



NSLPP MEETING HELD ON 04/05/2022

Attachments:

1. Site Plan
2. Architectural Plans
3. Clause 4.6 – Height of Buildings
4. Privacy Assessment

ADDRESS/WARD: 4 East Avenue, Cammeray

APPLICATION No: DA427/21

PROPOSAL: Alterations and additions to an existing residential flat building containing two units including a balcony enclosure to the rear of Unit 1.

PLANS REF:

Plan Nos.	Issue	Description	Prepared by	Dated
A100	A	Site Plan	Aurora Design	30/11/2021
A120	A	Level 1 Demolition Plan		30/11/2021
A130	A	Level 2 Demolition Plan		30/11/2021
A200	A	Level 1 Floor Plan		30/11/2021
A210	A	Level 2 Floor Plan		30/11/2021
A250	A	Roof Plan		30/11/2021
A500	A	Section A-A		30/11/2021
A501	A	Section B-B		30/11/2021
A600	A	North Elevation		30/11/2021
A601	A	East Elevation		30/11/2021
A602	A	South Elevation		30/11/2021
A603	A	West Elevation		30/11/2021
A800	A	Glazing Schedule		30/11/2021

OWNER: Proprietors of SP 50406

APPLICANT: Michael Brown Planning Strategies Pty Ltd

AUTHOR: Michael Stephens, Senior Assessment Officer

DATE OF REPORT: 22 April 2022

DATE LODGED: 7 December 2022

SUBMISSIONS: Nil

RECOMMENDATION: Approval

EXECUTIVE SUMMARY

This development application seeks consent for alterations and additions to an existing residential flat buildings containing two units, including a balcony enclosure to the rear of unit 1 at 4 East Avenue, Cammeray.

The application is reported to the North Sydney Local Planning Panel for determination as the application seeks a variation to a development standard by more than 10%. In accordance with the Ministers direction of 1 August 2020 a public determination meeting is not required because no submissions were received.

The subject site is zoned R2 Low Density Residential. Residential flat buildings are a prohibited use within the zone and therefore the application relies on the existing use provisions of the Environmental Planning and Assessment Act 1979 and Regulations to undertake alterations and additions to the existing residential flat building.

The proposed development breaches the maximum permitted building height of 8.5m by up to 2.88m, equating to a maximum variation of 33.9%. The proposed variation relates to north-eastern corner of the proposed balcony enclosure and proposed alterations to the part of the existing building which currently exceeds the development standard. The applicant has submitted a written request to vary the development standard pursuant to clause 4.6 in NSLEP 2013 which satisfactorily demonstrates that compliance with the development standard is both unreasonable and unnecessary, and that there are sufficient environmental planning grounds to justify the variation. The proposed development would be in the public interest. The submitted written request is considered to be well founded and worthy of support.

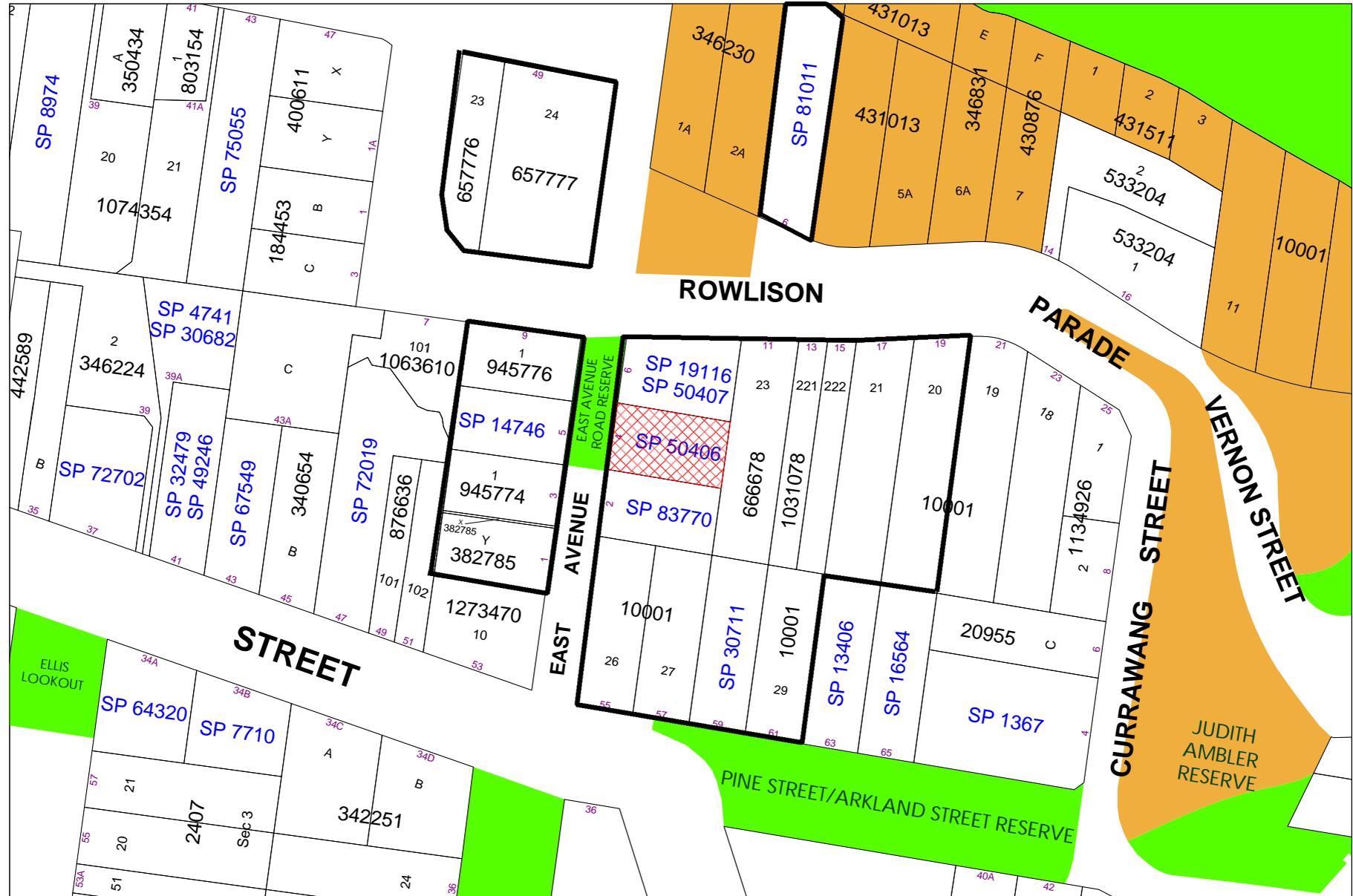
The proposed development would not adversely impact the amenity of the surrounding properties with regard to the retention of views, solar access and existing levels of privacy.

The built form character of the proposed works is contemporary in nature and is compatible with the character of the existing building and surrounding residential area.

The application was notified in accordance with Council's Community Engagement Protocol, however, no submissions were received.

On balance, the proposed development is considered reasonable and is recommended for approval subject to various site specific and standard conditions.

LOCATION MAP



Property/Applicant ● Submitters - Properties Notified

DESCRIPTION OF PROPOSAL

The development application seeks consent for alterations and additions to an existing residential flat building containing two units, including a balcony enclosure to the rear of unit 1 located on the first floor level of the building.

The proposed works include:

Unit 2 – Level 1 RL 42.85

- Reconstruction of the existing dilapidated rear balcony with no change to the size or location of the balcony.
- The balcony is to be constructed of steel framing with glazed balustrading.

Unit 1 – Level 2 RL 45.91

- Minor reconfiguration of the existing apartment floor plan to relocate the kitchen, a bathroom and a study/bedroom.
- Enclosure of the existing rear balcony with bi-fold windows to extend the existing living and dining room, creating a winter garden style living area / balcony enclosure.
- Replacement of the existing glazing along the northern and eastern elevations and installation of a new window on the southern elevation for the proposed kitchen.

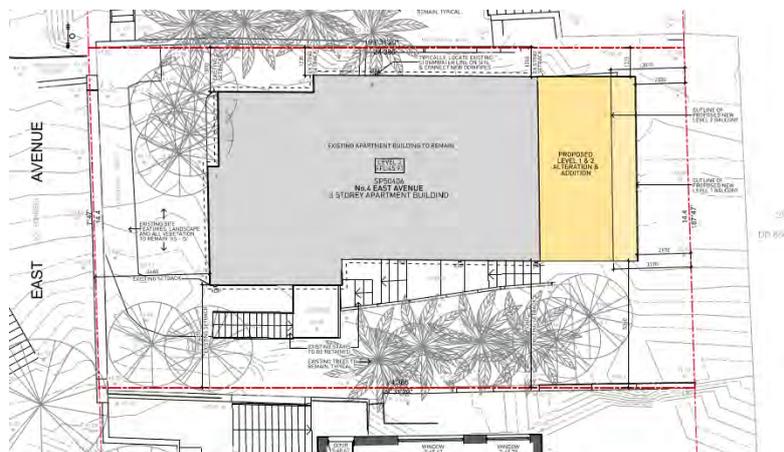


Figure 1. Proposed Site Plan



Figure 2 & 3. Proposed Eastern and Western Elevations

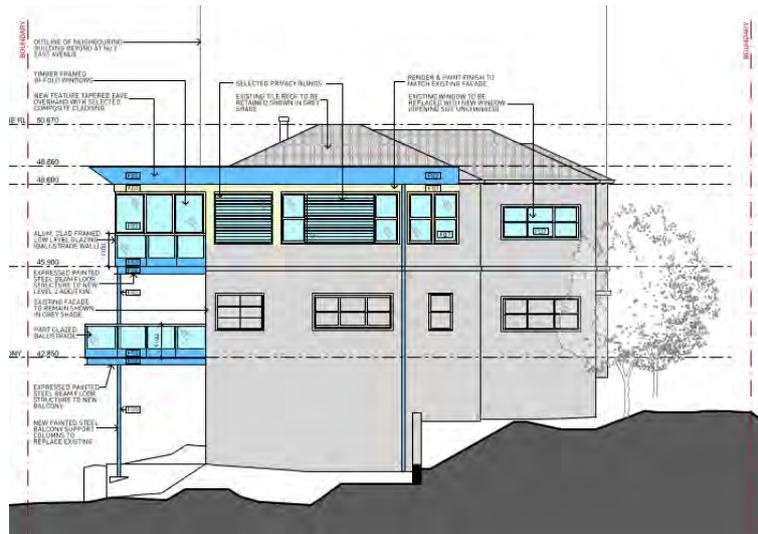


Figure 4. Proposed Northern Elevation

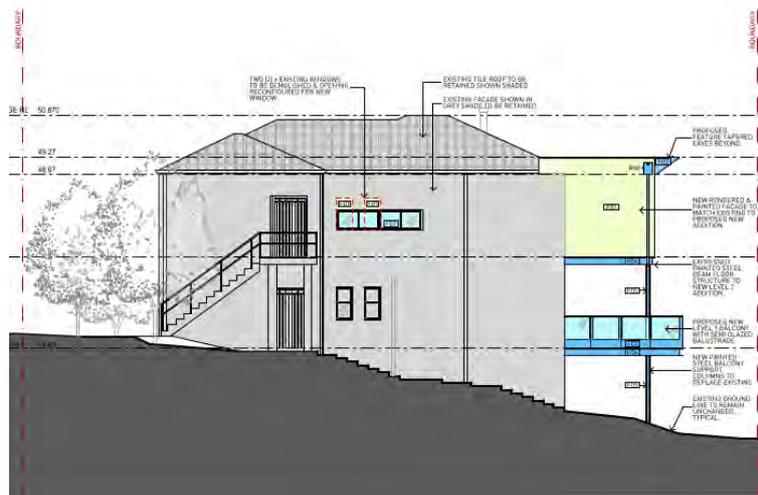


Figure 5. Proposed Southern Elevation



Figure 6. Artist Impression as viewed from the north west

STATUTORY CONTROLS

North Sydney Local Environmental Plan 2013

- Zoning – R2 Low Density Residential zone
- Item of Heritage - No
- In Vicinity of Item of Heritage – I0021 (No. 49 The Boulevard)
- Conservation Area – No

Environmental Planning and Assessment Act 1979

- Section 7.11/12 Infrastructure Contributions

SEPP 65 – Design Quality of Residential Apartment Development

SEPP (Biodiversity and Conservation) 2021

SEPP (Housing) 2021

SEPP (Resilience and Hazards) 2021

SEPP (Planning Systems) 2021

Note: A number of new SEPP's came into force on 1 March 2022. These largely comprise amalgamations of previous SEPPs and/or revised SEPPs. For the purpose of this report the underlying provisions remain largely the same.

POLICY CONTROLS

North Sydney Development Control Plan 2013

North Sydney Local Infrastructure Contributions Plan 2020

DESCRIPTION OF LOCALITY

The subject site is legally described as SP 50406 and is known as 4 East Avenue. The Strata Plan contains two units and common property. The site is located on the eastern (low) side of East Avenue along an unmade portion of the road reserve. The unmade portion of the road reserve is zoned RE1 Public Recreation and is heavily vegetated with only footpath access to the properties that front the reserve.

The site is rectangular in shape and has a width of 10.7m and a depth of 24.4m, equating to a site area of 350sqm. The land falls steeply from the southern side boundary to the northern side boundary by approximately 3.8m and from the front (western) boundary to the rear (Eastern) boundary by approximately 3.2m. The adjoining sites located to the rear are orientated perpendicular to the subject site, facing Rowlison Parade.

The site is zoned R2 Low Density Residential and contains an existing two storey residential flat building comprising two apartments with a lower ground floor communal storage area. The adjoining properties to the north (No. 6 East Avenue) and south (No. 2 East Avenue) also contain what appear to be two storey residential flat buildings with No. 6 East Avenue having a lower ground floor parking area accessed from Rowlison Parade. The aforementioned trio of buildings were constructed during the inter-war period and have all been Strata subdivided. The other surrounding development typology primarily includes dwelling houses, semi-detached dwellings and some dual occupancy development.



Figure 7. Aerial Image of the subject site and surrounds (Nearmap Captured 3 April 2022)



Figure 8. NSLIP 2013 Land use zoning map with the subject site shown outlined in yellow.

Additional photos of the subject site and surrounding area are provided below.

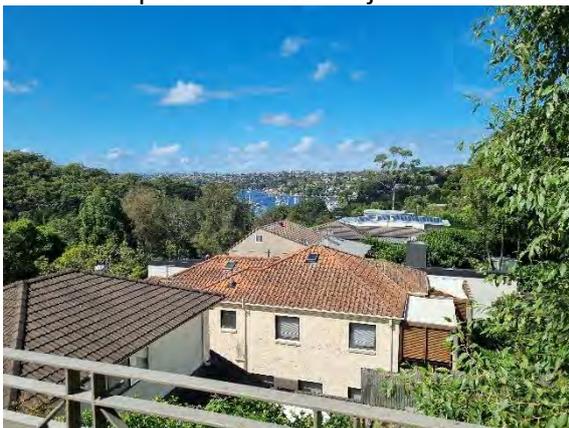


Figure 9. Existing view from unit 1 balcony to the east



Figure 10. Existing view from unit 1 balcony to the north



Figure 11. Existing view from unit 1 balcony to the south east



Figure 12. Existing view from unit 1 balcony to the south



Figure 13. Existing view from unit 1 bedroom to the north



Figure 14. Existing dwelling entries



Figure 15. Site photo of existing southern side setback area



Figure 16. Existing unit 2 balcony



Figure 17. Site photo of No. 6 East Avenue from Rowlison Parade



Figure 18. Site photo from Rowlison Parade

RELEVANT DEVELOPMENT HISTORY

There is no historical consent available on Councils record for the construction of the original building. The style of the development, and that of the adjoining buildings at Nos. 2 and 6 East Avenue, appear to be from the inter-war period and predates the North Sydney Planning Scheme Ordinance which was gazetted on 19 April 1963. Two-unit residential flat buildings were a common form of development at the time.

A Certificate was issued by Council under Section 317A of the Local Government Act 1919 following a resolution of Council 15 July 1941. Whilst a copy of the certificate is not available it is suffice to acknowledge that it was considered reasonable to retain the existing building. The certificate gave effect to retaining a building where no original consent was available, similar to the purpose of a Building Information Certificate under the current Act.

At the time the North Sydney Planning Scheme Ordinance was gazetted the building would have met the definition of a residential flat building which was defined as follows:

***“Residential flat building”** means a building containing two or more flats, but does not include a row of two or more dwellings attached to each other such as commonly known semi-detached or terrace buildings and Flat means a room or suite of rooms occupied or used or so constructed, designed or adapted as to be capable of being occupied or used a separate domicile.*

Building Certificate No. 0237 dated 31 March 1989 described the building as a “duplex” despite meeting the definition of a residential flat building. The survey submitted with the application for the certificate describes the building as “2 storey brick res. Flats” and the written survey report describes the building as a “two storey residential flat building”.

It appears that various applications/certificates have used the terms duplex and residential flat building interchangeably as a “duplex” was not defined in the Ordinance.

NSLEP 1989 was gazetted 3 November 1989.

Development Application **DA1441/1994** for “alterations and additions” was approved 12 December 1994.

The development application form and accompanying statement of environmental effects referenced the building as a residential flat building (using various colloquial terms) but does not utilise the terms dual occupancy or duplex. The notification documentation described the building as a residential flat building.

It is noted that the assessment report referred to the building a “duplex”, however this was not referenced in the Notice of Determination. Notwithstanding the Officer’s reference to a “duplex”, the application was assessed under NSLEP 1989 which defined a residential flat building as follows and did not include any permitted use such as “dual occupancy” or “duplex”.

residential flat building means a building containing 2 or more dwellings but does not include a building elsewhere defined in this clause.

The reference to a “duplex” may have been a colloquial term at the time and was an innocuous distinction as it predated the “duplex” definition that was later included in NSLEP 2001 which was gazetted 1 June 2001.

It appears that various applications have used the terms *dual occupancy* and *residential flat building* interchangeably, however, it is important to consider the possible uses at the time (and the definition of those uses), and the more recent applications as described below have been consistent in their description of the building as a residential flat building.

Building Application **BA34/1995**, relating to approved DA1441/1994 was approved 12 December 1994 and references the approved works as “Alterations and additions to Residential Units”. The assessment report also described the works as “alterations and additions to a residential flat building”.

Development Application **DA1292/1995** for strata subdivision of an existing residential flat building was approved 12 July 1995. The strata plan refers to the building as “2 storey brick flats”.

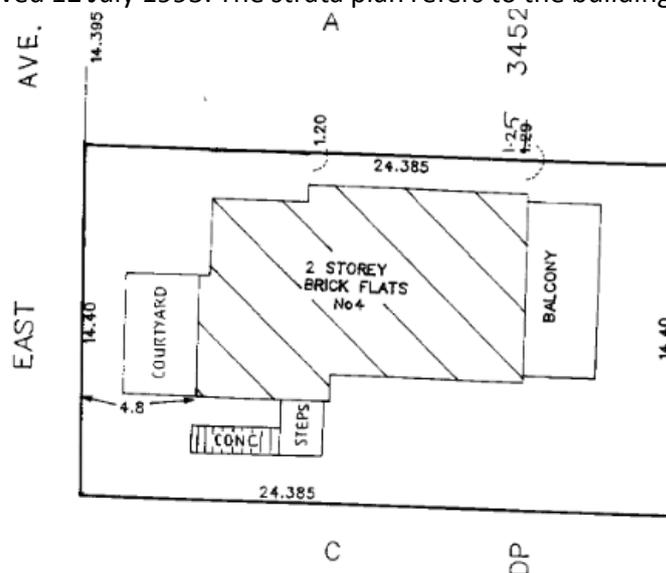


Figure 19. Extract from SP50406 endorsed by Council 17 July 1995

RELEVANT APPLICATION HISTORY

A pre-lodgement meeting was undertaken on 30 August 2021 with Council Assessment Staff.

Date	Assessment
7 December 2021	The application was lodged with Council.
15 December 2021	The application was notified in accordance with Council's Community Engagement Protocol from 14 January 2022 until 28 January 2022 and from 25 March 2022 until 8 April 2022.
15 March 2022	A site inspection was undertaken by Council assessment staff.
21 April 2022	The applicant submitted a revised clause 4.6.

REFERRALS

Building

The application was referred to Council's Building Surveyors who provided the following advice:

The development application seeks approval for alterations and additions to units 1 and 2 within an existing three (3) storey residential building containing (2) two sole occupancy units.

The building is classified by the NCC/BCA as a Class 2 building of type A construction.

A search of Council's records revealed that the building does not form part of Council's Annual Fire Safety Statement Register and no Annual Fire Safety Statement has ever been submitted for the building nor has any recent upgrade of the building in terms of fire safety occurred. As such, the property has now been added to Council's AFSS Register.

Given the above and considering the scale of the proposed building works, upgrade of the building pursuant to Clause 64 of the Environmental Planning & Assessment Regulations 2021 is required.

A detailed assessment of compliance with the Building Code of Australia / National Construction Code 2019 will be undertaken by an appropriately registered Certifier at the Construction Certificate stage of the proposed development. Additionally, a Fire Safety Schedule is to be prepared by the Certifier and accompany the Construction Certificate.

Generally, the proposed works are capable of complying with the requirements of the BCA/NCC 2019, Volume 1.

Given the above, the following Standard Conditions are recommended

- C7 Upgrade Existing Building - Fire Spread and Safe Egress**
- F1 National Construction Code**

Engineering

The application was referred to Council's Development Engineers who raised no objection to the proposed development. Standard engineering conditions were recommended.

SUBMISSIONS

The development application was notified in accordance with Council's Community Engagement Protocol 14 January 2022 until 28 January 2022, and from 25 March 2022 until 8 April 2022 to incorporate a larger notification area. No submissions were received.

CONSIDERATION

The relevant matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979, are assessed under the following headings:

State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development

Despite the existing building being a residential flat building, the above policy does not apply as the building does not contain four or more dwellings as outlined in clause 4(1)(c) of the Policy.

State Environmental Planning Policy (Housing) 2021

Part 3 in Chapter 2 *Retention of existing affordable rental housing* does not apply to the proposed development as per Clause 46 because the existing building is Strata subdivided.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A valid separate dwelling house BASIX Certificate has been provided with the amended plans which meets the requirements of this policy.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The proposed development does not require the removal of or impact to any trees on the subject site or within the vicinity of the site. The proposed development is consistent with the objectives of Chapter 2 *Vegetation in non-rural areas* of the Policy.

The subject site is not highly visible from Sydney Harbour or its foreshores given the distance to water. The proposal therefore would not impact upon the scenic quality of Sydney Harbour or its waterways and is considered acceptable with regard to the Chapter 10 *Sydney Harbour Catchment* of the Policy.

State Environmental Planning Policy (Resilience and Hazards) 2021

The provisions of Chapter 4 *Remediation of Land* in the Policy have been considered. The subject site has historically been used for residential development and therefore is unlikely to be contaminated. The requirements in clause 4.6 of the Policy are therefore considered to be satisfied.

North Sydney Local Environmental Plan 2013

Permissibility

The subject site is zoned R2 Low Density Residential under North Sydney Local Environment Plan 2013.



Figure 20. NSLEP 2013 Land use zoning map with the subject site shown outlined in yellow.

The subject building contains two dwellings and under the current definitions in NSLEP 2013 the building would best be characterised as an attached dual occupancy, however, as the building was constructed prior to gazettal of the North Sydney Planning Scheme Ordinance, and then later altered and subdivided under North Sydney LEP 1989 it is considered that the approved use of the building is as a residential flat building as discussed previously in this report, notwithstanding the current definitions in NSLEP 2013 which are stated below:

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

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing.

Residential flat buildings are a prohibited use within the R2 Low Density Residential zone.

The proposed development seeks consent for alterations and additions to an existing residential flat building and does not propose a change of use to align with the dual occupancy definition. The application therefore relies on existing use rights which is addressed below.

Section 4.65 - Definition of “Existing Use”

Notwithstanding the prohibition, if ‘existing use’ rights can be satisfactorily established for the land affected by the proposed development, then the consent authority may consider a development application, subject to meeting the relevant requirements applying to existing uses under Sections 4.65 - 4.70 of the Act, the Regulations under the Act, and consideration of the impacts of the proposed development.

