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## **Bayside Planning Panel**

**25/07/2017**

Item No	<b>5.1</b>
Application Type	Development Application
Application Number	DA-2017/355
Lodgement Date	17 May 2017
Property	<b>301 The Grand Parade, Sans Souci NSW 2219</b>
Owner	Mr & Mrs Ross and Dianne Pangallo
Applicant	Mr Ross Pangallo
Proposal	Alterations and additions to existing mixed use development, including first floor balcony at the rear
No. of Submissions	None
Cost of Development	\$43,000
Report by	Eric Alessi – Development Assessment Planner

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## **Officer Recommendation**

- 1 That the Bayside Planning Panel supports the variation to clause 4.4 Floor Space Ratio in accordance with the Clause 4.6 justification provided by the applicant.
  - 2 That the Bayside Planning Panel supports the expansion of an existing use.
  - 3 That the Development Application No.DA-2017/355 for the proposed alterations and additions to existing mixed use development, including first floor balcony at the rear at 301 The Grand Parade, Sans Souci be approved subject to the conditions attached to this report.
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## **Attachments**

- 1 Planning Assessment Report
  - 2 Section 4.6 Variation Request
  - 3 Site plan
  - 4 Western Elevation
  - 5 South and North Elevation
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## Location Plan



Fig 1 – Location Plan

# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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<b>Application Number:</b>	DA-2017/355
<b>Date of Receipt:</b>	18 May 2017
<b>Property:</b>	301 The Grand Parade, SANS SOUCI NSW 2219 Lot Y DP 417449
<b>Owner:</b>	Mrs Dianne Pangallo
<b>Applicant:</b>	Mr Ross Pangallo
<b>Proposal:</b>	Alterations and additions to existing mixed use development, including first floor balcony at the rear
<b>Recommendation:</b>	Approved
<b>No. of submissions:</b>	None
<b>Author:</b>	Eric Alessi
<b>Date of Report:</b>	12 July 2017

### Key Issues

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The key issues relating to this application are:

- The application has been accompanied by a written clause 4.6 submission which seeks to vary the numerical provision of clause 4.3 to enable a floor space ratio of 0.93:1.
- The proposal seeks consent to expand an existing use.

### Recommendation

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1. That the Bayside Planning Panel supports the variation to clause 4.4 Floor Space Ratio of the Rockdale Local Environmental Plan 2011 in accordance with the clause 4.6 variation request submission by the applicant.
2. That the Bayside Planning Panel supports the expansion of an existing use.
3. That Development Application DA-2017/355 for alterations and additions to existing mixed use development, including first floor balcony at the rear at 301 The Grand Parade, Sans Souci 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 application were previously lodged:

Development Consent - for take-away food shop, approved on 16/03/1973 (File number: F/A 239)

DA-1114/01 - for Dog and cat grooming salon, approved on 18/07/2001

## Proposal

The proposal seeks to carry out a two storey extension to an existing two storey building which consists of a ground floor business premises and second storey residence.

The proposal consists of the following:

Ground Floor (Business Premises):

Demolition of existing outbuildings and construction of:

- New bathroom.
- New storage room.

First floor (Residential Component):

Extension in floor area to the rear to facilitate the following:

- Rearrangement of existing layout to incorporate a new open plan kitchen/dining and living area.
- Relocating the bedrooms to the rear of the property and adding internal storage areas.
- Rear Balcony

The proposal seeks to vary the maximum Floor Space Ratio which is 0.5:1. A justification under clause 4.6 - Exceptions to Development Standards has been submitted by the applicant. The variation in floor space as proposed is supported for reasons outlined within this report.

## Site location and context

The subject site is known as Lot Y DP 417449, 301 The Grand Parade, Sans Souci. The site is generally rectangular in shape with a front boundary width of 6.81 metres. The side boundaries are 33.91 m deep. The total site area is 231.7 square metres. The topography of the site is such that it is relatively flat. The building is located in a row of three two storey shop top housing buildings. The subject building is attached to neighbouring dwellings on both sides which are of the same type and scale. The ground floor of the structure is for the purpose of a business premises, and the first floor is for the purpose of a dwelling. The site is located on the western side of The Grand Parade between Alice Street and McRaw Road. The site gains vehicular access through a driveway at the rear of the property which is part of 302 The Grand Parade but which the property has a right of access over. Adjoining the site to the rear across the driveway is a two storey dwelling which fronts Alice Street. There is a mix of one storey and two storey residential buildings within the broader locality.

There are not trees or vegetation on the site or adjoining properties.

## 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:

#### Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R2 Low Density Residential	Yes - see discussion	Yes - see discussion
4.3 Height of buildings	Yes	Yes - see discussion
4.4 Floor space ratio - Residential zones	Yes - see discussion	No - see discussion
4.6 Exceptions to development standards	Yes - see discussion	Yes - see discussion
5.10 Heritage conservation	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 3	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 - see discussion

#### 2.3 Zone R2 Low Density Residential

The subject site is currently zoned R2 - Low Density Residential.

The objectives for the zone is as follows:

#### *Zone R2 Low Density Residential*

##### *1 Objectives of 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.*

##### *2 Permitted without consent*

*Home-based child care; Home businesses; Home industries; Home occupations; Roads*

##### *3 Permitted with consent*

*Attached dwellings; Boarding houses; Building identification signs; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Educational establishments; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Health consulting rooms; Hostels; Places of public worship; Recreation areas; Respite day care centres; Secondary dwellings; Semi-detached dwellings; Seniors housing; Water supply systems*

##### *4 Prohibited*

*Any development not specified in item 2 or 3*

The proposal includes a ground floor commercial premises and a second floor residential component.

The subject site is best defined as **shop top housing**. Under the Rockdale LEP2011 **shop top housing** means *one or more dwellings located above ground floor retail premises or business premises*. This land use is not permissible under the R2 - Low Density Residential zone.

There are two consent to operate a business premises from the locality. These include:

- A consent in 1972 to operate a take away food premises.
- A consent in 2001 to operate a dog grooming business.

A review of historical aerial images demonstrates the presence of the building on the site in 1965. The adjoining row of shops was also in place at this time. There is no record suggesting that the residential use of the land was an unlawful use prior to the introduction of RLEP 2011. Council would have been aware that the building was being used for shop top housing when it issued consents in 1972 and 2001. On this basis it is considered that the site has continuously been used as shop top housing and relevant approvals have been issued for this land use.

Clause 107 of the Environmental Planning and Assessment Act permits the continuance of an existing use. This clause is as follows:

*Under Clause 107 of the Environmental Planning and Assessment Act nothing in the act prevents the continuance of an existing use. However nothing in the clause authorises:*

- (a) any alteration or extension to or rebuilding of a building or work, or*
  - (b) any increase in the area of the use made of a building, work or land from the area actually physically and lawfully used immediately before the coming into operation of the instrument therein mentioned, or*
  - (c) without affecting paragraph (a) or (b), any enlargement or expansion or intensification of an existing use, or*
  - (d) the continuance of the use therein mentioned in breach of any consent in force under this Act in relation to that use or any condition imposed or applicable to that consent or in breach of any condition referred to in section 80A (1) (b), or*
  - (e) the continuance of the use therein mentioned where that use is abandoned.*
- (3) Without limiting the generality of subsection (2) (e), a use is to be presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of 12 months.*

As the proposal includes enlargement of an existing use, the proposal must satisfy Clause 41 of the Environmental Planning and Assessment Regulations. This clause is as follows:

*(1) and existing use may, subject to this division:*

- (a) be enlarged, expanded or intensified, or*
- (b) be altered or extended, or*
- (c) be rebuilt, or*
- (e) if it is a commercial use—be changed to another commercial use (including a commercial use that would otherwise be prohibited under the Act), or*
- (f) if it is a light industrial use—be changed to another light industrial use or a commercial use (including a light industrial use or commercial use that would otherwise be prohibited under the Act).*

Provided that:

*(2) However, an existing use must not be changed under subclause (1) (e) or (f) unless that change:*

- (a) involves only alterations or additions that are minor in nature, and*
- (b) does not involve an increase of more than 10% in the floor space of the premises associated with the existing use, and*
- (c) does not involve the rebuilding of the premises associated with the existing use, and*
- (d) does not involve a significant intensification of that existing use.*

The alteration of premises does not fall under clause 1(e) or 1(f) as the business premises will not be changing from one commercial or industrial use to another. The alteration and enlargement is consistent with part 5 of the Environmental Planning and Assessment Regulations.

