

**NSLPP MEETING HELD ON 03/12/2025****Attachments:**

1. Site Plan
2. Architectural Plans
3. Landscape Plan
4. Clause 4.6 variation Request to Maximum Building Height
5. Survey Plan
6. View Assessment Report

ADDRESS/WARD: 22 Chuter Street, McMahon's Point
(Lot 1 DP 737649)

APPLICATION NO: DA289/25 (PAN-566279)

PROPOSAL: Demolition of existing dwelling and ancillary structures and construction of new 2 storey dwelling and attic removal of trees and associated landscaping.

PLANS REF:

Plan No.	Rev	Description	Prepared by	Dated
A000	B	Cover Sheet	Architectit Pty Ltd	12/11/2025
A0002	B	Site Analysis Plan	Architectit Pty Ltd	12/11/2025
A0003	B	Setback Analysis	Architectit Pty Ltd	12/11/2025
A0004	B	Street scape analysis	Architectit Pty Ltd	12/11/2025
A0005	B	Window Schedule and BASIX	Architectit Pty Ltd	12/11/2025
A0006	B	Demolition Plan	Architectit Pty Ltd	12/11/2025
A0009	B	Site Plan	Architectit Pty Ltd	12/11/2025
A0101	B	Floor Plan – Ground Floor	Architectit Pty Ltd	12/11/2025
A0102	B	Floor Plan – First Floor	Architectit Pty Ltd	12/11/2025
A0103	B	Floor Plan – Attic Floor	Architectit Pty Ltd	12/11/2025
A0104	B	Roof Plan	Architectit Pty Ltd	12/11/2025
A0201	B	Elevations – Sheet 1	Architectit Pty Ltd	12/11/2025
A0202	B	Elevations – Sheet 2	Architectit Pty Ltd	12/11/2025
A0203	B	Elevations – Sheet 3	Architectit Pty Ltd	12/11/2025
A0204	A	Elevations – Sheet 4	Architectit Pty Ltd	12/11/2025
A0301	B	Sections Sheet 1	Architectit Pty Ltd	12/11/2025
A0651	B	Height Plane - Plan	Architectit Pty Ltd	12/11/2025
A0701	B	Schedule of Colours and Finishes	Architectit Pty Ltd	12/11/2025
A0702		Photomontage	Architectit Pty Ltd	12/11/2025

OWNER: Mojtaba Arzani

APPLICANT: Milad Farrokhi – Architectit Pty Ltd

AUTHOR: Report of Michael Hornery, Executive Assessment Planner

DATE OF REPORT: 17 November 2025

DATE LODGED: 2 September 2025

DATE AMENDED: 29 October 2025 and 12 November 2025

RECOMMENDATION: Deferred Commencement Approval

EXECUTIVE SUMMARY

The Applicant seeks development consent from the North Sydney Local Planning Panel (NSLPP) for the Demolition of existing dwelling and ancillary structures and construction of new 2 storey dwelling; removal of trees and construction of a two storey dwelling and attic and associated landscaping at No 22 Chuter Street, McMahons Point.

The site is zoned R3 Medium Density Residential under the provisions of North Sydney Local Environmental Plan 2013. The proposed application is for the Demolition of existing dwelling and ancillary structures and construction of new 2 storey dwelling and attic, removal of trees and associated landscaping, which is a permitted land use within the R3 Medium Density Residential zone under NSLEP 2013.

The development proposes a maximum building height of 10.36m, being a variation of 21.88% which does not comply with the maximum permitted height of 8.5m in Clause 4.3 in NSLEP 2013. The contravention of the development standard for height is justifiable and reasonable as the additional roof form has negligible amenity impacts on neighbouring properties, with the additional height consistent with the height of adjoining properties within the immediate vicinity. The written request to vary the development standard demonstrates that compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case and that there are sufficient planning grounds to justify the variation

The form of the proposed development is considered to be consistent with the desired and future character of the area subject to an increased rear setback being applied to the first floor to facilitate view sharing between properties. Whilst some attempts have been made by stepping in the rear balcony and an increased setback from the previous development application, it is considered that a further setback of 3m would provide a reasonable level of view sharing for the properties to the north.

The subject site is located within the Union, Bank, and Thomas Streets Heritage Conservation Area and the existing buildings is identified as a contributory item. The proposal represents a balanced response to the competing objectives of heritage conservation and urban renewal. It acknowledges the contributory grading of the existing buildings and the report of the Structural Engineer and Heritage Consultant on the state of disrepair of the building. Councils Heritage Officer supports demolition of the building due to the major structural issues, that the building is not readily seen from the street due to the high front wall, there is no record of its original design and any reconstruction of a weatherboard cottage would be a conjecture of the original design.

The proposed terrace style building proposes a contextually appropriate infill that enhances the public domain, improves the interface with adjacent buildings, and contributes positively to the evolving character of the conservation area. The building will be generally sympathetic to the streetscape character of the western side of Chuter Street.

The application was notified to adjoining properties and the Euroka Precinct between 19 September 2025 and 3 October 2025. Seven (7) submissions were received during the notification period. An additional submission was lodged on 7 October 2025, after the notification period. In total eight (8) submissions have been received and considered in the assessment of the application. The concerns raised included proposed setbacks, potential view loss, out of character within the conservation area, height and bulk and scale, solar access, overshadowing, overlooking and construction and excavation impacts.

The development application is reported to the North Sydney Local Planning Panel for determination as the proposed development contravenes a development standard imposed by an environmental planning instrument by more than 10% in accordance with the Ministers Direction "Local Planning Panels Direction – Development Applications and Applications to Modify Development Consents" dated 6 March 2024, published to the NSW Planning Portal

The application has been assessed having regard to the Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plan and Development Control Plans.

The proposal in its amended form and subject to the design changes recommended, is an appropriate response to the site. As a result, the application is recommended for a deferred commencement approval subject to conditions of consent.

[illegible]

Property/Applicant ● Submitters - Properties Notified

DESCRIPTION OF PROPOSAL

An application has been received seeking consent for the Demolition of existing dwelling and ancillary structures and construction of new 2 storey dwelling and attic; removal of trees and associated landscaping

A brief breakdown of the proposed development is as follows:

- Demolition of the existing dwelling and ancillary structures
- Construction of a new two storey dwelling with multi dwelling house
- Removal of trees and associated landscaping.

A detailed description of the scope of works for the amended proposal is as follows:

Demolition

- Demolition of the existing dwelling house and ancillary structures.

Ground floor (RL 49.35 and RL 50.1)

- Ground floor works include the following:
 - Open plan living room, dining room and kitchen with butler's pantry.
 - Bedroom 1 with WIR and ensuite.
 - Laundry
 - Stairs providing access to the first floor.
 - External stairs from rear terrace and laundry.
 - Powder room.
 - Single car garage.
 - Rear terrace
 - Rainwater tank (RWT)

First Floor Level (RL 53.3)

- First floor level works include the following:
 - Bedroom 2 with WIR and ensuite.
 - Living area with open plan study
 - Rear Balcony accessed off bedroom 2 and living area.
 - Bedroom 3 with balcony facing Chuter Street.
 - Bedroom 4 with balcony facing Chuter Street
 - Stairs providing access to the ground floor and attic floor

Attic Floor level (RL 56.5)

- First floor level works include the following:
 - Open floor plan.
 - Non trafficable roof.

Roof Plan (RL 59.86)

- Roof plan including the following:
 - Photovoltaic panels
 - Skylight



Figure 1: Photomontage of proposed development at No 22 Chuter Street with No 20 Chuter to the left and No 24 to the right of the subject site.

Amendments made from DA56/25

A summary of the changes that were made from DA56/25 to the lodgement of this DA 289/25 include the following:

- The building is now setback 2m from the front boundary an increase of 1m to enable a small garden setting between the dwelling and the boundary.
- The pitched roof has been setback behind the chimneys of the adjoining properties to enable them to be more prominent.
- Alterations to the front façade providing three distinct bays to define and replicate the variable allotment widths within the street.
- Introduction of an increased setback of up to 100mm to both side walls to front portion of dwelling.
- Double garage has been replaced with a single car garage.
- Driveway now provides concrete strips with landscaping
- Balustrades to front of building have been updated to metal palisade.
- The rear setback to the external wall of the first floor has been increased from 10.76m to 13.22m, with the balcony setback increased from 8.19m to 11.23m.
- The rear setback of the non-trafficable roof at the attic level has been increased from 8.19m to 11.04m.
- The internal layout has been reconfigured to accommodate change to setbacks.

Note: Further amendments have been undertaken during the assessment of the application including increased setbacks and revision of design features to ensure that the proposed building will be in keeping with the existing and desired streetscape character and the characteristics of the Union, Bank and Thomas Streets Conservation Area. These amendments are discussed further within the report.

STATUTORY CONTROLS

North Sydney Local Environmental Plan 2013 (NSLEP 2013)

- Zoning – R3 Medium Density Residential Zone
- Item of Heritage - No
- In Vicinity of Item of Heritage – Yes, in the vicinity of the following heritage items:
 - Nos 2-10 Chuter Street (Local items - I0454, I0455, I0456, I0457 and I0459) located to the south of the site
 - Nos 9 and 11 Chuter Street (Local items - I0458 and I0460) located to the south east of the site
 - 93 Union Street, McMahon's Point (Local item - I0502) located to the north east of the site
- Heritage Conservation Area – Yes - The Union, Bank and Thomas Streets Heritage Conservation Area.
- FSBL – No

Environmental Planning & Assessment Act 1979

Environmental Planning and Assessment Regulation 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021

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

State Environmental Planning Policy (Resilience and Hazards) 2021

- Chapter 4 Remediation of Land

State Environmental Planning Policy (Transport & Infrastructure) 2021

- Chapter 2 Infrastructure.

State Environmental Planning Policy (Sustainable Buildings) 2022

POLICY CONTROLS

North Sydney Development Control Plan 2013 (NSDCP 2013).

North Sydney Local Infrastructure Contributions Plan 2020.

North Sydney Council Community Engagement Strategy 2025-2029.

DESCRIPTION OF LOCALITY

The subject development site is known as Lot 1 DP 737649, No 22 Chuter Street, McMahon's Point.

The site is located on the western side of Chuter Street. The site is a regular shaped allotment with a 10.12m frontage to Chuter Street, a 32.5m southern boundary, a 32.575m northern boundary and a 10.145m rear boundary width. The site is orientated east-west with a site area of 330.6m².

The site has a fall from the south east to the north west of approximately 1.8m and a cross fall from north to south at the rear of approximately 1.6m and approximately 0.85m north to south at the front of the allotment. The site is bounded by Chuter Street to the east, Thomas Street to the west, Union Street to the North and Victoria Street to the south.



Figure 2: Aerial view of subject site shown cross hatched in red.



Figure 3: No 22 Chuter Street with terrace houses at No 20 to the left and No 24 to the right



Figure 4: Front façade and southern elevation of existing dwelling with external wall of No 24 to the right

Located on the subject development site is a single storey weatherboard cottage dwelling house with a gable metal roof form and a wraparound verandah to the south eastern corner of the dwelling. A 1.8m high lapped and capped timber fence with gate is located along the front of the allotment. The existing dwelling is a contributory item within the Union, Bank and Thomas Streets Heritage Conservation Area.

The predominant building typology within Chuter is characterised by late 19th and 20th century buildings which includes single and two storey terraces and detached dwellings. To the east and across the road in Chuter Street are industrial buildings located within E3 Productivity Support zoned land.

The site is also located within proximity to a number of local heritage items including the houses located between 2-10 Chuter Street, No 9 and No 11 Chuter Street and 93 Union Street, McMahons Point.

RELEVANT HISTORY

Previous applications

- **DA56/2025** was lodged with Council on 31 March 2025 for the demolition of existing dwelling and ancillary structures and construction of new two storey dwelling and attic and associated landscaping. The application was withdrawn on 16 June 2025.

Current Application

Date	Action
2 September 2025	Application lodged.
15 September 2025	Comments and conditions from Councils Development Engineer received on 15 September 2025.
19 September 2025	The application was notified to adjoining properties and the Euroka Precinct between 19 September 2025 and 3 October 2025. Seven (7) submissions were received during the notification period. An additional submission was lodged on 7 October 2025, after the notification period. In total eight (8) submissions have been received and considered in the assessment of the application
24 September 2025	Comments and conditions from Councils Landscape Development Officer received on 24 September 2025.
21 October 2025	Discussion with the applicant in relation to the draft deferred commencement condition amendments required by Councils Heritage Officer. The Heritage Officer comments were emailed to the applicant on 21 October 2025.
29 October 2025	Applicant emailed amended plans to Council on 29 October 2025 with changes to address the heritage matters including the following: • The front façade of the dwelling is to be perceived as two dwellings by using architectural devices such as step in the roof ridge of a minimum of 100mm and by extending one the vertical blade walls either side of the front door into the roof plane so that it appears as a common wall. • The glazed balustrade at the rear has been substituted with a metal palisade balustrade. • The roofing now has a corrugated profile. • The proportions of the windows on the street elevation are amended to be consistent with the size of openings on nearby terraces. • The extent of glazing on the rear elevation has been reduced by 20%, there is now a higher proportion of solid material which is more consistent with the character of the conservation area.
30 October 2025	Comments and conditions from Councils Heritage Officer received in response to the draft amended plans on 30 October 2025. The plans as amended have now addressed the deferred commencement condition requirements. Appropriate conditions will now be imposed.
11 November 2025	Additional site inspection carried out in conjunction with inspection of No 24 Chuter Street in relation to potential view impacts.
11 November 2025	A request for additional information was emailed to the applicant, requiring the following: • View analysis to be undertaken in accordance with the provisions of 1.3.6 of the DCP. • Increased rear setback to be provided to the first floor. • Additional details to be shown on the architectural plans including dimensions for garage, boundary/building setbacks and heights, RLs and dimensions of balconies.

	• Eaves are to be reduced to not extend beyond the balustrade at level 1. • The non trafficable roof overhang to the first floor balcony is to be a maximum of 1m • Updated calculations for site coverage, landscaped area and unbuilt upon area.
11 November 2025	Discussions with the applicant were held in relation to the above requirements and amendments to plans.
12 November 2025	Further amended plans Rev B dated 12.11.25 submitted which included the following: • The first-floor balcony has been reduced in depth and offset 1.1m from the side boundary to help maintain water views from No. 24 • Additional RLs and dimensions as requested have been added to the drawings. • Existing building RLs have been added to Section A0301. • Updated calculations of site coverage, unbuilt upon area and landscaped area. Minor adjustments have been made to slightly reduce site coverage to ensure compliance. • Removal of non-trafficable eaves which extended beyond the first floor balcony. • Removal of part of the roof overhang of the first floor balcony.
17 November 2025	View analysis statement provided by the applicants Planning Consultant on 17 November 2025.

Amendments to Plans

Amended Plans received 29 October 2025

Draft amended plans were submitted to Council on 29 October 2025 for the review of Council's Heritage Officer following previous discussions and correspondence dated 21 October 2025. The changes made were as follows:

- The front façade of the dwelling is to be perceived as two dwellings by using architectural devices such as step in the roof ridge of a minimum of 100 mm and by extending one the vertical blade walls either side of the front door into the roof plane so that it appears as a common wall.
- The glazed balustrade at the rear has been substituted with a metal palisade balustrade
- The roofing now has a corrugated profile.
- The proportions of the windows on the street elevation are amended to be consistent with the size of openings on nearby terraces.
- The extent of glazing on the rear elevation has been reduced by 20%, there is now a higher proportion of solid material which is more consistent with the character of the conservation area.

Amended Plans Rev B dated 12 November 2025

Amended plans were submitted to Council on 12 November 2025 following the review of the draft amended plans provided to Council on 29 October 2025:

- The first-floor balcony has been reduced in depth and offset 1.1m from the side boundary to help maintain water views from No. 24.

- Additional RLs and dimensions as requested have been added to the drawings.
- Existing building RLs have been added to Section A0301.
- Updated calculations of site coverage, unbuilt upon area and landscaped area. Minor adjustments have been made to slightly reduce site coverage to ensure compliance.
- Removal of non-trafficable eaves which extended beyond the first floor balcony.
- Removal of part of the roof overhang of the first floor balcony.

Photomontages of lodgement to amended plans

Photomontages of the front façade of the building in Chuter Street showing the evolution of the proposed development from the plans submitted at lodgement to the amended scheme.



Figure 5: Photomontage of the front façade of No 22 Chuter Street at lodgement.



Figure 6: Photomontage of the front façade of No.22 Chuter Street as amended.

INTERNAL REFERRALS

HERITAGE

The application has been referred to Council's Conservation Planner/ Heritage Officer who provided the following comments on 3 October 2025:

"Heritage Status and Significance

The subject property is a circa 1891 Contributory item located within the Union Bank Thomas Streets Conservation Area. The site includes a four room, weatherboard, transverse double gabled cottage of historic significance that has multiple additions. The cottage is largely obscured from the public domain due to the unsympathetic high front fence. Its aesthetic contribution to the streetscape is therefore low.

The aesthetic significance of the dwelling has also been de-valued by accumulative additions dating from 1900 onwards. By 1928, an aerial photograph (MAP 1899 Run City-1, Frame 1574, Geoscience Australia) shows a double gabled form with a central chimney (all still existing). The front gabled section with a central chimney is evident in a 1928 aerial photograph. This suggests that the second gabled form is a later addition occurring some time between 1891 and 1928. Further additions are evident in the 1943 aerial photograph within the rear garden and southern setback.

The front and side verandahs, with the mid century metal balustrades, are later additions. The location of the original front door is not known. However, it was possibly on the southern side of the cottage. The original weather boards of the original cottage have been replaced, however, the interior retains original floor boards. The plaster ceilings and the timber beamed ceiling are later modifications that conceal tongue and groove timber ceilings. The roof sheeting is contemporary and no timber roof shingles (if ever used) were found by the structural engineer.

The structural report notes that the stud walls exhibit termite damage and rot. The northern stud wall is highly deteriorated due to water egress and leaf debris that has fallen between the terrace and the cottage. The cottage would have to be re-stumped as the site has settled unevenly.

The verandahs are non-original and will require complete removal as these are structurally unsound on the southern side, partially infilled on the eastern side and have midcentury balustrades.

The roof has structural issues, including sagging of the trusses and roof rafters. The studwork will require complete reconstruction on the northern wall and other portions could also requiring reconstruction.

The contemporary rough sawn weatherboard cladding will also require replacement as it is not aligned at the corners and there are gaps.

The remainder of the building that dates from 1900- 1915 and later has less heritage significance and contributes little to the character of the conservation area as these portions are not visible from the public domain. If the original 1885 portion of the dwelling was to be 'retained', it would require almost complete re-construction and would significantly degrade its historic significance. The resultant dwelling will be a reconstruction of a weatherboard cottage.

The property is located within a group of two storey terraces on the western side of Chuter Street that have a generally consistent character. The subject property breaks the line of terraces by virtue of its differing setback, typology and high front wall. The eastern side of Chuter Street is highly eclectic with commercial and residential buildings

The property is located within the Union Bank Thomas Conservation area which is significant as:

- (a) The largest area of mid to late Victorian buildings in the North Sydney area including a substantial number of individually significant buildings, groups of buildings and unique streetscapes in the local context.*
- (b) For the clarity of its subdivision history that is still clearly seen in variations of road widths between sections of streets and changes of directions of the subdivision pattern in response to the subdivision of earlier estates.*
- (c) For the way development has responded to the topography through stepped building forms and excavation in some locations.*
- (d) For its fine streetscapes with intact rows of Victorian residences, especially in Thomas, Union and Chuter Streets.*
- (e) For its relatively large number of surviving timber residences.*

Heritage Impact Assessment

The proposal is considered to satisfy clause 5.10 of NSLEP 2013, only in that the dwelling can be demolished in this unusual circumstance because:

- (a) It has major structural issues (as noted above)*
- (b) Any replacement dwelling, even if a replacement weatherboard cottage, will have no heritage significance and will not be an authentic re-construction, as there is no historical record of the original building. It is not known what design the front façade had.*
- (c) The new building will be in effect, be a new building.*

The proposed terrace style building will be generally sympathetic to the streetscape character of the western side of Chuter Street (subject to the deferred commencement conditions given below).

The following section in Part B Section 13 of NSDCP 2013 are of relevance to the heritage assessment:

1. Demolition – The proposal does not comply with 13.8 Demolition in NSDCP 2013

Demolition of contributory items

- P3 Contributory items must not be demolished and demolition will not be supported by Council.*
- P4 Despite P3 above, Council may consider the demolition of a contributory item, but only where an applicant can satisfactorily demonstrate:*

- (a) that the building's contribution to the streetscape or character of the conservation area does not warrant its retention;*
- (b) that alternatives to demolition have been considered with reasons provided as to why the alternatives are not acceptable; and*
- (c) that any replacement building is compatible with the characteristic built elements of the heritage conservation area as identified in the relevant Area Character Statement (refer to Part C of the DCP)*

As noted above, that whilst demolition is not usually supported, this application is an exception as the dwelling is structurally unsound, it is not readily seen from the street due to the high front wall, there is no record of its original design and any re-construction of a new weatherboard cottage would be a conjecture of the original design

2. Character - Section 13.6 notes that:

Contributory items are part of the collective significance of the particular conservation area in which they are located. They are important for what they offer to the streetscape or character of the heritage conservation area. As a result, the focus for contributory items is how the building appears in the public domain, and especially from the street.

- 1. The proposed terrace form is considered to be acceptable in this instance, as the western side of Chuter Street in the immediate vicinity is characterised by late 19th and 20th century terraces. The development will be an infill building that has been designed to respond to the adjacent terraces and will therefore fit neutrally into the streetscape.*

2. *Front Setback – The setback is considered acceptable as the building will result in a small front garden that will allow the original terraces in the street to stand more prominently in the streetscape.*
3. *Massing – The form of the building should respond to the prevailing width of the existing terraces. The buildings should step down the slope as described in the Statement of Significance. It is recommended that the roof ridge be modified in a deferred commencement condition.*
4. *Garden Setting – The design will contribute greenery to the streetscape by the garden in the front setback.*
5. *Height – The roof ridge has not been stepped to follow the topography and to break up the massing as the design currently appears too wide in the streetscape of narrow terraces. This will assist in modulating the building massing and form. This may be amended by a deferred commencement condition.*
6. *Fenestration – The openings on the streetscape elevation are disproportionately large compared to other openings on terraces in the immediate streetscape. These may be amended by a deferred commencement condition. The extent of glazing on the rear elevation is not characteristic to the conservation area. A greater proportion of solid material is required. These may be amended by a deferred commencement condition.*
7. *Materials- The use of glazed balustrades is not supported as they introduce a crisp contemporary character to the conservation area. In contrast, balustrades in conservation areas typically add detail to a building. Steel palisade or timber balustrades are recommended. Metal roofing sheeting should have a traditional corrugated profile not standing seam. This may be resolved by a deferred commencement condition.*
8. *Parking – The driveway and garage design is considered to be acceptable.*
9. *Impact to nearby Heritage Items - The proposal is located in the vicinity of heritage items located at 2 to 10 Chuter Street 11 Chuter Street on the opposite side of the road. The proposal will not detrimentally impact on the significance of the items or detract from their curtilage.*

Conclusion and recommendation

The proposal requires some amendment so that it fits neutrally into the streetscape and so that it does not detract from the significance of the historic group of terraces. The current proposal will not be submissive to the existing historic terraces as it will appear too wide in comparison to the adjacent terraces, has a fenestration pattern that has by comparison over-scaled glazing on the front façade and excessive glazing at the rear and uses materials that are inconsistent with the palette of materials used in the conservation area. These issues may be resolved with a deferred commencement condition.”

It was recommended that a deferred commencement condition be imposed requiring the following:

The drawings are to be amended to the satisfaction of Council's Conservation Planner such that:

- a) The front façade of the dwelling is to be perceived as two dwellings by using architectural devices such as step in the roof ridge of a minimum of 100 mm and by extending one the vertical blade walls either side of the front door into the roof plane so that it appears as a common wall.*
- b) The glazed balustrade at the rear is to be substituted with a metal palisade balustrade.*
- c) The sandstone is to have a rusticated finish.*
- d) The roofing is to have a corrugated profile. Standing seam is not to be used.*
- e) The proportions of the windows on the street elevation are amended to be consistent with the size of openings on nearby terraces.*
- f) New windows and doors are to have aluminium or steel framing sections of a width 45mm or wider, or are to be timber-framed.*
- g) The extent of glazing on the rear elevation is to be reduced by 20% so that there is a higher proportion of solid material and more consistent with the character of the conservation area.*

The applicant submitted amended plans on 29 October 2025 which addressed the above recommendations.

As the plans have now been amended the deferred commencement condition in relation to the heritage requirements above is not required. Council's Heritage Officer has provided amended conditions removing the need for deferred commencement.

ENGINEERING

The application was referred to Council's Development Engineer for comment. He provided his comments on 15 September 2025 with no objection to the proposal subject to the conditions provided.

LANDSCAPING

The proposed development was referred to Council's Landscape Development Officer for comment with comments and conditions received on 24 September 2025.

EXTERNAL REFERRALS

AUSGRID

Council notified Ausgrid inviting comments pursuant to Section 2.48 of SEPP (Transport and Infrastructure) 2021. Ausgrid consented to the development subject to the following (in italics):

"Ausgrid Overhead Powerlines are in the vicinity of the development

The developer should refer to SafeWork NSW Document - Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase. Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site. The "as constructed" minimum clearances to the mains must also be maintained.

These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website at www.ausgrid.com.au.

*It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer's cost. Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website:
www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries*

*For new connections or to alter the existing electrical connection to the property from the Ausgrid network, the proponent should engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable. Visit the Ausgrid website for further details:
<https://www.ausgrid.com.au/Connections/Get-connected>*

SUBMISSIONS

The application was notified to adjoining properties and the Euroka Precinct between 19 September 2025 and 3 October 2025. Seven (7) submissions were received during the notification period. An additional submission was lodged on 7 October 2025, after the notification period. In total eight (8) submissions have been received and considered in the assessment of the application. The following concerns were collectively raised:

Basis of Submissions

- The proposed development fails to comply with the maximum building height development standard of NSLEP 2013.
- Proposed building is an overdevelopment of the site and has unacceptable bulk and scale.
- The proposed development is inconsistent with the character of the Union, Bank and Thomas Streets Conservation Area.
- Proposed side and rear setbacks are not acceptable.
- Structural, construction and excavation impacts.
- Overshadowing and solar access impacts.
- View impacts to surrounding properties.
- Impacts on trees.
- Stormwater impacts.

CONSIDERATION

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

Environmental Planning and Assessment Act 1979 (as amended) Environmental Planning and Assessment Regulation 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021 Chapter 2 – Vegetation in Non-Rural Areas

Chapter 2 of the SEPP relates to vegetation in non-rural areas which applies to the site. Chapter 2 regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent

The aims of this Chapter are to protect the biodiversity values of trees and other vegetation in non-rural areas of the State and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation. This policy is applicable pursuant to Clause 2.3 of the SEPP as the site is within both North Sydney Council and the R3 Medium Density Residential zone

Section 2.6 of the Policy specifies that a person must not clear declared vegetation in a non-rural area of the State without consent of Council. The Policy confers the ability for Council to declare vegetation that consent is required in a Development Control Plan. Section 16 of Part B in NSDCP 2013 specifies declared trees for the purpose of the SEPP which includes trees over 5m in height or canopy. The development proposal was assessed by Council's Landscape Development Officer who provided consent and draft conditions for the removal of the following trees:

- T5. *Magnolia figo* 5x4m Front setback-22 Chuter St
- T6. *Morus sp* 5x7m Front setback-22 Chuter St

He has raised no objection to the proposal subject to the draft conditions of consent provided.

Chapter 6 – Water Catchments

Having regard to Chapter 6 of the SEPP (Biodiversity and Conservation) 2021 the proposed development is not considered to be detrimental to the Harbour and will not unduly impose upon the character of the foreshore given the site's inland location. The proposed development would not adversely affect the quantity or quality of water entering Sydney Harbour, being a regulated catchment for the purpose of Section 6.6 of the Policy. The application satisfies the requirements of the Policy.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 of this SEPP requires 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 only previously been used for residential purposes and as such is unlikely to contain any contamination; therefore, the requirements stipulated in Chapter 4 of this SEPP have been satisfactorily addressed.

State Environmental Planning Policy (Sustainable Buildings) 2022

A valid BASIX Certificate No 1808823S dated 18 August 2025 for the proposed development has been submitted with the application to satisfy the Aims of the SEPP.

NORTH SYDNEY LOCAL ENVIRONMENT PLAN (NSLEP 2013)

1. Permissibility

The site is zoned R3 Medium Density Residential under the provisions of the North Sydney Local Environment Plan 2013 (NSLEP 2013). Development for the purposes of a dwelling house is permissible with the consent of Council in the R3 Medium Density Residential zone

2. Objectives of the zone

The site is zoned R3 Medium Density Residential under the provisions of NSLEP 2013.

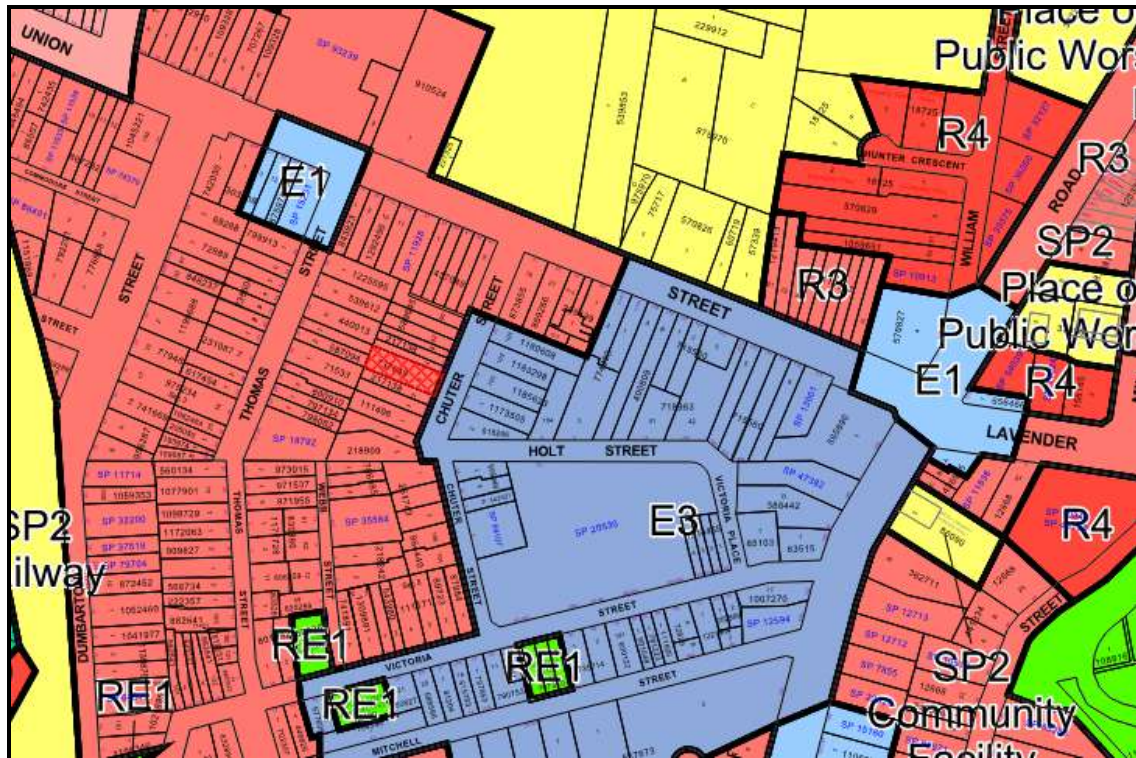


Figure 7: Zoning map showing subject site cross hatched in red and R3 Medium Density Residential zone.

The objectives for the R3 Medium Density Residential Zone are stated below:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To encourage the development of sites for medium density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.
- To provide for a suitable visual transition between high density residential areas and lower density residential areas.
- To ensure that a high level of residential amenity is achieved and maintained.

The proposal is consistent with the relevant objectives of the zone as follows:

- The proposed development will continue to provide residential housing at the site whilst also providing improved amenity and accessibility, which is aligned with development within the R3 Medium Density Residential zone
- The proposal provides a dwelling house which is variety of housing type desired within the medium density zone.

- The subject site is located within the Union, Bank and Thomas Streets Heritage Conservation Area and the amended plans now satisfy the objectives of NSLEP 2013 Clause 5.10 Heritage conservation and NSDCP 2013 - Part B Section 13 Heritage and conservation.
- The proposed development maintains a high level of amenity for the adjoining buildings within the R3 Medium Density zone. The adjoining sites are not unreasonably impacted by the proposed development in terms of solar access, overshadowing or privacy.

The following table provides an assessment of the proposal against the relevant LEP Clauses and development standards as follows:

Clause	Standard	Proposal	Complies
Part 2: Permitted or Prohibited Development			
Clause 2.2 Zoning of land to which Plan applies	R3 Medium Density Residential	Dwelling house	Yes
2.3 Zone objectives and Land use table	Objectives of zone to be satisfied	The proposal satisfies the objectives of the R3 zone.	Yes
2.7 Demolition	Demolition requires development consent.	Consent for demolition is sought.	Yes
Part 4: Principal Development Standards			
4.3 Height of Buildings	8.5m	10.36m 1.86m (21.88%)	No
Note: Clause 4.6 objection has been submitted requesting a variation to the development standard for the maximum building height.			
4.4 Floor Space Ratio	N/A	N/A	N/A
4.6 Exceptions to Development Standards	A Clause 4.6 variation request has been submitted in relation to the proposed building height		
Part 5: Miscellaneous Provisions			
5.10 Heritage Conservation	(5) Heritage assessment The consent authority may, before granting consent to any development— (a) on land on which a heritage item is located, or (b) on land that is within a heritage conservation area, or (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),	The subject site does not contain a heritage item, however, the dwelling at 22 Chuter Street is identified as a contributory item within the Union Bank and Thomas Streets Heritage conservation area in accordance with Appendix 1 of NSDCP. The site is also located within the vicinity of a number of heritage items including the	Yes, on merit.

	require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.	houses located between 2-10 Chuter Street (I0454, I0455, I0456, I0457 and I0459), No 9 and No 11 Chuter Street (I0458 and I0460) and 93 Union Street, McMahons Point (I0502).	
Part 6: Additional Local Provisions			
6.10 Earthworks	The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	The proposed earth works are limited and not considered to have a detrimental impact upon the adjoining properties or land within the vicinity of the site. In addition, appropriate conditions of consent have been imposed.	Yes

1. Height of Building

The objectives of the Height of Buildings development standard under Clause 4.3 of NSLEP 2013 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.

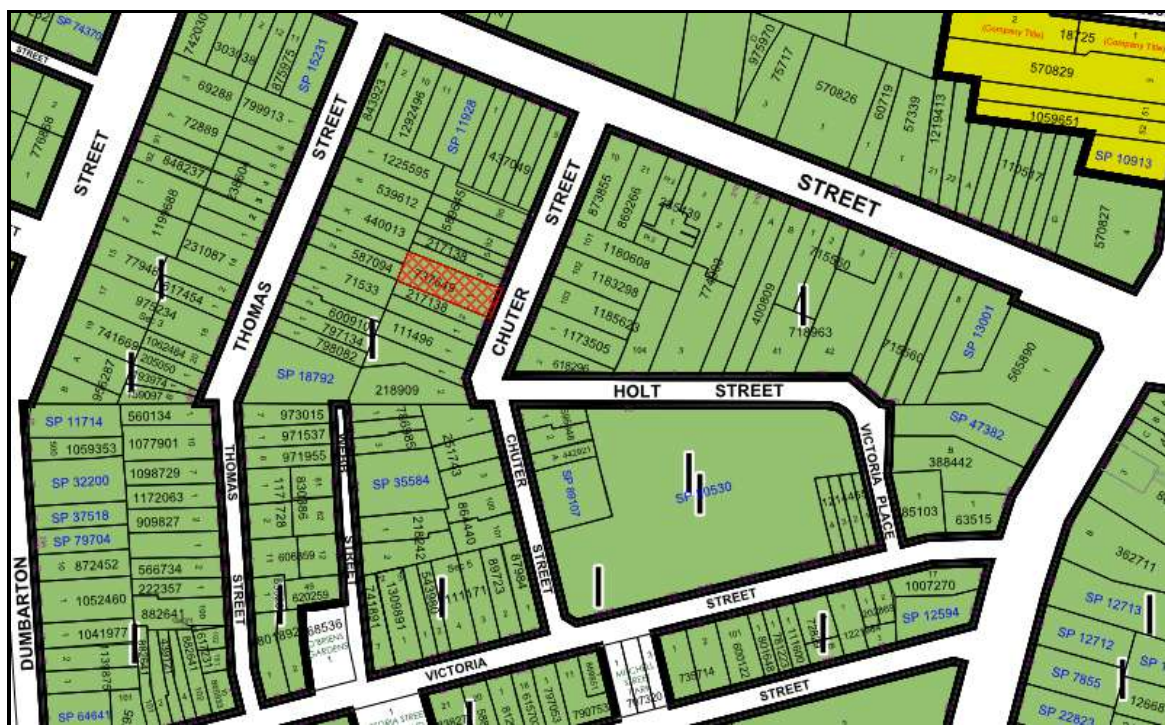


Figure 8: Maximum Building height map (area shown as I being 8.5m) with subject site identified cross hatched in red.

The proposed development seeks a variation to the development standard relating to height (Clause 4.3). The NSLEP identifies a maximum height control of 8.5m. The building is proposed to be 10.36m in height to the top of the ridge which exceeds the maximum building height by 1.86m, a variation of 21.88% to the development standard.

Criteria for approval under Clause 4.6

On 15 September 2023 changes were made to how Clause 4.6 requests were assessed, with these changes taking effect for development applications lodged from 1 November 2023. Clause 4.6 was amended by the Standard Instrument (Local Environmental Plans) Amendment (Exceptions to Development Standards) Order 2023 on 1 November 2023.

The applicant has submitted a written request pursuant to Clause 4.6 of NSLEP 2013 (Attachment 4). A detailed assessment of the Clause 4.6 request to vary the building height development standard has been undertaken below:

Clause 4.6 Exceptions to development standards

Detailed assessment of variation to Clause 4.3 Height of Buildings

Clause 4.3 of the North Sydney Local Environmental Plan 2013 (NSLEP) relates to the maximum permitted building height for a site and refers to the Height of Buildings Map. The relevant map identifies the subject site as having a maximum height of 8.5m. Building Height is defined as:

“Building height (or height of building) means:

- In relation to the height of a building in metres – the vertical distance from ground level (existing) to the highest point of the building, or*

- *In relation to the RL of a building – the vertical distance from the Australian Height Datum 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 proposed development seeks a variation to the development standard relating to height (Clause 4.3). The NSLEP identifies a maximum height control of 8.5m. The building is proposed to be 10.36m in height to the top of the ridge which exceeds the maximum building height by 1.86m, a variation of 21.88% to the development standard

Any variation to a statutory control can only be considered under Clause 4.6 – Exceptions to Development Standards of the NSLEP. An assessment of the proposed height against the survey plan levels was conducted to indicate the Applicant's calculations are generally accurate.

