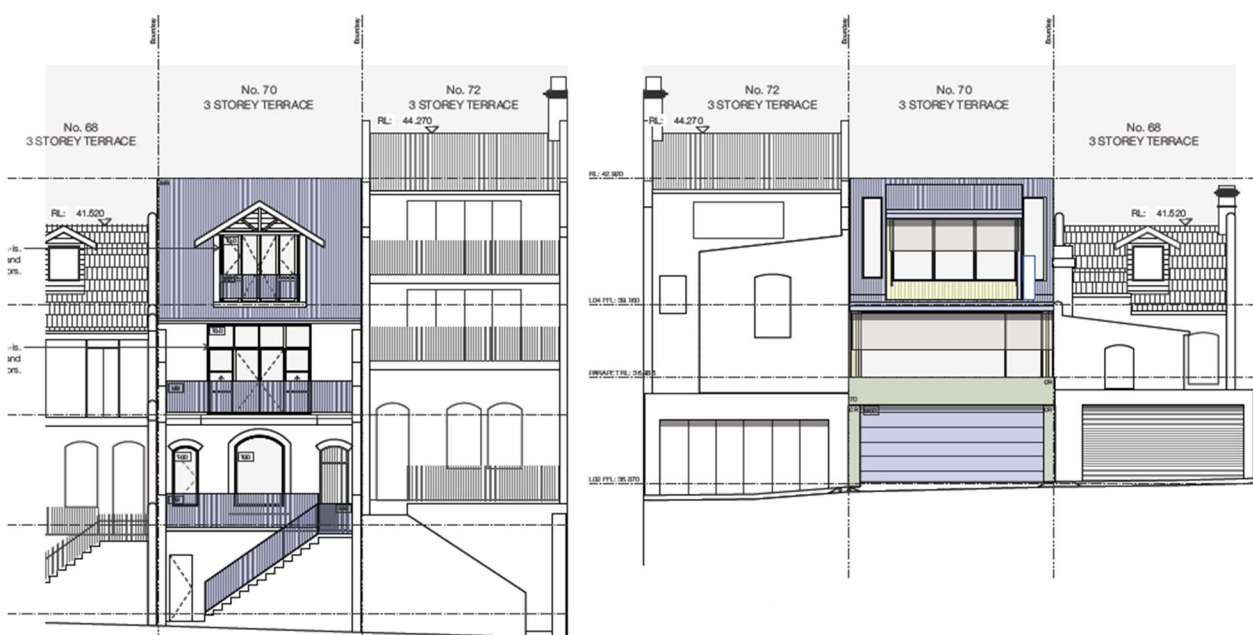


Figure 4 – Proposed front and rear elevations



Figure 5 – Render of the altered terrace and its compatibility with its adjacent context as viewed from Crescent Place

- The desired future character of the locality is determined by the relevant (existing) planning controls. A terrace house within an improved landscape setting on an existing single low density residential allotment of land is maintained. This low density built form and land use is desired by the site's and surrounding locality's R2 Low Density Residential zoning. Unquestionably a human scale is maintained considering the nearby established and likely future built form character.
- The built form has been designed having regard to the urban design parameters determined by the existing built context and the context of the neighbouring and nearby dwellings, site constraints and compliance with the relevant and key Council density planning controls where practical. In this regard, the altered built form provides for an acceptable and equitable planning outcome (i.e. it preserves environmental amenity) in relation to:
 - solar access and overshadowing;
 - access to natural daylight and ventilation;
 - aural and visual privacy;
 - views and vistas; and
 - visual impact.
- The visual catchment contains numerous buildings that will present a similar bulk and scale and which set the character. Consequently, the unaltered non-compliance with the standard does not result in a scale of building that is out of character with the surrounding development.

