





 DEVELOPMENT ASSESSMENT REPORT	
Application No.	DA/2022/0842
Address	64 Hercules Street DULWICH HILL NSW 2203
Proposal	Demolition of the existing detached structures at the rear of the site, partial demolition of the existing dwelling house, construction of a 2 storey building at the rear of the site comprising a garage and secondary dwelling and ground floor alterations and additions to a dwelling house
Date of Lodgement	11 October 2022
Applicant	Mr Anthony Charbel
Owner	Mr Patrick S Sattout; Mr David JT Sattout
Number of Submissions	Three (3)
Value of works	\$455,950.00
Reason for determination at Planning Panel	Section 4.6 variation exceeds 10%
Main Issues	<ul style="list-style-type: none"> • Clause 4.6 request to vary the minimum site area under the Housing SEPP • Built form • Matters raised in submissions
Recommendation	Approved with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Section 4.6 Exception to Development Standards
	
LOCALITY MAP	
Subject Site	   N
Notified Area	 

1. Executive Summary

This report is an assessment of the application submitted to Council for the demolition of the existing detached structures at the rear of the site and partial demolition of the existing dwelling house, construction of a 2 storey building at the rear of the site comprising a garage and secondary dwelling and ground floor alterations and additions to the dwelling house at 64 Hercules Street, Dulwich Hill.

The application was notified to surrounding properties and 3 unique submissions were received in response to the notification.

The main issues that have arisen from the application include:

- Clause 4.6 request to vary the minimum site area under the Housing SEPP
- Built form
- Matters raised in submissions

Despite the items noted above, the proposal was amended during the assessment of the application and it is considered the amendments results in a proposal that generally complies with the aims, objectives, and design parameters contained in the relevant State Environmental Planning Policies, *Inner West Local Environmental Plan 2022*, and Marrickville Development Control Plan 2011.

The potential impacts to the surrounding environment have been considered as part of the assessment process. Any potential impacts from the development are considered to be acceptable or addressed by recommended conditions.

The application is suitable for consent subject to the imposition of appropriate terms and conditions.

2. Proposal

The application seeks development consent for the demolition of the existing detached structures at the rear of the site and partial demolition of the existing dwelling house, construction of a 2 storey building at the rear of the site comprising a garage and secondary dwelling and ground floor alterations and additions to the dwelling house. Specifically, the following is proposed:

- Demolition of the existing detached structures at the rear of the site;
- Partial demolition of the existing dwelling house;
- Construction of a 2 storey building at the rear of the site comprising a double garage and secondary dwelling;
- Ground floor alterations and additions to the dwelling house including new windows and alfresco area to the rear;
- Removal of 4 trees from the subject site; and
- Associated landscaping and fencing works.

3. Site Description

The subject site is located on the north eastern corner of Hercules Street and Hercules Lane, Dulwich Hill.

The site consists of one allotment and is generally rectangular shaped with a total area of 404.7sqm and is legally described as Lot 16 in DP 3905. The site has a primary frontage to Hercules Street of 10.06 metres and a secondary frontage to Hercules Lane of approximate 40.24 metres.

The site supports an existing single storey dwelling house and detached out building. The adjoining properties support a range of residential uses.

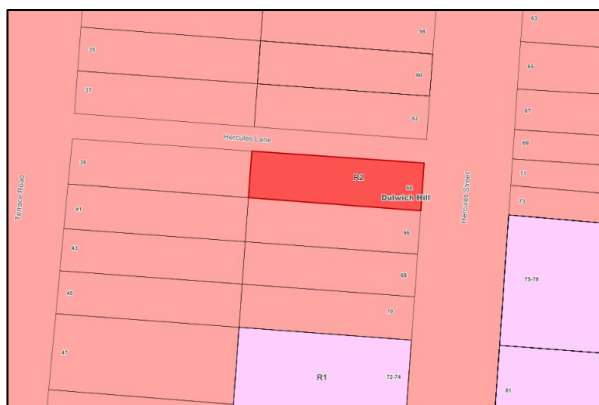


Figure 1: Zoning Map of the subject site (R2 – Low Density Residential highlighted red).



Figure 2: Photo of the subject site (as viewed from Hercules Street).

4. Background

4(a) Site history

There are no known consents that relate to the subject property.

4(b) Application history

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

Date	Discussion / Letter / Additional Information
11/10/202	Application Lodged.
26/10/2022 09/11/2022	– Application notified.
10/01/2023	Request for information (RFI) letter issued to the applicant requiring amendments or additional information to address the following: <ul style="list-style-type: none"> • Clause 4.6 request to vary minimum lot size for secondary dwellings under the Housing SEPP; • Design revisions to address bulk and scale; • Design revisions to address privacy; • Design revisions and/or additional information to address private open space requirements; • Design revisions to address community safety; • Design revisions and/or additional information to address floor space • Design revisions and/or additional information to address vehicular access and parking.

20/02/2022	Meeting held between Council and the applicant to discuss amendments.
22/02/2022	Revised plans and additional information submitted in response to Council's RFI request. Note: This information forms the basis of the assessment outlined below.

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)*.

5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Housing) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*

The following provides further discussion of the relevant issues:

5(a)(i) ***State Environmental Planning Policy (Resilience and Hazards) 2021***

Chapter 4 Remediation of land

Section 4.16 (1) of the 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.

5(a)(ii) ***State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004***

A BASIX Certificate was submitted with the application and will be referenced in any consent granted.

5(a)(iii) State Environmental Planning Policy (Housing) 2021

Chapter 3 Diverse housing, Part 1 Secondary dwellings

The application proposes the construction of a new secondary dwelling. As such, the provisions of Chapter 3, Part 1 of *Housing SEPP 2021* are applicable.

The following is an assessment against the relevant clauses of *Housing SEPP 2021*:

Division 2 Secondary dwellings permitted with consent

Clause	Standard	Proposed	Compliance
50 - Zone	Development for the purposes of a secondary dwelling on land in a residential zone if development for the purposes of a dwelling house is permissible on the land under another environmental planning instrument.	The site is zoned <i>R2 Low Density Residential</i> . The proposal is permissible.	Yes
51 – No subdivision	Development consent must not be granted for the subdivision of a lot on which development has been carried out under this Part.	The proposal does not involve subdivision.	Yes
52 (2)(a) – Number of dwellings	No dwellings other than principal and secondary dwelling are permitted	The proposal contains no additional dwellings other than the principal dwelling and secondary dwelling on the land.	Yes
52 (2)(b) – Floor area	Maximum 242.82sqm permitted under <i>IWLEP 2022</i> for site.	199.3sqm	Yes
52 (2)(c) – Total Floor Area	Maximum 60sqm floor area permitted for secondary dwelling.	59.7sqm	Yes
53 (2)(a) – Minimum site area	Minimum site area of 450sqm.	The site has an area of 404.7sqm	No. See discussion under Section 4.6 of <i>IWLEP 2022</i> .
53 (2)(b) – Parking	Existing car parking space must be maintained.	The site maintains the existing car parking space on the site.	

The proposed development is consistent with Chapter 3, Part 1 of the Housing SEPP except for the minimum site area requirements. The development proposes a variation to the minimum site area required by Clause 53(2)(a) of the Housing SEPP under Section 4.6 of *IWLEP 202*. This matter is discussed in more detail below under Section 4.6 of *IWLEP 2022*.

5(a)(iv) State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

The SEPP concerns protection/removal of vegetation and gives effect to the local tree preservation provisions of Part 2.20 of MDCP 2011.

The application seeks the removal of the following 4 trees from within the rear setback of the subject site:

- Tree 4 - *Olea europaea* (Common Olive)
- Tree 5 - *Archontophoenix cunninghamiana* (Bangalow Palm)
- Tree 6 - *Pinus radiata* (Radiata Pine)
- Tree 7 - *Mangifera indica* (Mango)

Trees 4, 5, 6 are species that are listed on the Tree Minor Works list in MDCP 2011 and therefore can be removed subject to a suitable replacement planting. Tree 7 does not meet the minimum dimensions of a prescribed tree and therefore is not subject to tree management controls.

Overall, the proposal is considered acceptable with regard to the SEPP and Part 2.20 of MDCP 2011 subject to conditions which include the provision of compensatory planting, which have been included in the recommendation of this report.

5(a)(v) Inner West Local Environmental Plan 2022 (IWLEP 2022)

The application was assessed against the following relevant sections of the *IWLEP 2022*:

Part 1 – Preliminary

Control	Proposed	Compliance
Section 1.2 Aims of Plan	The proposal is consistent with the relevant aims of the plan as follows: <ul style="list-style-type: none"> • The design of the proposal is considered to be of a high standard and has a satisfactory impact on the private and public domain. 	Yes

Part 2 – Permitted of prohibited development

Zone	Proposed Use	Permitted with consent
Section 2.3 Zone objectives and Land Use Table <i>R2 – Low Density Residential</i>	The proposal satisfies the section as follows: <ul style="list-style-type: none"> • The application proposes alterations and additions to a dwelling house. Dwelling houses are permissible with consent in the R2 zone. • The application proposes the construction of a secondary dwelling, which is a type of dwelling house and as such is permissible with consent in the R2 Low Density Residential zone; and • The proposal is consistent with the relevant objectives of the zone, as it will assist to provide for the housing needs of the community within a low density residential environment. 	Yes
Control	Proposed	Compliance
Section 2.7 Demolition requires development consent	The proposal satisfies the section as follows: <ul style="list-style-type: none"> • Demolition works are proposed, which are permissible with consent; and • Standard conditions are recommended to manage impacts which may arise during demolition. 	Yes, subject to conditions

Part 4 – Principal development standards

Control	Proposed	Compliance
Section 4.3	Maximum 9.5m	Yes

Height of building	Proposed	6.4m	
Section 4.4 Floor space ratio (FSR)	Maximum	0.6:1 or 242.82sqm	Yes
	Proposed	0.49:1 or 199.3sqm	
Section 4.5 Calculation of FSR and site area	The site area and floor space ratio for the proposal has been calculated in accordance with the section.		Yes
Section 5.4 Controls relating to miscellaneous permissible uses	Section 5.4(9) states that secondary dwellings are limited to a maximum floor area of 60sqm, or 35% of the total floor area of the principal dwelling, whichever is greater, excluding any area used for parking. The proposed secondary dwelling (as amended) is 59.7sqm in area and is therefore acceptable with regard to this 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 53(2)(a) – Non-discretionary development standards – the Act, s 4.15 of the Housing SEPP.		See below

Section 4.6 Exceptions to Development Standards

As outlined above, the proposal results in a breach of the Section 53(2)(a) – Non-discretionary development standards – the Act, s 4.15 of the Housing SEPP 2021.

The applicant seeks a variation to the non-discretionary development standards under Section 53(2)(a) for the minimum site area of 450sqm for a detached secondary dwelling by 10.01% (45.3sqm).

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.

The objectives of the development standard are as follows:

- *The object of this section is to identify development standards for particular matters relating to development for the purposes of a secondary dwelling that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.*

The objectives of the R2 Low Density Residential zone are as follows:

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

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 objective of the development standard for a minimum 450sqm lot size is that Council cannot refuse an application that meets this requirement, which is satisfied in this instance.
- The proposal has been carefully designed to ensure it remains within a compliant building envelope.
- The proposal will retain compliant levels of solar access for the subject site and to neighbouring living space windows and private open space areas.
- The secondary dwelling provides ample separation from adjoining properties to ensure minimal acoustic and visual privacy impacts for adjoining properties.
- The proposed secondary dwelling will promote housing diversity within the locality by providing a small self-contained 1-bedroom granny flat/studio dwelling in an area that is otherwise characterised by larger dwelling houses.
- The proposal otherwise maintains full compliance with the development standards in the LEP and development controls in the DCP, therefore demonstrating that the proposed development is appropriate for the site’s capacity.
- The proposal does not result in unreasonable and adverse impacts on the adjoining properties.

The applicant’s written rationale adequately demonstrates compliance with the development standard is 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 R2 Low Density Residential zone and objective of the development standard, in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* for the following reasons:

Zone objectives

- The development includes a new secondary dwelling which will provide for the housing needs of the community within a low density residential environment. The objective is reasonably satisfied.
- The new two storey secondary dwelling is in the form of a loft above a garage which provides an additional residential use whilst maintaining the character of built and natural features in the surrounding area. The objective is reasonably satisfied.

Development Standard objectives

- The proposal seeks to vary the minimum site area for a detached secondary dwelling of the Housing SEPP by 10.01% (45.3sqm). Varying this standard does not result in the consent authority requiring a more onerous standard to be met. The proposal does not offend the intent of the objective.

The concurrence of the Planning Secretary may be assumed for matters dealt with by the Local Planning Panel.

The proposal thereby accords with the objective in 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 Section 53(2)(a) of the Housing SEPP and it is recommended the Section 4.6 exception be granted.

Part 5 – Miscellaneous provisions

Control	Proposed	Compliance
Section 6.2 Earthworks	The proposed earthworks are unlikely to have a detrimental impact on environmental functions and processes, existing drainage patterns, or soil stability.	Yes
Section 6.3	The proposal will remain satisfactory with respect to the provisions of this Section of the <i>IWLEP 2022</i> and	Yes, subject to condition

Stormwater Management	subject to standard conditions would not result in any significant runoff to adjoining properties or the environment.	
Section 6.4 Terrestrial biodiversity	The site is mapped as “Biodiversity” on the Natural Resource – Biodiversity Map. Conditions have been included to ensure that the development protects and provides natural habitat for local wildlife.	Yes, subject to condition

5(d) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Marrickville Development Control Plan 2011 (MDCP 2011).

Part 2 – Generic Provisions

Control	Proposed	Compliance
Part 2.1 – Urban Design	<p>The proposal has been designed having regard to the 12 relevant urban design principles outlined in Part 2.1 as follows:</p> <ul style="list-style-type: none"> • The proposal does not impact the definition between the public and private domain and is appropriate for the character of the locality given its form, massing, siting and detailing; and • The proposal preserves the existing character of the streetscape. 	Yes
Part 2.6 – Acoustic and Visual Privacy	<p>The proposal will have a satisfactory impact on visual and acoustic levels of the surrounds in accordance with Part 2.6 as follows:</p> <p><i>Principal dwelling</i></p> <ul style="list-style-type: none"> • The principal living area and area of private open space is orientated to the rear of the site, • The ground floor glazing to the southern elevation is limited to two small highlight windows servicing low use rooms being the bathroom and ensuite which have a sill height of 1.6m and a low light window servicing the kitchen which is predominately fixed with small openings at either end to minimise any acoustic impacts; • The proposed new opening to the northern elevation is orientated to the side boundary and will overlook Hercules Lane. <p><i>Secondary dwelling</i></p> <ul style="list-style-type: none"> • The principal living area and area of private open space is orientated internally towards the front of the site, • The proposed new openings to the northern elevation are orientated to the side boundary and will overlook Hercules Lane. • The first floor glazing to the internal eastern elevation includes windows which services the stair case and bedroom. Both uses are considered low use and are orientated to the front of the site thereby minimising acoustic and visual privacy impacts for occupants and users of surrounding buildings. • The glazing to the western elevation is limited to a single first floor window which services an ensuite bathroom. This window is considered acceptable in this instance, given: 	Yes

	<ul style="list-style-type: none"> ○ The use of room is considered low use and not of a nature which would result in adverse privacy impacts; ○ The window is small in size with a sill height of 1500mm; ○ The window is setback approximately 18m from the rear of the property at 39 Terrace Road including a 1660mm setback from the rear boundary of the subject site. <ul style="list-style-type: none"> ● With the exception of a skylight, the secondary dwelling does not contain any openings to the south. <p>Given the above, the development maintains adequate levels of acoustic and visual privacy for the surrounding residential properties and ensures an adequate level of acoustic and visual privacy for future occupants of the development.</p>	
Part 2.7 – Solar Access and Overshadowing	The proposal is considered acceptable with respect to the relevant provisions of Part 2.7.	Refer to discussion below.

Overshadowing

During Councils independent assessment of this application including a site inspection of the neighbouring properties, it was identified that the properties at no. 41 Terrace Road (no. 41), 39 Terrace Road (no. 39), and 66 Hercules Street (no. 66) have an informal arrangement in which no. 39 has extended its area of POS by erecting fences which do not align with the property boundaries. The figure below identifies the approximate ad-hoc fence line in blue and resulting in an extended area of POS for no. 39. It is noted that there is no additional overshadowing within the property boundaries at no 39 as a result of the proposal.

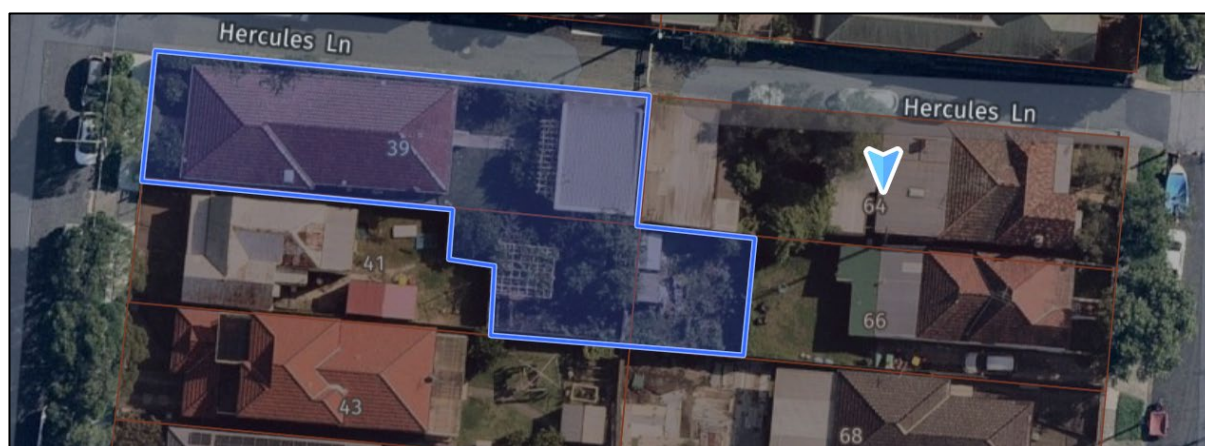


Figure 3: Current fence line configuration of 39 Terrace Road and area of POS.

The shadow diagrams submitted with this application have not accurately identified the fences and associated shadows which impact the surrounding properties. As such the submitted shadow diagrams are not a true illustration of solar access, however they are considered reasonable to allow for an assessment of the impacts of the proposed development on the adjoining properties.

Taking into account the current configuration of POS of the adjoining south-western property at no. 41, the revised shadow diagrams submitted with the application demonstrates that there is no additional overshadowing to the principal area of POS between 9:00am and 3:00pm on 21 June. Notwithstanding, if the site was returned to a configuration which the POS aligned with the property boundaries, the proposal would result in a reduction to the solar access to rear of no. 41 between 9:00am and 10:00am on 21 June. However, given the amount of additional overshadowing within the property boundary of no. 41, and to an area that is not considered the principal area of POS for the subject site, the proposal is considered acceptable with regard to the objectives of Part 2.7.

In relation to the adjoining southern property at no 66, the revised shadow diagrams submitted with the application demonstrates that a minimum of 2 hours direct solar access to principal areas of POS is not retained between 9:00am and 3:00pm on 21 June in its current configuration and traditional configuration.

