

Wollongong Local Planning Panel Assessment Report | 1 September 2020

WLPP No.	Item 1
DA No.	DA-2020/213
Proposal	Respite care facility
Property	11 Princes Highway Dapto Lot 7 Sec 58 DP 3436
Applicant	The Disability Trust
Responsible Team	Development Assessment and Certification – City Wide Planning Team (MB)

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Local Planning Panel

The proposal has been referred to the WLPP **for determination** pursuant to part 3 of Schedule 2 of the Local Planning Panels Direction, as the Development contravenes development standards imposed by an environmental planning instrument namely clause 7.13 of WLEP2009 - Certain land within business zones. The ground floor of the eastern building contains residential development. The development also contravenes cl 40 (2) of SEPP Housing for Seniors and People with a Disability 2004 as relates to minimum site area providing for 907.4 m² in lieu of the required 1000 m².

Proposal

The proposal is for the construction of a residential respite care facility.

Permissibility

The site is zoned B4 Mixed Use pursuant to the Wollongong Local Environment Plan 2009. The proposal is categorised as seniors housing and is permissible with development consent in the B4 zone pursuant to Wollongong Local Environment Plan 2009 (WLEP) and State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (SEPP Seniors 2004).

Consultation

The proposal was notified in accordance with Council's Community Participation Plan and one submission was received.

The proposal was referred to Council's Landscape Architect, Stormwater and Traffic Engineers, Environment, Community Services, Safe Community Action Team (SCAT) and Contributions Officers and conditionally satisfactory referral advice has been provided in each instance. The proposal was also referred to Transport for NSW to the provisions of SEPP (Infrastructure) 2007 due to the proximity of Princes Highway. No issues were raised

Main Issues

Exception to a development standard in respect of clause 7.13 *Certain land within business zones* in that residential development is located on the ground floor, and an exception to the 1000m² minimum site area specified in clause 40 of *SEPP Seniors 2004* as the site has an area of 907m² a shortfall of 9.3%.

RECOMMENDATION

It is recommended that approval be granted to DA-2020/213, subject to the conditions provided at **Attachment 3**.

1.1 DETAILED DESCRIPTION OF PROPOSAL

A 'Respite care facility' for people with a disability comprising of two (2) separate two-storey buildings.

The eastern section of the site will be the location of a respite house providing overnight respite accommodation for five (5) clients. It will include:

At ground level:

- One internal garage car parking space for a minibus;
- Shared combined dining and lounge /TV/media spaces;
- Shared kitchen;
- Shared living area;
- Shared laundry;
- Office, storeroom
- Lift and stairs for access to the upper floor;
- Outdoor communal open space area (courtyard); and
- Drying courtyard.

At first floor:

- 5 individual bedrooms with wardrobes
- 1 staff bedroom with wardrobe;
- 3 bathrooms, including 1 accessible bathroom, WC;
- Sensory room;
- Storage

The 'Therapy and Administration' Facility will be located on the western portion of the site with a frontage to Princes Highway. The detached two-storey building will accommodate therapy and administration functions providing a number of therapy and activity rooms to be used by clients, their carers and therapists. The therapy and administration building will include:

At ground level:

- Foyer and reception;
- Therapy room; therapy/meeting room, activity room with storage
- Kitchenette;
- 2 WCs, including 1 accessible WC.

At first floor:

- Four (4) x offices;
- Meeting room, break out/open office space;
- Lunch room;
- 2 WCs, including 1 accessible WC.

On site parking is provided for 9 cars (including 1 accessible space) and 1 motorcycle, in an open hard surface parking area, separating the two buildings. Vehicular access/egress to the car park will be from the secondary frontage of Werowi Street. The unnamed rear laneway will provide access to the bus parking space within the garage on the ground floor of the eastern building. This garage will be designated parking for a mini bus.

The application proposed removal of 1 (one) street tree fronting Werowi Street.

Hours of Operation and Staff

The eastern short-term stay building will be in use 24 hours per day seven days per week, whilst the western administration and therapy building will be used between the hours of Monday to Friday during normal business hours of 9am to 5pm and, if required occasionally from 8am to 6pm.

A total of 3 employees (including one staff member on duty at all time) will be provided within the respite building and 4 employees within the clinical/therapy building.

1.2 BACKGROUND

Application Number	Description	Decision
BC-1990/522	House and Nursery	Approved
BA-1966/458	Dwelling and Garage	Approved
BA-1966/1929	Fern House	Approved
BA-1973/302	Additions to Dwelling	Approved
BA-1966/289	Wire Fence - Nursery	Approved
PL-2012/64	Commercial – medical centre and associated parking	Completed
DA-2017/1195	Residential demolition of dwelling	Approved
PL-2018/191	Construction respite house and office building including associated care parking and landscaping	Completed
DA-2019/326	Mixed use development – residential care facility and administration centre	Withdrawn
DA-2020/213	Respite care facility	Current Application

A pre-lodgement meeting was held for the proposal.

Customer service actions

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

1.3 SITE DESCRIPTION

The site is located at No11 Princes Highway Dapto and the title reference is Lot 7 Sec 58 DP 3436. The site is located on the corner of Princes Highway and Werowi Street Dapto. The total site area is 907.4m² and the land is regular in shape, with a frontage of 59.72m to Werowi Street (northern boundary) and a depth of 14.81m along its western (Princes Highway) boundary. The rear (eastern) boundary, which is 15.235 m in length, fronts an unnamed laneway. The site has minimal slope and is cleared of significant vegetation. Demolition of structures on the site was undertaken under DA-2017/1195. There are three (3) street trees located on the Werowi Street (northern) frontage of the site.

1.4 PROPERTY CONSTRAINTS

Council records list the site as being affected by the following constraints:

- acid sulphate soils
- road widening proposals

There are no restrictions on the title.



Figure 1: Aerial photograph



Figure 2: WLEP 2009 zoning map

1.5 SUBMISSIONS

The application was advertised in accordance with Council's Community Participation Plan 2019. One submission was received following the notification period. The main issues identified within the submissions are discussed below.

Table 1: Submissions

Concern	Comment
1. Parking	Council's Traffic Engineer has reviewed the application. Parking within the site for the development has been

Concern	Comment
	assessed under the requirements for this type of development and is considered satisfactory.

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

The proposal was referred to Council's Landscape Architect, Stormwater and Traffic Engineers, Environment, Community Services, Safe Community Action Team (SCAT) and Contributions Officers and conditionally satisfactory referral advice has been provided in each instance. No issues were raised.

1.6.2 EXTERNAL CONSULTATION

TfNSW

No concerns were raised.

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

NSW BIODIVERSITY CONSERVATION ACT 2016

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

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

Clause 7.2 of the Biodiversity Conservation Regulation 2017 provides the minimum lot size and area threshold criteria for when the clearing of native vegetation triggers entry of a proposed development into the NSW Biodiversity offsets scheme.

No native vegetation is proposed to be cleared for the development. A street tree is proposed for removal and will be replaced with a tree of the same species. The development therefore, is not considered to result in adverse impacts on biodiversity and is consistent with the provisions of the Biodiversity Conservation Act 2016.

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

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

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.*

Uncontrolled fill (including demolition rubble) was identified on site. Additional investigation, including on-site testing and laboratory analysis, identified fragments of asbestos cement sheeting and cement pipework associated with a former service alignment. Management of the asbestos cement pipe, asbestos cement sheeting and soils immediately surrounding the former service alignment is required, with asbestos not encountered elsewhere on site. A report prepared by Douglas Partners conclude that "subject to the management of the asbestos cement pipe, asbestos cement

sheeting and soils immediately surrounding the former service alignment, the condition of the site can be made suitable with its proposed development”.

Council’ Environment officer is satisfied with the assessment and will not require a RAP for the site. An asbestos management plan has been submitted (Xcel Environmental, 25 May, 2020). All asbestos management and removal is to be undertaken in accordance with the Asbestos Management Plan. The site is therefore considered suitable for the proposed development with the imposition of appropriate conditions.

2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (ADVERTISING AND SIGNAGE)

Two signs are proposed, one is located on the western elevation of the front building (1500 x 1500 non-illuminated corporate sign) and one located on the northern elevation of the front building (1500 x 1500 non-illuminated corporate sign). The proposed signage is exempt development pursuant to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 as the proposed two (2) non-illuminated business identification signs are located on separate elevations of the building and each have an area of 2.25 m².

2.1.3 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

The proposal is on land with frontage to a classified road. Clause 100(1)(a) of the SEPP prescribes at (b) development with a capital investment value greater than \$185,000 on land reserved for the purposes of a classified road may only be granted with the concurrence of the chief executive officer of the RMS.

The objectives of cl.101 are:

- a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

Pursuant to cl.101(2) of the SEPP, the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - i) the design of the vehicular access to the land, or*
 - ii) the emission of smoke or dust from the development, or*
 - iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

However, Princes Highway (at this location) is a regional classified road managed by Wollongong City Council. In 2015, RMS reviewed its level of involvement on classified regional roads and determined it more appropriate for councils to consider if proposed access arrangements are acceptable from a network perspective (i.e. no practical local road alternatives and acceptable in terms of safety and efficiency).

Transport for NSW had no objections to the proposal. Council’s Traffic engineer provided satisfactory referral advice including in relation to road widening.

2.1.4 STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS AND PEOPLE WITH A DISABILITY) 2004

Nomination and application of Environmental Planning Instrument

As part of the assessment the application submission requires to nominate the environmental planning instrument (EPI) sought to be relied upon for the purposes of permissibility. Seniors housing is permissible in the B4 zoning for the site under the two (2) following EPIs:

- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004; or
- Wollongong Local Environmental Plan (WLEP) 2009.

SEPP (Housing of Seniors or People with a Disability) 2004 has been nominated as the EPI the application seeks to rely upon for the purpose of permissibility for the proposal. Wollongong Local Environmental Plan (WLEP) 2009 still applies to the application and development requires to be assessed under the provisions of this EPI, only where there is an inconsistency this SEPP will prevail. Seniors housing is permissible within the B4 Mixed Use Zone under the WLEP 2009.

The proposal complies with the controls relating to visual and acoustic privacy, solar access and design for climate, stormwater, crime prevention, accessibility and waste management.

Chapter 1 – Preliminary

Clause 5(3) states *“If this Policy is inconsistent with any other environmental planning instrument, made before or after this Policy, this Policy prevails to the extent of the inconsistency.”*

Therefore, it is understood that where other local, regional or state environmental planning instruments (including good Wollongong LEP 2009) are inconsistent with this SEPP, this SEPP will prevail in the instances of these inconsistencies.

5.2 Chapter 2 Key Concepts

This chapter provides definitions for the various types of seniors living development which are applicable within the SEPP. In this Policy ‘seniors housing’ is defined as:

“residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability”, which includes:

- (a) a residential care facility, or*
- (b) a hostel, or*
- (c) a group of self-contained dwellings, or*
- (d) a combination of these.*

The proposal subject to this application contains one type of seniors living development, being ‘residential care facility’, as defined below:

“a residential care facility is residential accommodation for seniors or people with a disability that includes—

- (a) meals and cleaning services, and*
- (b) personal care or nursing care, or both, and*
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility.*

People with a disability are defined as “people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life”.

The proposed development is a residential care facility which will provide for people with a disability and support staff.

Chapter 3 ‘Development for Seniors Housing’

5.3.1 Part One: General

Clause 18 (Restrictions on Occupation of Seniors Housing Allowed Under This Chapter) allows development to be carried out for the accommodation of the following only:

- “(a) seniors or people who have a disability,*

*(b) people who live within the same household with seniors or people who have a disability,
(c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.”*

The proposed development comprises a short stay respite care facility incorporating administration and therapy support services for persons with a disability, in compliance with this clause.

Clause 19 states that “Development allowed by this Chapter for the purposes of seniors housing does not include the use for residential purposes of any part of the ground floor of a building that fronts a street if the building is located on land that is zoned primarily for commercial purposes unless another environmental planning instrument permits the use of all of the building for residential purposes.” Whilst Clause 7.13 of WLEP 2009 does not allow residential use of the ground floor of the building within a B4 Mixed Use zone, it is noted that ‘residential flat buildings’ are a permissible land use within this zone.

Accordingly, it is considered that the listing of ‘residential flat buildings’ as a permissible use addresses the requirements of Clause 19.

Nonetheless, the application includes a Clause 4.6 Exceptions to Development Standards Report seeking a variation to the provisions of Clause 19, to allow the siting of residential accommodation at the ground level of the building.

Clause 4 Land to which policy applies

The SEPP applies to land that is zoned primarily for urban purposes, where certain development (including attached dwellings, residential flat building or dwelling houses) are permitted. The site is zoned B4 Mixed Use zone where residential flat buildings and seniors housing are permissible with consent.

Clause 5 Relationship with environmental planning instruments

This clause confirms that if the SEPP is inconsistent with any other EPI (for example WLEP 2009), the SEPP will prevail to the extent of the inconsistency.

Clause 7 Suspension of agreements and covenants

Where development is permitted by the SEPP, the provisions of any covenant or agreement which would prevent that development are to be set aside.

Chapter 2 - Key Concepts

Clause 10 Seniors housing

‘Seniors’ housing’ and those people who may reside in seniors housing are defined:

In this Policy, "seniors housing" is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability consisting of:

- (a) a residential care facility, or*
 - (b) a hostel, or*
 - (c) a group of self-contained dwellings, or*
 - (d) a combination of these,*
- but does not include a hospital.*

Note: *The concept of seniors housing is intended to be a shorthand phrase encompassing both housing for seniors and for people with a disability. This Policy deals with both kinds of housing.*

Accommodation provided by seniors housing does not have to be limited to seniors or people with a disability. Clause 18 provides that seniors housing may be used for the accommodation of the following:

- (a) seniors or people who have a disability,*
- (b) people who live within the same household with seniors or people who have a disability,*
- (c) staff employed to assist in the administration of and provision of services to housing*

provided under this Policy.

Relevant classifications in the Building Code of Australia for the different types of residential accommodation are as follows:

- (a) Class 3, 9a or 9c in relation to residential care facilities,*
- (b) Class 1b or 3 in relation to hostels,*
- (c) Class 1a or 2 in relation to self-contained dwellings.*

The proposed development is a residential care facility that meets the definition of seniors housing in accordance with the SEPP.

Clause 11 Residential care facilities

In this Policy, a residential care facility is residential accommodation for seniors or people with a disability that includes:

- (a) meals and cleaning services, and*
- (b) personal care or nursing care, or both, and*
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility.*

Note. The Aged Care Act 1997 of the Commonwealth requires residential care facilities to which that Act applies to meet certain requirements.

The proposal adequately fits the above definitions for residential care facilities in accordance with the SEPP.

12 Hostels

In this Policy, a **hostel** is residential accommodation for seniors or people with a disability where:

- (a) meals, laundering, cleaning and other facilities are provided on a shared basis, and*
- (b) at least one staff member is available on site 24 hours a day to provide management services.*

Note.

A facility may be a hostel (as defined by this Policy) even if it does not provide personal care or nursing care to its residents. A facility that provides such care may be a residential care facility (as defined by this Policy), regardless of how the facility may describe itself.

The proposal does not include a hostel

13 Self-contained dwellings

*In this Policy, a **self-contained dwelling** is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.*

*In this Policy, **serviced self-care housing** is seniors housing that consists of self-contained dwellings where the following services are available on the site: meals, cleaning services, personal care, nursing care.*

The proposal does not include self-contained dwellings.

Chapter 3 Development for Seniors Housing

Part 1 General

Clause 14 Objective

The objective of this Chapter:

“to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age.”

Clause 15 What the Chapter does

This Chapter allows for the development for the purposes of Seniors Housing on land that is zoned primarily for urban proposes, despite the provisions of any other environmental planning instrument if the development is carried out in accordance with this Policy.

The site is zoned B4 Mixed Use under WLEP 2009 where seniors housing is permissible with consent.

Clause 16 Development consent required

Consent is being sought for the proposal in this development application from the relevant consent authority.

Clause 17 Development on land adjoining land zoned primarily for urban purposes

The site is located on land zoned B4 Mixed Use

Clause 18 (Restrictions on Occupation of Seniors Housing Allowed Under This Chapter)

Allows development to be carried out for the accommodation of the following only:

- (a) seniors or people who have a disability,*
- (b) people who live within the same household with seniors or people who have a disability,*
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy."*

The proposed development comprises a short stay respite care facility incorporating administration and therapy support services for persons with a disability, in compliance with this clause.

Clause 19 states that *"Development allowed by this Chapter for the purposes of seniors housing does not include the use for residential purposes of any part of the ground floor of a building that fronts a street if the building is located on land that is zoned primarily for commercial purposes unless another environmental planning instrument permits the use of all of the building for residential purposes."*

Whilst Clause 7.13 of WLEP 2009 does not allow residential use of the ground floor of the building within a B4 Mixed Use zone, it is noted that 'residential flat buildings' are a permissible land use within this zone.

Accordingly, it is considered that the listing of 'residential flat buildings' as a permissible use addresses the requirements of Clause 19. However, a clause 4.6 Exceptions to Development Standards has been submitted by the Applicant (**Attachment 2**) to allow the siting of residential accommodation at the ground level of the building.

Clause 21 Subdivision

The proposal does not seek any subdivision.

Clause 22 Fire sprinkler systems in residential care facilities for seniors

The proposed new residential care facility will include the installation of a fire sprinkler system as required under NCC – BCA requirements.

Clause 23 Development on land used for the purposes of an existing registered club

Not applicable - The site does not contain an existing registered club.

Part 1A Site compatibility certificates

24 Site compatibility certificates required for certain development applications

Not applicable - The site is zoned for urban purposes, does not contain an existing registered club or involve a building with floor space ratio that would require consent to be granted under clause 45.

25 Application for site compatibility certificate

Not applicable.

Clause 26 Location and Access to Facilities requires that the residents of the proposed development must have access to certain facilities:

"(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to—

- (a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and*
- (b) community services and recreation facilities, and*
- (c) the practice of a general medical practitioner."*

The site is approximately 200m from the Healthcare Medical Centre to the southwest, which provides the services of general practitioners, nurses and pathologists. Further, the site is located approximately 300m from the Dapto Mall development, also located to the south-west, which contains a range of retail services, two 'bank service providers' (Commonwealth Bank) and Credit Union Australia, together with Australia Post. Access to such services is provided by a 'suitable access pathway' being a sealed footpath which extends along the Princes Highway with minimal grade, meeting the requirements of clause 26 (1) and (2)(a).

Clause 26 (c) also confirms the compliance with this clause is met if

(c) in the case of a proposed development on land in a local government area that is not within the Greater Sydney (Greater Capital City Statistical Area)—there is a transport service available to the residents who will occupy the proposed development—

(i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and

(ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and

(iii) that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive), and the gradient along the pathway from the site to the public transport services (and from the transport services to the facilities and services referred to in subclause.

Proposal complies with subclause. Notwithstanding the development's compliance with clause (2)(a), it is also noted that the development will be provided with its own transport service, thereby also meeting the provisions of clause (2)(c), above. Accordingly, the provisions of clause 26 are met.

Clause 28 Water and Sewer

Council is required to be satisfied by written evidence that the proposed development will be connected to reticulated water and have adequate capacity for sewage disposal. The existing services on the site are able to be extended to accommodate the development. A Section 73 Certificate with Sydney Water have been incorporated within the draft conditions.

Clause 29 Site compatibility criteria

For applications where a Site Compatibility Certificate is not required by Clause 24 Council is required to consider site compatibility criteria set out in clause 25 (5) (b) (i), (iii) and (v). These criteria are:

(i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development.

The proposal is considered compatible with the natural environment. The proposal will not result in biodiversity impacts.

(iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision.

The site has existing access to services and existing utilities which are considered to be adequate to service the proposal.

(v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development,

The proposed development is considered to be compatible with this clause. This is discussed in further detail below in Part 3 Design Requirements under this SEPP.

Part 3 Design Requirements

Division 1 General

Clause 30 Site analysis

Council is required to be satisfied that the applicant has taken into account a site analysis prepared by the applicant in accordance with this clause. The site analysis must be in the form of plans and a written statement.

A detailed site analysis plan and architectural design statement has been provided with the application are considered satisfactory and have addressed the relevant parts of this clause. The proposal is considered to have regards to the site and the surrounding development and is also considered to have met the design principles as discussed in Division 2 below.

Clause 31 Design of in-fill self-care housing

Not applicable - The application does not propose in-fill self-care housing.

Clause 32 Design of residential development

A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2 i.e. clauses 33-39, as discussed below. It is considered the development has generally demonstrated adequate regard to the principles set out in Division 2.

Division 2 Design principles

Clause 33 Neighbourhood Amenity and Streetscape

The facility is to be located within an existing mixed-use area, bordered by a multi-storey development to the north and is located on the periphery of the Dapto commercial area. The design of the building reflects its mixed-use setting and the need to maintain a domestic character for future respite care residents. The scale of the development reflects the emerging character of this precinct, with the use of two separate buildings recognising the scale of detached residential development to the east and south. The two storey height of the development is consistent with the scale of two storey residential development in the locality and is less than that of the three storey mixed use development to the north. The design provides a central separation between the two buildings thereby minimising overshadowing of the adjacent dwelling to the south. The setbacks the Princes Highway and Werowi Street reflect the desired positioning of future buildings within this mixed-use setting. The proposal provides for a replacement street tree of the same species as the existing. Removal of only one tree is proposed with compensatory planting using the same species. There are no mapped riparian zones on the site.

Clause 34 Visual and Acoustic Privacy

The proposed buildings incorporate extensive glazing to the street frontages, with minimal windows facing the southern boundary, to prevent overlooking of the dwelling to the immediate south. The respite house accommodation component of the development is sited to the east, thereby providing greater separation from the Princes Highway to minimise noise impacts.

Clause 35 Solar Access and Design for Climate

The application is accompanied by shadow diagrams prepared by IDC which confirm that the adjacent dwelling to the south will be overshadowed at times through the day; however, the south-western and eastern windows of this dwelling will not be overshadowed by the proposed development from approximately midday through to 3pm on June 21. Further, the proposed buildings (together with the dwelling itself) will partly shadow the rear private open space throughout the day on June 21. However at least half of this private open space area will continue to receive sunlight access to in midday and 3pm on June 21. The buildings have a northern orientation, with the majority of glazing located on this elevation.

Clause 36 Stormwater

The application has been reviewed by Council's Stormwater Officer and considers satisfactory arrangements have been made to ensure stormwater impacts have been minimised subject to recommendations that have been included in the draft conditions at **Attachment 3**.

Clause 37 Crime prevention

Due the nature of the use, the design and siting of the proposal has incorporated passive and active security measures including the limited and controlled entries to the building, proposed and existing fencing, clear path of travel and location of parking areas. It is considered that the proposal has been designed to minimise hiding spaces or places of entrapment and provides for a satisfactory level of security for residents and visitors to the development that encourages crime prevention.

Clause 38 Accessibility

The proposal will provide at grade parking spaces primarily for visitors, residents and staff. The proposal provides for sufficient car parking spaces for the development in compliance with this SEPP. A visible point of entry to each building is provided from Werowi Street and the central parking area. This entry will provide for close connection to the footpath which extends along the Princes Highway towards the Dapto town centre.

The application has also been reviewed by Council's Community Services Officer who has provided conditionally satisfactory referral advice.

Clause 39 Waste Management

Adequate waste management arrangements have been considered for the development. A Site Waste Minimisation and Management Plan has been provided with the application submission. The existing servicing arrangements for waste collection are by a private contractor and waste collection vehicles can be adequately accommodated for within the site. The application has been reviewed by Council's Traffic Officer and the proposed waste collection arrangements are considered satisfactory.

Clause 40 – Minimum sizes and building height

(2) Site Size: The site is required to be a minimum 1000m². The subject site has an area of 907.4m² and does not comply. A Clause 4.6 Report has been provided with the application at **Attachment 2**.

(3) Site Frontage: The site width must be at least 20m measured at the building line. The site has a frontage of 59.72m to Werowi Street and complies.

(4) Height in zones where residential flat buildings are not permitted

If the development is proposed in a residential zone where residential flat buildings are not permitted:

(a) the height of all buildings in the proposed development must be 8 metres or less, and

(b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and

(c) a building located in the rear 25% area of the site must not exceed 1 storey in height.

Residential flat buildings are permitted within the B4 Mixed use zone of WLEP 2009. Therefore, this clause is not applicable.

(5) Development applications to which clause does not apply

N/A - The Disability Trust is not a social housing provider.

Division 2 Residential care facilities—standards concerning accessibility and useability

A report has been submitted with the application, Statement of Compliance – Access for People with a Disability that states general arrangement drawings indicate that the proposal can comply with the BCA requirements for wheelchair access, disabled car parking and general controls such as access to common areas, accessible paths of travel, signage and adaptable housing. The application has also been reviewed by Council's Community Services Officer who has provided conditionally satisfactory referral advice.

A draft condition is included requiring access to the facility to be in accordance with the BCA and the Commonwealth Aged Care Accreditation Standards.

Part 7 Development standards that cannot be used as grounds to refuse consent

Division 1 General

Division 2 (Residential Care Facilities), 3 (Hostels) and 4 (Self contained Dwellings)

Clause 48 specifies standards that cannot be used to refuse development consent for a residential care facility.

Clause 48 Residential Care Facilities

Building Height 8m or less.

The buildings exceeds 8 metres and has a maximum height of 10.37m for the administration building and 7.44 metres for the respite building, however this is acceptable under this Part 7. Compliance with the 11m height control of WLEP 2009 is achieved.

Density and Scale 1:1 FSR or less

A GFA of 622.5 m² is proposed, which results in an FSR of 0.686:1, which complies.

Parking 1 parking space for each 10 beds; 1 for each 2 employees; 1 for an ambulance.

