

# Wollongong Local Planning Panel Assessment Report | March 2020

<b>WLPP No.</b>	Item 3
<b>DA No.</b>	DA-2020/805
<b>Proposal</b>	Residential - dual occupancy and tree removal
<b>Property</b>	56-64 Asquith Street, AUSTINMER NSW 2515 Lot A DP 369644
<b>Applicant</b>	Mrs Lisa Joan Hughes
<b>Responsible Team</b>	Development Assessment and Certification – City Wide Planning Team (MB)

## ASSESSMENT REPORT AND RECOMMENDATION

### Executive Summary

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

The proposal has been referred to the WLPP for **determination** pursuant to Part 3 of Schedule 2 of the Local Planning Panels Direction, as the application involves an exception to a development standard at Clause 4.3 of WLEP 2009, contravening the 9 metre height limit requirement by more than 10% (16.5%).

#### Proposal

The proposal seeks consent for the construction of a second dwelling to create a dual occupancy and includes the removal of two trees.

#### Permissibility

Dual Occupancy is permissible in the R2 Low Density Residential zone.

#### Consultation

The proposal was exhibited in accordance with Council's Community Participation Plan 2019. A total of four submissions were received during this period.

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

The proposal has been referred to Council's Geotechnical, Development, Landscape and Environment Officers', with conditionally satisfactory referral advice provided. The proposal was externally referred to NRAR as Integrated Development pursuant to clause 4.47 (EP&A Act 1979) as development requiring a Controlled Activity approval under the Water Management Act 2000. Satisfactory advice has been provided with GTA's.

The application was referred to the NSW Rural Fire Service (RFS) pursuant to Division 4.14 of the Environmental Planning and Assessment Act 1979. A certificate was provided by a qualified consultant, which recommended a performance solution. As such, the application was referred to NSW RFS and is pending in relation to the suitability of the performance solution submitted for the site.

#### Main Issues

The main issues arising from the development assessment process are:

- Exception to Development Standard - Clause 4.3 Building Height
- Variations to WDCP 2009 controls for front setbacks, private open space, and driveway/crossover width.
- Impact on streetscape, parking and,
- Tree removal and environmental impacts
- NSW RFS requirements

## **RECOMMENDATION**

Development Application DA-2020/805 be **deferred**, subject to satisfactory advice being provided by the NSW Rural Fire Service and further understanding of vegetation impacts from required Asset Protection Zones.

## 1 APPLICATION OVERVIEW

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### 1.1 PLANNING CONTROLS

The following **planning controls** apply to the proposal:

State Environmental Planning Policies:

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

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan (WDCP) 2009

Other policies

- Wollongong City-Wide Development Contributions Plan 2020 (Section 7.12 of EP&A Act 1979)
- Wollongong Community Participation Plan 2019
- Planning for Bush Fire Protection 2019 (PBP 2019)

The NSW Biodiversity Conservation Act 2016 as relates to tree removal assessment and reporting

Integrated development under the Water Management Act 2000

### 1.2 DETAILED DESCRIPTION OF PROPOSAL

The proposal comprises the following:

- The construction of a Colorbond clad, contemporary detached residential dwelling (Unit 2) to create a dual occupancy.
- Tree removal
- Provision of utility services and stormwater drainage infrastructure; and
- Associated landscaping

### 1.3 BACKGROUND

The development history of the site is as follows:

Application No	Description	Date	Decision
DA-2014/689	Residential dwelling house	30/09/2014	Approved
PL-2012/78	Subdivision of block into 3 lots and construction of 1 eco dwelling on each lot	23/11/2012	Completed
BA-1959/1092	Dwelling and Garage	17/06/1959	Approved

Customer service actions:

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

## 1.4 SITE DESCRIPTION

The site is located at 56-64 Asquith Street, AUSTINMER NSW 2515 and the title reference is Lot A DP 369644. The site has an area of 4053m<sup>2</sup> and falls approximately 32 metres from the rear southern boundary to a watercourse that traverses the site then rises up to the front northern boundary. The site contains an existing dwelling house (Unit 1) located to the north eastern area of the site. The southern side of the site is heavily timbered. Surrounding development consists of residential dwelling homes. Photos at Figure 1 show the site of the proposed dwelling to create dual occupancy development.

### Property constraints.

- acid sulphate soils – Class 5
- flooding
- unstable land
- bushfire prone

There are no restrictions on the title.



**Figure 2:** Aerial photograph (green dotted line showing watercourse)

## 1.5 SUBMISSIONS

The proposal was exhibited in accordance with the Community Participation Plan 2019. A total of four (4) submissions were received during this period.

**Table 1: Submissions**

Concern	Comment
<b>1. Street parking and driveway crossover</b> <ul style="list-style-type: none"><li>• Insufficient for a development and will result in cars being parked on the street.</li></ul>	Resident car parking provided meets the requirements of Chapter E3 of the WDCP 2009. Traffic impacts, sight distance and

<ul style="list-style-type: none"> <li>Existing street parking is limited</li> <li>Safety concerns</li> </ul>	<p>manoeuvring have been considered by Council's Development Engineer and are considered satisfactory.</p> <p>Council's Development Engineer has provided satisfactory referral advice.</p>
<p><b>2. WLEP 2009 and WDCP 2009 compliance</b></p> <ul style="list-style-type: none"> <li>The contemporary proposal does not fit into the neighbourhood of older/heritage homes set in large gardens and native forest</li> <li>Height exceedance and associated impacts</li> <li>More appropriate materials and colour not black</li> <li>Sets a precedent for similar unsuitable development</li> </ul>	<p>The proposal generally complies with WDCP 2009 controls. Justification has been provided for DCP variations, which are capable of support as outlined within this report.</p> <p>A clause 4.6 exception to a development standard for building height has been justified the applicant and is attached at <b>Appendix 3</b> In this case, the height exception is capable of support as outlined within this report.</p> <p>The impacts on the natural areas of the site are considered conditionally satisfactory.</p> <p>The colour scheme provided within the SoEE outlines the colour of external colorbond cladding as a light grey.</p>
<p><b>3. Environmental concerns and topography</b></p> <ul style="list-style-type: none"> <li>Steep site with watercourse/riparian corridor</li> <li>Ecology</li> <li>Sustainability &amp; poor environmental outcomes</li> <li>Arborist report and retention of trees near wide driveway</li> <li>Landscaping and revegetation not undertaken as part of dwelling house approval</li> </ul>	<p>The impact of the development on the environment and the VMP for the existing approved development on the site has been considered by Council's Environment officer who has provided conditionally satisfactory referral advice. The application has also been referred to the Natural Resource Access Regulator who has provided conditionally satisfactory referral advice. Tree protection and removal have been assessed by Council as conditionally satisfactory.</p> <p>The required deep soil zone has been located at the rear of the site and consists of existing trees/forest and meets requirements under WDCP 2009.</p>

Issue	1	2	3
Frequency	3	4	3

## 1.6 CONSULTATION

### 1.6.1 INTERNAL CONSULTATION

Council's Development, Geotechnical, Landscape, and Environment Officers' have reviewed the application submission and provided satisfactory referral comments/conditions.

## 1.6.2 External consultation

### New South Wales Rural Fire Service

The application was referred to the NSW Rural Fire Service (RFS) pursuant to Division 4.14 of the Environmental Planning and Assessment Act 1979. A certificate was provided by a qualified consultant, which recommended a performance solution. As such, the application was required to be referred to NSW RFS. Advice from RFS is pending in relation to the suitability of the performance solution submitted for the site.

### Natural Resource Access Regulator

The application was referred to the Natural Resource Access Regulator for General Terms of Approval (GTA) under the Water Management Act 2000 as Integrated Development. GTA's were issued 21 January 2021.

## 2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 – 4.15 EVALUATION

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

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

#### NSW BIODIVERSITY CONSERVATION ACT 2016

The site is identified as being of high biodiversity value on the Biodiversity Values Map. An Arboricultural report prepared by Allied Tree Consultancy dated June 2020 and the Ecological Constraints and Opportunities Report prepared by Lodge Environmental dated 24 September 2020 were lodged with the application. The application was referred to Council's Environment Officer and satisfactory referral advice given in relation to the removal of two trees. However, the proposal does not trigger the requirement for a biodiversity offset scheme. However, this depends upon final advice from NSW RFS regarding required APZ's further vegetation impacts may have to be resolved in relation to tree removals.

### 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.*

A desktop audit of previous land uses does not indicate any historic use that would contribute to the contamination of the site. Council's Environment officer has reviewed the application and no concerns are raised in regard to contamination as relates to the intended use of the land and the requirements of clause 7.

#### 2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (BASIX) 2004

The proposal is BASIX affected development to which this policy applies. In accordance with Schedule 1, Part 1, 2A of the Environmental Planning and Assessment Regulation 2000, a BASIX Certificate has

been submitted in support of the application demonstrating that the proposed scheme achieves the BASIX targets. Conditions are recommended in this regard.

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

#### 2.1.3 STATE ENVIRONMENTAL PLANNING POLICY (KOALA HABITAT PROTECTION) 2020

Schedule 1 of SEPP (Koala Habitat Protection) 2020 identifies the SEPP as applying to land within the City of Wollongong. Part 2 of the SEPP applies to land within the local government area for which a development application has been made and has an area greater than one hectare. The proposal therefore, requires consideration under Part 2. Council must be satisfied as to whether or not the land is a potential koala habitat in accordance with Clause 8. Council's Environment Officer has reviewed the application and provided the following advice in relation to the above:

Potential koala habitat means areas of native vegetation where trees of the types listed in Schedule 2 (ie koala feed tree species) constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.

The Arboricultural Impact Assessment Report prepared by Allied Tree Consultancy dated June 2020 and the Ecological Constraints and Opportunities Report prepared by Lodge Environmental dated 24 September 2020 do not identify any trees of the types listed in Schedule 2 on the lot. Therefore, the land is considered not to be potential koala habitat.

Council's Environment officer has raised no concerns.

#### 2.1.4 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

##### **Part 1 Preliminary**

##### Clause 1.4 Definitions

**dual occupancy** means a dual occupancy (attached) or a dual occupancy (detached).

##### **Note—**

Dual occupancies are a type of **residential accommodation**—see the definition of that term in this Dictionary.

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

##### **Note—**

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

##### **Part 2 Permitted or prohibited development**

##### Clause 2.2 – Zoning of land to which Plan applies

The zoning map identifies the land as being zoned R2 Low Density Residential, as demonstrated by Figure 3 below.



**Figure 3: WLEP 2009 zoning map**

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

The objectives of the zone are as follows:

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

The proposal is satisfactory with regard to the above objectives.

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

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

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

#### Clause 2.6 Subdivision – consent requirements

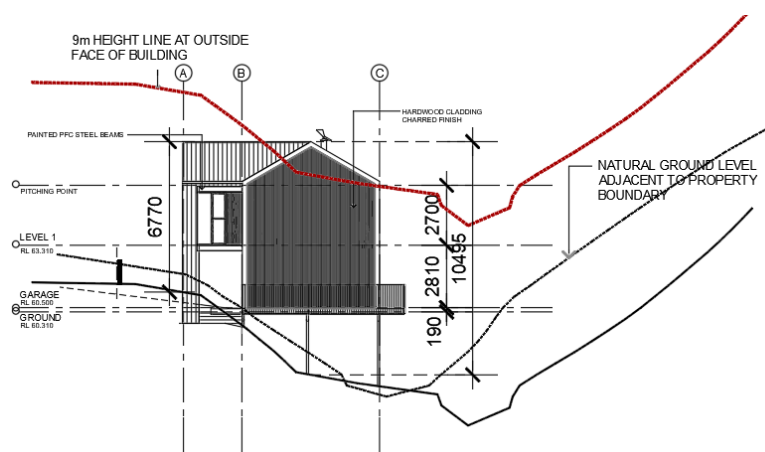
Subdivision is not sought as part of this application

### **Part 4 Principal development standards**

#### Clause 4.3 Height of buildings

The proposed maximum building height of 10.495 metre above natural ground level exceeds the maximum of 9 metres permitted for the site. Therefore, a clause 4.6 exception to development standard request has been prepared to justify this noncompliance and provided at **Attachment 3**.





#### Clause 4.4 Floor space ratio

Maximum FSR permitted for the zone:	<b>0.5:1</b>	
Site area:	4056m <sup>2</sup>	
GFA Existing Dwelling:	218.1m <sup>2</sup>	
GFA Proposed Dwelling	Ground floor	99.2m <sup>2</sup> excl garage req.
	First floor	144.64m <sup>2</sup>
	Total	243.84
Total GFA	561.14m <sup>2</sup>	
FSR	561.14m <sup>2</sup> / 4056m <sup>2</sup> <b>0.14:1 complies</b>	

The proposal is compliant.

#### Clause 4.6 Exceptions to development standards

WLEP 2009 clause 4.6 proposed development departure assessment	
Development departure	Clause 4.3 of WLEP 2009, the maximum building height permissible for the site is 9 metres. The proposed height of 10.495 metres exceeds the maximum by 1.495 metres (16.5%).
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	Justification as provided by applicant at <b>Attachment 3</b> .
that there are sufficient environmental planning grounds to justify contravening the development standard.	Justification as provided by applicant at <b>Attachment 3</b> .
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 proposed exceedance of the overall allowable height of 9m is considered to be in the public interest as it meets the objectives of development standard 4.3 of WLEP 2009 as:</p> <ul style="list-style-type: none"> <li>• The development is consistent with adjoining development including existing development on the subject site and provides consistency in design and urban character</li> <li>• The exceedance is due to the topography of the site</li> <li>• All surrounding buildings continue to maintain views of sky and exposure to sunlight</li> <li>• The development will be of a consistent high standard of design as demonstrated with the existing approved residence (on the site) and considered to be appropriate for the setting.</li> <li>• The provision of a high-quality dual occupancy residential development sited on a large parcel of residential land provides for low density residential accommodation in accordance with the objectives of the zone in a sought-after location and established residential area. The siting of the residence has taken into consideration surrounding low density development as well as the specific site constraints.</li> </ul>
the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and	<p>The statement demonstrates that the proposed development will be in the public interest as follows:</p> <ul style="list-style-type: none"> <li>• There are no identifiable adverse impacts in allowing the variation in the allowable 9m height limit.</li> <li>• The provision of quality housing within areas that are zoned appropriate for low density residential use is in the public benefit.</li> <li>• This site is a particularly large land holding and the advantages in regard to vegetation management of the riparian corridor as a result of this development progressing will be a positive public benefit.</li> </ul>
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.

## Part 7 Local provisions – general

### Clause 7.1 Public utility infrastructure

The site is already serviced by electricity, water and sewage services. It is expected that these services will be capable of augmentation to meet the needs of the development. Conditions are recommended in this regard requiring evidence from the relevant authorities prior to the issue of the Construction Certificate.

