

Wollongong Local Planning Panel Assessment Report | 27 April 2022

WLPP No.	Item No.2
DA No.	DA-2021/656
Proposal	Conversion of existing dual occupancy to residential flat building containing three (3) sole occupancy units and Subdivision - Strata title - three (3) lots
Property	Lot 250 DP 1062570, 110 Lawrence Hargrave Drive, AUSTINMER NSW 2515
Applicant	Mr John Vakirtzis
Responsible Team	Development Assessment and Certification – City Wide Planning Team (AK)

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Wollongong Local Planning Panel (WLPP)

The proposal has been referred to the WLPP for **determination** pursuant to part 3 of Schedule 2 of the Local Planning Panels Direction, as the Development contravenes a development standard (Minimum site width) imposed by an environmental planning instrument by more than 10%. The required site width is 24m whereas the proposal provides a site width of 14.47m which represents a departure of 39.7%.

Proposal

The application seeks approval for the use of the site as a three dwelling residential flat building and the termination of the existing two lot strata subdivision to be replaced with a three lot strata subdivision.

Permissibility

The subject site is zoned R2 Low Density Residential pursuant to Wollongong Local Environmental Plan (WLEP) 2009. A residential flat building development is permissible with consent in the R2 zone.

Consultation

Details of the proposal were publicly exhibited in accordance with Council's adopted Community Participation Plan 2019. No submissions were received.

Internal

Details of the proposal were referred to Council's Development Engineering, Landscape and Building Officers for assessment. Satisfactory referral advice, comments and/or recommended conditions were provided in each instance. Assessment considerations of internal groups as relates to relevant Chapters of the WDCP 2009 are presented at section 2.3.1 of this report.

Main Issues

The main issues resulting from the assessment process are: -

- Exception to a development standard in respect of minimum site width (Clause 7.14(1)) of WLEP 2009 for residential flat buildings; and
- Variation requests regarding the following development controls of Chapter B1 of WDCP2009:
 - Clause 6.2.2(1) Minimum site width requirement;
 - Clause 6.3.2(2) Front setbacks;
 - Clause 6.4.2(1) Side and Rear Setbacks/Building Separation;

- Clause 6.11.2(1) Landscaping Requirements;
- Clause 6.12.2(2) Deep Soil Zone;
- Clause 6.14.2(2c) & (3b) Private Open Space;

RECOMMENDATION

DA-2021/656 be approved subject to the conditions provided in Attachment 6

1.0 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the proposal:

State Environmental Planning Policies:

- SEPP (Resilience and Hazards) 2021
- SEPP (Transport and Infrastructure) 2021
- SEPP (Building Sustainability Index: BASIX) 2004

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan 2009

Other policies

- Wollongong City Wide Development Contributions Plan
- Wollongong Community Participation Plan 2019

1.2 DETAILED DESCRIPTION OF PROPOSAL

The application seeks approval for the use of the site as a three dwelling residential flat building and the termination of the existing two lot strata subdivision to be replaced with a three lot strata subdivision. The Applicant has also provided the following explanatory details:

This is primarily a change of use from the previous two-dwelling consent, and requires only minor works on the interior of the building to facilitate the additional dwelling. These are, in particular, the erection of walls and doors to the hall at the top of the internal stairway to the currently approved upstairs unit, in order to formally separate it into two units.

The new unit on the western side of the upstairs (proposed Unit 3), will have an oven installed into the formerly approved 'bar' area, to bring it to full functionality as a separate kitchen, and an approved storage space which adjoins the existing bathroom will be converted to a laundry facility.

These alterations have largely already been implemented, and require approval for the use. The wall and door separating Unit 2 (the eastern upstairs unit) however will be replaced with a single door, rather than the existing double door arrangement.

No alterations to the ground floor unit are proposed.

Further/upgraded landscaping is proposed for the development. This will consist of new plantings throughout existing beds, as well as creation of a new garden bed with a metal climbing structure for vegetation at the north end of the driveway. Additionally, a short length of path will be installed providing access to the undercroft storage at the north-eastern side of the building to facilitate its use for bicycle storage for all residents.

Unit 1 – Ground floor – 144.7m²
- 3 bedrooms,
- 1 bathroom, plus one ensuite,
- Kitchen,

- Lounge/dining area,
- Laundry room,
- Front terrace,
- Northern deck with second entrance,
- Northern garage with 2 car parking spaces.

Unit 2 – First floor, eastern dwelling - 109.43m²

- 2 bedrooms,
- 1 bathroom, separate toilet,
- Kitchen,
- Lounge/dining area,
- Laundry room,
- Front terrace (41.81m²),
- Shared use of southern double garage with Unit 3.

Unit 3 – First floor, western dwelling – 76m²

- 2 bedrooms,
- 1 bathroom, separate toilet,
- Kitchen,
- Living/dining area,
- Laundry facilities,
- North-west terrace (17.8m²),
- Shared use of southern double garage with Unit 2.

1.3 BACKGROUND

Application Number	Description	Decision	Decision Date
PC-2003/45060	Strata Subdivision	Approved	24-Nov-2003
DA-2000/960	Dual Occupancy	Approved	16-Nov-2000

PL-2020/155 was held on 27 October 2020 to discuss the proposed application.

Customer service actions

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

1.4 SITE DESCRIPTION

The site is a corner lot located at 110 Lawrence Hargrave Drive, Austinmer and the title reference is Lot 250 DP 1062570, Lot 1 & 2 SP 71786. The site is irregular in shape and currently contains a dual occupancy development approved via DA-2000/960 on 16 November 2000 and associated carparking and landscape areas. Although the site has a frontage to Lawrence Hargrave Drive vehicular access is provided from Hennings Lane on the southern side of the site.

The surrounding area consists of Austinmer Village directly to the north with uses consistent with the neighbourhood business zoning of the area, to the east is Austinmer Beach reserve, to the south is located a two storey residential unit complex, and to the west is located single residential dwellings.

Property constraints

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

- Acid sulphate soils – Class 5
- Flooding – levels undetermined

There are no restrictions on the title that preclude assessment of the application.



Figure 1: Aerial photograph



Figure 2: WLEP 2009 zoning map

1.5 SUBMISSIONS

The application was notified in accordance with Council's Community Participation Plan 2019. No submissions were received following notification.

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Details of the proposal were referred to Council's Landscape, Building, and Development Engineering Officers for assessment. Satisfactory referral advice, comments and/or recommended conditions were provided in each instance. Recommended conditions are included in Attachment 6.

1.6.2 EXTERNAL CONSULTATION

None required

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. 65 – DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (2002) (SEPP 65) provides development guidelines for apartments within residential flat buildings, shop top housing and mixed-use developments across NSW. The SEPP gives effect to the Apartment Design Guide (ADG), which contains the primary development controls to which residential apartments must comply.

Part 1, Clause 4 of SEPP 65 states the policy applies to the following types of development:

Application of the Policy

1. This Policy applies to development for the purpose of a residential flat building, shop top housing or

mixed-use development with a residential accommodation component if:

a. the development consists of any of the following:

i. the erection of a new building,

ii. the substantial redevelopment or the substantial refurbishment of an existing building,

iii. the conversion of an existing building, and

b. the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and

c. The building concerned contains at least 4 or more dwellings.

The proposal consists of conversion of the existing building for the use of a three-dwelling residential flat building. The existing building is two storeys - a ground floor, and a first floor. SEPP 65 consequently does not apply.

2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 2 – Coastal Management

2.1 Aim of Chapter

The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by:

(a) managing development in the coastal zone and protecting the environmental assets of the coast, and

- (b) *establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- (c) *mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.*

2.3 Land to which Chapter applies

This Policy applies to land within the coastal zone.

2.3 Relationship with other environmental planning instruments

- (1) *In the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.*
- (2) *This Policy does not apply to land within the Lease Area within the meaning of State Environmental Planning Policy (Three Ports) 2013.*

Part 2.2 Development controls for coastal management areas

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*
- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
 - (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*
- (3) *This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

DPO Comment – Built form is existing as approved in the dual occupancy application. No changes are proposed to the external built form of the building.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- (1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
- (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) *Aboriginal cultural heritage, practices and places,*
 - (v) *cultural and built environment heritage, and*
 - (b) *is satisfied that:*
 - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
 - (c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*
- (2) *This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

DPO Comment – The proposed development has been considered against the provisions of 2.11. As no substantial changes to the existing built form are proposed, beyond what was approved via DA-2000/960, Council is satisfied that no adverse impact will result.

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

2.13 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

2.14 Other development controls not affected

Subject to clause 7, for the avoidance of doubt, nothing in this Part:

- (a) *permits the carrying out of development that is prohibited development under another environmental planning instrument, or*
- (b) *permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.*

2.15 Hierarchy of development controls if overlapping

If a single parcel of land is identified by this Policy as being within more than one coastal management area and the development controls of those coastal management areas are inconsistent, the development controls of the highest of the following coastal management areas (set out highest to lowest) prevail to the extent of the inconsistency:

- (a) the coastal wetlands and littoral rainforests area,
- (b) the coastal vulnerability area,
- (c) the coastal environment area,
- (d) the coastal use area.

DPO Comment - The proposed works have been reviewed in relation to Clauses 2.12 to 2.15 above and is considered acceptable in this instance. As a matter of completeness each of the controls above have been considered which are considered satisfactory in this instance.

Chapter 4 - Remediation of Land

4.6 Contamination and remediation to be considered in determining development application

- (1) A consent authority must not consent to the carrying out of any development on land unless—
 - (a) it has considered whether the land is contaminated, and
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.
- (2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.
- (3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.
- (4) The land concerned is—
 - (a) land that is within an investigation area,
 - (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,
 - (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land—
 - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and
 - (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

A desktop audit of the subject site revealed there is no previous history of land uses that could be considered to present as a contamination risk. The proposed works are considered minor, reflective of normal residential construction and the proposal does not comprise a change from an existing residential use. No concerns are raised in regard to contamination as relates to the intended use of the land and the requirements of Chapter 4, Clause 4.6.

The site is therefore considered suitable for the proposed development and consistent with the assessment considerations of SEPP Resilience and Hazards 2021.

2.1.3 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

2.118 Development with frontage to classified road

(1) The objectives of this clause are—

(a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and

(b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.

(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

DPO Comment: - The subject site has a frontage to Lawrence Hargrave Drive which is a classified road. However, there is no vehicle access points onto this classified road and none are proposed. As such, no impacts will result to Lawrence Hargrave Drive and the provisions of Clause 2.118 are considered satisfied in this instance.

2.1.4 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.

2.1.5 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Clause 1.4 Definitions

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

Note—

*Residential flat buildings are a type of **residential accommodation**— see the definition of that term in this Dictionary.*

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 R2 Low Density Residential.

Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal is satisfactory with regard to the above objectives.

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

*Attached dwellings; Bed and breakfast accommodation; Boarding houses; Boat launching ramps; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Exhibition homes; Exhibition villages; Group homes; Health consulting rooms; Home-based child care; Home businesses; Home industries; Hospitals; Hostels; Information and education facilities; Jetties; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); **Residential flat buildings**; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Shop top housing; Signage; Tank-based aquaculture; Veterinary hospitals*

The proposal is categorised as a residential flat building as defined above and is permissible in the zone with development consent.

Clause 2.6 Subdivision—consent requirements

The proposal involves a three (3) lot strata subdivision. Subdivision is permitted with consent.

Part 4 Principal development standards

Clause 4.1 Minimum subdivision lot size

Strata Subdivision is proposed and as such Clause 4.1 does not apply in this instance.

Clause 4.3 Height of buildings

The maximum building height permitted for the subject site is 9m. No change to the approved building height is proposed as part of this application.

Clause 4.4 Floor space ratio

Maximum FSR permitted for the zone: 0.5:1

Site area: 675.1m²

GFA Calculated total 3 units: 329.9m²

FSR: $329.9/675.1 = 0.489:1$

The floor space ratio does not exceed the maximum permissible for the site.

Clause 4.6 Exceptions to development standards

Clause 4.6 of the Wollongong LEP “Exceptions to development standards” provides that development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument, where certain matters are met.

In this instance, a departure is sought in respect of Clause 7.14 Minimum site width. The applicant has provided a departure request statement prepared with reference to Clause 4.6. A copy is provided at **Attachment 3**. The development departure is dealt with as follows.

WLEP 2009 clause 4.6 proposed development departure assessment	
Development departure	<p>Clause 7.14(2) Minimum site width</p> <p><i>(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.</i></p> <p>The minimum width of the site is 14.47m whilst the maximum width is 20.435m.</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 or unnecessary in the circumstances of the case, and	<p>The applicant’s clause 4.6 submission (enclosed in full at Attachment 3) contends that in the specific circumstances of this case, compliance with the minimum lot width standard is unnecessary because: -</p> <p><i>In Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009, para 61, Commissioner Person summarises the considerations from Wehbe v Pittwater Council [2007] NSWLEC 827 at [42] per Preston CJ, and notes in para 62 that clause 4.6 can be considered in a similar way to that of SEPP 1. In Wehbe at [44]-[48] Preston CJ identified other ways in which an applicant might establish that compliance with a development standard is unreasonable or unnecessary, namely that the underlying objective or purpose is not relevant to the development; that the objective would be defeated or thwarted if compliance was required; that the development standard has been virtually abandoned or destroyed by the Council’s own actions in departing from the standard; or that the zoning of the land is unreasonable or inappropriate.</i></p> <p><i>Having regard to the above Wehbe categories, the only applicable criteria in demonstrating that compliance with the applicable minimum site width standard is considered to be unreasonable and unnecessary in the circumstances of the case is that the underlying objective or purpose is not relevant to the development.</i></p> <p><i>While there is no underlying objective or purpose to the development standard within the LEP, the requirement for the minimum site width can be guided by the objectives within WDCP 2009 (Chapter B1 Clause 6.2.1) as follows:</i></p>

	<p>(a) To allow for development of sites, which are of sufficient width to accommodate the required building envelope, car parking and landscaping requirements.</p> <p>(b) To promote the efficient utilisation of land.</p> <p>(c) To encourage amalgamation of allotments to provide for improved design outcomes including greater solar access and amenity.</p> <p>As the development seeks only to utilise an existing building, the underlying purpose of the site width control is not considered to be relevant. This is on the basis that the development will not result in alteration of the existing building envelope, carparking numbers and landscaping.</p> <p>Further, the objectives pertaining to amalgamation and land utilisation are not considered to be relevant in this instance as no additional buildings are proposed.</p> <p>Accordingly, it is considered that the application of the site width requirement is unreasonable and unnecessary in this instance as the development merely seeks to more efficiently utilise an existing building and does not seek to develop a parcel of land with an altered building footprint.</p>
<p>that there are sufficient environmental planning grounds to justify contravening the development standard.</p>	<p>The applicant's Clause 4.6 submission identifies the following environmental planning grounds as justification for the departure from the standard: -</p> <p><i>In Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009, Commissioner Person determined that it is necessary for applicants to show sufficient grounds particular to the development in the Clause 4.6 objection.</i></p> <p><i>Again, the fact that the building is in existence is a clear and unusual circumstance particular to the development. The application is not seeking to develop a new residential flat building on the site, but to convert an existing building to create an additional dwelling. This does not result in any greater impact in terms of visual impact, disruption of views, loss of privacy, increased traffic or parking issues, or any other adverse impacts than if the existing approved dual occupancy was retained.</i></p> <p><i>The departure from the standards is considered to be reasonable in this circumstance and is merely a technical non-compliance due to the conversion of the building into a residential flat building use. The minor contravention of the minimum site width standard is considered to be satisfactory having regard to environmental planning grounds.</i></p>
<p>4.6 (4) (a) Consent authority is satisfied that:</p>	
<p>the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and</p>	<p>The applicant has adequately addressed the matters required to be demonstrated by subclause (3) as discussed in detail above.</p>

<p>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>	<p>WLEP2009 Clause 7.14 does not provide any specific objectives for the Minimum site width development standard. However, Wollongong Development Control Plan 2009 (WDCP2009) Section 6.2 contains site width control to that in Clause 7.14(1) with objectives provided in Section 6.2.1.</p> <p>The statement demonstrates that the proposed development will be in the public interest because it is consistent with the objectives of the development control plan for Minimum site width as follows:</p> <p><i>(a) To allow for development of sites which are of sufficient size to accommodate the required building envelope, car parking and landscaping requirements.</i></p> <p>The proposal will have no impact on the existing external built form of the building, or its footprint approved under DA-2000/960. Therefore, the buildings appearance to the streetscape, privacy and overshadowing will remain unchanged.</p> <p>Existing access and on-site parking arrangements are considered adequate such that the proposal satisfies onsite car parking controls.</p> <p>Improved landscaping is proposed within areas available onsite.</p> <p><i>(b) To promote the efficient utilisation of land.</i></p> <p>The site remains appropriately utilised consistent with the previously approval of the building onsite. No external changes to this approved built form are sought as part of this application.</p> <p><i>(c) To encourage amalgamation of allotments to provide for improved design outcomes including greater solar access and amenity.</i></p> <p>The subject site is a stand-alone lot. No lots are readily available to allow the widening of the lot any further to achieve the 24m development standard. Having regard to the existing development on the neighbouring property and the multiple owner's consolidation is unlikely.</p> <p>The objectives for development in the R2 zone are:</p> <ul style="list-style-type: none"> • <i>To provide for the housing needs of the community within a low density residential environment.</i> • <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> <p>The proposal is for residential development which is consistent with the objectives for the zone as listed above.</p> <p>The proposal is considered consistent with the zone objectives and the objectives as detailed for minimum site width under WDCP2009 and therefore despite the development departure, the development is considered within the public interest.</p>
<p>the concurrence of the Secretary has been obtained.</p>	<p>In accordance with Planning Circular PS 18-003 dated 21 February 2018 the concurrence of the Secretary is assumed for Council and their established Local Planning Panels for applications made with a supporting objection under Clause 4.6.</p>

DPO comment:

It is considered the departure to the development standard for site width is capable of support.

Part 5 Miscellaneous provisions

Clause 5.10 Heritage conservation

The subject site is located opposite Austinmer Main Beach Reserve which contains two (2) heritage items of local significance being Item 6151 – Norfolk Island pines, and Item 6511 – War memorial. As such, the proposed development has been considered against the provisions of Clause 5.10. As no substantial building works are proposed to the exterior of the building, increased landscaping to the LHD frontage and spatial disposition from the beach reserve the provisions of Clause 5.10 are considered satisfy in this instance.

5.21 Flood planning

The site is identified as being located within a flood risk precinct. A flood study and concept stormwater plan have been provided. Council's Development engineer has reviewed the proposal with respect to the provisions of this chapter and clause 5.21 of WLEP 2009 and has raised no concerns as the existing building is significantly above the adjacent watercourse as confirmed in the submitted flood model.

Part 7 Local provisions – general

Clause 7.5 Acid Sulfate Soils

The subject site is identified as being affected by Class 5 acid sulphate soils and is less than 100m from a Class 3 acid sulphate soils area. However as there is no earthworks proposed and the proposed works for the development are to be located at and above 11m A.H.D and are not likely to lower the water table beyond 1m it is considered that there is minimal impact. As such no special conditions are required in relation to Acid Sulphate Soils.

Clause 7.14 Minimum site width

This clause prescribes a minimum site width of 24m for residential flat buildings.