Based on the above the proposal is considered permissible as a continuance of existing use.

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

- To provide for the housing needs of the community within a low density residential environment.*  
The proposal includes a two bedroom dwelling and as such contributes to providing housing that will be used by the community.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*  
The proposal facilitates a business premises that is utilised by the community.
- 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 proposal will have minimal environmental impact on the area.

#### 4.3 Height of buildings

The highest part of the extension will be 6.77 metres above the ground level. This is below the maximum height of 8.5 metres shown on the LEP Height of Buildings Map. The extension will follow the same height as the existing building. The proposal is consistent with this clause.

#### 4.4 Floor space ratio - Residential zones

The proposed development does not comply with clause 4.4(2) in RLEP 2011, which restricts the floor space ratio (FSR) to 0.5:1 in accordance with the Floor Space Ratio Map. The existing Gross Floor Area as it is defined in the Rockdale 2011 LEP has been calculated to be 152.4 square metres over an existing site area of 231.7 square metres. The existing FSR is 0.66:1. The proposed Gross Floor area has been calculated to be 217.525 square metres resulting in a FSR of 0.93:1. The increase in floor area has been calculated to be a 29.9% increase.

The applicant has requested a variation to the maximum FSR standard. This is discussed within clause 4.6 Exceptions to Development Standards, within this report.

#### 4.6 Exceptions to development standards

Clause 4.6 allows a variation to a development standard subject to a written request by the applicant justifying the variation by demonstrating:

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

In considering the applicant's submission, the consent authority must be satisfied that:

- (i) the applicant's written request is satisfactory in regards to addressing subclause (3) above, 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 of the relevant zone.

5(a) The consent authority must also consider whether contravention of the development standard raises any matter of significance for State or Regional environmental planning, and

5(b) the public benefit of maintaining the development standard.

The applicant has submitted a detailed justification to the proposed variation to the development standard. The justification is summarised as the following:

- There will be no change in the front façade, and the visual relationship between adjoining buildings will be maintained.
- The development will be lower in scale than properties directly adjoining the development.
- The alteration is necessary to ensure the continued viability of the building.
- The minor nature of the variation, will have minimal adverse impact on the locality.
- A higher FSR would be more suited to the site in consideration of the existing buildings that are in the locality.
- Compliance with the development standard is unreasonable or unnecessary in the circumstances of this case.
- There are sufficient environmental planning grounds to justify contravening the development standard.

#### FSR Variation Discussion

The objective of clause 4.4 Floor space ratio are as follows:

- (a) to establish the maximum development density and intensity of land use, accounting for the availability of infrastructure and generation of vehicular and pedestrian traffic, in order to achieve the desired future character of Rockdale,*
- (b) to minimise adverse environmental effects on the use or enjoyment of adjoining properties,*
- (c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation.*

The proposal has been considered against each objective of the clause as follows:

- (a) to establish the maximum development density and intensity of land use, accounting for the availability of infrastructure and generation of vehicular and pedestrian traffic, in order to achieve the desired future character of Rockdale,*

It is not anticipated the proposal will increase the intensity in the use of the site and as such there will be minimal impact on infrastructure and the generation of vehicular and pedestrian traffic. The shop area of the ground floor business premises will not increase in size. The increase in floor area will arise from the replacing of existing ancillary facilities. The changes are designed to make the facilities more functional. The changes to the premises area as follows:

The existing site consists layout consists of the following:

Ground floor:

Shop area

Working room



Kitchen Area  
Laundry  
External water closet (bathroom)

First floor:  
Two bedrooms  
Living room  
Kitchen  
Bathroom  
Water Closet (bathroom)

The proposed layout will consist of the following:

Ground floor:  
Shop area  
Working room  
Kitchen area  
Store room  
Bathroom

First Floor:  
Combined living dining and kitchen area.  
Two bedrooms  
Bathroom  
Laundry  
covered balcony

The changes to the residential component of the site will not facilitate the accommodation of additional residents. The rearranged floor plan maintains two bedrooms. The increase in floor area is incorporated into a larger living/dining area, and storage closets. The alterations are designed to change the functionality of first floor residence, as opposed to facilitating an increase in occupancy.

The proposal is consistent with this objective.

*(b) to minimise adverse environmental effects on the use or enjoyment of adjoining properties,*  
The site is located within a row of three (3) two storey shop top housing premises of which the site forms the middle building. The row of buildings all consist of a two storey component facing The Grand Parade, and an area to the rear which consists of ancillary facilities. The rear of 300 the Grand Parade is made up of an enclosed outdoor dining area and garage. These facilities encompass the whole allotment. The rear of 302 The Grand Parade consists of brick and metal outbuildings and a sealed parking area. The extension is to be at the rear and is to extend the length of the building at 1.5 metres along the southern boundary and 3.5 metres along the northern boundary. The extension on the northern boundary is to be attached to the party wall. The extension on the southern boundary is to be bordered by an enclosed outbuilding of metal construction. The scale of the proposal is consistent with that of the adjoining premises, and the site will maintain a greater area of open space than adjoining premises. The proposed development will have no adverse impact on adjoining properties in terms of bulk and scale, visual massing, view loss, overshadowing and visual privacy.

The proposal is consistent with this objective.

*(c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation.*

The extension will only be visible from the shared driveway located to the rear which is the means of vehicle access to the site and 302 The Grand Parade. The extension will not be visible from any street or any adjoining property. There will be no changes to the street elevation along The Grand Parade as a result of the proposal.

The proposal is consistent with this objective.

The applicant's submission is supported in the context of clause 4.6 for the following reasons:

- The proposal remains consistent with the objective of clause 4.4 Floor Space Ratio.
- The standard is unreasonable and unnecessary in this instance, and there are sufficient environmental planning grounds to vary the development standard.
- The proposal is in the public interest as it satisfies the objectives of the R2 - Low Density Residential Zone.

#### 5.10 Heritage conservation

The proposed development is located directly adjacent to heritage item Cooks Park. The development does not involve any alterations to the facade of the building. In this regard, the proposed development does not affect the integrity or character of the heritage item.

Therefore the qualities that makes the heritage item and it's setting significant will not be diminished.

#### 6.1 Acid Sulfate Soil - Class 3

Acid Sulfate Soils (ASS) – Class 3 affects the property. Development Consent is not required as the proposed works involve the disturbance of less than 1 tonne of soil and the works are not likely to lower the watertable.

#### 6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 60 m AHD. The building height is at 6.77 m (RL 9.377 AHD) 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 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 utilising the existing stormwater system to manage stormwater. The proposed system has been approved by Council's development engineers and is consistent with this clause.

Appropriate conditions have been put in place to ensure the existing stormwater system is suitable to manage the increase in stormwater.

## 6.12 Essential services

Services will be available on the site. Additional conditions have been incorporated in the draft Notice of Determination requiring consultation with relevant utility providers in regards to any specific requirements for the provision of services on the site.

## 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:

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.1 Views and Vista	Yes	Yes - see discussion
4.1.2 Heritage Conservation - Vicinity of Heritage Item	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
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.3.1 Open Space and Landscape Design - Mixed Use	Yes	Yes - see discussion
4.3.2 Private Open Space - Residential Flat Building/Shoptop housing	Yes	Yes - see discussion
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	Yes	Yes - see discussion
4.4.3 Natural Lighting and Ventilation - Mixed Use	Yes - see discussion	No - see discussion
4.4.4 Glazing - General Controls	Yes	Yes - see discussion
4.4.5 Visual privacy	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes
4.4.5 Visual and Acoustic Privacy - Building Separation	Yes	Yes - see discussion
4.4.6 Noise Impact	Yes	Yes
4.5.2 Social Equity - Equitable Access	Yes	Yes - see discussion
4.6 Parking Provisions - Alterations and additions	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes - see discussion
4.6 Driveway Widths	Yes - see discussion	Yes - see discussion
4.6 Access to Parking	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

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
4.7 Letterboxes	Yes	Yes

#### 4.1.1 Views and Vista

The extension will result in minimal changes in bulk of the structure, therefore there is minimal adverse impact on the surrounding views presently enjoyed by adjacent residents.

