

Wollongong Local Planning Panel Assessment Report | 23 March 2021

WLPP No.	Item 1
DA No.	DA-2020/1285
Proposal	Residential – Alterations and additions to existing dwelling
Property	4A Hyde St, COLEDLAE NSW 2515 Lot 1 DP 735949
Applicant	RG Town Planning Pty Ltd
Responsible Team	Development Assessment and Certification – City Wide Planning Team (SG)

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Local Planning Panel - Determination

The proposal has been referred to the WLPP for **determination** pursuant to part 3 of Schedule 2 of the Local Planning Panels Direction, as the development application seeks a departure from development standards by more than 10%. The existing FSR already exceeds the permitted FSR for the site.

Proposal

The proposal seeks consent for the alteration and addition to the existing dwelling house.

Permissibility

Dwelling houses are permissible in the E4 Environmental Living zone. Demolition is permissible on land to which the WLEP 2009 applies.

Consultation

The proposal was exhibited in accordance with the Community Participation Plan 2019. A total of two (2) submissions were received during this period.

The submissions received are discussed at section 1.5 of the assessment report

The proposal has been referred to Council's Stormwater and Statutory Property Officers, with conditionally satisfactory referral advice provided in each instance.

Main Issues

The main issues arising from the development assessment process are:

- Departure (Clause 4.6 departure in respect of Clause 4.4 of WLEP2009), and
- Issues raised in submissions.

RECOMMENDATION

Development Application DA-2020/1285 be **approved** subject to the conditions contained in Attachment 4.

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 (Coastal Management) 2018
- SEPP Koala Habitat Protection 2020

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan (WDCP) 2009

Other policies

- Wollongong City-Wide Development Contributions Plan 2020 (section 7.12 of EP&A Act 1979)
- Wollongong Community Participation Plan 2019

1.2 DETAILED DESCRIPTION OF PROPOSAL

The proposal comprises the following:

Addition - Living Room Area

- Extend the living room by 8m² by extending south eastern wall by 1.25m. Enclosing the existing barbeque alcove on ground floor deck, and
- Replace existing stacking slider door with larger door to fit.

Alteration - Balconies and Screening

- Replace existing fixed screening on south eastern wall, and
- Replace timber decking with FC sheeting and waterproof/tile, and
- Replace existing screening on north eastern wall to include two fixed screens and one retractable privacy and extend glass balustrade.

1.3 BACKGROUND

The development history of the site is as follows:

Application No	Description	Date	Decision
PC-2009/881 (CC)	Alterations and Additions to dwelling	2/12/2009	Approved
DA-2008/1509	Alterations and Additions to dwelling	12/5/2009	Approved
DA-1988/509	Additions to dwelling	8/6/1988	Approved
BA-1988/2222	Additions to dwelling	29/9/1988	Approved
BA-1984/912	Dwelling	7/6/1984	Approved

DA- 2008/1509 relates to the approval for the existing dwelling for alterations and additions which included the approval of the deck privacy screens. The site was zoned 7c Environmental Protection Residential Zone under WLEP 1990. It is noted the approved dwelling had an FSR of 0.55:1 prior to the approval for alterations and additions for DA-2008/1509. The previous approval relating to DA- 1988/509 is recorded in Council records as the site having a 0.5:1 FSR. WLEP 1990 introduced a reduced FSR to 7c zones of 0.30:1 the current E4 zoning has carried over this FSR.

Customer service actions:

There are no outstanding customer service requests of relevance to the development, at the time of preparing this report.

1.4 SITE DESCRIPTION

The site is located at 4A Hyde Street, Coledale and the title reference is Lot 1 DP 735949. The site currently contains an existing three storey dwelling. The site has two frontages including Hyde Lane and Hyde Street. The site is currently accessed via Hyde Lane. Hyde Street, the eastern lot boundary, is only partly formed the rest is grassed reserve area which provides access to the foreshore area known as Coledale rock platform and ocean pool.

The site is a rectangular shape with a total area of 409.59m² and has a narrow frontage of 10.055m wide to the front and back of the lot and has a site depth of 40m.

The site is situated in an area of mixed uses including residential and commercial premises located to the north west. Coledale Public School is located to the North. The residential uses are primarily a mix of single, two and three storey dwellings.

Property constraints

- Coastal hazard — Geotechnical Risk: any consent issued will list this hazard as a notation. Existing building footprint no change.
- Filled Land — Existing building footprint no change.
- SEPP Coastal Management 2018 — Further discussed below in report.
- Coastal Hazard Area — Further discussed below in report.
- Acid Sulfate Soils Class 5 — Existing building footprint no change.
- Encumbrance Drainage — Council's Property Officer has reviewed the application which is further discussed below.
- Flood Affected undetermined levels - Council's Stormwater Officer has reviewed the application which is further discussed below.

There are no restrictions on the title.



Figure 1: Aerial photograph

1.5 SUBMISSIONS

The proposal was exhibited in accordance with the Community Participation Plan 2019. A total of two (2) submissions were received during this period. The issues identified are discussed below.

Table 1: Submissions

Concern	Comment
1. Non- compliance <ul style="list-style-type: none"> Previously approved Alterations & Additions were non-compliant. Further additions exacerbate the current non-compliances. Continued approval non-compliances are concerning. 	<p>It is noted the existing dwelling exceeds the current FSR for the site. The reference to non-compliance appears to relate to the DA from 1988.</p> <p>The proposed works are within the curtilage of the existing dwelling. Minor increase to FSR by addition of 8m² to gross floor area is not considered to generate additional impacts.</p> <p>Clause 4.6 of the WLEP 2009 permits departures from development standards. Clause 4.6 is considered appropriately addressed and as such referred go WLPP for consideration.</p>
2. Impact on drainage <ul style="list-style-type: none"> Concern any additional loads from alterations and additions will impact drain and cause issues 	<p>Councils Stormwater Officer has reviewed flood affectation and submission and provided the following comments;</p>

	<ul style="list-style-type: none"> The proposed alterations/additions are of a minor nature and well elevated above the likely flood water surface levels affecting the site. In this regard, there are no concerns with respect to floodplain management. Council's records indicate that the watercourse through the subject site has been piped with a 1.2 metre diameter flexible rib-lock pipe. As such, it is considered unlikely that the development would result in scour/erosion due to additional loads over the watercourse. A condition regarding structural loads could be imposed regarding structural loads.
3. Amenity Impacts - Views and overshadowing <ul style="list-style-type: none"> Existing dwelling when constructed obliterated views of adjoining dwelling to the south. Existing dwelling when constructed created overshadowing of smaller setback dwelling to the south. 	<p>The proposed updates and changes are within the curtilage of the existing dwelling and balcony. Current views being impeded across side boundary to the water are unlikely to have further impact by the replacement of the existing screens.</p> <p>Additional overshadowing of the dwelling to the south is unlikely to occur as a result of the proposal.</p>
4. Flooding <ul style="list-style-type: none"> This area floods. Concern any additional loads could affect drainage easement and create issues for upstream properties. 	<p>While the site is noted in Councils land information record management system as being affected by flooding it is noted a portion of the street, to the north of the site, adjoining the creek is mapped as uncategorised flood risk.</p> <p>Councils Stormwater Officer reviewed the application submission and provided satisfactory comment.</p>
5. Construction Management <ul style="list-style-type: none"> Concern how construction vehicles will be managed. Existing issues with illegal parking in in Hyde Lane which is narrow and heavily congested. 	<p>It is noted the laneway is narrow. A condition of consent regarding a construction management plan has been included at Attachment 4.</p>

Issue	1	2	3	4	5
Frequency	2	1	1	1	1

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Stormwater Officer

Council's Stormwater Officer has assessed the application submission with regards to stormwater matters and the submission and has provided conditionally satisfactory advice.

Property Management Officer

Council's Property Management Officer has assessed the application submission and provided conditionally satisfactory advice. It is noted the drainage easement was registered after the existing dwelling was approved for original alterations and additions in 1988.

1.6.2 EXTERNAL CONSULTATION

None required.

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 – 4.15 EVALUATION

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

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

7 Contamination and remediation to be considered in determining development application

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

No earthworks are required as the proposal includes alterations and additions to the existing dwelling on the upper floors only. As such it is considered Clause 7 matters are satisfied.

2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (KOALA HABITAT PROTECTION) 2020

The City of Wollongong is identified within Schedule 1 as land to which this Policy applies. Wollongong is located within the South Coast Koala Management Area.

Part of the subject site is mapped as being within the Site Investigation Area for Koala Plans of Management pursuant to the SEPP Maps. This mapping is provided as a tool for Council in developing Koala Plans of Management and does not apply to the development application process. Council does not have an approved Koala Plan of Management for the land at the time of preparing this report, and as such, no further consideration of this SEPP is required.

2.1.3 STATE ENVIRONMENTAL PLANNING POLICY COASTAL MANAGEMENT 2018

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

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

- (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or

(b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

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

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

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

Comment- There are no foreseeable additional impacts as a result of this proposed alterations and additions to the existing dwelling and therefore the clause is considered satisfied.

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

Comment - There are no foreseeable additional impacts as a result of the proposed alterations and additions to the existing dwelling and therefore the clause is considered satisfied.

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

Comment - There are no foreseeable additional impacts as a result of the proposed alterations and additions to the existing dwelling and therefore is considered satisfied.

NSW Coastal Management Act 2016 and Wollongong Coastal Zone Management Plan

On 30 October 2017, Council endorsed the final draft of the Wollongong Coastal Zone Management Plan for resubmission to the NSW Minister for Environment for certification. The draft Plan was certified on 20 December 2017.

At the Council meeting of 19 February 2018, Council resolved that the certified final draft be adopted. Council’s Notice was published in the NSW Gazette No 25 of 9 March 2018 and a community briefing on the implications arising from Council adopting and gazetting the plan have been undertaken.

The NSW Coastal Management Act 2016 came into force on 3 April 2018. Under the Act any existing certified CZMP’s continue in force until 31 December 2021.

A review of Council’s associated CZMP coastal hazard mapping extents identifies that the subject site and specifically the building envelope is impacted by coastal geotechnical risk.

Minimal adverse impact on the coastal environment is anticipated as a result of the proposed development. Minimal adverse impacts on the development are expected as a result of coastal processes.

The proposal is therefore considered satisfactory with regard to the aims outlined in clause 3 of this policy and the matters outlined for consideration.

2.1.4 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Part 1 Preliminary

Clause 1.4 Definitions

Dwelling house means a building containing only one dwelling.

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

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

(d) dwelling houses,

Part 2 Permitted or prohibited development

Clause 2.2 – Zoning of land to which Plan applies

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

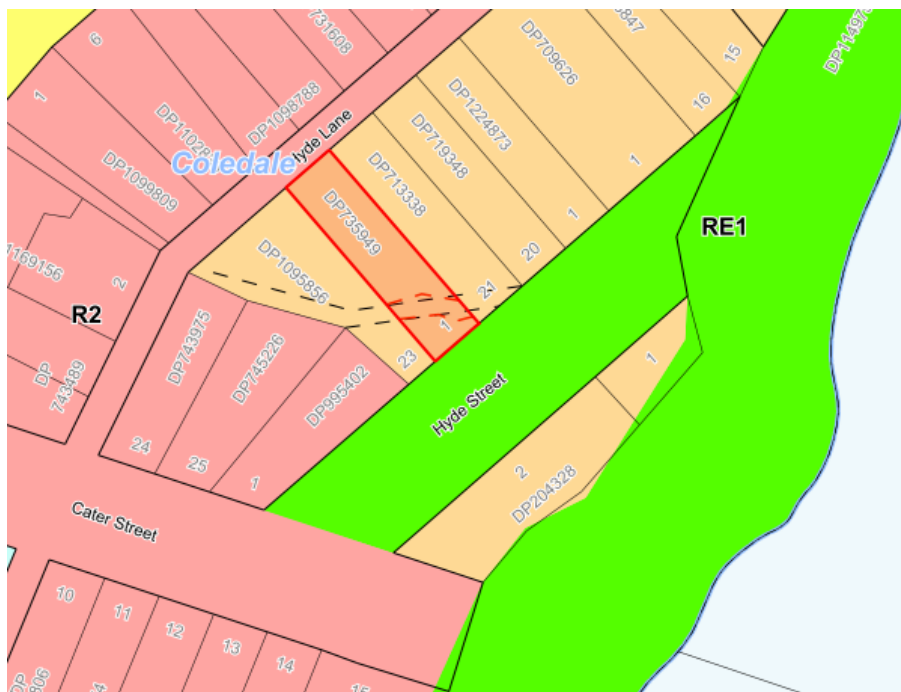


Figure 2: WLEP 2009 zoning map

Clause 2.3 – Zone objectives and land use table

The objectives of the E4 zone are as follows:

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

The proposed alterations and additions to the existing dwelling are considered consistent with the objectives for the zone.

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

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

Clause 2.7 Demolition requires development consent

Consent for the partial demolition/ removal of the existing screens and a portion of the wall are sought as part of the subject application. Conditions are recommended in this regard.

Part 4 Principal development standards

Clause 4.3 Height of buildings

No proposed change to the existing building height of 8.3m and does not exceed the maximum of 9m permitted for the site.

Clause 4.4 Floor space ratio

Objectives

(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.

Maximum FSR permitted for the zone **0.3:1**. Existing site area 409.59 m²

Permitted	Existing	Proposed
Permitted GFA: 123m ²	Existing GFA: 222m ²	Proposed GFA: 230m ²
Permitted FSR: 0.30: 1	Existing FSR: 0.54:1	Proposed FSR: 0.56:1
	Existing departure to permitted FSR: 80.7%	Proposed departure to permitted FSR: 86.66%

Comment: 0.56:1 FSR proposed.

Variation sought for 8m² of floor area (0.02:1) to the existing FSR. The existing FSR exceedance is calculated at 80.7% of the permitted 0.30:1 FSR. The proposed FSR exceedance is calculated at 86.66%. Noting the sites to the NW and SW have an FSR of 0.50:1.

