

# Wollongong Local Planning Panel Assessment Report | 10 December 2020

<b>WLPP No.</b>	Item No. 2
<b>DA No.</b>	DA-2020/460
<b>Proposal</b>	Construction of mixed use development consisting of two (2) storey shop top housing building consisting of three (3) commercial tenancies and two (2) residential units and three (3) storey residential flat building consisting of six (6) residential units and one (1) level of basement car parking
<b>Property</b>	164-166 Balgownie Road, Balgownie and 22 Church Street, Balgownie
<b>Applicant</b>	PRD Architects
<b>Responsible Team</b>	Development Assessment & Certification – City Centre (NM)
<b>Development cost</b>	\$4,175,000
<b>Lodgement date</b>	18 May 2020
<b>Prior WLPP meeting</b>	N/A

## ASSESSMENT REPORT AND RECOMMENDATION

### Executive Summary

#### Reason for consideration by Local Planning Panel - Determination

The proposal has been referred to the WLPP for determination pursuant to Part 3 of Schedule 2 (2) and (4) (b) of the Local Planning Panels Direction of 30 June 2020, as the Development Application contravenes a development standard imposed by an environmental planning instrument by more than 10% and a non-numerical development standard and the proposal is development to which State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development applies.

#### Proposal

The proposal seeks consent for the construction of a 2 storey shop top housing building consisting of 3 retail tenancies on the ground floor, and 2 residential dwellings on the first floor and a 3 storey residential flat building consisting of 6 residential dwellings and 1 storey of basement parking.

#### Permissibility

Shop top housing and Residential flat buildings are permissible in the B2 Local Centre zone.

#### Consultation

The proposal was exhibited in accordance with Council's Community Participation Plan, notified and advertised between. No submissions were received. The application was referred to the Design Review Panel on 30 June 2020.

#### Main Issues

The main issues arising from the development assessment are:

- Residential Amenity
- Landscaping
- Heritage Concerns
- Circulation

## RECOMMENDATION

It is recommended DA-2020/460 be approved subject to the provision of an additional lift in the Shop Top housing building and the recommended conditions of consent contained in Attachment 8.

## **1 APPLICATION OVERVIEW**

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### **1.1 PLANNING CONTROLS**

The following planning controls apply to the development

#### State Environmental Planning Policies

- SEPP No. 55 – Remediation of Land
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP No. 65 – Design Quality of Residential Apartment Development
- SEPP (Koala Habitat Protection) 2019

#### Local Environmental Plans

- Wollongong Local Environmental Plan (WLEP) 2009

#### Development Control Plans

- Wollongong Development Control Plan (WDGP) 2009

#### Other policies

- Wollongong City-Wide Development Contributions Plan 2019

### **1.2 DETAILED DESCRIPTION OF PROPOSAL**

The proposal comprises the following:

#### Shop Top Housing Building

- 2 Storey shop top housing development addressing Balgownie Road consisting of the following:
  - 3 ground floor retail commercial tenancies
  - Lobby and stairs/chair lift to central walkway and access to Communal Open Space
  - 2 residential dwellings on the first floor including 1 x 2 bedrooms and 1 x 3 bedrooms

#### Residential Flat Building

- 3 storey residential flat building addressing Church Street consisting of the following
  - 6 x 3-bedroom residential dwellings, with 2 per storey.
  - Lift access to each level

#### Basement

- Basement parking/services utilities spread across both building consisting of the following
  - Vehicle and pedestrian ramp access from Church Street
  - 25 vehicle parking spaces including:
    - 16 parking spaces for residents including 1 accessible
    - 7 commercial spaces including 1 accessible
    - 2 resident visitor parking spaces
  - Bicycle and motorbike parking/storage for residents and visitors
  - Car wash bay, bin storage, residential storage, OSD/tanks
  - Lift access to residential development, commercial tenancies are accessed through pedestrian ramp and existing footpath

#### Landscaping and Communal Areas

- Common areas consisting of Communal Open Space and landscaped areas including deep soil zones.

### **1.3 BACKGROUND**

The development site previously contained 2 dwelling houses, which appear to have been constructed prior to 1961.

DA-2014/737 was approved by Council on 23 October 2014, for a mixed use development consisting of the demolition of the existing buildings, construction of 3 commercial suits, 11 residential units and basement parking. Modifications were approved in 2016 to add an additional unit. Demolition has taken place in accordance with this approval resulting in the site being currently free of structures and vegetation.

#### Additional Information

Additional information was requested from the applicant to address concerns raised by the Design Review Panel, internal referrals and the planning assessment. Amended plans and details were submitted on three separate occasions. The concerns raised have been addressed and are discussed in greater detail throughout this report.

#### Pre lodgement meeting

No prelodgement meeting was held for the proposal.

#### Customer service actions

There are no outstanding customer service requests of relevance to the development.

### **1.4 SITE DESCRIPTION**

The development site is contained within 2 separate lots, being 164-166 Balgownie Road, Balgownie and 22 Church Street, Balgownie, with the title references Lot 1641 and 1642 DP 1111189 respectively. The development site is an L shaped allotment, with a frontage to both Balgownie Street to the south and Church Street to the east, surrounding the corner site, 160-162 Balgownie Road to the north and west. The site has a slope towards the north-east, with a fall of approximately 3m, and a total area of approximately 1325.4m<sup>2</sup>.

The site is currently cleared and free of any development or vegetation.

This is within the Balgownie Town Centre, and surrounded by commercial buildings to the south, east and west, and a place of public worship and recently constructed multi dwelling housing development to the north. The surrounding area consists of a range of commercial and residential development. Balgownie Road is the main commercial part of the Balgownie area, and Church Street is a one-way street with a laneway appearance. Several items of local heritage significance are located near the site, including Balgownie Hotel across the road to the south.

Refer to Attachment 1 for aerial image.

### **1.5 SUBMISSIONS**

The proposal was notified to adjoining properties and surrounding sites in accordance with Council's Community Participation Plan 2019 between 2 June and 16 June 2020. No submissions were received.

The additional information/amendments were not considered to be substantially different to the plans already notified and renotification was therefore not required.



**Figure 1:** Map showing properties directly notified

## **1.6 CONSULTATION**

### **1.6.1 INTERNAL CONSULTATION**

Council's Traffic, Stormwater, Landscaping and Geotechnical Officers have reviewed the application and provided satisfactory referral comments subject to conditions.

Council's Heritage Officer has raised concern with the proposal.

Council's Heritage Officer recommends the application be deferred subject to the following being addressed:

- Amended plans that provide for a compliant proposal;
- Context plans/photomontages what show existing built form adjacent to the development on Church Street and from key views from Balgownie Road

Despite the concerns raised by Council's Heritage Officer, in the circumstances of this application, the proposal is considered generally acceptable. The proposal is generally compliant with the planning controls relevant to the application including building height, floor space ratio, and the Apartment Design Guide. Satisfactory Clause 4.6 variations have been submitted and are considered acceptable in the circumstances. The proposed shop top housing is sympathetic with the character of the area and the residential flat building has substantial setbacks from heritage buildings on Balgownie road.

Context plans have been submitted which show the proposal and its relation to the Balgownie Hotel located across the road. The proposal does not impact the heritage item in terms of overshadowing, and the proposal is not considered likely to detract from the heritage significance of the item. The heritage shops are located away from the proposed development site, and impacts are considered unlikely. The plans submitted are considered adequate to effectively assess the proposal.



Council's Landscape Officer has noted that the Deep Soil Zones do not comply with the minimum requirements, however the submitted plans indicate the deep soil zones exceed the 7% requirement. Further, Council's Landscape Officer advises additional work is required for the footpath paving along the Balgownie Road frontage. In this regard, a condition of consent has been included to ensure the landscape plans are submitted to and approved by Council's Landscape Division prior to issue of the construction certificate, which includes 8m feature brick banding along the Balgownie Road frontage. Suitable recommended landscape conditions have been included.

### 1.6.2 EXTERNAL CONSULTATION

#### Design Review Panel

In accordance with the requirements of SEPP 65 and the Apartment Design Guidelines, the application was referred to the Design Review Panel (DRP) for advice. The DRP attended the site on 30 June 2020, and commentary was provided to the applicant by email on 15 July 2020.

The panel meeting minutes and recommendation is provided in attachment 4. Panel commentary and response is provided below and is considered to have been adequately addressed.

	Panel Commentary	Response
1	2 separate built forms is a reasonable response for the site.	NA
2	The single lift located in the shop top building and the pedestrian bridge between the two buildings creates a poor circulation outcome and has a negative impact on the quality of space available between the two buildings, including concerns with solar access, design, functional use of the COS and increased privacy issues. Bridges, stairs and terraces above the podium level should be removed. Both buildings should be provided with a dedicated lift from the basement.	<p>Deletion of the connection bridges between the two buildings and second floor COS area results in a more straightforward circulation strategy, and increased amenity for the COS located between the buildings. The stairs previously located centrally within the site, are now more appropriately located.</p> <p>Provision of a lift for direct access to the units within the Residential Flat Building has been provided.</p> <p>Access to the 2 units in the shop top housing building are via stairs only. No lift access is available. This is not considered acceptable, however the proposal could be supported subject to the provision of a lift. This is likely able to be provided within the built form, with only minor modifications.</p>
3	The development interface with the corner site on 160-162 Balgownie Road has not been considered. Modelling of a future built form upon the site should be completed to ensure adequate spatial separation, privacy and solar access can be achieved.	Plans indicating a potential built form on the corner lot have been developed, and it is considered a suitable development which meets the criteria of the ADG is able to be accommodated. Floor plan changes, courtyard placement and window placement within the proposed RFB will result in an acceptable interface between the proposed development and future built form on the neighbouring site.
4	Interface with northern boundary requires further consideration, as the site adjoins Low density residential zoning. Habitable rooms and terraces require 9m setback from lower density	Further details of the interface of the site with the northern boundary has been provided. There are two residential sites to the north with a common boundary to the subject site.

	zones.	<p>22A Church Street is a place of public worship. Development approval has been granted by Council (in 2011 and modified in 2012) for the conversion of the church to a dual occupancy, however a search of Council records does not indicate this work has taken place. The portion of the building adjacent to the site is single storey approximately 630mm from the boundary. The main Church hall is located away from the proposed development site.</p> <p>9 hunter Street contains a recently constructed multi dwelling unit development. A Six metre wide deep soil zone is located adjacent to the development site and adjoins the proposed deep soil zone of the subject site. The multi dwelling development has been designed to address the north, away from the proposed development site, with a large setback to the southern boundary, with minimal windows and no private open space adjacent to the proposed development site.</p> <p>As such, in the circumstances of this application, the 6m setback to the northern boundary is considered acceptable, and the primary concerns raised by the DRP, being privacy and overlooking are considered to have been adequately addressed.</p>
5	The height of retail floor space of 4.61m appears excessive and inconsistent with the streetscape. Floor plan also results in 3 narrow tenancies.	<p>The height of the retail floor spaces have been reduced to be generally consistent with the existing street scape.</p> <p>Although 3 tenancies are still proposed, the applicant has advised occupation of each of the 3 commercial tenancies has already been established.</p>
6	Deep soil zones with a minimum depths of 3m are required.	Three separate deep soil zones, including 1 which adjoins the neighbouring sites deep soil zone is proposed. All deep soil zones have acceptable dimensions exceeding 3m. Stormwater infrastructure has been moved to not impact any of the identified deep soil zones. The submitted plans also indicate the deep soil zones exceed the required 7% of the site area.
7	The amenity of the Communal Open Spaces is limited due to the stairs, open link bridges connecting the two buildings, second floor COS resulting in an internal space and private courtyards and balconies.	Open link bridge, central stairs and second floor COS have been deleted, resulting in central ground floor COS with acceptable levels of amenity.
9	Amenity for visitors and occupiers of the	Residential visitors are provided direct lift

	commercial operators using the basement parking required further consideration.	access from the basement parking to the residential development. Commercial operators and visitors are able to utilise pedestrian ramp access to the street level.
10	Passive surveillance from the units to the various access pathways is required.	Improved passive surveillance from the residential unit adjacent to the private walkways is proposed.

## **2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

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

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

Council records do not contain any previous approvals or historic uses of the land that would indicate potential contamination and the site. Council records do not identify the site as potentially contaminated and further investigation is not considered warranted under the circumstances. No concerns are raised regarding contamination as relates to the intended use of the land and the requirements of clause 7.

#### **2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: 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.

The BASIX certificate was issued no earlier than 3 months before the date on which the development application was lodged.

#### **2.1.3 STATE ENVIRONMENTAL PLANNING POLICY NO 65—DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT**

SEPP 65 aims to deliver a better living environment for the residents within residential apartment developments and enhance the streetscapes and neighbourhoods in which these buildings are located.

The development meets the definition of a 'residential flat building' as it is 3 or more 3 storeys and comprises more than 4 dwellings. As such, the provisions of SEPP 65 apply Policy only to the component of the development comprising the residential flat building, and not the shop top housing component. The proposal has been considered by Council's DRP in accordance with Clause 28 and Schedule 1, as reflected above.

A statement has been prepared by a Registered Architect addressing the requirements of SEPP 65 and was submitted with the application at lodgement accordance with Clauses 50(1A) & 50(1AB) of the Environmental Planning and Environment Regulation 2000. A revised statement was not submitted with the amended plans.

Schedule 1 of SEPP 65 sets out the design quality principles for residential apartment development. These must be considered in the assessment of the proposal pursuant to clause 30(2)(a) of the Policy and are discussed below.

#### **Principle 1: Context and neighbourhood character**

The proposal is consistent with the desired future character of the area as identified through the development standards and controls applicable to the land.

### Principle 2: Built form and scale

The proposed residential flat building has an acceptable built form, consistent with the applicable built form controls applicable to the site identified in the WLEP. The building is located away from the main street, with the development proposing a shop top housing building adjacent to the main street, and RFB setback further. The built form of the RFB results in acceptable internal amenity and outlook for each dwelling.

### Principle 3: Density

The density of the development complies with the maximum FSR permitted for the land. The development is not of a scale that is expected to place unreasonable strain on local infrastructure. Contributions applicable to the development will go towards local infrastructure and facilities. The site is well situated with regard to existing public open space and services.

### Principle 4: Sustainability

The proposal is considered acceptable with regard to environmental, social and economic outcomes. Suitable levels of cross ventilation, solar access is available within each dwelling. Deep soil zones have been provided on the site.

### Principle 5: Landscape

Landscaping is proposed throughout the site in suitable locations. Deep soil zones are of an acceptable size and are in suitable locations.

### Principle 6: Amenity

Each dwelling meets the minimum requirements for solar access, private and communal open space, storage, visual and acoustic privacy etc. The units are well designed with respect to occupant amenity such as room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access.

The setbacks to adjoining development are appropriate and the built form is acceptable regarding visual and acoustic privacy and overshadowing

### Principle 7: Safety

The proposal incorporates public and private spaces that are clearly defined and fit for the intended purpose. Passive surveillance of public and communal areas is provided. Access points are clearly defined, secure and well lit.

### Principle 8: Housing diversity and social interaction

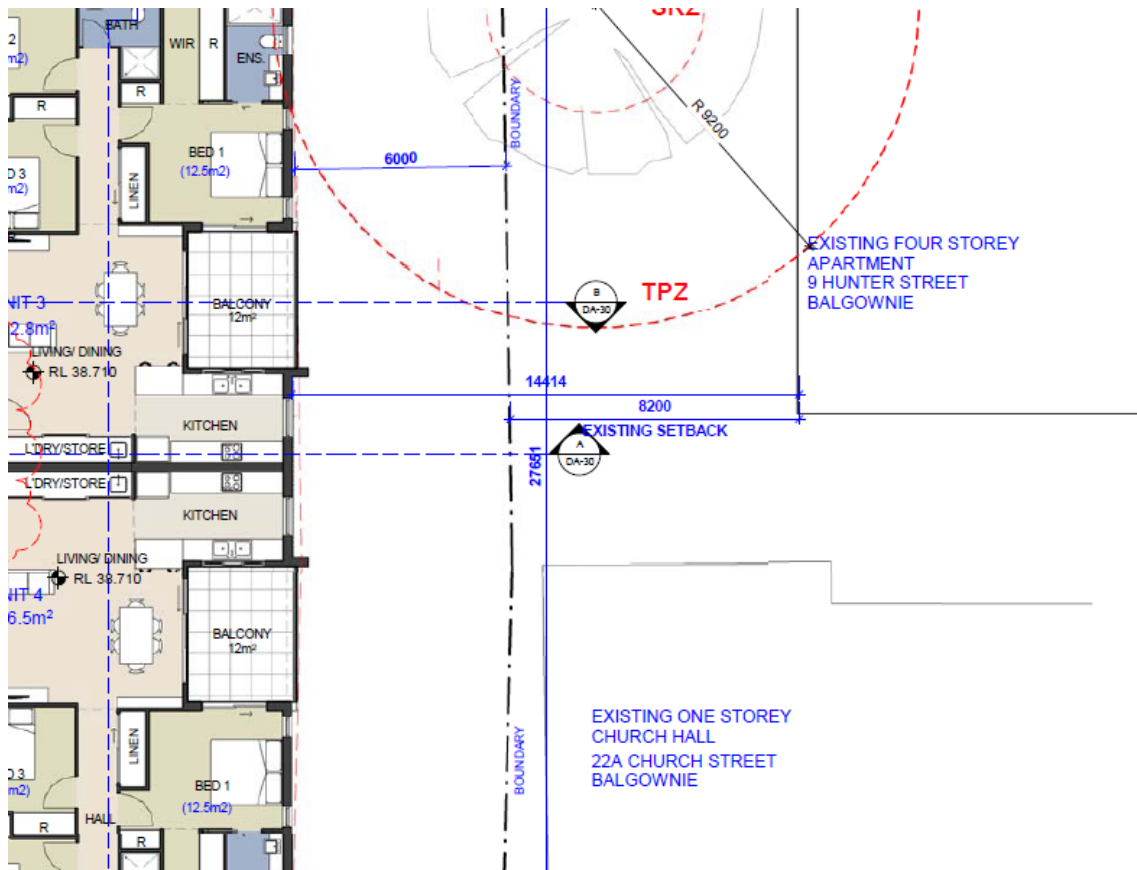
The RFB provides a total of 6 units, each with 3 bedrooms. A 2 unit bedroom is provided within the attached shop top housing development. Suitable housing diversity is considered to have been provided.

### Principle 9: Aesthetics

The proposal is considered to be of a high quality with regard to its appearance. A mixture of materials and finishes is provided and the bulk of the development is suitably articulated.

### Apartment Design Guide

The proposal is generally compliant with the guidelines, except for the requirements for building separation, in particular to the northern boundary, where a separation of 9m is required (instead of 6m) due to the adjacent low density residential zoning. The matter is however considered to be suitably justified in this instance, given the land uses on the neighbouring sites, the location of the dwellings on that site, their design, setback and the limited potential for privacy impacts. See screenshot below of building separation to multi dwelling development on neighbouring site to the north. Note: the church building is setback approx. 600mm to 900mm from the site boundary.



This is detailed further in the ADG assessment.

Refer to attachment 5 for detailed assessment of the ADG.

#### 2.1.4 STATE ENVIRONMENTAL PLANNING POLICY (KOALA HABITAT PROTECTION) 2019

The SEPP was adopted on 1 March 2020, Wollongong LGA is mapped as a Koala management area. Council does not have an approved koala plan of management.

##### Development assessment process—no approved koala plan of management for land

This clause applies to the land as it is greater than 1 hectare (including adjoining land within the same ownership). The land is less than the threshold and the policy is not applicable.

#### 2.1.5 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

The proposal is a mixed used development comprising 2 separate buildings connected by a communal area. The development is categorised as shop top housing and residential flat building.

##### Clause 1.4 Definitions

**shop top housing** means one or more dwellings located above ground floor retail premises or business premises.

**residential flat building** means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

#### 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 B2 Local Centre.

##### Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To allow for residential accommodation and other uses while maintaining active retail, business or other non-residential uses at the street level.

The proposal is satisfactory with regard to the above objectives.

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

**Permitted with consent**

*Advertising structures; Amusement centres; Boarding houses; Car parks; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Exhibition homes; Function centres; Hostels; Information and education facilities; Medical centres; Oyster aquaculture; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; **Residential flat buildings**; Respite day care centres; Restricted premises; Roads; Self-storage units; Seniors housing; Service stations; Sex services premises; **Shop top housing**; Tank-based aquaculture; Tourist and visitor accommodation; Veterinary hospitals; Wholesale supplies*

The proposed shop top housing and residential flat building are both permissible in the zone with development consent.

**Part 4 Principal development standards**

Clause 4.3 Height of buildings

The proposed building height of 11.7m does not exceed the maximum of 12m permitted for the site.

Clause 4.4 Floor space ratio

Maximum FSR permitted for the zone:	1.5:1
Site area:	1,325m <sup>2</sup>
GFA:	1,299.65m <sup>2</sup>
FSR:	1,299.65/1,325m <sup>2</sup> = 0.98:1

Clause 4.6 Variations to Development Standards

Variations to development controls can be considered in accordance with this Clause. The applicant has submitted a Clause 4.6 variation request for two different clauses, which is contained in attachment 7.

WLEP 2009 Clause 4.6 Development departure assessment	
Development Departure	<p>Clause 7.13 Certain land within business zones</p> <p><i>Development consent must not be granted for development for the purpose of a building on land to which this clause applies unless the consent authority is satisfied that the ground floor of the building—</i></p> <p><i>(a) will not be used for the purpose of residential accommodation, and</i></p> <p><i>(b) will have at least one entrance and at least one other door or window on the front of the building facing the street other than a service lane.</i></p>

Is the planning control in question a development standard	Yes
4.6 (3) Written request submitted by applicant contains a justification:	
That compliance with the development standard is unreasonable and unnecessary in the circumstances of the case, and	A satisfactory clause 4.6 variation has been submitted.
That there are sufficient environmental planning grounds to justify contravening the development standard	Yes
4.6 (4) (a) Consent authority is satisfied that:	
The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<p>The applicant's written request seeks to justify that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case based on the following rationale:</p> <ul style="list-style-type: none"> <li>• That ground floor residential is appropriate for the building addressing Church Street, given the street is a low scale residential street, located away from the primary commercial area on Balgownie Street.</li> <li>• Commercial uses are provided addressing Balgownie Road, which is consistent with the surrounding streetscape.</li> </ul>
The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and	<p>Clause 7.13 Certain land within business zones objective:</p> <p><i>(1) The objective of this clause is to ensure active uses are provided at the street level to encourage the presence and movement of people.</i></p> <p>The Residential Flat Building addressing Church Street contains residential uses on the ground floor.</p> <p>The L shaped nature of the site lends itself to having a primary frontage addressing Balgownie Road, and a secondary frontage to Church Street, which acts as a buffer between the Local Centre zoning and the adjacent low density residential zone.</p> <p>Church Street does not currently contain any active business uses which address the street. There are a number of other residential uses in the street within the business zone which contain dwellings on the ground floor. The Church Street frontage of the development provides for vehicle and pedestrian access and addresses the street with windows and balconies on the upper floors. The combination of these uses activate the street, encourage the presence and movement of people and contrast with the blank side walls of the commercial buildings fronting Balgownie road. As a result, the proposal is generally consistent with the surrounding development and consistent with the objectives of the Clause.</p> <p>Compliance with the control is considered unreasonable and unnecessary, and there are sufficient environmental planning</p>



	grounds specific to the site to justify contravening the development standard in the circumstances of this case.
The concurrence of the Secretary has been obtained	Local Planning Panel can assume the Secretary's concurrence as the consent authority.

WLEP 2009 Clause 4.6 Development departure assessment	
Development Departure	<p>Clause 7.14 Minimum site width</p> <p><i>Consent must not be granted for the purpose of a residential flat building unless the site area on which the development is to be carried out has a dimension of at least 24m.</i></p> <p>The proposed development site has a dual frontage a frontage of 20.7m to Balgownie Road, and 20m to Church Street.</p>
Is the planning control in question a development standard	Yes
4.6 (3) Written request submitted by applicant contains a justification:	
That compliance with the development standard is unreasonable and unnecessary in the circumstances of the case, and	A satisfactory clause 4.6 variation has been submitted.
That there are sufficient environmental planning grounds to justify contravening the development standard	Yes
4.6 (4) (a) Consent authority is satisfied that:	
The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<p>The applicant's written request seeks to justify that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case based on the following rationale:</p> <ul style="list-style-type: none"> <li>• If the minimum site width requirements were to be adopted, the site would be effectively sterilised of any development potential due to the limited site width, which would be inconsistent with the zone objectives.</li> <li>• The reduced site width does not result in any unreasonable privacy or overlooking impacts to adjoining properties, and the proposal complies with the maximum height and FSR requirements.</li> <li>• Due to the nature of the site, the site width increases to 47.7 and 39m away from the direct road frontage, which allows a suitable built form on the site.</li> <li>• The proposed development is also consistent with the previous built form approved on the site.</li> </ul>
The proposed development will be in the public interest because it is consistent with the objectives of	<p>There is public benefit in applying flexibility to the standard in this circumstance.</p> <p>The L shaped nature of the site results in the development</p>

the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

benefiting from a dual frontage. The primary frontage to Balgownie is not impeded by service requirements or vehicle access and addresses the street appropriately. Furthermore, if the two frontages were to be combined, the required site width would be met.

There is no objective for clause 7.14 minimum site width control in WLEP 2009. However, WDCP 2009 does provide some guidance. Clause 6.2.2 of chapter B1 also requires for a minimum site width of 24m and states that variations may be considered where in the opinion of Council, the proposed development will not cause any significant adverse overshadowing, privacy or amenity impact upon any adjoining development.

*The objectives of DCP 2009 clause 6.2.2 include:*

*(a) Allow for development of sites, which are of sufficient width to accommodate the required building envelope, car parking and landscaping requirements.*

*(b) To promote the efficient utilisation of land.*

*(c) To encourage amalgamation of allotments to provide for improved design outcomes including greater solar access and amenity.*

The proposed variation to the standard is considered to be consistent with these and the zone objectives as outlined below.

The objectives of the B2 Local Centre are:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- To encourage employment opportunities in accessible locations.*
- To maximise public transport patronage and encourage walking and cycling.*
- To allow for residential accommodation and other uses while maintaining active retail, business or other non-residential uses at the street level.*

The proposed development has regard to the objectives of the B2 zone in that would provide for the uses at point one and two, as well as providing for the housing needs of the community whilst maintaining active uses. Despite the constraints on the site, the proposed development meets the FSR and Height controls.

With regard to unreasonableness of requiring 24m, the applicant would need to acquire the adjoining corner site at 160-162 Balgownie Road. The applicant has demonstrated that the neighbouring corner site can accommodate a compliant built form in the future, and the proposed development will not result in the creation of an isolated lot in that it has one street frontage with a dimension of 24.92m.

	<p>Furthermore, the proposed development is largely consistent with the development and built form previously approved on the site.</p> <p>The proposal demonstrates that a functional building can be provided on the site, including appropriate carparking and access, landscaping and private open space areas, without detrimentally impacting the surrounding properties</p> <p>It is considered that in this instance there are sufficient environmental planning grounds specific to the site to justify contravening the development standard.</p>
The concurrence of the Secretary has been obtained	Local Planning Panel can assume the Secretary's concurrence as the consent authority.

## **Part 5 Miscellaneous provisions**

### Clause 5.10 Heritage conservation

The site is not listed as containing a heritage item or located within a heritage conservation area. The site is however within proximity of several items of local heritage significance, including Balgownie Hotel, located directly opposite the site.

Council's Heritage Officer has reviewed the proposal and raised the following concerns:

- Amended plans that provide for a compliant proposal;
- Context plans/photomontages what show existing built form adjacent to the development on Church Street and from key views from Balgownie Road

Refer to Section 1.6 of this report for detailed discussion of heritage concerns.

In accordance with Subclause 5, a heritage assessment was submitted by the applicant. The proposal is not considered likely to have a significant impact on the surrounding heritage items.

## **Part 7 Local provisions – general**

### Clause 7.1 Public utility infrastructure

The development site is within an established urban area. Infrastructure will be able to be provided to the development at the developers cost. A condition will be included to ensure any requirements under the Sydney Water Act are adhered to.

### Clause 7.6 Earthworks

The proposal comprises earthworks relating to excavation of the basement parking. The earthworks are not expected to have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features surrounding land. Suitable conditions will be included.

### Clause 7.13 Certain land within business zones

Refer to Clause 4.6 above for detailed discussion.

### Clause 7.14 Minimum site width

Refer to Clause 4.6 above for detailed discussion.

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

No proposed instruments apply to this development.

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

### **2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009**

A detailed discussion in accordance with the WDCP 2009 is contained in attachment 6. The proposal is considered to be generally satisfactory regarding the controls contained within the DCP.

## **CHAPTER A1 – INTRODUCTION**

### **8 Variations to development controls in the DCP**

In accordance with this Chapter, variations to the controls contained in the DCP are permitted subject to the requirements of Section 8, including a demonstration of how the objectives are met and that the proposal will not result in adverse impact due to the variation.

The proposal is inconsistent with Clause 4.1 of Chapter B3 – Mixed Use Development, as the site does not have a minimum width of 24m.

The applicant submitted a Clause 4.6 variation request for the equivalent WLEP control, and a detailed discussion including an assessment in accordance with the objectives of the DCP is included in that assessment. The clause 4.6 in relation to this issue is also addressed above.

Refer to Section 2.1.5 of this report for detailed assessment.

### **2.3.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2018**

The estimated cost of works is \$3,475,000 and a levy of 1% is applicable under this plan. If approved a condition will be included on the consent requiring the payment of Development Contributions prior to issue of the Construction Certificate.

## **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?

NA – Demolition is not proposed. The site is not within the Coastal Zone.

93 Fire safety and other considerations

NA

94 Consent authority may require buildings to be upgraded

NA

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

There are not expected to be adverse environmental impacts on either the natural or built environments or any adverse social or economic impacts in the locality. This is demonstrated through the following:

- The proposal is satisfactory with regard to the applicable planning controls as detailed in the body of this report and the relevant attachments.
- The proposal has been amended to respond with the comments of the DRP, subject to the provision of an additional lift servicing the shop top housing building.

- No submissions were received following notification.
- Internal referrals are generally satisfactory subject to appropriate conditions of consent. The proposal is considered generally acceptable from a heritage perspective given the site does not contain any items of heritage significance, is not in a heritage conservation area, and is unlikely to have a significant impact on any heritage items located within the site's vicinity.

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

### Does the proposal fit in the locality?

The proposal is considered appropriate regarding the zoning of the site and is not expected to have any negative impacts on the amenity of the locality or adjoining developments.

### Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

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

Refer to Section 1.5.

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

The proposal is not expected to have any unreasonable impacts on the environment or the amenity of the locality. It is considered appropriate with consideration to the zoning and the character of the area and is therefore considered to be in the public interest.

## **3 CONCLUSION**

---

This application has been assessed having regard to the Heads of Consideration under Section S4.15(1) of the Environmental Planning and Assessment Act 1979, including the provisions of Wollongong LEP 2009 and relevant SEPPs, DCPs, Codes and Policies.

The lot width is less than that specified in WLEP 2009 for residential flat buildings and contains residential uses on the ground floor. The applicant has followed the process set out in clause 4.6 of WLEP 2009 and adequately justified the development standard departures. The applicant has submitted plans showing potential future development options on the adjoining site and the residential uses on the ground floor is deemed appropriate in the circumstances of the case.

No public submissions were received, and referrals are generally satisfactory. The recommendations of the Design Review Panel have been adopted in the revised plans and matters raised by the Panel are now resolved, subject to an additional lift being provided to service the shop top building. The design is generally compliant with the height, floor space ratio and built form controls, as well as the character of the locality.

The application is considered satisfactory from a heritage perspective, and the proposal is not considered likely to have a significant impact on the heritage fabric of heritage items located within vicinity of the site.

## **4 RECOMMENDATION**

---

It is recommended that development application DA-2020/460 be approved subject to the provision of an additional lift servicing the shop top building and the recommended conditions of consent contained within attachment 8.

## 5 ATTACHMENTS

---

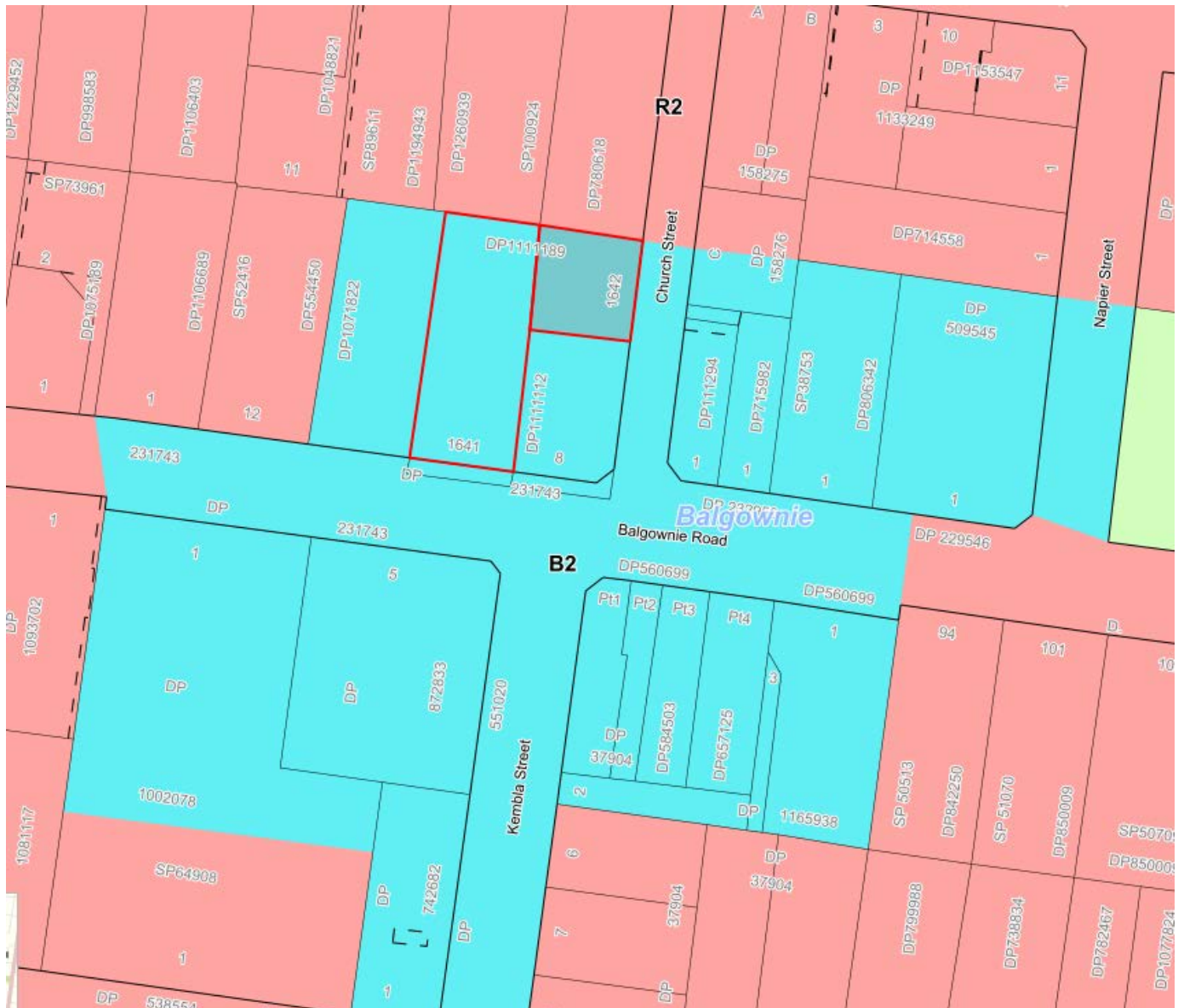
- 1 Aerial photograph
- 2 Zoning map
- 3 Plans
- 4 Design Review Panel Commentary and Recommendations
- 5 Apartment Design Guidelines Assessment
- 6 Wollongong Development Control Plan Assessment
- 7 Applicant submitted Clause 4.6 Variation Request
- 8 Draft Conditions of Consent

Attachment 1: Aerial image of site and surrounding area





## Attachment 2: Zoning Map



DEVELOPMENT APPLICATION

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A	DA SUBMISSION	30.04.2020	DD/DC
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C	ADDITIONAL INFORMATION	10.08.2020	DC
D	ADDITIONAL INFORMATION (DRP)	02.11.2020	DC



PROPOSED SHOP TOP HOUSING AND RESIDENTIAL FLAT BUILDING

FOR


MORETTI CONSTRUCTION/ B.FORTE

Lot 1641 DP 1111189, Lot 1642 DP 1111189  
164-166 Balgownie Road & 22 Church Street, Balgownie NSW 2519

NOTE: GENERAL AMENDMENT  
ACCORDING TO DRP REQUIREMENTS

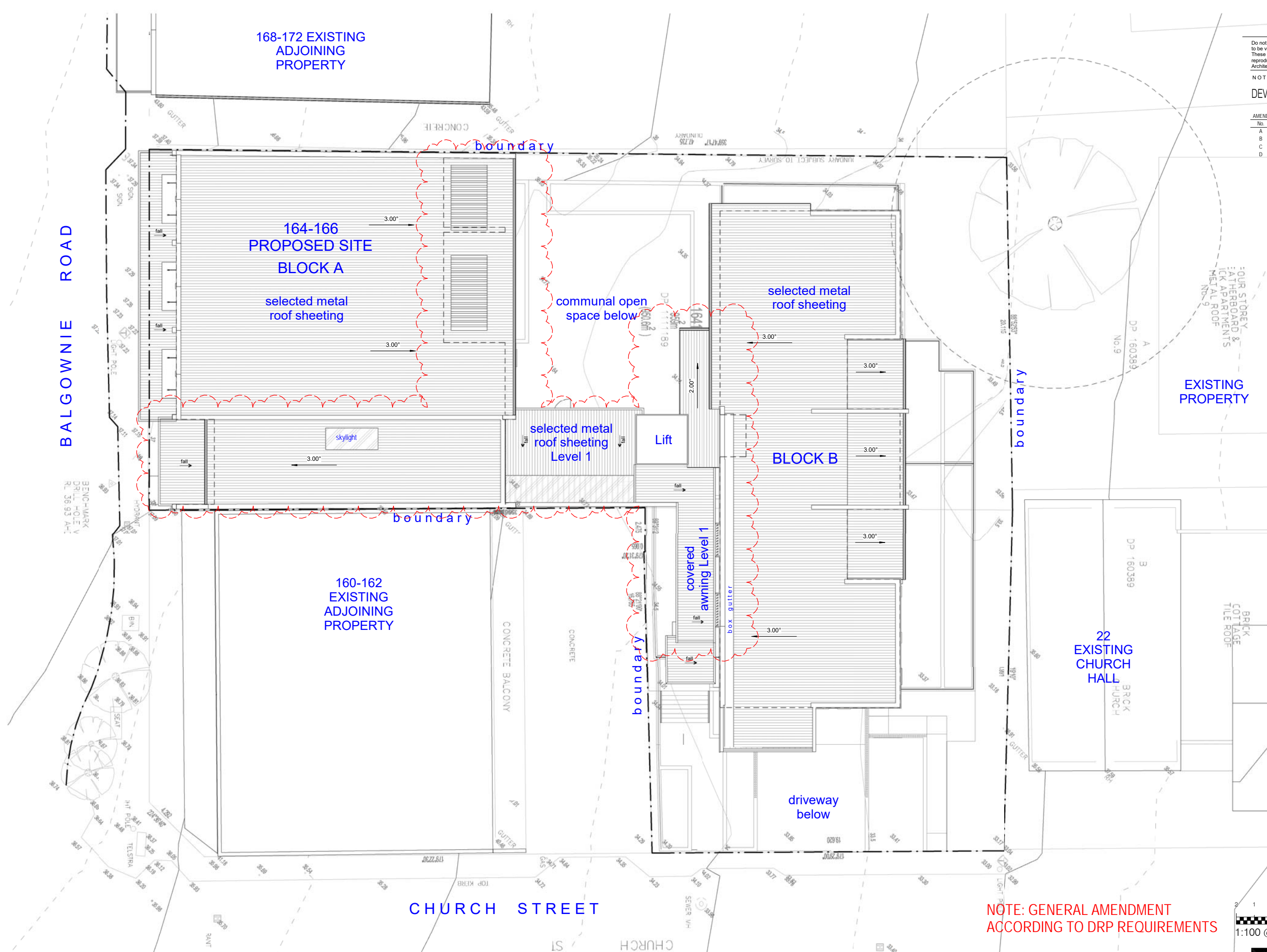




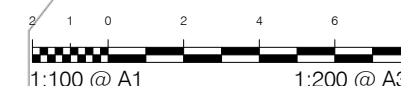
NOT FOR CONSTRUCTION			
DEVELOPMENT APPLICATION			
			
AMENDMENTS			
No.	Revision Description	Date	BY
A	DA SUBMISSION	30.04.2020	DOH
B	DESCRIPTION TITLE AMENDED	27.05.2020	DOH
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AMENDMENTS			
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NOTE: GENERAL AMENDMENT  
ACCORDING TO DRP REQUIREMENTS



