

Wollongong Local Planning Panel Assessment Report | 24 September 2020

WLPP No.	Item 2
DA No.	DA-2018/1592/B
Proposal	Modification B - internal alterations to floor plan, remove retaining walls, include wood fire heater and modify condition 12 to exclude balcony screening for master bedroom. Modification A – Replace existing walls and remove rear retaining walls. Original Consent - Residential Alterations and Additions to dwelling house.
Property	5 Cliff Parade, Thirroul
Applicant	Mr Michael Vail
Responsible Team	Development Assessment and certification - City Wide Team (SG)

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Local Planning Panel - Determination

The proposal has been referred to the Local Planning Panel **for advice** pursuant to clause 2.19(1)(a) of the Environmental Planning and Assessment Act 1979. Under Section 1(d) of the Wollongong Local Planning Panel Submissions draft policy of 24 September 2018, the proposal is the subject of five or more unique submissions by way of objection and is a Section 4.55 modification request.

Proposal

The proposal seeks consent for a modification to DA-2018/1592. The proposed modification includes internal alterations to floor plan, remove retaining walls, include wood fire heater (flue) and modify condition 12 to exclude balcony screening for master bedroom.

Permissibility

Dwelling houses is a permissible use in the E4 Environmental Living Zone of the WLEP2009.

Consultation

The proposal was exhibited in accordance with the Community Participation Plan 2019 and notified between the 19 June and 7 July 2020. 12 submissions were received during this period. The submissions received are discussed at section 2.5 of the assessment report.

Councils Geotechnical officer has provided comment below.

Main Issues

The main issues noted in the submissions are:

- Amenity impacts
- Geotechnical impacts
- Non-compliance with original consent

RECOMMENDATION

Development Application DA-2018/1592/B be **Approved** subject to the conditions contained in Attachment 5.

1 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the proposal:

State Environmental Planning Policies:

- SEPP No. 55 – Remediation of Land
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP Coastal Management 2018

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan (WDCP) 2009

Other policies

- Wollongong City-Wide Development Contributions Plan 2018 (section 7.12 of EP&A Act 1979).
- Wollongong Community Participation Plan 2019.
- Coastal Management Act 2016.

1.2 DETAILED DESCRIPTION OF PROPOSAL

The proposal for Modification B comprises of the following:

Built form changes

Original	Modification	Comment
Kids room location and upper floor bathroom swapped	Internal alterations to floor plan kids' room and bathroom on first floor swapped. Window to altered/ increased as a result. Window located behind screening.	Internal change to floor plan. No change to overall dwelling footprint. Minor increase in window size. This window is located behind screening feature and large tree.
The original consent sought to replace existing retaining walls proposed to the rear of the site. This original retaining walls installed, by a previous owner, was not approved or certified and were used to contain unauthorised fill.	Unauthorised fill has been removed and retaining no longer required. Retaining walls to be removed from plans and area planted.	Removal of retaining walls, no longer required, from plans. Condition relating to retaining walls to be amended and landscape condition modified.
Fireplace (FP) indicated on floor plans, but no flue or details provided.	Include chimney flue location and internal change to wood fired heater location.	The proposed chimney flue location needs to comply with AS 2918.

		Suitable condition to be imposed regarding compliance and 3m setback from adjoining structures.
Screening conditioned to the side of both upper floor balconies.	Modify condition 12 to exclude balcony screening for master bedroom.	Minimal amenity impacts on adjoining property as a result. View to public area considered reasonable and in character with neighbouring dwellings.

Section 4.55 Modification of consents-generally

The application as lodged as a S4.55(1A)

(1A) Modifications involving minimal environmental impact A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the proposed modification is of minimal environmental impact, and

Comment – The proposed modification is considered to be of minimal environmental impact.

- Internal modifications to the floor plan are considered to have minimal impact on the built and natural environment.
- External screen removal is considered to have minimal impact on the built and natural environment.
- Addition of fireplace (wood)
- Removal of the retaining walls indicated on plans is accompanied by a letter from Geotechnical engineer stating walls are no longer required. Council's Geotechnical Officer has reviewed the modified proposal and provided satisfactory comment regarding the modification.

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

Comment – The proposed modification is considered substantially the same development.

(c) it has notified the application in accordance with—

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

Comment - The proposal was exhibited in accordance with the Wollongong Participation Plan 2019 and notified between the 19 June and 7 July 2020.

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Comment - The 12 submissions received have been considered and are further discussed below at Section 1.5.

1.3 BACKGROUND

The alterations and additions to the dwelling associated with DA-2018/1592 is currently under construction. The development history of the site is as follows:

Application No	Description	Date	Decision
BC- 2020/31	New ground floor timber framed walls, and floor system to southern portion of ground floor level of building.	7/4/2020	Approved
DA-2018/1592/A	Modification A - Modification A – Replace existing walls and remove rear retaining walls.	20/3/2020	Refused
PC-2019/1375	Private Certifier – Construction Certificate	21/10/2019	Issued
DA-2018/1592	Residential - alterations and additions	30/5/2019	Approved
PL-2018/10	Residential - Demolition of existing structure and construction of dwelling house with basement.		Completed
DA-2017/1752	Residential - demolition of existing dwelling house and construction of new dwelling house.	21/12/2017	Rejected
BC-2017/77	Concrete piers, reinforced concrete footings, subfloor retaining walls, bearers and joists, structural steelwork & new timber frames, associated with renovation works to an existing dwelling.	11/10/2017	Approved
TMO-2013/1502	Remove 1 tree		Approved

A pre-lodgement meeting was not held in relation to DA-2018/1592 or the subject modifications.

Building Certificate

As part of the assessment of DA-2018/1592 the existing subfloor storage area did not appear to have consent as a result the re-use of this area as a storage area was removed from the application. BC -2017/77 listed above sought to regularise unapproved works to stabilise the dwelling.

As part of the assessment of DA-2018/1592/A the replacement walls could not be retrospectively supported. BC-2020/31 was subsequently sought to regularise replacement of the walls and was issued on 7 April 2020.

Customer service actions:

There are no outstanding customer service requests, at the time of preparing this report. There have been numerous compliance complaints made to Council regarding the consent, PCA and construction issues.

1.4 SITE DESCRIPTION

The site is located at 5 Cliff Parade, Thirroul and the title reference is Lot 6 DP 5736. The site is an irregular shape with an angled rear lot boundary adjoining the cliff edge. The lot is approximately 650m² and is situated along the coastal foreshore not far from Thirroul town centre. The site is approximately 45m in length and 14.1m wide and has steep fall, over 11m, to the rear cliff edge.

Demolition works have been undertaken on the site, after issue of the CC by the PCA, currently most of the dwelling has been constructed including the walls, roof, floor, subfloor and new steel frames

for walls ceilings have been erected, a retaining wall near the allotment boundary has also been constructed.

The coastal foreshore is located to the rear and Thirroul beach and reserve are located approximately 100m from the site. The site is bounded by two storey dwellings and the streetscape is considered relatively low density with a mixture of single and two storey dwellings and smaller multi dwelling housing in the immediate vicinity of the site.

Property constraints

Council records identify the land as being impacted by the following constraints:

- Unstable Land; Comments from geotechnical Officer provided below.
- Coastal hazard – inundation and reduced foundation present and future and geotechnical risk; notation in consent still valid. Further comment from geotechnical Officer provided below.
- SEPP Coastal Management 2018; the Coastal SEPP is further discussed below.
- Foreshore Building Line; Considered in original application. Removal of retaining walls from this area is consistent with objectives.
- Acid Sulphate Soils Class 5; Condition 51 applied to original consent is still valid



Figure 1: Aerial photograph

1.5 SUBMISSIONS

The proposal was exhibited in accordance with the Wollongong Participation Plan 2019 and notified between the 19 June and 7 July 2020 (extended from 3 July to 7 by Manager). 16 submissions were received during this period however, these were condensed to 12 submissions as 4 of the submissions received were from two of the same property addresses. The issues identified are discussed below. It is noted some issues raised are related to the original approval and not the modification which the assessment relates to.

Table 1: Submissions

Concern	Comment
1. Amenity impacts – Removal of screens will cause amenity impacts on immediate neighbours and the general public.	It is unlikely the removal of 1 x privacy screen on the upper floor balcony will provide overlooking opportunities to public areas. The adjoining neighbour closest to the upper floor balcony has been notified and no

<ul style="list-style-type: none"> – Suggest consultation with neighbours screening removed. – Window changes unclear. Changes to windows have already occurred. – The addition of a fireplace should not be approved height will be exceeded and neighbours have health issues. 	<p>submission from this address was received. However, amenity impacts have been assessed and considered and a supplementary view impact assessment submitted. Window reconfiguration is considered to have little to no impact.</p> <p>The fireplace installation is required to comply with AS 2918. The location of the Flue and height will be conditioned. Dwelling height is less than 7m if required chimney can be extended without breaching 9m height controls.</p>
<p>2. Geotechnical Impacts</p> <ul style="list-style-type: none"> – Risk of landslide. – Retaining walls should be constructed. – Geotechnical recommendations should be adhered to. – Cliff instability. – No geotechnical evidence to support walls not being replaced. – The house is close to the cliff edge. – Concern with structural stability and conditions of consent being met. – Geotechnical report not valid. – Retaining walls are required for the safety of walkers on beach below. – Construction of footings. 	<p>The supplementary geotechnical inspection letter submitted (attachment 2) makes recommendation regarding the replacement of the existing retaining walls. The original geotechnical report made recommendations regarding replacing existing retaining walls.</p> <p>Councils Geotechnical Officer has reviewed the application to modify and the geotechnical information submitted. Satisfactory comment regarding the modification and removal of walls was provided.</p> <p>Geotechnical conditions imposed in original consent are still considered valid.</p>
<p>3. Non-Compliance</p> <ul style="list-style-type: none"> – The development is not alterations and additions. – The addition of a fireplace should not be approved height will be exceeded. – Reconfiguration of kid's room and bathroom on second floor should not be supported. – Concern with private certification. – Damage to neighbouring properties as a result of construction. 	<p>The proposed modification relates to internal floor plan changes, removal of 1 x upper floor balcony privacy screen and inclusion of fireplace.</p> <p>It is noted numerous concerns have been raised to Council regarding the original consent issued relating to alterations and additions. However, this application relates to the modification and the proposed modifications are considered reasonable.</p> <p>The approved altered dwelling is less 8.3m in height. Maximum height control is 9m a condition regarding chimney/ flue height location from boundary and compliance with AS 2918 will be included in any modified conditions of consent issued. As per the definition of building height in the WLEP 2009 building height includes plant and lift overruns, but excludes communication devices, antennae, satellite dishes, masts, flagpoles, <i>chimneys, flues and the like</i>.</p>

	<p>The reconfiguration of the internal floor plan is considered minor and capable of being supported.</p> <p>It is also noted there have been numerous concerns lodged with Councils Regulation and Enforcement division regarding the development. Including concerns with private certification of the development.</p> <p>This modification is seeking to regularise plan changes prior to the development being completed and the Occupation Certificate being issued.</p>
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Matter	1	2	3
Submissions	10	11	8

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Council's Geotechnical Officer has reviewed the application submission referral comments regarding the modification. Modified conditions of consent were recommended. See point two (2) submission comments.

1.6.2 EXTERNAL CONSULTATION

N/A

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 – 4.15 EVALUATION

2.1 SECTION 4.15(1)(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT

2.1.1 STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

7 Contamination and remediation to be considered in determining development application

- (1) A consent authority must not consent to the carrying out of any development on land unless:
- (a) it has considered whether the land is contaminated, and
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

A desktop audit of previous land uses does not indicate any historic use that would contribute to the contamination of the site. Previously considered in original assessment no proposed change. Therefore, the requirements of clause 7 are considered satisfied.

2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (BASIX) 2004

The proposal is BASIX affected development to which this policy applies. In accordance with Schedule 1, Part 1, 2A of the Environmental Planning and Assessment Regulation 2000, a BASIX Certificate has been submitted in support of the application demonstrating that the proposed scheme achieves the BASIX targets. Conditions were recommended regarding BASIX in original consent and are still considered valid see **Attachment 4**.

Any revision to the BASIX certificate previously issued will need to be considered as part of the Construction Certificate process.

2.1.3 STATE ENVIRONMENTAL PLANNING POLICY COASTAL MANAGEMENT 2018

Maps published with the SEPP indicate the land is located in an overlapping Coastal Environment area and Coastal Use area.

Division 1 clause 11 applies to areas in the buffer area (or proximity) to Coastal Wetlands. Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:

- (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
- (b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

Comment - The development site is not within mapped as being within proximity to Littoral Rainforest or Coastal Wetlands areas.

(2) This clause does not apply to land that is identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map. The area is not the area identified as Coastal Wetlands or Littoral Rainforest.

Division 3 clause 13 applies to coastal environment areas. Consent must not be granted unless the consent authority has considered matters set out in subclause 1 and 2. These matters include impacts on vegetation, marine life and water quality, vegetation, Aboriginal heritage and community access.

Comment- Previously the development was considered to be designed, sited and will be managed to avoid an adverse impact referred to in subclause 1. There are no foreseeable additional impacts as a result of this proposed modification and therefore the clause is considered satisfied.