Section 4.66 of the Act - Continuance of and limitations on existing use

The development application seeks to rely upon the established existing use rights as defined in section 4.66 of the Act to continue the use of the site as residential flat building.

Development History

The subject building was constructed during the inter-war period, however, no consent can be found. The building contains two dwellings.

The following development consents relating to the land exist as discussed above in the development history section of this report:

- Development Application **DA1441/1994** for “alterations and addition”
- Building Application **BA34/1995** relating to DA1441/1994
- Development Application **DA1292/1995** for strata subdivision of a residential flat building

These applications/consents defined the subject building as a residential flat building although occasionally references the building as a “duplex”. Despite the reference to “duplex”, which was a common colloquial description at the time, the applicable use was a residential flat building as defined in NSLEP 1989.

***residential flat building** means a building containing 2 or more dwellings but does not include a building elsewhere defined in this clause.*

It was not until the gazettal of NSLEP 2001 that the definition of a residential flat building was changed to mean three or more dwellings and the term “duplex” was introduced to mean a building containing two dwellings.

NSLEP 2013 later replaced the term “duplex” with “dual occupancy” and separately defined both attached and detached dual occupancies.

Because the aforementioned consents were granted prior to the introduction of NSLEP 2001 it is therefore considered that the land benefits from existing use rights as a **residential flat building** as the development could only be characterised as such at that time.

Section 4.66 of the Act outlines the provisions relating to the continuance of and limitation on, an existing use. The site has continually been used as a residential flat building containing two dwellings without abandonment as described in sub-section 4.66(3).

Clauses 42-44 of the *Environmental Planning and Assessment Regulation 2000* (The regulations)

Clauses 42-44 of the Regulation are also relevant to the proposed development because these clauses set out the nature of development allowed under existing uses, the matters for consideration for enlargement, expansion or intensification of existing uses and the consent requirements for an existing use.

The proposed alterations and additions would be constructed on the land to which the existing use is carried out. The proposed development is therefore considered to engage Clauses 42-44 of the Regulation which allows an existing use to; *be enlarged, expanded or intensified, or be altered or extended, or be rebuilt.*

Land and Environment Court Planning Principle - “Existing Use Assessment” and further case law.

The recent decision of Chief Judge Preston in *Saffioti v Kiama Council* [2019] NSWLEC 57 outlined that the development standards would not derogate from the incorporated provisions of existing use rights and therefore would not prevent their operation. The decisions effectively overturned the Planning Principle established in *Fodor Investments v Hornsby Shire Council* [2005] NSWLEC 71. The judgment of Commissioner Chilcott in *Made Property Group Pty Limited v North Sydney Council* [2020] NSWLEC 1332 adopted this approach and specifically dealt with the application of the height of buildings development standard. An assessment in accordance with s4.15 of the Act, including those in s4.15(1)(a)(i) which require an assessment against the provisions of any environmental planning instrument, such as the LEP. On this basis, the proposed development should comply with any development standard or be subject to a written request to vary the development standard pursuant to clause 4.6 in NSLEP 2013.

In addition, the judgment also concluded that the proposed development should be assessed against the relevant DCP provisions as a DCP is not an environmental planning instrument and therefore could not derogate from the incorporated provisions.

Therefore, any future development on the subject site must have regard to the relevant development standards and controls as contained in the applicable LEP and DCP, which are assessed below.

Objectives of the zone

R2 Low Density Residential zone:

- *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 encourage development of sites for low density housing, including dual occupancies, if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

The proposed development would provide for the housing needs of the community within a low density residential environment by improving the amenity of the existing dwellings.

The proposed works would not compromise the amenity of the surrounding area as the building generally maintains the existing layout and the potential impacts of the additional massing of the proposed balcony enclosure would not materially impact the amenity of surrounding dwellings with regard to the retention of solar access and views, and its use would not cause any additional overlooking in comparison to the existing arrangement.

The proposed works would not compromise the natural or cultural heritage of the area given the proposed development would not impact existing areas of landscaping or natural areas and is not a heritage item or located within a conservation area.

The proposed development would achieve a high level of residential amenity for the dwellings within the subject building and would reasonably maintain the amenity of surrounding dwellings.

Clause 4.3 - Height of buildings

The subject site has a maximum permitted building height of 8.5 m pursuant to clause 4.3(2) in NSLEP 2013. The existing building has a maximum height of 11.59m measured from existing ground level. The proposed rear balcony enclosure of unit 1 would breach the height plane by between 2.5-32%. The existing upper level would breach the height plane by approximately 1m on the northern side and therefore the proposed windows along the northern elevation of the upper level would also breach the height plane. The extent of the variations is documented in the table and diagrams below.

	Non-compliant Building Element	Control	Height	Variation
A.	North eastern corner	8.5m	11.25m	2.75m (32%)
B.	South eastern corner		8.80m	0.3m (3.5%)
C.	Existing north eastern eave corner		10.01m	1.51m (17.76%)

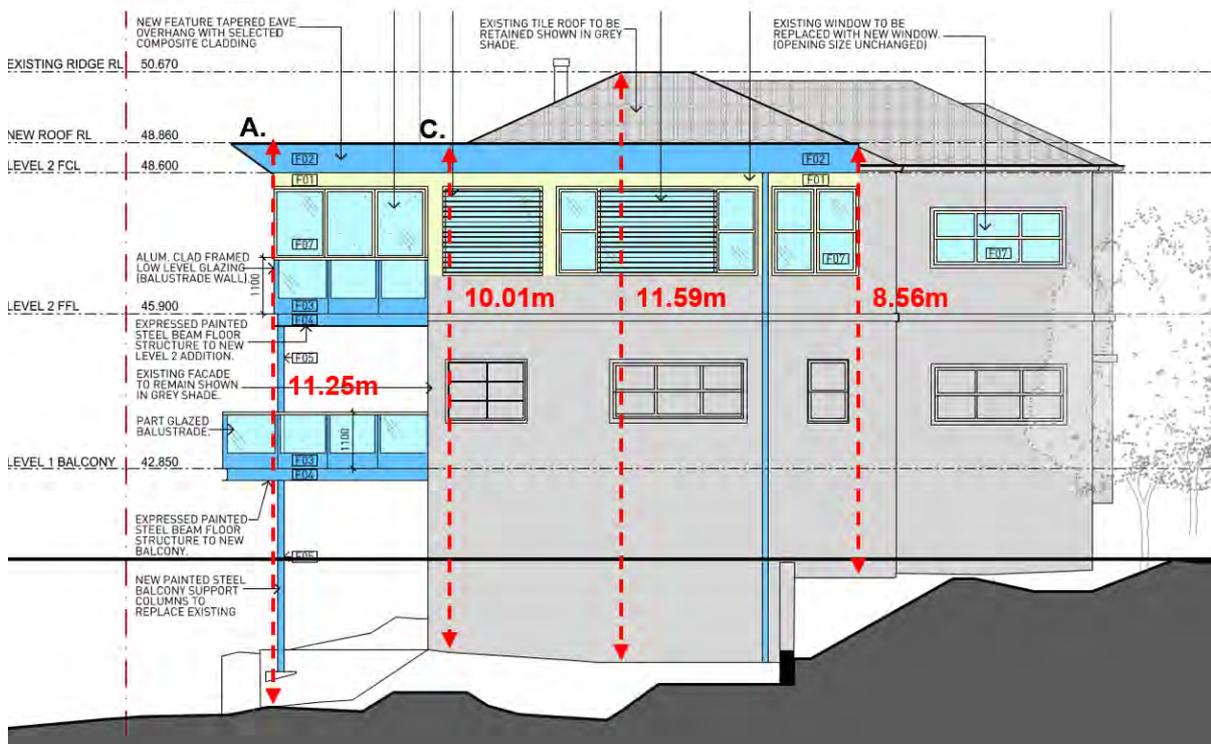


Figure 21. Height of buildings measurements along the northern elevation

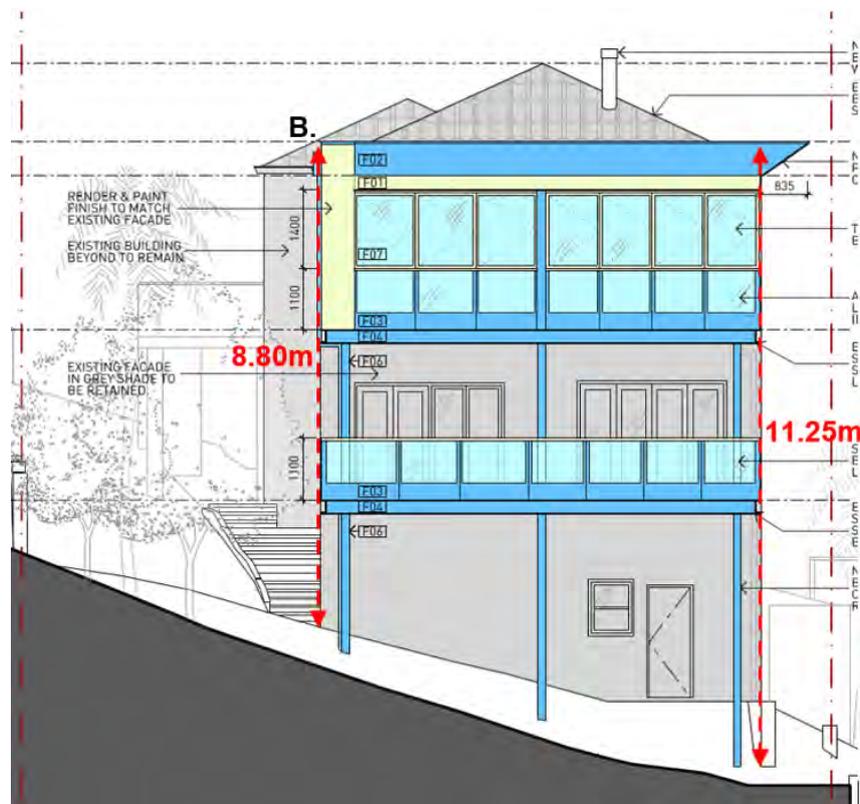


Figure 22. Height of buildings measurements along the eastern elevation

Clause 4.6 - Contravention of a Development Standard

A written request to contravene the development standard for height has been submitted and has been considered below.

Clause 4.6(3)(a)

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

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

In accordance with Test 1 outlined in *Wehbe v Pittwater Council* [2007] NSWLEC 827 at [42] ('*Wehbe*') a common method to demonstrate that compliance is unreasonable or unnecessary is by demonstrating that the objective of objectives of the development standard are achieved notwithstanding noncompliance with the development standard.

(1)(a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,

The subject site falls steeply from the southern side boundary to the northern side boundary by approximately 3.8m and from the front (western) boundary to the rear (Eastern) boundary by approximately 3.2m.

The written request demonstrates that the proposed development conforms with the existing development on the site and maintains the existing floor levels and does not impact the reflection of the natural ground levels as the existing fall of the land is reflected by the subfloor level. The written request states that the building cannot be stepped down the site as the floor levels are existing and in terms of the floor levels of the development this is concurred with as there is no increase in the floor plate. Notwithstanding, an open balcony as opposed to the proposed balcony enclosure would reduce the massing towards the rear where the land falls away although would still vary the standard.

The proposed development also reflects the stepping of the building forms between Nos. 2, 4 (subject site) and 6 East Avenue as the land falls from south to north.

(1)(b) to promote the retention and, if appropriate, sharing of existing views,

The written request (including attached view loss assessment) demonstrates that the proposed development would promote the retention of views. Views of Middle Harbour and the land water interface are gained towards the east of the subject site. The adjoining properties to the north and south would maintain existing views to the east.

No. 2 East Avenue is located to the south of the subject site and is located at higher level given the topography and enjoys views of Middle Harbour and the surrounding context. Unit 2 of No. 2 East Avenue is located on the upper level of the building and would maintain views over the subject site. Unit 1 of No. 2 East Avenue, is a ground level apartment and is located at the same relative level as the proposed rear addition to the subject building, however, as demonstrated in the photos included in the written request would maintain views to the east of Middle Harbour. The existing vegetation along the common boundary between the subject site and the No. 2 East Avenue also limits any views to the north from this level.

The written request has undertaken an assessment in accordance with the four step test outlined in *Tenacity Consulting v Warringah* [2004] NSWLEC 140.

Regarding the first step, the written request has described the views available to Middle Harbour and its surrounding context. The proposed development would not impact these views as the view corridor is more so to the east than the north where the proposed addition is located. With respect to steps 2 and 3, the adjoining property would retain the existing views from the whole of the property which are largely gained from living areas and private open space area across the rear boundary on each level. Despite the variation, the proposed development would not detract from existing views.

(1)(c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,

The written request has demonstrated that the potential overshadowing caused by the proposed non-comply elements would largely fall across the subject site and the rear and side setback areas of adjoining properties, however, would not impact areas of private open space or habitable rooms within dwellings. The adjoining property to the south (No. 2 East Avenue) has a rear deck located at ground level, however, is located towards the southern side of the property. The additional overshadowing cause by the proposed development would have no impact at 9:00am in midwinter and would have minimal impact at 12:00 noon and 3:00pm as demonstrated in the submitted shadow diagrams. The adjoining property to the south would maintain compliant levels of solar access notwithstanding the proposed variation.

(1)(d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,

The written request, and accompanying privacy analysis has demonstrated that the proposed development would not result in any additional overlooking in comparison to the existing arrangement. The proposed balcony enclosure would maintain the same floor area of the living room and balcony. Any overlooking to surrounding properties would be consistent with the existing arrangements. The proposed variation would not exacerbate any overlooking.

The design of the proposed balcony enclosure would marginally increase the solid elements and focuses the views from within the living area out towards water rather than down towards the adjoining properties. A number of photos and architectural montages have been included to demonstrate the likely degrees of overlooking and model the potential improvements.

(1)(e) to ensure compatibility between development, particularly at zone boundaries,

The written request has clarified a relevant planning principle established in *Project Venture Developments Pty Ltd V Pittwater Council* (2005) NSWLEC 191 which outlines that compatibility does not necessarily mean sameness and instead is generally accepted that buildings can exist together without having the same density, scale or appearance, though as the difference in these attributes increases, consistency is more difficult to achieve. The written request has undertaken a review of the proposed and surrounding building form context and is considered compatible with the existing character of the local area.

(1)(f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.

The written request has described the portion of the development that breaches the maximum permitted building height and describes how it relates to the existing building form and the form of development envisaged by the controls. The proposed variation would facilitate the proposed additions which would improve the amenity of the existing apartment. Despite the proposed variation it would not contribute to the perceived building bulk and does not prevent the ability to achieve a high-quality built form on the site as demonstrated by the proposed design response. The new portion of the variation relates to a small portion of the roof form and is consistent with the surrounding scale of development noting the existing building has a maximum height of 11.5m.

(1)(g) maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone E4 Environmental Living.

The subject built would remain a two storey building when viewed from East Avenue. The proposed balcony enclosure is in part a three storey element, however, is located over a lower ground floor subfloor area which is used for storage and is not evidently a storey when viewed from the public domain.

Clause 4.6(3)(b)

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

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

The environmental planning grounds advanced in the written request are considered to be sufficient to justify the contravention of the development standard in the circumstances of the case. The following justifications were provided.

- *The proposed development satisfies the objectives in section 1.3 of the Environmental Planning and Assessment Act 1979 in that it promotes the orderly and economic use and development of land and promotes good design and amenity of the built environment for residents.*
- *The proposed development is not inconsistent with the objectives of the zone.*
- *The elements of the building which exceed the height standard are generally limited to the proposed additions, which do not unreasonably increase the bulk of the building and will not result in an increased scale of development that might otherwise result in adverse outcomes*
- *The main non-compliance of the roof form will provide visual interest and a varied building façade and scale to the development, helping to differentiate the built elements and respond to the DCP requirement for well-articulated building forms.*
- *The proposed variation will not result in any unacceptable environmental impacts on the site, the public open spaces in the street or the adjoining residential properties.*

The submitted justifications are generally concurred with. The proposed balcony enclosure, that causes the new non-compliance, relates to the existing building form and is an appropriate scale and design having regard to the topography and existing character of the area.

Clause 4.6(4)

Clause 4.6(4) states:

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

- (a) *the consent authority is satisfied that—*
- (i) *the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Planning Secretary has been obtained.*

Clause 4.6(4)(a)(i)

It is considered that the consent authority can be satisfied that the applicant’s written request adequately addresses the matters required to be demonstrated by subclause (3) as discussed in detail above.

Clause 4.6(4)(a)(ii)

It is considered that the consent authority can be satisfied 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.

Objectives of the standard

It is considered that the consent authority can be satisfied that the proposed development is consistent with the objectives of the height of building development standard.

It useful to consider the interpretation that the test of “consistency” is less onerous than that of “achievement” as outlined in *Moskovich v Waverley Council* [2016] NSWLEC 1015 [53] (“*Moskovich*”).

The applicant’s written request assessed above relied on *Wehbe* Test 1 to demonstrate that compliance is unreasonable or unnecessary by demonstrating that the objectives of the development standard are **achieved** notwithstanding noncompliance with the development standard. Consistent with *Moskovich*, should it be found that the written request is acceptable then by virtue the proposed development would be consistent with the objectives of the standard.

Notwithstanding this comparison, the proposed development is considered to be consistent with the objectives of the standard. The proposed development reasonably responds to the topography of the site, promotes the retention of views, maintains solar access and existing levels of privacy to surrounding properties and the public domain, is compatible with the surrounding development and is of an appropriate scale and density in accordance with the character of the area.

Objectives of the zone

It is considered that the consent authority can be satisfied that the proposed development is consistent with the objectives of the zone as discussed above.

Clause 4.6(4)(b)

In accordance with the *Planning Circular PS20-002* dated 5 May 2020, concurrence may be assumed under clause 4.6 in NSLPP 2013 but not by a delegate because the numerical variation (maximum 30.2%) is greater than 10%. Concurrence may only be assumed by the Council's independent hearing and assessment panel (also referred to local planning panel) to ensure a greater level of public scrutiny.

The application is referred to the North Sydney Local Planning Panel for determination as the application meets the referral criteria listed in schedule 1 of the *Local Planning Panels Direction – Development Applications and Applications to Modify Development Consents* dated 30 June 2020 being that the application involves a contravention to a development standard by greater than 10%.

Clause 5.10 - Heritage conservation

Sub-clause 5.10(4) allows the consent authority to consider the potential impact of a proposed development on the heritage significance of a heritage item or conservation area in the vicinity of the subject site. The subject site is located in proximity to No. 49 The Boulevard, a dwelling house, which is identified as a heritage item (I10021) in Schedule 5 to NSLEP 2013. Despite the proximity between the subject site and the heritage item, there is little visual connection between the properties given the extent of surrounding development and vegetation, and differences in topography between the sites. The proposed works are also located towards the eastern side of the subject site whereas the heritage item is located towards the northwest. Therefore, it is considered that the proposed development is unlikely to adversely impact the heritage significance of the heritage item and the requirements of Clause 5.10 are satisfied.

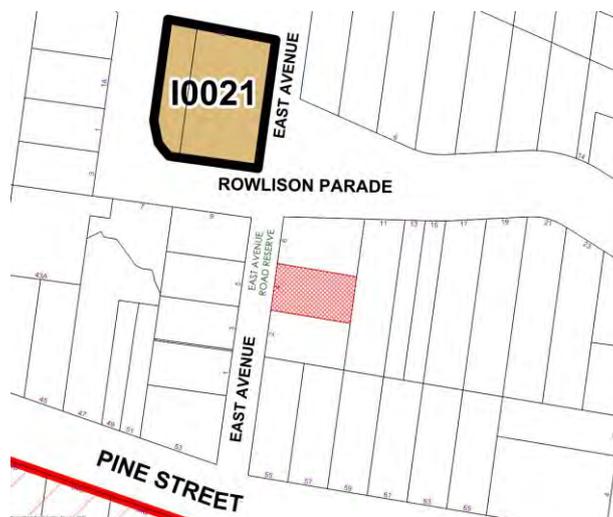


Figure 23. NSLEP 2013 Schedule 5 Heritage items (gold), Heritage Conservation Area (Red Crosshatch)

Clause 6.6 – Dual occupancies

This clause does not apply given that the application relies on existing use rights as a residential flat building. Whilst the building contains two dwellings and is consistent with the definition of an attached dual occupancy under NSLEP 2013, should the application be assessed against clause 6.6 the proposed development would be inconsistent with sub-clause 6.6(1)(a) and (c) which is indicative of the historical building form and hence the application seeks to rely upon the existing use provisions of the Regulations to alter or expand the existing use.

Clause 6.12 - Residential flat buildings

The proposed development is not zoned R4 High Density Residential and therefore this clause does not apply.

POLICY CONTROLS

North Sydney Development Control Plan 2013

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013 PART B - SECTION 1 - Residential Development		
	<i>Complies</i>	<i>Comments</i>
1.2 Function		
Mixed residential population	Acceptable	The existing residential flat building contains two dwellings. The proposed alterations and additions would generally retain the existing form of the development in terms of the number of dwellings and bedrooms.
Universal Design and Adaptable Housing	No	The existing building contains two dwelling although access cannot be provided from the nearest road as the unmade portion of East Avenue includes numerous sets of stairs although is acceptable given that it is an existing situation.
Maintaining affordable housing	Yes	In accordance with SEPP (Housing) 2021, Part 3 in Chapter 2 <i>Retention of existing affordable rental housing</i> does not apply to the proposed development as the existing building is Strata subdivided.
1.3 Environmental criteria		
Topography	Yes	The land falls steeply from the southern side boundary to the northern side boundary by approximately 3.8m and from the front (western) boundary to the rear (Eastern) boundary by approximately 3.2m. The existing ground level of the building relates to the land level at the front of the site and is accessed from the footpath generally at grade. The existing building footprint is elevated towards the rear of the site, particularly in the north eastern corner as the land falls towards the Harbour. There is a lower ground floor level which reflects the fall of the land and makes use of the subfloor space for a communal storage area which appears to have formerly been a laundry. The proposed alterations and additions retain the existing building footprint and finished floor levels, although seeks to enclose the upper-level rear balcony which would increase the massing of the upper level and would result in a three storey appearance at the rear. Despite the increased massing above the rear balconies, the building is in keeping with the scale of development along East Avenue which steps down the land towards Rowlinson Street. The proposed building form would remain subservient in scale to the adjoining building to the south (No. 2 East Avenue) which is sited higher up the slope.
Views	Consistent with View Sharing Principles	The subject site and surrounding properties have a north eastern aspect gaining considerable water views and land water interface views towards Middle Harbour to the east.

The proposed rear extension to the upper level is unlikely to result in any impact on the existing views that are available from surrounding properties. Only the adjoining property to the south (No. 2 East Avenue) has the potential to be impacted by the proposed additions as it is located to the south of the subject site and has a view corridor in proximity to the proposed balcony enclosure addition. No. 2 East Avenue also contains two dwellings in a one up, one down configurations. The potential impact to each dwelling is assessed below:

Unit 2 of No. 2 East Avenue

Unit 2, the first floor level unit, is unlikely to be materially impacted given that the building is sited at a higher level than the subject building and the unit gains views towards the east rather than straight across the northern side boundary where the proposed rear addition would be visible. The proposed roof would have the potential to cause an impact should views be gained over the existing rear deck as the leading edge of the roof form would project further to the east, however, this would be more so of the bush near Tunks Park rather than the water views, and is currently screened by significant existing vegetation.



Figure 24. Existing view from Unit 2 (upper level) of No. 2 East Avenue towards the north east.

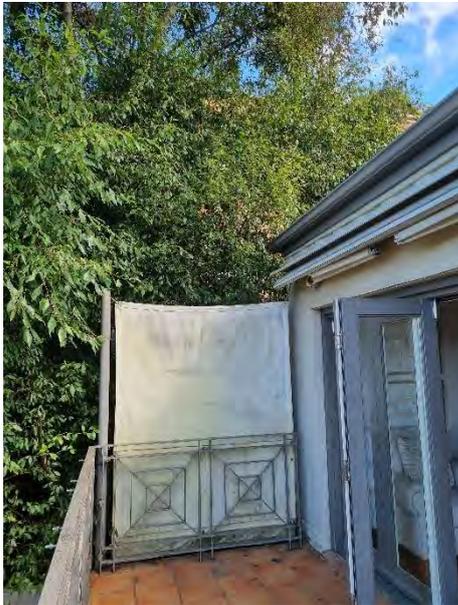
The proposed addition is located to the left in figure 24 above and would not be visible when looking out towards the water view.