MORETTI CONSTRUCTION/ B.FORTE 19-30

## SITE / ROOF PLAN

164-166 Balgownie Road & 22 Church Street, Balgownie NSW 2519

DA-03 -D



3

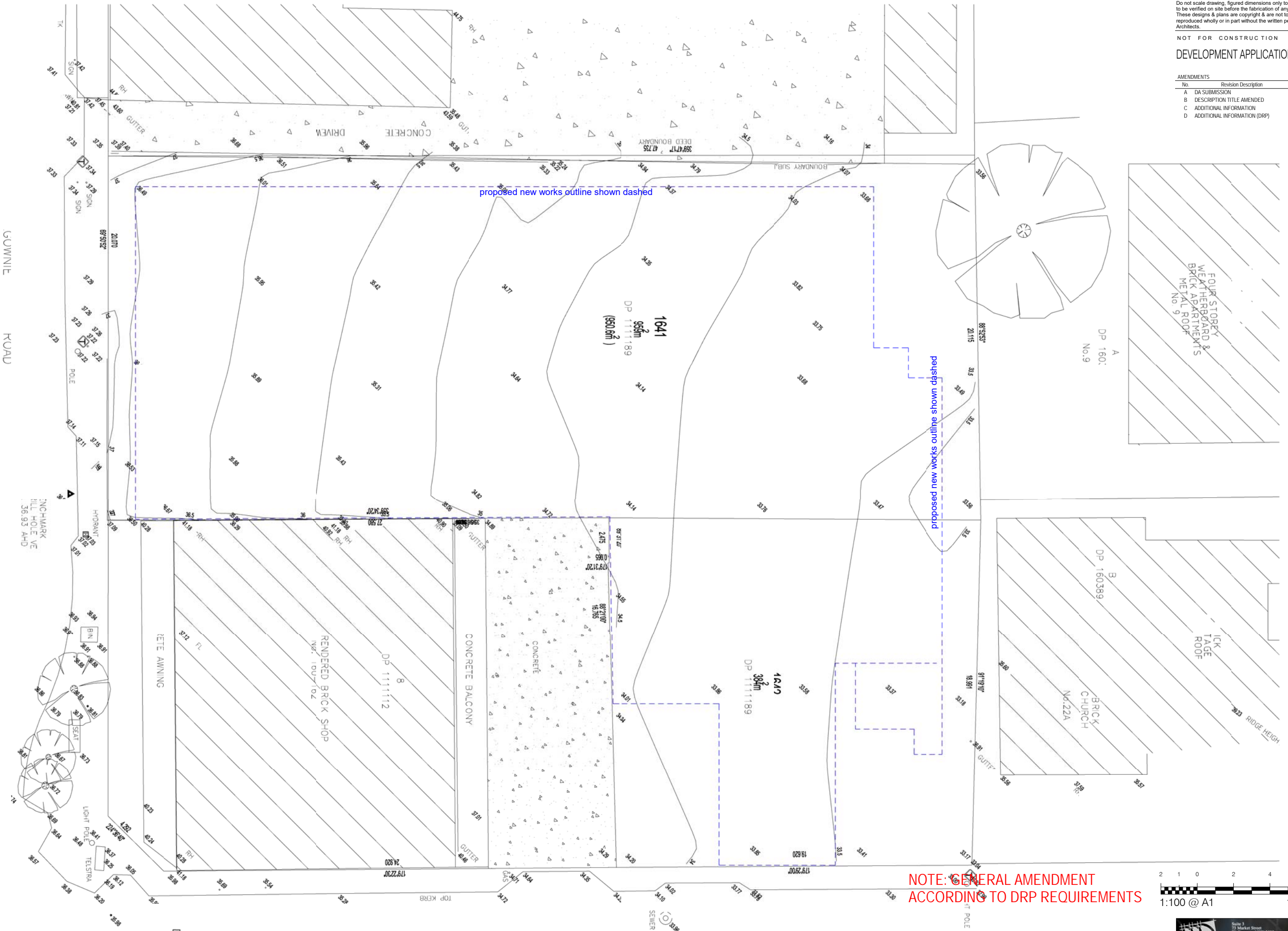
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DEVELOPMENT APPLICATION



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NOTE: GENERAL AMENDMENT  
ACCORDING TO DRP REQUIREMENTS



PROPOSED SHOP TOP HOUSING AND RESIDENTIAL FLAT BUILDING

Lot 1641 DP 1111189, Lot 1642 DP 1111189  
164-166 Balgownie Road & 22 Church Street, Balgownie NSW 2519

EXISTING SITE PLAN

MORETTI CONSTRUCTION/ B.FORTE 19-30

DA-02 -D

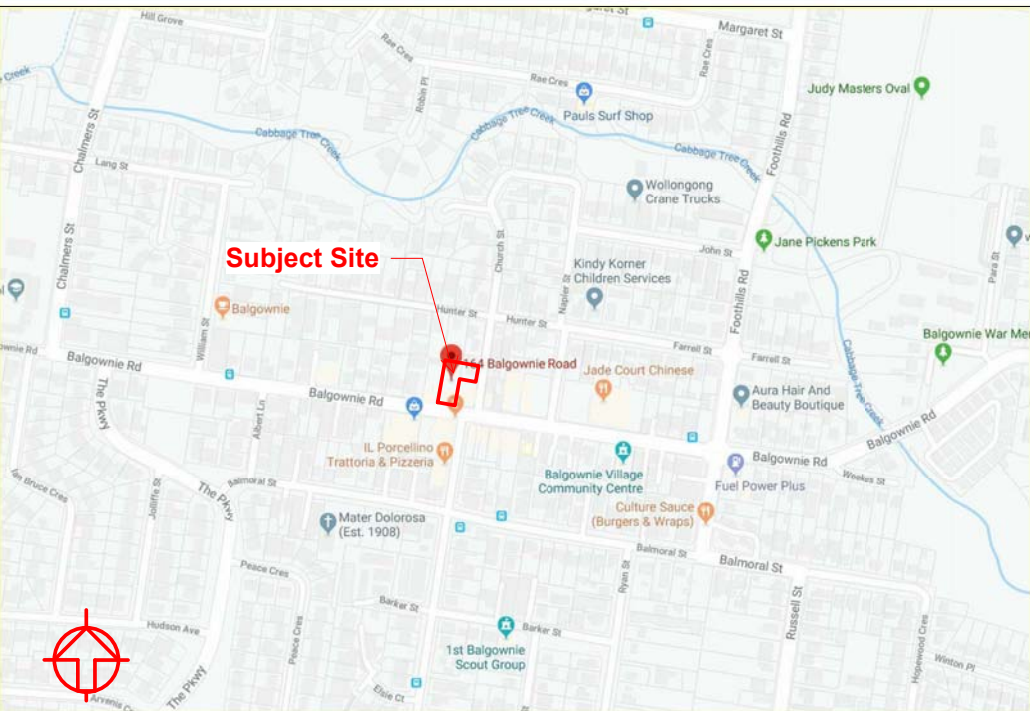


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KEY PLAN (N.T.S)



LOCATION PLAN (N.T.S)

Drawing List						
Sheet Number	Current Revision	Sheet Name	Sheet Issue Date	Prepared By	Approved By	Revision issue Date
DA-00	D	COVER SHEET	30/04/2020	DQ/DC	PR	02/11/2020
DA-01	D	SITE LOCATION PLAN & TITLE SHEET	30/04/2020	DQ/DC	PR	02/11/2020
DA-02	D	EXISTING SITE PLAN	30/04/2020	DQ/DC	PR	02/11/2020
DA-03	D	SITE / ROOF PLAN	30/04/2020	DQ/DC	PR	02/11/2020
DA-04	D	SITE ANALYSIS PLAN	30/04/2020	DQ/DC	PR	02/11/2020
DA-4a	B	BALGOWNIE ROAD STREET FRONT	20/08/2020	DC	PR	02/11/2020
DA-05	D	FSR CALCULATION PLAN	30/04/2020	DQ/DC	PR	02/11/2020
DA-06	D	BASEMENT FLOOR PLAN	30/04/2020	DQ/DC	PR	02/11/2020
DA-07	D	OVERALL SITE - LEVEL 1 FLOOR PLAN	30/04/2020	DQ/DC	PR	02/11/2020
DA-08	D	OVERALL SITE - LEVEL 2 FLOOR PLAN	30/04/2020	DQ/DC	PR	02/11/2020
DA-09	D	OVERALL SITE - LEVEL 3 FLOOR PLAN	30/04/2020	DQ/DC	PR	02/11/2020
DA-20	D	ELEVATIONS	30/04/2020	DQ/DC	PR	02/11/2020
DA-21	D	ELEVATIONS	30/04/2020	DQ/DC	PR	02/11/2020
DA-22	D	ELEVATIONS	30/04/2020	DQ/DC	PR	02/11/2020
DA-30	D	SECTIONS	30/04/2020	DQ/DC	PR	02/11/2020
DA-31	D	SECTIONS	30/04/2020	DQ/DC	PR	02/11/2020
DA-40	D	3D STUDY	30/04/2020	DQ/DC	PR	02/11/2020
DA-41	D	3D STUDY	30/04/2020	DQ/DC	PR	02/11/2020
DA-50	D	SHADOW DIAGRAMS	30/04/2020	DQ/DC	PR	02/11/2020
DA-51	D	SHADOW DIAGRAMS	30/04/2020	DQ/DC	PR	02/11/2020
DA-52	D	SHADOW DIAGRAMS	30/04/2020	DQ/DC	PR	02/11/2020
DA-53	D	SHADOW DIAGRAMS	30/04/2020	DQ/DC	PR	02/11/2020
DA-54	A	SHADOW DIAGRAMS	31/10/2020	DC	PR	02/11/2020
DA-55	A	SHADOW DIAGRAMS	31/10/2020	DC	PR	02/11/2020
DA-56	A	SHADOW DIAGRAMS	31/10/2020	DC	PR	02/11/2020
DA-60	D	COS & DSZ DIAGRAMS	30/04/2020	DQ/DC	PR	02/11/2020
DA-61	D	CROSS VENTILATION PLAN	30/04/2020	DQ/DC	PR	02/11/2020
DA-70	A	INTERFACE WITH 160-162 - PLANS	02/11/20	DC	PR	02/11/2020

Thermal Comfort Specifications	
Glazing Doors/windows/terrace	Aluminium framed with single clear glazing: <b>Type A:</b> awning windows and hinged doors U-Value: 6.70 (equal to or lower than) SHGC: 0.57 (±10%) <b>Type B:</b> Louvre, Sliding windows/doors and fixed panels U-Value: 6.70 (equal to or lower than) SHGC: 0.70 (±10%)  Given values are AFRIC total window system values (glass and frame) Note: <u>Openability</u> modelled as per BASIX Thermal Protocol - 4.14.2 and <u>NatHERS Technical Note 1.2</u> - 10.1.1 with regards to restricted openings
Roof	Meta framed roof with a foil backed blanket (Minimum R1.3up and R1.3 down) Light colour modelled
Ceiling	Plasterboard ceiling with a minimum R3.5 insulation where roof is over Plasterboard ceiling, no insulation where neighbouring units are above
External Walls	Brick veneer with R2.5 bulk insulation (insulation value only) Metal cladding with R2.5 bulk insulation (insulation value only) Fibre Cement cladding with R2.5 bulk insulation (insulation value only)  External Colour: Default colour modelled
Internal walls	Plasterboard on studs - no insulation
Inter tenancy walls	Hebel Power Panel to walls adjacent to neighbours, no insulation required Hebel Power Panel to walls adjacent to enclosed lobbies - R1.5 insulation required (insulation value only)
Floors	Concrete with a minimum R1.5 insulation (insulation value only) required to units with car park below and to the suspended floor of unit 8.  Concrete between levels no insulation required.
Eaves and shading	Eaves and shading as per stamped plans
BASIX Water Commitments	
Fixtures within units	Showerheads: Medium Flow (> 6L but <= 7.5L/min)  Toilets: minimum 4.0 stars  Kitchen taps : minimum 4.0 stars  Bathroom vanity taps: minimum 4.0 stars
Appliances within units	Dishwashers: minimum 3.5 stars  Clothes Washers: minimum 3.0 stars
BASIX Energy Commitments	
Hot Water System	Individual gas instantaneous - 6 stars
Appliances and other efficiency measures	Gas Cooktop & electric oven  Dishwashers: minimum 3.5 stars  Clothes Dryers: minimum 4.0 stars  Clothes Washers: minimum 2.0 stars  Well Ventilated fridge spaces
Cooling and Heating within units	All units to have individual, triple phase, reverse cycle air conditioning to living areas, and at least 1 bedroom with a minimum efficiency > 4.0 EER for cooling and heating.

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DEVELOPMENT APPLICATION

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EXISTING VIEW FROM BALGOWNIE ROAD



EXISTING VIEW FROM CHURCH STREET



NOTE: GENERAL AMENDMENT  
ACCORDING TO DRP REQUIREMENTS

PROPOSED SHOP TOP HOUSING AND RESIDENTIAL FLAT BUILDING

Lot 1641 DP 1111189, Lot 1642 DP 1111189  
164-166 Balgownie Road & 22 Church Street, Balgownie NSW 2519

SITE LOCATION PLAN & TITLE SHEET

MORETTI CONSTRUCTION/ B.FORTE

19-30

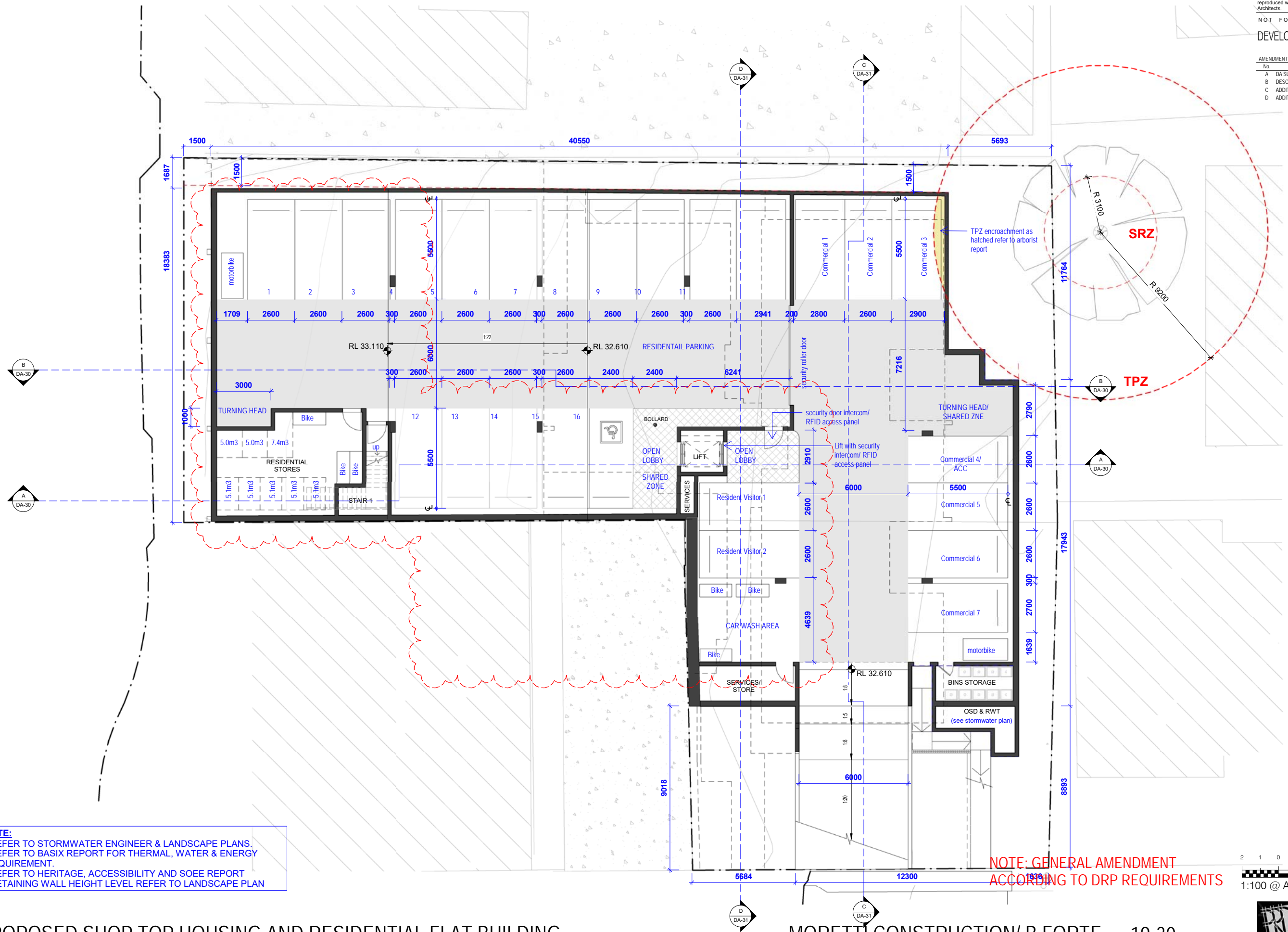
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**NOTE:**

- REFER TO STORMWATER ENGINEER & LANDSCAPE PLANS.
- REFER TO BASIX REPORT FOR THERMAL, WATER & ENERGY REQUIREMENT.
- REFER TO HERITAGE, ACCESSIBILITY AND SOEE REPORT
- RETAINING WALL HEIGHT LEVEL REFER TO LANDSCAPE PLAN

PROPOSED SHOP TOP HOUSING AND RESIDENTIAL FLAT BUILDING  
Lot 1641 DP 1111189, Lot 1642 DP 1111189  
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BASEMENT FLOOR PLAN

MORETTI CONSTRUCTION/ B.FORTE 19-30  
DA-06 -D





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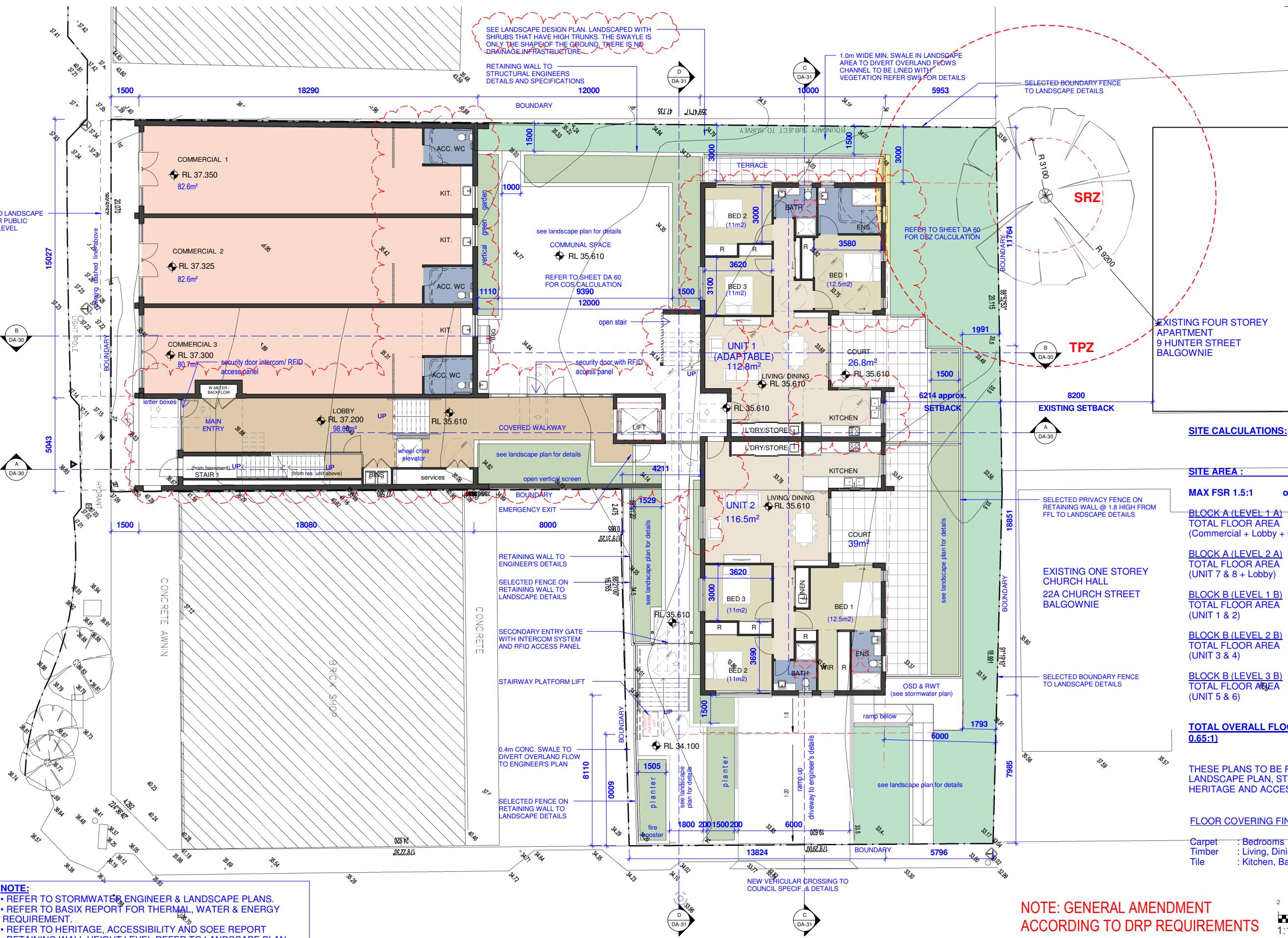
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DEVELOPMENT APPLICATION



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REFER TO LANDSCAPE PLAN FOR PUBLIC DOMAIN LEVEL



#### SITE CALCULATIONS:

**SITE AREA :** 1334.60M² (950.6 + 384M²)

**MAX FSR 1.5:1** or **2001.90M²**

**BLOCK A (LEVEL 1 A)**  
TOTAL FLOOR AREA  
(Commercial + Lobby + Covered Walkway)

**BLOCK A (LEVEL 2 A)**  
TOTAL FLOOR AREA  
(UNIT 7 & 8 + Lobby)

**BLOCK B (LEVEL 1 B)**  
TOTAL FLOOR AREA  
(UNIT 1 & 2)

**BLOCK B (LEVEL 2 B)**  
TOTAL FLOOR AREA  
(UNIT 3 & 4)

**BLOCK B (LEVEL 3 B)**  
TOTAL FLOOR AREA  
(UNIT 5 & 6)

**TOTAL OVERALL FLOOR AREA** 1299.65M² (FSR 0.65:1)

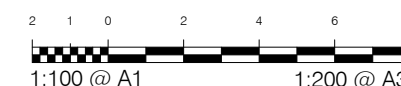
THESE PLANS TO BE READ IN CONJUNCTION WITH THE LANDSCAPE PLAN, STORMWATER + TRAFFIC, SOEE, HERITAGE AND ACCESSIBILITY REPORTS.

#### FLOOR COVERING FINISHES:

Carpet : Bedrooms  
Timber : Living, Dining  
Tile : Kitchen, Bath, WC, Laundry, Balcony, Common area

- NOTE:**
- REFER TO STORMWATER ENGINEER & LANDSCAPE PLANS.
  - REFER TO BASIX REPORT FOR THERMAL WATER & ENERGY REQUIREMENT.
  - REFER TO HERITAGE, ACCESSIBILITY AND SOEE REPORT
  - RETAINING WALL HEIGHT LEVEL REFER TO LANDSCAPE PLAN

**NOTE: GENERAL AMENDMENT  
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## PROPOSED SHOP TOP HOUSING AND RESIDENTIAL FLAT BUILDING

Lot 1641 DP 1111189, Lot 1642 DP 1111189  
164-166 Balgownie Road & 22 Church Street, Balgownie NSW 2519

## OVERALL SITE - LEVEL 1 FLOOR PLAN

MORETTI CONSTRUCTION/ B.FORTE

19-30

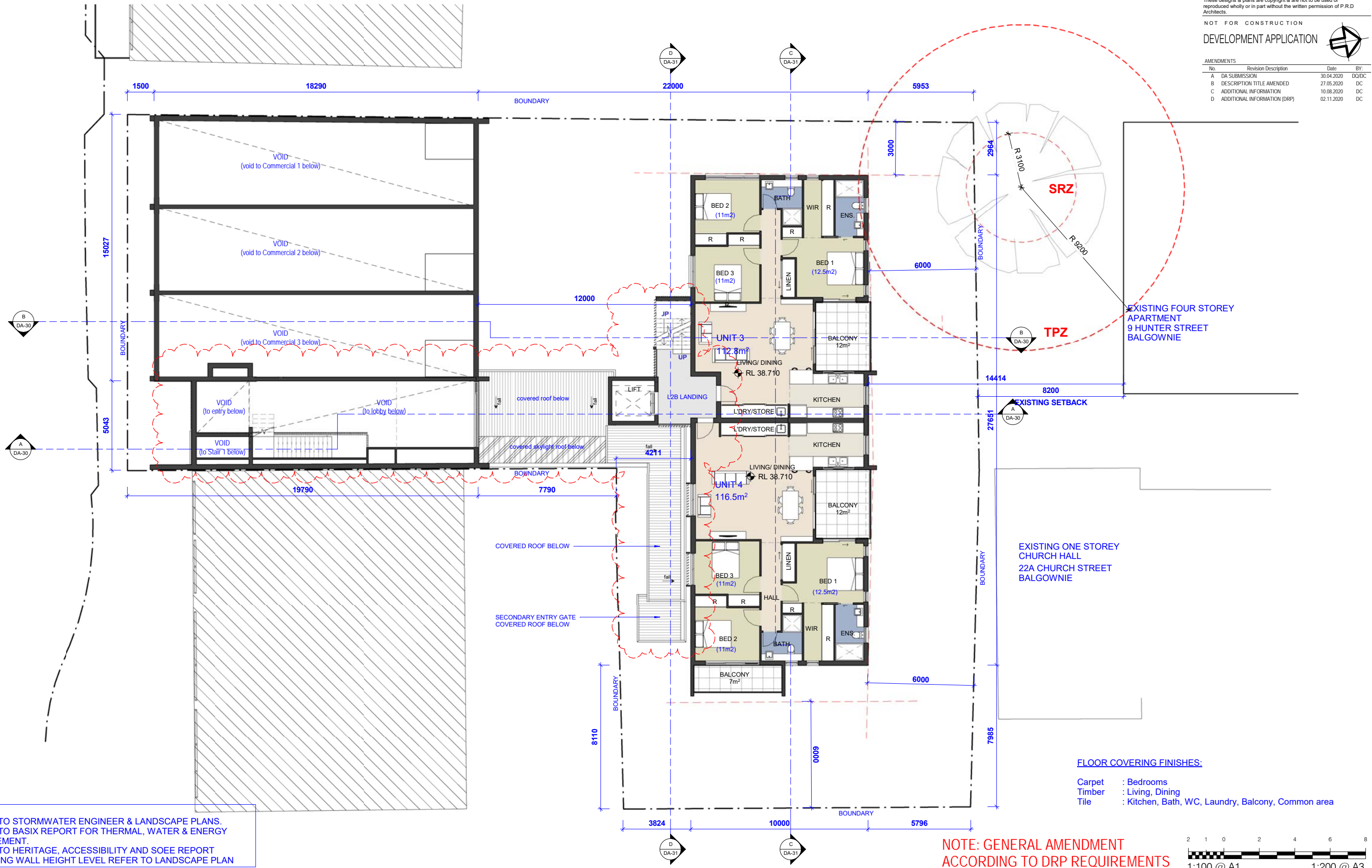
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- RETAINING WALL HEIGHT LEVEL REFER TO LANDSCAPE PLAN

**FLOOR COVERING FINISHES:**

Carpet : Bedrooms  
Timber : Living, Dining  
Tile : Kitchen, Bath, WC, Laundry, Balcony, Common area

PROPOSED SHOP TOP HOUSING AND RESIDENTIAL FLAT BUILDING

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OVERALL SITE - LEVEL 2 FLOOR PLAN

MORETTI CONSTRUCTION/ B.FORTE 19-30

DA-08 -D





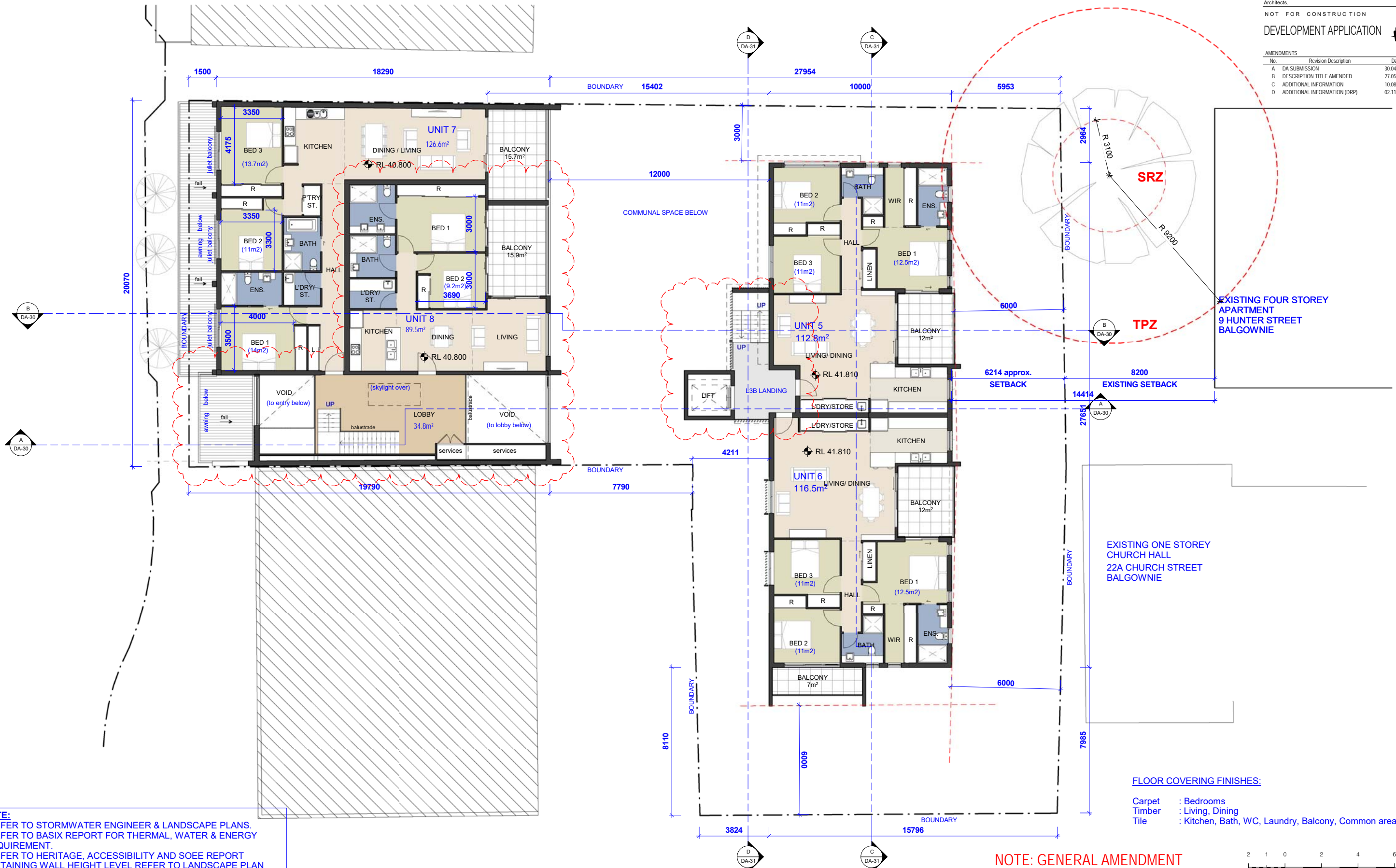
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DEVELOPMENT APPLICATION



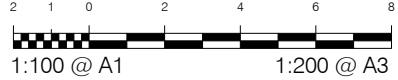
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**FLOOR COVERING FINISHES:**  
Carpet : Bedrooms  
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**NOTE: GENERAL AMENDMENT  
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FINISHES SCHEDULE:

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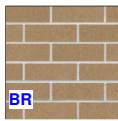
DULUX "WOODLANDGREY" - LYSAGHT LONGLINE 305 WALL CLADDING FINISH OR SIMILAR



DULUX "VIVID WHITE" - FIBRE CEMENT WALL CLADDING FINISH OR SIMILAR



DULUX "VIVID WHITE" - SOFFIT - WALL RENDERED FINISH



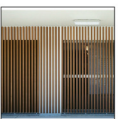
AUSTRAL BRICK - EVERYDAY LIFE 'ENGAGE' EXTERNAL WALL FINISH



DULUX "VIVID WHITE" - FIBRE CEMENT WALL CLADDING FINISH OR SIMILAR



SELECTED VERTICAL ALUM. BATTEN SYSTEM - WOOD GRAIN FINISH OR SIMILAR - WALL BACKGROUND COLOUR "WOODLANDGREY" SELECTED VERTICAL ALUM. PRIVACY SYSTEM @ ANGLE - WOOD GRAIN FINISH OR SIMILAR



SELECTED VERTICAL ALUM. PRIVACY SYSTEM @ ANGLE - WOOD GRAIN FINISH OR SIMILAR



SELECTED ALUMINIUM HORIZONTAL SCREEN SYSTEM - WOOD GRAIN FINISH OR SIMILAR



SELECTED ALUMINIUM HORIZONTAL SCREEN SYSTEM - WOOD GRAIN FINISH OR SIMILAR



SELECTED GARAGE DOOR - "MONUMENT"



SELECTED GARAGE DOOR - "MONUMENT"



CLEAR ANODISED ALUMINIUM



CLEAR ANODISED ALUMINIUM



COLORBOND ROOF SHEETING, GUTTER AND FASCIABOARD - COLOUR "SURFMIST"



COLORBOND ROOF SHEETING, GUTTER AND FASCIABOARD - COLOUR "SURFMIST"



PRIVACY TRANSLUCENT GLASS - BATHROOM, SHOWER ETC - BALUSTRADE GLASS



PRIVACY TRANSLUCENT GLASS - BATHROOM, SHOWER ETC - BALUSTRADE GLASS

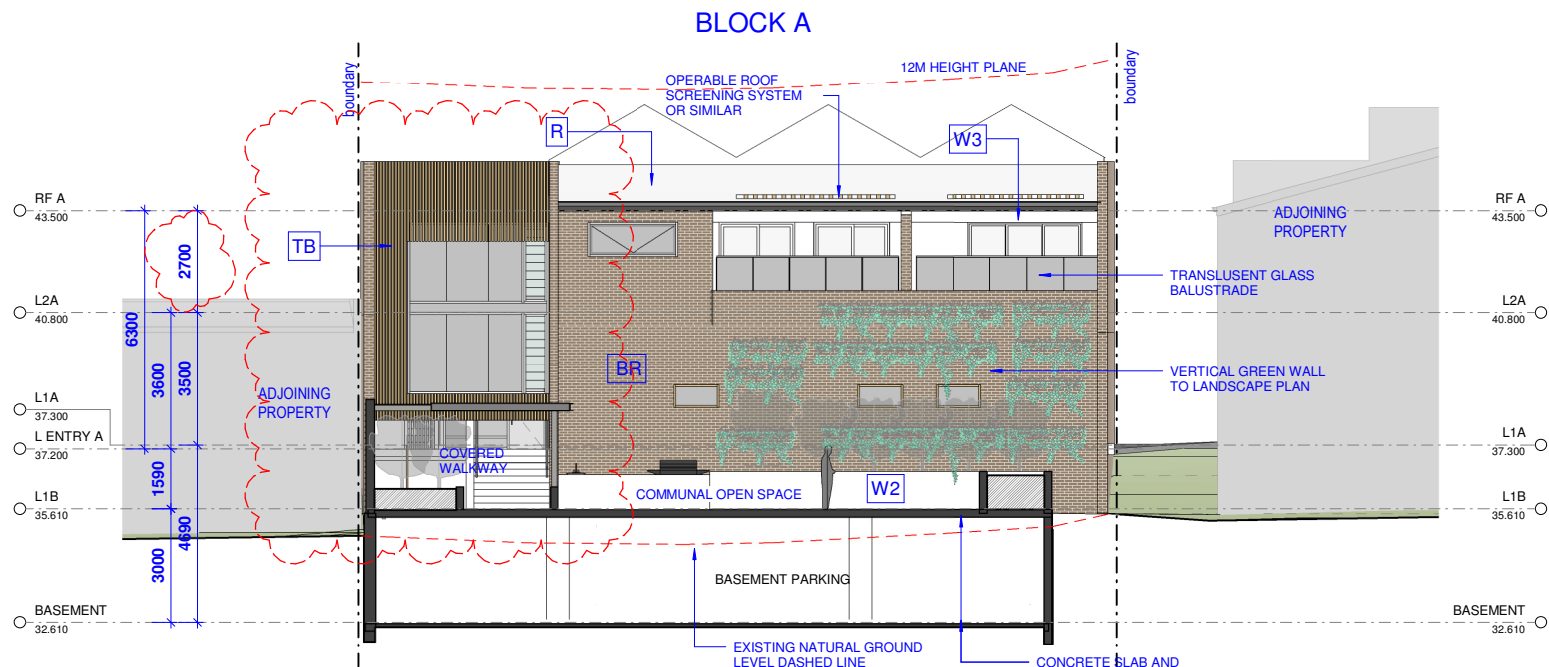


CLEAR GLASS - REFER TO BASIX REQUIREMENT.

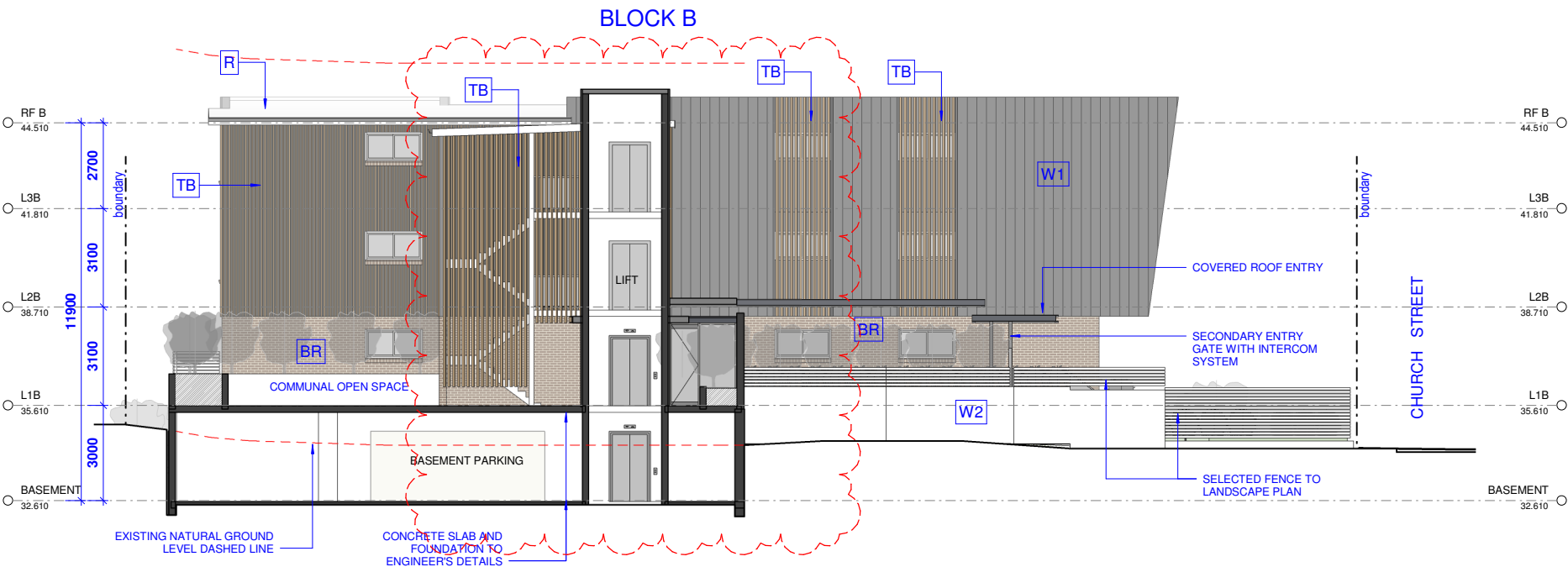


CLEAR GLASS - REFER TO BASIX REQUIREMENT.