The location and extent of the non-compliance is provided in the height plan diagram below:

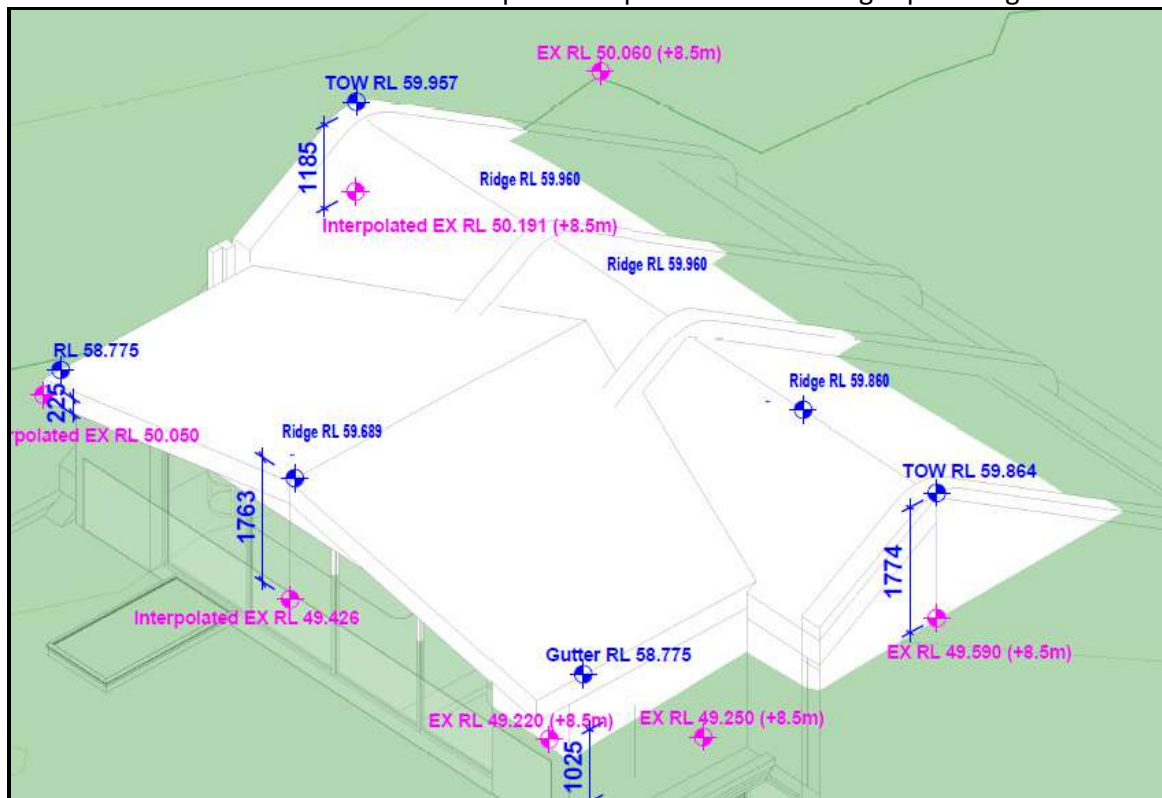


Figure 9: Height plane diagram showing the part of the building that exceed the maximum building height when viewed from the south west.

Clause 4.6(1) outlines the objectives of the standard which are to “provide an appropriate degree of flexibility in applying certain development standards to particular development” and “to achieve better outcomes for and from development by allowing flexibility in particular circumstances”.

Clause 4.6(3) states that:

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

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

To support the non-compliance, the applicant has provided a request for a variation to Clause 4.3 in accordance with Clause 4.6 of NSLEP 2013. The Clause 4.6 request for variation is assessed as follows:

Is the planning control in question a development standard?

The Height of Buildings control under Clause 4.3 of the North Sydney Local Environment Plan 2013 is a development standard.

What are the underlying objectives of the development standard?

The objectives of the Height of Buildings development standard under Clause 4.3 of NSLEP 2013 are:

- (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.*

Compliance is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a))

There have been several Court cases that have established provisions to assist in the assessment of Clause 4.6 statements to ensure they are well founded and address the provisions of Clause 4.6.

In *Wehbe v Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. This list is not exhaustive. It states, inter alia:

“An objection under State Environmental Planning Policy 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.”

The judgement goes on to state that:

“The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).”

Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation):

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.”*

The Clause 4.6 statement was prepared having regard to the recent court cases and their judgements.

Applicants comment: *“Clause 4.6(3) states that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

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

The justification is provided below:

Clause 4.6(3)(a) – Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Historically the most commonly invoked way to establish that a development standard was unreasonable or unnecessary was satisfaction of the first test of the five set out in Wehbe v Pittwater Council. [2007] NSWLEC 827 which requires that the objectives of the standard are achieved notwithstanding the non-compliance with the standard.

The Land and Environment Court in Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 has required additional ways of establishing that compliance is unreasonable or unnecessary beyond consistency with the standard and zone objectives to be established. For completeness, this request addresses the five part test described in Wehbe v Pittwater Council. [2007] NSWLEC 827, followed by a concluding position which demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;

The Objectives of the 'Height of Building' Development Standard are reproduced and addressed below at Table 2:

Table 2: 'Height of Building' Objectives

Height of Buildings Objectives	Comment
<i>(a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient</i>	<i>The dwelling has been designed to step with the topography north to south to present as a 2 storey building with the height at roof ridge (at RL59.86) transitioning between the adjacent dwellings to the north (24 Chuter Street at RL60.35) and the south (20 Chuter Street at RL 58.98), providing a stepped roof ridge line</i>
<i>(b) to promote the retention and, if appropriate, sharing of existing views,</i>	<i>There are no significant views enjoyed by sites to the east that will be impacted as a result of the development</i>
<i>(c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,</i>	<i>The site has an east-west orientation and it is expected that additional shadows will be cast to the adjacent site to the south (20 Chuter Street) during the winter solstice. The height exceedance is located to the front / 'principal' portion of the proposed dwelling represented by the gable roof form and rear roof extension and as such additional shadow resulting from the departure will be cast over the existing roof planes of adjacent dwellings to the south. Whilst additional shadows will be cast to 20 Chuter Street, it will continue to enjoy solar access to at least 50% of its private open space area from 12.00pm onwards (at the winter solstice)</i>
<i>(d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,</i>	<i>Windows along the side elevations extending from habitable areas utilise privacy screens to promote privacy between dwellings and minimise overlooking. The upper level balcony and glazing to the rear roof dormer will overlook properties to the west (rear yards of properties having address to Thomas Street). Notwithstanding it is noted that these</i>

	<i>properties sit at a much lower level having an existing ground level of up to 3 metres lower than the subject site, and together with the setback from the rear boundary (at 8.140m to the face of the first floor balcony and 21.56 metres to the rear roof extension), will not result in overlooking in a downward direction to the ground level courtyard areas. Privacy screens are employed to the sides of the upper level balcony and the glazing along the southern side of the proposed rear addition to avoid overlooking to the adjacent properties to the north and south</i>
<i>(e) to ensure compatibility between development, particularly at zone boundaries,</i>	<i>The dwelling has been designed to ensure compatibility in height with adjoining dwellings with a transition in height from north to south, following the fall in the street. The rear built form is a flat roof structure introduced to simplify the roof form (commensurate with typical skillion roofs), and to accommodate the high level of modulation to the proposed design to the front and rear being:</i> <i>• that portion having frontage to Chuter Street which responds to the architectural language within the street; and</i> <i>• the rear addition which is designed to be subservient to the former as would be the case in typical terrace rear wing typology.</i>
<i>(f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.</i>	<i>The design and spatial proportions, with particularly emphasis at the Chuter Street frontage provides a built form that is of a scale and language compatible with adjoining sites and to the diverse housing typology within the street and locality.</i>
<i>(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</i>	<i>Located within the R3 'Medium Density Residential zone, the built form has a 2-storey building height.</i>

2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

The underlying objectives and purpose of the 'Height of Building' development standard is relevant to the proposed development. However, the proposed development is consistent with those objectives on the basis that the proposed height is consistent and compatible with the height and scale of the 2-storey terrace row groups to the immediate north and south of the subject site, the pattern of development within the visual catchment of the site and will sit comfortably with the context of the site with no significant adverse impacts to adjacent properties or the Chuter Street streetscape.

3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

The underlying objective of the 'Height of Building' development standard is to achieve an appropriate height on the site which is compatible with the context of the site and preserves the amenity and privacy of adjacent properties. Due to the street topography, existing development, design, location and configuration of the proposed development, the proposal successfully achieves these objectives maintaining a scale and visual expression that delivers a harmonious and integrated built form across adjacent sites and along the western side of Chuter Street.

It is considered therefore that strict compliance would result in the defeat of the underlying object and purpose of the height control because it would encourage a less desirable outcome for the subject site where there exists no environmental or amenity impacts and where the established setting in scale and form will be retained.

4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

The standard has not been abandoned or destroyed with each variation tested on its merits. Nonetheless, Council understands that in certain circumstances where the merit for the variation can be demonstrated that strict compliance is unnecessary and unreasonable.

5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone;

The proposed zoning of the land is considered to be reasonable and appropriate.

The subject site is located within the 'R3 Medium Density Residential' zone and is considered to be reasonable and appropriate. The zone objectives are identified in the Table 3 and demonstrates that the variation is consistent with the objectives of that zone.

Table 3: R3 Medium Density Residential Zone

Zone Objectives	Comment
<i>To provide for the housing needs of the community within a medium density residential environment</i>	<i>Notwithstanding that the site is located within a medium density zone, the immediate locality is definitively low density in character. The proposed development retains this predominant and distinctive residential character, particularly along the western side of Chuter Street (north of Holt Street).</i> <i>The proposed dwelling has been designed as a functional, and well delineated and integrated internal spaces that meets the expectations and needs of residents for contemporary 21st century open plan living. The internal living spaces provide direct connections to useable and generous private open space and courtyard areas, with the less activated sleeping areas appropriately located and contained in a separate area. The internal space has been rationalised through the use of a single set of centralised stairs that serve all areas of the dwelling.</i> <i>Additionally, the provision of a residential passenger lift caters to the housing needs of residents and future residents and visitors by providing equitable and functional access to a dwelling to the widest range of users in accordance with the principles of 'Ageing in Place' and Liveable / Universal Housing design, which becoming increasingly important as mainstream tenets in the design of new and the adaptation of existing dwellings.</i> <i>The design is compatible with surrounding development being well articulated and modulated through a 'stepped' built form and materials and finishes that is evident in the street, and a formal and well-designed primary facade and front garden that allows the dwelling to sit comfortably within its surroundings</i>
<i>To provide a variety of housing types within a medium density residential environment.</i>	<i>The proposed development provides a housing type that responds to the low density character along the western side of Chuter Street.</i>

<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	Not Applicable.
<i>To encourage the development of sites for medium density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area</i>	<i>The proposed dwelling does not compromise the amenity of the surrounding area or the natural or heritage values within the street and locality. The dwelling is a well-considered design that shares cues and characteristics with surrounding development in both siting, form, materials, finishes and landscaping qualities, particularly when viewed from the street frontage.</i>
<i>To provide for a suitable visual transition between high density residential areas and lower density residential areas.</i>	<i>This objective relates to the broader strategic significance of scale and height transition over several kilometres, with the proposed dwelling appropriately satisfying this objective by providing a height transition between each of the adjacent dwellings that steps down following the fall in the topography of Chuter Street between Union Street to the north and Holt Street to the south.</i> <i>The façade is broken up into two distinctive bays to replicate the variable allotment widths of terrace house development evident within Chuter Street, resulting in an infill development that is respectful of both street scale and proportions.</i>
<i>To ensure that a high level of residential amenity is achieved and maintained.</i>	<i>The proposed dwelling achieves a high level of internal amenity that provides well connected and discernible living spaces with direct connection to useable and functional external private open space areas not afforded by the existing dwelling.</i> <i>The proposed dwelling steps with the topography of the site allowing for the dwelling to sit comfortably within the site and amongst surrounding residential development, and is assisted by a modulated and articulated form that successfully minimise any perceived bulk and scale when viewed from the public domain and surrounding development.</i>

Officers comment: In respect to Prestons CJ judgement the NSW Land and Environment Court and in accordance with a recent decision (Initial Action Pty Ltd v Woollahra Council [2018] NSWLEC 118), the NSW Land and Environment Court has established a “five part test” for consent authorities to consider when assessing a DA proposing a clause 4.6 request for variation (as outlined above). In this case it is considered that the proposal satisfies the five part test for the following reasons

- As previously discussed, the objectives of the height standard are considered to be satisfied despite the non-compliance.
- In this case the underlying objectives of the development standard are achieved notwithstanding non-compliance with the standard by the approval of the building.
- The building has been designed as an infill building with a building height consistent with adjoining terrace houses. The proposed building will adopt a similar maximum building height RL as the adjoining buildings.
- There will be no significant adverse impacts generated by the non complying portions of the building in terms of view loss, overshadowing or overlooking to adjoining properties.
- The R3 Medium Density zone is an appropriate zoning for the site. The proposed scale of the development is consistent and in keeping with the height for developments within this zone and precinct.

The height control objectives articulate the ultimate function of the establishing the height of buildings. The maximum height for buildings on land is identified on the Height of Buildings Map. As previously described, the maximum building height permitted on the subject site is 8.5m and the maximum height of the proposed building is 10.36m. The proposal contravenes the standard, as a result the amount and degree of non-compliance and its resultant impact needs to be considered.

The proposed height of the development is considered to be generally in keeping with the desired future character of development within the immediate vicinity and surrounding areas.

Clause 4.6(3)(b) are there sufficient environmental planning grounds to justify contravening the standard?

Clause 4.6 (3)(b) states that *(b) there are sufficient environmental planning grounds to justify contravening the development standard*

Having regard to Clause 4.6 (3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, it is considered that there is an absence of any negative impacts of the proposed non-compliance on the environmental quality of the locality and amenity of adjoining properties.

Applicants comment: *“Clause 4.6(3)(b) – Are there sufficient environmental planning grounds to justify contravening the development standard?”*

The following environmental planning grounds are sufficient to justify contravention of the development standard:

- (1) *Is consistent with the relevant objectives of the R3 Medium Density Residential zone and the ‘Height of Building development standard under Clause 4.3(1) of the NSLEP 2013;*

- (2) *The exceedance to the height control does not convey excessive height when viewed against the context of the immediately adjacent 2-storey terrace development to the north and south and Chuter Street more generally.*
- (3) *The exceedance of the 8.5 metre height plane is a direct result of responding to the existing heights of the adjacent 2-storey terrace development in order to achieve appropriate height transition across sites, forming a contiguous positive relationship to the immediately adjacent 2-storey terrace rows when viewed from the Chuter Street public realm.*
- (4) *The proposed variation maintains the visual reading of the streetscape, along the western side of Chuter Street, as a contiguous and uniform pattern of development of 2-storey attached terrace rows, interspersed with detached single storey dwellings.*
- (5) *The departure to the height control is localised and will not be discernible from Chuter Street with the infill development having suitable height relationships to the adjacent 2-storey terrace rows to the immediate north and south, with a stepping down in height that responds to the fall in topography of the street.*
- (6) *The development has been carefully designed to mitigate any issues associated with the expression of the proposed infill 2-storey dwelling within the streetscape and its relationship to the immediately adjacent terrace row group to the north and south of the site taking cues from the design language existing development that:*
 - *successfully breaks up the massing of the front façade that responds to the variable lot widths of terrace development within Chuter Street, and*
 - *a height and scale that relates to the immediately adjacent 2-storey terrace row development to the north and south.*
- (7) *Sits comfortably within the context and setting of the site, with no significant adverse impacts to adjacent or surrounding development by way of bulk, scale, overshadowing, privacy, or view loss.*
- (8) *The proposed area of the height non-compliance does not result in any unreasonable impacts to the adjacent sites.*
- (9) *The proposed development achieves the objects in Section 1.3 of the EPA Act 1979, specifically:*
 - *The proposed in-fill dwelling is consistent with the general bulk and scale of the existing immediately adjacent 2-storey terrace row dwellings to the north and south of the site, with an architectural language that gestures to the established architectural cues throughout Chuter Street and the wider HCA, representing the orderly and economic use of the land (cl 1.3(c)).*
 - *The proposed development will provide for improved amenity through a more functional floor space within a built form that is harmonious with and compatible to development in the surrounding area, representing the orderly and economic use of the land (cl 1.3(c)).*
 - *The proposed new in-fill dwelling is considered to promote good design consistent with the Objective 1.3 (g):*
 - *with a design language that is interpretative of its context by gesturing to established architectural cues throughout Chuter Street and the wider HCA;*

- *the successful breaking up of the allotment width and massing of the dwelling by providing two distinctive bays that reflect the variable allotment widths of terrace development within the immediate vicinity of the site; and*
- *delivers enhanced residential amenity of the building's occupants and the immediate area. In summary, it is considered that there are sufficient planning grounds that strict compliance with the development standard in this instance is unreasonable and unnecessary*

CONCLUSION *The proposed variation to the 'Height of Buildings' development standard contained within Clause 4.3 of North Sydney Local Environmental Plan 2013 has been found to be reasonable and appropriate in the circumstances of the case. In addition, there are sufficient environmental planning grounds to justify the variation. In this regard it is reasonable and appropriate to vary the 'Height of Buildings' development standard to the extent proposed."*

Officers comment: The planning grounds established by the Applicant are considered sufficient to justify contravening the development standard.

It is also important to highlight that the extent of the height non-compliance is limited to the gable roof from and the roof dormer above the attic level, and therefore, visually represents a scale of development which is reasonably anticipated by the height of other terraces within the immediate vicinity.

The amenity impacts associated with the non-compliance have been considered. The non-complying part of the building has been located within the front portion of the dwelling above the attic level and no higher than the existing adjoining buildings height. There will be no significant adverse impacts in terms of view loss, overshadowing or overlooking to adjoining properties generated by the portion of the building which breaches the height control.

The scale and size of the building will be consistent with the future and desired development within the street and immediate area. The proposed development is consistent with the pattern of development emerging within this area.

The proposed development is considered to satisfy the objectives of the building height development standard for the following reasons:

- (a) The development is consistent with the built form envisaged for the immediate area.
- (b) Despite the variation the bulk and scale of the development is compatible with the existing buildings that have been constructed within the immediate vicinity.
- (c) When considered in the context of the development, the maximum roof height RL is consistent with the existing adjoining terrace buildings ensuring that any potential amenity impacts are minimised.
- (d) The height variation will not result in any unreasonable adverse amenity impacts such as overshadowing on neighbouring properties or the public domain.
- (e) The variation to the height would not result in an unreasonable visual impact on neighbouring properties or the streetscape.

The R3 Medium Density Residential Zone objectives require the development to:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the development of sites for medium density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*
- *To provide for a suitable visual transition between high density residential areas and lower density residential areas.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

The exceedance in the building height control generally satisfies the objectives of the zone for the following reasons:

- The proposed development will continue to maintain housing density at the site whilst also providing improved amenity and accessibility, which is aligned with development within in a medium density zone.
- The proposal is a terrace style dwelling house which is consistent with the zone objective which requires that a variety of housing typologies are within the medium density zoning.
- The amended proposal will positively contribute to the Union, Bank and Thomas Streets Heritage Conservation area.
- The proposed development maintains a high level of amenity for the adjoining buildings within the R3 Medium density zones. The dwellings are not unreasonably impacted by the departure to the building height development standard in terms of solar access, overshadowing or privacy.

The area of non-compliance is considered to be reasonable and will not establish an undesirable precedent or undermine the objectives of the zone or height control. It will not have any adverse effect on the surrounding locality, which is consistent within the R3 location. The proposal promotes the economic use and development of the land consistent with zone and its purpose.

There will be no adverse amenity or visual impacts generated by the variation, the proposal satisfies the objectives of the zone and the development standard. In this case the justification to vary the height control is considered to be a reasonable and well-founded request.

Conclusion – Assessment of Clause 4.6 Request for Variation

Despite the non-compliance in terms of the height, the proposed variation is considered to be acceptable and satisfies the provisions of Clause 4.6.

The proposed variation satisfies the objectives of the height control as the non-compliant structures, will not be visually dominating considering they are consistent with adjoining properties. The additional height is considered to be consistent with other developments in the immediate locality and the scale of the development is sympathetic with the existing scale and form of existing adjoining developments.

The contravention of the standard does not result in any material adverse environmental impacts to adjoining properties and the proposal has been designed to respond to the existing and desired future built form character of the area. The contravention does not detract from the achievement of the objectives of the height of buildings development standard.

It is considered that the Clause 4.6 Statement lodged with the application addresses all the information required pursuant to Clause 4.6 and the statement is considered to be well founded as there are sufficient environmental planning grounds to justify contravening the standard given that in this case the proposal satisfies the objectives of the zone and development standard (Clause 4.3, building height control).

2. Heritage Conservation

The subject site is not a heritage item; however it is located within the vicinity of a number of heritage items and is also located within the Union, Bank and Thomas Streets Heritage Conservation Area.

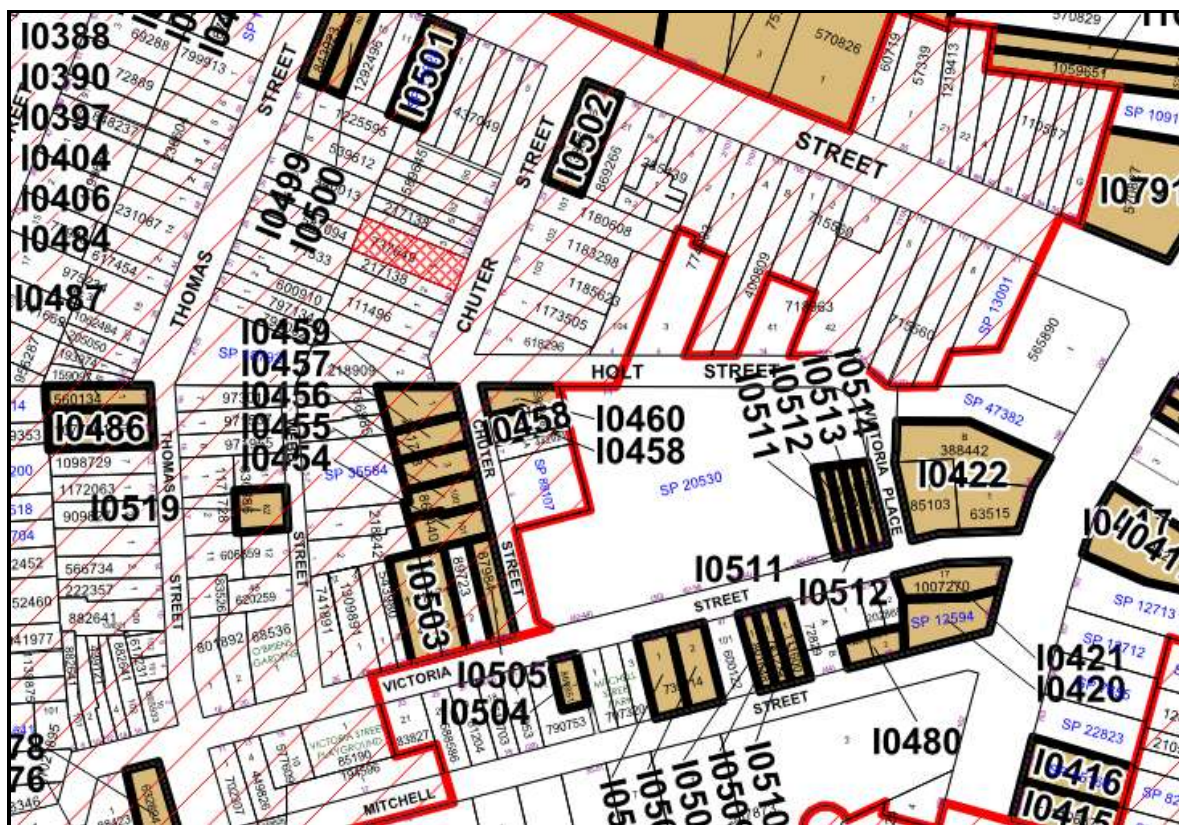


Figure 10: Heritage items (brown) and Heritage Conservation map (red hatching) with subject site cross hatched in red.

The following planning objectives of Clause 5.10 (1) of NSLEP 2013 apply to the site:

- (a) to conserve the environmental heritage of North Sydney,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

Council's Heritage Officer reviewed the proposed development and advised that the subject development site does not contain a scheduled heritage item, however the subject site contains a contributory item within the Union, Bank and Thomas Streets Heritage conservation area. It is also located in the vicinity of several heritage items including:

- Nos 2-10 Chuter Street (Local items - I0454, I0455, I0456, I0457 and I0459) located to the south of the site
- No 9 and No 11 Chuter Street (Local items - I0458 and I0460) located to the south east of the site
- 93 Union Street, McMahons Point (Local item - I0502) located to the north east of the site

No objection is raised to the demolition of the contributory item in the heritage conservation area and the construction of the new dwelling in the form proposed. Council's Heritage Officer detailed comments can be found in the referral section earlier in this report.

3. Earthworks

The application involves excavation in association with proposed development, and an assessment has been carried out under matters raised in clause 6.10 in NSLEP 2013. Appropriate conditions of consent have been applied to manage soil stability and structural impact both within the site and adjoining land.

The excavation required subject to measures recommended by an appropriately qualified and practising structural engineer will assist in avoiding, minimising, and mitigating against adverse impacts satisfying cl. 6.10 of NSLEP 2013.

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013

The proposal has been assessed under the following within NSDCP 2013:

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 1 - Residential Development		
Control	Complies	Comments
1.2 Social Amenity		
1.2.3 Maintaining residential accommodation P1 Development, whether it comprises new buildings or alterations/additions to existing buildings, should ensure that the existing residential density on site is not reduced (i.e. that the number of dwellings, or the number of rooms/bed spaces in a boarding house, that existed on the site is not reduced).	Yes	The proposal would not change the population mix and the level of residential accommodation available within the locality. The development would not result in a loss of residential accommodation complying with Objective O1, s1.2.3 of NSDCP 2013.
1.3 Environmental Criteria		
1.3.1 Topography P3 Development should not result in the ground level (finished) being altered greater than 500mm above or below ground level (existing).	No, acceptable on merit	The proposed development generally respects the existing landform of the subject site. The building footprint has been designed to incorporate a step within the ground floor level of 750mm between the front portion and rear portion of the dwelling. This is to minimise both excavation and fill on the site.

1.3.2 Properties in proximity to bushland P1 Development on properties in proximity to bushland must be consistent with the requirements of Part B: Section 15 - Bushland of the DCP	Yes	The site is located within the bushland buffer map buffer area B (300m). Councils Landscape Officer has reviewed the proposal and subject to conditions he is satisfied with the landscaping as proposed.
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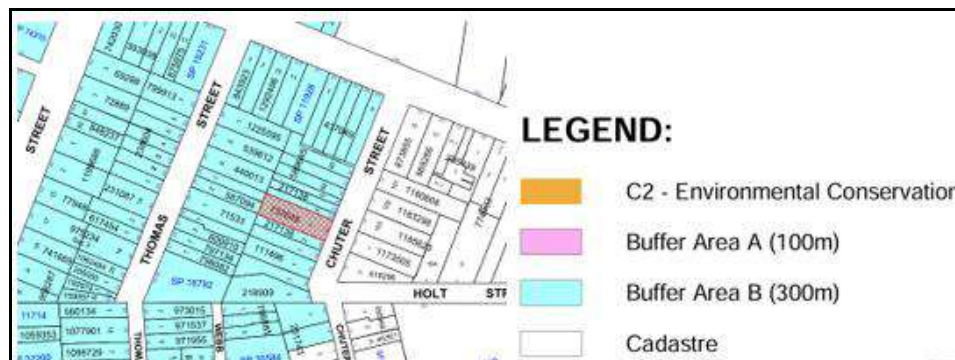


Figure 11: Bushland Buffer Map, subject site cross hatched in red in Buffer Area B (100m).

1.3.3 Properties on Bush Fire Prone Land	N/A	The site is not designated as bush fire prone land.
1.3.4 Properties with a foreshore frontage	N/A	The site is not located within a foreshore area.
1.3.6 Views	No, however view impacts can be mitigated through design changes including an increased rear setback to the first floor level.	As part of the view analysis it is important to note that the area where the potential view loss will occur, this part of the building complies with the maximum building height controls applicable. An assessment of the view impacts on the terrace house to the north at No 24 Chuter Street was undertaken. The site visit confirmed the proposed building would have an impact to both water and landscape views towards Balls Head Bay and also views of the Anzac Bridge and 'Chimney stacks'. These views are across a side boundary. In addition to these views, water and landscape views to the south west are currently enjoyed. Whilst the expectation to retain the southern views directly across the side boundary, it is envisaged that with some modification to the extent of the rear setback, a portion of the water views to the south west could be retained. View consideration has been undertaken with a visual impact assessment provided by the applicant and an assessment against s1.3.6 of DCP.

View Assessment/Analysis discussion

The objectives of Section 1.3.6 of NSCP 2013 seek to protect and enhance opportunities for vistas and views from streets and other public places and to encourage view sharing as a means of ensuring equitable access to views from dwellings, whilst recognising development may take place in accordance with the other provisions of this DCP and the LEP. Provision P2 further states development should be designed to *maximise* the sharing of views from public places. The applicant provided the following statement within the SEE in relation to any potential view impacts generated by the proposal:

"There will be no views or vistas that will be obstructed through or across the site with the sites directly opposite the subject site along the eastern side of Chuter Street of a single storey in form and do not presently enjoy views or vistas towards Berry's Bay."

At the request of Council, the applicant has undertaken an assessment of the view impacts on the terrace house to the north at No 24 Chuter Street. Notwithstanding that similar view corridors are currently enjoyed by the property further to the north at No 26 Chuter Street, with their views across the side boundaries of No 24 and No 22 Chuter Street.

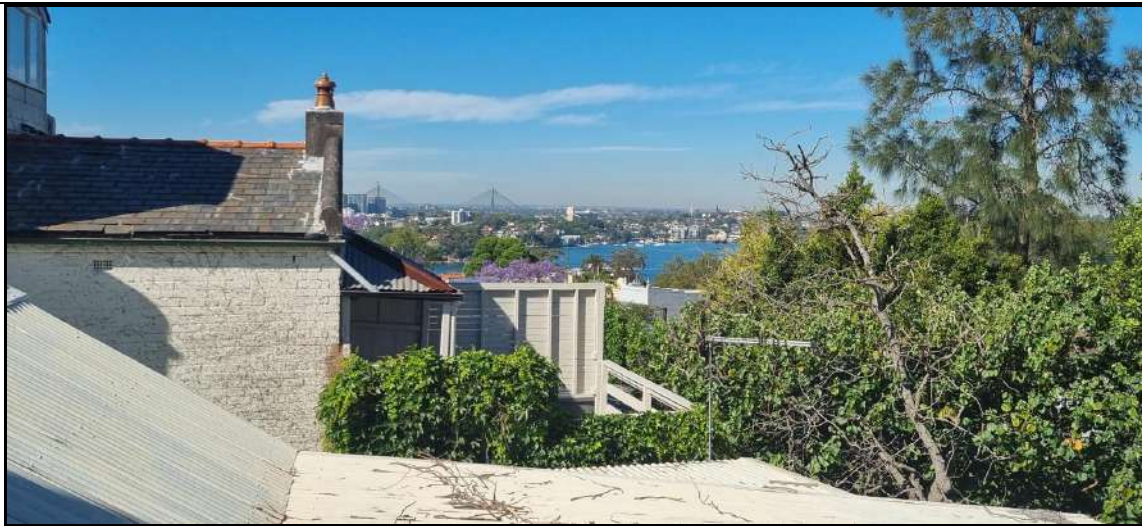


Figure 12: View towards the south across No 22 Chuter from the rear porch at No 24 Chuter Street.



Figure 13: View towards the south across No 22 Chuter from the rear porch at No 24 Chuter Street.



Figure 14: View towards the south and south west across No 22 Chuter from the rear porch at No 24 Chuter Street.



Figure 15: View towards the south west across No 22 Chuter from the rear porch at No 24 Chuter Street



Figure 16 : View towards the south west across No 22 Chuter from the rear porch at No 24 Chuter Street

Applicants Comment: *"In order to allow a qualitative assessment of the visual impact and view loss the following photographs demonstrate the former and present context and extent of the view from the "Affected Site" (24 Chuter Street) across the subject site (22 Chuter Street) and subsequent sites beyond to the north along Chuter Street and surroundings.*

It is noted that the view lines from the "Affected Site" towards Bells Head Bay and Anzac Bridge beyond (distant) were formerly obstructed by a tree sited within 20 Chuter Street having a height of 14 metres and a canopy spread of 12 metres, which at best would have provided only filtered views.

This tree has since been removed affording 24 Chuter Street with unobstructed but distant views of the waterway and the Anzac Bridge beyond. Additionally, the constructed deck area extending from the upper level balcony is contemporary and Council records are not available at the time of this assessment to demonstrate that the structure is authorised, not being a typical element to buildings of this period."

Step 1: Assessment of views to be affected - Water views are valued more highly than land views. Iconic views (e.g., of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

Applicants comment: *"Whilst views to the waterway are considered as valuable, in the circumstances of this assessment the value is diminished being:*

- only a partial view of the waterway (Bells Head Bay) with no interface between water and land visible,*
- a view that was up until recently obscured by a tree that has very recently been removed from the adjacent site to the south at 20 Chuter Street, that would have afforded only filtered views at best; and*
- that any benefit of the view can only be achieved in a standing position and from a structure that cannot be confirmed to be 'regularised'."*

Step 2: Consider from what part of the property the views are obtained - For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

Applicant comment: *"The views towards Balls Head Bay and Anzac Bridge beyond, considered as distant views, are across side boundaries with the subject view line at a 90 degree angle when viewed from 24 Chuter Street across the subject site of 22 Chuter Street. Additionally,*

- it is noted that the view was once obscured by a tree that occupied the view line space providing at best only filtered views of the waterway and Anzac Bridge beyond and which has now been made available.*
- at the area of the deck, the view is only enjoyed in a standing position area and whilst this does not derogate from any enjoyment received does limit the benefit of the view.*
- views from the balcony (from which the deck area extends) only benefits from the view when standing directly adjacent to the balustrade and will not be readily visible (oblique views at best) in any other position within the balcony area (standing or sitting position).*
- The balcony and associated attached deck extend from a bedroom limiting the availability of these areas largely to the occupant of that room only, and as such does not cater to the widest range of users, that is all occupants of and visitors to the premises."*

Step 3: Assess the extent of the impact - This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

Applicants comment: *"To assess the visual impact, there are 2 relevant aspects - view loss of actual substance (landscape, middle and distance view elements etc.) and also direct sky view loss. To a large extent, the value associated with a view is subjective, although a range of relative values can be assigned to assist with comparing views. The Table below is a scale of values from 0 to 15, used to allow a numeric value to be given to a particular view, for the purposes of comparison. On the same table are a series of values, from 0 to 15, that reflect the amount of visual impact.*

The second means of assessment relates to assigning a qualitative value to the existing view, based on criteria of visual quality defined in the table.

Having regards to the photographs presented earlier within this assessment, and as previously discussed, the view has been recently acquired to its fullest extent with 100% of the visual impact observed across the property's side boundary. The visual impact of the proposal from the location of the deck / balcony area will result in the loss of distant water views (water interface only) and very distant Anzac Bridge to the south west towards Balls Head Bay with some loss of district views to the west towards Waverton Park.

The view impact is limited to the upper level balcony and deck area extending from a bedroom and as such will be utilised by limited number of users (largely to the occupant of the bedroom), with bedrooms considered areas of low activity. Additionally, elevated balconies and decks to side boundaries and within 3 metres of that boundary would require 1.6 metre privacy screens, which the deck to 24 Chuter Street does not have, and which would serve to itself obstruct view opportunities across side boundaries, assuming that the deck itself is an authorised structure.

Having regard to the function and use of the bedroom, the limited area from which views are obtained from the balcony (covered area) the impact is assessed as minor. In summary, having regard to the matters raised in this assessment and based on the "tenacity Scale" presented in the Table above:

View Location: Upper level balcony / deck - bedroom

Value of View (Visual Quality): Moderate (7)

Extent of Impact: Minor (6)"

Step 4: assess the reasonableness of the proposal that is causing the impact - A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

Applicant comment: *"The proposal is largely compliant with the exception of the departure to 'Height of Building' to the principal roof form which lies outside of the area of view impact. It is noted that even were the proposed dwelling be further setback to retain any recently acquired view / ameliorate view loss, the preserving of views accessed across the central portion of the subject site (22 Chuter Street) and across site boundaries at 90 degree, would significantly reduce the development potential of the site and considered unreasonable given the circumstances of the location where views are accessed (a low activity area), across a side boundary, the distant nature of and the moderate quality of the view seeking to be retained."*

The applicant's assessment found that on balance, the proposed development, would satisfy the objective of the view sharing planning principle outlined in Tenacity Consulting vs Warringah Council NSWLEC 140 [2004].

1.3.7 Solar Access	Yes	Shadow diagrams (including elevations) are provided for mid-winter and the equinoxes. The plans provided indicate that the property to the south will have achieve 3 hours from 12pm to 3pm on June 21st. The shadow impact is considered to maintain a reasonable access to sunlight and daylight for adjoining properties in accordance with Objective O1, s1.3.7 of NSDCP 2013.
1.3.8 Acoustic Privacy	Yes	The proposal is unlikely to cause unreasonable noise nuisance for the adjoining properties because the proposal would continue the use as a single dwelling. It is also noted that the outdoor spaces would be used for passive recreation that is unlikely to generate excessive noise. Appropriate conditions are also recommended in relation to the operation of any air conditioners and other plant in order to maintain the residential amenity. It is considered that the proposal is acceptable having regard to acoustic privacy.
1.3.9 Vibration	N/A	The site is not adjacent to a road with an annual average daily traffic volume of more than 20,000 vehicles therefore consideration of the likely impact of a road noise or vibration is not required pursuant to Cl. 2.120 'Impact of road noise or vibration on non-road development' in the State Environmental Planning Policy (Transport and Infrastructure) 2021.

