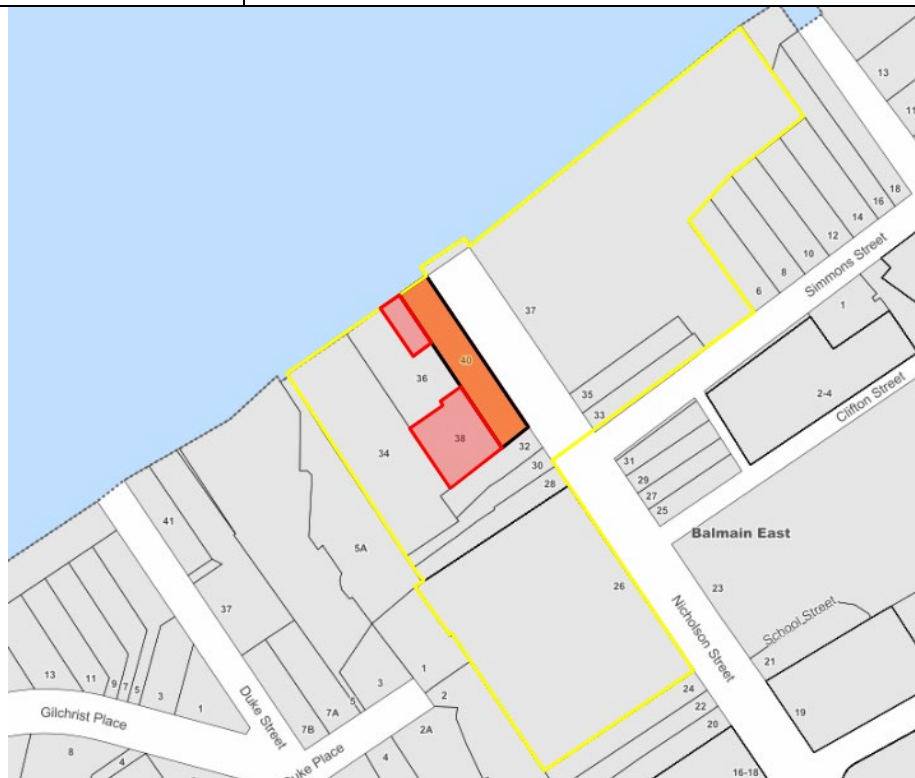






# INNER WEST

## DEVELOPMENT ASSESSMENT PANEL REPORT

<b>Application No.</b>	DA/2023/0503
<b>Address</b>	40 Nicholson Street BALMAIN EAST
<b>Proposal</b>	Alterations and additions to residential development including new boatshed.
<b>Date of Lodgement</b>	27 June 2023
<b>Applicant</b>	The Trustee for Sky Property and Planning Trust
<b>Owner</b>	Mr Adam W Hall Mrs Rebeka Hall
<b>Number of Submissions</b>	Initial: 1 After Renotification: 1
<b>Value of works</b>	\$40,055.00
<b>Reason for determination at Planning Panel</b>	Section 4.6 variation exceeds 10% (FSR)
<b>Main Issues</b>	FSR and Landscaped Area Development Standard exceedance
<b>Recommendation</b>	Approved with Conditions
<b>Attachment A</b>	Recommended conditions of consent
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Section 4.6 Exception to Development Standards – FSR
<b>Attachment D</b>	Section 4.6 Exception to Development Standards – Landscaped Area



**LOCALITY MAP**

Subject Site		Objectors		↑ N
Notified Area		Supporters		

## 1. Executive Summary

This report is an assessment of the application submitted to Council for Alterations and additions to residential development including new boatshed. at 40 Nicholson Street Balmain East.

The application was notified to surrounding properties and 1 submission was received in response to the initial notification. Amended plans were received during the assessment process and were subsequently renotified and 1 submission was received in response.

The main issues that have arisen from the application include:

- FSR breach;
- Landscaped Area breach

The non-compliance is acceptable given that the proposed boat shed replaces an existing shed and deck, taking advantage of an existing jetty to provide boat shed facilities above the mean high-water mark posing minimal impact to surrounding development and therefore the application is recommended for approval.

## 2. Proposal

The proposed development application seeks consent for the following:

- Demolition of the existing elevated tiled pool deck
- Demolition of the existing staircase
- Demolition of the existing boat shed
- Installation of replacement flight of stairs with balustrades
- 1.8m high boundary fencing between no. 40 and no. 38 Nicholson Street
- Landscaping works, including cut and fill.
- Installation of the prefabricated boat shed containing: toilet and shower and; deck on timber piers
- Construction of retaining walls

## 3. Site Description

The subject site is located on the south western side of Nicholson Street, between Mort Bay and Simmons Street, Balmain East. The site is generally rectangular shaped with a total area of 455.5 sqm.

The site has a frontage to Nicholson Street. The south boundary measures 9.17 meters, the eastern boundary adjoining Nicholson Street measures 49.57 meters, the northern boundary adjoining the peninsula measures 9.145 metres, while the western boundary measures 50.065m. The site is affected by several easements and right of ways including a right of footway, carriageway and easement at the front of the site and a 1.8 metre (var) wide right of footway at the rear of the site.

The site supports an existing four storey dwelling house, and also includes a pool, raised deck and shed at the rear of the site. The site slopes steeply from the south eastern frontage, accessible via Nicholson Street to the north west rear of the site adjoining the Mort Bay foreshore. The adjoining properties located to the south west support dwelling houses which include boat sheds and pools within the foreshore area. The adjoining land to the north east is a public reserve, known as Zig Zag Reserve located between Nicholson Street and Mort

Bay, which provides access to the rear of the subject site. 37 Nicholson Street, also known as the Waterview Wharf Workshops is located on the opposite side of the reserve.

The property is located within a Heritage Conservation Area and is located within the Foreshore Area.

The following trees are located on the site and within the vicinity.

- Tree 1 - *Washingtonia robusta* (Skyduster) - adjacent to the north eastern boundary of the subject site.
- Tree 2 - *Washingtonia robusta* (Skyduster) - adjacent to the south western boundary of the subject site.
- Tree 3 - *Delonix regia* (Poinisiana) - adjacent to the north eastern boundary of the subject site

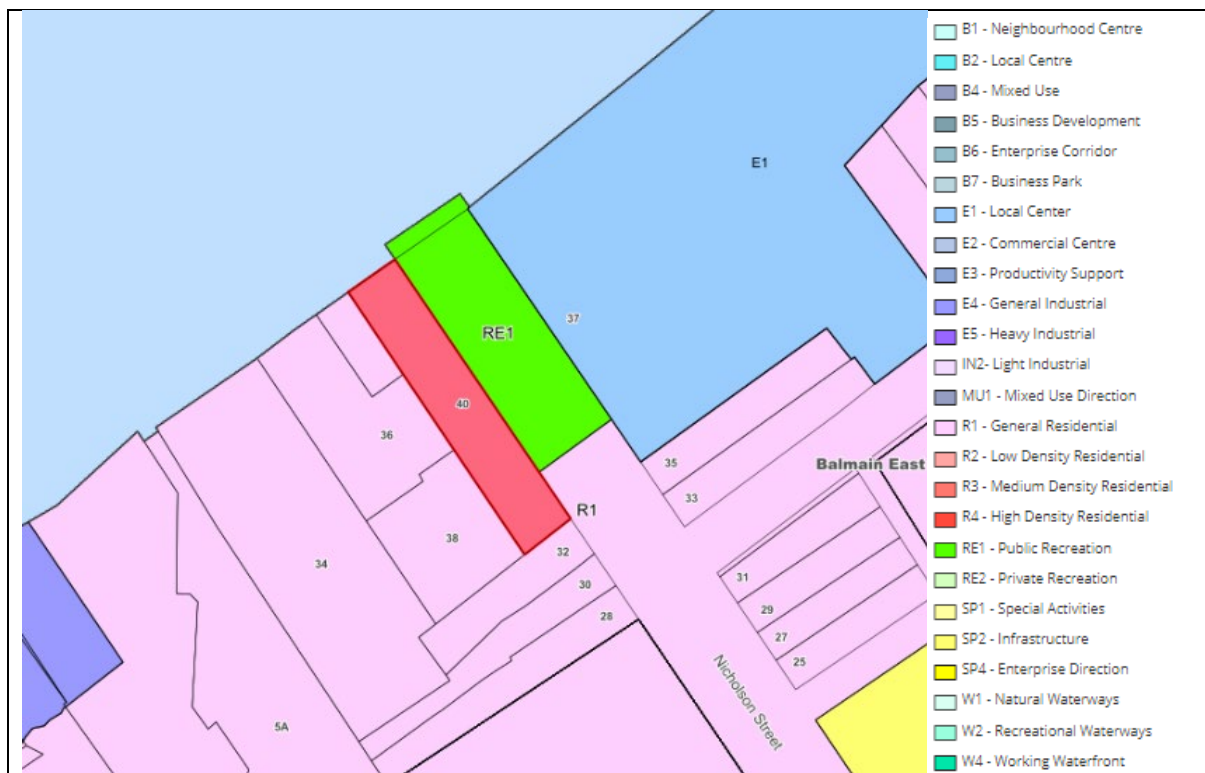


Figure 1: Zoning map indicating location within the R1 – General Residential zone



Figure 2: Site Photo

## 4. Background

### Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

### **Subject Site**

Application	Proposal	Decision & Date
PREDA/2009	Alterations to existing dwelling including new side fence, reconstruct boat house, pool, extend back deck and landscape works.	14/11/2009 Advice Issued

D/2011/532	Alterations and additions to the rear of the existing dwelling, including relocation of external stairs and extensions to the existing balcony and swimming pool courtyard area.	29/11/2016 Approved
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**Surrounding properties - 28 Nicholson Street**

Application	Proposal	Decision & Date
CDC/2007/38	To install a new window and door to the ground floor kitchen.	Approved 20/09/2007
CDC/2007/50	Bifold doors to ground floor kitchen	Approved 06/11/2007
CDC/2007/50	Bifold doors to ground floor kitchen	Approved 06/11/2007
DA200900539	to demolish part of the premises and carry out ground floor alterations and first floor additions to a dwelling house	Approved 11/03/2010
BC/2013/18	Installation of timber decking to the side boundary adjacent to the kitchen- awaiting finalisation of balustrading and handrail.	Approved 09/05/2013

**Surrounding properties - 30 Nicholson Street**

Application	Proposal	Decision & Date
D/2004/323	Alterations and additions to existing dwelling at attic level, first floor, ground floor and lower ground levels.	Approved 30/12/2004

**Surrounding properties - 34 Nicholson Street**

Application	Proposal	Decision & Date
DA/427/1995	Erect 2nd, two storey 3 bedroom dwelling, attached to boatshed building	Approved 12/12/1995

**Surrounding properties - 36 Nicholson Street**

Application	Proposal	Decision & Date
D/1999/273	Alterations and additions to dwelling including enlargement of laundry and pantry on ground floor and extension of bathroom on 1st floor	Approved 13/05/1999

**Surrounding properties – 38 Nicholson Street**

Application	Proposal	Decision & Date
D/1999/795	Alterations and additions to ground and first floor of existing dwelling.	Approved 02/03/2005

D/2014/556	Alterations and additions to the existing dwelling, including construction of a new second floor level and construction of a detached boat/pool shed and swimming pool at the waterfront lot. Integrated Development under Water Management Act 2000.	Approved 04/08/2015
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Application history

The following table outlines the relevant history of the subject application.

Date	Discussion / Letter / Additional Information
26/07/2023	Request for additional information letter sent and the following issues were raised: <ul style="list-style-type: none"> <li>• Prohibited development – prior to receiving amended plans the proposal initially concerned the erection of a pool shed, which is development which is prohibited below the Foreshore Building line established under clause 6.5 of the <i>Inner West Local Environmental Plan 2020</i>;</li> <li>• Request for BASIX Certificate;</li> <li>• Request for a Foreshore Risk Management Report;</li> <li>• Amended architectural drawings – Drawings in plan and section were requested to show the position of cut, fill and retaining walls, with finished levels, overlaid on existing ground levels.</li> <li>• Request for colours and materials;</li> <li>• Breach of the required Landscaped Area as specified in Clause 4.3C of the Inner West LEP 2022;</li> <li>• Breach of the maximum permissible Floor Space Ratio as specified in Clause 4.4 of the Inner West LEP 2022</li> </ul>
08/08/2023	E-mail sent to applicant confirming details of the RFI sent on the 26/07/2023 including that the applicant may be amended to involve the erection of a boat shed on the site and that a BASIX certificate will not be required.
17/11/2023	Additional information provided
05/12/2023 19/12/2023	– Amended plans were renotified

**5. Assessment**

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979 (EPA Act 1979)*.

**A. Environmental Planning Instruments**

The application has been assessed and the following provides a summary of the relevant Environmental Planning Instruments.

**State Environmental Planning Policies (SEPPs)**

*SEPP (Resilience and Hazards) 2021*

## Chapter 2 Coastal management

The *Resilience and Hazards SEPP* aims to ensure that future coastal development is appropriate and sensitive to its coastal location and category. The site is categorised as a coastal environment and a coastal use area pursuant to Sections 2.10 and 2.11 of the *Resilience and Hazards SEPP* as identified on the maps to the *Resilience and Hazards SEPP*.

However, these specific provisions do apply to land located within the Foreshores and Waterways Area within the meaning of *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 6

In general terms, it is considered that the carrying out of the proposed development is generally consistent with the objectives of the Plan and would not be likely to cause increased risk of coastal hazards on the land or other land.

## Chapter 4 Remediation of land

Section 4.6(1) of the *Resilience and Hazards SEPP* requires the consent authority not consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

In considering the above, there is no evidence of contamination on the site.

There is also no indication of uses listed in Table 1 of the contaminated land planning guidelines within Council's records. The land will be suitable for the proposed use as there is no indication of contamination.

## *SEPP (Biodiversity and Conservation) 2021*

## Chapter 6 Water Catchments

Section 6.6 under Part 6.2 of the *Biodiversity and Conservation SEPP* provides matters for consideration which apply to the proposal. The subject site is located within the designated hydrological catchment of the Sydney Harbour Catchment and is subject to the provisions contained within Chapter 6 of the above *Biodiversity Conservation SEPP*.

It is considered that the proposal remains consistent with the relevant general development controls under Part 6.2 of the *Biodiversity Conservation SEPP* and would not have an adverse effect in terms of water quality and quantity, aquatic ecology, flooding, or recreation and public access.

The proposal is best defined as land-based and is positioned above mean high water mark (MHWM). Therefore, no development is proposed within a designated zone of the SEPP.

An assessment has been made of the matters set out under Part 6.28 of the *Biodiversity and Conservation SEPP*. It is considered that the carrying out of the proposed development is

generally consistent with the relevant matters for consideration and would not have an adverse effect on environmental heritage, the visual environment, the natural environment or any open space and recreation facilities as follows:

- The proposal will increase the existing landscaped area within the waterfront area and will improve the visual appearance of the subject site to the harbour catchment;
- The appearance of the development as viewed from the harbour is compatible with surrounding development;
- The development does not further restrict access to foreshore land and will protect existing views from Nicholson Street to the water; and
- The proposal retains and improves the existing public footpath to the existing dwelling along the foreshore.

**Inner West Local Environmental Plan 2022**

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022 (IWLEP 2022)*.

**Part 1 – Preliminary**

Section	Proposed	Compliance
Section 1.2 Aims of Plan	<p>The proposal satisfies the section as follows:</p> <ul style="list-style-type: none"> <li>• The proposal encourages development that demonstrates efficient and sustainable use of energy and resources in accordance with ecologically sustainable development principles,</li> <li>• The proposal conserves and maintains the natural, built and cultural heritage of Inner West,</li> <li>• The proposal reduces community risk from and improves resilience to urban and natural hazard</li> </ul>	Yes

**Part 2 – Permitted or prohibited development**

Section	Proposed	Compliance
Section 2.3 Zone objectives and Land Use Table	<ul style="list-style-type: none"> <li>• The proposal concerns the erection of an ancillary structure, decking, retaining wall and landscaping works to a site containing an existing dwelling house. Dwelling houses are permissible with consent within the R1 General Residential zone.</li> <li>• The proposed use of the ancillary structure is a boat shed/outbuilding which is associated and ancillary to the existing dwelling house. Council has reviewed the proposal against Planning Circular PS21-008 and is satisfied that the dwelling house is the primary use on the site and the proposed boat shed is</li> </ul>	Yes



Section	Proposed	Compliance
	<p>subordinate or subservient to the dominate purpose and as such is permissible in the zone.</p> <ul style="list-style-type: none"> <li>The proposal is consistent with the relevant objectives of the zone, in that it maintains the character of built and natural features in the surrounding area.</li> </ul>	
Section 2.7 Demolition requires development consent	<p>The proposal satisfies the section as follows:</p> <ul style="list-style-type: none"> <li>Demolition works are proposed, which are permissible with consent; and</li> <li>Standard conditions are recommended to manage impacts which may arise during demolition.</li> </ul>	Yes, subject to conditions

#### Part 4 – Principal development standards

Section	Proposed	Compliance	
Section 4.3C (3)(a) Landscaped Area	Minimum	20% or 91.1sqm	No
	Proposed	17.77% or 80.94sqm	
	Variation	10.16sqm or 11.15%	
Section 4.3C (3)(b) Site Coverage	Maximum	60% or 273.3sqm	Yes
	Proposed	58.84% or 268sqm	
	Variation	N/A	
Section 4.4 Floor space ratio	Maximum	0.7:1 or 318.85sqm	No
	Proposed	0.78:1 or 358.53sqm	
	Variation	39.68sqm or 11.94%	
Section 4.5 Calculation of floor space ratio and site area	The site area and floor space ratio for the proposal has been calculated in accordance with the section.	Yes	
Section 4.6 Exceptions to development standards	The applicant has submitted a variation request in accordance with Section 4.6 to vary Section 4.3C (3)(a) Landscaped Area and Section 4.4 Floor space ratio.	See discussion below	

#### Section 4.6 – Exceptions to Development Standards

As outlined in table above, the proposal results in a breach of the following development standards:

- Clause 4.3C(3)(a) – Landscaped Area for residential development in Zone R1
- Clause 4.4 – Floor Space Ratio Clause

#### Clause 4.3C(3)(a) – Landscaped areas for residential accommodation in Zone R1

The applicant seeks a variation to the landscapes area development standard prescribed under section 4.3C(3)(a) of the *IWLEP 2022* by 10.16sqm or 11.15%. Section 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of the *IWLEP 2022* below. A written request has been submitted to Council in accordance with Section 4.6(4)(a)(i) of the *IWLEP 2022* justifying the proposed contravention of the development standard which is summarised as follows:

- *The current landscaped area onsite does not meet the minimum LEP control requiring 91.1sqm of landscaping under the standard. The existing landscaped area on the site is 73.34 sqm and the proposal intends to increase the landscaped area to 80.94 sqm.*
- *A new landscaped buffer has been proposed between the prefabricated boat shed and the neighbouring property. This would improve the current landscape situation all across the site and result in an increase in permeable areas on the site.*
- *The proposed boat shed has been sighted in a sympathetic manner to fit contextually with the surrounding dwellings.*
- *The location of the proposed boat shed is nestled within the existing site coverage footprint, replacing the existing elevated pool deck which is dilapidated.*
- *The proposed development will not have any impact on the water quality.*
- *The proposal will retain (and further increase) the open, landscaped setting to the foreshore and is considered to be acceptable, thereby maintaining and enhancing the vegetation and landscape setting within the subject site.*
- *The proposed prefabricated boat shed and the increase to the existing landscaped area will maintain the overall density and site coverage well under the prescribed limits under the Inner West LEP 2022.*
- *All other LEP and DCP controls that limit bulk and scale, including height, site coverage and landscaped area are compliant, therefore demonstrating that this is a modest addition.*
- *The proposal is consistent with the objectives of the R1 zone.*
- *The proposal is entirely consistent with the character with other dwellings which back onto the Harbour.*
- *The proposed development has been designed to respect the amenity of the adjoining neighbours and the views from the water. No precedent will be set that would allow unjustified non-compliance with the standard in future applications.*
- *Similar residential properties along this waterfront section have similar structures.*
- *The contemporary design of the boat shed and it's siting, ensures that the proposal does not trigger concerns for building bulk, scale and dominance along the foreshore.*
- *The works proposed will significantly improve the design and aesthetic quality of the site with the built form outcome and its presentation to the Harbour Catchment. Both by replacing a dilapidated boat deck and by increasing the landscaped open space.*
- *The design despite its numerical non-compliance still achieves the objectives of the R1 zone.*
- *The proposed installation of the prefabricated boat shed is a well-designed and orderly development providing a desirable and improved housing situation for the residents while maintaining the general residential character of the built environment.*
- *The proposal is a more efficient and orderly development on the land that is of high-quality architectural design that maximises the site's development potential and improves the functionality and useability of the outdoor space for the occupants of the dwelling. As such strict compliance in this regard would limit the above objects being fully attained.*
- *The development meets the stated objectives of Clause 4.3C.*
- *It would result in an improved landscape presentation to waterway than existing; and*
- *It would result in an increase in permeable areas on the site improving on soft existing soft landscaping.*

- *Allow for greater utilisation of space within the rear yard through an ancillary and permissible waterway structure.*

The applicant's written rationale adequately demonstrates compliance with the development standard is unreasonable / unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is in the public interest because it is consistent with the objectives of the R1 General Residential Zone in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* for the following reasons:

- **Objective:** *To provide for the housing needs of the community.*

Comment: The proposal concerns the erection of a boat shed at the rear of the site and associated landscaping and decking works. The proposed development will retain the existing dwelling house use, which will continue to provide for the housing needs of the community, while it will also enhance the sites functionality and use of the sites rear private open space.

- **Objective:** *To provide for a variety of housing types and densities.*

Comment: The proposal concerns an ancillary boat shed and will retain the existing dwelling house, which will continue to contribute to providing a variety of housing types and densities within the R1 zone.

- **Objective:** *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment: The proposal will improve access to the rear private open space for residents of the subject site and provide for increased amenity and enjoyment of this space while also enabling improved access and use to the existing jetty located at the rear of the site and access to and use of the Harbour.

- **Objective:** *To provide residential development that maintains the character of built and natural features in the surrounding area.*

Comment: The proposal, as amended and subject to the recommended conditions (regarding the permitted use of the boat shed), will reasonably maintain the character of built and natural features in the surrounding area. The proposed boat shed, and associated works are considered compatible with the character of built and natural features in the surrounding area given that they are consistent with the presence of pools, boat sheds and other ancillary structures along the waterfront of neighbouring properties. Furthermore, the proposal will increase subject sites existing landscaped open space area.

It is considered the development is in the public interest because it is consistent with the objectives of the landscaped area development standard, in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* for the following reasons:

- **Objective (a):** *To provide landscaped areas for substantial tree planting and for the use and enjoyment of residents.*

Comment: The existing landscaped area on the site is 73.34 sqm and does not meet the minimum LEP control requiring 91.1sqm of landscaping under the standard. The

proposal intends to increase the landscaped area to 80.94 sqm. This will result in the proposal reducing the noncompliance with this part while enabling for the retention of existing prescribed trees located within the subject site and improvements to the use and enjoyment of the rear private open space of the residents.

- **Objective (b):** *To maintain and encourage a landscaped corridor between adjoining properties.*

Comment: The proposed boat shed is setback from the adjoining site at no. 38 Nicholson street and will increase the size of the landscaped corridor between the subject site and zig zag reserve to the north east of the subject site. This will improve the landscape corridors on the site.

- **Objective (c):** *To ensure that development promotes the desired character of the neighbourhood.*

Comment: The proposal, including the proposed boat shed including its materials and design are considered to be sympathetic and to fit contextually with the neighbouring dwellings, which have similar structures within the foreshore building line. The proposal is consistent with the Balmain East Distinctive Neighbourhood and local area. The proposed landscaping, including increase to total landscaped area and retention of existing trees will further contribute to the landscape character of the precinct.

- **Objective (d):** *To encourage ecologically sustainable development.*

Comment: The location of the proposed boat shed is replacing the existing elevated pool deck which is dilapidated. It is set back from both the side boundary and the waters edge. As such, it is considered unlikely that it would impact on the water quality. The proposal will also encourage ecologically sustainable development through the maintaining and improving the vegetation (including three existing prescribed trees) and increasing the open and landscaped area of the subject site and thus enhancing the setting to the foreshore.

- **Objective (e):** *To control site density*

Comment: The proposed pre fabricated boat shed is partially located within the existing site coverage footprint, is located at the lowest point of the site and has ceiling heights between 2.3m and 2.7m. As such, the proposed development will effectively maintain the existing building footprint and envelope. It will result in a minor increase to site coverage by of less than 5 sqm, however the proposed site coverage is within the maximum permissible coverage under the *Inner West LEP 2022*. Furthermore, the proposal will also result in increase to the existing total landscaped area of the subject site.

- **Objective (f):** *To provide for landscaped areas and private open space.*

Comment: The proposal will have a negligible impact on private open space. However, the proposal improves the useability of the existing private open space by reorientating the existing external staircase, removing the existing elevated deck area and locating the proposed boat shed partially within the footprint of the existing site coverage. The proposal will also result in an overall increase to the total landscaped area within the site and reduce the existing non-compliance.

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning. Council may assume the concurrence of the Director-General under the Planning Circular PS 20-002 issued in May 2020 in accordance with section 4.6(4)(b) of the *IWLEP 2022*.

The proposal thereby accords with the objective of section 4.6(1)(b) and requirements of section 4.6(3)(b) of the *IWLEP 2022*. For the reasons outlined above, there are sufficient/insufficient planning grounds to justify the departure from the landscaped area development standard and it is recommended the section 4.6 exception be granted.

#### Clause 4.4 – Floor Space Ratio

The applicant seeks a variation to the Floor Space Ratio prescribed by section 4.4 of the *IWLEP 2022* by 39.68sqm or 11.94%. Section 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of the *IWLEP 2022* below. A written request has been submitted to Council in accordance with Section 4.6(4)(a)(i) of the *IWLEP 2022* justifying the proposed contravention of the development standard which is summarised as follows:

- *The proposed prefabricated 18sqm shed will replace a dilapidated pool deck.*
- *The proposal is not considered to increase density in terms of bulk and as the location of the shed is nestled within the existing site coverage footprint.*
- *The majority of the non compliance above the FSR control is as a result of the existing dwelling.*
- *The proposal is fully compliant with all the other LEP and DCP controls including those that limit bulk and scale including height and site coverage provisions.*
- *The proposal has been designed to ensure it is compatible with the scale and character of the adjoining properties and surrounding residential development which have similar structure on the waterfront.*
- *The proposal will increase the landscaped area within the waterfront area, improving the visual appearance of the property to the Harbour Catchment.*
- *The proposed shed will have minimal when viewed from Mort Bay and the public domain.*
- *The existing trees onsite are retained.*
- *The addition will provide added functionality to the site for the residents and activate the rear yard and pool.*
- *The proposal is consistent with the objectives of the R1 zone.*
- *The proposed development has been designed to respect the amenity of the adjoining neighbours and the views from the water. No precedent will be set that would allow unjustified non-compliance with the standard in future applications.*
- *The contemporary design, materials and finishes, and it's siting, ensures that the proposal does not trigger concerns for building bulk, scale and dominance along the foreshore.*
- *The works proposed will significantly improve the design and aesthetic quality of the site with the built form outcome and its presentation to the Harbour Catchment. Both by replacing a dilapidated pool deck and by increasing the landscaped open space.*
- *There are no statutory zoning or zone objectives that are an impediment to the granting of approval to the proposed development.*

- *The proposal is a more efficient and orderly development on the land that is of high-quality architectural design that maximises the sites development potential and improves the functionality and useability of the outdoor space for the occupants of the dwelling. As such strict compliance in this regard would limit the above objects being fully attained.*

The applicant's written rationale adequately demonstrates compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is in the public interest because it is consistent with the objectives of the R1 General Residential Zone in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* for the following reasons:

- **Objective:** *To provide for the housing needs of the community.*

Comment: The proposed development will retain the existing dwelling house use, which will continue to provide for the housing needs of the community, while it will enhance the use of the sites open space.

- **Objective:** *To provide for a variety of housing types and densities.*

Comment: The proposal will retain the existing dwelling house, which will contribute to providing a variety of housing types and densities within the R1 zone

- **Objective:** *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment: The proposal will activate the use and enjoyment of the rear private open space of the subject site via the reorientation and improvements to the rear yard and landscaped area. It will also provide for improved access to the existing jetty located at the rear of the site and enjoyment of the Harbor.

