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## **Bayside Planning Panel**

**27/06/2017**

Item No	5.1
Application Type	Development Application
Application Number	DA-2016/65
Lodgement Date	17/08/2015
Property	<b>95 Preddy's Road, Bexley North NSW 2207</b>
Owner	Ms S Hashem
Applicant	Ms A Salameh
Proposal	Proposed detached dual occupancy. Retaining existing dwelling and construction of a new two storey dwelling with basement. Consolidation of 4 lots into 2 lots and Torrens Title subdivision
No. of Submissions	No submissions
Cost of Development	\$400,000
Report by	Michael Maloof, Senior Development Assessment Planner

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## **Officer Recommendation**

That Development Application DA-2016/65 for a proposed detached dual occupancy, retaining the existing dwelling and construction of a new two storey dwelling with basement and consolidation of 4 lots into 2 lots and Torrens Title subdivision be APPROVED pursuant to Section 80(1)(a) of the Act and subject to the conditions of consent attached to this report.

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## **Attachments**

- 1 Planning Assessment Report
  - 2 Clause 4.6 Variation – Building Height
  - 3 Proposed Site Plan and Proposed Elevations
  - 4 Proposed Subdivision Plan
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## Location Plan



# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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<b>Application Number:</b>	DA-2016/65
<b>Date of Receipt:</b>	17 August 2015
<b>Property:</b>	95 Preddy's Road, BEXLEY NORTH NSW 2207 Lot 1 DP 455499 Lot 2 DP 455499 Lot 3 DP 455499 Lot 4 DP 455499
<b>Owner:</b>	Ms Sandra Hashem
<b>Applicant:</b>	Ms Amani Salameh
<b>Proposal:</b>	Proposed detached dual occupancy. Retaining existing dwelling and construction of a new two storey dwelling with basement. Consolidation of 4 lots into 2 lots & torrens title subdivision
<b>Recommendation:</b>	Approved
<b>No. of submissions:</b>	No submissions received
<b>Author:</b>	Michael Maloof
<b>Date of Report:</b>	13 June 2017

### Key Issues

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The key issues related to this application are:

- The proposed development fails to satisfy Clause 4.3 of Rockdale Local Environmental Plan 2011 (RLEP2011), which prescribes a maximum height of buildings of 8.5m.
- The application is accompanied by a written Clause 4.6 submission which seeks to vary the numerical provision of Clause 4.3. The proposed maximum height of buildings is 9.475m, which exceeds a 10% variation of the development standard. Accordingly, this application is reported to the Bayside Planning Panel.
- The site is flood affected

### Recommendation

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That this Development Application be **APPROVED** pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.

### Background

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## History

Council's records show that the following applications were previously lodged on the subject site:

- DA-2009/331, Consolidation of 4 lots and Torrens title subdivision into two lots - Approved on 21 May 2010 - this plan included a concept plan for the proposed lot
- CC-2011/297, Construction of driveway retaining wall, drainage and guard rail- Approved on 11 September 2012

The current application the subject of this report (DA-2016/65) was lodged with Council on 17 August 2015 and seeks to retain the existing dwelling house and construct a detached dual occupancy dwelling to the rear comprising a two storey dwelling house with basement storage and attached garage, construct a double garage at the front of the site and consolidate the site (four lots) into 2 lots under Torrens Tittle subdivision.

## Proposal

Council is in receipt of a development application DA-2016/65 at 95 Preddy's Road BEXLEY NORTH NSW 2207, which seeks consent for a detached dual occupancy which will retain the existing dwelling house at the front of the site and construct a new two storey dwelling with basement at the rear fronting Coveney Street with consolidation of 4 existing lots and Torrens Title subdivision into 2 new lots.

The proposal consists of:

- The new dwelling will include an entry, lounge, kitchen, dining/family room, bathroom/laundry on the ground floor, and four bedrooms, ensuite, bathroom and one balcony on the first floor
- A basement storage room (not car parking) which is accessible from within the dwelling house
- One attached single car garage attached to the dwelling with an open single car parking space in front of the dwelling on the driveway and a detached double garage for the front dwelling in the front setback which is lower than the street level
- Vehicular access to site via a driveway directly from Preddy's Road to both dwellings
- Pedestrian entry to the proposed dwelling will be at the end of the driveway (from Preddy's Road) with visitors walking up the driveway to the front door

## Site location and context

The subject site is known as Lots 1, 2, 3 and 4 in DP 455499 at 95 Preddy's Road, BEXLEY NORTH NSW 2207. The site is a triangular shape with a front boundary width of 39.15m which is at an angle resulting in the rear boundary having a width of 2.43m at the Coveney Street frontage. The side boundaries are 52.88m deep (south) and the angled combined boundary (north) is 63.79m. The total site area is 590 sq.m. The topography of the site is such that it has a moderate fall to the front at Preddy's Road from Coveney Street of 1.8m (RL 25.3 to RL 23.5).

The subject site contains a one-storey dwelling house and detached garage at the side of the dwelling along the northern boundary. The site is located on the western side of Preddy's Road between Stoney Creek Road and Alston Street. Adjoining development to both sides of the site includes open space land which is undeveloped and contains an unformed street (Soudan St) to the south and park to the north at 12A Coveney Street. To the west on the opposite side of Coveney Street are single storey dwelling houses and opposite the site to the east on Preddy's Road is the Bexley Swimming Pool entry and car park. There is a mix of one storey and two storey residential buildings within close proximity to the subject property.



The proposal will involve the removal of three existing mature trees. However appropriate conditions are to be included in the Draft Notice of Determination regarding protection of existing trees and/or provision of compensatory planting.

## Statutory Considerations

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### *Environmental Planning and Assessment Act, 1979*

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

### **S.79C(1) - Matters for Consideration - General**

#### **S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

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

The applicant has submitted a BASIX Certificate for the proposed development. The Certificate number is 637192S.

The commitments made result in the following reductions in energy and water consumption:

Reduction in Energy Consumption 52 %

Reduction in Water Consumption 42 %

Thermal Comfort Pass

A condition has been imposed on the consent to ensure that these requirements are adhered to.

### **Rockdale Local Environmental Plan 2011**

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R2 Low Density Residential	Yes	Yes - see discussion
2.6 Subdivision - consent requirements	Yes	Yes - see discussion
4.3 Height of buildings	Yes - see discussion	No - see discussion
4.4 Floor space ratio - Residential zones	Yes	Yes - see discussion
4.6 Exceptions to development standards	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 5	Yes	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.4 Airspace operations	Yes	Yes - see discussion
6.6 Flood Planning Land	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes

### 2.3 Zone R2 Low Density Residential

The subject site is zoned R2 - Low Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (LEP 2011). The proposal is defined as a rear detached dual occupancy development which constitutes a permissible development only with development consent. The objectives of the zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area.

The proposed development is consistent with the objectives of the zone.

### 2.6 Subdivision - consent requirements

The proposal will include the consolidation of the existing four (4) lots which make up the site into one lot and then the subdivision of the land into two lots under Torrens Title. The proposed lots will have areas of 511m<sup>2</sup> (front) and 464m<sup>2</sup> (rear battle axe lot). As such, the proposal seeks to comply with the requirements of this clause.

### 4.3 Height of buildings

The height of the proposed building is 9.475m (RL 32.375 - NGL RL 22.9) measured from natural ground level which exceeds the maximum height control of 8.5m (by 0.975m or 11.5%) permitted in Clause 4.3 (Height of buildings) of LEP 2011.

The applicant's request to vary the development standard Clause 4.3 (height of buildings) has been discussed later in this report in accordance with section 4.6 of the Rockdale LEP 2011.

### 4.4 Floor space ratio - Residential zones

The gross floor area of the total residential development on the site has been calculated as 435m<sup>2</sup> over a site area of 1,050m<sup>2</sup>. In this regard, the proposed floor space ratio (FSR) for the entire development is 0.414:1 and therefore does not exceed the maximum FSR for the land (0.5:1) as shown on the Floor Space Ratio Map.

The gross floor area of the proposed rear detached dwelling has been calculated as 275m<sup>2</sup> over a site area of 590m<sup>2</sup> (which includes part of the battle axe handle). In this regard, the proposed floor space ratio (FSR) for the proposed development is 0.47:1 and therefore does not exceed the maximum FSR for the land (0.5:1) as shown on the Floor Space Ratio Map.

Further, the proposed density is in accordance with the desired future character of Rockdale, will have minimal adverse environmental effects on the use or enjoyment of adjoining properties, and will maintain an appropriate visual relationship between new development and the existing character of area.

Accordingly, the proposed FSR for the development meets the objectives and satisfies the maximum FSR permitted by Clause 4.4 in LEP 2011.

### 4.6 Exceptions to development standards

The applicant seeks to vary the development standard relating to maximum permissible height of building in accordance with Clause 4.6 of the RLEP 2011. The objectives of Clause 4.6 are as follows:

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

With regards to the above, the consent authority is required to consider a written request from the applicant justifying a variation to the standard by demonstrating:

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

Further, Clause 4.6(4) requires that development consent must not be granted for development that contravenes a development standard unless:

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

### **Development Standard to be Varied**

The proposal seeks to vary the maximum height control of 8.5m under clause 4.3 of Council's LEP 2011 which applies to the site. The development proposes a maximum building height of 9.475 metres (RL 32.375), which exceeds the maximum permissible height of 8.5m by 0.975 metres (11.5%).

