

Wollongong Local Planning Panel Assessment Report – 26 October 2021

WLPP No.	Item No. 1
DA No.	DA-2021/682
Proposal	Residential - alterations and additions to an approved dual occupancy
Property	14 Kareela Road Woonona Lot 78 DP 12991
Applicant	Mrs Amy Ellis
Responsible Team	Development Assessment and Certification - City Centre Team (AS)
Prior WLPP meeting	None

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Local Planning Panel - Determination

The proposal has been referred to Local Planning Panel for determination pursuant to clause 2.19(1)(a) of the Environmental Planning and Assessment Act 1979. Under Schedule 2 of the Local Planning Panels Direction of 30 June 2020, the proposal is development which contravenes a development standard by more than 10%.

Proposal

The proposal is for alterations and additions to a dual occupancy approved under a complying development certificate. Construction of the dual occupancy has not commenced. The application involves a floor space ratio which exceeds the maximum permitted by WLEP 2009.

Permissibility

The site is zoned R2 Low Density Residential pursuant to Wollongong Local Environmental Plan 2009. The proposal is categorised as alterations to a 'dual occupancy' development and is permissible in the zone with development consent.

Consultation

The proposal was notified twice in accordance with Council's Notification Policy. Following the first notification period Council received one submission (objection). The application was renotified with the clause 4.6 request and amended plans and Council received three submissions (support) in response.

Submissions are discussed at section 1.3 of the assessment report.

Main Issues

The main issues are:

- Relationship with complying development certificate approval PC-2021/471.
- Sequencing and certification of development
- Clause 4.6 development standard departure floor space ratio (WLEP2009)
- Garages exceeding 50% building width (WDCP2009)

RECOMMENDATION

It is recommended that the application is refused for the reasons detailed in Attachment 6.

1 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the proposal:

State Environmental Planning Policies:

- SEPP No. 55 – Remediation of Land
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP (Coastal Management) 2018
- SEPP (Koala Habitat Protection) 2021

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 2019
- Wollongong Community Participation Plan 2019

1.2 DETAILED DESCRIPTION OF PROPOSAL

The proposal is a development application seeking development consent for changes to an unbuilt dual occupancy. Proposed plans are contained in Attachment 2. Approval for the dual occupancy was granted under a complying development certificate (CDC), which authorised demolition, construction of a dual occupancy and Torrens title subdivision. The CDC was issued on 2 April 2021 by a private certifier, with Council reference PC-2021/471. The approved CDC plans are set out in Attachment 3.

Currently, dual occupancy development can be undertaken either by a development application (DA) or CDC, with the design controls different for each pathway. The CDC for the subject site was issued under Part 3B Low Rise Housing Diversity provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. The SEPP prescribes design controls which must strictly be met in order to satisfy the definition of complying development. Some advantages of the CDC process are greater speed and certainty of approval, no requirement for public exhibition, and in the case of dual occupancy development, bonuses that would not otherwise be guaranteed under a DA (e.g. floor space ratio). As an example, the CDC granted a floor space ratio of 0.724:1, where WLEP 2009 permits maximum 0.5:1 for dual occupancy development.

Where an owner prefers not to design to the SEPP's prescriptive requirements, they can alternatively lodge a development application for a dual occupancy and the relevant design controls would be those in WLEP 2009 and WDCP 2009.

A CDC approval is able to be modified, subject to the proposed changes satisfying the complying development requirements. In the case of the subject property, the changes proposed under the DA do not meet the design criteria in the SEPP (e.g. setbacks, double garage, deck size) and therefore a modified CDC would not be able to be issued hence the reason for the subject application.

A landowner does have the ability to step outside the complying development certificate process and lodge a development application relating to development the subject of a CDC, but the two streams of certification cannot overlap. This is discussed further below.

Relationship between complying development certificates and development applications

Development needing consent is regulated under Part 4 of the Environmental Planning and Assessment Act (EP & A Act). The EP & A Act provides the following relevant definitions:

development application means an application for consent under Part 4 to carry out development but does not include an application for a complying development certificate

complying development certificate means a complying development certificate referred to in section 4.27.

The approval and certification processes for complying development and development applications are separate. A CDC is issued under Part 4 Division 4.5 of the EP & A Act, whereas a DA is granted under Part 4 Division 4.3 of the Act. To complete building works under either a CDC or DA, the works must be carried out in accordance with the respective approved plans and an occupation certificate obtained. The occupation certificate signals that the development authorised by the CDC or DA has been completed in accordance with the CDC or DA approval.

Significantly, it is not possible to mix CDC plans and DA plans and have a principal certifier issue one occupation certificate for the combined project.

Alterations to a CDC building

Caselaw has established that a DA can make physical changes to a CDC building, contingent upon an occupation certificate having been issued for the CDC building. This could occur in two ways;

- Where an occupation certificate or modified occupation certificate for the CDC development had been issued – an operational DA consent could be acted upon immediately; or
- Where an occupation certificate or modified occupation certificate for the CDC development had not been issued at date of DA determination - a deferred commencement DA consent would specify that the CDC occupation certificate was required prior to the DA becoming operational.

The applicant's planning consultant has referenced a legal judgement (*Pritchard v Northern Beaches Council [2020] NSWLEC 1310*), which related to alterations to a CDC development which had been commenced but not yet completed. Council has reviewed the DA and judgement and has a different interpretation of the Commissioner's judgement. Council's position is that Commissioner Gray in *Pritchard* was of the view that a DA for alterations and additions could be made to a CDC building, but only where the CDC building existed. This differs fundamentally with the circumstances of the subject DA, where the CDC has not been completed (in fact not yet commenced), therefore there is no 'building' to which proposed alterations can be made.

Commissioner Gray ultimately dismissed the appeal based on clause 4.6, but indicated that if that had been satisfactory, a deferred commencement consent would have been essential and the CDC would need to be modified to reflect the DA.

Applicant's intention regarding completion of the CDC

Council asked the applicant to explain how the CDC and DA would intersect, noting section 4.26 of the EP & A Act specifies that complying development must be constructed in accordance with the relevant complying development certificate. Clause 14 of Schedule 6A of the SEPP and clause 7 of Schedule 9 of the SEPP require works to be carried out in accordance with the plans and specifications to which the CDC relates.

The applicant has provided correspondence from the principal certifier engaged for the CDC. In it, the certifier declares they consider the DA to be able to 'modify' the CDC and they see no impediment to issuing one occupation certificate for the combined DA and CDC plans. Council disagrees with this approach. Therefore, Council understands that the applicant does not intend to complete the CDC development.

If the consent authority was of a mind to support the DA, and agreed that the CDC must be completed prior to commencement of the DA, physical changes to the completed CDC building would need to occur. These include:

- removal of the internal wall separating the single garage and media room
- removal of ground floor media room front wall including window and door opening
- removal of single garage door and replacement with double garage door
- removal of rear deck and side boundary privacy screens on rear deck to facilitate enlarged width and depth of deck
- partial removal of side boundary wall in former media room to allow new windows to be installed
- removal of Juliet balustrade in Level 1 front balcony and replacement with new balustrade at building edge

The applicant has agreed to accept a deferred commencement condition if that was the determination by Council. However, as discussed above, it is unclear whether the applicant intends to complete the CDC which would be the essence of the deferred commencement condition.

The applicant also alternatively suggested that Council could impose a condition of consent pursuant to section 4.17(b) of the EP&A Act requiring the modification of the CDC. However, as noted above, analysis of the SEPP shows that the proposed works could not be approved under the SEPP and therefore a modified CDC could not be obtained.

Proposed DA works

The DA as originally lodged proposed to move the building forward on the site, reducing the front setback and enlarging the rear yard. These plans were the subject of the first notification period. The proposal was amended on 17 September 2021 and the current plans generally reinstate the building footprint in the position approved in the CDC. These revised plans were exhibited in the second notification period.

The proposed DA works now are:

- Amended floor plans Dwellings A and B
- Front door to street deleted.
- Reduction in GFA and FSR compared to CDC. This is a result of the WLEP 2009 calculation method, arising from double garages being excluded from GFA calculations. No actual reduction in bulk and scale is proposed.
- New front balconies Dwellings A and B (CDC approved Juliet-type balustrade)
- Conversion of media rooms to garage in each dwelling, creating 6mx 6m and 6m x 6.5m double garage (CDC approved 3m x 5.47m single garage and media room in each dwelling).
- New garage window on side boundary of each dwelling (CDC approved blank walls).
- Expand Dwellings A and B Level 1 rear terrace, reducing side setbacks
- Reliance on side door only for dwelling entry (CDC approved a front door in the media room).
- Amended window schedule
- Amended location of privacy screens
- Amended roof profile (CDC approved a party wall extending above the parapet)
- Extending rear privacy screens

Table 1: Comparison approved CDC and proposed DA

	Approved Complying Development Certificate PC-2021/471	Proposed DA-2021/682	Difference
Lot size	Lot 1 (Dwelling A): 307.6m ² Lot 2 (Dwelling B): 306.4m ²	Lot 1 (Dwelling A): 307.6m ² Lot 2 (Dwelling B): 306.4m ²	No change
Building height	Approx. 7.72m 7.1m floor to ceiling. RL7.000 ground level & RL13.600 ceiling Level 1	7.1m floor to ceiling. RL7.000 ground level & RL13.600 ceiling Level 1	Plans show heights at different parts of roof so comparison not equivalent. Ground and ceiling RLs are the same. Slight difference in roof plan with removal of party wall.
Gross floor area	Dwelling A: 223.8m ² Dwelling B: 221.2m ² Combined 445.5m ²	Dwelling A: 211.3m ² Dwelling B: 205.2m ² Combined 416.5m ²	Decreased (media room becomes garage, which is excluded from GFA)
Floor space ratio	Lot 1 (Dwelling A): 0.727:1 Lot 2 (Dwelling B): 0.721:1 Combined 0.724:1	Lot 1 (Dwelling A): 0.686:1 Lot 2 (Dwelling B): 0.669:1 Combined 0.678:1	Decreased (media room becomes garage, which is excluded from GFA)
Front setback	Ground: 5.4m to party wall; 6.85m to media room (Dwelling A); 6.6m to media room (Dwelling B) Level 1: 5.4m to party wall; 5.6m (Dwelling A); 6.3m balcony (Dwelling B)	Ground: 6.7m to garage (Dwelling A); 7.18m garage (Dwelling B); Level 1: 5.93m balcony (Dwelling A); 6.43m balcony (Dwelling B)	Varies ground floor Increased Level 1
Rear setback	Ground: 6.65m to patio edge (Dwelling A); 6.40m (Dwelling B); Level 1: 8.37m to L1 terrace (Dwelling A); 8.24m to L1 terrace (Dwelling B)	Ground: 6.72m to patio edge (Dwelling A); 6.47m (Dwelling B) Level 1: 8m to L1 terrace (Dwelling A); 8m to L1 terrace (Dwelling B)	Increased at ground floor; decreased at Level 1 due to expanded rear terrace
Side setback (west)	Ground: minimum 1.09m Level 1: 0.8m (front balcony screen); 1.35m (rear terrace screen); 3m (rear terrace)	Ground: minimum 1.09m Level 1: 0.8m (front balcony screen); 1.30m (rear terrace screen); 1.75m (rear terrace)	Level 1 setback decreased - rear terrace enlarged width and comes closer to side boundary.

	Approved Complying Development Certificate PC-2021/471	Proposed DA-2021/682	Difference
Side setback (east)	Ground: minimum 1.12m Level 1: 0.8m (front balcony screen); 1.35m (rear terrace screen); 3m (rear terrace)	Ground: minimum 1.12m Level 1: 0.8m (front balcony screen); 1.30m (rear terrace screen); 1.75m (rear terrace)	Level 1 setback decreased - rear terrace enlarged width and comes closer to side boundary.
Private open space	Ground: rear patio Level 1: Dwelling A rear terrace 2.70m x 4.44m (11.98m ²); Dwelling B rear terrace 2.72m x 4.46m (12.13m ²)	Ground: rear patio Level 1: Dwelling A rear terrace 3.175m x 5.691m (18.06m ²); Dwelling B rear terrace 3.026m x 5.712m (17.28m ²)	Ground no change Level 1 terrace increased both dwellings
Car parking	Single garage each dwelling plus stacked parking Separate driveway each dwelling	Double garage each dwelling plus stacked parking Separate driveway each dwelling	Parking spaces increased No change to hardstand area.
Landscape Plan	DA-1609/1 Rev B dated 16/2/21 by Captivate Landscape Design	DA-1609/1 Rev A dated 19/1/21 by Captivate Landscape Design	DA plan doesn't reflect revised front elevation in DA proposal
Landscaped area	207.2m ² 43.9m ² provided in front of building line	No calcs provided but landscaped area as shown on landscape plan appears similar	DA plan doesn't reflect revised front elevation in DA proposal
Deep soil zone	Not identified on plans. SEPP only requires 1 large tree per dwelling	Not identified on plans	No change
Demolition	All structures	All structures	No change
Torrens lot size	Lot 1/Unit A: 307.6m ² Lot 2/Unit B: 306.4m ²	Lot 1/Unit A: 307.6m ² Lot 2/Unit B: 306.4m ²	No change

The development is not integrated or designated development.

1.3 BACKGROUND

The following applications have been made in respect of the land.

Application Number	Description	Decision	Decision Date
BA-1961/2254	Additions & Garage	Approved	08-Nov-1961
BA-1972/1591	Additions	Approved	31-Jul-1972
BA-1974/614	Additions	Approved	22-Mar-1974

BA-1975/2014	Additions	Approved	17-Sep-1975
DA-2012/1053	Residential - covered deck	Approved	25-Sep-2012
PC-2012/842	Residential - covered deck	Approved	27-Sep-2012
DA-2015/1424	Residential - alterations to front fence and new gates	Approved	25-Nov-2015
PC-2016/912	Residential - alterations to front fence and new gates	Approved	28-Jun-2016
DA-2020/667	Residential - demolition of existing dwelling, garage and outbuildings, construction of an attached dual occupancy and two (2) lot torrens title subdivision	Withdrawn	10-Jul-2020
PC-2021/471	Demolition of existing dwelling and construction of a two storey attached dual occupancy and related landscaping	Approved	02-Apr-2021

No pre-lodgement meeting was held for the proposal.

Development application DA-2020/667 proposed a dual occupancy similar to the current DA, with 0.69:1 FSR, recessed side entries and double garages. DA-2020/667 was withdrawn by the applicant on 10 July 2020. The complying development certificate application was lodged with a private certifier in January 2021 and an approval issued on 2 April 2021.

Customer service actions

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

1.4 SITE DESCRIPTION

The 613.4m² site is located at 14 Kareela Road Woonona and the title reference is Lot 78 DP 12991.

The survey plan submitted with PC-2021/471 shows a relatively flat rectangular lot with dimensions 15.24m front and rear boundary, 40.35m eastern boundary and 40.16m western boundary.

Adjoining development is as follows:

- North: Ocean Park (public reserve)
- East: two storey dwelling house (no. 12)
- West: single storey dwelling house (no 16)

The locality is characterised by low density residential development, primarily detached dwelling houses but with some more recent dual occupancy development.

Property constraints

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

- Acid sulfate soils class 4

There are no restrictions on the title

1.5 SUBMISSIONS

The plans initially lodged were exhibited 18 June-2 July 2021 in accordance with Council's Community Participation Plan 2019. One submission (objection) was received.

The amended plans dated 17 September 2021 and the clause 4.6 request were notified 21 September-5 October 2021 and three submissions (support) were received.

Properties notified of the application are shown in Figure 1 below.



Figure 1: Notification map - notified properties in red

Matters raised in all submissions are discussed in Tables 2 and 3 below.

Table 2: Submissions – objection (first notification period)

Concern	Comment
1. Complying development certificate PC-2021/471	
How was CDC approved when FSR exceeded FSR allowed under WLEP 2009?	The CDC did not have to comply with the maximum FSR in WLEP 2009. For the CDC, a greater floor space ratio is allowed under clause 3B.10 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
Neighbours weren't given notice of PC-2021/471. Should certifier have provided notice?	In Wollongong local government area, a certifier is not required to advise neighbours that a CDC application has been lodged nor of the outcome of that application. Clause 136AB of the Environmental Planning and Assessment Regulation requires the developer to tell neighbours 2 days before starting to build the approved development.
2. Errors in plans	
Inconsistencies regarding privacy screens on plans A03.01 and A07.02	Elevations identified screens as type 'SC-01', without being further detailed elsewhere. Floor plans appear to indicate angled fixed panels, which is not readily apparent on elevations.
3. Compliance with WDCP 2009	
Front setback should comply with section 4.4.4(a) as applies to all other properties on northern side of Kareela Road.	The plans exhibited in the first notification period proposed to move the CDC building forward by 0.8m, reducing the front setback and increasing the rear

Concern	Comment
	setback. The amended plans exhibited in the second notification period increase the front setback.

Table 3: Submissions – support (second notification period)

Matters raised	Comment
2. Car Parking	
Double garages will help reduce demand for on street parking	WDCP 2009 requires 2 car parking spaces for dwellings over 125m ² . The CDC plans approved a single space per dwelling.
3. Building Design	
Design will complement other dwellings in the street	Noted
Design befits the modern character that Kareela Road is moving towards	The DA seeks approval for design changes that do not comply with WDCP 2009 and are not supported (e.g. garage width, recessed side entry). No other recent DAs have been approved in Kareela Road with similar non-compliances – refer Table 4 below.
Design, setbacks GFA and overall planning appear consistent with others already approved in the street.	No other recent DAs have been approved in Kareela Road with similar non-compliances – refer Table 4 below.

Table 4: Development consents Kareela Road

Property	Most recent consent (CDC or DA) for dual occupancy or single dwelling under WDCP 2009	FSR	Garage width	Entry location
North side Kareela Road				
2	DA-2011/1076 'Residential – alterations and additions to existing dwelling house'	0.341:1	Dwelling house with single garage. Door opening 3m = 27% width	Door on front elevation and visible from street
4	1989			
6	DA-2012/810 'Residential - alterations and additions to existing dwelling and construction of a secondary dwelling (granny flat)'	0.5:1	Dwelling house with single garage. Door opening 2.6m = 20% width	Door on front elevation and visible from street
8	1958			
10	DA-2011/16 'Two storey dwelling-house and double garage'	0.37:1	Dwelling house with double garage. Door opening 3m = 27% width	Door on front elevation and visible from street

Property	Most recent consent (CDC or DA) for dual occupancy or single dwelling under WDCP 2009	FSR	Garage width	Entry location
			opening 4.82m = 37% width	visible from street.
12	DA-2012/1060 'Residential - new dwelling house and demolition of existing dwelling'	0.43:1	Dwelling house with double garage. Door opening 5.38m = 43% width	Door on front elevation and visible from street.
16	DA-2014/820 'Residential - demolition of existing structures and construction of dwelling house'	0.36:1	Dwelling house with double garage. Door opening 5.2m = 37% width	Door on front elevation and visible from street.
18	2002			
20	1999			
22	No record			
24	1963			
26	DA-2011/902 'Residential - dwelling house'	0.42:1	Dwelling house with double garage. Door opening 4.7m = 37% width	Door on front elevation and visible from street.
28	DA-2016/1243 'Residential - demolition of existing structures and construction of dwelling house and swimming pool'	0.47:1	Dwelling house with double garage. Door opening 4.8m = 36% width	Door on front elevation and visible from street.
30	1998			
South side Kareela Road				
1	1998			
3A & 3B	DA-2017/466 'Residential - demolition of existing structures, construction of a dual occupancy and Subdivision - Torrens title - two (2) lots'	0.49 & 0.5:1 following subdivision	Side by side dual occupancy, each dwelling double garage. Door opening 5.1m = 81 & 84%	Recessed side entry, not visible from street.
5	DA-2021/14 'Residential - demolition of dwelling and existing structures, construction of attached dual occupancy and Subdivision - Torrens title - two (2) lots'	0.48:1 each dwelling following subdivision	Side by side dual occupancy, each dwelling single garage. Door opening 2.89m = 43% width	Door on front elevation and visible from street
7	DA-2013/928 'Residential - demolition of existing	0.33:1	Dwelling house with double garage. Door	Door on front elevation and

Property	Most recent consent (CDC or DA) for dual occupancy or single dwelling under WDCP 2009	FSR	Garage width	Entry location
	dwelling and construction of a new dwelling'		opening 5.3m = 34% width	visible from street
9	No record			
11	No record			
13	1997			
15	1980			
17	1975			
19	2002			
21	2004			
23	DA-2012/1386 'Residential - additions to dwelling and new art studio and carports'	0.33:1	Dwelling house with car space. No garage.	Door on front elevation and visible from street

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Counsel has indicated that the landowner has the following options in the circumstances:

- Complete the CDC as approved, or
- Lodge a development application for the changes to the CDC, with any consent requiring the CDC to be completed before the DA could be actioned, or
- Lodge a development application for a dual occupancy, incorporating the whole building.

As discussed in section 1.1 above, the owner has elected to lodge a DA for changes to the CDC.

1.6.2 EXTERNAL CONSULTATION

None required

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

1.7 Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994

This Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 and Part 7A of the Fisheries Management Act 1994 that relate to the operation of this Act in connection with the terrestrial and aquatic environment.

NSW BIODIVERSITY CONSERVATION ACT 2016

Section 1.7 of the Environmental Planning and Assessment Act 1979 (EP&A Act) provides that the EP & A Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 (BC Act).

Part 7 of the BC Act relates to Biodiversity assessment and approvals under the EP&A Act where it contains additional requirements with respect to assessments, consents and approvals under this Act.

Clause 7.2 of the Biodiversity Conservation Regulation 2017 provides the minimum lot size and area threshold criteria for when the clearing of native vegetation triggers entry of a proposed development into the NSW Biodiversity offsets scheme. The proposal does not trigger the requirement for a biodiversity offset scheme.

The site is not identified as being of high biodiversity value on the Biodiversity Values Map. The development would not be considered to result in adverse impacts on biodiversity and is consistent with the provisions of the Biodiversity Conservation Act 2016.

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

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

Matters for consideration under clause 7 are satisfactory. The land is considered suitable for the proposed use. No prior development authorised a use listed in the SEPP Guidelines as requiring further investigation. The land is not identified as contaminated or potentially contaminated in Council's records. No further investigation reports are considered necessary for this application.

2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

The proposal is BASIX affected development to which this policy applies. In accordance with Schedule 1, Part 1, 2A of the Environmental Planning and Assessment Regulation 2000, a BASIX Certificate has been submitted in support of the application demonstrating that the proposed scheme achieves the BASIX targets.

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

2.1.3 STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT) 2018

The land is identified as being located in the coastal use area.

Part 2 Development controls for coastal management areas

Division 4 Coastal use area

14 Development on land within the coastal use area

Matters for consideration under subclauses 1 and 2 are satisfactory. The site is located within 200m of the beach, however access to the foreshore is not impacted by the development. The northern boundary adjoins public open space. The visual amenity and scenic qualities of the coast are not impacted by the development. No aboriginal heritage has been identified on the site.

Division 5 General

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

No increased risk of coastal hazards is expected.

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

The development is consistent with provisions of Council's Wollongong Coastal Zone Management Plan 2017.

2.1.4 STATE ENVIRONMENTAL PLANNING POLICY (KOALA HABITAT PROTECTION) 2021

The SEPP applies to the Wollongong Local Government Area, identified as being in the South Coast koala management area.

12 Development assessment process—other land

Consent can be issued for development on the subject land if Council is satisfied that the land is *not* core koala habitat.

The land has not been identified by a suitably qualified and experience person as being highly suitable koala habitat, and Council has no record of the presence of koalas on the site currently or within the previous 18 years. The proposal does not include the removal of extensive native vegetation and the land is not considered to comprise core koala habitat.

2.1.5 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Clause 1.4 Definitions

The development is alterations and additions to a 'dual occupancy (attached)', with subsequent 2 lot Torrens title subdivision:

dual occupancy (attached) means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.

Note— Dual occupancies (attached) are a type of **dual occupancy**—see the definition of that term in this Dictionary.

Clause 1.8A Savings provision relating to pending development approvals

Nil.

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 R2 Low Density Residential zone are as follows:

Objectives of zone

- 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.

2 Permitted without consent

Home occupations

3 Permitted with consent

*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*

4 Prohibited

Any development not specified in item 2 or 3

The proposal is categorised as a dual occupancy (attached) as defined above and is permissible in the zone with development consent.

Clause 2.7 Demolition requires development consent

In order to carry out the changes proposed in the DA, demolition of some parts of the completed CDC building is required.

Part 4 Principal development standards

Clause 4.3 Height of buildings

The maximum permitted height is 9m.

The approved CDC height is approximately 7.72m. The proposed DA height does not exceed the CDC height.

Clause 4.4 Floor space ratio

(1) The objectives of this clause are as follows—

- (a) to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- (b) to establish the maximum development density and intensity of land use, taking into account the availability of infrastructure to service that site and the vehicle and pedestrian traffic the development will generate,*
- (c) to ensure buildings are compatible with the bulk and scale of the locality.*

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map

The maximum permitted floor space ratio (FSR) is 0.5:1.

The approved CDC FSR is:

- Lot 1 (Dwelling A): 0.727:1
- Lot 2 (Dwelling B): 0.721:1
- Prior to subdivision: 0.724:1

The proposed FSR is

- Lot 1 (Dwelling A): 0.686:1 (0.69:1)
- Lot 2 (Dwelling B): 0.669:1 (0.67:1)
- Prior to subdivision: 0.678:1 (0.68:1)

The technical reduction in GFA and FSR is a result of the different methods of calculating GFA between the Exempt and Complying Codes SEPP and WLEP 2009. In accordance with the WLEP 2009 definition, parking that meets the requirements of the consent authority is excluded. In this case, WDCP 2009 requires 2 car parking spaces per dwelling. These could be in the form of a carport, garage or uncovered space. The DA proposes removal of the media room internal wall and conversion of the media room into an expanded garage space, creating double garages in each dwelling. In accordance with the GFA definition, a maximum of 36m² can be deducted from total GFA per dwelling.

The resulting proposed FSR exceeds the maximum permitted in WLEP 2009 and the applicant is required to provide a statement in accordance with clause 4.6.

Clause 4.6 Exceptions to development standards

The proposed FSR exceeds that permitted under clause 4.4 of WLEP 2009. Subclause (2) allows development consent to be granted, even though the development would contravene a development standard.

As required by this clause, the applicant has provided a request statement dated 14 September 2021 which is provided at Attachment 4.

Table 5: Clause 4.6 assessment

WLEP 2009 clause 4.6 proposed development departure assessment	
Development departure	<p>The departure relates to clause 4.4(2) of WLEP 2009, which sets a maximum permitted FSR of 0.5:1, as shown on the FSR map</p> <ul style="list-style-type: none"> Proposed FSR: <ul style="list-style-type: none"> Lot 1 (Dwelling A): 0.686:1 (0.69:1) Lot 2 (Dwelling B): 0.669:1 (0.67:1) Prior to subdivision: 0.678:1 (0.68:1) This represents a development standard departure: <ul style="list-style-type: none"> Lot 1 (Dwelling A): 37% Lot 2 (Dwelling B): 34% Prior to subdivision: 36%
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>A clause 4.6 variation has been submitted. The applicant's statement refers to the five ways noted by Preston CJ in <i>Wehbe v Pittwater Council</i> [2007] NSW LEC 827. For the purpose of the DA, the applicant addresses the first of the five ways: <i>'The objectives of the standard are achieved notwithstanding noncompliance with the standard'</i>.</p> <p>Part G of the statement discusses how in the applicant's opinion the objectives of clause 4.4 are met notwithstanding the excessive FSR.</p>
that there are sufficient environmental planning grounds to justify contravening the development standard.	<p>Part E of the applicant's statement addresses the environmental planning grounds. It includes reference to <i>Four2Five Pty Ltd v Ashfield Council</i> [2015] NSWLEC 90, <i>Four2Five Pty Ltd v Ashfield Council</i> [2015] NSWCA 248 and <i>Initial Action Pty Ltd v Woollahra Municipal Council</i> [2018] NSWLEC 118.</p>
4.6 (4) (a) Consent authority is satisfied that:	
the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<p>The applicant's statement has not adequately addressed the requirements of subclause (3). Page 13 of the statement concludes that 'strict compliance with the standard is both unnecessary as the objectives of the standards are achieved, and unreasonable as no purpose would be served through requiring compliance'.</p> <p><u>Unreasonable or unnecessary in circumstances of the case</u></p> <p>Part G of the applicant's statement deals with the objectives of clause 4.4.</p> <p>(a) <i>to provide an appropriate correlation between the size of a site and the extent of any development on that site,</i></p>

The statement refers to 'factors which are unique to the site and locality'. These are described:

- 'the site is near level and adjoins a public reserve'
- 'the site has no rear neighbours'
- 'the design...includes patios/terraces/and open space areas which are oriented to the north and overlook the public reserve providing passive surveillance'
- '...there are a number of existing 3 storey dwellings and 3 storey medium density developments in close proximity to the subject site which exceed the WLEP and DCP numeric building envelope controls yet have minimal (if any) adverse impact on neighbouring properties or the built form of the locality'
- 'the proposed development is 2 storeys and complies with all other building envelope controls within the WLEP and DCP for...' [lists 8 areas]
- 'the newly introduced provisions under the SEPP...are also relevant...The proposed alterations...result in a...reduction of 29m² from the approved CDC'.
- 'the SEPP provides a new set of development standards including GFA... for side-by-side dual occupancies which can be approved 'as of right' through the complying development pathway.'

The points made in the statement don't adequately address the size of the site and the proposed 34-37% FSR exceedance. It is not agreed that level, rectangular sites in a relatively uniform subdivision pattern can necessarily support excessive FSR.

The statement doesn't evaluate the impact the FSR has on the public open space, which is the site's rear neighbour. Whilst not calculated as GFA for the purpose of the FSR calculation, the proposed expanded decks at the rear add to perceived building bulk.

All three 3 storey buildings referred to in the statement pre-date WDCP 2009 and only some of those are said to involve FSR greater than 0.5:1. It is unclear why building height or setbacks on other sites has been raised as a relevant factor to the FSR consideration on the subject property.