WLEP2009 Clause 7.14 does not provide any specific objectives for the Minimum site width development standard. However, Wollongong Development Control Plan 2009 (WDCP2009) Section 6.2 contains a similar minimum site width control to that in Clause 7.14(2) with objectives provided in Section 6.2.1.

The objectives of the development control plan for Minimum site width are as follows:

- (a) To allow for development of sites which are of sufficient size 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 grater solar access and amenity.*

The subject site has a minimum site width of 14.47m at the eastern most frontage and a maximum site width of 20.4m at the rear western boundary. The proposed development does not comply with Clause 7.14 and a departure request statement has been provided by the applicant addressing Clause 4.6 of the LEP. A copy is provided at **Attachment 3**.

See Clause 4.6 considerations above for details.

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

Draft Design and Place SEPP

Public exhibition of the Design and Place SEPP Explanation of Intended Effect closed in April 2021.

The Design and Place SEPP will establish principles for the design and assessment of places in urban and regional NSW: PRINCIPLE 1. Design places with beauty and character that people feel proud to belong to PRINCIPLE 2. Design inviting public spaces to support engaged communities PRINCIPLE 3. Design productive and connected places to enable thriving communities PRINCIPLE 4. Design sustainable and greener places for the wellbeing of people and the environment PRINCIPLE 5. Design resilient and diverse places for enduring communities

The draft Design and Place SEPP will go on public exhibition at a later date provide more opportunities for feedback. Supporting guidance and tools, drafts of which will also go on exhibition with the draft SEPP. These guides include revisions to the Apartment Design Guide and improvements to the Building Sustainability Index (BASIX), as well as the proposed Urban Design Guide, and Design Review Guide. The Department is currently conducting workshops with Council's around the State.

It is considered the draft SEPP is of limited relevance at this point in time.

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

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

CHAPTER A1 – INTRODUCTION

The proposed development has been assessed against the controls of WDCP 2009 and the following variations have been identified:

- Clause 6.2.2(1) Minimum site width requirement;
- Clause 6.3.2(2) Front setbacks;
- Clause 6.4.2(1) Side and Rear Setbacks/Building Separation
- Clause 6.11.2(1) Landscaping Requirements
- Clause 6.12.2(2) Deep Soil Zone
- Clause 6.14.2(2c) & (3b) Private Open Space

These variations have also been addressed by the Applicant in accordance with Section 8 of Chapter A1 WDCP 2009 in table form at Attachment 5. The variation requests have been reviewed in relation to the objectives of each control, the extent of the variation, satisfying the objectives, and determining if any adverse impact would result.

It is considered that these variations arise from the existing approved built form of the building. However, these variations are not such that they would adversely impact the functionality and amenity of the subject site or surrounding areas by virtue of what is now proposed as a low impact, small scale residential flat building.

Council's Landscape, Building, and Development Engineering Officers have also assessed the application in terms of development outcomes and are also satisfied that the proposal is capable of support.

The proposed development has been assessed in accordance with the controls of Section 8 Chapter A1 and due to the nature of the variations proposed, the negligible adverse impacts that would result, and consistency with relevant DCP objectives the proposal is supported in this instance.

CHAPTER A2 – ECOLOGICALLY SUSTAINABLE DEVELOPMENT

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

Generally speaking, the proposal is considered to be consistent with the principles of Ecologically Sustainable Development.

CHAPTER B1 – RESIDENTIAL DEVELOPMENT

The development has been assessed against the relevant controls of Chapter B1 of WDCP 2009. The compliance table can be found at Attachment 4 to this report. The proposal does involve variations to the minimum site width, front setback, side and rear setbacks, landscaping requirements, deep soil zone, and private open space controls of Chapter B1 – Residential Development. A Variation request statement table addressing each variation has been provided by the applicant in accordance with clause 8 of Chapter A1 of WDCP 2009 and is included at Attachment 5. These variations have been assessed and are considered capable of support in this instance. See Chapter A1 below for further details.

CHAPTER B2 – RESIDENTIAL SUBDIVISION

Council's Development Engineer has reviewed the proposed three lot Strata subdivision and is satisfied subject to conditions outlined in Attachment 6.

CHAPTER E1: ACCESS FOR PEOPLE WITH A DISABILITY

An Access Consultants report has been submitted in support of the application. This report has been reviewed and a condition of consent relating to the DDA has been recommended as part of the conditions outlined in Attachment 6.

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

Council's Development Engineer has assessed the application against the controls outlined in Chapter E3 and is satisfied subject to conditions as outlined in Attachment 6. As the subject site is located within 400m of a train station the City Centre parking rates are applied to the development. As such, 5 spaces, including a visitor space, are required. Unit 1 requires two (2) spaces which are located in the northern most garage with direct internal access, whilst Unit 2 & 3 require one (1) space each and are located in the southern most garage which has direct internal access to the common entry lobby. A visitor space is located adjoining the southern boundary with Hennings Lane.

CHAPTER E6: LANDSCAPING

The proposal includes upgraded landscape works and a landscape plan has been submitted in support of the application. Council's Landscape Officer has reviewed this plan and is satisfied subject to conditions relating to tree management, final landscape detail, compensatory planting, and tree protection measures. These conditions are provided for in Attachment 6.

CHAPTER E7: WASTE MANAGEMENT

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

CHAPTER E11 HERITAGE CONSERVATION

The application has been assessed against the controls outlined in Chapter E11 and in conjunction with Clause 5.10 of WLEP 2009. The subject site is located opposite Austinmer Main Beach Reserve which contains two (2) heritage items of local significance being Item 6151 – Norfolk Island pines, and Item 6511 – War memorial. As no substantial building works are proposed to the exterior of the building, increased landscaping to the LHD frontage and spatial disposition from the beach reserve no adverse outcome on these heritage items is expected.

CHAPTER E13 FLOODPLAIN MANAGEMENT

The site is identified as being located within a flood risk precinct. A flood study and concept stormwater plan have been provided. Council's Development engineer has reviewed the proposal with respect to the provisions of this chapter and clause 5.21 of WLEP 2009 and has raised no concerns as the existing building is significantly above the adjacent watercourse as confirmed in the submitted flood model.

CHAPTER E14 STORMWATER MANAGEMENT

Stormwater is proposed to be disposed of to the existing stormwater system. Council's Development Engineer has reviewed the proposal with respect to the provisions of this chapter and is satisfied subject to conditions as recommended in Attachment 6.

CHAPTER E20 CONTAMINATED LAND MANAGEMENT

See Section 2.1.2 above for details.

6.2.1 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN

The estimated cost of works is \$113,000 and a levy is applicable under this plan as the threshold value is \$100,000.

6.3 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.

6.4 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?

A condition of consent has been recommended in Attachment 6 to manage demolition works required onsite.

93 Fire safety and other considerations

Council's Building Officer has reviewed the application and is satisfied subject to the imposition of conditions. It is noted that the existing building has a current Fire Safety Schedule (ES-1998/31335).

94 Consent authority may require buildings to be upgraded

Council's Building Officer has reviewed the application and is satisfied subject to the imposition of conditions.

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

Context and Setting:

In regard to the matter of context, the planning principle in Project Venture Developments v Pittwater Council [2005] NSWLEC 191 is relevant in that it provides guidance in the assessment of compatibility. The two major aspects of compatibility are physical impact and visual impact. In assessing each of these the following questions should be asked:

- Are the proposals physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.
- Is the proposals appearance in harmony with the buildings around it and the character of the street?

In response to the first question, matters such as overshadowing, privacy concerns, bulk scale and setbacks are relevant. The proposed development is for use of an existing building as a three unit residential flat building. It is considered that the existing dual occupancy building has been reasonably sited such that it satisfied the objectives of Council's boundary setback requirements so as to have minimal impact on the adjoining properties in terms of privacy and overshadowing and to allow reasonable solar access to the units and adjoining development.

In regard to the visual impact, the development is considered to be largely in harmony with the surrounding character the area. The immediate area surrounding the site is characterised by a mixture of density residential development of varying architecture. The proposed development satisfies Council's Floor Space Ratio and Building Height development standards as identified in the WLEP 2009, and overall, the bulk and scale of the proposed development is considered acceptable in this circumstance.

The proposal will have minimal impact on the external built form, and no impact on the scale of the existing building and therefore will have minimal impact on the existing street scape.

It is considered that the scale of the development as viewed from the street is comparable to other developments in the locality.

In summary, the proposal has been assessed with regard to the amenity impacts from the development, the zoning, permissible lot size and existing and future character of the area, and is considered to be compatible with the local area.

Access, Transport and Traffic:

Access to the site is via Hennings Lane. The development is considered not to result in an adverse impact on the traffic movement and access to the site. Council's Development Engineering Officer has no objections to the proposed access arrangements.

Public Domain:

The development is considered to be consistent with the amenity of the locality, the development is not considered to result in significant impact on the public domain.

Utilities:

The proposal is not envisaged to place an unreasonable demand on utilities supply. Existing utilities can be augmented to service the proposal.

Heritage:

No heritage items will be impacted by the proposal.

Other land resources:

The proposal is considered to contribute to orderly development of the site and is not envisaged to impact upon valuable land resources.

Water:

The site is presently serviced by Sydney Water, and the proposal is not envisaged to have unreasonable water consumption. A BASIX certificate has been provided for the proposal.

Soils:

The proposal is not expected to have negative impacts on the soils of the subject site or surrounds.

Air and Microclimate:

The proposal is not expected to have a negative impact on air or microclimate.

Flora and Fauna:

The proposal is not expected to adversely impact flora and fauna. Council's Landscape and Environment Officers have reviewed the application submission including the landscape plan which is conditionally satisfactory.

Waste:

Waste management during works can be managed through proper arrangements. A condition is proposed requiring the use of an appropriate receptacle for any waste generated during the

construction and compliance with the Site Waste Management and Minimisation Plan provided with the DA.

Energy:

The proposal is not envisaged to have unreasonable energy consumption. A BASIX certificate has been provided for the proposal.

Noise and vibration:

Noise and vibration impacts during demolition, excavation and construction are unavoidable. If the development is approved, a suite of conditions are recommended for imposition (see Attachment 6) to minimise nuisance during demolition and construction.

Natural hazards:

There are no natural hazards affecting the site that would prevent the proposal.

Technological hazards:

There are no technological hazards affecting the site that would prevent the proposal.

The proposal is identified as being affected by class 5 acid sulphate soils. However as there is no earthworks proposed and the proposed works for the development are to be located at and above 11m A.H.D and are not likely to lower the water table beyond 1m it is considered that there is minimal impact. As such no special conditions are required in relation to Acid Sulphate Soils.

Safety, Security and Crime Prevention:

This application does not result in greater opportunities for criminal or antisocial behaviour.

Social Impact:

The proposal is not expected to create negative social impacts.

Economic Impact:

The proposal is not expected to create negative economic impacts.

Site Design and Internal Design:

The proposal does involve an exception to WLEP 2009 development standard for Minimum site width. The exception is considered to have been adequately justified via the submission of an appropriate justification statement and capable of support.

The application identifies variations to the minimum site width, front setback, side and rear setbacks, landscaping requirements, deep soil zone, and private open space controls of Chapter B1 – Residential Development of WDCP2009.

These variations have been considered in section 2.3.1 as being adequately justified and are thus capable of support.

Construction:

Conditions of consent are recommended in relation to construction impacts. A condition is recommended that all works are to be in compliance with the Building Code of Australia.

Cumulative Impacts:

The development is considered consistent with the amenity of the neighbourhood and to be consistent with the surrounding development.

6.6 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 with regard to the zoning of the site and is not expected to have 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.

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

See Section 1.3 above.

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

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

7 CONCLUSION

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979, the provisions of Wollongong Local Environmental Plan 2009 and all relevant Council DCPs, Codes and Policies.

A Residential Flat Building is permitted in the R2 land use zone with development consent pursuant to the WLEP 2009.

The development is consistent with most of the applicable provisions of the relevant planning instruments including Wollongong LEP 2009 with the exception of the minimum site width development standard departure which has been discussed in the body of this report and is considered capable of support.

The proposal does involve Development Control Plan variations to the minimum site width, front setback, side and rear setbacks, landscaping requirements, deep soil zone, and private open space controls. Variation request statements with justification have been provided by the applicant in accordance with Section 8 of Chapter A1 of WDCP 2009. These variations have been considered and are capable of support in this instance as discussed within section 2.3.1 of this report.

The development is considered appropriate with regard to the controls outlined in the Wollongong DCP 2009.

All internal referrals are satisfactory and there are no outstanding issues.

It is considered that the proposed development is unlikely to result in adverse impacts on the character or amenity of the surrounding area, environment and adjoining development.

8 RECOMMENDATION

DA-2021/656 be approved pursuant to Section 4.16(1) of the Environmental Planning & Assessment Act 1979 subject to the conditions provided at **Attachment 6**.

5 ATTACHMENTS

- 1 Plans
- 2 Site Photos
- 3 Clause 4.6 Exception to Development Standard Statement – Applicant
- 4 Chapter B1 Compliance table for WDCP 2009
- 5 Clause 8 DCP Variation Statements Table
- 6 Conditions

BASIX COMMITMENTS

Specifications for BASIX compliance for '2/110 Lawrence Hargrave Drive, Austinmer, NSW'	
For full detail of BASIX commitments refer to BASIX certificate	
The following Specifications are the basis of the "BASIX" assessment and are subsequently indicated on the Assessor certificate. If they vary from drawings or other specifications these Specification shall take precedence. If only one specification is detailed for a building element, that specification must apply to all instances of that element for the whole project. If alternate specifications are detailed, the location and extent of the alternate specifications are detailed in the table below and/or clearly indicated on referenced documentation.	
Once the development is approved by the consent authority, these specifications will become a condition of consent and must be included in the built works	
Building fabric	External walls are cavity brick type with R1.3 insulation in the cavity.
Internal walls	Internal walls are single brick type
Floor construction	Reinforced concrete type suspended slab
Floor coverings	Timber floorboards in living areas, Tiles in wet areas and carpets in bedrooms.
Windows	Window types and dimensions are as shown on the window schedule, Windows are of single glazed types the thermal performance to be as indicated on the NatHERS certificates.
Roof	Exposed roofs are tiled type with reflective sarking facing the air gap and R9.5 Insulation on ceiling
Color	Roofs and walls are medium colored
Ceiling insulation loss	No loss of ceiling insulation due to downlights, as the lights considered is 'C-F rated LED' type downlights that do not require insulation loss. All exhaust fans are to be with self-closing damper.
Lighting types	IC-F rated LED type downlights
Ventilation fans:	Exhaust fans are for Kitchen, Bath & Ensuite are to be with self-closing damper. For full details please refer to BASIX report.
Notes:	<ol style="list-style-type: none"> The dwelling design should allow for insulation to be installed in compliance with the National Construction Code Part 3.12.1.1 The dwelling design should allow for the requirements of the National Construction Code Part 3.12.5 for the design, location and insulation of services to be met. Windows and doors to be sealed with weather stripped. All windows above 1.7m above the ground are with openability less than 125mm as per NCC 2016 BCA Vol Two Section 3.9.2.5 Protection of Openable windows. All windows are considered to be with standard Holland blinds. Thermal bridges are to be insulated with R0.2

WATER		
ITEM	DWELLING	REQUIREMENT
All shower heads	All dwellings	4.5 star (> 4.5 <= 6 litres per minute)
All toilet flushing systems	All dwellings	4 star
All kitchen taps	All dwellings	4 star
All bathroom taps	All dwellings	4 star
All clothes washers	All dwellings	2.5 star
Outdoor taps	Common Areas	5 star

ENERGY		
ITEM	DWELLING	REQUIREMENT
Hot water system	All dwellings	Electric storage
Bathroom Ventilation systems	All dwellings	Individual fan ducted to facade or roof ;Manual switch on/off
Kitchen Ventilation systems	All dwellings	Individual fan ducted to facade or roof ;Manual switch on/off
Laundry Ventilation systems	All dwellings	Individual fan ducted to facade or roof ;Manual switch on/off
Cooling system for living areas	All dwellings	1 phase air conditioning EER 3.0-3.6 (zoned)
Cooling system for bedroom areas	All dwellings	1 phase air conditioning EER 3.0-3.6 (zoned)
Heating system for living areas	All dwellings	1 phase air conditioning EER 3.0-3.6 (zoned)
Heating system for bedroom areas	All dwellings	1 phase air conditioning EER 3.0-3.6 (zoned)
Kitchen cooktop & oven	All dwellings	Electric cooktop & electric oven
Refrigerator	All dwellings	4 star
Well ventilated fridge space	All dwellings	yes
Dishwasher	All dwellings	4 star
Clothes Washer	All dwellings	4 star
Indoor or sheltered clothes drying line	All dwellings	yes
Alternative Energy System	Common Areas	Photovoltaic System with rated electrical output (min): 2.05 peak kW

BCA REQUIREMENT	PROPOSAL
BCA Section C – Fire Resisting Construction	
building is required to be of Type B fire resisting construction	Proposal complies
walls separating sole-occupancy units, and walls separating sole-occupancy units from public corridor/stair, are required to have an FRL of not less than 60/60/60.	Proposal complies
Separating walls on the upper floor must extend to the underside of the noncombustible roof, or a ceiling with a resistance to the incipient spread of fire for a period of not less than 60 minutes	Proposal complies
Proposed service penetrations through the slab and walls must be fire protected to maintain the integrity of the fire barrier.	Proposal complies
Doorways from sole occupancy units to the public corridor, are required to be selfclosing, tight fitting, solid core doors not less than 35mm thick.	Proposal complies
Window openings within 3m of the north boundary require protection in accordance with C3.4, where newly constructed or modified.	Proposed development does not include any changes to these existing openings. Proposal seeks exemption under Clause 94 (b) of the Environmental Planning & Assessment Regulation 2000. Please refer to BCA report prepared by My Building Certifier.
B. Section D – Egress and Access	
Existing stair incorporates winders in lieu of a landing, which is not permitted within a required stairway	Proposed development includes upgrading of existing stair with handrails both sides, TGSIs and contrasting tread nosings. Proposal seeks exemption under Clause 94 (b) of the Environmental Planning & Assessment Regulation 2000. Please refer to BCA report prepared by My Building Certifier.
Existing window to Bed 2 of Unit 2 is required to be fitted with childsafe device or screens, to restrict any openings to no more than 125mm.	Proposal complies
C. Section E – Services and Equipment	
An automatic smoke detection and alarm system is required to be installed within the building. The system must comply with Clause 3 of Specification E2.2a of the BCA in the case of a smoke alarm system and Clause 4 of Specification E2.2a of the BCA in respect to a smoke detection system.	Proposal complies
D. Section F – Health and Amenity	
The Class 2 portion of the building will need to incorporate construction that will provide insulation against the transmission of airborne and impact generated sound in accordance with Part F5 of the BCA.	Proposal complies
Mechanical ventilation will need to be installed to internal laundry of Unit 3, as it is not provided with natural ventilation from an openable window.	Proposal complies
A laundry tub and space for a washing machine is required to be provided in each unit. Clothes drying facilities are also required where external clothes lines are not provided.	Proposal complies
E. Section J – Energy Efficiency	
The residential component of the building will be subject to BASIX, specifically in relation to the newly created units 2 and 3	Proposal complies