- **Objective:** *To provide residential development that maintains the character of built and natural features in the surrounding area.*

Comment: The proposal, as amended and subject to the recommended conditions, will reasonably maintain the character of built and natural features in the surrounding area. The proposed boat shed, and associated works are considered compatible with the character of built and natural features in the surrounding area given that they are consistent with the presence of pools, boat sheds and other ancillary structures along the waterfront of neighbouring properties.

It is considered the development is in the public interest because it is consistent with the objectives of the FSR development standard, in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* for the following reasons:

- **Objective (a):** *To establish a maximum floor space ratio to enable appropriate development density.*

Comment: The current dwelling and ancillary structures may be considered appropriate within the existing context. The proposed boat shed has a GFA of 18.72sqm. The proposed boat shed will replace a structure of a similar scale. On balance, the proposal will not increase development density compared to that which is existing, as the

development is nestled within the existing site coverage irrespective of the proposed variation. On this basis, the proposed FSR will enable an appropriate development density in that the proposal will result in improved amenity and use of the site.

- **Objective (b):** *To ensure development density reflects its locality.*

Comment: The proposal will replace an existing shed and deck with a boat shed with a built form of a similar scale and overall development density. The existing site has a GFA of 341.86 sqm and FSR of 0.75:1 in non compliance with this part by 7.22%. The proposal will result in an increase in GFA of 15.06 sqm or 4.72% variation. This is considered a minor increase to the variation of this part. Considering the surrounding locality, and presence of similar structures within the foreshore building line, the proposed development density is acceptable, irrespective of the proposed variation.

- **Objective (c):** *To provide an appropriate transition between development of different densities.*

Comment: The site is zoned R1 General Residential. The proposal is only for a boat shed at the lowest level of the site. Notwithstanding this, the proposal will maintain an appropriate density considering the built form on surrounding properties.

- **Objective (d):** *To minimise adverse impacts on local amenity.*

Comment: The proposed development, as amended, will minimise adverse amenity impacts on local amenity. The proposal will maintain visual and acoustic privacy and compliant solar access for surrounding properties. And the proposal is compliant with both *Chapter 6 Water Catchments* of the *Biodiversity and Conservation SEPP* and Section 6.5 of the *Inner West LEP*.

- **Objective (e):** *To increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.*

Comment: The proposal incorporates landscaping throughout the site. This will maintain and increase tree canopy and protect the use and enjoyment of the subject site and the public domain more broadly.

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning. Council may assume the concurrence of the Director-General under the Planning Circular PS 20-002 issued in May 2020 in accordance with section 4.6(4)(b) of the *IWLEP 2022*.

The proposal thereby accords with the objective of section 4.6(1)(b) and requirements of section 4.6(3)(b) of the *IWLEP 2022*. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the FSR development standard and it is recommended the section 4.6 exception be granted.

**Part 5 – Miscellaneous provisions**

Section	Compliance	Compliance
Section 5.10 Heritage conservation	The subject site is located within the Balmain East Heritage Conservation Area (HCA), (C29) per Schedule 5 of the <i>Inner West LEP 2022</i> . The existing dwelling house is a modern development and is not considered to be contributory to the	Yes

Section	Compliance	Compliance
	<p>character of the HCA. The site is not heritage listed, however it is within the proximity of the following listed heritage items:</p> <ul style="list-style-type: none"> <li>• Mort Bay House, including interiors, No. 34 Nicholson Street, Lot 4, DP 62499, Local, I789</li> <li>• Waterview Wharf, Workshops, including interiors, No. 37 Nicholson Street, Lot 102, DP 816495, State, I790</li> </ul> <p>As such, the relevant provisions of Section 5.10 Heritage Conservation of IWLEP 2022 are applicable to the proposal.</p> <p>An assessment of the proposal against Section 5.10 of IWLEP 2022 (C1.4 Heritage Conservation Areas and Heritage items from the Leichhardt DCP 2013 applies to the proposal) has been carried out and the proposal (as revised) achieves the objectives of this section as follows:</p> <p>The proposal achieves the objectives of this section as follows:</p> <ul style="list-style-type: none"> <li>• The structures proposed to be altered are non contributory elements and are located below the dwelling house.</li> <li>• The proposed boat shed is compatible with the local area</li> <li>• The proposed colours and materials are with the Heritage Conservation Area in terms of scale, form, roof form, materials, detailing and colour, architectural detail, and fenestration.</li> </ul> <p>Given the above the proposal preserves the environmental heritage of the Inner West.</p>	
<p>Section 5.21 Flood planning</p>	<p>The site is located in a flood planning area. The development is considered to be compatible with the flood function and behaviour on the land now and under future projections. The design of the proposal and its scale will not affect the flood affectation of the subject site or adjoining properties and is considered to appropriately manage flood risk to life and the environment. Conditions are recommended to ensure flooding is appropriately managed and mitigated.</p>	<p>Yes, subject to conditions</p>



Section	Proposed	Compliance
Section 6.1 Acid sulfate soils	<ul style="list-style-type: none"> <li>The site is identified as containing Class 5 acid sulfate soils. The proposal is considered to adequately satisfy this section as the application does not propose any works that would result in any significant adverse impacts to the watertable.</li> </ul>	Yes
Section 6.2 Earthworks	<ul style="list-style-type: none"> <li>The proposed earthworks are unlikely to have a detrimental impact on environmental functions and processes, existing drainage patterns, or soil stability.</li> </ul>	Yes
Section 6.3 Stormwater Management	<ul style="list-style-type: none"> <li>The development maximises the use of permeable surfaces, includes on site retention as an alternative supply and subject to standard conditions would not result in any significant runoff to adjoining properties or the environment.</li> </ul>	Yes, subject to conditions
Section 6.5 Limited development on foreshore	<ul style="list-style-type: none"> <li>See discussion below.</li> </ul>	Yes
Section 6.6 Development on foreshore must ensure access	<ul style="list-style-type: none"> <li>The subject site is in private ownership. The site is located next to the public reserve known as Zig Zag Reserve, and the site is affected by 1.8 metre (var) wide right of footway along the north west rear boundary of the site adjoining Mort Bay. The proposal maintains the existing right of footway with no works proposed within the area of the footway and as such will not impact upon existing access.</li> </ul>	Yes

Section 6.5 Limited development on foreshore

The following clauses are applicable to the development:

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

- (a) the alteration or rebuilding of an existing building wholly or partly in the foreshore area,*
- (b) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors)*

**Comment:** The existing dwelling and pool is already partly located within the foreshore building line and the application does not involve alterations to this existing dwelling or pool. The works also include demolition to an existing shed, landscaping works, alterations to an existing deck and staircase and construction of a new boatshed, fencing and decking within the Foreshore Building Line. The works are permissible within the Foreshore Building Line.

It is noted that two (2) submissions from the property to the south west - No. 38 Nicholson Street were received during community consultation regarding the permissibility of the proposal regarding the use of the proposed boat shed and the presentation / built form of the boat shed.

The proposed ancillary structure is intended for use as a boat shed and that it meets the use definition of a boat shed as defined by the *Inner West LEP 2022* being *a building or other structure used for the storage and routine maintenance of a boat or boats and that is associated with a private dwelling or non-profit organisation, and includes any skid used in connection with the building or other structure*. This definition does not preclude a boat shed from including a bathroom, and the proposed bathroom is considered reasonable in that it will provide amenity improvements to residents using the boat shed for its intended use. The definition also does not identify a particular design requirement for boat sheds and as such there is no requirement for a boat shed to have a gable roof, and as such no concerns are raised regarding the proposed skillion roof. It should also be noted that the proposed fenestration and entrance way to the boat shed is considered acceptable in that it will enable the use of the structure as a boat shed while limiting reliance on lighting.

*(4) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that—*

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

**Comment:** As discussed in more detail in other sections of the report, the proposal meets the objectives of the R1 zone

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

**Comment:** The proposal is considered to have satisfactory aesthetic impacts to the Heritage Conservation Area and the foreshore and is considered to be compatible with the surrounding area given that neighbouring properties have ancillary structures of similar form and appearance along the foreshore.

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

*(i) pollution or siltation of the waterway, or*

*(ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*

*(iii) an adverse effect on drainage patterns*

**Comment:** The proposal is located 11 metres from the waters edge and is considered unlikely to cause environmental harm subject to compliance with standard conditions as recommended at the end of this report.

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

**Comment:** As discussed in Section 6.6 the proposal will not impact upon existing right of ways or easements.

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

**Comment:** As discussed in more detail in other sections of the report, the subject site is not considered to contain a contributory dwelling within the HCA and the subject site is not considered to have any special historic, scientific, cultural, social, archaeological,

architectural, natural or aesthetic significance. Notwithstanding this the proposal is compatible with surrounding development.

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

**Comment:** The proposal, including the proposed boat shed is compatible with neighbouring properties along the foreshore. The proposal is unlikely to have an adverse impact on the amenity or aesthetic appearance of the foreshore given that landscaping will be increased and the proposal has minimal impact compared to the existing bulk and scale of development on the site.

*(h) sea level rise or change of flooding patterns as a result of climate change has been considered.*

**Comment:** The proposed boat shed is located 11 metres from the waters edge, with a finished floor level of RL 2.99. The proposed boat shed is an ancillary structure and is a non-habitable space, and is not considered a high-risk development. A Foreshore Risk Management Report prepared by Horton Coastal Engineering and dated 27 October 2023 was submitted to support this application. The Foreshore Risk Management Report was reviewed by Council’s Development Engineer who raised no objections to the proposal proceeding in this regard subject to standard flooding conditions which will be imposed as part of any consent granted. The Foreshore Risk Management Report will also be referenced in any consent granted.

The proposal is generally acceptable and complies with *Section 6.5* of the *Inner West LEP 2022*, however a condition requiring the boat shed only to be used as a boat shed and not for habitable purposes is recommended to ensure compliance with this part.

## B Development Control Plans

The application has been assessed against the following relevant Development Control Plans:

- Leichhardt Development Control Plan 2013; and
- Sydney Harbour Foreshores Area Development Control Plan 2005

### Leichhardt Development Control Plan 2013

The application has been assessed and the following provides a summary of the relevant provisions of Leichhardt Development Control Plan 2013 (LDCP 2013).

LDCP2013	Compliance
<b>Part A: Introductions</b>	
Section 3 – Notification of Applications	Yes
<b>Part B: Connections</b>	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
<b>Part C</b>	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.3 Alterations and additions	Yes

C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.5 Corner Sites	Yes
C1.7 Site Facilities	Yes
C1.9 Safety by Design	Yes
C1.11 Parking	Yes
C1.12 Landscaping	Yes
C1.14 Tree Management	Yes – see discussion
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	Yes
C1.20 Foreshore Land	Yes
<b>Part C: Place – Section 2 Urban Character</b>	
C2.2.2.2 Balmain East Distinctive Neighbourhood	Yes
<b>Part C: Place – Section 3 – Residential Provisions</b>	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes – see discussion
C3.3 Elevation and Materials	Yes – see discussion
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	Yes
C3.10 Views	Yes
C3.11 Visual Privacy	Yes – see discussion
C3.12 Acoustic Privacy	Yes
<b>Part D: Energy</b>	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
<b>Part E: Water</b>	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.5 Foreshore Risk Management Report	Yes
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	Yes
E1.3.1 Flood Risk Management	Yes
E1.3.2 Foreshore Risk Management	Yes

The following provides discussion of the relevant issues:

**Part C – Section 1 – General Provisions**

Control	Proposed / Discussion	Compliance
C1.14 Tree Management	<p>The proposal does not seek to remove any existing trees, however the following trees are located on the site and within the vicinity have been identified for retention.</p> <ul style="list-style-type: none"> <li>• Tree 1 - <i>Washingtonia robusta</i> (Skyduster) - adjacent to the north eastern boundary of the subject site.</li> <li>• Tree 2 - <i>Washingtonia robusta</i> (Skyduster) - adjacent to the south western boundary of the subject site.</li> <li>• Tree 3 - <i>Delonix regia</i> (Poiniana) - adjacent to the north eastern boundary of the subject site.</li> </ul> <p>The proposal has been designed to maintain the urban forest values of the site by minimising impact on trees.</p> <p>The proposed works encroaches within the Tree Protection Zones of tree 1, tree 2 and tree 3. The trees have been rated as having High Landscape Significance and High Retention Value. To ensure trees are not damaged during the proposed works, standard tree protection measure conditions are recommended.</p> <p>Overall, the proposal is considered acceptable with regard to the objectives and controls of this part, subject to the imposition of conditions, which have been included in the recommendation of this report</p>	Yes, subject to conditions

**Part C – Section 3 – Residential Provisions**

Control	Proposed / Discussion	Compliance
C3.2 Site Layout and Building Design	<ul style="list-style-type: none"> <li>• The proposal does not concern works to the existing dwelling house and primarily relates to a proposed boat shed. The proposal will comply with the C1 control of site capacity, C3, C4 controls for building location zone and C7 control for side boundary setbacks, given that the boat shed is cited in a location where developments are generally allowed, i.e., rear of the dwelling.</li> </ul>	Yes
C3.3 Elevation and Materials	<ul style="list-style-type: none"> <li>• Colours, materials, and finishes are compatible with those prevailing in the streetscape and the period of construction of the dwelling.</li> </ul>	Yes
C3.11 Visual Privacy	<ul style="list-style-type: none"> <li>• See discussion below</li> </ul>	Yes
<p>The proposal involves demolition of the existing elevated tiled pool deck, and existing boat shed, reconfiguration of external staircase, erection of a new boat shed including bathroom and deck, associated landscaping works including demolition to and new retaining walls and 1.8m high boundary fencing between no. 40 and no. 38 Nicholson Street.</p>		

Control	Proposed / Discussion	Compliance
	<p>Given that the proposed boat shed is a non-habitable space and that and is compliant with the controls and objectives of Site Layout and Building Design in the Leichhardt DCP 2013, the proposal raises no privacy concerns.</p> <p>It is noted that two (2) submissions from the property to the south west - No. 38 Nicholson Street were received during community consultation regarding the overlooking and related visual privacy implications of the boat shed and deck including concerns relating to the proposed level of the boat shed in comparison to the existing level of the rear yard, having regard to the boat shed and pool's located on no. 38 and 36 Nicholson Street, with particular concern regarding the privacy implications on the existing pool located at number 38.</p> <p>Control C1 of the LDCP states sight lines available within 9m and 45 degrees between the living room or private open space of a dwelling and the living room window or private open space of an adjoining dwelling are screened or obscured unless direct views are restricted or separated by a street or laneway.</p> <p>As stated above and earlier in this report, the boat shed is a non-habitable space. Furthermore, the deck adjoining the entrance to the proposed boat shed is located approximately 0.5m from the south east boundary, is 6.6 sqm and has a depth of 1.2m, as this deck has a relatively small surface area and is fronting a non-habitable low use space the proposed boat shed (including proposed glazing) and associated deck are not considered to present additional privacy concerns related to overlooking of no. 38 Nicholson street to than what is currently existing. The proposed 1.8m boundary fencing between the subject site and no. 38 should also act to limit sight lines between the private open space of the adjoining properties.</p> <p>The submissions received has also raised concern relating to the proposed level of the boat shed causing overlooking into the private open space and pool of number 38 Nicholson Street. The submissions received have requested for the level of the proposed boat shed to be lowered to that of the boat shed and pool present at no. 38. However, it should be noted that the difference between the levels of the two adjoining properties is pre-existing given that existing levels of the area where the boat shed is proposed are between RL 2.9 to RL 4.1 and is a result of 40 Nicholson Street being a sloping site. The proposed boat shed is partially located within the existing site coverage of the site, with its location replacing the existing elevated deck. The site slopes steeply from the southeast down to the northwest rear of the site adjoining the Mort Bay foreshore and the side boundary adjoining no. 38. The proposal has been designed to limit the amount of earthworks to mitigate impacts to the foreshore and to the existing stormwater drainage of the site given that it adjoins a Council reserve on the opposite north east boundary, which slopes down into the rear yard of the subject site. Furthermore, lowering the level of the proposed boat shed would likely result in the three existing prescribed trees on the site being unable to be retained and thus have unreasonable environmental impacts.</p> <p>Given the above, and that the proposed boat house is a non-habitable space, it is considered that the proposed level of the boat shed, being RL 2.99 is reasonable and will not have undue privacy or overlooking implications.</p> <p>On this basis, the development is not considered to result in adverse visual privacy impacts to No. 38 Nicholson Street and, the proposal is considered satisfactory with regard to Part C3.11 of the LDCP 2013.</p>	

**(SHDP 2005)**

The subject site is located in a Foreshore and Waterways Area, and therefore, the Sydney Harbour Foreshores and Waterways Area Development Control Plan (SHDCP) 2005 applies to the proposal.

The SHDCP 2005 prescribes design guidelines and visual impact assessment and criteria for natural resource protection. The application was assessed against the following relevant parts of this DCP:

**Part 2 – Ecological Assessment**

In accordance with the SHDCP 2005 the site is located within an area defined as ‘Urban development with Scattered Trees’, which is regarded as a terrestrial ecological community of low conservation value. The proposal is considered acceptable with regard to the performance criteria of the ecological community it is located within.

**Part 3 – Landscape Assessment**

The subject site is designated within a Landscape Type 7 area. These areas have been identified as having:

*a high level of development with a mixture of waterside industrial, residential and maritime uses. The mixture of land uses and the pattern of the built environment contribute to the character of this area. Development is suitable for these areas provided the character of the area is retained and the performance criteria are met.*

The proposal is considered to satisfy the statement of character and intent, and performance criteria for this landscape type, for the following reasons:

- The proposal seeks visual changes to foreshore area of the subject site, including a proposed boatshed and changes to an existing shed and deck, which is considered to be appropriately integrated in the landscaped setting/character in which the development is proposed.
- The proposal is considered to be consistent with the general aims under Section 3.2.
- The proposal is considered to be consistent with the statement of intent and performance criteria for the Landscaped Character Type 7.

**Part 5 – Design Guidelines of Land-Based Developments**

Part 5 of the SHDCP 2005 applies to development located above the mean high water mark. The following table provides an assessment of the proposed modification against the relevant sections of Part 5:

Section	Proposed / Discussion	Compliance
5.2 Foreshore Access	The proposal maintains the existing right of footway along the north east boundary of the site located between the subject site and Mort Bay.	Yes
5.3 Siting of Buildings and Structures	The proposal maintains existing views and vistas from public places to the waterway and does not obstruct views of landmark. Furthermore proposed buildings are setback from existing native vegetation.	Yes
5.4 Built Form	The proposal does not include proposed works to the existing dwelling house and the proposed boatshed is	Yes

Section	Proposed / Discussion	Compliance
	considered to be of a sympathetic design to the subject sites surroundings.	
5.6 Planting	The proposal does not include proposed changes to existing vegetation on the site.	Yes

In consideration of the above, the proposal does harmonise with surrounding built form and is considered to appropriately transition between the overall height of adjoining buildings when viewed from the adjacent waterway. As such, the proposal is considered to be consistent with the ‘Design Guidelines of Land-Based Developments’ under Part 5 of the SHDCP 2005 and the application is recommended for approval.

### C. The Likely Impacts

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will not have significant adverse environmental, social or economic impacts upon the locality.

### D. The Suitability of the Site for the Development

The proposal is of a nature in keeping with the overall function of the site. The premises are in a residential surrounding and amongst similar uses to that proposed.

### E. Submissions

The application was required to be notified in accordance with Council’s Community Engagement Strategy between 26 July 2023 to 09 August 2023.

A total of 1 submission was received in response to the initial notification.

The application was renotified between 05 December 2023 to 19 December 2023 due to amended plans being submitted and 1 submission was received. Issues raised as follows have been discussed in this report:

- Permissibility and use of the proposed boat shed – see Section 6.5
- Privacy implications from the proposed boat house and deck – see 5(d)

Further issues raised in the submissions received are discussed below:

Concern	Comment
The proposed design of the boat shed is more akin to a residential studio than a boat shed	As discussed in section 6.5 and other parts of this report the proposed design of the boat shed does not raise any concerns relating to its permissibility or proposed use. However, as discussed in section 6.5 a condition relating to the ongoing use of the proposed boat shed is included in the recommended conditions.

### F. The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.



This has been achieved in this instance.

## 6. Section 7.11 / 7.12 Contributions

Section 7.11 contributions/7.12 levies are not payable for the proposals the works are valued under \$200,000 and the carrying out of the development would not result in an increased demand for public amenities and public services within the area.

## 7. Referrals

The following internal referrals were made, and their comments have been considered as part of the above assessment:

- Heritage Specialist;
- Development Engineer;
- Urban Forest;

## 8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and Leichhardt Development Control Plan 2013.

The development will not result in any significant impacts on the amenity of the adjoining premises/properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

## 9. Recommendation

- B. The applicant has made written requests pursuant to Section 4.6 of the *Inner West Local Environmental Plan 2022*. After considering the requests, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the Floor Space Ratio and minimum Landscaped Area standards is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variations. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2023/0503 for alterations and additions to residential development including new boatshed at 40 Nicholson Street, Balmain East subject to the conditions listed in Attachment A for the following reasons

**Attachment A – Recommended conditions of consent**

**CONDITIONS OF CONSENT**

**GENERAL CONDITIONS**

Condition													
1.	<p style="text-align: center;"><b>Boundary Alignment Levels</b></p> <p>Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary.</p> <p>Reason: To allow for pedestrian and vehicular access.</p>												
2.	<p style="text-align: center;"><b>Permits</b></p> <p>Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the <i>Local Government Act 1993</i> and/or Section 138 of the <i>Roads Act 1993</i>. Permits are required for the following activities:</p> <ul style="list-style-type: none"> <li>a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;</li> <li>b. A concrete pump across the roadway/footpath;</li> <li>c. Mobile crane or any standing plant;</li> <li>d. Skip Bins;</li> <li>e. Scaffolding/Hoardings (fencing on public land);</li> <li>f. Public domain works including vehicle crossing, kerb &amp; guttering, footpath, stormwater, etc.;</li> <li>g. Awning or street veranda over the footpath;</li> <li>h. Partial or full road closure; and</li> <li>i. Installation or replacement of private stormwater drain, utility service or water supply.</li> </ul> <p>If required contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.</p> <p>Reason: To ensure works are carried out in accordance with the relevant legislation.</p>												
3.	<p style="text-align: center;"><b>Documents related to the consent</b></p> <p>The development must be carried out in accordance with plans and documents listed below:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Plan, Revision and Issue No.</th> <th style="text-align: center;">Plan Name</th> <th style="text-align: center;">Date Issued/Received</th> <th style="text-align: center;">Prepared by</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">A90 P9</td> <td>Demolition Floor Plans</td> <td style="text-align: center;">05.06.2023</td> <td style="text-align: center;">JK</td> </tr> <tr> <td style="text-align: center;">A100 P11</td> <td>Site Plan</td> <td style="text-align: center;">19.10.2023</td> <td style="text-align: center;">DN</td> </tr> </tbody> </table>	Plan, Revision and Issue No.	Plan Name	Date Issued/Received	Prepared by	A90 P9	Demolition Floor Plans	05.06.2023	JK	A100 P11	Site Plan	19.10.2023	DN
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A100 P11	Site Plan	19.10.2023	DN										

	A102 P11	Proposed Pool Level	19.10.2023	DN
	A103 P11	Proposed Boatshed Level	19.10.2023	DN
	A104 P11	Roof Plan	19.10.2023	DN
	A200 P11	Elevations	19.10.2023	DN
	A200.1 P11	Fence Elevation Detail	19.10.2023	DN
	A201 P11	Elevations	19.10.2023	DN
	A202 P11	Elevations	19.10.2023	DN
	A203 P11	Elevations	19.10.2023	DN
	A300 P11	Sections/schedules	19.10.2023	DN
	A800 P9	Materials & Finishes Schedule	05.06.2023	JK
	C00.01 B	General Notes	21.09.23	TCSM Engineering Consultants
	C01.01 B	Proposed Earth Works	21.09.23	F. I.
	C01.02 B	Cut & Fill Plan	21.09.23	F. I.
	C01.03 B	Site Sections	21.09.23	F. I.
	SW01 A	Storm Water Drainage Plan	06.02.2023	TCSM Engineering Consultants
	230505_40 Nicholson St_AIA	Arboricultural Impact Assessment Report	05.05.2023	Urban Arbor
	-	Foreshore Risk Management Report	27.10.2023	Horton Coastal Engineering
As amended by the conditions of consent. Reason: To ensure development is carried out in accordance with the approved documents.				
<b>4.</b>	<b>Works Outside the Property Boundary</b>			
	This development consent does not authorise works outside the property boundaries on adjoining lands.  Reason: To ensure works are in accordance with the consent.			
<b>5.</b>	<b>Bin Storage</b>			
	All bins are to be stored within the property.  Reason: To ensure resource recovery is promoted and residential amenity is protected.			
<b>6.</b>	<b>Asbestos Removal</b>			
	Hazardous and industrial waste arising from the use must be removed and / or transported in accordance with the requirements of the NSW Environment Protection Authority (EPA) and the New South Wales WorkCover Authority.  Reason: To ensure compliance with the relevant environmental legislation.			