The objectives of Clause 4.3 of the RLEP 2011 are as follows:

- (a) to establish the maximum height limit within which buildings can be designed and floor space can be achieved,*
- (b) to permit building heights that encourage high quality urban form,*
- (c) to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and public domain*
- (d) to nominate heights that will provide an appropriate transition in building form and land use intensity.*

### **Justification of the Variation**

Within the Applicant's submitted justification, the following statement is provided:.

- *The height has been increased to meet the flood levels applying to the site (minimal habitable*

floor level)

- *The proposal does not impact on any existing views and does not obstruct sky exposure as the bulk of the building is setback 3m from the existing dwelling and 17m from the nearest street.*
- *The neighboring properties are vacant land have a varying slope with a significant fall. As such, there are no adverse impacts on adjoining dwellings.*
- *Strict compliance with the standard would hinder the economic development of the land despite the proposal having a similar building scale to other recently constructed residential developments*
- *The site is in a unique location with flood management requirements and the variation would have no impacts on any adjoining properties or the amenity of the locality*
- *In this circumstances of the case, strict application of the development standard is unreasonable and inappropriate due to the existing use of land and current environmental character of the locality.*
- *Clause 4.3 has not been excluded from the operation of clause 4.6 of the RLEP 2011*
- *The proposal is consistent with the objectives of the standard being varied.*
- *In this instance, the application of clause 4.6 of the RLEP would provide flexibility and enhance the amenity of the proposed dwelling for the future occupants of the site*
- *Given the context of the site which is located in a valley the proposed variation to the height control is minor and not likely to result in any loss of views from the adjoining properties. It will also allow the use of the rear of the site.*
- *Strict application of the standard is not appropriate in this instance given the unique location and site constraints.*

### **Council's Comments:**

The development seeks consent for a permissible form of development, with Council consent, and is accompanied by a Clause 4.6 submission to vary the maximum permissible height of the building. The development has provided a minimum habitable floor level in accordance with Council's Flood Management Plan dated December 2015 and designed the dwelling house in a manner which is sympathetic to its surrounds. Accordingly, the departure to the standard, as discussed in the applicant's submission above, has successfully demonstrated to have no material impacts on the site or its immediate surrounds. Given the location of the site in the valley along this part of Preddy's Road Council accepts variations to the maximum permissible height of building on the basis of flood affectation.

Strict compliance with the development standard relating to maximum permissible height of building is considered unreasonable and unnecessary in this instance. Insistence upon achieving the relevant development standard for height would thwart the attainment of the objectives of Clause 6.6 of the RLEP 2011 relating to flood planning, namely Clause 6.6(1a) to minimise the flood risk to life and property associated with the use of the land.

Given the location of the subject site the proposed height variation will have minimal adverse impact on the adjoining properties in terms of building dominance, solar access, light and air and therefore the proposed height of 9.475m satisfies the relevant objectives of Clause 4.3 in RLEP 2011.

The proposal satisfies the objectives of the R2 - Low Density Residential Zone by providing for the ongoing housing needs of the community as well as satisfying the objectives of Clause 4.3. The proposed development is, therefore, in the public interest and recommended for approval. Further, the

proposal is considered to be reasonable as the variation is consistent with the objectives in Clause 4.6 (Exceptions to development standards). Approval of the proposal would not create an undesirable precedent and is in the public interest. As such, the proposed variation is supported in this instance.

#### 6.1 Acid Sulfate Soil - Class 5

Acid Sulfate Soils (ASS) – Class 5 affects the property. However, development consent is not required as the site is not within 500 metres of adjacent Class 1, 2, 3 or 4 that is below 5 AHD.

#### 6.2 Earthworks

Earthworks including excavation are required on site for the proposed basement level. The objectives and requirements of Clause 6.2 of RLEP 2011 have been considered in the assessment of this application. It is considered that the proposed earthworks and excavation will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. However, notwithstanding, relevant conditions are included in the draft Notice of Determination to ensure that the environmental amenity of surrounding land is maintained, and soil erosion, sedimentation, and drainage impacts are minimised.

#### 6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 90m AHD. The building height is at 9.475m (RL 32.375) and in this regard, it is considered that the proposed building will have minimal adverse impact on the OLS.

#### 6.6 Flood Planning Land

The site is affected by flooding and the proposal has therefore been designed to ensure that the driveway crossing, habitable floor levels and other relevant components of the development are in accordance with the requirements contained in Council's Flood Advice Letter. The plans have been assessed by Council's Development Engineer, and appropriate conditions of consent have been incorporated in the draft Notice of Determination, including compliance with the submitted Flood Management Plan. Subject to compliance with these conditions, the proposal is satisfactory in regards to flooding.

#### 6.7 Stormwater

The proposal involves the construction of an on site detention system to manage stormwater. The proposed stormwater system was referred to and has been considered by Council's Development Engineer however it did not comply with the requirements of the latest flood study submitted for the site. As such, the stormwater plans submitted with the application are not consistent with the requirements of this clause. The application was referred to Council's Development Engineer who carefully considered the scheme in respect to function and flood affectation. An amended flood study and corresponding amendments to the architectural plans were required to address the flood matters on the site. Based on a revised flood study submitted with the application and the latest amendments to the design of the rear detached dwelling, the amended application was referred to Council's Stormwater Projects Engineer who raised no objections as the design corresponded to the flood study.

Notwithstanding this, Council's DCP Technical Specification - Stormwater Management requires the provision of a rainwater tank for each dwelling and this has not been provided in the latest stormwater plans. As such, a suitable condition has been imposed in the draft Determination Notice requiring the submission of a revised stormwater plan details of which are to be submitted with the Construction Certificate. Accordingly, the proposal, as conditioned, will satisfy the requirements of this clause.

### **S.79C(1)(a)(ii) - Provisions of any Draft EPI's**

No relevant proposed instruments are applicable to this proposal.

### **S79C(1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

#### **Rockdale Development Control Plan 2011**

The application is subject to Rockdale DCP 2011. A compliance table for the proposed development is provided below:

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
4.1.1 Views and Vista	Yes	Yes - see discussion
4.1.3 Water Management	Yes	Yes - see discussion
4.1.3 Flood Risk Management	Yes	Yes - see discussion
4.1.4 Soil Management	Yes	Yes - see discussion
4.1.6 Development on Sloping Sites	Yes	Yes - see discussion
4.1.9 Lot size and Site Consolidation - Dual Occupancy	Yes	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.3.1 Open Space & Landscape Design - Low & medium density residential	Yes	Yes - see discussion
4.4.1 Energy Efficiency - Residential	Yes	Yes - see discussion
4.4.2 Solar Access - Low and medium density residential	Yes	Yes - see discussion
4.4.3 Natural Lighting and Ventilation - Residential	Yes	Yes - see discussion
4.4.5 Visual privacy	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.6 Parking Rates - Dual Occupancy	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes - see discussion
4.6 Driveway Widths	Yes	Yes - see discussion
4.7 Air Conditioning and Communication Structures	Yes	Yes - see discussion
4.7 Waste Storage and Recycling Facilities	Yes	Yes
4.7 Laundry Facilities and Drying Areas	Yes	Yes
5.1 Storey Height and Setbacks - Dual occupancy & Semi-detached dwelling	Yes	Yes - see discussion
5.1 Frontage Setback - Rear Lane	Yes	Yes - see discussion
5.1 Building Design - General	Yes	Yes - see discussion
5.1 Residential Subdivision	Yes	Yes - see discussion

#### 4.1.1 Views and Vista

The site and adjoining properties are located within a valley and have a fall to the north with minimal views out over the curtilage of each parcel of land and the adjacent properties. In this regard, they do not contain any iconic or significant view corridors. As such, the siting of the proposed building will ensure that there is minimal adverse impact on the surrounding views presently enjoyed by adjacent residents.

#### 4.1.3 Water Management

The roofwater and runoff is to be directed to an detention tank for each dwelling. A stormwater plan has been submitted with the application. However, as stated previously in section 6.7 of this report, the proposal does not contain a stormwater tank for each dwelling. As such, the current stormwater plans have not been approved and amended plans are required to be submitted with the Construction Certificate. This has been addressed through the imposition of a condition of development consent. Hence, as conditioned, the proposal will comply with the requirements of this clause.

#### 4.1.3 Flood Risk Management

The amended application was referred to Council's Stormwater Projects Engineer who raised no objections to it as it is consistent with the details set out in the flood study report. The application was also referred to Council's Development Engineer who raised no objections to the proposal as it complied with the relevant floor levels. However, the stormwater plans require improvement and subject to the imposition of the draft conditions of development consent will comply with the requirements of this clause. Such conditions include the provision of a stormwater detention tank for each dwelling and submission of details relating to the verification of the hydraulic design. As such, the proposal is acceptable in respect to flood risk management and subject to the imposition of the conditions of development consent, complies with the requirements of this clause.

#### 4.1.4 Soil Management

The Soil & Water Management Plan has been submitted and general erosion and sediment control strategies are proposed to ensure that the potential for impact on adjoining land and surrounding waterways is minimised.

Temporary fencing is to be erected along the boundaries of the site. A builders all weather access is required to be provided onto the site.