The WDCP 2009 compliance table in Attachment 5 shows that the proposed DA would not comply with all the WDCP 2009 items listed.

As discussed previously in section 1.1, the SEPP grants additional FSR subject to strict compliance with design controls. WLEP 2009 allows a much lower FSR of 0.5:1, but has less prescriptive requirements. In that regard, the 0.72:1 FSR approved under the CDC was contingent upon setbacks, height, openings, garage, decks etc all meeting the SEPP requirements. The DA seeks to retain the FSR (albeit with a technical reduction arising from conversion of the media room to a garage), whilst abandoning the design controls that made the 0.72:1 FSR possible. A CDC could not be issued for a building incorporating the CDC design plus the DA changes, as the building would not satisfy the complying development standards in the SEPP.

(b) (b) to establish the maximum development density and intensity of land use, taking into account the availability of infrastructure to service that site and the vehicle and pedestrian traffic the development will generate,

The points raised by the applicant include:

- distance to public transport, shops and school
- good sight lines and safe vehicular access
- negligible difference in demand for local infrastructure between FSR that complied and the proposed development
- additional parking from media room conversion aligns with the WDCP control for 2 spaces per dwelling.
- additional parking will reduce demand for on-street parking

In response, it is considered that the Luscious Watergum in the front setback may affect sight lines of reversing vehicles. Furthermore, the Torrens subdivision boundary appears to cut through the tree and it is unclear how maintenance and protection of the tree will be managed.

The proposed FSR of 0.67-0.69:1 represents a GFA increase of 52-57m² in each dwelling. This excess floor space directly correlates to the number of bedrooms, bathrooms and service areas within the development. It is likely that residential densities and associated demand for car parking would be reduced in a building with 0.5:1 FSR rather than the proposed FSR.

With regard to the WDCP 2009 requirement for 2 spaces per dwelling over 125m², it is noted that the CDC had sufficient room for uncovered parking outside the media room. WDCP does not stipulate that parking must be in a garage. Therefore, the media room did not have to be converted to meet the requirements of the DCP.

The statement refers to demand for on-street parking by the general public visiting the nearby beach and open space. This is not disputed, however it is common that use of on-street parking is by residents themselves who choose to park outside their property. The redevelopment of a dwelling house into a dual occupancy could potentially increase parking demand, not reduce it.

(c) to ensure buildings are compatible with the bulk and scale of the locality.

The statement provides reference to what is 'compatible' as considered by Roseth SC in Project Venture Developments Pty Ltd v Pittwater Council [2005] NSWLEC 191. Whilst it is agreed that compatible does not mean sameness, Roseth SC noted that the more points of divergence from density, scale or appearance, the greater the discord.

The applicant identifies that Kareela Road contains a mix of older single storey dwellings houses, new two storey dwelling houses and several dual occupancy developments. The statement refers to four properties, three in Kurraba Road and one in Kareela Road as examples of non-complying outliers that nevertheless are considered 'compatible' with their surroundings.

These examples are not immediately relevant to the proposed dual occupancy. Table 4 provides analysis of the FSR and garage width of all properties in Kareela Road approved under WLEP 2009 and WDCP 2009. The dual occupancy at 3 Kareela Road has an FSR of 0.5:1 and was approved in

	<p>2013. There is no dual occupancy with 0.69:1 FSR in Kareela Road. Attachment 5 contains a compliance table for WDCP 2009.</p> <p><u>Sufficient environmental planning grounds</u></p> <p>The environmental planning grounds put forward by the applicant are:</p> <ul style="list-style-type: none"> • The SEPP authorised FSR in excess of 0.5:1 • The DA reduces the FSR • The proposed FSR does not create significant or unreasonable impacts compared to the CDC • The design changes assist in ensuring the dual occupancy appropriately responds to its local site context • The DA achieves the Objects in Section 1.3 of the EP & A Act 1979. <p>However, the DA changes result in a dual occupancy development that fails to comply with several requirements of WDCP 2009. The method of calculating GFA in WLEP 2009 results in a technical reduction in FSR compared to the CDC, however no reduction to actual building bulk has been made. The SEPP FSR was contingent upon compliance with other design requirements. WLEP 2009 says a maximum 0.5:1 FSR is appropriate as 0.5:1 correlates with WDCP 209 design controls. Neither WLEP 2009 nor the SEPP hold up the proposed resulting overall development as optimum.</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>The proposed development is not considered to be in the public interest as it is inconsistent with the objectives of the standard for the following reasons:</p> <ul style="list-style-type: none"> • The applicant has signalled an intention to seek an occupation certificate for the CDC, incorporating the DA changes. Council is of the opinion that this is not permitted. • The CDC development would need to be completed as per the CDC plans, prior to the DA works commencing. This would involve demolition of some parts of the CDC building, which has not been adequately detailed in the application. • The development does not comply with several WDCP requirements relevant to the proposed changes and overall resulting development. Attachment 5 details the non-compliances. • There is a public benefit of maintaining the 0.5:1 FSR standard, as it is likely that developments would struggle to comply with WDCP 2009 design requirements with greater FSR (as evidenced in this application). <p>Compliance with the development standard is consistent with the aims of the policy. Compliance with the development standard would not tend to hinder the attainment of the objectives specified in section 5(a)(i) and (ii) of the EP&A Act.</p> <p>Compliance with the development standard is not considered unreasonable or unnecessary in the circumstances of the case. If an development seeks to benefit from FSR bonuses awarded under the SEPP, it must accept the design constraints that are a precondition for that bonus FSR.</p> <p>There is insufficient environmental planning grounds specific to the site to justify contravening the development standard.</p>

the concurrence of the Secretary has been obtained.	Local Planning Panel can assume the Secretary's concurrence as the consent authority.
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Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The land is currently serviced by electricity, water and sewage services.

Clause 7.5 Acid Sulfate Soils

The land is identified as containing class 4 acid sulfate soils. An acid sulfate soils management plan is not required.

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

Draft Housing SEPP

The Housing SEPP Explanation of Intended Effect was exhibited 29 July-9 September 2020.

It is expected the SEPP will:

- consolidate five existing housing-related SEPPs:
 - State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP);
 - State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP);
 - State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes) (SEPP 70);
 - State Environmental Planning Policy No 21—Caravan Parks; and
 - State Environmental Planning Policy No 36—Manufactured Home Estates.
- include the recently made provisions for short term rental accommodation and build-to-rent housing;
- include the recently updated social housing provisions;
- introduce provisions for co-living housing, a form of housing that provides small private rooms (which may or may not include private kitchen and bathroom facilities), offset by access to managed communal spaces;
- incorporate amendments to boarding house and seniors housing provisions
- amend some local environmental plans in relation to secondary dwellings in rural zones, and the permissibility of boarding houses in R2 zones.

The draft SEPP is of limited relevance to this application.

Draft Design and Place SEPP

Public exhibition of the Design and Place SEPP Explanation of Intended Effect closed in April 2021. The draft SEPP is yet to go on public exhibition.

The Design and Place SEPP is expected to establish principles for the design and assessment of places in urban and regional NSW.

The draft SEPP is of limited relevance to this application.

Draft Environment SEPP

The Explanation of Intended Effect for the Environment SEPP was on exhibition 31 October 2017-31 January 2018.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

The draft SEPP is of limited relevance to this application.

Draft Remediation of Land SEPP

The Explanation of Intended Effect for the Remediation of Land SEPP and the Managing Land Contamination guidelines were exhibited between 25 January 2018 and 13 April 2018.

The draft SEPP is of limited relevance to this application.

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

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

An assessment of the proposal against planning controls in WDCP 2009 is contained in Attachment 5. Variations are discussed below:

The following non-compliances are proposed:

- Chapter B1 Residential Development
 - Clause 4.3 Side and rear setbacks – required setback 3m where wall height exceeding 7m
 - Clause 4.5 Landscaped area – minimum 1.5m landscape strip and second semi mature tree not provided
 - Clause 4.6 Private open space - minimum 6x4m (24m²) POS not provided
 - Clause 4.8 Building character and form – dual occupancy design does not respond to context. Large bulky form proposed. Dual occupancy not sympathetic to existing character of immediate locality. Building frontage and entries do not address the street. Garage doors exceed maximum permitted 50%.
 - Clause 4.10 Car parking and access - Garage doors exceed maximum permitted 50%.
 - Clause 4.23 Additional controls for dual occupancy - deep soil zones – no DSZ identified on plans. Paving and outdoor shower in rear landscaped area, which would not satisfy DSZ definition.
- Chapter E7 Waste Management
 - Waste management plan doesn't reflect the demolition of parts of the CDC building required to facilitate the DA works
- Chapter E21 Demolition and Hazardous Building Materials Management
 - Waste management plan doesn't reflect the demolition of parts of the CDC building required to facilitate the DA works

Each non-compliance requires an assessment in accordance with clause 8 Chapter A1.

2.3.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN

Contributions are payable for development with capital investment value of minimum \$100,000. The estimated cost of works is \$36,572.00 and therefore no contribution is payable.

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

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

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

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

Demolition of some parts of the completed CDC building would be required to facilitate the DA works. This has not been detailed in the application.

93 Fire safety and other considerations

Not applicable

94 Consent authority may require buildings to be upgraded

Not applicable

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

The proposal is considered unacceptable with regard to the likely impacts. These have been discussed in relation to the clause 4.6 request statement.

Access, Transport and Traffic:

No change to the CDC hardstand is proposed, with it already accommodating parking outside the media room (proposed to be converted to garage).

The development would result in 2 garage spaces per dwelling plus 1-2 stacked spaces per dwelling.

Public Domain:

No works are proposed in the public domain other than driveway crossing. The site shares a boundary with public open space at the rear.

Utilities:

Energy, water and sewer supply are currently available to the site.

Heritage:

No heritage items will be impacted by the proposal.

Water:

The site is currently serviced by Sydney Water.

Soils:

The land contains acid sulfate soils class 4. An acid sulfate soils plan is not required.

Air and Microclimate:

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

Flora and Fauna:

There is no vegetation removal proposed. The landscape plan does not correctly show the street elevation. It is unclear whether a deep soil zone can be provided. The Luscious Watergum in the front setback is partially located in each Torrens lot, and it is unclear how satisfactory management and protection of the tree will be maintained. The watergum may also impact sight lines for cars reversing from the property.

A Blueberry Ash is proposed in the rear corner of each lot. Conflict may arise between maintaining ocean views and tree protection as the trees mature. Alternative locations are limited due to the proposed footprint.

Waste:

The waste plan doesn't reflect demolition required upon completion of the CDC in order for the DA works to be undertaken.

Natural hazards:

There are no natural hazards affecting the site that would prevent the proposal. The land is located within the coastal zone but not subject to coastal hazards.

Technological hazards:

Council records list the site as acid sulfate soil affected

Safety, Security and Crime Prevention:

This application does not promote opportunities for criminal or antisocial behaviour.

Social Impact:

No adverse social impact is expected.

Economic Impact:

No adverse economic impact is expected. The value of proposed changes is less than the threshold requirement for development contributions.

Site Design and Internal Design:

The application results in significant departures from WLEP 2009 (FSR) and WDCP 2009 (various). Refer Attachment 5.

Construction:

Construction impacts such as hours of work, erosion and sedimentation controls, works in the road reserve, excavation, demolition and use of any crane, hoist, plant or scaffolding are typically managed by conditions.

Cumulative Impacts:

Approval of a dual occupancy development application with FSR of 0.69:1 is likely to create an undesirable precedent. As noted in Attachment 5, the proposed FSR limits opportunities for compliance with WDCP requirements.

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

Does the proposal fit in the locality?

The proposal would be distinctive in the streetscape, with recessed side entries not visible from the street and garage doors occupying 84% of the building width. The spread of garages immediately limits active uses or landscaping in the front yard, and preferences parking over people or landscaped area.

The 0.69:1 FSR manifests in building bulk of a scale without precedent in Kareela Road.

Matters raised by the applicant in the clause 4.6 statement have been considered, but are not compelling.

The distinct and separate approval pathways for CDCs and DAs reflects the different design controls for each application type. Combining CDC and DA approvals in the one occupation certificate is not possible under the legislative framework.

Are the site attributes conducive to development?

As discussed in relation to the clause 4.6 request, the proposed FSR and DCP non-compliances are an indication of the overdevelopment of the site.

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

Two notification periods resulted in 1 objection and 3 statements of support. All submissions have been considered as part of Council's assessment.

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

As discussed in relation to the clause 4.6 request, the proposed changes to the approved CDC would result in floor space ratio of 0.69:1 where maximum 0.5:1 is permitted. Approval of the proposed FSR is not supported.

Conversion of the media room to garage space results in removal of the door and window to the Kareela Road frontage. The proposed front setback is dominated by car parking, with the garage door comprising 84% of the building width. New openings are proposed on the side boundaries which may result in adverse privacy impacts on neighbouring properties.

Submissions were received following the two notification periods. Matters of concern include the proposed FSR, whilst submissions in support in part relate to non-compliance with WLEP 2009 and WDCP 2009.

Refusal of the proposal is considered to be in the public interest.

3 CONCLUSION

This application has been assessed as unsatisfactory having regard to Section S4.15(1) of the Environmental Planning and Assessment Act 1979, the provisions of Wollongong Local Environmental Plan 2009 and all relevant Council DCPs, Codes and Policies.

The proposed significant floor space ratio exceedance is not supported. Attachment 5 details non-compliances with WDCP 2009.

The CDC and DA cannot be combined into one occupation certificate, notwithstanding the applicant's intention to carry out the development in that manner.

Refusal of the application is consistent with the public interest.

4 RECOMMENDATION

It is recommended that the development application is refused for the reasons set out in Attachment 6:

5 ATTACHMENTS

- 1 Aerial photograph and WLEP 2009 zoning map
- 2 Proposed DA plans
- 3 Approved CDC plans
- 4 Clause 4.6 development standard departure request
- 5 WDCP 2009 compliance table
- 6 Draft reasons for refusal

Attachment 1: Aerial photograph and WLEP 2009 zoning map



Figure 1: Aerial photograph (source WCC 2020)



Figure 2: WLEP 2009 zoning map – R2 Low Density Residential

PROPOSED ALTERATIONS TO DUPLEX DEVELOPMENT
Site 14 KAREELA ROAD WOONONA NSW 2517
Lot 78 DP 12991

DRAWING LIST

A01.00	COVER SHEET
A01.01	SITE PLAN
A01.02	SITE ANALYSIS
A03.00	GROUND LEVEL PLAN
A03.01	LEVEL 1 PLAN
A07.01	SOUTH AND WEST ELEVATIONS
A07.02	NORTH AND EAST ELEVATIONS
A08.01	SECTION A & B
A12.01	WINDOW SCHEDULE
A12.02	MATERIAL SCHEDULE
A20.02	SHADOW DIAGRAMS
A20.03	SHADOW DIAGRAMS
A20.01	AREA CALCULATIONS
A30.02	SITE & WASTE MANAGEMENT PLAN
A30.03	TORRENS TITLE SUBDIVISION CONCEPT PLAN

AREA SUMMARY

SITE AREA 614m²

AREA TYPE	CONTROL	PROPOSED (SQM)	COMPLIES?
GFA (approved under CDC)	25% of lot area + 300m ² = 453.5m ² max GFA	LOT 1: GROUND 112.5 LEVEL 1 111.3 TOTAL 223.8	YES - APPROVED
		LOT 2: GROUND 112.1 LEVEL 1 109.1 TOTAL 221.2	
		COMBINED: LOT A + LOT B = TOTAL 445m ² / 0.724:1	
GFA (proposed under DA)	FSR 0.5:1	LOT 1: GROUND 99.6 LEVEL 1 111.7 TOTAL 211.3	YES - REDUCED GFA
		LOT 2: GROUND 96.2 LEVEL 1 109.0 TOTAL 205.2	
		COMBINED: LOT A + LOT B = TOTAL 416.5m ² / 0.678:1	



PROPOSED ALTERATIONS LEGEND

PROPOSED ALTERATIONS

NOT FOR CONSTRUCTION

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STUDIO
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Note:
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Project:
Proposed Alterations to Duplex Development
Address:
14 Kareela Rd.
Woonona 2517

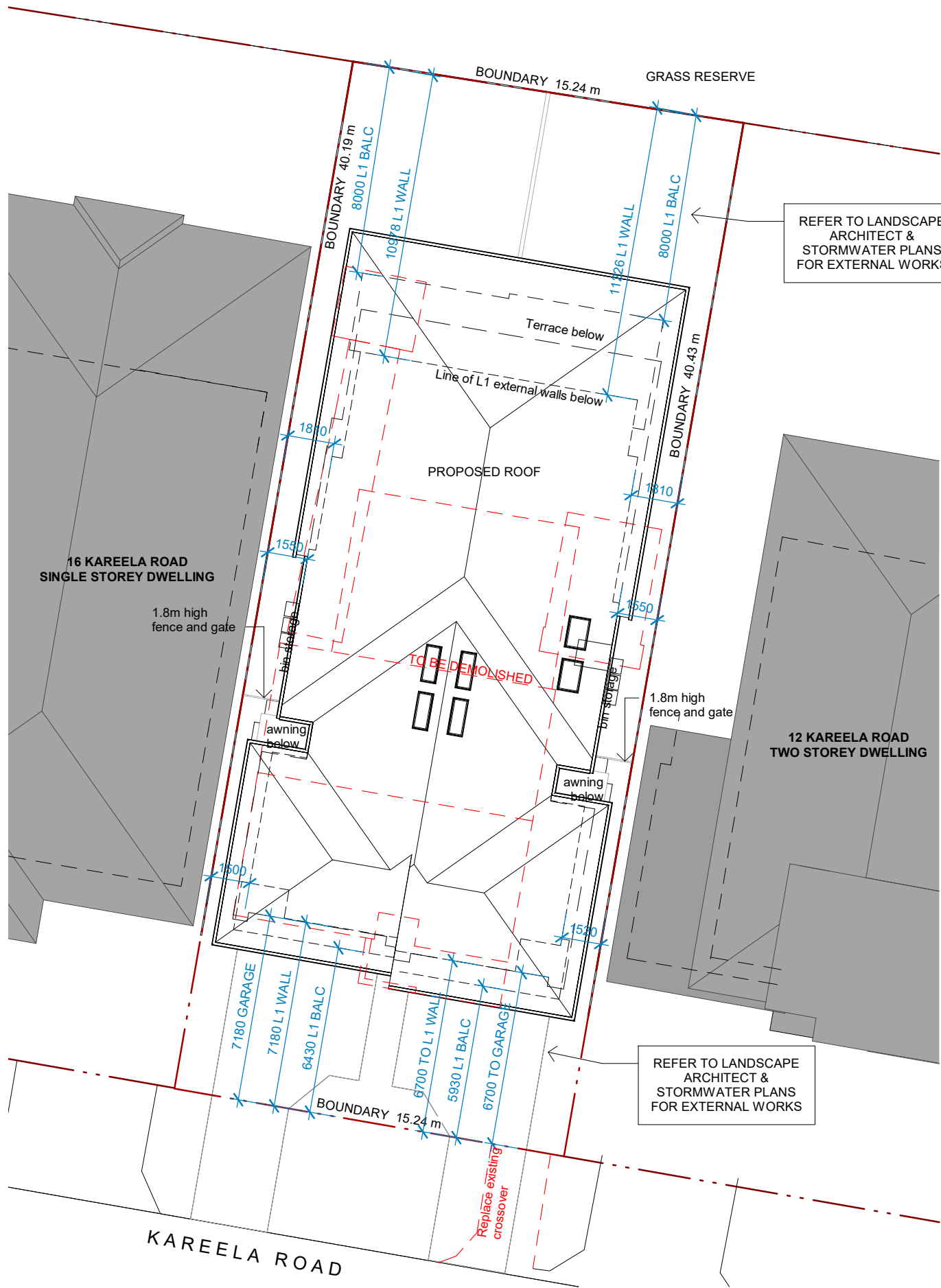
Rev	Date	Description
1	16.02.21	DEVELOPMENT APPLICATION
2	19.05.21	MODIFICATION LEGEND
3	26.08.21	RTRFI
4	17.09.12	RTRFI

Title:
Cover Sheet

Drawing no:
A01.00

Project no: 1016
Scale: As indicated @ A3

Revision:
4



BASIX REQUIREMENTS DWELLING A

BASIX certificate #984324S issued: 02.07.20 (or as supersceded)

FIXTURES

- install showerheads with a minimum rating of 3 star (> 4.5 but <= 6 L/min) in all showers in the development.
- install a toilet flushing system with a minimum rating of 3 star in each toilet in the development.
- install taps with a minimum rating of 4 star in the kitchen in the development.
- install basin taps with a minimum rating of 3 star in each bathroom in the development.

ALTERNATIVE WATER

- install a rainwater tank of at least 2000 litres on the site. This rainwater tank must meet, and be installed in accordance with, the requirements of all applicable regulatory authorities.
- configure the rainwater tank to collect rain runoff from at least 174 square metres of the roof area of the development (excluding the area of the roof which drains to any stormwater tank or private dam).

The applicant must connect the rainwater tank to:

- at least one outdoor tap in the development (Note: NSW Health does not recommend that rainwater be used for human consumption in areas with potable water supply.)

THERMAL COMFORT COMMITMENTS

DIY Method	
Construction:	Additional Insulation
Floor - slab on ground	nil
Floor - suspended framed	nil
External wall (framed, clad)	R3.0 (or R3.4 incl construction)
External wall (brick veneer)	R2.86 (or R3.4 incl construction)
Internal wall at garage	nil (single skin masonry)
Ceiling and roof	Ceiling: R3.58 (up), roof: foil backed blanket (55mm)
	Roof framed, dark (solar absorptance >0.70)
Windows	Refer window schedule and full BASIX Certificate

BASIX REQUIREMENTS DWELLING B

BASIX certificate #991937S issued: 02.07.20 (or as supersceded)

FIXTURES

- install showerheads with a minimum rating of 3 star (> 4.5 but <= 6 L/min) in all showers in the development.
- install a toilet flushing system with a minimum rating of 3 star in each toilet in the development.
- install taps with a minimum rating of 4 star in the kitchen in the development.
- install basin taps with a minimum rating of 3 star in each bathroom in the development.

ALTERNATIVE WATER

- install a rainwater tank of at least 2000 litres on the site. This rainwater tank must meet, and be installed in accordance with, the requirements of all applicable regulatory authorities.
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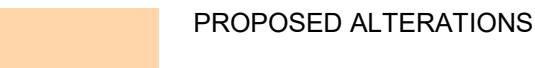
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	Roof framed, dark (solar absorptance >0.70)
Windows	Refer window schedule and full BASIX Certificate

PROPOSED ALTERATIONS LEGEND



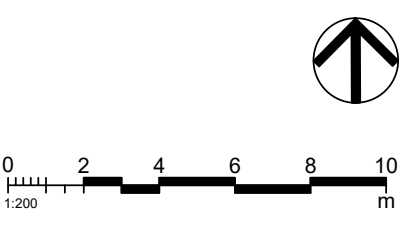
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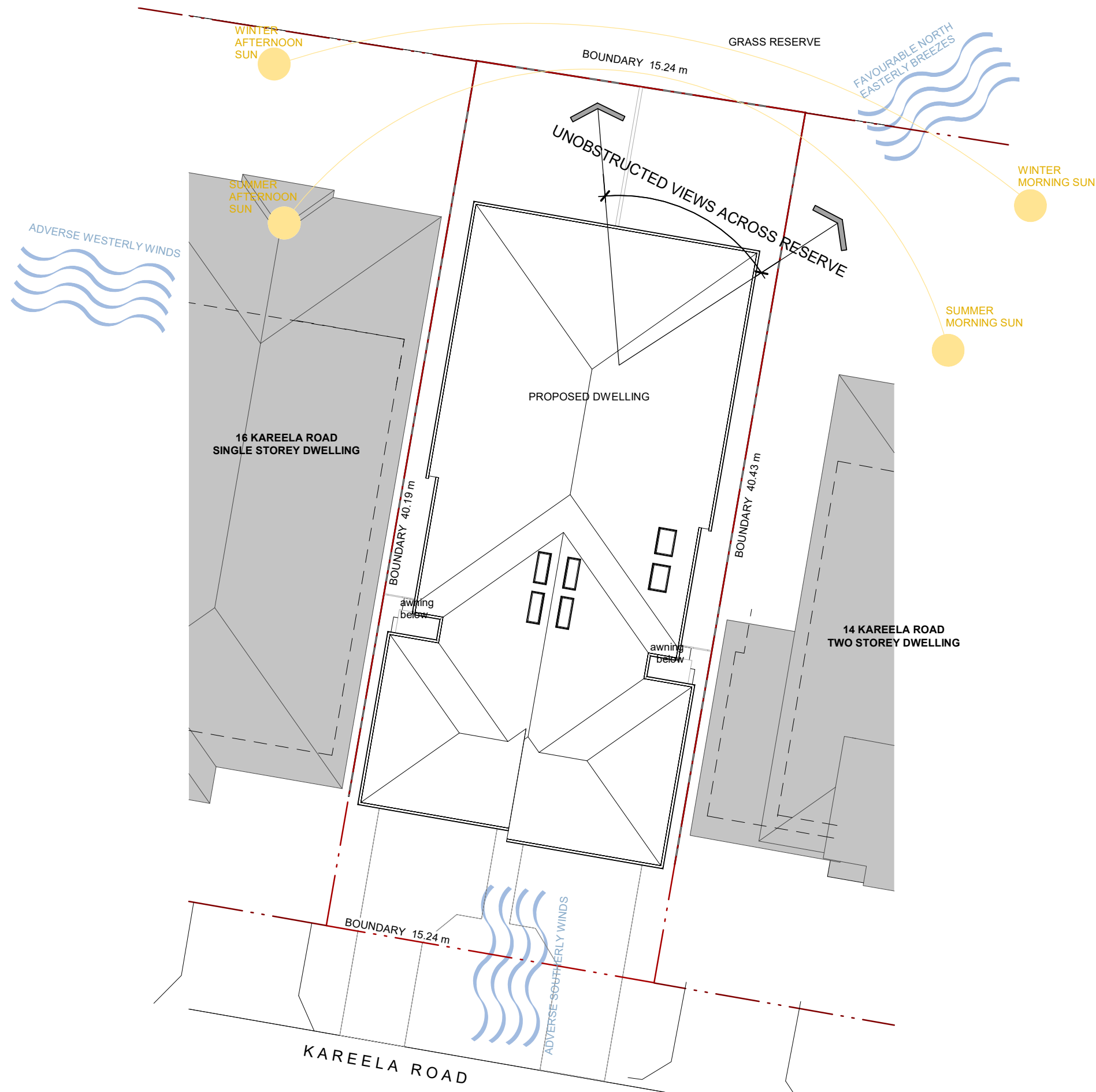
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Title:
Site Plan
Drawing no:
A01.01
Project no: 1016
Scale: As indicated @ A3
Revision:
4



NOT FOR CONSTRUCTION

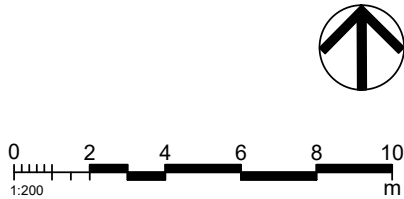


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**14 Kareela Rd.
Woonona 2517**

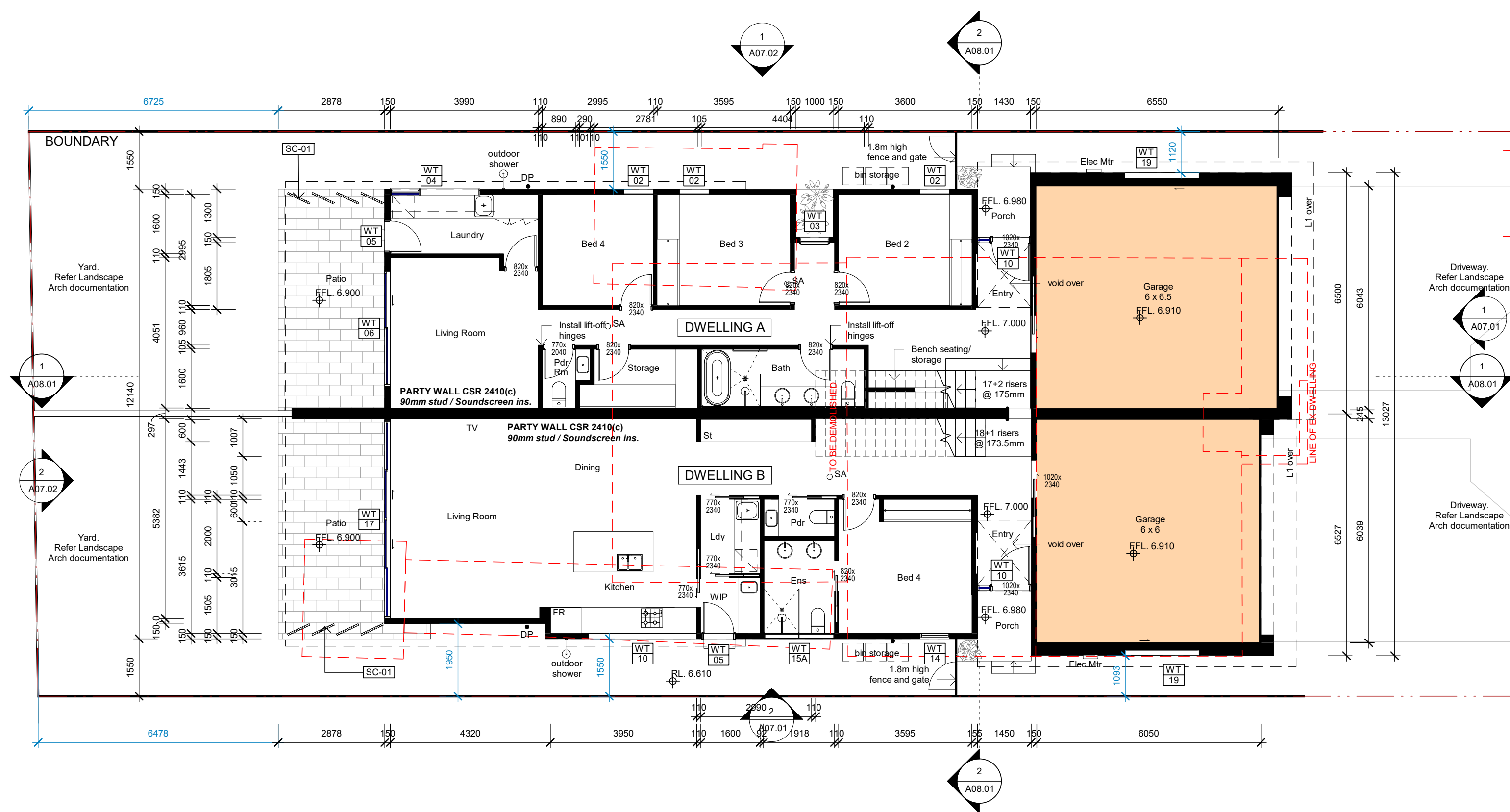
Rev	Date	Description
1	16.02.21	DEVELOPMENT APPLICATION
2	26.08.21	RTRFI
3	17.09.12	RTRFI