NOTE: DOWN PIPES TO MATCH WALL COLOUR



1 NORTH ELEVATION (BLOCK A)  
1 : 100

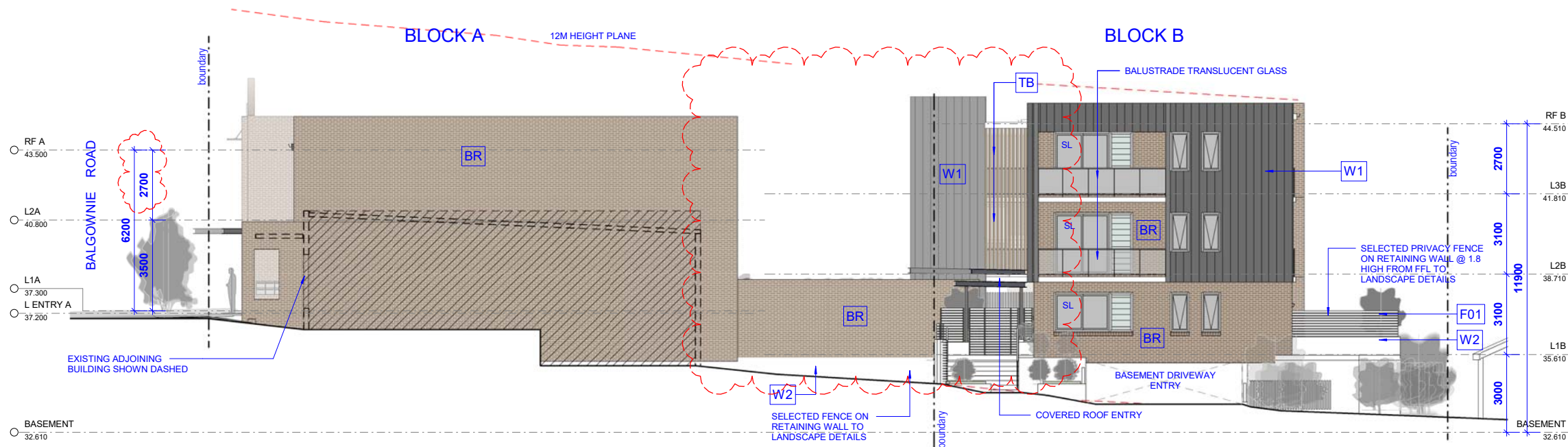


2 SOUTH ELEVATION (BLOCK B)  
1 : 100

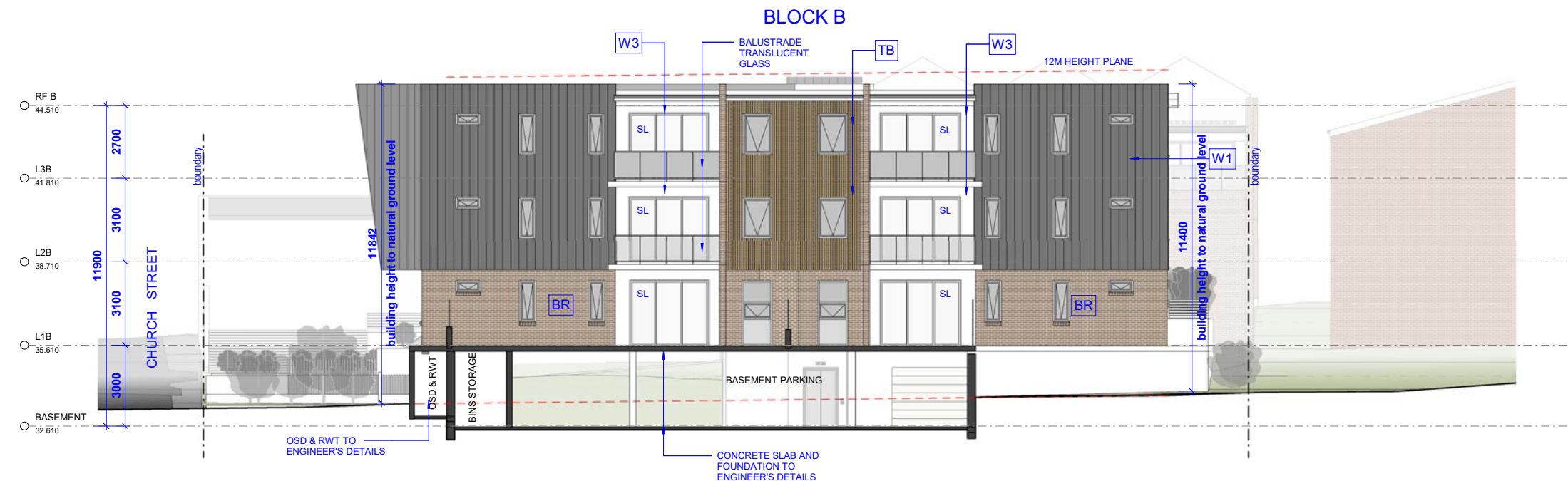
NOTE: GENERAL AMENDMENT  
ACCORDING TO DRP REQUIREMENTS







1 EAST ELEVATION  
1 : 100



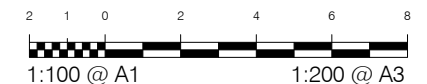
2 NORTH ELEVATION (BLOCK B)  
1 : 100

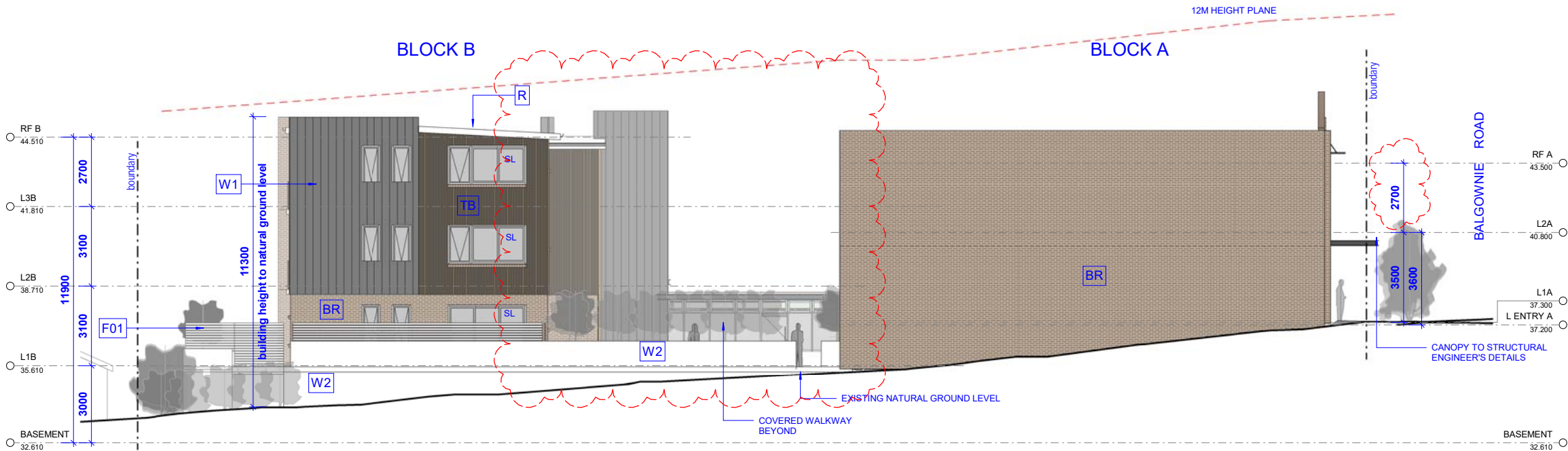
## FINISHES SCHEDULE:

	
DULUX "WOODLANDGREY" - LYSAGHT LONGLINE 305 WALL CLADDING FINISH OR SIMILAR	DULUX "VIVID WHITE" - FIBRE CEMENT WALL CLADDING FINISH OR SIMILAR
	
DULUX "VIVID WHITE" - SOFFIT - WALL RENDERED FINISH	DULUX "VIVID WHITE" - FIBRE CEMENT WALL CLADDING FINISH OR SIMILAR
	
AUSTRAL BRICK - EVERYDAY LIFE 'ENGAGE' EXTERNAL WALL FINISH	
	
SELECTED VERTICAL ALUM. BATTEN SYSTEM - WOOD GRAIN FINISH OR SIMILAR -WALL BACKGROUND COLOUR "WOODLANDGREY" SELECTED VERTICAL ALUM. PRIVACY SYSTEM @ ANGLE - WOOD GRAIN FINISH OR SIMILAR	
	
SELECTED ALUMINIUM HORIZONTAL SCREEN SYSTEM - WOOD GRAIN FINISH OR SIMILAR	
	
SELECTED GARAGE DOOR - "MONUMENT"	
	
CLEAR ANODISED ALUMINIUM	
	
COLORBOND ROOF SHEETING, GUTTER AND FASCIABOARD - COLOUR "SURFMIST"	
	
PRIVACY TRANSLUCENT GLASS -BATHROOM, SHOWER ETC -BALUSTRADE GLASS	
	
CLEAR GLASS - REFER TO BASIX REQUIREMENT.	

NOTE:  
DOWN PIPES TO MATCH WALL COLOUR

NOTE: GENERAL AMENDMENT  
ACCORDING TO DRP REQUIREMENTS





1 WEST ELEVATION  
1 : 100



2 SOUTH ELEVATION  
1 : 100

FINISHES SCHEDULE:



W1 DULUX "WOODLANDGREY" - LYSAGHT LONGLINE 305 WALL CLADDING FINISH OR SIMILAR



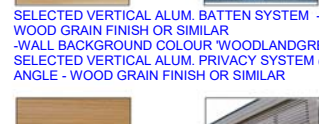
W2 DULUX "VIVID WHITE" - SOFFIT - WALL RENDERED FINISH



W3 DULUX "VIVID WHITE" - FIBRE CEMENT WALL CLADDING FINISH OR SIMILAR



BR AUSTRAL BRICK - EVERYDAY LIFE 'ENGAGE' EXTERNAL WALL FINISH



TB SELECTED VERTICAL ALUM. BATTEN SYSTEM - WOOD GRAIN FINISH OR SIMILAR



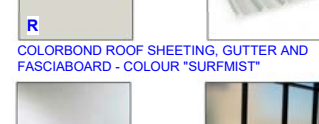
F01 SELECTED ALUMINIUM HORIZONTAL SCREEN SYSTEM - WOOD GRAIN FINISH OR SIMILAR



GD SELECTED GARAGE DOOR - "MONUMENT"



CW CLEAR ANODISED ALUMINIUM



R COLORBOND ROOF SHEETING, GUTTER AND FASCIABOARD - COLOUR "SURFMIST"



PRIVACY TRANSLUCENT GLASS - BATHROOM, SHOWER ETC - BALUSTRADE GLASS



CLEAR GLASS - REFER TO BASIX REQUIREMENT.

NOTE: DOWN PIPES TO MATCH WALL COLOUR

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NOT FOR CONSTRUCTION

DEVELOPMENT APPLICATION

AMENDMENTS			
No.	Revision Description	Date	BY:
A	DA SUBMISSION	30.04.2020	DO/DC
B	DESCRIPTION TITLE AMENDED	27.05.2020	DC
C	ADDITIONAL INFORMATION	10.08.2020	DC
D	ADDITIONAL INFORMATION (DRP)	02.11.2020	DC

NOTE: GENERAL AMENDMENT  
ACCORDING TO DRP REQUIREMENTS



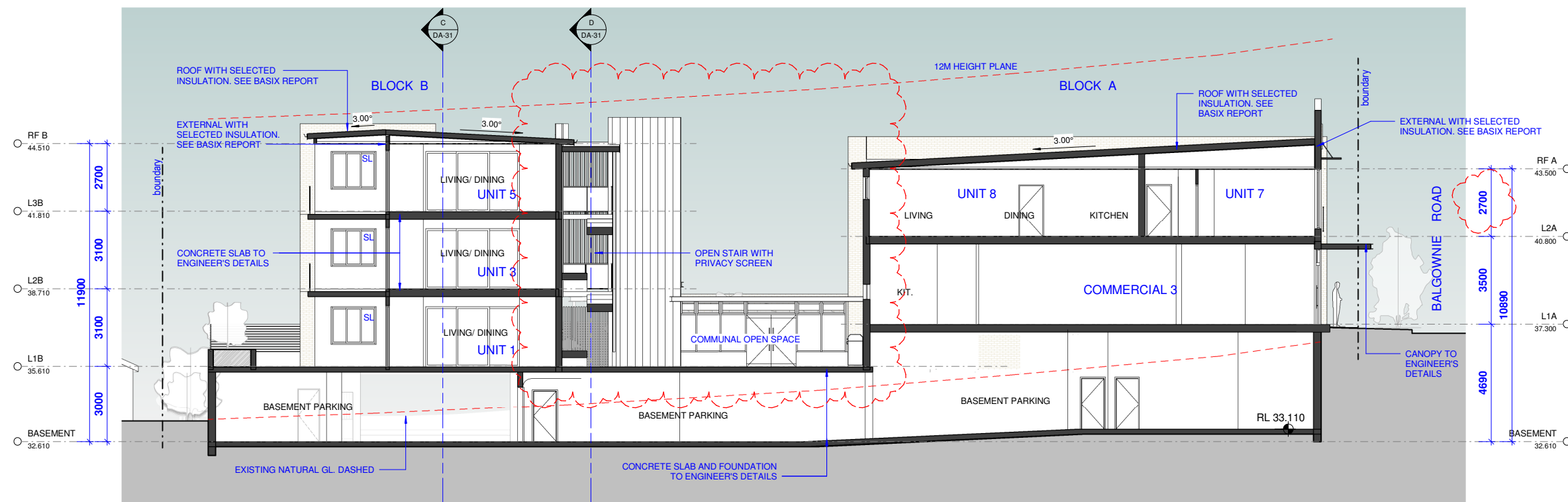
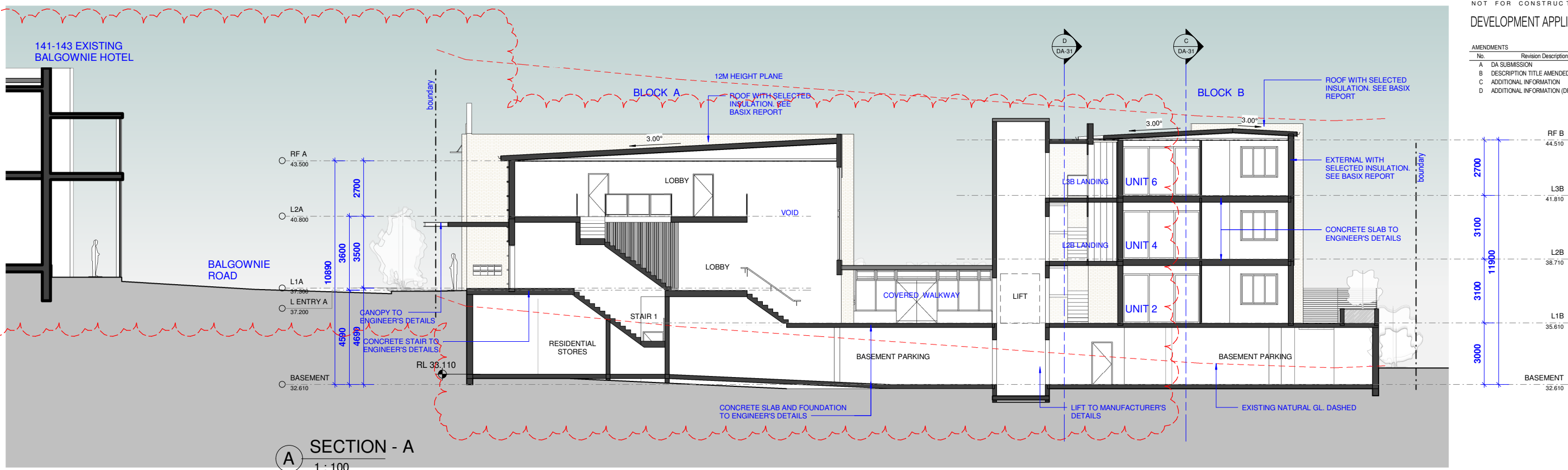


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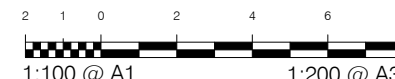
DEVELOPMENT APPLICATION

AMENDMENTS			
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A	DA SUBMISSION	30.04.2020	DQ/DC
B	DESCRIPTION TITLE AMENDED	27.05.2020	DC
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**NOTE:**  
• REFER TO STORMWATER ENGINEER & LANDSCAPE PLANS.  
• REFER TO BASIX REPORT FOR THERMAL, WATER & ENERGY REQUIREMENT.  
• REFER TO HERITAGE, ACCESSIBILITY AND SOEE REPORT.  
• RETAINING WALL HEIGHT LEVEL REFER TO LANDSCAPE PLAN

NOTE: GENERAL AMENDMENT  
ACCORDING TO DRP REQUIREMENTS



PROPOSED SHOP TOP HOUSING AND RESIDENTIAL FLAT BUILDING  
Lot 1641 DP 1111189, Lot 1642 DP 1111189  
164-166 Balgownie Road & 22 Church Street, Balgownie NSW 2519

SECTIONS

MORETTI CONSTRUCTION/ B.FORTE 19-30  
DA-30 -D



6/11/2020 3:13:09 PM



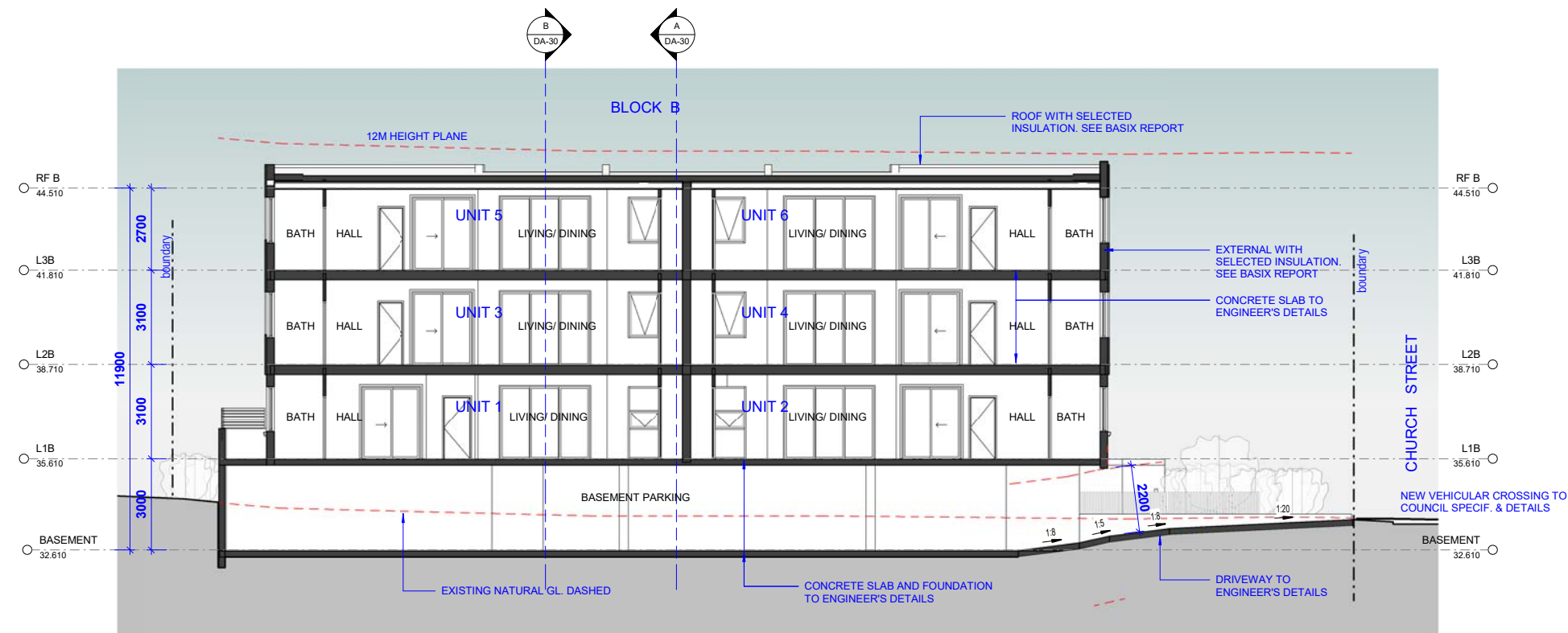
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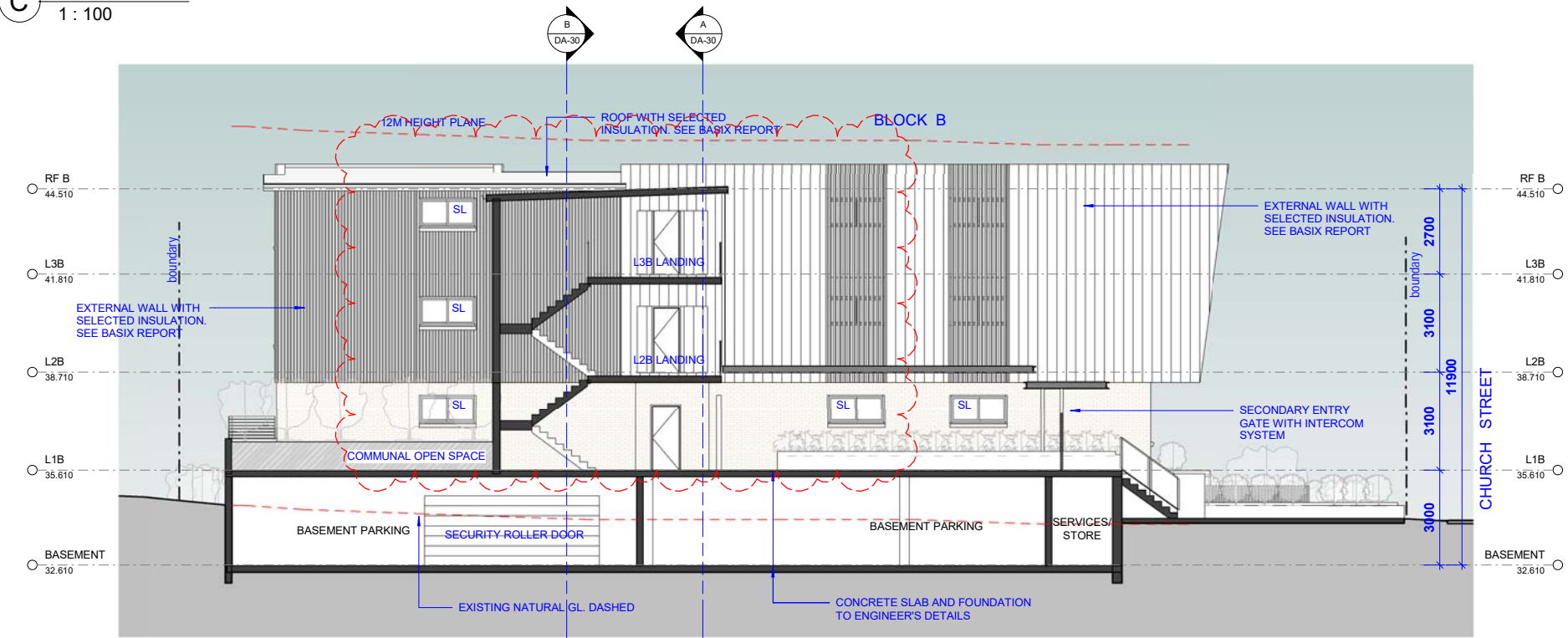
DEVELOPMENT APPLICATION

AMENDMENTS

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D	ADDITIONAL INFORMATION (DRP)	02.11.2020	DC



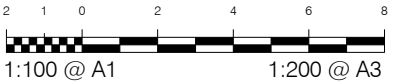
SECTION - C  
1:100



SECTION - D  
1:100

**NOTE:**  
• REFER TO STORMWATER ENGINEER & LANDSCAPE PLANS.  
• REFER TO BASIX REPORT FOR THERMAL, WATER & ENERGY REQUIREMENT.  
• REFER TO HERITAGE, ACCESSIBILITY AND SOEE REPORT  
• RETAINING WALL HEIGHT LEVEL REFER TO LANDSCAPE PLAN

NOTE: GENERAL AMENDMENT  
ACCORDING TO DRP REQUIREMENTS



PROPOSED SHOP TOP HOUSING AND RESIDENTIAL FLAT BUILDING  
Lot 1641 DP 1111189, Lot 1642 DP 1111189  
164-166 Balgownie Road & 22 Church Street, Balgownie NSW 2519

SECTIONS

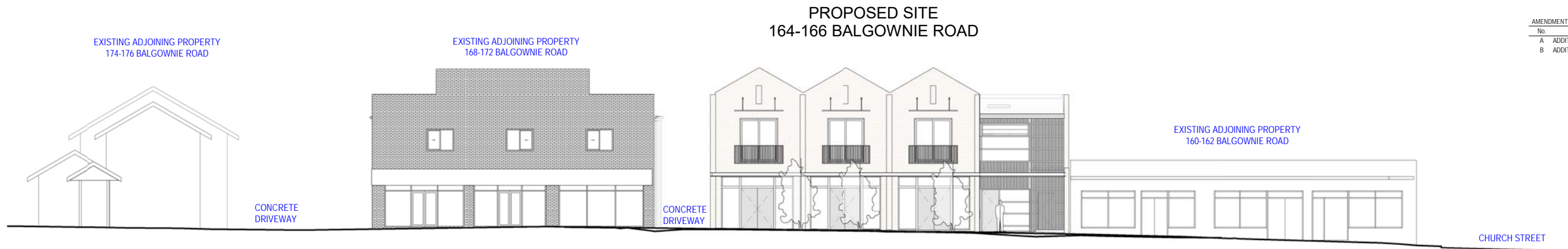
MORETTI CONSTRUCTION/ B.FORTE 19-30  
DA-31 -D



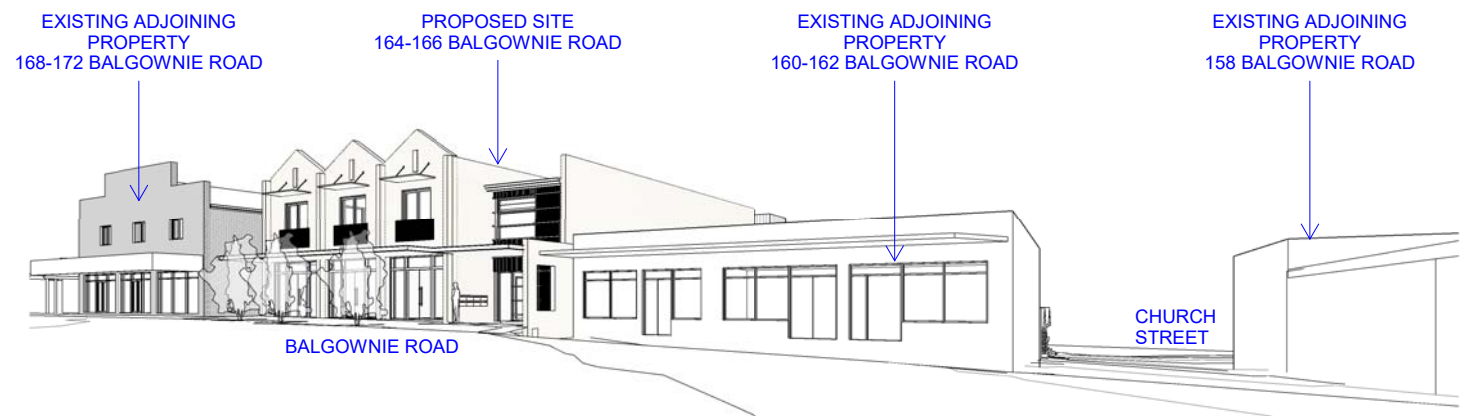
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AMENDMENTS

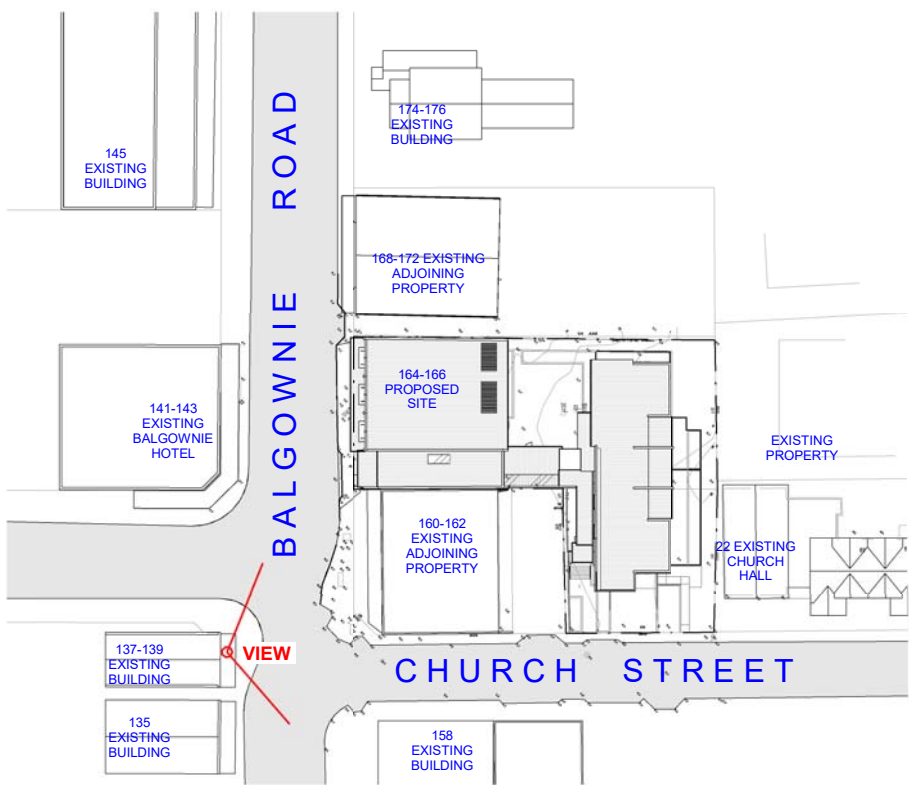
No.	Revision Description	Date	BY:
A	ADDITIONAL INFORMATION	10.08.2020	DC
B	ADDITIONAL INFORMATION (DRP)	02.11.2020	DC



1 BALGOWNIE ROAD STREET FRONT  
1 : 125



2 VIEW FROM ACROSS THE BALGOWNIE ROAD IN FRONT OF THE SINGLE STOREY SHOP



NOTE: GENERAL AMENDMENT  
ACCORDING TO DRP REQUIREMENTS



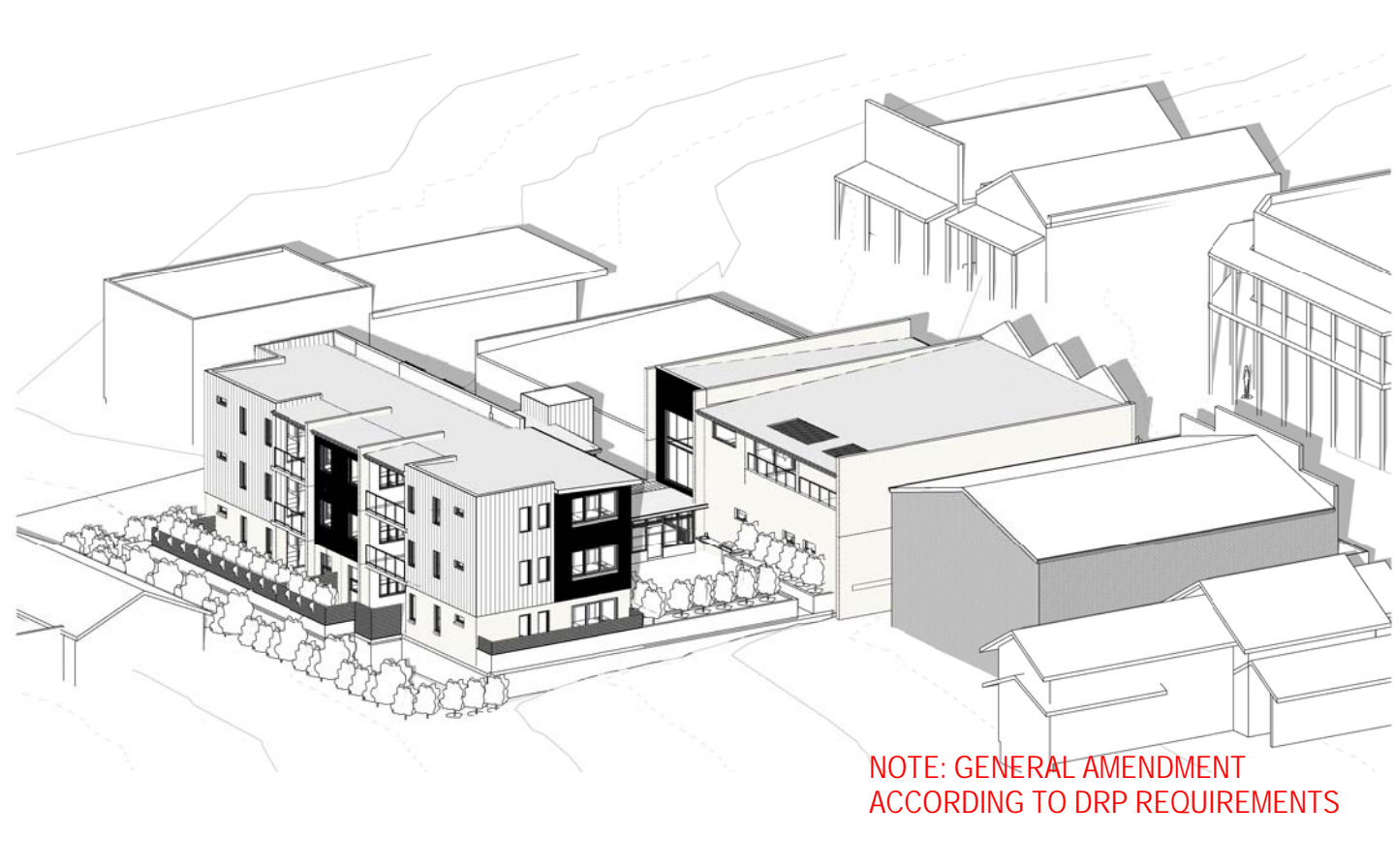
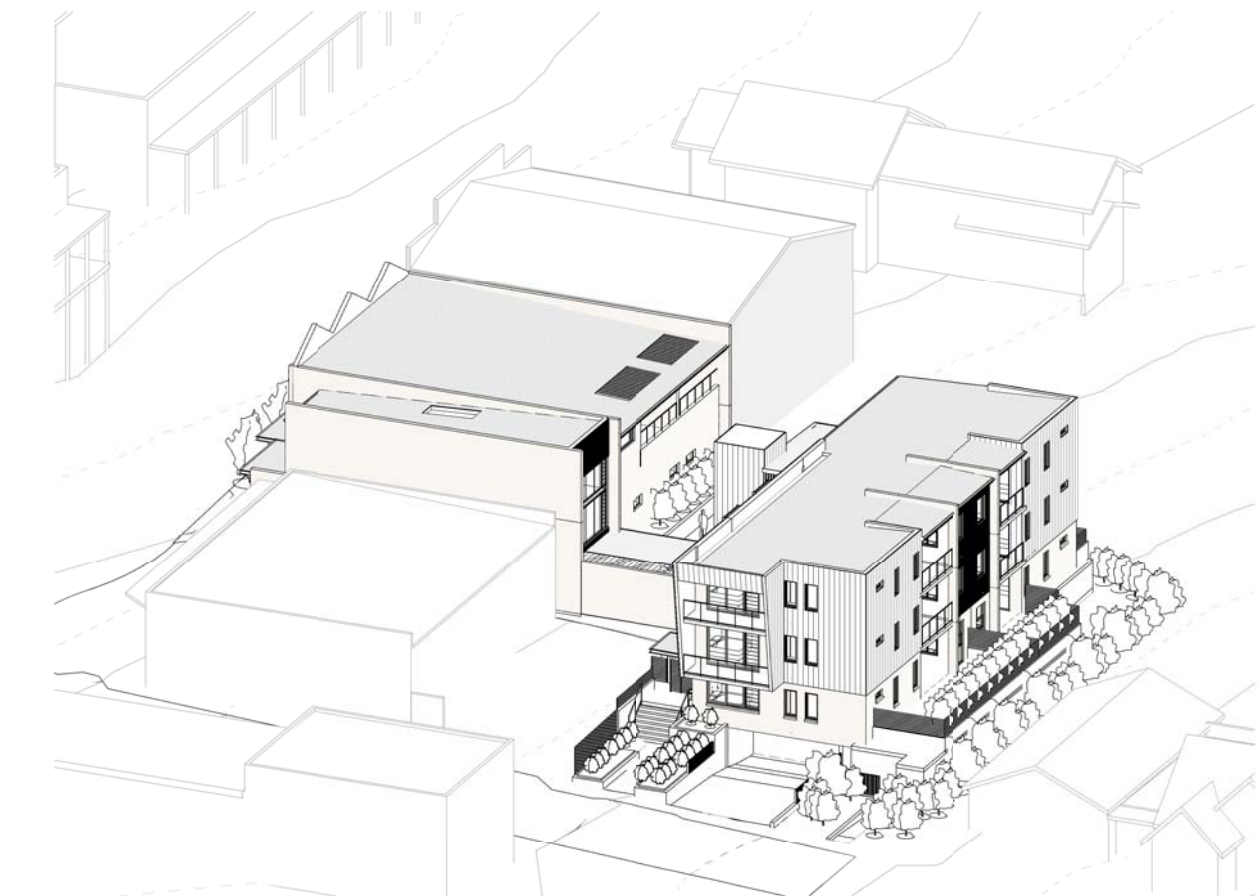
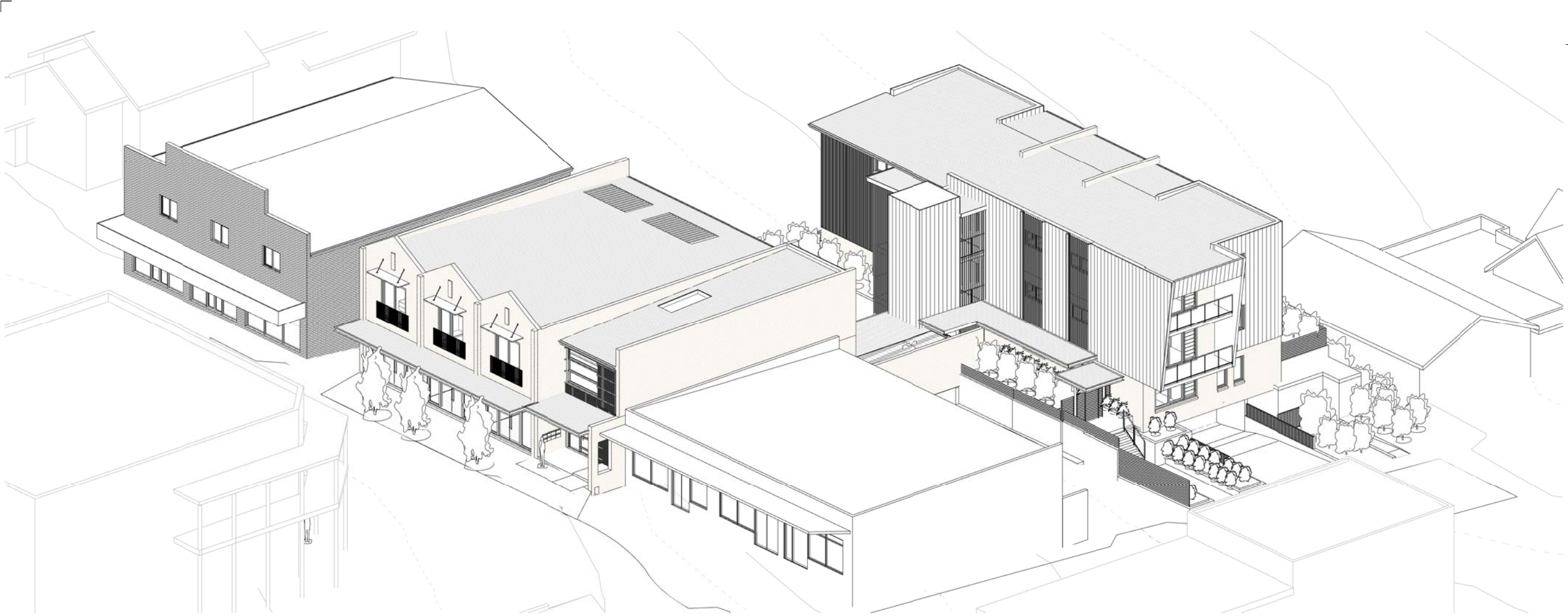
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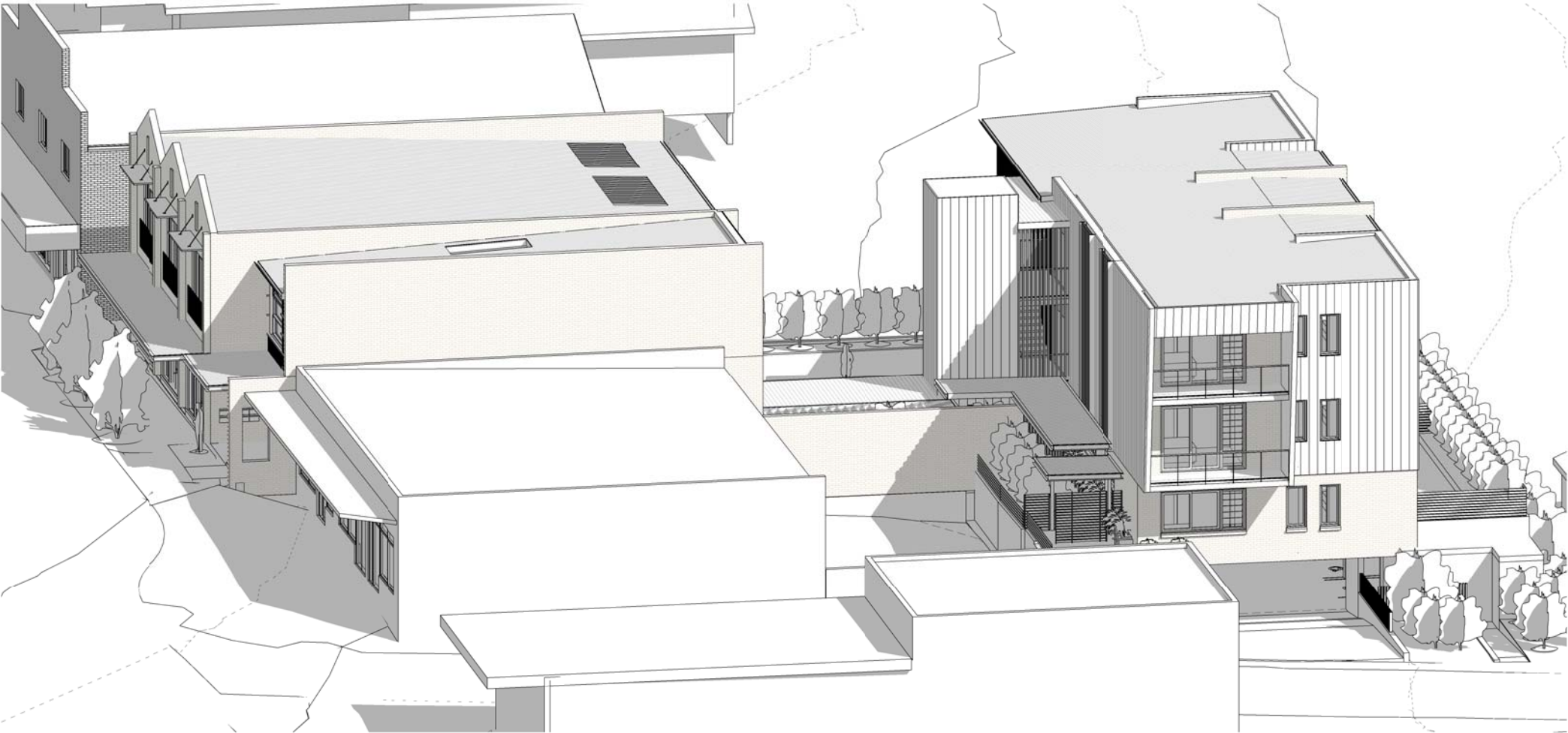
NOTE: GENERAL AMENDMENT  
ACCORDING TO DRP REQUIREMENTS

PROPOSED SHOP TOP HOUSING AND RESIDENTIAL FLAT BUILDING  
Lot 1641 DP 1111189, Lot 1642 DP 1111189  
164-166 Balgownie Road & 22 Church Street, Balgownie NSW 2519  
3D STUDY

