

## Wollongong Local Planning Panel Assessment Report | 6 October 2021

<b>WLPP No.</b>	Item No. 3
<b>DA No.</b>	DA-2021/103
<b>Proposal</b>	Designated Development - Residential - demolition of dwelling house and construction of new dwelling house and swimming pool
<b>Property</b>	603 Lawrence Hargrave Drive Wombarra
<b>Applicant</b>	Gyles Deacon
<b>Responsible Team</b>	Development Assessment and Certification - City Wide Team (KR)
<b>Development cost</b>	\$1,582,020.00
<b>Lodgement date</b>	1 February 2021
<b>Prior WLPP meeting</b>	N/A

### ASSESSMENT REPORT AND RECOMMENDATION

#### Executive Summary

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

The proposal has been referred to Local Planning Panel **for determination** pursuant to clause 2.19 (1)(a) of the Environmental Planning and Assessment Act 1979 for the following reasons:

- Under Schedule 2 of the Local Planning Panels Direction of 1 March 2018, the proposal is contentious development as it subject to more than ten (10) unique submissions by way of objection, and
- Under Schedule 2 Clause 4 (a) of the Local Planning Panels Direction, the proposal is Designated Development as the works are located within the mapped Littoral Rainforest Area pursuant to the SEPP (Coastal Management) 2018.

##### Proposal.

The proposal is for Residential - demolition of dwelling house and construction of new dwelling house and swimming pool.

The proposal is considered Designated Development in accordance with Part 2, Division 1, Section 10(2) of the SEPP (Coastal Management) 2018 as works are proposed within an area identified as Littoral Rainforest. However the actual Littoral Rainforest has been surveyed on the site and shown to be outside of the development area.

As such, the application must be made in accordance with the requirements of Part 4, Division 4.3 (4.10 & 4.12(8)) and associated Regulations 2000. Secretary's Environmental Assessment Requirements (SEARs) must also be obtained in accordance with Schedule 2 of the EP&A Regulations 2000. The form and set out of the EIS must also be prepared in accordance with Schedule 2 of the EP&A Regulations 2000 and the issued SEARs – See Attachment 3. It is considered these matters have been satisfied.

##### Permissibility

The site is zoned E4 Environmental Living pursuant to the Wollongong Local Environmental Plan 2009. The proposal is categorised as a dwelling-house and ancillary swimming pool and is permissible in the zone with development consent. Demolition is permitted pursuant to Clause 2.7 of the WLEP 2009.

## **Consultation**

The proposal was notified in accordance with Council's Community Participation Plan 2019 on two occasions. On the first round 15 objections and 1 letter in support were received and on the second round 14 objections and 5 letters in support were received. Details are provided at section 1.4 of the assessment report.

The proposal has been referred to Council's Geotechnical, Heritage, Development Engineering and Environment officers with conditionally satisfactory advice provided in each instance.

The proposal was referred to the Department of Planning to provide notice of the receipt of Designated Development and the forwarding of submissions received at the conclusion of the exhibition period. A satisfactory response was received on 16 April 2021.

The proposal was referred to Transport for NSW pursuant to Clause 101 of the ISEPP for development with frontage to a classified road. TfNSW provided a satisfactory response letter dated 16 March 2021 subject to conditions.

## **Main Issues**

The main issues are:

- Development within proximity to Littoral Rainforest.
- Variation to 7m wall height within 3m of boundary.
- Variation to side setback of lower garage.
- Variation to retaining wall height.
- Submissions received.

The above issues have been satisfactorily addressed as discussed in this report.

## **CONCLUSION**

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979, the provisions of the SEPP (Coastal Management) 2018, Wollongong Local Environmental Plan 2009, and all relevant Council DCPs, Codes and Policies and found to be satisfactory.

The proposal does request variations to Council's DCP which have been reviewed and are considered capable of support.

It is considered that the proposed development is unlikely to result in adverse impacts on the character or amenity of the surrounding area, environment and adjoining development. Despite the works being located within the mapped littoral rainforest area, the mapping does not reflect the actual littoral rainforest which has been surveyed on the site and shown to be outside of the development area, except for a drainage line. Council is satisfied the proposed development on land in proximity to littoral rainforest will not have significant impacts.

## **RECOMMENDATION**

It is recommended that DA-2021/103 be approved subject to the conditions at Attachment 4.

## **1 APPLICATION OVERVIEW**

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### **1.1 PLANNING CONTROLS**

The following planning controls apply to the proposal:

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulations 2000

#### State Environmental Planning Policies:

- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy (BASIX) 2004
- State Environmental Planning Policy (Coastal Management) 2018
- State Environmental Planning Policy (Infrastructure) 2007

#### Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

#### Development Control Plans:

- Wollongong Development Control Plan (WDCP) 2009

#### Other policies

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

### **1.2 DETAILED DESCRIPTION OF PROPOSAL**

The proposal involves:

- Demolition of existing dwelling house.
- Construction of new dwelling house:
  - Double carport and entry level with studio above including ensuite and balcony.
  - The dwelling steps down to first floor level containing a double garage and 5 bedrooms.
  - Then steps down to ground floor level containing an open plan living area, laundry, courtyard and covered outdoor area and swimming pool.

The proposal is Designated Development as it involves works within an area mapped as Littoral Rainforest under the Coastal Management SEPP. However the actual Littoral Rainforest has been surveyed on the site and shown to be outside of the development area, except for a drainage line which is satisfactory as detailed in this report. The proposed swimming pool is approximately 4.3m from the actual Littoral Rainforest as shown on the submitted Site Plan.

### **1.3 BACKGROUND**

The NSW Department of Planning, Industry and Environment (DPIE) has issued Secretary's Environmental Assessment Requirements (SEARs) for the proposal on 23 December 2020 – See Attachment 3. The SEARs outline the requirements to be considered in the preparation of an Environmental Impact Statement (EIS) to be lodged with the development application.

#### DA History:

##### DA-2005/1133

A similar proposal was approved 18 October 2005 under DA-2005/1133 *Proposed alterations to existing dwelling to convert to granny flat and construction of new two storey dwelling and pool*. It is noted the DA was approved with a SEPP 1 objection for FSR 0.319:1 (0.3:1 maximum). The DA was approved but not constructed.

##### 601-603 Lawrence Hargrave Drive:

##### DA-2003/1564

Integrated Development Application - Single Storey Pole House and Construction of New Driveway and Carport Permit Under Part 3A of the Rivers and Foreshores Improvement Act, 1948 - From DIPNR

##### DA-2003/1565

Integrated Development Application - Alterations and Additions to Existing Dwelling to Convert to Granny Flat and Construction of New Split Level Dwelling - Permit Under Part 3A of the Rivers and Foreshores Improvement Act, 1948 From DIPNR.

#### Pre-Lodgement

No pre-lodgement meeting was held for the proposal.

#### Customer service actions

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

#### Site description

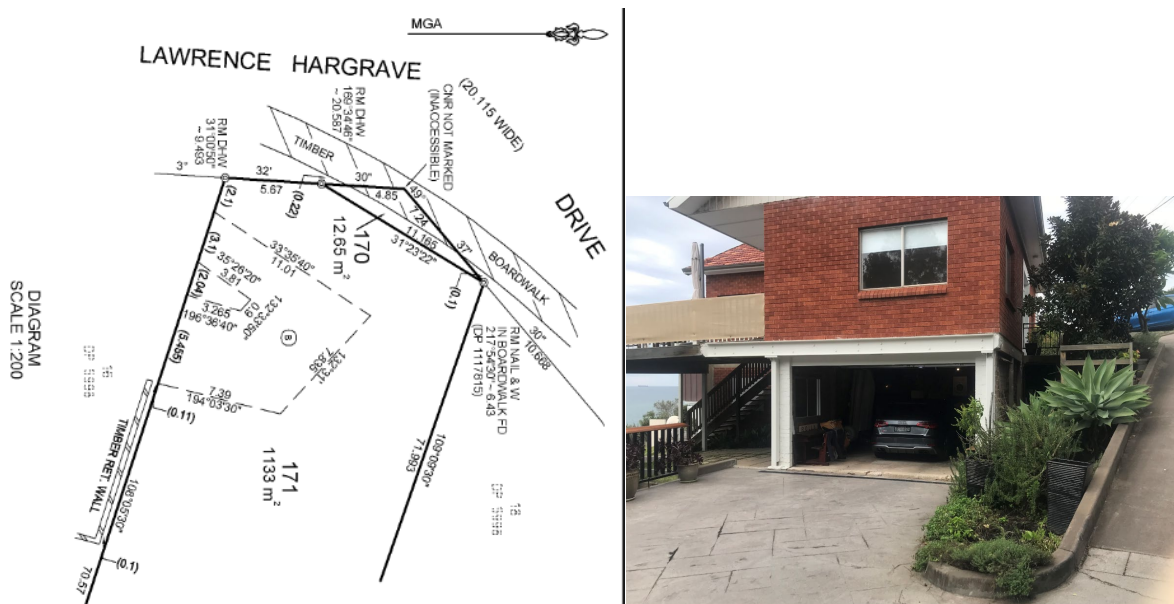
The site is located at 603 Lawrence Hargrave Drive Wombarra and the title reference is Lot 16 DP 5998.

The site has an area of 1,050sqm and is regular shaped except for an angled frontage and steeply sloping with a fall of 16m from RL29 to RL13 and a crossfall of approximately 2-3m from south to north towards a watercourse. The site backs onto the foreshore.

The site is occupied by a dwelling-house. The site has ocean and escarpment views.

Vehicular access is via an existing driveway off Lawrence Hargrave Drive. There is an existing garage on the lower level with north side entry accessed via a right of carriageway over the northern neighbouring property No. 601 Lawrence Hargrave Drive (Lot 171 DP 1148788), registered in March 2010.



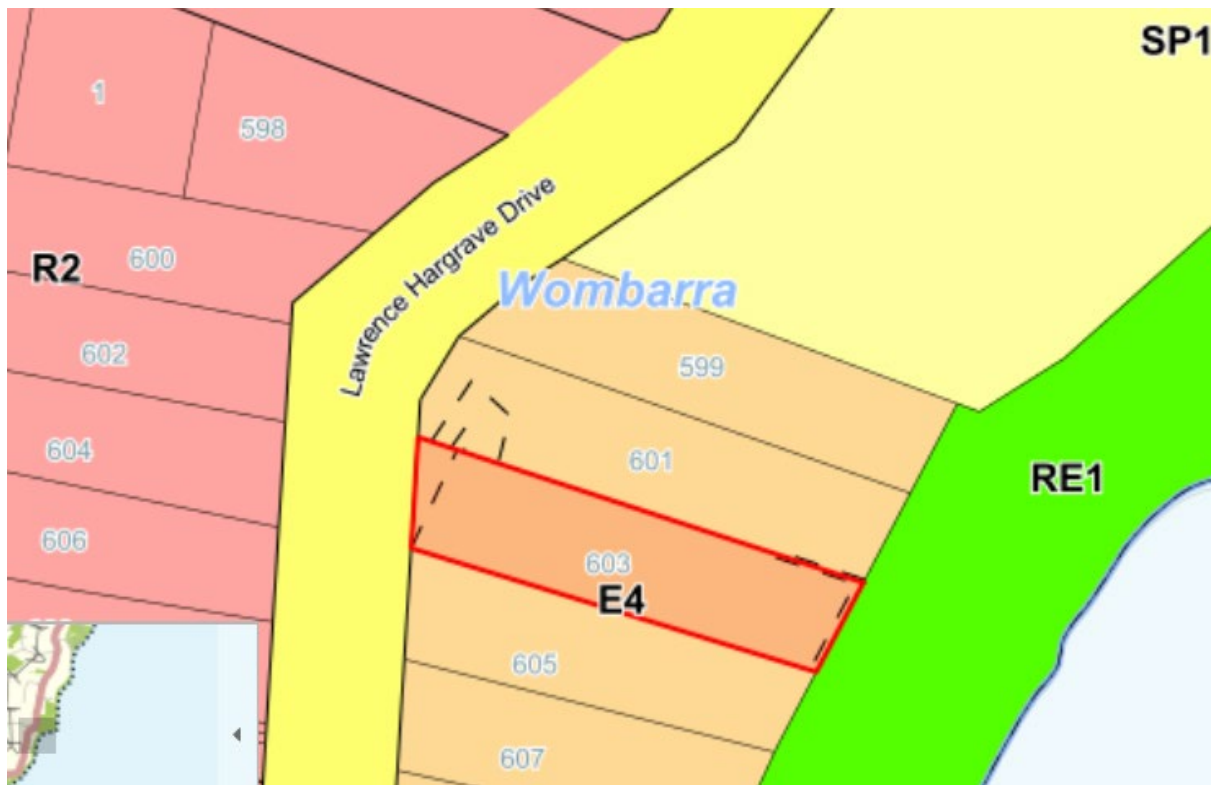


**Figure 1:** Excerpt from DP 1148788 - Right of carriageway over northern neighbouring property No. 601 Lawrence Hargrave Drive (Lot 171 DP 1148788)

Adjoining development is as follows:

- North: Dwelling at No. 601 Lawrence Hargrave Drive
- East: Foreshore
- South: Dwelling at No. 605 Lawrence Hargrave Drive
- West: Lawrence Hargrave Drive

The locality is characterised by low density residential dwellings. The western side of Lawrence Hargrave Drive is zoned R2 Low Density Residential and the eastern side is zoned E4 Environmental Living. The Wombarra Cemetery is located in the vicinity to the north and zoned SP1. The foreshore is zoned RE1 Public Recreation.



**Figure 2: WLEP Zoning Map**

Property constraints

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

- Geotechnically unstable land
- Acid sulphate soils
- Foreshore building line
- Flooding
- Bushfire prone
- Riparian land
- Littoral Rainforest and 100m buffer to Littoral Rainforest
- Easement – Right of Access over adjacent Lot 171 DP 1148788 (No. 601). Easement was registered in DP 1117815 in March 2010.
- Coastal Hazard - Coastal Geotechnical Risk
- Natural Resource Sensitivity – Biodiversity



Figure 3: Aerial photograph

Site Photos:



Existing dwelling





Existing lower garage



View to east

**Figure 4: Site photographs**

## 1.4 SUBMISSIONS

The application was notified in accordance with Council's Community Participation Plan 2019 on two occasions due to submission of amended plans. On the first round 15 objections were received and 1 letter in support and on the second round 14 objections were received and 5 letters in support and the issues identified are discussed below.

**Table 1: Submissions**

Concern	Comment
1. Coastal SEPP: - Proximity to Littoral Rainforest - Inadequate EIS	Council is satisfied the proposal is consistent with the Coastal SEPP as detailed in this report.
1. WLEP: -FSR – Cl 4.6 not justified. - Height/bulk and scale - Overdevelopment/ Character - Encroachment in foreshore building area - Inconsistent with E4 Zone. - FSR has been reduced to comply but dwelling still extends further eastward than any other dwelling.	FSR has been addressed in the amended plans and now complies. The proposal is not considered to be an overdevelopment.  The proposal complies with the height limit in the WLEP. There is no maximum number of storeys specified for the E4 Zone in the WDCP. The proposal involves a minor variation to the 7m wall height limit within 3m of the boundary which has been reviewed and is considered capable of support as detailed in this report.  Only the proposed swimming pool encroaches into the foreshore building line which is permitted via clause 7.7 of WLEP2009.  Council is satisfied the proposal is consistent with the objectives of the E4 zone.
2. DCP: - Two storey height limit - Side Setback - Retaining wall height - Elevated pool and terrace - Riparian corridor	There is no maximum number of storeys specified for the E4 Zone in the WDCP.  Variations to the side setback of lower garage and retaining wall height have been reviewed and are considered capable of support and supported as discussed in this report.  The pool and deck have been amended to comply.  Council has no concerns in relation to the riparian corridor. Council's Environment Officer has assessed the proposal and is satisfied.
3. Traffic and parking: - Site is located on a dangerous bend - Four car garage is excessive - Vehicle manoeuvring is outside existing line of easement - Existing lower garage has unauthorised conversion –	Council has no concerns in relation to traffic. The proposal will replace a single dwelling which does not intensify the development on the site and the driveway is in the same location as the existing.  The number of parking spaces is not considered excessive given there is no on street parking for visitors on Lawrence Hargrave. There is also no parking available for visitors in front of the upper level garage as would normally be the case due to the driveway

Concern	Comment
easement previously only granted for single garage not double	<p>being a shared driveway it needs to remain clear for access to the adjacent property No. 601 Lawrence Hargrave Drive.</p> <p>Vehicle manoeuvring is considered satisfactory. Council's Traffic Officer has not raised any concerns. Transport for NSW has also not raised any objections.</p> <p>Lower level conversion no longer relevant as existing dwelling is being demolished.</p>
<p>4. Amenity of neighbouring properties:</p> <ul style="list-style-type: none"> <li>- Loss of ocean views from neighbouring properties</li> <li>- Overbearing impact</li> <li>- Privacy</li> </ul>	<p>The proposal is considered unlikely to significantly impact views from neighbouring properties. See Clause 4.16 Chapter B1 WDCP 2009.</p> <p>The proposal is not anticipated to have an overbearing visual impact on neighbouring properties. The proposal will only appear as two storeys when viewed from the neighbouring properties particularly on the southern side the dwelling has been excavated due to the crossfall which would reduce the visual impact.</p> <p>The proposal is considered unlikely to have adverse impact on the privacy of adjoining properties. Balconies are well setback from the boundary. Living room windows are oriented towards the rear rather than side boundaries.</p>
5. Arborist Report does not consider impact on trees on adjoining properties.	The Arborist Report has been amended to the satisfaction of Council's Environment Officer.
6. Land slippage concerns/earthworks	Council's Geotechnical Officer has assessed the proposal and is satisfied.
7. Proposal will be used for commercial purposes	Council is satisfied the proposal is for residential purposes.

## 1.5 CONSULTATION

### 1.5.1 INTERNAL CONSULTATION

#### Geotechnical Engineer

Council's Geotechnical Officer has reviewed the application and has provided a satisfactory referral. Conditions of consent were recommended and are included in the consent. Note: Recommendation for two stage development.

#### Environment Officer

Council's Environment Officer has reviewed the application and given a satisfactory referral subject to conditions of consent.

#### Development Engineering Officer

The application has been assessed in regard to traffic, stormwater and subdivision matters and found to be satisfactory. Conditions of consent were recommended and are included in the consent.

## **Heritage Officer**

Council's Heritage Officer is satisfied the proposal will have minimal impact upon the local heritage listed Wombarra Cemetery.

### **1.5.2 EXTERNAL CONSULTATION**

#### **Department of Planning and Infrastructure**

The application is identified as designated development and notice of receipt of the application was provided to the Department. In accordance with Section 4.10 of the EP&A Act 1979, the applicant obtained SEARs which outlined the statutory matters that must be included in any EIS. It is considered the application has been prepared in accordance with these requirements and was referred to the Department following lodgement for public exhibition in accordance with Clause 50(6) of the EP&A Regulation 2000. At the conclusion of the exhibition period the Department was notified of the submissions received as required by S81 of the Regulations via the Planning Portal process. The Department responded on 16 April 2021 stating the Department has reviewed the submissions and noted that there were no issues of State or Regional significance that apply to the proposal. The Department did however note the concerns raised by members of public regarding the impact of development upon land mapped as Littoral Rainforest under the SEPP (Coastal Management) 2018.

#### **Roads and Maritime Services/ Transport for NSW**

The application was referred to RMS as the site is located with frontage to a classified road. RMS had no objections. A satisfactory response was received 16 March 2021 with conditions which will be attached to any consent to be issued.

## **2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

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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**

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

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

Clause 7.2 of the Biodiversity Conservation Regulation 2017 provides the minimum lot size and area threshold criteria for when the clearing of native vegetation triggers entry of a proposed development into the NSW Biodiversity offsets scheme. For the subject site, entry into the offset scheme would be triggered by clearing of an area greater than 0.25 hectares based upon the minimum lot size of the WLEP 2009 R2 zoned land (i.e. less than 1 hectare minimum lot size).

No native vegetation is proposed to be cleared for the development. Therefore the proposal does not trigger the requirement for a biodiversity offset scheme.

Council's Environment Officer has reviewed the application and considered the proposal satisfactory with regards the requirements of the BC Act.

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

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#### DESIGNATED DEVELOPMENT

Section 4.10 of the EP&A Act 1979 states that Designated Development is development that is declared to be Designated Development by an environmental planning instrument or the regulations. Section 10(2) of the SEPP (Coastal Management) 2018 outlines that any works within an area identified as Littoral Rainforest is considered Designated Development.

Section 4.13 of the Act sets out notification requirements for designated development which have been followed in assessment of the subject application. Section 77 of the Regulation states that the consent authority must give written notice of a development application for designated development to such public authorities (other than relevant concurrence authorities or approval bodies) as, in the opinion of the consent authority, may have an interest in the determination of that development application. The NSW Department of Planning, Industry & Environment and Transport for NSW were sent referrals for the proposed works.

Sections 78 to 80 of the Regulation include requirements for notification of designated development applications to relevant agencies and the general public. These requirements have been observed. Section 81 of the Regulation requires that the consent authority must, immediately after the relevant submission period, forward to the Director-General a copy of all submissions received in response to the public exhibition of a development application for designated development. In this instance 15 objections were received and 1 letter in support which were provided to the Department and referral agencies via the Planning Portal upload process.

Section 4.12 of the EP&A Act states that a development application for State significant development or designated development is to be accompanied by an environmental impact statement prepared by or on behalf of the applicant in the form prescribed by the regulations.

Schedule 2 of the EP&A Regulation relates to environmental impact statements whilst clause 6 & 7 relate to the form and content of the EIS. It is considered that the submitted EIS and supporting information accompanying the development application reasonably contains the form and content requirements as identified in clauses 6 and 7 of Schedule 2 of EP&A Regulation and the matters identified in the issued SEARs.

It is noted that the EIS accompanying the development application was lodged on 21 January 2021, prior to the expiry date of the issued SEARs.