Departures to FSR, exceeding 0.30:1, have been granted for 4 Hyde Street and 6 Hyde Street, Coledale. DA-2011/793 6 Hyde St, Coledale for demolition and construction of a new dwelling was approved by IHAP with an FSR departure from 0.30:1 to 0.50:1. Coledale Avenue and Hyde Street are noted as the only two streets in Coledale that have an E4 zoning applied to half of the street. The E4 lots in Coledale Avenue are similar in context to Hyde Street it has been noted in several recent DA's in Coledale Avenue the 0.30:1 FSR has been abandoned through numerous FSR departures from the in the street. Figure 4 below indicates lots within Hyde Street and Coledale Avenue including those lots zoned E4 with existing FSR departures.

Council also noted the minimum lot size 999sqm prescribed in the WELP 2009 as the minimum lot size for the E4 zone is problematic as most lots are well below the 999sqm minimum lot size. The subject lot is 409.59m² which is also below the minimum 450m² minimum required for lots zoned R2.

The area on the balconies associated with the screens has not been included in the GFA as the fixed screens are fixed in open position and not considered weatherproof therefore not considered to act as a formalised interior or external wall. The screens area associated with balcony areas which when viewed on-site inspection is clearly an outdoor area (as shown below in Figure 3).



Figure 3: Site Inspection

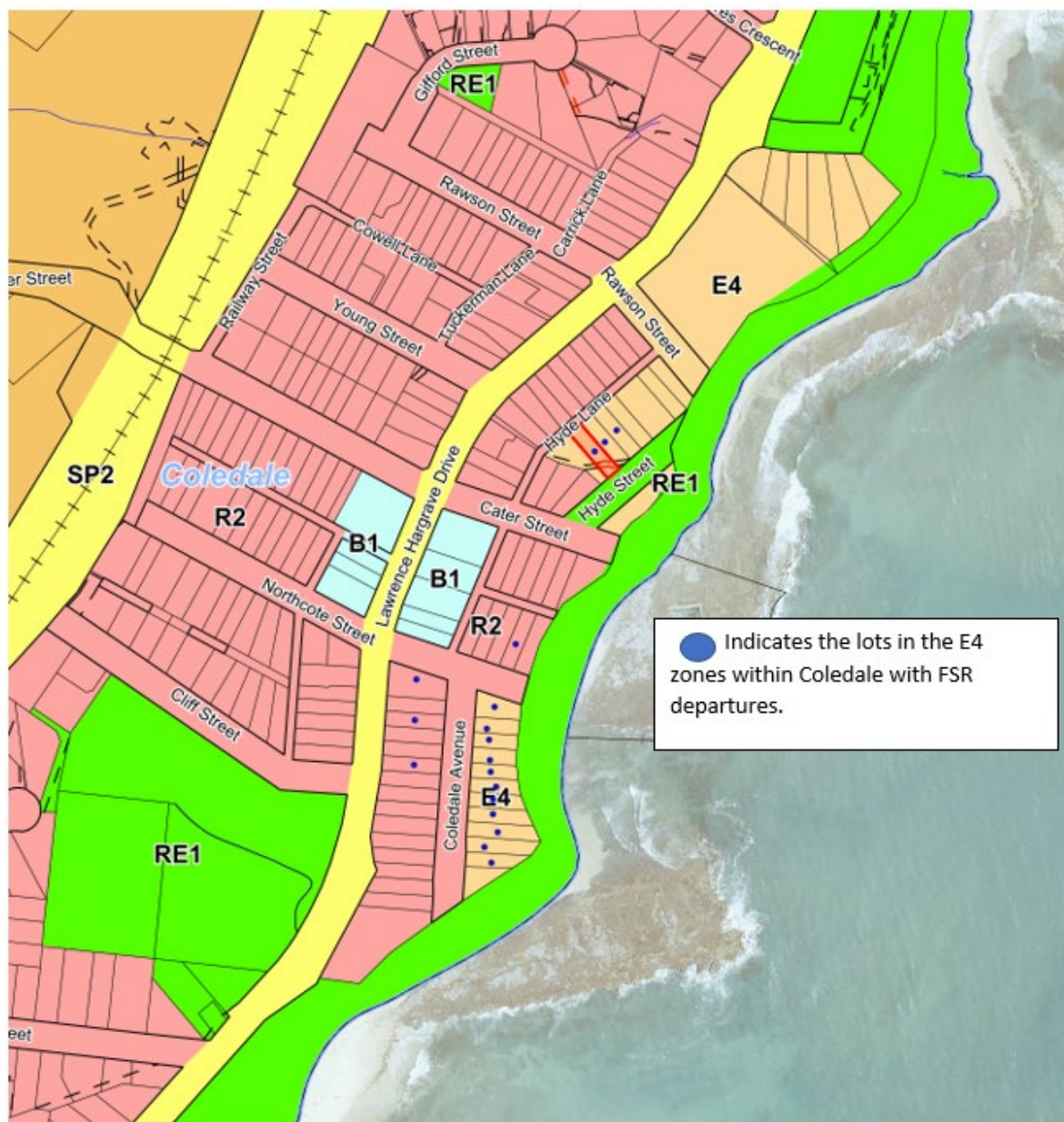


Figure 4: Coledale Area E4 - Zoned lots in locality

Clause 4.6 Exceptions to Development Standards

A variation is requested to Clause 4.4 Floor Space Ratio and therefore this clause applies. The applicant has provided a variation request in accordance with Clause 4.6 of the WLEP 2009 as detailed in the table below.

Clause 4.6 proposed development departure assessment	
Development departure	Clause 4.4 Floor Space Ratio
Is the planning control in question a development standard?	Yes
4.6 (3) Written request submitted by applicant contains a justification:	
(a) that compliance with the development standard is	Yes. The applicant's request contains this justification.

unreasonable or unnecessary in the circumstances of the case, and	In summary the justification relies on compliance with the floor space ratio standard in this instance being unnecessary as there are no unreasonable impacts arising from the non-compliance and the development is consistent with the objectives of the standard despite the non-compliance.
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.	Yes, the applicant's request contains this justification shown at Attachment 3.
4.6 (4) (a) Consent authority is satisfied that:	
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<p>The applicant's request has adequately addressed the matters required to be addressed by subclause (3).</p> <p>The applicant's request is based on the rationale that the variation to Clause 4.4 is considered to be consistent with the objectives of the clause. As the curtilage of the dwelling is primarily retained and the development standard already exceeded. The addition of 8m2 is considered relatively minor no foreseeable additional impacts as a result of the 8m2 inclusion.</p>
(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	<p>The proposed development will be in the public interest because (a) it is consistent with the objectives of the floor space ratio standard; (b) the objectives for development within the E4 zone will be achieved; (c) the development is not expected to compromise the development potential of neighbouring sites.</p> <p>The objectives of the standard are to ensure appropriate correlation between the size of a site and development, to establish the maximum development density and intensity of land use and to ensure buildings are compatible with the bulk and scale of the locality. As the dwelling is existing and the curtilage generally maintained development the bulk and scale of the building is relatively unaltered. The existing dwelling was approved and altered over 14 years ago. The proposed alterations and minor additions are not considered inconsistent with the objectives of clause 4.4.</p> <p>The correlation between the size of a site and the proposed addition to the existing dwelling is considered satisfactory. The existing dwelling is of similar footprint to what is proposed. An additional 8m² of floor area is not considered excessive regarding the existing dwelling curtilage and lot size. The overall scale of the existing dwelling is considered moderate however the proposed addition of 8m2 development is considered minor. It is noted the sites across from the Site have an FSR of 0.50:1 and are zoned R2 Low density residential the adjoining E4 zoned lots appear to have FSR exceedances also.</p> <p>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 is not considered unreasonable. The small addition to the kitchen and living area of 8m2 is not considered excessive. There are no foreseeable impacts on traffic as an existing two garage is provided nor impact pedestrian traffic or existing infrastructure.</p>

	<p>The non-compliance arises in part due to the existing dwelling non-compliance and therefore compliance is unable to be achieved.</p> <p>There is not considered to be a public benefit served in this instance by insisting on strict compliance with the standard.</p> <p>As outlined in section 2.3 the proposed development has regard to the objectives for development within the zone.</p> <p>The development will remain consistent with the objectives of the E4 zone despite the non-compliance with Clause 4.4.</p>
(b) the concurrence of the Planning Secretary has been obtained.	No; the application has been referred to the Wollongong Local Planning Panel Council as the FSR is already exceeded past the 10% concurrence as per ministerial direction.

Part 5 Miscellaneous provisions

Not applicable.

Part 6 Urban release areas

Not applicable.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The existing site improvements are already serviced by electricity, water and sewage services. It is expected that these existing services will be capable of supporting the proposal.

Clause 7.5 Acid Sulfate Soils

The site is mapped as containing Acid Sulfate Soils – Class 5 however no earthworks area proposed as a result of the alterations and additions to the existing dwelling.

Clause 7.6 Earthworks

The proposal does not require any earthworks wholly contained within the existing dwelling curtilage.

Clause 7.13 Flooding

The site is listed as flood affected however no works proposed would affect flood affectation for the site.

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

Not relevant.

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

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

The development has been assessed against the relevant chapters of WDCP 2009 and compliance tables can be found below.

CHAPTER A2 – ECOLOGICALLY SUSTAINABLE DEVELOPMENT

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

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

CHAPTER B1 – RESIDENTIAL DEVELOPMENT

4.0 General Residential controls

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
<u>4.1 Maximum Number of Storeys</u>	Existing dwelling: three -storey no proposed change.	Existing
<u>4.2 Front Setbacks</u>	Existing no proposed change.	Existing
<u>4.3 Side and Rear Setbacks</u>	Existing no proposed change.	Existing
<u>4.4 Site coverage</u>	Existing no proposed change.	Existing
<u>4.5 Landscaped Area</u>	Existing no proposed change.	Existing
<u>4.6 Private Open Space</u>	Existing no proposed change.	Existing
<u>4.7 Solar Access</u>	Existing no proposed change.	Existing
<u>4.8 Building Character and Form</u>	Existing dwelling generally responds to its site context.	Yes
	Screening to be conditioned with regard to materials and screens fixed to remain open. No closable louvres will be permitted in this instance. Condition included in consent.	Conditioned
<u>4.9 Fences</u>	Existing no proposed change.	Existing
<u>4.10 Car parking and Access</u>	Existing two car garage. No proposed change.	Existing
<u>4.11 Storage Facilities</u>	Existing no proposed change.	Existing
<u>4.12 Site Facilities</u>	Existing no proposed change.	Existing
<u>4.13 Fire Brigade Servicing</u>	Existing no proposed change.	Existing
<u>4.14 Services</u>	The existing dwelling is currently connected to services.	N/A

4.15 Development near the coastline

The site is situated in the Coastal zone. The proposed development is within the confines of the existing dwelling therefore there are unlikely to be additional impacts on views as a result of the proposed alteration and additions There are no foreseeable additional impacts on the coastal landscape or area.

Existing

4.16 View sharing

The existing dwelling scale is substantially larger than the older dwelling to the south which also has greater front setbacks, from the view, than the subject lot. Previous approvals show views were impeded through the site in 1998 via approval reference DA-1998/509 Alterations and Additions to the existing dwelling. As older housing stock is replaced in the area it is foreseen newer dwellings will be of similar design to that of the dwelling on the subject lot.

Existing

CHAPTER D1 – CHARACTER STATEMENTS

Coledale

Existing Character

Coledale is a small seaside village which is characterised by low density residential development. The village contains a mix of one to two storey detached dwelling-houses and includes older style weatherboard cottages and new contemporary coastal themed dwellings. Coledale also contains the historic Coledale railway station, a railway tunnel No. 8 and a number of Norfolk Island Pines along South Coledale Beach and Lawrence Hargrave Drive.

Desired Future Character

Coledale should retain its low density residential village character with predominantly one to two storey detached dwelling-houses envisaged in the village.

New dwellings should be individually designed in a coastal theme with either a weatherboard or rendered brick construction and varied sloping flat, dutch gable pitched or curved roof forms encouraged Light beige or light to mid grey or light to dark blue coloured external wall finishes are preferred.

New dwellings should be designed to maximise view sharing opportunities for neighbouring dwellings. This may be achieved by way of staggering of the building form through wider side setbacks on first floor levels and minimising the wall and roofline height of dwellings, wherever possible. The roof line of any new two storey dwelling should be flanked by wide eaves, wherever practicable, to help to improve the overall appearance of the building.

The use of extensive windows and lightly framed balconies and verandahs plus a variety of materials and finishes rather than plain masonry walls and balustrades is recommended. All balconies should be designed to minimise any potential amenity or privacy impacts upon the habitable rooms of the dwellings or private courtyard areas of adjoining properties.

It is noted the desired future character relates predominantly to new dwellings. The proposal however, is not considered to be incompatible with the context and setting or existing and future desired character of the Coledale area.

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

Existing two car garage and driveway area no proposed change to the existing arrangement.

CHAPTER E6: LANDSCAPING

Existing landscaped areas no proposed change to the existing.

CHAPTER E7: WASTE MANAGEMENT

Existing ongoing operational waste arrangement no proposed change. Waste management during construction will be included as a condition of consent. See Attachment 4.

CHAPTER E12 GEOTECHNICAL ASSESSMENT FOR SLOPE INSTABILITY

The site is listed in Council records as being affected by Coastal Geotechnical Hazards. As there are no earthworks or works occurring to the lower ground level the objectives of this clause are considered satisfied.

CHAPTER E14 STORMWATER MANAGEMENT

The application has been reviewed by Council's Stormwater Officer in relation to stormwater management. The proposed development satisfies the objectives of WDCP2009 Chapter E14 Stormwater Management. Appropriate conditions have been recommended and shall be imposed on the consent. For Council's Stormwater Officers response please see section 1.6.1 Internal Consultation of this report.

CHAPTER E19 EARTHWORKS (LAND RESHAPING WORKS)

No earthworks proposed the proposed works are contained on the upper and first floor areas.

CHAPTER E21 DEMOLITION AND ASBESTOS MANAGEMENT

The application submission proposes partial demolition of elements of the existing dwelling on the site. A Site Waste Minimisation Plan, including waste removal was included in the application submission and will be included as a condition of consent. See Attachment 4.

2.3.2 WOLLONGONG CITY-WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2020

The estimated cost of works is <\$100,000 (\$45,000) and a therefore no levy is applicable under this plan as the threshold value is \$100,000.

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

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

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

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

Conditions of consent are recommended with regard to demolition including asbestos management. The area is situated within the Coastal zone as discussed above.

