

# Wollongong Local Planning Panel Assessment Report | 13 July 2021

<b>WLPP No.</b>	Item No.2
<b>DA No.</b>	DA-2021/383
<b>Proposal</b>	Residential - demolition of existing dwelling and structures and construction of detached dual occupancy, two retaining walls and Subdivision - Torrens title - two (2) lots
<b>Property</b>	19 Russell Street, Balgownie
<b>Applicant</b>	Robert Gizzi – Design Workshop Australia
<b>Responsible Team</b>	Development Assessment and Certification - City Centre Team (CB)
<b>Prior WLPP meeting</b>	Nil

## ASSESSMENT REPORT AND RECOMMENDATION

### Executive Summary

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

The proposal has been referred to Local Planning Panel for determination pursuant to clause 2.19(1)(a) of the *Environmental Planning and Assessment Act 1979*. Under Schedule 2 Clause 2(b) of the Local Planning Panels Direction of 1 March 2018, the proposal is the subject of 10 or more unique submissions by way of objection.

#### Proposal

The proposal is for the demolition of an existing dwelling and associated structures, the removal of four trees and the construction of a two-storey detached dual occupancy, two new driveways, two boundary retaining walls and a two lot Torrens title subdivision.

#### Permissibility

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

#### Consultation

The proposal was notified in accordance with Council's Notification Policy and received twelve (12) unique submissions which are discussed at Section 2.8 of the assessment report.

#### Main Issues

- Objector concerns relating to built character and form, traffic, parking, view impact, solar access, tree management, and privacy;
- Non-compliance with DCP site width, side setback and width of garage doors exceeding 50% of front dwelling width

#### RECOMMENDATION

It is recommended that DA-2021/383 be approved, subject to conditions provided at Attachment 6.

## **1 APPLICATION OVERVIEW**

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### **1.1 PLANNING CONTROLS**

#### State Environmental Planning Policies:

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

#### Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

#### Development Control Plans:

- Wollongong Development Control Plan 2009

#### Other policies

- Wollongong City Wide Development Contributions Plan 2019
- Wollongong Community Participation Plan 2019

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

The proposal comprises the following:

#### Demolition

- Demolition of existing single storey dwelling with attached metal shade room, a metal shed and concrete driveway
- Removal of four (4) trees

#### Construction

- Construction of new detached two storey dual occupancy.
- Each dwelling has four bedrooms
- Dwelling construction materials consist of brick and clad walls with sheet metal roofing
- Double attached garage with separate driveway access from Russell Street
- Two low boundary retaining walls
- Three on-site trees and two neighbouring trees retained, including the transplantation of 1 tree.
- Earthworks and landscaping

#### Subdivision

- 2 lot Torrens title subdivision (total site area of 917.9m<sup>2</sup>) consisting of:
  - Lot 1 461.2m<sup>2</sup> in area
  - Lot 2 456.7m<sup>2</sup> in area

### **1.3 BACKGROUND**

There are a number of approved applications unrelated to the proposal.

No pre-lodgement meeting was held for the proposal.

#### Customer service actions

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

### **1.4 SITE DESCRIPTION**

The site is located at 19 Russell Street, Balgownie and the title reference is Lot 15 DP 801925. The lot is regular in shape with an area of 917.9m<sup>2</sup>. A gentle slope, varying from 27.1m AHD to 28.3m AHD,

falls down towards the north. Vehicular access is currently achieved from an adjacent accessway connected to Russell Street. The property also enjoys direct street frontage to Russell Street.

The site contains a single storey detached brick dwelling with a tiled roof, an attached shadehouse, a metal shed and a concrete driveway. There are six (6) existing trees on-site and two (2) neighbouring Eucalyptus trees located in close proximity at No 23 Russell Street.

Adjoining development consists of detached dwellings to the north, east and south and detached dwellings and contemporary multi dwelling housing to the east of the subject property. Private accessways border the north and south side property boundaries providing access for rear battleaxe blocks.

#### Property constraints

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

- The site benefits from a 4.57m wide and variable width right of carriageway burdening lot 16
- A Section 88B restriction relates to building controls that includes building with new materials, no external walls with concrete block or corrugated iron; and adequate boundary fencing erected with new materials and no corrugated iron.

### **1.5 SUBMISSIONS**

The application was notified from 19 April until 3 May 2021 in accordance with Council’s Community Participation Plan 2019. Twelve (12) unique submissions were received and the issues identified are discussed below.

**Table 1: Submissions**

	Concern	Frequency	Comment
1	<p><b>Building character and form</b></p> <ul style="list-style-type: none"> <li>• design does not respond to site context including the streetscape</li> <li>• Narrow buildings are uncharacteristic in comparison to other residential development in streetscape</li> <li>• Buildings are too tall</li> </ul>	10	<p>The proposal is considered to satisfy the relevant planning controls with the exception of site width, side wall setback and garage width variations. Floor space ratio and building height complies. It is considered that the design, height and siting of the proposed development adequately responds to the site context.</p> <p>The development is considered to be largely in harmony with the surrounding buildings and character of the street. The immediate area is characterised by low and medium density residential development of varying architectural styles. There are two multi dwelling housing developments at No 12 &amp; 14 Russell Street located across the road. Both developments incorporate contemporary two storey dwellings.</p>

Concern	Frequency	Comment
		<p>It is likely that higher-density developments will occur in future given the height and FSR maximums for the area.</p> <p>The scale of the development as viewed from the street is comparable to other developments in the locality, notably the nearby medium density housing.</p>
<p>2     <b>Reduction in property value</b></p>	<p>9</p>	<p>It is beyond the statutory requirement, purpose and scope of this assessment to consider property value impact resulting from the development.</p>
<p>3     <b>Traffic</b></p> <ul style="list-style-type: none"> <li>• Unsatisfactory increase in traffic volume</li> </ul>	<p>9</p>	<p>The proposal will result in an additional dwelling which will not generate significant additional traffic. The traffic network is able to cater for the cumulative impact of other similar development occurring along the street. The width of the road allows between 3000 and 9000 vehicle movements per day and is operating well within its design capacity. A network of similar collector roads, including Ryan and Balmoral Streets, effectively spreads local traffic.</p> <p>The proposal was reviewed by Council's Development Engineer who raised no concerns regarding traffic congestion.</p>
<p>4     <b>Parking &amp; Access</b></p> <ul style="list-style-type: none"> <li>• Unsafe driveway design</li> <li>• Inadequate parking for development</li> <li>• exacerbating street parking problems generated by existing residential development</li> <li>• Unsafe location to enter/exit street</li> </ul>	<p>7</p>	<p>Each dwelling includes a double garage providing two car parking spaces in accordance with the provisions of Cl 4.10 Car Parking and Access, Chapter B1 of the WDCP.</p> <p>Front garage setback provisions are compliant. It is considered that vehicles are capable of safely entering and leaving the property. The garage width variations do not impact on their operation. The proposal is supported by Council's Development Engineer, subject to</p>



Concern	Frequency	Comment
<p>5     <b>Privacy</b></p> <ul style="list-style-type: none"> <li>• Inadequate privacy for dwelling and back yard at No. 25 Russell Street with Overlooking from Dwelling 2's south elevation balcony and window CL02</li> <li>• Inadequate privacy for residents at No. 23 Russel Street</li> <li>• Inadequate privacy for residents at No. 13 Russell Street</li> </ul>	6	<p>recommended conditions of consent.</p> <p>First floor windows for the development are either bedrooms, bathrooms or a study nook/ stair landing, all of which are considered low use rooms that do not create an unreasonable impact upon neighbourhood privacy.</p> <p>Each dwelling has a wrap-round first floor balcony along the front facade. These balconies are off bedrooms and either overlook the street, accessways, front yards of adjoining properties or blank walls.</p> <p>Standard boundary fencing condition is recommended to ensure that there is adequate privacy for all residents at ground level.</p> <p>It is considered that the development minimises direct overlooking onto adjoining properties.</p>
<p>6     <b>Escarpment View Loss</b></p> <ul style="list-style-type: none"> <li>• Unacceptable escarpment view loss from living area north facing windows and the back yard of No. 25 Russell Street</li> <li>• Unacceptable escarpment view loss for residents at No. 23 Russell Street</li> </ul>	3	<p>The application was accompanied with a View Impact Assessment Report that has considered the 4-step assessment described in <i>Tenacity Consulting V Waringah</i> [2004]. See Attachment 5.</p> <p>The escarpment land view is about 1.1km to the north of the subject property.</p> <p>No 25 Russell Street is a two storey detached brick dwelling which is separated from the proposed development by two driveways (access handles approximately 9m wide). The objector states that north facing windows currently enjoy escarpment views including <i>"the formal dining room, the main living areas, the al fresco dining and entertainment area and the garden patio at the east end of the property."</i> However, there are no first floor north facing windows</p>

Concern	Frequency	Comment
		<p>with four ground floor windows facing north. As a result, western escarpment views are not impacted by the proposal which is separated from No 25 by two accessways about 11.5m metre wide. These are all side boundary views that are partially obstructed by existing housing and vegetation.</p> <p>No 23 Russell Street is a battleaxe block with a single storey detached dwelling. North facing windows look towards dwellings at No 21 and 21A Russell Street and there are no west facing windows. Four north facing living room windows and the front yard currently enjoy oblique north west views to the escarpment. These are all side boundary views that are partially obstructed by existing housing and vegetation.</p> <p>The view impact assessment report concludes that the escarpment view loss from the ground floor of No. 25 Russell Street will be devastating and at No. 23 Russell Street the escarpment view loss will be severe. However, in both cases the views impacted are obtained from ground floor windows; across a side property boundary; and over the top of a single storey dwelling house</p> <p>The proposed detached dual occupancy has two storey buildings with a single storey component at the rear to create a potential escarpment view corridor for southern neighbours. The two storey section is located about 25m from the dwelling at No. 23 Russell Street and about 12m from the dwelling at No. 25 Russell Street. The development is assessed as reasonable in that it</p>

Concern	Frequency	Comment
		<p>satisfies the planning controls with the exception of side setback and garage widths that do not have an exacerbate neighbouring view loss. As existing side boundary views that are partially obstructed by vegetation, buildings and structures, it is considered that the expectation to retain such views is unreasonable having regard to the natural constraints, location and siting of the adjoining dwellings and the planning controls.</p> <p>Taking all these factors into account, the proposal has been assessed against the relevant objectives and is considered satisfactory.</p>
<p>7     <b>Solar Access</b></p> <ul style="list-style-type: none"> <li>• solar access loss for No. 23 &amp; 25 Russell Street</li> <li>• inadequate solar access for southern part of No. 13 Russell Street</li> <li>• shadow diagrams are inadequate</li> </ul>	<p>3</p>	<p>The subject site is oriented in a general east/ west axis and is separated from the nearest southern dwelling (at No. 25 Russell Street) by approximately 11.5 metres. Shadows fall primarily within the two southern accessways.</p> <p>It is noted that No. 13 Russell Street is located to the north of the subject development and as such is not adversely impacted in terms of reduced solar access.</p> <p>The proposal was accompanied with a satisfactory set of shadow diagrams for the winter solstice which demonstrate adequate solar access for all neighbouring properties including No. 23 &amp; 25 Russell Street.</p>
<p>8     <b>Tree Management</b></p> <ul style="list-style-type: none"> <li>• Inappropriate tree removal of Tree 4</li> <li>• Impact on southern neighbouring Eucalyptus trees posed by the development</li> </ul>	<p>3</p>	<p>The proposal was accompanied with an Arborist's report and Landscape Plan. Council's Landscape Officer has reviewed the proposal and provided a satisfactory referral, subject to recommended conditions of consent that includes transplanting Tree 4 (Cabbage</p>

Concern	Frequency	Comment
		Palm) and adequate protection measures for retained trees.
<p>9 <b>Non-compliant FSR</b></p>	2	<p>The maximum permitted FSR for the site is 0.5:1.</p> <p>FSR was calculated at 0.48:1 for lot 1, 0.49:1 for lot 2 and an overall FSR of 0.48:1 for the parent lot. Accordingly, the proposed development complies with the provisions of Cl 4.4 Floor Space Ratio of the LEP.</p>
<p>10 <b>Plans</b></p> <ul style="list-style-type: none"> <li>• Inadequate/inaccurate plans</li> </ul>	2	<p>Revised plans submitted for this application have been assessed and are considered to satisfy the provisions of the Environmental Planning and Assessment Regulation 2000.</p>
<p>11 <b>Non-compliant side setback</b></p> <ul style="list-style-type: none"> <li>• 462mm south side setback is non-compliant for both dwellings</li> </ul>	2	<p>The proposed side setback is non-compliant with Cl 4.3.2.1 of Chapter B1 of the DCP. A variation statement was submitted with the application and assessed as outlined below.</p>
<p>12 <b>Fencing</b></p> <ul style="list-style-type: none"> <li>• New boundary fencing to south boundary required</li> <li>• Insufficient details regarding replacement of north boundary fencing</li> <li>• Fence replacement may damage nearby service easements</li> </ul>	2	<p>A revised landscape plan was submitted with the proposal showing timber side boundary fencing with a maximum height of 1.8m. Appropriate conditions recommended for fencing and earthworks.</p>
<p>13 <b>Non-compliant garage door width</b></p> <ul style="list-style-type: none"> <li>• garage door width for both dwellings is 61.5% of front dwelling width</li> </ul>	1	<p>The proposed garage door width is non-compliant with Cl 4.10.2.4 of Chapter B1 of the DCP. A variation statement was submitted with the application and assessed as outlined below.</p>
<p>14 <b>Subdivision</b></p> <ul style="list-style-type: none"> <li>• Subdivision is an overdevelopment with small lots</li> </ul>	1	<p>The proposed two lot subdivision complies with the minimum lot size provisions of 449m<sup>2</sup> as shown on the Lot Size Map.</p> <p>In accordance with Cl 4.1 (4C) of the LEP, dual occupancy developments in residential zones</p>

Concern	Frequency	Comment
		<p>are not restricted by the minimum lot size requirements.</p> <p>It is noted that the lot width meets the minimum 15m specified in Cl 6.3, Chapter B2 of the WDCP. It is considered that the newly created lots are capable of supporting a suitable range of dwelling styles.</p>
15 <b>Right of carriageway easement removal</b>	1	The benefit of the right of carriageway is independent of the proposal and does not require removal to facilitate the development.

## 1.6 CONSULTATION

### 1.6.1 INTERNAL CONSULTATION

Council's Development Engineer and Landscape Officer have reviewed the application and given satisfactory referrals. Conditions of consent are recommended and included in this consent.

### 1.6.2 EXTERNAL CONSULTATION

None required.

## 2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

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

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

The Act does not relate to the proposed works.

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

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

Council records do not indicate any historic use that would contribute to the contamination of the site and the land is not identified as being contaminated on Council mapping. Minor earthworks are proposed and the proposal does not comprise a change of use. No concerns are raised in regard to contamination as relates to the intended use of the land and the requirements of clause 7.

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

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

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

## 2.1.3 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

### Clause 1.4 Definitions

**Demolition:** In relation to a building means wholly or partly destroy, dismantle or deface the building.

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

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

**Dual occupancy (detached)** means 2 detached dwellings on one lot of land but does not include a secondary dwelling.

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

**Subdivision of land** for the purposes of the Environmental Planning & Assessment Act 1979, means the division of land into two or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition. The division may (but need not) be affected:

- (a) by conveyance, transfer or partition, or
- (b) by any agreement, dealing, plan or instrument rendering different parts of the land available for separate occupation, use or disposition.

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

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

The zoning map identifies the land as being zoned R2 Low Density Residential.

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

The objectives of the zone are as follows:

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

The proposal is satisfactory with regard to the above objectives.

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

#### **Permitted with consent**

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

The proposal is categorised as a **dual occupancy** as described above and is permissible in the zone with development consent. Retaining wall construction, demolition and tree removal are ancillary works to facilitate the proposal and consequently are also permissible.

#### Clause 2.7 Demolition requires development consent

Demolition of a building or work may only be carried out with development consent. Demolition of existing structures on the land is proposed.

## Part 4 Principal development standards

### Clause 4.1 Minimum subdivision lot size

The minimum allotment size for the subdivision of the subject site under Clause 4.1 is 449m<sup>2</sup>. However, Clause 4.1(4C) stipulates that this clause does not apply in relation to the subdivision of land in a residential zone on which there is an “existing” dual occupancy. In *Currey v Sutherland SC & Anor* [2003] NSWCA 300, the Court of Appeal heard a challenge brought to a consent that permitted dual occupancy and, in that case, strata subdivision, where such subdivision was not permitted unless the dual occupancy was first “created”. The Court rejected an argument that the one consent could not deal with both elements in turn.

There is no issue with a single development application seeking consent for both dual occupancy and Torrens subdivision, so long as the sequencing via the conditions is appropriately controlled. In relation to the requirement that a dual occupancy development first be “existing”, Council’s approach via conditions is to require the dual occupancy to first receive an occupation certificate before a subdivision certificate can be issued. In order to receive an occupation certificate, the dual occupancy is considered “existing”. This is Council’s consistent approach.

The application is satisfactory subject to a consent condition that an Occupation Certificate is issued for the dual occupancy prior to the release of the Subdivision Certificate. This ensures that the dual occupancy is completed prior to subdivision; therefore, the subdivision will be of an “existing” dual occupancy.

Both lots will comply with the minimum lot size with Lot 1 at 461.4m<sup>2</sup> and Lot 2 at 456.6m<sup>2</sup> respectively.

### Clause 4.3 Height of buildings

The proposed height of dwelling 1 is 7.954m and dwelling 2 is 8.092m which does not exceed the maximum of 9m permitted for the site.

### Clause 4.4 Floor space ratio

Maximum FSR permitted for the zone: 0.5:1

Site area:

Whole Site: 917.9 m<sup>2</sup>

Lot 1 : 461.4m<sup>2</sup>

Lot 2 : 456.6m<sup>2</sup>

GFA:

Whole Site:

221.772 (lot 1) + 222.3 (lot 2) = 444.072m<sup>2</sup>

Lot 1:

103.518 (ground floor excluding parking/stair void)+ 118.254 (first floor) = 221.772m<sup>2</sup>

Lot 2:

103.518 (ground floor excluding parking/stair void) + 118.782 (first floor) = 222.3m<sup>2</sup>

FSR:

Whole Site

444.072/917.9m<sup>2</sup> = 0.48:1

Lot 1

221.772/461.4m<sup>2</sup> = 0.48:1

Lot 2

$$222.3/456.6\text{m}^2 = 0.49:1$$

The development is less than the maximum permitted FSR for the site.