Total required = 5 (i.e. 1 space for 5 respite beds and 4 spaces for 7 employees)

Total provided = 9 spaces, which complies

2.1.6 STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX BASIX) 2004

The proposal would not meet the definition of BASIX affected development pursuant to the Environmental Planning and Assessment Regulations 2000 as the development is for the purpose of seniors residential accommodation but does not comprise dwellings, which are to be occupied separate domiciles.

2.1.7 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Clause 1.4 Definitions

seniors housing **means a building or place that is—**

(a) a residential care facility, or

(b) a hostel within the meaning of clause 12 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, or

(c) a group of self-contained dwellings, or

(d) a combination of any of the buildings or places referred to in paragraphs (a)–(c),

and that is, or is intended to be, used permanently for—

(e) seniors or people who have a disability, or

(f) people who live in the same household with seniors or people who have a disability, or

(g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place, but does not include a hospital.

Note. Seniors housing is a type of residential accommodation.

residential care facility means accommodation for seniors or people with a disability that includes:

(a) meals and cleaning services, and

(b) personal care or nursing care, or both, and

(c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,

but does not include a dwelling, hostel, hospital or psychiatric facility.

Note.

Residential care facilities are a type of **seniors housing**—see the definition of that term in this Dictionary.

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned B4 Mixed Use zone

Clause 2.3 – Zone objectives and land use table

The objectives of the B4 Mixed Use zone are:

- *To provide a mixture of compatible land uses*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling*
- *To support nearby or adjacent commercial centres without impacting on the viability of those centres.*

This proposed development comprises a 'seniors housing' development providing services for people with a disability and onsite support services. The development will be compatible with the surrounding mixture of uses where both higher density and low density residential development is mixed with a range of commercial and retail uses.

The land use table below permits the following uses in the zone:

B4 Mixed Use permitted uses:

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

Seniors housing is a permissible use in the zone; however, approval is sought under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

Clause 2.7 Demolition requires development consent

Demolition works are not required.

Part 4 Principal development standards

Clause 4.3 Height of buildings

The proposed building height of the western administration building is 10.37m and the maximum height of the eastern respite building is 7.44m, which does not exceed the maximum of 11 metres permitted for the site.

Clause 4.4 Floor space ratio

Maximum FSR permitted for the site:	2.0:1
FSR provided for Site:	$622.5\text{m}^2/907.4\text{m}^2 = \mathbf{0.698:1}$ complies

Eastern Respite Building	382.5
Ground Floor	197.1
First Floor	185.4
Western Admin Building	240

Ground Floor	107.5
First Floor	132.5
Total GFA	622.5

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

Clause 4.6 Exceptions to development standards

The subject development seeks an exception to clause 7.13 Certain land within business zones in that residential development is located on the ground floor.

The subject development also seeks an exception to the 1000m² minimum site area specified in clause 40 of SEPP Seniors 2004. The applicant has submitted a Clause 4.6 exception request statement for both matters, which is included at **Attachment 2**.

The below table outlines Council's assessment:

WLEP 2009 clause 4.6 proposed development departure assessment	
Development departure	Clause 7.13 Certain land within business zones
Is the planning control in question a development standard	Yes
4.6 (3) Written request submitted by applicant contains a justification:	
that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	<p>Yes. The applicant has submitted a Clause 4.6 Statement with the following justification:</p> <p><i>In Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009, para 61, Commissioner Person summarises the considerations from Wehbe v Pittwater Council [2007] NSWLEC 827 at [42] per Preston CJ, and notes in para 62 that clause 4.6 can be considered in a similar way to that of SEPP 1. In Wehbe at [44]-[48] Preston CJ identified other ways in which an applicant might establish that compliance with a development standard is unreasonable or unnecessary, namely that the underlying objective or purpose is not relevant to the development; that the objective would be defeated or thwarted if compliance was required; that the development standard has been virtually abandoned or destroyed by the Council's own actions in departing from the standard; or that the zoning of the land is unreasonable or inappropriate.</i></p> <p>A response to each of these approaches is therefore provided as it relates to the current proposal:</p> <p><i>That the objective would be defeated or thwarted if compliance was required</i></p> <p>Not applicable. The objective of the Clauses would be achieved if compliance was provided.</p> <p><i>That the development standard has been virtually abandoned or destroyed by the Council's own actions in departing from the standard</i></p> <p>Not applicable</p> <p><i>The zoning of the land is unreasonable or inappropriate.</i></p> <p>The zoning of the land is appropriate.</p>

	<p><i>The underlying objective or purpose is not relevant to the development</i></p> <p>This is considered to be the most applicable of these considerations as the type of development ('seniors housing') is anomalous to the development standard in this instance. While some of the ground floor does incorporate residential accommodation, some more 'active uses' (ie. Ancillary health services etc) are also provided at the ground floor that are considered to meet the underlying objective of the standard. Therefore, it is more appropriate to state that the use ('seniors housing') in this instance, should not necessarily be strictly/technically considered 'residential accommodation'. In this circumstance, the objective of the Development Standard is still relevant to the development (and has been satisfied).</p>
that there are sufficient environmental planning grounds to justify contravening the development standard.	<p>Yes</p> <p>It is requested that Council give consideration to: In <i>Four2Five Pty Ltd v Ashfield Council</i> [2015] NSWLEC 1009, Commissioner Person determined that it is necessary for applicants to show sufficient grounds particular to the development in the Clause 4.6 objection. In this regard it is noted that, while the 'seniors housing' development is technically defined as 'residential accommodation', in reality the development meets the intent of the development standard, as it provides active uses on the ground floor of part of the development [appropriately, the western building, which has a more commercial character in design (eg. signage) and use (support services) at the main road frontage, than the eastern portion which is typified by a residential character in built form and immediate surrounds]. Hence, only the ground floor of the eastern building provides more 'residential' uses typified by a dwelling and includes living areas (although an office is proposed), with the lower use bedrooms located on the first floor.</p>
4.6 (4) (a) Consent authority is satisfied that:	
the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<p>The statement submitted by the applicant is considered to have adequately addressed the matters required to be demonstrated, in that compliance to the development standard is unnecessary or unreasonable in the circumstances of the case.</p> <p>The exception can be supported in this case for the following reasons:</p> <ul style="list-style-type: none"> • The development meets the objective of the standard despite being used for the purpose of seniors housing residential accommodation. • The provision of commercial floor space in this location would not of itself result in improved street activation. • The provision of residential uses contributes to the presence and movement of people at street level.

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 statement demonstrates that the proposed development will be in the public interest because it is consistent with the objectives of the standard as follows:</p> <p>The statement demonstrates that the proposed development will be in the public interest because it is consistent with the objectives of the B4 Zone.</p> <p>As discussed above, the statement has satisfactorily demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds specific to the site to justify contravening the development standard.</p> <p>The requested departure from the development standard will not hinder the attainment of the objectives specified in section 5(a)(i) and (ii) of the EP&A Act.</p> <p>It is considered that strict compliance with the Certain land within business zones development standard in the context of the proposal site would not result in any significant public benefit.</p>
the concurrence of the Secretary has been obtained.	Referral to the Department of Planning is not required (Planning Circular PS 18-003 issued 21 February 2018) as the LPP assumes the Secretary's concurrence.

Comment: The exception to the development standard is considered capable of support

Development departure	Contravention of Clause 40(2) of SEPP Seniors minimum site area
Is the planning control in question a development standard	Yes
4.6 (3) Written request submitted by applicant contains a justification:	
that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	<p><i>In Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009, para 61, Commissioner Person summarises the considerations from Wehbe v Pittwater Council [2007]</i></p> <p>NSWLEC 827 at [42] per Preston CJ, and notes in para 62 that clause 4.6 can be considered in a similar way to that of SEPP 1. In <i>Wehbe</i> at [44]-[48] Preston CJ identified other ways in which an applicant might establish that compliance with a development standard is unreasonable or unnecessary, namely that the underlying objective or purpose is not relevant to the development; that the objective would be defeated or thwarted if compliance was required; that the development standard has been virtually abandoned or destroyed by the Council's own actions in departing from the standard; or that the zoning of the land is unreasonable or inappropriate. A response to each of these approaches is therefore provided as it relates to the current proposal:</p> <p><i>That the objective would be defeated or thwarted if compliance was required</i></p>

	<p>Not applicable. The development would not be permitted under the Seniors Living SEPP if compliance was required. However, it would still be permitted under the WLEP 2009, but significant development contributions would be required. It is noted that Wollongong City Wide Development Contributions Plan 2019 only provides for exemptions for Seniors Housing under the SEPP, and not the WLEP 2009, which is a technical anomaly. If approval is sought under the LEP (rather than the SEPP) contributions would be payable, which impacts on the financial feasibility of the development.</p> <p><i>That the development standard has been virtually abandoned or destroyed by the Council's own actions in departing from the standard</i></p> <p>Applicable, as the development would still be permitted under the WLEP 2009. Hence the development standard is virtually not relevant in this circumstance.</p> <p><i>The zoning of the land is unreasonable or inappropriate.</i></p> <p>The zoning of the land is appropriate.</p> <p><i>The underlying objective or purpose is not relevant to the development</i></p> <p>Applicable, as the development would still be permitted under the WLEP 2009. Hence the development standard is virtually not relevant in this circumstance.</p>
that there are sufficient environmental planning grounds to justify contravening the development standard.	<p>Yes</p> <p>It is requested that Council give consideration to: <i>In Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009, Commissioner Person determined that it is necessary for applicants to show sufficient grounds particular to the development in the Clause 4.6 objection.</i></p> <p>In this regard it is noted that, while the land size is less than that set out in Clause 40, the development is still accommodated on the land. It is noted that while defined as a 'seniors housing', the development is actually a different building typology than a typical seniors living facility which would typically require a larger site area. The development is more unique as it provides short stays and temporary respite visitation for appointments for support services for families with disabled children.</p> <p>The development meets all other relevant built form and parking controls and the like. Hence, there are sufficient environmental planning grounds to justify contravening the minimum site area development standard of 1000m².</p>
4.6 (4) (a) Consent authority is satisfied that:	
the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<p>The statement submitted by the applicant is considered to have adequately addressed the matters required to be demonstrated, in that compliance to the development standard is unnecessary or unreasonable in the circumstances of the case.</p> <p>The exception can be supported in this case for the following reasons:</p>

	<ul style="list-style-type: none"> • The development meets the objective of the site clause/development standard despite the site being deficient by 93m² or 9.3% • The development does not result in non-compliances to built form or parking controls and is sited comfortably within the site. • The proposal as a respite care facility has a different form to seniors housing in general terms. • There are no site area controls for seniors housing under WLEP 2009.
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 statement demonstrates that the proposed development will be in the public interest because it is consistent with the objectives of the standard as follows:</p> <p>The statement demonstrates that the proposed development will be in the public interest because it is consistent with the objectives of the B4 Zone.</p> <p>As discussed above, the statement has satisfactorily demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds specific to the site to justify contravening the SEPP clause/development standard.</p> <p>The requested departure will not hinder the attainment of the objectives specified in section 5(a)(i) and (ii) of the EP&A Act.</p> <p>It is considered that strict compliance with the minimum site size in the context of the proposal site would not result in any significant public benefit.</p>
the concurrence of the Secretary has been obtained.	Referral to the Department of Planning is not required (Planning Circular PS 18-003 issued 21 February 2018) as the LPP assumes the Secretary's concurrence.

Comment: The exception to the development standard is considered capable of support

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The development site is already serviced by electricity, water and sewage services.

A condition will be imposed within the development consent requiring approval from the relevant authorities for the connection of electricity, water and sewage to service the site prior to Construction Certificate.

Clause 7.5 Acid Sulfate Soils

The subject lot has been mapped as containing Class 5 Acid Sulfate Soils. The subject lot is not located within 500 metres of any adjacent Class 1, 2, 3 or 4 land and would not be expected to result in adverse impacts on the watertable.

Clause 7.6 Earthworks

The proposed earthworks are not expected to have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features surrounding land.

Clause 7.13 Certain land within business zones

- (1) The objective of this clause is to ensure active uses are provided at the street level to encourage the presence and movement of people.
- (2) This clause applies to land in Zone B1 Neighbourhood Centre, Zone B2 Local Centre, Zone B3 Commercial Core or Zone **B4 Mixed Use**, but does not apply to land to which clause 7.19 applies.
- (3) Development consent must not be granted for development for the purpose of a building on land to which this clause applies unless the consent authority is satisfied that the ground floor of the building—
 - (a) will not be used for the purpose of residential accommodation, and
 - (b) will have at least one entrance and at least one other door or window on the front of the building facing the street other than a service lane.

The proposal does not meet the requirements in that residential accommodation is proposed on the ground floor for the eastern building. An exception to this clause is sought and addressed at clause 4.6 exception to development standards within this report. See also **Attachment 2**

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

Draft West Dapto Development Contributions Plan (2020)

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.

CHAPTER A2 – ECOLOGICALLY SUSTAINABLE DEVELOPMENT

The proposal is considered to be capable of satisfying the development controls to improve the sustainability of development throughout Wollongong.

CHAPTER B4 – DEVELOPMENT WITHIN BUSINESS ZONES

Chapter B4: Development within Business Zones

This chapter applies to “any retail, office premises, business premises, bulky goods premises, shop top housing or mixed use development” within a range of business zones, including the B4 Mixed Use zone. The proposed development comprises seniors housing providing accommodation and support services for disabled persons and the buildings are not defined as retail/ office/ business or bulky goods premises, nor as shop top housing. Further, the development comprises only one land-use and it is not defined as mixed use development.

Whilst it is noted that Chapter B4 does not strictly apply, however, a merit assessment of relevant clauses has been undertaken in relation to residential care facility built form.

General Design Requirements for Retail and Business Premises Developments

9.2.1 Floor Configuration:

Max 18 m building depth required for residential floors: Maximum building depth of 10.985 to 12.235m provided, which complies.

Min floor to ceiling height of 3.3 m from ground floor development in a B1 or B3 zone

Not applicable as the site is located in a B4 zone. Irrespective of this, a 3.3 m ceiling height is provided for the western building due to its administrative function, addressing this clause.

9.2.2 Building Appearance:

Street corners of any new corner building should be strengthened by massing and building articulation to both street frontages.

Both buildings address the Princes Highway and Werowi street frontages with a high level of articulation, glazing and material variation on each frontage, which complies.

9.2.3 Building Alignment:

Design of corner building should reflect the road geometry, topographic conditions and sightlines.

The western admin building is provided with a setback of 1750mm to the Princes Hwy and 2350mm to the southern neighbour. The eastern respite building has a northern setback of 1500mm to Werowi Street and eastern boundary to the lane of 1500mm to allow retention of existing sightlines. Council's traffic engineer has provided satisfactory referral advice.

9.2.4 Active Street Frontages:

All new retail, business or mixed use buildings required to provide ground-level active street frontages.

The administration building provides direct access to office spaces from the Werowi Street frontage and a highly glazed and articulated façade, with signage to the Princes Highway aspect. The eastern accommodation building is accessed either from Werowi Street or the central car park and does not contain an active street frontage. See **Attachment 2**

9.2.5 Urban Design/Streetscape Appearance:

The siting, form, height and external appearance shall be sympathetic with adjoining buildings or nearby residential dwellings.

Both buildings are 2 storeys in height reflecting the maximum permitted number of storeys for residential dwellings to the east and south. The use of two separate buildings on the site provides a reduced building bulk which is appropriate having regard to the development's positioning in a transitioning mixed use area.

Section 9.2.9 Solar access and overshadowing:

Solar access shall be maintained for any north facing window of a habitable room of any adjoining residential dwelling and at least 50% of the private courtyard area for a minimum 3 hour continuous period between 9am and 3pm on June 21:

The application is accompanied by shadow diagrams, which show that the adjacent dwelling to the south will be overshadowed at different times through the day but that the south-western and eastern windows of this dwelling will not be overshadowed by the proposed development from approximately midday through to 3pm on June 21. Further, the proposed buildings (together with the dwelling itself) will partly shadow the rear private open space throughout the day on June 21. However, half of the private open space area will continue to receive sunlight between midday and 3pm on June 2 as required.

CHAPTER C1 ADVERTISING SIGNAGE AND STRUCTURES

Part 5 of this Chapter specifies that proposed signage that meets the requirements of exempt development pursuant to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 is not signage that requires assessment under this chapter. The proposed two (2) non-illuminated business identification signs are located on separate elevations of the building and each have an area of 2.25 m² and meet the requirements of the SEPP (Exempt and Complying Development Codes).

CHAPTER D1 – CHARACTER STATEMENTS

Dapto

The proposed development accords with the desired future character of Dapto by providing a residential care facility for disabled persons within 800 m radius of the Dapto town centre. The building incorporates the use of face brickwork, with upper-level cladding and a sloped roof to allow for

integration within the existing character of the area. The proposal is considered to be consistent with the existing and desired future character for the locality.

CHAPTER E1: ACCESS FOR PEOPLE WITH A DISABILITY

The proposal is assessed to be capable of compliant with the controls. Conditions recommended within the consent in this regard. Access report submitted

CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The design and layout of the development provides casual surveillance opportunities to the street and throughout the site. No concerns are raised regarding safety or security. – minimising areas for potential entrapment or concealment. Satisfactory referral advice received from SCAT.

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

The application has been assessed by Council's Traffic officer who has provided conditionally satisfactory advice. The DCP parking rates require a specified ambulance space to be provided. However, in this case it is not considered necessary as there is a greater number of parking spaces than required and if there is an emergency an ambulance will be able to pull up in an available car parking space or the entry aisle and access the buildings from the car park. Car parking numbers comply with the DCP and the SEPP Seniors 2004.

CHAPTER E6: LANDSCAPING

A landscape concept plan has been submitted as part of the application. The provisions of this chapter have been considered and found satisfactory by Council's Landscape Division.

CHAPTER E7: WASTE MANAGEMENT

Site Waste Minimisation and Management Plan provided. Standard conditions to apply.

CHAPTER E14 STORMWATER MANAGEMENT

The application has been reviewed by Council's Stormwater officer and found satisfactory. Appropriate conditions have been recommended.

CHAPTER E15 WATER SENSITIVE URBAN DESIGN

The application has been reviewed by Council's Environment Officer in regard to the water quality aspects of the proposal and satisfactory referral advice has been provided that include conditions stormwater quality treatment devices are installed and maintained accordingly to ensure specified targeted improvements in water quality will be achieved.

CHAPTER E17 PRESERVATION AND MANAGEMENT OF TREES AND VEGETATION

Proposal involves removal of 1 street tree. The proposal was reviewed by Council's Landscape officer and was given satisfactory comments and conditions in relation to the protection and retention of those trees to be retained and for tree replacement for the one tree to be removed.

CHAPTER E21 DEMOLITION AND ASBESTOS MANAGEMENT

Asbestos management is required for asbestos located on the site. Council's Environment Officer has provided satisfactory referral advice and provided conditions.

CHAPTER E22 SOIL EROSION AND SEDIMENT CONTROL

Conditions of consent are recommended in regard to appropriate sediment and erosion control measures to be in place during works.

2.3.2 WEST DAPTO DEVELOPMENT CONTRIBUTIONS PLAN (2017)

The applicant has requested an exemption under Clause 15(e) *An application for a residential care facility carried out under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

Council's Contribution Officer has reviewed the request and notes that the application proposed is assessed as falling under this clause, and therefore is exempt from development contributions.

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?

Not applicable.

93 Fire safety and other considerations

Not applicable.

94 Consent authority may require buildings to be upgraded

Not applicable

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

There are not expected to be adverse environmental impacts on either the natural or built environments or any adverse social or economic impacts in the locality.

This is demonstrated through the following:

- The proposal is satisfactory with regard to the applicable planning controls as detailed in the body of this report.
- One submission was received following notification and parking matters raised have been satisfactorily addressed.
- Internal and external referrals are satisfactory subject to appropriate conditions of consent

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

Does the proposal fit in the locality?

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

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

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

See section 1.5 above. One submission was received.

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

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

3. CONCLUSION

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

It is considered that the applicant has provided adequate justification for both the exception to the WLEP 2009 development standard for clause 7.13 *Certain land within business zones* and an exception to minimum site area specified in clause 40 of *SEPP Housing for Seniors and People with a Disability 2004* and both are capable of support as discussed in the body of the report.

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

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

4. RECOMMENDATION

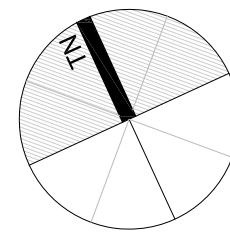
DA-2020/213 be approved pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the conditions provided at **Attachment 3**.

5. ATTACHMENTS

- 1 Plans and Arborist Report
- 2 Clause 4.6 Exception to Development Standard
- 3 Conditions



SITE ANALYSIS PLAN
1: 200 scale



DEVELOPMENT APPLICATION

REVISION	DESCRIPTION	DATE
P1	PRELIMINARY, FOR REVIEW	10.12.2019
A	DEVELOPMENT APPLICATION	25.02.2020



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PROJECT
PROPOSED RESIDENTIAL CARE FACILITY
AND ADMINISTRATION/THERAPY BUILDING
ADDRESS
11 PRINCES HIGHWAY
DAPTO NSW

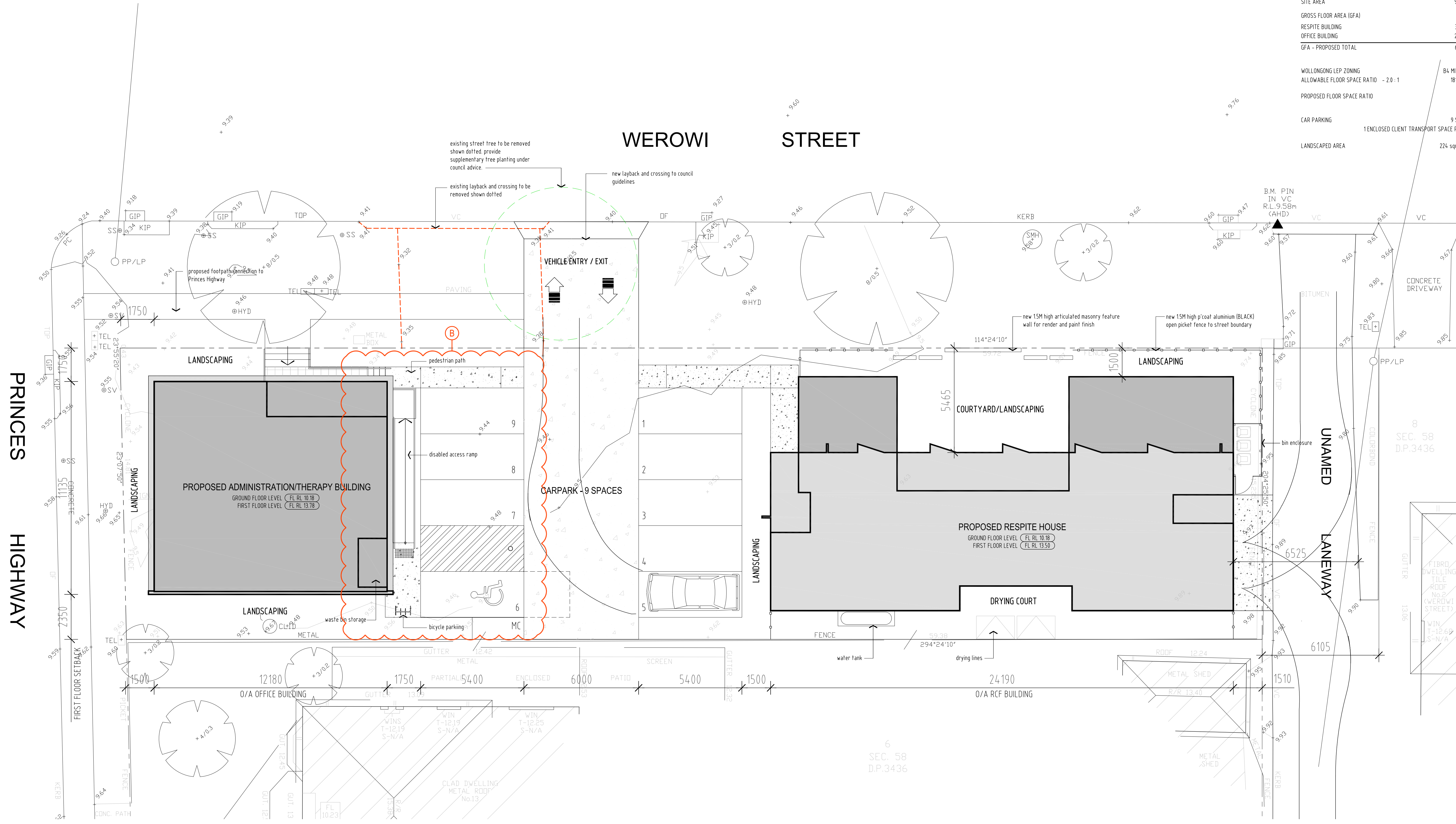
DRAWING TITLE			
SITE ANALYSIS PLAN			
-			
SCALES	DATE	JOB No.	DRAWING No.
1:200@A1, 1:400@A3	NOV. 2019	816	A02
DRAWN	STATUS	ISSUE.	
EB	DA	A	

DEVELOPMENT DATA

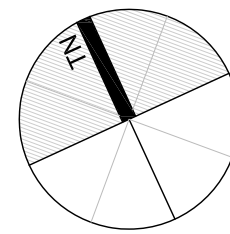
SITE AREA	907.4 sqm
GROSS FLOOR AREA (GFA)	
RESPIRE BUILDING	382.5 sqm
OFFICE BUILDING	240.0 sqm
GFA - PROPOSED TOTAL	622.5 sqm