93 Fire safety and other considerations

Conditions of consent are recommended requiring compliance with the BCA/National Construction Code.

94 Consent authority may require buildings to be upgraded

Not required though may be determined by Certifying Authority.

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

Context and Setting:

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

Are the proposals physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

Is the proposals appearance in harmony with the buildings around it and the character of the street?

In response to the first question, matters such as overshadowing, privacy concerns, bulk scale and setbacks are relevant. The proposal exceeds the allowable Floor Space Ratio for the site though the additional 8m² of gross floor area is not considered likely to cause additional overshadowing of any adjoining property, or the development potential of any nearby site.

With regard to the visual impact, the development is not considered to be inconsistent with the desired future character of the area, as discussed above relates predominantly to new dwellings. The area is currently made up of single, two and three storey dwelling houses, however, is likely to be subject to replacement of older housing stock. The development would not be considered to result in an unreasonable visual impact.

In summary, the proposal has been assessed with regard to the amenity impacts from the development, the zoning and existing and future character of the area and is not considered to be incompatible with the context and setting or existing and future desired character of the local area.

Access, Transport and Traffic:

The development does not seek to alter the existing car parking spaces and driveway area.

Public Domain:

The proposed changes to the existing dwelling are considered relatively minor and are restricted to the curtilage of the existing dwelling.

Utilities:

The site is serviced by existing utilities the proposal would not be envisaged to place additional demands on the existing utilities.

Heritage:

The site is not located within the vicinity of any heritage items.

Other land resources:

The proposal would not be envisaged to impact upon valuable land resources.

Water:

The site is presently serviced by Sydney Water, which is expected to be capable of extension to meet the requirements of the proposed development.

The proposal would not be envisaged to have unreasonable water consumption.

Soils:

Council records indicate the site is affected by Acid Sulphate Soils – Class 5 however there is no excavation or site works proposed as a result of the proposal.

Air and Microclimate:

The proposal would not be expected to result in negative impacts on air or microclimate.

Flora and Fauna:

The site is not identified within Councils land information system as being known to contain any threatened fauna species or habitat.

Waste:

A condition is recommended requiring that an appropriate receptacle be in place for any waste generated during the construction. Existing street collection is proposed to be relied upon for the occupation of the development and is considered appropriate.

Energy:

The proposal would not be envisaged to have unreasonable energy consumption.

Noise and vibration:

The proposal would not be envisaged to have unreasonable energy consumption.

Natural hazards:

Council records list the site as affected by coastal geotechnical hazards and flooding. The proposed alterations and additions are not envisaged to have further impact on coastal hazards nor any flood affectation of the site.

Technological hazards:

The site is not affected by any technological hazard which would result in adverse impacts on the development.

Safety, Security and Crime Prevention:

This application would not be expected to result in greater opportunities for criminal or antisocial behaviour.

Social Impact:

The proposal would not be envisaged to result in negative social impacts.

Economic Impact:

The proposal would not be envisaged to result in negative economic impacts.

Site Design and Internal Design:

The application does result in a departure from WLEP 2009 with regard to the development standard for Floor Space Ratio as discussed throughout the report. The request has been considered and is considered capable of support in this instance, as discussed at section 2.1.4 above.

Private open space, residential amenity, vehicular manoeuvring and pedestrian access are existing with no proposed change.

Construction:

Conditions are recommended in relation to construction impacts for hours of work, erosion and sedimentation controls, works in the road reserve, excavation, demolition and use of any crane, hoist, plant or scaffolding.

A condition will be attached to any consent granted that all works are to be in compliance with the Building Code of Australia.

Cumulative Impacts:

The proposal is not expected to result in negative cumulative impacts.

Ecologically Sustainable Development Considerations

The proposed development is not considered to be inconsistent with ESD principles as evidenced by the assessment commentary provided throughout the report.

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

Does the proposal fit in the locality?

The design of the proposed alterations and additions is considered an appropriate response to the site constraints including the existing building footprint and is not expected to result in increased adverse impacts on the character of the locality or amenity of adjoining developments.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

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

See section 1.5 above.

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

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

3 CONCLUSION

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

It is considered that the applicant has provided adequate justification for the departure sought to the WLEP 2009 development standard clause 4.4 Floor Space Ratio. The departure is considered capable of support.

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

No adverse internal referral matters were raised, and there are no outstanding issues.

It is considered that the proposed development has been designed appropriately given the constraints and characteristics of the site, is not inconsistent with the existing and desired future character of the locality and is unlikely to result in significant adverse impacts on the amenity of the surrounding area

4 RECOMMENDATION

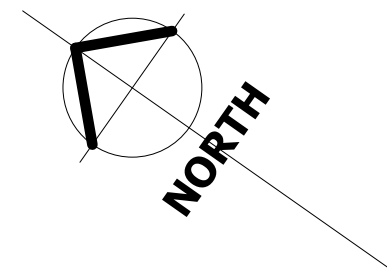
Development Application DA-2020/1285 be **approved**, subject to the conditions contained in Attachment 4.

5 ATTACHMENTS

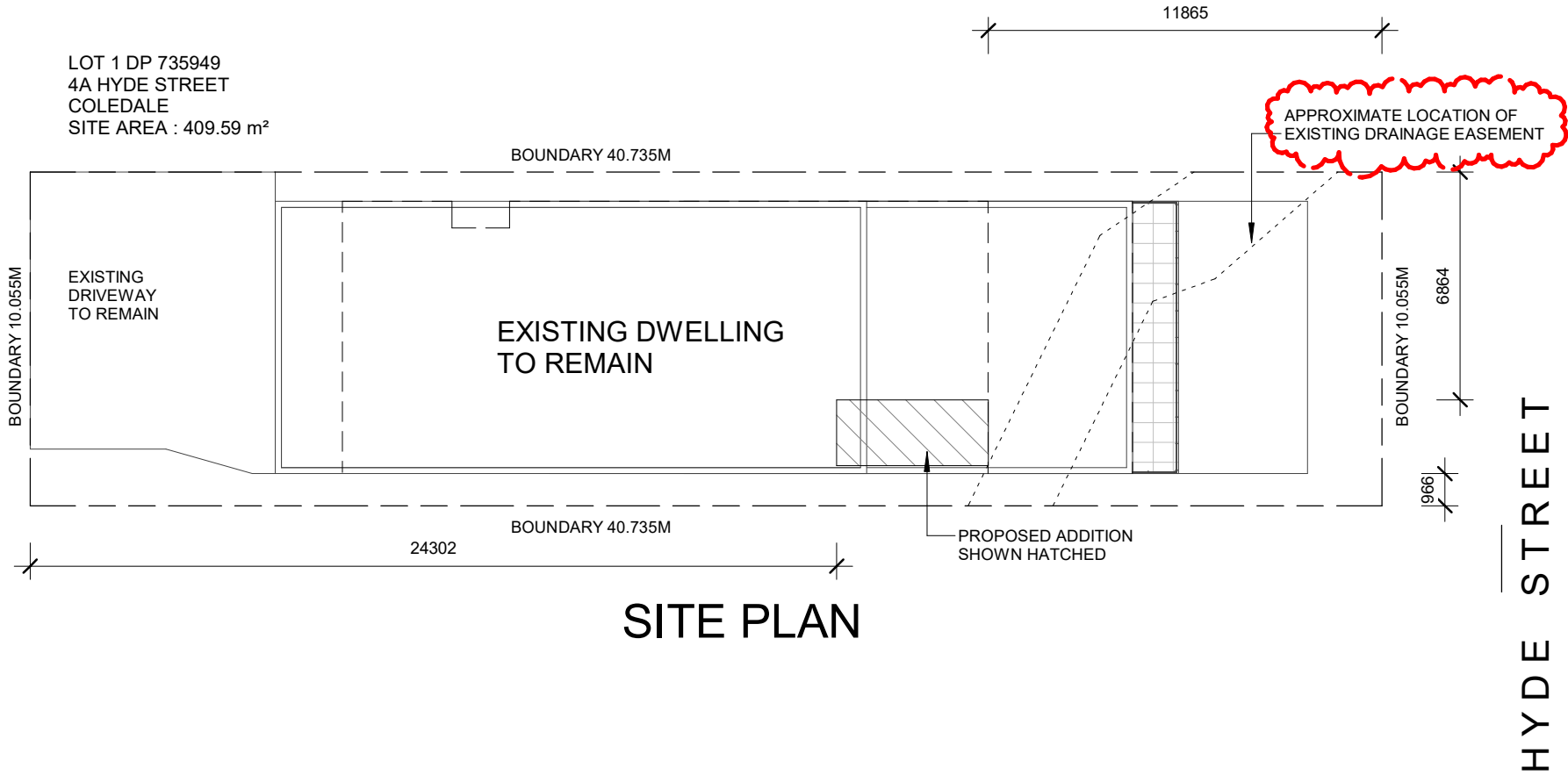
- 1 Architectural Plans
- 2 Statement of Environmental Effects
- 3 WLEP 2009 Clause 4.6 Applicant Request
- 4 Conditions of Consent

PROPOSED ALTERATIONS & ADDITIONS

Attachment 1



HYDE LANE



Sheet List	
Sheet Number	Sheet Name
20-248-01B	SITE PLAN
20-248-02B	GROUND FLOOR PLAN
20-248-03B	ELEVATIONS
20-248-04B	NE ELEVATION & SECTION A
20-248-05B	SECTION C
20-248-06B	FLOOR AREAS
20-248-07B	DEMOLITION PLAN
20-248-08B	PERSPECTIVES



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WEBSITE: www.projectonedrafting.com.au

peter@projectonedrafting.com.au

No.	Description	Date
1 A	DA ISSUE	17.09.20
B	ADDITIONAL INFORMATION	12.01.21

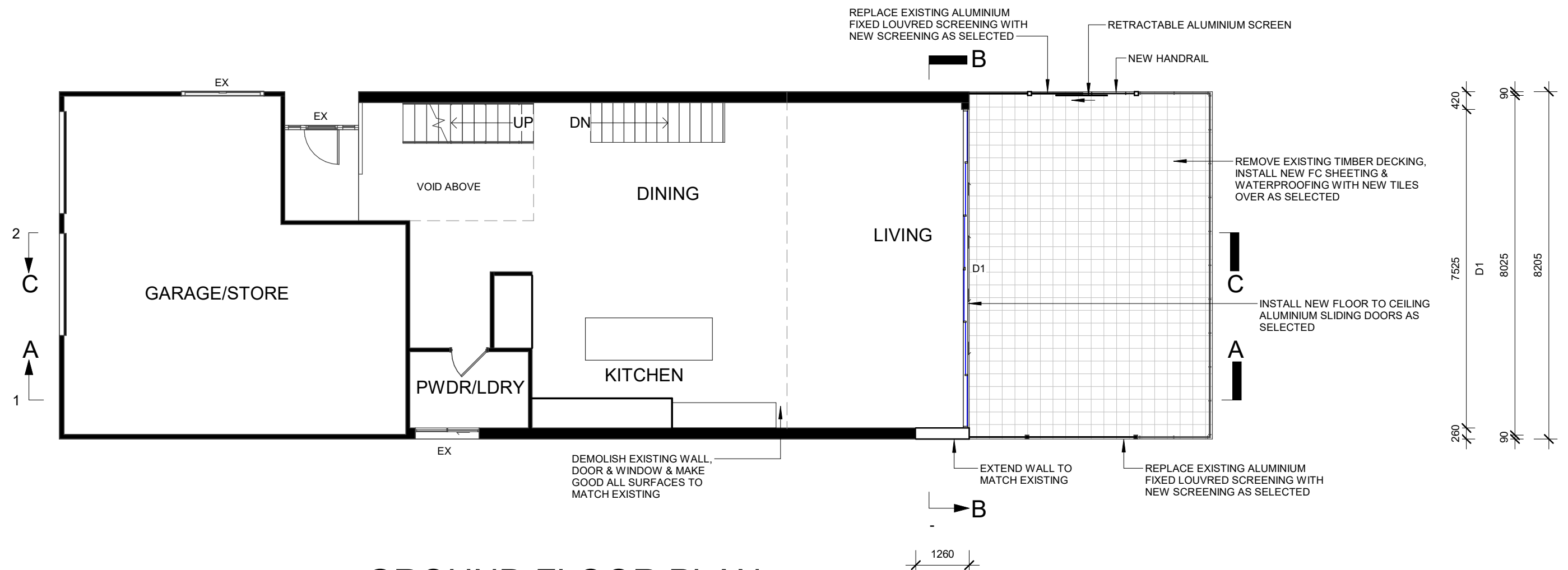
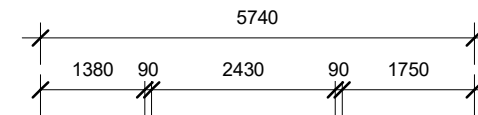
Anthony Oliver
Lot 1 DP735949
4A HYDE STREET
COLEDALE

SITE PLAN

Project number	20-248	20-248-01B
Date	12.01.21	
Drawn by	PH	
Checked by	Checker	Scale
		1 : 200

Legend 1
1 : 100

- Existing walls to remain
EX Existing structure to remain
Walls to be demolished



GROUND FLOOR PLAN

Door Schedule					
A	Mark	Location	Frame Type	Height	Width
GROUND FL	D1	LIVING	FSSSSF	2845	7525
GROUND FL: 1					
Grand total: 1					

No.	Description	Date
1 A	DA ISSUE	17.09.20
B	ADDITIONAL INFORMATION	12.01.21

Anthony Oliver
Lot 1 DP735949
4A HYDE STREET
COLEDALE

GROUND FLOOR PLAN

Project number	20-248	20-248-02B
Date	12.01.21	
Drawn by	Author	
Checked by	Checker	Scale
		1 : 100