## **Part 7 Local provisions – general**

### Clause 7.1 Public utility infrastructure

The proposal has been assessed against Clause 7.1 of WLEP 2009 and it is considered that the subject site is already serviced by public utilities which can be augmented to service the new proposal.

### Clause 7.6 Earthworks

Earthworks associated with the proposal are considered minor, reflective of normal residential construction and thus acceptable in this circumstance. The earthworks are not expected to have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features surrounding land.

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

None applicable.

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

### 2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

The proposal involves a variation to the applicable development controls in the DCP s discussed below. A full compliance table is contained at Attachment 4

## **CHAPTER A1 – INTRODUCTION**

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

#### Clause 6.3, Chapter B2 Lot width and depth

The objectives of the Clause are:

*(e) To ensure residential lots are designed to provide sufficient lot width and depth, to cater for a suitable range of dwelling styles having regard to any site constraints or environmental qualities of that land.*

*(f) To ensure residential lots in low density residential areas provide sufficient site area to cater for detached dwelling-houses with sufficient rear private open space which gains appropriate sunlight access during mid-winter.*

The control requires that Lots should be 15 metres wide at the front building alignment, in order to ensure satisfactory solar access opportunities into living rooms of future dwellings and rear private open space areas and to help prevent overshadowing of dwellings and private open space on adjoining lots. The existing block at 19 Russell Street, Balgownie has a general west to east orientation. The width of both proposed lots is 9.412m at the front building alignment which is less than the minimum 15m width specified. The original lot has a regular shape and a width of 18.825m. Both lots comply with minimum lot depth and size requirements.

#### Comment

Having regard to the above circumstances, the variation is supported in this instance. The variation is not considered to have a considerable impact on the surrounding area, and is generally consistent with the relevant objectives of the control as outlined below:

e) Both lots comply with lot size and depth provisions. The overall width is considered sufficient to accommodate a range of dwelling styles including the proposed dual occupancy development that complies with FSR, building height and DCP controls, with the exception of the side setback and garage width variations discussed above. The site is not limited by significant site constraints and is bounded



on both side boundaries by access handles which increases building separation between the adjacent side properties.

f) Both lots exceed the minimum lot size stipulated in the Lot Size Map.

It is considered that there is sufficient overall site width for both lots to provide suitable private open space and adequate solar access during the winter solstice.

#### Clause 4.3.2.1 Chapter B1 Side and rear setbacks

The objectives of the Clause are:

- (a) To create a consistent pattern of building separation along streets.
- (b) To provide adequate setbacks from boundaries to retain privacy levels and minimise overlooking/overshadowing.
- (c) To ensure that buildings are appropriately sited having regard to site constraints.
- (d) To control overshadowing of adjacent properties and private or shared open space.
- (e) To ensure improved visual amenity outcomes for adjoining residences.

The south side setback for both dwellings is 662mm which is non-compliant with the minimum required setback of 900mm for walls [cl 4.3.2.1]. The length of the non-compliant section is about 4.4m long, it is confined to the ground floor and consists of a solid masonry wall about 2.7 metres high. Eaves and gutters comply with the minimum side setback requirement of 450mm. The extent of the variation is 238mm. This variation allows for a dedicated entryway where the front door and entry porch faces the street and the double garage provides effective parking for residents in accordance with Council requirements.

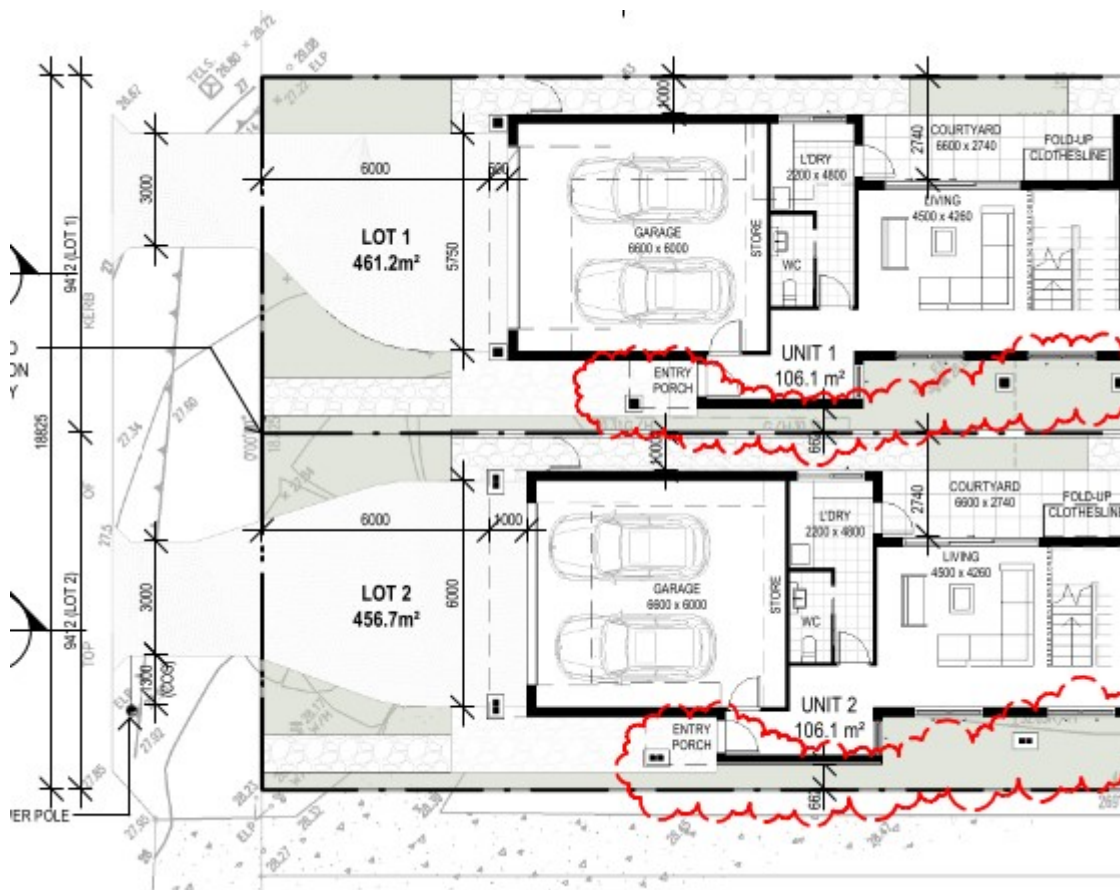


Figure 1: Detailed ground floor plan of dual occupancy at 19 Russell Street, Balgownie

#### Comment

The variation will not have an unacceptable impact on the surrounding area, and is generally consistent with the relevant objectives of the control as outlined below

a) The proposed separation between the two dual occupancy dwellings is 1.662m and the separation between the southern dwelling and nearest adjoining southern neighbour is 11.48m. This creates quite a variable pattern of separation between buildings as seen in Attachment 1 – Aerial Photograph Map. The wide variation in building separation along the street is a result of a number of access handles that afford vehicular access for residents in battleaxe lots. This includes the residents of 15-17, 21, 21A, 23, 27 & 31 Russell Street. In contrast, the building separation between 18 & 20 Russell Street is only 820mm. Consequently, it is considered that the development is consistent with the variable pattern of building separation along the street.

b) There are no windows on the non-compliant wall section. Privacy will be reinforced with a 1.8m high side boundary fence. Therefore, the design is considered to provide adequate privacy for neighbours.

c) The dwellings are considered to be appropriately sited as the wider parent lot allows for a side by side detached dual occupancy design with adequate parking and a front door/ entry porch that addresses the street. The site is not impacted by any significant site constraints.

d) Shadow diagrams were submitted with the application that demonstrate adequate solar access for neighbouring properties as defined in Clause 4.7 of the WDCP.

e) Adjoining residents are separated from the subject property by battleaxe handles which increases building separation. For example, the nearest southern neighbour is separated from the southern dwelling by 11.48m.

#### Clause 4.10.2.4 Car parking and Access

The objectives of the Clause are:

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

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

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

The control requires that where garage door openings face a road, they shall be a maximum of 50% of the width of the dwelling width of garage doors. The proposed garage doors occupy 60% of the width.

#### Comment

The proposal satisfies objective a & b. With respect to objective c, each of the proposed dwellings has a width of 7.95m and the garage door for each is 4.8m wide, representing 60% of the building width. It is considered that the garage doors do not dominate the streetscape appearance of the dwellings given the design treatments and architectural elements which, when combined diminish the presence of the garage doors in the context, see Figure 2. The front setback of dwelling 2 is slightly behind dwelling 1's (as shown in Figure 1). These features act in concert to successfully reduce the visual impact of the garage doors.



**SOUTH-WEST VIEW**

Figure 2: Perspective street view of dual occupancy at No. 19 Russell Street, Balgownie. Dwelling 2 is in the foreground.

The existing character consists of a mix of older style detached dwellings and more contemporary medium density housing. The two storey contemporary design, that includes brick walls and pitched roofs, is considered to be consistent with the existing and future desired character of the suburb. It is considered that the building design is of comparable scale, form, articulation and landscaping to neighbouring properties, particularly when compared to two storey multi dwelling housing at 12 & 14 Russell Street. Both dwellings include a recessed front door and entry porch that faces the street. Direct visual access to the street is also available with first floor doors and balconies. Articulation of the front façade is provided with a projected first floor balcony overhanging the garage and a recessed entry porch.

### 2.3.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2019

The estimated cost of works is \$710,600 and a levy of 1% is applicable under this plan as the threshold value is \$100,000. A search of the 1977/78 aerial Intramaps database confirms that there was a house on the subject property at this time. Therefore, the 2016 Ministerial Direction regarding Section 94 development contributions does not apply.

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

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

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

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

Conditions of consent are recommended with regard to demolition.

93 Fire safety and other considerations

Not applicable.

#### 94 Consent authority may require buildings to be upgraded

Not applicable.

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

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

This is demonstrated through the following:

- The proposal is satisfactory with regard to the applicable planning controls as detailed in the body of this report. Variations relating to side walls setbacks, garage width are supported. Please refer to Attachment 4.
- Twelve (12) submissions were received following notification that expressed concerns relating to built character and form, traffic, parking, privacy, view loss, solar access and tree management. As discussed in Section 1.5 of this report, these impacts are considered acceptable and would not preclude the development; and
- Internal referrals are satisfactory subject to appropriate conditions of consent.

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

Does the proposal fit in the locality?

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

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

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

See Section 1.5 of this report.

### **2.9 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 and is considered to be in the public interest.

## **3 CONCLUSION**

---

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

The site is zoned R2 Low Density Residential where dual occupancies are a permitted land use with development consent pursuant to the WLEP 2009.

The proposed development aligns with the objectives of the zone and the design of the development is appropriate regarding the controls outlined in these instruments. Three (3) WDCP variations relating to site width, side wall setbacks, garage door width are supported in this instance.

Referrals from Council's Development Engineer and Landscape Officer are all satisfactory and submissions have been considered.

Overall, It is considered that the proposed development is appropriately designed given the nature and characteristics of the site and is unlikely to result in significant adverse impacts on the character or amenity of the surrounding area.

#### **4 RECOMMENDATION**

---

It is recommended that the development application be approved subject to appropriate conditions of consent.

#### **5 ATTACHMENTS**

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- 1 Aerial photograph
- 2 zoning Map
- 3 Plans
- 4 WDCP Assessment
- 5 Visual Impact Assessment
- 6 Draft conditions of consent

**Attachment 1 – Aerial Photograph Map**



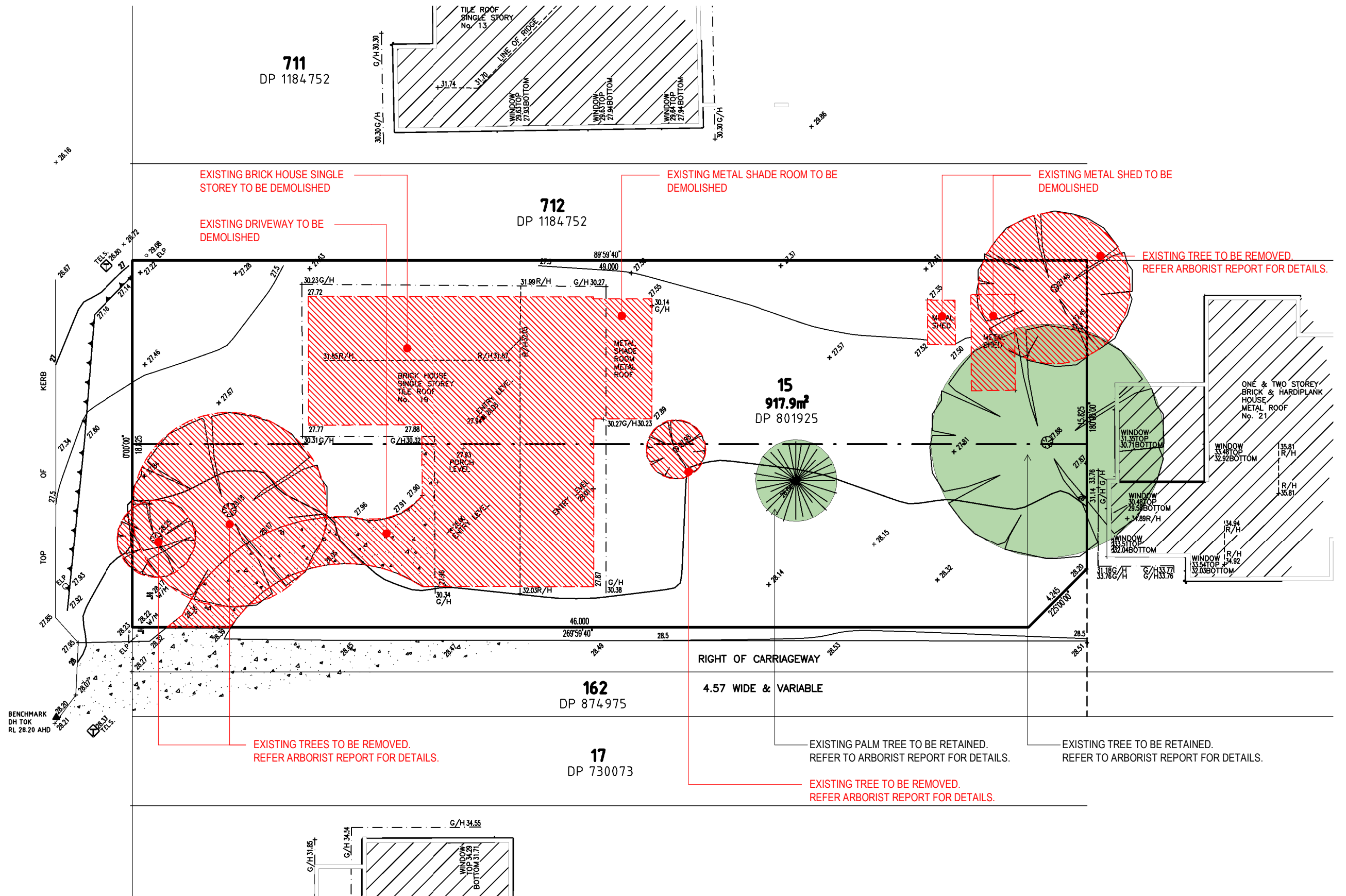
**Attachment 2 – Zoning Map**







RUSSELL STREET



**DEMOLITION PLAN**

1 : 200

**DISCLAIMER**  
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 All parking and ramps to traffic engineers details.

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L	21.01.2021	CLIENT ISSUE
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N	25.03.2021	DA SUBMISSION

**DISCLAIMER**  
 All dimensions are in millimeters. Verify all dimensions on site prior to commencement of any work. Copyright of DWA.

