



NSLPP MEETING HELD ON 06/08/2025

Attachments:

1. Site Plan
2. Architectural Plans
3. Clause 4.6 Statement
4. Survey Plan

ADDRESS/WARD: 29 Tobruk Avenue, Cremorne 2090 (W)

APPLICATION NO: DA 110/25

PROPOSAL: Part demolition, extension, renovation and lift installation to an existing three storey house and garage extension

PLANS REF: Refer to Condition A1

OWNER: Andrew Zhao

APPLICANT: Oki Jahja

AUTHOR: Report of Rachel Wu, Assessment Officer

DATE OF REPORT: 23 June 2025

DATE LODGED: 2 May 2025

DATE AMENDED: 3 July 2025, 5 July 2025

RECOMMENDATION: Approval, subject to conditions

EXECUTIVE SUMMARY

This development application seeks approval for alterations and additions to a detached dwelling and is reported to North Sydney Local Planning Panel for determination due to exceedance of the Clause 4.3 Height of Building Standards by more than 10%.

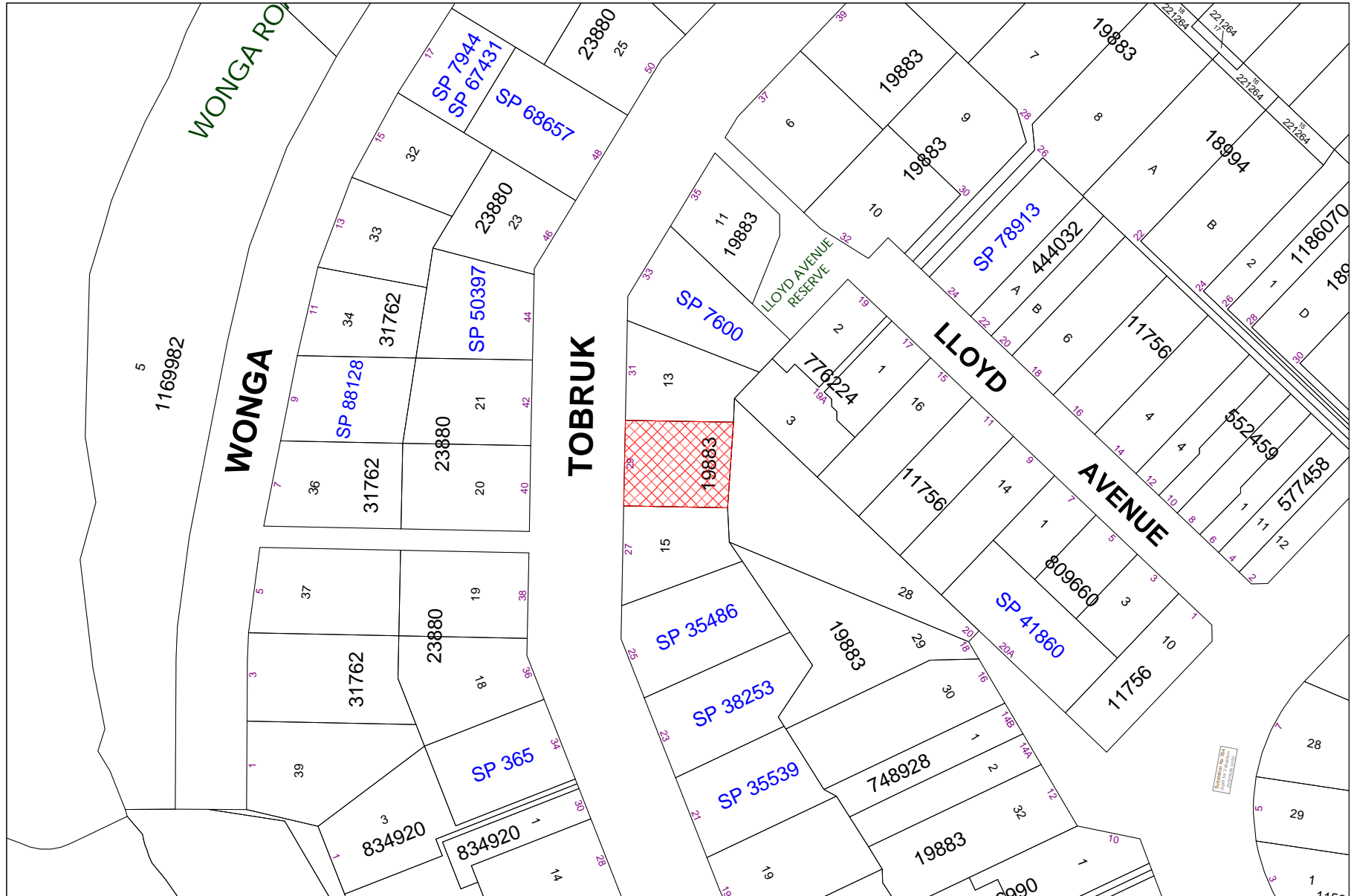
The proposal involves the extension of the existing garage and vehicular crossing for two car spaces and terrace extension above; lift installation between the garage level to the First Floor; enclosure of the First and Second Floor front balconies, construction of a new entry deck; and rear extension of the First and Second Floor to the northeastern corner.

Notification of the original proposal has attracted five (5) submissions raising particular concerns about the front garage wall that extends corner to corner at a height of approximately 3.74m and the consequent removal of the existing hedges. The submissions raise the concern of uncharacteristic height, bulk and scale, removal of landscape elements to streetscape, uncharacteristic material and finish. The amended plans lowered the height of the garage wall to 2.8m and retain the height of the fence on either side with the existing hedges retained either side of the garage and pedestrian wall and additional landscape elements. As the plans are considered to have a lesser impact than the original proposal it does not require renotification, however the amended plans were sent to the submitters for comment and no further submissions/comments were received. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

A condition is recommended at the end of the report for the entry deck proposed on the First Floor to be reduced in width from 1.2m to 1m. The planter box proposed to be affixed to the entry deck is to increase in front setback in accordance with the reduction in width of the entry deck to comply with the minimum 3m front setback stipulated in the Area Character Statement.

Following this assessment the development application is considered to be reasonable in the circumstances and is recommended for **approval** subject to conditions.

LOCATION MAP



DESCRIPTION OF PROPOSAL

The applicant is seeking development consent for alterations and additions to an existing detached dwelling with an installation of the lift from the garage level to the First Floor.

The original proposal viewed from the streetscape (west elevation) is as below:



Figure A: Original design of the proposal with front wall extending corner to corner



Figure B: Amended design of the proposal keeping the curved form of the existing balcony and lift relocation, retention of existing hedges at each corner of the front boundary, and additional planter boxes; addition of entry deck on the First Floor with affixed planter boxes.

Details of the amended plans are as follow:

Garage Level

- Garage extension for two car spaces over a total width of 8.264m fronting Tobruk Avenue, inclusive of the 4.8m garage door
- Lift installation
- New widened vehicular crossing
- New pedestrian entry 1.6m wide

Ground Floor

- Front terrace extension above the extended garage
- Installation of planter boxes
- Lift shaft

First Floor

- Enclosure of the existing front balcony
- Decrease in front setback by the construction of an entry deck and planter boxes
- Extension of the dwelling towards the northeastern corner for a Lounge Room
- Lift Shaft

Second Floor

- Extension of the dwelling towards the northeastern corner for a WIR, Sitting Room, Ensuite
- Enclosure of the front balcony

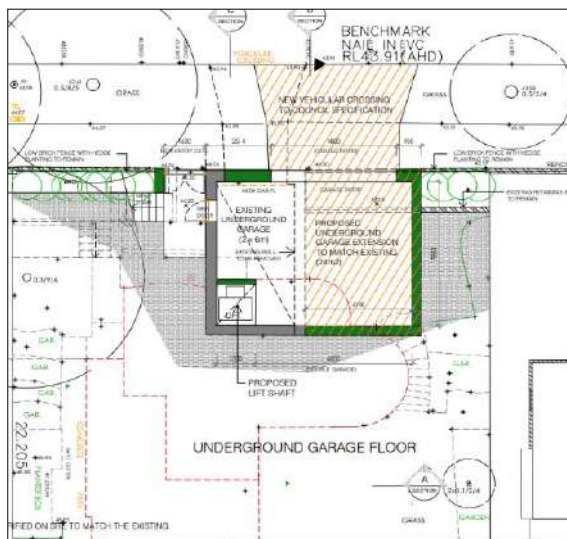


Figure 1: Proposed Garage Level Plan;

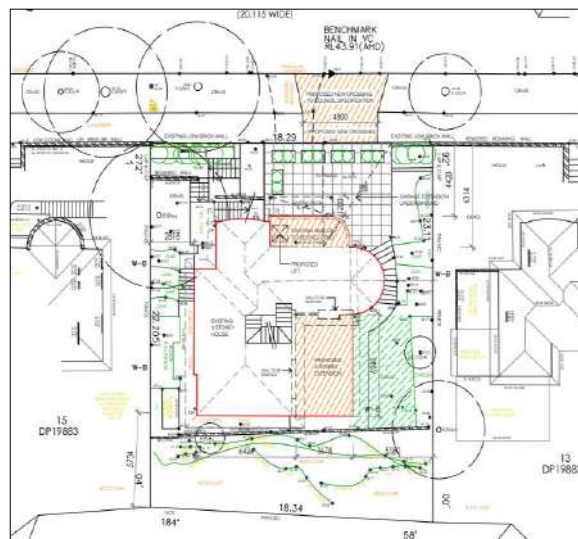


Figure 2 (right): Proposed Site Plan

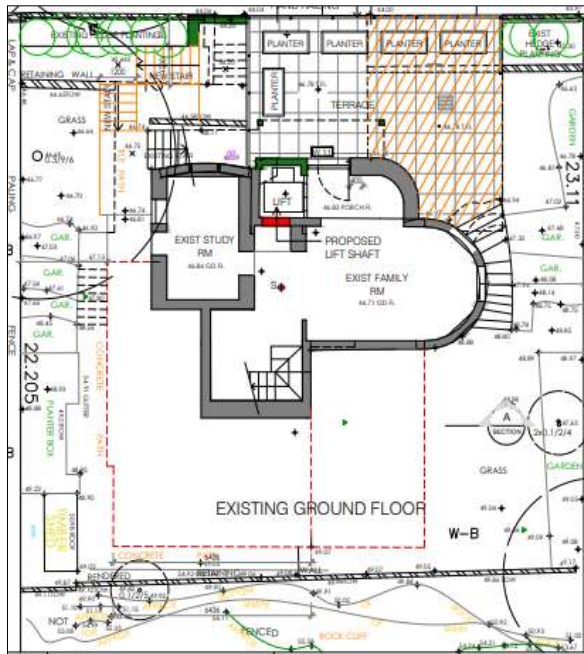


Figure 3: Proposed Ground Floor Plan;

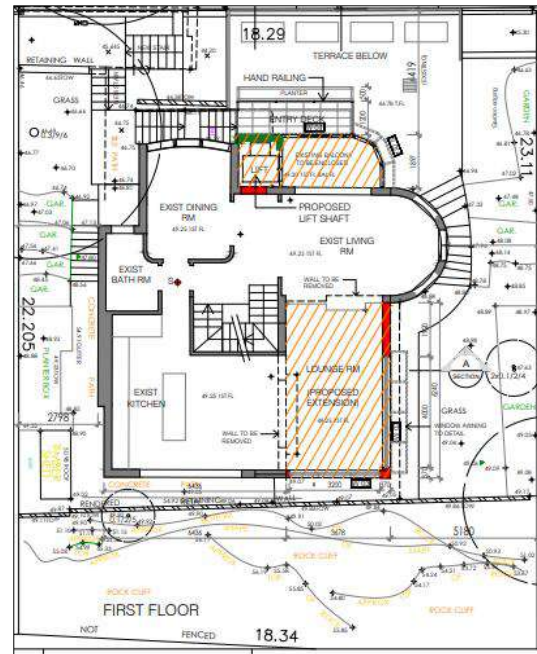


Figure 4 (right): Proposed First Floor Plan

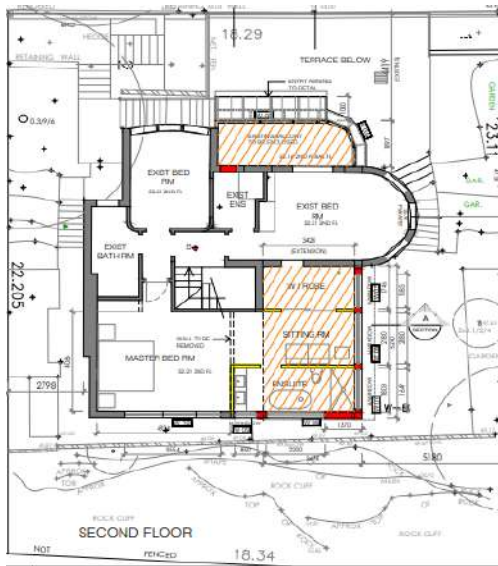


Figure 5: Proposed First Floor Plan;

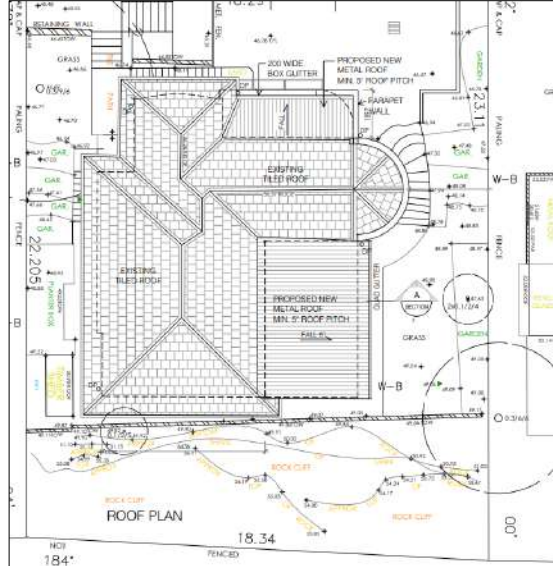


Figure 6 (right): Proposed Roof Plan



Figure 7: Proposed Northern Elevation

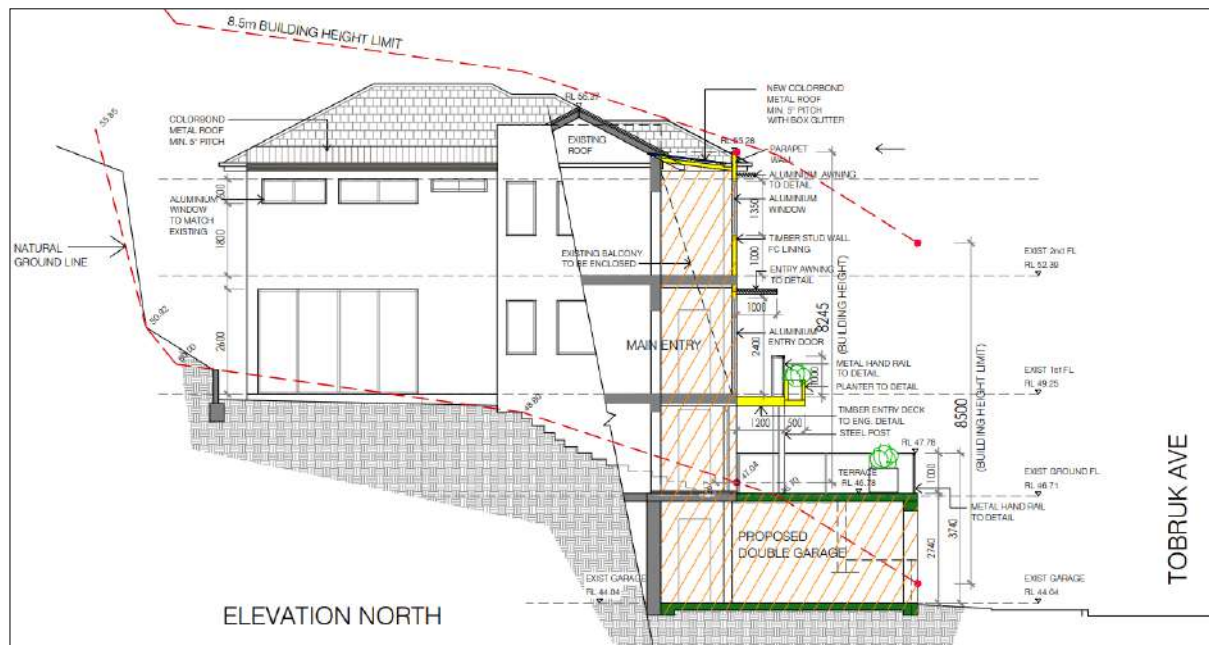


Figure 8: Proposed Section B (through first floor min entry and double garage)

STATUTORY CONTROLS

Environmental Planning & Assessment Act 1979

Environmental Planning & Assessment Regulation 2021

SEPP (Biodiversity and Conservation) 2021

- Chapter 2 Vegetation in non-rural areas
- Chapter 6 Water Catchments

SEPP (Sustainable Buildings) 2022

SEPP (Resilience and Hazards) 2021

- Chapter 4 Remediation of Land

North Sydney Local Environmental Plan 2013 (NSLEP 2013)

- Zoning – R2 Low Density Residential
- Item of Heritage - No
- In Vicinity of Item of Heritage - No
- Conservation Area - No
- Foreshore building line (FSBL) – No
- Clause 4.3 Height of Buildings – 8.5m maximum

Local Development

POLICY CONTROLS

North Sydney Development Control Plan 2013 (NSDCP 2013)

- Bushland Buffer A (100m)

North Sydney Local Infrastructure Contributions Plan

DESCRIPTION OF LOCALITY

The subject site is legally described as Lot 14 in DP 19883, commonly known as No.29 Tobruk Street, Cremorne. The site has an area of 411sqm. The site contains a part two and part three storey dwelling located on the eastern side of Tobruk Avenue. The site is raised above street level with an existing subterranean garage and retaining wall at the front of the site. The surrounding area is residential with predominantly two storey detached dwellings present. The site is located within the Bushland Buffer Area A and the streetscape consists of abundant landscape elements in the form of hedge planting and trees.