1.3.10 Visual Privacy																							
P3 Locate windows to avoid direct or close views into the windows, balconies or private open space of adjoining dwellings.	Yes	The development maintains a modest scale and proportion of windows along for the side elevations of the buildings to retain a reasonable level of visual privacy between adjoining properties. The location of windows and balconies are not considered to have an adverse impact upon the amenity of neighbouring properties.																					
P6 Limit the width and depth of any deck, patio or terrace located greater than 1m above ground level (existing) where privacy and loss of views is an issue and consider using screen devices where relevant	Yes	Balcony sizes and depths are considered to be appropriate and not excessive. In relation to amenity impacts such as views and privacy they are not considered to have an adverse impact in this regard.																					
1.4 Quality built form																							
1.4.1 Context	Yes	The amended building design and site layout now provides a suitable and appropriate response to the site.																					
1.4.2 Subdivision Pattern	Yes	The proposed work would not alter the existing lot size, shape or orientation of the site.																					
1.4.3 Streetscape	Yes	The proposed works will not adversely impact the existing streetscape character. The works are compatible with other development within the street.																					
1.4.4 Laneways	N/A	The site does not adjoin a laneway.																					
1.4.5 Siting	Yes	The siting of the building is consistent with adjoining properties and maintains the established street setback.																					
1.4.6 Setback – Front P1 The front setback must match the alignment of the primary facades of buildings on adjoining properties. Where different setbacks occur, the average of the setbacks of those primary facades is to be used.	Yes	The proposed front setback is considered to be acceptable and consistent with the alignment of adjoining properties.																					
1.4.6 Setback – Side <i>R3– Medium Density Residential</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>	No, however supported on merit.	<table border="1"> <thead> <tr> <th>Control</th><th>Proposed</th><th>Complies</th></tr> </thead> <tbody> <tr> <td colspan="3">R3 Medium Density zoning</td></tr> <tr> <td rowspan="2">Ground floor</td><td>80mm (Nth)</td><td>No</td></tr> <tr> <td>100mm (Sth)</td><td>No</td></tr> <tr> <td rowspan="2">First floor</td><td>80mm (Nth)</td><td>No</td></tr> <tr> <td>100mm (Sth)</td><td>No</td></tr> <tr> <td rowspan="2">Attic</td><td>80mm (Nth)</td><td>No</td></tr> <tr> <td>100mm (Sth)</td><td>No</td></tr> </tbody> </table> Table: Proposed side setbacks	Control	Proposed	Complies	R3 Medium Density zoning			Ground floor	80mm (Nth)	No	100mm (Sth)	No	First floor	80mm (Nth)	No	100mm (Sth)	No	Attic	80mm (Nth)	No	100mm (Sth)	No
Control	Proposed	Complies																					
R3 Medium Density zoning																							
Ground floor	80mm (Nth)	No																					
	100mm (Sth)	No																					
First floor	80mm (Nth)	No																					
	100mm (Sth)	No																					
Attic	80mm (Nth)	No																					
	100mm (Sth)	No																					
P4 Where possible, side setbacks should match those on adjoining properties, or, if adjoining properties are not characteristic, with setbacks identified in the relevant area character statement.	Yes	Adjoining properties are located on reduced setbacks. The terrace houses located within this block are on nil setbacks. The proposed 80mm and 100mm setbacks are more characteristic of adjoining properties than the setback in 1.4.6.																					
<u>Discussion on side Setbacks.</u> As mentioned above in P4 of 1.4.6, where possible side setbacks should be consistent with those of adjoining properties in order to maintain streetscape character. When viewed from Chuter Street, reduced setbacks, in some cases nil boundary setbacks are consistent with this portion of Chuter Street. The building also provides a side setback to the rear portion of the building on the southern side of the property of 1.54m to the ground floor and to the first floor with a 1.34m setback to the attic space to provide articulation and modulation to this part of the building. It also assists in providing a level of separation between Nos 20 and 22 Chuter Street.																							

1.4.6 Setback – Rear P5 Provide rear building setbacks that match those on adjoining properties, or, if adjoining properties are not characteristic, with setbacks identified in the relevant area character statement	Yes	The rear setback proposed is not uncharacteristic with setbacks of other properties within the immediate vicinity. It is noted however that to facilitate view sharing, it is recommended that an additional 3m setback to the rear boundary be provided on the first floor.														
1.4.7 Form, massing & Scale P1 The height of buildings is not to exceed that stipulated within cl.4.3 to NSLEP 2013.	Yes	The proposed building exceeds the maximum height permitted under Cl 4.3 of NSLEP. However, the height of the building is consistent with surrounding buildings and will be in keeping with the existing streetscape character.														
1.4.8 Built form character O1 To ensure that the design of new buildings reflects and reinforces, or is complementary to, the existing character of the locality.	Yes	The design of the building is in keeping with the streetscape character.														
P8 Building facades should be modulated in plan and elevation and articulated to reduce the appearance of the building’s bulk and to express the elements of the building’s architecture	Yes	The use of materials and colours, inset balconies and the recessive nature of upper levels provides appropriate modulation and articulation to the building														
1.4.9 Dwelling entry	Yes	The pedestrian entry is clearly identifiable from Chuter Street.														
1.4.10 Roofs	Yes	The amended roof form responds to the roof form of adjoining terraces.														
P2 Roofs should be similar in form and utilise similar materials to those identified in the relevant area character statement (refer to Part C of the DCP), or if not identified in the relevant area character statement that positively relates neighbouring buildings	Yes	The proposed roof form would be compatible with neighbouring buildings.														
1.4.12 Colours and Materials	Yes	Council’s Heritage Officer generally accepts the proposed materials and finishes as proposed in the amended plans as they generally comply with the Area Character Statement. Suitable conditions of consent have been imposed.														
1.4.14 Front Fence O4 To minimise their dominance on the street and contribute to a garden setting.	Yes															
1.5 Quality Urban Environment																
1.5.4 Vehicle Access and Car Parking P1 Comply with the parking requirements within Part B: Section 10 – Car Parking and Transport of the DCP.	Yes	Parking complies with the requirements of Section 10 of the DCP.														
1.5.5 Site Coverage <i>Detached dwelling</i> <i>Site area =330.6m²</i> <table border="1"><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	A maximum site coverage of 50% applies to the proposed development in accordance with exclusions expressed in P2 to s1.5.5 of DCP 2013. The proposal involves a total site coverage of 165.1m² (49.9%). A site coverage calculation diagram is submitted as part of the architectural plans confirming compliance with the maximum permitted under the DCP.
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%															

1.5.6 Landscape Area	Yes	The subject site is required to provide a minimum landscaped area of 30% under the provisions of 1.5.6 of NSDCP 2013. The proposal will result in a landscaped area of 26%. A table is provided below showing the level of compliance with DCP's site coverage, unbuilt upon area and landscaped area requirements. <table border="1"> <thead> <tr> <th>Control</th><th>Proposed</th><th>Complies</th></tr> </thead> <tbody> <tr> <td>Site Coverage (Max 50%)</td><td>165.1m² (49.9%).</td><td>Yes</td></tr> <tr> <td>Landscaped Area (Min 30%)</td><td>121.4m² (36.7%).</td><td>Yes</td></tr> <tr> <td>Unbuilt Upon Area (Max 20%)</td><td>36.5m² (11%)</td><td>Yes</td></tr> </tbody> </table> Table: Proposed site coverage, landscaped area and unbuilt upon area.	Control	Proposed	Complies	Site Coverage (Max 50%)	165.1m ² (49.9%).	Yes	Landscaped Area (Min 30%)	121.4m ² (36.7%).	Yes	Unbuilt Upon Area (Max 20%)	36.5m ² (11%)	Yes
Control	Proposed	Complies												
Site Coverage (Max 50%)	165.1m ² (49.9%).	Yes												
Landscaped Area (Min 30%)	121.4m ² (36.7%).	Yes												
Unbuilt Upon Area (Max 20%)	36.5m ² (11%)	Yes												
1.5.7 Landscaping	Yes (via Condition)	Council's Landscape Development Officer has reviewed the submitted landscape plan and was found generally satisfactory subject to imposition of appropriate conditions.												
1.5.8 Front Gardens	Yes	The front setback is considered sufficiently landscaped and is now to the satisfaction of Council's Heritage Officer..												
1.5.9 Private and Communal Open Space Private open space at ground level – 4m min dimension & 2m above ground level Must be provided off living areas	Yes	<table border="1"> <thead> <tr> <th>Control – lot size</th><th>Proposed</th><th>Compliance</th></tr> </thead> <tbody> <tr> <td>Dwellings</td><td></td><td></td></tr> <tr> <td>40m²</td><td>>40m²</td><td>Yes</td></tr> </tbody> </table> The proposal provides the minimum amount of private open space and through the development optimises the amount of usable open space available.	Control – lot size	Proposed	Compliance	Dwellings			40m ²	>40m ²	Yes			
Control – lot size	Proposed	Compliance												
Dwellings														
40m ²	>40m ²	Yes												
1.5.12 Garbage Storage	Yes	Provision has been made within the garage for the storage of bins.												
1.5.13 Site Facilities	Yes	Appropriate facilities have been provided..												
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.												
1.6.2 Passive Solar Design	Yes													
1.6.3 Thermal Mass and Insulation	Yes													
1.6.4 Natural Ventilation	Yes	Compliant with NCC - BCA												
1.6.5 Colours and materials	Yes													
1.6.6 Hot Water Systems	Yes													
1.6.7 Water Conservation	Yes													
1.6.8 Stormwater Management	Yes													
1.6.9 Waste Management and Minimisation	Yes													
1.6.10 Green Roofs	Yes													
1.6.11 Wind Turbines	Yes													

Part B Section 10 – Car Parking and Transport

Part B Section 10 provides car parking and transport controls. If there is a discrepancy between Part B and Part C of the DCP, Part C will always prevail. The following table summarises the proposal against the relevant controls:

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 10 – Car parking and transport																					
Provision		Complies	Comments																		
10.2 Parking Provision																					
10.2.1 Quantity Requirement																					
Residential Development																					
P1 Provide on-site car parking, not exceeding the maximum rates stated in Table B-10.1.		Yes	The proposal provides a single car garage which complies with the maximum rate.																		
<table><tr><th colspan="5">TABLE B-10.1 – Residential Parking Rates</th></tr><tr><th>Development Type</th><th>Zone</th><th>Location</th><th colspan="2">Maximum Parking Rate</th></tr><tr><td rowspan="2"> - dual occupancies - dwelling houses - semi-detached dwellings </td><td rowspan="2">All</td><td rowspan="2">All</td><td>1-2 bedrooms</td><td>1 space / dw*</td></tr><tr><td>3 or more bedrooms</td><td>2 spaces /dw</td></tr></table>					TABLE B-10.1 – Residential Parking Rates					Development Type	Zone	Location	Maximum Parking Rate		- dual occupancies - dwelling houses - semi-detached dwellings	All	All	1-2 bedrooms	1 space / dw*	3 or more bedrooms	2 spaces /dw
TABLE B-10.1 – Residential Parking Rates																					
Development Type	Zone	Location	Maximum Parking Rate																		
- dual occupancies - dwelling houses - semi-detached dwellings	All	All	1-2 bedrooms	1 space / dw*																	
			3 or more bedrooms	2 spaces /dw																	
10.3 Design and Layout																					
10.3.1 General																					
P1 The size and design of all parking spaces, loading facilities and any associated manoeuvring areas must be in accordance with AS2890.		Yes																			
P5 Council does not support the use of use of turntables for vehicular manoeuvring unless there is no feasible alternative.		N/A	No turntable proposed.																		
10.5 Bicycle Parking and Associated Facilities																					
P1 All new development is to provide on-site, secure bicycle parking spaces and storage for residential accommodation in accordance with the minimum rates specified in Table B-10.4		Yes	The proposal meets the minimum bicycle parking spaces.																		
<table><tr><th colspan="3">TABLE B-10.4: Minimum Bicycle Parking Rates</th></tr><tr><th rowspan="2">Development Type</th><th colspan="2">Rate</th></tr><tr><th>Occupants</th><th>Visitor / Customer</th></tr><tr><td>Residential</td><td></td><td></td></tr><tr><td>Residential accommodation</td><td>1 / 1 dwelling</td><td>1 / 10 dwellings</td></tr></table>		TABLE B-10.4: Minimum Bicycle Parking Rates			Development Type	Rate		Occupants	Visitor / Customer	Residential			Residential accommodation	1 / 1 dwelling	1 / 10 dwellings						
TABLE B-10.4: Minimum Bicycle Parking Rates																					
Development Type	Rate																				
	Occupants	Visitor / Customer																			
Residential																					
Residential accommodation	1 / 1 dwelling	1 / 10 dwellings																			
P2 Bicycle parking facilities are to be additional to other parking requirements.		Yes	Facilities are provided in addition to other parking																		
P3 The minimum number of bicycle parking spaces is to be rounded up to the nearest whole number if it is not a whole number.		Noted																			

Part B: Section 13 Heritage and Conservation

The following table assesses the proposal with respect to Part B Section 13 being the development controls for development affected by or affecting heritage and conservation.

COMPLIANCE TABLE		
<i>Heritage and Conservation</i>	<i>Complies</i>	<i>Comments</i>
13.4 Development in the Vicinity of Heritage items		
O1 Ensure that new work is designed and sited so as to not detrimentally impact upon the heritage significance of the heritage item and its setting	Yes	
P2 Maintain significant public domain views to and from the heritage item.	Yes	
P3 Ensure compatibility with the orientation and alignment of the heritage item	Yes	
13.6 Heritage Conservation Areas		
13.6.1 General Objectives		
O1 Ensure that new development is designed to retain and complement the character and significance of the conservation area (refer to Part C of this DCP for a description of the significance of the heritage conservation area)..	Yes	
O2 Ensure that contributory items are retained and where practical improved, with a focus to locate new work to the rear or away from publicly visible elevations of building.	No, however acceptable	The contributory item is being demolished, given it is in a state of disrepair. See Heritage Officer comments.
13.6.2 Form, massing and scale		
O1 To ensure new development has a compatible and complementary building form and scale to that which characterises the conservation area.	Yes	See Heritage Officer comments
O2 To maintain and enhance streetscape character as identified within the Area Character Statements.	Yes	See Heritage Officer comments
13.6.3 Roofs		
O1 To maintain the characteristic roof profiles and roofing materials within a heritage conservation area	Yes	The proposed roof forms are not inconsistent with others within the area and are consistent with the area character statement.
13.6.6 Infill development in conservation areas		
O1 To ensure that new development is consistent in terms of materials, bulk, scale, character and setback with significant buildings in the heritage conservation area	Yes	See Heritage Officer comments
P1 Infill developments in heritage conservation areas need to positively respond to the setting and special character of the area, as outlined in the relevant character area statement (refer to Part C of the DCP).	Yes	See Heritage Officer comments
13.8 Demolition		
O2 To outline the criteria which need to be considered by Council should applicant still seek to demolish the heritage item or building which positively contributes to a heritage conservation area	Noted	
Demolition of contributory items		
P3 Contributory items must not be demolished and demolition will not be supported by Council.	No	The proposal includes demolition of the existing dwelling at 22 Chuter Street, a contributory item. Councils Heritage Officer has reviewed the proposal and supports the demolition of the building.

P4 Despite P3 above, Council may consider the demolition of a contributory item, but only where an applicant can satisfactorily demonstrate: (a) that the building's contribution to the streetscape or character of the conservation area does not warrant its retention; (b) that alternatives to demolition have been considered with reasons provided as to why the alternatives are not acceptable; and (c) that any replacement building is compatible with the characteristic built elements of the heritage conservation area as identified in the relevant Area Character Statement (refer to Part C of the DCP).	Yes	See earlier comments from Council's Heritage Officer.
13.9 Controls for specific building elements		
13.9.4 Materials, colours and finishes <i>P8 Ensure materials, finishes and colours are compatible with the characteristic built elements of the heritage conservation area as described in the relevant Area Character Statement (refer to Part C of the DCP).</i>	Yes	Conditions are included in the condition set to ensure the materials, colours and finishes are consistent and compliment the heritage item.
13.9.5 Garages and carports O1 To ensure that vehicular accommodation does not detrimentally impact upon the significance of the heritage item or heritage conservation area.	Yes	
O2 To ensure that off-street car parking does not dominate the streetscape.	Yes	The single car garage has been incorporated within the building façade and is supported by Council's Heritage Officer.
13.9.6 Fences		
O1 To ensure that fences are consistent with the characteristic elements of the heritage item or heritage conservation area.	Yes	
13.9.7 Gardens		
O1 To ensure that significant landscape features and trees are retained and reflected in new development.	Yes	

Section 9 Lavender Bay Planning Area- Part C of NSDCP 2013

The Lavender Bay Planning Area is a diverse area reflected by the very wide range of land uses occurring within the Area, including a mixture low, medium and high-density residential accommodation, commercial premises, light industry, education establishments, places of worship and public recreational facilities

Section 9.10 Union, Bank, Thomas Street Conservation Area

The Union/Bank/Thomas Street Area is loosely contained within two residential subdivisions of the mid-nineteenth century. The Union, Bank Thomas Street Conservation Area is bounded to the east by the North Sydney Commercial area where the land rises to the crest of North Sydney and to the west by the railway line along the foreshore of Berry's Bay.

The areas on either side of Union Street have distinct characters within the Conservation Area. The subdivision pattern is irregular to the south of Union Street reflecting the topography and street pattern with various street widths reflecting different phases of development.

A range of architectural styles are represented in the Conservation Area, including Victorian Georgian, Victorian Regency, Victorian Filigree, Victorian Italianate, Federation Queen Anne and Federation Arts and Crafts, most of which are interpreted in a simplified manner.

Form Massing and Scale

The proposed terrace form is considered to be acceptable in this instance, as the western side of Chuter Street in the immediate vicinity is characterised by late 19th and 20th century terraces. The development will be an infill building that has been designed to respond to the adjacent terraces and will therefore fit neutrally into the streetscape.

The form of the building responds to the prevailing width of the existing terraces with the changes made to the roof form. The front façade of the dwelling is now perceived as separate dwellings by using steps in the roof ridge of a minimum of 100 mm and by the extension the vertical blade walls either side of the front door into the roof plane so that it appears as a common wall

Front Setback

The setback is considered acceptable as the building will result in a small front garden that will allow the original terraces in the street to stand more prominently in the streetscape.

Materials

The use of palisade balustrades instead of glazing is supported. Metal roofing sheeting is now a traditional corrugated profile not standing seam.

Car Accommodation

The proposed single car parking space would not detract from the streetscape and is generally consistent with other properties within the vicinity. The driveway and garage design is considered to be acceptable.

The proposed development generally satisfies the characteristic built elements as described in the area character statement

LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN

The subject application has been assessed against the North Sydney Local Infrastructure Contribution Plan 2020 and is subject to payment of contributions towards the provision of local infrastructure.

It is noted that the proposed development does not involve an increase in population, therefore the proposal is subject to a \$7.12 levy in accordance with Sections 1.3.3 and 1.4 of North Sydney Local Infrastructure Contribution Plan 2020 because the cost of the development is over \$100,000.00.

Applicable Contribution Type		
S7.12 contribution detail	Development cost:	\$1,848,450.34
(payment amount subject to indexing at time of payment)	Contribution:	\$18,485.00

Conditions requiring the payment of contributions at the appropriate time are included in the attached conditions.

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	N/A
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

SUBMITTERS CONCERNS

The application was notified to adjoining properties and the Euroka Precinct between 19 September 2025 and 3 October 2025. Seven (7) submissions were received during the notification period. An additional submission was lodged on 7 October 2025, after the notification period. In total eight (8) submissions have been received and considered in the assessment of the application. The following concerns were raised:

- **The proposed development fails to comply with the maximum building height development standard of NSLEP 2013.**

Response: The Applicant has submitted a Clause 4.6 written request seeking a variation to the building height control contained within Clause 4.3 of the NSLEP 2013. The proposed height as viewed from Chuter Street, is consistent with adjoining properties and will be in keeping with the scale of development within the immediate streetscape.

Taking the above into account, the Clause 4.6 is considered to be well founded, has demonstrated that compliance with the standard is unreasonable and unnecessary in the circumstances of the case and has provided sufficient 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 R3 Medium Density Residential zone.

- **Non-compliance with Councils DCP for setbacks**

Response: The DCP does permit lesser setbacks whereby reduced setbacks are characteristic within the street. The terrace style dwelling proposes 80mm and 100mm side setbacks with an increased setback towards the rear on the southern side of the building. These are generally consistent with that of adjoining properties.

There are various rear setbacks within this section of Chuter Street, with the proposed setback not uncharacteristic. The building has been designed to respond to the site through articulation and modulation with stepping of the building at the upper levels to satisfy the relevant objectives of the DCP. However, a condition is recommended to set back the first floor level at the western elevation to improve views from properties to the north on Chuter Street of the western harbour.

- **Overshadowing of adjoining properties.**

Response: The impact of overshadowing as demonstrated by the shadow diagrams indicates that the impact of overshadowing to the southern neighbours is minor and is within the requirements. The property directly to the south at No 20 Chuter Street is located on the boundary with no windows for a majority of the wall with some glass blocks located at the ground level at the rear part of the building. The impact of overshadowing as demonstrated by the shadow diagrams indicates that the impact of overshadowing to the southern neighbours is minor and is generally consistent with that envisaged by the relevant controls

- **Proposed building is an overdevelopment of the site and has unacceptable bulk and scale.**

Response: The building has been generally designed to take into consideration the requirements of the DCP including the area character statement. The height of the proposed building whilst non-compliant with the LEP, is consistent with the streetscape character and that height is consistent with that of adjoining properties.

- **The proposed development is inconsistent with the character of the Union, Bank and Thomas Streets Conservation Area and detracts from the heritage significance of the existing buildings and adjoining buildings.**

Response: The proposed development as amended, is considered to satisfy clause 5.10 in NSLEP 2013 as previously addressed in this report.

Whilst the proposal involves full demolition of the building, the replacement building has been designed to be consistent and in keeping with the adjoining buildings in terms of bulk and scale, height and the terrace style built form. This will assist in the preservation of the streetscape character with buildings at a scale that aligns with other buildings within the immediate vicinity.

The building has been designed to respond to the site through articulation and modulation with stepping of the building at the upper levels to satisfy the relevant objectives of the DCP. The proposed development is of an acceptable form, massing and scale and has been well designed and articulated to contribute to the character of the Conservation Area and provides a visually interesting built form.

- **Tree Removal**

Response: Concern was raised about the removal of trees and also the recent removal of the tree located at No 20 Chuter Street. Council's Landscape Development Officer has reviewed the landscaping proposed and subject to amendments recommended is satisfied with the landscaping. In relation to trees on an adjoining property that have been removed this is not a matter for this application.

- **Stormwater drainage should be a charged system**

Response: The proposed stormwater drainage has been reviewed by Council's Development Engineer. Appropriate conditions of development consent have been applied requiring that drainage plans be prepared that comply with the NCC drainage requirements and the relevant Australian Standards. As part of these requirements a part of the stormwater runoff and subsoil drainage will be conveyed by a charged system to Council's kerb. A restriction as to use in the form of a positive covenant burdening 22 Chuter Street requiring the ongoing retention, maintenance and operation of the stormwater facility (charged lines) is required.

- **Structural impacts from demolition, excavation and construction.**

Response: Appropriate conditions have been applied that requires dilapidation reports to be submitted for adjoining properties at No 20 and No 24 Chuter Street prior to the issue of the relevant Construction Certificate

- **Excavation is unacceptable.**

Response: The application was accompanied by a geotechnical report which undertook a preliminary investigation to assess surface and subsurface conditions to inform geotechnical advice and recommendations. An alternative method to the building being supported by a slab on ground construction will be required to be addressed at the construction stage. Appropriate conditions of development consent will be imposed accordingly to ensure the protection of adjoining properties.

- **View impacts to surrounding properties.**

Response: There would be some impacts to existing views which are currently enjoyed by properties to the north of the subject site. This viewing corridor is to the south and south west across the side boundary of No 22 Chuter. The viewing corridor to the south has been opened up through the recent removal of a tree in the rear yard of No 20 Chuter Street. A deferred commencement condition of development consent has been recommended requiring that the rear setback of the first floor be provided.

- **Extent of glazing resulting in overlooking and loss of privacy from properties within Thomas Street to the rear.**

Response: At the request of Council, the extent of glazing to the rear elevation including the attic room has been reduced. In addition, the attic room is setback 20.3m to the external wall/balustrade from the rear boundary providing a significant amount of separation from the properties to the rear. It is also noted that the roof in front of this area is non-trafficable.

PUBLIC INTEREST

The proposal is considered to be in the public interest for the reasons stated throughout this report.

SUITABILITY OF THE SITE

The proposal would be located in a R3 Medium Density Residential Zone where dwelling houses are a permissible form of development subject to consent. 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.

HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?

The application was notified to adjoining properties and the Euroka Precinct between 19 September 2025 and 3 October 2025. Seven (7) submissions were received during the notification period. An additional submission was lodged on 7 October 2025, after the notification period. In total eight (8) submissions have been received and considered in the assessment of the application.

A number of issues were raised which have been discussed within the body of the report and also where appropriate conditions of consent have been recommended to maintain the amenity of adjoining properties.

CONCLUSION

The proposal has been assessed having regard to the Matters for Consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

The proposal has been assessed against the provisions of the North Sydney Local Environmental Plan 2013 and North Sydney Development Control Plan 2013. The proposal generally satisfies the key planning controls in the North Sydney Local Environmental Plan apart from exceeding the building height development standard. A Clause 4.6 Statement has been submitted with the application justifying the variation.

The development proposes a maximum building height of 10.36m, being a variation of 21.88% which does not comply with the maximum permitted height of 8.5m in Clause 4.3 in NSLEP 2013. The contravention of the development standard for height is justifiable and reasonable as the additional roof form has negligible amenity impacts on neighbouring properties, with the additional height consistent with the height of adjoining properties within the immediate vicinity. The written request to vary the development standard demonstrates that compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case and that there are sufficient planning grounds to justify the variation.

The form of the proposed development is considered to be consistent with the desired and future character of the area subject to an increased rear setback being applied to the first floor to facilitate view sharing between properties. Whilst some attempts have been made by stepping in the rear balcony and an increased setback from the previous development application, it is considered that a further setback of 3m would provide a reasonable level of view sharing for the properties to the north.

The subject site is located within the Union, Bank, and Thomas Streets Heritage Conservation Area and the existing buildings is identified as a contributory item. The proposal represents a balanced response to the competing objectives of heritage conservation and urban renewal. It acknowledges the contributory grading of the existing buildings and the report of the Structural Engineer and Heritage Consultant on the state of disrepair of the building. Councils Heritage Officer supports demolition of the building due to the major structural issues, that the building is not readily seen from the street due to the high front wall, there is no record of its original design and any reconstruction of a weatherboard cottage would be a conjecture of the original design.

As discussed throughout this report, the proposal is considered to be compatible with the character of the local area. The proposed terrace style building proposes a contextually appropriate infill that enhances the public domain, improves the interface with adjacent buildings, and contributes positively to the evolving character of the conservation area. The building will be generally sympathetic to the streetscape character of the western side of Chuter Street. The proposal also satisfies the R3 Medium Density Residential zone objectives.

The application was notified to adjoining properties and the Euroka Precinct between 19 September 2025 and 3 October 2025. Seven (7) submissions were received during the notification period. An additional submission was lodged on 7 October 2025, after the notification period. In total eight (8) submissions have been received and considered in the assessment of the application.

The amended proposal subject to the recommended amendments within the deferred commencement condition, is considered to be suitable for the site and the locality and the application is now satisfactory.

Having regard to the merits of the proposal, the application is recommended for deferred commencement approval subject to appropriate standard and site specific conditions.

STATEMENT OF REASONS

The reasons for this recommendation are:

- The proposed development satisfies the objectives of the R3 Medium Density Residential zone of North Sydney Local Environmental Plan
- The proposed built form, scale and siting of the proposed building will be in keeping with the character of the streetscape and will be consistent with development form envisaged and expected with the current controls within the immediate area.
- The proposed development is considered to be compatible with surrounding development and surrounding land uses.
- The proposed development complies with the requirements of the relevant environmental planning instruments except in the maximum building height development standard. A Clause 4.6 exception has been submitted in support of the application for the height variation, which is considered to be acceptable having regard to the justification provided in the report above.
- The building will not unreasonably affect the amenity of any immediately adjoining properties in terms of unreasonable overlooking or overshadowing.
- The proposed development is considered to be compatible with the character of the locality and is capable of existing harmoniously with its surroundings.
- The proposed development is located within the Union, Bank Thomas Street Conservation Area and is generally consistent with the desired future character of the area by providing a high quality dwelling house that is consistent with adjoining development.

RECOMMENDATION

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

- A. THAT** the North Sydney Local Planning Panel exercising the functions of Council as the consent authority, invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with the building height development standard contained within Clause 4.3 of North Sydney Local Environmental Plan 2013 and grant consent as the written request for the variation sought is considered to demonstrate that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case, and the written request identifies sufficient environmental planning grounds to justify the contravention.
- B. THAT** pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979 (as amended), the North Sydney Local Planning Panel grant a deferred commencement consent to Development Application No. 289/25 for Demolition of existing dwelling and ancillary structures and construction of new 2 storey dwelling and attic, removal of trees and associated landscaping at 22 Chuter Street, McMahon's Point subject to the following site specific and standard conditions:-

Michael Hornery
EXECUTIVE ASSESSMENT PLANNER

Stephen Beattie
SERVICE UNIT MANAGER DEVELOPMENT SERVICES

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
22 CHUTER STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 289/25

AA. Deferred Commencement Conditions

This consent shall not operate until the following deferred commencement condition (s) have been satisfied.

The applicant must satisfy Council as to the matters specified in the deferred commencement condition within six (6) months of the date of the grant of this consent.

If the applicant fails to satisfy Council as to the matters specified in the deferred commencement condition within six (6) months from the date of this consent, this consent will lapse in accordance with Section 4.16(3) of the Environmental Planning and Assessment Act 1979.

Note: Consideration should be given to providing the evidence to Council to allow sufficient time to consider the same and form a view as to whether the deferred commencement conditions are satisfied or not. You are also advised of your appeal rights under clause 76 of the *Environmental Planning and Assessment Regulation 2021*, which provides that:

If the consent authority has not notified the applicant within the period of 28 days after the applicant's evidence is produced to it, the consent authority is, for the purposes only of Section 8.3 of the Act, taken to have notified the applicant that it is not satisfied as to those matters on the date on which that period expires.

Deferred Commencement

AA1. The west facing external wall of Bed 2 and the second living area located on the first floor level is to be setback an additional 3m from the rear boundary. The west facing balcony which adjoins this wall must not have a depth greater than the depth proposed which is 1.96m. The additional area created by the increased rear setback in front of this balcony is to be a non-trafficable roof.

(Reason: To facilitate view sharing between properties)

This consent shall not operate until such time as Council has provided written approval stating that the requirements of the above condition has been satisfied.

Subject to the above deferred commencement condition being satisfied within six (6) months of the date of this determination, the consent shall operate in accordance with the attached conditions including the following site specific and standard conditions:

**22 CHUTER STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 289/25**

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A. Conditions that Identify Approved Plans

Development in Accordance with Plans/Documentation

- A1. The development must be carried out in accordance with the following drawings and other documentation listed in the table to this clause, or cited by other conditions, and as amended by other conditions of this consent.

Plan No.	Revision	Description	Prepared by	Dated
A000	B	Cover Sheet	Architectit Pty Ltd	12/11/2025
A0002	B	Site Analysis Plan	Architectit Pty Ltd	12/11/2025
A0003	B	Setback Analysis	Architectit Pty Ltd	12/11/2025
A0004	B	Street scape analysis	Architectit Pty Ltd	12/11/2025
A0005	B	Window Schedule and BASIX	Architectit Pty Ltd	12/11/2025
A0006	B	Demolition Plan	Architectit Pty Ltd	12/11/2025
A0009	B	Site Plan	Architectit Pty Ltd	12/11/2025
A0101	B	Floor Plan – Ground Floor	Architectit Pty Ltd	12/11/2025
A0102	B	Floor Plan – First Floor	Architectit Pty Ltd	12/11/2025
A0103	B	Floor Plan – Attic Floor	Architectit Pty Ltd	12/11/2025
A0104	B	Roof Plan	Architectit Pty Ltd	12/11/2025
A0201	B	Elevations – Sheet 1	Architectit Pty Ltd	12/11/2025
A0202	B	Elevations – Sheet 2	Architectit Pty Ltd	12/11/2025
A0203	B	Elevations – Sheet 3	Architectit Pty Ltd	12/11/2025
A0204	A	Elevations – Sheet 4	Architectit Pty Ltd	12/11/2025
A0301	B	Sections Sheet 1	Architectit Pty Ltd	12/11/2025
A0651	B	Height Plane – Plan	Architectit Pty Ltd	12/11/2025
A0701	B	Schedule of Colours and Finishes	Architectit Pty Ltd	12/11/2025
A0702	B	Photomontage	Architectit Pty Ltd	12/11/2025
Landscape Plans				
-	B	Landscape Plan	Tranquility Landscape Design	06.08.2025
-	B	Landscape Plan - Specifications	Tranquility Landscape Design	06.08.2025
-	B	Landscape Plan - Images	Tranquility Landscape Design	06.08.2025
Stormwater Plans				
D00	B	Cover sheet, legend & drawing schedule	Smart Structutres Australia	
D01	C	Ground floor stormwater drainage plan	Smart Structutres Australia	07.08.2025
D02	C	First floor stormwater drainage plan	Smart Structutres Australia	07.08.2025
D04	B	Roof stormwater drainage plan	Smart Structutres Australia	07.08.2025
D05	C	Pre & post development catchment analysis	Smart Structutres Australia	07.08.2025
D10	B	Stormwater drainage sections and details	Smart Structutres Australia	06.02.2025
D15	A	Erosion and sediment control plan and details	Smart Structutres Australia	16.01.2025

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Reports relied upon				
P11925	A	Statement of Environmental Effects	Plan Urbia	20/08/2025
P11925	A	Clause 4.6 Building Height	Plan Urbia	20/08/2025
-	001	Arboricultural Impact Assessment Report	Seasoned Tree Consulting	04/08/2025
ADC-240652-1	-	Structural Adequacy Investigation	Smart Structures Australia	07/01/2025
25001	-	Structural Assessment	AC Been Consulting Engineers Pty Ltd	20/02/2025
GG1181 3.001A	A	Geotechnical Investigation	Green Geotechnics Pty Ltd	11/08/2025
-	-	Heritage Impact Statement	Touring the Past Pty Ltd	18/08/2025
P15524	A	Visual Impact Assessment Report	Plan Urbia	17/11/2025
420	2.0	Survey Plan	GEPOS	05/12/2024

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: An inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

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

C. *Prior to the Issue of the relevant Construction Certificate (and ongoing, where indicated)***Heritage Conservation Design Requirements**

C1. The following heritage requirements as indicated below are to be met:

- a) All balustrades must be metal palisade balustrades.
- b) The sandstone is to have a rusticated finish
- c) The roofing is to have a corrugated profile. Standing seam is not to be used
- d) New windows and doors are to have aluminium or steel framing sections of a width 45mm or wider, or are to be timber-framed.

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.

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 maintain the significance of the conservation area and to ensure that the new terrace sits neutrally within the group of Chuter Street terraces)

Dilapidation Report Damage to Public Infrastructure

C2. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the 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 any works or construction)

Dilapidation Survey Private Property (Neighbouring Buildings)

- C3. A photographic survey and dilapidation report of adjoining properties 20 Chuter Street and 24 Chuter Street 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 any 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 any Construction Certificate

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, it must be demonstrated, in writing, to the satisfaction of the Principal Certifier 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. Copies of all letters by registered post are to be provided to the Principal Certifier showing the attempts to obtain access to each property.

Written concurrence must be obtained from the Principal Certifier in such circumstances, confirming that they are satisfied 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.

Note: This documentation is for record keeping purposes only and may be used by the developer 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: Proper management of records)

Shoring for Adjoining Property

- C4. Where shoring for excavation is to be located on or is supporting Council's property, or adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising structural engineer, showing all details, including the extent of encroachment and the method of removal and destressing of shoring elements, must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. A copy of this documentation must be provided to the Council for record purposes.

Note: Approval of engineering drawings for shoring works to be located on adjoining property by the Principal Certifier does not authorise a trespass on private or public land. All relevant permissions/legal rights must be obtained to undertake works on adjoining land.

(Reason: To ensure the protection of existing public infrastructure and adjoining properties)

Erosion and Sediment Control

- C5. 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
- 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

- C6. A Waste Management Plan prepared in accordance with the provisions of Part B Section 19 of the North Sydney DCP 2013 is to 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.

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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)

Colours, Finishes and Materials (Conservation Areas)

- C7. The finishes, materials and exterior colours shall be complementary to the architectural style of the original building and sympathetic to the character of the Conservation Area. A schedule of finishes, materials and external colours shall be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

(Reason: To ensure that the completed colours, finishes and materials are complementary to the Conservation Area)

Reflectivity Index of Glazing

- C8. The glazing for windows, walls or roof finishes of the approved development must be factory pre-finished with low glare and reflectivity properties. 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.

Note: The reflectivity index of glazing elements can be obtained from glazing manufacturers. Glass with mirrored or reflective foil finishes is unlikely to achieve compliance with this requirement.

(Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development)

Roofing Materials - Reflectivity

- C9. Roofing materials must be factory pre-finished with low glare and reflectivity properties to be compatible with the colours of neighbouring buildings. The selected roofing material must not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties. 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 ensure that excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development)

Work Zone

- C10. 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 a works zone permit must be considered by North Sydney Council's Traffic Engineers.

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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 North Sydney Council's Traffic Engineers 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 developer is required to remove the Work Zone signs and reinstate any previous signs, all at the developer's cost. The requirements imposed by the Committee on the Work Zone permit (or permits) must be complied with at all times.

(Reason: Amenity and convenience during construction)

Maintain Property Boundary Alignment Levels

- C11. 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.

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

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

Obtain Driveway Crossing Permit under s.138 Roads Act 1993

- C12. 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 access way 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 width of the vehicular layback must be 3.5 m (including the wings);

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- c. new concrete gutter shall accompany the proposed vehicular layback.
- 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 of approximately 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. new replacement footpath is required for the full property frontage. The footpath shall be falling approx. by 3% from boundary to grass verge.
- h. The wings of the driveway shall marry smoothly to the existing sandstone kerb. The sandstone kerb needs to be kept intact/undisturbed except in the location of proposed layback.
- i. the road shoulder must be reconstructed in AC-10 50 mm thick, 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 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;
- m. a longitudinal section along the gutter line at a scale of 1:50 showing 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 show the calculated clearance to the underside of any overhead structure;

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

All driveway and infrastructure works 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

- C13. Prior to 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;

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- b) A part of Stormwater runoff and subsoil drainage generated by the approved development must be conveyed by charged system to Council's Kerb. There must be a minimum difference in height between the most remote section of the roof gutter and the discharge pit at the property boundary of 1.8 meters. In addition, all local and friction losses must be taken into account and therefore, functionality of the system must be supported by hydraulic calculation which must be presented with hydraulic grade line (HGL). There must be a gravity flow across the footpath from an isolating sealed and lid-bolted pit within the property. All pipes must be a minimum of 100 mm and all joints must be solvent welded. A cleaning eye must be provided at the low point in the system within a pit that can be drained to an on-site dispersal system. Gutter guards must be installed on all gutters to minimize debris entering the system.