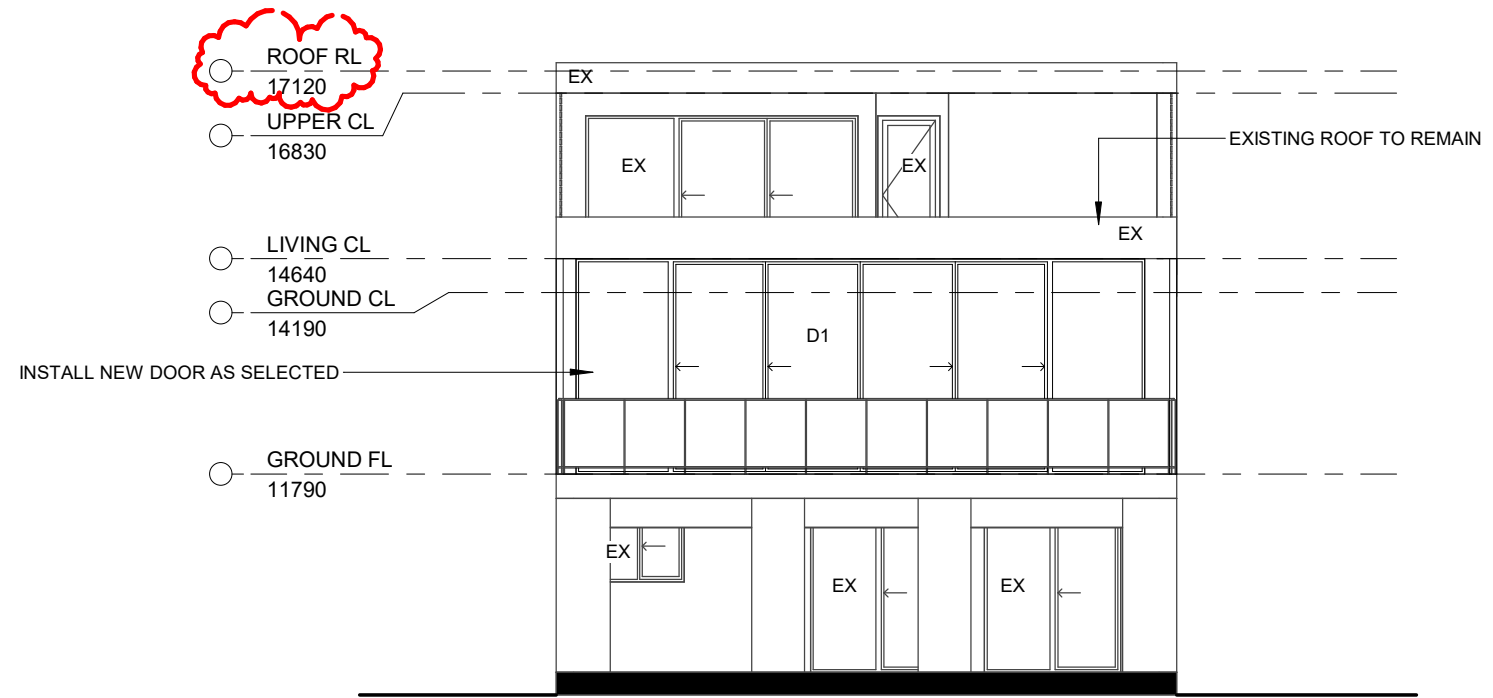
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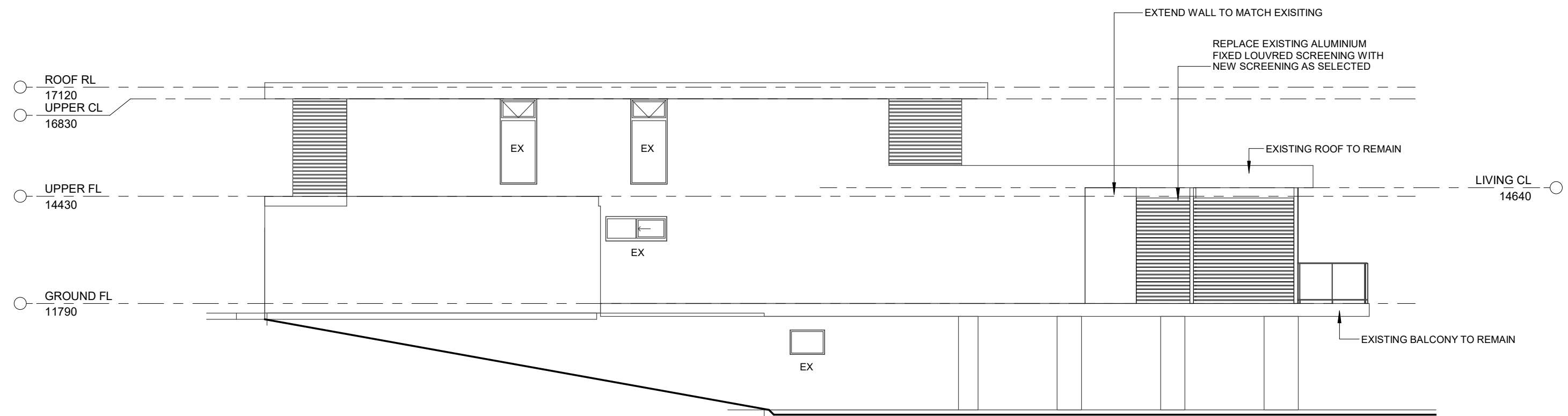
Existing walls to remain

EXExisting structure to remain

==Walls to be demolished



SOUTH EAST ELEVATION



SOUTH WEST ELEVATION

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B	ADDITIONAL INFORMATION	12.01.21

Anthony Oliver
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4A HYDE STREET
COLEDALE

ELEVATIONS

Project number	20-248	20-248-03B
Date	12.01.21	
Drawn by	Author	
Checked by	Checker	Scale
		1 : 100



Architectural section drawing of a building. The drawing shows the following elements:

- Floor Levels:**
 - ROOF RL 17120
 - UPPER CL 16830
 - LIVING CL 14640
 - GROUND FL 11790
 - EX LOWER CL 11470
- Interior Spaces:**
 - KITCHEN
 - LIVING
- Exterior Features:**
 - NEW RETRACTABLE SCREEN
 - EXISTING SCREEN TO BE REPLACED WITH NEW SCREEN AS SELECTED
- Dimensions:**
 - Vertical dimension: 2850

SECTION A

No.	Description	Date
A	DA ISSUE	17.09.20
B	ADDITIONAL INFORMATION	12.01.21

Anthony Oliver
Lot 1 DP735949
4A HYDE STREET
COLEDALE

NE ELEVATION & SECTION A

Project number	20-248	20-248-04B
Date	12.01.21	
Drawn by	Author	
Checked by	Checker	Scale 1 : 100

Legend 1

1 : 100

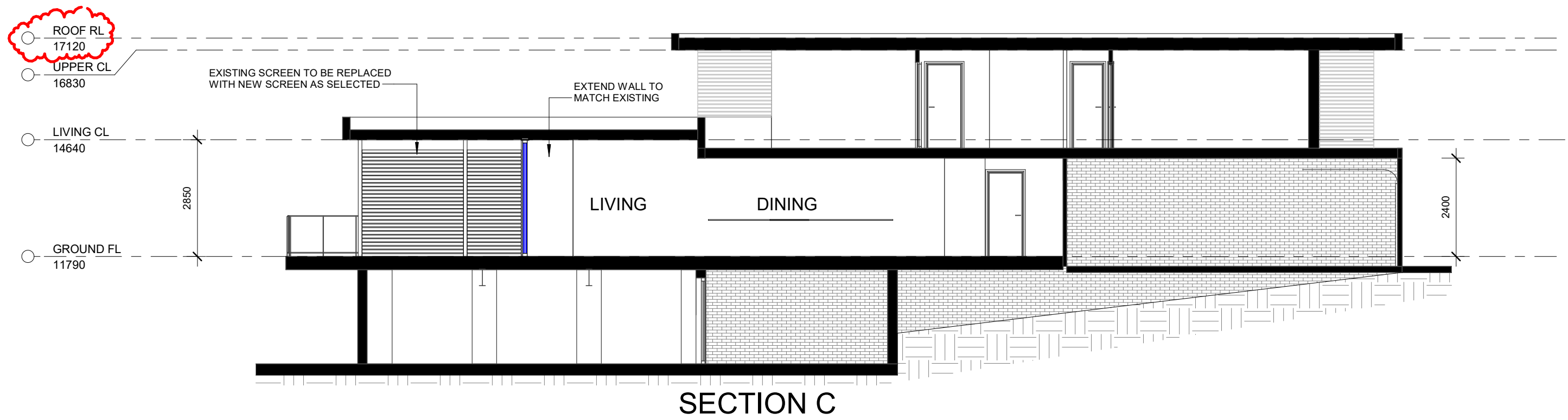
Existing walls to remain


EX

Existing structure to remain

==

Walls to be demolished





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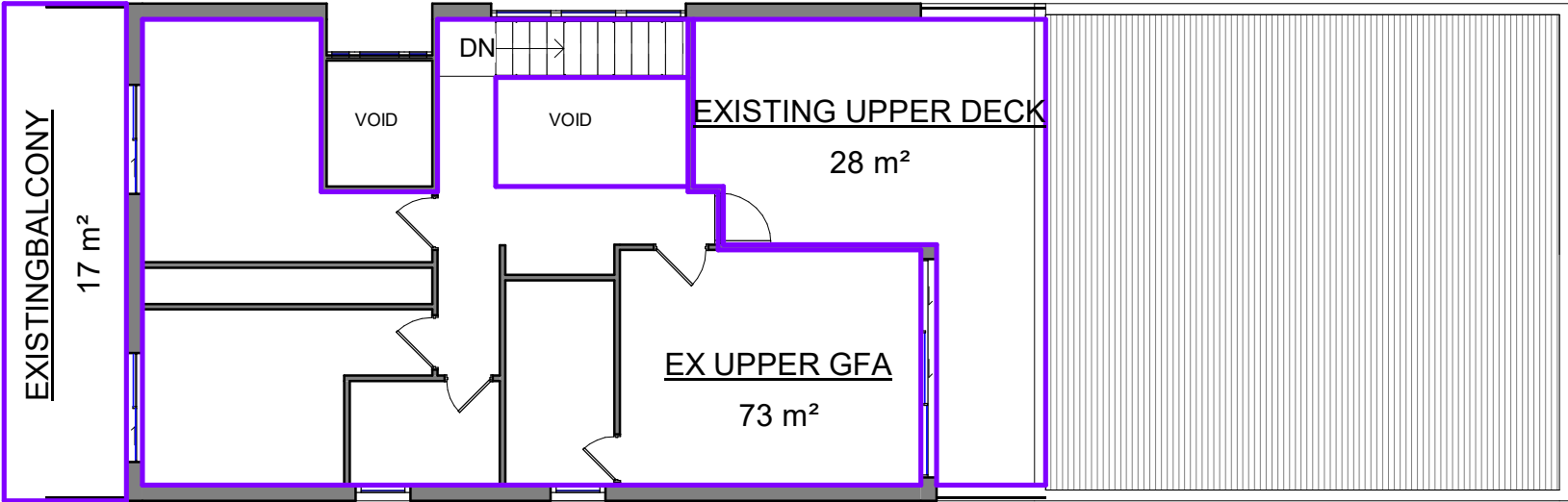
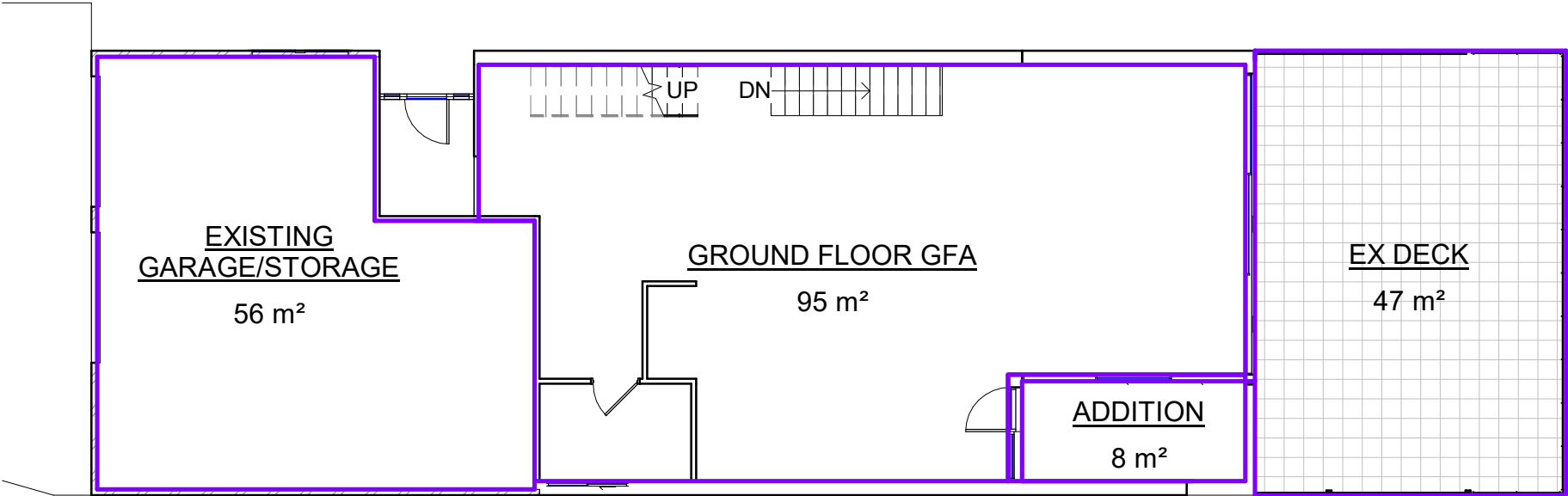
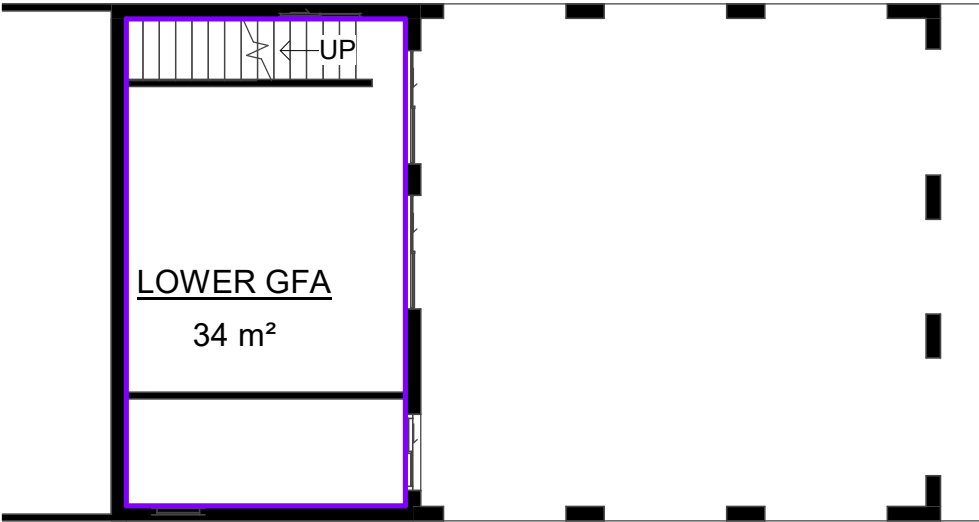
Anthony Oliver
Lot 1 DP735949
4A HYDE STREET
COLEDALE