Where a development proposal results in a decrease in sunlight available on 21 June resulting in less than two hours of solar access for the adjoining property, the proposal may be considered on its merit with regard to the criteria of points a to d in Control 2 contained in Part 2.7 of MDCP 2011. The planning principle regarding access to sunlight as developed in the case law *Benevolent Society v Waverley Council [2010] NSWLEC 1082* is also used as a tool to interpret the following control.

C2(ii) of Part 2.7.3 of MDCP 2011 states:

If the development proposal results in a further decrease in sunlight available on 21 June, Council will consider:

a. The development potential of the site;

The development potential of the site prescribed by the development standards under *IWLEP 2022* is a maximum 9.5 metre height limit and 0.6:1 FSR. In addition, the subject site is zoned R2 Low Density Residential under *IWLEP 2022*, which permits mainly low-density residential development.

The following is noted with respect to this matter:

- The development readily complies with the 9.5m height development standard under the *IWLEP 2022*, as a maximum height of 6.4m is proposed;
- The development readily complies with the 0.6:1 (242.82sqm) FSR development standard under the *IWLEP 2022*, as a maximum FSR of 0.49:1 (199.3sqm) is proposed;
- The proposed provides a secondary dwelling, which is a form of low density residential development permissible within the site's R2 Low Density Residential zone under *IWLEP 2022*;
- The secondary dwelling is located in the footprint of the existing garage structure, and subject to condition discussed further below, the ground floor southern wall will be of similar height to existing, and the first floor provides a compliant side setback of 3m to the southern boundary shared with No. 66.

Based on the above, it is considered the development is within its development potential and has not maximised or exceeded its potential.

b. The particular circumstances of the neighbouring site(s), for example, the proximity of any residential accommodation to the boundary, the resultant proximity of windows to the boundary, and whether this makes compliance difficult;

With respect to the above, the following circumstances of No. 66 are noted:

- The property at No. 66 contains a fence within its area of private open space which overshadows its area of private open space.
- The overall area of private open space is substantially larger than the minimum requirements under MDCP2011 thereby compliance with 50% solar access is particularly burdensome
- The principal area of private open space for the dwelling at no. 66 is the area to the east of the fence adjacent to the dwelling which will likely retain 2 hours solar access to 50% of this area between 9:00am and 3:00pm on 21 June.

c. Any exceptional circumstances of the subject site such as heritage, built form or topography; and

- The property at no. 66 is sited downhill and to the south and as a result vulnerable to overshadowing from development on the subject site

<p><i>d. Whether the sunlight available in March to September is significantly reduced, such that it impacts upon the functioning of principal living areas and the principal areas of open space. To ensure compliance with this control, separate shadow diagrams for the March/September period must be submitted.</i></p> <ul style="list-style-type: none"> Shadow diagrams for the equinox were not submitted to demonstrate the development's impact during this time. <p>In assessment of the above and solar access principles, it is considered that the impacts are reasonable, and that the proposal satisfies the objectives of Part 2.7 of MDCP 2011. It is noted later in this report, to reduce the visual bulk presenting to this neighbour a condition is included in the recommendation seeking a reduction in the wall height of the proposal, this will assist in maintaining solar access.</p>		
Part 2.9 – Community Safety	<p>The proposal satisfies the relevant provisions of Part 2.9 as;</p> <ul style="list-style-type: none"> The primary dwelling entrance remains identifiable and visible from the street. The entrance to the proposed secondary dwelling is adequately visible, and path from the side frontage. 	Yes
Part 2.10 – Parking	<p>One car parking space is required per principal dwelling and secondary dwelling combined. The existing parking structure at the rear of the site is proposed for demolition and replaced with a new building which provides two car parking spaces.</p> <p>Standard conditions are recommended to ensure the vehicular crossing is upgraded to comply with the design requirements contained within Part 2.10 of MDCP 2011.</p>	Yes, subject to condition
Part 2.11 – Fencing	<p>New side boundary fencing is proposed to the south and west elevations. The fence adjoining 66 Hercules Street is annotated '1.8M HIGH FENCE FROM NEW LEVELS INDEPENDENT FROM EXISTING BRICK FENCE'. Whilst it is noted there is a level change between the properties, the proposed fence height is considered acceptable to provide reasonable privacy and amenity to the adjoining properties.</p>	Yes
<p>Part 2.18 – Landscaping and Open Spaces</p> <p><i>POS Required: 80.94sqm (20% of site area)</i></p> <p><i>Secondary Private Open Space Required: 16sqm</i></p> <p><i>Pervious Landscaping Required: 50% of POS</i></p>	<p>The proposal is satisfactory having regard to the relevant provisions of Part 2.18 as follows:</p> <ul style="list-style-type: none"> The entire front setback is to consist of pervious landscaping with the exception of the pathway and driveway; The Landscape Plan identifies that a minimum of 122.2sqm, with no dimension being less than 3 metres is to be retained as private open space; The secondary dwelling is provided with 34.3sqm of private open space and In excess of 50% of the private open space is to be maintained as pervious landscaping. 	Yes
Part 2.20 – Tree Management	<p>The proposal is considered acceptable with respect to the relevant provisions of Part 2.20. Refer to discussion above.</p>	Yes, subject to conditions
Part 2.21 – Site Facilities and	<p>The proposal satisfies the relevant provisions of Part 2.21 as follows:</p>	Yes, subject to conditions

Waste Management	<ul style="list-style-type: none"> The application was accompanied by a waste management plan in accordance with the Part; and Standard conditions are recommended to ensure the appropriate management of waste during the construction of the proposal. 	
Part 2.25 – Stormwater Management	Standard conditions are recommended to ensure the appropriate management of stormwater.	Yes, subject to conditions

Part 4 – Low Density Residential Development

Control	Assessment	Compliance
Part 4.1.3.4 – Secondary Dwellings	Consideration has been given to the requirements of this Part and is satisfactory.	Yes
Part 4.1.4 – Good Urban Design Practice	<p>The proposal is considered to be consistent with this part of MDCP 2011 in that:</p> <ul style="list-style-type: none"> The scale of the use is appropriate for the site; The entrance to the site is clearly visible from the street and footpath; and The design of the secondary dwelling is appropriate in terms of maintaining internal privacy and mitigating the chance of adverse acoustic and visual privacy impacts to neighbouring properties 	Yes
Part 4.1.5 – Streetscape and Design	<p>The proposal is satisfactory having regard to the relevant provisions of Part 4.1.5 as follows:</p> <ul style="list-style-type: none"> The development complements the uniformity and visual cohesiveness of the bulk, scale and height of the existing streetscape; The proposal is a contemporary design that complements the character of the area; and The architectural treatment of the façade interprets and translates positive characteristics in the locality. 	Yes
<p>Part 4.1.6 – Built form and character</p> <p><u>Front setback</u></p> <ul style="list-style-type: none"> Consistent with adjoining developments <p><u>Side setbacks</u></p> <ul style="list-style-type: none"> One storey – 900mm Two storeys – 1.5m <p><u>Rear setback</u></p> <ul style="list-style-type: none"> On merit <p><u>Site coverage</u></p> <ul style="list-style-type: none"> 50% – 400-500sqm 	<p>The proposal is satisfactory having regard to the relevant provisions of Part 4.1.6 as follows:</p> <p><i>Principal Dwelling</i></p> <ul style="list-style-type: none"> The existing front setback of the dwelling is to remain unaltered by the proposal; The side setbacks proposed are considered satisfactory, as the proposal has an acceptable impact on adjoining properties in terms of overshadowing, visual bulk and privacy. In addition, the proposed side setbacks are consistent with the established setback pattern of the street; The proposed ground floor rear setback is considered appropriate, as they will not create adverse impacts on adjoining properties in terms of visual bulk, overshadowing or privacy; and The proposal seeks to increase the existing site coverage by a minor amount. The overall site coverage of the development is considered acceptable, as it is consistent with the pattern development of the street and will have an acceptable impact on adjoining properties. <p><i>Secondary Dwelling</i></p>	Yes, subject to condition

	<ul style="list-style-type: none"> • The secondary dwelling does not exceed two storeys in height; • The front setback is located behind the front building line of the principal dwelling; • Given that the secondary dwelling takes the form of a loft structure, a nil rear boundary setback is considered acceptable; • The ground floor side setback is discussed below; • The proposed first floor setback of 3m from the southern boundary is compliant; and • The distance between the new detached secondary dwelling and principal dwelling is 12m. 	
<p>Part 4.1.6 <i>Built form and character</i> of MDCP 2011 includes objectives and controls with respect to building setbacks and pattern of development. With regard to the side setbacks of the secondary dwelling the following provisions are relevant:</p> <p>O13 <i>To ensure adequate separation between buildings for visual and acoustic privacy, solar access and air circulation.</i></p> <p>O14 <i>To integrate new development with the established setback character of the street and maintain established gardens, trees and vegetation networks.</i></p> <p>C11(iii)b <i>For detached secondary dwellings where the secondary dwelling is located at the rear, a minimum of 1.5 metres side setback from allotment's side boundaries must be maintained for the secondary dwelling.</i></p> <p>The proposal provides a non-compliant southern side setback on the ground floor. The proposed secondary dwelling is generally located within the footprint of an existing garage. As such, it is considered that a nil southern side setback can be considered acceptable subject to a design change condition to reduce the wall height.</p> <p>The proposed wall on the southern boundary ranges from 3.6m to 4.4m in height (approx. RL 29.9) which is approximately 0.62m higher than the maximum height of the existing garage wall (RL 29.28). It is considered that an increased wall height on the boundary will result in additional overshadowing and visual bulk to the adjoining property at no. 66 Hercules Road. Given that the wall height results from the kitchen/living area with an internal floor to ceiling height of 3.3m, it is considered that an alternative design with a floor to ceiling of 2.7m can reasonably be accommodated for which will result in a similar outcome to the existing built form thereby minimising additional amenity impacts to the adjoining property at no. 66 Hercules Road. A design change condition to this effect has been included in the recommendation as a condition of consent.</p>		
<p>Part 4.1.7 – Car Parking</p>	<p>The proposal is satisfactory having regard to the relevant provisions of Part 4.1.7 as follows:</p> <ul style="list-style-type: none"> • The garage and car parking space comply with the design requirements and minimum dimension for car parking within Part 2.10 of MDCP 2011; • The garage is located to the rear of the site and is safely and conveniently located for use; • The design of the garage is appropriate to the dwelling house and the presentation of the garage to the laneway is consistent in height and form with other approved developments in the area; and • The location of the driveway is suitable within the laneway and will not impact traffic or parking. 	<p>Yes</p>
<p>Part 4.1.7.5 – Loft Structures Over Garages</p>	<p>Subject to a design change condition, the proposal is considered acceptable with respect to the relevant provisions of Part 4.1.7.5 as follows:</p> <ul style="list-style-type: none"> • The proposed structure complies with the applicable Height and FSR requirements prescribed by <i>IWLEP 2022</i>; 	<p>Yes, subject to design change</p>

	<ul style="list-style-type: none"> • The proposed structure has a minimal impact on amenity of the subject property and neighbouring properties; • The proposed bulk and scale of the structure is consistent with other structures within the rear lane; • The proposal has been designed to minimise height, bulk and scale; and • The proposed structure does not adversely impact the character of the laneway. 	
Part 4.1.9 – Additional controls for contemporary dwellings	<p>The proposal satisfies the relevant requirements of this Part with regard to the secondary dwelling as follows:</p> <ul style="list-style-type: none"> • The proposed secondary dwelling maintains the perceived scale and character of the immediate streetscape by presenting the first floor as an attic style, and setting the upper floor back from the laneway • The proposed secondary dwelling predominately utilises face brick which matches the dwelling house material, and generally favoured over other materials. 	Yes
Part 4.1.11 – Additional controls for residential period dwellings	<p>The proposal satisfies the relevant requirements of this Part with regard to the alterations and additions to the dwelling house, as follows:</p> <ul style="list-style-type: none"> • The proposal retains the facade and main external body of the period building visible from the street; • The proposal accommodates contemporary additions and alterations while retaining the significant components of the period building; • The alterations and additions at the rear and the side are subordinate to the main body of the period dwelling and will have limited visibility from the street; and • Existing significant period features at the front have been retained. 	Yes

Part 9 – Strategic Context

Control	Assessment	Compliance
Part 9.18 – Dulwich Hill Station North (Precinct 18)	<p>The proposal satisfies the relevant provisions of Part 9.2 as follows:</p> <ul style="list-style-type: none"> • The proposal protects the existing period dwelling on the site; • The proposal protects significant streetscapes and/or public domain elements within the precinct including landscaping, fencing, open space, sandstone kerbing and guttering, views and vistas and prevailing subdivision patterns. • The proposal preserves the predominantly low density residential character of the precinct. • The proposal ensures that new development considers all potential impacts to biodiversity. 	Yes

5(e) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

5(f) The suitability of the site for the development

Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(g) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 14 days to surrounding properties. Three (3) submissions were received in response to the initial notification.

The following issues raised in submissions have been discussed in this report:

- The height, location, setbacks and built form of the secondary dwelling;
- The visual bulk and associated amenity impacts from the secondary dwelling;
- The impacts to the streetscape and character of the area from the secondary dwelling;
- Privacy implications from the new southern windows to the primary dwelling;
- Privacy implications from the secondary dwelling;
- Loss of solar access;
- Fence height

In addition to the above issues, the submissions raised the following concerns which are discussed under the respective headings below:

Concern	Comment
Impacts from excavation to the brick retaining wall on the southern side boundary and brick garage to the west.	It is considered that the proposed development can reasonably be constructed without any adverse impacts to neighbouring properties subject to appropriate construction methods which will be addressed as part of the Construction Certificate. A condition has been included in the recommendation for a dilapidation report for all adjoining properties.
Impacts to future swimming pool at 66 Hercules Street	These comments are noted; however, Council cannot assess the proposal against speculative developments.
Impact on cost of living and food production	Concern was raised with the solar access impacts on the vegetable garden. An assessment against the solar access and overshadowing provisions is contained in this report. In summary, subject to a design change condition, the proposal is considered to satisfy the relevant provisions.
Open void area within the secondary dwelling adding to bulk and potential future use as floor space	The amended proposal has reduced the size of the void above the living area. Notwithstanding, any unauthorised works or uses of these spaces could be reported for investigation by Council's Regulatory team.
Impacts to future solar panels to the garage roof at 39 Terrace Road	These comments are noted; however, Council cannot assess the proposal against speculative developments.
Inconsistencies in the architectural plans	It is considered sufficient details and information have been submitted with the application to allow for a complete assessment of the application.
Details of the SEE	As detailed in this report, an independent assessment against the relevant planning controls/policies was carried out on the merits of

	the proposal. In summary, subject to design change conditions are considered to satisfy the relevant provisions.
View loss	An assessment against the view loss planning principle is contained below. In summary, the neighbouring properties do not currently experience any significant views which warrant protection.

View Loss

As the MDCP 2011 does not include comprehensive assessment criteria relating to view loss, it is considered necessary to rely on the Planning Principle relating to view sharing established by the New South Wales Land and Environment Court (NSW LEC) in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140 to assess view loss impacts.

The following property has listed view loss as part of their submission to Council:

- 39 Terrace Road, Dulwich Hill
- 41 Terrace Road, Dulwich Hill

The map below demonstrates the location of the above property (red outline) within the context of the subject development (blue rectangle):



Context map for view loss assessment.

The *Tenacity* principle is summarised and applied to the proposal below (photographs also appear further below):

*The **first step** is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

The affected property benefits from the following views:

- Views from an elevated rear balcony and living room windows at 39 Terrace Road are over the rear boundary of the subject site and nearby properties. The views are primarily sky views, however; land views over the locality are present. The land views encompass vegetation and nearby dwelling houses; and
- The views are not considered to be 'iconic' and are enjoyed in a large part to the undeveloped nature of the site and nearby properties.

*The **second step** is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

- As described earlier, the views are obtained from a rear balcony and rear living area, in both standing and sitting positions.
- The views are obtained across multiple side and rear boundaries, including the site. These properties have the potential to develop in the future to adopt greater building envelopes and heights under current planning controls.

*The **third step** is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

An assessment of the extent of the impacts is carried out hereafter:

- The proposal will result in the loss of a portion of the views currently obtained from the rear balcony and rear living area from both a sitting and standing position. However, the majority of the view will be maintained.
- Based on the above impacts, the qualitative impact is considered 'minor'.



The current view from the rear balcony servicing 39 Terrace Road, Dulwich Hill

*The **fourth step** is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

- As demonstrated in this report, the proposal readily complies with the *MLEP 2011* building height and FSR development standards;
- Notwithstanding the above, a compliant southern side setback is not considered to result in improved protection of these existing views, and there is still the potential for the views to become obscured by the redevelopment of nearby properties under the current planning controls; and
- The proposal as presented still allows for considerable portions of the views to be maintained.

Considering the above, it is concluded that the resultant view loss resultant from the proposal is considered acceptable.

5(h) 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.

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- Urban Forest
- Development Engineering

6(b) External

The application was referred to the following external bodies and issues raised in those referrals have been discussed in section 5 above.

- Ausgrid

7. Section 7.11 Contributions

Section 7.11 contributions are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$18,613.66 would be required for the development under Marrickville Section 94/94A Contributions Plan 2014. A condition requiring that contribution to be paid is included in the recommendation.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and Marrickville Development Control Plan 2011.

The development will not result in any significant impacts on the amenity of the adjoining 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

- A. The applicant has made a written request pursuant to Section 4.6 *Marrickville Local Environmental Plan 2011* to vary Section 53(2)(a) of the *Housing SEPP 2021*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the minimum site area standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. 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/2022/0842 for demolition of the existing detached structures at the rear of the site, partial demolition of the existing dwelling house, construction of a 2 storey building at the rear of the site comprising a garage and secondary dwelling and ground floor alterations and additions to a dwelling house at 64 Hercules Street. DULWICH HILL subject to the conditions listed in Attachment A below

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

The development must be carried out in accordance with plans and documents listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
DA.05 rev D	Ground floor demolition plan	1 March 2023	Blu Print Design
DA.06 rev D	Ground floor plan	1 March 2023	Blu Print Design
DA.07 rev D	First floor plan	1 March 2023	Blu Print Design
DA.08 rev D	Roof plan	1 March 2023	Blu Print Design
DA.10 rev D	East & internal west elevations	1 March 2023	Blu Print Design
DA.11 rev D	West & internal east elevations	1 March 2023	Blu Print Design
DA.12 rev D	North elevation	1 March 2023	Blu Print Design
DA.13 rev D	South elevation	1 March 2023	Blu Print Design
DA.14 rev D	Sections	1 March 2023	Blu Print Design
DA.15 rev D	Sections	1 March 2023	Blu Print Design
DA.17 rev D	Material sample board	1 March 2023	Blu Print Design
A455429	BASIX certificate	7 April 2023	Greenworld Architectural Drafting
1296805S	BASIX certificate	7 April 2023	Greenworld Architectural Drafting

As amended by the conditions of consent.

DESIGN CHANGE

2. Design Change

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:

- a. The secondary dwellings southern, western and eastern walls which correspond the kitchen/living area, and associated hip section of the roof are to be reduced by 600mm in height.

FEES

3. Security Deposit

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.

Security Deposit:	\$5600.00
Inspection Fee:	\$350.00

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.

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.

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 recover, in any court of competent jurisdiction, any costs to Council for such restorations.

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.

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.

4. Section 7.11 (Former Section 94) Contribution

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that a monetary contribution of \$18,613.66 indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014] ("CP") has been paid to the Council.