Title:
Site Analysis
Drawing no:
A01.02

Revision:
3

Project no: 1016
Scale: 1 : 200 @ A3



Legend: <div><div></div>Property Boundary</div> <div><div></div>New Wall</div> <div>FFL. XX.XX Finished Floor Level</div> <div>EX FFL. XX.XX Existing Finished Floor Level</div>		<div><div>○ SA</div>Smoke alarm to ceiling, installed to NCC and AS3786</div> <div><div>WT #</div>New Window Type # Refer A12.001</div> <div><div>WT EX</div>Existing Window</div> <div><div>XX-XX</div>New material/finish refer A12.002</div>		BCA COMPLIANCE: 1. The building is to be constructed in accordance with current NCC, relevant Australian Standards, and relevant statutory requirements. 2. Windows to be protected in accordance with NCC 2019 Part 3.9.2.6 and 3.9.2.7 3. Stair construction to be in accordance with NCC 2019 Part 3.9.1 4. Barriers and handrails to be in accordance with NCC 2019 Part 3.9.2 5. Soffit above hatched area for 1.8m to either side of party wall to comply with NCC 3.7.3.5.		PARTY WALL: CSR2410(C)90mm - or client approved alternate <i>Install to GYP513 Party Wall Installation Guide</i> Buildup: 1x 10mm Gyprock AquaCheck 1x 6mm CeminiSeal 90mm stud with 88 Soundscreen 2.5 Cavity 25mm Gyprock Shaft Liner Panel Cavity 90mm stud with 88 Soundscreen 2.5 1x 6mm CeminiSeal 1x 10mm Gyprock AquaCheck		PROPOSED ALTERATIONS LEGEND <div></div> PROPOSED ALTERATIONS	
--	--	---	--	---	--	---	--	--	--

ELLIS
STUDIO
ARCHITECTS

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PO Box 117 Oyster Bay 2225
Amy Ellis, Architect NSW #10545
ABN 58624263089

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Project:

Proposed Alterations to Duplex Development

Address:

14 Kareela Rd.
Woonona 2517

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3	26.08.21	RTRFI
4	17.09.12	RTRFI

0 1 2 3 4 5
1:100 m

Title:

Plan - Ground Level

Drawing no:

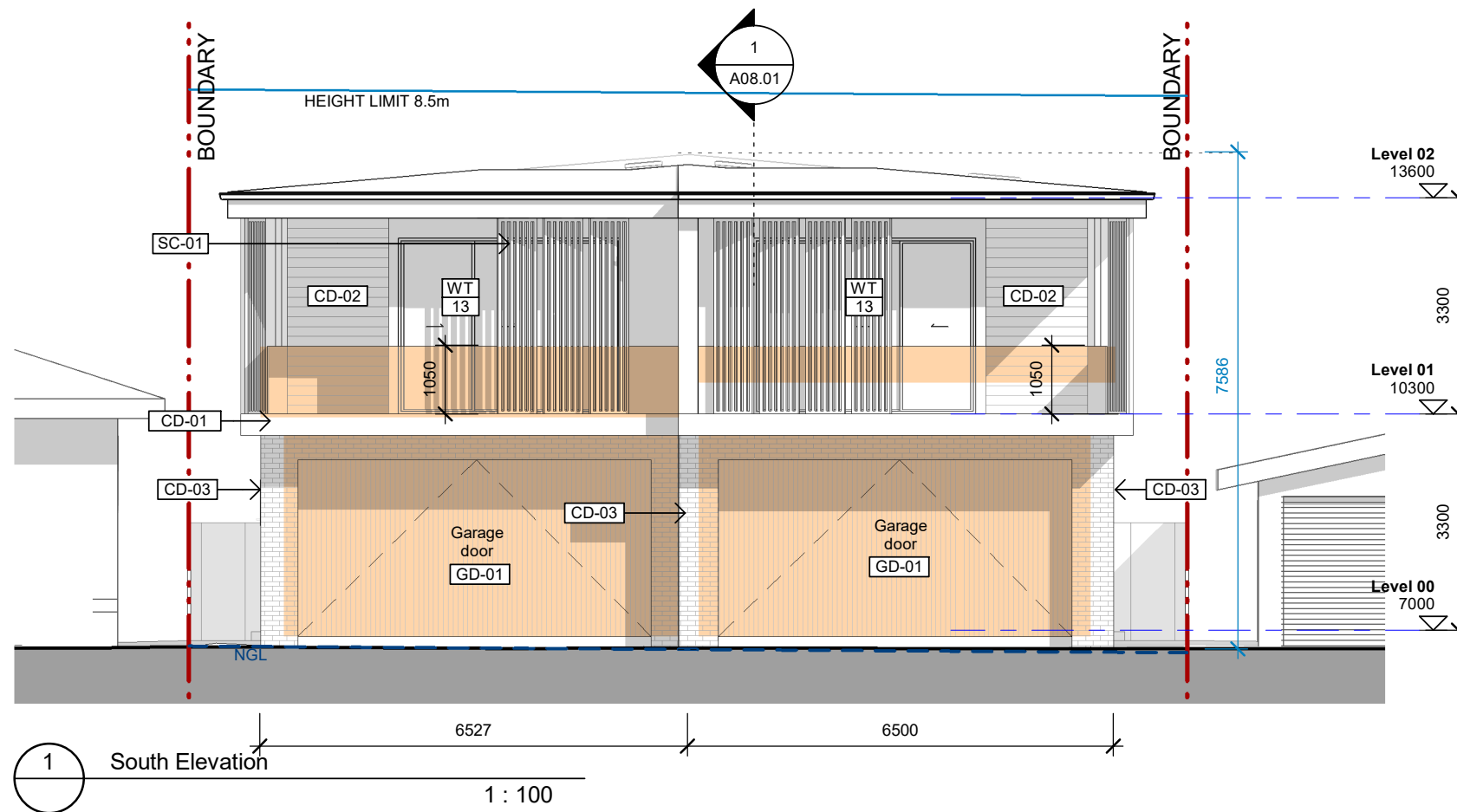
A03.00

Project no: 1016

Scale: 1 : 100 @ A3

Revision:

4

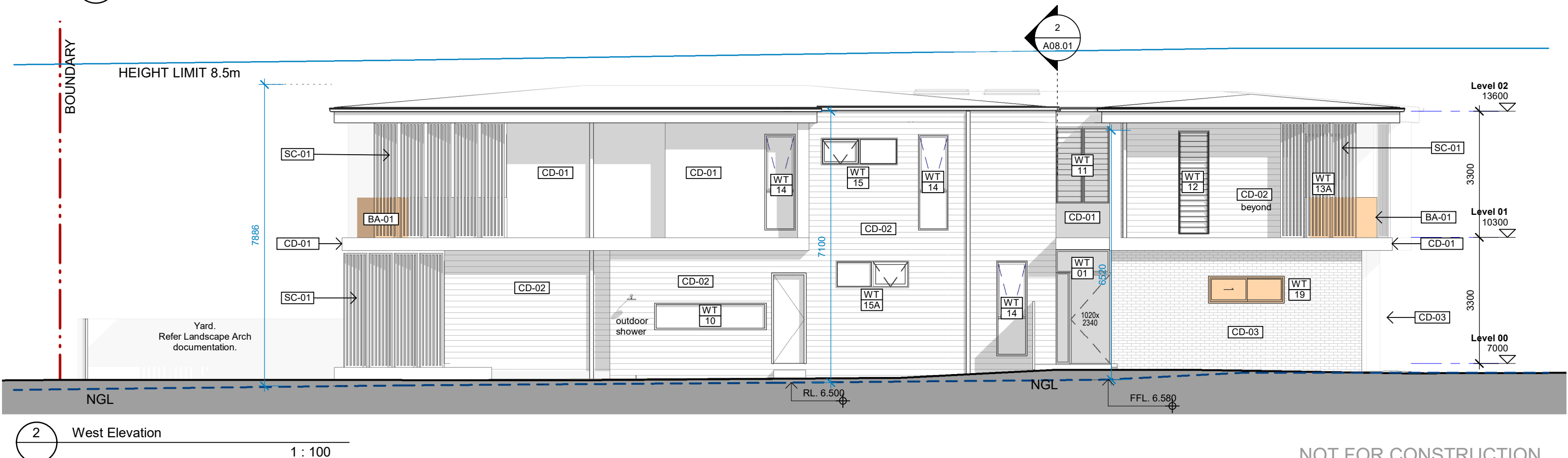


PROPOSED ALTERATIONS LEGEND

PROPOSED ALTERATIONS

MATERIALS LEGEND

- BA-01 Clear glass balustrade
- CD-01 Rendered finish, white
- CD-02 Selected FC horizontal cladding, white
- CD-03 Brick, bagged & painted
- GD-01 Garage door, white
- RF-01 Sheet metal roof, Colourbond
- SC-01 Timber-look privacy screens
- WT-XX Aluminium framed windows, black



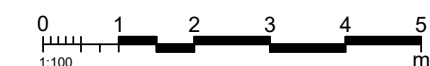
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Project:
Proposed Alterations to Duplex Development
Address:
**14 Kareela Rd.
Woonona 2517**

Rev	Date	Description
1	16.02.21	DEVELOPMENT APPLICATION
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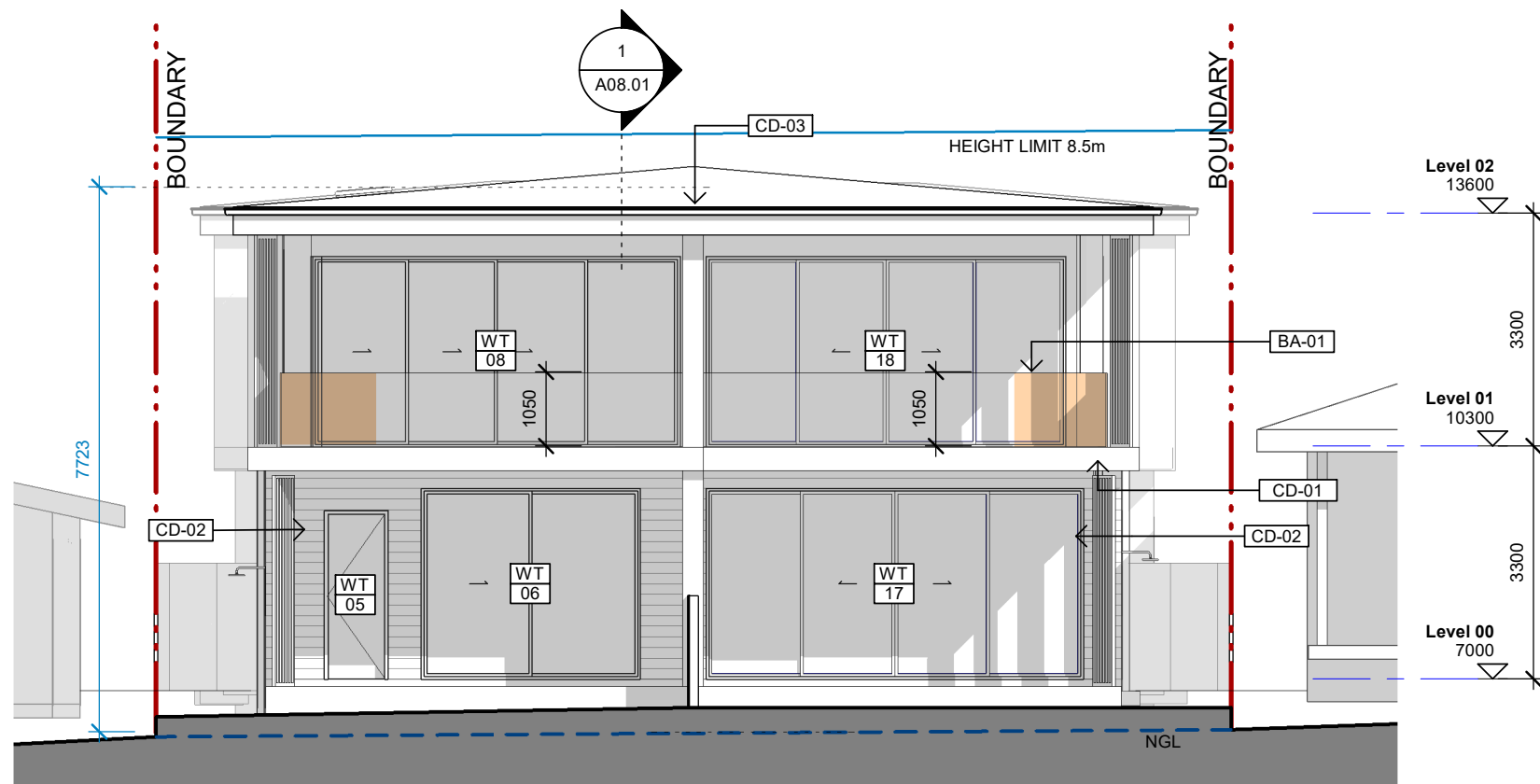


Title:
South and West Elevations

Drawing no:
A07.01

Project no: 1016
Scale: 1:100 @ A3

Revision:
4



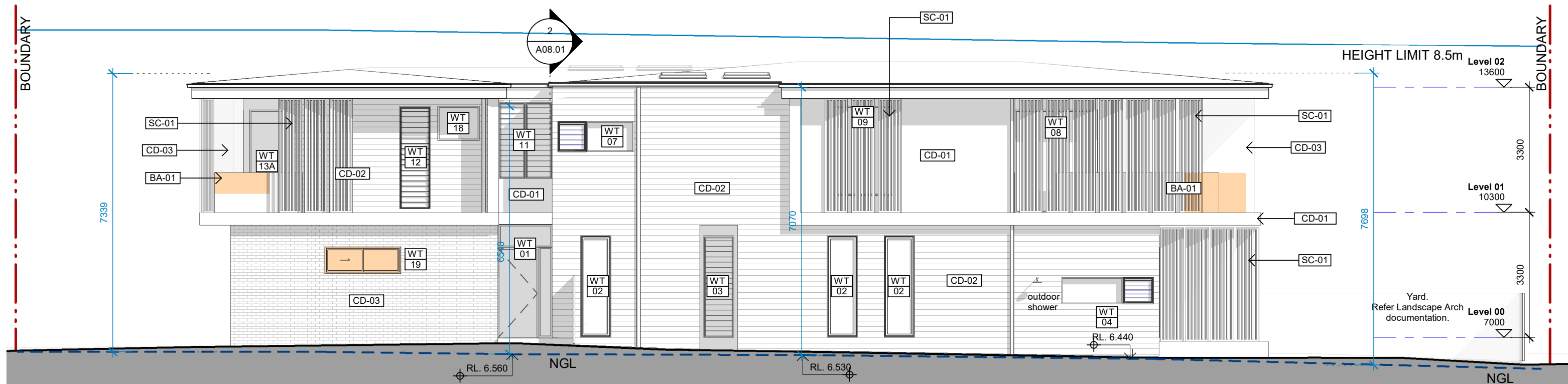
2 North Elevation
1 : 100

PROPOSED ALTERATIONS LEGEND

PROPOSED ALTERATIONS

MATERIALS LEGEND

- BA-01 Clear glass balustrade
- CD-01 Rendered finish, white
- CD-02 Selected FC horizontal cladding, white
- CD-03 Brick, bagged & painted
- GD-01 Garage door, white
- RF-01 Sheet metal roof, Colourbond
- SC-01 Timber-look privacy screens
- WT-XX Aluminium framed windows, black



1 East Elevation
1 : 100

NOT FOR CONSTRUCTION

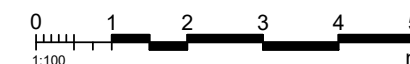


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Project:
Proposed Alterations to Duplex Development
Address:
**14 Kareela Rd.
Woonona 2517**

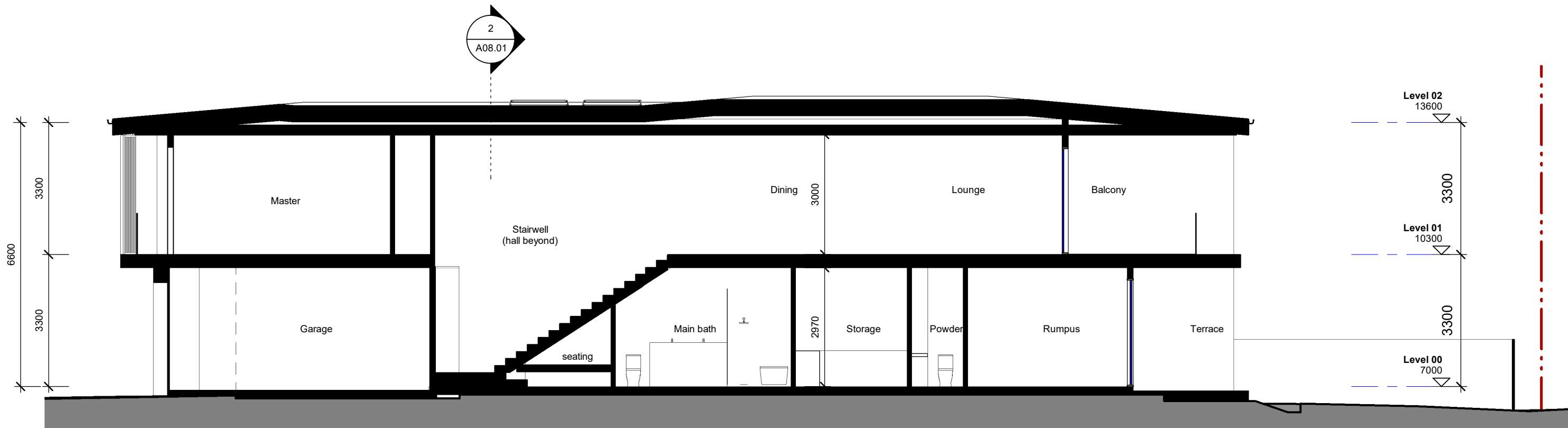
Rev	Date	Description
1	16.02.21	DEVELOPMENT APPLICATION
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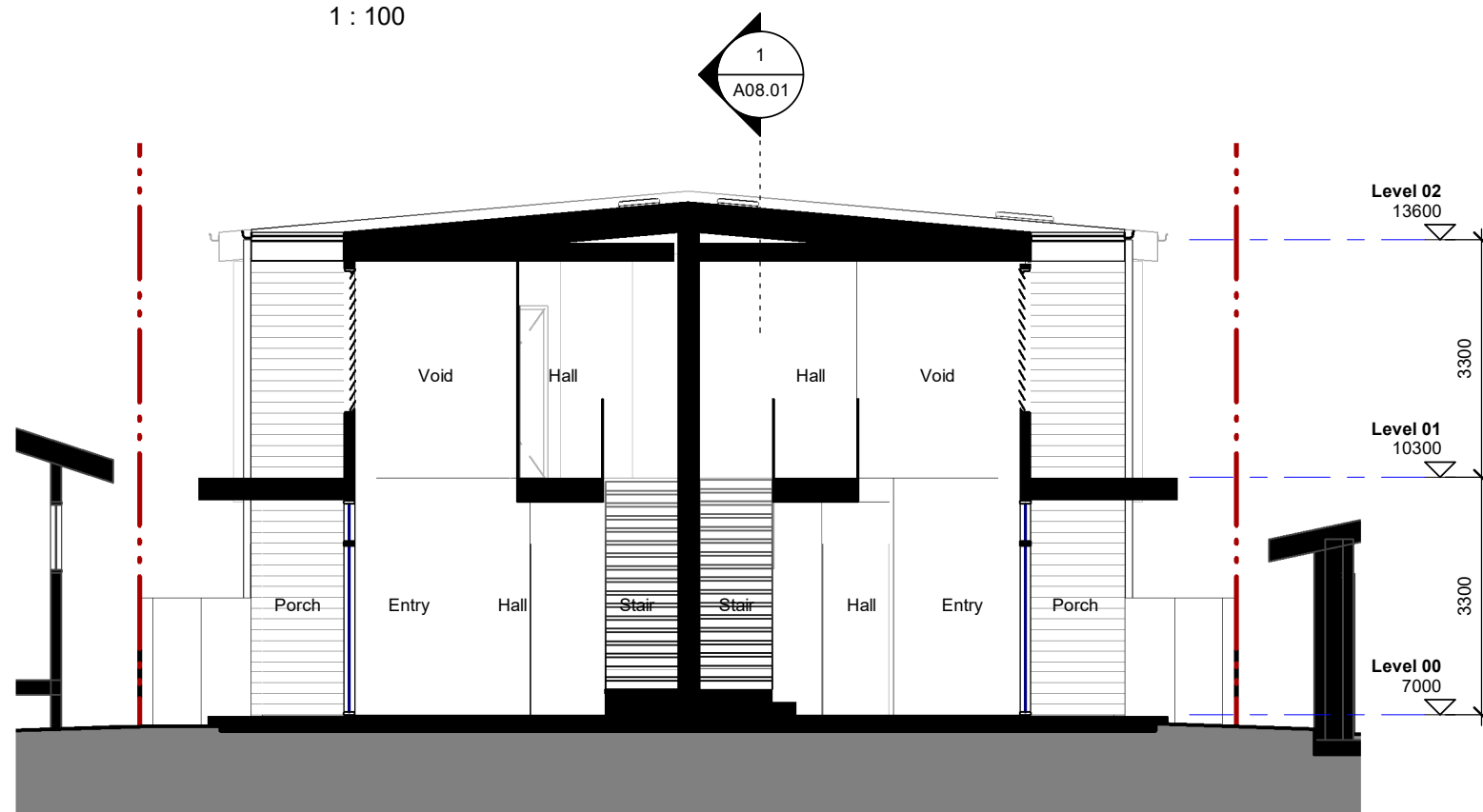
Title:
North & East Elevations
Drawing no:
A07.02

Revision:
4

Project no: 1016
Scale: 1 : 100 @ A3



1 Section A
1 : 100



2 Section B
1 : 100

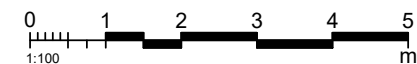


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Proposed Alterations to Duplex Development
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Woonona 2517**

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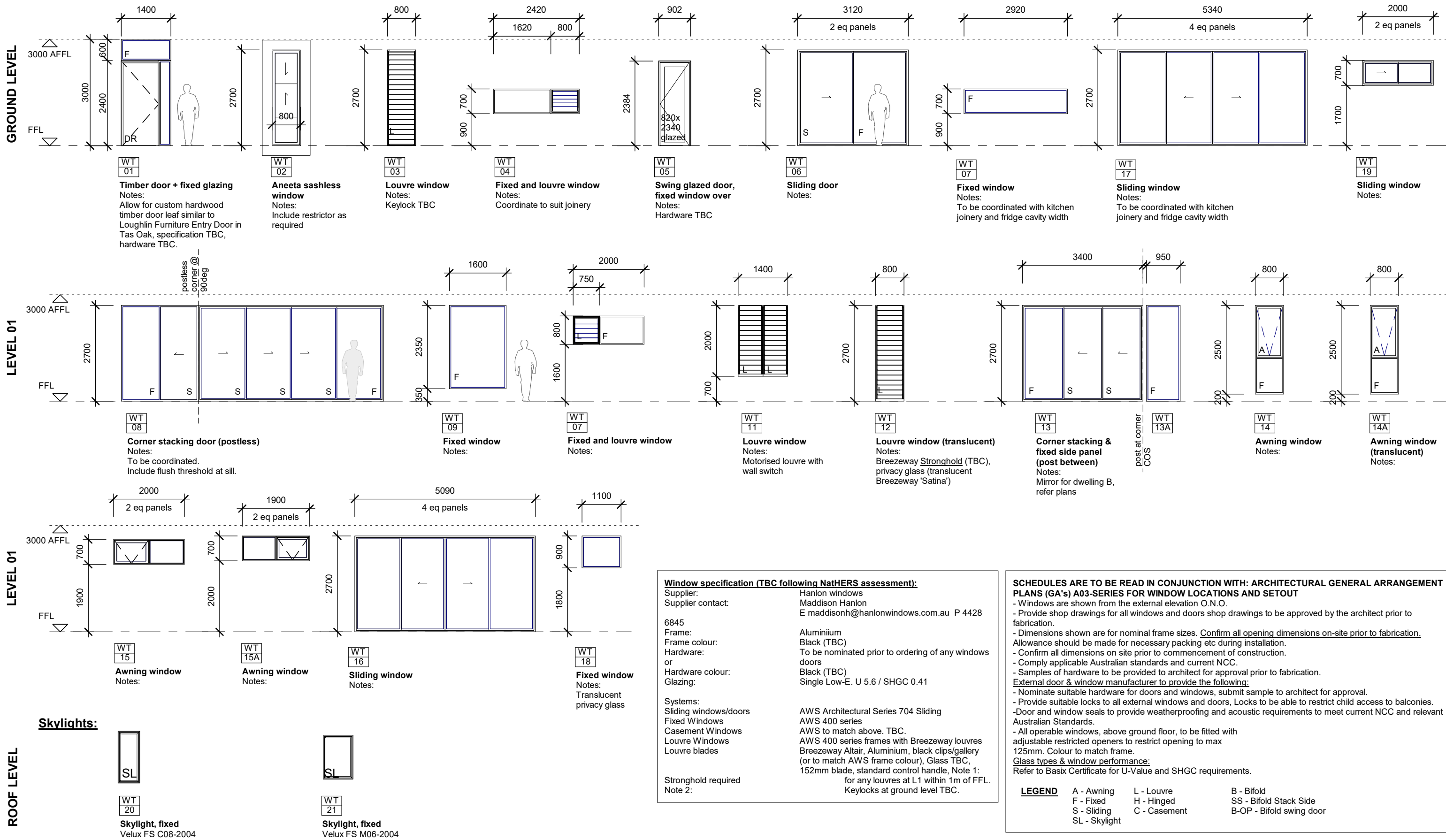
NOT FOR CONSTRUCTION

Title:
Section A & B
Drawing no:
A08.01

Project no: 1016
Scale: 1 : 100 @ A3

Revision:
4

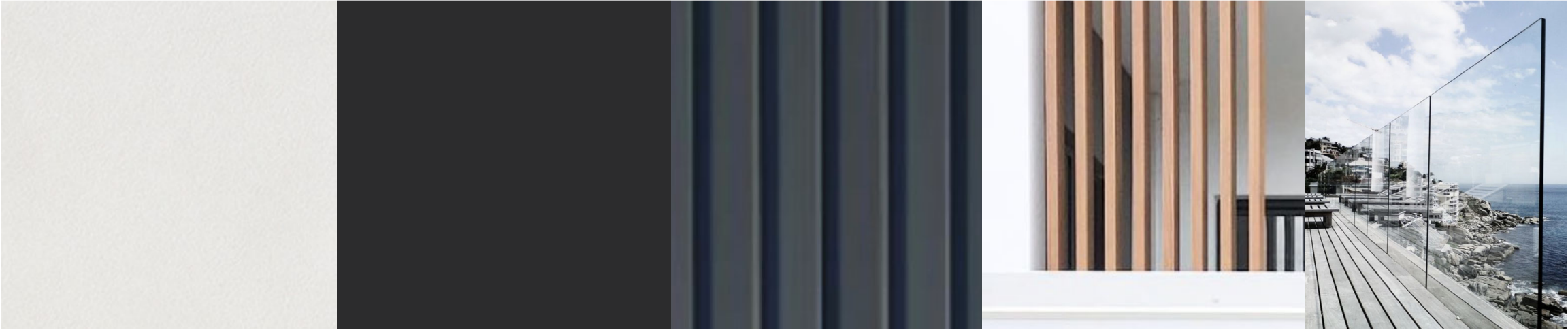
NOTE: MIRROR ALL WINDOWS AND DOORS FOR DWELLING B



NOT FOR CONSTRUCTION



VIEW 01 - STREETFRONT PERSPECTIVE



White render / white aluminium

Charcoal window frames

Sheet metal roof

White render & timber screens

Glass balustrades

MATERIAL PALETTE



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Proposed Alterations to Duplex Development
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Woonona 2517

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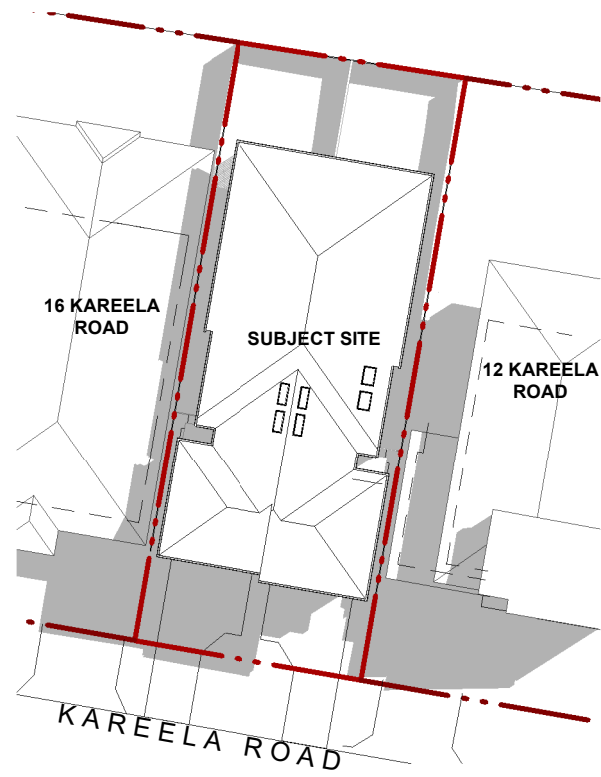
NOT FOR CONSTRUCTION