SECTION C

Project number	20-248	20-248-05B	
Date	12.01.21		
Drawn by	Author		
Checked by	Checker	Scale	1 : 100

PROJECT AREAS (SQM)

SITE AREA	= 409.59
ZONING	E4
EXISTING LOWER GFA	= 34
EXISTING GROUND GFA	= 95
EXISTING UPPER GFA	= 73
EXISTING GARAGE FLOOR AREA	= 56
EXISTING TOTAL GFA	= 222
EXISTING FLOOR SPACE RATIO	= 0.54:1
PROPOSED GROUND FL ADDITION	= 8
PROPOSED G.F.A	= 230
PROPOSED FLOOR SPACE RATIO	= 0.56:1



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No.	Description	Date
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B	ADDITIONAL INFORMATION	12.01.21

Anthony Oliver
Lot 1 DP735949
4A HYDE STREET
COLEDALE

FLOOR AREAS

Project number	20-248	20-248-06B
Date	12.01.21	
Drawn by	Author	
Checked by	Checker	Scale
		1 : 120

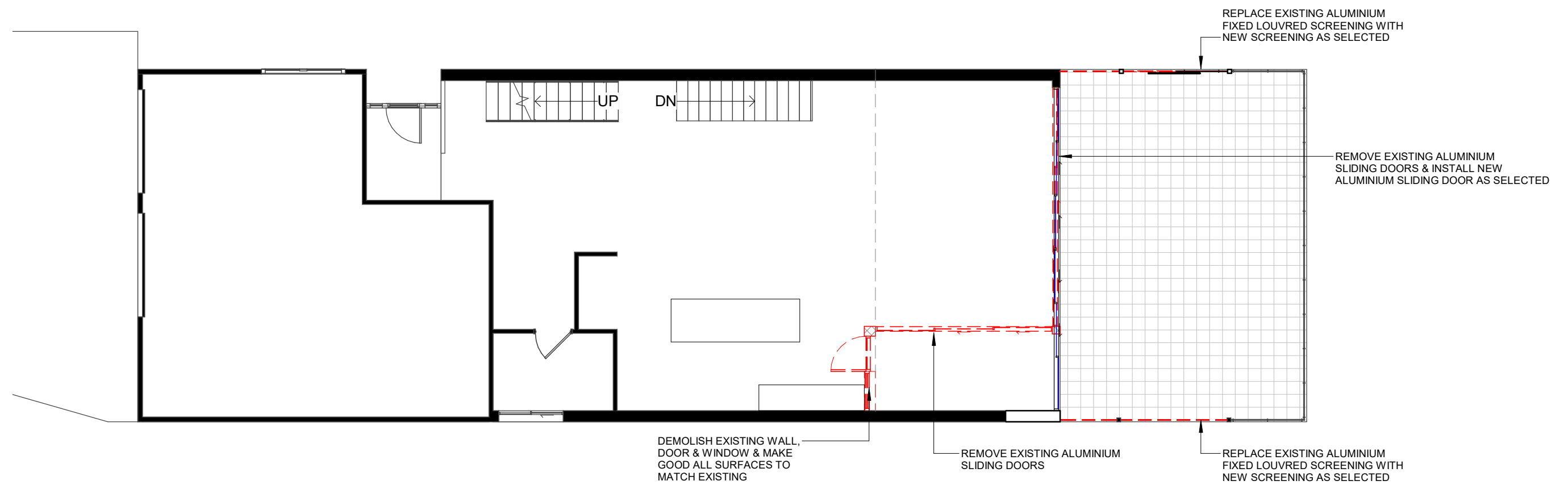
Legend 1

1 : 100

Existing walls to remain

EX Existing structure to remain

Walls to be demolished



DEMOLITION PLAN



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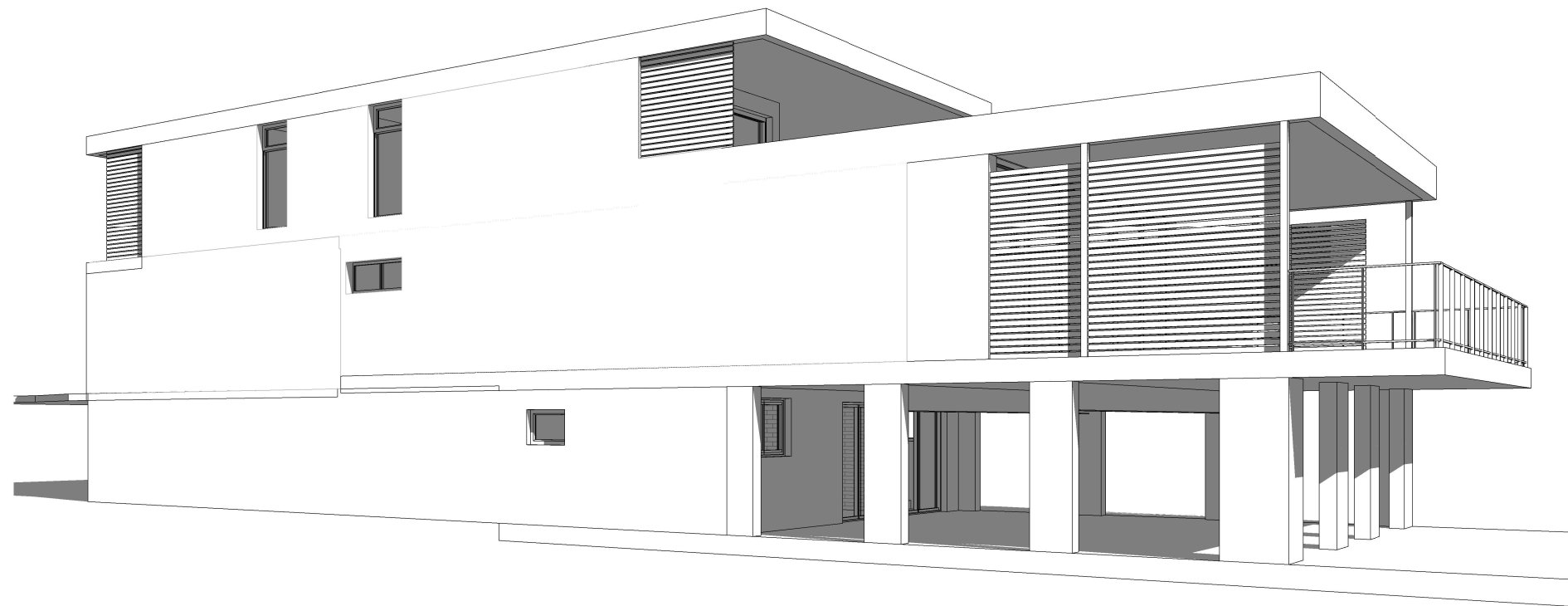
peter@projectonedrafting.com.au

No.	Description	Date
A	DA ISSUE	17.09.20
B	ADDITIONAL INFORMATION	12.01.21

Anthony Oliver
Lot 1 DP735949
4A HYDE STREET
COLEDALE

DEMOLITION PLAN

Project number	20-248	20-248-07B
Date	12.01.21	
Drawn by	Author	
Checked by	Checker	Scale
		1 : 100



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4A HYDE STREET
COLEDALE

PERSPECTIVES

Project number	20-248
Date	12.01.21
Drawn by	Author
Checked by	Checker

20-248-08B

Scale



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Updated Statement of Environmental Effects

Alterations & Additions to Existing Dwelling



**Lot 1 DP 735949
No. 4a Hyde Street, Coledale**

Prepared by:
Rebecca Goodman
Town Planner (*Bach Urb Reg Plan*)

February 2021

INTRODUCTION

This Statement of Environmental Effects outlines the proposed development and its level of compliance with the relevant Environmental Planning Instruments in accordance with Part 4, Division 4.3, Section 4.15 of the *Environmental Planning & Assessment Act 1979*.

The subject allotment is known as Lot 1 DP 735949, No. 4a Hyde Street, Coledale. The Development Application relates to alterations & additions to an existing dwelling.

This report demonstrates that the proposed development is able to achieve the objectives of the EPA Act 1979, Wollongong LEP 2009 and the E4 Environmental Living Zone. The proposal will complement the residential character of the surrounding area and is considered a suitable form of development for the subject site.

SITE ANALYSIS

The site is rectangular in shape with a street frontage of 10.055m to Hyde Lane, with views to the ocean across the rear boundary and adjoining public open space. With an area of 409.59m² the site is of a north-east/south-west orientation and suitably accommodates the existing dwelling and proposed minor addition.

The site sits within a strip of houses within the E4 Environmental Living Zone, due to their proximity to the coastline. As houses are redeveloped within this strip they are noted to be of a grand scale for their respective sites, generally exceeding the limited floor space ratio generally afforded to the E4 Zone. This allowance for increased dwelling sizes is extended to the strip of E4 zoned properties along Coledale Avenue to the south.

Across Hyde Lane and to the south fronting Cater Street are dwellings within the R2 Low Density Residential Zone. The character of the area remains to be predominantly of large single dwelling houses in keeping with the subject site.



Location Plan: No. 4a Hyde Street, Coledale - Source: SIXMaps 2020

DESCRIPTION OF PROPOSED DEVELOPMENT

The proposed development relates to minor alterations and additions to the existing dwelling to enclose a small alcove within the existing structure and upgrade the balcony materials. The proposed works involve:

Extend Living Room

Enclosure of existing 8m² BBQ alcove adjoining the living/kitchen area by:

- Extending wall of south-western elevation a further 1.25m toward the rear, replacing existing louvres in this area;
- Provide new floor to ceiling stacker doors to rear, south-eastern elevation of living room (including extension of living).

Modify Balcony and Screening

- Provide one additional glass panel to balustrade along north-eastern elevation, in place of existing louvres;
- Provide new privacy screens to each side of balcony through a combination of fixed and retractable privacy screens;
- Replace timber decking with new FC sheeting, waterproofing and tiles.

There will be no modification to the existing building footprint, roof structure or building setbacks. No site works are required as part of this application.

The overall development is considered to significantly enhance the amenity of the internal living space for the dwelling's occupants, while creating a high-quality balcony that considers privacy, views and the outlook from internal and external areas of the dwelling.

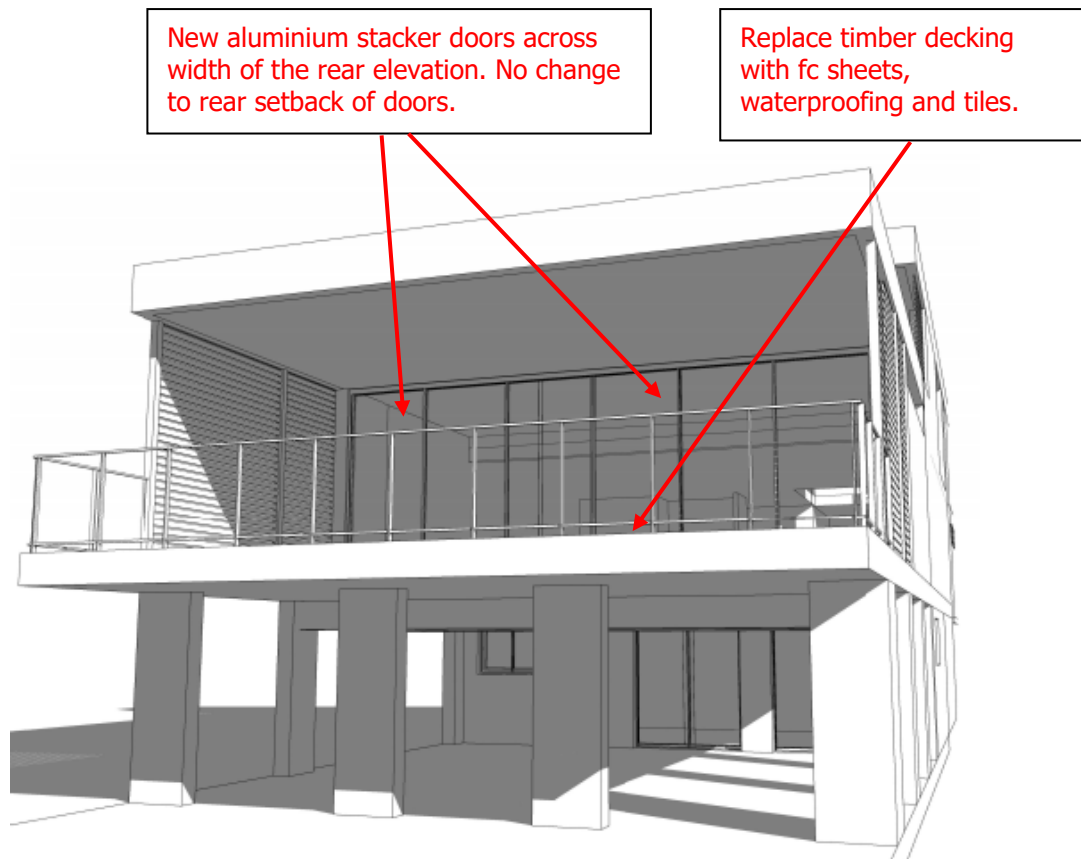
The proposed works will not alter the streetscape appearance of the dwelling and will not increase the visual bulk of the structure.

Area of wall extension to accommodate enclosure of alcove.