Figure 9: Subject site in R2 zone;

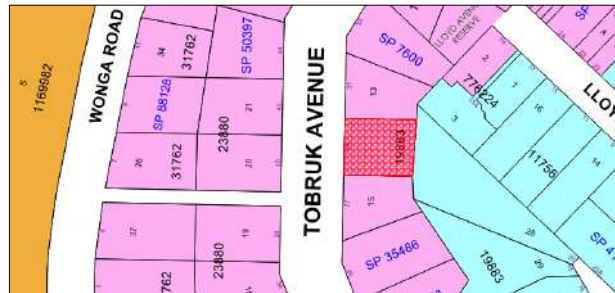


Figure 10 (right): Subject site in Bushland Buffer Area A (100m)



Figure 10A: Front elevation (street) of subject site with existing low fence and hedges, landscaping elements on the terrace above the garage level



Figure 10B: View across Tobruk Avenue to No.31 Tobruk Avenue and subject site (white building)



Figure 10C: View from the north-facing Second Floor balcony towards area of proposed rear extension over existing paved area on First Floor level below. View towards 31 Tobruk Avenue.

RELEVANT HISTORY

Previous Applications

Development Application 706/02 granted approval on 17 February 2003 for rear ground and first floor additions to existing building, new double garage, new verandahs, access stairs and balustrading, new terracing over garage, new retaining walls and fencing.

Modification Application 706/02/2 granted approval on 12 May 2003 to modify DA706/02. The modification sought to NOT undertake approved works to the existing roof and garage. The modification involves only a change in the materials on the southern elevation of the approved extension and the replacement of an existing retaining wall that would also match those present at numerous neighbouring properties.

Modification Application 706/02/3 granted approval on 27 May 2003 for the deletion of conditions C5-C10, and G1(b) of the consent. These conditions relate to vehicular crossing, road works and bonds.

Current application

Date	Action
2/5/2025	Lodged with Council.
6/5/2025	Referral comments received from Council's Development Engineer.
23/5/2025	The application was notified as per Council's Community Engagement Protocol. The notification period ended on 6/6/2025. Five (5) submissions were received during this period.
13/6/2025	Site inspection conducted by Assessment Officer.
24/6/2025	RFI issued to Applicant requesting amended plans regarding double garage insufficient for the additional car space as per engineering comments and the lowering of the front boundary wall. Contacted Applicant to seek increased landscaped elements such as planter boxes to complement the streetscape.
3/7/2025	Applicant submitted amended plans and added an entry deck on the first floor.
4/7/2025	Contacted Applicant to amend the increased width of the First Floor entry walkway and reduce it as it contravenes the average of the front setback between adjoining properties, and to include planter box affixed externally to this balcony.
9/7/2025	Council's Development Engineer raised no objections to the amended garage level plan and vehicular cross over.
14/7/2025	Requested Applicant to submit a Clause 4.6 as the amended plans no longer comply with Clause 4.3. Requested Applicant to amend the Site Plan and Garage Level Plan so that the width of the vehicular crossing is consistent (currently annotated as 5m and 4.8m respectively). The Applicant said he will amend as 4.8m.
15/7/2025	Informed Applicant that a condition is recommended for the entry deck to be reduced in width from the annotated 1.2m on the First Floor Plan to 1m to comply with the minimum front setback of 3m in accordance with the ACS. Applicant confirms that is satisfactory.
18/7/2025	Applicant submitted a Clause 4.6 for the amended proposal.

REFERRALS

BUILDING

The proposed works the subject of this application have not been assessed in accordance with compliance with the National Construction Code of Australia. This would need to be undertaken prior to the issue of a Construction Certificate. Should significant changes be required to achieve compliance with NCC standards, a Section 4.55 application would be necessary.

ENGINEERING

The application was referred to Council's Development Engineer who provided the following comments:

"The proposed increase in width to the existing vehicular crossover on Tobruk Avenue is not acceptable, as the proposed extension to the garage does not create a functional additional car space in the garage. There will be a loss of one on-street car parking space on Tobruk Avenue, with no gain in off-street parking within the property boundaries. Therefore, the widening of the vehicular crossing is not to be approved on any development consent, unless the garage is amended to incorporate an additional off-street parking space."

On 3 July 2025, the Applicant submitted amended garage level plan Revision B that was referred again to Council's Development Engineer. Council's Development Engineer provided the comments below in response:

"No engineering concerns in relation to the proposed extension in the garage space and amended vehicular crossover. The loss of on-street parking will be compensated by the provision of an additional car parking space within the property boundaries. A bond of \$12,500 has been recommended due to the construction of the new vehicular crossover and the 18m wide frontage."

Planning comment: The original comments are provided to the Applicant in the Request for Information/Amended Plans letter. Council's Development Engineer raises no objections to the amended plans and provided standard conditions to be imposed in the consent.

SUBMISSIONS

Original Plans

The application was notified as per Council's Community Engagement Protocol. The notification period ended on 6/6/2025. Five (5) submissions were received during this period.

The following is a summary of issues raised in the submissions:

- Uncharacteristic bulk and scale of parapet wall
- Removal of landscape elements to streetscape
- Uncharacteristic material and finish
- Overdevelopment

Amended Proposal (Revision C)

Notification of the amended plans is not required under the provisions of Section 3.6 of the Council's Community Engagement Protocol as the amended proposal will have a lesser effect on adjoining properties and the locality. However, the amended plans were sent to all the submitters of the original plans for comment on 7 July, requesting any comments to be provided by COB of 10 July 2025. No comment was received during this period.

The Clause 4.6 submitted with the amended proposal has justified that the height exceedance due to the relocation of the lift achieves the objectives of Clause 4.3 Height of Buildings development standard and thereby compliance with the development standard is unreasonable and unnecessary. The Clause 4.6 justifies that the design of the amended proposal does not create adverse impacts to adjoining properties and the existing streetscape, and that there is sufficient environmental planning ground (visual privacy for balcony enclosure and lift access for the steep topography) to justify contravening the development standard.

CONSIDERATION

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

SEPP (Resilience and Hazards) 2021

The provisions of Chapter 4 of this SEPP require Council to consider the likelihood that the site has previously been contaminated and to address the methods necessary to remediate the site. The subject site has a history of **residential use** and as such is unlikely to contain any contamination.

SEPP (Sustainable Buildings) 2021

A valid BASIX Certificate No. A1749740_02, dated 15 April 2025 for alterations and additions to a detached dwelling has been submitted with the application to satisfy the Aims of the SEPP. A condition is recommended at the end of the report for the BASIX certificate to be updated in accordance with the amended plans.

NORTH SYDNEY LOCAL ENVIRONMENT PLAN 2013

1. Aims of Plan

The development application has been assessed against the aims of the *North Sydney Local Environmental Plan 2013* and is considered to be satisfactory with respect to the relevant aims of the Plan.

2. Permissibility

The site is zoned R2 Low Density Residential under the provisions of the North Sydney Local Environmental Plan 2013 (*NSLEP 2013*). Development for the purposes of a detached dwelling is permissible with the consent of Council.

3. Objectives of the zone

The objectives for an R2 Low Density zone are stated below:

- *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 amended proposal subject to conditions is consistent with the objectives of the zone and provide for extensions to the existing dwelling and a lift installation that are unlikely to create an adverse impact on the surrounding properties and the locality. A condition is recommended for the front setback to be increased by the reduction in width of the proposed front Entry Deck in order to comply with the minimum 3m front setback requirement stipulated in the Area Character Statement. The proposal provides for the housing needs of the residents through lift access between the garage level to the first floor for a sloping site that covers a topographical change of 5m and allows for the current and future ageing population of the subject dwelling to utilise this facility. The amended proposal is designed sensitively by retaining the curved form of the existing front balconies without increasing the bulk and scale of the built form adversely and retains a high level of residential amenity to adjoining properties by nestling in the proposed lift and rear extension where the solar access, visual privacy, views, and other amenity impacts are unlikely to arise for adjoining properties.

4. Principal Development Standards

The proposal has been assessed against the principal development standards applicable to the development under *NSLEP 2013* as follows:

Compliance Table –

North Sydney Local Environmental Plan 2013				
Site Area – 411m ²	Existing	Proposed	Control	Complies
Clause 4.3 – Heights of Building	11.3m RL 56.37 Roof ridge east (rear) of front balconies	11.24m Measured from Existing Garage Level to Top of Parapet RL55.28.	8.5m	No Variation 2.74m (32.24%)

**Refer Clause 4.6 statement below*

5. Height of Building

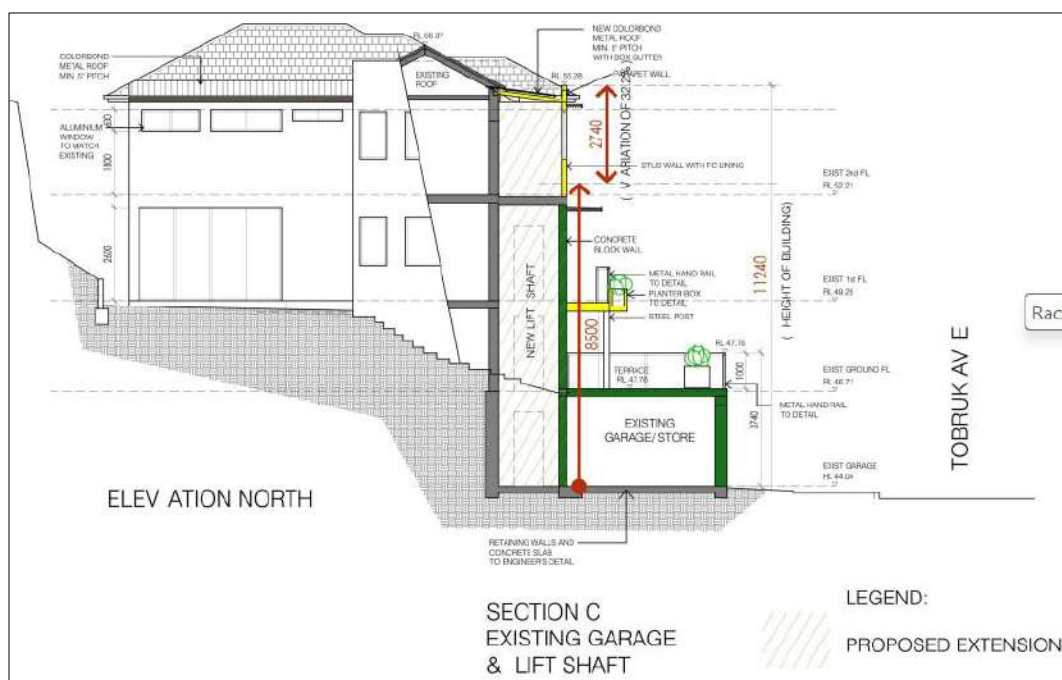
The following objectives for the permissible height limit are stated below:

- (a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,
- (b) to promote the retention and, if appropriate, sharing of existing views,
- (c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,
- (d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,
- (e) to ensure compatibility between development, particularly at zone boundaries,
- (f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.
- (g) to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone C4 Environmental Living.

The proposed works would have a height of 11.24m that contravenes with the permissible height limit of 8.5m in accordance with clause 4.3 in *NSLEP 2013*. The height of the proposed works does not comply with the maximum building height provisions of Clause 4.3 of *NSLEP 2013* as the height of the proposed works must be taken from ground level (existing) as defined in the LEP. The LEP Define “ground level existing” as follows

“ground level (existing) means the existing level of a site at any point.”

A Clause 4.6 Height Variation Request has been submitted which provides justification for the non-compliance. The Clause 4.6 written request has been assessed below:



Clause 4.6 Exceptions to development standards

A written request prepared by OJ Design, dated July 2025 was submitted as part of the application. The written request acknowledges the departure of more than 10% from the development standard.

Clause 4.6(3) states the following:

- (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 demonstration:*
 - (a) *The compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The written request provided by OJ Design, dated July 2025 has demonstrated that strict compliance is unnecessary in the circumstances of the case as it satisfies the objectives of the LEP height of building Clause 4.3 notwithstanding the exceedance of the development standard, because: -

- The height non-compliance of the development is limited to the front part of the house where proposal is to enclose the balconies to allow for a lift shaft running from the underground garage level to the first floor level, to improve access for future generation and aging population as the sloping site has a gradient of 5m across the site.
- While the numerical values related to the variation of the building height standard is 32.2%, the proposed development to the front part of the house will remain generally the same as existing and do not attribute to likely loss of views,
- The height non-compliance is limited to the front part of the house where new work to enclose the existing balconies with new windows, and will maintain solar access to the existing house and will have no impact to the adjoining properties.
- The portions of the proposed development which contravene the height of buildings development standard is generally maintained as existing and do not cause any unacceptable privacy impacts to existing dwellings or potential future development.
- The subject area is an established area with predominantly 3 storey houses and the proposal is consistent with the existing character, scale and form of the surrounding buildings.
- The proposed development will not affect the built form of mainly 3 storeys in zone R2 Low Density Residential and the visual massing is consistent within the streetscape.

The written request provides the following environmental planning grounds in support of the request which argues that the exceedance should be granted for the following reason:

- Improved access by the ageing population and future generations over a site with a steep topography of 5m from the street to the rear of the site
- Visual privacy through the enclosure of the front balconies

As detailed earlier within this report, the proposal is considered to achieve the objectives of the objectives of the R2 Low Density Residential zone subject to the recommended condition that increases the front setback by reducing the width of the proposed entry deck by 0.2m to comply with the minimum 3m front setback control within the Area Character Statement.

In conclusion, the written request seeking a variation to the building height control is considered to be satisfactory, has demonstrated that compliance with the standard is unreasonable and unnecessary in the circumstances of the case and has provided environmental planning grounds which support the request. While the breach to the building height standard exceeds a 10% variation, it is consistent with the objectives of the building height control and the R2 Low Density Residential zone.

In considering the breach to the height standard, Council identified the height of proposed works above the height standard as well as the existing height of the roof ridge to the east of the front balcony at 11.3m which is substantially above the maximum 8.5m height control. The works in breach of the height standard consist of the following:

- **Enclosure of Front Balconies and Parapet wall**

The proposed works would not represent any substantial increase to the height of the existing building (11.3m, RL 56.37). The maximum proposed height is measured from the garage level to the proposed parapet wall above the front balcony enclosures (11.2m, RL55.28), which is 1.09m below the maximum height of the existing building.

The proposal will be sympathetic to the existing material of the dwelling and a standard condition is recommended at the end of the report for the external colours and finishes to be complementary to the existing building. The proposed work will not create an adverse impact from the street in terms of views and amenity from the streetscape.

In conclusion, the written request seeking a variation to the building height control is considered to be well founded as it has demonstrated that compliance with the standard is unreasonable and unnecessary in the circumstances of this case. The breaches to the building height do not offend the objectives of the building height control and the R2 Low Density Residential Zone.

6. Earthworks

The proposal involves some excavation so an assessment has been carried out below having regard to Clause 6.10 in *NSLEP 2013*.

The proposal involves some excavation for the lift and extension to the garage at the front of the property and minor surface preparation for the addition at the rear of the property only and is therefore satisfactory against Clause 6.10 in *NSLEP 2013*. The maximum proposed excavation is 2.9m for the proposed garage extension from the garage floor level to the ground floor level.