DRAWING CODES

AWN CUSTOM AWNING	EST UPGRADE EXISTING STAIR TO INCLUDE: - HANDRAILS ON BOTH SIDES - TACTILE GROUND SURFACE INDICATORS - CONTRASTING TREAD NOSING STRIPS	PLI INDIGENOUS OR LOW WATER USE SPECIES OF VEGETATION	TRX REMOVE TREE
BWK1 EXTEND BRICKWORK WITH FRL 60/60/60 OVER EXISTING WALL TO UNDERSIDE OF ROOF	GD GRATED DRAIN	PVA PHOTOVOLTAIC SOLAR ARRAY WITH TOTAL MINIMUM RATED ELECTRICAL OUTPUT OF 2.05kW	TRR THRESHOLD RAMP
BWK2 NEW BRICKWORK WITH FRL 60/60/60 EXTENDING TO UNDERSIDE OF ROOF	GT GATE	RCD NEW RC CONC DRIVEWAY & CROSSING	WB WALL BELOW / BEHIND
DEM DEMOLISH ELEMENT SHOWN DOTTED	HR HANDRAIL	RCF R CONC FOOTING TO ENG'S DETAIL	
DHF UPGRADE DOOR LEVERS & HANDLES TO AS1428.1	JD BUILT-IN JOINERY	RCS R CONC SLAB TO ENG'S DETAIL	
DRF NEW SELF-CLOSING, TIGHT FITTING, SOLID CORE ENTRY DOOR MIN 35MM THICK	MOD MODIFY OPENING WIDTH TO ACHIEVE MINIMUM 820mm CLEARANCE	RCST R CONC STAIR TO ENG'S DETAIL	
EGL EXISTING GROUND LEVEL	PV PAVING	RWT RAINWATER TANK	
EXW EXISTING WINDOW	PVM MODIFY PAVEMENT LEVELS TO ACHIEVE MINIMUM 1:14 GRADIENT FROM EXISTING GATE TO UNIT 1 PORCH	TFF INFILL TIMBER FLOORING	
	PL NEW PLANTING	TFS NEW TIMBER STEPS	

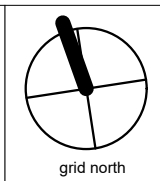
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Development Application	
Issue date	29.10.21
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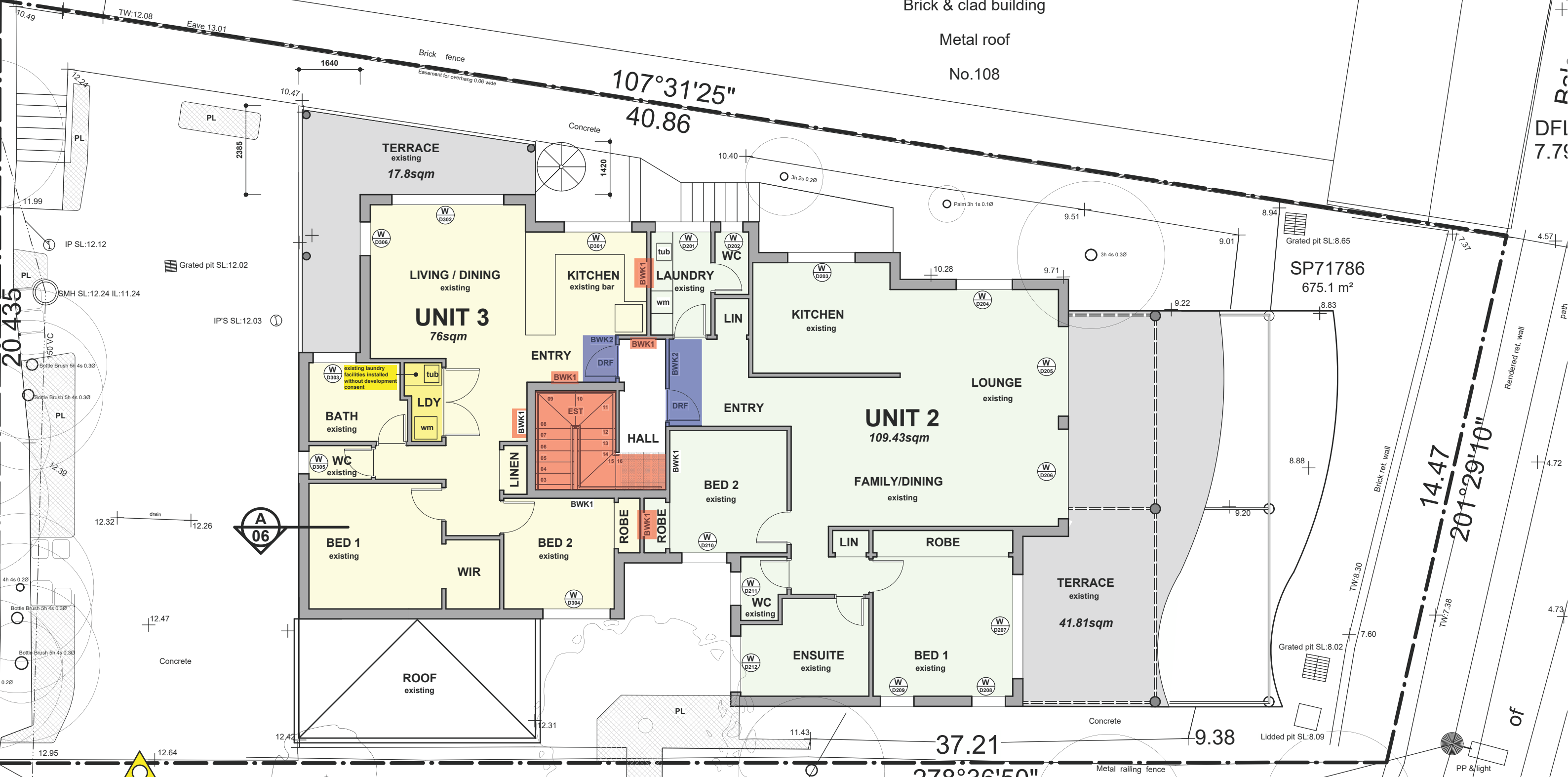
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Scale	1:200 on A3	Project Name	110 LHD Austinmer - conversion to residential flat building	Issue	DEVELOPMENT APPLICATION
Date	28.05.21	Drawing Title	Title Page	Drawing Number	2006- DA00
					B



Brick & clad building
Metal roof
No.108

SP71786
675.1 m²

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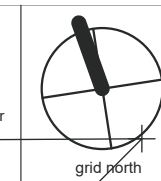
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278°36'50"

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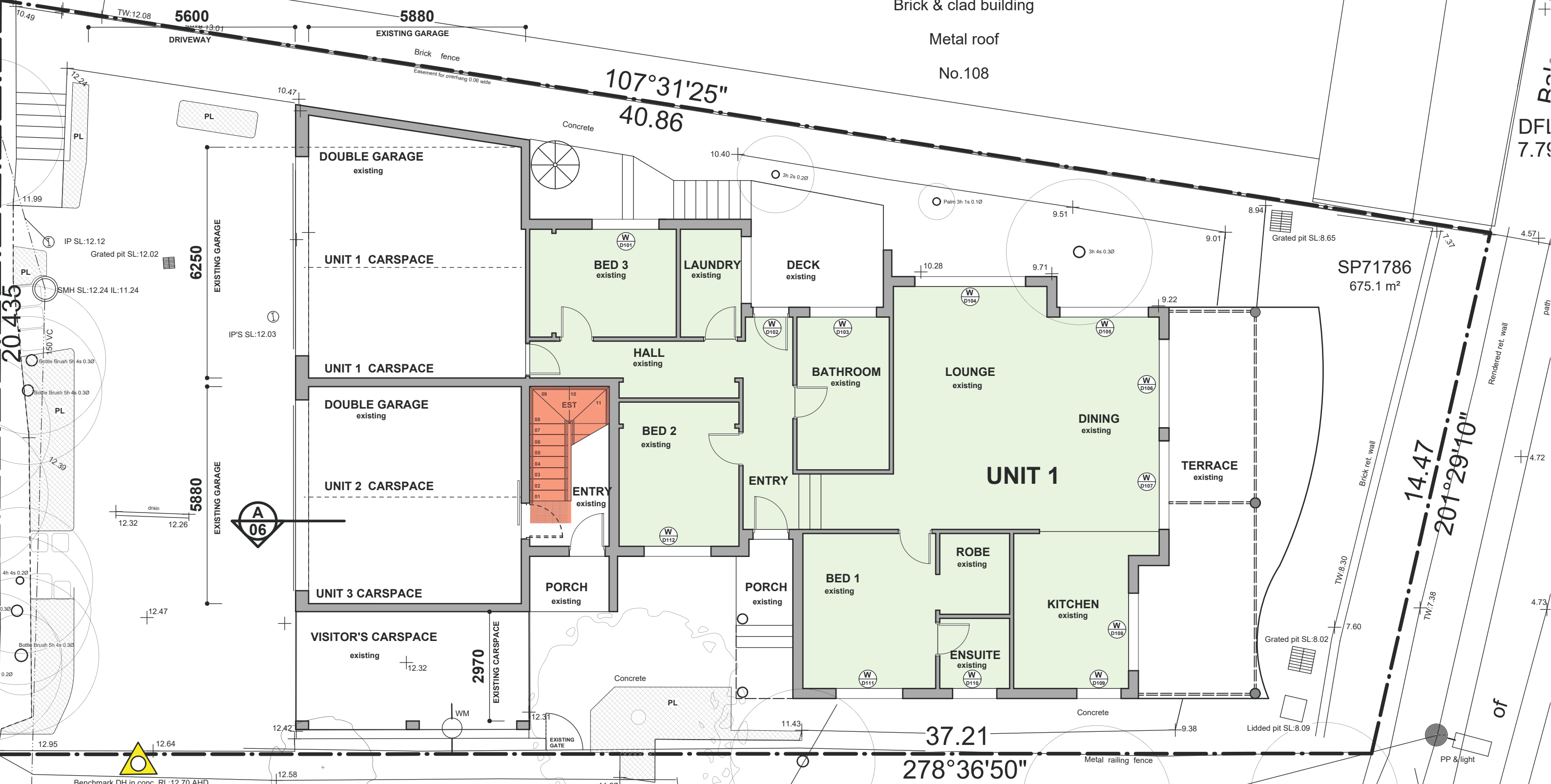
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110 LHD Austinmer - conversion to residential flat building
Drawing Title
Proposed First Floor Plan

Issue
DEVELOPMENT APPLICATION
Drawing Number
2006- DA04

Issue date	Issue description
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B 29.10.21	NEW WORK & UNAUTHORISED WORK SHOWN COLOURED

Balcony
DFL16.19

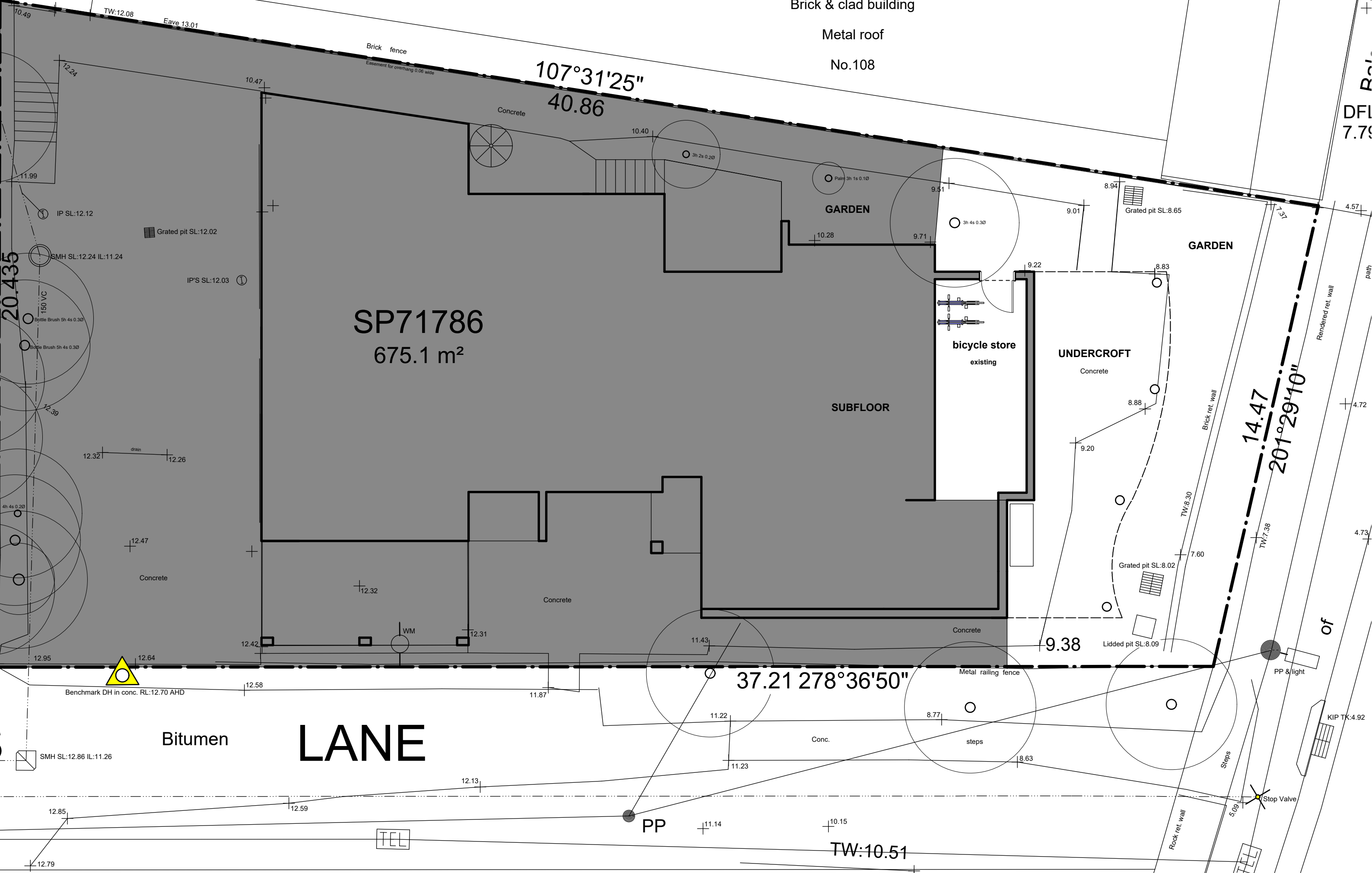
B
CE



Legend:

- proposed new building work to comply with NCC, BASIX, WCC requirements
- proposed new building work to create new dwelling
- existing works undertaken without development consent

<p>Issue date A 28.05.21 B 29.10.21</p> <p>Development Application NEW WORK & UNAUTHORISED WORK SHOWN COLOURED</p>	<p>morgandicksonarchitecture</p> <p><small>austinmer studio P0242671899 morgan_dickson@bigpond.com M0478 229 639 morgan_dickson@bigpond.com nominated architect matt dickson 6255</small></p>	<p><small>do not scale from this drawing. verify the accuracy of all written dimensions on site.</small></p> <p><small>this drawing is protected by copyright and may not be used for any purpose without the written approval from the partners of morgandicksonarchitecture</small></p>	<p>grid north</p>	<p>Scale 1:100 on A3</p> <p>Date 28.05.21</p>	<p>Project Name 110 LHD Austinmer - conversion to residential flat building</p> <p>Drawing Title Proposed Ground Floor Plan</p>	<p>Issue DEVELOPMENT APPLICATION</p> <p>Drawing Number 2006-DA03</p>
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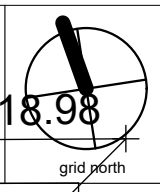
Issue date	28.05.21
Issue	A DEVELOPMENT APPLICATION
Issue date	29.10.21
Issue	B NEW WORK & UNAUTHORISED WORK SHOWN COLOURED

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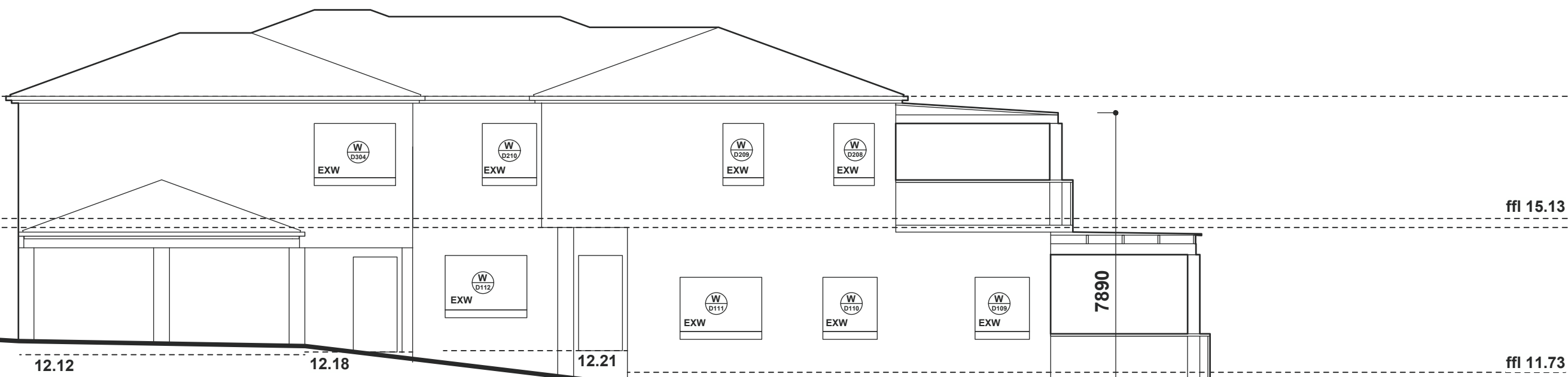
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Drawing Title
Proposed Lower Ground Floor Plan

Issue
DEVELOPMENT APPLICATION

Drawing Number
2006-DA02

B



ELEVATION SOUTH
EXISTING

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	proposed new building work to create new dwelling
	existing works undertaken without development consent