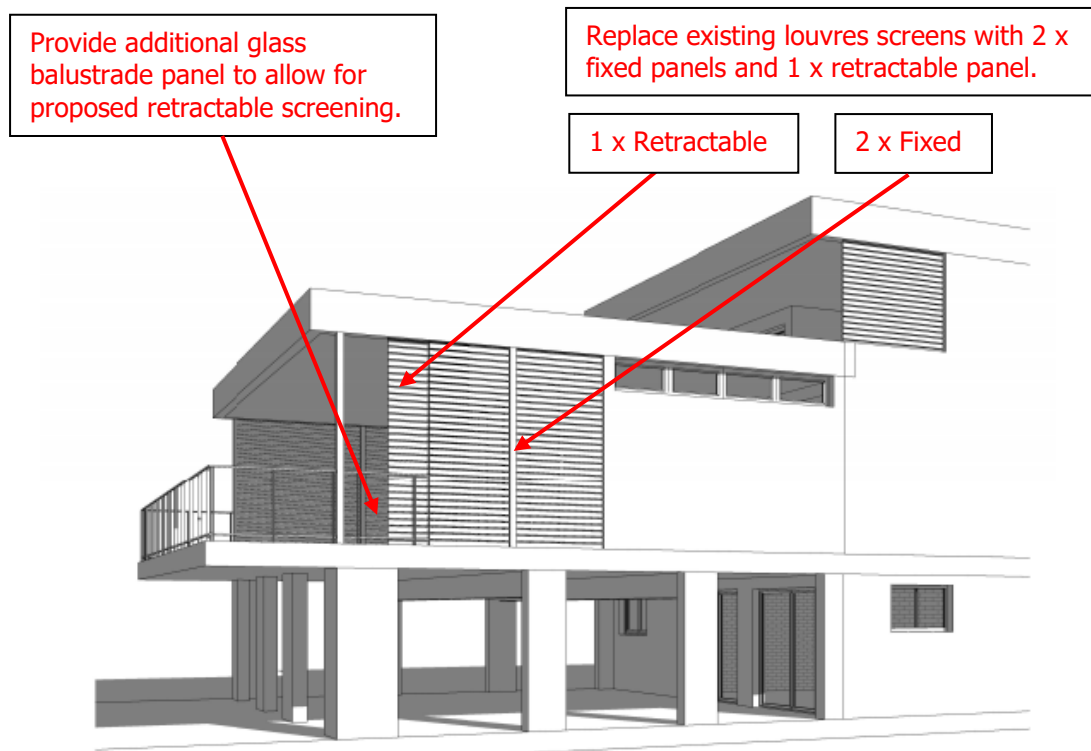
Replace existing louvres.



South-western side elevation



South-Eastern rear elevation



North-Eastern side elevation

LEGISLATIVE REQUIREMENTS

The following sections address the relevant matters for consideration identified within Section 4.15(1) of the Environmental Planning & Assessment Act 1979.

Section 4.15(1) – Matters for Consideration – general

(a)(i) Relevant environmental planning instruments

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7 Contamination and remediation to be considered in determining development application

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

The subject site is within an existing residential area that is understood to have been historically utilised for residential purposes. No known previous land uses have occurred on the site that would render the allotment susceptible to contamination.

It is not anticipated that any additional site works will be required as a result of potential land contamination.

State Environmental Planning Policy (Coastal Management) 2018

The subject site is located within the coastal zone and requires consideration under this policy. The site is specifically identified as forming part of the Coastal Environment Area and the Coastal Use area. The clauses of relevance are addressed as follows:

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*

- (c) the water quality of the marine estate (within the meaning of the [Marine Estate Management Act 2014](#)), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) Aboriginal cultural heritage, practices and places,*
 - (g) the use of the surf zone.*
- (2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact*

The proposed addition is within the existing built form and will not result in any increased impact on the coastal foreshore, the environmental characteristics of the waterfront lands, vegetation, headland or the cultural significance of the surrounding area. There will be no loss of public open space or access thereto.

14 Development on land within the coastal use area

- (1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) Aboriginal cultural heritage, practices and places,*
 - (v) cultural and built environment heritage, and*
 - (b) is satisfied that:*
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*

- (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

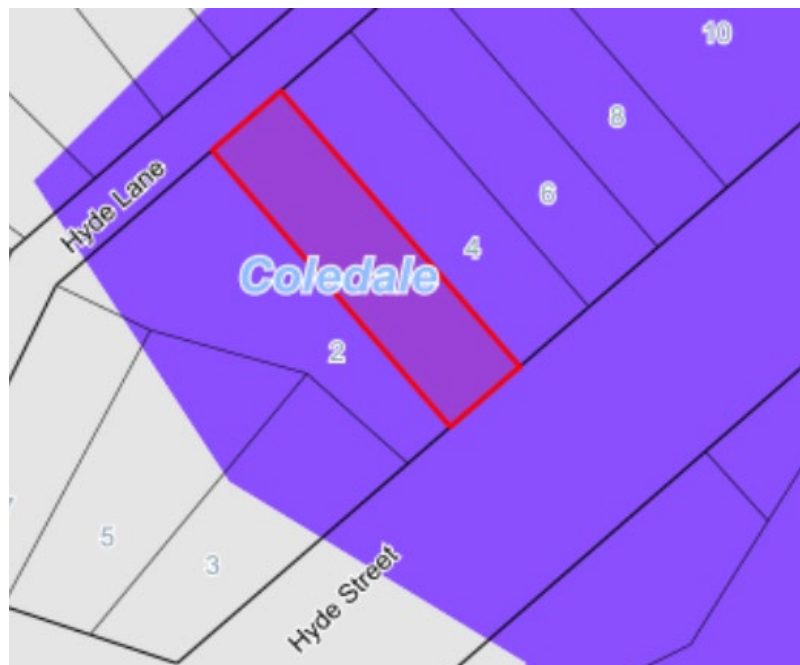
There will be no increased impact on the coastal use area as a result of this application. The works will not create any increased impact on the surrounding lands.

External materials will match the existing contemporary coastal design. The external appearance and overall scale of the completed development will remain in keeping with the character of the surrounding natural and built environment. The design will not obstruct any existing views obtained from adjoining or nearby developments and it provides a high-quality amenity for the occupants.

There will be no loss of public view nor any impact on the use of the foreshore area. The development is suitably designed to achieve the objectives of the SEPP.

Wollongong Coastal Management Study / Coastal Management Action Plan

Under the provisions of the Coastal Management study and associated Action Plan the site is mapped as being affected by Coastal Geotechnical Risk, however is **not** impacted by Coastal Inundation or Reduced Foundation Capacity:



Coastal Geotechnical Risk Map

As no site works are proposed and the addition remains within the approved built form, it is considered that the proposed development is able to meet the objectives of the Coastal Management policy.

Wollongong Local Environmental Plan 2009

The subject site is zoned E4 Environmental Living pursuant to Clause 2.1 of Wollongong Local Environmental Plan 2009.

The proposed development is defined in the Plan as a “**dwelling house**” which means ‘a building containing only one dwelling.’

Dwelling-houses are permissible with consent in the E4 Environmental Living Zone.

Clause 2.3 Zone objectives and land use table

The objectives of the E4 Zone are:

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

The proposed alterations and additions to the existing dwelling will continue to meet the objectives of the E4 Zone as it provides for an improved amenity for the existing dwelling and improved aesthetic, without any increased impact on the surrounding natural or built environments.

Clause 4.3 Height of Buildings

<i>Requirement</i>	<i>Provision</i>	<i>Compliance</i>
9m ridge height	As existing – no change to existing roof form.	As existing.

Clause 4.4 Floor space ratio

<i>Requirement</i>	<i>Provision</i>	<i>Compliance</i>
Maximum 0.3:1	Site Area – 409.59m ² Existing floor area – 222m ² Proposed floor area – 230m ² FSR - 0.56:1	No – please refer to the attached Clause 4.6 variation.

Clause 4.6 Variations to Development Standards

The proposed development requires a variation to the maximum permitted floor area. Please refer to the attached request for a variation under the provisions of Clause 4.6

Clause 5.10 Heritage Conservation

Site is not located in a conservation area and does not contain a heritage item. No items or heritage significance are located within direct proximity to the site.

Clause 5.11 Bush fire hazard reduction

The subject site is not located within a bushfire prone area.

Clause 7.2 Natural resource sensitivity-biodiversity

The site is not identified as being within the Natural Resource Sensitivity – Biodiversity area as per Council's Maps.

Clause 7.3 Flood planning area

The subject site is not known to be within a flood planning area. Existing floor levels will not be altered by the proposal.

Clause 7.4 Riparian Land

Site does not contain riparian land.

Clause 7.5 Acid Sulfate Soils

Site is affected by Class 5 Acid Sulfate Soils, however no site works are proposed.

Clause 7.7 Foreshore building line

The foreshore building line for this area extends to the rear boundary of the site, however does not extend into the allotment.

* * * * *

Conclusion with respect to LEP requirements

The proposal satisfies the objectives and requirements of Wollongong Local Environmental Plan 2009.

(a)(ii) Relevant draft environmental planning instruments

There are no known draft environmental planning instruments that would prevent the subject development from proceeding.

(a)(iii) Relevant development control plans

Wollongong Development Control Plan 2009

Chapter B1 – Residential Development

Requirement	Provision	Compliance
Part 4 – Dwelling Houses, Secondary Dwellings & Ancillary Structures.		
<u>4.1 – Max No. Storeys</u>		
Maximum height as per LEP – 9m	As existing.	As existing.
<u>4.2 – Front Setback</u>		
Infill development: 6m min front setback; or <6m where prevailing character permits and future desired character is not prejudiced. Garage – 5.5m New release areas = 4m to the front facade. Corner = 3m to 2ndry street frontage, garages 6m.	As existing.	As existing.
<u>4.3 – Side/Rear Setbacks</u>		
Min. 900mm side & rear setback (rear setback see also No. of Storeys above) 450mm to eaves 3m for walls in excess of 7m high. All balconies and windows to habitable rooms (excl beds) to minimise direct overlooking of neighbours).	Side and rear setbacks as existing. Minor changes to the rear balcony will not result in any unreasonable impact on the privacy of the adjoining properties. The impact on the proposed retractable louvre screen to the NE elevation of the balcony is discussed further below.	As existing. Yes

Retractable Louvre Screen

The existing balcony extending from the main living area currently incorporates fixed louvre screens to either side elevation to ensure privacy is maintained between dwellings. The fixed louvres along the NE side of the balcony, when combined with the small highlight windows to the internal living space, result in limited solar access to the main living and POS areas of the dwelling. Further, the fixed screens limit the outlook toward the ocean and create a space that is far more enclosed than would seem necessary in this location.

It is proposed to incorporate one retractable louvre screen to the NE elevation, while retaining 2 fixed screens. The one screen would have a width of approx. 1.3m and could be utilised as a fixed screen or be retracted at times when increased solar access is sought. This one component of the screen is considered to have minimal impact in relation to privacy, yet notably improves the amenity of the subject dwelling when retracted.

The NW elevation of the subject dwelling, as approved, is highly defensive in design in order to minimise impacts on the adjoining dwelling. It would seem the highlight windows to the living room, combined with 4m of fixed louvre screens to the balcony go beyond the necessary measures to ensure the privacy of the adjoining dwelling is suitably maintained. Any impact on privacy resulting from the one retractable screen would be limited to the eastern most extent of the neighbours balcony.

The neighbours' balcony is irregular in shape, having a functional covered area adjoining the rear elevation of the dwelling, along with a triangular portion extending to the eastern corner of the site. The functional area containing the outdoor seating is defined in the picture below and includes a window to the SW elevation. Any increased overlooking would be beyond this window and limited to the triangular portion of the balcony only.

Location of Window
to Principal POS area
of adjoining No. 4.

Location of Principal
POS area of
adjoining No. 4.



The balcony of the subject dwelling at No. 4A Hyde Street also provides a covered area adjacent to the rear elevation where an outdoor setting is located. This is the primary area of use within the balcony and is most commonly utilised from a sitting position. When using this space with the screen retracted an increased level of solar access will be received, increased views will be obtained and the enclosed feeling will be reduced. This is considered a reasonable expectation on a site that adjoins a public open space with an outlook to the ocean.

This enhanced amenity can be achieved without any direct line of sight being obtained between the principal POS areas of the subject or adjoining balconies as detailed in the image below. Where a dwelling provides a large balcony, extending beyond the adjoining dwellings it is not a reasonable expectation to retain privacy to the entire balcony, rather the emphasis should remain on privacy to principal area of use.

The below image is looking toward the eastern corner of the sites demonstrating that when the one screen is retracted, the remaining fixed screens will continue to obscure the line of sight from the Principal POS area of No.4a to the window of the Principal POS area of No. 4.



While it is acknowledged that the proposal may result in a minor increase in the line of sight toward the triangular portion of the adjoining balcony, privacy continues to be maintained to a level more typical of a coastal property. The above image demonstrates the neighbouring dwelling maintains a high level outlook across their NE boundary toward the ocean without the need for any privacy screening to protect the smaller aged adjoining dwelling. The minor modification sought to No. 4a is considered most reasonable in this context.

<u>4.4 – Site Coverage</u> Lots <450m² - 55% Lots 450-900m ² - 50% Lots >900m ² - 40%	Site coverage as existing.	As existing.
<u>4.5 – Landscaped Area</u> Lots <600m² - 20% Lots 600-900m ² - 120m ² + 30% of site area >600m ² Lots >900m ² - 210m ² + 40% of site area >900m ² Min. 50% of landscaped area behind building line to primary road. Dwelling developments to have: - 1 semi mature small/medium tree (min. 45L pot size). POS Area.	Landscaped area as existing.	As existing.
<u>4.6 – Private Open Space</u> Min area 24m ² Directly accessible from living area Minimum width 4m Max slope 1:50 Not to extend >900mm forward of building line. Allow area of clothes line, bins etc.	Rear balcony maintains area of 47sqm with a minimum dimension of >4m. The 8sqm proposed to be enclosed did not form part of the approved private open space area as it has a width of <4m. No change to existing approved POS area.	As existing
<u>4.7 – Solar Access</u> 3hrs 9am-3pm to living rooms of adjoining dwellings. 3hrs 9am-3pm to 50% POS of adjoining properties.	The proposed works will not prevent compliance with the solar access provisions. No change to external building envelope, therefore no change in shadows cast. Living room remains in same location, not change to solar access into dwelling.	As existing. As existing.