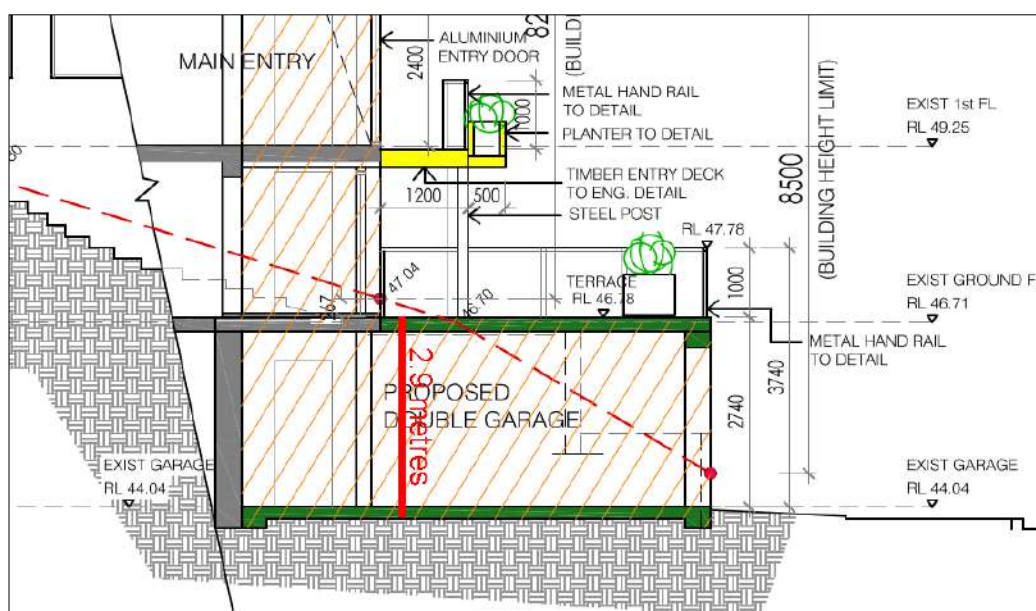


Figure 12: Proposed excavation 2.9m for the garage extension

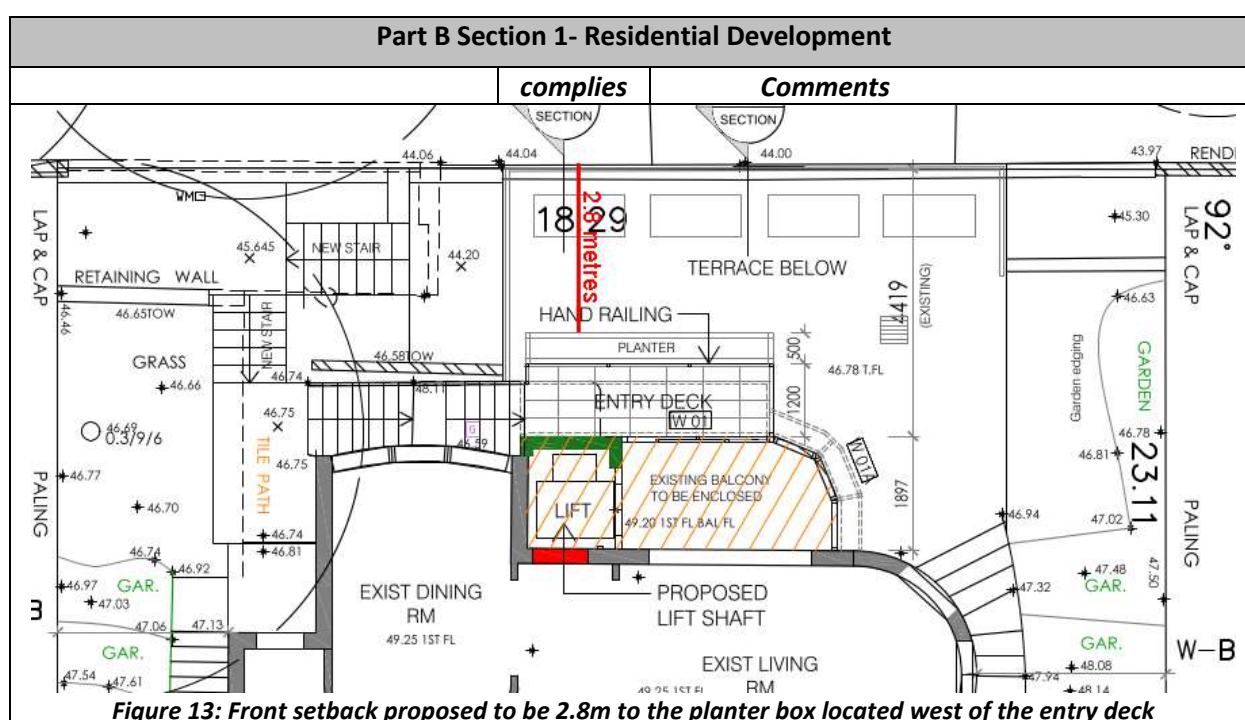
NORTH SYDNEY DEVELOPMENT CONTROL PLAN (NSDCP) 2013

The Development Control plan applies to the site so an assessment has been carried out below:

Compliance Table – Residential Development

Part B Section 1- Residential Development		
	<i>complies</i>	<i>Comments</i>
1.2 Social Amenity		
1.2.2 Maintaining Residential Accommodation	Yes	No change to existing arrangements.
1.3 Environmental Criteria		
1.3.1 Topography <i>O3 To minimise the adverse effects of excavation on the amenity of neighbouring properties.</i> <i>P5 Excavation should not occur within 1m of any property boundary. Where excavation is required within 500mm of a property boundary, Council must not grant development consent unless it is satisfied that the proposed excavation will not result in adversely impacting upon the structural integrity of adjoining properties.</i>	Yes	Subject to the imposition and satisfaction of such conditions recommended by Council's Engineer Council is satisfied that the proposed excavation is considered to be reasonable. The excavation for the proposed garage extension is adequately set back from the side boundaries by a minimum of 2.6m and is unlikely to create adverse impacts to the amenity of adjoining dwellings.
1.3.6 Views	Yes	The Area Character Statement stipulates that buildings should not obstruct views and vistas from public places to the waterway. The subject site is located at a lower topography than its eastern neighbours and the proposed additions are situated at a lower height than the existing dwelling and consequently will not obstruct views and vistas to any waterway. The proposal does not impact district views to Middle Harbour or to and from any lookouts stated in the ACS.

Part B Section 1- Residential Development		
	<i>complies</i>	<i>Comments</i>
1.3.7 Solar Access	Yes	The proposed additions are sited such that any shadows will fall onto the existing built form of the subject site, front setback or onto the public footpath only. Adverse shadow impacts by the additions onto adjoining properties are unlikely.
1.3.10 Visual Privacy <ul style="list-style-type: none"> Roof top terraces less than 50% of the floor area below or > than 18m² 	Yes	Separation is maintained to the rear addition and adjoining properties with approximately 5.2 metres maintained between the new rear addition and the northern (side) boundary.
1.4 Quality built form		
1.4.1 Context	Yes	The amended proposal incorporates sufficient landscape elements and lowers the front boundary fence to be consistent with the streetscape. The amended proposal relocates the lift towards the centre of the lot and retains the curved edge for the proposed balcony enclosure that is currently visible in the existing front balcony.
1.4.3 Streetscape	Yes	The Area Character Statement for the Benelung and Northern Foreshore Neighbourhoods under Part C, s5.4 describes the streetscape as “tree lined streets with grassed verges and concrete footpaths”; “garages...built to the boundary”; “a mixture of low picket...masonry fences”. The proposal is satisfactory in continuing the line of the low fence from adjoining properties and retaining existing hedges and provision of additional landscape elements to complement the streetscape. The proposal also presents an extended garage build to the front boundary at a scale that is consistent with other garages on the street.
1.4.5 Siting	Yes	The proposed development is appropriately sited and would not dominate the street and is compatible with the immediate surrounding area.
1.4.6 Setback – Side <i>General Residential (R2 & R3 zones)</i> <i>1st storey (up to 4m) – 900mm</i> <i>2nd storey (up to 7m) – 1.5m</i> <i>3rd storey (>7m) – 2.5m</i>	Yes	The proposed additions have a minimum setback of 5m from both side boundaries and therefore comply with the setback control.
P1 Front setback <i>The front setback match alignment of primary facades of adjoining properties or average setbacks of primary facades.</i>	Yes Subject to condition	Front setback A minimum front setback of 3m is specified in the Area Character Statement. The proposed lift addition and enclosure of the front balcony provides a minimum of 4.5m setback. The proposed entry deck planter box has a front setback of 2.8m only (see Figure 13 below) and a condition is recommended at the end of the report for the entry deck to be reduced in width down to 1m to allow the adjoining planter box to achieve the 3m setback. The Applicant was informed of this and confirmed satisfaction with a condition in this regard.



P5 Rear Setback – Rear <i>To match adjoining properties or as specified in Character Statement.</i>	No Merit	<p>The subject site does not currently comply with the minimum 10m rear setback as detailed in the Area Character Statement. The subject proposal seeks to extend the northeastern corner to align with the existing rear setback of 6.1m. While this does not comply with the control, the extension does not create any adverse impact on adjoining properties or the rock cliff at the rear of the site and is considered satisfactory.</p> <p>Rear Setback Existing – 6.1m Proposed – 6.1m</p>
1.4.7 Form Massing Scale	Yes	The amended proposal reduced the height of the front parapet wall and seeks to integrate landscape elements in the form of planter boxes to soften the built form and is satisfactory.
1.4.8 Built Form Character	Yes	<p>The amended proposal reduced the height of the front parapet wall and seeks to integrate landscape elements in the form of planter boxes to soften the built form and is satisfactory.</p> <p>The Clause 4.6 submitted by the Applicant justifies the lack of impact by the proposed built form on adjoining properties and the streetscape as the visible elements on the front elevation of the dwelling are generally within the same building footprint.</p>
1.4.9 Dwelling Entry	Yes	The proposed pedestrian entry from Tobruk Avenue is clearly distinguishable from the garage. The proposed W11 located on the ground floor is an improvement to the existing double sliding door and now presents as a formal entry into the dwelling.
1.4.10 Roofs	Yes	The proposal maintains low pitched rooves to the additions.

Part B Section 1- Residential Development																															
		complies	Comments																												
1.4.12 Materials		Yes	No specified materials and finishes are detailed in the Area Character Statement. The proposal seeks to utilize rendered brick wall with paint finish to the garage and front fence, timber look finish to the garage door, colorbond metal roof to additions, and concrete wall with painted finish to the front elevation. The existing dwelling consists of rendered walls on the upper levels visible from the streetscape. The proposed materials are not out of character with the existing dwelling and the newer developments within the streetscape.																												
1.4.14 Front Fences P1 Front fences are not to exceed 1m in height.		Yes	The proposed front fence is 900mm in height.																												
1.5 Quality Urban Environment																															
1.5.4 Vehicle Access and Parking <ul style="list-style-type: none">Part B – Section 10 – Car parking		Yes	Subject to conditions recommended by Council's Development Engineer, the proposal is satisfactory.																												
1.5.5 Site Coverage Detached dwelling Site area = 411m² <table><tr><th colspan="2">Table B-1.6: Max Site Coverage</th></tr><tr><th>Lot Size</th><th>Cover (max)</th></tr><tr><td>0-229</td><td>60%</td></tr><tr><td>230-499</td><td>50%</td></tr><tr><td>500-749</td><td>40%</td></tr><tr><td>750-999</td><td>35%</td></tr><tr><td>1000+</td><td>30%</td></tr></table>		Table B-1.6: Max Site Coverage		Lot Size	Cover (max)	0-229	60%	230-499	50%	500-749	40%	750-999	35%	1000+	30%	Yes	<table><tr><th>Control</th><th>Proposed</th><th>Compliance</th></tr><tr><td>Site coverage</td><td>184.3m² (44.8%)</td><td>Yes</td></tr><tr><td>Landscaped area</td><td>186.34m² (45.3%)</td><td>Yes</td></tr><tr><td>Unbuilt-upon area</td><td>40.69m² (9.9 %)</td><td>Yes</td></tr></table> The total site coverage proposed is 184.3sqm or 44.84%. This is inclusive of the external steps, extension to garage below terrace, timber shed and rainwater tank, and the proposed dwelling with additions. The proposal is compliant with the maximum site coverage control of 50% as prescribed within NSDCP 2013.	Control	Proposed	Compliance	Site coverage	184.3m² (44.8%)	Yes	Landscaped area	186.34m² (45.3%)	Yes	Unbuilt-upon area	40.69m² (9.9 %)	Yes		
Table B-1.6: Max Site Coverage																															
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1.5.6 Landscape Area (min) & Un-built upon area (max) Detached dwelling Site area = 411m² <table><tr><th colspan="3">Table B-1.7: Landscape requirements</th></tr><tr><th>Lot size</th><th>Landscape (min)</th><th>UBA (max)</th></tr><tr><td>0-229</td><td>20%</td><td>20%</td></tr><tr><td>230-499</td><td>30%</td><td>20%</td></tr><tr><td>500-749</td><td>40%</td><td>20%</td></tr></table>		Table B-1.7: Landscape requirements			Lot size	Landscape (min)	UBA (max)	0-229	20%	20%	230-499	30%	20%	500-749	40%	20%	Yes	The proposed development is assessed as compliant with the minimum landscaped area requirement of 30% and minimum UBA area of 20%. <table><tr><th>Control</th><th>Proposed</th><th>Compliance</th></tr><tr><td>Site coverage</td><td>184.3m² (44.8%)</td><td>Yes</td></tr><tr><td>Landscaped area</td><td>186.34m² (45.3%)</td><td>Yes</td></tr><tr><td>Unbuilt-upon area</td><td>40.69m² (9.9 %)</td><td>Yes</td></tr></table>		Control	Proposed	Compliance	Site coverage	184.3m² (44.8%)	Yes	Landscaped area	186.34m² (45.3%)	Yes	Unbuilt-upon area	40.69m² (9.9 %)	Yes
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Landscaped area	186.34m² (45.3%)	Yes																													
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Part B Section 1- Residential Development		
	<i>complies</i>	<i>Comments</i>
1.5.7 Excavation	Yes	Subject to the recommended conditions from Council's Development Engineer included at the end of the report, the proposal is satisfactory.
1.5.8 Landscaping	Yes	All existing trees on site are retained in this development application.
1.5.9 Front Gardens	Yes	The amended proposal incorporates landscaped elements that soften the built form.
1.5.10 Private and Communal Open Space <ul style="list-style-type: none"> Private open space at ground level – 4m min dimension & 2m above ground level Must be provided off living areas 	Yes	A minimum private open space area of 40sqm is available off the proposed Lounge Room on the First Floor level on the northern boundary.
1.6 Efficient Use of Resources		
1.6.1 Energy Efficiency	Yes	A valid BASIX Certification has been submitted as part of the development application documentation. A condition is recommended at the end of the report for the BASIX submitted to be updated in accordance with the approved plans.

CHARACTER STATEMENTS – PART C

The application has been assessed against the relevant controls in the Character Statements under Part C in NSDCP 2013 below:

Section 5 - North Cremorne Planning Area

Section 5.4 – Northern Foreshores Neighbourhood

The proposed works are consistent with the Character Statement of the Northern Foreshores Neighbourhood. The proposed rear addition does not impact on natural features and rock outcrops to the rear of the site.

LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN

The proposal is subject to Local Infrastructure Contributions in accordance with the North Sydney Local Infrastructure Contributions Plan (as amended). The required contribution has been calculated in accordance with the applicable contribution rates as follows

Applicable Contribution Type		
S7.12 contribution detail	Development cost:	\$ 489,500.00
(payment amount subject to indexing at time of payment)	Contribution:	\$ 4,895.00

Conditions requiring payment of contributions are included in the attached recommended conditions of consent. The development application has an estimated cost of over \$100,000 and therefore s7.12 contributions apply.

HOUSING PRODUCTIVITY CONTRIBUTION

The Ministerial Order for Housing Productivity Contribution came to effect on 1 July 2024. The order applies to land within the Greater Sydney Region, in which North Sydney Council is located. The subject application does not incorporate the construction of a new dwelling, and the application is therefore not subject to a contribution in accordance with Clause 7 of the *Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2024*. Subsequently, the requirement to levy a contribution for this application by way of condition is not triggered.

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 considerations of Environmental Planning and Assessment (Amendment) Act 1979	YES

PUBLIC INTEREST

The proposal is considered to be in the public interest for the reasons stated throughout this report, subject to the satisfaction of the imposed conditions of consent.

SUITABILITY OF THE SITE

The proposal would be located in an R2 Low Density Residential zone where alterations and additions to a detached dwelling are a permissible form of development. Consequently, the proposal is considered to be suitable for the site having regard to the merits of the proposal as described in the above report.

SUBMITTERS CONCERNS

The concerns raised during the notification of the application have been reviewed and addressed in detail under the relevant headings above. The proposed amended development largely deals with the concerns raised in the submissions and are addressed, where relevant, below:

- ***Uncharacteristic bulk and scale of front boundary parapet wall to garage***
- ***Removal of landscape elements to streetscape***
- ***Uncharacteristic material and finish***
- ***Overdevelopment***

Response: The original plans propose a wall extending boundary to boundary of a height of 3.8m. The amended front boundary wall has a maximum height of 2.8m and retains the existing low wall on side boundaries with hedging that will soften the built form in the streetscape. Planter boxes are also introduced on the Ground Level Terrace front elevation and the First Floor Front elevation.

The Area Character Statement does not specify characteristic colours and materials for the locality. The proposed materials of concrete block wall on the front elevation matches the existing concrete material of the front elevation of the dwelling and is satisfactory.

The amended proposal is not considered to be an overdevelopment as it satisfies the site coverage, landscaped area, and unbuilt upon area controls within NSDCP 2013. The proposed height remains under the maximum height of the existing dwelling and the overall height, bulk and scale is not inconsistent with the character of the streetscape.

CONCLUSION AND REASONS

The development application has been assessed against the *North Sydney Environmental Plan 2013* and the North Sydney Development Control Plan 2013 and generally found to be satisfactory.