The above contribution is the contribution applicable as at 1 March 2023.

***NB** Contribution rates under Marrickville Section 94/94A Contributions Plan 2014 are indexed quarterly (for the method of indexation refer to Section 2.15 of the Plan).

The indexation of the contribution rates occurs in the first week of the months of February, May, August and November each year, following the release of data from the Australian Bureau of Statistics.

The contribution payable has been calculated in accordance with the CP and relates to the following public amenities and/or services and in the following amounts:

Public Amenities Type:	Contribution \$
Recreation Facilities	16,168.28
Community Facilities	1,816.06

Traffic Facilities	264.36
Plan Administration	364.97
TOTAL	18,613.66

A copy of the CP can be inspected at any of the Inner West Council Services Centres or viewed online at:

<https://www.innerwest.nsw.gov.au/develop/planning-controls/section-94-contributions>

Payment methods:

The required contribution must be paid either *by BPAY (to a maximum of \$500,000); unendorsed bank cheque (from an Australian Bank only); EFTPOS (Debit only); credit card (Note: A 1% credit card transaction fee applies to all credit card transactions; cash (to a maximum of \$10,000)*. It should be noted that personal cheques or bank guarantees cannot be accepted for the payment of these contributions. Prior to payment contact Council's Planning Team to review charges to current indexed quarter, please allow a minimum of 2 business days for the invoice to be issued before payment can be accepted.

*NB A 0.75% credit card transaction fee applies to all credit card transactions.

5. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.25% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$250,000 or more.

GENERAL CONDITIONS

6. Tree Protection

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.

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.

Any public tree within five (5) metres of the development must be protected in accordance with Council's *Development Fact Sheet—Trees on Development Sites*.

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.

Details of the trees must be included on all Construction Certificate plans and shall be annotated in the following way:

- a. Green for trees to be retained;
- b. Red for trees to be removed;

NOTE: Reference should be made to the Arboricultural Impact Assessment Report prepared by TALC dated 17 June 2022 for tree numbering and locations.

7. Works to Trees

Approval is given for the removal of the following trees after the issuing of a Construction Certificate:

Tree 4 - *Olea europaea* (Common Olive)

Tree 5 - *Archontophoenix cunninghamiana* (Bangalow Palm)

Tree 6 - *Pinus radiata* (Radiata Pine)

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved and shall be retained and protected in accordance with Council's *Development Fact Sheet—Trees on Development Sites*.

8. Boundary Alignment Levels

Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary.

9. Waste Management Plan

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 (RWMP) in accordance with the relevant Development Control Plan.

10. Erosion and Sediment Control

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.

11. Works Outside the Property Boundary

This development consent does not authorise works outside the property boundaries on adjoining lands.

PRIOR TO ANY DEMOLITION**12. Hoardings**

The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.

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.

Separate approval is required from the Council under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property.

13. Dilapidation Report

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the adjoining properties to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

14. Advising Neighbours Prior to Excavation

At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

15. Construction Fencing

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.

PRIOR TO CONSTRUCTION CERTIFICATE**16. Dilapidation Report – Pre-Development – Minor**

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.

17. Stormwater Drainage System – Minor Developments (OSD is not required)

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:

- a. The design must generally be in accordance with the Stormwater Drainage Concept plan on Drawing No. H843H-S1/2 and H843H-S2/2, Rev "A" prepared by TAA Consulting Engineers and dated 30/4/2022, as amended to comply with the following;
- b. 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 the kerb and gutter of a public road;
- c. 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;
- d. 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;
- e. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than to drain downpipes to the rainwater tank(s);
- f. To provide for adequate site drainage all roof and surface stormwater from the site and any catchment external to the site that presently drains to it, must be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a stormwater drainage system in accordance with the requirements of Council's DCP. Please note any stormwater outlets through sandstone kerbs must be carefully core drilled;
- g. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
- h. An overland flowpath must be provided within the setback to the northern side boundary between the rear of the dwelling and the Hercules Street frontage. The rear courtyard must be graded so that bypass flows from the site drainage system are directed to the overland flowpath.
- i. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;

- j. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas ;
- k. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands;
- l. No nuisance or concentration of flows to other properties;
- m. The design plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required;
- n. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
- o. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
- p. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm or sewer grade uPVC pipe with a maximum diameter of 100mm;
- q. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings;
- r. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;
- s. No impact to street tree(s);

18. Public Domain Works – Prior to Construction Certificate

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising 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) and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the *Roads Act 1993* incorporating the following requirements:

- a. The public domain along Hercules Lane frontages of the site inclusive of concrete footpath kerb and gutter must be constructed and upgraded in accordance with Councils standard drawings;
- b. The construction of light duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site;
- c. New concrete footpath and kerb and gutter along the Hercules Lane frontage of the site is to be constructed between the rear of 39 Terrace Road in Hercules Lane to match the kerb and gutter footpath in Hercules Lane adjacent to 64 Hercules Street;
- d. Long section along south side of Hercules Lane from Hercules Street to Terrace Road showing existing and design levels for Boundary, Top of Kerb and Gutter Invert.
- e. Cross sections are to be provided between the Southern boundary and Northern boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations. Note, the cross fall of the footpath must be set at 2.5%. These sections will set the alignment levels at the boundary.
- f. Road Resurfacing in AC10 1m wide from the newly constructed kerb and gutter.
- g. Installation of a stormwater outlet to the kerb and gutter.

All works must be completed prior to the issue of an Occupation Certificate.

19. Alignment Levels – Rear Lane

The internal vehicle hardstand area shall be redesigned such that the level at the boundary shall match the invert level of the adjacent gutter plus 110mm at both sides of the vehicle entry. This will require the internal garage slab or hard stand area to be adjusted locally at

the boundary to ensure that it matches the above Alignment Levels. Amended plans shall be submitted to and approved by Council before the issue of the Construction Certificate.

The garage slab or driveway must then rise within the property to be 170mm above the adjacent road gutter level. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.

Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements.

20. Structural Certificate for retained elements of the building

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction. The certificate must also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

21. Sydney Water – Tap In

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.

Note: Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 13 20 92

DURING DEMOLITION AND CONSTRUCTION

22. Tree Protection

To protect the following tree, trunk protection must be installed prior to any works commencing in accordance with the approved *Tree Protection Plan* and/or with Council's *Development Fact Sheet—Trees on Development Sites*:

Tree No.	Botanical/Common Name/Location
1	<i>Tristaniopsis laurina</i> (Water Gum) / street tree

23. Construction Hours – Class 1 and 10

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.

24. Survey Prior to Footings

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.

PRIOR TO OCCUPATION CERTIFICATE

25. Certification of Tree Planting

Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with evidence certified by a person holding a minimum qualification of AQF5 Certificate of Arboriculture that:

A minimum of 1 x 45 litre size tree, which will attain a minimum mature height of eight (8) metres and minimum mature canopy spread of four (4) metres and 1 x 45 litre size tree, which will attain a minimum mature canopy spread of three (3) metres have been planted in suitable locations within the property at a minimum of 1 metre from any boundary and 2.2 metres from a dwelling or garage wall. The trees are to conform to AS2303—*Tree stock for landscape use*. Trees listed as exempt species or on the Tree Minor Works list in Council's Tree Management Controls, palms, fruit trees and species recognised to have a short life span will not be accepted as suitable replacements.

Ongoing - If the trees are found dead or dying before they reach dimensions where they are protected by Council's Tree Management Controls, they must be replaced in accordance with this condition.

26. Public Domain Works

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the *Roads Act 1993* including:

- a. Light/Heavy duty concrete vehicle crossing(s) at the vehicular access location(s);
- b. The redundant vehicular crossing to the site must be removed and new concrete footpath and kerb and gutter along the Hercules Lane frontage of the site is to be constructed between the rear of 39 Terrace Road in Hercules Lane to match the kerb and gutter footpath in Hercules Lane adjacent to 64 Hercules Street;
- c. Road Resurfacing in AC10 1m wide from the newly constructed kerb and gutter.
- d. Other works subject to the *Roads Act 1993* approval.

All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-"Roadworks Specifications".

27. No Encroachments

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.

28. Light Duty Vehicle Crossing

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that a light duty concrete vehicle crossing(s), in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" have been constructed at the vehicular access locations.

ON-GOING

29. Tree Establishment

The trees planted as part of this consent are found dead or dying before they reach dimensions where they are protected by Council's Tree Management Controls, they must be replaced in accordance with the relevant condition/s.

30. Bin Storage

All bins are to be stored within the site.

ADVISORY NOTES**Tree Protection Works**

All tree protection for the site must be undertaken in accordance with Council's *Development Fact Sheet—Trees on Development Sites* and AS4970—*Protection of trees on development sites*.

Permits

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 *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- 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;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip Bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street veranda over the footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

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.

Insurances

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.

Public Domain and Vehicular Crossings

The vehicular crossing and/or footpath works are required to be constructed by your contractor. You or your contractor must complete an application for *Design of Vehicle Crossing and Public Domain Works – Step 1* form and *Construction of Vehicle Crossing and Public Domain Works – Step 2* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.

You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be at no cost to Council.

Any damage caused during construction to Council assets on the road reserve or on Council or Crown land must be repaired at no cost to Council.

Any driveway crossovers or other works within the road reserve must be provided at no cost to Council.

No consent is given or implied for any Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, eaves, awnings, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever, including when open.

Prescribed Conditions

This consent is subject to the prescribed conditions of consent within Sections 69-86 of the *Environmental Planning and Assessment Regulations 2021*.

Notification of commencement of works

At least 7 days before any demolition work commences:

- a. The Council must be notified of the following particulars:
 - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - ii. the date the work is due to commence and the expected completion date; and
- b. A written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

Storage of Materials on public property

The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.

Toilet Facilities

The following facilities must be provided on the site:

- a. Toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees; and
- b. A garbage receptacle for food scraps and papers, with a tight fitting lid.

Facilities must be located so that they will not cause a nuisance.

Infrastructure

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be undertaken before occupation of the site.

Other Approvals may be needed

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.

Failure to comply with conditions

Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.

Other works

Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Obtaining Relevant Certification

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;
- f. Development Application for demolition if demolition is not approved by this consent; or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

National Construction Code (Building Code of Australia)

A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code.

Notification of commencement of works

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:

- a. In the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor; and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
- b. In the case of work to be done by an owner-builder:
 - i. The name of the owner-builder; and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

Dividing Fences Act

The person acting on this consent must comply with the requirements of the *Dividing Fences Act 1991* in respect to the alterations and additions to the boundary fences.

Permits from Council under Other Acts

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 *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- 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;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip bins;
- e. Scaffolding/Hoardings (fencing on public land);

- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street verandah over footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. A lease fee is payable for all occupations.

Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997*.

Amenity Impacts General

The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

Construction of Vehicular Crossing

The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for *Construction of a Vehicular Crossing & Civil Works* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.

Lead-based Paint

Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

Dial before you dig

Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	131441 www.lspc.nsw.gov.au

NSW Food Authority	1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diysafe.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 www.environment.nsw.gov.au
Sydney Water	13 20 92 www.sydneywater.com.au
Waste Service - SITA Environmental Solutions	1300 651 116 www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au
WorkCover Authority of NSW	13 10 50 www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.

Asbestos Removal

A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10m² of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

Removal of friable asbestos material must only be undertaken by a contractor that holds a current Class A Friable Asbestos Removal Licence.

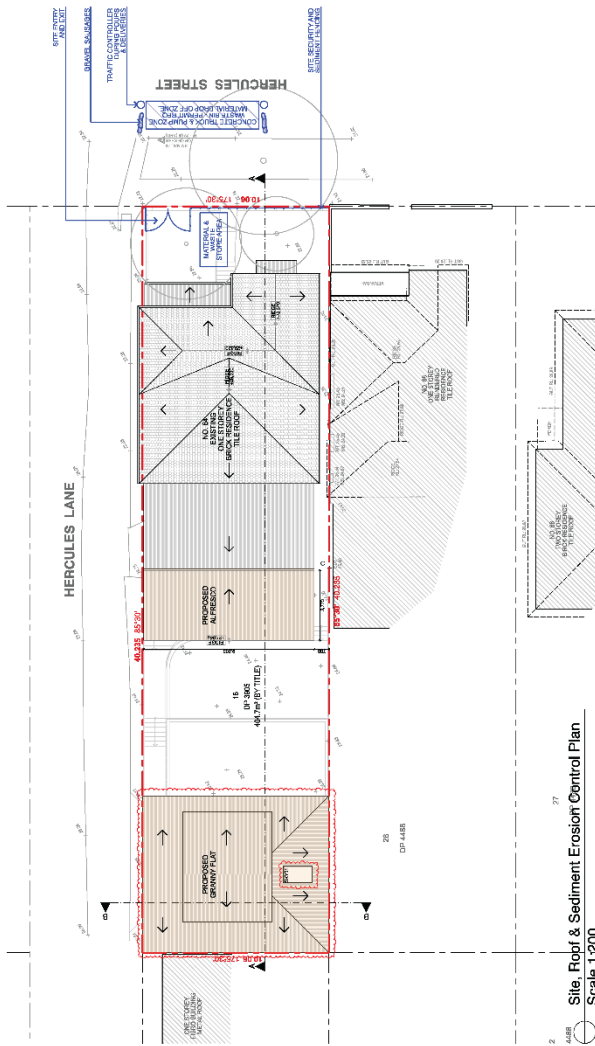
Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.

All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2014. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

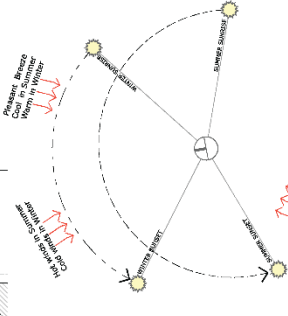
Street Numbering

If there are any changes to the number of occupancies including any additional occupancies created, a street numbering application must be lodged and approved by Council's GIS team before any street number is displayed. Link to [Street Numbering Application](#)

Attachment B – Plans of proposed development



Site, Roof & Sediment Erosion Control Plan
Scale 1:200



CLIMATIC SITE ANALYSIS

PROPERTY DETAILS

Property Address: 64 Hercules St, Dulwich Hill
 Title Reference: 16/DP33005
 Site Area: 494.7 m²
 Council: INNER WEST COUNCIL

LOCAL ENVIRONMENTAL PLAN INFORMATION

Land Zoning: R2 - Low Density Residential
 Height: J - 6.5
 FSR (Site > 350m²): 0.6:1
 Lot Size: NA
 Heritage: NA
 Land Reservation: NA
 Forestation Building Line: NA
 Acid Sulfate Soils: NA
 Airport Noise: NA
 Terrestrial Biodiversity Nat. Res: NA
 Biodiversity: NA



64 Hercules St, Dulwich Hill - Location Plan

Item	Description	Date	Title	Scale
A	Development Application	30-09-2023	Site, Roof & Sediment Erosion Control Plan	1:200 @ A3
B	Consent RFI - Code	07-12-2023	64 Hercules Street, Dulwich Hill NSW	
C	Consent RFI	22-12-2023	Client: M. Davis & Son	
D	Consent RFI	01-11-2023	Date: 1st March 2023	

Document: 24-16-19-149-144
 Version: 1, Version Date: 08/03/2023



SURVEY NOTES

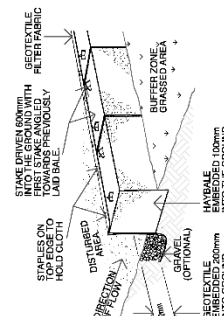
THE EXISTING SITE CONDITIONS SHOWN ON THE FOLLOWING DRAWINGS HAVE BEEN INVESTIGATED BY C.V. FORSHAW CONSULTING LAND AND SURVEYING ENGINEERS. THE INFORMATION IS SHOWN TO PROVIDE A BASIS FOR DESIGN ARCHITECTURAL SOLUTIONS DOES NOT GUARANTEE THE ACCURACY OR COMPLETENESS OF THE SURVEY BASE OF ITS SUITABILITY AS A BASIS FOR CONSTRUCTION DRAWINGS.

SITE WORKS NOTES

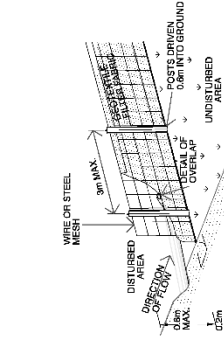
1. DATUM: REFER SURVEY NOTES
2. CONTRACTOR MUST VERIFY ALL DIMENSIONS AND EXISTING LEVELS TO BE REPORTED TO THE ENGINEER/PERMITTING AUTHORITY
3. STRIP ALL TOP SOIL FROM CONSTRUCTION AREA AND STOCKPILE ON SITE TO BE LATER SPREAD OR REMOVED FROM SITE AS DIRECTED BY THE ENGINEER
4. MAKE SMOOTH CONNECTION WITH EXISTING WORKS.
5. ALL TRENCH BACKFILL MATERIAL SHALL BE COMPACTED TO THE SAME DENSITY AS EXISTING MATERIAL
6. ALL SERVICES, TRUNKS, UNDER VEHICULAR PAVEMENTS SHALL BE BACKFILLED WITH SAND OR AN APPROVED GRANULAR MATERIAL AND COMPACTED TO A MINIMUM 98% STANDARD DENSITY, IN ACCORDANCE WITH AS 1742
7. PROVIDE 10mm WIDE EXPANSION JOINTS BETWEEN BUILDING AND ALL CONCRETE OR UNIT PAVEMENTS.
8. ASPHALT CONCRETE SHALL COMPLY WITH RTA FORM 3051 (UNBOUND), RTA FORM 3052 (BOUND), COMPACTED TO MINIMUM 98% MODIFIED DENSITY IN ACCORDANCE WITH AS 1288 5.2.1. FREQUENCY OF BASE COURSE MATERIAL PLACED SHALL NOT BE LESS THAN 1 TEST PER 50m OF AND COMPACTED TO A MINIMUM 95% MODIFIED DENSITY IN ACCORDANCE WITH AS 1742
11. ALL LINE MARKING TO AS 1742
12. WHERE NOTED ON THE DRAWINGS THAT WORKS ARE TO BE CARRIED OUT BY A CONTRACTOR, THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CO-ORDINATION OF THESE WORKS.

EROSION AND SEDIMENT CONTROL NOTES

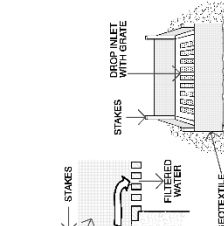
1. ALL WORK SHALL BE GENERALLY CARRIED OUT IN ACCORDANCE WITH:
 - A. LOCAL AUTHORITY REQUIREMENTS
 - B. ERS REQUIREMENTS
 - C. ERS REQUIREMENTS OF HOLDING MANUAL
2. "MANAGING URBAN STORMWATER, SOILS AND CONSTRUCTION", 3rd EDITION, AUGUST 1998.
3. WHEN STORMWATER PITS ARE CONSTRUCTED, PREVENT SITE RUNOFF ENTERING UNLESS SILT FENCES ARE ERECTED AROUND PITS. CONTROL DEVICES ARE MAINTAINED IN GOOD WORKING ORDER AND OPERATE EFFECTIVELY. REPAIRS AND/OR MAINTENANCE SHALL BE UNDERTAKEN AS REQUIRED, PARTICULARLY FOLLOWING STORM EVENTS.