Title:
3D View & Materials

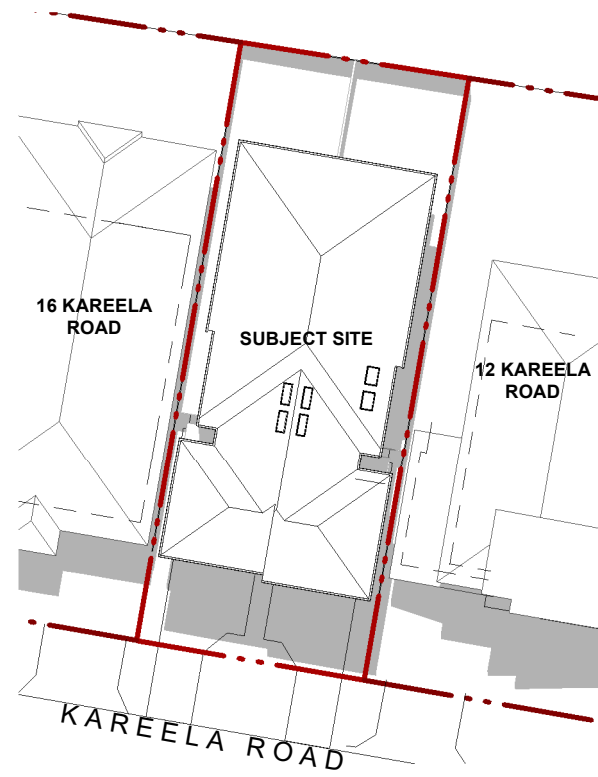
Drawing no:
A20.01

Project no: 1016
Scale: 1 : 100 @ A3

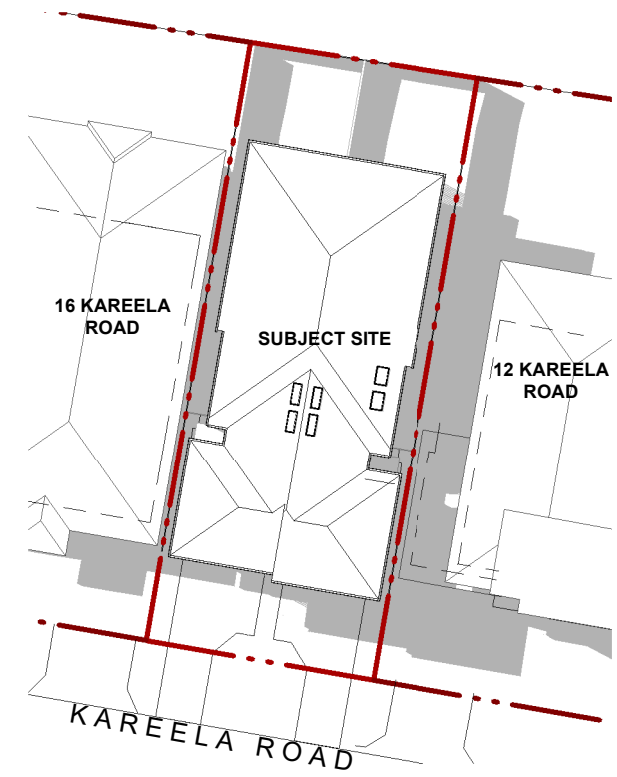
Revision:
3



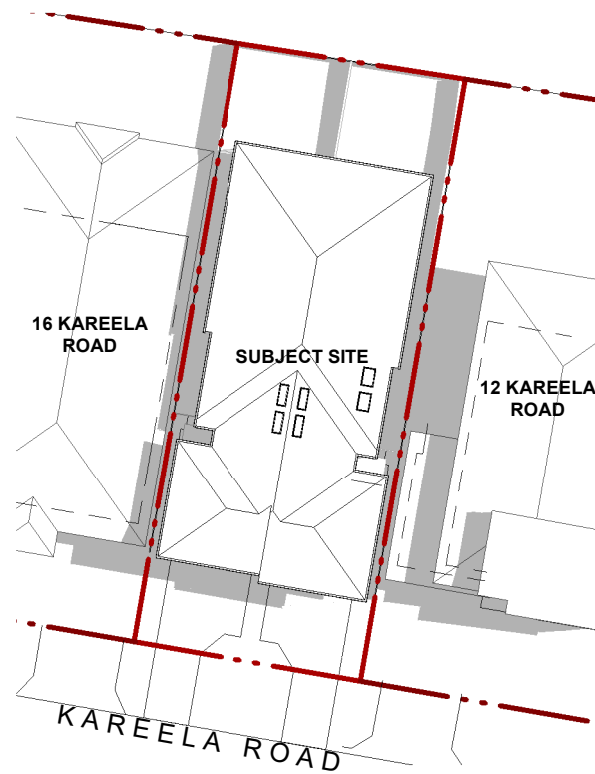
EQUINOX 9am



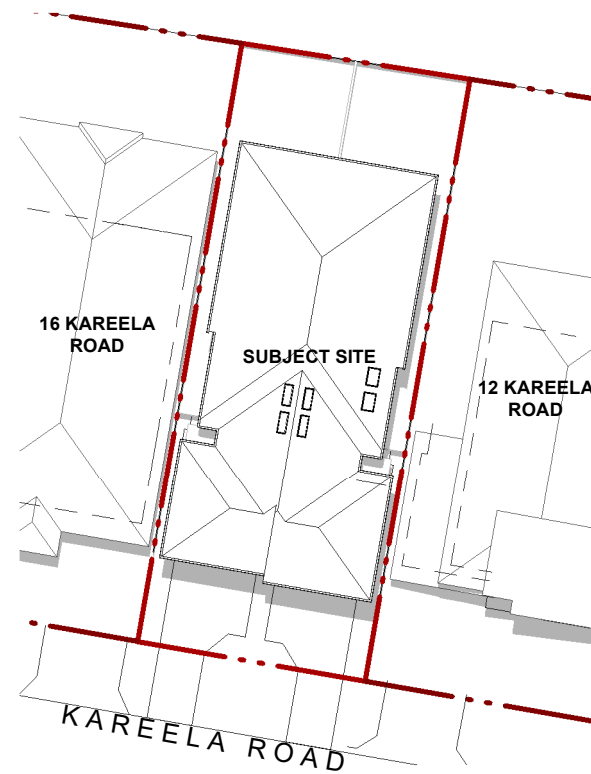
EQUINOX 12pm



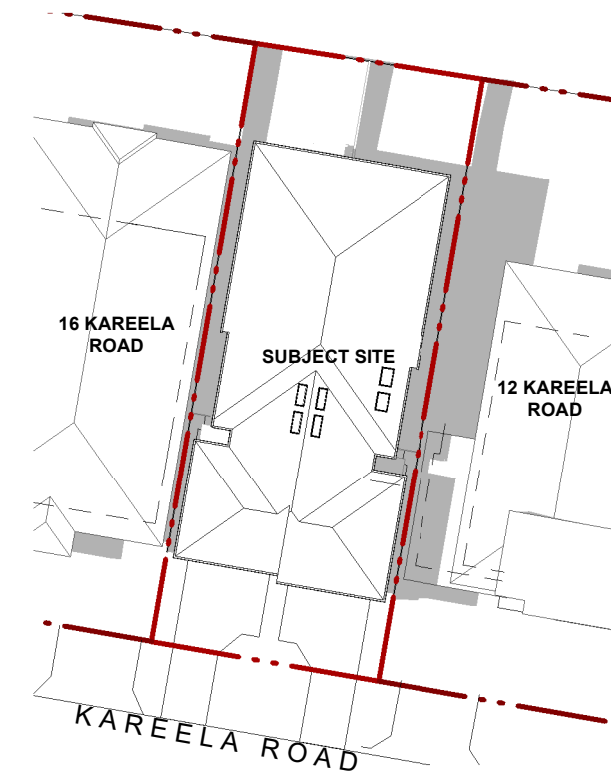
EQUINOX 3pm



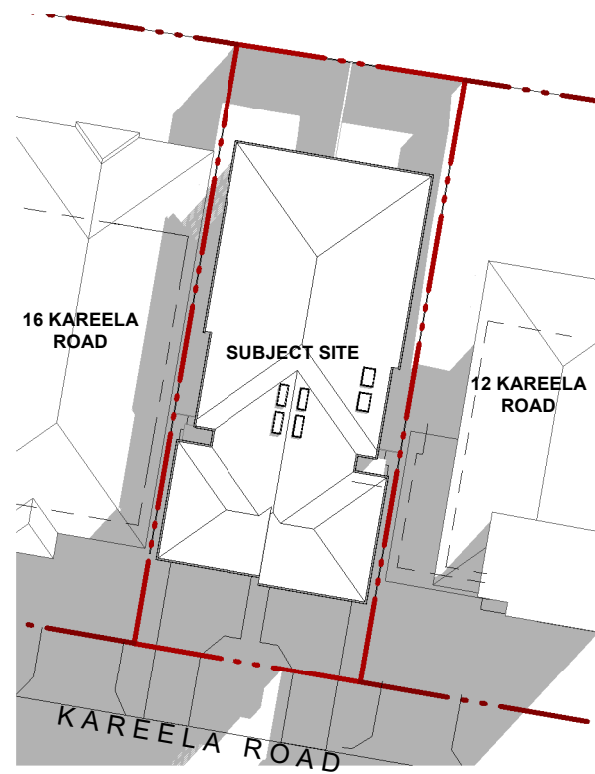
SUMMER SOLSTICE 9am



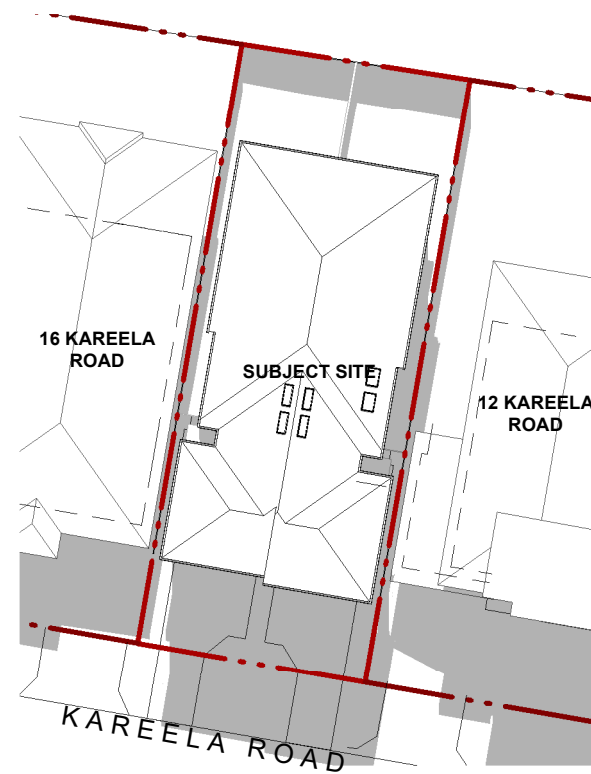
SUMMER SOLSTICE 12pm



SUMMER SOLSTICE 3pm



WINTER SOLSTICE 9am



WINTER SOLSTICE 12pm



WINTER SOLSTICE 3pm

NOT FOR CONSTRUCTION

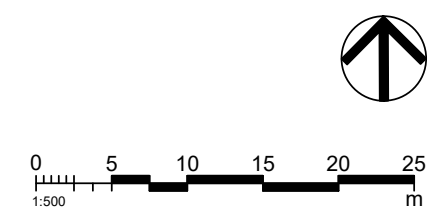


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Project:
Proposed Alterations to Duplex Development
Address:
14 Kareela Rd.
Woonona 2517

Rev	Date	Description
1	16.02.21	DEVELOPMENT APPLICATION
2	26.08.21	RTRFI
3	17.09.12	RTRFI



Title:
Shadow Diagrams - Sheet 1

Drawing no:
A20.02

Project no: 1016
Scale: 1 : 500 @ A3

Revision:
3

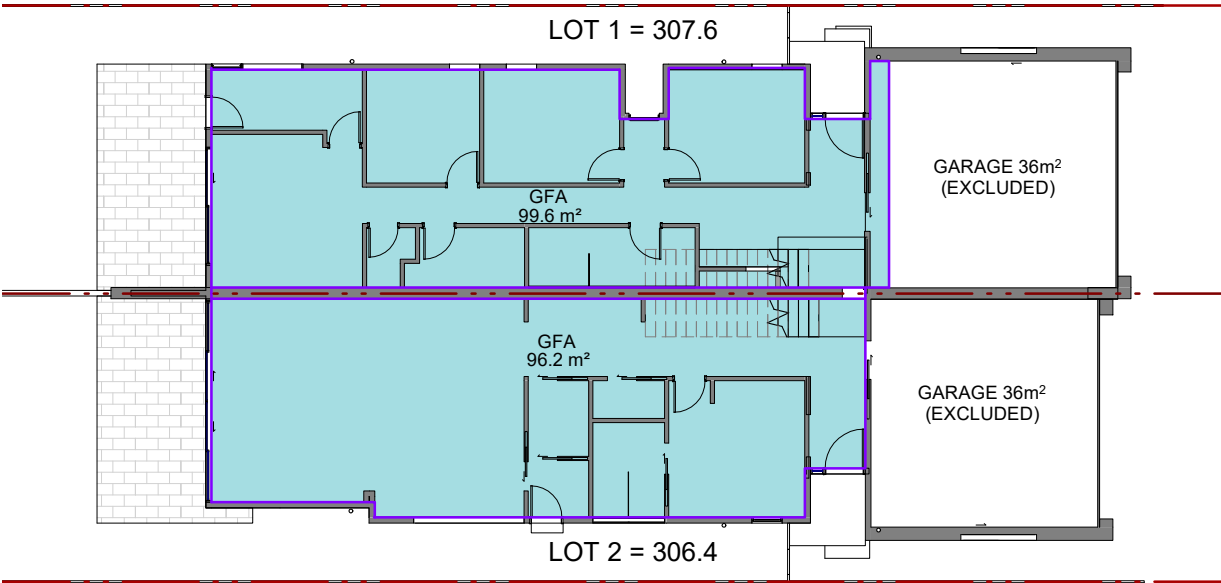
AREA SUMMARY

SITE AREA 614m²

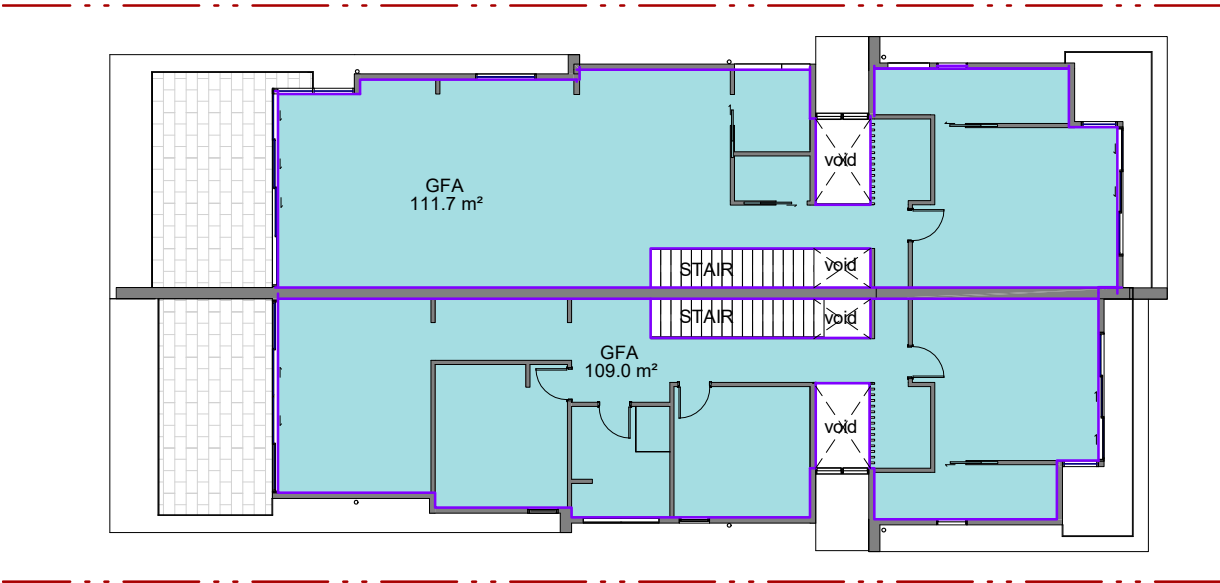
AREA TYPE	CONTROL	PROPOSED (SQM)	COMPLIES?
GFA (approved under CDC)	25% of lot area + 300m² = 453.5m² max GFA	<div>LOT 1: GROUND 112.5 LEVEL 1 111.3 TOTAL 223.8</div> <div>LOT 2: GROUND 112.1 LEVEL 1 109.1 TOTAL 221.2</div> <div>COMBINED: LOT A + LOT B = TOTAL 445m² / 0.724:1</div>	YES - APPROVED
GFA (proposed under DA)	FSR 0.5:1	<div>LOT 1: GROUND 99.6 LEVEL 1 111.7 TOTAL 211.3</div> <div>LOT 2: GROUND 96.2 LEVEL 1 109.0 TOTAL 205.2</div> <div>COMBINED: LOT A + LOT B = TOTAL 416.5m² / 0.678:1</div>	YES - REDUCED GFA

PROPOSED ALTERATIONS LEGEND

PROPOSED ALTERATIONS



2 Level 00 - GFA 1 : 200



1 Level 01 - GFA 1 : 200

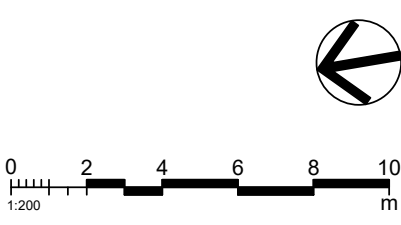
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Project:
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Address:
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Woonona 2517

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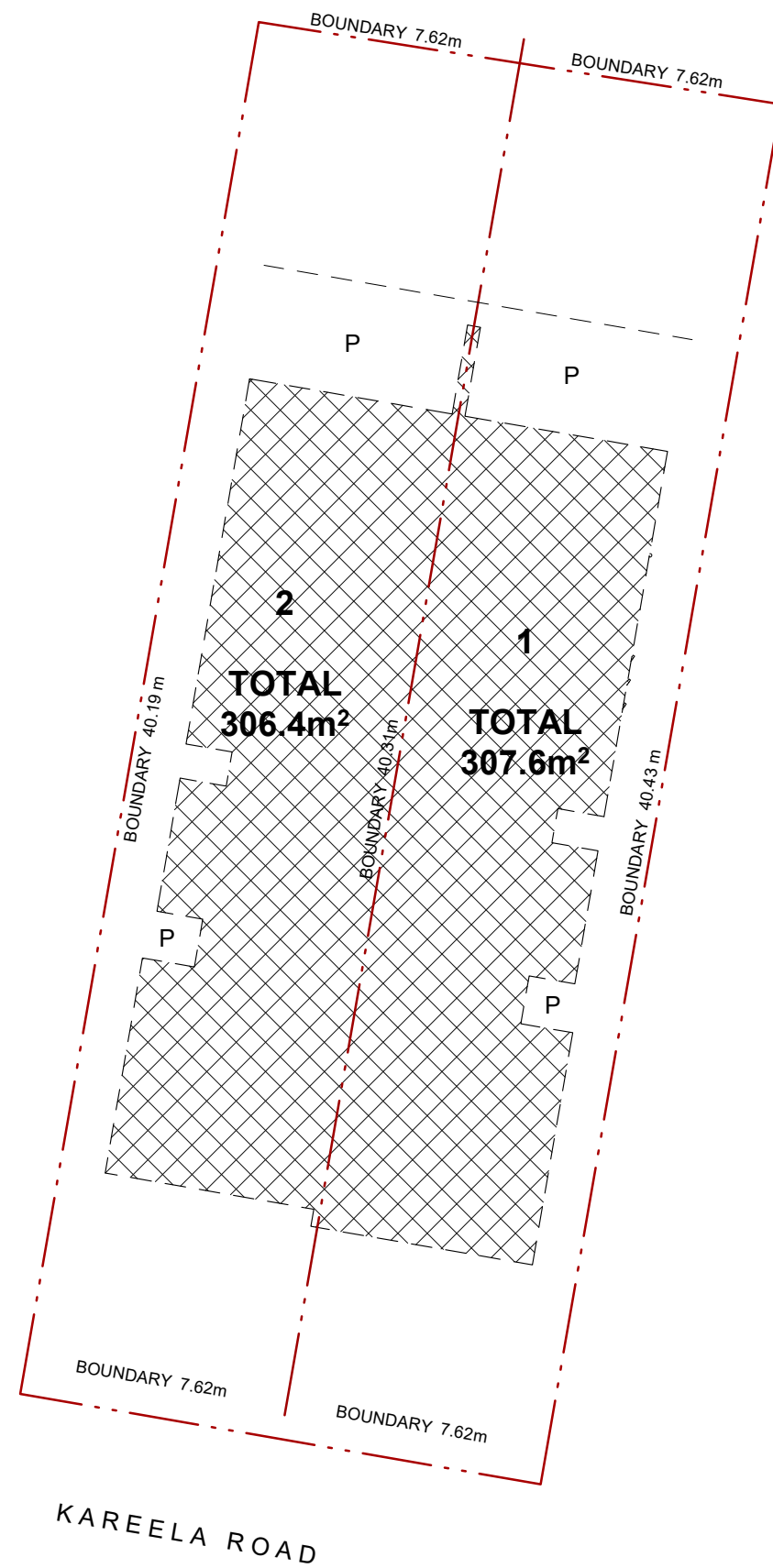
NOT FOR CONSTRUCTION

Title:
Area Calculations

Drawing no:
A30.01

Project no: 1016
Scale: As indicated @ A3

Revision:
4



NOTE:

1. TORRENS TITLE SUBDIVISION CONCEPT PLAN PREPARED TO CONVEY GENERAL SUBDIVISION CONCEPT INFORMATION ONLY, FORMAL SUBDIVISION CONCEPT TO BE PREPARED BY A REGISTERED SURVEYOR.
2. P - DENOTES PATIO / PORCH
3. CY - DENOTES COURTYARD

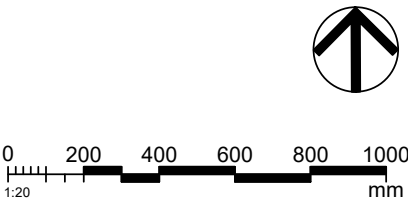


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Project:
Proposed Alterations to Duplex Development
Address:
**14 Kareela Rd.
Woonona 2517**

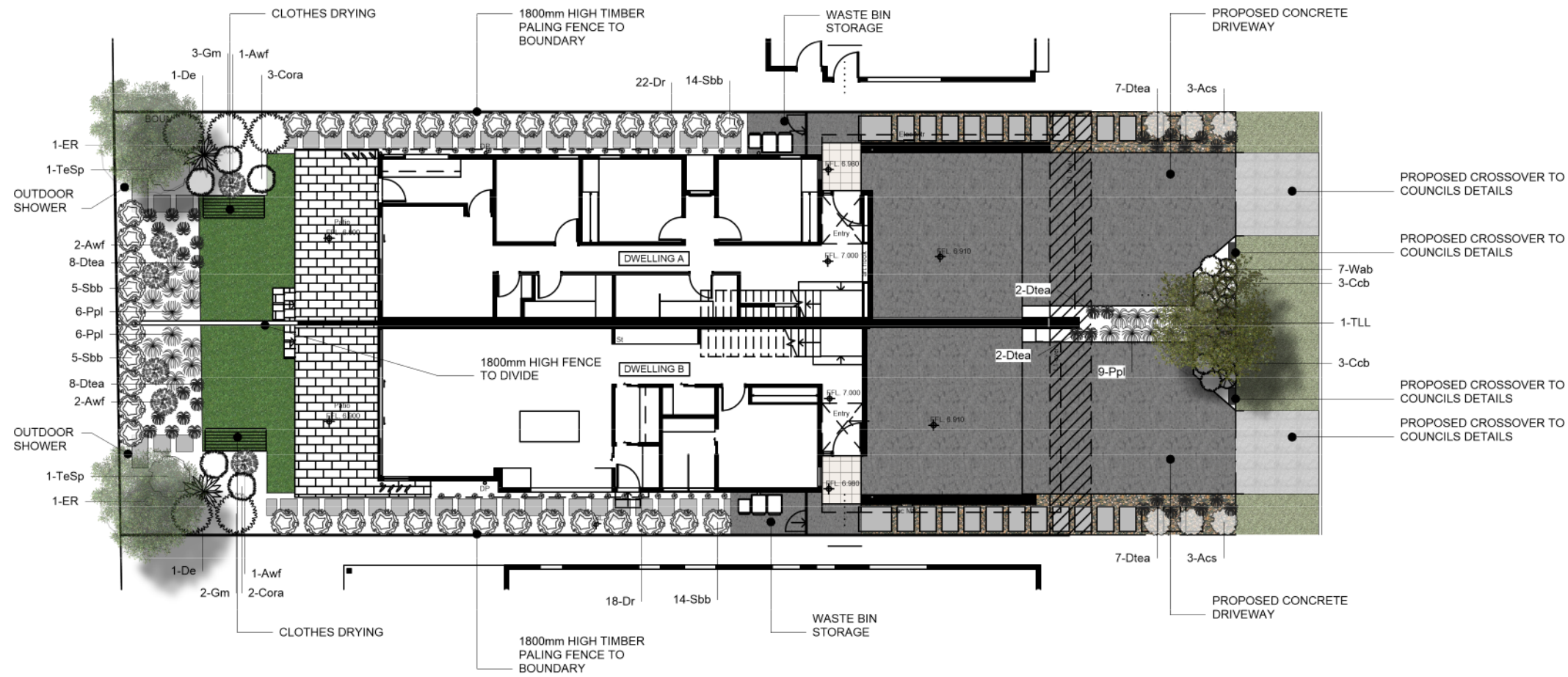
Rev	Date	Description
1	16.02.21	DEVELOPMENT APPLICATION
2	26.08.21	RTRFI
3	17.09.12	RTRFI



NOT FOR CONSTRUCTION

Title:
Torrens Title Subdivision Concept Plan
Drawing no:
A30.03
Revision:
3

Project no: 1016
Scale: 1 : 200 @ A3



1	29/6/20	Issue for DA	RC
ISSUE	DATE	ISSUE NOTE	BY

A	19/1/21	CDC Issue	RC
REVISION	DATE	REVISION NOTE	BY

NOTES

PROJECT
Proposed Dual Occupancy Development

ADDRESS
No 14 Kareela Road Woonona NSW

CLIENT

DRAWING
Landscape Concept Plan



Captivate
Landscape Design

www.captivatedesign.com.au
(02) 4232 1191
info@captivatedesign.com.au
No 18 Manning Street,
Kiama NSW 2533

PROJECT #	1609	DWG STATUS	
DWG DATE	29.6.20	CAD FILE NAME	1609 - Landscape.vwx
PLOT DATE	29.6.20	DWG #	REVISION
ORIGINAL SHEET SIZE	A3		
SCALE @ A3	1:200		
DRAWN	RC	CHKD	RC
DA-1609/1			OF 1

LEGEND



PLAIN CONCRETE



COLOURED CONCRETE



TILES



TURF / GARDEN EDGE
Timber Edge



EXISTING TURF
AREAS



PROPOSED TURF
AREAS



WASTE BINS /
CLOTHES DRYING



DECORATIVE
PEBBLE



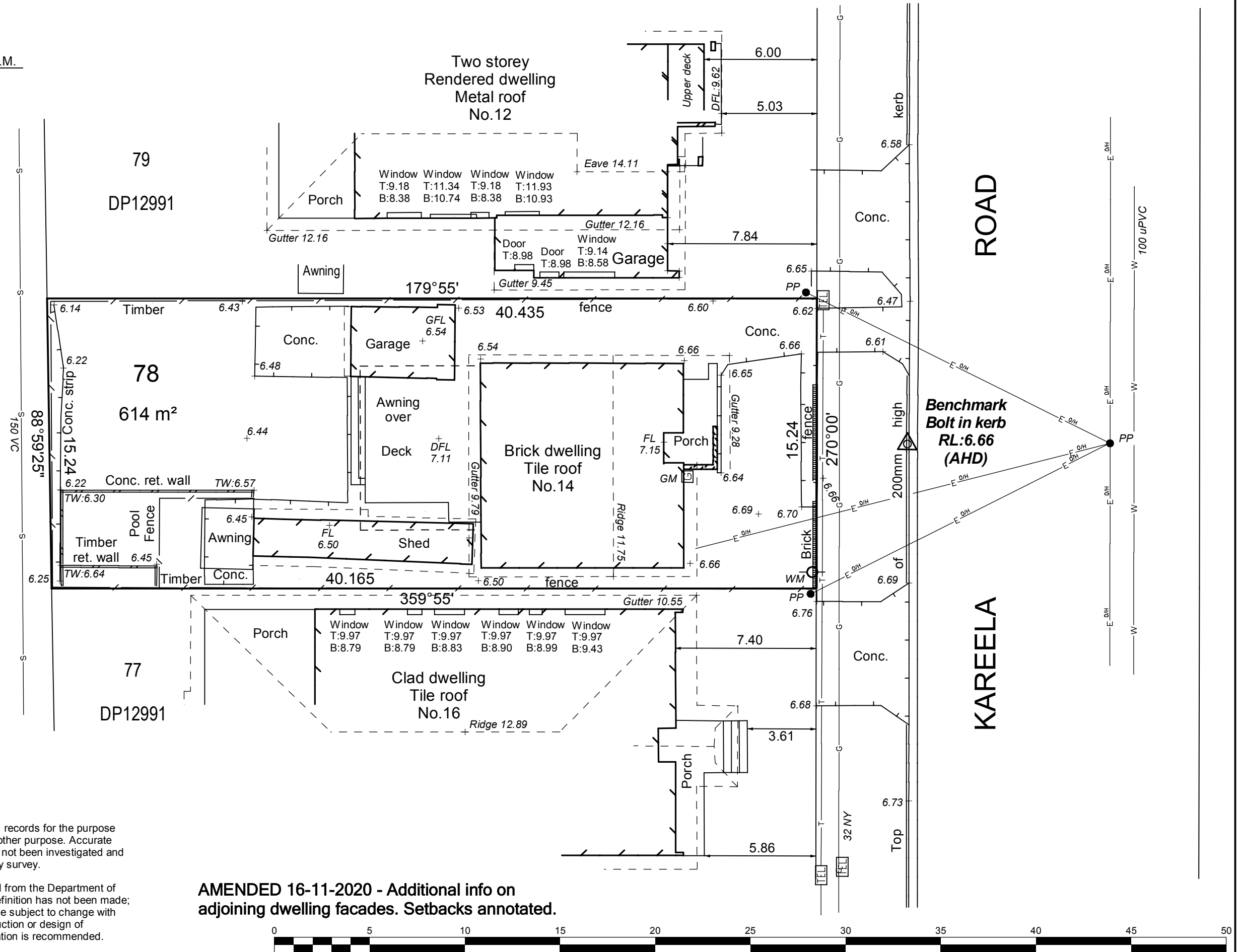
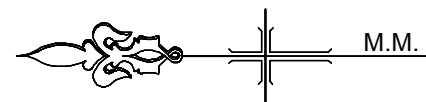
STEPPING PADS

Planting Schedule						
ID	Qty	Common Name	Botanical Name	Scheduled Size	Mature Height	Mature Spread
Trees						
ER	2	Blueberry Ash	Elaeocarpus reticulatus	45Lt	4 - 10m	2 - 4m
TLL	1	Luscious Water Gum	Tristaniopsis laurina 'Luscious'	45Lt	6m	5m
Shrubs						
Awf	6	Bower Wattle	Acacia cognata 'Winter Flame'	200mm	0.8m	1m
Acs	6	Lilly Pilly	Acema smithii 'Cherry Surprise'	200mm	1.5m	1m
Cora	5	White Correa	Correa alba	200mm	0.9 - 1.5m	0.9 - 1.2m
Ccb	6	Correa	Correa 'Canberra Bells'	200mm	1m	1m
De	2	Gymea Lily	Doryanthes excelsa	200mm	1.5 - 3m	1.2 - 2.0m
Gm	5	Moonlight Grevillea	Grevillea 'Moonlight'	200mm	3-4m	2-3m
Sbb	38	Lilly Pilly	Syzygium 'Backyard Bliss'	200mm	3m	1m
TeSp	2	Waratah	Telopea speciosissima	200mm	2 - 4m	1 - 2m
Wab	7	Coastal Rosemary	Westringia fruticosa 'Aussie Box'	200mm	0.8m	0.8m
Ground Covers						
Dr	40	Kidney Weed	Dichondra repens	150mm	0.0 - 0.3m	0.9 - 1.2m
Grasses						
Dtea	34	Daniella	Daniella Tasmanica 'Emerald Arch'	200mm	0.55m	0.55m
Ppl	21	Foxtail Grass	Pennisetum alopecuroides 'Purple Lea'	150mm	0.8-0.9m	0.8-0.9m



FRONT ELEVATION
1:150

For Development Application Only



Notes:

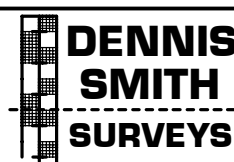
This plan has been prepared from field survey and existing records for the purpose of 1:200 general planning and should not be used for any other purpose. Accurate location of improvements in relation to the boundaries has not been investigated and all critical improvement dimensions should be confirmed by survey.