MORETTI CONSTRUCTION/ B.FORTE 19-30  
DA-40 -D







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DEVELOPMENT APPLICATION

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NOTE: GENERAL AMENDMENT  
ACCORDING TO DRP REQUIREMENTS



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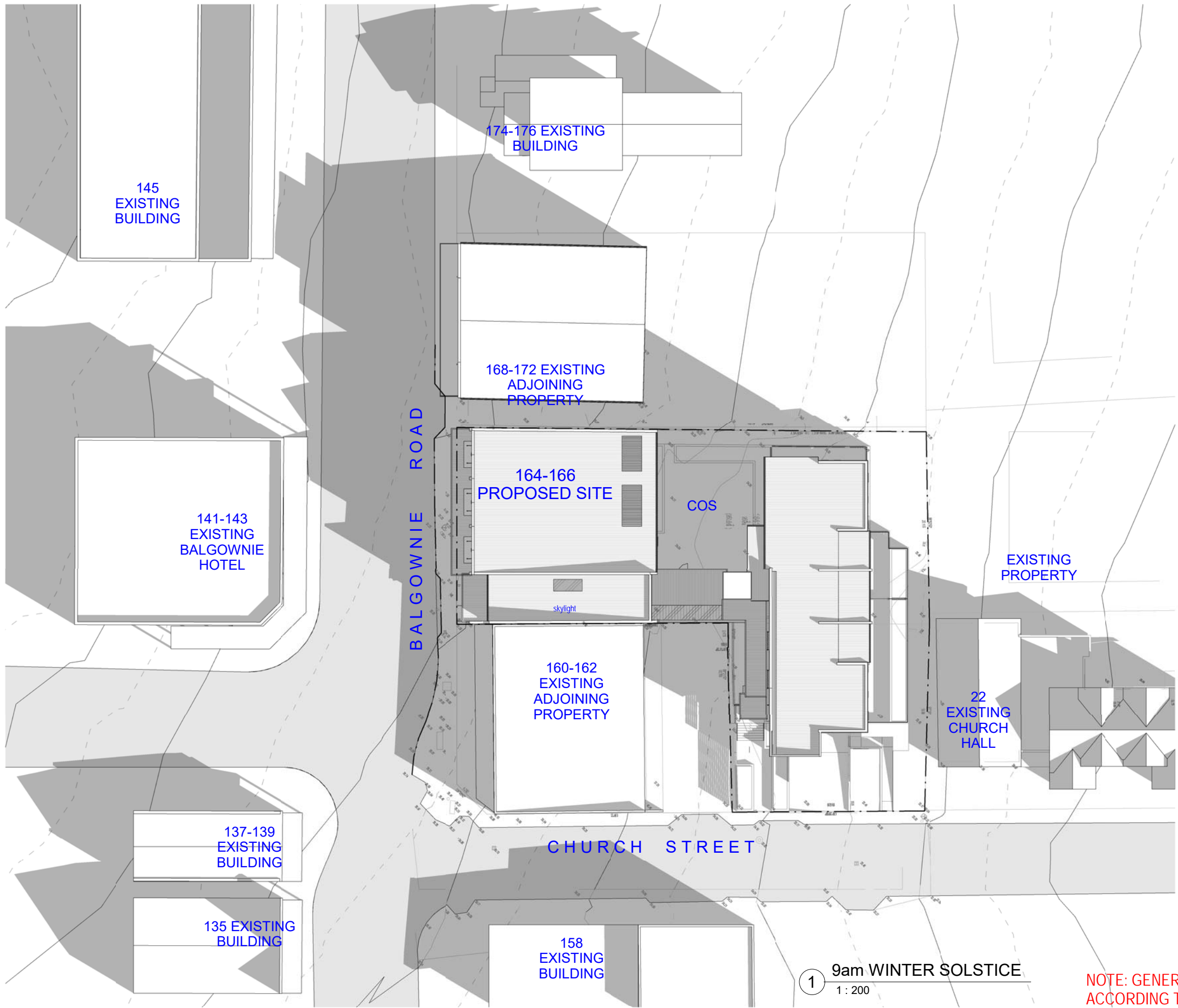
NOT FOR CONSTRUCTION

DEVELOPMENT APPLICATION

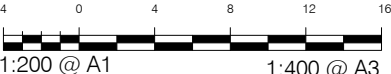


AMENDMENTS

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NOTE: GENERAL AMENDMENT  
ACCORDING TO DRP REQUIREMENTS



PROPOSED SHOP TOP HOUSING AND RESIDENTIAL FLAT BUILDING

MORETTI CONSTRUCTION/ B.FORTE 19-30

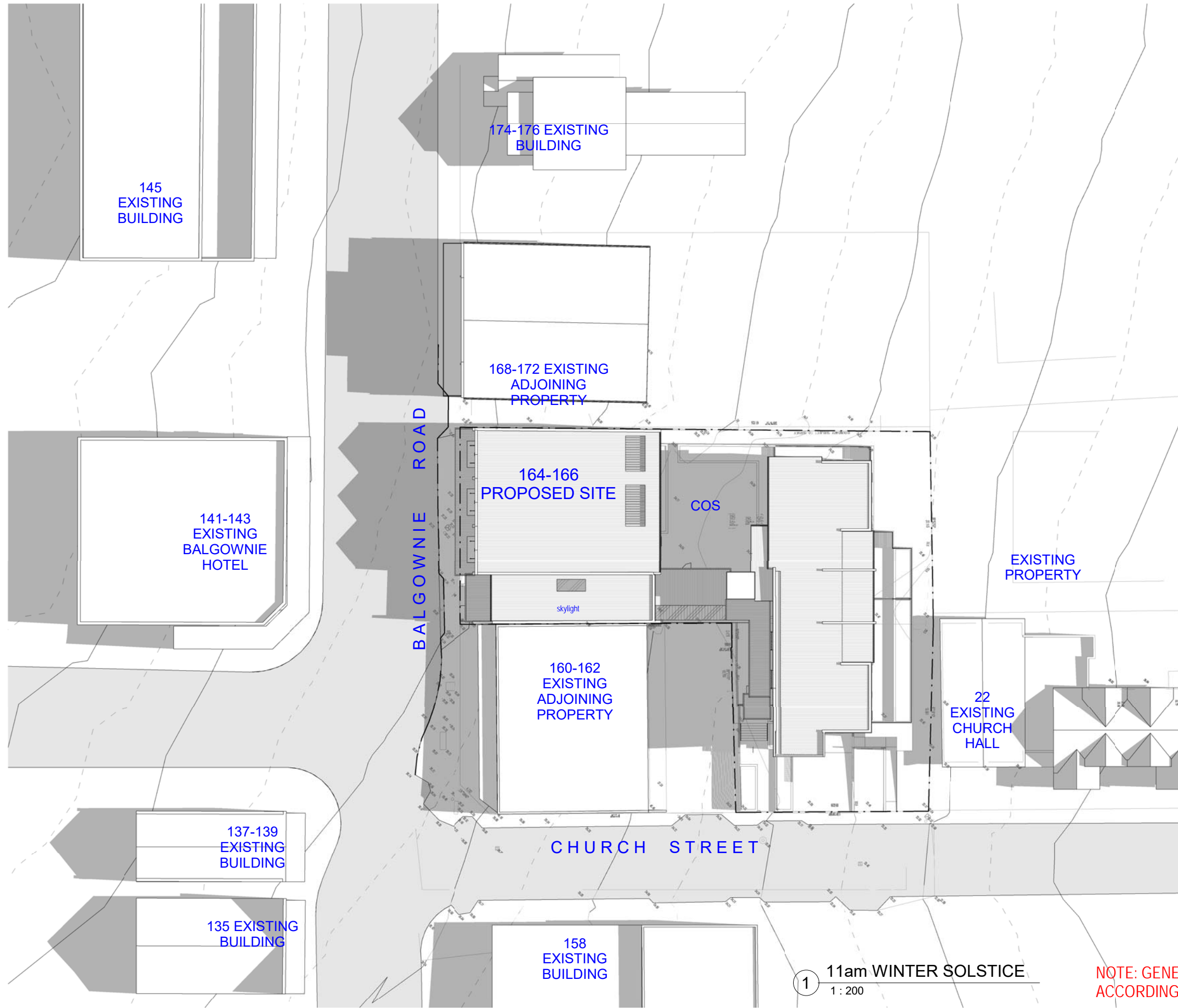
Lot 1641 DP 1111189, Lot 1642 DP 1111189  
164-166 Balgownie Road & 22 Church Street, Balgownie NSW 2519

SHADOW DIAGRAMS

DA-50 -D



4/11/2020 10:29:16 AM

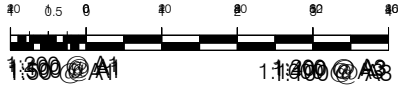


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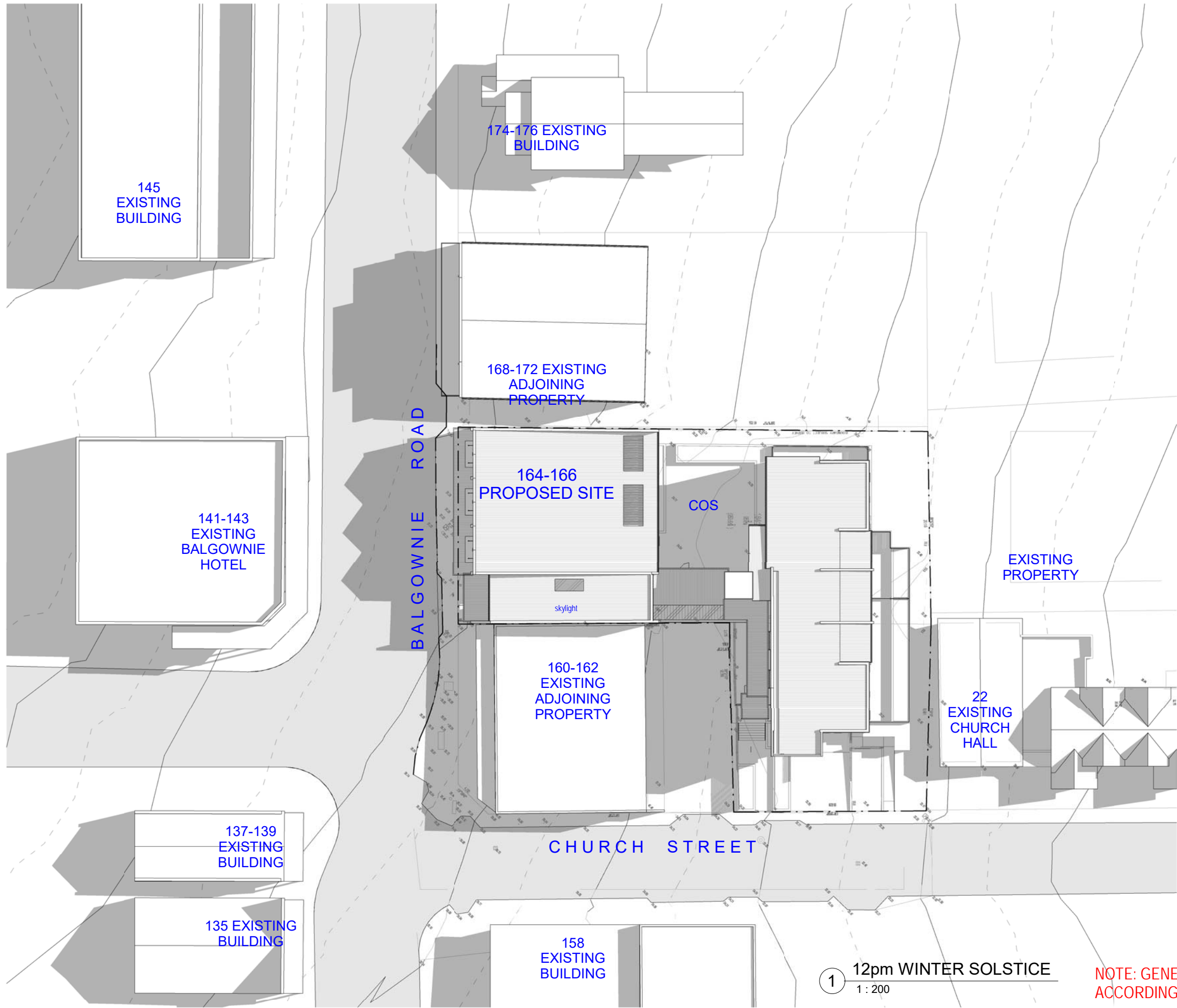
NOT FOR CONSTRUCTION  
DEVELOPMENT APPLICATION

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NOTE: GENERAL AMENDMENT  
ACCORDING TO DRP REQUIREMENTS







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DEVELOPMENT APPLICATION

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ACCORDING TO DRP REQUIREMENTS



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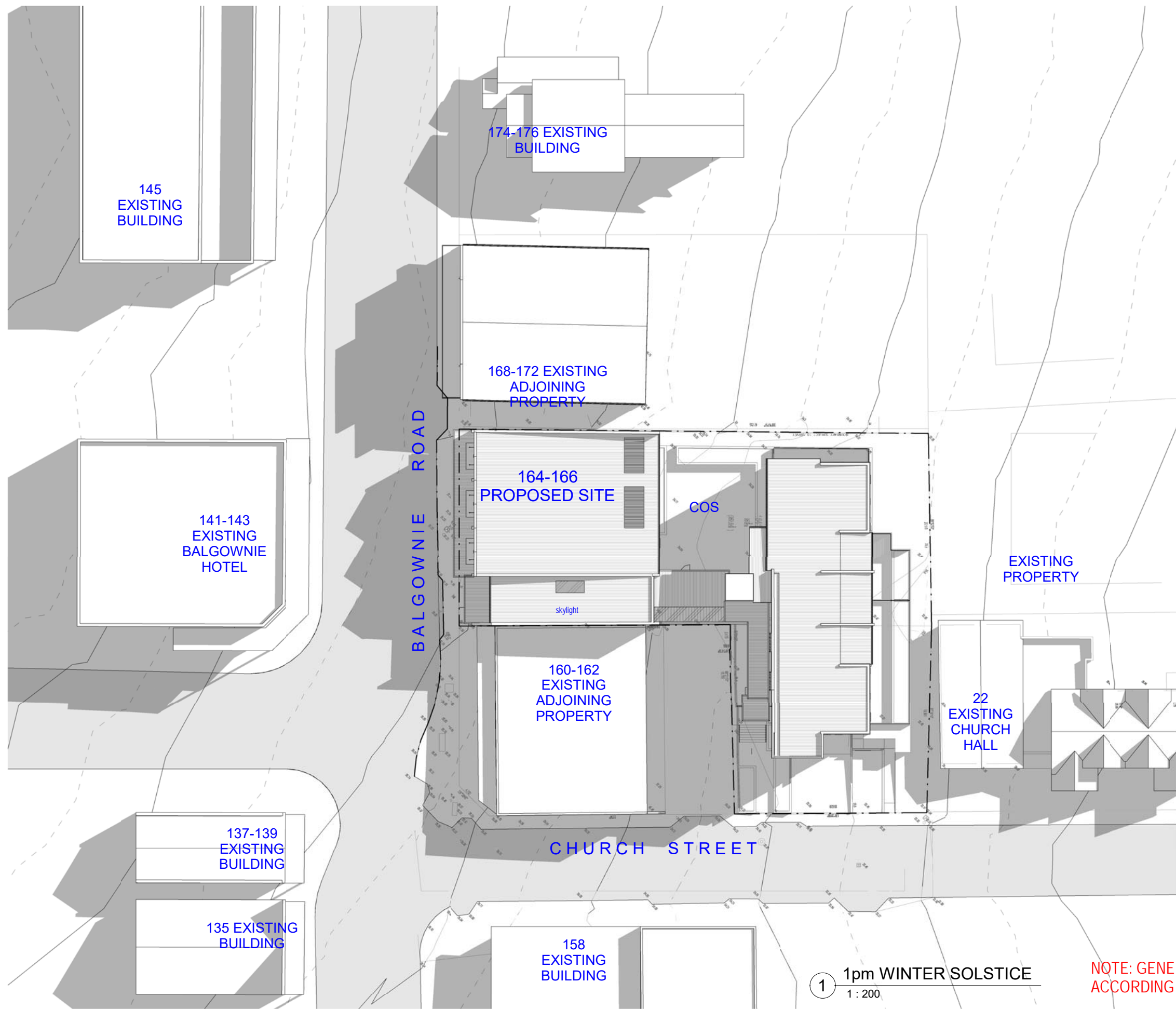
NOT FOR CONSTRUCTION

DEVELOPMENT APPLICATION



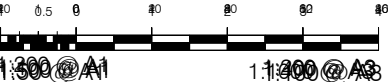
AMENDMENTS

No.	Revision Description	Date	BY:
A	ADDITIONAL INFORMATION (DRP)	02.11.2020	DC



1 1pm WINTER SOLSTICE  
1 : 200

NOTE: GENERAL AMENDMENT  
ACCORDING TO DRP REQUIREMENTS



PROPOSED SHOP TOP HOUSING AND RESIDENTIAL FLAT BUILDING

MORETTI CONSTRUCTION/ B.FORTE 19-30

Lot 1641 DP 1111189, Lot 1642 DP 1111189  
164-166 Balgownie Road & 22 Church Street, Balgownie NSW 2519

SHADOW DIAGRAMS

DA-54 -A



4/11/2020 10:29:45 AM



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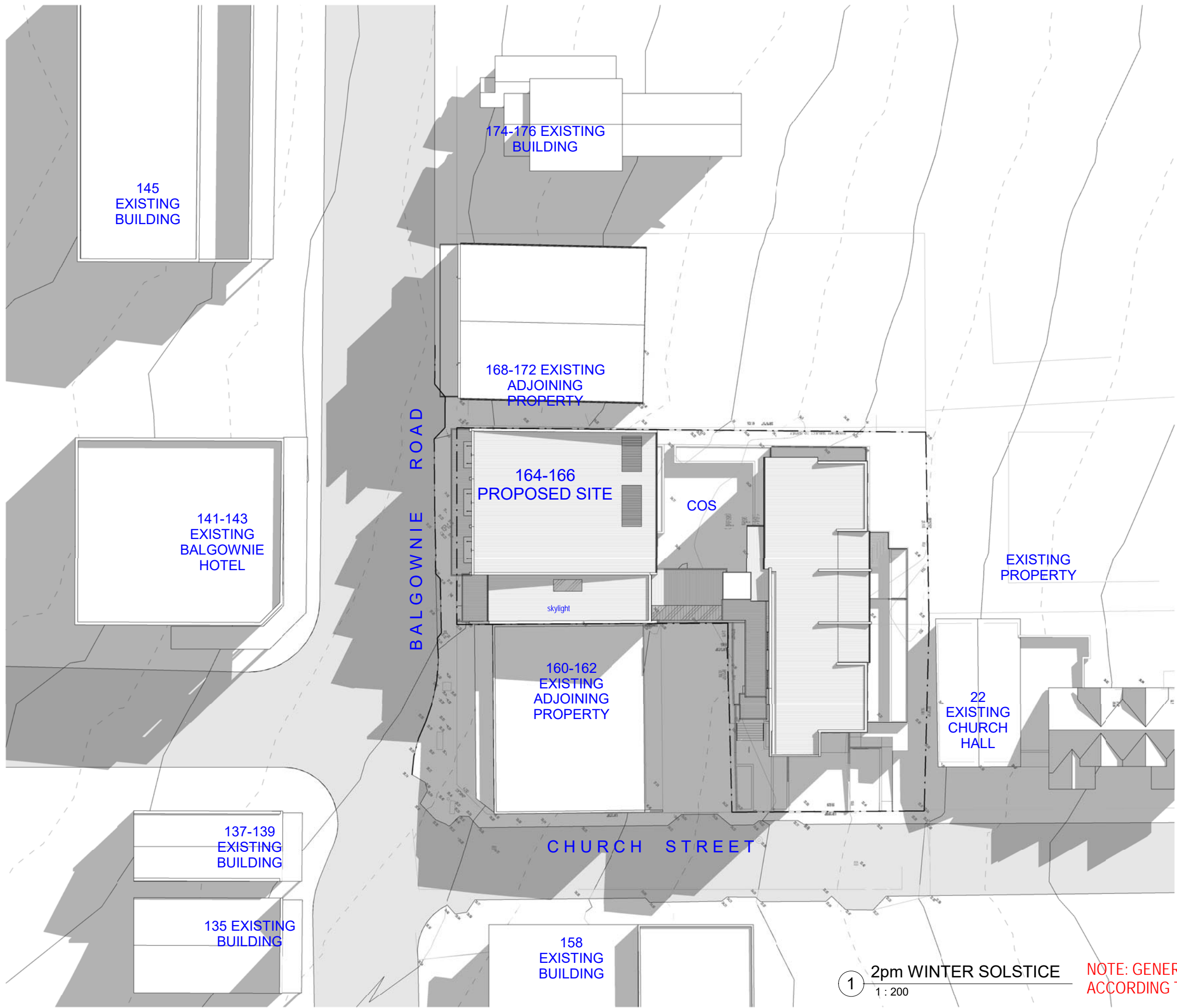
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DEVELOPMENT APPLICATION



AMENDMENTS

No.	Revision Description	Date	BY:
A	ADDITIONAL INFORMATION (DRP)	02.11.2020	DC



1 2pm WINTER SOLSTICE  
1 : 200

NOTE: GENERAL AMENDMENT  
ACCORDING TO DRP REQUIREMENTS



PROPOSED SHOP TOP HOUSING AND RESIDENTIAL FLAT BUILDING

Lot 1641 DP 1111189, Lot 1642 DP 1111189  
164-166 Balgownie Road & 22 Church Street, Balgownie NSW 2519

SHADOW DIAGRAMS

MORETTI CONSTRUCTION/ B.FORTE 19-30

DA-55 -A



4/11/2020 10:29:55 AM

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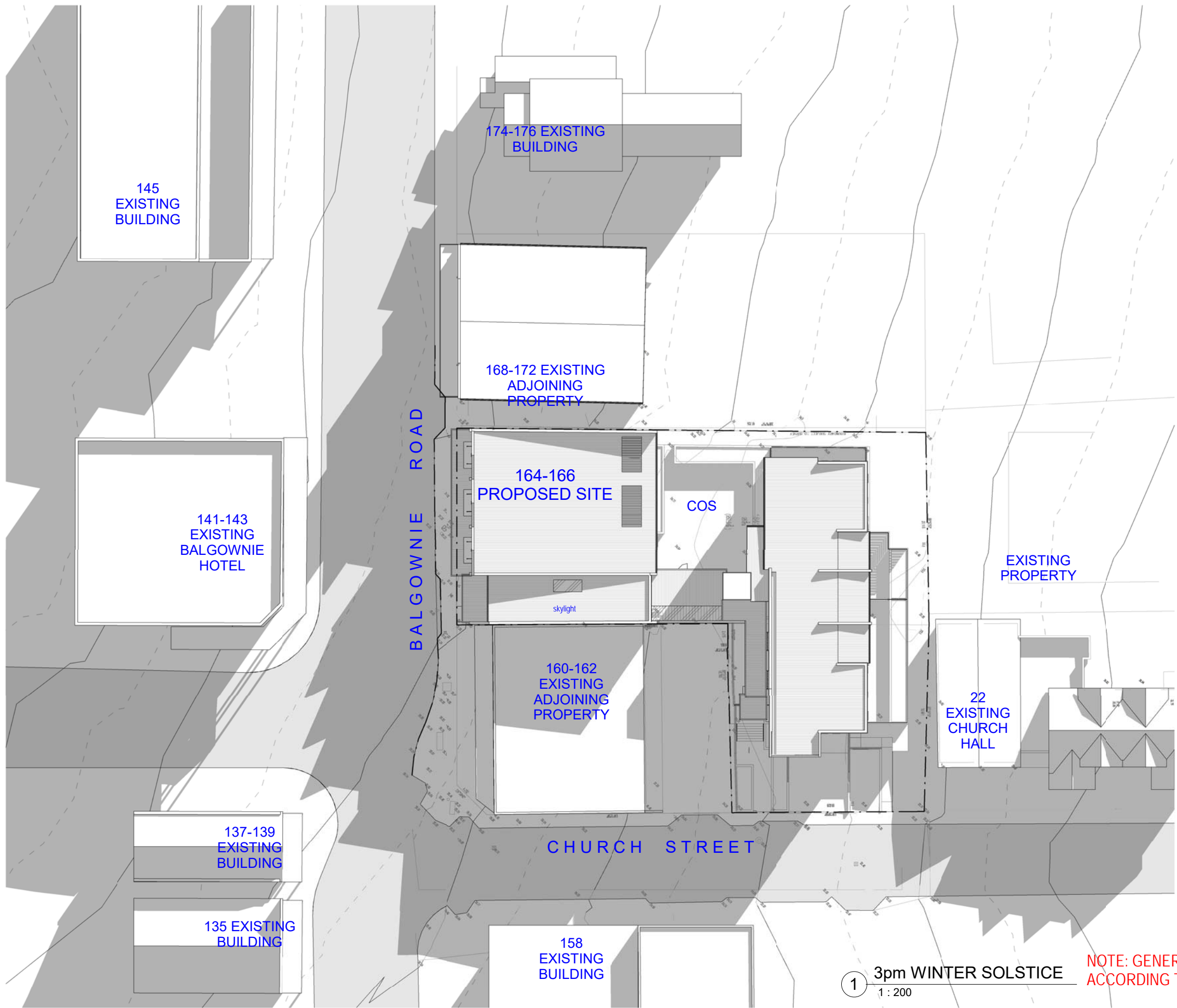
NOT FOR CONSTRUCTION

DEVELOPMENT APPLICATION



AMENDMENTS

No.	Revision Description	Date	BY:
A	ADDITIONAL INFORMATION (DRP)	02.11.2020	DC



1 3pm WINTER SOLSTICE  
1 : 200

NOTE: GENERAL AMENDMENT  
ACCORDING TO DRP REQUIREMENTS



PROPOSED SHOP TOP HOUSING AND RESIDENTIAL FLAT BUILDING  
Lot 1641 DP 1111189, Lot 1642 DP 1111189  
164-166 Balgownie Road & 22 Church Street, Balgownie NSW 2519  
SHADOW DIAGRAMS

MORETTI CONSTRUCTION/ B.FORTE 19-30  
DA-56 -A



4/11/2020 10:30:04 AM

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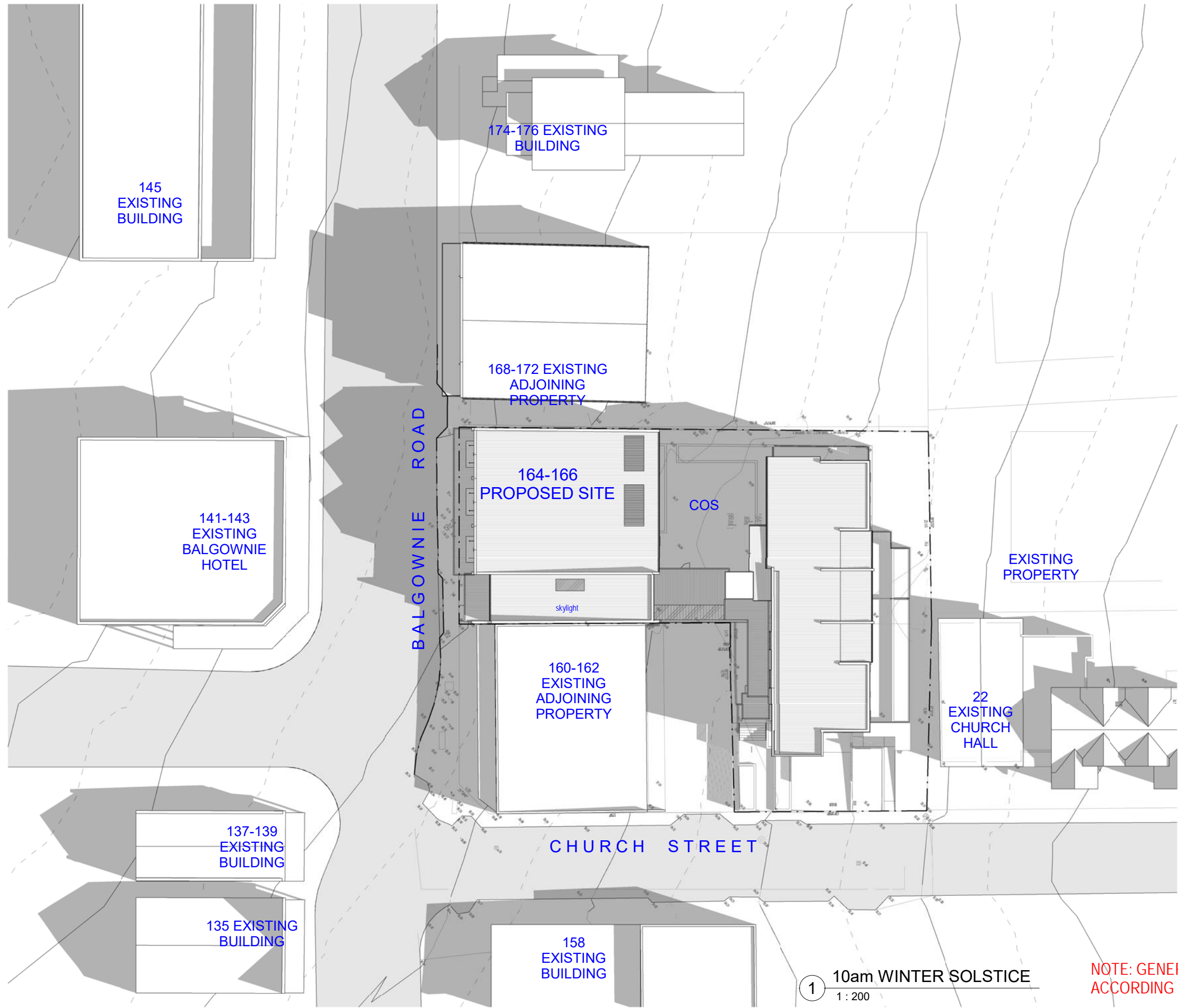
NOT FOR CONSTRUCTION

DEVELOPMENT APPLICATION



AMENDMENTS

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D	ADDITIONAL INFORMATION (DRP)	02.11.2020	DC



1 10am WINTER SOLSTICE  
1:200

NOTE: GENERAL AMENDMENT  
ACCORDING TO DRP REQUIREMENTS



PROPOSED SHOP TOP HOUSING AND RESIDENTIAL FLAT BUILDING

MORETTI CONSTRUCTION/ B.FORTE 19-30

Lot 1641 DP 1111189, Lot 1642 DP 1111189  
164-166 Balgownie Road & 22 Church Street, Balgownie NSW 2519

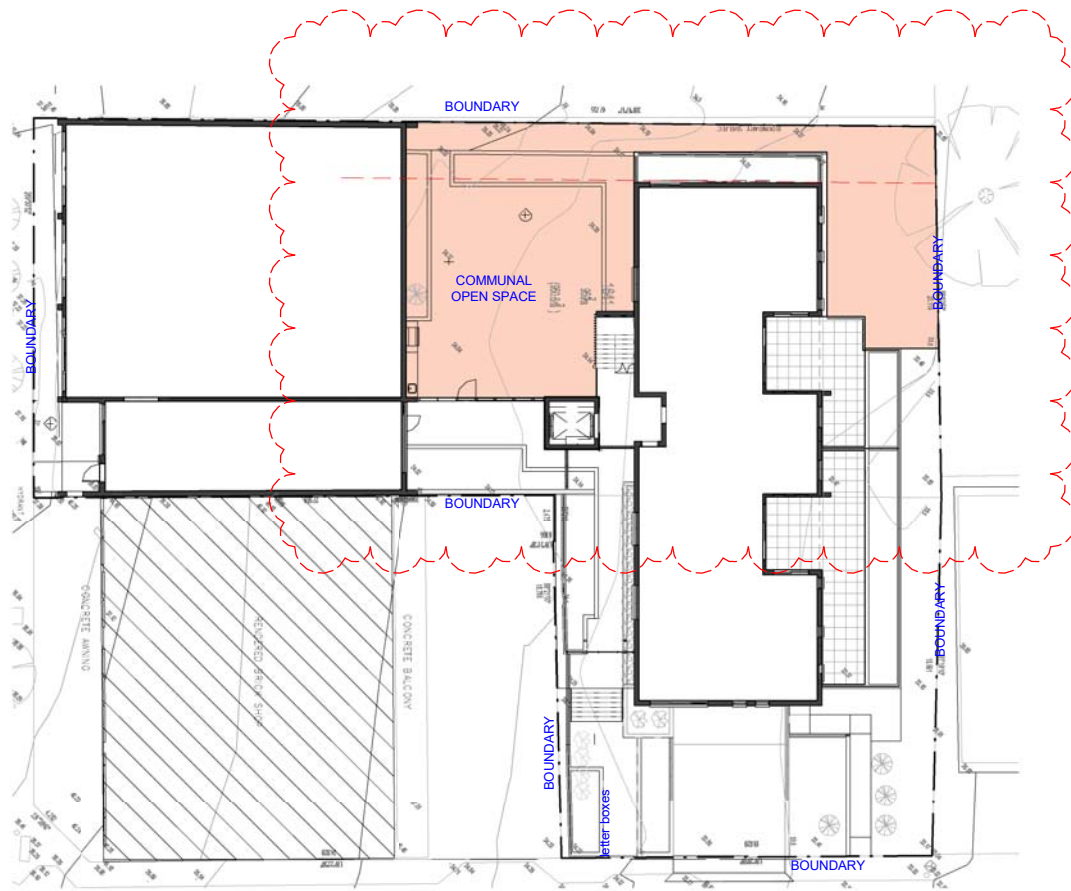
SHADOW DIAGRAMS

DA-51 -D

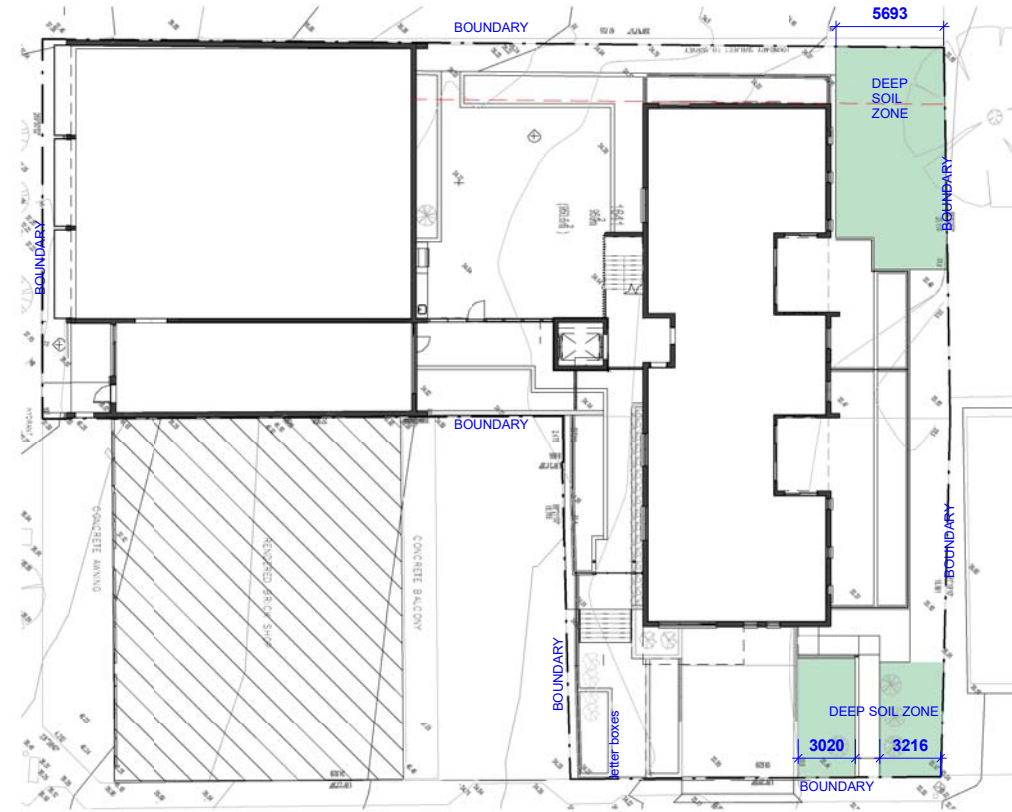


4/11/2020 10:29:24 AM





1 COS - DIAGRAM - LEVEL 1 FLOOR PLAN  
1 : 200



2 DSZ - DIAGRAM  
1 : 200

#### COS & DSZ CALCULATIONS:

**SITE AREA :** 1334.60M<sup>2</sup> (950.6 + 384M<sup>2</sup>)

**MAX FSR 1.5:1 or 2001.90M<sup>2</sup>**

**COS - COMMUNAL OPEN SPACE**  
(Required 25% of total site = 333.65m<sup>2</sup>)

**Provided - TOTAL = 246.1m<sup>2</sup> (18%)**

**DSZ - DEEP SOIL ZONE**  
(Required 7% of total site with 3m min. dimensions = 93.422m<sup>2</sup>)

**Provided - TOTAL = 105m<sup>2</sup> (7.8%)**

REFER TO LANDSCAPE, STORMWATER + TRAFFIC ENGINEER'S PLANS, SOEE, BASIX, HERITAGE AND ACCESSIBILITY REPORT.