#### 4.1.2 Heritage Conservation - Vicinity of Heritage Item

The proposed development is located adjacent to Cooks Park which is a heritage item. The proposal will not involve a change in the building facade, including changes in material, outlook and building design. In this regard, the proposed development does not affect the integrity or character of the heritage item. Therefore the qualities that makes the heritage item and it's setting significant will not be diminished, dominated or overwhelmed by the proposed development.

#### 4.1.3 Water Management

The roofwater and runoff is to be directed to an existing stormwater system.

#### 4.1.3 Flood Risk Management

The site is affected by flooding and the proposal has therefore been designed to ensure that the habitable floor levels and other relevant components of the development are in accordance with the requirements contained in Council's Flood Advice Letter. The ground floor level of the commercial premises is located above the flood planning level. 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.

#### 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.

#### 4.2 Streetscape and Site Context - General

The proposal is located in a R2 - Low Density Residential Zone. The immediate context is relatively low scale, consisting of single and double storey dwellings, however directly adjacent to the development are a row of two storey shop top buildings. The proposal exceeds FSR requirements, however the proposed rear additions 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 development has been designed so that front facing windows will be maintained.

The proposal is consistent with the objectives of this section.

#### 4.3.1 Open Space and Landscape Design - Mixed Use

The proposal will not have an adverse affect on any existing landscaping.

#### 4.3.2 Private Open Space - Residential Flat Building/Shoptop housing

The minimum recommended private open space for this type of development is 25 square metres. This total area of private open space to be provided has been calculated to be 30 square metres.

#### 4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing

The proposed development will have minimum impact of the level of sunlight currently received by adjoining properties and within the development site.

#### 4.4.3 Natural Lighting and Ventilation - Mixed Use

The existing ceiling heights are 2.9 metres for the ground floor and 2.5 metres for the first floor. Ceiling heights for the extension will remain at the same level as existing heights. The ceiling height for the ground floor extension is to be 2.9 metres and the first floor height 2.5 metres. A height less than the 2.7 metres will not limit natural lighting and ventilation provided to the first floor dwelling, as the existing ceiling height is 2.5 metres. The proposed ceiling heights are consistent with the objectives of this section as natural lighting and ventilation will be maintained to the building.

#### 4.4.4 Glazing - General Controls

The extensions has eaves over the west facing windows. The development is constant with the objectives of this section

#### 4.4.5 Visual privacy

The privacy implications of the rear facing balcony were considered. The balcony provides views to the west which is the rear, and to the south. The property to the rear is 127 Alice Street. The balcony is setback approximately 20 metres from the boundary of this property. Facing the boundary is the side wall of the dwelling which does not contain any habitable windows. The view to the south consists of the rear of 302 The Grand Parade. This area is made up of outbuildings and car-parking spaces for the property, and does not consist of any private open space. The balcony presents the opportunity for overlooking into 303 The Grand Parade which is located south a distance of 6 metres from the site of the proposed balcony. A condition of consent is proposed requiring a privacy screen to be installed to the southern side of the balcony to remove adverse privacy implications. There will be no northward views as the wall of bedroom one (1) is on this elevation.

Provided the conditions of consent are implemented the proposal will not have an adverse impact on the visual privacy of adjoining properties.

#### 4.4.5 Visual and Acoustic Privacy - Building Separation

The building is located in a row of shop top housing buildings. The existing building separation of the size boundaries is zero. The extension will have minimal adverse impact on visual and acoustic privacy to adjoining properties and as such the proposal is consistent with the objectives of this clause.

#### 4.5.2 Social Equity - Equitable Access

Appropriate conditions regarding access have been included in the draft conditions of consent.

#### 4.6 Parking Provisions - Alterations and additions

The proposal will provide two (2) parking spaces located at the rear of the property. Parking is accessed by a driveway to the rear that is part of 302 The Grand Parade but which the property has a right of access over. The DCP 2011 requires shop top housing containing up to 2 bedrooms to be provided with a 1 off-street parking space. One parking space is required per 40 square metres of

Gross Floor Area. The proposal includes 50 square metres of Gross Floor Space.

In light of the above the amount of car parking proposed is suitable.

There is an inconsistency in the site plan and the Statement of Environmental Effects (SEE) and Landscape Plan. The SEE states that there will be no additional parking and the Landscape Plan shows that the parking spaces will consist of turf. The applicant has confirmed that the proposal is to have two parking spaces as per the site plan. A condition of consent will be put in place ensuring two parking spaces are provided as per the site plan.

#### 4.6 Car Park Location and Design

The proposal is to include two car parking spaces located to the rear of the building. As the parking is located to the rear of the building parking facilities will not dominate or detract from the appearance of the streetscape.

#### 4.6 Driveway Widths

No change to driveway access.

#### 4.6 Access to Parking

No change to driveway access.

#### 4.7 Air Conditioning and Communication Structures

No ancillary structures area located in position that will have impact on adjoining properties and neighbouring lands.

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

Council's building surveyor has assessed the fire safety considerations under the BCA 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:

#### **Construction**

The residential building is to be constructed in brick and roof sheeting with concrete/timber 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. Impacts of construction adjoining premises will be minimised through the use of standard conditions of consent relating to hours of construction, noise, dust suppression traffic management and the like.

### **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. The proposed variation to the Floor Space Ratio is supported.

## **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. / Issue</b>	<b>Drawn by</b>	<b>Dated</b>
Concept Drainage Plan, Concept Landscape Plan	J.A. Anzini Drafting and Building Services	17.05.20
Soil & Water Management Plan	J.A. Anzini Drafting and Building Services	17.05.20
Prop.New Rear Alterations & Additions (page 6 of 13)	J.A. Anzini Drafting and Building Services	17.05.20
Prop.New Rear Alterations & Additions (page 5 of 13)	J.A. Anzini Drafting and Building Services	17.05.20
Prop.New Rear Alterations & Additions (page 4 of 13)	J.A. Anzini Drafting and Building Services	17.05.20
Prop.New Rear Alterations & Additions (page 3 of 13)	J.A. Anzini Drafting and Building Services	17.05.20
Prop.New Rear Alterations & Additions (page 1 of 12)	J.A. Anzini Drafting and Building Services	17.05.20

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. 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.
6. 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.

## **Development specific conditions**

The following conditions are specific to the Development Application proposal.

7. Materials, goods or machinery shall not be stored, placed or otherwise permitted to stand between the building line and the street alignment.
8. All loading, unloading and transfer of goods to and from the loading bay and premises shall take place wholly within the property. Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.
9. 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.
10. A 1.7 metre high privacy screen shall be installed to the southern side of the rear balcony.

The height is to be measured from the finished floor level of the balcony and the screen is to extend the whole length of the southern elevation.

The screen shall remain in place for the life of the development.

11. Where natural ventilation fails to comply with the provisions of the Building Code of Australia, mechanical ventilation shall be provided in accordance with Australian Standard, 1668, Part 2.
12. The new masonry wall along the southern boundary being totally constructed within the boundary of the subject property.
13. Two car parking spaces are to be provided as per the site plan. These parking spaces are to be retained unless approval is obtained otherwise. Where the site plan is inconsistent with other approved plans the site plan prevails.

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

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

14. 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.
15. A certificate from a practising Structural Engineer shall be submitted prior to the issue of the construction certificate confirming that the existing building elements are structurally adequate to support all proposed additional loads.