7.	<b>Insurances</b>
	<p>Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.</p> <p>Reason: To ensure required insurance is paid.</p>
8.	<b>Use of boat shed</b>
	<p>The boat shed is not to be used for habitable purposes</p> <p>Reason: To ensure compliance with the relevant environmental legislation and confirm the terms of approval.</p>

## BUILDING WORK

### BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition					
9.	<p><b>Security Deposit - Custom</b></p> <p>Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.</p> <table border="1" style="margin-left: 20px;"> <tr> <td><b>Security Deposit:</b></td> <td>\$2,996.00</td> </tr> <tr> <td><b>Inspection Fee:</b></td> <td>\$374.50</td> </tr> </table> <p>Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.</p> <p>The inspection fee is required for the Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.</p> <p>Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may</p>	<b>Security Deposit:</b>	\$2,996.00	<b>Inspection Fee:</b>	\$374.50
<b>Security Deposit:</b>	\$2,996.00				
<b>Inspection Fee:</b>	\$374.50				

	<p>recover, in any court of competent jurisdiction, any costs to Council for such restorations.</p> <p>A request for release of the security may be made to the Council after all construction work has been completed and a final Occupation Certificate issued.</p> <p>The amount nominated is only current for the financial year in which the initial consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.</p> <p>Reason: To ensure required security deposits are paid.</p>
<p>10.</p>	<p><b>Dilapidation Report – Pre-Development – Minor</b></p> <p>Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.</p> <p>Reason: To ensure Council assets are protected.</p>
<p>11.</p>	<p><b>Stormwater Drainage System – Minor Developments (OSD is not required)</b></p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:</p> <ol style="list-style-type: none"> <li>1. The design must generally be in accordance with the Stormwater Drainage Concept plan on Drawing No. SW01 version (1) prepared by TCSM and dated 23 June 2023, as amended to comply with the following:             <ol style="list-style-type: none"> <li>a. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to Parramatta River in accordance with the RMS standard requirements.</li> <li>b. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP.</li> <li>c. Pipe and channel drainage systems must be designed to cater for the twenty (20) year Average Recurrence Interval (ARI) storm in the case of low and medium residential developments, the twenty (20) year ARI Storm in the case of high-density residential development and commercial and/or industrial developments and the fifty (50) year ARI Storm in the case of heavy industry. In all cases, the major event surface flow paths must be designed to cater for the one hundred (100) year ARI Storm.</li> <li>d. No impact on trees.</li> <li>e. Stormwater drainage must be located such that any waters leaving the pool must drain to pervious areas prior to potentially draining to the site stormwater drainage system.</li> </ol> </li> </ol> <p>Reason: To ensure that the adequate provision of stormwater drainage is provided.</p>

<p>12.</p>	<p><b>Amended Architectural Plans to Reflect Flood Risk Management Plan</b></p> <p>The subject site adjacent to Parramatta River is affected by inundation and wave impact during storm events. Future global sea level rises will see an increase in this effect. Floor levels of development along the foreshore need to be constructed high enough to minimise the potential for inundation in the long term and designed to withstand the impact of waves during storm events.</p> <p>The development application must be accompanied by a Foreshore Flood Risk Management Report supported by a flood study prepared by a relevantly qualified civil engineer. The report must establish the Hazard Category of the site. The Foreshore Flood Risk Management Report must demonstrate that the design complies with the specific requirements of condition titled <b><u>Flood Affected Site</u></b>.</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended architectural plans that incorporate the recommendations of the Foreshore Flood Risk Management Plan. The design must be prepared to make provision for the following:</p> <ul style="list-style-type: none"> <li>a. Specification of materials; and</li> <li>b. Waterproofing works, where applicable.</li> </ul> <p>No changes to the external form or appearance of the development contrary to the approved plans must occur except as identified by this condition. Any changes to such must be subject to separate approval.</p> <p>Reason: To protect human life and property during a flood event.</p>
<p>13.</p>	<p><b>Flood Risk Management Plan</b></p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Flood Risk Management Plan prepared and certified by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng). The Plan must be prepared/amended to make provision for the following:</p> <ul style="list-style-type: none"> <li>a. Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development. Such recommendations must be consistent with the approved development. The flood impacts on the site must be assessed for the 100-year ARI and Probable Maximum Flood (PMF) storm events. The precautions must include but not be limited to the following: <ul style="list-style-type: none"> <li>i. Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris;</li> <li>ii. Waterproofing methods, including electrical equipment, wiring, fuel lines or any other service pipes or connections;</li> <li>iii. Flood warning signs/depth indicators for areas that may be inundated;</li> <li>iv. A flood evacuation strategy; and</li> <li>v. On-site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.</li> </ul> </li> <li>b. All works must be designed to comply with the Standard for Construction of Buildings in Flood Hazard Areas in accordance with Section 3.10.3 of the Building Code of Australia. Note that some terms defined in this standard have</li> </ul>

	<p>equivalent meaning to terms used in Council's Development Control Plan as listed below:</p> <ul style="list-style-type: none"> <li>i. Building Code of Australia;</li> <li>ii. Defined flood level (DFL) 100-year Average Recurrence Interval flood level;</li> <li>iii. Defined flood event (DFE) 100-year Average Recurrence Interval flood; and</li> <li>iv. Flood hazard level (FHL) Flood Planning Level (FPL).</li> </ul> <p>Reason: To protect human life and property during a flood event</p>
14.	<p><b>Sydney Water – Tap In</b></p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program 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.</p> <p>Note: Please refer to the web site <a href="http://www.sydneywater.com.au/tapin/index.htm">http://www.sydneywater.com.au/tapin/index.htm</a> for details on the process or telephone 13 20 92.</p> <p>Reason: To ensure relevant utility and service providers' requirements are provided to the certifier.</p>

**BEFORE BUILDING WORK COMMENCES**

	Condition
15.	<p><b>Project Arborist</b></p> <p>Prior to the commencement of any demolition or construction works within close proximity to protected trees a Project Arborist must be engaged for the duration of the site preparation, demolition, construction and landscaping to supervise works. Details of the Project Arborist must be submitted to the Certifying Authority before work commences.</p> <p>Reason: To protect and retain trees.</p>
16.	<p><b>Waste Management Plan</b></p> <p>Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RVMP) in accordance with the relevant Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
17.	<p><b>Erosion and Sediment Control</b></p> <p>Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>

<b>18.</b>	<p><b>Construction Fencing</b></p> <p>Prior to the commencement of any works (including demolition), the site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property.</p> <p>Reason: To protect the built environment from construction works.</p>
<b>19.</b>	<p><b>Flood Affected Site</b></p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably qualified Civil Engineer that the works comply with the following specific requirements:</p> <ol style="list-style-type: none"> <li>1. All habitable floor levels must be set at Foreshore Planning Level m AHD (flood level plus 500mm freeboard). All structures below the Foreshore Planning Level m AHD must be constructed from flood compatible materials.</li> <li>2. All electrical equipment and wiring must be waterproofed or installed at or above the Foreshore Planning Level.</li> <li>3. A structural engineer's certificate must be submitted stating that the proposed building has been designed to withstand the forces of flood water, debris and buoyancy up to the 1 in 100-year flood level;</li> <li>4. The existing ground levels throughout the site must be maintained so as not to alter the existing overland flow path. Details of all obstructions or changes in level within the overland flow paths must be detailed on the plan; and</li> <li>5. All fencing within the overland flow path must be of an open type so as to allow for the free flow of water throughout the site so as to maintain existing flows.</li> </ol> <p>Reason: To protect human life and property during a flood event.</p>

**DURING BUILDING WORK**

Condition	
<b>20.</b>	<p><b>Tree Protection</b></p> <p>No trees on public property (footpaths, roads, reserves etc.) are to be removed or damaged during works unless specifically approved in this consent or marked on the approved plans for removal.</p> <p>Prescribed trees protected by Council's Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent.</p> <p>Any public tree within five (5) metres of the development must be protected in accordance with Council's <i>Development Fact Sheet—Trees on Development Sites</i>.</p> <p>No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time.</p> <p>The trees identified below are to be retained and protected in accordance with the conditions of consent or approved Tree Protection Plan throughout the development</p>



	<p>(note: tree numbers must correspond with approved Tree Protection Plan if conditioned) :</p> <p>Trees 1,2 - <i>Washingtonia robusta</i> (Skyduster) / Rear</p> <p>Tree 3 - <i>Delonix regia</i> (Poinsiana) / Rear</p> <p>Details of the trees must be included on all Construction Certificate plans and shall be annotated in the following way:</p> <p>a. Green for trees to be retained;</p> <p><b>NOTE:</b> Reference should be made to the <i>Arboricultural Impact Assessment Report prepared by Urban Arbor dated 5 May 2023 for tree numbering and locations.</i></p> <p>Reason: To ensure that trees to be retained are protected.</p>														
<p>21.</p>	<p><b>Inspections by Project Arborist</b></p> <p>The trees to be retained must be inspected, monitored and treated by the Project Arborist during and after completion of development works to ensure their long-term survival. Regular inspections and documentation from the Project Arborist to the Certifying Authority are required at the following times or phases of work:</p> <table border="1" data-bbox="453 824 1259 1507"> <thead> <tr> <th data-bbox="453 824 730 909">Tree No./ Common Location</th> <th data-bbox="730 824 916 909">Botanical/ Name/</th> <th data-bbox="916 824 1050 909">Time of Inspection</th> <th data-bbox="1050 824 1259 909">Key stage/ Hold point</th> </tr> </thead> <tbody> <tr> <td data-bbox="453 909 730 1066" rowspan="2"> <p>Trees 1,2 - <i>Washingtonia robusta</i> (Skyduster) / Rear</p> <p>Tree 3 - <i>Delonix regia</i> (Poinsiana) / Rear</p> </td> <td data-bbox="730 909 916 1066" rowspan="2"></td> <td data-bbox="916 909 1050 1066"> <p>Prior to commencement of works</p> </td> <td data-bbox="1050 909 1259 1066"> <ul style="list-style-type: none"> <li>Inspection and sign off installation of tree protection measures.</li> </ul> </td> </tr> <tr> <td data-bbox="916 1066 1050 1357"> <p>During Works</p> </td> <td data-bbox="1050 1066 1259 1357"> <ul style="list-style-type: none"> <li>Supervise all site preparation and demolition works within the TPZ;</li> <li>Supervise all excavation, trenching works, landscaping works and tree/planting replenishment within the TPZ;</li> <li>Supervise all tree work.</li> </ul> </td> </tr> <tr> <td colspan="4" data-bbox="453 1357 1259 1507"> <p>And - In accordance with the approved Tree Protection specifications in the Arboricultural Impact Assessment report prepared by Urban Arbor and dated 5 May 2023.</p> </td> </tr> </tbody> </table> <p>Recommendations to ensure the tree/s long term survival must be carried out immediately upon receipt of the report.</p>	Tree No./ Common Location	Botanical/ Name/	Time of Inspection	Key stage/ Hold point	<p>Trees 1,2 - <i>Washingtonia robusta</i> (Skyduster) / Rear</p> <p>Tree 3 - <i>Delonix regia</i> (Poinsiana) / Rear</p>		<p>Prior to commencement of works</p>	<ul style="list-style-type: none"> <li>Inspection and sign off installation of tree protection measures.</li> </ul>	<p>During Works</p>	<ul style="list-style-type: none"> <li>Supervise all site preparation and demolition works within the TPZ;</li> <li>Supervise all excavation, trenching works, landscaping works and tree/planting replenishment within the TPZ;</li> <li>Supervise all tree work.</li> </ul>	<p>And - In accordance with the approved Tree Protection specifications in the Arboricultural Impact Assessment report prepared by Urban Arbor and dated 5 May 2023.</p>			
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<p>And - In accordance with the approved Tree Protection specifications in the Arboricultural Impact Assessment report prepared by Urban Arbor and dated 5 May 2023.</p>															

	Reason: To protect and retain trees.						
22.	<p><b>Limited Root Pruning</b></p> <p>No tree roots of 30mm or greater in diameter located within the specified radius of the trunks of the following trees may be severed or injured in the process of any works during the construction period:</p> <table border="1"> <thead> <tr> <th>Tree No.</th> <th>Botanical/Common Name</th> <th>Radius in metres</th> </tr> </thead> <tbody> <tr> <td>3</td> <td><i>Delonix regia</i> (Poiniana) / Rear</td> <td>4 m</td> </tr> </tbody> </table> <p>If tree roots less than 30mm diameter are required to be severed for the purposes of constructing the approved works, they must be cut cleanly using a sharp and <i>fit for purpose tool</i>. The pruning must be undertaken by a practicing Arborist.</p> <p>Reason: To protect and retain trees.</p>	Tree No.	Botanical/Common Name	Radius in metres	3	<i>Delonix regia</i> (Poiniana) / Rear	4 m
Tree No.	Botanical/Common Name	Radius in metres					
3	<i>Delonix regia</i> (Poiniana) / Rear	4 m					
23.	<p><b>Tree Protection Works</b></p> <p>All tree protection for the site must be undertaken in accordance with Council's <i>Development Fact Sheet—Trees on Development Sites</i> and <i>AS4970—Protection of trees on development sites</i>.</p> <p>Reason: To protect and retain trees.</p>						
24.	<p><b>Arborists standards</b></p> <p>All tree work must be undertaken by a practicing Arborist. The work must be undertaken in accordance with <i>AS4373—Pruning of amenity trees</i> and the <i>Safe Work Australia Code of Practice—Guide to Managing Risks of Tree Trimming and Removal Work</i>. Any works in the vicinity of the Low Voltage Overhead Network (including service lines—pole to house connections) must be undertaken by an approved Network Service Provider contractor for the management of vegetation conflicting with such services. Contact the relevant Network Service Provider for further advice in this regard.</p> <p>Reason: To ensure compliance with legislative requirements.</p>						

<b>25.</b>	<p><b>Advising Neighbours Prior to Excavation</b></p> <p>At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, reasonable notice must be provided to the owner of the adjoining allotment of land including particulars of the excavation.</p> <p>Reason: To ensure surrounding properties are adequately notified of the proposed works.</p>
<b>26.</b>	<p><b>Construction Hours – Class 1 and 10</b></p> <p>Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5.00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>
<b>27.</b>	<p><b>Survey Prior to Footings</b></p> <p>Upon excavation of the footings and before the pouring of the concrete, the Certifying Authority must be provided with a certificate of survey from a registered land surveyor to verify that the structure will not encroach over the allotment boundaries.</p> <p>Reason: To ensure works are in accordance with the consent.</p>

**BEFORE ISSUE OF AN OCCUPATION CERTIFICATE**

	Condition
<b>28.</b>	<p><b>No Encroachments</b></p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.</p> <p>Reason: To maintain and promote vehicular and pedestrian safety.</p>
<b>29.</b>	<p><b>Project Arborist Certification</b></p> <p>Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with certification from the project arborist the requirements of the conditions of consent related to the landscape plan and the role of the project arborist have been complied with.</p> <p>Reason: To ensure the protection and ongoing health of trees to be retained.</p>

## DEMOLITION WORK

### BEFORE DEMOLITION WORK COMMENCES

Condition	
30.	<p><b>Hoardings</b></p> <p>The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.</p> <p>If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.</p> <p>Separate approval is required from the Council under the <i>Roads Act 1993</i> to erect a hoarding or temporary fence or awning on public property.</p> <p>Reason: To ensure the site is secure and that the required permits are obtained if enclosing public land.</p>
31.	<p><b>Tree Protection</b></p> <p>To protect the following trees, ground and trunk protection (or fencing) must be installed prior to any works commencing in accordance with the approved <i>Tree Protection Plan</i> and/or with Council's <i>Development Fact Sheet—Trees on Development Sites</i>:</p> <p>Trees 1,2 - <i>Washingtonia robusta</i> (Skyduster) / Rear                      Tree 3 - <i>Delonix regia</i> (Poinsiana) / Rear</p> <p>Reason: To protect and retain trees.</p>

Attachment B – Plans of proposed development

**REBEKA HALL  
40 NICHOLSON ST  
BALMAIN EAST  
INNER WEST COUNCIL**

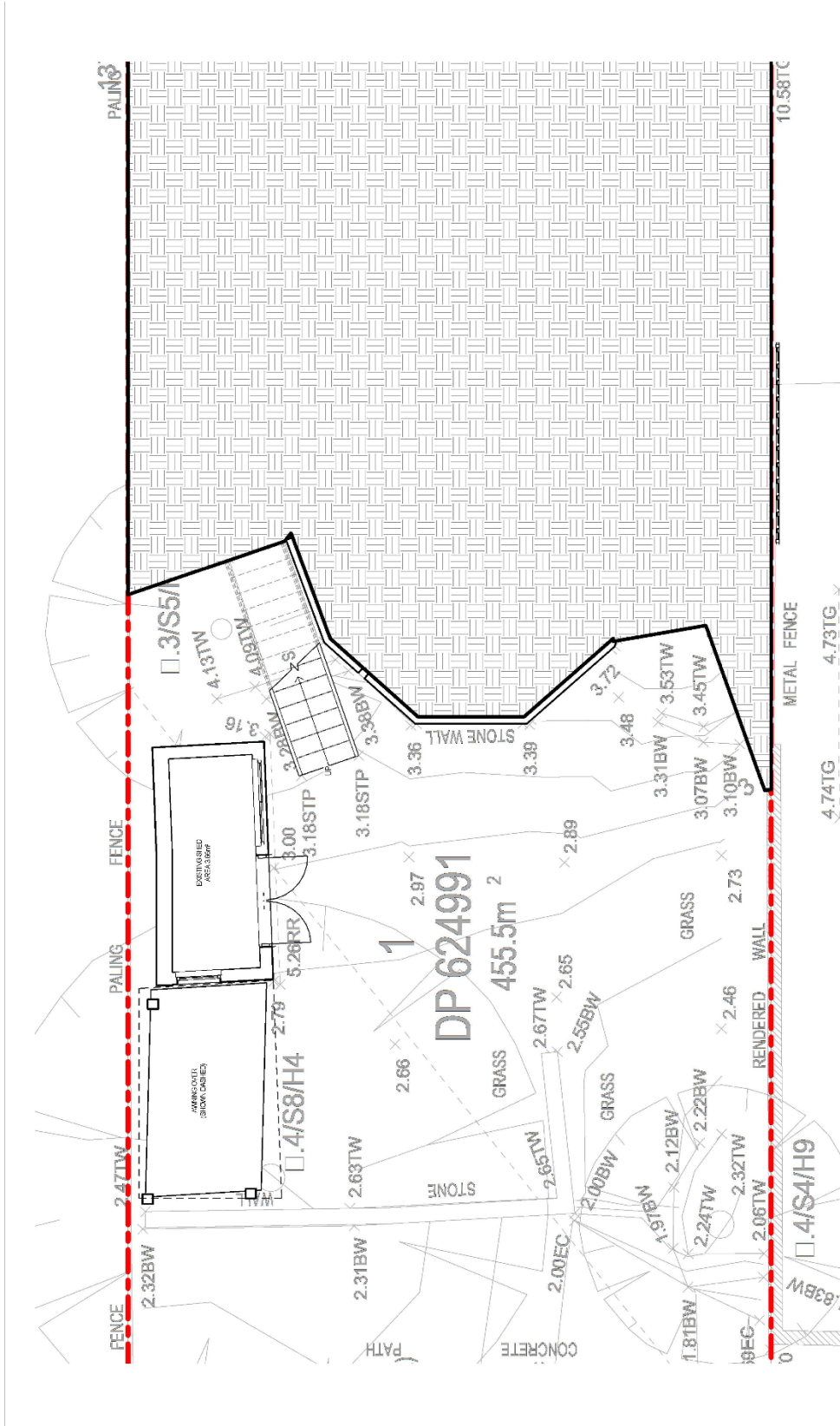
**DEVELOPMENT APPLICATION  
FOR ALTERATIONS & ADDITIONS**

**DRAWING LIST**

A00	TITLE	P10	15.06.2023
A82	EXISTING GARDEN LEVEL	P9	05.06.2023
A83	EXISTING POOL	P9	05.06.2023
A84	EXISTING LOWER GROUND FLOOR	P9	05.06.2023
A85	EXISTING GROUND FLOOR	P9	05.06.2023
A86	EXISTING FIRST FLOOR	P9	05.06.2023
A87	EXISTING SECOND FLOOR	P9	05.06.2023
A80	DEMOLITION FLOOR PLANS	P9	05.06.2023
A100	SITE PLAN	P11	19.10.2023
A101	SITE COVERAGE & LANDSCAPE CALCULATIONS	P11	19.10.2023
A102	PROPOSED POOL LEVEL	P11	19.10.2023
A103	PROPOSED BOATSHED LEVEL	P11	19.10.2023
A104	ROOF PLAN	P11	19.10.2023
A200	ELEVATIONS	P11	19.10.2023
A200.1	FENCE ELEVATION DETAIL	P11	19.10.2023
A201	ELEVATIONS	P11	19.10.2023
A202	ELEVATIONS	P11	19.10.2023
A203	ELEVATIONS	P11	19.10.2023
A300	SECTIONS/SCHEDULES	P11	19.10.2023
A800	MATERIALS & FINISHES SCHEDULE	P9	05.06.2023



**DESIGN PLUS DRAFTING**  
RENOVATIONS EXTENSIONS ADDITIONS



**EXISTING GARDEN LEVEL**

**DEVELOPMENT APPLICATION**

NO.	REVISION	DATE	BY	SCALE	GENERAL NOTES
01	ISSUED FOR PERMIT	05/11/2022	DP	1:50 @ A3	1. THIS PLAN IS A DEVELOPMENT APPLICATION FOR THE PROPOSED DEVELOPMENT. IT IS NOT A CONTRACT DOCUMENT. THE CONTRACT DOCUMENTS WILL BE PROVIDED BY THE DEVELOPER. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS.
02	CALCULATED LAND AREA	05/11/2022	DP		2. ALL DIMENSIONS ARE IN METERS. DIMENSIONS ARE GIVEN TO THE CENTRE OF WALLS UNLESS OTHERWISE SPECIFIED. DIMENSIONS ARE GIVEN TO THE CENTRE OF WALLS UNLESS OTHERWISE SPECIFIED. DIMENSIONS ARE GIVEN TO THE CENTRE OF WALLS UNLESS OTHERWISE SPECIFIED.
03	CLIENT REVISION	05/11/2022	DP		3. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS.
04	WORKS TO BE COMPLETED	05/11/2022	DP		4. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS.
05	ADDITIONAL WORK	05/11/2022	DP		5. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS.
06	CLIENT REVISION	05/11/2022	DP		6. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS.
07	CLIENT REVISION	05/11/2022	DP		7. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS.
08	CLIENT REVISION	05/11/2022	DP		8. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS.
09	CLIENT REVISION	05/11/2022	DP		9. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS.
10	CLIENT REVISION	05/11/2022	DP		10. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS.

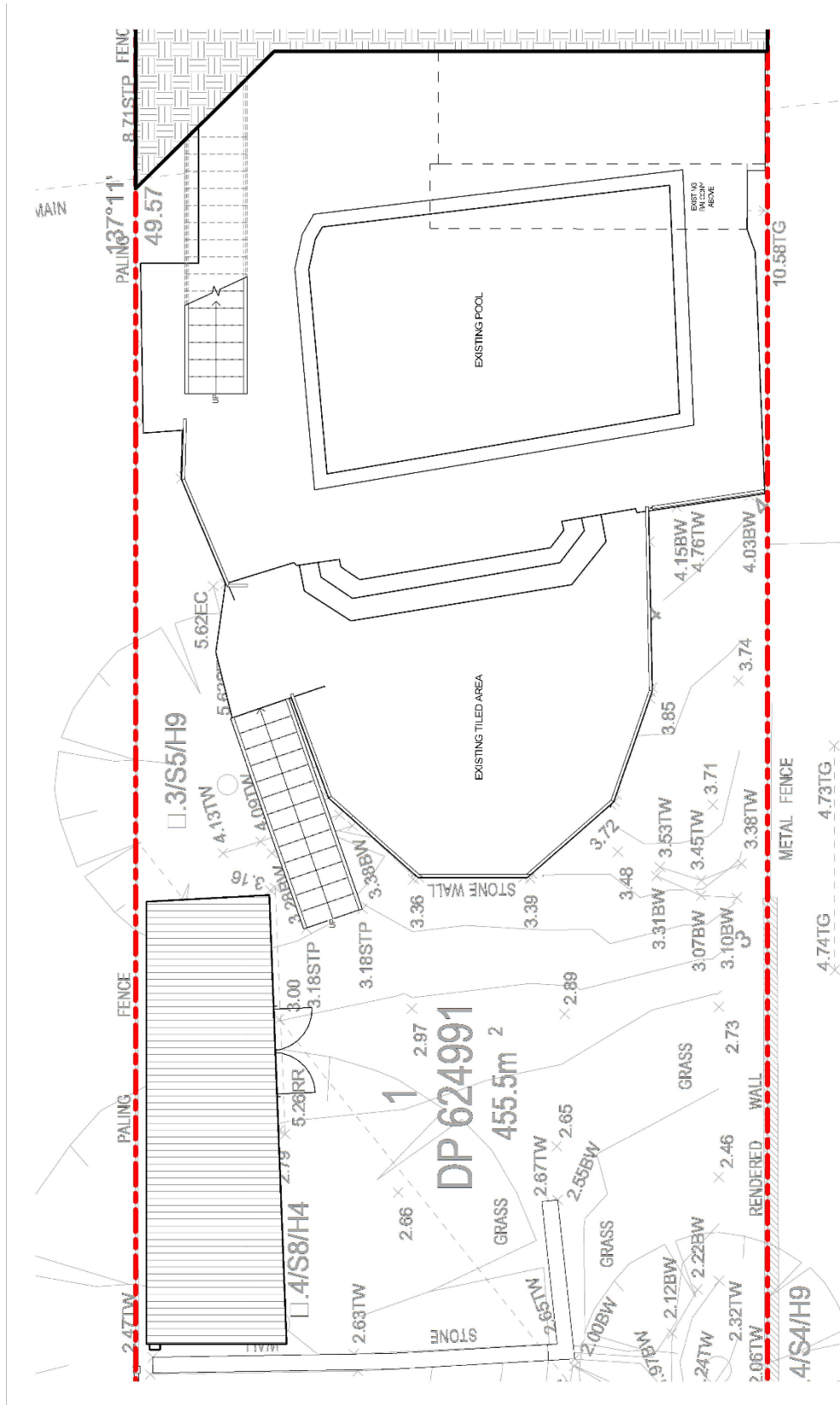
GENERAL NOTES:

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CLIENT: REBECCA HALL  
ADDRESS: 40 NICHOLSON ST BALMAIN EAST INNER WEST COUNCIL

DRAWINGS BY: DESIGN PLUS DRAFTING  
DATE: 05/11/2022  
PROJECT NO: A13,840  
ISSUE: P9 (Please discard all other plans)

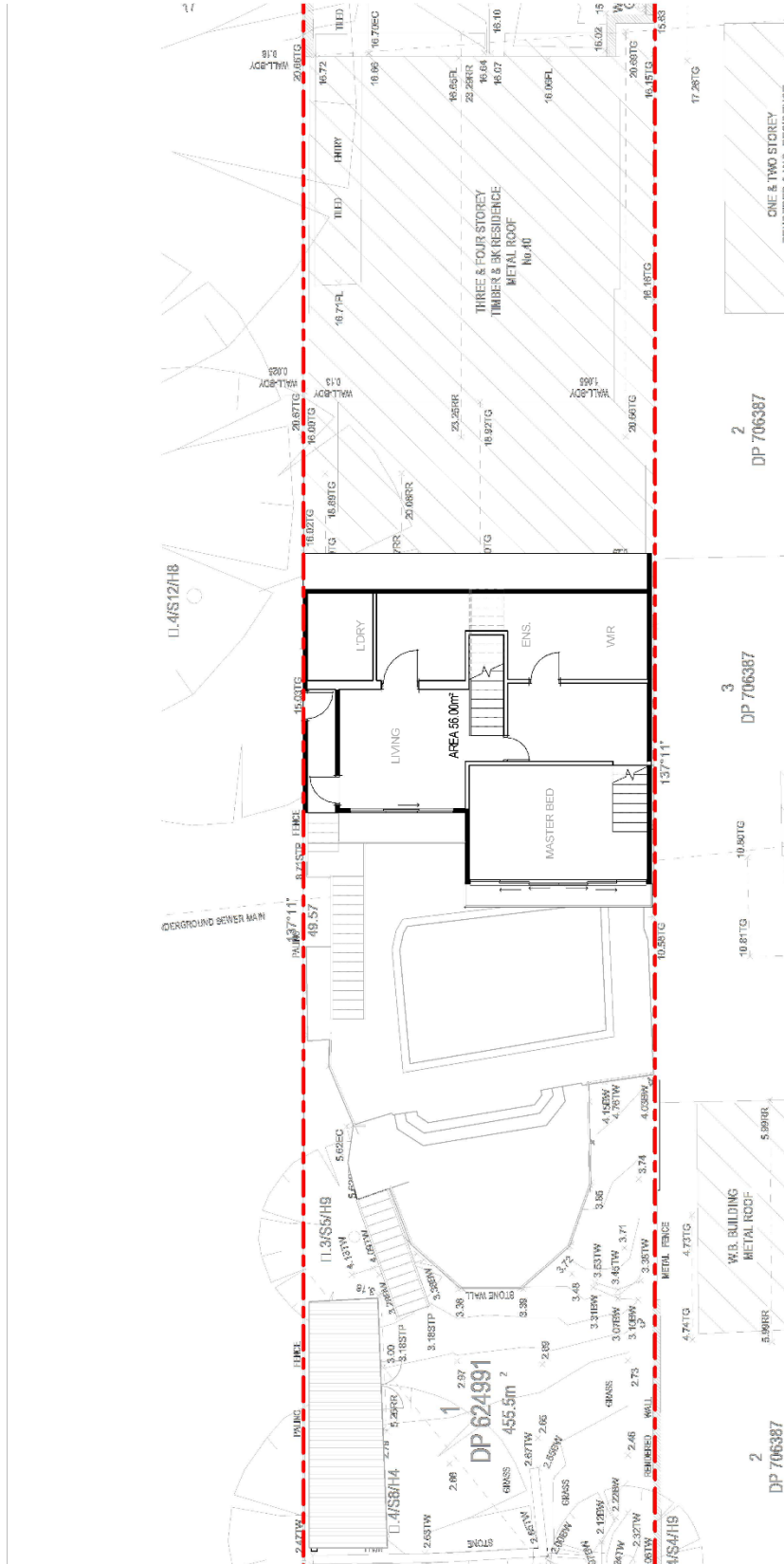
SHEET NO: A82



**EXISTING POOL**



**DEVELOPMENT APPLICATION**

GENERAL NOTES:		CLIENT:	DATE:	SHEET NO.:
1	ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SPECIFIED.	REBECCA HALL	05.06.2023	A83
2	ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.	ADDRESS:	SCALE: 1:60 @ A3	PROJECT NO: A13,840
3	ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.	40 NICHOLSON ST BALMAIN EAST INNER WEST COUNCIL	ISSUE: P9 (Please discard all other plans)	
4	ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.	DRAWINGS BY:		
5	ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.	DESIGN PLUS DRAFTING		
6	ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.	100/100/100/100/100/100		
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8	ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.			