Division 4 clause 14 applies to coastal use areas. Consent must not be granted unless the consent authority has considered matters set out in subclause 1 and 2. These matters include impacts on safe public access, overshadowing, wind funnelling, loss of views, visual amenity, Aboriginal heritage and cultural and built environment heritage.

Comment - Previously the development was considered to be designed, sited and will be managed to avoid an adverse impact referred to in subclause 1. There are no foreseeable additional impacts as a result of this proposed modification and therefore the clause is considered satisfied.

Division 5 includes general provisions for development in the coastal zone. Clause 16 applies to development in the coastal zone generally and states that development consent must not be granted to development on land within the coastal zone (other than land to which clause 13 applies) unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment - Previously the development was considered to be designed, sited and will be managed to avoid an adverse impact referred to in subclause 1. There are no foreseeable additional impacts as a result of this proposed modification and therefore the clause is considered satisfied.



Figure 3: SEPP Coastal Use Area and Coastal Environment Area Map

2.1.4 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Part 1 Preliminary

Clause 1.4 Definitions

Dwelling house means a building containing only one dwelling.

Note. Dwelling houses are a type of **residential accommodation**—see the definition of that term in this Dictionary.

Residential accommodation means a building or place used predominantly as a place of residence, and includes...

(d) dwelling houses,

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned E4 Environmental Living Zone as demonstrated by Figure 2 below.

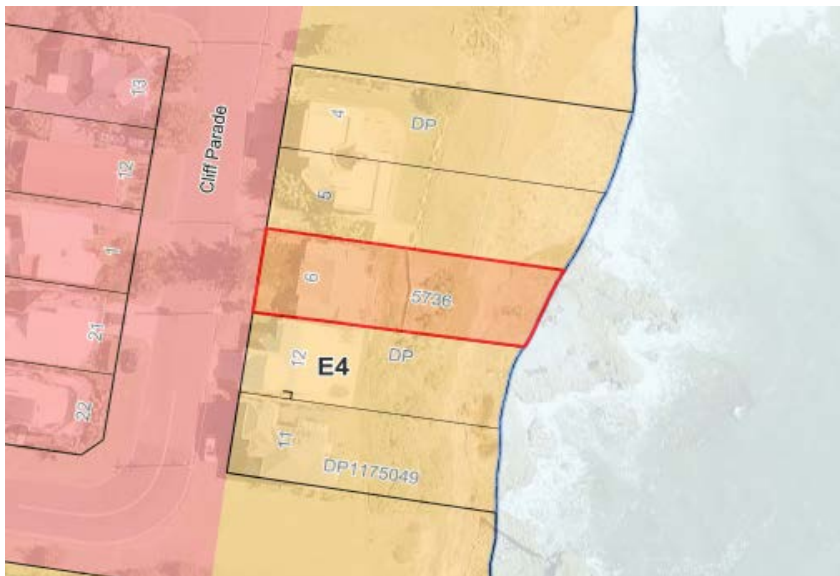


Figure 2: WLEP 2009 zoning map

Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.

The original proposal, alterations and additions to an existing dwelling, was considered satisfactory with regard to the above objectives. The modification is considered consistent with the original approval and the objectives.

The land use table permits the following uses in the zone.

*Bed and breakfast accommodation; Business identification signs; Community facilities; **Dwelling houses**; Environmental facilities; Environmental protection works; Home-based childcare; Oyster aquaculture; Pond-based aquaculture; Recreation areas; Roads; Secondary dwellings; Tank-based aquaculture*

Part 4 Principal development standards

Clause 4.3 Height of buildings

The proposed maximum building height of 8.53m does not exceed the maximum of 9m permitted for the site.

Clause 4.4 Floor space ratio

No apparent proposed change.

Part 5 Miscellaneous provisions

Not applicable

Part 6 Urban release areas

Not applicable

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The development is serviced by electricity, water and sewage services. No proposed change as a result of the proposed modification.

Clause 7.5 Acid Sulfate Soils

Condition 51 applied to original consent is still considered valid. No additional impacts as a result of the proposed modification.

Clause 7.6 Earthworks

The objectives of the clause are:

- a) to ensure that any earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features surrounding land,*
- b) to allow earth works of a minor nature without separate development consent.*

The modification seeks to remove a retaining wall that was proposed to support an area to the rear of the site as per original Geotechnical Engineers recommendations. Upon commencement of works further geotechnical advice has been sought regarding the wall and recommendation made that it is not required and therefore modification lodged to remove the wall. Letter of recommendation, regarding the proposed retaining wall, was submitted from a Geotechnical Engineer with the application to modify and was reviewed by Council's Geotechnical Officer with satisfactory referral advice received.

Clause 7.7 Foreshore Building Line

The foreshore building line, situated near the rear of the site, was previously considered regarding the dwelling alterations and additions. Upon commencement of works further geotechnical advice has been sought regarding the wall and recommendation made that it is not required and therefore a modification was lodged to remove the walls from the approved plans. There are no foreseeable additional impacts as a result of the retaining walls being removed from the foreshore building line. Removal of retaining walls from this area is consistent with the objectives of this clause.

2.2 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT

Not applicable.

2.3 SECTION 4.15(1)(A)(III) ANY DEVELOPMENT CONTROL PLAN

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

The development has been assessed against the relevant chapters of WDCP 2009 and compliance tables can be found at **Attachment 3** to this report.

2.3.2 WOLLONGONG CITY-WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2019

The original consent was assessed against the Wollongong city Wide Development Contributions 2018 and previously applied in condition 24 of the original consent.

2.4 SECTION 4.15(1)(A) (IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 7.4, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 7.4

There are no planning agreements entered into or any draft agreement offered to enter into under S7.4 which affect the development.

2.5 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)

92 What additional matters must a consent authority take into consideration in determining a development application?

Conditions of consent 31 and 32 were previously included in the original consent regarding demolition.

The site is located within the Coastal Zone as discussed above at 2.1.3.

93 Fire safety and other considerations

Conditions of consent were previously included in the original consent regarding compliance with the BCA/National Construction Code.

94 Consent authority may require buildings to be upgraded

Conditions of consent were previously included in the original consent regarding compliance with the BCA/National Construction Code.

2.6 SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENT

Context and Setting:

The area is characterised by predominantly two storey dwelling-houses and multi-unit development of traditional and contemporary construction. It is likely other older housing stock in the street will be modernised over time. The proposed modification does not alter the overall building footprint.

Access, Transport and Traffic:

The proposed modification does not alter the approved parking. The proposal is unlikely to impact the wider traffic network.

Public Domain:

The proposed modification is considered unlikely to result in impacts on the public domain with regard to the bulk and scale.

Utilities:

The proposed modification is not envisaged to place an unreasonable demand on utilities supply.

Heritage:

The site is not located in the visual catchment of any nearby heritage items.

Other land resources:

The proposed modification is not envisaged to have additional impact upon valuable land resources.

Water:

The site is presently serviced by Sydney Water. The proposal is not envisaged to have unreasonable water consumption.

Soils:

The proposed modification is not expected to result in additional negative impact on soils.

Air and Microclimate:

The proposed modification is not expected to result in negative impact on air or microclimate.

Flora and Fauna:

The proposed modification is not expected to impact flora and fauna. Additional plantings are proposed and can be supported on the site.

<p><u>Waste:</u></p> <p>Conditions of consent for the existing are still considered valid to the proposed modification.</p>
<p><u>Energy:</u></p> <p>The proposed modification is not expected to have unreasonable energy consumption.</p>
<p><u>Noise and vibration:</u></p> <p>Conditions of consent for the existing consent are still considered valid to the proposed modification.</p>
<p><u>Natural hazards:</u></p> <p>The site is listed in Council records as being within the coastal zone and affected by coastal hazards the proposed modification is accompanied by Geotechnical recommendations existing conditions relating to geotechnical inspections remain valid.</p>
<p><u>Technological hazards:</u></p> <p>Council records list the site as being affected by unstable land. Geotechnical conditions were included in the original consent and still considered relevant to this modification.</p>
<p><u>Safety, Security and Crime Prevention:</u></p> <p>There are no additional concerns with the proposed modification with regard to safety and security.</p>
<p><u>Social Impact:</u></p> <p>The proposed modification is not envisaged to result in negative social impacts.</p>
<p><u>Economic Impact:</u></p> <p>The proposed modification is not expected to create negative economic impact.</p>
<p><u>Site Design and Internal Design:</u></p> <p>The proposal is generally compliant with regard to Chapter WDCP 2009 as outlined throughout this report. The proposed internal changes as a result of the modification are not considered unreasonable and have little impact on the building footprint.</p>
<p><u>Construction:</u></p> <p>Conditions of consent were recommended in the original consent and are still considered applicable. Any additions as a result of the modification will be required to comply with the Building Code of Australia.</p>
<p><u>Cumulative Impacts:</u></p> <p>Considering the matters outlined in this report, the proposed modification is considered unlikely to result in adverse cumulative impacts.</p>

2.7 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR DEVELOPMENT

Does the proposal fit in the locality?

The proposed modification is considered reasonable in relation to impacts on the amenity of the locality and/or adjoining developments as discussed in the body of this report.

Are the site attributes conducive to development?

The existing site constraints would not prevent the proposed modification. The application is supported by Geotechnical recommendation regarding retaining walls and impacts on coastal processes in this area and therefore would not prevent the proposed modification.

2.8 SECTION 4.15(1)(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS

16 submissions were received and are discussed above in section 1.5.

2.9 SECTION 4.15(1)(E) THE PUBLIC INTEREST

The proposed modification is not expected to result in unreasonable impacts on the environment or the amenity of the locality. It is considered appropriate with consideration to the zoning and the expected future character of the locality and is therefore considered consistent with the public interest.

3 CONCLUSION

This application has been assessed as satisfactory having regard to the Heads of Consideration under Section 4.15 and 4.55 (1a) of the Environmental Planning and Assessment Act 1979.

The modification request is considered to satisfy S4.55 (1a) as the development consent is considered substantially the same development for which consent was granted and of minimal environmental impact.

This modification does not propose exceptions to development standards or variations to DCP controls.

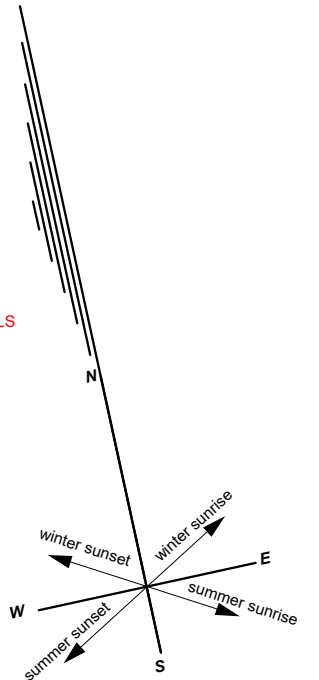
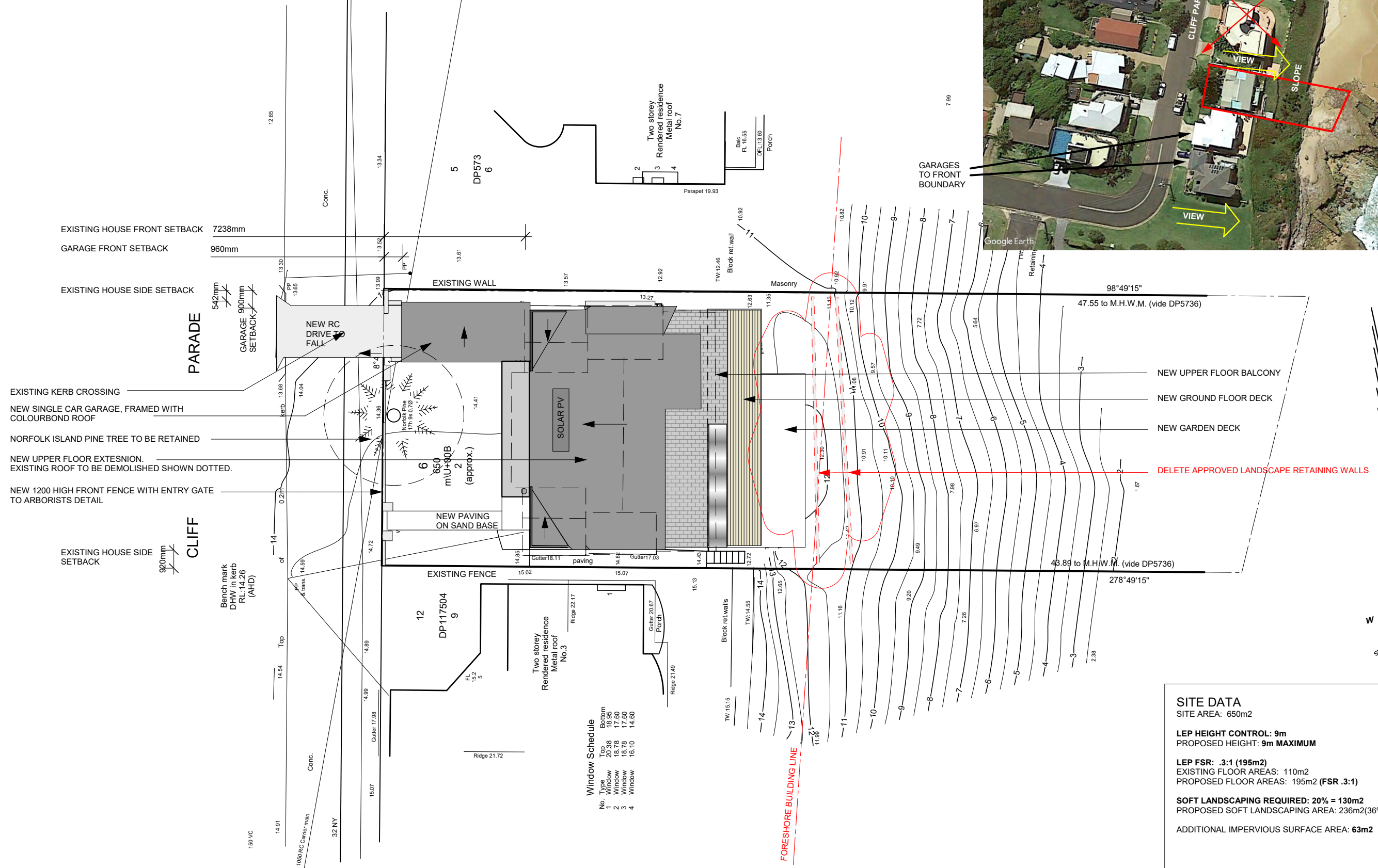
Some of the issues raised in submissions though technically unresolved, are considered to be adequately addressed either through design or by way of conditions. Any remaining issues are not considered to be sufficient to refuse the application.