### Clause 7.2 Natural resource sensitivity – biodiversity

Council records indicate the site is affected by "Natural Resource Sensitivity – Biodiversity". The application was referred to Council's Environment officer to assess likely impacts of the proposal in

this regard. No objection was raised, and appropriate conditions of consent have been recommended. In this case, it is considered the proposed development has been designed and sited so as to have minimum adverse environmental impact. However, depending upon final advice from NSW RFS regarding required APZ's further vegetation impacts may have to be resolved in relation to tree removals.

#### Clause 7.3 Flood planning area

Part of the site is identified as being flood affected. Council's Stormwater officer has assessed the application in this regard and has not raised objections subject to appropriate conditions of consent noting the high flood risk extent is considered to be the area identified within the geotechnical report as the 'Zone of Potential Bank Instability' (refer to the memo by AW Geotechnics, dated 02/10/2020). Therefore, the proposed development is not within a flood risk precinct.

#### Clause 7.4 Riparian lands

The Riparian Land Map indicates the site contains riparian land in the form of a watercourse. Council's Environment Officer has reviewed the application and provided satisfactory referral advice subject to appropriate conditions of consent. Separately, NRAR have provided GTA's as relates to proximity to the watercourse.

#### Clause 7.5 Acid Sulfate Soils

The proposal is identified as being affected by class 5 acid sulphate soils. The site is not located on the coastal plain and as such, the development will not lower the watertable, therefore an acid sulphate soils management plan is not required. Council's Environment officer has reviewed the application and has provided satisfactory referral advice in this regard.

#### Clause 7.6 Earthworks

The proposal would require minor earthworks. The earthworks themselves are not expected to result in unreasonable impacts on environmental functions and processes, neighbouring properties or the features of surrounding land.

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

None relevant.

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

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

The development has been assessed against the relevant chapters of WDCP 2009. See **Attachment 2** for WDCP Compliance Table.

The proposal seeks variations to WDCP 2009 Chapter B1 clause 4.2 Front Setbacks less than 6 metres for infill development; 4.6 Private Open Space to be located at the rear and minimum size of 4 metres; 4.10 Carparking and Access – maximum driveway crossover width of 3 metres. The variation requests are discussed below:

### **Chapter B1: Residential Development**

#### **4.2 Front Setback**

##### ***Objectives***

- *To reinforce the existing character of the street and locality by acknowledging building setbacks.*  
The exception to the development control requiring a 6 metre setback from the front property boundary will provide consistency in the front building setback for the site with the existing residence and will not compromise the existing character of the locality with its varying setbacks and topographical landforms.
- *To ensure that buildings are appropriately sited, having regard to site constraints.*

The proposed dwelling is sited specifically in regard to the site constraints. The exceptional topography of Asquith Street has dictated the varying built form to provide the best amenity for each residence.

- *To ensure building setbacks are representative of the character of the area.*

Asquith Street is characterised by varying building setbacks to take advantage of the specific topographical aspects of the locality

- *To provide for compatibility in front setbacks to provide unity in the building line.*

The length of the front property boundary of the subject site is 77m. The proposal has specifically been designed to have a consistent setback with the adjoining property on the site and to provide unity in the setback line. This setback line is also consistent with the neighbouring property to the west at 54 Asquith Street.

- *To ensure that setbacks do not have a detrimental effect on streetscape or view corridors.*

Due to the topography of the site and the steep sloping incline to the South there are no views afforded over the site that would be impacted by this proposal. The design also allows for view corridors between the existing and proposed residences to provide for significant views through the site and for the opportunity to landscape between the proposal and the existing adjoining residences

- *To ensure that hard stand areas can be provided in front of garage without imposing on movement corridors (pathways, cycle ways and road reserves).*

The proposal provides a 5.6m setback in front of the garage to ensure that parking in front of the building within the property boundary can be provided.

#### **Development Control/s varied**

*1. The following setback requirements apply from the primary street frontage to the front facade of the building: a) Infill development sites require a minimum setback of 6m from the front property boundary, or b) Less than 6 metres where the prevailing street character permits and the future desired character of the area is not prejudiced. Reduced setbacks must be demonstrated through a Site and Context Analysis (Chapter A.1 cl.11.1). c) Garages and carports must be setback a minimum of 5.5 metres to enable a vehicle to park or stand in front of the garage or carport.*

#### **Statement of Variation**

Asquith Street has a variety of setbacks for existing dwellings. These setbacks range from zero (i.e. buildings have been constructed on or over the front lot boundary line), 1m, 2m and through to more than 10m from the front property line. The reason for this variation is the result of the land terrain which is frequently steep and has invariably driven the siting of dwellings.

Table showing setbacks of neighbouring houses adjacent to proposed dwelling at 56-64 Asquith Street, Austinmer.	
House Number	Setback from front boundary
51	3.6m
52	4m
53	1m & 1.9m
54	3.3m
55	-1.9m (carport over boundary)
56	5.5m to garage and 3m to house facade
57	2.7m
59	-1.1m (over boundary)
61	2.1m
63	More than 10m
65	5.1m
66	3.5m
67	-1m (over boundary)
68	3.7m



Numerous dwellings (more than 13 of the 15 immediate neighbouring dwellings) on Asquith Street as displayed above have a reduced (4m or less) or non-existent setback from the street frontage. This is a major contributor to the unique character of Asquith Street. The mix of housing responses along Asquith Street has been driven by the landform and has created an attractive informal streetscape that sits comfortably within the visually dominant natural landscape. It is this variety of building setback that has helped create the unique street character of Asquith Street.

Whilst a 5.6m setback to the garage and the majority of the building façade has been achieved the unique aspect and terrain of the subject property has necessitated a variation of the standard setback requirement from 5.5m to 3m for a section of the upper storey facade. It should be noted that the effective setback from the road edge is 7.5m due to the width of the footpath in this location. At other points along Asquith Street the footpath width is as little as 1m wide resulting in some dwellings within 3m of the road edge. The effective setback from road edge is significantly more than a significant number of dwellings on Asquith Street.

Comment: The proposal can meet the objectives of this clause and in this instance the variation will have an insignificant impact on the streetscape, in this instance is capable of support.

#### 4.6 Private Open Space

## Objectives

- *To ensure that private open spaces are large enough to accommodate a range of uses and are accessible and connected to indoor spaces.*

In addition to the private open space areas indicated to satisfy Council development controls, both dwellings have access to substantial outdoor areas on large parcels of land surrounding the dwellings to provide outdoor spaces that are connected to the indoor areas. Unit 1 has covered space to the north in addition to the nominated private open space deck on the east which also provides connection from garden to residence. Both dwellings have substantial private open space areas screened from the street frontage.

- *To ensure that private open space is suitability located taking into account existing*

*and potential surrounding development.*

The private open space area for unit 2 is suitably located so as to have negligible impact on existing and proposed surrounding development. The location is suitable as it is screened by existing mature trees and proposed landscaping and it provides the most sustainable solution for outdoor living area as it has easy access to natural ground and full northern solar exposure. The location in proximity to the dining and kitchen areas provide the most efficient design solution for its successful integration into the living areas of the residence.

- *To minimise amenity impacts to neighbours.*

The private open space area located to the front of unit 2 will not have a negative impact neighbours. There is a significant distance between the private open space and surrounding residences' and the location provides no capacity to overlook neighbouring residences' private open space areas. Neighbours to the north of the subject site primarily face north for outdoor living (away from the proposal) and the distance to the private open space areas to the neighbour to the west (No54) exceeds 30m.

- *To ensure functionality of the private open space area by reducing overlooking, overshadowing and amenity impacts onto / from adjoining properties, through the provision of appropriate buffer screen planting around the perimeter of the open space, where necessary*

The private open space deck has been located facing north and behind two existing mature trees located on the boundary. The low height of the deck ensures no potential overlooking to surrounding properties. The location and screening provide privacy for occupants from the road and overlooking from the northern neighbours located a minimum of 25m away from the outdoor space.

- *To protect existing trees and other vegetation in the immediate locality which contribute to the natural setting of the site*

Two existing mature trees have been retained at the front of the site to provide natural screening and reduce privacy impacts to the private open space area from the road. The area takes advantage of the only flat topography to provide connection to natural ground which increases the usability of the entire landscaped area adjoining the private open space.

### ***Development Control/s varied***

*1. Private open space must be provided in accordance with the following requirements: a) A 24m<sup>2</sup> area of private open space must be directly accessible from the living areas of each proposed dwelling and have a minimum width of 4 metres and be no steeper than 1:50. b) Private open spaces and private courtyards should not be located on side boundaries or front yard. Variations may be permitted where the private open space is sufficiently setback as to ensure that the private open space will not be impacted upon by existing or future complying dwellings on adjoining lots e) Private open space areas including balconies and decks must not extend forward of the front building line by greater than 900mm.*

### **Statement of Variation**

Variation is sought to development control 4.6.2.1(a) requiring a minimum width of 4m to a private open space area for the existing dwelling (unit 1). The existing private open space deck located on the eastern side of the dwelling has an overall area of 35sqm. This deck is level and accessed from the living area and is 4m in width for the majority of the deck. There is an encroachment with a building element (kitchen) that has been incorporated to give variation to the façade. This has reduced a section of the deck to 3.4 metre where encroachment occurs for 35% of the 9m long deck.

A variation is also being sought to development control 4.6.2.1(b) requiring that private open space areas not be located in the front yard unless sufficiently set back as to ensure private open space will not impact upon existing and future dwellings on adjoining lots. Both the proposed residence and the existing residence are located on a level plateau at the top of a steep bank. The proposed private open space for unit 2 is located to the north and is accessed from the dining area which is covered by the building above. The landscape design provides a 2.1m landscaped buffer with integrated timber fence



to screen the private open space deck from the street to provide privacy for occupants. The deck is low and does not exceed 800mm from natural ground at its highest point in the south east corner (adjoining the dwelling northern wall). The low deck is significantly setback and screened and will not impact existing or future dwelling lots.

Comment: The development is not considered to be inconsistent with the above objectives and is considered capable of support in this instance.

#### **Clause 4.10 Carparking and Access**

##### ***Objectives***

- *To provide car parking for residents.*

Carparking is provided as per Schedule 1 of Chapter E3 of the DCP (two car spaces in this instance garaged). Off street visitor carparking is also provided in front of the garaged parking spaces.

- *To ensure that there is adequate provision for vehicular access and manoeuvring.*

The increase to the driveway crossover width assists in vehicle manoeuvring and does not impact detrimentally on the street carparking capabilities.

- *To minimise the impact of garages upon the streetscape.*

The compliance of the garage width and prominence has been discussed in detail in the Statement of Environmental Effects. The garage door constitutes 25% of the building façade and is sufficiently set back and well-articulated to minimise visual prominence.

##### ***Development Control/s varied***

*10. Driveways shall have a maximum cross-over width of 3 metres.*

##### **Statement of Variation**

An exception to the development control requiring a maximum crossover width of 3m is sought to increase the width of the permeable hardstand crossover that extends from the front property boundary to the back face of the existing roll kerb (roll kerb to be retained without modification). The increase in width provides for easier access to the hardstand area to the front of the garage and circulation on and off Asquith Street which is characterised by steep curves and sharp bends with limited visibility. The increase provides easier manoeuvring on site to enter and exit the site. This proposed crossover width is consistent with the existing residence (unit 1) The impact on street parking as a result of this variation is minimal due to the frontage width and the location of the crossover. The distance between the existing and proposed crossover is 24m providing for 4 cars to be parked kerbside between the driveway crossovers.

Comment: As the proposed crossover can meet the objectives of the clause and appropriate justification has been provided the variation is considered capable of support in this instance.

#### **2.3.2 WOLLONGONG CITY-WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2020**

The estimated cost of works is >\$100,000 (\$450 000) and a levy of 1% is applicable under this plan as the value of the development is greater than \$100,000.

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

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

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

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

Demolition is not required or proposed, and the site is not mapped within the coastal zone.

### 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**

### Context and Setting:

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

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

Is the proposal's appearance in harmony with the buildings around it and the character of the street?

In response to the first question, matters such as overshadowing, privacy concerns, bulk, scale and setbacks are relevant. The proposal is within the allowable Floor Space Ratio for the site and proposes side and rear setbacks compliant with the minimum requirements. The exception to the height standard and variation to front setbacks is capable of support in this case. The development will not result in unreasonable overshadowing of any adjoining property, or the development potential of any nearby site.

With regard to the visual impact, the development is not considered to be inconsistent with the locality. The immediate area is currently made up of single dwelling houses on larger lots. The proposed dwelling would not be considered to result in an unreasonable visual impact.

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

### Access, Transport and Traffic:

The development provides for the required number of car parking spaces and adequate manoeuvring areas. Council's Development Engineer has considered the development with regard to impacts on the wider traffic network and raised no objections to the proposal.

### Public Domain:

The development is considered to be acceptable in relation to bulk and scale and the public domain.

### Utilities:

The proposal would not be envisaged to place an unreasonable demand on utilities supply.

### Heritage:

The site is not impacted by heritage items.



#### Other land resources:

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

#### Water:

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

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

#### Soils:

The proposal would not be expected to result in negative impact on soils.

#### Air and Microclimate:

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

#### Flora and Fauna:

The site is not identified within Council's land information system as being known to contain any threatened fauna species or habitat. An Arboricultural report prepared by Allied Tree Consultancy dated June 2020 and the Ecological Constraints and Opportunities Report prepared by Lodge Environmental dated 24 September 2020 was provided. Council's Environment and Landscape Officers' have reviewed the matters raised and provided conditionally satisfactory referral advice. In this regard, the proposal is considered satisfactory with regard to the requirements of the BC Act 2016. However, depending upon final advice from NSW RFS regarding required APZ's further vegetation impacts may have to be resolved in relation to tree removals.

#### Waste:

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

#### Energy:

The proposal would not be envisaged to have unreasonable energy consumption. See BASIX considerations at section 2.1.2 above.

#### Noise and vibration:

A condition will be attached to any consent granted, that nuisance be minimised during any construction, demolition, or works.

#### Natural hazards:

Council records list the site as affected by bushfire and flood impacts. The Natural Resource Access Regulator has provided satisfactory comment and General terms of Approval provided. Council's Development Engineer and Environment Officers' have reviewed the application and made satisfactory comment on flooding/stormwater matters. Conditions of consent are provided. The site is mapped as bushfire affected. Advice from RFS is pending in relation to the suitability of the performance solution for this site.

#### Technological hazards:

The site is affected by Class 5 acid sulphate soils but the proposal is unlikely to have an adverse impact on ASS in this location. There are no other technological hazards that would result in adverse impacts on the development.

#### Safety, Security and Crime Prevention:

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

#### Social Impact:

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

#### Economic Impact:

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

#### Site Design and Internal Design:

The application has an exception to the maximum building height requirement of WLEP 2009 development standards. It is considered that the exception is appropriate in this instance, as discussed in the body of this report. Considering the nature of the request and the mitigation of impacts, the exception is considered capable of support.

The proposal does seek variations to development controls relating to requirements for front setbacks, private open space, and driveway/crossover width. These requests have been considered and are considered capable of support in this instance, as discussed at section 2.3.1 above.

Landscaping requirements, deep soil zone and vehicular manoeuvring have been accounted for in the site layout. Internal design is considered acceptable. A materials and colour palette have been provided that demonstrate finishes and materials are reasonable. Overall, the site and building design is considered acceptable.