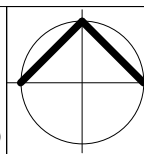
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FB02	FACE BRICKWORK TYPE 2	DP	DOWNPIPES	FW	FIXED WINDOW	T	TIMBER FLOORS
FB03	FACE BRICKWORK TYPE 3	TB	TIMBER BATTENS	OB	OBSCURE WINDOW	CT	CERAMIC TILES
BL	BLOCKWORK	D	DOOR	AW	AWNING WINDOW	CPT	CARPET
CL01	CLADDING	GD	GARAGE DOOR	SK	SKYLIGHT	PC	POLISHED CONCRETE
CL02	CLADDING	SLD	SLIDING DOOR	WH	WINDOW HOOD	FS	FEATURE SCREENING
RW	RETAINING WALL	BFD	BI-FOLD DOOR	LV	LOUVRES	IWS	INTEGRAL WALL
				RWT	RAINWATER TANK		



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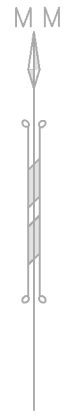
**Sydney**  
 Level 10, 6 Mount  
 Olympus Boulevard,  
 Woll Creek NSW 2205  
 Nominated Architect:  
 Robert Gizzi (Reg. 8286)



**CLIENT:** GD FRIGO  
 DUAL OCCUPANCY  
**ADDRESS:** 19 RUSSELL STREET, BALGOWNIE  
**DRAWING NAME:** DEMOLITION PLAN

**DATE:** 25.03.2021  
**PROJECT No.** 2116  
**DRAWN:** TN  
**SCALE:** 1 : 200  
**QA:** RG  
**DWG No.** 006  
**Rev.** N

**DEVELOPMENT APPLICATION**



RUSSELL STREET

C  
013

D  
013

PROPOSED  
SUBDIVISION  
BOUNDARY

EXISTING POWER POLE

BENCHMARK  
DH TOK  
RL 28.20 AHD

711  
DP 1184752

712  
DP 1184752

161  
DP 874975

17  
DP 730073

A  
013

B  
013

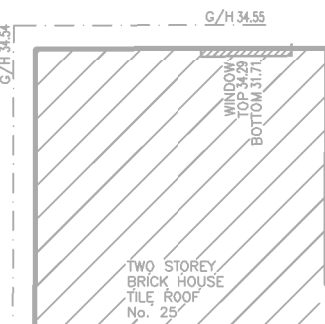
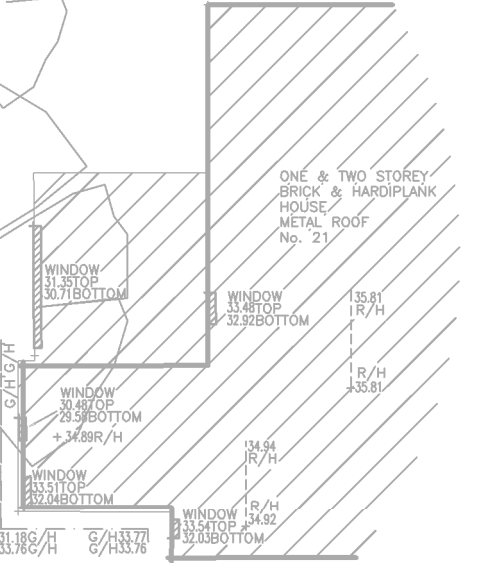
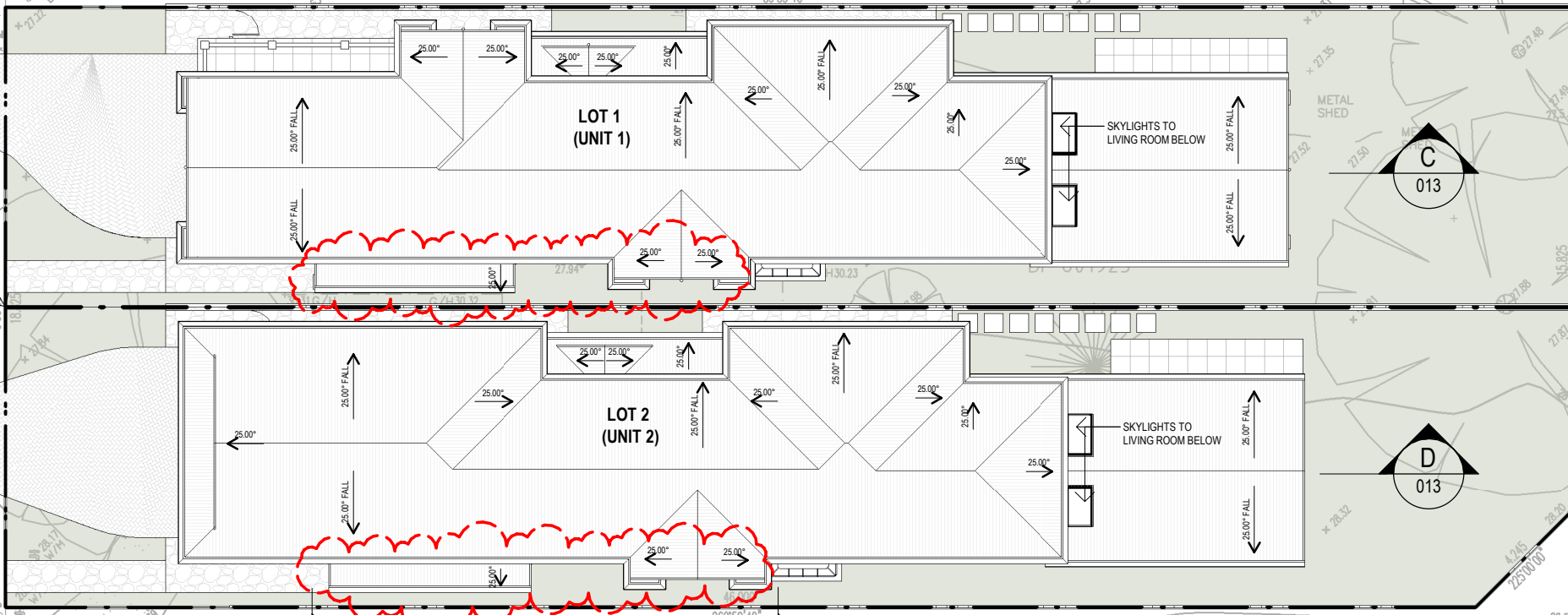
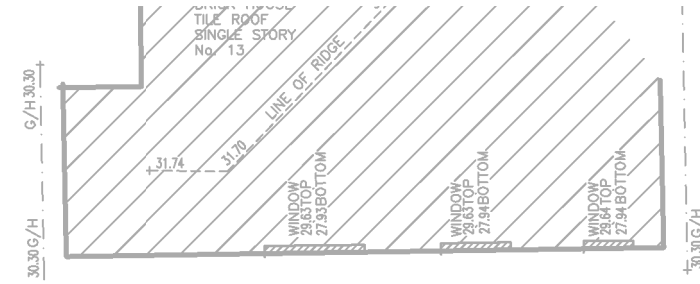
C  
013

D  
013

A  
013

B  
013

RIGHT OF CARRIAGEWAY  
4.57 WIDE & VARIABLE



**SITE PLAN & ROOF PLAN**

1 : 200

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N	25.03.2021	DA SUBMISSION
P	31.05.2021	ADDITIONAL INFORMATION

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		BFD	BI-FOLD DOOR				



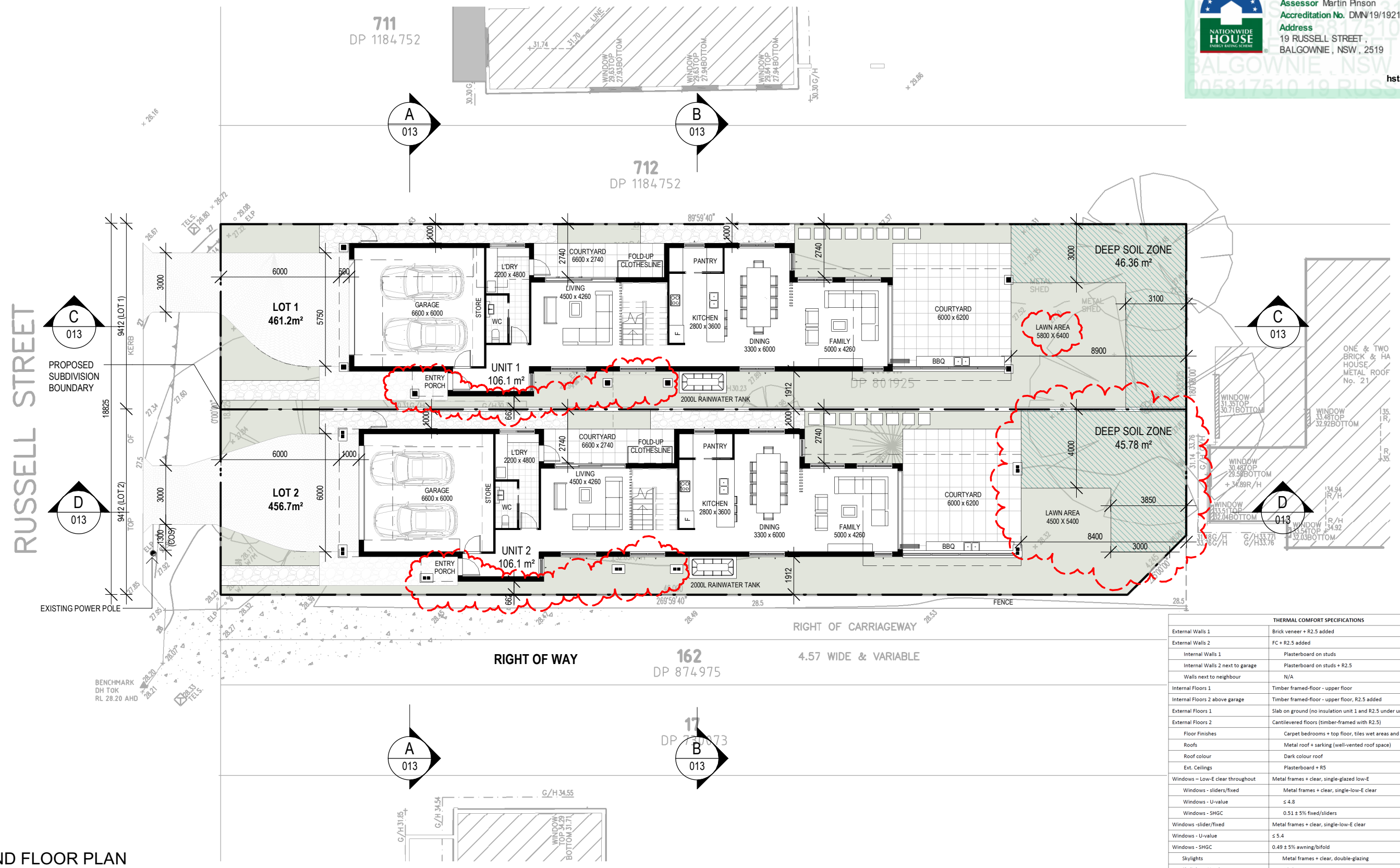
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**Sydney**  
Level 10, 6 Mount  
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Wolli Creek NSW 2205  
Nominated Architect:  
Robert Gizzi (Reg. 8286)

CLIENT: GD FRIGO  
DUAL OCCUPANCY  
ADDRESS: 19 RUSSELL STREET, BALGOWNIE  
DRAWING NAME: SITE PLAN & ROOF PLAN

DATE: 31.05.2021  
DRAWN: TN / AK  
SCALE: 1 : 200  
QA: RG  
PROJECT No. 2116  
DWG No. 007  
Rev. P





GROUND FLOOR PLAN  
 1 : 200

THERMAL COMFORT SPECIFICATIONS	
External Walls 1	Brick veneer + R2.5 added
External Walls 2	FC + R2.5 added
Internal Walls 1	Plasterboard on studs
Internal Walls 2 next to garage	Plasterboard on studs + R2.5
Walls next to neighbour	N/A
Internal Floors 1	Timber framed-floor - upper floor
Internal Floors 2 above garage	Timber framed-floor - upper floor, R2.5 added
External Floors 1	Slab on ground (no insulation unit 1 and R2.5 under unit 2)
External Floors 2	Cantilevered floors (timber-framed with R2.5)
Floor Finishes	Carpet bedrooms + top floor, tiles wet areas and timber elsewhere
Roofs	Metal roof + sarking (well-vented roof space)
Roof colour	Dark colour roof
Ext. Ceilings	Plasterboard + R5
Windows - Low-E clear throughout	Metal frames + clear, single-glazed low-E
Windows - sliders/fixes	Metal frames + clear, single-low-E clear
Windows - U-value	≤ 4.8
Windows - SHGC	0.51 ± 5% fixed/sliders
Windows - slider/fixes	Metal frames + clear, single-low-E clear
Windows - U-value	≤ 5.4
Windows - SHGC	0.49 ± 5% awning/bifold
Skylights	Metal frames + clear, double-glazing
Skylights - U-value	≤ 3.6
Skylights - SHGC	0.47 ± 5% fixed/sliders
Ceiling Fans	Bedrooms (1 each) but none for living zones
Doors	Hollow-core internal/solid-core external
Exhaust Fans	Dampers minimise infiltration (when fans are off)
Weather Stripping	Yes - all external doors and windows
Window openings	Openings as shown
Downlights affecting insulation	LED downlights (i.e. small or no holes in insulation)

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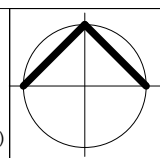
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 Woll Creek NSW 2205  
 Nominated Architect:  
 Robert Gizzi (Reg. 8286)



CLIENT: GD FRIGO  
 DUAL OCCUPANCY  
 ADDRESS: 19 RUSSELL STREET, BALGOWNIE  
 DRAWING NAME: GROUND FLOOR PLAN

DATE: 31.05.2021  
 DRAWN: TN / AK  
 SCALE: 1 : 200  
 QA: RG

PROJECT No.  
**2116**  
 DWG No. Rev.  
**008 P**

**DEVELOPMENT APPLICATION**



LEVEL 1 FLOOR PLAN  
 1 : 200

THERMAL COMFORT SPECIFICATIONS	
External Walls 1	Brick veneer + R2.5 added
External Walls 2	FC + R2.5 added
Internal Walls 1	Plasterboard on studs
Internal Walls 2 next to garage	Plasterboard on studs + R2.5
Walls next to neighbour	N/A
Internal Floors 1	Timber framed-floor - upper floor
Internal Floors 2 above garage	Timber framed-floor - upper floor, R2.5 added
External Floors 1	Slab on ground (no insulation unit 1 and R2.5 under unit 2)
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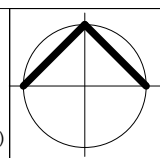
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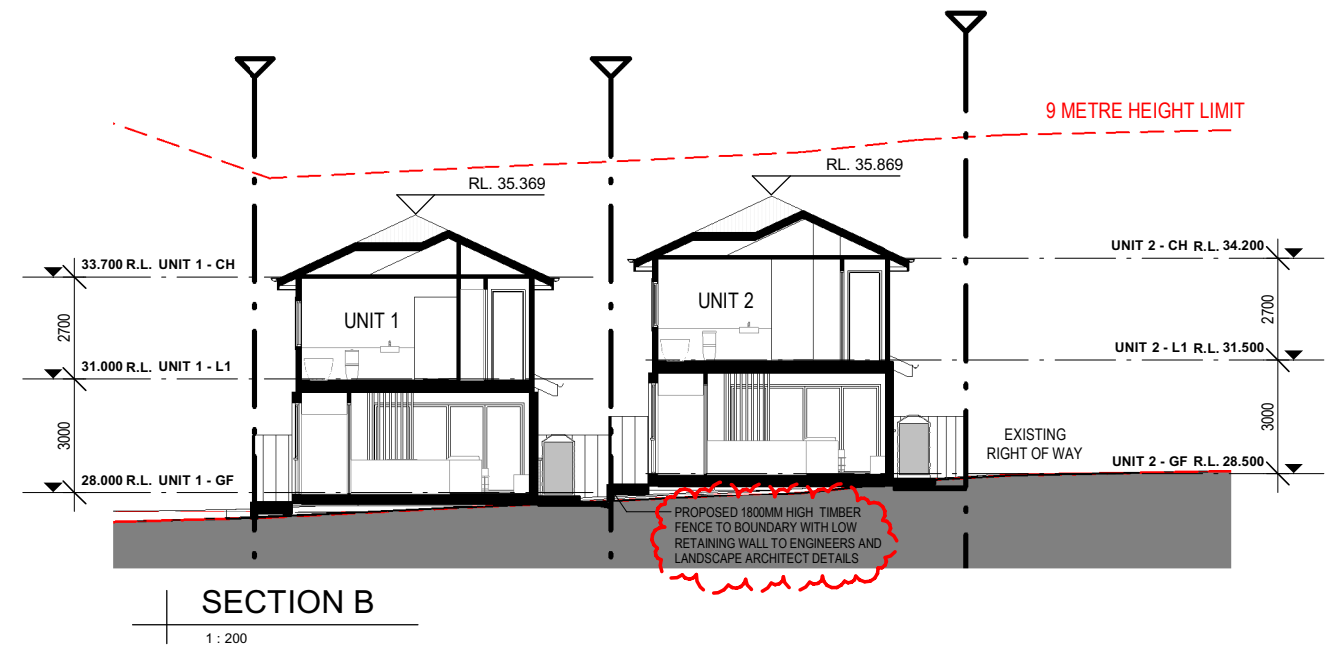
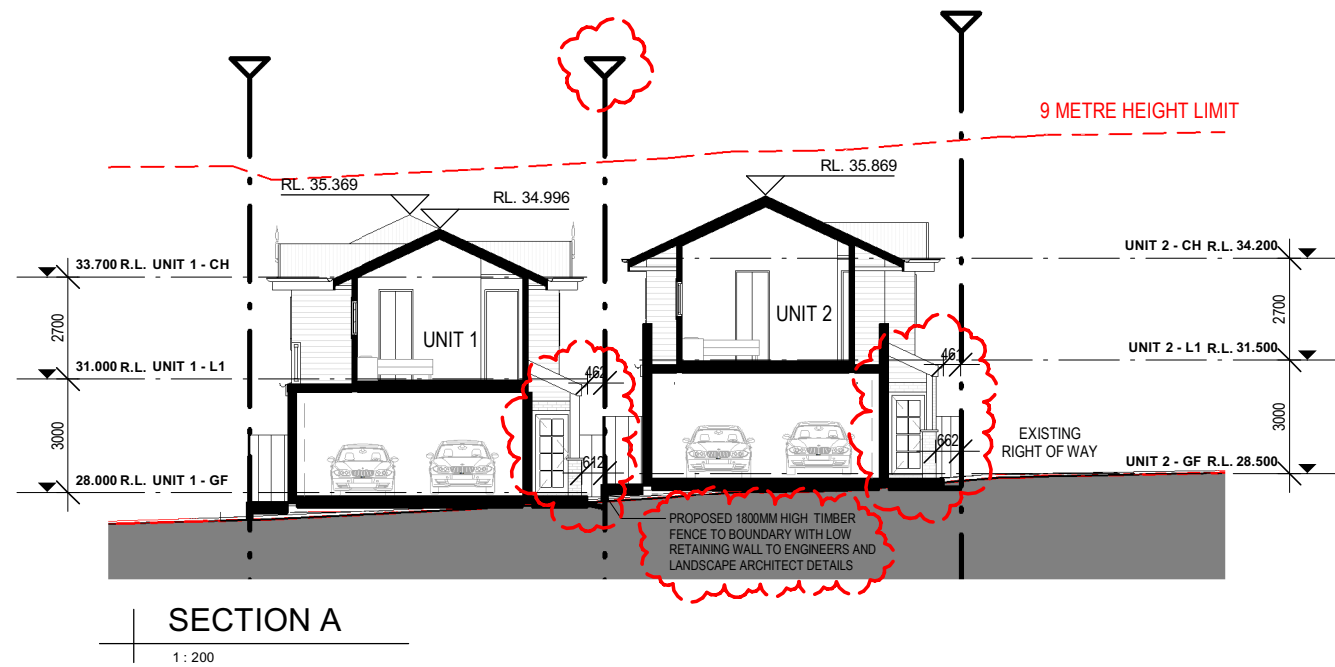