WOLLONGONG LEP ZONING	B4 MIXED USE
ALLOWABLE FLOOR SPACE RATIO	1814.80 sqm
PROPOSED FLOOR SPACE RATIO	0.681

CAR PARKING	9 SPACES +
1 ENCLOSED CLIENT TRANSPORT SPACE PROVIDED	
LANDSCAPED AREA	224 sqm 25%



SITE PLAN
1:100 scale



DEVELOPMENT APPLICATION

REVISION	DESCRIPTION	DATE
P1	PRELIMINARY, FOR REVIEW	10.12.2019
A	DEVELOPMENT APPLICATION	25.02.2020
B	ACCESS RAMP ADDED TO THERAPY BUILDING, DA ISSUE	11.06.2020



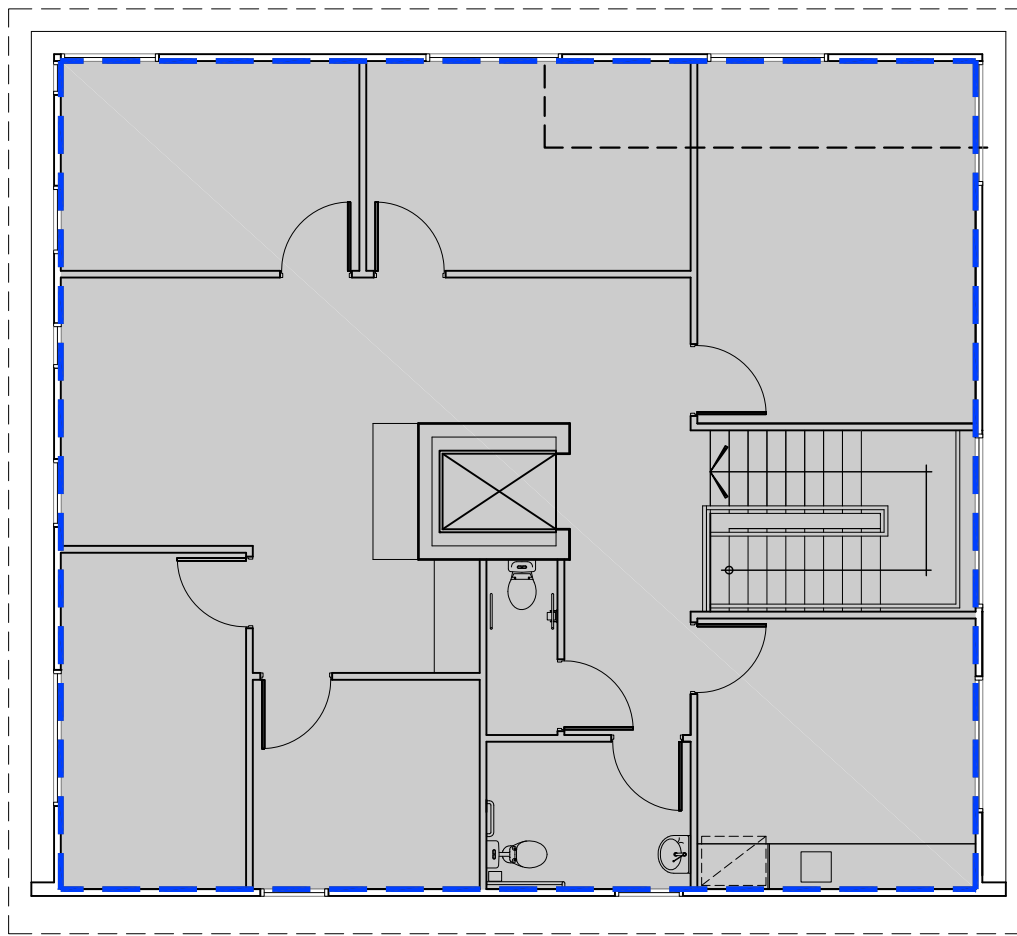
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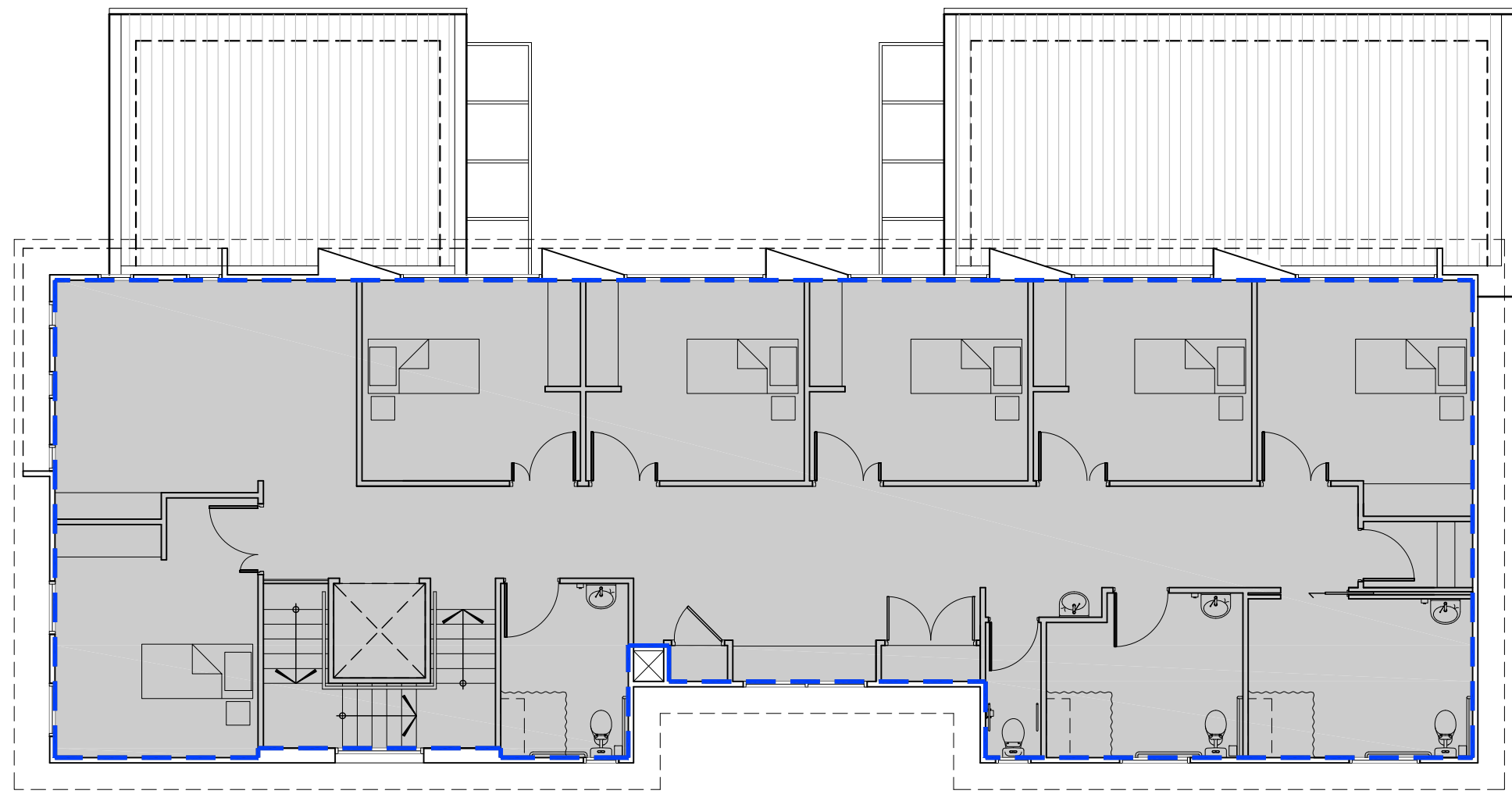
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A: PO Box 459
Fairy Meadow NSW 2519
E: info@illawarradesign.com.au W: illawarradesign.com.au

PROJECT
PROPOSED RESIDENTIAL CARE FACILITY
AND ADMINISTRATION/THERAPY BUILDING
ADDRESS
11 PRINCES HIGHWAY
DAPTO NSW

DRAWING TITLE SITE PLAN			
SCALES 1:100@A1, 1:200@A3	DATE NOV. 2019	JOB No. 816	DRAWING No. A03
DRAWN EB	STATUS DA	ISSUE. B	



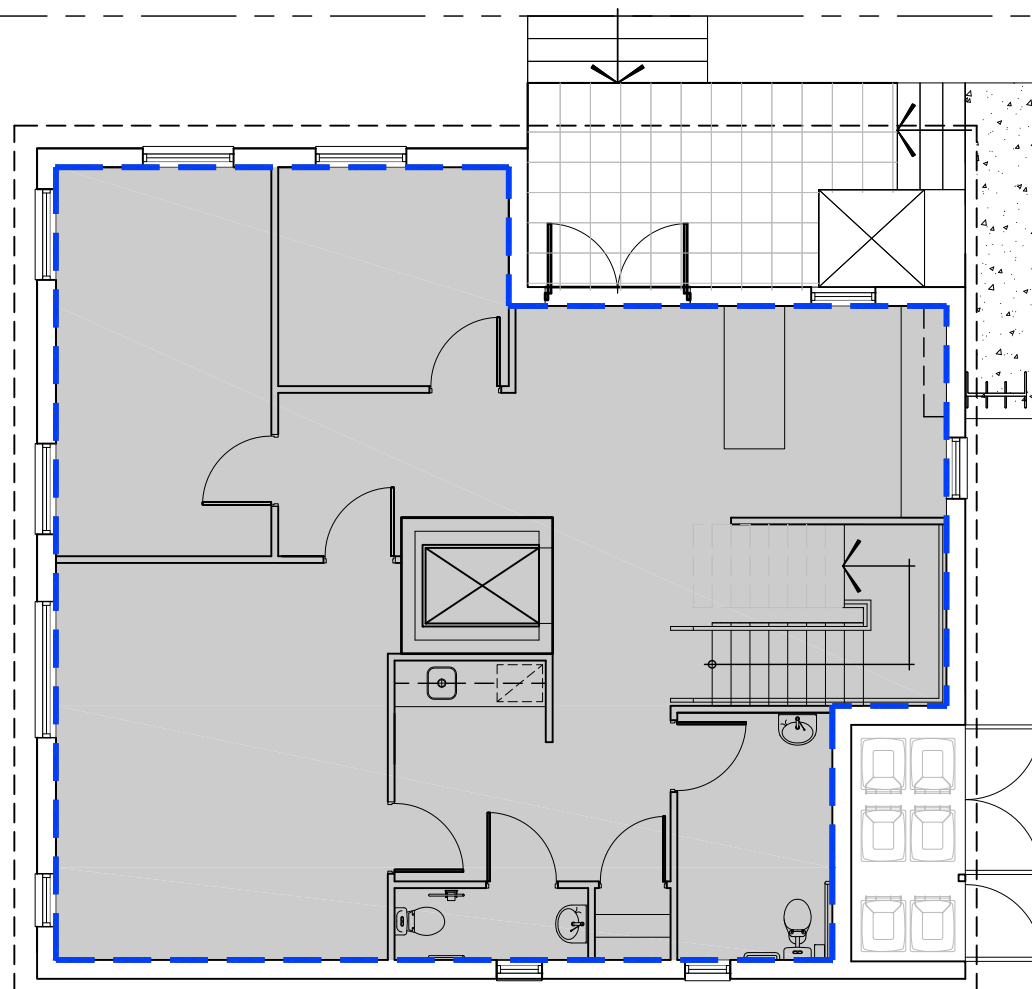
FIRST FLOOR LEVEL
132.5sqm



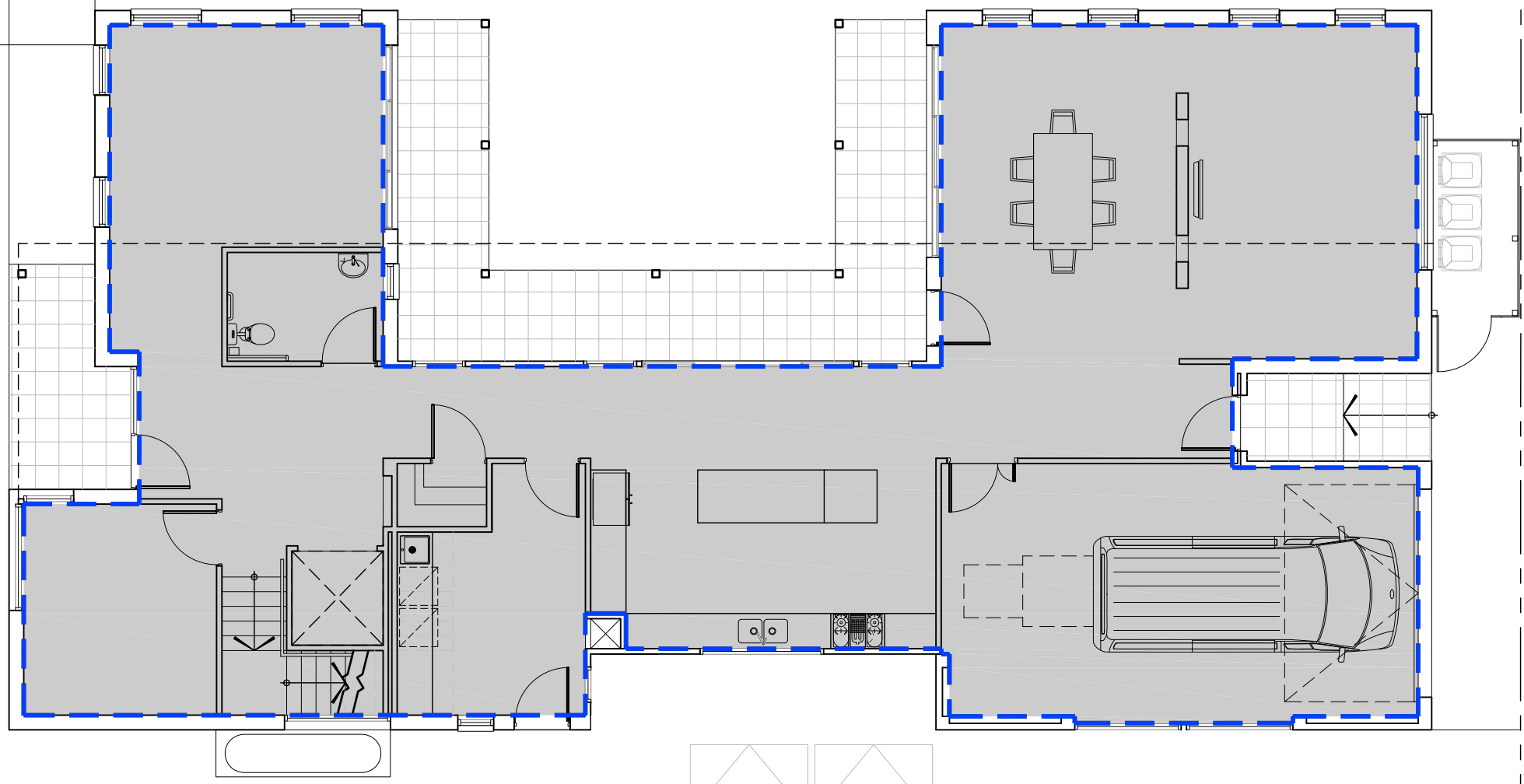
FIRST FLOOR LEVEL
185.4sqm

ADMIN. BUILDING GFA - 240.0sqm
RESPITE BUILDING GFA - 382.5sqm
(no garage concession)

TOTAL GFA = 622.5sqm



GROUND FLOOR LEVEL
107.5sqm



GROUND FLOOR LEVEL
197.1sqm

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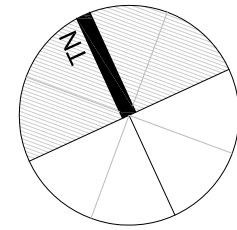
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PROJECT
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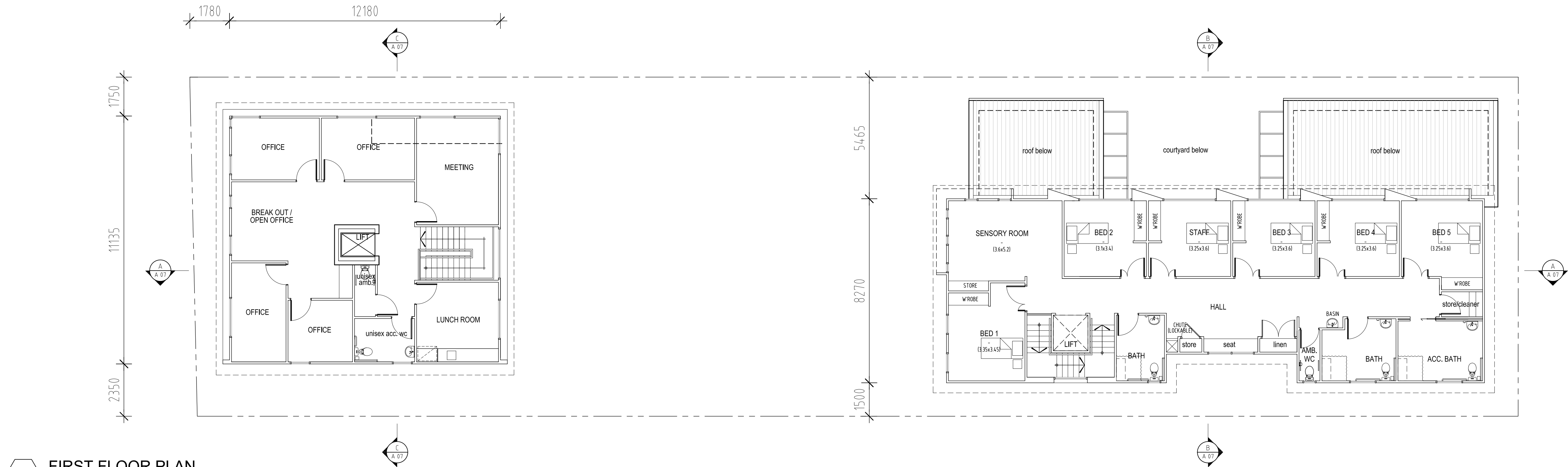
ADDRESS
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DAPTO NSW**

DRAWING TITLE			
GROSS FLOOR AREA (GFA) FLOOR PLANS			
SCALES 1:100@A1, 1:200@A3	DATE NOV. 2019	JOB No. 816	DRAWING No. A05
DRAWN EB	STATUS DA	ISSUE. A	

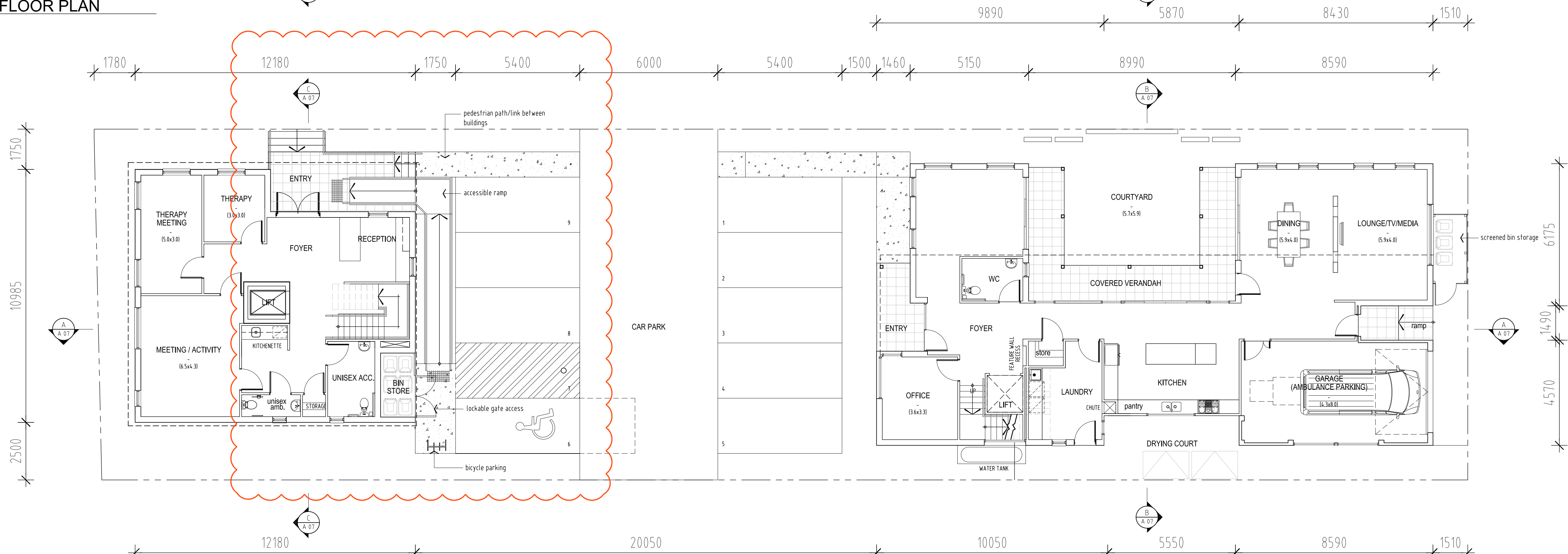


0m 2 4 5 10

DEVELOPMENT APPLICATION



FIRST FLOOR PLAN
1: 100 scale



GROUND FLOOR PLAN
1: 100 scale

REVISION	DESCRIPTION	DATE
P1	PRELIMINARY, FOR REVIEW	10.12.2019
A	DEVELOPMENT APPLICATION	25.02.2020
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PROJECT
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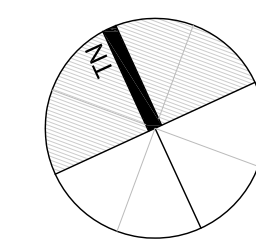
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FLOOR PLANS