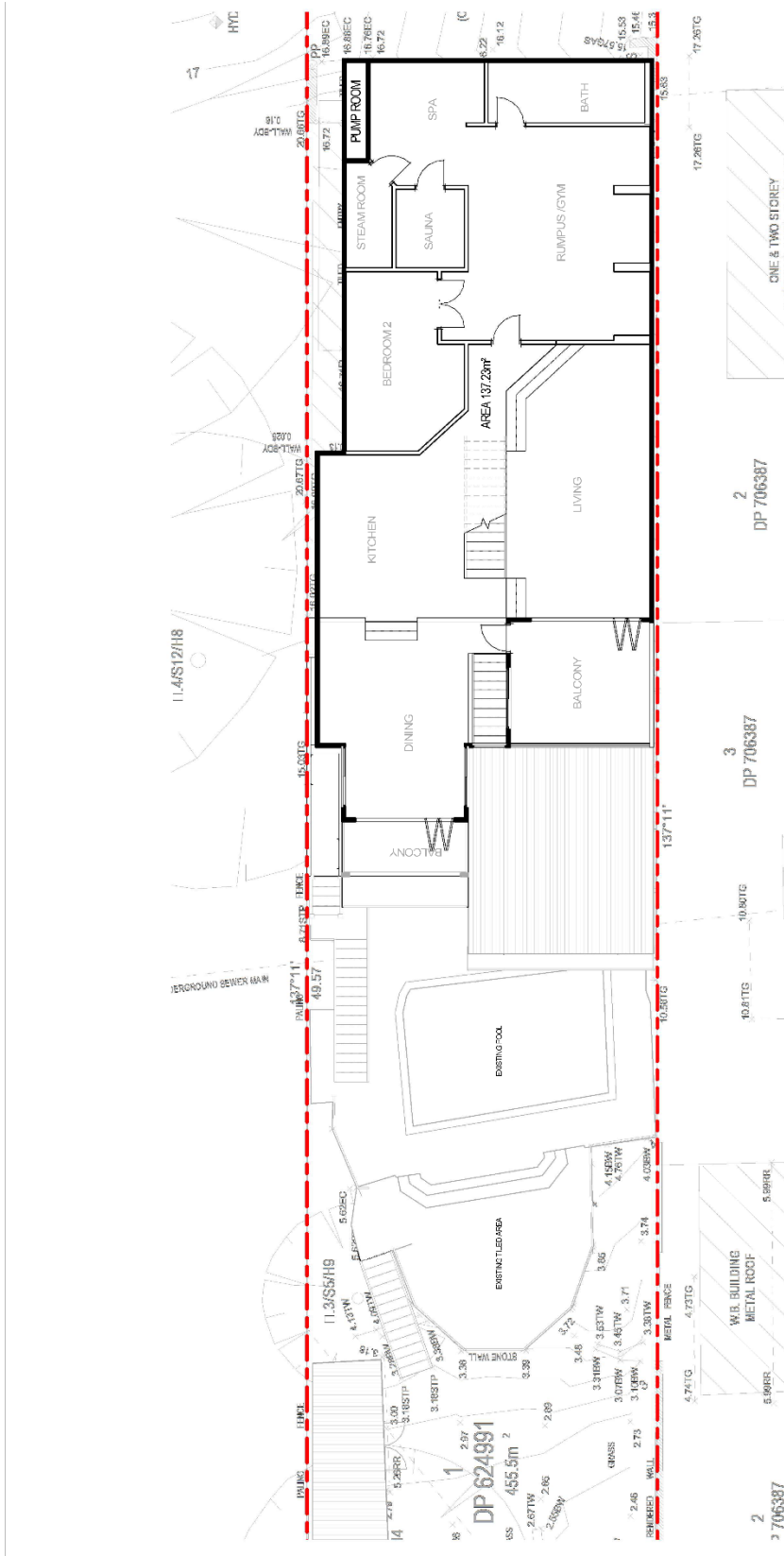


**EXISTING LOWER GROUND FLOOR**

**DEVELOPMENT APPLICATION**

<p>DATE: 05.06.2023</p> <p>SCALE: 1:100 @ A3</p> <p>PROJECT No. A13,840</p> <p>ISSUE: P9 (Please discard all other plans)</p>		<p>SHEET NO:</p> <p><b>A84</b></p>	
<p>CLIENT:</p> <p>REBECCA HALL</p> <p>ADDRESS:</p> <p>40 NICHOLSON ST BALMAIN EAST INNER WEST COUNCIL</p>		<p>DRAWINGS BY:</p> <p> DESIGN PLUS DRAFTING Suite C1 - 4/51 Azzam Road, Northcote, VIC 3070 Ph: 03 9452 2005 www.designplusrp.com.au</p>	
<p>GENERAL NOTES:</p> <p>1. This drawing is prepared in accordance with the provisions of the Building Act 1993 and the Building Regulations 2018.</p> <p>2. All dimensions are in metres and to the face of the work unless otherwise stated.</p> <p>3. The drawing shall be used for information only. It is not to be used for construction purposes.</p> <p>4. The drawing shall be used for information only. It is not to be used for construction purposes.</p> <p>5. The drawing shall be used for information only. It is not to be used for construction purposes.</p>		<p>NORTH:</p> <p></p>	
<p>LOCATION: L:\Client Jobs &amp; Progress\A13,840 - Development of Balmain East - Rebecca Hall - 40 Nicholson St - Balmain East - Inner West Council - 05/06/2023</p> <p>PRINTED: 05/06/2023 10:00:00 AM</p>			

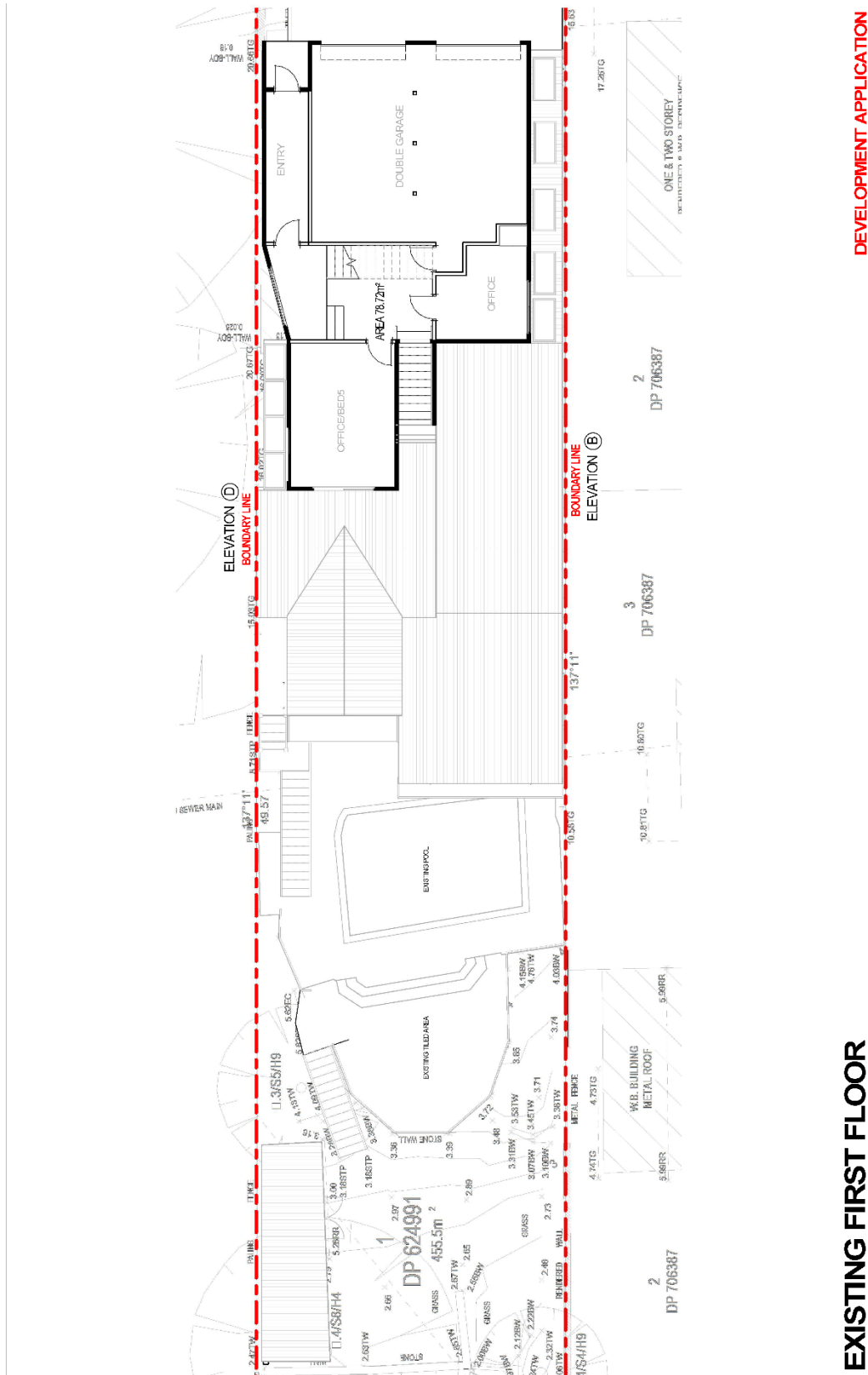




**EXISTING GROUND FLOOR**

**DEVELOPMENT APPLICATION**

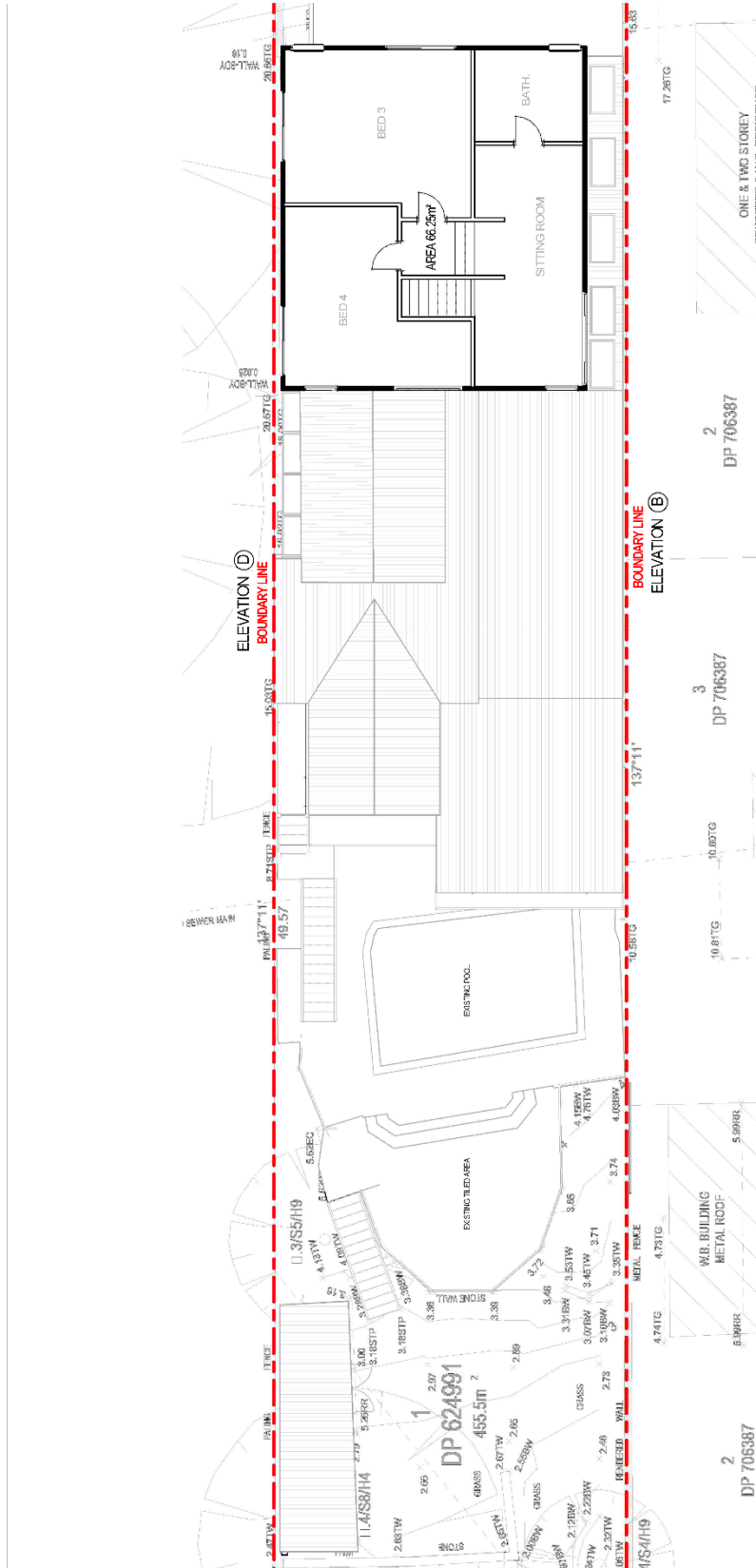
GENERAL NOTES		DRAWINGS BY:		CLIENT:		DATE:		SHEET NO.:	
1	ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE STATED.	DESIGN PLUS DRAFTING		REBECCA HALL		05.06.2023		A85	
2	ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE STATED.	40 NICHOLSON ST		ADDRESS:		SCALE: 1:100 @ A3		PROJECT NO. A13,840	
3	ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE STATED.	BALMAIN EAST		INNER WEST COUNCIL		ISSUE: P9		(Please discard all other plans)	
4	ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE STATED.	www.designplus.com.au							



**EXISTING FIRST FLOOR**

**DEVELOPMENT APPLICATION**

<p>DATE: 05.06.2023 SCALE: 1: 100 @ A3 PROJECT No. A13,840 ISSUE: P9 (Please discard all other plans)</p>		<p>SHEET NO: <b>A86</b></p>	
<p>CLIENT: <b>REBECCA HALL</b></p>		<p>ADDRESS: <b>40 NICHOLSON ST BALMAIN EAST INNER WEST COUNCIL</b></p>	
<p>DRAWINGS BY: <b>DESIGN PLUS DRAFTING</b> Suite C1 - 4/31 Azzam Road, Northcote, VIC 3070 Ph: 03 9452 2385 www.designplusrp.com.au</p>		<p>NORTH: </p>	
<p><b>GENERAL NOTES:</b> 1. The drawings are prepared in accordance with the provisions of the Building Act 1993 and the Building Regulations 2006. 2. All dimensions are in metres and rounded to the nearest millimetre. 3. All dimensions are taken from the finished floor level unless otherwise stated. 4. The drawings are prepared in accordance with the provisions of the Building Act 1993 and the Building Regulations 2006. 5. The drawings shall not be used for construction without the approval of the Council. 6. The drawings shall not be used for construction without the approval of the Council. 7. The drawings shall not be used for construction without the approval of the Council. 8. The drawings shall not be used for construction without the approval of the Council. 9. The drawings shall not be used for construction without the approval of the Council. 10. The drawings shall not be used for construction without the approval of the Council.</p>			
<p>NO. 1 DESCRIPTION CALCULATED LAND AREA CLIENT REFERENCE LOCAL GOVERNMENT DRAWING TITLE DATE OF ISSUE DRAWN BY CHECKED BY SCALE</p>	<p>NO. 2 DESCRIPTION CALCULATED LAND AREA CLIENT REFERENCE LOCAL GOVERNMENT DRAWING TITLE DATE OF ISSUE DRAWN BY CHECKED BY SCALE</p>	<p>NO. 3 DESCRIPTION CALCULATED LAND AREA CLIENT REFERENCE LOCAL GOVERNMENT DRAWING TITLE DATE OF ISSUE DRAWN BY CHECKED BY SCALE</p>	<p>NO. 4 DESCRIPTION CALCULATED LAND AREA CLIENT REFERENCE LOCAL GOVERNMENT DRAWING TITLE DATE OF ISSUE DRAWN BY CHECKED BY SCALE</p>



**EXISTING SECOND FLOOR**

**DEVELOPMENT APPLICATION**

NO.	REVISION	DATE	BY	SCALE	PROJECT NO.	ISSUE
1	ISSUED FOR PERMIT	05.06.2023	DP	1:100 @ A3	A13.840	P9
2	REVISED WALL					
3	CRASS					
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100	CRASS					

**CLIENT:** REBECCA HALL  
**ADDRESS:** 40 NICHOLSON ST BALMAIN EAST INNER WEST COUNCIL

**DRAWINGS BY:** DESIGN PLUS DRAFTING  
 Suite C1 - 4/31 Azzurra Road, Northcote, VIC 3070  
 Ph: 03 9452 2383  
 www.designplusrm.com.au

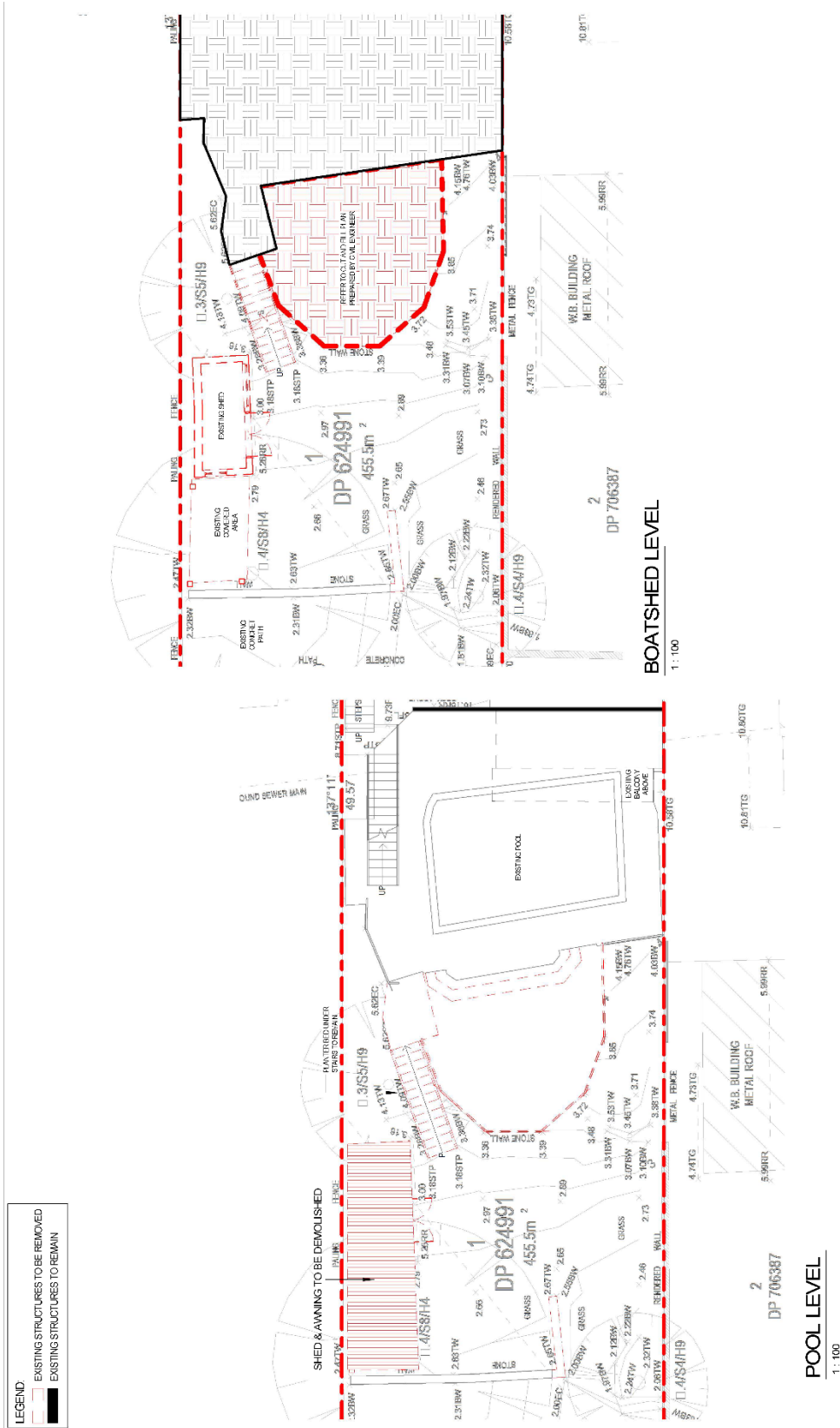
**DATE:** 05.06.2023  
**SCALE:** 1:100 @ A3  
**PROJECT NO.:** A13.840  
**ISSUE:** P9 (Please discard all other plans)

**SHEET NO.:** A87

**GENERAL NOTES:**  
 1. This drawing is a preliminary drawing and is not to be used for construction purposes.  
 2. All dimensions are in millimetres unless otherwise stated.  
 3. All work is to be done in accordance with the Australian Standards.  
 4. The client is responsible for obtaining all necessary permits and approvals.  
 5. The designer is not responsible for any errors or omissions in this drawing.  
 6. This drawing is the property of Design Plus Drafting and is not to be reproduced without written permission.

**LOCATION:** L: Client Area & Progress Schedule, 40 Nicholson St Balmain East, Inner West Council, 40 Nicholson St Balmain East, NSW 1510

**PRINTED:** 4/11/2023 10:04:29 AM



**DEMOLITION FLOOR PLANS**

**DEVELOPMENT APPLICATION**

NO.	DATE	BY	SCALE	PROJECT NO.	ISSUE
1	06.06.2023	DP	1:100 @ A3	A13,840	P9
2					

<p>CLIENT: REBECCA HALL</p> <p>ADDRESS: 40 NICHOLSON ST BALMAIN EAST INNER WEST COUNCIL</p>	<p>SHEET NO: A90</p> <p>(Please discard all other plans)</p>
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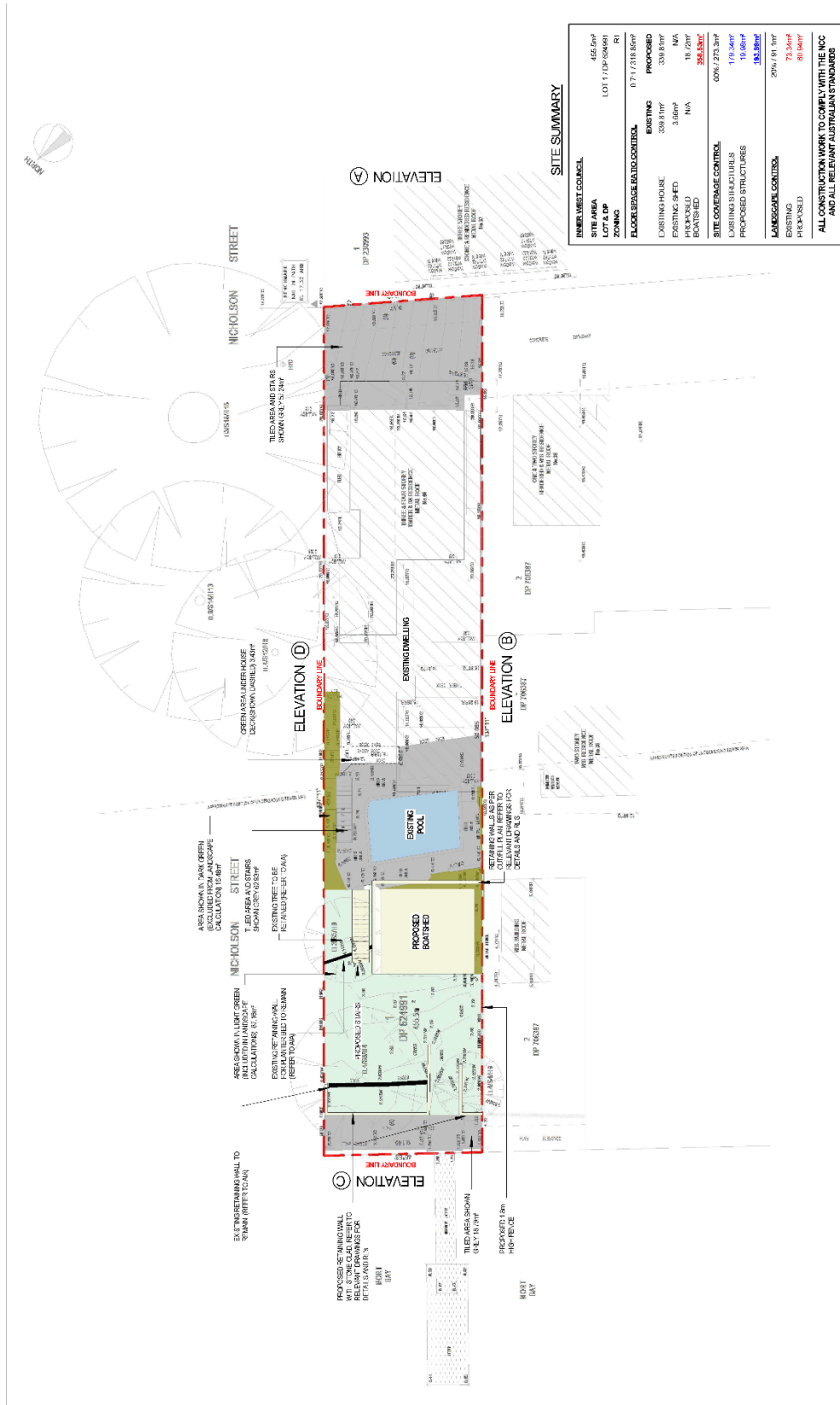
<p>DRAWINGS BY: DESIGN PLUS DRAFTING</p> <p>100/200/2005 www.designplusdrafting.com.au</p>	<p>DATE: 06.06.2023</p> <p>SCALE: 1:100 @ A3</p> <p>PROJECT NO: A13,840</p> <p>ISSUE: P9 (Please discard all other plans)</p>
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<p>GENERAL NOTES:</p> <p>1. All dimensions are in metres unless otherwise stated.</p> <p>2. All dimensions are to the face of the structure unless otherwise stated.</p> <p>3. All dimensions are to the face of the structure unless otherwise stated.</p> <p>4. All dimensions are to the face of the structure unless otherwise stated.</p> <p>5. All dimensions are to the face of the structure unless otherwise stated.</p>	<p>NORTH:</p>
---	---------------

<p>LOCATION: 40 Nicholson St, Balmain East NSW 1535</p>
---



**SITE SUMMARY**

<b>INNER WEST COUNCIL</b>	465 GPP
<b>SITE AREA</b>	1,071.3118 SQM
<b>LOT &amp; DP</b>	LOT 1, DP 824691
<b>ZONING</b>	R1
<b>FLOOR SPACE RATIO CONTROL</b>	0.71 / 3118.80M <sup>2</sup>
<b>EXISTING</b>	PROPOSED
<b>EXISTING HOUSE</b>	3308.81M <sup>2</sup>
<b>EXISTING SHED</b>	3.00M <sup>2</sup>
<b>PARKING</b>	N/A
<b>BOATS/BEED</b>	10 / 20M <sup>2</sup>
<b>SITE COVERAGE CONTROL</b>	356.63M <sup>2</sup>
<b>EXISTING STRUCTURES</b>	60M <sup>2</sup> / 273.30M <sup>2</sup>
<b>PROPOSED STRUCTURES</b>	173.34M <sup>2</sup>
<b>LANDSCAPE CONTROL</b>	18.88M <sup>2</sup>
<b>EXISTING</b>	20M <sup>2</sup> / 91.10M <sup>2</sup>
<b>PROPOSED</b>	73.34M <sup>2</sup>
<b>80.84M<sup>2</sup></b>	

ALL CONSTRUCTION WORK TO COMPLY WITH THE NCC AND ALL RELEVANT AUSTRALIAN STANDARDS

**DEVELOPMENT APPLICATION**

<b>DATE:</b>	19.10.2023
<b>SHEET NO.:</b>	<b>A100</b>
<b>SCALE:</b>	1:200 @ A3
<b>PROJECT NO.:</b>	A13,840
<b>ISSUE:</b>	P11 (Please discard all other plans)

**CLIENT:** REBECCA HALL  
**ADDRESS:** 40 NICHOLSON ST BALMAIN EAST INNER WEST COUNCIL

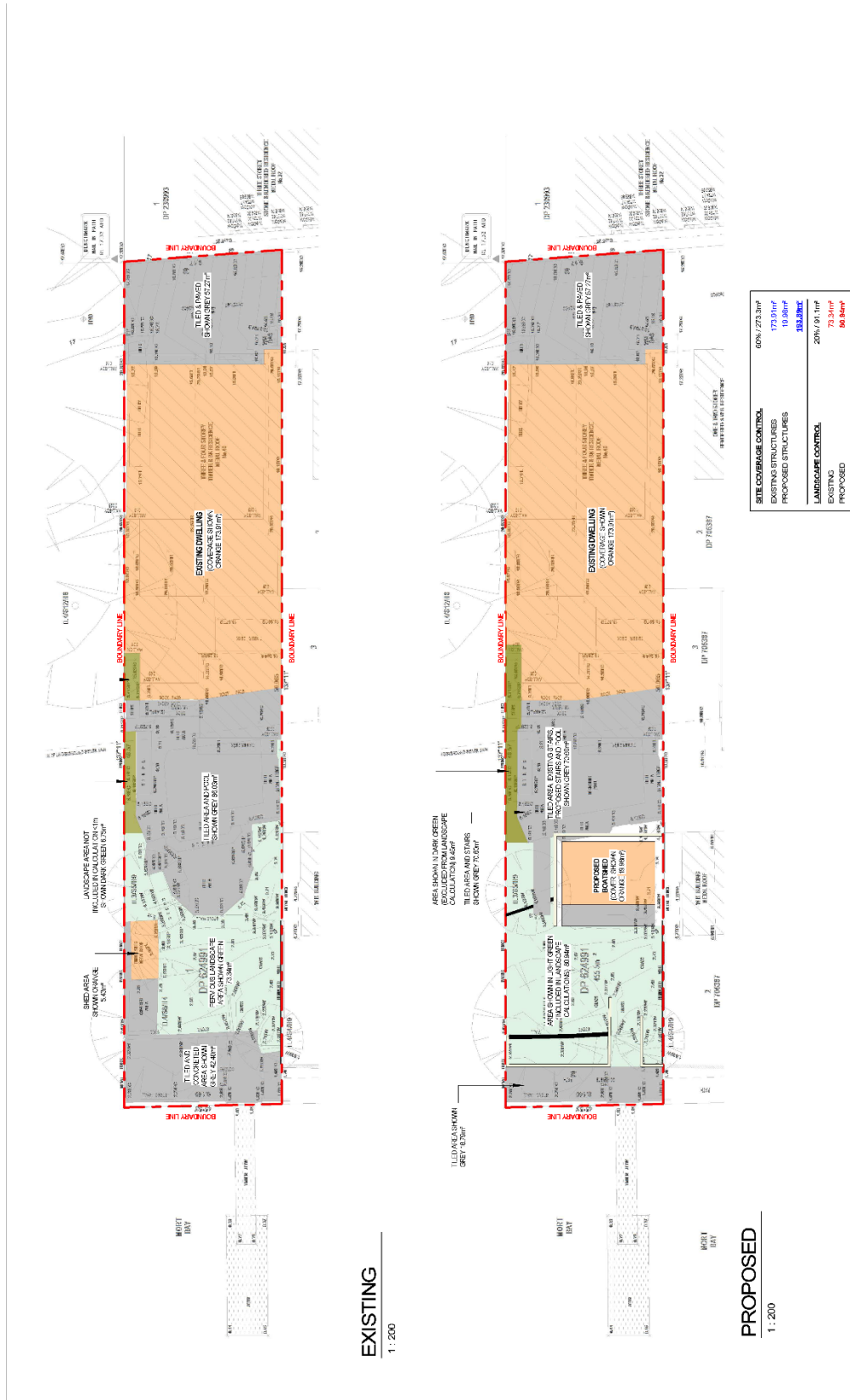
**DRAWINGS BY:** DESIGN PLUS DRAFTING  
 Suite C1, 4-51 Azzam Road, Northcote, VIC 3070  
 Ph: 03 9452 2285  
 www.designplusrp.com.au



**GENERAL NOTES:**  
 1. This drawing is a preliminary design and is subject to change without notice.  
 2. All dimensions are in meters and to be taken as shown unless otherwise indicated.  
 3. All construction is to be in accordance with the Australian Standards (AS) and the relevant Australian Building Code (ABC) provisions.  
 4. The client is responsible for obtaining all necessary permits and approvals from the relevant authorities.  
 5. The client is responsible for ensuring that the site is suitable for the proposed development.  
 6. The client is responsible for ensuring that the site is free of any encumbrances or other interests.  
 7. The client is responsible for ensuring that the site is free of any other structures or buildings.  
 8. The client is responsible for ensuring that the site is free of any other structures or buildings.  
 9. The client is responsible for ensuring that the site is free of any other structures or buildings.  
 10. The client is responsible for ensuring that the site is free of any other structures or buildings.