CLIENT: GD FRIGO  
 DUAL OCCUPANCY  
 ADDRESS: 19 RUSSELL STREET, BALGOWNIE  
 DRAWING NAME: FIRST FLOOR PLAN

DATE: 31.05.2021  
 DRAWN: TN / AK  
 SCALE: 1 : 200  
 QA: RG

PROJECT No.  
**2116**  
 DWG No. Rev.  
**009 P**

**DEVELOPMENT APPLICATION**



**0005817510 31 May 2021**  
 Assessor Martin Pinson  
 Accreditation No. DMN/19/1921  
 Address  
 19 RUSSELL STREET,  
 BALGOWNIE, NSW, 2519  
 hstar.com.au



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P	31.05.2021	ADDITIONAL INFORMATION

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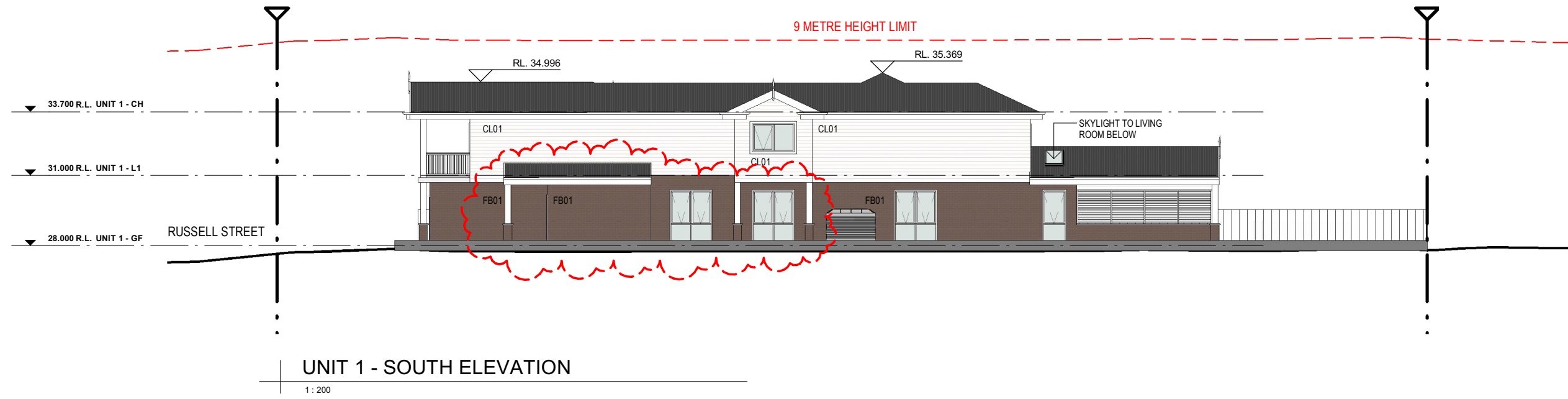
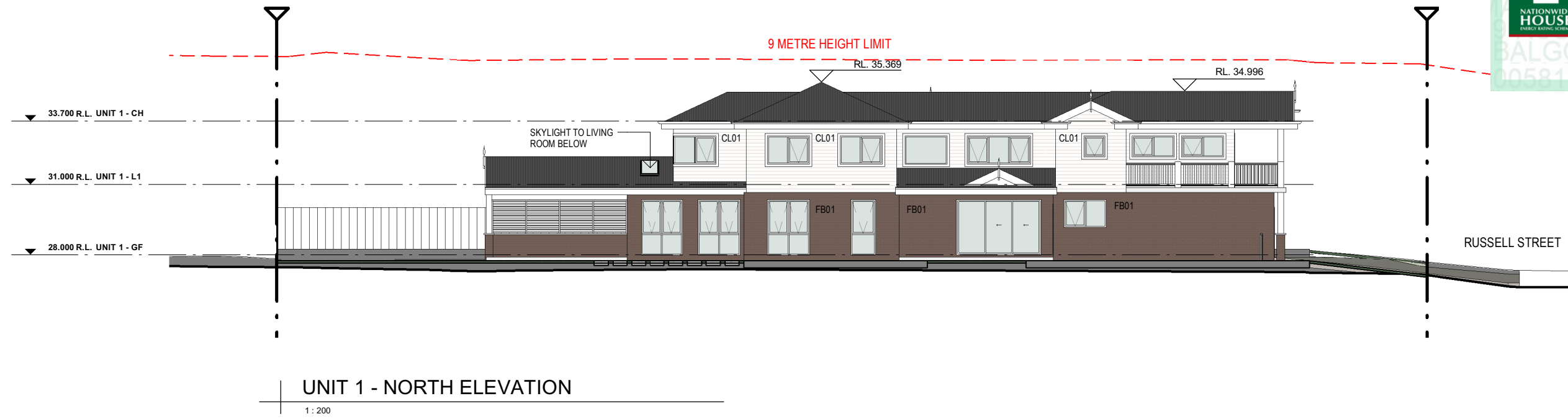
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 DRAWING NAME: SECTIONS

DATE: 31.05.2021  
 DRAWN: TN / AK  
 SCALE: 1:200  
 QA: RG

PROJECT No.  
**2116**  
 DWG No. Rev.  
**013 P**

**DEVELOPMENT APPLICATION**





<b>UNIT 1</b>	ROOFING - TO MATCH COLORBOND - MONUMENT	CL01 - CLADDING - TO MATCH TAUBMANS - SURFMIST	ARCHITRAVE / DETAIL TRIMS / TIMBER WORK - TO MATCH DULUX - VIVID WHITE	FB01 - FACEBRICK - TO MATCH NAMO VALLEY FEDERATION BLEND	WINDOW FRAMES - TO MATCH POWDERCOAT - PEARL WHITE	<b>UNIT 2</b>	ROOFING - TO MATCH COLORBOND - MONUMENT	CL02 - CLADDING - TO MATCH TAUBMANS - CANYON CLOUD	ARCHITRAVE / DETAIL TRIMS TIMBER WORK - TO MATCH DULUX - VIVID WHITE	FB02 - FACEBRICK - TO MATCH NAMO VALLEY FEDERATION BLACK	WINDOW FRAMES - TO MATCH POWDERCOAT - PEARL WHITE

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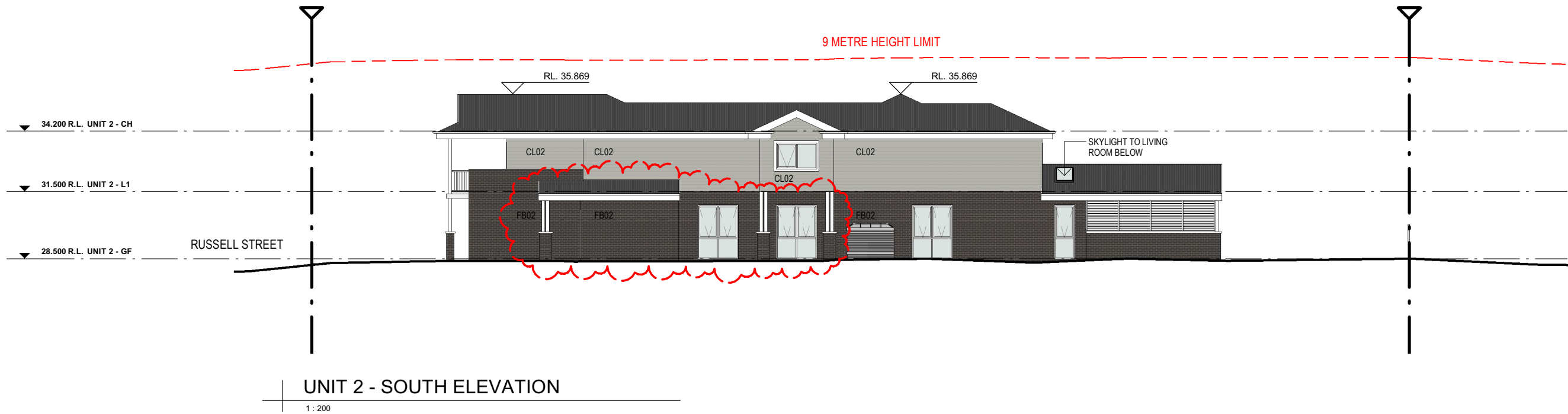


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 Email: info@designworkshop.com.au  
 Web: www.designworkshop.com.au

**Sydney**  
 Level 10, 6 Mount  
 Olympus Boulevard,  
 Woll Creek NSW 2205  
 Nominated Architect:  
 Robert Gizzi (Reg. 8286)

CLIENT:	GD FRIGO DUAL OCCUPANCY	DATE:	31.05.2021	PROJECT No.	2116
ADDRESS:	19 RUSSELL STREET, BALGOWNIE	DRAWN:	TN / AK	DWG No.	041
DRAWING NAME:	NORTH & SOUTH ELEVATIONS (UNIT 1)	SCALE:	1 : 200	Rev.	P
		QA:	RG		

**DEVELOPMENT APPLICATION**



<b>UNIT 1</b>	ROOFING - TO MATCH COLORBOND - MONUMENT	CL01 - CLADDING - TO MATCH TAUBMANS - SURFMIST	ARCHITRAVE / DETAIL TRIMS / TIMBER WORK - TO MATCH DULUX - VIVID WHITE	FB01 - FACEBRICK - TO MATCH NAMO VALLEY FEDERATION BLEND	WINDOW FRAMES - TO MATCH POWDERCOAT - PEARL WHITE	<b>UNIT 2</b>	ROOFING - TO MATCH COLORBOND - MONUMENT	CL02 - CLADDING - TO MATCH TAUBMANS - CANYON CLOUD	ARCHITRAVE / DETAIL TRIMS TIMBER WORK - TO MATCH DULUX - VIVID WHITE	FB02 - FACEBRICK - TO MATCH NAMO VALLEY FEDERATION BLACK	WINDOW FRAMES - TO MATCH POWDERCOAT - PEARL WHITE

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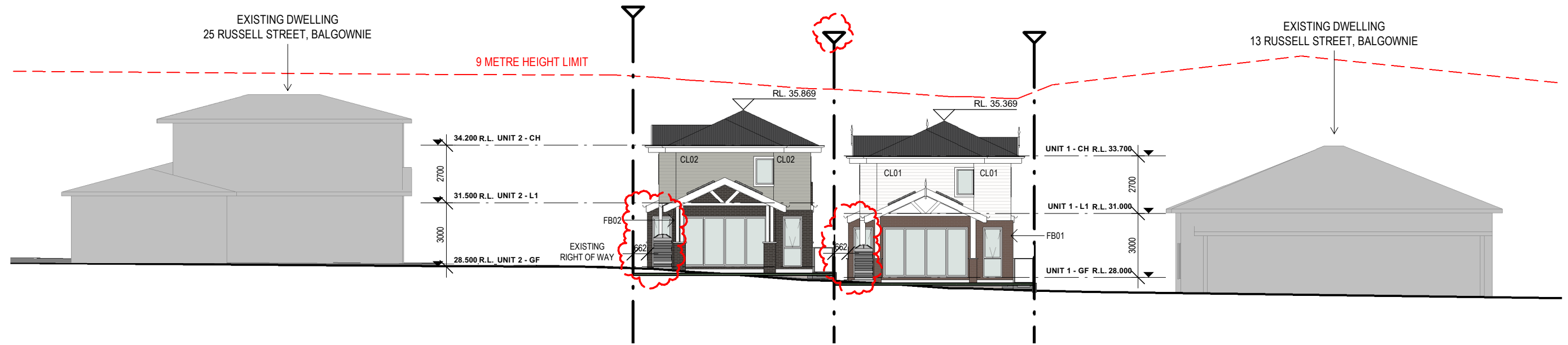
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**DWA**  
 DESIGN WORKSHOP AUSTRALIA

**Wollongong**  
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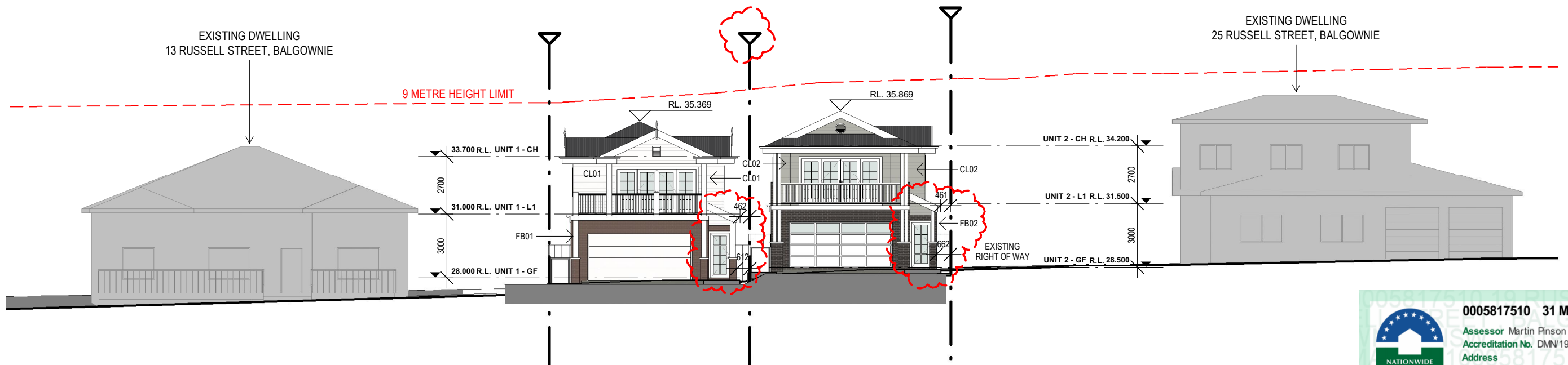
**Sydney**  
 Level 10, 6 Mount  
 Olympus Boulevard,  
 Woll Creek NSW 2205  
 Nominated Architect:  
 Robert Gizzi (Reg. 8286)

CLIENT:	GD FRIGO DUAL OCCUPANCY	DATE:	31.05.2021	PROJECT No.	2116
ADDRESS:	19 RUSSELL STREET, BALGOWNIE	DRAWN:	TN / AK	DWG No.	042
DRAWING NAME:	NORTH & SOUTH ELEVATIONS (UNIT 2)	SCALE:	1 : 200	Rev.	P
		QA:	RG		



EAST ELEVATION

1 : 200



WEST ELEVATION (RUSSELL STREET)

1 : 200

0005817510 31 May 2021

Assessor Martin Pinson  
Accreditation No. DMN/19/1921  
Address  
19 RUSSELL STREET,  
BALGOWNIE, NSW, 2519

NATIONWIDE HOUSE ENERGY RATING SCHEME

hstar.com.au

UNIT 1	ROOFING - TO MATCH COLORBOND - MONUMENT	CL01 - CLADDING - TO MATCH TAUBMANS - SURFMIST	ARCHITRAVE / DETAIL TRIMS / TIMBER WORK - TO MATCH DULUX - VIVID WHITE	FB01 - FACEBRICK - TO MATCH NAMOI VALLEY FEDERATION BLEND	WINDOW FRAMES - TO MATCH POWDERCOAT - PEARL WHITE	UNIT 2	ROOFING - TO MATCH COLORBOND - MONUMENT	CL02 - CLADDING - TO MATCH TAUBMANS - CANYON CLOUD	ARCHITRAVE / DETAIL TRIMS / TIMBER WORK - TO MATCH DULUX - VIVID WHITE	FB02 - FACEBRICK - TO MATCH NAMOI VALLEY FEDERATION BLACK	WINDOW FRAMES - TO MATCH POWDERCOAT - PEARL WHITE
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**DISCLAIMER**  
Subject to: full site survey, measurements are preliminary, discussions and meetings with authorities, approval from authorities, relevant consultant information as per council DA requirements. Feasibility completed based on information provided by client.  
All parking and ramps to traffic engineers details.