SCALES
1:100@A1, 1:200@A3
DRAWN
EB

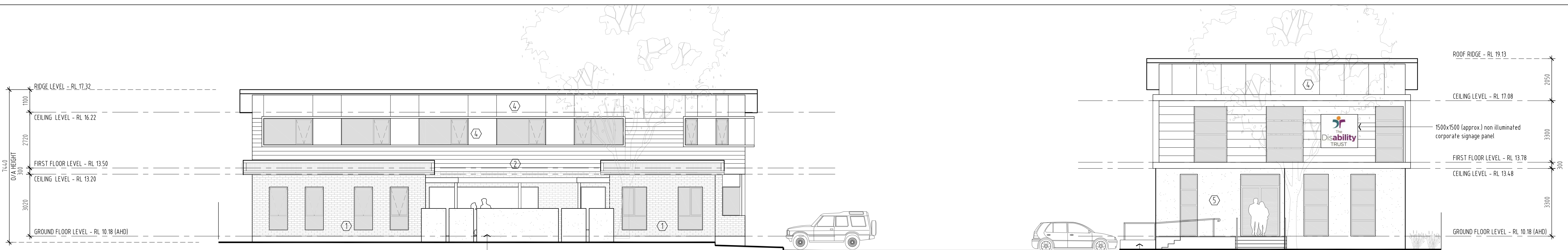
DATE
STATUS
DA

JOB No.
816
ISSUE.
B

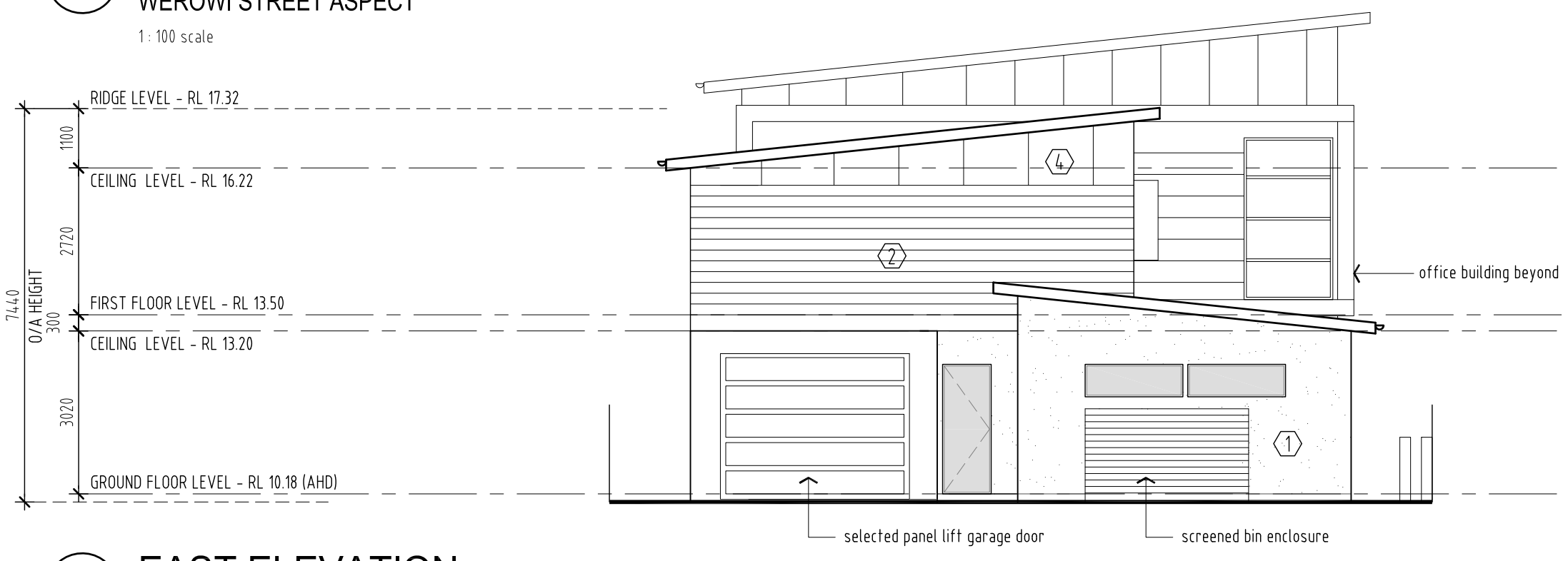
DRAWING No.
A06



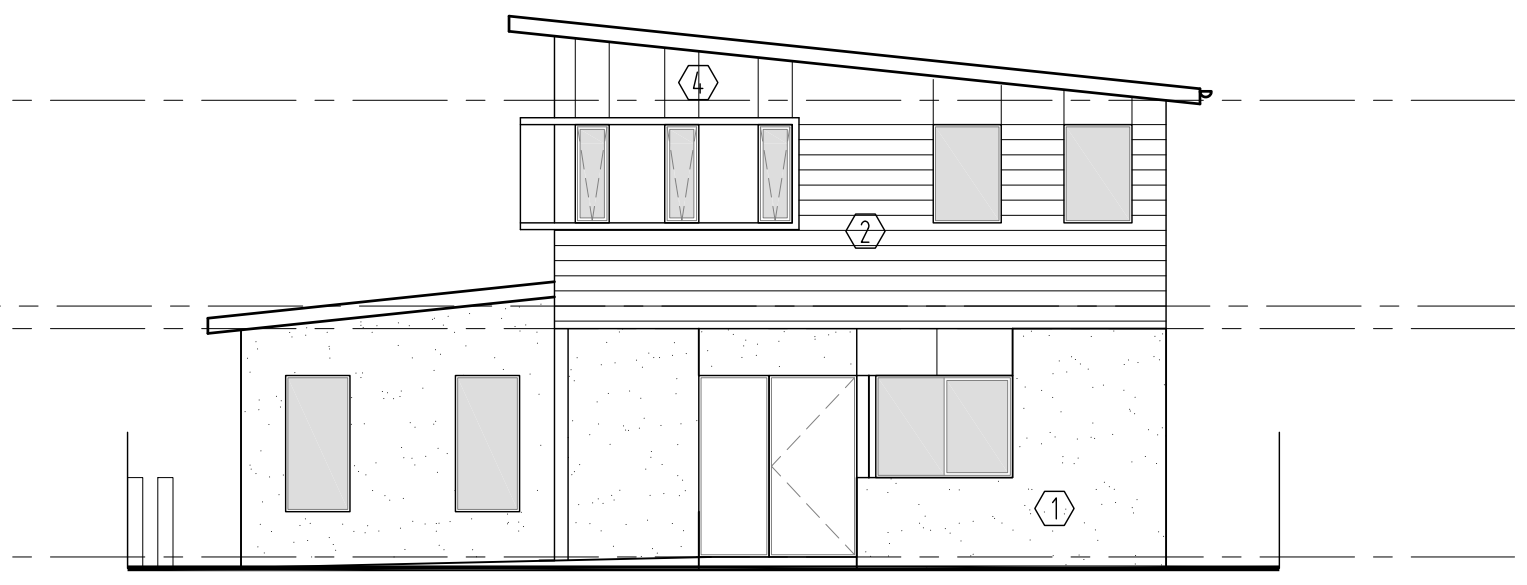
DEVELOPMENT APPLICATION



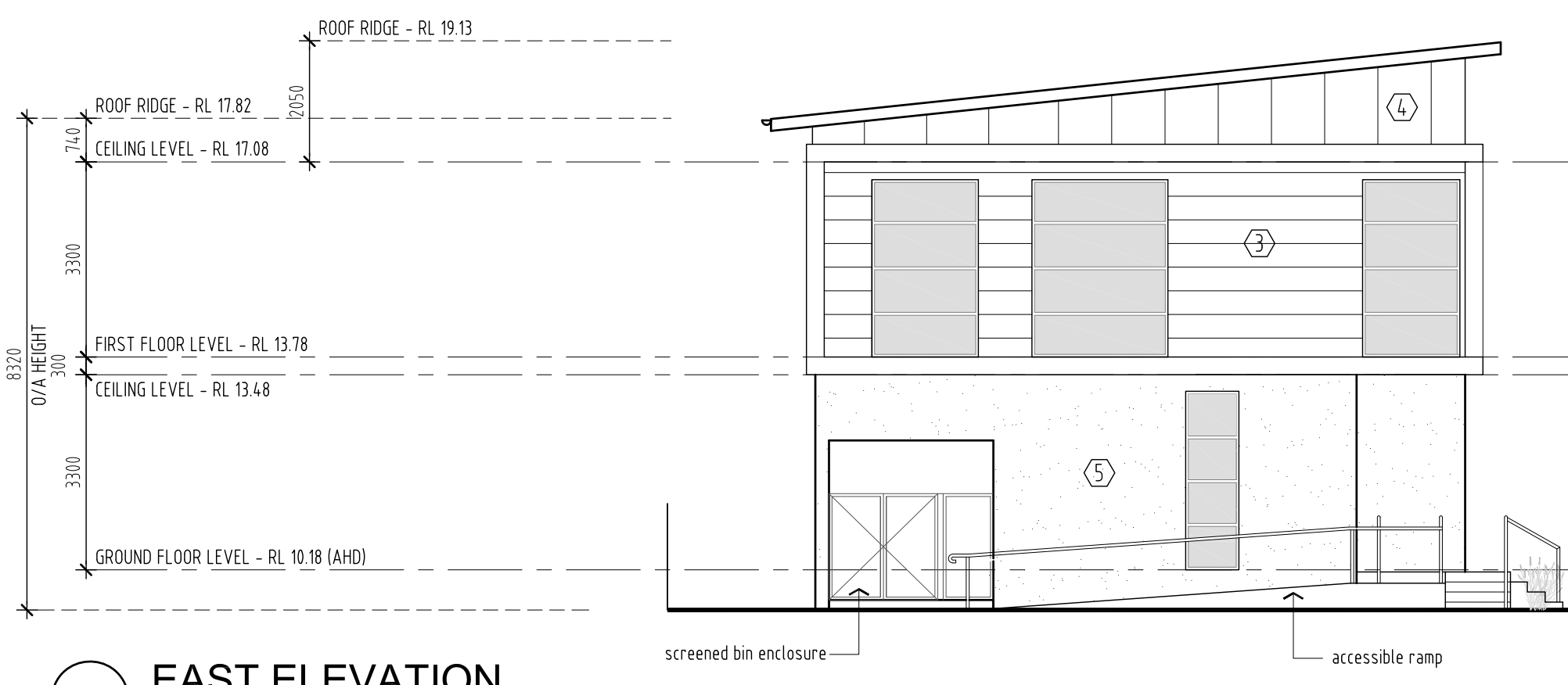
NORTH ELEVATION
WEROWI STREET ASPECT
1: 100 scale



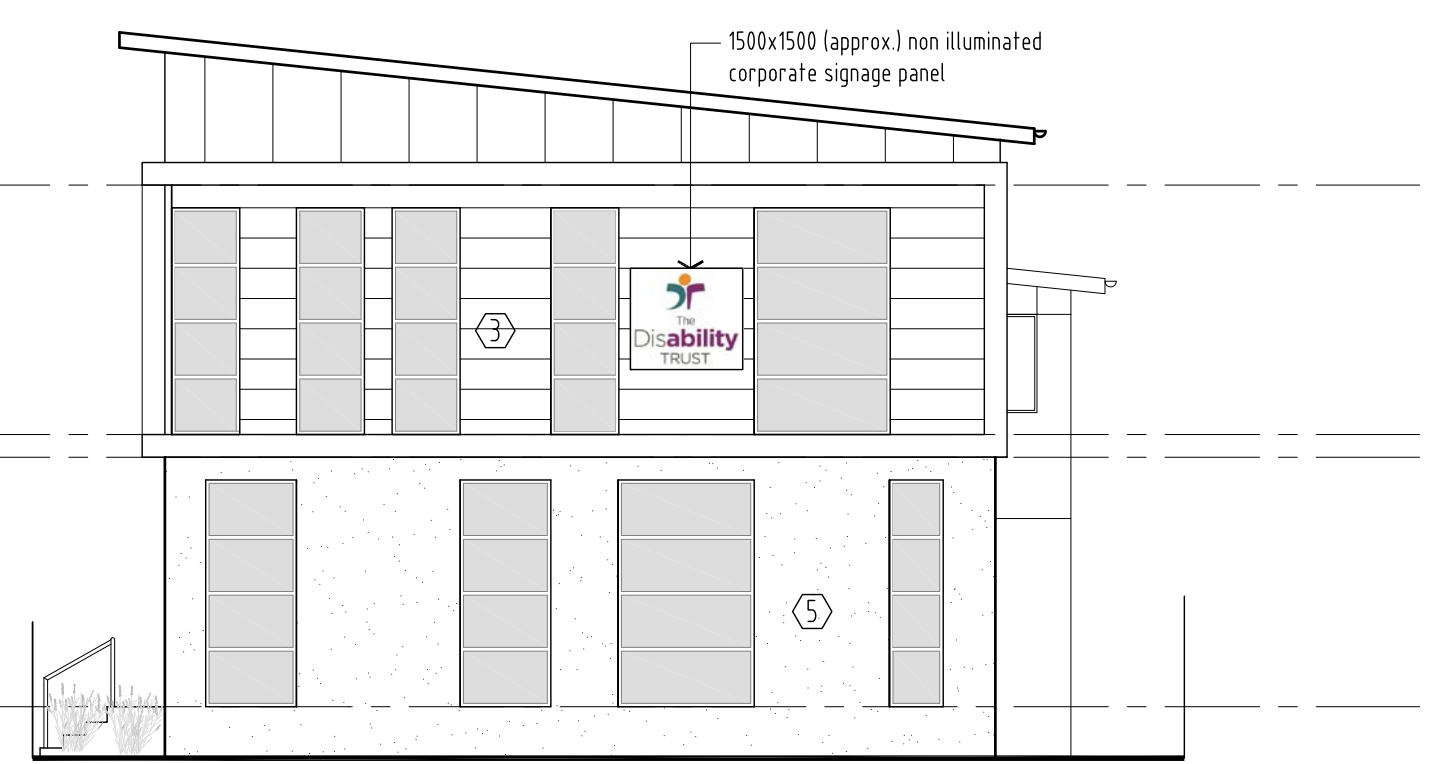
EAST ELEVATION
RESPITE BUILDING - LANE ASPECT
1: 100 scale



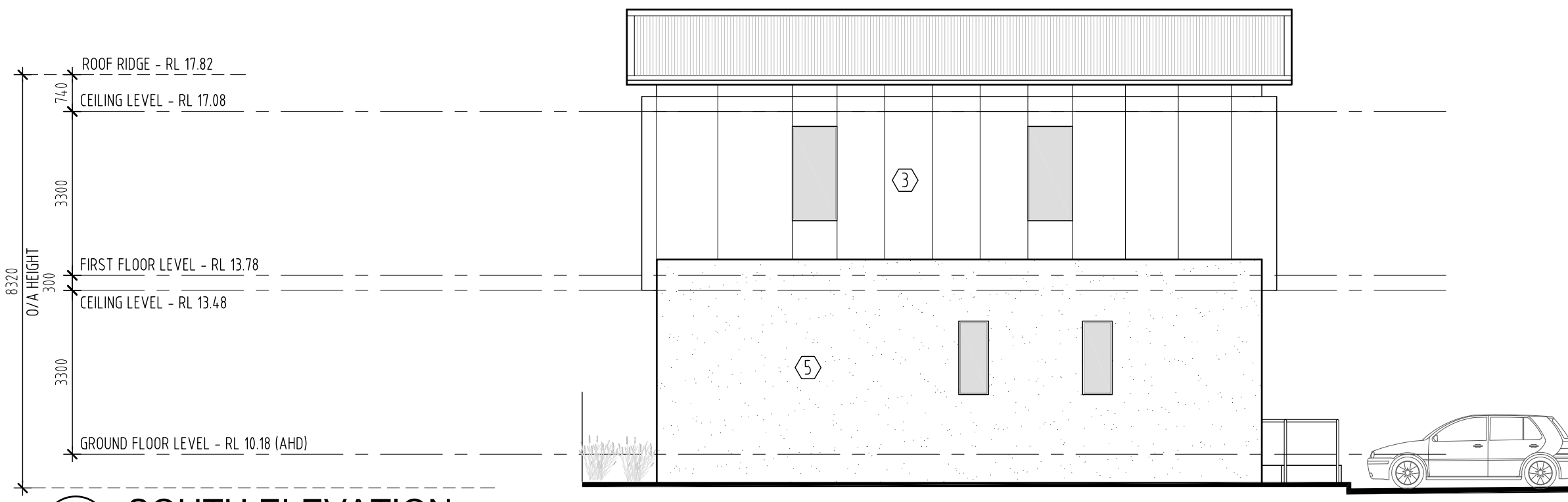
WEST ELEVATION
RESPITE BUILDING - CARPARK ASPECT
1: 100 scale



EAST ELEVATION
ADMINISTRATION BUILDING - CARPARK ASPECT
1: 100 scale



WEST ELEVATION
ADMINISTRATION BUILDING - PRINCES HIGHWAY ASPECT
1: 100 scale



SOUTH ELEVATION

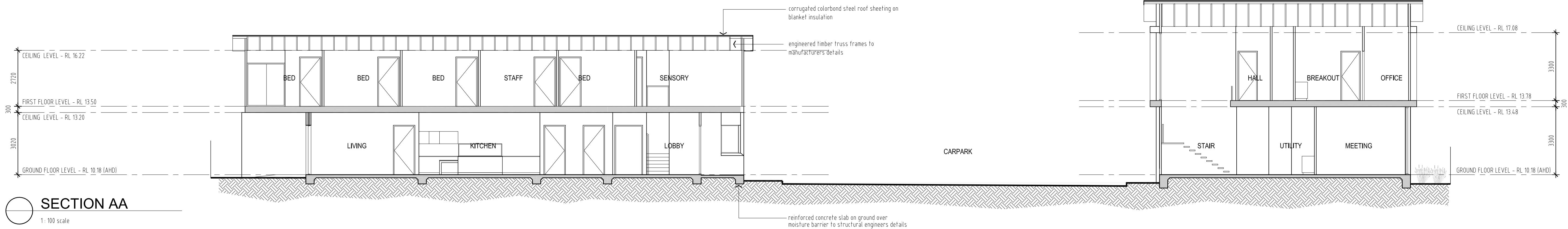
EXTERNAL FINISHES

- ① FACE BRICK - PGH MANHATTAN TRIBECA
- ② CLADDING: SCYON linea - "WHITE" LEXICON QUARTER
- ③ CLADDING: SCYON STRIA 405 WIDE - "WHITE" LEXICON
- ④ CLADDING: SCYON matrix - DULUX MONUMENT - WINDOW SURROUNDS
- ⑤ RENDER + PAINTED MASONRY - "DULUX 'RAKU'"
- ⑥ COLORBOND ROOFING - SHALE GREY

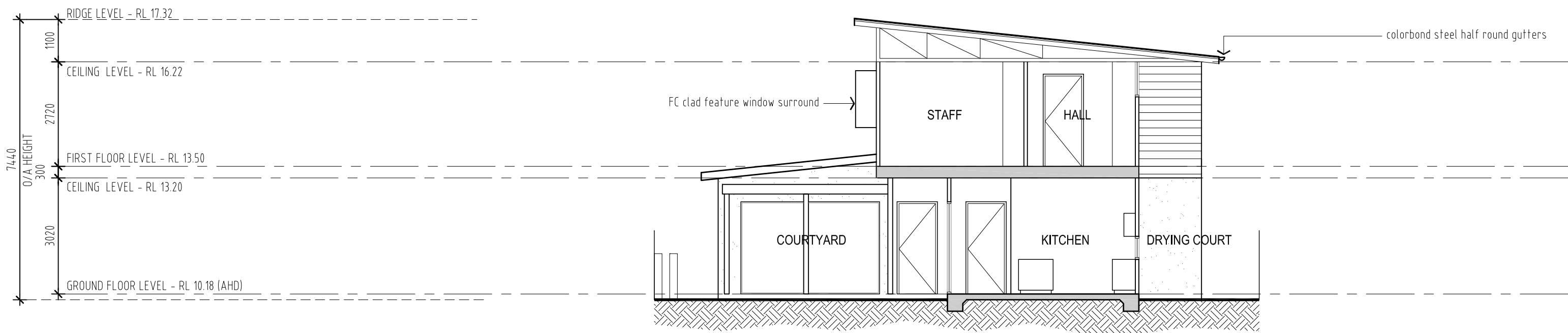
DEVELOPMENT APPLICATION

REVISION	DESCRIPTION	DATE				
P1	PRELIMINARY - FOR REVIEW	10.12.2019				
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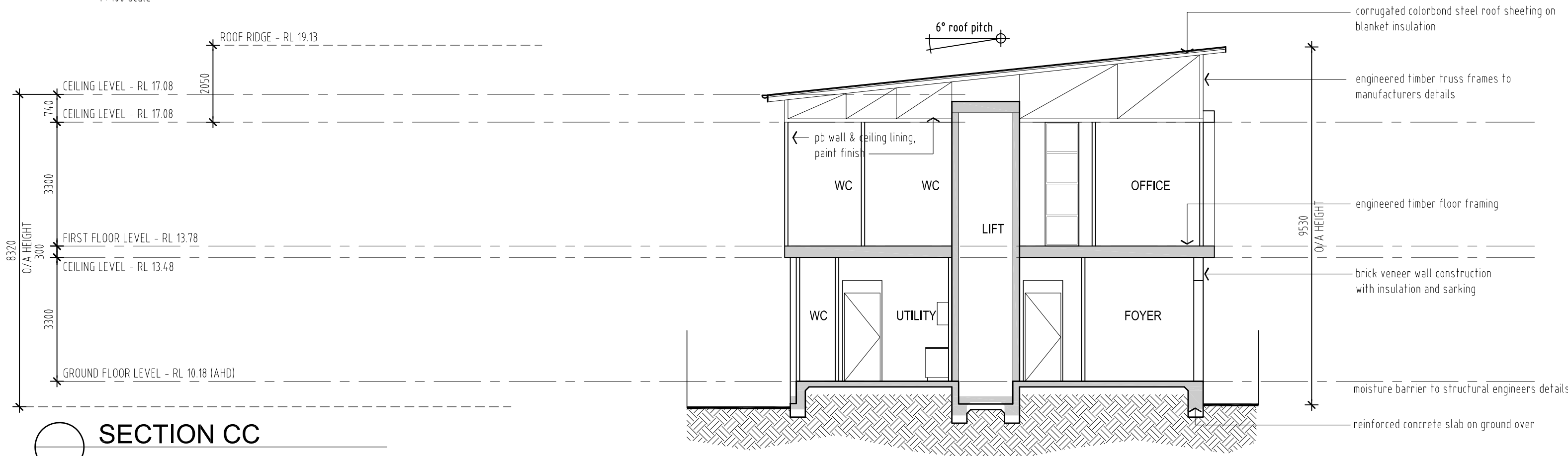
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SECTION AA
1 : 100 scale



SECTION BB
RESPITE BUILDING
1 : 100 scale



SECTION CC
ADMINISTRATION/THERAPY BUILDING
1 : 100 scale

DEVELOPMENT APPLICATION

REVISION	DESCRIPTION	DATE
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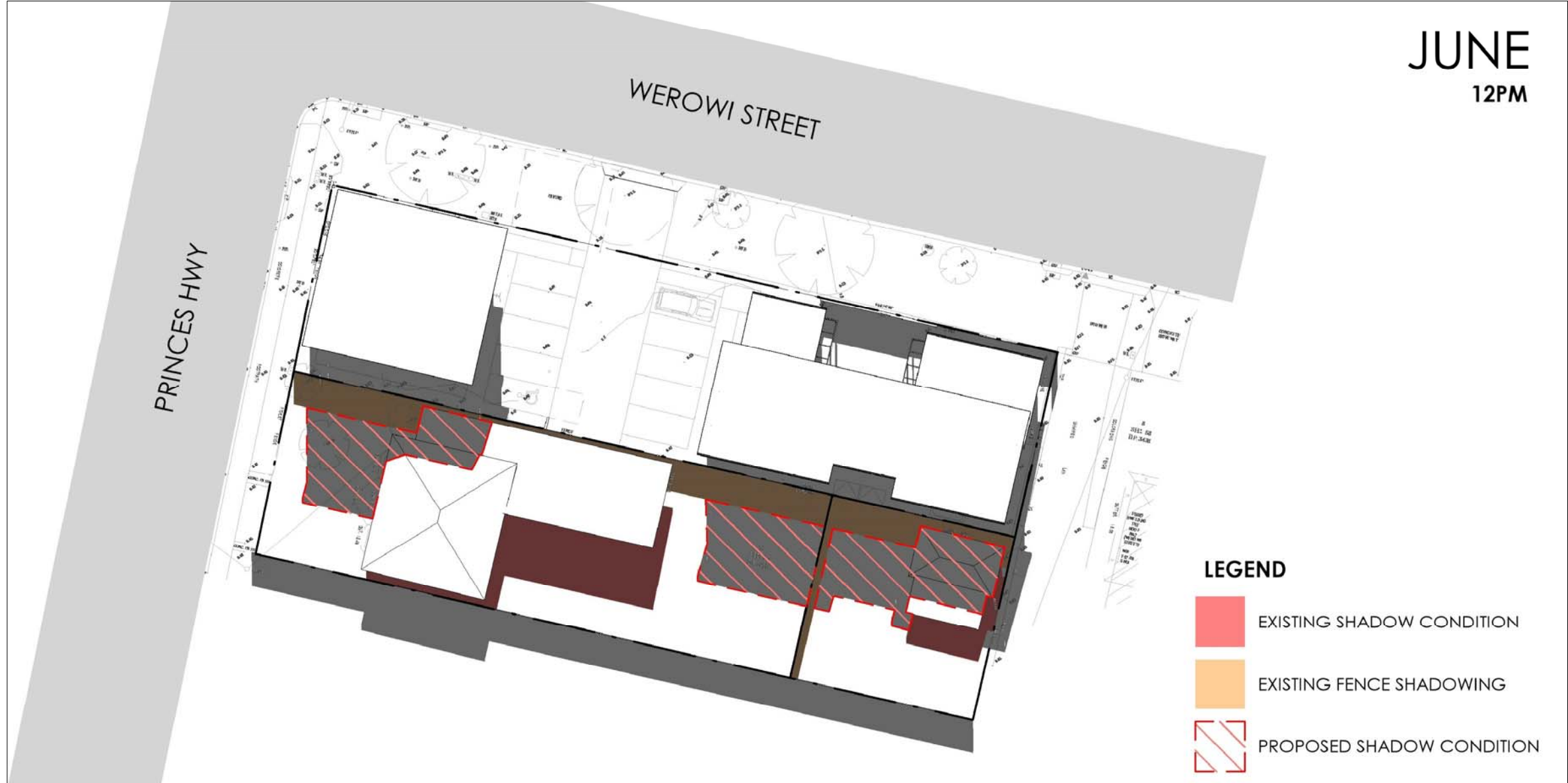
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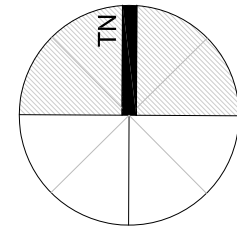
PROJECT
**PROPOSED RESIDENTIAL CARE FACILITY
AND ADMINISTRATION/THERAPY BUILDING**
ADDRESS
**11 PRINCES HIGHWAY
DAPTO NSW**

DRAWING TITLE			
SECTIONS			
-			
SCALES 1:200@A1, 1:400@A3	DATE NOV. 2019	JOB No. 816	DRAWING No. A08
DRAWN EB	STATUS DA	ISSUE. A	



SHADOW DIAGRAMS - WINTER SOLSTICE

1 : 200 scale



DEVELOPMENT APPLICATION

REVISION	DESCRIPTION	DATE
A	DEVELOPMENT APPLICATION	12.02.2020



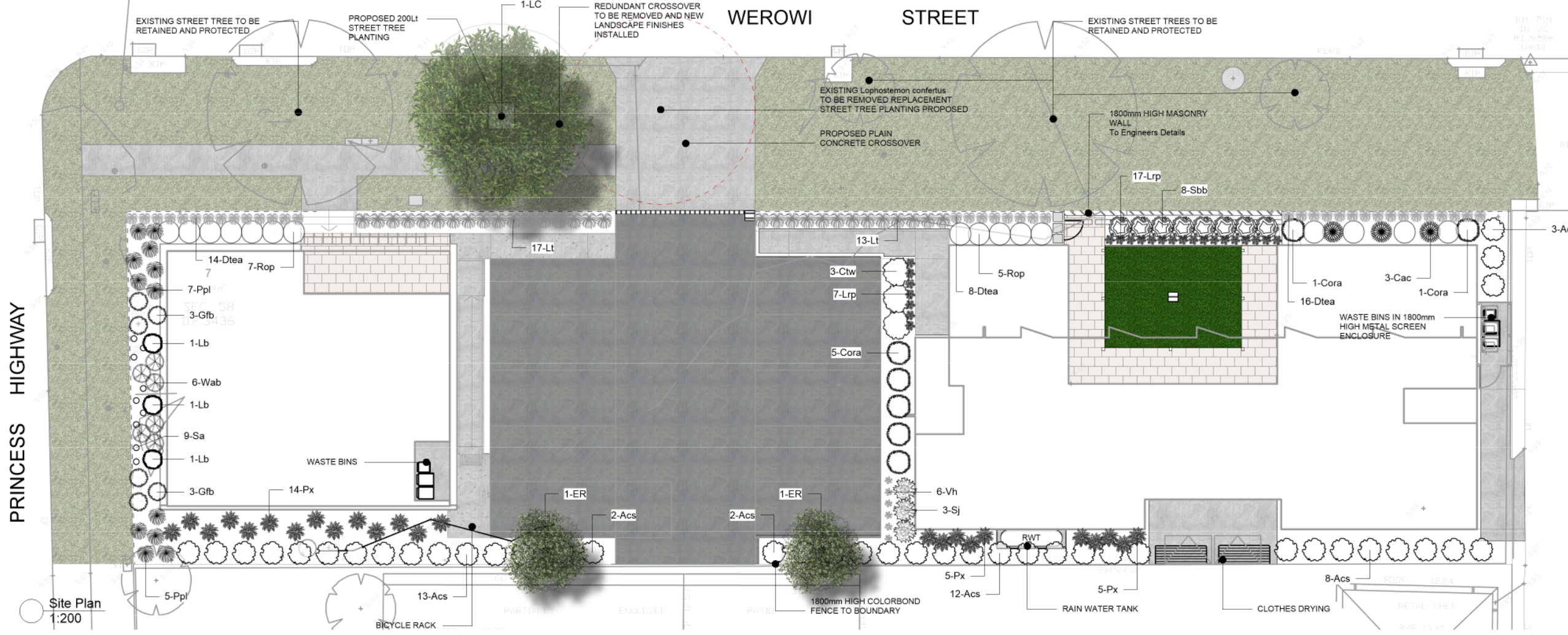
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AND ADMINISTRATION/THERAPY BUILDING**
ADDRESS
**11 PRINCES HIGHWAY
DAPTO NSW**