4 RECOMMENDATION

The modification to Development Application DA-2018/1592/B be **Approved** subject to the conditions contained in **Attachment 5**.

5 ATTACHMENTS

- 1 Plans
- 2 Geotechnical Letter
- 3 WDCP 2009 compliance table
- 4 Applicant additional information- response view impact and AS 2918
- 5 Conditions



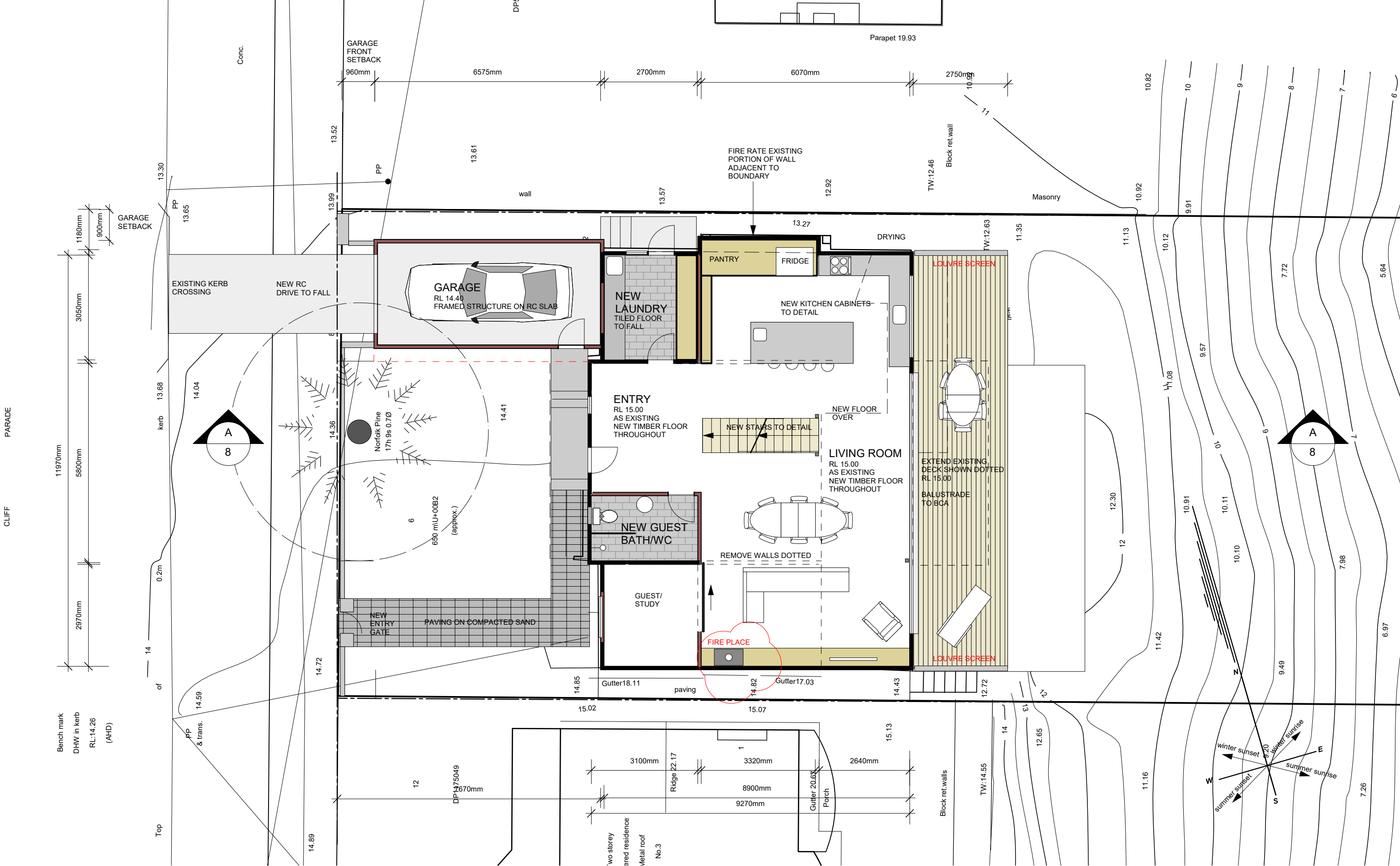
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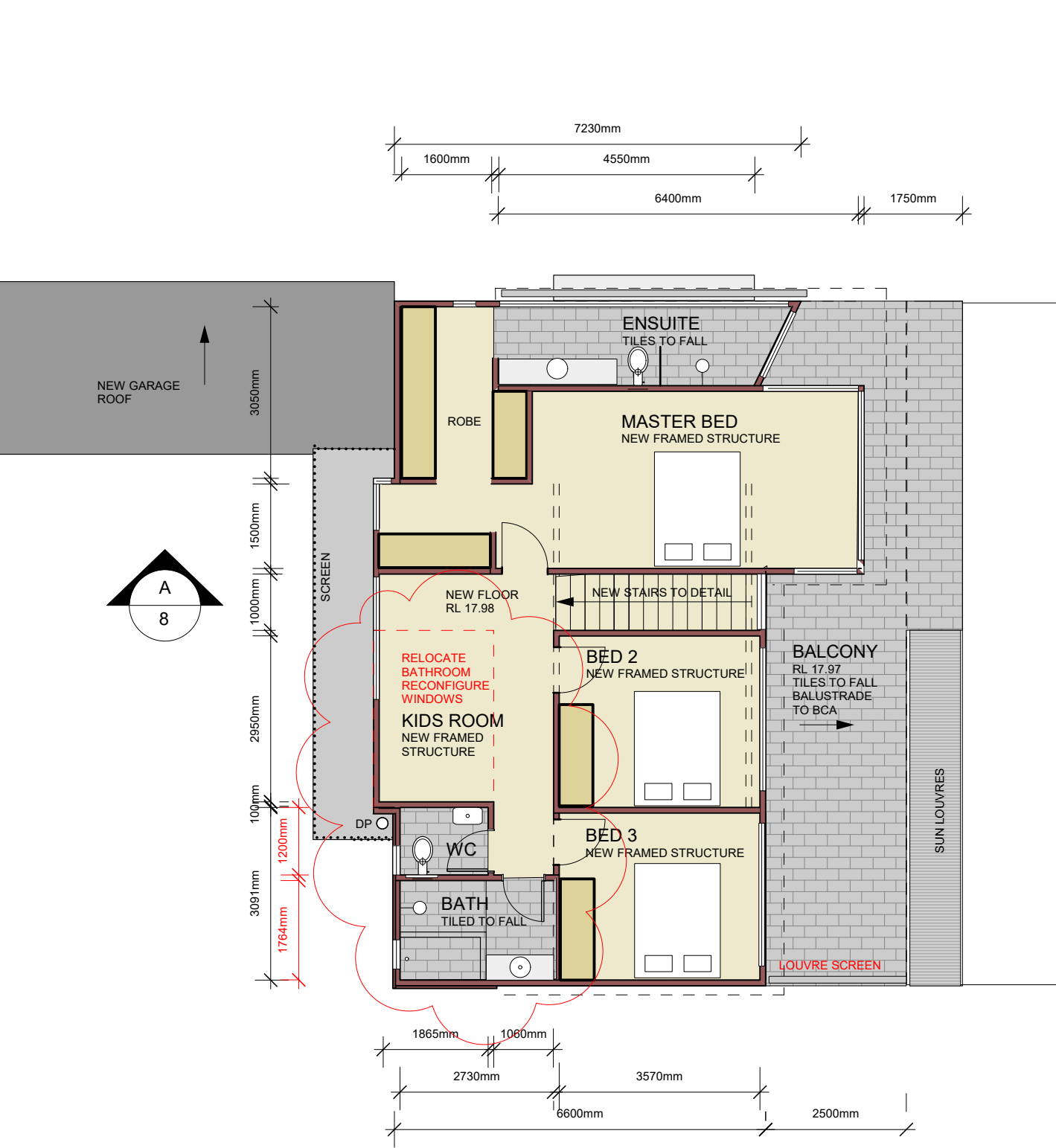
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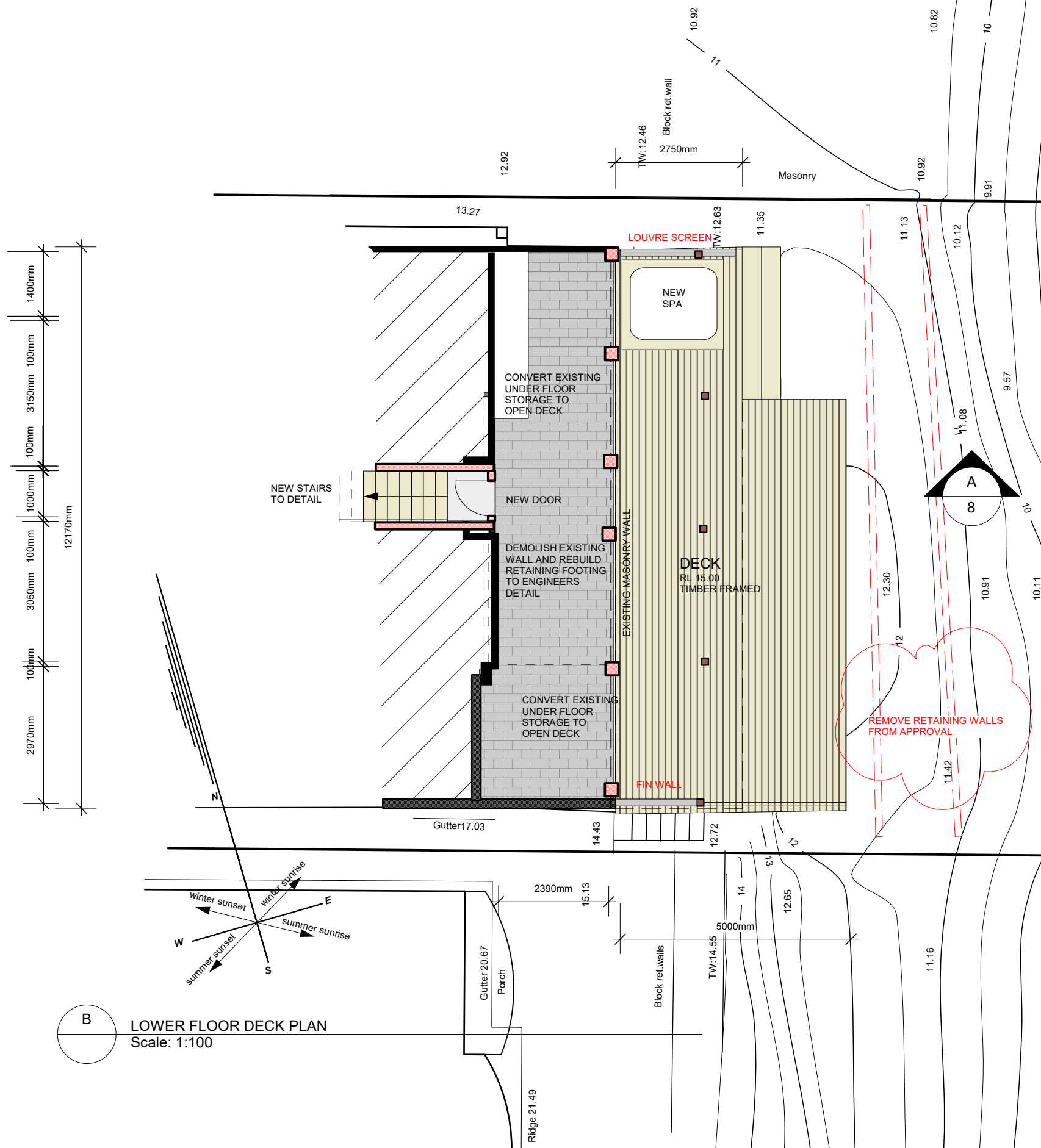