16. Timber framing members shall comply with the relevant provisions of the National Timber Framing Code AS 1684-1999. Details of the roof truss, truss layout and proposed method of bracing shall be submitted to the Principal Certifying Authority prior to the first inspection.
17. A suitable qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 1% AEP flood event.
18. All 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.
19. A list of the proposed and existing essential services to be installed in the building shall be submitted to Council in accordance with the relevant requirements.
20. 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>

## **Prior to commencement of works**

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

21. 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) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.
22. 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.
23. 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.
24. 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.
25. 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.
26. 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.
27. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

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

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

28. 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.
29. 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.
30. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
- Sediment control measures
  - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
  - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
31. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
32. 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.

33. 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.

### **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.

- 34. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 35. Appropriate signage and tactile information indicating accessible facilities shall be provided at the main entrance directory, or wherever directional signage such as lifts or building directories or information is provided to those buildings where access and facilities for people with disabilities has been provided. Such signage shall have regard to the provisions of AS1428.1 and AS1428.2.
- 36. 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.
- 37. The approved recommendations from the Flood Management Report shall be implemented prior to occupation.
- 38. 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.
- 39. A certificate from a Registered Surveyor shall be provided to the Principal Certifying Authority (PCA) certifying that the habitable/commercial 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.
- 40. 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 the 1% A.E.P Annual Exceedance Probability (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.
- 41. The development shall comply with Rockdale Development Control Plan (DCP) 2011, and the Planning Considerations and Development Controls listed in the Flood Advice letter issued by Council on 12 April 2017 (Reference number FA-2017/101).
- 42. Prior to the issue of any Occupation Certificate a registered plumber or other suitably qualified professional is to check the existing stormwater system for the building and

shall provide a certificate the Principal Certifying Authority stating that the system is in a satisfactory state and in good working condition. If the existing system, or (any element of the system), cannot be certified as being satisfactory and in good working condition then the substandard section of the existing system is to be renewed. A copy of the certificate is to be provided to Council.

## 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. *Dial Before You Dig*

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before You Dig service in advance of any construction or planning activities.

- c. *Telstra Advice - Telecommunications Act 1997 (Commonwealth)*

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Commonwealth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800810443.



# CLAUSE 4.6 VARIATION ASSESSMENT

## 301 THE GRAND PARADE – SANS SOUCI

*Alterations & Additions to an Existing Mixed Use Building*



# PlanningHat

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## Introduction

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This Clause 4.6 Variation request has been prepared in support of the development application for alterations and additions to an existing mixed use building at 301 The Grand Parade, Sans Souci, New South Wales.

Clause 4.6 of the *Rockdale Local Environmental Plan 2011* (RLEP) has the following objectives:

- (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.*

The variation requested is in relation to clause 4.4 of the (RLEP) that sets the maximum Floor Space Ratios (FSR) for certain areas of Bayside Council. The development application requests a variation of Council to the prescribed 0.5:1 FSR for the site, to allow a FSR of 1.08:1 for the development.

In accordance with Clause 4.6(2) of the RLEP, Council is required to consider the following:

*Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

This Clause 4.6 Variation has been prepared in accordance with the requirements of Clause 4.6(3) of the RLEP that outlines;

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

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



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

As such, this report demonstrates that despite the variation to the Development Standard Clause 4.4 of the RLEP, the proposed alterations and additions to the existing mixed use building, can achieve full compliance with the remaining Development Standards of the RLEP.

## The Standards to be varied

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### Proposed variation to Clause 4.4 of the RLEP

Pursuant to Clause 4.6 of the RLEP, we hereby seek exception to the 0.5:1 FSR standard applicable in accordance with Clause 4.4 of the RLEP. Clause 4.6(4)(ii) of the RLEP requires that such a request must establish that the proposed contravention is consistent with the objectives of the standard and the zone.

### Aims of the standard

The aims of the RLEP are...

- (1) *This Plan aims to make local environmental planning provisions for land in that part of the Bayside local government area to which this Plan applies (in this Plan referred to as **Rockdale**) in accordance with the relevant standard environmental planning instrument under section 33A of the Act.*
- (2) *The particular aims of this Plan are as follows:*
  - (a) *to provide a vibrant area in which Rockdale residents can live, work and play,*
  - (b) *to conserve the environmental heritage of Rockdale,*
  - (c) *to maintain and improve residential amenity and encourage a diversity of housing to meet the needs of Rockdale residents,*
  - (d) *to promote economic activity within Rockdale through the facilitation of commercial, employment-generating and tourism opportunities,*
  - (e) *to provide high quality open space and a range of recreational facilities to meet the demands of Rockdale and its visitors,*
  - (f) *to promote and enhance Rockdale's foreshores,*
  - (g) *to encourage residential and employment densities around transport nodes in order to provide sustainable transport options,*
  - (h) *to minimise impacts on land subject to environmental hazards, particularly flooding.*

The proposed additions and alterations will not contravene any of the aims of the RLEP, rather it will support the aims of the Standard by:

- allowing the residents of the dwelling will be able to live, work and play within the vibrant Bayside local government area, due to its location being opposite Cook Park (play) and above existing commercial uses (work);
- improving the residential amenity of the existing dwelling and propose a design that encourages housing diversity;
- improving the operating area of the existing commercial use, to enhance the viability of this small employment-generating use; and
- improving a building in a location that takes advantage of Bayside's fantastic foreshore areas.

More specifically, the objectives of Clause 4.4 are...

*(1) The objectives of this clause are as follows:*

- (a) to establish the maximum development density and intensity of land use, accounting for the availability of infrastructure and generation of vehicular and pedestrian traffic, in order to achieve the desired future character of Rockdale,*
- (b) to minimise adverse environmental effects on the use or enjoyment of adjoining properties,*
- (c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation.*

The proposed alterations and additions to the existing mixed use building are appropriate in this instance, as it:

- does not provide any additional uses or users that generate an increased impact on the infrastructure of Bayside Council;
- does not create adverse effects on the amenity of the adjoining properties; and
- proposes a development footprint and design, similar to the adjoining properties.



Figure 1 - The existing building facade (source Google Streetview)

The proposed alterations and additions to the property will not change the front façade and will look no different to the general public, maintaining the visual relationship with the adjoining buildings. However, they will drastically enhance the lifestyle and enjoyment of the future residents of the dwelling and the commercial viability of the existing ground-floor business.

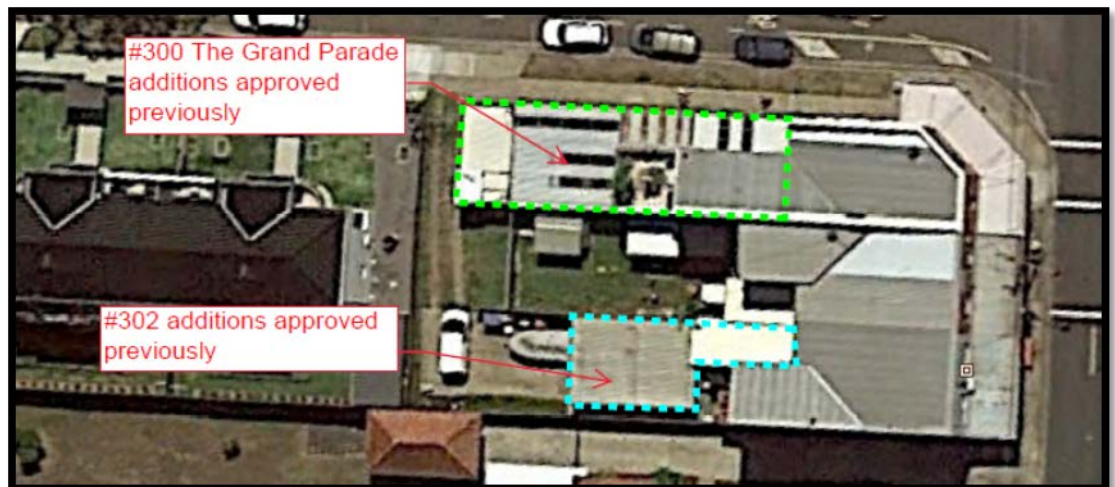


Figure 2 - Lawfully approved additions to the adjoining buildings (source Google Earth 2017)

The image above clearly demonstrates the level of development that has taken place on the adjoining properties. The proposed alterations are considered modest in comparison to these properties and propose a more efficient use of the site, by preserving 91.3m<sup>2</sup> (39.4%) of the site for grassed or landscaped areas

### **Objectives of the zone**

The site is currently zoned R2 Low Density Residential under the RLEP. The proposal for alterations and additions to the existing lawfully approved residential use is in accordance with RLEP. However, the existing lawfully approved commercial premises is not an appropriate use of the site, according to the RLEP.