The proposal is unlikely to cause adverse material impacts to adjoining properties and streetscape subject to recommended conditions of consent.

Having regard to the provisions of Section 4.15 (1) of the *Environmental Planning & Assessment Act 1979*, the proposed development will not result in any unreasonable amenity or environmental impacts. The application is considered satisfactory and is recommended for approval.

HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?

The subject application was notified to adjoining properties and the Willoughby Bay Precinct for 14 days where a number of issues were raised that have been addressed in this report where appropriate conditions of consent have been recommended to maintain the amenity of adjoining properties and the character of the streetscape.

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 grant consent to Development Application No. 110/25 for alterations and additions to a detached dwelling on land at 29 Tobruk Avenue, Cremorne, subject to the following site specific and attached standard conditions:-

Reduction in Width of Entry Deck

- A4. The proposed Entry Deck located on the First Floor is to be reduced in width from 1.2m to 1m. The proposed planter box affixed to the balustrade of the Entry Deck is to move east with the Entry Deck structure accordingly.

(Reason: To ensure the proposed development complies with the front setback control of 3m in accordance with the Area Character Statement within Part C, NSDCP 2013)

Updated BASIX Certificate

- C24. The submitted BASIX Certificate (A1749740_02, dated 15 April 2025) is required to be updated in accordance with the approved plans and conditions within this consent.

Under section 75 of the *Environmental Planning and Assessment Regulation 2021*, it is a condition of this development consent that all the commitments listed in the updated BASIX certificate for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

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

RACHEL WU
ASSESSMENT OFFICER

ISOBELLA LUCIC
TEAM LEADER (ASSESSMENTS)

STEPHEN BEATTIE
MANAGER DEVELOPMENT SERVICES

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
29 TOBRUK AVENUE, CREMORNE
DEVELOPMENT APPLICATION NO.110/25

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 endorsed with Council's approval stamp and other documentation listed in the tables to this condition, or cited by other conditions, and as amended by other conditions of this consent.

Plan No.	Rev	Description	Prepared by	Dated
01	C	Site Plan	OJ Design	14/7/2025
02	B	Garage Floor	OJ Design	3/7/2025
03	C	Ground Floor	OJ Design	5/7/2025
04	C	First Floor	OJ Design	5/7/2025
05	C	Second Floor	OJ Design	5/7/2025
06	A	Roof Plan	OJ Design	7/2/2025
07	C	Elevation North	OJ Design	5/7/2025
08	C	Front Elevation	OJ Design	5/7/2025
09	A	Elevation East & Section A	OJ Design	7/2/2025
10	C	Section B	OJ Design	5/7/2025
11	C	Section C	OJ Design	5/7/2025

(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 plans endorsed with Council's approval stamp, specifications and documents (including the plans, specifications and documents submitted and approved with all Construction Certificates) must be always kept on site and be readily available for perusal by an officer of Council or the Principal Certifier.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the Principal Certifier 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)

Reduction in Width of Entry Deck

- A4. The proposed Entry Deck located on the First Floor is to be reduced in width from 1.2m to 1m. The proposed planter box affixed to the balustrade of the Entry Deck is to move east with the Entry Deck structure accordingly.

(Reason: To ensure the proposed development complies with the front setback control of 3m in accordance with the Area Character Statement within Part C, NSDCP 2013.)

B. Matters to be completed before the lodgement of an application for a construction certificate

Construction and Traffic Management Plan

- 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).

- 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 20m 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 the Council's Traffic and Transport Engineers as to the result of this review must be obtained and must be submitted as part of the supporting documentation lodged with the Principal Certifier 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) To apply for certification under this condition, an 'Application to satisfy development consent' must be prepared and lodged with North Sydney Council. North Sydney Council's adopted fee for certification of compliance with this condition must be paid upon lodgement.
- 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

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 predeveloped condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any infrastructure damaged before development commences, so 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 Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

The Applicant 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 Applicant shall be responsible for the cost of repairing any public infrastructure damaged during the course of the development. No occupancy of the development shall be permitted until all such damage has been rectified.

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

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

Dilapidation Report Private Property (Excavation)

- C2. A full dilapidation survey and report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report and survey are to be prepared by a consulting structural/geotechnical engineer and a copy to be given to the owner of the relevant affected adjoining property.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the Applicant must demonstrate, in writing, to the satisfaction of Council, that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record-keeping purposes only and may be used by the Applicant or affected property owners to assist in any action required to resolve dispute(s) over damage to adjoining properties arising from the works. It is in the Applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: To record the condition of property/ies prior to the commencement of construction)

Dilapidation Survey Private Property (Neighbouring Buildings)

- C3. A photographic survey and dilapidation report of adjoining property No. 31 Tobruk Avenue, Cremorne detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, MUST BE submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The survey and report are to be prepared by an appropriately qualified person and a copy to be given to the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Principal Certifier, prior to the issue of the relevant Construction Certificate.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

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Should access for undertaking the photographic survey and dilapidation report be denied by an adjoining owner, the Applicant must demonstrate, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record-keeping purposes only and may be used by an Applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the Applicant's and adjoining owner's interest for it to be as full and detailed as possible

(Reason: Proper management of records)

Structural Adequacy of Adjoining Properties - Excavation Works

- C4. A report prepared by an appropriately qualified and practising structural engineer detailing the structural adequacy of adjoining property No. 31 Tobruk Avenue, Cremorne, which certifies its ability to withstand the proposed excavation and outlines any measures required to be implemented to ensure that no damage will occur to adjoining properties during the works, must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The measures outlined in the certified report must be complied with at all times.

(Reason: To ensure the protection and structural integrity of adjoining properties in proximity during excavation works)

Structural Adequacy of Existing Building

- C5. 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 Principal Certifier for approval prior to issue of the relevant 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)

Geotechnical Report

- C6. A report prepared by an appropriately qualified Geotechnical Engineer certifying that the existing rock formations and substrate on the site are capable of:
- a) withstanding the proposed loads to be imposed;
 - b) withstanding the extent of the proposed excavation, including any recommendations for shoring works that may be required to ensure the stability of the excavation;

- c) providing protection and support of adjoining properties; and
- d) the provision of appropriate subsoil drainage during and upon completion of construction works

must be submitted for approval by the Principal Certifier prior to the issue of the relevant Construction Certificate.

Recommendations made in the certified report must be complied with at all times.

Building plans and specifications submitted for approval with the relevant construction certificate application must comply with (a), (b), (c) and (d), above, and the certified report, including relevant recommendations made in the said certified report.

(Reason: To ensure the structural integrity of the subject site and adjoining sites during the excavation process)

External Colours and Finishes

- C7. The external colours and finishes shall match those as existing and/or be compatible with surrounding development. A schedule of external colours and finishes must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

(Reason: To ensure that the completed colours and finishes of the works are compatible with surrounding development)

Erosion and Sediment Control

- C8. Where any works authorised by this consent require disturbance of the soil surface or existing vegetation, erosion and sediment control techniques, as a minimum, are to be in accordance with the publication, *Managing Urban Stormwater: Soils and Construction*, (4th Edition, Landcom, 2004) commonly referred to as the "Blue Book," or a suitable and effective alternative method.

An Erosion and Sediment Control Plan must be prepared and implemented prior to any works commencing. The Erosion and Sediment Control Plan must be consistent with the Blue Book and disclose:

- a) All details of drainage to protect and drain the site during the construction processes;
- b) All sediment control devices, barriers and the like;
- c) Sedimentation tanks, ponds or the like;
- d) Covering materials and methods; and

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- e) A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained;
- f) Methods for the temporary and controlled disposal of stormwater during construction.

All works must be undertaken in accordance with the approved Erosion and Sediment Control Plan.

The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the relevant issued Construction Certificate, fully satisfy the requirements of this condition.

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

Waste Management Plan

- C9. A Waste Management Plan prepared in accordance with the provisions of Part B Section 19 of the *North Sydney DCP 2013*, must be submitted for approval by the Principal Certifier prior to the issue of the relevant 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)

Skylight(s)

- C10. Skylight flashing(s) and frame(s) to be coloured to match the roof material. Skylight(s) to sit no higher than 100mm above roof plane when in a closed position. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

(Reason: To minimise the visual impact of the skylight(s) on the roof plane)

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Work Zone

- C11. If a Work Zone is required a Work Zone permit is to be obtained from Council prior to the issue of any Construction Certificate.

Note: For major development, an application for work zone permit must be considered by the North Sydney Local Traffic Committee.

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 Principal Certifier to enable issue of the relevant 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 Applicant is required to remove the Work Zone signs and reinstate any previous signs, all at the Applicant'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)

Maintain Property Boundary Alignment Levels

- C12. Except where otherwise approved by Council, the property boundary alignment levels must match the levels which existed prior to the commencement of works. Plans and specifications which document existing and proposed levels adjacent to the site boundaries and which comply with the requirements of this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

(Reason: To ensure interface between property and public land remains uniform)

Pedestrian Sight Triangles

- C13. In accordance with AS2890.1, the vehicular access must ensure that pedestrian sight triangles measuring 2.5m x 2.0m at the intersection of the vehicular access with the property boundary are provided, with no obstructions higher than 0.5m permissible with the pedestrian sight triangles. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier 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: Public amenity and safety and appropriate sight distance)

Obtain Driveway Crossing Permit under S.138 *Roads Act 1993*

- C14. A driveway crossing and roads infrastructure works permit to suit the approved off-street parking facilities must be granted by the Council prior to the issue of the relevant Construction Certificate. In order to obtain a permit under s.138 of *the Roads Act 1993*, an application must be made to Council on the 'Vehicular Access Application' form with payment of the adopted assessment/inspection fees. Council will require civil design construction drawings and certification from the Applicant's Civil Engineer to verify design details and enable issue of the permit. The requirements of the permit must be complied with at all times.

The civil design drawings must include the following at a minimum:

- a) the vehicular accessway must comply with AS 2890.1 and Council's current *Vehicular Access Application Guidelines and Specification* (gutter bridges not permitted) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or parking floor;
- b) the redundant layback crossing must be reinstated as kerb gutter and footpath;
- c) the width of the vehicular layback must be 5.5 metres (including the wings);
- d) the vehicular layback must be set square to the kerb;
- e) the crossing (between the layback and the property boundary) must be placed on a single straight grade at a maximum of 4.5%, falling to the back of the layback;
- f) the gutter levels and boundary footpath levels must match the existing levels and shall not be altered;
- g) transitioning works of one footpath panel on both sides of the driveway crossing are required to ensure uniformity in the footpath;
- h) the kerb, gutter, and road shoulder must be transitioned 1m on both sides of the crossing to ensure uniformity in the road reserve;
- i) the road shoulder must be reconstructed 600mm wide to gutter lip, adjacent to all new gutter works;
- j) any twisting of driveway access must occur entirely within the subject property;
- k) all inspection openings, utility services must be adjusted to match the proposed driveway levels;
- l) sections along centre-line and extremities of the vehicular crossover are required at a scale of 1:50 to be taken from the centre-line of the roadway through to the parking area itself and must include all changes of grade and levels both existing and proposed;

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- m) a longitudinal section along the gutter invert level at a scale of 1:50 is to be provided along the entirety of the property boundary, demonstrating how it is intended to blend the vehicular crossing with the existing kerb and gutter;
- n) a longitudinal section along the footpath property boundary at a scale of 1:50 is required;
- o) the sections must demonstrate that a minimum height clearance of 2.2m is provided
- p) a swept path analysis is required demonstrating that an 85th percentile vehicle can manoeuvre in and out of the garage spaces in accordance with AS 2890.1 2004 "Off Street Parking".

The permit must be granted by Council prior to the issue of the relevant Construction Certificate.

All driveway and infrastructure work on the road reserve must be undertaken in accordance with the terms of the permit issued by Council. Inspections by Council will be required as specified. The Principal Certifier issuing the relevant Construction Certificate must ensure that the permit issued by Council is obtained and referenced on and accompanies the relevant Construction Certificate issued.

(Reason: To facilitate appropriate vehicular access to private sites, without disruption to pedestrian and vehicular traffic)

Stormwater Disposal - Drainage Plan

- C15. Prior to the issue of the relevant Construction Certificate, site drainage plans must be prepared by a licensed plumber or drainage engineer. The site drainage plans must -be designed in accordance with the following criteria:
- a. Compliance with NCC drainage requirements and current Australian Standards and guidelines;
 - b. Stormwater runoff and subsoil drainage generated by the approved development must be conveyed in a controlled manner by gravity to **Tobruk Avenue**;
 - c. New pipelines within council land shall be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 millimetres and a section height of 100 millimetres;
 - d. The design and installation of the Rainwater Tanks shall comply with BASIX and Sydney Water requirements. Overflow from tank shall be connected by gravity to the stormwater disposal system; and
 - e. Prevent any stormwater egress into adjacent properties by creating physical barriers and surface drainage interception.

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Drainage plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier 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: Proper disposal of stormwater)

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

C16. Prior to the issue of the relevant Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$12,500.00 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.
- c. Remedying any defects in any such public work that arise within 6 months after the work is completed.
- d. Council reserves the right to retain all bonds on infrastructure works relating to the completion of required Infrastructure work for a 12-month defect liability period. Council may elect to provide a lesser period for minor residential work.

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 Development Engineers or Manager of Development Services.

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

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- the Principal Certifier 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)

Bond for Public Trees

- C17. Prior to any works authorised by this consent commencing, security in the sum of \$6,000.00 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 six months from the issue of the relevant 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 trees in streets and other public places.

SCHEDULE

One (1)) tree in front of subject site on public verge, and one (1) tree in front of No. 31 Tobruk Avenue

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

Asbestos and Hazardous Material Survey

- C18. 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.

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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 SafeWork NSW licensed contractor;
- b) all removal must be in strict accordance with the requirements of the SafeWork NSW 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 Principal Certifier as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

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

Noise from Plant and Equipment

C19. The use of all plant and equipment installed on the premises must not:

- a) Contribute an LAeq(15min) which will cause the total LAeq(15min) from all plant and equipment operating contemporaneously on the site or in the strata scheme or in the mixed strata schemes to exceed the RBL by more than 5dB when measured at the boundary of any affected receiver. The modifying factor adjustments in **Fact Sheet C** of the *NSW Environment Protection Authority Noise Policy for Industry 2017* shall be applied.
- b) Cause "offensive noise" as defined in the *Protection of the Environment Operations Act 1997*.

"affected receiver" includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship and parks and such other affected receiver as may be notified by the Council in writing.

"boundary" includes any window or elevated window of an affected receiver.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Noise Policy for Industry published by the NSW Environment Protection Authority.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

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Location of Plant

- C20. All plant and equipment (including, but not limited to air conditioning equipment) is to be located within the basement of the building and is not to be located on balconies or the roof. Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

(Reason: Minimise impact on surrounding properties, improve visual appearance and amenity for locality)

Air Conditioners in Residential Premises

- C21. The use of any air conditioner installed on the premises must comply with the requirements of the *Protection of the Environment Operations (Noise Control) Regulations 2017* and *State Environmental Planning Policy (Transport and Infrastructure) 2021* and must not:

- a) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
 - i. before 8.00am and after 10.00pm on any Saturday, Sunday or Public Holiday; or
 - ii. before 7.00am or after 10.00pm on any other day
- a) cause an LAeq(15min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the *Environment Protection Authority Noise Policy for Industry 2017* will be applied.

“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

“boundary” includes any window or elevated window of an affected residence.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Noise Policy for Industry published by the NSW Environment Protection Authority.

(Reason: To maintain residential amenity)

Local Infrastructure Contributions

- C22. 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 Local Infrastructure Contributions Plan, to provide for local infrastructure improvements.

Based on the net increase in demand for the cost of development at the date of determination, the total contribution payable to Council is **\$4,895.00**.

Indexation

The monetary contribution required under this consent will be indexed between the date of the grant of the consent and the date on which the contribution is paid 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 the relevant Construction Certificate for any work approved by this consent.

A copy of the *North Sydney Local Infrastructure Contribution Plan 2020* 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 Infrastructure Contributions Plan 2020*)

Security Deposit/Guarantee Schedule

- C23. All fees and security deposits/guarantees in accordance with the schedule below must be provided to Council prior to the issue of the relevant Construction Certificate:

Security Deposit/Guarantee	Amount (\$)
Street Tree Bond (on Council Property)	\$6,000.00
Footpath Damage Bond	\$5,000.00
Engineering Construction Bond	\$7,500.00
TOTAL BONDS	\$18,500.00

Note: The following fees applicable

Fees	
Local Infrastructure Contributions	\$4,895.00
TOTAL FEES	\$4,895.00

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)

Updated BASIX Certificate

- C24. The submitted BASIX Certificate (A1749740_02, dated 15 April 2025) is required to be updated in accordance with the approved plans and conditions within this consent.

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Under section 75 of the *Environmental Planning and Assessment Regulation 2021*, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. *(insert no. and date of certificate)* for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

(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**Protection of Trees**

- D1. All trees that are specifically nominated to be retained by notation on plans or by condition as a requirement of this consent must be maintained and protected during demolition, excavation, and construction on the site, in accordance with AS4970-2009 (Protection of trees on development sites).

The tree protection measures detailed in the approved Tree Protection and Management Plan, and as directed by the project arboriculturist must be established before work commences and be maintained at all times during construction activity.