#### Construction:

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

A condition will be attached to any consent granted that all works are to comply with the National Construction Code.

#### Cumulative Impacts:

The proposal is not expected to result in negative cumulative impacts

#### Ecologically Sustainable Development Considerations

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

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

#### Does the proposal fit in the locality?

The design of the proposal is considered an appropriate response to the site constraints and is not expected to result in increased adverse impacts on the character of the locality or amenity of adjoining developments.

#### Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

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

See section 1.5 above.

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

The development is considered appropriate with consideration to the zoning and the expected future character of the locality and is therefore considered to be in the public interest.

## 3 CONCLUSION

---

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

It is considered that the applicant has provided adequate justification for the exception to the WLEP 2009 development standard at clause 4.3 Maximum building height, which is considered capable of support.

It is also considered that the applicant has provided adequate justification for the variations sought to WDCP 2009 as relates to front setbacks, private open space, and driveway/crossover width. The variations are considered capable of support.

All relevant internal and external referrals are conditionally satisfactory with the exception of the NSW RFS advice regarding a performance based solution in relation to the requirements of Planning for Bushfire Protection

Some of the issues raised in submissions though technically unresolved, are not considered to be sufficient to refuse the application.

It is considered that the proposed is not inconsistent with the existing and desired future character of the locality and is unlikely to result in significant adverse impacts on the amenity of the surrounding area.

## 4 RECOMMENDATION

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Development Application DA-2020/805 be **deferred**, subject to satisfactory advice being provided by the NSW Rural Fire Service and further understanding of vegetation impacts from required Asset Protection Zones.

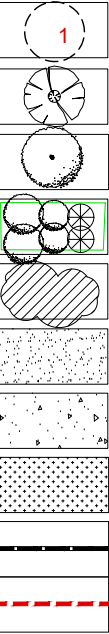
## 5 ATTACHMENTS

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- 1 Architectural Plans and site photographs
- 2 WDCP 2009 Compliance Table
- 3 WLEP Clause 4.6 Justification - Applicant
- 4 DCP Variation Statements - Applicant

LANDSCAPE LEGEND

ENTIRE SITE TO BE MANAGED AS AN INNER PROTECTION ZONE AND ALL PLANTING TO COMPLY WITH 'PLANNING FOR BUSHFIRE PROTECTION" 2019.

- 
- EXISTING TREE TO BE REMOVED

EXISTING TREE TO BE RETAINED

PROPOSED TREE

PROPOSED SHRUBS & GROUNDCOVERS

PROPOSED FERNS

PROPOSED TURF

PROPOSED CONCRETE DRIVEWAY

MULCH

1200 HIGH PALISADE FENCE (HARDWOOD)

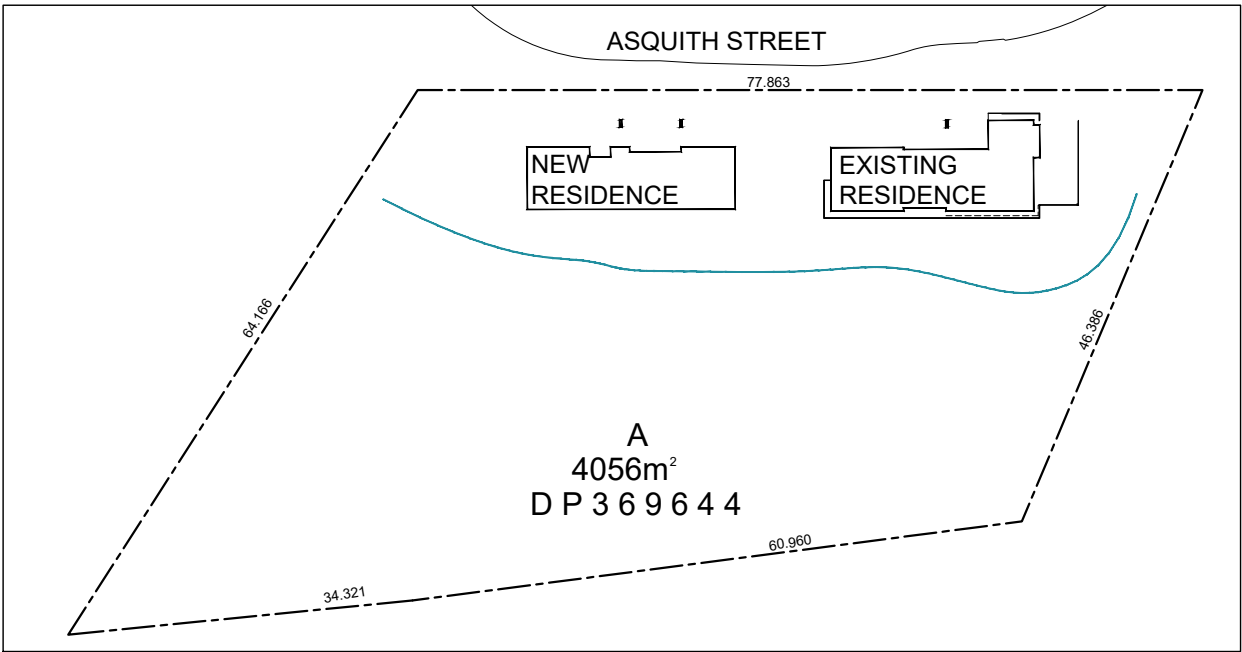
TREE PROTECTION FENCING

DEVELOPMENT DATA

SITE AREA	4056sqm
PROPOSED GROSS FLOOR AREA	483.1sqm (0.117:1)
UNIT 1 FLOOR AREA	218.1sqm
UNIT 2 FLOOR AREA	213sqm
PROPOSED SITE COVERAGE	260sqm (6.4%)
PROPOSED LANDSCAPE AREA	3587 (88%)
PROPOSED ON SITE CARPARKING	4 SPACES

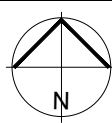
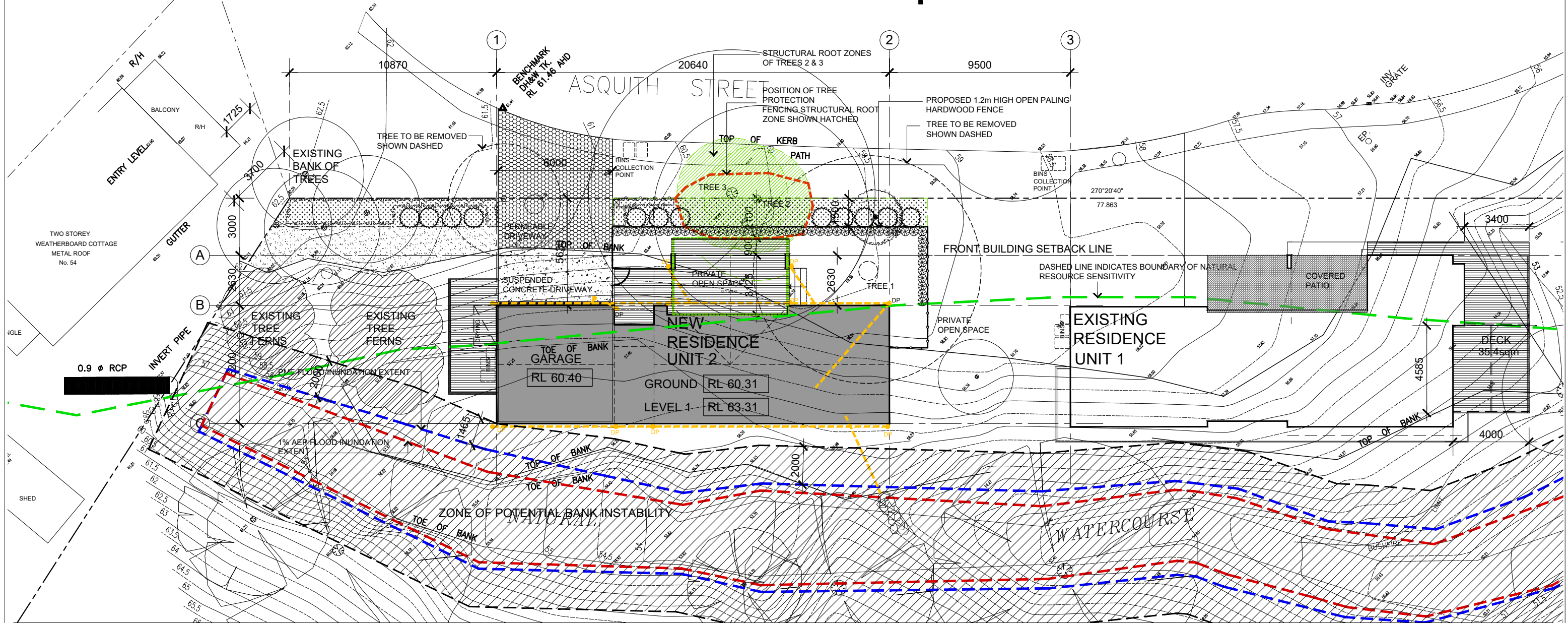
PROPOSED PLANT SCHEDULE

BOTANICAL	COMMON NAME
TREES AND LARGE SHRUBS	
<i>Banksia integrifolia</i>	Coast Banksia
<i>Syzygium leuhmanni</i>	Small Leafed Lilly Pilly
GROUND COVERS, GRASSES AND ACCENTS	
<i>Grevillea poorinda</i>	Royal Mantle
<i>Liriope muscari</i>	Lily Turf
FERN PLANTING	
<i>Adiantum aethiopicum</i>	Common Maidenhair Fern
<i>Asplenium nidus</i>	Birds Nest Fern
<i>Doodia asperia</i>	Prickly Rasp Fern
<i>Dichondra repens</i>	Kidney Weed