#### 3.1 SECTION 4.15(1)(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT

##### 3.1.1 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.*
- (2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*



- (3) *The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*
- (4) *The land concerned is—*
- (a) *land that is within an investigation area,*
  - (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
  - (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land—*
    - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
    - (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

A desktop investigation does not reveal any concerns relating to contamination. The site has historically been used for residential purposes in the past. The proposal has been reviewed by Council's Environment Officer and no concerns as relates to Clause 7 have been raised. The site is considered suitable for residential development.

### **3.1.2 STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004**

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

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

### **3.1.3 STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT) 2018**

#### Clause 21 Savings and transitional provisions

The application was lodged on 2 February 2021 and this policy commenced on 3 April 2018.

#### Clause 3 Aim of Policy

The proposal is consistent with the aims of the policy.

#### Clause 5 Land to which Policy applies

This Policy applies to land within the coastal zone.

#### Clause 7 Relationship with other environmental planning instruments

Noted.

### **Part 2 Development controls for coastal management areas**

#### Division 1 Coastal wetlands and littoral rainforests area

#### 10 Development on certain land within coastal wetlands and littoral rainforests area

- (1) *The following may be carried out on land identified as "coastal wetlands" or "littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*

- (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
- (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
- (c) *the carrying out of any of the following:*
  - (i) *earthworks (including the depositing of material on land),*
  - (ii) *constructing a levee,*
  - (iii) *draining the land,*
  - (iv) *environmental protection works,*
- (d) *any other development.*

*Note. Clause 17 provides that, for the avoidance of doubt, nothing in this Part:*

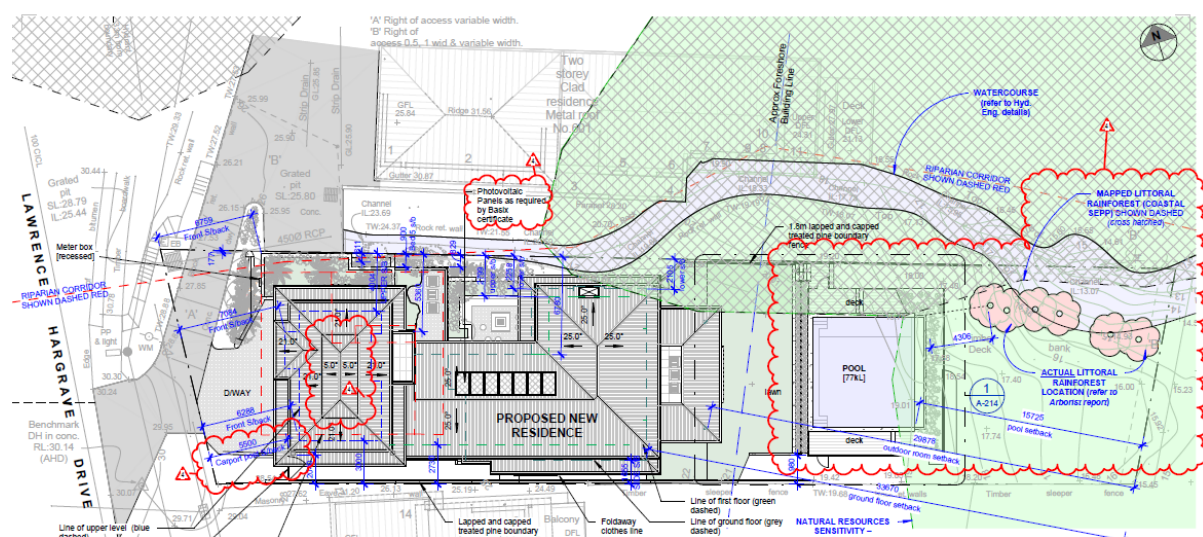
- (a) *permits the carrying out of development that is prohibited development under another environmental planning instrument, or*
  - (b) *permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.*
- (2) *Development for which consent is required by subclause (1), other than development for the purpose of environmental protection works, is declared to be designated development for the purposes of the Act.*
  - (3) *Despite subclause (1), development for the purpose of environmental protection works on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map may be carried out by or on behalf of a public authority without development consent if the development is identified in:*
    - (a) *the relevant certified coastal management program, or*
    - (b) *a plan of management prepared and adopted under Division 2 of Part 2 of Chapter 6 of the Local Government Act 1993, or*
    - (c) *a plan of management approved and in force under Division 6 of Part 5 of the Crown Lands Act 1989.*
  - (4) *A consent authority must not grant consent for development referred to in subclause (1) unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest.*
  - (5) *Nothing in this clause requires consent for the damage or removal of a priority weed within the meaning of clause 32 of Schedule 7 to the Biosecurity Act 2015.*
  - (6) *This clause does not apply to the carrying out of development on land reserved under the National Parks and Wildlife Act 1974 if the proposed development is consistent with a plan of management prepared under that Act for the land concerned.*



**Figure 5: SEPP mapped Littoral Rainforest**

Clause 10 applies as the proposal involves development on land mapped as containing Littoral Rainforest. Consequently, the application has been lodged as Designated Development and Secretary's Environmental Assessment Requirements (SEARs) obtained and reviewed as part of the Environmental Impact Assessment (EIS) lodged. However the mapping is not consistent with the location of the actual vegetation on the site. The actual Littoral Rainforest has been surveyed and shown to be outside of the development area. The proposed swimming pool is approximately 4.3m from the actual Littoral Rainforest as shown on the submitted Site Plan shown below. Council's Environment Officer has assessed the proposal and is satisfied. Council is satisfied that the actual Littoral Rainforest is outside the development area, except for a drainage line as discussed below, and therefore the Littoral Rainforest would be protected.

The Arborist has assessed the proposed drainage line and undertaken root mapping at the location of the proposed drainage outlet and advised that these works are outside of the trees prescribed TPZs as identified within the Arboricultural Impact Assessment dated 28th May 2021. The Arborist concluded that based upon the location of the pipe and root mapping undertaken exposing no roots the excavation for the proposed drainage line in the proposed location will not impact upon the subject trees.



**Figure 6:** Excerpt from submitted Site Plan showing mapped versus actual Littoral Rainforest (green hatch is the SEPP mapped Littoral Rainforest and the pink diagrammatic trees is the actual Littoral Rainforest)

### 11 Development on land in proximity to coastal wetlands or littoral rainforest

*Note. The Coastal Wetlands and Littoral Rainforests Area Map identifies certain land that is inside the coastal wetlands and littoral rainforests area as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” or both.*

(1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*

- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
- (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

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

This Clause applies as the proposal is in proximity to land mapped as Littoral Rainforest. The entire site is mapped as being within the proximity area for Littoral Rainforest and all works proposed are within the proximity lands, including the existing dwelling and cleared and maintained lawn.

An Arborist Report has been submitted concluding that the proposal would have minimal impact on the Littoral Rainforest.

Council’s Environment Officer has assessed the proposal and is satisfied. Council is satisfied the proposal would have an adverse impact on the biophysical, hydrological or ecological integrity of the adjacent littoral rainforest, or the quantity and quality of surface and ground water flows to and from the adjacent littoral rainforest.

The proposal will not remove any vegetation and all works are greater than 4m from the Littoral Rainforest vegetation.

Earthworks associated with footing, retaining wall drainage, pool and new driveway construction are proposed. These works are not expected to impact upon the adjacent littoral rainforest and will not significantly change the existing highly modified nature of the site.

### **Division 3 Coastal environment area**

#### **13 Development on land within the coastal environment area**

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

The site is located within the Coastal Environment Area. The proposal is in keeping with the surrounding development and is to be located within the existing cleared area of the site, with minimal earthworks required. The proposal is not expected to negatively impact upon the coastal environment area.

### **Division 4 Coastal use area**

#### **14 Development on land within the coastal use area**

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



*(v) cultural and built environment heritage, and*

*(b) is satisfied that:*

*(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*

*(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*

*(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and*

*(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

*(2) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

The site is located in the Coastal Use Area. Council is satisfied that the proposal has been designed and sited to have minimal adverse impact on:

- Access to the foreshore - Access to the foreshore will remain unchanged as part of the proposal.
- Amenity of the foreshore – The proposal would not result in any overshadowing of the foreshore.
- The visual amenity and scenic qualities of the coast - The proposal will have minimal visual impact when viewed from the foreshore as the site is elevated above the foreshore. The proposal would have limited visibility above the cliff as the proposal dwelling is located approximately 30m from the rear boundary and the rear of the site is well vegetated as shown in the photo below. From a distance the front portion of the proposal would be visible however the rear portion would be screened by vegetation. See also Figure 12.





**Figure 7:** View from foreshore

- Aboriginal heritage and cultural and built environment heritage – There are no known heritage items on the site.

#### **Division 5 General**

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

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

The land is affected by geotechnical coastal hazards. Council's Geotechnical Officer has assessed the proposal and has not raised any concerns in this regard.

#### **NSW Coastal Management Act 2016 and Wollongong Coastal Zone Management Plan**

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

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

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

A review of Council's associated CZMP coastal hazard mapping extents identifies that no specific actions within the plan relate to the proposal. The subject site maybe impacted by coastal geotechnical risk. During the preparation of the architectural and engineering design Council's Geotechnical Section

has been consulted and advice considered. It is considered that the proposed development has adequately considered the geotechnical risk for the site and associated costal hazards.

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

### **3.1.4 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007**

#### Clause 101 Development with frontage to classified road

This Clause applies as the site has frontage to a classified road. Lawrence Hargrave Drive is a State classified road. The application was referred to Transport for NSW and a satisfactory response was received 16 March 2021. It is noted the access will utilise the existing driveway and does not intensify the use.

#### Clause 102 Impact of road noise or vibration on non-road development

This Clause does not apply as although the proposal involves residential development which is sensitive to road noise, Lawrence Hargrave Drive does not have more than 20,000 vehicles per day therefore acoustic measures are not required in accordance with this Clause.

### **3.1.5 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009**

#### Clause 1.4 Definitions

***Dwelling-house*** means a building containing only one dwelling.

*Note—*

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

***demolish***, in relation to a heritage item or an Aboriginal object, or a building, work, relic or tree within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item, Aboriginal object or building, work, relic or tree.

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

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

The zoning map identifies the land as being zoned E4 Environmental Living.

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

The objectives of the zone are as follows:

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

The proposal is satisfactory with regard to the above objectives. The proposal for a replacement dwelling is considered to be low impact residential development. The site is highly constrained however Council has assessed the proposal and is satisfied none of the constraints would impede the development. Council is satisfied the proposal would not have an adverse impact on the ecological, scientific or aesthetic values of the site.

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

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



The proposal is categorised as a ***dwelling-house*** as defined above and is permissible in the zone with development consent.

#### Clause 4.3 Height of buildings

The proposed building height of 9m does not exceed the maximum of 9m permitted for the site.

#### Clause 4.4 Floor space ratio

Maximum FSR permitted for the zone:	0.3:1
Site area:	1,050m <sup>2</sup>
GFA:	
<i>Garage/entry level:</i>	8m <sup>2</sup>
<i>Studio:</i>	41m <sup>2</sup>
<i>Ground Floor:</i>	118m <sup>2</sup>
<i>First Floor:</i>	148sqm
Total:	315m <sup>2</sup> (excl stair voids on upper floor and 36sqm garage concession)
FSR:	$315/1050\text{m}^2 = 0.3:1$ complies

#### Clause 5.10 Heritage conservation

Wombarra Cemetery which is listed as a local heritage item is located within proximity to the proposal. The proposal is unlikely to have an adverse impact on the heritage items. The proposal is located three properties to the south and located around a bend and not in direct view of the heritage item. Referral to Council's Heritage Officer indicated no areas of concern.





**Figure 9:** Natural Resource Sensitivity map

Clause 7.4 Riparian lands

The Riparian Land Map indicates the site contains riparian land. Council's Environment Officer has reviewed the application in this regard and has not raised any objections subject to appropriate conditions of consent.





**Figure 10: Riparian land Map**

#### Clause 7.5 Acid Sulfate Soils

The proposal is identified as being affected by class 5 acid sulphate soils. An acid sulphate soils management plan is not required as the proposal is not located in proximity to Class 1-4 acid sulphate soils and is unlikely to lower the water table. Council's Environment Officer has reviewed the proposal and is satisfied.

#### Clause 7.6 Earthworks

The proposal comprises earthworks to prepare the site for residential development. The earthworks are not expected to have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features surrounding land. Council's Geotechnical, Development Engineer and Environment Officers have assessed the proposal and are satisfied.

#### Clause 7.7 Foreshore building line

The site is mapped as being within the foreshore building line as shown in the Figure below. Only the swimming pool encroaches into the foreshore building line which is permitted in accordance with part 2(c):

***(2) Development consent must not be granted for development on land in the foreshore area except for the following purposes—***

- (a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area,*
- (b) the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so,*
- (c) development for the purposes of boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, **swimming pools**, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoor).*



**Figure 11:** Foreshore Building Line Map

*(3) Development consent must not be granted under subclause (2) unless the consent authority is satisfied that—*

*(a) the development will contribute to achieving the objectives for the zone in which the land is located, and*

Council is satisfied the proposal meets the objectives of the zone – see WLEP 2009.

*(b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*

The proposed swimming pool is predominately located at ground level however is 1.2m out of the ground at the eastern end due to the slope of the land. Landscaping is proposed to screen the eastern end of the pool, as shown in the photomontage in Figure 12 below. The pool has also been excavated at the western end with terraced garden beds to minimise the height above ground. As the site is elevated above the foreshore the proposed swimming pool will have minimal visibility when viewed from the foreshore area as shown in Figure 7.

The proposal is considered to be compatible with the surrounding area. The dwelling at No. 601 on the northern side encroaches into the foreshore building area. The swimming pool at No. 605 on the southern side also encroaches into the foreshore building line.





**Figure 12:** Photomontage View from Rear towards proposal

*(c) the development will not cause environmental harm such as—*

- (i) pollution or siltation of the waterway, or*
- (ii) an adverse effect on surrounding uses, marine habitat, wetland areas, flora or fauna habitats, or*
- (iii) an adverse effect on drainage patterns, and*

The proposal is unlikely to cause adverse environmental harm. Soil erosion and sediment control measures will be required to be in place during construction. No trees are proposed to be removed. No adverse effect on drainage as it will be disposed of appropriately.

*(d) the development will not cause congestion of, or generate conflicts between, people using open space areas or the waterway, and*

No concerns.

*(e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*

No concerns.

*(f) any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*

No concerns.

*(g) in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore.*

N/A

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

#### **Draft Environment SEPP**

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

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

Changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 – Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

Changes are also proposed to the Standard Instrument – Principal Local Environmental Plan. Some provisions of the existing policies will be transferred to new Section 9.1 Local Planning Directions where appropriate.

Engagement is now closed and feedback is being considered by the Department.

In relation to Items 1.2 and 4 it is considered the draft SEPP is of limited relevance at this point in time

#### **Draft Remediation of Land SEPP**

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

The proposed SEPP: provides a state-wide planning framework for the remediation of land requires consent authorities to consider the potential for land to be contaminated when determining development applications clearly lists the remediation works that require development consent introduces certification and operational requirements for remediation works that can be undertaken without development consent.

Engagement is now closed and feedback is being considered by the Department.

In relation to Items 1.2 and 4 it is considered the draft SEPP is of limited relevance at this point in time.

#### **Draft Design and Place SEPP**

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

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

The draft Design and Place SEPP will go on public exhibition later in 2021 to provide more opportunities for feedback. Supporting guidance and tools, drafts of which will also go on exhibition

with the draft SEPP. These guides include revisions to the Apartment Design Guide and improvements to the Building Sustainability Index (BASIX), as well as the proposed Urban Design Guide, and Design Review Guide. The Department is currently conducting workshops with Council's around the State.

In relation to Items 1.2 and 4 it is considered the draft SEPP is of limited relevance at this point in time.

### **Draft Housing SEPP**

Public exhibition of the Housing SEPP Explanation of Intended Effect was exhibited between 29 July and 9 September 2020. The NSW Housing Strategy: Housing 2041 is the NSW Government's plan to meet the State's housing needs over the next 20 years. The Housing SEPP will support delivery on this strategy by driving the development of affordable and diverse housing

The new Housing SEPP will:

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

The Housing SEPP is intended to be finalised in October 2021.

In relation to Items 1.2 and 4 it is considered the draft SEPP is of limited relevance at this point in time.

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

### **3.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009**

#### **CHAPTER A1 – INTRODUCTION**

#### **8 Variations to development controls in the DCP**

#### **Issue – Side Setback of master bedroom/ensuite**

##### *(a) The control being varied;*

Chapter B1 Clause 4.3 Side and Rear Setback – 7m wall height within 3m of the boundary. The proposal involves two minor variations on each side of the master bedroom / ensuite as shown below:



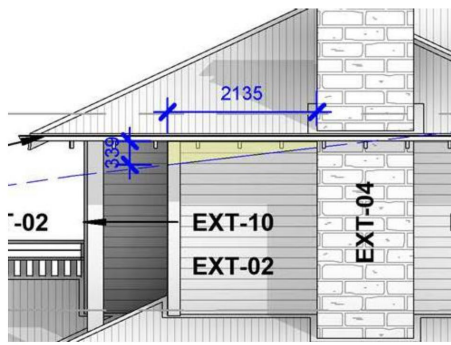


Figure 4 - Northern Elevation

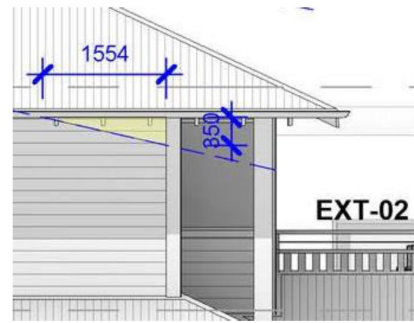


Figure 5 - South Eastern Corner

The master bedroom is 2.7m setback from the southern boundary and the ensuite is setback 2.6m from the northern boundary which a 300mm and 400mm encroachment respectively.

*(b) The extent of the proposed variation and the unique circumstances as to why the variation is requested; and*

The variation is requested on the following grounds:

- That the proposal is consistent with the objectives of the control as the minor areas of non-compliance would not be visible from the street.
- The non-compliances are extremely minor and there are no associated impacts.
- The rooms are non-habitable rooms with opaque windows which would have minimal privacy impacts.
- The proposal does not result in adverse overshadowing.
- The proposal is appropriately sited having regard to site constraints.

*(c) Demonstrate how the objectives are met with the proposed variations; and*

The setbacks are consistent with the objectives of Clause 4.3. The proposal would have minimal impact on the streetscape and amenity of neighbouring properties. It is noted there are no windows of the master bedroom/ensuite facing the side boundaries. The proposal is considered to respond to the site constraints of a steeply sloping site.

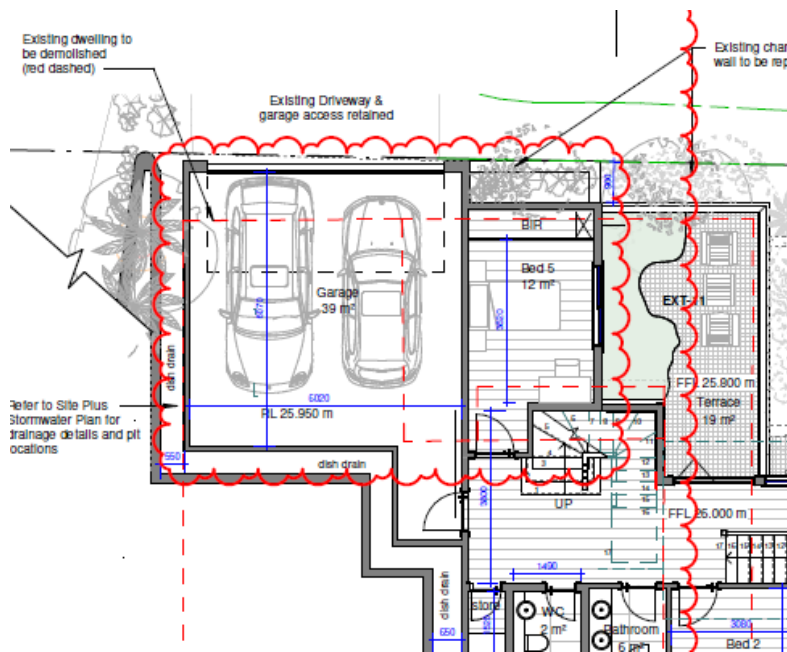
*(d) Demonstrate that the development will not have additional adverse impacts as a result of the variation.*

The areas of non-compliance are so minor the proposal would have no adverse impacts than if the proposal strictly complied.

### **Issue – Side Setback of garage**

*(a) The control being varied;*

Chapter B1 Clause 4.3 Side and Rear Setback – Minimum 900mm required for garage. The proposed lower garage has a nil setback to the northern side boundary.



*(b) The extent of the proposed variation and the unique circumstances as to why the variation is requested; and*

The variation is sought on the following grounds:

- The garage is at sub-basement level and will not pose any impacts.
- The proposal involves a garage and does not involve any privacy impacts.
- The proposal has been designed in accordance with site constraints. Strict compliance with the control would increase the height of the proposal.
- The proposal does not result in any overshadowing.
- The proposal is an improvement visually with comparison to the existing red brick structure that is on the boundary currently. The proposal is sympathetic to character of the area and the minor variation is unlikely to pose additional visual amenity impacts for adjoining residences.

*(c) Demonstrate how the objectives are met with the proposed variations; and*

The setback of the lower garage is consistent with the objectives of Clause 4.3. The proposal would have minimal impact on the streetscape as it is not visible from the street. The proposal is unlikely to impact on the amenity of neighbouring properties as it is a garage it poses minimal privacy impacts, the location and orientation does not result in adverse overshadowing and visually it is considered an improvement to the existing garage which is already on the boundary.

*(d) Demonstrate that the development will not have additional adverse impacts as a result of the variation.*

The proposal will replace an existing garage in the same location which is already on a nil setback and it is considered the proposal would have minimal adverse impacts than if the proposal strictly complied.