<div><div>michael vail</div><div>design</div><div>34 Park Street Coledale NSW 2515 AUSTRALIA 0438 121 321 mvail@tpg.com.au</div></div>	<div>ALL CONSTRUCTION TO COMPLY WITH THE PROVISIONS OF THE NCC</div> <div>AMENDMENTS</div> <div>A 2/4/19 CORRECT GROUND LEVELS, EXTEND DECK UNDER HOUSE, DETAIL FRONT FENCE AND RETAINING WALLS. B 10/5/19 MOVE GARAGE, AMEND LANDSCAPING. C 20/1/20 AMEND EXTENT OF DEMOLITION. D 2/6/20 ALTER UPPER FLOOR PLAN, REMOVE APPROVED RETAINING WALLS, ADD FIREPLACE, DETAIL BALCONY SCREENS</div>	<div>LOT 6 DP 5736</div> <div>BASIX COMMITMENTS. REFER TO CERT NO. A331130 NEW LIGHT FITTINGS TO BASIX CERTIFICATE NEW WATER FITTINGS TO BASIX CERTIFICATE FLOOR, WALL AND CEILING INSULATION TO BASIX CERTIFICATE WINDOWS AND GLAZING TO BASIX CERTIFICATE</div> <div>SCALES 1:200 1:100</div> <div><div><div>1</div><div>2</div><div>3</div><div>4</div><div>5</div></div><div><div>1</div><div>2</div><div>3</div><div>4</div><div>5</div></div></div>	<div>5 CLIFF PARADE THIRROUL</div> <div>ALTERATIONS AND ADDITIONS</div> <div>DRAWING:</div> <div>GROUND FLOOR PLAN</div> <div>PROJECT NO: 18-346 DATE: JUN 2020 DRAWN: MV CLIENT: E. AND M. SHERGILL</div> <div>DWG NO. AMEND: SCALE: A3 Page 1:100 DA 02 A</div>
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B
LOWER FLOOR DECK PLAN
Scale: 1:100

michael vail

design

34 Park Street Coledale NSW 2515 AUSTRALIA
0438 121 321
mvail@tpg.com.au

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ALL CONSTRUCTION TO COMPLY WITH THE PROVISIONS OF THE NCC

AMENDMENTS

- A 2/4/19 CORRECT GROUND LEVELS, EXTEND DECK UNDER HOUSE, DETAIL FRONT FENCE AND RETAINING WALLS.
B 10/5/19 MOVE GARAGE, AMEND LANDSCAPING.
C 20/1/20 AMEND EXTENT OF DEMOLITION.
D 2/6/20 ALTER UPPER FLOOR PLAN, REMOVE APPROVED RETAINING WALLS, ADD FIREPLACE, DETAIL BALCONY SCREENS

LOT 6 DP 5736

5 CLIFF PARADE THIRROUL

ALTERATIONS AND ADDITIONS

DRAWING:

FLOOR PLANS

PROJECT NO: 18-346

DATE: JUN 2020

DWG NO.

AMEND:

DRAWN: MV

SCALE: A3 Page

CLIENT: E. AND M. SHERGILL

1:100

DA 03 D

BASIX COMMITMENTS. REFER TO CERT NO. A331130

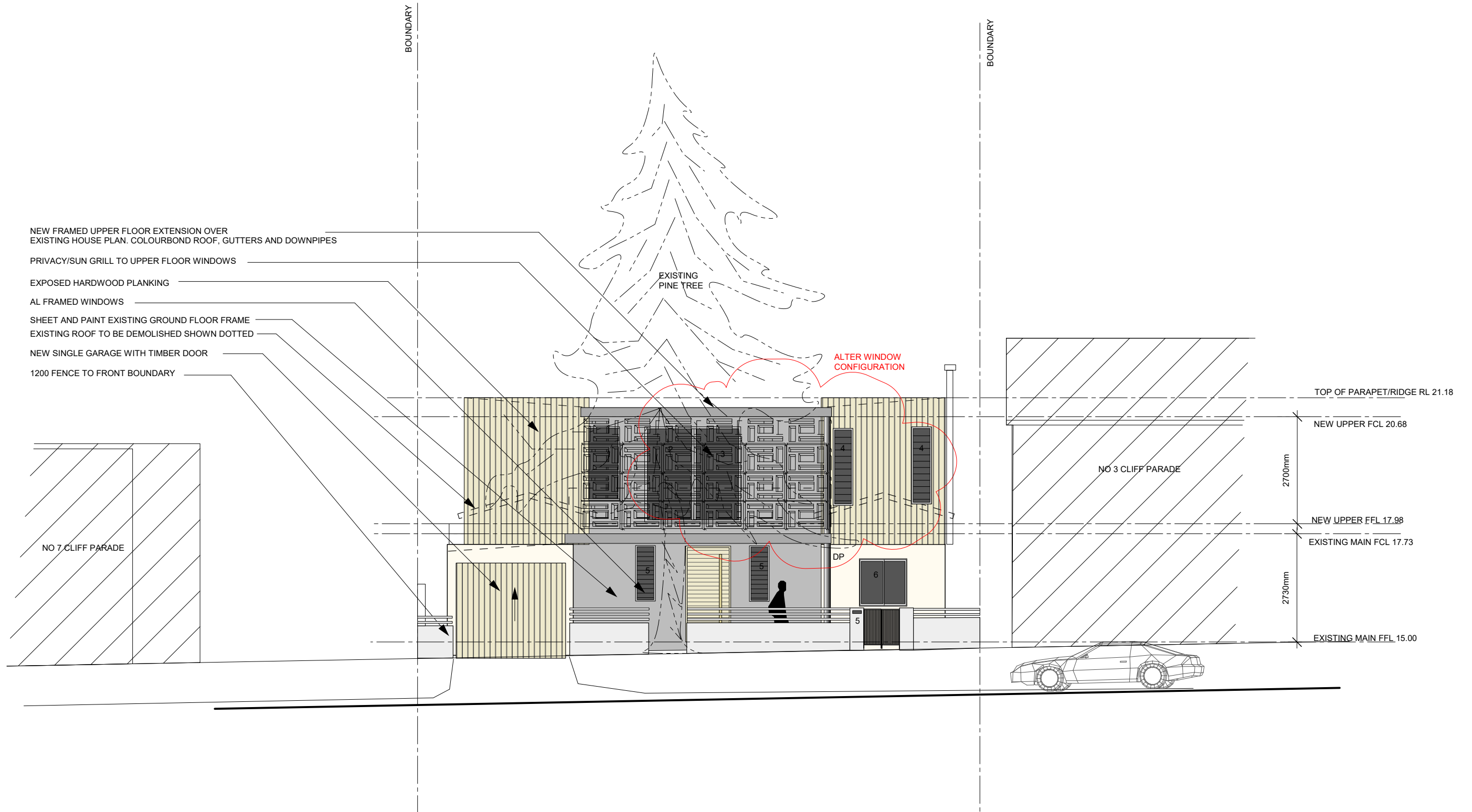
NEW LIGHT FITTINGS TO BASIX CERTIFICATE
NEW WATER FITTINGS TO BASIX CERTIFICATE
FLOOR, WALL AND CEILING INSULATION TO BASIX CERTIFICATE
WINDOWS AND GLAZING TO BASIX CERTIFICATE

SCALES

1:200

1:100





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LOT 6 DP 5736

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SCALES
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5 CLIFF PARADE THIRROUL

ALTERATIONS AND ADDITIONS

DRAWING:

WEST ELEVATION (CLIFF PARADE)

PROJECT NO: 18-346

DATE: JUN 2020

DWG NO.

AMEND:

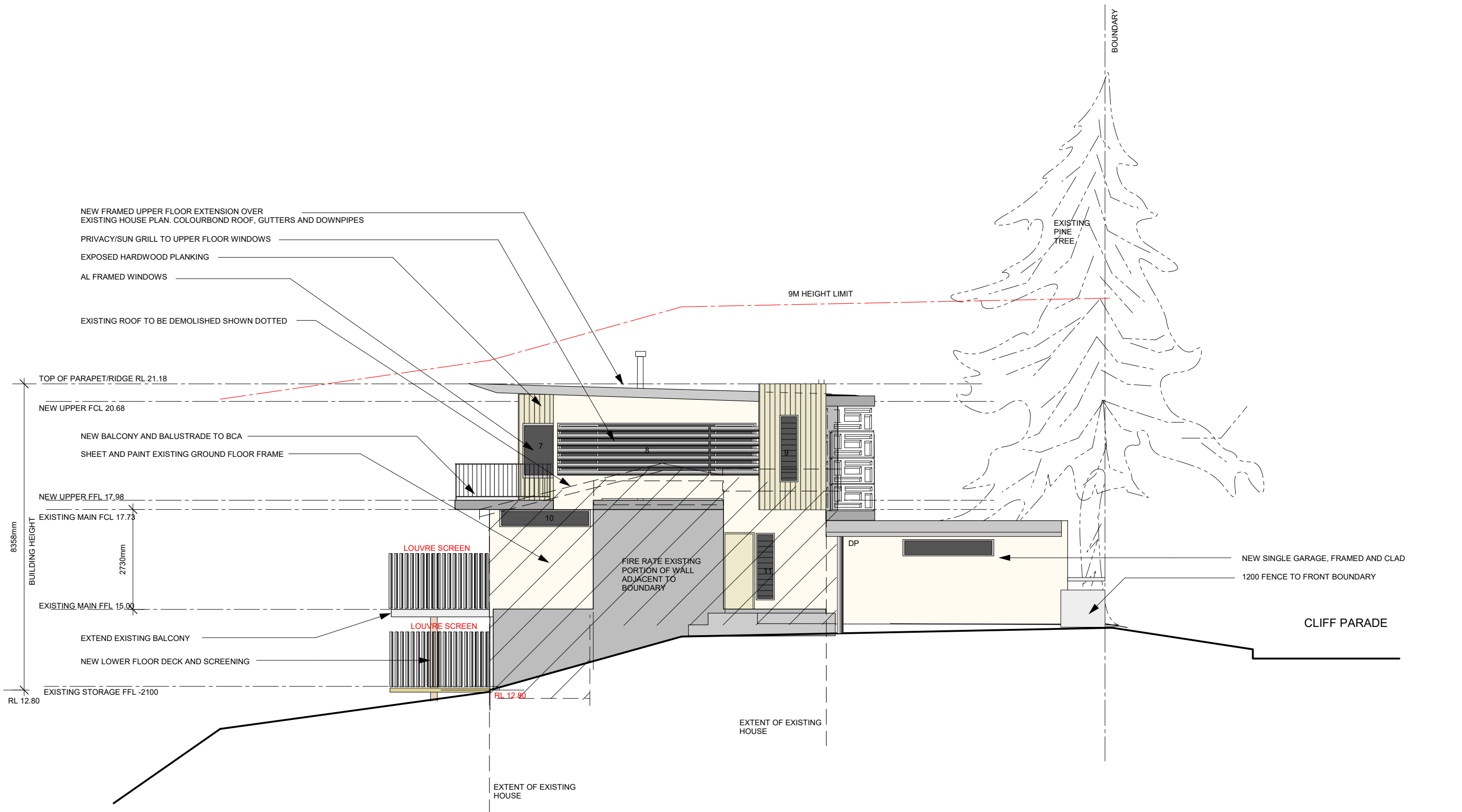
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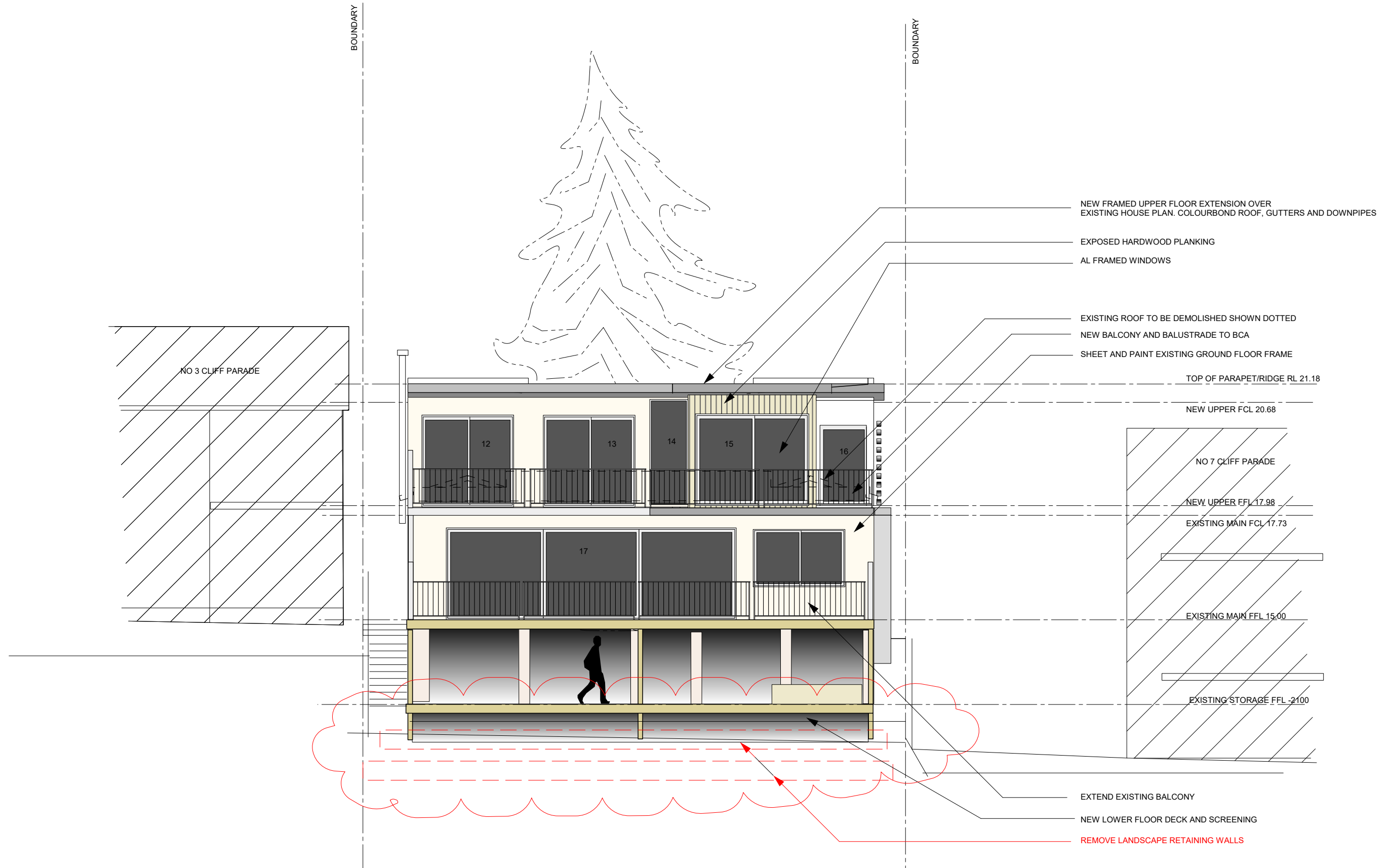
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michael vail <i>design</i>		ALL CONSTRUCTION TO COMPLY WITH THE PROVISIONS OF THE NCC		LOT 6 DP 5736		5 CLIFF PARADE THIRROUL	
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				PROJECT NO: 18-346 DATE: JUN 2020 DWG NO. AMEND:			
				DRAWN: MV SCALE: A3 Page 1:100			
CLIENT: E. AND M. SHERGILL						DA 05 D	