DRAWING TITLE			
SHADOW DIAGRAMS			
-			
SCALES	DATE	JOB No.	DRAWING No.
1:100@A1, 1:200@A3	NOV. 2019	816	A09
DRAWN	STATUS	ISSUE.	
EB	DA	A	



PRINCESS HIGHWAY

WEROWI STREET

LEGEND

EXISTING TREES TO BE RETAINED AND PROTECTED

EXISTING TREES TO BE REMOVED ON APPROVAL

COLOURED CONCRETE

PLAIN CONCRETE

PAVING / TILES

STONE FLAGGING

EXISTING TURF AREAS

ARTIFICIAL TURF AREAS

STEPPING PADS

WASTE BIN STORAGE

CLOTHES DRYING AREA

PROPOSED GATES

DRIANAGE PITS / TRENCH GRATINGS
Refer to Drainage Plans

3	17/6/20	Issue RevB	WL
2	16/1/20	Issue RevA	WL
1	27.2.19	Issue for DA	WL
ISSUE	DATE	ISSUE NOTE	BY

LANDSCAPE CALCULATIONS:

GARDEN AREAS

= 188.6m²

TURF AREAS

= 25.8m²

TOTAL

= 214.4m²

B	17/6/20	Addition of disability ramp	RC
A	16/1/20	Revised site plan	RC
REVISION	DATE	REVISION NOTE	BY

NOTES



Werowi Street Elevation
1:250

Indicative Planting Schedule						
ID	Qty	Common Name	Botanical Name	Scheduled Size	Mature Height	Mature Spread
Trees						
ER	2	Blueberry Ash	Elaeocarpus reticulatus	75Lt	6m	4m
LC	1	Brush Box	Lophostemon confertus	200Lt	15m	10m
Shrubs						
Acs	40	Lilly Pilly	Acemia smithii 'Cherry Surprise'	200mm	1.5m	1m
Ctw	3	Mexican Orange Blossom	Choisya ternata 'White Dazzler'	200mm	1.2m	1.2m
Cora	7	White Correa	Correa alba	200mm	0.9 - 1.5m	0.9 - 1.2m
Gfb	6	Grevillea	Grevillea 'Fire Cracker'	200mm	0.4m	0.8m
Lb	3	Cushion Bush	Leucophyta brownii	200mm	1m	1.2m
Px	24	Xanadu Philodendron	Philodendron 'Xanadu'	200mm	0.5-0.8m	0.8-1m
Rop	3	Indian Hawthorn	Raphiolepis 'Oriental Pearl'	200mm	1m	1m
Sj	3	Narrow-leaved Bird of Paradise	Strotilzia juncea	400mm	1.2 - 2m	1m
Sbb	8	Lilly Pilly	Syzygium 'Backyard Bliss'	200mm	3m	1m
Wab	6	Coastal Rosemary	Westringia fruticosa 'Aussie Box'	200mm	0.8m	0.8m
Ground Covers						
Sa	9	Blue Fanflower	Scaevola aemula	150mm	0.45 - 0.6m	0.0 - 0.3m
Vh	6	Native Violet	Viola hederacea	150mm	0.3m	0.5m
Grasses						
Dtea	38	Daniella	Daniella Tasmanica 'Emerald Arch'	150mm	0.55m	0.55m
Lt	30	Spiny-headed mat rush	Lomandra longifolia 'Tanika'	150mm	0.45 - 0.6m	0.6 - 0.9m
Ppl	12	Foxtail Grass	Pennisetum alopecuroides 'Purple Lea'	150mm	0.8-0.9m	0.8-0.9m
Perennials						
Cac	3	Cordylone	Cordylone australis 'Cabernet'	200mm	1.5 - 3m	0.9 - 1.2m
Lrp	24	Royal Purple Lily Turf	Liloe muscari 'Royal Purple'	150mm	0.3 - 0.45m	0.3 - 0.6m

PROJECT

Propoed Day Respite & Office Building

ADDRESS

No 11 Princess Hwy Dapto NSW

CLIENT

Disability Trust

DRAWING

Landscape Concept Plan

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

PROJECT #

1582

DWG STATUS

DWG DATE

21.2.19

CAD FILE NAME

1582 - Landscape RevB.vwx

PLOT DATE

26.2.19

DWG #

REVISION

ORIGINAL SHEET SIZE

A3

SCALE @ A3

1:200

DRAWN

RC

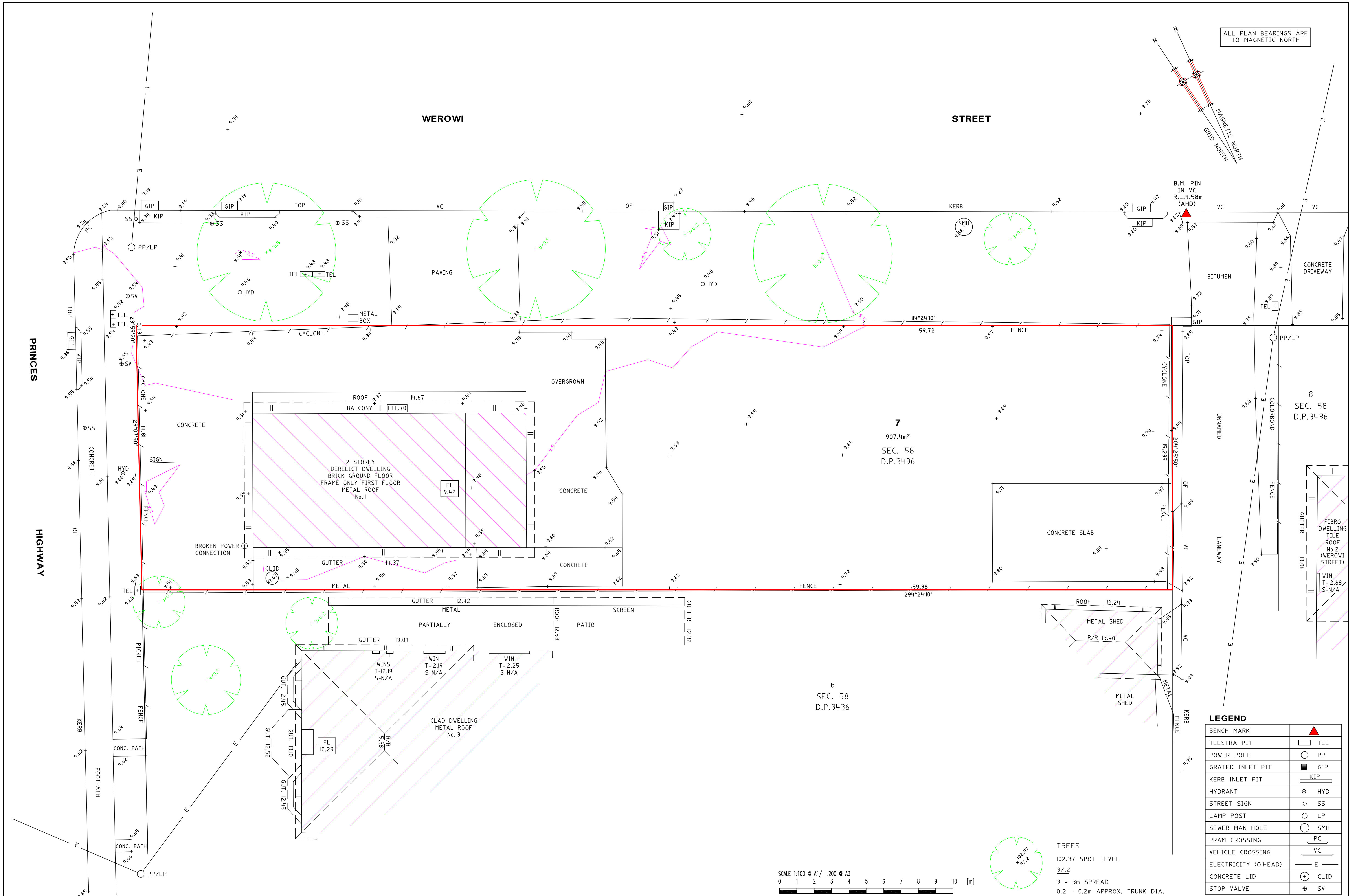
CHKD

RC

DA-1582/1

OF 1

For Development Application Only



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NOTES
1. NO INVESTIGATION OF UNDERGROUND SERVICES OR BUILDING FOOTINGS HAS BEEN UNDERTAKEN IN PREPARATION OF THIS SURVEY.
2. ORIGIN OF LEVELS BY G.N.S.S. SURVEY
ORIGIN OF LEVELS PM0140 R.L.10.144m (AHD) BY SCIMS, DATED 11TH OCTOBER 2017.
3. ALL BUILDING AND FENCING INFORMATION IS APPROXIMATE ONLY.
4. TREE SIZES ARE ESTIMATES ONLY.
5. DATE OF SURVEY 12TH OCTOBER 2017.



UNDERGROUND SERVICES SEARCH SHOULD BE UNDERTAKEN PRIOR TO ANY EXCAVATION TAKING PLACE UPON THE SITE

TITLE:
**SITE ANALYSIS SURVEY OVER
LOT 7, SEC. 58 IN D.P.3436
BEING No. 11 PRINCES HIGHWAY
DAPTO**



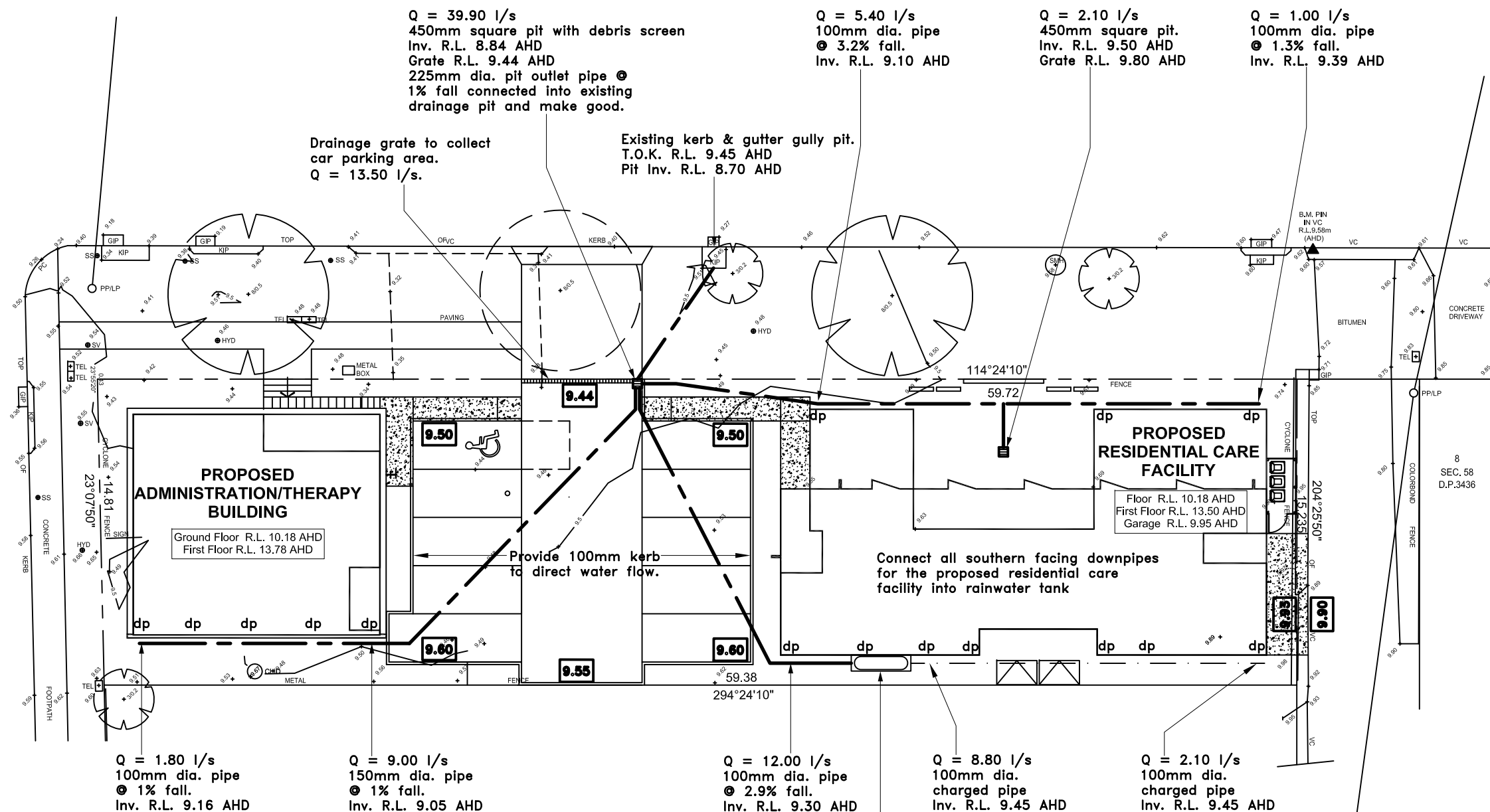
Incorporating VW Cochrane & Assoc.
Land Surveyors
www.surveying.com.au

**Wollongong 4284 9922
Sydney 9548 1338
Fax 4284 9986
Email: info@surveying.com.au**

CLIENT:	ILLAWARRA DESIGN COMPANY	NOTES:	0.5m CONTOURS
LEVEL DATUM:	A.H.D.	DRAWN BY:	M.S./L.S.
SURVEY BY:	M.S.	SHEET	I
DRAWING No.	17-324P1	OF	17TH OCTOBER 2017
SCALE	1:100@A1 1:200@A3	I SHEETS	



Roof gutter and downpipes have been designed for 20 year ARI 5 min. tc of 217mm/hr. Downpipes to be min. 100mm dia. PVC pipe downpipes as shown. Roof gutter cross sectional area to be min. 7300mm² with a slope of 1:500 or steeper.



Site Details:
Site area = 907.4 m²
Existing impervious area = 813.0 m²
Proposed impervious area = 705.90 m²
OSD is not required as the increase in impervious area is less than 100 m².

— Charged pipeline
— Proposed pipeline
dp — Proposed downpipe

NOTES:
All levels and dimensions are in (m) U.N.O.
Runoff is calculated using Rational Formula with time of concentration of 5 min. and 20 year ARI. Rainfall intensity is 217 mm/hr. Existing levels are shown as contours. Drainage design complies with AS3500.

CONCEPT DRAINAGE PLAN

Rainwater tank & outlet pipeline.
Q = 10.40 l/s
100mm dia. pipe @ 2.6% fall.
Base of tank. R.L. 9.72 AHD
Top of tank. R.L. 11.52 AHD
Pipe Inv. R.L. 9.42 AHD

All drainage pipelines are min. 100mm dia. @ 1% fall. U.N.O.

Ensure all drainage pipelines have min. 100mm cover from the top of the pipe to the finished ground level or to the underside of the concrete driveway. Any pipelines that have less than 100mm of cover to the underside of the concrete driveway/slab must be galv. steel pipelines.

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			DRAWN S.A.H.	DATUM A.H.D
			CHECKED	SCALE 1:250
			DATE 02/2019	SHEET OF 2 3
			JOB No. 19/043	REVISION 2



Arboricultural Impact Assessment Report

For the site address

Lot 7, Section 58 (D.P. 3436)
No. 11 Princes Highway
DAPTO, NSW

Prepared for

Illawarra Design Company
PO Box 459
Fairy Meadow NSW 2519

AUTHOR

Warwick Varley

STATUS

Final October 2018

REFERENCE

D3558

OFFICE

A PO Box 456, WOLLONGONG NSW 2520
P 1300 767 414
E admin@alliedtrees.com.au
W www.alliedtrees.com.au

TABLE OF CONTENTS

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2.0 STANDARDS	1
3.0 DISCLOSURE STATEMENT	2
4.0 METHODOLOGY	2
5.0 PLAN 1 - TREE LOCATION	5
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7.0 TREE PROTECTION	12
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9.0 SUMMARY OF TREE IMPACT	14
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1.0 Introduction

- 1.1** The following Arborist report has been requested by the *Illawarra Design Company* for the development proposal at No. 11 Princes Highway, Dapto. This development includes the construction of a residential dwelling development. This report includes five trees located adjacent to the lot and discusses the viability of these trees based on the proposed works.
- 1.2** This report will address for these trees, the:
- species' identification, location, dimensions, and condition;
 - SULE (Safe Useful Life Expectancy) and STARS (Significance of a Tree Assessment Rating System) rating;
 - discussion and impact of the proposed works on each tree;
 - recommendations for the removal, retention and/or pruning;
 - tree protection zones and protection specifications for trees recommended for retention.
- 1.3** The subject site resides within Dapto; for this reason, Wollongong City Council is the consenting authority for any tree works recommended in this report.

2.0 Standards

- 2.1** Allied Tree Consultancy provides an ethical and unbiased approach to all assignments, possessing no association with private utility arboriculture or organisations that may reflect a conflict of interest.
- 2.2** This report must be made available to all contractors during the tendering process so that any cost associated with the required works for the protection of trees can be accommodated.
- 2.3** **It is the responsibility of the project manager to provide the requirements outlined in this report relative to the Protection Zones, Measures (Section 7.0) and Specifications (Section 8.0) to all contractors associated with the project before the initiation of work.**
- 2.4** All tree-related work outlined in this report is to be conducted in accordance with the:
- Australian Standard – AS4373; Pruning of Amenity Trees.
 - Guide to Managing Risks of Tree Trimming and Removal Work¹.
 - All tree works must be carried out at a tertiary level (minimum Certificate-level 3) qualified and experienced (minimum five years) arboriculturist.
 - For any works in the vicinity of electrical lines, the arboriculturist must possess the ISSC26 endorsement (Interim guide for operating cranes and plant in proximity to overhead powerlines).

¹ Safe Work Australia; July 2016; Guide to Managing Risks of Tree Trimming and Removal Work, Australia

2.5 As a minimum requirement, all trees recommended for retention in this report must have removed all dead, diseased, and crossing limbs and branch stubs to be pruned to the branch collar. This work must comply with the local government tree policy (Wollongong City Council) and Section 2.4.

2.6 Any tree stock subject to conditions for works carried out in this report must be supplied by a registered Nursery that adheres to the AS 2303; 2015².

- All tree stock must be of at least 'Advanced' size (minimum 75lt) unless otherwise requested.
- All tree stock requested must be planted with adequate protection. This may include tree guards (protect stem and crown) and if planted in a lawn area, a suitable barrier (planter ring) of an area, at least, 1m² to prevent grass from growing within the area adjacent to the stem.

3.0 Disclosure Statement

Trees are living organisms and, for this reason, possess natural variability. This cannot be controlled. However, risks associated with trees can be managed. An arborist cannot guarantee that a tree will be safe under all circumstances, nor predict the time when a tree will fail. To live or work near a tree involves some degree of risk, and this evaluation does not preclude all the possibilities of failure.

4.0 Methodology

4.1 The following tree assessment was undertaken using criteria based on the guidelines laid down by the International Society of Arboriculture.

4.2 The format of the report is summarised below;

4.2.1 Plan 1; Tree Location Relative to Site: This is an unscaled plan reproduced from the Survey Plan as referenced in Section 4.4.1, depicting the area of assessment.

4.2.2 Table 1; This table compiles the tree species, dimensions, brief assessment (history, structure, pest, disease or any other variables subject to the tree), significance, allocation of the zones of protection (i.e., Tree Protection Zone³; TPZ and Structural Root Zone; SRZ) for each tree illustrated in Plan 1, Section 5.0. All measurements are in meters. An 'Action' is included and provides the nomination for retention/removal based on the tree location relative to the proposed design (drawing set, Section 4.4.2).

4.2.3 Discussion relating to the site assessment and proposed works regarding the trees.

² Australian Standard; 2015, AS2303, Tree stock for landscape use, Australia

³ Australian Standard, 4970; 2009 – Protection of Trees on Development Sites, Australia

4.2.4 Protection Specification; This Section (Section 8.0) details the requirements for that area designated as the Tree Protection Zone (TPZ), for those trees recommended for retention.

4.3 The opinions expressed in this report, and the material, upon which they are based, were obtained from the following process and data supplied:

4.3.1 Site assessment on the 26th October 2018 using the method of the Visual Tree Assessment⁴. This has included a Level 2 risk assessment, being a *Basic Assessment*⁵. The assessment has been conducted by Warwick Varley⁶ on behalf of *Allied Tree Consultancy*.

4.3.2 Trees included in this report are those that are 3m or greater in height.

4.3.3 All measurements, unless specified otherwise are taken from the tree centre.

4.3.4 Raw data from the preliminary assessment including the specimen's dimensions was compiled by the use of a diameter tape, height clinometer, angle finder, compass, steel probes, Teflon hammer, binoculars and recording instruments.

4.4 Documentation provided

The following documentation has been provided to Allied Tree Consultancy and utilised within the report.

4.4.1 Surveyor

Drawn by *JRK Surveys P/L*

Date: 17 October 2017

Reference: 17-324P1

Drawing No: Sheet 1 of 1

Note 1: See Section 4.5.1

4.4.2 Design

Drawn by *Illawarra Design Company P/L*

Date: February 2018

Reference: 816

Drawing No: A03 and A05 (issue A)

4.5 Limitations of the assessment/discussion process

4.5.1 Tree no. 5 has been omitted from the plans provided, however, is required for inclusion because it conforms to the definition of a prescribed tree within the local government tree policy. The tree

⁴ Mattheck, C. Breloer, H., 1994, The Body Language of Trees – A handbook for failure analysis
The Stationary Office, London

⁵ Dunster J.A., 2013, Tree Risk Assessment Manual, International Society of Arboriculture, 2013, USA

⁶ Consulting Arborist, Graduate Certificate and Diploma of Arboriculture (level 8 and 5)

location has been plotted onto the Plan 1 by *Allied Tree Consultancy*. The tree location was established by measuring from known points and scaling onto the drawing. *Allied Tree Consultancy* is not a registered surveyor and, however, the accuracy of the survey is attempted; the true position of this tree may marginally deviate. Any such deviation provides the potential for changing the actual impact (encroachment) provided to a tree.

- 4.5.2** The assessment has considered only those target zones that are apparent to the author and the visually apparent tree conditions, during the time of assessment.
- 4.5.3** Any tree regardless of apparent defects would fail if the forces applied to exceed the strength of the tree or its parts, for example, extreme storm conditions.
- 4.5.4** The assessment has been limited to that part of the tree which is visible, existing from the ground level to the crown. Root decay can exist and in some circumstances provide no symptoms of the presence. This assessment responds to all the symptoms provided by a tree, however, cannot provide a conclusive recommendation regarding any tree that may have extensive root decay that leads to windthrow without the appropriate symptoms.

6.0 Table 1 – Tree Species Data

Terminology/references provided in Appendix A.