3.2 Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

A development at 70 Carabella Street, Kirribilli, that strictly complies with the 8.5m height standard is unreasonable or unnecessary given the following presented circumstances:

- The existing built form departs from the standard.
- The existing built form's maximum height remain unaltered.
- Compliance with the standard would require demolition of the existing dwelling. Demolition is unlikely given its Careening Cove HCA location, undesirable, economically impractical and inconsistent with the objects of the Act.
- Most of the new works to the rear of the terrace comply with the standard. Where the terrace is only two storeys, its height complies the standard. Those new rear roof works at the second floor / attic floor level are sited behind and slightly below the main roof ridge and are not visible from Carabella Street. Although the rear elevation is visible from Crescent Place (a service laneway), it nonetheless presents as a scale, form and detail that is more traditional and typical for the locality than that existing.
- The proposal does not change the bulk, mass and orientation of the structure facing the street. As its presentation to Carabella Street largely remains unaltered (other than for rectification works), there is no perception of additional visual built form dominance irrespective of its compliance with the standard.
- The departure to the standard is in part a function of the site's topographic characteristics. Most neighbouring and nearby terraces on the high side of Carabella Street will also depart from the height standard.

- The proposed alterations and additions are confined within the existing footprint and the roof level changes actually represent a reduction in the building envelope. The proposal does not affect the curtilage, setbacks, form, scale and style of the heritage items in the vicinity. The existing scale is maintained. There are no additional storeys, only a rationalisation of the existing levels. The level changes occur behind the main ridge line and the changes correspond to the existing levels at the front.
- As the existing building is a near contemporary building, a traditional Victorian style dormer is deemed inappropriate. The new rear dormer (which is in part above the height standard) is set below the ridge line and is located within the rear roof plane and is associated with a gabled roof. As the terrace is contained by large adjoining building elements on both sides, the visibility to the rear dormer is restricted.
- The proposal reduces the built form's site coverage, complies with front, side and rear setback controls, increases to compliant the provision of landscaped area and complies with the private open space and the unbuilt upon area controls.
- The proposed works above the height standard are inconsequential from a planning perspective as they do not perceptibly add to the built form's impacts. The departure is at the rear and to roof elements, which are lower than that neighbouring and which are not visually dominant when viewed from the public domain.
- The height, bulk and scale of the altered built form will not set an undue precedent. A highly articulated built form is maintained. Following a rigorous merit based assessment, approval of a building envelope that relates to the locality's existing and likely desired character but which exceeds the LEP 2013 standard, will not set a precedent for other non-conforming applications.
- The site is proportioned to allow the efficient realisation and internalisation of the impacts of the proposed built form without an adverse visual impact or perceived built form dominance. The unaltered maximum departure to the height standard has been arranged considering the site's existing built form and the neighbouring and nearby context. In this regard and as demonstrated by the DCP 2013 assessment at **Table 3** of the separately submitted SEE, those existing and newly constructed elements (see **Figures 1, 2 and 3**) which depart from the height standard preserve environmental amenity in relation to:
 - solar access and overshadowing;
 - access to natural daylight and ventilation;
 - aural and visual privacy;
 - views and vistas from neighbouring and nearby properties and the public domain; and
 - visual impact and massing; and
 - parking or traffic generation.
- Within this context the site can accommodate the building height proposed and the development is of an intensity and scale commensurate with the built form character and the prevailing urban conditions and capacity of the locality.

In *Wehbe v Pittwater Council [2007] NSWLEC 827*, Preston CJ established five potential tests for determining whether a development standard could be considered to be unreasonable or unnecessary. Those tests have been considered below.

Are the objectives of the standard achieved notwithstanding non-compliance with the standard?

See above detailed assessment of the proposal by reference to the standard's objectives. That assessment demonstrates that the objectives of the standard are achieved notwithstanding the existing and unaltered non-compliance with the standard.

On this occasion (and as demonstrated at **Table 3** of the separately submitted SEE) the non-compliance better achieves the objectives by allowing for an architecturally altered built form within an improved landscape condition that enables high (improved) internal amenity for the occupants whilst reasonably preserving the environmental amenity (solar access, visual and aural privacy, views, vistas, outlook, natural daylight and ventilation) of the neighbouring properties.