KEYPLAN

SCALE 1:750



Date	Issue	Revision
27.07.20	A	DEVELOPMENT APPLICATION
07.10.20	B	DEVELOPMENT APPLICATION
09.02.21	C	FRONT DECK AMENDED

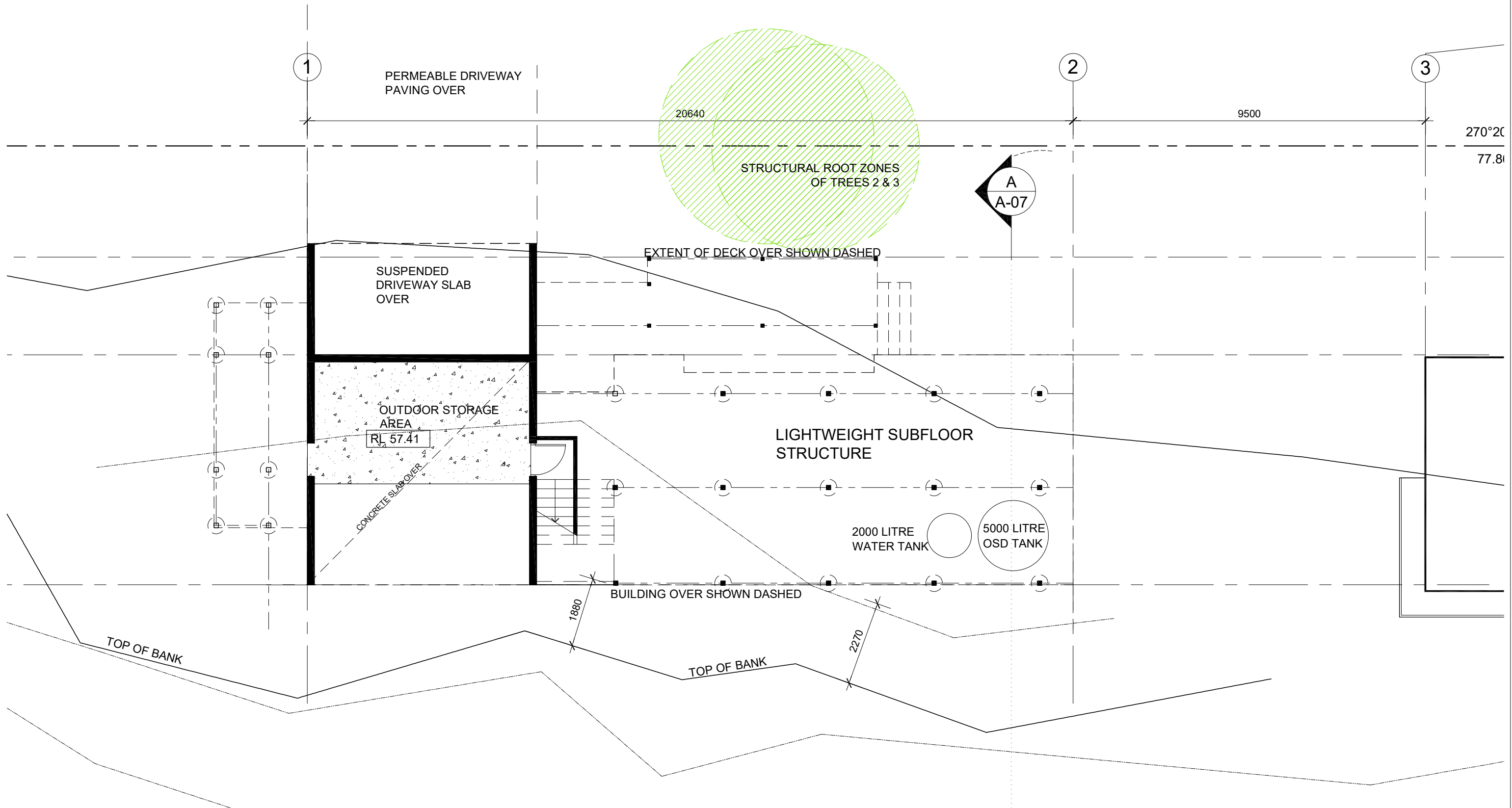
Develop My Land

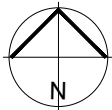
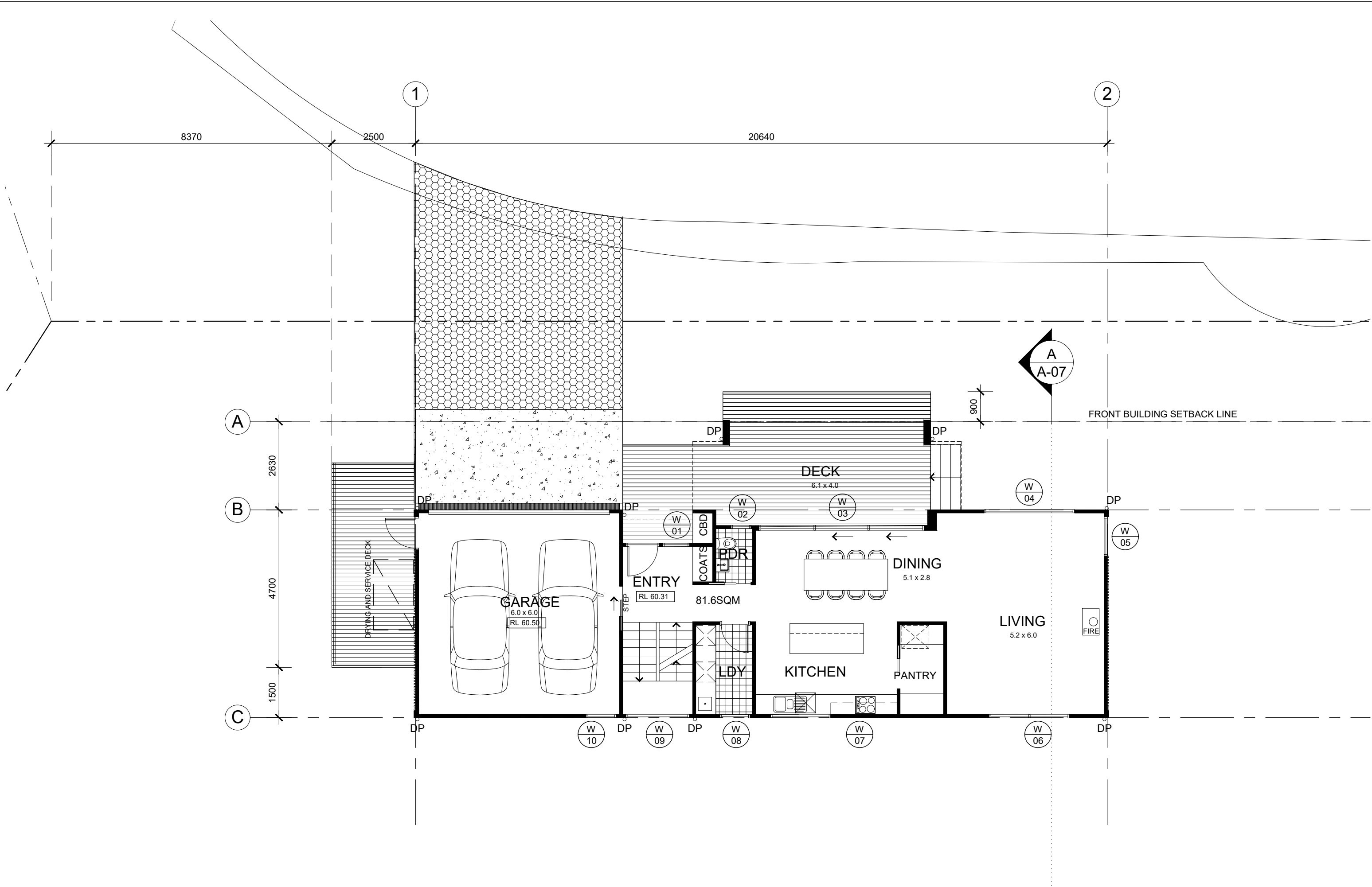


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PROJECT: 56-64 ASQUITH STREET AUSTINMER

Drawing Name: SITE & LANDSCAPE PLAN	Job No. DML 17/011	Dwg No A-01
CLIENT: LISA HUGHES	Scale 1:200@A3	Date 27.07.20
		Rev. C



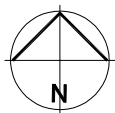
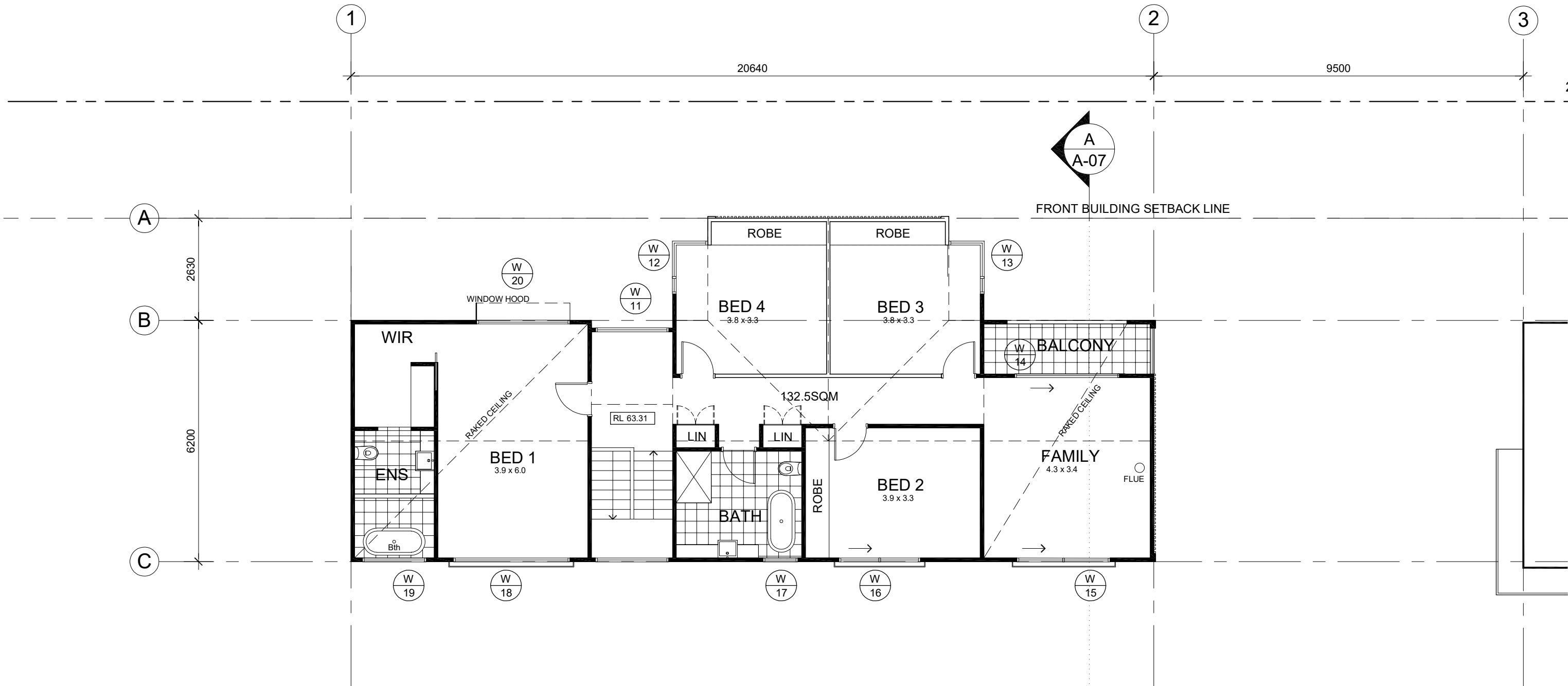


Date	Issue	Revision
27.07.20	A	DEVELOPMENT APPLICATION
07.10.20	B	DEVELOPMENT APPLICATION
09.02.21	C	DECK DIMENSIONS REVISED

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PROJECT: 56-64 ASQUITH STREET AUSTINMER			
Drawing Name: GROUND FLOOR PLAN		Job No. DML 17/011	Dwg No <b>A-03</b>
CLIENT: LISA HUGHES	Scale 1:100@A3	Date 27.07.20	Rev. <b>C</b>

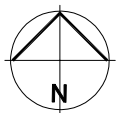
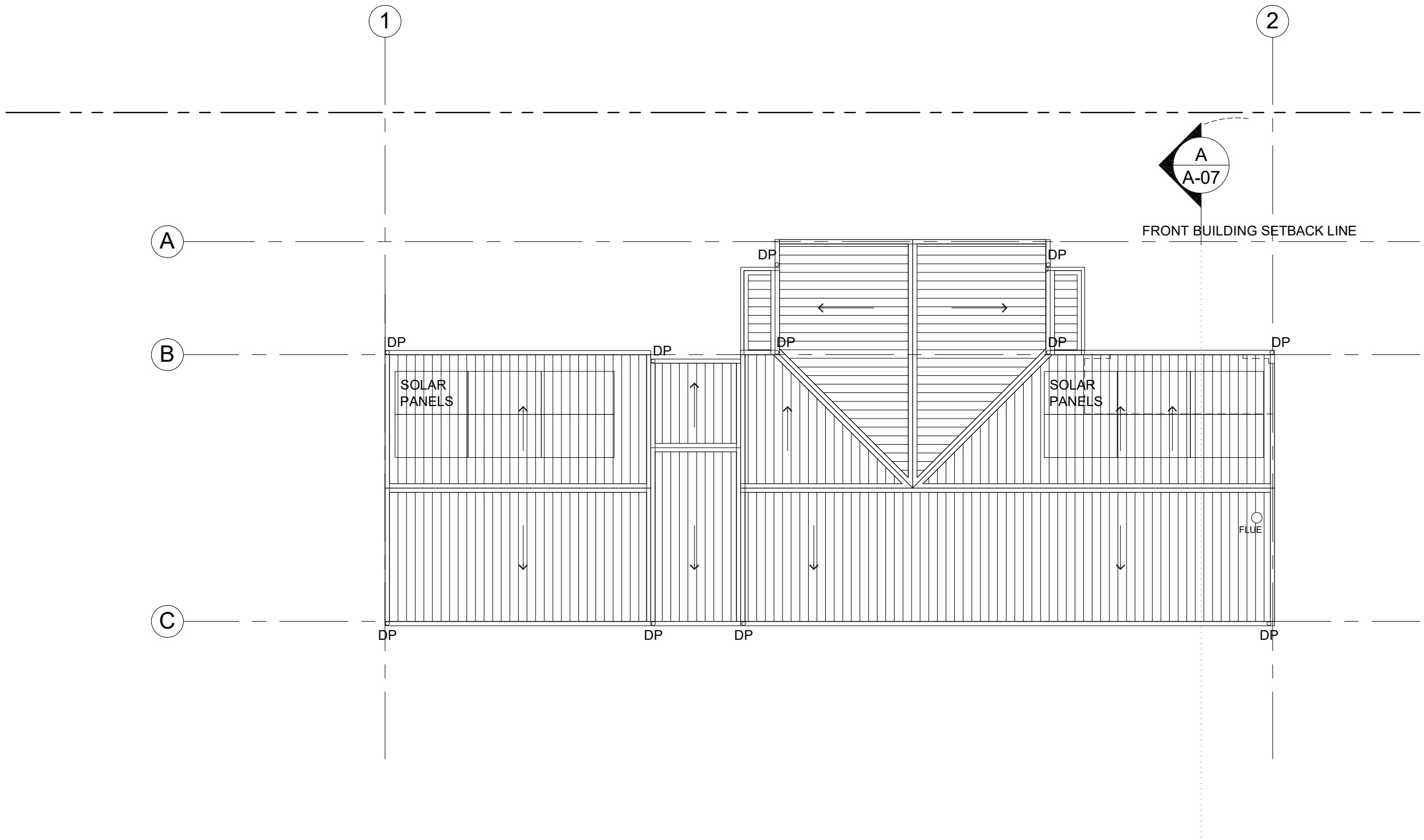


Date	Issue	Revision
27.07.20	A	DEVELOPMENT APPLICATION
07.10.20	B	DEVELOPMENT APPLICATION

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PROJECT: 56-64 ASQUITH STREET AUSTINMER			
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CLIENT: LISA HUGHES	Scale <b>1:100@A3</b>	Date 27.07.20	Rev. <b>B</b>



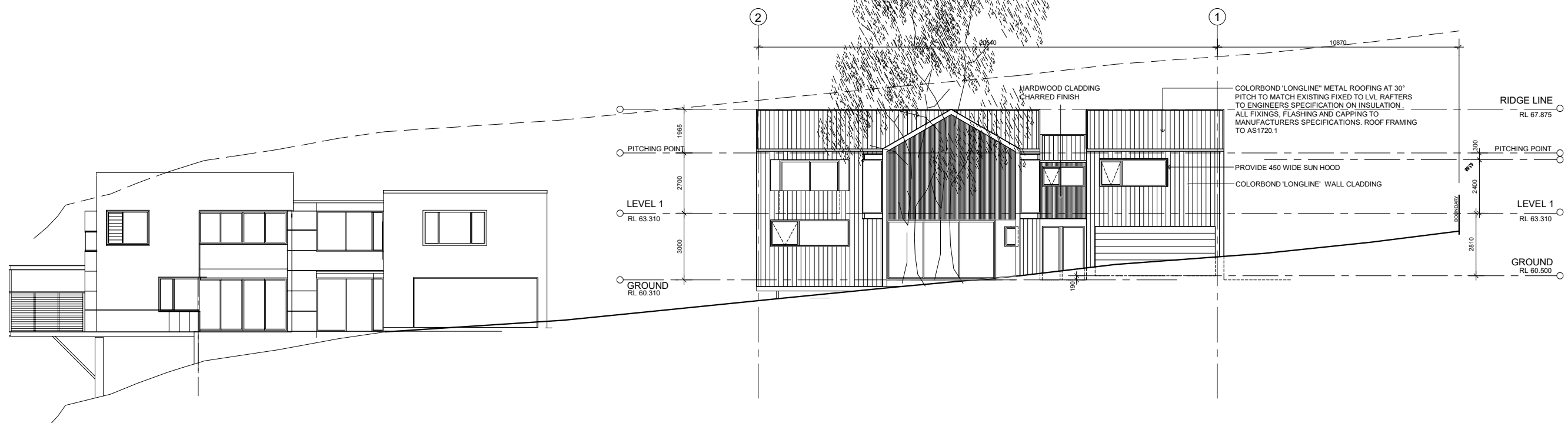
Date	Issue	Revision
27.07.20	A	DEVELOPMENT APPLICATION
07.10.20	B	DEVELOPMENT APPLICATION

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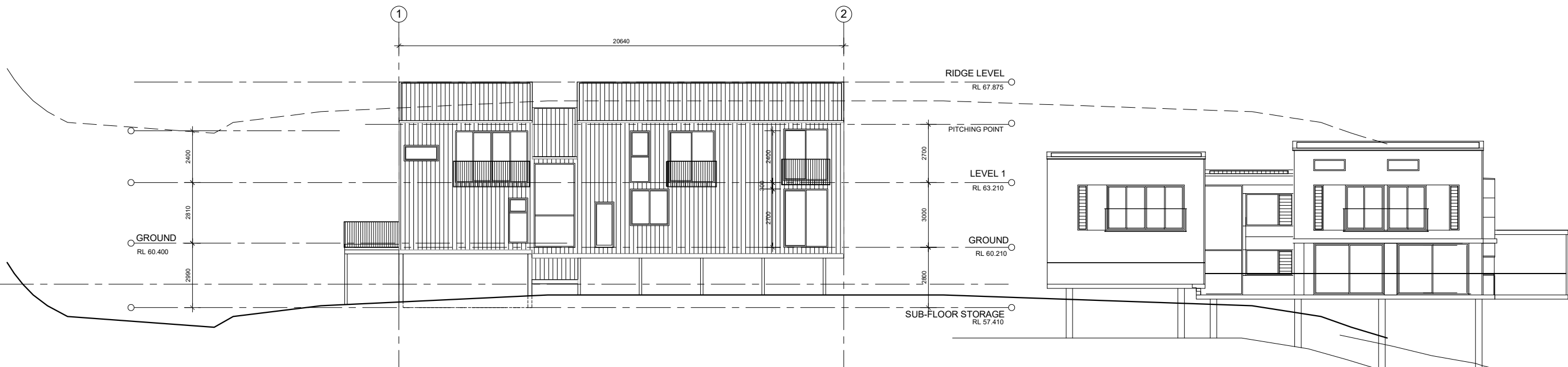