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SCALES
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5 CLIFF PARADE THIRROUL

ALTERATIONS AND ADDITIONS

DRAWING:

EAST ELEVATION

PROJECT NO: 18-346

DATE: JUN 2020

DWG NO.

AMEND:

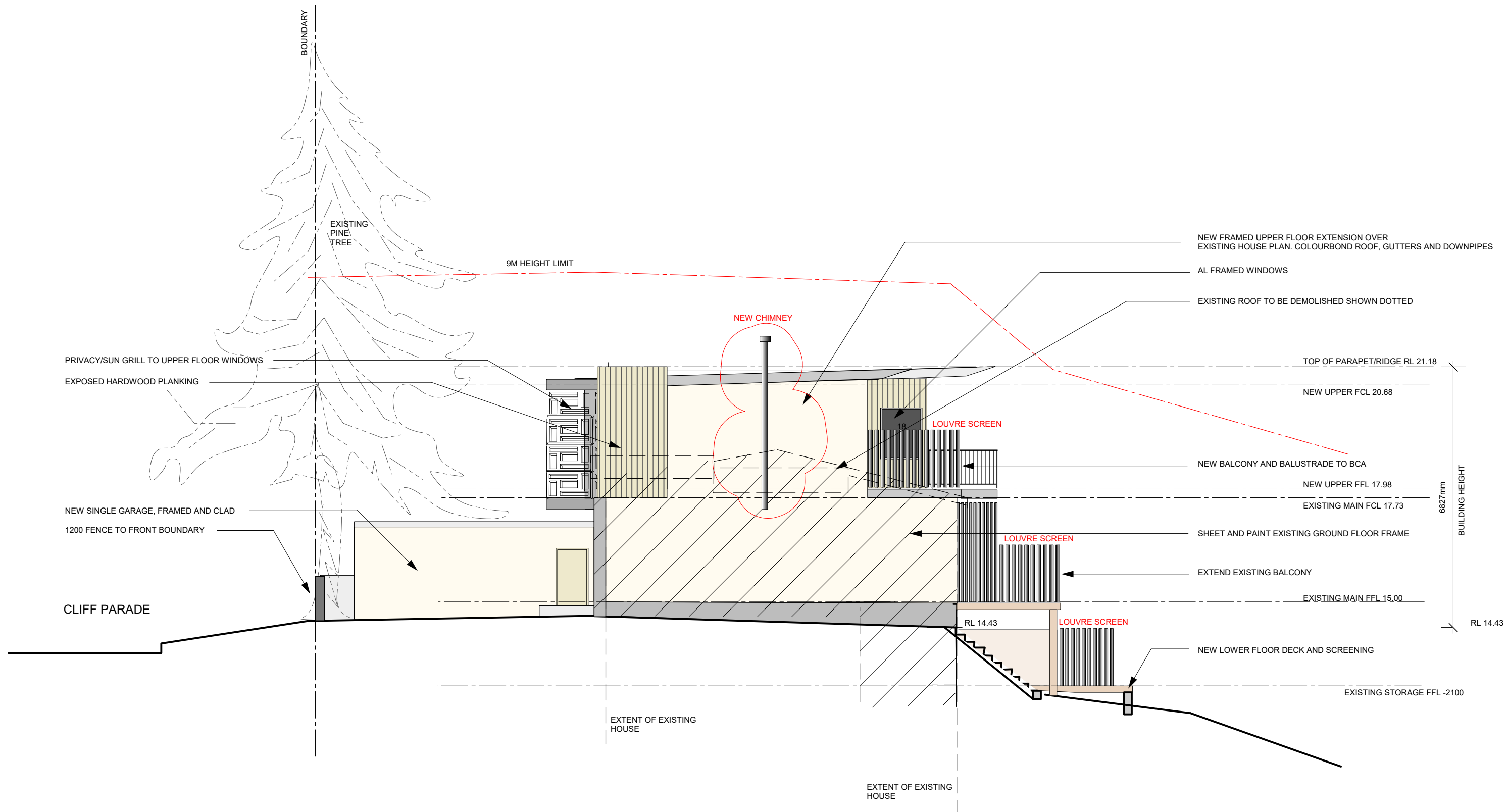
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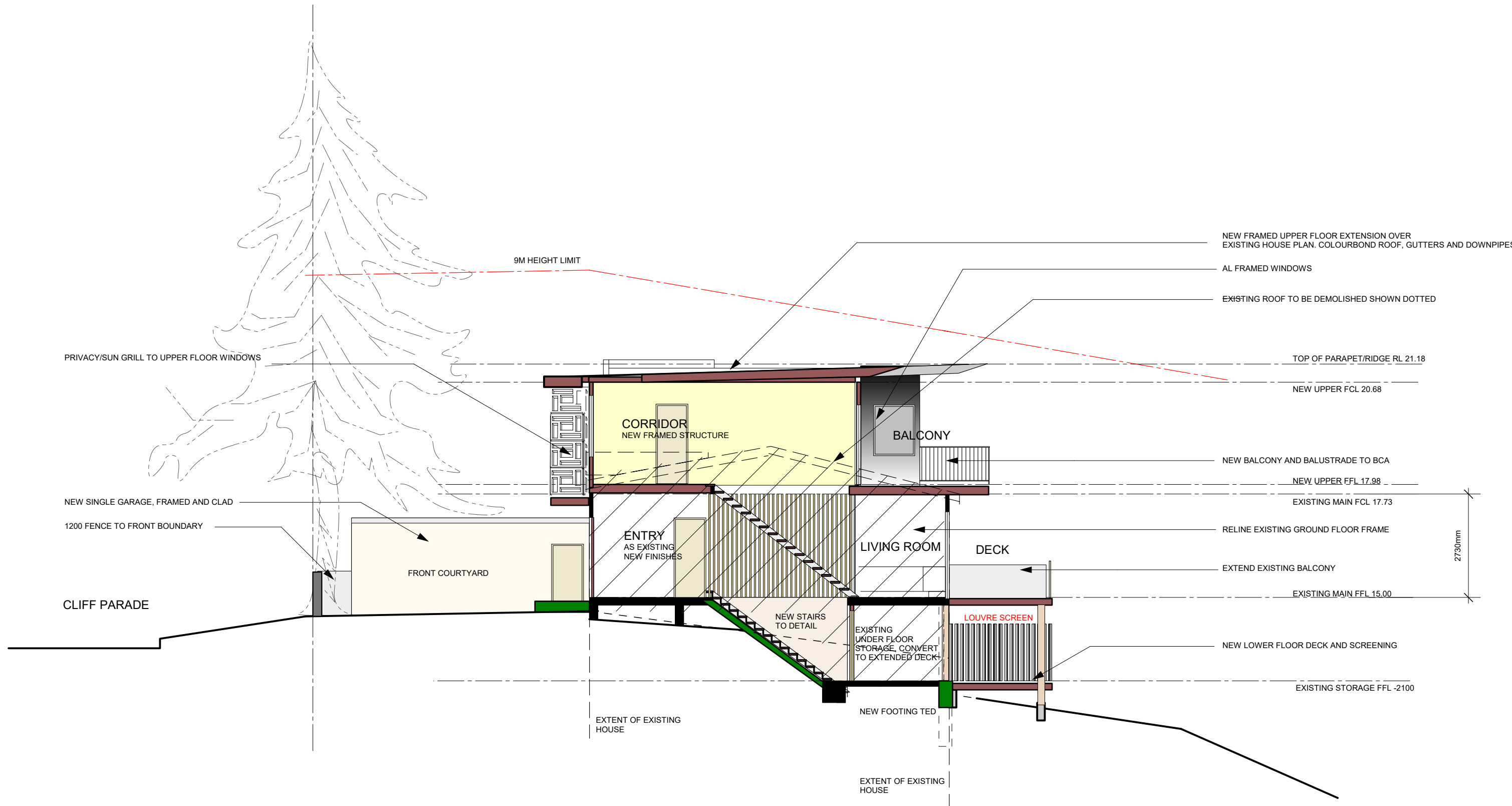
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<div>michael vail<div>design</div></div>		ALL CONSTRUCTION TO COMPLY WITH THE PROVISIONS OF THE NCC		LOT 6 DP 5736		5 CLIFF PARADE THIRROUL	
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						CLIENT: E. AND M. SHERGILL	



michael vail <div>design</div> <div>34 Park Street Coledale NSW 2515 AUSTRALIA 0438 121 321 mvail@tpg.com.au</div>		ALL CONSTRUCTION TO COMPLY WITH THE PROVISIONS OF THE NCC		LOT 6 DP 5736		5 CLIFF PARADE THIRROUL	
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				DRAWN: MVSCALE: A3 Page			
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2018107c: njb:
26 November, 2019

Mr M. & Mrs E Shergill
c/o Michael Vail Design
34 Park Street
Coledale, NSW 2515

Dear Sir & Madam,

**RE: FOOTING INSPECTION
NO.5 CLIFF PARADE, THIRROUL**

As requested, Southern Geotechnics NSW has carried out a further footing inspection at the property. The inspection was undertaken on 21 November 2019, by our Senior Geotechnical Engineer.

As we had recommended from our observations during the previous inspection, the majority of the uncontrolled fill placed on the cliff top had been removed and taken off site. We understand that you no longer wish to construct a retaining wall in this area. We therefore recommend that the now near natural ground surface in this area is protected from erosion using native trees and grasses.

The bored piers for the eastern additions to the residence, exposed completely to extremely weathered sandstone, which excavates as gravelly silty sand clay. The depths of the bored pier holes varied from about 1m to 1.5m below the prepared ground surface. A new excavation within the central portion of the residence, exposed about 0.2m of topsoil, overlying bouldery talus soils to a depth of about 2m, overlying silty sandy clay weathered from the primary rock. It should be noted that the new excavation exposed the foundation excavations for piers supporting internal walls, and indicated that the founding depth of these piers is about 1m from the ground surface, and within the talus soils.

Photographs of the new excavation and the inspected pier hole trenches are attached to this brief letter.

We can confirm that the founding depth of the recently inspected bored piers are within extremely or less weathered rock, and comply with the recommendations made within our initial report, for which an allowable bearing pressure of 400kPa may be assumed.