Tree No.	Botanical Name Common Name	Height (m)	DBH (m)	Crown Spread (m)	Age	Crown Class	Crown Aspect	Vitality	SULE Rating	STARS Rating	TPZ	SRZ
1	<i>Lophostemon confertus</i> Brush Box	8	0.67	8 x 8	M	D	Sym.	A	A1	HIGH	8.1	2.8
Assessment		This street tree planting presents the habit typical for the urban grown species.									RETAIN See Section 7.1.3	
2	<i>Prunus cerasifera</i> 'Nigra'. Black Cherry Plum	4	0.30	3 x 2	O	D	Sym.	A	A2	LOW	3.6	2.0
Assessment		This street tree planting has partially reverted, where half of the crown is new growth formed from the rootstock. The specimen presents poor form although normal vitality.									RETAIN See Section 7.1.1	
3	<i>Lophostemon confertus</i> Brush Box	8	0.43	7 x 5	M	D	Sym.	B	A2	HIGH	5.2	2.3
Assessment		This street tree planting presents the habit typical for the urban grown species. However, the vitality is less than normal. This is based on the crown density, poor woundwood development and lack of growth striations. New growth is forming, and the reduced vitality may be a short-term state. The cause of the reduced vitality is not obvious, however, may be attributed to the drought, or recent trenching works for an SV valve located in the western side of the TPZ, or compaction related to the existing paved crossover. Recent pruning on the western side has resulted with a stub (100mm in diameter).									REMOVE See Section 7.1.2	
4	<i>Lophostemon confertus</i> Brush Box	9	0.59	10 x 9	M	D	Sym.	B	A1	HIGH	7.1	2.6
Assessment		This street tree planting presents the habit typical for the urban grown species. However the vitality is less than normal, although is not as apparent as Tree No. 3. This is based on the crown density, and lack of growth striations.									RETAIN See Section 7.1.3	

Tree No.	Botanical Name Common Name	Height (m)	DBH (m)	Crown Spread (m)	Age	Crown Class	Crown Aspect	Vitality	SULE Rating	STARS Rating	TPZ	SRZ
5	<i>Cotoneaster sp.</i> Cotoneaster	4	0.25 ^C	6 x 6	O	D	Sym.	A	A2 ^C	MEDIUM	3.0	1.8
Assessment		This neighbouring tree is located in the adjacent lot, No. 13 Princes Highway Dapto. The tree presents the broad dome habit typical for the species. The dripline extends over the fenceline (assumed boundary) by approximately 2m.									RETAIN See Section 7.1.1	

A. Incomplete identification of species due to insufficiently available plant material

B. Diameter taken below 1.4m due to low stem bifurcation

C. estimate due to the overgrown area and/or limited access

D. deciduous species, void of foliage at the time of assessment

E. Level 3 assessment required to determine the accurate rating

7.0 Site Assessment

The area of assessment comprises a rectangular shaped lot located on the corner of the Princes Highway and Werowi Street, and an unnamed laneway extends across the rear (eastern) boundary. The lot appears near level. The lot is void of any structure including vegetation other than the ground cover. The lot has been constructed on in the past, and all structures have been demolished. At the time of assessment, the lot has been used as a construction storage area for the development in progress adjacent to the site, being No. 9 Princes Highway. The verge is grass covered and void of a footpath. A single paved crossover and concrete layback services the property from Weowi Street. The trees No. 1 to 4 are planted street trees. Tree No. 2, does not form part of the initial design related to the streetscape and has likely been planted by the original residents associated with this lot. This tree has a concrete planter ring around the base of the tree as has the tree labeled as A on the plan 1. The street trees No. 1, 3 and 4 form part of an avenue planting of this species, and although some gaps occur throughout Werowi Street, the planting is relatively consistent. The trees labeled as A and B that have been included on the survey drawing (Plan 1) however excluded from this report because of the failure to conform to the description of a prescribed tree based on the Wollongong Councils DCP.

Tree A: trees removed before the assessment

Tree B: trees below 3m in height or less than 100mm in diameter

7.1 Proposed development

The proposed development consists of the construction of a day respite house an office building, drive access, and drainage infrastructure.

Assumption 1: No information exists in the drawings provided in relation to the combined landscaping/ courtyard area located adjacent to the northern boundary. The zones of protection extend into this area by the street trees, Trees No. 1, 3 and 4. Works within this area could significantly increase the encroachment and be detrimental to the tree. To mitigate this encroachment, the following conditions are required;

1. The requirements of the Protection Specification (Section 8.0) are applied to these areas. Any hard surface must be of a permeable construction material to allow water percolation and gas exchange. Existing grades must be retained.

Assumption 2: Trees no. 1-4. The calculations of the zones of protection (TPZ, SRZ) are based on the arbitrary formulae provided in the AS 4970, and this document provides scope for modifying this zone, however with supporting evidence. The kerb/road provides an area that does not support strong root

growth and can act as a barrier or partial barrier, therefore reducing root extension into the area where the TPZ appears to extend into. Therefore suggesting an asymmetrical root zone can exist, which to compensate for the reduced root extension into the roadway will instead offer a higher root density in the verge and front yard of the lot. Therefore any works that encroach into the area of the TPZ that exists within the lot could have more impact than the figure that has been nominated.

This report discusses the impact of the proposed design on the trees. Five (5) trees have been listed within this report based upon the vicinity of the lot. This has included street and neighbouring trees where any part of the zones of protection (TPZ, SRZ) to encroach into the lot. Recommendations based on the tree significance and condition, together with the impact on these trees regarding the development for this lot follow.

7.1.1 Trees and zones of protection (TPZ/SRZ) outside of the proposed design

Trees no. 2 and 5

None of the proposed works conflict with the location of these trees or respective zones of protection. These trees can be retained without impact by the proposed design.

Tree No. 2 provides poor form and could be removed based on Wollongong Councils discretion.

7.1.2 Trees directly conflicting with the design

Tree no. 3

This tree is located in the footprint of the proposed design and would require removal based on this premise alone. The conflict is summarised as follows;

Tree no. 3; within the footprint of the proposed crossover.

7.1.3 Trees subject to a minor encroachment

Trees No. 1 and 4

This tree is not directly located in the footprint of the proposed design. However, it is subject to a *minor encroachment*. That is, the proportion (<10%) of encroachment provided by design will not adversely impact on the tree. These trees could be retained relative to the design. This is based on Assumption 1.

7.2 Sub-surface utilities

No drawings have been provided for the proposed route of sub-surface utilities. Any trenching, other than what has been allowed for should be avoided within the area of the TPZ. Any proposed route shall be re-routed outside of the TPZ. Under boring may be required if a limitation for the route of a service is

restricted to an area that falls within the TPZ. Any excavation in the area of a TPZ must be authorised and conditioned by the project arborist.

7.3 Protection measures

The following protection measures are required to be implemented for the following trees before initiation of site works (including demolition/excavation) and retained until the landscaping works are required unless otherwise specified.

7.3.1 Protective fence: Trees no. 1, 2, 4 and 5

A protective fence is required to be installed to protect the TPZ from all site-related work and are recommended to be located in accordance with the requirements of the AS 4970, listed in Appendix C. The fence is required to be secured to the ground with pegs to avoid movement during construction. This must be installed prior to the commencement of any demolition, excavation or construction works and shall be maintained throughout the entire construction phase of the development, and until landscaping works and installation of the drive/cross-overs is required.

7.3.2 Conditions for compliance

The following conditions are required before any works proceed on site.

Site induction; All workers related to the construction process and before entering the site must be briefed about the requirements/conditions outlined in this report relative to the zone of protection, measures, and specifications before the initiation of work. This is required as part of the site induction process.

Project Arborist; A project arborist who conforms to the requirements of the AS 4970 is required to be nominated immediately after a *Notice of Determination* is issued, and they are to be provided with all related site documents.

7.4 Compliance Documentation

The following stages will require assessment and documentation (report, letter, certification) by the project arborist or person responsible for the specific work type, and the related documentation is to be issued to the principal certifying agent.

7.4.1 Table 2; Assessment/Certification stages

Stage	Work type	Document required
Pre- works	Installation of the protection measures, Section 7.3	Certificate*

During construction	Any <u>further works</u> required within the area of the TPZ, or decline related to the trees that have not been covered by this report.	Report Brief
During construction	Any crown modification including pruning or root disturbance.	Report Brief

Construction refers to the time between the initiation of demolition and until an occupation certificate is issued.

***Mandatory**

8.0 Protection Specification

The retention and protection of trees provide for the requirement of the Tree Protection Zone (TPZ) to conform to the conditions outlined below. These conditions provide the limitations of work permitted within the area of the Tree Protection Zone (TPZ) and must be adhered to unless otherwise stated.

1. Foundation/footing types should not be strip type, but utilise footing types that are sympathetic towards retaining root system that is, screw, pier, etc. Slab on the ground can be accommodated in some circumstances and will be nominated by the project arborist. The extent of encroachment will be dependent upon the tree species, soil type (texture and profile) and gradients.
2. Subsurface utilities can extend through the TPZ and Structural Root Zone (SRZ), however, are limited to the method of installation. That is under boring is permitted, however trenching is limited and depends on the proposed route within the TPZ. No trenching is permitted within the area of the TPZ unless stipulated by the project arborist.
3. Crown pruning can be accommodated, however, must conform to the AS 4373; *Pruning of Amenity Trees*, and not misshape the crown nor remove in excess of 10-15% of the existing crown, pending on the species, and vitality. The opportunity for, type and proportion of pruning will be required to be nominated by the project arborist.
4. Soil levels within the TPZ must remain the same. Any excavation within the TPZ must have been previously specified and allowed for by the project arborist:
 - a) So it does not alter the drainage to the tree.
 - b) Under specified circumstances,

- Added fill soil does not exceed 100mm in depth over the natural grade. Construction methodologies exist that can allow grade increases in excess of 100mm, via the use of an impervious cover, an approved permeable material or permanent aeration system or other approved methods.
 - Excavation cannot exceed a depth of more than 50mm within the area of the TPZ, not including the SRZ. The grade within the SRZ cannot be reduced without the consent from a project arborist.
5. No form of material or structure, solid or liquid, is to be stored or disposed of within the TPZ.
 6. No lighting of fires is permitted within the TPZ.
 7. All drainage runoff, sediment, concrete, mortar slurry, paints, washings, toilet effluent, petroleum products, and any other toxic wastes must be prevented from entering the TPZ.
 8. No activity that will cause excessive soil compaction is permitted within the TPZ. That is, machinery, excavators, etc. must refrain from entering the area of the TPZ unless measures have been taken, and with consultation with the project, arborist to protect the root zone.
 9. No site sheds, amenities or similar site structures are permitted to be located or extend into the area of the TPZ unless the project arborist provides prior consent.
 10. No form of construction work or related activity such as the mixing of concrete, cutting, grinding, generator storage or cleaning of tools is permitted within the TPZ.
 11. No part of any tree may be used as an anchorage point, nor should any noticeboard, telephone cable, rope, guy, framework, etc. be attached to any part of a tree.
 12.
 - (a) All excavation work within the TPZ will utilise methods to preserve root systems intact and undamaged. Examples of methods permitted are by hand tools, hydraulic, or pneumatic air excavation technology.
 - (b) Any root unearthed which is less than 50mm in diameter must be cleanly cut and dusted with a fungicide, and not allowed to dry out, with minimum exposure to the air as possible.
 - (c) Any root unearthed which is greater than 50mm in diameter must be located regarding their directional spread and potential impact. A

project arborist will be required to assess the situation and determine future action regarding retaining the tree in a healthy state.

Project Arborist: person nominated as responsible for the provision of the tree assessment, arborist report, consultation with stakeholders, and certification for the development project. This person will be adequately experienced and qualified with a minimum of a level 5 (AQF); Diploma in Horticulture (Arboriculture)⁷.

⁷ Based upon the definition of a 'consulting arborist' from the AS 4970; Protection of trees on development sites; 2009, section 1.4.4, p 6.

9.0 Summary of tree impact

Based on the design supplied, the following summary provides the impacts imposed on the trees included in this report.

9.1 Trees no. 1, 2, 4 and 5

These trees can be retained relative to the nominated zones of protection (TPZ, SRZ) and based on the requirements of the Protection Specification, section 8.0. The proposed design does not adversely affect these trees. The following conditions are required for specific trees;

9.1.1 Trees no. 1 and 4

The nominated landscaping/courtyard area located adjacent to the northern boundary will require the conditions outlined in the Protection Specification (Section 8.0) to be applied and any hard surface must be of a permeable construction material to allow water percolation and gas exchange. Grades must be retained.

9.2 Tree no. 3

The proposed design will require removal of this tree.

9.3 Sub-surface utilities

No drawings have been provided for the proposed route of sub-surface utilities. Any trenching, other than what has been allowed for should be avoided within the area of the TPZ. Any proposed route shall be re-routed outside of the TPZ. Under boring may be required if a limitation for the route of a service is restricted to an area that falls within the TPZ. Any excavation in the area of a TPZ must be authorised and conditioned by the project arborist.

9.4 Protection measures

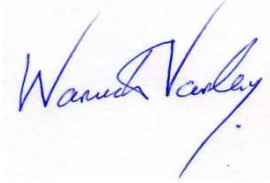
Protection measures (outlined in Section 7.3 and 7.4) are required to be implemented for the trees nominated for retention (referenced in Section 9.1) and installed before initiation of site works (including demolition/excavation) and retained until the landscaping works are required unless otherwise specified.

All workers related to the construction process and before entering the site must be briefed about the requirements/conditions outlined in this report relative to the zone of protection, measures, and specifications before the initiation of work.

A project arborist is required to be nominated, and the stages and related certification or similar documentation is to be issued to the principal certifying agent.

The opinions expressed in this report by the author have been provided within the capacity of a Consulting Arborist. Any further explanation or details can be provided by contacting the author.

DATED: 30th October 2018



Warwick Varley
Consulting Arborist
Level 5 and 8; Arboriculture
MIACA; Reg. #18
MISA
MIAH; Reg. # 32



10.0 Appendix A- Terminology Defined

Height

Is a measure of the vertical distance from the average ground level around the root crown to the top surface of the crown, and on palms - to the apical growth point.

DBH

Diameter at Breast Height – being the stem diameter in meters, measured at 1.4m from ground level, including the thickness of the bark.; Mult. refers to multiple stems, that is in excess of 4 stems.

Crown Spread

A two-dimension linear measurement (in metres) of the crown plan. The first figure is the north-south span, the second being the east-west measurement.

Age

Is the estimate of the specimen's age based upon the expected lifespan of the species. This is divided into three stages.

Young (Y)	Trees less than 20% of life expectancy.
Mature (M)	Trees aged between 20% to 80% life expectancy.
Over-mature (O)	Trees aged over 80% of life expectancy with probable symptoms of senescence.

Crown Aspect

In relation to the root crown, this refers to the aspect the majority of the crown resides in. This will be either termed Symmetrical (Sym.) where the centre of the crown resides over the root crown or the cardinal direction the centre of the crown is biased towards, being either North (N), South (S), East (E) or West (W).

Vitality Rating

Is a rating of the health of the tree, irrespective and independent of the structural integrity, and defined by the 'ability for a tree to sustain its life processes' ((Draper, Richards, 2009). This is divided between three variables, and based on the assessment of symptoms including, but not limited to; leaf size, colour, crown density, woundwood development, adaptive growth formation, and epicormic growth.

A: Normal vitality, typical for the species

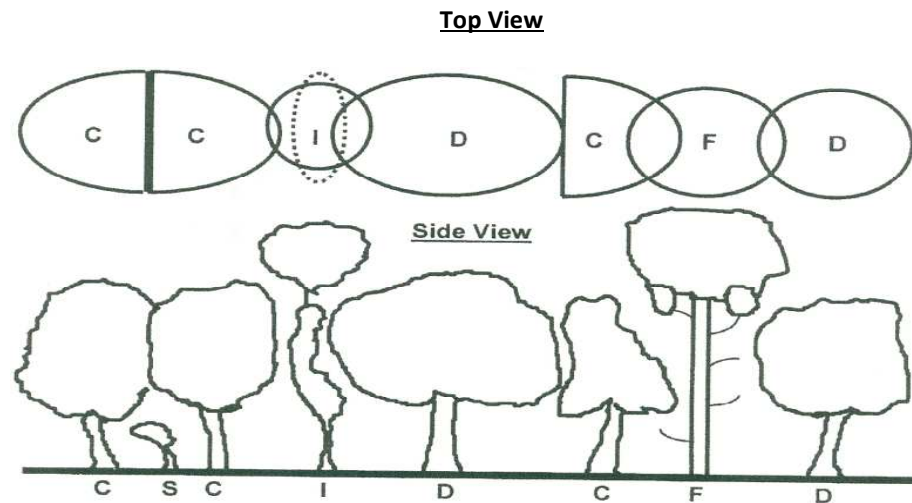
B: Below average vitality, possibly temporary loss of health, partial symptoms.

C: Poor vitality; obvious decline, potentially irreversible

Crown Class

Is the differing crown habits as influenced by the external variables within the surrounding environment. They are:

D – <i>Dominant</i>	Crown is receiving uninterrupted light from above and sides, also known as emergent.
C – <i>Codominant</i>	Crown is receiving light from above and one side of the crown.
I – <i>Intermediate</i>	Crown is receiving light from above but not the sides of the crown.
S – <i>Suppressed</i>	Crown has been shadowed by the surrounding elements and receives no light from above or sides.
F – <i>Forest</i>	Characterised by an erect, straight stem (usually excurrent) with little stem taper and virtually no branching over the majority of the stem except for the top of the tree which has a small concentrated branch structure making up the crown.



D C, I & S, and side view, after (Matheny, N. & Clark, J. R. 1998, Trees Development, Published by International Society of Arboriculture, P.O. Box 3129, Champaign IL 61826-3129 USA, p.20, adapted from the Hazard Tree Assessment Program, Recreation and Park Department, City of San Francisco, California).

Levels of assessment

Level 1: Limited visual: a visual tree assessment for the purpose of managing large populations of trees within a limited time span and in order to identify obvious faults which would be considered imminent.

Level 2: Basic assessment: a standard performed assessment providing for a detailed visual assessment including all parts of the tree and surrounding environment and via the use of simple tools.

Level 3: Advanced assessment: specific type assessments conducted by either arborist who specialise with specific areas of assessment or via the use of specialised equipment. For example, aerial assessment by use of an EWP or rope/harness, or decay detection equipment.

All other definitions are referenced from;

Draper D.B., Richards P.A., 2009, Dictionary for Managing Trees in Urban Environments CSIRO Pub., Australia

Significance Rating, Significance of a Tree Assessment Rating System (S.T.A.R.S), IACA, 2010⁸

Tree Significance – Assessment Criteria

1. High Significance in landscape

- The tree is in good condition and good vitality;
- The tree has a form typical for the species;
- The tree is a remnant or is a planted locally indigenous specimen and/or is rare or uncommon in the local area or of botanical interest or of substantial age;
- The tree is listed as a Heritage Item, Threatened Species or part of an Endangered ecological community or listed on Councils significant Tree Register;
- The tree is visually prominent and visible from a considerable distance when viewed from most directions within the landscape due to its size and scale and makes a positive contribution to the local amenity;
- The tree supports social and cultural sentiments or spiritual associations, reflected by the broader population or community group or has commemorative values;
- The tree's growth is unrestricted by above and below ground influences, supporting its ability to reach dimensions typical for the taxa in situ – tree is appropriate to the site conditions.

2. Medium Significance in landscape

- The tree is in fair-good condition and good or low vitality;
- The tree has form typical or atypical of the species;
- The tree is a planted locally indigenous or a common species with its taxa commonly planted in the local area
- The tree is visible from surrounding properties, although not visually prominent as partially obstructed by other vegetation or buildings when viewed from the street,
- The tree provides a fair contribution to the visual character and amenity of the local area,
- The tree's growth is moderately restricted by above or below ground influences, reducing its ability to reach dimensions typical for the taxa in situ.

3. Low Significance in landscape

- The tree is in fair-poor condition and good or low vitality;
- The tree has form atypical of the species;
- The tree is not visible or is partly visible from surrounding properties as obstructed by other vegetation or buildings,
- The tree provides a minor contribution or has a negative impact on the visual character and amenity of the local area,
- The tree is a young specimen which may or may not have reached dimension to be protected by local Tree Preservation orders or similar protection mechanisms and can easily be replaced with a suitable specimen,
- The tree's growth is severely restricted by above or below ground influences,

⁸ IACA, 2010, IACA Significance of a Tree, Assessment Rating System (STARS), Institute of Australian Consulting Arboriculturists, Australia, www.iaca.org.au

unlikely to reach dimensions typical for the taxa in situ – tree is inappropriate to the site conditions,

- The tree is listed as exempt under the provisions of the local Council Tree Preservation Order or similar protection mechanisms,
 - The tree has a wound or defect that has potential to become structurally unsound.
- Environmental Pest / Noxious Weed Species
- The tree is an Environmental Pest Species due to its invasiveness or poisonous/ allergenic properties,
 - The tree is a declared noxious weed by legislation.

Hazardous/Irreversible Decline

- The tree is structurally unsound and/or unstable and is considered potentially dangerous,
- The tree is dead, or is in irreversible decline, or has the potential to fail or collapse in full or part in the immediate to short-term.


The tree is to have a minimum of three (3) criteria in a category to be classified in that group.

Note: The assessment criteria are for individual trees only, however, can be applied to a monocultural stand in its entirety e.g.


Table 3; Tree Retention Value – Priority Matrix.

		Significance				
		1. High	2. Medium	3. Low		
		Significance in Landscape	Significance in Landscape	Significance in Landscape	Environmental Pest / Noxious Weed Species	Hazardous / Irreversible Decline
Estimated Life Expectancy	1. Long >40 years					
	2. Medium 15-40 Years					
	3. Short <1-15 Years					
	Dead					


Legend for Matrix Assessment




Priority for Retention (High) - These trees are considered important for retention and should be retained and protected. Design modification or re-location of building/s should be considered to accommodate the setbacks as prescribed by the Australian Standard AS4970 *Protection of trees on development sites*. Tree sensitive construction measures must be implemented e.g. pier and beam etc if works are to proceed within the Tree Protection Zone.




Consider for Retention (Medium) - These trees may be retained and protected. These are considered less critical; however their retention should remain priority with removal considered only if adversely affecting the proposed building/works and all other alternatives have been considered and exhausted.



Consider for Removal (Low) - These trees are not considered important for retention, nor require special works or design modification to be implemented for their retention.



Priority for Removal - These trees are considered hazardous, or in irreversible decline, or weeds and should be removed irrespective of development.



Safe Useful Life Expectancy – S.U.L.E (Barell 1995)

	1. Long	2. Medium	3. Short	4. Removal	5. Moved or Replaced
	Trees that appeared to be retainable at the time of assessment for more than 40 years with an acceptable level of risk.	Trees that appeared to be retainable at the time of assessment for 15 – 40 years with an acceptable level of risk.	Trees that appeared to be retainable at the time of assessment for 5 – 15 years with an acceptable level of risk.	Trees that should be removed within the next 5 years.	Trees which can be reliably moved or replaced.
A	Structurally sound trees located in positions that can accommodate future growth.	Trees that may only live between 15 and 40 years.	Trees that may only live between 5 and 15 more years.	Dead, dying, suppressed or declining trees through disease or inhospitable conditions.	Small trees less than 5m in height.
B	Trees that could be made suitable for retention in the long term by remedial tree care.	Trees that may live for more than 40 years but would be removed for safety or nuisance reasons.	Trees that may live for more than 15 years but would be removed for safety or nuisance reasons.	Dangerous trees through instability on recent loss of adjacent trees.	Young trees less than 15 years old but over 5m in heights
C	Trees of special significance for historical, commemorative or rarity reasons that would warrant extraordinary efforts to secure their long term retention.	Trees that may live for more than 40 years but would be removed to prevent interference with more suitable individuals or to provide space for new planting.	Trees that may live for more than 15 years but should be removed to prevent interference with more suitable individuals or to provide space for new planting.	Damaged trees through structural defects including cavities, decay, included bark, wounds or poor form.	Trees that have been pruned to artificially control growth.
D		Trees that could be made suitable for retention in the medium term by remedial tree care.	Trees that require substantial remedial tree care and are only suitable for retention in the short term.	Damaged trees that are clearly not safe to retain.	
E				Trees that may live for more than 5 years but should be removed to prevent interference with more suitable individuals or to provide space for new plantings.	
F				Trees that are damaging or may cause damage to existing structures within 5 years.	
G				Trees that will become dangerous after removal of other trees for reasons given in (A) to (F).	

TPZ; Tree Protection Zone

Is an area of protection required for maintaining the trees vitality and long-term viability. Measured in meters as a radius from the trees centre. The requirements of this zone are outlined within the Protection Specification, Section 8.0, and are to be adhered to unless otherwise stated.

The size of the Tree Protection Zone (TPZ) has been calculated from the *Australian Standard, 4970; 2009 – Protection of Trees on Development Sites*

The TPZ does not provide the limit of root extension, however, offers an area of the root zone that requires predominate protection from development works. The allocated TPZ can be modified by some circumstances; however will require compensation equivalent to the area loss, elsewhere and adjacent to the TPZ.

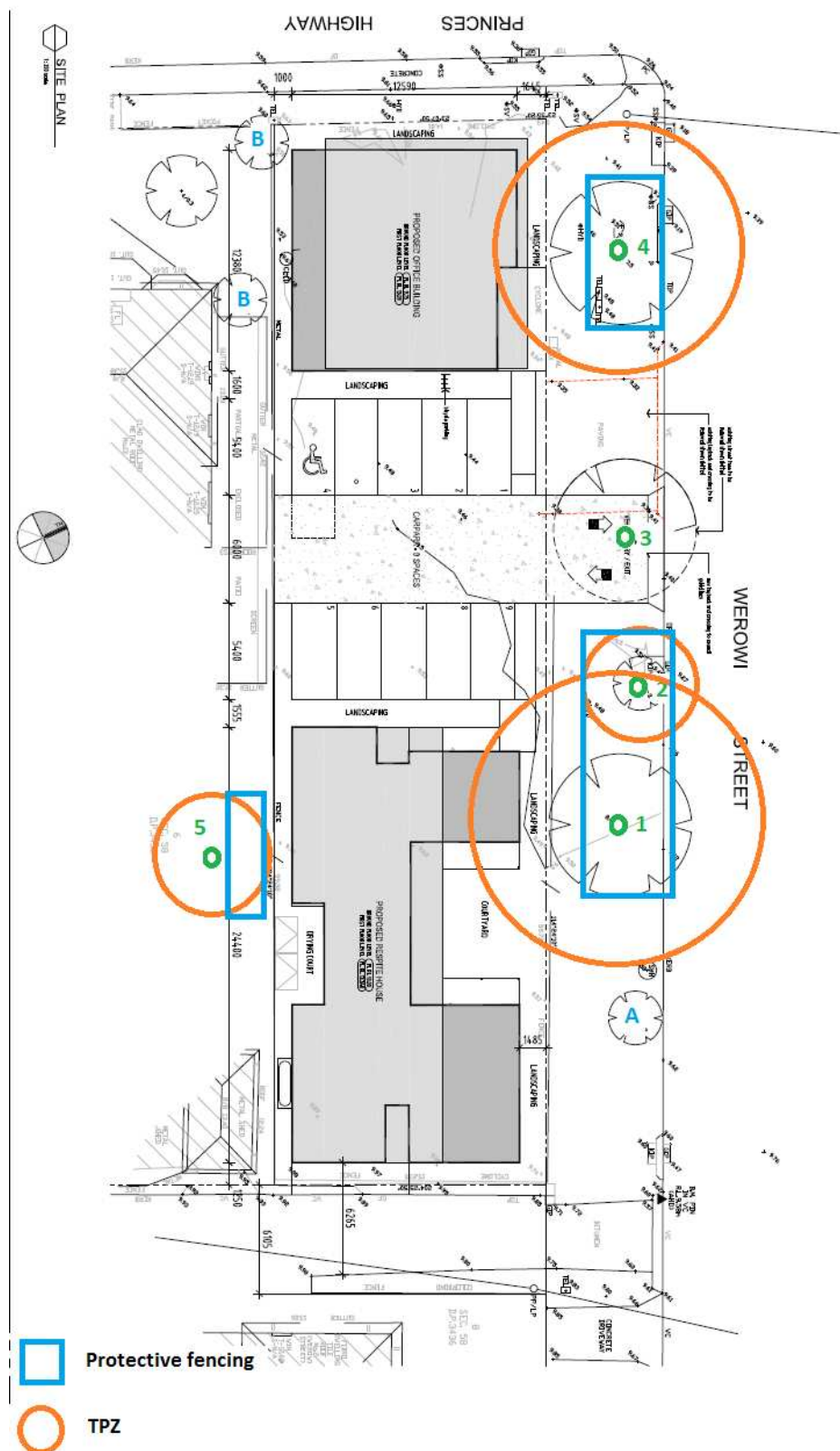
SRZ; Structural Root Zone

Is the area around the tree containing the woody roots necessary for stability. Measured in meters as a radius from the trees centre. The requirements of this zone are outlined within the Protection Specification, Section 8.0, and are to be adhered to unless otherwise stated.