### **Issue – Retaining wall height**

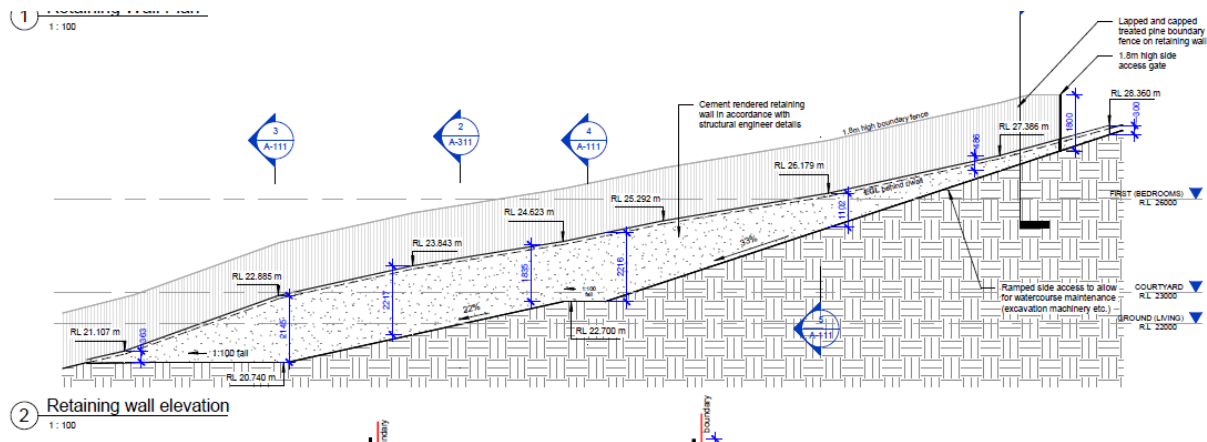
*(a) The control being varied;*

Chapter B1 Clause 4.17 Retaining Walls states maximum height of retaining walls:

*(a) 600mm at any distance up to 900mm setback from any side or rear boundary; or*

*(b) 1 metre, if the toe of the retaining wall or embankment is setback greater than 900mm from any side or rear boundary.*

The proposal involves a retaining wall on the southern boundary due to the 2-3m cross-fall of the site from south to north towards the watercourse. The proposed retaining wall tapers from nil at the front of the site to a maximum of 2.2m and back to nil as shown in the retaining wall section below.



*(b) The extent of the proposed variation and the unique circumstances as to why the variation is requested; and*

The variation is sought on the following grounds:

- The retaining wall allows for a terraced architectural design that limits visual and overshadowing impact to adjoining southern neighbours.
- The retaining wall is proposed as the site is steeply sloping.
- The wall does not block any views from windows in the adjoining dwellings northern elevation, sitting below its elevated living room windows. The wall tapers up and down to zero at its highest point and will be suitably engineer designed to ensure structural soundness. An additional benefit is the creation of a ramped side access along the southern building elevation. This will permit access for future rehabilitation work to the adjacent watercourse on the
- The wall will not be visible from the street or adjoining properties.

*(c) Demonstrate how the objectives are met with the proposed variations; and*

The proposal is consistent with the objectives of the retaining wall control:

*(a) To ensure that retaining walls are structurally sound and are located to minimise any adverse stormwater drainage, visual, amenity or overlooking impacts upon adjoining properties.*

A condition would be imposed for the retaining wall to be designed by an engineer to ensure it is structurally sound. The proposal would have minimal impact on stormwater drainage or amenity of neighbouring properties. The retaining wall is set below ground level on the subject site and therefore the neighbouring property would be elevated above. As such the retaining wall would not be visible from the neighbouring properties and would be unlikely to result in any overlooking impacts.

*(b) To guide the design and construction of low height aesthetically pleasing retaining walls.*

The retaining wall would only be visible from within the subject site and only from the laundry/mudroom and when accessing the clothesline as these are the only window/door openings on the lower ground floor on the Southern Elevation. The retaining wall would not be visible from any living area from the proposed dwelling and would therefore have minimal impact on the visual amenity of the residents on the subject site.

*(c) To ensure any retaining wall is well designed, in order to achieve long term structural integrity of the wall.*

As above a condition would be imposed to ensure structural integrity.

*(d) To ensure slope stabilisation techniques are implemented to preserve and enhance the natural features and characteristics of the site and to maintain the long term structural integrity of any retaining wall.*

Council's Geotechnical Engineer has assessed the proposal and is satisfied subject to a recommendation for a two stage development with site remediation is required to reduce the current extent of land at high risk of slope instability to prepare the site for the development.

*(d) Demonstrate that the development will not have additional adverse impacts as a result of the variation.*

The proposal is not considered to have any greater impact than if strict compliance was achieved. If strict compliance was achieved it is likely the proposal would result in greater amenity impacts to the neighbouring property to the south by way of visual impact, overshadowing and overlooking.

## **CHAPTER A2 – ECOLOGICALLY SUSTAINABLE DEVELOPMENT**

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

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

## CHAPTER B1 – RESIDENTIAL DEVELOPMENT

### 4.0 General Residential controls

<i>Controls/objectives</i>	<i>Comment</i>	
<p><u>4.1 Maximum Number of Storeys</u></p> <ul style="list-style-type: none"> <li>There is no maximum number of storeys specified for the E4 Zone.</li> <li>Objectives: <ul style="list-style-type: none"> <li>a) To encourage buildings which integrate within the streetscape and the natural setting whilst maintaining the visual amenity of the area.</li> <li>b) To minimise the potential for overlooking on adjacent dwellings and open space areas.</li> <li>c) To ensure that development is sympathetic to and addresses site constraints.</li> <li>d) To encourage split level stepped building solutions on steeply sloping sites.</li> <li>e) To encourage a built form of dwellings that does not have negative impact on the visual amenity of the adjoining residences.</li> <li>f) To ensure ancillary structures have appropriate scale and are not visually dominant compared to the dwelling.</li> <li>g) To ensure appropriate correlation between the height and setbacks of ancillary structures.</li> <li>h) To encourage positive solar access outcomes for dwellings and the associated private open spaces.</li> </ul> </li> </ul>	<p>There is no maximum number of storeys specified for the E4 Zone. The proposal is considered to be consistent with the objectives of this Clause.</p> <p>The design is suitable for the sloping site with the design stepping down with the slope of the land.</p> <p>The proposal has a minor three storey section at the front of the dwelling through the studio, entry stairs and lower garage. However the proposal would only appear as two storeys from the street as the site falls away from the street towards the rear. The proposal is considered to integrate with other two storey dwellings in the streetscape.</p> <p>The proposal would only appear as two storeys when viewed from the neighbouring properties particularly the southern side as the site has a 2-3m crossfall from south to north and the proposal has been cut into the land which would minimise the extent of the dwelling that would be visible from the southern neighbouring property.</p> <p>The proposal would only appear as two storeys when viewed from the rear. See photomontage in Figure 12.</p> <p>The proposal has been designed to minimise overlooking with balconies and living room windows oriented to the rear and located well away from side boundaries.</p> <p>The proposal would ensure solar access into the proposed dwelling.</p>	<p>Yes</p>
<p><u>4.2 Front Setbacks</u></p> <ul style="list-style-type: none"> <li>6m front setback</li> <li>5.5m carport</li> </ul>	<p>6.2m to wall and 5.5m to carport.</p>	<p>Yes</p>

<u>4.3 Side and Rear Setbacks</u>		
<ul style="list-style-type: none"> <li>Minimum 900mm</li> </ul>	<p>All side setbacks are greater than 900mm except for the lower garage which has a nil setback to the northern boundary, the same as the existing garage to be demolished. A variation has been considered and supported as detailed in Chapter A1.</p> <p>The proposal also involves a minor variation to 7m wall height within 3m to boundary. The master bedroom / ensuite has a minor section on each side that is over 7m height within 2.7m and 2.6m from the northern and southern boundary respectively. A variation has been considered and supported as detailed in Chapter A1.</p>	
<u>4.4 Site coverage</u>		
55% (lot area <450m <sup>2</sup> )	25%	Yes
50% (450m <sup>2</sup> to 900m <sup>2</sup> )		
40% (>900m <sup>2</sup> )		
<u>4.5 Landscaped Area</u>		
<ul style="list-style-type: none"> <li>20% landscape area minimum</li> </ul>	<p>&gt;20% landscaped area.</p> <p>No trees to be removed.</p>	
<u>4.6 Private Open Space</u>		
<ul style="list-style-type: none"> <li>24m<sup>2</sup> minimum POS area, minimum 4m dimension</li> </ul>	<p>&gt;24sqm POS located in rear yard, directly off living room with good solar access. The POS is located sufficient distance from boundary to minimise impact to privacy of neighbouring properties.</p>	
<ul style="list-style-type: none"> <li>should not be located on side boundaries or front yard</li> </ul>	POS is not located on side boundaries.	
<ul style="list-style-type: none"> <li>defined through the use of planting, fencing, or landscape features.</li> </ul>		
<ul style="list-style-type: none"> <li>screened where necessary</li> </ul>		
<ul style="list-style-type: none"> <li>must not extend forward of the front building line by greater than 900mm.</li> </ul>	POS is located at rear.	

*Controls/objectives*

*Comment*

- Space shall be provided for clothes lines and waste/recycling bins and rain water tanks behind the front building line but outside of the private open space area.

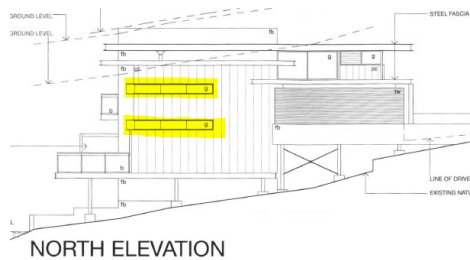
4.7 Solar Access

- Windows to living rooms of adjoining dwellings must receive at least 3 hours continuous sunlight, between hours of 9.00am and 3.00pm on 21 June.

Space for clothesline is separate to the POS.

The submitted shadow diagrams shows that the proposal would overshadow the southern neighbouring property No. 605 Lawrence Hargrave Drive. This property has a kitchen and dining room on the north side at ground level and bedroom on the upper level both with only narrow highlight windows on the northern elevation as shown highlighted below. The applicant has submitted elevational shadow diagrams to demonstrate these north facing windows would receive the minimum 3 hours of solar access per day in mid winter – See Attachment 1.

Yes



The living room and main living room windows are oriented to the rear to capture ocean views and would be unaffected by the proposal.

- At least 50% of the private open areas of adjoining residential properties must receive at least 3 hours of continuous sunlight, between hours of 9.00am and 3.00pm on June 21.

No. 605 has a balcony off the living room which is oriented to the rear. It has a solid privacy wall on the northern end of the balcony as shown in the photo below which would limit solar access to the balcony already. The proposal would not affect solar access to more than 50% of the neighbouring property's POS.



605 LHD, WOMBARRA  
Photo taken 3rd June 2020 @ 2pm

- Dwellings should be designed to maximise natural sunlight to main living areas and the private open space.

The neighbouring property also has a rear yard and swimming pool which would only be affected by the proposal in the afternoon period however the shadow diagram shows that much of the overshadowing of the neighbouring property is caused by the dwelling of the neighbouring property itself.

The dwelling is designed to ensure living rooms and POS would receive the minimum solar access requirements.

Yes

#### 4.8 Building Character and Form

- The design, height and siting of a new development must respond to its site context taking into account both natural and built form features of that locality. The design of the development must have particular regard to the topography of the site to minimise the extent of cut and fill associated with dwelling construction.
- Large bulky forms are to be avoided, particularly in visible locations

The site is steeply sloping and has a cross-fall. The design is considered suitable for the sloping site with the design stepping down with the slope of the land. The proposal is considered to have taken the topography of the site in regard in the design.

Yes

The proposal is not considered to be large or bulky. The design has been amended to comply with the maximum 0.3:1 FSR and would only appear as two storeys when viewed from the street and neighbouring properties. The proposal would have limited view from the foreshore.



Controls/objectives	Comment	
<ul style="list-style-type: none"> <li>New dwelling-houses within established residential areas should be sympathetic with the existing character of the immediate locality.</li> <li>All residential buildings must be designed with building frontages and entries clearly addressing the street frontage.</li> <li>The appearance of blank walls or walls with only utility windows on the front elevation will not be permitted.</li> <li>Where garages are proposed on the front elevation they must be articulated from the front façade.</li> <li>Fences in the front building line should be predominately constructed in transparent fence materials, allowing for visual connection between the dwelling and the street.</li> <li>Where the garage door addresses the street they must be a maximum of 50% of the width of the dwelling.</li> </ul>	<p>The character of the area is a mix of older style and new properties with a contemporary design. The proposal with its hip and gable roof, brick and clad will is considered to be in keeping with the character of the neighbourhood.</p> <p>The front entrance clearly addresses the street.</p> <p>The front elevation is considered to present a blank façade on the upper level. Only one small round window is proposed. A condition will be imposed for an additional window to be provided on the upper level of the western elevation.</p> <p>A carport is provided on the front elevation which provides articulation.</p> <p>N/A</p> <p>Carport only on front elevation which complies.</p>	
<u>4.9 Fences</u>	1.8m high boundary fencing proposed on side boundaries which complies.	Yes
<u>4.10 Car parking and Access</u>	<p>Minimum 2 spaces per dwelling with a gross floor area of 125m<sup>2</sup> or greater</p> <p>Garages must be setback a minimum of 5.5m from the front property boundary.</p> <p>Garage door openings to be a maximum of 50% of the width of the dwelling.</p>	<p>&gt;2 spaces provided.</p> <p>Carport is setback 5.5m.</p> <p>Not applicable. Carport on front elevation.</p>

<i>Controls/objectives</i>	<i>Comment</i>	
<p>6m x 6m minimum for double garages</p> <p>Driveways shall be separated from side boundaries by a minimum of 1 metre.</p> <p>Driveways shall have a maximum cross-over width of 3 metres.</p> <p><u>4.11 Storage Facilities</u></p> <ul style="list-style-type: none"> <li>Minimum 10m<sup>3</sup> / 5m<sup>2</sup></li> </ul> <p><u>4.12 Site Facilities</u></p> <p>To ensure that site facilities (such as clothes drying, mail boxes, recycling and garbage disposal units/areas, screens, lighting, storage areas, air conditioning units, rainwater tanks and communication structures) are effectively integrated into the development and are unobtrusive</p> <p><u>4.13 Fire Brigade Servicing</u></p> <p>Ensure that all dwellings can be serviced by fire fighting vehicles.</p> <p><u>4.14 Services</u></p> <p>Encourage early consideration of servicing requirements, to ensure that all residential development can be appropriately serviced.</p> <p><u>4.15 Development near the coastline</u></p> <ul style="list-style-type: none"> <li>All development must be setback at least 10m from a beach or cliff top.</li> <li>Development should generally be designed in a contemporary Australian coastal style which incorporates elements such as varied roof lines, a modest scale, light weight materials where appropriate, wide eaves and covered outdoor living areas, and consistent with the desired future character.</li> </ul>	<p>Lower garage is 6 x 6m which complies. Additional parking provided in a double carport.</p> <p>Driveway will remain as per existing.</p> <p>There is a dedicated storage room, linen cupboard and robes that would exceed minimum storage requirements.</p> <p>Site facilities are located in suitable locations and would not be visible from the street.</p> <p>The site is able to be serviced by NSW fire brigade.</p> <p>The site is serviced.</p> <p>The development is setback more than 10m from a beach or cliff top.</p> <p>The character of the dwelling is considered to be suitable in the coastal context.</p> <p>As the site is elevated above the foreshore it is likely the proposal would</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

## Controls/objectives

## Comment

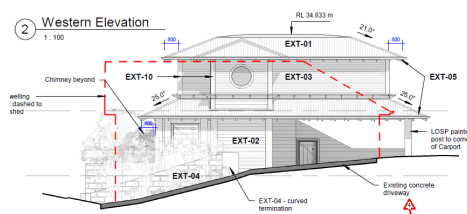
- Consideration is to be given to the appearance of buildings from all public areas.
- Buildings shall be designed to utilise a composite of construction materials, low reflective materials, and natural colour schemes.

### 4.16 View sharing

not be highly visible. There is also existing vegetation at the rear of the site along the cliff that would screen the development.

The proposal utilises a mix of materials. A condition will be imposed for low reflective materials and muted colour scheme.

The proposal is unlikely to affect views from surrounding properties. The dwelling will have a similar bulk and scale to the existing dwelling to be demolished as shown below in red dashed line. The height of the existing dwelling is approximately the same as the ceiling height of the proposed dwelling. The proposal may affect views slightly on the southern side although it would open up views through the proposed carport. Views along the northern side would be improved as shown below.



The proposal would not affect views from the two neighbouring properties. Views from the northern neighbouring property No. 605 to the east and south east (over the proposed pool) would not be affected by the proposal. Views from the southern neighbouring property No. 601 to east and north east would not be affected by the proposal.

The properties on the opposite side of Lawrence Hargrave Drive are elevated approximately 15m above the subject site as the land slopes up towards the escarpment. These properties would retain views over the rooftop of the proposal as shown below:

602 and 600 Lawrence Hargrave Drive:



606 Lawrence Hargrave Drive:



No. 604 Lawrence Hargrave Drive is located directly opposite the site. The dwelling is single storey however it is noted the property is heavily vegetated and does not currently have any views towards the east as shown below.



Controls/objectives	Comment	
<p><u>4.17. Retaining walls</u></p> <p>Maximum 600mm within 900mm of boundary or 1 metre beyond 900mm of the boundary.</p>	<p>The site has a cross-fall from south to north. A retaining wall is proposed along the southern boundary which does not comply however a variation has been considered and supported as discussed in Chapter A1.</p>	<p>No, variation capable of support.</p>
<p><u>4.18 Swimming pools and spas</u></p> <ul style="list-style-type: none"> <li>• Must be located on land with a dwelling house.</li> <li>• A swimming pool or spa must not be located: <ul style="list-style-type: none"> <li>a) Over an easement or restricted building zone.</li> <li>b) Within a zone of influence of a public sewer main.</li> <li>c) Within a zone of influence of a public drainage pipe.</li> <li>d) Within a riparian buffer zone: e) Without appropriate approval by the relevant authority or person benefiting from the easement of covenant.</li> </ul> </li> <li>6. The swimming pool water line or spa water line must have a setback of at least 900mm from any side or rear boundary.</li> <li>7. Any decking around a swimming pool or spa must not be more than 600mm above ground level (existing).</li> <li>8. Coping around a swimming pool must not be more than: a) 1.4m above ground level (existing), and b) 300mm wide if the coping is more than 600mm above ground level (existing).</li> <li>9. Any in-ground swimming pool or spa should be constructed so that the top edge of the swimming pool / spa is as close as possible to the existing ground level. On sloping sites, this may require excavation on the high side of the site, in order to ensure minimal</li> </ul>	<p>Complies</p> <p>The proposed pool is not located over any easements or drainage pipes.</p> <p>The applicant will need to do a Sydney Water check in regards to sewer.</p> <p>The proposal pool is not located within any riparian land.</p> <p>The waterline is more than 3.5m from each side boundary.</p> <p>Less than 600mm complies.</p> <p>1.4m complies.</p> <p>The pool is in ground at the western end and approximately 1.2m out of the ground at the eastern end due to the slope. Landscaping is proposed to screen the pool along the eastern side. See Figure 12 in the Coastal SEPP Section. The proposal is considered satisfactory as it would not have any</p>	<p>Yes</p>

<i>Controls/objectives</i>	<i>Comment</i>	
out of ground exposure of the swimming pool at the low side.	impact when viewed from the foreshore or neighbouring properties.	
10. Water from paved areas must not be discharged to any watercourse.	Water is proposed to be piped to the sewer system - complies.	
11. Overflow paths must be provided to allow for surface flows of water in paving areas around the pool and shall not be directed or connected at any point onto the adjoining property.		
12. Discharge and/or overflow pipe(s) from the swimming pool and filtration unit are:		
a) To be discharged in accordance with an approval under the Local Government Act 1993 if the lot is not connected to a sewer main.	Conditions will be imposed.	
b) N/A only relates to rural and environmental protection zones.	N/A	
c) Not to discharge water to any watercourse.	Complies	
13. Pool excavations are not to conflict with the position of any stormwater drainage trench or line (including any inter-allotment drainage line), the position of which must be ascertained and shown on the site plan before pool excavation commences.	Satisfactory.	
14. A swimming pool must be surrounded by a child resistant barrier complying with the requirements of the Swimming Pools Act 1992 (and Regulations) and the appropriate Australian Standard as referenced by the Building Code of Australia.	Child resistant pool fence proposed.	
15. The wall of a residential building may form part of the child restraint barrier so long as the wall contains no openable door, window or other opening through which access may at any time be gained to the swimming pool.	N/A	



<i>Controls/objectives</i>	<i>Comment</i>	
16. A minimum of 50% of the perimeter of a pool must be accessible for rescue purposes.	Complies.	
17. Spa pool	N/A	
18. Structures such as tool sheds garages, barbeques, clotheslines or other like structures not appurtenant to a swimming pool must be located outside the fenced pool enclosure.	There are structures proposed within the pool enclosure.	
19. The pool pump / filter must be located as far away as practicable from any adjoining dwelling and should be enclosed in an acoustic enclosure / structure.	Pool equipment is proposed to be stored under the pool decking which is located over 2m from the adjoining property. The location is considered acceptable. A condition will be imposed for the pool pump to be enclosed in an acoustic enclosure to protect the amenity of the adjoining residents.	
<u>4.19 Development near railway corridors and major roads</u>	<p>The site is located on Lawrence Hargrave Drive which is a State classified road. The application was referred to the RMS and no objections were raised. It is noted the existing driveway will be retained and the proposal does not intensify the use on the site. See SEPP Infrastructure.</p> <p>No acoustic measures are required as per Clause 101 of SEPP Infrastructure.</p>	Yes

## **CHAPTER D1 – CHARACTER STATEMENTS**

### Wombarra

The proposal is consistent with the existing and desired future character for Wombarra to remain a low density residential village comprising of a mix of one and two storey dwellings and leafy residential character. The proposal will replace an existing dwelling on the site and does not involve any tree removal. The dwelling would only appear as two storeys from the street and is considered to be sympathetic with the streetscape and scenic environmental quality of the locality.