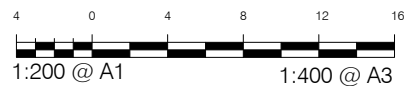
NOTE: GENERAL AMENDMENT  
ACCORDING TO DRP REQUIREMENTS

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DEVELOPMENT APPLICATION



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PROPOSED SHOP TOP HOUSING AND RESIDENTIAL FLAT BUILDING

Lot 1641 DP 1111189, Lot 1642 DP 1111189  
164-166 Balgownie Road & 22 Church Street, Balgownie NSW 2519

COS & DSZ DIAGRAMS

MORETTI CONSTRUCTION/ B.FORTE 19-30

DA-60 -D



4/11/2020 10:30:06 AM

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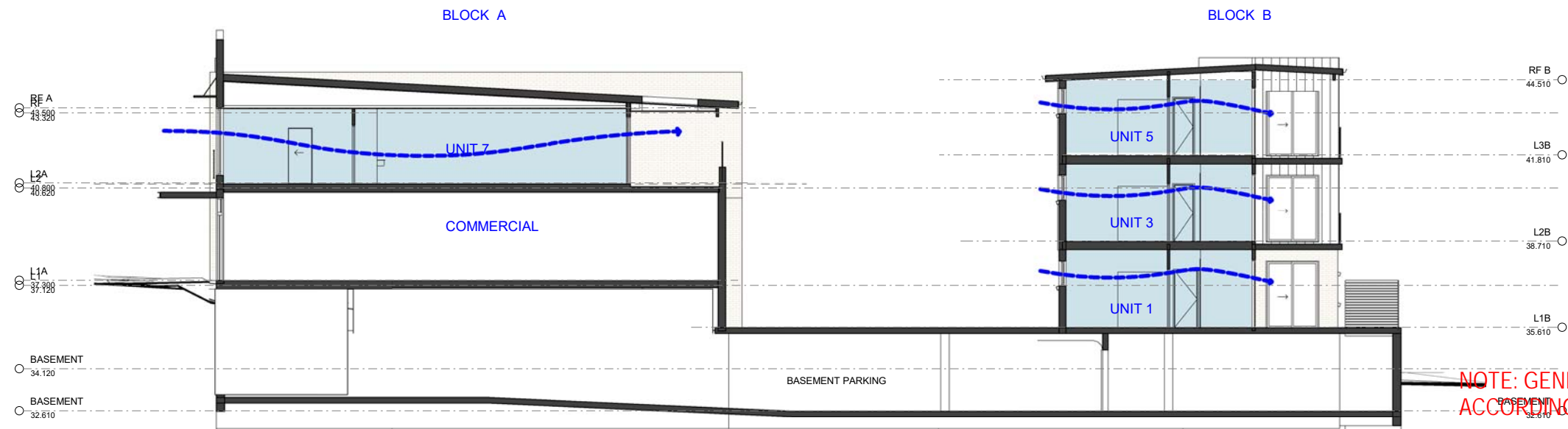
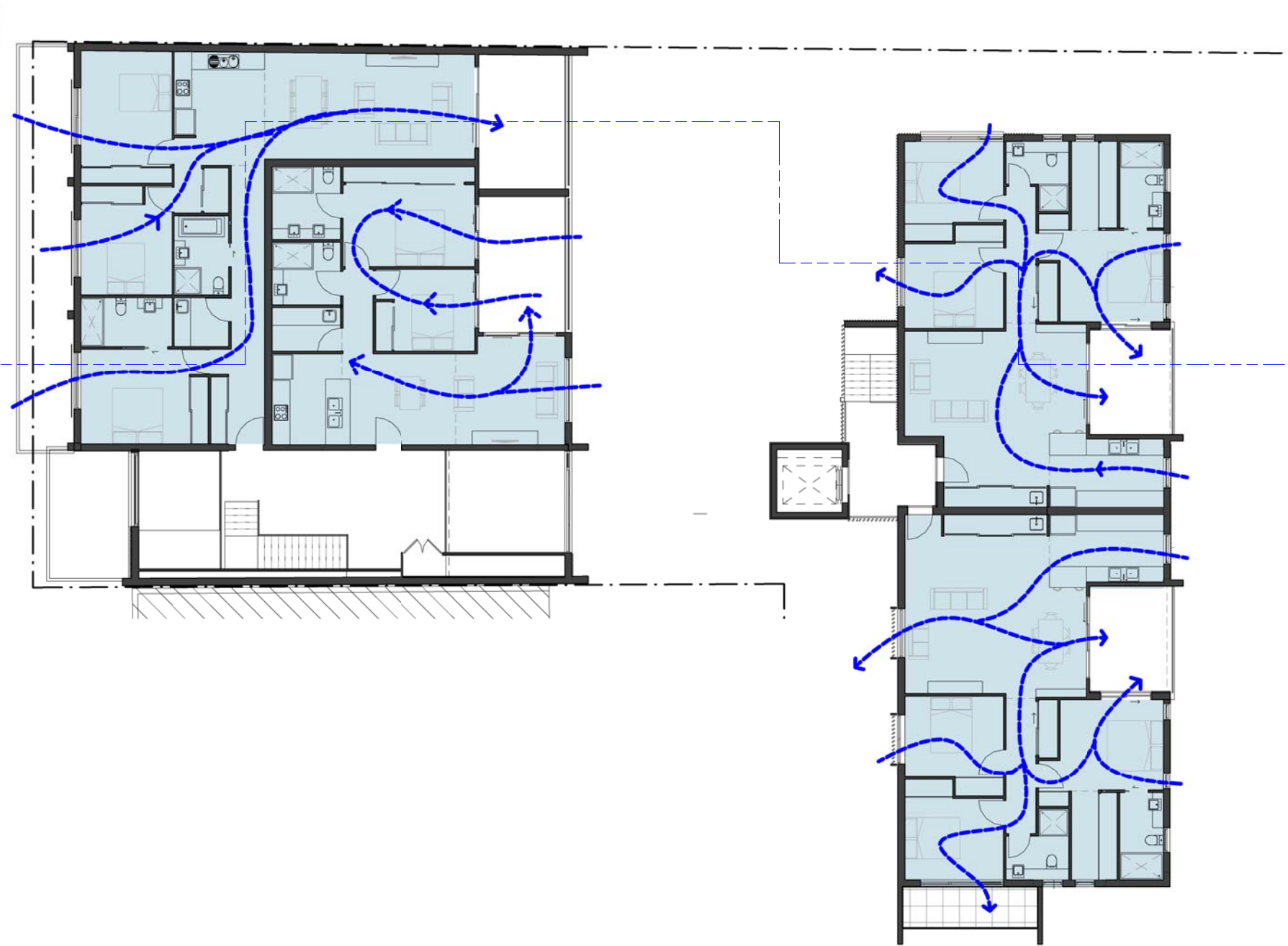
NOT FOR CONSTRUCTION

DEVELOPMENT APPLICATION

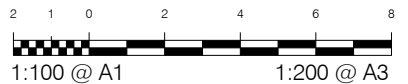


AMENDMENTS

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NOTE: GENERAL AMENDMENT  
ACCORDING TO DRP REQUIREMENTS



PROPOSED SHOP TOP HOUSING AND RESIDENTIAL FLAT BUILDING

Lot 1641 DP 1111189, Lot 1642 DP 1111189  
164-166 Balgownie Road & 22 Church Street, Balgownie NSW 2519

CROSS VENTILATION PLAN

MORETTI CONSTRUCTION/ B.FORTE

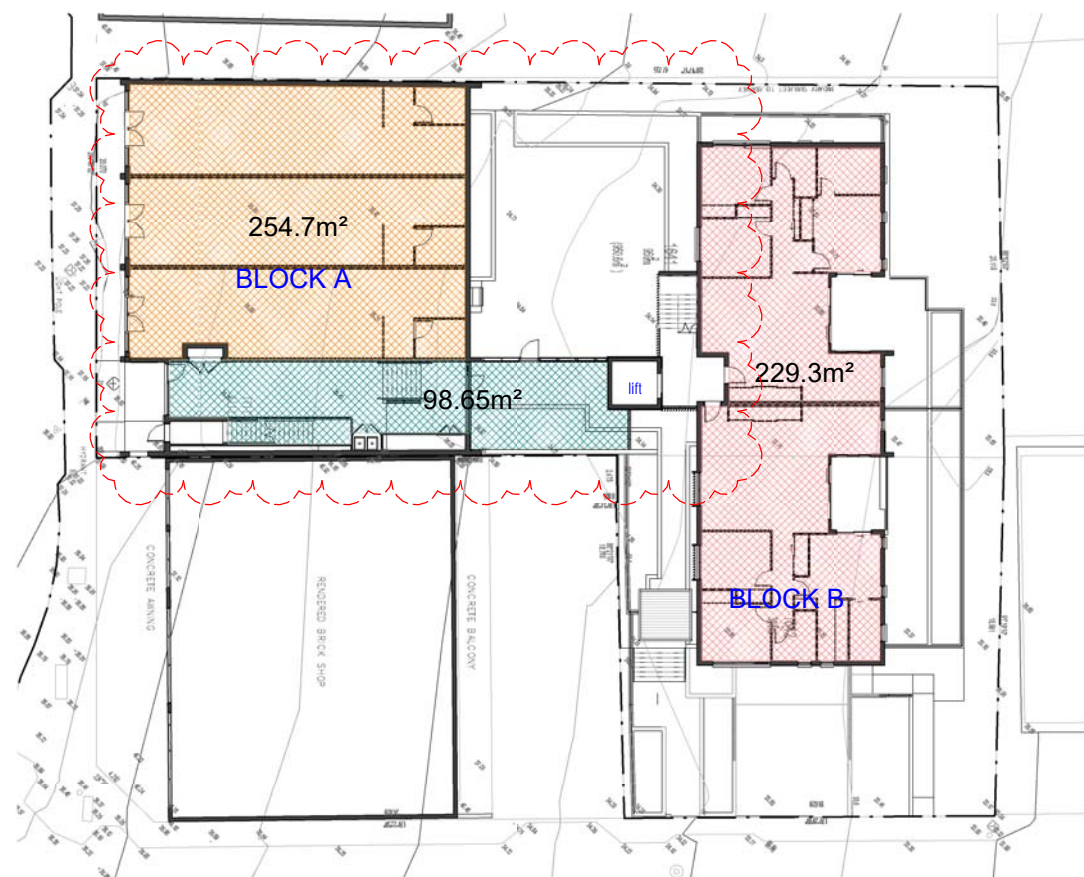
19-30

DA-61 -D

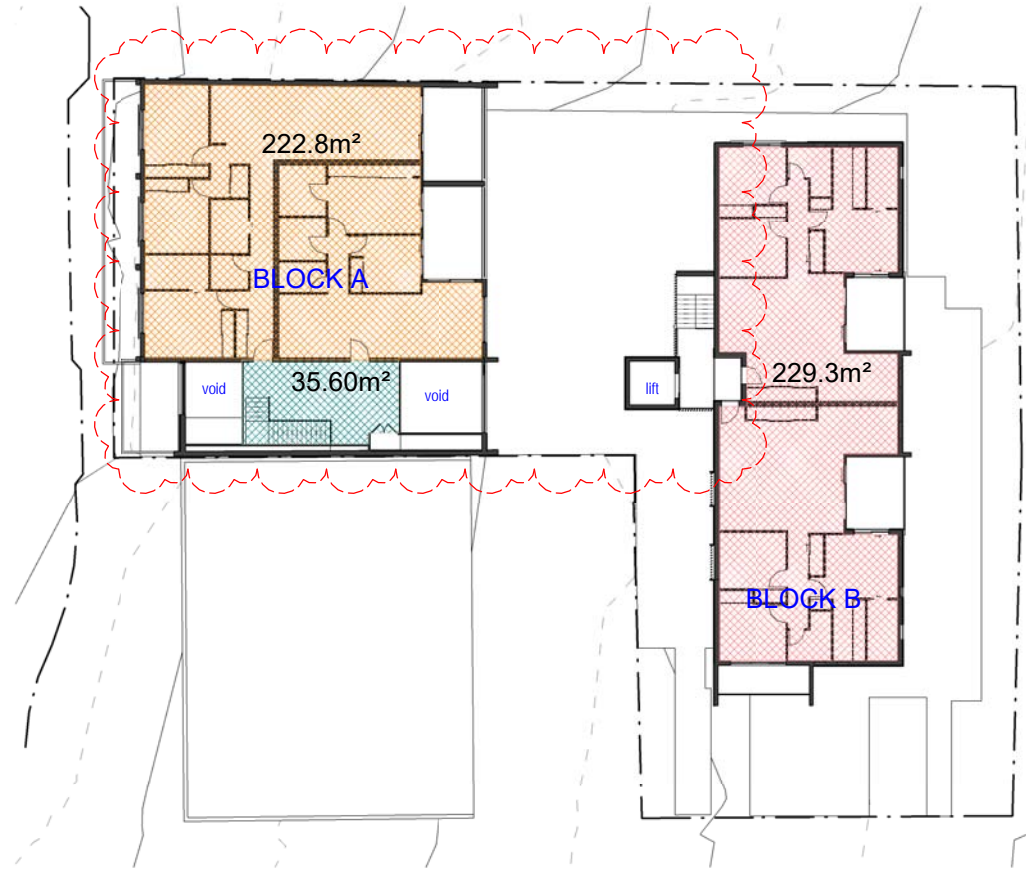


4/11/2020 10:30:14 AM

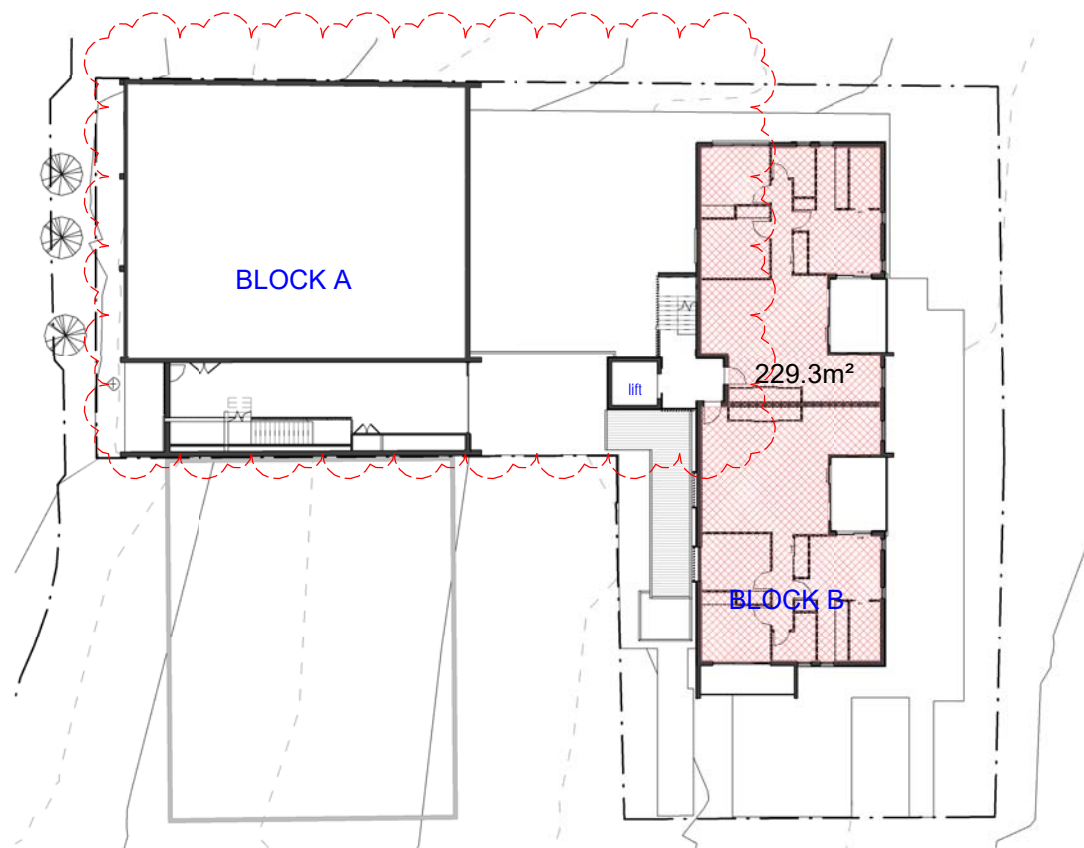




1 L1A / L1B - FSR  
1 : 200



2 L2A / L3B - FSR  
1 : 200



3 L2B - FSR  
1 : 200

**SITE CALCULATIONS:**

<b>SITE AREA :</b>	<b>1334.60M² (950.6 + 384M²)</b>
<b>MAX FSR 1.5:1</b>	<b>or 2001.90M²</b>
<b>BLOCK A (LEVEL 1 A)</b>	
TOTAL FLOOR AREA	353.35M²
(Commercial + Lobby + Covered Walkway)	
<b>BLOCK A (LEVEL 2 A)</b>	
TOTAL FLOOR AREA	258.40M²
(UNIT 7 & 8 + Lobby)	
<b>BLOCK B (LEVEL 1 B)</b>	
TOTAL FLOOR AREA	229.3M²
(UNIT 1 & 2)	
<b>BLOCK B (LEVEL 2 B)</b>	
TOTAL FLOOR AREA	229.3M²
(UNIT 3 & 4)	
<b>BLOCK B (LEVEL 3 B)</b>	
TOTAL FLOOR AREA	229.3M²
(UNIT 5 & 6)	
<b>TOTAL OVERALL FLOOR AREA</b>	<b>1299.65M² (FSR 0.65:1)</b>

THESE PLANS TO BE READ IN CONJUNCTION WITH THE LANDSCAPE PLAN, STORMWATER + TRAFFIC, SOEE, HERITAGE AND ACCESSIBILITY REPORTS.

**NOTE FOR ADG CALCULATIONS:**

(The ADG is not apply to BLOCK A - Commercial and Unit 7 & 8.)

<b>BLOCK B (LEVEL 1 B)</b>	
Unit 1	112.8M²
Unit 2	116.5M²

<b>BLOCK B (LEVEL 2 B)</b>	
Unit 3	112.8M²
Unit 4	116.5M²

<b>BLOCK B (LEVEL 3 B)</b>	
Unit 5	112.8M²
Unit 6	116.5M²

**TOTAL FLOOR AREA 687.9M² (FSR 0.51:1)**

**NOTE:** DEEP SOIL ZONE & COMMUNAL OPEN SPACE CALCULATION REFER TO SHEET DA60

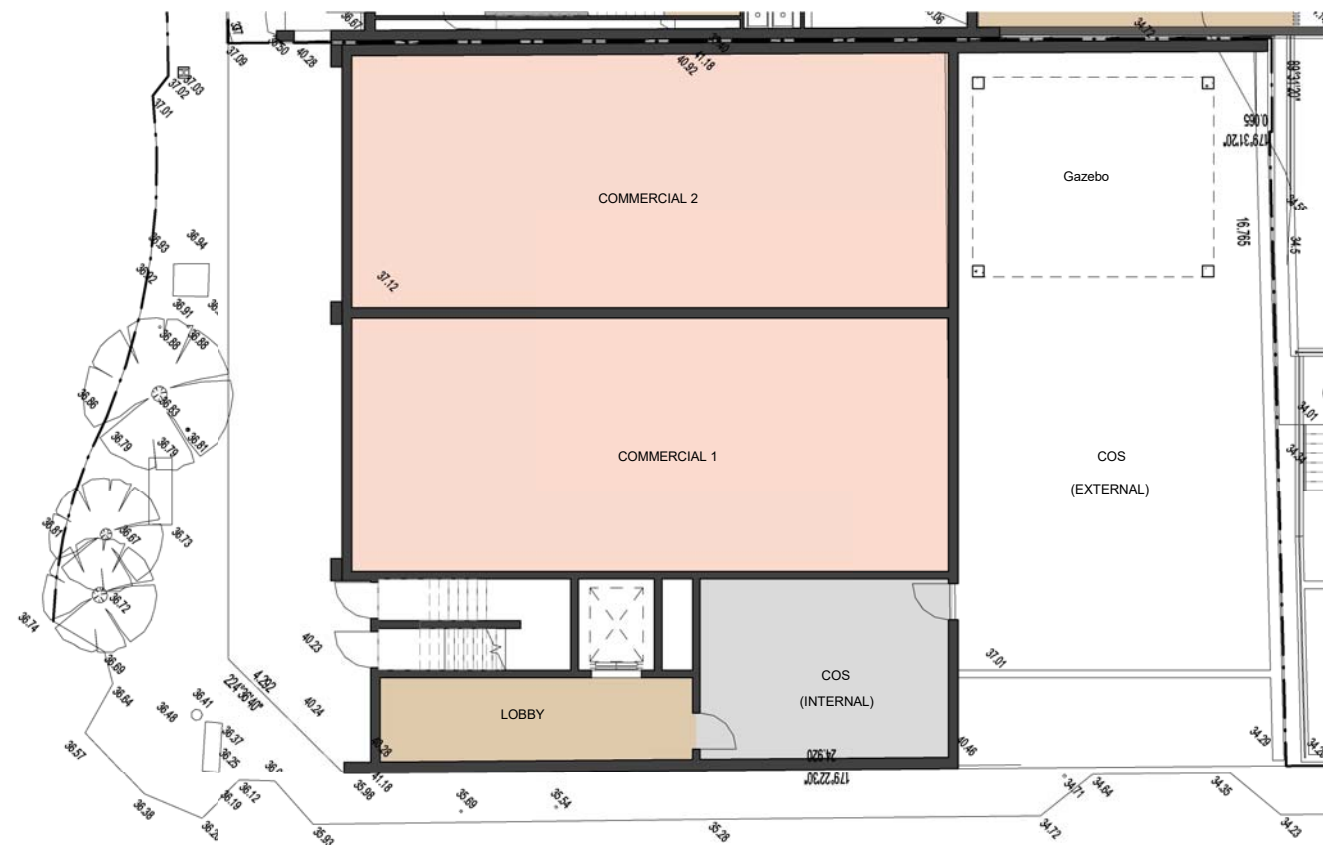
**NOTE: GENERAL AMENDMENT ACCORDING TO DRP REQUIREMENTS**

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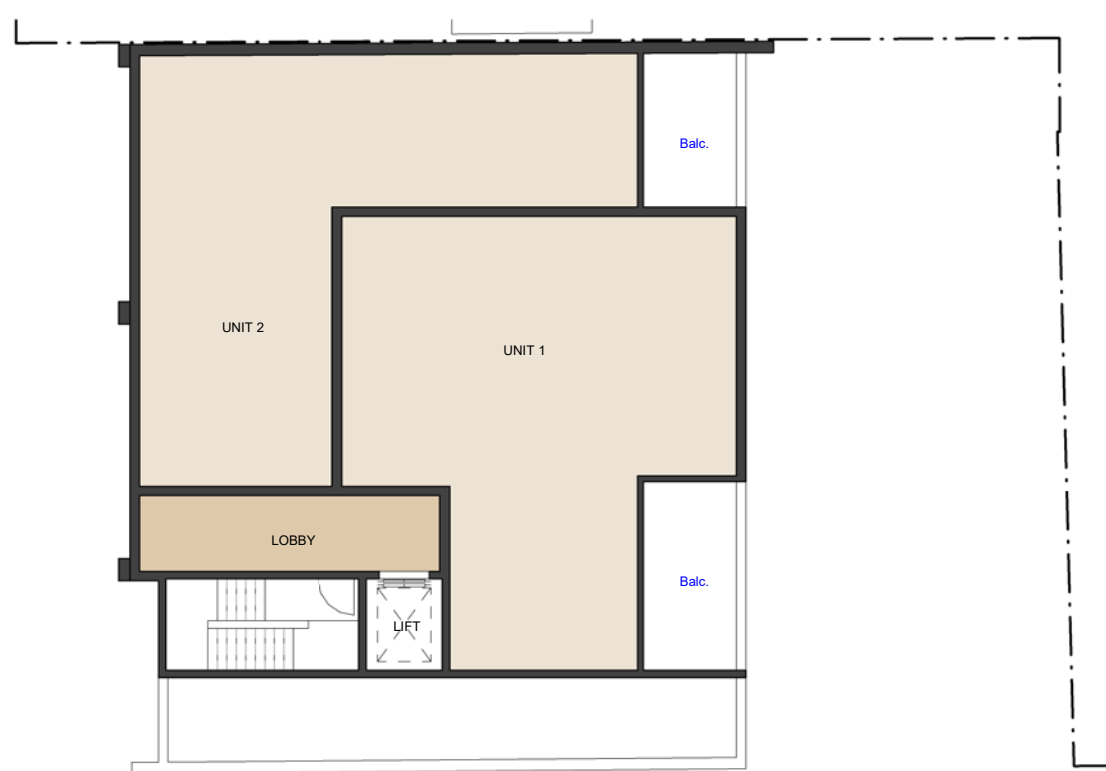
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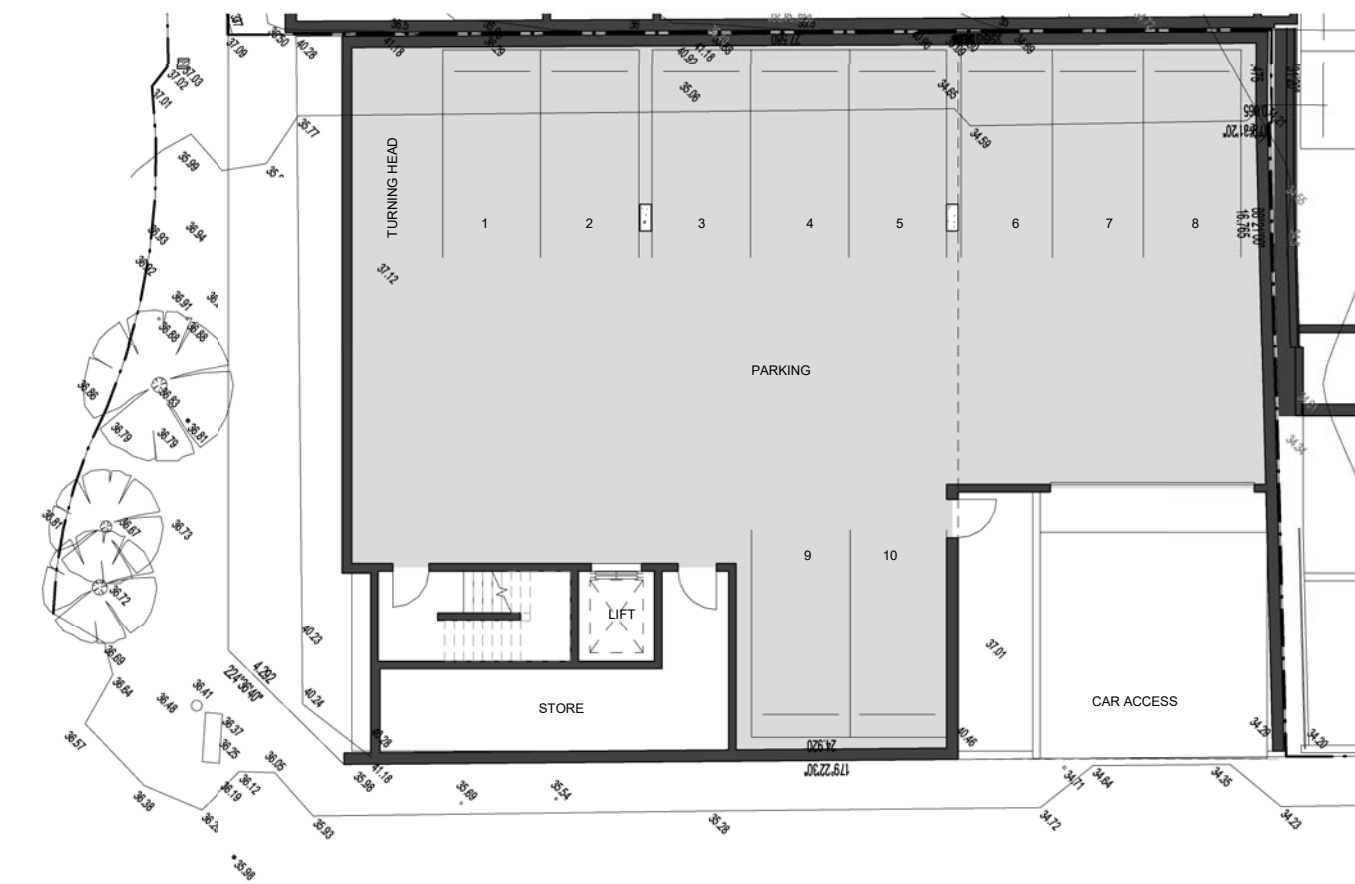
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A	DA SUBMISSION	30.04.2020	DO/DC
B	DESCRIPTION TITLE AMENDED	27.05.2020	DC
C	ADDITIONAL INFORMATION	10.08.2020	DC
D	ADDITIONAL INFORMATION (DRP)	02.11.2020	DC



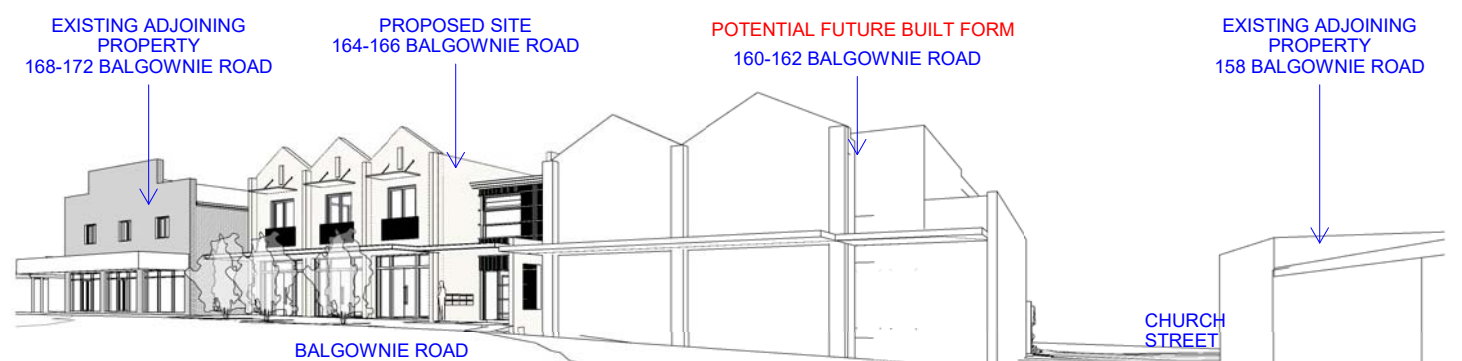
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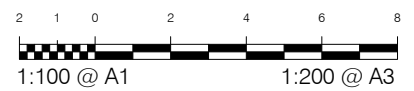
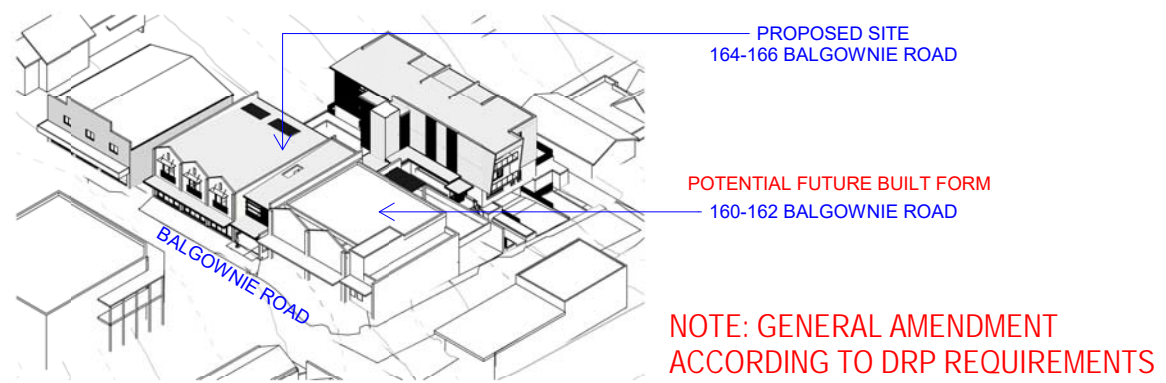
3 160-162 PROPOSED LEVEL 2 PLAN  
1 : 100



1 160-162 PROPOSED PARKING FLOOR PLAN  
1 : 100



4 VIEW FROM ACROSS THE BALGOWNIE ROAD IN FRONT OF THE SINGLE STOREY SHOP









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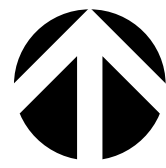
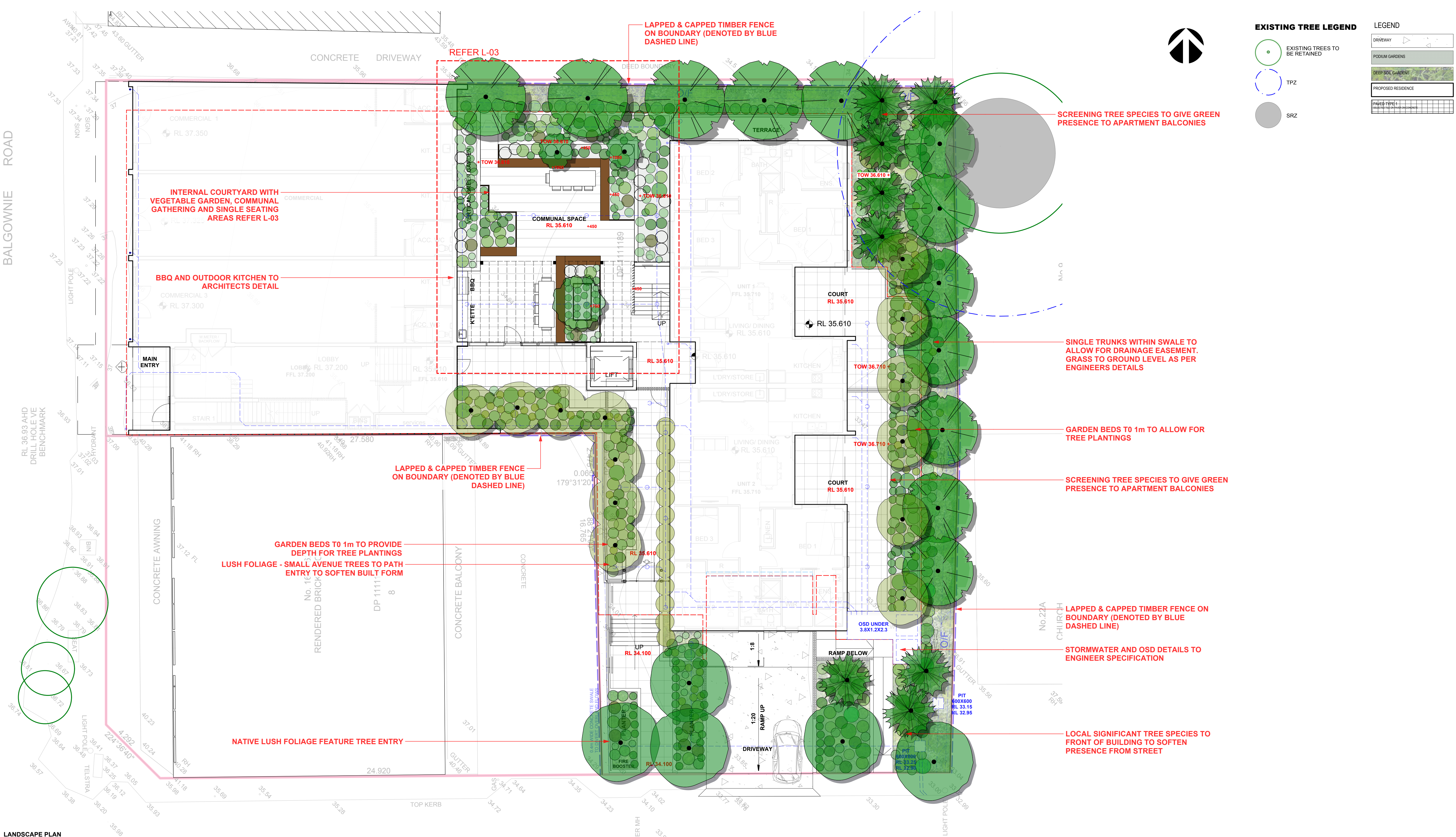
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Address **164-166 Balgownie Road & 22 Church Street**  
Drawing Title **LANDSCAPE GROUND FLOOR PLAN**  
Client **Moretti Constructions**

Scale 1:100@A1

Drawing No.

J 5/11/20 FOR DA  
ISSUE DATE COMMENT  
AMENDMENTS

Page  
L-02 J



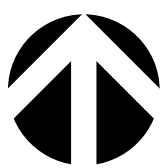
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- TPZ
- SRZ

LEGEND

- DRIVEWAY
- PODIUM GARDENS
- DEEP SOIL GARDENS
- PROPOSED RESIDENCE
- PAVED TYPE 1



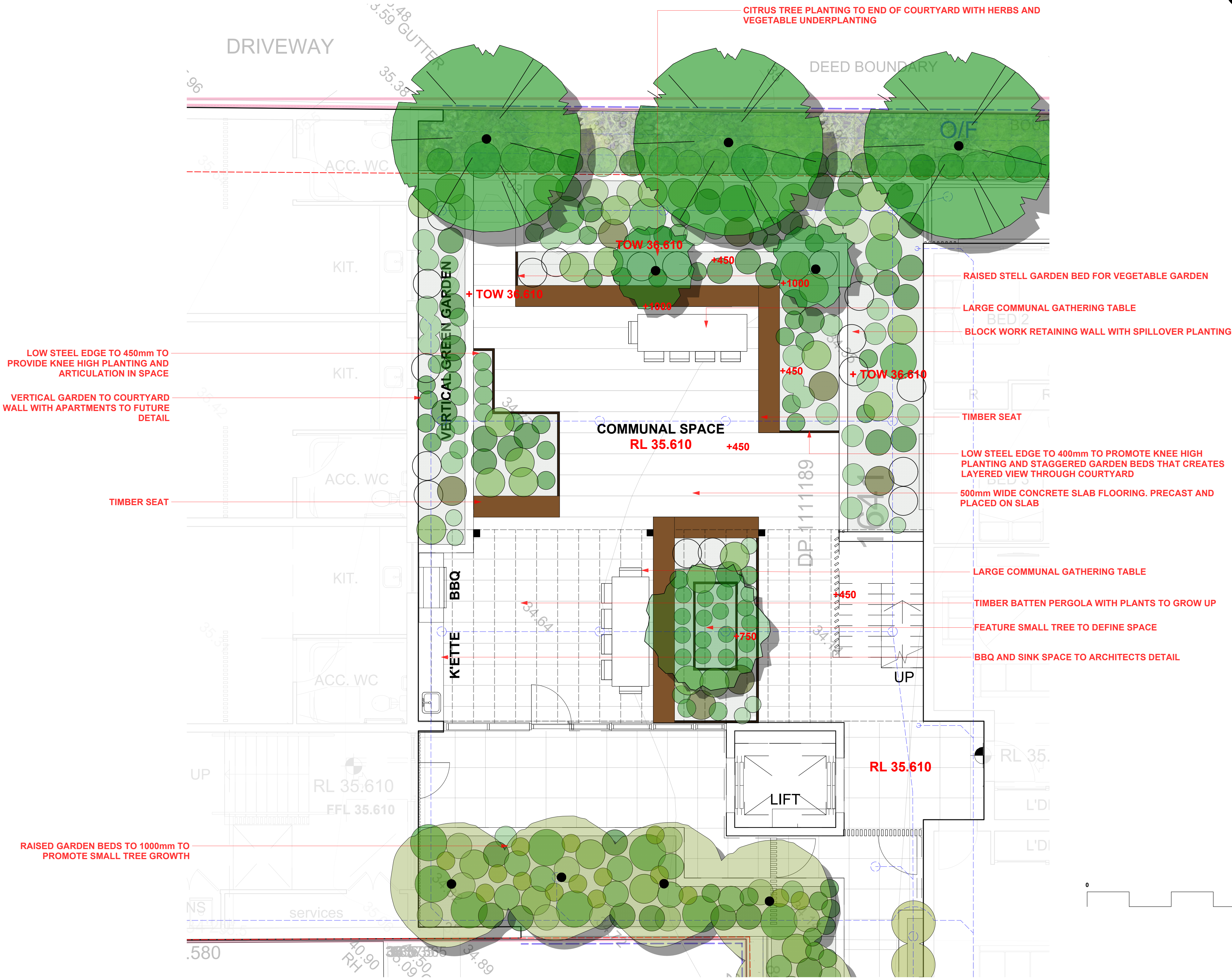


EXISTING TREE LEGEND

- EXISTING TREES TO BE RETAINED
- TPZ
- SRZ

LEGEND

DRIVEWAY	
PODIUM GARDENS	
DEEP SOIL GARDENS	
PROPOSED RESIDENCE	
PAVED TYPE 1	
PAVED TYPE 2	
PAVED TYPE 3	
PAVED TYPE 4	
PAVED TYPE 5	
PAVED TYPE 6	
PAVED TYPE 7	
PAVED TYPE 8	
PAVED TYPE 9	
PAVED TYPE 10	
PAVED TYPE 11	
PAVED TYPE 12	
PAVED TYPE 13	
PAVED TYPE 14	
PAVED TYPE 15	
PAVED TYPE 16	
PAVED TYPE 17	
PAVED TYPE 18	
PAVED TYPE 19	
PAVED TYPE 20	



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Address	164-166 Balgownie Road & 22 Church Street
Drawing Title	COURTYARD DETAIL PLAN
Client	Moretti Constructions

Scale 1:50@A1

Drawing No.

Page  
L-03 J



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Address **164-166 Balgownie Road & 22 Church Street**  
Drawing Title **PLANTING PLAN GROUND FLOOR**  
Client **Moretti Constructions**

**J** **5/11/20** **FOR DA**  
**ISSUE** **DATE** **COMMENT**  
**AMENDMENTS**

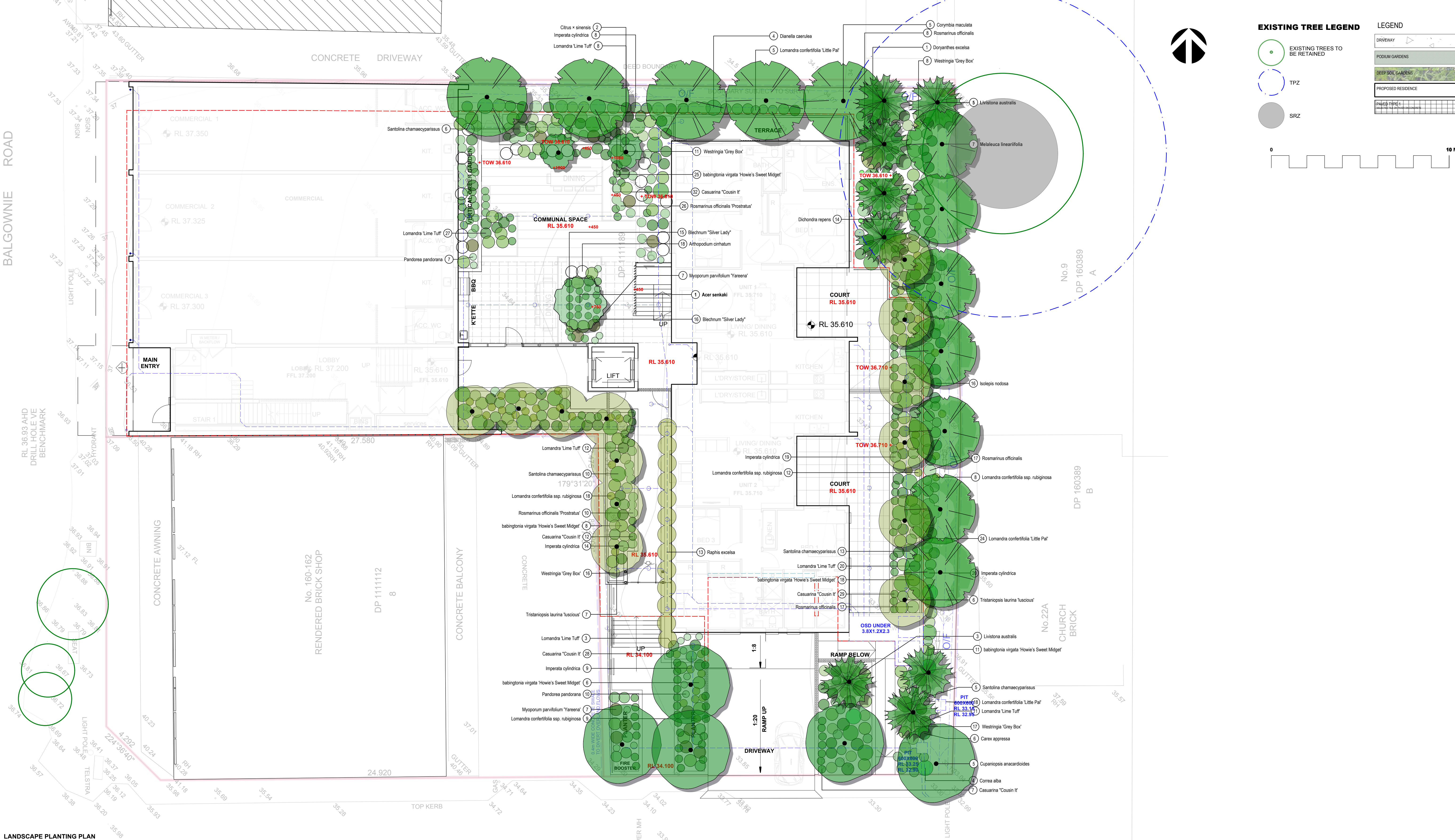
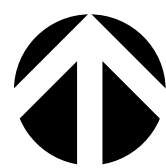
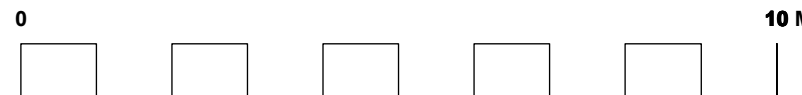
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SRZ

**LEGEND**

- DRIVEWAY  
PODIUM GARDENS  
DEEP SOIL GARDENS  
PROPOSED RESIDENCE  
PAVED TYPE 1  
PAVED TYPE 2







LOW NATIVE PALLETTE TO COURTYARD



ARCTICULATED GARDEN BEDS AND LINEAR CONCRETE PAVING TO COURTYARD



LOW STEEL GARDEN BEDS TO COURTYARD STAGGERED ARRANGEMENT CREATING LAYERED VIEW



TREE LINED ENTRY

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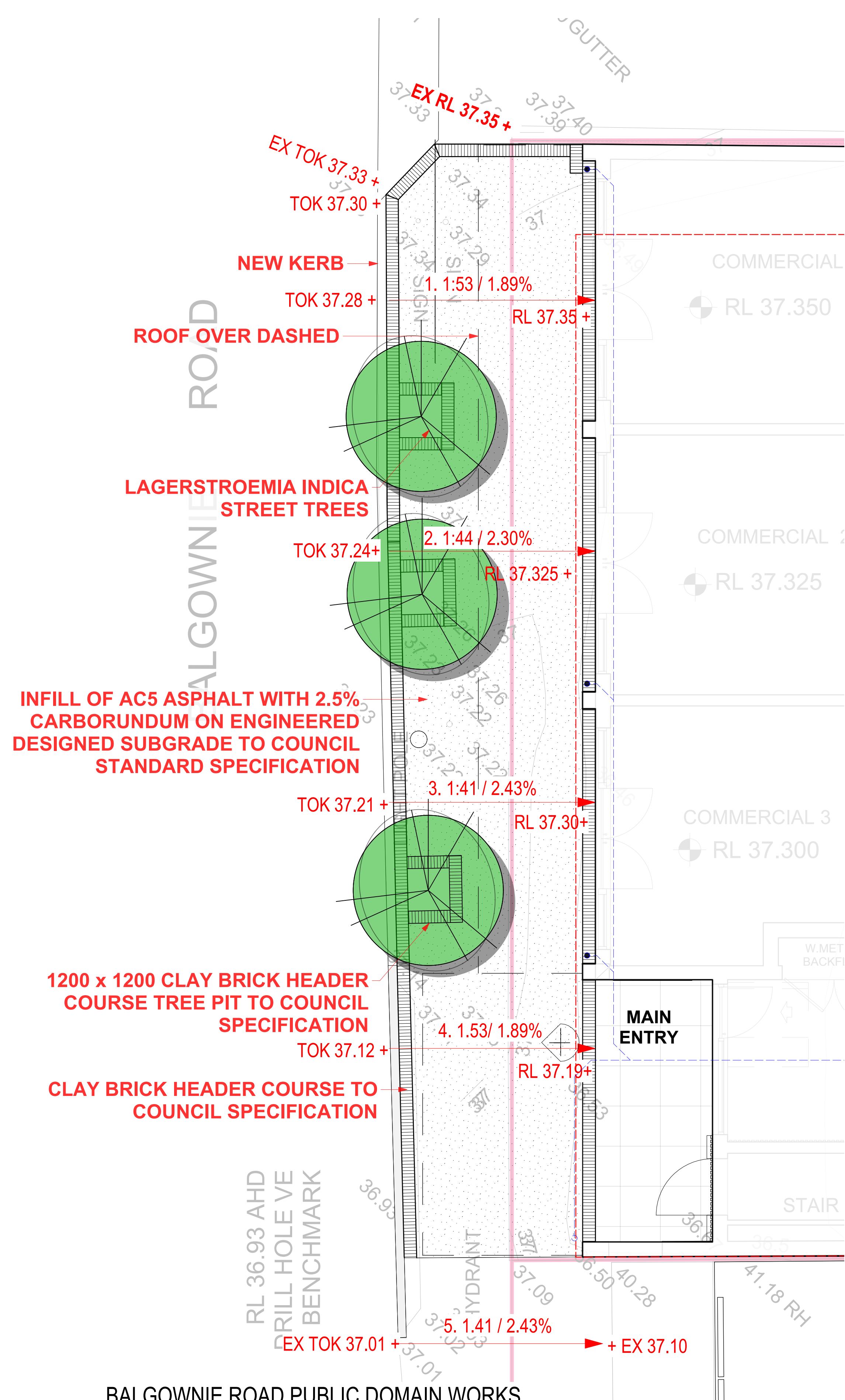
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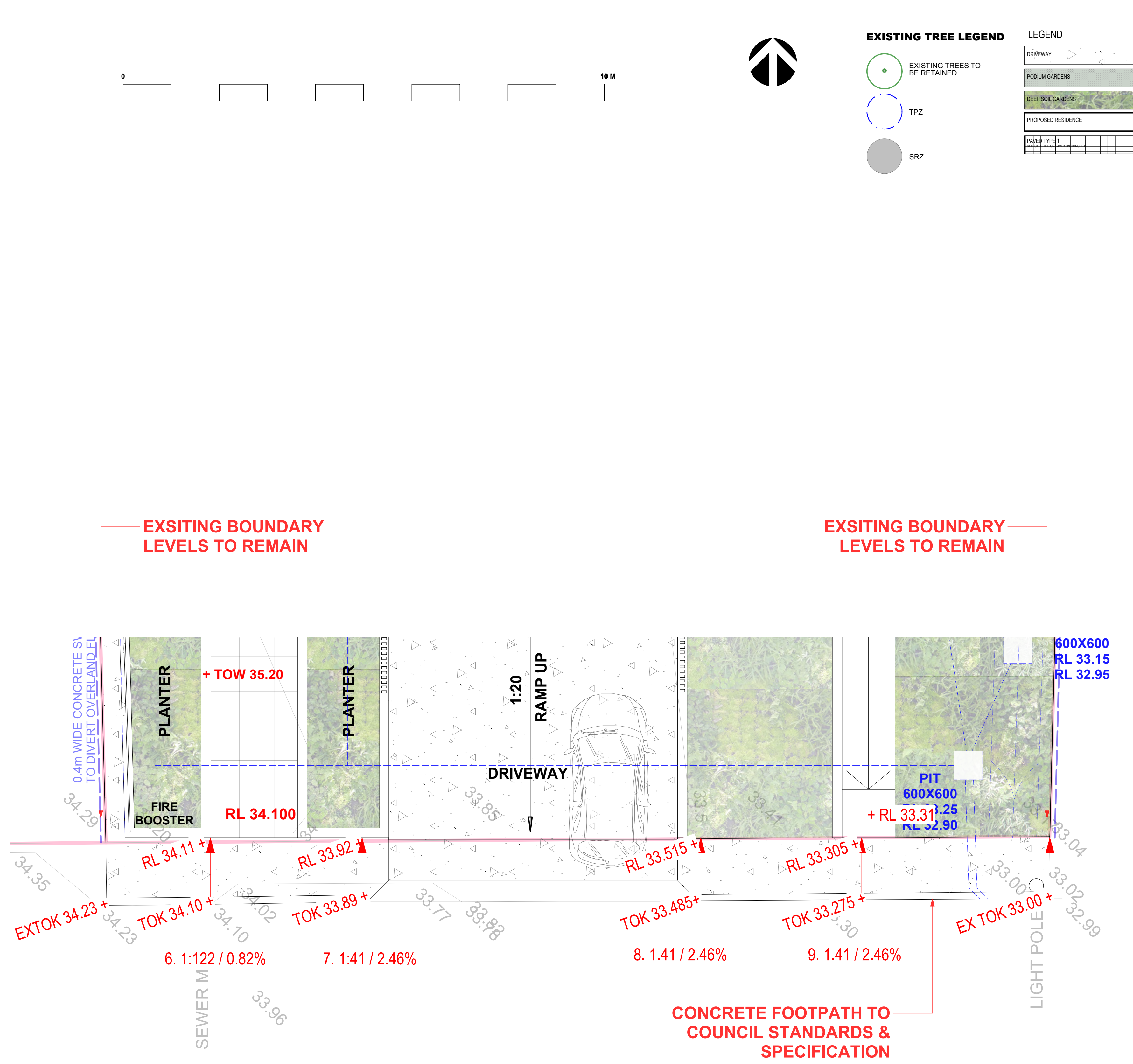
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Client	Moretti Constructions	Drawing No.	