**SITE PLAN**

NO.	DATE	DESCRIPTION
01	19.10.2023	ISSUED FOR PERMIT
02	19.10.2023	ISSUED FOR PERMIT
03	19.10.2023	ISSUED FOR PERMIT
04	19.10.2023	ISSUED FOR PERMIT
05	19.10.2023	ISSUED FOR PERMIT
06	19.10.2023	ISSUED FOR PERMIT
07	19.10.2023	ISSUED FOR PERMIT
08	19.10.2023	ISSUED FOR PERMIT
09	19.10.2023	ISSUED FOR PERMIT
10	19.10.2023	ISSUED FOR PERMIT



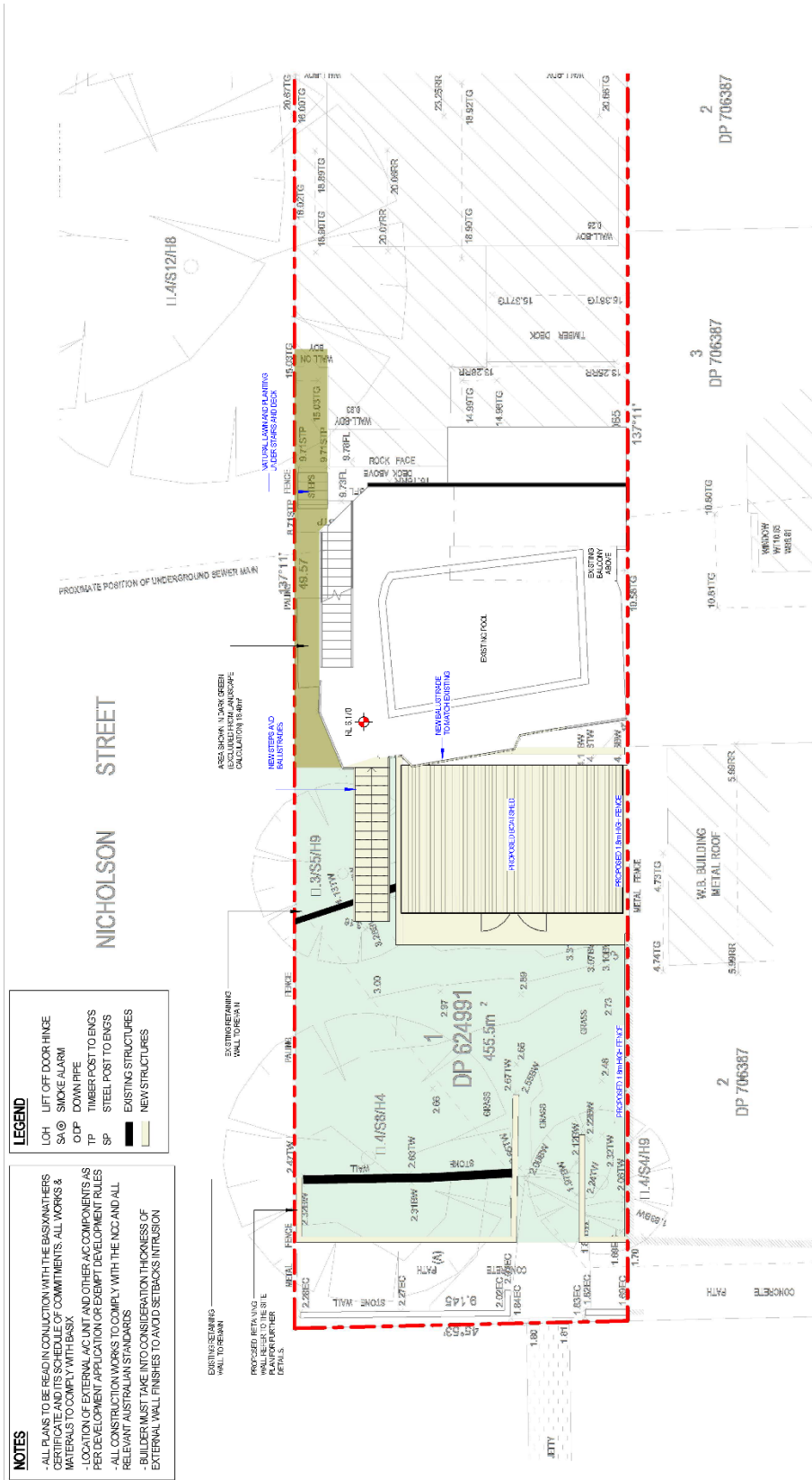
DEVELOPMENT APPLICATION

SITE COVERAGE & LANDSCAPE CALCULATIONS

<p>CLIENT: REBECCA HALL ADDRESS: 40 NICHOLSON ST BALMAIN EAST INNER WEST COUNCIL</p>		<p>DATE: 19.10.2023 SCALE: 1:200 @ A3 PROJECT No. A13,840 ISSUE: P11 (Please discard all other plans)</p>
<p>DRAWINGS BY: DESIGN PLUS DRAFTING Suite C1 - 4/51 Azzam Road, Vaucluse, NSW 1570 Ph: (02) 9439 2085 www.designplusrp.com.au</p>		<p>GENERAL NOTES: 1. This drawing is a site coverage and landscape calculation. It is not a site plan and does not show the layout of buildings or other structures. 2. All calculations are based on the information provided in the site plan and are subject to change if the site plan is amended. 3. The site coverage and landscape calculations are based on the information provided in the site plan and are subject to change if the site plan is amended. 4. The site coverage and landscape calculations are based on the information provided in the site plan and are subject to change if the site plan is amended. 5. The site coverage and landscape calculations are based on the information provided in the site plan and are subject to change if the site plan is amended.</p>
<p>NO. 10</p> <p>DESCRIPTION: SITE COVERAGE CONTROL</p> <p>DATE: 19.10.2023</p>	<p>NO. 11</p> <p>DESCRIPTION: LANDSCAPE CONTROL</p> <p>DATE: 19.10.2023</p>	<p>NO. 12</p> <p>DESCRIPTION: RETAINING WALLS AND SLOPES</p> <p>DATE: 19.10.2023</p>

EXISTING  
1:200

PROPOSED  
1:200



**LEGEND**

- LOH LIFT OFF DOOR HINGE
- SA@ SMOKE ALARM
- ODP DOWN PIPE
- TP TIMBER POST TO ENGS
- SP STEEL POST TO ENGS
- EXISTING STRUCTURES
- NEW STRUCTURES

**NOTES**

- ALL PLANS TO BE READ IN CONJUNCTION WITH THE BASIN MATTERS CERTIFICATE AND ITS SCHEDULE OF COMMITMENTS. ALL WORKS & MATERIALS TO COMPLY WITH BASIN MATTERS CERTIFICATE.
- LOCATION OF EXTERNAL LIGHT FIXTURES, OTHER A/C COMPONENTS AS PER DEVELOPMENT APPLICATION OR DEVELOPMENT DEPENDENT RULES.
- ALL CONSTRUCTION WORKS TO COMPLY WITH THE NCC AND ALL RELEVANT AUSTRALIAN STANDARDS.
- BUILDER MUST TAKE INTO CONSIDERATION THICKNESS OF EXTERNAL WALL FINISHES TO AVOID SETBACKS INTRUSION.

**DEVELOPMENT APPLICATION**

DATE: 19.10.2023  
 SCALE: 1:100 @ A3  
 PROJECT No. A13,840  
 SHEET NO: A102  
 (Please discard all other plans)

CLIENT: REBECCA HALL  
 ADDRESS: 40 NICHOLSON ST  
 BALMAIN EAST  
 INNER WEST COUNCIL

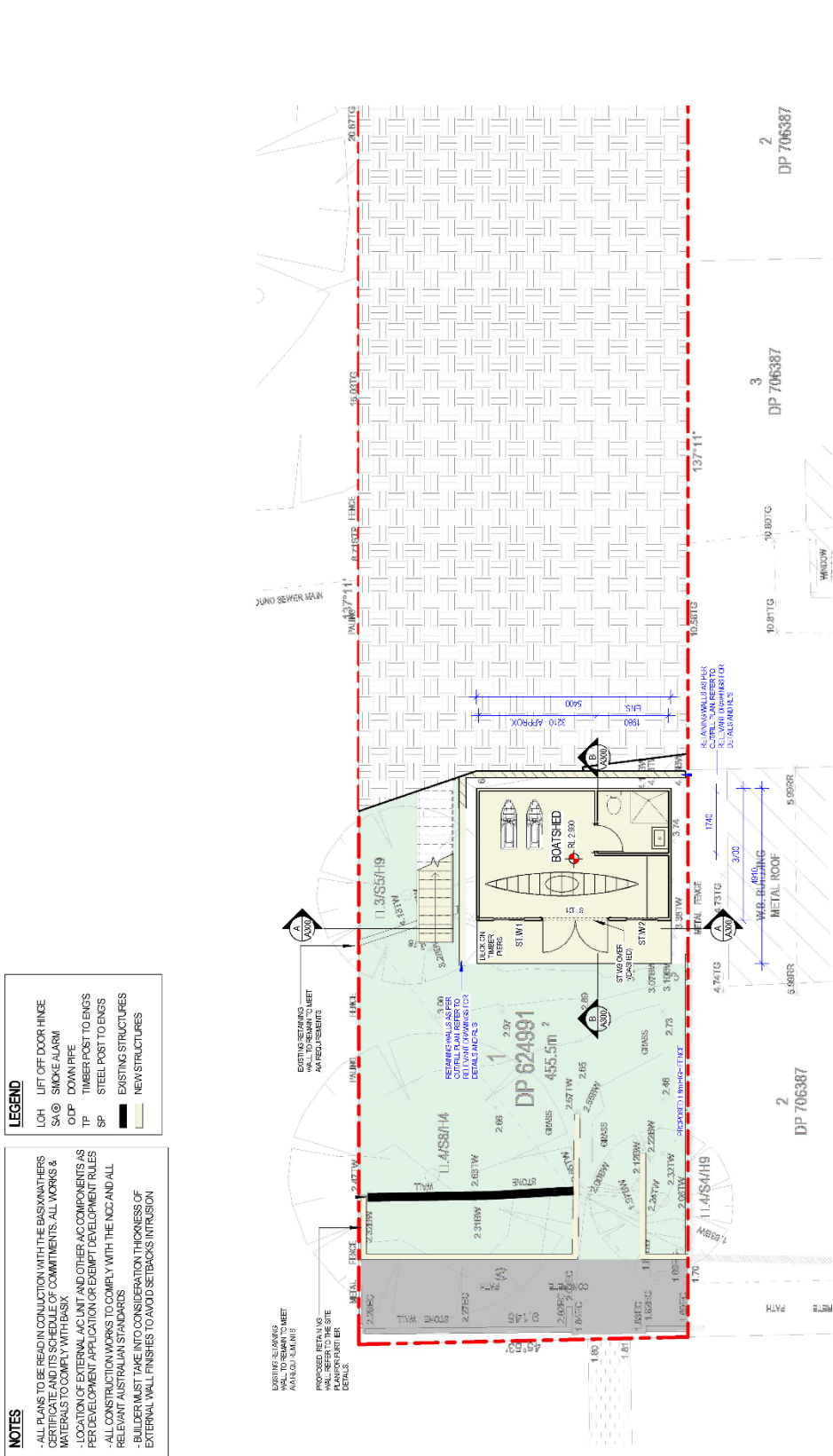
DRAWINGS BY: DESIGN PLUS DRAFTING  
 Suite C1 - 4/31 Azzam Road, North Sydney, NSW 1585  
 Ph: 0025522005  
 www.designplusrp.com.au



**GENERAL NOTES**

1. The drawings shall be used for construction of the proposed pool level. Construction of the pool level shall be in accordance with the relevant Australian Standards and the relevant Council Local Law. The drawings shall be used for construction of the proposed pool level. Construction of the pool level shall be in accordance with the relevant Australian Standards and the relevant Council Local Law.

REV	DESCRIPTION	DATE
01	ISSUED FOR PERMIT	19.10.2023
02	ISSUED FOR PERMIT	19.10.2023
03	ISSUED FOR PERMIT	19.10.2023
04	ISSUED FOR PERMIT	19.10.2023
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49	ISSUED FOR PERMIT	19.10.2023
50	ISSUED FOR PERMIT	19.10.2023



**LEGEND**

- LOH LIFT OFF DOOR HINGE
- SA@ SMOKE ALARM
- ODP DOWN PIPE
- TP TIMBER POST TO ENDS
- SP STEEL POST TO ENDS
- EXISTING STRUCTURES
- NEW STRUCTURES

**NOTES**

- ALL PLANS TO BE READ IN CONJUNCTION WITH THE BASIN MATTERS CERTIFICATE AND ITS SCHEDULE OF COMMITMENTS. ALL WORKS & MATERIALS TO COMPLY WITH BANK.
- LOCATION OF EXTERNAL UNIT AND OTHER A/C COMPONENTS AS PER DEVELOPMENT APPLICATION OR DEVELOPMENT RULES.
- ALL CONSTRUCTION WORKS TO COMPLY WITH THE NCC AND ALL RELEVANT AUSTRALIAN STANDARDS.
- BUILDER MUST TAKE INTO CONSIDERATION THICKNESS OF EXTERNAL WALL FINISHES TO AVOID SETBACKS INTRUSION.

**DEVELOPMENT APPLICATION**

DATE: 19.10.2023  
 SCALE: 1:100 @ A3  
 PROJECT No. A13,840  
 SHEET NO: A103  
 ISSUE: P11 (Please discard all other plans)

CLIENT: REBECCA HALL  
 ADDRESS: 40 NICHOLSON ST BALMAIN EAST INNER WEST COUNCIL

DRAWINGS BY: DESIGN PLUS DRAFTING  
 Suite C1 - 4/51 Apsara Road, Northcote, VIC 3070  
 Ph: 03 9452 2288  
 www.designplusrp.com.au



**GENERAL NOTES**

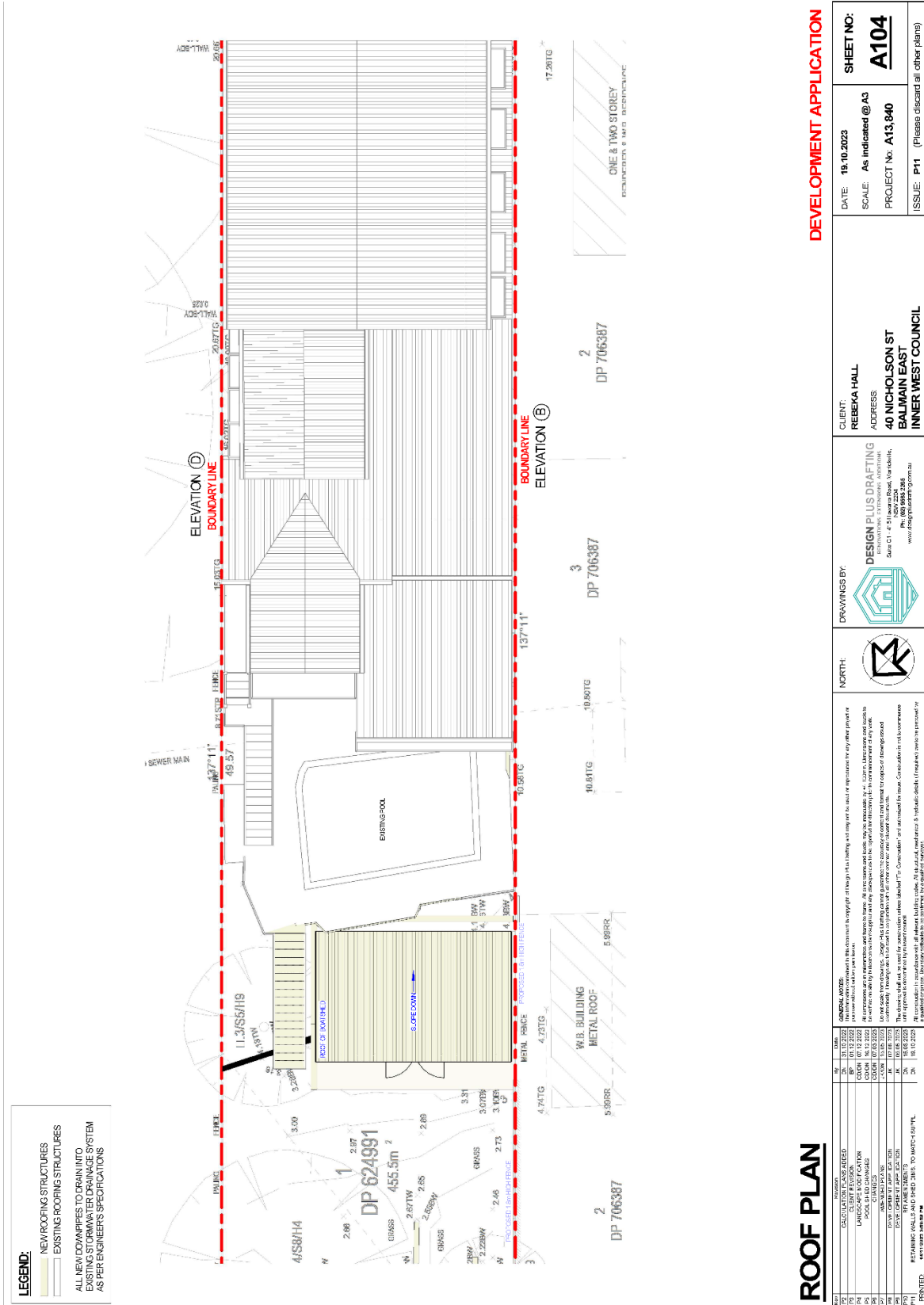
1. All construction work shall be in accordance with the Australian Standards and any other relevant codes of practice. All work shall be completed in accordance with the relevant Australian Standards and any other relevant codes of practice.

2. The drawings shall be used for construction of the proposed development. Construction of the proposed development shall be in accordance with the relevant Australian Standards and any other relevant codes of practice.

3. All work shall be completed in accordance with the relevant Australian Standards and any other relevant codes of practice.

NO.	DESCRIPTION	DATE
01	PRELIMINARY	01.12.2022
02	REVISED	01.12.2022
03	REVISED	01.12.2022
04	LANDSCAPE & SOFTSCAPE	01.12.2022
05	REVISED	01.12.2022
06	REVISED	01.12.2022
07	REVISED	01.12.2022
08	REVISED	01.12.2022
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98	REVISED	01.12.2022
99	REVISED	01.12.2022
100	REVISED	01.12.2022





**ROOF PLAN**

**DEVELOPMENT APPLICATION**

REV	DATE	BY	CHKD	DESCRIPTION
01	18.10.2023	DP	DP	ISSUED FOR PERMIT
02	18.10.2023	DP	DP	CLIENT REQUEST
03	18.10.2023	DP	DP	CLIENT REQUEST
04	18.10.2023	DP	DP	CLIENT REQUEST
05	18.10.2023	DP	DP	CLIENT REQUEST
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100	18.10.2023	DP	DP	CLIENT REQUEST

DATE: 19.10.2023  
 SCALE: As indicated @ A3  
 PROJECT No. A13.840  
 ISSUE: P11 (Please discard all other plans)

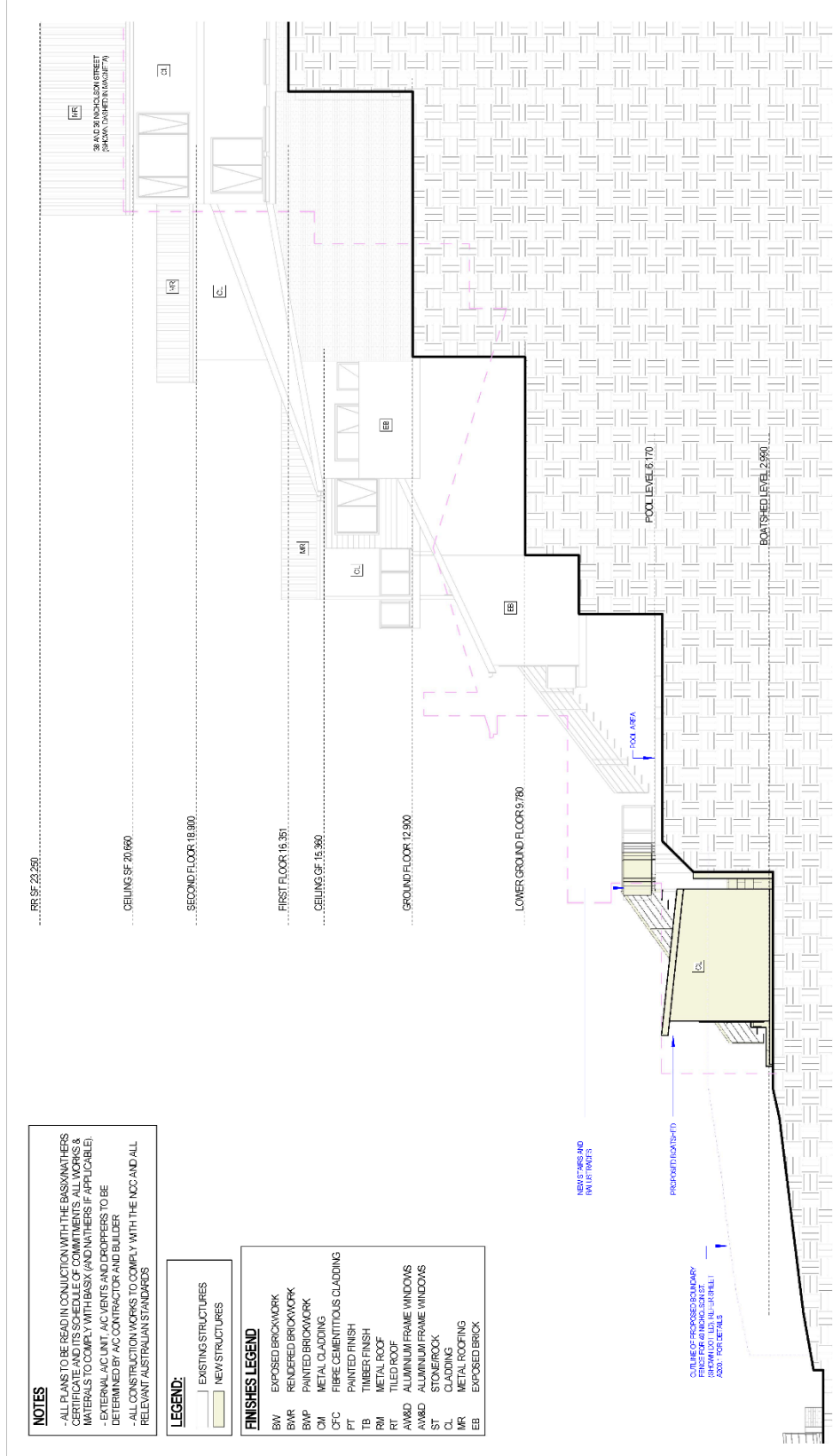
CLIENT: REBECCA HALL  
 ADDRESS: 40 NICHOLSON ST  
 BALMAIN EAST  
 INNER WEST COUNCIL

DRAWINGS BY: DESIGN PLUS DRAFTING  
 5/11/2023  
 100 WILSON ST, BALMAIN NSW 1535  
 Ph: 02 9550 2005  
 www.designplusdrafting.com.au



**GENERAL NOTES:**  
 1. The drawings are prepared in accordance with the provisions of the Building Act 1993 and the Building Regulation 2006.  
 2. All dimensions are in metres and to the centre of the wall unless otherwise stated.  
 3. The drawings shall be used for construction of the building. Construction not shown on the drawings shall be in accordance with the relevant Australian Standards.  
 4. The drawings shall be used for construction of the building. Construction not shown on the drawings shall be in accordance with the relevant Australian Standards.  
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 10. The drawings shall be used for construction of the building. Construction not shown on the drawings shall be in accordance with the relevant Australian Standards.