Unit 1 of No. 2 East Avenue (Ground Level)

Unit 1, the ground floor unit, of the adjoining building is located at approximately the same level as the Unit 2 (upper level) of the subject site given the fall of the land. The ground floor unit would gain views of Middle Harbour, although appears to be heavily impacted by the existing vegetation within the rear of No. 2 and No. 4 (the subject site).

Given that the view is gained primarily towards the east and not directly to the north it is considered that the existing southern setback of the subject building (5.35m) provides sufficient building separation to retain the view corridor to the east / northeast of Middle Harbour.

The proposed rear addition would be located in the same location as the existing privacy screen along the southern edge of the subject balcony. Whilst the existing privacy screen may not have been approved, it is an existing structure which has not caused complaint and generally reflects the existing landscape screening between the properties.

		<p>Any potential views available across the existing rear balcony would be impacted by the proposed balcony enclosure, however, the views would be of a portion of the bushland surrounding Tunks Park and not the more valuable water views and land water interface views of Middle Harbour that are available to the east. It is noted that the proposed development generally complies with the maximum permitted height and exceeds the minimum side setback controls at this point.</p>  <p>Figure 25. Existing privacy screen located along the southern edge of the subject balcony with No. 2 East Avenue located to the rear behind existing vegetation.</p>
<p>Solar access</p>	<p>Yes</p>	<p>The proposed rear balcony enclosure for unit 1 would result in additional overshadowing to the adjoining property to the south (No. 2 East Avenue) throughout the day and the rear garden area of Nos. 11 and 13 Rowlison Parade in the afternoon hours.</p> <p>No. 2 East Avenue</p> <p>Overshadowing to the northern elevation of No. 2 East Avenue would largely fall across the side setback area or the subfloor area of the property given the difference in levels and the building separation between the properties. Some overshadowing would be caused around noon to the northern side of the existing large ground floor deck at the rear of No.2 East Avenue, however, the deck is located further to the south and at least 50% of this area would retain 2 hours or more of solar access in midwinter, although is somewhat impacted by existing vegetation.</p>

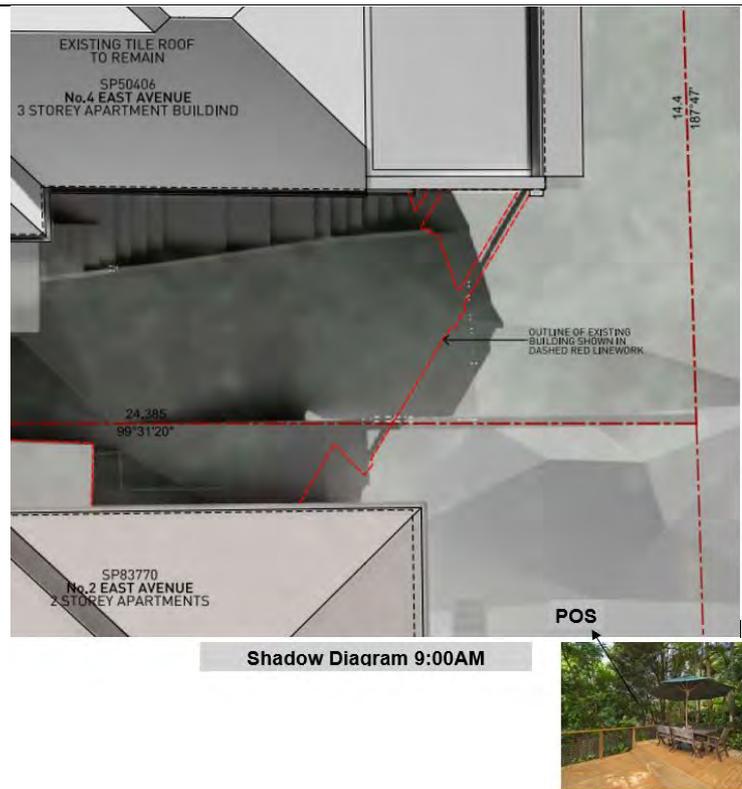


Figure 26. Extract from 9:00am mid-winter shadow diagram

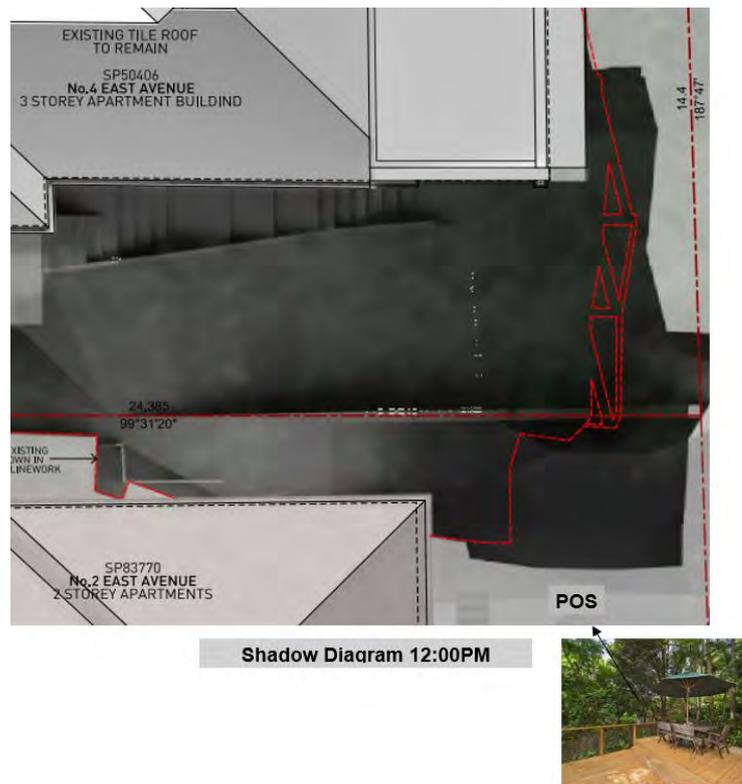


Figure 27. Extract from 12:00pm mid-winter shadow diagram

Any overshadowing would be caused by the southern side of the proposed balcony enclosure which largely complies with the maximum permitted building height as opposed to the northern end where the variation is more significant. The building is also setback 5.36m from the southern side boundary which would minimise overshadowing.

		<p>Rowlison Parade</p> <p>The rear of the rear garden area of No. 11 and 13 Rowlison Parade would be overshadowed at 3pm in midwinter, however, the overshadowing would not adversely impact the principal area of private open space for either property.</p>
<p>Acoustic privacy</p>	<p>Yes</p>	<p>The proposed alterations to the upper level unit generally maintains the existing layout of the dwelling and would not result in any additional acoustic impacts to surrounding properties.</p> <p>The use of the proposed enclosure of the rear balcony as a covered wintergarden style balcony would also have less impact than the existing arrangement given the partial enclosure of this space.</p>
<p>Visual privacy</p>	<p>Acceptable</p>	<p>The proposed alteration and additions to first floor level unit would not result in any additional material impact to the privacy of surrounding properties. The subject unit is orientated towards the north and north east to access the favourable solar aspect and views. The unit is significantly elevated above surrounding properties to the north and northeast and would generally look out over the roof forms below.</p> <p>Eastern Outlook</p> <p>There is substantial existing overlooking towards the east of the rear garden areas of various properties to the east, particularly Nos. 11, 13 and 15 Rowlison Parade. The proposed balcony enclosure would not exacerbate this impact as the footprint of the useable area would remain unchanged. It is likely that any overlooking would be marginally reduced as the solid elements such as windows framing, and balustrading is marginally increased, and placement of furniture internally would somewhat restrict the use of this area.</p> <div data-bbox="762 1133 1370 1588" data-label="Image"> </div> <p>Figure 28. Existing overlooking from rear balcony to the east</p> <p>Northern Outlook</p> <p>The existing balcony also partly overlooks the corresponding rear balcony of No. 6 East Avenue to the north as shown in figure 29 below although the balcony is partly protected by the eave. Similarly, the proposed balcony enclosure would not exacerbate this issues.</p>



Figure 29. Existing overlooking from rear balcony to the north

The proposed windows along the northern elevation of unit 1 are generally located in similar positions although are proposed to be widened. Despite the increased window coverage, the subject unit overlooks the roof of the adjoining property to the north (No. 6 East Avenue) and there are few windows within the southern elevation and therefore the proposed changes would not materially impact the privacy of the adjoining building to the north.



Figure 30. Existing overlooking from the northern side of Unit 1, No. 4 East Avenue.

Ground Floor Balcony

The reconstruction of the ground level rear balcony would cause any additional impacts on the privacy of surrounding properties as the proposed balcony is of the same size, height, and location as the existing balcony.

In summary, there would be no additional privacy impacts caused from the proposed balcony enclosure or new windows.

1.4 Quality Built Form		
Siting	Yes	There is no change proposed to the existing building footprint.
Front Setback	Yes	There are no changes proposed to the existing front setback.
Setbacks (Side and Rear)	Yes	There are no changes proposed to the side setbacks with the exception of the proposed balcony enclosure which would continue the existing setback. It is noted that the building appears two storeys when viewed from the south and three storeys when viewed from the north given the fall of the land.

		<table border="1"> <thead> <tr> <th>Control (wall height)</th> <th>Proposed</th> <th>Compliance</th> </tr> </thead> <tbody> <tr> <td colspan="3">Northern</td> </tr> <tr> <td>Ground Floor (0-4m) 0.9m</td> <td>Existing 1.2-1.9m</td> <td>Yes</td> </tr> <tr> <td>First Floor (4-7m) 1.5m</td> <td>Existing 1.2-1.9m</td> <td>Unchanged</td> </tr> <tr> <td>Second Floor (7m+) 2.5m</td> <td>Existing 1.2-1.9m</td> <td>Unchanged</td> </tr> <tr> <td></td> <td>Proposed Balcony Enclosure 1.2m</td> <td>No</td> </tr> <tr> <td colspan="3">Southern Side</td> </tr> <tr> <td>Ground Floor (0-4m) 0.9m</td> <td>Existing 4.3-5.4m</td> <td>Yes</td> </tr> <tr> <td>First Floor (4-7m) 1.5m</td> <td>Existing 4.3-5.4m</td> <td>Yes</td> </tr> <tr> <td></td> <td>Proposed Balcony Enclosure 5.4m</td> <td></td> </tr> </tbody> </table> <p>The proposed balcony enclosure does not comply with the side setback provision of 2.5m on the northern side. The proposed balcony enclosure seeks to maintain the existing 1.2m setback of the balcony. Notwithstanding, the non-compliance, the proposed setback would not have an adverse impact on the amenity of the adjoining property to the north (No. 6 Rowlison Parade) with regard to views or solar access given the orientation of the lots. The proposed balcony enclosure would not exacerbate any existing overlooking to the rear balcony of the adjoining property as described above. There is approximately 8m of separation between the balconies. The visual impact of the non-compliant setback is also limited as the adjoining property is similarly orientated towards the water views in the north east and does not have any windows within the southern elevation adjacent to the non-compliant element.</p>	Control (wall height)	Proposed	Compliance	Northern			Ground Floor (0-4m) 0.9m	Existing 1.2-1.9m	Yes	First Floor (4-7m) 1.5m	Existing 1.2-1.9m	Unchanged	Second Floor (7m+) 2.5m	Existing 1.2-1.9m	Unchanged		Proposed Balcony Enclosure 1.2m	No	Southern Side			Ground Floor (0-4m) 0.9m	Existing 4.3-5.4m	Yes	First Floor (4-7m) 1.5m	Existing 4.3-5.4m	Yes		Proposed Balcony Enclosure 5.4m	
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Front fences	Yes	There are no changes proposed to the existing front fencing.																														
Form, massing and scale	Yes	<p>The form, massing and scale of the building is generally maintained with the exception of the proposed balcony enclosure which would increase the massing of the building towards the rear and is in part located higher up the building form given that the balcony of unit 2 below is proposed to remain open.</p> <p>The proposed balcony enclosure would result in a variation to the height of buildings development standard in clause 4.3 in NSLEP 2013 which is satisfactorily addressed above having regard to the submitted written request made pursuant to clause 4.6 in NSLEP 2013.</p> <p>The bulk and massing of the proposed addition is minimised through the increased use of glazing and design of the proposed roof form. The proposed use of glazing is not considered to be excessive given that the glazing is broken into smaller elements through the use of well proportioned and detailed glazing including the use of timber framing and external privacy screening.</p>  <p style="text-align: center;">Figure 31. Proposed window proportioning and detailing</p>																														
Built form character	Yes	<p>The proposed alterations and additions, whilst is part are contemporary, have been designed and detailed having regard to the character of the existing building. The proposed development introduces additional glazing along the northern and eastern elevations, however, the proposed glazing is timber framed and appropriately detailed with smaller elements to balance the dominance of the glazing. The proposed awning along the northern and eastern elevations is also contemporary in nature although appears to be well integrated into the building design and does not detract from the existing pitched tiled roof above. The proposed awning would provide solar shading to the otherwise exposed windows.</p>																														

		The proposed addition at the rear of unit 1 could be considered a balcony enclosure. The proposed design and detailing of the proposed balcony enclosure could be replicated on the level below to ensure that consistency is retained. The residential flat building contains only two dwellings and therefore it is considered that any further additions could be accommodated with reasonable consistency to the proposed development and that a formal balcony enclosure strategy does not need to be developed by the owners corporation in the circumstances.																												
Dwelling entry	Yes	There are no changes proposed to the existing unit entries.																												
Roofs	Yes	There is no change proposed to the existing tiled hip and valley building roof. The proposed skillion roof over the rear balcony enclosure is a skillion which seeks to minimise the massing of the proposed addition which in turn would minimise potential overshadowing and maintain views over the addition.																												
Balconies - apartments	Acceptable	The proposed development seeks to enclose the existing rear balcony of unit 1 and would therefore remove the units existing access to private open space. The design of the proposed balcony enclosure incorporates bi-fold glazing to provide a hybrid wintergarden style space. Notwithstanding, Provision 2 of Section 1.4.13 <i>Balconies – Apartments</i> of Part B in NSDCP 2013 contemplates buildings without balconies, and requires the internal floor space to be increased to accommodate for the loss of the balcony. The proposed development would in effect maintain the existing combined floor area of the unit and balcony by providing a hybrid space that can be opened to provide fresh air that is also covered, offering protection from the elements, and when not in use as an outdoor space would increase the floor area of the living and dining area.																												
Colours and materials	Yes	The building is proposed to be finished to match the existing external finishes and utilises primarily timber framing for the proposed windows and light-coloured render to match the existing. The proposed works are contemporary and introduce some new elements such as exposed steelwork and the projecting awning, however, generally maintains the existing built form character of the building and are a reasonable addition.																												
1.5 Quality urban environment																														
Safety and security	Yes	The proposed development would not detract from the existing levels of safety and security within a low density residential area.																												
Car parking rates - Section 10.2.1	Yes	The existing building does not have any on-site parking as the site does not have access to a made road frontage which is acceptable as the carparking rates in Section 10 of Part B in NSDCP 2013 are set as a maximum only. Furthermore, the proposed alterations and additions would not increase the number of residents or demand for on-street parking and therefore the existing arrangements are acceptable.																												
Location of car parking and Vehicle Access	Yes																													
Site Coverage, Unbuilt Area and Landscaped Area	Yes	<p>The site has an area of 350sqm. The relevant site coverage, unbuilt upon area and landscape area provisions for a residential flat building are assessed in the table below. It is noted that the provisions are also the same as those for a dual occupancy, noting that the subject building benefits from existing use rights.</p> <table border="1" data-bbox="774 1612 1356 1803"> <thead> <tr> <th></th> <th>Existing</th> <th>Proposed</th> <th>Compliance</th> </tr> </thead> <tbody> <tr> <td>Site Coverage</td> <td>136.3sqm</td> <td>136.3sqm</td> <td>Unchanged,</td> </tr> <tr> <td>45%</td> <td>39%</td> <td>39%</td> <td>Yes</td> </tr> <tr> <td>Unbuilt-upon Area</td> <td>48sqm</td> <td>48sqm</td> <td>Unchanged,</td> </tr> <tr> <td>15%</td> <td>13.7%</td> <td>13.7%</td> <td>Yes</td> </tr> <tr> <td>Landscape Area</td> <td>165.7sqm</td> <td>165.7sqm</td> <td>Unchanged,</td> </tr> <tr> <td>40%</td> <td>47.34%</td> <td>47.34%</td> <td>Yes</td> </tr> </tbody> </table> <p>The proposed development does not result in any changes to the existing site coverage, unbuilt upon area or landscaped area on the site which are compliant with the relevant provisions for a residential flat building or a dual occupancy.</p>		Existing	Proposed	Compliance	Site Coverage	136.3sqm	136.3sqm	Unchanged,	45%	39%	39%	Yes	Unbuilt-upon Area	48sqm	48sqm	Unchanged,	15%	13.7%	13.7%	Yes	Landscape Area	165.7sqm	165.7sqm	Unchanged,	40%	47.34%	47.34%	Yes
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40%	47.34%	47.34%	Yes																											
Front gardens	Yes	There are no changes proposed to the existing front garden of the site which is substantially landscaped.																												
Garbage storage	Yes	There are no changes proposed to the existing garbage bin storage arrangements. There is an area located within the side setback of the building which is not overly visible from the public domain.																												

1.6 Efficient use of resources		
BASIX	Yes	A valid BASIX Certificate have been provided.

Part C - Section

The subject site is located in the **Cammeray Neighbourhood** of the **Cammeray Planning Area**.

The Cammeray Neighbour is characterised by lower density development near the foreshore and medium and higher density residential development towards the ridgelines. The proposed alterations and additions are generally consistent with the existing building form and would not be overly visible from the public domain. Slot views to the proposed works are gained from Rowlison Parade, however, as demonstrated in the site photo below, the proposed development would be consistent with the existing form of development along East Avenue which comprises three, two-three storey buildings that step down the slope of the land from the south to the north. The proposed works would not be visible from the footpath in East Avenue given they are located to the rear of the building.

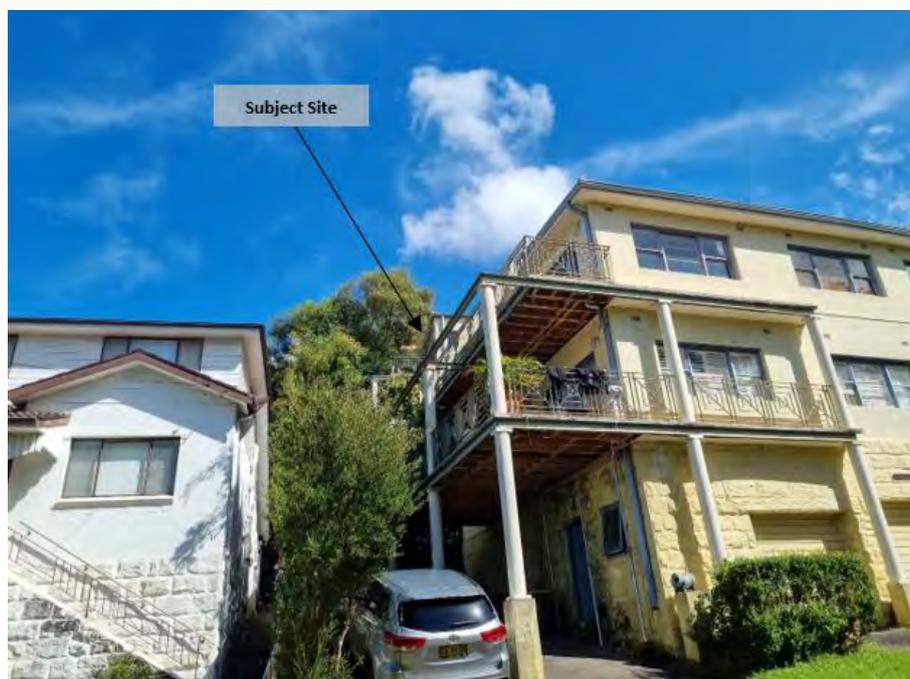


Figure 32. Site photo from Rowlison Parade

Section 4.2.3 Desired Built Form

Siting

- P1 Buildings should provide adequate separation to bushland and foreshore areas.*
- P2 Buildings should not obstruct views from neighbouring properties. This is especially important in foreshore areas or sites that enjoy water views.*
- P3 Buildings should not obstruct views and vistas from public places to the waterway.*

The proposed development maintains the existing siting of the building on the land and would not detract from bushland or foreshore areas, or obstruct views from neighbouring properties or the public domain.

Form, scale and massing

P5 Buildings on sloping land should be designed to follow the slope of the land, with minimum cut and fill to be undertaken.

The proposed development maintains the existing siting of the building and does not require any further cut or fill to be undertaken.

SECTION 7.11/12 CONTRIBUTIONS

The proposed development would not increase the number of residents within the locality as the number of dwellings on the site remains unchanged and therefore a contribution levied under section 7.11 of the Act is not required. The proposed cost of works is identified as \$496,000 requiring a contribution to be levied under section 7.12 of the Act. The levy is calculated at 1% of the cost of works, requiring a levy of \$4,960 (**Refer to condition C11**).

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL	CONSIDERED
1. Statutory Controls	Yes
2. Policy Controls	Yes
3. Design in relation to existing building and natural environment	Yes
4. Landscaping/Open Space Provision	Yes
5. Traffic generation and Carparking provision	Yes
6. Loading and Servicing facilities	Yes
7. Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8. Site Management Issues	Yes
9. All relevant s4.15(1) considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

SUBMITTERS CONCERNS

The development application was notified in accordance with Council's Community Engagement Protocol 14 January 2022 until 28 January 2022, and from 25 March 2022 until 8 April 2022 to include incorporate a larger notification area. No submissions were received.

SITE SUITABILITY

The subject site contains three existing residential flat buildings

PUBLIC INTEREST

There are no matters raised in which approval of the application would not be in the public interest.

HOW THE COMMUNITY VIEWS WERE TAKEN INTO CONSIDERATION

The development application was notified in accordance with Council's Community Engagement Protocol 14 January 2022 until 28 January 2022, and from 25 March 2022 until 8 April 2022. No submissions were received, however, the potential impact of the proposed development on the amenity of surrounding properties has been considered, additionally conditions of consent have been recommended to minimise potential construction impacts.

CONCLUSION + REASONS

The matters for consideration as outlined in section 4.15(1) of the Act have been satisfied. The proposed development involves alterations and additions to an existing residential flat building which is prohibited use within the R2 Low Density Residential zone and therefore relies on the existing use rights provisions of the Act and Regulations to alter and extend the existing use.

The proposed development exceeds the maximum permitted building height development standard by 2.88m or 33.9% and is supported by a written request to contravene the development standard pursuant to clause 4.6 in NSLEP 2013. The written request demonstrates that strict compliance with the development standard is both unreasonable and unnecessary because the proposed development would be consistent with the objectives of the height of buildings development standard, and there are sufficient environmental planning grounds to justify the variation in the circumstances. The proposed development would be in the public interest because it is consistent with the objectives of the zone and the standard to be varied.

The proposed development would improve the amenity of the existing units by renovating the existing upper level apartment, including a balcony enclosure to the rear and replacing the dilapidated rear balcony of the lower level apartment. The proposed development would not adversely impact the amenity of the surrounding properties with regard to the retention of existing views, solar access and levels of privacy. It is noted that the rear balcony enclosure would overlook surrounding properties, however, would not result in any additional overlooking in comparison to the existing balcony. The built form character of the proposed works is contemporary in nature although and is compatible with the character of the existing building and surrounding residential area.

On balance, the application is considered reasonable and is recommended for approval.

RECOMMENDATION

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the North Sydney Local Planning Panel, exercising the functions of Council, as the consent authority, assume the concurrence of the Secretary, Department of Planning, Industry and Environment and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 of NSLEP 2013 and grant consent to Development Application No. 427/2021 for alterations and additions to an existing residential flat building on land at No 4 East Avenue, Cammeray.