A Positive Covenant will be required to be placed on the title of the property to inform owners of their responsibility in maintaining the charged system.

All gutters and pipes in the system must be designed for a 1 in 100-year ARI storm event.

- c) A part of the stormwater drainage generated by the approved development shall be conveyed to the absorption trench system in the rear yard. The size of proposed trench system shall be determined from the catchment area that is draining into it and from the soil absorption rate. The minimum depth of each absorption trench must not be less than 1 meter. A distance of absorption trench from any building structure or property boundary shall be minimum 2 meters and they shall be placed in parallel to the site contours
- d) 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.
- e) The design and installation of the Rainwater Tanks shall comply with BASIX and Sydney Water requirements. Overflow from tank shall be connected via gravity to the stormwater disposal system; and
- f) Prevent any stormwater egress into adjacent properties by creating physical barriers and surface drainage interception

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

- C14. Prior to the issue of the relevant Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of **\$15,000.00** to be held by Council for the payment of cost for any/all of the following:

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates;

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- 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 accordance with the schedule contained later in these conditions and must be provided by way of a deposit with the Council; or a guarantee satisfactory to Council (such as a satisfactory 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 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
- the Principal Certifier must ensure that security is provided to North Sydney Council prior to issue of the relevant Construction Certificate.

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

Arborist to be Commissioned

- C15. An experienced AQF Level 5 consulting arborist ("the project arborist") must be commissioned to assist the design development, contract documentation, and overseeing of all works on the site for their duration by undertaking regular inspections of the works in progress and providing advice on tree-related matters.

The project arborist must hold a minimum Australian Qualification Framework Level 5 in Arboriculture, be a registered consulting member of a nationally recognised arboricultural organisation or association, not remove or prune trees in the North Sydney local government area and be engaged before work commences for the duration of site preparation, demolition, construction and landscaping.

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The project arborist shall inspect, monitor, supervise, provide recommendations and written reports and certification relating to protection of the trees and compliance with the conditions of consent.

The contact details of the project arborist shall be advised to council before work commences and maintained up to date for the duration of works. If a new project arborist is appointed details of the new project arborist shall be notified to council within seven days.

Written details of the engagement of the project arborist must be submitted to Council for works prior to issue of the relevant construction certificate and the Principal Certifier prior to the issue of the relevant Construction Certificate.

Note: This condition, and any advice given by the project arborist, do not authorise the carrying out of development or works not in accordance with the development consent.

(Reason: To ensure that all matters relating to trees and the proposed development are properly managed using best practice)

Tree Protection Measures to be shown on Construction Drawings

- C16. The tree protection measures contained in the arborist report prepared by Seasoned Tree Consulting dated 4/8/25, as amended by conditions contained herein, shall be shown clearly on the Construction Certificate drawings. Plans and specifications showing the said tree protection measures must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure the construction plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that appropriate tree protection measures are shown on construction drawings)

Protection of Trees

- C17. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 - Protection of trees on development sites:

Schedule

#	Species	Height	Location
T1	<i>Macadamia integrifolia</i>	12x10m	Rear setback-20 Chuter St
T3	<i>Plumeria rubra</i> (Frangipani)	5m	Rear setback-20 Chuter St

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. 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.

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Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

Approval for Removal of Trees

C18. The following trees are approved for removal in accordance with the development consent:

Schedule

#	Species	Height	Location
T5	<i>Magnolia figo</i>	5 x 4m	Front setback-22 Chuter St
T6	<i>Morus sp</i>	5 x 7m	Front setback-22 Chuter St

Removal or pruning of or damage to any other tree on the site or off site is not approved, excluding species exempt under Council's Tree Preservation Order.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

Amendments to the Landscape Plan

C19. The landscape plan must be amended as follows to provide an appropriate landscaped setting:

- T2 Eucalyptus sp (16x14m) located on the northern boundary (rear setback) of 20 Chuter St shall have been removed or reduced to a stag prior to commencement of any works. This DA cannot be approved if the tree is still standing.
- Elaeocarpus reticulatus shown for planting in the rear setback of 22 Chuter St shall be substituted for 1 x Tristaniopsis laurina (100l).
- 1 x Lagerstroemia indica (75l) shall be planted in the front setback of 22 Chuter St.
- The 2 x Howea forsteriana (300mm) shown for planting in the rear setback of 22 Chuter St shall be 100l (min) pot size.

Final location of SW Absorption pit, and all excavation and installation of SW works, shall be physically supervised by the project arborist.

An amended landscape plan complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the amended landscape plan and other plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure residential amenity)

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Garbage and Recycling Facilities

- C20. Adequate provision must be made for the storage of waste and recyclable material generated by the premises. 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. 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: To ensure the provision of appropriate waste facilities and to ensure efficient collection of waste by collection contractors)

Asbestos and Hazardous Material Survey

- C21. A report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

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

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

- C22. 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 EPA Noise Policy for Industry 2017 shall be applied

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- (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, commercial premises 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)

Air Conditioners in Residential Premises

C23. 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 fact Sheet C of the EPA 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)

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Electricity and Other Services

- C24. All electricity and telecommunication provision to the site is to be designed in conjunction with Ausgrid and any other relevant authority. 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. 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: To provide infrastructure in conjunction with relevant authority)

Local Infrastructure Contributions

- C25. A monetary contribution pursuant to the provisions of section 7.11 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 cost of development at the date of determination, the total contribution payable to Council is **\$18,485.00**

Indexation

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

Timing of payment

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

Deferred Payments will not be accepted.

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

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

Security Deposit/Guarantee Schedule

- C26. 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 (\$)
Infrastructure Damage Bond	\$15,000.00
TOTAL BONDS	\$15,000.00

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Note: The following fees are applicable:

Fees	Amount (\$)
Local Infrastructure Contributions	\$18,485.00
TOTAL FEES	\$18,485.00

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

(Reason: Compliance with the development consent)

BASIX Certificate

- C27. Under clause 75 of the *Environmental Planning & Assessment Regulation 2021*, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. 1808823S dated 18 August 2025 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)

Outdoor Lighting

- C28. All outdoor lighting must comply with, where relevant AS/NZ1158.3:1999 Pedestrian Area (Category P) Lighting and AS4282:1997 Control of the Obtrusive Effects of Outdoor lighting. Details demonstrating compliance with these requirements must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To maintain the amenity of adjoining land uses)

Salvage of Architectural Features

- C29. The following elements of the existing buildings are to be salvaged/recycled from the building during demolition for reuse within the community by delivery to a second hand builder's yard, re-sale, or similar manner:

1. Leadlight windows
2. Fireplaces and mantelpieces
3. Original timber doors.
4. Where possible, any other significant original fabric identified for possible salvage and reuse/resale, such as skirting boards and timber flooring.

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Investigation as to how such salvage may be undertaken as part of the approved works, identification of the relevant elements for salvage/recycling, to demonstrate compliance with this condition, shall be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

(Reason: To retain heritage significant architectural details within the wider community)

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

Public Liability Insurance – Works on Public Land

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

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

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

Sydney Water Approvals

- D2. Prior to the commencement of any works, the approved plans must be submitted to Sydney Water to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Principal Certifier must ensure that Sydney Water has appropriately stamped the plans before the commencement of building works.

Notes: **Sydney Water Building Plan Approvals** can be obtained from the Sydney Water Tap in™ online service. Building plans must be submitted to the Tap in™ to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. For further information visit <http://www.sydneywater.com.au/tapin/index.htm> or call 13000 TAP IN (1300 082 746) for further information.

(Reason: To ensure compliance with Sydney Water requirements)

Tree Planting (Sydney Water)

- D3. Certain tree species placed in proximity to Sydney Water's underground assets have the potential to inflict damage through invasive root penetration and soil destabilisation. Section 46 of the Sydney Water Act specifies what might occur when there is interference or damage to our assets caused by trees.

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For any trees proposed or planted that may cause destruction of, damage to or interference with our work and are in breach of the Sydney Water Act 1994, Sydney Water may issue an order to remove that tree or directly remove it and seek recovery for all loss and associated compensation for the removal.

For guidance on types of trees that can cause damage or interference with our assets see Sydney Water webpage Wastewater blockages. For guidance on how to plant trees near our assets, see Diagram 5 – Planting Trees within Sydney Water’s Technical guidelines – Building over and adjacent to pipe assets.

(Reason: To ensure compliance with Sydney Water requirements)

Protection of Trees

- D4. 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).

A report containing recommendations, and methods of tree protection prepared by an appropriately qualified person must be provided to the Certifying Authority for approval by an appropriately qualified person prior to commencement of any works on the site. Any recommendations must be undertaken for the duration of works on the site

Sensitive construction techniques including hand excavation, pier & beam construction & 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 other underground services shall be directed through the TPZ of any protected tree.

Final location of SW absorption pit, and all excavation and installation works of SW works shall be physically supervised by the project arborist.

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

Archival Photographic Recording

- D5. Council’s Historian is to be allowed access to the building to take photographs of the architectural detailing, prior to the commencement of demolition on site.

Access is to be provided to the property to Council’s Historian for the purpose of creating a photographic recording.

Written concurrence from Council’s Historian is to be provided to the Principal Certifier prior to any demolition commencing on site to fully satisfy the requirements of this condition

(Reason: To investigate and re-create historical archives for Stanton Library’s Local Studies Collection)

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Project Arborist Engaged

- D6. An experienced consulting arborist with minimum qualification of AQF Level 5 must be commissioned to assist the design development and contract documentation for the approved development,

The commissioned arborist must oversee construction works on the site for their duration, must ensure all tree protection measures are implemented and maintained at all times during demolition and construction and must undertake regular inspections of works in progress and provide advice to the developer in relation to tree matter

A project arborist shall be engaged to carry out the following activities.

- a) Inspection of tree protection measures, and written certification to the Principal Certifier that the measures comply with the approved Tree Protection Management Plan, and as directed by the project arborist before work commences.
- b) Provision of guidance and oversight of tree protection and management to ensure that the stability and ongoing viability of trees being retained is not compromised.
- c) Communication with the tree pruning contractor and Council's Tree Management Officer (giving at least two working days' notice) to arrange a joint site meeting, prior to commencing any pruning, to determine the exact location and extent of pruning that is permissible, with the tree pruning contractor to comply with any instructions issued by Council, acting reasonably.
- d) Ensuring all pruning is undertaken by a practising arborist with a minimum Australian Qualification Framework Level 3 in Arboriculture, in accordance with the principles of the Australian Standard AS 4373-2007 'Pruning of Amenity Trees,' and the NSW Work Cover Code of Practice for *the Amenity Tree Industry (1998)*, as well as any instructions issued on site by Council, acting reasonably.
- e) Keeping of a log of dates and times of when they attended the site, and a description of works performed. The log must be included in documentation submitted for the issue of the relevant Occupation Certificate.

The Project Arborist must provide written certification to the to the Principal Certifying Authority that the tree protection measures have been implemented in accordance with the approved Tree Protection Plan

(Reason: Tree protection measures)

Temporary Fences and Tree Protection

- D7. 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

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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:

Schedule

#	Species	Height	Location
T1	<i>Macadamia integrifolia</i>	12x10m	Rear setback-20 Chuter St
T3	<i>Plumeria rubra</i> (Frangipani)	5m	Rear setback-20 Chuter St

Trunk protection to be installed by first wrapping the stem of the tree in hessian or like material then strapping timber battens over the top. It is recommended that timber battens with the dimensions of length 2000mm, width 75mm and depth 50mm are used. The battens are not to be directly screwed or nailed into the tree

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

Asbestos Material Survey

- D8. 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:

- the removal of asbestos must be undertaken by a WorkCover licensed contractor;
- all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements;
- 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
- 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 carrying out of any demolition work. The Principal Certifier must ensure that the report, and other plans, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

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

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Commencement of Works' Notice

- D9. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two days' notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

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

E. During Demolition and Building Work**Parking Restrictions**

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

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

Potential Contaminated land – unexpected finds

- E2. If unexpected soil and/or groundwater contamination is encountered during any works, all work must cease and the situation must be promptly evaluated by an appropriately qualified experienced and certified environmental consultant. The contaminated soil and/or ground water must then be managed under the supervision of the environmental consultant, in accordance with relevant NSW Environment Protection Authority (EPA) guidelines.

(Reason: To ensure environmental amenity is maintained)

Road Reserve Safety

- E3. 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 (other than with the consent of the Council). Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site.

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Where public infrastructure is damaged, repair works must be carried out in when and as directed by Council officers (at full Developer cost). Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742—3 (1996) "Traffic Control Devices for Work on Roads".

If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.

(Reason: Public Safety)

Temporary Disposal of Stormwater Runoff

- E4. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to reasonably manage and control runoff as far as the approved point of stormwater discharge. Such ongoing measures must be to the satisfaction of the Principal Certifier.

(Reason: Stormwater control 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 and footpaths

All works must proceed in accordance with 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, prepared to Australian Height Datum, must be prepared by a Registered Surveyor showing the following: -

- a) at the completion of excavation, prior to the placement of any footings, showing the completed level of the excavation and its relationship to the boundaries;

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- b) prior to placement of concrete at the ground floor level, showing the level of the form work and its relationship to boundaries including relevant footpath and roadway levels;
- c) prior to placement of concrete at each floor level above ground floor showing the principal level of the formwork and the intended relationship of the completed works to the boundary;
- d) prior to roofing, or completion of the highest point of the building showing the anticipated level of the completed work and its relationship to the boundary; and
- e) at completion, works showing the relationship of the building to the boundary and showing the maximum height of the overall works and the height of the principal roof elements.

Progress certifications in response to points (a) through to (e) 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)

Dust Emission and Air Quality

E7. The following must be complied with at all times:

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

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

Noise and Vibration

E8. All works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the Department of Environment and Climate Change NSW dated July 2009, 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)

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Applicant's Cost of Work on Council Property

- E9. The developer 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

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

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

Protection of Trees

- E11. All trees required to be retained, as part of this consent must be protected from any damage during construction works in accordance with AS4970-2009. All recommendations contained within the tree report prepared by Seasoned Tree Consulting dated 4/8/25, must be implemented for the duration of the works.

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 96 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)

Trees to be Removed

- E12. All trees on the site must be protected and retained save for those expressly identified below as being approved for removal:

Schedule

#	Species	Height	Location
T5	<i>Magnolia figo</i>	5 x 4m	Front setback-22 Chuter St
T6	<i>Morus sp</i>	5 x 7m	Front setback-22 Chuter St

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

Benchmarks

E13. All permanent survey markers must be retained, undamaged, and not relocated.

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

1) **On-street mobile plant**

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

(Reason: Proper management of public land)

2) **Hoardings**

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

(Reason: Proper management of public land)

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

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

(Reason: Proper management of public land)

4) **Kerbside restrictions, construction zones**

Attention is drawn to the existing kerbside restrictions adjacent to the development. Should alteration of existing kerbside restrictions be required, or the provision of a construction zone, the appropriate application must be made and the fee paid to Council. Alternatives to such restrictions may require referral to Council's Traffic Engineers 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

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

Standard Construction Hours		
Location	Day	Hours
R3 Medium Density Residential Zone	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 & 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 at risk**. Applications which seek a variation to construction hours solely to benefit the developer will require the lodgement and favourable determination of a modification application pursuant to the provisions of Section 4.55 or Section 4.56 of the *Environmental Planning and Assessment Act 1979*.

Notes:

- 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.

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- 2) Applications for out of hour's 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 developer 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 Sediment Control

- 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 Edition, Landcom, 2004), commonly referred to as the "Blue Book" and can only be removed when development activities have been completed and the site fully stabilised.

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

Sediment and Erosion Control Signage

- E18. A durable sign must be erected during building works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained. A sign of the type referred to in this condition is available from Council.

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

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Site Amenities and Facilities

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

Community Information

- E21. Reasonable measures must be undertaken at all times to keep nearby residents informed about the proposed work, such as by way of signs, leaflets, public meetings and telephone contact numbers, to ensure that adjoining residents are aware of the likely duration of the construction works on the site.

(Reason: To ensure that residents are kept informed of activities that may affect their amenity)

Prohibition on Use of Pavements

- E22. 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

- E23. 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.

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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 Councils website at www.northsydney.nsw.gov.au.

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

Waste Disposal

- E24. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

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

Asbestos Removal

- E25. All demolition works involving the removal and disposal of asbestos cement 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 and removal must be carried out in accordance with National Occupational Health and Safety Commission.

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

Service Adjustments

- E26. Where required, the adjustment or inclusion of any new utility service or facilities must be carried out by an appropriate 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 clause, sufficient evidence that the person has complied with the requirements of that Part.

(Reason: Prescribed - Statutory)

Appointment of Principal Certifier (PC)

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

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

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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 safeguarding measures are in place prior to the commencement of the erection of a building)

Occupation Certificate

- F5. A person must not commence occupation or use of the whole or any part of a new building (new building includes an altered portion of, or an extension to, an existing building) unless 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)

Critical Stage Inspections

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

(Reason: Statutory)

Commencement of Works' Notice

- F7. Works in accordance with this development consent must not be commenced until the developer has given at least two days' notice to North Sydney Council of the person's intention to commence the building work.

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

Excavation/Demolition

- F8. 1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

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- 2) All excavations 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.
- 3) 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

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- c) showing the name, address and telephone number of the Principal Certifier for the work.
- 2) Any such sign must be maintained while the 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 an occupation certificate. This shall be at no cost to Council.

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

Covenant and Restriction (Stormwater Control Systems)

- G4. An Instrument pursuant to Sections 88B and 88E of the *Conveyancing Act* 1919 and one copy must be submitted to Council in registrable form, providing for:

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- a. a restriction as to user and positive covenant as to user as appropriate in favour of North Sydney Council burdening 22 Chuter Street requiring the ongoing retention, maintenance and operation of the stormwater facility (charged lines);
- b. North Sydney Council being nominated in the Instrument as the only party authorised to release, vary or modify the Instrument;
- c. the wording on the Instrument making reference to the Council file/s which hold:
 - i. the Construction plans; and
 - ii. the "Work-as-Executed" (as built) plans;

The terms of the Instrument must be executed by an authorised delegate of North Sydney Council prior to submission to the NSW Land Registry Services for registration.

The Instrument creating the restriction and/or covenant under ss 88B and 88E required by this condition of consent must be registered on the Title of the development site prior to the issue of an Occupation Certificate or commencement of use of the site, whichever is the earlier. Typical wording for the Instrument can be sourced from Council's "Specification for the Management of Stormwater".

Evidence of the registration of the instrument referred to in this condition is to be provided to Council prior to the issue of an Occupation Certificate.

All costs associated with the preparation, approval and registration of the Instrument required by this condition of consent must be borne by the person acting on this consent including the reasonable costs of Council in obtaining advice, negotiating the terms or otherwise facilitating the execution and registration of the required Instrument.

(Reason: Compliance and adequate maintenance of drainage system)

Asbestos Clearance Certificate

- G5. 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.

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.

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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)

Certification of Tree Condition

- G6. Prior to the issue of the relevant Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Principal Certifier, describing the health of the tree(s) specifically nominated to be protected and retained within this consent

The report must detail the condition and health of all nominated tree(s) upon completion of the works and shall certify that the tree(s) has/have not been significantly damaged during the works on the site and has/have reasonable prospects for survival.

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

Unpaved Verge

- G7. The unpaved verge area must be constructed/reconstructed 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)

Height

- G8. Upon completion of the works and prior to the issue of any Occupation Certificate the RL of the development as approved, must be surveyed and certified by an appropriately qualified and practising surveyor as compliant with the maximum approved levels. This survey and certification must be submitted to the Principal Certifier with the application for an Occupation Certificate and a copy provided to Council (if it is not the Principal Certifier).

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

Final Survey

- G9. Upon completion of the works and prior to the issue of the relevant Occupation Certificate a final survey of the development and site is to be carried out by an appropriately qualified and practising registered surveyor to demonstrate whether the completed works encroach on any public or private property, both above and below the ground.

(Reason: To ensure compliance with the terms of this development consent and identify any encroachments outside the site boundaries.)

**22 CHUTER STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 289/25**

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BASIX Completion Receipt

- G10. In accordance with Section 45 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, prior to issuing a final occupation certificate the Principal Certifier must provide a BASIX completion receipt.

(Reason: To ensure compliance with the Regulations)

Landscaping

- G11. The landscaping shown in the approved Landscape Plans prepared by Tranquility Landscape Design as identified in condition 1 of this development consent except as amended by conditions of this consent must be completed prior to the issue of a relevant Occupation Certificate.

(Reason: To ensure compliance)

Damage to Adjoining Properties

- G12. 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.

In the event that access for undertaking the post construction dilapidation survey is denied by an adjoining owner, it must be demonstrated, in writing, to the satisfaction of the Principal Certifier 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. Copies of all letters by registered post are to be provided to the Principal Certifier showing the attempts to obtain access to each property.

**22 CHUTER STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 289/25**

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Written concurrence must be obtained from the Principal Certifier in such circumstances, confirming that they are satisfied 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.

Note: This documentation is for record keeping purposes only, and may be used by the developer 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 adjoining properties prior to completion of the development and to facilitate claims against damage)

I. Ongoing/Operational Conditions**Noise and Vibration Impact**

- I1. The ongoing use of the premises approved under this consent must comply with all conditions pertaining to noise and vibration specified in this consent.

(Reason: To ensure compliance with the specified levels of noise and vibration and to maintain the amenity of surrounding land uses)

Loading within Site

- I2. All loading and unloading operations must be carried out wholly within the confines of the site, at all times and must not obstruct other properties or the public way.

(Reason: To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian amenity)

Minimum Headroom for Car Parking

- I3. Minimum headroom of 2.2m must be provided over all car parking areas.

(Reason: To ensure compliance with relevant standards and provide appropriate headroom)

Waste Collection

- I4. Waste and recyclable material, generated by this premises must not be collected between the hours of 10pm and 6am on any day.

(Reason: To ensure the amenity of surrounding properties)

**22 CHUTER STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 289/25**Page 39 of 39

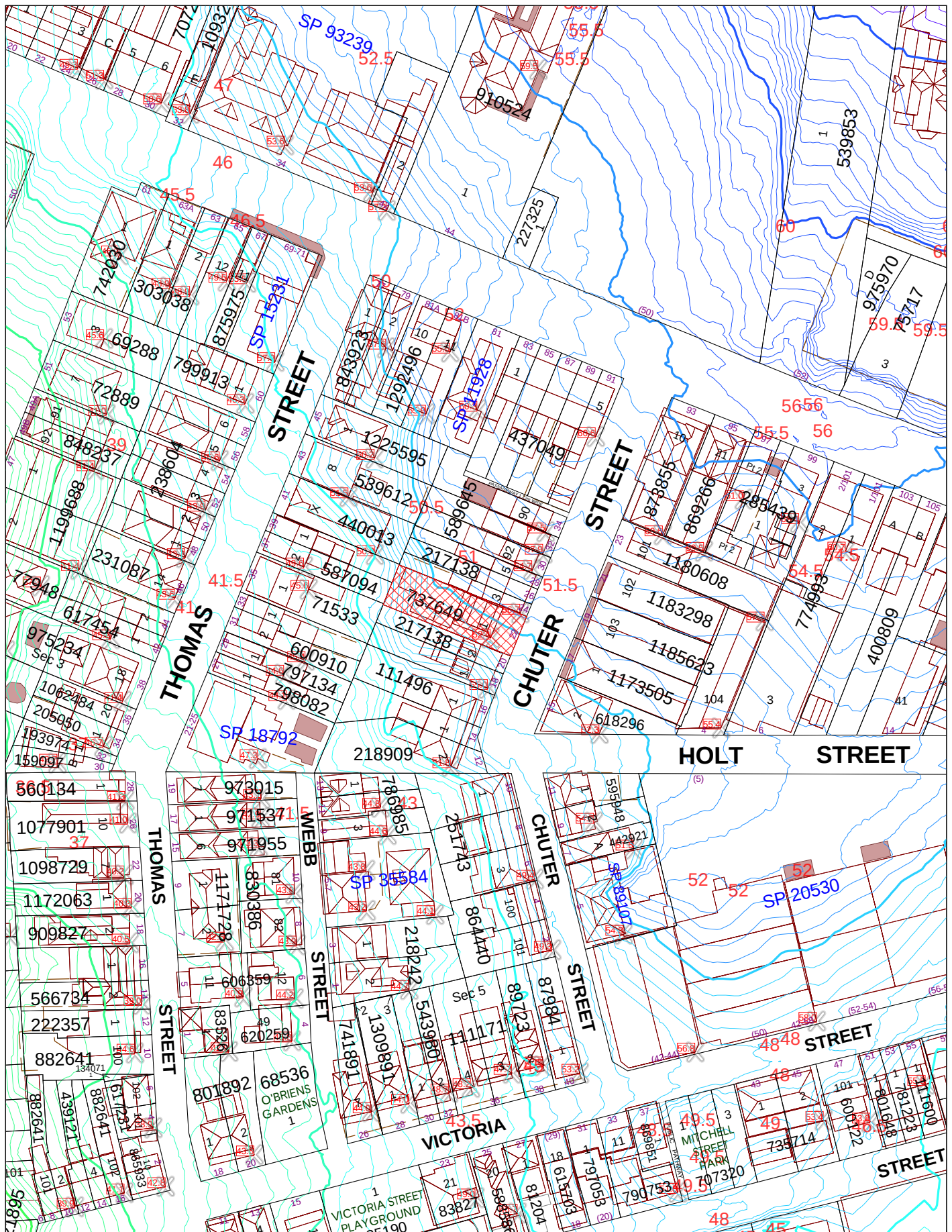
Maintenance of Approved Landscaping

15. The owner of the premises at 22 Chuter Street is to maintain the landscaping approved by this consent generally in accordance with landscape Plan prepared by Tranquility Landscape Design dated 6/8/25 as modified by conditions of consent.

Any replacement plants required shall be advanced in growth and be selected to maintain the anticipated mature height, canopy density and nature of those plant species as originally approved. Any replaced trees shall conform with AS2303:2018 Tree stock for landscape use and the approved Landscape Plan.

Should it be desired to substitute plants which are not of the same mature height, canopy density and nature (particularly flowering for non-flowering, native for exotic, deciduous for non-deciduous or the reverse of any these) a modification to this consent will be required.

(Reason: To ensure maintenance of the amenity, solar access and views of adjoining properties)



North Sydney Council

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Further details can be obtained by calling (02) 9936 8100 or e-mail mapping@northsydney.nsw.gov.au.

Scale: 1:1200 approx.



SINGLE DWELLING

22 CHUTER ST MCMAHONS POINT

ATTACHMENT TO LPP01 - 03/12/2025

Page 95



- A0000 Cover Sheet
- A0002 Site Analysis Plan
- A0003 Setback Analysis
- A0004 Street Scope Analysis
- A0005 Window Schedule and BASIX
- A0006 Demolition Plan
- A0009 Site Plan
- A0101 Floor Plan - Ground Floor
- A0102 Floor Plan - First Floor
- A0103 Floor Plan - Attic Floor
- A0104 Roof Plan
- A0201 Elevations - Sheet 1
- A0202 Elevations - Sheet 2
- A0203 Elevations - Sheet 3
- A0204 Elevations - Sheet 4
- A0301 Sections Sheet 1
- A0601 Calculation Plans
- A0620 Sun Analysis - VFS
- A0631 Shadow Diagrams
- A0650 Height Plane - 3D
- A0651 Height Plane - Plan
- A0701 Schedule of Colours and Finishes
- A0702 Photomontage

NO. 45
3 STORY
RESI

NO. 43
2 STORY
RESI

NO. 41
2 STORY+ATTIC
OFFICE

NO. 39
2 STORY+ATTIC
RESI

NO. 37
2 STORY+ATTIC
RESI

NO. 35
1 STORY+ATTIC
RESI

NO. 33
2 STORY+ATTIC
RESI

ATTACHMENT TO LPP01 - 03/12/2025

NO. 34
2 STORY+ATTIC
RESI

NO. 32
2 STORY+ATTIC
RESI

NO. 30
1 STORY+ATTIC
RESI

NO. 28
2 STORY+ATTIC
RESI

NO. 26
2 STORY+ATTIC
RESI

NO. 24
2 STORY+ATTIC
RESI

NO. 20
2 STORY+ATTIC
RESI

NO. 18
2 STORY+ATTIC
RESI

NO. 16
1 STORY+ATTIC
RESI

NO. 23
2 STORY OFFICE

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NO. 21
2 STORY OFFICE

NO. 19
2 STORY OFFICE

NO. 17
2 STORY OFFICE

NO. 15
2 STORY
RESI

Cool North Easterly Breezes
Common in the Summer

TRUE NORTH

WINTER SUN
SUNRISE

Cool Easterly
Breezes Common
in the Early Mornings

WINTER SUN
SUNSET

Strong Westerly and South
Westerly Winds - Autumn and Winter

SUMMER SUN
SUNSET

CHUTER STREET

SUMMER SUN
SUNRISE

Cold Southerly Winds
Common in Winter

ISSUED FOR DA



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nominated architect
Milad Farrokhi nsw reg. 11661

issue	amendment
A	DA SUBMISSION
B	AMENDED DA DRAWINGS

date
01.08.2025
12.11.2025

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project	SINGLE DWELLING
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project address	22 CHUTER ST MCMAHONS POINT
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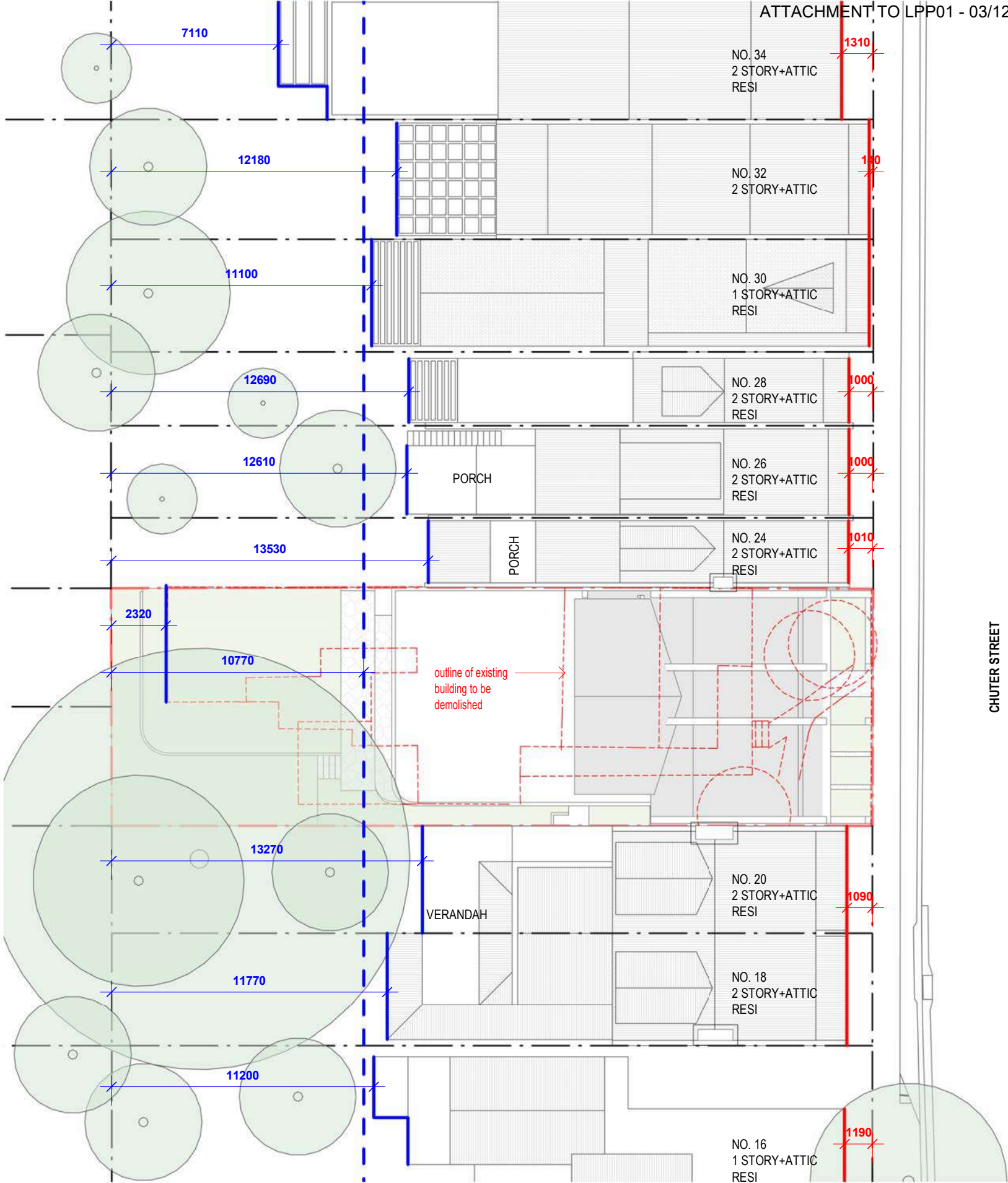
client	MICHAEL ARZANI
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drawing	Site Analysis Plan
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project no.	2410
drawn	MF
scale	As indicated@A3

drawing no.	A0002
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CHUTER STREET

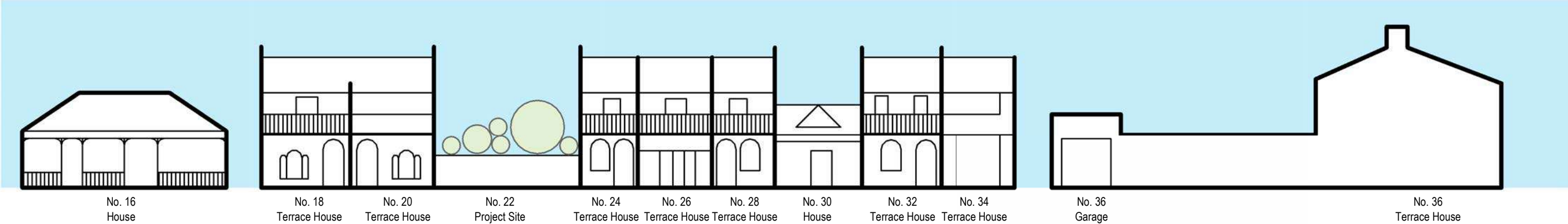
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 CHITECTIT nominated architect Milad Farrokhi nsw reg. 11661	issue amendment		date	Notes	project		drawing		
	A DA SUBMISSION				SINGLE DWELLING		Setback Analysis		
	B AMENDED DA DRAWINGS				project address		project no.	drawing no.	
					22 CHUTER ST MCMAHONS POINT		2410		
				client		drawn	scale	A0003	
				MICHAEL ARZANI		MF	1 : 200@A3		

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The existing streetscape consists of two-story terrace houses with pitched roofs and uniform setbacks, creating a cohesive street edge. The subject site disrupts this rhythm due to its larger setback and overgrown bush landscaping, which obscures the single-story dwelling behind it.

The proposal introduces a two-story terrace house aligned with neighboring setbacks, restoring continuity and balance to the streetscape. The design respects the area's architectural character, featuring a pitched roof and complementary façade details that integrates seamlessly with the street.



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 RCHITECTIT nominated architect Milad Farrokhi nsw reg. 11661	milad@architectit.com.au www.architectit.com.au m: 0452 275 299		<table><tr><th>issue</th><th>amendment</th></tr><tr><td>A</td><td>DA SUBMISSION</td></tr><tr><td>B</td><td>AMENDED DA DRAWINGS</td></tr></table>		issue	amendment	A	DA SUBMISSION	B	AMENDED DA DRAWINGS	<table><tr><th>date</th><th>Notes</th></tr><tr><td>01.08.2025</td><td rowspan="2">This drawing is copyright and is not to be replicated or used for any purpose without the written consent of Architectit Architects.</td></tr><tr><td>12.11.2025</td></tr><tr><td colspan="2">Use figured dimensions only - do not scale from this drawing. All dimensions to structure - confirm all dimensions on site.</td></tr><tr><td colspan="2">This drawing is to be read in conjunction with all relevant consultant documentation, schedules and specifications.</td></tr></table>		date	Notes	01.08.2025	This drawing is copyright and is not to be replicated or used for any purpose without the written consent of Architectit Architects.	12.11.2025	Use figured dimensions only - do not scale from this drawing. All dimensions to structure - confirm all dimensions on site.		This drawing is to be read in conjunction with all relevant consultant documentation, schedules and specifications.		<table><tr><td colspan="2">project</td><td colspan="2">drawing</td></tr><tr><td colspan="2">SINGLE DWELLING</td><td colspan="2">Street Scape Analysis</td></tr><tr><td colspan="2">project address</td><td>project no.</td><td rowspan="2">drawing no.</td></tr><tr><td colspan="2">22 CHUTER ST MCMAHONS POINT</td><td>2410</td></tr><tr><td colspan="2">client</td><td>drawn</td><td>scale</td></tr><tr><td colspan="2">MICHAEL ARZANI</td><td>MF</td><td>1 : 1 @A3</td></tr><tr><td colspan="2"></td><td colspan="2">A0004</td></tr></table>		project		drawing		SINGLE DWELLING		Street Scape Analysis		project address		project no.	drawing no.	22 CHUTER ST MCMAHONS POINT		2410	client		drawn	scale	MICHAEL ARZANI		MF	1 : 1 @A3			A0004	
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MICHAEL ARZANI		MF	1 : 1 @A3																																															
		A0004																																																

WINDOW SCHEDULE

Mark	Height	Width	Type
W101	2470	1475	HINGED DOOR TYPE 1
W102	2470	1475	ENTRY DOOR
W103	2900	1100	HINGED DOOR TYPE 3
W104	2900	2500	FIXED TYPE 1
W105	2850	2708	SLIDING DOOR TYPE 1
W108	3250	4190	SLIDING DOOR TYPE 2
W109	3250	2650	SLIDING DOOR TYPE 1
W201	2500	2640	FIXED TYPE 1
W202	2500	5519	FIXED TYPE 1
W203	2500	3700	SLIDING DOOR TYPE 2
W204	2500	2400	SLIDING DOOR TYPE 1
W205	2250	1200	HINGED DOOR TYPE 2
W206	2250	1475	FIXED TYPE 1
W207	2250	1200	HINGED DOOR TYPE 3
W208	2250	1200	HINGED DOOR TYPE 3
W209	3000	1038	FIXED TYPE 1
W301	2000	5785	SLIDING DOOR TYPE 4

SKYLIGHT SCHEDULE

Mark	Length	Width	Type
SK2	900	1908	FIXED

Window Types

fixed	fixed	Sliding	fixed	Sliding	Sliding	fixed	Sliding	Sliding	Sliding	Sliding	fixed
		←		←	←		←	←	→	→	

Fixed Type 1 Sliding Type 1 Sliding Type 2 Sliding Type 3

Diagram illustrating a beam with four supports. The beam is divided into three equal segments. The first and last segments have a 'fixed' support at their outer ends. The second and third segments have a 'Sliding' support at their inner ends. A left-pointing arrow is shown in the second segment, and a right-pointing arrow is shown in the third segment.