The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is not necessary?

On this occasion LPDS does not believe that the underlying objective or purpose is not relevant to the development and therefore LPDS does not rely on this reason.

Would the underlying objective or purpose of the standard be defeated or thwarted if compliance was required?

Compliance with the stated objectives of the 8.5m height standard would be thwarted if strict compliance with the standard was required in the circumstances as the quality of the residential outcome would be compromised for no sound planning reason, would require demolition of the existing non-compliant dwelling and which is therefore inconsistent with the objects of the Act.

The altered built form exhibits architectural merit. The proposed works to the rear which depart from the standard are traditional in character and materials while typically retaining the existing building alignments and building mass and scale. The proposed works are incorporated into the existing structure in a manner that maintains the overall character of the building and do not increase its existing maximum height.

The altered built form provides unquestionable improved residential amenity for the occupants whilst preserving the environmental amenity of the neighbours. A positive built form relationship with its neighbouring and nearby built form is maintained and appropriate environmental initiatives are proposed.

Has the development standard been virtually abandoned or destroyed by the Council's own actions in departing from the standard?

A review of Council's published quarterly Variations Registers, demonstrates that the height standard cannot said to be abandoned. However, and notwithstanding the non-abandonment of the standard, there is numerous built form in the surrounding locality and throughout the North Sydney LGA that are also zoned R2 Low Density Residential (and other residential zonings) that depart from the current height standard.

Is the zoning of the land unreasonable or inappropriate?

The site is zoned R2 Low Density Residential. This zoning is considered reasonable and appropriate. The predominant or most characteristic built form within the site's immediate catchment is two to three storey terrace houses.

3.3 Are there sufficient environmental planning grounds to justify contravening the development standard?

This section demonstrates that there are sufficient environmental planning grounds to justify contravening the height standard as required by clause 4.6(3)(b) of LEP 2013.

It is noted that in *Initial Action Pty Ltd v Woollahra Council [2018]* NSWLEC 118, Preston CJ observed that in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard, not on the development as a whole.

Additionally, it is noted that in *Four2Five Pty Ltd v Ashfield Council [2015]* NSWLEC 90, Pain J observed that it is within the discretion of the consent authority to consider whether the environmental planning grounds relied on are particular to the circumstances of the proposed development on the particular site.

Although the term 'environmental planning ground' is not defined, it is commonly accepted that the objects of the Act constitute 'environmental planning grounds'. Regarding the proposal at 70 Carabella Street, Kirribilli, the particular circumstances of this case distinguish it from others and therefore there are sufficient environmental planning grounds to justify contravening the height standard being:

- As addressed earlier in this report and in the documentation prepared by Raddatz – Kueber, Zoltan Kovacs Architect, TARN and other technical inputs for the DA, the proposal clearly improves the roof geometry of the dwelling at its rear, whilst not increasing the dwelling's maximum height and not resulting in any unreasonable amenity and environmental impacts to neighbours.
- The SEE and supporting documentation submitted with the DA provides a holistic environmental planning assessment of the proposal and demonstrates that subject to adopting a range of reasonable mitigation measures, there are sufficient environmental planning grounds to support the development. In particular, the submitted documentation demonstrates that despite the contravention to the height standard, it nonetheless enables the relatively modest and appropriate redevelopment of the site to occur, which is clearly not incompatible with the established neighbouring built form context.
- The non-complying works to the rear:
 - architecturally integrate the rear elevation and improves roof geometry;
 - are sited behind and slightly below the main roof ridge and are not visible from Carabella Street. Although the rear elevation is visible from Crescent Place (a service laneway), it nonetheless presents as a scale, form and detail that is more traditional and typical for the locality than that existing. Additionally they are at a lower height and are provided with a larger rear setback than the neighbours;
 - enable improved internal amenity and equitable access;
 - provide visual interest;
 - achieve a human scale whilst improving the building's rhythm;
 - will not result in unreasonable amenity impacts to neighbouring and nearby properties or the surrounding public domain.
- The site's ground surface falls approximately 4.5m to the north east. Although the terrace sits on an established building pad, there is significant variation between the front and rear of both the ground floor (1.24m) and first floor (0.91m) levels. This existing condition results in an inefficient and multiple