Nonetheless, the Pet Grooming business was lawfully approved by Council on 18 July 2001 (DA1114/01) and will continue to be assessed as applicable under the R2 Low Density Residential zone. Despite the fact that a commercial premises is prohibited within the zone, the proposal is able to demonstrate consistency with the R2 Low Density Residential zone objectives which state;

- *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.*

The alterations and additions to the existing residential and commercial premises are consistent with the objectives of the zone as it provides for a housing product that meets the needs of a growing community, and the greater Sydney region. The proposal compliments the established uses surrounding the site in terms of scale, and represents a modern example of the housing diversity to welcome a revitalised growth to Sans Souci.

### **Establishing if the Development Standard is Unreasonable or Unnecessary**

Compliance with the 0.5:1 FSR standard within clause 4.4 of the RLEP would be unnecessary in this instance given the;

- Intensity of FSR of the immediately adjoining properties;

- The demonstrated capacity of the existing buildings and surrounding uses to be sited on smaller lots, with increased FSR percentages;
- Possible errors in the current zoning and FSR within the RLEP;
- The number of historical variation requests approved by Council in the last calendar year, in relation to FSR;
- The front façade and building height of the building will remain unchanged when viewed from the public domain; and
- The minor nature of the variation, will have no effect on the environment.

### **Intensity of adjoining properties**

As mentioned previously in this report, the proposal offers a FSR commensurate with the adjoining properties to the north and south that display similar uses. When comparing FSR, the property to the north has an approximate lot size of 221.32m<sup>2</sup>, according to Google Earth. The building is two-storey in nature, with the ground-floor totally encompassing the lot and the upper level having a footprint of approximately 102.15m<sup>2</sup>. This equates to a gross floor area of 323.47m<sup>2</sup> or a FSR of 1.60:1.

The adjoining dwelling to the south is also a two-storey building and covers a large portion of the property in buildings. It is estimated using aerial imagery and the details from the land survey, that the built form encompasses an area of approximately 242.86m<sup>2</sup>. Given this property is 231.5m<sup>2</sup> (excluding the access handle) the FSR is 1.04:1.

The proposed alterations and additions will increase the buildings' existing FSR from 0.88:1 to be 1.08:1 or 19%. This is considered consistent with the intensity of development adjoining the property.

### **Demonstrated capacity for existing uses to operate on these smaller lots**

The existing commercial uses and residential have been in use at the property for over 40 years, in some variation or another. However, time has shown that as the commercial businesses on the property and the adjoining lots become more successful, expansion is required. This is evidenced by the successful cake shop at number 300 The Grand Parade, requiring the following approvals of the past 34 years:

- DA-1983/754 – Cake Shop
- BA-1995/609 – Garage & High Side Fence



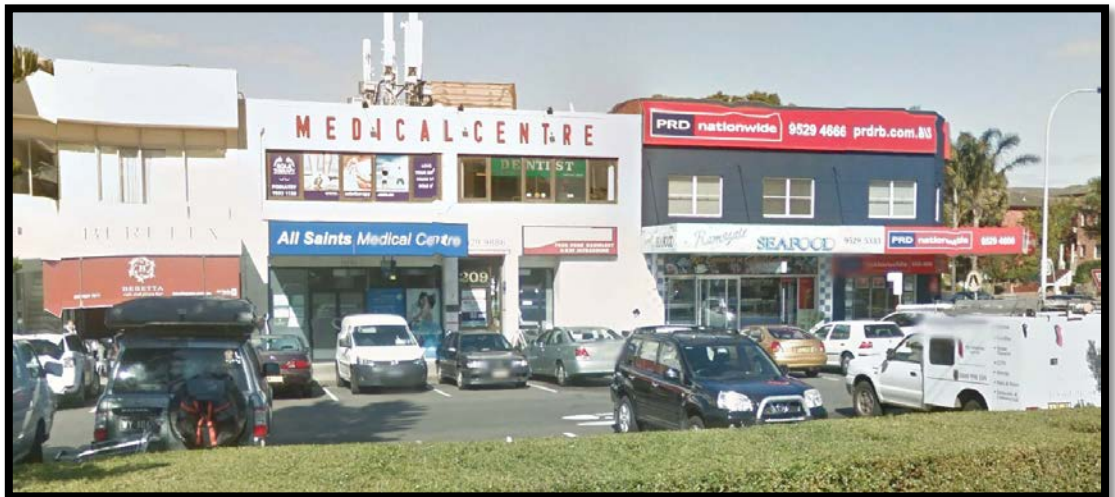
- DA-2000/319 – Alterations & Additions to existing Cake Shop
- DA-2005/447 – Erection of Colorbond Roof over Courtyard at the rear of the existing Shop

The size and scale of the proposed additions and alterations, pale in comparison to those which have been undertaken at the adjoining property. **It is estimated the current FSR for 300 The Grand Parade is at 1.60:1, which is well above the RLEP required level of 0.5:1.**

### Possible zoning and FSR errors within the RLEP

As mentioned previously, the existing lawfully approved uses at the property and adjoining buildings, are **prohibited** uses under the current RLEP zoning. Could this then highlight an error in the RLEP that has omitted these properties from that which is afforded to similar style buildings and uses within the immediate surrounding suburb of Sans Souci.

An investigation of the surrounding B4 – Mixed Use lots at Ramsgate Road to the north and at Rocky Point Road to the west, shows that the existing buildings are a size and scale similar to those at 300-302 The Grand Parade. The images below assist in demonstrating this point.



**Figure 3 - 209 Ramsgate Road - Sans Souci (Source Google Streetview 2017)**

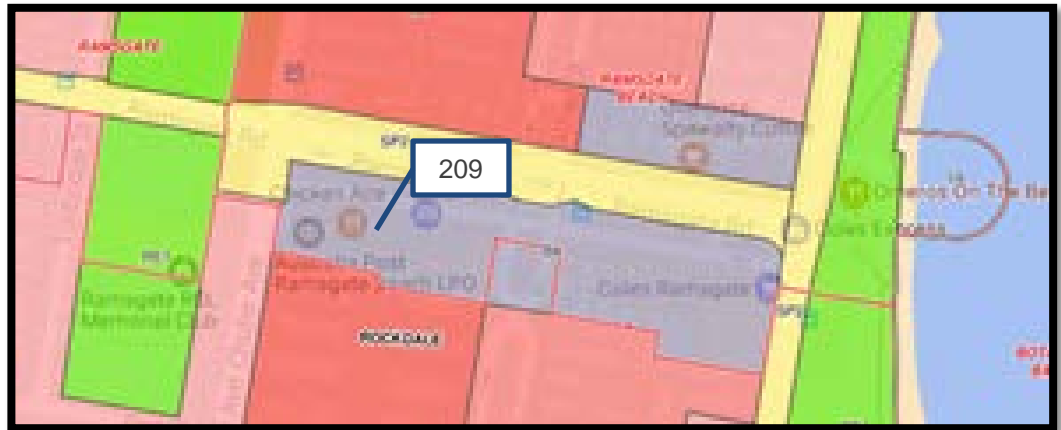


Figure 4 - 209 Ramsgate Road B4-Mixed Use Zoning (Source NSW Planning Portal)



Figure 5 - 510-514 Rocky Point Road - Sans Souci (Source Google Streetview 2017)