Sliding Type 4

Fixed Type 2 Hinge Type 1 Hinge Type 2 Hinge Type 3

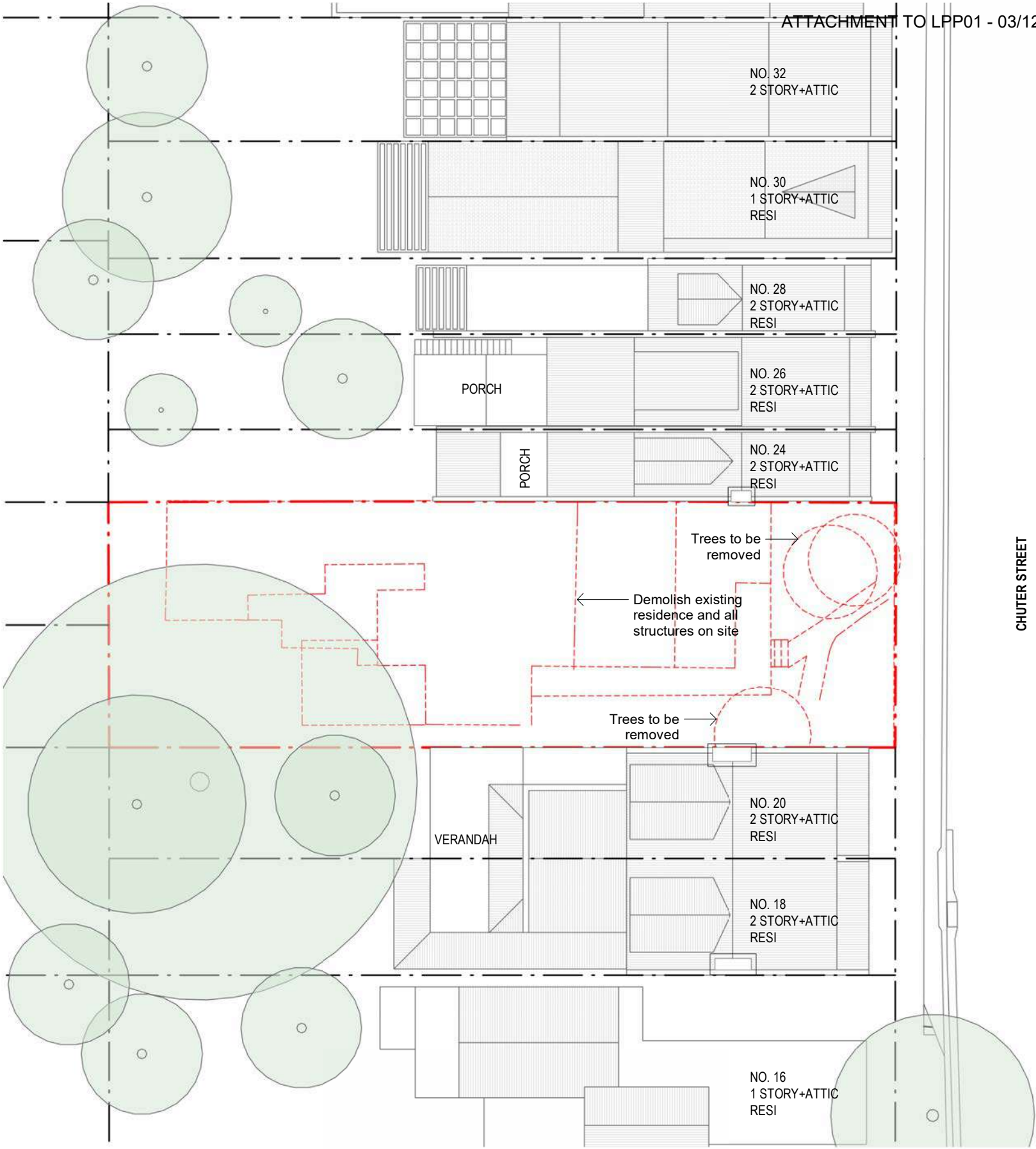
BASIX Requirements

Ceilings Plasterboard ceiling with R4.0 insulation where roof or balcony is above, the insulation must extend to the external wall No insulation to garage where roof is above.
Ceiling Penetrations Sealed LED downlights, maximum one every 4.0m²
Floor coverings As per plans.
External Shading As per plans
Ventilation Weather seals and draft protection to all external windows and doors Dampers to all exhaust fans and chimneys
BASIX Water Commitments Fixtures Showerheads 4 stars (medium flow >6.0 and <= 7.5 litres/min) Toilet flushing system 4 stars in each toilet Kitchen taps 5 stars rating Bathroom taps (bath excluded) minimum 5 stars rating Alternative water 228m² of harvested roof area connected to rainwater tank, minimum capacity, 3000L Rain tank connected to at least one outdoor tap, toilets.
BASIX Energy Commitments Hot water system Gas instantaneous - 5 star Cooling system Single phase air-conditioning to living areas and bedrooms: EER 3.0-3.5 1200mm diameter ceiling fans to the living areas and bedrooms Heating system 1-phase air-conditioning to living areas and bedrooms: EER 3.0-3.5 Ventilation Bathrooms – individual fan, externally ducted connected to light, timer off Kitchen – individual fan, externally ducted manual on/off switch Laundry room – individual fan, externally ducted manual on/off switch Other Gas cooktop, electric oven Outdoor clothes drying line Alternative energy 1 kW Solar Photovoltaic system Positioned on north west roof at >0 to <=10 degree pitch

ISSUED FOR DA

 ARCHITECTIT	milad@architectit.com.au www.architectit.com.au m: 0452 275 299		nominated architect Milad Farrokhi nsw reg. 11661	
	issue amendment		date	
	A DA SUBMISSION		01.08.2025	
	B AMENDED DA DRAWINGS		12.11.2025	
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project		drawing	
SINGLE DWELLING		Window Schedule and BASIX	
project address		project no.	drawing no.
22 CHUTER ST MCMAHONS POINT		2410	
client		drawn	scale
MICHAEL ARZANI		MF	1 : 100@A3
		A0005	

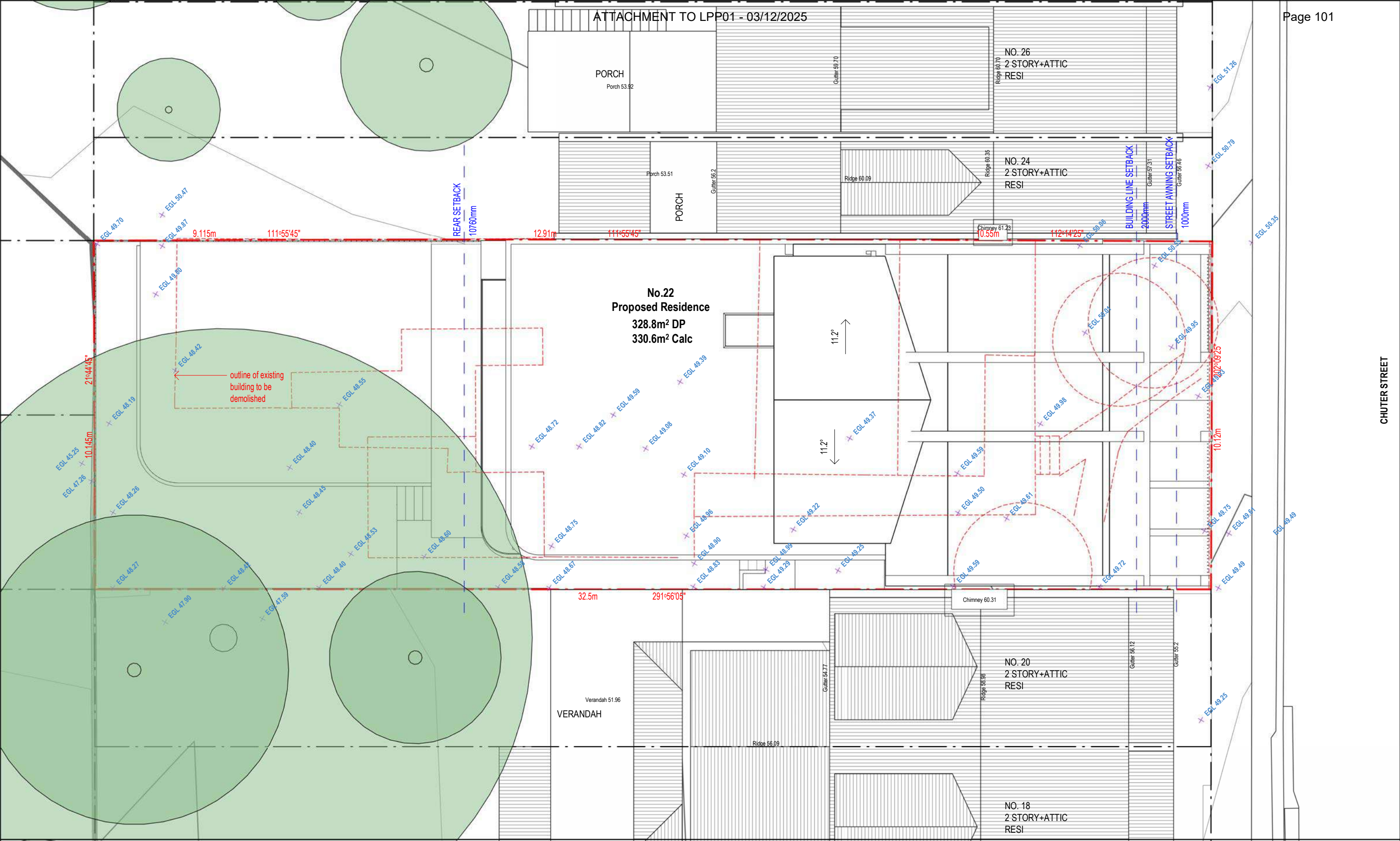


DEMOLITION - NOTES

1. Cut existing floor slabs for new excavations, for footings and services. Refer also to structural and services drawings and documentation for extent of demolition works.
2. Disconnect all services prior to demolition. Refer to consultant drawings and documentation.
3. Refer to engineer's drawings for extent of underpinning of existing footings and walls, removal of existing beams, columns, concrete slabs and sequence of removal, temporary propping of walls, beams, columns, concrete slabs and brickwork.
4. Demolition work to be coordinated with the new building work shown on architectural documentation and documentation of other consultants.
5. Demolish all existing roofs.
6. Remove all fixtures, fittings, and finishes including tiled walls and floors and clean all surfaces in preparation of receiving new finishes as per schedules or specification.
7. Remove all pipework, equipment and services not specifically documented to be retained, including metal ductwork, sprinkler pipework, gutters, downpipes, electrical fixtures & fittings, redundant plant equipment, and redundant signage.
8. Remove all suspended ceilings and plasterboard ceilings including disconnecting and removing all electrical services, equipment, and light fittings etc.
9. Remove all partitioning, and other lightweight walls, to all floors including any built-in fixtures and fittings.
10. Disconnect existing sanitary fixtures and demolish on all levels. Remove all fittings and fixtures and all wall & floor tiles
11. Note: the builder shall set out all work on site, including the establishment of all levels, the marking of all walls and the locations of all riser ducts. Prior to the commencement of shop drawings or construction. This shall include a study of, and allowance for, all existing conditions including existing services within and around the site. All shop drawings shall be prepared based on site confirmation of existing conditions. Should any variations occur in the documentation which will affect the work, the builder shall notify the architect immediately.
12. This drawing broadly sets out demolition work. The builder shall carry out all demolition necessary to complete the works.
13. The builder shall allow to make good edges/sides of all demolished masonry walls and windows to clear and straight edge to allow for future finishes.
14. Remove all floor coverings and adhesives associated with floor coverings. Allow for new finishes to be applied.
15. Remove all windows, security mesh and screens
16. Remove all internal and external doors.
17. Remove all mechanical ductwork & equipment which extends to perimeter of building.
18. Refer to landscape architects drawing for extent of removal of existing retaining walls and existing vegetation.
19. Remove all existing planter boxes and make good to finished floor surface to allow for future finishes.
20. Where stairs are to be demolished ensure entire stair is demolished including balustrades and underside of soffit where it meets the slab above.
21. All levels noted on drawings are indicative only. Minor variations in levels are to be allowed for.
22. The development must be carried out in accordance with AS 2601—2001, The demolition of structures.

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 CHITECTIT nominated architect Milad Farrokhi nsw reg. 11661	milad@architectit.com.au www.architectit.com.au m: 0452 275 299		issue amendment		date	Notes	project		drawing			
			A DA SUBMISSION	01.08.2025	This drawing is copyright and is not to be replicated or used for any purpose without the written consent of Architectit Architects.		SINGLE DWELLING		Demolition Plan			
			B AMENDED DA DRAWINGS	12.11.2025	Use figured dimensions only - do not scale from this drawing. All dimensions to structure - confirm all dimensions on site.		project address 22 CHUTER ST MCMAHONS POINT		project no. 2410	drawing no. A0006		
					This drawing is to be read in conjunction with all relevant consultant documentation, schedules and specifications.		client MICHAEL ARZANI		drawn MF			scale As indicated@A3



1
A0201

Site Plan

1 : 100@A1

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issue	amendment
A	DA SUBMISSION
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date
01.08.2025
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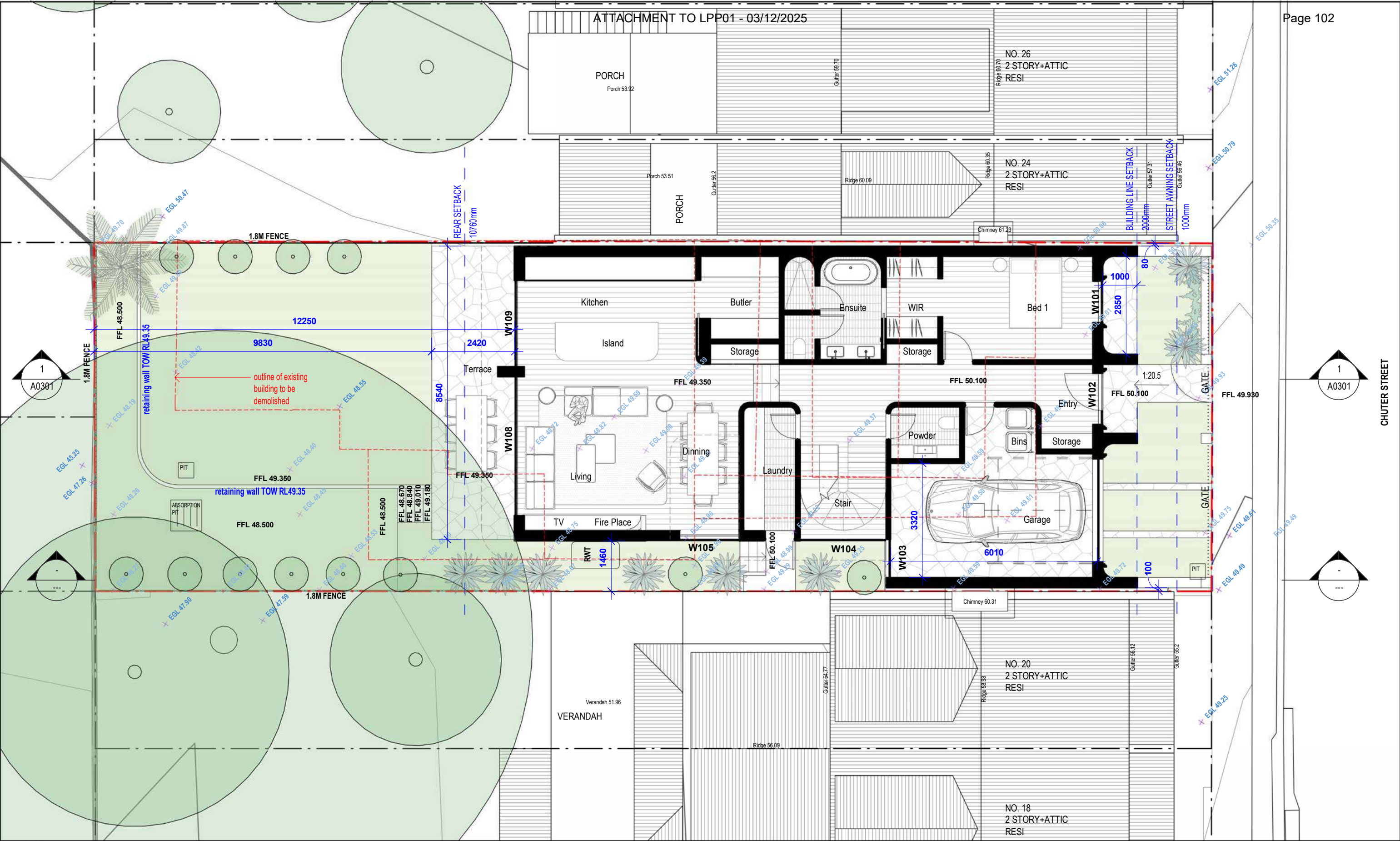
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project
SINGLE DWELLING

project address
22 CHUTER ST MCMAHONS POINT

client
MICHAEL ARZANI

drawing Site Plan		
project no. 2410	drawing no. A0009	
drawn MF	scale 1 : 100@A3	



1
A0201

Ground Floor

1 : 100@A3

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A	DA SUBMISSION
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project
SINGLE DWELLING

project address
22 CHUTER ST MCMAHONS POINT

client
MICHAEL ARZANI

drawing
Floor Plan - Ground Floor

project no.
2410

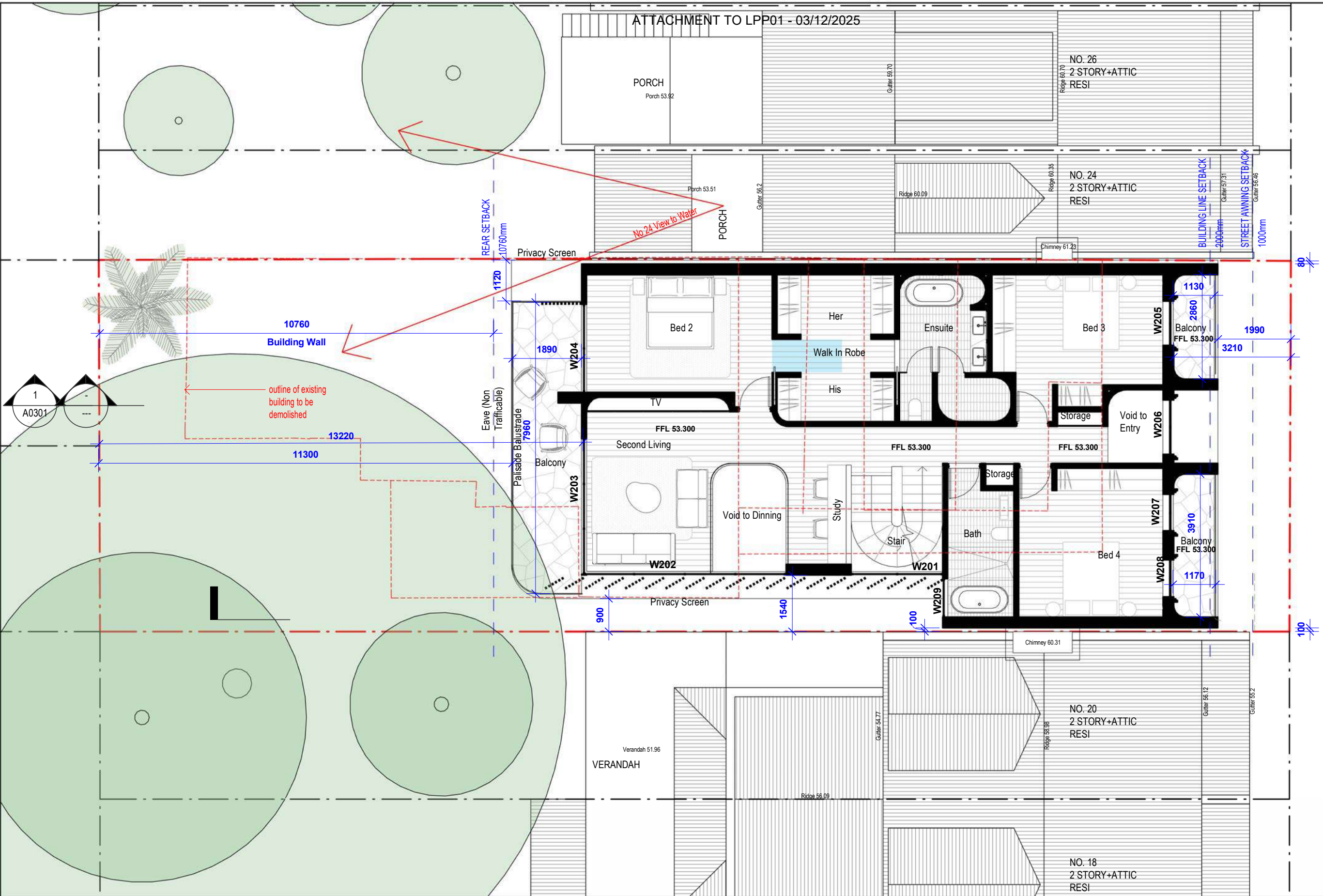
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drawing no.

A0101

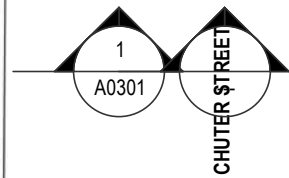
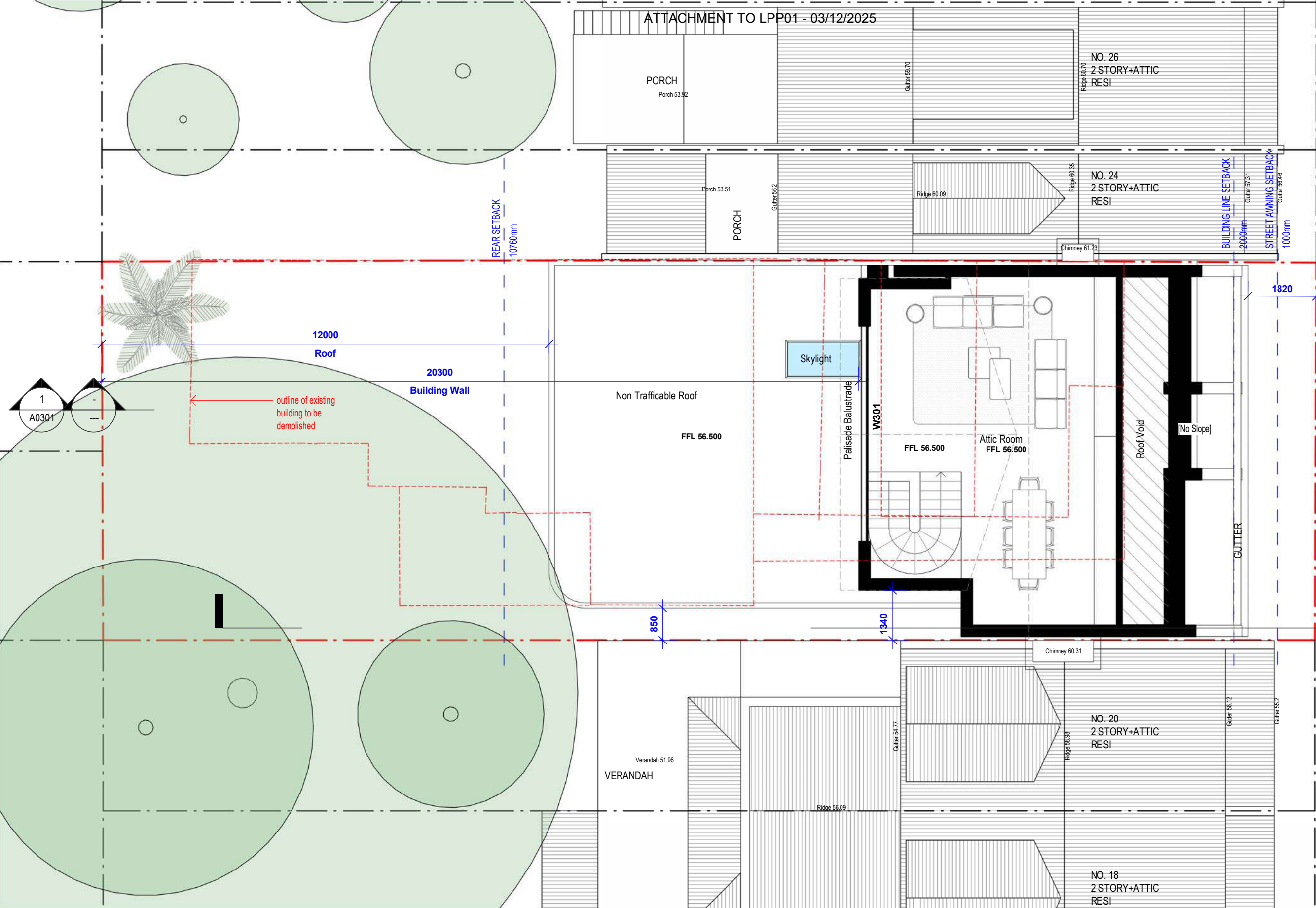




1	Level 01
A0201	1 : 100@A3

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 ARCHITECTIT	milad@architectit.com.au www.architectit.com.au m: 0452 275 299		issue amendment		date		Notes		project SINGLE DWELLING		drawing Floor Plan - First Floor		
	nominated architect Milad Farrokhi nsw reg. 11661		A DA SUBMISSION B AMENDED DA DRAWINGS		01.08.2025 12.11.2025		This drawing is copyright and is not to be replicated or used for any purpose without the written consent of Architectit Architects. Use figured dimensions only - do not scale from this drawing. All dimensions to structure - confirm all dimensions on site. This drawing is to be read in conjunction with all relevant consultant documentation, schedules and specifications.		project address 22 CHUTER ST MCMAHONS POINT		project no. 2410	drawing no.	
									client MICHAEL ARZANI		drawn MF	scale 1 : 100@A3	



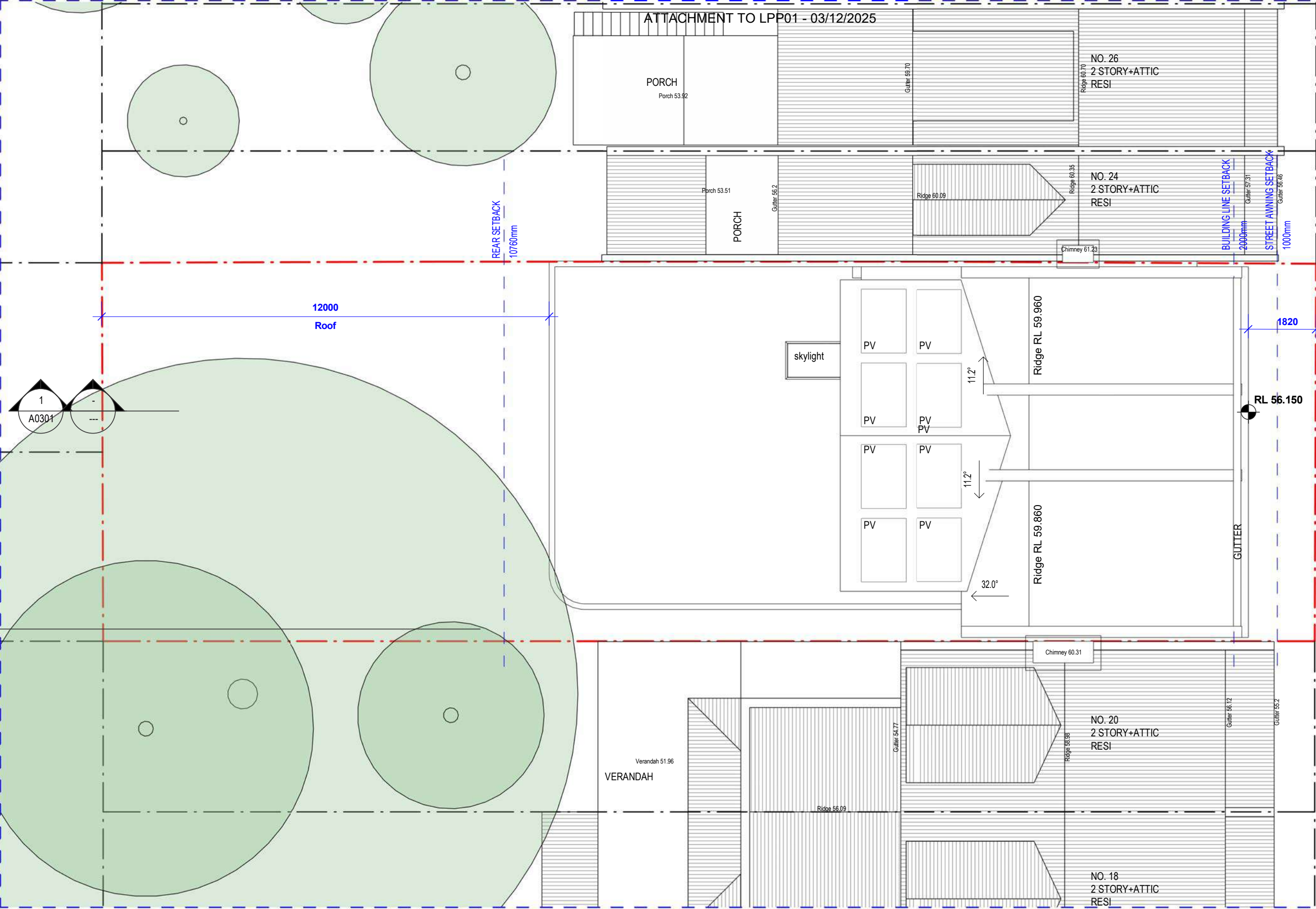
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Attic Floor

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	A DA SUBMISSION		01.08.2025		
	B AMENDED DA DRAWINGS		12.11.2025		
project SINGLE DWELLING		drawing Floor Plan - Attic Floor			
project address 22 CHUTER ST MCMAHONS POINT		project no. 2410		drawing no. A0103	
client MICHAEL ARZANI		drawn MF	scale 1 : 100@A3		



1
A0201

Roof Plan

1 : 100@A3

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 CHITECTIT nominated architect Milad Farrokhi nsw reg. 11661	issue amendment A DA SUBMISSION B AMENDED DA DRAWINGS	date 01.08.2025 12.11.2025	Notes This drawing is copyright and is not to be replicated or used for any purpose without the written consent of Architectit Architects. Use figured dimensions only - do not scale from this drawing. All dimensions to structure - confirm all dimensions on site. This drawing is to be read in conjunction with all relevant consultant documentation, schedules and specifications.	project SINGLE DWELLING	drawing Roof Plan 
	project address 22 CHUTER ST MCMAHONS POINT	project no. 2410		drawing no. A0104	
	client MICHAEL ARZANI	drawn MF	scale 1 : 100@A3		

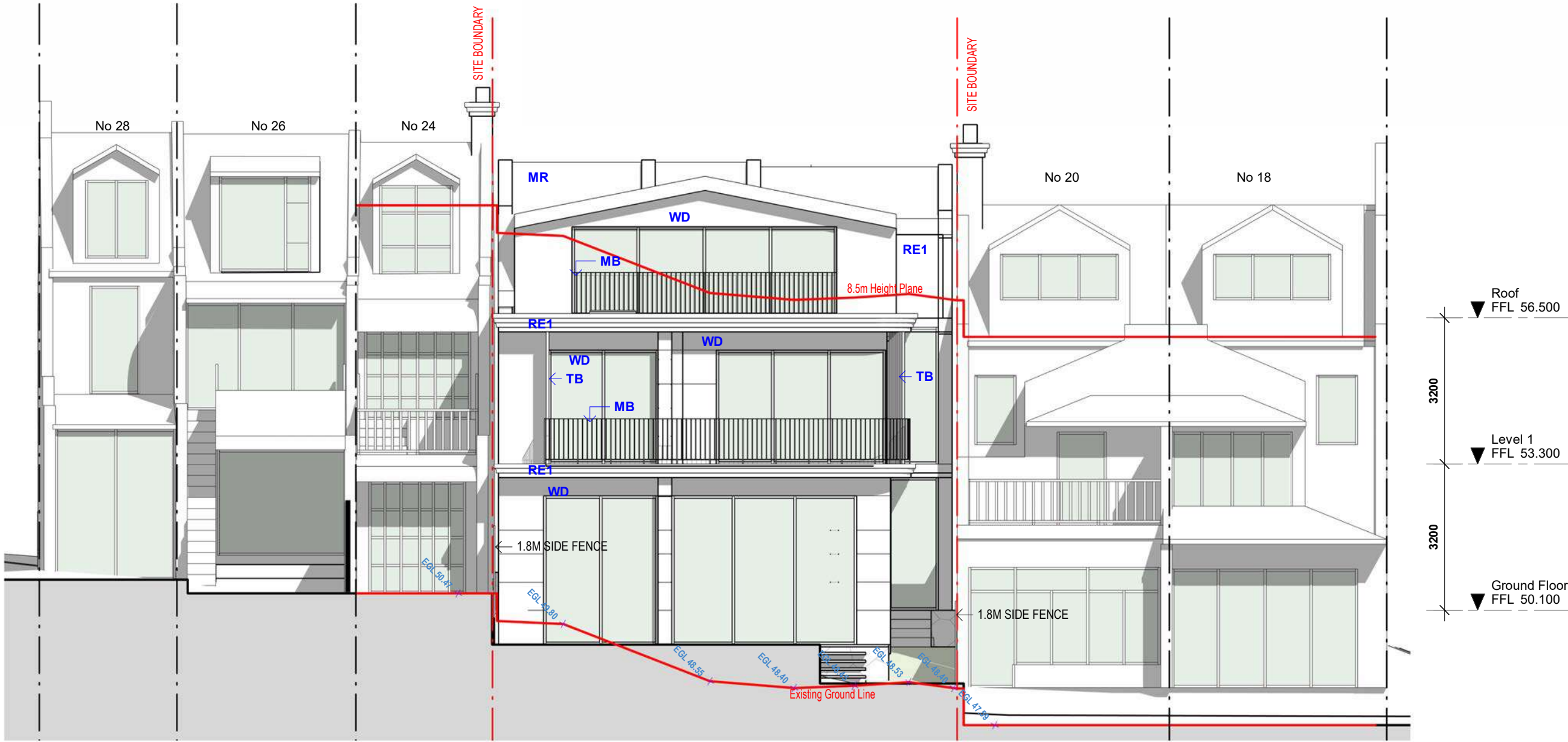
- RE1: WHITE RENDER
WD: ALUMINIUM WINDOW FRAMES 45MM MIN WIDTH
MB: METAL PALISADE BALUSTRADE
MF: ALUMINIUM FENCE
ST: SANDSTONE
MR: LIGHT CORRUGATED METAL ROOF
TB: WOODLAND GREY PRIVACY SCREEN
TB2: TIMBER DOOR
PT: PAINT GREY



Elevation - East

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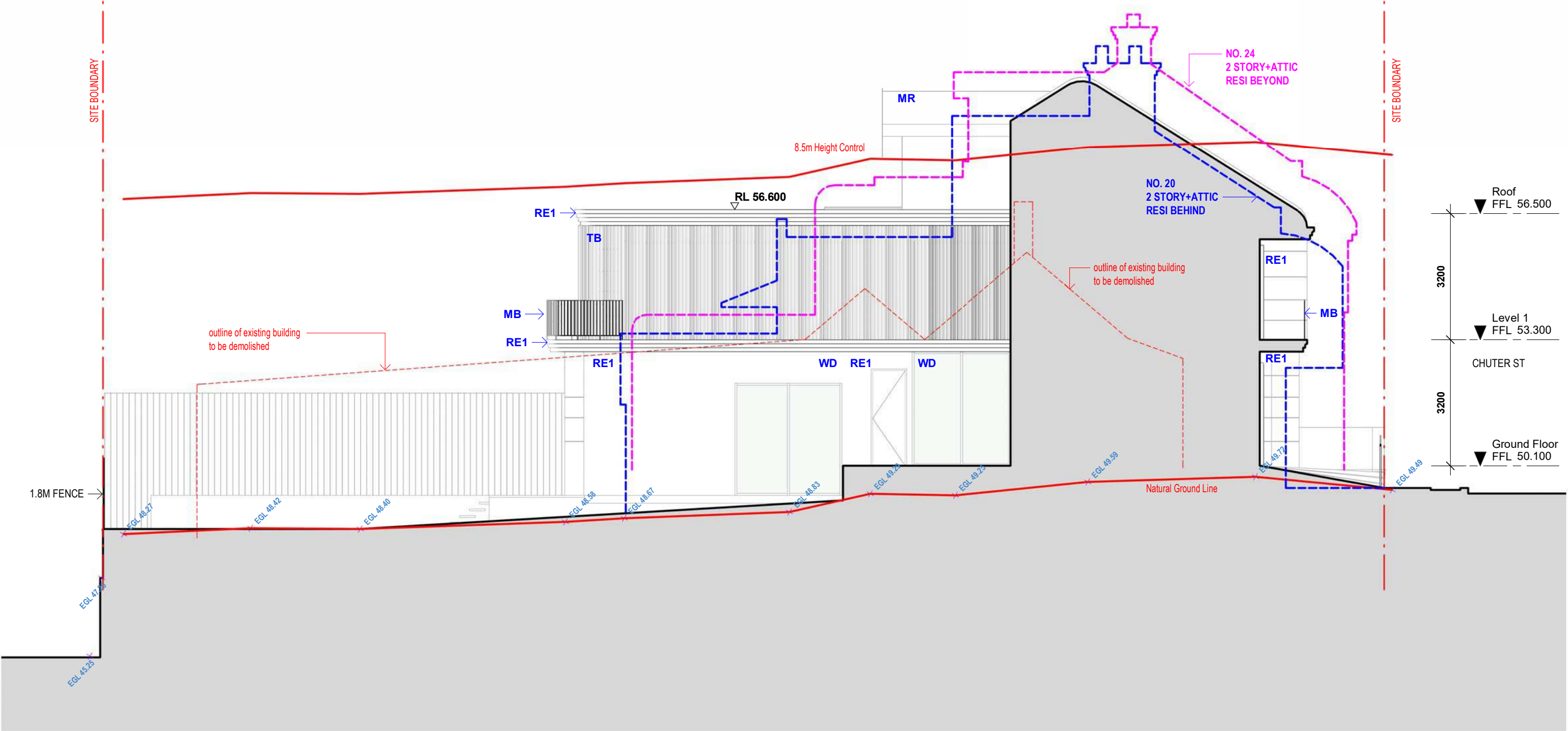
 ARCHITECTIT nominated architect Milad Farrokhi nsw reg. 11661	issue amendment A DA SUBMISSION B AMENDED DA DRAWINGS	date 01.08.2025 12.11.2025	Notes This drawing is copyright and is not to be replicated or used for any purpose without the written consent of Architectit Architects. Use figured dimensions only - do not scale from this drawing. All dimensions to structure - confirm all dimensions on site. This drawing is to be read in conjunction with all relevant consultant documentation, schedules and specifications.	project SINGLE DWELLING	drawing Elevations - Sheet 1	
				project address 22 CHUTER ST MCMAHONS POINT	project no. 2410	drawing no. A0201
				client MICHAEL ARZANI	drawn MF	



Elevation - West

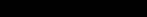
ISSUED FOR DA

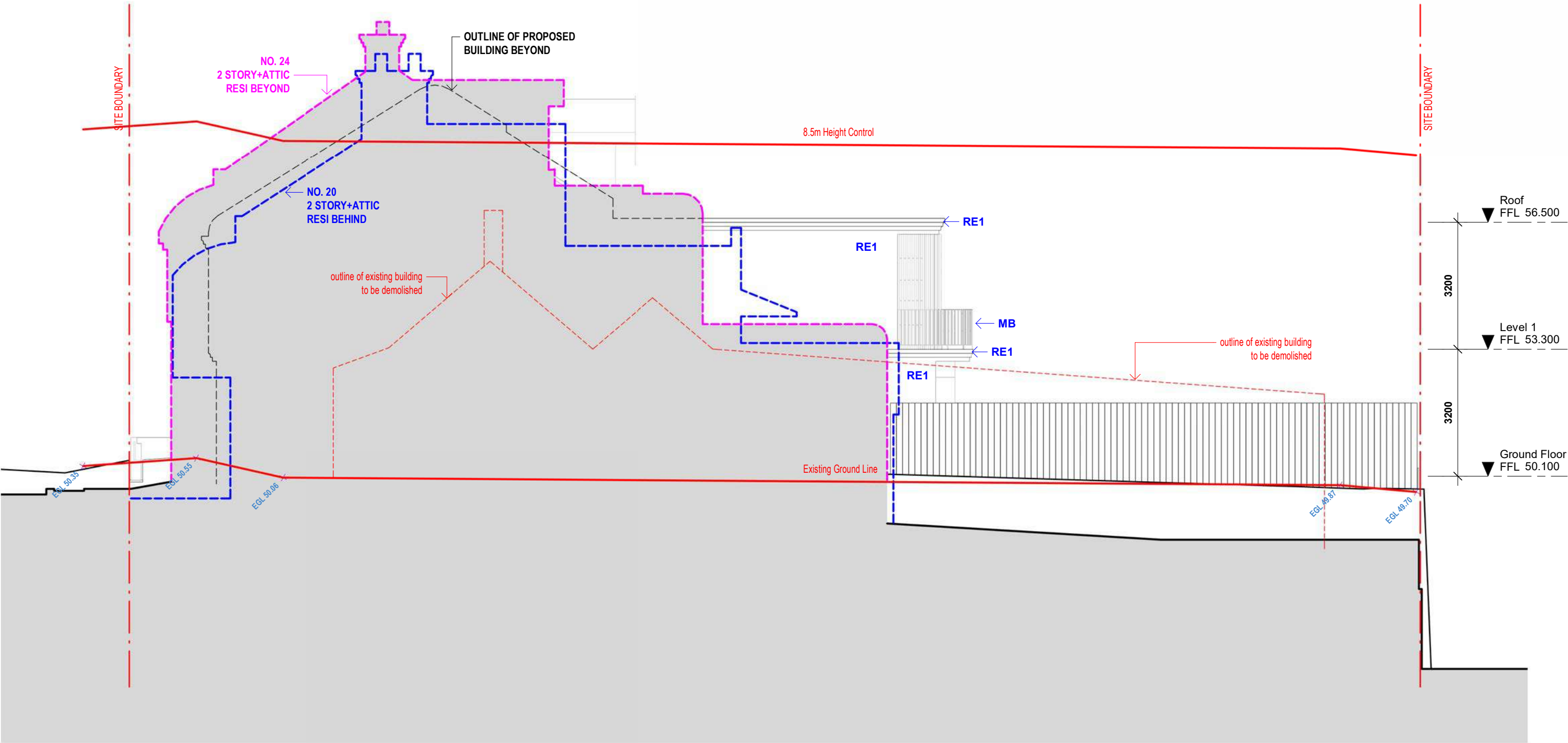
 RCHITECTIT	milad@architectit.com.au www.architectit.com.au m: 0452 275 299		issue amendment		date		Notes		project SINGLE DWELLING		drawing Elevations - Sheet 2		
			A DA SUBMISSION B AMENDED DA DRAWINGS		01.08.2025 12.11.2025		This drawing is copyright and is not to be replicated or used for any purpose without the written consent of Architectit Architects.		project address 22 CHUTER ST MCMAHONS POINT		project no. 2410		drawing no. A0202
							Use figured dimensions only - do not scale from this drawing. All dimensions to structure - confirm all dimensions on site.		client MICHAEL ARZANI		drawn MF	scale 1 : 100@A3	
	nominated architect Milad Farrokhi nsw reg. 11661						This drawing is to be read in conjunction with all relevant consultant documentation, schedules and specifications.						