#### 4.1.6 Development on Sloping Sites

The objectives of this clause are to limit site excavation and minimise cut and fill by allowing the building mass to step in accordance with the slope of the land; and to protect the amenity of adjoining properties. In this regard, the topography of the site is unique, such that the site falls significantly to the north adjacent to the water channel. The site falls steeply away from each street frontage at the front (Preddy's Road) and rear (Coveney Street) of the site. The subject site is flood affected and it is proposed to fill part of the site in order for the proposed dwelling to comply with the minimum flood levels applying to the site. In this regard, the proposed dwelling house has been designed appropriately on the flood affected land given the fall of the site.

The dwelling house design includes an appropriate location of a first floor balcony, setbacks, and stepped design to occupy the triangular part of the site at the rear of the existing dwelling. As such, the proposal includes an appropriate design that is not likely to result in any significant adverse amenity impacts. As such, the proposal is acceptable in respect to its design notwithstanding the topography of the site.

Taking into consideration the above, the proposed development appropriately responds to the slope of the land, minimising environmental impacts and amenity impacts on adjoining properties.

#### 4.1.9 Lot size and Site Consolidation - Dual Occupancy

The minimum lot size required by Council's DCP 2011 is 700sq.m with a minimum frontage of 15m for the site. The subject site has a lot size of 1,050 sq.m, which complies with the minimum lot size

requirement. The site has a 39.15m frontage to Preddy's Road and complies with the minimum frontage requirement. The site is made up of four separate lots which are to be consolidated and then subdivided into two lots with one dwelling on the front lot and the rear detached dwelling on the rear lot. In this regard, the subject site complies with the requirements of this clause.

#### 4.2 Streetscape and Site Context - General

The proposal is located in an R2 Low Density Residential Zone. The immediate context is relatively low scale consisting of single and two storey dwellings and dual occupancy developments in a residential precinct. However, the area is undergoing change, as reflected in a number of new two storey residential developments. The proposed development comprises a two storey detached dwelling with a basement storage level and is consistent with the desired and future character of the area in terms of height, bulk and scale, and is generally appropriate in this context.

The proposed dwelling will be located in the rear yard of the subject site and is not visible from Preddy's Road. It will be located lower than street level but will be partially visible from Coveney Street (west) at the rear of the site. The Coveney Street elevation (west) has been designed with increased articulation including windows, a first floor balcony and visible pedestrian entry door. As such, the proposal will have an appropriate external appearance to the rear. In addition, the proposal has a suitable presentation to the internal driveway with increased pedestrian legibility for people accessing the site from Preddy's Road. In this regard, the proposal has been designed to suit the fall of the land and relates well with the context of the site. In this regard the residential streetscape will be retained and complemented along both Preddy's Road and Coveney Street.

The proposed development has been designed with appropriate use of articulation & modulation to the facades via the incorporation of a balcony, pedestrian and vehicular entry at ground level and range materials which adds visual interest to the facades. The dwelling will be constructed in masonry with concrete floors and a tile pitched roof which is consistent with the existing streetscape. The basement storage level is not visible from outside the site and will be accessed internally.

The proposed development will have a front door and lounge room window addressing Coveney Street to the rear, with the building's frontage and entry points being readily apparent from the driveway. The proposed development has been designed with a suitable front balcony and window openings on the first floor that will provide casual surveillance of Coveney street. Further, the proposed fences, landscaping, and other features have been sited so as to provide clearly defined public, semi public and private spaces.

#### 4.3.1 Open Space & Landscape Design - Low & medium density residential

The proposal provides adequate landscaping which exceeds the minimum required open space area of 80m<sup>2</sup> and minimum dimension of 3m for each dwelling (85m<sup>2</sup> and 115m<sup>2</sup>) under clause 4.3.2 of Council's DCP. The landscape areas will provide a suitable curtilage with an appropriate aspect and have the capability to contain storm water runoff. Private open spaces are usable, accessible, clearly defined and will meet occupants requirements of privacy, solar access, outdoor activities and landscaping.

#### 4.4.1 Energy Efficiency - Residential

The applicant has submitted a BASIX Certificate for the proposed development. The commitments made result in reductions in energy and water consumption, and will achieve the efficiency target set under SEPP BASIX.



#### 4.4.2 Solar Access - Low and medium density residential

Shadow diagrams were submitted with the application and appear to be accurate. The plans indicate the proposed detached dual occupancy will cast a shadow to the south over the unformed road (Soudan Street) during the day in mid winter. However, the proposal affords more than 3 hours of direct solar access to the adjoining residential properties and generally complies with Council's requirements in respect to overshadowing. As such, the proposed development will have minimum impact of the level of sunlight currently received by adjoining and neighbouring residential properties and within the development site.

#### 4.4.3 Natural Lighting and Ventilation - Residential

The proposed development is designed to achieve natural ventilation and lighting, incorporating minimum ceiling heights of 2.95m and 2.7m to the ground and first floors, respectively.

#### 4.4.5 Visual privacy

The proposed detached dwelling to the rear of the site has been designed with ample setbacks and appropriate window locations which minimise the overlooking of adjoining properties. The building has been sited with ample separation that complies with Council's DCP both between the existing dwelling on the site and those on the adjoining properties.

While the southern side setback is non compliant, the building will only overlook the existing grass of the unformed road (Soudan Street). As such, the proposed dwelling will not result in any significant overlooking and is screened by existing mature trees both within the site and adjoining unformed road to the south.

Having regard to the above, the proposed development provides a reasonable level of visual privacy between the adjoining properties and complies with Council's DCP in this regard.

#### 4.4.5 Acoustic privacy

There will be minimal adverse impact on the acoustic privacy of adjoining and surrounding properties as consideration has been given to the location and design of the building and landscaping in relation to private recreation areas to minimise noise intrusion on the amenity of adjoining properties.

#### 4.6 Parking Rates - Dual Occupancy

The development will have minimal impact on access, parking and traffic in the area. Two car parking spaces are proposed for each dwelling in accordance with Council's DCP 2011. The front dwelling will contain a separate double garage while the rear dwelling will contain a single car garage and open car parking space. The proposal is satisfactory in regards to traffic and parking.

#### 4.6 Car Park Location and Design

The proposed car parking spaces for both resultant lots will be accessed from the single driveway along the northern side boundary of the site (off Preddy's Road) which is adjacent to the open stormwater channel on the site. The driveway will be fenced along the northern boundary to ensure vehicles do not enter the channel.

Given the location of the driveway from Preddy's Road at the bottom of the valley which has an acute angle to the street and that cars are parked on either side of Preddy's Road, it is required that vehicles entering and exiting the site do so in a forward direction. The proposal includes an appropriate design that will ensure this can be complied with and a condition of development consent has been imposed in this regard. The parking spaces comply with the minimum dimension and area requirements under

Council's DCP 2011. Accordingly, the proposal is acceptable in respect to car parking location and design.

#### 4.6 Driveway Widths

The existing driveway contains sufficient width of 3.2m to allow vehicular access to and from both dwellings from Preddy's Road. The current vehicle crossing and layback corresponds to the existing driveway and shall be reconstructed according to Council's latest design requirements. This has been addressed by way of a condition of development consent and the application is acceptable in respect to driveway widths.

#### 4.7 Air Conditioning and Communication Structures

The proposal will include residential air conditioners, TV antennas and ancillary structures. A condition has been imposed to ensure that the air conditioning units do not result in "offensive noise" being emitted from the site. The proposal complies with the requirements of clause 4.7 of Council's DCP 2011 and is acceptable in this regard.

#### 5.1 Storey Height and Setbacks - Dual occupancy & Semi-detached dwelling

The proposed dwelling is located to the rear of the existing dwelling house and has an internal separation of 3m from the proposed dividing boundary and a separation of 5.5m to the rear of the existing dwelling house at the front of the site. In this regard, the proposed dwelling has a suitable location on the site and will not alter the existing prevailing street setback within Preddy's Road.

Council's DCP 2011 requires a 0.9m ground floor and 1.5m first floor side setback with a minimum 3m ground floor and 6m first floor rear setback. The proposal involves a 0.9m side setback to both the ground and first floors to the south and a minimum of 3m to the northern side boundary along the stormwater canal with a 17.08m rear setback to both the ground and first floors. While the proposal complies with the rear and northern side setback requirement it does not comply with the southern side setback control.

Council's DCP states the following objectives of the side setback control:

- A. To encourage development of a high standard of architectural merit and design*
- B. To ensure the size and location of new dwellings allow for the sharing of views and preserve privacy and sunlight for neighbouring and new residents*
- C. To minimise the impacts of dual occupancy and multi dwelling housing in areas where there is substantial detached housing*
- D. To encourage innovative housing which is pleasant to live in, relates to the existing and future neighbourhood character, is responsive to the site and is environmentally sensitive*
- E. To ensure orderly development of land on large sites and promote good economic use of land with a high standard of site layout and design*
- F. To improve the range and quality of housing and residential environments which meet the diversity of peoples' needs and community expectations about health, safety and amenity*

The subject site adjoins an open space area to the south which is Soudan Street that is unformed road. In this regard, the proposed non compliance with the southern side setback control is not likely to result in any adverse impacts on neighbouring dwellings. In addition, the dwelling house at the front of the site contains a high masonry fence along the southern side boundary at the front and the proposal will continue this fencing along the side boundary to the rear. The unformed street contains significant mature trees which will screen this non compliance setback to the south. As such, the proposal will

have minimal impact on any adjoining property despite the non compliance and will promote good economic use of the land with an appropriate layout and design. Furthermore, the proposal is consistent with the objectives of the side setback control being varied. As such, the proposal is acceptable in respect to the southern side setback control.