<u>4.8 – Building Character & Form</u>		
Design, Height & Siting to respond to site conditions.	As existing, aside from minor increase in glazing to rear elevation.	Yes
Reduce bulky forms through articulation and design features.	As existing.	As existing.
Dwelling in keeping with streetscape character.	As existing.	As existing.
Entry to address street.	As existing.	As existing.
Garages articulated from front façade.	As existing.	As existing.
<u>4.10 – Carparking / Access</u>	Carparking and access as existing.	As existing.
<u>4.11 - Storage Facilities</u>		
3+ bedrooms: Storage volume = 10m ³ Storage Area = 5m ²	As existing – provided in extended garage.	Yes
<u>4.12 – Site Facilities</u>		
Letterbox, airconditioning units, satellites, clotheslines etc to be appropriately located.	As existing – no impact to existing facilities as addition extends over existing balcony.	As existing.
<u>4.13 – Fire Brigade Servicing</u>		
To comply with AS2419.1 regarding distances to fire hydrants.	As existing.	As existing.
<u>4.14 - Services</u>		
All services to be available to the site.	All services remain available to the site.	As existing.
<u>4.15 – Development near Coastline.</u>		
10m setback from cliff. Incorporate appropriate design features.	Minor changes to the rear façade will have a negligible impact on the overall design of the dwelling as viewed from the beachfront. Proposed works will complement the current design.	Yes

<p>4.16 – View Sharing</p> <p>Controls to be considered where view blocking is evident.</p>	<p>The proposed work to the dwelling is not considered to reduce any views from neighbouring or surrounding properties as the external built form will remain as existing. There will be no increase in privacy screening, rather the minor 1.25m extension of the wall on the southern elevation will replace the relevant portion of the fixed louvre screen.</p> <p>The overall height of the development will not be altered and no new planting is proposed.</p> <p>Consideration of the planning principals in relation to view sharing within <i>Warringah v Tenacity</i> is not required as there will be no works proposed that have potential to result in a reduction in views. It is not considered necessary for a View Impact assessment to be undertaken in this instance.</p>
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Chapter D1 – Character Statements

3.12 – Coledale

Desired Future Character

Coledale should retain its low density residential village character with predominantly one to two storey detached dwelling-houses envisaged in the village.

New dwellings should be individually designed in a coastal theme with either a weatherboard or rendered brick construction and varied sloping flat, dutch gable pitched or curved roof forms encouraged. Light beige or light to mid grey or light to dark blue coloured external wall finishes are preferred.

New dwellings should be designed to maximise view sharing opportunities for neighbouring dwellings. This may be achieved by way of staggering of the building form through wider side setbacks on first floor levels and minimising the wall and roofline height of dwellings, wherever possible. The roof line of any new two storey dwelling should be flanked by wide eaves, wherever practicable, to help to improve the overall appearance of the building.

The use of extensive windows and lightly framed balconies and verandahs plus a variety of materials and finishes rather than plain masonry walls and balustrades is recommended. All balconies should be designed to minimise any potential amenity or privacy impacts upon the habitable rooms of the dwellings or private courtyard areas of adjoining properties.

The minor modification to the existing dwelling will not be visually apparent from adjoining properties or surrounding public spaces. The impact of the works is limited to improving the internal amenity of the subject dwelling. The character of the area will not be impacted upon by the proposed works.

Chapter E7 – Waste Management

Requirement	Provision	Compliance
<u>5.3 – Dwelling Houses, Dual Occupancies, Secondary Dwellings and Integrated Housing</u> Site Waste Minimisation and Management Plan shall accompany DA	Attached for Council's consideration. Adequate area available onsite for the storage of waste pending disposal. Please refer to the attached Waste Management Plan.	Yes

Chapter E12 – Geotechnical Assessment of Slope

Requirement	Provision	Compliance
Consider land stability on identified sites where developments involve earthworks >600mm.	N/A no site works proposed.	N/A

Chapter E13 – Floodplain Management

Requirement	Provision	Compliance
<u>Floodplain Management</u> Flood study when developing flood prone land.	The site is not known to be at risk of flood. No change to existing floor levels or building footprint.	N/A

Chapter E14 – Stormwater Management

Requirement	Provision	Compliance
<u>Stormwater Drainage</u> Appropriate s/w system to be in place.	As existing.	As existing.

Chapter E20 – Contaminated Land Management

The subject site is within an existing residential area that is understood to have been historically utilised for residential purposes. No known previous land uses have occurred on the site that would render the allotment susceptible to contamination in the area of the proposed works.

It is not anticipated that any additional site works will be required as a result of potential land contamination.

* * * *

Conclusion with respect to DCP requirements

The proposed development is minor in nature with minimal change to the existing dwelling. The objectives of the DCP have been achieved in this instance.

(b) Likely impacts of the development, including environmental impacts on both the natural and built environment of the locality.

The following matters are considered relevant when considering onsite impacts:

Siting and Design

The subject development will remain compatible in terms of height, bulk and scale with surrounding developments within the existing residential precinct.

The siting and design of the minor addition will have no impact on the adjacent properties in terms of bulk, privacy and overshadowing and will not impact any views enjoyed by others.

Sedimentation Control

No erosion and sediment controls necessary as no site works are proposed.

Waste Minimisation

All waste will be deposited within the appropriate waste receptacle in accordance with the waste management plan attached to this application. Materials will be recycled wherever possible.

(c) The suitability of the site for the development

The subject site is within an existing residential precinct and is close to local commercial, retail and transport facilities. The existing road network provides easy access to all locations.

The proposed works can be undertaken with all services necessary and have been designed to suit the site constraints and the character of the surrounding locality.

(d) Any submissions made in accordance with this Act or the regulations

Council will consider any submissions received during the relevant notification period for this development application.

(e) Public interest

As this proposal can satisfy the objectives of all relevant planning instruments and development control plans, approval of the subject development is considered to be in the public interest.

CONCLUSION

The residential use of the site is permissible with development consent under the provisions of Wollongong Local Environmental Plan 2009, and can satisfy the objectives within the DCP. The proposal is not expected to have an adverse impact on the surrounding natural or built environment.

It is considered that the minor alterations and additions to the existing dwelling will complement and blend with the existing, and likely future character of this section of Coledale.

A handwritten signature in black ink, appearing to read 'Rebecca Goodman', enclosed within a thin black rectangular border.

Rebecca Goodman
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Variation Pursuant to Clause 4.6 - Wollongong Local Environmental Plan 2009

Clause 4.4 – Floor Space Ratio

In accordance with the provision of Clause 4.6 of Wollongong Local Environmental Plan 2009, please consider the following request for a variation to 'Clause 4.4 – Floor Space Ratio' as part of the assessment of this Development Application for minor alterations and additions to an existing dwelling.

Wollongong Local Environmental Plan 2009

Clause 4.6 Exceptions to development standards

- (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 Director-General has been obtained.*
- (5) *In deciding whether to grant concurrence, the Director-General 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 Director-General before granting concurrence.*

In order to clarify the extent of the matters required to be addressed within a request for a variation under Clause 4.6, consideration has been given to the following case law:

Winton v North Sydney Council
Wehbe v Pittwater [2007] NSWLEC827
Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC90
Randwick City Council v Micaul Holdings Pty LTD [2016] NSWLEC7
Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118
Al Maha Pty Ltd v Huajun Investments Pty Ltd [2018] NSWCA 245

Review of these cases indicates that a request for a variation under the provisions of Clause 4.6 is more onerous than previously required under SEPP 1. The case of *Randwick v Micaul* indicates that Council, as the consent authority, maintains a high level of discretion with regard to the level of justification required in order to support a variation request. The following must be demonstrated to Council's satisfaction within the justification provided:

- Identify the development standard & the extent of the variation requested;
- Compliance with the objectives of the development standard;
- Compliance with the objectives of the zone;
- That the development is unreasonable or unnecessary in the circumstances of the case;
- Sufficient environmental planning grounds that are particular to the circumstances of the proposed development; and
- Whether there is any matter of state or regional significance & consideration of public benefit.

This submission individually addresses each of the above requirements in the following manner:

Identification of Development Standard & Extent of Variation

A variation is requested to the following clause within Wollongong LEP 2009:

'Clause 4.4 – Floor Space Ratio

(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 floor space ratio map identifies this site has having a FSR of 0.3:1. The permitted, existing and proposed floor areas are identified below:

<i>Permitted FSR</i>	<i>Existing FSR</i>	<i>Proposed FSR</i>
Site Area – 409.59m ² FSR - 0.3:1 Floor Area - 122.88m ²	FSR – 0.54:1 Floor Area - 222m ²	FSR - 0.56:1 Floor Area - 230m ²

This application proposes to add only 8m² of floor area which increases the floor space ratio by 0.02:1. The existing approved dwelling exceeds the permitted floor space ratio by 80.7%, the proposed addition will result in the total floor area exceeding the permitted floor space ratio by 87.2%, an increase of 6.5%.

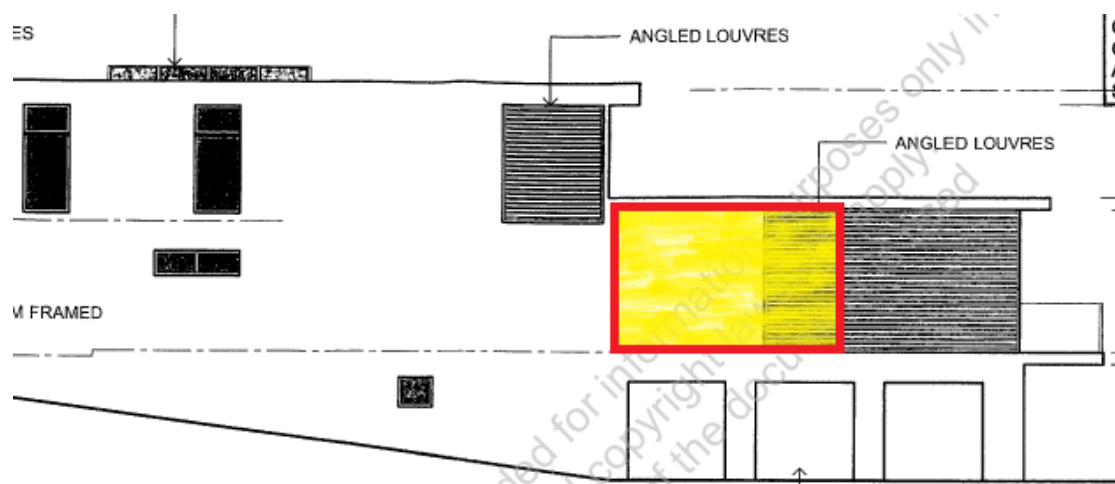
Compliance with the objectives of the development standard

The development continues to achieve the objectives of *Clause 4.4 – Floor Space Ratio* in the following manner:

- (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.*

The proposed addition incorporates a floor area of 8.0m² beyond the approved development. Due to the layout of the existing floor plan, this increase in floor area will not be visually apparent from outside of the allotment. The external wall to the south-western elevation will be marginally increased in length (approx. 1.25m) however, this wall extension will replace an existing panel of floor to ceiling fixed louvres. The overall building footprint, boundary setbacks and building height remain unaltered by the enclosure of the existing alcove. The visual bulk of the development, access to the site, existing parking arrangement and impact on adjoining properties will remain as existing. Objective (a) continues to be achieved as there is no increase in the external built form, maintain the same approved correlation between the size of the site and the scale of the development.

The image below shows the location of the proposed addition, beyond the existing external walls and approved fixed louvre screen:



Existing Approved South-Western Elevation - highlighting location of addition.

Floor plan details:

- Rooms and Areas:** STUDY, KITCHEN BY OTHERS, DINING, LIVING, DECK, VOID ABOVE, P.W.D. ROOM, LAUNDRY, BBO (highlighted in yellow).
- Dimensions (mm):**
 - Overall width: 8205
 - Overall depth: 6163
 - Living area width: 6756
 - Living area depth: 975
 - Living area width (inner): 5102
 - Living area depth (inner): 100
 - Living area width (inner): 4257
 - Living area depth (inner): 240
 - Living area width (inner): 2799
 - Living area depth (inner): 102
 - Living area width (inner): 240
 - Living area depth (inner): 102
- Notes:**
 - VOID ABOVE
 - SMOKE ALARM
 - LEVEL DROP IN CEILING
 - FULL HEIGHT GLAZED WINDOWS
 - HORIZONTAL SCREENING FIXED LOUVRES AT 45° UPWARDS
 - PROJECT

The landowners do not utilise the BBQ area due to the enclosed nature of the space and wish to utilise this space to enhance the amenity of the main internal living area. The addition will not result in the creation of an additional living room or bedroom and is not considered to intensify the use of the land. No additional demand on infrastructure or services will result from the addition and the small extension of the living room will not increase vehicle or pedestrian movement to or front the site. Objective (b) will continue to be achieved despite the minor increase in floor area.

Objective (c) works to ensure the bulk and scale of a building is compatible with the character of the area. The external bulk of the built form will not be altered as part of this application ensure objective (c) continues to be achieved.

The development is considered to achieve the objectives of the floor space ratio development standard despite the requested variation.

Compliance with the objectives of the zone

The objectives of the E4 Zone are:

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

The site is zoned E4 as it is located in close proximity to the coastal foreshore with increased geotechnical considerations and a high level of visibility from public land. As the addition will not result in any increased impact on the amenity of the surrounding sites, will not result in any site disturbance and will have a negligible impact on the aesthetics of the built form, the development is found to achieve the objectives of the E4 Environmental Living Zone despite the increased floor area.