Yours faithfully,
Southern Geotechnics NSW Pty Ltd



Per: Nick Boers
MIEAust, CPEng, NER

Incl: Site Photographs taken 21 November 2019

Inspected Foundations



Showing soil profile beneath residence



Showing depth of internal pier footings



drawn	NJB	<p>MR M. & MRS E. SHERGILL NO.5 CLIFF PARADE, THIRROUL</p> <p>GEOTECHNICAL ASSESSMENT</p> <p>PHOTOGRAPHS TAKEN 21/11/2019</p>	<p>Southern Geotechnics</p> <p>Consulting Geotechnical Engineers</p>	photograph no:
approved	NJB			2018107c - 3
date	21/11/19			
scale	NTS			job no: 2018107c

Attachment 3 - WOLLONGONG DEVELOPMENT CONTROL PLAN 2009 – COMPLIANCE TABLES

CHAPTER B1 – RESIDENTIAL DEVELOPMENT

4.0 General Residential controls

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
<u>4.1 Maximum Number of Storeys</u>	No proposed change as a result of proposed modification.	NA
<u>4.2 Front Setbacks</u>	No proposed change as a result of proposed modification.	NA
<u>4.3 Side and Rear Setbacks</u>	<p>No proposed change to setbacks as a result of proposed modification. However, the first-floor balcony privacy screen, in condition 12 of the consent, is proposed to be modified. The modification requests the privacy screen to the northern edge be removed. As such amenity impacts have been considered.</p> <p>Several submissions were received regarding view impacts from the removal of the 1.5m high privacy screen on the first-floor balcony on the northern edge.</p> <p>The submissions related to overlooking of public spaces and impact on the adjoining neighbours. The neighbouring property located to the North 7-9 Cliff Parade however made no submission regarding the modification.</p> <p>The removal of the privacy screen to the northern edge of the first-floor balcony may result in minor overlooking to a portion of adjoining dwellings first-floor balcony (7-9 Cliff Pde). This first balcony adjoins the master bedroom and study. There is no notable screening on the balcony of the adjoining dwelling that is potentially impacted. As both balconies are connected to bedrooms any amenity impacts are considered minor.</p> <p>The applicant has provided a response to an additional information request regarding amenity impacts from potential overlooking. Photos are provided at attachment 5.</p>	Yes
<u>4.4 Site coverage</u>	No proposed change as a result of the proposed modification.	NA

<u>4.5 Landscaped Area</u>	The removal of the previously approved retaining walls will afford additional area for landscaping. Landscape conditions imposed as per Geotechnical letter recommendations. See Attachment 2.	Yes
<u>4.6 Private Open Space</u>	No proposed change to POS as a result of proposed modification.	NA
<u>4.7 Solar Access</u>	No proposed change to solar access as a result of proposed modification.	NA
<u>4.8 Building Character and Form</u>	Minor external changes to front elevation as a result of internal modifications to the floor plan and window re-configuration.	Yes
<u>4.9 Fences</u>	No proposed change to fencing as a result of proposed modification.	NA
<u>4.10 Car parking and Access</u>	No proposed change to car parking as a result of proposed modification.	NA
<u>4.11 Storage Facilities</u>	No proposed change as a result of proposed modification.	NA
<u>4.12 Site Facilities</u>	No proposed change as a result of proposed modification.	NA
<u>4.13 Fire Brigade Servicing</u>	No proposed change as a result of proposed modification.	NA
<u>4.14 Services</u>	No proposed change as a result of proposed modification.	NA
<u>4.15 Development near the Coastline</u>	A letter from the applicant's Geotechnical engineer was submitted with the application to modify. The letter makes recommendation the retaining walls are no longer required as a result of unlawful fill being removed from the site. As listed above in 4.5 Landscaped Area the recommendation includes erosion controls measures relating to landscaping. See Attachment 2.	Yes
<u>4.16 View sharing</u>	No additional changes to the building footprint. No foreseeable impact on view sharing.	NA
<u>4.17. Retaining walls</u>	A letter from the applicant's Geotechnical engineer was submitted with the application to modify. The letter makes recommendation the retaining walls are no longer required as a result of unlawful fill being removed from the site. As listed above in 4.5 Landscaped Area the recommendation includes erosion controls measures relating to landscaping. See Attachment 2.	Yes

CHAPTER D1 – CHARACTER STATEMENTS

Existing Character Thirroul

Thirroul residential area is characterised by a mix of single storey to two storey dwelling-houses including a number of circa 1920's and 1930's weatherboard and corrugated iron roofed bungalows. The coastal strip of Thirroul including along Lawrence Hargrave Drive contains a mix of single storey weatherboard and fibro dwellings and new contemporary dwellings and some medium density townhouses and walk up residential flat buildings. New hinterland subdivisions on the foothill slopes of the escarpment contain new contemporary split – level and two storey dwelling styles with weatherboard or rendered brick wall construction and pitched, sloping flat or curved roofline forms.

Desired Future Character Thirroul

Residential development will remain primarily low density in nature. Some restricted medium density within close vicinity to the Thirroul village centre and the railway station is envisaged. Any new housing must be sympathetic with the existing Thirroul village built form and streetscape, particularly in older areas with weatherboard houses, pitched roofs and wide eaves.

The subject proposal is not considered to be inconsistent with the desired future character statement for the area.

CHAPTER E3 CAR PARKING

No proposed change as a result of the modification. Existing conditions of consent are still considered relevant. Any alterations would need to comply with these requirements

CHAPTER E6 LANDSCAPING

Existing conditions of consent are still considered relevant. Any alterations would need to comply with these requirements.

CHAPTER E7 – WASTE MANAGEMENT

Existing conditions of consent are still considered relevant. Any alterations would need to comply with these requirements.

CHAPTER E12 – GEOTECHNICAL ASSESSMENT OF SLOPE INSTABILITY

Conditions of consent were recommended in the original consent and still considered relevant. Any alterations would need to comply with these requirements. The modified application has been reviewed by Council's Geotechnical Officer.

CHAPTER E19 – EARTHWORKS

Conditions of consent were recommended in the original consent and still considered relevant. Any alterations would need to comply with these requirements. The modified application has been reviewed by Council's Geotechnical Officer.

CHAPTER E21 – DEMOLITION AND ASBESTOS MANAGEMENT

Any demolition works need to comply with the NCC requirements. Existing conditions of consent are still considered relevant. Any alterations would need to comply with these requirements.

CHAPTER E22 – SOIL EROSION AND SEDIMENT CONTROL

Existing conditions of consent are still considered relevant. Any alterations would need to comply with these requirements.

michael vail

design

www.michaelvail.com.au

Michael Vail b.arch (hons) unsw
0438 121 321
mvail@tpg.com.au
34 park street coledale nsw 2515

Attn; The General Manager
Wollongong City Council
Burelli Street
Wollongong NSW 2500

3 September 2020

DA-2018/1592B - Modification Application Alterations and Additions 5 Cliff Parade Thirroul.

With reference to your request for further information and view impacts, please review the following information as part of the application assessment.

View Impact Study

The application for modification included an amendment to DA consent condition No. 12 with regards to the top floor balcony privacy screen on the Northeast side, which is outside the master bedroom suite and ensuite.

Council has requested photos and an impact statement to assess any impacts on neighbour's amenity, specifically the neighbours at 7 Cliff Parade.

It should be noted that the privacy concerns are to be assessed as from a parents bedroom suite, where the occupation is marginal and would not impact any normal day to day activities of the neighbours. Impacts would be more significant if viewing into the house and private spaces of the neighbours.



Photo 1.

Taken from inside the master bedroom, looking north through where the conditioned screen would be. This location would be the most used by the house occupants as it is the owner's bedroom.

The impact is principally the corner of the neighbour's balconies, and there is no looking into their house. Nor is there any sense of an imposition on the private open space.



Photo 2.

Taken from outside the master bedroom, looking north through to the corner of the balcony where the conditioned screen would finish.

The impact is across more of the neighbour's balconies, and there is still no looking into their house. There is a marginal impact on the garden open space.



Photo 3.

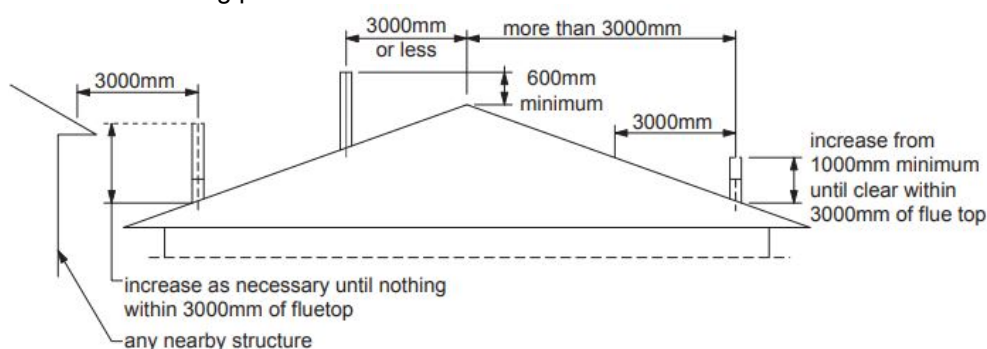
Taken from the centre of the upstairs balcony outside the second and third bedrooms, looking north through to the corner of the balcony where the conditioned screen would finish. The impact is similar to photo 2 above but set further back, with a limited view of the neighbour's top balcony. There is still no looking into their house and there is no impact on the garden open space.

Combustion Stove Chimney Installation

The application included details for the installation of a slow combustion timber fire. The approved DA indicated the internal location of the fire, and the amendment included details of the external flue on the south side of the house. The flue would be on the external façade of the house from the first floor level through to the roof.

With regards to the setback to the boundary and the flue, the BCA allows for exceptions for certain Building elements allowed to be at least 450mm from a boundary: any aerial, antenna, awning, eave, flue, chimney, pipe, cooling or heating appliance, any rainwater tank greater than 1.8m in height or any other structure associated with the provision of a utility service.

With regards to the height of the chimney AS2918 determines that the height should be set within the following parameters:



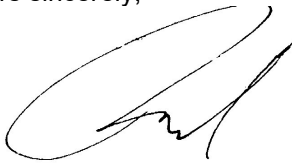
With the roof being a long skillion, the main determinant of the height of the chimney is that the flue top should be set 3m away from a neighbouring structure, in this case the roof at no 3 Cliff Parade which is a pitched roof of consistent gradient.

A number of factors determine where this point will be, including the actual size of the chimney flue, the wall penetration detail, and the specifications of the chosen fireplace. It might well be that the installer decides to move the fire location marginally to better comply with the code and height requirements. Therefore, to set a specific location and height level at this stage would probably only warrant a further amendment application.

The applicant has no issue with a condition on the DA that the flue installation must in compliance with the BCA and AS2918 with regards to the chimney height.

Please call me if you have any questions or require any additional information.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Michael Vail', with a large, sweeping loop at the start and a sharp, downward-pointing tail.

Michael Vail

ATTACHMENT 5 – Draft Conditions for DA-2018/1592/B

Approved Plans and Specifications

- 1 The development shall be implemented substantially in accordance with the details and specifications set out on Project No 18-346 Drawing DA 01-D to DA08-D dated 2 June 2020 prepared by Michael Vail Design and any details on the application form, and with any supporting information received, except as amended by the conditions specified and imposed hereunder.

Modification A

No additional plans or specifications

Original Consent

Project No 18-346 Drawing DA 01-B, DA 02-B and DA 04-B dated 10 May 2019 and DA 00-A, DA 03-A and DA 05-A to DA08-A dated 2 April 2019 prepared by Michael Vail Design.

General Matters

2 Geotechnical

- a All work is to be in accordance with the geotechnical recommendations contained in the reports dated 4 April 2019 and 26 November 2019 by Southern Geotechnics and any subsequent geotechnical report required to address unanticipated conditions encountered during construction.
- b All stormwater and wastewater is to be taken away from the building envelope by means as recommended by the geotechnical consultant. There is to be no in-ground absorption.
- c Articulation jointing is to be provided between the proposed decks and existing development or as recommended by the geotechnical consultant.
- d Foundation systems are to be designed for Class P soils with all new footings for the additions to be founded at least 0.5m within the underlying weathered bedrock or as recommended by the geotechnical consultant.
- e All excavations for foundations are to be inspected by the geotechnical consultant and certified that the ground has been suitably prepared for the placement of footings.

Amended—Modification B

3 Front Fence Design

The front fence footings shall be designed in accordance with the recommendations in arborist's report Ref No D3653 dated March 2019 by Allied Tree Consultancy Author Warwick Varley and supplementary report Ref No D3653A dated 9 May 2019.

4 Lower Level

The existing under floor storage at the lower level, noted as Lower Floor Deck Plan on Drawing No DA 03-A dated 2 April 2019, and any subsequent modifications prepared by Michael Vail Design, is to be converted to an open deck area in accordance with Engineers details. This area shall not be enclosed.

Amended—Modification B

5 Building Work - Compliance with the Building Code of Australia

All building work must be carried out in compliance with the provisions of the Building Code of Australia.

6 Mailbox

The developer must install a mailbox along street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 120 mm in height for each number and letter in the alphabet. The developer must install minimum two (2 No.) reflective paint house number on face of the kerb along street frontage of the property to assist emergency services/deliveries/visitors.

7 **Height Restriction**

The development shall be restricted to a maximum height of 8.358 metres AHD from the natural ground level (inclusive of the lift tower and any air conditioning plant). Any alteration to the maximum height of the development will require further separate approval of Council.

8 **Tree Management**

The developer shall retain existing trees indicated on Concept Landscape Plan by Michael Vail Dwg No DA 14 Issue B dated 10 May 2019 consisting of tree numbered 1, large *Araucaria heterophylla* Norfolk Island Pine. Total number: one (1 No.).

Any branch or root pruning which has been given approval, must be carried out by a qualified arborist in accordance with Australian Standard AS4373 (2007).

All tree protection measures are to be installed in accordance with Australian standard AS4970-2009 Protection of Trees on development Sites.