The proposal is appropriately designed to minimise impact on views from surrounding properties.

The scale and form / bulk of any building is minimised through the stepping down the slope of the site and the dwelling is lightweight construction and comprises weatherboard, colourbond and pitched roof in keeping with the existing and desired future character.

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

Access to the site is via the existing driveway off Lawrence Hargrave Drive. Lawrence Hargrave Drive is a State classified road. The application was referred to the RMS and no objections were raised.

The site has an existing Right of Access over adjacent property No 601 Lawrence Hargrave Drive (Lot 171 DP 1148788) to provide access into the existing lower garage on the subject site. The proposal involves replacement of the garage in the same location and will continue utilisation of the right of access.

Access and manoeuvring is satisfactory.

Parking is proposed in a double garage on the lower level. The parking complies with the minimum two spaces required for a dwelling over 125sqm. Additional parking is provided in a double carport at street level. The dimensions of the garage complies with Council's minimum 6m by 6m.

Council's Development Engineer has assessed the proposal and is satisfied.

## CHAPTER E7: WASTE MANAGEMENT

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

The proposal involves demolition of the existing dwelling-house and a demolition plan has accordingly been provided.

Suitable waste storage and servicing arrangements have been provided.

## CHAPTER E11 HERITAGE CONSERVATION

The proposal satisfies this Chapter. See Clause 5.10 WLEP 2009.

## 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. Appropriate conditions have been recommended including condition for a two staged development.

## CHAPTER E13 FLOODPLAIN MANAGEMENT

The site is identified as being located within a flood risk precinct. Council's Development Engineer has reviewed the proposal with respect to the provisions of this chapter and has recommended conditions of consent. See also clause 5.21 of WLEP 2009.

## CHAPTER E14 STORMWATER MANAGEMENT

Stormwater is proposed to be disposed of to the watercourse. Council's Development Engineer has reviewed the proposal with respect to the provisions of this chapter and has recommended conditions of consent.

The proposal involves the construction of a drainage line through the Littoral Rainforest as shown in Figure 13 below.

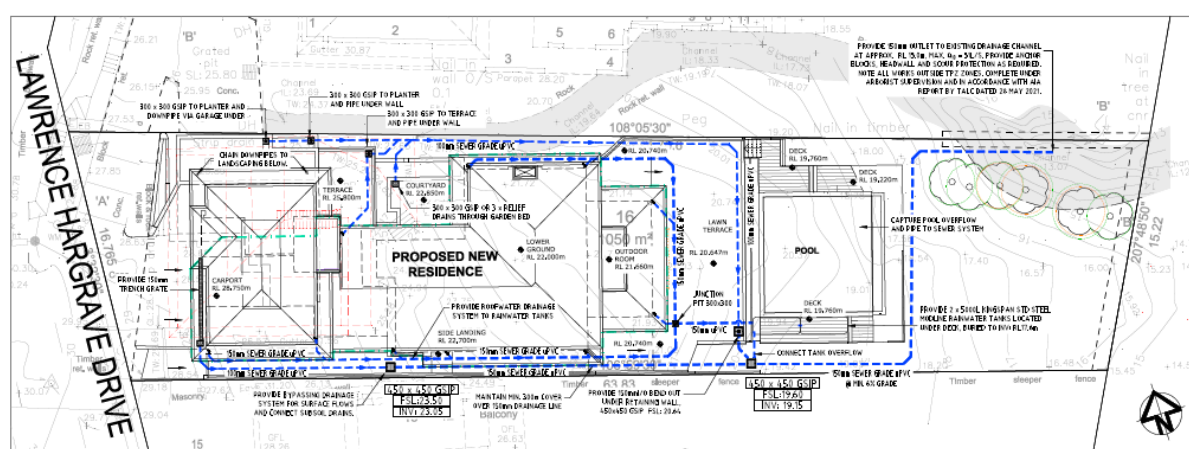


Figure 13: Excerpt from Drainage Plan

The Arborist has assessed the proposed drainage line and undertaken root mapping at the location of the proposed drainage outlet and advised that these works are outside of the trees prescribed TPZs as identified within the Arboricultural Impact Assessment dated 28th May 2021. The Arborist concluded that based upon the location of the pipe and root mapping undertaken exposing no roots the excavation for the proposed drainage line in the proposed location will not impact upon the subject trees.

#### **CHAPTER E16 – BUSHFIRE MANAGEMENT**

The site is bushfire prone. Only a portion of the front of the site is mapped. A Bushfire Report has been submitted as required by this Chapter. The Bushfire Report concludes that vegetation within 140m of the site is managed land and there is no hazard within 100m. The development has been assessed as AS 3959-2018 BAL-LOW which is concurred.

Conditions have been recommended including the entire property to be managed as an Asset Protection Zone in accordance with the requirements of Planning for Bushfire Protection. This is not appropriate for this site as it contains mapped Littoral Rainforest EEC. A condition will be imposed to specify the APZ distance to the Littoral Rainforest to the east to ensure its protection. The APZ can extend to all other site boundaries.

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

The proposal does not involve any tree removal and will not impact on any trees as detailed in this report.

#### **CHAPTER E18 THREATENED SPECIES**

The site contains mapped Littoral Rainforest which is endangered ecological community. Council is satisfied the proposal would not have an adverse impact on the Littoral Rainforest as required by this Chapter. See Coastal SEPP and Chapter E16 WDCP. Council's Environment Officer has assessed the proposal and is satisfied.

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

The proposal involves significant earthworks to prepare the site for the development. Council is satisfied the earthworks would not adversely impact stormwater drainage, sediment control and land stability as required by this Chapter. No concerns are raised by Council's referral groups. Excavations will be suitably retained. The land is known to be unstable and Council's Geotechnical Officer has recommended a two staged development. See Chapter E12 WDCP.

#### **CHAPTER E20 CONTAMINATED LAND MANAGEMENT**

The proposal satisfies this Chapter. See also SEPP 55.

#### **CHAPTER E21 DEMOLITION AND HAZARDOUS BUILDING MATERIALS MANAGEMENT**

A Demolition Work Plan has been submitted as required by this Chapter. Standard conditions for demolition conditions will be imposed on any consent to be granted.

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

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

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

This Chapter applies as the site contains riparian land. There is a Category 3 watercourse on the northern site boundary. Council's Environment Officer has assessed the proposal and is satisfied as much of the watercourse has already been highly modified and no vegetation is proposed to be impacted within the riparian zone.

### 3.3.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN

The estimated cost of works is just over \$1.5 million which is over the \$100,000 threshold and therefore a levy of 1% is applicable under this plan.

### 3.4 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.

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

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

Conditions of consent are recommended with regard to demolition.

### 3.6 SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENT

The proposal is considered acceptable with regard to the likely impacts.

#### Context and Setting:

The proposal has been assessed to be compliant with regard to the zoning, permissible height and FSR for the land. The proposal is considered to be compatible with the local area and unlikely to adversely impact on the amenity of the neighbourhood. Council is satisfied the proposal will have minimal impact on the coastal foreshore.

#### Access, Transport and Traffic:

Access, parking and manoeuvring is satisfactory.

#### Public Domain:

The proposal is not envisaged to impact on the public domain.

#### Utilities:

The proposal is not envisaged to place an unreasonable demand on utilities supply. Existing utilities are adequate to service the proposal.

#### Heritage:

No heritage items will be impacted by the proposal.

#### Other land resources:

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

#### Water:

The site is presently serviced by Sydney Water, which can be readily extended to meet the requirements of the proposed development.

The proposal is not envisaged to have unreasonable water consumption.

#### Soils:

The proposal is not envisaged to have unreasonable impact on soils.

Air and Microclimate:

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

Flora and Fauna:

There is no vegetation removal or landscaping proposed or required. Council is satisfied the proposal would have no adverse impact on Littoral Rainforest EEC.

Waste:

A condition will be attached to any consent granted that an appropriate receptacle be in place for any waste generated during the construction.

Energy:

The proposal is not envisaged to have unreasonable energy consumption. A BASIX certificate has been submitted as required by SEPP BASIX.

Noise and vibration:

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

Natural hazards:

There are natural hazards affecting the site, bushfire and flood, however none that would prevent the proposal.

Technological hazards:

There are technological hazards affecting the site, unstable land and acid sulphate soils, however none that would prevent the proposal.

Safety, Security and Crime Prevention:

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

Social Impact:

This application does not result in greater social impact.

Economic Impact:

The proposal is not expected to create negative economic impact.

Site Design and Internal Design:

The application does not result in any exceptions to development standards in the Wollongong Local Environmental Plan 2009. The proposal involves variations to controls in the Wollongong Development Control Plan 2009 Chapter A1 WDCP 2009 which have been reviewed and are considered capable of support as detailed in Section 2.3.1.

Construction:

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

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

Cumulative Impacts:

The proposal is not expected to have negative cumulative impacts.

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

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

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

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

There are no site constraints that would prevent the proposal.

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

See Section 1.4.

### **3.9 SECTION 4.15(1)(E) THE PUBLIC INTEREST**

The application is not expected to have any unreasonable impacts on the environment or the amenity of the locality. It is considered appropriate with consideration to the zoning and the character of the area is satisfactory with regard to the applicable planning controls. Submissions raised following notification do not warrant any redesign and internal and external referrals are satisfactory subject to appropriate conditions of consent. The proposal is considered to be in the public interest.

## **4 CONCLUSION**

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The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979, the provisions of the SEPP (Coastal Management) 2018, Wollongong Local Environmental Plan 2009, and all relevant Council DCPs, Codes and Policies and found to be satisfactory.

The proposal does request variations to Council's DCP which have been reviewed and are considered capable of support

It is considered that the proposed development is unlikely to result in adverse impacts on the character or amenity of the surrounding area, environment and adjoining development. Despite the works being located within the mapped littoral rainforest area, the mapping does not reflect the actual littoral rainforest which has been surveyed on the site and shown to be outside of the development area, except for a drainage line. The Arborist has assessed the proposed drainage line and undertaken root mapping at the location of the proposed drainage outlet and advised that these works are outside of the trees prescribed TPZs as identified within the Arborist Report and is satisfied that the proposed drainage line will not impact upon the subject trees. Council is satisfied the proposed development on land in proximity to littoral rainforest will not have significant impacts.

## **5 RECOMMENDATION**

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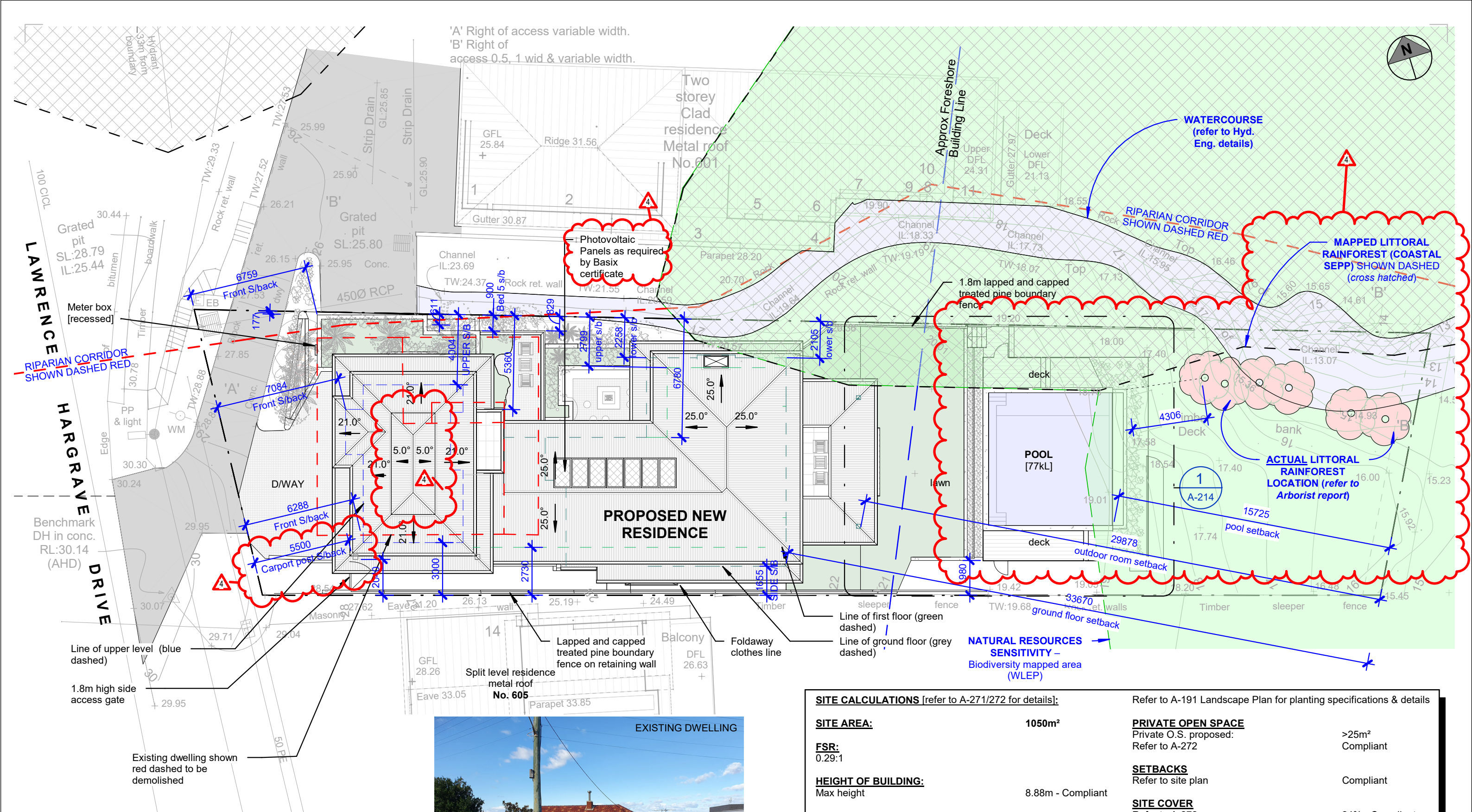
It is recommended that DA-2021/103 be approved subject to the conditions at Attachment 4.

## **6 ATTACHMENTS**

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- 1 Plans
- 2 Applicant's Variation Statements
- 3 Planning Secretary's Environment Assessment Requirements (SEAR's)
- 4 Draft conditions of consent





1 Site Plan  
1 : 200



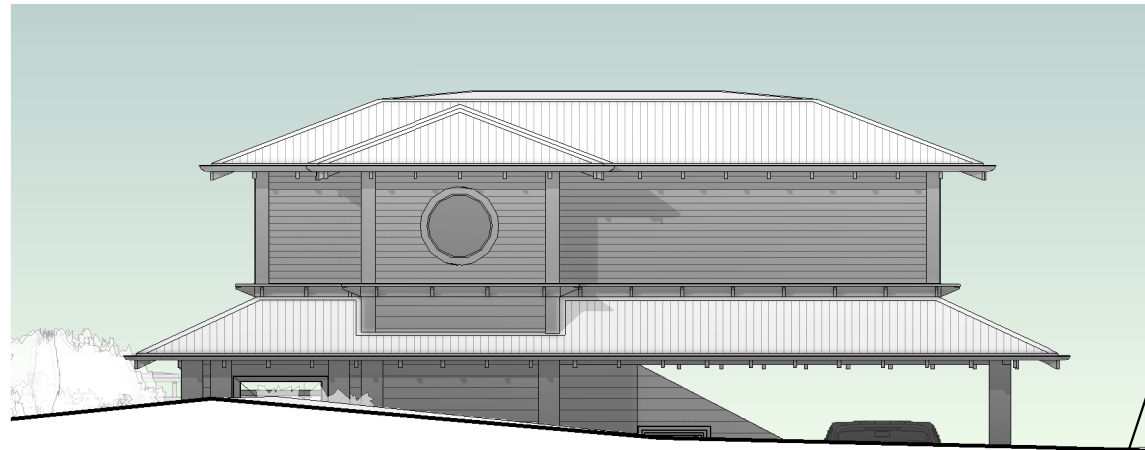
Existing Dwelling  
New Residence  
Victoria & Gyles Deacon

SITE CALCULATIONS [refer to A-271/272 for details]:		Refer to A-191 Landscape Plan for planting specifications & details	
<b>SITE AREA:</b>	1050m <sup>2</sup>	<b>PRIVATE OPEN SPACE</b>	
<b>FSR:</b>	0.29:1	Private O.S. proposed:	>25m <sup>2</sup>
<b>HEIGHT OF BUILDING:</b>		Refer to A-272	Compliant
Max height	8.88m - Compliant	<b>SETBACKS</b>	
<b>LANDSCAPE AREA:</b>		Refer to site plan	Compliant
Proposed:	535m <sup>2</sup> /51%	<b>SITE COVER</b>	
Refer to A-272	Compliant	Refer to A-272	24% - Compliant
		<b>STORMWATER TO RAINWATER TANK</b>	
		10,000L storage capacity refer to SITE PLUS hydraulic engineer	

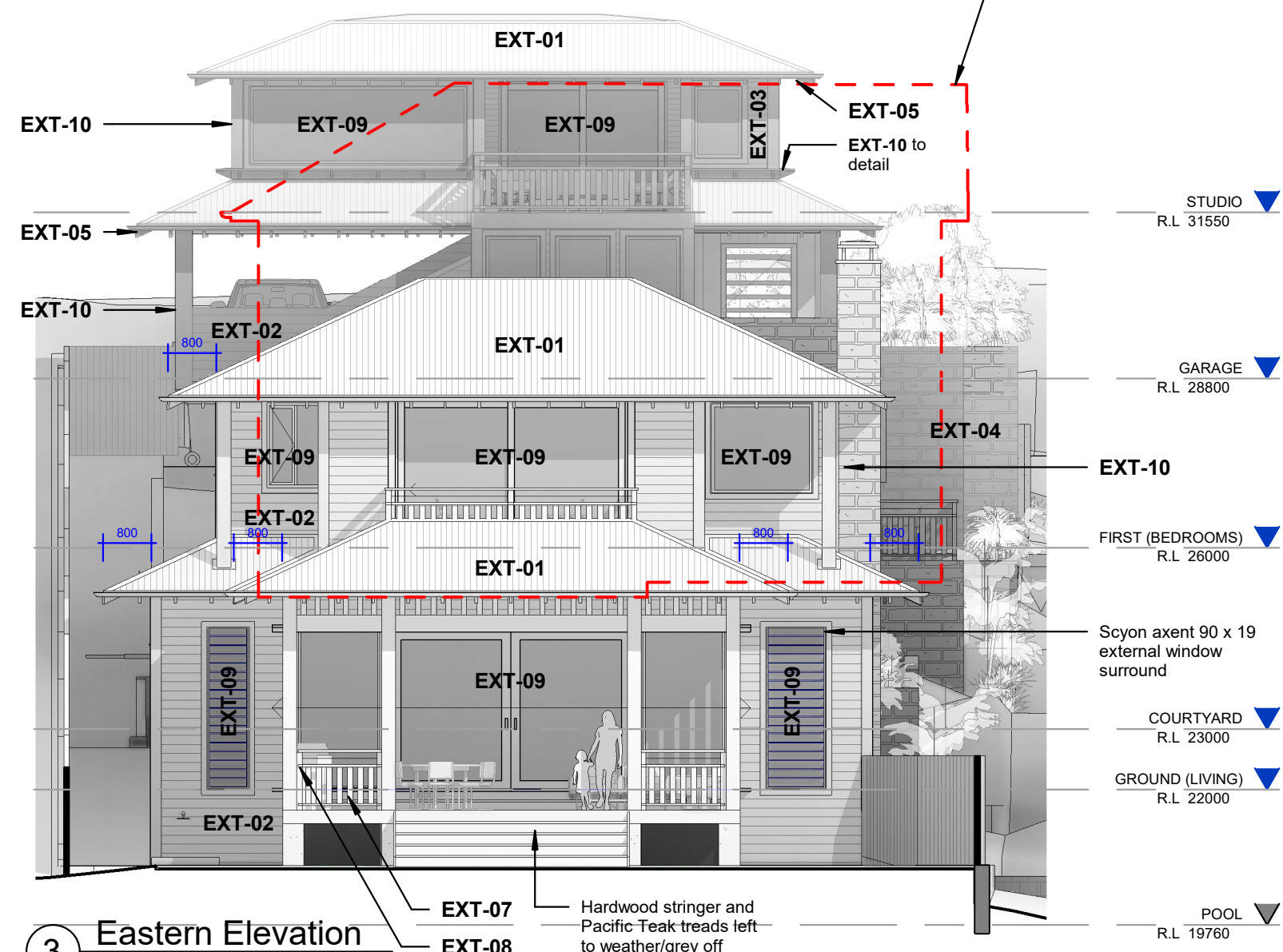
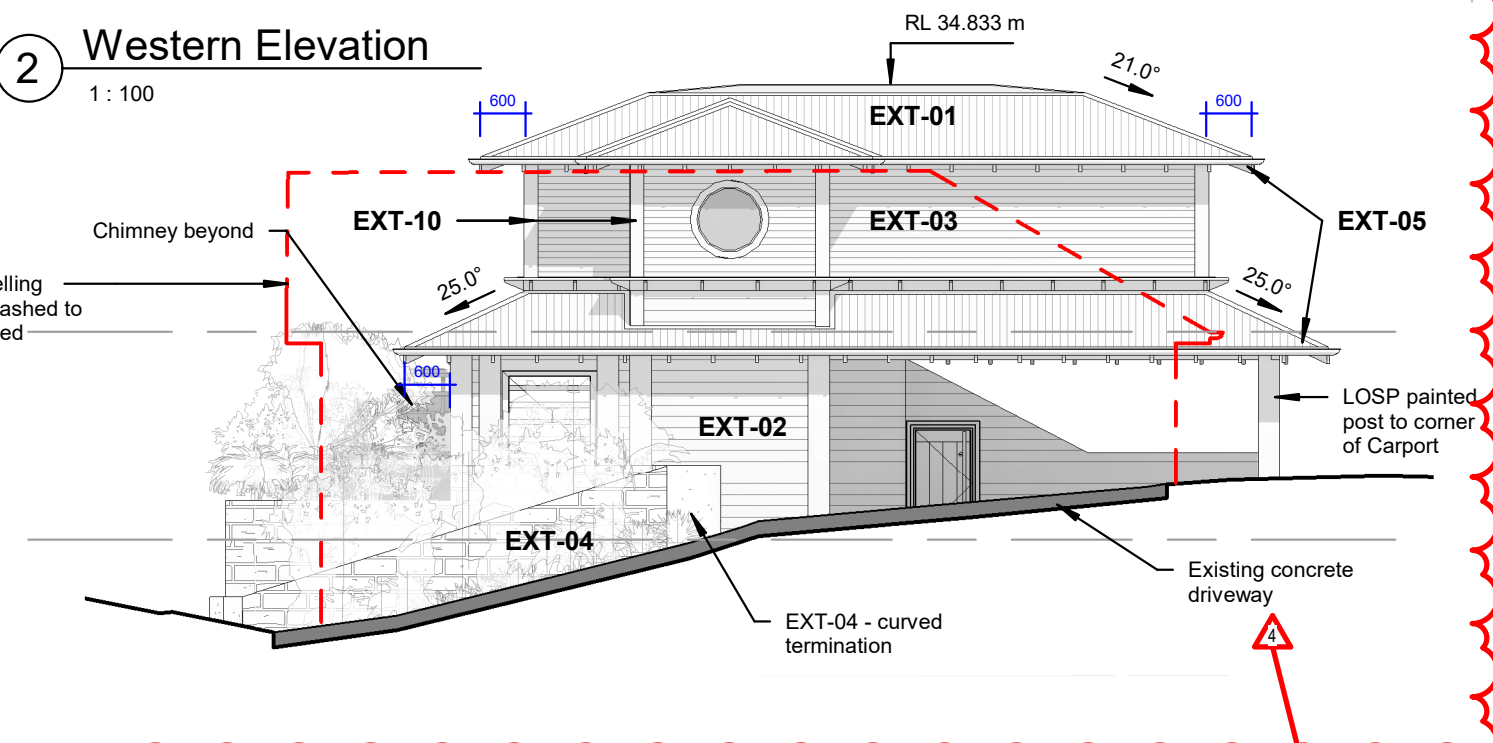
4	Amendments & additional info submitted in response to council letter dated 03.05.2021	31.05.2021
3	Wollongong Council DA submission	21.01.2021
2	Amended as per client requests	14.07.2020
1	Internal Review #2	30.06.2020
No.	Description	Date
Scale @ A3 As indicated		
603 Lawrence Hargrave Drive, Wombarra, NSW		Dwg Number
		<b>A-101</b>
		Issue 4
Print Date & Time		31/05/2021 10:19:23 PM