PROJECT: 56-64 ASQUITH STREET AUSTINMER			
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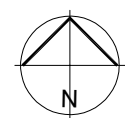




NORTH ELEVATION



SOUTH ELEVATION

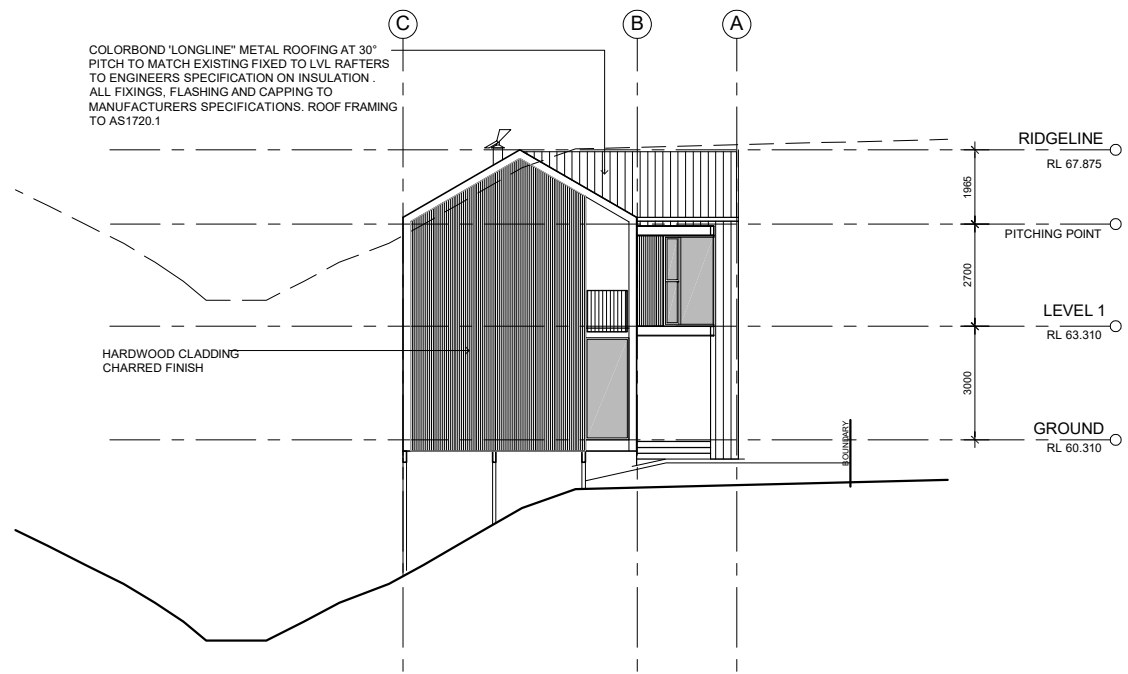


Date	Issue	Revision
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07.10.20	B	DEVELOPMENT APPLICATION

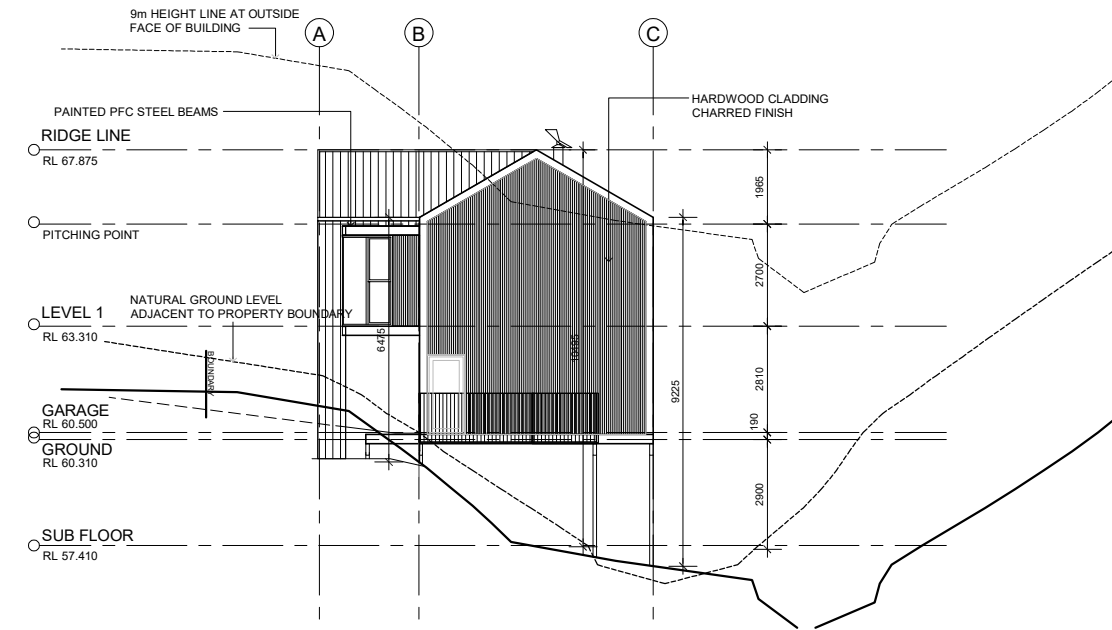
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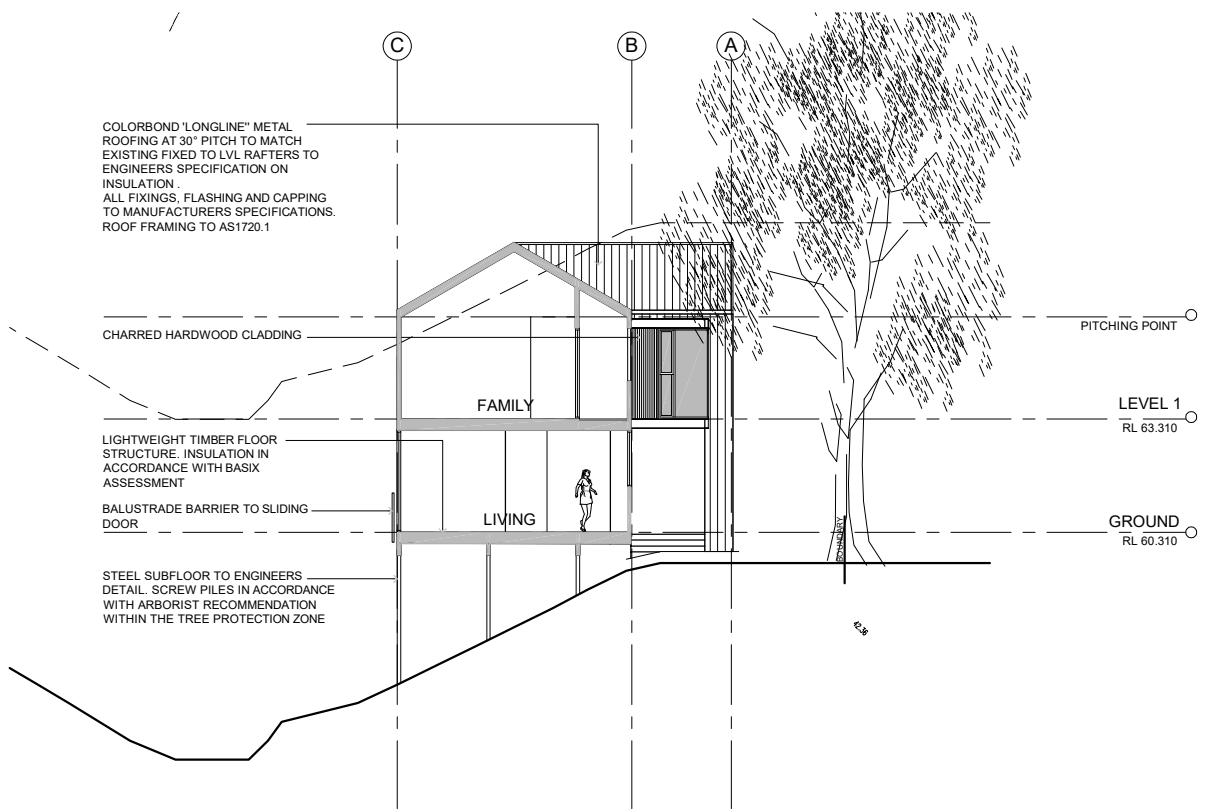
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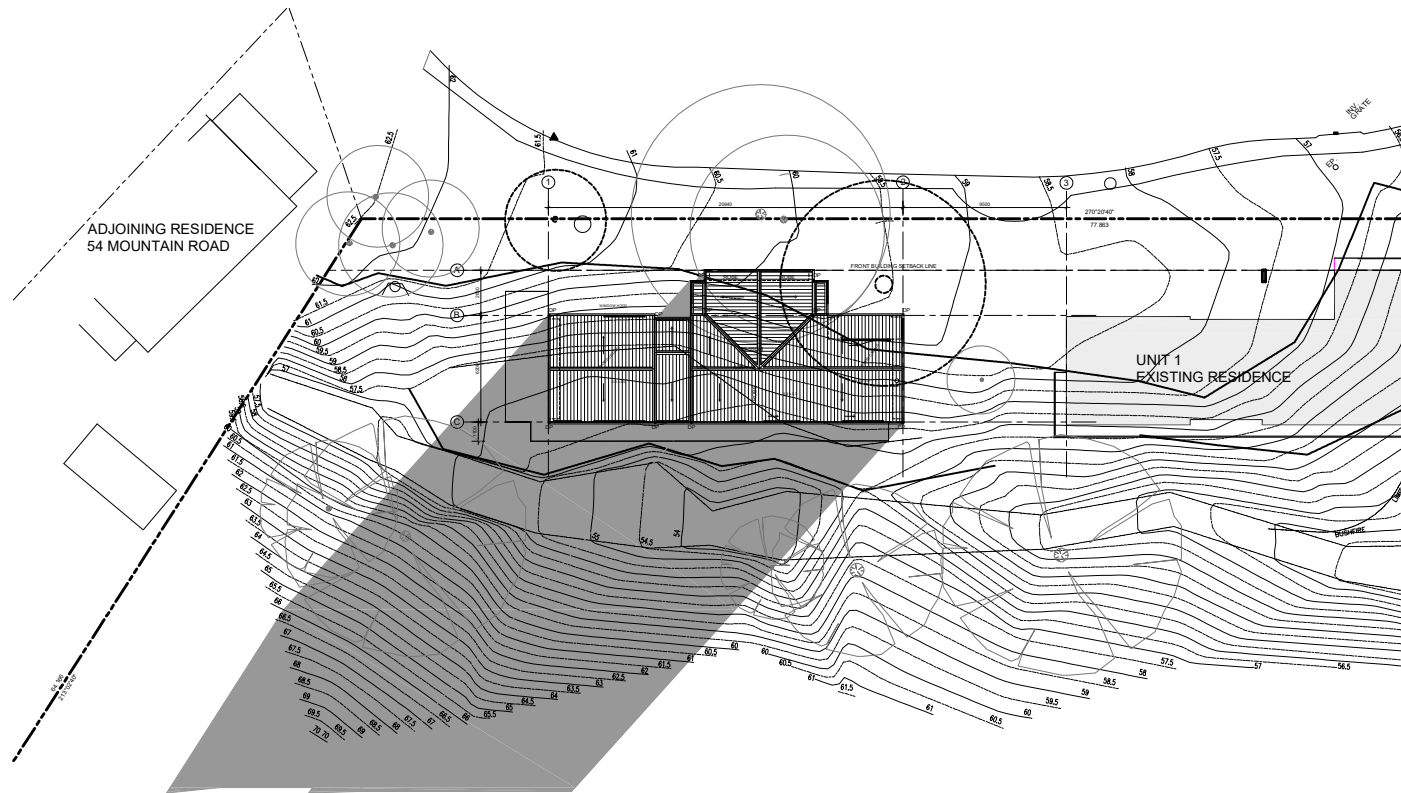
EAST ELEVATION