Sensitive construction techniques including hand excavation, pier and beam construction, and flexible location of piers/footings shall be used within the TPZ of any protected tree. No roots greater than 40mm shall be cut. No stormwater or any underground services shall be directed through the TPZ of any protected tree.

(Reason: To ensure compliance with the requirement to retain significant planting on the site)

Temporary Fences and Tree Protection

- D2. All protected trees on-site that are specifically nominated to be retained by notation on plans or by a condition of this consent must be tagged with luminous tape or the like, for purposes of identification prior to demolition, excavation, or construction works, and must remain so for the duration of works on the site. No materials or builder's waste are to be stored in the vicinity of the nominated tree/trees at any time.

Appropriate fencing or barricades in accordance with AS4970-2009 (Protection of trees on development sites), not less than the distance shown in the schedule hereunder, must be installed to the satisfaction of the Project Arborist prior to commencement of any works and must be maintained for the duration of the works:

(Reason: To protect the trees to be retained on the site during construction works)

Public Liability Insurance - Works on Public Land

- D3. 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

- D4. 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 SafeWork NSW licensed contractor;
- b) all removal must be in strict accordance with the requirements of the SafeWork NSW 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 Principal Certifier as proof of correct disposal of asbestos-laden waste.

The report must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

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

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Commencement of Works' Notice

- D5. Works in accordance with this development consent must not be commenced until the Applicant has given at least two days' notice to North Sydney Council of the person's intention to commence works 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 Applicant 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 accessways fronting the construction site.

Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers (at full Applicant 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 of 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 Principal Certifier.

(Reason: Stormwater control during construction)

Geotechnical Stability during Works

- E4. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure.

Geotechnical aspects of the development work, namely appropriate excavation method and vibration control, support and retention of excavated faces, and hydrogeological considerations must be undertaken in accordance with the recommendations of the engaged Geotechnical Engineer and all subsequent geotechnical inspections carried out during the excavation and construction phase.

Approval must be obtained from all affected property owners, including North Sydney Council where rock anchors (both temporary and permanent) are proposed below adjacent private or public property.

(Reason: Ensure appropriate professional are engaged at appropriate stages during construction)

Council Inspection of Public Infrastructure Works

- E5. During the works on public infrastructure reverting to Council's care and control, Council's development engineer may undertake inspections of the works at the following hold points:

- a) Formwork for layback, kerb/gutter, footpaths;

All works must proceed in accordance with *the Roads Act 1993* approvals or other permits relating to roads issued by Council. A minimum of 48 hours' notice must be given to Council to book an inspection. Work must not proceed until the works or activity covered by the inspection is approved.

(Reason: To ensure quality of construction joints and connections in the drainage system)

Progress Survey

E6. 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 completion of the first structural floor level indicating the level of that floor and the relationship of the building to the boundaries;
- b) at the completed height of the building, prior to the placement of concrete inform work, or the laying of roofing materials; and
- c) at completion, the relationship of the building, and any projections thereto, to the boundaries.

Progress certification in response to points (a) through (c) must be provided to the Principal Certifier 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 Principal Certifier 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

E7. 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

E8. 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)

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Noise and Vibration

- E9. 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)

No Work on Public Open Space

- E10. 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 Applicant 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)

Applicant's Cost of Work on Council Property

- E11. The Applicant or the person, company or other entity that is acting upon this consent, must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

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

No Removal of Trees on Public Property

- E12. 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

- E13. 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

- E14. 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 Applicant, 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**

For example, 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 Applicant'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 (All Other Zones)

- E15. Construction activities and works approved under this consent must be restricted to within the hours stipulated in the following table:

Standard Construction Hours	
Day	Hours
Monday - Friday	7.00am - 5.00pm
Saturday	8.00am - 1.00pm
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, *the EPA Noise Policy for Industry 2017* 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 Environmental Planning and Assessment 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)

Out-of-hours' Work Permits

- E16. Where it is necessary for works to occur outside those hours allowed by these conditions, an application may be made to Council's Customer Services Centre for a permit to carry out works outside of the approved hours. If a permit is issued, the works approved must be carried out in accordance with any requirements specified in the permit. Permits will only be approved if **public safety is not at risk**. Applications which seek a variation to construction hours solely to benefit the Applicant will require the lodgement and favourable determination of a modification application pursuant to the provisions of section 4.55 of *the Environmental Planning and Assessment Act 1979*.

Note:

- 1) Failure to obtain a permit for work outside of the approved hours will result in on-the-spot fines being issued, or Council pursuing any action required (including legal proceedings) to have the out-of-hours' work cease, without prior warning.

- 2) Applications for out-of-hours' works should be lodged with Council no later than seven (7) calendar days prior to the date of the intended works.
- 3) Examples of activities for which permits may be granted include:
 - the erection of awnings,
 - footpath, road, and other infrastructure works which cannot be carried out for public convenience reasons within normal hours,
 - the erection and removal of hoardings and site cranes, and
 - craneage of materials which cannot be done for public convenience reasons within normal working hours.
- 4) Examples of activities for which permits WILL NOT be granted include:
 - extended concrete pours
 - works which are solely to convenience the Applicant or client, and
 - catch up works required to maintain or catch up with a construction schedule.
- 5) Further information on permits can be obtained from the Council website at www.northsydney.nsw.gov.au.

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

Installation and Maintenance of Erosion and Sediment Controls

- E17. 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 relevant Construction Certificate.

Erosion and sediment measures must be maintained in accordance with the publication *Managing Urban Stormwater: Soils and Construction 4th ed. 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

- E18. Most development consents require a durable sign to be displayed in a prominent location on construction sites during building works which displays information and warning of penalties should appropriate erosion and sedimentation control measures not be maintained.

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

Site Amenities and Facilities

- E19. Where work involved in the erection and/or demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any SafeWork NSW 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

- E20. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any SafeWork NSW 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.safework.nsw.gov.au.

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

Prohibition on Use of Pavements

- E21. 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

- E22. 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)

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Asbestos Removal

- E23. All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current SafeWork NSW Asbestos or "Demolition Licence," and a current SafeWork NSW "Class 2 (Restricted) Asbestos Licence" (or equivalent). Removal must be carried out in accordance with National Occupational Health and Safety Commission requirements.

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

Service Adjustments

- E24. The adjustment or inclusion of any new utility service or facilities must be carried out by an appropriately qualified contractor in accordance with the requirements of the relevant utility authority.

These works shall be at no cost to Council. It is the Applicant's responsibility to contact the relevant utility authorities to ascertain the impacts of the proposal upon utility services prior to the commencement of any work, including demolition (including water, phone, gas and the like).

Council accepts no responsibility for any impact on, or influence upon, utility services provided by another authority.

(Reason: To ensure the service requirements are met)

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 Certifier 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 condition is out of date, work must cease, and no further work may be carried out unless the Principal Certifier 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 condition, sufficient evidence that the person has complied with the requirements of that Part.

(Reason: Prescribed - Statutory)

Appointment of a Principal Certifier

- F3. Building or excavation works in accordance with the development consent must not be commenced until the Applicant has appointed a Principal Certifier for the building work in accordance with the provisions of *the Environmental Planning and Assessment Act 1979* and its Regulation.

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

Construction Certificate

- F4. Building or excavation works in accordance with the development consent must not be commenced until the Construction Certificate for the relevant part of the work has been issued.

Note: For clarity, this condition does not apply to demolition of whole buildings and works. A Construction Certificate is not required for these works. Demolition is controlled by AS 2601-2001 - Demolition of Structures. This Australian Standard requires safeguards to be in place before demolition commences, including traffic control and management, which may form part of the Construction Traffic Management Plan. Vegetation may also be removed or cleared unless the development consent requires that specified vegetation must not be removed.

(Reason: Statutory, to ensure appropriate safeguards are in place prior to the commencement of any works)

Occupation Certificates

- 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 the relevant Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifier appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory compliance)

Critical Stage Inspections

- F6. Building work must be inspected by the Principal Certifier at the critical stages prescribed by the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2021*, and as directed by the appointed Principal Certifier.

(Reason: Statutory)

Commencement of Works

- F7. Works in accordance with this development consent must not be commenced until the Applicant has given at least two days' notice to North Sydney Council of the intention to commence those works.

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

Excavation/Demolition

- F8. Excavation and demolition shall be carried out as follows:

- a) All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- b) All excavation associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- c) 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

- F9. 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

- F10. 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 Certifier for the work.
- 2) Any such sign must be maintained while 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 the relevant 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. Council's development engineer must be contacted to arrange inspections of the completed works in the Public Domain.

(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)

Utility Services

G3. All utility services shall be adjusted to the correct levels and/or location/s required by this consent, prior to issue of the relevant Occupation Certificate. This shall be at no cost to Council.

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

Asbestos Clearance Certificate

G4. 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 Principal Certifier (and a copy forwarded to Council if it is not the Principal Certifier) for the building work prior to the issue of the relevant 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.

**29 TOBRUK AVENUE, CREMORNE
DEVELOPMENT APPLICATION NO. 110/25**

Page 32 of 33

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

G5. In accordance with section 45 *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, prior to issuing the relevant Occupation Certificate the Principal Certifier must provide a BASIX completion receipt.

(Reason: To ensure compliance with the Regulations)

Damage to Adjoining Properties

G6. On completion of the development the subject of this consent and prior to the issue of the relevant Occupation Certificate, a report is to be prepared by an appropriately qualified consultant and is to be provided to the Principal Certifier (and a copy to Council if it is not the Principal Certifier) certifying:

- a) whether any damage to adjoining properties has occurred as a result of the development;
- b) the nature and extent of any damage caused to the adjoining property as a result of the development;
- c) the nature and extent of works required to rectify any damage caused to the adjoining property as a result of the proposed development;
- d) the nature and extent of works carried out to rectify any damage caused to the adjoining property as a result of the development; and
- e) the nature and extent of any agreements entered into for rectification of any damage caused to the adjoining property as a result of the development.

The report and certification must reference the dilapidation survey and reports required to be provided to the Principal Certifier in accordance with this consent.

A copy of the report and certification required by this condition must be submitted to Council with the relevant Occupation Certificate. All costs incurred in achieving compliance with this condition shall be borne by the Applicant.

(Reason: To record the condition of adjoining properties prior to completion of the development and to facilitate claims against damage)

**29 TOBRUK AVENUE, CREMORNE
DEVELOPMENT APPLICATION NO. 110/25**Page 33 of 33

Unpaved Verge

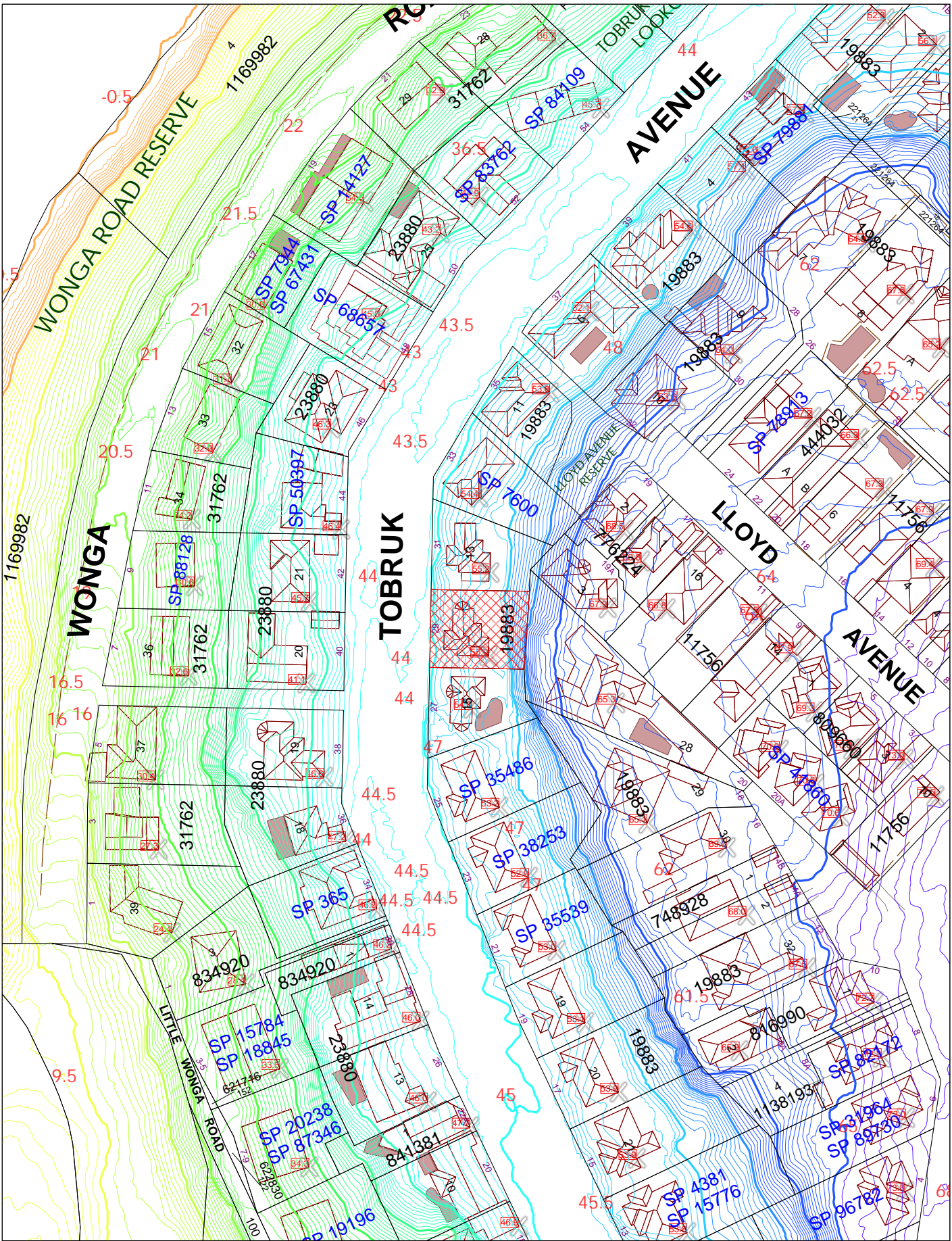
- G7. The unpaved verge area must be constructed or reconstructed and planted with an appropriate species of grass prior to completion of the works at no cost to Council.

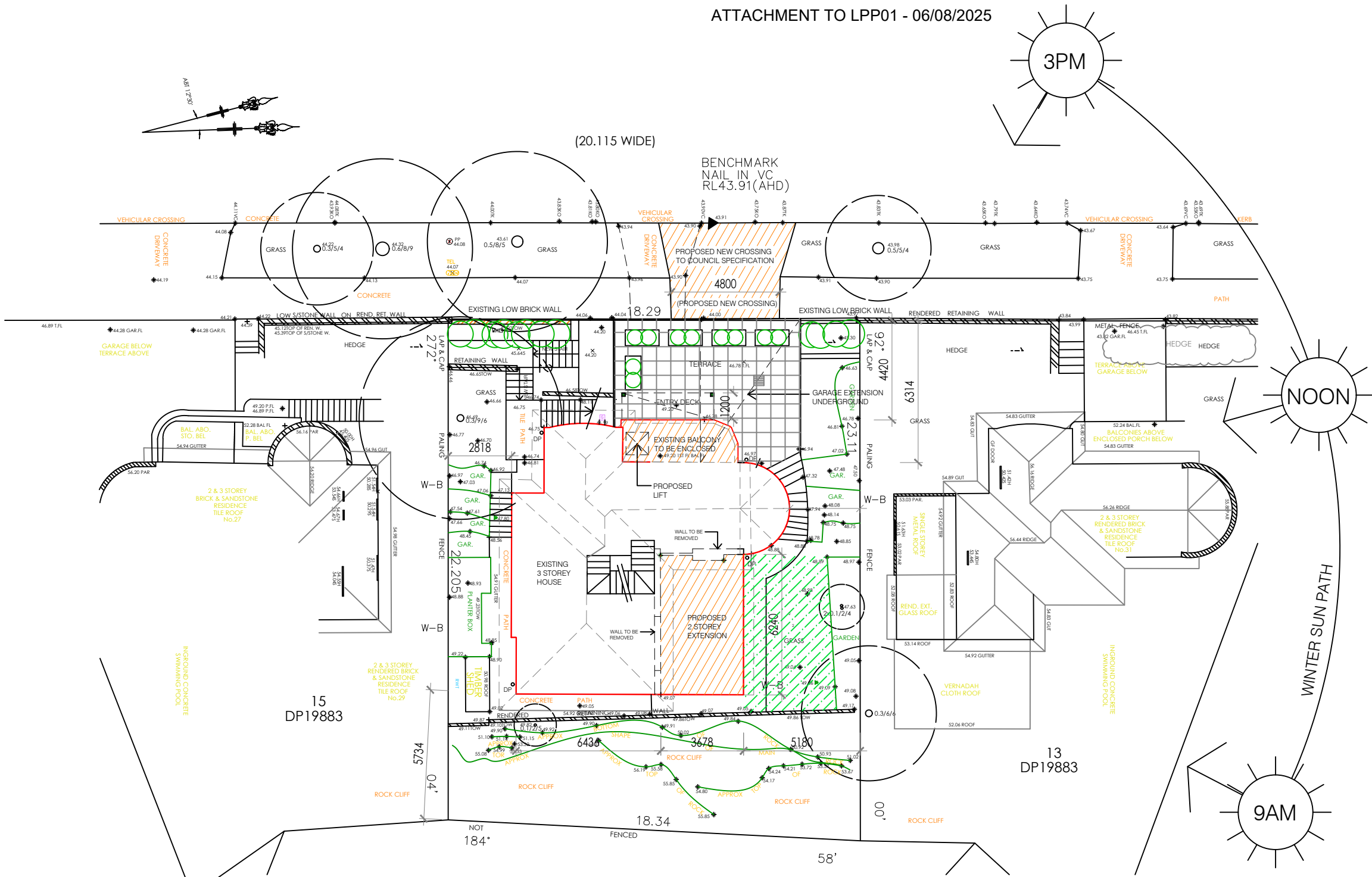
(Reason: To ensure that community assets are presented in accordance with reasonable community expectations)

I. *Ongoing/Operational Conditions***Maintenance of Approved Landscaping**

- I1. The owner of the premises at 29 Tobruk Avenue, Cremorne is to maintain the landscaping approved by this consent generally in accordance with the approved plans and conditions within the consent.