1 Street Elevation  
1 : 100



2 Western Elevation  
1 : 100



3 Eastern Elevation  
1 : 100

External Finishes Schedule

Code	Description
EXT-01	Colorbond 'Windspray' Stainless Steel Custom Orb Roof sheeting
EXT-02	Scyon Linea 180mm: 4200x180x16 mm (code 403912) external weatherboard cladding, Paint finish: Dulux Weathershield 'Ghosting' low sheen
EXT-03	External Timber Cladding, H3 treated pine weatherboards in 'Log Cabin' profile, Painted Dulux Weathershield 'Ghosting' low sheen
EXT-04	Coursed Light Brown sandstone rock faced with random lengths with birdsmouthed ext corners (min block size 300 x 600 x 60mm) from Gosford quarries - dipped sealed before installation & after with penetrating sealant
EXT-05	Eave Treatment - Raked eave lining Scyon Axon grained 133 with exposed truss tails, 150mm Half Round 'Windspray' s/steel gutters and down pipes, eave lining painted Dulux Weathershield 'Whisper White' low sheen including truss tails
EXT-06	Rough cast cement render to painted Dulux Weathershield 'Ghosting' low sheen
EXT-07	Timber balustrade painted Dulux 'Whisper White' with 138 x 42mm Design Pine hand rail, 4.0mm 7x7 lay 316 stainless steel wire with 316 stainless steel turnbuckles, 62 x 18mm Design Pine slats, 66X42 Design Pine mid rail rebated & 66X42 Design Pine bottom rail
EXT-08	Timber posts clad in LOSP pine and painted Dulux Weathershield 'Whisper White' low sheen
EXT-09	Aluminum framed windows (fixed, breezway 152mm louvres, casement) and sliding/bi-fold doors in marine grade powder coating - colour to match 'Whisper White'
EXT-10	190 x 35 birdsmouthed timber external corners and banding at sill board detail - Painted Dulux Weathershield 'Whisper White' low sheen
EXT-11	100 x 100 x 50 'Endicott' Cobblestone driveway finish from Eco Outdoor
EXT-12	140 x 20 Pacific Teak timber decking, domed top, concealed fixed - Mortlock timber
EXT-13	-

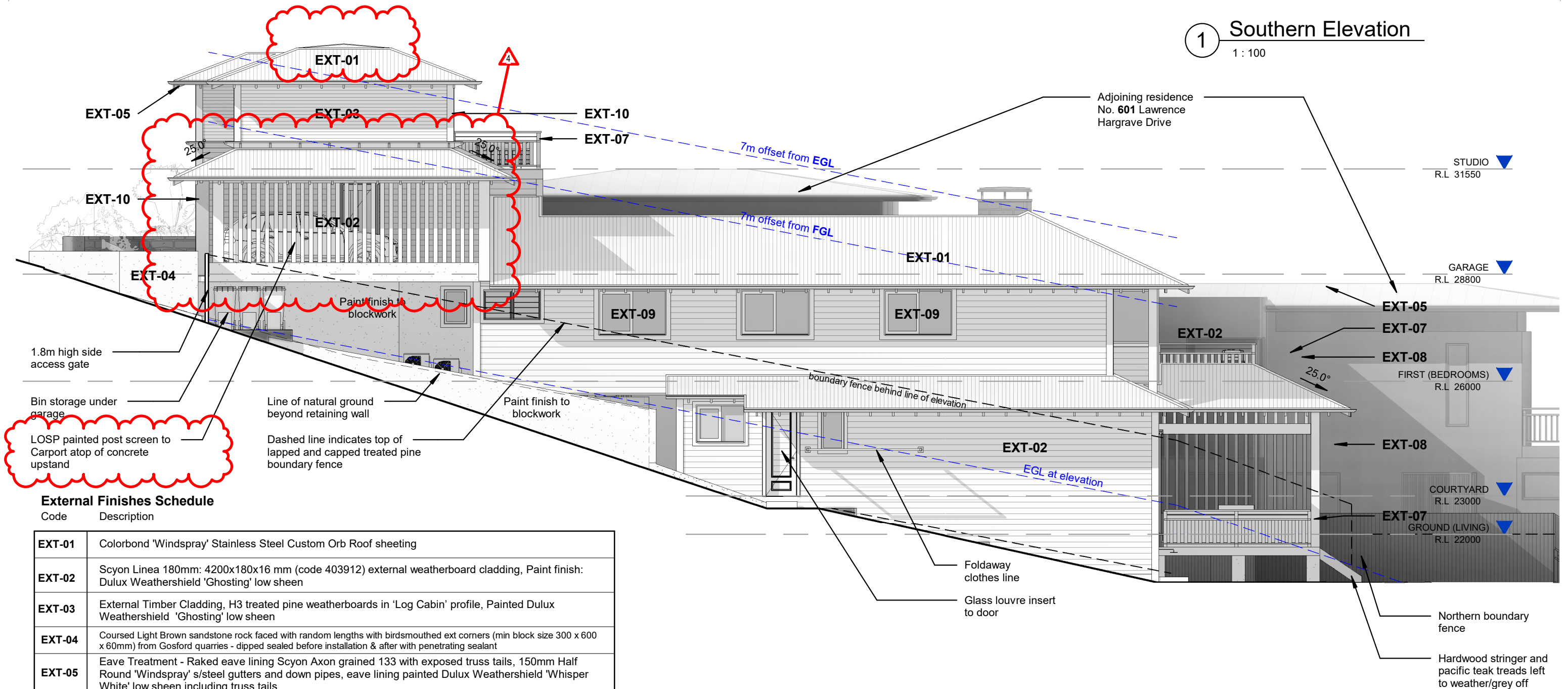
**NOTE:** All colour's to be confirmed and signed off prior to purchase of painting or coating finished surfaces

4	Amendments & additional info submitted in response to council letter dated 03.05.2021	31.05.2021
3	Wollongong Council DA submission	21.01.2021
2	Amended as per client requests	14.07.2020
1	Internal Review #2	30.06.2020
No.	Description	Date
Scale @ A3 1 : 100		
603 Lawrence Hargrave Drive, Wombarra, NSW		Dwg Number A-301 Issue 4
Print Date & Time		31/05/2021 9:43:52 PM





1 Southern Elevation  
1 : 100



External Finishes Schedule

Code	Description
EXT-01	Colorbond 'Windspray' Stainless Steel Custom Orb Roof sheeting
EXT-02	Scyon Linea 180mm: 4200x180x16 mm (code 403912) external weatherboard cladding, Paint finish: Dulux Weathershield 'Ghosting' low sheen
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EXT-08	Timber posts clad in LOSP pine and painted Dulux Weathershield 'Whisper White' low sheen
EXT-09	Aluminum framed windows (fixed, breezway 152mm louvres, casement) and sliding/bi-fold doors in marine grade powder coating - colour to match 'Whisper White'
EXT-10	190 x 35 birdsmouthed timber external corners and banding at sill board detail - Painted Dulux Weathershield 'Whisper White' low sheen
EXT-11	100 x 100 x 50 'Endicott' Cobblestone driveway finish from Eco Outdoor
EXT-12	140 x 20 Pacific Teak timber decking, domed top, concealed fixed - Mortlock timber
EXT-13	Western red cedar panelift garage door with translucent acrylic panel inserts, Dulux Weathershield 'Whisper White' paint finish

**NOTE:** All colour's to be confirmed and signed off prior to purchase of painting or coating finished surfaces

4	Amendments & additional info submitted in response to council letter dated 03.05.2021	31.05.2021
3	Wollongong Council DA submission	21.01.2021
2	Amended as per client requests	14.07.2020
1	Internal Review #2	30.06.2020
No.	Description	Date
Scale @ A3 1 : 100		
603 Lawrence Hargrave Drive, Wombarra, NSW		Dwg Number <b>A-303</b>
Print Date & Time		Issue 4
31/05/2021 8:42:16 PM		

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architecture  
landscape  
interiors

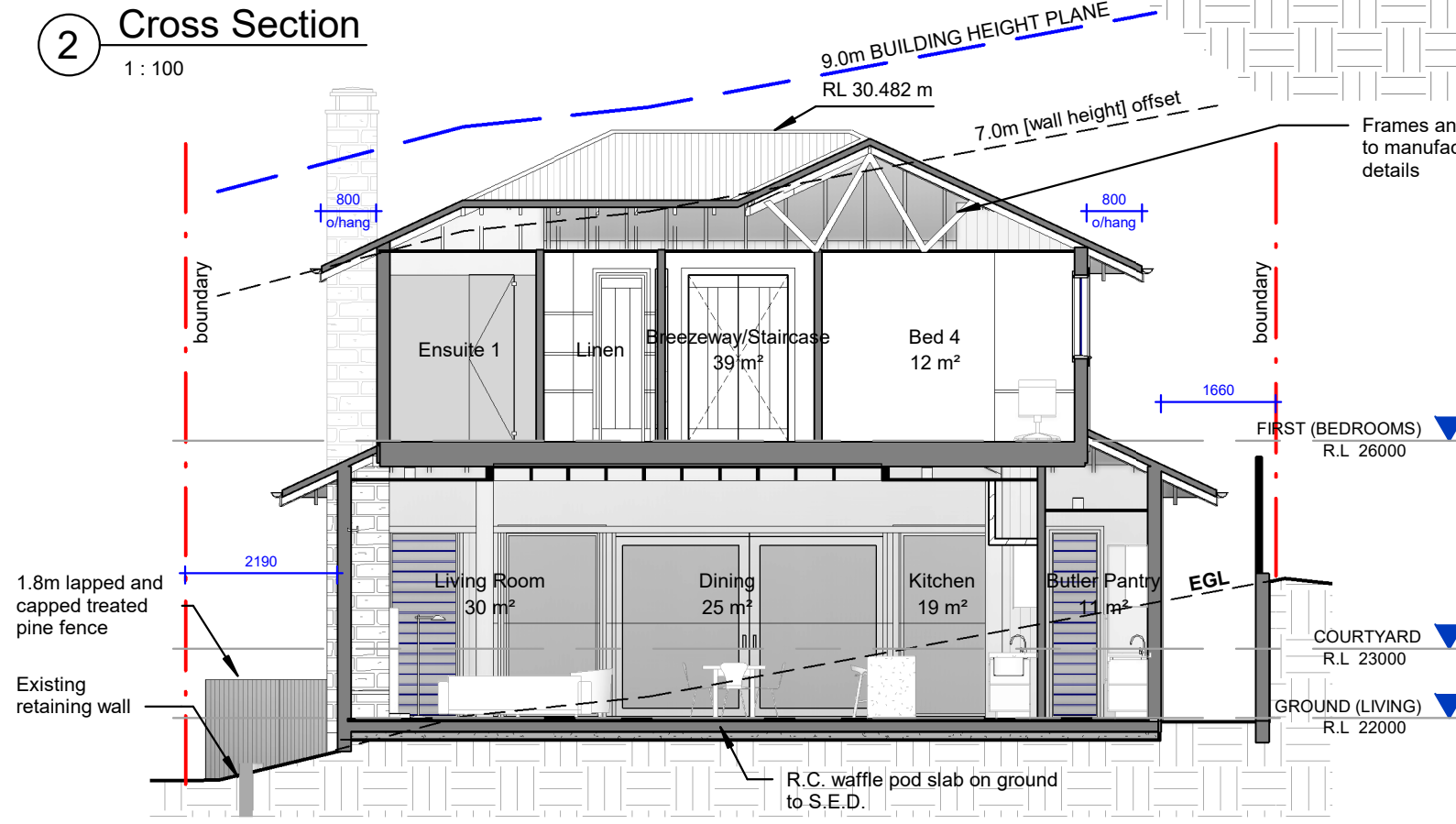
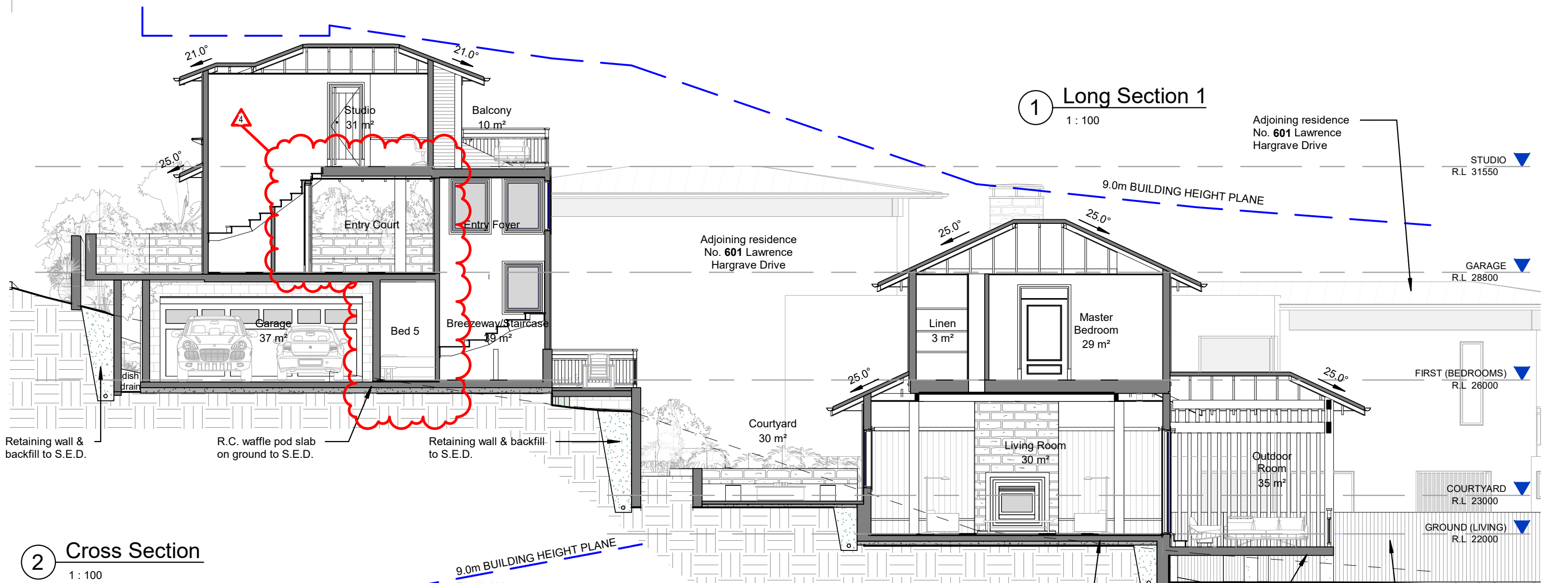
2.04 13-15 Wentworth Avenue Sydney NSW 2000  
PO Box 398 Darlinghurst NSW 1300  
www.walterbardadesign.com ABN: 48 072 136 513  
Office: 02 9360 2340 Facsimile: 02 9360 2324

New Residence  
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Project Number 2020\_07 Project Status  
Sheet DEVELOPMENT APPLICATION  
Southern Elevation

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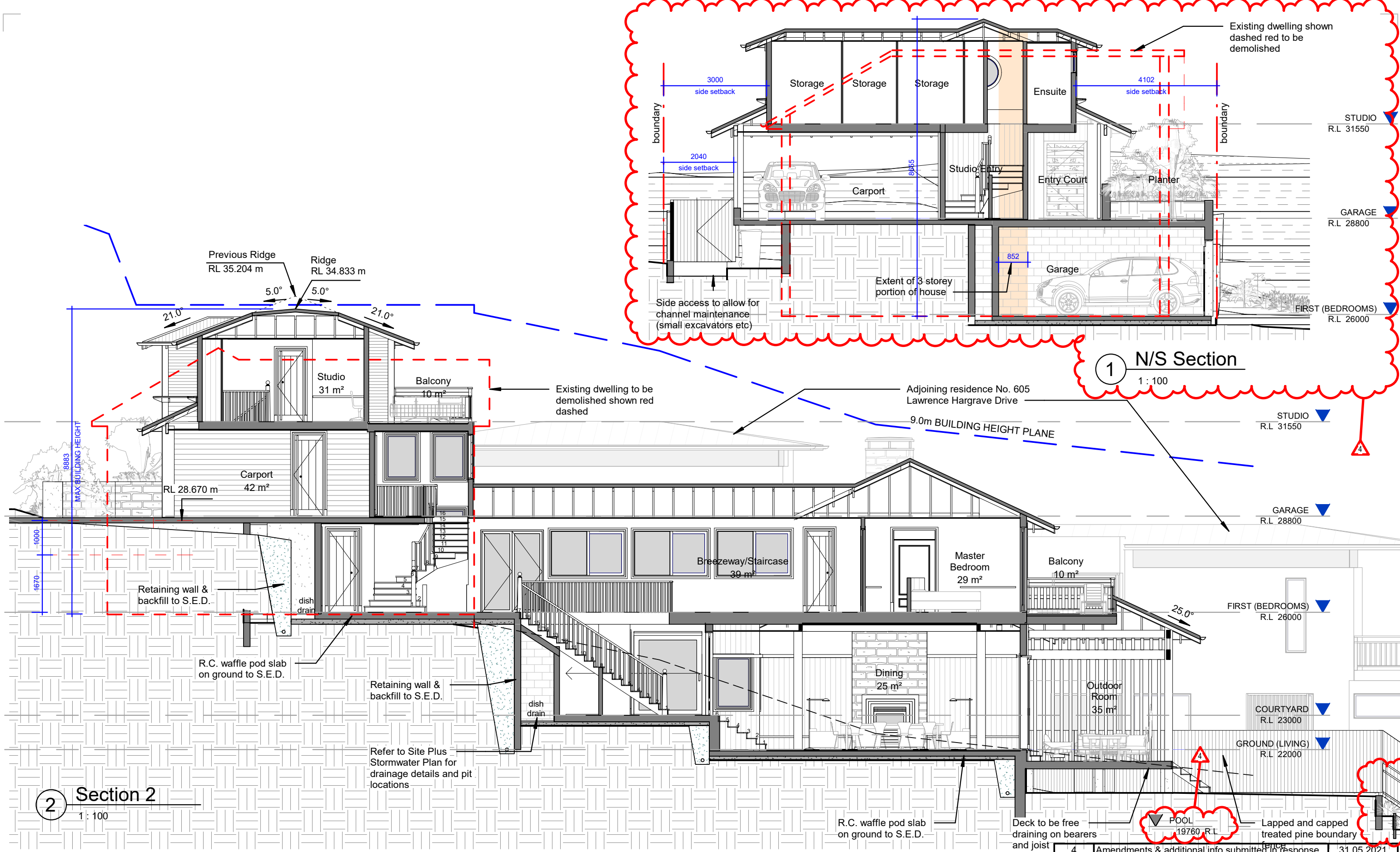
2.04 13-15 Wentworth Avenue Sydney NSW 2000  
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Project Number	2020_07	Project Status	DEVELOPMENT APPLICATION
Sheet	Section 01		