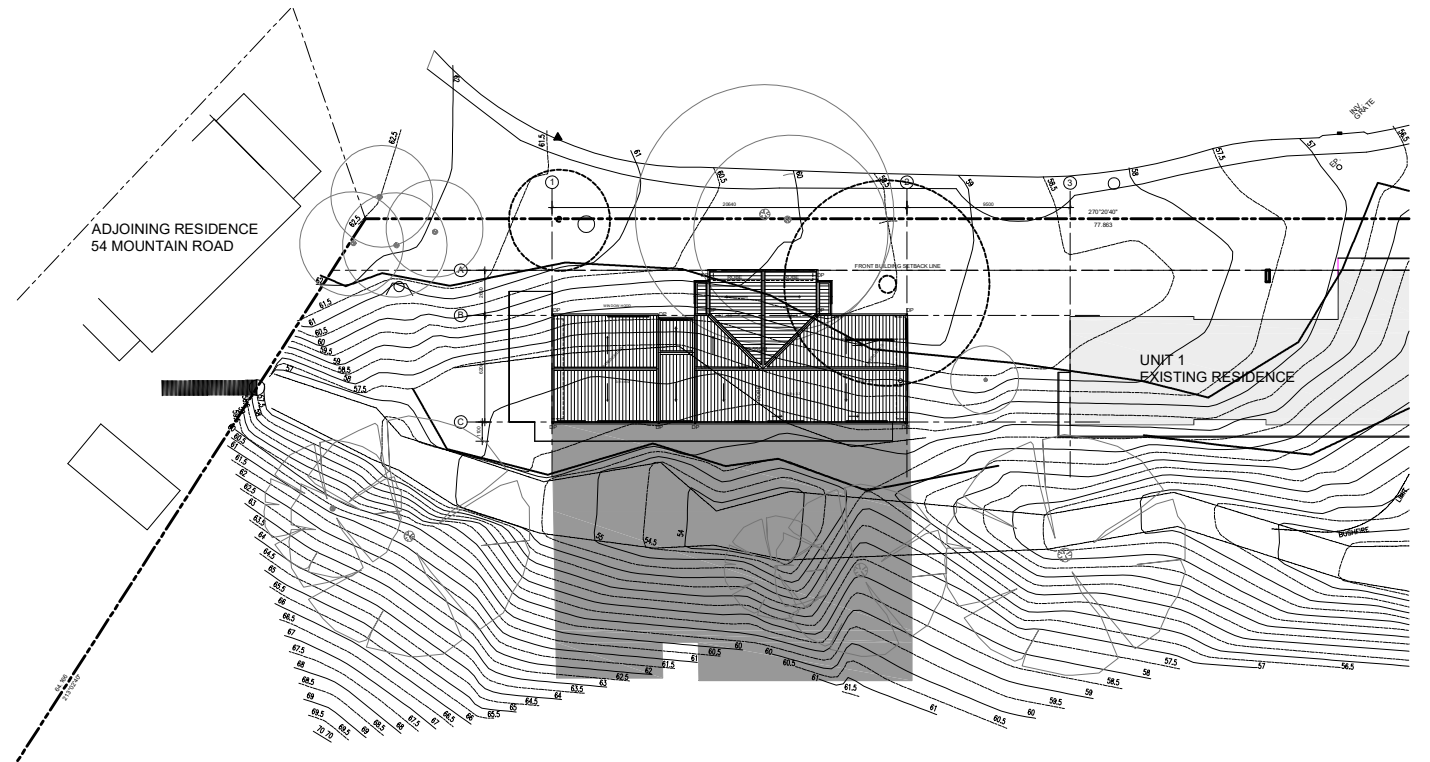
WEST ELEVATION



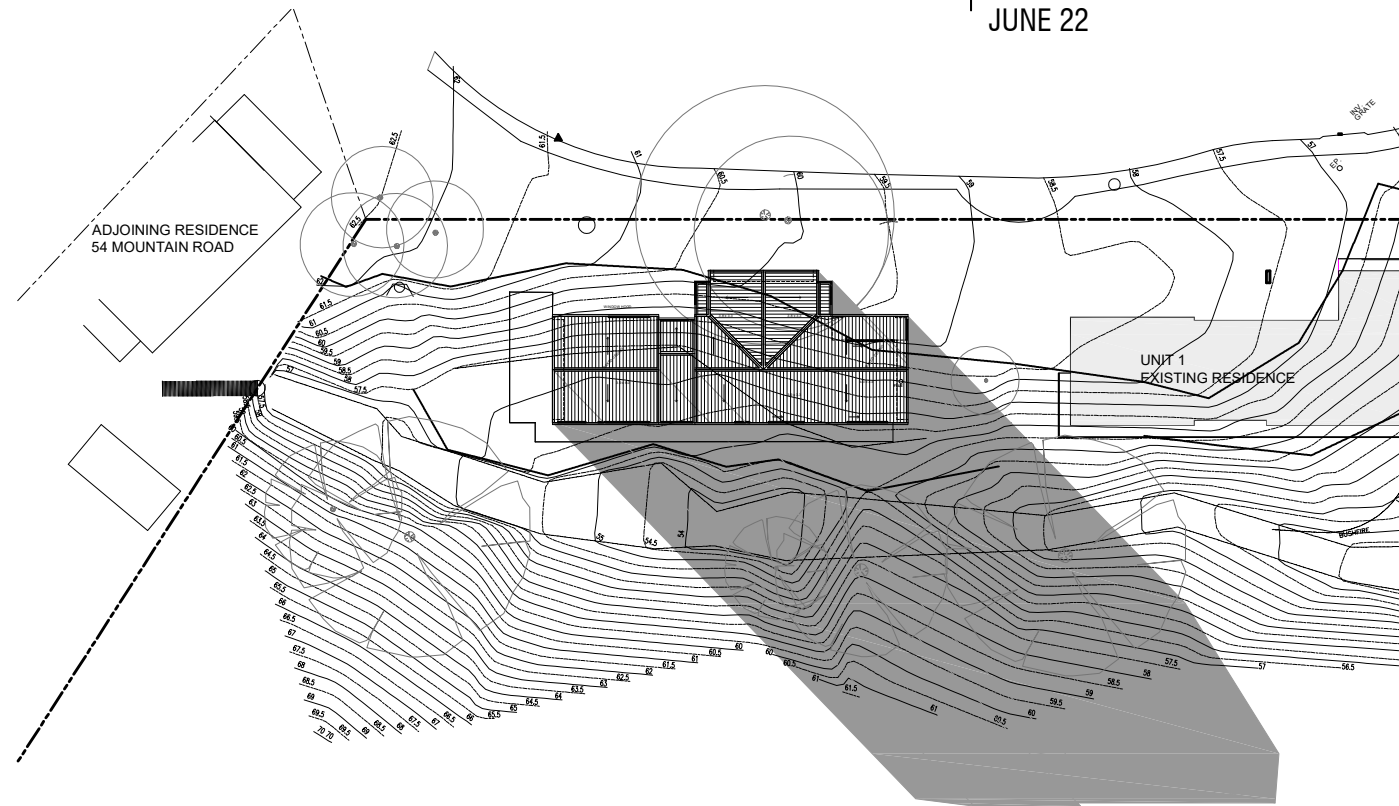
SECTION A-A



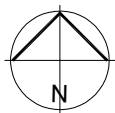
9AM  
JUNE 22



12PM  
JUNE 22



3PM  
JUNE 22



Date	Issue	Revision
16.07.18	A	DEVELOPMENT APPLICATION

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PROJECT: 56-64 ASQUITH STREET AUSTINMER			
Drawing Name:	UNIT 2 MID WINTER SHADOW DIAGRAMS	Job No. DML 17/011	Dwg No A-08
CLIENT: LISA HUGHES	Scale 1:400@A3	Date 05.06.18	Rev. A

## Schedule of External Materials and Finishes

56-64 Asquith Street Austinmer

Material		Building Element	Specification
	 SHALE GREY™ MATT	External walling & Roofing	Lysaghts Longline steel sheet cladding Mounted vertically
		External Walling	Charred timber cladding
		Window frames	Black



Attachment 1: Architectural Plans and site photographs

Existing House on site (looking east from front)



Looking south showing fall to watercourse



Looking south down to watercourse below



Building platform looking west



Looking north from street frontage to neighbouring development



Looking to the west down to the creek from the proposed building platform



## Attachment 2 – WDCP 2009 Assessment

### CHAPTER A2 – ECOLOGICALLY SUSTAINABLE DEVELOPMENT

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

Generally speaking, the proposal is considered to be consistent with the principles of Ecologically Sustainable Development. Satisfactory BASIX Certificates were submitted as part of this application.

### CHAPTER B1 – RESIDENTIAL DEVELOPMENT

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
<b>4.1 Maximum Number of Storeys</b>		
<ul style="list-style-type: none"><li>R2 – maximum 9 metres + 2 storeys</li></ul>	Existing dwelling – Height: 10.5 metres No. of storeys: Two (2)	No but exception to development standard supported under DA-2014/689
	Proposed Dwelling – Height: 10.495 metres No. of storeys: Two (2)	No but exception sought as outlined at clause 4.6 within the report.
<b>4.2 Front Setbacks</b>		
<ul style="list-style-type: none"><li>Dwellings 6m</li><li>Garages 5.5m</li><li>Lesser if consistent with street character</li></ul>	Existing dwelling has a front building setback of 3m and a garage setback of 5.6m.	No, variation accepted under DA-2014/689
	Proposed dwelling front setback: 3m	No, variation sought.
	A variation is sought and capable of support as discussed in the report at A1. Garage setback: 5.6 metres	See Chapter A1 in report. Yes
<b>4.3 Side and Rear Setbacks</b>		
<ul style="list-style-type: none"><li>900mm to side and rear boundaries</li><li>Windows of habitable rooms and balconies positioned to reduce overlooking</li></ul>	Proposed dwelling – W. side setback: >10m	Yes
	E. side setback to exist dwelling: approx. 9 metres Rear setback: > 8 metres	

#### 4.4 Site coverage

<ul style="list-style-type: none"> <li>40% of the area of the lot, if the lot has an area of at least 900m<sup>2</sup></li> </ul>	<p>Proposed site coverage permitted 40%</p> <p>Site area - 4056 less 286.04 = 3769.96m<sup>2</sup> therefore 7% site coverage</p>	Yes
---	---	-----

#### 4.5 Landscaped Area

<ul style="list-style-type: none"> <li>Lot area greater than 900m<sup>2</sup> - 210m<sup>2</sup> + 40% of the site area &gt; 900m<sup>2</sup> landscaped area.</li> </ul>	<p>The minimum landscaped area required for the site is 1472.4m<sup>2</sup>.</p> <p>An area of approximately 3700m<sup>2</sup> is available for landscaping, which is compliant.</p>	Yes
<ul style="list-style-type: none"> <li>Minimum 50% behind building line</li> </ul>	<p>Minimum 50% is provided behind the front building line</p>	
<ul style="list-style-type: none"> <li>2 semi-mature trees planted on site more than 3m from any structure</li> </ul>	<p>The front setback is appropriately landscaped.</p> <p>Suitable conditions relating to landscaping will be included on the consent as recommended by Council's Landscape Architect.</p>	

#### 4.6 Private Open Space

<ul style="list-style-type: none"> <li>24m<sup>2</sup> per dwelling – 4m x 6m</li> </ul>	<p>An area of POS is provided for the existing dwelling in the form of a deck and a variation to the required size of 24m<sup>2</sup> is sought and capable of support.</p>	No – variation sought See A1 in report
<ul style="list-style-type: none"> <li>Facilities provided outside minimum POS</li> </ul>		
<ul style="list-style-type: none"> <li>Positioned away from side boundaries</li> </ul>	<p>24m<sup>2</sup> POS is provided within the front setback for the proposed dwelling. A variation is sought and can be supported in this instance. There are no structures impeding either POS.</p>	No – variation sought See A1 in report

#### 4.7 Solar Access

<ul style="list-style-type: none"> <li>Windows to living rooms/POS of neighbouring sites to receive at least 3 hours direct sunlight between 9am and 3pm on 21 June</li> </ul>	<p>Shadow diagrams and associated drawings have been submitted which demonstrate required solar access is achieved.</p> <p>The proposed dwelling is designed to provide northerly solar access to living areas.</p>	Yes  Yes
--	---	----------------

#### 4.8 Building Character and Form

<ul style="list-style-type: none"> <li>Design responds to surrounding context</li> <li>Appropriate bulk and scale</li> </ul>	<p>The proposed dwelling responds to site constraints, sympathetic with the existing neighbourhood character and of an appropriate bulk and scale. The design of the new dwelling is consistent with contemporary coastal design in the area.</p> <p>The dwelling incorporates a front door that addresses the street. The garage door width is less than 50%.</p>	Yes
--	--	-----

#### 4.9 Fences

<ul style="list-style-type: none"> <li>Dividing fences to 1.8m high</li> <li>Front fence to 1.2 m high and constructed in transparent fence materials</li> </ul>	<p>Front fence of 1.2 metres proposed which is located 1.5 metres from the front boundary to ensure minimal impact on existing trees. Condition imposed in relation to fencing.</p>	Yes
--	---	-----

#### 4.10 Car parking and Access

<ul style="list-style-type: none"> <li>2 parking spaces required per dwelling with GFA more than 125m<sup>2</sup> otherwise 1 space required</li> </ul>	<p>Two (2) parking spaces are required for both dwellings.</p> <p>The existing dwelling contains the required two spaces.</p>	Yes
<ul style="list-style-type: none"> <li>Minimum 5.5m setback from front property boundary</li> </ul>	<p>The proposed dwelling contains two spaces in the form of a compliant double garage.</p>	Yes
<ul style="list-style-type: none"> <li>Driveways shall be separated from side boundaries by a minimum of one metre</li> </ul>	<p>The front garage setback is 5.5m and the driveway separation width is compliant.</p>	Yes
<ul style="list-style-type: none"> <li>Maximum driveway crossover width of 3m</li> </ul>	<p>A variation is sought to the maximum driveway crossover. The variation is capable of support and discussed in the report at A1.</p> <p>The proposal has been assessed against the relevant objectives and considered satisfactory.</p>	No – variation sought See A1 in report

#### 4.11 Storage Facilities

<ul style="list-style-type: none"> <li>10m<sup>3</sup> or 5m<sup>2</sup> of storage to be provided</li> </ul>	<p>Appropriately sized storage areas for larger items shown on plans.</p>	Yes
---	---	-----

#### 4.12 Site Facilities

<ul style="list-style-type: none"> <li>Site facilities to be appropriately located</li> </ul>	<p>Site facilities such as clothes lines etc have been shown on the plans in suitable locations. Site facilities condition.</p>	Yes
---	---	-----



#### 4.13 Fire Brigade Servicing

- |   |  |     |
|---|--|-----|
| • All dwellings located within 60m of hydrant | Established neighbourhood with existing fire servicing | Yes |
|---|--|-----|

#### 4.14 Services

- |  |  |     |
|--|--|-----|
| • Ensure residential development can be appropriately serviced | The site is already serviced. A condition will be included on the consent requiring a compliance certificate from Sydney Water to be obtained. | Yes |
|--|--|-----|

#### 4.16 View Sharing

- |   |   |     |
|---|---|-----|
| • To protect and enhance view sharing, significant view corridors | The proposed development will not impact any significant views. | Yes |
|---|---|-----|

#### 4.17 Retaining Walls

- |   |   |     |
|---|---|-----|
| • Maximum retaining wall height of 600mm setback up to 900mm from side or rear boundary | No retaining walls proposed greater than 600mm in height and/or 900mm from a side boundary. | Yes |
|---|---|-----|

#### 4.21 Additional controls for Dual Occupancies minimum site width

- |                           |   |     |
|---------------------------|---|-----|
| • 15m site width required | 4056m <sup>2</sup> site with a site width greater than the required 15 metres | Yes |
|---------------------------|---|-----|

#### 4.22 Additional controls for Dual Occupancies –building character and form

- |  |   |     |
|--|---|-----|
| • Garages on the front elevation must be articulated from the front facade | The garage facing the street is articulated from the front facade | Yes |
|--|---|-----|

#### 4.23 Additional Controls for Dual Occupancy's – Deep Soil Zones

- |   |   |     |
|---|---|-----|
| • Half required landscaped area to be provided as deep soil zone with a minimum dimension of 3m                             | Landscaped area required is 1472.4m <sup>2</sup> . Half is required as DSZ. Therefore, the minimum required deep soil zone for the lot is 736.2m <sup>2</sup> . | Yes |
| • Appropriate dense planting with trees and shrubs  | The lot contains an existing natural treed area, which meets the requirements of this clause. No  |     |
| • No structures, carparks, driveways, hard paving, decks balconies or drying areas are permitted within the deep soil zone. |   |     |

- Deep soil zones to have minimum dimensions of 3m structures are contained within the deep soil zone.



No concern has been raised by Council's Landscape Architect subject to the recommended conditions.

## CHAPTER D1 – CHARACTER STATEMENTS

The proposal is consistent with the existing and desired future character of Austinmer as the proposed development consists of a detached dwelling house to form a dual occupancy, while retaining a low density residential character. The new dwelling is consistent with other contemporary building design in the suburb.

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

### 7 Parking demand and servicing requirements

	<i>Rate</i>	<i>Calculation</i>	<i>Required</i>	<i>Provided</i>	<i>Compliance</i>
Car parking	2 spaces per dwelling with a gross floor area of more than 125m <sup>2</sup>	Existing (>125m <sup>2</sup> )	2	2	Yes
		New Dwelling 2 (>125m <sup>2</sup> )	2	2	Yes

The proposal has been assessed against the relevant objectives and controls of this chapter and is considered satisfactory. Council's Development Engineer has reviewed the application and has provided satisfactory referral advice.