The proposal is not considered to adversely impact upon the adjoining dwelling by way of overshadowing and overlooking, and will not significantly reduce the solar access, light and air received by the adjoining dwelling. Therefore, the proposed setbacks are consistent with the objectives of this control. Accordingly, the proposal is consistent with the objectives of and is acceptable in respect to the setback controls applying to the site.

#### 5.1 Frontage Setback - Rear Lane

The subject site fronts Preddy's Road however it has a 2.43m frontage to Coveney Street at the rear.

The site contains an open stormwater channel which crosses underneath the rear boundary at the narrow part of the site. As such, the original scheme submitted to Council included access to Coveney Street. However, due to the change in levels and limited access to the rear, site was amended to include vehicular access from Preddy's Road. As such, the proposal does not include any rear lane access and is acceptable in this regard.

#### 5.1 Building Design - General

The proposed detached dual occupancy development is compatible with the style and design of the surrounding precinct and responds in a positive manner to the context of the site. In this regard, the proposal does not involve any large expanse of walls that are overly dominant and the proposed building contains a northern aspect which steps in and out. The two storey built form is acceptable and appropriately designed such that it does not dominate the site. The proposal complies with the floor space control applying to the land and includes a suitable height with an appropriately designed garage and internal staircase. The development contains a pitched tile roof consistent with the context of the site.

Based on the above, the proposal is consistent with the requirements of clause 5.1 of Council's DCP 2011 in respect to building design.

#### 5.1 Residential Subdivision

The proposal will result in the consolidation of the four (4) existing lots that make up the site and the subdivision into two lots with the front lot (Lot 700) having an area of 511m<sup>2</sup> and a rear lot (Lot 701) having an area of 464m<sup>2</sup>. The subdivision will include a battle axe handle adjacent to the stormwater channel being accessed by each lot which will have direct frontage to Preddy's Road. As such, the proposal will comply with the minimum size lots required under this clause.

The proposed driveway will have a width of 3.2m allowing vehicles to and from both dwellings to enter and exit the site in a forward direction via the same driveway. While the individual battle axe handle has a lot width of less than 3.5m as required by clause 5.1, the proposal will include easements for access over the battle axe handle and front lot to provide a right of way for vehicles via the 3.2m wide driveway on the site. As such, the proposal will comply with the access and subdivision objectives of clause 5.1 of Council's DCP 2011 and is acceptable in this regard.

### **S.79C(1)(a)(iv) - Provisions of regulations**

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of AS

*2601:1991 - Demolition of Structures* when demolition of a building is involved. In this regard a condition of consent is proposed to ensure compliance with the standard.

The fire safety matters under the BCA have been considered and conditions of consent are recommended.

All relevant provisions of the Regulations have been taken into account in the assessment of this proposal.

### **S.79C(1)(b) - Likely Impacts of Development**

Potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls. The impacts that have not already been addressed are as follows:

#### **Natural Hazards**

The property is affected by flooding and the applicant has submitted a flood study as requested by Council. Council's Stormwater Projects Engineer has stated the flood report and corresponding architectural design plans are acceptable with minimal or no impact likely on the adjoining properties. In this regard, the amended scheme is acceptable in respect to natural hazards.

#### **Construction**

The residential building is to be constructed in brick and roof tiles with concrete floors. There are no specific issues relating to the BCA in the proposed design. Site and safety measures to be implemented in accordance with conditions of consent and Workcover Authority guidelines/requirements.

#### **General**

The proposed detached dwelling house has been assessed against the relevant DCP and found to comply with the controls apart from the height. In this instance, the proposal will have an acceptable height given the site's location in the valley and the flood constraints applying to the land. Appropriate conditions of consent will be included in the consent.

### **S.79C(1)(c) - Suitability of the site**

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. Additional conditions of consent are proposed to further minimise any impacts on neighbouring properties. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

### **S.79C(1)(d) - Public submissions**

The development has been notified in accordance with the provisions of Rockdale DCP 2011. Council did not receive any submissions on this proposal.

### **S.79C(1)(e) - Public interest**

The proposed development is considered satisfactory having regard to the objectives and requirements of Rockdale Local Environmental Plan 2011 and Development Control Plan 2011.

Impacts on adjoining properties have been considered and addressed. As such it is considered that the proposed development is in the public interest.

### **S94 Contribution towards provision or improvement of amenities or services**

A Section 94 Contribution Payment is payable in accordance with Council's Policy and accordingly, imposed as a condition on the draft Notice of Determination.

### ***Civil Aviation Act, 1988***

The site is within an area that is subject to the Civil Aviation (Building Controls) Regulations 1988 made under the *Civil Aviation Act, 1988*.

### **Civil Aviation (Building Control) Regulations 1988**

The Regulations require a separate approval from the Civil Aviation Safety Authority if a building or structure exceeds a prescribed height limit.

### **Section 6 Prohibition of the construction of buildings of more than 150 feet in height in certain areas**

The proposed development is affected by the 45.72m Building Height Civil Aviation Regulations, however the proposed building height at 9.475m will have minimal impact upon the height requirement in the regulations.

## **Schedule 1 - Draft Conditions of consent**

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### **General Conditions**

The following conditions restrict the work to the detail provided in the Development Application and are to ensure that the development is complete.

1. The term of this consent is limited to a period of five (5) years from the date of the original approval. The consent will lapse if the development does not commence within this time.
2. The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

<b>Plan/Dwg No.</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received by Council</b>
Subdivision Plan, Drawing No. 016, Project No. 010_15, Revision B,	Dezcon	12/09/16	26/10/16

Architectural Plans, Drawing Nos. 001 to 010 inclusive, Project No. 010_15, Revision B,	Dezcon	12/09/16	21/09/16
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3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number (637192S) other than superseded by any further amended consent and BASIX certificate.  
**Note:** Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -
  - (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."  
Note: For further information please see <http://www.basix.nsw.gov.au>.
6. Further alterations and/or additions to the subject building shall not be undertaken without first obtaining approval. This includes the fitting of any form of doors and/or walls.
7. The proposed dwelling to the rear of the site shall be used as a single occupancy only.
8. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
9. Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.
10. The dwelling located on the eastern part of the site (front) shall be known as 95 Preddy's Road and the dwelling located on the western part of the site (rear) shall be known as 95A Preddy's Road Bexley North.

## Development specific conditions

The following conditions are specific to the Development Application proposal.

11. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention (rainwater tank) system. The registered proprietor will:
  - (i) permit stormwater to be detention (rainwater tank) by the system;
  - (ii) keep the system clean and free of silt, rubbish and debris;
  - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the

- time and in the manner specified in written notice issued by the Council;
  - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - (v) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
  - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
  - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
12. The rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed – solids to the waste disposal and de-sludged liquid to the sewer.
  13. Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
  14. Retaining walls over 600mm in height shall be designed and specified by a suitably qualified structural engineer.

### **Prior to issue of the construction certificate**

The following conditions must be completed prior to the issue of the Construction Certificate.

15. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
  - i. A Footpath Reserve Restoration Deposit of \$2,508.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
  - ii. An environmental enforcement fee of 0.25% of the cost of the works.
  - iii. A Soil and Water Management Sign of \$17.50.
16. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.
17. An application for Boundary levels shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary works, egress paths, driveways and fences shall comply with this level.  
A fee is payable to Council for the determination of boundary levels. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
18. A Section 94 contribution of \$5,160.29 shall be paid to Council. Such contributions

are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). The contribution is calculated from Council's adopted Section 94 contributions plan in the following manner:

Open Space	\$3,373.34
Community Services & Facilities	\$ 552.65
Town Centre & Streetscape Improvements	\$ 383.54
Pollution Control	\$ 819.57
Plan Administration & Management	\$ 31.19

Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 444-446 Princes Highway, Rockdale.

19. If Council is appointed as the Principal Certifying Authority (PCA) then structural engineer's details shall be submitted prior to the issue of the Construction Certificate; such structural drawings shall be certified by the Structural Engineer that the design complies with the relevant S.A.A. Codes for the following:
  - i. the footings of the proposed structure;
  - ii. the footings of the slab-on-ground (having due regard to the possible differential settlement of the cut and fill areas);
  - iii. all reinforced concrete floor slabs;
  - iv. all reinforced concrete stairs;
  - v. the piers to natural ground or rock, detailing the size and position of the piers;
  - vi. the proposed retaining wall;
  - vii. the work required to stabilise the excavation;
  - viii. the work required to stabilise the footpath area;
  - ix. the design of each roof truss type showing the layout of each truss on a marking plan and the method of connecting each truss to its supporting members of the method of bracing;
  - x. all structural steel work;
  - xi. first floor joists;
  - xii. fire rated ceilings/fire protective ceilings.
20. A landscape plan, prepared by a qualified Landscape Architect or Landscape Designer/Consultant, shall be submitted to Council or the accredited certifier (AC) for approval with or before the application for a Construction Certificate. The plan shall be at a scale of 1:100 or 1:200 and comply with Rockdale Technical Specification Landscape and all other relevant conditions of this Consent.
21. A suitable qualified engineer is to certify that all new structure can withstand the forces of floodwater, scour, debris and buoyancy in a 1% AEP flood event.
22. All new building materials shall be flood resistant, or flood compatible to a height of 500mm above the 1% AEP flood, or flow level. All internal electrical switches, power



points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 1% AEP flood, or flow level. Details shall be provided and approved prior to the issue of a construction certificate.