(Reason: To ensure maintenance of the amenity of the streetscape; to soften the Built Form in accordance with NSDCP 2013)





29 TOBRUK AVE. CREMORNE NSW 2090
PLAN: DEPOSITED 19883
LOT: 14

TOTAL SITE AREA : 411 m2 (Title)

PLANNING CONTROL
NORTH SYDNEY LOCAL ENVIRONMENTAL PLAN 2013
MAXIMUM BUILDING HEIGHT: 8.5m
Proposed Building height: 8.465m

SITE COVERAGE
LOT 230 - 499m2, MAX.50% (205.50m2)
Proposed site coverage: 131.5m2 (31%)

LANDSCAPE AREA
MINIMUM LANDSCAPE AREA: 30% (123.30m2)
Proposed Landscape area: 186.34m2 (45%)

UNBUILT UPON AREA MAX: 20% (82.20m2)
Proposed Unbuilt upon area: 90.00m2 (22%)

SETBACK
Front setback : as existing (no changes)
Side setbacks : as existing (no changes)
Rear setback : as existing (no changes)

PRIVATE OPEN SPACE
P O S, min 24m2
Total P O S area: 27m2

NOTE:
No mapped LEP FSR limit for the site
Exist Floor area: 178m2
Proposed Extension: 57m2
Proposed Garage extension: 24m2

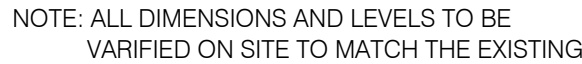
STORMWATER DRAINAGE
Stormwater to be connected to the existing
drainage system to Hydraulic Eng Detail.



LEGEND:

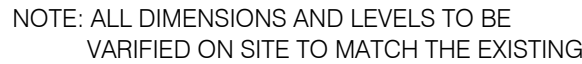
- Proposed Extension
- POS
- Private Open Space



NOTE: ALL DIMENSIONS AND LEVELS TO BE VERIFIED ON SITE TO MATCH THE EXISTING

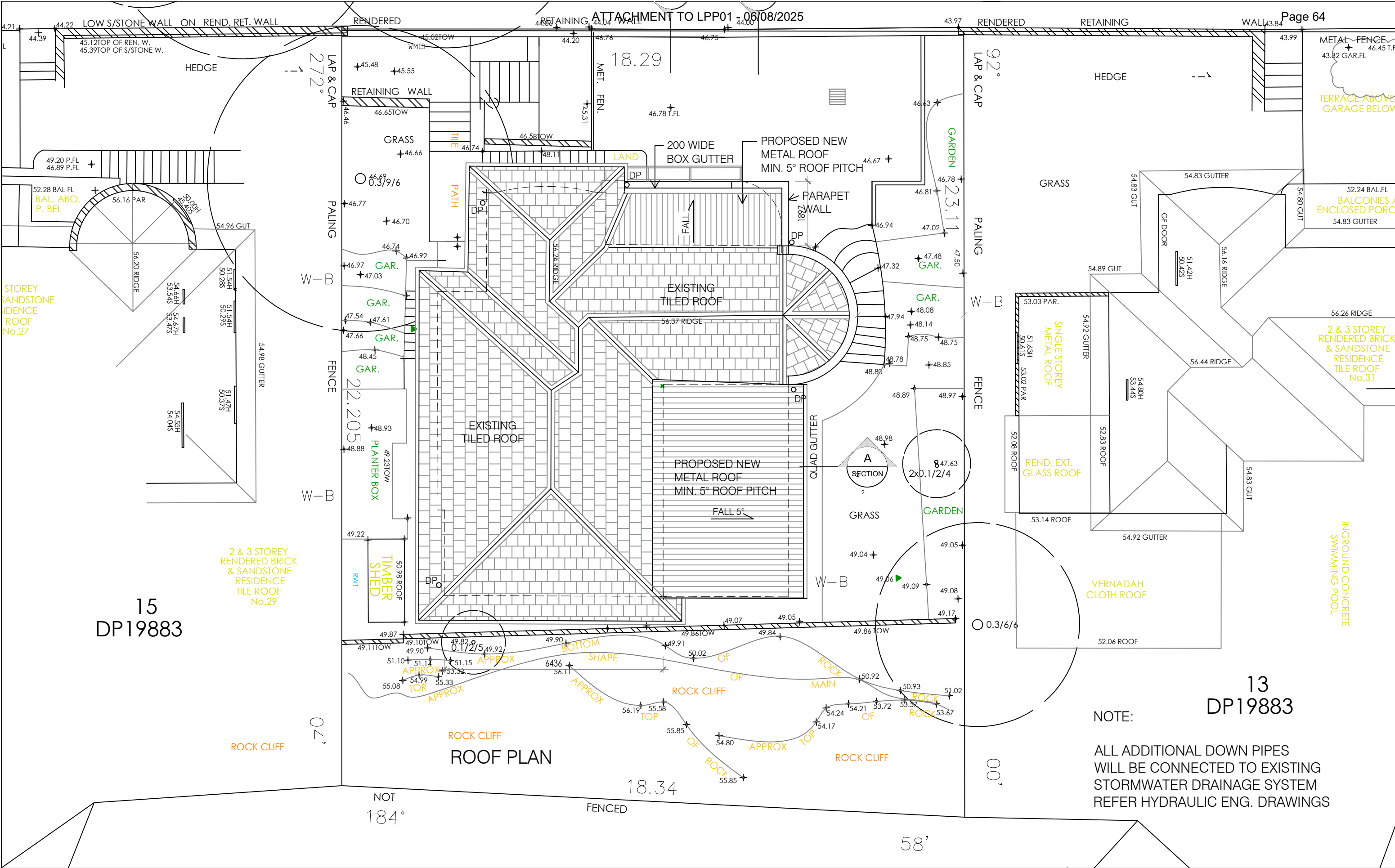
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ISSUE	DESCRIPTION		BY	DATE				SCALE	1 : 200 (A3)	
A	DA		OJ	07.02.25						
B	DA AMENDED		OJ	03.07.25						
C	UPDATED		OJ	05.07.25						
C	UPDATED		OJ	14.07.25				REV	C	DRW NO 01





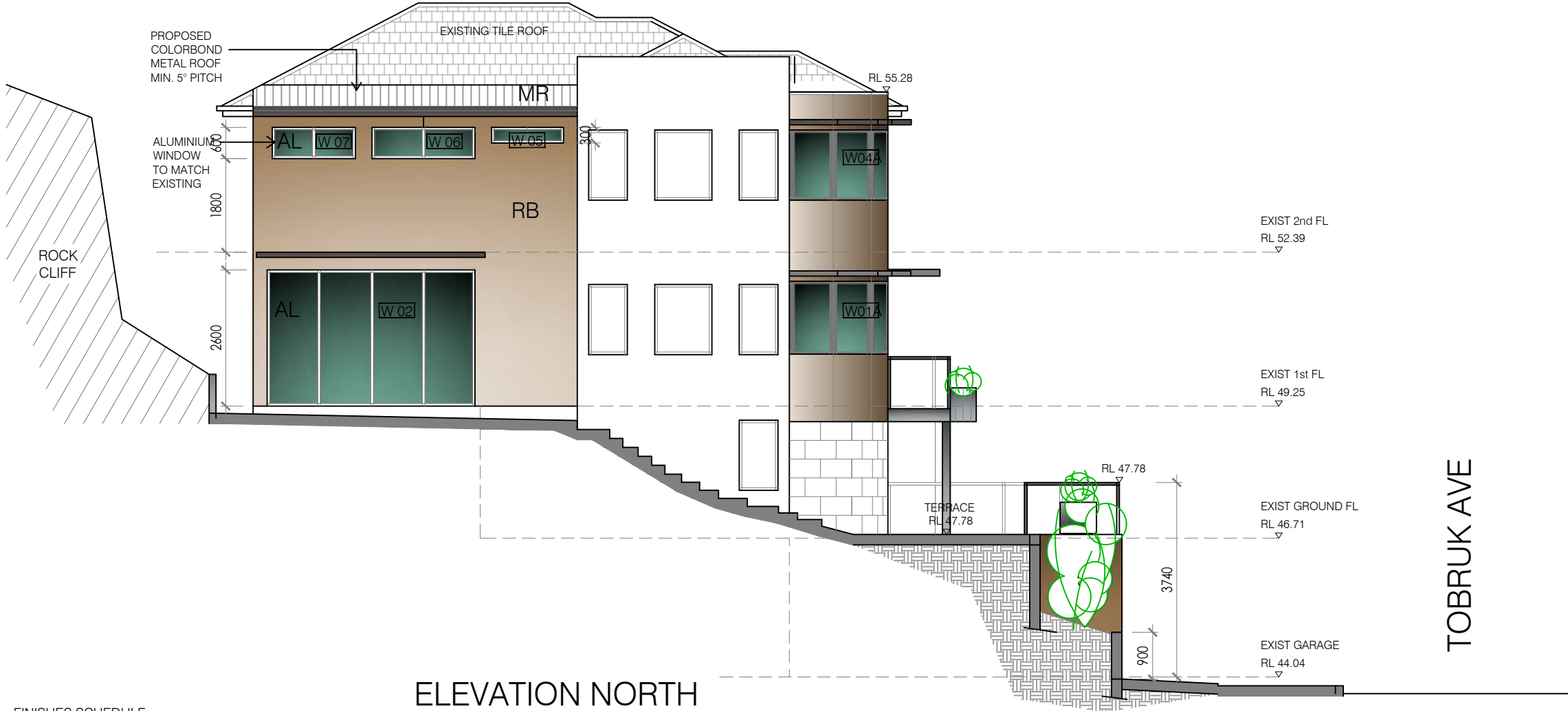
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					A		DA		OJ								07.02.25										
					B		DA AMENDED		OJ								03.07.25										
					C		UPDATED		OJ		05.07.25																
										TITLE					GROUND FLOOR					REV		C		DRW NO		03	



					REVISION				PROPOSED EXTENSION & RENOVATION 29 TOBRUK AVE CREMORNE NSW 2090			DATE	FEB 2025	DRAWN : OJ		
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					B	DA AMENDED	OJ	03.07.25								
					C	UPDATED	OJ	05.07.25								
													REV	C	DRW NO 03	



	REVISION				PROJECT PROPOSED EXTENSION & RENOVATION 29 TOBRUK AVE CREMORNE NSW 2090		DATE	FEB 2025	DRAWN : OJ
	ISSUE	DESCRIPTION	BY	DATE			SCALE	1 : 100 (A3)	
	A	DA	OJ	07.02.25					
					TITLE	ROOF PLAN	REV	A	DRW NO 06



ELEVATION NORTH

FINISHES SCHEDULE:


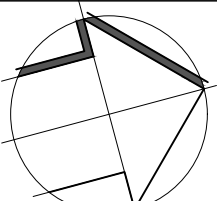
- CB CONCRETE BLOCK WALL
PAINTED FINISH
- RB RENDERED BRICK WALL
PAINT FINISH
- FC SCYON/FIBRE CEMENT SHEET
PAINT FINISH
- AL ALUMINIUM FRAME
WINDOW
- GD TIMBER LOOK FINISH
GARAGE DOOR
- MR COLORBOND
METAL ROOF

LEGEND:



PROPOSED EXTENSION
FINISH TO MATCH EXISTING

NOTE: ALL DIMENSIONS AND LEVELS TO BE VARIFIED ON SITE TO MATCH THE EXISTING

	REVISION					PROJECT PROPOSED EXTENSION & RENOVATION 29 TOBRUK AVE CREMORNE NSW 2090		DATE	FEB 2025	DRAWN : OJ
	ISSUE	DESCRIPTION	BY	DATE				SCALE	1 : 100 (A3)	
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	B	DA AMENDED	OJ	03.07.25						
	C	UPDATED	OJ	05.07.25						
						TITLE	ELEVATION NORTH	REV	C	DRW NO 07






- FINISHES SCHEDULE:
- CB CONCRETE BLOCK WALL
PAINTED FINISH, DULUX GRAND PIANO
 - RB RENDERED BRICK WALL
PAINTED WHITE TO MATCH EXISTING
 - FC SCYON/FIBRE CEMENT SHEET
PAINTED WHITE TO MATCH EXISTING
 - AL ALUMINIUM FRAME WINDOW
COLOUR TO MATCH EXISTING
 - GD TIMBER LOOK FINISH
GARAGE DOOR
 - MR COLORBOND
METAL ROOF, COLOUR GREY

DOUBLE GARAGE ENTRY GATE


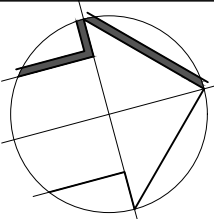
ELEVATION WEST (FRONT)