Although the latest available information has been adopted from the Department of Lands, boundary investigation for the purpose of critical definition has not been made; therefore, any stated bearing, distance and/or area could be subject to change with further investigation. If boundary critical excavation/construction or design of buildings/extensions are to be undertaken further investigation is recommended.

Services have been located where possible, underground services are interpreted from the records of the relevant authority unless stated as 'located'. The relevant authority should be contacted and all services accurately located prior to any excavation/construction works or design of buildings/extensions. Please call 1100 or visit www.1100.com.au for 'Dial Before You Dig' service location plans.

Roof profile and tree details are approximate only.

AMENDED 16-11-2020 - Additional info on adjoining dwelling facades. Setbacks annotated.



8 Railway Street Bulli NSW 2516
Ph: 02 4284 9402 Fax: 02 4285 7042
E-mail: info@dssurvey.com.au
Web: www.dssurvey.com.au

PLAN: Detail survey plan
ADDRESS: 14 Kareela Road, Woonona
TITLE: Lot 78 DP12991
CLIENT: Jessica Carfield

ORIENTATION:
Magnetic Meridian
Origin: DP12991
DATUM: A.H.D.
Origin: SSM12977

P.R.: 11800
SCALE 1:200
DATE: 10-05-2018
SHEET 1 of 1 (A3)
Drawn: A.P. Check: MS



PROPOSED DUPLEX DEVELOPMENT
Site 14 KAREELA ROAD WOONONA NSW 2517
Lot 78 DP 12991

DRAWING LIST

A01.00	COVER SHEET
A01.01	SITE PLAN
A01.02	SITE ANALYSIS
A03.00	GROUND LEVEL PLAN
A03.01	LEVEL 1 PLAN
A07.01	SOUTH AND WEST ELEVATIONS
A07.02	NORTH AND EAST ELEVATIONS
A08.01	SECTION A & B
A12.01	WINDOW SCHEDULE
A12.02	MATERIAL SCHEDULE
A20.02	SHADOW DIAGRAMS
A20.03	SHADOW DIAGRAMS
A20.01	AREA CALCULATIONS
A30.02	SITE & WASTE MANAGEMENT PLAN
A30.03	TORRENS TITLE SUBDIVISION CONCEPT PLAN

AREA SUMMARY

SITE AREA 614m²

AREA TYPE	CONTROL	PROPOSED (SQM)	COMPLIES?
GFA	25% of lot area + 300m ² = 453.5m ² max GFA	<div>LOT 1: GROUND 112.5 LEVEL 1 111.3 TOTAL 223.8</div> <div>LOT 2: GROUND 112.1 LEVEL 1 109.1 TOTAL 221.2</div> <div>COMBINED: LOT A + LOT B = TOTAL 445gm</div>	YES
LANDSCAPED AREA	50% LOT - 100m ² = 207m ² 25% of the area forward of building line must be landscaped. Area in front of building line = 102.1m ²	207.2m ² provided 43.9m ² provided in front of building line (43%)	YES



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Amy Ellis, Architect NSW #10545
ABN 58624263089

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Project:
Proposed Duplex

Address:
**14 Kareela Rd.
Woonona 2517**

Rev	Date	Description
1	02.07.20	DEVELOPMENT APPLICATION
2	16.12.20	CDC Review
3	09.03.21	FINAL FOR CDC

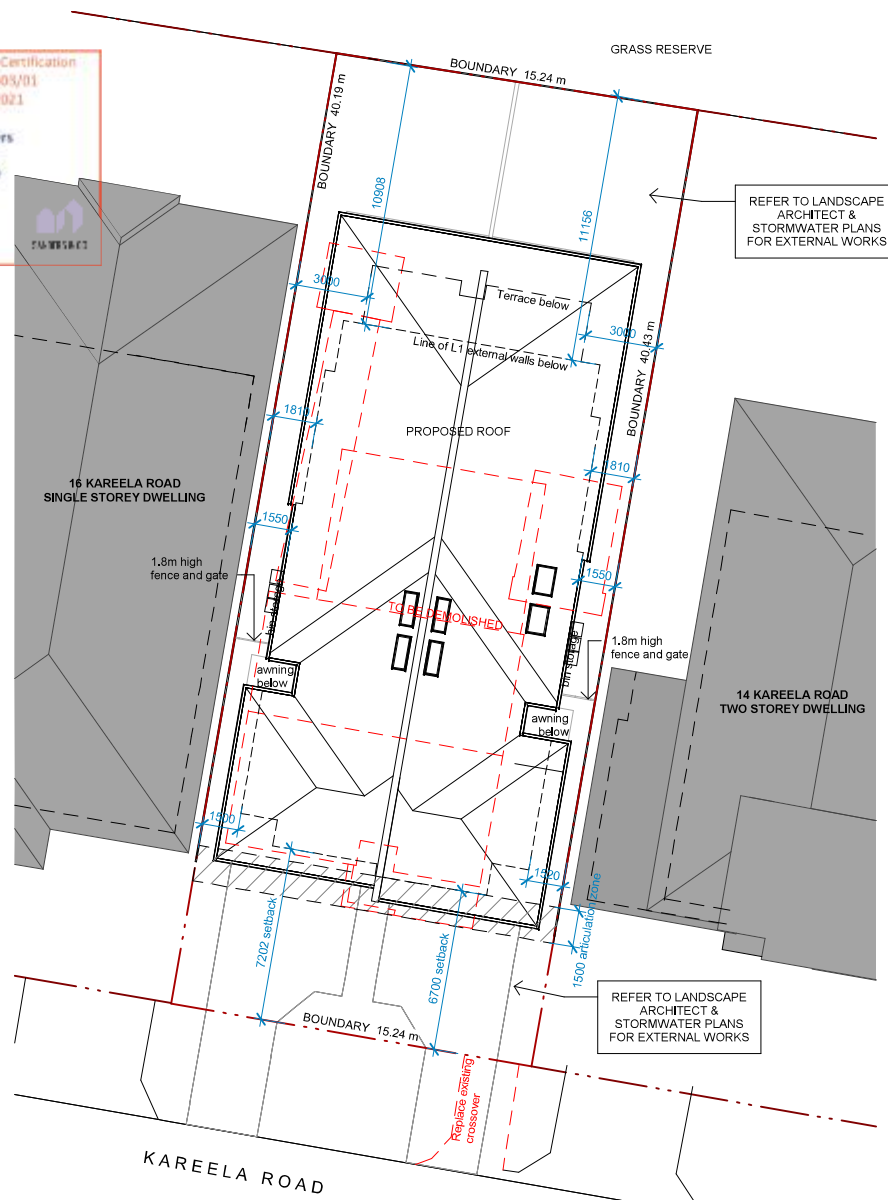
FOR CONSTRUCTION

Title:
Cover Sheet

Drawing no:
A01.00

Project no: 1016
Scale: 1 : 200 @ A3

Revision:
3



BASIX REQUIREMENTS DWELLING A

BASIX certificate #984324S issued: 02.07.20 (or as superseded)

FIXTURES

- install showerheads with a minimum rating of 3 star (> 4.5 but <= 6 L/min) in all showers in the development,
- install a toilet flushing system with a minimum rating of 3 star in each toilet in the development,
- install taps with a minimum rating of 4 star in the kitchen in the development,
- install basin taps with a minimum rating of 3 star in each bathroom in the development,

ALTERNATIVE WATER

- install a rainwater tank of at least 2000 litres on the site. This rainwater tank must meet, and be installed in accordance with, the requirements of all applicable regulatory authorities,
- configure the rainwater tank to collect rain runoff from at least 174 square metres of the roof area of the development (excluding the area of the roof which drains to any stormwater tank or private dam).

The applicant must connect the rainwater tank to:

- at least one outdoor tap in the development (Note: NSW Health does not recommend that rainwater be used for human consumption in areas with potable water supply.)

THERMAL COMFORT COMMITMENTS

DIY Method

Construction:

Floor - slab on ground	Additional Insulation
Floor - suspended framed	nil
External wall (framed, clad)	R3.0 (or R3.4 incl construction)
External wall (brick veneer)	R2.85 (or R3.4 incl construction)
Internal wall at garage	nil (single skin masonry)
Ceiling and roof	Ceiling: R3.58 (up), roof: foil backed blanket (55mm)
	Roof framed, dark (solar absorbance >0.70)

Windows

Refer window schedule and full BASIX Certificate

BASIX REQUIREMENTS DWELLING B

BASIX certificate #991937S issued: 02.07.20 (or as superseded)

FIXTURES

- install showerheads with a minimum rating of 3 star (> 4.5 but <= 6 L/min) in all showers in the development,
- install a toilet flushing system with a minimum rating of 3 star in each toilet in the development,
- install taps with a minimum rating of 4 star in the kitchen in the development,
- install basin taps with a minimum rating of 3 star in each bathroom in the development,

ALTERNATIVE WATER

- install a rainwater tank of at least 2000 litres on the site. This rainwater tank must meet, and be installed in accordance with, the requirements of all applicable regulatory authorities,
- configure the rainwater tank to collect rain runoff from at least 174 square metres of the roof area of the development (excluding the area of the roof which drains to any stormwater tank or private dam).

The applicant must connect the rainwater tank to:

- at least one outdoor tap in the development (Note: NSW Health does not recommend that rainwater be used for human consumption in areas with potable water supply.)

THERMAL COMFORT COMMITMENTS

DIY Method

Construction:

Floor - slab on ground	Additional Insulation
Floor - suspended framed	nil
External wall (framed, clad)	R3.0 (or R3.4 incl construction)
External wall (brick veneer)	R2.85 (or R3.4 incl construction)
Internal wall at garage	nil (single skin masonry)
Ceiling and roof	Ceiling: R3.58 (up), roof: foil backed blanket (55mm)
	Roof framed, dark (solar absorbance >0.70)

Windows

Refer window schedule and full BASIX Certificate

FOR CONSTRUCTION

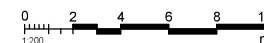


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Proposed Duplex
Address:
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Woonona 2517**

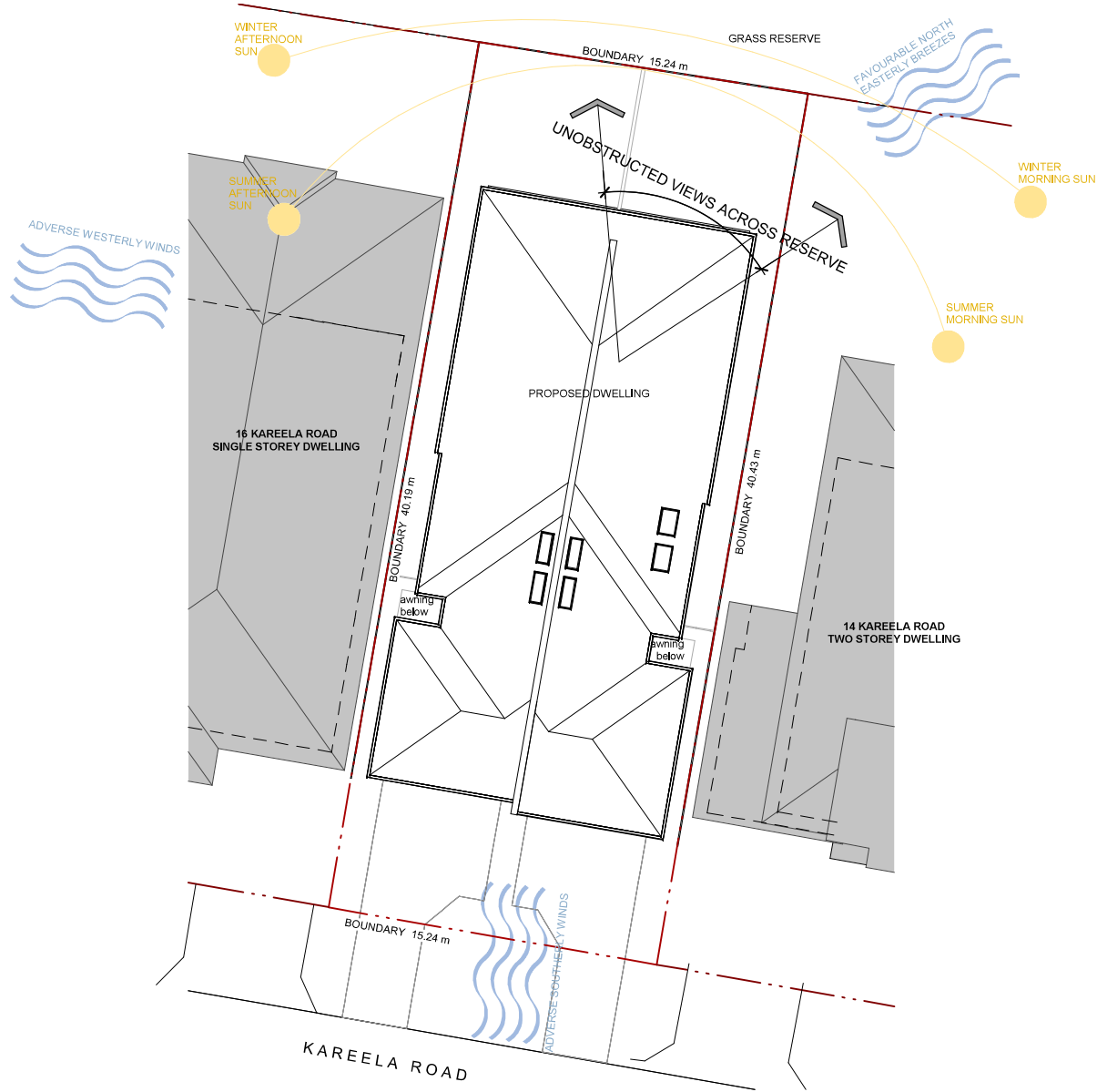
Rev	Date	Description
1	02.07.20	DEVELOPMENT APPLICATION
2	16.12.20	CDC Review
3	09.03.21	FINAL FOR CDC



Title:
Site Plan
Drawing no:
A01.01

Project no: 1016
Scale: 1:200 @ A3

Revision:
3



FOR CONSTRUCTION



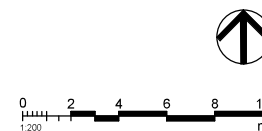
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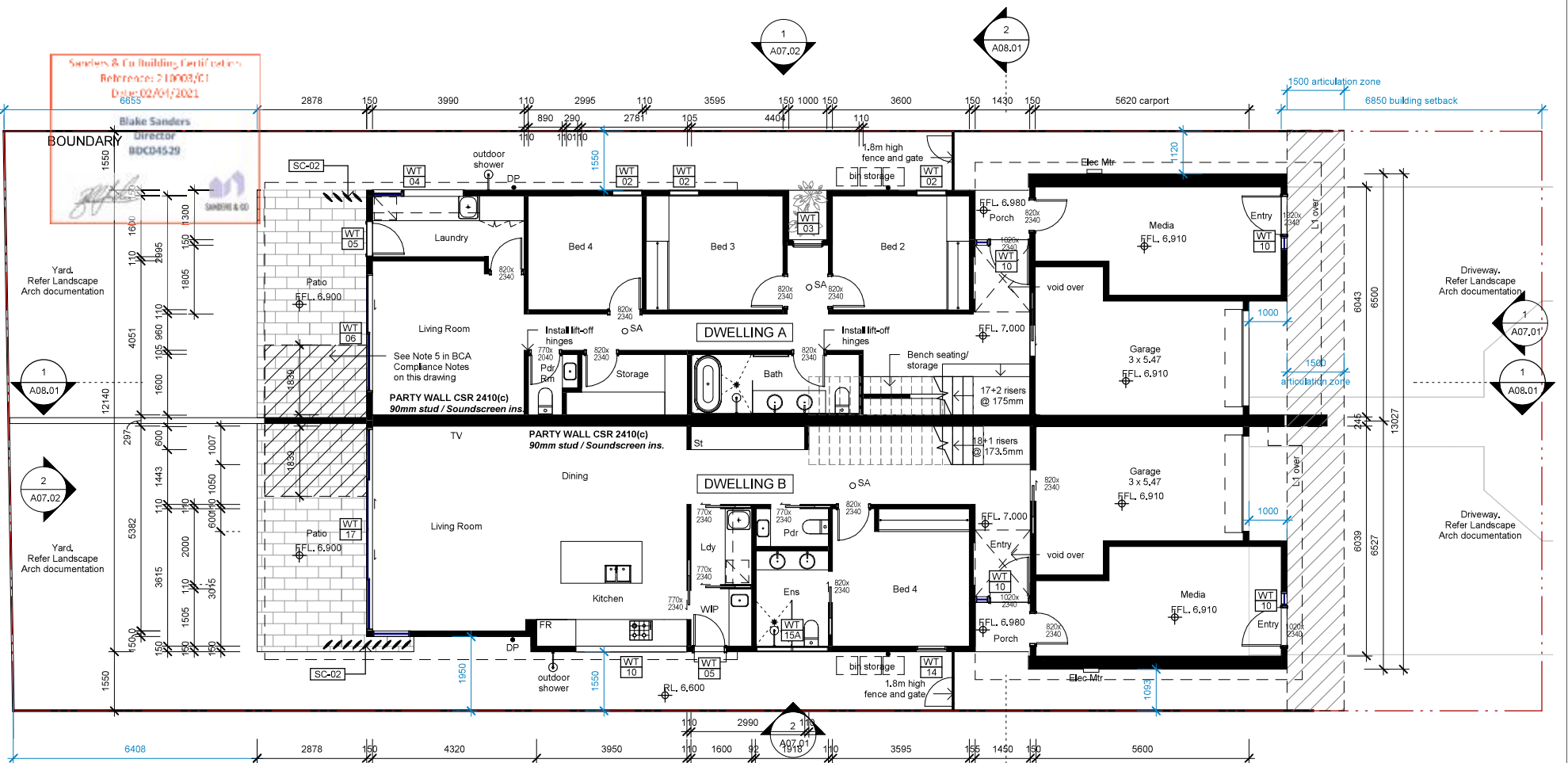


Title:
Site Analysis

Drawing no:
A01.02

Project no: 1016
Scale: 1 : 200 @ A3

Revision:
2



Legend:		
--- Property Boundary	○ SA	Smoke alarm to ceiling, installed to NCC and AS3786
--- New Wall	WT #	New Window Type # Refer A12.001
FFL, XX,XX	WT #	Existing Window
EX FFL, XX,XX	EX	Existing Finished Floor Level
	XX-XX	New material/finish refer A12.002

BCA COMPLIANCE:	
1. The building is to be constructed in accordance with current NCC, relevant Australian Standards, and relevant statutory requirements.	
2. Windows to be protected in accordance with NCC 2019 Part 3.9.2.6 and 3.9.2.7	
3. Stair construction to be in accordance with NCC 2019 Part 3.9.1	
4. Barriers and handrails to be in accordance with NCC 2019 Part 3.9.2	
5. Soffit above hatched area for 1.8m to either side of party wall to comply with NCC 3.7.3.5.	

PARTY WALL:	CSR2410(C)90mm - or client approved alternate
Install to GYP513 Party Wall Installation Guide	
Buildup:	1x 10mm Gyprock AquaCheck 1x 6mm CeminSeal 90mm stud with 88 Soundscreen 2.5 Cavity 25mm Gyprock Shaft Liner Panel Cavity 90mm stud with 88 Soundscreen 2.5 1x 6mm CeminSeal 1x 10mm Gyprock AquaCheck

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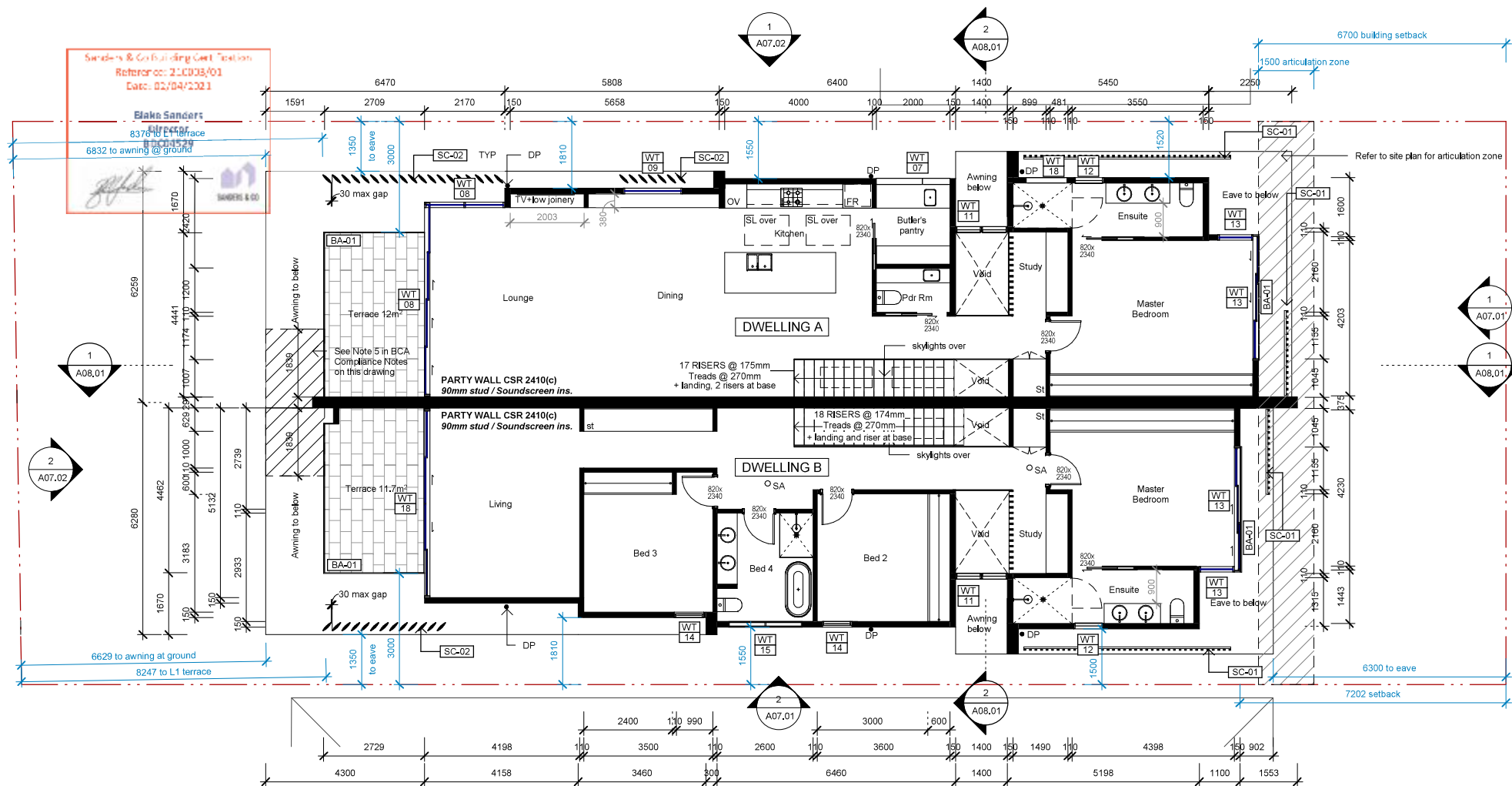
FOR CONSTRUCTION

Title:
Plan - Ground Level

Drawing no:
A03.00

Project no: 1016
Scale: 1:100 @ A3

Revision:
3



Legend:	
Property Boundary	○ SA
New Wall	WT #
FFL, XX.XX	Existing Window
EX FFL, XX.XX	Existing Finished Floor Level
	XX.XX

BCA COMPLIANCE:	
1. The building is to be constructed in accordance with current NCC, relevant Australian Standards, and relevant statutory requirements.	
2. Windows to be protected in accordance with NCC 2019 Part 3.9.2.6 and 3.9.2.7	
3. Stair construction to be in accordance with NCC 2019 Part 3.9.1	
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5. Soffit above hatched area for 1.8m to either side of party wall to comply with NCC 3.7.3.5.	