23. (a) Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap in™ online service 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. Sydney Water's Tap in™ online service is available at:  
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

(b) Written approval shall be obtained from Sydney Water for the new drainage connection to the Sydney Water Channel. Stormwater drainage plan shall include all the required connection details to Sydney Water channel accordingly.

Above documents to be submitted to the Certifying Authority prior to the issue of the construction certificate and a copy shall be forwarded to Council as part of Construction Certificate.

24. Prior to issue of the Construction Certificate, longitudinal driveway profiles shall be submitted to Principal Certifying Authority for assessment and approval. The profiles shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%) and lengths.
25. Any part of the proposed building within 3m of the proposed detention tank (belowground rainwater tank) shall be constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the tank base. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
26. Prior to the issue of the Construction Certificate, amended detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval.  
Stormwater drainage plan shall be amended as following:
1. Minimum 9,500 litre rainwater tank to be provided for both existing and proposed dwelling.
  2. Minimum 75% of the roof water runoff shall be collected with rainwater tank.
  3. An approval from Sydney Water is required for the final discharge connection to the Sydney Water Channel. Connection details to be included in the detailed stormwater plan.

Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

27. "A written verification (Flooding/Hydraulic Engineering Design Certificate) from a suitably qualified flooding/hydraulic engineer shall be obtained stating that the Construction certificate plans comply with the Flood Study Report (17/9180) and associated HEC-RAS modelling, dated 23.01.2017 prepared by Pavel Kozarovski

of Kozarovski and Partners, and the development has no adverse impact on flood levels and/or adjoining properties.

The Written verification shall be submitted to and approved by Principal Certifying Authority prior to the issue of a Construction Certificate and a copy shall be forwarded to Council as part of Construction Certificate.”

28. Lot 1, 2 ,3 & 4 of DP 455499 shall be consolidated into one allotment. Council requires proof of lodgement of the plan of consolidation with the Land and Property Information Office prior to the issue of the construction certificate.
29. Prior to the issue of the construction, flood management plan shall be provided in accordance with the flood report prepared by prepared by Pavel Kozarovski of Kozarovski and Partners dated 23/1/2017.

## **Prior to commencement of works**

The following conditions must be completed prior to the commencement of works.

30. A dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) prior to issue of the Construction Certificate. The insurance cover shall be a minimum of \$10 million.
31. A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction.

Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign shall be erected prior to commencement of works and shall be displayed throughout construction.

32. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.
33. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - i. stating that unauthorised entry to the work site is prohibited, and
  - ii. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours. Any such sign is to be removed when the work has been completed. This condition does not apply to:
    - iii. building work carried out inside an existing building or
    - iv. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

34. Prior to the commencement of work, Tree Protection Zones shall be established in accordance with AS4970-2009 (Protection of trees on Development Sites) with protective fences at least 1.8 metres high erected around each tree or group of trees which is required to be retained as recommended in the Arborist Assessment Report by McArdle Arboricultural Consultancy dated 20<sup>th</sup> February 2016. The protective fences shall consist of chain wire mesh temporary fence panels securely mounted and braced to prevent movement, shall be in place prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction. Excavations for services, waste bins, storage of materials and equipment, site residue, site sheds, vehicle access or cleaning of tools and equipment are not permitted within the Tree Protection Zones at any time.
35. Prior to the commencement of any work on site, a sign shall be placed in a prominent position on each protective fence identifying the area as a Tree Protection Zone and prohibiting vehicle access, waste bins, storage of materials and equipment, site residue and excavations within the fenced off area.
36. Where it is necessary to import landfill material onto the site to fill the land to levels shown on the plans forming part of the consent, a certificate, prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority prior to the commencement of works, certifying that the imported fill is suitable for the land use.
37. The site shall be secured by a 1800 mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points.

### **During demolition / excavation / construction**

The following conditions must be complied with during demolition, excavation and or construction.

38. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
39. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
40. For Class 1 and 10 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:
  - i) after excavation for, and prior to the placement of, any footings,
    - a. Trench and steel for footings
    - b. Pier/pad holes, and
  - ii) prior to pouring any in-situ reinforced concrete building element,
    - a. Ground floor steel
    - b. First floor steel, and
  - iii) prior to covering the framework for any floor, wall, roof or other building element,
    - a. Bearers and joists
    - b. First floor joists
    - c. Framework
    - d. Damp proof course, and
  - iv) prior to covering waterproofing in any wet areas, and

- v) prior to covering any stormwater drainage connections, and
- vi) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Documentary evidence of compliance with Council's approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the principal certifying authority and be made available to Council officers upon request. If Council is appointed as the Principal Certifying Authority, 48 hours notice is to be given that the above works is ready for inspection.

41. Demolition operations shall not be conducted on the roadway or public footway or any other locations, which could lead to the discharge of materials into the stormwater drainage system.
42. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
43. A Registered Surveyor's check survey certificate or compliance certificate shall be forwarded to the certifying authority detailing compliance with Council's approval at the following stage/s of construction:
  - i. After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks.
  - ii. Prior to construction of each floor level showing the area of the land, building and boundary setbacks and verifying that the building is being constructed at the approved level.
  - iii. Prior to fixing of roof cladding verifying the eave, gutter setback is not less than that approved and that the building has been constructed at the approved levels.
  - iv. On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels.
  - v. On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the approved levels, accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.
44. When soil conditions require it:
  - i. retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided, and
  - ii. adequate provision shall be made for drainage.
45. Any new information discovered during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council being the Regulatory Authority for the management of contaminated land.
46. All contractors shall comply with the following during all stages of demolition and construction:
  - A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit.

Permits can be obtained from Council's Customer Service Centre.

- A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
- A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
- A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
- A current Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.

47. All demolition work shall be carried out in accordance with AS2601 – 2001: The Demolition of Structures and with the requirements of the WorkCover Authority of NSW.

48. The following conditions are necessary to ensure minimal impacts during construction:

- i. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
- ii. Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
- iii. All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
- iv. Building and demolition operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- v. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
- vi. Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
  - a) spraying water in dry windy weather
  - b) cover stockpiles

c) fabric fences

- vii. Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.

An all weather drive system or a vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed prior to commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street. Vehicular access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on roadways it is to be removed by means other than washing and disposed of appropriately.

In addition builders / demolishers are required to erect a 1.5m high fence along the whole of the street alignment other than at the two openings. Such protection work, including fences, is to be constructed, positioned and maintained in a safe condition to the satisfaction of the Principal Certifying Authority, prior to the demolition of the existing structures and commencement of building operations.

- viii. Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.
49. Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction. A copy of the sign is available from Council.
50. All existing trees located within the site may be removed.
51. Any pruning of branches or roots of trees growing from within adjoining properties requires the prior written consent of the tree's owners and the prior written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011. The work must be carried out in accordance with AS4373:2007 by an experienced Arborist with minimum AQF Level 2 qualifications in Arboriculture.
52. All recommendations contained in the Arborist Assessment Report by McArdle Arboricultural Consultancy dated 20<sup>th</sup> February 2016 shall be implemented and complied with.

### **Prior to issue of occupation certificate or commencement of use**

The following conditions must be complied with prior to issue of the Occupation Certificate or Commencement of Use.

53. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
54. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
55. All excess excavated material, demolition material, vegetative matter and builder's

rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.

Note: Burning on site is prohibited.

56. The approved recommendations from the Flood Management plan shall be implemented prior to occupation.
57. At least four (4) locally indigenous native trees of at least 100lt pot size, including one port Jackson Fig (*Ficus rubiginosa*) shall be planted in suitable locations within the property on completion of the building works and prior to the final inspection.
58. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council.
59. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
60. Prior to completion of the building works, existing vehicular crossing to be re-constructed to service the property. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
61. Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.
62. A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifying authority) stating that the landscape works have been carried out in accordance with the approved plans and documentation.
63. A certificate from a Registered Surveyor shall be provided to the Principal Certifying Authority (PCA) certifying that the new habitable floor level is constructed a minimum of 500mm above the 1% Annual Exceedance Probability (A.E.P) Flood Level. A copy of the certificate shall be provided to Council where Council is not the Principal Certifying Authority.
64. A certificate from a Registered Surveyor shall be provided to the Principal Certifying Authority certifying that the garage floor/parking level is either constructed at or above 1% A.E.P Annual Exceedance Probably (AEP) Flood Level OR [in the case of the garage floor/parking level being below the 1% A.E.P Annual Exceedance Probability (AEP) Flood Level] the garage floor/parking level is protected from inundation to a minimum of 500mm above the 1% A.E.P Annual Exceedance Probability (AEP)Flood Level. A copy of the certificate shall be provided to Council where Council is not the Principal Certifying Authority.
65. Prior to occupation a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Rockdale Technical Specification Stormwater Management. The certificate shall be in the form specified in Rockdale Technical Specification Stormwater Management and include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
66. The owner of the premises is required to comply with the following requirements

when installing a rainwater tank:

- Inform Sydney Water that a Rainwater tank has been installed in accordance with applicable requirements of Sydney Water.
- The overflow from the rainwater tank shall be directed to the storm water system.
- All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water "Guidelines for rainwater tanks on residential properties.
- A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.

### **Prior to issue of subdivision certificate**

The following conditions must be complied with prior to the issue of the Subdivision Certificate or the Strata Certificate.