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BALGOWNIE ROAD PUBLIC DOMAIN WORKS  
1:50@A1



CHURCH STREET PUBLIC DOMAIN WORKS  
1:50@A1

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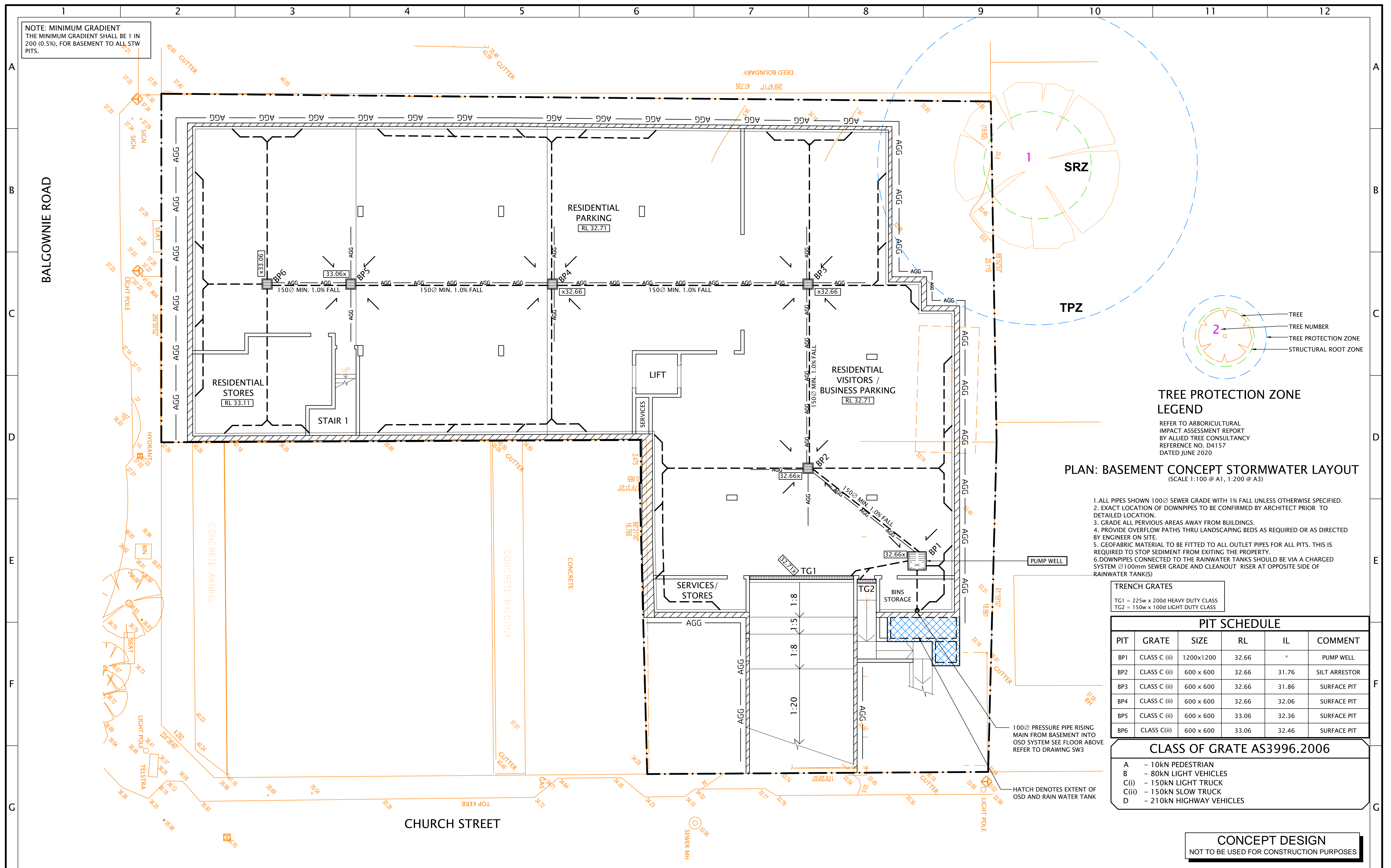
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Client	Moretti Constructions		Drawing No.

J	5/11/20	FOR DA
ISSUE	DATE	COMMENT
AMENDMENTS		

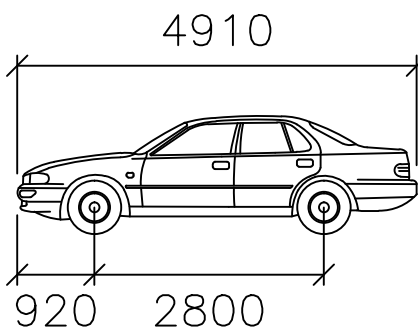
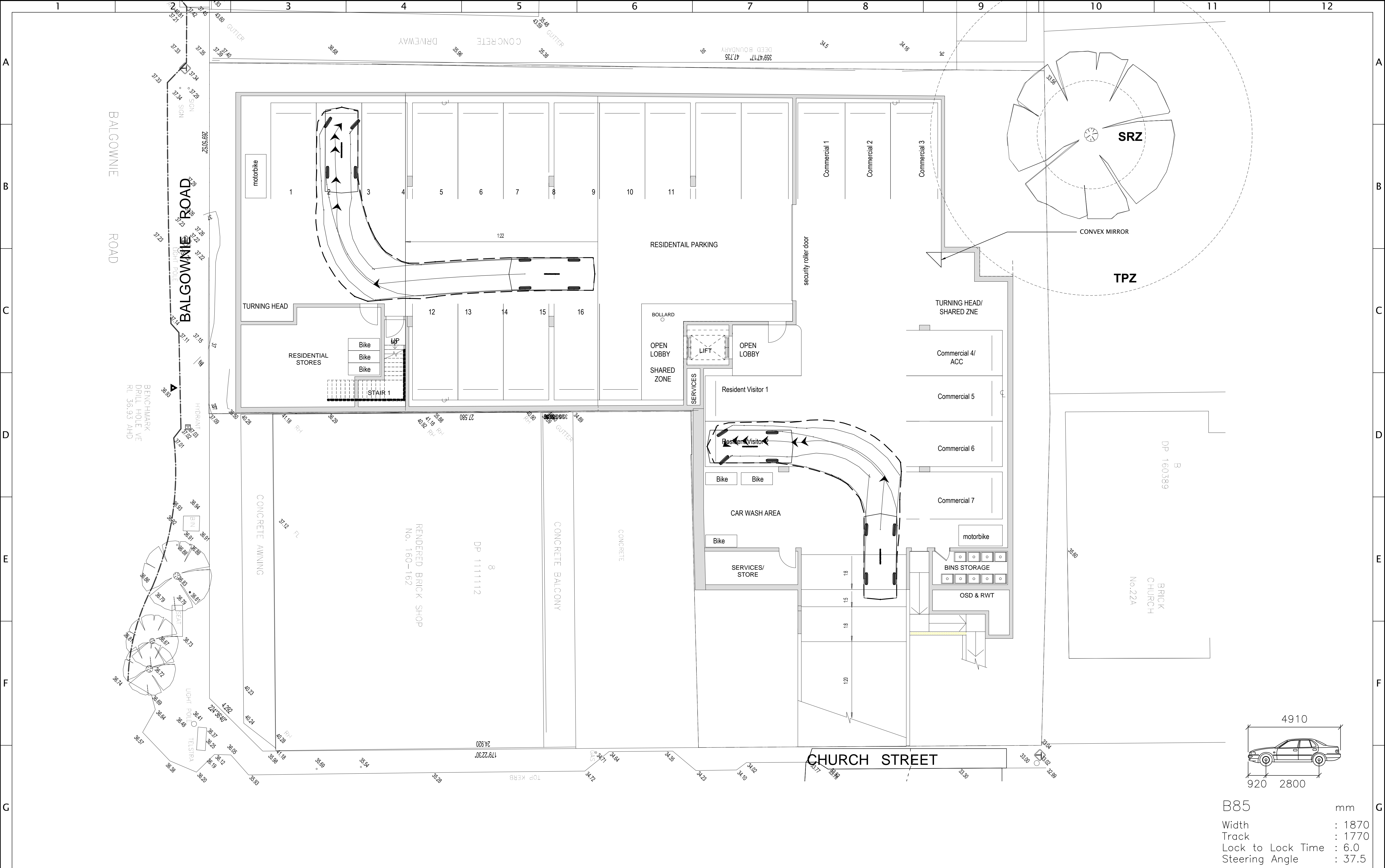






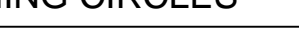







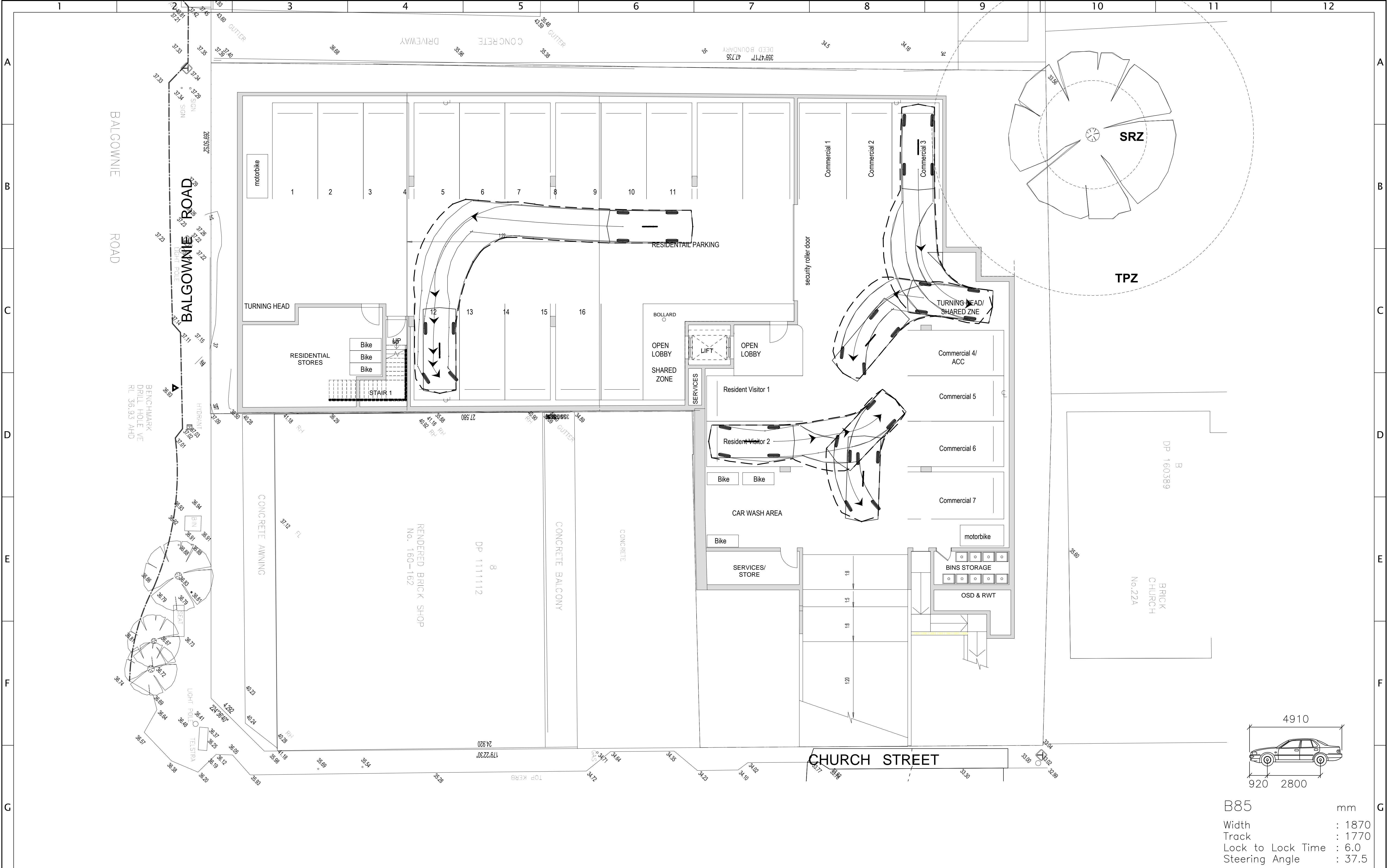


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A	ISSUE FOR DA APPLICATION		23/04/20						Project		PROPOSED MIXED USE DEVELOPMENT		DRAWN		D.K.				06/02/20		
B	AMENDED FOR TREE PROTECTION ZONE		25/06/20										DESIGNED		G.U.				DATUM A.H.D.		
C	MINOR AMENDMENTS		13/08/20										At		164-166 BALGOWNIE RD, BALGOWNIE				DATE CHK'D		
D	MINOR AMENDMENTS		02/11/20										Client		TP COMMERCIAL				PROJECT No 20006		DWG T1
				DO NOT SCALE IF IN DOUBT ASK		A1															
				THIS DRAWING SHALL BE READ IN CONJUNCTION WITH SPECIFICATIONS																	
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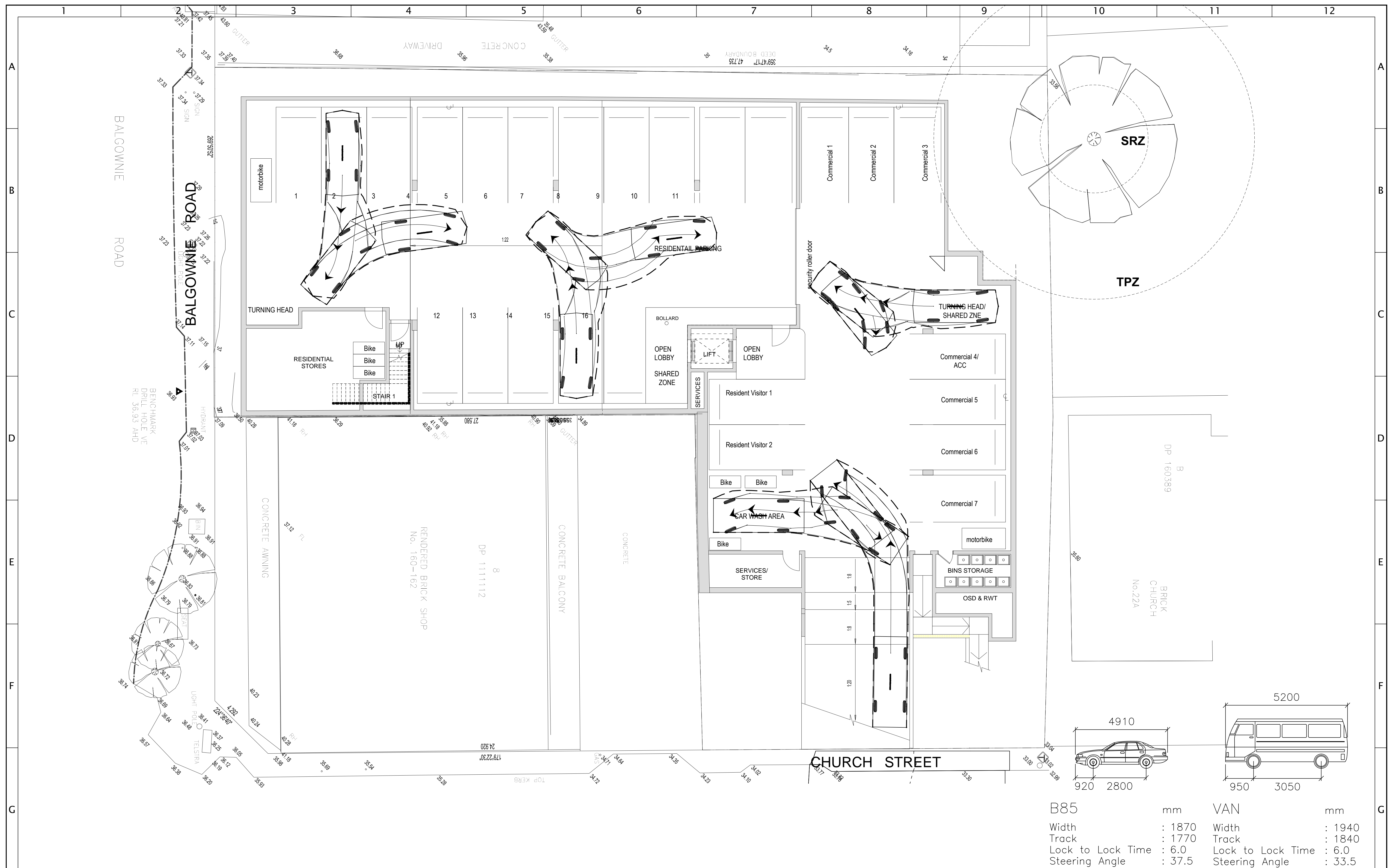






ISSUE	AMENDMENT	DATE	SCALE 1:100 @ A1 0 1 2 4 6 8 10m	ATB CONSULTING ENGINEERS CIVIL & STRUCTURAL	11 VICTORIA STREET WOLLONGONG NSW 2500 TELEPHONE: 02 42 266 646 Email: info@atbconsulting.com.au	ACEA The Association of Consulting Engineers Australia	Title B85 VEHICLE BASEMENT LEVEL TURNING CIRCLES Project PROPOSED MIXED USE DEVELOPMENT At 164-166 BALGOWNIE RD, BALGOWNIE Client TP COMMERCIAL	SCALES A1-1:100, A3-1:200 DRAWN D.K. DESIGNED G.U.	DATE PLOTTED 06/02/20 DATE CHK'D PROJECT No 20006 DWG T3 REVISION D
A	ISSUE FOR DA APPLICATION	23/04/20							
B	AMENDED FOR TREE PROTECTION ZONE	25/06/20							
C	MINOR AMENDMENTS	13/08/20							
D	MINOR AMENDMENTS	02/11/20							





ISSUE		AMENDMENT	DATE	<div>SCALE 1:100 @ A1</div> <div><div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div></div><div>01246810m</div></div>		<div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div></div>	<div><div>ATB</div><div>CONSULTING ENGINEERS</div><div>CIVIL &amp; STRUCTURAL</div></div>	<div><div><div></div><div></div><div></div></div><div>The Association of Consulting Engineers Australia</div></div>	Title	B85 VEHICLE BASEMENT LEVEL TURNING CIRCLES		SCALES	A1-1:100, A3-1:200		DATE PLOTTED	06/02/20						
Project		PROPOSED MIXED USE DEVELOPMENT		DRAWN					D.K.		DESIGNED		G.U.		DATUM A.H.D.							
At		164-166 BALGOWNIE RD, BALGOWNIE							DATE CHK'D		PROJECT NO		20006		DWG		T4		REVISION		D	
Client		TP COMMERCIAL																				
A		ISSUE FOR DA APPICATION	23/04/20	DO NOT SCALE IF IN DOUBT ASK <div>A1</div>		THIS DRAWING SHALL BE READ IN CONJUNCTION WITH SPECIFICATIONS																
B		AMENDED FOR TREE PROTECTION ZONE	25/06/20			COPYRIGHT: Concepts and information contained in these engineering drawings and related documents are the copyright of ATB Consulting Engineers. This is an unauthorised copy in part or whole of the information contained in this drawing.																
C		MINOR AMENDMENTS	13/08/20																			
D		MINOR AMENDMENTS	02/11/20																			





## Attachment 4: Design Review Panel Commentary and Recommendations

### Wollongong Design Review Panel (Via MS Teams) Meeting minutes and recommendations

Date	30 June 2020
Meeting location	Wollongong City Council Administration Offices
Panel members	David Jarvis Gabrielle Morrish Sue Hobley
Apologies	Dicren Chung – PRD Architects
Council staff	Pier Panozzo City Centre & Major Development Manager Nadir Mian – Development Project Officer
Guests/ representatives of the applicant	Peter Rasa – PRD Architects Scott Millican PRD Architects
Declarations of Interest	Nil
Item number	3
DA number	DA-2020/460
Reason for consideration by DRP	SEPP 65
Determination pathway	WLPP
Property address	164-166 Balgownie Road & 22 Church Street Balgownie
Proposal	Shop Top Housing and Residential Flat Building
Applicant or applicant's representative address to the design review panel	This meeting was conducted by video link between the panel (Council's offices) and the applicant's team (remote). The applicant summarised the proposal
Background	A similar proposal was approved on the site by council under DA-2014/737 on 14/1/2016. The site was Inspected by the Panel on 30 June 2020
<b>Design quality principals SEPP 65</b>	
Context and Neighbourhood Character	The proposal is located in a low scale local centre, with frontages to Balgownie Road and Church Street. Balgownie Road is Balgownie's main retail street and Church street is a low scale residential street. The northern boundary of the site is the interface between the local centre and the adjoining low-density residential neighbourhood.
Built Form and Scale	<p>The fundamental program of the building (two separate forms located on the site to maximise northern orientation, serviced by a single basement accessed via church street) is a reasonable response to this site. However, further development is required to address the following issues:</p> <p><u>Circulation</u></p> <p>Both buildings are accessed via a pedestrian entry on Balgownie Road. A single lift is provided within the southern building providing access to both the north and south buildings. Residents of the northern building are required to use the lift in the southern building, then walk the across the podium or a bridge to access their unit. The indirect and slightly contorted nature of the pedestrian circulation for residents – and their visitors- of the northern building (particularly when accessing the northern building from its only street address, on Church street) is poor.</p> <p>However, the greater concern with this strategy is the impact upon the quality of space created between the two buildings. The proposed bridges, stairway and elevated level 2 terrace clutters the space between the buildings, reducing solar access and the functional use of the communal open space, increasing potential privacy issues.</p>



Pedestrian access between the two buildings should be provided at podium level (level 1) only. Bridges, stairs and terraces proposed above this level should be removed, allowing a clear uninterrupted 12m wide space to be provided between the two buildings. Both buildings should be provided with a dedicated lift, providing access from the basement to each level of the building.

#### Interface with 160-162 Balgownie Road (corner site)

Consideration must be given as to how the proposal will relate to future built forms located on the neighbouring corner site, when the site is developed to realise the intent of council's built-form controls. When this site is developed as shop top housing units it will be set back 6m from the site's rear boundary and orientated north (to comply with ADG objectives) back towards the subject site. Any built form located on the subject site must respond to this future context by developing a building that minimises potential privacy issues and provides adequate spatial separation in accordance with the requirements of the ADG. Note, setbacks from the southern boundary can be as little as 3m if privacy issues are addressed and it can be demonstrated that adequate solar access can be provided to the neighbour. Refer to part 3F of the ADG for more detailed guidance on this issue.

#### Interface with northern boundary

The northern boundary of the site adjoins a low-density residential zone (R2). To provide an appropriate transition with this lower density zone an increased set back is required. Design guidance outlined in Objective 3F-1 of the ADG requires that all habitable room and terraces are set back a minimum 9m from lower density zones.

#### Height of retail space

A 4.61m floor to floor height has been provided between levels 1 and 2 to allow floor levels of the northern and southern buildings to align. This allows bridges to be accommodated, making it technically possible to service the both buildings with a single lift. This appears to be a major driving factor in the overall design strategy of the development. The negative impacts of this strategy have been highlighted in comments above (Circulation).

If the bridges are removed and the circulation strategy for the building rationalized, the southern building form can be reorganised to provide more dwellings (subject to FSR compliance) and reduce the overall depth of the building, allowing the northern building to be set back further from the rear boundary, whilst maintaining the a minimum 12m separation between the north and south buildings. This could be achieved by:

- (a) Reducing the floor to floor level between level 1 and 2 to allow a third storey to be provided, contain an additional 3 bed unit set back from the street to maintain the two storey scale to Balgownie Road. Units currently proposed on level 3 can be reduced to a 1 bed unit and a 2 bed unit to allow the overall depth of the southern building to be reduced.
- (b) Alternatively, the depth of the level 1 office spaces can be reduced by introducing additional units along the northern face of the offices fronting the internal courtyard space. If the level 1 slab were to be stepped to relate to podium level (RL 35.61) a two storey high space would be created between the podium and level 3. This could accommodate a rear storage area with a

	<p>2.7m high ceiling to service the office / retail space at the lower level and a unit contained within the upper level.</p> <p>Further detail development is required to unlock the potential of the southern building form which will in turn provide more space to allow the proposal to be set back further from its northern boundary.</p> <p><u>Depth of retail space</u></p> <p>The three proposed commercial spaces fronting Balgownie Road are extremely long and narrow (approximately 4m wide by 19m deep). The Panel questions how functional these spaces will be. The quality of natural light that will be available to the rear of the spaces is also a concern.</p> <p>It is recommended that the commercial floor be divided into 2 equal spaces fronting Balgownie Road. This will provide better proportioned (particularly in light of the proposed ceiling heights) more functional spaces. The proportions of the space will also better relate to scale and rhythm of the retail street, creating the opportunity to refine and articulate the proportions of the Balgownie Road façade.</p>
Density	<p>Further refinements are required to better relate the proposal to the low density neighbours to the north and future built form on the neighbouring corner site (160-162 Balgownie Road) and to prevent the proposal from presenting as an over-development of the site.</p>
Sustainability	<p>The depth of commercial tenancies will result in the dependency upon artificial lighting in these spaces.</p> <p>Opportunities to harvest rainwater for use in maintaining any plantings established on the building or the site should be explored. Other water minimization measures should be considered including the reuse of rainwater for toilet flushing and use in washing machines, and the use of locally indigenous plant species that are adapted to the environmental conditions.</p> <p>The use of solar water heating and photovoltaic cell is also encouraged.</p>
Landscape	<p>The Panel raises the following concerns about the functionality and amenity of the landscape:</p> <ul style="list-style-type: none"> <li>• The proposal does not meet the requirements for deep soil. A minimum width of 3m is required for areas to be categorised as deep soil. The setback to the basement along the northern elevation is insufficient. The OSD and RWT are proposed to be set within the largest area of deep soil.</li> <li>• The amenity of the private communal open space (COS) is questionable. Providing it on 2 levels serviced by a stairwell, adjacent to the "open link bridge" that is the residential access route from the lift leads to many problems. The space includes private courtyards and balconies for the residential units. Issues that need to be dealt with include: accessibility (access to the 2 levels is indirect, via the lift) privacy and security of the space as a COS (deliveries and service provision to the units is via the bridge); noise and privacy impacts on units (the stairs are</li> </ul>



	<p>adjacent to their terraces); solar access; and functionality of the 2 spaces. Level 1 is an internal space that will require artificial lighting and, probably ventilation. Noise during use will be a concern. The viability of the proposed plantings will depend on the quality of the maintenance and plant replacements. Privacy impacts to the neighbouring property if it redevelops would also be an issue.</p> <ul style="list-style-type: none"> <li>The interface with the northern boundary is poor. A relatively narrow garden width is proposed (given the intended screen plantings) along the fence line at the base of the wall of the basement carpark and the level 1 terraces of building B. The plantings will receive little solar access, particularly during establishment, and access for maintenance will be very difficult within the confined, densely planted linear space.</li> </ul>
Amenity	<p>Further development is required to address potential privacy issues outlined above (Built Form).</p> <p>Further development of the southern face of the northern units is required to minimise potential privacy issues. Courtyards and balconies should not be provided on the southern side of these units to reduce potential privacy conflicts with the communal terrace and maximise the usable space available on the terrace.</p> <p>Window to bedrooms orientated toward the communal terrace have been treated with frosted glass. This will result in an internalised room with no outlook. Consider developing pop outs / bays within these rooms to orientate outlook in an east or west direction, away from active areas of the communal open space.</p> <p>Offices spaces appear to be serviced solely from the street. When arriving by car, tenants are required to walk through the secured residential carpark, enter the residential lobby by lift then exit the building before accessing the office spaces. A more direct connection must be provided to accommodate convenient access and servicing of these spaces.</p> <p>The residential entry off Balgownie Road (including the single lift) is shared with the commercial units. The commercial toilet facilities are located in the residential lobby, at the street entrance.</p> <p>Accessibility compliance for both residential entries needs to be demonstrated. Access off Church Street, including to the Garbage storage, is via stairs.</p> <p>The arrival experience for pedestrians from Church Street is past the garbage storage.</p> <p>Courtyard areas that are located sandwiched between the core and an apartment and overhung by floors above do not offer an acceptable level of amenity for habitable rooms. The proposal appears to meet ADG objectives for both solar access and cross ventilation.</p>
Safety	<p>Pedestrian entry off Church Street is via a long, narrow path with a set of steps and "lush" vegetation, with no direct surveillance from the units.</p>
Housing Diversity and Social Interaction	<p>The proposal will provide an appropriate housing option for this precinct.</p>

Aesthetics	<p>It is envisaged that in addressing issues outline above (built form) the aesthetic expression of the building will develop. Further development of the Balgownie Road façade should consider how the proposal will relate to a future building form located on the neighbouring corner site to provide a scale and rhythm that relates to and provides a positive contribution to the main retail street of <u>Balgownie</u>.</p> <p>Servicing of the building must be considered at this stage of the design process. The location of service risers, AC condensers, down pipes, fire hydrant boosters etc should be accommodated.</p>
Key issues, further Comments & Recommendations	<p>A strategic decision appears to have been made that centres around servicing this development with a single lift. This strategy has compromised the amenity of the proposal, impacted the amenity of neighbours and reduced the potential yield of the development.</p> <p>A more rational circulation strategy that provides a lift for each building should be developed that allows the proposal to be set back further from its northern boundary and improves the amenity for residents.</p>



## Attachment 5: Apartment Design Guide Assessment

Standards/controls	Comment	Compliance
<b>Part 1 – Identifying the context</b>		
<p><b><u>1A Apartment building types</u></b></p> <p>Generic apartment building types can be used to:</p> <ul style="list-style-type: none"> <li>- Determine the appropriate scale of future built form</li> <li>- Communicate the desired character of an area</li> <li>- Assist when testing envelope and development controls to achieve high amenity and environmental performance.</li> </ul> <p>Building types include:</p> <ul style="list-style-type: none"> <li>- Narrow infill apartments</li> <li>- Row apartments</li> <li>- Shop top apartments</li> <li>- Courtyard apartments</li> <li>- Perimeter block apartments</li> <li>- Tower apartments</li> <li>- Hybrid developments</li> </ul>	<p>The development is made up of 2 separate but connected buildings consisting of a traditional 2 storey shop top housing development facing Balgownie Road and a 3 storey residential flat building, resembling an in-fill apartment building.</p> <p>The building types proposed are appropriate for the site.</p>	NA
<p><b><u>1B Local character and context</u></b></p> <p>This guideline outlines how to define the setting and scale of a development, and involves consideration of the desired future character, common settings and the range of scales.</p>	<p>The site is located within the Balgownie Local Centre. The shop top component is along the established main street, and the RFB addressing a side street. The development is surrounded by a mixture of commercial and residential land uses.</p>	NA
<p><b><u>1C Precincts and individual sites</u></b></p> <p>Individual sites:</p> <p>New development on individual sites within an established area should carefully respond to neighbouring development, and also address the desired future character at the neighbourhood and street scales. Planning and design considerations for managing this include:</p> <ul style="list-style-type: none"> <li>- Site amalgamation where appropriate</li> <li>- Corner site and sites with multiple frontages can be more efficient than sites with single frontages</li> <li>- Ensure the development potential for adjacent sites is retained</li> <li>- Avoid isolated sites that are unable to realise the development potential.</li> </ul>	<p>The development site is an amalgamation of 2 lots, with 1 addressing the main road, Balgownie Road, and 1 addressing the side street, Church Street.</p> <p>The site is L shaped with a dual street frontage, surrounding the existing commercial building located on the corner.</p> <p>The application has demonstrated the neighbouring corner site is capable of being developed in the future, and the proposal does not result in the creation of an isolated lot.</p>	Yes

Standards/controls	Comment	Compliance
<b>Part 3 Siting the development</b>		
<b><u>3A Site analysis</u></b> <u>Objective 3A-1:</u> <i>Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context</i> <u>Design Guidance</u> <ul style="list-style-type: none"> <li>- Each element in the Site Analysis Checklist should be addressed (appendix 1)</li> </ul>	<p>A site analysis plans has been submitted, and it has been demonstrated that all elements within appendix 1 have been addressed.</p>	Yes
<b><u>3B Orientation</u></b> <u>Objective 3B-1:</u> <i>Building types and layouts respond to the streetscape and site while optimising solar access within the development</i> <u>Objective 3B-2</u> <i>Overshadowing of neighbouring properties is minimised during mid- winter</i>	<p>The building layout responds appropriately to the site. The development addresses both street frontages. The development has a zero setback to the west boundary. Suitable levels of solar access are provided into all 6 dwellings from the north. Acceptable levels of solar access are also provided into the 2 shop top dwellings from the north. Pedestrian access is provided from both street frontages, and vehicle access is only provided from Church Street, which is appropriate given the existing use of each of the streets.</p> <p>Overshadowing to neighbouring sites is minimised due to the siting of the development and orientation.</p> <p>The communal open space area located between the two buildings will receive acceptable levels of solar access, and is appropriately located to create a suitable level of amenity for future residents.</p>	Yes
<b><u>3C Public domain interface</u></b> <u>Objective 3C-1:</u> <i>Transition between private and public domain is achieved without compromising safety and security</i> <u>Objective 3C-2:</u> <i>Amenity of the public domain is retained and enhanced</i>	<p>The interface of the development with the public domain is considered acceptable.</p> <p>Access to the residential components of the development is separate to public access. Access is provided from both the main street and side street entrance.</p> <p>No access directly from individual units to the street is provided, however this is considered acceptable as an active street frontage along Balgownie Road is achieved with the commercial/retail component.</p> <p>Landscaping is provided along the pedestrian access from Church Street which allows for some passive surveillance and provides a suitable transition between public and private space.</p> <p>Letterboxes are suitably located.</p> <p>Garbage storage is provided within the basement parking area accessed from Church Street.</p> <p>A suitable condition has been included to ensure public domain paving on Balgownie Road is</p>	Yes



Standards/controls	Comment	Compliance												
	consistent with Council's technical manual as recommended by Council's Landscape Architect.													
<p><b>3D Communal and public open space</b></p> <p><u>Objective 3D-1</u></p> <p><i>An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping</i></p> <p><u>Design Criteria</u></p> <p>1. Communal open space has a minimum area of 25% of the site area</p> <p>2. 50% direct sunlight provided to principal usable part of communal open space for a minimum of 2 hours between 9am and 3pm on 21 June</p> <p><u>Objective 3D-2</u></p> <p><i>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting</i></p> <p><u>Objective 3D-3</u></p> <p><i>Communal open space is designed to maximise safety</i></p>	<p>The proposed communal open space is provided between the two buildings, located centrally and accessible to each dwelling and within part of the landscaped/deep soil zone area.</p> <p>The COS on the site has an area of approximately 18% of the total site area, which is considered acceptable in the circumstances, given the sites location with the Balgownie Local Centre, the small number of units proposed within the development, the availability of private open space with good amenity for each unit and the proximity of the site to multiple public open spaces, including James Pearson Park and Jane Pickens Park, both within 500m of the site.</p> <p>Amendments have been made to the Communal Open Space to ensure adequate levels of solar access and amenity for future residents. More than 50% of the COS receives at least 2 hours of direct solar access on 21 June.</p> <p>Substantial deep soil landscaping is provided along the northern boundary adjoining the neighbouring multi dwelling housing sites deep soil zone. An additional deep soil zone is provided on the Church Street frontage. Stormwater facilities have been deleted from the northern side of the site, to ensure the landscaped area is unimpeded by stormwater infrastructure.</p> <p>The COS appears to provide for a range of uses and incorporates suitable facilities.</p> <p>COS is suitably located centrally in the development, accessible and visible from each of the dwellings.</p>	Yes												
<p><b>3E Deep soil zones</b></p> <p><u>Objective 3E-1</u></p> <p><i>3E-1 Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.</i></p> <p><u>Design Criteria:</u></p> <p>1. Deep soil zones are to meet the following minimum requirements:</p> <table border="1"> <thead> <tr> <th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr> </thead> <tbody> <tr> <td>less than 650m<sup>2</sup></td><td>-</td><td rowspan="4">7%</td></tr> <tr> <td>650m<sup>2</sup> - 1,500m<sup>2</sup></td><td>3m</td></tr> <tr> <td>greater than 1,500m<sup>2</sup></td><td>6m</td></tr> <tr> <td>greater than 1,500m<sup>2</sup> with significant existing tree cover</td><td>6m</td></tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	less than 650m <sup>2</sup>	-	7%	650m <sup>2</sup> - 1,500m <sup>2</sup>	3m	greater than 1,500m <sup>2</sup>	6m	greater than 1,500m <sup>2</sup> with significant existing tree cover	6m	<p>The site has an area of less than 1,500m<sup>2</sup>. Deep soil zones have all dimensions exceeding 3m as required. Deep soil zones are positioned appropriately to create a buffer between the development site and neighbouring low density residential uses.</p> <p>The deep soil zones exceeds 7% of the site area.</p> <p>The deep soil zone located on the north-west corner adjoins the neighbouring sites deep soil zone.</p> <p>Suitable planting is proposed within the deep soil zone. A condition will be included to ensure the deep soil zone is maintained for that purpose.</p>	Yes
Site area	Minimum dimensions	Deep soil zone (% of site area)												
less than 650m <sup>2</sup>	-	7%												
650m <sup>2</sup> - 1,500m <sup>2</sup>	3m													
greater than 1,500m <sup>2</sup>	6m													
greater than 1,500m <sup>2</sup> with significant existing tree cover	6m													