Elevation - South

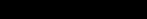
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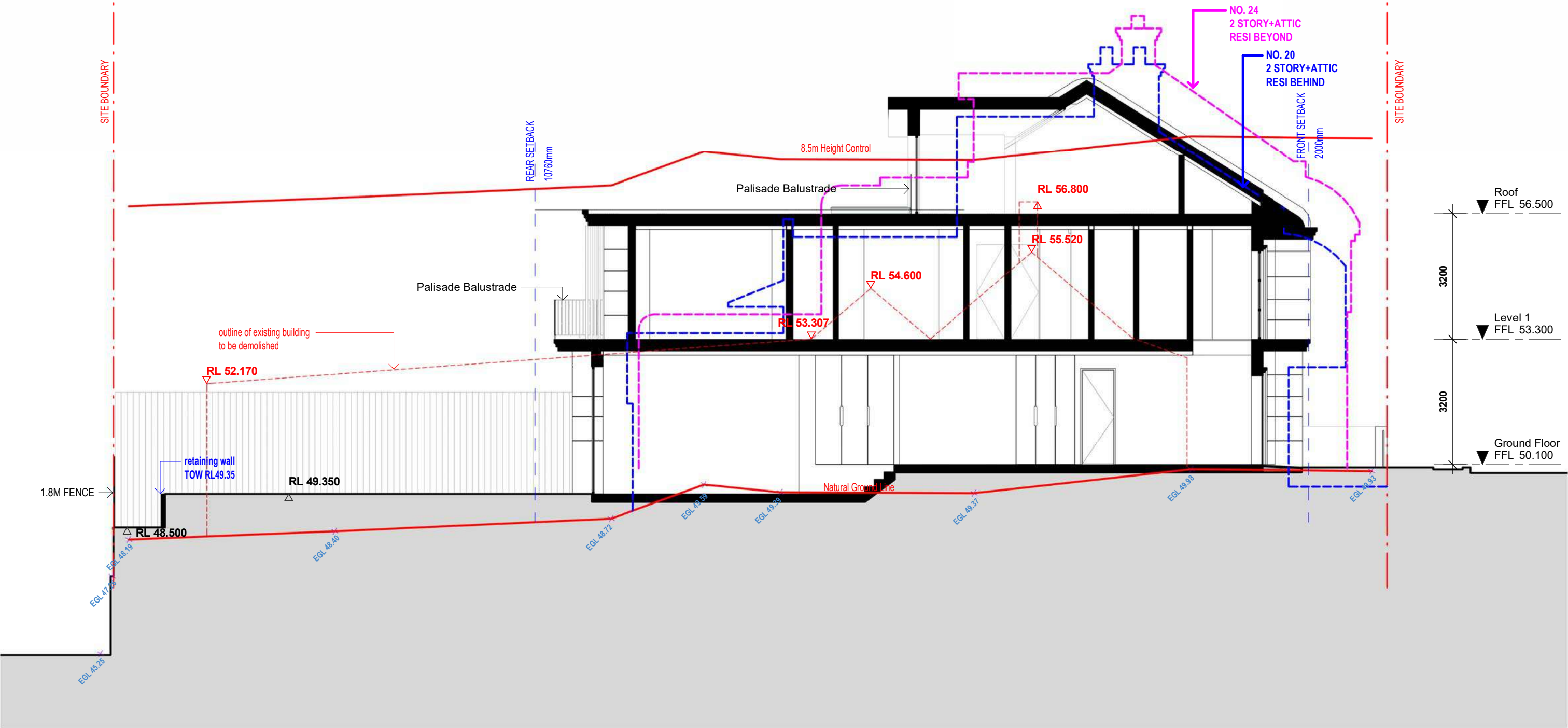
 ARCHITECTIT milad@architectit.com.au www.architectit.com.au m: 0452 275 299 nominated architect Milad Farrokhi nsw reg. 11661	issue amendment		date	Notes	project		drawing	
					SINGLE DWELLING		Elevations - Sheet 3	
	A DA SUBMISSION				project address		project no.	drawing no.
	B AMENDED DA DRAWINGS				22 CHUTER ST MCMAHONS POINT		2410	
		client		drawn	scale	A0203		
		MICHAEL ARZANI		MF	1 : 100@A3			



Elevation - North

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	project address 22 CHUTER ST MCMAHONS POINT		A AMENDED DA DRAWINGS				project no. 2410		drawing no. A0204	
	client MICHAEL ARZANI						drawn MF	scale 1 : 100@A3		



Site-Section 01

ISSUED FOR DA

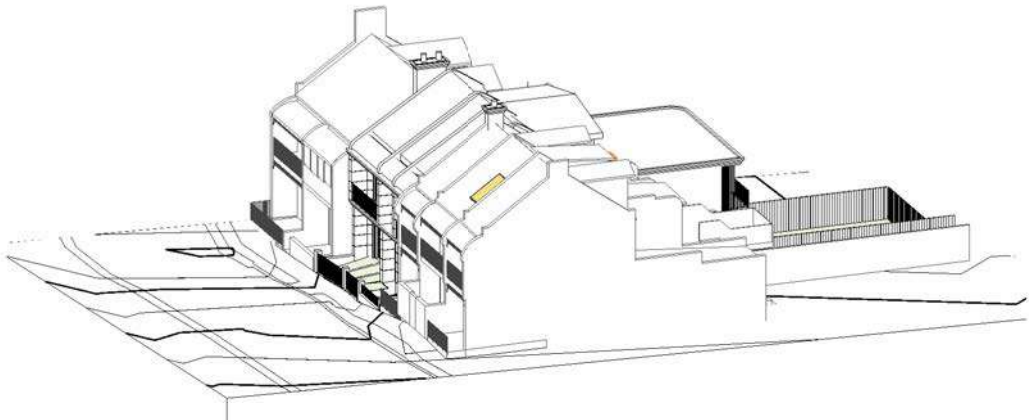
 milad@architectit.com.au www.architectit.com.au m: 0452 275 299 nominated architect Milad Farrokhi nsw reg. 11661	issue amendment		date	Notes This drawing is copyright and is not to be replicated or used for any purpose without the written consent of Architectit Architects. Use figured dimensions only - do not scale from this drawing. All dimensions to structure - confirm all dimensions on site. This drawing is to be read in conjunction with all relevant consultant documentation, schedules and specifications.	project SINGLE DWELLING	drawing Sections Sheet 1	
	A	DA SUBMISSION	01.08.2025		project address 22 CHUTER ST MCMAHONS POINT	project no. 2410	drawing no. A0301
	B	AMENDED DA DRAWINGS	12.11.2025		client MICHAEL ARZANI	drawn MF	
						scale 1 : 100@A3	



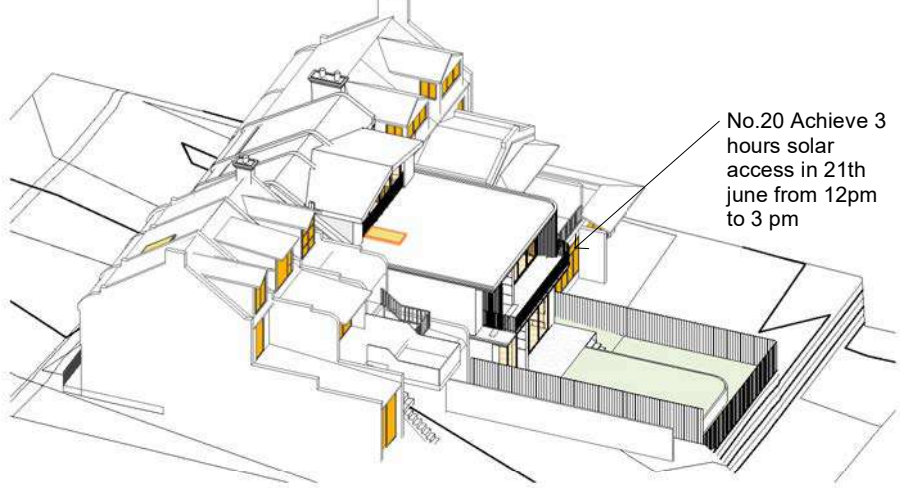
	CONTROLS	PROPOSED
Site Area HOB	330.6 m ² 8.5m	330.6 m ²
Site Coverage	165.3m ² (max50%)	165.1m ² (49.9%)
Landscape Area	99.18m ² (min30%)	121.4m ² (36.7%)
Unbuilt Upon	66.12m ² (max20%)	36.5m ² (11%)
Private Open Space	40m ²	

ISSUED FOR DA

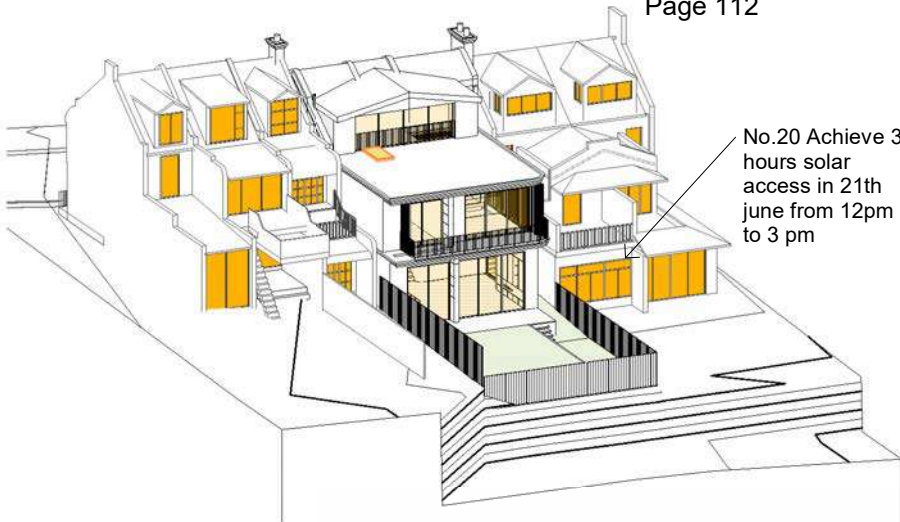
 ARCHITECTIT nominated architect Milad Farrokhi nsw reg. 11661	milad@architectit.com.au www.architectit.com.au m: 0452 275 299		issue amendment	date	Notes	project SINGLE DWELLING	drawing Calculation Plans		
	A DA SUBMISSION B AMENDED DA DRAWINGS		01.08.2025 12.11.2025	This drawing is copyright and is not to be replicated or used for any purpose without the written consent of Architectit Architects. Use figured dimensions only - do not scale from this drawing. All dimensions to structure - confirm all dimensions on site.	project address 22 CHUTER ST MCMAHONS POINT	project no. 2410		drawing no. A0601	
				client MICHAEL ARZANI	drawn MF	scale 1 : 100@A3			
				This drawing is to be read in conjunction with all relevant consultant documentation, schedules and specifications.					



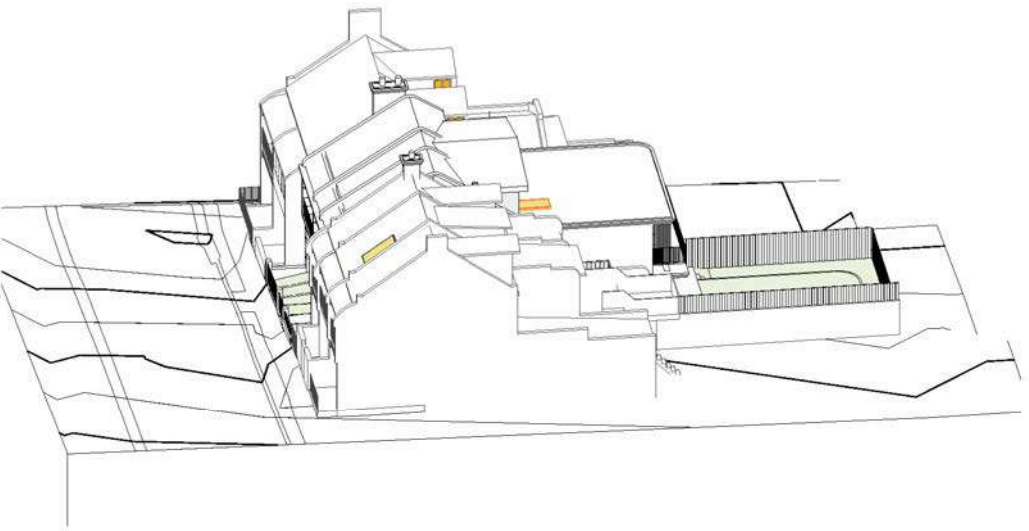
June 21 - 9AM



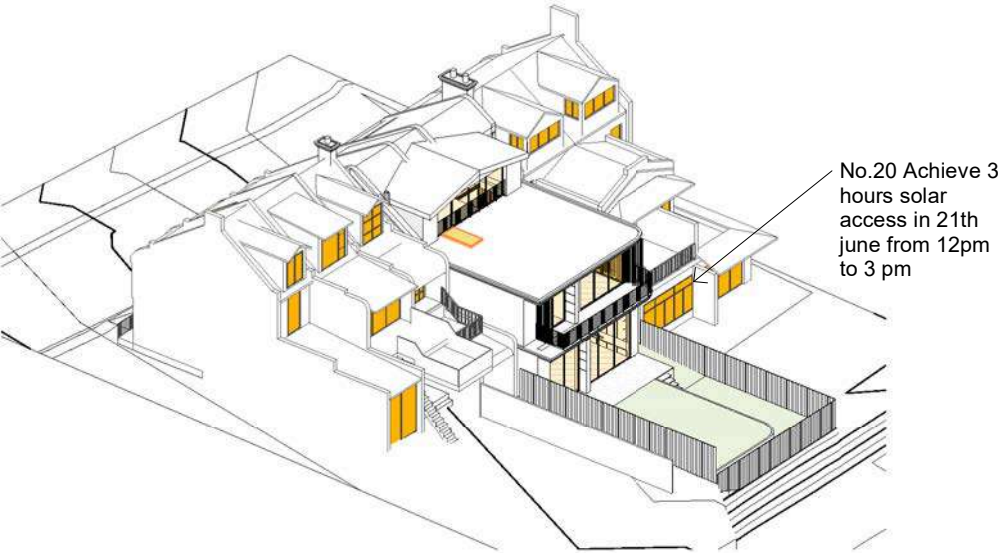
June 21 12PM



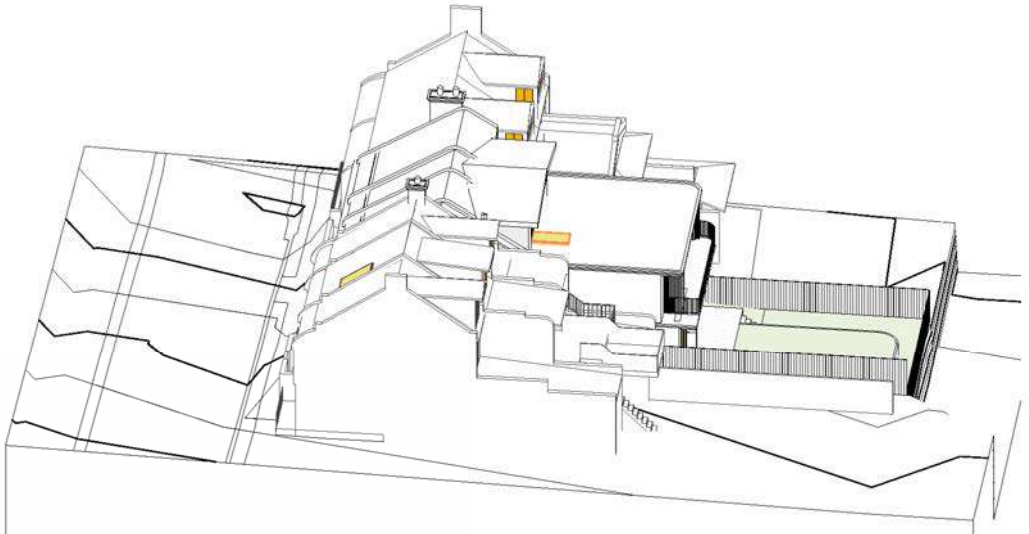
June 21 - 3PM



June 21 - 10AM



June 21 - 1PM



June 21 - 11AM



June 21 - 2PM

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 RCHITECTIT nominated architect Milad Farrokhi nsw reg. 11661	milad@architectit.com.au www.architectit.com.au m: 0452 275 299		issue amendment		date	Notes This drawing is copyright and is not to be replicated or used for any purpose without the written consent of Architectit Architects. Use figured dimensions only - do not scale from this drawing. All dimensions to structure - confirm all dimensions on site. This drawing is to be read in conjunction with all relevant consultant documentation, schedules and specifications.
			A DA SUBMISSION		01.08.2025	
			B AMENDED DA DRAWINGS		12.11.2025	
			project		drawing	
			SINGLE DWELLING		Sun Analysis - VFS	
			project address		project no.	drawing no. A0620
			22 CHUTER ST MCMAHONS POINT		2410	
			client		drawn	
			MICHAEL ARZANI		MF	scale @A3

A DA SUBMISSION
B AMENDED DA DRAWINGS

01.08.2025
12.11.2025

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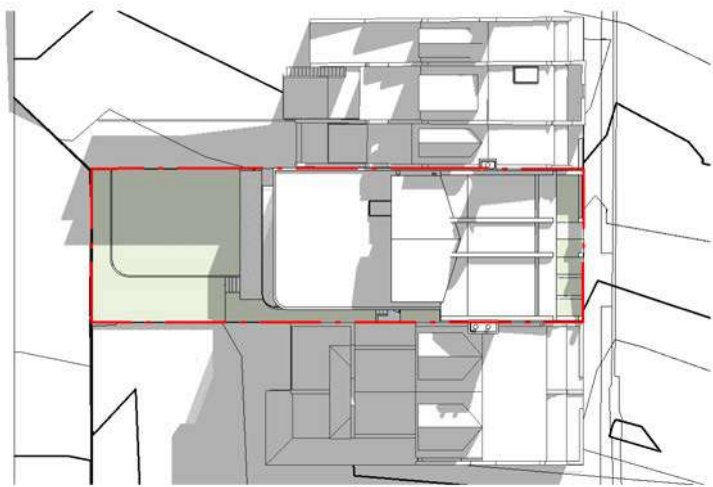
project address
22 CHUTER ST MCMAHONS POINT

client
MICHAEL ARZANI

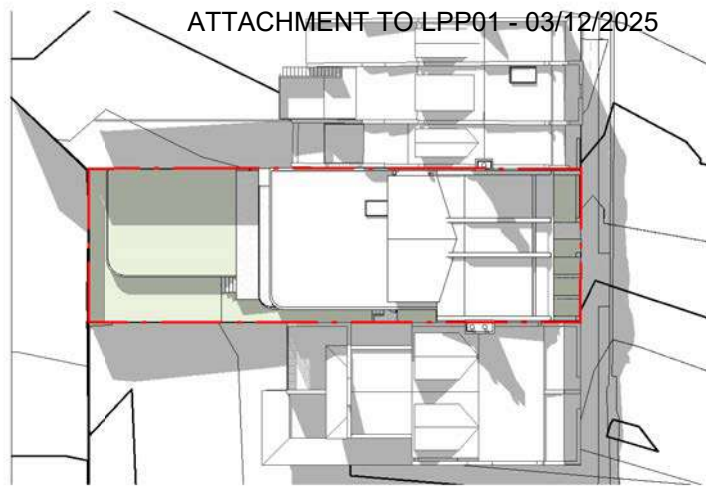
project no.
2410
drawn
MF

scale
@A3

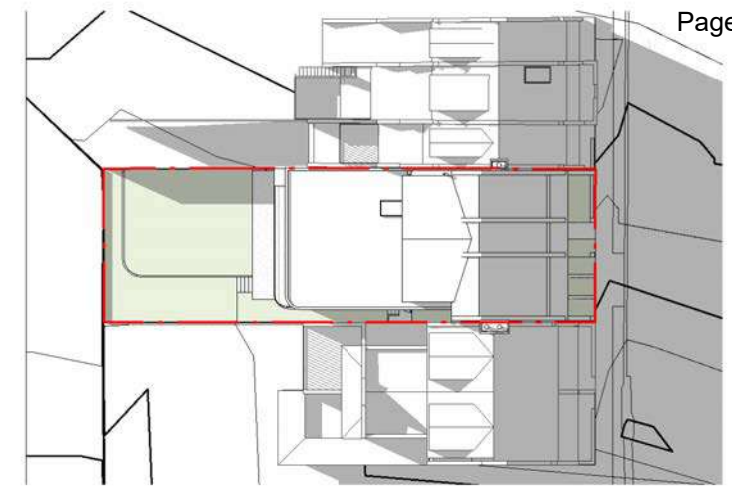
drawing no.
A0620



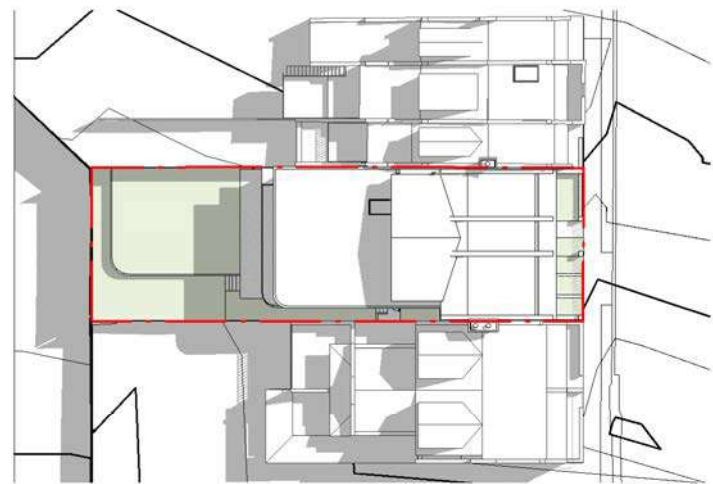
9am 21st June



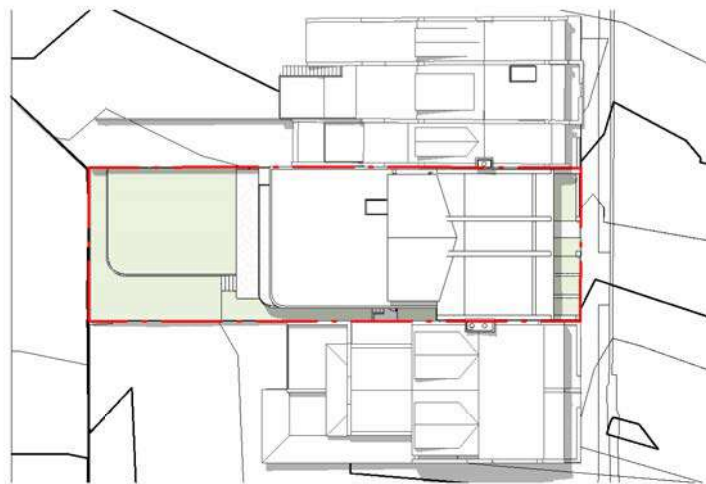
12n 21st June



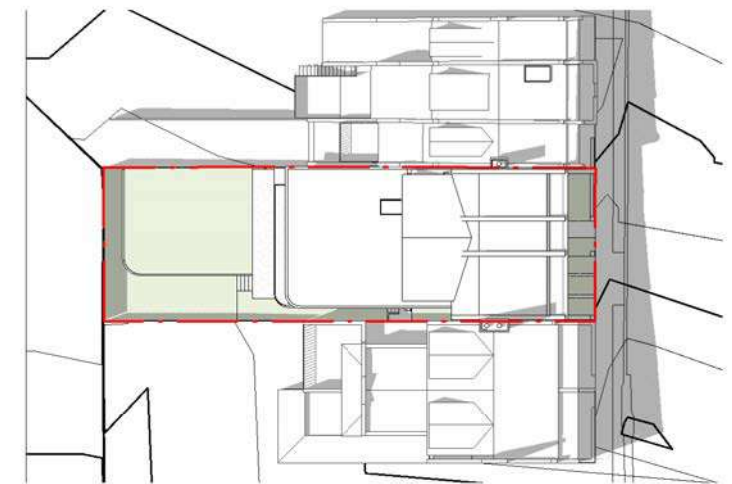
3pm 21st June



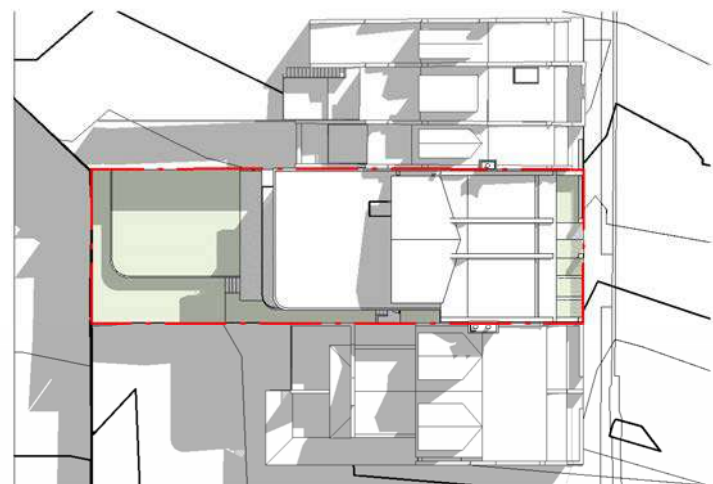
9am 21st Dec



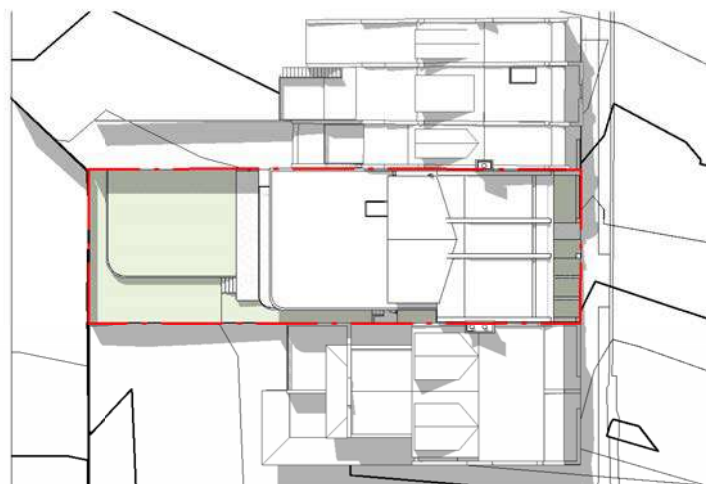
12n 21st Dec



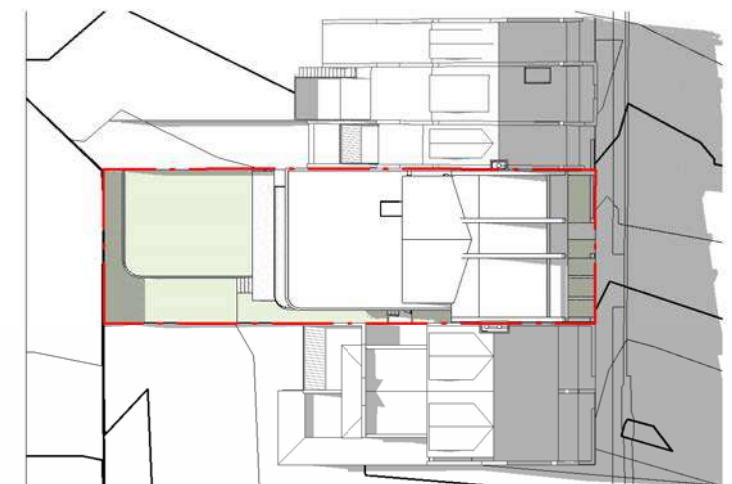
3pm 21st Dec



9am 21st Sep

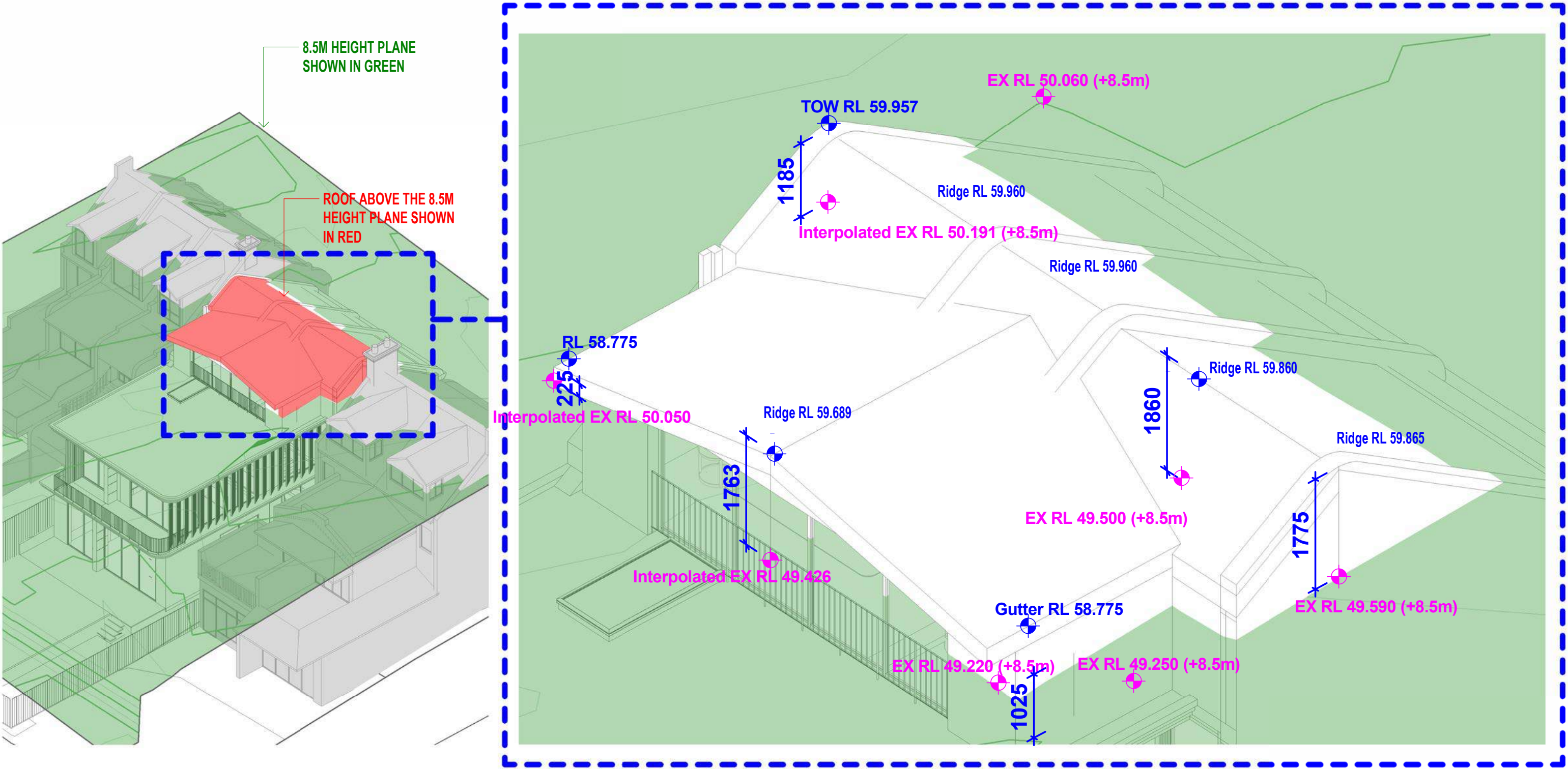


12n 21st Sep



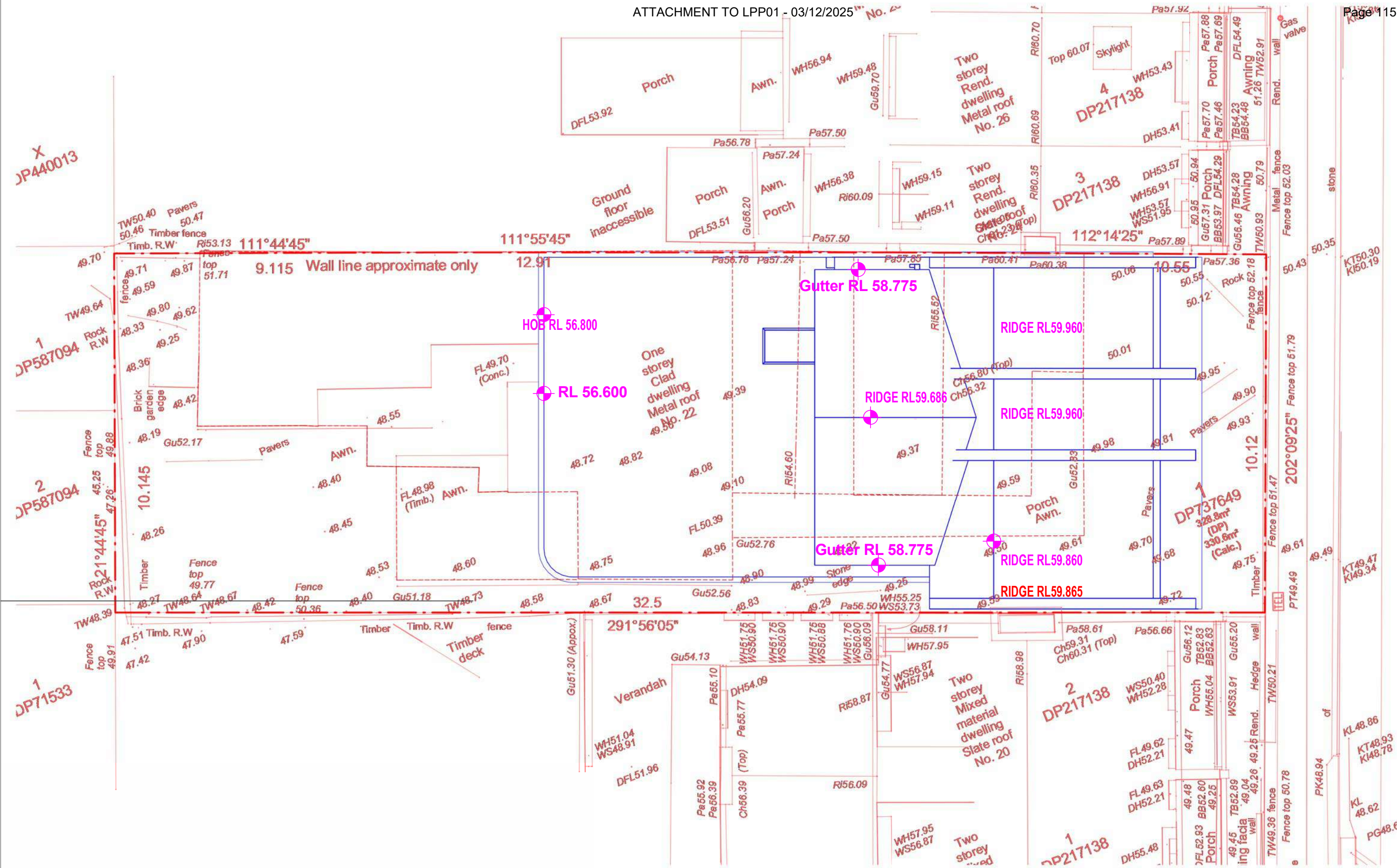
3pm 21st Sep

ISSUED FOR DA



ISSUED FOR DA

 CHITECTIT nominated architect Milad Farrokhi nsw reg. 11661	issue amendment		date	Notes	project	drawing			
	A	DA SUBMISSION			SINGLE DWELLING	Height Plane -3D			
	B	AMENDED DA DRAWINGS					drawing no.		
					project address	project no.	A0650		
					22 CHUTER ST MCMAHONS POINT	2410			
					client	drawn		scale	
				MICHAEL ARZANI	MF	1 : 100@A3			
				This drawing is copyright and is not to be replicated or used for any purpose without the written consent of Architectit Architects.					
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				This drawing is to be read in conjunction with all relevant consultant documentation, schedules and specifications.					