level and stepped internal floorplan layout. To improve this condition and increase the occupant's amenity, excavation within the rear yard to a depth of 1.3m is proposed. This work will enable the provision of continuous floor levels and at grade access from the rear primary living rooms to the rear courtyard. The overall size and usability (flat) of the courtyard has increased from that existing as a result of the improved / rationalised internal floorplan. This proposed design condition is clearly a desirable outcome as it lowers (by re-benching the ground floor level) the terrace's rear as compared to that existing. The two storey component of the terrace at its rear is sited well below the height standard.

- The existing terrace house departs from the standard and the maximum height is not altered.
- Compliance with the standard would require demolition of the existing dwelling. Demolition is unlikely given its Careening Cove HCA location, undesirable, economically impractical and inconsistent with the objects of the Act.
- The proposal does not change the bulk, mass and orientation of the structure facing the street. As its presentation to Carabella Street largely remains unaltered (other than for rectification works), there is no perception of additional visual built form dominance irrespective of its compliance with the standard.
- The proposed works above standard are inconsequential from a planning perspective as the overall built form is not incompatible with its established and/or likely future locational context including that desired and expressed by the relevant planning controls.
- The site is proportioned to allow the efficient realisation and internalisation of the impacts of the proposed built form without an adverse visual impact or perceived built form dominance. The existing and unaltered maximum departure to the height standard has been arranged considering the site's existing built form and the neighbouring / nearby context. In this regard and as demonstrated by the DCP 2013 assessment at Section 4.1.6 of the separately submitted SEE, the existing and proposed works above the standard maintain environmental amenity relative to:
 - solar access and overshadowing;
 - access to natural daylight and ventilation;
 - aural and visual privacy;
 - views and vistas from neighbouring and nearby properties and the public domain; and
 - visual impact and massing.
- Appropriate environmental initiatives are proposed.

The above environmental planning grounds relate specifically to the height attributed to the proposed development above that technically permitted, which contributes to the contravention of the height standard. The above points warrant the exceedance, are not generic, but rather, specific to the site and circumstances of the proposal. An appropriate and equitable planning outcome results.

3.4 Whether contravention of the development standard raises any matter of significance for the State or regional Environmental Planning?

There is no identified outcome which would be prejudicial to planning matters of state or regional significance that would result as a consequence of varying the development standard as proposed by this application as the unaltered maximum departure to the height standard relates to local and contextual conditions and the existing built form. The variation sought is responding to the broad brush nature of the

control applied across an area that supports a variety of built forms on varying allotment sizes and existing built form.

The proposal involves the desirable provision of an architecturally altered terrace house on an existing low density allotment of land within a largely improved landscape condition. The works enable high (improved) internal amenity for the occupants whilst reasonably preserving the environmental amenity (solar access, visual and aural privacy, views, vistas, outlook, natural daylight and ventilation) of the neighbours.

The terrace's height does not set a precedent or preclude any neighbouring or nearby property from being appropriately redeveloped. The retention of improved housing for a single family will assist in meeting housing and locational context demand. The site has good access to services, facilities and amenities.

The site's overall built form is not incompatible considering its established and desired future built form local context.

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

The relevant objects of the Act as specified in Section 1.3, are in our opinion, achieved by the proposed development in that it:

- promotes the social and economic welfare of the community;
- facilitates ESD;
- promotes the orderly and economic use and development of land;
- promotes the sustainable management of built and cultural heritage;
- promotes good design and amenity of the built environment; and
- promotes the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants.