Standards/controls	Comment	Compliance												
<p><b>3F Visual privacy</b></p> <p><u>Objective 3F-1</u></p> <p><i>Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual amenity.</i></p> <p><u>Design Criteria:</u></p> <p>1. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="108 562 627 770"> <thead> <tr> <th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table> <p>Apartment buildings should have an increase separation distance (in addition to the above) when adjacent to a different zone that permits a lower density residential development.</p> <p><u>Objective 3F-2:</u></p> <p><i>Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space</i></p>	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	<p>The proposed development provides the following setbacks:</p> <p><u>Shop Top Housing</u></p> <p>Zero setback to neighbouring sites</p> <p><u>Residential Flat Building</u></p> <p>3m setback to western boundary</p> <p>6m setback to eastern (street) boundary</p> <p>12m separation between shop top housing building and RFB.</p> <p>6m setback to north boundary</p> <p>Several non-compliances are identified below:</p> <p>Bed 2 window in units 1, 3 and 5 is setback 3m from the neighbouring site, where 6m is required.</p> <p>Bed 1, balcony and kitchen windows are setback 6m from the northern boundary where 9m is required due to the Low density residential zoning of land to the north.</p> <p>The proposed separation distance to the western boundary is considered acceptable in the circumstances. The neighbouring site to the west is currently used as parking for the commercial building also on the site. The location of the windows will not result in any significant overlooking or privacy impacts on neighbouring sites. The proposed bedroom windows occupy a minor portion of the total western boundary of the development, and in this circumstance is considered acceptable. Furthermore, the DRP raised no concern with the proposed setback or window placement.</p> <p>The site neighbours two sites to the north. To the north-east is a church, and to the north-west is a recently constructed multi dwelling housing development. The placement and setback of the kitchen, balcony and bed 1 windows in units 2, 4 and 6 are not expected to have a significant impact on the neighbouring church building.</p> <p>The multi dwelling housing development to the north-west is designed to primarily address the north. POS areas for the neighbouring dwellings on this site are located away from the common boundary (towards the north). There are no windows on the upper floor facing the proposed development. A deep soil zone with a depth of 6m is located along the entirety of the shared boundary, which adjoins the proposed deep soil zone on the development site. This will result in a 12m separation between the proposed development and the existing multi dwelling housing, the majority of which will be densely planted, which will further limit potential for privacy impacts.</p>	<p>No – considered acceptable</p>
Building height	Habitable rooms and balconies	Non-habitable rooms												
up to 12m (4 storeys)	6m	3m												
up to 25m (5-8 storeys)	9m	4.5m												
over 25m (9+ storeys)	12m	6m												



<i>Standards/controls</i>	<i>Comment</i>	<i>Compliance</i>
	<p>Furthermore, the proposed setback to the northern boundary is generally consistent with the previous proposal approved on the site.</p> <p>The Design Review Panel upon review of the application raised concern with the proposed building separation to the northern boundary, however the applicants submission which provides further details of the land uses to the north, and the design of the recently constructed development is considered acceptable. The reduced setback from the habitable room windows and balconies facing the north is considered an acceptable solution in the circumstances, as it results in suitable amenity for the occupants of the site and the neighbouring site, while also ensuring solar access, and limiting overshadowing to the communal open space on the site, and north facing windows/balconies in the shop top building.</p> <p>As such, the proposed development is considered to achieve acceptable levels of internal and external visual amenity for the subject site and the neighbouring sites.</p>	
<p><b><u>3G Pedestrian access and entries</u></b></p> <p><u>Objective 3G-1</u></p> <p><i>Building entries and pedestrian access connects to and addresses the public domain</i></p> <p><u>Objective 3G-2</u></p> <p><i>Access, entries and pathways are accessible and easy to identify</i></p> <p><u>Objective 3G-3</u></p> <p><i>Large sites provide pedestrian links for access to streets and connection to destinations</i></p>	<p>Multiple pedestrian entries are provided, one within each road frontage. The Church Street entrance is activated with landscaping and gardens which could form informal sitting areas. Balgownie Road frontage is acceptable and consistent with the streetscape.</p> <p>Entrances appear to be clearly identifiable and distinguishable.</p> <p>Accessible access from Balgownie Road is provided.</p> <p>Windows provide visual connection to the circulation spaces, increasing passive surveillance.</p>	Yes
<p><b><u>3H Vehicle access</u></b></p> <p><u>Objective 3H-1</u></p> <p><i>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes</i></p>	<p>Car parking access is provided from Church Street, and is suitably integrated into the building façade.</p> <p>Vehicle and pedestrian access is suitably separated.</p> <p>Residents and residential visitors are able to access the site through the lift. Commercial users are able to access the street through the pedestrian footpath to the street level on Church Street.</p>	Yes
<p><b><u>3J Bicycle and car parking</u></b></p> <p><u>Objective 3J-1</u></p> <p><i>Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas</i></p> <p><u>Objective 3J-2</u></p>	<p>The site is not within B3 or B4 zoned land or within 400m of B3 or B4 zoned land.</p> <p>Car parking requirements are set out in the DCP.</p> <p>Bicycle parking is available within the basement parking area for residents and visitors. Motorbike parking is also available.</p>	Yes

<i>Standards/controls</i>	<i>Comment</i>	<i>Compliance</i>
<p><i>Parking and facilities are provided for other modes of transport</i></p> <p><u>Objective 3J-3</u></p> <p><i>Car park design and access is safe and secure</i></p> <p><u>Objective 3J-4</u></p> <p><i>Visual and environmental impact of underground car parking are minimised</i></p>	<p>Resident parking is secure.</p> <p>Charging stations are able to be integrated into the parking layout.</p>	
<b>Part 4 – Designing the building - Amenity</b>		
<p><b><u>4A Solar and daylight access</u></b></p> <p><u>Objective 4A-1</u></p> <p><i>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space</i></p> <p><u>Design Criteria</u></p> <p>1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of two (2) hours direct sunlight between 9am and 3pm in mid-winter in Wollongong LGA.</p> <p>1. A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid winter</p> <p><u>Objective 4A-2</u></p> <p><i>Daylight access is maximised where sunlight is limited</i></p> <p><u>Objective 4A-3</u></p> <p><i>Design incorporates shading and glare control, particularly for warmer months</i></p>	<p>POS areas for all dwellings will receive the required amount of sunlight.</p> <p>Main windows into living areas are north facing which will allow solar access into each dwelling in mid-winter.</p> <p>Each level of the building is limited to 2 dwellings, which results in multiple aspects for each dwelling.</p>	Yes
<p><b><u>4B natural ventilation</u></b></p> <p><u>Objective 4B-1</u></p> <p><i>All habitable rooms are naturally ventilated.</i></p> <p><u>Objective 4B-2</u></p> <p><i>The layout and design of single aspect apartments maximises natural ventilation</i></p> <p><u>Objective 4B-3</u></p> <p><i>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents</i></p>	<p>Effective natural ventilation is achieved in each dwelling. Each level is limited to 2 dwellings, which allows suitable cross ventilation within habitable areas.</p> <p>Lightwells or mechanical ventilation structures are not relied upon or necessary.</p>	Yes
<p><b><u>4C Ceiling heights</u></b></p> <p><u>Objective 4C-1</u></p> <p><i>Ceiling height achieves sufficient natural ventilation and daylight access</i></p> <p><u>Design Criteria</u></p>	<p>Ceiling heights are 3.1m, except for the top floor which is 2.7m.</p> <p>Ceiling height is adequate to allow use of ceiling fans and to facilitate natural ventilation and solar access.</p> <p>Use of Church Street frontage for commercial uses is not expected in the future, as the main</p>	Yes



Standards/controls	Comment	Compliance															
<p>1. Minimum 2.7m for habitable rooms and 2.4m for non-habitable rooms</p> <p><u>Objective 4C-2</u></p> <p><i>Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms</i></p> <p><u>Objective 4C-3</u></p> <p><i>Ceiling height contribute to the flexibility of building use over the life of the building</i></p>	<p>frontage, being Balgownie Road already has commercial uses as ground floor.</p>																
<p><b><u>4D Apartment size and layout</u></b></p> <p><u>Objective 4D-1</u></p> <p><i>The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity</i></p> <p><u>Objective 4D-2</u></p> <p><i>Environmental performance of the apartment is maximised</i></p> <p><u>Objective 4D-3</u></p> <p><i>Apartment layouts are designed to accommodate a variety of household activities and needs</i></p>	<p>Each unit is 3 bedrooms, with 2 bathrooms – each dwelling must be greater than 95m<sup>2</sup>.</p> <p>Each dwelling exceeds 95m<sup>2</sup>.</p> <p>Room depth is acceptable and creates acceptable amenity for residents.</p> <p>Windows are of a sufficient size within each habitable room, measuring more than 10% of the floor area.</p> <p>No part of the main living areas is more than 8m from a window. Width of living areas is sufficient and exceeds 4m in all dwellings.</p> <p>Bedroom sizes are acceptable, and exceed the minimum areas required.</p>	Yes															
<p><b><u>4E Private open space and balconies</u></b></p> <p><u>Objective 4E-1</u></p> <p><i>Apartments provide appropriately sized private open space and balconies to enhance residential amenity</i></p> <p>1. Minimum balcony depths are:</p> <table border="1"> <thead> <tr> <th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr> </thead> <tbody> <tr> <td>Studio apartments</td><td>4m<sup>2</sup></td><td>-</td></tr> <tr> <td>1 bedroom apartments</td><td>8m<sup>2</sup></td><td>2m</td></tr> <tr> <td>2 bedroom apartments</td><td>10m<sup>2</sup></td><td>2m</td></tr> <tr> <td>3+ bedroom apartments</td><td>12m<sup>2</sup></td><td>2.4m</td></tr> </tbody> </table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p> <p>2. Ground level apartment POS must have minimum rea of 15m<sup>2</sup> and min. depth of 3m</p> <p><u>Objective 4E-2</u></p> <p><i>Primary private open space and balconies are appropriately located to enhance liveability for residents</i></p> <p><u>Objective 4E-3</u></p> <p><i>Primary private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building</i></p>	Dwelling type	Minimum area	Minimum depth	Studio apartments	4m <sup>2</sup>	-	1 bedroom apartments	8m <sup>2</sup>	2m	2 bedroom apartments	10m <sup>2</sup>	2m	3+ bedroom apartments	12m <sup>2</sup>	2.4m	<p>Each dwelling has minimum 12m<sup>2</sup> north facing balcony.</p> <p>POS areas are accessed directly from main living areas, and are north facing, with the longer side facing outwards.</p> <p>POS areas are setback 6m from side boundary, consistent with the remainder of the building, which is considered acceptable.</p> <p>Ground floor units have larger POS/courtyards which are exceed 15m<sup>2</sup> and have depths exceeding 3m.</p>	Yes
Dwelling type	Minimum area	Minimum depth															
Studio apartments	4m <sup>2</sup>	-															
1 bedroom apartments	8m <sup>2</sup>	2m															
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Standards/controls	Comment	Compliance										
<u>Objective 4E-4</u>  Private open space and balcony design maximises safety												
<b><u>4F Common circulation and spaces</u></b>  <u>Objective 4F-1</u>  Common circulation spaces achieve good amenity and properly service the number of apartments.  <u>Objective 4F-2</u>  Common circulation spaces promote safety and provide for social interaction between residents	Each level has 2 dwellings.  Circulation routes and access are considered acceptable.  Accessible entry to the building is provided from the Balgownie Road and from the basement parking. Lift access to each level of the apartment building is provided. Circulation spaces to the COS area and from the Church Street entrance are suitably landscaped, and allows for social interaction and passive surveillance.	Yes										
<b><u>4G Storage</u></b>  <u>Objective 4G-1</u>  Adequate, well designed storage is provided in each apartment  1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided  <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m<sup>3</sup></td></tr><tr><td>1 bedroom apartments</td><td>6m<sup>3</sup></td></tr><tr><td>2 bedroom apartments</td><td>8m<sup>3</sup></td></tr><tr><td>3+ bedroom apartments</td><td>10m<sup>3</sup></td></tr></table>  At least 50% of the required storage is to be located within the apartment  <u>Objective 4G-2</u>  Additional storage is conveniently located, accessible and nominated for individual apartments	Dwelling type	Storage size volume	Studio apartments	4m <sup>3</sup>	1 bedroom apartments	6m <sup>3</sup>	2 bedroom apartments	8m <sup>3</sup>	3+ bedroom apartments	10m <sup>3</sup>	Each dwelling requires 10m <sup>3</sup> of storage for bulky goods, in addition to storage in kitchens, bedrooms and bathrooms.  Each dwelling includes storage areas within the main living areas of the dwellings. Each dwelling also has access to an additional bulky goods storage area within the basement parking area, which exceeds 5m <sup>2</sup> in size. Each dwelling is considered to have at least 10m <sup>2</sup> of storage area in addition to the storage available in kitchens, bathrooms and bedrooms.	Yes
Dwelling type	Storage size volume											
Studio apartments	4m <sup>3</sup>											
1 bedroom apartments	6m <sup>3</sup>											
2 bedroom apartments	8m <sup>3</sup>											
3+ bedroom apartments	10m <sup>3</sup>											
<b><u>4H Acoustic privacy</u></b>  <u>Objective 4H-1</u>  Noise transfer is minimised through the siting of buildings and building layout  <u>Objective 4H-2</u>  Noise impacts are mitigated within apartments through layout and acoustic treatments	Acoustic privacy is acceptable.  The building is suitably separated from neighbouring sites, and noise transmission between dwellings is not likely to be excessive.  Storage areas have been placed to buffer noise transmission between dwellings. Bedrooms and living spaces are suitably separated between dwellings within the development.	Yes										
<b><u>4J Noise and pollution</u></b>  <u>Objective 4J-1</u>  In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings	The ADG is located away from the busy Balgownie Street. Windows address the less busy Church Street and neighbouring sites. Excessive noise and pollution is not expected.	Yes										



<i>Standards/controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>Objective 4J-2</u> <i>Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission</i>	An awning is proposed along the Balgownie Road frontage, which will protect the units above from noise and pollution from the street below.	
<b><u>4K Apartment mix</u></b> <u>Objective 4K-1</u> <i>A range of apartment types and sizes is provided to cater for different household types now and into the future</i> <u>Objective 4K-2</u> <i>The apartment mix is distributed to suitable locations within the building</i> <u>Design guidance</u> <ul style="list-style-type: none"> <li>- Larger apartment types are located on the ground or roof level where there is potential for more open space and on corners where more building frontage is available</li> </ul>	<p>The residential flat building consists of 6 units, each of which have 3 bedrooms and 2 bathrooms.</p> <p>The shop top building has 2 units, 1 of which has 2 bedrooms and the other has 3 bedrooms.</p> <p>The development is small, and there is limited capacity to provide a significant mixture of different apartment sizes and layouts. The proposed development is considered acceptable regarding dwelling mix.</p> <p>The lower level includes larger terrace areas, making use of the increased area.</p>	Yes
<b><u>4L Ground floor apartments</u></b> <u>Objective 4L-1</u> <i>Street frontage activity is maximised where ground floor apartments are located</i> <u>Objective 4L-2</u> <i>Design of ground floor apartments delivers amenity and safety for residents</i>	<p>There is limited capacity for direct access into dwellings from the street due to the nature of the site, and dual road frontages.</p> <p>The design of the ground floor apartments is considered acceptable.</p> <p>Ground floor courtyards for units 1 and 2 are considered acceptable.</p> <p>Balgownie road is addressed through the inclusion of commercial tenancies. Church Street is addressed through the building design, including windows addressing the street, and pedestrian accessway.</p>	Yes
<b><u>4M Facades</u></b> <u>Objective 4M-1</u> <i>Building facades provide visual interest along the street while respecting the character of the local area</i> <u>Objective 4M-2</u> <i>Building functions are expressed by the facade</i>	<p>The proposed building façade is considered acceptable.</p> <p>Building elements are suitably integrated into the design.</p> <p>Building entrances are clearly defined.</p> <p>Building function is obvious from the design of the proposal.</p>	Yes
<b><u>4N Roof design</u></b> <u>Objective 4N-1</u> <i>Roof treatments are integrated into the building design and positively respond to other street</i> <u>Objective 4N-2</u> <i>Opportunities to use roof space for residential accommodation and open space are maximised</i> <u>Objective 4N-3</u> <i>Roof design incorporates sustainability features</i>	Roof design is integrated into the building and is consistent with the expected built form of a development of this type.	Yes

<i>Standards/controls</i>	<i>Comment</i>	<i>Compliance</i>
<p><b><u>4O Landscape design</u></b></p> <p><u>Objective 4O-1</u></p> <p><i>Landscape design is viable and sustainable</i></p> <p><u>Objective 4O-2</u></p> <p><i>Landscape design contributes to the streetscape and amenity</i></p>	<p>Council's Landscape Architect has commented that the proposal generally complies with the landscape design requirements, however has noted the deep soil zone is not of a compliant size. However, the submitted plans do indicate the deep soil zone exceeds 7% of the site area.</p> <p>Appropriate landscape conditions have been included.</p>	Yes
<p><b><u>4Q Universal design</u></b></p> <p><u>Objective 4Q-1</u></p> <p><i>Universal design features are included in apartment design to promote flexible housing for all community members</i></p> <p><u>Objective 4Q-2</u></p> <p><i>A variety of apartments with adaptable designs are provided</i></p> <p><u>Objective 4Q-3</u></p> <p><i>Apartment layouts are flexible and accommodate a range of lifestyle needs</i></p>	<p>The apartment designs are considered acceptable with regard to the principals of universal design.</p> <p>1 adaptable unit out of the 8 is provided.</p> <p>Dwelling design is flexible, in that it consists of a relatively open plan layout. 6 out of the 8 units within the development are accessible, with the remaining 2 accessible with stairs. Lift access from Balgownie Road and the basement parking is provided.</p>	Yes
<p><b><u>4S Mixed use</u></b></p> <p><u>Objective 4S-1</u></p> <p><i>Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement</i></p> <p><u>Objective 4S-2</u></p> <p><i>Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents</i></p>	<p>The development provides an active street frontage at Balgownie Street, which is appropriate considering the zoning of the land and neighbouring land uses.</p> <p>An awning above the Balgownie Road footpath has been provided.</p> <p>Residential access is clearly separated from the commercial uses.</p>	Yes
<p><b><u>4T Awnings and signage</u></b></p> <p><u>Objective 4T-1</u></p> <p><i>Awnings are well located and complement and integrate with the building design</i></p> <p><u>Objective 4T-2</u></p> <p><i>Signage responds to the context and desired streetscape character</i></p>	<p>Awnings are shown above the footpath on the Balgownie Road frontage.</p> <p>Details of the commercial component have not been outlined as part of this application. Signage associated with this aspect is likely to be subject to a future application unless exempt development. The use of each of the 3 tenancies will be the subject of future approvals.</p> <p>Suitable building identification signage is able to be provided on both frontages, identifying the building address.</p>	Yes
<p><b><u>4U Energy efficiency</u></b></p> <p><u>Objective 4U-1</u></p> <p><i>Development incorporates passive environmental design</i></p> <p><u>Objective 4U-2</u></p>	<p>Compliant solar access is provided into each dwelling.</p> <p>Clothes drying is able to be provided on the available balconies, which are not visible from the public domain.</p> <p>Adequate natural ventilation is available for each dwelling.</p>	Yes



<i>Standards/controls</i>	<i>Comment</i>	<i>Compliance</i>
<p><i>Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer</i></p> <p><u>Objective 4U-3</u></p> <p><i>Adequate natural ventilation minimises the need for mechanical ventilation</i></p>		
<p><b><u>4V Water management and conservation</u></b></p> <p><u>Objective 4V-1</u></p> <p><i>Potable water use is minimised</i></p> <p><u>Objective 4V-2</u></p> <p><i>Urban stormwater is treated on site before being discharged to receiving waters</i></p> <p><u>Objective 4V-3</u></p> <p><i>Flood management systems are integrated into site design</i></p>	<p>The development is not expected to create an unreasonable demand for water.</p> <p>Rainwater is captured for use on landscaping.</p> <p>Landscaped swale is provided for drainage.</p> <p>Stormwater systems are integrated into the landscaping design.</p>	Yes
<p><b><u>4W Waste management</u></b></p> <p><u>Objective 4W-1</u></p> <p><i>Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents</i></p> <p><u>Objective 4W-2</u></p> <p><i>Domestic waste is minimised by providing safe and convenient source separation and recycling</i></p>	<p>Waste bins are located within the building basement, and are able to be brought up to street level on Church Street.</p> <p>Suitable conditions relating to waste management have been included on the consent.</p>	Yes
<p><b><u>4X Building maintenance</u></b></p> <p><u>Objective 4X-1</u></p> <p><i>Building design detail provides protection from weathering</i></p> <p><u>Objective 4X-2</u></p> <p><i>Systems and access enable ease of maintenance</i></p> <p><u>Objective 4X-3</u></p> <p><i>Material selection reduces ongoing maintenance costs easily cleaned surfaces that are graffiti resistant</i></p>	<p>Building materials are typical for a development of this type. The external materials are considered acceptable.</p>	Yes

## CHAPTER A2 – ECOLOGICALLY SUSTAINABLE DEVELOPMENT

Development controls to improve the sustainability of development throughout Wollongong are integrated into the relevant chapters of this DCP.

The proposal is generally consistent with the principles of Ecologically Sustainable Development.

## CHAPTER B1 – RESIDENTIAL DEVELOPMENT

This chapter only applies to residential zoned land, and therefore does not apply to this proposal.

## CHAPTER B3 – MIXED USE DEVELOPMENT

Chapter B3 is applicable to this application as the development proposes residential development and commercial uses in the form of shop top housing. The development consists of 3 commercial tenancies with 2 dwellings above, and an additional residential flat building with 6 dwellings.

The Apartment Design Guide takes precedence over the controls in the DCP. Any inconsistencies will revert to the controls in the ADG.

Control	Comment	Compliance
<b>4 Design Requirements</b>		
<b>4.1 Minimum Site Width</b> <ul style="list-style-type: none"> <li>24m site width measured for the entire building perpendicular to the side boundary</li> <li>Must not result in isolated lot – ‘a lot which is bounded on both sides by properties (or a property and a second street frontage) which comprise existing development other than a single dwelling house’</li> <li>Isolated lots will only be permitted where negotiations have been made for amalgamation or the isolated lot has a site width greater than 20m</li> </ul>	<p>The site is an L shaped allotment with a dual frontage. The shop top housing component addresses Balgownie Road, with a width of 20m, less than the minimum site width of 24m and the RFB addresses Church Street, which also has a width of 20m. This variation is considered acceptable, and is addressed within Clause 4.6 of the WLEP section of the report.</p> <p>The corner lot is not considered to be an isolated lot, as it has dual frontages, and the applicant has demonstrated an appropriate built form is able to be constructed on the lot in the future.</p>	<b>No – Variation considered acceptable</b>
<b>4.2 Maximum floor space ratio</b> <ul style="list-style-type: none"> <li>As per LEP</li> </ul>	The LEP identifies the site has having a maximum FSR of 1.5:1. The proposed development has an FSR of 0.9:1.	<b>Yes</b>
<b>4.3 Building Height</b> <ul style="list-style-type: none"> <li>As per LEP</li> </ul>	The LEP identifies the site has having a maximum height of 12m. The proposed building is less than the maximum height.	<b>Yes</b>
<b>4.4 Front Setbacks</b> <ul style="list-style-type: none"> <li>Continuous façade along main commercial streets</li> </ul>	The development proposes a zero setback to Balgownie Road, similar to neighbouring sites.	<b>Yes</b>
<b>4.5 Side and Rear Setbacks/Building Separation</b> <ul style="list-style-type: none"> <li>Continuous line with zero setbacks</li> <li>Where the site abuts residential land, in which case 6m to habitable rooms, and 3.5m to non-habitable rooms is required</li> </ul>	<p>The shop top housing development maintains a zero side setback, as required for business zones.</p> <p>Refer to ADG for building separation controls applicable to the RFB.</p>	<b>Yes</b>
<b>4.6 Built Form</b> <ul style="list-style-type: none"> <li>Revert to ADG</li> </ul>	<p>See ADG assessment of built form.</p> <p>The building is consistent with the surrounding context</p>	<b>Yes</b>



<ul style="list-style-type: none"> <li>• Building design to be consistent with surrounding development</li> <li>• Visual interest through articulation, variety of materials</li> <li>• Ground floor and first floor to have 3.3m ceiling height to allow flexibility</li> <li>• Servicing for commercial component must be separately provided</li> <li>• Glazing to be provided at shopfronts</li> </ul>	<p>Visual interest on the front façade is achieved.</p> <p>Servicing for the commercial component is provided in the car park, separate from the locked resident area.</p>	
<b>4.7 Active Street frontages</b> <ul style="list-style-type: none"> <li>• All new mixed use building to provide ground level active street frontages</li> <li>• Contribute to liveliness of the street</li> <li>• Clear glazing on the front facade</li> </ul>	<p>The shop top development provides an active street frontage with commercial uses on the ground floor, clear glazing, and a separate resident entrance.</p>	<b>Yes</b>
<b>4.8 Awnings</b> <ul style="list-style-type: none"> <li>• Provide continuous street front awnings</li> <li>• Minimum width of 2.5m</li> <li>• Setback from curb by minimum 600mm</li> <li>• Awnings should be complimentary to awnings on neighbouring sites</li> </ul>	<p>Awnings are proposed on the Balgownie Road frontage.</p>	<b>Yes</b>
<b>4.9 Car Parking</b> <ul style="list-style-type: none"> <li>• Parking to be provided in accordance with Chapter E3.</li> <li>• Driveways to minimise streetscape impacts</li> </ul>	<p>Basement parking is provided for the residential and commercial components.</p> <p>Driveway is provided off side street, and does not occupy the major frontage. Council's Traffic officer has reviewed the proposal and raises no concerns subject to the recommended conditions.</p>	<b>Yes</b>
<b>4.10 Basement Car Parking</b> <ul style="list-style-type: none"> <li>• Basement parking is not to impact minimum landscaping requirements</li> </ul>	<p>Landscape areas do not overlap with any basement parking areas.</p>	<b>Yes</b>
<b>4.11 Driveways</b> <ul style="list-style-type: none"> <li>• Provide driveways from secondary streets</li> <li>• 6m from any intersections</li> <li>• Setback 1.5m from boundaries</li> <li>• Enter and exit in forward direction</li> <li>• 4-6m crossover, with minimum 3m driveway width</li> </ul>	<p>Driveway is provided from secondary street and is located more than 6m from intersections and 1.5m from boundaries.</p> <p>All vehicles can enter and exit the site in a forward direction, and the driveway/crossover width is acceptable.</p>	<b>Yes</b>
<b>4.12 Landscaping</b>	Refer to ADG requirements	<b>NA</b>
<b>4.13 Communal open space</b>	Refer to ADG requirements	<b>NA</b>
<b>4.14 Private open space</b>	Refer to ADG requirements	<b>NA</b>
<b>4.15 Solar Access</b>	Refer to ADG requirements	<b>NA</b>
<b>4.16 Visual Privacy</b>	Refer to ADG requirements	<b>NA</b>
<b>4.17 Acoustic Privacy</b>	Refer to ADG requirements	<b>NA</b>

<b>4.18 Adaptable and Universally Designed Housing</b> <ul style="list-style-type: none"> <li>10% of units must be capable of adaption in accordance with the AS</li> <li>Lift access must be provided</li> <li>Access Consultant certification must be provided</li> </ul>	1 adaptable dwelling is provided.  Lift access is provided to all communal areas and the adaptable units. 6 out of 8 units are accessible by lift, which is considered acceptable.  Access Report/certification has been submitted	<b>Yes</b>
<b>4.19 Apartment Mix and Layout</b>	Refer to ADG requirements	<b>NA</b>
<b>4.20 Natural Ventilation</b>	Refer to ADG requirements	<b>NA</b>
<b>4.21 Adaptive Re-use</b>	Lower level of building is proposed to be commercial space.	<b>Yes</b>
<b>4.22 Crime Prevention through Environmental Design</b> <ul style="list-style-type: none"> <li>Casual surveillance from accessways, entries and driveways</li> <li>Avoid blind corners</li> <li>Prominent entrances</li> <li>Maximum of 8 dwellings accessible from single lift or corridor</li> <li>Adequate lighting</li> <li>Avoid obscure or dark alcoves, clear lines of site</li> </ul>	Pedestrian entrance is provided from 2 frontages. Clear sightlines are provided from pedestrian and vehicle access points.  No potential alcoves or blind corners are provided near building entrances.  Adequate lighting is able to be provided.  6 dwellings are serviced by 1 lift, which is acceptable.	<b>Yes</b>
<b>5 General Requirements for all Mixed Use Development</b>		
<b>5.1 Floodplain Management</b> <ul style="list-style-type: none"> <li>Flood study is required on sites flood affected</li> </ul>	Site is not identified as flood affected. Council's Stormwater engineer has reviewed the proposal and raises no concern subject to suitable conditions of consent.	<b>Yes</b>
<b>5.2 Land Re-Shaping Works (Cut and Fill Earthworks)</b> <ul style="list-style-type: none"> <li>Earthworks should be minimised</li> <li>Excavations exceeding 600mm permitted for basement garages</li> <li>Cut and fill must not compromise structures on neighbouring land or drainage characteristics</li> </ul>	Earthworks proposed to provide basement parking.  Appropriate conditions will be included to ensure excavation does not impact surrounding sites.  Council's Geotech officer has reviewed the proposal and raised no concerns.  Council's Stormwater Engineer has reviewed the proposal and raised no concerns.	<b>Yes</b>
<b>5.5 Fences</b> <ul style="list-style-type: none"> <li>Allow free flow of stormwater</li> <li>Fencing in front setback to be predominantly clear</li> <li>1.8m fence to neighbouring sites</li> </ul>	Condition relating to stormwater flow are recommended.  No front fencing except adjacent to secondary pedestrian entrance on Church Street is proposed. Fencing design is considered acceptable.	<b>Yes</b>
<b>5.6 Access for People with a Disability</b>	Refer to Chapter E1	<b>NA</b>
<b>5.7 Services</b>	The site is within an established residential area and will be able to be serviced appropriately. Suitable conditions will be	<b>Yes</b>



<ul style="list-style-type: none"> <li>Developments are to be provided with suitable servicing including water, gas, electricity, sewage</li> </ul>	included to ensure any requirements under the Sydney Water Act are met.	
<b>5.9 Fire Brigade Servicing</b> <ul style="list-style-type: none"> <li>All development to be within 60m of hydrant</li> </ul>	Hydrant located at corner of Church Street and Balgownie Road.	<b>Yes</b>
<b>5.10 Site Facilities</b> <ul style="list-style-type: none"> <li>Provide letterboxes which are accessible and in one location, and integrated into the development</li> <li>Other services located away from street frontage</li> <li>Clothes drying areas are required for each dwelling</li> </ul>	<p>Letterboxes are provided at the Balgownie Road frontage, which is accessible to all residents.</p> <p>Other services are able to be located away from frontages.</p> <p>Balconies on each dwelling are able to provide clothes drying facilities.</p> <p>AC units are able to be positioned away from road frontages.</p>	<b>Yes</b>
<b>5.11 Storage Facilities</b>	Refer to ADG requirements	<b>NA</b>
<b>5.12 Waste Management</b>	Refer to Chapter E7	<b>NA</b>

## CHAPTER B4 – DEVELOPMENT IN BUSINESS ZONES

The development is in the B2 Local Centre zone and this chapter is applicable to the development. An assessment against the relevant sections is outlined below.

### 2 Objectives

The development is considered consistent with the objectives of development in business zones.

### 3. Retail and business centre hierarchy strategy

The proposed development is generally consistent with the type of development encouraged within Town Centres and Village Centres. A variety of commercial uses are possible within the 3 tenancies proposed as part of this application. The applicant has advised the tenants of each of 3 units have already been established. The use of each unit will be subject of future approvals.

### 7 Planning requirements for development in the town centres

#### 7.5 Balgownie Town Centre

Retail and business development is only permitted within the existing Balgownie retail and business centre. The proposed development is located on Balgownie Road within the local centre.

The proposed development addresses Balgownie Road with 3 commercial tenancies, which helps reinforce the identity and character of the area. The use of the 3 tenancies is likely to be determined by future development applications or complying development.

#### *Height and FSR*

The proposal is consistent with the height and density expected on the site.

#### *Front building line setback*

The proposed zero setback to the front boundary is considered acceptable.

An awning is proposed along the Balgownie Road frontage, consistent with the neighbouring sites.

#### *Side and rear setbacks*

The zero setback to the side boundaries is acceptable. The 6m setback to the north boundary is acceptable. Refer to ADG for further assessment on building separation.

#### *Car parking and delivery truck loading area*

Parking and servicing is provided from the secondary road frontage being Church Street, which is consistent with the requirements in this Chapter.

## **9 General design requirements for retail and business premises developments**

### ***9.1 Objectives***

The proposed development is generally consistent with the objectives for development in business zones.

### **9.2 Development Controls**

#### ***9.2.1 Floor Configuration***

Ground level matches existing footpath level. Conditions relating to treatment of Council's footpath will be included.

Retail with floor area of less than 90m<sup>2</sup> should have a width to depth ratio of between 1:1 and 1:3. Each commercial premises has a width of approx. 5m, and a depth of 19m, which is approximately 1:4. Although more narrow than the requirements of this section, the applicant has advised the tenants of each unit has already been established.

The floor configuration is considered acceptable. Future fitout of the commercial premises is likely to reduce the perceived depth of the tenancies as it provides for front and back of house facilities. The width of the tenancies is considered acceptable.

#### ***9.2.2 Building Appearance***

The building appearance is considered acceptable, and consistent with the scale of development on surrounding sites. Reflectivity of glazing is able to be limited to less than 20% with a condition of consent.

A schedule of proposed external materials was submitted, which was considered acceptable.

#### ***9.2.3 Building Alignment***

Commercial uses are proposed on the ground floor on the Balgownie Road frontage. The secondary frontage forms part of the pedestrian and access to the residential component and is therefore not appropriate for commercial uses on the ground floor.

#### ***9.2.4 Active Street Frontages***

The proposed development will achieve an active street frontage. the majority of the ground floor consists of shop front glazing.

#### ***9.2.5 Urban Design / Streetscape Appearance***

The urban design and streetscape appearance of the commercial component is considered acceptable. Visual relief is provided through changes in building materials and design elements. Reflectivity will be limited to 20% with a condition of consent.

#### ***9.2.6 Pedestrian Access***

Through site links are not required for a development of this scale. Pedestrian access to the commercial component is from the existing footpath.

#### ***9.2.7 Awnings***

Awning is provided along the Balgownie Road front, consistent with the requirements of this section, and the awnings on neighbouring sites.

#### ***9.2.8 Public Domain – Footpath Paving***

Suitable conditions are recommended to ensure works to the public domain are consistent with Council's requirements.

#### ***9.2.9 Solar access and overshadowing***

Overshadowing will not have a significant impact on any nearby residential land uses. The overshadowing to the street is not considered excessive or inconsistent with what would be expected on the site.

#### ***9.2.11 Advertising Signage***

Advertising signage is not proposed. A condition is recommended to ensure approval is sought for any non-exempt signage.

#### ***9.2.12 Wind Impact Assessment***

No excessive wind impact is expected because of this development due to the scale and height of the proposal.



### 9.2.13 Access, Car parking and Servicing

See Chapter E3

### 9.2.14 Access for People with a Disability

See Chapter E1

### 9.2.15 Land Consolidation

Suitable conditions would be imposed to ensure lot consolidation takes place.

## 13 Works in the public domain

Conditions will be included on any consent granted to ensure works in the public domain are consistent with Council's requirements.

## CHAPTER D1 – CHARACTER STATEMENTS

### Balgownie

The proposal is considered to be consistent with the existing and desired future character for the locality. The proposed development contains a variety of uses, consistent with existing land uses within the Balgownie Town Centre. The residential components are positioned away from the ground floor Balgownie Road frontage. The proposed development will contribute to the retail/commercial precinct.

## CHAPTER E1: ACCESS FOR PEOPLE WITH A DISABILITY

The proposed development is considered to be generally consistent with the requirements of this Chapter. Confirmation of compliance with the relevant Australian Standards for access has been provided by an Access Consultant.

All common areas of the development and each commercial tenancy is accessible. 6 out of 8 units are accessible. 1 adaptable dwelling is proposed.

## CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

<i>Control/objective</i>	<i>Comment</i>	<i>Compliance</i>
<u>3.1 Lighting</u>	The proposed development is able to be suitably illuminated to prevent entrapment spaces and ensure safe access routes.	Yes
<u>3.2 Natural surveillance and sightlines</u>	Entries from both frontages allow visibility into and out of the development. Access doors and pathways are clearly visible from the street. 3 commercial tenancies address the street.	Yes
<u>3.4 Building design</u>	Entries are clearly defined, blank walls are avoided on public frontages and potential entrapment spaces are avoided through appropriate design. Basement storage areas are within the locked portion of the basement parking.	Yes
<u>3.5 Landscaping</u>	Landscaping along circulation spaces and along the Church Street frontage are considered appropriate.	Yes

## CHAPTER E3: CAR PARKING, ACCESS, SERVICING/LOADING FACILITIES AND TRAFFIC MANAGEMENT

### 6 Traffic impact assessment and public transport studies

## 6.1 Car Parking and Traffic Impact Assessment Study

A traffic impact assessment was submitted with the proposal which reviewed the proposed parking and access requirements.

The traffic impact assessment has been reviewed by Council's Traffic Officer who has not raised any concerns subject to conditions of consent.

## 7 Parking demand and servicing requirements

### DEVELOPMENT TYPE

- 25 vehicle parking spaces including:
  - 16 parking spaces for residents including 1 accessible
  - 7 commercial spaces including 1 accessible
  - 2 resident visitor parking spaces
- Bicycle and motorbike parking/storage for residents and visitors
- Car wash bay, bin storage, residential storage, OSD/tanks

Parking Type	Requirement	Proposed	Compliance
Resident Car Parking	2 spaces per dwelling = 16	16 resident spaces including 1 accessible space	Yes
Resident Visitor Car Parking	0.2 spaces per dwelling = 1.4 (2)	2 resident visitor spaces	Yes
Resident bike spaces	1 per 3 dwellings	3 resident bike spaces	Yes
Resident visitor bike spaces	1 per 12 dwellings	Total 3 visitor bike parking provided	Yes
Resident motorcycle space	1 per 15 dwellings	1 for residents, 1 for visitors	Yes
Business premises car parking	1 per 40m <sup>2</sup> of GFA = 245m <sup>2</sup> /40m <sup>2</sup> = 6.125	7 including 1 accessible	Yes
Business premises bike parking	1 per 200m <sup>2</sup> for staff plus 1 per 750m <sup>2</sup> for visitors	3 business bike spaces	Yes
Business premises motorcycle space	1 per 25 car spaces	1 motorcycle space	Yes

Council's Traffic officer has reviewed the proposal and raised no concern with the provided parking, subject to suitable conditions of consent. The site is capable of receiving a suitably sized large rigid vehicle

## 8 Vehicular access

Driveway grades and sight distances comply.

## 9 Loading / unloading facilities and service vehicle maneuvering

The development complies with AS 2890.2.

Waste servicing is able to occur from the kerb.

## 10 Pedestrian access

The proposal is satisfactory with regard to pedestrian access into the site and along the frontage.

## 11 Safety & security (Crime Prevention through Environmental Design) measures for car parking areas

The proposal is satisfactory with regard to the principles of CPTED. Refer to Chapter E2.



## **CHAPTER E6: LANDSCAPING**

Council's Landscape Architect has reviewed the proposal and has stated the proposal is generally compliant with Council's requirements, and the requirements of the ADG.

Council's Landscape Architect comments indicate concern with the size of the deep soil zone, however it is noted the submitted plans indicate the area exceeds 7% of the total site area, as required by the ADG. In addition concern was raised regarding the design details of the Balgownie Road public domain works. A condition has therefore been included to ensure brick banding is provided along the frontage, consistent with Council's Design Manual.

Suitable landscape conditions are recommended, including for the preparation of a final landscape plan for the approval of Council's Landscape Division.

## **CHAPTER E7: WASTE MANAGEMENT**

A Site Waste Minimisation and Management Plan has been provided in accordance with this chapter.

There is no demolition works required. Suitable conditions of consent are recommended relating to waste management during construction.

## **CHAPTER E9 HOARDINGS AND CRANES**

Suitable conditions of consent are recommended.

## **CHAPTER E11 HERITAGE CONSERVATION**

Council's Heritage Officer has reviewed the proposal and while most of the concerns raised have been addressed, including the preparation of a heritage assessment, and changes to the building façade and external colours, the following comments remain outstanding:

- 1 Amended plans that provide for a compliant proposal;
- 2 Context plans/photomontages what show existing built form adjacent to the development on Church Street and from key views from Balgownie Road.

It is noted the proposal is generally compliant with the relevant controls contained within ADG, WLEP and the DCP. Suitable and acceptable Clause 4.6 variation requests have been submitted.