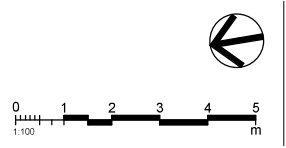
PARTY WALL:	
CSR2410(C)90mm - or client approved alternate	
Install to GYP513 Party Wall Installation Guide	
Buildup:	
	1x 10mm Gyprock AquaCheck
	1x 6mm CeminiSeal
	90mm stud with 88 Soundscreen 2.5
	Cavity
	25mm Gyprock Shaft Liner Panel
	Cavity
	90mm stud with 88 Soundscreen 2.5
	1x 6mm CeminiSeal
	1x 10mm Gyprock AquaCheck

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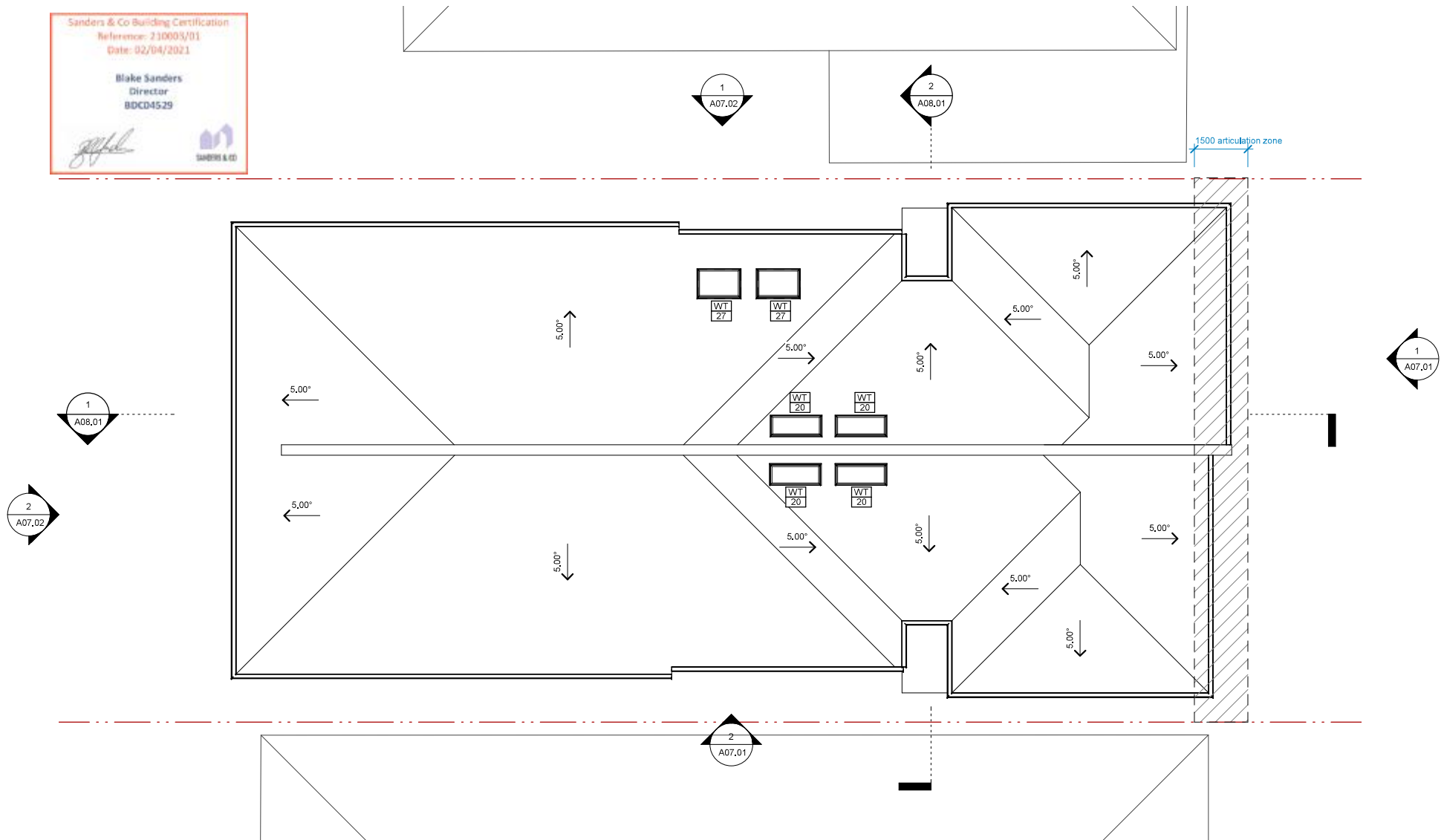
FOR CONSTRUCTION

Title:
 Plan - Level 01

Drawing no:
 A03.01

Project no: 1016
Scale: 1:100 @ A3

Revision:
 3



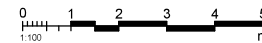
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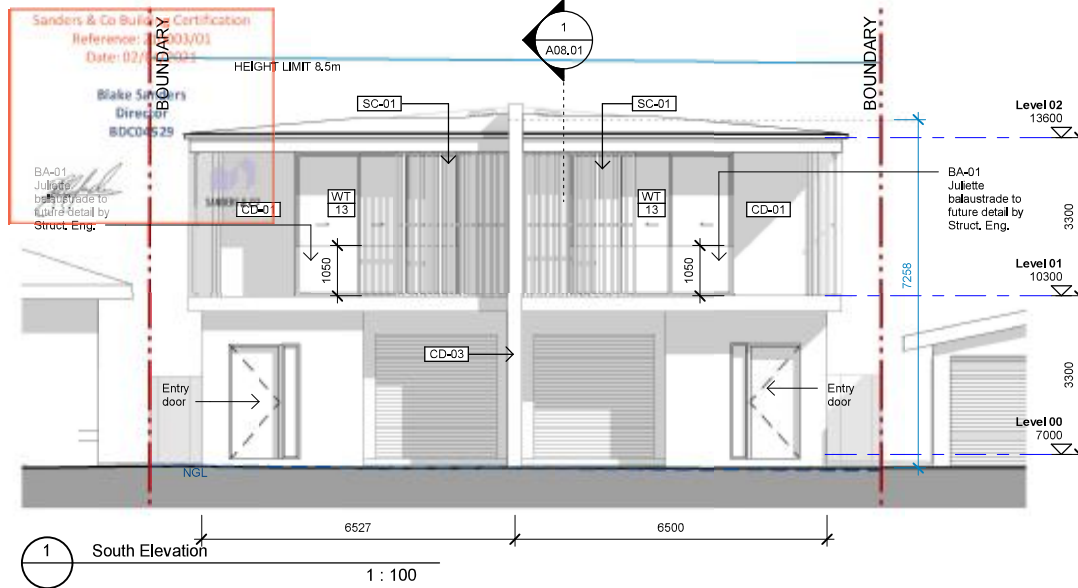
FOR CONSTRUCTION

Title:
Roof Plan

Drawing no:
A03.02

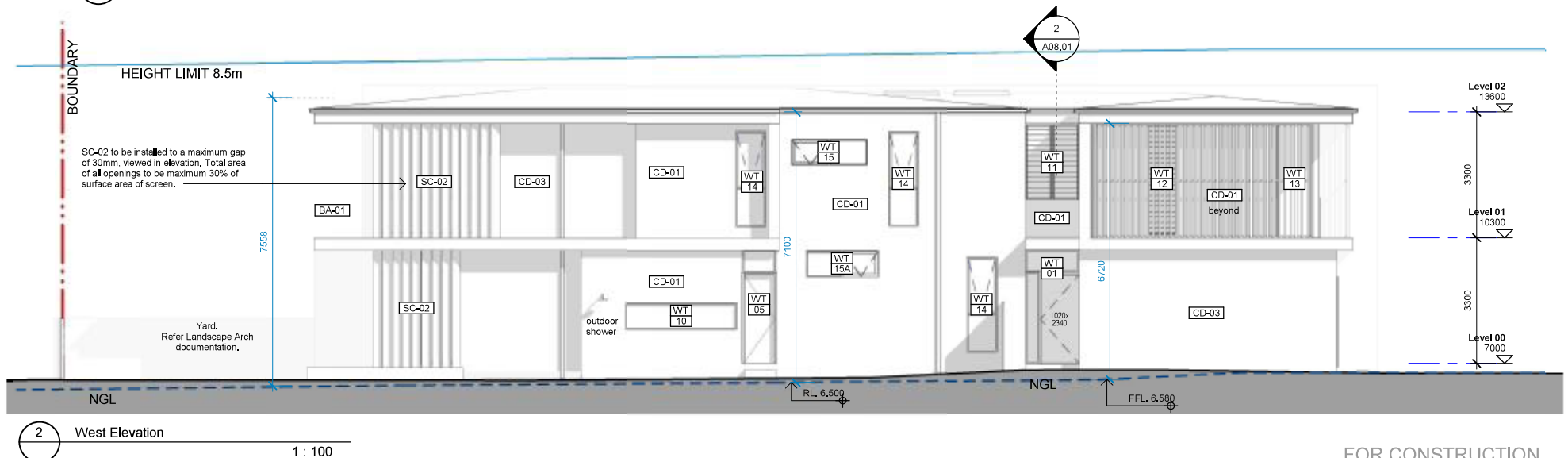
Project no: 1016
Scale: 1:100 @ A3

Revision:
2



MATERIALS LEGEND

- BA-01 Clear glass balustrade to future Struct. Eng. detail
- CD-01 Render & paint finish, white
- CD-02 Timber battens over white render
- CD-03 Brick, bagged & painted
- RF-01 Sheet metal roof, Colourbond Monument
- SC-01 Timber privacy battens, 50x50, 80mm spacing
- SC-02 Timber privacy louvres, fixed
NOTE: to be installed to a maximum gap of 30mm, viewed in elevation. Total area of all openings to be maximum 30% of surface area of screen.
- WT-XX Aluminium framed windows, black



FOR CONSTRUCTION



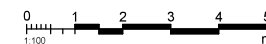
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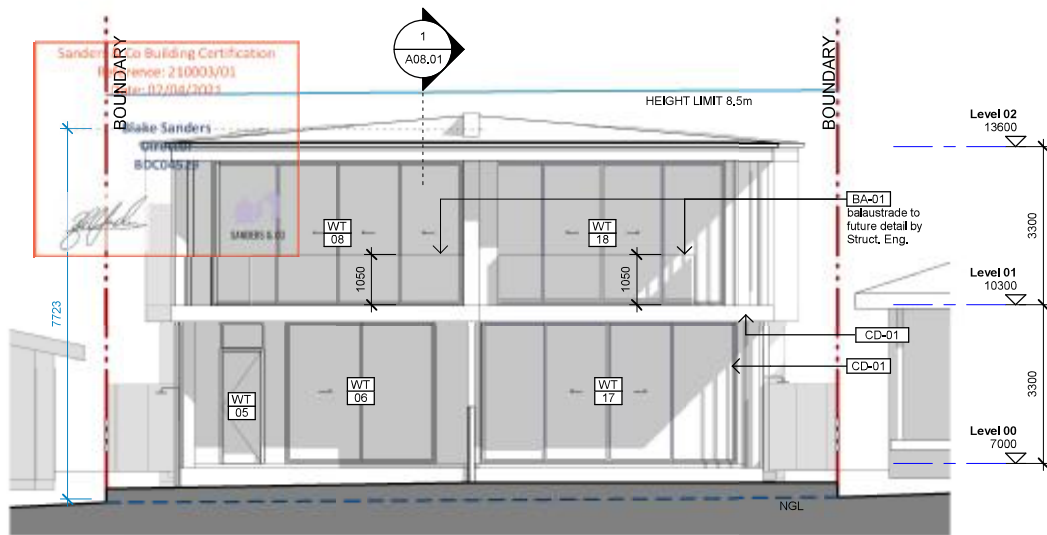


Title:
South and West Elevations

Drawing no:
A07.01

Project no: 1016
Scale: 1 : 100 @ A3

Revision:
3



2 North Elevation
1 : 100

MATERIALS LEGEND

- BA-01 Clear glass balustrade to future Struct. Eng. detail
- CD-01 Render & paint finish, white
- CD-02 Timber battens over white render
- CD-03 Brick, bagged & painted
- RF-01 Sheet metal roof, Colourbond Monument
- SC-01 Timber privacy battens, 50x50, 80mm spacing
- SC-02 Timber privacy louvres, fixed
NOTE: to be installed to a maximum gap of 30mm, viewed in elevation. Total area of all openings to be maximum 30% of surface area of screen.
- WT-XX Aluminium framed windows, black



1 East Elevation
1 : 100

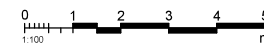
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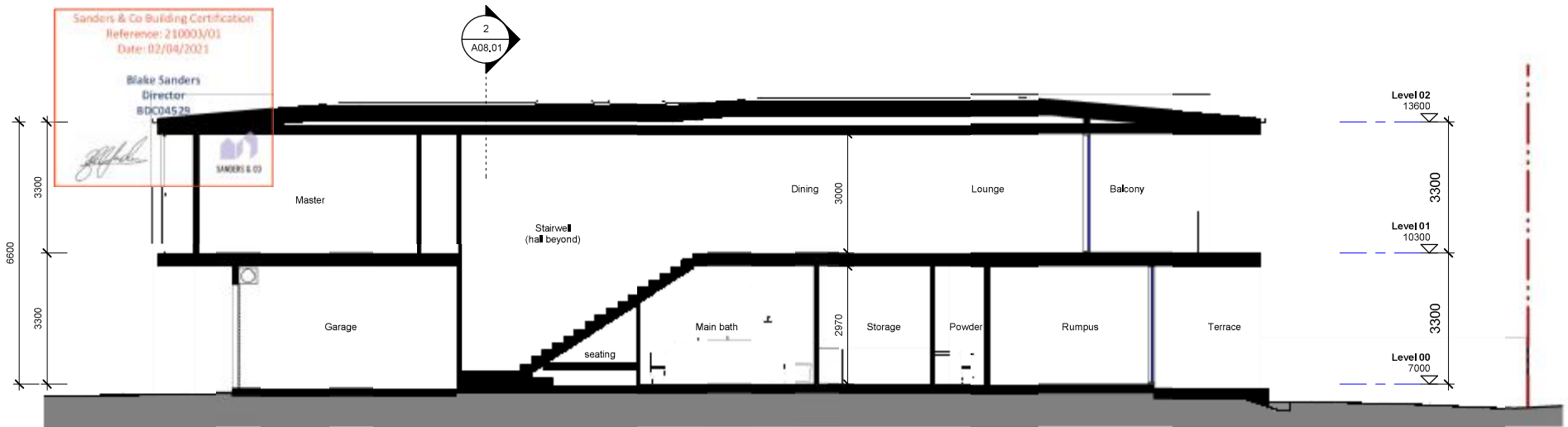
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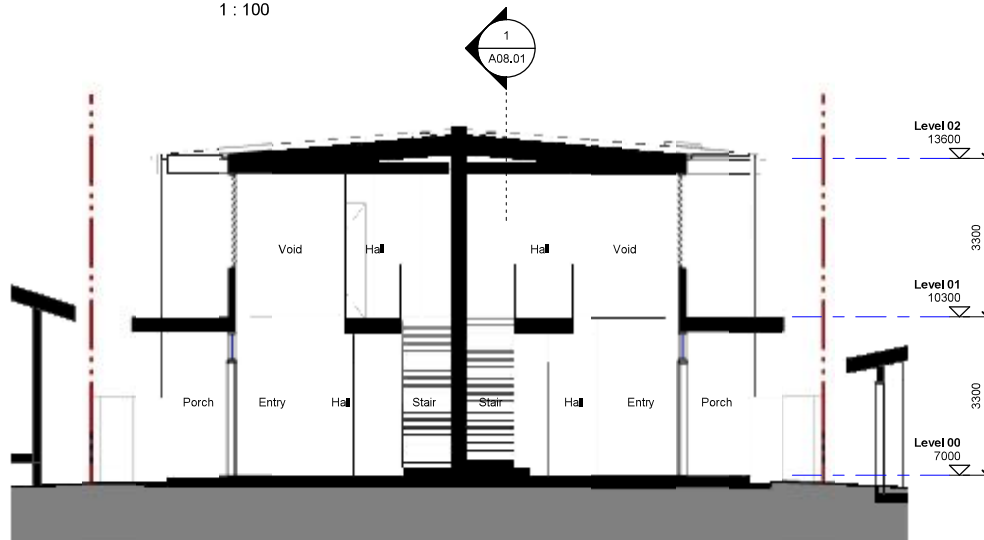
Title:
North & East Elevations
Drawing no:
A07.02

Project no: 1016
Scale: 1 : 100 @ A3

Revision:
3



1 Section A
1 : 100



2 Section B
1 : 100

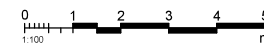
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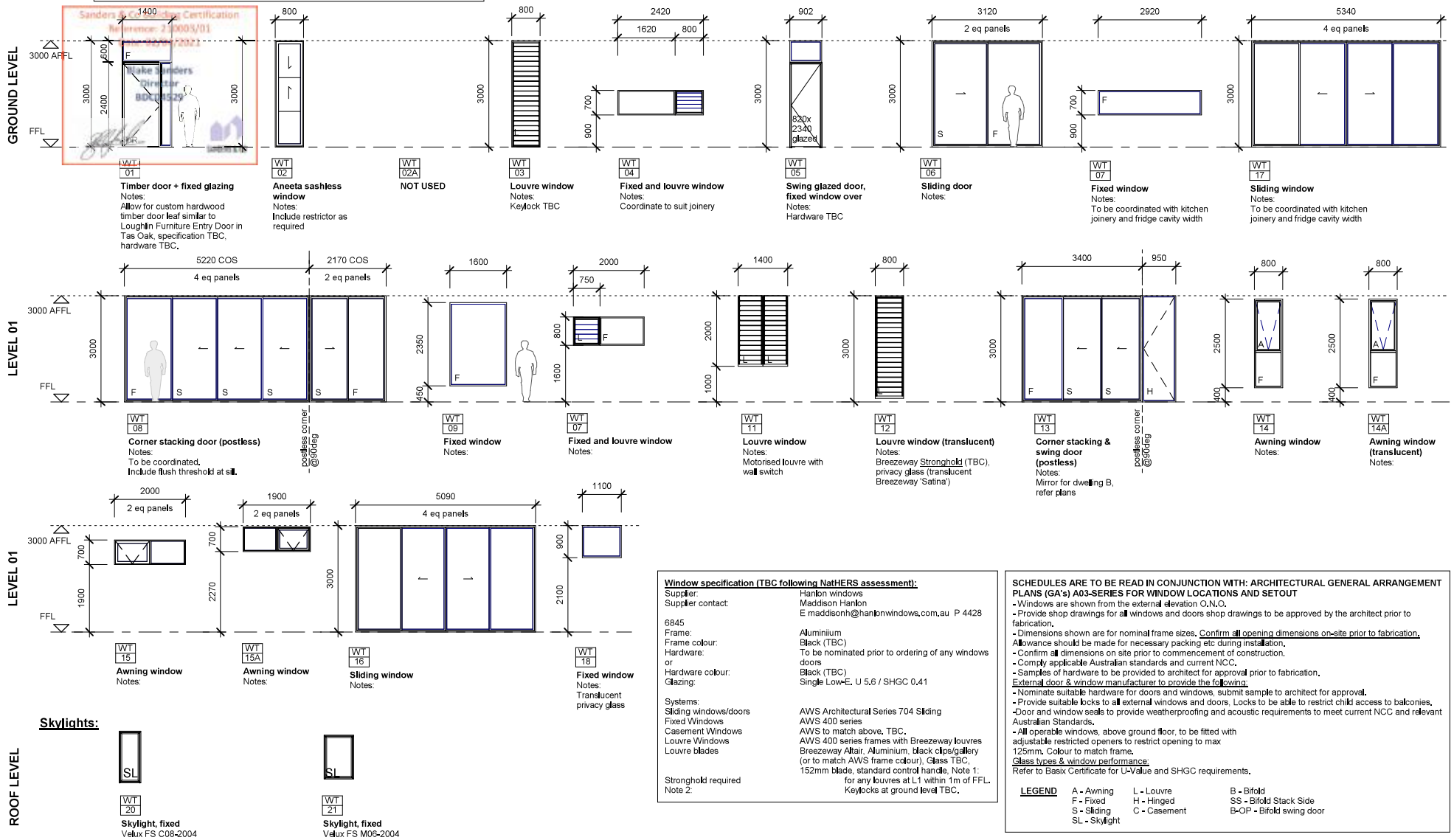
Title:
Section A & B

Drawing no:
A08.01

Project no: 1016
Scale: 1 : 100 @ A3

Revision:
3

NOTE: MIRROR ALL WINDOWS AND DOORS FOR DWELLING B



Window specification (TBC following NATHERS assessment):

Supplier: Hanlon windows
Supplier contact: Maddison Hanlon
E maddisonh@hanlonwindows.com.au P 4428

6845
Frame: Aluminium
Frame colour: Black (TBC)
Hardware: To be nominated prior to ordering of any windows
or doors
Hardware colour: Black (TBC)
Glazing: Single Low-E, U 5,6 / SHGC 0,41

Systems:
Sliding windows/doors
Fixed Windows
Casement Windows
Louvre Windows
Louvre blades

AWS Architectural Series 704 Sliding
AWS 400 series
AWS to match above, TBC.
AWS 400 series frames with Breezeway louvres
Breezeway Albar, Aluminium, black clips/gallery
(or to match AWS frame colour), Glass TBC,
152mm blade, standard control handle, Note 1:
for any louvres at L1 within 1m of FFL.
Keylocks at ground level TBC.

Stronghold required
Note 2:

SCHEDULES ARE TO BE READ IN CONJUNCTION WITH: ARCHITECTURAL GENERAL ARRANGEMENT PLANS (GA's) A03-SERIES FOR WINDOW LOCATIONS AND SETOUT

- Windows are shown from the external elevation Q.N.O.
- Provide shop drawings for all windows and doors shop drawings to be approved by the architect prior to fabrication.
- Dimensions shown are for nominal frame sizes. Confirm all opening dimensions on-site prior to fabrication.
- Allowance should be made for necessary packing etc during installation.
- Confirm all dimensions on site prior to commencement of construction.
- Comply applicable Australian standards and current NCC.
- Samples of hardware to be provided to architect for approval prior to fabrication.
- External door & window manufacturer to provide the following:
- Nominate suitable hardware for doors and windows, submit sample to architect for approval.
- Provide suitable locks to all external windows and doors. Locks to be able to restrict child access to balconies.
- Door and window seals to provide weatherproofing and acoustic requirements to meet current NCC and relevant Australian Standards.
- All operable windows, above ground floor, to be fitted with adjustable restricted openers to restrict opening to max 125mm. Colour to match frame.
- Glass types & window performance:
Refer to Basis Certificate for U-Value and SHGC requirements.

LEGEND	A - Awning	L - Louvre	B - Bifold
	F - Fixed	H - Hinged	SS - Bifold Stack Side
	S - Sliding	C - Casement	BO-P - Bifold swing door
	SL - Skylight		

FOR CONSTRUCTION

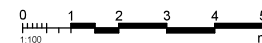


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Title:
Window Schedule

Drawing no:
A12.01

Project no: 1016
Scale: 1 : 100 @ A3

Revision:
3

MATERIAL SCHEDULE

CODE	DESCRIPTION/LOCATION	MANUFACTURER/SUPPLIER	PRODUCT & FINISH	IMAGE
BA-01	Glass balustrade, rear balconies	Palmers Glass or similar	Product: Frameless glass balustrade to future detail by Struct. Eng. Glass type: 15.04mm Toughened laminated glass with SGP interlayer Notes: glass sample to be approved by architect prior to construction. All fixings and fittings to be marine grade stainless steel. Alternate detail may be considered with consultation between owner and architect.	
CD-01	Wall Cladding, external walls generally	James Hardie	Product: HardiTex System Joints: Set joints Finish: Min 2mm textured coating system. Paint, Taubmans Endure, semi gloss Colour: Dulux 'White on white' Note: Joint sealant at window and door junctions	
CD-02	Brickwork, bagged finish, external walls generally	Austral Bricks or similar	Product: Standard brick Finish: Bagged, painted, Taubmans Endure, semi gloss Colour: Dulux 'White on white'	
CD-03	Feature edge cladding/capping	TBC	Product: Folded Aluminium capping sheet Finish: Dulux Duratec powdercoat finish Colour: Duratec Zeus White Satin Note: Junctions, detailing, fixings TBC	
SC-02	Timber-look Aluminium Louvre Screen, East and West facades	Knotwood	Product: 150mm x 50mm aluminium louvre batten system (2x battens with joint system per 'louvre' blade) Finish: Knotwood powdercoat timber-look system Colour: Allow 2 colours to be mixed at random. Colour selection TBC Note: Detail TBC.	

MATERIAL NOTES:

- ALL MATERIALS, FITTINGS, FIXINGS AND FINISHES ARE TO BE MARINE/COASTAL GRADE**
- All materials, products and applied finishes are to be installed to meet their respective installation guidelines/manuals, NCC, relevant Australian Standards, and any local authority guidelines.
- Architect to confirm all details and materials prior to ordering and/or construction.
- Samples and/or mockups may be required, to be coordinated and agreed.
- All quantities, sizes and details to be coordinated by builder and agreed with owner or architect prior to the ordering of any materials, products, or fabrication of any project elements.

FOR CONSTRUCTION



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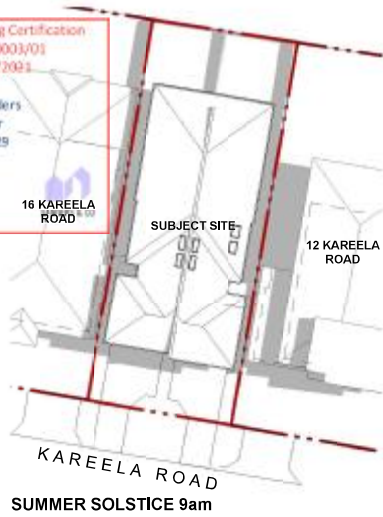
Title:
Material Schedule

Drawing no:
A12.02

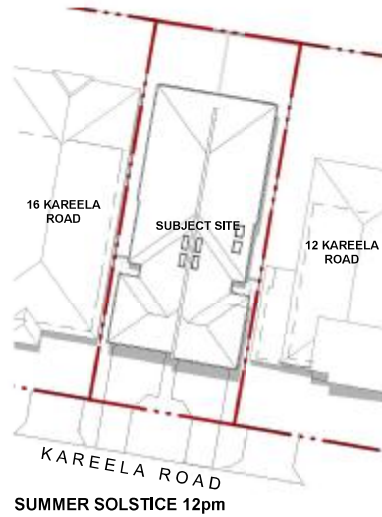
Revision:
3

Project no: 1016
Scale: @ A3

Sanders & Co Building Certification
Reference: 210003701
Date: 02/04/2023
Blake Sanders
Director
BDC04529



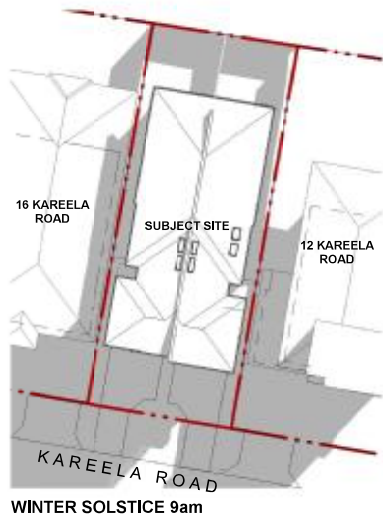
SUMMER SOLSTICE 9am



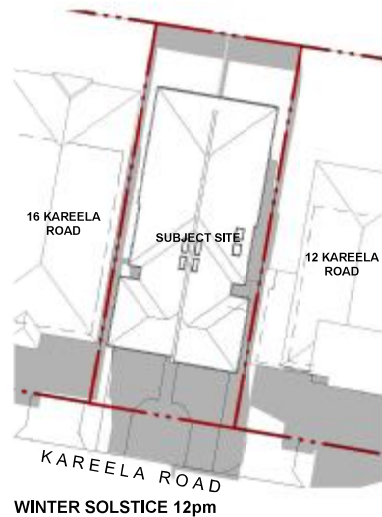
SUMMER SOLSTICE 12pm



SUMMER SOLSTICE 3pm



WINTER SOLSTICE 9am



WINTER SOLSTICE 12pm



WINTER SOLSTICE 3pm

FOR CONSTRUCTION

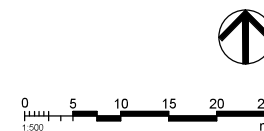


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Project:
Proposed Duplex
Address:
14 Kareela Rd.
Woonona 2517

Rev	Date	Description
1	02.07.20	DEVELOPMENT APPLICATION
2	16.12.20	CDC Review
3	09.03.21	FINAL FOR CDC

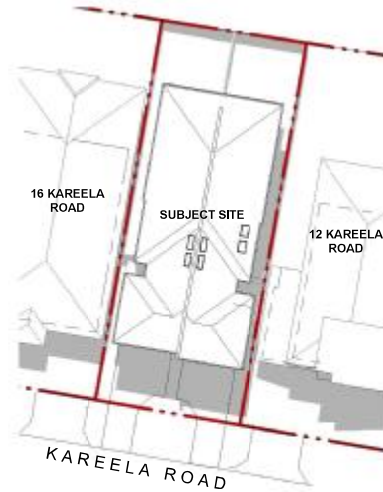


Title:
Shadow Diagrams - Sheet 1
Drawing no:
A20.02
Project no: 1016
Scale: 1 : 500 @ A3
Revision:
3

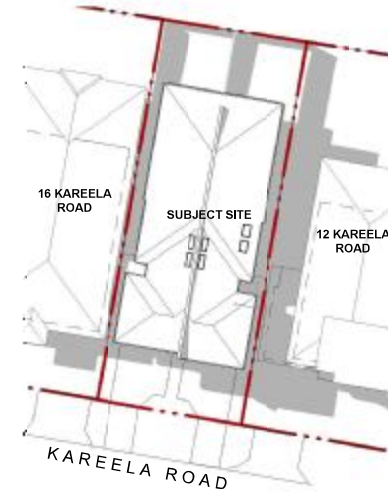
Sanders & Co Building Certification
Reference: 210003/01
Date: 02/04/2021
Blake Sanders
Director
BDC04529



EQUINOX 9am



EQUINOX 12pm



EQUINOX 3pm

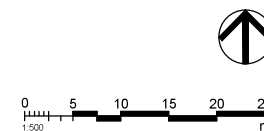


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Woonona 2517

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3	09.03.21	FINAL FOR CDC



FOR CONSTRUCTION

Title:
Shadow Diagrams - Sheet 2
Drawing no:
A20.03

Project no: 1016
Scale: 1 : 500 @ A3

Revision:
3

AREA SUMMARY

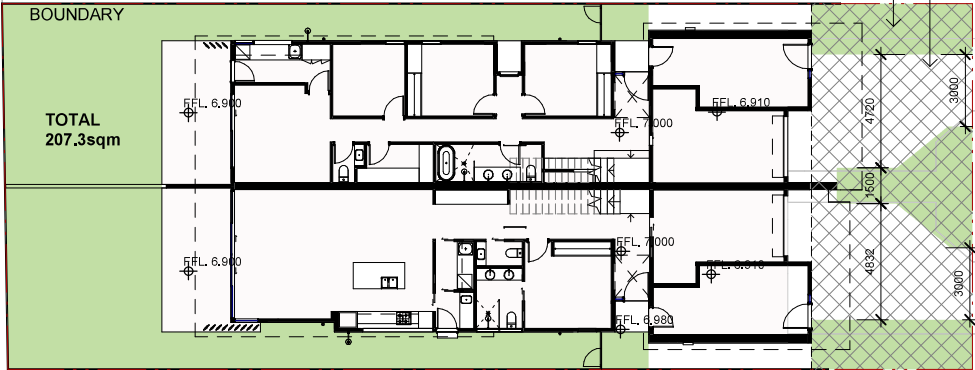
SITE AREA Reference: 71614m²

Date: 02/04/2021

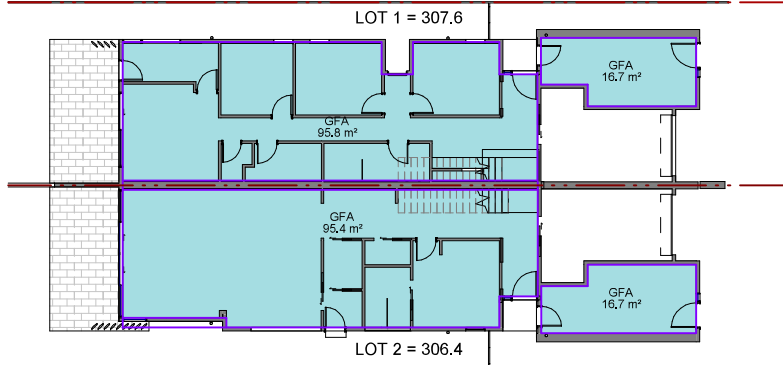
AREA TYPE	CONTROL	PROPOSED (SQM)	COMPLIES?
GFA	Blade Sanders 25% of lot area + 300m ² = 453.5m ² max GFA B5-214-2-2	LOT 1: GROUND 112.5 LEVEL 1 111.3 TOTAL 223.8 LOT 2: GROUND 112.1 LEVEL 1 109.1 TOTAL 221.2 COMBINED: LOT A + LOT B = TOTAL 445qm	YES
LANDSCAPED AREA	50% LOT - 100m ² = 207m ² 25% of the area forward of building line must be landscaped. Area in front of building line = 102.1m ²	207.2m ² provided 43.9m ² provided in front of building line (43%)	YES