4	Amendments & additional info submitted in response to council letter dated 03.05.2021	31.05.2021
3	Wollongong Council DA submission	21.01.2021
2	Amended as per client requests	14.07.2020
1	Internal Review #2	30.06.2020
No.	Description	Date
Scale @ A3 1 : 100		
603 Lawrence Hargrave Drive, Wombarra, NSW		Dwg Number <b>A-311</b>
Print Date & Time		Issue <b>4</b>
31/05/2021 8:42:27 PM		



4	Amendments & additional info submitted in response to council letter dated 03.05.2021	31.05.2021
3	Wollongong Council DA submission	21.01.2021
2	Amended as per client requests	14.07.2020
1	Internal Review #2	30.06.2020
No.	Description	Date

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Project Number

2020\_07

Project Status

DEVELOPMENT APPLICATION

Sheet

Section 02

Scale @ A3

1 : 100

Dwg Number

A-312

Issue

4

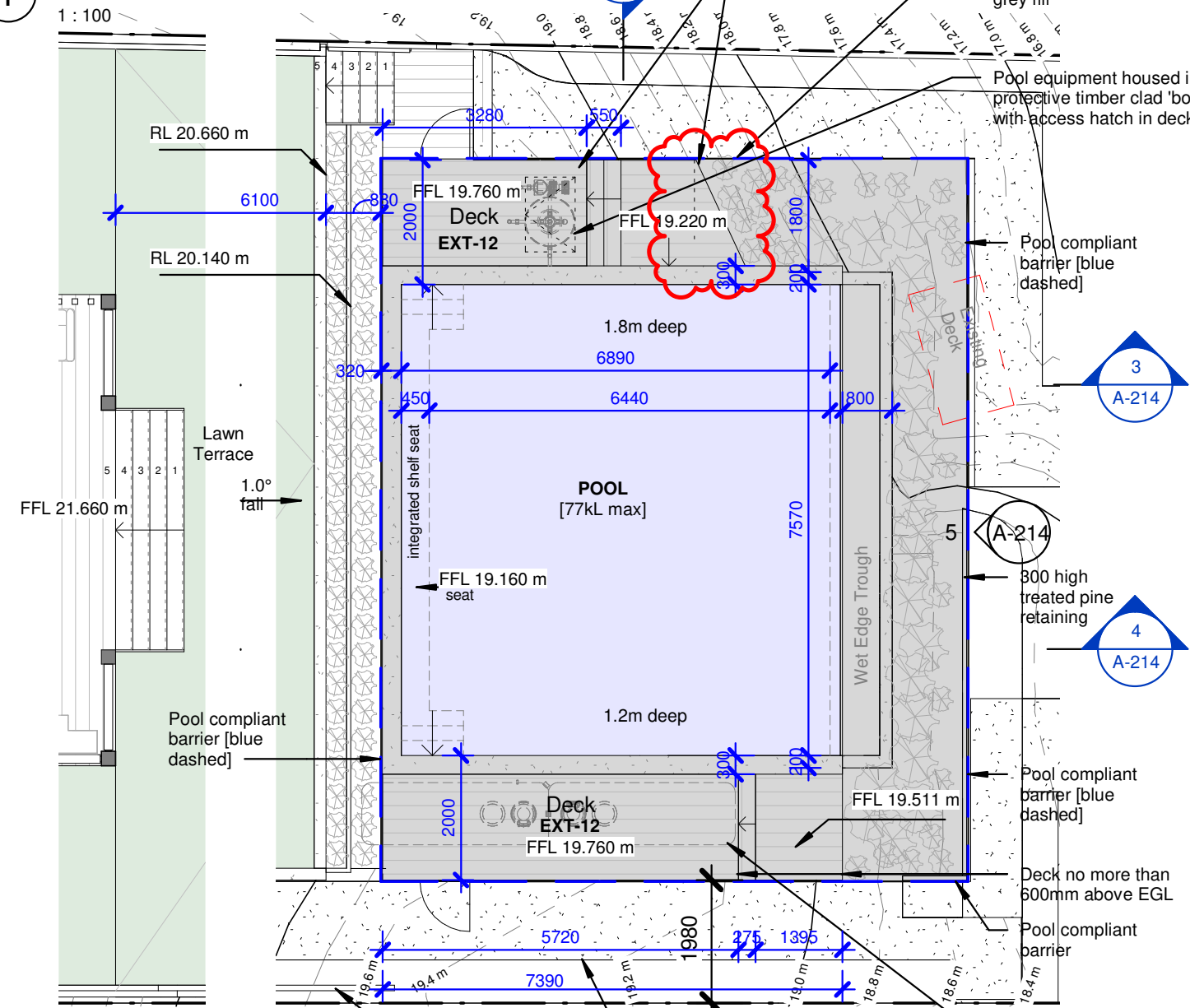
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Print Date & Time

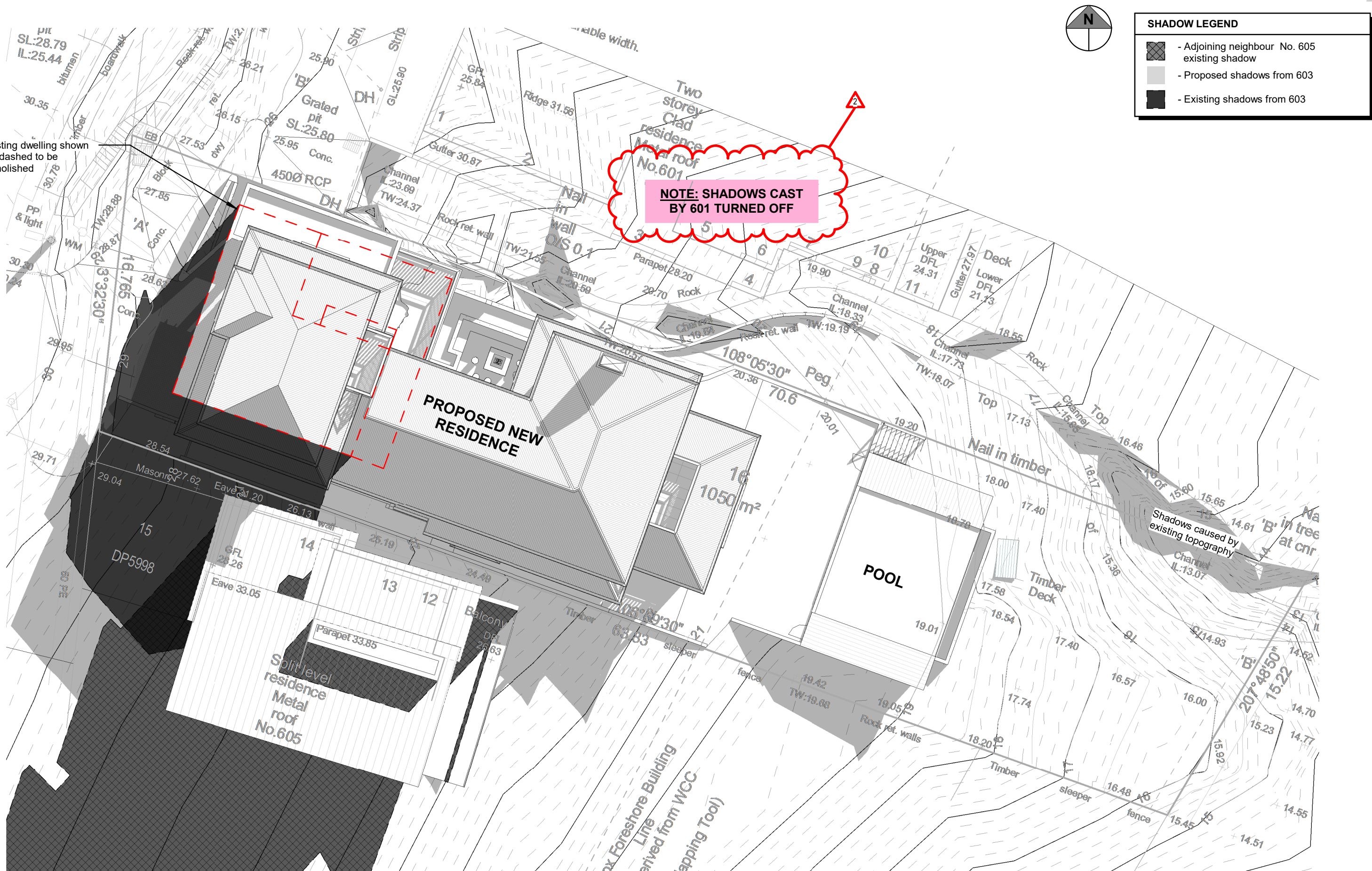
31/05/2021 8:42:46 PM



# 1 Pool Area Plan







1 Shadow Diagram - 9am June 21  
1 : 200

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Project Number	2020_07	Project Status	DEVELOPMENT APPLICATION
Sheet	Existing & Proposed Shadow Diagrams 01		

2	Additional shadow information as per council request - Sheet A-164 added and A-161 to 163 updated	20.04.2021
1	Wollongong Council DA submission	21.01.2021
No.	Description	Date
Scale @ A3 As indicated		
603 Lawrence Hargrave Drive, Wombarra, NSW		Dwg Number <b>A-161</b>
Issue 2		
Print Date & Time		20/04/2021 9:56:46 AM

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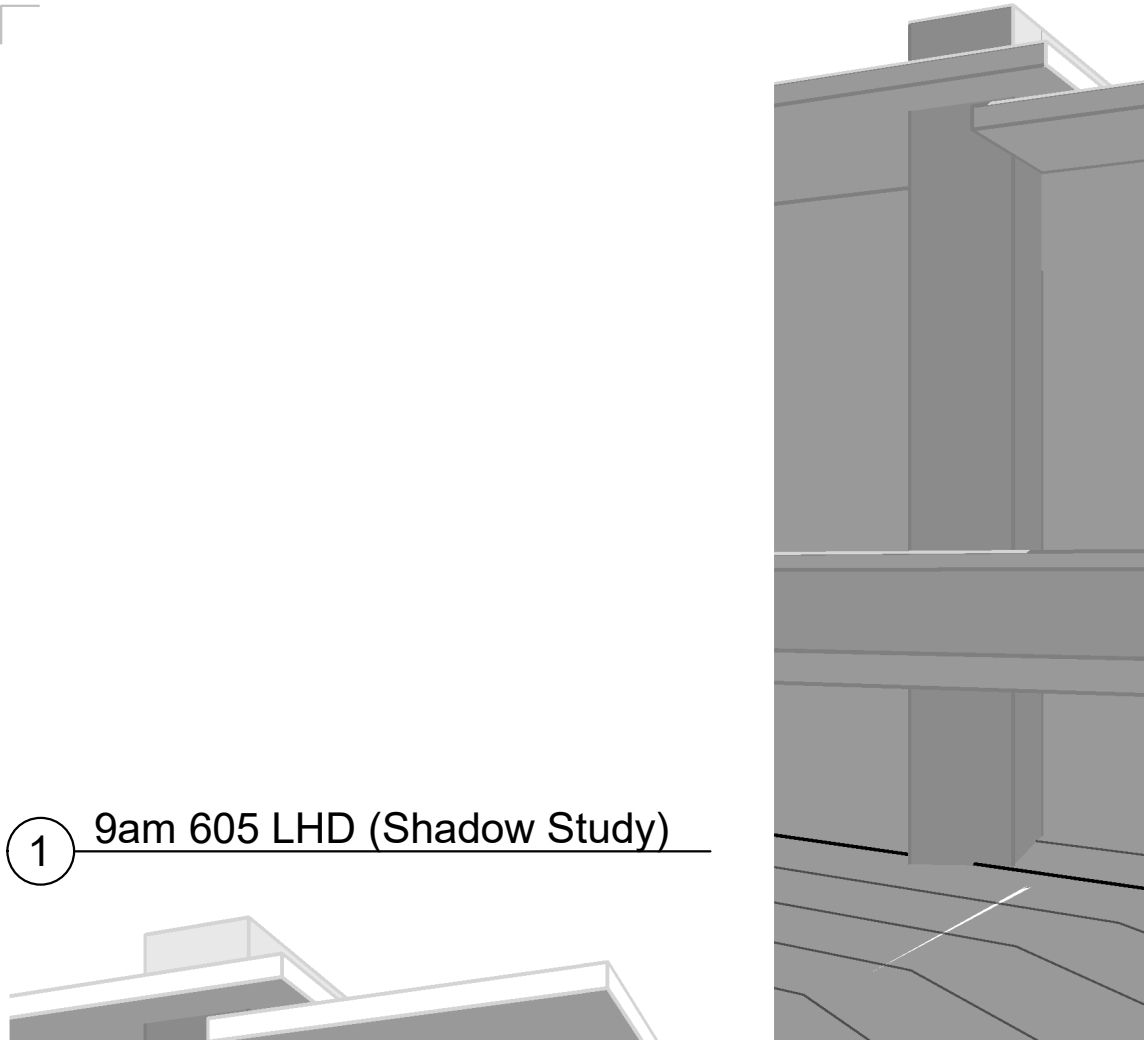




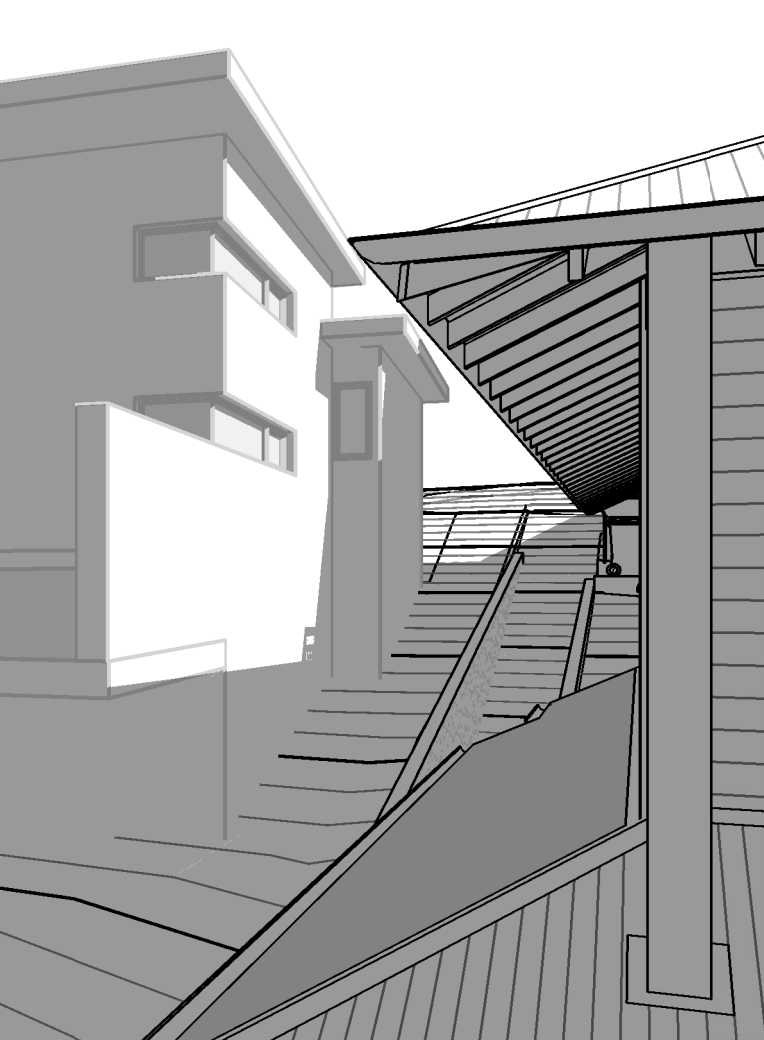
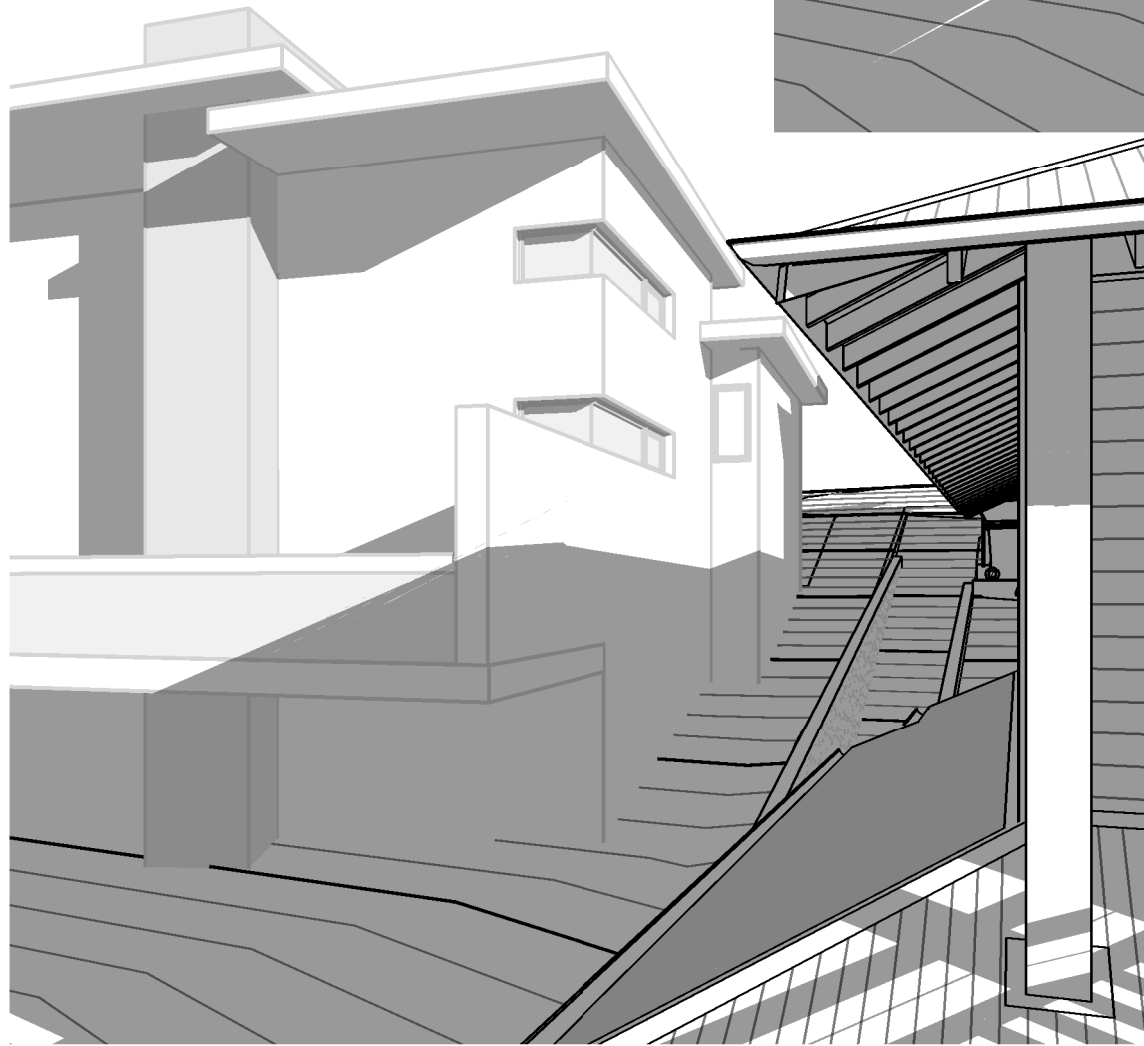








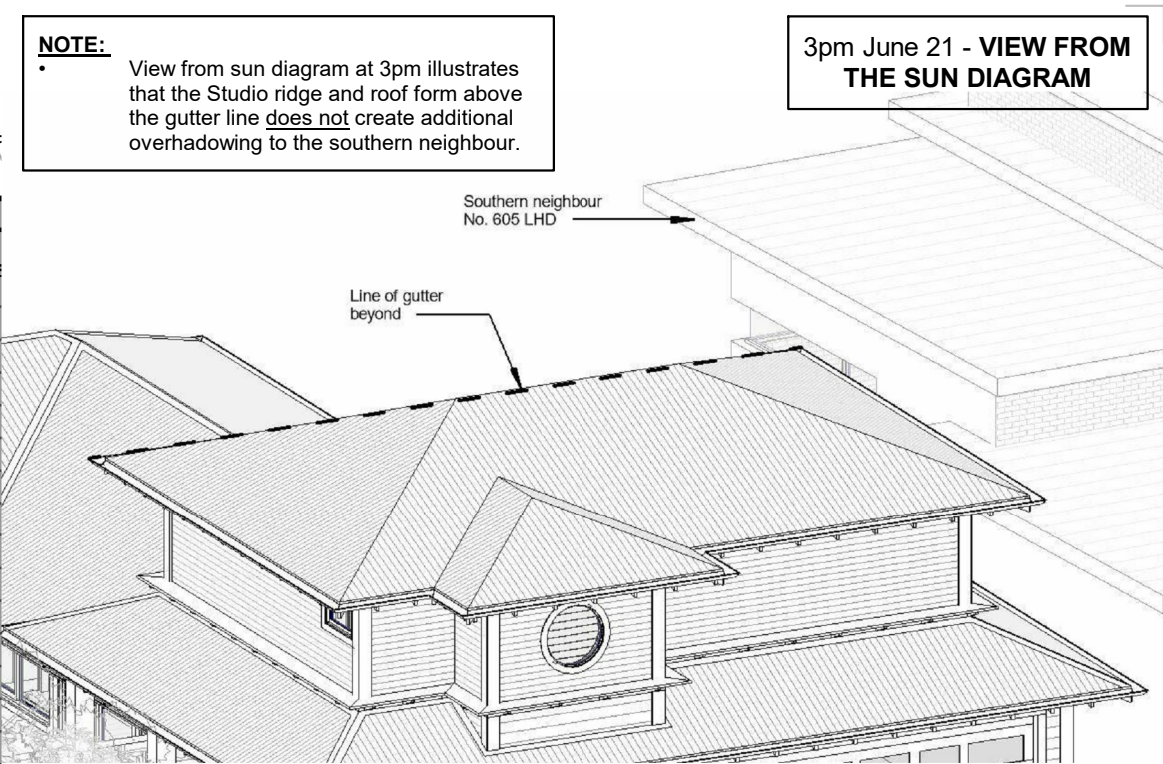
1 9am 605 LHD (Shadow Study)