A strictly complying development would require demolition of the existing terrace which is unquestionably economically impractical and highly unlikely given its Careening Cove HCA location. Considering demolition of the existing terrace, in that sense it may be said that compliance with the standard would hinder the attainment of the objects of section 1.3 of the Act. Compliance may also preclude such architectural expression as proposed that has planning merit.

Compliance with the standard forgoes the opportunity to enable an altered built form which has a visually interesting architectural expression, an improved landscape condition and planning and heritage merit without adverse impacts. The site's redevelopment and unaltered maximum departure to the height standard does not preclude or isolate an adjacent property(s) from being appropriately redeveloped. The development as proposed is consistent with the provisions of orderly and economic development and would not hinder the objects of the Act at Section 1.3.

3.6 Is there public benefit in maintaining the development standard?

Generally, there is public benefit in maintaining standards. However, there is public interest in maintaining a degree of flexibility in specific circumstances. In the current case, strict compliance with the height standard is not achievable given the existing non-compliant built form and would serve no purpose other than to impose numerical inflexibility and economical impracticality.

A rigid and inflexible purely compliance based approach to the standard forgoes the opportunity to provide a high quality architectural design solution and an improved landscape condition. The terrace's height does not have an unreasonable impact on the neighbours or the public domain. The works clearly improve the amenity of the occupants.

It is known that Council has considered applications favourably which depart from the height standard. There are no reasons why it is not in the public interest and its refusal based on the standard's departure is not warranted. Under the presented circumstances the unaltered variation to the height standard is in the public interest because it is not inconsistent with the objectives of the standard and neither is it inconsistent with the objectives for development in the R2 Low Density Residential zone. Therefore, it is argued that there is no public benefit in maintaining the adopted height planning control.

On balance the reduced variation to the height standard is an appropriate use of the provisions of Clause 4.6 and the development is therefore capable of being granted consent.

3.7 Is the objection well founded?

For the reasons outlined in previous sections, it is considered the objection is well founded in this instance and granting an exception to the development can be supported given the presented circumstances of the case. The development does not contravene the objects specified at Section 1.3 of the Act.

4.0 CONCLUSION

The proposed variation to the height standard is based on the reasons contained within this formal request for an exception to the standard. A development strictly complying with the numerical height standard would not significantly improve the amenity of surrounding properties or the public domain as:

- the proposal satisfies and achieves the objectives of the R2 Low Density Residential zone;
- the proposal satisfies and achieves the objectives of the height standard;
- the terrace's maximum height is not altered. Although new works are proposed above the height standard, they are lower than the retained ridge and not readily discernible;
- compliance is unrealistic given the existing departure;
- the proposal reduces the built form's site coverage, complies with front, side and rear setback controls, increases to compliant the provision of landscaped area and complies with the private open space and the unbuilt upon area controls;
- the proposed alterations and additions are confined within the existing footprint and the roof level changes actually represent a reduction in the building envelope. The proposal does not affect the curtilage, setbacks, form, scale and style of the established front building alignment and streetscape presentation to Carabella Street. The existing scale is maintained. There are no additional storeys, only a rationalisation of the existing levels. The level changes occur behind the main ridge line and the changes correspond to the existing levels at the front;
- a single terrace house within a largely improved landscape setting on an existing single low density residential allotment of land is maintained. This low density built form and land use is desired by the site's and surrounding locality's R2 Low Density Residential zoning; and
- the alterations and additions improve the occupant's amenity, enables appropriately designed and sited alterations and additions, does not preclude the same on nearby properties and preserves the environmental amenity of neighbours.

It is concluded that the objection:

- is well founded and in the public interest;
- demonstrates consistency with the standard's objectives
- demonstrates consistency with the R2 zone's objectives
- demonstrates that compliance with the standard is both unnecessary and unreasonable; and
- demonstrates that there are sufficient environmental planning grounds in which to support the proposal.

Considering the above, it is appropriate to exercise the flexibility provided by Clause 4.6 of LEP 2013.