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 CHITECTIT milad@architectit.com.au www.architectit.com.au m: 0452 275 299 nominated architect Milad Farrokhi nsw reg. 11661	issue amendment A DA SUBMISSION B AMENDED DA DRAWINGS	date 01.08.2025 12.11.2025	Notes This drawing is copyright and is not to be replicated or used for any purpose without the written consent of Architectit Architects. Use figured dimensions only - do not scale from this drawing. All dimensions to structure - confirm all dimensions on site. This drawing is to be read in conjunction with all relevant consultant documentation, schedules and specifications.	project SINGLE DWELLING	drawing Height Plane - Plan		
	project address 22 CHUTER ST MCMAHONS POINT	project no. 2410		drawing no.	A0651		
	client MICHAEL ARZANI	drawn MF	scale 1 : 100@A3				

FINISHES & COLOUR



RE1:
TEXTURED RENDER
White



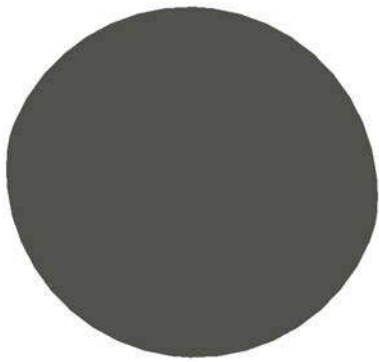
WD:
POWDERCOATED
WINDOW FRAMES



MR:
CORRUGATED METAL
ROOF LIGHT



MB:
FINE METAL BALUSTRADE
GREY



PT1:
GREY



TB:
WOODLAND GREY PRIVACY SCREEN



MF:
ALUMINIUM
FENCE



TB2:
TIMBER DOOR



ST:
SANDSTONE WALL
RUSTICATED FINISH

EXTERNAL FINISHES SCHEDULE

RE1:	WHITE RENDER
WD:	ALUMINIUM WINDOW FRAMES 45MM MIN WIDTH
MB:	METAL PALISADE BALUSTRADE
MF:	ALUMINIUM FENCE
ST:	SANDSTONE
MR:	LIGHT CORRUGATED METAL ROOF
TB:	WOODLAND GREY PRIVACY SCREEN
TB2:	TIMBER DOOR
PT:	PAINT GREY

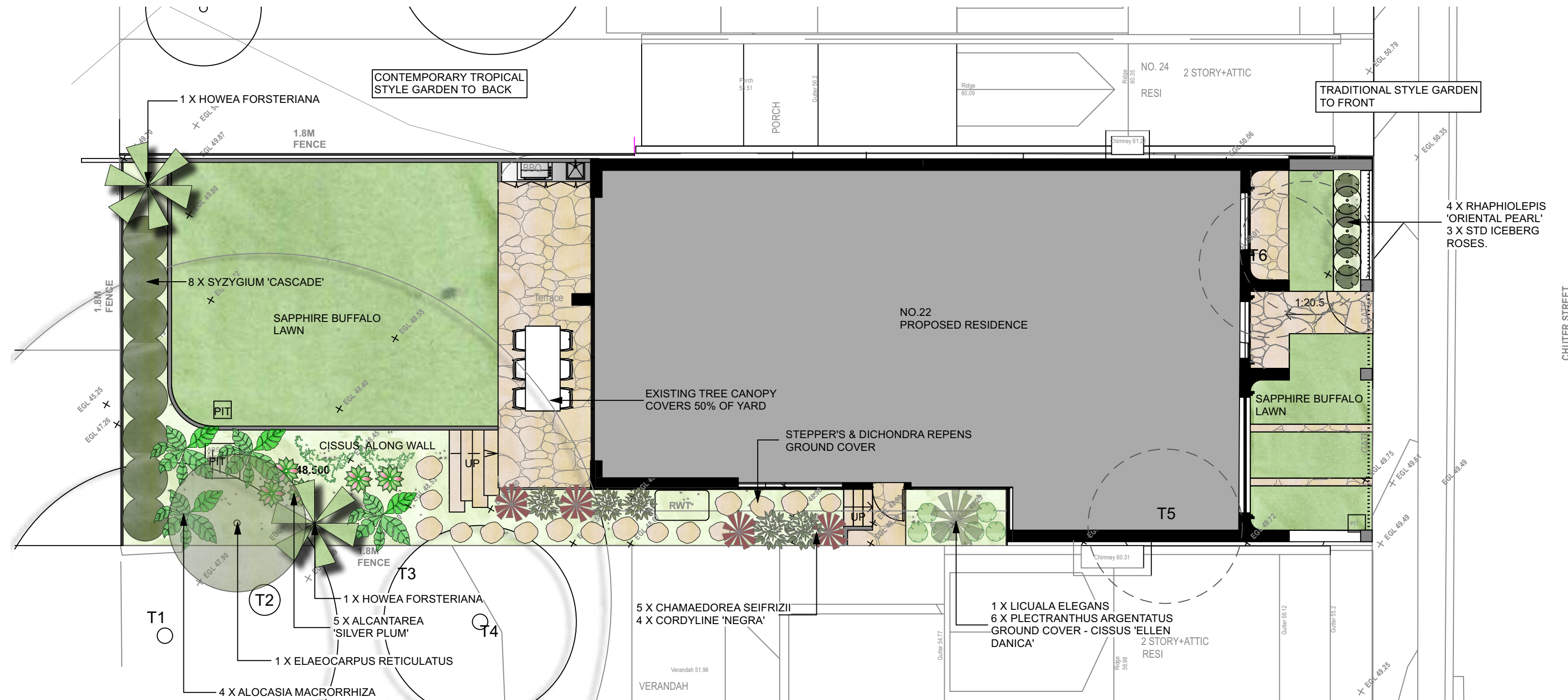
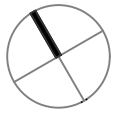
ISSUED FOR DA

 RCHITECTIT	milad@architectit.com.au www.architectit.com.au m: 0452 275 299		issue amendment		date		Notes		project		drawing				
			A DA SUBMISSION		01.08.2025		This drawing is copyright and is not to be replicated or used for any purpose without the written consent of Architectit Architects.		SINGLE DWELLING		Schedule of Colours and Finishes				
			B AMENDED DA DRAWINGS		12.11.2025		Use figured dimensions only - do not scale from this drawing. All dimensions to structure - confirm all dimensions on site.		project address		project no.		drawing no.		
							This drawing is to be read in conjunction with all relevant consultant documentation, schedules and specifications.		22 CHUTER ST MCMAHONS POINT		2410				
		nominated architect Milad Farrokhi nsw reg. 11661								client		drawn		scale	
										MICHAEL ARZANI		MF		1 : 200@A3	
														A0701	



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 milad@architectit.com.au www.architectit.com.au m: 0452 275 299 nominated architect Milad Farrokhi nsw reg. 11661	issue amendment	date	Notes This drawing is copyright and is not to be replicated or used for any purpose without the written consent of Architectit Architects. Use figured dimensions only - do not scale from this drawing. All dimensions to structure - confirm all dimensions on site. This drawing is to be read in conjunction with all relevant consultant documentation, schedules and specifications.	project SINGLE DWELLING		drawing Photomontage	
				project address 22 CHUTER ST MCMAHONS POINT		project no. 2410	drawing no.
				client MICHAEL ARZANI		drawn MF	scale @A3
						A0702	



CLIENT: MICHAEL ARZANI	PLAN TYPE: LANDSCAPE PLANS	ISSUE: B. AMENDED TO REFLECT CHANGES TO ARCHITECTURAL PLANS.	PAGE: LANDSCAPE PLAN	 LANDSCAPE DESIGN p. 02 9526 7962
ADDRESS: 22 CHUTER STREET, MCMAHONS POINT	DRAWING INFORMATION: 	SCALE AT A3: 1:100	DATE: 6/08/25	

SPECIFICATIONS

SITE PREPARATION

Planted material to be stored in pots on site in order to be replanted where specified. Any existing trees and vegetation to be retained shall be preserved and protected from damage of any sort during the execution of landscape work. In particular, root systems of existing plants must not be disturbed. Any nearby site works should be carried out carefully using hand tools. Storage of materials, mixing of materials, vehicle parking, disposal of liquids, machinery repairs and refueling, site office and sheds, and the lighting of fires shall not occur within three (3) metres of any existing or new trees. Do not stockpile soil, rubble or other debris cleared from the site, or building materials within the drip line of existing or new trees. All vegetation not shown on plan to be removed. No tree removal is to occur without the presence of the Arborist.

SERVICES

Services and utilities shown have been located by physical evidence and/or by reference to surveys provided. Pits may not have been opened to verify the type of utility. Excavation has not been carried out to confirm underground location. Service details should be confirmed with the relevant service authority during design and prior to commencement of construction.

SOIL PREPARATION

Remove min. 300mm of existing site soil where it does not interfere with the roots of the existing trees Provide soil profiles as follows;

PLANTER BOX MIX

Similar to that supplied by ANL to all garden beds as specified on the plan
Any imported soil or soil blends using site topsoil materials used in the top 600mm of any landscaped area finished soil profile shall meet the requirements of AS 4419 - 2003 'soils for landscaping and garden use'. Soils shall be placed and compacted in layers to prevent undue settlement.
Sub-base filling and placement shall meet the Engineer's material and compaction requirements.

EROSION CONTROL

Where gradients in finished surface level exceed 1:2.5 mulch is to be held in place with an unobtrusive biodegradable fit for purpose netting with the netting to be fixed in place as the manufacturers specification for this particular situation.

STAKING

All trees not self supporting and trees generally shall be provided with pointed hardwood stakes as follows:
Trees up to container size of 25L - 2 x 25mm x 25mm x 1m high stakes at each
Trees above container size of 25L - 2 x 50 x 50 x 2.1 high stakes each
Ties shall be of 50mm wide jute mesh webbing tied ' figure eight pattern' to support the plant and ties to be fixed securely to stakes

SOIL IMPROVEMENT

Where site topsoil is to be used it shall be improved by adding Botany humas or similar at a ratio of 1:3 by volume.

PLANTING MATERIALS

Plants shall correspond to the planting index. There shall be no substitution in quality or quantity of material unless otherwise specified by the Landscape Architect. The Landscape Architect reserves the right to refuse any material showing signs of disease, distorted growth habit or malpractice. Plants to be placed in the ground no more than 48 hours after arrival on site. Plants to be planted in accordance with the planting detail. Planting holes to be dug double the width of the pot size and backfilled with organic soil and native fertilizer. The finished level of the plant is to finish flush with the existing pot level. No backfilling around the stem of the plant with either soil or mulch.

EDGING

Paver edge installed on mortar and bricktor between lawn and gardens.

TURF

Use Premium Sapphire Buffalo over 250mm ripped subgrade with minimum of 50mm turf underlay.

MULCH

All planter beds and garden areas shall have Cypress Mulch. All mulch is to be free of deleterious matter such as soil, weeds and sticks.

MAINTENANCE

On completion of work all planting areas are to be fertilised with organic life, slow release fertiliser (Osmocote 8-9 month) which is to be sufficiently watered in, as well as a soluble fertiliser similar to Seasol applied in accordance with the manufacturers details. Reapply as per directions. 'Watering In' period of 3 months is applicable. Water should be applied during this period so as plants do not get to the stage of wilting. Tip pruning is encouraged at 3 months to promote fuller growth.

HARD CONSTRUCTION

All civil, structural and hydraulic work associated with this project shall be to consulting Engineer's details. All external stairs to be constructed in accordance with Clause D2.13 of the Building Code of Australia.

LANDSCAPE PLANTING SCHEDULE			EXISTING TREES		
			AS PER TREE IMPACT ASSESSMENT BY SEASONED TREE CONSULTING.		
PLANT	SIZE	QTY	NO.	TREE	ACTION
TREES AND PALMS					
ELAEOCARPUS RETICULATUS	45L	1	T1	MACADAMIA INTEGRIFOLIA	RETAIN
HOWEA FORSTERIANA	300MM	2	T2	EUCALYPTUS GLOBULUS	RETAIN
SCREEN PLANTING			T3	PERSEA AMERICANA	RETAIN
			T4	PERSEA AMERICANA	DEAD
SYZYGIIUM CASCADE	250MM	8	T5	MAGNOLIA FIGO	REMOVE
CHAMAEDOREA SEIFRIZII	250MM	5	T6	MORUS SPP.	REMOVE
ORNAMENTAL PLANTS & SHRUBS					
ALOCASIA MACRORRHIZA	300MM	4			
CORDYLINE NEGRA	200MM	4			
RHAPHIOLEPIS 'ORIENTAL PEARL'	250MM	4			
ROSE 'STD' ICE BERG	250MM	3			
LICUALA ELEGANS	300MM	1			
PLECTRANTHUS ARGENTATUS	200MM	6			
ALCANTAREA 'SILVER PLUM'	250MM	5			
GROUND COVER'S & CLIMBERS					
DICHONDRA REPENS	100MM	38			
CISSUS 'ELLEN DANICA'	200MM	9			

LEGEND

NEW TREE

SAPPHIRE LAWN

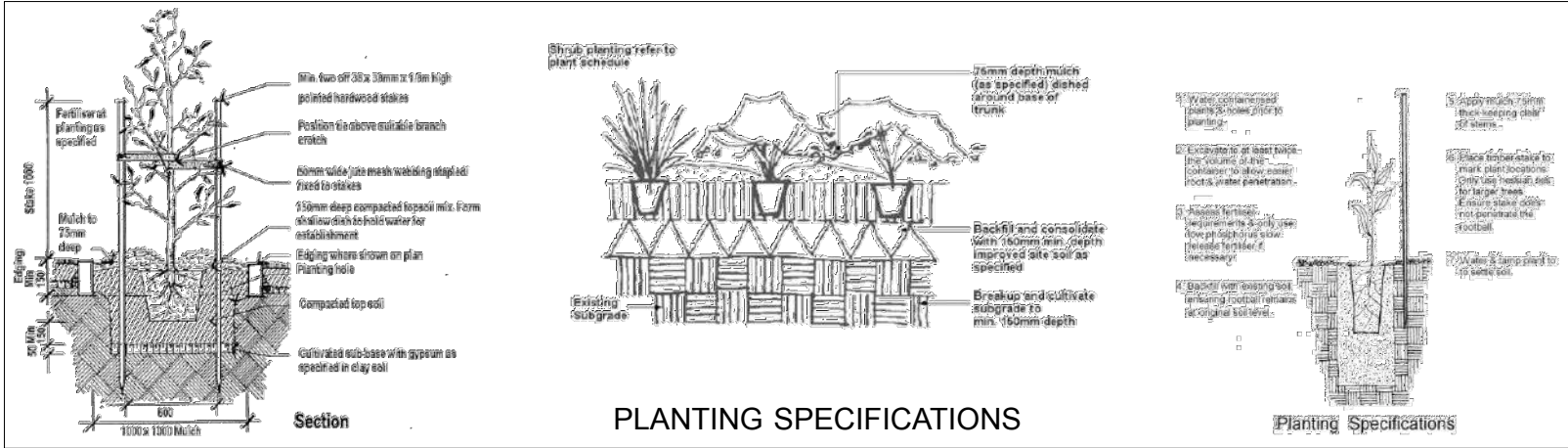
GARDEN AREA

SELECTED
TILES

TREE REMOVED

EXISTING TREE

REFER TO ARCHITECTS PLANS FOR LANDSCAPE AREA CALCULATIONS



CLIENT: MICHAEL ARZANI	PLAN TYPE: LANDSCAPE PLANS	ISSUE: B. AMENDED TO REFLECT CHANGES TO ARCHITECTURAL PLANS.	PAGE: SPECIFICATIONS	 LANDSCAPE DESIGN p. 02 9526 7962
ADDRESS: 22 CHUTER STREET, MCMAHONS POINT	DRAWING INFORMATION:	SCALE AT A3:	DATE: 6/08/25	

Document Set ID: 10550979
Version: 1, Version Date: 25/08/2025



ALOCASIA
MACRORRHIZA



ALCANTAREA
'SILVER PLUM'



CISSUS
'ELLEN DANICA'



LICUALA ELEGANS



CHAMAEDOREA
SEIFRIZII



DICHONDRA REPENS



CORDYLINE NEGRA



HOWEA
FORSTERIANA



RHAPHIOLEPIS
'ORIENTAL PEARL'



ICEBERG ROSE



PLECTRANTHUS
'SILVER'



ELAEOCARPUS
RETICULATUS



SYZYGIIUM CASCADE

INDICATIVE IMAGES

CLIENT: MICHAEL ARZANI	PLAN TYPE: LANDSCAPE PLANS	ISSUE: B. AMENDED TO REFLECT CHANGES TO ARCHITECTURAL PLANS.	PAGE: IMAGES	 LANDSCAPE DESIGN p. 02 9526 7962
ADDRESS: 22 CHUTER STREET, MCMAHONS POINT	DRAWING INFORMATION:	SCALE AT A3:	DATE: 6/08/25	

CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS

CLAUSE 4.3 - HEIGHT OF BUILDINGS

22 Chuter Street, McMahons Point

20th August 2025

Report Ref: P11925 Rev A - APPENDIX A

Prepared for and on behalf of

ARCHITECTIT

Prepared by

MARK SOLOMON

PLANNING INSTITUTE OF AUSTRALIA

(PIA) MEMBERSHIP NO. 7915

ACCESS CONSULTANTS ASSOCIATION
(ACA) ASSOCIATE MEMBERSHIP NO. 651

mark@planurbia.com.au

Mobile 0490 143 274

1.0 INTRODUCTION

This request for a variation to a development standard is submitted in respect of the 'HEIGHT OF BUILDINGS' development standard contained within Clause 4.3 of the North Sydney Local Environmental Plan 2013 (NSLEP 2013).

The request relates to a development application for the construction of a 2-storey in-fill residential dwelling located at 22 Chuter Street, McMAHONS POINT NSW 2060, legally described as Lot 1 in DP737649.

The variation is made pursuant to Clause 4.6 of the North Sydney Local Environmental Plan 2013 (NSLEP 2013).

The request has been prepared with particular reference to the decisions of the Land and Environment Court NSW in respect of:

- ▶ Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118;
- ▶ Four2Five Pty Limited v Ashfield Council [2015] NSWLEC 90;
- ▶ Wehbe v Pittwater Council [2007] NSWLEC 827;
- ▶ Al Maha Pty Ltd v Huajun Investments Pty Ltd [2018] NSWCA (al maha),

and other relevant case law.

2.0 THE DEVELOPMENT STANDARD

2.1 THE APPLICABLE PLANNING INSTRUMENT WHICH SPECIFIES THE DEVELOPMENT STANDARD

North Sydney Local Environmental Plan 2013 (NSLEP 2013).

2.2 THE NUMBER OF THE RELEVANT CLAUSE

Clause 4.3.

2.3 THE PROVISIONS OF THE RELEVANT CLAUSE

Clause 4.3(2)

(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.

The relevant maximum height is **8.5 metres** as illustrated at **Figure 1** below.

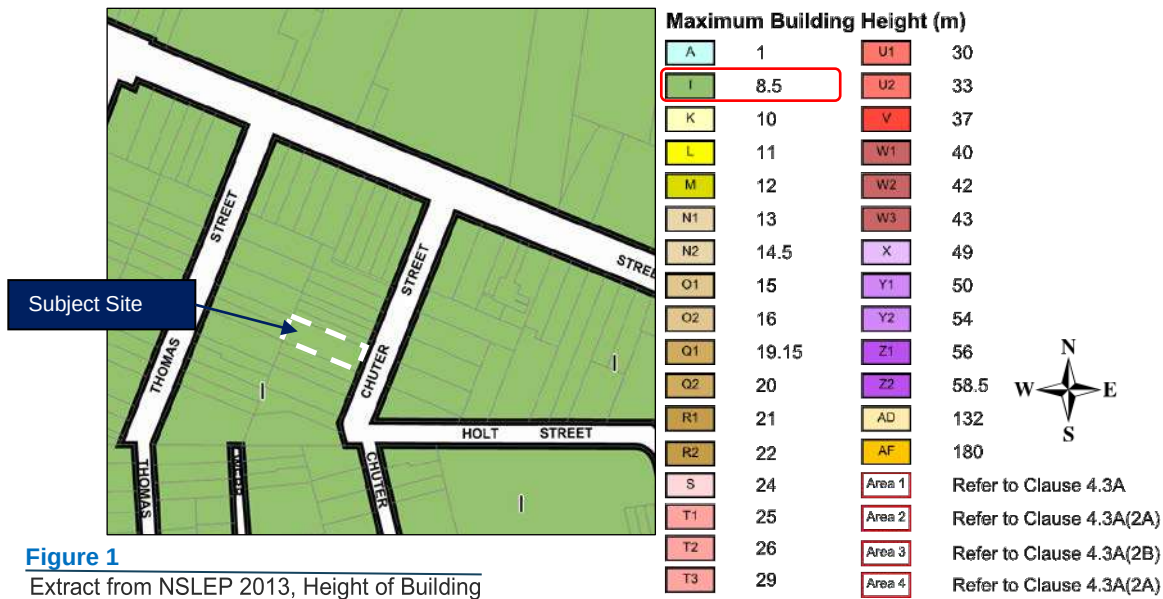


Figure 1
Extract from NSLEP 2013, Height of Building
Map (Map 2A).

3.0 THE CONTRAVENTION SOUGHT

3.1 DESCRIPTION OF THE CONTRAVENTION

Chuter Street has a fall in topography between Union Street to the north and Victoria Street to the south, more pronounced between Union Street and Holt Street which largely bisects Chuter Street into a northern and southern section. The subject site is located within the northern section of Chuter Street, situated between 2-storey attached terrace row developments. The proposed development seeks to construct a 2-storey terrace dwelling with a ridge height that allows the in-fill have a direct and continuous relationship with its neighbours as shown at **Figure 2** below,

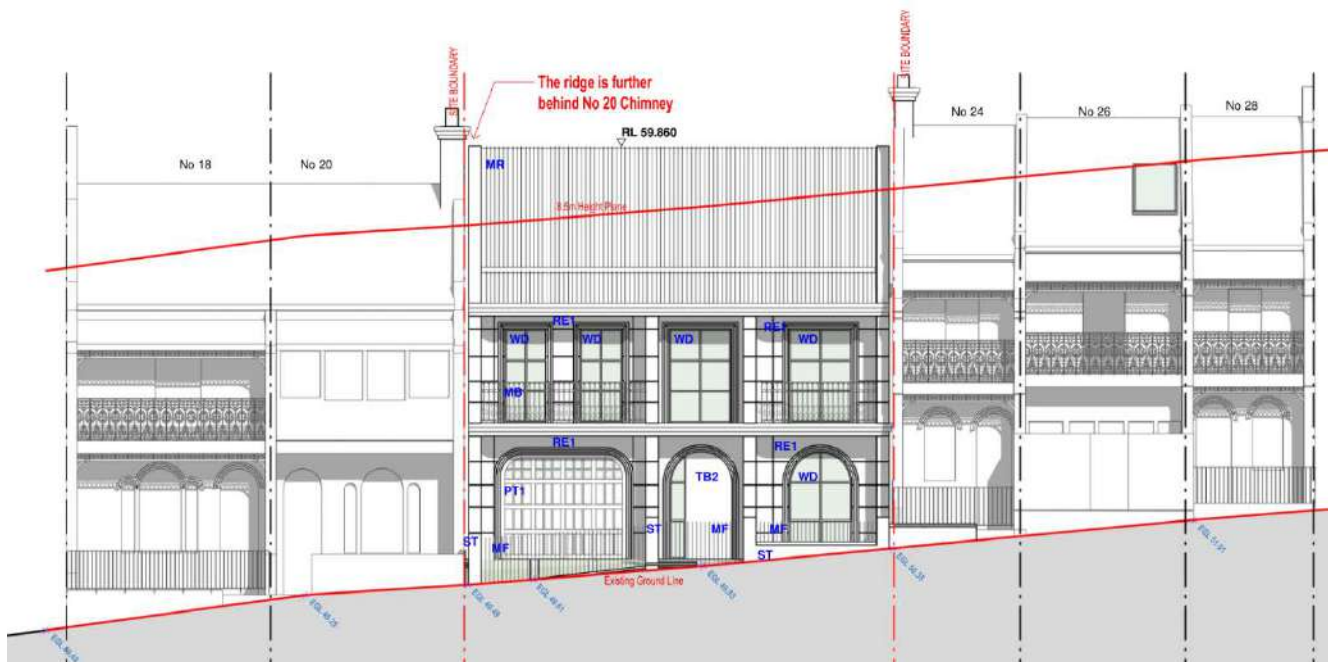


Figure 2

Drawing No. A0201 Rev A (East Elevation).

In order to achieve appropriate height relationship between sites, the adjoining sites themselves exceeding the maximum permitted height plane, will necessitate the proposed infill development to exceed the permitted maximum 'Height of Building' of 8.5m. The departure is localised, limited to the 'major' / principal roof form, having a height ranging between 8.725 metres and 10.36 metres, illustrated at **Figure 3** below:

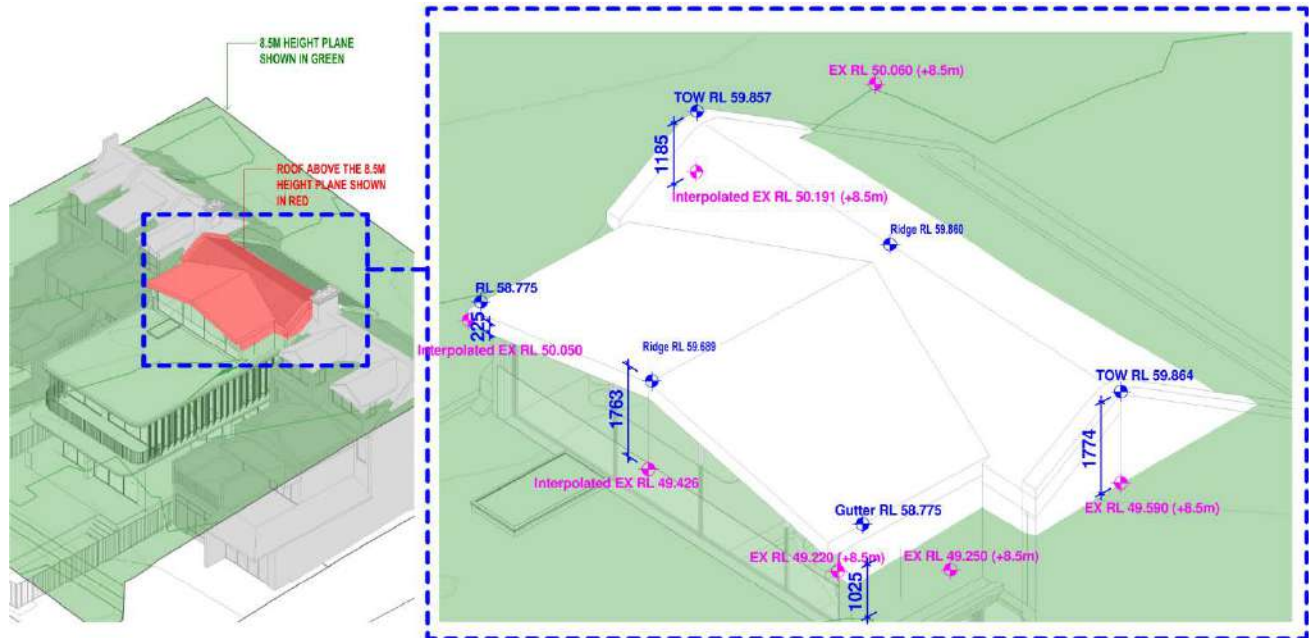


Figure 3

Drawing No. A0650 (Height Plane).

3.2 EXTENT OF THE CONTRAVENTION

Up to 10.36 metres representing a variation 21.88%.

4.0 PROVISIONS OF CLAUSE 4.6

4.1 Clause 4.6(1): Objectives

Table 1 provides an assessment against the objectives of Clause 4.6 below:

TABLE 1		
Cl. 4.6(1) Objectives of Clause		
CLAUSE	OBJECTIVE	JUSTIFICATION
(1)(a)	to provide an appropriate degree of flexibility in applying certain development standards to particular development.	The proposal contravenes the standard which sets a maximum 'height of Building'. It seeks to utilise this clause to provide appropriate flexibility in the application of the standard to permit approval.
(1)(b)	to achieve better outcomes for and from development by allowing flexibility in particular circumstances.	The proposal would achieve better outcomes: For the development: The contravention would result in: ► An appropriate height and scale relationship with its northern and southern neighbours for a more integrated and harmonious outcome across sites.

TABLE 1

Cl. 4.6(1) Objectives of Clause

- ▶ is in accordance with Objectives (c) and (g) under Section 1.3 of the *Environmental Planning and Assessment Act 1979* which seeks to:
 - ▷ promote the orderly and economic use and development of land (Object 1.3(c)); and
 - ▷ to promote good design and amenity of the built environment (Object 1.3(g)).

From the development:

The contravention would result in:

- ▶ an infill development that will deliver a bulk and scale not incompatible with its 2-storey terrace row neighbours to the immediate north and south providing for an integrated form.
- ▶ an infill development that positively relates to the immediately adjacent 2-storey terraces rows in height, scale and proportions, consistent with the prevailing 2 storey terrace row typology development to the sites immediate north and south.
- ▶ minimal environmental impacts to surrounding development with additional overshadowing resulting from the localised departure to the height development standard cast over the roof form of the site to the south known as 20 Chuter Street.

Accordingly, it is considered that the consent authority can be satisfied that the proposal meets the objectives of Clause 4.6 in that allowing flexibility to the 'Height of Building' development standard will achieve a better outcome, through an infill development that is appropriately integrated in form and scale with the 2 storey terrace row groups to the immediate north and south, forming a positive consistent and harmonious relationship with these terrace groups and the streetscape setting.

4.2 Clause 4.6(3): Justification of the Contravention of the Development Standard

Clause 4.6(3) states that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

The justification is provided below.

4.2.1 Clause 4.6(3)(a) – Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Historically the most commonly invoked way to establish that a development standard was unreasonable or unnecessary was satisfaction of the first test of the five set out in *Wehbe v Pittwater Council*. [2007] NSWLEC 827 which requires that the objectives of the standard are achieved notwithstanding the non-compliance with the standard.

The Land and Environment Court in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 has required additional ways of establishing that compliance is unreasonable or unnecessary beyond consistency with the standard and zone objectives to be established. For completeness, this request addresses the five part test described in *Wehbe v Pittwater Council*. [2007] NSWLEC 827, followed by a concluding position which demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case:

1. *the objectives of the standard are achieved notwithstanding non-compliance with the standard;*

The Objectives of the 'Height of Building' Development Standard are reproduced and addressed below at **Table 2**:

Table 2: 'Height of Building' Objectives

TABLE 2	
'HEIGHT OF BUILDINGS' OBJECTIVES	COMMENT
(a) <i>to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,</i>	The dwelling has been designed to step with the topography north to south to present as a 2 storey building with the height at roof ridge (at RL59.86) transitioning between the adjacent dwellings to the north (24 Chuter Street at RL60.35) and the south (20 Chuter Street at RL 58.98), providing a stepped roof ridge line.
(b) <i>to promote the retention and, if appropriate, sharing of existing views,</i>	There are no significant views enjoyed by sites to the east that will be impacted as a result of the development.
(c) <i>to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,</i>	The site has an east-west orientation and it is expected that additional shadows will be cast to the adjacent site to the south (20 Chuter Street) during the winter solstice. The height exceedance is located to the front / 'principal' portion of the proposed dwelling represented by the gable roof form and rear roof extension and as such additional shadow resulting from the departure will be cast over the existing roof planes of adjacent dwellings to the south. Whilst additional shadows will be cast to 20 Chuter Street, it will continue to enjoy solar access to at least 50% of its private open space area from 12.00pm onwards (at the winter solstice).
(d) <i>to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,</i>	Windows along the side elevations extending from habitable areas utilise privacy screens to promote privacy between dwellings and minimise overlooking. The upper level balcony and glazing to the rear roof dormer will overlook properties to the west (rear yards of properties

TABLE 2	
'HEIGHT OF BUILDINGS' OBJECTIVES	COMMENT
	having address to Thomas Street). Notwithstanding it is noted that these properties sit at a much lower level having an existing ground level of up to 3 metres lower than the subject site, and together with the setback from the rear boundary (at 8.140m to the face of the first floor balcony and 21.56 metres to the rear roof extension), will not result in overlooking in a downward direction to the ground level courtyard areas. Privacy screens are employed to the sides of the upper level balcony and the glazing along the southern side of the proposed rear addition to avoid overlooking to the adjacent properties to the north and south.
<i>(e) to ensure compatibility between development, particularly at zone boundaries,</i>	The dwelling has been designed to ensure compatibility in height with adjoining dwellings with a transition in height from north to south, following the fall in the street. The rear built form is a flat roof structure introduced to simplify the roof form (commensurate with typical skillion roofs), and to accommodate the high level of modulation to the proposed design to the front and rear being: ▶ that portion having frontage to Chuter Street which responds to the architectural language within the street; and ▶ the rear addition which is designed to be subservient to the former as would be the case in typical terrace rear wing typology.
<i>(f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.</i>	The design and spatial proportions, with particularly emphasis at the Chuter Street frontage provides a built form that is of a scale and language compatible with adjoining sites and to the diverse housing typology within the street and locality.
<i>(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.</i>	Located within the R3 'Medium Density Residential zone, the built form has a 2-storey building height.

2. *the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

The underlying objectives and purpose of the 'Height of Building' development standard is relevant to the proposed development. However, the proposed development is consistent with those objectives on the basis that the proposed height is consistent and compatible with the height and scale of the 2-storey terrace row groups to the immediate north and south of the subject site, the pattern of development within the visual catchment of the site and will sit comfortably with the context of the site with no significant adverse impacts to adjacent properties or the Chuter Street streetscape.

3. *the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

The underlying objective of the 'Height of Building' development standard is to achieve an appropriate height on the site which is compatible with the context of the site and preserves the amenity and privacy of adjacent properties. Due to the street topography, existing development, design, location and configuration of the proposed development, the proposal successfully achieves these objectives maintaining a scale and visual expression that delivers a harmonious and integrated built form across adjacent sites and along the western side of Chuter Street.

It is considered therefore that strict compliance would result in the defeat of the underlying object and purpose of the height control because it would encourage a less desirable outcome for the subject site where there exists no environmental or amenity impacts and where the established setting in scale and form will be retained.

4. *the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*

The standard has not been abandoned or destroyed. Nonetheless, Council understands that in certain circumstances where the merit for the variation can be demonstrated that strict compliance is unnecessary and unreasonable.

5. *the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

The proposed zoning of the land is considered to be reasonable and appropriate.

The subject site is located within the 'R3 Medium Density Residential' zone and is considered to be reasonable and appropriate. The zone objectives are identified in the **Table 3** and demonstrates that the variation is consistent with the objectives of that zone.

Table 3: R3 Medium Density Residential Zone

TABLE 3	
ZONE OBJECTIVES	COMMENT
<i>To provide for the housing needs of the community within a medium density residential environment.</i>	Notwithstanding that the site is located within a medium density zone, the immediate locality is definitively low density in character. The proposed development retains this predominant and distinctive residential character, particularly along the western side of Chuter Street (north of Holt Street). The proposed dwelling has been designed as a functional, and well delineated and integrated internal spaces that meets the expectations and needs of residents for contemporary 21st century open plan living. The internal living spaces provide direct connections to useable and generous private open space and courtyard areas, with the less activated sleeping areas appropriately located and contained in a separate area. The internal space has been rationalised through the use of a single set of centralised stairs that serve all areas of the dwelling.

TABLE 3	
ZONE OBJECTIVES	COMMENT
	Additionally, the provision of a residential passenger lift caters to the housing needs of residents and future residents and visitors by providing equitable and functional access to a dwelling to the widest range of users in accordance with the principles of 'Ageing in Place' and Liveable / Universal Housing design, which becoming increasingly important as mainstream tenets in the design of new and the adaptation of existing dwellings. The design is compatible with surrounding development being well articulated and modulated through a 'stepped' built form and materials and finishes that is evident in the street, and a formal and well-designed primary facade and front garden that allows the dwelling to sit comfortably within its surroundings.
<i>To provide a variety of housing types within a medium density residential environment.</i>	The proposed development provides a housing type that responds to the low density character along the western side of Chuter Street.
<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	Not Applicable.
<i>To encourage the development of sites for medium density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.</i>	The proposed dwelling does not compromise the amenity of the surrounding area or the natural or heritage values within the street and locality. The dwelling is a well-considered design that shares cues and characteristics with surrounding development in both siting, form, materials, finishes and landscaping qualities, particularly when viewed from the street frontage.
<i>To provide for a suitable visual transition between high density residential areas and lower density residential areas.</i>	This objective relates to the broader strategic significance of scale and height transition over several kilometres, with the proposed dwelling appropriately satisfying this objective by providing a height transition between each of the adjacent dwellings that steps down following the fall in the topography of Chuter Street between Union Street to the north and Holt Street to the south. The façade is broken up into two distinctive bays to replicate the variable allotment widths of terrace house development evident within Chuter Street, resulting in an infill development that is respectful of both street scale and proportions.
<i>To ensure that a high level of residential amenity is achieved and maintained.</i>	The proposed dwelling achieves a high level of internal amenity that provides well connected and discernible living spaces with direct connection to useable and functional external private open space areas not afforded by the existing dwelling. The proposed dwelling steps with the topography of the site allowing for the dwelling to sit comfortably within the site and amongst surrounding residential development, and is assisted by a modulated and articulated form that successfully minimise any perceived bulk and scale when viewed from the public domain and surrounding development.