67. Reciprocal rights of carriageway shall be provided over both allotments to allow manoeuvring into and out of the garages. Driveway access handle and area in front of the new garage locate within the proposed Lot 700 shall be shown as right of of reciprocal carriage way in subdivision plan. These provisions are to be put into effect prior to release of the Subdivision Certificate.
68. A Subdivision Certificate and four (4) copies of the plans for the endorsement of the General Manager shall be submitted to Council prior to lodgment with the Land and Property Information office. If applicable, an original and four (4) copies of the 88B Instrument are to be submitted.
69. The endorsed subdivision certificate shall not be released until completion of the development and the issue of the Final Occupation Certificate.
70. The submission and approval of a subdivision certificate application. In this regard, a fee is payable in accordance with Council's current adopted Fees and Charges.
71. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the Subdivision/Strata Certificate.

72. The new lots created are to be numbered lot 700 and lot 701.
73. All existing and proposed services on the property shall be shown on a plan, and shall be submitted to Council. This includes electricity, gas, water, sewer, stormwater and telephone services. Where any service crosses one lot but benefits another lot, it is to be covered by an easement. The service easement is to be covered by a



Section 88B Instrument, which may only be varied or extinguished with the consent of Rockdale City Council. These provisions are to be put into effect prior to the release of the Subdivision/Strata Certificate.

74. A positive covenant shall be provided over the on-site detention (rainwater tank system) system. A Section 88B Instrument and four copies shall be lodged with the Subdivision Certificate.

## **Roads Act**

75. The following works will be required to be undertaken in the road reserve at the applicant's expense:
- i) re-construction of existing vehicular crossing;
  - ii) removal of redundant paving;
  - iii) smooth transition with new driveways and footpath areas
76. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
77. This Roads Act approval does not eradicate the need for the Contractor to obtain a Road Opening Permit prior to undertaking excavation in the road or footpath.
78. Any driveway works to be undertaken in the footpath reserve by a private contractor requires an "Application for Consideration by a Private Contractor" to be submitted to Council together with payment of the application fee. Works within the footpath reserve must not start until the application has been approved by Council.
79. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu) or landscaped. If landscaping is proposed rather than turfing, details shall be submitted to the Property and Community Services Department for approval.

## **Development consent advice**

- a. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- b. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- c. If Council is appointed as the Principal Certifying Authority (PCA), a fee shall be paid before a Construction Certificate is issued. If the fee is paid after the end of the financial year, it will be adjusted in accordance with Council's adopted fees and charges. The fees charged encompass all matters related to ensuring that the proposed development is carried out in accordance with the approved plans and any post inspection issues that may arise.
- d. Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to

Council endorsing the Instrument.

- e. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- f. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- g. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

## **95 Preddys Road, Bexley 2207**

### **Clause 4.6 Application to vary a development standard Height of Building**

**1. What is the name of the environmental planning instrument that applies to the land.**

Rockdale LEP 2011

**2. What is the zoning of the land.**

R2 Low density residential

**3. What are the objectives of the zone**

To provide for the housing needs of the community within a low density residential environment. To enable other land uses that provide facilities or services to meet the day to day needs of residents. To ensure that land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area.

**4. What is the development standard being varied.**

Height of building

**5. Under what clause is the development standard listed in the environmental planning instrument.**

Clause 4.3 Height of building

**6. What are the objectives of the development standard**

(a) to establish the maximum limit within which buildings can be designed and floor space can be achieved,

(b) to permit building heights that encourage high quality urban form,

(c) to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain,

(d) to nominate heights that will provide an appropriate transition in built form and land use intensity.

**7. What is the numeric value of the development standard in the environmental planning instrument.**

Height 8m

**8. What is proposed numeric value of the development standard in the development application.**

Height 9.775m

**9. What is the percentage variation (between the proposal and the environmental planning instrument).**

Height 22.1875%

**10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case**

The variation is for the height of building which has been varied by the requirement to meet the required 1% AEP flood level (RL 24.55 + 500mm= RL 25.05).

This minimum habitable level requires the site to have landfill to allow this RL to function for the proposed dwelling.

The proposal does not impact on existing views and does not obstruct sky exposure as it the bulk of the building is set back 3m from the existing dwelling and 17m from the nearest street. The neighbouring sites are not residential sites; they are vacant lands that have varying slopes in topography. Therefore the variation has no adverse impact on adjoining dwellings.

**11. How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.**

Strict compliance would hinder the economic development of the land to a similar scale enjoyed by other recent residential developments.

**12. Is the development standard a performance based control.**

No

**13. Would strict compliance with the standard, in this particular case, would be unreasonable or unnecessary.**

The restrictive development standard is not appropriate for this residential area mainly due to the topography of the land and flood management requirements.

The development is in a unique location and due to the flood requirements, the variation would have no adverse impact on adjoining properties or the amenity of the locality.

**14. Are there sufficient environmental planning grounds to justify contravening the development standard.**

The compliance with the development standard is unreasonable and inappropriate due to existing use of land and current environmental character of the locality.

## **Clause 4.6 Rockdale LEP 2011- Height of Building Variation**

As requested by Council the following are answers to sub clauses 1-8 of clause 4.6.

(1) The possibility of having flexibility in the Height of Buildings development standard for the subject dual occupancy development would enhance the development, greatly improve the amenity for the occupants whilst maintaining and contributing to the overall streetscape amenity.

(2) The development standard Height of Buildings is not excluded from the operation of this clause.

(3) Compliance with the Height of Buildings development standard is unreasonable as it would not allow the development to have sufficient living habitable spaces due to the requirement to meet the required 1% AEP flood level (RL 24.55 + 500mm= RL 25.05). Furthermore the encroachment is minor and insignificant. It is not visibly dominant from Preddys Road being setback 20m from the main street frontage and 17m from Coveney Street. The proposal does not obstruct views and all setbacks are compliant from the side boundaries. The restrictive development standard is not appropriate for this proposal which has a unique location and site constraints that cannot be altered. The nature of the topography is quite low in comparison to the streets on either end of the site so a minor height non-compliance is completely reasonable. A development of this nature would have no adverse impact on adjoining properties or the amenity of the locality. There would be no public benefit in requiring the development to meet the development standard in this instance.

(4) This written request has adequately addressed the matters to be demonstrated by subclause (3) and is consistent with the objectives of the standard.

Clause 4.3.(1)

(b) To permit building heights that encourage high quality urban form. This unique location, lot size and existing recent new development has resulted in a very attractive and desirable urban form.

(c) The proposal does not impede on sky exposure or Daylight access to adjoining buildings nor does it impact or overshadow on the public domain opposite.

(d) The development of the subject site in conjunction with the existing and future development of this unique micro area will provide an appropriate transition and land use intensity for the northern end of the Brighton/Sans Souci beach promenade area.

(5) The limited variation to the Height of Buildings development standard would have no significance for State or regional environmental planning.

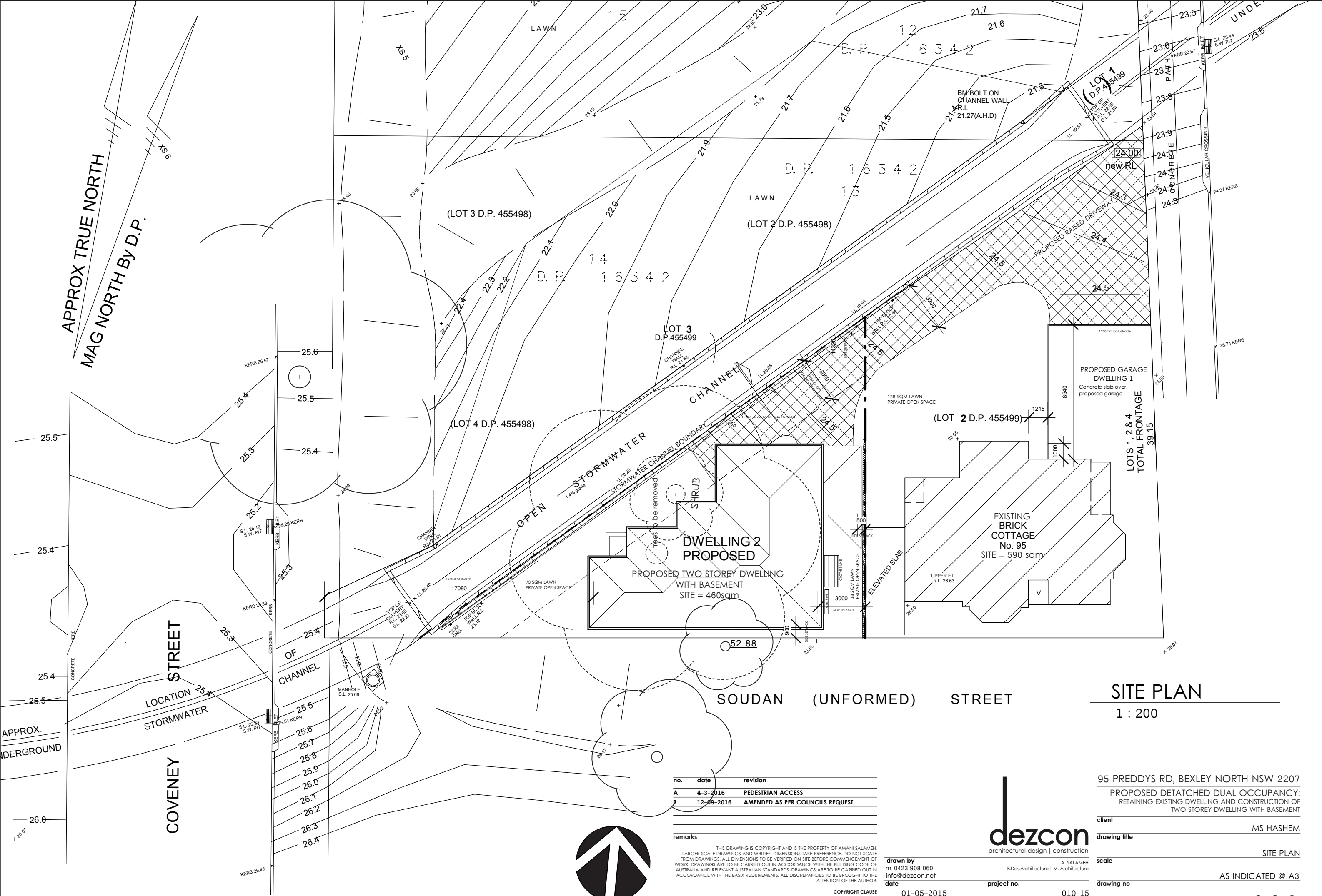
(6) Not applicable

(7) A matter for Council.