LOCATION: L: Client Area & Proposed Building, 40 Nicholson St, Balmain NSW 1535  
 DRAWING NO: DP 624991  
 SHEET NO: A104  
 PROJECT NO: A13.840  
 ISSUE: P11



**NOTES**

- ALL PLANS TO BE READ IN CONJUNCTION WITH THE BASKINWATERS CERTIFICATE AND ITS SCHEDULE OF COMMITMENTS. ALL WORKS & MATERIALS TO COMPLY WITH BASKINWATERS (IF APPLICABLE).
- EXTERNAL A/C UNIT, A/C VENTS AND DROPPERS TO BE DETERMINED BY A/C CONTRACTOR AND BUILDER
- ALL CONSTRUCTION WORKS TO COMPLY WITH THE IBC AND ALL RELEVANT AUSTRALIAN STANDARDS

**LEGEND:**

- EXISTING STRUCTURES
- NEW STRUCTURES

**FINISHES LEGEND**

- BAW EXPOSED BRICKWORK
- BAR RENDERED BRICKWORK
- BWP PAINTED BRICKWORK
- CM METAL CLADDING
- CFC FIBRE CEMENTITIOUS CLADDING
- PT PAINTED FINISH
- TB TIMBER FINISH
- RM METAL ROOF
- RT TILED ROOF
- AW&D ALUMINIUM FRAME WINDOWS
- ST STONE/ROCK CLADDING
- MR METAL ROOFING
- EB EXPOSED BRICK

ELEVATION A  
1:100 SOUTH-WEST

**ELEVATIONS**

REV	DATE	DESCRIPTION
01	18.10.2023	GENERAL NOTES
02	18.10.2023	REVISIONS TO DRAWING
03	18.10.2023	CLIENT FEEDBACK
04	18.10.2023	LANDSCAPE SCOPING
05	18.10.2023	FINAL DESIGN
06	18.10.2023	FINAL DESIGN
07	18.10.2023	FINAL DESIGN
08	18.10.2023	FINAL DESIGN
09	18.10.2023	FINAL DESIGN
10	18.10.2023	FINAL DESIGN
11	18.10.2023	FINAL DESIGN

**DEVELOPMENT APPLICATION**

DATE: 18.10.2023  
SCALE: 1:100 @ A3  
PROJECT No: A13,840  
ISSUE: P11 (Please discard all other plans)

SHEET NO: **A200**

CLIENT: **REBECCA HALL**  
ADDRESS: **40 NICHOLSON ST BALMAIN EAST INNER WEST COUNCIL**

DRAWINGS BY: **DESIGN PLUS DRAFTING**  
Suite C1, 4-51 Azzura Road, Northside, QLD 4013  
Ph: 07 5522 2005  
www.designplusrm.com.au

**GENERAL NOTES:**

All work to be done in accordance with the current Australian Standards and any other relevant codes of practice. All work to be done in accordance with the current Australian Standards and any other relevant codes of practice. All work to be done in accordance with the current Australian Standards and any other relevant codes of practice. All work to be done in accordance with the current Australian Standards and any other relevant codes of practice.

**PROPOSED 1.8M HEIGHT FENCE OR SHRUBS FOR PRIVACY (DASHED IN RED)**

**EXISTING FENCE OF HOUSE No. 38**

**EXISTING METAL FENCES OF 38 NICHOLSON ST**

**PROPOSED 1.8M HEIGHT FENCE OR SHRUBS FOR PRIVACY (DASHED IN RED) OR COMBINATION IN THE MIDDLE OF CONSENT WHERE EITHER OR BOTH OPTIONS ARE POSSIBLE**

**EXISTING FENCE OF HOUSE No. 40 (DASHED IN BLUE)**

**EXISTING METAL FENCES OF 38 NICHOLSON ST (D2014/259)**

**EXISTING METAL FENCES OF 38 NICHOLSON ST**

**POOL LEVEL 6.170**

**BOATSHED LEVEL 2.280**

**ROOFER & OUTLINE OF BOATSHED (38 NICHOLSON ST. REFER TO PLAN IN ANNOTATION)**

**R.L. 2.290**

**PROPOSED BOATSHED**

**R.L. 2.290**

**POOL AREA OF 38 NICHOLSON ST (D2014/259)**

**1 : 100**

**FENCE DETAIL**

**1 : 100**

**FENCE ELEVATION DETAIL**

REV	DESCRIPTION	DATE
01	ISSUED	19.10.2023
02	CLIENT REVISIONS	01.12.2023
03	CLIENT REVISIONS	01.12.2023
04	CLIENT REVISIONS	01.12.2023
05	CLIENT REVISIONS	01.12.2023
06	CLIENT REVISIONS	01.12.2023
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08	CLIENT REVISIONS	01.12.2023
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17	CLIENT REVISIONS	01.12.2023
18	CLIENT REVISIONS	01.12.2023
19	CLIENT REVISIONS	01.12.2023
20	CLIENT REVISIONS	01.12.2023

**GENERAL NOTES:**  
 1. All dimensions are in millimetres unless otherwise stated.  
 2. All work to be done in accordance with the Australian Standards (AS) and relevant codes of practice.  
 3. All work to be done in accordance with the relevant local council requirements.  
 4. All work to be done in accordance with the relevant local council requirements.  
 5. All work to be done in accordance with the relevant local council requirements.  
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 9. All work to be done in accordance with the relevant local council requirements.  
 10. All work to be done in accordance with the relevant local council requirements.

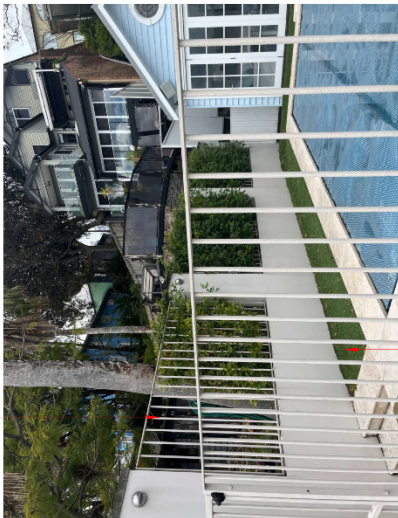
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**DEVELOPMENT APPLICATION**

DATE: 19.10.2023  
 SCALE: 1 : 100 @ A3  
 PROJECT No. A13,840  
 SHEET NO: **A200.1**  
 ISSUE: P11 (Please discard all other plans)

CLIENT: **REBECCA HALL**  
 ADDRESS: **40 NICHOLSON ST BALMAIN EAST INNER WEST COUNCIL**

DRAWINGS BY: **DESIGN PLUS DRAFTING**  
 Suite C1 - 4/51 Aurora Road, Vaucluse, NSW 1570  
 Ph: (02) 9550 2205  
 www.designplusrp.com.au





**ELEVATIONS**

**ELEVATION B**  
1 : 100 NORTH-WEST

**DEVELOPMENT APPLICATION**

DATE: 19.10.2023	SHEET NO: <b>A201</b>																																				
SCALE: 1 : 100 @ A3	PROJECT No: A13,840																																				
ISSUE: P11 (Please discard all other plans)																																					
CLIENT: REBECCA HALL																																					
ADDRESS: 40 NICHOLSON ST BALMAIN EAST INNER WEST COUNCIL																																					
DRAWINGS BY: DESIGN PLUS DRAFTING Suite C1 - 4/51 Azzura Road, Northcote, VIC 3070 Ph: 03 9452 2085 www.designplusrm.com.au																																					
<p><b>GENERAL NOTES:</b></p> <p>1. All construction works to comply with the NCC and all relevant Australian standards.</p> <p>2. All construction works to be completed in accordance with the NCC and all relevant Australian standards.</p> <p>3. All construction works to be completed in accordance with the NCC and all relevant Australian standards.</p> <p>4. All construction works to be completed in accordance with the NCC and all relevant Australian standards.</p> <p>5. All construction works to be completed in accordance with the NCC and all relevant Australian standards.</p> <p>6. All construction works to be completed in accordance with the NCC and all relevant Australian standards.</p> <p>7. All construction works to be completed in accordance with the NCC and all relevant Australian standards.</p> <p>8. All construction works to be completed in accordance with the NCC and all relevant Australian standards.</p> <p>9. All construction works to be completed in accordance with the NCC and all relevant Australian standards.</p> <p>10. All construction works to be completed in accordance with the NCC and all relevant Australian standards.</p>																																					
<p><b>REVISIONS:</b></p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>01</td> <td>19.10.2023</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>02</td> <td>19.10.2023</td> <td>REVISED</td> </tr> <tr> <td>03</td> <td>19.10.2023</td> <td>REVISED</td> </tr> <tr> <td>04</td> <td>19.10.2023</td> <td>REVISED</td> </tr> <tr> <td>05</td> <td>19.10.2023</td> <td>REVISED</td> </tr> <tr> <td>06</td> <td>19.10.2023</td> <td>REVISED</td> </tr> <tr> <td>07</td> <td>19.10.2023</td> <td>REVISED</td> </tr> <tr> <td>08</td> <td>19.10.2023</td> <td>REVISED</td> </tr> <tr> <td>09</td> <td>19.10.2023</td> <td>REVISED</td> </tr> <tr> <td>10</td> <td>19.10.2023</td> <td>REVISED</td> </tr> <tr> <td>11</td> <td>19.10.2023</td> <td>REVISED</td> </tr> </tbody> </table>		NO.	DATE	DESCRIPTION	01	19.10.2023	ISSUED FOR PERMIT	02	19.10.2023	REVISED	03	19.10.2023	REVISED	04	19.10.2023	REVISED	05	19.10.2023	REVISED	06	19.10.2023	REVISED	07	19.10.2023	REVISED	08	19.10.2023	REVISED	09	19.10.2023	REVISED	10	19.10.2023	REVISED	11	19.10.2023	REVISED
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**NOTES**

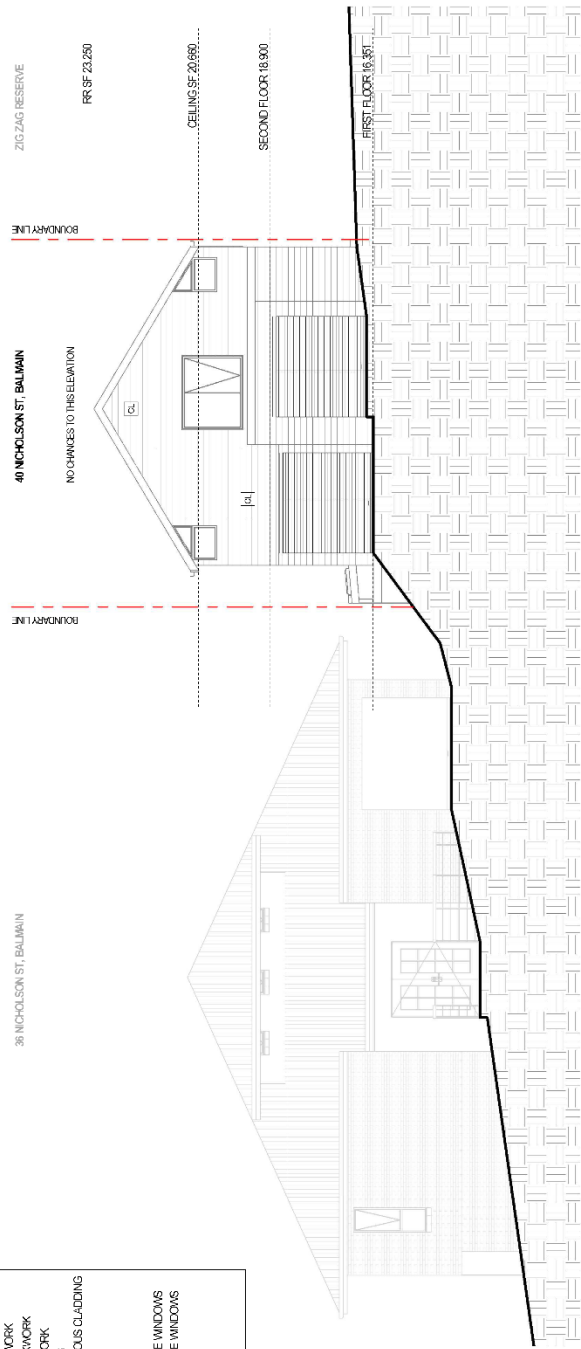
- ALL PLANS TO BE READ IN CONJUNCTION WITH THE BASKINWATERS CERTIFICATE AND ITS SCHEDULE OF COMMITMENTS. ALL WORKS & MATERIALS TO COMPLY WITH BSIX (AND OTHERS IF APPLICABLE).
- EXTERNAL A/C UNIT, A/C VENTS AND DROPPERS TO BE DETERMINED BY A/C CONTRACTOR AND BUILDER
- ALL CONSTRUCTION WORKS TO COMPLY WITH THE IBC AND ALL RELEVANT AUSTRALIAN STANDARDS

**LEGEND:**

	EXISTING STRUCTURES
	NEW STRUCTURES

**FINISHES LEGEND**

BW	EXPOSED BRICKWORK
BR	RENDERED BRICKWORK
BMP	PAINTED BRICKWORK
CM	METAL CLADDING
CFC	FIBRE CEMENT/TITANIOUS CLADDING
PT	PAINTED FINISH
TB	TIMBER FINISH
RM	METAL ROOF
RT	TILED ROOF
AW&D	ALUMINIUM FRAME WINDOWS
ST	STONE/ROCK CLADDING
CL	METAL ROOFING
MR	METAL ROOFING
EB	EXPOSED BRICK



ELEVATION C  
1: 100 SOUTH-EAST

**ELEVATIONS**

REV	DATE	DESCRIPTION
01	01.12.2022	ISSUED FOR PERMIT
02	01.12.2022	CLIENT FEEDBACK
03	01.12.2022	REVISIONS
04	01.12.2022	LANDSCAPE/ROOF/CLADDING
05	01.12.2022	FINAL
06	01.12.2022	FINAL
07	01.12.2022	FINAL
08	01.12.2022	FINAL
09	01.12.2022	FINAL
10	01.12.2022	FINAL
11	01.12.2022	FINAL

**DEVELOPMENT APPLICATION**

DATE: 19.10.2023  
SCALE: 1: 100 @ A3  
PROJECT No: A13,840  
ISSUE: P11 (Please discard all other plans)

CLIENT: REBECCA HALL  
ADDRESS: 40 NICHOLSON ST BALMAIN EAST INNER WEST COUNCIL

DRAWINGS BY: DESIGN PLUS DRAFTING  
Suite C1 - 4/51 Azzura Road, Northcote, VIC 3070  
Ph: 03 9452 2085  
www.designplusrp.com.au

**GENERAL NOTES:**

1. The drawings are prepared in accordance with the Australian Standards AS 1100 and AS 1161. All dimensions are in millimetres unless otherwise stated.

2. All dimensions are to face unless otherwise stated. All dimensions are to be taken from the finished face of the work.

3. All dimensions are to be taken from the finished face of the work. All dimensions are to be taken from the finished face of the work.

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LOCATION: L: Client Area & Program/33/240 - 40 Nicholson St, Balmain - P11/11 - Architecture & Development - Rebecca Hall, 40 Nicholson St, Balmain - P11/11

**NOTES**

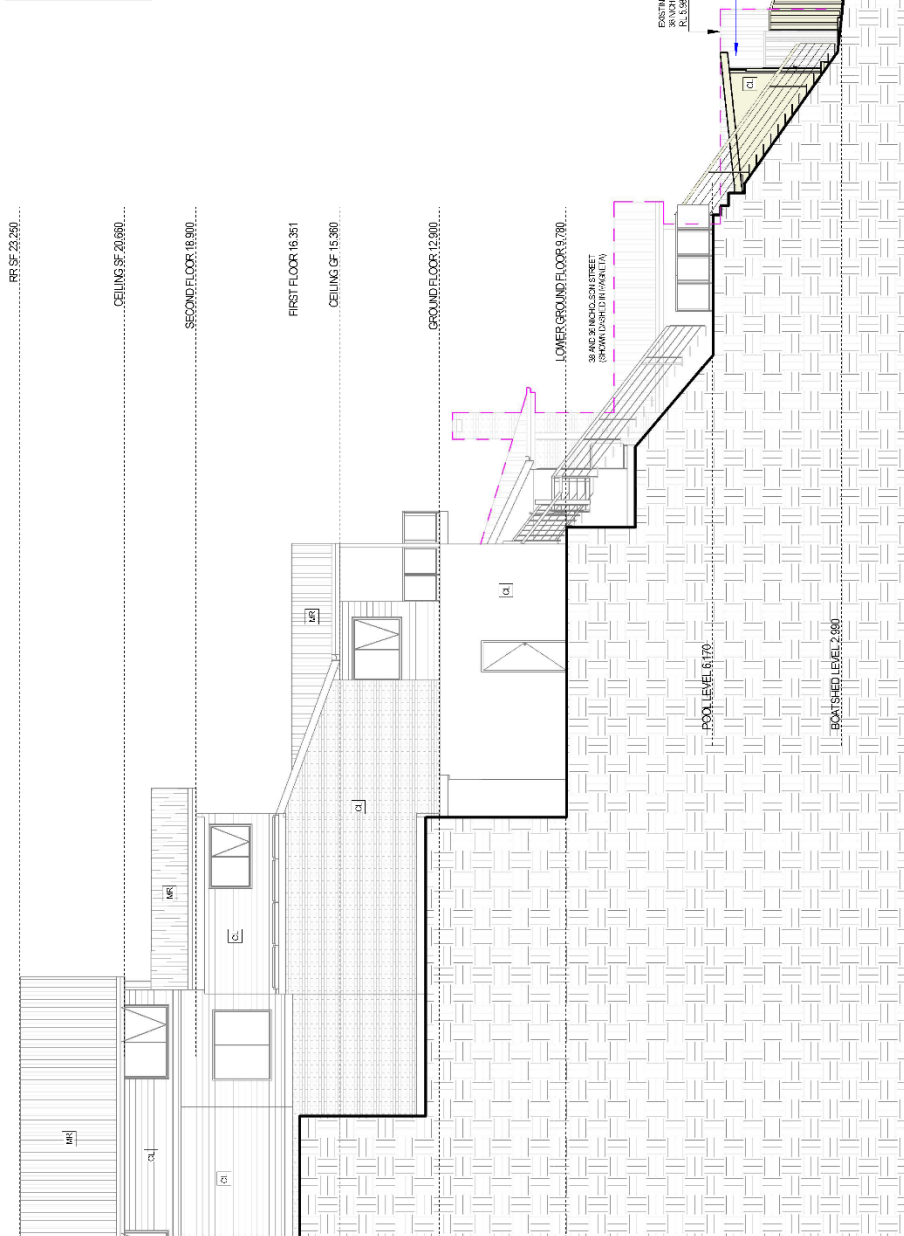
- ALL PLANS TO BE IN CONJUNCTION WITH THE BASIN MATTERS CERTIFICATE AND ITS SCHEDULE OF COMMITMENTS. ALL WORKS & MATERIALS TO COMPLY WITH BASIN MATTERS (IF APPLICABLE).
- EXTERNAL AIR UNIT, AIR VENTS AND DROPPERS TO BE DETERMINED BY A/C CONTRACTOR AND BUILDER.
- ALL CONSTRUCTION WORKS TO COMPLY WITH THE NCC AND ALL RELEVANT AUSTRALIAN STANDARDS.

**LEGEND:**

- EXISTING STRUCTURES
- NEW STRUCTURES

**FINISHES LEGEND**

- BW EXPOSED BRICKWORK
- BWR RENDERED BRICKWORK
- BWP PAINTED BRICKWORK
- CM METAL CLADDING
- CFC FIBRE CEMENT/TITANOUS CLADDING
- FT PAINTED FINISH
- TB TIMBER FINISH
- RM METAL ROOF
- RT TILED ROOF
- AW&D ALUMINIUM FRAME WINDOWS
- AL&D ALUMINIUM FRAME WINDOWS
- ST STONE ROOF
- CL CLADDING
- MR METAL ROOFING
- EB EXPOSED BRICK



ELEVATION D  
1 : 100 NORTH-EAST

**ELEVATIONS**

REV	DATE	DESCRIPTION
01	19.12.2023	ISSUED
02	19.12.2023	CLIENT REVISIONS
03	19.12.2023	CLIENT REVISIONS
04	19.12.2023	LANDSCAPE & ROOF COVER
05	19.12.2023	CLIENT REVISIONS
06	19.12.2023	CLIENT REVISIONS
07	19.12.2023	CLIENT REVISIONS
08	19.12.2023	CLIENT REVISIONS
09	19.12.2023	CLIENT REVISIONS
10	19.12.2023	CLIENT REVISIONS
11	19.12.2023	CLIENT REVISIONS

**DEVELOPMENT APPLICATION**

CLIENT: REBECCA HALL  
ADDRESS: 40 NICHOLSON ST BALMAIN EAST INNER WEST COUNCIL

DESIGN PLUS DRAFTING  
Suite C1 - 4/51 Azzura Road, Northcote, VIC 3040  
Ph: 03 9450 2005  
www.designplusrp.com.au

DATE: 19.10.2023  
SCALE: 1 : 100 @ A3  
PROJECT No. A13,840  
SHEET NO: A203  
ISSUE: P11 (Please discard all other plans)

### WINDOW & SLIDING DOOR SCHEDULE

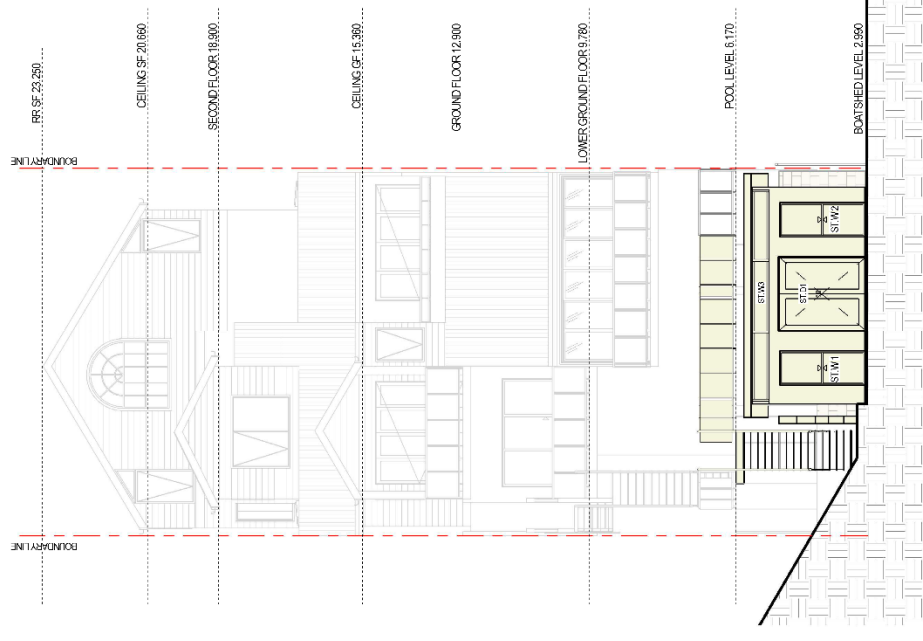
TYPE	MARK	HEIGHT	WIDTH	STYLE	FRAME TYPE	GLAZING	AREA
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STW	2	2100	660	DOUBLE HUNG	STANDARD ALUMINIUM	SINGLE CLEAR	1,765
STW	3	945	660	FIXED	STANDARD ALUMINIUM	SINGLE CLEAR	2,889
STD	4	2154	2410	DOOR	STANDARD ALUMINIUM	SINGLE CLEAR	5,931.4

**NOTES**

- ALL PLANS TO BE READ IN CONJUNCTION WITH THE BACKGROUNDERS CERTIFICATE AND ITS SCHEDULES OF COMMITMENTS, WORKS AND MATERIALS TO COMPLY WITH BASIX (AND MATTERS IF APPLICABLE).
- EXTERNAL A/C UNIT, A/C VENTS AND DROPPERS TO BE DETERMINED BY A/C CONTRACTOR AND BUILDER.
- ALL CONSTRUCTION WORKS TO COMPLY WITH THE MCC AND ALL RELEVANT AUSTRALIAN STANDARDS.

**LEGEND:**

- EXISTING STRUCTURES
- NEW STRUCTURES



**SECTION B-B**  
1:100

**SECTION A-A**  
1:100

## SECTIONS/SCHEDULES

NO.	DESCRIPTION	DATE	BY	CHKD.	GENERAL NOTES
01	CONCEPT DESIGN	01/12/2022	BP	BP	Initial design and concept drawings for the project.
02	PRELIMINARY DESIGN	01/12/2022	BP	BP	Preparation of preliminary design drawings.
03	LANDSCAPE ARCHITECTURE	02/12/2022	BP	BP	Finalisation of landscape architecture drawings.
04	FINAL DESIGN	02/12/2022	BP	BP	Finalisation of all design drawings.
05	CONSTRUCTION DOCUMENTS	02/12/2022	BP	BP	Preparation of construction documents.
06	CONSTRUCTION DOCUMENTS	02/12/2022	BP	BP	Finalisation of construction documents.
07	CONSTRUCTION DOCUMENTS	02/12/2022	BP	BP	Finalisation of construction documents.
08	CONSTRUCTION DOCUMENTS	02/12/2022	BP	BP	Finalisation of construction documents.
09	CONSTRUCTION DOCUMENTS	02/12/2022	BP	BP	Finalisation of construction documents.
10	CONSTRUCTION DOCUMENTS	02/12/2022	BP	BP	Finalisation of construction documents.
11	CONSTRUCTION DOCUMENTS	02/12/2022	BP	BP	Finalisation of construction documents.

**DEVELOPMENT APPLICATION**

DATE:	19/10/2023	SHEET NO.:	A300
SCALE:	1:100 @ A3	PROJECT NO.:	A13,840
ISSUE:	P11 (Please discard all other plans)		

**CLIENT:** REBECCA HALL  
**ADDRESS:** 40 NICHOLSON ST BALMAIN EAST INNER WEST COUNCIL

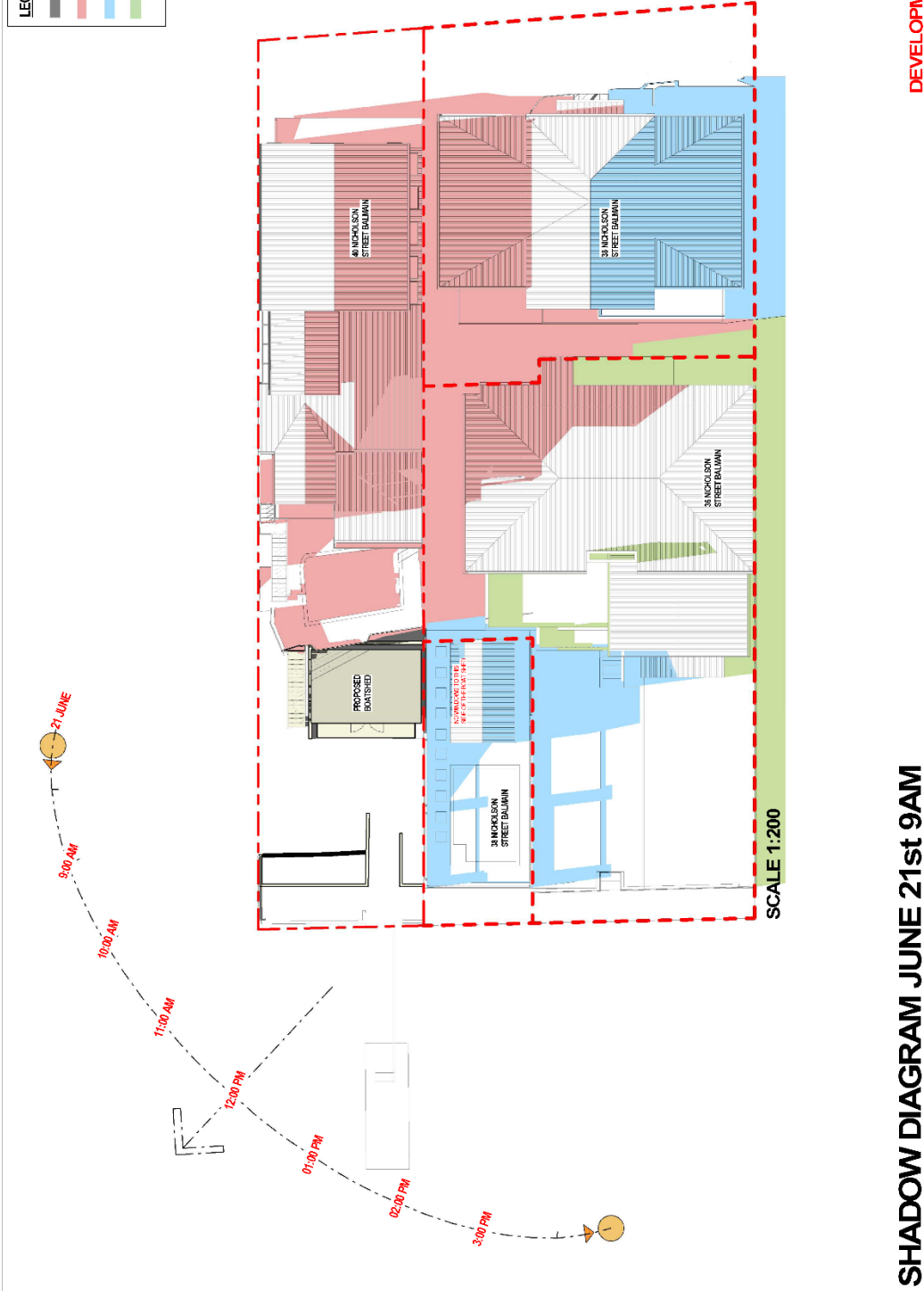
**DRAWINGS BY:** DESIGN PLUS DRAFTING  
 Suite C1 - 4/51 Azzura Road, Northside, NSW 1585  
 Ph: 02 9550 2005  
 www.designplusrp.com.au

**GENERAL NOTES:**

- These drawings are prepared in accordance with the provisions of the Building Act 1993 and the Building Regulation 2006.
- All construction is to be in accordance with the Australian Standard AS/NZS 1170.0.
- The drawings shall be used for construction of the building only. Construction is not to be undertaken in accordance with the drawings unless the drawings are approved by the Council.
- Any modifications to the drawings shall be made in accordance with the provisions of the Building Act 1993 and the Building Regulation 2006.