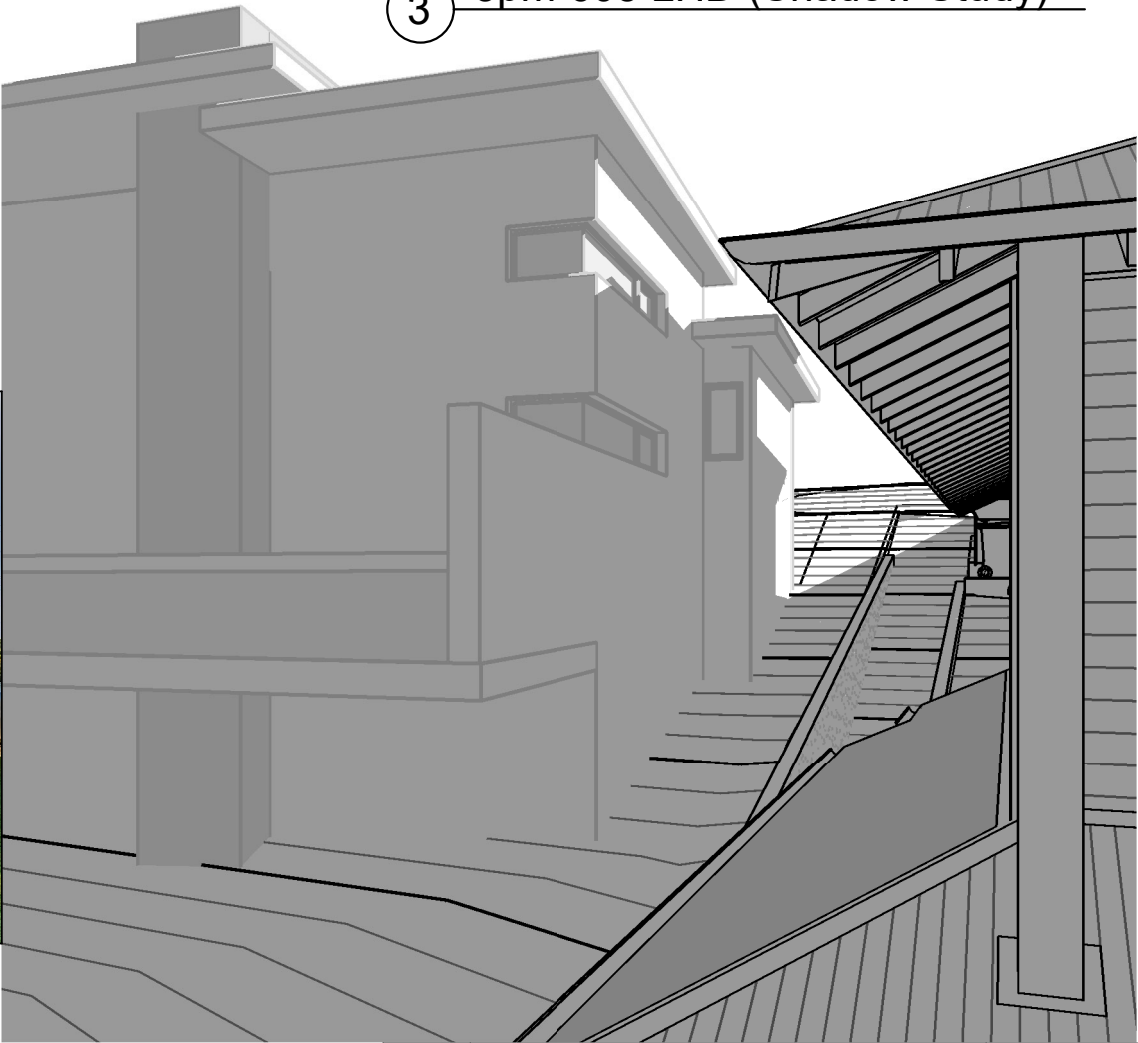
2 12noon 605 LHD (Shadow Study)



605 LHD, WOMBARRA  
Photo taken 3rd June 2020 @ 2pm



3 3pm 605 LHD (Shadow Study)



**NOTE:**  
View from sun diagram at 3pm illustrates that the Studio ridge and roof form above the gutter line does not create additional overhadowing to the southern neighbour.

Southern neighbour  
No. 605 LHD

Line of gutter  
beyond

3pm June 21 - **VIEW FROM  
THE SUN DIAGRAM**

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Project Number	2020_07	Project Status	DEVELOPMENT APPLICATION
Sheet			Shadow Perspectives

1	Additional shadow information as per council request - Sheet A-164 added and A-161 to 163 updated	20.04.2021
No.	Description	Date
Scale @ A3		
603 Lawrence Hargrave Drive, Wombarra, NSW		Dwg Number <b>A-164</b>
		Issue 1
Print Date & Time		20/04/2021 9:57:17 AM

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## ATTACHMENT 2

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

#### 2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

##### CHAPTER A1 – INTRODUCTION

###### 8 Variations to development controls in the DCP

*The DCP aims to allow flexibility in the application of such development controls to promote innovation and design excellence. Council may consider variations to the requirements of the Wollongong Development Control Plan in certain circumstances.*

*Variation to development control will be considered on a case by case basis and will only be considered where written justification is provided to the satisfaction of Council, that the objectives of the development control have been achieved.*

*1. The variation statement must address the following points:*

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

*2. The variation statement should be contained within the Statement of Environmental Effects accompanying a development application.*

*3. Any written variation request must be supported by detailed site analysis and other necessary documentation.*

*4. The fact that an existing development may not comply with one or more of the development controls, does not necessarily mean that the development control is unreasonable or unnecessary, when applied to future development.*

*5. More specific requirements relating to variation statements may be included under the individual chapters of this DCP.*

###### **1(a) the control being varied – Wollongong Development Control Plan 2009 Chapter B1 Clause 4.3.2(2)**

- Southern retaining wall height
- 7m wall height within 3m of boundary.
- Pool deck height on NE corner of the proposed pool
- Small 3 storey element
- Garage dimension (compliant with the relevant Australian Standard)

###### **1(b) the extent of the proposed variation and the unique circumstances as to why the variation is requested.**

The proposed variations occur in only small portions of the design and have no unreasonable amenity impact on any adjoining residence.

The retaining wall on the southern boundary extends to 2.217 at its highest point, allowing for a terraced architectural design that limits visual and overshadowing impact to adjoining southern neighbours.

The pool deck sits a maximum of 400mm above the permitted 600mm above NGL, only at the it's NE corner.

The upper floor studio technically constitutes a third storey, with the provision of the sub-basement garage. Whilst a technical non-compliance, the development only appears as double storey from the street and sits below the maximum 9m height limit for the site.

The sub-basement garage dimension sits slightly below the DCP's 6x6m; however, complies with the minimum dimensions set out under the relevant AS.

###### **1(c) demonstrate how the objectives are met with the proposed variation.**



The proposal is considered to achieve the objectives of each clause as follows:

**Retaining wall**

**(a) To ensure that retaining walls are structurally sound and are located to minimise any adverse stormwater drainage, visual, amenity or overlooking impacts upon adjoining properties.**

The proposed retaining wall is required as the site is steeply sloping. The wall in question does not block any views from windows in the adjoining dwellings northern elevation, sitting below its elevated living room windows. The wall quickly tapers up and down to zero from its highest point and will be suitably engineer designed to ensure structural soundness. An additional benefit of the wall is the creation of ramped side access along the southern building elevation. This will permit access for future rehabilitation work to the adjacent watercourse on the northern side of the proposed dwelling.

**(b) To guide the design and construction of low height aesthetically pleasing retaining walls.**

Refer to comments above in this regard – the wall will not be visible from the street or internally from any adjoining property.

**(c) To ensure any retaining wall is well designed, in order to achieve long term structural integrity of the wall.**

Refer to comments above in this regard – the consent can be conditioned in this regard.

**(d) To ensure slope stabilisation techniques are implemented to preserve and enhance the natural features and characteristics of the site and to maintain the long-term structural integrity of any retaining wall.**

Refer to comments above in this regard.

**7m wall height**

**(a) To create a consistent pattern of building separation along streets.**

Not applicable – the minor areas of non-compliance are not visible from street level.

**(b) To provide adequate setbacks from boundaries to retain privacy levels and minimise overlooking/overshadowing.**

As discussed above the level of non-compliance to the southern elevation is extremely minor and there are no practical impacts with regard to privacy or overshadowing. The northern elevation is also predominately compliant, and the non-compliant portion houses only an ensuite and a bathroom, which will both be provided with opaque windows to limit overlooking. No overshadowing concerns are raised from the northern elevation as shadows from development are never cast in a northerly direction.

**(c) To ensure that buildings are appropriately sited having regard to site constraints.**

Refer to comments within the body of this report in this regard. We believe that the proposed dwelling is appropriately sited having regard to the relevant site constraints.

**(d) To control overshadowing of adjacent properties and private or shared open space.**

Please refer to shadow diagrams submitted in support of the application submission for more detail in this regard. The proposed areas of non-compliance have no impact on the overshadowing of adjoining development.

**(e) To ensure improved visual amenity outcomes for adjoining residences.**

Refer to comments above – the proposal is predominately compliant with this control and there will be no perceivable visual amenity impacts for neighbours in this instance.

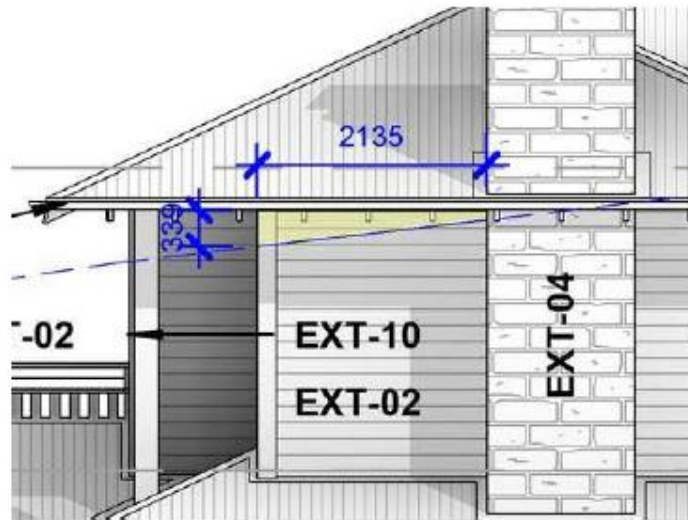


Figure 4 - Northern Elevation



Figure 5 - South Eastern Corner

Pool deck height

(a) To ensure that swimming pools meet relevant safety standards and meet user needs.

Not applicable to the proposed variation.

(b) To ensure swimming pools and spas are sited and designed to maintain the amenity of the surrounding residential neighbourhood.

The amended design involves a pool which is substantially lowered in comparison to the original development submission. Given the contour of the site it would be almost impossible to achieve full technical compliance in this regard. Only a small portion at the NE corner of the proposed pool decking sits above 600mm from NGL. The design is considered of minimal impact to adjoining neighbours in this instance.

#### 3 storey elements

**a) To encourage buildings which integrate within the streetscape and the natural setting whilst maintaining the visual amenity of the area.**

Given the slope of the land away from the street, the proposal only appears as double storey development. The proposal integrates well within the existing, established residential area.



**b) To minimise the potential for overlooking on adjacent dwellings and open space areas.**

Not applicable to the proposed variation.

**c) To ensure that development is sympathetic to and addresses site constraints.**

Refer to commentary above and within the body of this report for more detailed assessment in this regard.

**d) To encourage split level stepped building solutions on steeply sloping sites.**

The proposed design is split level and terraces down the slope. The technical non-compliance relates to a sub-basement garage that doesn't quite meet the definition of a basement level.

**e) To encourage a built form of dwellings that does not have negative impact on the visual amenity of the adjoining residences.**

Refer to commentary and perspective imagery above in this regard.

**f) To ensure ancillary structures have appropriate scale and are not visually dominant compared to the dwelling.**

Not applicable to the proposed variation.

**g) To ensure appropriate correlation between the height and setbacks of ancillary structures.**

Not applicable to the proposed variation.

**h) To encourage positive solar access outcomes for dwellings and the associated private open spaces.**

Refer to shadow diagrams lodged in support of the application submission in this regard. Adjoining living room windows and POS areas will receive a minimum 3 hours of direct sunlight on June 21.

#### Garage dimension

**(a) To provide car parking for residents.**

A double carport and a double garage are provided for the dwelling which exceeds the internal dimension standards set out under the relevant AS. The provision of an additional 200mm width in the garage would do little to nothing for the lived-in amenity of future residents of the dwelling.

**(b) To ensure that there is adequate provision for vehicular access and manoeuvring.**

Not applicable.

**(c) To minimise the impact of garages upon the streetscape.**

Not applicable.





Planning,  
Industry &  
Environment

23 December 2020

Mr James Chappell  
Founder and Senior Planner  
JPC Town Planning Pty Ltd  
22 Palitara Place  
CORDEAUX HEIGHTS NSW 2526

SEAR 1528

Dear Mr Chappell,

**Dwelling House in a Littoral Rainforest Area  
603 Lawrence Hargrave Drive, Wombarra (Lot 16 DP5998) – Wollongong LGA  
Planning Secretary's Environmental Assessment Requirements (SEAR) 1528**

I refer to your email of 1 December 2020, seeking the Planning Secretary's Environmental Assessment Requirements (SEARs) for the preparation of an Environmental Impact Statement (EIS) for the above development proposal. I note your proposal would seek development consent for the demolition of an existing dwelling house and construction of a new dwelling house and swimming pool.

The Department of Planning, Industry and Environment (the Department) has reviewed the documentation submitted and confirms it has no specific requirements, except that the EIS must address the provisions of the *State Environmental Planning Policy (Coastal Management) 2018* and *State Environmental Planning Policy (Koala Habitat Protection) 2020*. You should ensure your EIS meets the minimum form and content requirements outlined in Schedule 2 of the *Environmental Planning and Assessment Regulation 2000*.

In support of your request, you indicated that the development is both designated and integrated development under Part 4 of the Environmental Planning and Assessment Act 1979 and requires an approval under the Water Management Act 2000. Unfortunately, the Natural Resources Access Regulator was unable to respond in time. You must undertake direct consultation with them and address their requirements in the EIS.

In addition, you should ensure your EIS is prepared in consultation with Wollongong City Council and any other relevant local, State and Commonwealth government authorities, service providers, community groups and surrounding landowners, and address any issues they raise in the EIS.

If you do not lodge a development application under section 4.12(8) of the *Environmental Planning and Assessment Act 1979* within 2 years of the date of this letter, you must consult with the Planning Secretary in relation to any further requirements for lodgement.

Should you have any further enquiries, please contact Asini Rajapakse, Planning and Assessment, at the Department on (02) 8217 2017.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C. Ritchie'.

Chris Ritchie  
**Director**  
**Industry Assessments**  
as delegate of the Planning Secretary

## **Attachment 4 - DRAFT CONDITIONS FOR : DA-2021/103**

### **For Office use Only – Do Not mail**

#### **Approved Plans and Specifications**

- 1 The development shall be implemented substantially in accordance with the details and specifications set out on Project No 2020\_07 Drawing A-212-5 and A-214-2 dated 2 August 2021 and A-101-4, A-211-4, A-213-4, A-301-4 to A-303-4, A-311-4 and A-312-4 dated 31 May 2021 prepared by Walter Barda Design and any details on the application form, and with any supporting information received, except as amended by the conditions specified and imposed hereunder.

#### **General Matters**

##### **2 Tree Removal**

This application does not approve the removal of any native trees. A separate development application, or tree management permit application shall be submitted to Council if native trees are proposed to be removed.

##### **3 Geotechnical**

- a All work is to be in accordance with the geotechnical recommendations contained in the report dated 15 June 2020 by Terra Insight.
- b A supplementary geotechnical report is required which:
  - i Assesses the existing pavement condition including photos of Lawrence Hargrave Drive across the full frontage of the proposed development;
  - ii Assesses the potential impact of the proposed development on the short and long term impact on the performance of the pavement of Lawrence Hargrave Drive;
  - iii Identifies appropriate measures to manage any potential impacts from the proposed development; and
  - iv Makes recommendations for the design of any temporary or permanent structures, drainage treatments, slope management or excavations required to manage the potential impact to Lawrence Hargrave Drive from the development.

**Stage 1 Site Remediation** – including all earthworks, drainage and retaining wall construction  
This work is to comply with the following conditions:

- a An earthworks plan is to be developed by the geotechnical consultant prior to start of earthworks.
- b All recommendations of the geotechnical consultant in their geotechnical report dated 15 June 2020 are to be accommodated in the earthworks plan.
- c The earthworks plan may require modification considering any subsequent geotechnical reports commissioned to address unforeseen geotechnical conditions encountered during the Stage 1 works.
- d Due to the sensitivity of the site to changing geotechnical conditions, all work must be undertaken with geotechnical supervision.
- e There is to be no unsupported excavations with all cuts to be immediately supported by retaining wall construction.
- f At the completion of the remedial works, the geotechnical consultant is to prepare a works-as-executed (WAE) report detailing encountered geotechnical conditions and how the remedial works addressed these conditions so that the residual geotechnical constraints can be accommodated within the structural designs for the dwelling. These structural designs are to be confirmed or amended by the structural engineer based on the WAE geotechnical report.



## **Stage 2 Construction of the Dwelling and Pool**

Once the remedial works are complete and the structural designs have been endorsed by the geotechnical consultant that all known residual geotechnical constraints based on the WAE geotechnical report have been accommodated in the designs, construction can then commence on the dwelling and pool.

- a Foundation systems are to be designed for Class P soils with all footings to be founded within the underlying weathered bedrock as recommended by the geotechnical consultant.
- b Articulation jointing is to be provided in masonry construction as recommended by the geotechnical consultant.
- c All stormwater and wastewater are to be taken away from the building envelope by means as recommended by the geotechnical consultant. There is to be no in-ground absorption.
- d A generic design for the pool is not appropriate for this site. A site-specific design is required for the hillside land where geotechnical constraints such as lateral earth pressures due to soil creep can affect the integrity of the structure. The structural designer of the pool needs to refer to the site geotechnical constraints as described in the geotechnical report.
- e All surface water from the pool surrounds should be piped away from the site.
- f A subsoil drain needs to be installed under the pool with gravity outlet to maintain equilibrium soil moisture conditions.
- g All excavations for foundations are to be inspected by the geotechnical consultant and certified that the ground has been suitably prepared for the placement of footings.

## **4 Transport for NSW (TfNSW)**

Requirements issued by TfNSW dated 16 March 2021 as attached shall form part of this Notice of Determination.

## **5 Building Work - Compliance with the Building Code of Australia**

All building work must be carried out in compliance with the provisions of the Building Code of Australia.

## **6 Construction Certificate**

A Construction Certificate must be obtained from Council or a Registered Certifier prior to work commencing.

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

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

## **7 Occupation Certificate**

An Occupation Certificate must be issued by the Principal Certifier prior to occupation or use of the development. In issuing an Occupation Certificate, the Principal Certifier must be satisfied that the requirements of section 6.9 of the Environmental Planning and Assessment Act 1979, have been complied with as well as all of the conditions of the Development Consent.

## **Prior to the Issue of the Construction Certificate**

## **8 Landscape Plan**

The Landscape plan is to be revised as follows:

- a No planting or other landscaping works are to occur within the Littoral Rainforest or existing native vegetation area on the site.
- b No mulching is to occur within the native vegetation on site.
- c The following species are to be REMOVED from the landscape plan entirely: *Miscanthus Sinensis* and *Raphiolepis indica*.

This requirement shall be reflected on the Construction Certificate plans and the final landscape plan.

9      **Additional Window Western Elevation**

One (1) additional window to be provided on the upper level of the western elevation to ensure no blank facade. Details are to be provided on the Construction Certificate plans.

10     **Pool Pump Enclosure**

The pool pump is to be enclosed in an acoustic enclosure to protect the amenity of the adjoining residents.

11     **Present Plans to Sydney Water**

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

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

Visit [www.sydneywater.com.au](http://www.sydneywater.com.au) or telephone 13 20 92 for further information.

12     **Muted Bushland Tones – External Finishes**

To ensure the development is compatible with the surrounding environment, colours and finishes are to be muted bushland tones. In this regard white, light or bright colours are not permissible.

13     **Low Reflective External Finishes**

Any outbuildings or other ancillary structures are to be finished in colours and materials of natural earthy tones and low reflective quality to blend with the surroundings. The driveway is to be finished in dark earth tones.

14     **Car parking and Access**

The development shall make provision for a total of two car parking spaces. This requirement shall be reflected on the Construction Certificate plans. Any change in above parking numbers shown on the approved DA plans shall be dealt with via a section 4.55 modification to the development. The approved car parking spaces shall be maintained to the satisfaction of Council, at all times.

15     **Gradients of Ramps and Driveways as per AS 2890.1**

All driveways shall be constructed with a maximum vertical alignment as shown in Council's standard drawings. This requirement shall be reflected on the Construction Certificate plans and any supporting documentation.

Gradients of ramps and access driveways within the site must be provided in accordance with the current relevant Australian Standard AS 2890.1 - Off Street Car Parking. Details of the method of treatment of any fill/retaining wall which may be required in conjunction with the proposed driveway. This requirement must be reflected on the Construction Certificate plans.

16     **Structures Adjacent to Driveway**

Any proposed structures adjacent to the driveway shall comply with the requirements of the current relevant Australian Standard AS 2890.1 (figure 3.2 and 3.3) to provide for adequate pedestrian and vehicle sight distance. This includes, but is not limited to, structures such as signs, letterboxes, retaining walls, dense planting etc. This requirement shall be reflected on the Construction Certificate plans.