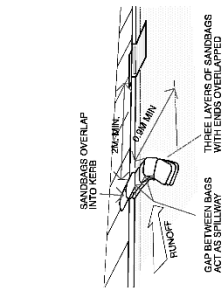
STRAW BALE AND GEOTEXTILE SEDIMENT FILTER



SEDIMENT FENCE



GEOTEXTILE FILTER FABRIC SURROUND



SANDBAG SEDIMENT TRAP FOR KERB INLET ON GRADE

Revision	Date	Description
A	20-08-2023	Development Application
B	07-09-2023	Council RTI - Draft
C	22-02-2024	Council RTI
D	01-03-2024	Council RTI

DA02	DA02
DA02	DA02
DA02	DA02
DA02	DA02

Client:	141 Macleay Street, Cobar NSW
Project:	141 Macleay Street, Cobar NSW
Design:	141 Macleay Street, Cobar NSW
Date:	1st March 2023
Scale:	N/A

Author:	141 Macleay Street, Cobar NSW
Check:	141 Macleay Street, Cobar NSW
Drawn:	141 Macleay Street, Cobar NSW
Scale:	141 Macleay Street, Cobar NSW

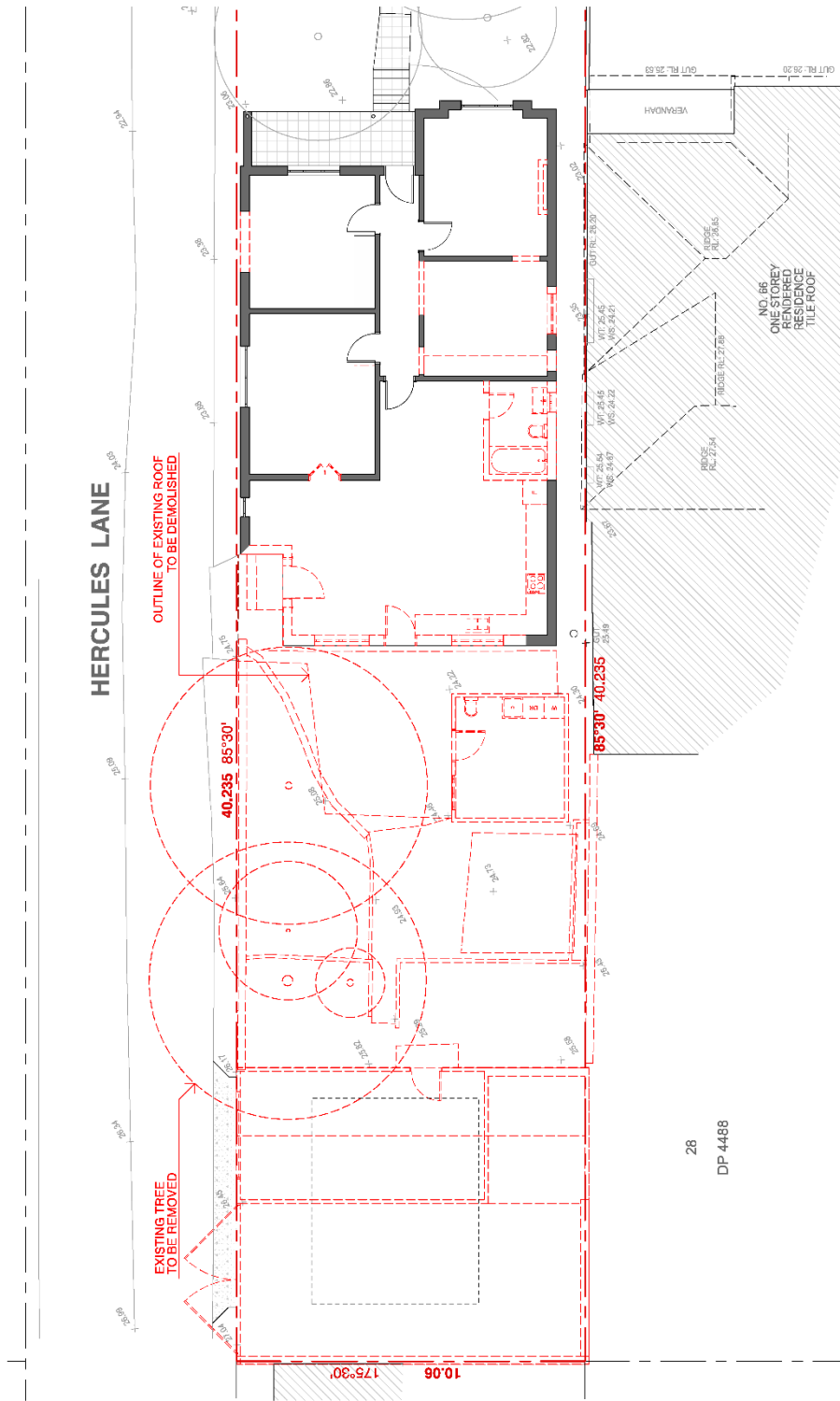
BASIX NOTES - MAIN HOUSE

Fixtures and systems	Show on DA Plans	Show on Plans & Specs	Centrally Check
<p>Lighting</p> <p>The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.</p> <p>FIXTURES</p> <p>The applicant must ensure new or altered showerheads have a flow rate no greater than 9 litres per minute or a 3 star water rating.</p> <p>The applicant must ensure new or altered toilets have a flow rate no greater than 4 litres per average flush or a minimum 3 star water rating.</p> <p>The applicant must ensure new or altered taps have a flow rate no greater than 6 litres per minute or minimum 3 star water rating.</p>	✓	✓	✓

Construction	Show on DA Plans	Show on Plans & Specs	Centrally Check																					
<p>Insulation requirements</p> <p>The applicant must construct the new or altered construction (floors, walls, and ceilings/roofs) in accordance with the specifications listed in the table below, except that a) additional insulation is not required where the area of new construction is less than 2m², b) insulation specified is not required for parts of altered construction where insulation already exists.</p> <table border="1"> <thead> <tr> <th>Construction</th> <th>Additional insulation required (R-value)</th> <th>Other specifications</th> </tr> </thead> <tbody> <tr> <td>concrete slabs on ground floor:</td> <td>nil</td> <td></td> </tr> <tr> <td>external wall brick veneer</td> <td>R1.15 (or R1.70 including construction)</td> <td></td> </tr> <tr> <td>external wall cavity brick</td> <td>nil</td> <td></td> </tr> <tr> <td>external wall timber framed (weatherboard, fibre cement or brick)</td> <td>R1.30 (or R1.70 including construction)</td> <td></td> </tr> <tr> <td>external wall other/insulated</td> <td>R1.70 (including construction)</td> <td></td> </tr> <tr> <td>flat ceiling, full roof framed</td> <td>ceiling: R2.50 (up), roof: full/airtight</td> <td>medium feature absorptance 0.475 - 0.70</td> </tr> </tbody> </table>	Construction	Additional insulation required (R-value)	Other specifications	concrete slabs on ground floor:	nil		external wall brick veneer	R1.15 (or R1.70 including construction)		external wall cavity brick	nil		external wall timber framed (weatherboard, fibre cement or brick)	R1.30 (or R1.70 including construction)		external wall other/insulated	R1.70 (including construction)		flat ceiling, full roof framed	ceiling: R2.50 (up), roof: full/airtight	medium feature absorptance 0.475 - 0.70	✓	✓	✓
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Glazing requirements	Show on DA Plans	Show on Plans & Specs	Centrally Check																																				
<p>Windows and glazed doors</p> <p>The applicant must install the windows, glazed doors and shading devices, in accordance with the specifications listed in the table below. Relevant overshadowing specifications must be satisfied for each window and glazed door.</p> <p>The following requirements must also be satisfied in relation to each window and glazed door:</p> <p>Each window or glazed door with standard aluminium or timber frames and single clear or bronze glass may either match the description or, if not, must be calculated in accordance with National Performance Rating Council (NPRC) conditions.</p> <p>Each window or glazed door with improved frames, or synthetic lowe glass, or double glazing, or tinted glazing, or tinted glazing must have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below. Total system U-values and SHGCs must be calculated in accordance with National Performance Rating Council (NPRC) conditions.</p> <p>Only alternative systems with comparable U-values and SHGC may be substituted.</p> <p>For projections described in millimetres, the leading edge of each sash, pergola, verandah, balcony or awning must be no more than 500 mm above the head of the window or glazed door and no more than 2400 mm above the sill.</p> <p>Pergolas with polycarbonate roof or similar translucent material must have a shading coefficient of less than 0.35.</p> <p>Pergolas with fixed battens must have battens parallel to the window or glazed door above which they are situated. Unless the pergola also shades a perpendicular window. The spacing between battens must not be more than 60 mm.</p> <p>Windows and glazed doors glazing requirements</p> <table border="1"> <thead> <tr> <th>Window/door no.</th> <th>Orientation</th> <th>Area of glazing (m²)</th> <th>Overshading</th> <th>Shading device</th> <th>Frame and glass type</th> </tr> </thead> <tbody> <tr> <td>Bed 2</td> <td>N</td> <td>2.1</td> <td>0</td> <td>none</td> <td>aluminium, single Lo-iron lowe, U-value: 5.6, SHGC: 0.36</td> </tr> <tr> <td>Enb</td> <td>S</td> <td>0.4</td> <td>0</td> <td>none</td> <td>standard aluminium, single clear, (or standard aluminium, single clear, (or standard aluminium, single clear, (or</td> </tr> <tr> <td>Bath</td> <td>S</td> <td>0.4</td> <td>0</td> <td>none</td> <td>standard aluminium, single clear, (or U-value: 7.83, SHGC: 0.75)</td> </tr> <tr> <td>Kitchen</td> <td>S</td> <td>1.7</td> <td>0</td> <td>none</td> <td>standard aluminium, single clear, (or standard aluminium, single clear, (or</td> </tr> <tr> <td>Living</td> <td>W</td> <td>15.5</td> <td>0</td> <td>awn/verandah/pergola/balcony</td> <td>standard aluminium, single clear, (or U-value: 7.83, SHGC: 0.75)</td> </tr> </tbody> </table>	Window/door no.	Orientation	Area of glazing (m ²)	Overshading	Shading device	Frame and glass type	Bed 2	N	2.1	0	none	aluminium, single Lo-iron lowe, U-value: 5.6, SHGC: 0.36	Enb	S	0.4	0	none	standard aluminium, single clear, (or standard aluminium, single clear, (or standard aluminium, single clear, (or	Bath	S	0.4	0	none	standard aluminium, single clear, (or U-value: 7.83, SHGC: 0.75)	Kitchen	S	1.7	0	none	standard aluminium, single clear, (or standard aluminium, single clear, (or	Living	W	15.5	0	awn/verandah/pergola/balcony	standard aluminium, single clear, (or U-value: 7.83, SHGC: 0.75)	✓	✓	✓
Window/door no.	Orientation	Area of glazing (m ²)	Overshading	Shading device	Frame and glass type																																		
Bed 2	N	2.1	0	none	aluminium, single Lo-iron lowe, U-value: 5.6, SHGC: 0.36																																		
Enb	S	0.4	0	none	standard aluminium, single clear, (or standard aluminium, single clear, (or standard aluminium, single clear, (or																																		
Bath	S	0.4	0	none	standard aluminium, single clear, (or U-value: 7.83, SHGC: 0.75)																																		
Kitchen	S	1.7	0	none	standard aluminium, single clear, (or standard aluminium, single clear, (or																																		
Living	W	15.5	0	awn/verandah/pergola/balcony	standard aluminium, single clear, (or U-value: 7.83, SHGC: 0.75)																																		

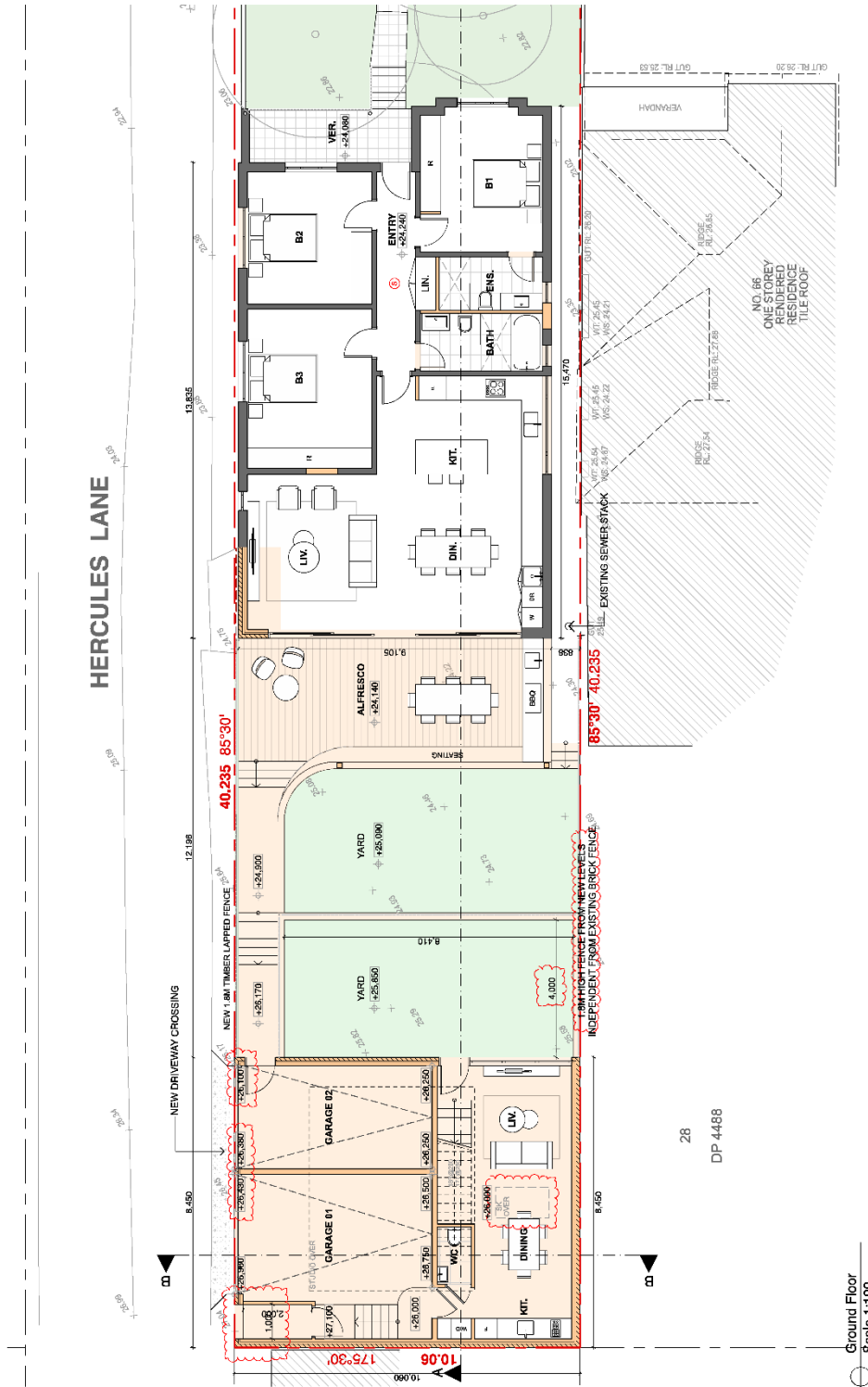
AS - ALUMINIUM ROOF SHEETING	AL - ALUMINIUM	AD - ALUMINIUM DOORS	GB - GLASS BALUSTRADE	Document No: DA-18-497464	Date	Date	Date	Date
AW - ROOF TILE	AC - ALUMINIUM CLADDING	AW - ALUMINIUM WINDOW	SB - STEEL BALUSTRADE	18-01-2023	18-01-2023	18-01-2023	18-01-2023	18-01-2023
BW - FACE BRICK WORK	TC - TIMBER CLADDING	TD - TIMBER DOOR	S - SHOCK DETECTOR	18-01-2023	18-01-2023	18-01-2023	18-01-2023	18-01-2023
CB - CERAMIC BRICKS	SC - STONE CLADDING	TW - TIMBER WINDOW	W - NEW WINDOW	18-01-2023	18-01-2023	18-01-2023	18-01-2023	18-01-2023
		FW - FIBRE WINDOW	D - NEW DOOR	18-01-2023	18-01-2023	18-01-2023	18-01-2023	18-01-2023



Ground Floor Demolition
Scale 1:100

AS - ALUMINUM ROOF SHEETING	AL - ALUMINUM	AD - ALUMINUM DOORS	GB - GLASS BALUSTRADE	DATE	DESCRIPTION	DATE	DESIGNER	DATE	SCALE
CC - CONCRETE ROOF TILE	AC - ALUMINUM CLADDING	AW - ALUMINUM WINDOW	SD - STEEL BALUSTRADE	30-09-2023	A Development Application	30-09-2023	BLU BENI DESIGNS	14 March 2023	1:100 @ A3
RT - ROOF TILE	FC - FIBRE CEMENT	TD - TIMBER DOOR	S - SMOCK DETECTOR	07-03-2023	B Council RTI - Draft	07-03-2023	BLU BENI DESIGNS	14 March 2023	
BW - ROOF BRICKWORK	TC - TIMBER CLADDING	TW - TIMBER WINDOW	M - NEW WINDOW	22-02-2023	C Council RTI	22-02-2023	BLU BENI DESIGNS	14 March 2023	
CB - CEMENT BRICKS	SC - STONE CLADDING	PW - PINE WINDOW	D - NEW DOOR	01-01-2023	D Council RTI	01-01-2023	BLU BENI DESIGNS	14 March 2023	

Document Code: DP-4488-001-004
Version: 1, Version Date: 08/03/2023



AS - ALUMINUM ROOF SHEETING		AL - ALUMINUM		AD - ALUMINUM DOOR		GR - GLASS BALUSTRADE		Basic		Description		Date		Title	
CT - CONCRETE ROOF TILE	AC - ALUMINUM CLADDING	AW - ALUMINUM WINDOW	SB - STEEL BALUSTRADE	AP - ALUMINUM DOOR	AW - ALUMINUM WINDOW	ST - STAINLESS STEEL	ST - STAINLESS STEEL	A	Development Application	30-09-2023	14-09-2023	14-09-2023	14-09-2023	14-09-2023	14-09-2023
RT - ROOF TILE	FC - FIBRE CEMENT	TD - TIMBER DOOR	S - SMOKE EXTRACTOR	TD - TIMBER DOOR	TD - TIMBER DOOR	W - NEW WINDOW	W - NEW WINDOW	B	Consent RTI - Draft	07-03-2023	07-03-2023	07-03-2023	07-03-2023	07-03-2023	07-03-2023
BW - FACE BRICK WORK	TC - TIMBER CLADDING	TW - TIMBER WINDOW	M - NEW WINDOW	M - NEW WINDOW	M - NEW WINDOW	D - NEW DOOR	D - NEW DOOR	C	Consent RTI	22-02-2023	22-02-2023	22-02-2023	22-02-2023	22-02-2023	22-02-2023
CB - CEMENT BRICKS	SC - STONE CLADDING	PM - TIMBER WINDOW						D	Consent RTI	01-01-2023	01-01-2023	01-01-2023	01-01-2023	01-01-2023	01-01-2023