**LEGEND:**

	SHADOWS PROPOSED OF 40 NICHOLSON STREET BOAT SHED
	EXISTING SHADOWS OF 40 NICHOLSON STREET
	EXISTING SHADOWS 38 NICHOLSON STREET
	EXISTING SHADOWS 36 NICHOLSON STREET
	EXISTING SHADOWS 36 NICHOLSON STREET

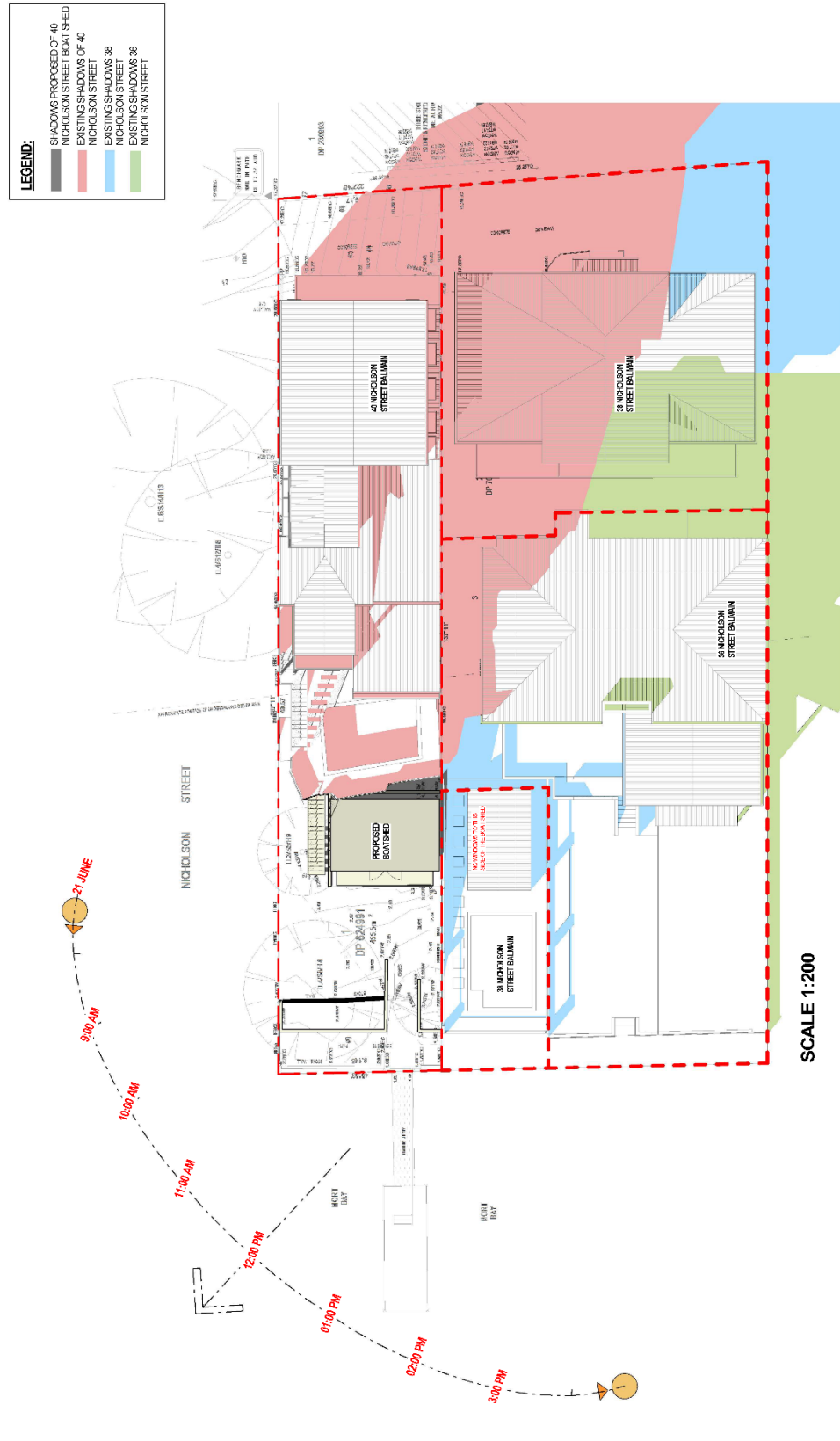


**SHADOW DIAGRAM JUNE 21st 9AM**

**DEVELOPMENT APPLICATION**

DATE: 05.06.2023	SHEET NO: A5111																				
SCALE: As indicated @ A3	PROJECT No: A13,840																				
ISSUE: P9 (Please discard all other plans)																					
CLIENT: REBECCA HALL																					
ADDRESS: 40 NICHOLSON ST BALMAIN EAST INNER WEST COUNCIL																					
DRAWINGS BY: DESIGN PLUS DRAFTING Suite C1 - 4/31 Azzura Road, Northcote, VIC 3070 Ph: 03 9452 2005 www.designplusrp.com.au																					
NORTH:																					
<p><b>GENERAL NOTES:</b></p> <p>1. This drawing is prepared in accordance with the provisions of the Building Act 1993 and the Building Regulations 2006. It is intended to be used for the purpose of obtaining a Development Application. It is not to be used for any other purpose.</p> <p>2. All dimensions are in millimetres unless otherwise stated. All dimensions are to the face of the work unless otherwise stated.</p> <p>3. The drawings shall be used for construction of the development. Construction is not to be undertaken until the relevant Development Application has been approved by the Council.</p> <p>4. The drawings shall be used for construction of the development. Construction is not to be undertaken until the relevant Development Application has been approved by the Council.</p>																					
<table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>BY</th> <th>REVISION</th> </tr> </thead> <tbody> <tr> <td>01</td> <td>05.06.2023</td> <td>CH</td> <td>ISSUED FOR DEVELOPMENT APPLICATION</td> </tr> <tr> <td>02</td> <td>05.06.2023</td> <td>CH</td> <td>ISSUED FOR DEVELOPMENT APPLICATION</td> </tr> <tr> <td>03</td> <td>05.06.2023</td> <td>CH</td> <td>ISSUED FOR DEVELOPMENT APPLICATION</td> </tr> <tr> <td>04</td> <td>05.06.2023</td> <td>CH</td> <td>ISSUED FOR DEVELOPMENT APPLICATION</td> </tr> </tbody> </table>	NO.	DATE	BY	REVISION	01	05.06.2023	CH	ISSUED FOR DEVELOPMENT APPLICATION	02	05.06.2023	CH	ISSUED FOR DEVELOPMENT APPLICATION	03	05.06.2023	CH	ISSUED FOR DEVELOPMENT APPLICATION	04	05.06.2023	CH	ISSUED FOR DEVELOPMENT APPLICATION	<p>PRINTED: 4/11/2023 4:05:37 PM</p> <p>LOCATION: L:\Client Jobs &amp; Progress\A13,840 - 40 Nicholson St Balmain - Rebecca Hall - A5111.dwg</p>
NO.	DATE	BY	REVISION																		
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02	05.06.2023	CH	ISSUED FOR DEVELOPMENT APPLICATION																		
03	05.06.2023	CH	ISSUED FOR DEVELOPMENT APPLICATION																		
04	05.06.2023	CH	ISSUED FOR DEVELOPMENT APPLICATION																		





**SHADOW DIAGRAM JUNE 21st 12PM**

DATE: 06.06.2023  
 SCALE: As indicated @ A3  
 PROJECT No. A13,840  
 SHEET NO: A516

CLIENT: REBECCA HALL  
 ADDRESS: 40 NICHOLSON ST BALMAIN EAST INNER WEST COUNCIL

DRAWINGS BY: DESIGN PLUS DRAFTING  
 DATE: 06.06.2023  
 www.designplusrp.com.au

NORTH: [North Arrow]

NO.	DATE	DESCRIPTION
01	06.06.2023	ISSUED FOR PERMIT
02	06.06.2023	ISSUED FOR PERMIT
03	06.06.2023	ISSUED FOR PERMIT
04	06.06.2023	ISSUED FOR PERMIT
05	06.06.2023	ISSUED FOR PERMIT
06	06.06.2023	ISSUED FOR PERMIT
07	06.06.2023	ISSUED FOR PERMIT
08	06.06.2023	ISSUED FOR PERMIT
09	06.06.2023	ISSUED FOR PERMIT
10	06.06.2023	ISSUED FOR PERMIT

PRINTED: 06.06.2023 12:00 PM

LOCATION: L:\Client Files & Programs\A13,840 - 40 Nicholson St Balmain - Rebecca Hall - A516.dwg

**DEVELOPMENT APPLICATION**

**LEGEND:**

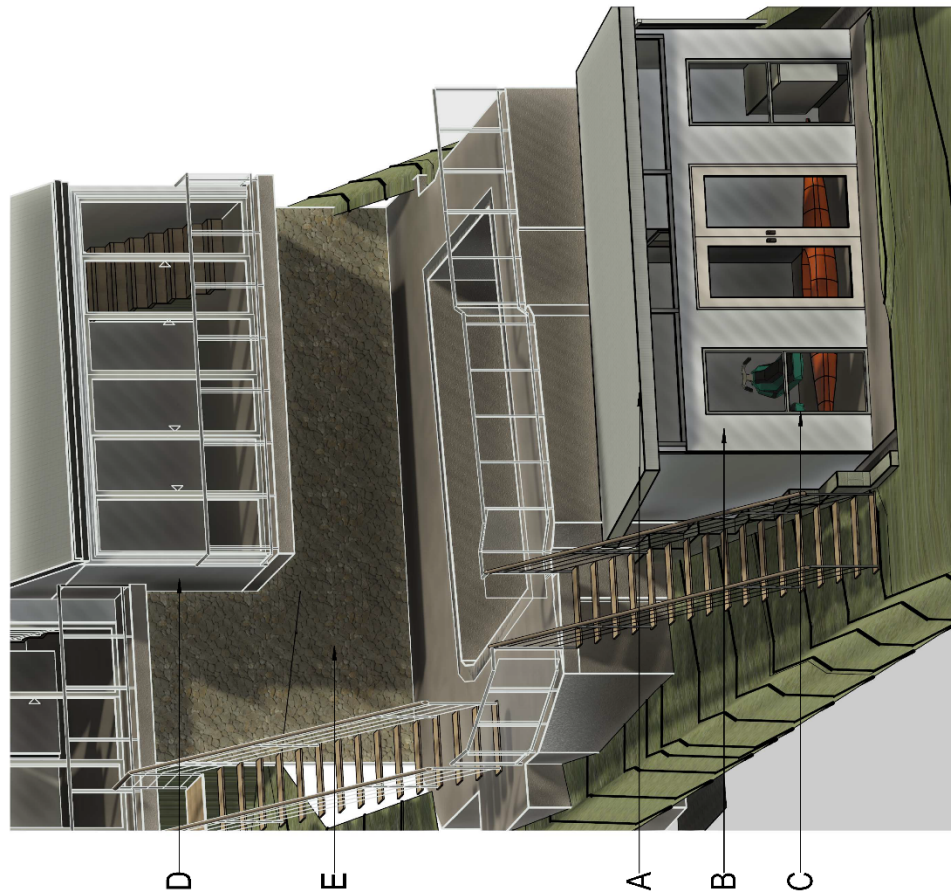
[Green hatched box]	SHADOWS PROPOSED OF 40 NICHOLSON STREET BOAT SHED
[Red hatched box]	EXISTING SHADOWS OF 40 NICHOLSON STREET
[Blue hatched box]	EXISTING SHADOWS 38 NICHOLSON STREET
[Light blue hatched box]	EXISTING SHADOWS 36 NICHOLSON STREET
[Light green hatched box]	NICHOLSON STREET








**SHADOW DIAGRAM JUNE 21st 3PM**

**DEVELOPMENT APPLICATION**

<p>DATE: 05.06.2023</p> <p>SCALE: As indicated @ A3</p> <p>PROJECT No: A13,840</p> <p>ISSUE: P9 (Please discard all other plans)</p>	<p>SHEET NO: <b>A522</b></p>
<p>CLIENT: REBECCA HALL</p> <p>ADDRESS: 40 NICHOLSON ST BALMAIN EAST INNER WEST COUNCIL</p>	<p>DRAWINGS BY: DESIGN PLUS DRAFTING</p> <p>Unit C1 - 4/31 Awarua Road, Warfield, NSW 1505</p> <p>Ph: 02 9222 2285</p> <p>www.designplusrp.com.au</p>
<p>GENERAL NOTES:</p> <p>1. This shadow diagram is a computer-generated simulation of the shadows cast by the proposed development on the surrounding area at the time and date specified. It is not intended to be used as a basis for any decision-making process.</p> <p>2. The shadows shown are based on the current position of the sun at the time and date specified. They do not take into account any seasonal variations in the sun's position or any other factors that may affect the shadows cast.</p> <p>3. The shadows shown are based on the current position of the sun at the time and date specified. They do not take into account any seasonal variations in the sun's position or any other factors that may affect the shadows cast.</p> <p>4. The shadows shown are based on the current position of the sun at the time and date specified. They do not take into account any seasonal variations in the sun's position or any other factors that may affect the shadows cast.</p>	<p>DATE</p> <p>BY</p> <p>REVISION</p> <p>05.06.2023</p> <p>05.06.2023</p> <p>05.06.2023</p> <p>05.06.2023</p> <p>05.06.2023</p>
<p>PRINTED: 4/11/2023 4:08:18 PM</p> <p>LOCATION: L:\Client Files &amp; Proposals\A13,840 - Development of 40 Nicholson St Balmain - Phase 1\DWG\1 - Shadow Diagram June 21st 3PM.dwg</p>	<p>PRINTED: 4/11/2023 4:08:18 PM</p>



ANO.	MATERIAL/COLOR	LOCATION	BOATSHED
A	 COLORBOND 'SURFIST'	ROOFING/GUTTERS	BOATSHED
B	 CLADDING 'LIGHT COLOUR'	WALLS	BOATSHED
C	 ALUMINIUM WINDOWS 'WHITE'	WINDOWS	BOATSHED
D	 CLADDING 'WARM GREY'	WALLS	EXISTING HOUSE
E	 STONEROCK 'NATURAL STONE'	WALLS	EXISTING HOUSE

**MATERIALS & FINISHES SCHEDULE**

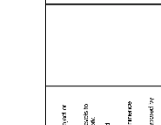
NO.	DESCRIPTION	DATE	BY	SCALE	GENERAL NOTES
01	CLIENT FACED	01.12.2022			GENERAL NOTES: 1. All work to be done in accordance with the current Australian Standards and any other relevant codes of practice. 2. All work to be done in accordance with the current Australian Standards and any other relevant codes of practice. 3. All work to be done in accordance with the current Australian Standards and any other relevant codes of practice. 4. All work to be done in accordance with the current Australian Standards and any other relevant codes of practice. 5. All work to be done in accordance with the current Australian Standards and any other relevant codes of practice. 6. All work to be done in accordance with the current Australian Standards and any other relevant codes of practice. 7. All work to be done in accordance with the current Australian Standards and any other relevant codes of practice. 8. All work to be done in accordance with the current Australian Standards and any other relevant codes of practice. 9. All work to be done in accordance with the current Australian Standards and any other relevant codes of practice. 10. All work to be done in accordance with the current Australian Standards and any other relevant codes of practice.
02	CHANGES	02.08.2022			
03	ENGINEER'S APPROVAL	02.08.2022			
04	CLIENT FACED	02.08.2022			

**DEVELOPMENT APPLICATION**

DATE: 06.06.2023  
SCALE: @ A3  
PROJECT No. A13,840  
ISSUE: P9 (Please discard all other plans)

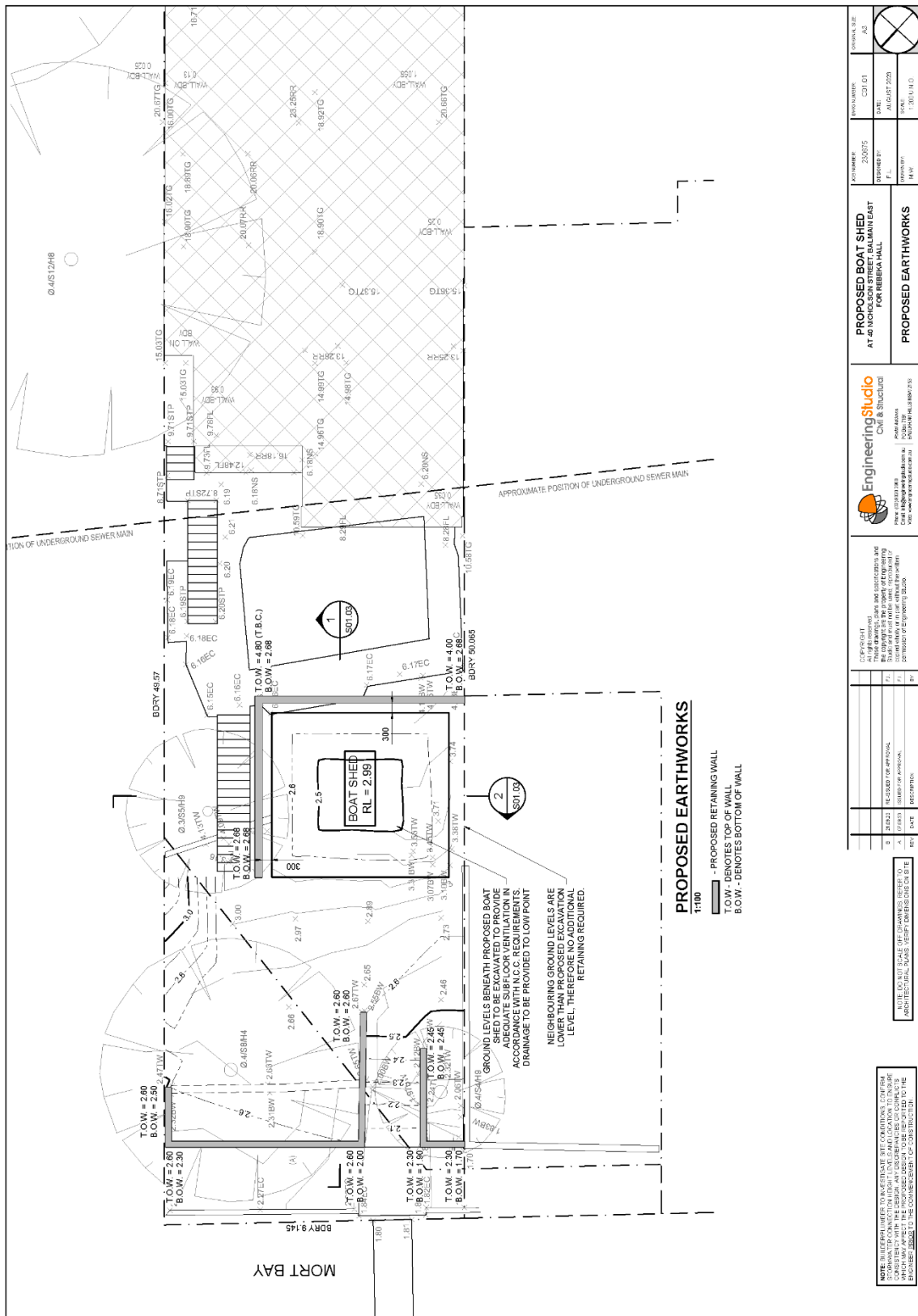
CLIENT: REBECCA HALL  
ADDRESS: 40 NICHOLSON ST  
BALMAIN EAST  
INNER WEST COUNCIL

DRAWINGS BY: DESIGN PLUS DRAFTING  
Suite C1 - 4/51 Azzura Road, Northcote, VIC 3070  
Ph: 03 9452 2288  
www.designplusrp.com.au



PRINTED: 4/11/2023 10:58:19 AM  
LOCATION: L:\Client Jobs & Progress\A13,840 - 40 Nicholson St Balmain - Rebecca Hall - Architecture & Development - 40 Nicholson St Balmain - P09.dwg





<p><b>EngineeringStudio</b>                  CIVIL &amp; STRUCTURAL                  CONSULTANTS</p> <p>10/100 BALMAIN RD BALMAIN NSW 1510                  PH: (02) 9550 8888                  WWW.ENGINEERINGSTUDIO.COM.AU</p>		<p>PROJECT NO: 200075                  DRAWING NO: 01                  DATE: AUGUST 2023                  SCALE: 1:300 (A1)</p>	<p>PROJECT NAME: PROPOSED BOAT SHED                  AT 40 NICHOLSON STREET BALMAIN EAST                  FOR RUBENA WALL</p>	<p>CLIENT: RUBENA WALL</p>
<p>DATE: 2023</p>	<p>PROJECT NO: 200075</p>	<p>DRAWING NO: 01</p>	<p>CLIENT: RUBENA WALL</p>	<p>DATE: 2023</p>
<p>SCALE: 1:300 (A1)</p>	<p>DATE: 2023</p>	<p>PROJECT NO: 200075</p>	<p>DRAWING NO: 01</p>	<p>CLIENT: RUBENA WALL</p>



### EARTHWORKS VOLUME TABLE

LOWER VALUE	UPPER VALUE	CUT VOLUME (m <sup>3</sup> )	FILL VOLUME (m <sup>3</sup> )
-2.50	-2.00	0.0	-
-2.00	-1.50	2.4	-
-1.50	-1.00	9.1	-
-1.00	-0.50	14.7	-
-0.50	0.00	24.5	-
0.00	0.50	-	6.5
0.50	1.00	-	0.1

CUT/FILL PLAN  
1:100

NOTES:  
1. THIS PLAN IS TO BE USED IN CONJUNCTION WITH THE PROPOSED SITE PLAN AND THE PROPOSED CONSTRUCTION CONTRACT DOCUMENTS.  
2. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS AND PHOTOGRAPHS OF THE SITE TO VERIFY THE EXISTING CONDITIONS.  
3. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS AND PHOTOGRAPHS OF THE SITE TO VERIFY THE EXISTING CONDITIONS.  
4. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS AND PHOTOGRAPHS OF THE SITE TO VERIFY THE EXISTING CONDITIONS.  
5. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS AND PHOTOGRAPHS OF THE SITE TO VERIFY THE EXISTING CONDITIONS.

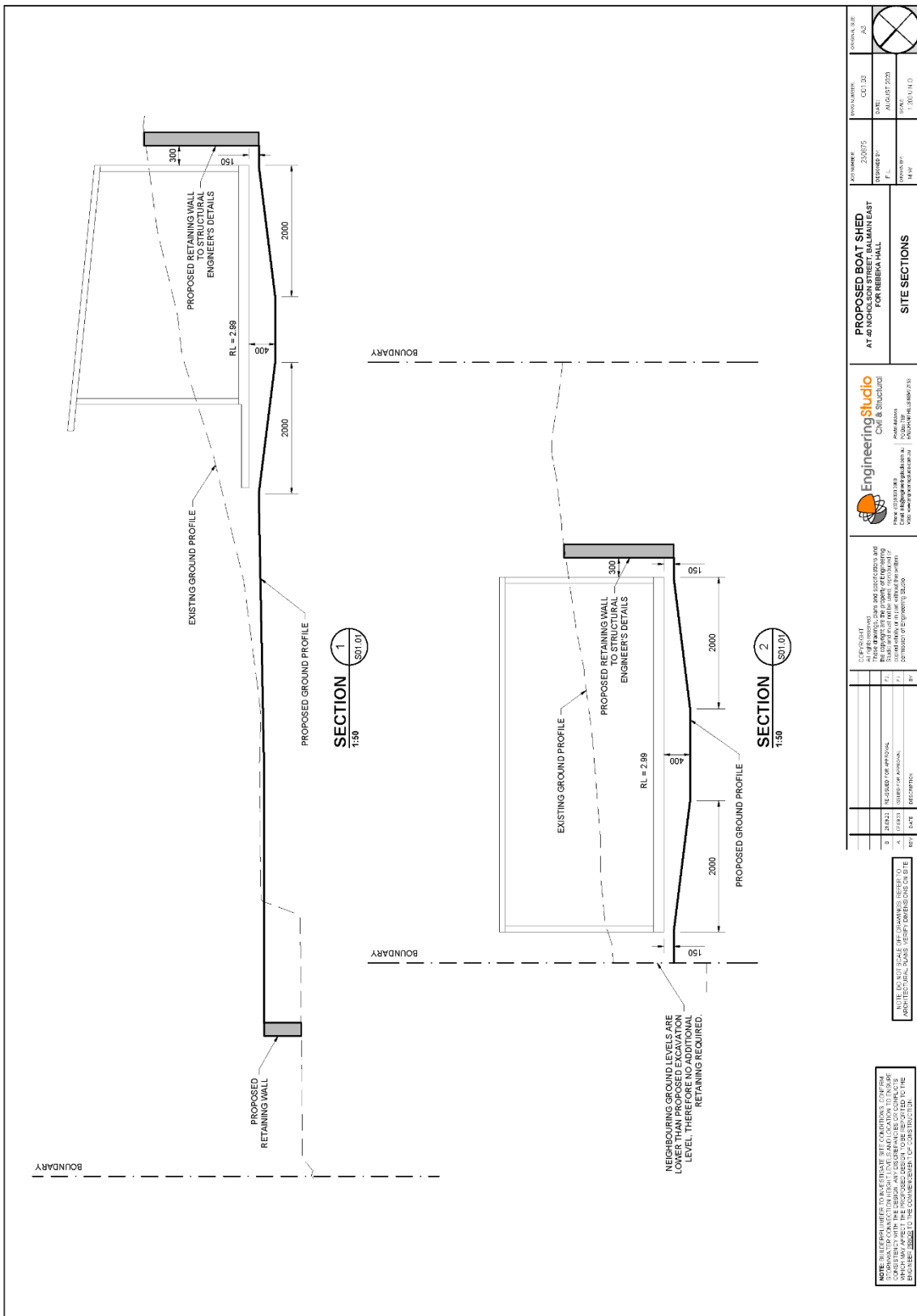
SCALE: AS SHOWN IN THE PLAN  
DATE: 11/01/2023  
DRAWN BY: [Name]  
CHECKED BY: [Name]

PROPOSED BOAT SHED  
At 40 NICHOLSON STREET BALMAIN EAST  
FOR RUBEN HALL

EngineeringStudio  
Civil & Structural  
Professional Engineers  
No. 100/110, D.O. 11/01/2023

PROJECT NO: 200275  
DATE: 11/01/2023  
SCALE: 1:100 (A1)





<p><b>EngineeringStudio</b> Civil &amp; Structural Professional Engineers No. 100/100/100/100/100 100/100/100/100/100</p>		<p>PROPOSED BOAT SHED At 40 NICHOLSON STREET BALMAIN EAST FOR RUBENA HALL</p>	<p>PROJECT NO: 200725 DRAWN BY: P.L. CHECKED BY: M.V. DATE: AUGUST 2023 SCALE: 1:200 N.D.</p>	<p>PROJECT NO: 200725 DRAWN BY: P.L. CHECKED BY: M.V. DATE: AUGUST 2023 SCALE: 1:200 N.D.</p>
<p><b>EngineeringStudio</b> Civil &amp; Structural Professional Engineers No. 100/100/100/100/100 100/100/100/100/100</p>		<p><b>SITE SECTIONS</b></p>	<p>APPROVED FOR CONSTRUCTION BY THE LOCAL GOVERNMENT</p>	





**Attachment C – Section 4.6 Exception to Development Standards – FSR**

**Clause 4.6 Variation Statement  
(Floor Space Ratio)**



**40 NICHOLSON STREET BALMAIN EAST**

Title Details:	Lot 1 on DP624991
Proposal:	Development Application (DA) for “prefabricated pool shed”
Applicant:	Sky Planning
Consent Authority:	Inner West Council
Date:	23 March 2023



www.skyplanning.com.au  
ABN: 69 130 400 884

---

CLAUSE 4.6 VARIATION REQUEST -40 NICHOLSON STREET BALMAIN EAST

---

## Table of Contents

1.0	INTRODUCTION .....	3
2.0	CLAUSE 4.6 .....	4
3.0	DEVELOPMENT STANDARD BEING VARIED.....	5
4.0	GROUNDS FOR VARIATION .....	6

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CLAUSE 4.6 VARIATION REQUEST -40 NICHOLSON STREET BALMAIN EAST

---

## 1 Introduction

This Clause 4.6 Variation Request supports a Development Application submitted to the Inner West Council, pursuant to the Environmental Planning and Assessment Act 1979 (EP&A Act).