Protection Measures

These are required for the protection of trees during demolition/construction activities. Protective barriers are required to be installed before the initiation of demolition and/or construction and are to be maintained up to the time of landscaping. Samples of the recommended protection measures are illustrated in Appendix C.

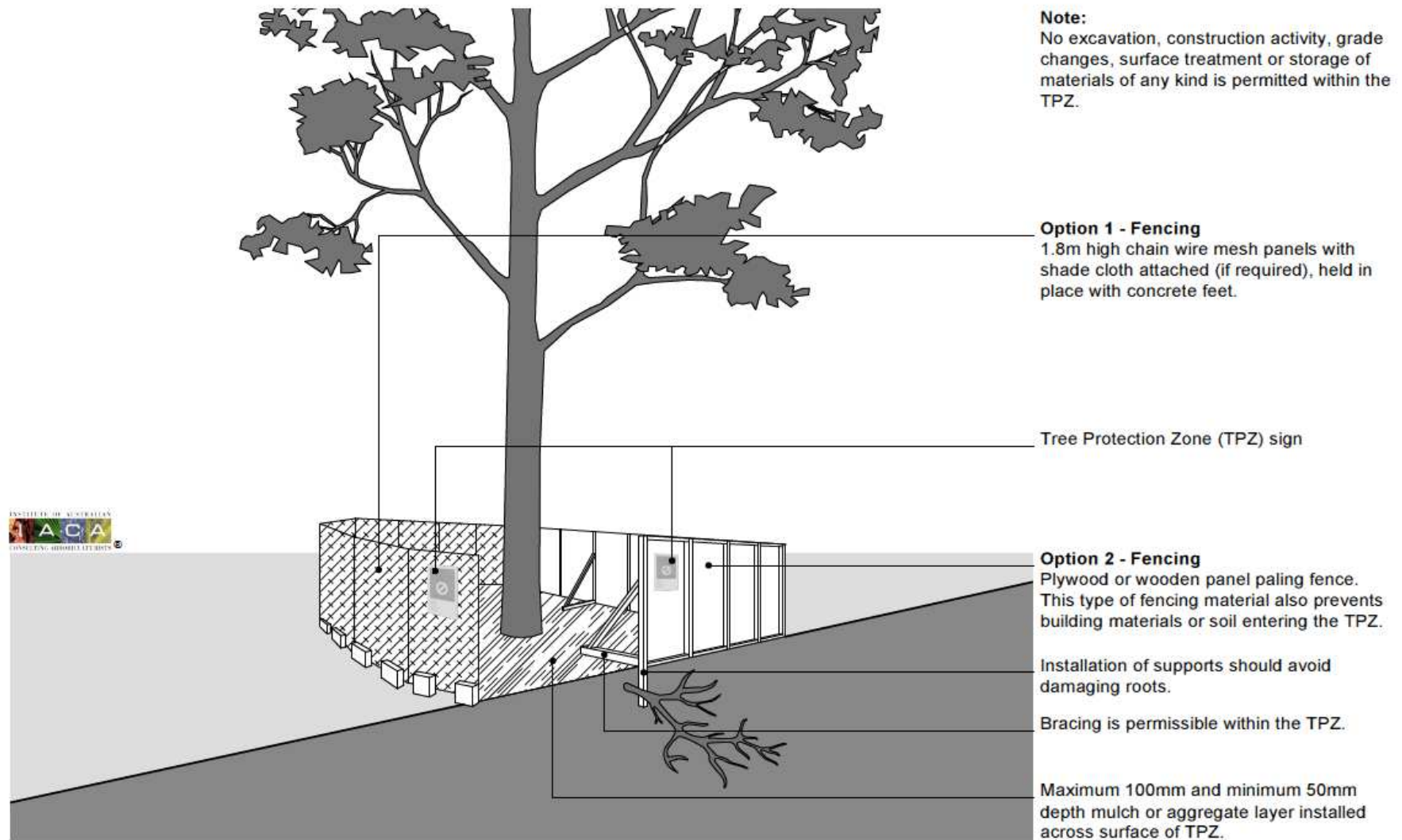
Appendix B- Plan 2; Zones and measures of protection



Not to scale

Source: Adapted from Illawarra Design Company P/L, Drawing A03, See Section 4.4.2

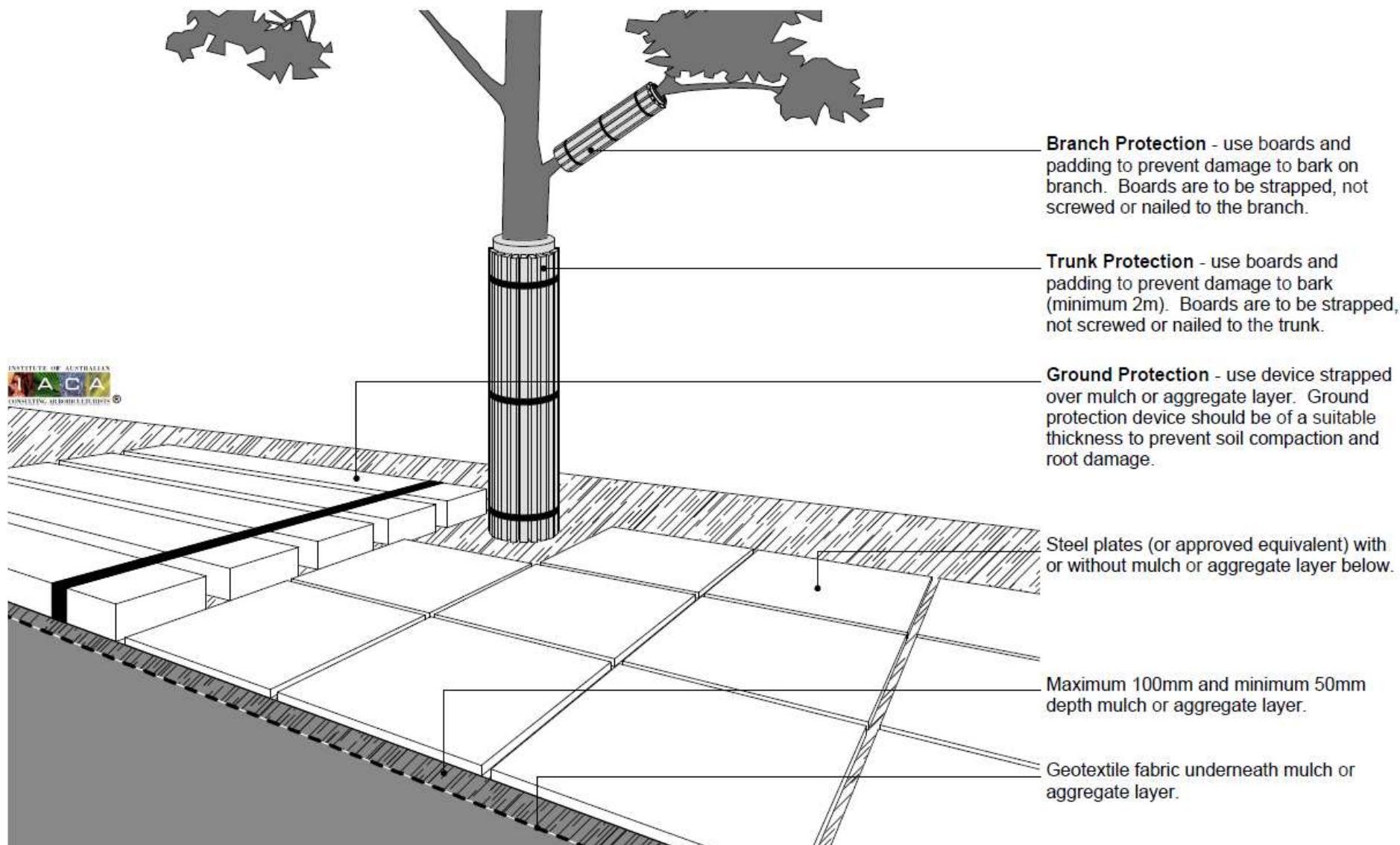
Appendix C- Protection measures; Protective fence



Tree protection zone sign; requirements



Stem and Ground protection



Appendix 1:

Clause 4.6 Exceptions to Development Standards Report: Clause 7.13 of WLEP 2009 and Clause 19 of Seniors Living SEPP

1 Clause 7.13 Provisions (Certain Land within Business Zones) of Wollongong Local Environmental Plan 2009

Clause 7.13 (Certain Land within Business Zones) states the following:

- (1) *The objective of this clause is to ensure active uses are provided at the street level to encourage the presence and movement of people.*
- (2) *This clause applies to land in Zone B1 Neighbourhood Centre, Zone B2 Local Centre, Zone B3 Commercial Core or Zone **B4 Mixed Use**, but does not apply to land to which clause 7.19 applies.*
- (3) *Development consent must not be granted for development for the purpose of a building on land to which this clause applies unless the consent authority is satisfied that the ground floor of the building—*
 - (a) *will not be used for the purpose of residential accommodation, and*
 - (b) *will have at least one entrance and at least one other door or window on the front of the building facing the street other than a service lane*

The ground floor of the development is defined as 'seniors housing' which falls under the definition of 'residential accommodation'. Hence, this clause is not met and therefore a variation is sought as justified in this report.

2 Clause 19 of the Seniors Living SEPP

Clause 19 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 ('Seniors Living SEPP') states that "*Development allowed by this Chapter for the purposes of seniors housing does not include the use for residential purposes of any part of the ground floor of a building that fronts a street if the building is located on land that is zoned primarily for commercial purposes unless another environmental planning instrument permits the use of all of the building for residential purposes.*"

Whilst Clause 7.13 of WLEP 2009 does not allow residential use of the ground floor of the building within a B4 Mixed Use zone, it is noted that 'residential flat buildings' are a permissible land use within this zone. Accordingly, it is considered that the listing of 'residential flat buildings' as a permissible use addresses the requirements of Clause 19. However, for the avoidance of doubt, this Clause 4.6 Exceptions to Development Standards Report also seeks variation to the provisions of Clause 19 to allow the siting of residential accommodation at the ground level of the building.

3 Variation to Clause 7.13 of WLEP 2009 and Clause 19 of Seniors Living SEPP

The following Clause 4.6 Exceptions to Development Standards Variation Report has therefore been prepared, seeking variation to the requirements of Clause 7.13 of WLEP 2009, as the development provides residential accommodation only on the ground level, rather than 'active uses' sought in the objective of the clause. 'Active uses' are not defined in the LEP, however the implication is that this refers to business or retail premises (as required in Clause 7.19 of the WLEP 2009 'Active street frontages', which is not relevant to this proposal). This report also seeks variation to the provisions of Clause 19 of the Seniors Living SEPP in the event that this provision is interpreted to not permit the ground floor use of the building for residential purposes, noting this is not our interpretation as residential flats are permissible under the LEP, as the above paragraph confirms.

In preparing this statement, consideration has been given to Land and Environment Court Judgements *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 (and appeal at NSWLEC 90) and *Wehbe v Pittwater Council* [2007] NSWLEC 827, namely that the objection is well founded, that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

Table 1: Clause 4.6 Statement: Contravention of Clause 7.13 of WLEP 2009 and Clause 19 of Seniors Living SEPP		
Clause 4.6 Exceptions to Development Standards Provisions	Response/Justification	Consistent/ Complies
(1) Objectives a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.	Flexibility is sought for the ground floor to provide residential accommodation (being 'seniors housing'). While technically also defined as 'residential accommodation', in reality the development provides a range of uses on the ground floor of the two separate buildings on the site that constitute the services for the 'seniors living' facility (which will actually provide respite accommodation for families with disabled children). The western building, for example, that fronts the Princes Highway and Werowi Street, provides a range of support services and uses (foyer/entry/reception and therapy, meeting and activity rooms). This building therefore is considered to more aligned with commercial type uses. The ground floor of the eastern building provides more 'residential' uses typified by a dwelling and includes living areas (although an office is proposed), with the lower use bedrooms located on the first floor. Hence flexibility is sought to provide these range of services necessary for the 'seniors living' facility which are also suited within a business zone having regard to the range of therapy and support uses proposed.	Justified
(2) Consent may, subject to this clause, be granted for development even though the development may contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.	This subclause is not relevant to the subject proposal.	N/A
(3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:	This table comprises the written request seeking to justify the contravention of the building separation development standard.	Provided
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	In <i>Four2Five Pty Ltd v Ashfield Council</i> [2015] NSWLEC 1009, para 61, Commissioner Person summarises the considerations from <i>Wehbe v Pittwater Council</i> [2007] NSWLEC 827 at [42] per Preston CJ, and notes in para 62 that clause 4.6 can be considered in a similar way to that of SEPP 1. In <i>Wehbe</i> at [44]-[48] Preston CJ identified other ways in which an applicant might establish that compliance with a development standard is unreasonable or unnecessary, namely that the underlying objective or purpose is not relevant to the development; that the objective would be defeated or thwarted if compliance was required; that the	Justified

Table 1: Clause 4.6 Statement: Contravention of Clause 7.13 of WLEP 2009 and Clause 19 of Seniors Living SEPP

Clause 4.6 Exceptions to Development Standards Provisions	Response/Justification	Consistent/ Complies
	<p>development standard has been virtually abandoned or destroyed by the Council's own actions in departing from the standard; or that the zoning of the land is unreasonable or inappropriate.</p> <p>A response to each of these approaches is therefore provided as it relates to the current proposal:</p> <p>That the objective would be defeated or thwarted if compliance was required Not applicable. The objective of the Clauses would be achieved if compliance was provided.</p> <p>That the development standard has been virtually abandoned or destroyed by the Council's own actions in departing from the standard Not applicable</p> <p>The zoning of the land is unreasonable or inappropriate. The zoning of the land is appropriate.</p> <p>The underlying objective or purpose is not relevant to the development This is considered to be the most applicable of these considerations as the type of development ('seniors housing') is anomalous to the development standard in this instance. While some of the ground floor does incorporate residential accommodation, some more 'active uses' (ie. ancillary health services etc) are also provided at the ground floor that are considered to meet the underlying objective of the standard. Therefore, it is more appropriate to state that the use ('seniors housing') in this instance, should not necessarily be strictly/technically considered 'residential accommodation'. In this circumstance, the objective of the Development Standard is still relevant to the development (and has been satisfied).</p>	
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.	<p><i>In Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009, Commissioner Person determined that it is necessary for applicants to show sufficient grounds <u>particular to the development</u> in the Clause 4.6 objection.</i></p> <p>In this regard it is noted that, while the 'seniors housing' development is technically defined as 'residential accommodation', in reality the development <u>meets the intent of the development standard</u>, as it provides active uses on the ground floor of part of the development [appropriately, the western building, which has a more commercial character in design (eg. signage) and use (support services) at the main road frontage, than the eastern portion which is typified by a residential character in built form and immediate surrounds]. Hence, only the ground floor of the eastern building provides more 'residential' uses typified by a dwelling and includes living areas (although an office is proposed), with the lower use bedrooms located on the first floor.</p>	Justified
(4) Consent must not be granted for development that contravenes a development standard unless: (a) the consent authority is satisfied that:		

Table 1: Clause 4.6 Statement: Contravention of Clause 7.13 of WLEP 2009 and Clause 19 of Seniors Living SEPP

Clause 4.6 Exceptions to Development Standards Provisions	Response/Justification	Consistent/ Complies
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	This Variation statement provides a discussion in support of the justification for varying the development standards as indicated in (3) above. In our opinion, there is sufficient justification provided to support a variation to the building separation requirements.	Satisfied
<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> <p>Wollongong LEP 2009:</p> <p><u>Objectives of the Standard (Clause 7.13)</u></p> <p>"to ensure active uses are provided at the street level to encourage the presence and movement of people."</p> <p><u>Objectives of the B4 Zone</u></p> <p>The objectives of the B4 Mixed Use zone of WLEP 2009 are:</p> <ul style="list-style-type: none"> To provide a mixture of compatible land uses To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling To support nearby or adjacent commercial centres without impacting on the viability of those centres. 	<p>Despite the variation, the proposed development will be in the public interest as it still meets the objectives of the clause 7.13 of WLEP 2009 and clause 19 of Seniors Living SEPP as it:</p> <p>The western building, for example, that fronts the Princes Highway and Werowi Street, provides a range of support services and uses (foyer/entry/reception and therapy, meeting and activity rooms). This building therefore is considered to more aligned with commercial type uses. The ground floor of the eastern building also provides an office and foyer adjacent to the central car park. While the eastern building has a more 'residential' use typified by a dwelling, the character of the development is considered to be more commercial, with active uses provided on the ground floor. The residents are not permanent and the facility is for short stays and temporary visitation for appointments etc.</p> <p>Hence the objectives of the standard and the B4 zone (encouragement of presence and movement of people with compatible and mixed uses in accessible locations) is considered to be met.</p> <p>There is no objective for Clause 19 of the Seniors Living SEPP, however the objective of that Chapter of the SEPP (Chapter 3, Clause 14) is considered to be met by the proposal (intended for young families with children with disabilities), namely:</p> <p>"to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age."</p>	Justified
(c) the concurrence of the Director-General has been obtained.	Council will need to consult with the Department of Planning and Infrastructure as to whether the concurrence of the DG can be assumed in accordance with Planning Circular PS 08-003-Variations to Development Standards (Department of Planning, May 2008).	Addressed
(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	The contravention of this development standard does not raise any matter of significance for state or regional environmental planning. Refer to further discussion below in this table.	
(b) the public benefit of maintaining the development standard, and	While it is considered that the development standard WILL be maintained by the proposal (principally by the ground floor support services in the western building), the reduced presence commercial/retail uses by provision of a 'seniors housing' arguably will improve the public benefit than if a	

Table 1: Clause 4.6 Statement: Contravention of Clause 7.13 of WLEP 2009 and Clause 19 of Seniors Living SEPP

Clause 4.6 Exceptions to Development Standards Provisions	Response/Justification	Consistent/ Complies
	<p>retail/commercial premises was provided. This is because the site will still be activated but will also provide much needed facilities to families of disabled children in an accessible location to the temporary residents.</p> <p>Hence, the proposed development will not raise any matter of state or regional planning significance.</p>	
<i>(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.</i>	It is considered that there are no environmental planning considerations that would hinder the Director-General from providing concurrence.	Addressed

4 Conclusion

This Statement has addressed the provisions of Clause 4.6 of Wollongong LEP 2009 and demonstrates that the variation sought to the development standards of the Clause 7.13 of WLEP 2009 and Clause 19 of the Seniors Living SEPP (which do not permit residential accommodation on the ground floor within the B4 zone) are justifiable and should be given concurrence to. This is on the basis of the unique type of land use, being defined as 'seniors living' which is actually respite services for families of disabled children, with 'active' support services on the part of the ground floor of the development. This use is considered to meet the objectives of the clauses as it will provide some active non-residential uses on the ground floor in an accessible location near the town centre of Dapto, which also provides some amenity for residential uses. On this basis, strict compliance with the non-provision of residential accommodation on the ground floor (as required by the controls within WLEP 2009 and the Seniors Living SEPP) is considered unnecessary.

Appendix 2

Clause 4.6 Exceptions to Development Standards Report

Clause 40(2) of Seniors Living SEPP

1 Clause 40(2) 'Development Standards – Minimum Sizes and Building Height' of the Seniors Living SEPP

Clause 40(2) 'Development Standards – minimum sizes and building height' of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 ('Seniors Living SEPP') requires "The size of the site must be at least 1,000 square metres." The subject site has an area of 907.4m² and hence a variation to this development standard is sought by this Clause 4.6 Exceptions to Development Standards Report.

It is noted that this minimum site size clause/development standard only applicable as this development is sought for approval under the Seniors Living SEPP (rather than WLEP 2009 where no minimum site area controls apply).

2 Variation to Clause 40(2) of Seniors Living SEPP

The following Clause 4.6 Exceptions to Development Standards Variation Report has therefore been prepared, seeking variation to the requirements of Cause 40(2) of the Seniors Living SEPP.

In preparing this statement, consideration has been given to Land and Environment Court Judgements *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 (and appeal at NSWLEC 90) and *Wehbe v Pittwater Council* [2007] NSWLEC 827, namely that the objection is well founded, that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

Table 1: Clause 4.6 Statement: Contravention of Clause 40(2) of Seniors Living SEPP

Clause 4.6 Exceptions to Development Standards Provisions	Response/Justification	Consistent/ Complies
(1) Objectives a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.	It is noted that the minimum site size clause/development standard of 1000m ² is only applicable as this development is sought for permissibility/approval under the Seniors Living SEPP (rather than WLEP 2009 <u>where no minimum site area controls apply</u>). Hence, flexibility is sought in this circumstance. As the site is 907m ² , the site is only deficient by 93m ² and is comfortably sited on the land size with no non-compliances of built form development controls. Hence flexibility is sought to provide the development on the subject land.	Justified
(2) Consent may, subject to this clause, be granted for development even though the development may contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is	This subclause is not relevant to the subject proposal.	N/A

Table 1: Clause 4.6 Statement: Contravention of Clause 40(2) of Seniors Living SEPP

Clause 4.6 Exceptions to Development Standards Provisions	Response/Justification	Consistent/ Complies
<i>expressly excluded from the operation of this clause.</i>		
(3) <i>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:</i>	This table comprises the written request seeking to justify the contravention of the building separation development standard.	Provided
(a) <i>that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</i>	<p><i>In Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009, para 61, Commissioner Person summarises the considerations from Wehbe v Pittwater Council [2007] NSWLEC 827 at [42] per Preston CJ, and notes in para 62 that clause 4.6 can be considered in a similar way to that of SEPP 1. In Wehbe at [44]-[48] Preston CJ identified other ways in which an applicant might establish that compliance with a development standard is unreasonable or unnecessary, namely that the underlying objective or purpose is not relevant to the development; that the objective would be defeated or thwarted if compliance was required; that the development standard has been virtually abandoned or destroyed by the Council's own actions in departing from the standard; or that the zoning of the land is unreasonable or inappropriate.</i></p> <p>A response to each of these approaches is therefore provided as it relates to the current proposal:</p> <p><i>That the objective would be defeated or thwarted if compliance was required</i> Not applicable. The development would not be permitted under the Seniors Living SEPP if compliance was required. However, it would still be permitted under the WLEP 2009, but significant development contributions would be required. It is noted that Wollongong City Wide Development Contributions Plan 2019 only provides for exemptions for Seniors Housing under the SEPP, and not the WLEP 2009, which is a technical anomaly. If approval is sought under the LEP (rather than the SEPP) contributions would be payable, which impacts on the financial feasibility of the development.</p> <p><i>That the development standard has been virtually abandoned or destroyed by the Council's own actions in departing from the standard</i> Applicable, as the development would still be permitted under the WLEP 2009. Hence the development standard is virtually not relevant in this circumstance.</p> <p><i>The zoning of the land is unreasonable or inappropriate.</i> The zoning of the land is appropriate.</p> <p><i>The underlying objective or purpose is not relevant to the development</i> Applicable, as the development would still be permitted under the WLEP 2009. Hence the development standard is virtually not relevant in this circumstance.</p>	Justified
(d) <i>that there are sufficient environmental planning</i>	<i>In Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009, Commissioner Person determined that it is necessary for</i>	Justified

Table 1: Clause 4.6 Statement: Contravention of Clause 40(2) of Seniors Living SEPP

Clause 4.6 Exceptions to Development Standards Provisions	Response/Justification	Consistent/ Complies
grounds to justify contravening the development standard.	<p>applicants to show sufficient grounds <u>particular to the development</u> in the Clause 4.6 objection.</p> <p>In this regard it is noted that, while the land size is less than that set out in Clause 40, the development is still accommodated on the land. It is noted that while defined as a 'seniors housing', the development is actually a different building typology than a typical seniors living facility which would typically require a larger site area. The development is more unique as it provides short stays and temporary respite visitation for appointments for support services for families with disabled children.</p> <p>The development meets all other relevant built form and parking controls and the like. Hence, there are sufficient environmental planning grounds to justify contravening the minimum site area development standard of 1000m².</p>	
<p>(4) Consent must not be granted for development that contravenes a development standard unless:</p> <p>(a) the consent authority is satisfied that:</p>		
<p>(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and</p>	<p>This Variation statement provides a discussion in support of the justification for varying the development standards as indicated in (3) above. In our opinion, there is sufficient justification provided to support a variation to the minimum site area requirement.</p>	Satisfied
<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> <p><u>Wollongong LEP 2009:</u></p> <p><u>Objectives of the B4 Zone</u> The objectives of the B4 Mixed Use zone of WLEP 2009 are:</p> <ul style="list-style-type: none"> To provide a mixture of compatible land uses To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling To support nearby or adjacent commercial centres without impacting on the viability of those centres. 	<p>Despite the variation, the proposed development will be in the public interest as it still meets the objectives of the B4 Mixed Use zone of WLEP 2009 as it provides a range of support services and land uses compatible within the locality that has good access and proximity to the Dapto town centre.</p> <p>There is no objective for Clause 40(2) of the Seniors Living SEPP, however the objective of that Chapter of the SEPP (Chapter 3, Clause 14) is considered to be met by the proposal (intended for young families with children with disabilities), namely:</p> <p><i>"to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age."</i></p>	Justified
<p>(e) the concurrence of the Director-General has been obtained.</p>	<p>Council will need to consult with the Department of Planning and Infrastructure as to whether the concurrence of the DG can be assumed in accordance with Planning Circular PS 08-003-Variations to Development Standards (Department of Planning, May 2008).</p>	Addressed

Table 1: Clause 4.6 Statement: Contravention of Clause 40(2) of Seniors Living SEPP

Clause 4.6 Exceptions to Development Standards Provisions	Response/Justification	Consistent/ Complies
(5) <i>In deciding whether to grant concurrence, the Director-General must consider:</i>		
(c) <i>whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and</i>	The contravention of this development standard does not raise any matter of significance for state or regional environmental planning. Refer to further discussion below in this table.	
(d) <i>the public benefit of maintaining the development standard, and</i>	There is no public benefit of maintaining the development standard (minimum 1000m ² site area). This is because the site will still be able to accommodate much needed facilities to families of disabled children in an accessible location to the temporary residents. Hence, the proposed development will not raise any matter of state or regional planning significance.	
(c) <i>any other matters required to be taken into consideration by the Director-General before granting concurrence.</i>	It is considered that there are no environmental planning considerations that would hinder the Director-General from providing concurrence.	Addressed

4 Conclusion

This Statement has addressed the provisions of Clause 4.6 of Wollongong LEP 2009 and demonstrates that the variation sought to the development standards of Clause 40(2) of the Seniors Living SEPP (which requires a minimum site area of 1000m²) is justifiable and should be given concurrence to. This is on the basis that the development is a unique type of land use (defined as 'seniors living' which is actually respite services for families of disabled children, with 'active' support services on the part of the ground floor of the development). The development design can be met on the land area provided (907m²) and the 1000m² minimum site area is not required by WLEP 2009 if consent for the development was otherwise being sought under this planning instrument. On this basis, strict compliance with the non-provision of the minimum land area is considered unnecessary.