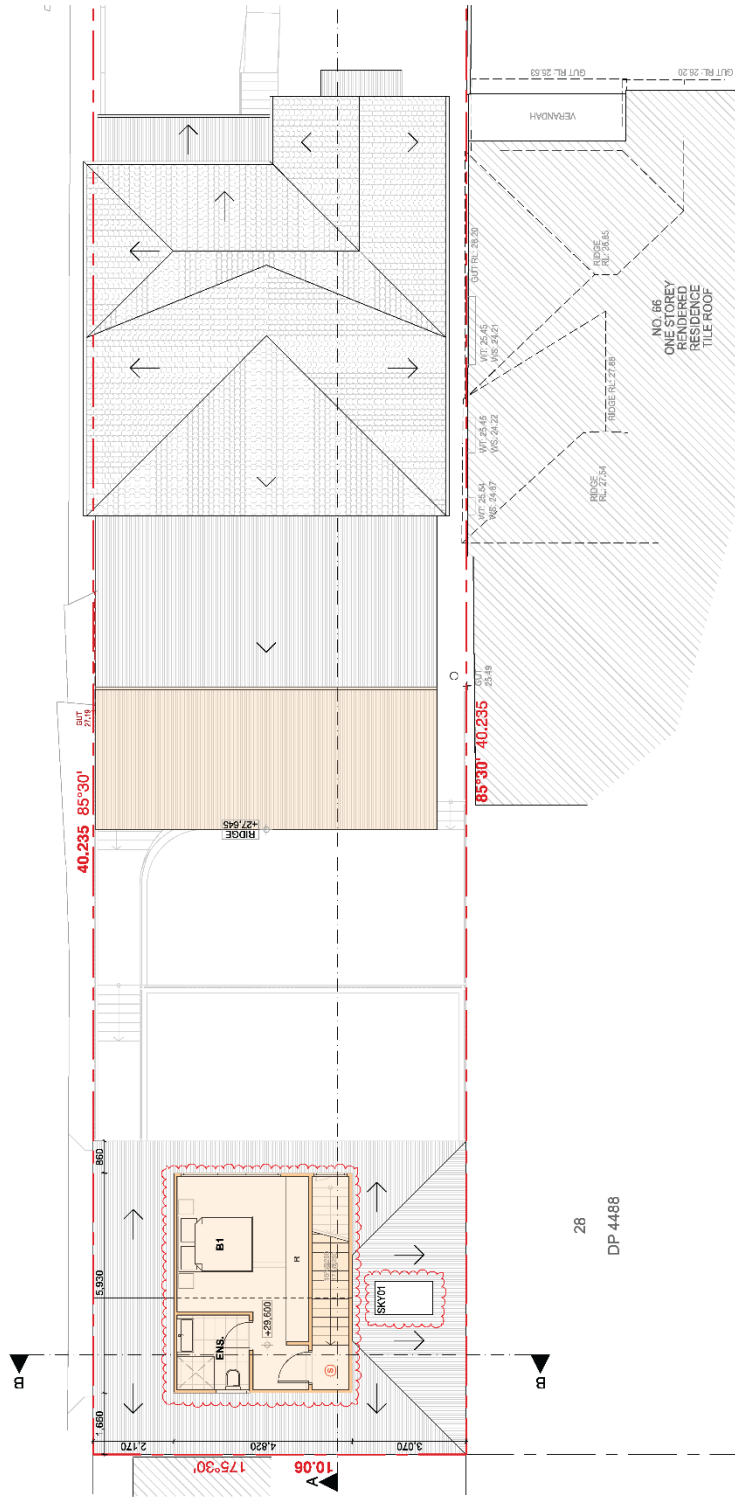
Document Code: DP-488-2023-0004
Version: 1, Version Date: 08/03/2023

Ground Floor
Scale 1:100

28
DP 4488

NO. 65
ONE STOREY
RESIDENCE
TILE ROOF

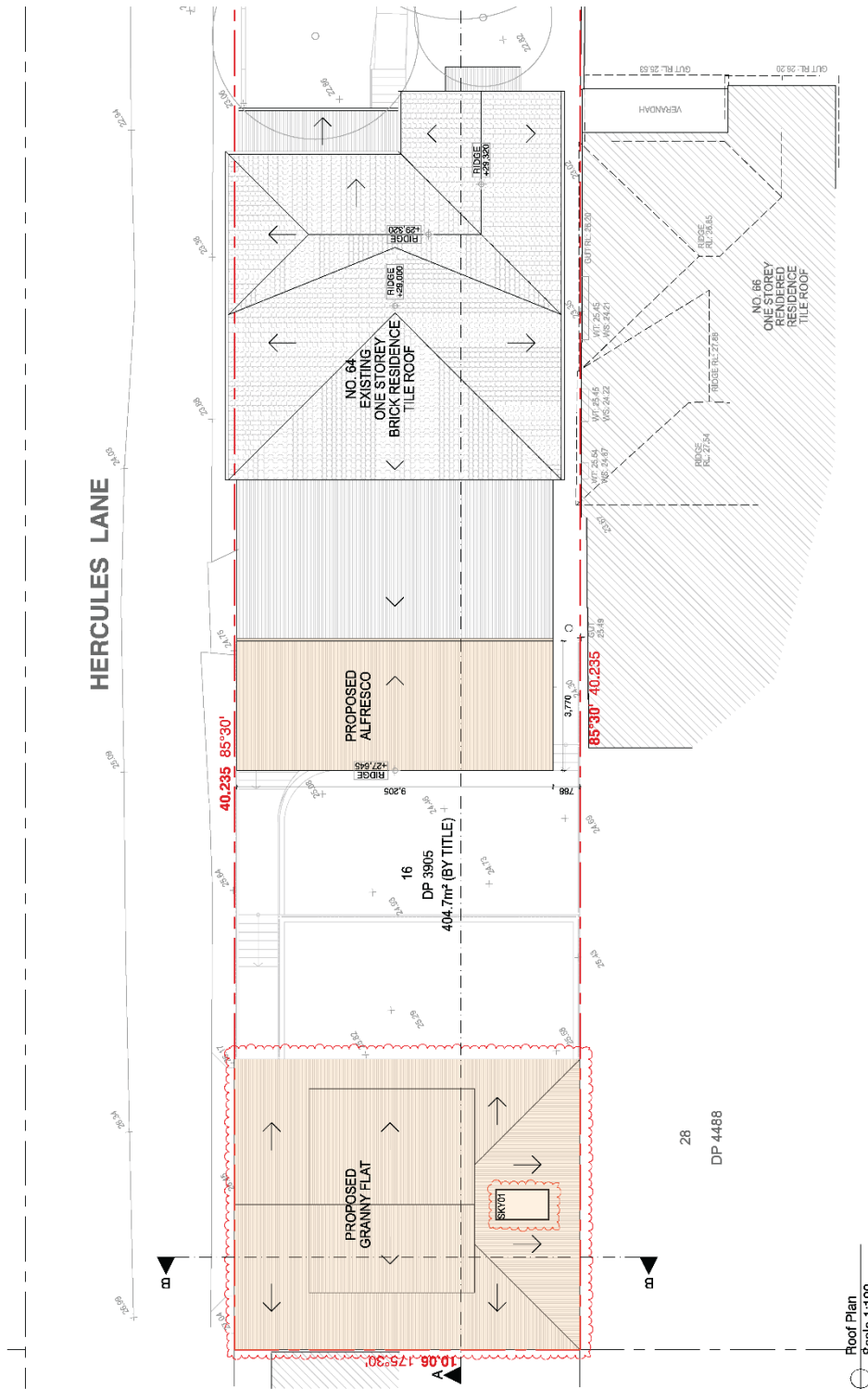
HERCULES LANE



First Floor
Scale 1:100

AS - ALUMINIUM ROOF SHEETING	AL - ALUMINIUM	AD - ALUMINIUM DOORS	GB - GLASS BALUSTRADE	DIS WORKS TO BE COMPLETED WITHIN THE BALANCE OF FEBRUARY	Basic	Description	Date	File No
CC - CONCRETE ROOF TILE	AC - ALUMINIUM CLADDING	AW - ALUMINIUM WINDOW	SD - STEEL BALUSTRADE	THIS DRAWING HAS BEEN PREPARED BY AN ARCHITECT AND IS TO BE USED IN ACCORDANCE WITH THE BUILDING ACT 1993 AND THE BUILDING REGULATIONS 2006. THE ARCHITECT'S LIABILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE WORKS SHOWN IN THIS DRAWING. THE ARCHITECT DOES NOT GUARANTEE THE ACCURACY OF THE INFORMATION PROVIDED IN THIS DRAWING. THE ARCHITECT IS NOT RESPONSIBLE FOR ANY DELAYS OR COSTS INCURRED AS A RESULT OF ANY CHANGES TO THE WORKS SHOWN IN THIS DRAWING.	A	Development Application	30-09-2023	14 Hercules Street, Coker Hill NSW
RT - ROOF TILE	FC - FIBRE CEMENT	TD - TIMBER DOOR	S - SMOKE EXTRACTOR	THESE DRAWINGS HAVE BEEN PREPARED BY AN ARCHITECT AND ARE TO BE USED IN ACCORDANCE WITH THE BUILDING ACT 1993 AND THE BUILDING REGULATIONS 2006. THE ARCHITECT'S LIABILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE WORKS SHOWN IN THIS DRAWING. THE ARCHITECT DOES NOT GUARANTEE THE ACCURACY OF THE INFORMATION PROVIDED IN THIS DRAWING. THE ARCHITECT IS NOT RESPONSIBLE FOR ANY DELAYS OR COSTS INCURRED AS A RESULT OF ANY CHANGES TO THE WORKS SHOWN IN THIS DRAWING.	B	Comd RT - Comd	07-03-2023	14 Hercules Street, Coker Hill NSW
BW - ROOF BRICKWORK	TC - TIMBER CLADDING	TW - TIMBER WINDOW	M - NEW WINDOW	THESE DRAWINGS HAVE BEEN PREPARED BY AN ARCHITECT AND ARE TO BE USED IN ACCORDANCE WITH THE BUILDING ACT 1993 AND THE BUILDING REGULATIONS 2006. THE ARCHITECT'S LIABILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE WORKS SHOWN IN THIS DRAWING. THE ARCHITECT DOES NOT GUARANTEE THE ACCURACY OF THE INFORMATION PROVIDED IN THIS DRAWING. THE ARCHITECT IS NOT RESPONSIBLE FOR ANY DELAYS OR COSTS INCURRED AS A RESULT OF ANY CHANGES TO THE WORKS SHOWN IN THIS DRAWING.	C	Comd RTI	22-02-2023	14 Hercules Street, Coker Hill NSW
CB - CEMENT BRICKS	SC - STONE CLADDING	PW - STONE WINDOW	D - NEW DOOR	THESE DRAWINGS HAVE BEEN PREPARED BY AN ARCHITECT AND ARE TO BE USED IN ACCORDANCE WITH THE BUILDING ACT 1993 AND THE BUILDING REGULATIONS 2006. THE ARCHITECT'S LIABILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE WORKS SHOWN IN THIS DRAWING. THE ARCHITECT DOES NOT GUARANTEE THE ACCURACY OF THE INFORMATION PROVIDED IN THIS DRAWING. THE ARCHITECT IS NOT RESPONSIBLE FOR ANY DELAYS OR COSTS INCURRED AS A RESULT OF ANY CHANGES TO THE WORKS SHOWN IN THIS DRAWING.	D	Comd RTI	01-01-2023	14 Hercules Street, Coker Hill NSW

Document Code: DP-2023-00000004
Version: 1, Version Date: 08/03/2023



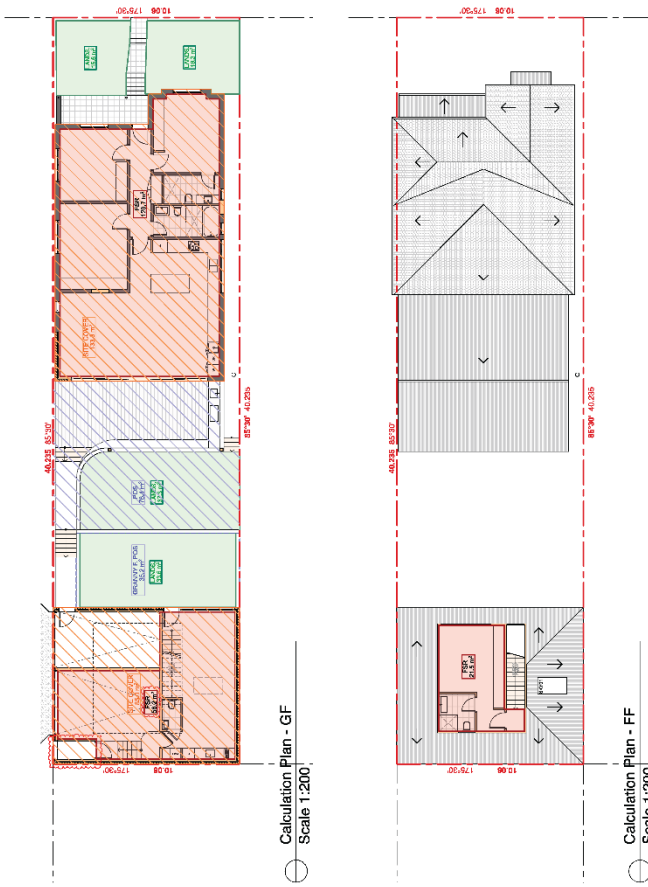
Roof Plan
Scale 1:100

Basic	Description	Date	Roof Plan
A	Development Application	30-09-2023	14 Hercules Lane, Coker Hill NSW
B	Consent RTI - Draft	07-09-2023	Client: M. Davis-Schmitt
C	Consent RTI	22-02-2023	Date: 1st March 2023
D	Consent RTI	01-01-2023	Scale: 1:100 @ A3

THIS WORK IS THE PROPERTY OF THE DESIGNER AND IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED. IT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE DESIGNER. THE DESIGNER ACCEPTS NO LIABILITY FOR ANY LOSS OR DAMAGE, INCLUDING CONSEQUENTIAL DAMAGES, ARISING FROM THE USE OF THIS WORK.


Legend:
 AS - ALUMINIUM ROOF SHEETING
 CS - CONCRETE ROOF TILE
 FT - FLOOR TILE
 BW - FACE BRICK WORK
 CB - CEMENT BRICKS
 AL - ALUMINIUM
 AC - ALUMINIUM CLADDING
 FC - FIBRE CEMENT
 TC - TIMBER CLADDING
 SC - STONE CLADDING
 GB - GLASS BALUSTRADE
 SB - STEEL BALUSTRADE
 S - SMOCK DETECTOR
 W - NEW WINDOW
 D - NEW DOOR
 AD - ALUMINIUM DOOR
 AW - ALUMINIUM WINDOW
 TD - TIMBER DOOR
 TW - TIMBER WINDOW
 PW - TIMBER WINDOW

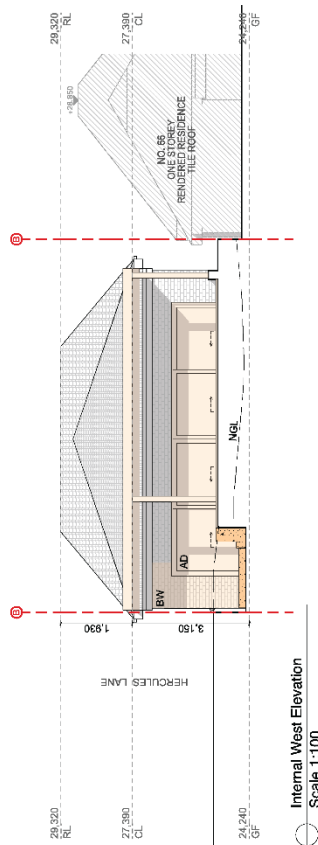
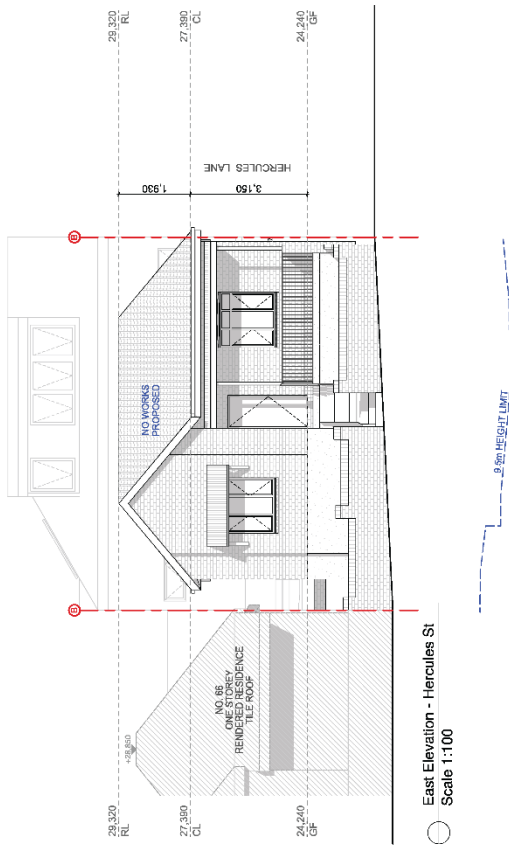
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CALCULATIONS

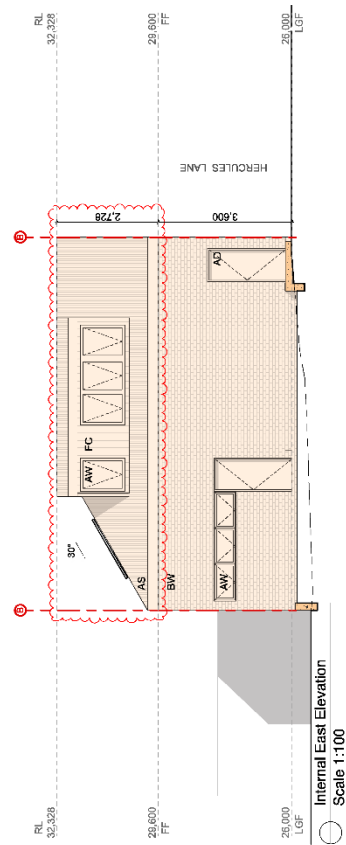
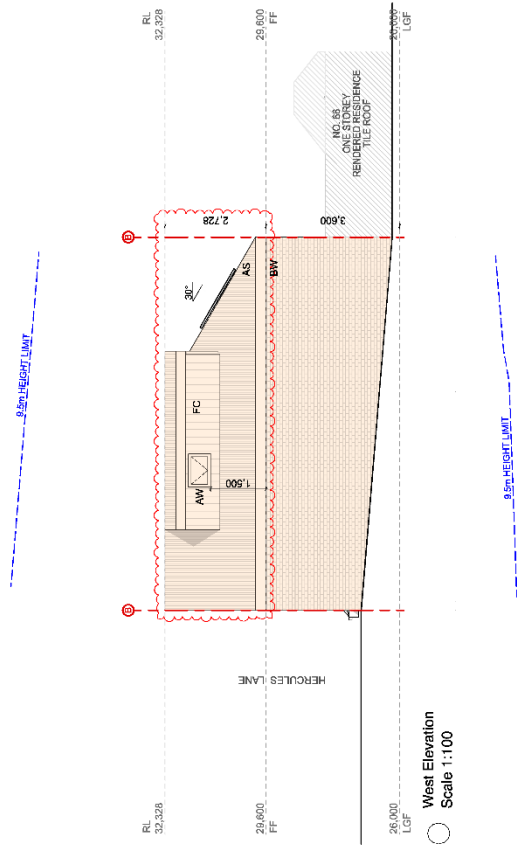
Site Area	404.7 m ²
Existing FSR	128.5 m ² = 0.32 : 1
Permitted/Required	
FSR	242.8 m ² = 0.60 : 1
LANDSCAPE	22.5 m ² = 50% of POS
POS	@ min 3.0m
Proposed	
FSR	198.47 m ²
LANDSCAPE	105.68 m ²
P.O.S.	76.58 m ²
SITE COVER	218.50 m ²