Recommendations in arborist's report Ref No D3653 dated March 2019 by Allied Tree Consultancy Author Warwick Varley and supplementary report Ref No D3653A dated 9 May 2019 to be implemented including and not restricted to: relocating garage north, deleting paving front courtyard, flexible pavement for garage, no strip footing for front fence, pier only with potholing prior, project arborist being present during work within Structural Root Zone (SRZ) and supervising work within Tree Protection Zones (TPZ), site induction with reference to tree protection, referring matters to project arborist, re-routing of sub surface utilities to avoid Tree Protection Zones (TPZ), hand excavation within TPZ near tree roots, remedial tree pruning, deadwooding, fencing and signage, sediment buffer, stem protection, establishing TPZs, mulching and watering and root hormone application if required. Soil levels within the TPZ must remain the same.

9 **Construction Certificate**

A Construction Certificate must be obtained from Council or an Accredited Certifier prior to work commencing.

A Construction Certificate certifies that the provisions of Clauses 139-148 of the Environmental Planning and Assessment Amendment Regulations, 2000 have been satisfied, including compliance with all relevant conditions of Development Consent and the Building Code of Australia.

Note: The certifying authority must cause notice of its determination to be given to the consent authority, and to the council, by forwarding to it, within two (2) days after the date of the determination, the plans and documentation referred to in clause 142 (2) of the Environmental Planning and Assessment Regulation 2000.

10 **Occupation Certificate**

An Occupation Certificate must be issued by the Principal Certifying Authority prior to occupation or use of the development. In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of section 6.9 of the Environmental Planning and Assessment Act 1979, have been complied with as well as all of the conditions of the Development Consent.

Prior to the Issue of the Construction Certificate

11 **Present Plans to Sydney Water**

Approved plans must be submitted online using Sydney Water Tap, available through www.sydneywater.com.au to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

The Certifying Authority must ensure that Sydney Water has issued an approval receipt prior to the issue of a Construction Certificate.

Visit www.sydneywater.com.au or telephone 13 20 92 for further information.

12 **Construction of Fin Walls or Fixed Louvre Screens**

The construction of 1.5 metre high fin walls or fixed louvre screens along the side edges of all balconies/decks in the development, excluding the northern elevation of the first floor, is required. This requirement shall be reflected on the Construction Certificate plans.

Amended—Modification B

- 13 The parking dimensions, internal circulation, aisle widths, kerb splay corners, head clearance heights, ramp widths and grades of the car parking areas are to be in conformity with the current relevant Australian Standard AS2890.1, except where amended by other conditions of this consent. Details of such compliance are to be reflected on the Construction Certificate plans.

14 **Structures Adjacent to Driveway**

Any proposed structures adjacent to the driveway shall comply with the requirements of the current relevant Australian Standard AS2890.1 (figure 3.2 and 3.3) to provide for adequate pedestrian and vehicle sight distance. This includes, but is not limited to, structures such as signs, letterboxes, retaining walls, dense planting etc. This requirement shall be reflected on the Construction Certificate plans.

15 **Landscaping**

The submission of a final Landscape Plan to the Principal Certifying Authority, prior to the release of the Construction Certificate. The final Landscape Plan shall address the following requirements:

- a planting of indigenous plant species typical of the Illawarra Region such as: *Syzygium smithii* (formerly *Acmena smithii*) Lilly pilly, *Archontophoenix cunninghamiana* Bangalow palm, *Backhousia myrtifolia* Grey myrtle, *Elaeocarpus reticulatus* Blueberry ash, *Glochidion ferdinandii* Cheese tree, *Livistona australis* Cabbage palm tree, *Brachychiton acerifolius* Illawarra Flame Tree. A further list of suitable suggested species for the Thirroul area may be found in Wollongong Development Control Plan 2009 – Chapter E6: Landscaping;
- b a schedule of proposed planting, including botanic name, common name, expected mature height and staking requirements as well as number of plants and pot sizes;
- c the location of all proposed and existing overhead and underground service lines. The location of such service lines shall be clear of the dripline of existing and proposed trees;
- d any proposed hard surface under the canopy of an existing trees shall be permeable and must be laid such that the finished surface levels match the existing level. Permeable paving is to be installed in accordance with the manufacturer's recommendations;
- e The developer shall ensure that proposed planting is child friendly and must **not** include any of the types of plants listed below: **i)** plants known to produce toxins; **ii)** plant with high allergen properties; **vi)** any weed or potential weed species; and;
- f Any fill material should not cover topsoil. Topsoil shall be removed, stockpiled, ameliorated and replaced over any fill material to a minimum depth of 100mm.

The completion of the landscaping works as per the final approved Landscape Plan is required, prior to the issue of Occupation Certificate or commencement of the development.

- 16 The submission of certification from a suitably qualified and experienced landscape designer and drainage consultant to the Principal Certifying Authority prior to the release of the Construction Certificate, confirming that the landscape plan and the drainage plan are compatible.

- 17 The implementation of a landscape maintenance program in accordance with the approved Landscape Plan for a minimum period of 12 months to ensure that all landscape work becomes well established by regular maintenance. Details of the program must be submitted with the Landscape Plan to the Principal Certifying Authority prior to release of the Construction Certificate.

18 **Tree Protection Measures**

The existing trees are to be retained upon the subject property and any trees on adjoining properties shall not be impacted upon during the excavation or construction phases of the development. This

will require the installation and maintenance of appropriate tree protection measures, including (but not necessarily limited to) the following:

- a Installation of Tree Protection Fencing - Protective fencing shall be 1.8 metre cyclone chainmesh fence, with posts and portable concrete footings. Details and location of protective fencing must be indicated on the architectural and engineering plans to be submitted to the Principal Certifying Authority prior to release of the Construction Certificate.
- b Mulch Tree Protection Zone: Areas within a Tree Protection Zone are to be mulched with minimum 75 mm thick 100% recycled hardwood chip/leaf litter mulch.
- c Irrigate: Areas within the Tree Protection Zone are to be regularly watered in accordance with the arborist's recommendations.

The submission of a final Site Plan to the Principal Certifying Authority indicating required tree protection fencing is required, prior to the release of the Construction Certificate.

19 **Smoke Alarms**

Smoke alarms designed to ensure the occupants are given adequate warning so they can evacuate the building in an emergency shall be installed in the building in accordance with Part 3.7.2 of the Building Code of Australia (Housing Provisions). The location of smoke alarms shall be shown on plan prior to the issue of the construction certificate.

20 **Stormwater Drainage Design**

A detailed drainage design for the development must be submitted to and approved by the Principal Certifying Authority prior to the release of the Construction Certificate. The detailed drainage design must satisfy the following requirements:

- a Be prepared by a suitably qualified civil engineer in accordance with Chapter E14 of Wollongong City Council's Development Control Plan 2009, Subdivision Policy, conditions listed under this consent, and generally in accordance with the concept plan/s lodged for development approval, prepared by Michael Vail Design, Reference No 18-346 DA 15, issue A, dated 2 April 2019.
- b Include details of the method of stormwater disposal. Stormwater from the development must be piped to Council's existing stormwater drainage system.
- c Engineering plans and supporting calculations for the stormwater drainage system are to be prepared by a suitably qualified engineer and be designed to ensure that stormwater runoff from upstream properties is conveyed through the site without adverse impact on the development or adjoining properties. The plan must indicate the method of disposal of all stormwater including drainage associated with retaining walls and must include rainwater tanks, existing ground levels, finished surface levels on all paved areas, estimated flow rates, invert levels and sizes of all pipelines.
- d Overflow paths shall be provided to allow for flows of water in excess of the capacity of the pipe/drainage system draining the land, as well as from any detention storage on the land. Blocked pipe situations with 1 in 100 year ARI events shall be incorporated in the design. Overflow paths shall also be provided in low points and depressions. Each overflow path shall be designed to ensure no entry of surface water flows into any building and no concentration of surface water flows onto any adjoining property. Details of each overflow path shall be shown on the detailed drainage design.
- e The drainage design shall be in accordance with the geotechnical recommendations contained in the report dated 4 April 2019 by Southern Geotechnics and any subsequent geotechnical reports.

21 **Council Footpath Reserve Works**

All redundant vehicular crossings and laybacks rendered unnecessary by this development must be reconstructed to normal kerb and gutter or existing edge of carriageway treatment to match the existing. The verge from the back of kerb to the boundary must be restored and the area

appropriately graded, topsoiled and turfed in a manner that conforms with adjoining road reserve. The area forward of the front boundary must be kept smooth, even and free from any trip hazards. All alterations of public infrastructure where necessary are at the developer's expense.

All new driveway laybacks and driveway crossings must be designed in accordance with Wollongong City Council Standards. Details and locations are to be shown on the Construction Certificate Plans.

22 **Structural Certificate - Live and Dead Loads**

The submission of a Certificate from a suitably qualified and experienced structural engineer confirming that the existing structure will adequately support all additional live and dead loads imposed by the proposed development, is required prior to the release of the Construction Certificate.

23 **Structural Engineering Details**

The submission of structural engineering details by a suitably qualified and experienced structural engineer (with appropriate insurance coverage) to the Principal Certifying Authority, prior to the release of the Construction Certificate addressing the following matters:

- a Footings;
- b reinforced concrete slabs;
- c retaining walls;
- d structural steelwork;
- e wall bracing and tie-down requirements;
- f the structural engineer, in producing a design is to complement the Geotechnical Engineer's Stability Report to make a clear statement that "any structure designed and erected in accordance with the plans and specifications will achieve the performance requirements described in Clause 1.3 of 2870 (1996) and any other relevant codes and standards."

Note - The footings/ reinforced concrete slab associated with the garage shall be endorsed by the supervising arborist and be in accordance with the recommendations in arborist's report Ref No D3653 dated March 2019 by Allied Tree Consultancy Author Warwick Varley and supplementary report Ref No D3653A dated 9 May 2019.

24 **Development Contributions**

Pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979 and the Wollongong City-Wide Development Contributions Plan (2018), a monetary contribution of \$5,830.00 (subject to indexation) must be paid to Council towards the provision of public amenities and services, prior to the release of any associated Construction Certificate.

This amount has been calculated based on the estimated cost of development and the applicable percentage rate.

The contribution amount will be subject to indexation until the date of payment. The formula for indexing the contribution is:

$$\text{Contribution at time of payment} = \$C \times (CP2/CP1)$$

Where:

\$C is the original contribution as set out in the Consent

CP1 is the Consumer Price Index; All Groups CPI; Sydney at the time the consent was issued

CP2 is the Consumer Price Index; All Groups CPI; Sydney at the time of payment

Details of CP1 and CP2 can be found in the Australian Bureau of Statistics website – Catalogue No. 6401.0 - Consumer Price Index, Australia.

The following payment methods are available:

METHOD	HOW	PAYMENT TYPE
Online	http://www.wollongong.nsw.gov.au/applicationpayments Your Payment Reference: 1065881	<ul style="list-style-type: none"> • Credit Card
In Person	Wollongong City Council Administration Building - Customer Service Centre Ground Floor 41 Burelli Street, WOLLONGONG	<ul style="list-style-type: none"> • Cash • Credit Card • Bank Cheque
PLEASE MAKE BANK CHEQUE PAYABLE TO: Wollongong City Council (Personal or company cheques are not accepted)		

A copy of the Wollongong City-Wide Development Contributions Plan (2018) and accompanying Fact Sheet may be inspected or obtained from the Wollongong City Council Administration Building, 41 Burelli Street, Wollongong during business hours or on Council's web site at www.wollongong.nsw.gov.au

Prior to the Commencement of Works

25 Appointment of Principal Certifying Authority

Prior to commencement of work, the person having the benefit of the Development Consent and a Construction Certificate must:

- a Appoint a Principal Certifying Authority (PCA) and notify Council in writing of the appointment irrespective of whether Council or an accredited private certifier is appointed; and
- b notify Council in writing of their intention to commence work (at least two days' notice is required).

The Principal Certifying Authority must determine when inspections and compliance certificates are required.

26 Residential Building Work – Compliance with the Requirements of the Home Building Act 1989

Building work involving residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates:

- a in the case of work to be done by a licensee under that Act:
 - i has been informed in writing of the licensee's name, contractor license number and contact address details (in the case of building work undertaken by a contractor under the Home Building Act 1989); and
 - ii is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or
- b in the case of work to be done by any other person:
 - i has been informed in writing of the persons name, contact address details and owner-builder permit number; and
 - ii has been given a declaration signed by the property owner(s) of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of the Home Building Act 1989 and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

Note: A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that the specific person or licensed contractor is the holder of an insurance policy issued for the purposes of that Part of the Act is, for the purposes of this condition, sufficient evidence that the person has complied with the requirements of that Part of the Act.

27 **Sign – Supervisor Contact Details**

Before commencement of any work, a sign must be erected in a prominent, visible position:

- a stating that unauthorised entry to the work site is not permitted;
- b showing the name, address and telephone number of the Principal Certifying Authority for the work; and
- c showing the name and address of the principal contractor in charge of the work site and a telephone number at which that person can be contacted at any time for business purposes.

This sign shall be maintained while the work is being carried out and removed upon the completion of the construction works.

28 **Temporary Toilet/Closet Facilities**

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided must be:

- a a standard flushing toilet; and
- b connected to either:
 - i the Sydney Water Corporation Ltd sewerage system or
 - ii an accredited sewage management facility or
 - iii an approved chemical closet.

The toilet facilities shall be provided on-site, prior to the commencement of any works.