REF.	DATE	AMENDMENT
L	21.01.2021	CLIENT ISSUE
M	22.02.2021	CONSULTANT ISSUE
N	25.03.2021	DA SUBMISSION
P	31.05.2021	ADDITIONAL INFORMATION

**Legend:**

FB01	FACE BRICKWORK TYPE 1	R	ROOF	SLW	SLIDING WINDOW	P	POST
FB02	FACE BRICKWORK TYPE 2	DP	DOWNPIPES	FW	FIXED WINDOW	T	TIMBER FLOORS
FB03	FACE BRICKWORK TYPE 3	TB	TIMBER BATTENS	OB	OBSCURE WINDOW	CT	CERAMIC TILES
BL	BLOCKWORK	D	DOOR	AW	AWNING WINDOW	CPT	CARPET
CL01	CLADDING	GD	GARAGE DOOR	SK	SKYLIGHT	PC	POLISHED CONCRETE
CL02	CLADDING	SLD	SLIDING DOOR	WH	WINDOW HOOD	SP	FEATURE SCREENING
RW	RETAINING WALL	BFD	BI-FOLD DOOR	LV	LOUVRES	IWS	INTEGRAL WALL
				RWT	RAINWATER TANK		

**DWA**  
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Nominated Architect:  
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CLIENT: GD FRIGO  
DUAL OCCUPANCY

ADDRESS: 19 RUSSELL STREET, BALGOWNIE

DRAWING NAME: EAST & WEST ELEVATIONS

DATE: 31.05.2021

DRAWN: TN / AK

SCALE: 1 : 200

QA: RG

PROJECT No. 2116

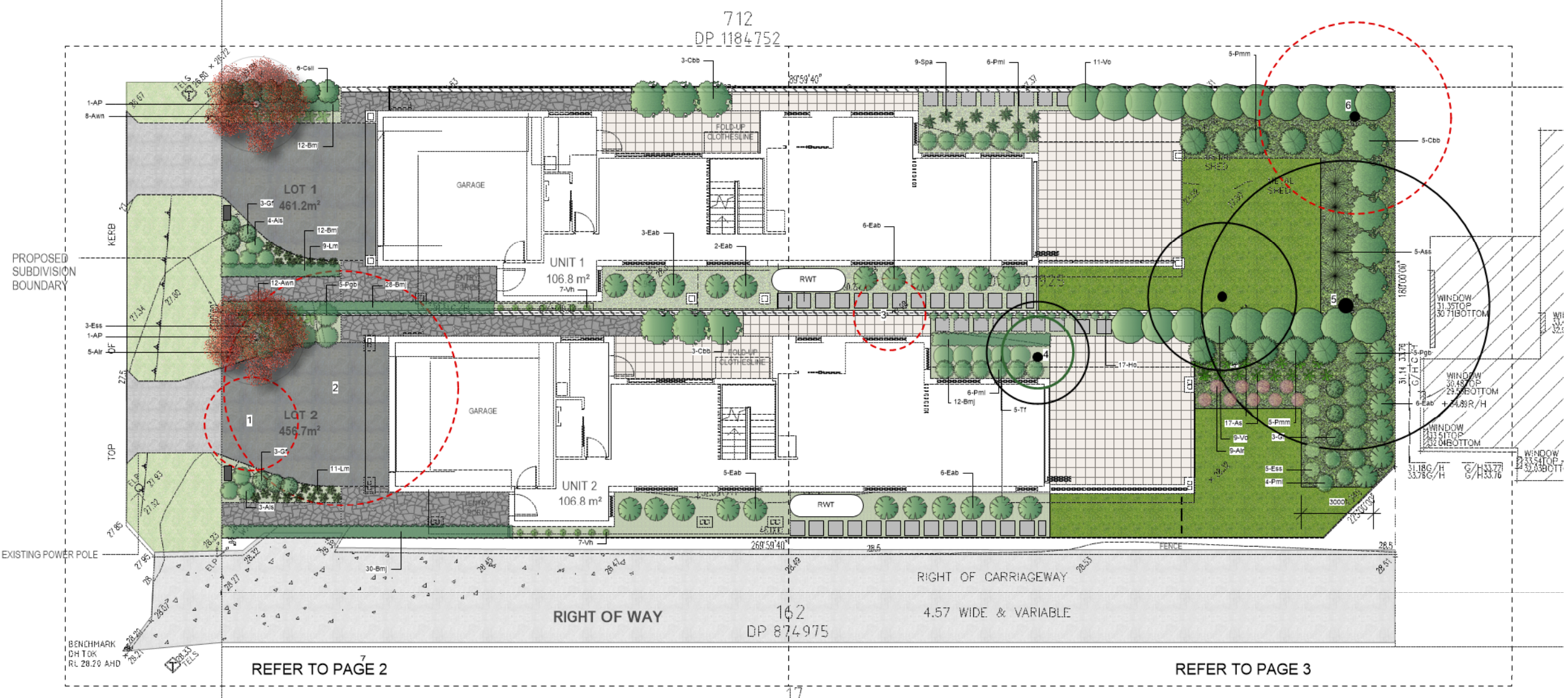
DWG No. 043

Rev. P

DEVELOPMENT APPLICATION



RUSSELL STREET



**LANDSCAPE CALCULATIONS:**

LOT 1	
SITE TOTAL	= 461.2m <sup>2</sup>
Required Landscape	= 20%
	= 92.24m <sup>2</sup>
	(Deep Soil Zone) = 46.12m <sup>2</sup>
Garden Areas	= 80.745m <sup>2</sup>
Turf Areas	= 48.639m <sup>2</sup>
Deep Soil Zones	= 46.539m <sup>2</sup>
Total	= 175.923m <sup>2</sup>
LOT 2	
SITE TOTAL	= 456.7m <sup>2</sup>
Required Landscape	= 20%
	= 91.34m <sup>2</sup>
	(Deep Soil Zone) = 45.6m <sup>2</sup>
Garden Areas	= 79.728m <sup>2</sup>
Turf Areas	= 39.443m <sup>2</sup>
Deep Soil Zones	= 45.70m <sup>2</sup>
Total	= 164.871m <sup>2</sup>

B	28.5.21	Additional Information
A	25.3.21	Issue for Development Application
ISSUE	DATE	NOTE

Client  
**Mr. T Frigo**

Address  
**No 19 Russell St Balgownie NSW**

Project  
**Proposed Dual Occupancy Development**

Drawing  
**Title Page**

Full Site Plan  
1:200

**DRAWING SCHEDULE:**

DRAWING	PAGE No	SCALE
Title Page	1	As Shown @ A3
Part Landscape Plan 1	2	1:100 @ A3
Part Landscape Plan 2	3	1:100 @ A3

**Indicative Planting Schedule**

ID	Qty	Common Name	Botanical Name	Scheduled Size	Mature Height	Mature Spread
<b>Trees</b>						
AP	2	Japanese Maple	Acer Palmatum	100Lt	4m	4m
<b>Shrubs</b>						
Alr	14	Little Ruby Alternanthera	Alternanthera dentata 'Little Ruby'	200mm	0.3-0.4m	0.6-0.9m
Ais	7	Azalea Shirazz	Azalea indica 'Shirazz'	200mm	1m	1m
Bmj	94	Japanese Box	Buxus microphylla 'Japonica'	200mm	1m	0.8m
Cbb	11	Japonica Camellia	Camellia japonica 'Buttons & Bows'	200mm	2-3m	2m
Csll	6	Dwarf Camellia	Camellia sasanqua 'Little Liane'	200mm	1.5m	1m
Eab	28	Escallonia	Escallonia langleyensis 'Apple Blossom'	200mm	1.5m	1m
Gf	9	Gardenia	Gardenia florida	200mm	1m	1m
Pgb	10	Gulf Ball Pittosporum	Pittosporum 'Gulf Ball'	200mm	1m	1m
Pmm	10	Miss Muffet Pittosporum	Pittosporum 'Miss Muffet'	200mm	1m	1.5m
Pml	16	Plectranthus	Plectranthus Mona Lavender	200mm	0.8m	0.6m
Tf	5	Bush Germander	Teucrium fruticans	200mm	1-2m	1-2m
Vo	20	Sweet Viburnum	Viburnum odoratissimum	200mm	5m	2m
<b>Ground Covers</b>						
Vh	14	Viola	Viola hederacea	150mm	0.1-0.15m	1m
<b>Perennials</b>						
As	17	Snowball Agapanthus	Agapanthus 'Snowball'	150mm	500mm	500mm
Awn	20	Renga Lily	Arthropodium cirratum 'White Night'	200mm	1m	1m
Ass	5	Silver Astelia	Astelia chathamica 'Silver Spear'	200mm	1-2m	0.6-1m
Ess	8	Euphorbia	Euphorbia characias 'Silver Swan'	200mm	0.7m	0.7m
Ho	17	Hellebore	Helleborus orientalis 'Burning Kiss'	150mm	0.6m	0.4m
Lm	20	Liriope	Liriope muscari	150mm	Height	Spread
Spa	9	Peace Lily	Spathiphyllum Peace Lily	200mm	0.75m	0.6m



West Elevation  
1:200

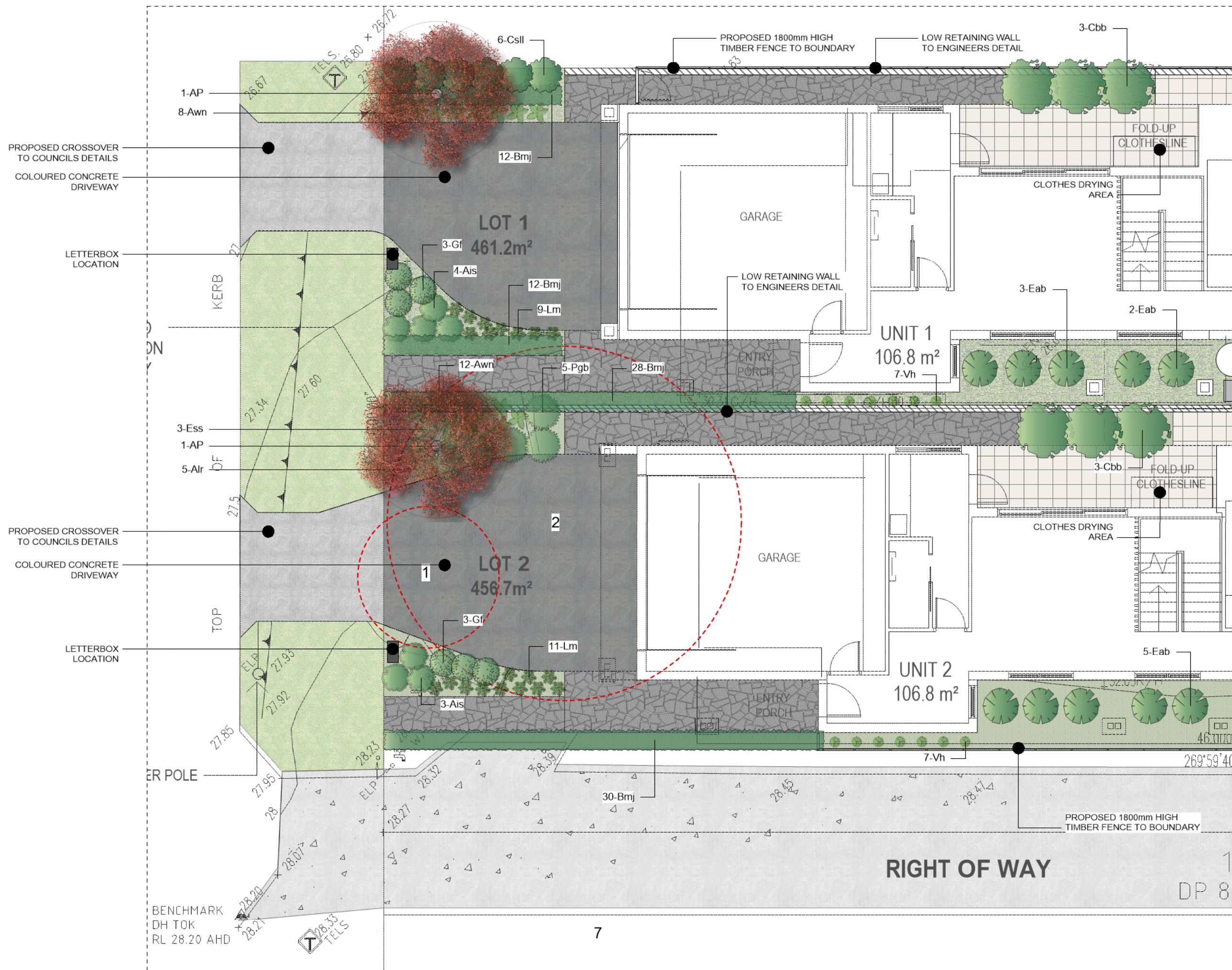


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Scale @A3 1:200	Job No. DA-1787
Date 25.3.21	Page 1
Status <b>For Development Application Only</b>	







ISSUE	DATE	NOTE
B	28.5.21	Additional Information
A	25.3.21	Issue for Development Application

THE BUILDER IS RESPONSIBLE FOR THE SETTING OUT OF THE WORKS, THE CHECKING OF ALL DIMENSIONS AND LEVELS ON SITE, AND THE REPORTING OF ANY DISCREPANCIES TO THE PROPRIETOR PRIOR TO COMMENCEMENT OF WORK. DO NOT SCALE FROM DRAWINGS.

Client  
Mr. T Frigo

Address  
No 19 Russell St Balgownie NSW

Project  
Proposed Dual Occupancy Development

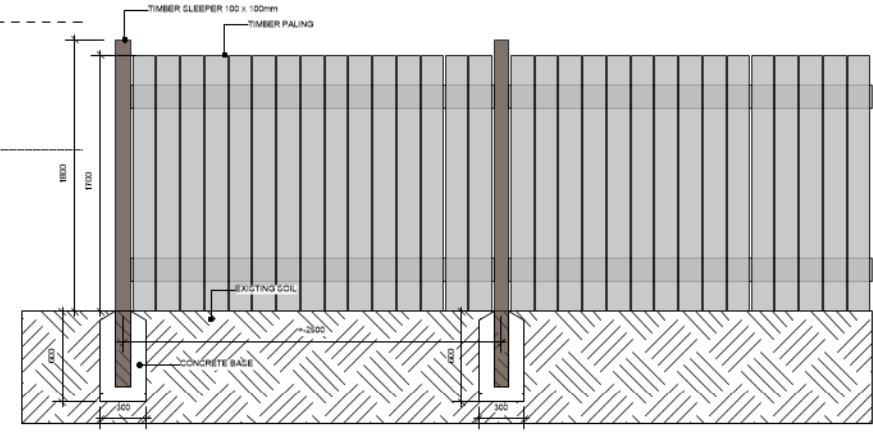
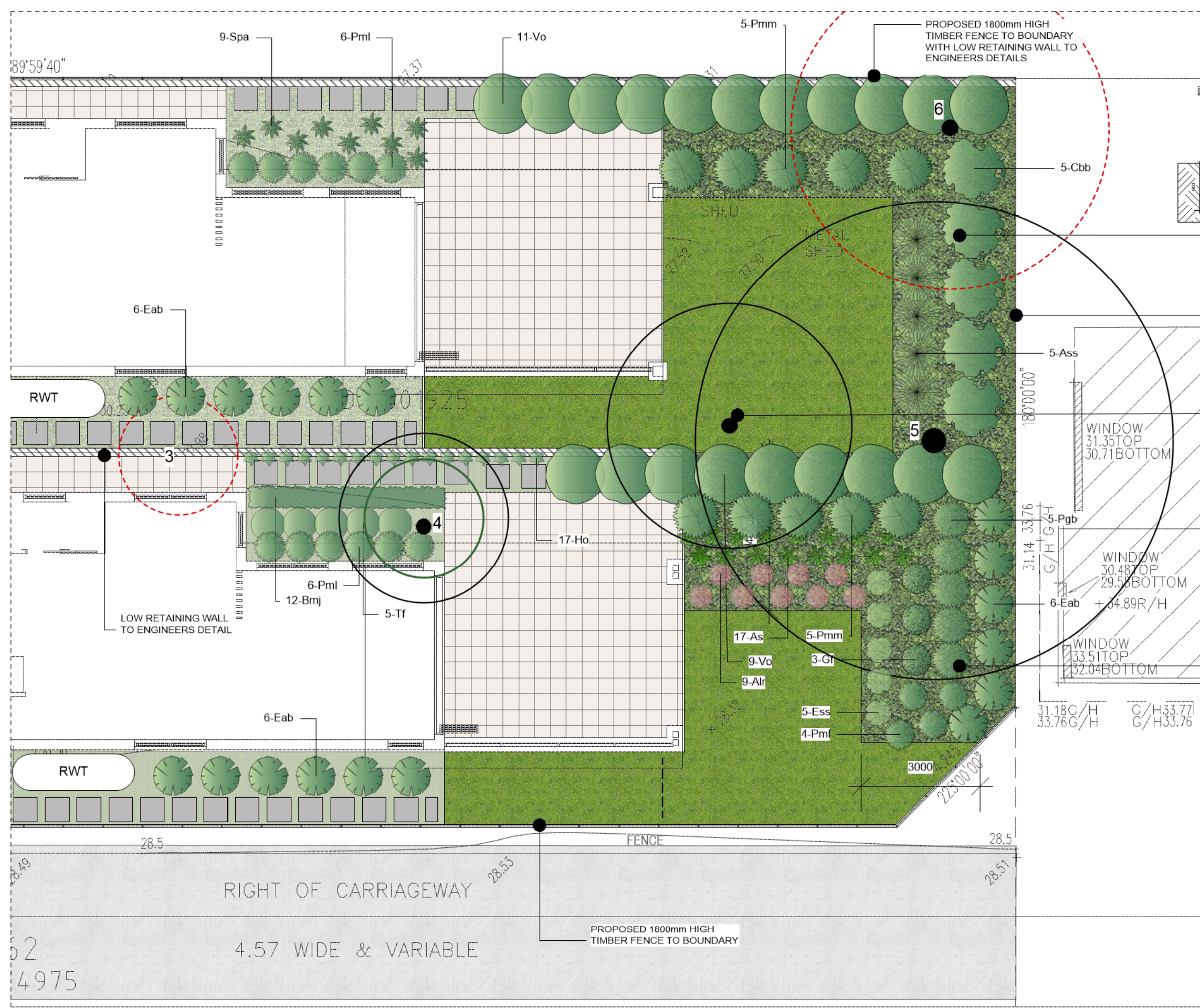
Drawing  
Part Landscape Plan 1



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Scale @A3 1:100	Job No. DA-1787
Date 25.3.21	Page 2
Status <b>For Development Application Only</b>	





Fencing Type - Timber Typical Detail  
1:50

B 25.5.21 Additional Information  
A 25.3.21 Issue for Development Application

ISSUE	DATE	NOTE
		THE BUILDER IS RESPONSIBLE FOR THE SETTING OUT OF THE WORKS, THE CHECKING OF ALL DIMENSIONS AND LEVELS ON SITE, AND THE REPORTING OF ANY DISCREPANCIES TO THE PROPRIETOR PRIOR TO COMMENCEMENT OF WORK. DO NOT SCALE FROM DRAWINGS.