A context plan has been submitted showing the appearance of the proposal from Balgownie Road. The proposal is compliant in terms of height and FSR, and the design is not expected to have a significant impact on the heritage fabric of any surrounding items. Shadow Diagrams indicate the Balgownie Hotel located across the road is not impacted by overshadowing.

As such, the proposal is considered able to be assessed based on the information submitted, and is considered to be acceptable.

## **CHAPTER E12 GEOTECHNICAL ASSESSMENT**

The application has been reviewed by Council's Geotechnical Engineer in relation to site stability and the suitability of the site for the development. Appropriate conditions have been recommended.

## **CHAPTER E14 STORMWATER MANAGEMENT**

Stormwater is proposed to be disposed of to Council's existing stormwater infrastructure via an on site stormwater detention system. Council's stormwater engineer has reviewed the proposal with respect to the provisions of this chapter and has recommended conditions of consent.

## **CHAPTER E19 EARTHWORKS (LAND RESHAPING WORKS)**

All earthworks proposed are generally consistent with the provisions of this Chapter, and consistent with a development of this type. Standard conditions of consent are recommended.

## Attachment 7: Applicants Clause 4.6 Variation Request



### Sydney

Level 5, 115 Pitt Street  
Sydney NSW 2000

### Wollongong

Level 1, 1 Burelli Street  
Wollongong NSW 2500

### Newcastle

2 Portside Crescent  
Maryville NSW 2293

M 0437 804 079

E admin@e-planning.net.au

W www.e-planning.net.au

Date: 20<sup>th</sup> August 2020

Reference: 19307

To: C/ Wollongong City Council  
Post Locked Bag 8821  
Wollongong DC NSW 2500

To Whom It May Concern:

**Project Address:** No. 164-166 Balgownie Road, BALGOWNIE NSW 2519, 22 Church Street, BALGOWNIE NSW 2519

**The Proposal:** Attached Construction of mixed use development consisting of a two (2) storey shop top housing building consisting of three (3) commercial tenancies and two (2) residential units and a three (3) storey residential flat building consisting of six (6) residential units and one (1) level of basement car parking

**Reference:** DA 2020/460

**Submission:** Clause 4.6 Exception to development Standards  
- WLEP 2009 Clause 7.14 Minimum Site Width  
- WLEP 2009 Clause 7.13 Certain Land within Business Zones

We provide the following Clause 4.6 Exception to development Standards request to WLEP2009 Clause 7.14 Minimum Site Width and WLEP 2009 Clause 7.13 Certain Land within Business Zones. The below is to be read in conjunction with the architectural plans and/or reports prepared by PRD Architects and/or subconsultants.

### Wollongong Local Environmental Plan 2009 (WLEP2009)

#### Clause 4.6 Exception to development standards - Clause 7.14 Minimum Site Width

This report serves as a written Clause 4.6 Exception to development standards request to vary Clause 7.14 Minimum site width of the Wollongong Local Environmental Plan 2009 (WLEP2009) development standard applying to the proposed "mixed use development consisting of a two (2) storey shop top housing building consisting of three (3) commercial tenancies and two (2) residential units and a three (3) storey residential flat building consisting of six (6) residential units and one (1) level of basement car parking within the subject site of No. 164-166 Balgownie Road and No 22 Church Street, Balgownie.

### ACCOUNTABILITY

WE ARE RESPONSIBLE FOR  
OUR DECISIONS

### EXCELLENCE

WE ALWAYS STRIVE TO  
BE THE BEST

### INTEGRITY

WE ACT ETHICALLY

### PASSION

WE LOVE WHAT  
WE DO



Where an applicant proposes to vary a development standard within Wollongong Local Environmental Plan 2009 (WLEP2009), Council cannot consider the variation unless a written Clause 4.6 Exception to development standards is included. Satisfying a Development Standard contained within a Local Environmental Plan is usually necessary to confirm that the objectives are achieved. In this instance there are No Objectives provided in Clause 7.14 Minimum site width and therefore it is unclear as what the Objectives of this Clause of the WLEP2009 is trying to achieve.

**1. What is the name of the environmental planning instrument that applies to the land?**

The name of the environmental planning instrument that applies to the land is the Wollongong Local Environmental Plan 2009 (WLEP2009).

**2. What is the zoning of the land and what are the objectives of the zone?**

WLEP2009, the land is identified as B2 Local Centre. The Objectives of the B2 Local Centre zone are:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To allow for residential accommodation and other uses while maintaining active retail, business or other non-residential uses at the street level.

**3. Identify the Development Standard to which this Clause 4.6 Variation applies?**

The Development Standard to which this Clause 4.6 Variation applies is Part 7 - Clause 7.14(2) of the WLEP 2009 which states:

*“(2) Development consent must not be granted for development for the purposes of a residential flat building unless the site area on which the development is to be carried out has a dimension of at least 24 metres.*

**4. What are the objectives of the development standard?**

There are No stated objectives for this clause. The objectives of the Clause are therefore unknown.

**5. What is the numeric value of the development standard in the environmental planning instrument?**

The minimum site width required is 24 metres.

**6. How do the existing and proposed numeric values relate to the development standard? What is the percentage variation (between your proposal and the environmental planning instrument)?**

Minimum Site Width			
Current site width (m)	Minimum site width required (m)	Proposed site width (m)	Percentage Variation
20.07m Balgownie Road	24.00m	20.07m	16%
19.62m Church Street	24.00m	19.62m	18%

The site has an internal width (depth) of 47.735m and 39.106m respectively.

**7. How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case?**

The NSW Land and Environment Court in *Four2Five Pty LTD v Ashfield Council* [2015] NSWLEC 90, considered how this question may be answered and referred to the earlier Court decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827. The court provided five tests as follows:

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

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

Test 3: The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable

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

Test 5: The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone:

Additionally, of note, in the judgment in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 the Chief Judge upheld the Commissioner's approval of large variations to height and FSR controls on appeal. He noted that under clause 4.6, the consent authority (in that case, the Court) did not have to be directly satisfied that compliance with the standard was unreasonable or unnecessary, rather that the applicant's written request adequately addresses the matters in clause 4.6(3)(a) that compliance with each development standard is unreasonable or unnecessary.

In this regard, this written request establishes and adequately addresses the matters in clause 4.6(3)(a) that compliance with each development standard is unreasonable or unnecessary because the underlying objective of purpose of the standard is not relevant to the development irrespective of the non-compliance, and accordingly justifies the variation pursuant to the Test 2 outlined in *Wehbe*, as follows.

The site potential is already limited by the "L" shape of the allotment and Landlocking of the site by adjoining sites recently completed development and adjoining sites very limited development potential.

Adopting the site width would mean the subject site would be sterilised and excluded from any high density development of which would not satisfy the zone objectives. Logically, restricting the built form allowable on the site is completely impractical for a site of this size, configuration and zoning in an area requiring additional housing and therefore, totally unreasonable to consider in this instance.

The reduced site width does not result in any undue privacy or overlooking impacts to adjoining properties, by virtue of the proposed architectural interface treatment to these edges (window treatments and dwelling orientations to these boundaries, etc.). The proposed development complies with the maximum building height and FSR requirements for this B2 Zoned location.



The proposed variation is deemed minor (16% & 18%) in the context of the overall development and will not result in any adverse environmental or planning implications. It is worth noting that the internal site widths increase to a width (depth) of 47.735m and 39.106m respectively and would satisfy C17.14.

In relation to Test 4: The development standard should be abandoned by the council in granting consents creating Landlocked site departing from the standard and hence compliance with the standard is unnecessary and unreasonable.

In this regard, the following developments have been granted by Wollongong City Council for the same variation:

Application Number & Address	Proposal	Variation
DA-2017/1727 94 New Mount Pleasant Road MOUNT PLEASANT NSW 2519	Residential - demolition of existing structures, tree removal, construction of multi unit development and Subdivision - Strata title	8% of site area has width less than 18m
DA-2017/732 14 Russell Street BALGOWNIE NSW 2519	Residential - construction of multi dwelling housing - six (6) townhouses	Minimum Site Width - Required 18m - Proposed 14.87m
DA-2018/1630 35 Yellagong Street WEST WOLLONGONG NSW 2500	Residential - demolition of existing structures, tree removal and construction of multi dwelling housing - 10 units with associated carparking and infrastructure	<10%, 8.5% variation
Application DA-2018/323 30 Kemblawarra Road WARRAWONG NSW 2502	Residential - demolition of existing structures and construction of multi dwelling housing	Variation of 49% to the 18m Minimum Site Width Control for Multi Dwelling Housing under WLEP2009.
DA-2019/213 29 Carr Street TOWRADGI NSW 2518	Residential - demolition of existing structures, tree removals and construction of multi dwelling housing - three (3) attached townhouses	18 metres for multi dwellings. Proposal - 16.5 metres which represents an 8.33% shortfall

Thus, deeming strict compliance with the allotment width is unwarranted in the circumstances of this particular case.

**8. Is the development standard performance based control? Give details.**

Yes, the development standard is a numerical control and therefore subject to performance based.

**9. Would strict compliance with the standard, in your particular case, would be unreasonable or unnecessary? Why?**

Yes. The reasons have been canvassed under headings above. In addition, strict compliance with the development standard would be onerous and a little difference would result if full compliance was made.

**10. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.**

Yes. Considering that the development achieves the objectives of the land use zone, and furthermore achieves a satisfactory level of compliance with the other applicable State and Council Planning Policies, the proposal is meritorious, and the contravention of the development standard is justified. The contravention of the development standard allows for a better amenity and design outcome to be realised for the site and development than what would be achieved if strict compliance was to be enforced.

Having regard to the assessment of the proposal and Clause 4.6 Variation to Development Standard, it is considered that the proposed development achieves the objectives of the land use zone and strict compliance with the numerical component of the development standard is unnecessary and unreasonable in these circumstances and there are sufficient environmental planning grounds to justify contravening the development standard.

**Public Interest**

The proposed is not considered to present any detrimental environmental impacts or amenity impacts onsite or to adjoining neighbours or streetscape. The proposal will make a positive economic and social contribution sought by Wollongong City Council's planning controls, while improving overall site amenity and functionality and is considered in the Public Interest.



## Wollongong Local Environmental Plan 2009 (WLEP2009)

### Clause 4.6 Exception to development standards – Clause 7.13 Certain land within business zones

This report serves as a written Clause 4.6 Exception to development standards request to vary Clause 7.13 Certain land within business zones of the Wollongong Local Environmental Plan 2009 (WLEP2009) development standard applying to the proposed "mixed use development consisting of a two (2) storey shop top housing building consisting of three (3) commercial tenancies and two (2) residential units and a three (3) storey residential flat building consisting of six (6) residential units and one (1) level of basement car parking within the subject site of No. 164-166 Balgownie Road and No 22 Church Street, Balgownie.

Satisfying a Development Standard contained within a Local Environmental Plan is usually necessary to confirm that the objectives are achieved. In this instance there are Objectives provided in Clause 7.13 Certain land within business zones and are further discussed below.

Where an applicant proposes to vary a development standard within Wollongong Local Environmental Plan 2009 (WLEP2009), Council cannot consider the variation unless a written Clause 4.6 Exception to development standards is included. It is noted that a similar proposal was approved on the site by council under DA2014/737 on 14/1/2016.

It is reinforced that Church street is a low scale residential street (as concluded by the Wollongong Design Review Panel) as is their comment of *"The fundamental program of the building (two separate forms located on the site to maximise northern orientation, serviced by a single basement accessed via church street) is a reasonable response to this site."*

#### **1. What is the name of the environmental planning instrument that applies to the land?**

The name of the environmental planning instrument that applies to the land is the Wollongong Local Environmental Plan 2009 (WLEP2009).

#### **2. What is the zoning of the land and what are the objectives of the zone?**

WLEP2009, the land is identified as B2 Local Centre. The Objectives of the B2 Local Centre zone are:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To allow for residential accommodation and other uses while maintaining active retail, business or other non-residential uses at the street level.*

#### **3. Identify the Development Standard to which this Clause 4.6 Variation applies?**

The Development Standard to which this Clause 4.6 Variation applies is Part 7 - Clause 7.13(3) of the WLEP 2009 which states:

- (3) Development consent must not be granted for development for the purpose of a building on land to which this clause applies unless the consent authority is satisfied that the ground floor of the building—*
- (a) will not be used for the purpose of residential accommodation, and*
  - (b) will have at least one entrance and at least one other door or window on the front of the building facing the street other than a service lane.*

**4. What are the objectives of the development standard?**

The objectives for this clause are:

*The objective of this clause is to ensure active uses are provided at the street level to encourage the presence and movement of people.*

**5. What is the numeric value of the development standard in the environmental planning instrument?**

There are No numerical value for this Clause.

**6. How do the existing and proposed numeric values relate to the development standard? What is the percentage variation (between your proposal and the environmental planning instrument)?**

There are No numerical value for this Clause. The Clause is deemed Performance based. It is noted that a similar proposal was approved on the site by council under DA2014/737 on 14/1/2016.

**7. How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case?**

The NSW Land and Environment Court in *Four2Five Pty LTD v Ashfield Council* [2015] NSWLEC 90, considered how this question may be answered and referred to the earlier Court decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827. The court provided five tests as follows:

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

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

Test 3: The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable

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

Test 5: The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone:

Additionally, of note in the judgment in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 the Chief Judge upheld the Commissioner's approval of large variations to height and FSR controls on appeal. He noted that under clause 4.6, the consent authority (in that case, the Court) did not have to be directly satisfied that compliance with the standard was unreasonable or unnecessary, rather that the applicant's written request adequately addresses the matters in clause 4.6(3)(a) that compliance with each development standard is unreasonable or unnecessary.



In this regard, this written request establishes and adequately addresses the matters in clause 4.6(3)(a) that compliance with each development standard is unreasonable or unnecessary because the underlying objective of purpose of the standard is not relevant to the development irrespective of the non-compliance, and accordingly justifies the variation pursuant to the Test 2 outlined in Wehbe, as follows.

The site potential is already limited by the "L" shape of the allotment and Landlocking of the site by adjoining sites recently completed development and adjoining sites very limited development potential. It is noted that a similar proposal was approved on the site by council under DA2014/737 on 14/1/2016.

It is noted that the Wollongong Design Review Panel deemed Church Street as a low scale residential street and furthermore concluded in their comment of *"The fundamental program of the building (two separate forms located on the site to maximise northern orientation, serviced by a single basement accessed via church street) is a reasonable response to this site."*

Adopting any other use than "Ground floor Residential Use" to Church Street would mean the subject site would be commercially sterilised and excluded from any high density development of which would not satisfy the B2 Local centre zone objectives. Logically, restricting the Use to Church Street is completely impractical for a site of this size, configuration and zoning interface in an area requiring additional housing and therefore, totally unreasonable to consider in this instance.

Proposing ground floor residential to the Church Street frontage does not result in any undue privacy or overlooking impacts to adjoining properties, by virtue of the proposed architectural interface treatment to these edges (window treatments and dwelling orientations to these boundaries, etc.). The proposed development complies with the maximum building height, building setbacks and FSR requirements for this B2 Zoned location.

The proposed variation is deemed insignificant in the context of the overall development and will not result in any adverse environmental or planning implications.

**8. Is the development standard performance based control? Give details.**

There are No numerical value for this Clause. Yes, the standard is performance based.

**9. Would strict compliance with the standard, in your particular case, would be unreasonable or unnecessary? Why?**

Yes. The reasons have been canvassed under headings above. In addition, strict compliance with the development standard would be onerous and a little difference would result if full compliance was made.

**10. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.**

Yes. Considering that the development achieves the objectives of the land use zone, and furthermore achieves a satisfactory level of compliance with the other applicable State and Council Planning Policies, the proposal is meritorious, and the contravention of the development standard is justified. The contravention of the development standard allows for a better amenity and design outcome to be realised for the site and development than what would be achieved if strict compliance was to be enforced.

Having regard to the assessment of the proposal and Clause 4.6 Variation to Development Standard, it is considered that the proposed development achieves the objectives of the land use zone and strict compliance with the ground floor Use of the development standard is unnecessary and unreasonable in these circumstances and there are sufficient environmental planning grounds to justify contravening the development standard.

#### **Public Interest**

The proposed is not considered to present any detrimental environmental impacts or amenity impacts onsite or to adjoining neighbours or streetscape. The proposal will make a positive economic and social contribution sought by Wollongong City Council's planning controls, while improving overall site amenity and functionality and is considered in the Public Interest.

This approach is reinforced by the Wollongong Design Review Panel comment that *"the proposal is located in a low scale local centre, with frontages to Balgownie Road and Church Street. Balgownie Road is Balgownie's main retail street and Church street is a low scale residential street."*

*In conclusion*, the development will not have any adverse impacts, but complete and enhance the Character of the streetscape. The proposal has satisfied the Objectives outlined in WLEP2009 Clause 7.14 Minimum Site Width and WLEP 2009 Clause 7.13 Certain Land within Business Zones and should be supported by the Council.

Sincerely

EPlanning Pty Ltd



Barry Cotten MP/IA CPP

Mobile: 0437 804079



## Attachment 8 – Draft Conditions of Consent

### Approved Plans and Specifications

- 1 The development shall be implemented substantially in accordance with the details and specifications set out on:  
Site Analysis Plan DA-04-D-D dated 2 November 2020 prepared by PRD Architects  
Basement Floor Plan DA-06-D-D dated 2 November 2020 prepared by PRD Architects  
Overall Site – Level 1 Floor Plan DA-07-D-D dated 2 November 2020 prepared by PRD Architects  
Overall Site – Level 2 Floor Plan DA-08-D-D dated 2 November 2020 prepared by PRD Architects  
Overall Site – Level 3 Floor Plan DA-09-D-D dated 2 November 2020 prepared by PRD Architects  
Elevations DA-20-D-D dated 2 November 2020 prepared by PRD Architects  
Elevations DA-21-D-D dated 2 November 2020 prepared by PRD Architects  
Elevations DA-22-D-D dated 2 November 2020 prepared by PRD Architects  
Sections DA-30-D-D dated 2 November 2020 prepared by PRD Architects  
Sections DA-31-D-D dated 2 November 2020 prepared by PRD Architects  
and any details on the application form, and with any supporting information received, except as amended by the conditions specified and imposed hereunder.

### General Matters

- 2 **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.
- 3 **Construction Certificate**  
A Construction Certificate must be obtained from Council or a Registered Certifier prior to work commencing.  
  
A Construction Certificate certifies that the provisions of Clauses 139-147 of the Environmental Planning and Assessment Regulation 2000 have been satisfied, including compliance with all relevant conditions of Development Consent and the Building Code of Australia.  
  
**Note:** The Certifier 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.
- 4 **Occupation Certificate**  
An Occupation Certificate must be issued by the Principal Certifier (PC) prior to occupation or use of the development. In issuing an Occupation Certificate, the PC 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.
- 5 **Mailboxes**  
The developer must install mailboxes 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 150 mm in height for each number and letter in the alphabet.
- 6 **Use of Commercial Tenancies**  
The use of the Commercial Tenancies fronting Balgownie Road are not approved by this consent. The use of the tenancies must only be in accordance with a future development approval or Complying Development Certificate.

7

### **Geotechnical**

- a A geotechnical report including an earthworks plan is to be developed by a geotechnical consultant prior to start of earthworks.
- b A dilapidation report is required for all structures located within the zone of influence of the proposed earthworks as determined by the geotechnical consultant.
- c All excavations need to be supported during and after construction particularly to protect adjoining property with nearby existing development.
- d Retaining wall design is not to include anchors extending on to adjoining property without the written consent of the adjoining property owner.
- e No disturbance of ground is to occur beyond site boundaries. A minimum buffer between site boundaries and the construction of retaining structures is to be recommended by the geotechnical consultant to ensure adjoining property is not adversely impacted upon by this development.
- f The earthworks plan may require modification considering any subsequent geotechnical reports commissioned to address unforeseen geotechnical conditions encountered during the earthworks.
- g Due to the sensitivity of the site to changing geotechnical conditions, all site preparation earthworks including retaining wall construction must be undertaken with geotechnical supervision.
- h At the completion of the earthworks, the geotechnical consultant is to prepare a works-as-executed report detailing encountered geotechnical conditions and how the works addressed these conditions so that the residual geotechnical constraints can be accommodated within the structural designs for the development. These structural designs are to be confirmed or amended by the structural engineer based on the works-as-executed geotechnical report.

8

### **Separate Consent Required for Advertising Signage**

This consent does not authorise the erection of any advertising signage. Any such advertising signage will require separate Council approval, in the event that such signage is not exempt development under an environmental planning instrument.

## **Prior to the Issue of the Construction Certificate**

9

### **Present Plans to Sydney Water**

Approved plans must be submitted online using Sydney Water Tap, available through [www.sydneywater.com.au](http://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 PC must ensure that Sydney Water has issued an approval receipt prior to the issue of a Construction Certificate.

Visit [www.sydneywater.com.au](http://www.sydneywater.com.au) or telephone 13 20 92 for further information.

10

### **Lift in Shop Top Housing Building**

The plans are required to be amended to provide an additional lift to service the dwellings located within the shop top building.

The amended plans must be submitted to Council's Development Assessment Unit for acceptance prior to the issue of the Construction Certificate.

11

### **Car Parking and Access**

The development shall make provision for the following:

#### *Residential*

- 16 residential car parking spaces (including 1 space capable of adaption for people with disabilities)
- 2 residential visitor car parking spaces
- 1 residential motorcycle parking space
- 6 secure (Class B) residential bicycle spaces
- 2 residential visitor bicycle spaces (Class C)



### *Commercial*

- 7 commercial car parking spaces (including 1 space for people with disabilities)
- 1 commercial motorcycle parking space
- 1 secure (Class B) commercial bicycle space

This requirement shall be reflected on the Construction Certificate plans. Any change in above parking numbers shown on the approved DA plans shall be dealt with via a section 4.55 modification to the development. The approved car parking spaces shall be maintained to the satisfaction of Council, at all times.

- 12 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 AS 2890.1, except where amended by other conditions of this consent. Details of such compliance are to be reflected on the Construction Certificate plans.
- 13 Each disabled person's parking space must comply with the current relevant Australian Standard AS 2890.6 – Off-street parking for people with disabilities. This requirement shall be reflected on the Construction Certificate plans.
- 14 The provision of suitable barriers, line-marking and painted signage delineating vehicular flow movements within the car parking areas. These details shall be reflected on the Construction Certificate plans.
- 15 A change in driveway paving is required at the entrance threshold within the property boundary to clearly show motorists they are crossing a pedestrian area. Between the property boundary and the kerb, the developer must construct the driveway pavement in accordance with the conditions, technical specifications and levels to be obtained from Council's Manager Works. This requirement shall be reflected on the Construction Certificate plans and any supporting documentation.
- 16 Bicycle parking facilities must have adequate weather protection and provide the appropriate level of security as required by the current relevant Australian Standard AS 2890.3 - Bicycle Parking Facilities. This requirement shall be reflected on the Construction Certificate plans.
- 17 **Structures Adjacent to Driveway**  
Any proposed structures adjacent to the driveway shall comply with the requirements of the current relevant Australian Standard AS 2890.1 (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.
- 18 **Water/Wastewater Entering Road Reserve**  
Provision shall be made for a minimum 200mm wide grated box drain along the boundary of the property at the vehicular crossing/s to prevent surface water entering the road reserve. This requirement shall be reflected on the Construction Certificate plans.
- 19 **Depth and Location of Services**  
The depth and location of all services (ie gas, water, sewer, electricity, telephone, traffic lights, etc) must be ascertained and reflected on the Construction Certificate plans and supporting documentation.
- 20 **Details of Proposed Pit and Pipeline**  
Details of the proposed connecting pipeline to the Council pit, within the existing drainage system shall be provided in conjunction with the detailed drainage design for the site. Connection is to be made in accordance with Wollongong City Council Standard Drawings. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
- 21 **Landscape and Drainage Plans to be Compatible**  
The submission of certification from a suitably qualified and experienced landscape designer and drainage consultant to the PC prior to the release of the Construction Certificate, confirming that the landscape plan and the drainage plan are compatible.

22 **Tree Protection and Management**

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 PC prior to release of the Construction Certificate.
- b Installation of Tree Protection Fencing - A one (1) metre high exclusion fence must be installed around the extremity of the dripline of the tree/trees to be retained prior to any site works commencing. The minimum acceptable standard is a 3 strand wire fence with star pickets at 1.8 metre centres. This fence must be maintained throughout the period of construction to prevent any access within the tree protection area. Details of tree protection and its locations must be indicated on the architectural and engineering plans to be submitted to the PC prior to release of the Construction Certificate.
- c 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.
- d Irrigate: Areas within the Tree Protection Zone are to be regularly watered in accordance with the arborist's recommendations.

23 **Engineering Plans and Specifications - Retaining Wall Structures Greater than One (1) Metre**

The submission of engineering plans and supporting documentation of all proposed retaining walls greater than one (1) metre to the PC for approval prior to the issue of the Construction Certificate. The retaining walls shall be designed by a suitably qualified and experienced civil and/or structural engineer. The required engineering plans and supporting documentation shall include the following:

- a A plan of the wall showing location and proximity to property boundaries;
- b An elevation of the wall showing ground levels, maximum height of the wall, materials to be used and details of the footing design and longitudinal steps that may be required along the length of the wall;
- c Details of fencing or handrails to be erected on top of the wall;
- d Sections of the wall showing wall and footing design, property boundaries, subsoil drainage and backfill material. Sections shall be provided at sufficient intervals to determine the impact of the wall on existing ground levels. The developer shall note that the retaining wall, subsoil drainage and footing structure must be contained wholly within the subject property;
- e The proposed method of subsurface and surface drainage, including water disposal. This is to include subsoil drainage connections to an inter-allotment drainage line or junction pit that discharges to the appropriate receiving system;
- f The assumed loading used by the engineer for the wall design.
- g Flows from adjoining properties shall be accepted and catered for within the site. Finished ground and top of retaining wall levels on the boundary shall be no higher than the existing upslope adjacent ground levels.

24 **Stormwater Connection to Kerb**

Connection across footways shall be by means of one or two (maximum), sewer grade UPVC pipe(s), 100mm diameter pipes with a continuous downslope gradient to the kerb. Connection to the kerb shall be made with a rectangular, hot dipped galvanised mild steel weephole(s) shaped to suit the kerb profile, with each weephole having the capacity equal to a 100mm diameter pipe. Alternatively, a maximum of two 150mm x 100mm hot dipped galvanised steel pipes may be used across footways, with the 150mm dimension being parallel to the road surface to suit the kerb profile.

25 **Property Addressing Policy Compliance**

Prior to the issue of any Construction Certificate, the developer must ensure that any site addressing complies with Council's **Property Addressing Policy** (as amended). Where appropriate, the developer must also lodge a written request to Council's **Infrastructure Systems & Support – Property Addressing** ([propertyaddressing@wollongong.nsw.gov.au](mailto:propertyaddressing@wollongong.nsw.gov.au)), for the site addressing prior to the issue of the Construction Certificate. Please allow up to 3-5 business days for a reply. Enquiries regarding property addressing may be made by calling 4227 8660.

26 **Sizing of Drainage**

All roof gutters, downpipes, pits, and pipelines draining roof areas and other impervious surfaces with no deliberate overflow path to the on-site stormwater detention (OSD) facility, shall be designed to cater for a 1 in 100 year ARI storm event in accordance with AS 3500.3 – Plumbing and Drainage (Stormwater Drainage). Details of gutter/downpipe/pipeline sizes and locations shall be reflected on the Construction Certificate plans

27 **Stormwater Drainage Design**

A detailed drainage design for the development must be submitted to and approved by the PC 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, conditions listed under this consent, and generally in accordance with the concept stormwater plans by ATB Consulting Engineers, Project Number 20006, Drawing Numbers SW1 (Revision A dated 21/04/2020), SW2 (Revision D dated 2/11/2020), SW3 (Revision D dated 2/11/2020), SW7 (Revision A dated 21/04/2020), SW8 (Revision A dated 23/04/2020) and SW9 (Revision A dated 23/04/2020).
- 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 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.

28 **On-Site Stormwater Detention (OSD) Design**

The developer must provide on-site stormwater detention (OSD) storage for stormwater runoff from the development. The design and details of the OSD system must be provided in conjunction with the detailed drainage design and approved by the PC prior to the release of the Construction Certificate. The OSD design and details must satisfy the following requirements:

- a Must be prepared by a suitable qualified engineer in accordance with Chapter E14 of the Wollongong DCP 2009.
- b Must include details of the Site Storage Requirement (SSR) and Permissible Site Discharge (PSD) values for the site in accordance with Section 10.2.4 of Chapter E14 of the Wollongong DCP 2009.
- c The OSD facility must be designed to withstand the maximum loadings occurring from any combination of traffic (with consideration to residential and heavy vehicles), hydrostatic, earth, and buoyancy forces. Details must be provided demonstrating these requirements have been achieved.



- d The OSD facility shall incorporate a minimum 900mm x 900mm square lockable grate for access and maintenance purposes, provision for safety, debris control screen, and a suitably graded invert to the outlet to prevent ponding.
- e Must include discharge control calculations (i.e. orifice/weir calculations) generally in accordance with Section 10.2.6 and 10.4.4 of Chapter E14 of the Wollongong DCP 2009.
- f Details of the orifice plate including diameter of orifice and method of fixing shall be provided.
- g Must include details of a corrosion resistant identification plaque for location on or close to the OSD facility. The plaque shall include the following information and shall be installed prior to the issue of the occupation certificate:
  - The structure is an OSD facility, being part of the stormwater drainage network, and is not to be tampered with.
  - Identification number DA-2020/460.
  - Any specialist maintenance requirements.
- h Must include a maintenance schedule for the OSD system, generally in accordance with Chapter E14 of the Wollongong DCP 2009.

29 **Council Footpath Reserve Works – Driveways and Crossings**

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. Any redundant linemarking such as 'marked parking bays' are adjusted/removed at the developer's expense by a Council recognised contractor with the relevant insurances. Details and locations are to be shown on the Construction Certificate Plans.

30 **Dilapidation Survey**

A dilapidation survey and report shall be submitted to the PC.

The dilapidation survey and report shall accurately reflect the condition of existing public and private infrastructure in the adjacent street(s) fronting the lots.

The report shall outline measures for the protection of existing public and private infrastructure during the works.

Any damage to infrastructure items and relics which is caused by the developer shall be repaired to the satisfaction of the PC prior to the issue of a Certificate of Practical Completion for Subdivision works.

31 **Maximum Headroom Sign**

A 'maximum headroom sign' is to be installed above the basement entry in clear view of all drivers. The sign must have reflective backing and be written in a clear large font type which clearly shows the maximum headroom for all vehicles entering the site. This requirement shall be reflected on the Construction Certificate plans.

32 **Flows from Adjoining Properties**

Flows from adjoining properties shall be accepted and catered for within the site. Finished ground and top of retaining wall levels on the boundary shall be no higher than the existing upslope adjacent ground levels. The above requirements must be clearly shown on Construction Certificate plans prior to the release of the Construction Certificate.

33 **Driveway Crest**

The proposed driveway shall incorporate a crest designed to prevent the ingress of any surface water from the roadway into the proposed basement. This requirement shall be reflected on the

detailed drainage design and Construction Certificate plans prior to the release of the Construction Certificate.

34 **Scour Protection**

All overland flow paths shall incorporate appropriate scour/erosion protection measures in accordance with good engineering practice. The final details of the proposed scour/erosion protection measures shall be reflected on Construction Certificate plans.

35 **Pump System**

A pump system shall be provided in association with the detailed drainage design for the site to cater for stormwater from a prolonged/extreme storm event entering the basement. The pump system shall be designed by a suitably qualified and experienced civil engineer and reflected on the Construction Certificate plans and supporting documentation.

36 **Section 73 Compliance Certificate**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Coordinator. Please refer to the “Builders and Developers” section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then search to “Find a Water Servicing Coordinator”. Alternatively, telephone 13 20 92 for assistance.

Following application, a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Notice of Requirements must be submitted to the PC prior to issue of the Construction Certificate.

37 **Dust Suppression Measures**

The submission of details of the proposed dust suppression measures for the demolition, excavation and construction phases of the development to the PC, prior to issue of the Construction Certificate.

38 **Landscaping**

The submission of a final Landscape Plan will be required in accordance with the requirements of Wollongong City Council DCP 2009 Chapter E6 in accordance with the Landscape Plan provided as part of the development application, sheets L-01 J to L-06 J dated 5 November 2020 prepared by Site Design + Studios for the approval by the PC, prior to the release of the Construction Certificate.

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

- a planting of indigenous plant species native to the Illawarra Region such as : Syzygium smithii (syn 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, Syzygium paniculatum Brush cherry.
- b A further list of suitable suggested species may be found in Wollongong Development Control Plan 2009 – Chapter E6: Landscaping;
- c 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;
- d 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; and
- e any proposed hard surface under the canopy of 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.

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

- 40 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 PC prior to release of the Construction Certificate.

41 **Footpath Paving**

The developer is responsible for the construction of footpath paving for the entire Church Street frontage of the development. The type of paving for this development is a 1500mm wide, 100mm thick, reinforced, broom finished concrete. A nominal two percent (2%) minimum one percent (1%), maximum two and a half percent (2.5%) cross fall to be provided from property line to back of kerb. Any changes of level, ramps or stairs and associated tactile markers and handrails are to be contained within the property boundary.

The driveway entry threshold from the property boundary line to the face of kerb is to be broom finished concrete to match the footpath and be designed to withstand predicted traffic loadings.

The driveway threshold finish within property boundary line is to contrast with driveway entry.

The footpath and driveway entry on the council property must be installed to the satisfaction of WCC Manager of Works.

A Landscape Plan is to be submitted to Council for approval prior to the issue of the Construction Certificate showing proposed paving, footpath design levels, street tree details and location of all services.

42 **Footpath Paving in Commercial Village Centres**

The developer is responsible for the construction of footpath paving for the entire Balgownie Road frontage of the development. In keeping with the surrounding commercial precinct and the Business Centres Public Domain Technical Manual, the design of the public domain to Balgownie Road identified on the Landscape Plan by Site Design + Studio sheet L-06 J dated 5 November 2020 is to be amended to include feature brick banding at approximately 8m centres.

A nominal two percent (2%) minimum one percent (1%), maximum two and a half percent (2.5%) cross fall to be provided from property line to back of kerb. Any changes of level, ramps or stairs and associated tactile markers and handrails are to be contained within the property boundary.

The footpath on the council property must be installed to the satisfaction of WCC Manager of Works.

A Landscape Plan is to be submitted to Council for approval prior to the issue of the Construction Certificate showing proposed paving, footpath design levels, street tree details and location of all services.

43 **Street Trees Commercial Village Centres**

The developer must address the street frontage by installing street tree planting with edging/tree grate and tree guards as indicated on the submitted landscape plan, Sheet L-06 J dated 5 November 2020, prepared by Site Design + Studios. In keeping with the surrounding commercial precinct and the Business Centres Public Domain Technical Manual the street trees must be 200 litre container size in accordance with AS 2303:2018 Tree stock for landscape use.

A final landscape plan showing the number, location and species of street trees is required to be submitted to Council's Landscape Division prior to issue of the Construction Certificate.

Trees are to be installed in accordance with Wollongong Development Control Plan 2009 – Chapter E6: Landscaping. 'Dial Before You Dig' must be consulted prior to any excavation on site. Pot holing must be carried out to determine service location. Location of street tree plantings to be sited to ensure no conflict occurs with street light poles.

Tree pits must be adequately mulched, plants installed and tree guard/staking/tree grille/edging installed to the satisfaction of WCC Manager of Works.



These requirements shall be reflected on the Construction Certificate plans and any supporting documentation.

#### 44 **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 \$41,750.00 (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:

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

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	<a href="http://www.wollongong.nsw.gov.au/applicationpayments">http://www.wollongong.nsw.gov.au/applicationpayments</a> Your Payment Reference: 1226352	• Credit Card
In Person	Wollongong City Council Administration Building - Customer Service Centre Ground Floor 41 Burelli Street, WOLLONGONG	• 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](http://www.wollongong.nsw.gov.au)

#### **Prior to the Commencement of Works**

##### 45 **Appointment of PC**

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

- a Appoint a PC and notify Council in writing of the appointment irrespective of whether Council or a Registered Certifier is appointed; and
- b notify Council in writing of their intention to commence work (at least two days notice is required).

The PC must determine when inspections and compliance certificates are required.

##### 46 **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 PC 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.

47 **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.

48 **Enclosure of the Site**

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

49 **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.

50 **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.

51 **Certification from Arborist - Adequate Protection of Trees to be Retained**

A qualified arborist is required to be engaged for the supervision of all on-site excavation or land clearing works. The submission of appropriate certification from the appointed arborist to the PC is required which confirms that all trees and other vegetation to be retained are protected by fencing and other measures, prior to the commencement of any such excavation or land clearing works.

52 **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.

53 **Tree Protection**

Prior to commencement of any work on the site, including any demolition, all trees not approved for removal as part of this consent that may be subjected to impacts of this approved development must be protected in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970-2009).

Tree protection zones must be established prior to the commencement of any work associated with this approved development.

No excavation, construction activity, grade changes, storage of materials stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones.

**During Demolition, Excavation or Construction**

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

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

55 **No Adverse Run-off Impacts on Adjoining Properties**

The design and construction 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.

56 **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 PC and Council. No work is permitted on public holidays or Sundays.

Allowable construction activity noise levels must be within the limits identified in the NSW EPA Interim Construction Noise Guidelines (ICNG) July 2009. ICNG are also applied for blasting, rock hammer and drilling, external plant and equipment.

<https://www.environment.nsw.gov.au/resources/noise/09265cng.pdf>

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.

57 **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.

58 **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.”

59 **Provision of Taps/Irrigation System**

The provision of common taps and/or an irrigation system is required to guarantee that all landscape works are adequately watered. The location of common taps and/or irrigation system must be implemented in accordance with the approved Landscape Plan.

60 **Podium Planting**

All podium planting areas are to have a waterproofing membrane that can provide a minimum 10 year warranty on product. Protective boarding is to be installed to protect membrane from damage.

All podium planting areas to be provided with an adequate drainage system connected to the stormwater drainage system. The planter box is to be backfilled with free draining planter box soil mix.

If selected mulch is decorative pebbles/gravel, the maximum gravel pebble size is 10mm diameter.

61 **Maintenance of Neighbour Access**

Pedestrian and vehicular access to the adjoining property is maintained for the duration of the construction phase.

62 **Excess Excavated Material – Disposal**

Excess excavated material shall be classified according to the NSW Environment Protection Authority's Waste Classification Guidelines – Part 1: Classifying Waste (2014) prior to being transported from the site and shall be disposed of only at a location that may lawfully receive that waste.

**Prior to the Issue of the Occupation Certificate**

63 **Drainage**

The developer must obtain a certificate of Hydraulic Compliance (using Council's M19 form) from a suitably qualified civil engineer, to confirm that all stormwater drainage and on-site detention works have been constructed in accordance with the approved plans. In addition, full works-as-executed plans, prepared and signed by a Registered Surveyor must be submitted. These plans and certification must satisfy all the stormwater requirements stated in Chapter E14 of the Wollongong DCP 2009. This information must be submitted to the PC prior to the issue of the final Occupation Certificate.

64 **Restriction on Use – On-site Detention System**

The applicant must create a restriction on use under the Conveyancing Act 1919 over the on-site detention system. The following terms must be included in an appropriate instrument created under the Conveyancing Act 1919 for approval of Council:

“The registered proprietor of the lot burdened must not make or permit or suffer the making of any alterations to any on-site stormwater detention system on the lot(s) burdened without the prior consent in writing of the authority benefited. The expression ‘on-site stormwater detention system’ shall include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater as well as all surfaces graded to direct stormwater to those structures.

Name of the authority having the power to release, vary or modify the restriction referred to is Wollongong City Council.”

The instrument, showing the restriction, must be submitted to the PC for endorsement prior to the issue of the Occupation Certificate and the use of the development.

65 **Positive Covenant – On-Site Detention Maintenance Schedule**

A positive covenant shall be created under the Conveyancing Act 1919, requiring the property owner(s) to undertake maintenance in accordance with the Construction Certificate approved On-Site Stormwater Detention System and Maintenance Schedule (application number to be referenced).

The instrument, showing the positive covenant must be submitted to the PC for endorsement prior to the issue of the Occupation Certificate and the use of the development.

66 **On-Site Detention – Structural Certification**

The submission of a certificate from a suitably qualified practising civil and/or structural engineer to the PC is required prior to the issue of the Occupation Certificate. This certification is required to verify the structural adequacy of the on-site detention facility and that the facility has been constructed in accordance with the approved Construction Certificate plans.

67 **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.

68 **BASIX**

An Occupation Certificate must not be issued unless accompanied by the BASIX Certificate applicable to the development. The PC 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.

69 **Drainage WAE**

The developer shall obtain written verification from a suitably qualified civil engineer, stating that all stormwater drainage and related work has been constructed in accordance with the approved Construction Certificate plans. In addition, full works-as-executed plans, prepared and signed by a Registered Surveyor shall be submitted. These plans shall include levels and location for all drainage structures and works, buildings (including floor levels), and finished ground and pavement surface levels. This information shall be submitted to the PC prior to the issue of the Occupation Certificate.

70 **Sydney Water Section 73 Certificate**

A Section 73 Certificate must be submitted to the PC prior to occupation of the development/release of the plan of subdivision.

**Operational Phases of the Development/Use of the Site**

71 **Maximum Headroom Sign**

The ‘maximum headroom sign’ above the basement entry must be maintained in good condition at all times by the strata management. This requirement shall be reflected on the Construction Certificate plans.

72 **Deep Soil Zone to be Maintained**

The deep soil zone(s) approved by this consent is required to be retained as part of the development and must always be maintained as a deep soil zone. The deep soil zone is defined as:

An area of the site that is not to be built upon, or underneath, thereby leaving an area of deep soil for substantial deep-rooted vegetation, natural vegetation and natural drainage.

The deep soil zone is to be densely planted with trees, shrubs and ground covers in accordance with the final landscape plan. Turf is not an acceptable deep soil planting.

### **Reasons**

The reasons for the imposition of the conditions are:

- 1 To minimise any likely adverse environmental impact of the proposed development.
- 2 To ensure the protection of the amenity and character of land adjoining and in the locality.
- 3 To ensure the proposed development complies with the provisions of Environmental Planning Instruments and Council's Codes and Policies.
- 4 To ensure the development does not conflict with the public interest.

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