		DAU9 D
BLU BUN DESIGNS 11/15, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 11/15, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100		Calculation Plan Project: 14 Macleay Street, Cammerajong NSW Client: Mr. David Schmitt Date: 1st March 2023 Scale: 1:200 @ A3
Date 30-09-2023 07-09-2023 22-09-2023 01-10-2023	Description A Development Application B Council RTI - Draft C Council RTI D Council RTI	Description THIS WORK IS TO BE COMPLETED WITHIN THE REGULATORY CODE OF PRACTICE... THE DRAWINGS ARE NOT TO BE USED FOR ANY OTHER PURPOSES... THESE DRAWINGS HAVE BEEN PREPARED BY ALLIANCE ARCHITECTURE AND DESIGN... ALLIANCE ARCHITECTURE AND DESIGN IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED TO IT BY THE CLIENT...
AS - ALUMINIUM ROOF SHEETING CC - CONCRETE ROOF TILE RT - ROOF TILE RW - ROOF WORK CB - CHIMNEY BRICKS AL - ALUMINIUM AC - ALUMINIUM CLADDING FC - FIRE CLADDING TC - TIMBER CLADDING SC - STONE CLADDING AD - ALUMINIUM DOOR AW - ALUMINIUM WINDOW TD - TIMBER DOOR TW - TIMBER WINDOW FW - FIRE WINDOW GB - GLASS BALUSTRADE SB - STEEL BALUSTRADE S - SMOKE DETECTOR W - NEW WINDOW D - NEW DOOR	Version: 1, Version Date: 08/03/2023 Document Code: DAU9-2023-0001-0001	



Legend		Revision		Title	
AS - ALUMINIUM ROOF SHEETING	AD - ALUMINIUM DOOR	1	1	East & Internal West Elevations	DA.10
CS - CONCRETE ROOF TILE	AW - ALUMINIUM WINDOW	2	2	Project: 14 Hercules Street, Coker Hill NSW	
RT - ROOF TILE	AC - ALUMINIUM CLADDING	3	3	Client: M. Davis-Schmitt	
BW - FACE BRICK WORK	PC - FIBRE CEMENT	4	4	Date: 1st March 2023	
CB - CEMENT BRICKS	TC - TIMBER CLADDING	5	5	Scale: 1:100 @ A3	
	SS - STONE CLADDING	6	6		
	PM - FINISH WINDOW	7	7		
	PN - FINISH WINDOW	8	8		
	NS - NEW WINDOW	9	9		
	ND - NEW DOOR	10	10		
	ST - SMOKE EXTRACTOR	11	11		
	SD - STEEL BALUSTRADE	12	12		
	SB - STEEL BALUSTRADE	13	13		
	GB - GLASS BALUSTRADE	14	14		
		15	15		
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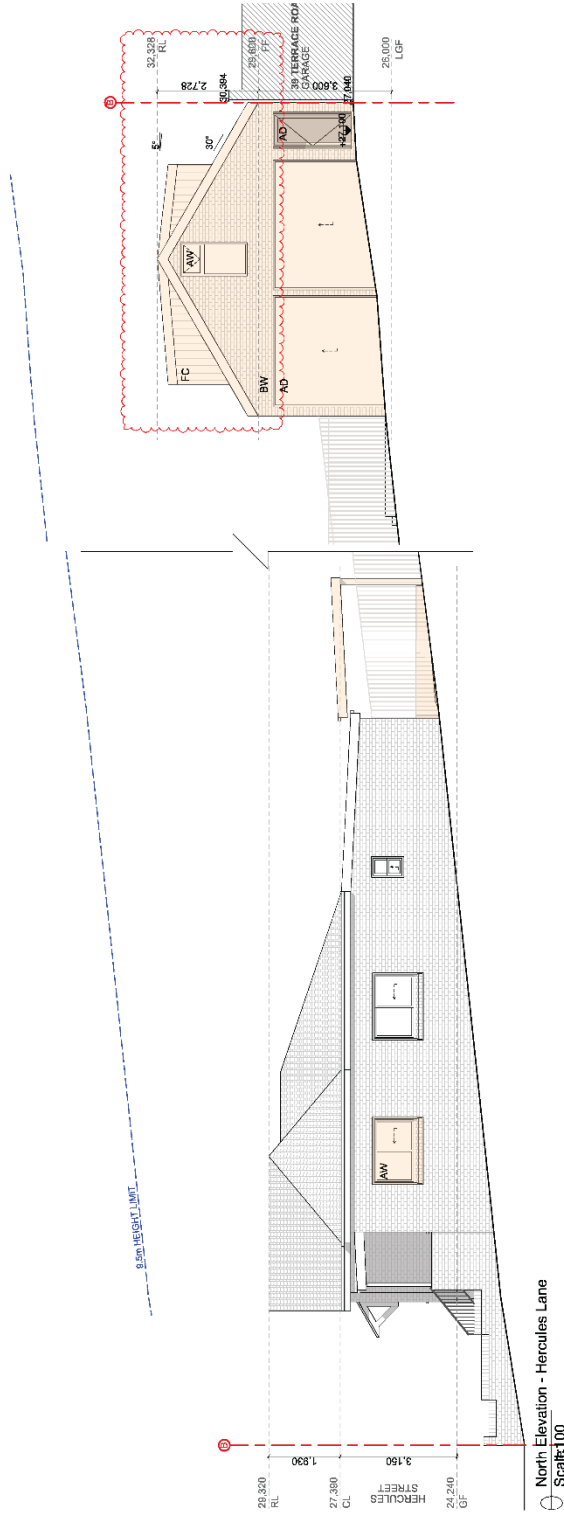
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Version: 1, Version Date: 18/03/2023



AS - ALUMINUM ROOF SHEETING	AL - ALUMINUM	AD - ALUMINUM DOOR	GB - GLASS BALUSTRADE	DATE	DESCRIPTION	DATE	DESCRIPTION	DATE	DESCRIPTION
CT - CONCRETE ROOF TILE	AC - ALUMINUM CLADDING	AW - ALUMINUM WINDOW	SB - STEEL BALUSTRADE	30-09-2023	A Development Application	30-09-2023	A Development Application	30-09-2023	West & Internal East Elevations
RT - ROOF TILE	FC - FIBRE CEILING	TD - TIMBER DOOR	S - SHOCK DETECTOR	07-03-2023	B Council RTI - Draft	07-03-2023	B Council RTI - Draft	07-03-2023	Project: 14 Macleay Street, Cobar - IPI NSW
BW - BRICK WORK	TC - TIMBER CLADDING	TW - TIMBER WINDOW	M - NEW WINDOW	22-02-2023	C Council RTI	22-02-2023	C Council RTI	22-02-2023	Client: M. Davis Schmitt
CB - CEMENT BRICKS	SC - STONE CLADDING	PW - PINE WINDOW	D - NEW DOOR	01-01-2023	D Council RTI	01-01-2023	D Council RTI	01-01-2023	Date: 14 March 2023

Document Code: DA-11-2023-0001
 Version: 1, Version Date: 08/03/2023

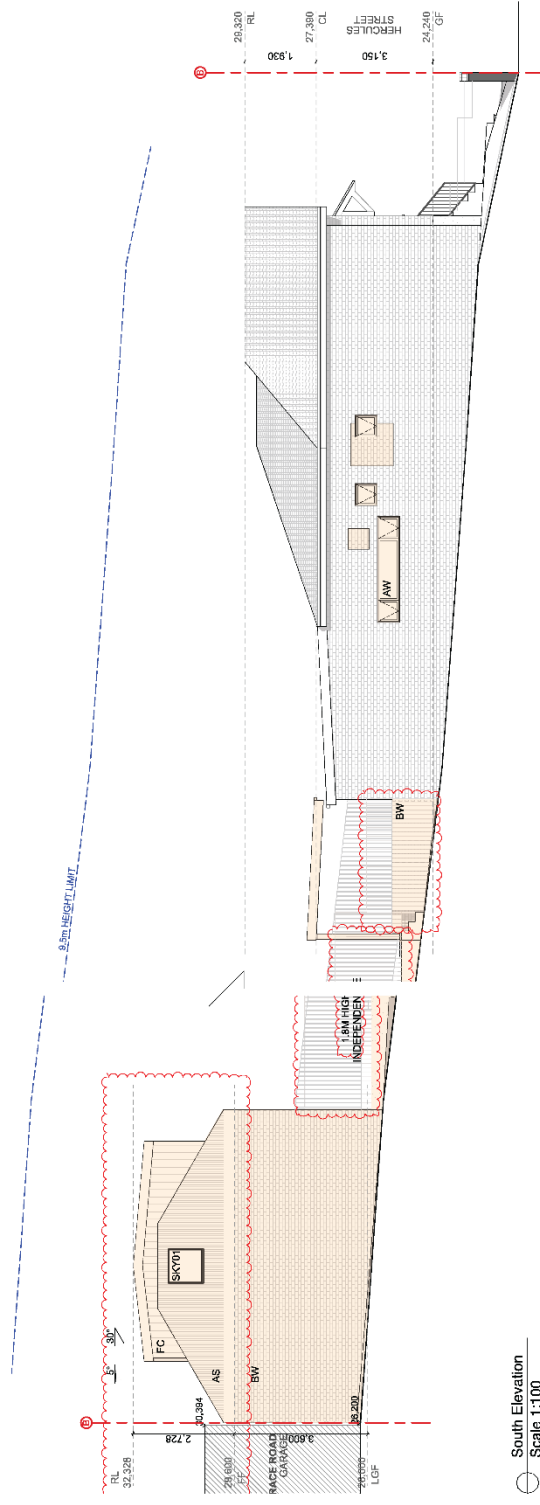




Date	Description	Basic	Description	Date	North Elevation
30-09-2023	Development Application	A	Development Application	30-09-2023	14 Hercules Lane, Coker Hill NSW
07-03-2023	Consent RTI - Draft	B	Consent RTI - Draft	07-03-2023	Mr. David Schmitt
22-02-2023	Consent RTI	C	Consent RTI	22-02-2023	14 Hercules Lane
01-01-2023	Consent RTI	D	Consent RTI	01-01-2023	Scale: 1:100 @ A3



Document Code: ID-38-4697-164
Version: 1, Version Date: 08/03/2023



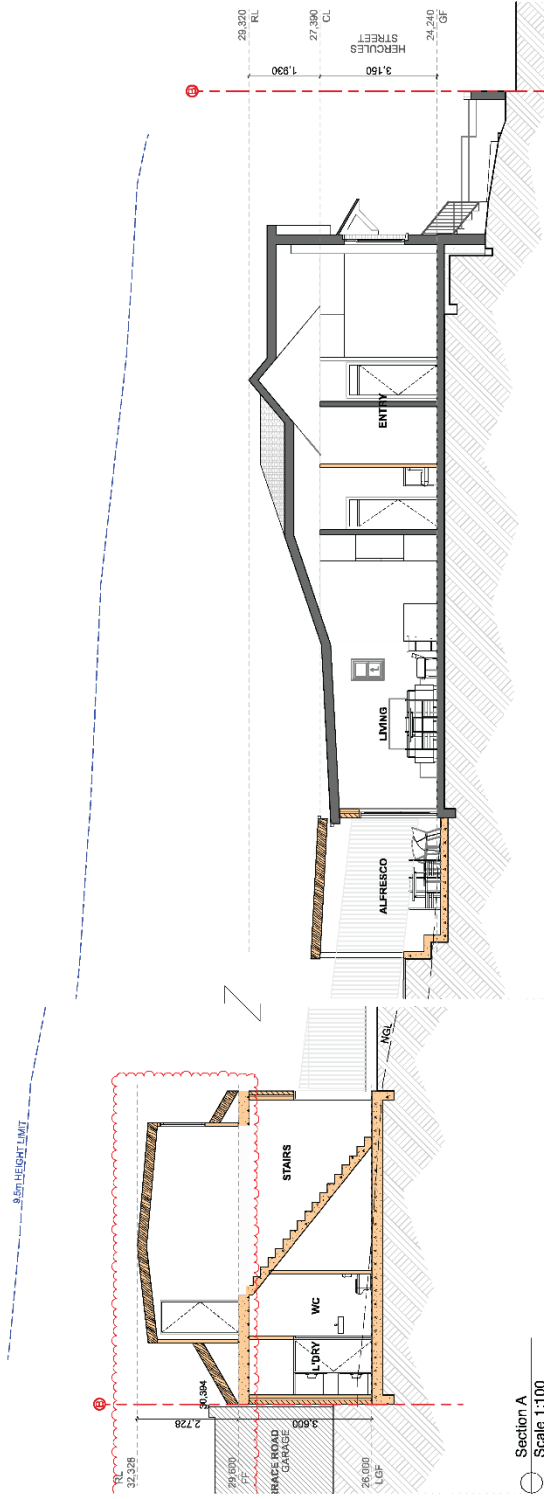
South Elevation
Scale 1:100

Date	Description	Basic
30-09-2023	Development Application	A
07-03-2023	Consent RTI - Draft	B
22-02-2023	Consent RTI	C
01-01-2023	Consent RTI	D

<p>THIS WORKS HAS BEEN PREPARED IN ACCORDANCE WITH THE BUILDING CODE OF PRACTICE (BCP) AND THE BUILDING REGULATIONS (BR). THE DESIGNER HAS CONSIDERED THE REQUIREMENTS OF THE BCP AND BR AND HAS PROVIDED THE NECESSARY DETAILS TO COMPLY WITH THEM. THE DESIGNER HAS ALSO CONSIDERED THE REQUIREMENTS OF THE LOCAL PLANNING PANEL (LPP) AND HAS PROVIDED THE NECESSARY DETAILS TO COMPLY WITH THEM. THE DESIGNER HAS ALSO CONSIDERED THE REQUIREMENTS OF THE NATIONAL BUILDING REGULATION (NBR) AND HAS PROVIDED THE NECESSARY DETAILS TO COMPLY WITH THEM.</p>	<p>DATE: 01-01-2023 DRAWN BY: [Name] CHECKED BY: [Name] PROJECT: 14 Princes Street, Coker Hill NSW CLIENT: M. Davis-Schmitt DATE: 1st March 2023 SCALE: 1:100 @ A3</p>
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AS - ALUMINUM ROOF SHEETING	AL - ALUMINUM	AD - ALUMINUM DOOR	GB - GLASS BALUSTRADE
CC - CONCRETE ROOF TILE	AC - ALUMINUM CLADDING	AW - ALUMINUM WINDOW	SB - STEEL BALUSTRADE
PT - ROOF TILE	FC - FIBRE CEILING	TD - TIMBER DOOR	S - SMOKE EXTRACTOR
BW - FACE BRICK WORK	TC - TIMBER CLADDING	TW - TIMBER WINDOW	N - NEW WINDOW
CB - CEMENT BRICKS	SC - STONE CLADDING	FW - FRAMES WINDOW	D - NEW DOOR

Document Code: IS-188-4697164
Version: 1, Version Date: 08/03/2023



Section A
Scale 1:100

Basic	Description	Date	Section
A	Development Application	30-09-2023	DA 14
B	Consent RTI - Draft	07-03-2023	
C	Consent RTI	22-02-2023	
D	Consent RTI	01-01-2023	

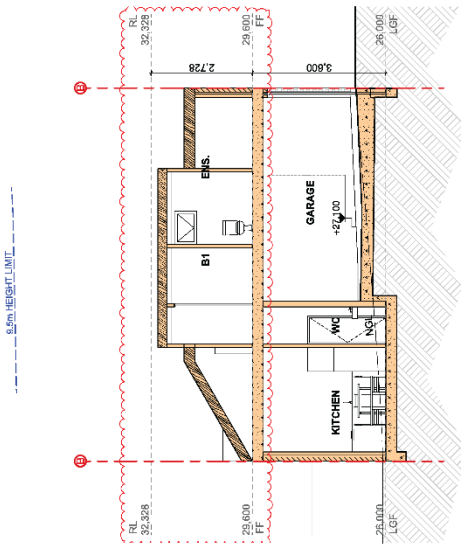
Item	Material
AS - ALUMINIUM ROOF SHEETING	AL - ALUMINIUM
CC - CONCRETE ROOF TILE	AC - ALUMINIUM CLADDING
RT - ROOF TILE	PC - FIBRE CEMENT
BR - BRICK WORK	TD - TIMBER DOOR
CB - CEMENT BRICKS	TS - STONE CLADDING
	AW - ALUMINIUM WINDOW
	TD - TIMBER DOOR
	TW - TIMBER WINDOW
	FW - FIBRE WINDOW
	GS - GLASS BALUSTRADE
	SB - STEEL BALUSTRADE
	S - SMOKE EXTRACTOR
	W - NEW WINDOW
	D - NEW DOOR

Item	Description	Date	Section
	Development Application	30-09-2023	DA 14
	Consent RTI - Draft	07-03-2023	
	Consent RTI	22-02-2023	
	Consent RTI	01-01-2023	

Client	Scale
141 Macleay Street, Cammerajong NSW	1:100 @ A3

BLU DESIGN
 141/143 St Georges Road, Cammerajong NSW
 281000
 Tel: 02 9390 8000
 Email: info@bludesign.com.au

Document Code: DA-14-2023-0004
Version: 1, Version Date: 08/03/2023



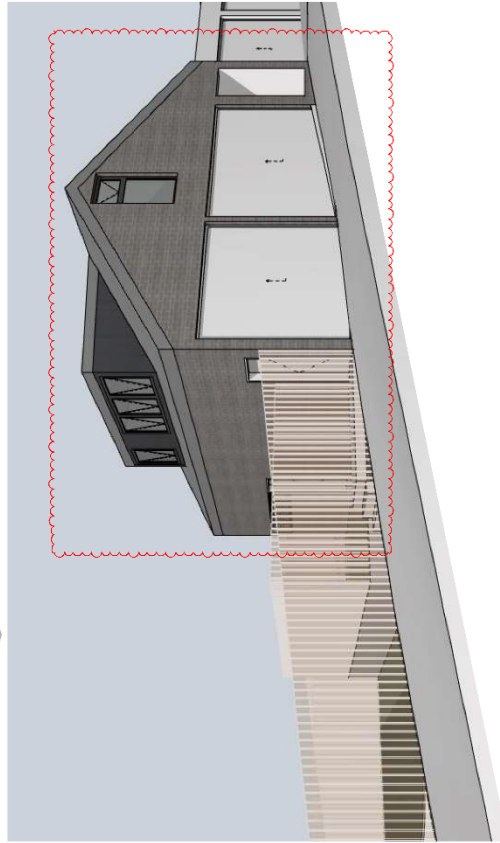
Section B
Scale 1:100

		Date	Revision	Description
		30-08-2023	A	Development Application
		07-03-2023	B	Consent RTI - Draft
		22-02-2023	C	Consent RTI
		01-03-2023	D	Consent RTI

Title:	Section:	DA:15
Project: 14 Prindle Street, Caker Hill NSW		
Client: M. Davis-Schell		
Date: 14 March 2023		
Scale: 1:100 @ A3		D