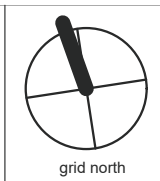


ELEVATION NORTH
EXISTING

7.37

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Date
28.05.21

Project Name
110 LHD Austinmer - conversion to residential flat building

Drawing Title
ELEVATIONS NORTH & SOUTH

Issue
DEVELOPMENT APPLICATION

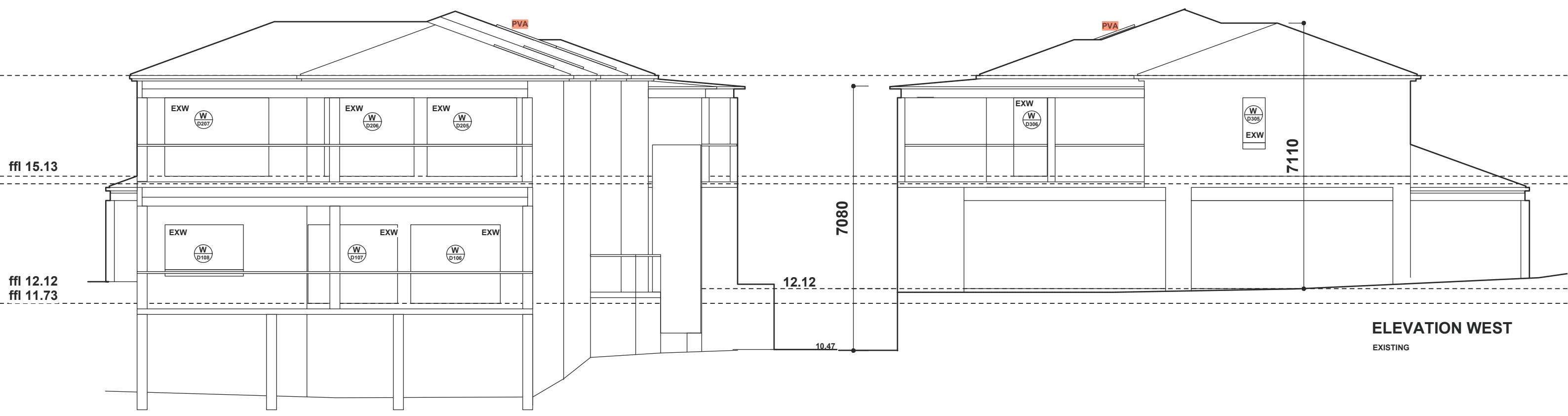
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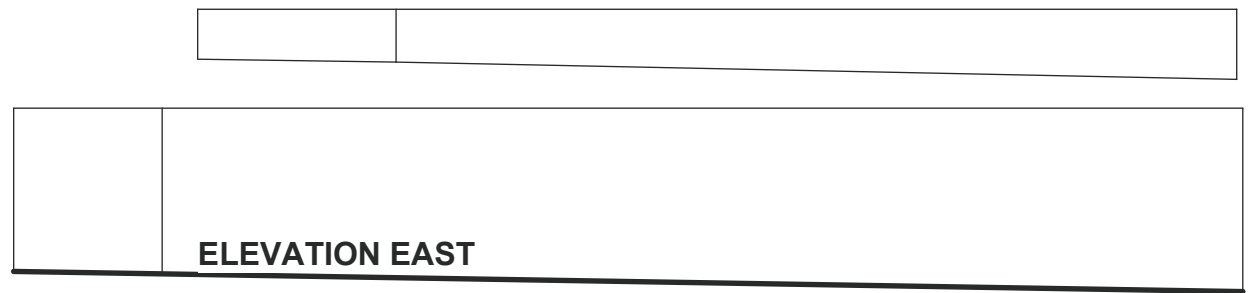
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DEVELOPMENT APPLICATION
Issue date
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NEW WORK & UNAUTHORISED WORK SHOWN COLOURED

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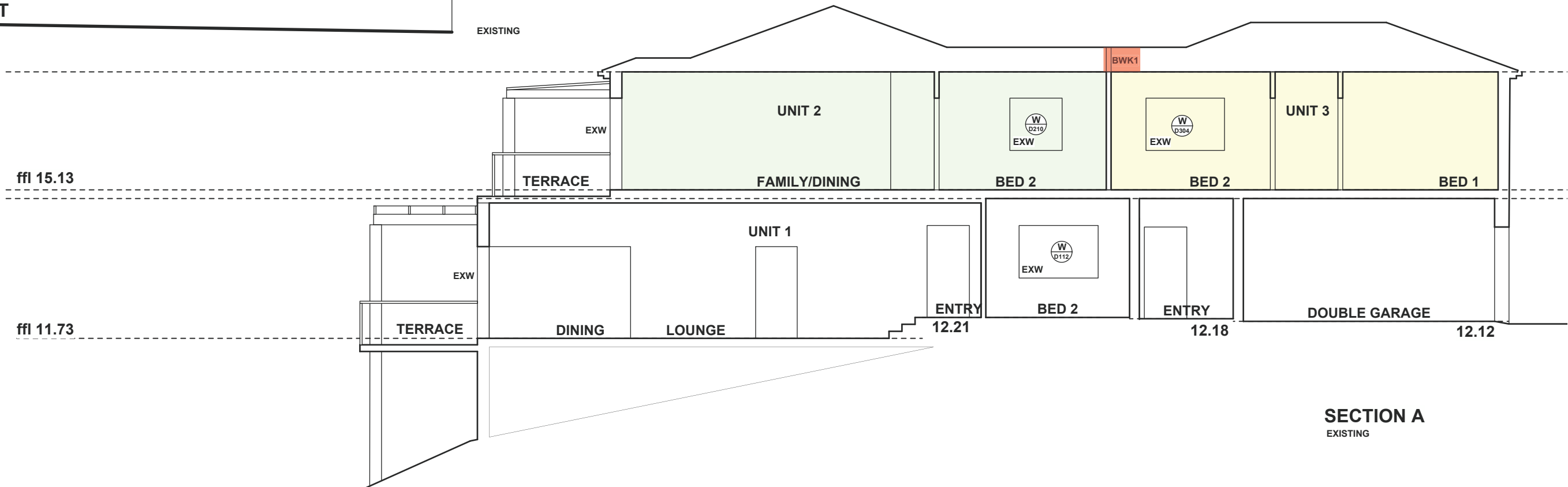


ELEVATION WEST
EXISTING





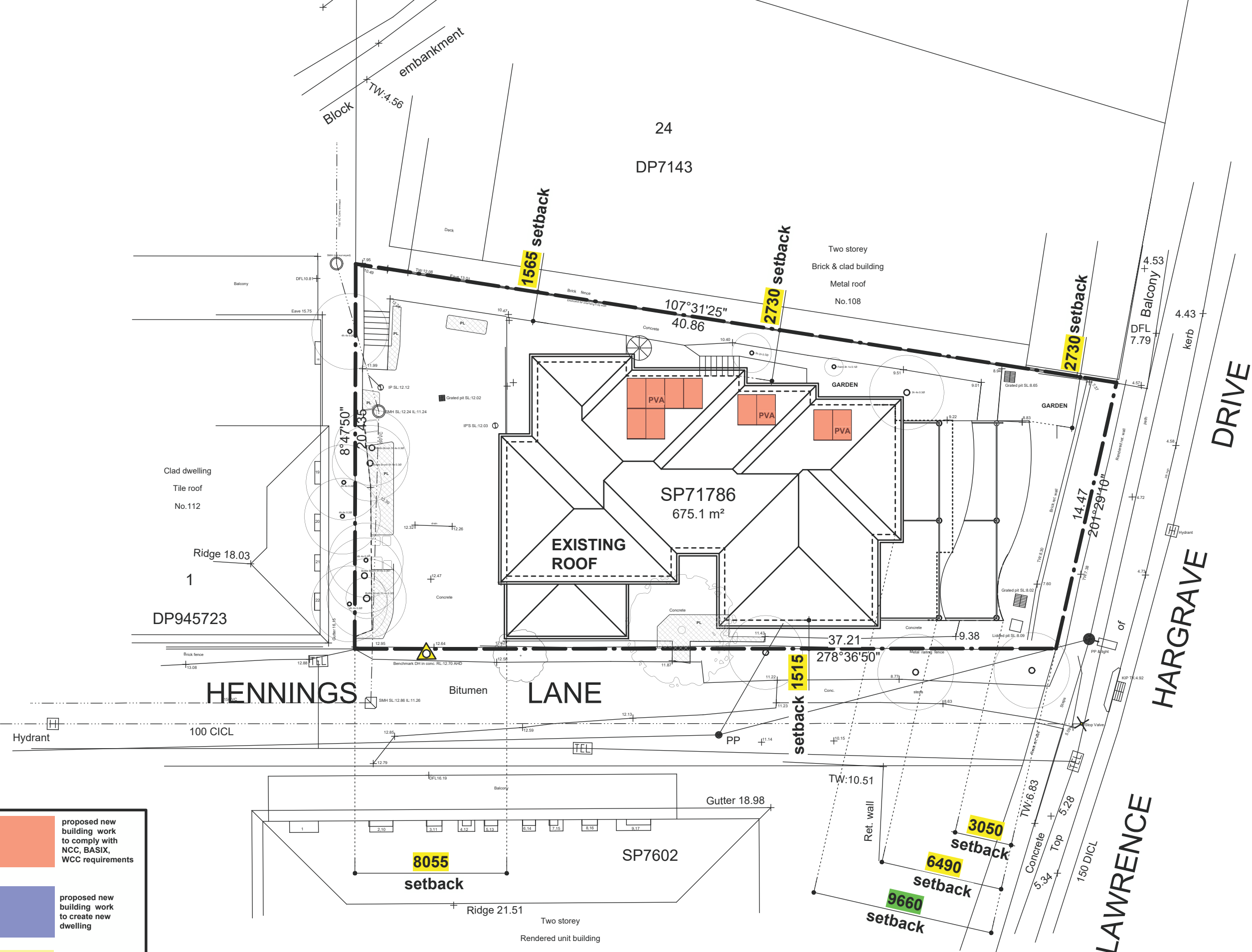
ELEVATION EAST

EXISTING



SECTION A
EXISTING

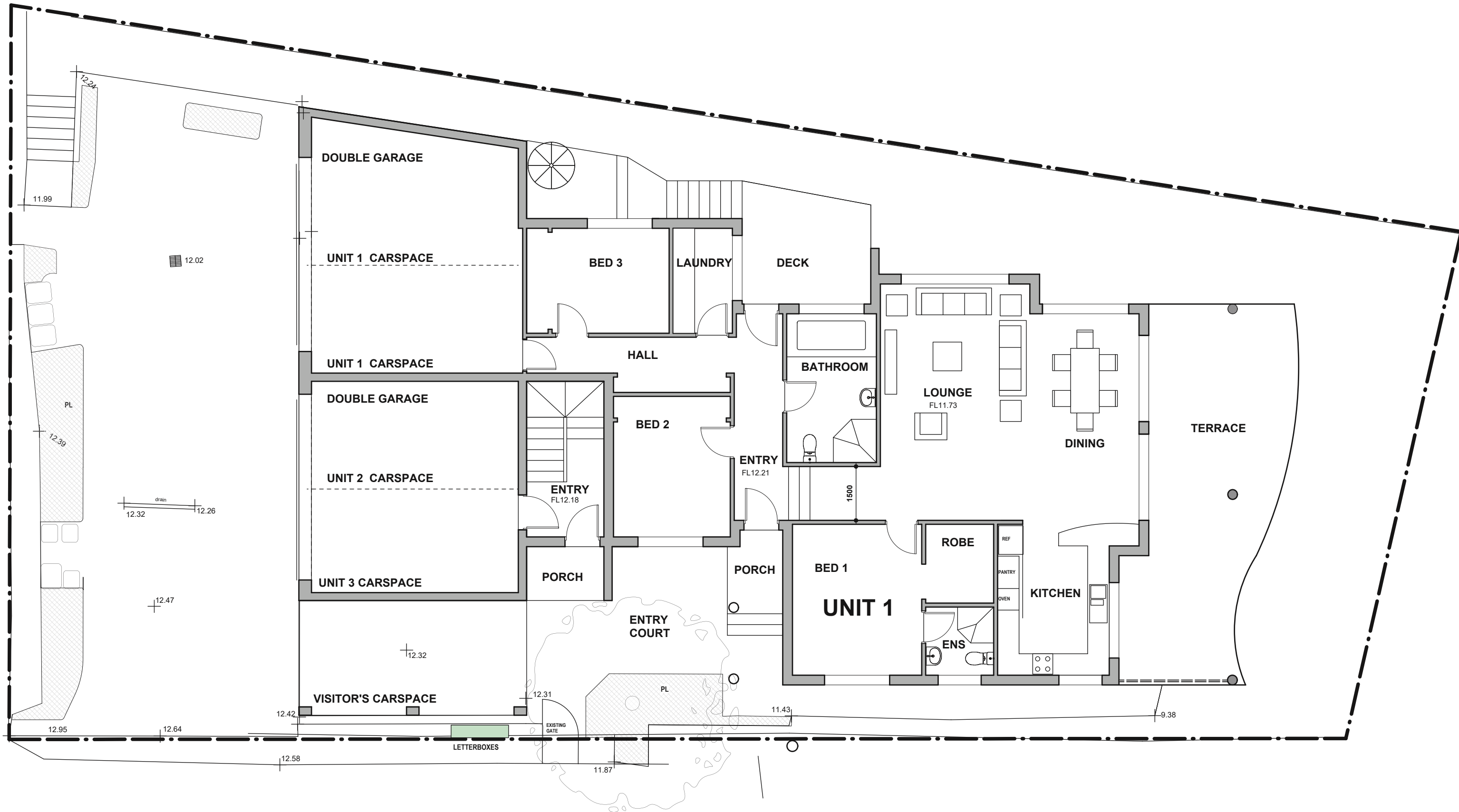
	proposed new building work to comply with NCC, BASIX, WCC requirements
	proposed new building work to create new dwelling
	existing works undertaken without development consent



Window & Door Schedule

No.	Type	Top	Bottom
1	Door	18.35	16.25
2	Window	18.83	17.35
3	Window	18.68	17.35
4	Door	18.35	16.25
5	Window	18.68	17.35
6	Window	18.68	17.35
7	Door	18.35	16.25
8	Window	18.68	17.35
9	Door	18.35	16.25
10	Window	16.01	14.48
11	Window	15.84	14.48
12	Window	16.02	15.42
13	Window	16.00	15.07
14	Window	16.00	15.07
15	Window	16.02	15.42
16	Window	15.84	14.46
17	Window	16.01	14.48
18	Window	-	14.14
19	Window	15.47	14.17
20	Window	15.84	12.24
21	Door	15.44	13.34
22	Window	15.88	-

- proposed new building work to comply with NCC, BASIX, WCC requirements
- proposed new building work to create new dwelling
- existing works undertaken without development consent



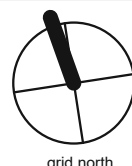
Issue date
A 28.05.21
DEVELOPMENT APPLICATION

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Scale
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Date
28.05.21

Project Name
110 LHD Austinmer - conversion to residential flat building

Drawing Title
Proposed Adaptable Dwelling Floor Plan - PRE Adaptation

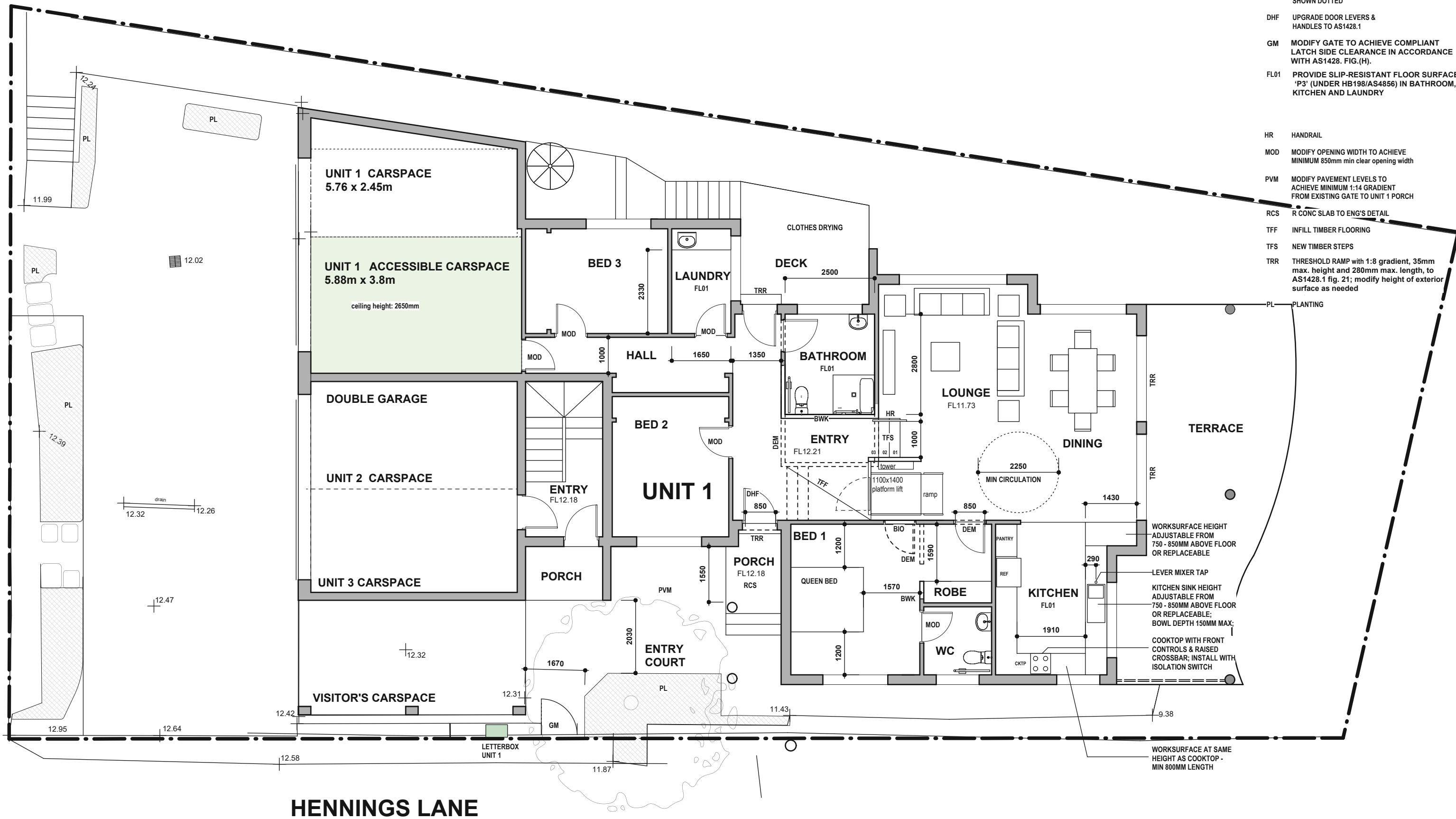
Issue
DEVELOPMENT APPLICATION

Drawing Number
2006- DA07

A

DRAWING CODES

- BIO INFILL OPENING
- BWK BRICKWORK
- DEM DEMOLISH ELEMENT SHOWN DOTTED
- DHF UPGRADE DOOR LEVERS & HANDLES TO AS1428.1
- GM MODIFY GATE TO ACHIEVE COMPLIANT LATCH SIDE CLEARANCE IN ACCORDANCE WITH AS1428. FIG.(H).
- FL01 PROVIDE SLIP-RESISTANT FLOOR SURFACE 'P3' (UNDER HB198/AS4856) IN BATHROOM, KITCHEN AND LAUNDRY
- HR HANDRAIL
- MOD MODIFY OPENING WIDTH TO ACHIEVE MINIMUM 850mm min clear opening width
- PVM MODIFY PAVEMENT LEVELS TO ACHIEVE MINIMUM 1:14 GRADIENT FROM EXISTING GATE TO UNIT 1 PORCH
- RCS R CONC SLAB TO ENG'S DETAIL
- TFF INFILL TIMBER FLOORING
- TFS NEW TIMBER STEPS
- TRR THRESHOLD RAMP with 1:8 gradient, 35mm max. height and 280mm max. length, to AS1428.1 fig. 21; modify height of exterior surface as needed
- PL PLANTING



WORKSURFACE HEIGHT ADJUSTABLE FROM 750 - 850MM ABOVE FLOOR OR REPLACEABLE

LEVER MIXER TAP

KITCHEN SINK HEIGHT ADJUSTABLE FROM 750 - 850MM ABOVE FLOOR OR REPLACEABLE; BOWL DEPTH 150MM MAX;