Michael Stephens
SENIOR ASSESSMENT OFFICER

Robyn Pearson
TEAM LEADER (ASSESSMENTS)

Stephen Beattie
MANAGER OF DEVELOPMENT SERVICES

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
4 EAST AVENUE, CAMMERAY
DEVELOPMENT APPLICATION NO. 427/21

A. Conditions that Identify Approved Plans

Development in Accordance with Plans/Documentation

- A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan Nos.	Issue	Description	Prepared by	Dated
A100	A	Site Plan	Aurora Design	30/11/2021
A120	A	Level 1 Demolition Plan		30/11/2021
A130	A	Level 2 Demolition Plan		30/11/2021
A200	A	Level 1 Floor Plan		30/11/2021
A210	A	Level 2 Floor Plan		30/11/2021
A250	A	Roof Plan		30/11/2021
A500	A	Section A-A		30/11/2021
A501	A	Section B-B		30/11/2021
A600	A	North Elevation		30/11/2021
A601	A	East Elevation		30/11/2021
A602	A	South Elevation		30/11/2021
A603	A	West Elevation		30/11/2021
A800	A	Glazing Schedule		30/11/2021

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Plans on Site

- A2. A copy of all stamped approved plans, specifications and documents (including the plans, specifications and documents submitted and approved with the Construction Certificate) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the certifying authority upon their request.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance)

No Demolition of Extra Fabric

- A3. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans.

(Reason: To ensure compliance with the approved development)

External Finishes and Materials

- A4. External finishes and materials must be in accordance with the submitted schedule indicated on each relevant drawing referenced in Condition A1 unless otherwise modified by Council in writing.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

B. *Matters to be Completed before the lodgement of an Application for a Construction Certificate*

Construction and Traffic Management Plan (Major DAs and sites with difficult access)

- B1. Prior to issue of any Construction Certificate, a Construction and Traffic Management Plan must be prepared. The following matters must be specifically addressed in this Plan:

- a) A plan view (min 1:100 scale) of the entire site and frontage roadways indicating:
- i. Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways;
 - ii. Signage type and location to manage pedestrians in the vicinity;
 - iii. The locations of any proposed Work Zones in the frontage roadways;
 - iv. Locations and type of any hoardings proposed;
 - v. Area of site sheds and the like;
 - vi. Location of any proposed crane standing areas;
 - vii. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
 - viii. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected; and
 - ix. The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.
- b) A Traffic Control Plan(s) for the site incorporating the following:
- i. Traffic control measures proposed in the road reserve that are in accordance with the RMS publication "Traffic Control Worksite Manual" and designed by a person licensed to do so (minimum RMS 'red card' qualification).

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- ii. The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.

- c) A detailed description and map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided detailing light traffic roads and those subject to a load or height limit must be avoided at all times.

A copy of this route is to be made available to all contractors and must be clearly depicted at a location within the site.

- d) A Waste Management Plan in accordance with the provisions of Part B Section 19 of the North Sydney DCP 2013 must be provided. The Waste Management Plan must include, but not be limited to, the estimated volume of waste and method of disposal for the construction and operation phases of the development, design of on-site waste storage and recycling area and administrative arrangements for waste and recycling management during the construction process

- (e) Evidence of RMS concurrence where construction access is provided directly or within 20 m of an Arterial and/or Classified Road;

- (f) A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements; and

- (g) For those construction personnel that drive to the site, the Site Manager shall attempt to provide on-site parking so that their personnel's vehicles do not impact on the current parking demand in the area.

A suitably qualified and experienced traffic engineer or consultant must prepare the Construction and Traffic Management Plan.

As this plan has a direct impact on the local road network, it must be submitted to and reviewed by Council prior to the issue of any Construction Certificate. A certificate of compliance with this condition from Council's Development Engineers as to the result of this review must be obtained and must be submitted as part of the supporting documentation lodged with the Certifying Authority for approval of the application for a Construction Certificate.

The construction management measures contained in the approved Construction and Traffic Management Plan must be implemented prior to the commencement of, and during, works on-site.

All works must be undertaken in accordance with the approved Construction and Traffic Management Plan.

A copy of the approved Construction and Traffic Management Plan must be kept on the site at all times and be made available to any officer of the Council on request.

Notes:

- 1) North Sydney Council's adopted fee for certification of compliance with this condition must be paid upon lodgement, or in any event, prior to the issue of the relevant approval.
- 2) Any use of Council property will require appropriate approvals and demonstration of liability insurances prior to such work commencing.
- 3) Failure to provide complete and detailed information may result in delays. It is recommended that your Construction and Traffic Management Plan be lodged with Council as early as possible.
- 4) Dependent on the circumstances of the site, Council may request additional information to that detailed in the condition above.

(Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the demolition and construction process in a manner that respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community)

C. *Prior to the Issue of a Construction Certificate (and ongoing, where indicated)*

Dilapidation Report Damage to Public Infrastructure

- C1. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The developer may be held liable for all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition.

The developer shall bear the cost of carrying out works to restore all public infrastructure damaged as a result of the carrying out of the development, and no occupation of the development shall occur until damage caused as a result of the carrying out of the development is rectified.

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A copy of the dilapidation survey and report must be lodged with North Sydney Council by the Certifying Authority with submission of the Construction Certificate documentation.

(Reason: To record the condition of public infrastructure prior to the commencement of construction)

Structural Adequacy of Existing Building

- C2. A report prepared by an appropriately qualified and 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 shall be submitted to the Certifying Authority for approval prior to issue of any Construction Certificate. The certified report must also include all details of the methodology to be employed in construction phases to achieve the above requirements. The methodology in the certified report must be complied with at all times.

(Reason: To ensure the structural integrity of the building is maintained)

Waste Management Plan

- C3. A Waste Management Plan is to be submitted for approval by the Certifying Authority prior to the issue of any Construction Certificate. The plan must include, but not be limited to:
- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
 - b) The design of the on-site waste storage and recycling area; and
 - c) Administrative arrangements for waste and recycling management during the construction process.

The approved Waste Management Plan must be complied with at all times in the carrying out of the development.

(Reason: To encourage the minimisation of waste and recycling of building waste)

Work Zone

- C4. If a Work Zone is proposed, an application must be made to the North Sydney Local Traffic Committee to install the 'Work Zone'. A Work Zone permit is required to be issued by the Council prior to the issue of any Construction Certificate.

Work Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Work Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Work Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the North Sydney Local Traffic Committee and submit a copy of this to the Certifying Authority to enable issue of the Construction Certificate.

Where approval of the 'Work Zone' is given by the Committee, the requirements of the Committee, including installation of the necessary 'Work Zone' signage and payment of any fees, must occur prior to commencement of any works on the site. Further, at the expiration of the Work Zone approval, the developer is required to remove the Work Zone signs and reinstate any previous signs, all at the developer's cost. The requirements imposed by the Committee on the Work Zone permit (or permits) must be complied with at all times.

(Reason: Amenity and convenience during construction)

Stormwater Disposal

- C5. Stormwater runoff generated by the approved development must be conveyed by gravity to the existing site stormwater drainage disposal system. A licensed tradesman shall install plumbing components to achieve this requirement in accordance with the BCA and current plumbing standards and guidelines. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure appropriate provision for disposal and stormwater management arising from the development)

Bond for Damage and Completion of Infrastructure Works - Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement

- C6. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$3,000.00 to be held by Council for the payment of cost for any/all of the following:
- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
 - b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with this consent.

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- c) remedying any defects in any such public work that arise within six months after the work is completed.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of six months from the issue of any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Engineers.

Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following:

- where the damage constitutes a hazard in which case Council may make use of the security immediately;
- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and
- the Certifying Authority must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure)

Upgrade of existing building - Fire Spread and Safe Egress

- C7. Pursuant to clause 94 of the EP&A Regulation 2000, aspects of the existing building must be brought into conformity with the Building Code of Australia (BCA).

Work must be carried out as part of the development so as to upgrade the building to bring it into compliance with the following provisions of the BCA:

- (a) Sections C, D & E of the NCC BCA 2019, Volume 1, Amdt 1

Plans and specifications showing the upgrading works which must be carried out under this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

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Notes:

1. The Certifying Authority must be satisfied that the plans and specifications submitted prior to the issue of any Construction Certificate comply with the requirements of this condition.
2. The Certifying Authority issuing the Construction Certificate has no power to remove the requirements to upgrade the existing building as required by this condition.
3. Where this condition specifies compliance with the performance requirements of the BCA, the Certifying Authority, subject to their level of accreditation, may be satisfied as to such matters.

(Reason: Application of Regulations relating to Fire and Life Safety)

Tree Bond for Public Trees

- C8. Prior to the issue of any construction certificate, security in the sum of \$15,000.00 must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate but only upon inspection and release by Council's Landscape Development Officer.

If any tree is removed or damaged Council may deduct from this security the reasonable cost of replacement with a tree of the same species and to a similar stage of growth it would have attained at the completion of the work.

In the case of any tree, which cannot be replaced with a similar specimen, the security for that tree will be forfeited to Council and used to provide replacement street plantings.

SCHEDULE

All trees within East Avenue Reserve

(Reason: Protection of existing environment public infrastructure, community assets and significant trees)

Protection of Trees

- C9. All tree(s) on the subject site are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Any tree(s) shown as being retained on the approved plans must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

Asbestos & Hazardous Material Survey

- C10. A report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

- a) the removal of asbestos must be undertaken by a WorkCover licensed contractor;
- b) all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- d) Waste disposal receipts must be provided to the Certifying Authority as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the report, and other plans, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the long-term health of workers on site and occupants of the building is not put at risk unnecessarily)

Section 7.12 Contributions

- C11. A monetary contribution pursuant to the provisions of Section 7.12 of the Environmental Planning and Assessment Act 1979 is to be paid to Council, in accordance with the North Sydney Council's Contribution Plan, to provide for local infrastructure improvements.

Based on the cost of development at the date of determination, the total contribution payable to Council is \$4,960.00.

Indexation

The monetary contribution required under this consent will be indexed at the time of payment in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

Timing of Payment

The contribution must be paid to Council prior to issue of any Construction Certificate for any work approved by this consent.

A copy of the North Sydney Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at www.northsydney.nsw.gov.au.

(Reason: To provide for local infrastructure identified in the North Sydney Council Local Contributions Plan 2020)

Security Deposit/Guarantee Schedule

- C12. All fees and security deposits/guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security Deposit/Guarantee	Amount (\$)
Street Tree Bond (on Council Property)	\$15,000.00
Footpath Damage Bond	\$3,000.00
TOTAL BONDS	\$18,000.00

Note: The following fees applicable

Fees	
Section 7.12 Contributions	\$4,960.00
TOTAL FEES	\$4,960.00

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

BASIX Certificate

C13. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. A441201, dated 3 December 2021 for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

D. Prior to the Commencement of any Works (and continuing where indicated)

Public Liability Insurance - Works on Public Land

D1. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy is to note and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.

(Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land)

Asbestos Material Survey

D2. Prior to the commencement of any works, a report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

- a) the removal of asbestos must be undertaken by a WorkCover licensed contractor;
- b) all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- d) Waste disposal receipts must be provided to the Certifying Authority as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the report, and other plans, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the long-term health of workers on site and occupants of the building is not put at risk unnecessarily)

Commencement of Works' Notice

- D3. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two days' notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

(Reason: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

E. During Demolition and Building Work

Parking Restrictions

- E1. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Developer will be held responsible for any breaches of this condition and will incur any fines associated with enforcement by Council regulatory officers.

(Reason: To ensure that existing kerbside parking provisions are not compromised during works)

Road Reserve Safety

- E2. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site.

Where public infrastructure is damaged, repair works must be carried out in when and as directed by Council officers (at full Developer cost). Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

(Reason: Public Safety)

Temporary Disposal of Stormwater Runoff

- E3. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to reasonably manage and control runoff as far as the approved point of stormwater discharge. Such ongoing measures must be to the satisfaction of the Certifying Authority.

(Reason: Stormwater control during construction)

Progress Survey

- E4. In order to ensure compliance with approved plans, a Survey Certificate, to Australian Height Datum, must be prepared by a Registered Surveyor as follows:
- a) at the completed height of the building, prior to the placement of concrete form work, or the laying of roofing materials; and
 - b) at completion, the relationship of the building, and any projections thereto, to the boundaries.

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Progress certifications in response to points (a) through (c) must be provided to the Certifying Authority for approval at the time of carrying out relevant progress inspections. In the event that such survey information is not provided or reveals discrepancies between the approved plans and the proposed works, all works, save for works necessary to bring the development into compliance with the approved plans, must cease. Works may only continue upon notification by the Certifying Authority to the Applicant that survey information (included updated survey information following the carrying out of works to comply with the approved plans) complies with this condition.

(Reason: To ensure compliance with approved plans)

Removal of Extra Fabric

- E5. Should any portion of the existing building, trees, or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification of the damage is to be given to Council forthwith. No work is to resume until the written approval of Council to do so is obtained. Failure to comply with the provisions of this condition may result in the Council taking further action including legal proceedings if necessary.

(Reason: To ensure compliance with the terms of this development consent)

Dust Emission and Air Quality

- E6. The following must be complied with at all times:
- (a) Materials must not be burnt on the site.
 - (b) Vehicles entering and leaving the site with soil or fill material must be covered.
 - (c) Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction.
 - (d) Odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

Noise and Vibration

- E7. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

Compliance with Construction Noise Management Plan

E8. All works conducted on site which form part of this development must be carried out in accordance with the submitted Construction Noise Management Plan submitted with the Construction Certificate and all conditions of consent.

(Reason: To ensure noise generating activities are appropriately managed and nearby sensitive receivers protected)

No Work on Public Open Space

E9. No work can be undertaken within adjoining public lands (i.e., Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the developer is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

(Reason: Protection of existing public infrastructure and land and to ensure public safety and proper management of public land)

No Removal of Trees on Public Property

E10. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

(Reason: Protection of existing environmental infrastructure and community assets)

Protection of Trees

E11. All trees required to be retained, as part of this consent must be protected from any damage during construction works in accordance with AS4970-2009.

In the event that any tree required to be retained is damaged during works on the site, notice of the damage must be given to Council forthwith.

Notes:

- a. If the nominated tree is damaged to a significant degree or removed from the site without prior written approval being obtained from Council, the issuing of fines or legal proceedings may be commenced for failure to comply with the conditions of this consent.

- b. An application to modify this consent pursuant to Section 4.55 of the Environmental Planning and Assessment Act 1979 will be required to address the non-compliance with any of the conditions of consent relating to the retention of nominated trees, and Council may require tree replenishment.

(Reason: Protection of existing environmental infrastructure and community assets)

Special Permits

- E12. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development must occur entirely on the property.

The developer, owner or builder may apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property. In the event that a permit is granted by Council for the carrying out of works, processes, storage of materials, loading and unloading associated with the development on Council's property, the development must be carried out in accordance with the requirements of the permit. A minimum of forty-eight (48) hours' notice is required for any permit:

1) **On-street mobile plant**

E.g., cranes, concrete pumps, cherry-pickers, etc. - restrictions apply to the hours of operation, the area of operation, etc. Separate permits are required for each occasion and each piece of equipment. It is the developer's, owner's and builder's responsibilities to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

(Reason: Proper management of public land)

2) **Hoardings**

Permits are required to erect Class A and Class B hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

(Reason: Proper management of public land)

3) **Storage of building materials and building waste containers (skips) on Council's property**

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given. Storage of building materials and waste containers on open space reserves and parks is prohibited.

(Reason: Proper management of public land)

4) **Kerbside restrictions, construction zones**

Attention is drawn to the existing kerbside restrictions adjacent to the development. Should alteration of existing kerbside restrictions be required, or the provision of a construction zone, the appropriate application must be made and the fee paid to Council. Alternatives to such restrictions may require referral to Council's Traffic Committee and may take considerable time to be resolved. An earlier application is suggested to avoid delays in construction programs.

(Reason: Proper management of public land)

Construction Hours

E13. Construction activities and works approved under this consent must be carried out only within the hours stipulated in the following table:

Standard Construction Hours		
Location	Day	Hours
All Other Zones	Monday - Friday	7.00 am - 5.00 pm
	Saturday	8.00 am - 1.00 pm
	Sunday, Public holiday	No work permitted

Construction activities for development approved under this consent must be carried out in accordance with the standard construction hours above and any Construction Noise Management Plan required under this consent.

In the event of breach to the approved hours of construction Council take may take enforcement action under Part 9 of the EP&A Act 1979 and in accordance with Council's adopted Compliance and Enforcement Policy.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

Installation and Maintenance of Sediment Control

- E14. Erosion and sediment controls must be installed and maintained at all times in accordance with the Sediment and erosion control plan submitted and approved with the Construction Certificate.

Erosion and sediment measures must be maintained in accordance with the publication Managing Urban Stormwater: Soils and Construction (4th edition, Landcom, 2004), commonly referred to as the "Blue Book" and can only be removed when development activities have been completed and the site fully stabilised.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Sediment and Erosion Control Signage

- E15. A durable sign must be erected during building works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained. A sign of the type referred to in this condition is available from Council.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Site Amenities and Facilities

- E16. Where work involved in the erection and demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements, must be provided and maintained at all times. The type of workplace determines the type of amenities required.

Further information and details can be obtained from the Internet at www.workcover.nsw.gov.au.

(Reason: To ensure the health and safety of the community and workers on the site)

Health and Safety

- E17. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site and provide a contact telephone number for enquiries.

Further information and details regarding occupational health and safety requirements for construction sites can be obtained from the internet at www.workcover.nsw.gov.au.

(Reason: To ensure the health and safety of the community and workers on the site)

Prohibition on Use of Pavements

- E18. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

(Reason: To ensure public safety and amenity on public land)

Plant and Equipment Kept Within Site

- E19. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

Details of Council requirements for permits on public land for standing plant, hoardings, storage of materials and construction zones and the like are available on Council's website at www.northsydney.nsw.gov.au.

(Reason: To ensure public safety and amenity on public land)

Waste Disposal

- E20. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

(Reason: To ensure the lawful disposal of construction and demolition waste)

Asbestos Removal

- E21. All demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with National Occupational Health and Safety Commission.

(Reason: To ensure works are carried out in accordance with relevant WorkCover requirements)

F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation

National Construction Code

F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

Home Building Act

F2. 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) for which the *Home Building Act 1989* requires there to be a contract of insurance under Part 6 of that Act must not be carried out unless the Principal Certifying Authority for the development to which the work relates has given North Sydney Council written notice of the contract of insurance being issued and of the following:

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, or

(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.

2) If arrangements for doing residential building work are changed while the work is in progress such that the information submitted to Council in accordance with this conditions is out of date, work must cease and no further work may be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

(Reason: Prescribed - Statutory)

Appointment of a Principal Certifying Authority (PCA)

- F3. Building work, demolition or excavation in accordance with the development consent must not be commenced until the developer has appointed a Principal Certifying Authority for the building work in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Construction Certificate

- F4. Building work, demolition or excavation in accordance with the development consent must not be commenced until a Construction Certificate for the relevant part of the building work has been issued in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Occupation Certificate

- F5. A person must not commence occupation or use of the whole or any part of a new building (*new building* includes an altered portion of, or an extension to, an existing building) unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifying Authority appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

Mandatory Critical Stage Inspections

- F6. Building work must be inspected by the Principal Certifying Authority on the critical stage occasions prescribed by the EP&A Act and its Regulations, and as directed by the appointed Principal Certifying Authority.

(Reason: Statutory)

Demolition

- F7. Demolition work must be undertaken in accordance with the provisions of AS2601-Demolition of Structures.

(Reason: To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage)

Protection of Public Places

- F8. 1) A hoarding and site fencing must be erected between the work site and adjoining public place.
- 2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- 3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 4) Any such hoarding, fence or awning is to be removed when the work has been completed.
- 5) No access across public reserves or parks is permitted.

Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained. Any application needs to be accompanied by plans indicating the type of hoarding and its layout. Fees are assessed and will form part of any approval given. These fees must be paid prior to the approval being given. Approval for hoardings will generally only be given in association with approved building works, maintenance or to ensure protection of the public. An application form for a Hoarding Permit can be downloaded from Council's website.

(Reason: To ensure public safety and the proper management of public land)

Site Sign

- F9. 1) A sign must be erected in a prominent position on the site
- a) stating that unauthorised entry to the work site is prohibited;
- b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
- c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2) Any such sign must be maintained while to building work or demolition work is being carried out but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

G. Prior to the Issue of an Occupation Certificate**Infrastructure Repair and Completion of Works**

- G1. Prior to the issue of any Occupation Certificate any and all works relating to the development:
- a. in the road reserve must be fully completed; and
 - b. to repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) must be fully repaired;

to the satisfaction of Council Engineers at no cost to Council.

(Reason: Maintain quality of public assets)

Damage to Adjoining Properties

- G2. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

(Reason: To ensure adjoining owner's property rights are protected)

Asbestos Clearance Certificate

- G3. For building works where asbestos based products have been removed or altered, an asbestos clearance certificate signed by an appropriately qualified person (being an Occupational Hygienist or Environmental Consultant) must be submitted to and approved by the Certifying Authority (and a copy forwarded to Council if it is not the Certifying Authority) for the building work prior to the issue of any Occupation Certificate, the asbestos clearance certificate must certify the following:

- a) the building/land is free of asbestos; or
- b) the building/land has asbestos that is presently deemed safe.

The certificate must also be accompanied by tipping receipts, which detail that all asbestos waste has been disposed of at an approved asbestos waste disposal depot. If asbestos is retained on site the certificate must identify the type, location, use, condition and amount of such material.

Note: Further details of licensed asbestos waste disposal facilities can be obtained from www.epa.nsw.gov.au.

(Reason: To ensure that building works involving asbestos based products are safe for occupation and will pose no health risks to occupants)

BASIX Completion Certificate

- G4. In accordance with Clause 154C of the Environmental Planning and Assessment Regulation 2000, prior to issuing a final occupation certificate the Certifying Authority must apply to the Director-General for a BASIX completion receipt.

(Reason: To ensure compliance with the specified BASIX Certificate)

DRAWING LIST

- A000 COVER PAGE + GENERAL NOTES
- A050 SITE ACCESS
- A060 SITE ANALYSIS
- A070 PHOTOGRAPHIC ANALYSIS

- A100 SITE PLAN
- A110 EXISTING BUILDING FLOOR PLANS
- A120 LEVEL 1 DEMOLITION FLOOR PLAN
- A130 LEVEL 2 DEMOLITION PLAN
- A200 LEVEL 1 FLOOR PLAN
- A210 LEVEL 2 FLOOR PLAN
- A220 ROOF PLAN

- A500 SECTION A-A
- A510 SECTION B-B

- A600 NORTH ELEVATION
- A601 EAST ELEVATION
- A602 SOUTH ELEVATION
- A603 WEST ELEVATION

- A800 GLAZING SCHEDULE

- A990 SHADOW PLAN: JUNE 21, 9AM
- A991 SHADOW PLAN: JUNE 21, 12PM
- A992 SHADOW PLAN: JUNE 21, 3PM

ARTIST'S IMPRESSION

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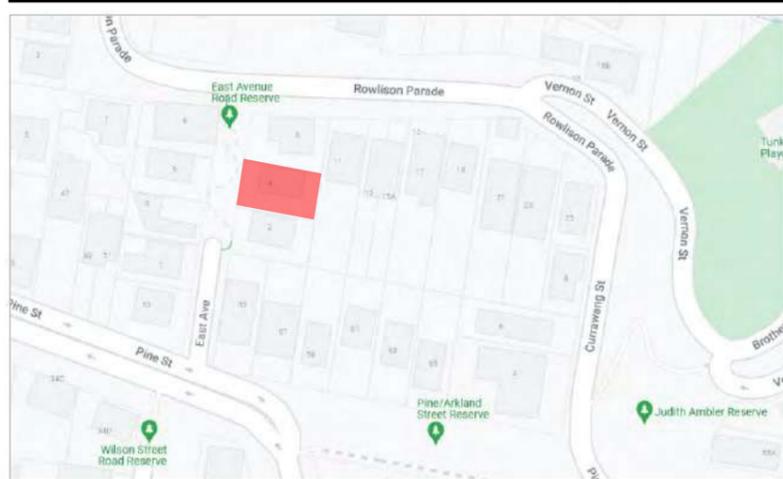


4 EAST AVENUE, CAMMERAY

RESIDENTIAL APARTMENTS ALTERATIONS + ADDITIONS

SP 50406 LOT 2

LOCATION MAP



GENERAL NOTES

THESE NOTES ARE APPLICABLE TO ALL DOCUMENTS IN THIS CONTRACT UNLESS NOTED OTHERWISE. THESE DRAWINGS HAVE BEEN PREPARED USING SURVEY & SITE INFORMATION PROVIDED BY CLIENT.