AREA FRONT OF BUILDING LINE
102.1sqm

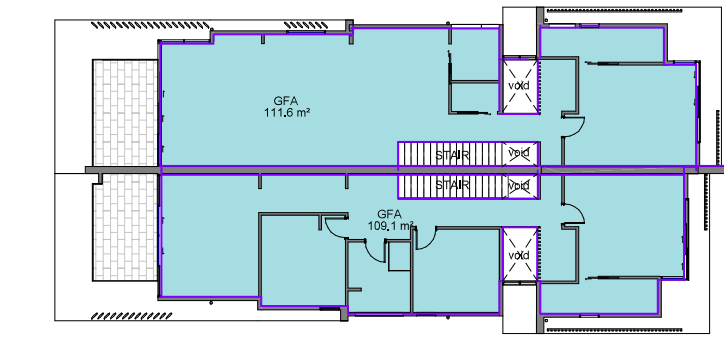
LANDSCAPED AREA IN
FRONT OF BUILDING LINE
43.9sqm (43%)



3 Landscaped Area
1 : 200



2 Level 00 - GFA
1 : 200



1 Level 01 - GFA
1 : 200

FOR CONSTRUCTION

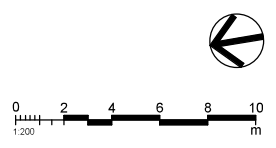
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Woonona 2517

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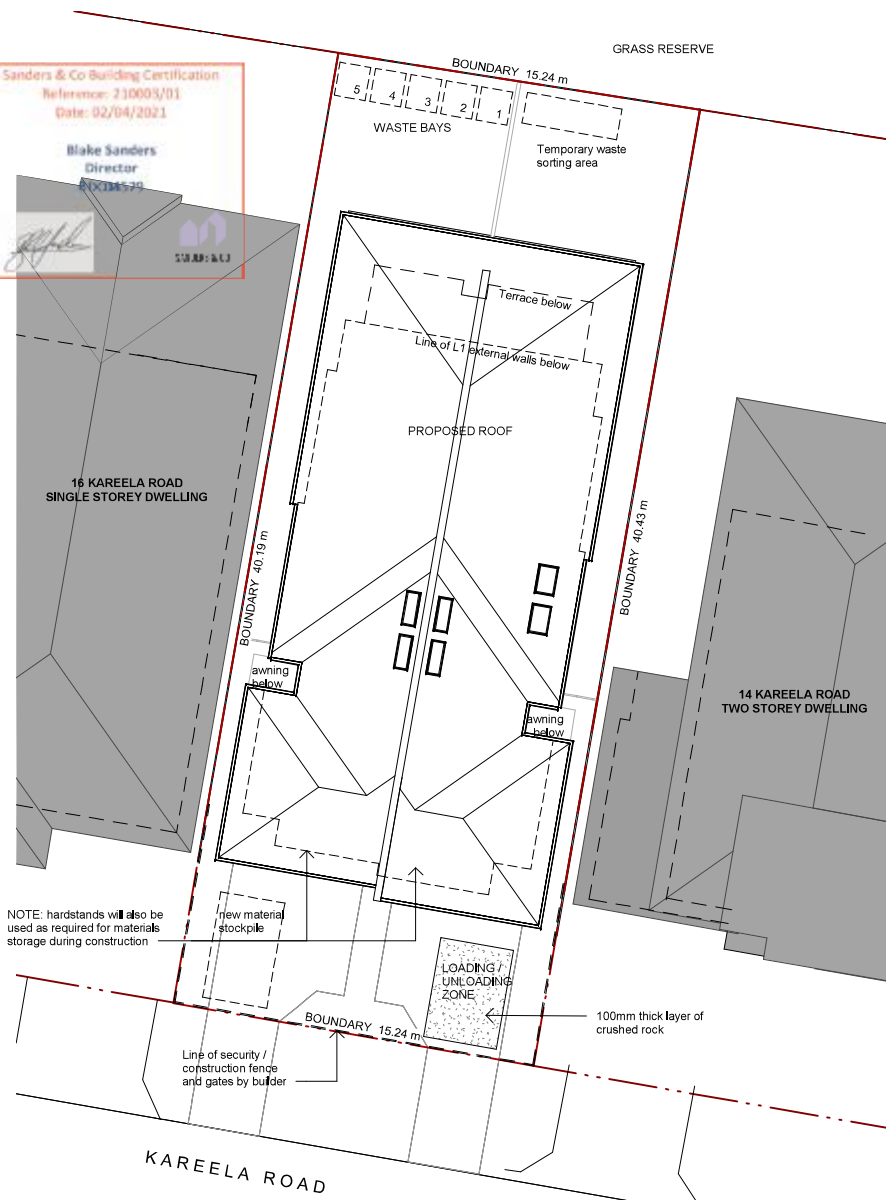


Title:
Area Calculations

Drawing no:
A30.01

Project no: 1016
Scale: 1 : 200 @ A3

Revision:
3



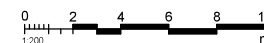
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Project:
Proposed Duplex

Address:
14 Kareela Rd.
Woonona 2517

Rev	Date	Description
1	02.07.20	DEVELOPMENT APPLICATION
2	09.03.21	FINAL FOR CDC



Title:
Site & Waste M/ment Plan

Drawing no:
A30.02

Project no: 1016
Scale: 1:200 @ A3

Revision:
2

WASTE BAYS

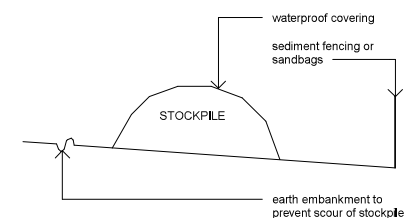
- 1 PLASTERBOARD / FIBRE CEMENT
- 2 BRICKS / TILES
- 3 CONCRETE
- 4 METAL
- 5 GENERAL WASTE BIN

WASTE BAY NOTES:
WASTE BAYS 1-4 TO BE CONSTRUCTED USING SHADE CLOTH OR SEDIMENT FENCING

WHERE THE WASTE STREAM IS MADE UP OF LIGHT MATERIAL SUCH AS PAPER AND CARDBOARD, THE WASTE BAYS MUST CONSIST OF A CONTAINER FOR THE STORAGE OF THIS MATERIAL

WASTE BAY 5 - A METAL WASTE CONTAINER WITH A MINIMUM CAPACITY OF 4.5 CUBIC METRES MUST BE PROVIDED ON SITE FOR THE DISPOSAL OF GENERAL WASTE DESIGNATED FOR LANDFILL

BUILDING MATERIAL STOCKPILES DETAIL



DEMOLITION WASTE MANAGEMENT TABLE

MATERIALS		DESTINATION			
TYPE	VOLUME m3	REUSE AND RECYCLE		DISPOSAL	
SITE CUT	0	n/a	n/a	n/a	n/a
CONCRETE	12	Crushed & used as fill on site	By bulker	n/a	n/a
PLASTERBOARD	3	n/a	n/a	By bulker. To be stockpiled separately.	Contractor 2. See below.
METALS	0	n/a	n/a	n/a	n/a
TIMBER	6	n/a	n/a	By bulker. To be stockpiled separately.	Contractor 2. See below.
BRICK	9.2	Crushed & used as fill on site as required. Additional to Contractor 3.	By bulker	n/a	n/a
ROOF TILE	2.9	Recycled to Contractor 3.	By bulker	n/a	n/a
OTHER (carpet etc)	1	n/a	n/a	By bulker. To be stockpiled separately.	Contractor 2. See below.
ORGANIC	0	n/a	n/a	n/a	n/a

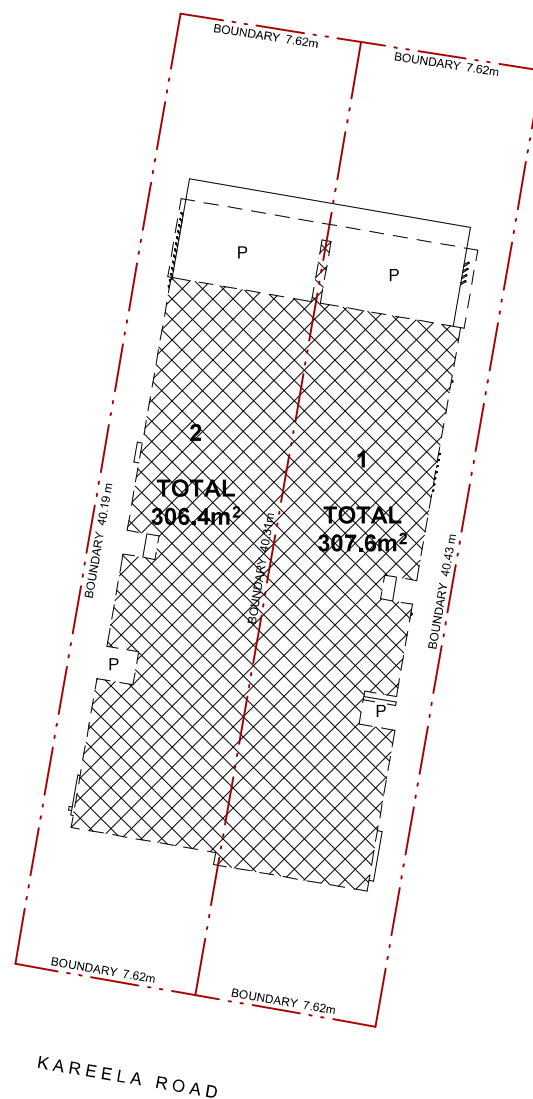
****Waste contractor/location details:**
1. Shane's Trees, Ph 0422 927 381, 72-74 Corrimall St Wollongong
2. Bulker's Tip, Holman St, Port Kembla
3. Benedict Recycling, 171-173 Five Islands Road Unanderra

CONSTRUCTION WASTE MANAGEMENT TABLE

MATERIALS		DESTINATION			
TYPE	VOLUME m3	REUSE AND RECYCLE		DISPOSAL	
SITE CUT	0	n/a	n/a	n/a	n/a
CONCRETE	1.5	Crushed & used as fill on site, additional to Contractor 3.	By bulker	n/a	n/a
PLASTERBOARD	1	Recycled to Contractor 3.	By bulker	n/a	n/a
METALS	2	n/a	n/a	By bulker. To be stockpiled separately.	Contractor 2. See below.
TIMBER	3	n/a	n/a	By bulker. To be stockpiled separately.	Contractor 2. See below.
BRICK	0	n/a	n/a	n/a	n/a
ROOF TILE	0	n/a	n/a	n/a	n/a
INSULATION	0.5	n/a	n/a	By bulker. To be stockpiled separately.	Contractor 2. See below.
ORGANIC	0	n/a	n/a	n/a	n/a

****Waste contractor/location details:**
1. Shane's Trees, Ph 0422 927 381, 72-74 Corrimall St Wollongong
2. Bulker's Tip, Holman St, Port Kembla
3. Benedict Recycling, 171-173 Five Islands Road Unanderra

FOR CONSTRUCTION



NOTE:

1. TORRENS TITLE SUBDIVISION CONCEPT PLAN PREPARED TO CONVEY GENERAL SUBDIVISION CONCEPT INFORMATION ONLY, FORMAL SUBDIVISION CONCEPT TO BE PREPARED BY A REGISTERED SURVEYOR.
2. P - DENOTES PATIO / PORCH
3. CY - DENOTES COURTYARD



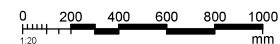
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Project:
Proposed Duplex

Address:
**14 Kareela Rd.
Woonona 2517**

Rev	Date	Description
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2	16.12.20	CDC Review
3	09.03.21	FINAL FOR CDC



FOR CONSTRUCTION

Title:
Torrens Title Subdivision Concept Plan

Drawing no:
A30.03

Revision:
3

Project no: 1016
Scale: 1 : 200 @ A3

ATTACHMENT 4

ALTERATIONS TO APPROVED DUAL OCCUPANCY -
14 KAREELA ROAD, WOONONA (DA-2021/682)

CLAUSE 4.6 VARIATION STATEMENT

Floor Space Ratio (Clause 4.4 of Wollongong LEP 2009)



A. INTRODUCTION

This variation request is made pursuant to Clause 4.6 of Wollongong Local Environmental Plan 2009 (WLEP) and accompanies the development application for alterations to an approved side-by-side dual occupancy development at 14 Kareela Road, Woonona. The dual occupancy development was approved on 2 April 2021 under CDC 210003/01.

The alterations to the approved plans proposed in this development application involve:

- Adding front balconies;
- Removing the proposed 'media rooms' at the ground level of each dwelling and incorporating this space into the garage areas;
- Increasing the size of the rear first floor 'terrace' areas for each dwelling; and
- Extending the rear privacy screens.

The proposed alterations to the approved dual occupancy seek to improve the overall development by:

- Increasing passive surveillance and street presentation by adding front balconies;
- Adding one additional parking space to each dwelling in a locality with high on-street parking demand on weekends and peak periods; and
- Increasing the functionality of the level 1 'terrace' areas which adjoin and provide passive surveillance to an expansive public open space area.

Further details of the proposed works are outlined in the Statement of Environmental Effects and Architectural Plans separately submitted.

It is acknowledged that the proposed alterations to the approved plans under CDC 210003/01 involve a technical noncompliance with Clause 4.4 of Wollongong LEP 2009 (Floor Space Ratio). This is owing to the approved plans being assessed pursuant to Part 3B Low Rise Housing Diversity Code of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

One key area where the provisions of the SEPP (Exempt and Complying Development Codes) and the WLEP are discordant is the difference in the permitted *floor space ratio* (FSR) and *gross floor area* (GFA) controls.

In this situation the development application is seeking alterations to the approved plans which result in a **29m² reduction in the approved GFA**.

Notwithstanding that the proposed alterations actually reduce the GFA for the development, this technical noncompliance must be considered in accordance with Clause 4.6 of the WLEP. Clause 4.6 includes the following objectives:

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

CLAUSE 4.6 VARIATION STATEMENT



B. PROPOSED VARIATION

The proposed dual occupancy development exceeds the maximum FSR requirement contained within Clause 4.4 of the WLEP.

The FSR map accompanying Clause 4.4 of the WLEP sets a maximum FSR control of 0.5:1 for the site.

The site has a total land area of 614m² and an allowable gross floor area of 307m².

The proposal also involves the subdivision of the land into two Torrens title allotments and in this regard the departure from the WLEP Clause 4.4 FSR development standard can be measured for Dwelling A, Dwelling B as well as the combined development. A breakdown of the proposed FSR for each dwelling and the combined development is shown in **Table 1** below.

Table 1: Extent of Variation to Clause 4.4 of WLEP

	WLEP Clause 4.2(2) FSR development standard (ratio / GFA m²)	Proposed FSR / GFA (ratio / m²)	Proposed Variation (%) / m²
Dwelling A (eastern) (Lot Area 307.6m²)	0.5:1 / 154m ²	0.69:1 / 211.3m ²	37% / 57.3m ²
Dwelling B (western) (Lot Area 306.6m²)	0.5:1 / 153m ²	0.67:1 / 205.2m ²	34% / 52.2m ²
Combined (Lot Area 614m²)	0.5:1 / 307m ²	0.68:1 / 416.5m ²	36% / 109.5m ²

There are very minor differences in the extent of the departure from the FSR development standard between the proposed individual dwellings and the combined overall development. Notwithstanding these minor differences, the consideration of the relevant issues in this request is the same for each dwelling and the overall development. As such, hereinafter these departures and the justification supporting the variations are discussed concurrently.

It is important to note and also consider the proposed variation to the WLEP maximum FSR development standard in the context that the development application involves a **reduction** in the GFA approved under CDC 210003/01 for the development. The differences in GFA between the approved (CDC) and proposed (DA) for the development and the net reduction in GFA proposed is shown in **Table 2** below.

CLAUSE 4.6 VARIATION STATEMENT



Table 2: Comparison of Approved and Proposed GFA

AREA TYPE	CONTROL	PROPOSED (SQM)	COMPLIANCE
APPROVED GFA (under CDC)	25% of lot area + 300m ² = 454m ² max GFA (or FSR 0.74:1)	LOT 1: GROUND 112.5 LEVEL 1 111.3 TOTAL 223.8 LOT 2: GROUND 112.1 LEVEL 1 109.1 TOTAL 221.2 COMBINED: LOT A + LOT B = TOTAL 445.0	YES - APPROVED
PROPOSED GFA (under DA)	FSR 0.5:1 = 307m ² max GFA	LOT 1: GROUND 99.6 LEVEL 1 111.7 TOTAL 211.3 LOT 2: GROUND 96.2 LEVEL 1 109.0 TOTAL 205.2 COMBINED: LOT A + LOT B = TOTAL 416.5	REDUCED GFA (-30.9m²) *Technical noncompliance with WLEP Clause 4.4

C. OBJECTIVES AND PROVISIONS OF CLAUSE 4.6

The maximum FSR is a “development standard” to which exceptions can be granted pursuant to Clause 4.6 of the LEP.

The objectives and provisions of clause 4.6 are set out below:

- 1) *The objectives of this clause are as follows—*
 - a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

CLAUSE 4.6 VARIATION STATEMENT



- 2) *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. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- 3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
 - a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- 4) *Development consent must not be granted for development that contravenes a development standard unless—*
 - a) *the consent authority is satisfied that—*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *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*
 - b) *the concurrence of the Planning Secretary has been obtained.*
- 5) *In deciding whether to grant concurrence, the Planning Secretary must consider—*
 - a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - b) *the public benefit of maintaining the development standard, and*
 - c) *any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*
- 6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—*
 - a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- 7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- 8) *This clause does not allow development consent to be granted for development that would contravene any of the following—*
 - a) *a development standard for complying development,*
 - b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
 - c) *clause 5.4,*
 - ca) *clause 4.2A, 6.1 or 8.3.*

CLAUSE 4.6 VARIATION STATEMENT



The development standards in Clause 4.4 are not “expressly excluded” from the operation of Clause 4.6.

Objective 1(a) of Clause 4.6 is satisfied by the discretion granted to a consent authority by virtue of subclause 4.6(2) and the limitations to that discretion contained in subclauses (3) to (8). This submission addresses the requirements of subclauses 4.6(3) and (4) in order to demonstrate that the variation sought is consistent with the exercise of “an appropriate degree of flexibility” in applying the development standard, and therefore consistent with objective 1(a). It is further noted that the extent of the discretion afforded by subclause 4.6(2) is not numerically limited, which is in contrast with the development standards referred to in, for example, subclauses 4.6(6)(a) and (b).

D. THAT COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE (Subclause 4.6(3)(a))

The NSW Land and Environment Court has provided guidance which is of relevance to Clause 4.6(3)(a), in *Wehbe v Pittwater Council* [2007] NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. It states, among other things:

“An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standards are achieved notwithstanding noncompliance with the standard.”

The judgement goes further to state:

“The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).”

Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the variation may be consistent with the aims of the policy. These are copied below with the first emphasised (our underline) for the purposes of this Clause 4.6 variation.

1. The objectives of the standard are achieved notwithstanding noncompliance with the standard;
2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be

CLAUSE 4.6 VARIATION STATEMENT



unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Also relevantly in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* at [16], Preston CJ makes reference to Wehbe and states:

“....Although that was said in the context of an objection under State Environmental Planning Policy No. 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.”

With respect to the current application seeking alterations to an approved dual occupancy development, compliance with the maximum permitted floor space ratio WLEP development standard is considered to be unreasonable and unnecessary as the objectives of that standard are achieved for the reasons set out in Section G of this variation statement.

In addition, under subclause 4.6(4)(a)(ii) a consent authority must be satisfied that the contravention of a development standard 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. Clause 4.6(4)(a)(ii) is addressed in Section F of this variation statement.

E. SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD (Subclause 4.6(3)(b))

Having regard to subclause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* at [24] states:

*“The environmental planning grounds relied on in the written request under cl 4.6 must be “sufficient”. There are two respects in which the written request needs to be “sufficient”. First, the environmental planning grounds advanced in the written request must be sufficient “to justify contravening the development standard”. The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see *Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248* at [15]. Second the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90* at [31].”*

The assessment of this technical noncompliance is also guided by the decisions of the NSWLEC in *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90* and *Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248* where Justice Pain ratified the original decision of Commissioner Pearson. The following environmental planning grounds are submitted as sufficient justification for the technical contravention of the WLEP floor space ratio development standard:

1. The technical noncompliance with the FSR development standard has arisen as a result of the recent state-wide policy intervention to promote and increase the supply of diverse

CLAUSE 4.6 VARIATION STATEMENT



low-rise medium density housing forms. The 'Low Rise Housing Diversity Code' was introduced in 2018 and took effect in the Wollongong LGA in 2020. This provides (among other things) an 'as of right' set of standards including GFA standards for side-by-side dual occupancies which depart from the WLEP, however, have been determined as 'sufficient' for this form of housing through the implementation of Part 3B Low Rise Housing Diversity Code of the SEPP (Exempt and Complying Development Codes) 2008. The SEPP applies to all land within the R2 Low Density Residential Zone including the subject site.

2. The approved dual occupancy development (CDC 210003/01) provides a total GFA of 445m² which achieves the relevant development standard within the SEPP (Exempt and Complying Development Codes). The proposed alterations the subject of this DA *reduce* the GFA for the development by 29m² and thus also *reduce* the extent of noncompliance with the WLEP development standard.
3. The noncompliance does not create any significant or unreasonable amenity impact on any adjoining properties. Importantly, the overall built form, overshadowing, privacy and view impacts associated with the proposed alterations are no greater than the approved CDC. The proposed alterations to the approved dual occupancy seek to improve the overall development and reduce amenity impacts by:
 - Increasing passive surveillance and street presentation by adding front balconies;
 - Adding one additional parking space to each dwelling in a locality with high on-street parking demand on weekends and peak periods. This is important in the context that the Wollongong DCP control requires two (2) parking spaces per dwelling (>125m²) whereas the SEPP (Exempt and Complying Development Codes) 2008 only allows for a single parking space per dwelling; and
 - Increasing the functionality of the level 1 'terrace' areas which adjoin and provide passive surveillance to an expansive public open space area.

It is noted that the above alterations give rise to the technical noncompliance with the WLEP FSR development standard as otherwise the proposed development is fully compliant with the SEPP (Exempt and Complying Development Codes) and has been approved through the complying development pathway.

4. Each of the proposed alterations summarised in point 3 above assist in ensuring the design of the proposed dual occupancy appropriately responds to its local site context.
5. The proposed development achieves the Objects in Section 1.3 of the Environmental Planning and Assessment Act 1979. Specifically the proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context (1.3)(g).

These above environmental planning grounds are unique circumstances to the proposed development. The proposed alterations being sought which give rise to the technical noncompliance will improve the amenity of neighbouring properties through the provision of additional on-site parking spaces in a location which already has high demand for on-street parking particularly on weekends and peak summer periods.

The proposal alterations will assist to ensure a high quality, contemporary development which is suited to the site's attributes and responds to the local context can be achieved. The proposed alterations will not have any notable adverse impact on the amenity of adjoining properties in terms of privacy, solar access, views and visual bulk and scale when compared to the CDC approved development.

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These are benefits which specifically arise as the result of the proposed alterations which require development consent and give rise to the technical noncompliance with the floor space ratio development standard.

Moreover, it is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [86-87], Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a “better” planning outcome:

“...Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development....

...The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.”

As outlined above, the proposed alterations will provide for a better planning outcome than the development approved through the complying development pathway pursuant to the SEPP (Exempt and Complying Development Codes). At the very least, there are sufficient environmental planning grounds to justify the technical variation.

F. THE APPLICANTS WRITTEN REQUEST HAS ADEQUATELY ADDRESSED THE MATTERS REQUIRED TO BE DEMONSTRATED BY SUBCLAUSE (3), (Subclause 4.6(4)(a)(i))

In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ details how 4.6(4)(a) needs to be addressed. This is summarised below.

The first opinion of satisfaction in clause 4.6(4)(a)(i) is that a written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by subclause 4.6(3). There are two central aspects involved. Firstly, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (subclause 4.6(3)(a)) and secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (subclause 4.6(3)(b)). This written request has addressed subclause 4.6(3)(a) in Section D above and with respect to meeting the objectives of the development standard, this is addressed in Section G below. Subclause 4.6(3)(b) is addressed in Section E above.

The second opinion of satisfaction in subclause 4.6(4)(a)(ii) is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened as well as the objectives for the zone in which the development is proposed to be carried out. The second opinion of satisfaction under subclause 4.6(4)(a)(ii) differs from the first opinion of satisfaction under subclause 4.6(4)(a)(i) in that the consent authority must be directly satisfied about the matter in 4.6(4)(a)(ii), not indirectly satisfied that the applicants written request has adequately addressed the matter in subclause 4.6(4)(a)(ii). The matters in subclause 4.6(4)(a)(ii) are addressed in Section G below.

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G. 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 (Subclause 4.6(4)(a)(ii))

1. Objectives of the Development Standard

The stated objectives of clause 4.4 of WLEP are as follows:

4.4 floor space ratio

1) *The objectives of this clause are as follows—*

- a) to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- b) to establish the maximum development density and intensity of land use, taking into account the availability of infrastructure to service that site and the vehicle and pedestrian traffic the development will generate,*
- c) to ensure buildings are compatible with the bulk and scale of the locality*

In order to fulfil the requirements of subclause 4.6(4)(a)(ii) each of the objectives of clause 4.4 are addressed in turn below:

- a) to provide an appropriate correlation between the size of a site and the extent of any development on that site,*

There are several factors which are unique to the site and locality. The site is near level and adjoins a public reserve. The site has no rear neighbours. The design of the proposed development includes patios / terraces / and open space areas which are oriented to the north and overlook the public reserve providing passive surveillance. This design approach reinforces the existing pattern of dwellings and medium density developments which adjoin this public reserve.

These factors are significant in the way the proposed development relates to the site and local setting and presents a form that relates well with adjoining and nearby development. In addition, as discussed in greater detail below there are a number of existing three (3) storey dwellings and three (3) storey medium density developments in close proximity to the subject site which exceed the WLEP and DCP numeric building envelope controls yet have minimal (if any) adverse impact on neighbouring properties or the built form of the locality. This is due to the somewhat unique setting which is surrounded by expansive parks, reserves and foreshore open space areas.

The proposed development is two (2) storeys and complies with all other building envelope controls contained within the WLEP and DCP for:

- ✓ Maximum building height
- ✓ Maximum number of storeys
- ✓ Maximum site coverage

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- ✓ Minimum landscaped area
- ✓ Deep soil zones
- ✓ Minimum lot width for dual occupancy development
- ✓ Minimum street, side and rear boundary setbacks
- ✓ Minimum private open space

The newly introduced provisions under the SEPP (Exempt and Complying Development Codes) for maximum GFA for side-by-side dual occupancies are also relevant to the consideration of this objective. Under Clause 3B.10 of the Code the maximum permitted GFA for the subject site is 453m² (or FSR of 0.74:1). The approved development under CDC0003/01 has a GFA of 445m². The proposed alterations under the subject development application result in a GFA of 414.1m², or a reduction of 29m² from the approved CDC.

The SEPP (Exempt and Complying Development Codes) applies to all land within the R2 Low Density Residential Zone in the Wollongong LGA. The SEPP provides a new set of development standards including GFA (which for the subject site is 0.74:1) for side-by-side dual occupancies which can be approved 'as of right' through the complying development pathway.

Given this context, the proposed development provides an appropriate correlation between the size of the subject site and the scale of the proposed development and achieves the WLEP objective.

- b) to establish the maximum development density and intensity of land use, taking into account the availability of infrastructure to service that site and the vehicle and pedestrian traffic the development will generate,*

The WLEP came into force in 2010 and dual occupancies and medium density housing are permitted throughout the R2 Low Density Residential Zone which includes the subject site. This form of development has been permissible for more than 30 years under the equivalent residential zone provisions contained within the previous environmental planning instruments Wollongong LEP 1990, and Wollongong LEP 38.

The subject site is ideally located to support a dual occupancy development. The local neighbourhood area is level and has good walking, cycling and public transport access. The following local services and facilities are a short convenient distance from the site:

- ✓ Coastal shared path / cycleway (100m)
- ✓ Woonona rail station (level 500m walk)
- ✓ Local bus services (200m)
- ✓ Ocean park sporting fields and open space (adjoining)
- ✓ Woonona ocean pool (300m)
- ✓ Bulli and Woonona patrolled beaches (300m)
- ✓ Nicholson Park playground and outdoor exercise equipment (500m)
- ✓ Corner store / newsagent / hairdresser / bottle shop / Post Office (level 500m walk)
- ✓ Medical Centre (level 500m walk)
- ✓ Cafes and food shops (level 500m walk)
- ✓ East Woonona Public School (800m)

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Vehicular access to the site is provided from Kareela Road. The subject site has good sight lines and safe vehicular access. The traffic generated from the development when compared to the existing local traffic volumes will have a negligible impact on the local roads, pathways and transport systems.