COOKTOP WITH FRONT CONTROLS & RAISED CROSSBAR; INSTALL WITH ISOLATION SWITCH

WORKSURFACE AT SAME HEIGHT AS COOKTOP - MIN 800MM LENGTH

HENNINGS LANE



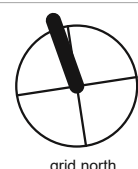
Issue date
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DEVELOPMENT APPLICATION

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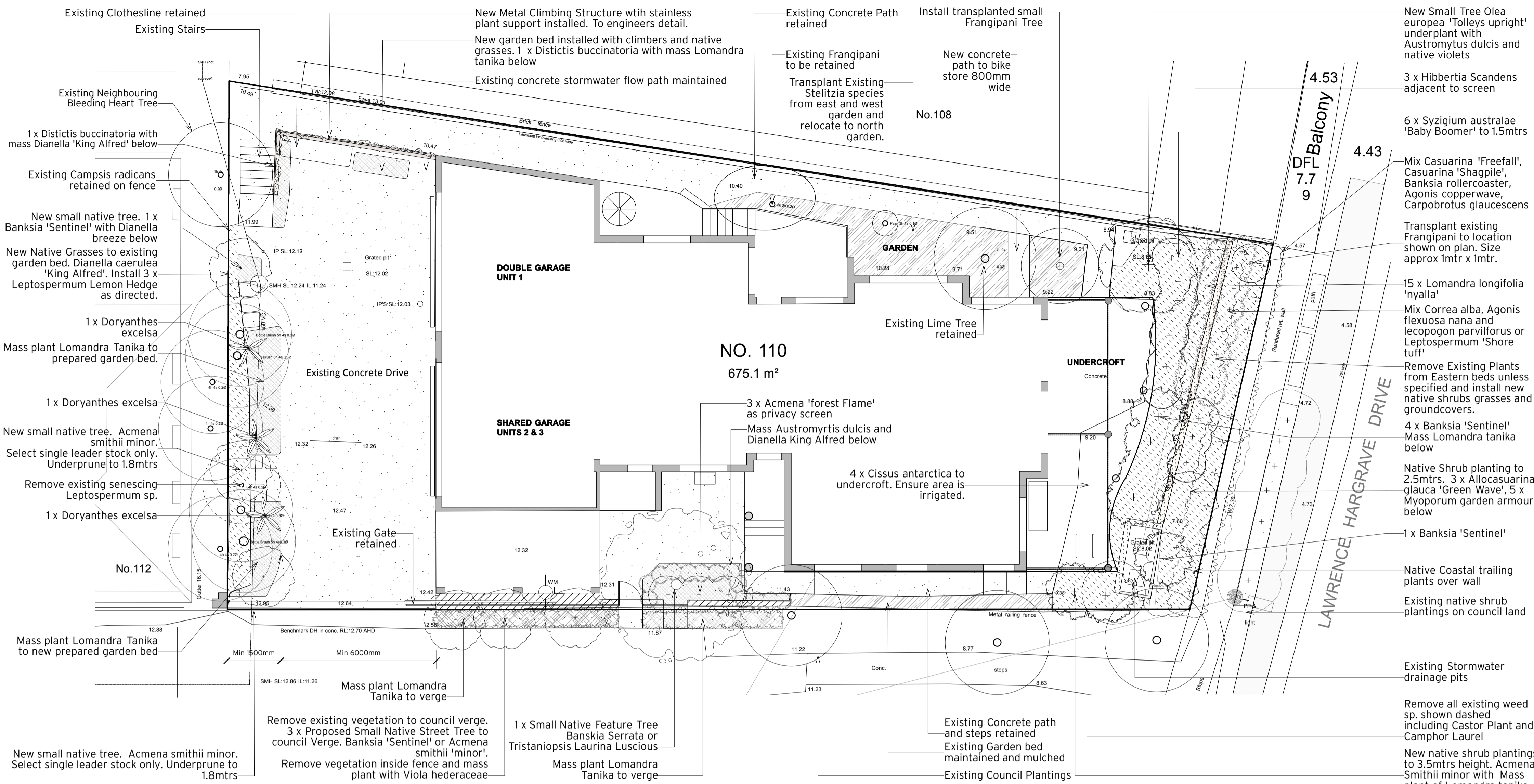
Project Name
110 LHD Austinmer - conversion to residential flat building

Drawing Title
Proposed Adaptable Dwelling Floor Plan - Post Adaptation

Issue
DEVELOPMENT APPLICATION

Drawing Number
2006- DA08

A



TECHNICAL NOTES:

SEDIMENT CONTROLS AND SERVICES:
 Appropriate sediment control measures should be established before the commencement of work & retained in place until all areas have been completed and revegetated or appropriately surfaced. Before landscape work is commenced, Landscape Contractor is to establish the positions of all service lines and protect them from damage during construction.

WEED ERADICATION:
 Manually remove weed species prior to and after planting as required. Ensure that all weed growth has failed prior to commencement of soil works. Machinery to be used for excavation, construction, and maintenance should be thoroughly cleaned of soil & plant material before entering and leaving the work area. No known environmental weeds or known invasive plant species are to be brought onto the property.

DRAINAGE:
 Notify Landscape Architect (LA) of all soil or drainage conditions considered detrimental to plant growth encountered during bed preparation and planting operations. Include a proposal for the correction of such conditions for approval by (LA) to proceeding with work. Any drains installed during landscape works are to be directed to existing stormwater system subject to approval of (LA).

SOIL PREPARATION:
 Provide minimum 300mm of quality soil depth suitable for plant species. Decompact all planting beds to a depth of 300mm. Use low organic (<5%) free draining soil mix below 300mm such as 80/20 turf underlay. Break up heavy clay soils below, applying gypsum as recommended by manufacturer. Remove rocks and foreign material detrimental to plant growth. Where inadequate soil depth exists spread Soil Co Landscape mix suitable for native plants with low p levels and neutral ph. All Soils, composts and mulches are to conform with AS 3743 - Potting Mixes, AS 4419 - Soils for Landscaping and garden use, AS 4454 - Composts, soil conditioners and mulches.

MULCHING:
 Mulch all garden beds with 75mm compacted depth of SOILCO 'Go Mulch'. Ensure stems of plants are kept clear of mulch. Finish mulch levels 20mm below adjacent hard surfaces. Garden bed edging to street verge to be determined in consultation with Council. Suggest Formboss 2mm x 100mm or 6mm galvanised steel.

PLANTING:
 All plant stock is to be first quality free of weeds, bound roots, true to type and grown to NATSPEC standards. Plants are to be established in containers with healthy and vigorous root systems proportionate to plant height. Plants are to be hardened off in similar conditions to site 2 weeks minimum to planting. NO substitutions without prior approval of Landscape Architect. Dig plant holes twice the size of rootball and backfill soil carefully firming down and watering in to remove air voids around roots. Ensure top of rootball finishes flush with surrounding soil levels. Thoroughly water in plants with a diluted soluble fertiliser such as Seasol or Searles Flourish native plant food to manufacturers rates.

FERTILISING:
 Apply slow release fertiliser such as Ozmocote for natives at time of planting and twice yearly to all garden bed areas to manufacturers instructions. Dianella plantings are to be monitored for vigour. Apply to manufacturers specification.

MAINTENANCE:
 Maintain the works in good condition for an establishment period of 6 months from the date of practical completion. Works shall include but not be exclusive to weeding, application of fertiliser, removal of litter from plant beds and replacement of dead and dying plants, tip pruning and shaping of plants. Irrigation if installed and drainage is to be checked at 3 month intervals to ensure proper functioning and all faults are to be rectified during this period. All plants are to be established with strong and healthy growth at the end of this period.

Concept Plan
 scale 1:100@A1

SUGGESTED PLANT SPECIES

BOTANICAL NAME	COMMON NAME	SPACING (mm)	POT SIZE	MATURE SIZE (m) (H x W)	APPROX QTY
SMALL TREE					
Tristaniopsis laurina (alt for B serrata)	Luscious	as shown	45L	8 x 5	1
Banksia serrata	Old man Banksia	as shown	45L	8 x 5	1
Acmena Smithii var Minor	Dwarf Lilli Pilli	as shown	45L	4 x 3	5
Olea Europea Tollyes upright	Tolleys upright	as shown	45L	5 x 4	1
Banksia 'Sentinel'	Dwarf Coastal Banksia	as shown	25L	4 x 2	7
SHRUBS					
Correa alba			200mm	1.5 x 1.5	3
Acmena 'Forest Flame'	Dwarf Lilli Pilli	as shown	300mm	2 x 1.5	3
Westringea 'jervis jem'	Coastal Rosemary			4 x 2	3
Casuarina glauca 'Greenwave'	Dwarf swamp oak		200mm	2 x 2	3
Syzgium australe	'Baby Boomer'		200mm	1.5 x 1.5	7
Agonis Flexuosa 'Nana'	Dwarf willow myrtle	1000		1.5 x 1.5	3
Rhagodia candoleana	Coastal salt bush	1000	150mm	0.7 x 1.5	3
Leptospermum 'lemon hedge'			200mm	2.5 x 1.5	3
Melaleuca hypericifolia 'Uludulla beacon'			200mm	0.5 x 1	3
Austromyrtus dulcis	'Midgeberry'		200mm	0.5 x 1	10
Leucopogon parviflorus	Coast Beard Heath		150mm	1.5 x 1.5	3
Leptospermum 'Shore Tuff'	Dwarf Coastal tea Tree		200mm	0.5 x 1	3
GROUNDCOVERS					
Casuarina 'Freefall'	Trailing Casuarina	500	100mm	0.7 x 3	5
Casuarina 'Shagpile'	Prostrate Casuarina	500	100mm	0.7 x 3	5
Agonis flexuosa Copper Wave	Prostrate willow Peppermint		150mm	0.7 x 2	3
Viola hederacea	Native violet	500	100mm	0.1 x 1	20
Carpobrotus glaucescens	'Aussie Rambler'	1200	100mm	0.2 x 2	3
Cissus antarctica	Kangaroo vine	1000	200mm	0.7 x 3	4
Banksia 'Roller Coaster'	Prostrate coastal banksi	1000	200mm	0.5 x 2	5
Myoporum parvifolium	'Garden Armour'		150mm	0.2 x 2	4
NATIVE GRASSES AND LILLIES					
Doryanthes excelsa	Gymea Lily	as shown	300mm	1.8 x 1.5	3
Lomandra 'tanika'	Fine leaved mat rush		tubestock	0.8 x 0.8	70
Lomandra longifolia 'Nyalla'			100mm	0.8 x 0.8	15
Dianella caerulea 'King Alfred'	Blue Flax Lily	500	tubestock	0.8 x 0.8	15
CLIMBING PLANTS					
Distictis buccinatoria	Scarlet trumpet vine	200mm	6 x 0.7	2	
Hibbertia Scandens	Trailing Guinea Flower	150mm	0.5 x 2	3	

25-100L TREE:
 Species as per schedule and as indicated on plan. Ensure top of rootball is level with surrounding soil levels.

STAKES:
 Only stake trees sized 100L or less if specified, or if site conditions demand. Tree ties on 50mm square hardwood stakes. Ensure stakes are positioned clear of rootball.

SUBSURFACE DRAINAGE:
 Provide adequate drainage to tree pits. Where heavy clay or rock is encountered provide drainage to pits connected to approved stormwater system. Provide Landscape Architect with proposed drainage details prior to installing trees.

MULCH:
 75mm compacted depth of mulch as specified - refer notes.

FERTILISE AND WATER:
 Use two to three slow release fertiliser tablets & pre treated water retaining polymer to manufactureres specification. Thoroughly wet planting hole prior to planting and water in well at completion of planting. Tamp around plant to remove all air voids.

SUBGRADE:
 Break up all edges of plant bed. ENSURE adequate drainage. Test tree pit for retention of water and ameliorate as required with gypsum or appropriate clay breaker.

COMPACTED BASE:
 Provide 100mm compacted depth of soil mix B as firm base for root ball to avoid settling of plant.

SOIL MIX AS SPECIFIED:

PLANTS AS SPECIFIED:
 Plants & density and location as per schedule and plan. Top of root ball to remain flush with surrounding ground.

MULCH:
 75mm compacted depth of specified mulch - refer notes. Dish around plants. Thin out towards plant and do not cover stems.

SOIL MIX:
 Rip to 300mm where possible. Fully cultivate and backfill planting hole with specified soil mix. Refer technical notes.

SUBGRADE:
 Decompact subgrade. Where existing tree roots are to be undamaged or where machine access impractical decompact by hand.

DETAIL: TREE PLANTING DETAIL

DETAIL: TREE PLANTING DETAIL

LEGEND

Existing trees to be retained and protected

Bin Storage

Remove existing concrete and prepare garden beds for new native plantings

NOTE: ENSURE ROOTBALL PLACED ON FIRM BASE TO AVOID SETTLING. TOP OF ROOTBALL TO FINISH FLUSH WITH SURROUNDING SOIL LEVELS

SOIL MIX AS SPECIFIED:

PLANTS AS SPECIFIED:
 Plants & density and location as per schedule and plan. Top of root ball to remain flush with surrounding ground.

MULCH:
 75mm compacted depth of specified mulch - refer notes. Dish around plants. Thin out towards plant and do not cover stems.

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DETAIL: TREE PLANTING DETAIL

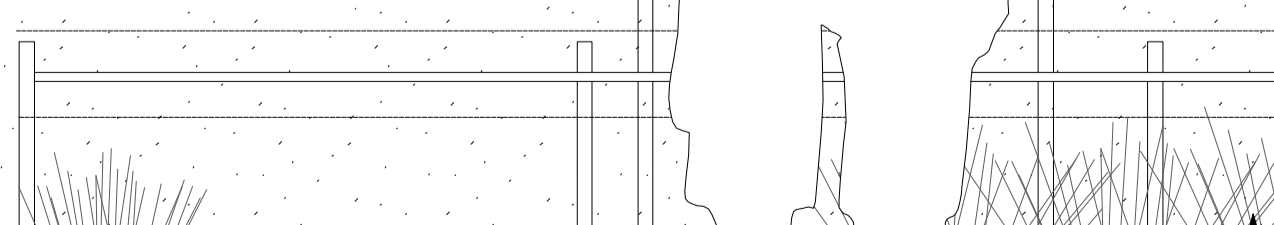
DETAIL: TREE PLANTING DETAIL

LEGEND

Existing trees to be retained and protected

Bin Storage

Remove existing concrete and prepare garden beds for new native plantings



Section A - Planted Screen North Drive
 scale 1:25@A1

- NOTES:**
- Plant setout to be approved by Landscape Architect prior to installation
 - Install an automated irrigation system with separate stations to driveway, east garden, and south garden. Provide proposal for system for approval at time of tender.
 - Final plant selections to be confirmed following more detailed preparation for garden beds.

AMENDMENTS

Preliminary - issued for Client Review



PROJECT
 110 Lawrence Hargrave Rd Austimner
 Conversion to Residential Flat Building