ROOF WATER & SUB-SOIL STORMWATER DRAINAGE FOR PROPOSED WORKS IS TO BE DRAINED AS PER ENGINEER'S DETAILS, UNLESS DIRECTED OTHERWISE BY LOCAL COUNCIL.

DO NOT SCALE FROM THESE DRAWINGS. ALL DIMENSIONS TO BE CHECKED & CONFIRMED ON SITE DURING THE SETTING OUT OF THE WORKS, PRIOR TO CONSTRUCTION. FIGURED DIMENSIONS ONLY TO BE USED.

ALL DIMENSIONS THAT RELATE TO SITE BOUNDARIES, SETBACKS & EASEMENTS ARE SUBJECT TO VERIFICATION BY A SITE SURVEY.

THESE DRAWINGS ARE NOT TO BE USED FOR ANY OTHER PURPOSE OTHER THAN ISSUED, WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT.

ALL WORKS TO BE CARRIED OUT IN STRICT ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, LOCAL BUILDING REGULATIONS AND OTHER STATUTORY BODIES REQUIREMENTS.

PROVIDE PROTECTION / TEMPORARY STORAGE FOR ALL EXISTING ITEMS, FINISHES & FEATURES TO BE RETAINED. REPAIR & MAKE GOOD ANY SUCH FINISHES & FEATURES DAMAGED BY THE PROPOSED WORKS.

REFER TO ENGINEER'S DOCUMENTATION FOR ALL SERVICES WORKS. ALL STRUCTURAL DESIGN AND DEMOLITION WORKS ARE TO BE VERIFIED BY STRUCTURAL ENGINEER.

ANY ITEMS NOT SHOWN IN EITHER DRAWINGS OR SPECIFICATIONS BUT IS NECESSARY FOR PROPER BUILDING CONSTRUCTION AND/OR FINISH SHALL BE REGARDED AS PART OF THIS CONTRACT AND CARRIED OUT BY RELEVANT CONTRACTORS.

LEGEND

A/C	AIR CONDITIONER	TYP.	DENOTES "TYPICAL"
COS	CONFIRM ON SITE	(S)	CEILING MOUNTED SMOKE DETECTOR
DP	DOWNPIPE	ℓ	CEILING LINE
EQ.	DENOTES "EQUAL"	-----	EXISTING STRUCTURES & ITEMS TO BE DEMOLISHED
FG	FIXED GLASS PANEL	█	EXISTING WALLS TO BE RETAINED
FW	FLOOR WASTE	(DG XX)	DOOR NUMBER
LND.	LAUNDRY	(W XX)	WINDOW NUMBER
OB	TRANSLUCENT GLAZING	[F##]	FINISH REFERENCE TAG
O/F	GUTTER OVERFLOW		
O/H	OVERHANG		
R	REFRIGERATOR		
RWH	RAIN WATER HEAD		
SC	STEEL COLUMN TO ENGINEER'S DETAIL		

COVER PAGE + GENERAL NOTES

PROJECT:
RESIDENTIAL APARTMENTS ALTERATIONS & ADDITIONS
 4 EAST AVENUE, CAMMERAY NSW 2062
 SP50406, LOT 2

CLIENT:
Paddy Bergin & Jon Nicholls

DEVELOPMENT APPLICATION

	A DEVELOPMENT APPLICATION	30.11.21
REVISION	DESCRIPTION	DATE

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PROJECT No.: 21-021		
DATE: JUNE 2021		

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- VEHICULAR ACCESS
- PEDESTRIAN ACCESS



PROJECT:
RESIDENTIAL APARTMENTS ALTERATIONS & ADDITIONS
4 EAST AVENUE, CAMMERAY NSW 2062
SP50406, LOT 2

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SITE ACCESS

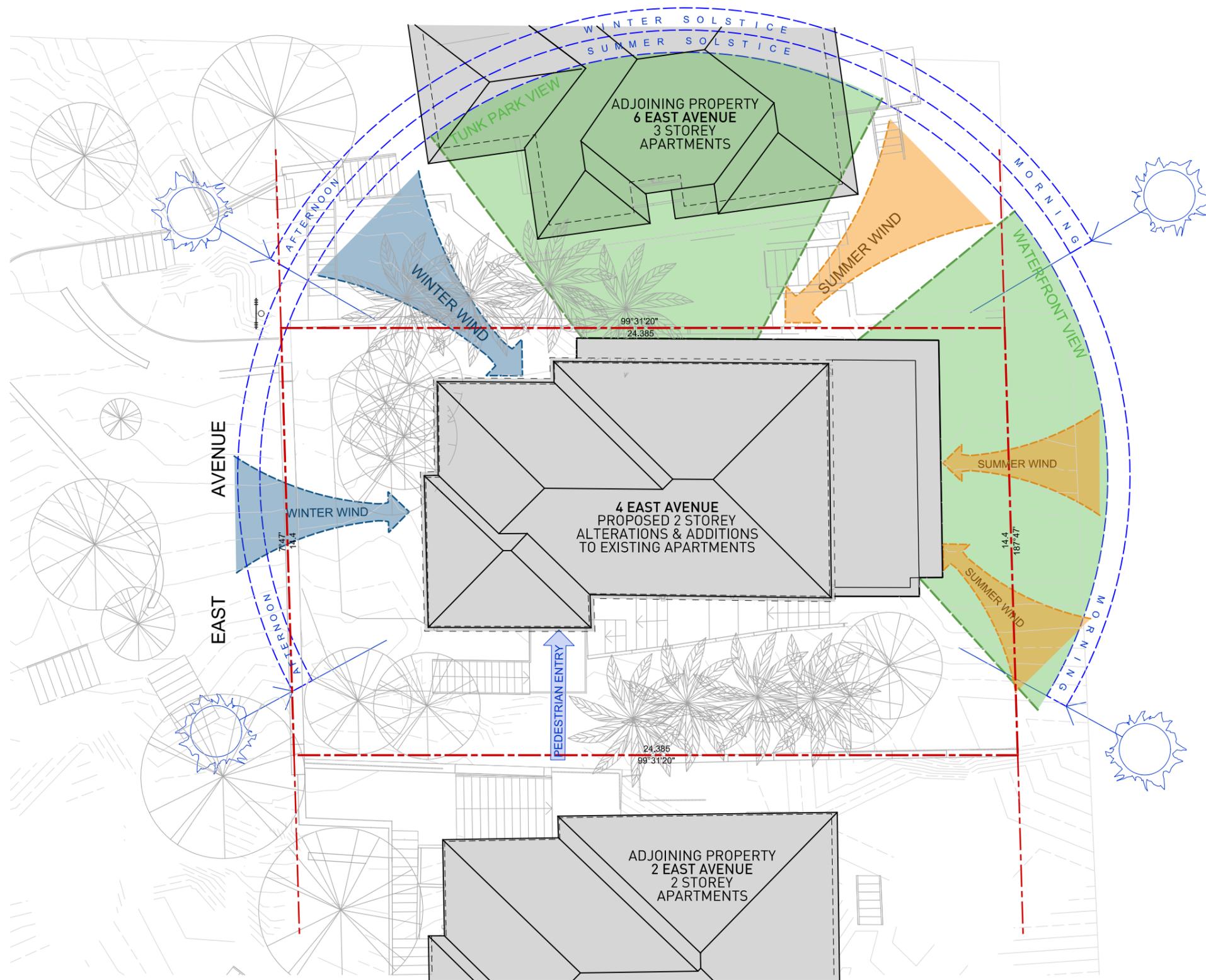
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PROJECT No.:	21-021	A050	A
DATE:	JUNE 2021		

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PROJECT:
RESIDENTIAL APARTMENTS ALTERATIONS & ADDITIONS
 4 EAST AVENUE, CAMMERAY NSW 2062
 SP50406, LOT 2

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Paddy Bergin & Jon Nicholls

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SITE ANALYSIS

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DRAWING No.: **A060**
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PHOTOGRAPHIC ANALYSIS

PROJECT:
RESIDENTIAL APARTMENTS ALTERATIONS & ADDITIONS
 4 EAST AVENUE, CAMMERAY NSW 2062
 SP50406, LOT 2

CLIENT:
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DEVELOPMENT APPLICATION



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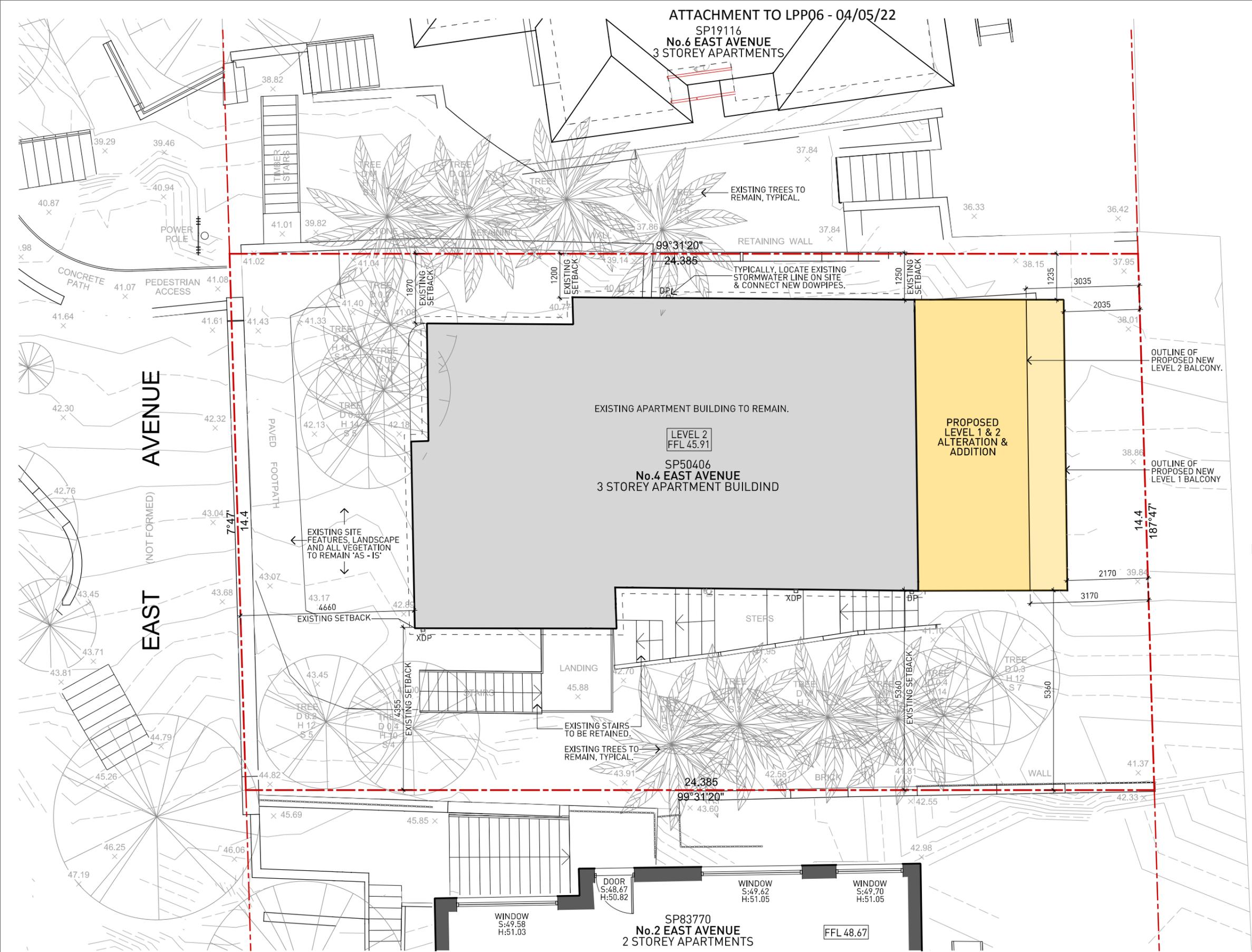


NOTES

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LEGEND

- EXISTING SPACES & STRUCTURES TO BE RETAINED.
- PROPOSED ALTERATIONS & ADDITIONS



EAST AVENUE (NOT FORMED)

23 DP 666678

PROJECT:
RESIDENTIAL APARTMENTS ALTERATIONS & ADDITIONS
 4 EAST AVENUE, CAMMERAY NSW 2062
 SP50406, LOT 2

CLIENT:
Paddy Bergin & Jon Nicholls

DEVELOPMENT APPLICATION



REVISION	DESCRIPTION	DATE
A	DEVELOPMENT APPLICATION	30.11.21

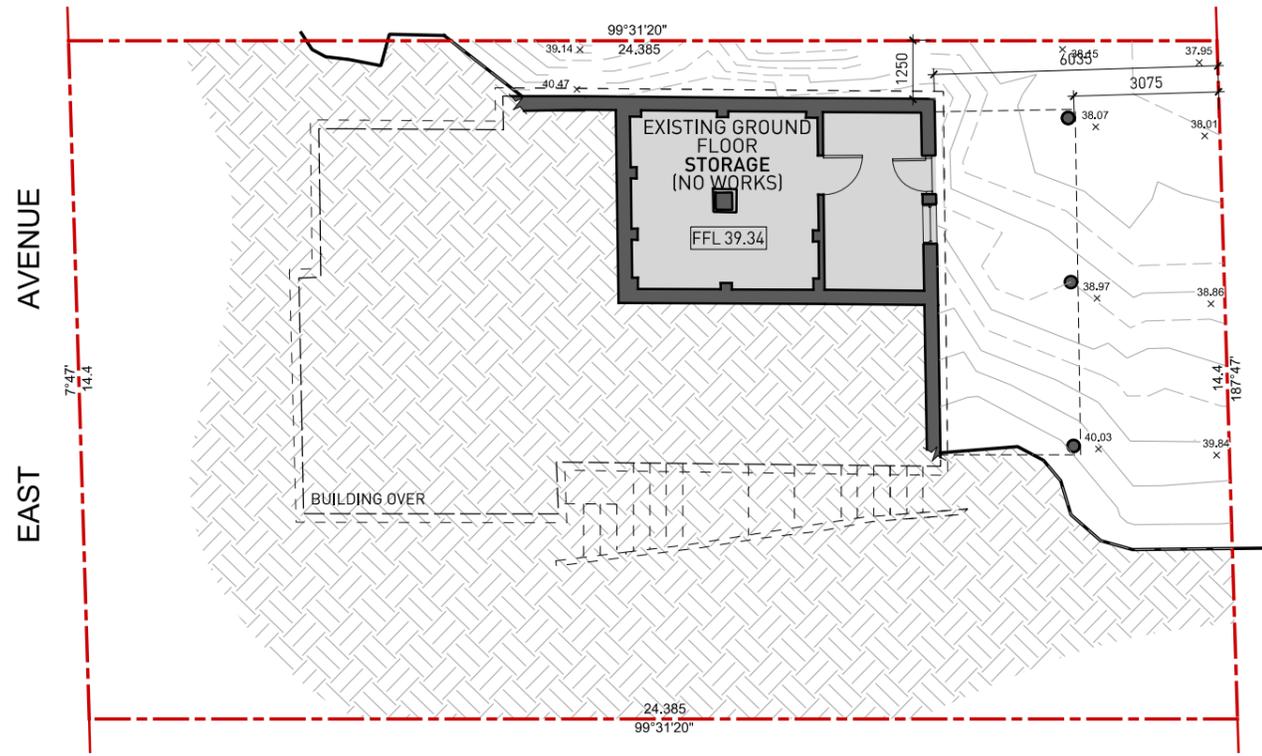
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SITE PLAN

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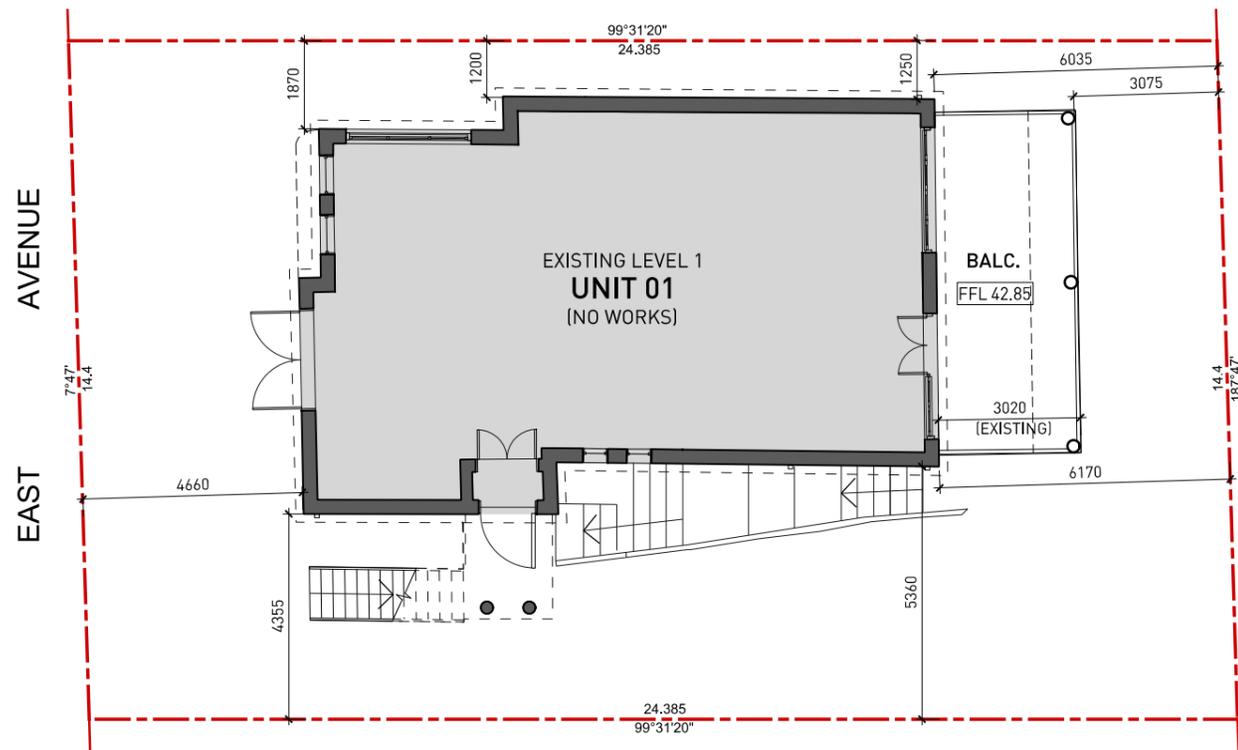


01 EXISTING GROUND FLOOR PLAN
 SCALE 1:150

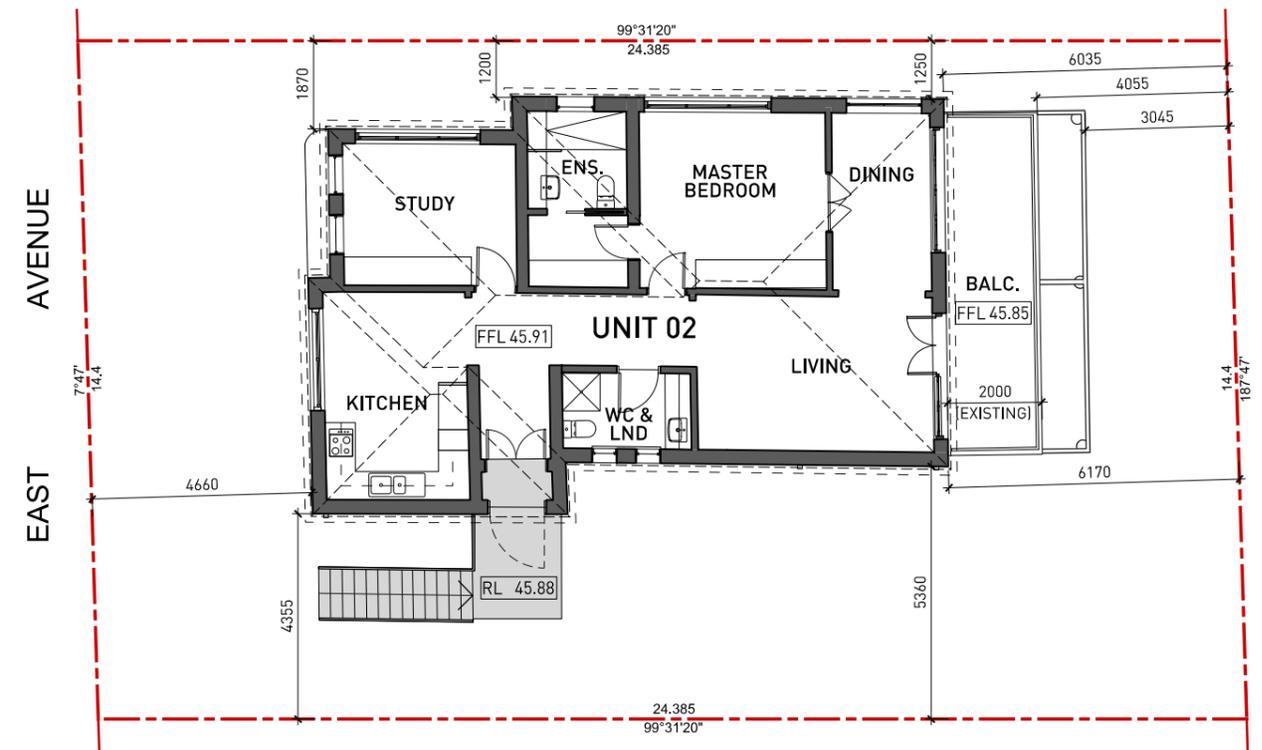
Fixtures and systems	Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
Lighting			
The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.		✓	✓
Fixtures			
The applicant must ensure new or altered showerheads have a flow rate no greater than 9 litres per minute or a 3 star water rating.		✓	✓
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.		✓	✓
The applicant must ensure new or altered taps have a flow rate no greater than 9 litres per minute or minimum 3 star water rating.		✓	✓

NOTES
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Construction	Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
Insulation requirements			
The applicant must construct the new or altered construction (floor(s), 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 2m ² , b) insulation specified is not required for parts of altered construction where insulation already exists.	✓	✓	✓
Construction			
external wall: cavity brick			
Additional insulation required (R-value)	nil		
Other specifications			
flat ceiling, flat roof: framed			
Additional insulation required (R-value)	ceiling: R1.58 (up), roof: foil backed blanket (55 mm)		
Other specifications	medium (solar absorbance 0.475 - 0.70)		



02 EXISTING LEVEL 1 (UNIT 01) FLOOR PLAN
 SCALE 1:150



03 EXISTING LEVEL 2 (UNIT 02) FLOOR PLAN
 SCALE 1:150

PROJECT:
RESIDENTIAL APARTMENTS ALTERATIONS & ADDITIONS
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DEVELOPMENT APPLICATION