29 **Structural Engineer's Details**

Structural engineer's details for all structurally designed building works such as reinforced concrete footings, reinforced concrete slabs and structural steelwork must be submitted to the Principal Certifying Authority, prior to the commencement of any works on the site.

30 **Enclosure of the Site**

The site must be enclosed with a suitable security fence to prohibit unauthorised access, to be approved by the Principal Certifying Authority. No building work is to commence until the fence is erected.

31 **Demolition Works**

Any partial demolition of the existing dwelling shall be carried out in accordance with Australian Standard AS2601 (2001): The Demolition of Structures or any other subsequent relevant Australian Standard and the requirements of the SafeWork NSW.

No demolition materials shall be burnt or buried on-site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Any unforeseen hazardous and/or intractable wastes shall be disposed of to the satisfaction of the Principal Certifying Authority. In the event that the demolition works may involve the obstruction of any road reserve/footpath or other Council owned land, a separate application shall be made to Council to enclose the public place with a hoarding or fence over the footpath or other Council owned land.

32 **Demolition Notification to Surrounding Residents**

Demolition must not commence unless at least two (2) days written notice has been given to adjoining residents of the date on which demolition works will commence.

33 **Waste Management**

The developer must provide an adequate receptacle to store all waste generated by the development pending disposal. The receptacle must be regularly emptied and waste must not be allowed to lie

or accumulate on the property other than in the receptacle. Consideration should be given to the source separation of recyclable and reusable materials.

34 **Support for Neighbouring Buildings**

This consent requires the preservation and protection of neighbouring buildings from any damage and if necessary, requires the underpinning and support of any neighbouring building in an approved manner. The applicant or the contractor carrying out the work must at least seven days in advance of any excavation works below the level of the base of the footings of a building on an adjoining allotment, including a public road or place, give written notice of intention to carry out such works to the property owner of the affected adjoining building and furnish specific written details and supporting plans or other documentation of the proposed work.

The adjoining property owner of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

35 **Temporary Sediment Fences**

Temporary sediment fences (eg haybales or geotextile fabric) must be installed on the site, prior to the commencement of any excavation, demolition or construction works in accordance with Council's guidelines. Upon completion of the development, sediment fencing is to remain until the site is grassed or alternatively, a two (2) metre strip of turf is provided along the perimeter of the site, particularly lower boundary areas.

36 **All-weather Access**

An all-weather stabilised access point must be provided to the site to prevent sediment leaving the site as a result of vehicular movement. Vehicular movement should be limited to this single access way.

37 **Tree Protection Implementation**

The existing trees are to be retained upon the subject property and any trees on adjoining properties shall not be impacted upon during the excavation or construction phases of the development. This will require the installation and maintenance of appropriate tree protection measures, including (but not necessarily limited to) the following:

- a installation of Tree Protection Fencing - Protective fencing shall be 1.8 m cyclone chainmesh fence, with posts and portable concrete footings;
- b mulch Tree Protection Zone: Areas within a Tree Protection Zone are to be mulched with minimum 75 mm thick 100% recycled hardwood chip/leaf litter mulch;
- c irrigate: Areas within the Tree Protection Zone are to be regularly watered in accordance with the arborist's recommendations.

The tree protection fencing shall be installed prior to the commencement of any demolition, excavation or construction works and shall be maintained throughout the entire construction phases of the development.

38 **Supervising Arborist – Tree Inspection and Installation of Tree Protection Measures**

Prior to the commencement of any demolition, excavation or construction works, the supervising arborist must certify in writing that tree protection measures have been inspected and installed in accordance with the arborist's recommendations and relevant conditions of this consent.

39 **Footpath Levels**

Where required to construct footpath paving for the entire frontage of the development or build up to the property boundary, footpath levels must be obtained from Council's Development Engineering Division prior to the issue of Construction Certificate. This can be achieved by filling out an Application for Footpath Levels form and payment of the relevant fee.

All such structures, finished floor levels and internal driveway slabs shall be constructed to these approved levels.

The longitudinal grade of the footpath must be parallel to the top of kerb level and all building entrance adjustments for level access to building floor levels must be developed within the private property of the building in accordance with the requirements of the latest versions of AS1428.1

(2009), the Building Code of Australia and the Disability Discrimination Act. No adjustments to the uniform and even longitudinal grade of the footpath at the boundary line will be permitted for access points to buildings.

A copy of the approved levels shall be submitted to the Principal Certifying Authority prior to works commencing.

40 **Application for Occupation, Use, Disturbance or Work on Footpath/Roadway**

Any occupation, use, disturbance or work on the footpath or road reserve for construction purposes, which is likely to cause an interruption to existing pedestrian and/or vehicular traffic flows requires Council consent under Section 138 of the Roads Act 1993. An application must be submitted and approved by Council prior to the works commencing where it is proposed to carry out activities such as, but not limited to, the following:

- a Digging or disruption to footpath/road reserve surface;
- b Loading or unloading machinery/equipment/deliveries;
- c Installation of a fence or hoarding;
- d Stand mobile crane/plant/concrete pump/materials/waste storage containers;
- e Pumping stormwater from the site to Council's stormwater drains;
- f Installation of services, including water, sewer, gas, stormwater, telecommunications and power;
- g Construction of new vehicular crossings or footpaths;
- h Removal of street trees;
- i Carrying out demolition works.

41 **Works in Road Reserve - Minor Works**

Approval, under Section 138 of the Roads Act must be obtained from Wollongong City Council's Development Engineering Team prior to any works commencing or any proposed interruption to pedestrian and/or vehicular traffic within the road reserve caused by the construction of this development.

The application form for Works within the Road Reserve – Section 138 Roads Act can be found on Council's website. The form outlines the requirements to be submitted with the application, to give approval to commence works under the roads act. It is advised that all applications are submitted, and fees paid, five (5) days prior to the works within the road reserve are intended to commence. The Applicant is responsible for the restoration of all Council assets within the road reserve which are impacted by the works/occupation. Restoration must be in accordance with the following requirements:

- a All restorations are at the cost of the Applicant and must be undertaken in accordance with Council's standard document, "Specification for work within Council's Road reserve".
- b Any existing damage within the immediate work area or caused as a result of the work/occupation, must also be restored with the final works.

42 **Protection of Public Infrastructure**

Council must be notified in the event of any existing damage to any of its infrastructure such as the road, kerb and gutter, road shoulder, footpath, drainage structures and street trees fronting the development site, prior to commencement of any work.

Adequate protection must be provided for Council infrastructure prior to work commencing and during building operations.

Any damage to Council's assets shall be made good, prior to the issue of any Occupation Certificate or commencement of the operation.

During Demolition, Excavation or Construction

43 **Piping of Stormwater to Existing Stormwater Drainage System**

Stormwater for the land must be piped to Council's existing stormwater drainage system.

- 44 **No Adverse Run-off Impacts on Adjoining Properties**
The design of the development shall ensure there are no adverse effects to adjoining properties as a result of flood or stormwater run-off. Attention must be paid to ensure adequate protection for buildings against the ingress of surface run-off.

Allowance must be made for surface run-off from adjoining properties. Any redirection or treatment of that run-off must not adversely affect any other property.
- 45 **Restricted Hours of Construction Work**
The developer must not carry out any work, other than emergency procedures, to control dust or sediment laden runoff outside the normal working hours, namely, 7.00 am to 5.00 pm, Monday to Saturday, without the prior written consent of the Principal Certifying Authority and Council. No work is permitted on public holidays or Sundays.

Any request to vary these hours shall be submitted to the **Council** in writing detailing:
- a the variation in hours required (length of duration);
 - b the reason for that variation (scope of works);
 - c the type of work and machinery to be used;
 - d method of neighbour notification;
 - e supervisor contact number;
 - f any proposed measures required to mitigate the impacts of the works.
- Note: The developer is advised that other legislation may control the activities for which Council has granted consent, including but not limited to, the Protection of the Environment Operations Act 1997.
- 46 Trucks which are entering and leaving the premises and carrying loads must be sealed or covered at all times, except during loading and unloading.
- 47 **Excavation/ Retaining Wall Structures**
Any proposed filling on the site must not:
- a encroach onto the adjoining properties, and
 - b adversely affect the adjoining properties with surface run-off.
- 48 All proposed cut and filling works must be adequately retained with all battered slopes being no steeper than 2H: 1V and comply with Council's "Policy for Development on Sloping Sites", approved plans and the geotechnical recommendations.
- 49 **Asbestos – Removal, Handling and Disposal Measures/Requirements Asbestos Removal by a Licensed Asbestos Removalist**
The removal of any asbestos material must be carried out by a licensed asbestos removalist if over 10 square metres in area of non-friable asbestos, or if any type of friable asbestos in strict accordance with SafeWork NSW requirements (<http://www.safework.nsw.gov.au>).
- 50 **Asbestos Clearance Certificate**
The internal floor area affected or likely to be affected, by scattering of asbestos pieces, particles or fibres during demolition or cutting into the building, is to be cleaned by vacuuming by a contractor approved by SafeWork NSW. A Clearance Certificate to certify that the site area is free of asbestos is to be submitted to Council by a licensed asbestos assessor within fourteen (14) days of the completion of renovations (or prior to the Occupation Certificate being issued).
- 51 **Acid Sulfate Soils**
The Wollongong Local Environmental Plan 2009 Acid Sulfate Soils Map has identified that this property may be affected by class 5 Acid Sulfate Soils. Acid Sulfate Soils contain iron sulfides which, when exposed to air due to drainage or disturbance, may produce sulfuric acid and release toxic quantities of iron, aluminium and heavy metals. The Acid Sulfate Soils Map is an indication only and you are advised that you may encounter acid sulfate soils during the excavation for the proposed development.

Any spoil material extracted or excavated from the foundations must be neutralised with commercial lime (calcium bicarbonate) by the addition of 10 kilograms of lime per 1 cubic metre

of spoil material before it is disposed of or re-used on-site. Lime is to be added by evenly distributing over all exposed surface areas, drilled piers and footing trenches on the site, prior to pouring concrete.

Council suggests the applicant refer to the Acid Sulfate Soils Assessment Guidelines contained in the Acid Sulfate Soils Manual, prepared by NSW Acid Sulfate Management Advisory Committee, August 1998 for further information.

52 **Provision of Waste Receptacle**

The developer must provide an adequate receptacle to store all waste generated by the development, pending disposal. The receptacle must be regularly emptied and waste must not be allowed to lie or accumulate on the property other than in the receptacle. Consideration should be given to the source separation of recyclable and re-usable materials.

53 **BASIX**

All the commitments listed in each relevant BASIX Certificate for the development must be fulfilled in accordance with Clause 97A(2) of the Environmental Planning & Assessment Regulation 2000.

A relevant BASIX Certificate means:

- A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 4.55 of the Environmental Planning & Assessment Act 1979, a BASIX Certificate that is applicable to the development when this development consent is modified); or
- if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000.”

Prior to the Issue of the Occupation Certificate

54 **Retaining Wall Certification**

The submission of a certificate from a suitably qualified and experienced structural engineer or civil engineer to the Principal Certifier is required, prior to the issue of the Occupation Certificate or commencement of the use. This certification is required to verify the structural adequacy of any retaining walls and that retaining walls have been constructed in accordance with plans approved by the Principal Certifier.

Amended—Modification B

54A **Wood Fired Heater**

The installation of the wood fired heater and flue shall be installed in accordance with AS 2918 and manufacturers specifications. The chimney flue shall be installed 3m from adjoining dwellings unless otherwise approved in writing by Council.

Added—Modification B

55 **BASIX**

A final occupation certificate must not be issued unless accompanied by the BASIX Certificate applicable to the development. The Principal Certifying Authority must not issue the final occupation certificate unless satisfied that selected commitments have been complied with as specified in the relevant BASIX Certificate. NOTE: Clause 154B of the Environmental Planning and Assessment Regulation 2000 provides for independent verification of compliance in relation to certain BASIX commitments.

56 **Completion of Landscape Works**

The completion of the landscaping works as per the final approved Landscape Plan is required prior to the issue of Occupation Certificate. The final landscape plan shall reflect any revisions or additional landscaping required to the rear, in replacement of retaining walls, as per the recommendations of in the report dated 26 November 2019 by Southern Geotechnics.

Amended—Modification B

57 **Arborist Verification – Street Tree Installation**

Prior to the issue of Occupation Certificate, the developer must supply certification in the form of a report, including photographic evidence, from an AQF Level 5 Arborist to the Principle Certifying Authority and Wollongong City Council to verify:

- The tree stock complies with AS 2203:2018 Tree Stock for Landscape Use.
- The tree pits have been constructed and the trees installed in accordance with the requirements of the Wollongong City Council City Centre Public Domain Technical Manual and Arboricultural best practice.

58 **Geotechnical Certification**

The submission of a certificate from a suitably qualified and experienced geotechnical engineer to the Principal Certifier is required to certify that the works have been undertaken in accordance with the requirements of Condition 2, and geotechnical recommendations contained in the report dated 4 April 2019 and 26 November 2019 by Southern Geotechnics and any subsequent geotechnical report required. This certification is to be provided to the Principle Certifier, prior to the issue of the Occupation Certificate.

Amended—Modification B

Operational Phases of the Development/Use of the Site

59 **Loading/Unloading Operations/Activities**

All loading/unloading operations are to take place at all times wholly within the confines of the site or within the road reserve under an approved traffic control plan.