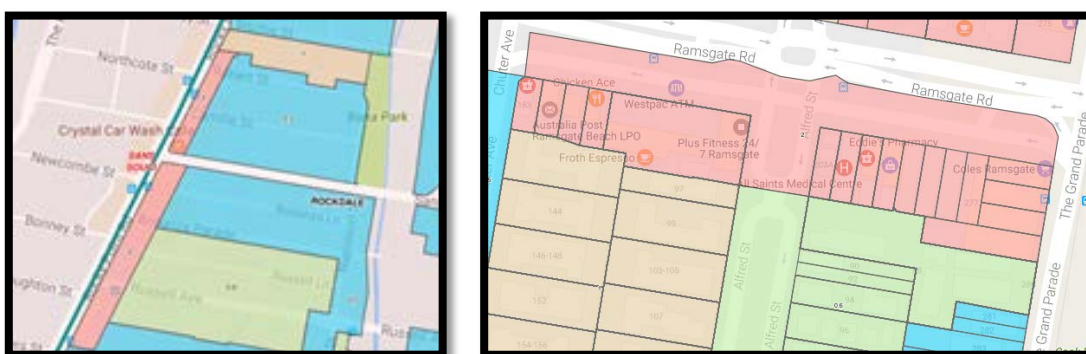


Figure 6 - 436 Rocky Point Road - Sans Souci (Source Google Streetview 2017)



Figure 7 - FSR Mapping for Rocky Point Road Properties (Source NSW Planning Portal)

The added benefit that comes with the B4-Mixed Use Zone, is the increase in Floor Space Ratio. Each of these properties indicated above, have a FSR of 2:1, which is better suited to a site looking to achieve a “Mixed Use”, similar to the subject property.



**Figure 8 - FSR Mapping for Rocky Point & Ramsgate Roads (Source NSW Planning Portal)**

In summary, should the properties at 300-302 The Grand Parade, be afforded a zoning or FSR similar to the properties mentioned. A development application for a slight increase in floor area or a change in use to another commercial use, would be consistent with similar Mixed-Use developments in the immediate area; and would not be prohibited or require a variation to the RLEP standards.

### Historical variation requests

A search of Rockbank Council's website (Bayside Council is yet to distribute this information) has revealed that since January 2016, Council have granted variations to the development controls for FSR on 10 occasions. A list of these variations and the request are provided in the table below:

Property Address	DA Number	Development Type	Variation	Zone
<b>12-16 Garnet Street &amp; 18 Aboukir Street ROCKDALE</b>	2016/72	New multi-unit 20+ dwellings	FSR breached by 373.2sq/m (7.4%)	R4 - High Density Residential
<b>83 Park Road SANS SOUCI</b>	2016/351	Single new dwelling	0.539:1	R2 - Low Density Residential

<b>28 Madrers Avenue KOGARAH</b>	2016/51	Residential - Alterations & additions	5.7% or 16.75 sq metres	R2 - Low Density Residential
<b>1 Paine Street KOGARAH</b>	2016/100	New multi unit < 20 dwellings	FSR of 1.01:1 (2.79% excess)	R4 - High Density Residential
<b>69 Caroline Street KINGSGROVE</b>	2015/378	Community facility	FSR - increased from 0.63:1 to 0.65:1 (4%)	R2 - Low Density Residential
<b>29-31 Bonanza Parade SANS SOUCI</b>	2016/3	New multi unit < 20 dwellings	FSR = 0.68:1 which exceeds the maximum 0.6:1 FSR permitted by 126m <sup>2</sup> (13%)	R3 - Medium Density Residential
<b>57 Mill Street CARLTON</b>	2016/43	Residential - Alterations & additions	FSR of 0.526:1	R2 - Low Density Residential
<b>1-7 Gordon Street BRIGHTON le SANDS</b>	2015/299	New multi unit < 20 dwellings	23% additional FSR	R4 - High Density Residential
<b>62 Pasadena Street MONTEREY</b>	2016/141	Single new dwelling	5%	R2 - Low Density Residential
<b>101 General Holmes Drive KYEEMAGH</b>	2016/162	Single new dwelling	6% FSR (approved at 0.53:1)	R2 - Low Density Residential

### Minor nature of the variation

The proposed development requests a variation to the RLEP FSR development standard of 0.5:1 to allow a 1.08:1 FSR. When comparing this variation to those approved by Council in the past, it is a relatively minor variation of 19% or 48.96m<sup>2</sup>.

The proposal provides significantly less mass when compared with the adjoining The Grand Parade development.

The additional landscaping and private open space as shown in the landscape concept plan in **Appendix 3** of the SEE, shows a superior design to the existing adjoining buildings.

The proposed additions and alterations enhance the viability of commercial premises, through providing increased storage space and operating space for Pet Grooming, whilst increasing the level of comfort for staff by providing newly renovated amenities.

The residential alterations and additions enhance the liveability of the dwelling, by shifting the bedrooms from the front on the building on The Grand Parade and moving them to the rear of the building to overlook the private open space and the balcony.

The additions and alterations are considered to enhance the long-term viability of the building to remain in keeping with the intent of the R2 Low Density Residential zone.

The abovementioned justification is considered valid and in this instance the proposed variation is considered to be acceptable. The proposed development will integrate with the existing built form of the area whilst providing accommodation of a higher standard than what currently exists. The scale, form and design of the development will provide a positive outcome for the users of the building. A high level of amenity will be preserved to adjoining sites and within the site itself. The objectives of the relevant clause and R2 zone will be upheld as a result of the proposal.

### **Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard**

The variation to the development standard for FSR is considered well founded because, notwithstanding the proposed non-compliance with this standard:

- The proposed development is an enhancement of the existing lawfully approved uses.
- The objectives of the R2 Low Density Residential zone are reflected by the proposal.
- The proposed built form is consistent with the character of existing development directly adjoining the subject site.
- The proposed development will not adversely impact on the amenity of adjoining properties, or properties within the site in relation to solar access, privacy or views.
- The proposal represents the orderly and economic redevelopment of the land.
- The proposal provides a superior residential design to that of the existing dwelling.
- Council has a demonstrated history of allowing variances for FSR.

The proposed scale of the development is the logical development of the site. The contravention of the development standard is easily justified and should be supported.

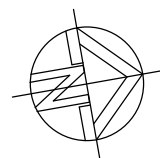
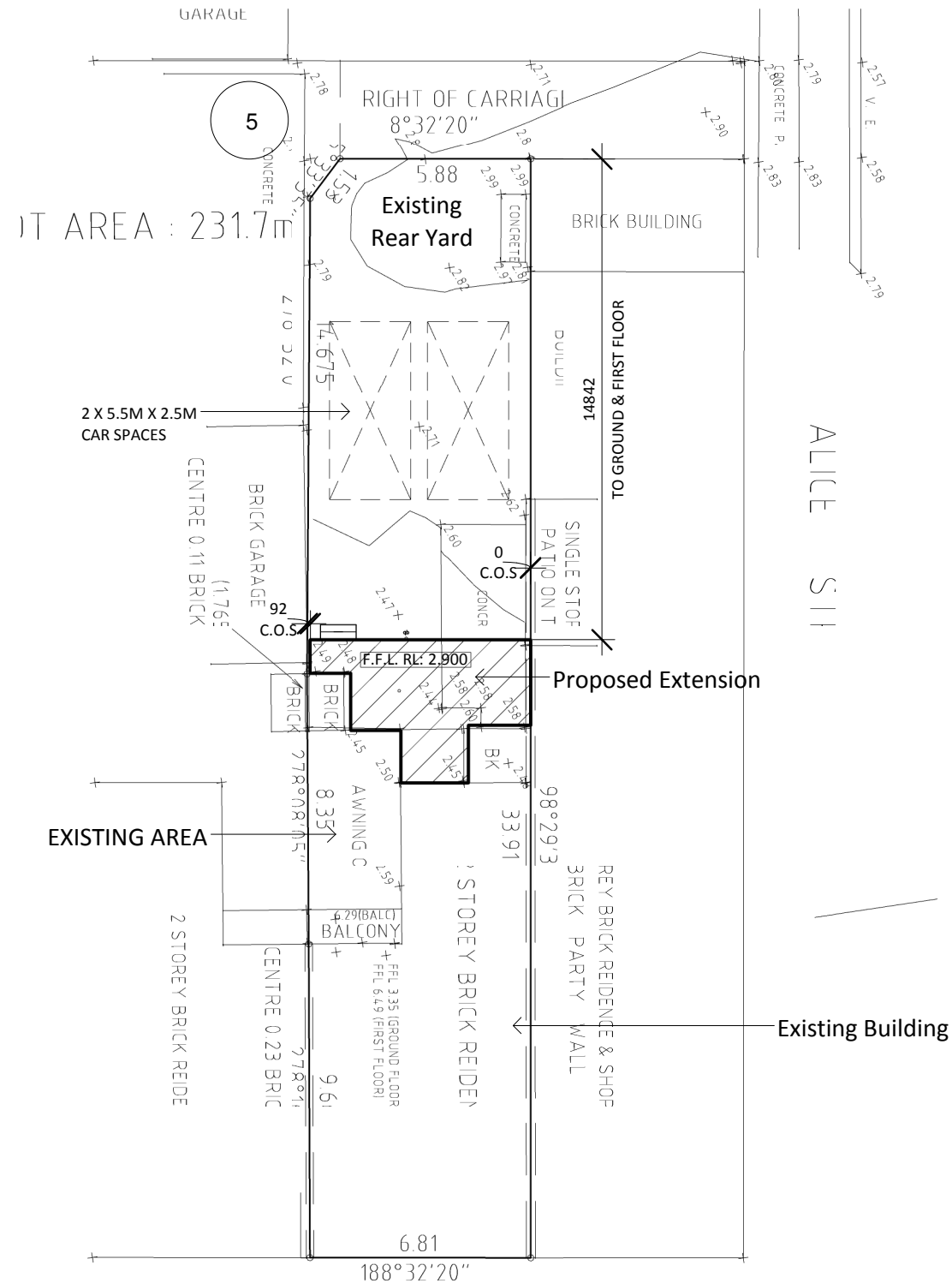
## Conclusion