## CHAPTER E6: LANDSCAPING

A landscape plan was submitted in accordance with the requirements of this Chapter. The proposal was reviewed by Council's Landscape Officer who provided a satisfactory referral, subject to recommended conditions of consent.

## CHAPTER E7: WASTE MANAGEMENT

It is considered that the proposed development satisfies the objectives of this chapter. Conditions will be imposed on the consent to ensure that Waste Management is carried out to Council's Waste Management specification during construction.

The design is capable of providing suitable waste storage and servicing arrangements for the disposal of ongoing domestic waste behind the front building line, screened from public view.

## CHAPTER E12 GEOTECHNICAL ASSESSMENT

The application has been reviewed by Council's Geotechnical Engineer in relation to site stability and the suitability of the site for the development. No concerns were raised, and conditions recommended.

#### **CHAPTER E13 FLOODPLAIN MANAGEMENT**

Council's Development Engineer has reviewed the application in relation to flood impacts on the site and provided conditionally satisfactory referral advice.

#### **CHAPTER E14 STORMWATER MANAGEMENT**

Council's Development Engineer has reviewed the proposal with respect to the provisions of this chapter and has recommended conditions of consent.

#### **CHAPTER E16 BUSH FIRE MANAGEMENT**

The site is mapped as bushfire affected. A certificate was provided by a qualified consultant, which recommended a performance solution. As such, the application was required to be referred to NSW RFS. Advice from RFS is pending in relation to the suitability of the performance solution for this site.

#### **CHAPTER E17 PRESERVATION AND MANAGEMENT OF TREES AND VEGETATION**

An Arboricultural Impact Assessment Report prepared by Allied Tree Consultancy dated June 2020 and the Ecological Constraints and Opportunities Report prepared by Lodge Environmental dated 24 September 2020 have been provided in relation to management and preservation of trees. Council's Landscape and Environment officers' have both visited the site and reviewed the documentation. Two (2) trees will require removal and eleven (11) trees identified in the portion of the site of the proposed dwelling are to be retained. Satisfactory referral advice was received and conditions specifying the trees to be removed, compensatory planting, and tree protection and management provided.

Depending upon final advice from NSW RFS regarding required APZ's further vegetation impacts may have to be resolved in relation to tree removals.

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

It is considered that the proposed development will have minimal impact on the surface water drainage of the site and satisfies the objectives of this Chapter.

#### **CHAPTER E22 SOIL EROSION AND SEDIMENT CONTROL**

Conditions shall be imposed on the consent to minimise the impacts of the proposed works on the environment.

#### **CHAPTER E23: RIPARIAN LAND MANAGEMENT**

The application has been reviewed by Council's Environment Officer in relation to the requirements of this chapter. Conditionally satisfactory referral advice has been received. The application was also referred to NRAR and General terms of Approval have been issued for the development and will form consent conditions.

## Attachment 3

### DEVELOPMENT APPLICATION FOR DUAL OCCUPANCY RESIDENTIAL DEVELOPMENT

#### 56-64 ASQUITH STREET AUSTINMER NSW 2515

## 1.0 INTRODUCTION

This statement provides justification for a variation to a development standard prescribed by the Wollongong *Local Environment Plan 2009 (LEP)*.

The exception to the Development Standard is sought under Clause 4.6 of the *Wollongong Local Environment Plan 2009*.

***The objectives of this clause are as follows:***

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

This statement is provided to justify a variation to **Clause 4.3 – Height of buildings** in accordance with Clause 4.6 of the Wollongong Local Environment Plan 2009 as the application of this requirement is considered unreasonable or unnecessary for this particular development.

## 2.0 DESCRIPTION OF THE DEVELOPMENT

The development application seeks approval for a dual occupancy development on a parcel of land zoned R2 Low density residential. The proposal seeks to retain the existing house located to the east of the site and construct a new detached residence complementary in design and materials to the west of the existing building. The site area is 4056sqm. The proposal has been designed and sited appropriately to not impact on the amenity of neighbouring properties or the existing residence.

Development approval DA2014/689 was determined in September 2014 for the residence located currently on the subject site and nominated in this application as Unit 1. This approval sought a variation to Clause 4.3 Height of Buildings with a maximum building height of 10.5m. This application was assessed by the Independent Hearing and Assessment Panel (IHAP). The variation to Clause 4.3 – Height of Buildings was supported for this application.

## 3.0 VARIATION TO CLAUSE 4.3 HEIGHT OF BUILDINGS

Subclause 4.3(2) states: *'The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map'* The height of buildings map for the subject site stipulates a maximum height of 9m.

WLEP 2009 defines building height as meaning the *'vertical distance from ground level (existing) to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like'*.

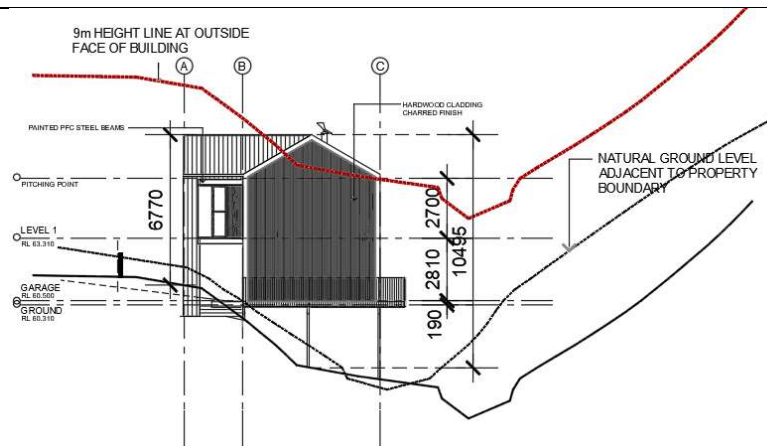
This proposal seeks a maximum building height measured in metres from natural ground to the highest point in the building of 10.475m. a variation of 16.3%.

The development consent DA2014/689 endorsed a variation to the permissible 9m building height to allow a maximum height of 10.5m.

development standard sought to be varied in this instance is the maximum building height requirement of 9 metres as identified under **Clause 4.3 – Height of Buildings** in the LEP. This request is consistent with the variation granted for unit 1.

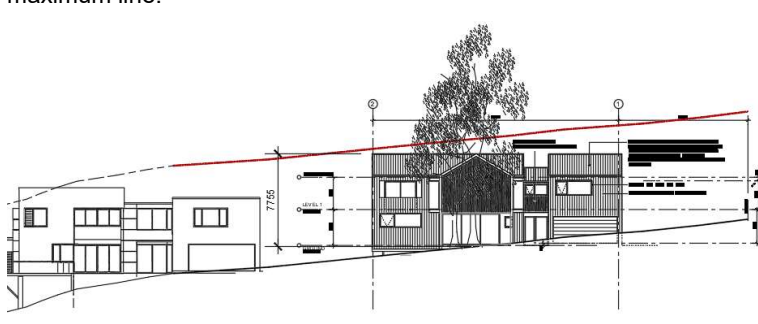
The site consists of a narrow level bench, varying in width adjoining the street frontage with Asquith Street and then a steep decline to the south from this level bench to a watercourse located approximately 6m below street level. On the southern side of the watercourse a steep incline to the rear boundary at an elevation of approximately 20m above street level. This steep topographic gully causes the 9m height plane to be exceeded.

<b>Contravention of Clause 4.3 Building Height – WLEP 2009</b>	
<b>Clause 4.6 Exception to development standards</b>	<b>Response</b>
<p><b>The objectives of this clause are as follows:</b></p> <p>a. <i>to provide an appropriate degree of flexibility in applying certain development standards to particular development,</i></p> <p>b. <i>to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</i></p>	<p>Flexibility is sought for the application of the maximum allowable height control contained in clause 4.3 of WLEP 2009. The particular circumstances for this are as follows:</p> <ul style="list-style-type: none"> <li>The site has a topography characterised by a level plateau adjoining Asquith Street and a steep decline southward down to a watercourse located approximately 5.3m below the proposed ground level. The land then steeply inclines from the watercourse towards the southern boundary adjoining properties located on Hill Street. The natural ground level at the rear boundary directly behind the proposed building location is approximately 18.8m above the proposed ridge height of unit 2. This type of terrain prevails west of the railway line in Austinmer particularly in Asquith Street and Hill Street. The relationship between the proposal and the topography of the site is demonstrated in <b>figures 1 -3</b> below. The 9m height plane mapping the terrain is indicated in red.</li> <li>The height of the building when viewed from Asquith Street measured from proposed ground level to ridge line is 7.69m. The ground level has been located as close as practicable to natural ground and generally is located beneath the level of the street. This is the viewpoint that should be considered when assessing the perceived bulk and scale of the proposal.</li> <li>The proposed contravention of the development standard equates to a variation of 16.5% when located over the lowest portion of the building envelope, however this is of minor significance in the context of the development and the nature of adjoining development.</li> </ul> <div data-bbox="564 1570 1222 1910"> </div> <p><b>Figure 1</b> Eastern elevation demonstrating topography and 9m LEP height maximum line</p>



**Figure 2**

Western elevation demonstrating topography and 9m LEP height maximum line.



**Figure 3**

Northern elevation demonstrating the view from the street and 9m LEP height maximum line.

**(3)** Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating-

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

This table provides the written justification for a development that contravenes the height of buildings development standard.

In Councils report to the IHAP when assessing DA2014/689 the conclusion states that the *proposed development has been designed appropriately given the nature and characteristics of the site. The development is considered low scale being two storeys above natural ground and presents a high level of finish to the dominant facades and is unlikely to result in significant adverse impacts on the character or amenity of the surrounding area.*

Particular to this proposed development, the variation sought is consistent with the variation assessed to be justified on the subject site previously. The proposed building height, whilst exceeding the maximum 9m height limited permitted provides for a low scale, two storey residence that will not have a significant impact on the visual impact of the proposal when viewed from the streetscape due to the height variation being sought only to the rear of the building out of view from adjoining properties.

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

There are sufficient planning grounds to justify contravening the building height development standard as it relates to the proposed variation as it meets the following criteria:

- There will be no unacceptable adverse environmental impacts as a result of the proposed development and the outcome will not result in a negative impact in relation to visual impact, loss of

	<p>views, loss of privacy or overshadowing of adjoining properties considering both existing and future allowable development.</p> <ul style="list-style-type: none"> <li>• The proposal is considered to be satisfactory having regard for other provisions of the WLEP2009 and the relevant chapters of WDCP2009</li> <li>• The proposed bulk and scape of this development is considered appropriate for this location and will not detrimentally affect the visual appearance of the area with the location of the variation being sought in this instance being towards the rear.</li> </ul>
<b>(4)</b> Development consent must not be granted for development that contravenes a development standard unless—	
(a) the consent authority is satisfied that— (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	This variation statement is provided for Councils consideration in support of the justification for varying development standards by subclause (3).
<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><b>Objectives of Clause 4.3 of the LEP</b></p> <ul style="list-style-type: none"> <li>• <i>to establish the maximum height limit in which buildings can be designed and floor space can be achieved,</i></li> <li>• <i>to permit building heights that encourage high quality urban form,</i></li> <li>• <i>to ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight.</i></li> </ul> <p><b>Objectives of the R2 Low Density Residential Zone</b></p> <ul style="list-style-type: none"> <li>• <i>To provide for the housing needs of the community within a low-density residential environment.</i></li> <li>• <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i></li> </ul>	<p>The proposed exceedance of the overall allowable height of 9m is considered to be in the public interest as it meets the objectives of development standard 4.3 of WLEP 2009 as:</p> <ul style="list-style-type: none"> <li>• The development is consistent with adjoining development including existing development on the subject site and provides consistency in design and urban character</li> <li>• All surrounding buildings continue to maintain views of sky and exposure to sunlight</li> <li>• The development will be of a consistent high standard of design as demonstrated in the existing approved residence and are considered to be appropriate for the setting.</li> </ul> <p>The provision of a high-quality dual occupancy residential development sited on a large parcel of residential land provides for low density residential accommodation in accordance with the objectives of the zone in a sought-after location and established residential area. The siting of the residence has taken into consideration surrounding low density development as well as the specific site constraints.</p>
(b) the concurrence of the Planning Secretary has been obtained.	Council will need to consult with the Department of Planning and Infrastructure as to whether the Director Generals concurrence can be assumed in this respect to the variation of a development standard.
<b>(5)</b> In deciding whether to grant concurrence, the Planning Secretary must consider—	
(a) whether contravention of the development standard raises any	The contravention of this development standard does not raise any matter of significance for state or regional environmental planning

matter of significance for State or regional environmental planning, and	
(b) the public benefit of maintaining the development standard, and	There is no public benefit in strictly maintaining the development standard in this instance as there are no identifiable adverse impacts in allowing the variation in the allowable 9m height limit. The provision of quality housing within areas that are zoned appropriate for low density residential use is in the public benefit. This site is a particularly large land holding and the advantages in regard to vegetation management of the riparian corridor as a result of this development progressing will be a positive public benefit.
(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.	It is considered that there are no other matters for consideration before granting concurrence.

## 5.0 CONCLUSION

In accordance with the provisions of *Clause 4.6 – Exceptions to Development Standards* of the *LEP*, formal objection is hereby made to the strict compliance with the maximum building height standard for this dual occupancy application. This review of the matters for consideration has demonstrated that under the Clause that “...*compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.*”

As the variation is limited to a small portion to the rear of the proposed building out of public view and unavoidable due to the steeply sloping topography of the site and strict compliance with the numerical building height is unwarranted given these circumstances.

We therefore request that Council support a variation to the 9m height control contained in clause 4.3(2) – Building Height of the WLEP 2009 to allow an overall maximum building height of 10.475m for the proposed dual occupancy development.



## APPENDIX 2

### EXEMPTIONS TO DEVELOPMENT STANDARDS

#### DEVELOPMENT APPLICATION FOR DUAL OCCUPANCY RESIDENTIAL DEVELOPMENT

##### 56-64 ASQUITH STREET AUSTINMER NSW 2515

This statement seeks an exemption to three (3) Development Controls prescribed by the Wollongong *Development Control Plan 2009 (DCP)*.

The exception to the Development Standard is sought under Clause 4.6 of the *Wollongong Local Environment Plan 2009*.

The variations to the Development Controls are sought in accordance with Section 8, Chapter A1 of the Wollongong Development Control Plan 2009

A variation to development control will be considered where the written justification is provided to the satisfaction of Council that the objectives of the relevant Development Control have been achieved.

#### **1.0 DEVELOPMENT STANDARD AND CONTROLS BEING VARIED**

##### **Development Controls being varied**

The development Controls sought to be varied in this instance are the minimum front setback requirement of 6m identified in Chapter B1 **Section 4.2 Front Setbacks**, the location and dimension requirements of private open space identified in **Section 4.6 Private Open Space** and the maximum 3m driveway crossover width identified under **Section 4.10 Carparking & Access**.