17     **Water/Wastewater Entering Road Reserve**

Provision shall be made for a minimum 200mm wide grated box drain along the boundary of the property at the vehicular crossing/s to prevent surface water entering the road reserve. This requirement shall be reflected on the Construction Certificate plans.

18     **Details of Proposed Pit and Pipeline**

Details of the proposed connecting pipeline to the Council pit, within the existing drainage system shall be provided in conjunction with the detailed drainage design for the site. Connection is to be made in accordance with Wollongong City Council Standard Drawings. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.

- 19     **Landscaping**  
The submission of a final Landscape Plan will be required in accordance with the requirements of Wollongong City Council DCP 2009 Chapter E6 and the approved Landscape Plan (ie as part of this consent) for the approval by the Principal Certifier, prior to the release of the Construction Certificate.
- 20     **Compliance with Findings and Recommendations of the Bush Fire Impact Assessment Report**  
The findings and recommendations contained in the Bushfire Report dated 31 July 2020 prepared by Bushfire Planning services shall be implemented and maintained, except where amended by other conditions of this consent.
- 21     **Engineering Plans and Specifications - Retaining Wall Structures Greater than One (1) Metre**  
The submission of engineering plans and supporting documentation of all proposed retaining walls greater than one (1) metre to the Principal Certifier for approval prior to the issue of the Construction Certificate. The retaining walls shall be designed by a suitably qualified and experienced civil and/or structural engineer. The required engineering plans and supporting documentation shall include the following:
- a     A plan of the wall showing location and proximity to property boundaries;
  - b     An elevation of the wall showing ground levels, maximum height of the wall, materials to be used and details of the footing design and longitudinal steps that may be required along the length of the wall;
  - c     Details of fencing or handrails to be erected on top of the wall;
  - d     Sections of the wall showing wall and footing design, property boundaries, subsoil drainage and backfill material. Sections shall be provided at sufficient intervals to determine the impact of the wall on existing ground levels. The developer shall note that the retaining wall, subsoil drainage and footing structure must be contained wholly within the subject property;
  - e     The proposed method of subsurface and surface drainage, including water disposal. This is to include subsoil drainage connections to an inter-allotment drainage line or junction pit that discharges to the appropriate receiving system;
  - f     The assumed loading used by the engineer for the wall design.
  - g     Flows from adjoining properties shall be accepted and catered for within the site. Finished ground and top of retaining wall levels on the boundary shall be no higher than the existing upslope adjacent ground levels.
- 22     **Stormwater Drainage Design**  
A detailed drainage design for the development must be submitted to and approved by the Principal Certifier prior to the release of the Construction Certificate. The detailed drainage design must satisfy the following requirements:
- a     Be prepared by a suitably qualified civil engineer in accordance with Chapter E14 of Wollongong City Council's Development Control Plan 2009, Subdivision Policy, conditions listed under this consent, and generally in accordance with the concept plan/s lodged for development approval, prepared by Sit Plus, Reference No. 20124.DA.C01, issue Rev C, dated August 2020.
  - b     Include details of the method of stormwater disposal. Stormwater from the development must be piped to natural watercourse.
  - c     Engineering plans and supporting calculations for the stormwater drainage system are to be prepared by a suitably qualified engineer and be designed to ensure that stormwater runoff from upstream properties is conveyed through the site without adverse impact on the development or adjoining properties. The plan must indicate the method of disposal of all stormwater and must include rainwater tanks, existing ground levels, finished surface levels on all paved areas, estimated flow rates, invert levels and sizes of all pipelines.
  - d     Overflow paths shall be provided to allow for flows of water in excess of the capacity of the pipe/drainage system draining the land, as well as from any detention storage on the land. Blocked pipe situations with 1 in 100 year ARI events shall be incorporated in the design.

Overflow paths shall also be provided in low points and depressions. Each overflow path shall be designed to ensure no entry of surface water flows into any building and no concentration of surface water flows onto any adjoining property. Details of each overflow path shall be shown on the detailed drainage design.

23 **Drainage to the Natural Watercourse**

A minimum 150mm diameter, PVC Class SN4 inter-allotment drainage pipeline shall be provided to drain all lots to the natural watercourse within the subject property.

24 **Scour Protection**

All stormwater outlets, watercourses, and surface flow paths (including swales, channels, and other dedicated overland flow paths) must be treated with appropriate scour/erosion protection measures designed in accordance with good engineering practice based on calculated 1 in 100 year ARI flow velocities.

All scour protection measures and headwall structures within the watercourse shall be designed and constructed to match existing surface levels to ensure that there will be no change in flooding behaviour. All stormwater outlets shall be orientated in the direction of natural flow of the receiving watercourse.

The outlet scour protection is to be in accordance with Guidelines for Outlet Structures prepared by the Office of Water dated July 2012. The final details of the proposed scour protection measures shall be reflected on the Construction Certificate plans.

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

The design of the development shall ensure there are no adverse effects to adjoining properties or upon the land as a result of flood or stormwater run-off.

**Prior to the Commencement of Works**

26 **Development Contributions**

Pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979 and the Wollongong City-Wide Development Contributions Plan (2018), a monetary contribution of \$15,820.00 (subject to indexation) must be paid to Council towards the provision of public amenities and services, prior to the release of any associated Construction Certificate.

This amount has been calculated based on the estimated cost of development and the applicable percentage rate.

The contribution amount will be subject to indexation until the date of payment. The formula for indexing the contribution is:

$$\text{Contribution at time of payment} = \$C \times (CP2/CP1)$$

Where:

**\$C** is the original contribution as set out in the Consent

**CP1** is the Consumer Price Index; All Groups CPI; Sydney at the time the consent was issued

**CP2** is the Consumer Price Index; All Groups CPI; Sydney at the time of payment

Details of CP1 and CP2 can be found in the Australian Bureau of Statistics website – Catalogue No. 6401.0 - Consumer Price Index, Australia.

The following payment methods are available:

METHOD	HOW	PAYMENT TYPE
Online	<a href="http://www.wollongong.nsw.gov.au/applicationpayments">http://www.wollongong.nsw.gov.au/applicationpayments</a> Your Payment Reference: 1303297	<ul style="list-style-type: none"> <li>• Credit Card</li> </ul>
In Person	Wollongong City Council Administration Building - Customer Service Centre	<ul style="list-style-type: none"> <li>• Cash</li> <li>• Credit Card</li> </ul>

	Ground Floor 41 Burelli Street, WOLLONGONG	• Bank Cheque
PLEASE MAKE BANK CHEQUE PAYABLE TO: Wollongong City Council (Personal or company cheques are not accepted)		

A copy of the Wollongong City-Wide Development Contributions Plan (2018) and accompanying Fact Sheet may be inspected or obtained from the Wollongong City Council Administration Building, 41 Burelli Street, Wollongong during business hours or on Council's web site at [www.wollongong.nsw.gov.au](http://www.wollongong.nsw.gov.au)

## 27 **Appointment of Principal Certifier**

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

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

The Principal Certifier must determine when inspections and compliance certificates are required.

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

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

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

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

## 29 **Sign – Supervisor Contact Details**

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

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

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

30 **Temporary Toilet/Closet Facilities**

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided must be:

- a a standard flushing toilet; and
- b connected to either:
  - i the Sydney Water Corporation Ltd sewerage system or
  - ii an accredited sewage management facility or
  - iii an approved chemical closet.

The toilet facilities shall be provided on-site, prior to the commencement of any works.

31 **Structural Engineer's Details**

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

32 **Enclosure of the Site**

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

33 **Demolition Notification to Surrounding Residents**

Demolition must not commence unless at least two (2) days written notice has been given to adjoining residents of the date on which demolition works will commence.

34 **Consultation with SafeWork NSW – Prior to Asbestos Removal**

A licensed asbestos removalist must give written notice to SafeWork NSW at least five (5) days before licensed asbestos removal work is commenced.

35 **Roof Dust**

Any existing accumulations of dust in ceiling voids and wall cavities must be removed prior to any demolition work commencing. Removal must take place by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter.

36 **Temporary Sediment Fences**

Temporary sediment fences (eg haybales or geotextile fabric) must be installed on the site, prior to the commencement of any excavation, demolition or construction works in accordance with Council's guidelines. Upon completion of the development, sediment fencing is to remain until the site is grassed or alternatively, a two (2) metre strip of turf is provided along the perimeter of the site, particularly lower boundary areas.

37 **All-weather Access**

An all-weather stabilised access point must be provided to the site to prevent sediment leaving the site as a result of vehicular movement. Vehicular movement should be limited to this single accessway.

38 **Tree Protection and Management**

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

- a installation of Tree Protection Fencing - Protective fencing shall be 1.8 m cyclone chainmesh fence, with posts and portable concrete footings;
- b installation of Tree Protection Fencing - a one (1) metre high exclusion fence must be installed around the extremity of the dripline of the tree/trees to be retained prior to any site works commencing. The minimum acceptable standard is a 3-strand wire fence with star pickets at



1.8 metre centres. This fence must be maintained throughout the period of construction to prevent any access within the tree protection area.

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

39 **Notification to Council of any Damage to Council's Infrastructure**

Council must be notified in the event of any existing damage to any of Council's infrastructure including, but not limited to the road, kerb and gutter, road shoulder, footpath, drainage structures and street trees fronting the development prior to the commencement of work. Adequate protection must be provided to Council infrastructure prior to work commencing and during the construction period. Any damage to Council's assets shall be restored in a satisfactory manner prior to the issue of the Occupation Certificate.

40 **Asset Protection Zones**

In perpetuity, the property around the dwelling shall be managed as an Asset Protection Zone as outlined within Appendix 4 of 'Planning for Bush Fire Protection 2019' and the NSW Rural Fire Service's document 'Standards for asset protection zones' for the following distances:

- As an Inner Protection Area (IPA) to the northern, western and southern boundaries and for a distance of 16m to the eastern boundary, measured from the dwelling, to ensure the Littoral Rainforest EEC is retained.

41 **Works in Road Reserve - Minor Works**

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

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

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

42 **Demolition Works**

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

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

43 **Tree Protection**

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

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

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

#### **During Demolition, Excavation or Construction**

44 **New Information/Unexpected Finds**

In the event that demolition and/or construction works cause the generation of odours or the uncovering of previously unidentified contaminants or hazardous materials, works must immediately cease and the Principal Certifier and Council (in the event that Council is not the Principal Certifier) must be notified in writing within seven (7) days and an appropriately qualified environmental consultant appointed to undertake an assessment of the potential contaminant and works required to make the site safe from potential human health and environmental harm.

45 **Demolition Materials - Disposal**

All demolition materials not being reused on-site shall be disposed of only at a recycling or waste management facility that may lawfully receive that waste.

46 **PCB Containing Electrical Equipment**

If any metal cased capacitors are found during demolition works that were previously identified or unidentified they shall be treated as containing Polychlorinated Biphenyls (PCBs). Details on storing, conveying and disposing of PCB material or PCB wastes can be found in *Polychlorinated Biphenyls Management Plan*, Environmental Protection & Heritage Council, Revised Edition April 2003.

47 **Synthetic Mineral Fibre (SMF) Materials**

All SMF containing materials must be removed in accordance with the National Standard for the Safe Use of Synthetic Mineral Fibres [National Occupational Health and Safety Commission:1004 (1990)] and the National Code of Practice for the Safe Use of Synthetic Mineral Fibres [National Occupational Health and Safety Commission:2006 (1990)].

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

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

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

49 **Restricted Hours of Construction Work**

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

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

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

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

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

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

50 **Excavation/Filling/Retaining Wall Structures**

Any proposed filling on the site must not:

- a encroach onto the adjoining properties, and
- b adversely affect the adjoining properties with surface run-off.

51 All proposed cut and filling works must be adequately retained with all battered slopes being no steeper than 2H: 1V and comply with Council's "Policy for Development on Sloping Sites".

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

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

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

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

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

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

55 **Lead Based Paint**

To prevent contamination of the soil and human health risks associated with lead dust, safeguards must be used when removing flaking paint or sanding paint surfaces that are suspected to contain lead.

56 **Provision of Waste Receptacle**

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

57 **BASIX**

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

A relevant BASIX Certificate means:

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

58 **Swimming Pool Barriers**

The swimming pool shall be provided with child-resistant barriers, prior to the placement of water in the pool, in accordance with Section 7 of the Swimming Pools Act 1992 and Australian Standards AS 1926. The barrier shall be installed to the satisfaction of the Principal Certifier.

59 **Warning Notice**

A warning notice complying with Clauses 10 and 11 of the Swimming Pools Regulation 2008 is to be displayed in a prominent position in the immediate vicinity of the swimming pool as required by Section 17 of the Swimming Pools Act 1992, prior to the filling of the pool with water.

60 **Water and Utilities**

Water, electricity and gas are to comply with Section 7 of 'Planning for Bush Fire Protection 2019'.

61 **Survey Certificate**

The submission of a Survey Certificate to the Principal Certifier at footings and/or formwork stage (whichever occurs first) confirming:

- a the set out of the boundaries of the site,
- b actual siting of the buildings and
- c siting levels and height comply with the approved plans.

**Prior to the Issue of the Occupation Certificate**

62 **Retaining Wall Certification**

The submission of a certificate from a suitably qualified and experienced structural engineer or civil engineer to the Principal Certifier is required, prior to the issue of the Occupation Certificate or commencement of the use. This certification is required to verify the structural adequacy of the retaining walls and that the retaining walls have been constructed in accordance with plans approved by the Principal Certifier.

63 **Swimming Pool Barriers**

The swimming pool shall be provided with child-resistant barriers, prior to the placement of water in the pool, in accordance with Section 7 of the Swimming Pools Act 1992 and Australian Standards AS 1926. The barrier shall be installed to the satisfaction of the Principal Certifier and prior to the issue of an Occupation Certificate.

64 **Warning Notice**

A warning notice complying with Clauses 10 and 11 of the Swimming Pools Regulation 2008 is to be displayed in a prominent position in the immediate vicinity of the swimming pool as required by Section 17 of the Swimming Pools Act 1992, prior to the filling of the pool with water and prior to the issue of an Occupation Certificate.

65 **BASIX**

An Occupation Certificate must not be issued unless accompanied by the BASIX Certificate applicable to the development. The Principal Certifier must not issue the final Occupation Certificate unless satisfied that selected commitments have been complied with as specified in the relevant BASIX Certificate. NOTE: Clause 154B of the Environmental Planning and Assessment Regulation 2000 provides for independent verification of compliance in relation to certain BASIX commitments.

66 **Bush Fire – Compliance Certificate**

A Compliance Certificate shall accompany any Occupation Certificate for Bush Fire construction works as have been completed, verifying that the development has been constructed in accordance with the relevant Bush Fire Attack Level (BAL) requirements of the Development Consent and Construction Certificate.

**Operational Phases of the Development/Use of the Site**

67 **Use of Studio**

The studio is not permitted to be used as a self-contained or secondary dwelling.

- 68 **Backwash of Swimming Pool Water**  
The discharge of water from the pool should only be carried out after chlorine levels in the water have been depleted. Swimming pool water should not be discharged to a watercourse.
- 69 **Swimming Pool Filtration Motor**  
The operation of the swimming pool filtration motor shall be restricted to the following hours of operation:  
Monday to Friday - 7:00 am to 8:00 pm  
Saturdays, Sundays and Public Holidays - 8:00 am to 8:00 pm  
The equivalent continuous noise level ( $L_{Aeq(15min)}$ ) of the swimming pool filtration motor shall not exceed 5dB(A) above the background noise level ( $L_{A90(15min)}$ ) at the most affected point(s) along any boundary of the property.
- 70 **Swimming Pool – Discharging Water**  
Discharge and/overflow pipe from the swimming pool and filtration unit must be connected to the sewer where available. All backwash water from the filtration unit is to be similarly disposed.  
The pool excavations are not to conflict with the position of household drainage trenches or lines, the position of which must be ascertained before pool excavation commences.
- 71 **Loading/Unloading Operations/Activities**  
All loading/unloading operations are to take place at all times wholly within the confines of the site or within the road reserve under an approved traffic control plan.
- 72 **Maintenance of Inner Protection Area**  
The Inner Protection Area must be maintained, at all times as follows:
- There shall be minimal fine fuel at ground level which could be set alight by a bush fire. Leaves and vegetation debris should be removed.
  - Use of non combustible ground surfaces such as gravel roads, paved areas, in-ground pools, etc is acceptable.
  - Lawn areas shall be maintained low cut and clear.
  - Areas under fences, fence posts, gates and trees shall be raked and kept clear of fine fuel.
  - Gutters, roofs and roof gullies shall be kept free of leaves and other debris.
  - Verandahs, decks, carports, etc shall not be used to store combustible materials and shall be kept free of leaves and other debris.
  - Areas within courtyards shall be maintained free of leaves and other debris.
  - Climbing species are avoided to walls and pergolas;
  - Reticulated or bottle gas services shall be installed and maintained in accordance with AS 1596.
  - Gas cylinder relief valves shall be directed away from the building and away from any hazardous materials such as firewood, etc.
  - Trees may be retained within the IPA where:
    - tree canopy cover should be less than 15% at maturity;
    - trees at maturity should not touch or overhang the building;
    - lower limbs should be removed up to a height of 2m above the ground;
    - the canopy is discontinuous such that such that tree canopies should be separated by 2 to 5m;
    - they are smooth barked species or, if rough barked, shall be maintained free of decorticated bark and other ladder fuels (rough barked species are not encouraged);
    - create large discontinuities or gaps in the vegetation to slow down or break the progress of fire towards a building should be provided;
    - shrubs should not be located under trees;
    - shrubs should not form more than 10% ground cover;
    - clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation;
    - no part of a tree shall be closer to a power line than the distances set out in the current edition of “Planning for Bush Fire Protection”.

- the use of local native plants with features that minimise the extent to which they contribute to the spread of bush fires is encouraged within the above constraints.



Our ref: STH05/01129/02  
Contact: Rachel Carocci  
Your ref: DA-2021/103 (CNR-17827)

16 March 2021

Kristy Robinson  
Wollongong City Council  
BY EMAIL: krobinson@wollongong.nsw.gov.au; records@wollongong.nsw.gov.au

**DEVELOPMENT APPLICATION DA-2021/103– LOT 16 DP 5998, 603 LAWRENCE HARGRAVE DRIVE,  
WOMBARRA – CONSTRUCTION OF NEW DWELLING AND POOL (CNR-17827)**

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Dear Kristy

Transport for NSW refers to your correspondence dated 4 February 2021 regarding the subject development application (DA).

TfNSW has completed an assessment of the DA, based on the information provided and focussing on the impact to the state road network. TfNSW notes for this DA:

- The key state road is Lawrence Hargrave Drive;
- The DA proposes the demolition of existing dwelling, and construction of new dwelling and swimming pool. It also proposes to utilise the existing driveway to the site; and
- The proposed access arrangements shown in Attachment 1.

Having regard for the above, TfNSW will not object to the DA subject to the conditions outlined in Attachment 2 being included in the conditions of development consent.

TfNSW highlights that in determining the DA under Part 4 of the *Environmental Planning and Assessment Act, 1979*, it is the consent authority's responsibility to consider the environmental impacts of any road works which are ancillary to the development. This includes any works which form part of the proposal and/or any works which are deemed necessary to include as requirements in the conditions of development consent. Depending on the level of environmental assessment undertaken to date and nature of the works, the consent authority may require the developer to undertake further environmental assessment for any ancillary road works.

Upon determination of this matter, it would be appreciated if Council could send a copy of the Notice of Determination to [development.southern@rms.nsw.gov.au](mailto:development.southern@rms.nsw.gov.au).

Yours faithfully

A handwritten signature in black ink, appearing to read 'H Sarvanandan'.

Hayley Sarvanandan  
A/Team Leader  
Land Use Southern  
Regional and Outer Metro, Southern



See attached concept design titled Attachment 1



**Prior to the issuing of the Construction Certificate, the developer must:**

1. Council must be satisfied that the developer's geotechnical report considers the impact of the proposed development on the short term or long term impact on the performance of the pavement of Lawrence Hargrave Drive and identifies appropriate measures to manage any potential impacts from the proposed development. These measures must be implemented to the satisfaction of Council. The report must consider the design of any temporary or permanent structures, drainage treatments, slopes, or excavations within the subject development site. The report must include photos of Lawrence Hargrave Drive showing the existing pavement condition across the full frontage of the development and be prepared by a suitably qualified person.

*Note: TfNSW has concerns with known slope stability issues in the area and the potential for construction activities to activate slips. This can, and has resulted in significant impacts to the State road network (Lawrence Hargrave Drive). For example, residential construction activities on Lawrence Hargrave Drive have recently created settlement issues and longitudinal cracking on the road.*

2. Demonstrate to the satisfaction of Council the post development storm water discharge from the subject site, if going into the Lawrence Hargrave Drive drainage system, does not exceed the pre-development application discharge.

**Prior to commencing works within the road reserve, the developer must:**

1. Apply for, and obtain a Road Occupancy Licence (ROL) from the TfNSW Traffic Operations Unit (TOU) prior to commencing roadworks on a State road or any other works that impact a travel lane of a State road or impact the operation of traffic signals on any road.

*Notes:*

- For information on the ROL process and to lodge an ROL application, please visit <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>
- The applicant will need to create an account (this may take a few days to register), prior to submitting the ROL application. The applicant must submit the ROL application 10 business days prior to commencing work. It should be noted that receiving an approval for the ROL within this 10 business day period is dependent upon TfNSW receiving an accurate and compliant TMP.
- The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified to prepare Traffic Control Plans. Should the TMP require a reduction of the speed limit, a Speed Zone Authorisation will also be required from the TOU.
- An approved ROL does not constitute an approval to commence works until an authorisation letter for the works has been issued by TfNSW Project Manager.

**Prior to the issuing of the Occupation Certificate, the developer must:**

1. Formally execute the proposed right of way arrangement by way of a Section 88B Instrument under the Conveyancing Act, 1919 to legally benefit and burden the relevant lots.