REVISION	DESCRIPTION	DATE
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EXISTING FLOOR PLANS

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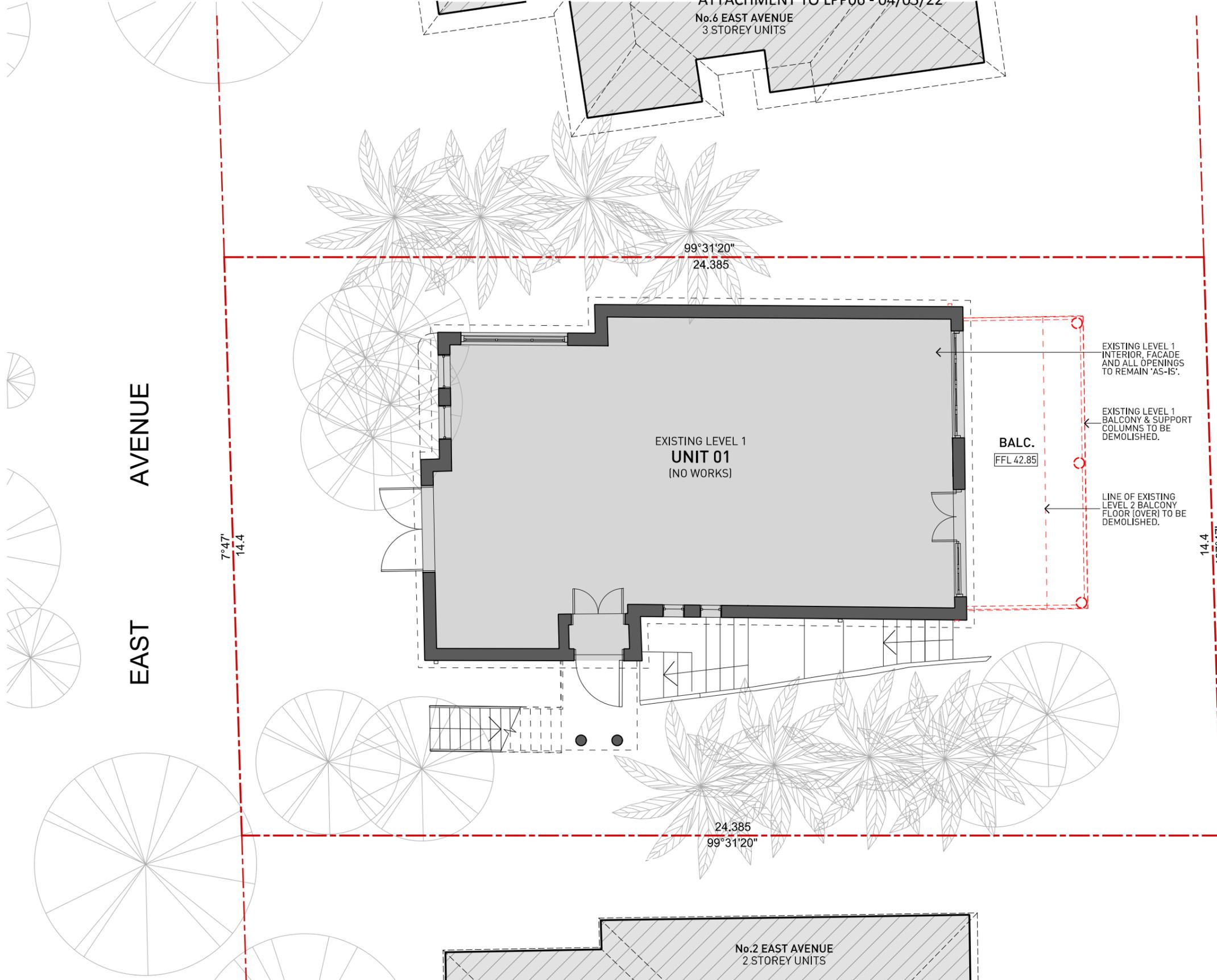
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 REVISION: **A**

NOTES

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LEGEND

- COS CONFIRM ON SITE
- DP DOWNPIPE
- EQ. DENOTES "EQUAL"
- FG FIXED GLASS PANEL
- FW FLOOR WASTE
- LND LAUNDRY
- OB OBSCURE / TRANSLUCENT GLAZING
- RB BUILT IN ROBE
- RWH RAIN WATER HEAD
- SC STEEL COLUMN TO STRUCTURAL ENGINEER'S DETAIL
- TYP. DENOTES "TYPICAL"
- XDP EXISTING DOWNPIPE
- ☒ CENTRELINE
- Ⓢ SMOKE DETECTOR
- [F##] FINISH REFERENCE TAG
- - - - - ITEMS TO BE DEMOLISHED



EAST AVENUE

LEVEL 1 DEMOLITION PLAN

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PROJECT No.: 21-021 **A120** **A**
DATE: JUNE 2021

PROJECT:
RESIDENTIAL APARTMENTS ALTERATIONS & ADDITIONS
4 EAST AVENUE, CAMMERAY NSW 2062
SP50406, LOT 2

CLIENT:
Paddy Bergin & Jon Nicholls

DEVELOPMENT APPLICATION



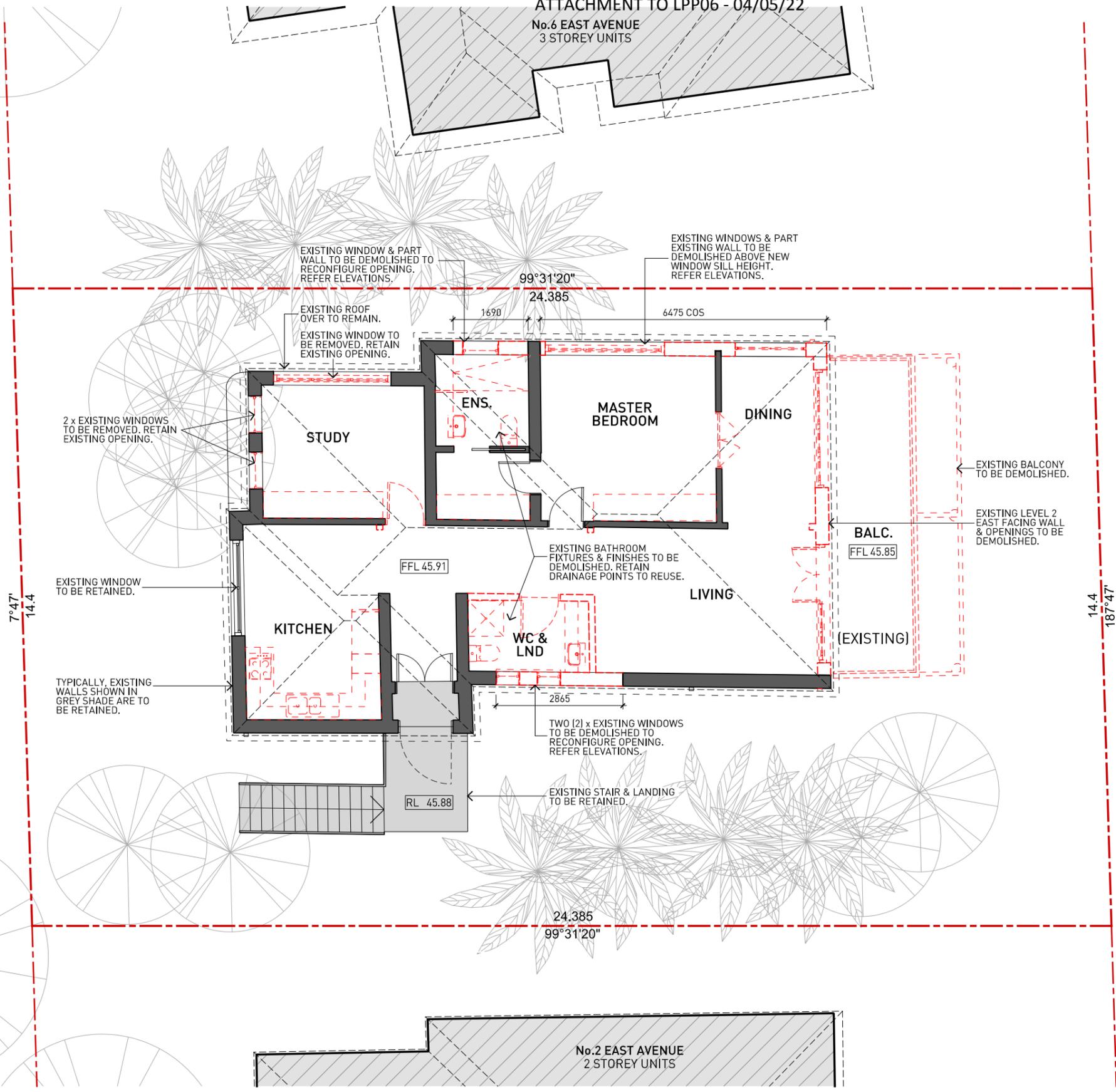
REVISION	DESCRIPTION	DATE
A	DEVELOPMENT APPLICATION	30.11.21

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- LEGEND**
- COS CONFIRM ON SITE
 - DP DOWNPIPE
 - EQ. DENOTES "EQUAL"
 - FG FIXED GLASS PANEL
 - FW FLOOR WASTE
 - LND LAUNDRY
 - OB OBSCURE / TRANSLUCENT GLAZING
 - RB BUILT IN ROBE
 - RWH RAIN WATER HEAD
 - SC STEEL COLUMN TO STRUCTURAL ENGINEER'S DETAIL
 - TYP. DENOTES "TYPICAL"
 - XDP EXISTING DOWNPIPE
 - ☉ CENTRELINE
 - ☉ SMOKE DETECTOR
 - F## FINISH REFERENCE TAG
 - - - - - ITEMS TO BE DEMOLISHED

AVENUE EAST



PROJECT:
RESIDENTIAL APARTMENTS ALTERATIONS & ADDITIONS
 4 EAST AVENUE, CAMMERAY NSW 2062
 SP50406, LOT 2

CLIENT:
Paddy Bergin & Jon Nicholls

DEVELOPMENT APPLICATION



REVISION	DESCRIPTION	DATE
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LEVEL 2 DEMOLITION PLAN

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PROJECT No.:	21-021	A130	A
DATE:	JUNE 2021		

NOTES

THIS DRAWING IS TO BE READ IN CONJUNCTION WITH "GENERAL NOTES" ON DRAWING No. A000.

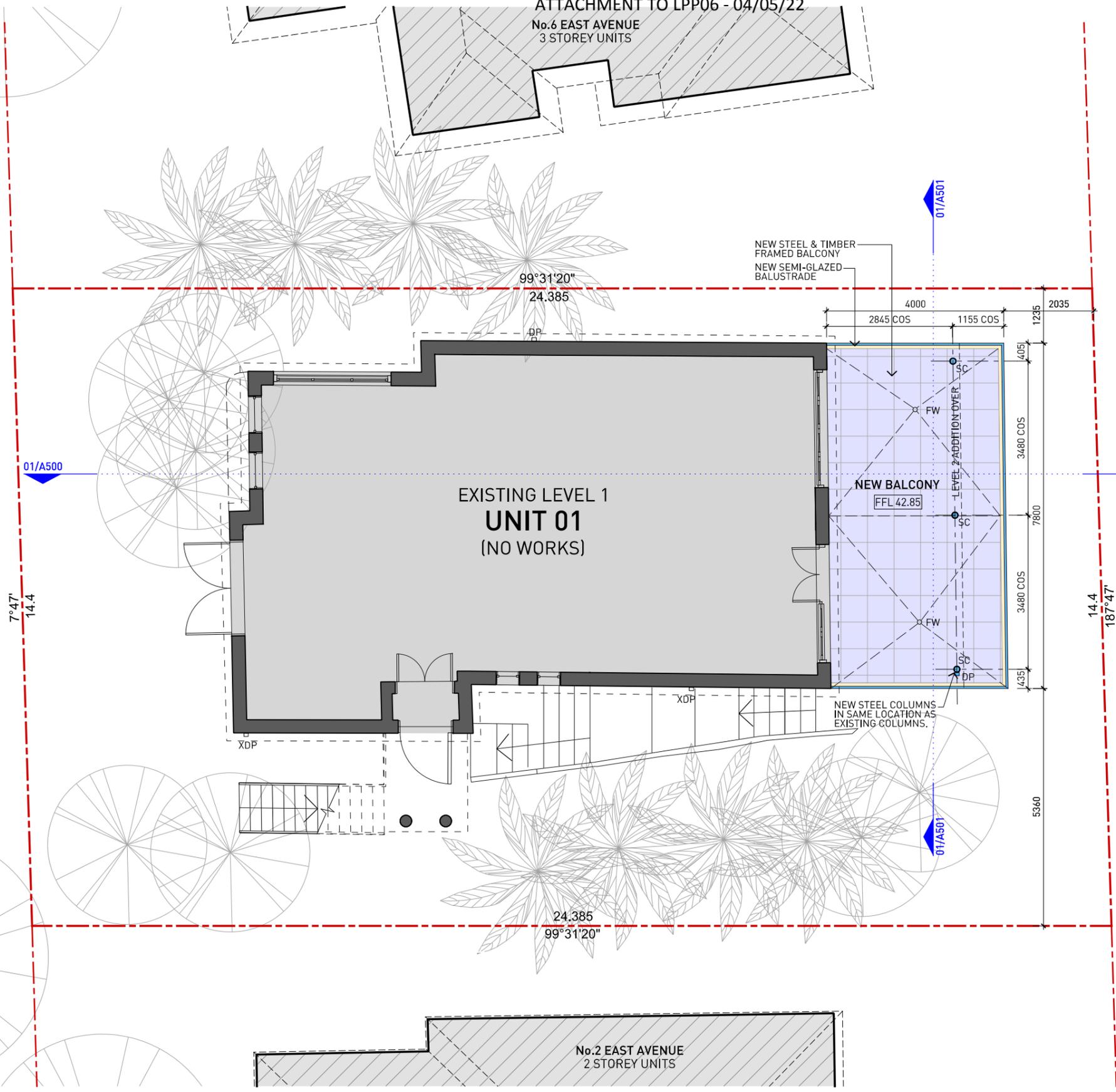
LEGEND

- COS CONFIRM ON SITE
- DP DOWNPIPE
- EQ. DENOTES "EQUAL"
- FG FIXED GLASS PANEL
- FW FLOOR WASTE
- LND LAUNDRY
- OB OBSCURE / TRANSLUCENT GLAZING
- RB BUILT IN ROBE
- RWH RAIN WATER HEAD
- SC STEEL COLUMN TO STRUCTURAL ENGINEER'S DETAIL
- TYP. DENOTES "TYPICAL"
- XDP EXISTING DOWNPIPE
- ☉ CENTRELINE
- (S) SMOKE DETECTOR
- [F##] FINISH REFERENCE TAG
- - - - - ITEMS TO BE DEMOLISHED

D.A. COLOUR LEGEND

- BRICKWORK
- ROOF TILES
- CONCRETE
- TILES
- FC SHEET / RENDER
- GLAZING
- STEEL / METAL
- TIMBER
- STONE
- EXISTING BUILDING (RETAINED)

EAST AVENUE



PROJECT:
RESIDENTIAL APARTMENTS ALTERATIONS & ADDITIONS
 4 EAST AVENUE, CAMMERAY NSW 2062
 SP50406, LOT 2

CLIENT:
Paddy Bergin & Jon Nicholls

DEVELOPMENT
APPLICATION



REVISION	DESCRIPTION	DATE
A	DEVELOPMENT APPLICATION	30.11.21

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LEVEL 1 FLOOR PLAN

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SCALE:	1:100 @ A3	DRAWING No.:	REVISION:
PROJECT No.:	21-021	A200	A
DATE:	JUNE 2021		



NOTES

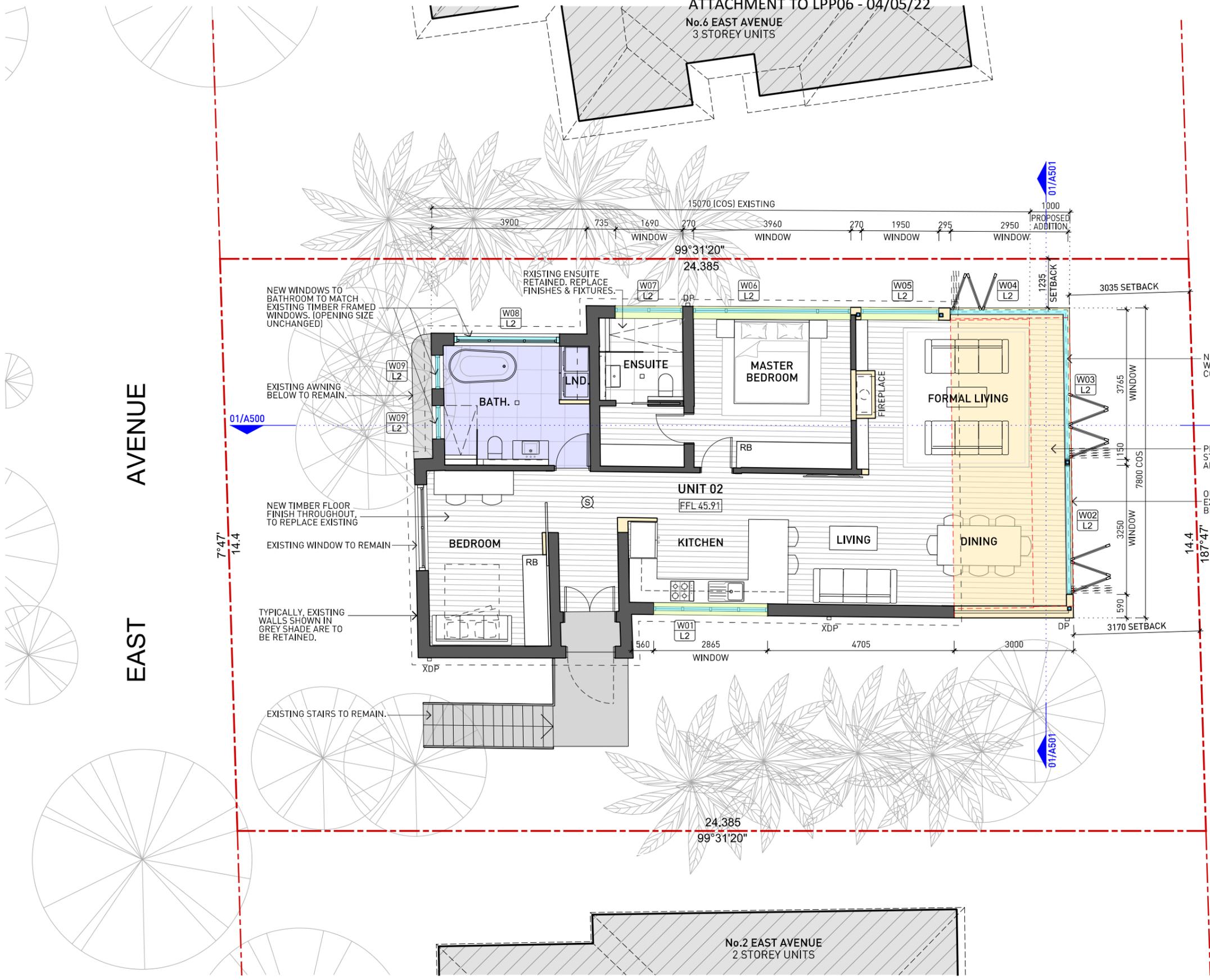
THIS DRAWING IS TO BE READ IN CONJUNCTION WITH "GENERAL NOTES" ON DRAWING No. A000.

LEGEND

- COS CONFIRM ON SITE
- DP DOWNPIPE
- EQ. DENOTES "EQUAL"
- FG FIXED GLASS PANEL
- FW FLOOR WASTE
- LND LAUNDRY
- OB OBSCURE / TRANSLUCENT GLAZING
- RB BUILT IN ROBE
- RWH RAIN WATER HEAD
- SC STEEL COLUMN TO STRUCTURAL ENGINEER'S DETAIL
- TYP. DENOTES "TYPICAL"
- XDP EXISTING DOWNPIPE
- ☉ SMOKE DETECTOR
- F##/## FINISH REFERENCE TAG
- - - - - ITEMS TO BE DEMOLISHED

D.A. COLOUR LEGEND

- BRICKWORK
- ROOF TILES
- CONCRETE
- TILES
- FC SHEET / RENDER
- GLAZING
- STEEL / METAL
- TIMBER
- STONE
- EXISTING BUILDING (RETAINED)



EAST AVENUE

PROJECT:
RESIDENTIAL APARTMENTS ALTERATIONS & ADDITIONS
4 EAST AVENUE, CAMMERAY NSW 2062
SP50406, LOT 2

CLIENT:
Paddy Bergin & Jon Nicholls

DEVELOPMENT APPLICATION



A	DEVELOPMENT APPLICATION	30.11.21
REVISION	DESCRIPTION	DATE

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LEVEL 2 FLOOR PLAN

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SCALE:	1:100 @ A3	DRAWING No.:	REVISION:
PROJECT No.:	21-021	A210	A
DATE:	JUNE 2021		

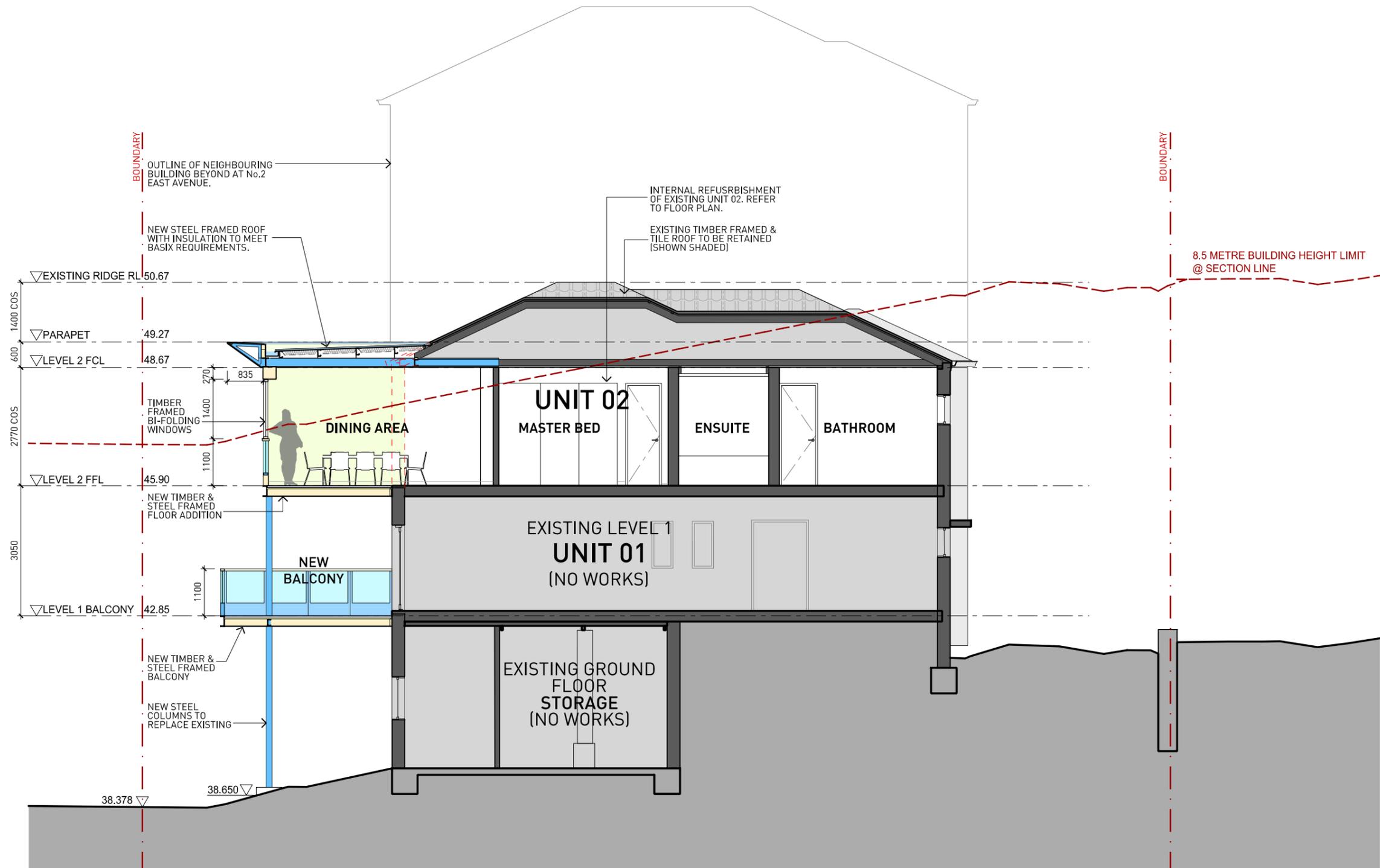
NOTES
 THIS DRAWING IS TO BE READ IN CONJUNCTION WITH "GENERAL NOTES" ON DRAWING No. A000.