4.2.2 Clause 4.6(3)(b) – Are there sufficient environmental planning grounds to justify contravening the development standard?

The following environmental planning grounds are sufficient to justify contravention of the development standard:

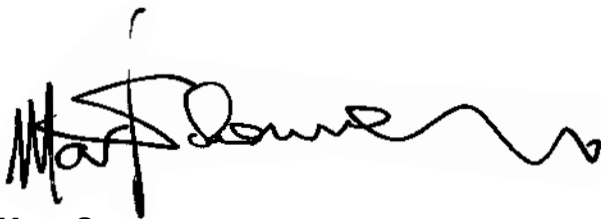
- (1) Is consistent with the relevant objectives of the R3 Medium Density Residential zone and the 'Height of Building development standard under Clause 4.3(1) of the NSLEP 2013;
- (2) The exceedance to the height control does not convey excessive height when viewed against the context of the immediately adjacent 2-storey terrace development to the north and south and Chuter Street more generally.
- (3) The exceedance of the 8.5 metre height plane is a direct result of responding to the existing heights of the adjacent 2-storey terrace development in order to achieve appropriate height transition across sites, forming a contiguous positive relationship to the immediately adjacent 2-storey terrace rows when viewed from the Chuter Street public realm.
- (4) The proposed variation maintains the visual reading of the streetscape, along the western side of Chuter Street, as a contiguous and uniform pattern of development of 2-storey attached terrace rows, interspersed with detached single storey dwellings.
- (5) The departure to the height control is localised and will not be discernible from Chuter Street with the infill development having suitable height relationships to the adjacent 2-storey terrace rows to the immediate north and south, with a stepping down in height that responds to the fall in topography of the street.
- (6) The development has been carefully designed to mitigate any issues associated with the expression of the proposed infill 2-storey dwelling within the streetscape and its relationship to the immediately adjacent terrace row group to the north and south of the site taking cues from the design language existing development that:
 - ▶ successfully breaks up the massing of the front façade that responds to the variable lot widths of terrace development within Chuter Street, and
 - ▶ a height and scale that relates to the immediately adjacent 2-storey terrace row development to the north and south.
- (7) Sits comfortably within the context and setting of the site, with no significant adverse impacts to adjacent or surrounding development by way of bulk, scale, overshadowing, privacy, or view loss.
- (8) The proposed area of the height non-compliance does not result in any unreasonable impacts to the adjacent sites.
- (9) The proposed development achieves the objects in Section 1.3 of the *EPA Act 1979*, specifically:
 - ▶ The proposed in-fill dwelling is consistent with the general bulk and scale of the existing immediately adjacent 2-storey terrace row dwellings to the north and south of the site, with an architectural language that gestures to the established architectural cues throughout Chuter Street and the wider HCA, representing the orderly and economic use of the land (cl 1.3(c)).
 - ▶ The proposed development will provide for improved amenity through a more functional floor space within a built form that is harmonious with and compatible to development in the surrounding area, representing the orderly and economic use of the land (cl 1.3(c)).

- ▶ The proposed new in-fill dwelling is considered to promote good design consistent with the Objective 1.3 (g):
 - ▷ with a design language that is interpretative of its context by gesturing to established architectural cues throughout Chuter Street and the wider HCA;
 - ▷ the successful breaking up of the allotment width and massing of the dwelling by providing two distinctive bays that reflect the variable allotment widths of terrace development within the immediate vicinity of the site; and
 - ▷ delivers enhanced residential amenity of the building's occupants and the immediate area.

In summary, it is considered that there are sufficient planning grounds that strict compliance with the development standard in this instance is unreasonable and unnecessary.

5.0 CONCLUSION

The proposed variation to the 'Height of Buildings' development standard contained within Clause 4.3 of North Sydney Local Environmental Plan 2013 has been found to be reasonable and appropriate in the circumstances of the case. In addition there are sufficient environmental planning grounds to justify the variation. In this regard it is reasonable and appropriate to vary the 'Height of Buildings' development standard to the extent proposed.



MARK SOLOMON

DIRECTOR

PLAN URBIA PLANNING AND ACCESS CONSULTANTS

PLANNING INSTITUTE OF AUSTRALIA (PIA) MEMBERSHIP No. 7915

ACCESS CONSULTANTS ASSOCIATION (ACA) ASSOCIATE MEMBERSHIP 651

General notes & cautions:

This plan has been prepared for the purpose of general planning and design only and has not been undertaken for critical identification, measurement or setout of features in relationship to boundaries

This plan has been generated from a digital computer model. Due to scale constraints, not all information can be shown on the plan & it is recommended to utilise a suitable CAD application to extract all information. All information extracted from a CAD model is to be used in accordance with these notes & all advice from Geo Pos Pty Ltd. No guarantee is given for accurate transfer between applications, as such the accuracy & validity of all information should be checked prior to inquiry & use.

Ensure all notes and cautions in all parts of this plan are fully reviewed, considered and understood. If any confusion, misunderstanding, error, discrepancy or conflicting information is encountered, clarification in writing must be obtained from Geo Pos Pty Ltd.

Tree details are approximate only and should be confirmed by a suitably qualified arborist. Roots have been observed where visually found only.

Cadastral notes & cautions:

It is strongly advised to review an up to date title search and give careful consideration to all items prior to any planning and/or construction.

Parcel boundary dimensions* bearings and areas have been adopted from the subject deposited plan and have not been investigated, other than mathematical closure validation.

Utility notes & cautions:

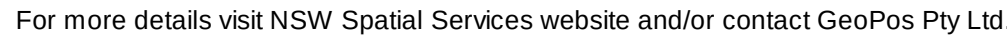
Services have been located where found at ground level only. Underground services have not been located by survey. Underground service lines as shown on this plan have been interpolated by from the records of the relevant authorities and comparison of these records to ground features as located. The following Dial Before You Dig responses were requested and all relevant files should accompany this plan:
Job: 38098339 - 20/11/2024.

It is strongly recommended that users exercise a high degree of caution and fully investigate all subterranean utilities with a suitably qualified service locator to Quality Level 'A' (AS 5488-2019 Classification of Subsurface Utility Information) prior to any excavation, construction works or cr design work.

If this plan is printed in black and white or grayscale, the absence of correct colour renders the plan non-compliant with the Australian Standard 5488-2019 - Classification of Subsurface Utility Information.

Survey infrastructure preservation cautions:

Survey marks are protected under the Surveying and Spatial Information Act. Penalties ranging from \$2750 to \$10000 are applicable per mark for unauthorised removal, damage or disturbance. Types of marks are State Survey Marks, Permanent Marks, Galvanised Iron Pipes, Concrete Blocks, Alignment Pins, Drill Hole & Wings, etc.



17th November 2025

NORTH SYDNEY COUNCIL
Mr Michael Hornery
Executive Assessment Planner
PO Box 12,
NORTH SYDNEY NSW 2059

Our Reference: P15524 - RevA

COUNCIL REFERENCE:	DA289/2025 (PAN-571821)
DEVELOPMENT ADDRESS:	22 CHUTER STREET, McMAHONS POINT NSW 2160
DESCRIPTION:	CONSTRUCTION OF 2-STOREY RESIDENTIAL DWELLING

Dear Michael,

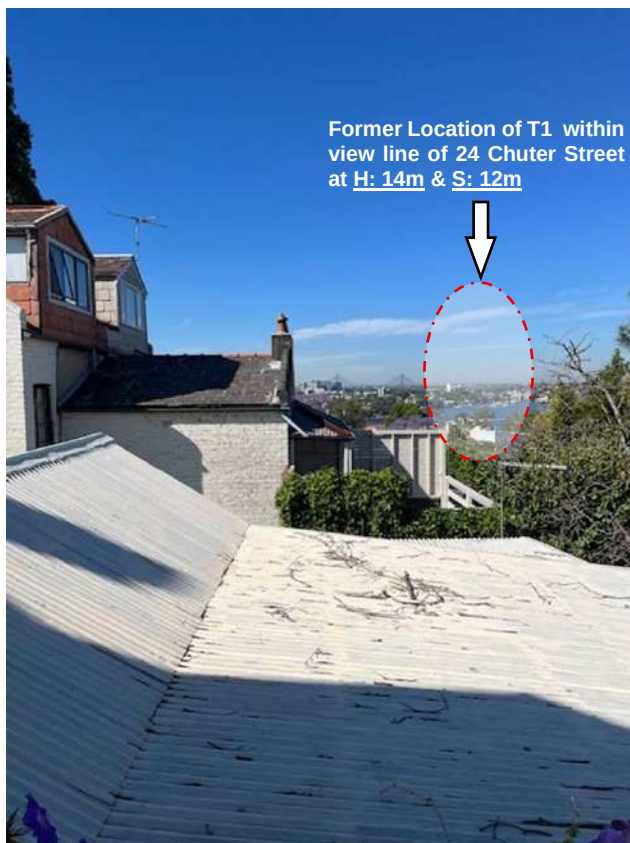
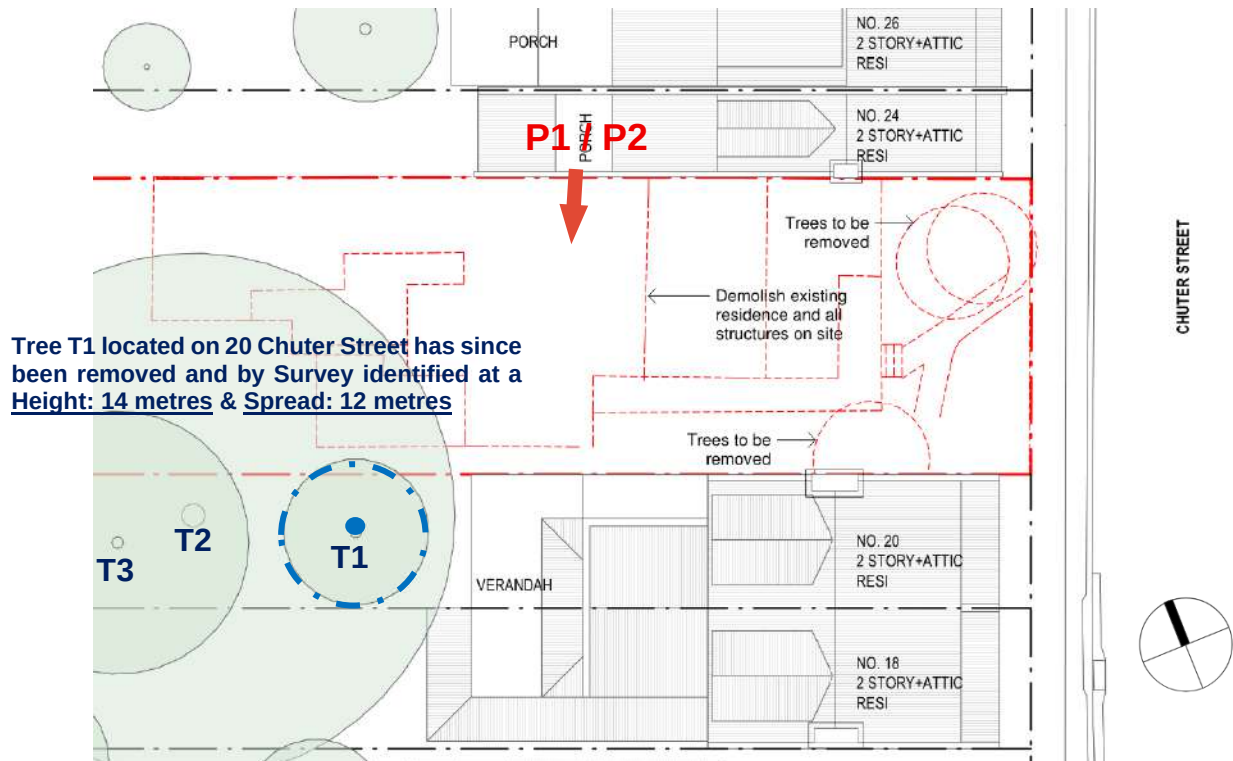
Reference is made to your e-mail dated 11th November 2025 to Milad Farrokhi of ARCHITECTIT requesting that a View Analysis be undertaken in light of a submission made by the adjacent site to the north at 24 Chuter Street, McMahon's Point (the "Affected Site"), giving consideration to the Land and Environment Court's Planning Principles for view sharing established in *Rose Bay Marina Pty Ltd v Woollahra Municipal Council and anor* [2013] NSWLEC 1046 and *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140.

An opportunity for a site inspection of the "Affected Site" is not available and as a consequence reliance is given to the photographs taken by Michael Hornery, Executive Assessment Planner, North Sydney Council, received under e-mail dated 11th November 2025. It has been assumed that the photographs are a true representation of the 'outlook' without magnification, that is 'true eyesight'. It is noted too that all photographs have been taken from the first floor rear porch / deck area in a standing position, understood to extend from a bedroom.

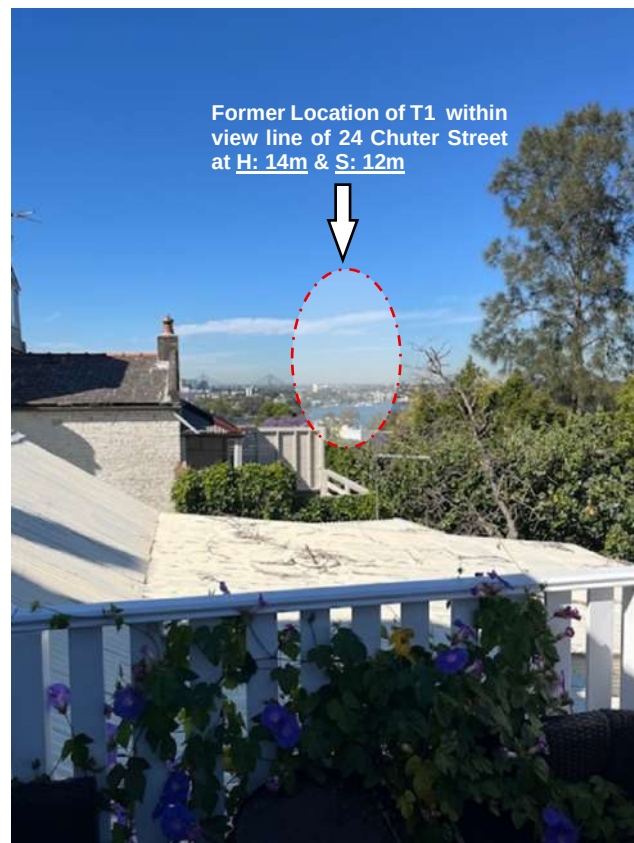
In order to allow a qualitative assessment of the visual impact and view loss the following photographs demonstrate the former and present context and extent of the view from the "Affected Site" (24 Chuter Street) across the subject site (22 Chuter Street) and subsequent sites beyond to the north along Chuter Street and surroundings.

It is noted that the view lines from the "Affected Site" towards Balls Head Bay and Anzac Bridge beyond (distant) were formerly obstructed by a tree sited within 20 Chuter Street having a height of 14 metres and a canopy spread of 12 metres, which at best would have provided only filtered views. This tree has since been removed affording 24 Chuter Street with unobstructed but distant views of the waterway and the Anzac Bridge beyond. Additionally, the constructed deck area extending from the upper level balcony is contemporary and Council records are not available at the time of this assessment to demonstrate that the structure is authorised, not being a typical element to buildings of this period.

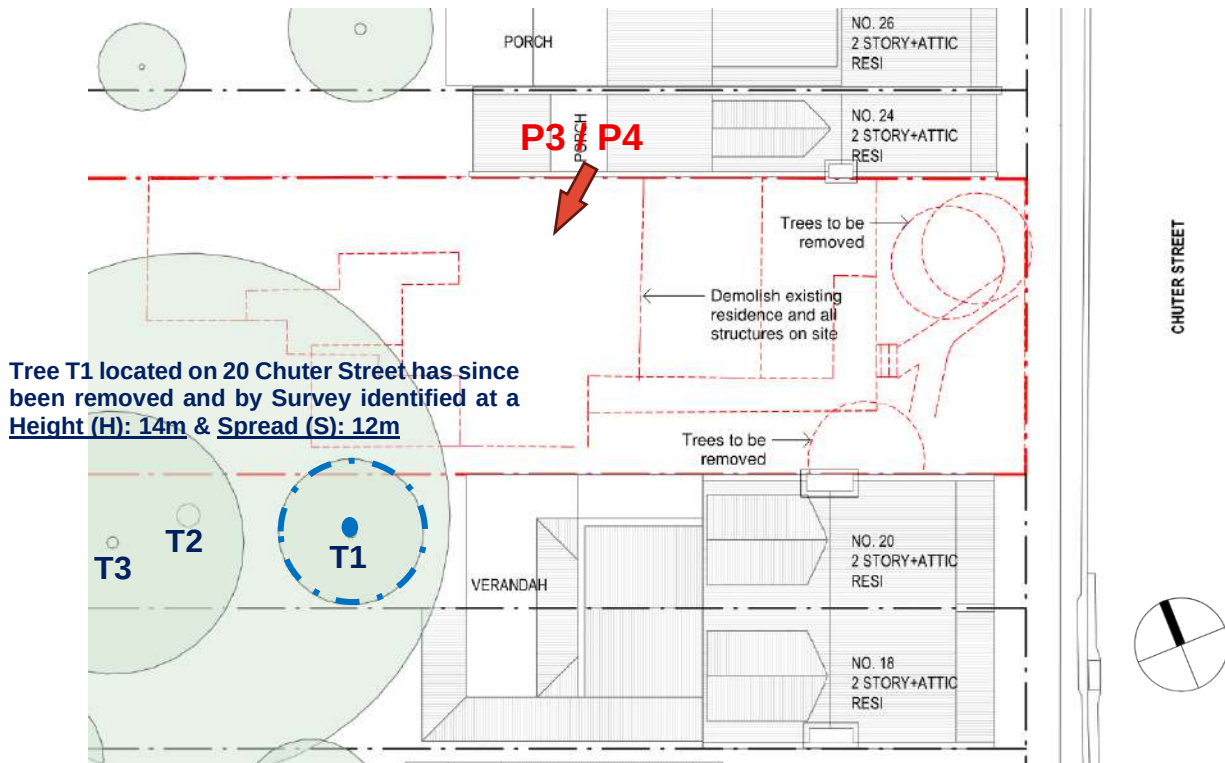
Photographs 1 to 7 provide the extent of the present view, acknowledging that these views have only recently 'opened up' due to the removal of a significant tree identified as Tree 1 below, having a height of 14 metres and canopy spread of 12 metres.

**Photograph 1**

View from L1 porch of 24 Chuter Street looking south west across side boundary of 22 Chuter Street.

**Photograph 2**

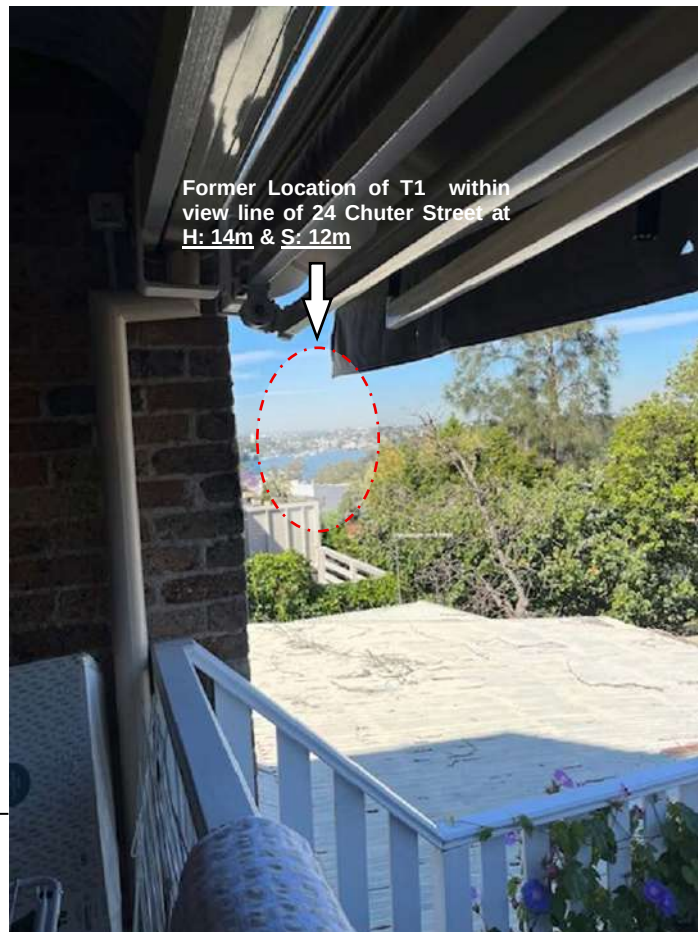
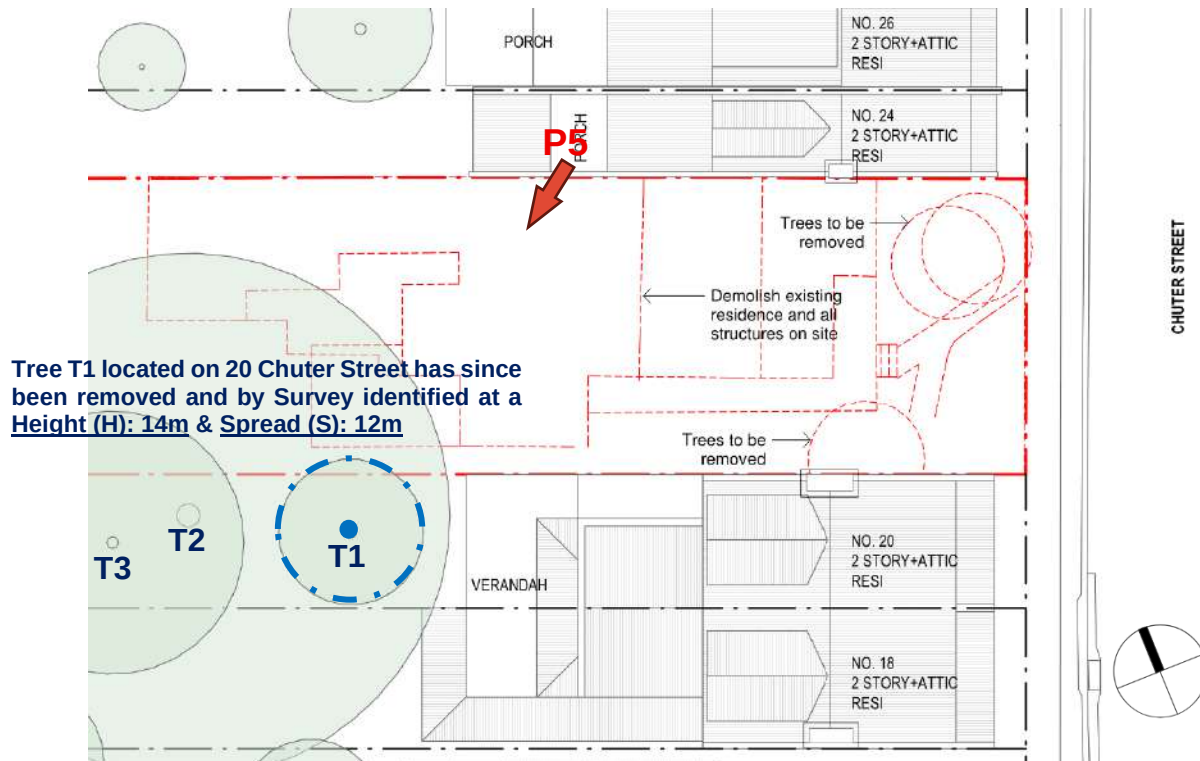
View from L1 porch of 24 Chuter Street looking south west across side boundary of 22 Chuter Street.

**Photograph 3**

View from L1 deck of 24 Chuter Street looking south west across side boundary of 22 Chuter Street.

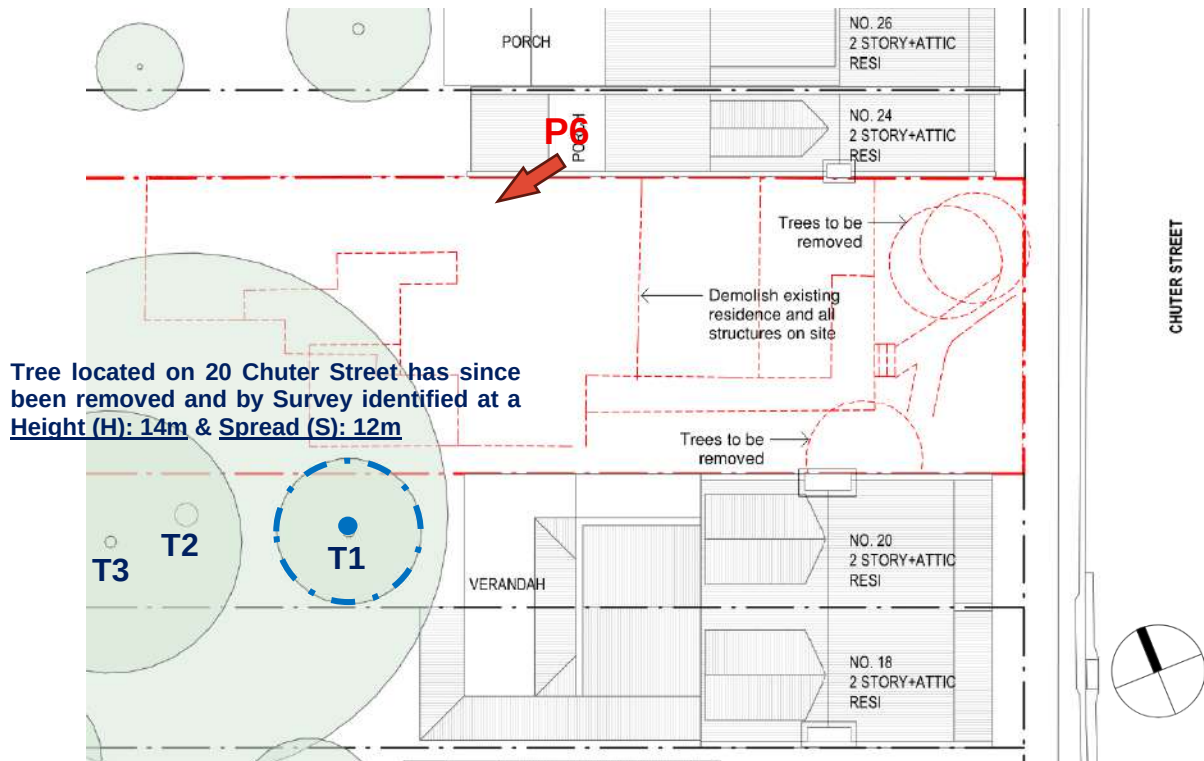
**Photograph 4**

View from L1 deck of 24 Chuter Street looking south west across side boundary of 22 Chuter Street.



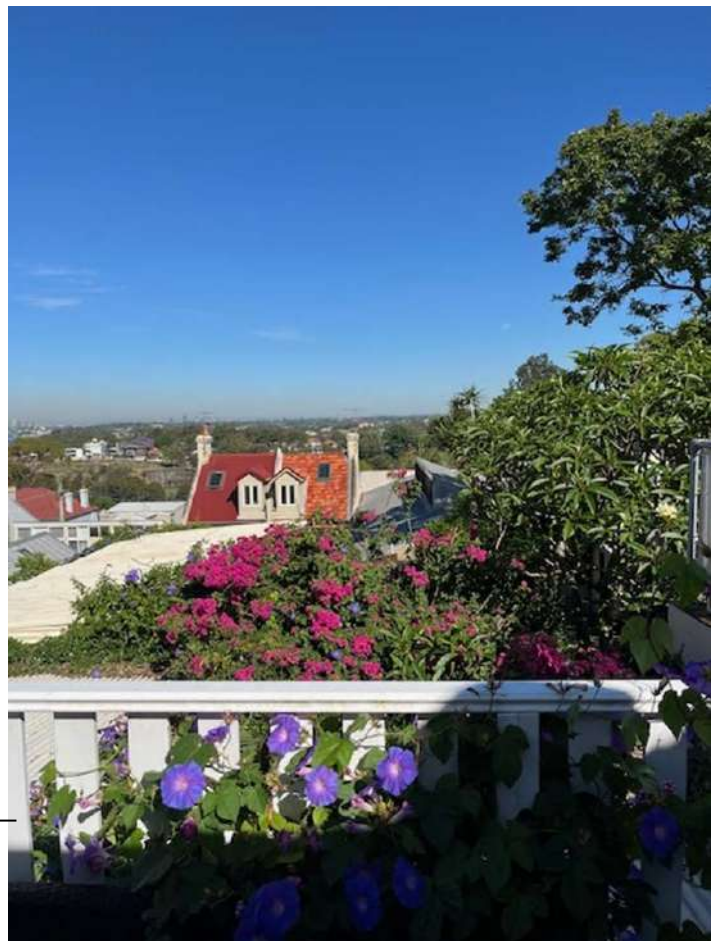
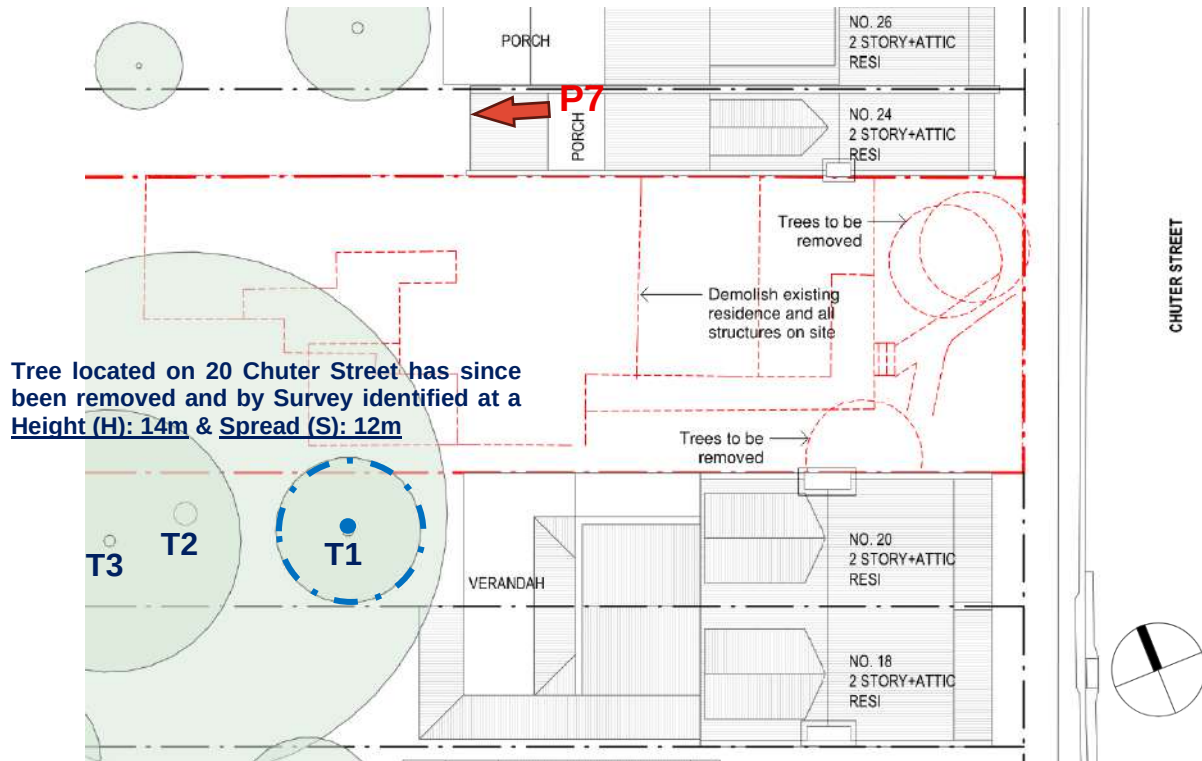
Photograph 5

View from L1 porch of 24 Chuter Street looking south west across side boundary of 22 Chuter Street.



Photograph 6

View from L1 deck of 24 Chuter Street looking west across side boundary of 22 Chuter Street.



Photograph 7

View from L1 deck of 24 Chuter Street looking west towards rear of site – District views.

Planning Principles – View Sharing

Tenacity Consulting v Warringah Council [2004] NSWLEC 140

Planning Principles for view sharing have been established in *Tenacity Consulting v Warringah Council [2004] NSWLEC 140*. This Planning Principle establishes a four-step assessment to assist in deciding whether or not view sharing is reasonable:

Step 1: Assessment of views to be affected - Water views are valued more highly than land views. Iconic views (e.g., of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

Comment

Whilst views to the waterway are considered as valuable, in the circumstances of this assessment the value is diminished being:

- ▶ only a partial view of the waterway (Balls Head Bay) with no interface between water and land visible,
- ▶ a view that was up until recently obscured by a tree that has very recently been removed from the adjacent site to the south at 20 Chuter Street, that would have afforded only filtered views at best; and
- ▶ that any benefit of the view can only be achieved in a standing position and from a structure that cannot be confirmed to be 'regularised'.

Step 2: Consider from what part of the property the views are obtained - For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

Comment

The views towards Balls Head Bay and Anzac Bridge beyond, considered as distant views, are across side boundaries with the subject view line at a 90° angle when viewed from 24 Chuter Street across the subject site of 22 Chuter Street. Additionally,

- ▶ it is noted that the view was once obscured by a tree that occupied the view line space providing at best only filtered views of the waterway and Anzac Bridge beyond and which has now been made available.
- ▶ at the area of the deck, the view is only enjoyed in a standing position area and whilst this does not derogate from any enjoyment received does limit the benefit of the of the view.
- ▶ views from the balcony (from which the deck area extends) only benefits from the view when standing directly adjacent to the balustrade and will not be readily visible (oblique views at best) in any other position within the balcony area (standing or sitting position).

- The balcony and associated attached deck extend from a bedroom limiting the availability of these areas largely to the occupant of that room only, and as such does not cater to the widest range of users, that is all occupants of and visitors to the premises.

Step 3: Assess the extent of the impact - This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

Comment

To assess the visual impact, there are 2 relevant aspects - view loss of actual substance (landscape, middle and distance view elements etc.) and also direct sky view loss. To a large extent, the value associated with a view is subjective, although a range of relative values can be assigned to assist with comparing views. The Table below is a scale of values from 0 to 15, used to allow a numeric value to be given to a particular view, for the purposes of comparison. On the same table are a series of values, from 0 to 15, that reflect the amount of visual impact.

The second means of assessment relates to assigning a qualitative value to the existing view, based on criteria of visual quality defined in the table.

TENACITY / SCALE / VALUE		VISUAL IMPACT		VISUAL QUALITY
NIL	0	NEGLIGIBLE	No negative impact on the pre-existing visual quality of the view	N/A
	1	LOW	A minor negative impact on the pre-existing visual quality of the view Examples: minor impact on natural landscapes no impact on iconic views impact on small number of receivers significant distance between the development and receiver	Predominant presence of low quality man made features Minimal views of natural formations (e.g. cliffs, mountains, coastlines, waterways, ridges etc.) Uniformity of land forms
NEGILIBLE	2			
	3			
	4			
MINOR	5	MEDIUM	A medium negative impact on the pre-existing visual quality of the view Examples: moderate impact on iconic views or natural landscapes impact on moderate number of receivers located nearby the receiver	Presence of some natural features mixed with manmade features Some views of distinct natural formations (e.g. cliffs, mountains, coastlines, waterways, ridges etc.)
	6			
MODERATE	7			
	8			
SEVERE	9			
	10	HIGH	A high negative impact on the pre-existing visual quality of a view Examples: loss of iconic vie impact on significant number of receivers overshadowing effect directly adjacent the receiver	Predominantly natural features Minimal manmade features, however if present of a high architectural standard Significant views of distinct natural formations (e.g. cliffs, mountains, coastlines, waterways, ridges etc.) Presence of iconic regional views of landmark features
DEVASTATING	11			
	12			
	13			
	14			
	15			

Having regards to the photographs presented earlier within this assessment, and as previously discussed, the view has been recently acquired to its fullest extent with 100% of the visual impact observed across the property's side boundary. The visual impact of the proposal from the location of the deck / balcony area will result in the loss of distant water views (water interface only) and very distant Anzac Bridge to the south west towards Balls Head Bay with some loss of district views to the west towards Waverton Park.

The view impact is limited to the upper level balcony and deck area extending from a bedroom and as such will be utilised by limited number of users (largely to the occupant of the bedroom), with bedrooms considered areas of low activity. Additionally, elevated balconies and decks to side boundaries and within 3 metres of that boundary would require 1.6 metre privacy screens, which the deck to 24 Chuter Street does not have, and which would serve to itself obstruct view opportunities across side boundaries, assuming that the deck itself is an authorised structure.

Having regard to the function and use of the bedroom, the limited area from which views are obtained from the balcony (covered area) the impact is assessed as minor.

In summary, having regard to the matters raised in this assessment and based on the “tenacity Scale” presented in the Table above:

View Location: Upper level balcony / deck - bedroom

Value of View (Visual Quality): Moderate (7)

Extent of Impact: Minor (6)

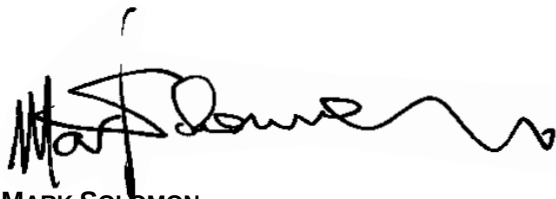
Step 4: assess the reasonableness of the proposal that is causing the impact - A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skillful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

Comment

The proposal is largely compliant with the exception of the departure to ‘Height of Building’ to the principal roof form which lies outside of the area of view impact. It is noted that even were the proposed dwelling be further setback to retain any recently acquired view / ameliorate view loss, the preserving of views accessed across the central portion of the subject site (22 Chuter Street) and across site boundaries at 90°, would significantly reduce the development potential of the site and considered unreasonable given the circumstances of the location where views are accessed (a low activity area), across a side boundary, the distant nature of and the moderate quality of the view seeking to be retained.

Should you wish to discuss any matters contained in this letter or require further clarification do not hesitate to contact the writer on mobile **0490 143 274** or by e-mail at **mark@planurbia.com.au**.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Mark Solomon', with a stylized, flowing script.

MARK SOLOMON

DIRECTOR

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