Moreover, there would also be a negligible difference in the demand generated for local infrastructure between a dual occupancy development which fully complies with the WLEP FSR development standard and the proposed development. It must also be acknowledged (as detailed earlier) that the proposed alterations involve a GFA reduction of 29m² compared to the approved development under CDC0003/01.

Moreover, the additional second parking spaces proposed for each dwelling align with the Wollongong DCP control requiring two parking spaces per dwelling (>125m²). In this respect the additional parking proposed in the development application seeking alterations will assist in reducing the demand for on-street parking within a popular foreshore precinct which has significant local parking demand during weekends, summer and peak periods.

In this regard, the proposed variation to the FSR development standard does not compromise the achievement of this WLEP objective. The proposed development (when compared with a fully compliant development and the approved CDC0003/01) will not create any additional demand or impacts on local infrastructure including local roads, pathways and transport systems.

c) to ensure buildings are compatible with the bulk and scale of the locality

Existing residential allotments within the street and locality generally have similar dimensions and area to the subject site. The local area is undergoing change with many original 1960's single storey detached dwellings being replaced by more substantial homes and medium density developments. The existing built form of development in the local area contains a mixture of one (1), two (2) and three (3) storey detached dwellings, attached dual occupancies and medium density developments of various architectural styles.

Objective (c) refers to buildings being 'compatible' with the bulk and scale of the locality. In this context it is important to recognise that 'compatible' does not promote 'sameness' in built form but rather requires that development fits comfortably with its local context. Of particular relevance to this assessment is the explanation provided by Roseth SC in *Project Venture Developments Pty Ltd v Pittwater Council* [2005] NSWLEC 191 at [22]:

"There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve."

Illustrating this interpretation of 'compatible' in the locality of the subject site is the range of existing built form. On the northern side of Kareela Road more recently constructed dwellings are predominantly two (2) storey homes with large north facing first floor living areas, terraces and balconies which take advantage of the northern aspect and unobstructed views across the public reserve to Bulli beach. There are a number of existing dwellings and medium density developments in close proximity to the subject site which do not comply with (one or more of) the building envelope controls for residential development contained within the WLEP and DCP for building height, FSR, maximum site coverage, minimum landscaped area and minimum setbacks from streets and public reserves. Specifically:

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- At No. 8A Kurraba Road (100m east of the subject site) a three (3) storey dwelling has been constructed on a 'battle-axe' lot overlooking the public reserve. This existing development has a number of noncompliances with the maximum building height, maximum number of storeys, and minimum building setbacks from a public reserve for residential development in the R2 Low Density Residential Zone.
- At No. 2 Kurraba Road (150m east of the subject site) is an existing three (3) storey, three (3) unit medium density development. This development has a number of noncompliances with the maximum FSR, maximum building height, maximum number of storeys, maximum site coverage, minimum landscaped area, minimum street setbacks, and minimum building setbacks from a public reserve for residential development in the R2 Low Density Residential Zone.
- At No. 14 Kurraba Road (100m south-east of the subject site) is an existing three (3) storey dwelling overlooking the Woonona foreshore reserve. This development exceeds the maximum number of storeys and may also exceed the maximum height limit for residential development in the R2 Low Density Residential Zone.
- At No. 6 Kareela Road (50m east of the subject site) is an existing one (1) storey secondary dwelling setback approximately 1m from the rear property boundary which adjoins a public reserve. This rear boundary setback does not achieve the minimum setback from public reserves required for complying development under the Code.

While each of the above developments may be considered out of character in many other locations within an equivalent R2 Low Density Residential Zone, they all fit comfortably within this locality and have minimal impact on either neighbouring dwellings or the overall local character. This is largely due to the local landscape setting which comprises expansive public reserves, open space and foreshore areas.

Similarly, the subject site also has the same landscape setting and advantages. As such the proposed alterations to the approved dual occupancy development will also fit comfortably within the existing streetscape and have a bulk and scale that is compatible with surrounding development in the locality.

The proposed alterations ensure the front building façade is well articulated with first floor balconies and glazing providing passive surveillance and connection to the street. The use of overhangs, voids and contrasting building materials helps to break up the building's bulk.

The design of proposed development includes patios / terraces / and open space areas which are oriented to the north and overlook the public reserve providing passive surveillance. This design approach reinforces the existing pattern of dwellings and medium density developments which adjoin this public reserve.

These factors are significant in the way the proposed development relates to the site and local setting and will present a form that is compatible with existing development. Notably, the proposed development will present very similar proportions to a recently constructed side-by-side dual occupancy at No. 3 Kareela Road, opposite the subject site.

Furthermore, the proposed development is two (2) storeys and complies with all other building envelope controls contained within the WLEP and DCP for:

- ✓ Maximum building height
- ✓ Maximum number of storeys
- ✓ Maximum site coverage
- ✓ Minimum landscaped area

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- ✓ Deep soil zones
- ✓ Minimum lot width for dual occupancy development
- ✓ Minimum street, side and rear boundary setbacks
- ✓ Minimum private open space

The siting, orientation and scale of the proposed development has been designed to minimise impacts on adjoining development and neighbouring dwellings. Further, the noncompliance with will not result in impacts to existing vegetation or natural features of the local area.

It must also be acknowledged that with the introduction of the SEPP (Exempt and Complying Development Codes) new complying development provisions exist for side-by-side dual occupancies which apply to all land within the R2 Low Density Residential Zone including the subject site. This development standard contained within the SEPP for GFA has effectively determined what is 'compatible' for side-by-side dual occupancy developments in terms of density and scale. The proposed alterations seek to *reduce* the GFA already approved under CDC0003/01.

In this context the proposed development achieves the WLEP objective (c) and is compatible with the bulk and scale of existing development in the locality.

Moreover, the proposal achieves each of the objectives for the FSR development standard contained at Clause 4.4 of the WLEP. In the circumstances strict compliance with the standard is both unnecessary as the objectives of the standard are achieved, and unreasonable as no purpose would be served through requiring compliance.

2. Objectives of the R2 Low Density Residential Zone

Further, the proposal is consistent with the objectives for the R2 Low Density Residential Zone contained within Part 2 of the WLEP which are copied in their entirety and discussed below.

Objectives of zone

- *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 proposed development is consistent with the objectives of the R2 Zone, noting:

- The proposed alterations to an approved side-by-side dual occupancy development is a form of housing that is permissible on the subject site and throughout the R2 Zone.
- The proposal directly responds to the housing needs of the local community by providing a high quality side-by-side dual occupancy development.
- The site is near level, without constraints and ideally located to support infill medium density development as detailed in Section G(1) above.
- The proposal achieves a high level of compliance with the development standards and other requirements contained within the WLEP and DCP as outlined in Section G(1) above.
- The proposed alterations reduce the approved GFA by 29m² and thus reduce the extent of the variation to the FSR development standard.

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- The proposal has been carefully designed to minimise any impact on neighbouring sites and to ensure it is compatible with existing development in the locality as outlined in Section G(1) above.
- The second zone objective is not applicable to the subject development which proposes residential land use.

H. CONCURRENCE OF THE SECRETARY HAS BEEN OBTAINED (Subclause 4.6(4)(b))

The second precondition in clause 4.6(4) that must be satisfied before the consent authority can exercise the power to grant development consent for development that contravenes the development standard is that concurrence of the Secretary of the Department of Planning Industry and Environment has been obtained (subclause 4.6(4)(b)).

Under Clause 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice dated 21 February 2018, attached to Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for expectations to development standards in respect of applications made under Clause 4.6 subject to the conditions in the notice.

I. WHETHER CONTRAVENTION OF THE DEVELOPMENT STANDARD RAISES ANY MATTER OF SIGNIFICANCE FOR STATE OR REGIONAL ENVIRONMENTAL PLANNING (Subclause 4.6(5)(a))

Contravention of the maximum floor space ratio development standard proposed by this application does not raise any matter of significance for state or regional planning.

J. THE PUBLIC BENEFIT OF MAINTAINING THE DEVELOPMENT STANDARD (Subclause 4.6(5)(b))

This submission details why there are no unreasonable impacts that will result from the technical noncompliance to the maximum FSR development standard. It should be acknowledged that the side-by-side dual occupancy development approved under CDC0003/01 already exceeds the maximum FSR standard. The proposed alterations will *reduce* the approved GFA by 29m² and therefore reduce the extent of noncompliance with the development standard.

In accordance with subclause 4.6(4)(a)(ii) the proposed development is in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out. Sections G(1) and G(2) have already demonstrated how the proposed development is consistent with the objectives of both Clause 4.4 and the R2 Low Density Residential Zone under the WLEP.

The noncompliance does not create any significant or unreasonable amenity impacts on any adjoining properties. In this regard the overall built form, overshadowing, privacy and view

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impacts associated with the proposed alterations result in improvements from the approved CDC. The proposed alterations to the approved dual occupancy seek to improve the overall development and reduce amenity impacts by:

- Increasing passive surveillance and street presentation by adding front balconies;
- Adding one additional parking space to each dwelling in a locality with high on-street parking demand on weekends and peak periods; and
- Increasing the functionality of the level 1 'terrace' areas which adjoin and provide passive surveillance to an expansive public open space area.

As such, there is no public benefit in maintaining strict compliance with the FSR development standard in the context of the proposed development. The proposed alterations to the approved dual occupancy development are consistent with the objectives of the development standard as well as the objectives of the R2 Low Density Residential Zone.

K. CONCLUSION

The proposed alterations to the side-by-side dual occupancy development approved under the SEPP (Exempt and Complying Development Codes) result in a technical noncompliance with the WLEP FSR development standard. It is noted that the proposed alterations actually seek to *reduce* the GFA of the approved dual occupancy by 29m². While there would be benefit in harmonising local and state development standards with respect to this form of development, in the interim, Clause 4.6 is designed to enable some flexibility in the application of development standards in situations such as this.

The subject site is unconstrained, near level, adjoins a public reserve and ideally positioned to support the proposed dual occupancy development. The proposed alterations to the approved dual occupancy development will not result in unacceptable impacts and remain consistent with the objectives of the R2 Zone.

It has been demonstrated that the objectives of the FSR development standard contained in Clause 4.4 of the WLEP are achieved notwithstanding the technical noncompliance with the development standard. The proposed development has been designed to minimise any overlooking, overshadowing or amenity impacts on neighbouring sites and the proportions of the building are compatible with other development in the locality.

It is concluded that this objection made under Clause 4.6 of the WLEP is well founded and that compliance with the FSR development standard is both unreasonable and unnecessary. The proposed development requires the application of an appropriate degree of flexibility for which there is sufficient justification in the circumstances.

Attachment 5: WDCP 2009 Compliance table

CHAPTER A2 – ECOLOGICALLY SUSTAINABLE DEVELOPMENT

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

CHAPTER B2 – RESIDENTIAL DEVELOPMENT**4.0 General Residential controls**

<i>Controls/objectives</i>	<i>Comment</i>	<i>Complies</i>
<u>4.1 Maximum Number of Storeys</u>		
<ul style="list-style-type: none"> Max 9m / 2 storey in R2 zone 	No change to CDC building height - building is two storeys.	Yes
<ul style="list-style-type: none"> In R2 Low Density Residential zones, where development occurs within the 8m rear setback the development is limited to single storey, so as to not adversely impact on the amenity of the adjoining property. 	The revised plans show an 8m rear setback to Level 1.	Yes
<ul style="list-style-type: none"> Landscaping may be required within the side and rear setbacks to mitigate the visual impact of the building form from adjoining properties. 	<p>No additional landscaping proposed or considered necessary. Landscape plan appears similar to plan approved in CDC.</p> <p>When viewed from the public open space to the north, the building would have similar upper level decks and of a similar height to nearby development on the northern side of Kareela Road.</p>	Yes
<u>4.2 Front Setbacks</u>		
<ul style="list-style-type: none"> 6m front setback 	6.7 and 7.18m garage setback	Yes
<u>4.3 Side and Rear Setbacks</u>		
<ul style="list-style-type: none"> Minimum 900mm 	<p>No change to CDC - Balcony screen Level 1 side boundary</p> <p>Rear setback minimum 6.9m and 6.69m (ground awning) and 8m (Level 1)</p>	Yes
<ul style="list-style-type: none"> Walls exceeding 7m overall height must be setback at least 3m from side and rear boundaries. 	Plan A07.01 shows a 7.1m dimension. Plan A07.02 shows a dimension 7.070m. These dimensions occur approximately half way along the building and correspond with a side setback 1.55m on western elevation and	*Variation
<u>4.4 Site coverage</u>		
55% (lot area <450m ²) – Torrens	Approx. 299m ² = 48%	Yes
50% (450m ² to 900m ²)		
40% (>900m ²)		
<u>4.5 Landscaped Area</u>		
<ul style="list-style-type: none"> lot area less than 600m² - 20% landscaped area 	<p>30% of site area >600 = 4.2m² + 120 = 124m²</p> <p>No change to CDC – plans state 207.2m² provided</p>	Yes

Controls/objectives	Comment	Complies
<ul style="list-style-type: none"> lot area from 600m² to 900m² – 120m² + 30% of the site area > 600m² landscaped area lot area greater than 900m² - 210m² + 40% of the site area > 900m² landscaped area. 	WDCP 2009 definition of landscaped area excludes hard paving and areas less than 1.5m, which would reduce the amount of landscaped area. Approx. total 150m ²	
<ul style="list-style-type: none"> At least 50% of the landscaped area must be located behind the building line to the primary road boundary. 	Exceeds 50%	Yes
<ul style="list-style-type: none"> Landscaped areas must be integrated with the drainage design. The location of drainage lines, pits and detention areas should not conflict with landscaped areas including proposed and existing trees. 	Proposed rear yard and front setback trees are not in same location as drainage infrastructure.	Yes
<ul style="list-style-type: none"> For development proposing a dwelling, a minimum of one (1) semi mature small to medium evergreen or deciduous tree (minimum pot size 45 litre) is to be provided within the landscape area. This tree is to be planted at least 3m from any existing or proposed dwelling or structure present onsite. No additional tree is required for a secondary dwelling. 	No change to CDC – 1 Blueberry Ash is proposed in rear yard of each dwelling.	Yes
<ul style="list-style-type: none"> a minimum of 1.5 metre wide landscape strip within the front setback for the majority of the site width (excluding the driveway). This area must be mulched and planted with appropriate trees, shrubs and/or groundcovers. A minimum of one (1) semi mature small to medium evergreen or deciduous tree (minimum pot size 45 litre) is to be provided within this landscape bed. 	No change to CDC - 1 Luscious Watergum located in front setback. Hardstand expanse to service the double garages reduces opportunities for 1.5m wide landscape strip*	*Variation
<ul style="list-style-type: none"> second semi mature small to medium tree (minimum pot size 45L) is to be provided onsite in the landscaped area or deep soil zone, p 	No second tree.	*Variation
4.6 Private Open Space		
<ul style="list-style-type: none"> 24m² minimum POS area, minimum 4m dimension 	Level 1 rear terraces: Dwelling A 18.06m ² and Dwelling B 17.28m ² . These terraces located off living rooms. *	*Variation

<i>Controls/objectives</i>	<i>Comment</i>	<i>Complies</i>
	No change to CDC - combined ground level patio and rear grassed area yard approximately 20m ² per dwelling. *	
<ul style="list-style-type: none"> should not be located on side boundaries or front yard 	POS is at ground level and on Level1 rear terrace. Side boundary screening is proposed.	Yes
<ul style="list-style-type: none"> defined through the use of planting, fencing, or landscape features. 	Ground floor patio has landscaped surrounds.	Yes
<ul style="list-style-type: none"> screened where necessary 	Side boundary screening is proposed.	Yes
<ul style="list-style-type: none"> must not extend forward of the front building line by greater than 900mm. 	New Level 1 front balconies are located off a bedroom and do not feature as main POS.	N/a
<ul style="list-style-type: none"> Space shall be provided for clothes lines and waste/recycling bins and rain water tanks behind the front building line but outside of the private open space area. 	<p>Clothes lines are located in rear yard as shown on the landscape plan - unchanged from CDC.</p> <p>Bin storage area is located on side boundaries as shown on the landscape plan - unchanged from CDC.</p>	Yes
<u>4.7 Solar Access</u>		
<ul style="list-style-type: none"> Windows to living rooms of adjoining dwellings must receive at least 3 hours continuous sunlight, between hours of 9.00am and 3.00pm on 21 June. 	Exceeds 3 hours	Yes
<ul style="list-style-type: none"> At least 50% of the private open areas of adjoining residential properties must receive at least 3 hours of continuous sunlight, between hours of 9.00am and 3.00pm on June 21. 	Exceeds 3 hours	
<ul style="list-style-type: none"> Shadow diagrams are required for 9.00am, 12:00pm and 3.00pm for the 21 June winter solstice period for two storey dwellings 	Provided	N/a

<i>Controls/objectives</i>	<i>Comment</i>	<i>Complies</i>
4.8 Building Character and Form		
<ul style="list-style-type: none"> The design, height and siting of a new development must respond to its site context, taking into account both natural and built form features of that locality. The design of the development must have particular regard to the topography of the site to minimise the extent of cut and fill associated with dwelling construction. 	<p>The changes proposed in the DA would result in a building significantly larger than all others in Kareela Road*. The proposed FSR of 0.69:1 is greater than 0.5:1 of the next largest buildings in the street. The proposed double garage in each dwelling removes a door from the front elevation and preferences use of the front setback by cars rather than people. There is only one other development in Kareela Road where this occurs*. All development in the street since 2014 has had garage doors less than 50% width.</p> <p>If cars are parked on the stacked hardstand area, there is no other opportunity for use of the front yard. The development would provide two garage spaces per dwelling, plus a stacked space.</p> <p>No change to CDC approved floor levels or excavation.</p>	*Variation
<ul style="list-style-type: none"> Large bulky forms are to be avoided, particularly in visible locations 	<p>The development has a FSR of 0.69:1, which is significantly greater than other buildings in the street.</p> <p>It is acknowledged that the development incorporates articulation, screening and appropriate materials, however these do not offset the dominance of the building in the streetscape.</p>	*Variation
<ul style="list-style-type: none"> New dwelling-houses within established residential areas should be sympathetic with the existing character of the immediate locality. 	<p>Kareela Road contains single storey dwellings from the 1950s through to recent 2-storey dual occupancy development.</p> <p>The development has a FSR of 0.69:1, which is significantly greater than other buildings in the street.</p>	*variation
<ul style="list-style-type: none"> All residential buildings must be designed with building frontages and entries clearly addressing the street frontage. On corner allotments, the development should address the street on both frontages. 	<p>The removal of the door in the front elevation results in persons only being able to access the dwelling via the side paths and recessed entries. The entries are not visible from the street. *</p> <p>The applicant has provided details of paving, house number signage and landscaping however these do not alleviate the impacts of removing the door in the front elevation.</p>	*Variation
<ul style="list-style-type: none"> The appearance of blank walls or walls with only utility windows on the front elevation will not be permitted. 	Not applicable	N/a
<ul style="list-style-type: none"> Where garages are proposed on the front elevation they must be articulated from the front façade. 	The garages are recessed, with Level 1 cantilevered over.	Yes

<i>Controls/objectives</i>	<i>Comment</i>	<i>Complies</i>
<ul style="list-style-type: none"> Fences in the front building line should be predominately constructed in transparent fence materials, allowing for visual connection between the dwelling and the street. Where the garage door addresses the street, they must be a maximum of 50% of the width of the dwelling. 	<p>Front fence details shown in the SEE page 13 but not on landscape plan or other plan.</p> <p>The garage door widths are not detailed on the plan, but appear to be 5.4m for each dwelling.</p> <p>The width of each dwelling is</p> <ul style="list-style-type: none"> Dwelling A: 6.37m Dwelling B: 6.40. <p>The resulting garage width percentage is</p> <ul style="list-style-type: none"> Dwelling A: 84% Dwelling B: 84% 	<p>N/a</p> <p>*Variation</p>
<u>4.9 Fences</u>		
<ul style="list-style-type: none"> Various 	1.8m high timber paling fence shown on landscape plan	Yes
<u>4.10 Car parking and Access</u>		
<p>The provision of car parking shall be as follows:</p> <p>(a) 1 space per dwelling with a gross floor area of less than 125m²</p> <p>(b) 2 spaces per dwelling with a gross floor area of 125m² or greater</p> <p>Garages must be setback a minimum of 5.5m from the front property boundary.</p> <p>garage door openings to be a maximum of 50% of the width of the dwelling.</p> <p>6m x 6m minimum for double garages</p> <p>Driveways shall be separated from side boundaries by a minimum of 1 metre.</p> <p>Driveways shall have a maximum cross-over width of 3 metres.</p>	<p>Both dwellings exceed 125m². Each dwelling would have a double garage as a result of the demolition of the internal media room wall and conversion of the media room into a larger garage.</p> <p>6.7m and 7.1m setback</p> <p>Garage width percentage:</p> <ul style="list-style-type: none"> Dwelling A: 84% Dwelling B: 84% <p>Garages 6m x 6m and 6m x 6.5m</p> <p>No change to CDC - Each side boundary setback greater than 1m.</p> <p>No change to CDC - Each driveway crossover 3m</p>	<p>Yes</p> <p>Yes</p> <p>*Variation</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<u>4.11 Storage Facilities</u>		
<ul style="list-style-type: none"> 10m³ / 5m² 	No change to CDC - internal floor plan other than garage conversion	Yes
<u>4.12 Site Facilities</u>		
<ul style="list-style-type: none"> To ensure that site facilities (such as clothes drying, mail boxes, recycling and garbage 	No change to CDC – details shown on landscape plan	Yes

Controls/objectives	Comment	Complies
disposal units/areas, screens, lighting, storage areas, air conditioning units, rainwater tanks and communication structures) are effectively integrated into the development and are unobtrusive		
<u>4.13 Fire Brigade Servicing</u>		
ensure that all dwellings can be serviced by fire fighting vehicles.	Location of nearest hydrant has not been confirmed.	N/a
<u>4.14 Services</u>		
<ul style="list-style-type: none"> encourage early consideration of servicing requirements, to ensure that all residential development can be appropriately serviced. 	No change to CDC servicing arrangements expected.	N/a
<u>4.16 View sharing</u>		
N/A	SEE includes 3D views from rear Level 1 terrace. Reasonable view sharing outcomes – front setback, rear setback and building height comply.	Yes
<u>4.21 Additional controls for Dual Occupancies minimum site width</u>		
Minimum 15m site width	Site with 15.24m	Yes
<u>4.22 Additional controls for Dual Occupancies –building character and form</u>		
On corner allotments, the dual occupancy development must address the street on both frontages. The garage and / or carport for each dwelling must be placed on each street frontage, at the furthest point of the site, from the intersection.	N/a	N/a
<u>4.23 Additional Controls for Dual Occupancy's – Deep Soil Zones</u>		
A minimum of half of the landscaped area must be provided as a deep soil zone. The deep soil zone may be located in any position on the site, subject to this area having a minimum dimension of 3m. The deep soil zone must be located outside the minimum private open space required.	Half landscaped area = 62m ² . No change to CDC - no deep soil zone identified. The landscape plan shows a 3m depth directly adjoining the rear boundary, however this area contains paving and outdoor showers which wouldn't meet the definition of DSZ.	*Variation
The siting of the deep soil zone shall be determined following a Site and Context Analysis to investigate whether this area should be located:	No change to CDC - no deep soil zone identified. Locating a DSZ on the rear boundary may not be the optimum location for Kareela Road properties with ocean views.	N/a

Controls/objectives	Comment	Complies
<p>(a) At the rear of the site to allow for separation from adjacent dwellings and to provide a corridor of vegetation; or</p> <p>(b) Elsewhere within a site to allow for retention of significant trees and attain maximum access to sunlight.</p> <p>No structures, basement carports, driveways, hard paving, decks, balconies or drying areas are permitted within the deep soil zone.</p> <p>The deep soil zone shall be densely planted with trees and shrubs. Where the development is to be strata titled, the deep soil zone may be retained within the common property or allocated to an individual unit entitlement, where such dwelling is directly adjacent.</p>	<p>No change to CDC - no deep soil zone identified.</p> <p>If 3m depth area along rear boundary is a DSZ, it contains outdoor showers and paving inconsistent with the definition.</p> <p>No change to CDC - no deep soil zone identified.</p>	<p>*Variation</p> <p>N/a</p>

CHAPTER D1 – CHARACTER STATEMENTS

Woonona

The development is generally consistent with the desired future character for this part of Woonona.

Woonona is likely to experience continued growth as a result of the developing residential release areas as well as the replacement of older dwelling stock with larger dwelling-houses.

Woonona should remain a relative low density residential suburb, except for along the Princes Highway and in close proximity to Woonona railway station where medium density housing in the form of townhouses and residential flat buildings will be encouraged.

Individually designed dwellings with a distinctive coastal character are encouraged for the eastern coastal part of Woonona. Balconies should be lightly framed in stainless steel and / or timber finishes, rather than of brick or masonry construction.

For the central and western parts of Woonona, dwelling-houses and medium density housing should be of a face brickwork wall construction with pitched tile or colourbond roof forms preferred.

The Woonona retail and business centre functions as a large neighbourhood centre serving a predominantly residential area to the east and west of the Princes Highway. The role and function of this centre will continue to be focussed on providing daily convenience goods and services and only limited capacity to meet weekly shopping needs. Any new retail or business development in Woonona shall be contained within the confines of the existing business precinct.

The residential area between Hollymount Estate and south of Grey Street is recognised for its special “heritage” character and tree lined streets and hence, any alterations and additions to dwellings or new dwellings must be sympathetic with the character of this locality.

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

In dual occupancy developments, two parking spaces for dwellings >125m² are required. Each of the proposed dwellings exceed 125m².

The DA seeks to convert a habitable room into a parking area, thereby creating a double garage per dwelling. A stacked space per dwelling would continue to be provided per dwelling.

No change to the hardstand or driveway location approved in the CDC is proposed. Parallel on street parking of maximum 6m length between the two driveways would remain.

CHAPTER E6: LANDSCAPING

A landscape plan DA-1609/1 Rev A dated 19/1/21 by Captivate Landscape Design was provided. It shows the media room conversion into double garage on the floor plan, but not the elevation. There does not appear any significant difference between proposed landscaping in the DA plan and the CDC. The CDC hardstand dimensions have not changed.

The DA retains the Luscious Watergum in the central front setback, however it is not clear whether adequate consideration has been given to the proposed Torrens subdivision boundary, which appears to cut the tree in half. It is possible that occupants may find view lines when reversing compromised by the tree's location. The design of the building with access paths on the side boundary limits placement of trees elsewhere in the front setback, which is dominated by hardstand required to service the double garages.

The Blueberry Ash trees on each rear yard are retained in the DA. No objection to the tree species or location has been raised in submissions. The trees could be expected to grow higher than the Level 1 rear terrace, and potential conflicts between maximising ocean views and retention of the trees may arise.

CHAPTER E7: WASTE MANAGEMENT

A Site Waste Minimisation and Management Plan has been provided (refer Ellis Studio Drawing A30.02).

As discussed in relation to completion of the CDC, some demolition of the completed CDC structure would be required to facilitate the DA works. This has not been detailed in a demolition plan.

CHAPTER E14 STORMWATER MANAGEMENT

The drainage plan approved under the CDC has been submitted (refer ROC Engineering Design drawing C01 revision B). Stormwater will be directed to the kerb.

CHAPTER E17 PRESERVATION AND MANAGEMENT OF TREES AND VEGETATION

Not applicable - no trees are on site.

CHAPTER E21 DEMOLITION AND HAZARDOUS BUILDING MATERIALS MANAGEMENT

The CDC authorised demolition of all existing structures on the site.

The DA includes a 'demolition waste management table' on Ellis Studio drawing A30.02 dated 26 August 2021. Although a different revision to the CDC drawing A30.02 (CDC drawing is dated 9 March 2021), the table contains the same information.

As discussed in relation to completion of the CDC, some demolition of the completed CDC structure would be required to facilitate the DA works. This has not been detailed on drawing A30.02 or elsewhere in the DA.

CHAPTER E22 SOIL EROSION AND SEDIMENT CONTROL

Ellis Studio drawing A30.02 shows general stockpile and waste sorting areas. No other sediment and erosion controls methods are detailed.

Attachment 6: Draft Reasons for Refusal

- 1 Pursuant to the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is inconsistent with State Environmental Planning Policy (Exempt and Complying Codes) with respect to Clause 14 of Schedule 6A and clause 7 of Schedule 9 which require complying development to be carried out in accordance with the relevant complying development certificate.
- 2 Pursuant to the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is inconsistent with Wollongong Local Environmental Plan 2009 with respect to clause 4.4 Floor Space Ratio and the development standard departure is not supported.
- 3 Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is inconsistent with the provisions of Wollongong City Council's Development Control Plan 2009 Chapter B1 Residential Development with respect to:
 - Clause 4.3 Side and rear setbacks
 - Clause 4.5 Landscaped area
 - Clause 4.6 Private open space
 - Clause 4.8 Building character and form
 - Clause 4.10 Car parking and access
 - Clause 4.23 Additional controls for dual occupancy - deep soil zones
- 4 Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is inconsistent with the provisions of Wollongong City Council's Development Control Plan 2009 Chapter E7 Waste Management with respect to identifying demolition of parts of the completed complying development certificate building required to facilitate the development application works.
- 5 Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is inconsistent with the provisions of Wollongong City Council's Development Control Plan 2009 Chapter E21 Demolition and Hazardous Building Materials Management with respect to identifying demolition of parts of the completed complying development certificate building required to facilitate the development application works.
- 6 Pursuant to the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development would have an adverse impact upon the streetscape with respect to redevelopment potential, due to creation of proposed location of entry door and garage width.
- 7 Pursuant to the provisions of Section 4.15 (1)(e) of the Environmental Planning and Assessment Act 1979 it is considered that in the circumstances of the case, approval of the development would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.