(8) The proposed variation to the Height of Buildings development standard would not contravene clauses 4.3 (2A) 4.4 (2A) (2B) (2C) or (2D).







no.	date	revision
A	4-3-2016	PEDESTRIAN ACCESS
B	12-09-2016	AMENDED AS PER COUNCILS REQUEST

remarks

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drawn by  
m\_0423 908 060  
info@dezcon.net  
date  
01-05-2015  
revision no.  
B

project no.  
010\_15  
checked by  
AS

dezcon  
architectural design | construction  
A. SALAMEH  
B.Des.Architecture | M. Architecture

95 PREDDYS RD, BEXLEY NORTH NSW 2207  
PROPOSED DETACHED DUAL OCCUPANCY:  
RETAINING EXISTING DWELLING AND CONSTRUCTION OF  
TWO STOREY DWELLING WITH BASEMENT

client  
MS HASHEM

drawing title  
SITE PLAN

scale  
AS INDICATED @ A3

drawing no.

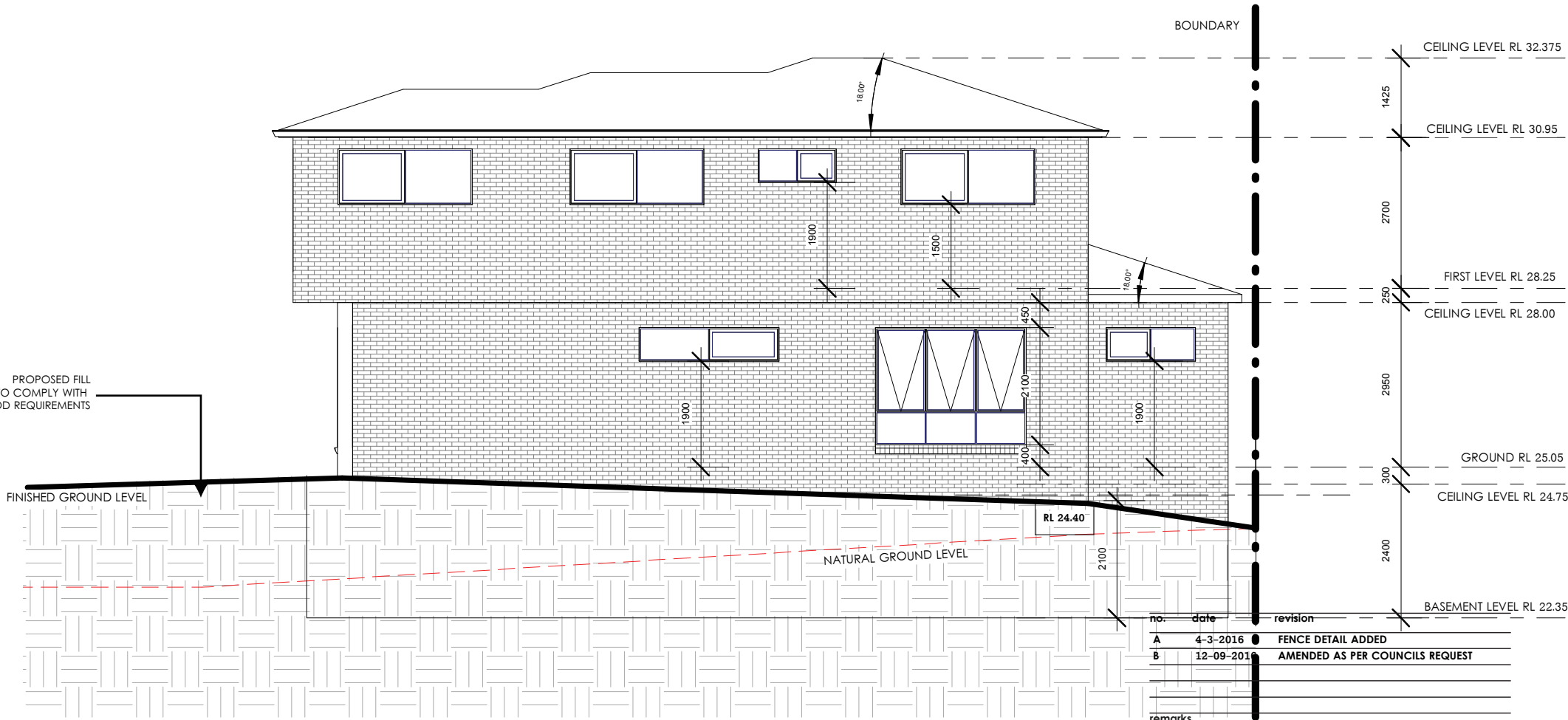
002

MAX. 8500mm BUILDING HEIGHT



SOUTH WEST ELEVATION

1 : 100



SOUTH EAST ELEVATION

1 : 100

no.	date	revision
A	4-3-2016	FENCE DETAIL ADDED
B	12-09-2016	AMENDED AS PER COUNCILS REQUEST
remarks		

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dezcon  
architectural design | construction  
A. SALAMEH  
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95 PREDDYS RD, BEXLEY NORTH NSW 2207

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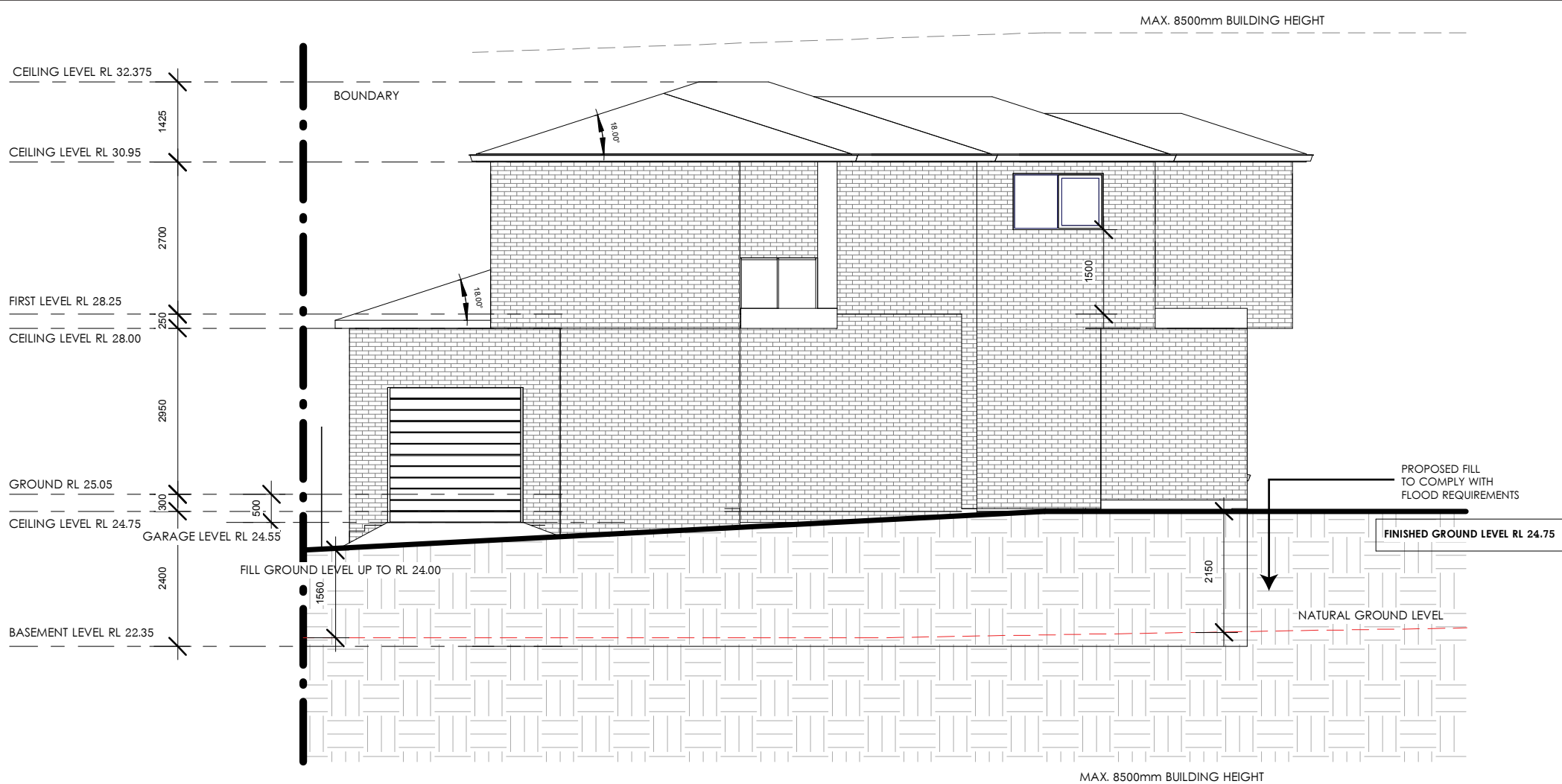
drawing title  
ELEVATIONS

scale  
AS INDICATED @ A3

drawing no.