Client  
**Mr. T Frigo**

Address  
**No 19 Russell St Balgownie NSW**

Project  
**Proposed Dual Occupancy Development**

Drawing  
**Part Landscape Plan 2**

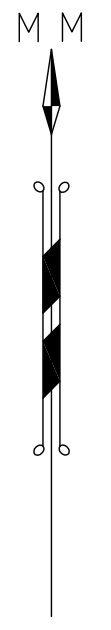
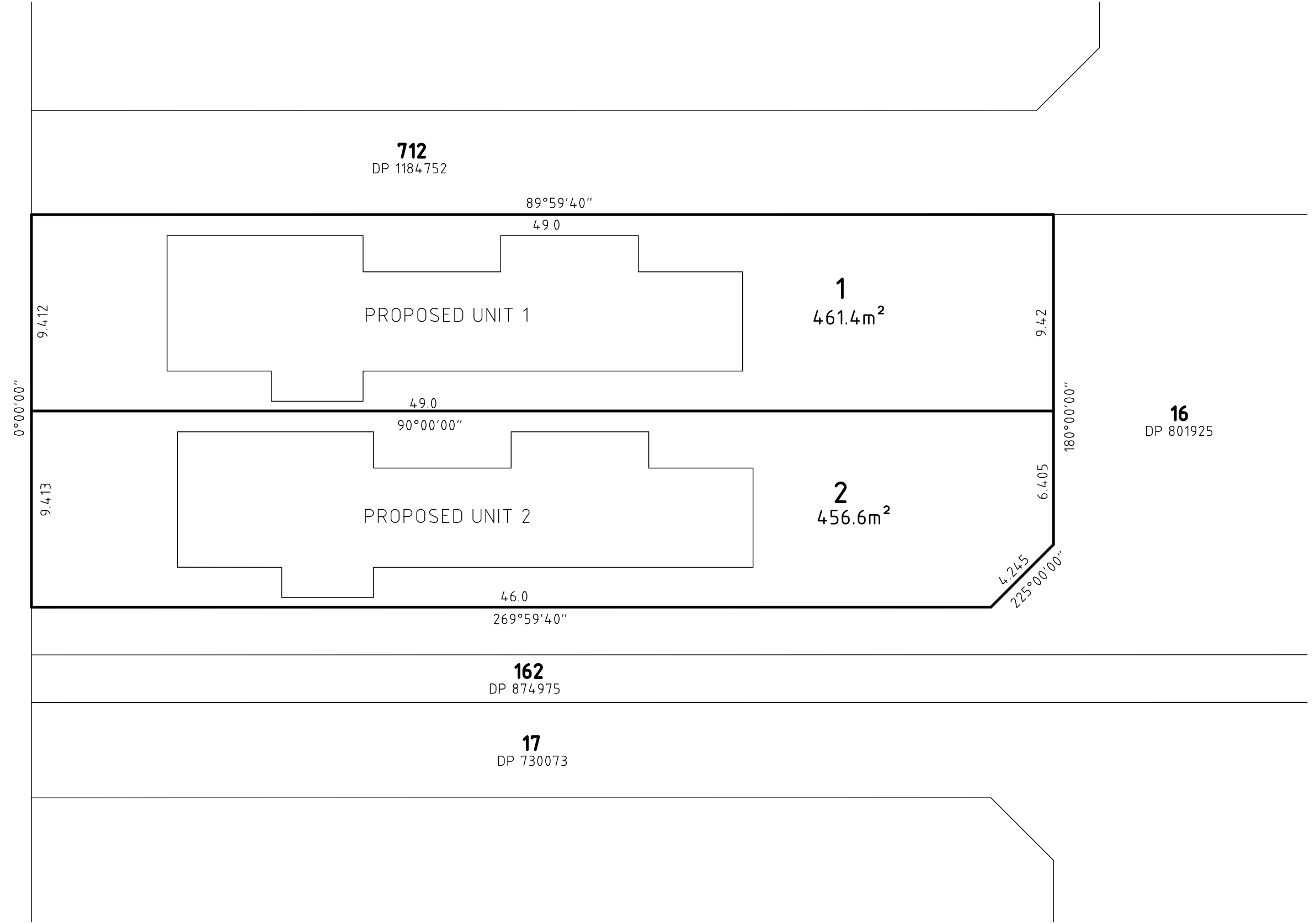


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Scale @A3 1:100	Job No. DA-1787
Date 25.3.21	Page 3
Status <b>For Development Application Only</b>	

RUSSELL STREET

RUSSELL STREET



**C. ROBSON & ASSOCIATES PTY.LTD.** A.B.N. 63 105 569 837  
**LAND & ENGINEERING SURVEYORS**  
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SURVEYOR : N.A  
 CLIENT : FRIGO  
 DRAWN : CR  
 CHECKED : CR  
 REDUCTION RATIO 1:200 A3

PROJECT : PROPOSED SUBDIVISION  
 LOT 15 DP 801925  
 19 RUSSELL STREET BALGOWNIE

REFERENCE : 20026\_SK1  
 DATE : 19-3-2021  
 DATUM : A.H.D.



## Attachment 4 – DCP 2009 Assessment

### CHAPTER A2 – ECOLOGICALLY SUSTAINABLE DEVELOPMENT

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

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

### CHAPTER B1 – RESIDENTIAL DEVELOPMENT

The proposal is for the demolition of an existing dwelling and associated structures, removal of four(4) trees and construction of two new detached dwellings with double garages to form a dual occupancy development. Therefore an assessment of the proposal has been undertaken against the provisions of Chapter B1 of WDCP 2009 as detailed below.

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
<b>4.1 Maximum Number of Storeys</b>		
<ul style="list-style-type: none"> <li>R2 – maximum 9 metres + 2 storeys</li> </ul>	Dwelling 1 (north)	Yes
<ul style="list-style-type: none"> <li>Limit of single storey development within 8m rear setback</li> </ul>	Height: 7.954m No. of storeys: Two (2) Dwelling 2 (south) Height: 8.092m No. of storeys: Two (2) The second storey rear setback for dwelling 1 is 16.8m and for dwelling 2 it is about 15.4m which complies with the provisions of CI 4.1.2.4. The proposal has been assessed against the relevant objectives and considered satisfactory.	
<b>4.2 Front Setbacks</b>		
<ul style="list-style-type: none"> <li>Dwellings 6m</li> <li>Garages 5.5m</li> <li>Lesser if consistent with street character</li> </ul>	Dwelling 1 Front setback: 6m (6.5m for garage) Dwelling 2 Front setback: 6m (7m for garage) The proposal has been assessed against the relevant objectives and considered satisfactory.	Yes
<b>4.3 Side and Rear Setbacks</b>		
<ul style="list-style-type: none"> <li>900mm to side and rear boundaries</li> <li>Walls exceeding 7m in height setback minimum 3m from side or rear boundaries</li> <li>Windows of habitable rooms and balconies positioned to reduce overlooking</li> </ul>	Dwelling 1 Side setback: 1m (north) & 662mm (south) Rear setback: 8.9m Eave/gutters setback: >450mm Dwelling 2 Side setback: 1m (north) & 662m (south)	No; variation considered acceptable

Rear setback: 7.18m (on splay corner); otherwise 8.4m

Eave/gutters setback: >450mm

Both south side wall setbacks are 662mm which is non-compliant with control 4.3.2.1. The variation is supported.

No walls exceed 7m in height.

First floor windows for the development are either bedrooms, bathrooms or study room/ stair landing, all of which are considered low use rooms that do not create an unreasonable impact upon neighbourhood privacy.

Each dwelling has a wrap-round first floor balcony on the front facade. These balconies come off bedrooms and are overlooking either onto the street, accessways, front yards of adjoining properties or blank walls.

Standard boundary fencing condition is recommended to ensure that there is adequate privacy for all residents at ground level. It is considered that the development minimises direct overlooking onto adjoining properties.

---

#### 4.4 Site coverage

<ul style="list-style-type: none"> <li>Maximum 50% for each created lot that is greater than 450m<sup>2</sup> and less than 900m<sup>2</sup></li> </ul>	<p>Lot 1 site coverage: 36.4%</p> <p>Lot 2 site coverage: 36.8%</p> <p>Combined site coverage: 36.6%</p>	<p>Yes</p>
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#### 4.5 Landscaped Area

<ul style="list-style-type: none"> <li>Lot area less than 600m<sup>2</sup> – 20% landscaped area</li> <li>Minimum 50% behind building line</li> <li>2 semi-mature trees planted on site more than 3m from any structure</li> </ul>	<p>The minimum landscaped area required for Lot 1 is 92.28m<sup>2</sup> and for Lot 2 it is 91.32m<sup>2</sup>.</p> <p>Landscaped Area Lot 1: &gt; 92.28m<sup>2</sup> Landscaped Area Lot 2: &gt; 91.32m<sup>2</sup></p> <p>Minimum 50% is provided behind the front building line</p> <p>The front setback is appropriately landscaped.</p> <p>The landscape plan shows 2 new semi-mature trees located in appropriate locations.</p> <p>Suitable conditions relating to landscaping will be included on the consent as recommended by Council's Landscape Architect.</p>	<p>Yes</p>
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#### 4.6 Private Open Space

<ul style="list-style-type: none"><li>• 24m<sup>2</sup> per dwelling – 4m x 6m</li><li>• Facilities provided outside minimum POS</li><li>• Positioned away from side boundaries</li></ul>	Satisfactory private open space (POS) with suitable dimensions are proposed for both lots in the rear courtyards. The POS are directly accessible from the ground floor family rooms. There are no structures impeding either POS.	Yes
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#### 4.7 Solar Access

<ul style="list-style-type: none"><li>• Windows to living rooms/POS of neighbouring sites to receive at least 3 hours direct sunlight between 9am and 3pm on 21 June</li></ul>	<p>The subject site is oriented in a general east/ west axis and is separated from the nearest southern dwelling (at No. 25 Russell Street) by approximately 11.5 metres. Shadows fall primarily within the two southern accessways.</p> <p>The proposal was accompanied with a satisfactory set of shadow diagrams for the winter solstice which demonstrate adequate solar access for all neighbouring properties including No. 23 &amp; 25 Russell Street.</p>	Yes
--	---	-----

#### 4.8 Building Character and Form

<ul style="list-style-type: none"><li>• Design responds to surrounding context</li><li>• Appropriate bulk and scale</li><li>• Maximum width of garage door openings facing a road is 50%</li></ul>	<p>Both dwellings are considered to adequately respond to site constraints, are sympathetic with the existing neighbourhood character and are of an appropriate bulk and scale. The design of the new dwellings is consistent with contemporary building design in the area.</p> <p>The dwellings incorporate a front door that addresses the street.</p> <p>The garage door width is 61.5% of the dwelling width for both dwellings contrary control 4.8.2.11. This variation is a duplicate of Control 4.10.2.4 and is supported in this instance.</p>	No, Variation considered acceptable
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#### 4.9 Fences

<ul style="list-style-type: none"><li>• Dividing fences to 1.8m high</li><li>• Front fence to 1.2 m high and constructed in transparent fence materials</li></ul>	A revised landscape plan includes suitable side and rear boundary fencing. Existing 1.8m rear boundary Colorbond fence to be retained. To be conditioned accordingly.	Yes
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#### 4.10 Car parking and Access

<ul style="list-style-type: none"><li>• 2 parking spaces required per dwelling with GFA more than 125m<sup>2</sup> otherwise 1 space required</li><li>• Minimum 5.5m setback from front property boundary</li></ul>	<p>Two (2) parking spaces are required for both dwellings.</p> <p>Each dwelling includes a double garage with suitable internal dimensions. The garages face the street and access is achieved from two separate driveways,</p>	No; variation
---	---	---------------

- Maximum width of garage door openings facing a road is 50% both directly connected to Russell Street. considered acceptable
- Driveways shall be separated from side boundaries by a minimum of one metre Front garage setbacks are compliant, along with driveway boundary separations and driveway crossover widths.
- Maximum driveway crossover width of 3m The width of the garage doors was calculated at 61.5% of the dwelling width which is non-compliant with Control 4.10.2.4. The Variation is supported.

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#### 4.11 Storage Facilities

- 10m<sup>3</sup> or 5m<sup>2</sup> of storage to be provided Appropriately sized storage areas are proposed for both dwellings. Yes

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#### 4.12 Site Facilities

- Site facilities to be appropriately located Site facilities such as clothes lines etc have been shown on the plans in suitable locations. Yes

---

#### 4.13 Fire Brigade Servicing

- All dwellings located within 60m of hydrant The closest fire hydrant is located at No. 25 Russell Street. Satisfactory. Yes

---

#### 4.14 Services

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

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#### 4.16 View Sharing

- To protect and enhance view sharing, significant view corridors The application was accompanied with a View Impact Assessment Report that has considered the 4-step assessment described in *Tenacity Consulting V Waringah* [2004]. Refer to Attachment 5, Yes
- A range of view sharing measures to be considered for building design



Figure 3: North view in vicinity of ground floor dining room window at 25 Russell St, Balgownie (standing view)

Southern neighbours at No. 23 & 25 Russell Street are concerned that the development will block their middle distance escarpment views to the north and north west. The escarpment land view is about 1.1km to the north of the subject property.

No 25 Russell Street is a two storey detached brick dwelling. The objector states that north facing windows currently enjoy escarpment views including “*the formal dining room, the main living areas, the al fresco dining and entertainment area and the garden patio at the east end of the property.*” There are no first floor north facing windows and 4 ground floor windows



Figure 4: North view from rear alfresco at 25 Russell Street, Balgownie (standing view)



Figure 5: Northwest view to escarpment as seen from the verandah near the family room at No. 23 Russell Street, Balgownie (standing view)



Figure 6: Northwest view of escarpment from private yard at No. 23 Russell Street, Balgownie (standing view)

face north. Western escarpment views are not impacted by the development and two northern accessways (about 10 metre wide) separate this property from the subject development. These are all side boundary views that are partially obstructed by existing housing and vegetation. Please refer to Figures 3 & 4.

No 23 Russell Street is a battleaxe block with a single storey detached dwelling. North facing windows look towards dwellings at No 21 and 21A Russell Street and there are no west facing windows. Four north facing living room windows and the front yard currently enjoy oblique north west views to the escarpment. These are all side boundary views that are partially obstructed by existing housing and vegetation. Please refer to Figures 5 & 6.

The view impact assessment report concludes that the escarpment view loss from the proposed development at No. 25 Russell Street will be devastating and at No. 23 Russell Street the escarpment view loss will be severe.

The proposed detached dual occupancy has two storey buildings with a single storey component at the rear to create a potential escarpment view corridor for southern neighbours. The two storey section is located about 25m from the dwelling at No. 23 Russell Street and about 12m from the dwelling at No. 25 Russell Street. The development is assessed as reasonable in that it complies with WLEP and WDCP requirements, with the exception of side setback and garage width variations that do not have an impact in terms of exacerbating neighbouring view loss. As existing side boundary views that are partially obstructed by vegetation, buildings and structures, it is considered that the expectation to retain such views is often unrealistic.

Taking all these factors into account, the proposal has been assessed

against the relevant objectives and is considered satisfactory.

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#### 4.17 Retaining Walls

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<ul style="list-style-type: none"> <li>Maximum retaining wall height of 600mm setback up to 900mm from side or rear boundary</li> </ul>	<p>The proposal includes the construction of two north side boundary fill retaining walls.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>Maximum retaining wall height of 1 metre setback more than 900mm from side or rear boundary</li> </ul>	<p>Lot 1's retaining wall is L-shaped and includes a small section along the rear property boundary (about 1.7m long) with an overall length of about 38.7m.</p>	
<ul style="list-style-type: none"> <li>Retaining wall over 1m in height to be designed by an engineer</li> </ul>	<p>Lot 2's retaining wall is T-shaped with a small section along both rear boundaries (about 3.2m long) with an overall length of approximately 47.1m.</p> <p>The maximum height of the retaining walls shall not exceed 600mm.</p> <p>Standard condition for earthwork and retaining wall construction recommended.</p>	

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

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<ul style="list-style-type: none"> <li>15m site width required</li> </ul>	<p>The site width is 18.825 metres &amp; 15.8m along rear property boundary in the vicinity of the splay corner.</p>	<p>Yes</p>
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#### 4.22 Additional controls for Dual Occupancies –building character and form

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<ul style="list-style-type: none"> <li>Garages on the front elevation must be articulated from the front facade</li> </ul>	<p>The double garages facing the street are satisfactorily articulated and separated from the front dwelling elevation with horizontal and vertical architectural elements including a projecting first floor balcony. One garage is stepped back from the other.</p>	<p>Yes</p>
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#### 4.23 Additional Controls for Dual Occupancy's – Deep Soil Zones

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<ul style="list-style-type: none"> <li>Half required landscaped area to be provided as deep soil zone with a minimum dimension of 3m</li> </ul>	<p>The minimum required deep soil zone for Lot 1 is 46.14m<sup>2</sup> and for Lot 2 it is 45.66m<sup>2</sup>.</p>	<p>Yes</p>
<ul style="list-style-type: none"> <li>Appropriate dense planting with trees and shrubs</li> </ul>	<p>Both lots provide suitable deep soil zones which are densely planted with trees and shrubs.</p>	
<ul style="list-style-type: none"> <li>No structures, carparks, driveways, hard paving, decks balconies or drying areas are permitted within the deep soil zone.</li> </ul>	<p>No structures are contained within the deep soil zone.</p>	
<ul style="list-style-type: none"> <li>Deep soil zones to have minimum dimensions of 3m</li> </ul>	<p>No concern has been raised by Council's Landscape Architect subject to the recommended conditions.</p>	

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## CHAPTER B2 – RESIDENTIAL SUBDIVISION

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
<u>5 Topography &amp; natural landform</u>	The proposed dual occupancy demonstrates that the site can be developed for this purpose and the subdivision is consistent with the site topography.	Yes
<u>6 Subdivision layout – aspect &amp; solar access orientation</u>	<p>The proposed subdivision does not change the aspect of the existing lot street frontage which is generally aligned west to east. The 2 newly created lots are regular in shape. Lot 2 has a splay corner along the south eastern boundary.</p> <p>Required min lot size 449m<sup>2</sup>, proposed:</p> <p>Lot 1: 461.4m<sup>2</sup></p> <p>Lot 2: 456.6m<sup>2</sup></p> <p>Both lots comply with the minimum lot size.</p> <p>Both lots comply with DCP lot depth requirements. The minimum required lot width is 15m for west/east oriented lots. The width of both lots is 9.412m which is non-compliant with control 6.3.2 of Chapter B2. The variation is supported.</p>	No, Variation is considered acceptable
<u>15 Stormwater Drainage</u>	The proposal was accompanied with a stormwater drainage concept plan showing disposal of stormwater to the street. This information was reviewed by Council's Development Engineer who supported the application subject to recommended conditions of consent.	Yes
<u>17 Servicing Arrangement</u>	Services are available to the site. Appropriate conditions will be attached to any consent issued.	N/A
<u>18 Road Addressing</u>	No details provided.	Can be conditioned.