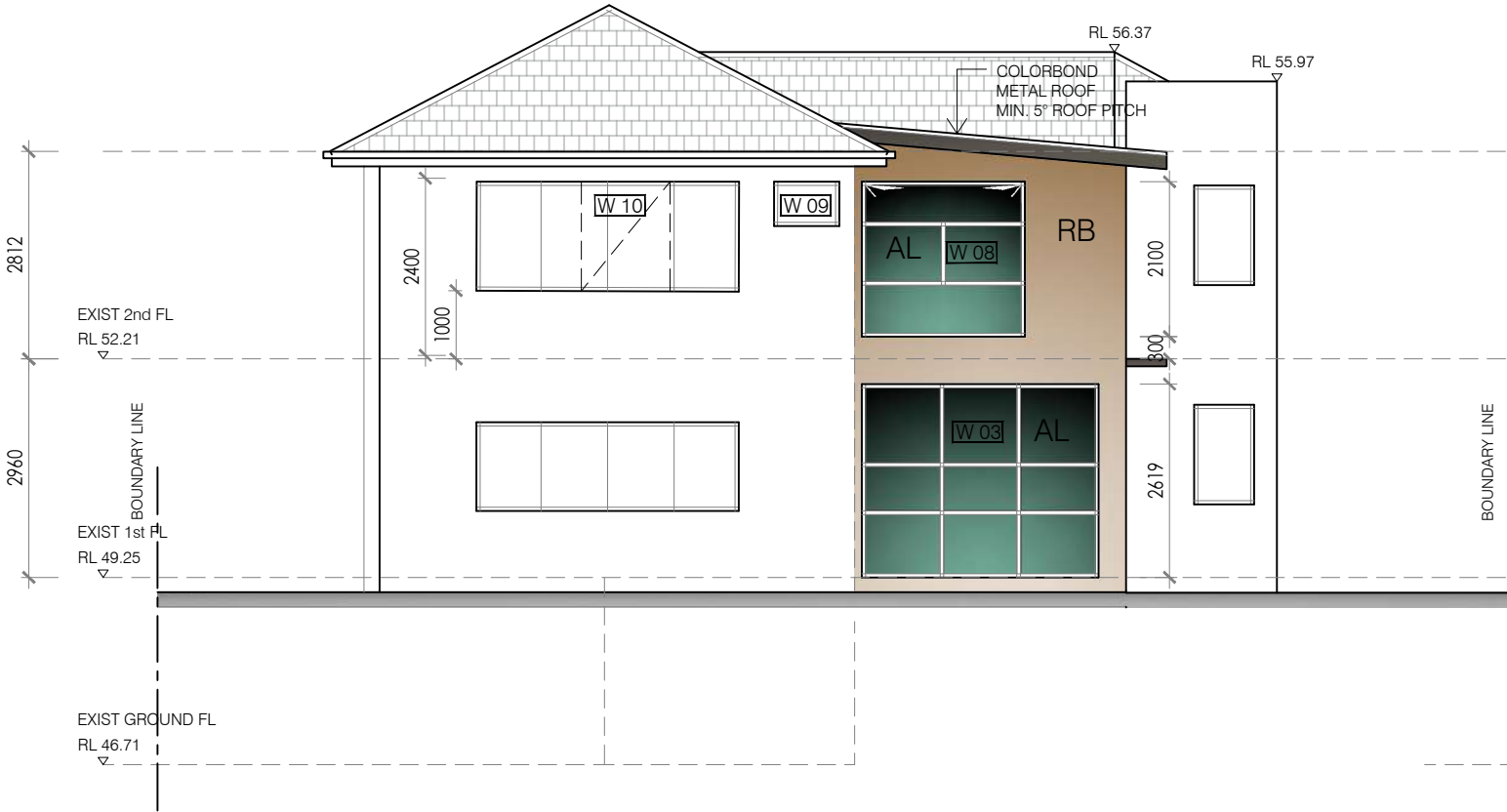
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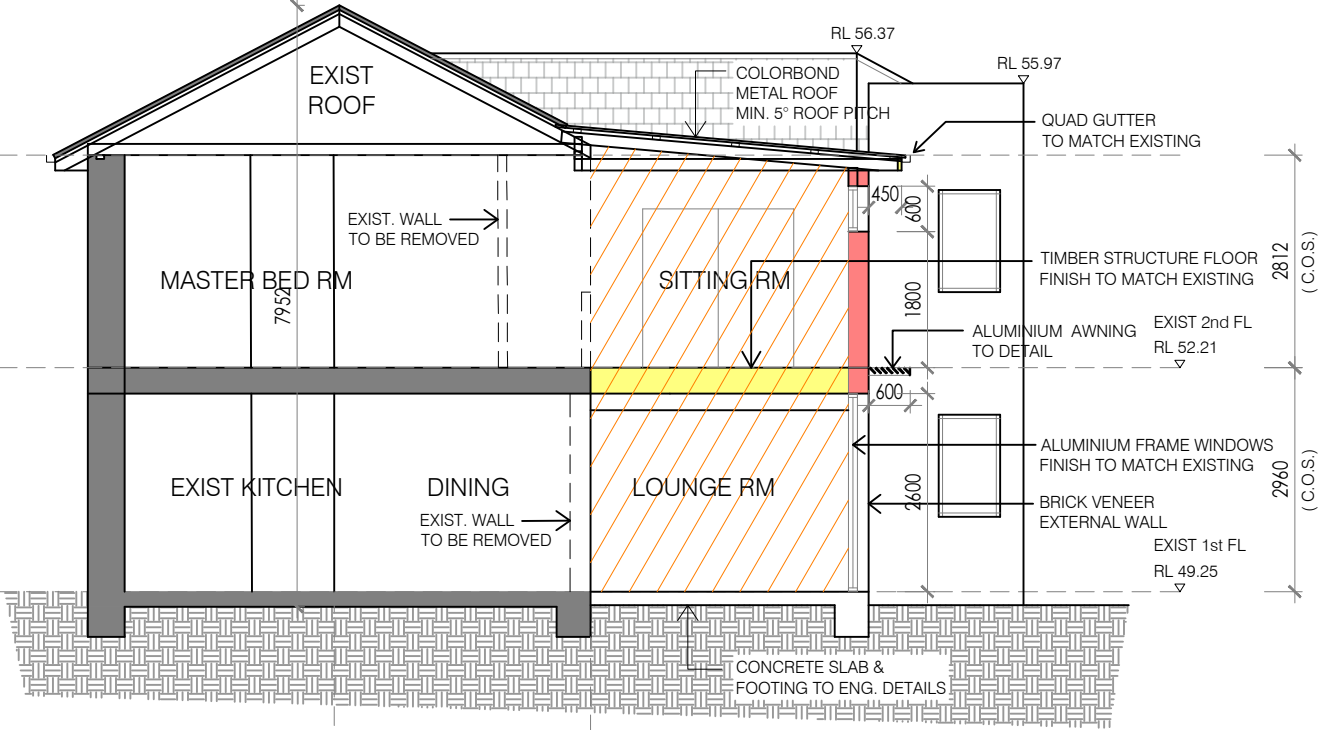
PROPOSED EXTENSION

NOTE: ALL DIMENSIONS AND LEVELS TO BE VERIFIED ON SITE TO MATCH THE EXISTING

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	B	DA AMENDED	OJ	03.07.25	TITLE FRONT ELEVATION		REV	C	DRW NO 08
	C	UPDATED	OJ	05.07.25					



ELEVATION EAST



SECTION A

FINISHES SCHEDULE:

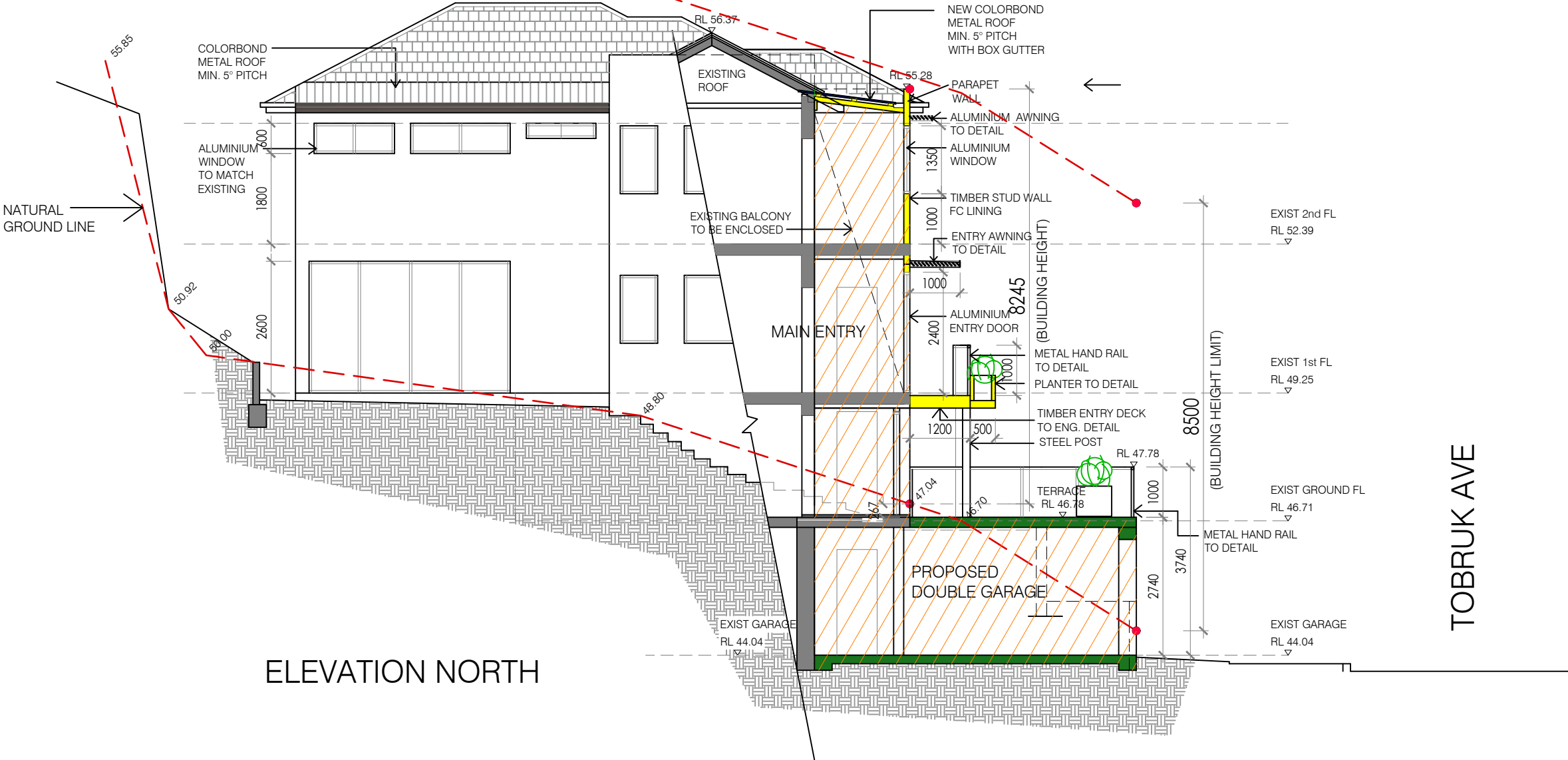
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PAINTED FINISH
- RB RENDERED BRICK WALL
PAINT FINISH
- FC SCYON/FIBRE CEMENT SHEET
PAINT FINISH
- AL ALUMINIUM FRAME
WINDOW
- GD TIMBER LOOK FINISH
GARAGE DOOR
- MR COLORBOND
METAL ROOF

LEGEND:

- PROPOSED EXTENSION
- PROPOSED EXTENSION
FINISH TO MATCH EXISTING

NOTE: ALL DIMENSIONS AND LEVELS TO BE VARIFIED ON SITE TO MATCH THE EXISTING

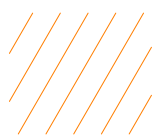
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ISSUE	DESCRIPTION	BY	DATE				SCALE	1 : 100 (A3)	
A	DA	OJ	07.02.25				REV	A	DRW NO 09




ELEVATION NORTH

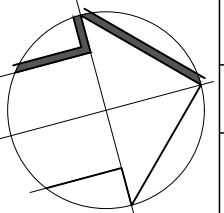
SECTION B
(THROUGH FIRST FL. MAIN
ENTRY / DOUBLE GARAGE)

LEGEND:

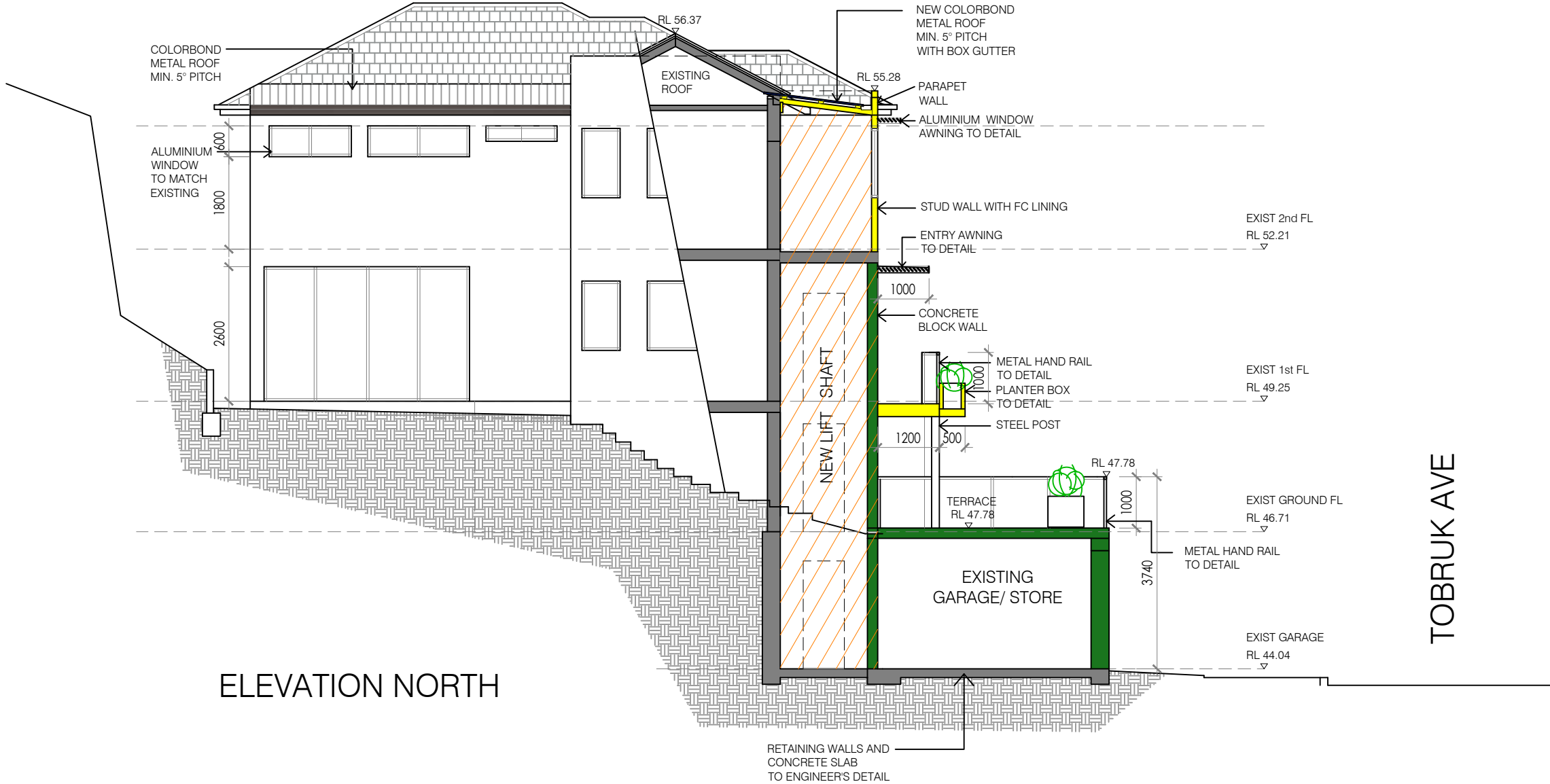
 PROPOSED EXTENSION

 LINE OF NATURAL
GROUND

NOTE: ALL DIMENSIONS AND LEVELS TO BE VARIFIED ON SITE TO MATCH THE EXISTING

REVISION					PROJECT PROPOSED EXTENSION & RENOVATION 29 TOBRUK AVE CREMORNE NSW 2090		DATE	FEB 2025	DRAWN : OJ
ISSUE	DESCRIPTION	BY	DATE				SCALE	1 : 100 (A3)	
A	DA	OJ	07.02.25						
B	DA AMENDED	OJ	03.07.25						
C	UPDATED	OJ	05.07.25		TITLE SECTION B		REV	C	DRW NO 10





ELEVATION NORTH

SECTION C
EXISTING GARAGE
& LIFT SHAFT

LEGEND:
PROPOSED EXTENSION

NOTE: ALL DIMENSIONS AND LEVELS TO BE VARIFIED ON SITE TO MATCH THE EXISTING

REVISION					PROJECT PROPOSED EXTENSION & RENOVATION 29 TOBRUK AVE CREMORNE NSW 2090		DATE	FEB 2025	DRAWN : OJ
ISSUE	DESCRIPTION	BY	DATE				SCALE	1 : 100 (A3)	
A	DA	OJ	07.02.25						
B	DA AMENDED	OJ	03.07.25						
C	UPDATED	OJ	05.07.25		TITLE SECTION C		REV	C	DRW NO 11

July 2025**CLAUSE 4.6 VARIATION
PURSUANT TO CLAUSE 4.3 (Maximum Height of Buildings)
Of the NSLEP 2013****29 TOBRUK AVE CREMORNE 2090****1. PRELIMINARY**

This variation request has been prepared in support of a Development Application for an extension and renovation of an existing house to the North Sydney Council

The request seek to vary the Height of Building standard prescribed for the subject site under Clause 4.3 of the North Sydney Council Local Environmental Plan 2013. The variation request is made pursuant to Clause 4.6 of the North Sydney Council LEP 2013.

2. SITE DESCRIPTION

The subject site is commonly known as 29 Tobruk Avenue, Cremorne, and is legally referred to as Lot 14 in Deposited Plan 19883.

The Site is facing West, with a frontage of 18.29 metres, southern boundary of 22.205m, northern boundary of 23.11m and rear eastern boundary of 18.34m.

The total site area is 411m² by the Title.

Approximately 5m wide from the rear boundary are a very steep rocky cliff area, bounded by a low retaining wall approx. 0.8m high.

towards the front to the existing terrace level above the existing underground garage of RL46.78 and to top of another retaining wall then drop to the lower retaining wall along the front boundary.

Existing development in the area is characteristic of a low density residential environment, being predominantly three storey detached dwelling houses with the underground garages facing the street.