Item	Material / Work
AS	ALUMINIUM ROOF SHEETING
AL	ALUMINIUM
AC	ALUMINIUM CLADDING
FC	FIBRE CEILING
TM	TIMBER CLADDING
ST	STONE CLADDING
CB	CONCRETE BRICKWORK
CP	CEMENT BRICKWORK
GP	GLASS BALUSTRADE
ST	STEEL BALUSTRADE
S	SMOKE DETECTOR
M	NEW WINDOW
D	NEW DOOR
AD	ALUMINIUM DOOR
AW	ALUMINIUM WINDOW
TD	TIMBER DOOR
TW	TIMBER WINDOW
FW	FIBRE WINDOW

Document Ref: DA-19-58897-154
Version: 1, Version Date: 18/03/2023

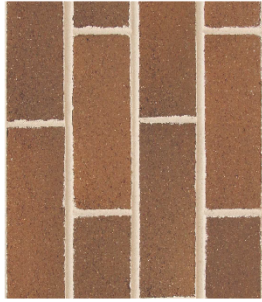


AS - ALUMINUM ROOF SHEETING	AL - ALUMINUM	AD - ALUMINUM DOOR	GB - GLASS BALUSTRADE	DATE	DESCRIPTION	DATE	PERMITTEE
CT - CONCRETE ROOF TILE	AC - ALUMINUM CLADDING	AW - ALUMINUM WINDOW	SB - STEEL BALUSTRADE	30-09-2023	A - Development Application	30-09-2023	Project: 14 Macaulay Street, Coker Hill NSW
RT - ROOF TILE	FC - FIBRE CEMENT	TD - TIMBER DOOR	S - SMOKE EXTRACTOR	07-03-2023	B - Council RTI - Draft	07-03-2023	Client: M. Davis Schmitt
BW - ROOF BRICK WORK	TC - TIMBER CLADDING	TW - TIMBER WINDOW	M - NEW WINDOW	22-02-2023	C - Council RTI	22-02-2023	Date: 1st March 2023
CB - CEMENT BRICKS	SC - STONE CLADDING	PW - PINE WINDOW	D - NEW DOOR	01-01-2023	D - Council RTI	01-01-2023	Scale: N/E

Document Code: DA-16-2023-0004
 Version: 1, Version Date: 08/03/2023



DA-16
 D



Main Building Addition - External Walls
Brick Bowral Brown to Match Existing



Fascia, Gutters & Down Pipes - Steel
Dulux Colorbond® - Shale Grey



Corrugated Roof Sheetting
Dulux Colorbond® - Shale Grey



Aluminium Doors & Windows
Dulux - Natural White



Granny Flat First Floor Walls - FC Cladding
Boral Scyon Axon Smooth 133
Dulux Colorbond® - Monument



Granny Flat- External Walls
Brick Work - Silver Shadow or Similar

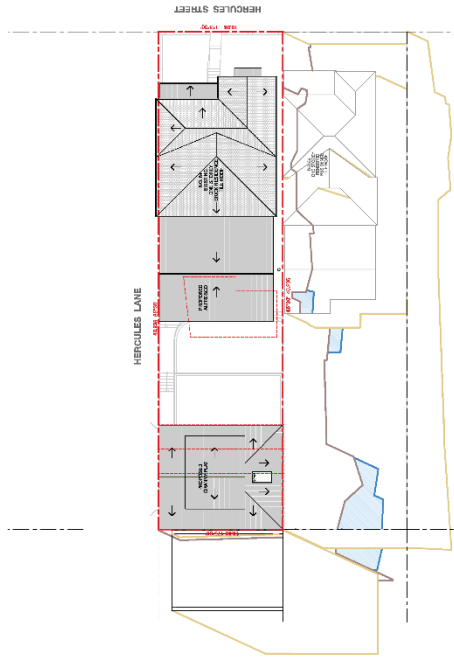
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CT - CONCRETE ROOF TILE	AC - ALUMINIUM CLADDING	AW - ALUMINIUM WINDOW	SB - STEEL BALUSTRADE	A	Development Application	30-09-2023	14 Macleay Street, Cobar NSW
RT - ROOF TILE	FC - FIBRE CEMENT	TD - TIMBER DOOR	S - SHOCK DETECTOR	B	Consent RFI - Draft	07-09-2023	141 David Schultz
BW - FACE BRICK WORK	TC - TIMBER CLADDING	TW - TIMBER WINDOW	N - NEW WINDOW	C	Consent RFI	22-09-2023	141 Macleay Street
CB - CEMENT BRICKS	SC - STONE CLADDING	FW - FIBRE WINDOW	D - NEW DOOR	D	Consent RFI	01-10-2023	141 Macleay Street

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Version: 1, Version Date: 08/03/2023

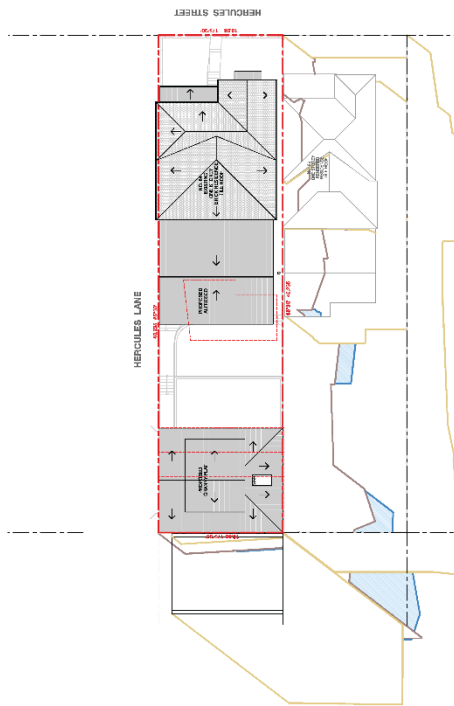
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CT - CONCRETE ROOF TILE	AC - ALUMINIUM CLADDING	AW - ALUMINIUM WINDOW	SB - STEEL BALUSTRADE	A	Development Application	30-09-2023	14 Macleay Street, Cobar NSW
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CB - CEMENT BRICKS	SC - STONE CLADDING	FW - FIBRE WINDOW	D - NEW DOOR	D	Consent RFI	01-10-2023	141 Macleay Street



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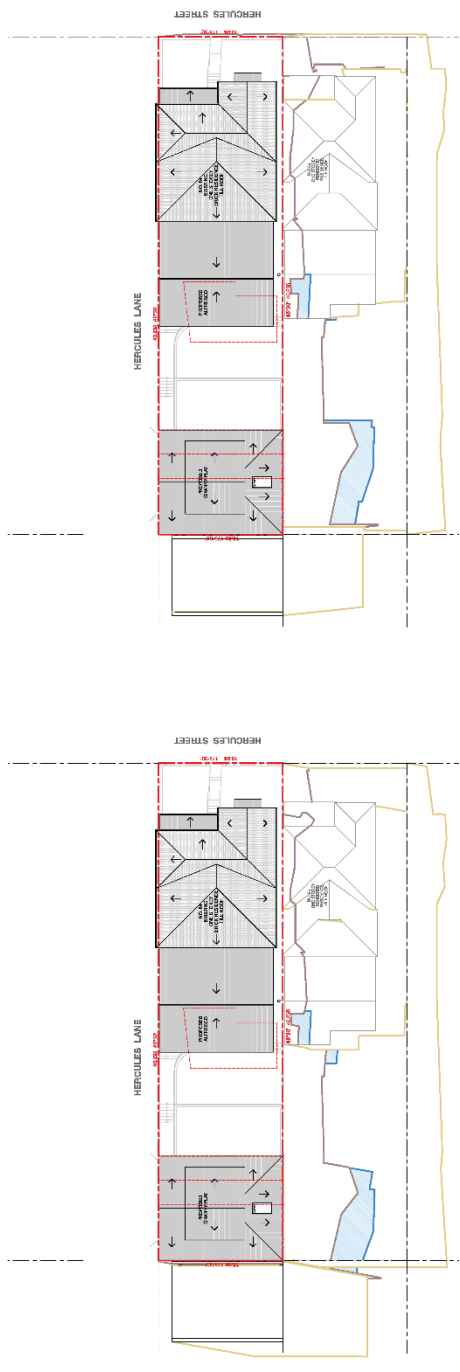


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Document No: 18-09-0004
 Version: 1, Update Date: 08/03/2023



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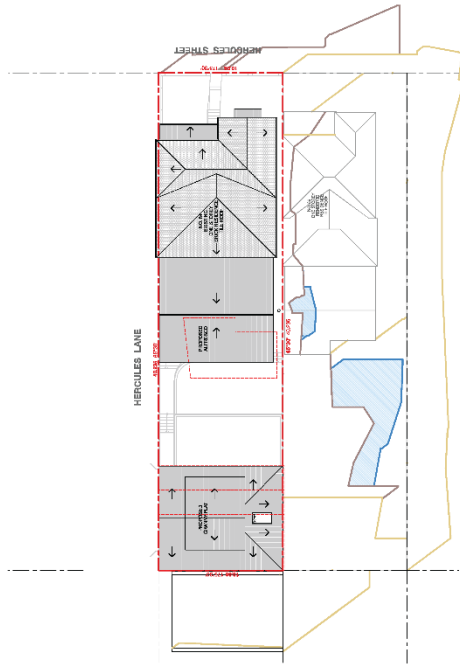
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SHADOW DIAGRAM LEGEND

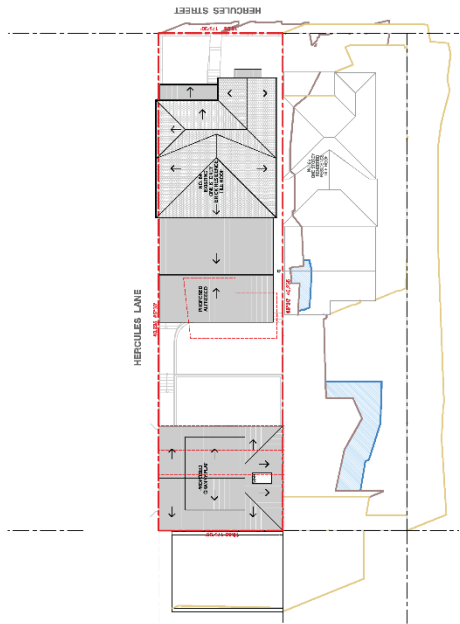
- NEIGHBOUR BUILDING SHADOWS
- EXISTING BUILDING SHADOWS
- PROPOSED ADDITIONAL SHADOW

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Version: 1, Version Date: 08/03/2023



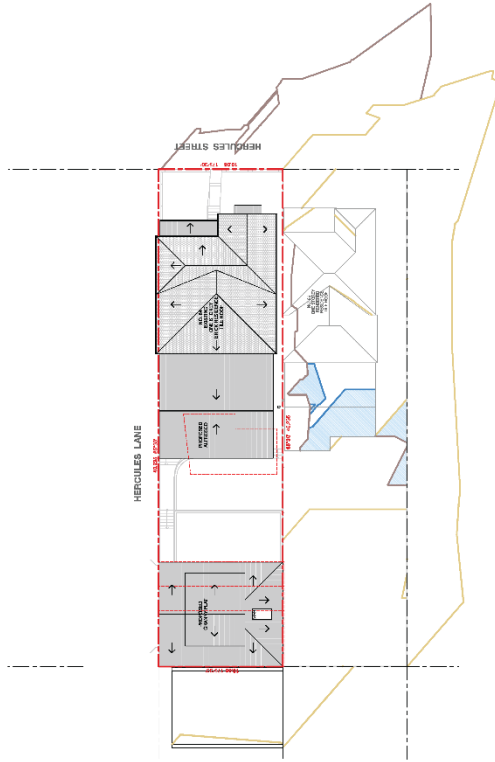
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Shadow Diagram - June 21st - 14:30



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<p>Basic Description</p>	<p>A Development Application B Council RTI - Draft C Council RTI D Council RTI</p>	<p>DA.20 D</p>		



Shadow Diagram - June 21st - 15:00

SHADOW DIAGRAM LEGEND

- NEIGHBOUR BUILDING SHADOWS
- EXISTING BUILDING SHADOWS
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Attachment C- Section 4.6 Exception to Development Standards

CLAUSE 4.6
VARIATION REQUEST

VARIATION TO MINIMUM LOT SIZE FOR SECONDARY DWELLINGS

64 HERCULES STREET, DULWICH HILL



Document Set ID: 37458193
Version: 1, Version Date: 28/02/2023



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CLAUSE 4.6 VARIATION REQUEST
 VARIATION TO MINIMUM LOT SIZE FOR SECONDARY DWELLINGS
 64 HERCULES STREET, DULWICH HILL



1 INTRODUCTION

This Clause 4.6 Variation Request has been prepared to accompany a Development Application (DA) to Inner West Council seeking consent for the partial demolition of the existing dwelling and outbuilding, alterations and additions to the existing dwelling including the demolition to the existing outbuilding and detached garage, construction of a detached garage with a secondary dwelling above at 64 Hercules Street, Dulwich Hill.

The Clause 4.6 Variation Request relates to the non-discretionary development standard prescribed under Clause 53 of *State Environmental Planning Policy (Housing) 2021* (the Housing SEPP) which specifies a minimum site area requirement of 450m² for development for the purpose of a detached secondary dwelling.

The subject site has a site area of 404.7m² which falls short of the 450m² requirement by 45.3m², equivalent to a 10% variation to the development standard.

Pursuant to Clause 4.6 of the *Inner West Local Environmental Plan 2022* (the LEP that applied to the development at the time of lodgement of the DA), justification for the contravention of the development standard is provided within this Clause 4.6 Variation Request. This request has been prepared having regard to the matters for consideration prescribed in Clause 4.6 of the LEP, noting that Clause 53 of the Housing SEPP is not excluded from consideration under Clause 4.6(8) of the LEP. This Clause 4.6 Variation Request has also been prepared having regard to the findings and decisions in various case law including:

- 🔗 *Wehbe v Pittwater Council [2007] NSW LEC 827;*
- 🔗 *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009;*
- 🔗 *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7;*
- 🔗 *Initial Action v Woollahra Municipal Council [2018] NSWLEC 118;*
- 🔗 *Brigham v Canterbury-Bankstown Council [2018] NSWLEC 1406;*
- 🔗 *Turland v Wingecarribee Shire Council [2018] NSWLEC 1511;*
- 🔗 *Rebel MH Neutral Bay Pty Ltd v North Sydney Council [2019] NSWCA 130*

This Clause 4.6 Variation Request meets the objectives of Clause 4.6(1):

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

and demonstrates for the purpose of Clause 4.6(3):

- (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.*

2 REVIEW OF CASE LAW

The main principles adopted by the Land and Environment Court of NSW (L&EC) in considering Clause 4.6 variation requests to development standards have been established in the proceedings of *Wehbe v Pittwater Council [2007] NSW LEC 827* and *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7*.

CLAUSE 4.6 VARIATION REQUEST
VARIATION TO MINIMUM LOT SIZE FOR SECONDARY DWELLINGS
64 HERCULES STREET, DULWICH HILL

1



The relevant principles of those proceedings are as follows:

2.1 WEHBE V PITTWATER COUNCIL [2007] NSW LEC 827

In these proceedings, Justice Preston set out the following five ways in which compliance with a development standard could be established as being unreasonable or unnecessary:

1. *Are the objectives of the development standard achieved notwithstanding non-compliance with the standard;*
2. *Is the underlying objective or purpose not relevant to the development with the consequence that compliance is unnecessary;*
3. *Would the underlying objective or purpose be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
4. *Has the development standard been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard; or*
5. *Is "the zoning of particular land" "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land".*

2.2 RANDWICK CITY COUNCIL V MICAUL HOLDINGS PTY LTD [2016] NSWLEC 7

In these proceedings, Preston CJ approved the following four stage test to ensure that the Court was satisfied that the variation request should be granted:

1. *That compliance with the development standard must be unreasonable or unnecessary in the circumstances of the case;*
2. *That there are sufficient environmental planning grounds to justify contravening the development standard;*
3. *That the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3); and*
4. *That 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.*

3 SITE & PLANNING CONTEXT

The subject site comprises 1 land parcel legally described as Lot 16 in DP 3905 and is more commonly known as 64 Hercules Street, Dulwich Hill.

The subject site has an overall site area of 404.7m² and comprises a rectangular allotment with boundaries as follows:

- 📍 An eastern frontage measuring 10.06 metres;
- 📍 A northern secondary frontage measuring 40.235 metres;
- 📍 A southern side boundary measuring 40.235 metres; and
- 📍 A western rear boundary measuring 10.06 metres.

Existing structures on site include a single storey dwelling occupies the eastern portion of the site with an outbuilding located to the in the centre of the site. A detached garage, accessed via Hercules Lane is located at the rear of site. An aerial image and photographs illustrating the site and existing structures are provided in the Figures 2 to 5:

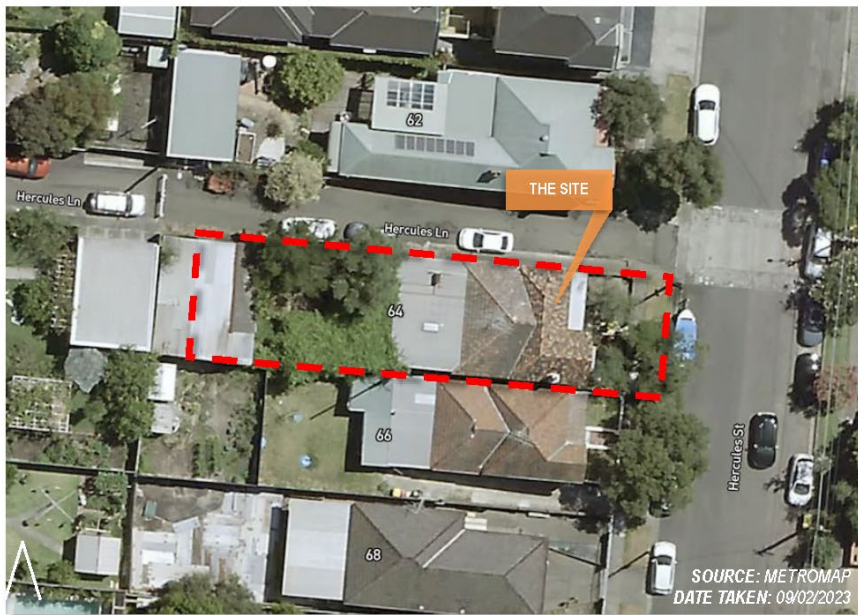


FIGURE 1: AERIAL MAP



FIGURE 2: VIEW OF THE SITE FROM HERCULES STREET

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CLAUSE 4.6 VARIATION REQUEST
VARIATION TO MINIMUM LOT SIZE FOR SECONDARY DWELLINGS
64 HERCULES STREET, DULWICH HILL

3



FIGURE 3: VIEW OF THE SITE FROM HERCULES LANE



FIGURE 4: VIEW OF THE OUTBUILDING AND DETACHED GARAGE FROM THE SITE LOOKING WEST

The DA seeks consent for the partial demolition of the existing dwelling and outbuilding, alterations and additions to the existing dwelling including the demolition to the existing outbuilding and detached garage, construction of a detached garage with a secondary dwelling above.