## CHAPTER D1 – CHARACTER STATEMENTS

### Balgownie

The proposal is consistent with the existing and desired future character for the locality as the development consists of two detached brick and clad dwelling houses facing towards the street, while retaining a low density residential character. The new two storey dwellings with their brick walls and pitched hipped and gable roofs are consistent with contemporary building design in the suburb.

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

### 7 Parking demand and servicing requirements

	Rate	Calculation	Required	Provided	Compliance
Car parking	1 space per dwelling with a GFA of less than 125m <sup>2</sup>	Dwelling 1 (>125m <sup>2</sup> )	2	2	Yes
	2 spaces per dwelling with a gross floor area of more than 125m <sup>2</sup>	Dwelling 2 (>125m <sup>2</sup> )	2	2	Yes

The proposal has been assessed against the relevant objectives and controls of Clause 7 and is considered satisfactory. Council's Development Engineer has reviewed the application and has provided a satisfactory referral with regards to parking. Condition recommended for driveways and parking to comply with relevant Australian Standard. The driveway design allows for the provision of an on-street parking space.

### 8 Vehicular access

Driveway grades and sight distances comply. Condition recommended.

## CHAPTER E6: LANDSCAPING

It is considered that the proposed development satisfies the objectives of WDCP2009 Chapter E6 Landscaping. A Landscape Concept Plan was submitted in support of this application and was reviewed by Council's Landscape Architect who provided a satisfactory referral. Conditions of consent were recommended including tree management and compensatory tree planting.

## CHAPTER E7: WASTE MANAGEMENT

It is considered that the proposed development satisfies the objectives of WDCP2009 Chapter E7 Waste Management. Conditions will be imposed on the consent to ensure that Waste Management is carried out to Council's Waste Management specification during construction.

## CHAPTER E9 HOARDINGS AND CRANES

The subject site will require hoarding for the proposed development. Condition to be imposed on the consent to ensure that hoarding is erected Council's specification.

## CHAPTER E14 STORMWATER MANAGEMENT

The property is not located within an OSD Concession zone and the impervious area of the site will increase by more than 100m<sup>2</sup>. Therefore, an OSD facility is required. The submitted stormwater concept plan incorporates an OSD facility and stormwater disposal to the street.

The application has been reviewed by Council's Development Engineer in relation to stormwater management. The proposed development satisfies the objectives of WDCP2009 Chapter E14 Stormwater Management. Appropriate conditions have been recommended and shall be imposed on the consent.

## CHAPTER E17 PRESERVATION AND MANAGEMENT OF TREES AND VEGETATION

The application requires the removal of four (4) trees as identified on the Arboricultural Impact Assessment and are further described as follows:

Tree 1 *Lophostemon confertus*

Tree 2 *Lophostemon confertus*

Tree 3 *Brachychiton acerifolius*

Tree 6 *Castanospermum australe*

All other trees, including trees 4 – *Livistona australis*, 5 – *Brachychiton acerifolius* and 7 – *Eucalyptus tereticornis* and the exempt Mulberry tree are to be retained. Tree 4 is to be transplanted to a suitable location. Council's Landscape Officer has assessed the application submission, which included an amended Landscape Concept Plan and Arboricultural Impact Assessment. Conditionally satisfactory

referral advice was received and conditions specifying the trees to be removed, transplanted and/or retained; and tree protection and management provided.

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

The proposal entails the construction of a detached dual occupancy on concrete slabs on ground and 2 low retaining walls. It is considered that the proposed development will have minimal impact on the surface water drainage of the site and satisfies the objectives of Chapter E19 Earthworks (Land Reshaping Works).

#### **CHAPTER E21 DEMOLITION AND ASBESTOS MANAGEMENT**

The application submission proposes demolition of the existing dwelling and structures on the site. A Site Waste Minimisation Plan, including waste removal was included in the application submission. Appropriate conditions will be imposed on the consent to minimise impacts and ensure that demolition is carried out to Council's and SafeWork NSW requirements.

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

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

# Plannex Environmental Planning

Our Ref 2020.077  
Your Ref DA-2021/383

Phone: 0407 545 712

P.O. Box 239  
FIGTREE NSW 2525

28 May 2021

The General Manager  
Wollongong City Council  
Locked Bag 8821  
WOLLONGONG NSW 2500

**Attention:- Cathryn Bell**

Dear Cathryn

**Development Application DA-2021/383  
Residential – Demolition of Existing Structures and Construction of Dual  
Occupancy - Subdivision Torrens Title Two (2) Lots  
Lot 15 DP 801925 No.19 Russell Street, Balgownie**

I refer to Council's additional information request dated 6<sup>th</sup> May 2021 addressed to Design Workshop Australia and relating to the above mentioned development application. Plannex Environmental Planning has been retained to prepare a response to Council's concerns in relation to the potential impact on views from neighbouring properties.

It is understood Council has received a number of objections to the development proposal with the objections from the owners of neighbouring properties at Nos.23 and 25 Russell Street specifically raising concerns with the impact of the proposed dual occupancy on views currently obtained from those neighbouring dwellings. In order to address these concerns, the potential view impacts arising from the proposed development have been considered in light of the relevant provisions of clause 4.16 of Wollongong Development Control Plan 2009 (WDCP 2009) and the Planning Principle established by the Land and Environment Court.

## **1.0 Wollongong Development Control Plan 2009 (WDCP 2009)**

Clause 4.16 of WDCP 2009 contains Council's planning controls and guidelines in relation to the impact of new development upon views. The objectives of the planning controls and guidelines are stated as being:-

- (a) *To encourage view sharing from adjoining or nearby properties, public places, and new development.*

- (b) *To protect and enhance significant view corridors from public places.*
- (c) *To encourage the siting and design of new buildings which open up significant views from public areas.*

To achieve these objectives, clause 4.16.2 of WDCP 2009 lists a range of planning controls and guidelines. The listed matters, and the manner in which they have been taken into account by the proposed development, are outlined below.

1. *Visual impact assessment should include an:*
  - (a) *Assessment of views likely to be affected.*
  - (b) *Assessment of what part of the property the views are obtained from.*
  - (c) *Assessment as to the extent of the potential view loss impact.*
  - (d) *Assessment as to the reasonableness of the proposal causing the potential view loss impact.*

Comment:- These issues are directly derived from the Planning Principle established by the NSW Land and Environmental Court and are discussed in 2.0 below.

2. *A range of view sharing measures shall be considered for incorporation into the design of a building including:*
  - (a) *Appropriate siting of the building on the land so as to provide a strip of land, unencumbered with structures, down one side of the dwelling. This strip of land must be a minimum width of 3m or 25% of the lot width whichever is the greater.*
  - (b) *A reduced view corridor width may be accepted, where it is located adjacent to a view corridor on the adjacent site, subject to the combined width having a minimum of 4m.*

Comment:- The view sharing measures outlined require buildings to be setback from side boundaries in order to provide view corridors down the sides of buildings. This is in acknowledgement of the Planning Principle, which indicates that “*the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries*” [para 27]. By providing increased side boundary setbacks, this enables views from the front or rear of neighbouring dwellings to be wholly or partly maintained between buildings.

In this case, the existence of the adjoining access handles servicing Nos.21 and 21A and No.23 Russell Street provide a side boundary building separation that is far greater than normally required. Notwithstanding this, further increasing or decreasing the side boundary setback to the proposal has no bearing at all on views and the primary views are obtained across the side boundary.

*(c) Appropriate placement of the bulk of the building on a site.*

Comment:- The bulk of the building form has been located towards the site's Russell Street frontage, with the rear portion limited to single storey in height. Both proposed dwellings have been located with front building line setbacks and rear boundary setbacks that are consistent with those required by clauses 4.2 and 4.3 of Chapter B1 of WDCP 2009. Furthermore, the two-storey component of both dwellings has been setback from the rear boundary at a distance double that required by clause 4.1 of Chapter B1.

*(d) Provision of greater separation between buildings, where necessary to retain view corridors.*

Comment:- As outlined in relation to items (a) and (b) above, the setback to the southern side boundary has no bearing on views – increasing the setback does not result in any reduction in view loss. The setbacks provided to the rear boundary are a minimum of 8.4m to the single storey component and about 16.4m to the two-storey component, which exceed the setbacks required by WDCP 2009 (being, 900mm and 8m, respectively). Providing greater setbacks than the required minimums, enables the maintenance of some of the view corridor from No.23 Russell Street (see Photos 1 and 2 attached).

*(e) Articulation within the building's design.*

Comment:- The dwellings have been appropriately articulated to include a combination of single and two-storey forms, with varied setbacks and variable roof forms and roof line. External finishing materials and colours are also varied to provide further articulation.

*(f) Careful selection of roof forms and slope.*

Comment:- The roofs use a combination of hipped and gabled forms designed to reduce potential roof massing. The 25° roof pitch is not excessive and is consistent with that of typical traditional pitched roofs. The nominated colour for the roofing material (ie Colorbond 'Monument') will not promote excessive reflectivity or glare.

*(g) Placement of vents, air conditioning units, solar panels and similar structures in locations which will not restrict views.*

Comment:- There are no additional structures to be placed on top of the roof, which may otherwise become obstructions to views.

## **2.0 NSW Land & Environmental Court - Planning Principle**

In *Tenacity Consulting v Warringah Council [2004]* NSWLEC 140 Senior Commissioner Roseth established a Planning Principle to assist in the assessment of view impact. The Planning Principle (which is adopted by clause 4.16 of Chapter B1 of WDCP 2009) establishes a four-step assessment process whereby consideration is given to the nature of the views affected; the part of the property

from where the views are obtained; the extent of the view impact; and, the reasonableness of the proposal causing the view impact. In applying the Planning Principle from *Tenacity* to the current development proposal and views from Nos. 23 and 25 Russell Street, the following assessments have been made. It should be noted that as access to neighbouring properties was limited the assessments have been made based upon external observations of the neighbours' dwellings; the aspect of those dwellings; the elevation of those dwellings; and the content of the neighbours' objections, in order to determine what the views might be available and the potential impact of the proposal.

**a) *Assessment of the views affected***

**No.23 Russell Street**

The single storey dwelling house has been orientated towards the side property boundary, facing north, and is understood to have living rooms facing in that direction, although a double garage is located at the very western end of the dwelling house. Views, looking from the living room windows diagonally to the north-west (west of the dwelling house at No.21 Russell Street), are likely to be available across the subject site. This view corridor would take in the existing dwelling houses at Nos.19 and 13 Russell Streets and existing individual trees in the foreground, with the Illawarra Escarpment in the background. The escarpment is not viewed as a whole, with the escarpment view disrupted by the foreground vegetation and buildings – reducing the value of the view. Brokers Nose, the most significant feature of this part of the escarpment, is obscured from view by existing vegetation located at the rear of the subject site. The attached Photographs 1 and 2 provide an indication of the views likely to be obtained from No.23 Russell Street.

**No.25 Russell Street**

As part of their submission opposing the development proposal, the resident objector of No.25 Russell Street has provided photographs which purport to have been taken from the primary living room and formal dining room of that two-storey dwelling house. The photographs indicate that from the primary living area, the main view is to the north, taking in Brokers Nose and the immediate escarpment slopes in the background, with existing side boundary planting (within the objector's property) and the side boundary fence occupying the foreground, and the roofs of the dwelling houses at Nos.13 and 19 Russell Street in the mid ground. From the dining room window, the main view is again to the north taking in Brokers Nose and the escarpment in the background, with the existing single storey dwelling house (No.19 Russell Street) and Brush Box trees in the foreground.

The images below are taken from the objector's submission to illustrate their available views (living room to the left and dining room to the right).



**b) Consideration of what part of the property the views are obtained from**

Without having access to the objectors' properties and dwellings it is difficult to determine from exactly where the views described above are obtained. However, based on site observations of verandas, balconies and windows; our understanding of the location of internal living areas; and, the content of the objections, reasonable assumptions have been made for the purposes of this assessment.

No.23 Russell Street

The objector's submission indicates the development proposal will have a "*negative impact on our ability to enjoy the remaining iconic mountain views*", but does not disclose from where in their dwelling house those views are obtained. Site observations indicate that there are three (3) larger, multi-pane windows in the northern elevation which are likely to be windows to internal living areas. There is also a veranda located on the northern side of the dwelling house – although it is noted that the veranda is raised only marginally above ground level and provides access to the front door of the dwelling. There is existing high planting against part of this veranda and planting adjacent to the side boundary fence, all of which would have some impact on the extent of views available from both the veranda and within the dwelling house itself.

Views from a seated position within the dwelling house are likely to be partially impacted by the side boundary fence and boundary plantings, with the angle of view likely to be inclined slightly upward to see over these obstacles. Standing views looking upward may be impacted by the eaves of the dwelling house, which extend out over the full width of the veranda. In addition, the extent to which views might be obtained will depend on the configuration of the room, including the proximity of the viewer to the windows.

No.25 Russell Street

The objector has identified that the northerly views are obtained from a ground floor living room and a ground floor dining room. This is confirmed by on-site observations which clearly reveal that there are no first floor level windows facing the north across the site, and therefore all north-facing windows are at ground floor level.

It is unclear whether the objector's photographs have been taken from a seated or a standing position. Assuming they were from a standing position, it is expected



that the majority of both views will still be achieved from a seated position – with the only difference being the lower position of the viewer’s eye level.

**c) Assess the extent of the impact for the whole property**

*Tenacity* requires the assessment of the extent of impact to be undertaken for the whole of the property and not just the view impacted.

No.23 Russell Street

The north-westerly views towards the Illawarra Escarpment from the single storey dwelling house at No.23 Russell Street are obtained obliquely across the side boundary of that property and the subject site. The extent to which these views are available is likely to be impacted by existing vegetation within the objector’s own property, adjacent to the windows from which the view is claimed, and along the side boundary. Outside of the boundaries of No.23 Russell Street, views towards the Escarpment are impeded to varying degrees – with much of the escarpment obscured by vegetation within the development site.

As shown in Photos 1 and 2, the proposed dual occupancy will obscure the partial escarpment views currently available between trees and above the roofs of the existing single storey dwelling houses at Nos.13 and 19 Russell Street. The view towards Brokers Nose is already obscured by existing trees, a situation which will remain unchanged post-development. As the remaining – albeit partially obscured – views of the escarpment will be completely obscured by the proposal, the impact of the proposal on these views must be quantitatively assessed as ‘**severe**’ in the language of *Tenacity*.

No.25 Russell Street

There are first floor windows within the eastern elevation of No.25 Russell Street that allow distant views towards the ocean. These views will not be impacted by the proposal. Similarly, ground floor and first floor windows in the western elevation (facing Russell Street) would provide views to the Illawarra Escarpment which will also remain unaffected. *Tenacity* acknowledges that views to the rear and front of a dwelling house are easier to protect.

As shown in Photos 3 and 4 (attached), the northerly views from the ground floor living room and ground floor dining room will be completely obscured by the proposal. As the entire existing view will be obscured, the view loss must be quantitatively assessed as being ‘**devastating**’ from these windows. *Tenacity* does note that the “*expectation to retain side views....is often unrealistic*” [para 27]. Having regard to the ground floor level of the objector’s windows and the fact that views are obtained across a side boundary and over an existing single storey dwelling, it is most certainly the case that the expectation to retain these views is unrealistic.

**d) Assess the reasonableness of the proposal causing the impact**

One method of determining the “*reasonableness*” of a proposal is whether or not it satisfies relevant development controls. In *Tenacity*, Senior Commissioner Roseth

stated "*a development that complies with all planning controls would be considered more reasonable than one that breaches them*" [para 29]. The development proposal complies with all of Council's relevant planning controls for development of this nature, with the exception of side boundary setbacks to the southern site boundary and the internal boundary within the development, and the planning control relating to the proportionate width of the garage door. Neither of these planning controls have any bearing on the extent to which the proposed development impacts the views of neighbours.

In terms of those planning controls which do influence the extent to which the proposal impacts north-westerly and northerly views from Nos.23 and 25 Russell Street, the development proposal:-

- complies with the front building line setback to Russell Street;
- provides a rear boundary setback to the single storey component of 8.4m (minimum), which exceeds the minimum 900mm;
- provides a rear boundary setback of 16.4m (minimum) to the two-storey component of the development, exceeding the minimum requirement of 8m;
- avoids any building within 8m of the rear boundary, noting that WDCP 2009 would normally allow single storey development within 8m of the rear boundary;
- has a height which does not exceed the maximum two-storey height limit; and
- has an overall maximum building height of less than the maximum allowable 9m.

Taking into account the above, the development proposal has not sought to push the planning controls to their limits as the extent of built form which could have been presented in the southern profile of the development is considerably less than Council's planning controls allow.

*Tenacity* notes that where an impact on views occurs as a result of a non-compliance, then that impact may be considered unreasonable even if it is only 'minor'. *Tenacity* also notes that, even for a compliant development, "*the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours*" [para 29], and if the answer is not, then the compliant proposal would probably be considered acceptable.

In this case, any two-storey development on the subject site is going to obscure the existing views of Nos.23 and 25 Russell Street. Even if the single storey building elements were removed from the rear of the dwellings, the escarpment view from No.23 Russell Street would still be obscured. On this basis, it is considered that a different two-storey design would not improve the view outcomes for the neighbours and the proposal is therefore acceptable with regard to its impacts.

### 3.0 Conclusion

Applying the Planning Principle established by the NSW Land and Environment Court in *Tenacity*, the view impact of the development proposal has been assessed as '**severe**' for No.23 Russell Street, and '**devastating**' in the case of the ground floor living and dining room windows of No.25 Russell Street. However, in both cases the views impacted are:-

- obtained from ground floor windows;
- obtained across a side property boundary; and
- obtained over the top of a single storey dwelling house.

Furthermore, in the case of No.23 Russell Street, the existing views are impacted to varying degrees by existing vegetation within that property and within the development site, which somewhat diminishes the value of those views.

The development proposal complies with Council's planning controls relating to front and rear setbacks, maximum number of storeys, and sits well below the maximum 9m building height limit. Therefore, in terms of the position and height of the built form relative to the objectors' outlook, the development is not unreasonable.