---

It is requested that council supports the proposed variation to clause 4.4 of the RLEP for the following reasons:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances of this case.
- There are sufficient environmental planning grounds to justify contravening the development standard.
- The proposed development is the logical provision of built form across the site and when compared to the surrounding locality.
- No unreasonable environmental impacts are introduced as a result of the proposal.
- Other than FSR, the proposal is fully compliant with the development standards applicable for alterations and additions to an existing mixed use building.

Given the above justification provided above this Clause 4.6 Variation is well founded and should be favourably considered by Council.



Site Plan

Scale 1 : 200

Area Calculations		
Mark	Areas:	Area
01	Ex. Ground Floor	113.35 m <sup>2</sup>
02	Ex. First Floor	92.71 m <sup>2</sup>
03	Pro. Ground Floor Extension	19.85 m <sup>2</sup>
04	Pro. First Floor Extension	29.21 m <sup>2</sup>

Total: 255.11 m<sup>2</sup>

**Site Area:** 231.7m2

**Note: First Floor Calculations Excludes Stair Void.**

Stair Void: 4.190m2

**Flood Levels** 1% A.E.P. Flood Level:  
2.20m AHD

**Minimum Habitable Floor Level:**  
2.70m AHD  
2.90m AHD Provided: Complies

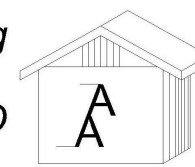
**Probable Maximum Flood (PMF)**  
3.16m AHD

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Issue:	Description:	By:	Date:
A	Issued for Review	F.V.	30/09/2016
B	Issued for Review	F.V.	24/02/2017
C	Issued for Review	F.V.	15/03/2017
1	Issued for DA Approval	F.V.	22/03/2017
2	Amended Plans as per Council Request	F.V.	28/04/2017
3	Amended Plans as per Council Request	F.V.	03/05/2017
4	Amended Plans as per Council Request	F.V.	17/05/2017

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Prop. New Rear Alterations & Additions  
Location: 301 The Grande Parade,  
Sans Souci  
For: Mr Pangallo

Council: Rockdale

Development Application (DA)

Job No:

**160708A3**

Date: 17/05/2017

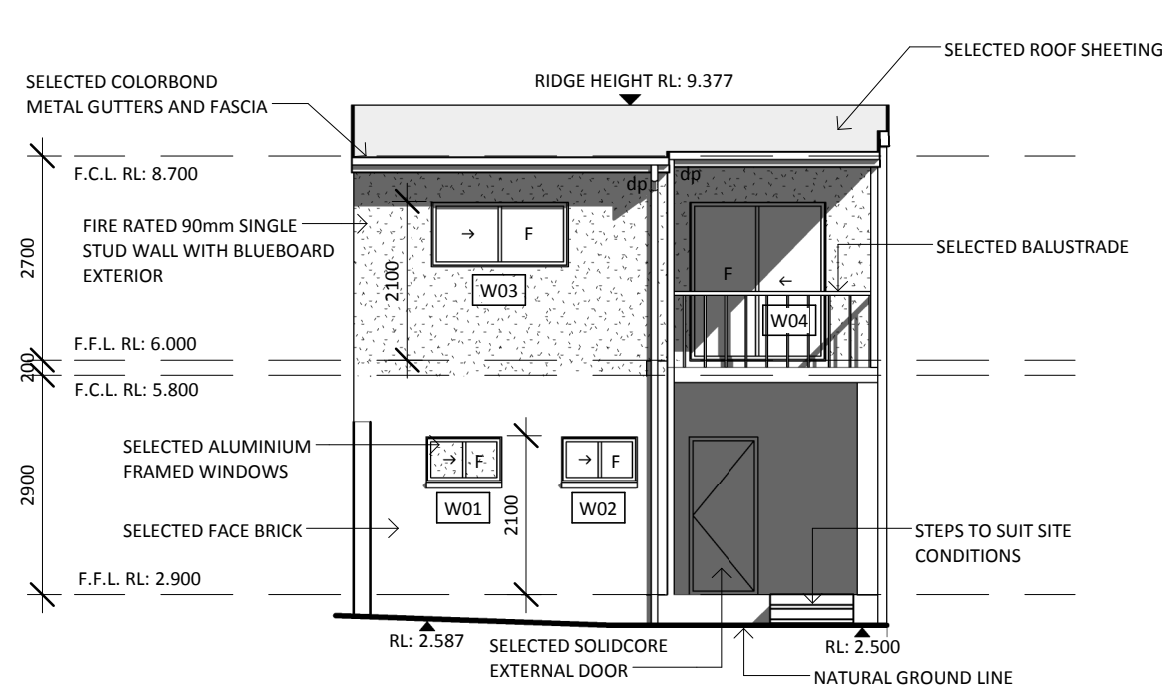
Page: 1 of 12

Scale: 1 : 200

Issue:

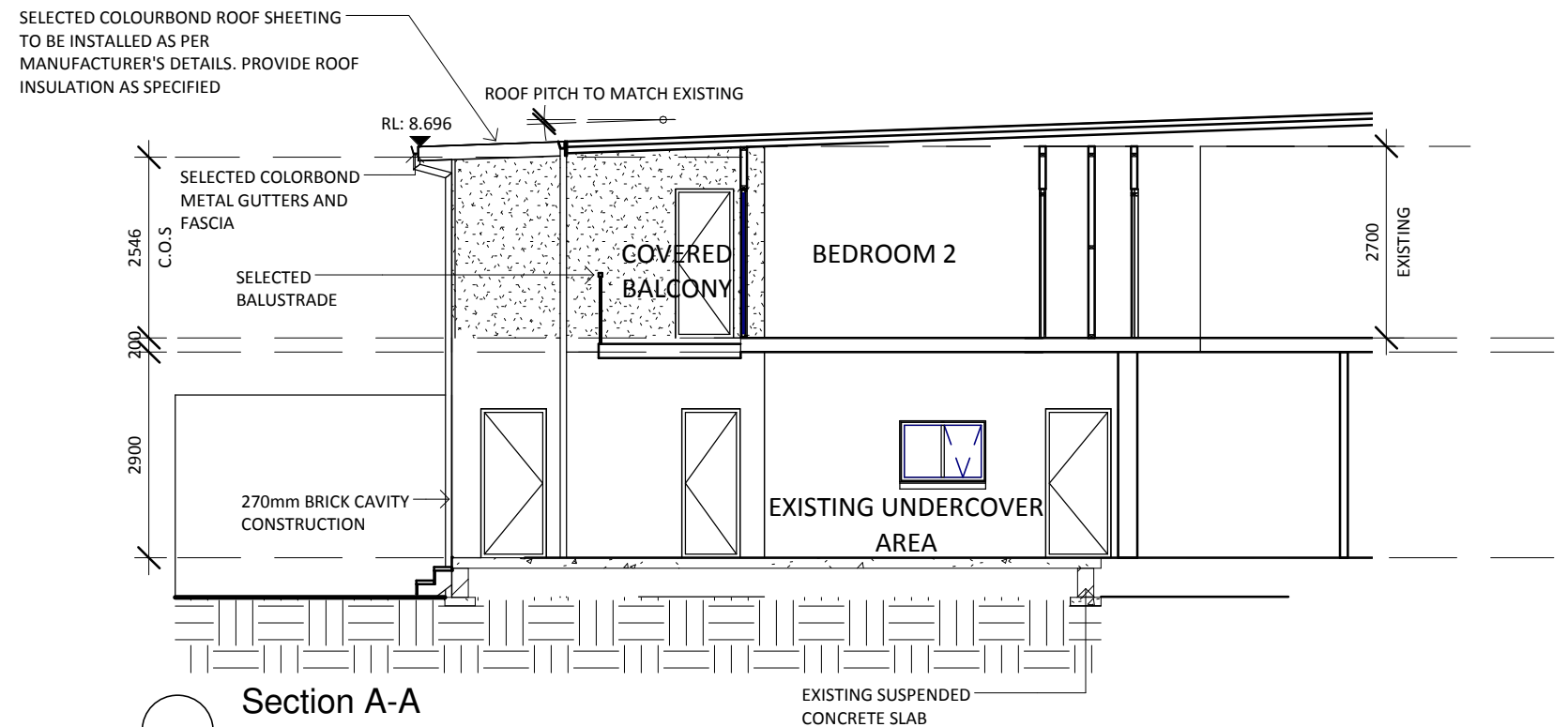
**4**





West Elevation

Scale 1 : 100



Section A-A

Scale 1 : 100

Window Schedule

Mark	Height	Width	Comments	Window Area
W01	600	1000	SLIDING WINDOW- OBSCURED GLASS	0.60 m²
W02	600	1000	SLIDING WINDOW	0.60 m²
W03	860	1810	SLIDING WINDOW	1.56 m²
W04	2100	1810	SLIDING DOOR	3.80 m²

Note:

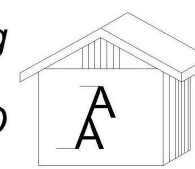
- \* All windows are aluminium framed sliding type.
- \* **Confirm all windows with builder and owner prior to ordering.**
- \* All windows are nominal sizes.
- \* Builder and owner to comply with relevant BASIX commitments in regards to glazing requirements.
- \* **All bedroom windows more than 2m above natural ground with sill height <1.7m must provide either crimsafe screening to opening portion or fixed to open max. 125mm in accordance with Clause 3.9.2.5 (Protection of openable windows) of Volume 2 of the Building Code of Australia.**

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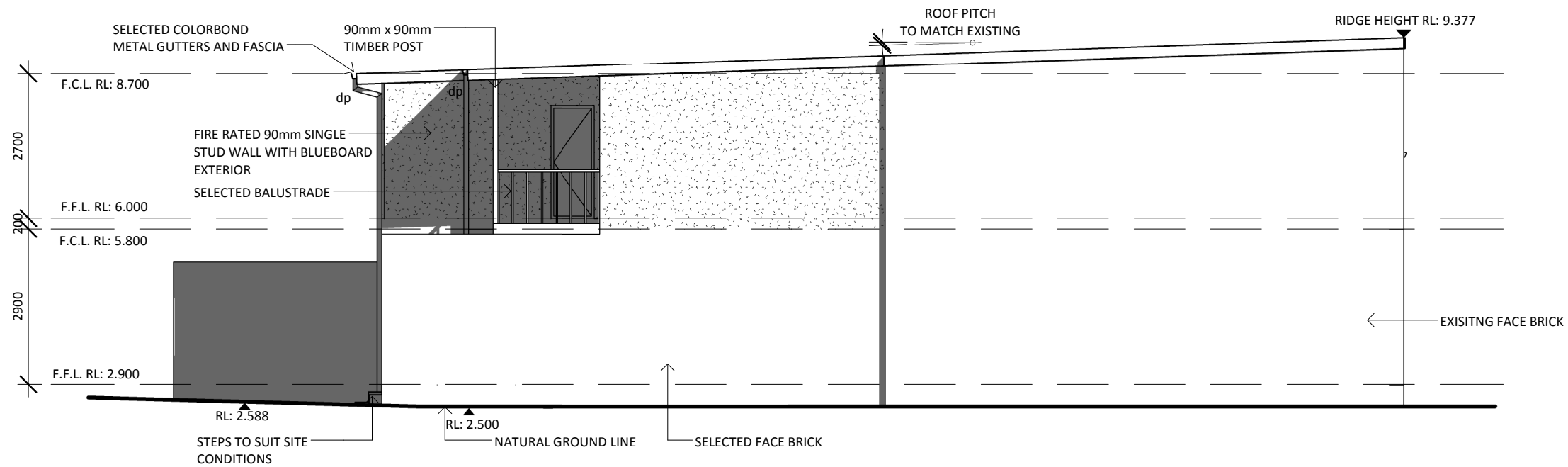
Date: 17/05/2017

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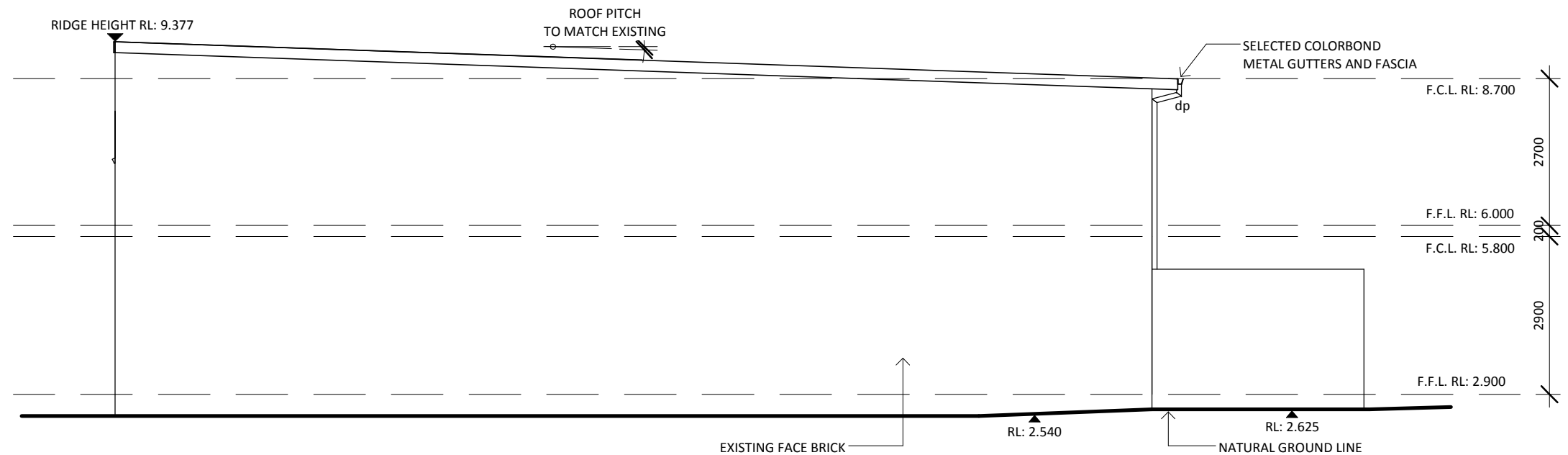
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Issue:

**4**



South Elevation  
Scale 1 : 100

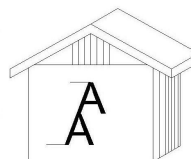


North Elevation  
Scale 1 : 100

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