Pursuant to the definitions contained in the LEP dictionary, the development is defined as “dwelling house”:

“ **Dwelling House** means a building containing only one dwelling. ”

“ **Secondary dwelling** means a self-contained dwelling that:
 (a) is established in conjunction with another dwelling (the principal dwelling), and
 (b) is on the same lot of land as the principal dwelling, and
 (c) is located within, or is attached to, or is separate from, the principal dwelling. ”

A detailed description of the proposed development has been provided within the Statement of Environmental Effects (SEE) accompanying the DA and should be referred to in conjunction with this request.

4 CLAUSE 4.6 VARIATION REQUEST & ASSESSMENT

1. What is the name of the environmental planning instrument that applies to the land?	State Environmental Planning Policy (Housing) 2021.
2. What is the zoning of the land?	The site is zoned R2 Low Density Residential.
3. What are the objectives of the zone?	<ul style="list-style-type: none"> To provide for the housing needs of the community within a low-density residential environment. To enable other land uses that provide facilities or services to meet the day to day needs of residents. To provide for office premises, multi dwelling housing and residential flat buildings only as part of the conversion of existing industrial and warehouse buildings. To provide for office premises and retail premises in existing buildings designed and constructed for commercial purposes.
4. What is the development standard being varied?	Minimum site area for detached secondary dwelling
5. What clause is the development standard listed in the environmental planning instrument?	Clause 53 of State Environmental Planning Policy (Housing) 2021
6. What are the objectives of the development standard?	The object of this section is to identify development standards for particular matters relating to development for the purposes of a secondary dwelling that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.
7. What is the numeric value of the development standard?	450m ²
8. What is proposed numeric value of the development standard?	404.7m ²
9. What is the percentage variation proposed?	10%



4.1 CLAUSE 4.6(3)(A)

DEMONSTRATE THAT COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE.

The following assessment outlines that compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case, particularly referencing the test established in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* (the Initial Action case) which confirmed the approach as held in *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC7* (the Micaul case) as follows:

In the Initial Action case, Preston CJ concluded:

- *Clause 4.6(4) of an LEP establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard.*
- *The first opinion of satisfaction in clause 4.6(4)(a)(i) is whether the clause 4.6 request has adequately addressed the matters required to be demonstrated in clause 4.6(3). Those matters are:*
 - *that 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.*
- *The consent authority does not have to directly form the opinion of satisfaction regarding these matters, but only indirectly form the opinion of satisfaction that the written request has adequately addressed these matters.*
- *The second opinion of satisfaction in clause 4.6(4)(a)(ii) is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out.*
- *The consent authority must be directly satisfied that the clause 4.6 request adequately addresses the matter in clause 4.6(4)(a)(ii), which is not merely that the proposed development will be in the public interest, but that it will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development in the zone.*

Furthermore, this Clause 4.6 Variation Request and the assessment that follows establishes that the objectives of the development standard are achieved notwithstanding non-compliance with the numerical component of the development standard as set out in the 5-part test established in *Wehbe v Pittwater Council [2007] NSW LEC 827* (the Wehbe case).

The local surrounding area is characterised by residential development on all sides, with most dwellings appearing as single storey in the streetscape on a variety of lot sizes. As stated earlier, the objective of the development standard *“is to identify development standards for particular matters relating to development for the purposes of a secondary dwelling that, if complied with, prevent the consent authority from requiring more onerous standards for the matters”*. The objective does not indicate what the intended outcome for or from development is in relation to the minimum lot size requirement but rather, states that Council cannot refuse an application that satisfies the requirements. That being said, there is no restriction on Council supporting and approving an application that does not satisfy the requirements with the support of a Clause 4.6 Variation Request which is the case for this application.

Strict compliance with the numerical development standard is unnecessary and unreasonable in this case as the objectives of the development standard are achieved, notwithstanding non-compliance with the numerical component of the development standard, in the following ways:



The objective of this section is to identify development standards for particular matters relating to development for the purposes of a secondary dwelling that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.

(a) for a detached secondary dwelling—a minimum site area of 450m²

As stated above, the objective does not indicate what the intended outcome for or from development is in relation to the minimum lot size requirement but rather, states that Council cannot refuse an application that satisfies the requirements. That being said, there is no restriction on Council supporting and approving an application that does not satisfy the requirements with the support of a Clause 4.6 Variation Request which is the case for this application.

Without particular objectives for a from development, consideration of the typical objectives of a minimum lot size development standard is required. In this particular case, the *Inner West Local Environmental Plan 2022* includes Clause 4.1 relating to minimum lot size clause for subdivision and Clause 4.1A relating to exceptions to minimum subdivision lot size for certain residential development. The objectives of these clauses are reproduced below:

“ 4.1 Minimum subdivision lot size
 (1) *The objectives of this clause are as follows—*
 (a) *to ensure lot sizes cater for a variety of development,*
 (b) *to ensure lot sizes do not result in adverse amenity impacts,*
 (c) *to ensure lot sizes deliver high quality architectural, urban and landscape design,*
 (d) *to provide a pattern of subdivision that is consistent with the desired future character,*
 (e) *to ensure lot sizes allow development to be sited to protect and enhance riparian and environmentally sensitive land.* ”

“ 4.1A Exceptions to minimum subdivision lot size for certain residential development
 (1) *The objectives of this clause are as follows—*
 (a) *to encourage housing diversity without adversely affecting residential amenity,*
 (b) *to achieve planned residential density in certain areas.* ”

Having regard to the above and of relevance to the built form outcomes, the purpose of a minimum lot size development standards is taken to relate to limiting amenity impacts, promoting diversity of housing and ensuring built forms and densities are appropriate for a site's capacity. Each of these matters is discussed further below.

AMENITY IMPACTS

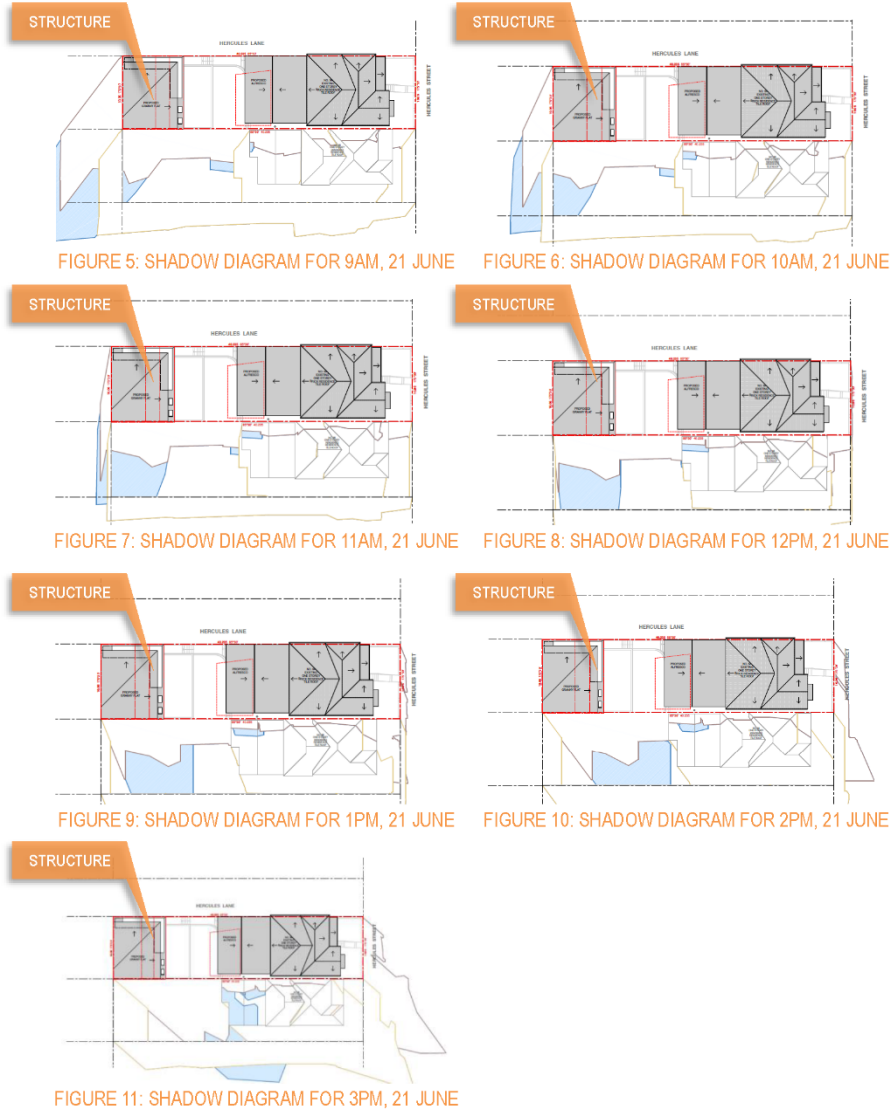
The proposal has been carefully designed to ensure it remains within a compliant building envelope. The proposed development will have more than compliant setbacks and a roof ridge line well-below the height of buildings development standard, resulting in a building that is compatible with other built forms adjoining and surrounding the site. This ensures that any impact on the amenity of neighbouring properties is minimised.

When assessing amenity, it is common to consider the solar access and visual and acoustic privacy impacts of a development on adjoining properties as is discussed below in relation to this proposal.



Solar Access

As discussed in the SEE, the proposal will retain more than compliant levels of solar access for the subject site and to neighbouring living space windows and private open space areas as seen in the reproduced shadow diagrams in the figure below:



As seen in the above shadow diagrams, the secondary dwelling is located to the western side of the site and will cast shadows predominately onto the adjoining site to the south at 66 Hercules Street on 21 June. Notwithstanding this, the proposed structure does not eliminate all available solar access for that adjoining property at 21 June and maintains at least 2 hours of solar access between 9am and 3pm on 21 June.





The subject site has an east to west orientation. Adjoining the site to the south is a single storey dwelling house fronting Hercules Street, to the west is a single storey dwelling fronting Terrace Road, and properties to the north and east are separated by local streets. The additional shadows would not have any impact on neighbouring living space windows and private open space areas. Additional shadows occur to 66 Hercules Street to the south because of the lot orientation. The proposed design minimises this additional shadow and is considered reasonable given the proposal has a compliant building envelope and is well-below the LEP height line, observes compliant setbacks and proposes an appropriate bulk and scale for the structure. The proposal will maintain as much solar access for the existing dwelling to the south as reasonably practical given the site constraints and site orientation.

Acoustic and Visual Privacy

The siting of the proposed secondary dwelling provides ample separation from adjoining properties to ensure minimal acoustic and visual privacy impacts for adjoining properties, while also ensuring future residents of the new dwelling will be provided with suitable acoustic and visual privacy. At the first-floor level, the secondary dwelling is provided with a single highlight bedroom window which overlooks the secondary frontage to Hercules Lane and prevents sightlines to the private open space and habitable room windows of any adjoining property as seen in Figure 12 below.

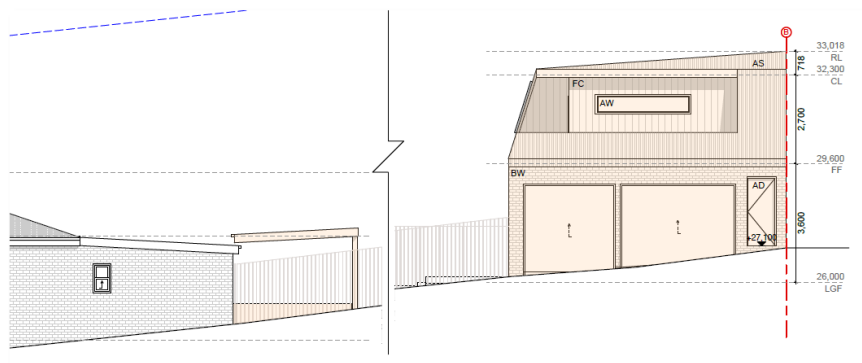


FIGURE 12: STREETScape ALONG HERCULES LANE

A balcony is also proposed on the northern side and is accessed only from the secondary dwelling bedroom with a solid balustrade obstructing downward views to adjoining properties. The balcony also has an opening into the rear garden of the subject site to encourage sightlines to the east, away from surrounding sites as seen in Figure 12 above and Figure 13 below.

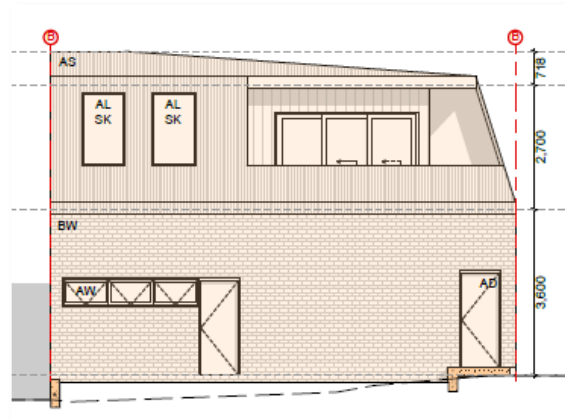


FIGURE 13: INTERNAL EASTERN ELEVATION

The overall height of the proposed secondary dwelling is compatible with 2 storey built form expected in the local area and commensurate with the expected bulk and scale of low density built forms. The structure does not include any openings facing the southern and western boundaries given it has a nil setback to both those sides, thereby ensuring that no visual or acoustic privacy impacts will be experienced for the neighbouring properties to the south and west.

DIVERSITY OF HOUSING

The proposed secondary dwelling will promote housing diversity within the locality by providing a small self-contained 1-bedroom granny flat/studio dwelling in an area that is otherwise characterised by larger dwelling houses. This smaller sized granny flat/studio dwelling will provide an alternate form of accommodation than the standard larger house and shared housing arrangement that is typical within the locality and will also contribute to a more affordable housing option.

SITE CAPACITY

As demonstrated by the assessment provided within the accompanying SEE, the non-compliant lot size does not result in a non-compliant design outcome with the LEP development standards or DCP built form controls. As stated earlier, there is no restriction on Council supporting and approving an application that does not satisfy the requirements with the support of a Clause 4.6 Variation Request which is the case for this application.

The proposal will have more than compliant setbacks, landscaping and private open space areas and will include one car parking space for the main dwelling house on the site. Additionally, the design will allow for a high level of amenity for future occupants and has compliant levels of solar access to neighbouring sites.

The proposal otherwise maintains full compliance with the development standards in the LEP and development controls in the DCP, therefore demonstrating that the proposed development is appropriate for the site's capacity.

Having regard to the above, the proposal is consistent with the objective of the development standard.



4.2 CLAUSE 4.6(3)(B)

DEMONSTRATE THAT THERE ARE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD.

Considering that the development achieves the objectives of the development standard and the objectives of the land use zone, and furthermore achieves compliance with the other applicable controls and their objectives, the proposal is meritorious, and the contravention of the development standard is justified.

The proposed development will maintain occupant and neighbour amenity and will produce a positive streetscape outcome through an articulated low-density dwelling that will provide an alternate form of housing to meet the housing needs of the community. The application demonstrates that the site is suitable for the proposed development and the site has the capacity for the proposed development without creating any adverse impacts on neighbouring properties. It should also be noted that enforcing strict compliance with the minimum lot size requirement would not result in an improved planning outcome given that such approach would remove the diversity of housing available for the site and locality and would consequently result in an inferior planning outcome.

Accordingly, there are sufficient environmental planning grounds to justify contravening the development standard.

4.3 CLAUSE 4.6(4)(A)(I)

DEMONSTRATE THAT THE APPLICANT'S WRITTEN REQUEST HAS ADEQUATELY ADDRESSED THE MATTERS REQUIRED TO BE DEMONSTRATED BY SUBCLAUSE (3).

This Clause 4.6 Variation Request has adequately addressed the matters required to be demonstrated by subclause (3), as detailed throughout.

4.4 CLAUSE 4.6(4)(A)(II)

DEMONSTRATE THAT 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.

The proposed development will be in the public interest because it is consistent with the objectives of the particular standard as demonstrated earlier, and is consistent with the objectives of the R2 Low Density Residential zone in the following ways:

- The proposed development will provide a form of smaller housing that will contribute to the diversity of housing and meet the housing needs of the community within a low density residential environment;

The lot size and density of the development as proposed is sustainable and appropriate given that the site is located in close proximity to public transport and facilities that are available in the surrounding area and locality.

No public benefit would be realised by maintaining and enforcing the development standard.



The proposal, including the marginal shortfall from the lot size standard, achieves the objectives of the *Environmental Planning and Assessment Act, 1979* (the Act) in the following ways:

- Section 1.3(b) as the development will facilitate ecologically sustainable development by promoting housing diversity and affordability resulting in positive economic, environmental and social impacts;
- Section 1.3(c) as the development is within a compliant building envelope that will promote the orderly and economic use and development of the land by not posing any adverse amenity impacts on adjoining development and the public domain;
- Section 1.3(d) as the development will promote the delivery and maintenance of affordable housing through a small self-contained 1 bedroom dwelling;
- Section 1.3(e) as the development will protect the environment by not posing any impacts on threatened or other species of native animals and plants, ecological communities and habitats;
- Section 1.3(f) as the development does not impact any built and cultural heritage;
- Section 1.3(g) as the development promotes good design and amenity of the built environment by providing a small self-contained dwelling with a high level of amenity for future occupants whilst maintaining the amenity of neighbouring sites; and
- Section 1.3(h) as the development promotes the proper construction and maintenance of a building that will include large landscaped and private open space areas and suitable indoor and outdoor living spaces that will promote the health and safety of occupants.

For the reasons above and the assessment provided within this request, there are sufficient environmental planning grounds to justify the contravention of the development standard.

4.5 CLAUSE 4.6(4)(B)

DEMONSTRATE THAT THE CONCURRENCE OF THE PLANNING SECRETARY HAS BEEN OBTAINED.

Planning Circular PS 20-002, dated 5 May 2020, contains an assumed concurrence notice dated 18 February 2018 for all consent authorities for the purpose of determining a development application to which a Clause 4.6 Variation Request is made. The subject Clause 4.6 Variation Request does not exceed the limitations set by the assumed concurrence notice and therefore Council or the Local Planning Panel may assume the concurrence of the Planning Secretary.

4.6 CLAUSE 4.6(5)

PLANNING SECRETARY CONCURRENCE.

As detailed above, assumed concurrence has been issued by the Planning Secretary.

4.7 CLAUSE 4.6(6)

EXCLUDED SUBDIVISION.

The application of clause 4.6 to the development standard is not precluded by the operation of Clause 4.6(6) of the LEP.

4.8 CLAUSE 4.6(7)

RECORD KEEPING.

This is an administrative matter for the Council.



4.9 CLAUSE 4.6(8)

EXCLUDED DEVELOPMENT AND CLAUSES.

The application of clause 4.6 to the development standard is not precluded by the operation of Clause 4.6(8) of the LEP.

5 CONCLUSION

Having regard to the assessment of the proposal and Clause 4.6 Variation Request, the proposed development achieves the objectives of the development standard and the objectives of the land use zone, notwithstanding the contravention of the lot size control. Therefore, compliance with the development standard is unnecessary and unreasonable in these circumstances.

For the reasons provided within this request, there are sufficient environmental planning grounds to justify the contravention of the development standard.

This request has appropriately demonstrated that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out.

This Clause 4.6 Variation Request has been prepared in accordance with the requirements of Clause 4.6 of the *Inner West Local Environmental Plan 2022* and has had regard to the findings of the various case law mentioned and discussed throughout.

Accordingly, Council can exercise its power to grant development consent for the development that contravenes the development standard.

For the reasons outlined within this request, the subject variation is worthy of Council's support.