Although the proposed development will obscure escarpment views from Nos.23 and 25 Russell Street, the proposed development is not considered to be unacceptable in terms of view sharing for the following reasons:-

- a) The views obtained from No.23 are obtained obliquely across a side boundary from ground floor level windows, and are partially impeded by existing vegetation within that property and existing vegetation and buildings outside of that property;
- b) The views obtained from No.25 are obtained across the side boundary and from ground level windows;
- c) *Tenacity* notes that "*the expectation to retain side views and sitting views is often unrealistic*" [para 27];
- d) To take point (c) one step further, just as *Tenacity* notes that the retention of views from a seated position is an unrealistic expectation, it follows that an expectation to retain ground floor level views must also be unrealistic;
- e) Having regard to the planning controls and two-storey form of newer dwellings along Russell Street (specifically) and the locality (more generally), it would be unreasonable for development on the subject site to be restricted to single storey in height in order to preserve side views from Nos.23 and 25 Russell Street; and

- f) The proposed development has not been designed to the limits of the planning controls applying to front and rear setbacks, and building heights, and is actually significantly less than many of those limits.

Yours faithfully

A handwritten signature in black ink, appearing to read 'G. Debnam'.

Glenn Debnam BTP (UNSW) RPIA  
**Town Planner**  
**Director**

PHOTO 1



Panoramic view from boundary with No.23 Russell Street, with roof line of proposed dual occupancy shown yellow.



PHOTO 2



Alternate view from boundary with No.23 Russell Street, with roof line of proposed dual occupancy shown yellow.



**PHOTO 3**



Panoramic view from boundary opposite rear section of No.25 Russell Street, with roof line of proposed dual occupancy shown yellow.

**PHOTO 4**



Panoramic view from boundary opposite ground floor dining room window of No.25 Russell Street, with roof line of proposed Unit 2 shown yellow.



## **Attachment 6: Draft Conditions of Consent for DA-2021/383**

### **Approved Plans and Specifications**

- 1 The development shall be implemented substantially in accordance with the details and specifications set out on Project No 2116 Drawing 007-P to 009-P, 013-P and 041-P to 043-P dated 31 May 2021 and 006-N dated 23 March 2021 prepared by Design Workshop Australia; Job No DA-1787 page 1-B to 3-B dated 28 May 2021 prepared by Captivate and Reference 20026\_SK1 dated 19 March 2021 prepared by C. Robson & Associates Pty Ltd and any details on the application form, and with any supporting information received, except as amended by the conditions specified and imposed hereunder.

### **General Matters**

#### **2 Occupation Certificate**

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

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

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

#### **4 Construction Certificate**

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

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

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

#### **5 Tree Retention/Removal**

The developer shall retain the existing tree(s) indicated on the Landscape Plan by Captivate, Issue B, dated 28 May 2021 and the Aboricultural Impact Assessment by Allied Tree Consultancy dated March 2021 consisting of tree(s) numbered 4 and 5 on the subject site and Tree 7 on the adjacent site.

Any branch pruning, which has been given approval, must be carried out by a qualified arborist in accordance with Australian Standard AS4373-2007.

All tree protection measures are to be installed in accordance with Australian standard AS 4970-2009 Protection of Trees on development Sites.

All recommendations in the Aboricultural Impact Assessment by Allied Tree Consultancy, Reference No 4416, dated March 2021, are to be implemented including and not restricted to: remedial tree pruning, dead wood removal, fencing and signage, sediment buffer, stem protection, establishing tree protection zones and watering and root hormone application if required.

The developer shall transplant tree numbered 4 to an appropriate location on site by an experienced and qualified contractor.

This consent permits the removal of trees numbered 1 - 3 and 6 as indicated on the Landscape Plan by Captivate, Issue B, dated 28 May 2021 and the Aboricultural Impact Assessment by Allied Tree Consultancy dated March 2021. No other trees shall be removed without prior written approval of Council.

6 **Deep Soil Zone to be Maintained**

The deep soil zone area approved by this consent is required to be retained as part of the development and must be maintained as a deep soil zone area at all times. The deep soil area is defined as follows:

An area of the site that is not to be built upon, or underneath, thereby leaving an area of deep, soft soil for substantial deep-rooted vegetation, natural vegetation and natural drainage.

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

7 **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 PC 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.

8 **Property Addressing Policy Compliance**

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

9 **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.

10 **Stormwater Connection to Kerb**

Connection across footways shall be by means of one or two (maximum), sewer grade UPVC pipe(s), 100mm diameter pipes with a continuous downslope gradient to the kerb. Connection to the kerb shall be made with a rectangular, hot dipped galvanised mild steel weephole(s) shaped to suit the kerb profile, with each weephole having the capacity equal to a 100mm diameter pipe. Alternatively, a maximum of two 150mm x 100mm hot dipped galvanised steel pipes may be used across footways, with the 150mm dimension being parallel to the road surface to suit the kerb profile.

11 **Sizing of Drainage**

All roof gutters, downpipes, pits, and pipelines draining roof areas and other impervious surfaces with no deliberate overflow path to the on-site stormwater detention (OSD) facility, shall be designed to cater for a 1 in 100 year ARI storm event in accordance with AS 3500.3 – Plumbing and Drainage (Stormwater Drainage). Details of gutter/downpipe/pipeline sizes and locations shall be reflected on the Construction Certificate plans.

12 **Stormwater Drainage Design**

A detailed drainage design for the development must be submitted to and approved by the PC 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, being the Drainage Design Site Plan, Job no. OCE13269 Drawing C02 Revision C dated 31 May 2021 by Optima.
- b Include details of the method of stormwater disposal. Stormwater from the development must be piped to Council's existing stormwater drainage system.

- c Engineering plans and supporting calculations for the stormwater drainage system are to be prepared by a suitably qualified engineer and be designed to ensure that stormwater runoff from upstream properties is conveyed through the site without adverse impact on the development or adjoining properties. The plan must indicate the method of disposal of all stormwater and must include rainwater tanks, existing ground levels, finished surface levels on all paved areas, estimated flow rates, invert levels and sizes of all pipelines.
- d Overflow paths shall be provided to allow for flows of water in excess of the capacity of the pipe/drainage system draining the land, as well as from any detention storage on the land. Blocked pipe situations with 1 in 100 year ARI events shall be incorporated in the design. Overflow paths shall also be provided in low points and depressions. Each overflow path shall be designed to ensure no entry of surface water flows into any building and no concentration of surface water flows onto any adjoining property. Details of each overflow path shall be shown on the detailed drainage design.

### 13 **On-Site Stormwater Detention (OSD) Design**

The developer must provide OSD storage for stormwater runoff from the development. The design and details of the OSD system must be provided in conjunction with the detailed drainage design and approved by the PC prior to the release of the Construction Certificate. The OSD design and details must satisfy the following requirements:

- a Must be prepared by a suitable qualified engineer in accordance with Chapter E14 of the Wollongong DCP 2009.
- b Must include details of the Site Storage Requirement (SSR) and Permissible Site Discharge (PSD) values for the site in accordance with Section 10.2.4 of Chapter E14 of the Wollongong DCP 2009.
- c The OSD facility must be designed to withstand the maximum loadings occurring from any combination of traffic (with consideration to residential and heavy vehicles), hydrostatic, earth, and buoyancy forces. Details must be provided demonstrating these requirements have been achieved.
- d The OSD facility shall incorporate a minimum 900mm x 900mm square lockable grate for access and maintenance purposes, provision for safety, debris control screen, and a suitably graded invert to the outlet to prevent ponding.
- e Must include discharge control calculations (i.e. orifice/weir calculations) generally in accordance with Section 10.2.6 and 10.4.4 of Chapter E14 of the Wollongong DCP 2009.
- f Details of the orifice plate including diameter of orifice and method of fixing shall be provided.
- g Must include details of a corrosion resistant identification plaque for location on or close to the OSD facility. The plaque shall include the following information and shall be installed prior to the issue of the Occupation Certificate:
  - The structure is an OSD facility, being part of the stormwater drainage network, and is not to be tampered with.
  - Identification number DA-2021/383;
  - Any specialist maintenance requirements.
- h Must include a maintenance schedule for the OSD system, generally in accordance with Chapter E14 of the Wollongong DCP 2009.

### 14 **Council Footpath Reserve Works – Driveways and Crossings**

All redundant vehicular crossings and laybacks rendered unnecessary by this development must be reconstructed to normal kerb and gutter or existing edge of carriageway treatment to match the existing. The verge from the back of kerb to the boundary must be restored and the area appropriately graded, topsoiled and turfed in a manner that conforms with adjoining road reserve. The area forward of the front boundary must be kept smooth, even and free from any trip hazards. All alterations of public infrastructure where necessary are at the developer's expense.

All new driveway laybacks and driveway crossings must be designed in accordance with Wollongong City Council Standards. Any redundant linemarking such as 'marked parking bays' are

adjusted/removed at the developer's expense by a Council recognised contractor with the relevant insurances. Details and locations are to be shown on the Construction Certificate Plans.

- 15 The parking dimensions, internal circulation, aisle widths, kerb splay corners, head clearance heights, ramp widths and grades of the car parking areas are to be in conformity with the current relevant Australian Standard AS 2890.1, except where amended by other conditions of this consent. Details of such compliance are to 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 **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 PC, prior to the release of the Construction Certificate.

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

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

20 **Tree Protection and Management**

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

- a Installation of Tree Protection Fencing - Protective fencing shall be 1.8 metre cyclone chainmesh fence, with posts and portable concrete footings. Details and location of protective fencing must be indicated on the architectural and engineering plans to be submitted to the PC prior to release of the Construction Certificate.
- b Mulch Tree Protection Zone: Areas within a Tree Protection Zone are to be mulched with minimum 75 mm thick 100% recycled hardwood chip/leaf litter mulch.
- c Irrigate: Areas within the Tree Protection Zone are to be regularly watered in accordance with the arborist's recommendations.

21 **Fencing**

The development is to be provided with fencing at full cost to the developer along the common boundary between Lots 1 and 2 behind the front building line. The fence design shall be a minimum height of 1.8 metre and be constructed of high brick, timber lapped and capped, palisade or Colorbond.

Fencing for rear and side property boundaries (behind the front building line) and private rear courtyards are to be provided with minimum 1.8 metre high brick, timber lapped and capped or colorbond fences.

Any new fences or screens constructed on the site shall be compatible with stormwater drainage requirements.

This requirement is to be reflected on the Construction Certificate plans.

22 **Retaining Walls**

The boundary retaining walls shall not exceed 600mm in height and will be wholly located, including footings and subsurface drainage, within the subject property. This requirement shall be reflected in Construction Certificate plans.

23 **Development Contributions**

Pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979 and the Wollongong City-Wide Development Contributions Plan, a monetary contribution of \$7,110.00 (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:

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

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: 1324913	<ul style="list-style-type: none"><li>• Credit Card</li></ul>
In Person	Wollongong City Council Administration Building - Customer Service Centre Ground Floor 41 Burelli Street, WOLLONGONG	<ul style="list-style-type: none"><li>• Cash</li><li>• Credit Card</li><li>• Bank Cheque</li></ul>
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 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)

**Prior to the Commencement of Works**

24 **Appointment of PC**

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

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

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

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

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

- a in the case of work to be done by a licensee under that Act:
  - i has been informed in writing of the licensee’s name, contractor license number and contact address details (in the case of building work undertaken by a contractor under the Home Building Act 1989); and
  - ii is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or
- b in the case of work to be done by any other person:
  - i has been informed in writing of the 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.

26 **Sign – Supervisor Contact Details**

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

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

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

27 **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.

28 **Enclosure of the Site**

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

- 29 **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.
- 30 **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.
- 31 **Demolition Works**  
All demolition work shall be carried out in accordance with Australian Standard AS2601 (2001): The Demolition of Structures or any other subsequent relevant Australian Standard and the requirements of the SafeWork NSW.  
  
No demolition materials shall be burnt or buried on-site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Any unforeseen hazardous and/or intractable wastes shall be disposed of to the satisfaction of the PC. 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.
- 32 **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.
- 33 **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.
- 34 **Contaminated 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.
- 35 **Survey Report – Siting of Development within Property Boundaries**  
A survey report prepared by a registered surveyor is required to be submitted to the PC to ensure that the proposed development is located on the correct allotment and at the approved distances from the boundary. This must be verified by pegging the site prior to commencement of works.
- 36 **Structural Engineer's Details**  
Structural engineer's details for all structurally designed building works such as reinforced concrete footings, reinforced concrete slabs and structural steelwork must be submitted to the PC, prior to the commencement of any works on the site.
- 37 **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.

38 **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.

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

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

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

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

**During Demolition, Excavation or Construction**

41 **Restricted Hours of Construction Work**

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

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

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

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

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

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

42 **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> >).

43 **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 PC, and a copy submitted to Council (in the event that Council is not the PC), prior to commencement of the construction works.

44 **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.

45 **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.

46 **Imported Fill Material**

Any imported fill material brought onto the site shall be virgin excavated natural material as defined by the NSW Environment Protection Authority, that is natural material such as clay, gravel, sand, soil or rock fines that has been excavated or quarried from areas that are not contaminated with manufactured chemicals, or with process residues, as a result of industrial, commercial, mining or agricultural activities, and that does not contain sulfidic ores or soils, or any other waste including fragments or filaments of asbestos. A certificate from a suitably qualified environmental consultant confirming the fill material is not contaminated shall be submitted to Council for its records.

47 **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.

48 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".

49 **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."

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

Stormwater for the land must be piped to Russell Street kerb and gutter.

51 **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.

52 **Copy of Consent to be in Possession of Person carrying out Tree Removal**  
The Developer/Applicant must ensure that any person carrying out tree removal is in possession of this development consent and/or the approved landscape plan, in respect to the tree(s) which has/have been given approval to be removed in accordance with this consent.

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

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

54 **BASIX**  
An Occupation Certificate must not be issued unless accompanied by the BASIX Certificate applicable to the development. The PC 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.

55 **Drainage**  
The developer must obtain a certificate of Hydraulic Compliance (using Council's M19 form) from a suitably qualified civil engineer, to confirm that all stormwater drainage and on-site detention works have been constructed in accordance with the approved plans. In addition, full works-as-executed plans, prepared and signed by a Registered Surveyor must be submitted. These plans and certification must satisfy all the stormwater requirements stated in Chapter E14 of the Wollongong DCP 2009. This information must be submitted to the PC prior to the issue of the final Occupation Certificate.

56 **Restriction on Use – On-site Detention System**  
The applicant must create a restriction on use under the Conveyancing Act 1919 over the on-site detention system. The following terms must be included in an appropriate instrument created under the Conveyancing Act 1919 for approval of Council:

“The registered proprietor of the lot burdened must not make or permit or suffer the making of any alterations to any on-site stormwater detention system on the lot(s) burdened without the prior consent in writing of the authority benefited. The expression ‘on-site stormwater detention system’ shall include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater as well as all surfaces graded to direct stormwater to those structures.

Name of the authority having the power to release, vary or modify the restriction referred to is Wollongong City Council.”

The instrument, showing the restriction, must be submitted to the PC for endorsement prior to the issue of the Occupation Certificate and the use of the development.

57 **Positive Covenant – On-Site Detention Maintenance Schedule**  
A positive covenant shall be created under the Conveyancing Act 1919, requiring the property owner(s) to undertake maintenance in accordance with the Construction Certificate approved On-Site Stormwater Detention System and Maintenance Schedule (application number to be referenced).

The instrument, showing the positive covenant must be submitted to the PC for endorsement prior to the issue of the Occupation Certificate and the use of the development.

58 **On-Site Detention – Structural Certification**  
The submission of a certificate from a suitably qualified practising civil and/or structural engineer to the PC is required prior to the issue of the Occupation Certificate. This certification is required to verify the structural adequacy of the on-site detention facility and that the facility has been constructed in accordance with the approved Construction Certificate plans.

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

60 The developer must make compensatory provision for the trees required to be removed as a result of the development. In this regard, two, 400 litre container mature plant stock shall be placed along the western property boundary of the site. The suggested species are *Lagerstroemia indica*.

**Prior to the Issue of the Subdivision Certificate**

61 **Existing Easements**  
All existing easements must be acknowledged on the final subdivision plan.

62 **Existing Restriction as to Use**  
All existing restriction on the use of land must be acknowledged on the final subdivision plan.

63 **Encroaching Pipes**  
A minimum one (1) metre wide easement to drain water shall be created over any encroaching drainage pipes.

For all drainage easements proposed over the subject lots, a works as executed/survey plan of all stormwater drainage within the site is to be submitted with the Subdivision Certificate Application to confirm this.

64 **Encroaching Services**  
A minimum one (1) metre wide easement for services must be created over any encroaching utility service.

65 **Section 88B Instrument**  
The submission of a Final Section 88B Instrument to Council/PC, which incorporates (but is not necessarily limited to) the following restrictions, easements and covenants, where applicable:

a Easement for services.

66 **88B Instrument Easements/Restrictions**  
Any easements or restrictions required by this consent must nominate Wollongong City Council as the authority to vary, modify or release/extinguish the easements or restrictions. The form of the easement(s) or restriction(s) created as a result of this consent must be in accordance with the standard format for easements and restrictions as accepted by NSW Land Registry Services.

67 **Final Documentation Required Prior to Issue of Subdivision Certificate**  
The submission of the following information/documentation to the PC, prior to the issue of a Subdivision Certificate:

- a Completed Subdivision Certificate application form and fees in accordance with Council's fees and charges;
- b Certificate of Practical completion from Wollongong City Council or a PC (if applicable);
- c Administration sheet prepared by a registered surveyor;
- d Section 88B Instrument covering all necessary easements and restrictions on the use of any lot within the subdivision;
- e Final plan of Subdivision prepared by a registered surveyor plus one (1) equivalent size paper copies of the plan;
- f Original Subdivider/Developer Compliance Certificate pursuant to Section 73 of the Water Board (Corporatisation) Act 1994 from Sydney Water;
- g Original Notification of Arrangement from an Endeavour Energy regarding the supply of underground electricity to the proposed allotments;
- h Original Compliance Certificate from Telstra or another Telecommunications Service Provider which confirms that the developer has consulted with the Provider with regard to the provision of telecommunication services for the development.
- i Payment of section 94 fees (Pro rata) (if applicable).

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

### **68 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.