DRAWING TITLE
 Landscape Concept Plan

DRAWING NO.
 DA-01

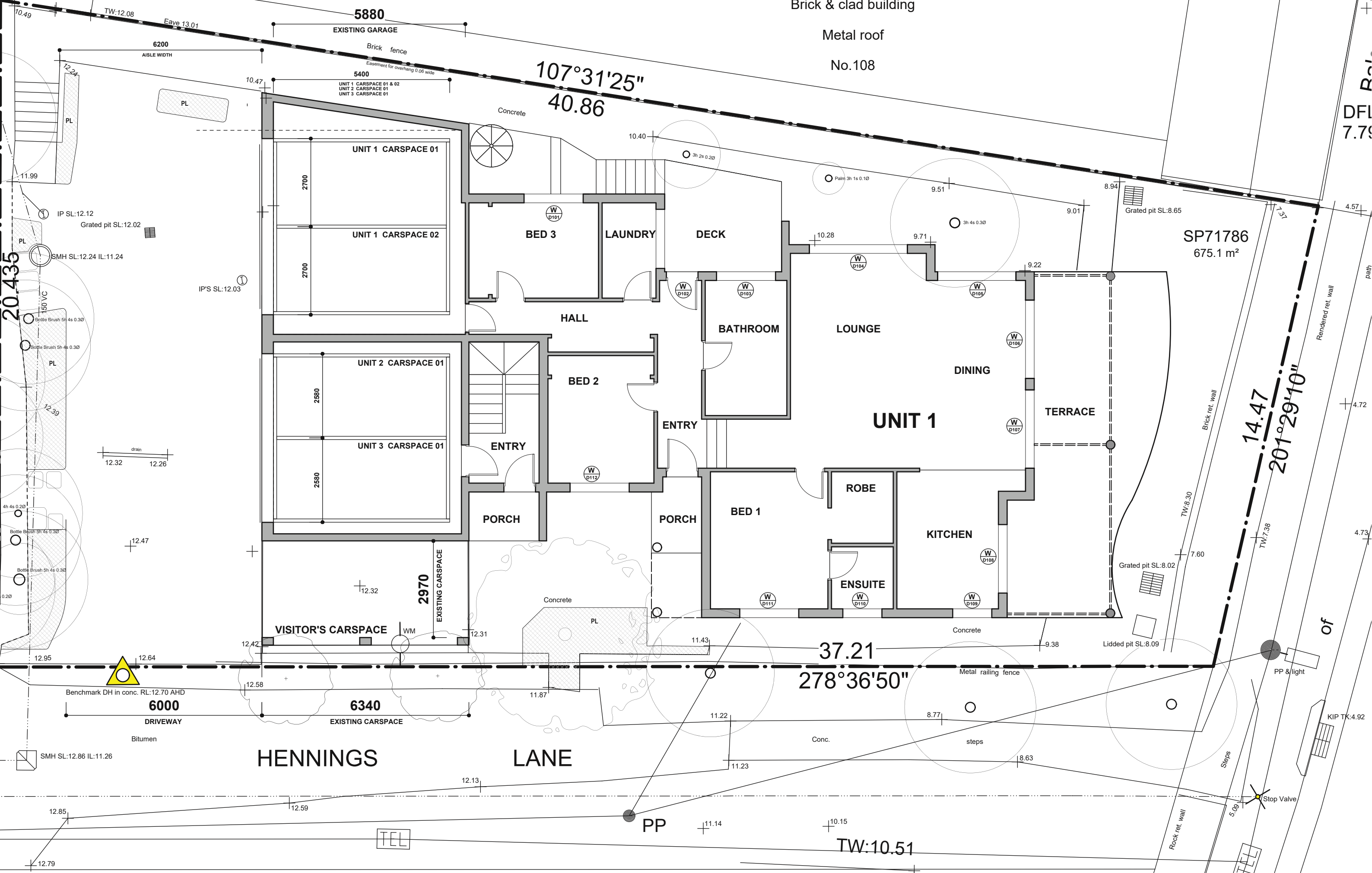
CLIENT
 John Vakirtzis

DRAWN
 PA

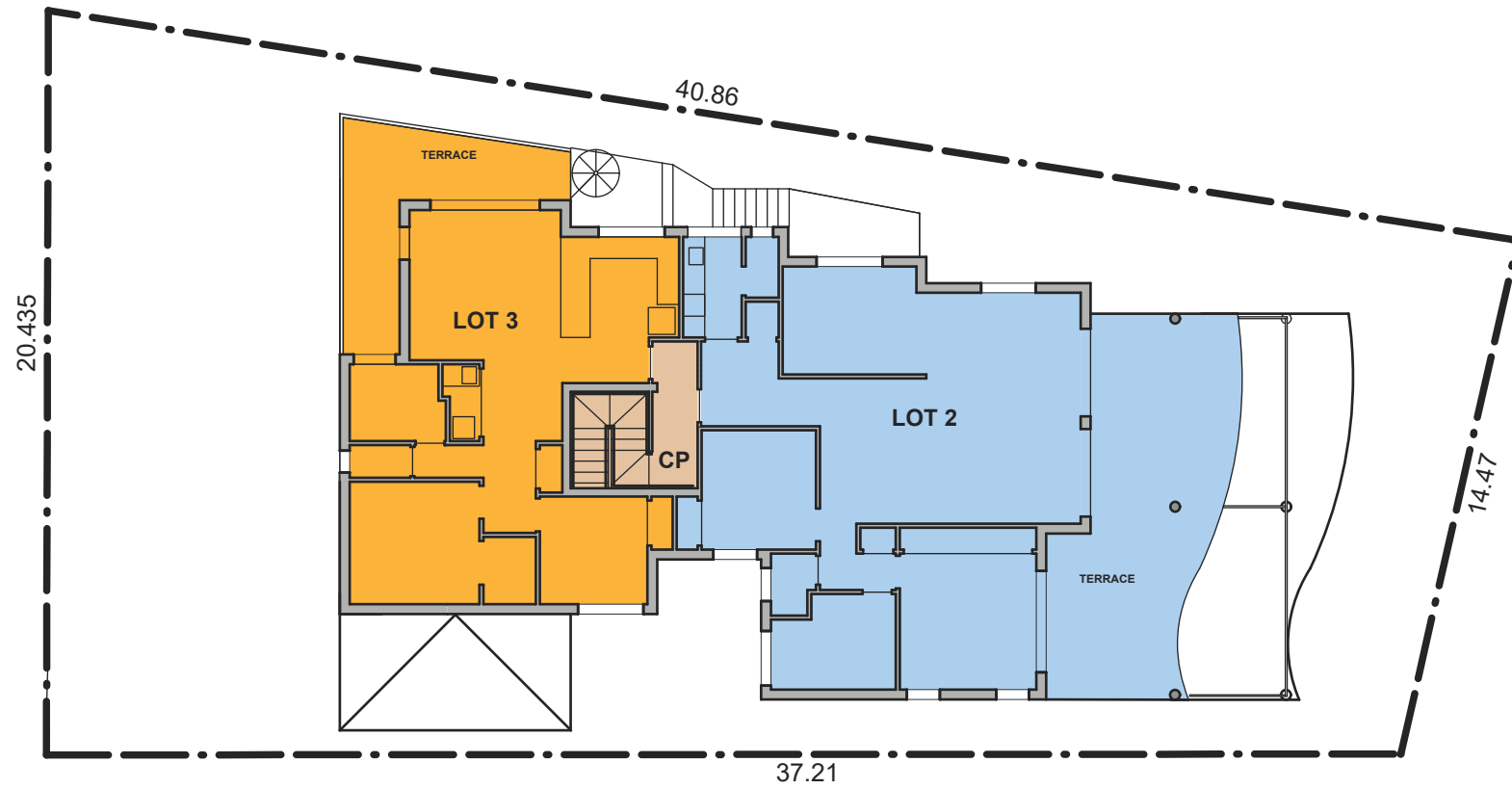
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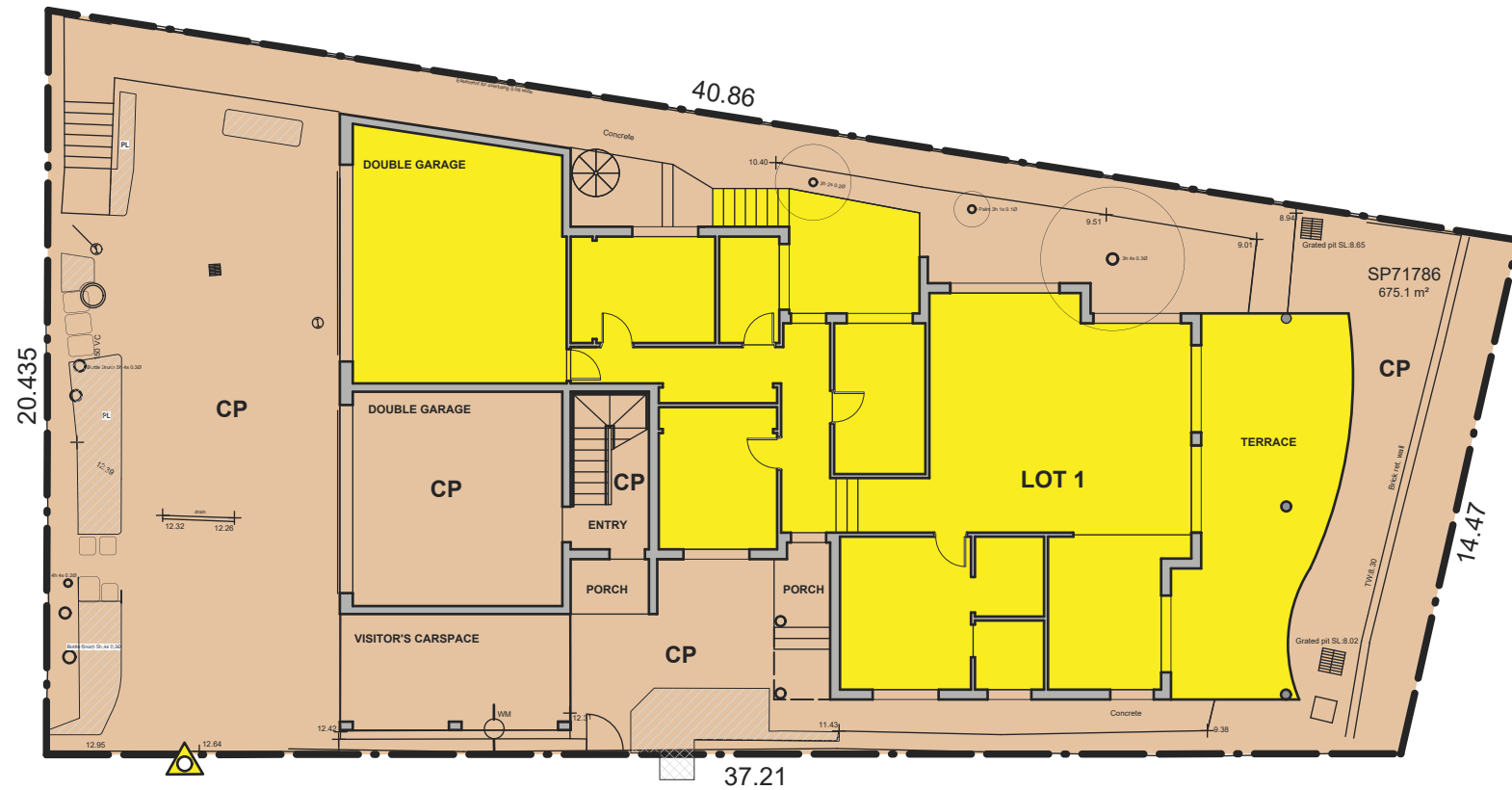
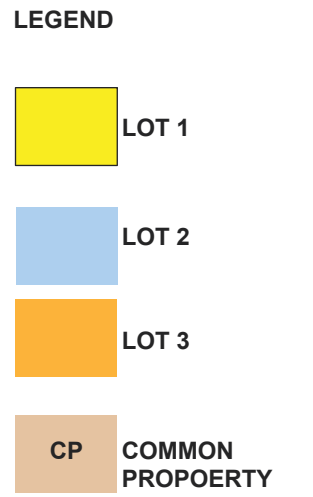
DATE
 19 Feb 2021



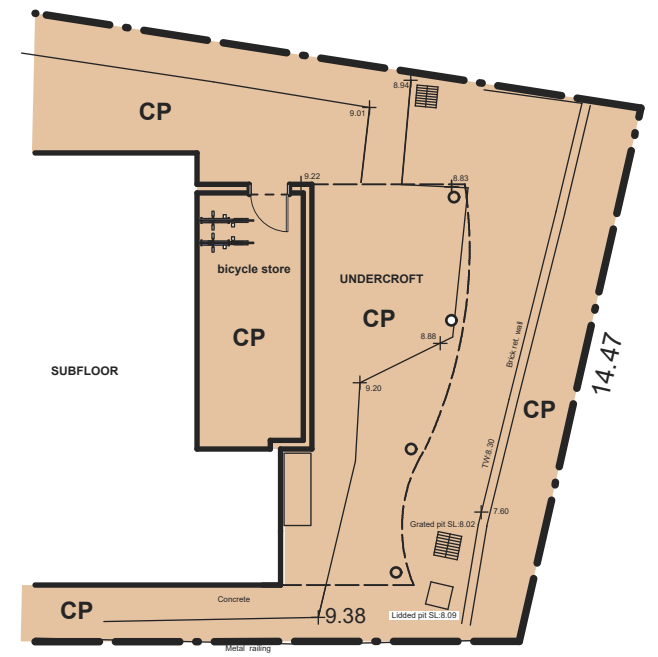
issue date A 28.05.21 DEVELOPMENT APPLICATION		Balcony morgandicksonarchitecture austinmer studio P0242671899 morgan_dickson@bigpond.com M0478 229 639 morgan_dickson@bigpond.com nominated architect matt dickson 6255	do not scale from this drawing. verify the accuracy of all written dimensions on site. this drawing is produced by copyright and must not be used for any purpose without the written approval from the partners of morgandicksonarchitecture Gutter 18.98 grid north	Scale 1:100 on A3	Project Name 110 LHD Austinmer - conversion to residential flat building	Issue DEVELOPMENT APPLICATION
				Date 28.05.21	Drawing Title Proposed Parking Layout	Drawing Number 2006- DA09



1st FLOOR STRATA PLAN



GROUND FLOOR STRATA PLAN



LOWER GROUND FLOOR STRATA PLAN

issue date
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1:200

Date
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Project Name
110 LHD Austinmer - conversion to residential flat building

Drawing Title
CONCEPT STRATA PLAN

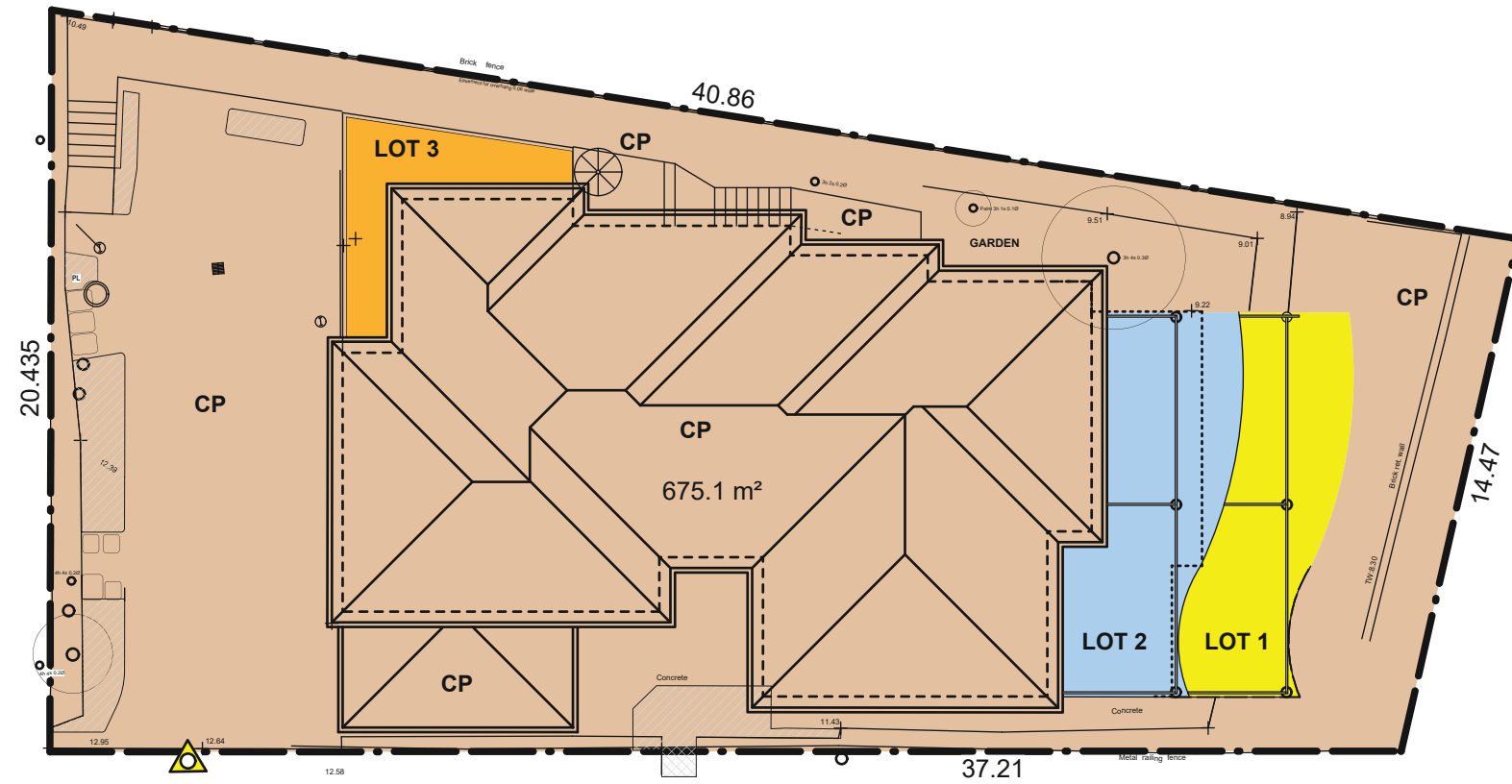
Issue
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Drawing Number
2006- DA10

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LEGEND

- LOT 1
- LOT 2
- LOT 3
- CP COMMON PROPOERTY



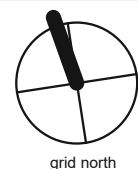
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Project Name
110 LHD Austinmer - conversion to residential flat building

Drawing Title
CONCEPT STRATA PLAN - SITE PLAN

Issue
DEVELOPMENT APPLICATION

Drawing Number
2006- DA10

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Attachment 2 - Site Photos





















APPENDIX

A

CLAUSE 4.6 STATEMENT

1. Introduction

Clause 4.6 'Exceptions to Development Standards' of Wollongong Local Environmental Plan 2009 provides the ability to contravene a development standard with approval of the consent authority and concurrence by the Director-General. A development standard is defined by the Environmental Planning and Assessment Act, 1979 as:

"Provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development".

The objectives of Clause 4.6 are as follows:

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

This statement is therefore provided to justify variation to Clause 7.14 'Minimum Site Width' in accordance with Clause 4.6 of that Plan, as the application of this requirement is considered unreasonable or unnecessary for this particular development.

2. Description of Development

The development application seeks approval for minor alterations to an existing dual occupancy building to enable a change of use to a residential flat building to provide for three dwellings. These works are internal only and will not increase the building footprint, floor area or building height.

3. Variation to Clause 7.14 Minimum Site Width

Clause 7.14(2) states "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."

The minimum width of the site measured parallel to Lawrence Hargrave Drive is 14.47m (and is technically deficient by 9.53m). There is no access to the site from that road for either pedestrians or vehicles. It is noted that Hennings Lane, which includes the front entrance and main vehicle access point to the site has a minimum width of 37.21m.

The departure from the standards is considered to be reasonable in this circumstance and is merely a technical non-compliance due to the conversion of the building into a residential flat building use. This does not result in any greater impact in terms of visual impact, disruption of views, loss of privacy, increased traffic or parking issues, or any other adverse impacts than if the existing approved dual occupancy was retained.

It is therefore requested that Council support variation to the minimum site width development control for the purposes of allowing alterations to the existing building to create an additional dwelling and hence the use of the building as a 'residential flat building'.

Compliance with WLEP 2009 - Contravention of Clause 7.14 Minimum Site Width	
Clause 4.6 Exceptions to Development Standards	Response/Justification
<p>(1) Objectives</p> <p>a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and</p> <p>b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</p>	<p>Flexibility is being sought with the minimum site width clause which becomes technically applicable as the development seeks to increase the dwellings within the building from an approved 'dual occupancy' to a 'residential flat building'.</p> <p>The proposal provides a better outcome for the site as it provides an additional dwelling within an existing building, providing housing choice, within a high amenity area close to public transport and amenities, with no additional impacts</p> <p>Justified</p>
<p>(3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:</p> <p>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</p>	<p>(3) This table comprises the written request seeking to justify the contravention of the height development standard.</p> <p><i>In Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009, para 61, Commissioner Person summarises the considerations from Wehbe v Pittwater Council [2007] NSWLEC 827 at [42] per Preston CJ, and notes in para 62 that clause 4.6 can be considered in a similar way to that of SEPP 1. In Wehbe at [44]-[48] Preston CJ identified other ways in which an applicant might establish that compliance with a development standard is unreasonable or unnecessary, namely that the underlying objective or purpose is not relevant to the development; that the objective would be defeated or thwarted if compliance was required; that the development standard has been virtually abandoned or destroyed by the Council's own actions in departing from the standard; or that the zoning of the land is unreasonable or inappropriate.</i></p> <p>Having regard to the above Wehbe categories, the only applicable criteria in demonstrating that compliance with the applicable minimum site width standard is considered to be unreasonable and unnecessary in the circumstances of the case is <i>that the underlying objective or purpose is not relevant to the development.</i></p> <p>While there is no underlying objective or purpose to the development standard within the LEP, the requirement for the minimum site width can be guided by the objectives within WDCP 2009 (Chapter B1 Clause 6.2.1) as follows:</p> <p>(a) To allow for development of sites, which are of sufficient width to accommodate the required building envelope, car parking and landscaping requirements.</p> <p>(b) To promote the efficient utilisation of land.</p> <p>(c) To encourage amalgamation of allotments to provide for improved design outcomes including greater solar access and amenity.</p> <p>As the development seeks only to utilise an existing building, the underlying purpose of the site width control does is not considered to be relevant. This is on the basis that the development will not result in alteration of the existing building envelope, carparking numbers and landscaping.</p> <p>Further, the objectives pertaining to amalgamation and land utilisation are not considered to be relevant in this instance as no additional buildings are proposed.</p> <p>Accordingly, it is considered that the application of the site width requirement is unreasonable and unnecessary in this instance as the development merely seeks to more efficiently utilise an existing building and does not seek to develop a parcel of land with an altered building footprint.</p> <p>Justified</p>