The Development Application is seeking consent for proposed 'prefabricated pool shed' at Lot 1 on DP624991 known as 40 Nicholson Street Balmain East within the Inner West Council.

This report has been prepared to request a variation to Clause 4.4 Floor space ratio (FSR) of the Inner West Local Environmental Plan 2022 as it applies to drawings prepared by Design Plus Drafting, dated 8<sup>th</sup> February 2023 submitted under separate cover.

This Variation Request demonstrates that:

- Compliance with the development standard is unreasonable and unnecessary in the circumstances as the Proposal achieves the objectives of the development standard in clause 4.4 of the LEP notwithstanding the non-compliance.
- There are sufficient environmental planning grounds to justify contravening the development standard.
- The Proposal will be in the public interest because it is consistent with the objectives of the development standard and the objectives of the R1 General Density Residential Zone under the Inner West Local Environmental Plan 2022.

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CLAUSE 4.6 VARIATION REQUEST -40 NICHOLSON STREET BALMAIN EAST

---

## 2 Clause 4.6

The objectives of clause 4.6 of the Inner West Local Environmental Plan 2022 are to provide and allow an appropriate degree of flexibility in applying certain development standards in particular circumstances.

Clause 4.6 Subclause (3) states:

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

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

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

Subclause (4) states:

*(4) Development consent must not be granted for development that contravenes a development standard unless—*

*(a) the consent authority is satisfied that—*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

*(b) the concurrence of the Planning Secretary has been obtained*

---

CLAUSE 4.6 VARIATION REQUEST -40 NICHOLSON STREET BALMAIN EAST

---

### 3 Development Standard being varied

**Environmental planning instrument that applies to the land-**

Inner West Local Environmental Plan 2022

**Zoning of the land-**

The subject size is zoned R1 General Residential

**The development standard being varied-**

Clause 4.4 Floor Space ratio – 0.7:1

= allowable GFA 318.85sqm

**The proposed numeric value of the development standard in the development application-**

0.78:1

= proposed GFA 358.53sqm

(existing dwelling - 339.81sqm)

(proposed shed - 18.72sqm)

**The percentage variation (between the proposal and the environmental planning instrument)?**

Approximately 11.94%

Note: the existing dwelling is non-compliant with FSR.

The new shed represents only a 5.8% variation.

## 4 Grounds for variation

### 4.1 Case Law

New South Wales Land and Environment Court (NSW LEC) have supplemented the Clause 4.6 request with several key case laws that have refined the evolving method of planning principles and 'tests' in which variations to development standards are required to be approached.

- **Wehbe 1**

It is contended that compliance with the development standard in Clauses 4.4 of the LEP is unreasonable and unnecessary in the circumstances of the case as the Proposal achieves the objectives of the development standard notwithstanding the non-compliance (Wehbe Method 1).

#### **What are the objectives of the development standard?**

*The objectives of this clause are as follows—*

- (a) to establish a maximum floor space ratio to enable appropriate development density,*

Comment: The proposed prefabricated 18sqm pool shed will replace a dilapidated pool deck. The existing elevated tiled deck area adjoining the pool (seen in the photo below – Figure 1) will be demolished and the new pool shed will be sited in its place. While the pool shed will technically increase the floor space on the subject site, it is not considered to increase density in terms of bulk and scale or occupants living on the site as the location of the pool shed is nestled within the existing site coverage footprint, replacing the existing pool deck which is dilapidated. As such the bulk and scale is relative to the existing home and structures on site and commensurate with neighbouring properties. The primary function of the pool shed and the additional floor space is to provide services and amenities that are adjoining the pool area and the waterfront area.

In assessing the impact of the proposed pool shed on density, it should be considered in relation to the existing dwelling and the fact that the majority of the non compliance above the FSR control is as a result of the existing dwelling. The pool shed is a small increase of GFA with a negligible impact on bulk and scale as the additional 18sqm will be contained within the existing site coverage as stated earlier.

---

*CLAUSE 4.6 VARIATION REQUEST -40 NICHOLSON STREET BALMAIN EAST*

---

The proposal is fully compliant with all the other LEP and DCP controls including those that limit bulk and scale including height and site coverage provisions, thereby further demonstrating that the proposal is modest addition.



**Figure -1: view from rear garden looking onto the existing dilapidated pool deck**  
(Source: Sky Planning)

*(b) to ensure development density reflects its locality,*

Comment: The proposed development is at an appropriate density for the residential zoning and locality surrounding the subject site. Other properties in this section of the waterfront have swimming pools, pool / boat sheds and ancillary structures of similar form (or greater) and appearance. Please refer to Figure 2 below showing adjoining development. The proposal is considered to be compatible with the density of structures within the immediate context.

It is also noted that the proposal is fully compliant with all the other LEP and DCP controls including height and landscaped area, thereby demonstrating that the proposal is a modest development relative to the site area and its context.

We note that the current landscaped area onsite is under the control and not compliant. As such the proposal provides the opportunity to improve the situation on site and it will increase the landscaped area within the waterfront area, improving the visual appearance of the property to the Harbour Catchment by providing greater open space thereby mitigating any possible bulk and scale impacts of the replacement of the pool deck with the pool shed.

---

CLAUSE 4.6 VARIATION REQUEST -40 NICHOLSON STREET BALMAIN EAST

---

The proposal achieves the objective.



**Figure -2: 40 Nicholson Street and 38 Nicholson Street, Balmain East (Left to right)**  
 (Source: Sky Planning)

*(c) to provide an appropriate transition between development of different densities,*

Comment: N/A. The proposal is only for a pool shed at the lowest level of the site.

*(d) to minimise adverse impacts on local amenity,*

Comment: The proposal has been thoughtfully designed and located to minimise any amenity impacts on adjoining properties.

The location of the pool shed is entirely nestled within the existing site coverage footprint, replacing the existing elevated pool deck which is dilapidated. As such the bulk and scale is relative to the existing home and structures on site. It is set back almost half a metre from the side boundary and 11 metres to the waters edge meaning visibility of the pool shed will be mitigated when viewed from Mort Bay and the public domain. The proposal will retain the open, landscaped setting to the foreshore and is considered to be acceptable. As stated above, the existing landscaped area is non-compliant and the proposal will increase the amount of landscaping to rectify this non-compliance and in doing so, improve the local amenity



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particularly the visual appearance from the Harbour Catchment and adjoining properties.

The appropriate siting of the pool shed ensures it will not interrupt any existing public views, privacy for the adjoining properties whilst providing maximum amenity to the occupants of the dwelling and locality.

The dwelling will not diminish any direct solar access for the public domain that is being currently enjoyed. There is no overshadowing of neighbouring dwellings and minimal shadowing to landscaped areas.

*(e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.*

Comment: The proposal is only for a pool shed within the subject site and will increase the use and enjoyment of the site for the occupants. The existing trees onsite are retained.

The current arrangement onsite means that when residents are utilising the pool area (Figure 4) or the waterfront area (Figure 3) they must walk back up to the main dwelling for services and amenities. There is also little shade in either the pool area or in the rear garden. This makes the space less desirable to use and as a result it is not used very often. The addition of a pool shed will provide added functionality to the site for the residents and activate their currently under utilised backyard and pool.

#### **4.2 Sufficient environmental planning grounds**

As well as compliance with the floor space ratio standard being unreasonable and unnecessary as set out in Section 4.1 above, there are sufficient environmental planning grounds that justify contravening the development standard.

The following environmental planning grounds justify varying the development standard under Clause 4.6:

- The proposal is an important addition that caters for a well-designed and orderly development providing a desirable and improved housing situation for the residents. The proposed FSR variation provides a higher quality outcome than the alternative complying solution which would not permit the proposal.
- All other LEP and DCP controls that limit bulk and scale, including height, site coverage and landscaped area are compliant, therefore demonstrating that this is a modest addition.
- The proposal will rectify an existing non-compliance with landscaped area, improving the visual impact to the Harbour Catchment.

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- The minor departure from the maximum floor space ratio standard does not result in any significant adverse impact upon the amenity of the adjoining neighbours in terms of overshadowing, loss of privacy or views.
- The proposal is consistent with the objectives of the R1 zone.
- The proposed development has been designed to respect the amenity of the adjoining neighbours and the views from the water. No precedent will be set that would allow unjustified non-compliance with the standard in future applications.

#### **4.3 Development in the public interest**

The development is in the public interest because it is consistent with the objectives of the Floor Space Ratio development standard, as demonstrated in Section 4.1 above, and the objectives for the zone in which the development is proposed to be carried out, as demonstrated herein.

#### **What are the objectives of the zone?**

The stated objectives of the R1 zone are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide residential development that maintains the character of built and natural features in the surrounding area.*

Comment: It is considered that the proposed development meets the objectives of the Zone R1 General Residential. This opinion is justified on the basis that the proposal provides for the housing needs of the occupants. The current arrangement onsite means that when residents are utilising the pool area (Figure 4) or the waterfront area (Figure 3) they must walk back up to the main dwelling for services and amenities. There is also little shade in either the pool area or in the rear garden. This makes the space less desirable to use and as a result it is not used very often. The addition of a pool shed will provide added functionality to the site for the residents and activate their currently under utilised backyard and pool.

The proposal has been designed to ensure it is compatible with the scale and character of the adjoining properties and surrounding residential development.

The location of the pool shed is entirely nestled within the existing site coverage footprint, replacing the existing pool deck which is dilapidated. As such the bulk and scale is relative to the existing home and structures on site. It is set back almost half

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a metre from the side boundary and 11 metres to the waters edge meaning visibility of the pool shed will be mitigated when viewed from Mort Bay and the public domain. Other properties in this section of the waterfront have swimming pools, pool and boat sheds and ancillary structures of similar form and appearance. In this way the proposed installation of the prefabricated pool shed is considered to be compatible and will not detract the building pattern along the foreshore but would rather enhance its visual character by the appropriate spacing, location and urban built elements.

Careful considerations have been made to reflect the urban pattern of the pool shed through the building's scale, form and finish.

The contemporary design of the pool shed and it's siting, ensures that the proposal does not trigger concerns for building bulk, scale and dominance along the foreshore. Further the owners have selected material finishes and colours compatible with the existing dwelling and adjoining property. The cladding will be a light colour with white aluminium framed windows and colourbond roofing/ gutters in 'surfmist.'

The works proposed will significantly improve the design and aesthetic quality of the site with the built form outcome and its presentation to the Harbour Catchment. Both by replacing a dilapidated pool deck and by increasing the landscaped open space. No other facilities or services are to be impacted due to the proposal.

There are no statutory zoning or zone objectives that are an impediment to the granting of approval to the proposed development.



Figure -3: showing rear garden with no amenities or services, and limited shade  
(Source: Sky Planning)

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Figure -6: showing pool area with no amenities or services, and limited shade (Source: Sky Planning)

**How would strict compliance hinder the attainment of the objects specified in Section 1.3(a) and (c) [previously s5(a)(i) and (ii)] of the Act.**

*1.3 (a) To promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources.*

*1.3 (c) To promote the orderly and economic use and development of land.*

Comment: The proposed installation of the prefabricated pool shed is a well-designed and orderly development providing a desirable and improved housing situation for the residents while maintaining the general residential character of the built environment.

The proposal is a more efficient and orderly development on the land that is of high-quality architectural design that maximises the sites development potential and improves the functionality and useability of the outdoor space for the occupants of the dwelling. As such strict compliance in this regard would limit the above objects being fully attained.

**4.4 Other matters to be considered**

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The following points are made, with regards to obtaining the Secretary's concurrence pursuant to clause 4.6(4)(b):

- The proposed variation to the Floor Space Ratio standard does not conflict with any matters of State or regional environmental planning significance, nor does it conflict with any State Planning Policies or Ministerial directives. The significance of the non-compliance is acceptable in the context of the overall development of the broader Inner West Council LGA.
- As for the reasons established above, the contravention of the standard is considered to be in the public interest.

**Attachment D – Section 4.6 Exception to Development Standards -  
Landscaped Area**

**Clause 4.6 Variation Statement  
(Landscaped areas for residential accommodation in  
Zone R1 and Floor Space Ratio)**



**40 NICHOLSON STREET BALMAIN EAST**

Title Details: Lot 1 on DP624991  
Proposal: Development Application (DA) for “prefabricated boat shed”  
Applicant: Sky Planning  
Consent Authority: Inner West Council  
Date: 17 November 2023



www.skyplanning.com.au  
ABN: 69 130 400 884

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# 1 Introduction

This Clause 4.6 Variation Request supports a Development Application submitted to the Inner West Council, pursuant to the Environmental Planning and Assessment Act 1979 (EP&A Act).

The Development Application is seeking consent for the proposed 'prefabricated boat shed' at Lot 1 on DP624991 known as 40 Nicholson Street Balmain East within the Inner West Council.

This report has been prepared to request a variation to Clause 4.3C Landscaped areas for residential accommodation in Zone R1 and Clause 4.4 Floor space ratio (FSR) of the Inner West Local Environmental Plan 2022 as it applies to drawings prepared by Design Plus Drafting, dated 05.06.2023 (printed on 14<sup>th</sup> November 2023 at 3.59 pm) submitted under separate cover.

This Variation Request demonstrates that:

- Compliance with the development standard is unreasonable and unnecessary in the circumstances as the Proposal achieves the objectives of the development standard in Clause 4.3C and Clause 4.4 of the LEP notwithstanding the non-compliance.
- There are sufficient environmental planning grounds to justify contravening the development standard.
- The Proposal will be in the public interest because it is consistent with the objectives of the development standard and the objectives of the R1 General Density Residential Zone under the Inner West Local Environmental Plan 2022.



## 2 Clause 4.6

The objectives of clause 4.6 of the Inner West Local Environmental Plan 2022 are to provide and allow an appropriate degree of flexibility in applying certain development standards in particular circumstances.

Clause 4.6 Subclause (3) states:

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

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

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

Subclause (4) states:

*(4) Development consent must not be granted for development that contravenes a development standard unless—*

*(a) the consent authority is satisfied that—*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

*(b) the concurrence of the Planning Secretary has been obtained*

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## 3 Development Standard being varied

### Environmental planning instrument that applies to the land-

Inner West Local Environmental Plan 2022

### Zoning of the land-

The subject size is zoned R1 General Residential

### The development standard being varied-

- Clause 4.3C Landscaped areas for residential accommodation in Zone R1 – 20% of site area = 91.1 sq.m
- Clause 4.4 Floor Space ratio – 0.7:1  
= allowable GFA 318.85sqm

### The proposed numeric value of the development standard in the development application-

- Clause 4.3C Landscaped areas for residential accommodation in Zone R1

Existing landscaped area = 73.34m<sup>2</sup>  
Proposed landscaped area = 80.94m<sup>2</sup>

- Clause 4.4 Floor Space ratio

0.78:1

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= proposed GFA 358.53sqm (total of dwelling and boat shed)

(existing dwelling - 339.81sqm)

(proposed shed - 18.72sqm)

The percentage variation (between the proposal and the environmental planning instrument)?

- **Landscaped area Non-compliance**

Approximately 11% (10.16 sq.m)

- **Floor Space Ratio Non-compliance**

Approximately 11.94% (variation of 39sq.m)

*Note: The existing dwelling is non-compliant with FSR.*

The new shed represents only a 5.8% variation which is considered minor.

## 4 Grounds for variation

### 4.1 Case Law

New South Wales Land and Environment Court (NSW LEC) have supplemented the Clause 4.6 request with several key case laws that have refined the evolving method of planning principles and 'tests' in which variations to development standards are required to be approached.

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- **Wehbe 1**

It is contended that compliance with the development standard in Clauses 4.4 of the LEP is unreasonable and unnecessary in the circumstances of the case as the Proposal achieves the objectives of the development standard notwithstanding the non-compliance (Wehbe Method 1).

**What are the objectives of the development standard?**

*The objectives of this clause 4.3 C are as follows—*

*(a) to provide landscaped areas for substantial tree planting and for the use and enjoyment of residents,*

Comment: The current landscaped area onsite is 85.60sqm and does not meet the minimum LEP control requiring 91.1sqm of landscaping under the standard. The existing landscaped area on the site is 73.34 sq.m and the proposal intends to increase the landscaped area to 80.94 sqm. As such, some of the paved areas near the water's edge will be replaced with soft landscaping. This will involve moving the existing low-set sandstone retaining wall (behind the dinghy in Figure 5) closer to the water's edge and replacing the paving with deep soil.

*(b) to maintain and encourage a landscaped corridor between adjoining properties,*

Comment: A new landscaped buffer has been proposed between the prefabricated boat shed and the neighbouring property.

This would improve the current landscape situation all across the site and result in an increase in permeable areas on the site.

*(c) to ensure that development promotes the desired character of the neighbourhood,*

Comment: The proposed boat shed has been sighted in a sympathetic manner to fit contextually with the surrounding dwellings. This opinion is justified on the basis that the proposal seeks to protect the character of the precinct with the development being consistent with the Balmain East Distinctive Neighbourhood within which the site is located.

The proposed landscaping will complement and further contribute to the diverse landscape character of the precinct.

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*(d) to encourage ecologically sustainable development,*

Comment: The location of the proposed boat shed is nestled within the existing site coverage footprint, replacing the existing elevated pool deck which is dilapidated. It is set back almost half a metre from the side boundary and 11 metres to the waters edge meaning visibility of the boat shed will be mitigated when viewed from Mort Bay and the public domain. As such, the proposed development will not have any impact on the water quality.

The proposal will retain (and further increase) the open, landscaped setting to the foreshore and is considered to be acceptable, thereby maintaining and enhancing the vegetation and landscape setting within the subject site.

*(e) to control site density,*

Comment: The proposed prefabricated boat shed and the increase to the existing landscaped area will maintain the overall density and site coverage well under the prescribed limits under the Inner West LEP 2022.

*(f) to provide for landscaped areas and private open space.*

Comment: The size and nature of the proposed boat shed will have no major impact on the existing private open space.

The proposed boat shed installation will maintain the harmony between the built form and increase private open space that is easily accessible from indoors.

Adequate and increased space has been provided for landscaping within the site.

*The objectives of clause 4.4 are as follows—*

*(a) to establish a maximum floor space ratio to enable appropriate development density,*

Comment: The proposed prefabricated 18sqm boat shed will replace a dilapidated boat deck. The existing elevated tiled deck area adjoining the boat (seen in the photo below – Figure 1) will be demolished and the new boat shed will be sited in its place. While the

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boat shed will technically increase the floor space on the subject site, it is not considered to increase density in terms of bulk and scale or occupants living on the site as the location of the boat shed is nestled within the existing site coverage footprint, replacing the existing boat deck which is dilapidated. As such the bulk and scale is relative to the existing home and structures on site and commensurate with neighbouring properties. The primary function of the boat shed and the additional floor space is to provide services and amenities that are adjoining the boat area and the waterfront area.

In assessing the impact of the proposed boat shed on density, it should be considered in relation to the existing dwelling and the fact that the majority of the non compliance above the FSR control is as a result of the existing dwelling. The boat shed is a small increase of GFA with a negligible impact on bulk and scale as the additional 18sqm will be contained within the existing site coverage as stated earlier.

The proposal is fully compliant with all the other LEP and DCP controls including those that limit bulk and scale including height and site coverage provisions, thereby further demonstrating that the proposal is modest addition.



Figure -1: view from rear garden looking onto the existing dilapidated boat deck (Source: Sky Planning)

*(b) to ensure development density reflects its locality,*

Comment: The proposed development is at an appropriate density for the residential

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zoning and locality surrounding the subject site. Other properties in this section of the waterfront have swimming boats, boat / boat sheds and ancillary structures of similar form [\(or greater\)](#) and appearance. Please refer to Figure 2 below showing adjoining development. The proposal is considered to be compatible with the density of structures within the immediate context.

It is also noted that the proposal is fully compliant with all the other LEP and DCP controls including height and landscaped area, thereby demonstrating that the proposal is a modest development relative to the site area and its context.

We note that the current landscaped area onsite is under the control and not compliant. As such the proposal provides the opportunity to improve the situation on site and it will increase the landscaped area within the waterfront area, improving the visual appearance of the property to the Harbour Catchment by providing greater open space thereby mitigating any possible bulk and scale impacts of the replacement of the boat deck with the boat shed.

The proposal achieves the objective.



Figure -2: 40 Nicholson Street and 38 Nicholson Street, Balmain East (Left to right) (Source: Sky Planning)

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*(c) to provide an appropriate transition between development of different densities,*

Comment: N/A. The proposal is only for a boat shed at the lowest level of the site.

*(d) to minimise adverse impacts on local amenity,*

Comment: The proposal has been thoughtfully designed and located to minimise any amenity impacts on adjoining properties.

The boat shed's placement entirely integrates within the existing built footprint, replacing a deteriorated elevated boat deck. Consequently, its bulk and scale align with the existing structures onsite, positioned approximately half a meter from the side boundary and 11 meters from the water's edge. This strategic positioning mitigates visibility from Mort Bay and the public domain. The proposal aims to uphold an open, landscaped foreshore setting, deemed acceptable despite the existing landscaping falling short of compliance. Notably, the proposal increases overall landscaping, enhancing local amenity, especially visually from the Harbour Catchment and neighbouring properties.

The careful placement of the boat shed ensures no disruption to existing public views or privacy for adjacent properties, maximizing amenity for both occupants and the surrounding area. Additionally, the addition of the boat shed maintains current solar access in the public domain without overshadowing neighbouring dwellings or significantly affecting landscaped areas.

*(e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.*

Comment: The proposal solely involves a boat shed on the subject site, aiming to enhance the site's utility and enjoyment for its occupants while preserving the existing trees onsite.

Currently, residents utilizing the boat area (Figure 4) or waterfront area (Figure 3) need to return to the main dwelling for services and amenities. Moreover, there is limited shade in these areas or in the rear garden, making them less appealing and less frequently used. Introducing a boat shed will significantly enhance functionality on the site for residents, activating their currently underutilised backyard and boat facilities.

#### **4.2 Sufficient environmental planning grounds**

As well as compliance with the landscape and floor space ratio standard being unreasonable and unnecessary as set out in Section 4.1 above, there are sufficient environmental planning grounds that justify contravening the development standard.



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The following environmental planning grounds justify varying the development standard under Clause 4.6:

- The proposal is an important addition that caters for a well-designed and orderly development providing a desirable and improved housing situation for the residents. The proposed Landscaped area and FSR variation provide a higher quality outcome than the alternative complying solution which would not permit the proposal.
- All other LEP and DCP controls that limit bulk and scale, including height, site coverage and landscaped area are compliant, therefore demonstrating that this is a modest addition.
- The proposal will improve the existing non-compliance with the landscaped area, and in turn, improve the visual outlook from the Harbour.
- The minor departure from the landscape controls and maximum floor space ratio standard does not result in any significant adverse impact upon the amenity of the adjoining neighbours in terms of overshadowing, loss of privacy or views.
- The proposal is consistent with the objectives of the R1 zone.
- The proposal is entirely consistent with the character with other dwellings which back onto the Harbour.
- The proposed development has been designed to respect the amenity of the adjoining neighbours and the views from the water. No precedent will be set that would allow unjustified non-compliance with the standard in future applications.

#### **4.3 Development in the public interest**

The development is in the public interest because it is consistent with the objectives of the Landscape and Floor Space Ratio development standard, as demonstrated in Section 4.1 above, and the objectives for the zone in which the development is proposed to be carried out, as demonstrated herein.

##### **What are the objectives of the zone?**

The stated objectives of the R1 zone are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day*

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*needs of residents.*

- *To provide residential development that maintains the character of built and natural features in the surrounding area.*

**Comment:** It is considered that the proposed development aligns with the objectives of Zone R1 General Residential, catering to the housing needs of the residents. Presently, accessing services and amenities requires residents in the boat and waterfront areas (Figure 4 and Figure 3) to return to the main dwelling. The existing boat deck which lacks adequate shade, renders this structure less appealing and is therefore less frequented. Introducing a boat shed will significantly enhance site functionality, activating the underutilised backyard.

The proposal is designed to harmonise with the scale and character of neighbouring properties and the surrounding residential landscape. The boat shed's location integrates seamlessly within the existing site footprint, replacing a dilapidated boat deck. Positioned nearly half a meter from the side boundary and 11 meters from the water's edge, at a distance that is not highly visible from Mort Bay and the public domain. The setback from the water's edge allows the structure to remain subservient and does not obstruct any water way views.

Similar residential properties along this waterfront section have structures akin to swimming boats, boats, and boat sheds, rendering the proposed prefabricated boat shed compatible whilst enhancing the area's visual appeal through appropriate placement on the site.

The contemporary design of the boat shed and its siting, ensures that the proposal does not trigger concerns for building bulk, scale and dominance along the foreshore. Further the owners have selected material finishes and colours compatible with the existing dwelling and adjoining property. The cladding will be a light colour with white aluminium framed windows and colourbond roofing/ gutters in 'surfmist.'

The works proposed will significantly improve the design and aesthetic quality of the site with the built form outcome and its presentation to the Harbour Catchment. Both by replacing a dilapidated boat deck and by increasing the landscaped open space. No other facilities or services are to be impacted due to the proposal.

The design despite its numerical non-compliance still achieves the objectives of the R1 zone. There are no statutory zoning or zone objectives that are an impediment to the granting of approval to the proposed development.

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Figure -3: showing rear garden with no amenities or services, and limited shade (Source: Sky Planning)



Figure -6: showing boat area with no amenities or services, and limited shade (Source: Sky Planning)

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**How would strict compliance hinder the attainment of the objects specified in Section 1.3(a) and (c) [previously s5(a)(i) and (ii)] of the Act.**

*1.3 (a) To promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources.*

*1.3 (c) To promote the orderly and economic use and development of land.*

Comment: The proposed installation of the prefabricated boat shed is a well-designed and orderly development providing a desirable and improved housing situation for the residents while maintaining the general residential character of the built environment.

The proposal is a more efficient and orderly development on the land that is of high-quality architectural design that maximises the site's development potential and improves the functionality and useability of the outdoor space for the occupants of the dwelling. As such strict compliance in this regard would limit the above objects being fully attained.

## 5 Conclusion

This Clause 4.6 contravention request to Clause 4.3C and Clause 4.4 of Inner West LEP 2022 should be supported on the basis that strict application of the development standard is unnecessary and unreasonable given that:

- a) The development meets the stated objectives of Clause 4.3C and Clause 4.4, specifically:
- to maintain the character and identity of Inner West by ensuring the structure is a reasonable scale,
  - to soften the visual impacts of dwelling houses and secondary dwellings when viewed from any waterway, park or road by providing sufficient space for trees and plantings around every building,
  - to protect and preserve native vegetation in general, and in particular, native vegetation that occurs in a riverfront area or on riparian land,
  - to ensure that the size and scale of structures are compatible with the existing character of their surrounding locality,

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- b) The development meets the zone objectives of the General Residential zone, specifically:
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
  - To provide for high levels of amenity that are consistent with a low density residential environment.
- c) There are sufficient environmental planning grounds to justify contravening the development standard, specifically that it would result in:
- It would result in an improved landscape presentation to waterway than existing; and
  - It would result in an increase in permeable areas on the site improving on soft existing soft landscaping.
  - Allow for greater utilisation of space within the rear yard through an ancillary and permissible waterway structure.

For the reasons set out above, the development may be granted consent notwithstanding the contravention of the development standard in respect of landscaped area in Clause 4.3C and Clause 4.4 of the Inner West LEP 2022.