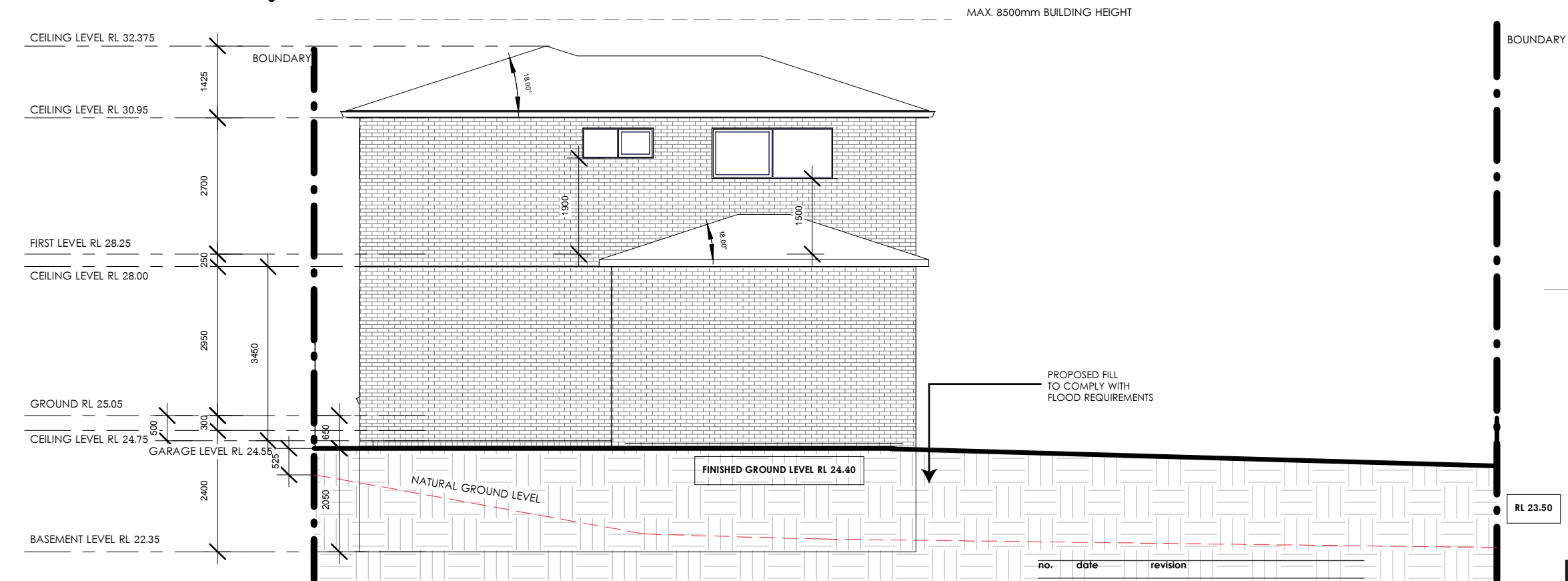
007





## NORTH WEST ELEVATION

1 : 100



## NORTH EAST ELEVATION

1 : 100

no.	date	revision
A	4-3-2016	FENCE DETAIL ADDED
B	12-09-2016	AMENDED AS PER COUNCILS REQUEST
remarks		

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drawn by  
m\_0423 908 060  
info@dezcon.net  
date

01-05-2015  
revision no.

**dezcon**  
architectural design | construction

A. SALAMEH  
B.Des.Architecture | M. Architecture

project no.

checked by

B

010\_15

AS

95 PREDDYS RD, BEXLEY NORTH NSW 2207

PROPOSED DETACHED DUAL OCCUPANCY:  
RETAINING EXISTING DWELLING AND CONSTRUCTION OF  
TWO STOREY DWELLING WITH BASEMENT

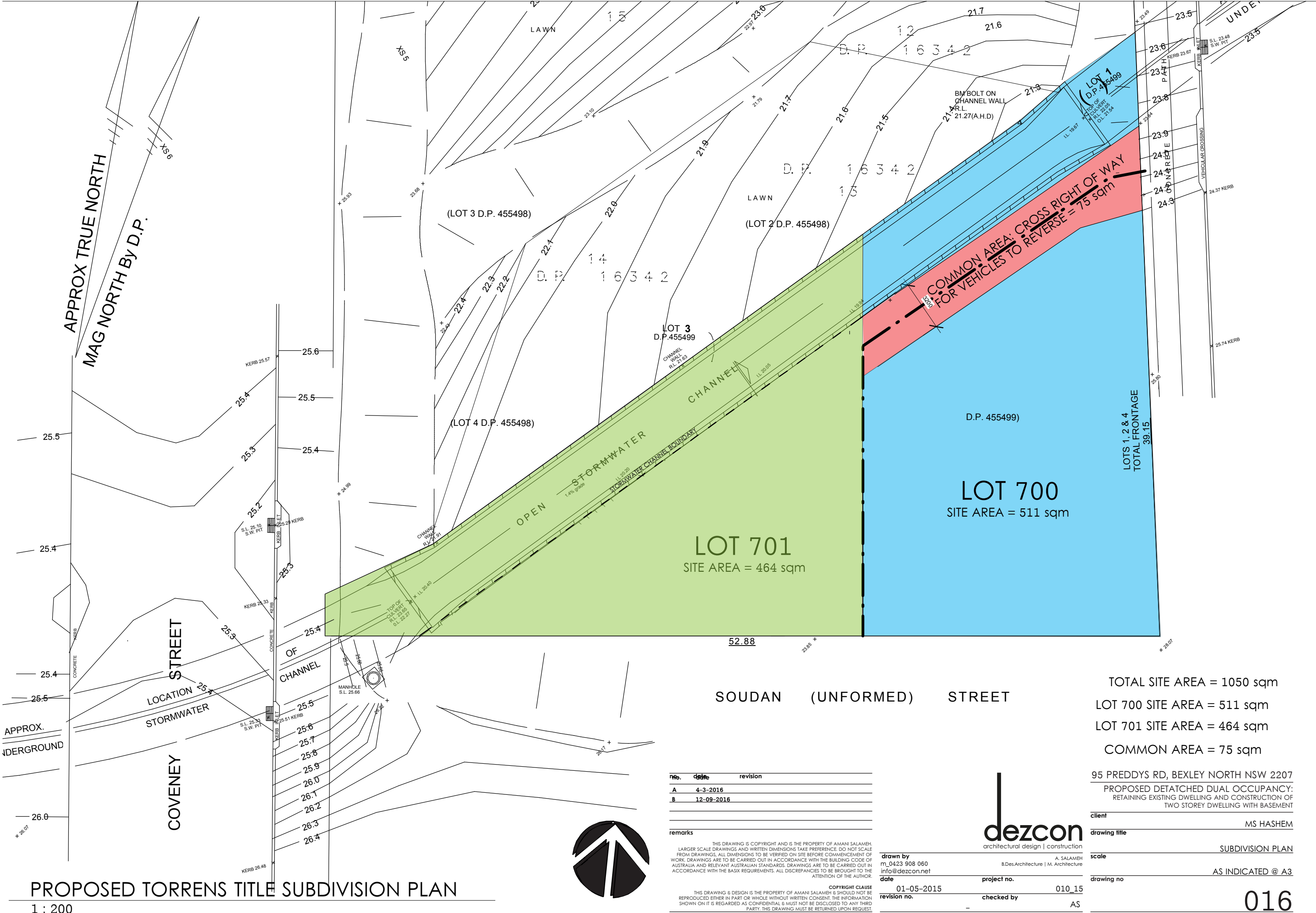
client  
MS HASHEM

drawing title  
ELEVATIONS

scale  
AS INDICATED @ A3

drawing no

008



no.	date	revision
A	4-3-2016	
B	12-09-2016	
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m_0423 908 060		010_15	
info@dezcon.net		checked by	
date		AS	
01-05-2015			

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architectural design | construction

TOTAL SITE AREA = 1050 sqm	
LOT 700 SITE AREA = 511 sqm	
LOT 701 SITE AREA = 464 sqm	
COMMON AREA = 75 sqm	
95 PREDDYS RD, BEXLEY NORTH NSW 2207	
PROPOSED DETACHED DUAL OCCUPANCY: RETAINING EXISTING DWELLING AND CONSTRUCTION OF TWO STOREY DWELLING WITH BASEMENT	
client	MS HASHEM
drawing title	SUBDIVISION PLAN
scale	AS INDICATED @ A3
drawing no	016