<p>(b) <i>that there are sufficient environmental planning grounds to justify contravening the development standard.</i></p>	<p><i>In Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009, Commissioner Person determined that it is necessary for applicants to show sufficient grounds <u>particular to the development</u> in the Clause 4.6 objection.</i></p> <p>Again, the fact that the building is in existence is a clear and unusual circumstance particular to the development. The application is not seeking to develop a new residential flat building on the site, but to convert an existing building to create an additional dwelling. This does not result in any greater impact in terms of visual impact, disruption of views, loss of privacy, increased traffic or parking issues, or any other adverse impacts <u>than if the existing approved dual occupancy was retained.</u></p> <p>The departure from the standards is considered to be reasonable in this circumstance and is merely a technical non-compliance due to the conversion of the building into a residential flat building use. The minor contravention of the minimum site width standard is considered to be satisfactory having regard to environmental planning grounds.</p> <p>Justified</p>
<p>(4) <i>Consent must not be granted for development that contravenes a development standard unless:</i></p> <p>(a) <i>the consent authority is satisfied that:</i></p>	
<p>(i) <i>the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and</i></p>	<p>This Variation statement provides a discussion in support of the justification for varying the development standards as indicated in (3) above. In our opinion, there is sufficient justification provided to support a variation to the building height requirements.</p> <p>Satisfied</p>
<p>(ii) <i>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</i></p>	<p>There is <u>no underlying objective</u> or purpose to the development standard within the LEP. However, the proposed development is in the public interest as it already achieves and already demonstrates that it can achieve the outcomes that are intended for small residential development, notwithstanding the narrow site width.</p> <p>In addition, the proposal is consistent with the first objective of the R2 Low Density Residential zone: <i>To provide for the housing needs of the community within a low density residential environment</i></p> <p>as it provides for an additional dwelling in an existing building, without compromising the low-density character of the surrounding land. In this regard, it is in the public interest.</p> <p>Justified</p>
<p>(c) <i>the concurrence of the Director-General has been obtained.</i></p>	<p>Council will need to consult with the Department of Planning and Infrastructure as to whether the concurrence of the DG can be assumed in accordance with Planning Circular PS 08-003-Variations to Development Standards (Department of Planning, May 2008).</p> <p>Addressed</p>
<p>(5) <i>In deciding whether to grant concurrence, the Director-General must consider:</i></p>	
<p>(a) <i>whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and</i></p>	<p>The contravention of this development standard does not raise any matter of significance for state or regional environmental planning. Refer to further discussion below in this table.</p> <p>Addressed</p>
<p>(b) <i>the public benefit of maintaining the development standard, and</i></p>	<p>There is no public benefit by maintaining the development standard, as an additional dwelling would not be provided within a building that can accommodate it, and there are no identifiable adverse impacts if approval</p>

	<p>were granted. There is no detrimental effect on the neighbourhood amenity, view corridors or visual amenity by the proposed development.</p> <p>Justified</p>
<p>(c) <i>any other matters required to be taken into consideration by the Director-General before granting concurrence.</i></p>	<p>It is considered that there are no environmental planning considerations that would hinder the Director-General from providing concurrence.</p> <p>Addressed</p>

ATTACHMENT 4 – CHAPTER B1 COMPLIANCE TABLE

4.0 General Residential controls

<i>Controls/objectives</i>	<i>Comment</i>
<p><u>4.13 Fire Brigade Servicing</u></p> <ul style="list-style-type: none"> All dwellings located within 60m of a fire hydrant 	<p>Fire hydrants are available on both Lawrence Hargrave Drive and Hennings Lane in close proximity to the subject site.</p>
<p><u>4.14 Services</u></p> <ul style="list-style-type: none"> Encourage early consideration of servicing requirements, to ensure that all residential development can be appropriately serviced. 	<p>All services can be readily extended to meet future requirements.</p>
<p><u>4.15 Development near the coastline</u></p> <ul style="list-style-type: none"> Must minimise built intrusions into coastal landscape Retain views to the ocean from roads and public spaces Maintain buildings consistent with coastal character 	<p>The existing building is setback from the coastline and separated by Lawrence Hargrave Drive. No substantial exterior changes are proposed to the existing building which would increase any impact relating to views, landscapes or built form character.</p>
<p><u>4.16 View sharing</u></p> <ul style="list-style-type: none"> To protect and enhance view sharing, significant view corridors A range of view sharing measures to be considered for building design 	<p>No substantial exterior change to existing approved building onsite which would impact view sharing.</p>
<p><u>4.17. Retaining walls</u></p> <ul style="list-style-type: none"> To ensure well designed retaining walls that are structurally sound 	<p>None proposed.</p>
<p><u>4.18 Swimming pools and spas</u></p> <ul style="list-style-type: none"> To ensure relevant safety standards meet user's needs. To ensure site and design maintain the amenity of the area 	<p>None proposed.</p>
<p><u>4.19 Development near railway corridors and major roads</u></p> <ul style="list-style-type: none"> Ensure development near rail corridors and major roads are protected from vibration Ensure development does not affect operations or safety 	<p>Satisfactory</p>

6 Residential flat buildings

Controls/objectives	Comment	Compliance
<p>6.2 Minimum Site Width Requirement</p> <ul style="list-style-type: none"> • Minimum required site width of 24 metres; width must be measured for the full length of the building envelope and perpendicular to the side boundary. Exceptions will only be considered for social housing developments and in circumstances outline below. • Do not create an “isolated lot”. Amalgamation of allotments will be required in the circumstance where an isolated allotment would otherwise be created. • In cases where the subject site is an existing “isolated lot”, Council may consider a variation to the minimum site width requirement provided, in the opinion of Council, the proposed development will not cause any significant adverse overshadowing, privacy or amenity impact upon any adjoining development. • In certain existing “isolated lot” cases, a proposed development may not achieve its maximum development potential (eg maximum floor space ratio and height) where side and rear setbacks are varied and the development does not, in the opinion of Council, achieve: <ul style="list-style-type: none"> (a) Adequate separation between buildings to maintain reasonable levels of solar access, privacy and amenity to neighbouring dwellings; (b) Adequate landscaping screening of the development to maintain the amenity of adjoining dwellings; and (c) Maintain the streetscape amenity of the locality. 	<p>The site is irregular in shape with a minimum frontage width of 14.47m and a rear boundary width of 20.4m. The subject site does not achieve the required minimum site width of 24m. See discussion at Clause 7.14 and 4.6 of the report for details.</p> <p>The owner is not a social housing provider.</p> <p>The development of the site will not create an isolated allotment.</p>	<p>No, variation sought.</p>
<p>6.3 Front Setbacks</p> <p>(a) The same distance as one or other of the adjoining buildings, provided the difference between the setbacks of the two adjoining dwellings is less than 2.0m.</p> <p>(b) The average of the setbacks of the two adjoining buildings, if the difference</p>	<p>The proposal is setback 3m from LHD to the lower balcony and 6.49m to the upper level balcony. The front façade of the building is setback 9.66m. The secondary boundary fronting Hennings Lane has a secondary street frontage of 1.52m to the southern façade and a</p>	<p>No, variation sought.</p>

between the setbacks of the buildings is greater than 2.0m.

(c) A minimum front setback of 6m applies to residential apartment buildings where calculations of (a) or (b) result in a front setback of less than 6m.

6.4 Side and Rear Setbacks / Building Separation

- Buildings up to 4 storeys (12 metres)
 - 6m to habitable room/balcony
 - 3.5 metres to non-habitable room/blank wall

6.5 Built Form

- RFBs must be designed by qualified designer and design verification statement provided as per SEPP 65.
- The design, height and siting of a new development must respond to its site context.
- The appearance of new development must be in harmony with the buildings around it and the character of the street. New development must contain or respond to the essential elements that make up the character of the surrounding urban environment.
- Incorporate the following elements:
 - (a) Define a base, middle and top related to the overall proportion of the building.
 - (b) Articulate all building elevations in both plan and section to reduce monotonous flat facades.
 - (c) avoid highly reflective finishes and curtain wall glazing.
 - (d) Avoid expanses of any single material.
 - (e) Utilise high quality and durable materials and finishes.
 - (f) Avoid blank or solid walls and the use of dark or obscured glass on street frontages.
 - (g) screen air conditioning units.
 - (h) For those dwellings adjacent to the street frontage, the habitable rooms must face the street.

carport located directly adjoining the boundary which does not comply.

The existing building is two (2) storeys. The existing rear setback is 8.05m which complies. However, the northern side boundary setback is a minimum of 1.57m which does not comply.

No, variation sought.

SEPP 65 does not apply as there are less than 4 units and the development is two storeys. As such, there is no requirement for a design verification statement.

Yes

The proposed design does not contribute or detract from the urban character of the streetscape, with a front elevation that presents as a residential house to LHD and does not overwhelm the streetscape. It is mostly sympathetic to neighbouring residential buildings which are more traditional and "domestic" in style. The RFB does not follow the traditional RFB form of defined base, middle and top.

Articulation and combination of building materials proposed to all elevations.

No highly reflective finishes and curtain wall glazing proposed.

Mix of materials proposed.

Two separate pedestrian entries are in place both accessed from Hennings Lane. Unit 1 has its own entry whilst units 2 and 3 share a common entry/stairwell and upper level hallway.

(i) The main pedestrian entrance or a foyer must be 1.2m or less above natural ground level.

(j) Entrances must be visible at eye level from the street and well lit. Ensure entrances can accommodate the movement of furniture.

6.6 Visual privacy

- Site and design buildings to maximise visual privacy between buildings through compliance with minimum front, side and rear setback / building separation requirements.
- Internal layout of buildings should be designed to minimise direct overlooking impacts upon habitable rooms and private balcony/open space courtyards, wherever possible by separating communal open space and public domain areas from windows of rooms, particularly sleeping room and living room areas.
- Buildings are to be designed to increase privacy without compromising access to sunlight and natural ventilation.
- Habitable room windows in the subject building with a direct sightline to habitable room windows in an adjacent dwelling within 12 metres must be:
 - (a) Off-set from the edge of one window to the edge of the other by a distance sufficient to limit views into the windows of the adjacent building; or
 - (b) Sill heights at least 1.7 metres above floor level; or
 - (c) Fixed obscure glazing in any part of the window below 1.7 metres above floor level.
- Windows, balconies, stairs, terraces, decks, verandahs or other private areas which provide direct overlooking opportunities from the development into the private open space courtyard of an adjoining property must be obscured or screened.

Side setbacks are significantly less than required. However, minimal overlooking opportunities exist between the units and also to other adjoining sites. These visual impacts have been reviewed and established during the original assessment and approval of the attached dual occupancy. No change to these windows and balconies is proposed.

Solar access is maintained consistent with the previous approval.

Yes

<p><u>6.7 Acoustic privacy</u></p>	<ul style="list-style-type: none"> • Mitigation between internal noise transmission. • Migration against sources of external noise. 	<p>The units are arranged in such a way that impacts regarding internal noise transmission to each active living area and sleeping spaces is minimised.</p>	<p>Yes</p>
<p><u>6.8 Car Parking Requirements</u></p>	<ul style="list-style-type: none"> • As per the requirements of Chapter E3. 	<p>See Chapter E3.</p>	
<p><u>6.9 Basement Car Parking</u></p>		<p>N/A</p>	<p>N/A</p>
<p><u>6.10 Access Requirements</u></p>	<ul style="list-style-type: none"> • All vehicles must be able to leave the site in a forward direction. • Driveway grades must comply with AS 2890.1. 	<p>Vehicle access is available from Hennings Lane and allows vehicles to enter and exit the site in a forward direction. Driveway grades are compliant with AS 2890.1. Council's Development Engineer has also reviewed the application and is satisfied subject to conditions.</p>	<p>Yes</p>
<p><u>6.11 Landscaping Requirements</u></p>	<ul style="list-style-type: none"> • A minimum of 30% of the total site area must be provided as landscaped area. • The landscaped area may also include landscaping on a podium, where that section of the podium is less or equal to than 1.2 metres in height and the minimum soil standards below are achieved. Any landscaped area on the site which is less than 1.5 metres in width is not included within the landscaped area calculations. • The required landscaped area must include a minimum 1.5 metre wide landscaping bed, which is provided along the side and rear boundaries of the site. 	<p>The landscaped area provided onsite is 68m² which does not comply. However, opportunities to further develop landscaped areas onsite are not possible owing to the location of the existing building onsite which was approved under different controls in the past.</p>	<p>No, variation sought.</p>
<p><u>6.12 Deep Soil Zone</u></p>	<ul style="list-style-type: none"> • A minimum of half of the landscaped area (i.e. 15% of the site) must be provided as a deep soil zone, where the deep soil zone is not located at the rear of the site. • The deep soil zone may be located in any position on the site, other than forward of the building line, 	<p>As outlined above at Section 6.11 landscaped areas are limited based on the existing approved built form. As such, compliance with this control cannot be achieved.</p>	<p>No, variation sought.</p>

subject to this area having a minimum dimension of 6m.

- Alternatively, the deep soil may extend along the full length of the rear of the site, with a minimum width of 6m.
- The area of deep soil planting must be contiguous.
- No structures are permitted within the DSZ.
- The DSZ must be densely planted with trees and shrubs.
- DSZ must be retained in the common property and managed by the body corporate.

6.13 Communal Open Space

- COS required in RFBs with more than 10 dwellings.

6.14 Private Open Space

- Ground level units must have a terrace of 25sqm and a min width of 2m; separated from boundaries by at least 1.5m with a landscape bed.
- The primary POS of at least 70% of the dwellings must receive a minimum of 3 hours of direct sunlight between 9.00am and 3.00pm on June 21.
- POS should be sited in a location which provides privacy, solar access, and pleasing outlook and has a limited impact upon adjoining neighbours.
- POS to act as extension of internal living areas.
- Screen where appropriate to ensure privacy.
- Where POS is provided in the form of a balcony, avoid locations where they address side boundaries.
- Where POS is provided in the form of a balcony, minimum area of 12sqm open space and a minimum depth of 2.4 metres is required.

6.15 Adaptable Housing

- 10% of all dwellings (or at least one dwelling) must be designed to be capable of adaptation for disabled or elderly residents. Dwellings must be designed in accordance with the

Not required; only 3 dwellings proposed.

Each proposed dwelling has access to a balcony or terrace with adequate solar access and outlook to achieve POS requirements. Each POS will act as an extension of the internal living areas.

No adverse impacts will result for neighbouring properties.

The minimum depth requirements for Unit 3 balcony are not achieved.

N/A

No, variation sought.

Plans and an Access Report have been provided outlining that Unit 1 can be readily converted into an adaptable dwelling as required. Conditions of consent have been recommended in

Conditioned

<p>Australian Adaptable Housing Standard (AS 4299:1995), which includes “preadaptation” design details to ensure visitability is achieved.</p> <ul style="list-style-type: none"> The DA must be accompanied by certification from an accredited Access Consultant confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Adaptable Housing Standard (AS 4299:1995). 	<p>relation to any future conversion requirements in Attachment 6.</p>	
<p><u>6.16 Access for People with a Disability</u></p> <ul style="list-style-type: none"> Provide a continuous path of travel to the development to ensure equitable access for all people including people with a disability. 	<p>As above at 6.15.</p>	
<p><u>6.17 Apartment Size and Layout Mix for Larger Residential Flat Building Developments</u></p> <ul style="list-style-type: none"> Only applies to RFBs containing more than 10 dwellings. 	<p>N/A</p>	<p>N/A</p>
<p><u>6.18 Solar Access</u></p> <p><i>Solar Access into Residential Apartment Buildings</i></p> <ul style="list-style-type: none"> Design RFB to maximise number of dwellings with a northern aspect; orientate living spaces and balconies towards the north. Maximise the number of apartments with a dual orientation. Single aspect, single storey apartments should preferably have a northerly or easterly aspect and a reduced depth to allow for access of natural light to all habitable spaces. Utilise shading devices where necessary, particularly on habitable rooms on western elevation. Living rooms and private open space of at least 70% of apartments should receive a minimum of three hours of direct sunlight between 9.00am and 3.00pm. The number of single aspect apartments with a southerly aspect (south-westerly to south-easterly) is limited to a maximum of 10% of the total number of apartments proposed. 	<p><i>Proposed building:</i></p> <p>All three (3) dwellings achieve appropriate levels of solar access as they have either east or north-west facing balconies and living room windows. These outcomes were established at the time of approval of the original application.</p>	<p>Yes</p>

- Provide vertical shading to eastern and western windows.

Solar Access into Living Areas and Private Open Space Area of Adjoining Properties Neighbouring development

- design of the development must have regard to the existing and proposed level of sunlight which is received by living areas and private open space areas of adjacent dwellings.
- retain the maximum amount of sunlight for adjacent residents.
- Windows to living rooms and private space areas in adjacent residential buildings must receive at least 3 hours of direct sunlight between 9.00am and 3.00pm on June 21.
- At least 50% of the POS areas of adjoining residential properties must receive at least 3 hours of sunlight between 9.00am and 3.00pm on June 21.
- Shadow diagrams required for hourly intervals between 9am – 3pm for 21 June which show the extent of overshadowing upon dwellings and rear private open space areas of adjoining dwellings.

6.19 Natural Ventilation

- RFBs shall have a building depth of between 10 - 18m, measured across the shortest dimension of the building excluding the depth of unenclosed balconies.
- Dwellings should be a maximum depth of 21m, measured from the outside of the balcony.
- A minimum of 60% of all apartments shall be naturally cross ventilated.

Neighbouring development

No adverse impacts will result for adjoining or nearby residential development based on the location of the existing built form and north side location of Hennings Lane. No further external works are proposed.

All units comply with the ventilation requirements.

4.4 Variation Statements

The proposed development seeks multiple variations to the DCP development controls within Chapter B1, primarily on the basis of what was already approved for the existing building. Each is addressed below with respect to the criteria required by Section 8 of Chapter A1 of WDCP 2009, being:

- a) *The control being varied; and*
- b) *The extent of the proposed variation and the unique circumstances as to why the variation is requested; and*
- c) *Demonstrate how the objectives are met with the proposed variations; and*
- d) *Demonstrate that the development will not have additional adverse impacts as a result of the variation.*

Table 4-2 WDCP 2009 variation request summary table.