Development Standard is unreasonable or unnecessary in the circumstances of the case

A detailed assessment of the overall bulk, scale, aesthetic and environmental impact on the subject dwelling would have occurred at the time the Development Application for the existing dwelling was assessed. This application proposes an additional 8m² of floor area within the existing built form that will not result in any increased impact on the surrounding natural or built environment. Compliance with the Floor Space Ratio development standard is considered to be both unreasonable and unnecessary for the following reasons:

- there will be no increase to the existing approved building envelope in relation to building height, wall height, boundary setbacks or floor levels;
- the proposed minor change to the aesthetics of the building as viewed from adjoining properties and public land will not be visually apparent as it will blend with the existing built form;
- no reduction in views obtained from any surrounding property is possible due to the location of the addition;
- no loss of amenity will result for adjoining properties in relation to solar access, privacy for visual bulk;
- despite the minor nature of the addition, it will significantly improve the internal amenity of the dwelling by creating ease of movement between the main living area and kitchen;
- the location and size of the addition ensures it will not intensify the use as it will not result in the ability to accommodate additional residents/bedrooms;
- the scale of the dwelling remains in keeping with contemporary dwellings within the area as Council has abandoned the 0.3:1 FSR for dwelling houses on waterfront E4 zoned properties within Coledale (refer below for additional clarification in this regard);
- the streetscape character, vehicular access and pedestrian entry points will not be altered by the proposal;
- the location of the addition will not have any adverse impact on ecological or scientific values of the site;
- the development, as proposed, will continue to achieve the objectives of the E4 Zone;
- the development, as proposed, will continue to achieve the objectives of the Floor Space Ratio development standard;
- the completed development will continue to achieve the aims and objectives of the EPA Act 1979.

Due to the reduced lot size of 409.59m² compliance with the floor space ratio of 0.3:1 would result in a maximum permitted floor area of 122.88m² which is extremely limited. When the floor space ratio was determined for these allotments within the E4 zone, it was applied in conjunction with a minimum lot size allowance of 999m² without direct consideration toward the existing reduced lot sizes. Application of both the minimum lot size and FSR concurrently would result in a floor area allowance of 300sqm, being a more reasonable allowance.

In this particular location, land values are very high, generally the highest in the area due to the waterfront location. It is a reasonable expectation for persons purchasing such land to be permitted to have a typical contemporary size dwelling, greater than 122.88sqm. The proposed floor area of 230m² is considered to be a fair outcome for the site.

This concept was acknowledged in the assessment of DA-2011/793 for No. 6 Hyde Street, Coledale. This variation acknowledged that compliance with the FSR of 0.3:1 on a small coastal allotment was '*unrealistic and unfeasible given the high land value of the area*'. That particular application was granted concurrence from the Director General.

As the intent of the development standard will continue to be achieved, with no impact on the surrounding area, the requested variation is considered to be most reasonable in this instance.

Sufficient environmental planning grounds that are particular to the circumstances of the proposed development

Initial Action Pty Ltd v Woollahra Municipal Council provides that while 'environmental planning' grounds are not defined, they would refer to the subject matter, scope and purpose of the *Environmental Planning & Assessment Act 1979* (EPA Act), including the objects in s1.3 of the EPA Act.

The objects of the EPA Act are noted to be:

1.3 Objects of Act (cf previous s 5)

The objects of this Act are as follows—

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The subject dwelling, following the proposed minor addition, will continue to achieve the objects of the EPA Act despite the minor increase of 8m² to the floor area. Improving the amenity of an existing dwelling through minor alterations is considered to be an *orderly and economic use of the land*, without resulting in any detrimental impact on the surrounding natural environment.

Allowing for gradual improvements to a dwelling over time helps to increase the lifespan of a development promotes *the proper construction and maintenance of buildings* over time and addressing the changing needs of landowners. The proposed works *promote good design and amenity of the built environment*.

The objects of the Act are directly achieved as a result of the proposed works.

It is essential in the assessment of the Clause 4.6 variation and the subsequent consideration of 'environmental planning grounds', according to *Initial Action Pty Ltd v Woollahra Municipal Council*, that the focus remains on the '*aspect or element of the development that contravenes the development standard, not of the development as a whole*'. The nature of this variation, relating to a small area of the dwelling that already appears from many angles as internal space, is a typical example of why this approach is important.

In this regard, the following questions are considered:

What are the direct impacts arising from the variation and how have they been established?

The design and siting of the proposed addition, combined with the inability of the minor increase in floor area to intensify the existing land use, results in no identified detrimental impacts directly resulting from the proposal.

The following positive impacts are noted in regard to the internal amenity of the subject dwelling:

- improved movement between the main living area and the kitchen;
- increased internal area receiving a high level of daylight access;
- improvements openings between the main living area and principal private open space (balcony);
- increased views from within the dwelling;
- better use of a redundant alcove in an area of the site with a high level of amenity in relation to solar access and views. The use of this space as a BBQ area is not ideal due to the proximity of the BBQ to the dwelling and the enclosed nature of the space.

The requested increase in floor area allows for an improved use of the site with the only resulting impacts found to be beneficial.

What are the indirect and cumulative impacts arising from the variation?

There are not considered to be any indirect or cumulative impacts resulting from the variation. There will be no precedent set as a result of this application as the addition relates to a site-specific design element within the existing dwelling. It is not common for a dwelling addition to be able to be constructed without any increased impact surrounding properties. The ability for this to occur is the direct result of the existing approved floor plan and is unlikely to directly relate to any alternate nearby development.

Is the desired future character of the area maintained

The minor extent of the variation will not be visually apparent and will not result in any detriment to the streetscape character of the area or the amenity of the adjoining sites. The development will largely maintain the appearance of the existing approved dwelling and will not alter the streetscape character. There is no apparent impact on the desired future character of the area.

Has any visual intrusion been minimised?

Visual intrusion has been entirely alleviated in this instance, by limiting the addition to the extents of the existing approved side and rear elevations. This ensures there is no visual intrusion beyond the existing built form of the dwelling.

Has the control been abandoned?

Application of the 0.3:1 Floor Space Ratio control for coastal E4 Zoned dwellings in Coledale has been abandoned. This has been demonstrated in approvals granted by Wollongong Council, Wollongong Local Planning Panel and the NSW Land & Environment Court within both Hyde Street and the E4 zoned allotments within Coledale Avenue.

Below is a table of approved floor areas obtained from Wollongong Council's public report to the WLPP in August 2019 in support of a floor space variation to No. 19 Coledale Avenue, which was supported acknowledging the control had been abandoned:

Coledale Avenue FSR Street Comparative Table								
Application No	Address	Type	Date approved	Approved by	FSR	Zone	Other variations	Miscellaneous
DA-2010/1487	1 Coledale Avenue, Coledale	New dwelling - Two storey residential dwelling-house and demolition of existing dwelling-house	27/01/2011	IHAP	0.45:1	E4		LEP2009
DA-2005/1512	3 Coledale Avenue, Coledale	Alterations and additions	2/03/2006	Council	0.76:1	E4	Existing FSR 0.60:1	
DA-2009/1619	5 Coledale Avenue, Coledale	Alterations and additions	18/05/2010	Delegated Authority	0.68:1	E4	Existing FSR 0.66:1	Mod DA-2009/1619/A. Approved 29 November 2010. Alteration to roof line and relocation of windows and doors. LEP 1990
	7 Coledale Avenue, Coledale	No records in electronic system		Unknown		E4		
DA-2014/1473	9 Coledale Avenue, Coledale	Demolition of existing dwelling and construct new dwelling house with attached secondary dwelling	23/12/2015	LEC	0.67:1	E4		Bulk, overshadowing, solar, street character
DA-1997/528	11 Coledale Avenue, Coledale	Dwelling	10/12/1997	Assumed delegated authority	0.54:1	E4		
DA-2005/1867	13 Coledale Avenue, Coledale	Dwelling	8/06/2006	Council	0.64:1	E4	FSR & Height	Councillors involved in meeting with objectors and outcomes Modification A & B
DA-2001/2190	15 Coledale Avenue, Coledale	Tri level dwelling	30/07/2002	Council	0.58:1	E4	Height	Council
DA-2001/2193	17 Coledale Avenue, Coledale		23/07/2002	Council	0.44:1	E4		
BA-1974/1440	19 Coledale Avenue, Coledale	Dwelling and garage	5/07/1974	Unknown	Unknown	E4		FSR calculated from old plans not included additional large garage.
DA-2009/915	21 Coledale Avenue, Coledale	Alteration and additions	27/11/2009	IHAP	0.40:1	E4		LEP 2009

With the floor area variations noted throughout Coledale Avenue, along with the variation granted at No. 6 Hyde Street (discussed earlier) and the approved floor area of the existing dwelling on the subject site it is considered reasonable to conclude the floor space ratio control has been abandoned in this area.

The site specific attributes relating to the existing approved dwelling design, the scale of surrounding development and the site having only two adjoining residential neighbours, allow for an increase in the density of the development, without any resulting impact on residential amenity. These attributes combined with the developments ability to achieve the objectives of the EPA Act, E4 Environmental Living Zone and the development standard itself, provide site specific environmental planning grounds in support of the minor increase in floor area.

Whether there is any matter of state or regional significance & consideration of public benefit.

The proposed development is not considered to result in any impact of state or regional significance due to the minor nature of the addition. Any impact resulting from this proposal is a beneficial impact to the amenity of the dwelling without any detrimental impact on the surrounding natural or built environment.

Strict compliance with the development standard is considered to hinder the attainment of the following objectives of the EPA Act:

- (c) to promote the orderly and economic use and development of land,*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*

To prevent the construction of a minor addition that results in an improved 'design and amenity of the built environment' is not considered to be an 'orderly and economic use' of the land. Ongoing maintenance to improve poor design elements is considered to be an intended and sustainable approach to development.

Strict compliance with the numerical floor space ratio control in this circumstance is not considered to result in any significant public benefit. The addition will not prevent access to the foreshore area and will not intensify the way in which the dwelling is utilised.

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The 8m² increase in floor area is not considered to result in any impact that would warrant the development to not proceed. Numerical provisions such as FSR are in force as a guide to achieve the objectives of a control. In this instance the objectives of the development standard are achieved, despite the minor variation. It is requested that Council apply the provisions of Clause 4.6 in the intended manner and favourably consider this variation during the assessment of the development application.

Should you require any further information or clarification please do not hesitate to contact the undersigned on M: 0401 443 566.



Rebecca Goodman
Town Planner
Bach. Urb. Reg. Plan.

ATTACHMENT 4 CONDITIONS: DA-2020/1285

Approved Plans and Specifications

- 1 The development shall be implemented substantially in accordance with the details and specifications set out on Project No 20-248 Drawing 20-248-01B-B to 20-248-08B dated 12 January 2021 prepared by Project One Drafting and any details on the application form, and with any supporting information received, except as amended by the conditions specified and imposed hereunder.

General Matters

- 2 **Privacy Screens**
Screens shall be in accordance with approved plans and remain fixed to an open position.
- 3 **Building Work - Compliance with the Building Code of Australia**
All building work must be carried out in compliance with the provisions of the Building Code of Australia.
- 4 **Construction Certificate**
A Construction Certificate must be obtained from Council or a Registered Certifier prior to work commencing.

A Construction Certificate certifies that the provisions of Clauses 139-147 of the Environmental Planning and Assessment Regulation 2000 have been satisfied, including compliance with all relevant conditions of Development Consent and the Building Code of Australia.

Note: The Certifier must cause notice of its determination to be given to the consent authority, and to the Council, by forwarding to it, within two (2) days after the date of the determination, the plans and documentation referred to in clause 142 (2) of the Environmental Planning and Assessment Regulation 2000.
- 5 **Maintenance of Access to Adjoining Properties**
Access to all properties not the subject of this approval must be maintained at all times and any alteration to access to such properties, temporary or permanent, must not be commenced until such time as written evidence is submitted to Council or the Principal Certifier (PC) indicating agreement by the affected property owners.
- 6 **Occupation Certificate**
An Occupation Certificate must be issued by the PC prior to occupation or use of the development. In issuing an Occupation Certificate, the PC must be satisfied that the requirements of section 6.9 of the Environmental Planning and Assessment Act 1979, have been complied with as well as all of the conditions of the Development Consent.

Prior to the Issue of the Construction Certificate

- 7 **Construction Management Plan**
The submission of a Construction Management Plan is to be submitted to the PC prior to the issue of the Construction Certificate. This plan shall address what measures will be implemented for the protection of adjoining properties and traffic management of construction vehicles.

This plan is required to maintain public safety, minimise disruption to pedestrian and vehicular traffic within this locality and to protect services, during demolition, excavation and construction phases of the development. This plan shall include the following aspects:
 - a proposed ingress and egress points for vehicles to/from the construction site;
 - b proposed pedestrian management whilst vehicles are entering/exiting the construction site;
 - c proposed measures to be implemented for the protection of all roads and footpath areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;

- d proposed method of loading and unloading building materials formwork and the erection of any part of the structure within the site;
- e proposed areas within the site to be used for the storage of construction materials and waste containers during the construction period.

Note: Any proposed works or placement of plant and equipment and/or materials within any road reserve will require the separate approval of Council, prior to the commencement of such works, pursuant to the provisions of the Roads Act 1993.

8 **Load Over Drainage Conduit**

The detailed design of the development shall ensure no additional load on the existing drainage conduit within the easement for drainage burdening the subject site, as a result of the development. This requirement shall be certified by a suitably qualified civil (structural) engineer prior to the release of a Construction Certificate. Where measures are required to ensure this outcome (as recommended by the engineer), details of those measures shall be included on the Construction Certificate plans. Evidence that these requirements have been satisfied shall be submitted to the PC prior to the release of a Construction Certificate.

Prior to the Commencement of Works

9 **Appointment of PC**

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

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

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

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

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

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

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

11 **Sign – Supervisor Contact Details**

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

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

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

12 **Structural Engineer's Details**

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

13 **Enclosure of the Site**

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

During Demolition, Excavation or Construction

14 **Restricted Hours of Construction Work**

The developer must not carry out any work, other than emergency procedures, to control dust or sediment laden runoff outside the normal working hours, namely, 7.00 am to 5.00 pm, Monday to Saturday, without the prior written consent of the PC and Council. No work is permitted on public holidays or Sundays.

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

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

Any request to vary these hours shall be submitted to the **Council** in writing detailing:

- a the variation in hours required (length of duration);
- b the reason for that variation (scope of works);
- c the type of work and machinery to be used;
- d method of neighbour notification;
- e supervisor contact number;
- f any proposed measures required to mitigate the impacts of the works.

Note: The developer is advised that other legislation may control the activities for which Council has granted consent, including but not limited to, the Protection of the Environment Operations Act 1997.

15 **Provision of Waste Receptacle**

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

Operational Phases of the Development/Use of the Site

16 **Screens**

Shall be maintained fit for purpose in accordance with approved plans for the life of the development.

17 **Loading/Unloading Operations/Activities**

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