#### **2.0 OBJECTIVES OF THE CONTROLS BEING VARIED**

##### **2.1 Objectives of Section 4.2 of the DCP**

- *To reinforce the existing character of the street and locality by acknowledging building setbacks.*
- *To ensure that buildings are appropriately sited, having regard to site constraints.*
- *To ensure building setbacks are representative of the character of the area.*
- *To provide for compatibility in front setbacks to provide unity in the building line.*
- *To ensure that setbacks do not have a detrimental effect on streetscape or view corridors.*
- *To ensure that hard stand areas can be provided in front of garage without imposing on movement corridors (pathways, cycle ways and road reserves).*

##### **2.2 Objectives of Section 4.6 of the DCP**

- *To ensure that private open spaces are large enough to accommodate a range of uses and are accessible and connected to indoor spaces.*
- *To ensure that private open space is suitably located taking into account existing and potential surrounding development.*
- *To minimise amenity impacts to neighbours.*
- *To ensure functionality of the private open space area by reducing overlooking, overshadowing and amenity impacts onto / from adjoining properties, through the*

*provision of appropriate buffer screen planting around the perimeter of the open space area, where necessary.*

- *To protect existing trees and other vegetation in the immediate locality which contribute to the natural setting of the site*

## 2.3 Objectives of Clause 4.10 of the DCP

- *To provide car parking for residents.*
- *To ensure that there is adequate provision for vehicular access and manoeuvring.*
- *To minimise the impact of garages upon the streetscape.*

## 4.0 GROUNDS FOR VARIATION TO DEVELOPMENT CONTROLS

### 4.1 Section 4.2 of the DCP

An exception to the Development Control requiring a 6m front building line setback is sought as part of this application.

The proposed dual occupancy residence has adopted a consistent front building line setback with the existing house on the site (unit 1). At the time of the approval of the existing residence it was demonstrated to Council that due to the topography of Asquith Street there is no prevailing front building setback (refer to figure 4 and table 1)



Figure 4. Setback distances of neighbouring dwellings. Source Six maps

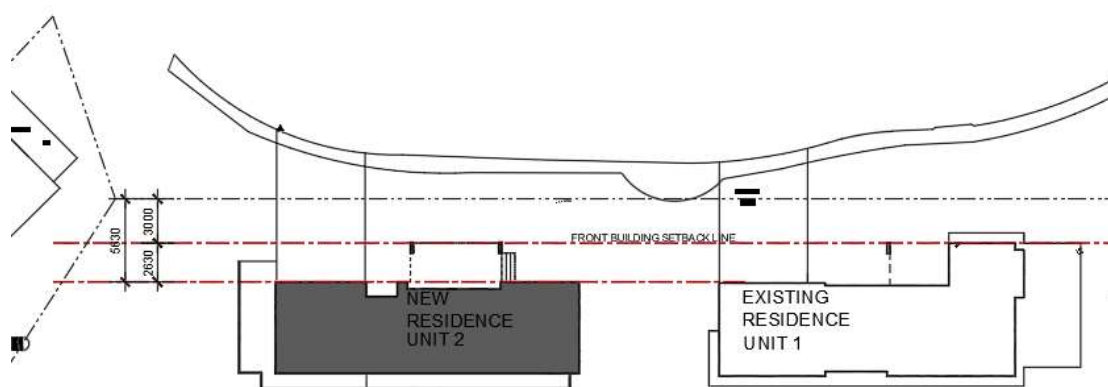


Figure 5. Diagram of existing and proposed residences. Consistent front setback.

Table showing setbacks of neighbouring houses adjacent to proposed dwelling at 56-64 Asquith Street, Austinmer.	
House Number	Setback from front boundary
51	3.6m
52	4m
53	1m & 1.9m
54	3.3m
55	-1.9m (carport over boundary)
56	5.5m to garage and 3m to house facade
57	2.7m
59	-1.1m (over boundary)
61	2.1m
63	More than 10m
65	5.1m
66	3.5m
67	-1m (over boundary)
68	3.7m

**Table 1. Neighbouring dwelling setbacks.**

Chapter B1, Clause 4.2.2.1(a) of the DCP requires infill development to provide a minimum setback from the front property boundary. Clause 4.2.2.1(b) permits less than 6metres where the prevailing street character permits and the future desired character of the area is not prejudiced.

Approval is sought to construct a new dual occupancy residence with consistent front setbacks to the existing residence approved under a previous development consent DA2014/689.

Asquith Street has a variety of setbacks for existing dwellings. These setbacks range from zero (i.e. buildings have been constructed on or over the front lot boundary line), 1m, 2m and through to more than 10m from the front property line. The reason for this variation is the

result of the land terrain which is frequently steep and has invariably driven the siting of dwellings.

Table 1 and the accompanying aerial photograph (Figure 4) demonstrates the numerous dwellings (more than 13 of the 15 immediate neighbouring dwellings) on Asquith Street which have a reduced (4m or less) or non-existent setback from the street frontage. This is a major contributor to the unique character of Asquith Street. The mix of housing responses along Asquith Street has been driven by the landform and has created an attractive informal streetscape that sits comfortably within the visually dominant natural landscape. It is this variety of building setback that has helped create the unique street character of Asquith Street.

Whilst a 5.6m setback to the garage and the majority of the building façade has been achieved the unique aspect and terrain of the subject property has necessitated a variation of the standard setback requirement from 5.5m to 3m for a section of the upper storey facade. It should be noted that the effective setback from the road edge is 7.5m due to the width of the footpath in this location. At other points along Asquith Street the footpath width is as little as 1m wide resulting in some dwellings within 3m of the road edge. The effective setback from road edge is significantly more than a significant number of dwellings on Asquith Street.

With regards to the specific objectives of the development control:

- *To reinforce the existing character of the street and locality by acknowledging building setbacks.*

The exception to the development control requiring a 6 metre setback from the front property boundary will provide consistency in the front building setback for the site with the existing residence and will not compromise the existing character of the locality with its varying setbacks and topographical landforms.

- *To ensure that buildings are appropriately sited, having regard to site constraints.*

The proposed residence is sited specifically in regard to the site constraints. The exceptional topography of Asquith Street, as discussed previously has dictated the varying built form to provide the best amenity to each residence.

- *To ensure building setbacks are representative of the character of the area.*

Figure 4 and table 1 demonstrate that Asquith Street is characterised by varying building setbacks to take advantage of the specific topographical aspects of the locality

- *To provide for compatibility in front setbacks to provide unity in the building line.*

The length of the front property boundary of the subject site is 77m. The proposal has specifically been designed to have a consistent setback with the adjoining property on the site and to provide unity in the setback line. This setback line is also consistent with the neighbouring property to the west at 54 Asquith Street with a front setback of 54 Asquith Street with a setback of 1.72m to the deck and 3.7m to the primary building line.

- *To ensure that setbacks do not have a detrimental effect on streetscape or view corridors.*

Due to the topography of the site and the steep sloping incline to the South there are no views afforded over the site that would be impacted by this proposal. The design also allows for view corridors between the existing and proposed residences to provide for significant views through the site and for the opportunity to landscape between the proposal and the existing adjoining residences

- To ensure that hard stand areas can be provided in front of garage without imposing on movement corridors (pathways, cycle ways and road reserves).

The proposal provides a 5.6m setback in front of the garage to ensure that parking in front of the building within the property boundary can be provided.

#### 4.6 Section 4.6 of the DCP

An exception is sought to development control 4.6.2.1(a) requiring a minimum width of 4m to a private open space area for the existing dwelling unit 1. The existing private open space deck located on the eastern side of the dwelling has an overall area of 35sqm. (see figure 6). This deck is level and accessed from the living area and is 4m in width for the majority of the deck. There is an encroachment with a building element (kitchen) that has been incorporated to give variation to the façade. This has reduced a section of the deck to 3.4m. this encroachment occurs for 35% of the 9m long deck.

An exception is also being sought to development control 4.6.2.1(b) requiring that private open space areas not be located in the front yard unless sufficiently set back as to ensure private open space will not impact upon existing and future dwellings on adjoining lots. Both the proposed residence and the existing residence are located on a level plateau at the top of a steep bank. The proposed private open space for unit 2 is located to the north and is accessed from the dining area which is covered by the building above. The landscape design provides a 2.1m landscaped buffer with integrated timber fence to screen the private open space deck from the street to provide privacy for occupants. The deck is low and does not exceed 800mm from natural ground at its highest point in the south east corner (adjoining the dwelling northern wall) . The low deck is significantly setback and screened and will not impact existing or future dwelling lots.

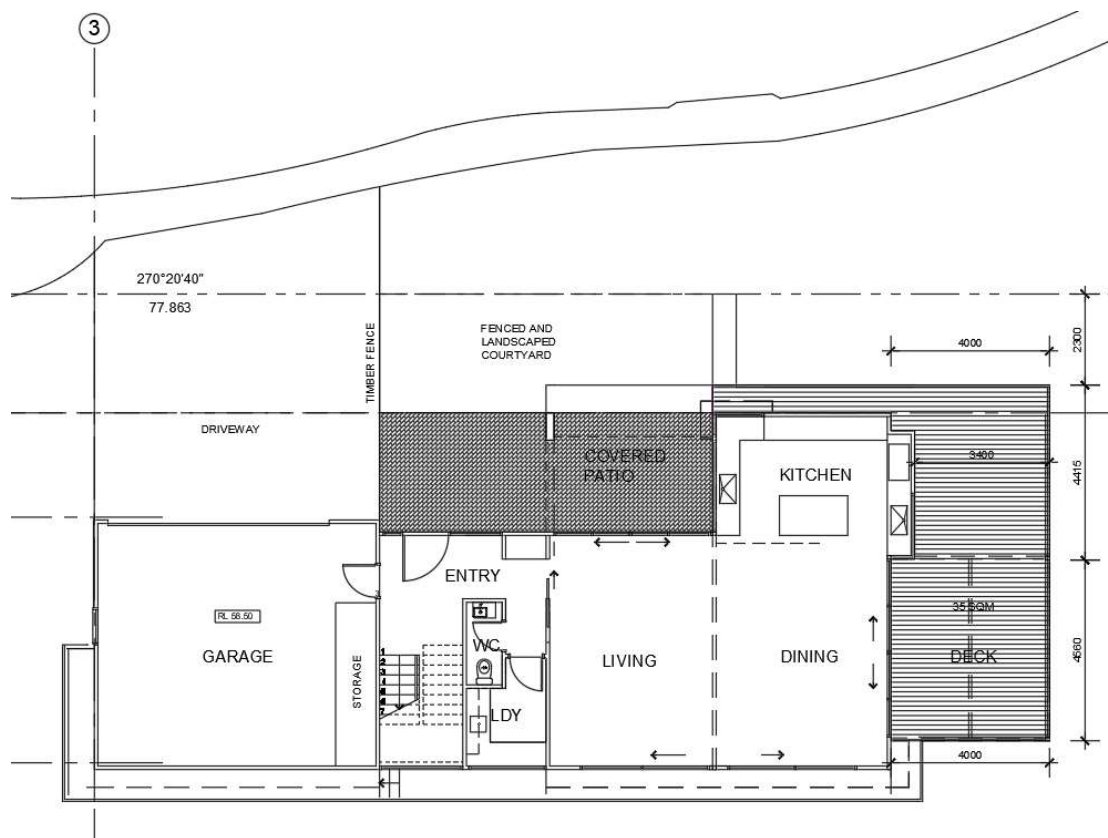


Figure 6. Floor plan of existing unit 1 indicating private open space dimensions.

- *To ensure that private open spaces are large enough to accommodate a range of uses and are accessible and connected to indoor spaces.*

In addition to the private open space areas indicated to satisfy Council development controls, both dwellings have access to substantial outdoor areas on large parcels of land surrounding the dwellings to provide outdoor spaces that are connected to the indoor areas. Unit 1 has covered space to the north (indicated as paved area on figure 6) in addition to the nominated private open space deck on the east which also provides connection from garden to residence. Both dwellings have substantial private open space areas screened from the street frontage.

- *To ensure that private open space is suitably located taking into account existing and potential surrounding development.*

The private open space area for unit 2 is suitably located so as to have negligible impact on existing and proposed surrounding development. The location is suitable as it is screened by existing mature trees and proposed landscaping and it provides the most sustainable solution for outdoor living area as it has easy access to natural ground and full northern solar exposure. The location in proximity to the dining and kitchen areas provide the most efficient design solution for its successful integration into the living areas of the residence

- *To minimise amenity impacts to neighbours.*

The private open space area located to the front of unit 2 will not have a negative impact neighbours. There is a significant distance between the private open space and surrounding residences' and the location provides no capacity to overlook neighbouring residences' private open space areas. Neighbours to the north of the subject site primarily face north for outdoor living (away from the proposal) and the distance to the private open space areas to the neighbour to the west (No54) exceeds 30m

- *To ensure functionality of the private open space area by reducing overlooking, overshadowing and amenity impacts onto / from adjoining properties, through the provision of appropriate buffer screen planting around the perimeter of the open space, where necessary*

The private open space deck has been located facing north and behind two existing mature trees located on the boundary. The low height of the deck ensures no potential overlooking to surrounding properties. The location and screening provide privacy for occupants from the road and overlooking from the northern neighbours located a minimum of 25m away from the outdoor space

- *To protect existing trees and other vegetation in the immediate locality which contribute to the natural setting of the site*

The existing two mature trees have been retained and provide natural screening and reduce privacy impacts into the private open space area from the road. The area takes advantage of the only flat topography to provide connection to natural ground which increases the usability of the entire landscaped area adjoining the private open space.

## **4.2 Section 4.10 of the DCP**

An exception to the development control requiring a maximum crossover width of 3m is sought to increase the width of the permeable hardstand crossover that extends from the front property boundary to the back face of the existing roll kerb (roll kerb to be retained without modification). The increase in width provides for easier access to the hardstand area to the front of the garage and circulation on and off Asquith Street which is characterised by steep curves and sharp bends with limited visibility. The increase provides easier

manoeuvring on site to enter and exit the site. This proposed crossover width is consistent with the existing residence (unit 1) The impact on street parking as a result of this variation is minimal due to the frontage width and the location of the crossover. The distance between the existing and proposed crossover is 24m providing for 4 cars to be parked kerbside between the driveway crossovers.

With regards to the specific objectives of the development control:

- *To provide car parking for residents.*

Carparking is provided as per Schedule 1 of Chapter E3 of the DCP (two car spaces in this instance garaged). Off street visitor carparking is also provided in front of the garaged parking spaces.

- *To ensure that there is adequate provision for vehicular access and maneuvering.*

The increase to the driveway crossover width assists in vehicle manoeuvring and does not impact detrimentally on the street carparking capabilities.

- *To minimise the impact of garages upon the streetscape.*

The compliance of the garage width and prominence has been discussed in detail in the Statement of Environmental Effects. The garage door constitutes 25% of the building façade and is sufficiently set back and well-articulated to minimise visual prominence.

## **5.0 CONCLUSION**

In accordance with Chapter A1, a written objection has been submitted to formally request Council consider some flexibility for this application and consider the three variations to the *DCP* in this instance. The review of the objectives of the controls demonstrates that the variation of these controls will not contravene the objectives of the control or have additional adverse impacts as a result of the variation.