Control and objectives	Extent of variation	Meeting of control objectives	Will there be additional adverse impacts?
<p>6.2 Minimum Site Width Requirement</p> <p>6.2.1 Objectives</p> <p>(a) <i>To allow for development of sites, which are of sufficient width to accommodate the required building envelope, car parking and landscaping requirements.</i></p> <p>(b) <i>To promote the efficient utilisation of land.</i></p> <p>(c) <i>To encourage amalgamation of allotments to provide for improved design outcomes including greater solar access and amenity.</i></p>	<p>Site width of 24m is required, measured perpendicular to site boundary (6.2.2(1)).</p> <p>Site has a minimum width of 14.47m measured north to south.</p> <p>This is based off Lawrence Hargrave Drive being the front of the building despite the front entrance being off Hennings Lane.</p> <p>The minimum width from east to west is 37.21m.</p> <p>See also the Clause 4.6 Variation Statement (Appendix A).</p>	<p>The layout of the existing building, which is appropriately accessed from the Hennings Lane, but addresses LHD, provides for an efficient use of the site despite not meeting the objective.</p> <p>Solar access and amenity for residents and neighbours is not impeded by the variation.</p>	<p>The change of use of the existing building to formally accommodate the third dwelling will not have any additional impacts with regard to the control and its objectives.</p>
<p>6.3 Front Setbacks</p> <p>6.3.1 Objectives</p> <p>(a) <i>To reinforce the existing character of the street by acknowledging building setbacks.</i></p> <p>(b) <i>To define the spatial proportions of the street and define the street edge.</i></p> <p>(c) <i>To provide a transition between the public and private domain.</i></p>	<p>The setback to Hennings Lane is required to be 3m (6.3.2(2)).</p> <p>The minimum setback on the existing building is 1.5m.</p> <p>The front terrace/balcony is required to have a minimum setback of 5.1m (6.3.2(3)).</p>	<p>Setbacks to Hennings Lane are minimal to non-existent along the entire street. The existing building is consistent with this.</p> <p>The existing building therefore meets the objectives of providing consistency along Hennings Lane.</p> <p>Separation between the public and private domains is assured in the</p>	<p>The change of use of the existing building to formally accommodate the third dwelling will not have any additional impacts with regard to the control and its objectives.</p>

Control and objectives	Extent of variation	Meeting of control objectives	Will there be additional adverse impacts?
<p><i>(d) To promote compatibility in front setbacks to provide unity in the building line.</i></p>	<p>The minimum setback of the front terrace is 3.2m.</p>	<p>case of the front terrace due to the elevation of the lot from the street and footpath, which is defined by a large pre-existing rendered retaining wall.</p>	
<p>6.4 Side and Rear Setbacks / Building Separation</p> <p>6.4.1 Objectives</p> <p><i>(a) To provide adequate setbacks from boundaries and adjoining dwellings to retain privacy levels, views, sunlight and daylight access and to minimise overlooking.</i></p> <p><i>(b) To optimise the use of land at the rear of the property and surveillance of the street at the front of the property.</i></p> <p><i>(c) To control overshadowing of adjacent properties and private or shared open space.</i></p> <p><i>(d) To encourage setbacks which reflect the rhythm of building siting and the separation between.</i></p> <p><i>(e) To ensure that new development is scaled to support the desired area character with appropriate massing and space between buildings.</i></p>	<p>The building requires a setback on the north side of 6m where there are habitable rooms (6.3,4(1)).</p> <p>The existing building has a minimum setback of 1.38m on the north side.</p>	<p>The neighbouring building to the north is a commercial building with a lower height, which features no windows on the shared boundary. Consequently, there are no impacts to sunlight, privacy or massing for either building.</p> <p>The objectives are therefore met or otherwise not impacted.</p>	<p>The change of use of the existing building to formally accommodate the third dwelling will not have any additional impacts with regard to the control and its objectives.</p>
<p>6.8 Car Parking Requirements</p> <p>6.8.1 Objectives</p> <p><i>(a) To provide an adequate level of on site car parking based upon anticipated occupancy rates.</i></p> <p><i>(b) To ensure that residential developments are designed to be</i></p>	<p>To accommodate the three proposed units, 5 private parking spaces, 1 visitor parking space, 2 bicycle spaces and 1 motorcycle space are required.</p> <p>Four (4) car spaces are provided (deficient by 1 space, generated by</p>	<p>The controls are based on anticipated car parking required and relates to the size (GFA) of the unit. Proposed Unit 2 and 3 will each be provided one space each, which is satisfactory for the occupancy rates, (demonstrated by the current parking arrangement meeting the needs of three units). The close proximity of</p>	<p>The change of use of the existing building to formally accommodate the third dwelling will not have any additional impacts with regard to the control and its objectives.</p>

Control and objectives	Extent of variation	Meeting of control objectives	Will there be additional adverse impacts?
<p>accessible for pedestrians, cyclists and motorists.</p> <p>(c) To ensure integrated design of car parking facilities to minimise visual impacts.</p> <p>(d) To provide underground parking, wherever feasible.</p> <p>(e) To ensure the provision of facilities such as bike racks, which encourage the use of alternative methods of transport.</p>	<p>Units 2 and 3). One (1) motorcycle space is required and is not provided</p> <p>It is noted that the parking however complies with Part 7.4 'Waiver or Reduction of Parking Spaces' of Chapter E2 which provides for Council's discretion to waive the parking requirement due to proximity to public transport.</p>	<p>various forms of public transport, high amenity walking and cycle paths, and is within walking distance to amenities are factors contributing to the reduced vehicle use.</p>	
<p>6.11 Landscaping Requirements</p> <p>6.11.1 Objectives</p> <p>(a) To preserve and retain existing native trees and vegetation and encourage the planting of additional significant vegetation,</p> <p>(b) To ensure landscape design responds to the existing site conditions including changes in levels, views, and significant landscape features including trees and rock outcrops.</p> <p>(c) To enhance the appearance of housing through integrated landscape design.</p> <p>(d) To improve the visual amenity of the City by increasing the volume of substantial vegetation in urban areas.</p> <p>(e) To reduce impervious areas on sites and increase soft landscape screening between side orientations of residential developments.</p>	<p>A minimum area of 226.8m² is to be dedicated to landscaping (6.11.2(1)).</p> <p>17m² of landscaping (>1.5m wide) is provided, principally along the western boundary.</p>	<p>The proposal does not involve removal of any native trees or vegetation, and instead includes replanting of the approved landscape beds with further native species.</p> <p>The Landscape Plan from Ayling Drury seeks to respond to the conditions of the site, as they have existed for nearly two decades, and significantly increase native plantings of a variety of species and habits to provide further greenery and screening.</p> <p>Despite the restrictions from the existing development footprint, the proposal is considered to meet the objectives.</p>	<p>The change of use of the existing building is accompanied by a contemporary, native species focused landscape plan which will only improve the amenity of the site.</p>

Control and objectives	Extent of variation	Meeting of control objectives	Will there be additional adverse impacts?
<p>6.12 Deep Soil Zone</p> <p>6.12.1 Objectives</p> <p><i>(a) To protect existing mature trees on a site and encourage the planting of additional significant vegetation.</i></p> <p><i>(b) To encourage the linkage of adjacent deep soil zones on development sites, to provide habitat for native indigenous plants and birdlife and provide privacy and amenity for existing and future residents.</i></p> <p><i>(c) To allow for increased water infiltration.</i></p> <p><i>(d) To contribute to urban biodiversity.</i></p>	<p>A minimum area of 113.4m² is to be retained for deep soil zone (6.12.2(2)).</p> <p>Due to the existing development on the site, 17m² of deep soil zone is provided.</p>	<p>The proposal does not include any further loss of deep soil zone, however it does propose to make better use of existing approved spaces by planting trees and vegetation as with native trees and vegetation as per the Landscape Plan.</p> <p>This will meet the objectives of providing further habitat for native species, optimising water infiltration, and generally contributing to urban biodiversity in the area.</p>	<p>The change of use of the existing building is accompanied by a contemporary, native species focused landscape plan which will only improve the amenity of the site.</p>
<p>6.14 Private Open Space</p> <p>6.14.1 Objectives</p> <p><i>(a) To ensure that private open spaces are of sufficient size to accommodate a range of uses and are accessible and connected to indoor spaces where appropriate.</i></p> <p><i>(b) To ensure functionality of private open space by reducing overlooking and overshadowing of such spaces.</i></p> <p><i>(c) To ensure that balconies are integrated into the overall architectural form and detail of residential flat buildings.</i></p> <p><i>(d) To ensure balconies are functional and responsive to local context and climate thereby promoting the enjoyment of outdoor living for residents.</i></p>	<p>Private open space areas must have front setbacks of 5.1m (6.14.2(2c) – consistent with front setback controls above).</p> <p>The terrace/balcony for Unit 1 has a front setback of 3.2m.</p> <p>Balconies are required to have a minimum depth of 2.4m (6.14.2(3b)).</p> <p>The balcony for Unit 3 has a minimum depth of 1.42m.</p>	<p>Balconies/terraces for all dwellings have high quality views and minimal or no privacy impacts. They are placed adjacent to and serve as an extension of their respective main living areas.</p> <p>The Unit 3 balcony, despite restricted width in some areas, is in excess of the minimum size for balconies and provides significant amenity and functionality to the residents.</p>	<p>The change of use of the existing building to split the top floor into two separate units will result in each unit having access to a single balcony.</p> <p>The impacts of this however are negligible due to the large amount of amenity which each balcony provides on its own.</p>

Attachment 6 – Conditions

Approved Plans and Specifications

- 1 The development shall be implemented substantially in accordance with the details and specifications set out on Drawing 2006-DA01-B to 2006-DA06-B dated 29 October 2021 and 2006-DA09-A and 2006-DA10-A dated 28 May 2021 prepared by Morgan Dickson Architecture 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 **Disability Discrimination Act 1992**
This consent does not imply or confer compliance with the requirements of the Disability Discrimination Act 1992.

It is the responsibility of the applicant to guarantee compliance with the requirements of the Disability Discrimination Act 1992. The current Australian Standard AS1428.1 (2009) – Design for Access and Mobility is recommended to be referred for specific design and construction requirements, in order to provide appropriate access to all persons within the building.
- 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. The developer must install minimum two (2 No.) reflective paint house number on face of kerb along street frontage of the property to assist emergency services/deliveries/visitors.
- 6 **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.
- 7 **Tree Management**
The developer shall retain existing street trees indicated on Landscape Plan by Ayling Drury Dwg. No. AD2013/DA-01 dated 19 February 2021 consisting of noted trees along rear and side boundary. Total number: fourteen. (14 No.).

Any branch or root pruning which has been given approval, must be carried out by a qualified arborist in accordance with Australian Standard AS 4373:2007.

All tree protection measures are to be installed in accordance with Australian standard AS 4970:2009 Protection of Trees on development Sites.

Tree Protection measures to be implemented including and not restricted to: site induction, compliance documentation, modified footings, sub surface utility siting, crown lifting, remedial tree pruning, deadwooding, fencing and signage, sediment buffer, stem protection, establishing tree protection zones (TPZ) and watering and root hormone application if required. Soil levels within the TPZ must remain the same.

The developer shall remove existing tree, a senescing *Leptospermum* (Tea tree). Total number: one (1 No.). No other trees shall be removed without prior written approval of Council.

Prior to the Issue of the Construction Certificate

8 Building Code of Australia – Fire Safety Upgrade

The following information will be required to be detailed on the plans or supporting documentation to the PC, prior to the issue of the Construction Certificate. This condition relates to fire safety upgrade considerations under Clause 94 of the Environmental Planning & Assessment Regulation 2000 and relates to the building. The upgrade work shall be carried out in accordance with the National Construction Code Series (BCA) Volume 1.

- Any works requiring upgrade or a Performance Solution as identified in BCA Report prepared by My Building Certifier dated 1 November 2021, details/plans/specifications of such works shall be included in the Construction Certificate documentation.
- All building elements separating Sole Occupancy Units must achieve the required Fire Resistance Level in accordance with Specification C1.1 of the National Construction Code Series (BCA) Volume 1.
- Protection of openings located in external walls required to achieve a Fire Resistance Level (FRL) in accordance with Part C3.4 of the National Construction Code Series (BCA) Volume 1.

9 Present Plans to Sydney Water

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

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

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

10 Car Parking and Access

The development shall make provision for a total of four (4) car parking spaces and one (1) visitor car parking 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.

11 Landscaping

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 typical of the Illawarra Region such as: *Syzygium smithii* (formerly *Acmena smithii*) Lilly pilly, *Archontophoenix cunninghamiana* Bangalow palm, *Backhousia myrtifolia* Grey myrtle, *Elaeocarpus reticulatus* Blueberry ash, *Glochidion ferdinandii* Cheese tree, *Livistona australis* Cabbage palm tree, *Brachyhiton acerifolius* Illawarra Flame Tree. A further list of suitable suggested species for the Austinner area may be found in Wollongong Development Control Plan 2009 – Chapter E6: Landscaping;
- b a schedule of proposed planting, including botanic name, common name, expected mature height and staking requirements as well as number of plants and pot sizes;
- c the location of all proposed and existing overhead and underground service lines. The location of such service lines shall be clear of the dripline of existing and proposed trees;

- d any proposed hard surface under the canopy of an existing trees shall be permeable and must be laid such that the finished surface levels match the existing level. Permeable paving is to be installed in accordance with the manufacturer's recommendations;
- e the developer shall ensure that proposed planting is child friendly and must **not** include any of the types of plants listed below: **i)** plants known to produce toxins; **ii)** plant with high allergen properties; **vi)** any weed or potential weed species;
- f plant selection to be suitable for harsh coastal environment.

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

- 12 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.

- 13 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.

14 **Compensatory Planting**

The developer should make compensatory provision for the trees required to be removed as a result of the development. In this regard, one (1 No.) 75 litre container advanced mature plant stock should be placed within the property boundary of the site in appropriate locations. The suggested species are to be selected from the following list: *Elaeocarpus reticulatus* Blueberry ash, *Banksia integrifolia* Coastal Banksia, or *Brachychiton acerifolius* Illawarra Flame Tree. A further list of suitable suggested species may be found in Wollongong Development Control Plan 2009 – Chapter E6: Landscaping.

15 **Tree Protection Measures**

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

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

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

16 **Bicycle Parking Facilities**

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 and Austroads Guide to Traffic Management Part 11: Parking (Commentary 9: C9.2). In the absence of internal bicycle storage areas in private residential garages, the proposed external bicycle spaces are to have adequate weather protection, passive surveillance, and be secured within a lockable enclosure with access via a combination lock or communal key. This requirement shall be reflected on the Construction Certificate plans.

17 **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), 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.

18 **Development Contributions**

Pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979 and the Wollongong City-Wide Development Contributions Plan, a monetary contribution of \$565.00 (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	http://www.wollongong.nsw.gov.au/applicationpayments Your Payment Reference: 1345735	<ul style="list-style-type: none"> • Credit Card
In Person	Wollongong City Council Administration Building - Customer Service Centre Ground Floor 41 Burelli Street, WOLLONGONG	<ul style="list-style-type: none"> • Cash • Credit Card • Bank Cheque
PLEASE MAKE BANK CHEQUE PAYABLE TO: Wollongong City Council (Personal or company cheques are not accepted)		

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

Prior to the Commencement of Works

19 **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.

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

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

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

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

21 **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.

22 **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.

23 **Demolition Works**

Any demolition works shall be carried out in accordance with Australian Standard AS 2601:2001: The Demolition of Structures or any other subsequent relevant Australian Standard and the requirements of the SafeWork NSW.

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

24 **Waste Management**

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

25 **Tree Protection Implementation**

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

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

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

26 **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.

27 **Road Occupancy Licence (ROL) from Transport for NSW (TfNSW)**

If any construction unloading is proposed from Lawrence Hargrave Drive the developer shall apply for a ROL from the TfNSW Traffic Operations Unit (TOU) prior to commencing work within the classified road reserve or within 100m of traffic signals. The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified to prepare Traffic Control Plans. Should the TMP require a reduction of the speed limit, a Direction to Restrict will also be required from the TOU. Please allow two (2) weeks prior to commencement of work to process the ROL.

Note: An approved ROL does not constitute an approval to commence works until an authorisation letter for the works has been issued by the TfNSW Project Manager.

28 **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.

29 **Protection of Public Infrastructure**

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

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

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

30 **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

31 **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.

32 **Protection of Public Places**

If the work involved in the erection or demolition of a building involves the enclosure of a public place or is likely to cause pedestrian/vehicular traffic in a public place to be obstructed or rendered inconvenient, or have the potential for conflict between pedestrians and vehicles:

- a A hoarding or fence must be erected between the work site and the public place;
- b an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place;
- c the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in a public place;
- d safe pedestrian access must be maintained at all times;
- e any such hoarding, fence or awning is to be removed when the work has been completed.

33 **Copy of Consent to be in Possession of Person carrying out Tree Removal**

The applicant must ensure that any person carrying out tree removal is in possession of this development consent and the approved landscape plan, in respect to the vegetation which has been given approval to be removed in accordance with this consent.

34 **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.

35 **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.

36 **BASIX**

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

A relevant BASIX Certificate means:

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

Prior to the Issue of the Occupation Certificate

37 **Fire Safety Upgrade (Occupation Certificate)**

Prior to the issue of an Occupation Certificate all upgrade works identified in BCA Report prepared by My Building Certifier dated 1 November 2021, must be complete to the satisfaction of the Registered Certifier.

38 **Fire Resisting Construction**

Prior to the issue of an Occupation Certificate, the following building elements must be constructed to achieve the required fire resistance level (FRL) in accordance with Specification C1.1 of the National Construction Code Series (BCA) Volume 1.

- a building elements (common walls/floors) between and fire separating sole occupancy units.

39 **Protection of Openings**

Prior to the issue of an Occupation Certificate, protect all openings located in external walls constructed to achieve a FRL, in accordance with Part C3.4 of the National Construction Code Series Volume 1 (BCA).

40 **Occupation Certificate**

An Occupation Certificate must be issued by the 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.

41 **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.

42 **Completion of Landscape Works on Council Owned or Controlled Land**

The Developer must complete all landscape works required within Council's road reserve, or other Council owned or controlled land, in accordance with the conditions of this consent. The total cost of all such landscape works shall be fully borne by the Developer and any damage to Council's

assets shall be the subject of restoration works sufficient to restore the asset to its previous state and configuration previous to the commencement of works. Evidence that this requirement has been met must be satisfied prior to the issue of the Occupation Certificate.

43 **Fire Safety Certificate**

A Fire Safety Certificate must be issued for the building prior to the issue of an Occupation Certificate. As soon as practicable after a Fire Safety Certificate is issued, the owner of the building to which it relates:

- a) Must cause a copy of the certificate (together with a copy of the current fire safety schedule) to be given to the Commissioner of New South Wales Fire Brigades, and
- b) must cause a further copy of the certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building.

Prior to the Issue of the Subdivision Certificate

44 **Occupation Certificate Prior to Subdivision Certificate**

An Occupation Certificate for the dwelling/s must be issued prior to the release of the Subdivision Certificate for the Strata title subdivision. A copy of the Occupation Certificate shall be lodged to Council with the Subdivision Certificate application.

45 **Existing Easements**

All existing easements must be acknowledged on the final subdivision plan.

46 **Existing Restriction as to Use**

All existing restriction on the use of land must be acknowledged on the final subdivision plan.

47 **88B Instrument Easements/Restrictions**

Any easements or restrictions required by this consent must nominate Wollongong City Council as the authority to vary, modify or release/extinguish the easements or restrictions. The form of the easement(s) or restriction(s) created as a result of this consent must be in accordance with the standard format for easements and restrictions as accepted by NSW Land Registry Services.

48 **Final Documentation Required Prior to Issue of Subdivision Certificate**

The submission of the following information/documentation to the PC, prior to the issue of a Subdivision Certificate:

- a Completed Subdivision Certificate application form and fees in accordance with Council's fees and charges;
- b Certificate of Practical completion from Wollongong City Council or a PC (if applicable);
- c Administration sheet prepared by a registered surveyor;
- d Section 88B Instrument covering all necessary easements and restrictions on the use of any lot within the subdivision;
- e Final plan of Subdivision prepared by a registered surveyor plus one (1) equivalent size paper copies of the plan;
- f Original Subdivider/Developer Compliance Certificate pursuant to Section 73 of the Water Board (Corporatisation) Act 1994 from Sydney Water;
- g Original Notification of Arrangement from an Endeavour Energy regarding the supply of underground electricity to the proposed allotments;
- h Original Compliance Certificate from Telstra or another Telecommunications Service Provider which confirms that the developer has consulted with the Provider with regard to the provision of telecommunication services for the development.
- i Payment of section 94 fees (Pro rata) (if applicable).

Operational Phases of the Development/Use of the Site

49 **Loading/Unloading Operations/Activities**

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