FIGURE 1: SITE LOCATION MAP, 29 Tobruk Ave, Cremorne 2090



FIGURE 2: Land Zoning Map

3.VARIATION SOUGHT: CLAUSE 4.3 HEIGHT OF BUILDINGS

The Environmental Planning Instrument to which this variation relates is the NSLEP2013. The Development standard to which this variation relates is CLAUSE 4.3 HEIGHT OF BUILDINGS, which reads as follows:

North Sydney Local Environmental Plan 2013

Current version for 14 March 2025 to date (accessed 15 July 2025 at 8:45)

[Part 4](#) > Section 4.3

4.3 Height of buildings

- (1) The objectives of this clause are as follows—
 - (a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,
 - (b) to promote the retention and, if appropriate, sharing of existing views,
 - (c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,
 - (d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,
 - (e) to ensure compatibility between development, particularly at zone boundaries,
 - (f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area,
 - (g) to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone C4 Environmental Living.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).
- (2A)–(2C) (Repealed)

The site is prescribed a maximum height of buildings of 8.5m under the NSLEP13.
Refer to the Height of Buildings Map in Figure 3

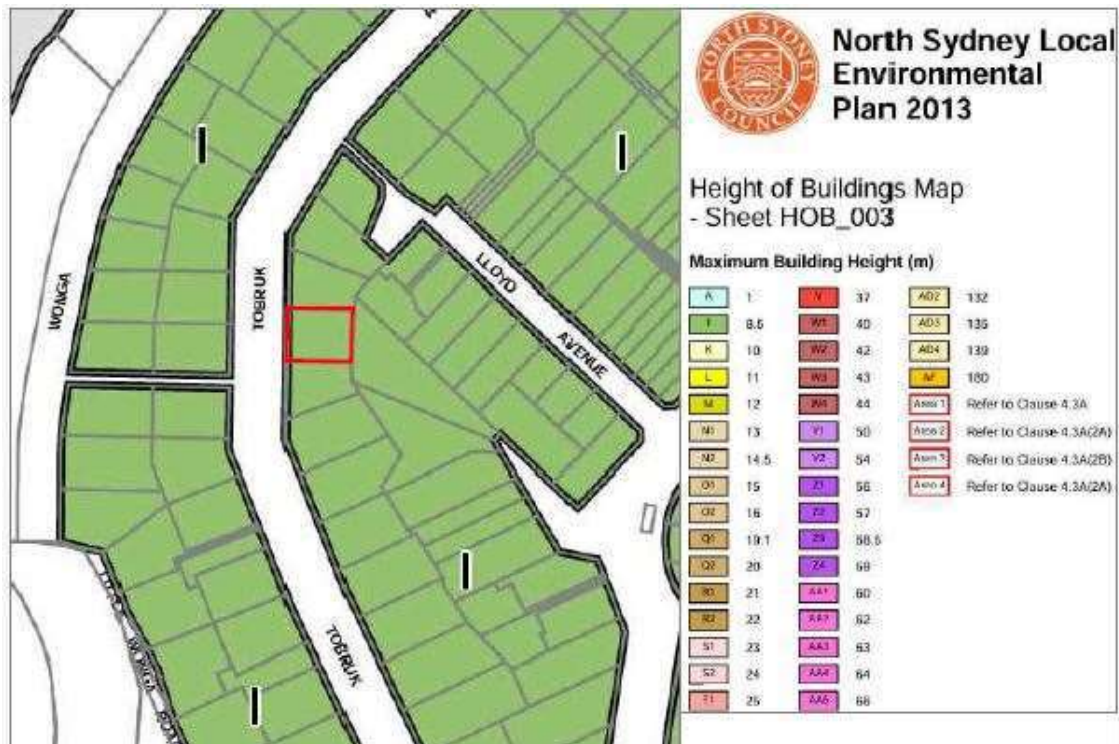


FIGURE 3: HEIGHT OF BUILDING MAP

4. EXTENT OF NON-COMPLIANCE

Building height is defined as follows:

“Building height (or height of building) means the vertical distance between ground level (existing) to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.”

The height non-compliance of the development is limited to the front part of the existing house where proposal is to enclose the existing balconies to allow for new lift shaft.

The proposed development seeks a maximum height of 11.24m, measured from the basement garage level (RI 44.04) to the top of the parapet wall (RI 55.28), a variation of 32.2%. The variation is illustrated in the drawing, SECTION C as shown in Figure 4.

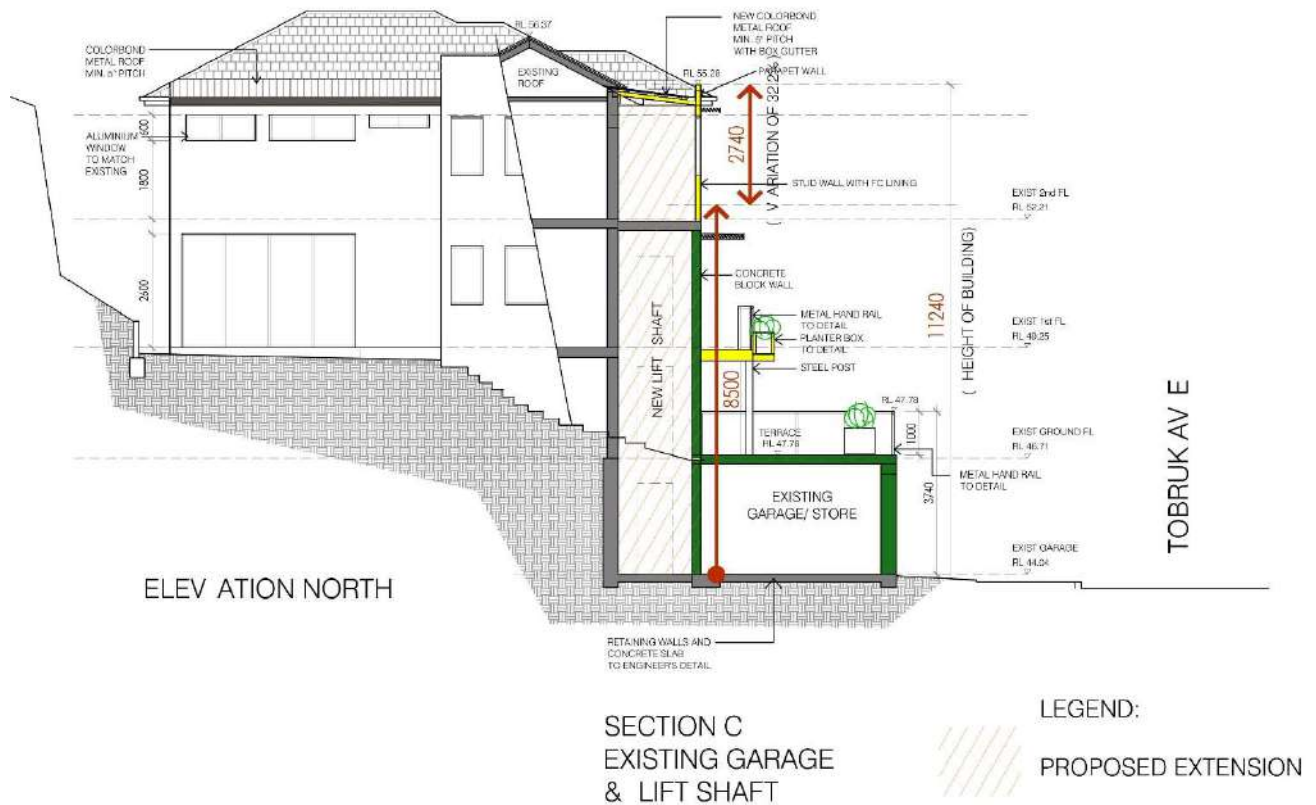


FIGURE 4: SECTION C (DRAWING NO. C 11)

It is our submission that the breach of the maximum height of buildings standard does not impact the amenity of the development or adjoining properties, nor will the variation compromise the bulk and scale of the development.

5. CLAUSE 4.6

This submission is made under Clause 4.6 of the NSLEP13 Exceptions to development standards
Clause 4.6 states the following:

North Sydney Local Environmental Plan 2013

Current version for 14 March 2025 to date (accessed 15 July 2025 at 8:45)

[Part 4](#) > Section 4.6

4.6 Exceptions to development standards

- (1) The objectives of this clause are as follows—
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—
 - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
 - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

Note—

The [Environmental Planning and Assessment Regulation 2021](#) requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

- (4) The consent authority must keep a record of its assessment carried out under subclause (3).
- (5) (Repealed)
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—
 - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note.

When this Plan was made it did not include all of these zones.

- (7) (Repealed)

6. APPLICATION OF CLAUSE 4.6

The use of Clause 4.6 to enable an exception to this development control is appropriate in this instance and the consent authority may be satisfied that all requirements of Clause 4.6 have been satisfied in terms of the merits of proposed development.

Clause 4.6 Exceptions to development standards establishes the framework for varying development standards applying under a local environmental plan. Subclause 4.6(3)(a) and 4.6(3)(b) requires that a consent authority must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating that:

4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

4.6(3)(b) that there is sufficient environmental planning grounds to justify contravening the development standard.

Additionally, this submission has been prepared having regard to the following guideline Judgements:

- Winten Property Group Limited v North Sydney Council(2001) NSWLEC 46;
- Wehbe v Pittwater Council (2007) NSWLEC 827;
- Four2Five Pty Ltd v Ashfield Council (2015) NSWLEC 1009 (Four2Five No 1)
- RebelMH Neutral Bay Pty Limited v North Sydney Council (2019) NSWCA 130

The Court held that there are at least five (5) different ways, and possibly more, through which an applicant might establish that compliance with a development standard is unreasonable or unnecessary – refer to Wehbe v Pittwater Council (2007) NSWLEC 827.

The five (5) ways of establishing that compliance is unreasonable or unnecessary are:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objectives or purpose is not relevant to the development with the consequence that compliance is unnecessary;
3. The objectives would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granted consents departing from the standard hence the standard is unreasonable and unnecessary; and
5. The zoning of the land is unreasonable or inappropriate.

Consistency with objectives of the building height standard

This approach is relevant in this instance, being that compliance with the development standard is unreasonable and unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

Clause 4.3(1) specifies the objectives as follows:

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

Comment:

The existing house sits on a relatively sloping site, starting from RL 49.00 at the rear of the house and stepping down to the street at RL 44.00, this represents a step down by approximately 5.0m.

The proposed development is to do an extension and renovation of an existing three storey house with an underground garage. The height non-compliance of the development is limited to the front part of the house where proposal is to enclose the balconies to allow for a lift shaft running from the underground garage level to the first floor level, to improve access for future generation and aging population. The lift will improve access over the steep site of 5m for the residents.

- (b) To promote the retention and, if appropriate, sharing of existing views,

Comment:

While the numerical values related to the variation of the building height standard is 32.2%, the proposed development to the front part of the house is generally will remain the same as existing and do not attribute to likely loss of views.

- (c) To maintain solar access to existing dwellings, public reserves and street, and to promote solar access for future development,

Comment:

The height non-compliance is limited to the front part of the house where new work to enclose the existing balconies with new windows, and will maintain solar access to the existing house and will have no impact to the adjoining properties.

The proposal in the area of height exceedance is located within the existing building footprint and below existing height of the roof ridge directly east which is RL56.35, and therefore unlikely to create adverse shadow impact to adjoining properties.

- (d) To maintain privacy for residents of existing dwellings and to promote privacy for residents of new dwellings,

Comment:

The portions of the proposed development which contravene the height of buildings development standard is generally maintained as existing and do not cause any unacceptable privacy impacts to existing dwellings or potential future development. The proposal also provides visual privacy for residents of the dwelling, as well as adjoining properties.

(e) To ensure compatibility between development, particularly at zone boundaries,
(N/A)

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

Comment:

The subject area is an established area with predominantly 3 storey houses and the proposal is consistent with the existing character, scale and form of the surrounding buildings.

(g) To maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone C4 Environmental Living.

Comment:

The proposed development will not affect the built form of mainly 3 storeys in zone R2 Low Density Residential and the visual massing is consistent with the existing streetscape

There are sufficient environmental planning grounds in terms of provision of visual privacy for the residents of the subject site and improved access for residents of the dwelling now and to the future.

7. Conclusion

Pursuant to clause 4.6(4)(a) of NSLEP 2013, the consent authority can be satisfied that this written request has adequately addressed the matters required to be demonstrated by subclause (3) being:

- a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- b) That there are sufficient environmental planning grounds to justify contravening the development standard.

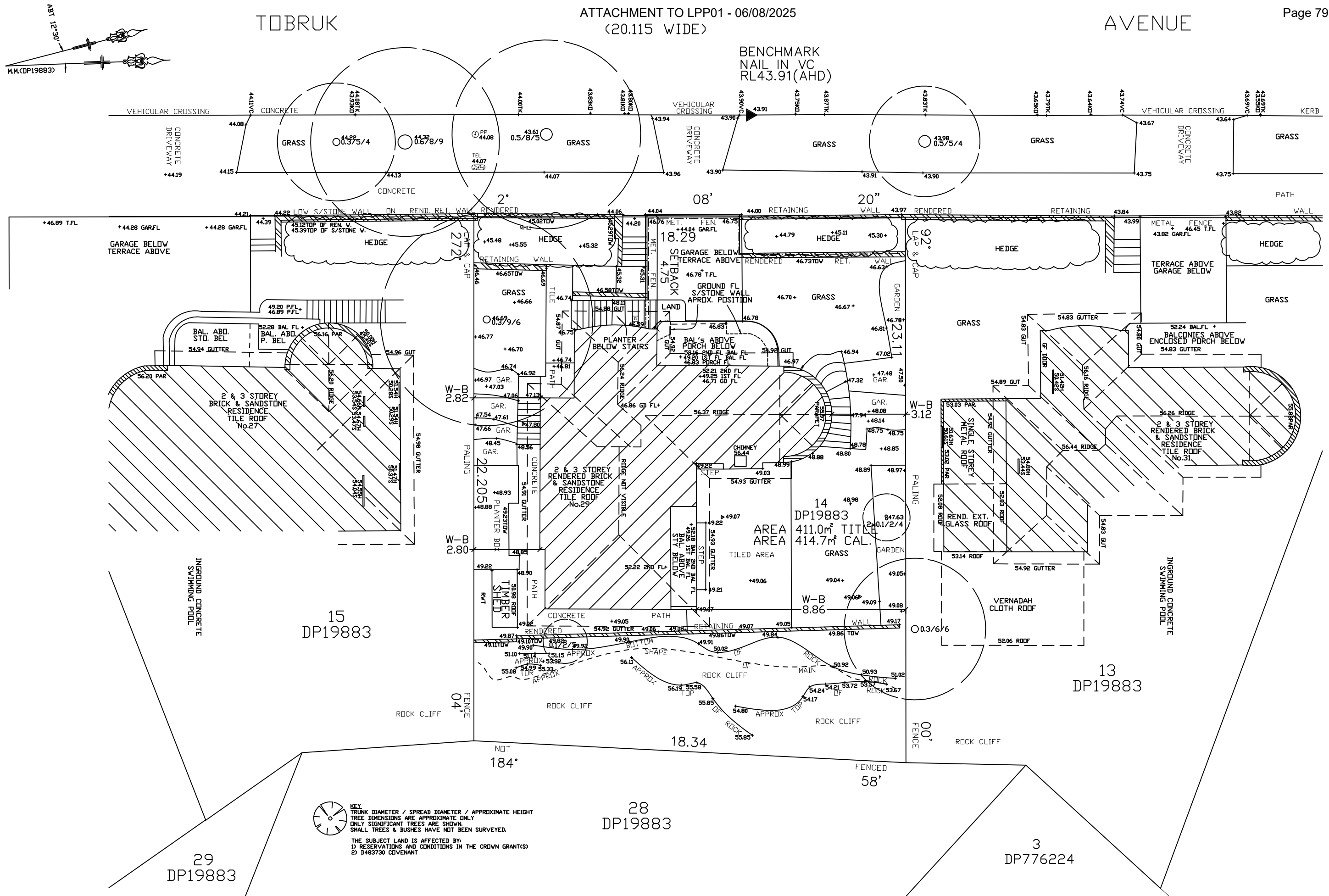
Oki Jahja
(B.Arch.)

TOBRUK

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(20.115 WIDE)

AVENUE

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NOTE:-
- Bearings, distances and area are by Title & Plans only available at the LRS and may be subject to redefinition. Boundary has been defined for this survey purposes only.
- Relationship of Improvements and fencing to boundaries is diagrammatic only. Where offsets are critical they should be confirmed by further boundary survey.
- Contours shown depict the topography, except at spot levels shown they do not represent the exact level at any particular point. Spot levels should be used for calculations of quantities with caution.
- Services shown hereon have been determined from visual evidence only, no investigation of underground services has been made on this survey. Prior to any demolition, excavation or construction on the site the relevant authority should be contacted to establish detailed location and depth.
- The bearings on these plan boundaries are from LPI plans. They are either on Magnetic Meridian (MM), Integrated Survey Grid (ISG), Map Grid of Australia (MGA). If True North (TN) is required a further survey would be necessary.
- No liability will be accepted for information shown on plan marked preliminary. any discrepancies on survey plan please contact PANG SURVEYORS immediately before work commences.

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SYMBOLS & ABBREVIATIONS:			
DH&W	DRILL HOLE & WING	SPO	SIGN POLE
E	ELECTRICITY LINE	SMH	SEWER MANHOLE
G	GAS METER	SMWH	STORMWATER MANHOLE
H	HYDRANT	TK	TOP OF KERB
KD	KERB OUTLET	UA	UNDERSIDE AWNING
LP	LIGHT POLE	VC	VEHICULAR CROSSING
WM	WATER METER	FL	FLOOR LEVEL
SVO	SEWER VENT	W	WINDOW
PP	POWER POLE	D	DOOR
TEL	TELECOM PIT	I.C.	INSPECTION CAP
			WASHING LINE

SURVEY NOTES	
DATUM :	AUSTRALIAN HEIGHT DATUM
ORIGIN DATUM:	PM39030 RL44.28 (AHD)
SURVEYORS:	YMY & SL
SURVEY DATE :	3/8/2023 & 4/8/2023
LOCAL GOVT AREA:	NORTH SYDNEY
AUTOCAD 2002:	23-0710 DETAIL.DWG
PLOTFILE:	(A3 ~ 1150) 23-0710

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No.29 TOBRUK AVENUE, CREMORNE BOUNDARY & DETAIL & LEVEL SURVEY LOT 14 IN DP19883 MR. FREDDY KUSEN		
DRAWN: YMY	SCALE : 1:150(A3)	SHEET 1 OF SHEETS 1
CHKD: P. P.	DATE ISSUE: 25/08/2023	REFERENCE: 23-0710 DETAIL