DRAFT CONDITIONS FOR : DA-2020/213

- 1 The development shall be implemented substantially in accordance with the details and specifications set out on Project No 816 Drawing A03-B, A06-B and A07-B dated 11 June 2020 and A05-A and A08-A dated 25 February 2020 prepared by Illawarra Design Company 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 Occupation Certificate

An Occupation Certificate must be issued by a Registered Certifier prior to occupation or use of the development. In issuing an Occupation Certificate, the Registered Certifier 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.

3 Street Tree Removal

The Developer shall remove existing the street tree(s) indicated on the Landscape plan by Captivate Landscape Design reference DA-1582/1 dated 17 June 2020 and Allied Tree Consultancy reference D3558 dated October 2018 consisting of tree(s) numbered 1 and 4.

Tree removal costs are to be borne by Developer. The removal of trees, including stumps, is to be carried out by suitably qualified tree contractor. This contractor must be appropriately insured to indemnify Council against any loss or damage incurred during the above works. They must also have appropriate WH&S policies and procedures (including traffic control) to ensure that works are carried out in a safe manner and in accordance in Council's own WH&S policies.

The Developer must apply for (and be granted) permission under section 138 of the Roads Act to work within the road reserve. Tree removal must be carried out to the satisfaction of WCC Manager of Development Engineering.

4 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.

The access and use of the site is to be in accordance with the Commonwealth Aged Care Accreditation Standards and the Building Code of Australia.

5 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 139-148 of the Environmental Planning and Assessment Amendment Regulations, 2000 have been satisfied, including compliance with all relevant conditions of Development Consent and the Building Code of Australia.

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

6 Disability Discrimination Act 1992

This consent does not imply or confer compliance with the requirements of the Disability Discrimination Act 1992.

It is the responsibility of the applicant to guarantee compliance with the requirements of the Disability Discrimination Act 1992. The current Australian Standard AS1428.1 (2009) – Design for Access and Mobility is recommended to be referred for specific design and construction requirements, in order to provide appropriate access to all persons within the building.

- 7 **Advertising Signage**
This consent authorises the erection of two (2) business identification signs. One located on the Northern Elevation and one on the Western Elevation as shown on the approved plan. Any advertising signage will require separate Council approval.
- 8 **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 indicating agreement by the affected property owners.

Prior to the Issue of the Construction Certificate

- 9 **Flows from Adjoining Properties**
Flows from adjoining properties shall be accepted and catered for within the site. Finished ground and top of retaining wall levels on the boundary shall be no higher than the existing upslope adjacent ground levels. The above requirements must be clearly shown on construction certificate plans prior to the release of the construction certificate.
- 10 **Present Plans to Sydney Water**
Approved plans must be submitted online using Sydney Water Tap, available through www.sydneywater.com.au to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

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

Visit www.sydneywater.com.au or telephone 13 20 92 for further information.
- 11 **Car Parking and Access**
The development shall make provision for a total of 9 car parking spaces (including 1 car parking space for people with disabilities) and 1 motorcycle parking space. This requirement shall be reflected on the Construction Certificate plans. Any change in above parking numbers shown on the approved DA plans shall be dealt with via a section 4.55 modification to the development. The approved car parking spaces shall be maintained to the satisfaction of Council, at all times.
- 12 **Water/Wastewater Entering Road Reserve**
Provision shall be made for a minimum 200mm wide grated box drain along the boundary of the property at the vehicular crossing/s to prevent surface water entering the road reserve. This requirement shall be reflected on the Construction Certificate plans.
- 13 **External Clothes Drying Facilities**
In the event that external clothes drying facilities are proposed, full details of the screening and the location of these facilities shall be reflected on the Construction Certificate plans and the final landscape plan.
- 14 **Details of Proposed Pit and Pipeline**
Details of the proposed connecting pipeline to the Council pit, within the existing drainage system shall be provided in conjunction with the detailed drainage design for the site. Connection is to be made in accordance with Wollongong City Council Standard Drawings. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
- 15 The submission of a final Landscape Plan to the Principal Certifier, prior to the release of the Construction Certificate. The final Landscape Plan shall address the following requirements:
- a deletion of the following plant species since they are unsuitable for this type of development: *Raphiolepis* 'Oriental Pearl'.
 - b planting of indigenous plant species native to the Illawarra Region such as: *Syzygium smithii* (syn *Acmena smithii*) Lilly pilly, *Archontophoenix cunninghamiana* Bangalow palm, *Backhousia myrtifolia* Grey myrtle, *Elaeocarpus reticulatus* Blueberry ash, *Glochidion ferdinandii* Cheese tree, *Livistona australis* Cabbage palm tree, *Syzygium paniculatum* Brush cherry.

A further list of suitable suggested species may be found in Wollongong Development Control Plan 2009 – Chapter E6: Landscaping;

- c the location of all proposed and existing overhead and underground service lines. The location of such service lines shall be clear of the dripline of existing and proposed trees; and
- d The completion of the landscaping works as per the final approved Landscape Plan is required, prior to the issue of Occupation Certificate.

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

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

16 **Garbage, Green Waste and Recycling Bin Enclosure Structure**

The garbage/recycling bin enclosure area shall be constructed of brick or other approved masonry material and shall be provided with sufficient screening of all bins contained therein. The storage area shall be constructed with a concrete floor, suitably graded to enable drainage of run-off into Council's stormwater drainage system and shall be at-grade with any proposed pedestrian accessway. The final design details of the proposed storage area shall be reflected on the Construction Certificate plans.

17 **Disabled Access and Facilities**

The provision of disabled access throughout the development is required and shall be in compliance with the Building Code of Australia Part D3 "Access for People with Disabilities" and Australian Standard AS1428.1 (2009) - Design for Access and Mobility – Part 1 General Requirements for Access – Buildings. This requirement shall be reflected on the Construction Certificate plans.

- 18 Toilet facilities shall be provided for disabled persons in accordance with the design criteria in AS1428.1 (2009) – Design for Access and Mobility – General Requirements for Access – New Building Work. This requirement shall be reflected on the Construction Certificate plans.

19 **Crime Prevention through Environmental Design (CPTED)**

In order to reduce the opportunities for "hiding places" the proposed landscaping must:

- a use shrubs/plants which are no higher than 1 metre adjacent to pathways.
- b the type of trees proposed must have a sufficiently high canopy, when installed and fully grown, so that pedestrian vision is not impeded.
- c Shrub planting to be set back min. 0.5 metres from the edge of the pathway. Groundcover planting acceptable.

This requirement shall be reflected on the Construction Certificate plans.

20 **Structures Adjacent to Driveway**

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

21 **Property Addressing Policy Compliance**

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

22 **Design Details for Lighting – Car Parking Areas**

The proposed design details for the lighting system of car parking areas are to be provided to the Principal Certifier prior to the release of the Construction Certificate.

23 **Tree Protection and Management**

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

- a Installation of Tree Protection Fencing - Protective fencing shall be 1.8 metre cyclone chainmesh fence, with posts and portable concrete footings. Details and location of protective fencing must be indicated on the architectural and engineering plans to be submitted to the Principal Certifier prior to release of the Construction Certificate.
- b Installation of Tree Protection Fencing - A one (1) metre high exclusion fence must be installed around the extremity of the dripline of the tree/trees to be retained prior to any site works commencing. The minimum acceptable standard is a 3 strand wire fence with star pickets at 1.8 metre centres. This fence must be maintained throughout the period of construction to prevent any access within the tree protection area. Details of tree protection and its locations must be indicated on the architectural and engineering plans to be submitted to the Principal Certifier prior to release of the Construction Certificate.
- c Mulch Tree Protection Zone: Areas within a Tree Protection Zone are to be mulched with minimum 75 mm thick 100% recycled hardwood chip/leaf litter mulch.
- d Irrigate: Areas within the Tree Protection Zone are to be regularly watered in accordance with the arborist's recommendations.

24 **Footpath Paving in Commercial Village Centres**

The Developer is responsible for the construction of footpath paving for the entire frontage (both Princes Highway and Werowi Street) of the development. In keeping with the surrounding commercial precinct and the Business Centres Public Domain Technical Manual the type of paving for this development is 90deg herringbone pattern with basalt feature banding. Pavers are to be 230 x 114 x 50mm amber prestige 'Black and Tan' and Basalt feature pavers 600 x 400 x 40mm basalt dark or approved equivalents. Where paving is to surround existing trees, the paving and banding shall not be closer to the tree than 2.9m (SRZ of largest tree to create consistent aesthetic).

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

The driveway entry threshold from the property boundary line to the face of kerb is to match the footpath material and be designed to withstand predicted traffic loadings. Concrete Colour is to be approved by Wollongong City Council Landscape Architect.

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

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

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

25 **Street Trees Commercial Village Centres**

The Developer must address the street frontage by installing street tree planting with edging/tree grate and tree guards. In keeping with the surrounding commercial precinct and the Business Centres Public Domain Technical Manual the type of the number and species for this development are two *Lophostemon confertus* 200 litre container size in accordance with AS 2303:2015 Tree stock for landscape use. The tree guards and grate shall be as detailed in the Business Centres Public Domain Technical Manual Section 9 page 28.

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

Tree pits must be adequately mulched, plants installed, and tree guard/staking/tree grille/edging installed to the satisfaction of WCC of Development Engineering. Where paving is to surround new tree planting, the paving and banding shall be equal to that of existing trees, Refer to condition 2.171.

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

26 **Sizing of Drainage**

All roof gutters, downpipes, pits, and pipelines draining roof areas and other impervious surfaces shall be designed to cater for a 1 in 100 year ARI storm event in accordance with AS 3500.3 – Plumbing and Drainage (Stormwater Drainage). Details of gutter/downpipe/pipeline sizes and locations shall be reflected on the Construction Certificate plans

27 **Stormwater Drainage Design**

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

- a Be prepared by a suitably qualified civil engineer in accordance with Chapter E14 of Wollongong City Council’s Development Control Plan 2009, Subdivision Policy, conditions listed under this consent, and generally in accordance with the concept plan/s lodged for development approval, prepared by ADD Design and Consulting Civil Engineers, Reference No. 19/043, revision 2, dated February 2019.
- b include details of the method of stormwater disposal. Stormwater from the development must be piped to Council’s existing stormwater drainage system.
- c Engineering plans and supporting calculations for the stormwater drainage system are to be prepared by a suitably qualified engineer and be designed to ensure that stormwater runoff from upstream properties is conveyed through the site without adverse impact on the development or adjoining properties. The plan must indicate the method of disposal of all stormwater and must include rainwater tanks, existing ground levels, finished surface levels on all paved areas, estimated flow rates, invert levels and sizes of all pipelines.
- d Overflow paths shall be provided to allow for flows of water in excess of the capacity of the pipe/drainage system draining the land, as well as from any detention storage on the land. Blocked pipe situations with 1 in 100 year ARI events shall be incorporated in the design. Overflow paths shall also be provided in low points and depressions. Each overflow path shall be designed to ensure no entry of surface water flows into any building and no concentration of surface water flows onto any adjoining property. Details of each overflow path shall be shown on the detailed drainage design.

28 **Flood Level Requirements**

The following requirements shall be reflected on the Construction Certificate plans, prior to the release of the Construction Certificate:

- a Habitable floor levels must be constructed at a minimum of RL 10.18 metres AHD.
- b Garage floor levels must be constructed at a minimum of RL 9.38 metres AHD or 300mm above adjacent ground, whichever is greater.
- c Any portion of the building or structure below RL 10.18 metres AHD should be built from flood compatible materials. Where materials are proposed and not listed in Appendix B of Chapter E13 of the Wollongong DCP2009, relevant documentation from the manufacturer shall be provided demonstrating that the materials satisfy the definition of ‘flood compatible materials’ as stated in Chapter E13 of the Wollongong DCP2009.
- d The proposed building shall be designed to withstand the forces of floodwater, debris and buoyancy up to and including the 1 in 100 year flood level plus freeboard being RL 10.18 metres AHD.

- 29 **Site Filling**
Filling on the site being within the floodplain shall be restricted to within the proposed building footprint and ramped areas immediately adjacent to the garage only. No wholesale filling of the site within the floodplain is permitted. This requirement shall be reflected on the Construction Certificate plans.
- 30 **Council Footpath Reserve Works – Driveways and Crossings**
All redundant vehicular crossings and laybacks rendered unnecessary by this development must be reconstructed to normal kerb and gutter or existing edge of carriageway treatment to match the existing. The verge from the back of kerb to the boundary must be removed and the area appropriately graded, topsoiled and turfed in a manner that conforms with adjoining road reserve. The area forward of the front boundary must be kept smooth, even and free from any trip hazards. All alterations of public infrastructure where necessary are at the developer's expense.

All new driveway laybacks and driveway crossings must be designed in accordance with Wollongong City Council Standards. Details and locations are to be shown on the Construction Certificate Plans.
- 31 **Dilapidation Survey**
A dilapidation survey and report shall be submitted to the Principal Certifier.

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

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

Any damage to infrastructure items and relics which is caused by the developer shall be repaired to the satisfaction of the Principal Certifier prior to the issue of a Certificate of Practical Completion for Subdivision works.
- 32 **Traffic Noise**
The proposed residential facilities upon this site shall be designed and constructed in accordance with the recommendations outlined in the *Traffic Noise Intrusion Assessment* prepared by Harwood Acoustics and dated 18 June 2020) and the requirements of the Australian Standard AS3671 (1989) 'Acoustic – Road Traffic Noise Intrusion – Building Siting and Construction'. This requirement shall be reflected on the Construction Certificate plans and supporting documentation for the endorsement by the Principal Certifier prior to the issue of the Construction Certificate.
- 33 **Fire Hydrants**
The fire hydrant network is to comply with AS2419.1 – 2005 for the new buildings. The hydrant sizing, spacing and pressures must comply with AS2419.1– 2005 for the new buildings. The fire hydrant(s) must be shown on the construction certificate plans.
- 34 **Fire Safety Schedule**
When issuing a Construction Certificate, a certifying authority must attach a Fire Safety Schedule specifying all of the fire safety measures required for the building to ensure the safety of persons in the building in the event of fire.

Prior to the Commencement of Works

- 35 **Sign – Supervisor Contact Details**
Before commencement of any work, a sign must be erected in a prominent, visible position:
- a stating that unauthorised entry to the work site is not permitted;
 - b showing the name, address and telephone number of the Principal Certifier 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.

- 36 **Appointment of Principal Certifier**
Prior to commencement of work, the person having the benefit of the Development Consent and a Construction Certificate must:
- a Appoint a Principal Certifier (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 Principal Certifier must determine when inspections and compliance certificates are required.
- 37 **Temporary Toilet/Closet Facilities**
Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
- Each toilet provided must be:
- a a standard flushing toilet; and
 - b connected to either:
 - i the Sydney Water Corporation Ltd sewerage system or
 - ii an accredited sewage management facility or
 - iii an approved chemical closet.
- The toilet facilities shall be provided on-site, prior to the commencement of any works.
- 38 **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 Registered Certifier prior to the commencement of any works on the site.
- 39 **Temporary Sediment Fences**
Temporary sediment fences (eg haybales or geotextile fabric) must be installed on the site, prior to the commencement of any excavation, demolition or construction works in accordance with Council's guidelines. Upon completion of the development, sediment fencing is to remain until the site is grassed or alternatively, a two (2) metre strip of turf is provided along the perimeter of the site, particularly lower boundary areas.
- 40 **All-weather Access**
An all-weather stabilised access point must be provided to the site to prevent sediment leaving the site as a result of vehicular movement. Vehicular movement should be limited to this single accessway.
- 41 **Demolition Works**
The demolition of the existing building elements/buildings/structures shall be carried out in accordance with Australian Standard AS2601 (2001): The Demolition of Structures or any other subsequent relevant Australian Standard and the requirements of the SafeWork NSW.
- No demolition materials shall be burnt or buried on-site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Any unforeseen hazardous and/or intractable wastes shall be disposed of to the satisfaction of the Principal Certifier. In the event that the demolition works may involve the obstruction of any road reserve/footpath or other Council owned land, a separate application shall be made to Council to enclose the public place with a hoarding or fence over the footpath or other Council owned land.
- 42 **Notification to SafeWork NSW**
The demolition licence holder who proposes demolition of a structure or part of a structure that is loadbearing or otherwise related to the physical integrity of the structure that is at least six metres in height, involving load shifting machinery on a suspended floor, or involving the use of explosives must notify SafeWork NSW in writing at least five (5) calendar days before the work commences.

43 **Notification to Surrounding Property Owners/Occupants Prior to Commencement of Demolition Works**

At least five (5) days notice must be given in writing to any residence or business within 100 metres of the premises to which this consent pertains of the impending demolition works. The written notice must include at least the following information:

- a a summary of the work plan and method for the demolition and a timetable for completion of works, including hours of operation, transport routes etc;
- b details of the primary contractor and/or company conducting the demolition works;
- c the name and telephone number for a person supervising the works to which residents can direct questions, comments and/or concerns about the works for the duration of the works.

44 **Sediment Control Measures**

The developer must ensure that sediment-laden runoff from the site is controlled at all times subsequent to commencement of construction works. Sediment control measures must be maintained at all times and checked for adequacy at the conclusion of each day's work.

45 **Enclosure of the Site**

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

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

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

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

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

48 **Works in Road Reserve - Minor Works**

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

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

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

49 **Tree Protection**

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

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

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

During Demolition, Excavation or Construction

50 **Survey Report for Floor Levels**

A Survey Report must be submitted to the Principal Certifier verifying that each floor level accords with the floor levels as per the approved plans under this consent. The survey shall be undertaken after the formwork has been completed and prior to the pouring of concrete for each respective level of the building (if the building involves more than one level). All levels shall relate to Australian Height Datum.

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

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

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

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

Allowance must be made for surface run-off from adjoining properties. Any redirection or treatment of that run-off must not adversely affect any other property.

53 **Restricted Hours of Construction Work**

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

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

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

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

54 **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.

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

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

56 **Provision of Taps/Irrigation System**

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

57 **Fences**

Any new fences constructed on the site and located in the flood plain shall be of a type that will not obstruct the free flow of floodwaters and not cause damage to surrounding land in the event of a flood.

58 **Asbestos – Removal, Handling and Disposal Measures/Requirements Asbestos Removal by a Licensed Asbestos Removalist**

The removal of any asbestos material must be carried out by a licensed asbestos removalist if over 10 square metres in area of non-friable asbestos, or if any type of friable asbestos in strict accordance with SafeWork NSW requirements (<http://www.safework.nsw.gov.au>).

59 **Asbestos Waste Collection, Transportation and Disposal**

Asbestos waste must be prepared, contained, transported and disposed of in accordance with SafeWork NSW and NSW Environment Protection Authority requirements. Asbestos waste must only be disposed of at a landfill site that can lawfully receive this type of waste. A receipt must be retained and submitted to the Principal Certifier and a copy submitted to Council (in the event that Council is not the Principal Certifier), prior to commencement of the construction works.

60 **Asbestos Hazard Management**

The approved Asbestos Management Plan prepared by Xcel Environmental and dated 25 May 2020, shall be implemented and a clearance report for the site shall be prepared by a licensed asbestos assessor and submitted to the Principal Certifier, prior to the issue of a Construction Certificate. The report shall confirm that the asbestos material has been removed or is appropriately encapsulated based on visual inspection plus sampling if required and/or air monitoring results and that the site is rendered suitable for work to commence.

61 **Dust Suppression Measures**

Activities occurring during the demolition and construction phases of the development must be carried out in a manner that will minimise the generation of dust.

62 **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.

Prior to the Issue of the Occupation Certificate

63 **Drainage**

The developer must obtain a certificate of Hydraulic Compliance (using Council's M19 form) from a suitably qualified civil engineer, to confirm that all stormwater drainage and on-site detention works have been constructed in accordance with the approved plans. In addition, full works-as-executed plans, prepared and signed by a Registered Surveyor must be submitted. These plans and certification must satisfy all the stormwater requirements stated in Chapter E14 of the Wollongong DCP2009. This information must be submitted to the Principal Certifier prior to the issue of the final Occupation Certificate.

64 **Completion of Landscape Works**

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

65 **SEPP (Housing for Seniors or People with a Disability) 2004**

The accommodation component of the development may only be occupied by the kinds of people referred to in subclause (1) of Clause 18 of the SEPP. In accordance with Clause 18(2) of the SEPP, restriction as to user must be registered against the title of the property in accordance with section 88E of the *Conveyancing Act 1919*. Evidence of the restriction must be forwarded to the Principal Certifier prior to the issue of the Occupation Certificate.

66 **Structural Soundness Certification**

The submission of a report from a suitably qualified and experienced structural engineer to the Principal Certifier is required, prior to the issue of the Occupation Certificate and commencement of use. This report is required to verify that the development can withstand the forces of floodwater, debris and buoyancy up to and including the 1 in 100 year flood level plus freeboard, being RL 10.18 metres AHD or greater.

- 67 **Completion of Landscape Works on Council Owned or Controlled Land**
The Developer must complete all landscape works required within Council's road reserve, or other Council owned or controlled land, in accordance with the conditions of this consent. The total cost of all such landscape works shall be fully borne by the Developer and any damage to Council's assets shall be the subject of restoration works sufficient to restore the asset to its previous state and configuration previous to the commencement of works. Evidence that this requirement has been met must be satisfied prior to the issue of the Occupation Certificate.
- 68 **Arborist Verification – Street Tree Installation**
Prior to the issue of Occupation Certificate, the developer must supply certification in the form of a report, including photographic evidence, from an AQF Level 5 Arborist to the Principal Certifier and Wollongong City Council to verify:
- The tree stock complies with AS 2203:2018 Tree Stock for Landscape Use.
 - The tree pits have been constructed and the trees installed in accordance with the requirements of the Wollongong City Council City Centre Public Domain Technical Manual and arboricultural best practice.
 - The program must include the following elements: watering, weeding, litter removal, mulching, fertilising, tree guard and grate maintenance, and pest and disease control.
 - Details of the proposed program must be submitted with the Landscape Plan to the Principal Certifier for approval prior to release of the Construction Certificate.
- 69 A Section 73 Certificate must be submitted to the Principal Certifier prior to occupation of the development/release of the plan of subdivision.
- 70 **Access Certification**
Prior to the occupation of the building, the Principal Certifier must ensure that a certificate from an "accredited access consultant" has been issued certifying that the development complies with the requirements of the Statement of Compliance Access for People with a Disability.
- 71 **Fire Engineering Certification**
Prior to the issue of an Occupation Certificate, provide a clearing certificate from the Accredited C10 Fire Engineer certifying that all of the building solutions detailed within the Fire Engineering Report approved with the Construction Certificate have been implemented/installed/constructed within the building to the their satisfaction.
- 72 **Signage**
All signage is to be maintained in good repair at all times and must be displayed in the English language.
- 73 **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.