LEGEND

COS	CONFIRM ON SITE
DP	DOWNPIPE
EQ.	DENOTES "EQUAL"
FG	FIXED GLASS PANEL
FW	FLOOR WASTE
LND	LAUNDRY
OB	OBSCURE / TRANSLUCENT GLAZING
RB	BUILT IN ROBE
RWH	RAIN WATER HEAD
SC	STEEL COLUMN TO STRUCTURAL ENGINEER'S DETAIL
TYP.	DENOTES "TYPICAL"
XDP	EXISTING DOWNPIPE
⊕	CENTRELINE
Ⓢ	SMOKE DETECTOR
F##	FINISH REFERENCE TAG
- - -	ITEMS TO BE DEMOLISHED

D.A. COLOUR LEGEND

	BRICKWORK
	ROOF TILES
	CONCRETE
	TILES
	FC SHEET / RENDER
	GLAZING
	STEEL / METAL
	TIMBER
	STONE
	EXISTING BUILDING (RETAINED)



PROJECT:
RESIDENTIAL APARTMENTS ALTERATIONS & ADDITIONS
 4 EAST AVENUE, CAMMERAY NSW 2062
 SP50406, LOT 2

CLIENT:
Paddy Bergin & Jon Nicholls

DEVELOPMENT APPLICATION

A	DEVELOPMENT APPLICATION	30.11.21
REVISION	DESCRIPTION	DATE

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SECTION A-A

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SCALE: 1:100 @ A3	DRAWING No.: A500	REVISION: A
PROJECT No.: 21-021		
DATE: JUNE 2021		

NOTES

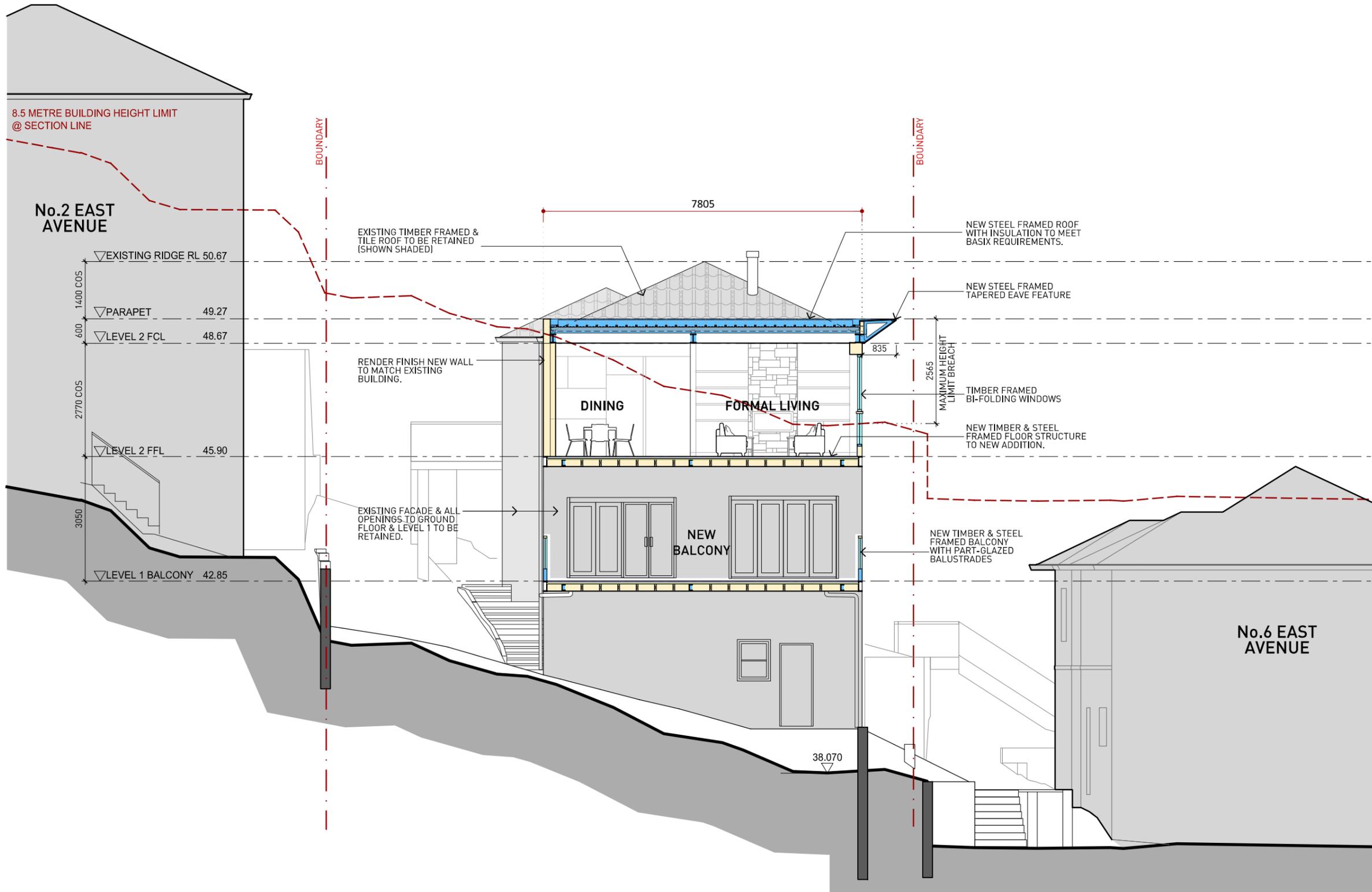
THIS DRAWING IS TO BE READ IN CONJUNCTION WITH "GENERAL NOTES" ON DRAWING No. A000.

LEGEND

- COS CONFIRM ON SITE
- DP DOWNPIPE
- EQ. DENOTES "EQUAL"
- FG FIXED GLASS PANEL
- FW FLOOR WASTE
- LND LAUNDRY
- OB OBSCURE / TRANSLUCENT GLAZING
- RB BUILT IN ROBE
- RWH RAIN WATER HEAD
- SC STEEL COLUMN TO STRUCTURAL ENGINEER'S DETAIL
- TYP. DENOTES "TYPICAL"
- XDP EXISTING DOWNPIPE
- ☉ CENTRELINE
- (S) SMOKE DETECTOR
- [F##] FINISH REFERENCE TAG
- - - - - ITEMS TO BE DEMOLISHED

D.A. COLOUR LEGEND

- BRICKWORK
- ROOF TILES
- CONCRETE
- TILES
- FC SHEET / RENDER
- GLAZING
- STEEL / METAL
- TIMBER
- STONE
- EXISTING BUILDING (RETAINED)



PROJECT:
RESIDENTIAL APARTMENTS ALTERATIONS & ADDITIONS
 4 EAST AVENUE, CAMMERAY NSW 2062
 SP50406, LOT 2

CLIENT:
Paddy Bergin & Jon Nicholls

DEVELOPMENT APPLICATION

A	DEVELOPMENT APPLICATION	30.11.21
REVISION	DESCRIPTION	DATE

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SECTION B-B

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SCALE: 1:100 @ A3
 PROJECT No.: 21-021
 DATE: JUNE 2021

DRAWING No.: **A501**
 REVISION: **A**

NOTES

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LEGEND

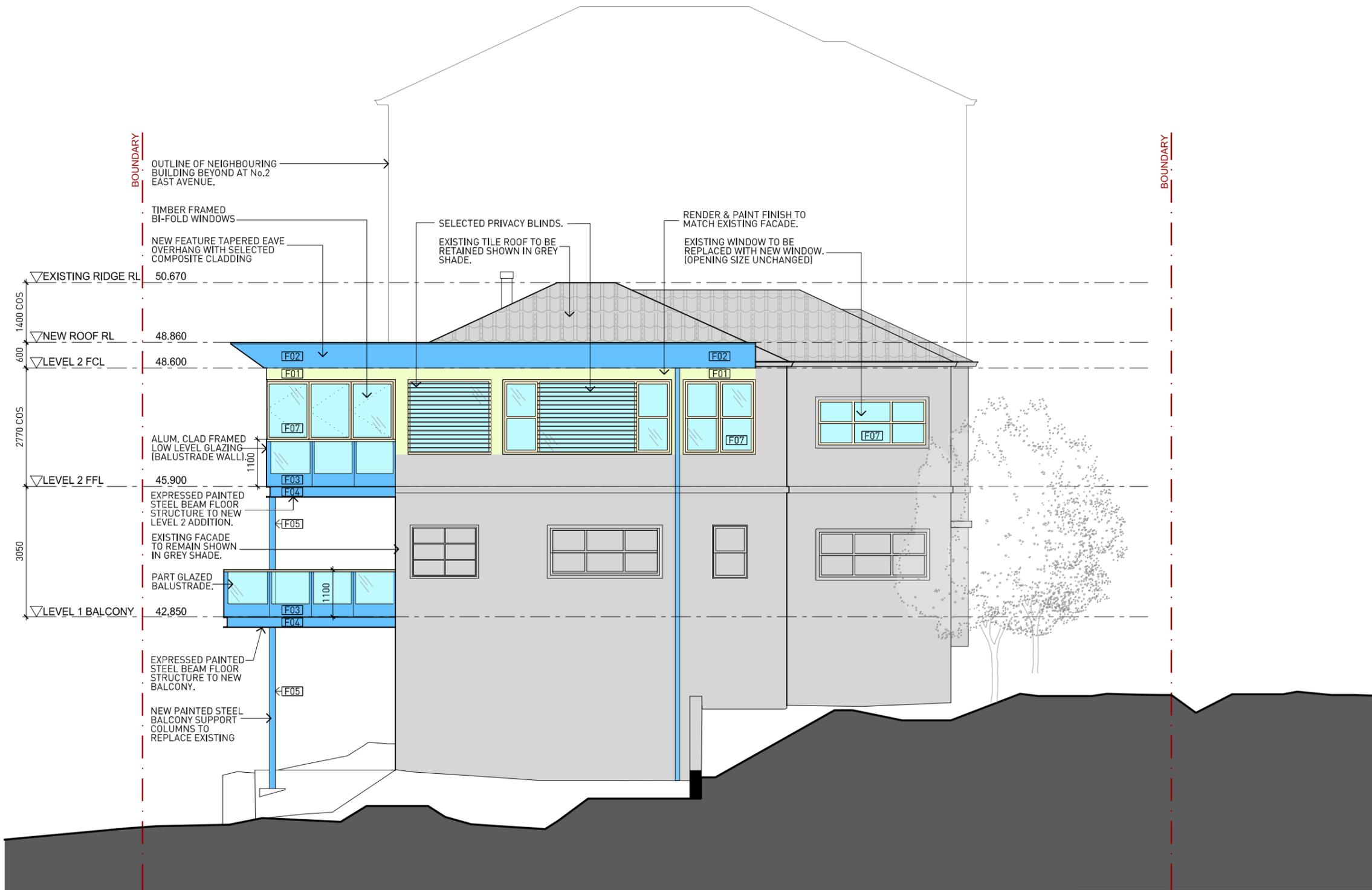
COS	CONFIRM ON SITE
DP	DOWNPIPE
EQ.	DENOTES "EQUAL"
FG	FIXED GLASS PANEL
FW	FLOOR WASTE
LND	LAUNDRY
OB	OBSCURE / TRANSLUCENT GLAZING
RB	BUILT IN ROBE
RWH	RAIN WATER HEAD
SC	STEEL COLUMN TO STRUCTURAL ENGINEER'S DETAIL
TYP.	DENOTES "TYPICAL"
XDP	EXISTING DOWNPIPE
⊕	CENTRELINE
(S)	SMOKE DETECTOR
[F##]	FINISH REFERENCE TAG
---	ITEMS TO BE DEMOLISHED

D.A. COLOUR LEGEND

	BRICKWORK
	ROOF TILES
	CONCRETE
	TILES
	FC SHEET / RENDER
	GLAZING
	STEEL / METAL
	TIMBER
	STONE
	EXISTING BUILDING (RETAINED)

FINISHES SCHEDULE

[F01]	ACRYLIC RENDER & PAINT FINISH. COLOUR TO MATCH EXISTING BUILDING
[F02]	TIMBER LOOK ALUMINIUM SHEET CLADDING
[F03]	POWDERCOAT ALUMINIUM CLAD. COLOUR TO MATCH EXISTING BUILDING
[F04]	PAINT FINISH. MID/LIGHT BROWN
[F05]	COLUMN PAINT FINISH. COLOUR TO MATCH EXISTING BUILDING
[F06]	METAL ROOF SHEETING COLOUR: "COLORBOND TERRAIN"
[F07]	WINDOW FRAMES TIMBER FRAME WITH SELECTED STAIN/SEAL



PROJECT:
RESIDENTIAL APARTMENTS ALTERATIONS & ADDITIONS
 4 EAST AVENUE, CAMMERAY NSW 2062
 SP50406, LOT 2

CLIENT:
Paddy Bergin & Jon Nicholls

DEVELOPMENT APPLICATION

A	DEVELOPMENT APPLICATION	30.11.21
REVISION	DESCRIPTION	DATE

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NORTH ELEVATION

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SCALE: 1:100 @ A3
 PROJECT No.: 21-021
 DATE: JUNE 2021

DRAWING No.: **A600**
 REVISION: **A**

NOTES

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LEGEND

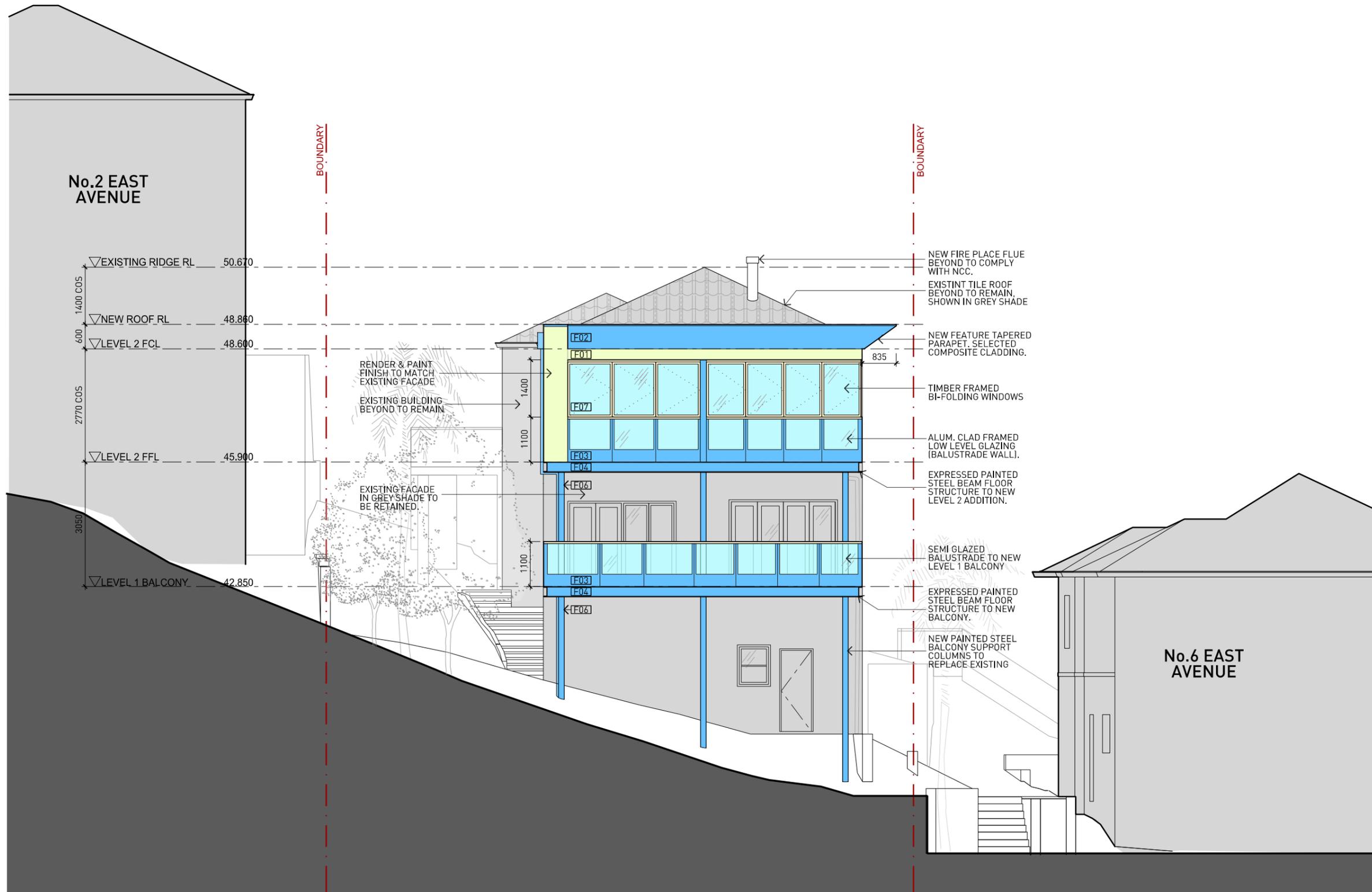
- COS CONFIRM ON SITE
- DP DOWNPIPE
- EQ. DENOTES "EQUAL"
- FG FIXED GLASS PANEL
- FW FLOOR WASTE
- LND LAUNDRY
- OB OBSCURE / TRANSLUCENT GLAZING
- RB BUILT IN ROBE
- RWH RAIN WATER HEAD
- SC STEEL COLUMN TO STRUCTURAL ENGINEER'S DETAIL
- TYP. DENOTES "TYPICAL"
- XDP EXISTING DOWNPIPE
- ⊕ CENTRELINE
- Ⓢ SMOKE DETECTOR
- [F##] FINISH REFERENCE TAG
- - - - - ITEMS TO BE DEMOLISHED

D.A. COLOUR LEGEND

- BRICKWORK
- ROOF TILES
- CONCRETE
- TILES
- FC SHEET / RENDER
- GLAZING
- STEEL / METAL
- TIMBER
- STONE
- EXISTING BUILDING (RETAINED)

FINISHES SCHEDULE

- [F01] ACRYLIC RENDER & PAINT FINISH. COLOUR TO MATCH EXISTING BUILDING
- [F02] TIMBER LOOK ALUMINIUM SHEET CLADDING
- [F03] POWDERCOAT ALUMINIUM CLAD. COLOUR TO MATCH EXISTING BUILDING
- [F04] PAINT FINISH. MID/LIGHT BROWN
- [F05] COLUMN PAINT FINISH. COLOUR TO MATCH EXISTING BUILDING
- [F06] METAL ROOF SHEETING COLOUR: "COLORBOND TERRAIN"
- [F07] WINDOW FRAMES. TIMBER FRAME WITH SELECTED STAIN/SEAL



PROJECT:
RESIDENTIAL APARTMENTS ALTERATIONS & ADDITIONS
 4 EAST AVENUE, CAMMERAY NSW 2062
 SP50406, LOT 2

CLIENT:
Paddy Bergin & Jon Nicholls

DEVELOPMENT APPLICATION

	DEVELOPMENT APPLICATION	30.11.21
REVISION	DESCRIPTION	DATE

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EAST ELEVATION

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SCALE: 1:100 @ A3	DRAWING No.:	REVISION:	
PROJECT No.: 21-021	A601	A	
DATE: JUNE 2021			

NOTES
 THIS DRAWING IS TO BE READ IN CONJUNCTION WITH "GENERAL NOTES" ON DRAWING No. A000.

LEGEND

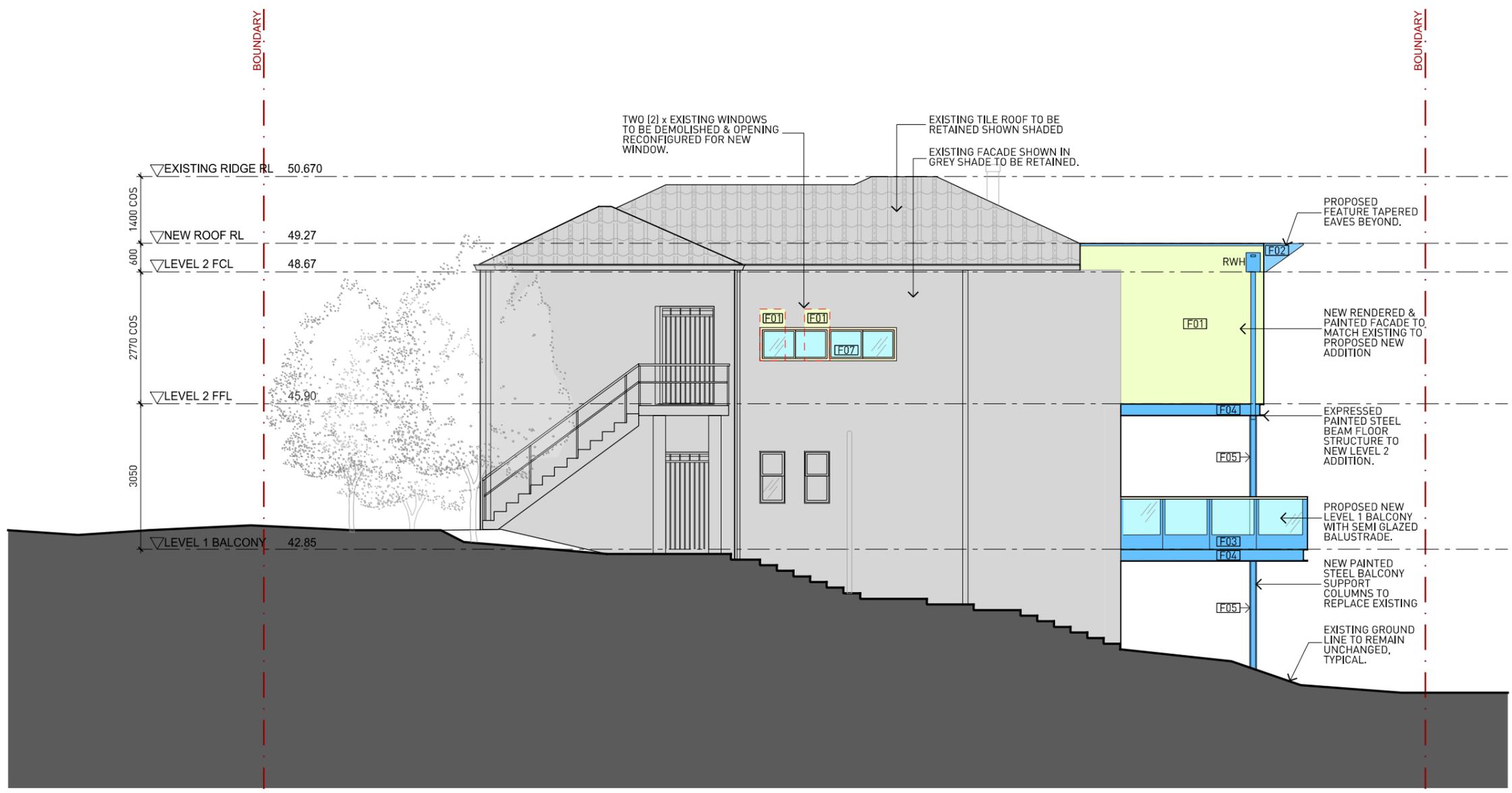
COS	CONFIRM ON SITE
DP	DOWNPIPE
EQ.	DENOTES "EQUAL"
FG	FIXED GLASS PANEL
FW	FLOOR WASTE
LND	LAUNDRY
OB	OBSCURE / TRANSLUCENT GLAZING
RB	BUILT IN ROBE
RWH	RAIN WATER HEAD
SC	STEEL COLUMN TO STRUCTURAL ENGINEER'S DETAIL
TYP.	DENOTES "TYPICAL"
XDP	EXISTING DOWNPIPE
⌀	CENTRELINE
(S)	SMOKE DETECTOR
F#	FINISH REFERENCE TAG
---	ITEMS TO BE DEMOLISHED

D.A. COLOUR LEGEND

	BRICKWORK
	ROOF TILES
	CONCRETE
	TILES
	FC SHEET / RENDER
	GLAZING
	STEEL / METAL
	TIMBER
	STONE
	EXISTING BUILDING (RETAINED)

FINISHES SCHEDULE

F01	ACRYLIC RENDER & PAINT FINISH. COLOUR TO MATCH EXISTING BUILDING
F02	TIMBER LOOK ALUMINIUM SHEET CLADDING
F03	POWDERCOAT ALUMINIUM CLAD. COLOUR TO MATCH EXISTING BUILDING
F04	PAINT FINISH. MID/LIGHT BROWN
F05	COLUMN PAINT FINISH. COLOUR TO MATCH EXISTING BUILDING
F06	METAL ROOF SHEETING COLOUR: "COLORBOND TERRAIN"
F07	WINDOW FRAMES TIMBER FRAME WITH SELECTED STAIN/SEAL



PROJECT:
RESIDENTIAL APARTMENTS ALTERATIONS & ADDITIONS
 4 EAST AVENUE, CAMMERAY NSW 2062
 SP50406, LOT 2

CLIENT:
Paddy Bergin & Jon Nicholls

DEVELOPMENT APPLICATION

A	DEVELOPMENT APPLICATION	30.11.21
REVISION	DESCRIPTION	DATE

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SOUTH ELEVATION

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SCALE: 1:100 @ A3
 PROJECT No.: 21-021
 DATE: JUNE 2021

DRAWING No.: **A602**
 REVISION: **A**



NOTES

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LEGEND

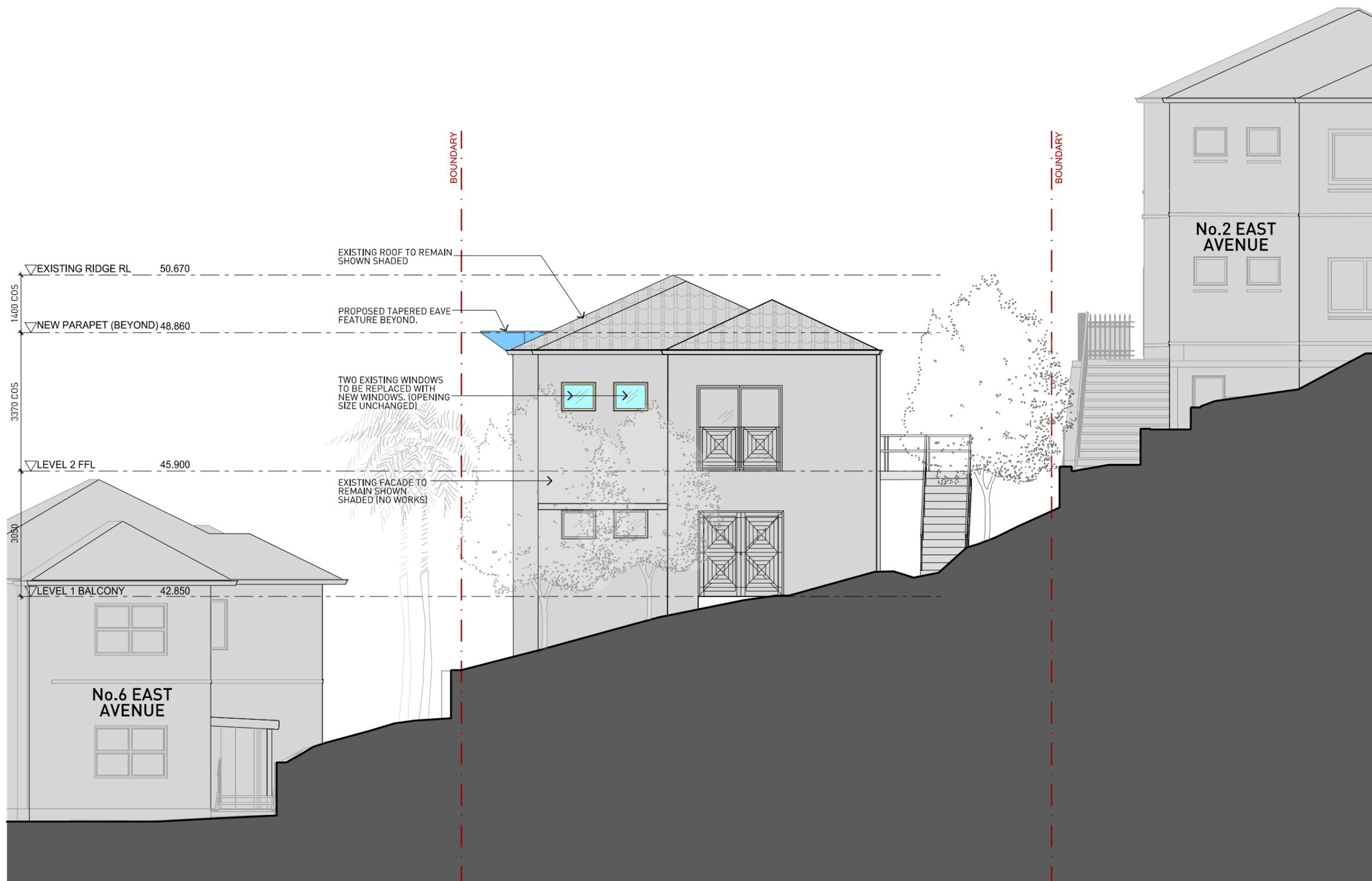
- COS CONFIRM ON SITE
- DP DOWNPIPE
- EQ. DENOTES "EQUAL"
- FG FIXED GLASS PANEL
- FW FLOOR WASTE
- LND LAUNDRY
- OB OBSCURE / TRANSLUCENT GLAZING
- RB BUILT IN ROBE
- RWH RAIN WATER HEAD
- SC STEEL COLUMN TO STRUCTURAL ENGINEER'S DETAIL
- TYP. DENOTES "TYPICAL"
- XDP EXISTING DOWNPIPE
- CL CENTRELINE
- (S) SMOKE DETECTOR
- [F##] FINISH REFERENCE TAG
- ITEMS TO BE DEMOLISHED

D.A. COLOUR LEGEND

- BRICKWORK
- ROOF TILES
- CONCRETE
- TILES
- FC SHEET / RENDER
- GLAZING
- STEEL / METAL
- TIMBER
- STONE
- EXISTING BUILDING (RETAINED)

FINISHES SCHEDULE

- [F01] ACRYLIC RENDER & PAINT FINISH. COLOUR TO MATCH EXISTING BUILDING
- [F02] TIMBER LOOK ALUMINIUM SHEET CLADDING
- [F03] POWDERCOAT ALUMINIUM CLAD. COLOUR TO MATCH EXISTING BUILDING
- [F04] PAINT FINISH. MID/LIGHT BROWN
- [F05] COLUMN PAINT FINISH. COLOUR TO MATCH EXISTING BUILDING
- [F06] METAL ROOF SHEETING COLOUR: "COLORBOND TERRAIN"
- [F07] WINDOW FRAMES TIMBER FRAME WITH SELECTED STAIN/SEAL



WEST ELEVATION

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SCALE: 1:100 @ A3 DRAWING No.: REVISION:
 PROJECT No.: 21-021 **A603** **A**
 DATE: JUNE 2021

PROJECT:
RESIDENTIAL APARTMENTS ALTERATIONS & ADDITIONS
 4 EAST AVENUE, CAMMERAY NSW 2062
 SP50406, LOT 2

CLIENT:
Paddy Bergin & Jon Nicholls

DEVELOPMENT APPLICATION

A	DEVELOPMENT APPLICATION	30.11.21
REVISION	DESCRIPTION	DATE
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NOTES

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LEGEND

- COS CONFIRM ON SITE
- EQ. DENOTES "EQUAL"
- ETN GRADIENT ETCHED/TINTED GLASS PANEL. (GREY TO CLEAR)
- FG FIXED GLASS
- OB TRANSLUCENT / OBSCURE GLAZING
- TYP. DENOTES "TYPICAL"
- CL CENTRELINE

NOTES

THIS DRAWING IS TO BE READ IN CONJUNCTION WITH "GENERAL NOTES" ON DRAWING A000 AND "BASIX CERTIFICATE"

ALL DIMENSIONS INDICATED ARE TO STRUCTURAL OPENINGS. ALL DIMENSIONS TO BE VERIFIED ON SITE PRIOR TO ORDER OR MANUFACTURE.

REFER TO FLOOR PLANS FOR LOCATION OF DOORS/ WINDOWS & DOOR SWINGS

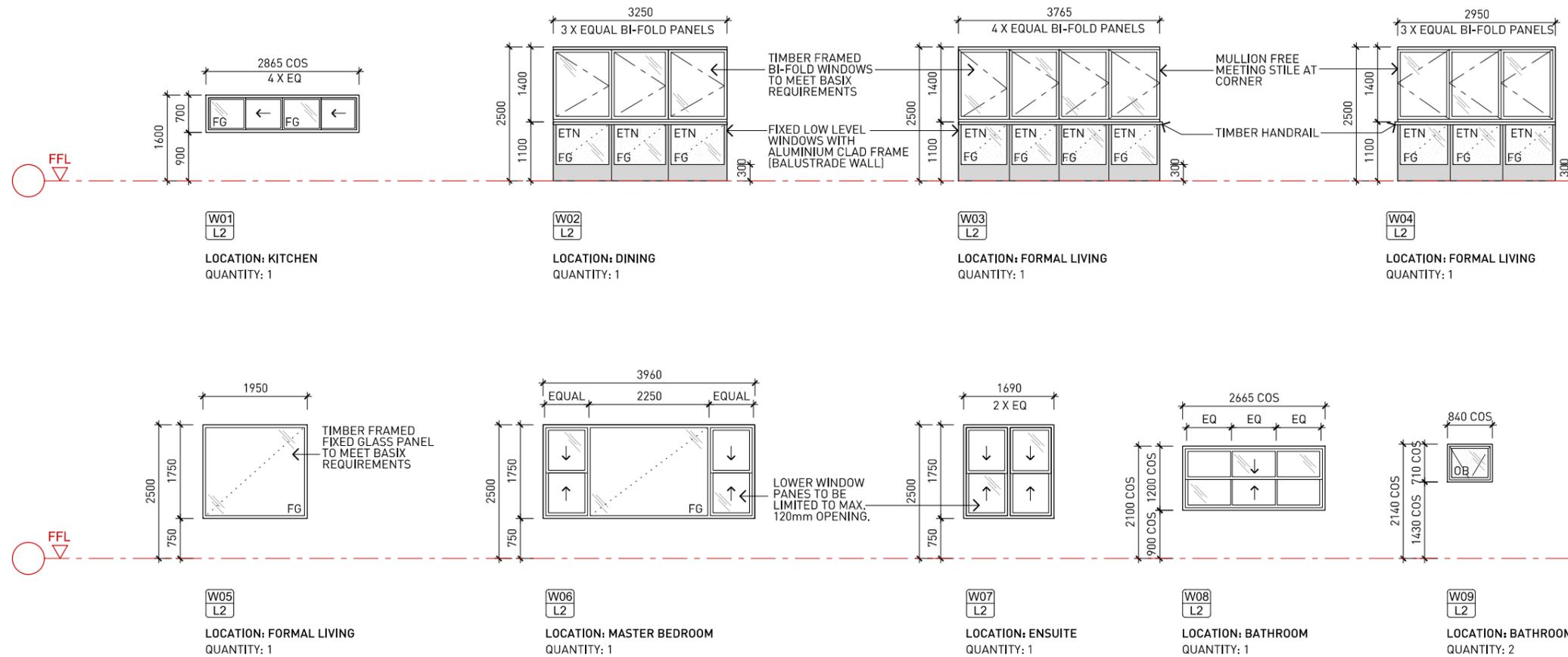
ONLY NEW EXTERNAL GLAZED DOORS & WINDOWS ARE INDICATED. REFER TO DRAWINGS FOR ALL INTERNAL DOORS/WINDOWS.

ALL BEDROOM OPERABLE WINDOWS ARE TO BE LIMITED TO MAX. 125mm CLEAR OPENING OR FITTED WITH A SECURE SCREEN IN ACCORDANCE WITH N.C.C. CLAUSE D2.24.

ALL NEW GLAZED DOORS AND WINDOWS TO BE TIMBER FRAMED WITH SELECTED STAIN FINISH, UNLESS NOTED OTHERWISE.

ALL WINDOWS TO BE FITTED WITH KEYPED LOCKS, ALL KEYPED ALIKE.

PROVIDE FLYSCREENS TO ALL OPERABLE DOORS & WINDOWS.



Glazing requirements	Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check			
Windows and glazed doors						
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.	✓	✓	✓			
The following requirements must also be satisfied in relation to each window and glazed door:						
Each window or glazed door with standard aluminium or timber frames and single clear or toned glass may either match the description, or, 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 Fenestration Rating Council (NFRC) conditions.	✓	✓	✓			
For projections described in millimetres, the leading edge of each eave, 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.	✓	✓	✓			
Pergolas with polycarbonate roof or similar translucent material must have a shading coefficient of less than 0.35.	✓	✓	✓			
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 50 mm.	✓	✓	✓			
Overshadowing buildings or vegetation must be of the height and distance from the centre and the base of the window and glazed door, as specified in the 'overshadowing' column in the table below	✓	✓	✓			
Windows and glazed doors glazing requirements						
Window / door no.	Orientation	Area of glass inc. frame (m ²)	Overshadowing Height (m)	Distance (m)	Shading device	Frame and glass type
W01-L2	S	1.719	0	0	none	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)
W02-L2	E	8.087	0	0	eave/verandah/pergola/balcony >=750 mm	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)
W03-L2	E	9.077	0	0	eave/verandah/pergola/balcony >=750 mm	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)
W04-L2	N	7.031	0	0	eave/verandah/pergola/balcony >=750 mm	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)

Glazing requirements							Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
Window / door no.	Orientation	Area of glass inc. frame (m ²)	Overshadowing Height (m)	Distance (m)	Shading device	Frame and glass type			
W05-L2	N	3.68	0	0	eave/verandah/pergola/balcony >=750 mm	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)			
W06-L2	N	6.93	0	0	eave/verandah/pergola/balcony >=750 mm	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)			
W07-L2	N	2.95	0	0	eave/verandah/pergola/balcony >=750 mm	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)			
W08-L2	N	3.198	8	2	none	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)			
W09-L2	W	0.63	0	0	none	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)			
W09-L2	W	0.63	6	5	none	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)			

PROJECT:
RESIDENTIAL APARTMENTS ALTERATIONS & ADDITIONS
 4 EAST AVENUE, CAMMERAY NSW 2062
 SP50406, LOT 2

CLIENT:
Paddy Bergin & Jon Nicholls

DEVELOPMENT APPLICATION

A	DEVELOPMENT APPLICATION	30.11.21
REVISION	DESCRIPTION	DATE

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GLAZING SCHEDULE

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DRAWING No.: **A800**
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Privacy Analysis

Alterations & Additions to Unit

Lot 2 SP 50406

4 East Avenue, CAMMERAY



Prepared For:
P Bergin & J Nicholls

Prepared By:



April 2022

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Appendices

1 The Site

The subject property is known as Lot 2 in SP 50406, 4 East Avenue, CAMMERAY. The subject property is currently occupied by a two-storey unit development (refer to **Figure 1** below). We understand that the Council has raised an issue regarding potential privacy issues for adjoining neighbours from the proposed development, which involves alterations and additions to the subject unit. In this regard, it was suggested that a study be undertaken to address this issue to ensure that privacy concerns were minimised. In this regard a series of photographs were undertaken by Mr Michael Banak of FMB Architects and are addressed in this response.

FIGURE 1 - CONTEXT OF SUBJECT PROPERTY



2 Visual and Streetscape Impact Assessment Methodology

This study adopts a systematic and objective approach to the analysis and assessment of visual character on the Site and its interfaces, its visibility and visual exposure, the visual catchment and potential visual impacts of development. The site is separated from the public domain by other two-storey unit developments and by the East Avenue walkway and by existing vegetation. The site is located in that part of East Avenue which is a pedestrian walkway only.

The streetscape character of this section of East Avenue is mixed in terms of how developments address the street and the topography. There is also a mix of building footprints and typologies reflecting a change in character emerging from the era when development in this part of Cammeray was developed for housing and reflecting the change in zoning that has occurred during the period of development with different forms of housing (refer to extract from survey plans prepared by C & A Surveyors submitted with the Development Application at **Figure 2** below). Abrupt transitions in residential development is evident in East Avenue, Pine Street and adjoining streets.

FIGURE 2 – SURVEY PLAN EXTRACT



In respect of the private domain, the subject site is of limited visibility from immediately adjoining development, particularly from higher elevations due to existing vegetation and other buildings. The subject site is not of high visual exposure to public views and is not prominent when seen from locations that would be regarded as of higher sensitivity in the public domain, such as high usage roads, reserves, lookouts or cultural sites.

To address the issue of visual privacy from the proposed development a number of photographs were taken as shown below on **Plates 1-6**. The first part of the method is fundamentally objective, the second concerns the more subjective matters of how much weight to give to the visual effects in determining their significance (how important are the visual effects). It considers appropriateness and impacts on scenic quality, landscape character and on specific views.

It is clear from photographs below that the impact of enclosing the balcony has minimal impact on the visual privacy of adjoining neighbours and the landscape character remains. The visual exposure of the proposed development would be considered low given the location of the subject site within the setting and the streetscape remains substantially the same and only visible within the immediate context of the site. The site is not visible from Pine Street to the south and limited views from Rowlison Parade to the north.

There would be no marked change in the intrinsic character of the site to that presently existing on the subject site. Change in the intrinsic character of the surroundings is a description of the extent and nature of visual effects when considered in relation to the surroundings of the site which would be caused by the intended development being constructed.

As such there would be no noticeable change to the immediate surroundings and the immediate streetscapes of East Avenue and other nearby streets.

PLATE 1 - EXISTING VIEW FROM THE BALCONY



PLATE 2 - NEW VIEW FROM THE BALCONY



PLATE 3 - NEW VIEW WITH WINDOWS CLOSED



PLATE 4 - DIAGRAMS SHOWING WHERE VIEW WAS TAKEN IN PLAN FORM AND SECTION SHOWING HEIGHTS OF SOLID PANEL AND BALUSTRADE

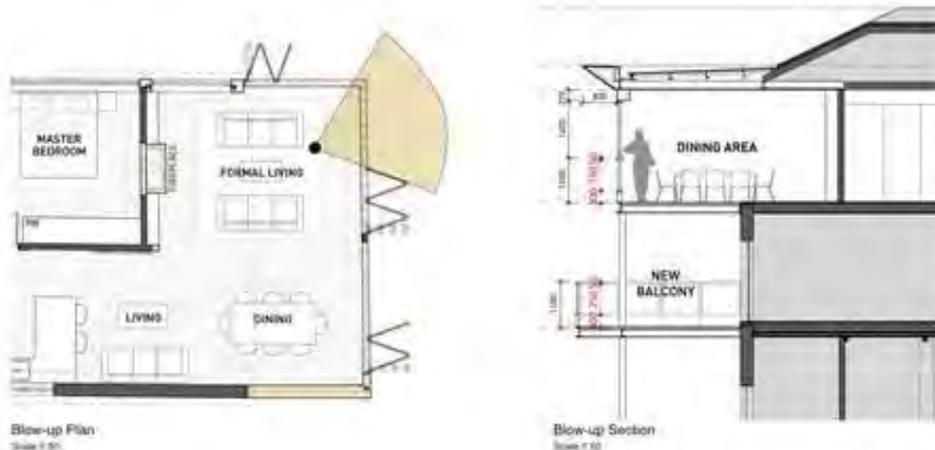


PLATE 5 - PHOTOS LOOKING IN THE OTHER DIRECTION INDICATING NO OVERLOOKING



PLATE 6 - PHOTOS LOOKING IN THE OTHER DIRECTION INDICATING NO OVERLOOKING



3 Land and Environment Court Planning Principles

The Land and Environment Court has provided a set of established Planning Principles in relation to development. Privacy impacts are issues that frequently arise in appeals and request by Council's to assess this aspect of a particular development application where a development may have the potential to impact on privacy of adjoining neighbours.

In relation to privacy, there are two planning principles: namely:

1. Meriton V Sydney City Council (2004) NSWLEC 313 at 45-46.
2. Super Studio V Waverley Council (2004) NSWLEC 91 at 5-7.

In respect of these planning principles and their relationship to the proposed development the following is provided.

In the Meriton matter, the following principle was established:

45 When visual privacy is referred to in the context of residential design, it means the freedom of one dwelling and its private open space from being overlooked by another dwelling and its private open space. Most planning instruments and development control plans acknowledge the need for privacy, but leave it to be assessed qualitatively. Numerical guidelines for the separation of dwellings exist in the Australia-wide guideline, *AMCORD*; as well is in the NSW-specific *Residential Flat Design Code* attached to SEPP 65. *AMCORD* recommends a separation of 9m between habitable rooms. The *Residential Flat Design Code* recommends increasing separation between buildings as they get taller. For buildings up to three storeys, it suggests 12m between habitable rooms and balconies, 9m between a habitable and non-habitable room, and 6m between non-habitable rooms. For tall buildings (such as the proposal) it suggests 24m between habitable rooms, 18m between habitable rooms and non-habitable rooms, and 12m between non-habitable rooms.

46 Generalised numerical guidelines such as above, need to be applied with a great deal of judgment, taking into consideration **density, separation, use** and **design**. The following principles may assist.

- The ease with which privacy can be protected is inversely proportional to the **density** of development. At low-densities there is a reasonable expectation that a dwelling and some of its private open space will remain private. At high-densities it is more difficult to protect privacy.
- Privacy can be achieved by **separation**. The required distance depends upon density and whether windows are at the same level and directly facing each other. Privacy is hardest to achieve in developments that face each other at the same level. Even in high-density development it is unacceptable to have windows at the same level close to each other. Conversely, in a low-density area, the *objective* should be to achieve separation between windows that exceed the numerical standards above. (Objectives are, of course, not always achievable.)
- The **use** of a space determines the importance of its privacy. Within a dwelling, the privacy of living areas, including kitchens, is more important than that of bedrooms. Conversely, overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time.

- Overlooking of neighbours that arises out of poor **design** is not acceptable. A poor design is demonstrated where an alternative design, that provides the same amenity to the applicant at no additional cost, has a reduced impact on privacy.
- Where the whole or most of a private open space cannot be protected from overlooking, the part adjoining the living area of a dwelling should be given the highest level of protection.
- Apart from adequate separation, the most effective way to protect privacy is by the skewed arrangement of windows and the use of devices such as fixed louvres, high and/or deep sills and planter boxes. The use of obscure glass and privacy screens, while sometimes being the only solution, is less desirable.
- Landscaping should not be relied on as the sole protection against overlooking. While existing dense vegetation within a development is valuable, planting proposed in a landscaping plan should be given little weight.
- In areas undergoing change, the impact on what is likely to be built on adjoining sites, as well as the existing development, should be considered.

In Super Studio, the following was established.

5 **The first** is that the acceptability of an impact depends not only on the extent of the impact but also on reasonableness of, and necessity for, the development that causes it. For example, the privacy impact of a second-storey side window in an area of two-storey buildings should be accorded a higher threshold of acceptability than the impact of a second-storey balcony in a house that already has three other balconies. Applying this principle to the present case, I note that the approved proposal already has three outdoor areas. The surrounding houses do not have roof terraces, so a roof terrace would be a new element in the area. This does not mean that it is inappropriate, only that its impact should be assessed with heightened sensitivity. A roof terrace would be acceptable only if its impact were minor or negligible

6 **The second principle** is that where proposed landscaping is the main safeguard against overlooking, it should be given minor weight. The effectiveness of landscaping as a privacy screen depends on continued maintenance, good climatic conditions and good luck.

While it is theoretically possible for a council to compel an applicant to maintain landscaping to achieve the height and density proposed in an application, in practice this rarely happens.

7 **The third principle** relates to the extent to which an approval for this application would be used as a precedent in favour of approving other applications for roof terraces. The possibility that an approval may constitute a precedent has not been a factor in my decision. Other roof terraces would have different impacts from those of the current proposal.

Comment

In relation to the above planning principles, there is an acceptance that some development will cause a loss of privacy, particularly in areas where the density of development is higher than in low density areas. However, loss of privacy should not be borne out of poor design or reliance on proposed landscaping.

In regard to the subject application, the proposal involves enclosing the existing balcony. It is clear from **Plates 1-3** and **5 & 6** that by enclosing the balcony the privacy of adjoining neighbours is enhanced.

Indeed, the owners sitting on the open balcony are more visible from adjoining neighbours than will occur by enclosing the balcony. The owners sitting within this area will be screened by the new balcony balustrade with the windows open or shut. The new roof also provides a sense of enclosure to this space when viewed from neighbouring properties when comparing **Plate 1** against **Plates 2-3**.

In addition, this development does not rely on proposed landscaping to provide visual privacy, as the existing vegetation is already established and achieves this goal. The blank walls of adjoining units, as shown on **Plates 5-6** further attest to the fact that privacy will not be compromised more than that currently experienced.

For these reasons, we are of the opinion that the subject development that results in the balcony being enclosed is consistent with the above planning principles.

4 Conclusion

There are no adverse environmental issues that arise from the proposal and no inconsistency with planning instruments. The proposal generally complies with the objectives of the various planning instruments applying to the land, as detailed in the Statement of Environmental Effects prepared by this firm and this study analysis confirms that there are no privacy impacts.

Accordingly, Council is respectfully requested to approve the subject development application.